



January 18, 2006

Press Release

USCIS REACHES H-1B EXEMPTION CAP FOR FISCAL YEAR 2006

20,000 Slots Reserved for Aliens with U.S.-Earned Master's Degrees or Higher Exhausted

Washington, D.C.— U.S. Citizenship and Immigration Services (USCIS) announced today that it has received enough H-1B petitions that qualify for the exemption from the H-1B numerical limitations for foreign workers with a U.S.-earned master's or higher degree (the number of aliens exempted from the H-1B cap on this basis may not exceed 20,000 per fiscal year). Consequently, USCIS has determined that the "final receipt date" for these 20,000 cap-exempt H-1B petitions is January 17, 2006. Petitions received on January 17th are subject to the random selection process described below. USCIS will reject petitions requesting a foreign worker with a U.S.-earned master's or higher degree that are received after the "final receipt date" unless the petitioner or beneficiary is eligible for a separate cap exemption.

USCIS has implemented the following procedure for H-1B filings for FY 2006 in accordance with the procedures announced in 70 FR 23775 (Allocation of Additional H-1B Visas Created by the H-1B Visa Reform Act of 2004):

- USCIS has closely monitored FY 2006 H-1B filings for foreign workers with a U.S.-earned master's or higher degree and used projections to determine the number of petitions necessary to reach the congressionally mandated cap exemption of 20,000.
- Having determined that a sufficient number of petitions have been received, USCIS will identify all H-1B petitions seeking an FY 2006 number that were received on the day USCIS received the number of petitions necessary to meet the 20,000 cap exemption ("final receipt date").
- For petitions received on the "final receipt date," USCIS will apply a computer-generated random selection process. This process will randomly select the exact number of petitions from the day's receipts needed to meet the congressionally mandated cap exemption of 20,000.
- After random selection, any remaining H-1B petitions for foreign workers with a U.S.-earned master's or higher degree that do not receive an FY 2006 number and are not otherwise exempt will be rejected and returned along with the filing fee(s).
- Petitioners may re-submit their petitions when H-1B visas become available for FY 2007.
- The earliest date for which a petitioner may file a petition requesting FY 2007 H-1B employment with an employment start date of October 1, 2006, is April 1, 2006.

(more)

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

USCIS also notes that petitions for new H-1B employment are exempt from the annual cap if the alien will be employed at an institution of higher education or a related or affiliated nonprofit entity, or at a nonprofit research organization or a governmental research organization.

The H-1B visa program is utilized by some U.S. businesses to employ foreign workers in specialty occupations that require theoretical or technical expertise in a specialized field, such as scientists, engineers, or computer programmers. As part of the H-1B program, the Department of Homeland Security (DHS) requires U.S. employers to meet specific labor conditions to ensure that American workers are not adversely impacted, while the Department of Labor's Wage and Hour Division safeguards the treatment and compensation of H-1B workers.

USCIS received enough H-1B petitions to meet the general population H-1B cap of 58,200 (congressional cap of 65,000 less 6,800 set aside for workers from Singapore and Chile by the Free Trade Act) for fiscal year 2006 on August 10, 2005. Those cap numbers do not include the 20,000 exempt foreign workers with a U.S.-earned master's or higher degree. More information about the H-1B program and about USCIS is available at www.uscis.gov.

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On March 1, 2003, U.S. Citizenship and Immigration Services became one of three legacy INS components to join the U.S. Department of Homeland Security. USCIS is charged with fundamentally transforming and improving the delivery of immigration and citizenship services, while enhancing our nation's security.