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WHITEPAPER

H-1B CAP SEASON:

A NORTHERN VIRGINIA EMPLOYER'S GUIDE TO REGISTRATION, SELECTION, AND RISK MANAGEMENT

Executive Summary

Each year, the H-1B cap registration window opens on a fixed federal calendar and closes within a matter of weeks. For Northern Virginia employers with 5 to 500 employees, that window now intersects with a materially different selection process, a new cost consideration for certain cases, and an ICE I-9 enforcement environment that continues to operate at an elevated pace independent of the cap calendar.

This whitepaper is a research-grounded guide to preparing for H-1B cap registration under the current framework.

It addresses four areas: how the current selection process works, how the current supplemental fee framework affects cost planning, how I-9 and broader compliance risk intersects with cap season, and how an integrated employer immigration program reduces the gaps that most commonly surface during registration.

> *The I.S. Law Firm H-1B Cap Readiness Program addresses registration strategy, fee exposure, and compliance risk under one retainer, at pricing calibrated for the 5-to-500-employee employer.*

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1 SECTION
How the Current Selection Process Works

1.1 From Uniform Random Selection to Wage-Weighted Selection

For most of the H-1B program's modern history, registrations for the regular cap and the advanced-degree exemption were selected through a uniform, computer-generated random process; every properly submitted registration had equal odds, regardless of the wage level attested. That is no longer the operative framework. Under the current selection rule, each registered beneficiary is entered into the applicable lottery a number of times tied to the wage level attested on the registration relative to the prevailing wage for that occupation and area of employment; the higher the wage level, the more entries a given registration receives, up to the highest wage tier. The two-step selection structure, an initial selection against the 65,000 regular cap followed by a separate selection for beneficiaries eligible under the advanced-degree exemption, remains in place.

Wage Level Tier	General Selection Weighting	Practical Employer Note
Level I (entry)	Baseline entries	Registrations at this tier participate but do not receive additional weighting.
Level II	Additional entries	Reflects a moderate step above entry-level prevailing wage.
Level III	Further additional entries	Reflects an experienced-level prevailing wage determination.
Level IV (highest)	Greatest number of entries	Reflects the highest DOL-published wage level for the occupation and area.

Table 1: General Structure of Wage-Weighted Selection | Figures are illustrative of the tiered structure; confirm current entry counts and mechanics with counsel or USCIS guidance in effect at the time of registration.

1.2 What This Means for Registration Strategy

A company's wage-level attestation is no longer solely a downstream compliance question resolved at the petition stage. It is now a factor that can influence whether a given registration is selected at all. This creates a direct incentive to ensure job classifications and prevailing wage determinations are accurate and current before registration, both to support the strongest defensible wage level and to avoid an inflated attestation that does not match actual pay practices.

> *An accurate, well-supported wage-level attestation serves two purposes at once: it reflects the true selection-process position of the registration, and it holds up if the case is later reviewed.*

1.3 The Process Integrity Framework

Wage-weighted selection also came with a formal Process Integrity framework. USCIS now expects the wage level, Standard Occupational Classification (SOC) code, and worksite location to match exactly across the registration, the Labor Condition Application (LCA), and Form I-129; and it has explicit authority to deny or revoke a petition where registration information appears engineered to inflate selection odds, or where post-registration changes to duties, wage level, or worksite create a mismatch with what was originally submitted.

A revised Form I-129 in effect since April 1, 2026 was built specifically to surface these inconsistencies. In practice, this means wage-level strategy cannot be finalized in isolation; it has to be locked in alongside the SOC code and worksite before registration, and held constant through the petition stage.

2 SECTION

The Current Cost Calculus

2.1 The Base Registration Fee

Each H-1B cap registration currently requires a non-refundable filing fee per beneficiary, paid electronically at the time of registration. This fee is separate from, and substantially smaller than, the fees associated with the underlying H-1B petition if the registration is selected.

2.2 The Supplemental Fee Framework

A significant supplemental fee now applies to a subset of new H-1B petitions under a framework introduced through executive action in late 2025. In general terms, the fee is associated with new petitions involving a beneficiary who is located outside the United States and does not hold a valid H-1B visa at the time of filing. Petitions involving a change of status, extension of stay, or amendment for a beneficiary already lawfully present and working in H-1B status are treated differently under the current guidance, but this is not a blanket exemption: if a change-of-status request is denied and the case falls back to consular processing, or if a change of employer or worksite requires the beneficiary to obtain a new visa through a U.S. consulate abroad, fee exposure can still be triggered. Each case should be evaluated individually rather than assumed exempt based on the initial filing category.

This is an active, evolving area of law. The framework has been the subject of legal challenges, and agency guidance implementing it has continued to be clarified since it was announced. Employers should not assume the fee does or does not apply to a specific case without a current, fact-specific review; the applicability of this fee, and any future changes to it, should be confirmed with counsel at the time a registration or petition is being prepared, not assumed based on general reporting.

