

## FY19 H-1B Lottery Update

04.13.2018

The U.S. Citizenship and Immigration Services (“USCIS”) has announced that it conducted a lottery on April 11, 2018, to randomly select enough H-1B cap-subject petitions to exhaust the H-1B visas available for Fiscal Year 2019.

According to the announcement, USCIS received approximately 190,098 H-1B cap-subject petitions during the filing period between April 2<sup>nd</sup> and April 6<sup>th</sup>, 2018, which are approximately 9,000 fewer H-1B cap-subject petitions than were filed last year in Fiscal Year 2018.

As employers are aware, there are a total of 85,000 available H-1B visas, consisting of the congressionally mandated cap of 65,000 H-1B visas (known as the “regular cap”) and an additional 20,000 H-1B visas that are exempt from the cap for beneficiaries who have earned a U.S. master’s degree or higher (known as the “master’s cap”). USCIS conducted the selection process for the master’s cap first. All unselected master’s cap petitions then became part of the random selection process for the regular cap, resulting in individuals with a U.S. master’s degree or higher having two chances of being selected.

### Cap Type

### Cap Amount

### Cap Eligible Petitions

H-1B Regular Cap

65,000

94,213

### ATTORNEYS

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### PRACTICE AREAS

Immigration

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H-1B Master's Cap

20,000

95,885

For those employers whose H-1B cap-subject petitions were received by USCIS during the filing period, there should be a roughly 44.71% chance of having been selected in the lottery (85,000 visas / 190,098 H-1B cap-subject petitions).

Notices of selection or non-selection in the lottery are expected within the coming weeks. Petitions that were selected in the lottery will receive a receipt notice. Petitions that were not selected in the lottery or that were received after April 6<sup>th</sup> will be rejected and returned with the associated filing fees.

USCIS will continue to accept and process H-1B petitions that are otherwise exempt from the cap, such as petitions by certain institutions of higher education, primary or secondary education institutions, and certain nonprofit organizations. Petitions filed for current H-1B workers who have been counted previously against the cap, and who still retain their cap number, will also not be counted toward the FY 2019 H-1B cap. This includes petitions to extend or amend H-1B status or change H-1B employers.

If you have questions about the H-1B program, please contact one of the immigration specialists in Koley Jessen's Employment, Labor and Benefits Practice Group.