September 24, 2026

Submitted via Regulations.gov

Office of the Chief Financial Officer
US Citizenship and Immigration Services
US Department of Homeland Security
5900 Capital Gateway Drive
Camp Springs, MD 20746

Re: **Proposed Rule Revising 8 CFR Part 106 Fee Schedule**
Fee for Certain H-1B Petitions
DHS Docket No. USCIS- 2026-0298
RIN 1615-AD20
Opposition to costly DHS proposal

Dear Sirs,

The undersigned 49 organizations represent members of the entrepreneurship and innovation, science, state and local economic development, small business, education, and research and policy sectors. We appreciate the opportunity to comment on the Department of Homeland Security's proposed rule to establish a $103,265 fee for all petitions subject to H-1B numerical limits, a new fee that would apply whether the sponsored H-1B professional is already in the United States or not.

Despite differences in priorities and sector, each signatory has found that the ability to hire talented, foreign-born professionals when necessary is a key ingredient to American innovation and job creation. As such, we oppose the proposed H-1B fee, which we believe will effectively cut off compliant employers from many highly-qualified foreign-born professionals whose skills would contribute to these ends and for whom we are willing to pay a premium for their unique and valuable skills. Further, we raise concerns over DHS's proposal to require US employers of H-1B professionals to cover costs throughout the federal government that have little to do with either H-1B petitions or adjudications generally.

The undersigned have 5 top concerns and associated requests for clarification about the Notice of Proposed Rule Making (NPRM) imposing a new $103,265 fee.

1. The Administration itself has acknowledged the importance of recruiting the best talent from across the globe by including "attracting and retaining top-tier global talent in critical national security science and technology fields" as an important part of the National Security Science and Technology Strategy, just published in August 2026. We are concerned that finalizing the new fee policy described in the NPRM will lead to a much smaller international STEM talent pipeline by discouraging top talent abroad from studying in the United States. It stands to reason that students will be less likely to enroll and less likely to try to stay in the United States if they are uncertain that at some point in the future, an employer will be able to cover a $103,265 fee for them.

The case for retaining the talent our universities produce is the consistent conclusion of Congress's own bipartisan work on competition with China and of the expert bodies convened to assess American technological leadership. Facilitating American firms' access to highly skilled foreign-born professionals is critical to innovation, technological development, scientific and engineering research and development, and applied research.

Signatories are convinced that facilitating access to human capital is absolutely key to innovation, technological development, science and engineering research and development, applied research, and many other endeavors where H-1B professionals are employed. As explained by the House Armed Services Committee in its 2020 Future of Defense Task Force report, which recommended steps to better attract and retain foreign-born STEM talent, "human capital is our most important asset."

Moreover, the House Republican China Task Force, in its 2020 report, identified the competition with China for high-skilled talent as a first-order strategic concern, observing that nearly 60 percent of the PhD holders working in computer science, mathematics, and engineering in the United States are foreign-born, and finding that the US must "retain the best and brightest minds to contribute to the U.S. economy and drive U.S. productivity." The bipartisan House Select Committee on the Chinese Communist Party reached the same conclusion in its 2023 report, *Reset, Prevent, Build*. The expert bodies chartered to study the question have been still more emphatic. The National Security Commission on Artificial Intelligence, a congressionally established, bipartisan commission, concluded in its 2021 final report that the United States risks losing the global competition for scarce expertise unless it does more to recruit and retain talent from abroad. When Congress instructed the Department of Defense through the National Defense Authorization Act to commission a study of talent programs, the resulting 2024 report included recommendations to deploy a whole-of-government strategy to retain foreign-born STEM graduates of American institutions.

We raise this consensus because none of these treat the retention of U.S.-trained talent as optional, yet the USCIS NPRM doesn't mention this vital issue. Surely, the agency knows that the F-1 student to H-1B pipeline is a key input to US employers' competitiveness. DHS data (from FOIA data made public by Bloomberg) show that for employers that are not H-1B dependent (less than 15% of their US workforce are H-1B professionals) and not outsourcers, approximately 77% of their H-1B petitions are filed for noncitizens already in the country in another valid but temporary status – most often as F-1 students.

