

Blog Post

The H-1B Lottery Registration Period is Approaching!

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Employers interested in hiring foreign nationals in specialty occupations should seriously consider registering for the H-1B lottery, which is quickly approaching. Last month, the U.S. Citizenship & Immigration Services (USCIS) announced it would open the initial registration period for this year's H-1B lottery at noon EST on March 1 and close at noon EST on March 17.

The H-1B Visa

The H-1B visa gives employers the opportunity to hire foreign nationals in specialty occupations for three years at a time and for a maximum period of six years. To qualify as a specialty occupation, the offered position must require the application of highly specialized knowledge in fields such as architecture, business, engineering, mathematics, medicine and health, and the arts, and also require a bachelor's or higher degree.

USCIS is limited to a congressionally mandated quota of 65,000 regular cap H-1B visas, with 6,800 of those reserved for Chilean and Singaporean nationals, and 20,000 master's cap H-1B visas per fiscal year. Thus, *before* an employer can ask USCIS to admit a qualified candidate into the United States in H-1B status to begin working in a specialty occupation, or, change the candidate's current U.S. immigration status to H-1B, the employer must register for the H-1B lottery, unless the employer is

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otherwise exempt (i.e., an institution of higher education, nonprofit organization related to or affiliated with an institution of higher education, or nonprofit research organization or governmental research organization, among others).

The Registration Process

Non-exempt employers (also known as cap-subject employers) must electronically register for the H-1B lottery and pay the associated registration fee of ten dollars (\$10.00) for each prospective candidate. To submit an H-1B registration, employers must create a USCIS online account. Employers will be prompted to provide important details such as the employer's name, mailing address, and employer identification number, as well as the foreign national's full name, date and place of birth, country of citizenship, passport number, and whether the foreign national has obtained a master's or higher degree from a U.S. institution of higher education. Registrants will be able to create new accounts beginning at noon EST on February 21.

If enough registrations have been received to reach the cap, USCIS will conduct a random selection process. USCIS will only consider properly submitted electronic registrations and only those with selected registrations will be eligible to file H-1B cap-subject petitions. USCIS intends to notify account holders of the results by March 31.

Expectations for Employers

USCIS traditionally receives a high volume of H-1B registrations and selects a portion of those based on historical data related to the number of H-1B petitions required to meet the congressionally mandated quota of 65,000 regular cap and 20,000 master's cap H-1B visas. However, as evidenced by the last two years, USCIS has conducted subsequent selections of properly submitted registrations kept on reserve because many employers with selected registrations did not ultimately file H-1B petitions with USCIS.

Accordingly, employers should not be discouraged if their registrations are not initially selected. Instead, they should take measures now to assess their H-1B needs and evaluate prospective candidates inside and outside the United States to accelerate the registration process during the short window in March.

For questions related to H-1B visas and the registration process, please contact your Akerman immigration lawyer.

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