



April 17, 2014

USCIS Reaches FY2015 H-1B Cap During First Week for Second Year in a Row

On Monday, April 7, 2014, United States Citizenship and Immigration Services ("USCIS") announced that, for fiscal year 2015 (October 1, 2014 to September 30, 2015), it had received enough H-1B visa petitions within the first five days to fill the annual cap of 65,000 visas available. On April 10, 2014, USCIS announced that it had completed its random computer-generated selection process, known as the H-1B visa lottery, to select the lucky 65,000 general-category cap and 20,000 advanced-degree cap H-1B visa petitions from among the 172,500 received. Those petitions not selected in the lottery process will be rejected and returned with filing fees paid (unless found to be a duplicate filing).

USCIS announced on March 25, 2014, that it would begin processing H-1B visa petitions filed under the premium processing program (a 15-day processing period), by no later than April 28, 2014. Therefore, employers who filed H-1B petitions under the premium processing program can expect to receive a final notice of adjudication by no later than May 13, 2014, if not sooner.

As always, employers can continue to file H-1B cap-exempt petitions for employees who have already been granted H-1B visa status and have, therefore, already been counted against the cap. This includes employees who need to extend or amend their current H-1B visa status and/or change employers. Employers filing petitions on behalf of all other H-1B employees who either missed the first week of filing or whose petitions were not selected through the lottery process, will have to wait until April 1, 2015, to file their H-1B petitions for an employment commencement date of October 1, 2015.

This is the second year in a row that USCIS has received enough H-1B visa petitions within the first week to fill the annual cap of 65,000 visas available for the fiscal year and we can expect the same to occur next H-1B season. Therefore, the moral remains, employers must be prepared to file their petitions as early as possible at the start of the next H-1B season and must consider alternative options for prospective H-1B employees who do not make the cut.

Comprehensive Immigration Reform (CIR) legislation is pending in Washington, D.C. This CIR legislation would increase the H-1B cap and substantially improve many other aspects of the U.S. immigration system. The Senate passed its CIR bill last summer, however the House of Representatives has not yet passed a CIR bill. Various business organizations are lobbying the House to pass a CIR bill but this advocacy effort needs additional support (so please contact your House Representative to indicate your support for passage of a House CIR bill).