

ALERTS

Immigration Update

2011 H-1B CAP NUMBERS GOING FAST

01.18.2011

U.S. Citizenship and Immigration Services (CIS) reported that as of January 14, 2011, it had received approximately 60,700 petitions against the 2011 H-1B standard cap. The standard cap provides a total 65,000 H-1Bs for the fiscal year. While 6,800 of those H-1Bs are reserved for Singapore and Chilean nationals, these numbers may be released if CIS anticipates they will not be used.

The agency will continue accepting H-1B filings for those who qualify under the standard cap and will be counted against the cap until they receive a sufficient number to meet the annual quota. While CIS has already met the 2011 cap of 20,000 H-1Bs available for foreign nationals holding U.S. advanced degrees, CIS continues to accept these petitions and they will be counted against the standard cap until the standard cap is reached.

We recommend employers initiate the H-1B process immediately if they require an H-1B for a new worker or are considering transitioning an existing worker to an H-1B to allow for extensions during a lengthy Green Card process. In our experience, by the time CIS announces they are nearing the cap limit, it will be too late to acquire a certified Labor Condition Application from the Department of Labor (which takes 5-7 business days) and file the H-1B petition before the cap is hit. Persons currently in H-1B status who have been counted against the cap in previous years are not subject to the H-1B cap for extensions or changes in employers.

Any H-1B petition subject to the annual H-1B cap that is not filed before the current year's numbers run out can be filed on April 1, 2011, requesting an October 1, 2011 start date. CIS posts its most recent H-1B cap count [here](#).

To initiate a new H-1B cap-subject filing, please contact a member of the **MVA Immigration Team**.