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PLAYBOOK

The H-1B Lottery Now Runs on Salary Tier.

EB-1A Runs on Your Record – in Any Field.

Prepared by IS Law Firm · 2026

Stop gambling on the lottery.

Start building the case that bypasses it.

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The Problem Nobody Warned Them About

Here is the situation I.S. Law Firm encounters repeatedly across STEM programs, business schools, creative industries, and employer HR departments in the weeks before H-1B registration opens: a software engineer at a Virginia defense tech firm on his third OPT extension, a biomedical researcher finishing her postdoc with one year left on J-1, a restaurant group's culinary director whose OPT clock is running out, a fintech founder who wasn't selected in last year's lottery.

They are building immigration strategy around a system many of them will not get through, and - as of the FY2027 cycle - a system that now weights selection by the salary level tied to the job offer, not a flat random draw. They are spending their career currency - their strongest years, their most competitive job market window - waiting on a federal selection process that still does not evaluate their extraordinary ability, their national interest contributions, or their professional accomplishments. It selects, in large part, on the wage attached to the registration; not on the individual's record.

The O-1 visa bypasses the lottery entirely. EB-1A bypasses it permanently. I.S. Law Firm's job is to make sure that every accomplished professional in its audience - not only in STEM - understands this before defaulting to another H-1B registration.

MOST ACCOMPLISHED PROFESSIONALS HAVE NEVER BEEN TOLD THE LOTTERY IS OPTIONAL

The H-1B lottery is not mandatory for high-achieving professionals. It is the default path for individuals who have never been evaluated for extraordinary ability or national interest alternatives. I.S. Law Firm exists to close the gap between what the immigration system offers high achievers and what most professionals have been told is available to them - whatever field they work in.

Why This Matters Right Now

H-1B registration opens in early March. Every professional on OPT, every F-1 student approaching visa expiration, and every H-1B holder considering a job change is making an immigration strategy decision in the next 30 days.

This is the year's highest-urgency conversion window for self-petition alternatives.

1 | THE LOTTERY MATH HAS SHIFTED, NOT DISAPPEARED

Since the wage-weighted system took effect, overall selection rates have climbed to roughly 35-40% as fraudulent duplicate filings have declined - but modeled odds at the lowest wage tier run closer to 15%, while senior, high-earning registrants can see odds above 60%. For OPT students and early-career professionals in particular, the risk of non-selection hasn't gone away. For every one of them, I.S. Law Firm has a pathway that doesn't depend on a wage bracket.

2 | OPT GRADUATES HAVE A LIMITED DECISION WINDOW

An OPT graduate who does not receive H-1B selection and whose OPT authorization has expired generally enters a 60-day grace period during which they must depart or change status. An O-1 petition filed during that window - built well before non-selection results arrive - can bridge the status gap and create runway for a concurrent EB-1A filing. The 60-day clock is not a deadline in itself. It's the start of a strategy, if the groundwork is already in place.

3 | PROFESSIONALS OUTSIDE STEM ARE OFTEN LEFT OUT OF THIS CONVERSATION ENTIRELY

A business executive, a chef, a designer, or a coach is just as eligible under the extraordinary ability regulation as a researcher - the underlying statute names sciences, arts, education, business, and athletics explicitly. Most of these professionals have never had their record evaluated against the actual criteria.

4 | CONSULTATION CALENDAR FILLS IN MARCH

The year's peak consultation volume for self-petition alternatives arrives in March, after selection results are released and thousands of professionals simultaneously discover they were not selected. February is the preparation window: Petitioners need to be ready and present within I.S. Law Firm's pipeline and consultation calendar before that surge begins.

The Three Problems IS Law Firm Solves

#1

Core Problem

They Are Treating the Lottery as Their Only Option

What It Is

The professional who registers for the H-1B lottery in February has, in most cases, never been evaluated for O-1 or EB-1A eligibility. Their employer, their career advisor, and any prior immigration counsel have defaulted to H-1B because it's the path of least resistance for the employer to sponsor.

