

## Immigration Alert

FEBRUARY 1, 2013

### It's Time to Prepare H-1B Visa Petitions for Fiscal Year 2014

This alert is a reminder of the rapidly approaching April 1, 2013 "deadline" for the filing of H-1B visa petitions for Fiscal Year 2014. Petitions for the new fiscal year, which starts on October 1, 2013, will be accepted by the government beginning April 1, 2013. U.S. Citizenship and Immigration Services (USCIS) will continue to accept new H-1B petitions after April 1, 2013, but only until the H-1B cap is reached. As soon as possible, we encourage you to identify any employees who may require H-1B sponsorship. This year we expect the cap to be reached quickly. As a result of overall economic conditions improving over the past year, we expect the H-1B cap to be reached as early as the first week of April. Once the H-1B cap has been reached, employers will be unable to file new cap-subject H-1B petitions until April 1, 2014.

Congress has placed a numerical "cap" on H-1B visas. For FY 2014, the limit is 65,000 cap-subject H-1B visas, with an additional 20,000 visas available for individuals who have earned a Master's degree or higher from an accredited U.S. educational institution. In past years, the cap has been reached in the first few days of April. While last year's cap was not met until June, we are finding a substantial increase in H-1B sponsorship requests this year. There is no way to predict when this year's H-1B quota will be exhausted, but we advise employers to make H-1B sponsorship decisions within the next two weeks. It is important to prepare H-1B petitions as early as possible and well before April 1st so that a complete petition can be submitted to USCIS on the first day that the quota opens.

We will work with you to file H-1B petitions right up until April 1st, and afterwards, for as long as H-1B visas are available. We strongly advise clients to finalize their H-1B petition decisions by February 15, 2013. Each petition requires certification by the Department of Labor (DOL) of a Labor Condition Application (LCA). DOL regulations allow for up to seven working days to certify an LCA. It is therefore important to commence work on new H-1B petitions as possible.

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Please contact an attorney with Mintz Levin's Immigration Practice for additional information regarding the H-1B visa program, or if you have a particular candidate in mind for H-1B status.

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