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Authors:

[David Janklow](#)

[Alicia M. Visse-Kroger](#)

[Katie M. Collier](#)

February 2024 Immigration Update

Fiscal Year 2025 H-1B Cap Details Released

At the end of January, U.S. Citizenship and Immigration Services (USCIS) [announced](#) that it will begin accepting electronic registrations on March 6, 2024, for H-1B cap-subject petitions for the 2025 fiscal year. The electronic registration process requires all employers seeking to file H-1B petitions during the annual cap to electronically register each worker whom they want to sponsor. The registration period will run through March 22, 2024. If USCIS receives enough registrations by that date, it will randomly select registrations and send selection notifications, likely within days.

[I-129 Organizational Accounts and Online Filing](#)

On February 28, 2024, in time for the upcoming H-1B cap season, USCIS is expected to release new organizational accounts. These accounts will allow different individuals in a company, and their attorneys, to access an online account and collaborate on electronic filings, including H-1B registrations, H-1B petitions, and premium processing requests. Companies should decide who will establish the company's organizational account. The designated individual should be someone with the authority to sign, pay, and submit on behalf of the company. Once the organizational account is set up, the designated individual can send out invites to others to join the account.

Also, on February 28, 2024, USCIS will start accepting online filings of non-cap H-1B petitions, including those requesting premium processing. USCIS will start accepting online filings for H-1B cap petitions and associate premium processing requests on April 1, 2024. Paper filings for H-1B petitions will continue to be accepted, but the H-1B registration process will continue to only be available online.

[USCIS Moves to Reduce Fraud in the H-1B Registration Process](#)

On January 30, 2024, USCIS also released a [final rule](#) to "strengthen the integrity of and reduce the potential for fraud in the H-

1B registration process.” This will be achieved in part by revamping the selection process. Previously, registration selection rates were dependent on the number of employers submitting registrations for the same beneficiary. A beneficiary included in only one registration was less likely to be selected than a beneficiary included in registrations filed by multiple employers. Last year, under the FY 2024 cap, 758,994 eligible registrations were submitted, and 408,891 of those were for beneficiaries with multiple eligible registrations. The dramatic increase in multiple registrations from 165,180 in FY 2023 to 758,994 in FY 2024 prompted USCIS to develop ways to ensure employers aren’t coordinating to unfairly benefit a particular beneficiary. Now, under the new “beneficiary-centric” selection process, all beneficiaries will have the same chance of being selected despite the number of employers submitting registrations for them. This will be achieved and monitored by requiring each beneficiary to be registered using only a single valid passport or travel document.

To prepare for the registration period, USCIS is offering a free webinar on [February 21](#) to provide updates on the H-1B electronic registration process and address any questions.

If your company is interested in registering any foreign nationals in the upcoming registration period, please contact FBT’s [Immigration Team](#).

Pilot Program for Domestic Renewal of H-1B Visas

The U.S. Department of State implemented a pilot program to permit domestic visa renewals for certain H-1B nonimmigrant visa applicants. The State Department will accept applications through April 1, 2024, or until all available application slots are filled, whichever comes first. Participation is voluntary. Individuals who do not wish to participate or who are not eligible to participate may continue to apply for visa renewals at a U.S. Embassy or Consulate abroad.

The pilot program is limited to applicants who meet the following criteria:

- Seek to renew an H-1B nonimmigrant visa *only*. No other visa classifications, including H-4 visas for dependent spouses and children, will be processed through this pilot program;
- Prior H-1B visa that is being renewed was issued by U.S. Mission Canada with an issuance date of January 1, 2020, through April 1, 2023, or by U.S. Mission India, with an issuance date of February 1, 2021, through September 30, 2021;
- Not subject to a nonimmigrant visa issuance fee (commonly referred to as a “reciprocity fee”). Current reciprocity fee information can be found [here](#);
- Eligible for a waiver of the in-person interview requirement. The latest update on waivers of the interview requirement can be found [here](#);
- Have submitted ten fingerprints to the Department in connection with a previous visa application;
- Prior visa does not include a “clearance received” annotation;
- Do not have a visa ineligibility that would require a waiver prior to visa issuance;
- Were most recently admitted to the United States in H-1B status;
- Are currently maintaining H-1B status in the U.S.;
- Have an approved and unexpired H-1B petition;
- Period of authorized admission in H-1B status has not expired; and
- Intend to reenter the United States in H-1B status after a temporary period abroad.

The State Department will release a maximum of 20,000 application slots on the following dates:

- January 29, 2024
- February 5, 2024
- February 12, 2024
- February 19, 2024
- February 26, 2024

Applicants will only be able to apply through the portal [linked here](#) during the specified dates above. The State Department estimates that processing will take six to eight weeks from the date the applicant's passport and other required documents are received. The expectation is that this initiative will reduce workloads and wait times at the consular offices abroad.

USCIS Updates Policy Manual for F and M Students

USCIS recently updated its [policy manual](#) to consolidate existing policies for F and M students. A few key takeaways from the updated guidance:

- Although F and M students must have a foreign residence that they do not intend to abandon, an approved PERM Labor Certification or Immigrant Petition (I-140) for F and M students does not disqualify them from being able to demonstrate their intention to depart after a temporary period of stay.
- Students seeking a STEM OPT extension may be employed by a start-up business so long as the business complies with the training requirements and uses E-Verify.

Based on this updated guidance, and slow PERM processing times, employers may be more willing to start the PERM Labor Certification process while an employee is still in F-1 status.

For more information, please contact the authors of this article or any attorney with Frost Brown Todd's [Immigration Team](#).

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