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The 2027 H-1B season: Revised strategies for sponsoring employers and implications for aspirants

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For thousands of Indian professionals and the companies that seek to hire them, the upcoming H-1B season for fiscal (FY) 2027, may prove to be the most uncertain in the program's history, where higher wages improve selection odds, a \$100,000 entry fee deters overseas hiring, and US consulates in India remain choked with backlogs.

The US Citizenship and Immigration Services (USCIS) has confirmed that the fiscal 2027 H-1B cap registration will open March 4–19, 2026.

The upcoming registration, to be followed by the filing of visa applications for selected beneficiaries, brings together three disruptive forces.

First, the replacement of the random lottery selection with a wage-weighted selection system, where higher prevailing wage levels sharply improve selection odds.

Second, a \$100,000 fee on new H-1B petitions for beneficiaries outside the US — a fee which is still under intense legal challenge.

And third, severe consular interview backlogs in India, which mean that even selected candidates may be unable to enter the US for several months.

US consulates in India have drastically reduced interview availability owing to stringent social media vetting, with many H-1B stamping slots pushed into late 2026 or even 2027, leaving many who had come to visit stranded. The moot question being asked is: Even if a beneficiary is selected in the season's selection process, will he or she make it to the US by Oct 1, 2026, which is the start of the new fiscal?

Traditionally, new H-1B hires have joined their American employer on or around this date. Taken together, these changes are forcing employers to rethink not just how they file H-1Bs, but whether they do so at all.

As Kripa Upadhyay, immigration attorney and partner at Buchalter, told TOI, "Employers are treating the FY 2027 H-1B season less like a lottery and more like a capital allocation decision deciding which roles are truly worth six-figure risk exposure. The wage-weighted system effectively forces companies to front-load immigration strategy into compensation planning, long before they know whether a petition will even be selected. Even with the \$100,000 fee under litigation, most employers are planning as if it will survive — because the cost of being unprepared is far higher than the cost of compliance."



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Kripa Upadhyay
Immigration Attorney | Partner, Buchalter



Upadhyay added, “Employers are moving away from volume filings and toward precision filings.” Snehal Batra, managing attorney at NPZ Law Group, echoed many attorneys in saying that, “We are working with our employer clients to proactively evaluate prospective H-1B candidates, reviewing the appropriate Standard Occupational Classification (SOC) codes, wage levels, and intended work locations well in advance of the H-1B registration period.”

Several attorneys say this has led to a sharp narrowing of filings. TOI spoke to a cross-section of immigration

attorneys across the US to gauge what employers are planning and how attorneys are guiding them.

From lottery to balance sheet owing to wage-linked selection

Under the new system which kicks in from the upcoming season onwards, H-1B registrations receive weighted entries based on Department of Labor (DOL) wage levels, with Level IV roles (the highest tier) receiving four entries and Level I roles just one.

Contrast this with the system that existed for decades, where all beneficiaries (across all four levels) entering the lottery faced equal odds of selection of about 29.59%.

Under the rule, however, odds diverge sharply by wage level. According to US agencies, the selection probability for a Level IV beneficiary jumps to over 61%, while a Level III beneficiary's chance rises to about 45%.

For entry-level professionals at Level I wages, the odds drop substantially. Level I registrations (often used for recent graduates or entry-level professionals) will see their chances of selection cut nearly in half.

Rajiv S Khanna, managing attorney at Immigration.com, told TOI, "Employers are trying to adapt. The immediate strategic response involves a comprehensive wage analysis for every potential registrant. Employers must now determine the SOC code, the area of intended employment, and the corresponding prevailing wage level before registration opens on March 4. This is new. Previously, that analysis happened only after selection, during visa application preparation. Now, it is front-loaded into the registration process itself."

"Many employers are re-evaluating compensation structures to push candidates into higher wage tiers where feasible. However, there is an important caveat: if multiple employers register the same beneficiary, the lowest

wage level across all registrations determines the number of entries. This means a single low-wage registration from any employer can drag down the selection odds for that individual across all registrations. That is a feature designed to prevent gaming, but it also creates coordination challenges that did not exist before,” Khanna explained.



