



CLIENT ALERT

H-1B Visas and New Developments in Immigration Law

The United States Immigration and Citizenship Services (“USCIS”) recently announced that the H-1B work visa quota was exhausted for the fiscal year 2018 within the first four application days. The previous year, 85,000 H-1B visas were made available for new hires and approximately 236,000 requests were filed; a lottery was conducted and effectively 36% of all submitted H-1B visa requests were eligible. Nearly two-thirds of H-1B candidates were not selected and may be out of legal options.

To make matters more challenging, there are calls by the new administration to overhaul the H-1B visa program, and a recent announcement has been made by the U.S. Department of Labor that it will ramp up civil investigations and criminal referrals in its efforts to combat fraud in its visa programs for foreign workers. In light of the changing landscape for the H-1B program and immigration law as a whole, employers should consider alternative options for attracting and retaining their foreign talent.

Ellenoff Grossman & Schole LLP has extensive experience in representing individuals of “extraordinary ability” who have been deemed eligible for categories of permanent and temporary employment visas set aside by Congress. Effectively, if you are at the top or near the top of your field, you may qualify for an extraordinary ability visa. The professions that qualify are unlimited: athletes, filmmakers, musicians, businessmen, technology experts, actors and others with high qualifications may benefit from the extraordinary ability visa. These extraordinary ability visas have distinct advantages in comparison to the H-1B visa: they are not subject to a quota and are not restricted by wage determinations and work locations. Employers across all industries in need of alternatives are able to benefit from the flexibility and availability offered by these visas.

If you have questions or would like additional information, please contact John Assadi (jassadi@egsllp.com), Mauricio Martinez (mmartinez@egsllp.com) or the primary EGS attorney with whom you work.

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