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Charles Wall, Principal Legal Advisor
Office of the Principal Legal Advisor, Regulatory Affairs Unit
U.S. Immigration & Customs Enforcement
500 12th Street SW
Washington, D.C. 20536

Re: Optional Practical Training Fees, DHS Docket No. ICEB-2026-0100, 91 Fed. Reg. 64566

Dear Mr. Wall:

TechNet appreciates the opportunity to comment on the Department of Homeland Security's (DHS or the Department) proposed rule, *Optional Practical Training Fees*. TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes over 100 dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over five million employees and countless customers in the fields of artificial intelligence, information technology, e-commerce, semiconductors, digital infrastructure, the sharing and gig economies, transportation, telehealth, cybersecurity, venture capital, and finance.

TechNet's member companies and the broader technology sector rely on the Optional Practical Training (OPT) program as an important part of the talent pipeline that allows U.S. companies to compete for the best and brightest global talent. By providing international students who graduate from American colleges and universities with opportunities to gain practical experience in their fields of study, OPT helps the United States retain highly skilled individuals educated at American institutions. These graduates contribute to innovation, support American businesses, and strengthen the domestic workforce.

TechNet is concerned that the Department's proposal to impose a $70,000 fee for initial OPT and a $30,000 fee for subsequent OPT would substantially undermine these benefits. Although educational institutions would be directly responsible for paying the proposed fees, the economic consequences would extend far beyond those institutions and the students they serve. By making the United States a less attractive destination for international students and limiting opportunities for graduates to contribute to the American economy, the proposed rule would harm U.S. workers, universities, local communities, and the nation's long-term economic competitiveness.

TechNet respectfully urges DHS to withdraw the proposed rule for three principal reasons. *First*, the proposal would undermine the Department's stated objectives of protecting American workers and strengthening the economic security of the homeland. *Second*, the proposed fees are disconnected from the Department's statutory fee-recovery authority and appear designed to raise revenue and discourage participation in OPT rather than recover the costs of administering the program. *Third*, the proposed transition rule would impose the full $70,000 fee on graduates already working on OPT who seek a STEM extension, disregarding the reliance interests of employers and students who planned around the existing rules.

I. The Proposed Rule Would Undermine Its Stated Objectives of Protecting American Workers and Strengthening Economic Security.

DHS identifies protecting U.S. workers, preventing fraud, and strengthening the economic security of the homeland as central objectives of the proposed rule. TechNet supports these goals. However, imposing prohibitive financial barriers on international graduates seeking practical training opportunities would undermine, rather than advance, American economic security. The proposal overlooks the substantial contributions that international students and graduates make to American innovation, job creation, and economic growth.

Restricting OPT would undermine U.S. global competitiveness and technological leadership.

America's ability to attract and retain talented individuals from around the world has been a longstanding source of economic strength. International students who receive advanced education at American institutions contribute to the nation's research enterprise, entrepreneurial ecosystem, and leadership in emerging technologies. The United States benefits when these individuals choose to build their careers, conduct research, launch businesses, and develop new technologies here rather than abroad.

The proposed rule would put that advantage at risk. Other countries are actively competing to attract highly skilled international students and graduates, including by offering opportunities to work following graduation. Imposing extraordinary fees on OPT participation would create a powerful incentive for prospective students to pursue their education elsewhere and for graduates of American universities to take their skills to competing economies.

These consequences would be particularly damaging at a time when the United States is seeking to strengthen domestic capabilities in critical and emerging technologies. Federal policies encouraging investment in artificial intelligence, advanced manufacturing, semiconductors, and other strategically important industries depend on access to a robust and highly skilled workforce. Immigration policies that unnecessarily restrict access to U.S.-educated talent would work at cross-purposes with this administration's stated objectives to support innovation and global competitiveness. The economic stakes are substantial and quantifiable: independent analysis estimates that restrictive changes to international-student policy could reduce

U.S. GDP by up to roughly $481 billion per year, and international students contributed on the order of $39 billion and supported more than 416,000 U.S. jobs in a single recent academic year.[1] A fee that sharply curtails OPT participation would put a meaningful share of that economic activity at risk.

