



H-1B FILING SEASON APPROACHES - USCIS TO ACCEPT NEW H-1B PETITIONS ON APRIL 1, 2013

U.S. Citizenship & Immigration Services (CIS) will start accepting H-1B petitions subject to the fiscal year (FY) 2014 cap on Monday, April 1, 2013 (we note that the weekend prior is Easter weekend). Cases will be considered accepted on the date CIS receives a properly filed petition; not the date that the petition is postmarked. The start date for the H-1B petitions will be October 1, 2013.

The cap (the numerical limit on H-1B petitions) for FY 2014 is 65,000. Of the 65,000 yearly numbers, 6,800 are allocated for nationals of Singapore and Chile, leaving only approximately 58,200 numbers per fiscal year. The first 20,000 H-1B petitions filed on behalf of individuals with U.S. master's degrees or higher are exempt from the H-1B cap. If CIS receives more petitions than it can accept, CIS will randomly select the number of petitions received on the day the cap is reached for final inclusion within the cap. CIS will reject petitions that are subject to the cap and are not selected, as well as petitions received after it has the necessary number of petitions needed to meet the cap. If the H-1 B cap is reached on the first day, USCIS will continue to accept petitions for five business days and will randomly select from all petitions received during that time.

Certain petitions are "cap-exempt" if the beneficiary will work at: 1) an institution of higher education or related or affiliated nonprofit entity; 2) a nonprofit research organization; or 3) a governmental research organization. Petitions for H-1B extension of status or change of employer are generally not subject to the H-1B cap. Employers are advised to file H-1B petitions as early as possible for all known candidates even if they currently hold F-1 Optional Practical Training (OPT) employment authorization.

Last year H-1B cap numbers were exhausted on June 11, 2012. With an improving economy it is expected that the cap numbers will be exhausted even earlier this year. It is even possible that USCIS could receive a sufficient number of H-1B petitions within the very first week of April to reach the H-1B numerical cap. This has occurred in years past, prior to the most recent economic downturn. For more information and to initiate a new H-1B petition contact your FosterQuan immigration attorney.

As always FosterQuan will continue to monitor global immigration regulations and procedures and will provide additional information in future Immigration Updates®, and on our firm's website at www.fosterquan.com.