It is not, in a meaningful number of cases, the optimal path for the individual - regardless of whether that individual works in a lab, a boardroom, a kitchen, or a studio.

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The Cost of the Default

An engineer with product patents and a documented track record of technical contributions who registers for the H-1B lottery at a mid-level wage tier faces real odds of non-selection this cycle - and will spend Q2 navigating the consequences, when an O-1A petition built on her existing profile could plausibly have been filed and adjudicated in February, before results were even released.

The same logic holds for a business leader or an artist with a comparably strong record in their own field.

A LAWYER WOULD ASK YOU

Before you register for the H-1B lottery this year, have you had your profile evaluated against the O-1A or O-1B extraordinary ability standard - in your actual field, not a generic checklist? If the answer is no, and it usually is, I.S. Law Firm's Alternative Assessment takes about 30 minutes and gives you an honest read on whether you have a pathway that doesn't depend on a wage-weighted draw.

#2 Core Problem

They Don’t Understand How Broad the Evidence Standard Actually Is

What It Is

O-1A is widely misunderstood as an elite visa reserved for Nobel Prize winners and Olympic athletes. It is not. USCIS evaluates O-1A petitions against eight criteria, of which the applicant must satisfy at least three - and those criteria apply across sciences, education, business, and athletics. O-1B, for the arts, applies a somewhat different “distinction” standard through its own evidentiary list.

For engineers, executives, chefs, designers, and coaches with substantive professional accomplishments, three criteria are often achievable from an existing record, without decades of academic publishing.

The Risk

Professionals who dismiss O-1 eligibility without a proper assessment are usually doing so based on a misunderstanding of the evidentiary standard - not their actual record.

I.S. Law Firm's Alternative Assessment evaluates the profile against the actual criteria for the actual field, identifies which criteria the existing evidence satisfies, and builds the petition argument from the strongest available categories.

COMMON MISTAKE

Assuming O-1A requires academic publications, or that O-1B requires celebrity-level fame. An O-1A petition for a software engineer can be built on a high-salary argument, industry recognition through product deployment at scale, and a critical role at a distinguished organization. An O-1B petition for a working artist can be built on juried showcase placements, critical press coverage, and documented commercial success - none of which requires a household name. I.S. Law Firm evaluates every profile against the full criteria list for its actual field, not just the categories that happen to fit a research career.

#3

Core Problem

They Don’t Know How O-1 and EB-1A Work Together

What It Is

The O-1A nonimmigrant visa and the EB-1A immigrant visa apply closely related “extraordinary ability” standards (O-1B applies a related but distinct “distinction” standard for the arts, which does not carry over to EB-1A - EB-1A applies the same extraordinary ability standard to artists as to everyone else, just with arts-specific evidentiary criteria). An O-1 approval can be a meaningful signal of readiness for an EB-1A case, though it isn’t a guarantee.

Filing O-1 and EB-1A concurrently - with O-1 providing status while EB-1A processes toward a green card - is a strategy worth evaluating for candidates whose record supports both.

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The Liberation

A professional who files O-1 and EB-1A concurrently in February, on a genuinely qualifying record, could receive O-1 approval within the 15-business-day premium processing window, maintain continuous authorized status, and have an EB-1A petition pending that – if approved – can lead to lawful permanent residence without an employer, a PERM, or a lottery.

None of this is guaranteed; it depends entirely on whether the underlying record supports both filings, which is exactly what the Alternative Assessment is designed to determine honestly.

I.S. Law Firm's Self-Petition Program Framework:

Pillar 1:

O-1/EB-1A ALTERNATIVE ASSESSMENT - DELIVERED BEFORE REGISTRATION CLOSES

I.S. Law Firm's Alternative Assessment evaluates the client's professional profile against USCIS's O-1A eight-criterion standard, O-1B's arts-specific criteria, and the EB-1A ten-criterion matrix simultaneously, identifying which pathway the existing evidence supports, which criteria are most defensible, and whether an O-1 filing before the H-1B registration window closes creates a sound concurrent strategy.

