



September 24, 2026

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

Submitted via regulations.gov

RE: SHRM's Comment on the Proposed Rule, "Fee for Certain H-1B Petitions"
91 Fed. Reg. 54817 (Aug. 25, 2026); RIN 1615-AD20

To Whom It May Concern,

As the trusted authority on all things work, [SHRM](#) is the foremost expert, researcher, advocate, and thought leader on issues and innovations impacting today's evolving workplaces. With nearly 340,000 members in 174 countries, SHRM touches the lives of more than 362 million workers and their families globally. SHRM's membership of HR professionals and business executives operates at the intersection of talent acquisition, people management, and compliance. By leveraging the collective experience and expertise of our membership, SHRM provides insights grounded in data and practical, real-world experience.

SHRM welcomes the opportunity to comment on the notice of proposed rulemaking (NPRM), published by the Department of Homeland Security (DHS) U.S. Citizenship and Immigration Services (USCIS), to establish a \$103,265 fee, payable at the time of filing, for all H-1B cap-subject petitions, including those eligible for the advanced degree exemption. As noted in the NPRM, employers filing cap-subject petitions would be required to pay this new fee in addition to all other applicable fees or payments.

I. Introduction

SHRM believes it is critical to preserve and strengthen the integrity of the H-1B program and protections for U.S. workers, and recognizes that a well-functioning immigration system requires adequate resources. At the same time, U.S. employers continue to face persistent talent and skills shortages and rely on the H-1B program as an essential component of a broader set of strategies to recruit, develop, and retain the workforce they need.

SHRM therefore encourages DHS to consider other approaches to recover costs associated with administering the immigration system while preserving employers' access to needed talent and strengthening U.S. competitiveness.

II. Employers Are Investing in the U.S. Workforce

SHRM members represent a highly diverse range of industries and sectors, including professional services, technology, manufacturing, retail, and health care, including hospitals, clinics, insurance providers, and biotechnology companies. This broad representation, combined with insights from SHRM's research team, allows SHRM to provide a clear picture of how U.S. businesses and organizations are responding in real time to persistent talent and skills gaps. SHRM's data and insights have consistently shined light on the significant and ongoing investments employers make to strengthen the U.S. workforce.

(A) Persistent Talent Shortages Continue to Challenge U.S. Employers

Workforce investments are increasingly important as employers across industries and regions continue to face challenges filling critical roles. In 2026, SHRM research found that nearly 7 in 10 organizations (68%) reported difficulties recruiting for full-time positions, and more than half of the HR professionals from those organizations (53%) said recruiting has become more difficult compared with one year ago.¹ SHRM's research identified a lack of applicants (51%) and competition from other employers (44%) to be among employers' leading recruitment challenges.² Employers also reported that candidates often lack necessary work experience (40%), technical skills (33%), or power skills (23%).³ Persistent vacancies have consequences beyond immediate staffing, including reduced efficiency and productivity, increased operational costs, and diminished capacity for innovation and strategic initiatives. These challenges are particularly consequential in industries important to U.S. competitiveness, including engineering, computer science and information technology, health care, finance and accounting, and education.

(B) Employers Use Multiple Workforce Strategies, Including H-1B Sponsorship, to Address Talent Needs

Against this backdrop, employers are pursuing multiple complementary strategies to build and retain the talent they need, including investing in upskilling and reskilling existing workers, apprenticeships and other talent pipelines, training and professional development, and compensation and retention strategies. For many employers, the H-1B program is another essential component of their broader workforce strategy, providing access to individuals with specialized and critical skills when qualified domestic talent is not available.

SHRM's research reinforces this: 65% of employers who participate in the H-1B program cite the need for highly specialized skills or expertise, 51% cite critical skills gaps, and 49% cite a lack of qualified U.S. candidates.⁴ At the same time, U.S. organizations reported difficulty hiring workers across all job levels, with the greatest challenges at the mid-level — the same level most commonly

¹ Source: Talent Trends, SHRM, 2026.

² Source: Talent Trends, SHRM, 2026.

³ Source: Talent Trends, SHRM, 2026.

⁴ Source: Examining the Impacts of a Wage-Based H-1B Lottery System, SHRM, 2025 (Unpublished).

targeted for H-1B sponsorship among current sponsors (82%), former sponsors (70%), and organizations considering sponsorship (62%).⁵ Conversely, among organizations that do not sponsor H-1B workers, the most common reason cited is that they are able to meet their hiring needs without utilizing the program (56%).⁶ These findings demonstrate that while employers that require specialized skills that are difficult to source often turn to the H-1B program, employers that can find the talent they need domestically, do not.

H-1B sponsorship should therefore not be viewed as a mechanism to replace U.S. workers, but instead as one of many tools employers use—alongside substantial investments in recruiting, developing, and retaining American workers—to build and sustain a robust workforce. As DHS considers changes to the H-1B program, SHRM encourages it to acknowledge this broader workforce context and ensure that the program remains available to employers who rely on it as part of their long-term strategies to grow and increase their competitiveness.

III. Sponsoring H-1B Workers Represents a Significant Employer Investment

The decision to turn to the H-1B program to fill a particular talent need is a significant investment in both the individual and the organization's broader workforce. Employer resources are dedicated to identifying and recruiting candidates, navigating the immigration process, onboarding employees, and integrating them into their organizations with the expectation that those employees will contribute exponentially, creating new revenue streams and job opportunities for others over time. Like any investment in talent, however, that investment carries uncertainty. Employment relationships can change, employees may pursue other opportunities, and employers cannot guarantee that an individual will remain with the organization for any particular period. Therefore, H-1B sponsorship should not be viewed as an isolated transaction, but as part of U.S. employers' broader workforce planning and investment strategies to ensure they have the skills and talent needed to meet current and future business needs.

