

THE NATIONAL LAW REVIEW

Key Changes to this Year's H-1B Cap that You Should Know

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Premium Processing Available

U.S. Citizenship & Immigration Services (USCIS) will begin accepting cap-subject H-1B petitions on April 1, 2019, for employment start dates effective Oct. 1, 2019, the start of the 2020 fiscal year. Rather than suspending premium processing for cap-subject H-1B petitions, USCIS announced that it will implement a two-phased approach to requests for premium processing during this year's H-1B cap season:

- Phase one: Only H-1B change of status petitions (i.e. F-1 to H-1B, TN to H-1B, etc.) may be premium processed under this year's cap.
- Phase two: USCIS will not commence premium processing of these cap-subject petitions immediately. USCIS said it will make an announcement, most likely after it has completed the lottery selection process during the second week of April, as to when it will start reviewing affected petitions under the 15-day premium processing service. USCIS expects the premium processing service for affected petition to start no later than May 20, 2019.

Premium processing for all other FY 2020 cap-subject H-1B petitions will be announced at a later date, but not before June 2019. USCIS' premium processing service provides expedited processing of an H-1B petition within fifteen calendar days for an additional government filing fee of \$1,410.

Changes to H-1B Cap Selection Process

As previously [announced on our blog](#), USCIS will be reversing the order by which it selects H-1B petitions under the regular cap and the advanced degree cap for beneficiaries who have earned a U.S. master's degree or higher from a U.S. institution. Instead of first selecting 20,000 petitions under the U.S. master's cap, the regular cap of 65,000 will be selected first. This should increase the number of petitions selected for beneficiaries with a U.S. master's degree or higher, which is a goal of the current administration. USCIS estimates that the change will result in an increase of up to 16 percent in the number of selected petitions for beneficiaries with a U.S. master's or higher degree.

New H-1B Data Hub

Effective April 1, 2019, a new H-1B Employer Data Hub will be available on uscis.gov that will allow the public to search for H-1B petitioners by a variety of inputs. USCIS has stated that the data will increase transparency in the H-1B program and allow the public to calculate approval and denial rates. The Department of Labor, Office of Foreign Labor Certification (OFLC), which administers the Labor Condition Application (LCA) for the H-1B program, already releases data on a quarterly basis, but this does not include data on ultimate petition approval or denial by USCIS. Please continue to monitor GT's Inside Business Immigration Blog for additional updates regarding the new H-1B data.

Finally, please initiate any H-1B cap cases as soon as possible as time is running out. GT expects the H-1B cap to close at the end of business on April 5, 2019 and, thereafter, will remain closed until April 1, 2020 when next year's cap opens.

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