



It's Time to Get Ready for the H-1B Lottery Electronic Registration Process and . . . Baseball

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This is an exciting time of the year, both as a baseball fan and as an immigration attorney. Pitchers and catchers have reported to their teams' spring training facilities in Florida and Arizona. Fans are excited about their teams' chances of winning a World Series. Warmer weather is fast approaching, we hope. Opening day is only five weeks away. And, last but not least, it's time for the H-1B lottery.

Although this alert would likely be a lot more entertaining if it were just about America's Pastime, let's hop into the batter's box and get into the details about the H-1B lottery and the fast-approaching electronic registration process.

Last week, U.S. Citizenship & Immigration Services (USCIS) confirmed it will again utilize the electronic registration system for the Fiscal Year 2022 H-1B lottery. The electronic registration period for this coming fiscal year's H-1B lottery will open at noon on March 9, 2021 and will close at noon on March 25, 2021. All H-1B cap registrations must be submitted electronically to USCIS during this time frame in order to be entered into the random lottery.

By way of background, the H-1B visa program allows companies in the United States to employ foreign workers in "specialty occupations." Historically, until last year, 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 the 85,000 H-1B slots available each year. This number includes 20,000 slots reserved for candidates who earned an advanced degree from a U.S. educational institution.

Under the current electronic registration system, which was first introduced last year, employers must now complete an online registration process using basic information about the company and each requested worker and pay a \$10 registration fee per worker. Once the registration period closes on March 25, 2021, USCIS will conduct the lottery - a random 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 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 limit 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;
- 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.

Keep in mind that, in order to be eligible for H-1B status, the job offered must be a position that normally requires a minimum of a bachelor's degree or its equivalent, and the individual must possess a bachelor's degree (or equivalent experience) in the specialty related to the offered position.

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

Play ball!

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