

September 24, 2026

Office of the Chief Financial Officer
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
5900 Capital Gateway drive
Camp Springs, MD 20746

Re: Fee for Certain H-1B Petitions; Notice of Proposed Rulemaking
DHS Docket No. USCIS-2026-0298

To Whom It May Concern:

The National Association of Manufacturers (“NAM”) welcomes this opportunity to comment on the Department’s proposal to establish a \$103,265 fee, payable at the time of filing, for all H-1B cap-subject petitions.

The NAM is the largest manufacturing association in the United States, representing manufacturers of all sizes across all 50 states and in every industrial sector. Manufacturing contributes \$3 trillion to the U.S. economy annually.¹ The NAM works for the success of the 13 million people who make things in America, advocating for a policy agenda that helps manufacturers compete in the global economy and create jobs across the United States.

Manufacturers respectfully recommend that the Department not impose the proposed fee, considering the importance of high-skilled immigration to manufacturing in America, the flaws in the NPRM’s rationale for, and calculation of, the fee, and the fact that such a fee cannot be used to fund the federal agency activities identified in the NPRM.

1. High-Skilled Immigration’s Contribution to American Prosperity

1.1. High-Skilled Immigration is Integral to Manufacturing in the United States

America’s manufacturers are investing, innovating, and building here at home to ensure that the United States remains the global leader in technologies that will define the future, create opportunity, and strengthen American prosperity. Modern manufacturing is vitally dependent on a steady pipeline of high-skilled talent, both foreign and domestic. Given the innovative nature of modern manufacturing, workers with science, technology, engineering and mathematics (“STEM”) skills are critical to manufacturing growth:

- While manufacturing represents just under 10% of U.S. GDP, it accounts for almost 52% of all private sector research and development. This means that manufacturing is significantly more innovation-dependent than any other sector of the U.S. economy.²
- Factories cannot be built, designed, or operated without engineers and scientists. Without this high-skilled talent, manufacturers in the U.S. cannot maintain the scale, competitiveness, or leadership needed in the global economy. This means that, in turn, these scientists, engineers, and other high-skilled specialists create more U.S. manufacturing jobs throughout the industry.

¹ See Facts About Manufacturing, available at <https://nam.org/manufacturing-in-the-united-states/facts-about-manufacturing-expanded/>

² Id.

- AI is reshaping manufacturing, from digitalization of the shop floor to optimization of the supply chain. To harness these tools, manufacturers need data and computer scientists skilled in these systems. Without a steady pipeline of AI-savvy talent, the U.S. risks falling behind in both productivity and innovation.

High-skilled foreign-born employees work hand-in-hand with their high-skilled homegrown colleagues to keep manufacturers in America competitive in the global economy, fill skill gaps, and bolster economic growth. Their work gets projects off the ground that in turn employ hundreds or thousands of additional American workers. By aligning immigration policy with the nation's economic and technological priorities, the Administration can help manufacturers secure the high-skilled talent necessary to accelerate innovation and further advance President Trump's vision of American manufacturing dominance.

1.2. High-Skilled Immigration Fuels U.S. Innovation

One of the most important factors sustaining the United States' global economic leadership—and therefore its prosperity and that of its people—is its ability to innovate, in manufacturing and in every other economic sector.

There is clear evidence that industry's access to high-skilled immigrant labor boosts overall innovation and economic activity, and that this in turn benefits U.S. workers. Below is a non-exhaustive sample of the peer-reviewed literature demonstrating this important dynamic:

- Higher H-1B admissions increase immigrant science and engineering employment and patenting, without displacing native science and engineering employment or patenting.³
- Immigrants patent at double the native rate, largely because of their concentration in science and engineering, and rises in the population of immigrant college graduates increase patents per capita in the U.S., without crowding out Americans.⁴
- Firms that conduct R&D and are heavy users of H-1B workers would experience gains in average labor productivity, firm size, and profits in response to a relaxation of the cap on H-1B visas.⁵
- Higher firm-level rates of H-1B Labor Condition Applications ("LCA") are associated with higher rates of product reallocation (i.e., introduction of new products on the market and withdrawal of discontinued products) and revenue growth.⁶

