

**“Expected Executive Action on Immigration by President Obama and Employment Authorization”
by Adam Edward Rothwell, Esq.**

President Obama has stated an intention to take an executive action on immigration and that this Action will likely occur near Labor Day. While the President is logistically unable to take executive action amounting to comprehensive immigration reform, President Obama has previously utilized executive actions to create substantial change.

While the details of any planned executive action are unknown, the growing expectation seems to be that forthcoming executive action on immigration will likely expand Deferred Action for Childhood Arrivals (DACA) to millions of adults. DACA, which resulted from a previous executive action by President Obama, enabled millions of foreign citizens without status but who arrived in the US as children to receive approved employment authorization.

Employment authorization in the US is usually a very easy to complete, one page immigration application that most Americans know virtually nothing about, but expanding employment authorization to millions of adults will likely have tremendous ramifications across the US.

It has been my experience that most Americans believe employment authorization provides approved foreign citizens with the legal authorization to perform one of a very limited number of jobs. For example, I spoke to an educated natural-born American recently who strongly favored providing employment authorization to foreign citizens as, in his words, “it would allow more people to just do local landscaping.” He seemed completely taken aback though to learn employment authorization has virtually no limitation on either position or location.

An employment authorization document does not provide a foreign citizen with the limited opportunity to perform landscaping. Rather a foreign citizen with an approved employment authorization document may choose to take almost any job or number of jobs anywhere in the US, including landscaping.

An employment authorization card/document is the size of a driver’s license. It has the picture and basic biographic information of the recipient on one side and a bar code on the other side. The card comes with a validity period, which is often for two years. And when a foreign citizen has a valid employment authorization card, the foreign citizen may receive any job or number of jobs in the US, with the exception of employment that unquestionably requires US Citizenship (such as employment by the US Department of Justice requiring security clearance). Conversely, even the US Post Office often hires foreign citizens with work authorization.

That being said, the long-term impact of millions of more foreign citizens receiving US work authorization in either 2014 or early 2015 is frankly hard to predict. It is possible millions of more foreign citizens lawfully employed will just expand the economy and create even more opportunities than new workers are able to fill. However, while I strongly support immigration reform, the truth is millions of more foreign citizens suddenly receiving employment authorization to at least a degree may very well displace qualified US workers. A problem is relevant statistics are not very reliable, most related information in publications, blogs and social media have either a very strong pro or anti-immigration bias. One point though that does seem to get lost is there are large numbers of foreign citizens without status in the US who are skilled and educated professionals with expertise in divergent areas.

I practice law and live in Baltimore. Similar to most urban centers, Baltimore has a large, organized Hispanic community composed of relatively united individuals from different nationalities. Many members of this community work hard at labor-focused, skilled positions and would immediately benefit substantially from work authorization. Additionally, Baltimore has a large number of foreign citizens

from Eastern Europe, Greece, Korea and Africa nations. In fact the area of Northern Virginia, DC and Baltimore has arguably the highest number of immigrants from Africa in the US (and arguably just because New York City might have more).

Foreign citizens in the US without status from Africa obviously by and large did not enter unlawfully through the US southern border. Instead they usually entered on valid visas and either fell out of status or over-stayed. Over the years, I have had many adult clients from different nations in Africa who originally entered the US on student visas and at some point fell out of status or over-stayed. These individuals are educated, talented and skilled hard-workers. Many are native English speakers. And they are waiting for the opportunity to fill professional positions in the US (positions that have nothing to do with landscaping for example) based on receipt of valid employment authorization. They are often unable to currently receive employment in their fields, as few US employers are willing to hire an IT professional for example needing to be employed under the table. Yet, with work authorization, a whole new world related to employment in the US will be open to these adult foreign citizens.

Related to the above, I think ten years from now the US employment landscape may be completely different, partially based on the expected forthcoming executive immigration action. My bias is I consider any differences the natural progression of a good thing, which is, at the basis of actions toward immigration reform, providing individuals with opportunities to better themselves and their families. Yet, I also believe there is an inherent chance for negative impact to US workers at least on some level, and I think it would be beneficial for that risk, albeit whatever it is, to be publicly discussed in greater hopefully impartial detail.

Adam Edward Rothwell is a US Immigration lawyer based in Baltimore, Maryland. He may be followed on Twitter at: USAImmigration