

Before the
Department of Homeland Security
Washington, D.C.

In re

Fee for Certain H-1B Petitions
Notice of Proposed Rulemaking

Docket No. USCIS-2026-0298

**COMMENTS OF THE COMPUTER & COMMUNICATIONS INDUSTRY
ASSOCIATION (CCIA)**

In response to the *Fee for Certain H-1B Petitions Notice of Proposed Rulemaking* published in the Federal Register at 91 Fed. Reg. 54817 (Aug. 25, 2026), the Computer & Communications Industry Association (CCIA)¹ submits the following comments.

Introduction

CCIA welcomes the opportunity to respond to the Department of Homeland Security’s (DHS) *Fee for Certain H-1B Petitions Notice of Proposed Rulemaking* (“Proposed Rule”).² CCIA’s member companies collectively conduct business in a highly competitive global technology industry, many of whom rely on the H-1B program to secure the specialized global talent necessary to maintain U.S. leadership in emerging fields like artificial intelligence (AI).

When CCIA member companies hire foreign skilled workers, it is because specific skills and talents are needed to advance research, develop products, and remain competitive with

¹ CCIA is an international, not-for-profit trade association representing a broad cross section of communications and technology firms across the globe. CCIA members employ more than 1.6 million workers, invest more than \$100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. For more than 50 years, CCIA has championed open markets, open systems, and open networks, serving as a unified voice for the digital sector on public policy, legal, and regulatory issues. A complete list of CCIA members is available at <http://www.ccianet.org/members>.

² Fee for Certain H-1B Petitions, 91 Fed. Reg. 54817 (proposed Aug. 25, 2026) (to be codified at 8 C.F.R. pt. 106).

foreign rivals. While CCIA acknowledges the importance of a self-sustaining immigration system, the proposed \$103,265 fee represents an extraordinary departure from traditional user-fee principles. By concentrating approximately \$8.8 billion in annual costs incurred across six federal agencies, roughly two-thirds outside the U.S. Citizenship and Immigration Services (USCIS) on employers filing a single category of petition, the Proposed Rule would dramatically increase the cost of hiring specialized talent in the U.S. while financing government activities with little connection to H-1B adjudication.

These comments focus on four fundamental problems with the Proposed Rule: (1) its use of H-1B fees to finance government activities being far removed from H-1B adjudication; (2) its reliance on a flawed “ability to pay” rationale; (3) its failure to account for the cumulative effect of overlapping restrictions on high-skilled hiring and U.S. competitiveness; and (4) serious flaws in the demand and revenue assumptions underlying the \$103,265 fee.

I. The Proposed Rule provides for unlawful interagency cost-shifting and departs from traditional user-fee principles.

The statutory framework governing the Immigration Examinations Fee Account (IEFA) limits both fee collection and expenditure to “adjudication and naturalization services.”³ While 8 U.S.C. § 1356(m) allows recovery of the full cost of those services, including the cost of similar services provided without charge to asylum applicants and other immigrants, this Proposed Rule expands the IEFA into a general-purpose funding mechanism for enforcement, removal adjudication, consular, and labor-standards activities that are neither adjudication nor naturalization services. Even if some of those activities could be characterized as adjudication, section 1356(n)’s authority to reimburse appropriations is limited to qualifying immigration-adjudication, naturalization, and fee-administration expenses.⁴ It is not a general

³ 8 U.S.C. § 1356(m)-(n).

⁴ 8 U.S.C. § 1356(n) (authorizing reimbursement of appropriations for expenses incurred in providing “immigration adjudication and naturalization services” and in the “collection, safeguarding and accounting” of IEFA fees); *Fee for Certain H-1B Petitions*, 91 Fed. Reg. 54817, 54826 (Aug. 25, 2026) (stating that § 286(n) permits reimbursement of other appropriations “to the extent those appropriations fund such services”).

authority to finance the immigration system, particularly those parts of the system outside of DHS, and DHS has not demonstrated that each proposed cost falls within those statutory categories or supplied a defensible basis for concentrating those costs on cap-subject H-1B petitioners.

DHS instead relies on the cost-recovery authority of the Immigration and Nationality Act (INA) § 286(m) and (n) to justify generating \$8.8 billion annually.⁵ However, this figure is fundamentally disconnected from the cost of processing a petition; it was reached by dividing broad, government-wide costs across an assumed 85,000 petitions, a fragile assumption on which DHS's proposal rests. There is no connection between an employer's H-1B filing and the funding of unrelated mandates such as removal proceedings, refugee resettlement logistics, wage-and-hour enforcement across unrelated visa programs, or biometric entry-exit screening of non-citizen travelers. Notably, this proposal seeks to fund 8,400 new positions within the Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR).⁶ This constitutes a massive expansion of the workforce of an agency that plays no role in adjudicating H-1B petitions using fees extracted from H-1B petitioners.

DHS's cost tables do not establish the required statutory and cost-allocation nexus. Of the \$8,777.5 million DHS proposes to recover, \$2,956.9 million (33.7 percent) would fund EOIR immigration courts, whose docket consists of removal proceedings, asylum applications, and appeals.⁷ Another \$1,050.0 million would fund ICE vetting of "aliens pending adjudication" and "applicants for admission" and a projected deficit in the Student and Exchange Visitor Program.⁸ The \$484 million State Department allocation includes \$92 million for refugee resettlement, medical examinations, and refugee travel through the U.S. Refugee Admissions Program, Resettlement Support Centers, and the International Organization for Migration.⁹ The \$1,210.4 million Department of Labor (DOL) allocation includes \$136.6 million for the H-2A agricultural

⁵ 91 Fed. Reg. 54817, 54831–32 (Aug. 25, 2026).

⁶ *Id.* at 54829–30.

⁷ *Id.*, (Table 7).

⁸ *Id.* at 54829 (Table 5).

⁹ *Id.* at 54830 (Table 8).

program, \$128.6 million for the H-2B and CW-1 programs, and \$700.0 million for the Wage and Hour Division and the Office of the Solicitor.¹⁰ The only line item in the entire cost basis that DHS identifies as specific to the H-1B program, DOL's \$79.2 million H-1B Visa Program, is 0.9 percent of the total.¹¹ Even the \$3,000 million USCIS component is not tied to H-1B adjudication: \$1,823.6 million is agency-wide non-premium cost growth assigned to the proposed fee, including staffing and other operating-cost increases and 6,045 positions "across most USCIS offices," 184 of which are existing positions shifted from another fee account, and \$1,176.4 million is an accounting transfer of costs out of the premium processing account.¹² In total, the fee would raise more from roughly 85,000 petitions than USCIS's entire FY 2025 funding from all sources, which DHS reports as \$7.4 billion.¹³

The cost basis also departs from DHS's own methodology. DHS acknowledges that it used activity-based costing to develop past USCIS fee schedules and that the proposed allocation departs from that practice, but its assertion that it "is not required to determine USCIS immigration benefit request fees using ABC methodology" does not explain how the replacement methodology derives the proposed amounts or justifies charging them to cap-subject H-1B petitioners.¹⁴ The cost allocations DHS uses in place of activity-based costing include round budget figures, such as \$900 million, \$100 million, \$50 million, and \$350 million, without identifying an activity-level derivation for those amounts.¹⁵ An agency that departs from a longstanding methodology must at minimum display awareness that it is changing position and supply a reasoned explanation for the change.¹⁶ Because the Proposed Rule does not adequately justify the resulting allocation, CCIA requests that DHS place in the docket the activity-based cost model, or its equivalent, for each of the six agency allocations, identifying for each line item

¹⁰ *Id.* at 54831 (Table 9).

