



BUSINESS IMMIGRATION ALERT

A complimentary service of the McCandlish Holton Immigration Practice Group

Fiscal Year 2018 H-1B Cap Update

April 17, 2017

On Monday, April 17, 2017, U.S. Citizenship and Immigration Services (“USCIS”) announced that it received approximately 199,000 H-1B petitions during the first five business days of April (April 3-7, 2017) exceeding the statutory cap on available H-1B slots. As a result, USCIS conducted a random computer-generated selection process, or “lottery,” to determine which H-1B petitions filed during this period would be accepted.

USCIS first conducted a lottery to choose 20,000 “Advanced Degree” cases for the Advanced Degree quota of 20,000 H-1Bs. Advanced Degree cases not selected in this lottery were then placed in the “regular” quota of 65,000, and USCIS conducted a random lottery to choose cases for the remaining 65,000 quota.

USCIS has already begun generating and mailing receipt notices for petitions selected to be processed in the cap. Once the receipting process is completed, USCIS will begin returning petitions, including filing fees, for cases that were not selected. Given the volume of petitions, as well as how long it has taken in previous years, it could take up to two months for an employer to learn whether or not its petition has been selected.

It is important to note that some employers are exempt from the cap (including universities, university-affiliated non-profits, non-profit research organizations, and governmental research organizations). In addition, the quota does not apply to workers who already hold H-1B nonimmigrant status, who are filing to extend their H-1B status, or who are filing H-1B petitions with new employers.

If you need assistance with an H-1B filing or need to explore other immigration options in light of the H-1B cap being reached, please contact one of the McCandlish Holton immigration attorneys listed below.

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