

Update on H-1B Nonimmigrant Visa Processing

July 18, 2005

As part of the H-1B Visa Reform Act of 2004, Congress authorized U.S. Citizenship & Immigration Services (CIS) to issue 20,000 additional H-1B visa numbers in this fiscal year (FY2005) and all future fiscal years. These 20,000 H-1B numbers are earmarked for individuals with advanced degrees from U.S. universities, i.e., for those who hold Master's degrees or higher from a U.S. institution. These 20,000 numbers are in addition to the 65,000 H-1B numbers currently available each fiscal year to professionals who hold a U.S. Bachelor's degree or equivalent.

For Fiscal Year 2005 (FY2005), which ends on September 30, 2005, the supply of 65,000 H-1B numbers available to professionals with a U.S. Bachelor's degree or equivalent has been exhausted. However, CIS has plenty of H-1B numbers left for FY2005 for those who hold a Master's degree or higher from a U.S. institution. As of July 12, 2005, CIS had only used approximately 8,000 "advanced degree" H-1B numbers for the current fiscal year, less than half of the 20,000 possible numbers available to holders of U.S. advanced degrees. Thus, those who hold a U.S. Master's degree or higher from a U.S. institution may file an H-1B petition now that requests a start date before October 1, 2005.

Those who wish to submit H-1B petitions but who do not hold a U.S. master's degree or higher may apply now for an October 1, 2005 start date. October 1 is the first day of the new fiscal year (FY2006), at which time 65,000 new H-1B numbers (in addition to 20,000 new numbers for U.S. advanced degree professionals) will become available. CIS began accepting H-1B petitions for FY2006 on April 1, 2005. It is estimated that approximately 27,000 petitions have now been counted toward the FY2006 cap of 65,000.

We will post additional information as it becomes available. Should you have any questions or concerns about H-1B issues, please contact your McCandlish Holton Immigration Attorney.