¹¹ *Id.* at 54831 (Table 9).

¹² *Id.* at 54826-54828 (Tables 1-4).

¹³ *Id.* at 54820.

¹⁴ *Id.* at 54832.

¹⁵ *See id.* 54829-31 & tbls. 5, 9.

¹⁶ *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009); *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221-22 (2016).

the specific adjudication or naturalization service to which the cost is attributable and the basis for assigning it to cap-subject H-1B petitioners.

The proposed interagency allocation bears the characteristics of a general revenue-raising mechanism rather than a traditional user fee. By DHS's own admission, it has never before set a fee on a single sub-population of benefit requestors to fund costs borne by other DHS components or other executive departments, or costs that Congress has funded through appropriations.¹⁷ Where Congress has intended H-1B revenue to be shared across agencies, it has always said so by statute, as with the fraud prevention and detection fee and the H-1B Nonimmigrant Petitioner Account.¹⁸ No statute authorizes DHS's proposed allocation, and the \$600 Asylum Program Fee that DHS cites as precedent stayed within USCIS and funded an adjudication program.

DHS has not demonstrated that INA § 286(m) and (n) authorize it to allocate billions of dollars in government-wide immigration costs to cap-subject H-1B petitioners without a demonstrated nexus to the services those petitioners receive. The Proposed Rule therefore raises serious questions about the limits of DHS's statutory fee-setting authority and should be withdrawn.

II. The Proposed Rule leverages a flawed 'ability to pay' analysis and distorts modern tech compensation structures.

In justifying its proposed \$103,265 fee, DHS relies heavily on an 'ability-to-pay principle' rather than a demonstrated nexus between the costs imposed and the services provided to H-1B petitioners.¹⁹ DHS asserts that H-1B employers can absorb these costs because they are already obligated to pay high wages, citing USCIS's own FY 2025 Characteristics of H-1B

¹⁷ 91 Fed. Reg. at 54832.

¹⁸ *Id.* at 54820 nn. 9-10.

¹⁹ *Id.* at 54821.

Specialty Occupation Workers report for a median annual compensation of \$133,000 and extrapolating that figure to a \$798,000 “wage obligation” over six years.²⁰

This reasoning conflates an employer’s payroll obligation with surplus available to fund a new regulatory charge. Compensation is a cost the employer incurs, paid out over time as productive work is performed. It is not a measure of the employer’s cash on hand, operating margin, or expected net return from an additional hire. Nor does an employee’s compensation establish an employer’s ability to absorb a six-figure upfront fee.

Moreover, while base salary is often paid over time as value is generated, this fee is a sunk cost required at the time of filing, before the petition is adjudicated and before the worker has performed any services under employment in H-1B status. Like other USCIS filing fees, the proposed fee is generally non-refundable regardless of outcome. For firms that conserve cash by compensating employees partly through equity, the upfront burden is heavier still. A median compensation statistic captures none of these financing constraints, and DHS offers no analysis of employer liquidity, approval risk, or expected tenure to support its assertion that petitioners can afford the fee. For many firms, this fee creates a significant cash-flow barrier that base-salary data fails to capture, creating a disconnect that undermines DHS’s economic assumptions.

The scale of the proposed charge far exceeds the fee increases DHS examines in its historical analysis. The proposed fee equals 77.6 percent of the FY 2025 median annual compensation of an H-1B worker, payable in full at filing, before USCIS adjudicates the petition and before any employment in H-1B status begins.²¹ The largest per-petition fee change DHS examined in its historical regression analysis, the April 2024 increase of \$920 for large employers (\$300 for small employers and nothing for nonprofits), was 0.7 percent of that compensation. On the other hand, the proposed fee here is 112 times the large-employer change and 344 times the small-employer change.²² DHS separately examines the \$100,000 payment

²⁰ *Id.* at 54821 nn. 14, 20.

²¹ \$103,265 / \$133,000. 91 Fed. Reg. at 54821 n.14, 54832 (Table 10).

²² Technical Appendix, Table A.1 (reporting the large-entity fee as “\$1380 - \$460” after April 1, 2024); 89 Fed. Reg. 6194 (Jan. 31, 2024).

mandated by Presidential Proclamation 10973, but supplies no credible bridge from either analysis to its projected filing volume under the proposed fee here. Because USCIS filing fees are generally non-refundable regardless of outcome,²³ and because DHS’s own data show that cap-subject receipts averaged 14 percent above the numerical allocation over FY 2021 through FY 2025 and 28 percent above it in FY 2024 and FY 2025 to account for denied, rejected, and withdrawn petitions,²⁴ the effective cost per approved worker would exceed the nominal fee. DHS’s principal quantitative support for the statement that cap-subject petitioners “are willing to pay and can afford” the proposed fee is a single working paper discussed in Part IV below.²⁵

An “ability to pay” rationale is not a cost-recovery methodology. INA § 286(m) authorizes fees “for providing adjudication and naturalization services” at a level that recovers the costs of “such services.” It does not authorize DHS to select the requestor population it believes can best absorb an unrelated charge. DHS concedes that it “ha[s] never directly transferred the costs of one program to another based on a determination that requestors under one program can afford higher fees more than other general or specific requestors.”²⁶ DHS has not adequately explained how a subjective assessment of employers’ ability to pay can substitute for a demonstrated nexus between the fee and the services provided, particularly where its assessment relies on a payroll statistic that measures neither employer liquidity nor expected return from a particular hire.

III. The Proposed Rule would compound existing restrictions on high-skilled hiring and undermine U.S. competitiveness.

The proposed \$103,265 fee does not exist in isolation. It is one of several recent and pending regulatory actions that, taken together, substantially increase the cost of employing high-skilled foreign talent. DHS’s wage-weighted selection rule, which took effect on February

²³ 8 C.F.R. § 103.2(a)(1).

²⁴ 91 Fed. Reg. at 54834-35 (Table 13, as corrected at 91 Fed. Reg. 57516 (Sept. 10, 2026)) (reporting a five-year average of 96,750 and a FY 2024-2025 average of 108,910 cap-subject receipts against an allocation of 85,000).

²⁵ *Id.* at 54831.

²⁶ *Id.* at 54821.

27, 2026, gives registrations for higher-wage positions greater odds of selection.²⁷ DOL’s proposed prevailing wage rule would separately increase all four prevailing wage levels, moving Level I from the 17th to the 34th percentile and Level IV from the 67th to the 88th percentile.²⁸ The CBP 9-11 biometric entry-exit fee has been expanded to cover H-1B and L-1 extension petitions, and new and increased EOIR filing fees and other fees required under recent legislation add further layers of cost.²⁹ The Proposed Rule, if finalized, would additionally impose a \$103,265 fee on each cap-subject H-1B petition.³⁰ Although DHS asserts that the Proposed Rule “accounts for the impact of revised prevailing wage requirements,”³¹ it does not quantify how these overlapping policies will collectively affect employer hiring decisions, particularly when historical filing volumes reflect neither the new selection process nor the proposed wage floors.

