



CIS ANNOUNCES SUSPENSION OF H-1B PREMIUM PROCESSING IN ANTICIPATION OF EARLY LOTTERY

On April 1st U.S. Citizenship & Immigration Services (CIS) will start accepting H-1B petitions subject to the fiscal year (FY) 2014 H-1B cap. Late last week CIS advised that it anticipates that the H-1B cap could be reached very early this year, possibly within the first five business days that filings are accepted, triggering an H-1B lottery from all petitions received during the first five days (April 1 – April 5). CIS will return the petition and all filing fees if an H-1B visa number is not allocated to the petition.

Due to the anticipated high volume of H-1B filings and in order to ensure that all cap-subject H-1B petitions are received and identified, CIS also announced that its premium processing service will be temporarily suspended for cap-subject H-1B petitions only. The suspension applies to filings under both the Regular cap and the Master's cap. Premium processing for other eligible petitions, including H-1B petitions not subject to the cap and non H-1B petitions like E, L and TN petitions, will continue unabated with premium processing beginning upon the date CIS receives the request.

The premium processing service guarantees that CIS will take action on the petition within 15 days of CIS receipt of the request for premium processing. However, due to the announced suspension of premium processing for cap-subject H-1B petitions, premium processing adjudication will not begin until April 15, 2013. In other words, while H-1B cap subject petitions may be filed beginning April 1st with the request for premium processing, along with the additional \$1,225 premium processing filing fee, the 15-day clock for premium processing adjudication will not begin until April 15, 2013. Employers may also wait until CIS has issued a Receipt Notice for the petition, and then request an "upgrade" to premium processing rather than request premium processing with the initial H-1B cap subject filing.

CIS affirms that premium processing does not impact the likelihood that a petition will be allocated an H-1B number under either the Regular H-1B cap or the Master's cap. Despite such reassurances, many employers and beneficiaries prefer premium processing for the added convenience of receiving an earlier CIS decision.

To initiate new H-1B petitions, contact your FosterQuan immigration attorney immediately. Your FosterQuan attorney can assist you in identifying those H-1B candidates among your workforce for whom an H-1B petition is required this year in order to avoid a gap in employment authorization. For additional information, or to find contact information for FosterQuan immigration attorneys, visit the FosterQuan website at www.fosterquan.com.