

USCIS Reaches H-1B “Masters Degree or Higher” Cap for Fiscal Year 2007

Each fiscal year, U.S. Citizenship & Immigration Services (USCIS) may approve 20,000 new H-1B visa for professionals who have earned a U.S. advanced degree (masters degree or higher) from a U.S. institution of higher education.

The quota for Fiscal Year 2007 which runs from October 1, 2006 through September 30, 2007 was reached on July 26, 2006. Properly filed H-1B petitions received prior to this date will be adjudicated for an October 1, 2006 start date. H-1B petitions received **on** July 26, 2006 will be subject to a computer generated random selection process under which some petitions received that day may be approved and others will be rejected and returned.

Workers seeking new H-1B employment who have not yet filed H-1B petitions will be unable to obtain H-1B status until the start of the next fiscal year on October 1, 2007 (H-1B petitions may be filed with USCIS beginning April 1, 2007).

Some petitions for current H-1B workers do not count towards the congressionally mandated H-1B cap. These include:

- Extensions of H-1B stay;
- Changing the terms of the current H-1B’s employment;
- Change of employer;
- Concurrent H-1B employment;
- H-1B workers employed at an institution of higher education or a related or affiliated nonprofit entity;
- H-1B workers employed at a nonprofit research organization or a governmental research organization; 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.

The H-1B cap for fiscal year 2007 for professional workers who had the minimum of a Bachelors Degree or the equivalent was reached on May 26, 2006 as noted in our previous immigration update.

If you have further questions about H-1B visa status, please contact an immigration attorney at McCandlish Holton.