

Business Immigration Weekly for the Week of April 8, 2013

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H-1B Quota for Fiscal Year 2014 Met During The Initial Filing Period – USCIS Conducted Two Random Selection Processes (UPDATED April 8, 2013)

The U.S. Citizenship & Immigration Services (USCIS) announced that the H-1B quota for fiscal year 2014 (October 1, 2013 through September 30, 2014) was met during the initial filing period. Similar to previous years, the H-1B quota for fiscal year 2014 is limited to 65,000. An additional 20,000 numbers are set aside for individuals who have earned U.S. Master's or higher degrees. The USCIS announced that it received more than 124,000 petitions filed against the H-1B quota, including petitions filed requesting the exemption for individuals who have earned U.S. Master's or higher degrees. Therefore, the USCIS has conducted two random selection processes on the petitions received. The first random selection process was for the petitions received requesting the U.S. Master's or higher degree exemption. The petitions that are not selected in this random selection process were then added to the petitions considered in the second random selection process for the regular H-1B quota. Petitions that are selected in the random selection process will be adjudicated by the USCIS. Petitions which are not selected in either random selection process will be returned to the employer (or attorney of record). Petitions which were filed requesting Premium Processing and which were selected in either random selection processes will be adjudicated beginning on April 15, 2013. The USCIS will then have 15 days from this date to complete its initial adjudication of the Premium Processing petition. As in previous years when the H-1b quota was met during the initial filing period, it is assumed that the USCIS will first issue receipt notices for all of the petitions which were selected in either random selection process. It is assumed that the USCIS will take at least two weeks to process all of these receipt notices. After the receipt notices are issued, the USCIS will then begin to return the petitions that were not selected in either random selection process to employers (or their attorneys of record).

Because the H-1B quota has been met for fiscal year 2014, the earliest date upon which employers may file H-1B quota subject petitions in the future will be April 1, 2014 (for H-1B employment start date of October 1, 2014 or later). The USCIS will continue to accept H-1B petitions which are not subject to the H-1B quota. If legislation is enacted which increases the H-1B quota numbers available during a fiscal year prior to April 1, 2014, the USCIS would then resume accepting more H-1B quota petitions. Additional information about legislation which is pending in Congress to increase the H-1B quota is contained in our firm's Immigration Update dated January 30, 2013.

Additional information about the H-1B quota will be contained in our firm's future Immigration Updates when it becomes available.