

Registration for H-1B Slots Starts March 1, 2022

U.S. Citizenship and Immigration Services (USCIS) will once again be utilizing an internet-based electronic registration and lottery process for employers seeking to file H-1B petitions for beneficiaries that are required to be counted under the annual allocation of new H-1B slots.

An H-1B cap slot must be obtained for a foreign worker to engage in "new" H-1B employment. "New" H-1B employment generally refers to H-1B petitions that are filed for foreign nationals who are not currently in H-1B status. When new H-1B employment requires an H-1B cap visa, it is generally referred to as "cap subject." Foreign workers whose employment is cap subject may not begin their H-1B employment until the beginning of the federal fiscal year for which their H-1B cap visa was issued (*i.e.*, October 1). However, there are exceptions when both new H-1B and continued H-1B employment is not subject to the annual H-1B cap allocation—these are generally referred to as "cap exempt" petitions.

Under these new regulations for the 2023 Fiscal Year (October 1, 2022, to September 30, 2023), employers seeking an H-1B cap slot for an employee will be required to register their company and the intended beneficiary online with USCIS and pay a \$10 nonrefundable lottery fee for each electronic registration. The registration process is not required for cap-exempt H-1B petitions.

USCIS grants 65,000 new H-1B visas per federal fiscal year to employers who hire foreign workers for positions that require at least a bachelor's degree in a specialty field. An additional 20,000 new H-1B visas are available to employers who hire foreign workers with a master's degree from a U.S. university or college. These annual allocation limits are generally referred to as the "H-1B cap."

To participate in the 2023 H-1B Cap electronic registration process, which will occur from March 1, 2022, starting at 11:00 a.m. CST, to March 18, 2022, 11:00 a.m. CST, employers must provide for each registration entry:

- The employer's name, federal employer identification number (FEIN) and mailing address.
- The name, job title and contact information (telephone number and email address) of the employer's authorized representative.
- The beneficiary's full name, date of birth, country of birth, country of citizenship, gender and passport number.

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- Whether the beneficiary has obtained a master's or higher degree from a U.S. institution of higher education.
- The employer's attorney or accredited representative, if applicable.
- Any additional basic information requested by the registration system or USCIS.

USCIS will use this information to select enough H-1B petitions to adjudicate under the 2023 H-1B cap. The selection of registrants will occur through a computer-aided random selection process. Duplicate registrations for the same beneficiary by the same employer are strictly prohibited. Employers must attest as part of the registration that they intend to employ the beneficiary.

USCIS will notify registrants if they have been selected in the lottery by March 31, 2022. Selected registrants will then have a 90-day window starting on April 1, 2022, to properly file a completed H-1B cap-subject petition and pay all applicable H-1B filing fees for the named beneficiary.

For questions and assistance in determining how best to prepare for the upcoming H-1B filing season, please contact immigration attorney Ben Kurten at bkurten@reinhartlaw.com or (414) 298-8222 or your Reinhart attorney.

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