

Harter Secrest & Emery LLP

ATTORNEYS AND COUNSELORS

IMMIGRATION

USCIS CONFIRMS NEW ELECTRONIC REGISTRATION PROCESS FOR 2020 H-1B LOTTERY

Authors: Frank A. Novak and Glenn R. Schieck

Please Deliver this Notice to the Appropriate Responsible Company Personnel

Prior to March 1, 2020, U.S. employers should urgently assess whether any current or prospective foreign national employees may require H-1B sponsorship. Note that this is an earlier timeframe than past years.

U.S. Citizenship and Immigration Services (USCIS) confirmed that it will implement a new electronic registration process for its 2020 H-1B lottery. Under this new process, employers must submit an electronic registration “ticket” for each sponsored employee during a designated registration period, which will run from March 1 until March 20, 2020. If USCIS selects a sponsored employee’s “ticket” in the lottery, the employer will have 90 days to submit a full petition demonstrating eligibility for H-1B status. Under the prior system, employers submitted a full petition for each sponsored employee, after which USCIS conducted a lottery and proceeded to review those petitions selected in the lottery.

While the electronic registration system is not yet publicly available, reports indicate that USCIS will require the following information for each registration “ticket”: Employer name, federal employer identification number (FEIN), headquarters address, contact information for an authorized signatory, employee name, date of birth, country of birth/citizenship, passport number, and whether the employee obtained a master’s degree or higher in the U.S. Each registration will require a \$10 fee.

U.S. employers should immediately assess whether any current or prospective foreign national employees may require H-1B visa sponsorship to secure ongoing work authorization, and work with counsel to prepare for this new electronic registration process. H-1B visas generally cover bachelor’s level professional positions. Many U.S. employers hire foreign nationals to work in the U.S. under H-1B visa status, especially recent college graduates or others coming from abroad to work in the U.S.

Approximately 65,000 new H-1B visas become available each federal fiscal year (beginning October 1), with an additional 20,000 available for those who obtained a U.S. master’s degree. In recent years, the annual demand for H-1B visas has significantly outpaced their availability. Accordingly, USCIS has conducted a lottery each April for the upcoming fiscal year’s H-1B quota. Going forward, the lottery will be complete by the end of March.

Please note that some individuals are not subject to the quota described above. For example, many H-1B employees currently employed by U.S. companies may have already been counted against the quota and

will not need to be counted again. In addition, some employers, such as universities, are exempt from the quota.

Prospective or current employees subject to the H-1B quota may include:

- Current foreign students or recent graduates working under authorized F-1 Optional Practical Training (OPT).
- Foreign nationals in or outside the U.S. who are not already employed in H-1B status by a for-profit employer.
- Current H-1B employees at universities who seek new employment by for-profit companies.

If you have any questions regarding this LEGALcurrents®, please do not hesitate to contact any member of the firm's Immigration practice group at 585.232.6500 or visit www.hselaw.com.

Frank A. Novak, 585.231.1406, fnovak@hselaw.com

Glenn R. Schieck, 585.231.1326, gschieck@hselaw.com

Attorney Advertising. Prior results do not guarantee a similar outcome. This publication is provided as a service to clients and friends of Harter Secrest & Emery LLP. It is intended for general information purposes only and should not be considered as legal advice. The contents are neither an exhaustive discussion nor do they purport to cover all developments in the area. The reader should consult with legal counsel to determine how applicable laws relate to specific situations. © 2020 Harter Secrest & Emery LLP

