



**Privacy Impact Assessment Update
for the**

H-1B Visa Cap Registration

DHS/USCIS/PIA-034(b)

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Abstract

In January 2019, the Department of Homeland Security (DHS) amended the regulations governing H-1B cap-subject petitions and introduced an electronic registration requirement for petitioners seeking to file H-1B cap-subject petitions. This Final Rule required employers seeking to file H-1B cap-subject petitions, including those who may be eligible for the advanced degree exemption based on the attainment of a bachelor's or higher academic degree in the specialty field, to first electronically register with U.S. Citizenship and Immigration Services (USCIS) during a designated registration period. The final rule also reversed the order by which USCIS selects petitions under the H-1B regular cap and the advanced degree exemption. While the cap allocation amendment within the rulemaking went into effect and applied to Fiscal Year (FY) 2020 cap allocations, the electronic registration requirement is now being implemented starting with the FY 2021 cap allocations in March 2020.

DHS published a notice, *Registration Requirement for Petitioners Seeking To File H-1B Petitions on Behalf of Cap-Subject Aliens*, in the Federal Register on January 9, 2020, to announce that the registration requirement will first be implemented on March 1, 2020. In addition, USCIS will begin using the H-1B Registration Random Selection Process and the electronic H-1B Registration Tool. This PIA is being conducted because the implementation of the H-1B Registration Random Selection Process and use of the electronic H-1B Registration Tool alters existing practices related to the collection, maintenance, and use of personally identifiable information (PII) from petitioners seeking to file H-1B cap-subject petitions with USCIS or legal representatives filing H-1B cap-subject petitions on behalf of petitioners.

Overview

USCIS receives and adjudicates petitions and applications for all immigration benefits, including petitions by U.S. employers seeking nonimmigrant worker status for aliens. More specifically, USCIS administers and adjudicates H-1B nonimmigrant petitions,¹ which are filed by employers or agents (hereinafter referred to as petitioners) to authorize employment of foreign workers in specialty occupations that require theoretical or practical application of highly specialized knowledge and attainment of a bachelor's or higher degree in the specialty. Typical H-1B occupations include architects, engineers, computer programmers, accountants, doctors, and college professors, among others. H-1B petitions are also filed on behalf of fashion models with distinguished merit and ability.²

¹ Registration Requirement for Petitioners Seeking To File H-1B Petitions on Behalf of Cap-Subject Aliens, 84 FR 888 (January 31, 2019), <https://www.federalregister.gov/documents/2019/01/31/2019-00302/registration-requirement-for-petitioners-seeking-to-file-h-1b-petitions-on-behalf-of-cap-subject>.

² H-1B petitions are also filed on behalf of certain Department of Defense workers, however, those petitions are not relevant to the registration requirement or this Privacy Impact Assessment.



U.S. employers and agents are eligible to file H-1B petitions and therefore eligible to submit registrations through the H-1B Registration Tool. When registration is required, prospective petitioners seeking to file an H-1B cap-subject petition must submit a registration for each prospective beneficiary through the H-1B Registration Tool. A properly submitted registration must be selected before the prospective petitioner is eligible to file an H-1B cap-subject petition for the beneficiary named in the registration. Employers and their agents are referred to as registrants for the purposes of the H-1B Registration Tool and the Random Selection Process. USCIS defines U.S. Employers and Agents as follows:

- **U.S. Employers:** Person or entity in the United States that:
 - Engages a person to work in the United States
 - Has an employer-employee relationship with the beneficiary; and
 - Has an Employee Identification Number (EIN)
- **Agents:** A U.S. individual or company in business as an agent may file an H-1B Petition for workers who are traditionally self-employed or workers who use agents to arrange short-term employment on their behalf with numerous employers and in cases in which a foreign employer authorizes the agent to act on its behalf.

U.S. Employers (Registrants) seeking benefits for a prospective alien employee (herein after referred to as beneficiary) under the H-1B nonimmigrant classification may be subject to congressionally mandated annual numerical limits, known as the H-1B cap. These numerical limits generally limit the number of workers that can be issued a visa and/or receive H-1B classification in a given FY. By law the annual numerical limitation for H-1B workers is 65,000 (“regular cap”).³ An exemption applies to 20,000 H-1B petitions filed on behalf of beneficiaries who have earned a U.S. master’s degree or higher (“advanced degree exemption”). This means, in effect, 85,000 initial H-1B visas (including initial grants of H-1B status) may be granted per FY to alien workers who are subject to the H-1B cap.⁴

Historically, USCIS has received more petitions than projected as needed to reach the H-1B numerical allocations, such that the H-1B cap has been reached within days of opening the H-1B cap filing period for the applicable FY. In previous years, and consistent with regulations that existed at the time, when USCIS received more H-1B cap petitions than projected as needed to reach the numerical allocations, USCIS would use a random selection process to ensure fairness. Selected petitions that were properly filed would be adjudicated. Unselected petitions, however, would be rejected and returned to the petitioner or representative, as applicable. This process required USCIS to receive, handle, and return large numbers of petitions, which contain large

³ See Immigration and Nationality Act (INA) 214(g)(1)(A).

⁴ Certain petitioners, however, are cap-exempt so the total number of H-1B workers granted initial H-1B visas (or initial grants of status) per FY is more than 85,000. See INA 214(g)(5)(A) and (B).



amounts of PII for each beneficiary, that were rejected because of excess demand (unselected petitions).

For the upcoming H-1B cap season, consistent with current regulations, USCIS is implementing a mandatory online registration process using a new electronic tool known as the H-1B Registration Tool. DHS published a notice, *Registration Requirement for Petitioners Seeking To File H-1B Petitions on Behalf of Cap-Subject Aliens*, in the Federal Register to announce the registration requirement implementation on March 1, 2020.⁵ Through the myUSCIS Account Experience,⁶ registrants (U.S. employers or an agent working on behalf of a U.S. employer) will be able to register beneficiaries (prospective employees) for participation in a random H-1B cap selection process, instead of initially filing a full H-1B petition via a paper form. The implementation of the H-1B Registration Tool will be less cumbersome for employers as it will initially require the submission of less information for each beneficiary than the traditional filing of a complete H-1B petition, and streamline the cap selection process for USCIS.