1.3. High-Skilled Immigration Benefits U.S. Workers

High-skilled immigration does not come at the expense of the American worker, but rather benefits American workers and the American economy at large. Numerous peer-reviewed studies demonstrate that American workers benefit from the U.S. employment of their foreign-born high-skilled colleagues:

³ *The Supply Side of Innovation: H-1B Visa Reforms and U.S. Ethnic Invention*, National Bureau of Economic Research, February 2010, available at https://www.nber.org/system/files/working_papers/w15768/w15768.pdf

⁴ *How Much Does Immigration Boost Innovation?*, Hunt & Gauthier-Loiselle, National Bureau of Economic Research, September 2008, available at <https://www.nber.org/papers/w14312>

⁵ *The Impact of Skilled Foreign Workers on Firms: An Investigation of Publicly Traded U.S. Firms*, IZA Discussion Paper, November 2014, available at <https://www.iza.org/publications/dp/8684/the-impact-of-skilled-foreign-workers-on-firms-an-investigation-of-publicly-traded-us-firms>

⁶ *High-Skill Immigration, Innovation, and Creative Destruction*, National Bureau of Economic Research, July 2018, available at <https://www.nber.org/papers/w24824>

- At the firm level, overall employment of high-skilled U.S. workers rises with increased high-skilled immigrant employment by the firm, that expansion being greater for younger American workers.⁷
- Increases in immigrant STEM workers are associated with significant wage gains for college-educated Americans, and smaller but still significant gains for non-college-educated Americans.⁸
- While negative H-1B supply shocks (i.e., the random and unexpected denial of requested H-1B visas due to the lottery system) are “robustly associated” with declines in foreign-born computer-related employment, U.S.-born computer employment does not benefit—it either falls or remains constant.⁹
- H-1B lottery wins increase firm hiring of college-educated immigrant labor without displacing U.S.-born, college-educated workers at the firm level. But as these H-1B lottery wins also increase firm scale and survival, they are a net positive for U.S.-born, college-educated workers.¹⁰

Manufacturers believe that because high-skilled immigration makes a significantly positive contribution to the U.S. economy, its innovation performance, and its workers, any policy that restricts it must be subject to heightened scrutiny. As explained in the rest of this submission, the proposed rule does not withstand this scrutiny and we recommend that the Department reconsider whether the proposed rule supports the President’s agenda of manufacturing growth and onshoring.

1.4. High-Skilled Immigration Is Not the Problem: America Does Not Educate Enough High-Skilled Talent

Restricting high-skilled immigration does not organically generate homegrown engineers. The decline in the domestic STEM talent pool is a deep, structural challenge that even prohibitively expensive fees would not contribute to overcome. For example, training a semiconductor hardware design lead engineer takes seven to 10 years of intensive education and on the job training. Penalizing employers would not help fill our domestic educational shortfall, but would starve domestic industry of vitally needed talent.

2. The Calculation of the Proposed Fee Is Flawed

2.1. The Proposed Fee Would Significantly Reduce the Number of H-1B Petitions

The NPRM asserts that the proposed \$103,265 fee would not reduce the number of H-1B petitions below the 85,000 cap. That is highly doubtful, for several reasons.