Moreover, the proposed rule would compound the effects of other recent proposals that substantially increase the costs of employing highly skilled foreign nationals, including proposed changes to H-1B petition fees and prevailing wage requirements. Considered together, these policies risk making the United States a significantly less attractive destination for the very individuals whose skills and expertise are essential to American technological leadership.

A comprehensive national competitiveness strategy should strengthen domestic workforce development while preserving pathways for talented international graduates to contribute to the U.S. economy. These objectives are not mutually exclusive. TechNet supports investments in education, training, and workforce development that expand opportunities for American workers. Those investments should be reinforced, not undermined, by policies that allow American employers and universities to attract and retain exceptional global talent.

<u>OPT strengthens the American workforce by supporting innovation and increasing demand for domestic high-skilled workers.</u>

The technology sector depends on access to a highly skilled and diverse workforce to drive innovation, develop emerging technologies, and sustain American leadership in the global economy. OPT plays an important role in meeting these needs by allowing U.S.-educated international graduates to apply their knowledge and skills in American workplaces.

Importantly, international graduates participating in OPT do not simply compete with domestic workers for a fixed number of jobs. Their contributions can complement the skills of American workers, expand businesses' capacity to innovate, and create additional employment opportunities. In research-intensive and rapidly evolving industries, access to specialized expertise enables companies to pursue new projects, expand operations, and develop products and services that would otherwise be delayed or abandoned. These activities generate demand for additional American engineers, researchers, technicians, managers, and other highly skilled professionals.

The benefits are particularly important in emerging fields such as artificial intelligence, semiconductor manufacturing, quantum computing, robotics, and cybersecurity, where continued innovation depends on specialized skills and interdisciplinary collaboration. International graduates educated at American institutions help

[1] ICEF Monitor, "US: Study Estimates That Changes to International Student Policies Could Reduce GDP by Up To US$481 Billion Per Year," Oct. 30, 2005, available at https://monitor.icef.com/2025/10/us-study-estimates-that-changes-to-international-student-policies-could-reduce-gdp-by-up-to-us481-billion-per-year/.

strengthen the talent base that supports these industries and the broader ecosystems of domestic workers and businesses that grow around them.

DHS suggests that reducing OPT participation could create additional opportunities for American workers, advising that employers "can minimize this impact by recruiting U.S. citizens," but does not establish that qualified domestic workers would be available to fill those positions or that employers could maintain those positions in the United States. The available data point the other way. International students earn 64.9 percent of U.S. computer science master's degrees and 54.9 percent of computer science doctorates. Foreign-born STEM doctorate holders work in STEM occupations at substantially higher rates than U.S.-born doctorate holders, 75.9 percent compared with 56.6 percent, so an international graduate cannot be replaced one-for-one by a domestic one.[2] Nor is the H-1B program a ready substitute, as DHS suggests. In the FY2025 cycle, roughly 470,000 registrations competed for about 135,000 selections.[3] Where specialized skills are unavailable, companies may instead leave positions unfilled, delay investments, or move certain activities abroad. Moreover, research indicates that international graduates can complement domestic workers, supporting innovation and increasing demand for American talent. A recent study of the 2016 STEM OPT extension found that retaining international graduates increased demand for U.S. workers with similar skills through new firm creation.[4] Restricting access to these graduates could therefore reduce, rather than expand, domestic employment opportunities. DHS should account for these potential consequences before treating reduced OPT participation as an economic benefit.

II. The Proposed Fees Lack a Sufficient Statutory Basis and Are Not Adequately Justified.

The proposed rule also raises significant questions regarding the Department's statutory authority to impose fees of this magnitude and purpose. As TechNet emphasized in its comments on DHS's proposed H-1B petition fee, agencies must operate within the authority delegated by Congress, and immigration-related fees should be supported by a clear statutory basis and a reasonable justification for their amounts.[5] The proposed OPT fees fail to satisfy these principles.

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[2] Emerson V. Johnston & Amy Zegart, *The 2026 U.S. Talent Report: Benchmarking America's STEM Pipeline Amid the Great Talent Competition* (Hoover Inst. & Stanford HAI, Sept. 2026), chs. 1, 3, 6; see 91 Fed. Reg. at 64578.

