



IMMIGRATION

# ALERT

## 2014 H-1B CAP — TIME IS UP!

By The Fox Rothschild Immigration Practice Group

As anticipated, the United States Citizenship and Immigration Services (USCIS) has announced that it has received a sufficient number of H-1B petitions to reach the statutory cap of 65,000 for fiscal year (FY) 2014, including more than 20,000 H-1B petitions filed on behalf of persons exempt under the advanced degree exemption. USCIS is no longer accepting H-1B petitions subject to the FY 2014 cap or the advanced degree exemption.

See USCIS' announcement [here](#).

USCIS received approximately 124,000 H-1B petitions during the filing period, including petitions filed for the advanced degree exemption. On April 7, 2013, USCIS used a computer-generated random selection process (commonly known as a "lottery") to select a sufficient number of petitions needed to meet the caps of 65,000 for the general category and 20,000 under the advanced degree exemption limit. For cap-subject petitions not randomly selected, USCIS will reject and return the petition with filing fees, unless it is found to be a duplicate filing. The agency conducted the selection process for advanced degree exemption petitions first. All advanced degree petitions not selected were part of the random selection process for the 65,000 limit.

H-1B petitioners and beneficiaries now anxiously await news of whether or not their filings are granted one of the precious H-1B spots.

As a reminder, the 15-day premium processing period is not set to begin for cap-subject H-1B petitions until Monday, April 15, 2013. For more information on premium processing for FY 2014 cap-subject petitions, please see the related [USCIS Alert](#).

Petitions filed on behalf of current H-1B workers who have been counted previously against the cap are not counted towards

the H-1B cap. Accordingly, USCIS will continue to accept and process petitions filed to:

- Extend the amount of time a current H-1B worker may remain in the U.S.;
- change 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.

Of course, USCIS will continue to accept "cap-exempt" petitions. These are petitions from a non-profit institution of higher education, a non-profit affiliated with an institution of higher education and a non-profit research institution. In addition, petitions for J-1 physicians who have obtained a waiver pursuant to the state 30 or federal programs are "cap exempt," as are beneficiaries of employment offers at institutions of higher education.

For more information regarding the information in this Alert, or if you require assistance with your company's immigration or employment issues, including IRCA compliance, I-9s, audits, visa processing or comprehensive immigration strategy, please contact any member of our [Immigration practice group](#):

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