

# **USCIS Releases H-1B Lottery Information: Registration Process Begins March 9**

Article By:

Katie P. Jacob

---

U.S. Citizenship and Immigration Services (USCIS) released long-awaited guidance on the 2021 H-1B lottery process. The service announced it would continue with a random-selection lottery for 2021. The registration system will be open from noon Eastern March 9, 2021 to noon Eastern March 25, 2021 and the entry fee will be \$10 for each case entered into the system.

USCIS also announced plans to delay the Trump-era wage-based lottery registration through Dec. 31, 2021 in order to allow for additional time to develop, test, and implement changes to the electronic system. The wage-based H-1B registration system proposed to prioritize H-1B slots for employers paying the highest wage levels for each occupation.

## **Why is H-1B Filing Season Important?**

This is the only time of year (with minor exceptions indicated below) U.S. Citizenship and Immigration Services (USCIS) accepts H-1B specialty worker petitions for the next fiscal year, which begins Oct. 1, 2021. For a petition to qualify in the H-1B category, the job offered must be a specialty occupation in which a bachelor's degree (or its equivalent) is normally the minimum requirement, and the foreign national employee must hold a bachelor's degree (or its equivalent) in the specialty defined by the position. In some cases, a bachelor's-level threshold may be met through a combination of the employee's education and work experience.

There is an overwhelming demand for the annual allotment of 85,000 new H-1Bs. The number of H-1B approvals requested by employers has reached the annual H-1B cap every year for more than 10 years. Last year, USCIS received 275,000 registrations within the new electronic lottery system for 85,000 H-1B slots. If you have an employee that needs a "new" H-1B visa it is imperative that you take action during the H-1B filing season or you will have to wait a full year for another opportunity.

## **Electronic Registration Process in 2021**

USCIS will use the same electronic registration system for the 2021 lottery. Employers seeking to file H-1B cap-subject petitions must complete an electronic registration for every case the employer wishes to enter into the H-1B lottery. The online registration period will run from March 9-25, 2021. The registration will require a \$10 fee for each case to be entered into the lottery plus basic

---

information about the employer and employee. After the registration period closes, USCIS will conduct a random selection lottery from the registrations. The date of the lottery selection has not been announced but will likely occur on or about April 1, 2021. Employers whose cases are selected will then have at least 90 days to complete and file H-1B petitions with USCIS.

Dinsmore attorneys are available to assist employers in navigating the new application process, including completion of the electronic registration and subsequent preparation and filing of selected petitions. USCIS continues to develop its electronic registration system and is expected to release additional details as the registration period approaches.

## **Are There Certain Employees We Should Consider Registering?**

Yes, four situations come to mind:

1. Students who hold F-1 visa status and who are working for your organization under a grant of Optional Practical Training or STEM Optional Practical Training work permission;
2. Certain L-1 Intracompany Transferees or TN (USMCA/NAFTA) workers who work for your organization;
3. Candidates who are not yet working for your organization but whom you have an interest in employing in the near future; and
4. Dependent spouses who hold H-4 status and who have been authorized to work with an Employment Authorization Document (EAD).

## **Why F-1 Students?**

Some F-1 students may hold Optional Practical Training (OPT) work permission that is limited to one year. Other F-1 students may be eligible for an additional 24 months of “STEM” OPT work permission. Either way, OPT is time-limited.

## **Why L-1 Intracompany Transferees?**

The L-1 intracompany transferee visa category applies to foreign nationals who have been employed abroad in executive, managerial, or specialized knowledge capacities for at least one year with a commonly owned foreign company, and who are in the United States working for the same or a related U.S. employer.

L-1 executives or managers (L-1A) may remain in the United States for a maximum of seven years. Specialized knowledge (L-1B) employees may remain for a maximum of five years. There is no possibility of an extension once the seven-or five-year limit has been reached and the time table to complete the permanent residence process continues to climb, especially for Indian foreign nationals.

## **Why H-4 Spouses with Employment Authorization Documents?**

In 2015, a lawsuit was filed against the U.S. Department of Homeland Security (DHS) challenging the legality of the H-4 EAD program. Although the lawsuit is still ongoing, the current administration has stated its intention to eliminate the program, placing H-4 EAD workers at a greater risk of losing work authorization. Because the fate of the H-4 EAD program is uncertain and there is a risk the program

may be altered or terminated, H-4 spouses working with EADs may wish to have their H-4 statuses changed to H-1B for greater long-term employment security.

## **Why TN Employees?**

While TN workers under the U.S. Mexico-Canada Agreement (formerly known as NAFTA) are not limited in employment duration like their L-1 counterparts, pursuing permanent residence while holding TN status can be problematic. Employers may want to change their TN employees to the H-1B category to facilitate permanent residence (green card) sponsorship.

## **Are There any Exemptions from the Annual H-1B Cap?**

Persons already counted under the H-1B cap and who need an extension of stay are not subject to the annual limitation. Similarly, persons who already hold H-1B status and are transferring to a new employer are exempt from the cap. The annual limitation applies only to persons not yet counted against the annual cap. Also, certain types of educational or nonprofit organizations that file H-1B petitions are exempt from the H-1B numerical limitation.

© 2025 Dinsmore & Shohl LLP. All rights reserved.

---

National Law Review, Volume XI, Number 40

Source URL: <https://natlawreview.com/article/uscis-releases-h-1b-lottery-information-registration-process-begins-march-9>