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April 9, 2010

Stephen Tarragon
Deputy Chief
Regulatory Products Division Clearance Office
U.S. Citizenship and Immigration Services
Department of Homeland Security
111 Massachusetts Avenue, N.W., Suite 3008
Washington, DC 20529-2210

RE: OMB Control Number 1615-0009

Dear Mr. Tarragon:

As Corporate Counsel for Pfizer, I am responding to the February 8, 2010 Federal Register Notice regarding proposed revisions to U.S. Citizenship and Immigration Services (USCIS) Form I-129.

Pfizer Inc.

Pfizer Inc. is a global, research-based company that is dedicated to better health and greater access to healthcare for people and their valued animals. Our purpose is helping people live longer, healthier, happier and more productive lives. Our efforts in support of that purpose include discovering and developing breakthrough medicines; providing information on prevention, wellness, and treatment; consistent high-quality manufacturing of medicines, consumer products; and global leadership in corporate responsibility.

Pfizer was founded in 1849 and is headquartered in New York, New York. Our 2009 gross revenue was $50 billion and net income was $8.6 billion.

General Comments

I. Proposed Form I-129, Part 6

Pfizer almost never has occasion to place H-1B or L-1 workers at a third party location. We are concerned that USCIS might reach out to someone who is not employed by our company. Such a person would not have specific information regarding the Petitioner's employment of and control over the Beneficiary. Furthermore, these questions are duplicative of those found at Part 5, Numbers 5 and 6.

The follow-up questions to whether the employee will work "off-site" assume that employment will be under a third-party contract. There are several situations where the off-site work may be unrelated to a third party contract (e.g., physicians working at a hospital, employees who work remotely from home, etc.).

If USCIS feels compelled to make such inquiries, USCIS should ask targeted follow-up questions as opposed to presuming the existence of a third-party contract.

USCIS also requests the address where the employee will work in this section, which is duplicative of Part 5, Number 4. Because the form is already 35 pages, eliminating duplicative questions would be appreciated.

The issue of "off-site" employment becomes even more confusing in the H-1B Data Collection and Filing Fee Exemption Supplement, Part D, Attestation Regarding off-site Assignment of H-1B Beneficiaries. Does "off-site" refer to the location under the third party contract, or the petitioner's off-site location? We believe that in this case the USCIS assumes the petitioner's off-site location, but it has to be clearly explained on the form or in the instructions.

II. Proposed Form I-129, Part 7

A deemed export license is not required to be eligible for employment. Even if it were, USCIS is not the appropriate agency to question the existence or lack of an export license. The proposed instructions incorrectly state that an Export Administration Regulations ("EAR") deemed export license is required in some cases to "be eligible for employment being sought through the submission of a Form I-129." This is incorrect as the Department of Commerce explicitly states that the "EAR does not regulate employment matters."[1] USCIS should leave matters relating to export licensing to the Department of Commerce which is the agency charged with managing such issues.

Even in situations in which Pfizer is required by law to obtain an export license, USCIS should not require possession of an export license as a precondition to filing the I-129 petition. The petition instructions suggest that, if a deemed export license is required, it must be obtained prior to filing the petition. More specifically, the instructions state:

> "If a deemed export license is required, provide a copy of the U.S. Department of Commerce approved license and document the license number."

If USCIS refuses to accept an I-129 until a deemed export license is obtained, it will have a significant negative impact on Pfizer's ability to hire necessary talent for skills shortage positions. Such a requirement would dictate the timing of the license application, rather than permitting Pfizer to determine the best time to apply for licenses as appropriate for our processes, technology control procedures and controlled technology environment.

This requirement would surely result in new employees in OPT status falling out of status while Pfizer seeks an export license prior to filing petition. In the best case scenario, these individuals would be ineligible to change status in the U.S. and their ability to contribute to Pfizer would be delayed. In the worst case scenario, the U.S. will lose world- class scientists with critical skills to competing economies.

