

Immigration Alert

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USCIS Announces Fiscal Year 2011 H-1B Cap Reached

On January 27, 2011, U.S. Citizenship and Immigration Services (USCIS) announced that, as of January 26, it has received more than enough H-1B petitions to meet the numerical limit for Fiscal Year (FY) 2011 cap-subject H-1B visas. In addition, USCIS announced that it has also received more than 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 for this fiscal year, which expires September 30, 2011.

USCIS indicates it will now begin executing the computer-generated random selection process (lottery) for all cap-subject petitions received on January 26, the date USCIS calculates the cap was reached (petitions received prior to January 26 will receive a receipt and will be adjudicated by USCIS). This random selection process is to determine which cases are accepted toward the remainder of the H-1B visas. Only those cases that win the lottery will receive a receipt from USCIS. All other cases will be returned along with the filing fees.

Any cap-subject H-1B petitions received by USCIS after January 26 will be returned and associated fees remitted.

USCIS will continue to accept and process petitions filed for the following:

- To extend the amount of time a current H-1B worker may remain in the U.S.
- To change the terms of employment for current H-1B workers
- To allow current H-1B workers to change employers
- To allow current H-1B workers to work concurrently in a second H-1B position

We remind our clients that FY 2012 H-1B visa petitions may be filed on April 1, 2011, requesting an October 1, 2011 start date. This is approximately two months from now. Employers who have missed the FY 2011 cap should begin planning now for an April 1, 2011 filing date requesting an FY 2012 H-1B.

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