

USCIS Service Center Operations provided the following responses to questions regarding H-1B processing:

1. We understand that USCIS will be reviewing H cap cases for "duplicate filings." Please explain how USCIS will determine that a filing is a duplicate. Is this based on the Petitioner FEIN and beneficiary name only? If USCIS believes that a filing is a duplicate, will USCIS provide the Petitioner/Attorney with an opportunity to respond in case there is a misunderstanding? As many foreign nationals have the same or similar names (or various versions of their names) we want to make sure that date of birth or other factors will be reviewed before a case is denied as a duplicate.

Once USCIS determines that duplicate cases exist based on preliminary data entry information, an officer will pull the petitions and evaluate them to ensure that they are in fact duplicate filings. Duplicate petitions (same petitioner, same beneficiary) will be denied outright. Petitions by related companies for the same beneficiary where independent business need is not evident may be issued Request for Evidence giving each petitioner an opportunity to provide an explanation.

2. In the event a cap-subject H-1B petition is improvidently rejected by the USCIS, what mechanism will be in place to facilitate the resubmission of the H-1B petition for inclusion in the lottery?

If the petitioner/attorney believes a petition was returned in error, the petition can be re-filed with an explanation as to the error.