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**FILING SEASON OPENS APRIL 1 FOR QUOTA-SUBJECT H-1B VISAS:
Employers should now begin work on H-1B petitions.**

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Please Deliver this Alert Notice to the Appropriate Responsible Company Personnel

U.S. employers should immediately assess whether any current or prospective foreign national employees may require H-1B visa sponsorship to secure ongoing work authorization. H-1B visas generally cover bachelor's level professional positions. Most H-1B visas are issued through an annual lottery process with a strict submission deadline at the beginning of April.

Many U.S. employers hire foreign nationals to work in the U.S. under H-1B visa status, especially recent college graduates or others coming from abroad to work in the U.S. Approximately 65,000 new H-1B visas become available each federal fiscal year, which begins on October 1 and ends the following September 30. An additional quota of 20,000 new H-1B visas are available for those who obtained a master's degree or higher in the U.S.

In recent years, the annual demand for H-1B visas has significantly outpaced their availability. Accordingly, employers must prepare H-1B petitions to be received by United States Citizenship and Immigration Services (USCIS) on "opening day," i.e., April 1, 2019, the first date on which USCIS will accept H-1B petitions for the upcoming fiscal year quota. Failure to promptly identify and file for affected individuals may entirely preclude their H-1B employment through October 1, 2020.

We recommend U.S. employers immediately assess whether any current or prospective employees require H-1B status and, if so, whether they are subject to the quota. Not all individuals are subject to the quota. For example, many H-1B employees currently employed by U.S. companies may have already been counted against the quota and will not need to be counted again.

Prospective or current employees subject to the H-1B quota may include:

- Current foreign students or recent graduates working under authorized Optional Practical Training.
- Foreign nationals in or outside the U.S. who are not already employed in H-1B status by a for-profit employer.
- Current H-1B employees at universities who seek new employment by for-profit companies.

When USCIS receives more quota-subject H-1B applications than available spaces in the first five business days of the filing period (April 1, 2019 - April 5, 2019), it conducts a lottery to allocate the available H-1B visas. Therefore, filing the H-1B on "opening day" does not guarantee a place in the quota even though legal costs will have been incurred. However, government filing fees are returned for cases that are not ultimately accepted due to the quota limitations.

USCIS recently announced a new electronic registration process for the H-1B visa lottery. This registration process would change significantly the steps involved in the H-1B lottery. However, it is highly unlikely that the registration process will be ready before April 1, 2019 because of the mandatory steps and timelines involved in the regulatory process. Accordingly, we recommend that employers move forward as if the new electronic registration process will not be available. We will update employers if this changes.

We urge immediate action as H-1B petitions require advance certification by the U.S. Department of Labor—which adds to preparation times. Please contact our office to review potentially affected foreign nationals and your company’s hiring needs for the upcoming 18 months.

If you have any questions regarding this LEGALcurrents®, please do not hesitate to contact any member of our firm’s Immigration Practice Group at 585.232.6500 or visit www.hselaw.com.

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