AILA's Feedback on
FY 2024 H-1B Registration Tool

With the fourth year of the H-1B cap electronic registration process behind us, the American Immigration Lawyers' Association (AILA) extends our gratitude for the continued opportunity to provide feedback on the H-1B electronic registration tool and process. Overall, AILA believes the H-1B Electronic Registration System works well.[1] The layout and interface of the system is clean, and easy to set up and navigate.

In particular, AILA thanks USCIS for its willingness to work with our members during the registration period to resolve technical glitches in a timely manner. The prompt responses to time-sensitive issues, *e.g.,* turning the registration system to live, investigating disappearing H-1B registrations, and the display issues on the PDF for the ability to practice law and understanding English questions, were greatly appreciated. While the process to report general glitches for the H-1B Electronic Registration System continues to be somewhat cumbersome, AILA members reported the IT interface issues were resolved promptly, enabling them to proceed with the submissions within the H-1B registration period.

AILA welcomed the presentations USCIS conducted for employers and attorneys regarding the H-1B Electronic Registration System, as well as the online step-by-step instructions, FAQs with screen shots and PowerPoints. These tools and resources were clear references and useful guides. AILA and its members thank USCIS for creating these resources and encourage USCIS to continue to provide insights and additional training and education materials for the H-1B Electronic Registration System. AILA would appreciate more resources for employers who are represented by attorneys.

AILA also appreciates the FY2024 change which enables employers to delete their accounts if they registered for the incorrect account type. This functionality eliminated the confusion and frustration that would require a different email address to resolve the issue. We thank USCIS in continuing to provide this option to employers. We also applaud USCIS's addition and enhancement of the duplicate registration checker for the H-1B registration system.

With the goal of making the registration process even more efficient, AILA offers the following suggestions to further enhance the H-1B Electronic Registration System. AILA would also like to offer to provide volunteers for any testing of new features and/or enhancements, including in testing the creation of principal and subsidiary registration accounts.

Suggested Improvements

- **Alerts Prior to Submitting a Duplicate Registration**

As noted above, AILA applauds the addition and enhancement of the duplicate registration checker for the H-1B registration system. However, the issue of duplicate registration continues to plague the system due to the employer login and attorney electronic passcode handshake process. Because the duplicate checker verifies only the cases within a batch at a certain point in time, and does not prevent future duplicate registrations, the duplicate checker was not able to catch some of the duplicate registrations *between* the login and handshakes, nor between multiple registration batches, such as cases where an employer needed to break up their registration submissions into multiple entries to comply with the 250 individual limit per batch submission. To avoid the filing of duplicate registrations, whether by human error, or because of systemic issues due to real-time submissions, we recommend that USCIS implement an additional   process to perform a search of the database of already submitted

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[1] AILA, along with our coalition partners, have previously raised our concerns with how the lottery is run in a manner that has incentivized individuals to have multiple registrations filed on their behalf, some of which may not be legitimate. AILA encourages USCIS to implement changes to the lottery system before the next registration period. *See* https://www.aila.org/advo-media/aila-correspondence/2023/letter-to-dhs-on-the-h-1b-registration-and-lottery.

registrations for potential duplicates, prior to transferring a registration to pay.gov. Cross-checking the current submission against itself and against previous registration filings (*e.g.,* running a real time query by FEIN and passport number) before submission of each batch will address the issue raised.

In addition, AILA proposes the implementation of a pop-up warning for the "H-1B employer/registrant" before transferring to the pay.gov payment page noting language similar to:

> If you have a representative who has provided a passcode to you, please confirm with your representative that they have not already submitted payment for the registration. Submitting a duplicate registration with payment for the same beneficiary within the same fiscal year will result in rejection and cancelation of all registrations for this beneficiary for the fiscal year.

Another suggestion is to disable the payment function or the ability to be transferred to the pay.gov page if an employer/H-1B registrant clicks 'yes' on a pop-up warning with a question on whether the employer/H-1B registrant has a representative/attorney and a passcode. This would require the employer/H-1B registrant to affirmatively answer a question which would prevent duplicate registration if an employer/H-1B registrant is represented by an attorney and was given a passcode but for whatever reason went through the registration input pages on their own.

Lastly, it would be useful to have a system functionality where an employer can provide authorization for an attorney to view all H-1B registration submitted for a specific fiscal year. This will enable an attorney to verify if there are potential duplicate submissions.

