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September 24, 2026

U.S. Citizenship and Immigration Services
Department of Homeland Security
5900 Capital Gateway Drive
Camp Springs, MD 20746

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

Dear Secretary Mullin and Director Edlow:

TechNet respectfully submits these comments on the Department of Homeland Security's (DHS) proposed rule, "Fee for Certain H-1B Petitions." TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies in the world and represents over five million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance.

TechNet's member companies depend on a skilled workforce to develop technologies, expand U.S. operations, and create opportunities for American workers. Specifically, many of our members rely on the H-1B program to recruit and retain professionals in highly specialized fields where U.S. companies compete with countries like China, Canada, the UK, and Germany for the most qualified talent. We urge DHS to withdraw the proposed $103,265 supplemental fee and pursue a transparent, proportionate funding approach consistent with its statutory authority. TechNet supports a secure, efficient immigration system that protects U.S. workers, prevents fraud, and gives employers and employees predictable rules. Employers should pay reasonable fees that sustain timely and accountable immigration services. This proposal would instead impose a substantial financial barrier to employing specialized talent in the United States. The proposed $103,265 payment for each affected petition would change which candidates employers can consider, whether emerging businesses can sponsor workers, and where companies locate research and investment.

President Trump and numerous administration officials have stated that it is vital the U.S. remains a global leader in artificial intelligence, manufacturing, and other technologies. This proposal undermines the President's championing of American global competitiveness, preventing U.S. companies from accessing the top talent from around the world they need to lead the world in innovation, build successful businesses, and create prosperity for American communities.

I. The proposal would disproportionately burden startups and smaller employers.

TechNet represents an innovation economy in which startups and growing businesses compete with established companies to develop new products and create jobs. These employers often operate with limited cash reserves and invest available capital in research, equipment, and workforce development. The ability to pay a market wage over time does not imply the ability to finance an additional $103,265 before a petition is adjudicated.

For a small business, sponsorship of one specialized engineer or researcher can determine whether a product reaches the market or a technical team can grow. Requiring a payment of more than $100,000 for a single petition could divert funds from hiring other employees, delay a project, or prevent sponsorship altogether. University spin-offs and regional businesses may be particularly exposed because they have fewer financing options and less ability to redistribute costs among business units.

DHS’s own analysis estimates significant economic impacts on 76 percent of small businesses that filed cap-subject H-1B petitions in FY2025, and the proposed rule does not include any meaningful discussion of alternate ways to lessen the burden on small businesses and startups. That finding warrants meaningful consideration of alternatives. Larger employers may have greater capacity to absorb the fee in selected cases, but their hiring and investment decisions would also be affected. Preserving competition requires a funding approach that does not make access to specialized talent depend primarily on the size of an employer’s balance sheet.

Before proceeding, DHS should examine effects by employer size, industry, region, and number of sponsored workers, including the cumulative burden on businesses filing multiple petitions. A uniform fee should not be treated as equitable merely because each petitioner is charged the same amount.

II. The proposed rule will shift business investment and supporting employment abroad.

Employers recruit according to the expertise a position requires and the available talent pool. International students and professionals are important participants in advanced technical fields. Considering these candidates does not establish that an employer prefers workers because of their immigration status. Sponsorship often follows the selection of a qualified candidate who needs work authorization.

TechNet supports expanding domestic STEM education, apprenticeships, alternative pathways, and opportunities to reskill and upskill American workers. Those

investments are essential to long-term competitiveness, but they do not immediately produce every specialized skill needed for current research and development. Immigration policy should support those workforce investments by helping companies assemble the teams needed to undertake the work in the United States.
Where no suitable domestic candidate is available within a project's timeframe, an employer may delay the work, reduce its scope, assign it to an existing international team, or establish the position abroad. An additional six-figure charge would materially affect those choices. TechNet does not suggest that every affected position would relocate. The concern is that the fee would change investment decisions across many employers, with lasting consequences for domestic growth.

The stakes are particularly high in artificial intelligence, semiconductor design, cybersecurity, robotics, biotechnology, and other strategically important technologies. Capital and infrastructure investments require researchers, engineers, and technical leaders to translate them into productive activity. Making it more costly to employ those professionals here could undermine the benefits of public and private investments intended to strengthen U.S. leadership.

