



EMAIL BULLETIN

U.S. CITIZENSHIP & IMMIGRATION SERVICES (CIS) ANNOUNCES THAT THE FISCAL YEAR 2007 H-1B CAP HAS BEEN REACHED

H-1B Visa Numbers Remain Available for Beneficiaries Qualifying for the U.S. Advanced Degree Exemption

1 June 2006

On June 1, 2006, the CIS announced that, as of May 26, 2006, the Fiscal Year 2007 H-1B Cap had been reached.

The CIS has also announced that the final receipt date for cap-subject cases is May 26, 2006. Petitions received on May 26 will be subject to a random selection process. Petitions not selected for allocation of an H-1B number in the random selection process will be returned along with the CIS filing fees. Petitions received after May 26, 2006 will also be rejected and returned with the CIS filing fees.

The CIS has further confirmed that H-1B numbers remain available for candidates holding an advanced degree from a U.S. institution. As of May 26, the CIS estimates receipt of approximately 5,830 petitions that qualify for one of the 20,000 exempt numbers available for candidates with advanced degrees from U.S. institutions. Advanced degrees awarded by non-U.S. institutions will not qualify a beneficiary for this exemption.

H-1B visa numbers also remain available for citizens of Chile and Singapore, for whom U.S. trade agreements set aside 6,800 total numbers per Fiscal Year.

The following types of H-1B petitions are not subject to the annual H-1B cap and may be filed without numerical limitation:

1. H-1B Petition Extensions for existing H-1B employees
2. H-1B Change of Employer petitions for candidates holding H-1B status and seeking to change employers
3. H-1B Petitions on behalf of employees of institutions of higher education
4. H-1B Petitions on behalf of employees of Nonprofit Organizations affiliated with institutions of higher education

5. H-1B Petitions on behalf of employees of Nonprofit Research Organizations or Governmental Research Organizations
6. H-1B Petitions on behalf of candidates who were previously granted H-1B status in the past six years and have not left the United States for more than one year after attaining H-1B status

While the U.S. Senate has proposed an increase in H-1B numbers, the measure is part of a larger, more comprehensive bill that faces stiff opposition in the U.S. House of Representatives, which has passed a competing, enforcement-only bill. Employers are encouraged to visit the advocacy section of the American Immigration Lawyers' Association (AILA) web site at <http://capwiz.com/aila2/issues/bills/?bill=8298361> to utilize templates for voicing opposition to the enforcement-only House bill, H.R. 4437, and support for the Senate Compromise bill that includes a provision for additional H-1B numbers each Fiscal Year. *Please note:* Due to security concerns and the lengthy process of screening paper mail for anthrax prior to delivery to members of Congress, both the Senate and House prefer facsimiles or electronic correspondence as made possible through the AILA site.

For more information concerning the H-1B cap and cap-exempt cases, contact your Tindall & Foster Immigration Attorney. Your Tindall & Foster attorney will be happy to assist you in determining whether a beneficiary may be exempt from the cap, in developing an appropriate case strategy for case preparation and filing, and in collecting the information and documentation needed to facilitate filing for H-1B cap-exempt cases.

Your Tindall & Foster attorney will also be happy to work with you to tailor an appropriate letter that expresses your company's position on issues of concern for the future of your business, such as the annual H-1B quota. As always, Tindall & Foster will continue to monitor the progress of legislative proposals and will make future updates available in Email Bulletins and on our web site at www.tindallfoster.com.