The consequences of submission of a duplicative registration, due to no fault of the beneficiary, are so high, potentially leading to their inability to maintain valid nonimmigrant status in the United States, that we feel these fail-safe options are critical to providing protection to these individuals and safeguard the integrity of the H-1B registration system.

- **Public Engagement and Training Materials**

AILA appreciated the informational sessions and PowerPoint slides USCIS provided to assist with the account creation process. However, for employers who are represented by attorneys/representatives there are no PowerPoint or screen shots to guide them on how to complete their required steps to enter the passcode sent by their attorney/representative or review the application and complete the electronic handshake process. As a result, many attorneys/representatives had to use different accounts so they could take screen shots of what clients would see and create instructions from those screen shots. AILA requests that USCIS include a demonstration of the client-side of the employer passcode, review and electronic handshake process in their future informational sessions for attorney/representative accounts and also create a separate PowerPoint for attorneys/representatives to provide to clients.

AILA also requests that USCIS conduct updated presentations and engagements for attorneys/representatives as well as for individual employers/registrants each year since there are new attorneys/representatives and individual employers/registrants who are unfamiliar with the H-1B Electronic Registration System each year. For the FY2024 lottery season, USCIS provided a presentation last updated in February 2021, and the website user interface had changed slightly since this date. Although we appreciate that the previous years' FAQs and presentations are maintained and easily found online, we believe that annual engagements/updates of materials for both user groups will enhance efficiency, increase user familiarity with the system, highlight new features and reduce redundant questions that can be resolved without contacting USCIS.

- **Account Creation and MyUSCIS Account Reset**

AILA understands USCIS added additional categories of email addresses that are permitted to be used in the system on the account creation page. AILA members continue to indicate that some less common email domain extensions, such as ".io," are rejected by the page as invalid. Therefore, it will assist with resolving this confusion if USCIS either allows for a wider variety of domain extensions for the email addresses or explicitly publicizes which domain extensions are allowed for the H-1B Electronic Registration System. In addition, if there is an issue to create an account due to an email address, we request that USCIS also provide a call back within 48 hours once an account holder identifies an issue. Members have reported that technical issues forwarded to USCIS relating to reset of passwords took about a week to receive a response for FY 2024. It was also difficult to find assistance for log in issues for myUSCIS accounts that were used in previous years. For example, attorneys and employers were unable to retrieve accounts from previous registration periods which involved authenticator codes not being recognized.

Every year, more cases are added to the online accounts. This creates confusion especially with regard to duplicates from year to year. We request the addition of a functionality to archive prior fiscal year H-1B cases.

- **G-28 Employer Issues/Employer Type**

Form G-28, within the registration system, asks for Employer Name and then subsequently asks users to input First Name, Middle Name, and Last Name, like the paper version. Because the H-1B Electronic Registration System version of Form G-28 makes the First Name, Middle Name, and Last Name boxes required fields, users have experienced confusion on whether those boxes should be marked "N/A" when an employer, and not an individual, is filing the registration.

Our suggestion is to allow for a checkbox where an employer/registrant can note that it is an entity and not an individual, thus bypassing the requirement for the First Name, Middle Name, and Last Name.

- **Duplicative Data Entry**

Much of the information for the employer and attorney is repeated throughout the registration process. To make the process more efficient and reduce the possibility of typographical errors, it would be helpful to create an attorney account and individual employer accounts through myUSCIS that would allow the information to populate in each form. The system seems to pre-populate some areas with information from the myUSCIS account already (*i.e.,* attorney account number). Would it be possible to create a mechanism for attorney/representative information to be tied to their MyUSCIS accounts such that only the client information would need to be entered for each new G-28?

- **Issues for large companies with multiple subsidiaries**

Large companies with multiple subsidiaries and shared Human Resources service models often wish to designate one, or a few individuals, to be responsible for the registration of all subsidiaries and handling of all related H-1B lottery submissions. However, once an email address is used in connection with the creation of an account, it cannot be used in connection with another account. The less than efficient solution for these employers has been to create multiple email addresses for these individuals. Some of these individuals were concerned about using email addresses other than their official corporate email address, while others also had difficulty tracking multiple email accounts. AILA respectfully requests that USCIS create a system for a "parent" account wherein one user could maintain multiple registration accounts under the same email address. We understand from AILA's meeting with USCIS on January 24, 2023 as well as at the AILA Annual Conference Technology session in June 2023, that your IT department was looking into creating parent accounts. AILA appreciates any efforts made to address this issue. As we have noted above, AILA would be happy to assist with any beta-testing for this functionality before the official launch for the FY 2025 H-1B Registration system.

