

USCIS H-1B Online Registration for 2021 Quota Season: Frequently Asked Questions

- 1. Is there an option to draft the registration applications earlier than the submission date for attorney or client review?**

USCIS has indicated that both representatives and registrants must wait until March 1, 2020 to draft and submit the H-1B registrations.

- 2. Once we submit a registration, and later we want to add more beneficiaries while we are still within the initial registration period. Will that be permitted?**

During the registration period, from **EST March 1, 2020 until noon EST March 20, 2020**, USCIS will permit representatives and registrants to continue to submit registrations for additional beneficiaries as needed. We recommend sending us worksheets for all beneficiaries by March 16, 2020, so that there is sufficient time to review and finalize the registrations before the deadline.

- 3. Will a Labor Condition Application (LCA) be required as part of the electronic registration process?**

An LCA is not required to be completed prior to the electronic registration process. However, if the employee's work authorization (EAD) will expire in April or early May, it is important that you consider filing the Labor Condition Application before you find out if the employee has been selected in the lottery. A fee of \$300 will apply for preparing and filing the LCA in addition to the Registration fee.

- 4. How will USCIS notify attorneys and employers of selection in the lottery?**

After the initial registration period closes, i.e. March 20, 2020, USCIS will conduct the selection process through a random lottery. USCIS intends to notify registrants and their representatives with selected registrations via their USCIS online accounts no later than March 31, 2020. Your online account will show one of the following status for each registered beneficiary –

- Submitted – A registration has been submitted
- Selected – The Beneficiary has been selected to file an FY 2021 H-1B cap-subject petition
- Not selected – The Beneficiary has not been selected for this fiscal year
- Denied – The status will indicate “denied” in situations where the same registrant or representative submitted more than one registration on the beneficiary's behalf for the same fiscal year.

5. What effect will the H-1B cap registration process have on H-1B petitions for beneficiaries who are seeking cap-gap protection?

H-1B cap-gap benefits only attach upon filing the H-1B cap petition, not upon filing the H-1B electronic registration. Therefore, only those individuals selected through the H-1B registration process and who have an H-1B cap petition requesting an October 1 start date timely-filed on their behalf will have their duration of status, and any applicable employment authorization, automatically extended until October 1, unless petition has been rejected, denied, revoked or withdrawn prior to that date.

6. Will the petitioners be able to file H-1B subject petitions under premium processing?

USCIS has not yet announced whether premium processing will be available for these petitions. Typically, USCIS does not make a decision as to the availability of premium processing until shortly before the cap filing season. USCIS has indicated that information regarding the FY 2021 H-1B cap filing season will be posted on their website, including information about premium processing.

7. What will happen if a beneficiary is selected in the lottery but an H-1B petition is not filed?

The Department of Homeland Security has noted that registrants (Petitioners) that have been found to engage in pattern and practice of submitting registrations for which they do not file a petition following selection could be subject to monetary fines or criminal penalties pursuant to 18 U.S.C. 1001(a)(3) for making false statements and misrepresentation to the government.

To avoid such a situation, we recommend that Employers obtain an affidavit from the beneficiaries stating that the beneficiary has not filed a registration through another employer and that they intend to work with you (the employer). This will show bona fide intentions even if the employer does not file the petition for the beneficiary in case the beneficiary decides to file the petition through another employer.

For additional information, please visit the USCIS website

<https://www.uscis.gov/working-united-states/temporary-workers/h-1b-specialty-occupations-and-fashion-models/h-1b-electronic-registration-process>