→ **Our request: In the agency's final rule, please address the risk of losing foreign-born talent completing programs at the nation's research universities, and explain how that changes the agency's cost-benefit analysis, if at all.**

2. The fiscal impact of highly educated H-1B workers on federal, state, and local budgets is unambiguously positive. If firms' access to the H-1B program is severely curtailed by the proposed $103,265 fee, as we expect it will, the positive fiscal impact the program yields for virtually all levels of government will be curtailed as well. Data analysis by the Economic Innovation Group shows that the average H-1B household contributes $30,050 net to federal finances annually, more than double the contribution of a typical US household. In addition to directly reducing pressure on the federal deficit, H-1B workers provide positive fiscal balances at the state level too, including lower-income states. The typical H-1B household contributes more than $5,000 on net to state coffers in states with a wide variety of economic structures, including Alabama, Georgia, Idaho, Maine, Minnesota, and Utah, among others.

→ **Our request: Please explain how the agency considered and assessed the fiscal effects of H-1B professionals working throughout the country. We don't see an explanation in either the NPRM itself or the Technical Appendix or Supporting Document in the regulatory docket.**

3. Analysis by the Institute for Progress shows that a very small share of the costs the agency seeks to recover through the $103,265 fee is related to H-1B services. In fact, many of the costs being recovered are not even related to any adjudication service.

For example, there is seemingly no possible argument that the following agency activities are part of "providing immigration adjudication and naturalization services," which the NPRM says is the scope of its cost recovery authority for USCIS filing fees under section 286(m) of the Immigration and Nationality Act:

Litigation and legal support, Department of Labor, $350 million: DOL's Office of the Solicitor is identified as eligible for USCIS reimbursement from the new H-1B fee for legal enforcement activities, "including regulatory drafting, work before the Office of Administrative Law Judges and Administrative Review Board, federal court defense, and general legal support at both national and regional offices." Legal services on behalf of the US Department of Labor are not adjudication and naturalization services.

Refugee logistics, Department of State, $92 million: The listed costs include activities which Congress has directed and funded the State Department to cover through DOS's Bureau of Population, Refugees and Migration, Resettlement Support Center, and participation in the International Organization for Migration and cannot be included in DHS's adjudication and naturalization services.

Vetting and screening for removal at DHS's US Immigration and Customs Enforcement (a law enforcement agency), $900 million: This category is for Enforcement and Removal Operations and Homeland Security Investigations for vetting of aliens in removal proceedings, which Congress directly separated from adjudication services by explicitly discussing "detention and removal services" at section 286(h)(2)(A)(v) of the Immigration and Nationality Act.

We are puzzled as to why H-1B employers could or should be asked to pay to recover costs so attenuated from the service being provided and not captured by the statutory authority for the agency to cover fees for asylum seekers or others who can't afford filing fees. The data seem to show an exceedingly small share of the identified costs that are H-1B-related:

H-1B-related services account for a small fraction of agencies' costs

Cost block	Agency's workload measure	H-1B share
CBP (Traveler Verification Service)	147 million nonimmigrant admissions in FY 2024, 78 million with an I-94; H-1B is 1.1% of I-94 admissions (OHSS)	0.6%
DOS	FY2024 NIV workload: 225,957 H-1B applications of 14,245,969	1.6%
DOL	Only the $79.2M LCA line is labeled H-1B in the NPRM's own Table 9	6.50%
DOL	4,087 of 212,158 prevailing wage requests	1.90%
DOL	74 of 16,924 WHD compliance actions, $3.3M of $259.3M in back wages (FY 2025)	0.4–1.3%
USCIS	USCIS's own activity-based cost model assigns $198.8M of $6.659 B to all I-129 H-1B petitions	3.0%

Source: DHS OHSS, U.S. Nonimmigrant Admissions: 2024; State Department, Worldwide NIV Workload by Visa Category FY 2024 and Report of the Visa Office 2024, Table I; DOL OFLC, Selected Statistics FY 2025 (LCA, PERM, Prevailing Wage, H-2A, H-2B); DOL WHD, Fiscal Year Data (All Acts; H-1B); N-336/N-400 Fee Review Supporting Document (Oct. 2025), Appendix Table 1; NPRM Table 13; H-1B Rule Supporting Documentation, Tables 9–10.

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→ **Our request: Please document how each cost the agency is attempting to recover is for "providing immigration adjudication and naturalization services" and provide sample reimbursement agreements with each department and agency, if authorized by law, showing how USCIS will avoid double counting or increased costs for activities already covered by congressional appropriations.**

4. The NPRM does not analyze the breadth of employers who file H-1Bs or how the rule would affect the full spectrum of H-1B filers. Discussion of the H-1B program tends to focus on a few hundred high-volume filers, but they are not most of the employers who would be subject to the proposed fee.

