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U.S. Slams the Door Shut on Highly Educated Foreign Professionals

Exhaustion of the H-1B Cap Prohibits U.S. Employers from Hiring Global Talent

On October 1, 2004, the very first day of the new fiscal year, USCIS officials announced that the H-1B cap on visas for highly educated foreign professionals had been reached. Unless Congress takes action before the end of the 108th session, employers will be barred from hiring new H-1B foreign professionals for an entire year.

“Essential action would include exempting from the H-1B numerical cap graduates from U.S. universities who have earned a Master’s degree or higher,” said Paul Zulkie, President of the American Immigration Lawyers Association (AILA). “Such a rational solution to this crisis,” continued Mr. Zulkie, “would help ensure a workable H-1B program that would give U.S. employers access to the talent they need and help retain jobs in America.”

A select number of H-1B professionals are graduates from U.S. top universities’ Master’s and PhD programs. In the graduate-level math and sciences programs, foreign nationals represent roughly half of all graduates. “Prohibiting access to these world-class minds raises troubling issues,” said Mr. Zulkie. “Not only would U.S. employers miss out on American-educated talent, but we would be handing this talent to our competitors abroad.” Indeed, foreign countries are updating their immigration policies to attract this highly educated talent, making the competition to retain the best and the brightest that much more difficult for the United States to win.

The exhaustion of this fiscal year’s visa numbers also has made it more difficult for Americans to receive needed services. For instance, it is not commonly known that H-1B professionals serve as doctors, teachers and researchers, and work to develop products and services that improve the lives of Americans. H-1B professionals include psychologists and special education instructors who work with the mentally challenged, engineers who design tunnels and subway corridors that can withstand terrorist attacks, and biomedical researchers central to the fight against cancer, AIDS and other diseases.

AILA calls upon Congress and the Administration to address this crisis and restore U.S. access to this important talent. “Without access to these highly educated foreign professionals, America will suffer,” concluded Mr. Zulkie. “Not only will our ability to provide benefits to our own citizens be diminished, but the glow of American innovation that results from having access from the world’s brightest minds may be forever dimmed.”

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Founded in 1946, AILA is a nonpartisan, nonprofit organization that provides its Members with continuing legal education, information, and professional services. AILA advocates before Congress and the Administration and provides liaison with the DHS and other government agencies. AILA is an Affiliated Organization of the American Bar Association.

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