The cumulative effect is particularly concerning for foreign graduates of U.S. universities. Unlike the \$100,000 payment imposed under Proclamation 10973, the Proposed Rule would apply to change-of-status petitions for individuals already living, studying, and working in the U.S. DHS proposes to impose the fee on all cap-subject petitions, including petitions eligible for the 20,000 advanced-degree exemption.³² USCIS data further demonstrate the significance of this population. A majority of approved initial H-1B petitions in FY 2024 were for beneficiaries already in the U.S., many of whom previously held student status.³³ Moreover, 71 percent of beneficiaries receiving initial H-1B approvals in FY 2025 held a master’s, doctorate, or professional degree.³⁴

²⁷ Weighted Selection Process for Registrants and Petitioners Seeking To File Cap-Subject H-1B Petitions, 90 Fed. Reg. 60864, 60864–65 (Dec. 29, 2025) (effective Feb. 27, 2026).

²⁸ Improving Wage Protections for the Temporary and Permanent Employment of Certain Foreign Nationals in the United States, 91 Fed. Reg. 15454, 15460–61, 15472 (Mar. 27, 2026).

²⁹ 9-11 Response and Biometric Entry-Exit Fee for H-1B and L-1 Visas, 91 Fed. Reg. 51360 (Aug. 10, 2026) (effective Sept. 9, 2026).

³⁰ Fee for Certain H-1B Petitions, 91 Fed. Reg. 54817, 54818–19 (Aug. 25, 2026).

³¹ *Id.* at 54825.

³² *Id.* at 54818–19; Restriction on Entry of Certain Nonimmigrant Workers, Proclamation No. 10973, 90 Fed. Reg. 46027 (Sept. 24, 2025).

³³ U.S. Citizenship & Immigr. Servs., *Characteristics of H-1B Specialty Occupation Workers, Fiscal Year 2024*.

³⁴ U.S. Citizenship & Immigr. Servs., *Characteristics of H-1B Specialty Occupation Workers, Fiscal Year 2025*.

These workers represent an important pipeline through which U.S. investment in higher education translates into domestic research, innovation, and economic activity.³⁵ As CCIA has previously explained, foreign nationals earn a substantial share of advanced STEM degrees awarded by U.S. universities, including 59 percent of U.S. doctorates in computer science and 58 percent in engineering in 2019.³⁶ International STEM Ph.D. graduates also demonstrate high rates of intent to remain in the U.S., reaching approximately 85 to 90 percent in computer science, biology, and engineering.³⁷ Imposing a six-figure upfront cost on employers seeking to transition these graduates into H-1B status risks turning substantial U.S. investments in education and training into an advantage for competing economies.

Nor should DHS assume that making an H-1B worker substantially more expensive to employ in the U.S. will result in an equivalent increase in domestic hiring. For globally integrated technology companies, the alternative to employing a specialized worker in the U.S. may instead be employing that same worker, or locating the relevant team or project, in another country.³⁸ Empirical research bears this out. For example, Professor Britta Glennon found that, for the average multinational corporation, each H-1B visa rejection led to approximately 0.4 additional foreign affiliate hires, increasing to approximately 0.9 foreign hires among the most globalized firms.³⁹ This foreign hiring was concentrated in R&D-intensive activities and in countries including Canada, India, and China.⁴⁰

³⁵ Remco Zwetsloot, Jacob Feldgoise & James Dunham, *Trends in U.S. Intention-to-Stay Rates of International Ph.D. Graduates Across Nationality and STEM Fields*, Ctr. for Sec. & Emerging Tech. (Apr. 2020).

³⁶ See Comments of the Comput. & Comm'n's Indus. Ass'n at 7, Improving Wage Protections for the Temporary and Permanent Employment of Certain Foreign Nationals in the United States, Docket No. ETA-2026-0001 (May 26, 2026) (citing Nat'l Ctr. for Sci. & Eng'g Statistics, Nat'l Sci. Found., Doctorate Recipients from U.S. Universities: 2019 (2020)).

³⁷ Remco Zwetsloot, Jacob Feldgoise & James Dunham, *Trends in U.S. Intention-to-Stay Rates of International Ph.D. Graduates Across Nationality and STEM Fields*, Ctr. for Sec. & Emerging Tech. (Apr. 2020) (finding intention-to-stay rates of 70 percent or higher across STEM fields and rates between 85 and 90 percent in computer science, biology, and engineering).

³⁸ Britta Glennon, *How Do Restrictions on High-Skilled Immigration Affect Offshoring? Evidence from the H-1B Program*, 70 Mgmt. Sci. 907 (2024).

³⁹ *Id.* at 907, 924–25.

⁴⁰ *Id.* at 907, 924.

The consequences extend beyond the individual H-1B worker. When high-skilled positions, research teams, or projects move abroad, the U.S. also risks losing complementary domestic employment, investment, intellectual property development, and tax revenue associated with that work.⁴¹ This dynamic is especially concerning in AI and other emerging technologies, where the U.S. faces increasing international competition to attract and retain specialized talent.⁴² At a moment when U.S. companies are making historic investments in AI and advanced technology infrastructure, immigration policy should support pairing those investments with world class talent located in the U.S., not raise the cost of doing so. Making the U.S. substantially more expensive as a location for that talent risks undermining, rather than strengthening, technological leadership.

These competitiveness evaluations are largely absent from DHS's cost-recovery analysis. To that end, DHS should withdraw its Proposed Rule until it further studies how employers are likely to respond to the cumulative cost of the proposed policies, rather than assuming that every H-1B position deterred by the proposed fee will translate into an equivalent U.S. hire.

IV. DHS's demand, revenue, and regulatory impact analyses cannot support the 85,000 petition assumption on which the proposed fee rests.

The entire fee calculation is a quotient: \$8,777,488,035 in costs divided by an assumed 85,000 fee-paying petitions per year.⁴³ DHS concedes that “the success of the USCIS fee model and this rulemaking in generating the necessary revenue depends on the filing volumes of cap-subject H-1B petitions not falling short of those projected herein.”⁴⁴ The Proposed Rule offers two sources of support for the assumption that volumes will not fall: a regression analysis in the Technical Appendix, which DHS summarizes as showing that demand is “inelastic,”⁴⁵ and a single working paper which DHS concludes shows that demand “will not go below 85,000 for

⁴¹ *Id.* at 907, 924–25.

⁴² See Tina Huang & Zachary Arnold, *Immigration Policy and the Global Competition for AI Talent*, Ctr. for Sec. & Emerging Tech. (June 2020).

⁴³ 91 Fed. Reg. at 54819 n.5, 54832 (Table 10).

⁴⁴ *Id.* at 54821.

⁴⁵ *Id.* at 54835.

a fees [*sic*] above \$100,000.”⁴⁶ Neither supports the assumption. Instead, the CCIA Research Center’s analysis of both, together with a ten-year model of the fee’s effect on federal receipts, is attached as Appendix A and described further below.

A. The Technical Appendix does not measure the demand response to a fee.

First, the regression analyzes the wrong population. The Technical Appendix states that “the analysis sample includes all H-1B receipts and petitioners,” because the fee schedules studied did not distinguish initial from non-initial petitions.⁴⁷ Cap-subject petitions, the only filings that would pay the proposed fee, were 22.6 percent of the 2,143,206 H-1B receipts DHS reports for FY 2021 through FY 2025. The remaining 77.4 percent were extensions, amendments, changes of employer, and cap-exempt filings that would never be charged.⁴⁸ The appendix reports no separate estimate for the fee-paying margin. An employer’s decision to extend a worker already on its payroll is a different economic decision from its decision to sponsor a new cap-subject hire, and the pooled coefficient says nothing about the latter.