This requirement would render Pfizer and other U.S. pharmaceutical companies unable to hire scientists with rare skills where the H-1B cap is reached before the export license is issued and the petition can be filed.

Finally, even if it were legitimate for USCIS to inquire about export licenses, USCIS should not require possession of an export license prior to filing a consular notification H-1B. Even where a change or extension of stay is requested, USCIS should, at worst, deny the request for the change

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[1] See Deemed Export Questions and Answers, http://www.bis.doc.gov/deemedexports/deemedexportsfaqs.html.

or extension of stay but approve the underlying petition, similar to how it handles approval of H-1B petitions without granting a change of status where an I-612 J-1 waiver approval is not available.

USCIS should not ask for this information, and if they do, at best it should be included in the data collection section since the possession of an export license has no relevance to the adjudication of the I-129.

a. Deemed Export Acknowledgement does not include all technologies

The proposed Deemed Export Acknowledgement is incomplete as it is not inclusive of all export control regulations. Specifically, the proposal only covers technologies subject to the Export Administration Regulations ("EAR"). It does not address compliance with the International Traffic in Arms Regulations ("ITAR"), which covers technologies that are specifically designed, modified, configured, or adapted for military or space applications.

b. Deemed Export Acknowledgement is redundant

The proposed I-129 is redundant of more targeted programs such as Visas Mantis and the U.S. Department of Commerce Visa Application Review Program.

As you may know, the Visas Mantis program is a consular initiated check that may be initiated when a visa applicant works in a field identified on the Technology Alert List. Once initiated, the check may result in delays while a formal government review is completed. The check includes a government determination as to whether the individual requires an export license, among other things.

The U.S. Department of Commerce's Visa Application Review Program reviews applications to "detect and prevent possible violations of the EAR" by foreign nationals and makes recommendations on whether to deny visas for deemed export reasons. The proposed change to Form I-129 would create a redundancy with a function already performed by a government agency.

c. Efforts to capture export license information are premature as system being updated

The Obama administration and Secretary of Defense Robert Gates are currently working on plans to "dramatically reform our nation's outdated export control system." Secretary Gates is expected to outline the proposed changes in the coming weeks, which may impact the EAR's deemed export requirements. Given the possible changes it would be inappropriate to implement an I-129 Deemed Export Acknowledgement when the export control regulations may change in the near future.

III. Proposed Form I-129, L Classification Supplement to Form I-129, Section 1, Item 6

The proposed I-129 form requests the beneficiary's job duties for the three years prior to filing the petition/admission to the U.S. This request is overly inclusive and may be irrelevant to a particular L-1 determination. The regulations only require that the employee have worked abroad for one year out of the three years prior to requesting an L-1 and that the beneficiary have acted in a specialized knowledge or managerial capacity abroad. This specialized knowledge or

managerial capacity need not have been exhibited during the three year period immediately preceding application for initial L-1 status. For example, a long-time employee of a foreign subsidiary may have obtained the specialized knowledge relevant to an upcoming temporary work assignment five years ago and not within the most recent three years.

IV. Proposed Form I-129, O and P Classifications Supplement to Form I-129, Section 2

The proposed form requires the O-1/P-1 sponsor to acknowledge responsibility for return travel home if the beneficiary is dismissed early. Pfizer does not use the P-1 visa category and only uses the O-1 category in limited circumstances. This question should not be part of the form as it is already a regulatory requirement. Whether or not a Petitioner signs an acknowledgement, the Petitioner is required to comply. Including this acknowledgement here is also inconsistent with treatment of H-1Bs, as H-1B regulations also require that the Petitioner pay for return travel home, but the H Classification Supplement does not require a similar signed acknowledgment.

Conclusion

We hope that you will take in consideration our concerns and comments. Accepting the proposed form in its current version will detrimentally affect Pfizer's ability to bring talent to our research and operational facilities and thus will not contribute to the growth of the vitally important field of the US economy.

Please do not hesitate to contact the undersigned if you have any questions.

Sincerely,

Kaha Kvachatadze
Corporate Counsel