



GMS Flash Alert

Immigration Edition

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United States – FY 2020 H-1B Regular Cap Met; Premium Processing Begins

The U.S. Citizenship and Immigration Services (USCIS) announced the agency has received a sufficient number of petitions to reach the congressionally mandated 65,000 H-1B visa regular cap for fiscal year 2020.¹ The agency will next determine if it has received a sufficient number of petitions to meet the 20,000 H-1B visa U.S. advanced degree exemption, known as the master's cap. The USCIS will then begin to review and process H-1B cap cases selected in the government's randomized-lottery process. (For prior coverage, see GMS [Flash Alert 2019-018](#), February 1, 2019.)

The USCIS has further announced that premium processing for FY2020 H-1B cap cases requesting a change of status will begin May 20, 2019.²

WHY THIS MATTERS

Employers should consider using the USCIS premium processing service to expedite adjudication for H-1B cap cases requiring notice of urgent approval. This would include any H-1B cap applicants who face the possibility of losing work authorization due to lengthy USCIS adjudication times as experienced in prior H-1B cap cycles.

Background

Premium processing is an optional service offered by the USCIS that allows for expedited processing of certain employment-based visa petitions and applications.

The USCIS guarantees a 15 calendar-day processing time to those petitioners or applicants who submit a Form I-907 and remit the government filing fee of \$1,410. Under this expedited service, the USCIS must either approve, deny, or issue a request for evidence (RFE) on the application within the 15-day window of receiving the premium processing request.

Special Premium Processing Timeline for FY20 H-1B Cap Petitions

On March 19, 2019, the USCIS announced that premium processing would be offered in two phases. The first phase allows premium processing service for H-1B cap petitions specifically requesting a change of status. The second phase allows for premium processing service for all other H-1B cap petitions.

Given the significant volume of H-1B cap-subject petitions received by the USCIS within the first week of April, the government is allowing itself additional time to complete case intake and conduct the randomized-lottery process for case selection. As a result, the USCIS has announced that starting on May 20, 2019, the government will begin processing H-1B cap-subject petitions filed with the premium processing request and requesting a change of status.

Petitioners who did not file a premium processing request concurrently with their change of status petitions will be allowed to submit the Form I-907, *Request for Premium Processing Service*, starting May 20.

The second phase allowing premium processing for all other H-1B cap cases will not start until at least June 2019.

USCIS introduced this phased approach to help ensure efficiency and to avoid full suspension of the premium processing service. Furthermore, to help avoid a delay in approval notice issuance, the USCIS announced that from May 20 to June 3, USCIS will use only regular mail through the U.S. Postal Service instead of pre-paid mailers provided by the petitioner, to send out final notices for premium processed cap cases.

After June 3, USCIS intends to resume sending out final notices in pre-paid mailers.

KPMG LAW LLP NOTE

USCIS will notify the public once premium processing starts for all other FY 2020 cap-subject H-1B petitions.

KPMG Law LLP in Canada will continue to monitor the situation, and will endeavor to keep *GMS Flash Alert* readers informed as developments occur.

FOOTNOTES:

1 See: <https://www.uscis.gov/news/alerts/uscis-reaches-fy-2020-h-1b-regular-cap>.

2 See: <https://www.uscis.gov/news/alerts/premium-processing-begins-certain-cap-subject-h-1b-petitions-may-20>.

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Contact us

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