



VISA REFORM

Much ado about nothing, or a nuclear threat to the Indian sourcing model?

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Border Security, Economic Opportunity, and Immigration Modernization Act (Senate Bill 744)

- Authored by bipartisan “Gang of Eight” (4 Republicans/4 Democrats) members of Senate
- Most sweeping changes in immigration reform in decades
- Major highlights of Act include:
 - Conditional path to citizenship for approximately 11 million undocumented immigrants in the U.S.
 - Improvements to border security
- Act also makes significant changes to current law on visas for nonimmigrant skilled workers
 - L-1 visas (for intra-company transfers by multinational companies)
 - H-1B visas (predominant type of visa used by offshore outsourcing vendors)

Changes to Current Law on H-1B and L-1 Visas

- Increased cap on H-1B visas
- New cap on percentage of H-1B and L-1 visa holders
- Additional visa-related fees
- H-1B application requirements (U.S. worker recruitment)
- H-1B application requirements (non-displacement of U.S. workers)
- H-1B application requirements (wages for H-1B workers)
- Prohibition on outplacement

Increased Cap on H-1B Visas

- **Current law permits only 65,000 new H-1B visas per year**
- **The Act increases this number though a formulaic approach based on actual demands for H-1B visas**
 - Each year's allocation is based on the prior year's allocation PLUS an adjustment
 - Upward adjustments if prior year's allocation is used up within specified periods of time after the filing period begins
 - NO upward adjustment allowed in any year in which the national unemployment rate for Management, Professional, and Related Occupations averages 4.5% or greater over the preceding 12-month period (current 12 month average is ~3.9%)
 - Downward adjustments if the prior year's allocation is not used up by certain threshold amounts
 - Minimum of 115,000, and maximum of 180,000, per year
- **Bill raises allocation of H-1B visas for STEM (science, technology, engineering and math) workers with advanced degrees (masters or higher) from 20,000 to 25,000**
 - Only STEM H-1B visas above the 25,000 level count toward the H-1B cap

New Cap on Percentage of H-1B and L-1 Visa Holders

- For employers with 50 or more employees in the U.S., the total number of H-1B and L-1 employees may not exceed:
 - For 2015, 75 percent of the total number of U.S. employees
 - For 2016, 65 percent of the total number of U.S. employees
 - For each year after 2016, 50 percent of the total number of U.S. employees

Additional Visa-Related Fees

■ Additional fees for H-1B and L-1 visa petitions

- For employers with 25 or less full-time-equivalent employees in the U.S., \$1,250 for each petition filed by such employer to hire an H-1B or L-1 employee
- For employers with more than 25 full-time-equivalent employees in the U.S., fee goes up to \$2,500

■ Additional application fees for H-1B and L-1 visas

- Beginning in 2015, \$5,000 fee per H-1B application for companies that employ 50 or more employees in the U.S., 30%-50% of which are on H-1B or L-1 visas
- For years 2015 through 2017, application fee doubles to \$10,000 if 50%-75% of these employees are on H-1B or L-1 visas
- For L-1 visas, same fees/conditions as above, however fees appear to begin in 2014

H-1B Application Requirements (U.S. Worker Recruitment)

■ Each H-1B application must state that, prior to the filing of the application:

- The employer has taken good-faith steps to recruit U.S. workers for such position (using industry standard procedures) and offering compensation that is at least as great as the employer is required to offer to the H-1B applicant
- The position was advertised on the Department of Labor website (to be created under the Act) for at least 30 days
- If the employer is an “H-1B skilled worker dependent employer,” it has offered the job to any U.S. worker who applies and is equally or better qualified for the job for which the H-1B applicant is sought
 - **H-1B skilled worker dependent employer** is an employer that employs full-time-equivalent employees in the United States in certain specific high skill occupations (generally occupations requiring considerable or extensive education and work-related experience), at least 15% of which are H-1B nonimmigrants

H-1B Application Requirements (U.S. Worker Recruitment)

■ Each H-1B application must state that:

- The employer has not advertised the position as being only available to an individual who is or will be an H-1B nonimmigrant or that the H-1B nonimmigrant will receive priority or a preference in the hiring process
- The employer has not solely recruited individuals who are or who will be H-1B nonimmigrants

H-1B Application Requirements (Non-Displacement of U.S. Workers)

■ Each H-1B application must state that:

- If the employer **is** an “H-1B dependent employer,” the employer did not (and will not) displace a U.S. worker 180 days before and after the date on which a visa petition supporting the application is filed
 - **H-1B dependent employer** (tiered structure) includes an employer that has at least 51 full-time equivalent employees who are employed in the United States, at least 15% of which are H-1B nonimmigrants
- If the employer is an H-1B skilled worker dependent employer and **not** a H-1B dependent employer, 180 day window is reduced to 90 days

H-1B Application Requirements (Wages for H-1B Workers)

■ Each H-1B application must state that:

- If the employer is **not** an H-1B dependent employer, the employer will offer wages to the H-1B worker equal to the greater of the actual wage level paid to all other individuals with similar experience and qualifications for the specific job or the prevailing wage level for the occupational classification for the job, based on the best available information at the time of filing
- If the employer **is** an H-1B dependent employer, the employer will offer wages to the H-1B worker equal to at least the average prevailing wage for the occupational classification of the job in the relevant metropolitan statistical area, as determined by a wage survey to be made available by the Secretary of Labor

Prohibition on Outplacement

■ H-1B Visas

- An H-1B-dependent employer may not place, outsource, lease or otherwise contract for the services or placement of an H-1B employee
- An employer that is not an H-1B-dependent employer has the same restriction unless it pays a \$500 fee per outplaced H-1B employee

■ L-1 Visas

- Has a similar restriction but:
 - Applies only to employers with 15% or more of its full-time equivalent employees in the U.S. comprised of L-1 nonimmigrants
 - If the employer doesn't fall within the 15% rule, the restriction still applies unless:
 - The L-1 nonimmigrant is not principally controlled/supervised by the other employer
 - The placement of the L-1 nonimmigrant is not an arrangement to provide "labor for hire" to the other employer
 - The employer pays a \$500 fee per outplaced L-1 employee

Next Steps

- Bill presented to full Senate; debate started June 11 (78 amendments proposed in first two days of debate)
- Gang of Eight had wanted a Senate vote by July 4
- If passed by Senate, will then go to House
- If all goes well, possible House vote by Q3/Q4
- Act could go into effect as early as late 2013/early 2014

What Should Outsourcing Customers Be Doing?

- **Know your outsourcing vendors' solutions, especially those with a heavy labor component**
- **Know your outsourcing contracts, including:**
 - Pricing
 - Compliance with laws, particularly with respect to changes in laws
 - Turn-over
 - Service continuity
- **Most importantly, talk to your outsourcing vendors**
 - Contingency plans

Survey results... how prepared are enterprises, their providers and the advisors?