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- **Staff/Associate Attorneys**

The Q&A on the H-1B Electronic Registration Process page[2] includes the following:

"Q24. Will the system allow for multiple staff members to log into my account at the same time?
A24. No. You must agree to the Terms of Use, which include an attestation that you are the person that holds the account and that you will not share your account with others or allow others to use your account."

For efficiency purposes, attorneys would often prefer to have other associate attorneys, paralegals, or other legal support staff assist in the creation of accounts as well as the preparation of draft registrations for the attorney of record's review (and correction, as necessary).

AILA respectfully suggests the following solutions:

1. Change the language in the Terms of Use and Q&A to allow associate attorneys and/or staff working under the supervision of the attorney of record to perform such tasks; and/or,

2. Allow for the creation of sub accounts for other attorneys associated with the attorney of record and/or support staff of the attorney of record, which would permit these users to prepare entries for the attorney of record's final review and submission. In general, the MyUSCIS system overall needs improvements that recognize the way that most modern law firms work. Implementing a system that permits multiple users in the same firm to work on different parts of the same case would be a welcome improvement that would not only make the H-1B Registration feature easier to use but would likely increase the amount of online filings of other form types by represented petitioners and applicants.

- **Cumbersome Process for Clients to Review and Accept G-28s and Registrations**

Several members reported that their clients found the process to review, accept and sign the electronic Form G-28 and then separately have to review, accept and sign the electronic H-1B registration to be unnecessarily confusing and cumbersome. Some users were confused by the two-step process and presumed they had completed the registration once they had completed the Form G-28 portion of the authorization. In terms of post-data input and corrections, employers and attorney/representatives alike are still confused as to what to do if an employer discovers an error on the Form G-28 or in the registration. Should they accept it and then tell the attorney/representative of the errors, reject just the form with the error or reject both forms? Employers/registrants seem to believe that rejecting Form G-28 and/or registration will delete the registration when, in fact, accepting a document with an error will actually require the registration to have to be deleted and recreated. Members have also noted that when their clients accept Form G-28 and then reject the registration, and subsequently realized there is a mistake in Form G-28, they are not able to recall the G-28 to fix the mistake. The members in that circumstance had to delete both the registration and the Form G-28 to restart, which in turn created more anxiety on possible duplicate registration.

AILA respectfully suggests the following solutions:

1. Adding a warning box or other instruction alerting the employer/registrant that registration with an attorney/representative is a two-part process and that, once Form G-28 has been reviewed and accepted, an employer/registrant must then proceed to the registration section to review and confirm the information completed by their attorney/representative.

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[2] https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-1b-specialty-occupations-and-fashion-models/h-1b-electronic-registration-process. Last accessed June 30, 2023.

2. Adding an instruction that if there are errors in Form G-28, the employer/registrant must reject Form G-28 so that the attorney/representative can edit Form G-28 and return to the employer/registrant for review. After the employer/registrant accepts Form G-28, then the employer/registrant may proceed to review the registration. The employer/registrant must reject the registration if there is any information requiring edits.

3. An additional step that would be helpful and reduce confusion (and potentially reduce accidental duplicate registrations) would be to have a pop-up confirmation box or display when an employer/registrant has finished both Form G-28 and registration to note that the employer/registrant has completed their steps, and the registration will now be returned to the attorney/representative to confirm and pay for the registrations.

AILA thanks USCIS for making the suggested change in moving the attorney passcode box to the top part of the employer log-in screen. This improved user interface layout helps make the employer/registrant user experience smoother and help prevent the accidental duplicate registration.

AILA recommends that a warning box be prominently placed on the landing page for the registrant system to note that if a registrant has a passcode from a representative, a new registration should not be started. The registrant should not enter any biographical information but should rather enter the passcode, where indicated, to access the draft registration prepared by their attorney/representative.

- **Post-Data Input Issues/Editing Form G-28 after Petitioner has Authenticated the Form**

Once an employer/registrant has authenticated Form G-28 and proceeded to review the registration, there is no mechanism to edit the data in the form if a correction needs to be made. Instead, the entire registration needs to be deleted and redone.

