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## **H-1B Visa Lottery to Occur in March: Making Sense of the H-1B Category in a Time of Change**

by Brad Ortman

This past week U.S. Citizenship & Immigration Services (USCIS) announced that the registration period for this year's H-1B lottery will extend from March 4-19, 2026. USCIS will complete its lottery drawing by the end of the month using a new methodology. Employers who are seeking to sponsor people through the H-1B lottery are encouraged to contact the Immigration Group without delay.

### **H-1B Lottery Standards to Change Favoring More Highly Compensated Positions**

In late December USCIS issued a new rule to change how selections are made in the H-1B lottery. The new rule will go into effect in time for the March 2026 H-1B lottery.



The key elements of the new rule are that it will give preference to potential beneficiaries that are more highly compensated within their occupational categories. The rule utilizes the U.S. Department of Labor system for categorizing the prevailing wage for a position, which classifies salary levels Level I, Level II, Level III, and Level IV depending on the level of experience of the employee with Level I being the most entry level and Level IV being the most experienced. An employer's wage offer at Level I results in one entry into the lottery pool. A wage offer at Level II results in two entries, with Level III resulting in three entries and Level IV four entries. The ultimate effect is that more highly compensated positions in different job categories will have a greater chance of success in the lottery.

## **But what about the so-called \$100,000 Filing Fee?**

Many recall the shock that occurred in September when President Trump announced a \$100,000 filing fee for H-1B petitions. There were concerns that this would decimate the H-1B category, but the application of this fee has since been substantially limited by USCIS. The legality of this fee remains under challenge in multiple federal lawsuits, although one federal judge has ruled that the fee is legal.

## **When does the \$100,000 fee not apply?**

The new \$100,000 fee does not apply in the following circumstances:

- **Those Previously Approved for H-1B Status** -- For people who have already been approved for H-1B status prior to September 19, 2025 seeking to amend their status, extend their status or change their employer; and
- **New H-1B filings** (made subsequent to September 19, 2025) are also not subject to the enhanced filing fee if the beneficiary is presently in the United States and is eligible for a change of status.

## **When does the \$100,000 H-1B filing fee apply?**

The enhanced filing fee applies to those who have not been previously approved for H-1B status prior to September 19, 2025 in the following two key circumstances:

- Beneficiary is outside the United States.
- Beneficiary is present in the United States, but is not eligible for a change or extension of status.