



## ALERTS

### H-1B Final Rule Changes Aimed At Reducing Fraud In Visa Process

February 1, 2024

#### Highlights

The USCIS announced its final rule pertaining to the H-1B visa category

The final rule alters the selection process, implements measures to increase integrity in the registration process, and codifies start date flexibility for certain petitions

The H-1B registration period for FY 2025 runs from March 6-March 24, 2024

On Jan. 30, the U.S. Citizenship and Immigration Services (USCIS) [unveiled its final rule](#) designed to increase integrity and decrease the risk of fraud within the H-1B registration process, among other initiatives. The USCIS also announced the initial registration period dates and fee schedule for the fiscal year (FY) 2025 H-1B cap.

One of the key objectives of the final rule involves reducing the potential for fraud within the registration system and ensuring selection fairness for each potential H-1B beneficiary. Accordingly, the final rule transitions the focus of the H-1B lottery from the employer to the beneficiary, meaning each beneficiary will only be eligible for one lottery submission.

## RELATED PEOPLE



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Under the prior employer-centric system, a beneficiary received a lottery entry for each employer submission, even when multiple employers submitted an H-1B registration for the same beneficiary.

To facilitate this new beneficiary-centric approach, the USCIS will require registrants to provide valid passport or travel document information for each beneficiary beginning with the FY 2025 registration period. Beneficiaries will not be permitted to register with more than one passport or travel document, and the same passport or travel documentation must subsequently be used by the beneficiary when entering the U.S. in H-1B status.

## **Attempt to Strengthen Integrity**

In alignment with its goal of fairness for all potential H-1B beneficiaries, the final rule adds integrity measures related to the registration process and subsequent phases of the H-1B life cycle. For example, the rule codifies the USCIS' ability to deny or revoke H-1B petitions deemed to be invalid or those containing a false attestation in the underlying registration. Additionally, the rule grants permission to the USCIS to deny or revoke the approval of an H-1B petition if a registration fee payment is "declined, not reconciled, disputed, or otherwise invalid after submission."

## **Codification of Existing Policy**

Further, the final rule codifies employment start date flexibility for certain petitions subject to the congressionally mandated H-1B cap. Consistent with current policy, the rule clarifies start date requirements, and permits filing with requested start dates that are after Oct. 1 of the relevant fiscal year.

## **Fees and Forms**

The USCIS said it will launch online filing for H-1B cap-subject petitions on April 1, 2024, and will release of the new edition of Form I-129. As of April 1, 2024, prior editions will not be accepted. Beginning Feb. 28, employers and associated legal counsel will be permitted to file Forms I-129 and connected Forms I-907 for non-cap H-1B petitions.

The final rule [concerning the fee schedule](#) will not go into effect until after the FY 2025 H-1B registration period, leaving the registration fee for the upcoming cap season at \$10.00 per registration.

In anticipation of the upcoming H-1B registration period, on Feb. 28, the USCIS will launch the new organizational accounts in the USCIS online account, allowing multiple representatives of an organization and associated legal counsel to collaborate on and prepare H-1B registrations, H-1B petitions, and any associated Form I-907.

The H-1B registration period for FY 2025 officially begins at noon (Eastern) on March 6, and will end at noon on March 22, 2024. Employers should consider finalizing plans soon for the upcoming H-1B season in light of these new rules.

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