

ALERTS

Immigration Update

USCIS REACHES FISCAL YEAR 2011 H-1B CAP ON JANUARY 27, 2011

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Late last night, U.S. Citizenship and Immigration Services (USCIS) announced that it had received a sufficient number of H-1B petitions to reach the statutory cap for fiscal year (FY) 2011.

USCIS confirmed that January 26, 2011 is the "final receipt date" for new H-1B specialty occupation petitions requesting an employment start date in FY 2011. The "final receipt date" is the date on which USCIS determines that it has received enough cap-subject petitions to reach the limit of 65,000. The additional 20,000 H-1B visa numbers available to US advanced degree holders was previously hit on December 22, 2010. Properly filed cap-subject cases will be considered received on the date that USCIS physically receives the petition; not the date that the petition was postmarked. USCIS will reject cap-subject H-1B petitions that arrived after January 26, 2011.

USCIS will apply a computer-generated random selection process to all cap-subject petitions received on January 26, 2011. USCIS will use this process to select petitions needed to meet the cap. Cap-subject petitions not randomly selected will be returned and fees will be refunded.

The statutory cap applies to H-1B petitions for workers who are applying for an initial issuance of H-1B status. H-1B Petitions filed on behalf of current H-1B workers who have been counted previously against the cap, such as petitions to extend current H-1B status or to change employer for current H-1B workers, are not subject to the cap. Accordingly, USCIS will continue to accept and process petitions filed to:

- extend the amount of time a current H-1B worker may remain in the U.S.;
- change the terms of employment for current H-1B workers;
- allow current H-1B workers to change employers; and
- allow current H-1B workers to work concurrently in a second H-1B position.

April 1, 2011 will be the first date that employers can petition for cap-subject H-1B status for FY 2012, which begins October 1, 2011. If you have any questions regarding cap-subject H-1B petitions, please call or email your [*MVA Global Immigration Team Contact*](#).