

Immigration Alert: USCIS Runs Random Selection Process for FY2009 H-1B Petitions

4/15/2008

On April 14th, United States Citizenship and Immigration Service (USCIS) conducted the computer-generated random selection process on H-1B petitions received within the first five business days of April, and has subsequently released tentative timelines for the next stages of the FY2009 cap-subject H-1B process.

According to USCIS, approximately 163,000 H-1B petitions were submitted in the first five days of the eligible filing period, with 31,200 of those petitions qualifying in the U.S. Masters H-1B category. The first "lottery" was run to select the 20,000 qualifying US Masters H-1B petitions. Those US Masters petitions that were not selected in this drawing were then included in the lottery to select the additional 65,000 H-1B visa petitions.

USCIS has indicated that "petitioners whose properly-filed petitions have been selected for full adjudication should receive a receipt notice dated no later than June 2, 2008." While not explicit, the implication is that USCIS is giving itself until June 1, 2008, to enter the "accepted" H-1B petitions into the system and notify the petitioners (or their attorneys) of this acceptance. USCIS also indicates that it is giving itself this long to return "rejected" H-1B petitions as well. We will provide an update if USCIS issues further clarification.

USCIS announced that for those H-1B petitions filed via premium processing and selected in the lottery, the 15-day adjudication clock would start as of April 14th, the date the lottery was run. In addition, USCIS indicated that it has come up with a system to "wait list" some H-1B petitions, keeping them available to replace H-1B petitions that were accepted in the random lottery but, upon examination, are denied, withdrawn, or found otherwise ineligible. USCIS will send letters to wait-listed petitioners to inform them of this status; within six to eight weeks, the USCIS expects to issue a receipt notice or return the "wait listed" petition.

We will continue to provide further information as it becomes available.

If you would like more information on any immigration matter, please contact your immigration attorney at Mintz Levin or go to www.mintz.com.

Susan Cohen
617.348.4468 | SCohen@mintz.com

Jeffrey Goldman
617.348.3025 | JGoldman@mintz.com

Reena Thadhani
617.348.3091 | RThadhani@mintz.com

William Coffman
617.348.1890 | WCoffman@mintz.com

Brian J. Coughlin
617.348.1685 | BJCoughlin@mintz.com

Lorne Fienberg
617.348.3010 | LFienberg@mintz.com

Marisa Howe
617.348.1761 | MHowe@mintz.com

Bethany S. Mandell
617.348.4403 | BSMandell@mintz.com

Daniel Maranci
617.348.1885 | DMaranci@mintz.com

Timothy Rempe
617.348.1621 | TRempe@mintz.com /p>