

DHS Finalizes New Weighted Selection Rule for H-1B Petitions: What Employers Need to Know for the March 2027 Lottery

Labor & Employment Law Update

By Theresia Ortiz on January 30, 2026

The U.S. Department of Homeland Security finalized a new rule implementing a weighted selection process for H-1B petitions. Effective February 27, 2026, the rule introduces a weighted selection process that prioritizes H-1B registrations based on the offered wage. This new framework will apply for the upcoming H-1B cap season and may impact your business's immigration strategy.

How the Previous H-1B Selection Process Worked

Previously, a company was given one chance for selection per potential employee submitted. The lottery was not weighted to favor anyone. Now, the lottery will include one draw for those with U.S. granted master's or higher degrees, and then the general lottery for everyone who was not selected or eligible for the master's or higher lottery. The change is to how many entries per potential employee the company will receive in the general lottery.

How the New Weighted H-1B Selection Process Works

Under the final rule, the higher the wage, the greater likelihood for selection in the cap lottery. U.S. Citizenship and Immigration Services (USCIS) will use the Department of Labor's Occupational Employment and Wage Statistics (OEWS) wage levels to determine the appropriate weight to provide to each submission. Specifically:

- Level IV wages will have four times the chance of selection,
- Level III wages will have three times the chance,
- Level II wages will have twice the chance, and
- Level I wages will have a single opportunity for selection.

Impacts for Businesses: How to Prepare for the H-1B Cap Season

Employers may need to offer higher wages to H-1B lottery entrants to increase the chances of their H-1B petitions being selected in the lottery. DHS also acknowledged that the new rule may disproportionately favor large employers in metro areas with higher wage levels. The visa cap for regular H-1B is still just 65,000 petitions with only 20,000 more for those who were selected in the master's portion of the lottery. In 2026 there were 343,981 potential H-1B submissions for the lottery. With only 85,000 submissions eligible for approval, paying just one level higher in OEWS wages could result in one additional entry, thus doubling the chances of your employee being selected.

With the weighted selection process soon taking effect, employers should review current H-1B filing strategies now. Our team is available to provide guidance and support as you navigate these changes to optimize your cap lottery submissions.

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