TECNA
TECHNOLOGY COUNCILS OF NORTH AMERICA

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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

Submitted electronically via www.regulations.gov

Re: Fee for Certain H-1B Petitions; DHS Docket No. USCIS–2026–0298; RIN 1615-AD20

To Whom It May Concern:

The Technology Councils of North America (TECNA) serves as the collective voice for regional technology ecosystems across the United States and Canada. We are comprised of more than 60 technology business-serving councils, and our members represent over 22,000 small- to medium-sized technology-driven companies. Many of our members' companies are startups and are heavily dependent on uniquely skilled, creative talent, both to survive in a rapidly changing environment and to drive innovation and company growth.

Access to a highly skilled pipeline of talent is a key component of the ongoing ability of the United States to continue to innovate and create jobs. H-1B visas allow small- to medium-sized businesses (SMBs) to bring in talent with the specific skills and experience needed to continue to innovate and create jobs in the U.S. To the extent government H-1B policies were to unduly restrict the functionality of the U.S. employment-based immigration system, it would have a significant, harmful impact on the U.S. economy and drive increased employment of talent outside of the U.S. for roles originally intended to be based inside the country.

We thank the Department of Homeland Security (DHS) for the opportunity to respond to the proposed rule titled *Fee for Certain H-1B Petitions*, published in the Federal Register on August 25, 2026, and respectfully offer the following comments for your consideration.

TECNA Supports the H-1B Program and Commonsense Visa Policy

TECNA supports the H-1B program and reasonable measures to maintain its integrity. We also appreciate DHS's interest in ensuring the lawful immigration system is adequately funded and administered. However, as the U.S. competes for leadership in artificial intelligence and other critical technologies, DHS must weigh that objective against the vital role H-1B talent plays in enabling small and medium-sized technology companies to build and grow in the U.S. A fee of this magnitude does not calibrate funding needs against that competing, and equally important, national interest.

The Proposed $103,265 Fee Imposes an Unworkable Burden on Small and Medium-Sized Technology Companies

The proposed fee applies uniformly to every H-1B cap-subject petition, regardless of the size or financial resources of the petitioning employer.[1] A fee exceeding $103,000 per petition—on top of all existing filing, fraud

[1] DHS, *Fee for Certain H-1B Petitions*, 91 Fed. Reg. 54817, 54831-32 (proposed Aug. 25, 2026) (to be codified at 8 C.F.R. pt. 106).

prevention, asylum program, and biometric fees—may be manageable for the largest technology employers filing petitions at scale. It is prohibitive for the SMBs and startups TECNA represents, which typically seek to bring in only one or two key hires at a time and operate with far thinner margins and liquidity than large enterprises.

DHS's own analysis acknowledges that the rule may cause employers, "including small entities," to file fewer H-1B petitions.[2] More specifically, DHS's Initial Regulatory Flexibility Analysis concedes that the rule would have a significant economic impact on 11,051 small entities—roughly 76 percent of the small entities that filed cap-subject H-1B petitions in fiscal year 2025.[3] We do not believe this outcome, and its consequences for American innovation and job creation, has been given sufficient weight relative to the rule's revenue objectives.[4] DHS justifies shifting these costs onto cap-subject H-1B employers in part on its view that they are more willing and able to pay than other requestors. That premise may describe the largest filers, but it does not describe the thousands of small entities that DHS itself finds would bear a significant economic impact.

TECNA urges DHS to adopt a fee structure that, at minimum, scales with employer size. The Regulatory Flexibility Act requires DHS to consider significant alternatives that would minimize the rule's economic impact on small entities.[5] A reduced small-entity tier, tiering by petition volume, or a multi-year phase-in could help to limit harms to the SMBs and startups most affected, rather than a flat fee that falls hardest on the companies least able to absorb it—and the ones often driving important innovations in our technology ecosystems.

The Fee Would Drive Innovation and Job Creation Outside the United States

Immigrants play an outsized role in U.S. technology entrepreneurship. Sixty-four percent of U.S. billion-dollar startups were founded or co-founded by an immigrant.[6] And separate research has found that 65 percent of leading U.S. artificial intelligence companies were founded or co-founded by immigrants.[7] This talent pipeline does not stop at the founder level: the high-skilled workers brought into the country through H-1B sponsorship at established companies routinely go on to found or join the next generation of American startups. Importantly, the proposed fee would also apply to change-of-status petitions for individuals already in the U.S., including international students who graduated from U.S. universities and are working here on post-graduation work authorization. These U.S.-educated workers are often among a startup's first specialized hires, and taxing their transition to H-1B status risks sending talent the U.S. has already invested in training to work for competitors abroad.

