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# USCIS Confirms Pre-Registration Process for H-1B Lottery FY2021

## Immigration Legal Update

On Friday, December 6 the U.S. Citizenship and Immigration Service (USCIS) announced that it will implement a new pre-registration process for the upcoming H-1B lottery. Employers who want to sponsor an employee or candidate for an H-1B petition subject to the annual cap must first register electronically and pay a \$10 fee. This pre-registration process replaces the process in previous years, in which employers had to prepare an entire petition with all fees attached in order to be entered into the lottery.

### New Process:

- 1. Pre-registration:** Employers will register electronically and enter basic information about the organization and each candidate between March 1 and March 20 of 2020. The process is not currently open and is not expected to open prior to March 1, 2020. However, USCIS may alter the dates of the registration process.
- 2. Lottery:** USCIS will conduct its computer-generated random selection processes ("lotteries") as it has in past years. However, this year, the lottery will be based on the electronic registration instead of a fully-prepared petition with full government filing fees. The first lottery will be the "regular lottery," for the 65,000 H-1B spots available to candidates without U.S. master's degrees. Candidates with a master's degree from a U.S. educational institution will be included in the regular lottery. The second lottery is the "master's cap lottery" for the 20,000 H-1B visas set aside for candidates with U.S. master's

degrees. Thus, U.S. master's degree candidates will have two attempts at being selected.

3. **Selection in the Cap Lottery:** USCIS will notify employers electronically if a candidate was selected in the lottery within 90 days.

4. **H-1B Petition Filing:** Once notified that a candidate was selected in the lottery, employers must file an H-1B petition consistent with normal case preparation. Remember that being selected in the lottery does not guarantee approval of the H-1B petition.

USCIS will provide additional guidance and detail as the registration date approaches.

## **Background**

USCIS posted its [final rule](#) creating the new H-1B pre-registration process earlier this year and confirmed 2020 implementation [last week](#).

The H-1B program was created in 1990 and today is one of the most popular ways for U.S. employers to hire highly-skilled foreign-born workers. Companies may submit an application to USCIS for a candidate to assume a position that requires at least a bachelor's degree. Though many employers rely on the H-1B, it has become renowned for its uncertainty. There are 85,000 new H-1B spots available each year, but in recent years USCIS has received approximately 200,000 H-1B petitions during the first week of the application period. The new pre-registration process requires employers to spend fewer resources to enter a candidate into the lottery. Therefore, the number of candidates in this next lottery could be substantially higher.