

IMMIGRATION

ALERT

H-1B SEASON IS HERE! ACT NOW, BEFORE IT'S TOO LATE.

By Robert S. Whitehill and Catherine V. Wadhvani

Many employers know that among the most useful visa statuses for the employment of foreign professionals is the H-1B temporary worker visa. It is so useful that the supply of these visas available each fiscal year often runs out as soon as employers are permitted to petition for them.

It's that time, again. Cap-subject H-1B petitions may be filed beginning April 1, 2014. In order to have a chance during this fiscal year (October 1st to September 30th) to obtain H-1B employment authorization for professional foreign workers, employers should begin the process NOW!

Last year, during the period from April 1st to 5th, hopeful employers filed about twice as many petitions as available numbers (20,000 master's+ level, 65,000 bachelor's level). This resulted in a lottery process to separate the "winners" from the "losers."

H-1B status certainly isn't the only basis for employing all foreign nationals, but in many cases it is the best option for professional level employees. The basic requirements are:

- An employer's offer to perform work in a position that usually requires at least a bachelor's degree or the equivalent in a related field.
- An employer's offer to compensate the worker at the higher of the "prevailing" wage or the actual

wage paid to other employees in the same or similar position.

- A foreign national who is qualified for the position through possession of the requisite education or its equivalent.

The successful application affords up to three years of employment authorization and is often the stepping stone to permanent residency.

There are lots of details about the H-1B visa, and it is not the right visa for every new professional hire, but if it could be for one of your potential hires, act now.

Available H-1B numbers will almost certainly run out in early April 2014 and, assuming the law remains the same, H-1B numbers won't be available again until April 2015 for an employment start date of October 1, 2015.

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