

2021 H-1B Lottery

Preparing for a New Administration

William A. Stock
Elise A. Fialkowski
Michele G. Madera

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The H-1B Lottery Process

- Need to identify people early
- Master's cap and regular cap numbers
- Pre-registration process
 - Electronic submission
 - \$10 fee for each beneficiary
 - March 1 – March 20
- Post-registration process
 - Notification of selection through account
 - File petitions only for selected beneficiaries

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Lessons From Last Year

- Importance of account creation and approval by employers
- Multiple registration problems
- Notification timing
- Premium processing of cap and other H's
- Second lottery process (August)
- How many filings do we expect?



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POLL

How many registrations do you anticipate making in 2021?



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Lessons From Last Year

- Importance of account creation and approval by employers
- Multiple registration problems
- Notification timing
- Premium processing of cap and other H's
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What You Need to Do Now

- Register company's account
- Designate a credit card to use
- Registration with Department of Labor for LCA
- Preparing for issues before registration
 - Occupational classification
 - Prevailing wage
 - Status maintenance until October 1



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Anticipating Issues for 2021 Filings

- Specialty occupations
- LCA category
- Alternative wage surveys being questioned
- Problem occupations
- Offsite work, travel, and itineraries
- Remote work (local vs. national)
- Prior periods of CPT, OPT and maintenance of status



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Identifying 2021 Cap Cases

- Need to identify/prepare cases early
 - Consider multiple filings from other employers
- OPT
- L-1A and L-1B
- TN
- Overseas employees
- H-4 EAD
- DACA/TPS/Other
- Prior problematic Hs



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Strategic Advice

- Requesting more information upfront
- Anticipating RFEs
- Set expectations with managers
 - Timing (cap gap limitations)
 - RFEs
- Consider backup plans



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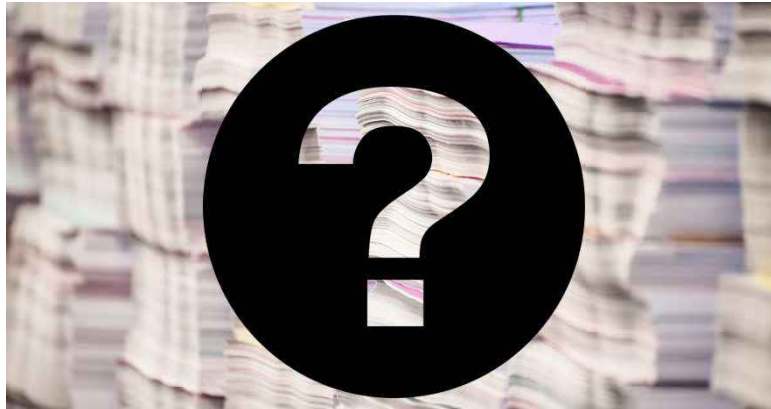
Status of Regulatory Changes Post-Election

- DOL Prevailing Wage Rule (after July 1, 2021)
- DHS Wage-Based H-1B Selection Rule (to 2022?)
- Likely Cancelled by Biden Administration:
 - Redefining H-1B “specialty occupation” and “employer-employee”
 - Changing F-1 and J-1 “D/S” to set dates
 - Eliminating “B-1 in lieu of H-1B”
- Travel Bans: Rescinded, Expiring, Remaining in Place



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Questions?



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William A. Stock, Esq.
215.825.8607
wstock@klaskolaw.com

 [@wstock215](https://twitter.com/wstock215)

 [@William Stock](https://www.facebook.com/WilliamStock)

 [@WilliamStock](https://www.linkedin.com/in/WilliamStock)



Elise A. Fialkowski, Esq.
215.825.8647
efialkowski@klaskolaw.com

 [@Elise-Fialkowski](https://www.linkedin.com/in/Elise-Fialkowski)



Michele G. Madera, Esq.
215.825.8681
mmadera@klaskolaw.com

 [@MicheleMadera](https://www.linkedin.com/in/MicheleMadera)

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