

Immigration for Employers

Miscellaneous Information

Florida HR Workshop, Dept. of Management Services
Jacksonville, FL – October 24, 2007

What are some alternatives to the H-1B?

- **TN** Available to *citizens* of Mexico and Canada:
 1. Occupation must appear on NAFTA list
 2. Given in one year increments, no limit
 3. Canadians need only present one year job offer, credentials at border or airport for admission
 4. Mexicans must follow H-1B-like procedures
 5. Extensions and change of employer may be done within US by filing the I-129 and appropriate documents
- **H1B1** visa for Chile, Singapore: very similar to normal H1B, except granted in one year increments, requires residence abroad (no dual intent).
- **E 3** for Australian citizens; again very similar to H1B; minimum Bachelor's, dual intent ok; spouses may work.
- **H-3** trainee. 2 yrs max; training must be for job abroad.
- **J-1** trainee. 18 mo. max; looser than H 3, but many J sponsors will not sponsor if you are in US.

What about the quota?

- Horrible quota problems!
 - Currently H1B's are limited to about 78,789.
 - ~58,789 for those with no US earned Master's.
 - --20,000 for those with US earned Master's or higher.
 - ~6,800 reserved for H1B1 for citizens of Chile, Singapore.
- FY 2008 non-Master's quota of approx. 60K exhausted on 04/01/2007
- FY 2008 20K US Master's quota exhausted a few days later
- Petition can be made for FY 2009 numbers beginning 4/1/07, *for employment to begin on or after 10/1/08.*
- Should begin paperwork no later than 3/1/08.

What should I do if an employee is terminated early?

- Withdraw LCA and H-1B petition if employment is terminated early
- Notify USCIS: "petitioner shall send a letter explaining the change(s) to the director who approved the petition" 8CFR214.2(h)(11)(I)(A)
- Withdraw LCA, too 20CFR655.750(b)(2)
- DOL Administrative Review Board case found that employer had not terminated employment because it had not notified USCIS (required payment of "back wages" APPROX. \$75,000) *Amtel Group of Florida v. Yongmahapakorn, 04-087 (ARB 9/29/06)*
- Must agree to pay return transportation to country of nationality if H1B terminated (not enforceable).