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James Pack, partner at Fragomen, a global immigration law firm, told TOI, “Companies that pay less, relative to other employers, for the same jobs in the same geographic area, would have lower odds of selection under a

wage-weighted model.

Employers are addressing this through mitigation planning, which should take place before, during, and after the lottery registration window, depending on each individual employee's situation.”

He added that, as regards the weighted lottery system, employers are taking extra care to select the appropriate occupational code, especially as DOL and USCIS have stepped up audits and other compliance investigations, and any attempts to ‘game’ the lottery system can have severe consequences.

Abhinav Tripathi, immigration attorney and founder of Protego Law Group, added that at the registration stage many employers are now making strategic decisions that used to happen much later in the process. Wage level, role design, and work location are being evaluated months earlier because a wage-weighted selection system effectively turns compensation into a proxy for selection probability. As a result, employers are aligning job levels and offered wages with expected selection outcomes far earlier than under the traditional lottery system.

According to Ashwin Sharma, a Jacksonville-based attorney, “The wage-weighted system has forced a recalibration of the H-1B strategy to ‘make each ticket count’. Employers are conducting SOC code audits to ensure accurate classifications and analysing whether marginal salary increases can bump candidates into higher wage tiers — sometimes a few thousand dollars can mean the difference between a 30% and 46% selection probability. Meanwhile, these employers have to also ensure that said wage levels and classifications are consistent with their other existing employees who are similarly situated, or else they could face other penalties downstream.”

Sharma illustrated another (perhaps unintended) fallout. For example, a tech company hires a software engineer for ‘remote work’ and designates their work location as a ‘home office’ in rural Arkansas, where the prevailing wage threshold for Level III could be \$95,000, thus securing three entries in the selection process.

Meanwhile, a Silicon Valley employer hiring the same engineer for the same role pays \$150,000 but remains stuck with only one entry because, while the absolute salary is higher, it falls in the bottom tier relative to Silicon Valley's

inflated prevailing wage scale.

“Sponsoring employers reporting work locations in high-cost metros face structural disadvantages despite paying higher absolute wages,” he explained.

The \$100,000 fee translates to reduced interest in H-1B sponsorship

The \$100,000 entry fee introduced by presidential proclamation in September 2025 and upheld by a federal court in the case brought by the US Chamber of Commerce, before being fast-tracked on appeal, has introduced an unprecedented level of uncertainty into workforce planning. Two other lawsuits are also pending.

“The practical reality is that employers must prepare dual budgets,” Khanna said. “If the fee survives, the total government filing cost for a single new H-1B petition could exceed \$110,000. Employers are being forced to make bet-the-company decisions about whether to participate in the March registration without knowing whether the fee will stand or fall.”

Most employers are responding cautiously. “With a few exceptions, most companies are not proceeding with cases that would be subject to the \$100,000 fee,” said Pack. “Employers may submit fewer lottery registrations due to the proposed fee, while continuing to rely on premium processing.”

A key distinction is shaping hiring decisions: the fee does not apply to change-of-status cases for individuals already in the US, such as F-1 students on OPT.

Cyrus D Mehta, founder of an immigration law firm, said, “Most employers are focusing on filing H-1B petitions with a request for change of status mainly for F-1 students in the US. Under this approach, they do not need to

pay the \$100,000 fee. They are also banking on there being more H-1B visa numbers available this year for people changing status within the US, as H-1B petitions filed on behalf of people overseas will incur a \$100,000 fee and there will not be too many takers.”

Batra concurs, “With fewer employers participating in the lottery, the overall number of H-1B registrations could shrink. This could mean a strong possibility that selection rates will be high despite the new wage-weighted selection rule, particularly for those being paid at the highest wage levels.”

Who gets priced out?

While the administration has framed the wage-weighted system as merit-based, immigration attorneys warn that its real-world effects are far more uneven. “This system disproportionately favours large employers with compensation flexibility,” Upadhyay said.

“Smaller companies face a structural disadvantage that has nothing to do with talent quality. Lower-wage but high-value roles, particularly in research, healthcare, and emerging tech, risk being crowded out entirely and thais is not sustainable.”

Khanna was more blunt: “The combined effect of the wage-weighted lottery and the \$100,000 fee is, to be direct, a pay-to-play system.”

