USCIS Announces Registration Period for FY2024 H-1B Visa Lottery

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On January 27, 2023, the U.S. Citizenship and Immigration Services (USCIS) announced that the initial registration period for the H-1B lottery process will open at noon ET on **March 1, 2023** and will run through noon ET on **March 17, 2023**. Registrants who do not currently have an H-1B myUSCIS online account may create new accounts beginning at noon ET on February 21, 2023.

USCIS intends to notify selected registrants by March 31, 2023. When notified, registrants will be informed of the deadline for filing the actual petition.

As background, at the beginning of each government fiscal year, which starts October 1, the USCIS makes available an allocation of new H-1B visas. In general, the H-1B visa classification permits a foreign national professional to work in the United States for a temporary period in a "specialty occupation."

H-1B visas are numerically limited, commonly referred to as the H-1B "cap," with a total of 65,000 new visas available each fiscal year (6,800 of these H-1Bs are reserved for citizens of Singapore and Chile based on Free Trade Agreements with these countries). Petitions that are subject to the annual H-1B cap include petitions that are filed for first time H-1B beneficiaries, those who have not previously been counted against the H-1B cap, or for beneficiaries who have been outside the U.S. for at least one year since exhausting any prior permissible H-1B period of stay, and are seeking to return to the U.S. for a new period of H-1B admission. Since the number of applicants for the new H-1B visas are typically far greater than the number of available visas, USCIS randomly selects the applicants who will get a visa under the cap. In addition, 20,000 new visas are selected randomly as exempt from the H-1B cap for beneficiaries who hold an advanced degree from an accredited U.S. college or university.

In 2020, the USCIS implemented an electronic registration process for the H-1B cap to avoid the need for petitioners to file the full petition in order to be included in the random selection process. Employers who seek to file H-1B cap-subject petitions must now instead submit a

simple registration for each employee they seek to sponsor for the lottery. The registration fee is $10 per beneficiary, and each employer must complete a registration application containing the basic information of the intended beneficiary during the registration period.

Since the implementation of the new registration process, the USCIS has conducted the lottery in the following manner. All registrations (both advanced degree and bachelor's degree registrations) are first counted towards the bachelor's degree cap, and a lottery is conducted to distribute those visas from among all those candidates. Once this cap is reached, USCIS then randomly selects from the remaining eligible registrations those beneficiaries who will receive the 20,000 H-1B visas available for advanced degree registrants.

Employers should begin considering which of their employees or prospective employees may need H-1B cap-subject filings, including those with advanced degrees. This typically includes current F-1 employees working on Optional Practical Training work authorization. For multinational companies, the list may include L-1B employees who are nearing the five-year limit on their L-1B stays in the U.S. Other common examples include H-4, L-2, and E-2 employees working on Employment Authorization Documents (EADs) who may wish to hold a status that is not dependent upon their spouse's status. Employers should anticipate their workforce needs for FY2024, and carefully consider whether the filing of cap-subject H-1B petitions is needed.

If you think you have a candidate for H-1B status who might be subject to the cap, we encourage you to contact your Vorys attorney as early as possible to allow sufficient time to complete the registration process.