Through the H-1B Registration Tool, USCIS will collect information about the H-1B registrant, the attorney or accredited representative acting on behalf of the registrant (collectively referred to as representatives), and the prospective beneficiary. The H-1B Registration Tool will collect the following information about the H-1B Registrant and/or its representative as a part of the H-1B registration process: organization name, full name of the contact person and his or her title, contact information, and the Employee Identification Number (EIN). The H-1B Registration Tool will collect the following information about the beneficiary as a part of the H-1B registration process: full name, date of birth, country of birth, country of citizenship, passport number, gender, and the category (seeking to file under the regular cap or the advanced degree exemption).

USCIS will use the data collected through the H-1B Registration Tool to run the H-1B Registration Random Selection Process that will determine which registrations are randomly selected to file for the full H-1B nonimmigrant petitions. A prospective petitioner seeking to file an H-1B cap-subject petition is only eligible to file the petition if the petitioner registers the beneficiary and the registration is selected by USCIS. If selected, the registrants or legal representative will then be informed that they may submit a USCIS Form I-129, *Petition for a Nonimmigrant Worker* in a request for a nonimmigrant petition for the beneficiary named in the selected registration. The H-1B Registration Tool and the subsequent random selection process to determine filing eligibility does not otherwise change the process for filing, processing, and adjudicating H-1B petitions (i.e., Form I-129).

⁵ Registration Requirement for Petitioners Seeking To File H-1B Petitions on Behalf of Cap-Subject Aliens, 85 FR 1176 (January 9, 2020), <https://www.federalregister.gov/documents/2020/01/09/2020-00182/registration-requirement-for-petitioners-seeking-to-file-h-1b-petitions-on-behalf-of-cap-subject>.

⁶ See DHS/USCIS/PIA-071 myUSCIS Account Experience, available at www.dhs.gov/privacy.



Reason for the PIA Update

In January 2019, DHS published a Final Rule to amend the regulations governing H-1B cap-subject petitions and introduced an electronic registration requirement for petitioners seeking to file H-1B cap-subject petitions.⁷ The Final Rule requires employers seeking to file H-1B petitions subject to the regular cap, including those who may be eligible for the advanced degree exemption, to first electronically register with USCIS during a designated registration period. While the cap allocation amendment within the rulemaking went into effect on April 1, 2019 and applied to FY2020 cap allocations, the electronic registration requirement was suspended for the FY 2020 cap season in the final rule to allow sufficient time for the testing and vetting of the H-1B Registration Tool.

The H-1B electronic registration requirement is now being implemented starting with the FY 2021 cap allocations in March 2020. DHS published a notice, *Registration Requirement for Petitioners Seeking To File H-1B Petitions on Behalf of Cap-Subject Aliens*,⁸ in the Federal Register to announce that the electronic registration requirement will first be implemented on March 1, 2020. DHS is publishing this PIA, which will update the existing DHS/USCIS/PIA-034 H-1B Visa Cap Registration, to document the implementation of the electronic registration requirement, the H-1B Registration Random Selection Process, and use of the electronic H-1B Registration Tool.⁹ The implementation of the electronic registration requirement using the H-1B Registration Random Selection Process and electronic H-1B Registration Tool alters existing practices related to the collection, maintenance, and use of PII from petitioners seeking to file H-1B cap-subject petitions with USCIS.

New Electronic Process Using the H-1B Registration Tool

Beginning with the FY 2021 cap season, USCIS will implement a mandatory online registration process using an electronic tool known as the H-1B Registration Tool. Registrants¹⁰ will be able to register prospective beneficiaries for random selection toward the projections needed to reach the H-1B numerical allocations, instead of initially filing a full petition via a paper form, through the myUSCIS Account Experience.¹¹ USCIS amended its regulations via the rulemaking process to provide a new procedure to streamline and simplify the process for petitioners subject to H-1B numerical limits. This amendment established the mandatory electronic

⁷ The Final Rule also reversed the order by which USCIS selects petitions under the H-1B regular cap and the advanced degree exemption.

⁸ Registration Requirement for Petitioners Seeking To File H-1B Petitions on Behalf of Cap-Subject Aliens, 85 FR 1176 (January 9, 2020), <https://www.federalregister.gov/documents/2020/01/09/2020-00182/registration-requirement-for-petitioners-seeking-to-file-h-1b-petitions-on-behalf-of-cap-subject>.

⁹ See DHS/USCIS/PIA-034 H-1B Visa Cap Registration, available at www.dhs.gov/privacy.

¹⁰ As stated previously, prospective petitioners are referred to as “registrants” for the purposes of the H-1B Registration Tool and random selection process.

¹¹ See DHS/USCIS/PIA-071 myUSCIS Account Experience, available at www.dhs.gov/privacy.



registration requirement requiring registrants seeking to file H-1B cap-subject petitions, agents, or representatives to register for the H-1B cap random selection process.

myUSCIS Account Experience provides authenticated, personalized digital services to immigration requestors and legal representatives for a seamless end-to-end online filing through a secure USCIS online account. The authenticated myUSCIS Account Experience provides users with the ability to create secure role-based accounts via the myAccount application, an enterprise-wide program that manages identity and credentials and provides centralized access control to USCIS immigration systems. This allows USCIS Users (i.e., applicants or petitioners) and Representatives (i.e., lawyers or charitable groups) to complete and save immigration requests and/or view latest information about their cases. USCIS Users and Representatives have different myAccount types, but most of the same features once logged in. Unlike USCIS User accounts, the Representative accounts allow for filtered searches of filed immigration requests, since legal representatives need to manage multiple cases for multiple clients.