Second, the regression analyzes the wrong scale. The only fee change in the historical analysis is the April 2024 schedule, a per-petition increase of \$920 for large employers, \$300 for small employers, and zero for nonprofits.⁴⁹ A response estimated over a price change of less than one percent of annual compensation cannot be extrapolated to a charge equal to 78 percent of annual compensation, two orders of magnitude larger than anything in the data.

Third, the regression does not identify a price response at all. Equations (1) and (2) of the Technical Appendix regress the logarithm of each petitioner’s count of receipts on the logarithm of its “Total Fees,” a quantity that, by DHS’s own description, rises with that same count.⁵⁰ DHS acknowledges the consequence in its own words: the cross-sectional coefficients reflect “a

⁴⁶ *Id.* (citing George J. Borjas, *The H-1B Wage Gap, Visa Fees, and Employer Demand*, NBER Working Paper 34793 (Feb. 2026)).

⁴⁷ Technical Appendix § 4.a.

⁴⁸ 91 Fed. Reg. at 54834-35 (Table 13).

⁴⁹ Technical Appendix, Table A.1.

⁵⁰ *Id.* § 4.a, Eqs. (1)-(2).

relationship driven by the fact that the total fees paid by a petitioner depend on the number of I-129 receipts submitted by the entity,” and the panel coefficient “is positive and captures the mechanical relationship between filing volume and total fees.”⁵¹ A firm that files more petitions pays more in fees. That is arithmetic, not evidence about how employers respond to a higher price. Yet the appendix reports a positive coefficient of 0.62 and, in the same paragraph, concludes that “fee elasticity of demand for Form I-129 H-1B petitions is inelastic,”⁵² and the preamble repeats that conclusion as a finding.⁵³ A positive elasticity would mean that raising the fee increases demand. Yet no reading of the coefficient supports the use DHS makes of it.

Fourth, the Technical Appendix expressly disclaims the inference the preamble draws from it. It states that “[t]his is not a causal analysis, and DHS is not estimating the treatment effect of a fee policy change,” and that “DHS is not using the fee elasticity analysis to predict or project the ability to pay the proposed \$103,265 fee for all H-1B cap subject petitions.”⁵⁴ The preamble nonetheless presents the analysis as evidence that demand is inelastic and offers no other basis for its volume assumption apart from the Borjas study DHS cites. A conclusion that “runs counter to the evidence before the agency” risks being later adjudicated as an arbitrary and capricious action.⁵⁵

Fifth, the analysis cannot be evaluated or replicated on the present record. The appendix describes a two-way fixed-effects negative binomial model with entity effects for 107,035 petitioners, yet the reported information criteria for the panel model (AIC 614,818.2; BIC 615,114.3; $N = 428,103$) imply roughly 27 estimated parameters, fewer than the cross-sectional models that contain no fixed effects.⁵⁶ The appendix does not identify the estimator, the software, or the controls actually retained. It also states that, for years in which a petitioner filed nothing, “Total Fees” was imputed as “the fees that the petitioner would have paid if they participated at

⁵¹ *Id.* § 4.a (discussion of Tables A.4 and A.5).

⁵² *Id.*

⁵³ 91 Fed. Reg. at 54835.

⁵⁴ Technical Appendix § 4.a.

⁵⁵ *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

⁵⁶ Technical Appendix, Tables A.4-A.5. For a model with k parameters and N observations, $BIC - AIC = k(\ln N - 2)$; the reported values imply $k \approx 27$.

the same rate as they did in previous fiscal years,” assigning positive fee expenditures to observations with zero filings.⁵⁷ An agency relying on a technical analysis must disclose the data and methodology on which it rests so that commenters can test it.⁵⁸ CCIA therefore requests that DHS place in the docket the petitioner-level data, the estimation code, and the full specification (including the estimator, all covariates, and the imputation rule) underlying Tables A.4 and A.5, and that it reopen the comment period for a reasonable time after doing so.

B. DHS’s own docket records severe contractions following a comparable charge, but the agency does not substantiate its assumption that those contractions are temporary.

The Technical Appendix reports what happened when Proclamation 10973 imposed a \$100,000 payment on certain new H-1B petitions for beneficiaries outside the U.S. Table A.6 lists 30 employers sorted by the size of their declines in cap registrations between FY 2026 and FY 2027, together with each employer’s FY 2025 share of consular (from-abroad) initial receipts. USCIS itself sorts them into exposure categories.⁵⁹ Grouped by those categories, registrations at the 14 “High” exposure employers fell from 34,013 to 2,613, a 92.3 percent decline; at the two “Upper Medium” employers, 80.2 percent; at the five “Lower Medium” employers, 36.2 percent; and at the nine “Low” exposure employers, 27.2 percent, close to the 38.5 percent decline in eligible registrations program-wide (343,981 to approximately 211,600).⁶⁰ Table A.7 reports that in a separate consular series DHS identifies as cap-exempt, initial petitions fell from 13,823 in the period September 21, 2024 through May 24, 2025 to 1,212 in the same period a year later, a 91.2 percent decline, with the year-over-year shortfall deepening from 80.8 percent in October to 97.4 percent in May.⁶¹

⁵⁷ *Id.* § 4.a.

⁵⁸ *Portland Cement Ass’n v. Ruckelshaus*, 486 F.2d 375, 393 (D.C. Cir. 1973).

⁵⁹ Technical Appendix, Table A.6 & n.14.

⁶⁰ CCIA Research Center calculations from Technical Appendix, Table A.6; USCIS, H-1B Electronic Registration Process (FY 2026 registration data); USCIS announcement of July 17, 2026 (FY 2027 registration data). The comparison is descriptive; it does not isolate the payment’s causal effect, but the monotone gradient across DHS’s own exposure categories is exactly the pattern a large demand response would produce.

⁶¹ Technical Appendix, Table A.7 & n.15.

DHS’s treatment of this evidence is an unquantified explanation characterizing it as a “short-term” response to an “information shock,” followed by a promise to “continue to monitor.”⁶² DHS offers no estimate of when or by how much filings would recover, and no explanation of why a permanent fee applying to every cap-subject petition, including the change-of-status petitions the Proclamation did not reach, would produce a smaller response than a temporary, litigated payment applying to a subset. An agency may not “entirely fail[] to consider an important aspect of the problem,”⁶³ and the demand response recorded in DHS’s own docket is the most important aspect of a rule whose revenue depends entirely on demand.

The volume assumption is also uncalibrated. DHS states that the fee’s revenue depends on volumes “not falling short of those projected,” projects exactly 85,000 petitions, and describes that figure as “a reduction from the 5-year average of 96,750,”⁶⁴ but it does not show how its analysis yields that particular 12 percent reduction or why the resulting volume should equal exactly the statutory allocation.

C. The Borjas working paper does not establish willingness to pay \$103,265.

Borjas (2026) infers employer demand and willingness to pay through a simulation based on estimated wage differentials and assumptions about unobserved productivity and hiring costs, and reports the fee that would maximize visa-fee collections, an objective distinct from maximizing federal receipts or economic output. That is not direct evidence that employers will file 85,000 petitions at \$103,265. The willingness-to-pay mechanism is an estimated 16.1 percent wage gap between H-1B workers and comparable U.S. workers.⁶⁵ That estimate has been challenged in the published literature: after correcting errors in the comparison, the Economic

⁶² *Id.* § 4.b.

