

USCIS Announces Rules for H-1B Lottery

January 31, 2022

Key Points

- H-1B lottery will be open from March 1 until March 18, 2022.
- There will be no changes from last year's lottery rules.
- Priority for higher-paid H-1B applicants will not be implemented as the proposed rule has been withdrawn by the Biden-Harris administration.

On January 28, 2022, the U.S. Citizenship and Immigration Services (USCIS) announced that the H-1B lottery will be conducted in the same way as last year, with a slight change in dates. The online lottery will open at noon ET on March 1 and will close at noon ET on March 18. The results of the lottery will be announced by March 31, and H-1B petitions will need to be filed with USCIS between April 1 and June 30. USCIS will once again follow the [H-1B Electronic Registration Process](#), which we described in a [prior alert](#).

The H-1B lottery will not take into account the compensation of the prospective employee. Towards the end of the Trump administration, USCIS issued a regulation prioritizing higher-paid employees in the H-1B lottery. This meant that the highest-paid H-1B beneficiaries would have been assured a spot in the lottery, but the lowest-paid beneficiaries (often in entry-level positions) would have had a very low chance of being selected in the lottery. The regulation was set to go into effect in March 2021.

Shortly after assuming office, the Biden-Harris administration issued a rule that delayed the earliest effective date of that change to December 31, 2021. The proposed rule was challenged in court and the Biden administration withdrew it on December 21, 2021.

The withdrawal means that the March 2022 H-1B selection process (which is the H-1B lottery for Fiscal Year 2023) will be based on current regulations. As such, 65,000 H-1B beneficiaries will be selected on a random basis. An additional 20,000 H-1B selections will be reserved for recipients of Master's degrees or higher from U.S. universities.

[Immigration Law and Policy](#) lawyers at Akin Gump are ready to assist you with H-1B lottery entries and H-1B petitions.

Contact Information

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