First, while the NPRM quotes only one study¹¹ in support of that conclusion, a fuller examination of the literature would have uncovered at least two studies that support the opposite

⁷ *Skilled Immigration and the Employment Structures of US Firms*, Journal of Labor Economics, July 2015, available at <https://www.journals.uchicago.edu/doi/10.1086/678986>

⁸ *STEM Workers, H-1B Visas, and Productivity in US Cities*, Journal of Labor Economics, June 2015, available at <https://giovanniperi.ucdavis.edu/uploads/5/6/8/2/56826033/stem-workers.pdf>

⁹ *Foreign and Native Skilled Workers: What Can We Learn From H-1B Lotteries?*, National Bureau of Economic Research, May 2015, available at https://www.nber.org/system/files/working_papers/w21175/w21175.pdf

¹⁰ *The Impact of Immigration on Firms and Workers: Insights from the H-1B Lottery*, Federal Reserve Bank of Richmond, March 2025, available at https://www.richmondfed.org/-/media/RichmondFedOrg/publications/research/working_papers/2024/wp24-04.pdf

¹¹ George J. Borjas, “The H-1B Wage Gap, Visa Fees, and Employer Demand,” NBER Working Paper 34793, <https://www.nber.org/papers/w34793>.

conclusion.¹² The failure to review the existing literature constitutes a significant process flaw that the Department should correct before it issues any final rule.

Second, the experience gained from the implementation of Proclamation 10973 supports the contention that a 6-figure fee would in fact deter a significant number of petitioners and leave a large portion of the 85,000 visa cap unused. In the NPRM's own Technical Appendix,¹³ USCIS reports a year-over-year "decline of more than 90% in consular H-1B receipts" following implementation of the Proclamation. It is unclear why USCIS sets aside this precipitous decline as a "short-term shock," and "information shock that H-1B petitioners did not have time to absorb." If anything, with time passing petitioners' view of the fee seemed in fact to have worsened and then stabilized at an extremely negative level: the year-over-year declines went from 81% in October 2025 (the first full month following the publication of the Proclamation) to 94% (November 2025), 93% (December 2025 and January 2026), 94% (February 2026), 95% (March 2026) and 97% (April 2026). The failure to account for the effect of this prevailing wage change is a flaw that the final rule must correct.

Finally, the fee imposed under Proclamation 10973 is refundable in case the petition is not ultimately successful. By contrast, there is no allowance made by the proposed rule for any refund. Few petitioners could accept the risk of forfeiting such a sum if their petition is denied. The failure to account for the deterrent effect of this non-refundability is another flaw that the final rule must correct.

2.2. The NPRM Should Have Accounted for Other Regulatory Developments

The NPRM's calculations do not properly account for the impact of other regulatory developments affecting demand for H-1Bs.

First, the NPRM acknowledges that the rule revising the prevailing wage requirements will have "significant financial and operational implications for employers, including those participating in the H-1B program, and may affect the overall demand for employment-based immigration benefits."¹⁴ It states that the proposed rule "accounts for the impact of revised prevailing wage requirements on employer behavior,"¹⁵ but does not explain how it does so. Nothing in the NPRM's calculations seems to. This constitutes a significant deficiency that the Department must correct before it issues any final rule.

Second, the final rule will have to set its fee at a level that accounts for the impact of another regulatory development, which is expected within the next few weeks: the publication of new fees for Optional Practical Training ("OPT").¹⁶ Many F-1 visa holders undertaking OPT/STEM OPT transition afterwards to H-1B visas: if fees set at similarly prohibitive levels were also imposed on OPT, employers' ability to pay for both OPT and H-1B fees would be minimal. This means that the two rules, on their own and even more so taken together, would devastate

¹² The following studies argue that the wage gap between American workers and similarly employed H-1B holders is not -15.1% as Borjas believes, but -5.1% and +6%, respectively, and thus call into question the calculation that enough employers would not be dissuaded by the proposed fee from seeking to sponsor an H-1B holder:

- Jiaxin He and Adam Ozimek, "The Flawed Paper Behind Trump's \$100,000 H-1B Fee," Economic Innovation Group, <https://eig.org/the-flawed-paper-behind-trumps-100000-h-1b-fee/>
- Michael A. Clemens, "Immigrant-Native Age Gaps and Immigration Tariffs : Examining the Case for an H-1B Visa Tax," Rockwool Foundation, https://www.rfberlin.com/wp-content/uploads/2026/03/26072_revised.pdf

