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## H-1B Registration Survival Guide – Fiscal Year 2024

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As we prepare to enter 2023, we also are preparing for the upcoming 2024 H-1B fiscal year registration window. The H-1B is a widely utilized nonimmigrant classification for foreign-born individuals who have been offered employment in the U.S. in a specialty occupation in professional fields such as computer science, engineering, accounting, and medicine, among others.

Congress limits the number of new, cap-subject H-1B visas that are available each year. H-1B visa numbers will be capped at 65,000 for bachelor's degree cases, with an additional 20,000 slots for foreign nationals with a U.S. master's degree or higher. Under a Free Trade Agreement, 6,800 H-1Bs are set aside for citizens of Chile and Singapore.

In 2020, U.S. Citizenship and Immigration Services (USCIS) instituted an electronic pre-registration system to allocate H-1B numbers prior to petition filing. The H-1B registration window will likely open in early March 2023. The registration period typically lasts two to three weeks and by the end of March,

a lottery is conducted by USCIS. If selected in the registration, the employer and attorney are notified electronically by USCIS. The selected registrants' employers will be given 90 days to file an actual H-1B petition with supporting documents, a Labor Condition Application and filing fees. If the H-1B petition is approved, the beneficiary's start date will be October 1, 2023.

## **What Do Employers Need to Know Now About the Approaching Cap Season?**

To prepare for next year's H-1B lottery registration, employers should consider identifying all current and prospective non-US citizen employees who have not held H-1B status before, but may need to obtain this status beginning on Oct. 1, 2023, including:

- Students, recent hires, or paid interns who hold F-1 visa status and are working under Optional Practical Training (OPT) or STEM OPT employment authorization
- Certain L-1 Intracompany Transferees who do not qualify for green cards as multi-national managers
- Individuals in TN status for whom you wish to pursue green cards
- Prospective foreign national employees who qualify for H-1B status yet were not selected for an available H-1B number during a prior lottery
- Other possible H-1B candidates, including certain E-3 and H-1B1 visa holders and spouses in H-4, L-2 or E-2 status

The following employees do not need to participate in H-1B registration:

- Individuals who are changing employers, and who are in or who have held H-1B status, with remaining time on their total 6 year of H-1B may stay allocation
- Individuals who have been counted against the cap and require an extension only of their already approved H-1B status
- Individuals who work for cap-exempt organizations such as certain not-for-profits and educational institutions

## **Employers Allowed One H-1B Registration Per Beneficiary**

A prospective petitioner may only have one registration submitted per beneficiary. However a single petitioner or sponsor may submit registrations for multiple beneficiaries. Once the initial registration period has closed, if the prospective petitioner has more than one registration submitted for the same beneficiary, USCIS will remove all registrations from the selection process and subsequently deny those registrations as invalid. This does not prevent other prospective petitioners or their representatives from submitting registrations for that same beneficiary, but they too need to ensure that each prospective petitioner only has one registration submitted for the beneficiary.

The current H-1B registration system has its benefits for employers – a vast reduction in the number of prospectively unviewed prepared petitions –

however, it is also likely more submissions enter the lottery due to the smaller amount of preparation that is involved.

Employers should plan accordingly to initiate the H-1B registration process for a chance of winning one of the coveted H-1B slots.