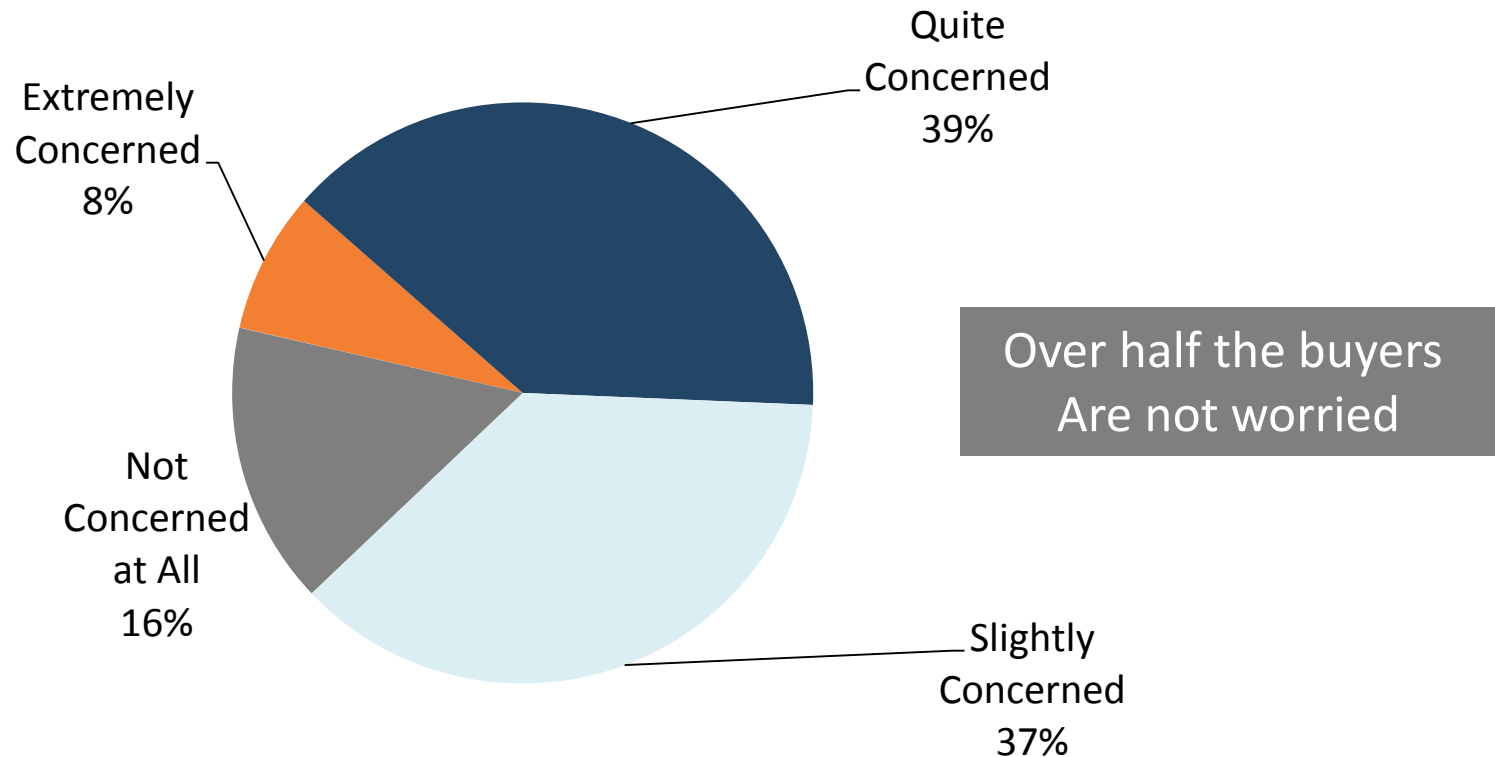


Phil Fersht

Founder and CEO, HfS Research

Concern About Reforms - Buyers

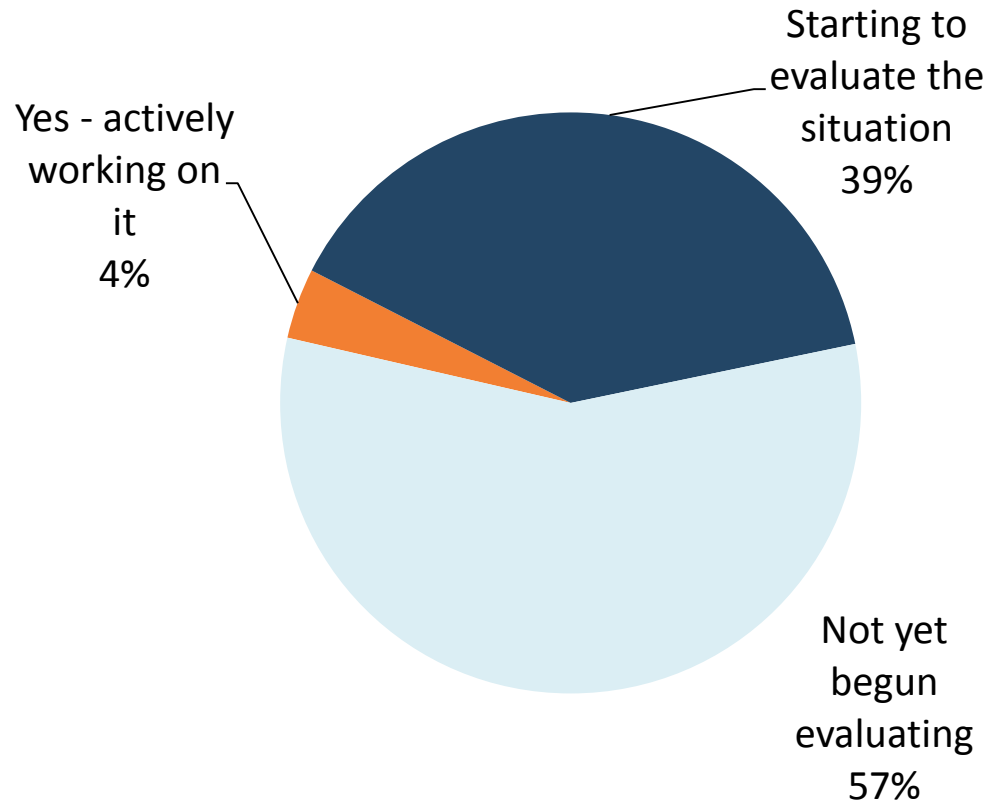
How concerned is your operations and/or IT management that the proposed visa reform legislation could impact your organization's ability to leverage a global delivery model?



Source HfS Research 2013, n = 70 Enterprise Buyers

Planning For Reforms - Buyers

Have you begun planning for the potential scenario that your offshore-centric provider will no longer be able to enter your U.S. offices?



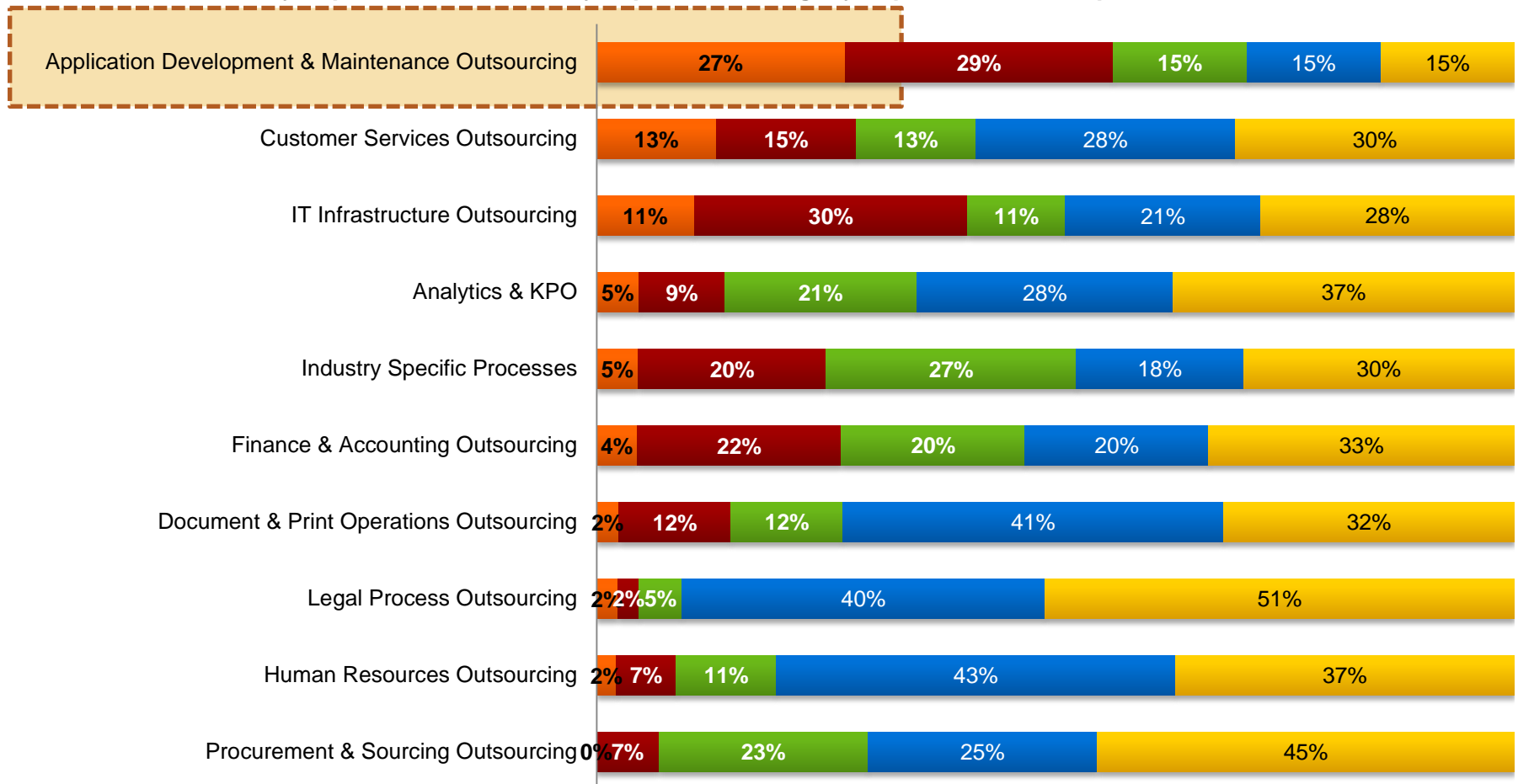
And doing little to prepare

Source HfS Research 2013, n = 70 Enterprise Buyers

Likely Impact Of Reforms - Buyers

To what extent will the following outsourced services be impacted by Visa Reform in your organization?

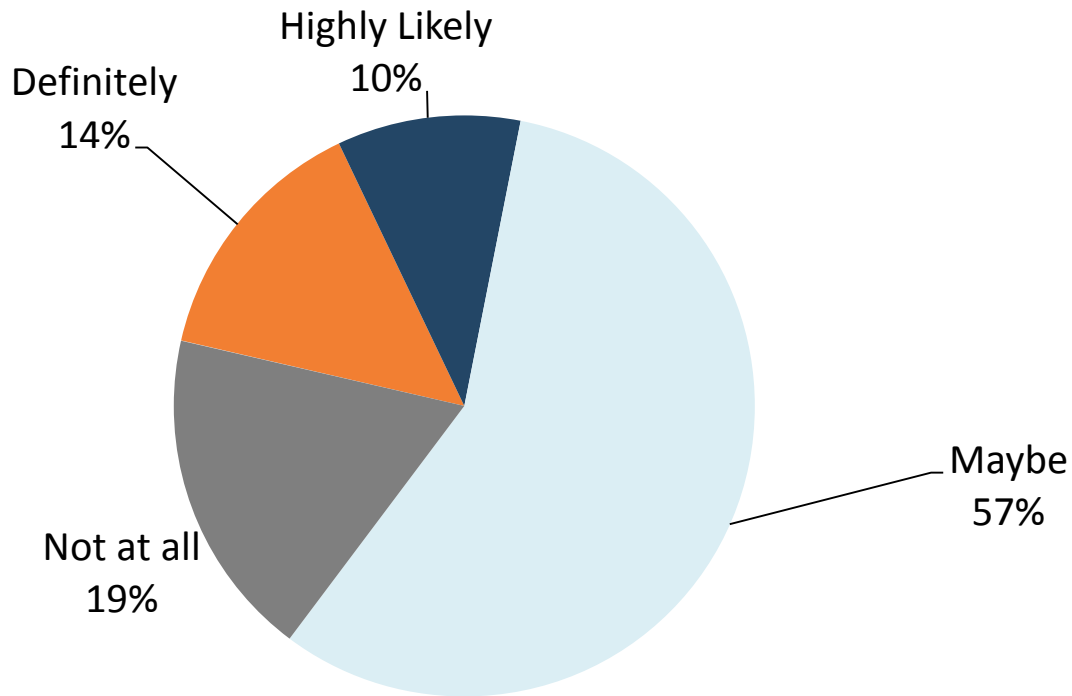
■ Heavily Impacted
 ■ Moderately Impacted
 ■ Slightly Impacted
 ■ No Impact at All
 ■ Do not Outsource



Source HfS Research 2013, n = 70 Enterprise Buyers

Use Of Domestic Services To Mitigate Risk - Buyers

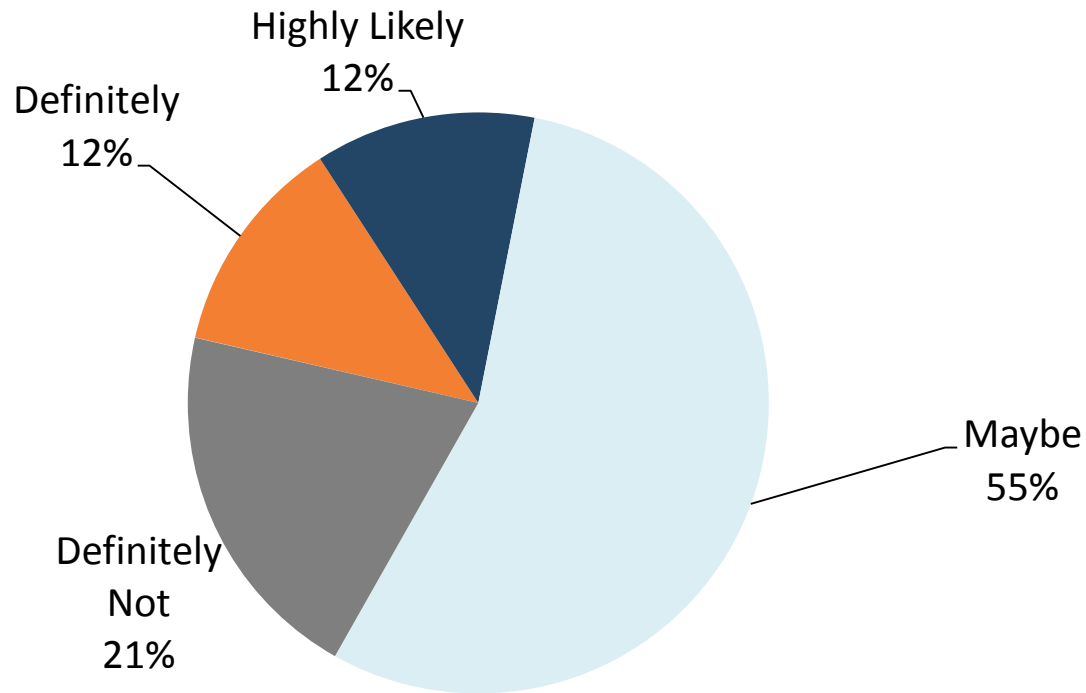
Would you consider shifting to a (domestic) services provider not be impacted by this restriction?



