

**Report on H-1B Petitions
Annual Report
Fiscal Year 2000**
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U. S. Immigration and Naturalization Service

Report Mandated by Public Law 105-277, Division C, American
Competitiveness and Workforce Improvement Act of 1998

Report on H-1B Petitions

The Immigration Act of 1990 established numerical limitations on the H-1B nonimmigrant classification to provide U.S. employers facilitated access to foreign skilled workers while ensuring worker protections. The cap of [then] 65,000 was reached for the first time in fiscal year 1997 and again in fiscal year 1998 as demand increased significantly in the burgeoning technology sector.

In October 1998, the American Competitiveness and Workforce Improvement Act (ACWIA) was enacted (Public Law 105-277, Division C). The ACWIA temporarily increased the H-1B cap to 115,000 for fiscal years 1999 and 2000 and to 107,500 for fiscal year 2001 while establishing an affirmative role for U.S. employers to assist with education and training efforts. Under ACWIA, an H-1B Nonimmigrant Petitioner Fee account was established to fund training and education programs administered by the Department of Labor and the National Science Foundation. Employers, unless explicitly exempt under the law, were required to pay a \$500 fee for each H-1B worker sponsored. Employers who qualified as an institution or organization described in section 212(p) of the Immigration and Nationality Act (INA) were exempt from payment of this fee. Additionally, the ACWIA imposed quarterly and annual reporting requirements on the Immigration and Naturalization Service (INS) concerning the H-1B fee, fee exemption, and demographic H-1B worker data.

This report is mandated under section 416(c)(1) of the ACWIA that states: "...the Attorney General shall notify, on a quarterly basis, the Committees on the Judiciary of the United States House of Representatives and the Senate of the numbers of aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act during the preceding 3-month period." Furthermore, as described in Section 416(c)(3), this report "...shall include the number of aliens who were issued visas or otherwise provided nonimmigrant status pursuant to petitions filed by institutions or organizations described in section 212(p)(1) of the Immigration and Nationality Act (as added by section 415 of this title)."

This report covers the four quarters of fiscal year 2000. As explained in our letter to the House and Senate Judiciary Committees dated March 9, 2000, reports have not been provided since the third quarter of fiscal year 1999 due to data discrepancies that now have been corrected.

This report is presented in two parts: Part I provides information on the number of aliens granted H-1B status while Part II provides information on the number of employers exempt from the nonimmigrant H-1B petition fee. In both parts of this report, quarterly and annual data for fiscal year 2000 are presented.

Pursuant to section 214(c) of the INA, U.S. employers using the H-1B program are required to file a petition with the Attorney General on behalf of an alien worker (the beneficiary). The petition must be approved before a visa is granted or an alien is provided nonimmigrant status. Accordingly, the petition data is used to inform this report.

Part I. The number of aliens provided status under section 101(a)(15)(H)(i)(b) of the INA.

Table 1 provides information on the number of H-1B petitions filed by employers in fiscal year 2000. This table also provides information on the number of H-1B petitions approved by the INS during this period. Petitions filed in a particular quarter may not be adjudicated in that same quarter.

U.S. employers file the petition with the INS to sponsor an alien worker as an H-1B nonimmigrant. This petition may be filed to sponsor an alien for an initial period of H-1B employment or to extend the authorized stay of an alien as an H-1B nonimmigrant. Additionally, an employer may file the petition to sponsor an alien who currently has status as an H-1B nonimmigrant working for another employer or to seek an amendment of a previously approved petition. In the case of a petition to amend a previously approved petition, there may be no corresponding request to extend the authorized stay of the beneficiary. For example, an employer may file an amended petition notifying the INS of a different location where the beneficiary will be employed or a material change in the beneficiary's job duties. Therefore, the total number of approved petitions may exceed the actual number of aliens who are provided nonimmigrant status as H-1B.

Of the 299,046 petitions filed in fiscal year 2000 and 257,640 approved in fiscal year 2000, approximately 232,600 petitions were both filed **and** approved during fiscal year 2000.

TABLE 1. NUMBER OF H-1B PETITIONS FILED AND/OR APPROVED BY QUARTER: FY 2000

	Oct 99 to Dec 99	Jan 00 to Mar 00	Apr 00 to Jun 00	Jul 00 to Sep 00	FY 2000
Petitions filed	73,875	90,762	55,692	78,717	299,046
Petitions approved	42,453	69,523	80,128	65,536	257,640

Part II. The number of aliens provided nonimmigrant status pursuant to petitions filed by institutions or organizations described in section 212(p) (1) of the INA.

