



NEWS RELEASE

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INS Announces H-1B Procedures As Fiscal Year 2000 Cap Approaches

WASHINGTON – The Immigration and Naturalization Service (INS) announced today that it would stop accepting H-1B visa petitions for Fiscal Year (FY) 2000 employment of H-1B workers. The INS has determined that it now has received a sufficient number of H-1B petitions to reach the 115,000 annual cap for FY 2000. As of February 29, 2000, INS had recorded 74,300 H-1B visa petitions against the cap and had more than 45,000 petitions pending.

Petitions for First-Time H1-B Employment

INS will implement the following procedures for the remainder of FY 2000 (through September 30, 2000). These procedures will be published in the Federal Register on March 21, 2000.

- FY 2000 petitions for first-time employment of H-1B workers that are received before March 21, 2000 INS will not be returned. INS will adjudicate the petitions and, if approvable after the cap has been reached, will grant the petitions with a valid start date of October 1, 2000, when H-1B visas for FY 2001 become available.
- All FY 2000 petitions for first-time employment of H-1B workers that are received on or after March 21, 2000, will be returned along with the accompanying fees to petitioners. Petitioners may resubmit their petitions at any time and request employment beginning on or after October 1, 2000, when H-1B visas for FY 2001 become available.
- Petitioners may choose to withdraw their petitions at any time and forfeit the fees by submitting a written request containing the receipt number of the H-1B petition, the name of the employer, and the name of the individual for whom the petition was filed. The request should be faxed to the **Immigration Services Division, Attention: H-1B Withdrawal, FAX (202) 514-2093**.
- H-1B petitions requesting first-time employment of H-1B workers beginning on or after October 1, 2000 (FY 2001) will be processed as received by INS and counted against the 107,500 cap for FY 2001. The earliest a petition for FY 2001 employment can be filed is April 1, 2000.

Exceptions – Petitions for Current H-1B Workers

INS will continue to process petitions filed for current H-1B workers, since they do not affect the visa cap. Such applications include petitions to:

- Extend the stay for current H-1B workers;
- Amend the terms of employment for current H-1B workers;
- Allow current H-1B workers to change employers; and
- Allow current H-1B workers to work concurrently in a second H-1B position.

Accommodation for Foreign Students and Exchange Visitors

INS published an interim rule in the Federal Register of June 15, 1999, that extends the duration of status for certain foreign students (F visa category) and exchange visitors (J visa category). As was the case last year, any F or J visa holder whose employer timely files an H-1B petition prior to October 1, 2000 may legally remain in the United States until INS adjudicates their petition. If INS approves the petition they may stay in the US until October 1, 2000 when their H-1B visa becomes valid or when INS approves their petition which ever is later, if INS denies the petition their extension ends. These individuals may not work or engage in any other activity that would be in violation of their F or J immigration status.

Exchange visitors who are subject to the 2-year foreign residence requirement are not covered by this regulation.

Background

The H-1B is a temporary visa category for nonimmigrant workers that includes specialty occupations which require a bachelor's degree or higher and fashion models of distinguished merit and ability. Typical H-1B occupations include architects, engineers, computer programmers, accountants, doctors and college professors. Initially, the maximum period of admission is three years, which may be extended for an additional three years.

The H-1B visa category was established by the Immigration Act of 1990. The American Competitiveness and Workforce Improvement Act of 1998 temporarily raised the number of H-1B visas available annually from 65,000 to 115,000 for fiscal years 1999 and 2000, and from 65,000 to 107,500 for FY 2001, while requiring a new H-1B worker fee of \$500 paid by employers. The \$500 fee funds training and educational programs for U.S. workers.