

## DHS Publishes Final Rule for H-1B Lottery

Article By:

Kristen W. Ng

---

On Nov. 30, 2018, the Department of Homeland Security issued the [notice of proposed rulemaking to amend its H-1B cap-subject lottery process](#). On Jan. 31, 2019, USCIS will publish the final rule after a 30-day comment period. The final rule encompasses a pre-registration process and a modified selection process. The registration process will be suspended for FY 2020 cap season to finish testing the H-1B registration system. Below is what employers, attorneys, and employees alike need to know:

**How to Register:** The USCIS will house the H-1B cap registration process through ICAM, a portal that will allow accounts to submit H-1B cap registrations. A petitioner must submit a separate registration for each beneficiary, and the beneficiary must be named. A petitioner may submit one registration per beneficiary, and as with previous years, if multiple requests for the same beneficiary and same petitioner are found, the registration for that beneficiary will be considered invalid.

**Timing:** The registration period will last at least 14 calendar days, and will start at least 14 calendar days before the earliest date the H-1B petition can be filed. USCIS will announce the start of the registration period at least 30 days before the first date of open registration. As with previous filings, the start date on the petition may only begin on the first day of the fiscal year, Oct. 1. If for any reason the registration period is open longer than anticipated by USCIS, then the start date may begin later.

**Selection Process:** USCIS will conduct a random lottery of the registrations it receives. If the cap has not been reached at the end of the period, USCIS will notify all those that are selected and keep the registration period open until the slots have been filled, which will determine the “final registration date.” If the cap is reached at the end of the registration period, USCIS will notify the public of the “final registration period” and will then randomly select via computer the registrations that will move on to the next stage.

Most notably, the order of selection will change for the petitions filed for FY 2020, though the registration process will take effect FY 2021 due to testing of the proposed system. Instead of the U.S. Master’s degree registrations being selected first for the 20,000 spots, the general pool will go first, where 65,000 regular cap registrations are selected. This means there will be more U.S. Master’s degree registrations mixed within the regular pool. USCIS will announce the “final registration date” after all U.S. Master’s degree registrations have been selected.

USCIS will maintain a reserve pool of registrations in case it needs to increase the number of registrations to meet the H-1B cap (both regular and advanced degree exemption).

**Notification:** Petitioners will receive an electronic notification that their registration has been selected, and can therefore move forward with filing the H-1B petition, only for the beneficiary named on the registration notice. The H-1B petition must be filed within the filing period indicated on the notice, which will be at least 90 days. If this window is missed, USCIS will deny or reject the H-1B petition.

**Fine Text:** USCIS makes it very clear that even if the registration process is suspended, the order and manner in which the cap subject petitions are selected will remain in effect.

**Implications:** The registration process will not go into effect this coming H-1B cap season, but the system will be tested throughout the year for implementation next year. The manner of selecting cap cases will change, with the regular cap going first, then the U.S. Master's cap. As such, there will be a greater chance for those with U.S. Master's degrees to be selected in the process.

©2025 Greenberg Traurig, LLP. All rights reserved.

---

National Law Review, Volume IX, Number 30

Source URL: <https://natlawreview.com/article/dhs-publishes-final-rule-h-1b-lottery>