

Three Important Immigration Law Updates For Employers

by Sonseere H. Goldenberg, Esq. - Wednesday, February 17, 2021



H-1B Cap-Subject Visas

The H-1B online visa lottery **registration** begins in a few weeks.

If you haven't contacted us yet about filing your application, please make an appointment as soon as possible. We need to gather preliminary information to ensure that your potential hire qualifies for an H-1B *before* registering for the lottery.

In addition to having information at-hand about the company, employers will need to know the following for each H-1B applicant/registration:

- The first, middle, and family names.
- Gender.
- Eligibility to register in the U.S. master's degree lottery.
- Date of birth.
- Country of birth.
- Country of citizenship.
- Passport number.
- \$10 registration fee for each applicant into the lottery.

The registration schedule is:

- March 9: H-1B registration process opens at Noon, Eastern Time.
- March 25: H-1B registration process closes at Noon, Eastern Time.
- March 31: Date by which USCIS intends to notify selected registrants.

- April 1: The earliest date that Fiscal Year 2022 H-1B cap-subject petitions may be filed for jobs starting on or after October 1, 2021.

The Rule that gives priority to jobs offering the highest wages will **not** be in effect for this year's H-1B lottery.

You may have heard that the Trump administration tried to change the way that the H-1B lottery is conducted—specifically that H-1B visas would be awarded to the jobs paying the highest salaries. This Rule will not apply for the upcoming lottery.

The Rule that requires employers to use a prevailing wage that is significantly higher than what U.S. workers receive for the same job duties will **not** go into effect for the upcoming lottery.

This Rule would have significantly increased the prevailing wage rate employers would have to pay to foreign national employees, over-and-above what American workers are making in the same position with the same level of experience, education, and training. This effective date of this Rule has been pushed out.

Liberians in the U.S.

LRIF

Congress has extended the deadline to apply for permanent resident status under the **Liberian Refugee Immigration Fairness** (LRIF) provision in section 901 of the Consolidated Appropriations Act, 2021.

USCIS is so backlogged that they have not yet issued receipt notices for applications received as far back as September and October of 2020. Because of COVID-19, eligible Liberians did not have access to information regarding the program and their eligibility. Many eligible Liberians could not apply, even if they wanted to. Liberians now have until the end of 2021 to apply.

DED and Employment Authorization

In Minnesota, Liberians make up a large and important group of skilled workers providing essential healthcare and other services. President Biden's Order automatically extends employment authorization and legal status through June 20, 2022. You can find [details](#) on the USCIS website, including the Federal Register link.

Liberians who remain eligible for DED do *not* need to apply for a new EAD in order to benefit from this automatic EAD extension through June 30, 2022. This is important to know when reviewing your I-9 forms.

DED-related Employment Authorization Documents (EADs) for those who already have an EAD with a printed expiration date of March 30, 2020 or January 10, 2021 is automatically extended through June 30, 2022.

Agricultural Visas, H-2A

The Department of Labor is stepping up audits of post-hiring compliance and Wage and Hour Division (WHD) audits. WHD has authority to talk to your employees and to inspect without giving the employer advance notice.

The most common violations are related to when the employer unlawfully rejects U.S. workers applying for the agricultural position, giving foreign workers preferential treatment, not complying with record-keeping requirements, housing violations, unlawful deductions from wages, and failing to reimburse employee expenses.

A current, and ongoing concern is stopping the spread of COVID-19 in employer-provided housing and while on-the-job. When submitting job orders to the state DOL offices, employers should specify that employees should expect to be tested for COVID-19 and eventually, vaccinated.

Bottom Line

Stay tuned for updates and details as we know them. If you would like to know what's going on in other immigration areas, let us know! Send us your questions to address in our posts.

[Sonseere H. Goldenberg](#) also provides LinkedIn updates.