¹³ Fee Elasticity Analysis for the U.S. Citizenship and Immigration Services Fee for Certain H-1B Petitions - Notice of Proposed Rulemaking, available at <https://www.regulations.gov/document/USCIS-2026-0298-0003>

¹⁴ Manufacturers agree: the proposed revision of the prevailing wage methodology would "materially weaken the industry's efforts to deliver on the President's vision for long-term, innovation-driven manufacturing growth and onshoring," as explained in the NAM's submission in response to the prevailing wage NPRM, available at

<https://documents.nam.org/tech/DOL%20Prevailing%20Wage%20NPRM%20-%20NAM%20Submission%20-%20FINAL.pdf>

¹⁵ NPRM, p. 54825.

¹⁶ <https://www.reginfo.gov/public/do/eoDetails?rid=1506461>

manufacturers' access to the talented junior STEM professionals they need to execute on the President's vision of long-term manufacturing growth and onshoring. The final rule will have to account for the effect of the forthcoming change in OPT fees.

Third, the Department will have to ensure, if it enacts a final rule, that no H-1B petitioner pays a six-figure fee twice—once per this proposed rule and a second time per Proclamation 10973, which was extended for one year on September 18, 2026.¹⁷

2.3. The NPRM Underestimates the Fee's Impact on Employers'

The NPRM wrongly asserts that the proposed fee is not “significant compared to the petitioner's wage obligation.” It bases this claim on the fact that “the median annual compensation for all approved H-1B beneficiaries in FY 2025 was \$133,000. That equates to an unadjusted median wage of \$798,000 ($\$133,000 \times 6$) over the course of the general 6-year period of H-1B admission.” On this basis, the addition of a \$103,265 fee would ‘only’ increase that sum by 13%.

This ignores the fact that an increase of 13% is not, actually, negligible. It also ignores the fact that six years (three years, renewable once) is the maximum possible duration of an H-1B visa: the employer/petitioner has no guarantee that the visa holder will seek and receive a renewal, and will not change employers. More importantly, these costs are not paid over six years, but upfront: a company must have the necessary cash flow to afford such outlay at the time of its petition. Therefore, the fee is not an amortized 13% added annual cost over six years, but a 78% increase applicable the first year. That explains why, as indicated above, the number of petitions dropped by more than 90% in the wake of Proclamation 10973. The failure to account for the proposed fee's impact on petitioners' cash flow is a flaw that the final rule must correct.

If the Department were to proceed to a final rule, manufacturers recommend that it better account for the fee's impact on employers by exempting H-1B petitions that seek a “change of status” for F-1 OPT individuals seeking to transition to an H-1B, as Proclamation 10973 (and its successor Proclamation published on September 18, 2026) does. OPT workers are part of an employer's workforce: as such, their transition to another immigration status, provided that it meets applicable statutory and regulatory requirements, should not be prevented by a prohibitively expensive fee.

If the Department were to proceed to a final rule, manufacturers also recommend that it provide the Department the authority, as sec. 1(c) of Proclamation 10973 did, to waive the fee for individuals, companies or sectors when the Department finds it to be in the national interest to do so.

2.4. The NPRM Disregards the Fee's Impact on Small and Medium-Sized Businesses

The NPRM acknowledges the significant negative impact it would have on smaller companies: “76 percent of small entities would experience a cost increase that is greater than 1 percent of its revenue”—which is unbearable. However, the proposed rule makes no accommodation for these smaller entrepreneurs, nor presents any alternative ways to mitigate this harm. The NPRM simply says “exempting small entities or discounting fees creates a sizable perverse incentive for employers to avoid the fee”: by that rationale, no fee, tax or regulation would ever include an exemption or discount for small businesses. Additionally, the Regulatory Flexibility Act requires agencies to consider less burdensome alternatives for small entities, and DHS has not reconciled that admitted harm with this requirement.

