

FY 2011 H-1B Cap Update

April 9, 2010

U.S. Citizenship and Immigration Services (USCIS) today announced that it continues to accept H-1B nonimmigrant petitions subject to the Fiscal Year 2011 (FY 2011) cap. USCIS will monitor the number of petitions received for both the 65,000 general cap and the 20,000 U.S. master's degree or higher exemption.

USCIS has received approximately 13,500 H-1B petitions counting toward the 65,000 general cap. The agency has received approximately 5,600 petitions for individuals with advanced degrees. It is not clear if these figures reflect the total number of petitions filed during the five-day filing window between April 1 and April 7, or simply the number of petitions that had been received at the time USCIS made its announcement. In either event, it is reasonably clear that the 65,000 H-1B cap is not likely to be reached in the immediate short term.

For cases filed for premium processing during the initial five-day filing window, the 15-day premium processing period began April 7. For cases filed for premium processing after the filing window, the premium processing period begins on the date that the petition is physically received at the correct USCIS Service Center.

How This Affects You

The continued availability of H-1B cap numbers means that petitions that have already been submitted will not be subject to a lottery this year. Employers that have been hesitant to file this year may want to reconsider.

We will continue to monitor the situation and will update you with any new information. If you have any questions about any of the issues raised in this Morgan Lewis Immigration Alert, please contact any of the following attorneys:

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Now Available: *AILA's Focus on Immigration Practice Under AC21*

Written by Eleanor Pelta and A. James Vázquez-Azpiri, *AILA's Focus on Immigration Practice Under AC21* provides invaluable insight on the effect AC21 has had on the H-1B visa category. For more information, please visit www.ailapubs.org/ac21.html or call 1.800.982.2939 to order a copy.

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