

Immigration Alert: Reminder: April 1st H-1B Filing Deadline Fast Approaching

3/4/2009

We are sending this alert as a last reminder of the rapidly approaching **April 1, 2009** "deadline" for the filing of H-1B worker petitions. Petitions must be mailed on March 31st for April 1st delivery.

As we have informed you in the past, Congress has placed a numerical "cap," or limit, on H-1B visas of 58,200 each fiscal year, with an additional 20,000 reserved for applicants holding U.S. master's degrees or higher.

In each of the last several years, the cap has been exhausted in the first few days of April, and despite the current down economy, we predict this year's H-1B quota (FY 2010) to be exhausted soon after the April 1, 2009 opening day for filing H-1B petitions.

Therefore it is important to finalize H-1B petitions *now*, especially since each petition requires certification by the Department of Labor (DOL) of a Labor Condition Application (LCA). DOL regulations allow it to take up to **seven working days** to certify the LCA. H-1B petitions filed without a certified LCA are less likely to be selected in the lottery.

While we will of course work with you on filing these petitions right up until April 1st, we strongly advise clients to finalize their H-1B petition decisions by **March 23, 2009**.

If you have responsibility for your firm's immigration planning and processing and you have already identified H-1B candidates, please initiate the H-1B petition process as soon as possible. Simply forward via email the job title, proposed salary, and the full name and basic contact information for the H-1B candidate, and we can reach out to you and to the employee to begin the process.

As always, we are prepared to strategize with clients regarding those potential employees who either do not qualify for H-1B status or who have a gap in their employment eligibility prior to the start of the next fiscal year.

For assistance in this area, please contact one of the attorneys listed below or any member of your Mintz Levin client service team.

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