SHRM encourages DHS to consider the substantial investment that employers already undertake when onboarding H-1B workers when evaluating the appropriate structure and level of the fee. The proposed \$103,265 fee would exponentially increase the upfront investment associated with sponsoring a cap-subject H-1B worker while employers would continue to assume the ordinary risks associated with recruiting and retaining talent. Where specialized skills remain difficult to obtain domestically, increasing the cost of accessing H-1B talent does not eliminate the underlying workforce need.

These considerations are particularly important for small and midsize employers, which are often less able to absorb additional costs, especially costs as significant as the fee that DHS is proposing. SHRM research shows that H-1B use spans organizations of different sizes, underscoring that access to specialized talent is not limited to the nation's largest employers. DHS's Initial

⁵ Sources: Talent Trends, SHRM, 2026 and Examining the Impacts of a Wage-Based H-1B Lottery System, SHRM, 2025 (Unpublished).

⁶ Source: Examining the Impacts of a Wage-Based H-1B Lottery System, SHRM, 2025 (Unpublished).

Regulatory Flexibility Analysis similarly estimates that the proposal would have a significant economic impact on 11,051 small entities, representing approximately 76% of small entities that filed cap-subject petitions in FY 2025.

More broadly, SHRM encourages DHS to consider the potential effects on U.S. competitiveness in the global talent market. Reduced H-1B utilization may not necessarily translate into increased domestic hiring, particularly where the specialized skills employers need remain unavailable. Employers competing in a global talent market may instead consider relocating business functions overseas, where visa pathways are more flexible, reducing future workforce investments, or shuttering business units if needed talent can no longer be acquired. The goal should be to ensure that efforts to appropriately resource the immigration system do not make it more difficult for U.S. employers to invest, grow, and compete for specialized talent in the United States.

IV. A Strong H-1B Program Should Balance Program Integrity With Employer Access to Talent

SHRM and its membership are invested in an H-1B system that is transparent, secure, efficient, and responsive to the needs of the U.S. workforce. Employers benefit from a well-administered immigration system, and SHRM recognizes the importance of ensuring that DHS has adequate resources to maintain the integrity and effective administration of the H-1B and other immigration programs. Indeed, SHRM research found that 68% of employers believe the screening process for foreign-born workers should remain rigorous to ensure program integrity and address security concerns.⁷ For SHRM members, strong workplace immigration compliance is particularly important because HR professionals are often responsible for employment eligibility verification, maintaining required documentation, onboarding, and other processes that help employers meet federal immigration and employment requirements.

SHRM recognizes that maintaining the integrity and effective administration of the U.S. immigration system requires adequate resources, and that DHS has authority to set USCIS filing fees at a level appropriate to cover the full cost of adjudication and naturalization services. Because USCIS is funded primarily by fees and not congressional appropriations, fees attached to immigration benefit requests play a critical role in supporting those objectives. At the same time, SHRM encourages DHS to consider whether alternative approaches to cost recovery could achieve these objectives while minimizing unintended effects on U.S. employers and their workforce investments. We are concerned that this regulation would divert funds raised through a fee on a single immigration benefit category to agencies and departments outside USCIS, most of which have their own congressional appropriations, for activities unrelated to adjudication services. In evaluating the appropriate allocation of costs, USCIS should consider the relationship between the fee and the government services and activities it is intended to support, as well as the potential

⁷ Source: Workplace Immigration: Employers See It as Key to Growth and U.S. Competitiveness, SHRM, 2023.

effects on employers across industries and organization sizes that rely on the H-1B program to address specialized and hard-to-fill positions.

Adequately resourcing the immigration system, maintaining H-1B program integrity, protecting U.S. workers, and ensuring U.S. employers can access needed talent need not be competing objectives. SHRM believes there is an opportunity to advance all of these through a balanced and practical approach that reflects the realities of the U.S. workforce and preserves employers' ability to invest in the talent they need to grow and compete.

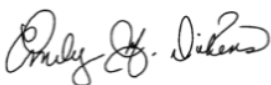
Conclusion

SHRM supports a strong and well-administered immigration system that enables U.S. employers to access the talent needed to address persistent workforce challenges. The employment-based immigration system remains an important tool for addressing hard-to-fill positions and complementing employers' broader investments in the domestic workforce. A balanced approach can protect American workers while supporting the talent, growth, innovation, and competitiveness of U.S. businesses.

Employers already make significant investments in recruiting, sponsoring, developing, and retaining H-1B workers. SHRM recognizes that an effective immigration system requires adequate resources and that employers benefit from a system that is secure, efficient, and predictable. SHRM encourages DHS to withdraw the NPRM, or at a minimum, consider whether more targeted and coordinated approaches to cost recovery could support DHS's objectives while preserving employer investments and access to needed talent.

Given HR professionals' direct role in administering workplace immigration requirements and managing the workforce consequences of these policies, SHRM stands ready to work with DHS to identify solutions that support a secure and well-administered immigration system while strengthening American businesses and the domestic workforce. SHRM can provide research, guidance, and the collective experience of its membership as DHS considers these issues. We will continue to work with policymakers to advance practical solutions that maintain program integrity, reduce unnecessary barriers to hiring skilled, legally authorized workers, and support a fair and transparent workplace immigration system aligned with the needs of U.S. businesses, workers, and the broader economy.

Sincerely,

A handwritten signature in dark ink, appearing to read "Emily M. Dickens". The signature is fluid and cursive, with the first name "Emily" being more prominent.

Emily M. Dickens, J.D.
Chief Administrative Officer
SHRM