

Get Ready for H-1B Lottery Season

PUBLISHED ON

February 17, 2021

H-1B cap filing season is upon us, and like last year, employers must preregister their H-1B candidates online to enter the annual H-1B cap lotteries for Fiscal Year 2022. U.S. Citizenship and Immigration Services (USCIS), the government agency that oversees the H-1B program, recently announced that FY22 H-1B cap preregistration will run from March 9 to March 25.

Background

The H-1B visa program allows U.S. employers to petition for highly educated foreign nationals to work in specialty occupations, an employment category closely associated with science, technology, engineering, and mathematics fields, but not limited to them. The number of H-1B visas available each year is capped at 65,000, with 20,000 additional visas set aside for individuals with a U.S. master's degree or doctorate.

Each year, the number of H-1B petitions subject to these quotas (some organizations are cap-exempt) far exceeds the number available, and, historically, USCIS has used a random lottery process to determine which cases it will adjudicate.

USCIS conducts the lottery selection process in two stages. It conducts the regular cap lottery first, and then any U.S. advanced degree holders not selected for the regular cap will be entered into the master's cap lottery, giving U.S. master's or doctorate degree holders slightly better odds of selection. Last year, USCIS received over 270,000 registrations, resulting in a 31% chance of selection overall, with slightly better odds for U.S. graduate degree holders. Similar numbers are expected this year.

One big change that never materialized - to the sheer delight of many employers who have dreaded the rule change for months - would have prioritized the lottery system by wages. Though USCIS started the year with the rule change, it reversed course in February and will stick with the current random lottery. Employers should be ready for this change in 2022, however.

Electronic Registration 2021

Registration for this year's H-1B cap selection process will open at noon ET on March 9 and close at noon ET on March 25. All employers seeking to file H-1B cap-subject petitions for the FY22 H-1B cap lottery (for an October 1 H-1B start date) must register during this period and pay a \$10 registration fee for each candidate. Employers who do not already have a registration account will need to create one at on [my.USCIS.gov](https://my.uscis.gov) prior to registering.

There is no limit on the number of foreign nationals an employer can register. However, there must be a legitimate business need and genuine intent to employ each individual an entity registers.

USCIS intends to notify companies and their attorneys of selected registrations by March 31. H-1B lottery

winners may file cap-subject H-1B petitions with USCIS beginning on April 1.

If you are planning to file an H-1B cap petition this year and would like our firm's assistance, please let us know as soon as possible, and no later than March 24, to ensure you are able to preregister. If you have questions about the H-1B process or visa category generally, or if you would like to discuss alternatives to the H-1B, please contact any member of our [Immigration Practice Group](#).