



Legal Alert: USCIS Still Accepting H-1B Cases Subject to the H-1B Cap

6/30/2009

On June 30, 2009, U.S. Citizenship and Immigration Services (USCIS) provided an update stating that it continues to accept H-1B petitions subject to the Fiscal Year 2010 H-1B Cap.

Under current law, the annual limit for new H-1B petitions is 65,000 for the regular H-1B cap, plus an additional 20,000 for individuals who have obtained an advanced degree from a U.S. university. USCIS indicates that as of June 26, 2009, it has received approximately 44,800 cases subject to the regular H-1B cap and 20,000 cases qualifying for the advanced degree exemption. USCIS states it will continue to accept both regular H-1B cap and advanced degree cases (since not all advanced degree cases are ultimately approved based on past experience) until a sufficient number of H-1B petitions are received to reach the statutory limits. Once the H-1B cap is met, USCIS will announce the final receipt date and conduct a lottery for those petitions received on the last day that H-1B petitions are accepted.

Over the past several years, the H-1B cap has been reached within the first few days of April 1st – the date the immigration agency begins accepting H-1B petitions for each new fiscal year. This year stands out in that now, almost three months from the start of the H-1B filing period on April 1st, the H-1B cap still has not yet been reached.

Employers' Bottom Line: This is good news for employers who would like to file an H-1B petition for a new foreign worker. There is still time to file an H-1B case subject to the FY 2010 H-1B cap.

If you have any questions regarding this issue or other business immigration issues, please contact the author of this Legal Alert, Charles Roach, croach@fordharrison.com, 612-486-1631, or any member of Ford & Harrison's Business Immigration practice group.