

LABOR, EMPLOYMENT AND  
BENEFITS DEPARTMENT

MARY A. GAMBARDILLA  
Chair  
203.363.7662  
mgambardella@wiggins.com

KAREN L. CLUTE  
203.498.4349  
kclute@wiggins.com

SHERRY L. DOMINICK  
203.498.4331  
sdominick@wiggins.com

PETER J. LEFEVER  
203.498.4329  
plefever@wiggins.com

LAWRENCE PEIKES  
203.363.7609  
lpeikes@wiggins.com

JOHN G. ZANDY  
203.498.4330  
jzandy@wiggins.com

RACHEL B. ARNETT  
203.498.4397  
rarnett@wiggins.com

NAJIA S. KHALID  
203.498.4314  
nkhalid@wiggins.com

CAROLINE B. PARK  
203.498.4317  
cpark@wiggins.com

CHRISTINE D. SALMON  
203.363.7644  
csalmon@wiggins.com

JOSHUA B. WALLS  
203.363.7606  
jwalls@wiggins.com

## 2014 – 2015 H-1B Visa Cap Season Soon Approaching

H-1B Visa Cap Season is just around the corner, and Wiggin and Dana would like to remind employers to plan ahead when considering recruitment of foreign workers. This is because one of the most commonly used visa categories for U.S. employers to employ foreign nationals is the H-1B visa for temporary workers.

H-1B visa status is available to an individual who will perform services in a “specialty occupation” that generally requires a bachelor’s degree or its equivalent to perform the responsibilities the position entails. There is an annual quota or cap for H-1B visas of 65,000. H-1B petitions for the upcoming fiscal year (FY) beginning on October 1 (start date for employment) may be submitted beginning on April 1 of this year (six months in advance). Petitions may be submitted until such time as the quota is met. Once the cap for the fiscal year is reached, no H-1B petitions will be approved until the subsequent fiscal year’s filing season begins.

There are a number of exceptions to the H-1B cap. The most notable are petitions by or on behalf of:

- Institutions of higher education.
- Nonprofit entities related to or affiliated with an institution of higher education.
- Nonprofit research organizations.
- Governmental research organizations.
- Certain employees counted against the cap during the past 6 years and those already in H-1B status who are applying for an extension of stay, amendment, or change of employer.

- The first 20,000 employees who have earned a U.S. master’s degree or higher.

## 2014 - 2015 CAP

The U.S. Citizenship and Immigration Services (USCIS) will begin accepting cap-subject H-1B petitions on Tuesday, April 1, 2014. Under current regulations, the USCIS must accept H-1B cap-subject cases during the first five business days in April, and, if the cap is reached or exceeded, no additional cases can be filed toward the cap until the next fiscal year. If the H-1B cap is exceeded in the first five days, the USCIS will conduct a random lottery to select which cases will be processed, and the cases not selected will be rejected. If the H-1B cap is not met in the first five days of filing, the USCIS continues to accept such cases until the cap limit is reached.

In 2013 - 2014, the H-1B cap limit was exceeded in the first five days of April, resulting in a visa lottery. As a result, it is anticipated that the demand for H-1B visas will be high for 2014-2015. Employers who wish to utilize the H-1B visa category are urged to make preparations in advance and attend Wiggin and Dana’s Lunch & Learn Visa Workshop Series: H-1B 101, to be held on Thursday, February 27, from 11:30 a.m. - 1:30 p.m. at Wiggin and Dana’s New Haven office. Please contact [rsvp@wiggins.com](mailto:rsvp@wiggins.com) for more information or to register for the event.

Please contact Najia Khalid at 203.498.4314 or [nkhalid@wiggins.com](mailto:nkhalid@wiggins.com) if you have any questions.

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