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A second H-1B cap lottery for fiscal 2023 is unlikely

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MUMBAI: Immigration attorneys are reporting issue of H-1B cap 'non-selection' notices, this is an indication that there will be no second lottery conducted for the fiscal year 2023 (year ending September 30, 2023). For this particular season, as reported by TOI earlier, US Citizenship and Immigration Services (USCIS) had received 483,927 H-1B cap E-registrations of which it had selected 127,600 registrations to meet the H-1B cap annual quota.

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The annual quota for H-1B cap visas is 85,000 (which includes 20,000 visas that are allotted under the Masters' cap for those beneficiaries having advanced degrees from US universities).

In selecting the 127,600 E-registrations USCIS would have factored in various facets such as the sponsoring US employer not going through with the actual filing process for the visa or the possibility of denial of the visas.

According to Rajiv S Khanna, managing attorney at Immigration.com, “There may not be a second H-1B lottery this year. The USCIS has electronically issued several ‘non-selection’ notices, which is a step taken only when there will be no more lotteries.” For the fiscal year 2023, sponsoring employers whose registrations were accepted had to file the visa applications by June 30 – the close of the filing season.

For now, it appears that USCIS has met its annual H-1B cap quota and there is no need for a second lottery. There is no formal announcement from USCIS, as yet.

Kripa Upadhyay, Managing Attorney at Orbit Law explains, “Per earlier reports, USCIS received 483,000 odd registrations for essentially 85,000 numbers. It pulled 127,600 registrations in the selection process so even if some employees selected in the lottery did not file the H-1B application by the end of June as required; they started with an excess pool so they likely did not need to have a second lottery.”

Last fiscal appears to be an aberration. For fiscal 2022, USCIS had received 308,613 H-1B cap registrations and initially selected only 87,500 registrations – which were projected as needed to reach the annual quota. However, owing to low filing volumes, a second lottery was held in July 2021 – based on the original registrations and an additional 27,717 registrations were selected. This was followed by a third lottery in November 2021, with a selection of an additional 16,752 registrations.