A specialized position can also support additional employment, supplier purchases, taxable payroll, consumer spending, and research partnerships. When technical teams grow abroad, related management, engineering, and commercialization activity may follow. The loss to the United States can therefore extend beyond a single position. DHS should assess these potential effects, including the availability of alternative locations, the development of regional research ecosystems, and the long-term location of intellectual property development.

III. The proposed fee would weaken the retention of U.S.-educated talent.

Numerous aspects of the proposed rule misapprehend the economics of hiring, especially the framework of applying the same charge to recent graduates and established professionals. A graduate may have exceptional technical potential while still requiring onboarding, supervision, and professional development. Employers invest in that potential over time. An extraordinary upfront charge would make those investments harder to justify and encourage sponsorship to be reserved for senior positions or work with immediately measurable returns.

The effect would be particularly damaging to students completing U.S. master's and doctoral programs and transitioning from F-1 status through Optional Practical Training (OPT) or STEM OPT into H-1B employment, a critical pathway for U.S. companies to recruit and retain the best and brightest global talent. The proposed fee would apply to cap-subject petitions seeking an in-country change of status as well as those requiring consular processing, including petitions eligible for the advanced degree exemption. Congress created a separate allocation for qualifying U.S. advanced degree graduates. The fee would not formally repeal that allocation, but it could substantially diminish its practical value by making sponsorship financially infeasible. Protecting OPT and STEM OPT has enormous positive benefits for U.S.

businesses and communities, but is less effective if employers cannot afford the next lawful step needed to retain a graduate after training ends.
The consequences would extend beyond university recruiting. Reduced sponsorship today could narrow the future pool of experienced professionals available to employers throughout the innovation economy. Transitions from L-1 status to an initial cap-subject H-1B allocation could also become more expensive, complicating the retention of employees already contributing to U.S. operations.

TechNet expressed the same concerns and principles in our comment on the administration's prevailing wage proposal: immigration requirements should reflect actual labor market conditions and career progression, preserve legitimate entry level opportunities, and account for how technology employers compensate their workforce. Base salary alone may not capture equity, bonuses, and other compensation. A uniform $103,265 surcharge for all H-1B petitions similarly fails to distinguish among career stages, employer resources, and the value of retaining emerging technical talent.

IV. The proposed funding approach requires a stronger statutory and cost justification.

DHS proposes to collect approximately $8.78 billion annually from cap-subject H-1B petitioners to support immigration activities across DHS and the Department of Justice, Department of State, and Department of Labor. Assigning broad system costs to a single group of employers is a novel concept that even DHS acknowledges has not been done before. It requires a reasoned explanation of both the legal authority for the expenditures and the basis for allocating them to these petitioners.

DHS should substantiate the connection between the statutory services and proposed spending on enforcement, court operations, refugee-related activities, and labor programs serving other visa categories, and explain the link between the cost recovery model that Congress has allotted the agency to set H-1B fees, and the proposed rule. The agency should distinguish qualifying adjudicatory support from general government operations, explain the legal basis for each reimbursement, and identify safeguards against recovering costs already supported by existing fees or appropriations. Without that showing, the proposal raises serious concerns that DHS is using a service-fee statute to finance activities beyond the authority Congress provided.

The agency should also explain why cap-subject H-1B employers should bear this allocation. An employer's ability to meet payroll does not establish that it has sufficient cash to absorb one or more additional six-figure payments at filing. Employer size, available capital, research timelines, and existing obligations materially affect that capacity. Willingness to pay in selected cases is likewise insufficient to establish a sound funding policy. For example, it may reflect the urgent need to retain a particular worker after substantial investments have already been made.

DHS should evaluate lawful alternatives, including appropriations for general governmental functions, a more proportionate allocation of authorized costs, and improvements in administrative efficiency. Any supplemental fee should be supported by documented funding needs and published allocation methods. Annual reporting should identify collections and expenditures by agency and activity, reconcile revenue against actual qualifying costs, and provide for reductions or suspension when collections exceed demonstrated requirements.

