USCIS Announces Implementation of H-1B Electronic Registration Process for Upcoming Cap Season

Saturday, December 7, 2019

Earlier today, USCIS announced it is implementing the registration process in the next H-1B lottery. H-1B employers have been awaiting confirmation of and details regarding the new registration process for H-1B cap-subject petitions.

Every “cap season,” employers prepare and file petitions subject to the annual H-1B cap in early April. Beneficiaries of petitions selected in the H-1B lottery can, upon approval of those petitions, commence employment for the sponsoring employers as of the following October 1. For the fiscal year 2021 cap, employers will undergo a new process that USCIS says “will dramatically streamline processing by reducing paperwork and data exchange, and will provide an overall cost savings to petitioning employers.”

DHS formally created the H-1B registration requirement in the final rule published on January 31, 2019, which took effect on April 1, 2019. Per the final rule published November 8, 2019, employers filing cap-subject petitions for the fiscal year 2021 cap will be required to first electronically register and pay the associated $10 H-1B registration fee. That final rule is effective December 9, 2019.

Among the announced requirements, features and steps of the H-1B cap registration process are:

- Employers must complete a registration process requiring only basic information about the company and each beneficiary.
- USCIS will open an initial registration period from March 1, 2020 through March 20, 2020.
- The H-1B lottery, if needed, will then be run on the electronic registrations received.
- Employers whose registrations are selected will be eligible to file H-1B cap-subject petitions within the prescribed timeframe.
- USCIS will post step-by-step instructions informing registrants how to complete the online registration process along with key dates and timelines as the initial registration period nears.
- USCIS will conduct public engagements and other outreach activities to ensure registrants’ and interested parties’ familiarity with the new registration system.
- USCIS may determine it is necessary to continue accepting registrations, or open an additional registration period, if it does not receive enough registrations and subsequent petitions projected to reach the numerical allocations.
- DHS will publish a notice in the Federal Register in the coming weeks to formally announce implementation of the H-1B registration system and provide additional details on the process.

We will provide further updates as USCIS announces additional details and instructions leading up to the initial registration period. We also encourage employers to consider their hiring needs and potential candidates, and gather the basic information necessary for initial registration as early as possible. As there may be “growing pains” associated with USCIS’s first-time use of this new process, it is not too early to start preparing.