



U.S. Citizenship and Immigration Services

Delivery Service Error Guidance for FY16 H-1B Cap Filings

USCIS would like to inform stakeholders about the proper action to take if cap-subject filings for fiscal year 2016 H-1B petitions are mishandled by delivery services. If a petitioner filed an FY16 H-1B cap petition in a timely manner, but received notification from the delivery service that suggests that there may be a delay or damage to the package, the petitioner may file a second H-1B petition with a new fee payment and the following:

- An explanation why a second petition is being filed, with supporting evidence, such as the notice from the delivery service; and
- A request to withdraw the first petition filed for the FY16 H-1B cap.

Petitioners who do not include these items will be considered to have submitted duplicate filings. USCIS reminds employers that it will deny or revoke multiple or duplicative petitions filed by an employer, in the same fiscal year, for the same H-1B worker and will not refund the filing fees.

If the FY16 cap is met within the first five business days of April, USCIS will reject any petitions received after April 7, 2015, including second H-1B petitions filed because of a delivery service mishandling as described above.

In addition, if the petitioner submits a second H-1B petition and withdraws the first, USCIS will not adjudicate the withdrawn petition and will return it to the petitioner regardless of whether the petition has already been receipted.

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