



BUSINESS IMMIGRATION SOLUTIONS

MEMORANDUM: H-1B CAP Lottery for FY 2027

As we approach the FY 2027 H-1B CAP registration period, we have prepared this comprehensive Q&A guide to help you understand the process, key dates, and important considerations. Please review this information carefully and contact us if you have any questions.

What is the H-1B visa category?

The H-1B is a nonimmigrant visa classification that allows U.S. employers to temporarily employ foreign workers in specialty occupations. A specialty occupation requires theoretical and practical application of a body of highly specialized knowledge and a bachelor's degree or higher in a specific specialty (or its foreign equivalent) as a minimum entry requirement. The H-1B allows qualified professionals to work in the United States for up to six years (granted in increments, initially up to three years, with extensions possible).

What is the H-1B CAP and why is there a lottery?

Congress has limited the number of new H-1B visas that can be issued each fiscal year to 65,000, with an additional 20,000 available for beneficiaries who hold a U.S. master's degree or higher. This numerical limitation is known as the "H-1B CAP." Because demand consistently exceeds supply, USCIS conducts a lottery selection process to determine which employers will be eligible to file full H-1B petitions on behalf of their prospective beneficiaries.

What are the key dates and deadlines for the FY 2027 H-1B CAP registration?

- **March 4, 2026 through March 19, 2026:** USCIS has announced that the H-1B registration period will open at noon on March 4, 2026 and run through noon on March 19, 2026. During this window, employers must submit electronic registrations for prospective H-1B beneficiaries through USCIS's online system. Our firm will closely assist you with this registration process.
- **March 31, 2026:** USCIS intends to send selection notifications by March 31, 2026. Selected registrants will be notified via their myUSCIS online account. Account holders should monitor their accounts closely during this period. Our firm will be notified on your behalf.
- **April–June 2026:** Following selection in the lottery, petitioning employers have 90 days from the date of selection notice to prepare, complete, and file the full H-1B petition with USCIS. This includes gathering all required supporting documentation. Our firm will prepare the petition on behalf of your selected applicant.
- **October 1, 2026:** This is the earliest possible start date for H-1B employment for beneficiaries selected in the FY 2027 lottery. This date aligns with the start of the federal government's fiscal year 2027. H-1B approvals will be valid beginning on this date.

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How does the NEW wage-weighted selection process work for FY 2027?

Beginning with the FY 2027 registration season, USCIS has replaced the *previous random lottery* with a **wage-weighted selection system**. This final rule became effective February 27, 2026, and significantly changes how H-1B registrations will be selected.

How the Wage-Weighted System Works:

Under the new system, each beneficiary is entered into the selection pool multiple times based on the Department of Labor's Occupational Employment and Wage Statistics (OEWS) four-tiered wage level associated with the offered H-1B position.

Wage Level	Number of Entries in Selection Pool	Estimated Selection Probability
Level I (Entry-Level)	1 entry	~15%
Level II (Qualified)	2 entries	~30%
Level III (Experienced)	3 entries	~45%
Level IV (Fully Competent)	4 entries	~60%

Note: Some independent analyses suggest these probabilities could be even more dramatic, with Level IV potentially exceeding 70-90% if overall registration volume decreases due to the new \$100,000 fee.

This means that a beneficiary offered a Level IV wage has four times the selection probability compared to a Level I beneficiary. While registrations at all wage levels remain eligible for selection, higher-paid positions now have substantially better odds.

Two-Stage Selection Process Continues:

The advanced degree exemption structure remains in place:

- **First Selection (Advanced Degree Exemption):** USCIS first selects registrations for beneficiaries with U.S. master's degrees or higher to fill the 20,000 advanced degree exemption slots, using the wage-weighted system.
- **Second Selection (Regular CAP):** All remaining registrations—including those for advanced degree holders not selected in the first round—are placed in the lottery for the 65,000 regular CAP numbers, again using wage-weighting.

Important Selection Rules and Anti-Gaming Measures:

- **One registration per beneficiary:** A company may only submit one H-1B registration for each individual employee it wishes to sponsor. A petitioner may sponsor multiple employees, but each employee can only have one registration submitted on their behalf across all employers.