As a part of the H-1B Registration Tool, myUSCIS Account Experience now identifies “H-1B Registrant” as a new account type that can be selected when creating an account. This account type streamlines the current myUSCIS account to allow the account holder to only submit H-1B Registrations. The “H-1B Registrant” account will allow U.S. employers seeking benefits for a prospective alien employee (beneficiary) to register the beneficiary for participation in the Random Selection Process, instead of initially filing a full H-1B petition via a paper form. The “H-1B Registrant” follows the same account creation process as a USCIS User account. During the account creation, myUSCIS Account Experience collects name, physical address, home telephone number, mobile phone number, user name, user password, responses to security questions, and a USCIS-generated authentication code. If a Registrant or Legal Representative has an existing myUSCIS account, he or she may use the existing account to submit H-1B Registrations and is not required to create an additional “H-1B Registrant” account.

Attorneys and accredited legal representatives (i.e., those that require the submission of a Form G-28) who are submitting H-1B Registrations on behalf of an employer or agent¹² are directed to create a “Legal Representative” account, if they do not have an existing representative account. For a Legal Representative account, USCIS collects the organization name, bar number, licensing authority, accredited representation date, daytime phone number, fax number, mailing address, and an electronic signature to verify information. The H-1B Registration process does not alter the requirements for legal representatives to complete Form G-28, *Notice of Entry of Appearance as Attorney or Accredited Representative*, and file it with USCIS.

¹² USCIS defines ‘Agents’ as a U.S. individual or company in business as an agency may file an H-1B Registration for workers who are traditionally self-employed or workers who use agents to arrange short-term employment on their behalf with numerous employers and in cases where a foreign employer authorizes the agent to act on its behalf.



H-1B registrations may only be filed electronically via USCIS's online filing portal at www.myaccount.uscis.gov. This is the only method by which information can be transmitted to USCIS to participate in the H-1B Random Selection Process. The H-1B Registration Tool will allow registrants or representatives to register for the H-1B Random Selection Process, while being less cumbersome and requiring less information for each beneficiary than filing a complete H-1B cap-subject petition in order to be considered in the cap selection process. The H-1B Registration Tool will collect the following information as a part of the H-1B registration process:

- Information about the H-1B Registrant and/or its representative includes:
 - Organization name
 - Full name of contact person
 - Title of contact person
 - Email address
 - Telephone number
 - Mailing address (includes street address, city, state, province, and zip code)
 - Employee Identification Number (EIN)¹³

- Information about the beneficiary includes:
 - Full name
 - Date of birth
 - Country of birth
 - Country of citizenship
 - Passport number
 - Gender¹⁴
 - Category – regular cap or advanced degree exemption

Registrants or representatives seeking to file H-1B cap-subject petitions are required to pay a \$10 fee for each beneficiary they submit to USCIS for the H-1B cap selection process. Through the H-1B Registration Tool, registrants or representatives will be directed to pay.gov to pay the registration fee. Payment is made using the U.S. Department of Treasury's Pay.Gov service. USCIS does not collect the fee directly. Rather, the account holder is redirected to the Pay.Gov interface, and Pay.Gov collects payment information (e.g., credit card, debit card, or Automated Clearing House (ACH debit)) from a personal bank account and billing information. Once Pay.Gov validates the payment information, the account holder is routed back to the H-1B Registration Tool and the H-1B Registration Tool confirms to the registrant or representative that he or she

¹³ Users can input a Social Security number (SSN) in place of an EIN, if the H-1B Registrant does not have an EIN.

¹⁴ USCIS uses gender to help differentiate between beneficiaries with the same or similar names. USCIS will use the gender provided during registration in concert with the other data fields (DOB & passport number) to confirm that the beneficiary that is submitting the Form I-129 is the individual that was selected and not a different person with the same name.



successfully submitted the registration.

A registrant or representative may only submit one registration per beneficiary in any FY. If a registrant or representative submits more than one registration per beneficiary in the same FY, all registrations filed by that registrant relating to that beneficiary for that FY will be considered invalid. Registrants and representatives are informed in public communication, the Final Rule, and on screen in myUSCIS of the rules surrounding the submission of duplicate registrations on behalf of the same beneficiary. When logged into his or her myUSCIS account, the account holder (a registrant or representative) can review all submitted registrations enabling them to proactively identify and remove any duplicate beneficiaries prior to the close of the registration period. Duplicate beneficiaries remaining at the start of the random selection process will be identified and flagged by the system prior to the start of the Random Selection Process. After the selection process, registrants and representatives who submitted duplicate beneficiaries will be notified that the duplicate beneficiary registrations are invalid and that they were denied due to the duplicate submission.

USCIS will collect information related to H-1B Registration directly from the registrant or the representative (such as an attorney acting on behalf of the registrant). The registrant or representative will collect beneficiary information from the beneficiary in order to submit the registration. The H-1B Registration Tool is dependent on the accuracy and quality of information provided by the H-1B registrant and representative. The information is collected directly from the registrant or representative and is assumed to be accurate. Prior to the official submission of the information to the USCIS, the H-1B Registration Tool provides registrants and representative an opportunity to review and correct data inputs.

Once the H-1B registration is submitted, a confirmation notice will be generated for the registrant or representative for each successful registration. The confirmation receipt will capture the beneficiary's information and include a confirmation number associated with the registration. Each beneficiary will be assigned a unique Beneficiary Confirmation Number (BCN) to more easily identify the individual beneficiaries listed within a submitted registration because USCIS will allow for a registrant to submit up to 250 registrations in one submission. The registrant or representative may print the notice at that time or at any time later by logging into his or her myUSCIS account. Registrants or representatives will be able to monitor the status of their submissions by logging into their myUSCIS Account. Registrants or representatives will be able to review their submitted registrations and delete a particular beneficiary listed within a registration. In addition, myUSCIS will allow users to download a .csv file listing of their H-1B registrations for beneficiaries. Registrants and representatives are strongly encouraged via online directions to review and confirm submissions of registrations as there will be no reimbursement for registration fees associated with the deleted submitted beneficiary registrations.

