

Business Immigration Weekly for April 8, 2016

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Practices: Immigration

H-1B QUOTA FOR FISCAL YEAR 2017 REACHED – USCIS TO CONDUCT RANDOM SELECTION PROCESS

The U.S. Citizenship and Immigration Services (USCIS) has announced that, as expected, the H-1B quota for fiscal year 2017 (October 1, 2016 to September 30, 2017) was reached during the initial filing period (April 1, 2016 to April 7, 2016). The H-1B quota for fiscal year 2017 comprises 65,000 visas for the regular quota with an additional 20,000 allotted for individuals who have earned a U.S. Master's or higher degree. The number of H-1B quota petitions that the USCIS may accept in any fiscal year has not changed in more than 10 years. Although the USCIS announced that the quota has been reached, the USCIS has not yet provided information about the number of petitions that it received during the initial filing period. It is assumed that the USCIS will provide this information after it has completed the intake of the filed petitions.

When the USCIS receives more H-1B quota petitions than allowed in a fiscal year, it conducts a computer-generated random selection process to choose which petitions it will accept and adjudicate. This is a random process with no preference given to the type of position, the beneficiary's country of birth, etc. The USCIS will actually complete two random selection processes this fiscal year. The first random selection process will be for those petitions claiming the U.S. Master's Degree or higher exemption because this exemption is limited to 20,000 and the USCIS has received in excess of 20,000 requesting this exemption. For those petitions claiming this exemption that are not selected in this first random selection process, they will then be added to the other regular quota petitions and then a second random selection process will be completed on all of these petitions. After the USCIS completes these two random selection processes, the USCIS will issue receipt notices for those petitions that were selected in either random selection process and will ultimately adjudicate the petitions. For the petitions that are not selected in either random selection process, the USCIS will return the petitions to the employer (or its attorney of record) without adjudicating them. Due to the estimated extremely large volume of H-1B quota petitions filed against the fiscal year 2017 quota, it may take the USCIS a few weeks to complete the random selection processes and begin to issue receipt notices. For those petitions not selected in a random selection process, it is assumed that the USCIS will take a few months after the completion of the random selection processes to return the unadjudicated petitions.

Last fiscal year's H-1B quota was also reached within the initial filing period. The USCIS received approximately 223,000 petitions filed against both the regular H-1B quota and the U.S. Master's Degree exemption. Due to the limited availability of H-1B quota numbers each year, employers are reminded of the

importance of advance planning for current and future employees that may be subject to the H-1B quota and to contact our office in January or February of every year to discuss the H-1B quota process and any alternatives.

Additional information about the fiscal year 2017 H-1B quota will be contained in our firm's future Immigration Updates when it becomes available.