¹⁷ “Restriction on Entry of Certain Nonimmigrant Workers,” Presidential Proclamation, September 18, 2026, available at <https://www.whitehouse.gov/presidential-actions/2026/09/restriction-on-entry-of-certain-nonimmigrant-workers-faad/>

As a matter of both policy and law, the Department must reconsider this aspect and, were it to proceed with a final rule imposing this fee, propose for example a sliding scale that spares small and medium-sized businesses from such costs.

2.5. Employers' "Ability to Pay" Is Not a Permissible Consideration

Congress has unambiguously specified the essential characteristics of the H-1B selection process: the number of visas that may be issued on an annual basis;¹⁸ exemptions from that cap for certain employers;¹⁹ the creation of a supplementary cap for aliens with advanced degrees from U.S. institutions;²⁰ and the criteria that H-1B visa applicants "shall be issued visas ... in the order in which petitions are filed."²¹ These statutory provisions clearly provide a complete framework for the H-1B visa program, outside of which the Department cannot lawfully innovate.²² The addition by the Department of a new substantive condition—which a six-figure fee would be—would profoundly and impermissibly alter this statutory scheme.

The NAM therefore respectfully recommends that the Department reconsider the compatibility of the proposed rule with the statutory provisions that created the H-1B visa category and program.

2.6. The Proposed Fee Should Only Cover the Costs of Vetting an H-1B Petition

As a matter of policy, manufacturers believe that the importance of high-skilled immigration to the United States' economic prosperity in general, and to the long-term growth of the manufacturing industry in particular, requires keeping fees for high-skilled visas, such as the H-1B, to a minimum. As a result, these fees should be set no higher than the cost of providing these visas. At \$103,265, the proposed fee vastly exceeds that level, with the majority of funds going to other agencies than USCIS that do not adjudicate such petitions. It appears that the fee levels applicable until now²³ are sufficient to cover the costs of providing H-1B visas, and manufacturers respectfully recommend keeping them at that level.

3. **The Proposed Fee Would Fund Ineligible Federal Agency Activities**

The proposed fee would be extremely unusual in that it would fund agency activities that are unrelated to those for which the fee would be paid. The NPRM cites the imposition in 2024 of an Asylum Program Fee on petitions unrelated to asylum as a relevant precedent. However, there is a crucial difference between the proposed fee and the Asylum Program Fee: the former is prohibitively expensive while the latter was a modest \$600. Such a difference of magnitude is a difference in nature that requires a level of scrutiny that the proposed fee does not withstand.

The NPRM's stated objective is "to recover the lawful immigration-related costs attributed to DHS and other federal agencies."²⁴ However, that appears to be an impermissibly broad purpose in relation to the statutory authority of the Department to impose fees and use the resulting funds.

¹⁸ Sec. 214(g)(1) of the Immigration and Nationality Act.

¹⁹ Sec. 214(g)(5)(A) and (B).

²⁰ Sec. 214(g)(5)(C).

²¹ Section 214(g)(3), emphasis added.

²² See *Nat'l Assoc. of Mfrs. v. U.S. Dep't of Homeland Sec.*, No. 4:20-cv-4887 (N.D. Cal. 2020) ("The work visa provisions of the INA at issue here [including H-1B] provide a finely reticulated statutory scheme. This scheme reflects a set of legislative judgments that the entry of international workers is in the national interest provided they enter the market under the specific terms and conditions provided by the statute").

²³ Ranging from approximately \$2,000 to \$10,000, depending in particular on filing modalities, employer size and processing speed.

²⁴ NPRM, p. 54831.

The proposed rule is principally based on INA sec. 286(m) and 286(n):

- Sec. 286(m): the Secretary shall set “fees for providing adjudication and naturalization services . . . at a level that will ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum applicants or other immigrants.”
- Sec. 286(n): “reimburse any appropriation . . . for expenses in providing immigration adjudication and naturalization services.”

