



H-1B REGISTRATION UPDATE

Posted on February 26, 2020 by Cora-Ann Pestaina

Since my [last blog](#) on the upcoming H-1B registration, USCIS has hosted a few webinars where stakeholders - prospective H-1B petitioners and attorneys/representatives - were able to familiarize themselves with the new process. USCIS has since posted copies of the PowerPoint from these webinars in their [Electronic Reading Room](#).

Prospective H-1B petitioners were, as of February 24, 2020, able to create H-1B "registrant" accounts through the MyUSCIS portal at <https://my.uscis.gov/>. They need to select "I am an H-1B registrant" when creating the account. Attorneys/representatives are able to use the same type of representative account that was already available on the same site and may use an existing account. This account should have been created by selecting "I am a Legal Representative."

USCIS will open an initial registration period from noon ET March 1, 2020, through noon ET March 20, 2020, for the FY 2021 H-1B numerical allocations. Representatives may add clients to their accounts at any time, but both representatives and registrants must wait until March 1 at noon ET to enter beneficiary information, submit registrations, and pay the \$10 non-refundable registration fee for each beneficiary. This fee will be collected via the [Pay.gov portal](#) and can be made from a bank checking or savings account or a credit or debit card. It will not be possible to pay the registration fee using money orders, certified checks or cash.

The registration form will only request basic information about the prospective H-1B petitioner and beneficiary. Based on the USCIS PowerPoint presentations during their recent webinars, it appears that no information regarding the offered position will be required for the registration process, not even the job title of the offered position. The prospective H-1B petitioner will only need to

provide the following:

- Company's legal name
- Company's Doing Business As (dba) name(s) if applicable
- Company's employer identification number (EIN)
- Company's primary U.S. office address
- The legal name, title, and contact information (daytime phone number and email address) of the company's authorized signatory
- Beneficiary's legal name
- Beneficiary's gender
- Beneficiary's date of birth
- Whether the prospective H-1B petitioner is requesting consideration under the Master's cap because the beneficiary has already earned or will earn a Master's degree from a U.S. institution of higher education prior to the filing of the H-1B petition
- Beneficiary's country of birth
- Beneficiary's country of citizenship
- Beneficiary's passport number

During the registration period, representatives and registrants will be able to review and edit the registrations of beneficiaries as many times as needed before the registration is submitted. Once the registration has been submitted, each beneficiary will be assigned a 19-digit confirmation number. If necessary, a registration containing an error may be deleted and resubmitted.

The authorized signatory of the prospective H-1B petitioner must be able to read and understand English. Before submitting the registration form, the company's authorized signatory will be required to certify, under penalty of perjury, that they have reviewed the registration and that all of the information contained in the registration is complete, true and correct and that the company intends to file an H-1B on behalf of the beneficiary named in the registration (if the beneficiary is selected). This is an important attestation since DHS has indicated in the preamble to its January 31, 2010 regulation that it will investigate cases that demonstrate a pattern and practice of potential abuse of the registration system on a case by case basis, including any mitigating facts or circumstances. Registrants that have been found to engage in a pattern and practice of submitting registrations for which they do not file a petition following selection could be subject to monetary fines or criminal penalties

pursuant to 18 U.S.C. 1001(a)(3) for making false statements and misrepresentations to the government. The authorized signatory will also be required to provide their electronic signature confirming they have read and agree to the above statement by typing their full legal name into a box provided and they must also confirm that they can read and understand English and that they have read and understand every question and instruction on the registration.

Selections will take place after the initial registration period closes, so there is no requirement to register on March 1. If USCIS receives enough registrations by March 20, the agency will randomly select registrations and send selection notifications via users' USCIS online accounts. USCIS said it intends to notify account holders by March 31, 2020. An H-1B cap-subject petition may only be filed by an H-1B petitioner whose registration for that beneficiary was selected in the H-1B registration process. The petitioner must include a copy of the selection notice with the H-1B filing. The filing period for submitting H-1B petitions begins on April 1, 2020, and will end no earlier than June 30, 2020. USCIS will not accept late filings.

As indicated in a previous blog on H-1B registration, this author believes that it makes the most sense to conduct a complete evaluation of the potential H-1B petition prior to submitting the registration. There are specific strategic decisions that may need to be made such as determining whether or not to file the Labor Condition Application (LCA) for the H-1B cap petition prior to receiving notification of selection from USCIS. Having a certified LCA would allow the H-1B petitioner to more quickly file the H-1B cap subject petition, a timeline that could be very important if the beneficiary is the holder of an F-1 visa with authorized Optional Practical Training (OPT) set to expire in early April 2020. H-1B cap-gap benefits only attach upon the timely filing of the H-1B cap petition and not upon the submission of the H-1B registration. It would make sense for a potential H-1B petitioner to have the LCA ready so as to be able to file the H-1B cap petition prior to the expiration of the beneficiary's OPT which filing would extend the beneficiary's duration of status and employment authorization until September 30, 2020 unless the H-1B petition is ultimately rejected, denied, revoked or withdrawn prior to this date.

During its webinars, USCIS had no prepared response regarding a plan of action for a possible system crash and would only indicate that they would inform stakeholders of what to do if there is a crash. Also of some concern is

the fact that USCIS indicated it will not set up a separate phone line for the H-1B registration and that registrants and representatives experiencing technical issues should call the USCIS Contact Center at 1-800-375-5283 for assistance. Based only on experience calling this number for other filing issues, one can only wonder what type of assistance would actually be available through this channel. At this point, March 1, 2020 is just around the corner and all we can do now is wait and hope that the process, once underway, will work as intended.