

# USCIS Update



Office of Communications

U.S. Citizenship  
and Immigration  
Services

March 27, 2007  
(revised)

## **USCIS TO ACCEPT H-1B PETITIONS FOR FY2008 ON APRIL 2** *Advises Petitioners to Follow Regulatory Requirements*

U.S. Citizenship and Immigration Services (USCIS) will, on April 2, 2007, begin accepting H-1B petitions subject to the fiscal year 2008 (FY08) H-1B cap. Because March 31 and April 1 are non-business days, USCIS will not take possession of mail delivered during the weekend until Monday, April 2, which is the first business day of the FY08 H-1B filing period. USCIS will not reject cases delivered during the weekend. Instead those petitions will be treated as if they arrived on April 2. The deciding factor for USCIS is not when the petition is postmarked, but when USCIS takes possession of and stamps the petitions as received.

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 and impartial 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. This selection is computer-generated. USCIS will reject petitions not selected and petitions received after the final receipt date that are subject to the cap.

If the final receipt date is the same as the first date that petitions may be filed, USCIS will randomly apply all of the numbers among the petitions filed on the final receipt date and the following day. This means that, should the cap be reached on April 2, the first day filings can be received, USCIS will perform a random selection of petitions filed on April 2 and April 3 in accordance with the regulations at 8 C.F.R. 214.2(h)(8)(ii).

For questions on the proper filing location please refer to the March 5 update: [USCIS Announces Direct Filing Instructions for Forms I-129 and I-539 Under the Bi-Specialization Initiative](#) posted on the USCIS website. The filing charts are also available on the USCIS website, <http://www.uscis.gov>.

H-1B petitioners should insure they follow all regulatory requirements as they prepare petitions to avoid delays in processing and possible requests for evidence.

8 CFR 214.2(h)(2)(B) requires that petitioners provide a detailed itinerary of the dates and places where work will be performed if those services will be provided in more than one location. For example, a labor contractor or consultant who hires H-1B workers to work at client sites must provide, in advance, an itinerary with dates and places where the worker will perform that work.

In addition, 8 CFR 214.1(c)(4) requires that an applicant for extension of status have maintained his or her nonimmigrant status. In situations where an H-1B worker is changing to an employer other than the one for which the initial H-1B petition was approved, USCIS will require that the worker changing employers demonstrate that he or she actually did perform meaningful work for the original petitioning employer under circumstances not reflective of fraudulent intent in the original petition. In situations where the H-1B worker is processing abroad, USCIS will work closely with the Department of State to ensure that this same level of integrity is applied to consular processed H-1Bs.

Please note: Recent materials posted by USCIS indicated that an original copy of a certified labor condition application is required with Form I-129 and should be signed in blue ink. This statement is in error. A copy

of the LCA may be submitted with the I-129 as is current practice. USCIS did not intend to change the current practices regarding filing of the LCA with the petition.

Visit [www.uscis.gov](http://www.uscis.gov) for filing updates and additional information or call USCIS customer service at (800) 375-5283.

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