The Time is Now for Employers to Prepare for March H-1B Visa Lottery

Insights
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It is once again time for employers to start preparing for the annual H-1B cap lottery. There is but a short period of time in March where you must register each employee for whom you want to file an H-1B visa – the special permission under federal immigration law that allows you to temporarily employ foreign workers in specialty occupations. These limited availability visas are only given to those workers who qualify due to their specialized nature of their position and holding a bachelor's degree or the equivalent of work experience, and the competition to obtain them is fierce. Here is what you need to know if you want to compete for one of these coveted spots on your workforce.

Registration Comes First

As was the process for the last few years, the first step in the H-1B cap lottery is for companies to register each employee for whom you would like to obtain H-1B status. This year, the registration opens on March 1 at 12 pm EST and will close on March 18 at 12 pm EST. To register an employee, you must first set up an account in USCIS's online H-1B cap registration.

As with past years, we anticipate a large number of registrations in March for those seeking to obtain one of the 85,000 visas available. In FY 2021, for example, USCIS received 274,237 H-1B registrations. That number swelled even higher in FY2022, as USCIS received 308,613 registrations.

Fingers Crossed: Lottery To Follow

Once registration closes on March 18, USCIS will conduct a random selection of registrants to be accepted to apply for H-1B status and to fill the 85,000 new H-1B visas available for this year. Notification of selection occurs by the end of March, at which time USCIS confirms applicant acceptance in the year's lottery.

Last year, USCIS conducted the first selection process once registration ended to fill the 65,000 regular cap H-1B visas. A second lottery was conducted a few days later to fill the 20,000 H-1B visas reserved for holders of U.S.-obtained advanced degrees. Given the number of H-1Bs issued, USCIS ran two more selections processes over the summer, however, that only included those cases registered in March and no additional registrations were permitted.

Next Steps

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If accepted in the lottery, an employer may file an H-1B petition and must submit it to USCIS within 90 days (aiming to file as early as possible). Normal processing of the H1B filing will take place over the summer, and if approved, the H-1B will start no earlier than October 1, 2022.

What Should You Do?

Planning ahead is the key to making sure you are ready to register employees during the registration period and to have an opportunity for selection to file an H-1B. Those employers who are best prepared have the best chance of receiving these coveted spots, so you should not proceed haphazardly.

If you would like to register beneficiaries in this year's H-1B cap lottery, please reach out to a Fisher Phillips immigration attorney as soon as possible so we can prepare your case for submission during the registration window of March 1 through March 18. We will guide you on the information needed for registration and keep you apprised as the selection process gets carried out.

We'll monitor this situation and provide updates as warranted, so make sure you are subscribed to Fisher Phillips' Insight system to get the most up-to-date information. If you have further questions, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our Immigration Practice Group.

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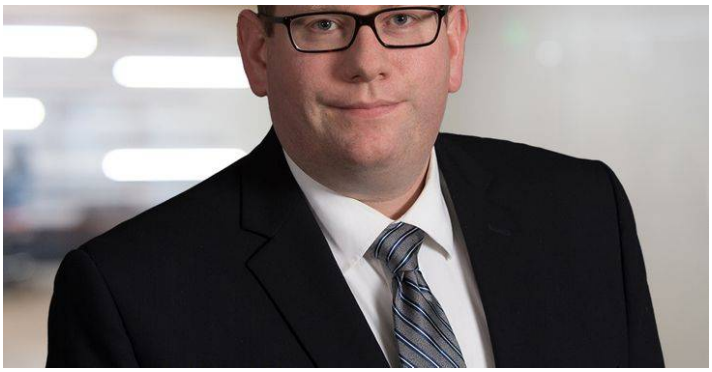

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