A separate registration must be submitted for each beneficiary on whose behalf a registrant



or representative seeks to file an H-1B cap-subject petition. Registrants or representatives may submit up to 250 beneficiaries for any one registrant (employer or agent) per registration. Individuals must create a new registration per 250 beneficiaries submitted. Registrants or representatives will only be eligible to file an H-1B cap-subject petition on Form I-129 (unless registration is suspended) for a beneficiary named in a valid selected registration during an associated filing period for the applicable FY.

H-1B Registration Selection

Once a registration is submitted, the H-1B Registration Tool will electronically transmit the information to the internal USCIS Benefits Hub (BHUB) application to enable the selection process to commence. BHUB is an application within the Computer Linked Application Information Management System 3 (CLAIMS 3)¹⁵ security boundary built to manage the Random Selection Process for the H-1B Registration Tool system. While within the CLAIMS 3 system security boundary, BHUB is a standalone application that stores data on its own independent database. The data will be automatically transferred via a system-to-system connection between myUSCIS and BHUB.

The annual initial registration period will last a minimum of 14 calendar days and will start at least 14 calendar days before the earliest date on which H-1B cap subject petitions may be filed for a particular FY. At the end of the annual initial registration period, if USCIS determines that it has received fewer registrations than needed to meet the H-1B regular cap, USCIS will notify all petitioners that have properly registered that their registrations have been selected. USCIS will keep the registration period open beyond the initial registration period, until it determines that it has received a sufficient number of registrations to meet the H-1B regular cap. Once USCIS has received a sufficient number of registrations to meet the H-1B regular cap, USCIS will no longer accept registrations for petitions subject to the H-1B regular cap under section 214(g)(1)(A). USCIS will monitor the number of registrations received and will notify the public of the date that USCIS has received the necessary number of registrations (the “final registration date”). A similar process will then be completed to select the number of registrations projected to reach the advanced degree exemption.

After the end of the initial registration period once USCIS has received a sufficient number of registrations and when necessary to ensure the fair and orderly allocation of numbers under Section 214(g)(1)(A) of the INA, USCIS will randomly select a sufficient number of registrations deemed necessary to meet the H-1B regular cap through a randomized selection process. The H-1B Random Selection Process begins with the creation of universally unique identifier (UUID) numbers equal to the total number of eligible Beneficiary Confirmation Numbers (BCN).¹⁶ The

¹⁵ See DHS/USCIS/PIA-016 Computer Linked Application Information Management System (CLAIMS 3) and Associated Systems, available at www.dhs.gov/privacy.

¹⁶ For example, if there are 20,000 eligible BCNs, the system will generate 20,000 unique UUIDs.



system will then randomly shuffle the UUID numbers and the eligible BCNs. Once shuffled the UUIDs will be randomly assigned to the BCNs. The UUIDs are then shuffled again to ensure a random order. The system will then randomly select a predetermined amount of unique tickets (equal to the projected number needed to reach the cap) using an Amazon Web Services Key Management Service seeded randomizer. The system will then save the created numbers, and associated BCNs, and those selected to the Benefits Hub database for reporting and auditing purposes.

Post H-1B Selection Process

Once a beneficiary is selected under the regular cap or the advanced degree exemption, USCIS will issue a notice to the registrant or representative informing him or her of the selection and eligibility to file an H-1B cap-subject petition for the beneficiary named in the selected registration during the designated petition-filing period, and the selection notice will include the date by which the associated H-1B cap petition must be filed. Registrants or representatives of selected beneficiaries will then be eligible to file completed H-1B petitions for the upcoming FY on behalf of the beneficiary named in the registration.

The Enterprise Print Manager System (EPMS)¹⁷ will electronically generate all H-1B registration related notices. The registrant or representative will receive the notice via email or SMS based on his or her contact preferences. The notice informs the user to log into his or her myUSCIS account to view the update. The PDF of the notice will appear in the user's myUSCIS account. All notices will be stored within the USCIS Content Management Services (CMS).¹⁸

The selection notice will contain a unique identifying number and a machine-readable zone that USCIS will use to verify the petitions and intended beneficiary. USCIS will require the petitioner to submit the selection notice with his or her subsequent submission of the Form I-129 to facilitate the proper and timely identification of registrants and beneficiaries selected during the registration process. The submission of the selection notice is an anti-fraud measure to ensure the integrity of the H-1B cap number allocation process.

After the selection process, users will be able to view their selection status within their myUSCIS Account Experience accounts. Depending on the individual's selection, there are three possible statuses that will appear: 'Selected,' 'Denied-Duplicate,' and 'Non-selected and Submitted.' Within the myUSCIS account, there is a Tooltips screen to provide users with descriptions of each status. Once the registrant or representative logs into his or her myUSCIS account, he or she will see a question mark next to the status column; if the user clicks the question mark the Tooltips screen appears as a pop-up box with the status definitions. In addition, public communications, including USCIS press releases, information posted on USCIS websites, USCIS

¹⁷ See DHS/USCIS/PIA-063 Benefit Decision and Output Processes, available at www.dhs.gov/privacy.

¹⁸ See DHS/USCIS/PIA-079 Content Management Services, available at www.dhs.gov/privacy.



posts on public social networking websites, and public webinars hosted by USCIS, will include these status descriptions.

