



July 28, 2006

Press Release

USCIS REACHES H-1B EXEMPTION CAP FOR FISCAL YEAR 2007 *20,000 Slots Reserved for Aliens with Master's Degrees or Higher Exhausted*

Washington, D.C.– U.S. Citizenship and Immigration Services (USCIS) announced today that it has received enough H-1B petitions requesting “foreign workers who have earned a master’s degree or higher from a U.S. institution of higher education” to meet the exemption limit of 20,000 established by Congress for fiscal year (FY) 2007. Consequently, USCIS has determined that the “final receipt date” for these exempt H-1B petitions is July 26, 2006. Petitions received on July 26, 2006 are subject to the random selection process described below. USCIS will reject petitions requesting a foreign worker with a master’s or higher degree earned from a U.S. institution of higher education that are received after the “final receipt date” unless the petition is otherwise eligible for a separate cap exemption.

USCIS has implemented the following procedure for H-1B filings for FY 2007 in accordance with the procedures announced in 70 FR 23775 (Allocation of Additional H-1B Visas Created by the H-1B Visa Reform Act of 2004):

- If USCIS determines that the numerical limits have been exceeded, USCIS will identify those H-1B petitions seeking an FY 2007 number that were received on that date.
- USCIS will then conduct a computer-generated random selection of the petitions received on that date to allocate any remaining FY 2007 H-1B numbers.
- After random selection, any remaining H-1B petitions that do not receive an FY 2007 number and are not otherwise exempt will be rejected and returned.
- Returned petitions will be accompanied by the filing fee.
- Petitioners may re-submit their petitions when H-1B visas become available for FY 2008.
- The earliest date a petitioner may file a petition requesting FY 2008 H-1B employment with an employment start date of October 1, 2007, would be April 1, 2007.

Petitions for current H-1B workers do not count towards the congressionally mandated H-1B cap. Accordingly, USCIS will continue to process petitions filed to:

- Extend the amount of time a current H-1B worker may remain in the United States.
- Change the terms of employment for current H-1B workers.
- Allow current H-1B workers to change employers.
- Allow current H-1B workers to work concurrently in a second H-1B position.

USCIS also notes that petitions for new H-1B employment are exempt from the annual cap if the alien will be employed at an institution of higher education or a related or affiliated nonprofit entity, or at a nonprofit research organization or a governmental research organization.

The H-1B visa program is utilized by some U.S. businesses to employ foreign workers in specialty occupations that require theoretical or technical expertise in a specialized field, such as scientists, engineers, or computer programmers. As part of the H-1B program, the Department of Homeland Security (DHS) requires U.S. employers to meet specific labor conditions to ensure that American workers are not adversely impacted, while the Department of Labor's Wage and Hour Division safeguards the treatment and compensation of H-1B workers.

USCIS received enough H-1B petitions to meet the general population H-1B cap of 65,000 for fiscal year 2007 on May 26, 2006. This information was communicated to the public via Press Release issued by USCIS on June 1, 2006. More information about the H-1B program and about USCIS is available at www.uscis.gov.

– USCIS –

On March 1, 2003, U.S. Citizenship and Immigration Services became one of three legacy INS components to join the U.S. Department of Homeland Security. USCIS is charged with fundamentally transforming and improving the delivery of immigration and citizenship services, while enhancing our nation's security.