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Immigration

USCIS Announces H-1B Cap Reached and Lottery for FY 2014

Legal Update

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By Fredrikson's Immigration Group

The H1B cap (bachelor's and master's) for fiscal year 2014 was reached on April 5. This means USCIS will not accept any new H1B cap subject petitions received or filed after April 5, 2013. USCIS will use a computer-generated random selection process (commonly known as the "lottery") for all FY 2014 cap-subject petitions received through April 5, 2013. The agency will conduct the selection process for advanced degree exemption petitions first. All advanced degree petitions not selected will be part of the random selection process for the 65,000 limit. Due to the high number of petitions received, USCIS is not yet able to announce the exact day of the random selection process.

Employers can still file cap exempt petitions, which include H1B extensions, changes of employer, or concurrent employment (prior employer was cap-except). Further, petitions on behalf of foreign nationals to be employed by institutions of higher education (or related or affiliated nonprofit entities), nonprofit research organizations, or governmental research organizations are not subject to the cap. If an employer wishes to hire an H-1B employee currently employed at such an organization, the new petition would be cap-subject. Please contact us to determine whether a case is cap exempt or cap subject before filing.

There may be other work visa options besides the H-1B nonimmigrant visa that may be available for a foreign national employee. To ensure that you have considered all available options, and for any questions regarding H1Bs, please contact our Immigration Team at Fredrikson & Byron.