

Legal Update Article

USCIS Announces Implementation of H-1B Electronic Registration for FY 2021 Cap Season

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The U.S. Citizenship and Immigration Services (USCIS) has announced it is implementing an electronic registration process in the next H-1B visa lottery. Employers seeking to file fiscal year 2021 H-1B cap-subject petitions must first electronically register and pay a \$10 fee for each electronic registration they submit to USCIS.

The Department of Homeland Security (DHS) rule establishing an H-1B electronic registration system went into effect in April 2019. USCIS says the new process “will dramatically streamline processing by reducing paperwork and data exchange, and will provide an overall cost savings to petitioning employers.” H-1B employers have been waiting for confirmation of and details regarding the new registration process for H-1B cap-subject petitions.

Every “cap season,” employers must prepare and file petitions subject to the annual H-1B cap in early-April. The cap is 85,000, 65,000 “regular” H-1B grants and 20,000 for individuals with master’s degrees or higher from a U.S. college or university. Beneficiaries of petitions randomly selected in the H-1B lottery, upon approval of those petitions, may commence employment for the sponsoring employers as of October 1 of the following year.

The new H-1B cap registration process includes the following:

- Employers must complete a registration process requiring only basic information about the company and each beneficiary.
- USCIS will open an initial registration period from March 1, 2020, through March 20, 2020.
- The H-1B lottery, if needed, will be run on the electronic registrations received.
- Employers whose registrations are selected will be eligible to file H-1B cap-subject petitions within the prescribed timeframe.
- USCIS will post step-by-step instructions informing registrants how to complete the online registration process, along with key dates and timelines as the initial registration period nears.
- USCIS will conduct public engagements and other outreach activities to ensure registrants’ and interested parties’ familiarity with the new registration system.
- USCIS may determine if it is necessary to continue accepting registrations, or open an additional registration period, if it does not receive enough registrations and subsequent petitions are projected to reach the numerical allocations.
- DHS will publish a notice in the Federal Register to formally announce implementation of the H-1B registration system and provide additional details on the process.

We will provide further updates as USCIS announces additional details and instructions leading up to the initial registration period. Employers should consider their hiring needs and potential candidates and gather the basic information necessary for initial registration as early as possible. As there may be “growing pains” associated with USCIS’s first-time use of this new process, it is not too early to start preparing.

Please contact a Jackson Lewis attorney with any questions.

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