



News & Types: Immigration Update

New H-1B Cap Registration Starting March 1st

2/7/2020

Practices: Immigration

The U.S. Citizenship and Immigration Services (USCIS) will institute a new registration tool for Fiscal Year 2021 H-1B cap-subject petitions. The registration period will run from March 1, 2020 noon EST through March 20, 2020 noon EST. During this period, employers, and their attorneys, will pay a non-refundable \$10 fee per beneficiary and will input each beneficiary's information through an account set up on the <https://my.uscis.gov/> online portal. Each registration will require basic information on the employer (legal name, FEIN, office address, and contact information), the beneficiary (legal name, gender, date of birth, country of birth and citizenship, and passport number), as well as whether the beneficiary will qualify for the Advanced Degree Cap exemption. Employers will be able to register up to 250 beneficiaries per session and pay a combined registration fee for all beneficiaries through the portal. Duplicate registrations by the same employer for the same employee will be identified and will be denied.

On March 20, 2020, the USCIS will determine whether it has received more registrations than needed to meet the H-1B regular and advanced degree caps. If so, the USCIS will conduct a lottery. The USCIS is expected to notify an employer that their beneficiary was selected in the lottery no later than March 31, 2020. It is unclear what this notification will look like, but the USCIS has indicated that employers will receive the selection notification electronically. Employers will also be able to login to the portal to check on the status of each beneficiary's registration to determine whether they were selected or not. The electronic notification will indicate the 90-day time frame and the appropriate USCIS Service Center where the H-1B petition must be filed. Employers must include a copy of this notification with the completed petition.

To date, the USCIS has not indicated whether it will suspend Premium Processing for H-1B cap-subject petitions. Furthermore, because this is a new registration portal and process, employers may opt to work with experienced counsel to ensure that they have the most up-to-date information on registration requirements and procedures, as well as correct deadlines. For example, it is unclear how the USCIS will handle typographical errors. The USCIS has indicated that some employer mistakes at the time of registration, such as the duplicate registration of a beneficiary, cannot be corrected. Also, if any issue arises where the online portal is not functioning correctly, the lottery cannot be conducted, etc., the USCIS will revert to traditional filing procedures. Employers should also be prepared to switch gears quickly if the electronic registration process cannot be implemented this year as expected.

If you have questions regarding this year's H-1B cap registration or filing procedures, please contact Esther Contreras at econtreras@masudafunai.com or 847-734-8811.

