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Immigration Magazine

## USCIS Completed FY 2019 H-1B Cap Lottery Process

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### USCIS Completed FY 2019 H-1B Cap Lottery Process

U.S. Citizenship and Immigration Services (USCIS) just announced it had completed the random selection process for the 190,098 petitions it received for the fiscal year 2019 (FY 2019) H-1B Cap. It began accepting H-1B Cap Petitions on April 2, 2018.

On April 12, 2018, USCIS had received sufficient FY 2019 H-1B Cap Petitions for the government-mandated annual 65,000 H-1B visa cap and the 20,000 master's cap (U.S.-advanced-degree visa exemption).

USCIS conducted the lottery process first for the 20,000 master's cap H-1B petitions. Those not selected joined the lottery process for the 65,000 H-1B visa cap.

Premium processing for H-1B Cap Petitions cases selected in the lottery process have been suspended until September 10, 2018. For prior H-1B cap-seasons, USCIS began premium processing for selected H-1B Cap cases a few weeks after April 1.

H-1B Cap Petitions that are not selected will be rejected and returned with their filing fees.

### What is an H-1B?

H-1B petitions are temporary work visas for positions requiring theoretical or

technical expertise in specialized fields for qualified foreign nationals to live and work in the U.S. Many H-1B foreign nationals have successfully gone on to apply for and obtain lawful permanent residence status (also known as, green card).

Foreign nationals with at least a bachelor's degree or the equivalent (equivalent degree and/or work experience) may be sponsored for H-1B petitions. A broad range of positions may fall under H-1B specialty occupations, and each case depends on a position's own set of circumstances necessitating complex legal analysis.

### **Some H-1Bs Are Not Subject to H-1B Cap**

Not all H-1B petitions are subject to annual visa cap, depending on the types of H-1B petition being filed, or the types of entity-sponsor. For examples, foreign nationals who already have approved H-1B petitions or H-1B status may still have H-1B petitions filed for them to extend their H-1B status, or to change or add H-1B employers.

### **Duration of H-1B**

In general, H-1B petitions/work visas are approved for three years each time (up to a total of 6 years). Under certain circumstances, H-1B work visas can be extended beyond the 6-year maximum time limitation.

### **H-1B Cap Petitions Not Selected or Filed After H-1B Cap is Met**

Potential H-1B candidates who do not make it to the 2019 FY H-1B visa cap (October 1, 2018 employment start-date or later) have the options to have their H-1B cap petitions submitted or resubmitted to USCIS on or after April 1, 2019 (October 1, 2019 employment start-date or later) for the FY 2020 H-1B Cap. They may also consider other immigration options such as other nonimmigrant work status and self-petition green card filings, if eligible.

For more information on USCIS H-1B Cap selection process, please visit: <https://www.uscis.gov/news/alerts/uscis-completes-h-1b-cap-random-selection-process-fy-2019>

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This article is intended for informational purposes only, and should not be relied on as legal advice or attorney-client relationship. By Aik Wan Kok, Lawyer USA Immigration Services, at Tiya; Tel: 703-772-8224 & [info@tiyaimmigration.com](mailto:info@tiyaimmigration.com); Direct dial from abroad: 001-703-7728224; <http://www.tiyaimmigration.com> ; <http://tiyalaw.blogspot.com> ; <http://immigrationresource.net>



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U.S. Department of Labor, U.S. Consulates and National Visa Center.

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