

H-1B PETITION FILING WINDOW OPEN UNTIL APRIL 7, 2009;

Employers Must Act Now to Initiate Any Remaining New Cap Subject H-1B Petitions

Beginning April 1, 2009, U.S. Citizenship & Immigration Services (CIS) began accepting H-1B nonimmigrant visa petitions seeking allocation of Fiscal Year 2010 (October 1, 2009 through September 30, 2010) H-1B numbers. Under CIS regulations, if the H-1B quota is reached within the first five business days that filings are accepted, which this year is April 1st through April 7th, 2009, all petitions received by the CIS during the five-business-day filing window will be treated equally under the random numeric selection process (“lottery”) for award of an H-1B number.

Effectively, under CIS regulations, employers have from now until April 7th to file new H-1B petitions requiring a Fiscal Year 2010 H-1B number. Anecdotal evidence indicates that fewer H-1B petitions are being filed this year than in years past. This means that employers may find they have a better chance of receiving H-1B numbers for their employees in the “lottery” this year than in recent years.

H-1B petitions may be filed on behalf of beneficiaries qualified for employment in a “Specialty Occupation,” one that ordinarily requires at least a Bachelors Degree or its equivalent. Individuals who do not hold a Bachelors Degree may still qualify for H-1B status based on a career of progressively-responsible employment experience. F-1 students, L-1B nonimmigrants, TN nonimmigrants, and other nonimmigrants who may wish to pursue U.S. permanent residency are likely candidates for H-1B classification.

Because the annual H-1B Quota is expected to be exhausted within the five-business-day filing window, employers should contact their Foster Quan attorneys now to initiate new H-1B petition filings, for submission no later than April 6, 2009, and receipt by CIS no later than April 7, 2009. For [more information](#) on the H-1B quota and the pursuit of H-1B classification for F-1 Students and TN and L-1B nonimmigrants, please visit our firm’s website.