



# USCIS Update

March 20, 2009

## **USCIS to Accept H-1B Petitions for FY 2010 Beginning April 1, 2009** *Petitioners Are Reminded to Follow Regulatory Requirements*

**WASHINGTON**—U.S. Citizenship and Immigration Services (USCIS) today announced that it will begin accepting H-1B petitions subject to the fiscal year 2010 (FY 2010) cap on April 1, 2009. Cases will be considered accepted on the date that USCIS takes possession of the petition; not the date that the petition is postmarked.

The numerical limitation on H-1B petitions for fiscal year 2010 is 65,000. Additionally, the first 20,000 H-1B petitions filed on behalf of aliens who have earned a U.S. masters' degree or higher are exempt from the fiscal year cap.

USCIS will monitor the number of petitions received and will notify the public of the date USCIS has received the necessary number of petitions to meet the H-1B cap, known as the "final receipt date." The date USCIS publishes information that the cap has been reached does not control the final receipt date. To ensure a fair system, USCIS will, if needed, randomly select the number of petitions required to reach the numerical limit from the petitions received on the final receipt date. USCIS will reject cap subject petitions that are not selected, as well as those received after the final receipt date.

H-1B petitions cannot be filed more than six months in advance of the requested start date. Petitions seeking an H-1B worker for an Oct. 1, 2009 start date can be filed no earlier than April 1, 2009.

Petitions for new H-1B employment are exempt from the annual cap if the beneficiaries will work at institutions of higher education or a related or affiliated nonprofit entities, or at nonprofit research organizations or governmental research organizations. Thus, employers may continue to file petitions for these exempt H-1B categories seeking work dates starting in FY 2009 or 2010.

Petitions filed on behalf of current H-1B workers who have been counted previously against the cap also do not count towards the congressionally mandated H-1B cap. Accordingly, USCIS will continue to process petitions filed to:

- Extend the amount of time a current H-1B worker may remain in the United States.
- Change the terms of employment for current H-1B workers.
- Allow current H-1B workers to change employers.
- Allow current H-1B workers to work concurrently in a second H-1B position.

H-1B petitioners should follow all regulatory requirements ([8 CFR §214.2](#)) as they prepare petitions to avoid delays in processing and possible requests for evidence. USCIS has developed detailed information, including a processing worksheet, to assist in the completion and submission of a FY2010 H-1B petition. Those documents are available on the USCIS Web site.

U.S. businesses use the [H-1B](#) program to employ foreign workers in specialty occupations that require theoretical or technical expertise in specialized fields, such as scientists, engineers, or computer programmers.

For more information on USCIS and its programs, visit [www.uscis.gov](http://www.uscis.gov) or contact the USCIS National Customer Service Center at (800) 375-5283.