

## UPDATED/Employers: Planning for the Fiscal Year 2025 H-1B Cap and Registration Process Begins Now – Changes in Effect

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March 22, 2024

*UPDATE: Employers should be advised that USCIS has extended the H-1B CAP registration period for FY2025. The registration period was initially set to close at 12:00 pm EST on March 22, 2024, but has now been extended to 12:00 p.m. EST on March 25, 2024. Employers may now submit H-1B CAP registrations for any candidates they wish to sponsor for initial H-1B employment authorization through this date. If you have any questions about the H-1B CAP registration period extension or the H-1B CAP process in general, please review the below alert initially published on February 6, 2024, and contact a member of the Miller Canfield Immigration Team.*

Employers with candidates who require initial H-1B employment authorization should plan to submit a registration for those candidates when the H-1B electronic registration period **opens on March 6, 2024**. The electronic **registration period** will be open only from 12 p.m. EST on March 6, 2024, through 12 p.m. EST March 22, 2024. During this period, employers may submit registrations for any employees they wish to sponsor for initial H-1B employment authorization.

USCIS is also implementing provisions from the H-1B Registration Final Rule (**Improving the H-1B Selection Process and Program Integrity**), which changes the existing selection process to a beneficiary-centric selection process.

The H-1B Registration Final Rule includes a number of changes to the existing H-1B registration and H-1B CAP selection process:

- **Beneficiary-Centric Selection Process:** Multiple employers may still submit a registration on behalf of the same unique beneficiary, but USCIS will conduct the random selection based on the unique beneficiary, rather than based on the registration. If a beneficiary is selected, all employers who submitted a registration on behalf of the beneficiary will be notified that the beneficiary has been selected, and all employers will be eligible to file a petition on that beneficiary's behalf during the applicable petition filing period. USCIS will not determine which employers may file a petition on behalf of the selected beneficiary, as USCIS will adjudicate all properly filed petitions. USCIS expects that employers and beneficiaries will communicate with each other to make informed decisions in deciding whether to file an H-1B petition on behalf of the selected beneficiary. If more than one H-1B CAP petition is filed and approved on behalf of the Beneficiary, the Beneficiary would then choose the employer for which to begin employment.
- **Passport or Travel Document Requirement:** Each beneficiary registration must contain valid passport or travel document information, including the passport or travel document number, country of issuance, and expiration date. If the beneficiary has multiple passports from different countries, the beneficiary must register under only one passport or travel document and must use that same passport or travel document to travel to the United States after applying for an H-1B visa abroad. If selected, the employer filing the H-1B cap petition on the beneficiary's behalf, must provide the same identifying passport or travel document information in the Form I-129 petition, as was provided in the initial registration, and include evidence of the passport or travel document identified on the registration.

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The H-1B Registration Final Rule also includes program integrity measures which codifies USCIS's ability to deny or revoke H-1B petitions based on false or invalid attestations made by the employer on the registration, or if the fee associated with the registration is declined or otherwise becomes invalid after submission.

USCIS is also **enhancing employer online accounts**, which are utilized to submit registrations and link with attorney online accounts. Prospective employers will utilize a new organizational account (formerly known as an H-1B registrant account). Employers who do not have an existing H-1B registrant account can create one beginning at 12 p.m. EST on February 28, 2024, and employers with existing H-1B registrant accounts can upgrade their account to an organizational account.

In addition to the changes to the H-1B electronic registration process, **new filing fees will take effect** on April 1 and a new edition of the Form I-129 (4/1/24 edition) must be submitted with any H-1B cap petition filed for a selected registration.

For general information on the H-1B CAP Electronic Registration process **please click here**.

Given the short window of eligibility to submit an H-1B registration and the number of changes to the program, new filing fees and new form versions, it is important that employers notify Miller Canfield immediately if they wish to file H-1B CAP petitions. If you have questions about the H-1B CAP process or other immigration matters, please contact your Miller Canfield attorney or one of the authors of this alert.