

## NOVEMBER 28, 2011 BULLETIN TO ALL IMMIGRATION CLIENTS

### CIS Announces FY 2012 H-1B Cap Reached

On November 23, 2011, the U.S. Citizenship and Immigration Services (CIS) announced that as of November 22, 2011, it had received enough petitions to satisfy the congressionally mandated H-1B cap for fiscal year 2012 (FY 2012). As noted in prior client bulletins, Congress has authorized CIS to approve only approximately 65,000 petitions for new H-1B employment in FY 2012, i.e., October 1, 2011, through September 30, 2012.

Although CIS has not yet confirmed how it will handle/process H-1B cap-subject petitions that were received on November 22, 2011, it has in the past utilized a computerized lottery system if it determines that more than enough petitions were received that day. Cases not selected in the random lottery will be rejected and returned. Any filings for new/first-time H-1B employment received after the “final receipt date” of November 22, 2011, will be rejected.

Please note that CIS will continue to accept H-1B 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; and
- Allow current H-1B workers to work concurrently in a second H-1B position.

CIS will also continue to accept petitions for new H-1B employment where the petitioner/employer is not subject to the annual cap. To qualify as a “cap exempt” petitioner, the employer must be: (i) an institution of higher education or a related or affiliated nonprofit entity; (ii) a nonprofit research organization; or (iii) a governmental research organization.

Please also note that the petitioners may resubmit first-time employment H-1B petitions when H-1B visas become available for the 2013 fiscal year (FY 2013). The earliest date a petitioner may file a petition requesting FY 2013 H-1B employment (with an employment start date of October 1, 2012) is April 1, 2012.

Last, please remember that there may exist other visa alternatives to filing an H-1B petition. As we have done in the past when a case is caught by the cap, we will work with you to try to develop and implement a solution that will permit the affected employee to legally remain employed or begin employment in the United States. Please contact us if you have a case that may be subject to the cap and/or if you wish to discuss any H-1B alternatives.

Please contact any member of the Cohen & Grigsby Immigration Department if you have any questions regarding the above at 412.297.4900. To receive future bulletins by e-mail, please send an e-mail to [info@cohenlaw.com](mailto:info@cohenlaw.com).

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