



# **New Opportunity To Apply For H-1B Visas Fast Approaching**

Insights

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On April 1, 2007, the United States Citizenship and Immigration Services (USCIS) will begin accepting new H-1B visa applications for FY 2008, for employment that will begin on October 1, 2007.

## **How This Visa Can Help Your Business**

The H-1B visa is a popular choice for companies who want to hire a foreign worker to fill a "professional" or "specialty occupation" position. H-1 status can be used for up to six years of employment in the US, so it makes a useful platform for launching a case for permanent residence. In addition, unlike most employment-based permanent residence cases, H-1 status does not require the employer to test the market to confirm that no US workers are available for the job the alien worker will fill.

In spite of its popularity, or perhaps because of it, there is a "cap" on the number of new H-1B visas that are available each year. The numerical cap for new H-1B visas is 65,000 per fiscal year, and an additional 20,000 H-1B visas are available for foreign workers with advanced degrees from US academic institutions.

As a result of the H-1B visa's popularity and its limited availability, you should act quickly if your company has a need for employees who may be brought in under these visas; the number of available visas may run out quickly after filing begins on April 1. This happened in 2006 when the H-1B cap for FY 2007 was reached on May 26th – less than two months after USCIS began accepting applications. If this trend continues, the cap will be met even earlier this year.

## **How You Can Take Advantage**

To increase your chances of obtaining H-1B visas for your employees, evaluate your company's need for H-1B workers now. Possible candidates for H-1B visas are potential new hires, or current employees now working in category F-1 (Foreign Students), J-1 (Exchange Visitors), L-1 (Intracompany Transferees) or TN (NAFTA Professionals) whose employment authorization will expire before October 2008.

In order to obtain H-1 status for an employee, you must demonstrate that the job the alien worker will fill requires, at minimum, a baccalaureate level degree in a specific field related to the job and that the alien worker has that degree or its equivalent.

After you evaluate your hiring needs, consult with immigration counsel to have the H-1B materials prepared in advance and ready to be filed as soon as the April 1 filing window opens.

If you have questions about H-1 status or you would like help sponsoring an employee, please contact your regular Fisher Phillips attorney.

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