

## Attention H-1B Employers - FY 2012 Visa Cap Likely to Be Reached Before End of 2011!

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Does your company rely on H-1B workers to fill critical positions? Do you anticipate hiring foreign nationals in the upcoming months? Fiscal Year 2012 H-1B visas are going fast and expected to be exhausted by the end of December 2011. Act quickly to lock in one of the remaining FY 2012 H-1B visas.

Each year, there are 65,000 regular cap (from which up to 6,800 visas are reserved for citizens of Chile and Singapore) and 20,000 U.S. Master's or higher degree H-1B visas available for foreign nationals to work in the United States on a temporary basis in professional or specialty jobs. On November 2, 2011, the U.S. Citizenship and Immigration Services (USCIS) announced that it had received 50,800 regular cap petitions and that the U.S. Master's and higher degree cap had been reached for fiscal year 2012 (October 1, 2011 to September 30, 2012). The USCIS will continue to accept H-1B petitions covered under the annual quota until the cap has been reached. For the last two years, the annual cap was reached on January 26, 2011 for FY 2011 and December 21, 2009 for FY2010. With less than 8,000 visas remaining under the FY 2012 quota, the annual cap could be reached within the next month.

The following petitions are exempt from the H-1B annual quota count:

- petitions for extensions of stay or change of employer for workers who are currently in H-1B status; and
- petitions by institutions of higher education, nonprofit entities affiliated with an institution of higher education, and nonprofit research organizations.

Employers who anticipate hiring a foreign national on a new H-1B visa should take immediate steps to ensure that the petition is received by the USCIS before the annual cap is reached. Once the FY 2012 cap is reached, the USCIS will not accept FY 2013 H-1B petitions again until April 1, 2012 (for an October 1, 2012 employment start date).