⁶³ *State Farm*, 463 U.S. at 43.

⁶⁴ 91 Fed. Reg. at 54835.

⁶⁵ *Id.*

Innovation Group finds a gap of roughly 5 percent, and Clemens finds that H-1B workers earn a premium of roughly 6 percent.⁶⁶

More fundamentally, the two regulatory actions DHS itself identifies as related, the wage-weighted selection rule and DOL's proposed prevailing wage increases,⁶⁷ are intended to raise required H-1B wages and would compress the very wage differential from which the paper derives willingness to pay. DHS has not jointly modeled the proposed fee, wage-weighted selection, and the proposed prevailing wage increases, and without that analysis it has not established how much of the differential used in its willingness-to-pay model would remain after the other policies take effect. Finally, DHS characterizes the paper as showing willingness to pay of \$100,000 to \$200,000; the August 2026 revision reports a revenue-maximizing fee of \$95,000 to \$152,000 for moderate excess-demand assumptions, and that range is neither a confidence interval nor evidence that the proposed fee will generate DHS's projected collections.⁶⁸

D. DHS has not analyzed the fee's effect on federal receipts, which the CCIA Research Center estimates would be negative under three of four Institute for Progress (IFP)-derived demand scenarios.

DHS elects to treat the fee as a real cost rather than a transfer,⁶⁹ quantifies ten-year costs of \$74.9 billion at a 3 percent discount rate and \$61.6 billion at 7 percent, lists benefits as "Not Estimated," and marks effects on wages and growth as "N/A."⁷⁰ The Regulatory Impact Analysis therefore contains, on its own terms, \$61.6 to \$74.9 billion in quantified costs and no quantified benefits, and it omits any analysis of the fee's effect on federal revenue other than the fee itself.⁷¹ Executive Order 12866 directs agencies to select the approach that maximizes net benefits,

⁶⁶ Jiaxin He & Adam Ozimek, *The Flawed Paper Behind Trump's \$100,000 H-1B Fee* (Economic Innovation Group, Feb. 21, 2026); Michael A. Clemens, *Immigrant-Native Wage Gaps and Immigration Tariffs: Examining the Case for an H-1B Visa Tax* (RFBerlin). Applying Borjas's own simulation framework to those corrected gaps implies declines in cap utilization of 13 to 38 percent. Institute for Progress, *Explaining the Proposed \$103k H-1B Fee* (Sept. 4, 2026).

⁶⁷ 91 Fed. Reg. at 54825.

⁶⁸ Compare *id.* at 54835 with Borjas, NBER Working Paper 34793 (rev. Aug. 2026), abstract.

⁶⁹ 91 Fed. Reg. at 54835 n.101.

⁷⁰ *Id.* at 54833-34 (Table 12), 54836 (Table 14).

⁷¹ *Id.* at 54833-34.

considering qualitative as well as quantitative effects.⁷² Here, DHS quantifies tens of billions of dollars in costs but does not demonstrate, quantitatively or through a reasoned comparison of its qualitative claims, that the benefits justify those costs or that less burdensome funding alternatives are inferior.⁷³

The CCIA Research Center has modeled the fee's effect on net federal receipts over FYs 2027-2036, using DHS's own volume, cost, and compensation figures (Appendix A). Two offsets are built into the fee's design. First, the fee is a deductible business expense; assuming each payment is deducted at the 21 percent corporate rate, the \$8.78 billion in annual collections DHS projects would reduce business tax receipts by about \$1.84 billion a year, so that even at DHS's assumed volume, the fee nets the Treasury \$69.3 billion over ten years rather than \$87.8 billion. Second, the central case treats the modeled taxes associated with employment lost from the U.S. as foregone receipts. The sensitivity analysis tests partial offsets through other employment. At \$133,000 in starting compensation, the model generates about \$41,000 in first-year federal income tax and employer and employee payroll receipts for a single filer under the 2026 tax schedule; assuming six years of employment, with 76 percent remaining in the U.S. workforce thereafter, 2 percent real wage growth, and entry pay for each successive cohort also rising 2 percent a year in real terms, the receipts lost per foregone worker average about \$250,000 within the ten-year window, roughly three times the fee net of its deduction.⁷⁴

On these central assumptions, counting only fee receipts and worker taxes, the fee reduces net federal receipts once cap-subject petitions fall more than 24.6 percent below 85,000. The threshold varies with assumptions (26 to 32 percent if the foregone hire earns \$100,000 to \$121,863; 29 percent with no deduction offset; 39 percent if only half of the foregone tax stream

⁷² Exec. Order No. 12,866 § 1(a), 58 Fed. Reg. 51,735, 51,735 (Oct. 4, 1993).

⁷³ 91 Fed. Reg. at 54833–34 (Table 12), 54836 (Section VI.A.6), 54837 (Section VI.B.1.f).

⁷⁴ Appendix A, Trevor Wagener, “The \$103,265 H-1B Fee Could Cost the U.S. Treasury More than \$32 Billion over a Decade”, Computer & Communications Industry Association Research Center, September 2026, available at <https://ccianet.org/research/reports/the-103265-h-1b-fee-could-cost-the-u-s-treasury-more-than-32-billion-over-a-decade/>. Tax parameters from IRS Rev. Proc. 2025-32; retention calibrated to Clemens, Neufeld & Nice (Oct. 2025).

is genuinely lost), and it falls below 40 percent under every single-assumption alternative tested. Applying the IFP-derived demand scenarios produces the following results:⁷⁵

Demand scenario	Annual petitions	10-year fee receipts net of deduction	10-year foregone worker taxes	Net federal receipts effect
DHS projection: 85,000 paid filings (Borjas)	85,000	\$69.3 billion	\$0	+\$69.3 billion
13% decline (corrected wage gap, Borjas method)	73,950	\$60.3 billion	\$27.6 billion	+\$32.7 billion
36% decline (employer survey)	54,400	\$44.4 billion	\$76.6 billion	−\$32.2 billion
38% decline (Clemens premium, Borjas method)	52,700	\$43.0 billion	\$80.8 billion	−\$37.8 billion
75% decline (Proclamation analogue)	21,250	\$17.3 billion	\$159.5 billion	−\$142.1 billion

Under CCIA’s central fiscal assumptions, three of the four IFP-derived demand scenarios produce net federal receipts losses: approximately \$32 billion and \$38 billion in the two middle cases and \$142 billion in IFP’s Proclamation-derived scenario, which assumes a 75 percent reduction in the annual modeled cohort. These are conditional receipts estimates, not forecasts of the demand response or estimates of changes in federal spending. DHS did not perform any comparable analysis, and the Proposed Rule’s accounting statement contains no entry for foregone tax receipts, offshored employment, or lost output. CCIA therefore requests that DHS withdraw the Proposed Rule unless and until it models the demand response to the proposed fee, estimates the resulting change in federal income, payroll, and corporate tax receipts, and discloses the net revenue effect of the rule under a range of demand assumptions.

⁷⁵ Appendix A, Trevor Wagener, “The \$103,265 H-1B Fee Could Cost the U.S. Treasury More than \$32 Billion over a Decade”, Computer & Communications Industry Association Research Center, September 2026, available at <https://ccianet.org/research/reports/the-103265-h-1b-fee-could-cost-the-u-s-treasury-more-than-32-billion-over-a-decade/>. Scenario inputs from Institute for Progress, *Explaining the Proposed \$103k H-1B Fee* (Sept. 4, 2026). Undiscounted, constant FY 2027 dollars; one fee-paying petition per worker; entry pay grows 2 percent a year by cohort; federal spending changes excluded. At a 7 percent discount rate the range runs from +\$48.7 billion to −\$88.1 billion.

