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New Rules For US Employer Sponsored Visa (H-1B)

The United States U.S. Citizenship and Immigration Services (USCIS) has proposed a provisional rule that prohibits US employers from making multiple application for potential employees under the employer sponsored visa which is also known as the H-1B visa.

/24-7PressRelease/ - March 22, 2008 - This year Congress has set a limit of 65,000 for most H-1B workers for the fiscal 2009. Last year more than 123,000 petitions for the 65,000 visas available were received. USCIS said that they expect this time the demand for the H-1B will be high and exceed the 2009 cap and there were concerns that some may try and manipulate the system.

The New Rules Affecting H-1B Visa

"These changes will ensure that companies filing H-1B petitions subject to congressionally mandated numerical limits have an equal chance to employ an H-1B worker", the immigration and citizenship agency said.

The USCIS also stated that should employers not adhere to the new rules they risk having their application revoked or even denied. However there is an exemption to the rule, it does not prevent related employers, such as a parent company and its subsidiary, from filing applications on behalf of the same worker "for different positions, based on a legitimate need."

This rule also points out that if USCIS receives the specific cap number of H-1B applications within the first five business days of accepting applications for the coming fiscal year, the immigration agency will run a lotto type, random selection process among all H-1B application received during this time period.

"The rule further clarifies that USCIS will deny petitions that incorrectly claim an exemption from any H-1B numerical limits and those filing fees will not be returned."

The USCIS said President George W Bush announced that the Administration would be undertaking a series of immigration and border security reforms and changes to the H-1B filing process under this rule are an important part of that initiative. This announcement was made in August last year.

The US H-1B controversy

This decision comes weeks after technology companies like Microsoft and its Chairman Bill Gates spoke to the US Congress to loosen up the already tough immigration laws for global labour mobility stating that by bringing in more skilled migrants in need skilled industry, they in return will also be creating jobs.

Bill Gates' recent testimony before a congressional committee stated that the US immigration and visa laws should "allow more highly-skilled workers to remain in the U.S." is to grant H-1b visas on the basis of skill rather than by a lottery... The best proxy for "skill" is "wage." He proposed that skilled migrants should not be forced to enter a lotto type scenario but infact should be paid for what they are worth.

The H-1B visa is popular amongst Indian IT and technology specialists of which Microsoft and other techno companies desire to bring more qualified technicians from India. The road to H-1B last year was filed with a few mishaps from the US Embassy in Indian, with authorities clamping down on corruption. (www.globalvisas.com ran an article on 14/03/2008 "Business Rallies Against Tight H-1B Visa")

The H-1B Visa

The US H1-B visa basically allows a US employer to employ a foreign skilled worker for a period of up to six years. This visa cannot be used as a route to permanent residency. However candidates may start their application for the USA Green Card whilst in the country on an H1B visa, the process can be undertaken whilst already living and working in the US.

To be eligible for an H-1B visa an applicant has to find a suitable job according to their qualifications in the US. Once the

applicant has qualified and received a job offer, the US employer files an H1 petition (work permit). The sponsoring employer files the H1 petition with USCIS (Department of Immigration of the United States) upon approval of this petition you will be permitted to work for that employer in the United States.

How Global Visas Can Help

www.globalvisas.co.in is an Indian affiliate of Global Visas UK. Ajay Hasija their India branch Director said "many Indian skilled workers want to gain experience overseas and as an immigration and visa agency we want to give them a reliable service that will enable them to do that. Because we understand immigration and visa laws with the help of our expert lawyers and consultants we can advise our clients thoroughly. At the moment the world is looking at India for skills particularly in the US and we work with candidates, employers and government to ensure that the procedures are followed. There really is no need to start panicking under the new rules for many Indian applicants or their future employers."

www.globalvisas.com understands the immigration and visa law for the United States and is in a position to help both employer and candidate in their application process. Global Visas can help to simplify the process for you by helping you to identify which American immigration route is the most appropriate for your needs. To find out how we can help you, contact us at www.globalvisas.com and fill out one of our assessment form and a US consultant will be in touch with you.

About Global Visas

Global Visas works with many of the world's leading companies as their immigration advisor and visa solution provider. We also assist many of the world's leading celebrities and business people. Immigration law is in a constant state of change, that's why it's so important to choose a consultancy with its finger on the pulse. Global visas is a leader in its industry and quite simply, the immigration and visa partner that you can rely on - every time.

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