



ALERTS

Employers To Be Impacted By Proposed Changes To The Registration Process And Fees For Next Year's H-1B Visa Lottery System

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Confirming rumors, the [U.S. Citizenship and Immigration Services \(USCIS\)](#) recently announced a final rule for a new, electronic preregistration process for the H-1B 2021 cap selection system. Under the new system, employers will fill out a brief online form during a designated registration period for each employee they want to sponsor for the H-1B lottery. The fee for each registration will be \$10, due at the time of the submission, and is nonrefundable. If implemented, the new rule will be effective Dec. 9, 2019.

Once the H-1B candidates are selected, employers will then fill out and file an entire petition for selected candidates – something that previously had to be done for every H-1B lottery candidate regardless of whether they were chosen by employers.

This new rule could make it easier for employers to register more foreign national employees and make the lottery process more cost-effective, since employers will be required to submit petitions only for selected candidates.

The USCIS is slated to implement the electronic registration process for the fiscal year 2021 H-1B cap selection process once testing of the system has been completed. Notice to the public of the implementation timeframe and regarding the initial registration period will appear in the Federal Register once a formal decision has been made.

There are a few key changes to note:

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No Duplicate Registrations

The final rule prohibits duplicate registrations to prevent employers from flooding the system with registrations to maximize their opportunity to have their employees selected.

Added Preference for Masters Cap

The USCIS will once again utilize a weighted lottery system that will give an added preference to U.S. master's degree or advanced degree holders as candidates in the next fiscal year's H-1B lottery. By contrast, in fiscal year 2019 the USCIS for the first time completed the regular cap selection process first, followed by the master's cap selection process, which increased the likelihood that an individual candidate with a master's or higher degree from a U.S. university would be selected in the lottery for an employer. In fiscal year 2019, the USCIS received a total of 190,098 H-1B petitions for the regular and master's cap.

Fee Increases

The final rule also introduced some changes to fees.

- The USCIS also announced an increase in the premium processing fee from \$1,410 to \$1,440, effective Nov. 29, 2019.
- The USCIS would, for the first time, charge a fee for an initial work authorization document related to an asylum application.
- The fee for an H-1B application and other work visas filed on the form I-129 would increase by \$100, from \$460 to \$560.

To obtain more information, please contact the Barnes & Thornburg attorney with whom you work or Michael Durham at 574-237-1145 or mdurham@btlaw.com, Tejas Shah at 312-214-5619 or tejas.shah@btlaw.com, or Mercedes Badia-Tavas at 312-214-8313 or mbadiatavas@btlaw.com.

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