



GMS Flash Alert

Immigration Edition

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United States - FY2022 H-1B Cap Lottery Developments; Petition Filing from April 1

On March 30, 2021, United States Citizenship and Immigration Services (USCIS) announced that the agency has completed the initial electronic registration selection process for the H-1B cap lottery for fiscal year (FY) 2022.¹ The agency confirmed it has received enough electronic registrations during the initial registration period to reach this year's H-1B numerical allocations (H-1B regular cap) including the advanced degree exemption (Master's cap).

WHY THIS MATTERS

Employers with valid, selected registrations may now begin filing H-1B cap-subject petitions on behalf of beneficiaries with USCIS. The filing period will be open for at least 90 days from April 1, 2021.

Employers are encouraged to begin working with their immigration counsel to determine the appropriate filing timelines.

Electronic Registration and H-1B Cap

Registrants' online accounts will now show one of the following statuses for each registration:

- **Submitted:** The registration has been submitted and is eligible for selection. If the initial selection process has been completed, this registration remains eligible, unless subsequently invalidated, for selection in any subsequent selections for the fiscal year for which it was submitted.
- **Selected:** Selected to file an H-1B cap petition.
- **Denied:** Multiple registrations were submitted by or on behalf of the same registrant for the same beneficiary.

- **Invalidated-Failed Payment:** A registration was submitted but the payment method was declined, not reconciled, or otherwise invalid.

H-1B cap-subject petitions including those petitions eligible for the advanced degree exemption may now be filed with USCIS. Employers with valid selected registrations may now begin filing H-1B cap-subject petitions on behalf of beneficiaries with USCIS. The filing period will be open for at least 90 days.

Background

Under the electronic registration system, employers seeking to file an H-1B cap-subject petition on behalf of their employees were required to submit an electronic registration on behalf of the beneficiary to be considered in the lottery. Employers with H-1B cap registrations selected in the lottery are then invited to submit complete paper-based H-1B cap applications with the USCIS.

Employers must submit paper-based petitions and establish eligibility for petition approval at the time of filing and through adjudication per regulatory requirements. Further, H-1B petitions must be properly filed at the correct service center and within the filing period indicated on the relevant registration selection notice. Employers must also include a printed copy of the applicable registration selection notice with the filing. While most H-1B cap-subject petitions can be filed at any point during the filing period, some petitions may need to be filed at specific times to help ensure there is no gap in the beneficiary's work authorization. As such, employers should begin working with their immigration counsel to determine the appropriate filing timelines.

KPMG NOTE

KPMG Law LLP is tracking immigration matters closely. We will endeavor to keep readers of *GMS Flash Alert* posted on any important developments as and when they occur.

FOOTNOTE:

1 See the USCIS Announcement: <https://www.uscis.gov/news/alerts/fy-2022-h-1b-cap-season-updates>.

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Contact us

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