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As One H-1B Season Ends, Another Begins: Updates For Upcoming H-1B Lottery Season

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The U.S. Citizenship and Immigration Services (USCIS) announced on Dec. 13 it had received a sufficient quantity of H-1B visa petitions to meet the congressionally mandated regular cap of 65,000 H-1B visas, as well as the U.S. advanced degree exemption or “master’s cap” of 20,000 H-1B visas, for Fiscal Year 2024.

This announcement happened as many immigration practitioners and employers work diligently to plan for Fiscal Year 2025, which officially begins with the opening of registration on March 1, 2024.

Anticipated Demand

The Fiscal Year 2025 registration period is anticipated to be another busy one based on the growth seen between Fiscal Years 2023 and 2024. The USCIS received 780,884 registrations in the computer-generated lottery system for Fiscal Year 2024, an increase of 61 percent from 483,927 in Fiscal Year 2023. Fiscal Year 2023 performed a significant jump of its own, reflecting an increase of 57 percent from submissions in the prior year. This year-over-year exponential growth serves as an indication that demand for H-1B visas will remain high in Fiscal Year 2025.

The USCIS has expressed concern that the presence of fraud and multiple

submissions may be [contributing to the influx](#) of registrations. In recent years, potential H-1B beneficiaries appeared to be accepting H-1B sponsorship from multiple employers. For Fiscal Year 2024, the number of registrations tied to people who applied more than once rose to 408,891, compared to 165,180 in Fiscal Year 2023 and 90,143 in Fiscal Year 2022.

In response to these concerns, the U.S. Department of Homeland Security issued [a proposed rule](#) in October that includes the following initiatives:

- **Streamlining eligibility requirements:** Revising criteria for specialty occupation positions to reduce confusion and clarify degree requirements
- **Improving program efficiency:** Codifying that adjudicators generally should defer to a prior determination when no underlying facts have changed at time of a new filing
- **Providing greater benefits and flexibilities for employers and workers:** Expanding certain exemptions to the H-1B cap for certain nonprofit entities or governmental research organizations, as well as beneficiaries who are not directly employed by a qualifying organization; extending certain flexibilities for students on an F-1 visa when students are seeking to change their status to H-1B; and establishing new H-1B eligibility requirements for rising entrepreneurs
- **Strengthening integrity measures:** Reducing misuse and fraud in the H-1B registration process by prohibiting related entities from submitting multiple registrations for the same beneficiary; codifying the authority of the USCIS to conduct site visits; and clarifying that refusal to comply with site visits may result in denial or revocation of the petition

Historical Context

Prior to 2020, the USCIS required each petitioning employer to submit a full H-1B petition consisting of the required forms, fees, and supporting documents. Petitioning employers and immigration counsel inundated couriers with H-1B filings at the beginning of April each year, hoping the petitions for their potential H-1B employee(s) would be selected and adjudicated. Those not selected were returned to the sender with uncashed checks, an untouched stack of the prepared forms and documents, and for many, a feeling of futility.

Beginning with the 2020 H-1B season (Fiscal Year 2021), the USCIS implemented the use of a computer-generated lottery and online registration system, easing the process for employers and counsel. This system, opening each March, requires employers, through counsel or independently, to provide basic details about the company and the individual(s) it hopes to sponsor. Following the registration period, the USCIS notifies employers and counsel regarding selection, allowing petitions to be submitted during the filing window.

The selection provides an opportunity to submit an H-1B petition, but is not an adjudication of the petition itself. The USCIS may select additional registrations at various points throughout the year until, as happened on Dec. 13, 2023, the cap is satisfied. Those not selected must wait for the new registration period to open to make another attempt.

The transition to the registration system has simplified the process in many ways, no longer requiring employers to submit a complete petition for each potential H-1B workers. Under the new framework, there is no longer a concise “H-1B cap season,” the name by which the period of H-1B petition preparation was previously known. Instead, employers and counsel are immersed in the H-1B process all year and 1) identifying the individuals to be included on the registration list, 2) submitting registrations, 3) receiving notification of selected registrations, and 4) filing petitions – and then completing steps 3 and 4 until the USCIS finally announces the cap has been met.

Looking Ahead

The protracted period, complicated by [statistical challenges](#), demands that employers plan for H-1B submissions to recruit key international talent, including those individuals studying in the U.S., and avoid any lapse in work authorization for existing employees.

As 2024 kicks off, so should the planning for Fiscal Year 2025 for the H-1B visa category.

This article was co-authored by Tieranny Cutler, independent contract attorney.