



H-1B CAP COUNT CONFUSION & RECEIPT DELAYS CALL INTO QUESTION TRUE NUMBER OF H-1B NUMBERS REMAINING

On Tuesday, May 22, 2012, U.S. Citizenship & Immigration Services (CIS) announced that, as of Friday, May 18, 2012, 42,000 H-1B visa petitions had been received under the FY-2013 H-1B Regular Quota, and that 16,000 H-1B visa petitions had been received under the FY-2013 H-1B Advanced Degree Quota.

Ordinarily this information would indicate that approximately 16,000 – 18,000 H-1B Regular Quota numbers remain available (after “set-asides” for the Chile/Singapore H-1B1 program), and that approximately 4,000 H-1B Advanced Degree Quota numbers remain available for individuals with a U.S. Master’s Degree or higher.

Unfortunately, the reported CIS data may or *may not* include what could be hundreds, or perhaps thousands, of H-1B petitions filed with the CIS Vermont Service Center – cases that have been delivered to the Vermont Service Center but not yet “receipted in” (filing fee checks not cashed, and Receipt Notices not issued). The CIS appears to have a “front-log” in the receipting-in and assigning of case numbers for many petitions filed with the Vermont Service Center in the past few weeks. Some employers report that several weeks have passed without receipt of a CIS Receipt Notice or the cashing of the employer’s H-1B filing fee checks.

Because there is no way to determine how many cases, if any, are in the “front-log” that have not been counted against the H-1B Quota, there is no way to know at present how many H-1B numbers may remain available under the FY-2013 H-1B Quotas. FosterQuan recommends that all FY-2013 H-1B petitions on behalf of qualifying beneficiaries be filed as soon as possible.

Please contact your FosterQuan immigration attorney for more information regarding any prospective H-1B petitions and any options that may be available to expedite adjudication in advance of a rapidly depleting quota.

FosterQuan attorneys are actively engaged in dialogue with the American Immigration Lawyers Association and government officials on this issue. As always, FosterQuan will continue to monitor the CIS receipt of filings under the FY-2013 H-1B Quotas and will make additional updates available via future Immigration Updates® and on our firm’s [website](#).