

Mobility: Immigration alert

February 2024

United States

USCIS announces strengthened integrity measures for H-1B program

Executive summary

On 30 January 2024, U.S. Citizenship and Immigration Services ("USCIS") announced a final rule intended to strengthen the integrity of and safeguard against fraud in the H-1B annual cap registration process. The measures announced by USCIS seek to curtail the potential for abuse of the registration system by ensuring that each beneficiary will have an equal chance of selection in the lottery.

The final rule establishes a beneficiary-centric selection process for registrations submitted by employers, provides start date flexibility for certain petitions, and aims to ensure the integrity of the registration process.

Background and analysis

To reduce the potential for fraud and give each beneficiary the same chance of being selected, the new beneficiary-centric process will require that USCIS issue selection notices by unique beneficiary rather than by registration. This removes the advantage that beneficiaries with multiple registrations (by various entities) previously had over beneficiaries with just one registration submitted.

As of the fiscal year ("FY") 2025 initial registration period, registrants must provide valid passport information or travel document information for each beneficiary. Each beneficiary must be registered under only one passport or travel document. In the future, USCIS will provide further instruction regarding the requested employment start date on certain petitions subject to the congressionally-mandated H-1B cap.

The H-1B final rule also strengthens USCIS' ability to deny or revoke H-1B cap petitions. Under the new rule, USCIS may deny or revoke an H-1B petition where the underlying registration contained a false attestation or was otherwise invalid. USCIS may also deny or revoke the approval of an H-1B petition where the fee associated with the registration is declined, not reconciled, disputed, or otherwise invalid after submission.

To streamline the application process, USCIS will soon introduce several new digital forms and filing techniques. On 28 February 2024, USCIS will launch new online organizational accounts that will permit multiple individuals within an organization and their legal representatives to collaborate on and prepare H-1B forms and any associated Form I-907. That same day, USCIS will begin accepting the online filing of Form I-129 and associated Form I-907 for non-cap H-1B petitions.

What this means

As of 1 April 2024, petitioners whose registrations have been selected will be permitted by USCIS to electronically (or physically) file H-1B cap petitions and associated Form I-907 for premium processing. Each employer that submitted a registration on behalf of a selected beneficiary will have the option to proceed with filing the cap petition, meaning that a single beneficiary may have more than one cap-subject petition approved on their behalf. This would not, however, result in a single beneficiary being assigned more than one cap number.



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As in past years, a prospective petitioner may submit only one registration per beneficiary. A company that submits multiple registrations on behalf of a single beneficiary risks having USCIS consider all registrations filed on behalf of that beneficiary invalid, or USCIS denying or revoking the approval of any H-1B petition filed for the beneficiary based on those registrations.

EY Law LLP will continue to monitor these developments and will provide further guidance once the text of the H-1B final rule is published. Should you have any questions, we encourage you to contact one of our US immigration professionals.

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