Applicants for visas for highly skilled foreign workers must register online for an initial lottery before filing their full petitions.

By Michelle Hackman
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WASHINGTON – The Trump administration announced a new process to apply for H-1B visas, requiring applicants to preregister online for an initial lottery before filing their full petitions for the coveted visas for highly skilled foreign workers.

Under the new process, employers must register between March 1-20 to determine who will be selected to apply for the visas, which allow holders to live and work in the U.S. for up to three years at a time, U.S. Citizenship and Immigration Services said Friday.

Under the previous system, U.S. employers prepped their applicants’ full petitions, which cost thousands of dollars to file, to enter a lottery that typically began on April 1.

The new system, USCIS said, is intended to streamline that process. Employers now will be required to pay $10 to enter their applicants’ names into an electronic lottery, and those who receive a registration number can then submit full applications with the associated fees, which can range from about $1,000 to more than $6,000.

"USCIS is creating cost savings and efficiencies for petitioners and the agency, as only those selected will now be required to submit a full petition," USCIS Deputy Director Mark Koumans said.

But the change has raised fears among U.S. employers that, with a lower financial and paperwork barrier to entry, the system will be flooded with many more applications than in previous years. USCIS said late Friday that its system would control for frivolous applications and prevent multiple applications for the same person.

In the past few years, employers have filed about 200,000 applications for roughly 85,000 H-1B slots. Most research institutions, including universities and government institutions like the National Institutes of Health, can apply for an unlimited number of visas.

USCIS, the agency inside the Department of Homeland Security that handles legal immigration issues, had been hinting for months it might move to a preregistration system, though it wouldn’t say whether the new process would take effect for the 2020 filing season or a year later. That raised concerns for many U.S. businesses, which begin prepping H-1B applications months before the spring filing deadline and almost always with the assistance of specialized immigration lawyers.

In August, 15 groups representing large businesses, immigration lawyers and higher-education institutions wrote then-acting USCIS director Ken Cuccinelli a letter to ask that the agency announce by September whether it intended to switch to a new system.

“This is like, someone is preparing their taxes. It’s April 1, the deadline is April 15, and suddenly the IRS comes up with a completely new system to file your taxes,” said Jeff
Lande, chief executive of the Lande Group, a lobbying firm that works on immigration policy.

USCIS said it had announced earlier this year that it would disclose electronic registration periods at least 30 days before each fiscal year, and that this announcement was ahead of that schedule.

The preregistration system will for the first time require applicants to submit their initial application online; until now, the entire H-1B petition process was conducted on paper. The last time USCIS introduced an electronic registration system – a website to apply for H-2B seasonal worker visas – the system crashed within hours of going online.

In their August letter to Mr. Cuccinelli, the groups also asked that they be allowed to test the system before its debut. USCIS’s announcement Friday didn’t refer to outside user testing ahead of its system before its launch March 1, but the agency said separately Friday that its pilot-testing included industry representatives.

“People don’t have full faith in the government that this will work, until they’ve seen it work,” said Sharvari Dalal-Dheini, director of government relations at the American Immigration Lawyers Association and until recently a top lawyer at USCIS.

Some critics also worry that the new layer of selection could lead to the lottery not being completely random, allowing this or a future administration to favor certain applicants.

“It could provide an opportunity to create an additional regulation or policy that could further limit someone’s eligibility,” said Vic Goel, managing partner of Goel and Anderson, a firm that handles H-1B petitions.

USCIS said its new selection process is comparable to current procedures, and the lottery would be random.