Source HfS Research 2013, n = 70 Enterprise Buyers

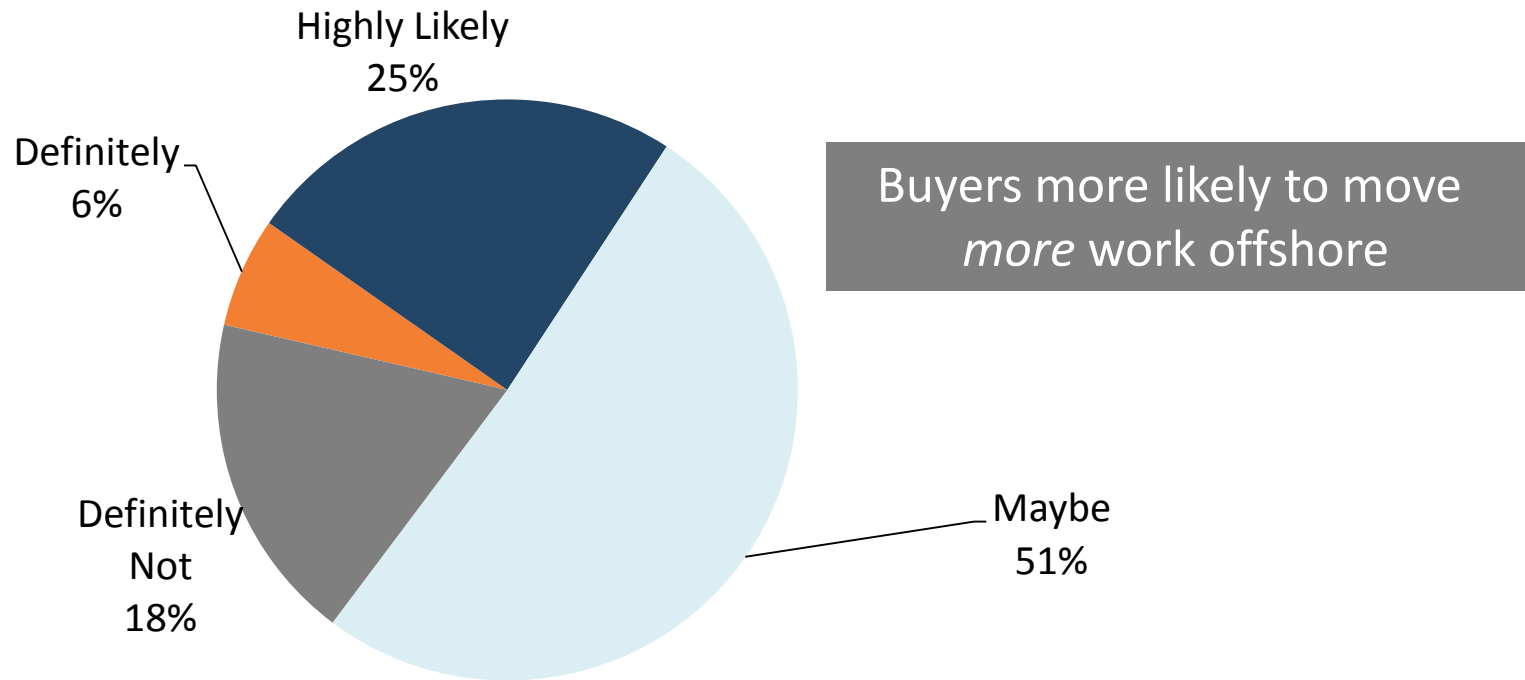
Use Of Insourcing To Mitigate Risk - Buyers

Would you consider bringing the work back inhouse if these measures came to pass?



Use Of Offshore To Mitigate Risk - Buyers

Would you consider shifting a greater percentage of work offshore to address the new rules?

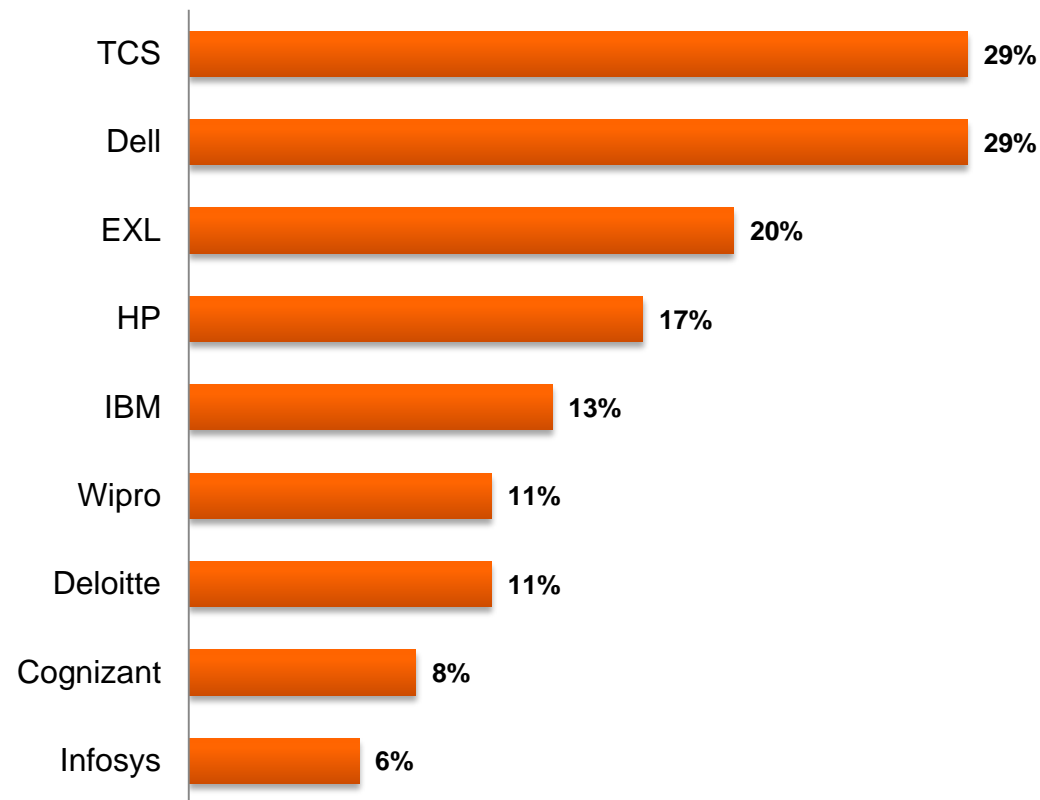


Anymore brilliant ideas, Chuck?



Providers not Proactively Communicating to Clients

Proportion of buyers that have been communicated to, by each individual supplier they use



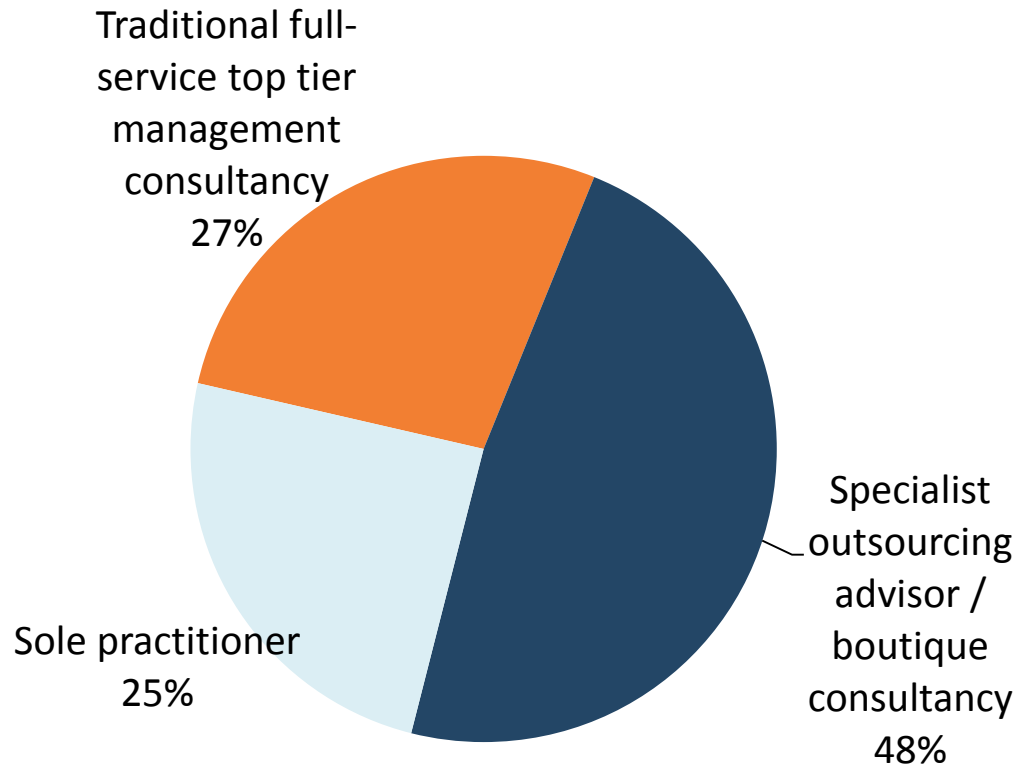
Source HfS Research 2013, n = 70 Enterprise Buyers

