



GMS Flash Alert

Immigration Edition

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United States - FY 2023 H-1B Cap Lottery Registration Opens March 1

On January 28, 2022, U.S. Citizenship and Immigration Services (USCIS) announced that the initial registration period for the H-1B cap in fiscal year (FY) 2023 will open at 12 PM (Eastern) on March 1, 2022 and end at 12 PM (Eastern) on March 18, 2022.¹ Petitioners and their representatives will be able to complete and submit registrations for prospective H-1B candidates using USCIS's online H-1B registration system during the indicated period. USCIS plans to notify petitioners and their representative of the selected H-1B registrations by March 31, 2022, and the H-1B cap filing period is anticipated to begin on April 1, 2022 for a period of 90 days.

WHY THIS MATTERS

With the H-1B cap registration period quickly approaching, employers are encouraged to work closely with their immigration counsel to finalize the list of prospective H-1B candidates for registration, and gather the required information and documentation in order to submit these candidates into the H-1B lottery and to prepare the full H-1B cap petition filing if selected. It may also be prudent for employers to work with immigration counsel to proactively identify alternatives for prospective H-1B candidates who will exhaust their status in the United States should they not be selected in the H-1B lottery this fiscal year.

H-1B Cap Process

Each year, 85,000 new H-1B visas are issued – referred to as the H-1B cap. Within the H-1B cap, 20,000 H-1B visas are reserved for individuals holding a Master's degree or higher from a qualifying U.S. university at the time of filing.² (For prior coverage, see GMS Flash Alerts 2021-290 (November 23, 2021), 2021-242 (September 22, 2021) and 2021-208 (August 2, 2021).)

FY2023 will be the third cap season in which USCIS will use the H-1B electronic registration process. Under the new process, employers register for the H-1B lottery by completing a short online form with information about the company and the prospective H-1B candidate. The H-1B lottery is conducted on the electronic registrations submitted during the

initial registration period and only those with selected registrations will be eligible to file complete H-1B cap-subject petitions with the USCIS.

Electronic Registration

Prospective H-1B petitioners and/or their representatives are required to use a myUSCIS online account to register each prospective H-1B candidate electronically for the selection process, and pay the associated \$10 USD H-1B registration fee for each registration. **Registration may only be submitted between the H-1B cap registration period between 12 PM (Eastern) on March 1, 2022 and end at 12 PM (Eastern) on March 18, 2022. No priority is given to registrations submitted earlier versus later during this registration period.**

USCIS will assign a confirmation number to each registration submitted for the FY 2023 H-1B cap. This number is used solely to track registrations and cannot be used to track case status on the USCIS “Case Status Online” portal.

Preparing & Submitting Registrations

Prospective petitioners who have not previously created an employer “registrant” account may only do so beginning at 12 PM (Eastern) on February 21, 2022. Petitioners with previously created registrant accounts are encouraged to work with immigration counsel to determine if any updates are required to be made on their accounts.

Representatives may add petitioners to their accounts at any time, but both petitioners and their representatives must wait until March 1, 2022 to enter beneficiary information and submit the registration with the \$10 USD fee. Prospective petitioners or their representatives will be able to submit registrations for multiple beneficiaries in a single online session. Through the account, they will also be able to prepare, edit, and store draft registrations prior to final payment and submission of each registration. There is no limit on the number of registrations a petitioner or their representative may submit.

Looking Ahead

If USCIS receives enough electronic registrations by March 18, 2022 – which it is anticipated to based on the H-1B cap process in previous years, it will randomly select registrations to file full H-1B cap petitions. USCIS will conduct two lotteries to select beneficiaries to meet the 85,000 annual cap:

1. Regular Cap: The first lottery will include all registered beneficiaries and be used to meet the regular cap of 65,000.
2. Master’s Cap: The second lottery will include registered U.S. advanced-degree holders not selected under the Regular Cap, and be used to meet the additional 20,000 cap reserved for individuals holding a Master’s degree or higher from a qualifying U.S. university.

USCIS intends to notify petitioners and their representatives of the lottery results by March 31, 2022 via the myUSCIS online accounts. Petitioners whose registrations are selected in the lottery will be invited to file full H-1B petitions during a 90-day period, anticipated to begin on April 1, 2022.

An H-1B cap-subject petition, including a petition for a beneficiary who is eligible for the advanced degree exemption (Master’s cap), may only be filed by a petitioner whose registration for the beneficiary named in the H-1B petition was selected in the H-1B cap lottery process. For each selected H-1B cap registration, USCIS will provide a selection notice that must be included in the H-1B cap petition filed with USCIS.

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.

FOOTNOTES:

- 1 See the USCIS announcement, [FY 2023 H-1B Cap Initial Registration Period Opens on March 1 | USCIS](#) (January 28, 2022).
- 2 See the USCIS webpage: [H-1B Cap Season | USCIS](#).

Contact us

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