

PUBLICATION

A New Year, A New Process: H-1B Electronic Registration is "On Go"

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U.S. Citizenship and Immigration Services (USCIS) continues to roll out its plans for a new H-1B electronic registration system for a lottery to pick workers whose employers' petitions can then be filed and adjudicated. USCIS announced on December 7, 2019, that a new and final rule will require a \$10 nonrefundable fee for each H-1B registration submitted by U.S. employers. The initial electronic registration period will run from March 1, 2020, through March 20, 2020. USCIS will then run the lottery on the electronic submissions. Only those candidates chosen in the lottery will be authorized to have employers submit a full H-1B petition on their behalf to USCIS for adjudication.

Historically, employers had to file their fully prepared H-1B cap-subject petitions with USCIS, after which USCIS would select eligible petitions through a random selection process. This process often resulted in time consuming and voluminous paperwork and incurred costs for both petitioners and the agency relating to workers who were not selected in the lottery.

The new electronic registration will require only very basic information about the employer and the candidate and an attestation by the employer that it truly intends to file a full petition for each worker selected. An employer may register only once for any candidate, but a person seemingly could be registered by more than one employer. It is expected that the prospect of registering candidates with only limited information and a \$10 fee will greatly increase the number of candidates who become registered in the lottery and reduce significantly the chances of any one candidate being selected, which last year were about 40 percent.

Once a registration is selected in the lottery, the US employer will have 90 days to file the complete H-1B cap-subject petition.

This new electronic registration overhauls the manner in which H-1B cap subject petitions are submitted to USCIS for processing. The new process still requires U.S. employers to determine all employees and foreign nationals they wish to sponsor, confirm all eligibility requirements, and ensure that they are in a position to expeditiously prepare the H-1B petition if the person is selected in the lottery. We urge all employer clients to contact us to begin this review process now and into the early part of 2019 to ensure that they are prepared to submit electronic registrations and H-1B petitions timely.

Baker Donelson's Immigration Group is available to help employers strategize long-term hiring needs, provide guidance in determining H-1B eligibility, and assist in preparing H-1B registrations and petitions to USCIS.