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A STRIKE AGAINST AMERICA'S COMPETITIVENESS AND INNOVATION:

AILA SAYS IT'S TIME TO ADDRESS THE CAP ON H-1B VISAS

WASHINGTON, DC, APRIL 1, 2008 – For most Americans, the beginning of April signifies the start of spring. For others, it means Opening Day of the baseball season. But for U.S. employers, April 1st marks the day that U.S. Citizenship and Immigration Services (USCIS) begins accepting new H-1B visa petitions for 2009. And once again, America's companies will be left in the lurch as the sparse annual allotment of H-1B visas will be reached on the very first day. "Unfortunately, this striking failure to support American's global competitiveness is not a poor April Fool's Day joke; it is the result of Congressional inaction and failure to reform our broken immigration system to meet legitimate labor needs," said Kathleen Campbell Walker, President of the American Immigration Lawyers Association (AILA). "Since when did the saying "If it's broke, don't fix it" ever make sense?"

Currently, the number of such H-1B visas is capped at 65,000, plus 20,000 for graduates of U.S. universities' advanced degree programs. Once the cap is reached, the process shuts down for another 18 months, preventing many companies from hiring vitally needed workers. The H-1B nonimmigrant visa category allows U.S. employers to augment the existing labor force with highly skilled foreign nationals in fields like research science, engineering, systems analysis, accounting, medicine, and teaching. H-1B workers are admitted to the United States for an initial period of three years, which may be extended for an additional three years. Further, H-1B employers must pay a competitive wage to the employee.

USCIS has said that this year it will accept H-1B visa petitions over five business days, ending April 7, and then will run a lottery to select the 85,000 "lucky winners" from among the applications received. Last year, the agency closed the application period on the second filing day (the earliest it could be closed under applicable rules), because the quota had already been exhausted. It then conducted a lottery, in which only about half of the applicants were selected for processing.

Walker stated, "America is currently facing many economic challenges and Congress is missing a no-brainer opportunity to help by not pegging the cap to the needs of the economy and allowing employers to hire the skilled workers it needs. Our history shows that immigrants have long contributed to rising U.S. standards of living, and recent studies reflect a direct correlation between the use of skilled foreign workers and the creation of jobs for Americans."

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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. For more information call George Tzamaras at 202-216-2410 or Annie Wilson at 202-216-2435.