

Immigration News and Update

October 4, 2004

On the evening of Friday, October 1, 2004, and without warning, the U.S. Citizenship & Immigration Services (U.S. CIS) announced that it has received enough H-1B visa applications to meet the Congressionally mandated cap for fiscal year 2005. All H-1B visa applications for first-time employment received by the end of business day on Friday, October 1 will be processed. Any H-1B visa applications received after the close of the business day on October 1, will be returned along with all filing fees.

Please be advised that petitions for new H-1B employment are not subject to the annual cap if the foreign national 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. Petitions for current H-1B workers do not count toward the Congressionally mandated H-1B cap of 65,000 per fiscal year. These will continue to be processed and may be filed with U.S. CIS without interruption. In addition, petitions for extension, amendment, change of employer, or petitions for foreign nationals to work concurrently in a second H-1B position will continue to be processed by U.S. CIS.

Employers may re-submit H-1B petitions for foreign nationals when H-1B visas become available for fiscal year 2006. The earliest date an employer may file a new H-1B petition for fiscal year 2006 will be April 1, 2005. Those H-1B petitions must be submitted for a start date of October 1, 2005.

For more information about this, or other U.S. immigration issues, please contact our Miller Canfield Immigration Practice. This message is for general information only and should not be used as a basis for specific action without obtaining further legal advice.