Advisor Responses



Type of Advisors

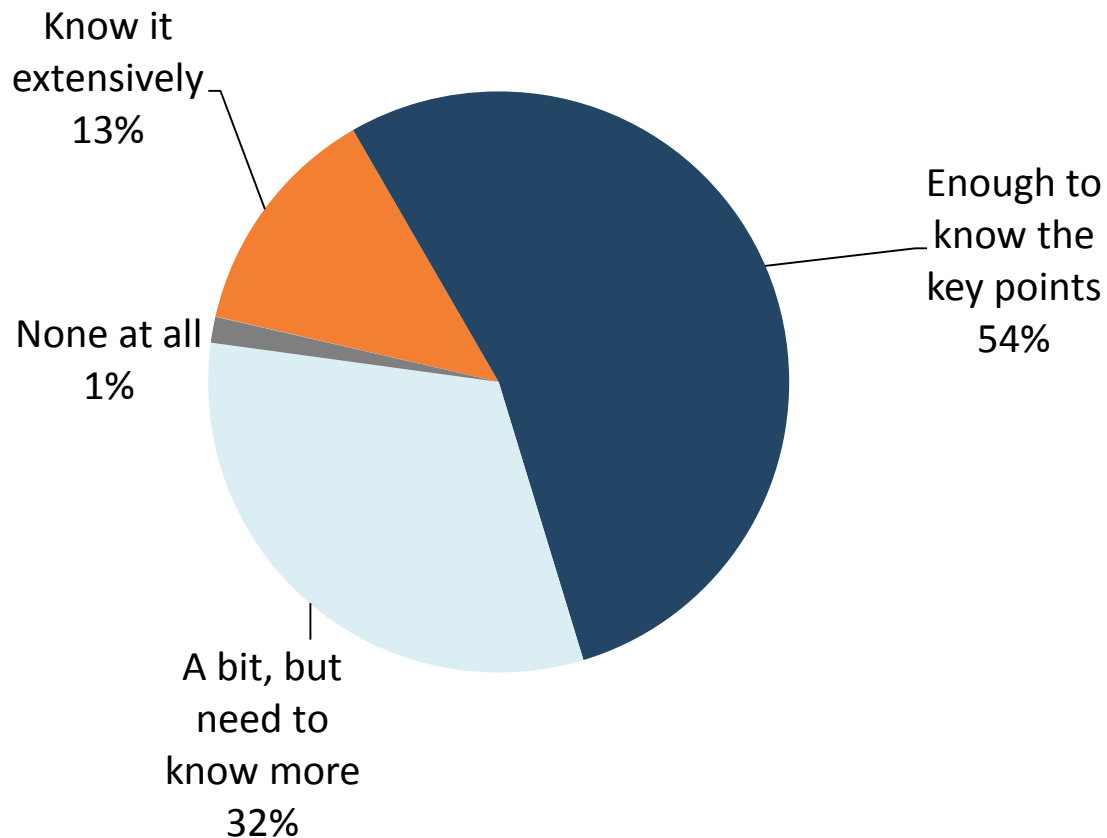
What type of advisory firm do you work for?



Source: HfS Research 2013, n = 98 Advisors

Knowledge of Visa Reform - Advisors

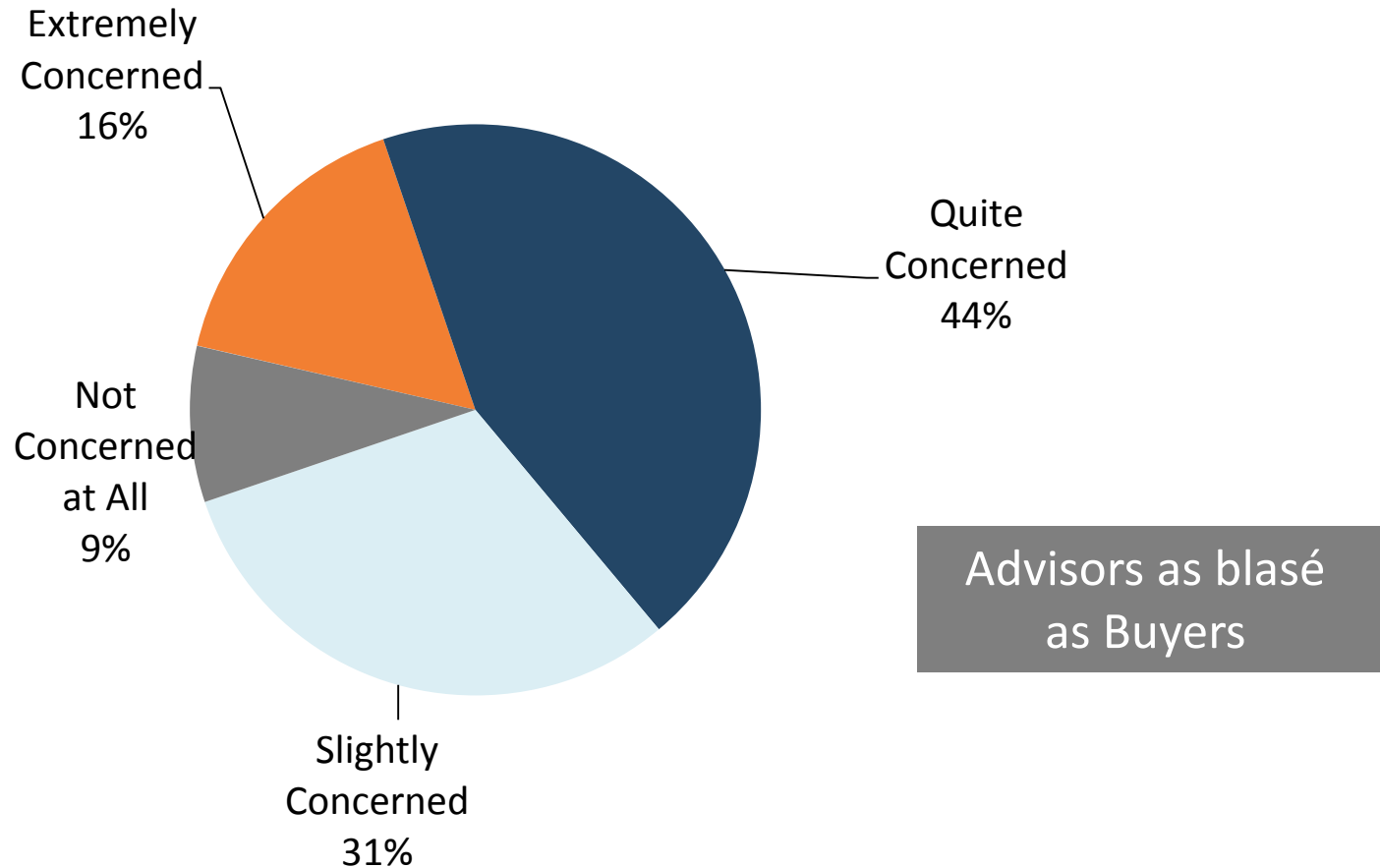
How much knowledge do you have regarding the proposed legislation for visa reform, in terms of how it would impact your clients' outsourcing operations?



Source: HfS Research 2013, n = 98 Advisors

Concern About Reforms - Advisors

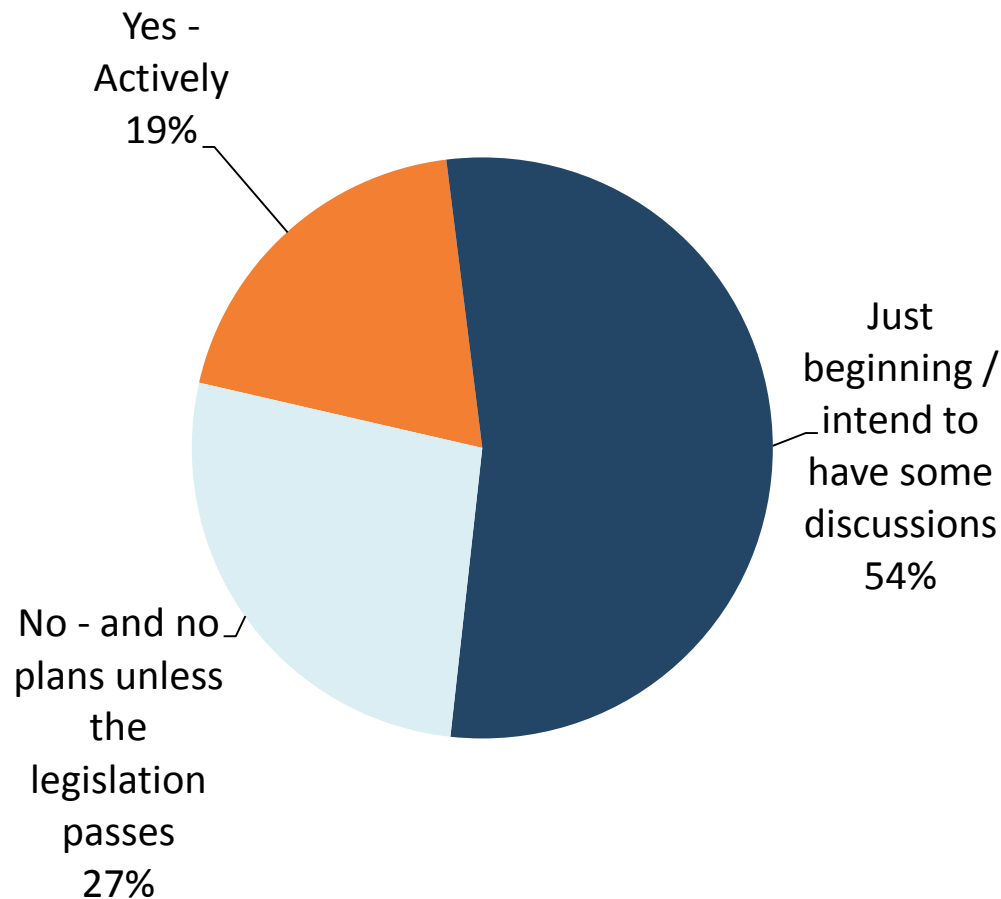
How concerned are you that the proposed visa reform legislation could impact your clients' abilities to leverage a global delivery model?