Non-selected registrations will remain pending in the system and marked as “submitted” for the rest of the applicable FY in case USCIS needs to select additional registrations (e.g., if the petition filing rate for selected registrations is less than that projected). If USCIS determines that it needs to increase the number of registrations projected to meet the applicable numerical allocation (i.e., if all submitted registrations were previously selected during the random selection process and there are no additional registrations remaining in the system), USCIS may re-open the registration period to enable the public to submit new applications. To select any additional registrations, USCIS will randomly select a sufficient number of registrations through the Random Selection Process described previously in this PIA.

The information collected during the initial registration through the H-1B Registration Tool is only used for the initial registration and Random Selection Process. Selected registrants or representatives will be required to submit the information collected during the H-1B registration process again when filing Form I-129, *Petition for a Nonimmigrant Worker*, as that information is required for processing and adjudication of the form.

The H-1B Registration Tool does not otherwise alter the process for processing and adjudicating H-1B petitions (i.e., Form I-129), which USCIS will continue to process and adjudicate as described in the Computer Linked Application Information Management System and Associated Systems (CLAIMS 3) PIA¹⁹ and Benefits Information System (BIS) system of records notice (SORN).²⁰

Privacy Impact Analysis

In each of the below sections consider how the system has changed and what impact it has on the below fair information principles. In some cases there may be no changes and indicate as such.

Authorities and Other Requirements

The statutory authority is section 101(a)(15)(H)(i)(b) and 214(c)(1) of the Immigration and Nationality Act (Act or INA); 8 U.S.C. 1101(a)(15)(H)(i)(b) and 1184(c)(1); and the regulatory authority is 8 CFR 214.2(h)(2)(i)(A).

¹⁹ See DHS/USCIS/PIA-016 Computer Linked Application Information Management System (CLAIMS 3) and Associated Systems, available at www.dhs.gov/privacy.

²⁰ DHS/USCIS-007 Benefits Information System, 84 FR 54622 (October 10, 2019).



The following SORN covers the collection, use, maintenance, and dissemination of information:

- Benefits Information System,²¹ which covers USCIS's collection, use, maintenance, dissemination, and storage of paper and electronic benefit request information. It also covers case specific information that is collected and shared with online account holders

The H-1B Registration Tool, which registrants and representatives use to submit H-1B registrations, resides within the myUSCIS system security boundary. The implementation of the H-1B Registration Tool does not change the Authority to Operate (ATO) for myUSCIS. USCIS issued the ATO for myUSCIS on December 18, 2014, and this system is part of the Ongoing Authorization program. As such, myUSCIS has an ongoing ATO with no expiration date as long as myUSCIS continues to operate in compliance with security and privacy requirements.

The Benefits Hub (BHUB) application, which receives H-1B initial registration information from the H-1B Registration Tool and manages the Random Selection Process, resides within the CLAIMS 3 system security boundary. The implementation of the BHUB application does not change the ATO for CLAIMS 3. USCIS issued the ATO for CLAIMS 3 on September 3, 2015, and this system is part of an Ongoing Authorization program. As such, CLAIMS 3 will have an ongoing ATO with no expiration date as long as CLAIMS 3 continues to operate in compliance with security and privacy requirements.

USCIS is working with the USCIS Records Officer on establishing a retention schedule for the H-1B Cap Registration selection process related records. In accordance with federal records laws, USCIS will not destroy records until the National Archives and Records Administration (NARA) approves a retention schedule for the records.

The H-1B Registration Tool is subject to the Paperwork Reduction Act (PRA) requirements for information collections. The OMB Control number for online myUSCIS Account Experience account creation is 1615-0122 (there is no corresponding agency number). Each immigration request form or service type filed through myUSCIS Account Experience has an existing OMB Control number that covers the electronic information collection. The H-1B Registration Tool is covered under OMB Control number 1615-0144.

Characterization of the Information

The H-1B Registration Tool will allow registrants or representatives to register for the H-1B Random Selection Process, while being less cumbersome and requiring less information from each registrant and beneficiary than filing a complete initial H-1B cap-subject petition. Through the H-1B Registration Tool, USCIS will collect information about the H-1B registrant,

²¹ DHS/USCIS-007 Benefits Information System, 84 FR 54622 (October 10, 2019).



representative (such as an attorney acting on behalf of the registrant), and prospective beneficiary. USCIS will use the data collected through the H-1B Registration Tool to determine which registrants (e.g., U.S. employers) will be informed that they may submit a USCIS Form I-129 in a request for a nonimmigrant petition on behalf of a beneficiary (employee).

The H-1B registrant is an employer and prospective petitioner seeking to file an H-1B cap-subject petition in order to hire a beneficiary under the H-1B classification. The registrant or the registrant's agent may complete the H-1B Registration. Information about the H-1B Registrant and/or its representative includes the:

- Organization name
- Full name of contact person
- Title of contact person
- Email address
- Telephone number
- Mailing address (includes street address, city, state, province, and zip code)
- Employee Identification Number (EIN)

The H-1B beneficiary is the alien who would be employed in the United States as an H-1B nonimmigrant if the H-1B petition is ultimately approved and the alien is admitted or otherwise provided status as an H-1B nonimmigrant. Information about the beneficiary includes his or her:

- Full name
- Date of birth
- Country of birth
- Country of citizenship
- Passport number
- Gender
- Category – cap or exemption

USCIS needs the information collected through the H-1B Registration Tool to identify the prospective petitioner and prospective beneficiary in order to administer the electronic cap selection process. A U.S. employer, or agent in some instances, may file a petition for nonimmigrant worker to employ foreign nationals under the H-1B nonimmigrant classification. While not requested by USCIS or required as a part of the H-1B Registration process, Registrants can input a Social Security number (SSN) in place of an EIN if they have not previously obtained an EIN from the Internal Revenue Service.



Fee collection will require registrants or representatives who are submitting an H-1B registration to submit any personal information required for payment of such fee. Registrants and representatives will be directed to Pay.gov to pay the registration fee and will enter all payment information there. If paying via credit card, debit, or ACH, registrants or representatives will likely need to submit the individual's name and address along with any relevant credit card or bank account information to complete the fee payment. USCIS will receive a payment success or fail message and the associated transaction number from Pay.gov. USCIS does not receive any of the payment information from Pay.gov. No H-1B Registration related information is transferred to Pay.gov.

