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H-1B Cap Reached Within First Week, Highlights Need for Immigration Reform

WASHINGTON, DC – Laura Lichter, President of the American Immigration Lawyers Association (AILA), commented on today’s announcement from the United States Citizenship and Immigration Services (USCIS) that within mere days of accepting applications, the cap of 65,000 H-1B petitions and 20,000 graduates of U.S. advanced degree programs have been reached for fiscal year 2014. Because of the high number of applications in the first five days, a lottery will be held to determine which of the applications received within those five days will actually be considered while all the others will be rejected out of hand. This means that U.S. employers who need certain highly-skilled foreign-born workers will have to wait until April 2014 to again try to apply, and wait until October 2014 for them to actually start work.

“Frankly, reaching the cap this soon means we’re back in the same situation we faced several years ago and is a sign that our economy is getting stronger since it means companies are hiring. We need our economy stronger so that’s great news. But reaching the cap so quickly shows that this limit set on recruiting foreign talent just isn’t based on actual labor force demand and the human resource needs of U.S. companies,” said Ms. Lichter.

“This is yet another sign that our immigration system is broken and that fixing it will benefit our economy. We need our legislators to take this issue seriously as part of a reform package that includes a roadmap to lawful permanent status for the millions of undocumented immigrants currently living and working in the U.S., and reforms to the legal immigration system in a way that will help businesses to grow, families to reunite and bring fairness to immigration enforcement. It’s a positive sign that reportedly labor and business have agreed on some immigration issues in advance of a bill being introduced, but in the meantime all of the businesses and potential employees who didn’t make the H-1B cut this year are out of luck,” she concluded.

H-1B petitions are filed by U.S. employers seeking to hire a specific foreign national in a specialty occupation involving the theoretical and practical application of a body of specialized knowledge (such as the sciences, medicine and health care, education, biotechnology). The numerical limitation on H-1B petitions for fiscal year 2014 is 65,000. Additionally, the first 20,000 H-1B petitions filed on behalf of foreign nationals who have earned a U.S. master’s degree or higher are exempt from the fiscal year cap.

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The American Immigration Lawyers Association is the national association of immigration lawyers established to promote justice, advocate for fair and reasonable immigration law and policy, advance the quality of immigration and nationality law and practice, and enhance the professional development of its members.