Source: HfS Research 2013, n = 98 Advisors

Discussion With Service Providers – Advisors

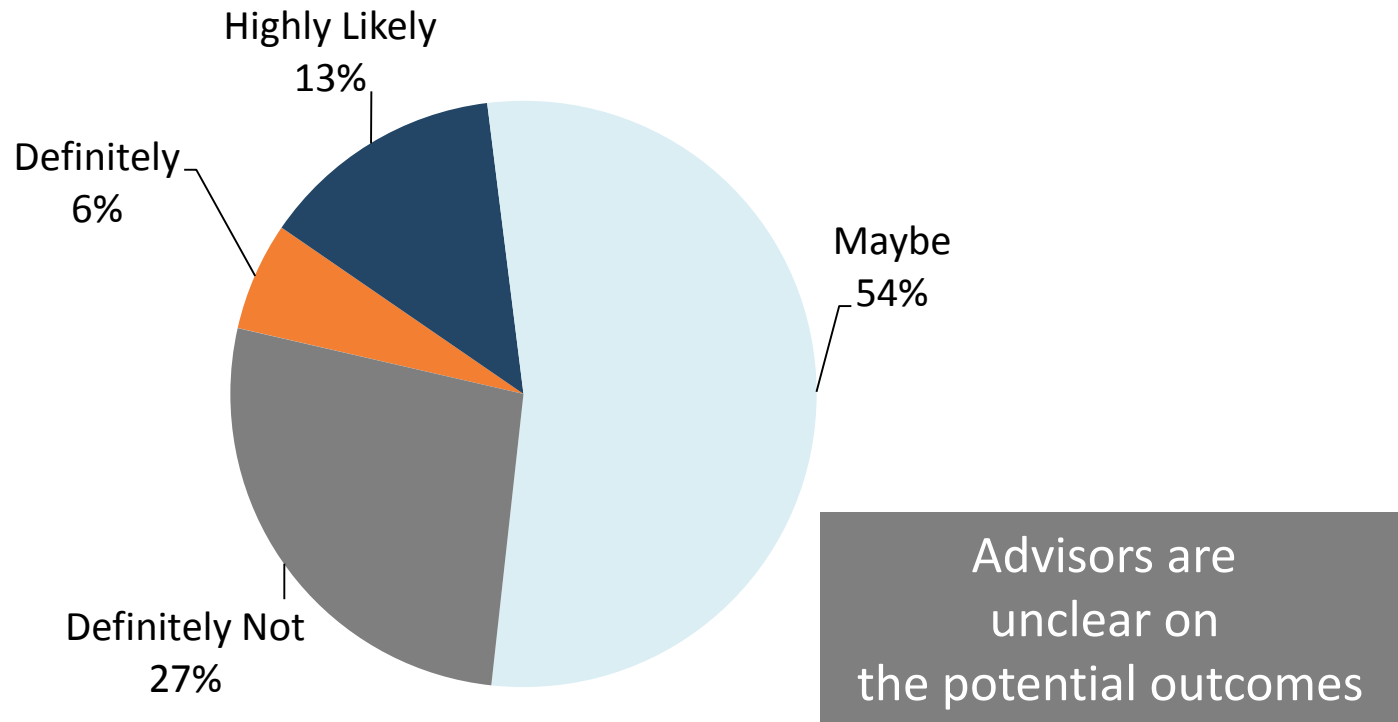
Are you discussing the situation with service providers to understand how they intend to deal with the potential outcomes?



Source: HfS Research 2013, n = 335

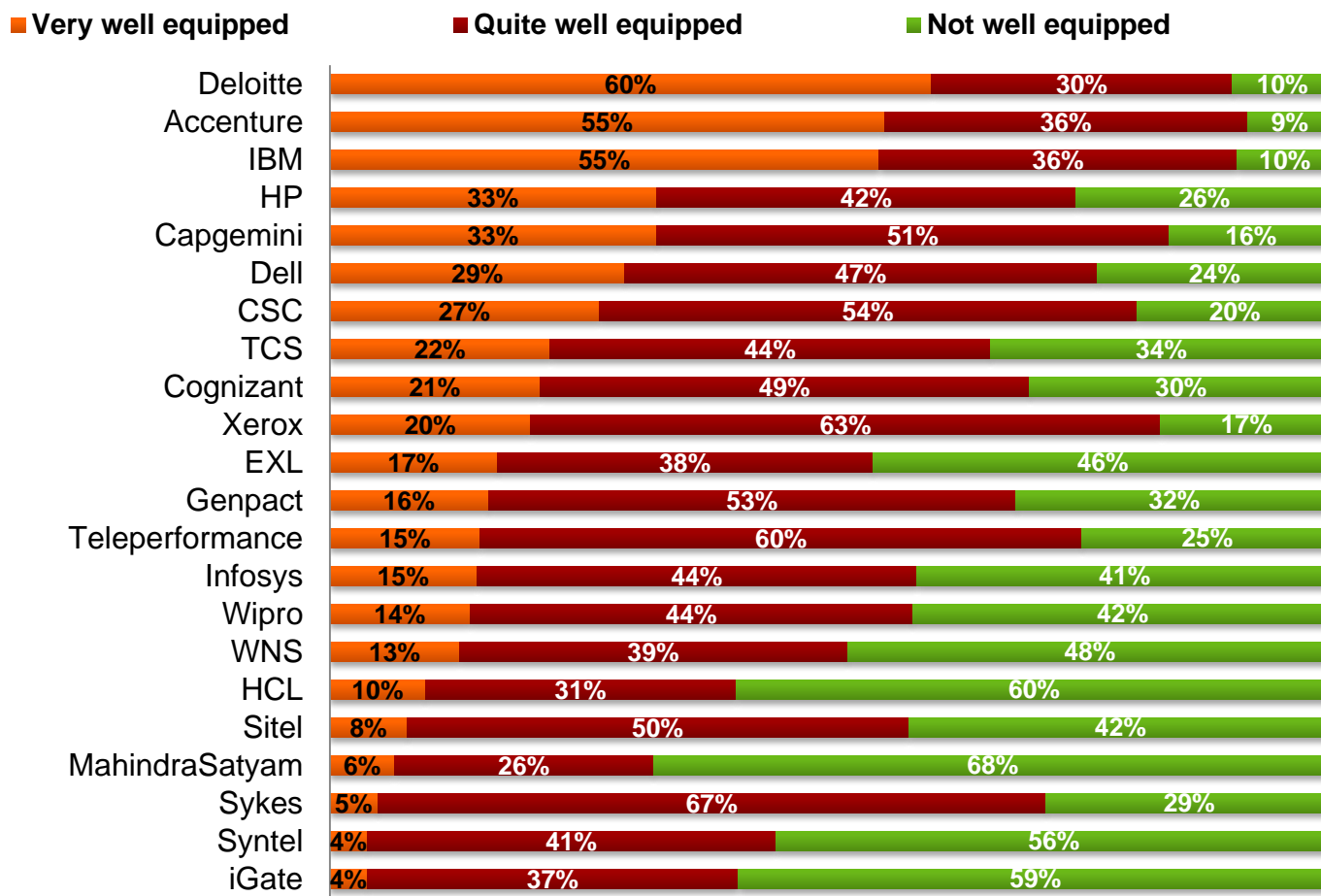
Use Of Insourcing To Mitigate Risk - Advisors

Would you advise your clients to consider bringing the work back inhouse if these measures came to pass?



Provider Preparation - Advisors

From the following providers, how well equipped do you consider them to support your clients in the event of these Visa Reforms passing?



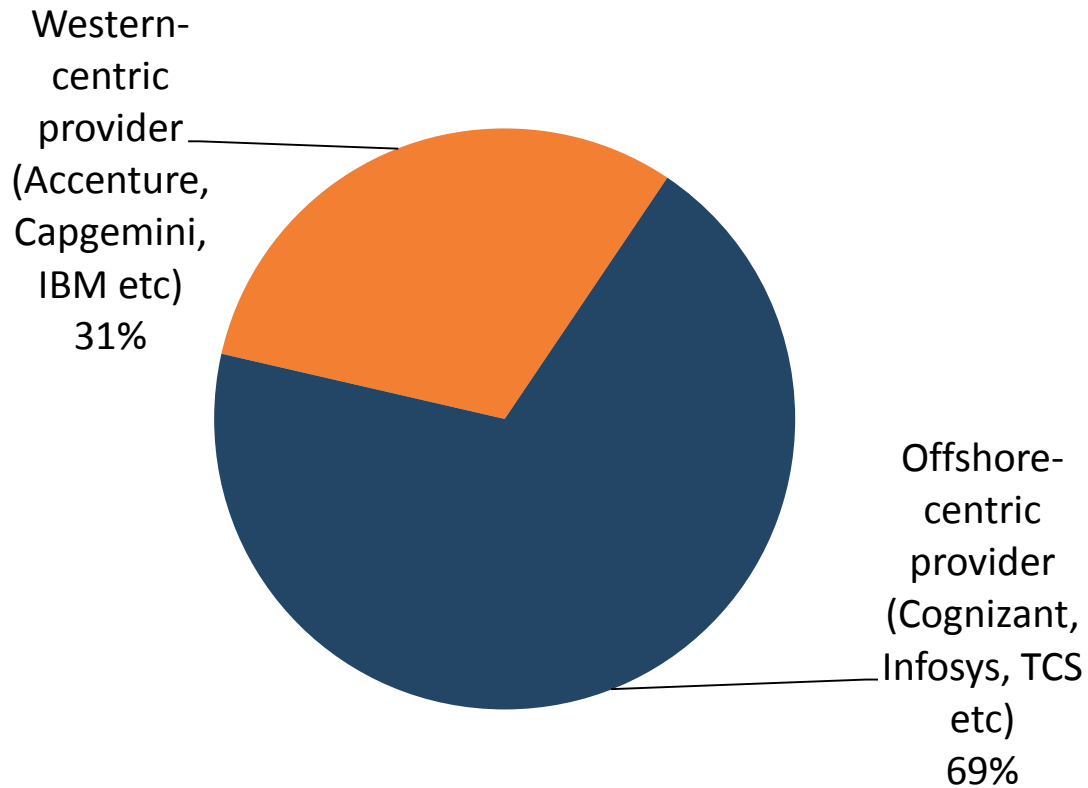
Source: HfS Research 2013, n = 98 Advisors

