CYRUS D. MEHTA & PARTNERS PLLC
US IMMIGRATION & NATIONALITY LAW

H-1B NUMBERS DWINDLING FAST, FILE NOW

Posted on November 17, 2011 by Cyrus Mehta

U.S. Citizenship and Immigration Services (USCIS) announced on November 14, 2011, that it has accepted (approved or pending) 56,300 H-1B petitions subject to the 65,000 numerical limitation (cap) for fiscal year (FY) 2012. Up to 6,800 visas are set aside from the 65,000 cap during each fiscal year for the H-1B1 program under the terms of legislation implementing the U.S.-Chile and U.S.-Singapore Free Trade Agreements.

Also, the 20,000 cap for those with advanced U.S. degrees has been reached. By contrast, last year as of October 29, 2010, only 16,700 had been used. We recommend that employers needing H-1B workers file as quickly as possible. Numbers could be gone within the next week or two. Once the numbers under the cap are gone, the next opportunity to file will be April 1, 2012, for work to begin October 1, 2012.

USCIS has not publicly indicated how many of the total 6,800 H-1B1 Chile/Singapore numbers from FY2011 were unused and will be added to the FY2012 pool of numbers. In January of 2011, however, the USCIS Ombudsman advised AILA Liaison that there were 6,350 unused H-1B1 Chile/Singapore numbers from FY2010 added to the FY2011 pool of H-1B numbers, and in January 2010, the USCIS Office of Public Engagement advised at their national stakeholder meeting (notes from which are available on the USCIS Website) that there were 6,100 unused H-1B1 Chile/Singapore numbers from FY 2009 added to the FY 2010 pool of H-1B numbers. Thus, although we cannot know for certain, it appears likely that there will be at least 6,000 unused H-1B1 Chile/Singapore numbers from FY2011 added to the FY2012 numbers, mostly balancing out the 6,800 H-1B1 Chile/Singapore numbers held for FY2012 that are subtracted from the available FY2012 numbers. In other words, out of the 65,000 H-1B cap numbers that USCIS indicates on its website as the TCap

Amount¥, we can estimate that at least approximately 64,200 cap numbers probably actually are available. That would mean that as of November 14, there were still roughly 7,900 H-1B cap numbers left to go before the FY2012 supply is exhausted.

Update: On Tuesday, November 22, 2011, USCIS indicated that as of Friday, November 18, 2011, there had been 61,800 cap-eligible petitions filed. On the assumption that there are at least 6,000 (but necessarily less than 6,800) unused H-1B1 Chile/Singapore numbers from FY2011 being added back to the FY2012 numbers, as discussed above, that would leave approximately 2,400 numbers remaining, as of November 18, or perhaps slightly more (but in no event more than 3,200). That is a decrease of more than 5,000 since November 14, so the last numbers are clearly disappearing rapidly.