

Immigration Update on the H-1B Visa Cap

February 9, 2007

As you may know, there is currently a cap on the number of new H-1B nonimmigrant visas that can be issued each fiscal year. (This does not include anyone who already holds H-1B status and requires an extension or change of employer petition.) The cap for Fiscal Year 2007 was reached on May 26, 2006, therefore, there are no H-1B visa numbers currently available until the start of FY2008 on October 1, 2007.

The US Citizenship & Immigration Services (USCIS) allows an employer to file an H-1B petition no sooner than 180 days prior to a requested start date of employment. Therefore, we are eligible to file new H-1B petitions for FY2008 starting on April 4, 2007. These petitions would have an employment start date of October 1, 2007.

Because the FY2007 H-1B cap was met within approximately 8 weeks, it is greatly anticipated that the FY2008 H-1B cap will be met within an even shorter amount of time. Therefore, we strongly encourage you to contact us as soon as possible if you have any employees who may require H-1B status. Such employees may include F-1 students who are currently working for your company with their Optional Practical Training (OPT); TN nonimmigrants for whom you would like to begin the green card process; or potential new hires.

Note there are also the additional 20,000 H-1B visa numbers available starting October 1, 2007 for individuals with US Masters (or higher) degrees. We are eligible to begin filing H-1B petitions for these individuals as of April 4, 2007, and it is anticipated that these additional visas will also be used up in a fairly short amount of time. Last year, the 20,000 additional H-1B visas were gone by July 26, 2006.

If you have any questions, or wish to discuss the H-1B process further, please do not hesitate to contact our office.

For further information, contact our immigration services business manager, Karen McAmmond at 734.668.8990 or mcammond@millercanfield.com.