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i Alert: DHS has delayed the effective date of this rule to Dec. 31, 2021. Read more here: [DHS Delays Effective Date of H-1B Selection Final Rule](#).

Rule Expected to Protect the Economic Interests of American Workers

WASHINGTON—U.S. Citizenship and Immigration Services has announced a [final rule](#) that will modify the H-1B cap selection process, amend current lottery procedures, and prioritize wages to protect the economic interests of U.S. workers and better ensure the most highly skilled foreign workers benefit from the temporary employment program.

Modifying the H-1B cap selection process will incentivize employers to offer higher salaries, and/or petition for higher-skilled positions, and establish a more certain path for businesses to achieve personnel needs and remain globally competitive.

“The H-1B temporary visa program has been exploited and abused by employers primarily seeking to fill entry-level positions and reduce overall business costs,” said USCIS Deputy Director for Policy Joseph Edlow. “The current H-1B random selection process makes it difficult for businesses to plan their hiring, fails to leverage the program to compete for the best and brightest international workforce, and has predominately resulted in the annual influx of foreign labor placed in low-wage positions at the expense of U.S. workers.”

This effort will only affect H-1B registrations (or petitions, if the registration process is suspended) submitted by prospective petitioners seeking to file H-1B cap-subject petitions. It will be implemented for both the H-1B regular cap and the H-1B advanced degree exemption, but it will not change the order of selection between the two as established by the [H-1B registration final rule](#).

The final rule will be effective 60 days after its publication in the Federal Register. DHS previously published a notice of proposed rulemaking on Nov. 2, 2020, and carefully considered the public comments received before deciding to publish the proposed regulations as a final rule.

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