

USCIS Reaches H-1B Cap for Advanced Degree Workers

The United States Citizenship & Immigration Services (“USCIS”) announced that the additional 20,000 H-1B numbers available for foreign nationals with an advanced degree from a U.S. educational institution was reached on January 17, 2006. All H-1B petitions that were **received** before January 17, 2006 will be adjudicated. However, petitions received at USCIS **on** January 17, 2006 are subject to a computer generated random selection process to count towards the cap. This process will randomly select the exact number of petitions from the day’s receipts needed to meet the congressionally mandated cap exemption of 20,000. After the random selection process, all cases that were not randomly selected will be “rejected” and returned along with the filing fee. Petitions may be resubmitted when H-1B visas become available for fiscal year 2007 (which begins on October 1, 2006). H-1B petitions with a start date of October 1, 2006 can be filed no earlier than April 1, 2006.

Certain H-1B petitions do not count against the H-1B cap. These include the following:

- Those who currently hold H-1B status and seek to apply for an extension of H-1B status with a current employer or a transfer of H-1B status to another employer;
- Those who seek H-1B employment with a U.S. college or university or a related/affiliated non-profit entity;
- Those who seek H-1B employment with nonprofit research organizations or governmental research organizations; and
- Foreign medical graduates whose H-1B employment will take place in a medically underserved area of the United States in service of a J-1 visa waiver commitment.