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## **TIME IS OF THE ESSENCE FOR CAP-SUBJECT H-1B PETITIONS**

On April 1<sup>st</sup> U.S. Citizenship & Immigration Services (CIS) will start accepting H-1B petitions subject to the fiscal year (FY) 2014 H-1B cap. Because of the lead-time involved, employers should initiate all new H-1B cases immediately in an effort to file on April 1<sup>st</sup> and maximize the opportunity to secure one of the limited H-1B visa numbers available under the annual quota.

### Employers Should Initiate New H-1B Petitions Now

The CIS will not accept new H-1B petitions before April 1, 2013, which is the Monday following Easter holiday weekend. With the holiday weekend encroaching on one or more extra work days in preparation for H-1B petition filing, employers should plan for all cases to be completed before the holiday weekend, to allow for courier submission with a delivery date of April 1<sup>st</sup>.

Employers should also remember the unavoidable lead-time required for filing an H-1B petition. Before an H-1B petition can be filed, a Labor Condition Application (LCA) must be filed with, and certified by, the U.S. Department of Labor (DOL). The DOL currently takes approximately 5-7 *business* days to certify an LCA. Additionally, smaller companies or companies that have recently undergone a change in corporate formation or structure may find that it takes longer to obtain DOL certification of an LCA, due to the DOL policy requiring prior verification of the employer's existence and Federal Employer Identification Number (FEIN) before an LCA can be certified. ***Because of the unavoidable lead-time for filing an H-1B petition, employers are encouraged to initiate new H-1B petitions now for all known candidates.***

### H-1B Cap Timing

Last year, FY-2013 H-1B cap numbers were exhausted on June 11, 2012, well before the beginning of the fiscal year on October 1<sup>st</sup>. With an improving economy it is expected that both the Regular and Master's cap numbers will be exhausted even earlier this year. It is even possible that the CIS could receive a sufficient number of H-1B petitions within the very first week of April to reach the H-1B numerical cap.

### Contact Your FosterQuan Attorney Now

To maximize the opportunity for an April 1<sup>st</sup> H-1B petition filing, contact your FosterQuan immigration attorney now to initiate new H-1B petitions for all known candidates. Your FosterQuan attorney can assist you in identifying those H-1B candidates among your workforce for whom an H-1B petition is required this year in order to avoid a gap in employment authorization. For additional information, or to find contact information for FosterQuan immigration attorneys, visit the FosterQuan website at [www.fosterquan.com](http://www.fosterquan.com).