The ACWIA added section 214(c)(9)(A) of the INA to require that the Attorney General impose a fee on an employer filing a petition initially to grant an alien status as H-1B; to extend the nonimmigrant stay of an alien as an H-1B (unless the employer previously has obtained an extension for such alien); or to obtain authorization for an alien having such status to change employers. The \$500 fee became effective on December 1, 1998.

Employers that are exempt from the fee are described under section 212(p)(1) of the Act. Additionally, the INS does not require the fee for certain administrative reasons. To summarize, these exemptions apply to employers that are:

- institutions of higher education defined in section 101(a) of the Higher Education Act of 1965;
- non-profit organizations or entities related to or affiliated with an institution of higher education as defined in section 101(a) of the Higher Education Act of 1965;
- non-profit and Government research organizations;
- filing a second or subsequent request for an extension of stay for a particular alien;
- filing a petition to correct an INS error; or
- filing an amended petition that does not contain a request to extend the nonimmigrant stay of the alien beneficiary.

Table 2 shows the number of petitions that were filed in fiscal year 2000 and the number exempted from the fee. Table 3 shows the same information for all petitions approved in fiscal year 2000 regardless of when filed. Approximately 232,600 petitions are included in both tables indicating the petitions were both filed and approved during fiscal year 2000. As explained in Part I, the total number of approved petitions may exceed the actual number of aliens who are provided nonimmigrant status as H-1B since a single alien may be the beneficiary of multiple petitions.

**TABLE 2. NUMBER OF H-1B PETITIONS FILED
BY QUARTER AND REASON OF EXEMPTION FROM \$500 FEE: FY 2000**

	Oct 99 to Dec 99	Jan 00 to Mar 00	Apr 00 to Jun 00	Jul 00 to Sep 00	FY 2000
TOTAL PETITIONS FILED	73,785	90,762	55,692	78,717	299,046
Without any fee exemptions	58,376	83,528	46,996	70,192	259,092
With at least one exemption	5,162	6,134	8,679	8,449	28,424
Missing exemption data	10,337	1,100	17	76	11,530
REASON FOR EXEMPTION					
Employer is an institution of higher education	3,354	3,311	3,292	4,062	14,019
Employer is an organization or entity related to, or affiliated with an institution of higher education	1,268	1,521	1,456	1,694	5,939
Employer is a nonprofit research organization or a government research organization	1,070	1,155	1,088	1,239	4,552
Employer is filing a second (or higher) extension of stay for an H-1B nonimmigrant	702	1,349	2,100	1,702	5,853
Employer is filing an amended petition without an extension of stay for an H-1B nonimmigrant	1	42	2,607	1,769	4,419
Employer is filing an amended petition with second (or higher) extension of stay for an H-1B nonimmigrant	1	1	73	67	142

**TABLE 3. NUMBER OF H-1B PETITIONS APPROVED
BY QUARTER AND REASON OF EXEMPTION FROM \$500 FEE: FY 2000**

	Oct 99 to Dec 99	Jan 00 to Mar 00	Apr 00 to Jun 00	Jul 00 to Sep 00	FY 2000
TOTAL PETITIONS APPROVED	42,453	69,523	80,128	65,536	257,640
Without any fee exemptions	31,794	56,680	71,907	57,353	217,734
With at least one exemption	3,199	5,008	8,212	8,143	24,562
Missing exemption data	7,460	7,835	9	40	15,344
REASON FOR EXEMPTION					
Employer is an institution of higher education	2,088	3,263	3,273	3,904	12,528
Employer is an organization or entity related to, or affiliated with an institution of higher education	835	1,203	1,583	1,563	5,184
Employer is a nonprofit research organization or a government research organization	660	1,037	1,257	1,044	3,998
Employer is filing a second (or higher) extension of stay for an H-1B nonimmigrant	431	653	2,113	1,787	4,984
Employer is filing an amended petition without an extension of stay for an H-1B nonimmigrant	0	1	1,659	1,759	3,419
Employer is filing an amended petition with second (or higher) extension of stay for an H-1B nonimmigrant	0	1	31	66	98