

20,000 NEW H-1B VISAS

March 10, 2005



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The United States Citizenship and Immigration Services (USCIS) announced on March 8, 2005 that the H-1B cap exemption created by the H-1B Visa Reform Act of 2004 will apply to ALL qualified beneficiaries, not just those beneficiaries who graduated from a U.S. college or university with an advanced degree (master's or higher).

As frequent readers of this column and www.longchangoonline.com know, the H-1B Visa Reform Act of 2004 was a new law which was supposed to provide some relief for the H-1B cap. The H-1B cap for Fiscal Year 2005 (which runs from October 1, 2004 to September 30, 2005) is 65,000 H-1Bs. All 65,000 H-1Bs were taken up as of October 1, 2004 (the first day of the current fiscal year). Since all H-1Bs were used up on the first day of the fiscal year, the immigrant community was faced with the prospect of not having any new H-1Bs for an entire year. To deal with this issue, the H-1B Visa Reform Act of 2004 was enacted.

The specific language of the H-1B law provided that the 20,000 new H-1Bs would be available only for H-1B beneficiaries who graduated with an advanced degree (master's degree or higher) from a U.S. college. The USCIS, however, has decided to make the 20,000 new H-1Bs available to ALL qualified beneficiaries. As a result, qualified H-1B beneficiaries who have a bachelor's degree and those who have an advanced degree from either a U.S. university or a foreign university are potentially eligible for one of the new 20,000 H-1Bs. Those who qualify can start working in the H-1B position once approved. The start date can be during the current fiscal year (which ends on September 30, 2005) as opposed to having to wait until the next fiscal year.

The USCIS has indicated that it will publish regulations in the Federal Register regarding how to apply and when applications can be filed. Even though the H-1B Visa Reform act of 2004 specified that the effective date of this law would be March 8, 2005, the USCIS has indicated that filings will not be accepted until a new filing date is specified in the soon-to-be released regulations in the Federal Register.

For information on H-1B visas in general as well as further information on filing for an H-1B visa under the H-1B Visa Reform Act of 2004, please visit www.longchangoonline.com.

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