Service Provider Responses



Type of Provider

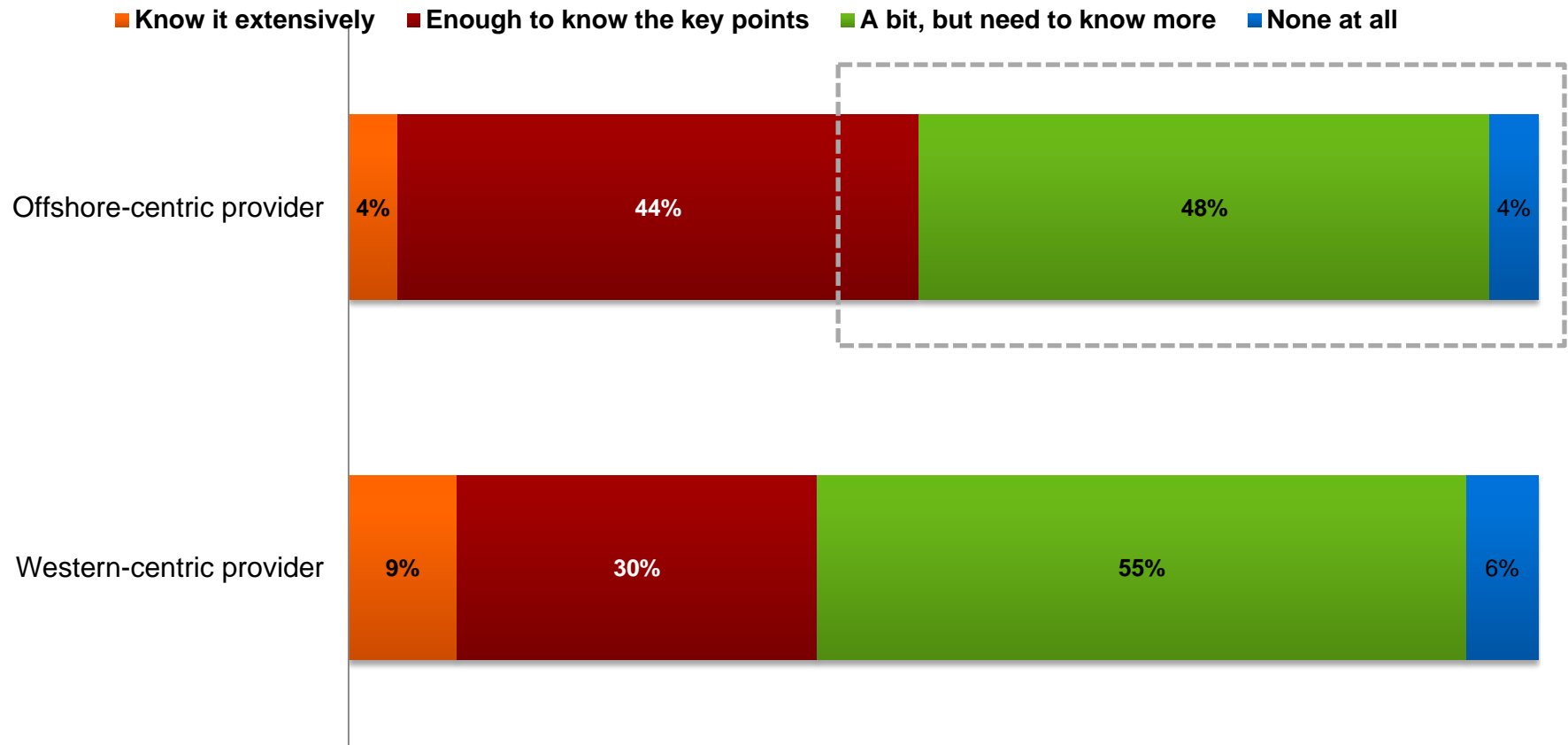
What type of service provider do you work for?



Source: HfS Research 2013, n = 167 Service Providers

Knowledge of Visa Reform – Service Providers

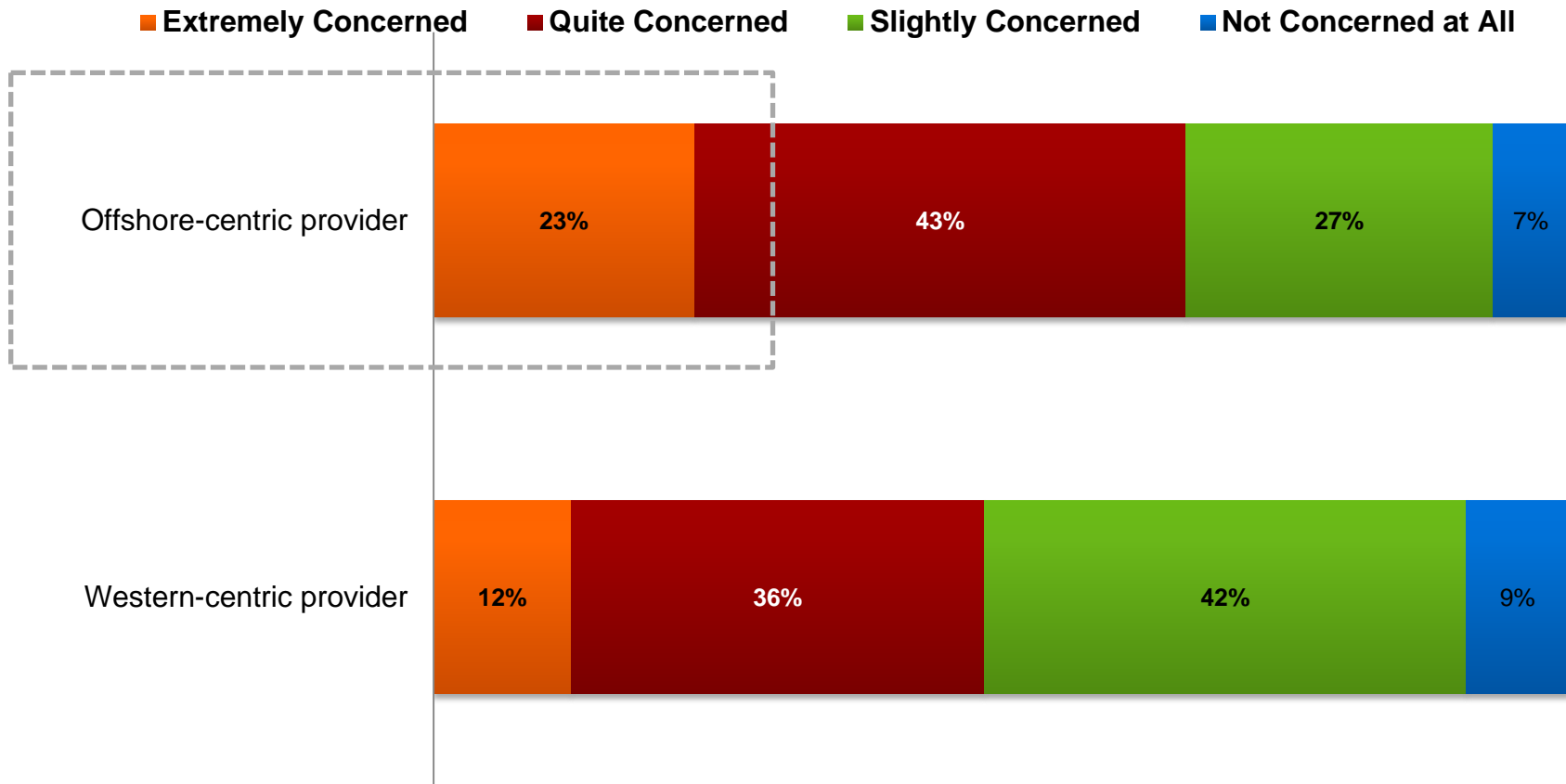
How much knowledge do you have regarding the proposed legislation for visa reform, in terms of how it would impact your clients' outsourcing operations?



Source: HfS Research 2013, n = 167 Service Providers

Concern About Reforms - Service Providers

How concerned are you that the proposed visa reform legislation could impact your clients' abilities to leverage a global delivery model?

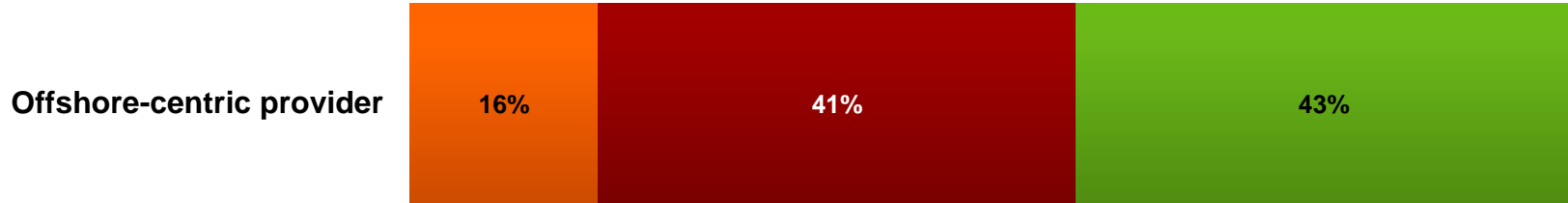


Source: HfS Research 2013, n = 167 Service Providers

Client Discussions – Service Providers

Are you actively discussing the situation with your clients to understand how to deal with the potential outcomes?

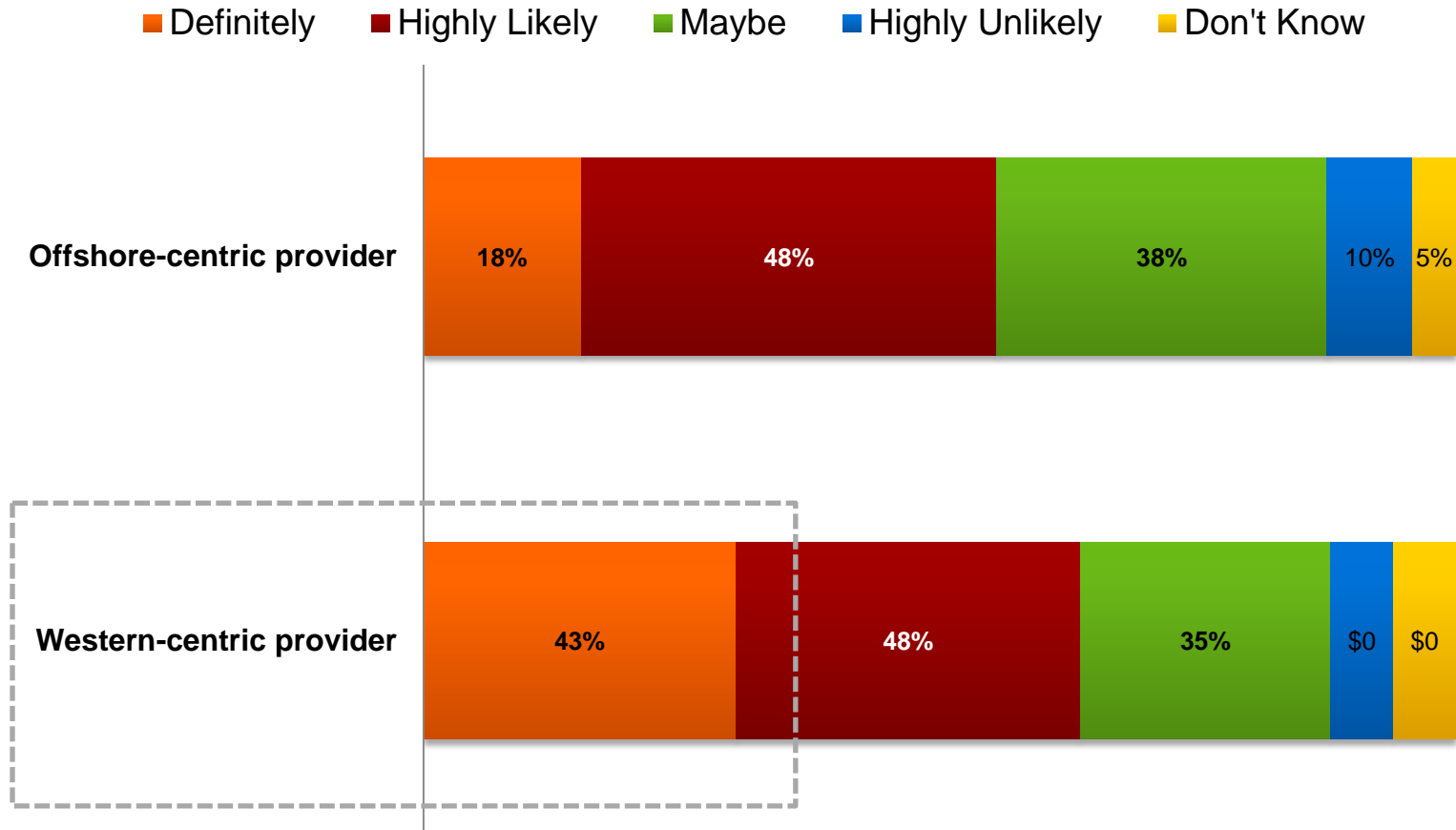
■ Yes - Actively ■ Just beginning / intend to ■ No plans unless the legislation passes



