

IMMIGRATION ALERT:**Filing Season Opens April 3 For Quota-Subject H-1B Visas: Employers should now begin work on H-1B petitions.****Please Deliver this Alert Notice to the Appropriate Responsible Company Personnel**

Many U.S. employers hire foreign nationals to work in the United States in H-1B visa status, especially recent college graduates or others coming from abroad to work in the U.S. Approximately 65,000 new H-1B visas become available each federal fiscal year, which begins on October 1 and ends the following September 30. An additional quota of 20,000 new H-1B visas are available for those who obtained a Master's degree or higher in the United States.

April 3, 2017, the first business day in April, is the first date on which United States Citizenship and Immigration Services (USCIS) will accept H-1B petitions for the upcoming fiscal year quota. Current trends indicate that all 85,000 spaces will be exhausted in the first week of April 2017.

Therefore, U.S. employers should immediately assess whether any current or prospective employees require H-1B status and, if so, whether they are subject to the quota. Companies should prepare H-1B petitions to be received by USCIS on "opening day," i.e., April 3, 2017. Failure to promptly identify affected individuals may entirely preclude their H-1B employment through October 1, 2018.

Not all individuals are subject to the quota. For example, many H-1B employees currently employed by U.S. companies have already been counted against the quota and will not need to be counted again.

Prospective or current employees subject to the H-1B quota may include:

- Current foreign students or recent graduates working under authorized Optional Practical Training.
- Foreign nationals in or outside the U.S. who are not already employed in H-1B status by a for-profit employer.
- Current H-1B employees at universities who seek new employment by for-profit companies.

When USCIS receives more quota-subject H-1B applications than available spaces in the first five business days of the filing period (April 3, 2017 - April 7, 2017), it conducts a lottery to allocate the available H-1B visas. Therefore, filing the H-1B on "opening day" does not guarantee a place in the quota even though legal costs will have been incurred. However, government filing fees are returned for cases that are not ultimately accepted due to the quota limitations.

We urge immediate action, as H-1B petitions require advance certification by the U.S. Department of Labor, which adds to preparation times. Please contact our office to review potentially affected foreign nationals and your company's hiring needs for the upcoming 18 months.

If you have any questions regarding this LEGALcurrents®, please do not hesitate to contact any member of our firm's Immigration Practice Area at (585) 232-6500. ■

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