

USCIS Reaches FY 2010 H-1B Cap

WASHINGTON—U.S. Citizenship and Immigration Services (USCIS) announced today that it has received a sufficient number of H-1B petitions to reach the statutory cap for fiscal year (FY) 2010. USCIS is hereby notifying the public that Dec. 21, 2009 is the “final receipt date” for new H-1B specialty occupation petitions requesting an employment start date in FY 2010.

The “final receipt date” is the date on which USCIS determines that it has received enough cap-subject petitions to reach the limit of 65,000. USCIS has also received more than 20,000 H-1B petitions filed on behalf of persons exempt from the cap under the “advanced degree” exemption. Properly filed cases will be considered received on the date that USCIS physically receives the petition; not the date that the petition was postmarked. USCIS will reject cap-subject petitions for new H-1B specialty occupation workers seeking an employment start date in FY 2010 that arrive after Dec. 21, 2009.

USCIS will apply a computer-generated random selection process to all petitions that are subject to the cap and were received on Dec. 21, 2009. USCIS will use this process to select petitions needed to meet the cap. USCIS will reject, and return the fee, for all cap-subject petitions not randomly selected.

Petitions filed on behalf of current H-1B workers who have been counted previously against the cap will not be counted towards the congressionally mandated FY 2010 H-1B cap. Therefore, USCIS will continue to process petitions filed to:

- Extend the amount of time a current H-1B worker may remain in the United States.

- Change the terms of employment for current H-1B workers.

- Allow current H-1B workers to change employers.

- Allow current H-1B workers to work concurrently in a second H-1B position.

H-1B in General: U.S. businesses use the H-1B program to employ foreign workers in specialty occupations that require theoretical or technical expertise in fields, such as scientists, engineers, or computer programmers.