E. The revenue DHS proposes to spend is not secure, and DHS has not analyzed the consequences of a shortfall.

The fee would finance staffing adjustments encompassing 14,445 positions (14,261 proposed additions across USCIS and EOIR and 184 existing USCIS positions shifted between funding accounts) and other planned operating expenditures, from a single revenue source that DHS itself describes as dependent on volumes not falling short.⁷⁶ Each ten percent shortfall in petitions is \$878 million per year against the \$8.78 billion cost basis; at the Proclamation-analogue response, collections would be \$2.2 billion against \$8.78 billion of planned spending, leaving a \$6.6 billion annual gap for Congress to appropriate or for the immigration courts and USCIS to absorb.

DHS cites the Government Accountability Office’s warning that fee-funded agencies must plan for periods when collections fall below costs,⁷⁷ but the Proposed Rule contains no contingency analysis, no discussion of how the interagency reimbursement agreements would operate in a shortfall, and no refund policy for fees collected under a rule that is later vacated. This is particularly notable given that the \$100,000 Proclamation payment was vacated in June 2026 and the 2020 USCIS fee rule was enjoined before it took effect.⁷⁸ CCIA requests that DHS withdraw its proposed rule until each of these questions is addressed.

F. The Initial Regulatory Flexibility Analysis rejects alternatives that DHS’s own fee schedule already uses.

DHS finds that the fee would impose a significant economic impact on 11,051 small entities, 76 percent of the 14,541 small entities that filed cap-subject petitions in FY 2025, and then rejects any tiering or exemption on the ground that it “creates a sizable perverse incentive for employers to avoid the fee.”⁷⁹ DHS offers no evidence for that assertion, does not quantify

⁷⁶ 91 Fed. Reg. at 54827, 54829.

⁷⁷ *Id.* at 54824 & n.56.

⁷⁸ *California v. Mullin*, No. 1:25-cv-13829, slip op. at 57–58 (D. Mass. June 8, 2026); *Immigr. Legal Res. Ctr. v. Wolf*, 491 F. Supp. 3d 520, 547–48 (N.D. Cal. 2020).

⁷⁹ 91 Fed. Reg. at 54837.

the avoidance risk, and does not evaluate safeguards such as affiliated-entity aggregation. Its existing schedule, in which the Form I-129 fee, the ACWIA fee, and the Asylum Program Fee are all tiered by employer size or nonprofit status, demonstrates that tiering is administratively feasible.⁸⁰

The Technical Appendix also reports that 54.69 percent of participating H-1B petitioners filed one petition in a year and 98.14 percent filed 50 or fewer.⁸¹ Although that population includes filings outside the proposed fee's scope, the figures underscore the prevalence of low-volume users, and an employer sponsoring a single covered hire would face an additional \$103,265 charge before existing filing fees and other immigration expenses. The Regulatory Flexibility Act requires agencies to consider significant alternatives that would minimize the impact on small entities.⁸² Several alternatives could reduce the burden here, including limiting the fee to activities with a demonstrated nexus to H-1B adjudication, assessing the fee annually rather than as a lump sum, adopting size-based tiers consistent with the existing fee schedule, phasing in any significant increase over multiple years to allow employers to adjust, substantially reducing the proposed surcharge to bring it closer to the actual cost of adjudication, or recovering non-USCIS costs through congressional appropriations. The Proposed Rule does not adequately compare these alternatives.

Conclusion

If finalized, the Proposed Rule would make it substantially more costly for U.S. employers to recruit and retain high-skilled talent, undermining U.S. competitiveness in AI and other emerging technologies. The Proposed Rule would also impose significant costs based on a filing-volume assumption that DHS has not adequately established through either its historical regression or its treatment of the Proclamation-period evidence. These concerns are particularly significant because the proposed fee extends well beyond the costs associated with adjudicating

⁸⁰ Technical Appendix § 2 & Table A.1; 8 C.F.R. § 106.2(a)(3), (c)(13).

⁸¹ *Id.*, Table A.2.

⁸² 5 U.S.C. § 603(c).

H-1B petitions and risks encouraging employers to locate talent, investment, and innovation outside the U.S.

For the reasons outlined in these comments, CCIA urges DHS to withdraw the Proposed Rule. CCIA and its members welcome continued engagement with DHS on approaches that support a self-sustaining immigration system while preserving U.S. employers' access to high-skilled talent and strengthening U.S. leadership in AI and other emerging technologies.

Respectfully submitted,

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APPENDIX A

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The \$103,265 H-1B Fee Could Cost the U.S. Treasury More than \$32 Billion over a Decade

September 2026



I. Executive Summary

- ❖ The Department of Homeland Security has proposed a new \$103,265 H-1B fee on every cap-subject H-1B petition.
- ❖ The new proposed fee is more than three-fourths the FY 2025 median compensation for an H-1B worker.
- ❖ The proposal's revenue case rests on an assumption its own docket contradicts.
- ❖ If cap-subject H-1B petitions fall by more than about a quarter, the fee costs the Treasury more than it raises under our central assumptions.
- ❖ Under three of four published demand scenarios, the H-1B fee costs the U.S. Treasury more than the fee raises.
- ❖ In the two mid-range published demand scenarios (36 to 38 percent cap-subject H-1B petition declines), the H-1B fee reduces net federal receipts by \$32 billion to \$38 billion over ten years.
- ❖ A high-cost scenario modeled on the demand response to the earlier proclamation's \$100,000 H-1B payment suggests the H-1B fee could reduce net federal receipts by up to \$142 billion over ten years.

On August 25, the Department of Homeland Security (DHS) [proposed](#) a \$103,265 fee on every cap-subject H-1B petition, on top of existing fees. The number is a quotient: \$8.78 billion of costs DHS wants to recover across USCIS, ICE, CBP, the immigration courts, the State Department and the Labor Department, divided by an assumed 85,000 petitions a year. A third funds the immigration courts, including 8,400 new positions; a billion funds ICE vetting; \$92 million funds refugee admissions processing. The only line item identified as H-1B-specific, the Labor Department's \$79 million H-1B program, is under one percent of the total.

Everything depends on the denominator. DHS assumes employers will file and pay for 85,000 petitions every year at a fee equal to 78 percent of the [median H-1B salary](#), payable in full at filing. We tested that assumption against DHS's own evidence, which does not establish it.

II. The DHS Elasticity Study Measures the Wrong Thing at the Wrong Scale

DHS's preamble states that employer demand for H-1B petitions is "inelastic," citing a regression analysis in a [Technical Appendix](#). Three features of that appendix, each in DHS's own words, dispose of the claim.

First, the sample. The appendix analyzes "all H-1B receipts and petitioners." Cap-subject petitions, the only ones that would pay the fee, are 22.6 percent of the FY 2021 through FY

2025 receipts DHS reports in [Table 13](#), as corrected on September 10 (91 FR 57516). The other 77.4 percent (extensions, amendments and cap-exempt filings) would never be charged.

Second, the scale. The only fee change in the historical regression is the [April 2024 increase](#): \$920 per petition for large employers, \$300 for small ones, zero for nonprofits. The proposed fee is 112 times the largest of those changes.