AILA suggests creating a process that will enable attorneys/representatives to recall and edit Form G-28 information after a client registrant has authenticated the form (without deleting the entire registration) and then require the employer/registrant to re-authenticate it.

- **One Time Passcode and Alert to Registrant of the Two-Part Verification**

AILA members reported that many clients misunderstood the verification process and logged out after authenticating and signing Form G-28 without proceeding to the registration. AILA respectfully suggests that USCIS place a warning or instruction box after the employer/registrant authenticated Form G-28 to alert clients/employers/H-1B registrants that there are two parts to the verification process if the registrant is represented and using a passcode, and that the user should proceed to the registration for verification.

- **Batch Registrations**

The user interface for batch registrations is difficult for attorneys and registrants who are submitting a large number of registrations in a batch. While AILA members appreciate the ability for data that was entered for a batch registration to be exported in CSV format, which can then be viewed in an Excel document, the inability to batch-upload the data in the first place frustrates the process.

AILA respectfully suggests creating a mechanism for data in a CSV, or similar format, to be uploaded to the user interface to create registrations.

- **Post-Data Input Issues/Registration Deletions & Form G-28 Withdrawals**

When a registration is deleted by the employer/registrant or attorney/representative after submission, there is no confirmation that the registration has been deleted. This is an issue where duplicate registrations were not visible to the attorney/representative after Form G-28 was withdrawn, making it impossible for an attorney/representative to verify whether the company registration was also deleted.

AILA respectfully suggests that this problem could be avoided by sending a confirmation email to both the attorney/representative and employer/registrant when a registration is deleted notifying both parties that the registration has been deleted, with the deleted registration number as a record.

Similarly, when a Form G-28 is withdrawn, there is no confirmation that the registration form has been deleted.

AILA recommends that a confirmation email be sent to the employer/registrant and the attorney/representatives when (1) a registration is deleted, and/or (2) a Form G-28 is withdrawn.

Additionally, AILA recommends that the ability to withdraw a registration be available up until the time the cap has officially been reached. Many of the "round 2" selections were of registrations that would have been deleted, due to the candidate's inability to maintain status or the employer's decision not to move forward after not having had the registration selected in the first round. Having the ability to withdraw a registration after the first round of selections would result in more efficient second round, or third, should they be required.

- **Attorney Notification After Employer Confirms Registration and Form G-28**

With the anxiety involved with the H-1B registration period, AILA respectfully suggests an additional user interface feature that would send notification to attorneys/representatives when an employer/registrant has completed Form G-28 and registration confirmation. In the current system, the attorney/representative must either rely on their client to let them know when they have completed their steps in the system, or frequently log onto their myUSCIS account to check to see if the registration is now available to submit and pay, indicating the employer has completed their part of the process. This would address a cumbersome and inefficient part of the handshake process.

- **Registration Fee Payment Confirmation**

There is no confirmation that the registration fee has cleared or been paid and the effect of an error in the fee payment is potentially devastating to both the employer and prospective H-1B beneficiary. This lack of information was particularly concerning when the pay.gov website was not operational and attorneys and H-1B registrants were concerned that their successful payments might have been affected.

While AILA understands that the payment process is actually handled by the Department of Treasury through its *pay.gov* website, we would suggest the following actions that could be taken by USCIS to help users proactively address payment failures:

1. Send an email notification to the H-1B registrant and the attorney/representative, if applicable, once the payment has cleared, or in the alternative, add an extra column to the registration summary page noting "payment confirmed" when the payment has cleared, or "payment pending" if the payment has not cleared;
2. Send an email notification to the H-1B registrant and the attorney/representative, if applicable, if the payment does not clear or was rejected, and provide the opportunity to provide a substitute payment method (i.e., credit card, debit card, ACH transfer, etc.); and
3. Provide a reasonable grace period, *e.g.,* 72 hours after notifications are sent, to cure payment issues, even if that occurs after the registration period has closed.

