

IMMIGRATION CLIENT ALERT

January 16, 2014

The FY2015 annual quota of 65,000 new, non-exempt H-1B visa petitions becomes available for employment beginning October 1, 2014. Petitions for these visas will be accepted by U.S. Citizenship & Immigration Services (“USCIS”) beginning April 1, 2014.

Last year, 124,000 H-1B petitions were filed within the first 5 days of April, from which a random lottery was held to select the 65,000 general category H-1B “winners” and the 20,000 advanced U.S. degree category “winners”. No further cap-subject H-1B visas were available for the year ending September 30, 2014. **We expect a similar demand for H-1B visas this year, so we are recommending that employers identify their H-1B visa needs and be prepared to file their petitions on the April 1, 2014 “opening day”.**

Note that not all H-1B petitions are “cap-subject.” The following H-1B petitions are exempt from the cap and therefore, may be obtained year-round without regard to the annual limit: petitions by institutions of higher education or government research programs, or by not for profit institutions affiliated with either; H-1B extensions; H-1B “transfers” from another non-exempt employer; and applications on behalf of persons who have been counted against the H-1B cap within the last 6 years.

Additionally there are 20,000 annual cap exemptions for people with a Master’s or higher degree from a United States university. However these limited exemptions were exhausted last year within the first week of April as well, and petitions seeking this exemption must also be filed on April 1 in order to have a chance of qualifying for an H-1B visa to become effective on October 1, 2014.

If you are contemplating hiring a foreign national in H-1B status or changing an existing employee’s immigration status to H-1B, please contact us immediately to ascertain if that person is subject to the H-1B cap, and if so, how we can ensure that person has the best opportunity to secure an H-1B visa this year.

Contact our Immigration Law Group if you have questions.

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