No consulate interview slots: Selected in the process but unable to fly

Even for those beneficiaries who make it through the initial process, a far more basic question looms: Can they actually get to the United States?

Consular interview availability in India has collapsed and is down to a trickle following the expansion of mandatory social media vetting and the elimination of third-country stamping options. None of the five US consulates in India are showing available H-category interview slots through the end of 2026.

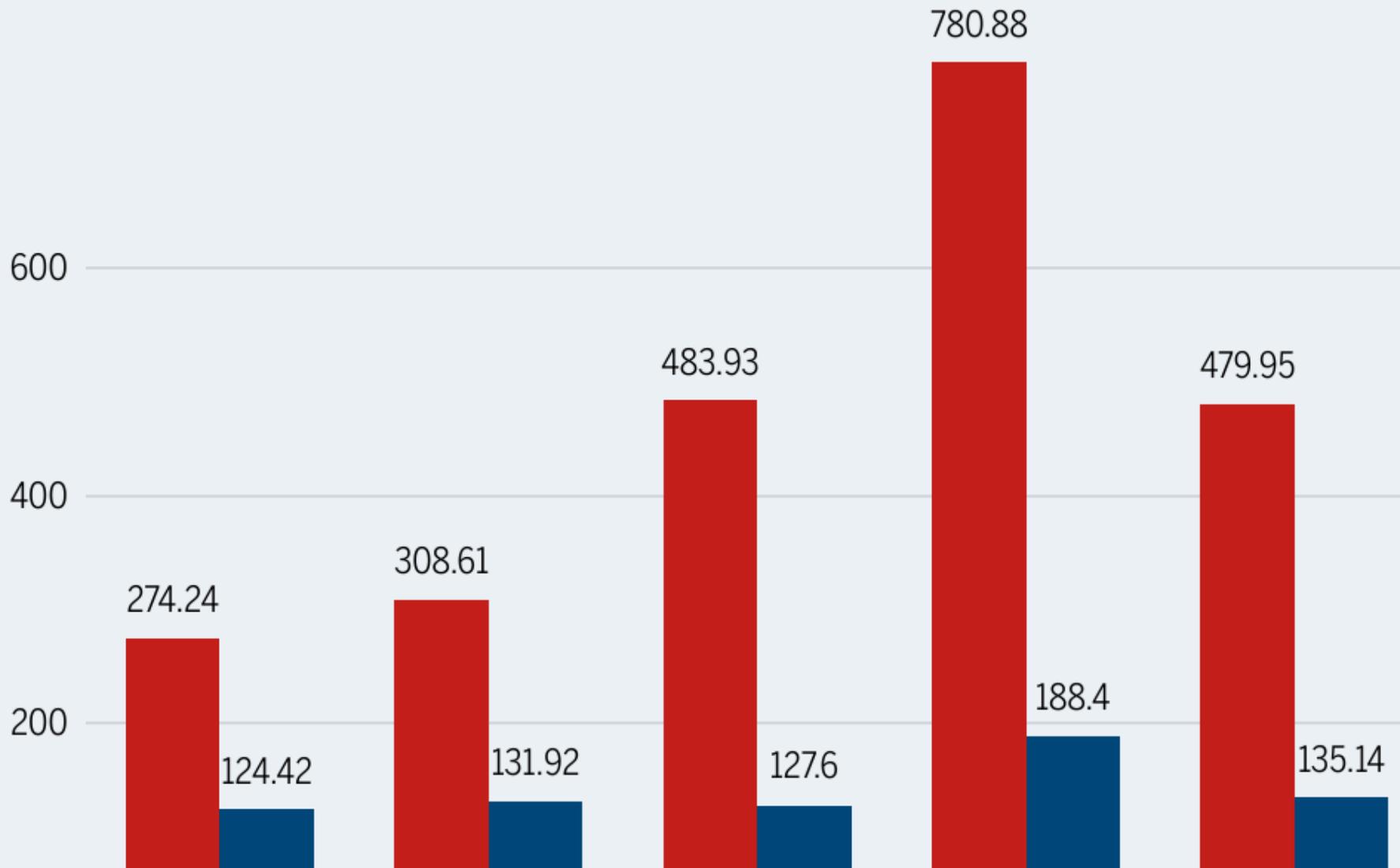
“Whether any new hire who wins the FY 2027 lottery will make it to the US in time for key onsite projects is the moot question. The honest answer for candidates requiring consular processing in India is almost certainly not within a normal business timeline. A candidate selected in the March 2026 lottery would typically need a visa interview before commencing H-1B employment on Oct 1, 2026. With Indian consulates showing no availability through 2026 and into 2027, that timeline is broken,” said Khanna.

