

USCIS Reports that H-1B “Cap” for FY2014 has been Reached and Exceeded in just one Week

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In a development sure to embolden proponents of comprehensive immigrant reform, U.S. Citizenship and Immigration Services (USCIS) has announced that the annual “cap” on H-1B petitions has been reached within just one week of opening the H-1B filing period. Under current U.S. law, USCIS makes 65,000 regular H-1B visas and 20,000 advanced degree H-1B visas available starting April 1st of each year. As a result, in an annual flurry of activity, employers submit their petitions for H-1B workers on or as soon after April 1st as possible. This year, USCIS reports that it had received 124,000 H-1B cap-subject petitions by April 8th.

Therefore, on April 7, 2013, USCIS conducted a computer-generated lottery using the 124,000 petitions received. USCIS first picked 20,000 advanced degree cases, and any advanced degree petitions not selected were then thrown in with the regular H-1B cases. USCIS then picked 65,000 of the remaining cases (i.e., enough to complete the cap). Any H-1B petitions not selected during the lottery will be returned to the petitioner, along with any fees submitted. Unfortunately, there is no way for employers to immediately know whether their H-1B case(s) were selected during the lottery. Employers lucky enough to have an H-1B petition selected should begin receiving filing receipts within approximately the next week. Unselected H-1B petitions should be returned at approximately the same time.

USCIS will continue to accept only “cap-exempt” H-1B petitions throughout the year, including petitions filed to: (a) extend the amount of time a current H-1B worker may remain in the U.S.; (b) change the terms of employment for current H-1B workers; (c) allow current H-1B workers to change employers; and (d) allow current H-1B workers to work concurrently in a second H-1B position.

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