
Immigration Advisory

2000-08-01

H-1B Cap Reached

The Immigration and Naturalization Service (INS) has announced that it has exhausted the 115,000 H-1B numbers allotted for the Fiscal Year 2000 (FY-00). INS has not begun to issue decisions on new H-1B cases that are subject to the cap and were filed after March 17, 2000. The INS announced that it has completely closed out the FY-00 year and has now begun assessing cases with October 1, 2000 start dates, which will count towards the new FY-01 cap.

Additional delays in H-1B processing have been caused by the INS' recent halts to all case processing. This summer, the INS centers throughout the U.S. halted processing for one week in June and another week in July. The halts in processing allow the INS to conduct audits of its existing workload. Additional audits are planned for the balance of the year, including September, the last month of the fiscal year. We can expect another shut down for at least one week during this month.

H-1B transfers to new employers and H-1B extensions of stay continue to be processed and the current pace appears to have picked up, especially for extensions.

In addition, we have been experiencing significant delays in the processing of Labor Condition Applications (LCAs) by the Department of Labor. The LCA system for the entire country has been mostly down since early July, contributing to the already substantial delays in H-1B processing of both cap and non-cap cases.

Under these rapidly changing conditions it is almost impossible to predict how long anything will take. It is important that managers and all applicants for work visas understand that the system is not working for us and that we will continue to experience significant delays.

The DOL Announces Reforms to the Labor Certification Process

Since January 1998, the processing of Labor Certifications by the Department of Labor has taken as much as two years. At a recent conference, the Department of Labor announced plans to reduce the processing time to 7 days. Of course, some of us would be happy with a process that took 7 months. At the end of July, the DOL proposed new regulations to reduce the Labor Certification backlog which would allow employees who file regular labor certification cases before July 26, 2000

to convert to a more rapid process if the employer could prove 6 months of ongoing recruitment. This is a first step that may provide only limited relief in our region since the Department of Employment and Training (DET) recently reduced processing time from 18 months to 3 months for the initial phase of many cases.

Ultimately, the DOL plans to convert the current labor certification process to a new attestation system similar to the LCA system now in place. This new labor certification process is scheduled for implementation on April 1, 2001. Under this new system, 20% of the cases would be pulled for audit by the DOL. The rest would be approved without submission of extensive documentation, as is currently the practice. Since the DOL has not yet finalized 51 pages of new regulations on LCAs that it proposed in January 1998, some observers are skeptical that the DOL will act more rapidly to reform the labor certification process.

Boston Passport Agency Eliminates Walk-In Service

The U.S. Passport Agency in Boston, MA has announced that it will now only accept U.S. passport applications on an appointment basis. Only individuals who are traveling within 14 days or who are pressed for time because they require foreign visas are eligible to use the appointment system.

Appointments are available Monday through Friday, from 9:00 a.m. to 4:00 p.m., and may be scheduled by calling +1 617 878 0900.

Please note that proof of travel within 14 days or the urgent need to obtain a foreign visa is required. The Boston Passport Agency will be charging a \$35 expedite fee in addition to the standard processing fees.

For more information about passport applications, see http://travel.state.gov/passport_services.html.

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