



New Electronic H-1B Registration Process Confirmed for Fiscal Year 2021

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U.S. Citizenship & Immigration Services (USCIS) confirmed it will utilize a new electronic registration system for the Fiscal Year 2021 H-1B lottery. By way of background, the H-1B visa program allows companies in the United States to employ foreign workers in “specialty occupations.” In the past, employers submitted full and complete H-1B petitions to USCIS on or around April 1 of each year. USCIS would then select petitions through a random selection process, otherwise known as the “lottery,” for one of the 85,000 available H-1B slots available each year. This included 20,000 slots reserved for candidates who earned an advanced degree from a U.S. educational institution.

Under the new system, employers must now complete a registration process online using basic information about the company and each requested worker and pay a \$10 registration fee per worker. Currently available guidance suggests that the initial registration period will be open from March 1 to March 20, 2020. USCIS will then conduct the random lottery selection process from the pool of cases that have been registered electronically. Once a case is selected in the lottery, the employer will then have up to 90 days to file an H-1B cap-subject petition on behalf of the foreign worker whose case was selected.

Employers should promptly identify current and prospective employees who need H-1B visa sponsorship, such as newly graduating foreign students in the United States, overseas workers who are seeking to start work in the United States in H-1B status, or foreign nationals present in the United States in another nonimmigrant status who may benefit from a change of status to H-1B. Candidates for this fiscal year’s H-1B cap may include, but are not limited to, the following:

- Recent college and university graduates present in the United States in F-1 status who are working pursuant to optional practical training (OPT) or STEM OPT;
- Eligible candidates who are currently enrolled in school in F-1 status who may be working pursuant to curricular practical training (CPT);
- Candidates abroad who are subject to the annual H-1B cap;
- Candidates in another nonimmigrant status (e.g., L-1B) who are approaching the maximum limits of their status and would benefit from a change of status to H-1B;
- Candidates currently employed pursuant to H-4 employment authorization document (EAD) who wish to become independent of the spouse’s H-1B status or who are concerned about continuity of the H-4 EAD program;
- Candidates in another nonimmigrant status who work for a different employer and would require an H-1B visa to change jobs; or

- Candidates in TN, E, or H-1B1 status for whom an employer is considering pursuing permanent residence.

To initiate a new H-1B process or for questions, please feel free to contact Hadeel M. Abouhasira at habouhasira@williamsmullen.com or (804) 420-6452; D. Earl Baggett, IV at ebaggett@williamsmullen.com or (804) 420-6478; William J. Benos at bbenos@williamsmullen.com or (804) 420-6402; or Tom C. Narvaez at tnarvaez@williamsmullen.com or (804) 420-6383.

Related People

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