



USCIS Update

May 4, 2007

USCIS REACHES H-1B EXEMPTION CAP FOR FISCAL YEAR 2008

20,000 Slots Reserved for Aliens with Master's Degrees or Higher Exhausted

WASHINGTON – U.S. Citizenship and Immigration Services (USCIS) announced today that it has received enough H-1B petitions requesting exemptions from the fiscal year 2008 (FY 2008) H-1B cap for “foreign workers who have earned a master’s degree or higher from a U.S. institution of higher education” to meet the congressionally mandated exemption limit of 20,000. USCIS has determined that the “final receipt date” for these exempt H-1B petitions is April 30, 2007. USCIS will reject petitions requesting a FY 2008 cap exemption for “workers with a master’s or higher degree earned from a U.S. institution of higher education” that are received on or after May 1, 2007 unless the petition is otherwise eligible for a separate cap exemption.

Cap Procedures: In accordance with USCIS regulations, USCIS has implemented the following process for handling H-1B petitions filed on behalf of workers with a master’s or higher degree earned from a U.S. institution of higher education seeking an exemption from the FY 2008 cap:

- USCIS has determined that as of April 30, 2007, it had received a sufficient number of H-1B petitions requesting a FY 2008 cap exemption on behalf of “foreign worker who has earned a master’s degree or higher from a U.S. institution of higher education” to reach the 20,000 limit. The “final receipt date” is April 30, 2007.
- USCIS will subject H-1B petitions received on the “final receipt date” that request an exemption from the H-1B cap based on the worker holding a U.S. Master’s or higher degree to a computer generated random selection process. USCIS will reject those filings not randomly selected and return them along with the filing fee(s) unless another basis for an H-1B cap exemption exists.
- USCIS will reject H-1B petitions requesting this exemption for FY 2008 received on or after May 1, 2007 unless another basis for an H-1B cap exemption exists.
- The earliest date for which a petitioner may file a petition requesting cap subject FY 2009 H-1B employment or an exemption from the H-1B cap based on the worker holding a U.S. Master’s degree or higher with an employment start date of October 1, 2008, is April 1, 2008.

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

H-1B in General: U.S. businesses utilize the H-1B program to employ foreign workers in specialty occupations that require theoretical or technical expertise in specialized fields, such as scientists, engineers, or computer programmers. As part of the H-1B program, the Department of Homeland Security (DHS) and the Department of Labor (DOL) require U.S. employers to meet specific labor conditions to ensure that American workers are not adversely impacted, while the DOL’s Wage and Hour Division safeguards the treatment and compensation of H-1B workers.