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H-1B work visa petitions hit record high, despite pandemic

By Patrick Thibodeau

The U.S.'s new low-cost electronic H-1B work visa registration system led to record visa demand. The government received approximately 275,000 visa petitions -- a 37% increase from last year.

Many of the visa petitions were filed before the pandemic forced companies into mass layoffs. The question now is whether the change in economic conditions will prompt firms to drop their visa employment sponsorships.

"I'm sure [the pandemic] will impact the demand for H-1B workers, but it's too early to know to what extent," said Chad Blocker, immigration attorney and partner at Fragomen, Del Rey, Bernsen & Loewy LLP in Los Angeles.

Even if employers do drop out, the record volume of applicants gives the U.S. enough petitioners to reach its visa caps. Because the visa isn't valid until later in the year, immigration attorneys believe employers will continue to sponsor H-1B visa workers. They may be hoping things have improved by then.

The key date is Oct. 1

The spike in H-1B work visa petitions [was expected](#). The low-cost online registration change made it easy for firms to apply. The previous system required employers to submit completed H-1B work visa petitions, which included thousands of dollars in fees. By comparison, the electronic system was a snap, requiring minimal documentation and a registration cost of \$10.

The U.S. issues 85,000 new [H-1B](#) work visas each year under the visa caps. Employers that won the visa lottery have until June 30 to submit all paperwork and additional fees. The visa itself isn't valid until Oct. 1, the start of the government's 2021 fiscal year.

Whether employers will follow through is a separate question. The H-1B work visa online registration began March 1, one day after the first coronavirus-related U.S. death.

"The more likely scenario is that companies will proceed with filing the H-1B and preserve the opportunity to employ the H-1B worker," Blocker said. "Between now and then we will have a better understanding of what the economic conditions are going to look like."

Becki Young, an immigration attorney at Grossman Young & Hammond, said that even some businesses that "are currently shut down or operating at partial capacity have asked us to proceed with their cases."

That's because some employers have sponsored H-1B work visa holders with unique skills to fill special roles, Young said. "The clients have often invested substantial resources into recruiting these individuals, and don't want to lose them," she said.

The vast majority from India

Nearly 68% of the H-1B work visa petitions were for people from India, which is now in [lockdown](#); just over 13% were from China, according to the U.S. Citizenship and Immigration Services (USCIS).

Until this year, the highest number of H-1B visa petitions ever received was 236,000 in 2016 -- almost 40,000 fewer petitions than this year. The USCIS called the electronic registration process an "overall success."

But the electronic filing did have a potential glitch, said Sharvari Dalal-Dheini, director of government relations at the American Immigration Lawyers Association. Some of its members reported H-1B petitions being denied as duplicate petitions even though that was not the case, she said. They know of at least 100 petitions affected.

Still, the electronic registration process "went well overall," Dalal-Dheini said. She credits USCIS with working closely with its users to address any system glitches.

"I think it went far more smoothly than people imagined, except for this final glitch," said Dalal-Dheini, referring to the rejections. How this is resolved is unclear.

A USCIS spokesman said Friday that the agency "has not currently found any duplicate registration invalidations due to technical issues associated with the registration system."

Filling in any gaps

Even if firms withdraw their visa applications, the U.S. will still fill the visa cap. The USCIS said it will use registrations in reserve to fill any gaps.

The electronic registration isn't likely to change [the debate over the visa](#) system. Some argue that the U.S. has a shortfall in critical skills and that the government needs to enable foreign graduates for U.S. schools to remain in this country.

Critics claim the visa brings in lower wage workers and is used by IT offshore firms to displace American workers.

President Trump's administration [has tried to curb](#) the use of the visa by offshore outsourcing firms by increasing denial rates. Outsourcing firms are the leading users of the H-1B visa.

Richard Burke, CEO of Envoy Global Inc., in Chicago, an immigration services firm that also provides immigration management software, argued that the need for skills is driving demand for foreign talent.

"Given our existing shortages in healthcare workers, critical health needs and our increased dependence on online collaborative technology, it would seem that H-1B demand is unlikely to disappear," Burke said.

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