Last Call for H-1Bs

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The H-1B visa allows employers to hire skilled foreign national professionals to work in the United States for up to six years. The beauty of this specific visa type is that it transcends all industries, so virtually any company seeking to hire a skilled, professional foreign national worker is eligible to file an H-1B petition for that individual. However, because of its ubiquity, it is also by far the most commonly sought after visa type.

H-1B visas are subject to an annual quota, and the filing window for any given fiscal year opens on April 1st and does not close until the cap has been reached. This is not-so-affectionately referred to as "H-1B cap season" among immigration practitioners. By law, there are 65,000 H-1B visas available annually, with an additional 20,000 set aside for individuals with U.S. Master's degrees or higher. 85,000 visas may sound like a lot, however, when you consider that last year alone almost 233,000 H-1B visa petitions were filed in the first week of April, it becomes clear that timing is everything.

A late filing will result in a rejected petition, which means that the company must wait a full year before becoming eligible to submit a new petition. The time to start preparing is now.

Even if a company files their H-1B petition on April 1st, if the government receives an excess of petitions, which is likely to happen again this year, they conduct a random

lottery, making it pure chance whether or not a company's petition is selected or rejected. The uncertainty can be daunting, however for many employers, this is their only option to retain foreign talent; and their business success often depends on being able to hire such skilled workers.

With Austin's robust technology, semiconductor, manufacturing, and gaming industries, there are many companies that will have a need to participate in the H-1B visa program this year. If you have not yet reached out to an immigration attorney, now is the time to get the ball rolling to ensure a timely filing and fair shot at receiving a visa for your valued foreign national employees. Most attorneys will tell you that they would like at least 2 weeks to get a filing together – though they can sometimes be prepared in slightly faster than this. The clock is ticking…