



Immigration Alert

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H-1B Cap Hit for Fiscal Year 2014

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On April 5, 2013, U.S. Citizenship and Immigration Services (USCIS) announced that it had received more than enough H-1B petitions to meet the numerical limit for fiscal year 2014 cap-subject H-1B visas, which includes both the 65,000 general H-1B cap petitions as well as the 20,000 “U.S. Masters” H-1B petitions filed on behalf of individuals with U.S. advanced degrees. No more cap-subject H-1B petitions will be accepted by USCIS.

USCIS indicates it will now begin executing the computer-generated random selection process for all cap-subject petitions received. First, USCIS will determine which U.S. Masters cases will be randomly selected toward the 20,000 limit. Once that is determined, the remainder of the U.S. Masters cases will be added to the pool of general H-1B cap petitions, and USCIS will execute the second random selection process to determine which cases are accepted toward the more general 65,000 limit. Only those cases which win the lottery will receive a receipt from USCIS. All other cases will be returned.

USCIS expects it may take two weeks for the selection process to be completed. When the selection process is completed it will enter the “accepted” petitions into its system and generate the receipt notices for the “accepted” petitions.

USCIS has also temporarily adjusted its current premium processing practice. To facilitate the prioritized data entry of cap-subject petitions requesting premium processing, and in accordance with 8 CFR 103.7(e)(3)(ii), USCIS has announced that premium processing for cap-subject H-1B petitions, including H-1B petitions seeking an exemption from the fiscal year cap for individuals who have earned a U.S. master’s degree or higher, will begin on April 15, 2013.

Despite the quota being filled, USCIS will continue to accept and process H-1B petitions exempted from the H-1B cap, DOD cooperative research worker petitions, and Chile/Singapore H-1B1 petitions. Petitions will also be accepted for H-1B petitions which seek to:

• extend the stay of a current H-1B employee;
• change the terms of employment for an existing H-1B worker;
• change H-1B employers; or
• secure concurrent H-1B employment

Stay tuned for further updates regarding the H-1B visa quota and guidance on alternative visa options when H-1B visas are not available.

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