



USCIS Update

April 19, 2007

CHANGE IN H-1B PROCEDURES TRIMS WEEKS OFF FINAL SELECTION PROCESS *USCIS Clarifies Status of Receipt Notices Dated Before April 12, 2007*

WASHINGTON – U.S. Citizenship and Immigration Services (USCIS) announced on April 12 that it completed the computer-generated random selection process to determine which H-1B petitions subject to the congressionally mandated H-1B cap for fiscal year 2008 (FY 2008) would be accepted for processing. On April 3, USCIS announced that it had received enough petitions to meet the cap for FY 2008 and that it would conduct a computer-generated random selection of cap-subject petitions filed on Monday, April 2, and Tuesday, April 3. As a result of the high volume of petitions subject to the computer-generated random selection process, USCIS did not conduct data-entry of all cap-subject filings. Rather, it developed new procedures that enabled the agency to efficiently process cap-subject petitions.

In accordance with 8 CFR 103.1(a)(7) and standard USCIS procedure, FY 2008 cap-subject H-1B petitions were stamped to reflect the time and date of actual receipt.

On Wednesday April 4, 2007, USCIS began assigning unique numerical identifiers to all cap-subject H-1B petitions received on April 2 and 3. USCIS assigned a unique numerical identification number to the 123,480 properly filed H-1B petitions and, on April 12, conducted the computer-generated random selection process to determine which petitions would be accepted for processing. In accordance with 8 CFR 214.2(h)(8)(ii), those petitions not randomly selected, as well as any cap-subject petitions received after April 3, will be rejected.

USCIS did not issue receipt notices for all 123,480 petitions received on April 2 and 3. However, it did conduct data-entry and generate (and in some cases actually issue) receipt notices for a portion of cap-subject petitions prior to conducting the computer-generated random selection process. The issuance of receipt notices prior to conducting the computer-generated random selection process had no impact whatsoever on whether a petition has been randomly selected for processing.

USCIS appreciates that this process has caused some confusion regarding whether petitions have actually been selected for processing and offers a detailed explanation of its procedures below:

- Some cap-subject petitions were data-entered on April 2 and 3. As a result, fees were deposited in connection with these petitions and receipt notices on Form I-797 were issued. USCIS cannot invalidate these receipt notices because the fees have been deposited. Petitioners who received receipt notices dated prior to April 12, 2007 cannot assume that their H-1B petitions have been accepted for processing. For cases that fall into this group, those that were not randomly chosen will be returned to petitioners and the filing fee will be subsequently refunded. Those that were accepted for processing will be processed under the original receipt notice.
- Some cap-subject H-1B petitions were data-entered on Wednesday, April 4 and receipt notices on Form I-797 were generated, but never issued to petitioners. As USCIS did not deposit any of the fees submitted with these filings, these receipt notices have been voided. For cases that fall into this group, those that were not chosen will be returned to petitioners with the filing fees and those that were accepted for processing will be issued official receipt notices dated on or after April 12, 2007.

(more)

- Finally, a small number of cap-subject H-1B petitions, filed under premium processing, were also data-entered on April 4. In accordance with USCIS procedure, e-mail notification acknowledging receipt of these petitions was issued to petitioners. Official receipt notices on Form I-797 were generated, but never issued, and USCIS did not deposit any of the fees submitted with these filings. Thus, all generated receipt notices have been voided. For cases that fall into this group, those that were not chosen will be returned to petitioners with the filing fees and those that were accepted for processing will be sent a second e-mail confirmation of receipt and will be issued new receipt notices on Form I-797 dated on or after April 12, 2007.

USCIS will return all petitions not randomly selected for processing, with the fee(s) to the petitioner or their authorized representative. Final notification of those petitions is expected to occur in May 2007.

USCIS continues to accept new FY 2008 cap-exempt H-1B petitions filed on behalf of aliens with U.S.-earned masters' or higher degrees. USCIS will make a future announcement regarding the "final receipt date" for these petitions.

– USCIS –