

## H-1B Lottery Information Released for Fiscal Year 2024

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The United States Citizenship and Immigration Services (“USCIS”) announced Fiscal Year 2024 H-1B Cap information regarding the initial registration period and lottery and outlined key dates, beginning in February 2023. Pittsburgh-based Member Derek Illar and Pittsburgh-based Associate Allison Bustin partnered on a timely legal update for businesses to keep important timelines in mind and to identify employee candidates for the H-1B lottery.

Please read the client alert for additional insights. For more information regarding this alert, please connect directly with our author team below.

On January 27, 2023, the United States Citizenship and Immigration Services (“USCIS”) published information regarding the Fiscal Year 2024 H-1B Visa process.

The H-1B Visa is an employment-based, nonimmigrant (temporary) classification applicable to foreign nationals who wish to perform services in a specialty occupation, services of exceptional merit and ability relating to a Department of Defense (DOD) cooperative research and development project, or services as a fashion model of distinguished merit or ability.

There is a limited number of H-1Bs available each fiscal year. This limit is commonly referred to as the “H-1B cap” or “cap.” The cap is applicable to most employers, with the exception of universities and related nonprofit entities, nonprofit research organizations and government research organizations, which are categorized as “cap exempt.” For each fiscal year, there are 65,000 congressionally mandated cap-subject H-1Bs available. These 65,000 H-1Bs are designated for foreign nationals with a bachelor's degree (or equivalent education) from a United States (“US”) or foreign college or university. An additional 20,000 H-1Bs are designated for foreign nationals with a graduate degree from a US college or university and are exempt from the cap. In FY 2023, USCIS received 483,927 H-1B registrations total.

Each year, USCIS holds an open registration period for the H-1B cap. An H-1B cap-subject petition, including a petition for a beneficiary who is eligible for the advanced degree exemption, may only be filed by a petitioner employer whose registration for the beneficiary named in the H-1B petition was selected in the H-1B lottery. The cost to submit a registrant to the lottery is \$10 per beneficiary. This year, the important dates are as follows:

- **February 21, 2023**
  - Registrants will be able to create new accounts beginning at noon eastern standard time on February 21, 2023.

# Immigration Update

- **March 1, 2023**
  - The registration period, during which representatives and petitioner employers can enter beneficiary information and submit their information for the lottery, opens at noon eastern standard time on March 1, 2023.
- **March 17, 2023**
  - The registration period will remain open through noon eastern standard time on March 17, 2023. During this period, prospective petitioners and representatives will be able to complete and submit their registrations using the online H-1B registration system.
  - If USCIS receives enough applicants by March 17, 2023, it will close the lottery, randomly select registrations, and send selection notifications via myUSCIS online accounts.
  - In the unlikely event that USCIS does not receive enough registrations by March 17, 2023, all registrations that were properly submitted in the initial registration period will be selected.
- **March 31, 2023**
  - USCIS “intends” to notify account holders regarding selection by March 31, 2023.

Successful registrations may submit their petitions from the spring to the summer of 2023, with the exact dates still to be defined. Generally, H-1B status becomes active as early as October 1st each year. USCIS has indicated that additional information will be provided before the start of the initial H-1B registration period.

With these dates on the horizon, clients should work to identify possible registrants and finalize such prospective or current employee registrants before February 21, 2023. Dependent on the client, the pool of possible registrants may be best narrowed by academic credentials, specifically the completion of a bachelor’s or master’s degree. It is also common for foreign national students studying in the US to transition from Optional Practical Training (“OPT”) authorization (F-1 status) to H-1B status by way of lottery selection. It is prudent to review the immigration status of current employees, interns, or prospective employees whose current immigration status may be expiring within the next year, in order to consider longer term employment options and other transitions made possible with an H-1B visa.

Eckert Seamans represents publicly traded companies, privately held corporations, nonprofit organizations, small businesses, municipalities, and individuals in immigration matters. Derek Illar and Allison Bustin are prepared to assist clients in navigating the H-1B lottery and the overall H-1B application processes.