WHY THIS PILLAR CANNOT BE SKIPPED

A professional who registers for the H-1B lottery in February without an O-1 assessment is accepting the lottery's odds - whatever they turn out to be for that person's specific wage tier - as the entirety of their strategy. The Alternative Assessment identifies whether a pathway exists that doesn't require that bet, before the registration window closes and before a 60-day OPT clock expires.

Pillar 2:

CONCURRENT O-1 AND EB-1A FILING – THE LOTTERY BYPASS STRATEGY

For clients whose profiles support both, I.S. Law Firm files O-1 and EB-1A simultaneously. O-1 provides nonimmigrant status protection with a premium processing adjudication guarantee of 15 business days. EB-1A, if approved, leads to permanent residence with no labor market test, no PERM, and no employer dependency.

EACH PILLAR REQUIRES TAILORED IMPLEMENTATION

The concurrent O-1/EB-1A strategy is built around each client's specific profile, field, and career stage. A fintech architect's case looks structurally different from a chef's or a biomedical researcher's - in which criteria apply, which evidence carries the most weight with USCIS, and which elements need additional development. I.S. Law Firm builds every concurrent filing from the client's actual profile, not a template.

Pillar 3:

CONCURRENT O-1 AND EB-1A FILING – THE LOTTERY BYPASS STRATEGY

For professionals not selected in the H-1B lottery, I.S. Law Firm may provide an immediate status bridge strategy: O-1 petition filing within the OPT grace period, change of status from F-1 to O-1, and concurrent EB-1A filing where the record supports it.

WHY THIS PILLAR CANNOT BE SKIPPED

The 60-day grace period doesn't start when an H-1B non-selection notice arrives - it starts the day after OPT (or STEM OPT) work authorization actually expires. For a professional whose OPT is still running when results come back, the real clock is whatever time is left before that EAD expiration date, plus the 60 days that follow it. The status bridge strategy depends on evidence built before lottery results, not assembled during a post-selection scramble. February preparation is not optional for anyone who wants the bridge available when they need it.

What Clients Need Before Their Alternative Assessment

The items below represent the starting point for I.S. Law Firm's O-1/EB-1A Alternative Assessment. Which elements matter most depends on the specific pathway and the client's field.

Professional Accomplishment Record	Recognition & Employment History
Current CV / resume / professional portfolio	Employer or organization name and standing documentation
Salary documentation relative to field peers	Industry, artistic, or athletic awards (with selection criteria)
Product, project, exhibition, or performance history with scope data	Media or trade press coverage, or documented thought leadership
Patents (filed or granted), if applicable	Current visa status and expiration date
Conference presentations, showcases, or invited industry talks	H-1B registration history and lottery outcomes, if any

THE ASSESSMENT REVEALS WHAT THE LOTTERY CANNOT

H-1B registration measures nothing about an applicant's professional achievement – it measures salary tier and a random draw within it.

I.S. Law Firm's Alternative Assessment measures what actually matters to USCIS: which O-1 and EB-1A criteria the client's existing evidence satisfies, which pathway offers the more realistic case, and whether the lottery is a strategy worth relying on at all.

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5 Questions to Ask Any Attorney You Consider for Your Lottery Alternative

QUESTION 1:

Can you evaluate my professional profile against the O-1A eight-criterion standard, the O-1B arts-specific criteria, and the EB-1A ten-criterion matrix in a single assessment - and tell me honestly which criteria my existing evidence satisfies and which would need more development?

QUESTION 2:

Have you filed concurrent O-1 and EB-1A petitions for professionals in my field, and what happened with those filings? What happens when a filing doesn't succeed?

QUESTION 3:

If I am not selected in the H-1B lottery, what is your status bridge strategy - specifically, how quickly can an O-1 petition realistically be filed and adjudicated within my OPT grace period?

