

# Time to Start Planning for H-1B Cap Season

By Michael H. Neifach & Amy L. Peck

January 31, 2020

## Meet the Authors



### Michael H. Neifach

Office Managing Principal  
(703) 483-8300

[Michael.Neifach@jacksonlewis.com](mailto:Michael.Neifach@jacksonlewis.com)



### Amy L. Peck

Principal  
402-391-1991

[Amy.Peck@jacksonlewis.com](mailto:Amy.Peck@jacksonlewis.com)

## Related Services

### Immigration Technology

©2020 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on employment and labor law since 1958, Jackson Lewis P.C.'s 1,000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged and stable, and share our clients' goals to emphasize belonging and respect for the contributions of every employee. For more information, visit <https://www.jacksonlewis.com>.

It is time to start preparing for the upcoming H-1B visa lottery, which begins April 1, 2020, and will be the first one to require an electronic registration for each case.

To be eligible to file a cap-subject H-1B petition, companies must first electronically register for each case. The initial registration period will run from March 1, 2020, to March 20, 2020. The fee for registration will be \$10 per beneficiary. (For other details, see our article, [USCIS Announces Implementation of H-1B Electronic Registration for FY 2021 Cap Season](#).) Through that process, USCIS will randomly select enough lottery entries to result in the 85,000 cases that may be approved under the cap, accounting for predicted denial rates. Cases selected in the lottery may be filed as full petitions for H-1B status that will become effective on October 1, 2020.

The 85,000 limit includes 65,000 "regular" H-1B grants and an additional 20,000 for individuals with master's degrees or higher from a U.S. college or university.

In recent years, approximately one in three applications have been selected in the lottery. To prepare, employers should review their hiring needs, as well as the immigration status of any employees who are foreign nationals working as students on F-1 Optional Practical Training (OPT)/STEM OPT, F-1 CPT, or in any other short-term nonimmigrant status, whom they may wish to retain. Employers also may want to consider individuals who were not selected in previous H-1B lotteries, previous J-1 trainees, TN, or other free-trade visa employees, or L-1 employees facing long green card delays.

The government believes that the new USCIS registration will be more efficient. Because this is USCIS's first year using the new process, there may be unexpected issues or delays. Employers should evaluate their circumstances and gather information early enough to prepare for any eventuality.

Please contact a Jackson Lewis attorney with any questions.