

U.S. Department of Justice
IMMIGRATION AND NATURALIZATION SERVICE

FACT SHEET

04/06/00

H-1B CAP FOR FY 1999: KPMG COUNT ANALYSIS

Background: Federal law imposes a ceiling or "cap" on the number of aliens who may be issued visas or otherwise provided H-1B status in a particular fiscal year. In summer 1999, the Immigration and Naturalization Service (INS) discovered that there were discrepancies in the number of petitions recorded against the Fiscal Year (FY) 1999 H-1B cap, which was set at 115,000 by the American Competitiveness and Workforce Improvement Act. Upon further analysis, it was determined that the INS may have exceeded the statutory cap for FY 99. Last fall, INS contracted with the consulting firm of KPMG to review the counting methodology and H-1B petition process. This review was to complement preliminary agency efforts to determine the amount of the H-1B discrepancy in FY 1999, identify the systems problems that led to this discrepancy, and recommend corrective actions.

Methodology: KPMG undertook several steps in its efforts to determine an accurate count of the number of H-1B petitions approved towards the FY 99 cap.

- Conducted extensive interviews with INS personnel to understand INS business practices and counting methodology;
- Compiled all information on H-1B petitions from each of the four Service Center computers that process H-1B petitions;
- Consolidated the Service Center information into a master database;
- Identified and removed duplicate records, revocations and multiple petitions for the same alien beneficiary;
- Sorted approved H-1B petitions into cap and non-cap categories; and
- Sampled 2,300 H-1B petitions to determine evidence of misclassification or data entry problems.

Results of the KPMG review: KPMG can attest with a 95% confidence level that the number of petitions approved and applied to the FY 99 cap falls within a range of 136,888 to 138,385. Thus, based on the KPMG estimated range, the INS approved between 21,888 and 23,385 petitions in excess of the FY 99 cap of 115,000.

Application of the KPMG analysis: Based on a careful review of the KPMG report INS determined that it approved 21,888 H-1B petitions in excess of the FY 99 cap. INS will be consulting closely with Congress before making a final determination on how to treat the excess.

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