The statute is thus clear: if a fee is levied to fund other services, these must be “similar services provided without charge” (286(m)) that are “immigration adjudication and naturalization services” (286(n)). Unfortunately, the NPRM proposes to direct a major portion—at least hundreds of millions of dollars—of the revenue that DHS believes the proposed fee would generate to funding federal agency activities that, while broadly related to immigration, are not in fact services that are “similar” to the service—the review and adjudication of H-1B petitions—that generates these funds, are not “provided without charge,” and/or are not “immigration adjudication and naturalization services” The extraneous activities and programs the NPRM proposes to fund with the fee include, but may not be limited to:

- The development and operation of a new Voter Verification System (\$75.3 million).²⁵
- The expansion of a system that provides biometric matching capabilities for travelers entering and exiting the country through the Traveler Verification Service (\$76.2 million).²⁶ This qualifies as an “inspection service” under INA sec. 286(g).
- The Department of Labor’s Wage and Hour Division would receive \$350 million for “immigration enforcement activities across relevant visa programs, including investigations, housing inspections, wage and hour compliance.”²⁷
- The Department of State would receive \$88 million for its own Resettlement Support Center and that of the International Organization for Migration, which would fund “refugee medical exams and arranging travel to the United States” as well as “support for refugee airport transfers worldwide.”
- The Department of State would receive \$321 million for its Visa Services Directorate, as well as \$13.5 million for its Offices of Fraud Prevention Programs (to “support AI-enabled fraud screening and link analysis tools and expanded Diplomatic Security efforts to investigate and address visa fraud and misuse involving nonimmigrant programs”),²⁸ even though visa issuance is already funded through fees and is thus not “provided without charge.”

The Department improperly included the cost of these ineligible programs in the calculation of the total revenue it intends to raise from the proposed fee. Were the Department to proceed to a final rule, it should consider reviewing every program it proposes to fund to ensure it is eligible.

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If, as manufacturers respectfully recommend, the Department renounces imposing the proposed fee, manufacturers would be more likely to keep high-skilled positions onshore. Preserving those roles domestically helps anchor entire high-skilled teams in the U.S. Academic research supports this outcome: policies that ease high-skilled immigration lead U.S. firms with international operations to maintain and grow employment at home rather than expanding it

²⁵ NPRM, p. 54827.

²⁶ NPRM, p. 54829.

²⁷ NPRM, p. 54830.

²⁸ NPRM, p. 54830.

overseas.²⁹ Keeping these high-skilled jobs on American soil strengthens the manufacturing sector's global competitiveness, drives broad-based economic growth and its resultant tax revenue, and ensures America's manufacturing dominance for years to come.

More broadly, manufacturers have become increasingly concerned about their ability to deliver on the President's vision of stronger, more competitive domestic manufacturing in the face of a series of regulatory initiatives over the last year that significantly weaken their ability to attract high-skilled immigrants. To remain faithful to this vision, the NAM would be honored to work with the Department and the Administration to develop solutions to our industry's high-skilled immigration challenges. Such solutions might be found in adaptations of the existing visa programs as well as in the development of new pathways that enable manufacturers to pair their investments in their domestic production, research, and innovation capacity with access to both the homegrown and foreign talent necessary to succeed. Ensuring manufacturers can access the skilled workforce they need will help unlock investment, fuel innovation, create American jobs and strengthen U.S. competitiveness—advancing a more prosperous, secure, and economically strong America.

Sincerely,

A handwritten signature in black ink, appearing to be 'F. Journoud', with a stylized, cursive script.

Franck Journoud
Senior Director, Technology Policy

²⁹ *How Do Restrictions on High-Skilled Immigration Affect Offshoring? Evidence from the H-1B Program*, Journal of Management Science, March 2023, available at <https://pubsonline.informs.org/doi/10.1287/mnsc.2023.4715>