



USCIS Update

January 30, 2008

USCIS ANNOUNCES CENTRALIZED FILING LOCATION FOR CERTAIN H-1B CAP EXEMPT PETITIONERS

WASHINGTON – U.S. Citizenship and Immigration Services (USCIS) announced today a new customer service initiative to streamline the adjudication of H-1B petitions. Effective today, USCIS will employ a special unit dedicated to processing these types of H-1B cap exempt petitions at the USCIS California Service Center (CSC). Aliens employed by certain types of educational, nonprofit or governmental organizations, as defined below (normally referred to as “cap exempt,” aliens employed by such entities are not subject to the H-1B numerical limitations). *See* section 214(g)(5)(a) and (b) of the Immigration and Nationality Act (INA); and 8 CFR 214.2 (h)(8)(A).

H-1B “cap exempt” petitions, as referenced here, include petitions filed by:

- Institutions of higher education, as defined in section 101(a) of the Higher Education Act of 1965, 20 U.S.C. 1001(a);
- Nonprofit organizations or entities related to or affiliated with institutions of higher education; and
- Nonprofit research organizations or governmental research organizations, as defined in 8 CFR 214.2(h)(19)(iii)(C).

Such institutions and organizations can indicate that their H-1B filing is cap exempt by marking Form I-129 (Petition of Non-Immigrant Worker) with a “yes” answer to questions 1, 2, or 3 in Part C of the H-1B Data Collection and Filing Fee Exemption Supplement (page 10).

H-1B petitioners are now encouraged to use the following special mailing address for qualifying H-1B cap exempt petitions. To determine if your petition qualifies, please make sure your institution or organization fits one of the categories listed above.

For Direct Mail:

**U. S. Citizenship and Immigration Services
California Service Center
ATTN: CAP EXEMPT H-1B Processing Unit
P.O. BOX 30040
Laguna Niguel, CA 92607-3004**

For non-United States Postal Service (USPS) deliveries (e.g. private couriers):

**U. S. Citizenship and Immigration Services
California Service Center
ATTN: CAP EXEMPT H-1B Processing Unit
24000 Avila Road, Room 2312
Laguna Niguel, CA 92677**

Each H-1B petitioner is encouraged to mark the outside of the envelope and the top margin of the I-129 form, with “EXEMPT.” This will ensure quick identification of the H-1B filing throughout the petition’s processing at CSC.

If a cap exempt H-1B petition is received at a different Service Center, that Service Center will expeditiously forward the petition to the CSC for processing. In the near future, USCIS will post special filing instructions to Form I-129 requiring all¹ qualifying H-1B cap exempt petitions to be filed at the CSC.

Please note, the highest volume of H-1B filings occurs during the month of April (Six months before the new fiscal year). This may result in longer than average receipting times or other interruptions in processing times. The public is reminded that petitioners may file a qualifying H-1B cap exempt petition at any time of the year dependent on the petitioner’s need, and no earlier than six months ahead of the intended start date.

– USCIS –

¹ H-1B “cap exempt” petitions, as referenced here, do **not** cover H-1B petitions filed on behalf of beneficiaries requesting an exemption from the cap on account of holding a U.S. Master’s degree or higher, requesting an extension of stay, or change of employer, or petitions requesting an amendment. These types of petitions, while also “exempt” should continue to be filed in accordance with the filing charts on uscis.gov and the Form I-129 instructions.