Source: HfS Research 2013, n = 167 Service Providers

Use Of Domestic Services To Mitigate Risk – All Providers

Would you provide your clients with more domestic US talent options to deal with the outcomes of Visa Reform passing?



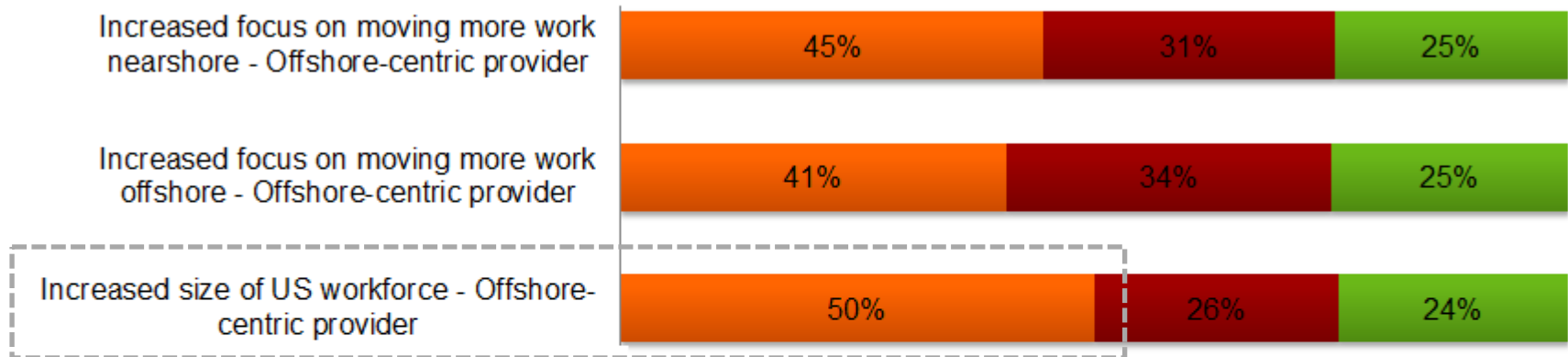
Source: HfS Research 2013, n = 167 Service Providers

Measures Taken by Providers to Counteract Visa Reform issues

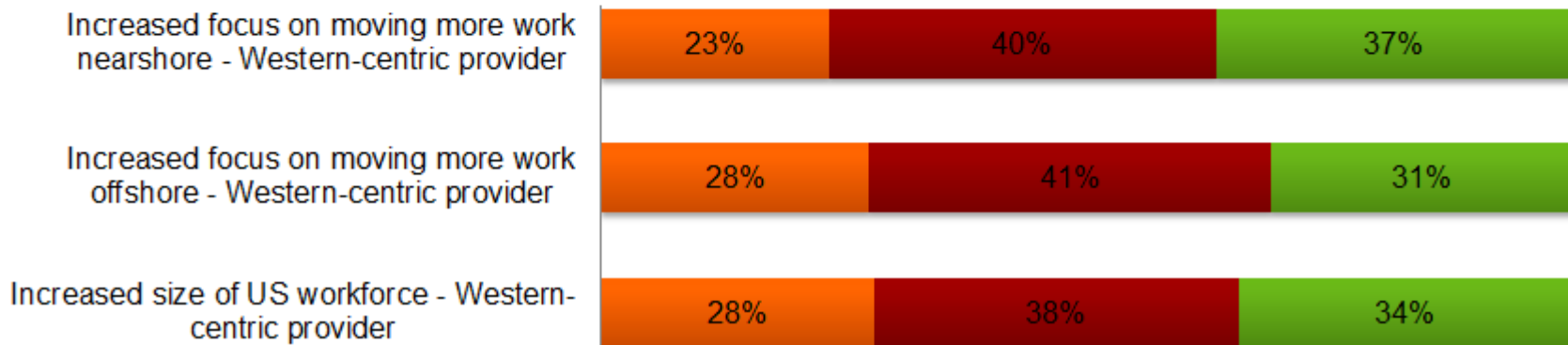
Over the past six months, which measures has your firm taken, from the following, to help your clients in the event the legislation passes?

■ Has taken steps ■ Has not taken steps ■ Will only investigate if reforms pass

Offshore-centric providers

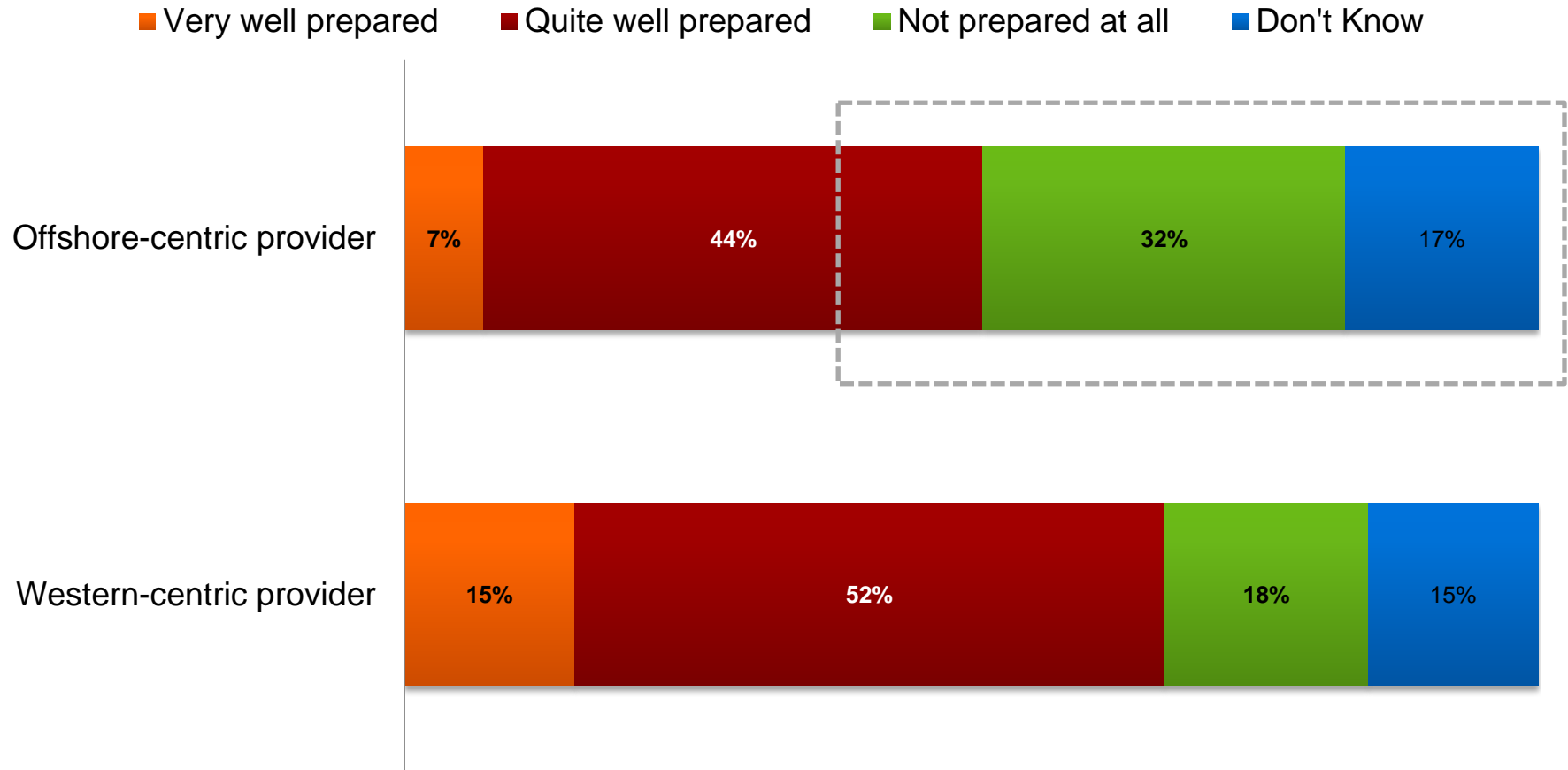


Western-centric providers



Preparedness – Service Providers

Net-net, how well prepared is your firm to cope with the potential outcomes of Visa Reform?



Source: HfS Research 2013, n = 167 Service Providers

What do we make of all this?

- More than 50% of buyers, providers and advisors are blissfully unaware of potential impacts
- Half the offshore providers are ill-prepared and to cope and poorly informed
- A quarter of the offshore providers are very concerned
- Most parties are unsure of the eventual strategies to cope, but indications point to more positions being moved offshore
- Offshore providers clearly looking for more domestic presence whether or not Visa Reform passes
- There seems to be little upside to anyone, except the Western-centric providers' initial "positioning"

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Research Team - Wells Fargo Securities, LLC



IT/BPO Services Providers

A “Wall Street” Take on Potential Impact of Professional Visa Rule Changes

June 2013

Webinar with co-sponsor HfS Research

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All estimates/forecasts are as of June 13, 2013 unless otherwise stated.

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Why Are Investors Worried?

