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USCIS makes Critical Announcements for the Upcoming H1B Cap Season

March 19, 2019

The start of the fiscal year (FY) 2020 H-1B cap season is almost here and today USCIS announced:

- Two Phased Premium Processing of cap subject petitions;
- The launch of a new data hub for H-1Bs; and
- Confirmed its new H-1B cap selection process.

Premium Processing:

On April 1, 2019, USCIS will begin accepting H-1B petitions for FY2020. Premium processing will be available this year — unlike in prior years where it was suspended for the H-1B cap season. Premium will not be widely available to every H1B cap petition. There will be a two phase approach. In the first phase, USCIS will accept only those petitions requesting a "change of status." A "change of status" is the changing from one non-immigrant visa status to another non-immigrant visa status while a person is in the U.S., often a student in F-1 status. In the second phase, all other cap subject petitions will be eligible for premium processing.

USCIS will not begin premium processing for "change of status" petitions immediately; they will begin premium processing for these petitions no later than May 20, 2019. USCIS will notify the public before Premium Processing begins for these petitions. For those cases where a "change of status" petition was filed without an I-907 Form Request for Premium Processing, the case can be upgraded once USCIS begins Premium Processing of those petitions.

The second phase for Premium Processing is estimated to begin in June 2019. At that time, petitioners will be eligible to upgrade to Premium Processing by filing Form I-907.

New H-1B Data Hub:

The new H-1B Employer Data Hub will be available on uscis.gov on April 1. The data hub will allow the public to search for H-1B petitioners by fiscal year, NAICS industry code, company name, city, state, or zip code. This will give the public greater access to H1B data and the ability to calculate approval and denial rates and to review which employers are using the H-1B program.

H-1B Cap Selection Process:

Effective April 1, USCIS is reversing the order that H-1B cap cases are selected with the intention to comply with the Executive Order, "Buy American, Hire American," which requires USCIS to protect U.S. workers. USCIS will first select H-1B petitions submitted on behalf of all beneficiaries, including those that may be eligible for the advanced degree exemption. Then a lottery will be run for the remaining eligible petitions, a number projected to reach the advanced degree exemption. Changing the order in which USCIS counts these allocations will likely increase the number of petitions selected for beneficiaries with a master's or higher degree from a U.S. institution.

For more on the H-1B cap, please contact your Proskauer representative.