



EMAIL BULLETIN

U.S. CITIZENSHIP & IMMIGRATION SERVICES (CIS) IS NOW ACCEPTING H-1B PETITIONS FOR FISCAL YEAR 2007

A Recent “CIS Press Release” Announcing that the FY 2007 H-1B Cap Had Been Reached Was a Hoax

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On April 1, 2006, U.S. Citizenship & Immigration Services (CIS) began accepting H-1B petitions requesting a Fiscal Year 2007 start date and seeking allocation of one of the 58,200 (plus 20,000 “exempt”) H-1B numbers available under the FY 2007 H-1B cap.

Petitions filed on April 1, 2006 or after may request a start date no earlier than October 1, 2006. Because the H-1B numbers for candidates holding only U.S. Bachelors Degrees or the equivalent foreign degree are limited to 58,200 for the entire Fiscal Year (October 1, 2006 through September 30, 2007), employers should file new H-1B petitions as early as possible in order to maximize the chance of receiving one of the limited numbers available for the new fiscal year.

False Report that the H-1B Cap Was Reached

Last year, the H-1B cap for FY 2006 (October 1, 2005 to September 30, 2006) was reached before FY 2006 even began, and this year the FY 2007 H-1B cap is expected to be reached even earlier. Although the H-1B cap is expected to be reached earlier this year than last, presently the CIS reports H-1B usage rates that approximate those of last year. **The rumor that the H-1B cap has already been reached is false.** The hoax prompted the CIS to issue its own Press Release denying the rumor and announcing that the CIS continues to accept H-1B petitions requesting FY 2007 H-1B numbers.

Advanced Degree Exempt Numbers

In addition to the 58,200 H-1B numbers available for candidates holding Bachelors Degrees or their equivalent, an additional 20,000 cap-exempt FY 2007 H-1B numbers are available for candidates with an advanced degree from a U.S. institution. Commonly called the “Masters Degree exemption”, this exemption applies to candidates holding an advanced degree from a U.S. institution and *does not* include candidates holding a foreign degree which may be deemed equivalent to a U.S. Masters Degree or higher.

File H-1bs Now

Employers should file H-1B petitions immediately for their F-1 student employees who are working pursuant to F-1 Optional Practical Training, even if these employees have several months of validity remaining on their Employment Authorization Documents (EAD). Failure to file early may result in the unavailability of H-1B numbers when the EAD cards expire, thereby leaving a gap in employment eligibility. Petitions for all other candidates who do not currently hold H-1B status should also be filed as soon as possible in order to maximize the opportunity to secure an H-1B number for H-1B employment beginning on October 1, 2006.

For more information concerning the H-1B cap, cap-exempt cases, and how to initiate the H-1B petitioning process, contact your Tindall & Foster Immigration Attorney now. Your Tindall & Foster attorney will be happy to assist you in developing an appropriate case strategy and will provide you with a list of all information and documentation needed to facilitate case preparation and filing.