If immigration reform passes similar to current Senate version (S. 744):

- Threatens existing high-growth/high-margin “offshore” Indian-centric IT services business model
- Could lead to near-term interruption in the pace of business
- Could lead to market share shifts away from offshore-centric providers
- Likely need to make margin dilutive acquisition to quickly rebalance current U.S. headcount mix
- Could accelerate evolution away from labor-arbitrage biased model (a good thing long-term, in our view)
- Given overlapping, and not totally clear, requirements, as well as the potential for some offsets, it has been difficult for investors to quantify the potential “worse case scenario” earnings impact

Even if legislation does not pass this year, the fear of it happening in future years could weigh on sector valuation.

The Bad News if Current Version of Senate Proposal Passes

■ Non-Displacement rule (notable impact)

- 90 days before/after petition can not displace U.S. worker if H-1B “high skilled” dependent
- Higher “advertising” compliance, with need to advertise on Department of Labor web-site for 30 days

■ Outplacement rule (very high impact with threat to current operating model)

- No more than 15% of U.S. workforce can be on H-1B or L-1 (separate tests)
- Could lead to rapid wind-down of U.S. capabilities of India-centric firms as visas run-off

■ Higher (parity) wages for H-1B's (manageable, but higher costs)

- Removes lowest level wage category; very provider dependent impact

■ 50/50 rule (manageable, but higher costs)

- Three year transition to half of workforce being locals
- Forces greater hiring of U.S. employees in an already tight market

■ Higher H-1B and L-1 per visa costs (unclear impact)

- \$2,500 plus possible \$5,000-10,000 higher per application if below 50% locals (phases in)
- Unclear how much can be passed along to clients

Threatens Traditional Indian-Centric Model

■ Higher Earnings Model Uncertainty

- Reduces/limits ability to staff on-site putting delivery visibility at risk
- Raises cost of “global delivery” model, i.e. higher visa application fees, higher wages
- Likely forces margin dilutive – and not necessarily strategic – acquisitions to hit U.S. staffing targets
- Could drive up costs of U.S. employees where wages have risen only 1-3% annually for years

==> Therefore, narrows “offshore” pricing advantage

■ Also,

- Higher aggravation level for clients around potential visa compliance audits
- Could lead to market share loss as clients address risk of business interruption

■ Offsets:

- Expect a greater percentage of work to shift offshore (good for margins, bad for revenue growth)
- Accelerate shift to “global” approach from current “international” one

Potential Indian Heritage Providers Responses

■ Aggressively hire U.S. employees

- Although most believe supply is limited, especially above low-end skills
- STEM education in U.S. remains weak, especially relative to India, so (high-end) supply should remain tight
- Increase green card sponsorship, but this is less flexible work force

■ Make acquisitions of companies with primarily local (U.S.) technology employees

- Need to be “skilled” employees to meet “outplacement” 15% target

■ Pass-through higher costs to clients, thereby making the offshore model less attractive

- Risk losing clients to providers not hampered by new visa rules

■ Embrace structurally lower operating margin

Potential U.S. Client (IT user) Response

- **Press legislators in the U.S. House Representatives to tone down Senate proposals**
 - Particularly the “outplacement” and “displacement” rules
 - We assume higher visa fees and transition to 50/50 staffing will remain, if immigration bill is finalized
- **“Pause” decisions on project work until greater clarity on passage likelihood and legislative particulars**
 - CY2013 outlook already has some “back-end” aspect to revenue growth
- **Operational changes: (although limits to acceptance)**
 - Shift a greater percentage of project work offshore
 - Leverage more teleconferencing
 - Accelerate improvement evolution beyond “your mess for less” to leverage process and automation potential
- **Hire more internally; Take on increased project management responsibilities**
 - Increase use of “captives”
 - But, impacts flexibility (variable cost nature) of external sourcing model
- **Shift work to non-impacted firms**
 - Global providers with offshore capabilities, e.g. IBM, Accenture, CGI
 - U.S.-based IT staffing providers, e.g. ASGN

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Additional Information Available Upon Request

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M=Market Weight: Industry expected to perform in-line with the relevant broad market benchmark over the next 12 months.

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About the Panelists



Phil Fersht

Founder and CEO
HfS Research



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Overview

- Over 17 years' business experience in the global outsourcing and shared services industry across US, Europe and Asia
- An acknowledged industry advisor, strategist, author, speaker, practitioner and blogger
- Advised on 100s of global IT & BPO engagements

Previous Experience

- Practice Head for IT Services & BPO Practice, AMR Research (Gartner Inc.)
- BPO Marketplace Leader at Deloitte Consulting
- Vice President for Everest Group, leading research and consulting teams based in the US and India.

Prior Career

- Regional Director, IDC Asia/Pacific
- Program Manager, European IT Markets Services, IDC Europe

Education

- BS with Honors in European Business & Technology from Coventry University, United Kingdom
- Diplôme Universitaire de Technologie in Business & Technology from the University of Grenoble, France

Edward S. Caso, Jr. CFA

Managing Director and Senior Analyst, IT/BPO Services Equity Research Team
Wells Fargo Securities, LLC



edward.caso@wellsfargo.com

Equity Research Analyst

- 27 years – last 18 years focused on IT/BPO services
- Wells Fargo Securities (since 1999), Alex. Brown, Goldman Sachs

Current Coverage

- IT Services: Accenture, CGI, Cognizant, CSC, iGATE, Infosys, On Assignment, Sapient, Syntel, Wipro
- BPO providers: ExlService, Genpact, Performant, WNS
- Government Services: Booz Allen, CACI, ICF Int'l, ManTech, NCI, Inc., SAIC, Inc.

Education

- Bucknell University. BA (Mathematics & Economics, minor computer science)
- Cornell University. MBA (Finance & Accounting)
- Chartered Financial Analyst (CFA) designation

Steve Semerdjian

Partner

Loeb & Loeb LLP



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Overview

- Steve Semerdjian concentrates his practice on complex outsourcing and information technology matters. His practice includes drafting and negotiating a wide range of agreements, including domestic and international business process and information technology outsourcing agreements and technology procurement, licensing, and system development contracts, advising clients on general business, information technology and intellectual property matters.

Prior Career

- Prior to joining Loeb & Loeb LLP, Mr. Semerdjian was a partner in the New York office of Thelen Reid Brown Raysman & Steiner LLP.

Education

- St. John's University School of Law, J.D., 1996
- University of Chicago, B.A., 1991
- Bar Admissions: New York

Stephanie Moore

President

Ameritas Technologies



smoore@ameritastech.com

Overview

- Recognized as the preeminent expert in global sourcing issues
- Helped outsourcing executives understand and navigate the dynamic offshore, onshore, and nearshore outsourcing landscape

Previous Experience

- Advised thousands of IT and business executives about such things as outsourcing strategies, outsourcing tools, vendors, methodologies, ROI models, and internal change management requirements

Prior Career

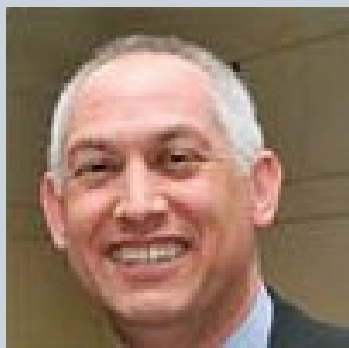
- 15 + years at Forrester Research as an analyst and prolific contributor to the sourcing and vendor management role.
- Chief Marketing Officer at UST Global, a mid-tier global sourcing vendor
- Vice President of Research, Giga Information Group

Education

- Smith College
- Graduated magna cum laude from Fairfield University

Jeff Lande

President
Lande Group



jeff@landegroup.net

Overview

- President of the Lande Group, a government relations and strategic advisory firm.
- Provides guidance and representation to corporations, nonprofits and governments on public policy, business trends, M&A, alliances and strategy.
- Policy issues of focus: immigration, globalization, technology, sourcing, US-India relations, tax, innovation, education, entrepreneurship, trade, information security, economic development, competitiveness, workforce, and foreign policy.

Previous Experience

- Prominent role with the Departments of State and Commerce on the regular bilateral meetings with India as well as running the Technology Partnership
- Leading role in technology and policy consortiums spanning nearly forty states and seventy-six countries for more than a decade.
- Served as the national Legislative Director and Washington Office Associate Director of UJC.
- Senior staff positions in the U.S. House of Representatives; lectured and served as a researcher at the University of Virginia; and owned a computer consulting firm and another business.

Prior Career

- Executive Vice President of TechAmerica
- Senior Vice President of the Information Technology Association of America (ITAA)

Education

- Undergraduate and graduate degrees from the University of Wisconsin and the University of Virginia, respectively

Joe Hogan

Vice President Global Advisory

HCL Technologies



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Overview

- Joe is the HCL Vice President for Global Advisory Services. He is responsible for HCL's critical relationships with both the sourcing advisor and private equity communities.
- Joe is a result driven International Business Executive with significant marketing and operational experience in the highly competitive outsourcing, shared services, and consulting industry. He possesses a unique skill set to include marketing, business development, consulting and P&L responsibility working for and with large global organizations such as Alsbridge, Inc. HP, Accenture, and EDS.
- A proven leader with solid influencing skills across all functions of the business, both as a hands-on manager in achieving and as an executive leader creating and delivering long term strategies, organizational vision, and the results in both domestic and international settings.

Tim Norton

Director Vendor Management

United Parcel Service



timnorton@ups.com

Overview

Tim has spent his entire career in IT, 36 years, working for numerous components of General Electric.

For the last 12 years Tim led IT Global Vendor Management in GE's Global Development Program. This entailed evaluation and selection of vendors for the program, Relationship Management, and Governance of over 5000 resources from across the globe along with integral involvement in the critical and constant evolution of the program. As the program grew, globalization of the vendor pool became paramount to take advantage of the true global market while mitigating risk of too much work centralized in any one location.

In December of 2012, Tim started a second career and joined UPS as Director of IT Vendor Management building new strategies and environments to meet ever changing business objectives.

Education

- Huntington College

About HfS Research

HfS Research (www.HfSResearch.com) is a leading independent global analyst authority and knowledge community for the business and IT services industry.

HfS is unique in the fact that it serves the research and strategy needs of business operations leaders across finance, supply chain, human resources, marketing, customer management, IT and core industry functions. In addition to researching business operations strategies, HfS educates and facilitates discussion among the world's largest knowledge community of enterprise services professionals, currently comprising 120,000 subscribers. HfS Research also facilitates the **HfS Sourcing Executive Council**, the acclaimed elite group of sourcing practitioners from leading organizations, which meets on a bi-annual basis to share the future direction of the global services industry and discuss the future enterprise operations framework.

Led by recognized industry expert Phil Fersht, HfS Research differentiates itself with its global team of expert services analysts with real industry experience, provocative and opinionated research, unrivalled market analytics, and a view of technology as an enabler for business process improvement. Its on-demand expertise relationship model helps clients leverage HfS knowledge and strategic insight in a rapid, responsive and engaging manner.

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