Third, the method. The appendix regresses the number of petitions a firm files on its total bill for those petitions. It concedes the coefficient “captures the mechanical relationship between filing volume and total fees,” reports a positive value of 0.62, and labels it evidence that demand is inelastic. A firm that files more petitions pays more in fees. That is arithmetic. It says nothing about how employers respond to a six-figure price increase. The same appendix states that “this is not a causal analysis” and that DHS “is not using the fee elasticity analysis to predict or project the ability to pay the proposed \$103,265 fee.” Yet the preamble presents the exercise as evidence of inelastic demand.

Table 1: A \$920 Experiment Used to Predict a \$103,265 Fee

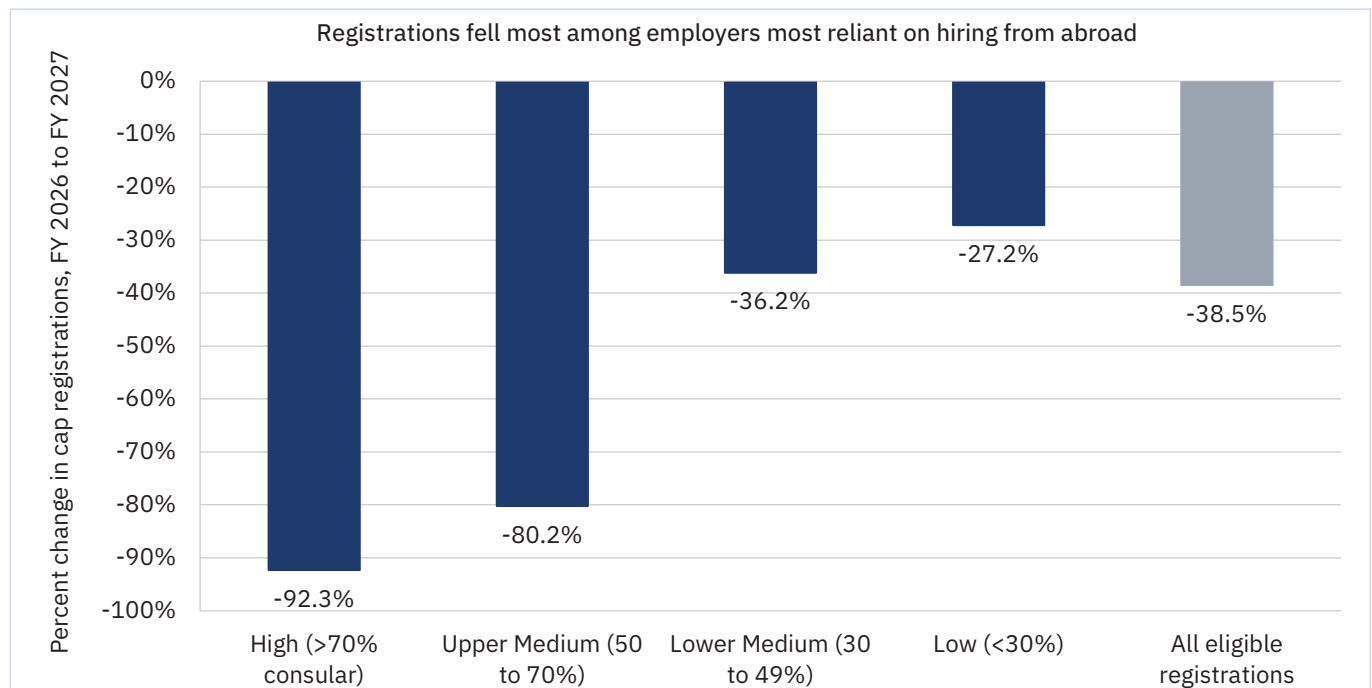
Petitioner type	Fee change USCIS analyzed	Share of median H-1B pay	Proposed fee as multiple
More than 25 employees	\$920	0.7%	112x
25 or fewer employees	\$300	0.2%	344x
Nonprofit	\$0	0.0%	n/a
Proposed fee	\$103,265	77.6%	

Sources: Technical Appendix Table A.1; 2024 Final Rule; NPRM Table 10 and fn. 14 (FY 2025 median compensation \$133,000).

III. What DHS’s Own Docket Shows after a \$100,000 Charge

The appendix also reports what happened when the September 2025 proclamation imposed a \$100,000 payment on certain new H-1B petitions for beneficiaries outside the United States. Its Table A.6 lists 30 employers, sorted by the size of their registration declines, alongside their reliance on consular hiring. Grouped by USCIS’s exposure categories, the firms show a clean gradient. The comparison is descriptive, but the pattern demands more than DHS’s unquantified claim that employers are adjusting to an information shock.

Chart 1: Employers Most Exposed to the \$100,000 Payment Cut Registrations by 92 Percent



Source: USCIS Technical Appendix, Table A.6 (30 employers listed by DHS, grouped by USCIS category of FY 2025 consular share); USCIS and Vialto Partners (program-wide). CCIA Research Center calculations.

Table 2: How Table A.6 Employers Responded to the \$100,000 Payment, by Exposure

USCIS exposure category	Firms	FY 2026 registrations	FY 2027 registrations	Change
High (over 70% consular)	14	34,013	2,613	-92.3%
Upper Medium (50 to 70%)	2	1,734	343	-80.2%
Lower Medium (30 to 49%)	5	10,090	6,442	-36.2%
Low (under 30%)	9	12,714	9,257	-27.2%
All eligible registrations		343,981	211,600	-38.5%

Sources: Technical Appendix Table A.6, grouped by USCIS category of FY 2025 consular share; USCIS and Vialto Partners for program-wide totals. CCIA calculations.

At the fourteen firms USCIS classifies as highly exposed, registrations fell 92 percent. At the nine least exposed, they fell 27 percent, less than the [38.5 percent](#) decline across all [eligible registrations](#). In a separate consular series that DHS identifies as cap-exempt, initial petitions totaled 1,212 in the eight months through May 24, 2026, against 13,823 in the same period a year earlier, a 91 percent decline, and the year-over-year shortfall deepened from 81 percent in October to 97 percent in May. DHS calls the contraction a short-term response to an information shock and offers no estimate of when or how far filings would recover. Calling a collapse temporary is not a revenue forecast. Unlike the payment mandated under Presidential

Proclamation 10973 (whose implementing policy a federal district court vacated on June 8, 2026; the [First Circuit](#) declined to stay that ruling on July 24, 2026, and the government’s appeal is pending), the proposed fee also reaches cap-subject petitions for workers already in the United States. The President [extended the proclamation](#) through September 21, 2027, and DHS states that a petitioner subject to both charges would pay both.

IV. If Filings Fall by a Quarter, the Fee Costs the Treasury More than it Raises

A fee that cuts hiring also cuts tax receipts, and DHS’s regulatory analysis marks the effects on wages and growth “N/A.” We built a ten-year model of federal receipts (FY 2027 to FY 2036) from DHS’s own figures and central assumptions tested against alternatives.

Two offsets are built into the design. The fee is a deductible business expense; assuming every payment is deducted at the 21 percent corporate rate, \$8.78 billion of fees reduces business tax receipts by about \$1.8 billion a year, so the \$88 billion DHS projects collecting over ten years nets the Treasury \$69 billion. Additionally, a worker whose job is lost from the United States pays no U.S. tax; Table 3 tests partial recovery through other employment. At the FY 2025 median compensation of \$133,000, one H-1B worker generates about \$41,000 a year in federal income tax and employer and employee payroll tax under the [2026 tax schedule](#). Over a six-year visa term, with 76 percent remaining in the U.S. workforce afterward, 2 percent real wage growth, and entry pay for each successive cohort also rising 2 percent a year in real terms, the receipts lost per foregone worker average about \$250,000 within the ten-year window, three times the fee net of its deduction.

