

Blog Post

Preregistration Process Brings Revamp and Uncertainty to H-1B Visa Program

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U.S. employers wanting to hire foreign professionals should identify those eligible for H-1B sponsorship as soon as possible to allow sufficient time to navigate newly required procedures in March 2020, including using the H-1B electronic registration system. Employers petitioning for cap-subject H-1B hopefuls are now required to register electronically and pay a \$10 registration fee between March 1 and March 20, 2020 to be entered in the yearly draw.

On December 6, 2019, the U.S. Citizenship and Immigration Services (USCIS) announced that the annual H-1B lottery will be administered through an online registration system for the upcoming quota filing period. Introduction of the electronic registration system is expected to “provide an overall cost savings to petitioning employers” while dramatically streamlining the lengthy H-1B adjudication process by reducing paperwork and data exchange, according to the federal immigration agency.

To register online during this 20-day period, petitioning employers will need to provide basic information about the company as well as each foreign national they intend to sponsor. One registration with an accompanying \$10 filing fee is required per foreign national. Employers will be able to designate legal counsel by electronically

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submitting a completed and signed Form G-28, Notice of Entry of Appearance as Attorney. After the registration period closes, USCIS will conduct a randomized lottery from the electronic registration pool and send approximately 85,000 selection notices to successful registrants. Only those employers selected in the lottery will then be able to file complete H-1B petitions—including the requisite Department of Labor certified Labor Condition Application (LCA) and government filing fees—to USCIS for adjudication within 90 days of case selection.

While the new preregistration system promises increased governmental efficiency, the process is still clouded with uncertainty. The exact timing of the H-1B selection and notification processes are yet to be determined, and the capability of USCIS' online system to accommodate a high volume of registrants is cause for concern among employers. In January 2019, thousands of U.S. employers were left in limbo when the Department of Labor website crashed due to unprecedented demand for H-2B seasonal worker visas. In light of these concerns, employers should initiate the petition process by quickly identifying foreign nationals eligible for H-1B classification. Employers should be aware that USCIS plans to provide “step-by-step instructions” on its website regarding how to complete the registration process along with key dates and timelines as the initial registration period approaches.

Akerman's experienced immigration counsel is available to assist employers with the H-1B petition process and will keep clients abreast of developments as they occur.

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