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- **Process to Quickly Identify Selected Registrations**

AILA appreciates the timely manner with which USCIS has completed the H-1B Initial Electronic Registration Process since the program was initiated, and correspondingly notified registrants of their initial selection. However, identifying which specific beneficiaries were selected was cumbersome, as there is no method to sort by "selected" versus "submitted" in the MyUSCIS account. This is particularly problematic for large employers and/or law firms registering for many employers, as they are required to manually search through hundreds or thousands of registrations to find those that indicated "selected." The likelihood of accidentally missing a "selected" registration and failing to file an H-1B petition is also increased as a result of this inefficient process. To facilitate this process, AILA respectfully offers the following recommendations:

1. Include beneficiary registration number(s) in the email alerting the registrant of selection. This way, registrants would know how many selections to check for in the system;
2. Provide a sorting functionality to allow registrants to group registrations by "selected" versus "submitted"; and
3. Include a "date selected" column as another means to distinguish between "selected" versus "submitted," which will also be useful if there is a second round of selections. Also, provide the functionality to sort by "date selected."

Furthermore, while the subsequent rounds of H-1B registration selections were quite welcome in prior years, there were challenges in identifying those cases selected in the subsequent rounds, as there was no means to distinguish them from those selected in the previous rounds. Moreover, members reported receiving several email notifications for a single new selection, which was only determined after manually searching through many registrations. Thus, including the registration number in the selection email would eliminate this confusion, as it could be easily determined whether it was in fact a duplicate email.

- **Post-Selection/Ability to Withdraw Registration**

AILA understands that the employer is not obligated to file the H-1B petition on behalf of the selected beneficiary. However, it is not clear why a selected registration itself cannot be withdrawn. From a functional perspective, this could be achieved through a "withdraw" button next to the selection, with a dropdown space where the registrant can explain why it is being withdrawn. The benefit of withdrawing the registration would be two-fold:

1. It would provide advance notice of the number of H-1Bs that will be filed, allowing USCIS to make the best use of its resources. This would also enable USCIS to timely plan for a subsequent lottery, if necessary.

2. It would provide the petitioner with the opportunity to explain the reason for non-filing, relieving it of the burden of "retaining documentation to evidence the reason for non-filing if questioned" as required in the USCIS FAQs on "H-1B Electronic Registration Process."

- **Post-Selection/Notifications**

AILA thanks USCIS for the announcements "USCIS Will Conduct Second Random Selection from Previously Submitted FY 2024 H-1B Cap Registrations" on July 27, 2023, and "Second Random Selection from Previously Submitted Registrations Complete for FY 2024 H-1B Cap" on July 3, 2023. These announcements helped reduce confusion and anxiety. AILA respectfully requests that USCIS continue to announce the date that selections will be made at least a day in advance. Similarly, AILA requests that once USCIS determines the "cap" has been reached, an announcement be made before, or concurrently with, the time that non-selection notices are uploaded and emails are sent.

- **Post-Selection/Real-Time Reporting**

After the first round of selections is made, attorneys and H-1B petitioners and beneficiaries are in the dark as to whether there will be subsequent selection rounds. Any information that could be provided to help predict whether there might be additional rounds of selection would help H-1B petitioners and beneficiaries better plan for the future and might avoid unnecessary filings to keep beneficiaries in the U.S. until a 'hoped-for' additional round of selections is made.

Prior to the years when the cap was routinely reached on the initial first day or days when cap-subject H-1B petitions could be filed, USCIS would provide updates on the number of H-1B petitions counted toward the cap. This real time reporting assisted attorneys and H-1B petitioners gauge the likelihood of being able to file before the cap was actually reached. AILA suggests a similar reporting system could be instituted whereby USCIS's announcement regarding the total number of petitions received is followed by weekly adjudication numbers, broken down by approval and denial/withdrawal, until an announcement is made that the cap has been reached. Attorneys, petitioners and beneficiaries could then make their own educated determinations as to the likelihood of an additional round of selections and their chances of selection.

- **Notification to Users of Potential Down Time or System Maintenance on System Functionalities**

AILA understands that with all technologies, there is a potential for crashes or system maintenance downtime. AILA suggests that USCIS posts information on system updates as well as potential system maintenance on the website to help ease anxiety for employers and attorneys when they encounter error messages when attempting to file a registration.

Conclusion

AILA appreciates USCIS's efforts to make its H-1B Electronic Registration System as easy to navigate as possible. While our list of suggestions may appear extensive, we do recognize the work that USCIS has done and believe the system overall works well and as intended. AILA deeply appreciates USCIS's willingness to consider the above suggestions for additional enhancements to the system. We welcome the opportunity to discuss these recommendations. Please do not hesitate to contact AILA's Director of Government Relations, Shev Dalal-Dheini at sdalal-dheini@aila.org if AILA can be of further assistance (e.g., providing volunteers for testing system improvements and/or additional comments).