



U.S. Citizenship and Immigration Services

Office of Public Affairs

Stakeholder Message

DHS Proposes to Replace H-1B Cap Random Selection Process with Wage-Based Selection Process

The Department of Homeland Security (DHS) today [announced](#) the transmission to the Federal Register of a notice of proposed rulemaking (NPRM) to amend regulations governing the process by which U.S. Citizenship and Immigration Services selects H-1B registrations for filing of H-1B cap-subject petitions (or petitions, if the registration process is suspended).

If finalized as proposed, USCIS would first select registrations (or petitions, if the registration process is suspended) generally based on the highest Occupational Employment Statistics prevailing wage level that the offered wage equals or exceeds for the relevant Standard Occupational Classification code and area(s) of intended employment. Replacing the random selection process in this manner is expected to help counter the downward pressure on the wages of U.S. workers that is created by an annual influx of relatively lower-paid, new cap-subject H-1B workers.

Prioritization and selection based on wage levels better balances the interests of petitioners, H-1B workers, and U.S. workers. The changes proposed in this NPRM would maintain the effective and efficient administration of the H-1B cap selection process while providing some prospective petitioners the ability to potentially improve their chance of selection by agreeing to pay H-1B beneficiaries higher wages that equal or exceed higher prevailing wage levels.

This NPRM is necessary to further the administration's goal of prioritizing H-1B cap-subject registrations for petitioners seeking to employ higher-skilled and higher paid workers, which is more aligned with the general congressional intent for the H-1B program.

DHS will open a public comment period once the NPRM is published in the Federal Register. Interested parties will have 30 days to submit comments relevant to the proposed rule and 60 days to submit comments relevant to the proposed information collection. The Department will review all properly submitted comments, consider them carefully, and draft responses before issuing a final rule.

Kind regards,

Public Engagement Division
U.S. Citizenship and Immigration Services