[3] *Id.*, ch. 3 n.j, ch. 6 (citing U.S. Citizenship & Immigration Services, H-1B Electronic Registration Process, Historical Data); see 91 Fed. Reg. at 64578 (suggesting F-1 students "pursue appropriate channels . . . such as through the H-1B visa following graduation").

[4] Seoyoung Kwon, Jongkwan Lee & Joan Monras, *The Effect of Retaining High-Skilled International Graduates: Evidence from the STEM OPT Extension*, CEPR Discussion Paper No. 21224 (Feb. 2026).

[5] TechNet, *TechNet Urges Withdrawal of Extreme High-Skilled Worker Visa Fee* (Sept. 24, 2026), https://www.technet.org/media/technet-urges-withdrawal-of-extreme-high-skilled-worker-visa-fee/.

DHS relies principally on Section 214(a) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1184(a), which authorizes the Department to prescribe conditions governing the admission of nonimmigrants, together with its general authority to administer the immigration laws and the principle that the INA "need not specifically authorize each and every action." Section 214(a) affords DHS substantial discretion to regulate nonimmigrant status, including conditions associated with practical training. However, the authority to establish regulatory conditions is distinct from the authority to impose substantial fees that function as revenue-generating measures. Congress has provided DHS a specific, cost-based authority to fund the Student and Exchange Visitor Program (SEVP), which the Department has used before to set fees based on program costs. DHS does not invoke it here.[6] The Department has not adequately explained how its general authority to regulate nonimmigrant admission authorizes it to impose charges of $70,000 and $30,000 that bear no demonstrated relationship to the costs of administering OPT.

The Department's own explanation reinforces these concerns. DHS acknowledges that the proposed fee revenue would be deposited into the U.S. Treasury as miscellaneous receipts under 31 U.S.C. 3302, rather than retained by U.S. Immigration & Customs Enforcement (ICE) to administer OPT, explaining that "the statute does not provide legal authority for ICE to retain the funds collected." The proposed charges would generate substantial federal revenue, which DHS projects at $8.4 billion to $16.5 billion per year, without a demonstrated connection to the expenses associated with the program. DHS derived the $70,000 figure from the H-1B context rather than the actual costs of administering or overseeing OPT, despite standard H-1B petition fees totaling only a few thousand dollars. The only comparable charge is the administration's separate $100,000 H-1B payment, which has faced legal challenges. DHS cannot justify a fee as a program-integrity measure when it bears no demonstrated relationship to program costs. The Department does not establish that the fees would recover the costs of processing OPT applications, conducting compliance activities, or providing services to participating institutions and students.

Nor does the proposal establish that the amounts selected are necessary to advance its stated regulatory objectives. DHS expressly identifies discouraging participation in OPT as a means of reducing fraud and protecting U.S. workers. Yet the Department does not adequately explain why charges of $70,000 and $30,000 are appropriate measures of program integrity, or why substantially less burdensome enforcement alternatives would be insufficient. The only alternatives DHS identified were no action, an exemption for small institutions, expanded site visits and reporting, and an even higher fee. It considered no lower or tiered fee and no measure aimed at the conduct its own investigation identified. That investigation, a Homeland Security Investigations probe that ICE announced in a May 2026 video that DHS cites in the proposed rule,

[6] See 8 U.S.C. §§ 1356(m), 1372(e); *Adjusting Program Fees for the Student and Exchange Visitor Program*, 84 Fed. Reg. 23,930, 23,931-34 (May 23, 2019) (adjusting SEVP fees "to recover the cost of services provided by SEVP," with fees "deposited and offsetting receipts into the IEFA"); see also 73 Fed. Reg. 55,683 (Sept. 26, 2008); 91 Fed. Reg. at 64567-68 (§ III.A).

reportedly found more than 10,000 OPT participants working for "highly suspect employers." That is under 3 percent of 2024 participants. The reported problems include shell companies and residential addresses listed as worksites. DHS cites no published report or data from the investigation. The fees appear calibrated to deter participation rather than to recover identifiable costs or address instances of noncompliance.

