

Insights, News & Events

# USCIS WILL IMPLEMENT SECOND ROUND OF H-1B CAP REGISTRATION LOTTERY SELECTION FOR FY2024

Insights

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Federal immigration officials announced yesterday that they will conduct a second round of its random computer-generated H-1B cap registration lottery for those U.S. employers that timely registered their foreign national employees in March 2023. This lottery will apply to Fiscal Year 2024, which starts on October 1, 2023. What do employers need to know about this welcome news?

## Quick Background

U.S. Citizenship and Immigration Services (USICS) implemented its current random computer-generated lottery system in 2020 to select H-1B registrations completed by U.S. employers for their foreign national employee population. A vast majority of these foreign national employees are F-1 student graduates of U.S. universities looking to continue their employment with U.S. employers under the H-1B process.

Prior to 2020, employers would file fully prepared petitions with filing fee checks, forms, and supporting documentation averaging one-inch thickness to USCIS. These H-1B cap petitions would be filed no later than the first week of April of that year. Thereafter, USCIS would close off further acceptance of these fully prepared H-1B cap petitions and implement their

## Service Focus

Immigration

random computer-generated lottery to select the first 65,000 petitions filed under the regular cap and another 20,000 under the US master's degree or higher cap.

This process was a logistical nightmare for both the employers and their attorneys who sent hundreds – if not thousands – of these one-inch thick petitions to USCIS. Not to mention the burden this placed on the USCIS centers that must receive hundreds of thousands of these petition all at one time. This caused tremendous waste for the employers, their attorneys, and USCIS in resources and materials. The system changed as of March 2020 to the much more user-friendly process we now enjoy today.

### **Current Process Reviewed**

Now employers and their attorneys are to create registration logins at [the MyUSCIS link](#). Thereafter, they must complete the registration of all foreign national employees wishing to be entered into the H-1B cap lottery for that federal fiscal year. This is a tremendous time and cost saver.

The deadline to register is early to mid-March of every year as provided by USCIS. The agency thereafter announces by the end of March that it has completed its random computer-generated lottery. For those selected, the employer (or its attorney) will receive an email confirming which registrations were selected. The employer then returns to their MyUSCIS link and prints out the registrations selected and files the H-1B petition with the registration selection notice no later than June 30 of that year.

After June 30, USCIS will determine how many of the selected 85,000 registrations selected actually filed their H-1B petitions for that year. If less than 85,000 petitions were filed, then USCIS will conduct another random computer-generated lottery to select another set of H-1B cap registrations.

### **What Should You Do Now?**

USCIS announced yesterday that it will do just that and go through another computer-generated H-1B registration lottery. So what should you do?

- All H-1B cap registration employers for this year should check their MyUSCIS account to confirm if any new H-1B cap registrations were selected.
- If so, you should file your H-1B cap selected petitions before the 90-day window to file that petition expires.
- If any of your foreign national employees are employed as F-1 OPT or STEM OPT employees and were selected, you should be aware of when their EAD work authorizations expire. Under the “Cap-Gap,” if these F-1 OPT and STEM OPT employees EAD cards expire before October 1, 2023 but will not yet expire before you file their H-1B cap petition, then you can have the benefit to us that cap gap period as allowed continued employment until October 1, 2023.

## Conclusion

Fisher Phillips will continue to monitor developments and provide additional guidance as warranted. 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 author of this Insight, or any attorney on our [Immigration Practice Group](#).