

Advocacy Recommends that USCIS Reconsider Proposed Registration Process for H-1B Visas

On April 28, 2011, the Office of Advocacy (Advocacy) filed a comment letter with the United States Citizenship and Immigration Services (USCIS) regarding its proposed rule which creates a registration process for H-1B visa petitions subject to numerical limitations. A complete copy of Advocacy's letter to USCIS may be accessed at: <http://www.sba.gov/advocacy/816>.

- The H-1B visa is utilized by employers to hire temporary high-skilled foreign workers. Currently, USCIS accepts petitions as early as April 1st, and randomly selects employers for the limited slots in this program. Since USCIS first created the random selection process in 2005, it has twice received such significant numbers of petitions that the numerical caps were exceeded on the first day.
- USCIS has proposed creating an earlier registration period to alleviate the agency's administrative costs that occur when significant H-1B petitions are received in a short period of time. Employers would have to electronically register each prospective H-1B worker during a designated registration period beginning no later than in March of a given year. USCIS would notify employers of the registration period, and randomly select employers for the limited slots. USCIS anticipates that this process would reduce costs for employers.
- Small business representatives are concerned that the registration requirement may make it more difficult for small employers to obtain H-1B workers because they may not be able to anticipate their labor needs at this earlier date. This process may also encourage employers to over-submit registrations, decreasing the chances for small employers to obtain an H-1B visa slot. Small employers have stated that USCIS should not implement this new registration period because it may not result in cost savings and it is not needed due to the decreased demand for H-1B visas in recent years.
- Advocacy recommended that USCIS evaluate the potential small business concerns and regulatory alternatives outlined in this comment letter, and possibly reconsider whether the agency should proceed with this program at this time.

For more information, visit Advocacy's Web page at <http://www.sba.gov/advocacy>, or contact Assistant Chief Counsel Janis Reyes by email at Janis.Reyes@sba.gov or by phone at 202-205-6533.