LITIGATION UPDATE:

A federal district court vacated this fee policy in its entirety on June 8, 2026, and the U.S. Court of Appeals for the First Circuit denied the government's request to stay that ruling on July 24, 2026, meaning the fee is not currently being enforced. This is an interim development, not a final resolution: the government's appeal remains pending, and the fee's status could change again. Employers should confirm the current enforcement status with counsel and official USCIS/Department of State guidance before budgeting for this cost, rather than relying on either the fee's original announcement or this update as the final word.

Fee Component	Approximate Current Amount	When It Applies
H-1B cap registration fee	$215 per beneficiary	Every electronic registration submitted during the initial registration window
Supplemental fee (2025 framework)	Substantial; case-specific	Generally, new petitions for beneficiaries outside the U.S. without a valid H-1B visa at filing; subject to ongoing legal and regulatory developments
Standard petition filing fees	Varies by petition type and employer size	Filed after selection, at the H-1B petition stage

Table 2: Illustrative H-1B Cost Components | Figures reflect general practice as of publication and are subject to change; confirm current fee amounts and applicability with counsel or official USCIS/DOL sources before budgeting.

2.3 Building the Cost Conversation Into Registration Planning

The practical response to this evolving cost landscape is not to treat H-1B sponsorship as newly impractical for SMB employers; for most roles and most candidates, it remains a viable path. The practical response is to build a case-by-case fee review into the registration process itself, so that finance and HR leadership understand potential cost exposure for each candidate before, rather than after, a case is selected.

3 SECTION
I-9 and Compliance Risk During Cap Season

3.1 The Enforcement Environment Does Not Track the Cap Calendar

ICE I-9 worksite enforcement activity has increased substantially in the current enforcement environment, and Notices of Inspection have been issued with response windows as short as three business days. This activity is not scheduled around the H-1B cap calendar; it can, and does, occur during the exact weeks HR teams are most consumed by registration.

Under current DHS penalty schedules, adjusted periodically for inflation, paperwork violations generally carry per-form fines in the range of several hundred to several thousand dollars, with substantially higher penalties, potentially reaching the high five figures per violation, in cases involving the knowing employment of unauthorized workers. These figures change periodically; the applicable range at the time of any specific matter should be confirmed against the current Federal Register schedule.

Risk Category	Common Employer Gap During Cap Season	General Exposure
I-9 completion	New hires fast-tracked ahead of cap deadlines, onboarding paperwork delayed	Per-form penalties, generally several hundred to several thousand dollars
Reverification	Expiring work authorization not tracked while HR is focused on registration	Per-form penalties; compounding across affected employees
Role changes	Promotions or role changes during cap season not reviewed for immigration impact	Potential status or petition-consistency issues
PERM pipeline	Recruitment files and DOL timelines unattended during registration crunch	Delayed or jeopardized labor certification

Table 3: Cap-Season Compliance Risk Areas | I.S. Law Firm general practice observations, current as of publication.

3.2 Why an Integrated Review Matters More During Cap Season, Not Less

The instinct to narrow compliance attention to H-1B registration during cap season is understandable; it does not reduce the underlying risk in the rest of the program. An integrated review, conducted by the same team handling cap registration, is designed to prevent I-9 and PERM issues from accumulating unnoticed during the weeks HR attention is most divided.

4 SECTION

Building an Integrated Cap Season Program

4.1 Registration Readiness

A structured readiness review confirms candidate eligibility, current prevailing wage data, and accurate job classification before the registration window opens, so that wage-level attestations reflect an accurate, defensible position under the current selection framework.

4.2 Fee and Budget Review

Each planned registration is reviewed individually against the current supplemental fee framework, so HR and finance understand potential cost exposure before a case is selected, not after.

4.3 Compliance Continuity

I-9 review, PERM tracking, and broader compliance monitoring continue on their normal schedule during cap season, managed by the same team handling registration, rather than being paused while attention shifts.

4.4 Petition Readiness

Supporting documentation for the eventual H-1B petition, job descriptions, organizational charts, and business justification, is assembled before selection, so that the short petition-filing window after selection is not the first time this material is prepared.

Conclusion

H-1B cap season has always rewarded employers who plan ahead of the registration window. Under the current wage-weighted selection process and supplemental fee framework, the gap between prepared and unprepared employers has widened, in ways that affect both selection strategy and cost planning, not just paperwork efficiency.

I.S. Law Firm's H-1B Cap Readiness Program is built to close that gap for Northern Virginia's SMB employers: an integrated review of registration strategy, fee exposure, and broader compliance posture, delivered under one retainer and one point of contact, at pricing designed for the 5-to-500-employee company rather than the enterprise market.

No result in the selection process, and no specific cost outcome, can be guaranteed for any individual case; the program is designed to ensure that, whatever the numerical caps ultimately allow, your company's preparation was not the limiting factor.

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Assess Your H-1B Readiness. Act Before The Window Opens.

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