V. DHS should reassess demand assumptions and cumulative economic effects.

DHS acknowledges that the fee could reduce participation and includes analysis of demand elasticity and employer willingness to pay. The relevant concern is whether that analysis adequately supports the projected response to an unprecedented charge. Evidence concerning smaller historical fee increases is not an adequate basis for predicting the effects of a six-figure fee that reaches a broader population of cap-subject cases, including in-country transitions.

The willingness-to-pay analysis also warrants scrutiny. A modeled wage difference does not, by itself, establish that an employer has an equally qualified domestic substitute available or that the difference represents savings caused by immigration status. DHS should examine whether the underlying comparisons adequately account for experience, specialized skills, job responsibilities, and total compensation. Assumptions about a six-year employment horizon should reflect initial petition periods, changing business conditions, and the worker's ability to leave the sponsoring employer.

Continued demand sufficient to fill the cap would not establish that the proposal is economically harmless. Aggregate demand can mask the exclusion of smaller employers, a decline in early-career sponsorship, or concentration of participation among companies able to finance the fee. DHS should evaluate these changes in the composition of demand alongside total filings.

The fee would be added to existing petition, registration, training, fraud prevention, and other applicable charges. DHS should evaluate that cumulative burden together with wage-weighted selection and proposed prevailing wage changes, distinguishing requirements already in effect from proposals and contingent payments. It should avoid double counting revenue or treating the earlier proclamation payment as universally applicable. The analysis should address foregone U.S. investment, supporting employment, tax receipts, and research activity, as well as effects on petitioners' cash flow.

Finalizing the proposal without adequately addressing these effects, reasonable alternatives, and relevant reliance interests would raise concerns under the *Administrative Procedure Act*'s requirement for reasoned decision making. DHS should make the supporting models, assumptions, and cost-allocation materials available for meaningful review and extend or reopen the comment period to permit a fuller evaluation. The current 30-day period is particularly restrictive for a proposal with such substantial operational and economic consequences.

VI. Any further action should protect existing commitments and limit financial risk.

Withdrawal remains TechNet's recommendation. If DHS nevertheless proceeds, it should substantially reduce the fee and adopt protections that address the most immediate disruptions. These measures would mitigate harm but would not resolve the underlying concerns with the proposed amount and allocation.

First, DHS should exempt beneficiaries with qualifying U.S. master's and doctoral degrees from any supplemental charge and provide meaningful relief for startups and smaller employers. It should preserve the exclusions for cap-exempt petitions and clearly explain when the charge would apply to changes of status, including transitions from L-1 status.

Second, DHS should protect reasonable reliance interests. Employers make multiyear commitments to U.S. facilities, university partnerships, technical teams, and customer projects on the understanding that a commercially workable sponsorship pathway will remain available. That reliance does not assume success in every cap selection or adjudication. It concerns the ability to plan around a functioning program after capital has been committed.

Transition protection should therefore reach beyond petitions already filed. DHS should provide clear criteria for protecting written or accepted offers, documented university recruiting commitments, approved workforce plans, cases already undergoing immigration review or petition preparation, and registrations or selections completed before a defined transition date. Published evidentiary standards would make those protections administrable and reduce uncertainty.

Third, DHS should avoid collecting an extraordinary payment before the requested employment can occur. Only a limited administrative amount should be due at filing, with any remainder payable after approval and commencement of H-1B employment. Refunds or transferable credits should be available when a petition is rejected or denied, timely withdrawn, or approved but employment cannot commence because of visa refusal or other circumstances beyond the employer's control. DHS should publish clear rules for those outcomes.

Finally, any transition should proceed gradually. The first cap cycle following a final rule should preserve the existing fee structure for employers and candidates with documented recruiting, budgeting, or cap-process commitments. During the second cycle, a supplemental charge should not exceed five percent of the proposed amount, and during the third it should not exceed ten percent. Those limits are fallback safeguards, not acceptance of the proposed fee. Any subsequent increase should require a published economic review, renewed stakeholder engagement, and findings addressing startup participation, graduate retention, domestic investment, and overseas placement of work.

TechNet appreciates the opportunity to comment and stands ready to work with DHS on an immigration system that is secure, adequately resourced, and responsive to the nation's workforce needs. We respectfully request withdrawal of this proposal and development of a lawful, evidence-based funding approach that supports employers' ability to grow and innovate in the United States.

Sincerely,

Linda Moore

Linda Moore
President and CEO