The arithmetic yields a break-even. On the model’s central assumptions, counting only fee receipts and worker taxes, if cap-subject petitions fall more than 24.6 percent below 85,000 the fee costs the Treasury more than it raises. The threshold varies with assumptions, and every single-assumption change in Table 3 leaves it below 40 percent.

Table 3: How Far Filings Can Fall Before the Fee Costs the Treasury More than It Raises, Under Different Assumptions

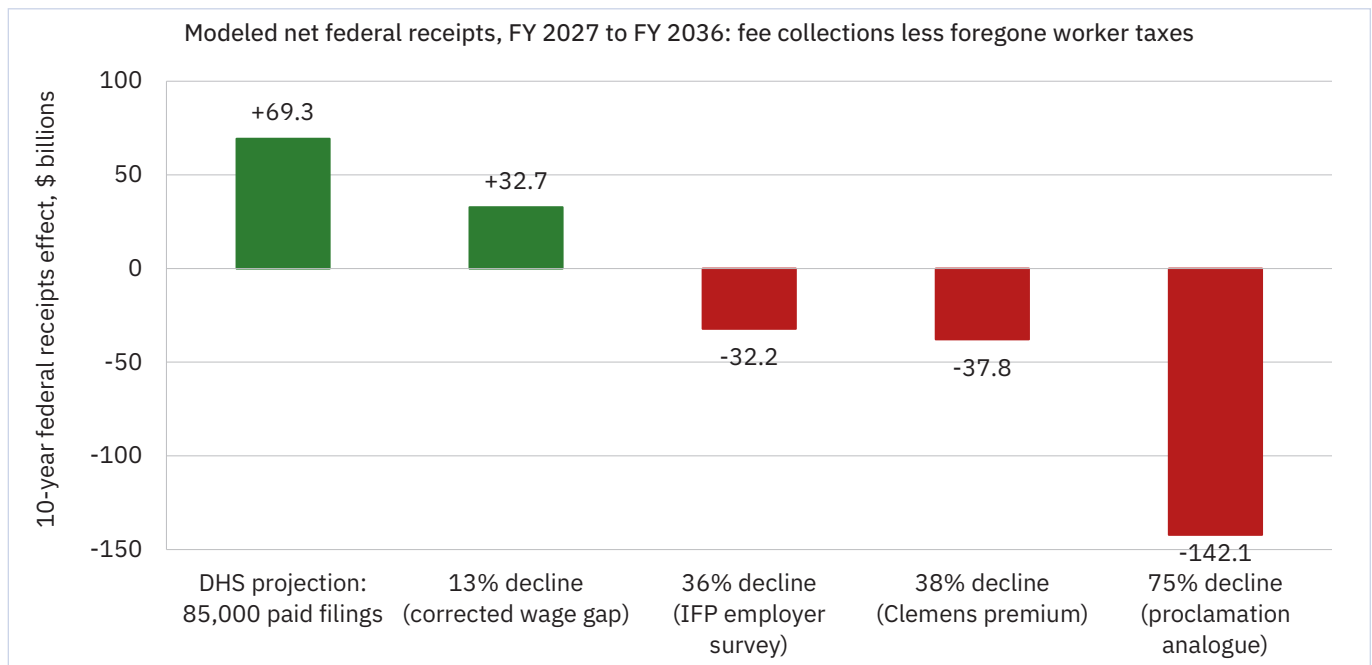
Assumption changed	Break-even decline in filings
Baseline (median pay \$133,000; full deduction; 76% retention)	24.6%
Foregone hire earns \$121,863	26.7%
Foregone hire earns \$100,000	31.9%
No corporate deduction offset	29.2%
No workers remain after the six-year term	27.8%
Only half of foregone taxes actually lost	39.5%
\$100,000 pay and only half of taxes lost	48.3%

CCIA Research Center model; conditional results, undiscounted, constant FY 2027 dollars; one paid petition per worker; entry pay for each successive cohort grows 2 percent a year in real terms; federal spending changes excluded. Each row changes one assumption from baseline except the last, which changes two.

V. Three of Four Published Demand Scenarios Show the Fee Costing the Treasury More than It Raises

The only paper DHS cites on willingness to pay, [Borjas \(2026\)](#), estimates the fee that maximizes visa-fee collections, a different objective from maximizing federal receipts or economic output. Its willingness-to-pay figure rests on a 16 percent H-1B wage gap in the version cited by DHS; after correcting errors, He and Ozimek of the [Economic Innovation Group](#) find a gap of about 5 percent. [Michael Clemens](#) finds H-1B workers earn a 6 percent premium. The [Institute for Progress](#) compiled five estimates of the demand response to a \$100,000 fee. Borjas's own (uncorrected) estimate implies the cap still fills, which is the DHS projection in Table 4. The other four, built on the He and Ozimek corrections to Borjas, the Clemens corrections to Borjas, an employer survey, and the proclamation experience, imply fewer paid petitions. Three of the four exceed the central-case break-even and would reduce net federal receipts.

Chart 2: Ten-Year Net Receipts Turn Negative in Three of Four Published Demand Scenarios (Uncorrected Borjas/DHS Projection Shown First for Reference)



CCIA Research Center model. Conditional scenarios, undiscounted, constant FY 2027 dollars. Fee receipts net of an assumed 21 percent corporate deduction; foregone federal income and payroll tax of workers not hired, with entry pay for each cohort growing 2 percent a year in real terms; federal spending changes excluded. Scenario inputs from Institute for Progress (Sept. 2026).

Table 4: Ten-Year Net Federal Receipts Under Five Demand Scenarios

Scenario	Annual filings	10-year fee receipts, net of deduction	10-year foregone worker taxes	Net receipts effect
DHS projection: 85,000 paid filings	85,000	\$69.3B	\$0	+\$69.3B
13% decline (corrected wage gap)	73,950	\$60.3B	\$27.6B	+\$32.7B
36% decline (IFP employer survey)	54,400	\$44.4B	\$76.6B	-\$32.2B
38% decline (Clemens premium)	52,700	\$43.0B	\$80.8B	-\$37.8B
75% decline (proclamation analogue)	21,250	\$17.3B	\$159.5B	-\$142.1B

CCIA Research Center model; conditional scenarios with the deduction offset assumed and federal spending changes excluded. Scenario inputs from IFP (Sept. 2026). Undiscounted; at a 7 percent discount rate the range runs from +\$48.7B to -\$88.1B.

VI. The DHS User Fee Only Pays for Itself If It Barely Bites

A user fee recovers the cost of a service from the people who receive it. This one recovers the cost of the immigration courts from the employers of engineers, on the strength of a demand analysis its own authors disclaim, and on our central assumptions it raises more than it costs the Treasury only if the reduction in hiring stays below about a quarter. It would finance billions in annual spending with a charge whose demand effects DHS has not credibly established. DHS should withdraw it. To recover the cost of adjudicating H-1B petitions, it should use the cost-based methodology it has applied to past fee schedules.

Comments are due September 24 at [Docket USCIS-2026-0298](https://www.dhs.gov/e-foia/uscis/2026-0298).