



BOUSQUET HOLSTEIN PLLC

# Alert

## Immigration Practice Group

### FY2022 H-1B Online Registration Starts on March 9, 2021

Syracuse ♦ Ithaca ♦ New York City

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United States Citizenship and Immigration Services ("USCIS") announced that employers may submit their cap-subject H-1B online registration forms beginning Tuesday, **March 9, 2021** at noon Eastern Time and continuing through Thursday, **March 25, 2021** at noon Eastern Time.

Employers will need to register and pay an associated \$10 fee for each H-1B electronic registration. USCIS will conduct a lottery to select registration submissions and notify the petitioners with the selected entries by March 31, 2021. Employers will receive selection notices and will be afforded at least 90 days to prepare and submit their H-1B petitions. USCIS will not consider an H-1B cap-subject petition properly filed unless it is based on a valid registration selection for the applicable fiscal year. Below are the important dates to keep in mind:

- March 9:** H-1B registration period opens at noon, Eastern Time.
- March 25:** H-1B registration period closes at noon, Eastern Time.
- March 31:** Date by which USCIS intends to notify selected registrants.
- April 1:** The earliest date that FY 2022 H-1B cap-subject petitions may be filed.

While the approval of a cap-subject H-1B petition does not authorize a beneficiary to start employment in H-1B status until October 1, 2021, there is an exemption for F-1 students currently employed pursuant to Optional Practical Training (OPT). Such students may qualify for a "cap-gap" exemption and continue working between the OPT expiration date and October 1, 2021, if their employer filed an H-1B change-of-status petition prior to the student's post-completion OPT expiration date.

It is important to note that the Biden Administration delayed the implementation of the [Wage-Based Selection Rule](#) issued by the Trump Administration, which would have provided priority to foreign professionals paid the highest wage level for their occupation in their geographic area. Therefore, at this time, H-1B registration entries will continue to be selected pursuant to a random two-step process: the first lottery will include all beneficiaries from which USCIS will randomly select 65,000 H-1B candidates; and the second lottery will be limited to beneficiaries with advanced US degrees from which USCIS will randomly select 20,000 H-1B candidates. USCIS has not announced whether the cap subject H-1B petitions may be filed using a premium processing 15-day adjudication service.

We recommend that employers assess their hiring needs to determine which candidates will require H-1B sponsorship. In order to be ready for the opening of the March 9 registration period, it is necessary to analyze if a position and a beneficiary meet the H-1B visa classification requirements. We can assist with this analysis, the H-1B registration, and the preparation and filing of your H-1B petition with the USCIS.



For questions and/or additional information, please contact:

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