

# New H-1B Visas Remain Available – But They Are Running Out

**November 4, 2011**

United States Citizenship and Immigration Services (USCIS) reports that they are running out of new H-1B visas and they may soon be unavailable until October 2012, the start of the next fiscal year.

Compared to the count at this same time last year, the numbers over the past few weeks reveal that employers are now filing new H-1B petitions at a more rapid pace. On October 14, 2011, USCIS announced it had received approximately 43,300 H-1B cap subject petitions. By October 21, 2011, USCIS had received 46,200, and, according to its most recent announcement on October 28, 2011, USCIS has received 49,200 H-1B cap subject petitions. This filing rate, of approximately 3,000 per week, is significantly higher than last year at this time when the numbers were 42,800, 44,300, and 45,600 for each respective week. Moreover, the 20,000 additional H-1Bs available for those with advanced degrees was reached this year on October 21st, as opposed to last year where the category remained open through much of December.

By way of background, the H-1B visa is our most basic professional work visa and under current immigration law, only 65,000 new H-1B petitions may be granted each fiscal year (which runs from October 1st through September 30th), with an additional 20,000 made available for those individuals with advanced degrees from a U.S. academic institution. Of the basic 65,000 pool, 6,800 are then set aside for the H-1B1 visa program under the U.S.-Chile and U.S.-Singapore Free Trade Agreements.

Over the past few years, H-1Bs have been available on, and several months beyond, October 1st. This was a dramatic change from the recent past where the demand for this work visa has vastly outpaced the limited supply, resulting in a lottery for the available supply taking place in the first week that petitions could be filed. While petitions can normally be filed only six months in advance of the start date, H-1B petitions were thus filed, with the maximum slots exhausted, on April 1st. The change of the last few years can be attributed to the overall economic decline and a weak job market.

However, being the most basic and therefore most versatile work visa, there inevitably will continue to be a demand for the H-1B and the current pace of filings indicates that such demand is again on the rise. Employers are encouraged to move forward with any potential new H-1B petitions as soon as possible.