

# H-1B Cap Reached for Fiscal Year 2012

**November 28, 2011**

U.S. Citizenship and Immigration Services (USCIS) announced last week that it has received a sufficient number of H-1B petitions to reach the statutory cap of 65,000 for fiscal year (FY) 2012. USCIS is notifying the public that last Tuesday, Nov. 22, 2011, was the final receipt date for new H-1B specialty occupation petitions requesting an employment start date in FY 2012. This is significantly earlier than last year when H-1B visas remained available until late January.

Properly filed cases will be considered received on the date that USCIS physically receives the petition; not the date that the petition was postmarked. USCIS will reject cap-subject petitions for new H-1B specialty occupation workers seeking an employment start date in FY 2012 that arrive after Nov. 22, 2011.

As of Oct. 19, 2011, USCIS had also received more than 20,000 H-1B petitions filed on behalf of persons exempt from the cap under the 'advanced degree' exemption.

USCIS will continue to accept and process petitions that are otherwise exempt from the cap. In addition, petitions filed on behalf of current H-1B workers who have been counted previously against the cap will not be counted toward the FY 2012 H-1B cap. Accordingly, USCIS will continue to accept and process petitions filed to:

- extend the amount of time a current H-1B worker may remain in the U.S.;
- 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.

Please contact a Proskauer Immigration professional to discuss any questions or concerns related to this announcement.