

H-1B lottery game plan: Best practices for HR teams

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The H-1B cap registration and lottery for Fiscal Year 2026 is expected to begin in early March – only two months from now. Although the U.S. Citizenship and Immigration Services has not yet announced the exact registration dates for FY 2026, we expect it to follow its prior pattern of a start date in early March.

The next two months offer an ideal opportunity for employers to identify foreign nationals to be entered in the H-1B cap lottery and gather the necessary documentation to ensure a seamless registration process. Employers may also want to explore alternative options for foreign nationals who may not have been selected in this year's H-1B cap lottery.

Overview of the H-1B cap lottery

The H-1B visa is the most common work visa for foreign nationals employed in “specialty occupations” requiring a bachelor's degree or higher in a specific field or its equivalent.

Congress has set an annual cap of 65,000 visas per year (commonly referred to as the “regular cap”) plus an additional 20,000 reserved for individuals with a U.S. master's degree or higher from a qualifying institution of higher education (commonly referred to as the “advanced degree cap”).

The demand for H-1B visas is expected to exceed the supply. Last year, the USCIS received **470,342** registrations for only **85,000** available visas, with a selection rate of 28.73 percent.

H-1B cap registration process

Now is the time for U.S. employers to identify foreign workers who may need to register in order to extend their work authorizations in the United States. Once the process begins, employers seeking cap-subject H-1B visas for foreign nationals must submit a separate online registration for each foreign national via a USCIS portal, providing the following information:

- Employer’s legal name, Federal Employer Identification Number, and primary office address.
- Employer’s authorized representative’s name, job title, phone number, and email address.
- Foreign National’s full name, date of birth, country of birth, citizenship, gender, and passport number.
- Whether the foreign national earned a qualifying master’s degree or higher, and if so, the details.

Once the registration period closes, the USCIS will conduct a random electronic lottery to select individuals eligible to apply for an H-1B visa. If an individual is selected, the employer has 90 days from the selection date to file an H-1B cap petition.

Changes affecting 2025 registrations

The U.S. Department of Homeland Security has implemented several changes that will affect this year’s H-1B cap lottery:

Increase in H-1B Registration Fee. The registration fee rose from \$10 to \$215 per registration effective April 1, 2024.

“Beneficiary-centric” improvements. The USCIS has adopted a “beneficiary-centric” selection process that makes selections based on a unique beneficiary identifier, rather than by registration. In addition, employers must provide a valid passport, or travel document details, for each beneficiary. This ensures that each beneficiary is entered only once in the lottery, reducing potential fraud. It also ensures an equal chance of selection for all beneficiaries.

H-1B Modernization Rule. On December 17, the DHS also announced a [Final Rule](#) modernizing the H-1B program, which will take effect on **January 17**. The rule redefines and clarifies “Specialty Occupation” more clearly. It also extends “cap-gap” employment authorization for F-1 students with valid OPT or STEM OPT*, who have been selected and have a pending H-1B change of status petition, through April 1 of the relevant fiscal year.

*“OPT” stands for Optional Practical Training. “STEM” stands for Science, Technology, Engineering, and Mathematics.

How employers should prepare

Employers seeking to participate in the FY 2026 H-1B cap lottery should take the following preparatory steps now:

No. 1: Identify foreign nationals for H-1B lottery. Consider foreign nationals under the following categories:

- **F-1** students on OPT or STEM OPT.
- **L-1** visa holders nearing their limits (Multinational Managers/Executives, or Specialized Knowledge employees).
- **H-4** visa holders with employment authorizations.
- **TN** (Canada/Mexico) or **E-3** (Australian) holders pursuing permanent residence.
- Prospective employees who are currently residing abroad.

No. 2: Review job details.

- Ensure that job descriptions align with degree requirements.
- Consider offering salaries above the Level I prevailing wage, if possible.

No. 3: Gather Necessary Documentation: Relevant documents required for a H-1B include the following:

- Academic Credentials (diplomas and transcripts)
- Passport and Form I-94
- All I-797 Approval Notices showing non-immigrant visa status
- All form I-20s (if in F-1 status)
- Professional licensure/certifications, if applicable.

No. 4: Verify eligibility.

- Confirm that the position requires at least a bachelor’s degree.
- Ensure that the beneficiary meets all eligibility criteria for the H-1B status.

Not selected? Here are some alternatives

In the event of non-selection, employers may explore alternative pathways for employment authorization, including the following:

- **F-1 STEM OPT extension** for graduates with qualifying STEM degrees.
- **TN visas** for Canadians and Mexicans under the United States-Mexico-Canada Agreement.
- **E-3 visas** for Australian professionals.
- **H-1B1 visas** for nationals of Chile and Singapore.
- **O-1 visas** for individuals with extraordinary ability in the sciences, education, business, or athletics.
- **Cap-exempt H-1B petitions** if the job is with
 - A qualifying educational institution (university or college).
 - A non-profit research organization.
 - A governmental research organization.
 - A non-profit organization affiliated with an institution of higher education.

Want to know more?

If you need more detailed guidance, please contact any member of Constangy's Immigration Practice Group. You can also view a replay of our recent [webinar](#) on this subject.

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