FY 2019 H-1B Visa Cap: USCIS Reaches Annual Cap in 5 Days

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According to a recent U.S. Citizenship and Immigration Services (USCIS) announcement, “USCIS has reached the congressionally-mandated 65,000 H-1B visa cap for fiscal year 2019.” The fiscal year (FY) 2019 H-1B cap filing season launched on Monday, April 2, 2017 (since April 1, 2018 was a Sunday). On Friday, April 6, 2018, USCIS announced that it had already met both the 65,000 cap and the 20,000 U.S. advanced degree "master’s cap." USCIS will reject and return filing fees for all unselected cap-subject petitions.

USCIS will follow regulatory procedures providing for the random selection of approximately 15–20 percent more petitions than the regular cap number of 65,000 and approximately 5–10 percent more petitions than the advanced degree cap number of 20,000. The agency will use a computer-generated random selection process (or “lottery”) to select a sufficient number of H-1B petitions to satisfy the limits. The remaining petitions will be repackaged and returned to the petitioner.

Since premium processing is not available for this year’s cap season, all cap cases that have been selected will only receive a paper receipt notice via regular mail. The USCIS receipt generation process will be ongoing and may continue into June. In prior years, adjudications did not begin until around May 16 after the main lottery selections had been completed.

Employers may continue to file H-1B petitions in a variety of cases. According to the announcement, “USCIS will continue to accept and process 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.”


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