Research also shows that foreign-born STEM talent lifts wages for domestic workers rather than displacing them—a 1-percentage-point increase in the share of foreign STEM labor in a U.S. city has been shown to boost wage growth among domestic college-educated workers by up to 8 percentage points.[8] A fee that prices SMBs and startups out of the H-1B program does not just affect the individual petition; it removes a proven driver of

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[2] *Id.* at 54832 (acknowledging that "USCIS may see a reduction in the number of H-1B cap registrations and some employers, including small entities, may file fewer petitions as a result of this proposed rule").
[3] *Id.* at 54833 (Initial Regulatory Flexibility Analysis) (finding a significant economic impact on 11,051 small entities, approximately 76% of the small entities that filed cap-subject H-1B petitions in FY 2025).
[4] *Id.*
[5] 5 U.S.C. § 603(c).
[6] Stuart Anderson, *Immigrant Entrepreneurs and U.S. Billion-Dollar Companies*, National Foundation for American Policy (2022) (finding 64% of U.S. unicorn companies were founded or cofounded by an immigrant).
[7] Stuart Anderson, *AI and Immigrants*, NFAP Policy Brief, National Foundation for American Policy (June 2023).
[8] Giovanni Peri, Kevin Shih & Chad Sparber, *STEM Workers, H-1B Visas, and Productivity in US Cities*, 33 J. Lab. Econ. S225 (2015).

domestic job creation and wage growth, and increases the likelihood that the roles in question, and the companies built around them, are established outside the U.S. instead.

DHS assumes that making H-1B workers substantially more expensive will push employers toward U.S. hires, but it does not account for the reality that companies can—and likely will—locate the individual, team, or project outside the U.S. This causes the U.S. to lose not only the worker, but also the innovation, investment, tax revenue, and downstream jobs tied to that work.

The Fee Undermines U.S. Competitiveness for Global Tech Talent

The U.S. is not the only country competing for this talent pool. The United Kingdom offers a "High Potential Individual" visa, the European Union and Canada have streamlined pathways for foreign-born workers, and China recently launched a K-visa program that does not require employer sponsorship or even a job offer.[9] A six-figure, standalone fee layered on top of an already lengthy and uncertain H-1B process makes the U.S. comparatively less attractive at precisely the moment other governments are actively working to recruit this same talent.

The fee also arrives as U.S. companies and the federal government are making historic investments in artificial intelligence, semiconductors, cloud computing, and other advanced-technology infrastructure here at home. Federal policy should support pairing those domestic investments with world-class talent located in the U.S., not raise the cost of doing so. Because much of this specialized talent can work from multiple countries, making the U.S. substantially more expensive than competing markets will lead companies to turn to international hires, and related investment is likely to follow that talent abroad. TECNA urges DHS to consider the proposed fee's effect on U.S. competitiveness, not only its effect on federal revenue.

The Fee Compounds Existing Burdens on Startups and Entrepreneurs

TECNA has previously raised concerns with DHS about the financial and administrative burdens the H-1B program places on startups and entrepreneurs, including reduced validity periods and duplicative filing costs. The proposed $103,265 fee substantially compounds those existing burdens. For an early-stage company, a fee of this size can be the difference between hiring a critical specialist domestically and either foregoing the hire or locating the role outside the U.S.

Moreover, the proposed fee comes alongside other pending cost increases that DHS acknowledges in the proposed rule, including the Department of Labor's proposed prevailing-wage rule, the expanded Customs and Border Protection biometric entry-exit fee, and the separate $100,000 proclamation payment, which DHS states would apply in addition to this fee should it be reinstated on appeal. TECNA urges DHS to assess the cumulative impact of these actions on small entities, rather than evaluating this fee in isolation.

TECNA recommends that DHS pair any final fee with complementary relief for SMBs and startups—whether through the small-entity fee tier described above, a national-interest exemption for startup employers, or continued Administration support for improving existing high-skilled entrepreneur pathways such as International Entrepreneur Parole and the O-1A visa. These steps would allow DHS to pursue its cost-recovery objectives without disproportionately closing off the H-1B program to the smaller companies that make up the majority of TECNA's membership—and, again, that often drive so much of the innovation in our technology ecosystems.

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[9] Eduardo Baptista, *China's New K Visa Beckons Foreign Tech Talent as US Hikes H-1B Fee*, Reuters (Sept. 29, 2025).

Conclusion

As the tech sector continues to grow and compete globally, the U.S. needs to ensure that its talent-based visa system continues to attract the best and brightest, driving greater innovation and creating more jobs and higher wages for Americans. A flat $103,265 fee on every H-1B cap-subject petition would fall hardest on the small and medium-sized technology companies least able to absorb it, undercut a proven pipeline for domestic job creation and wage growth, push U.S.-trained talent and related investment abroad, and make the U.S. less competitive at a moment when other countries are actively recruiting the same talent. TECNA urges DHS to reconsider the fee amount and structure, and at minimum to adopt size-based or startup-specific relief before finalizing this rule.

We thank DHS for affording us and other stakeholders the opportunity to comment. Should you have any questions about these comments or any of the information contained herein, please contact me at jyoung@tecna.org.

Respectfully submitted,

Jennifer G. Young
Chief Executive Officer
Technology Councils of North America (TECNA)