- **Multiple registrations among different employers = lowest wage level assigned:** If multiple employers submit registrations for the same beneficiary at different wage levels, USCIS will assign the LOWEST wage level to the beneficiary among all registrations. This is designed to prevent gaming the system through multiple filings.
- **Multiple worksite locations with wage level variances between locations = lowest wage level:** If a registration lists multiple work locations, the employer must select the lowest equivalent wage level among those locations or positions. USCIS will not allow employers to cherry-pick a higher wage level by ignoring lower-wage alternatives. For example, if a beneficiary's worksites will be both in Buffalo and New York City, and the offered salary qualifies as Level IV in Buffalo but only Level II in NYC, the employer must register at Level II—even if the position will also be based in Buffalo. This prevents employers from listing multiple locations strategically to inflate their wage level for better selection odds.
- **Severe penalties for manipulation:** USCIS may deny or revoke petitions if it determines an employer attempted to unfairly increase selection odds by misrepresenting the wage level, offering an artificially inflated wage at registration only to lower it later, or other gaming tactics.

What is the new \$100,000 H-1B Proclamation Fee?

On September 19, 2025, President Trump issued a Presidential Proclamation titled "Restriction on Entry of Certain Nonimmigrant Workers," which imposed a \$100,000 supplemental fee on certain H-1B petitions filed on or after September 21, 2025. This Proclamation is currently in effect until September 21, 2026 (unless extended) and is being challenged in federal court.

IMPORTANT: Most FY 2027 H-1B CAP petitions filed on behalf of beneficiaries who are physically present in the United States in valid nonimmigrant status (such as F-1, OPT, or other valid status) will NOT be subject to the \$100,000 fee.

If an employer files an H-1B petition requesting a *change of status* (rather than consular processing) on behalf of a beneficiary who is in the United States, the \$100,000 Proclamation fee does not apply. This exemption covers the majority of graduating students and current nonimmigrants who are lawfully present in valid nonimmigrant status in the U.S., and who seek H-1B sponsorship and change of status through the CAP lottery. *Berardi Immigration Law will review an applicant's status documents and advise accordingly.*

The \$100,000 fee will apply to H-1B CAP petitions filed on or after September 21, 2025, where:

- The beneficiary is outside the United States at the time of filing and has never held H-1B status; or
- The petition requests consular processing, port-of-entry notification, or preflight inspection (regardless of whether the beneficiary is in the U.S. at filing).

In limited circumstances, an employer may request a national interest exception by demonstrating that the beneficiary's presence serves the national interest, no qualified U.S. worker is available, the

beneficiary poses no security threat, and requiring the fee would significantly undermine U.S. interests. Employers must submit exception requests to DHS before filing the petition, though USCIS has indicated these exceptions will be granted very rarely.

What happens if my registration is selected in the lottery?

If a registration is selected, the employer will receive a selection notice in their myUSCIS online account and will have 90 days to file a complete H-1B petition. Our office will work closely with the petitioning employer and beneficiary to obtain a certified Labor Condition Application (LCA) from the Department of Labor, maintain the employer’s Public Access File (PAF) for compliance, and prepare Form I-129 with all required supporting documentation.

How much does the H-1B CAP filing cost?

Berardi Immigration Law will confirm the legal fees involved in an employer's H-1B CAP filing.

An initial legal fee covers the CAP registration process and preliminary case analysis. Additionally, the government's H-1B CAP registration fee is \$215 per beneficiary for the FY 2027 season (USCIS has not yet officially announced FY 2027 fees, but this was the fee for FY 2026 and is expected to remain the same).

If a registration is selected for filing, additional legal and government fees will apply:

GOVERNMENT FILING FEES	For-profit >25 employees	For-profit <25 employees
Base filing fee	\$780	\$460
Anti-fraud fee (first petition only; not renewals)	\$500	\$500
ACWIA fee	\$1,500	\$750
Asylum program funding fee	\$600	\$300
TOTAL	\$3,380	\$2,010
<i>OPTIONAL</i> premium processing (expedited review)	\$2,965	\$2,965
TOTAL w/ PREM PROC	6,345	\$4,975

The Department of Labor requires that all H-1B legal and government filing fees (with the exception of premium processing) be paid by the petitioning employer.

What if my registration is not selected in the lottery?

If your registration is not selected in the initial lottery, Berardi Immigration Law will advise on possible alternative options.

What employers are exempt from the H-1B CAP lottery?

Certain employers are exempt from the H-1B CAP limitations and do not require lottery selection. These include: institutions of higher education, nonprofit organizations that are affiliated with institutions of higher education, nonprofit research organizations, government research organizations, and employers filing H-1B extensions, amendments, or transfers.

What are the next steps I should take now?

Begin gathering the required information requested by your contacts at Berardi Immigration Law and coordinate with your prospective employees to collect their documentation and information. Please contact us with any questions about the process.