Notably, DHS concedes it "cannot confidently predict the extent of any reduction in participation." Yet in every scenario it models, it assumes no change in participation by STEM graduates. That assumption cannot be squared with benefits that depend on reducing participation. The Department also assumes that "affected parties could collectively cost share to preserve OPT," capping the cost of lost participation at the fee itself. It acknowledges likely enrollment declines but does not quantify them. It quantifies none of the rule's asserted benefits, while estimating annualized costs of up to $8.2 billion.[7]

The Department's failure to establish a sufficient statutory basis for these extraordinary charges is particularly concerning given their foreseeable consequences for American employers. By discouraging international students from pursuing education and practical training in the United States, the proposed fees would restrict a critical pipeline of U.S.-educated talent on which technology companies and other innovation-driven businesses depend. DHS should not impose such substantial barriers to workforce development and economic competitiveness without clear congressional authorization and a reasoned explanation of why the selected fee amounts are justified. The proposed rule also raises serious questions under the Administrative Procedure Act. An agency must provide a reasoned explanation for its regulatory choices, consider important aspects of the problem before it, and address significant alternatives.[8] Here, DHS has not adequately justified the amounts selected, demonstrated a meaningful relationship between the fees and the asserted regulatory benefits, or sufficiently accounted for the foreseeable economic consequences of discouraging international students from studying and working in the United States.

DHS should not use its authority to regulate nonimmigrant status as a substitute for congressional authorization to impose substantial revenue-generating charges. At a minimum, the Department must identify a clear statutory basis for the proposed fees, explain how their amounts are reasonably related to a permissible statutory purpose, and meaningfully assess less burdensome alternatives and the broader economic consequences. The current proposal does not make that showing.

[7] 91 Fed. Reg. at 64759, 64581-83, 64587-90 (§§ VII.A.1, VII.A.3, VII.A.5b, VII.A.6).
[8] *Motor Vehicle Manufacturers Ass'n v. State Farm Mutual Automobile Insurance Co.*, 463 U.S. 29, 43 (1983) (requiring reasoned agency decision-making and consideration of important aspects of the regulatory problem).

III. The Proposed Rule Disregards Serious Reliance Interests.

The proposed rule would also disrupt the longstanding reliance interests of U.S. employers that have structured their recruitment, hiring, training, and workforce planning around the availability of OPT and STEM OPT. Under proposed 8 C.F.R. § 214.13(i)(3), the $30,000 subsequent fee applies only to students for whom the initial $70,000 fee has been paid. DHS accordingly assumes that, in the first year, "all participants will pay $70,000, including those in STEM OPT." This would impose a substantial new financial barrier to retaining international graduates already employed by U.S. companies who seek STEM OPT extensions after the rule takes effect. Employers could face pressure to absorb these substantial costs to retain employees in whom they have already invested, without assurance that those employees will remain with the company. These new financial risks could disrupt established workforce plans and discourage employers from investing in early-career international talent.

DHS dismisses the impact on employers by suggesting they "can minimize this impact by recruiting U.S. citizens," without adequately accounting for employers' existing investments, the availability of qualified replacements, or the disruption to ongoing business operations. For nearly two decades, employers have relied on the STEM OPT program, established in 2008 and expanded in 2016 in part to address their competitive workforce needs, when making hiring and investment decisions. An agency changing course must account for "serious reliance interests" that its prior policy engendered.[9]

IV. Conclusion

TechNet supports policies that protect American workers, preserve the integrity of the immigration system, and strengthen the nation's economic security. The proposed OPT fees would not advance these objectives. Instead, they would discourage talented international students from studying and working in the United States, reduce opportunities for innovation and job creation, and undermine the nation's ability to compete for global talent.

[9] *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009); *DHS v. Regents of the Univ. of Cal.*, 591 U.S. 1, 30-33 (2020); *see* 91 Fed. Reg. at 64577-79 (§§V.C, VI, 64583, proposed §214.13(i)(3).

TechNet respectfully urges DHS to withdraw the proposed rule and instead pursue targeted, evidence-based measures that protect program integrity while preserving the substantial benefits OPT provides to American workers, educational institutions, communities, and the broader U.S. economy.

Sincerely,



Linda Moore
President and CEO