

Indian H-1B filings set to drop by 50% this year

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50% compared to the recent years.”

BENGALURU: Immigration experts believe there could be a sharp decline in the number of H-1B petitions filed by Indian IT services companies+ this year following the tough environment created by the US administration under president Donald Trump.

H-1B filings for the next fiscal began on April 2, and will conclude when the immigration authority, the US Citizenship and Immigration Services (USCIS), determines that they have received enough applications to meet the upper limit of 65,000 visas that can be issued in a year.

Scott FitzGerald, partner in US immigration firm Fragomen Worldwide, said the general consensus seems to be that filings of H-1B petitions by Indian IT services companies would be down this year, “possibly by as much as

The Trump administration has been gradually increasing the stringency with which it scrutinizes work visa applications. In February, it issued a policy memorandum that allowed its officers to demand more detailed documentation from applicants to determine they have specific assignments in a specialty occupation for the H-1B beneficiary, and for the entire time requested on the petition.

H-1B visa rejection rates, including for renewals, have risen markedly. Stephen Yale-Loehr, professor of immigration law practice at Cornell Law School, said the number of H-1B petitions that received requests for additional evidence last year increased

more than 40% over the previous year. “That trend is likely to continue this year,” he said.

FitzGerald said petitions will be rejected if USCIS deems it to be incomplete if they find missing signatures, missing or incorrect filing fee checks, missing or incorrectly checked boxes. He said these have increased the administrative work for the IT firms and lawyers to audit the checklist for all H-1B filings.

This and the increase in requests for evidence have resulted in higher legal fees, which too discourages Indian companies from filing too many petitions.

“One should expect the same sort of H-1B carnage like last year. No matter how well one responds to the request for evidence or argues the case before the Administrative Appeals Office (AAO), the outcome could still be a preordained denial – as if Trump’s wall is already up,” said Cyrus Mehta, managing attorney and founder of New York-based law firm Cyrus D Mehta & Partners.

Indian IT companies have been the biggest users of the H-1B visa for many years. They use it to send employees in India to the US to service clients there. Trump, however, believes companies do not do enough to find local talent to do the same job, and prefer Indian employees because they are cheaper.

Mehta wondered whether there would be a different and effective strategy for overcoming next year’s H-1B denials, such as suing the USCIS in federal court. “I feel that companies may feel more emboldened to sue to overcome unfair and arbitrary denials,” he said.

Meanwhile, Indian companies are establishing more development centres in the US to tap into local talent. “Their overall dependency on the programme is likely to reduce this year,” said Vikram Shroff, lead of HR law at law firm Nishith Desai Associates.

But FitzGerald wondered if there are enough willing and qualified US workers to take these jobs, especially since they typically require frequent relocation to new client engagements. “If not, will these (Indian) companies look to recruit talent away from more traditional ‘IT staffing’ firms? Will they instead look to offshore as much of the work as possible to India?”