DHS data show that most recently about 57,600 unique employers (from USCIS's H-1B Registration Process page) registered to have an H-1B petition considered in the lottery and that approximately 20,000 unique employers (from Bloomberg's FOIA data) file cap-subject petitions each year. Under the first Trump administration, transparency data was released that suggested that about 60% of H-1B petition approvals were for employers that filed one single H-1B petition, with another 30% of H-1B approvals for employers filing 2-9 petitions, 9% for those filing 10-99 petitions, and just 1% of H-1B petition approvals for employers that file more than 100 petitions. These employers span every sector and region. Of the top 100 metro areas appearing in the top 100 Global Innovation Index for science and technology intensity, 22 are located in the United States, including Pittsburgh, Dallas, Minneapolis, Raleigh, and Portland, each of which benefits from many H-1B professionals. In a summer 2026 survey, companies said that "many of the positions for which H-1B petitions previously filed would remain unfilled in the Unitd States" if a $100,000 fee was attached to all initial cap-subject petitions. The NPRM does not analyze this population, how the tens of thousands employers making one or a few hires a year would respond, and how that would affect the dynamism of local economies across the United States.

→ **Our request: Please further interrogate the agency's assumptions that there will be at least 85,000 cap-subject petitions filed. The final rule should analyze how the rule will affect the tens of thousands of employers impacted and what that will mean for innovation in the many tech clusters that are not dominated by large H-1B filers.**

5. For those of us who are businesses or represent businesses, we are (or represent) typical US employers that most often hire early-career, foreign-born professionals by actively recruiting on American college campuses. The NPRM's analysis appears to rely almost exclusively on simulations from the economist George Borjas, who concluded in a paper that the typical worker who is the beneficiary of a cap-subject H-1B petition earns less than similarly-qualified natives. However, this same paper also acknowledges that many employers pay a *positive* premium, offering wages to foreign professionals that are higher than those earned by the typical, equally-qualified US worker. An Institute for Progress review found that H-1B workers transitioning from student visas — like those our firms hire — typically earn a positive premium. While the NPRM operates under the assumption that employers who significantly underpay foreign professionals in the H-1B program would be able to pay the $100k fee, that is not the case with our firms (or the firms we represent), who do not underpay.

When our firms search for job candidates, we look for professionals who represent the best fit for a particular position or a particular team and who fit the need for a particular skill set. When we find the right fit from our on-campus recruiting, we want to offer that individual a position. Typically, most of our hires are Americans, but at times, the best candidate for a particular role is not one who was born in the United States. In the past, including for this year's H-1B lottery, when we find the best-qualified candidate is an international student completing a degree at one of the nation's research universities, we typically hire them first on OPT and later register for the opportunity to file an H-1B petition on their behalf to see if we can employ them longer term.

→ **Our request: Please provide an explanation of the cost your agency believes firms like ours that *do not underpay* H-1B professionals should undertake, how the agency's cost-benefit analysis has considered the fact that our organizations do not underpay, why the agency believes that H-1Bs should be reserved for the firms who *do* underpay, and why alternative less burdensome options are unworkable.**

Conclusion

The ability to hire appropriate, eligible individuals in H-1B visa status is an important complement to our hiring of professional US workers. Established in the 1952 rewrite of the nation's immigration laws, for over **75** years the H-1 visa classification, now designated as the H-1B visa, has existed to allow U.S. employers to hire professionals born outside our country working in an occupation that typically requires the type of knowledge only obtained through completion of a university education. As summarized in a consensus 2017 report of economists, including George Borjas: "infusion by high-skilled immigration of human capital has boosted the nation's capacity for innovation, entrepreneurship, and technological change... The prospects for long-run economic growth in the United States would be considerably dimmed without the contributions of high-skilled immigrants."

We oppose the effort by US Citizenship and Immigration Services to shoehorn massive fee obligations onto H-1B employers because it seems the agency has not fulfilled its obligations for rational notice and comment rulemaking and because we expect the long-term effects of a new $103,265 fee will indeed be the dimming of American economic growth and prosperity.

Thank you for the opportunity to participate in the notice and comment rulemaking process.

Respectfully filed,

ENTREPRENEURSHIP AND INNOVATION
Center for American Entrepreneurship
Engine
Keystone Innovation District
MichAuto
National Venture Capital Association (NVCA)
Small Business Majority
TechNet
Technology Councils of North America (TECNA)

EDUCATION
American Educational Research Association
International Student Resource Center
National Postdoctoral Association
Presidents' Alliance for Higher Education and Immigration
Study Wisconsin

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Center for Strategy and Applied Insights at Fragomen
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American Chemical Society
American Physical Society
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