

H-1B Cap for Fiscal Year 2005 Reached on October 1, 2004

Late on Friday afternoon, October 1, 2004, the U.S. Citizenship & Immigration Services (USCIS) issued a press release announcing it would no longer accept H-1B cap-subject petitions for Fiscal Year 2005 (FY 2005) adjudication. October 1, 2004, was the first day of FY 2005 (which runs from October 1, 2004, to September 30, 2005) and the USCIS had already received a sufficient number of cap-subject petitions to meet the annual quota of 65,000 petitions.

In its press release, the USCIS announced that any cases subject to the FY 2005 H-1B cap that were physically received by USCIS after the end of the business day Friday, October 1, 2004, would be rejected. The earliest a petitioner may file an H-1B cap-subject petition under the FY 2006 quota will be six months prior to the opening of the fiscal year, *i.e.*, April 1, 2005.

Whether a particular individual or job opportunity is subject to the H-1B quota is sometimes difficult to determine. In general, an individual who currently holds H-1B status in the U.S. is not subject to the cap; however, there are several exceptions. Also, not every individual outside the U.S. may be subject to the cap. Please feel free to contact us (see contact information below) should you like to review any potential H-1B petition to determine whether a given case is subject to the quota.

Watch for our monthly Alerts in which we provide updates regarding changes to the H-1B quota, such as legislative action or procedural issues. Also, please refer to our October 2004 Alert for details on upcoming Duane Morris workshops in locations throughout the U.S. addressing alternatives to the H-1B visa.

For Further Information

If you have any questions regarding changes in the law and agency practices, including how these changes may affect your business, or if you would like to discuss how to hire and retain foreign nationals on your workforce, please contact one of the members of the Immigration Group below or the lawyer in the firm with whom you are regularly in contact.

Immigration Group

Duane Morris' Immigration Group serves a diverse group of clients – from multinational and Fortune 500 corporations to small professional businesses, from financial institutions to embassies.

Washington, D.C.

Denyse Sabagh

202.776.7817

dsabagh@duanemorris.com

San Francisco

Lisa Spiegel

415.371.2269

lspiegel@duanemorris.com

Clark M. Trevor

415.371.2209

cmtrevor@duanemorris.com

Alan Curtis Perkins

415.371.2240

acperkins@duanemorris.com

www.duanemorris.com