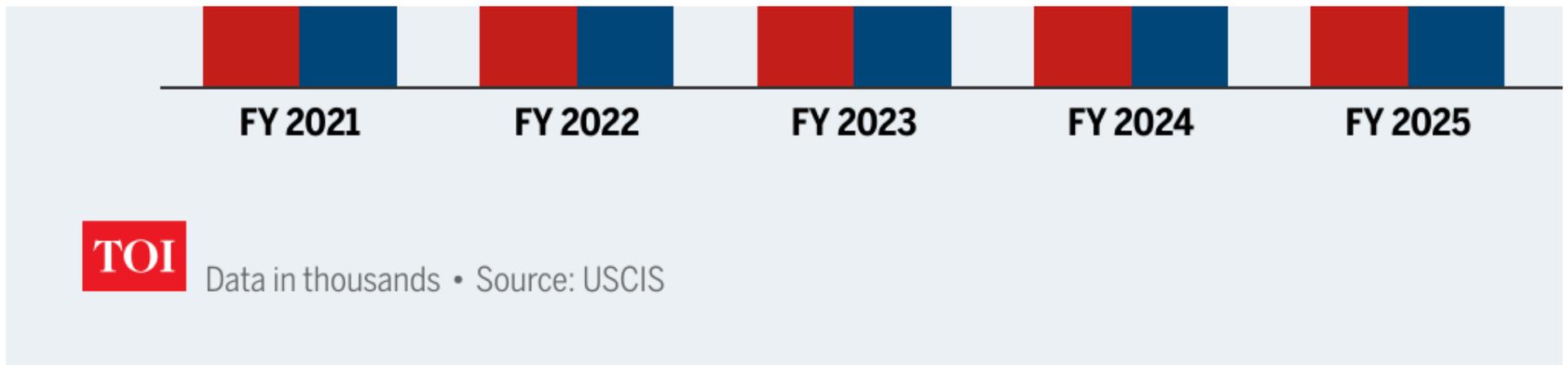
A programme quietly narrowing

The combined effect of cost, uncertainty, and consular paralysis is reshaping the H-1B programme itself. “The practical effect is that H-1B is becoming a programme primarily for status adjusters already in the US, rather than a mechanism to bring in talent from abroad,” Sharma said.

H-1B Visa Registrations Fall 25% in FY 2025-26

Total H-1B Registrations **Selected Registrations**





“A trend that has been building will accelerate — employers looking beyond the H-1B program entirely. J-1 (universities and various large institutions), L-1 intra-company transfers, O-1 niche visas, direct EB green card sponsorship, and National Interest Waivers (NIWs) are all receiving more attention. For Indian nationals specifically, the combination of the H-1B obstacles and the well-known employment-based green card (EB-2/EB-3) backlogs is pushing the most talented professionals toward other countries.

Canada, the UK, Australia, and the EU are the immediate beneficiaries of America’s increasingly restrictive policies,” said Khanna.

“Talent-based visas like O-1, EB-1, and NIW are no longer ‘alternatives’ — they are increasingly the primary strategy

for founders and senior technical professionals. Employers are also revisiting near-shoring, remote employment models, and global mobility structures as risk-mitigation tools rather than stopgaps. The smartest employers are diversifying visa strategy the same way they diversify supply chains,” said Upadhyay.

Most attorneys expect fewer H-1B registrations, and where feasible, restructuring of job positions to command higher prevailing wage levels, along with a surge in premium processing — even as premium service does nothing to solve consular delays.

For Indian nationals in particular, the message is sobering. Selection odds may improve at higher wage levels, but the path from selection to arrival is increasingly uncertain.

“The fundamental question for policymakers is this,” Khanna said.

“Is the United States still competing for the world’s best talent, or is it competing to make the process as difficult and expensive as possible?”