
H-1B Applications Near Cap

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Employers have more reason than ever to assess and quickly act upon staffing needs for the coming year. US Citizenship and Immigration Services announced that, as of August 4, 2004, 40,000 applications for the 65,000 H-1Bs allocated for fiscal year 2005 are pending or have been approved. Of the 65,000 H-1Bs, approximately 7,000 remain reserved for Singapore and Chile under Free Trade Agreements; however, the current belief is that many of those have not been used. Any Free Trade-allocated H-1Bs that have not been applied for by October 1, 2004, will be added back in to the fiscal 2005 limit and must be adjudicated before November 15. Once the cap is reached, unless Congress grants relief by increasing the cap, no new H-1Bs will be issued with a start date before October 1, 2005.

Employers interested in hiring foreign nationals in the coming year should immediately contact counsel to understand their options. In addition, employers should immediately consider filing H-1B applications using premium processing until the cap is met. While other options may be available for international employers, such as intra-company transfers, the H-1B is the primary source of work visas. For more information regarding visa options for foreign national employees, please contact the others listed above.