The H-1B Registration Tool will be dependent on the accuracy and quality of information provided by the registrant or representative. The information is collected directly from the registrant or representative and is assumed to be accurate. Prior to his or her official submission to the agency, the registrant or representative will be provided an opportunity to review and correct data entries. Furthermore, registrants and representatives are able to view and delete beneficiaries from a registration via their myUSCIS account even after the registration is submitted.

Once a registration is submitted, the system will assign individual beneficiaries listed on the registration a unique Beneficiary Confirmation Number (BCN). When a registrant or representative submits a registration, a receipt number is assigned to the overarching submission, but that submission could include up to 250 beneficiaries. A BCN is assigned to each beneficiary listed within a registration submission and is how each individual is differentiated without tracking the beneficiaries by a combination of other PII data elements (such as name/date of birth).

The H-1B registration requirement and process, once implemented, supports the data minimization Fair Information Practice Principle²² because USCIS will no longer receive, handle, and return large numbers of petitions that are currently rejected because of excess demand (unselected petitions), except in those instances when the registration requirement is suspended.

The H-1B Registration electronic registration requirement, Random Selection Process, and the H-1B Registration Tool, will not otherwise alter the process for processing and adjudicating H-1B petitions (i.e., Form I-129), which USCIS will continue to process and adjudicate as normal.

Privacy Risk: There is a privacy risk that USCIS will collect more information than is necessary to perform the random selection.

²² In 2008, DHS issued a policy declaring eight Fair Information Practice Principles (FIPPs), rooted in the tenets of the Privacy Act of 1974, as the foundation and guiding principles of the Department's privacy program governing the use of personally identifiable information (PII). DHS uses the FIPPs to assess and enhance privacy protections by analyzing the nature and purpose of the collection of PII to fulfill DHS's mission and how the Department can best provide privacy protections in light of these principles. For more information on the FIPPs, see https://www.dhs.gov/sites/default/files/publications/privacy_policyguide_2008-01_0.pdf.



Mitigation: USCIS will significantly reduce its initial collection of information with the implementation of the H-1B Registration Tool. The H-1B Registration Tool will only collect those data elements needed to perform the random selection required by the program. USCIS has identified a minimum set of PII about the registrant and beneficiary needed to administer the Random Selection Process. The H-1B Registration Tool will eliminate the need for registrants to prepare and file complete H-1B cap-subject petitions without any certainty that an H-1B cap number will ultimately be allocated to the beneficiary named on the petition. The implementation of the H-1B Registration Tool will only require USCIS to collect the minimum amount of information needed to determine which registrant is eligible to file the complete petition.

Privacy Risk: The H-1B Registration Tool will present the risk of data inaccuracies.

Mitigation: This risk is partially mitigated. The H-1B Registration Tool will be dependent on the accuracy and quality of information provided by the registrant or representative during the registration process. USCIS will not collect information directly from the beneficiary, but will rely on the registrant or representative to gather correct beneficiary data and input the data into the H-1B Registration Tool. The H-1B beneficiary will provide information to the registrant or representative, which is then submitted online. USCIS will provide users an opportunity to review and correct data inputs prior to their official submission to the agency. Moreover, the registration form will include clear and concise instructions to limit the possibility of providing incorrect data (e.g., registrants would be instructed to use mm/dd/yyyy for birth date). Furthermore, registrants and representatives will be able to log into their myUSCIS accounts to view their previously submitted registrations. If a registrant or representative determines that information about a beneficiary is incorrect, he or she can delete the beneficiary from the registration prior to USCIS conducting the Random Selection Process.

Privacy Risk: The submission of multiple registrations for a single beneficiary presents a data integrity risk for the H-1B Registration Random Selection Process.

Mitigation: This risk is partially mitigated. While a registrant may only submit one registration per beneficiary in any FY, the H-1B Registration Tool will not prevent the submission of multiple registrations for a single beneficiary. If a registrant submits more than one registration per beneficiary in the same FY, all registrations filed by that registrant relating to that beneficiary for that FY will be considered invalid. Registrants and representatives are informed in public communication, the final rule, and on screen in myUSCIS of the rules surrounding the submission of duplicate beneficiaries. USCIS provides users an opportunity to review, correct data inputs, or remove duplicate entries prior to their official submission to the agency. Registrants and representatives can delete duplicates prior to the selection period if they discover a duplicate while reviewing their submissions. Registrants and representatives are able to review all of their submissions via a .csv file download. Duplicate beneficiaries will be identified as invalid beneficiary registrations and automatically removed by the system immediately prior to the



Random Selection Process. After the Random Selection Process, the account holder will be notified that the beneficiary was invalidated as a prohibited duplicate submission.

Uses of the Information

There are no new uses of this information resulting from the implementation of the H-1B Registration Tool and Random Selection Process. USCIS will use the H-1B Cap Registration information to administer the H-1B cap selection process. USCIS uses the information collected through the H-1B Registration Tool to administer a Random Selection Process to determine which prospective petitioners (registrants) are eligible to file an H-1B cap-subject petition on behalf of the beneficiary named in the registration submission. The collected information will also be used by USCIS to generate notifications to forward to the account holder who submitted the registration indicating whether the prospective petitioner may file a Form I-129 to request classification of the named beneficiary as an H-1B nonimmigrant worker.

The H-1B Registration Tool will electronically transmit the information to the Benefits HUB (BHUB) application within the CLAIMS 3 security boundary to enable the Random Selection Process to be run. The data will be automatically transferred via a system-to-system connection between myUSCIS and BHUB.

