



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

January 17, 2020

Mr. Carlos Munoz-Acevedo
Division Chief
USCIS Public Engagement
U.S. Citizenship and Immigration Services
20 Massachusetts Ave., NW
Washington, DC 20529

Re: H-1B Registration Tool

Dear Mr. Munoz-Acevedo:

The American Immigration Lawyers Association (AILA) appreciates that USCIS has announced the implementation of the H-1B Registration Tool for the FY 2021 H-1B Cap-Subject Petition Filing Season and the dates of the initial registration period in advance of the registration period. Just as we are sure that it is of utmost importance to USCIS to ensure that the new system is implemented efficiently, please know that AILA is committed to ensuring that the implementation of the H-1B registration system goes smoothly for our members and the employers and individuals they represent. To that end, AILA has been actively engaging with our members to inform them of the latest developments and understand their concerns and questions as it relates to the implementation of the H-1B registration system.

AILA and our members are eagerly awaiting more information from USCIS providing details, guidance, and instruction on how the H-1B registration system will work. We know that USCIS is working on stakeholder engagement on the H-1B registration tool. To that end, we wanted to share with you some important questions and concerns that have been raised in the course of our discussions with our members and coalition partners, so that it may help guide the public engagement you are preparing.

- 1. Is a beneficiary required to have completed the qualifying degree requirement at the time of electronic registration or at the time of filing the H-1B petition, particularly as it relates to an individual seeking a masters' cap exemption?**

USCIS states multiple times in the preamble to the H-1B registration final rule that establishing eligibility is not a requirement for registration and that it is simply an “antecedent procedural requirement to properly file the petition.” See for example 84 Fed. Reg. 888 at 896, 900, 902. This would also be consistent with 8 CFR 103.2(b)(1) which requires that eligibility must be established at the time of filing the benefit request.

However, the answer to this question is not as clear in regards to qualifying for the masters' cap exemption, as a question on the electronic registration form (as reflected in the [screen shots](#) published in November 2019 by USCIS) asks “[d]oes the beneficiary have a master’s or higher degree from a U.S. institution of higher education such that the beneficiary is eligible for the advanced degree exemption under INA 214(g)(5)(C) and requesting consideration under the advanced degree exemption?”

AILA recommends that USCIS clarify for the public that an individual does not have to meet the eligibility requirements for the master's cap exemption at the time of registration, but will have to demonstrate that he or she is eligible at the time of filing the petition pursuant to 8 CFR 103.2(b)(1).

2. **During beta testing of the new system and based on the screen shots provided, it appeared that USCIS will be using the MyUSCIS portal for the H-1B registration system; however, this is not clear from the [Federal Register notice](#) dated January 9, 2020. Could USCIS please confirm whether it will be using the MyUSCIS platform for the H-1B registration, so that stakeholders may begin familiarizing themselves with the system and set up accounts as soon as possible?**
3. **In the [Federal Register notice](#), USCIS states that “it intends to close the initial registration period on March 20, 2020 and will announce the actual end date on its website.” Can USCIS please confirm that the initial registration period will not close on or before March 20, 2020 regardless of the number of registrations received during that period, but that it may extend the registration period beyond March 20, 2020 if an insufficient number of registrations are received?**
4. **Can USCIS please confirm that premium processing will be available for H-1B cap subject petitions beginning April 1, 2020?**
5. **Can USCIS provide a dedicated email box or phone number for registrants who encounter technical issues with the registration system during the initial registration period, like how the Department of Labor addressed applicants' technical problems when they rolled out the FLAG system?**
6. **In order to register, will U.S. businesses be required to create a separate account or complete a business verification process similar to what DOL requires for employers to file a Labor Condition Application (LCA), even if they are represented by a G-28 representative?**

We look forward to engaging with USCIS more on the implementation of the H-1B registration tool to ensure our mutual interests of successful implementation. We thank you for your consideration of this matter. If you require any additional information or clarification, please contact Sharvari (Shev) Dalal-Dheini at (202) 507-7621 or by email at sdalal-dheini@aila.org.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION