

One Minute Memo™



H-1B Quota Reached

On April 3, 2007, United States Citizenship & Immigration Services (USCIS) announced that it received sufficient H-1B petitions to meet the cap for FY 2008. USCIS will use a random selection process for all cap-subject filings received on Monday, April 2 and Tuesday, April 3 to determine which filings will receive H-1Bs.

Background

There is an annual limit on the number of H-1B petitions that can be approved during the government's 2008 fiscal year (beginning October 1, 2007 and ending September 30, 2008). The H-1B cap for fiscal year 2008 is 65,000 (of which about 6,800 are reserved for nationals of Chile and Singapore under Free Trade Agreements with those countries). USCIS began accepting petitions for FY 2008 on April 2, 2007.

There is an additional quota of 20,000 H-1Bs which are reserved for persons who hold a Master's degree or higher awarded by a United States college or university. This additional quota of 20,000 H-1Bs is typically not exhausted as early as the general H-1B quota of 65,000.

Last year, the annual quota was reached about 45 days after the April 1 filing period opened.

Random Selection Process

Pursuant to USCIS regulations, USCIS will use the following procedures to process H-1B petitions subject to the FY 2008 cap:

1. As of April 2, 2007, USCIS received enough H-1B petitions to reach the FY 2008 cap. Therefore, USCIS set the "final receipt date" as April 2, 2007.
2. USCIS will subject H-1B petitions received on the "final receipt date" and the following day (April 3) to a computer-generated random selection process.
3. USCIS will reject all H-1B cap-subject petitions received on or after April 4, 2007.

By late Monday (April 2), USCIS had received approximately 150,000 H-1B cap-subject petitions. Before conducting the random selection process, USCIS must first perform initial data entry for each cap-subject petition received on April 2 and April 3. Therefore, USCIS will not perform the random selection process for several weeks.

For guidance on alternatives to the H-1B visa, please refer to our ImmSTAR Alert dated February 14, 2007 found at www.immstar.com or contact any of the immigration attorneys on our website, www.seyfarth.com

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