The information collected during the initial registration through the H-1B Registration Tool is only used for the initial registration and Random Selection Process. Selected registrants or representatives will be required to submit the information collected during the H-1B registration process again when filing Form I-129, Petition for a Nonimmigrant Worker, as that information is required for processing and adjudication of the form. The H-1B Registration Tool does not otherwise alter the process for processing and adjudicating H-1B petitions (i.e., Form I-129), which USCIS will continue to process and adjudicate as described in the CLAIMS 3 PIA²³ and Benefits Information System (BIS) system of records notice (SORN).²⁴

Privacy Risk: There is a privacy risk that unauthorized users could access the registration records.

Mitigation: All records will be protected from unauthorized access through appropriate administrative, physical, and technical safeguards that include restricting access to authorized personnel who have a need-to-know. USCIS will limit access to PII by employing role-based access (only allowing access to users who need particular PII to perform their duties). USCIS will also deploy user logs to ensure users are only accessing information related to their job functions.

²³ See DHS/USCIS/PIA-016 Computer Linked Application Information Management System (CLAIMS 3) and Associated Systems, available at www.dhs.gov/privacy.

²⁴ DHS/USCIS-007 Benefits Information System, 84 FR 54622 (October 10, 2019).



Privacy Risk: There is a privacy risk that USCIS will use collected information for unauthorized purposes.

Mitigation: USCIS will only use the collected information to determine which prospective petitioners are eligible to file an H-1B cap-subject petition on behalf of the beneficiary named in the registration submission. USCIS will notify registrants or representatives, as applicable, if a registration they submitted has been selected in a selection notice. The selection notice will contain the selected beneficiary's BCN and a unique machine-readable zone²⁵ that USCIS will use to verify the submitted Form I-129 petition corresponds with the intended beneficiary. USCIS will require the petitioner to submit the selection notice to facilitate the proper and timely determination of eligibility to file an H-1B cap-subject petition. The submission of the selection notice is an anti-fraud measure to ensure the integrity of the H-1B cap number allocation process. USCIS will store the selection notice in the USCIS Content Management Services (CMS).²⁶ The selection notice will be available for view any time the registrant or representative logs in to view his or her myUSCIS account.

Notice

DHS published a notice in the Federal Register on January 9, 2020, to announce the initial implementation of the H-1B registration process requirement in advance of the FY21 cap season.²⁷ Prior to implementation of the H-1B registration process and tool, USCIS conducted public outreach to ensure prospective petitioners and representatives understand how to access and use the system. Through these notices, USCIS provides transparency about the amended H-1B regulations by informing petitioners about how USCIS will use the data.

Individuals received and continue to receive notice of the amended H-1B regulations, the implementation of the H-1B Registration Tool, and the Random Selection Process through published Federal Register notices, this PIA Update, associated SORNs, and other outreach materials published on the USCIS website or other public websites. Additionally, the H-1B Registration Tool contains a Privacy Notice that provides notice to individuals about the collection, USCIS's authority to collect information, the purposes of data collection, routine uses of the information, and the consequences, if any, for declining to provide USCIS with the requested information.

USCIS will inform registrants and representatives that USCIS will not use the information for any purpose other than to administer the H-1B cap selection process and determine eligibility

²⁵ A machine-readable zone is a specific section on a document with structured data in a format that can be easily processed by a computer, such as a barcode or formatted in a standard computer language (not English text) that can be read automatically by a web browser or computer system.

²⁶ See DHS/USCIS/PIA-079 Content Management Services, available at www.dhs.gov/privacy.

²⁷ Registration Requirement for Petitioners Seeking To File H-1B Petitions on Behalf of Cap-Subject Aliens, 85 FR 1176 (January 9, 2020), <https://www.federalregister.gov/documents/2020/01/09/2020-00182/registration-requirement-for-petitioners-seeking-to-file-h-1b-petitions-on-behalf-of-cap-subject>



for filing H-1B cap-subject petitions. Furthermore, registrants and representatives will be informed through the online Privacy Notice and instructions that they are not required to provide information and providing PII is voluntary. However, failure to provide the requested information may delay or prevent the completion of the H-1B registration submission, which may preclude the registrant or representative from participating in the H-1B cap selection process and being eligible to file an H-1B cap-subject petition (unless the registration requirement is suspended). The registrant or representative may either consent to the stated uses of their information or choose not to participate in the H-1B Registration process.

Privacy Risk: Registrants and representatives may submit beneficiary information for the H-1B cap Random Selection Process without the data subject's knowledge or consent.

Mitigation: This risk is partially mitigated. Registrants and representatives who choose to participate in the registration process submit a registration for each prospective H-1B beneficiary for whom they seek to file an H-1B cap petition. This process will allow registrants and representatives to register on behalf of the prospective beneficiary for consideration of available H-1B cap numbers. USCIS will not collect information directly from the beneficiary, but will rely on the registrant or representative to provide all required information. To ensure that information is accurate, the registrant or representative will likely need to confirm PII with the beneficiary prior to submission. Furthermore, as the prospective petitioners will be required to file Form I-129, *Petition for a Nonimmigrant Worker*, as a second step in obtaining authorization to employ selected beneficiaries it is unlikely that registrants or representatives will submit registrations for individuals uninterested in employment. To minimize this risk, USCIS will provide notice to the public through the USCIS website, the applicable Final Rules, SORN, and this PIA update. These notices are aimed to inform the public of the new H-1B Cap Registration process.

Data Retention by the project

USCIS will be retaining the full information collected from the online registration. The USCIS Records Officer is working to establish a record retention schedule for the H-1B Cap Registration selection process records. USCIS plans to establish a retention schedule that requires USCIS to retain the data for the least amount of time as possible necessary for USCIS to perform the Random Selection Process for the H-1B Cap registration. In accordance with federal records laws, USCIS will not destroy records until NARA approves a retention schedule for the records.

Privacy Risk: There is privacy risk that H-1B registration information will be retained longer than required because there is no retention schedule in place for the information.

