

Immigration Alert: USCIS Announces Fiscal Year 2009 H-1B Cap Reached

4/9/2008

On April 8, 2008, 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 2009 cap-subject H-1B visas. In addition, USCIS announced that it had 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.

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 has given no indication as to how long it will take for this selection process to be completed, when it foresees entering the "accepted" petitions into its system, when it will be releasing the receipt notices for the "accepted" petitions, or how long regular H-1B processing might take for those cases accepted toward the cap. USCIS also has not indicated when it will begin returning the "rejected" petitions and associated filing fees. We will provide updates as they become available.

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

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