



U.S. Citizenship
and Immigration
Services

Press Release

October 1, 2004

USCIS ANNOUNCES NEW H-1B PROCEDURES – REACHES CAP

Washington, D.C.– U.S. Citizenship and Immigration Services (USCIS) announced today that it has received enough H-1B petitions to meet the congressionally-mandated cap for fiscal year 2005. Congress has set an annual H-1B cap of 65,000 of which 6,800 are set aside for the H-1B1 program under terms of the U.S.-Chile and U.S.-Singapore Free Trade Agreements. The total H-1B cap number available for FY 2005 is therefore 58,200. USCIS has factored into its count of petitions subject to the FY05 cap the number of Chile/Singapore set-asides that were unused in FY2004 and any other cases that can be counted against the previous fiscal year's H-1B cap rather than the FY 2005 cap. USCIS has received enough petitions to reach the limit for FY 2005. After today, USCIS will not accept any new H-1B petitions that are subject to the FY 2005 annual cap.

For the remainder of FY 2005, USCIS will follow the procedures set forth in the notice published on February 25, 2004 in the Federal Register at 69 FR 8675 to address the cap reached during FY 2004. Those procedures include:

- USCIS will process all petitions filed for first-time employment received by the end of business today.
- USCIS will return all petitions for first-time employment subject to the annual cap received after the end of business today.
- Returned petitions will be accompanied by the filing fee.
- Petitioners may re-submit their petitions when H-1B visas become available for FY 2006.
- The earliest date a petitioner may file a petition requesting FY 2006 H-1B employment with an employment start date of October 1, 2005, would be April 1, 2005.

USCIS plans to provide further details on these procedures in a new notice that will be published in the Federal Register shortly.

Petitions for current H-1B workers do not count towards the congressionally mandated H-1B cap. Accordingly, 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

USCIS also notes that petitions for new H-1B employment are not subject to the annual cap if the alien will be employed at an institution of higher education or a related or affiliated nonprofit entity, or at a nonprofit research organization or a governmental research organization.

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On March 1, 2003, U.S. Citizenship and Immigration Services became one of three legacy INS components to join the U.S. Department of Homeland Security. USCIS is charged with fundamentally transforming and improving the delivery of immigration and citizenship services, while enhancing our nation's security.