Mitigation: This risk is not mitigated. USCIS is planning to develop a records retention schedule for the H-1B registration information and will ensure the records retention schedule is approved by NARA prior to the destruction of any records. Until USCIS completes a NARA-approved retention schedule, USCIS will maintain all non-scheduled records indefinitely. All data



will be protected from unauthorized disclosure and access by using appropriate technical, physical, and administrative controls.

Information Sharing

USCIS does not routinely share case specific H-1B Cap Registration information collected and used by the H-1B Registration Tool with external entities. The registration system will only maintain information on whether the prospective petitioner was eligible to file an H-1B cap-subject petition. However, USCIS may share H-1B registration information outside of USCIS for law enforcement, investigation, and litigation purposes or for corrective action.

The H-1B Registration Tool, via myUSCIS, connects to the U.S. Department of Treasury's Pay.Gov²⁸ service to enable users to pay the required registration fee. The myUSCIS account holder is redirected to the Pay.Gov interface, and Pay.Gov collects payment information (e.g., credit card, debit card, or Automated Clearing House (ACH debit)) from a personal bank account and billing information. Once Pay.Gov validates the payment information, the account holder is routed back to the H-1B Registration Tool and the H-1B Registration Tool confirms to the registrant or representative that he or she successfully submitted the request. Pay.gov returns a success or fail message and associated transaction number. No registration or payment information is shared between the systems. This follows the current process in place for individuals submitting and paying for immigration benefit requests via myUSCIS Account Experience.

Privacy Risk: There is a risk of misuse, unauthorized access to, or disclosure of, H-1B information.

Mitigation: This risk is mitigated. USCIS does not routinely share any specific H-1B registration information with external entities. Registrations suspected of misuse, abuse, or fraud will be sent to the Fraud Detection and National Security Directorate (FDNS) for administrative purposes.²⁹ Information may be shared outside of USCIS for law enforcement, investigation, and litigation purposes or for corrective action. USCIS provides notice to registrants and representatives through an attestation and Privacy Notice, that information may be shared outside of USCIS for registrations suspected of misuse, abuse, or fraud. Any disclosure outside of DHS must be compatible with the purpose for which the information was originally collected, and the routine uses outlined in the Benefits Information System SORN.³⁰ Only authorized external personnel with a need-to-know may have access to the registration information.

²⁸ See U.S. Department of Treasury Financial Management Services Pay.Gov Privacy Impact Assessment 2.0 (July 1, 2011), available at, http://fms.treas.gov/pia/paygov_pia%20.pdf.

²⁹ See DHS/USCIS/PIA-013 Fraud Detection and National Security Directorate, available at www.dhs.gov/privacy.

³⁰ DHS/USCIS-007 Benefits Information System, 84 FR 54622 (October 10, 2019).



Redress

This update does not impact how access, redress, and correction may be sought through USCIS. USCIS continues to provide individuals with access to their information through a Privacy Act or Freedom of Information Act request. Individuals not covered by the Privacy Act or the Judicial Redress Act (JRA) still may obtain access to records consistent with FOIA unless disclosure is prohibited by law or if the agency reasonably foresees that disclosure would harm an interest protected by an exemption. U.S. Citizens and Lawful Permanent Residents (LPR) may also file a Privacy Act request to access their information. If an individual would like to file a Privacy Act or FOIA request to view his or her USCIS, record the request can be mailed to the following address:

National Records Center
Freedom of Information Act/Privacy Act Program
P. O. Box 648010
Lee's Summit, MO 64064-8010

Persons not covered by the Privacy Act or JRA are not able to amend their records through FOIA. Should a non-U.S. person find inaccurate information in his or her record received through FOIA, he or she may visit a local USCIS Field Office to identify and amend inaccurate records with evidence. There are no additional risks to redress.

Auditing and Accountability

USCIS ensures that practices stated in this PIA Update comply with federal, DHS, and USCIS policies and procedures, including standard operating procedures, orientation and training, rules of behavior, and auditing and accountability procedures. myUSCIS (where the H-1B Registration Tool resides) and CLAIMS 3 (where BHUB resides) are maintained in the Amazon Web Service (AWS) cloud platform, which is a public cloud designed to meet a wide range of security and privacy requirements (e.g., administrative, operational and technical controls) that are used by USCIS to protect data in accordance with federal security guidelines.³¹ AWS is Federal Risk and Authorization Management Program (FedRAMP)-approved and authorized to host PII. FedRAMP³² is a U.S. Government-wide program that delivers a standard approach to the security assessment, authorization, and continuous monitoring for cloud services.

USCIS employs technical and security controls to preserve the confidentiality, integrity, and availability of the data, which are validated during the security authorization process. These

³¹ Public clouds are owned and operated by third-party service providers whereas private clouds are those that are built exclusively for an individual enterprise.

³² The Federal Risk and Authorization Management Program (FedRAMP) is a government-wide program that provides a standardized approach to security assessment, authorization, and continuous monitoring for cloud products and services. FedRAMP created and manages a core set of processes to ensure effective, repeatable cloud security for the government. For more information on the FedRAMP program, see <https://www.fedramp.gov/>.



technical and security controls limit access to USCIS users and mitigates privacy risks associated with unauthorized access and disclosure to non-USCIS users. Further, DHS security specifications also require auditing capabilities that log the activity of each user to reduce the possibility of misuse and inappropriate dissemination of information. All user actions are tracked via audit logs to identify information by user identification, network terminal identification, date, time, and data accessed. All USCIS systems employ auditing measures and technical safeguards to prevent the misuse of data.

Responsible Official

Donald K. Hawkins
Privacy Officer
U.S. Citizenship and Immigration Services
Department of Homeland Security

Approval Signature

Original signed copy on file with the DHS Privacy Office.

Jonathan R. Cantor
Acting Chief Privacy Officer
Department of Homeland Security