QUESTION 4:

How do you build an O-1 case for someone whose primary achievements are outside academia - in business, the arts, or athletics - and which criteria are most defensible for a profile like mine?

QUESTION 4:

What is your process for evaluating whether a successful O-1 petition should lead to a concurrent EB-1A filing, and how do you sequence both to maintain continuous status without overstating what either filing can guarantee?

A FIRM'S ANSWERS REVEAL MORE THAN THEIR CREDENTIALS

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5 MISTAKES
That Put Employers at Risk During Cap Season

Registering for the H-1B Without Evaluating O-1 Eligibility First	The lottery is not mandatory for high achievers. I.S. Law Firm's Alternative Assessment takes about 30 minutes. The H-1B registration decision should follow the assessment, not precede it.
Dismissing O-1 Because of the "Nobel Prize" or "Celebrity" Misconception	The extraordinary ability standard requires three of eight (O-1A) or a comparable showing under the "distinction" standard (O-1B) - not Nobel-level or household-name achievement. A professional with a high salary, industry recognition, and a documented record of contributions of recognized importance to their field may satisfy the standard from their existing record, whatever field that record is built in.
Waiting for Lottery Results to Begin O-1 Preparation	O-1 evidence collection and petition preparation take real time. Beginning after selection results are released means competing for attorney availability during peak demand season with a 60-day clock already running. I.S. Law Firm builds the O-1 case in February, so a petition is ready to file promptly if a non-selection notice arrives.
Filing O-1 Without a Concurrent EB-1A Strategy When the Record Supports One	O-1 is a nonimmigrant visa with a maximum initial three-year term. Without a concurrent EB-1A filing where the record genuinely supports it, an O-1 holder is still relying on employer sponsorship or the lottery for a green card eventually. The concurrent strategy, where appropriate, is what actually reduces that dependency.
Treating a Lottery Miss as Purely a Setback, Rather Than a Prompt to Ask a Real Question	For a professional whose profile genuinely qualifies for O-1 or EB-1A, a lottery miss is a prompt to have an honest conversation - not a guaranteed silver lining. I.S. Law Firm's post-lottery strategy exists to have that conversation at the moment it's most relevant, whether the answer turns out to be "yes, this is available to you" or "not yet, and here's what would need to change."

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Frequently Asked Questions

Can I file for H-1B and O-1 at the same time?

Yes. H-1B registration and O-1 petition filing are not mutually exclusive. I.S. Law Firm generally recommends filing O-1 in February for strong-profile clients regardless of H-1B registration status, so that approved O-1 status is in place whether or not the H-1B is selected. The O-1 petition does not affect H-1B lottery odds and does not preclude H-1B selection.

If I receive O-1 approval, do I still need my employer to sponsor my green card?

Not necessarily. An approved O-1 holder with a concurrent, qualifying EB-1A petition has a green card pathway that doesn't require employer sponsorship, labor market testing, or PERM. The EB-1A petition is self-filed. If approved, the client may be able to adjust status or consular process to lawful permanent residency through their own petition, without employer involvement. This depends entirely on the underlying record supporting an EB-1A filing in the first place.

What happens to my H-1B PERM priority date if I file EB-1A?

Your PERM priority date is not affected by an EB-1A filing. EB-1A sits in a separate immigrant visa preference category (first preference) from the EB-2 or EB-3 categories where most PERM-based green cards are filed. An EB-1A approval does not cancel or affect a pending PERM. I.S. Law Firm advises clients on managing both tracks simultaneously when both are active.

How long does O-1 premium processing take?

USCIS premium processing for O-1 petitions is currently responds to within 15 business days of receipt. That's a guarantee about the timing of a decision, not the outcome - the decision within that window can be an approval, a denial, or a Request for Evidence. For a client who files in early February, that timing can put an O-1 decision in hand before H-1B registration even opens in March.

YOUR ACHIEVEMENTS ARE THE EVIDENCE.

Let’s Build the Case.

Book Your Strategy Session at

islawfirm.com/consultation!



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