

October 24, 2025

Submitted via Regulations.gov

Charles L. Nimick
Chief, Business and Foreign Workers Division
U.S. Citizenship and Immigration Services
5900 Capital Gateway Drive, Camp Springs, Maryland 20746

Re: Proposed Rule “Weighted Selection Process for Registrants and Petitioners Seeking To File Cap-Subject H-1B Petitions” (DHS Docket No. USCIS-2025-0040)

Dear Mr. Nimick:

The CHRO Association (“Association”) offers the following comments in response to the Department of Homeland Security’s (hereafter referred to as “DHS” or “Department”) Notice of Proposed Rule Making, published September 24, 2025, entitled “Weighted Selection Process for Registrants and Petitioners Seeking To File Cap-Subject H-1B Petitions” (hereafter referred to as “NPRM” or “Proposed Rule”).

The CHRO Association is a public policy advocacy organization that represents the most senior human resources officers (CHROs) in nearly 400 of the largest corporations doing business in the United States and globally. Collectively, these companies employ more than 10 million employees in the United States, nearly nine percent of the private sector workforce, and 20 million employees worldwide. Member companies of the Association are dedicated to enhancing America's competitiveness in the global economy. They achieve this by investing in growing the pipeline of domestic talent and advocating for reforms that facilitate the recruitment and retention of high-skilled foreign-born workers who complement the U.S. workforce.

The H-1B program has long been recognized as one of the most critical pathways for driving innovation, strengthening the U.S. workforce, and fueling sustained economic growth. For decades, it has enabled American employers to recruit and retain highly skilled talent that is essential to filling workforce gaps, advancing research and development, and supporting industries that are at the forefront of global competitiveness.

The Association shares the vision of U.S. Citizenship and Immigration Services (USCIS) and the Administration in pursuing improvements to the employment-based immigration system. We strongly support efforts that preserve the integrity of the H-1B program while ensuring that it continues to serve its intended purpose—providing employers with timely access to the talent they need in order to innovate, scale, and compete.

Our overarching goal is to ensure that employers offering genuine, bona fide job opportunities are not hindered in their ability to secure H-1B visa classifications for critical foreign talent. In doing so, we believe the United States can reinforce its position as a global leader in innovation and reclaim its edge in driving economic growth.

This letter specifically addresses the Department’s proposal to replace the current, equally-random H-1B lottery with a weighted selection system based on the offered wage level. While we recognize the Department’s intent to align the program with labor market objectives, it is essential to assess how this change would impact employers of varying sizes, industries, and locations—as well as its broader implications for the U.S. economy.

Impact on Employers & the U.S. Economy

Under the proposed weighted selection system, H-1B registrations would receive multiple entries in the selection pool based on their corresponding wage level under the Department of Labor’s Occupational Employment and Wage Statistics (OEWS).

A uniform, wage-based approach, however, does not reflect the diversity of employers or workforce needs across the U.S. economy. Many CHRO Association member companies primarily petition for senior-level professionals who already exceed prevailing wages, and for them, a wage-weighted system may function as intended. Yet, this framework would disadvantage employers hiring entry-level, research, or nonprofit talent—roles that are vital to innovation, workforce development, and public service.

We therefore urge the Department to consider targeted safeguards, such as carve-outs or separate selection pools for universities, nonprofits, research institutions, and health care employers. These organizations often rely on highly skilled professionals in early-career or research roles that may not meet the highest wage tiers but are essential to national competitiveness and innovation.

Without such adjustments, the proposed system risks skewing H-1B access toward a narrow subset of large, high-paying employers, diminishing opportunities in sectors

critical to science, technology, health care, and education. This outcome would undermine the statutory purpose of the H-1B program—to supplement the U.S. workforce with specialized skills that drive economic growth and innovation.

Equity & Competitiveness Concerns

While salary may correlate with experience, it is not a reliable measure of skill or potential. The Department should adopt a more balanced approach that recognizes other indicators of high-value talent—such as advanced U.S. degrees, demonstrated expertise in critical technology fields identified under the CHIPS and Science Act, and entrepreneurial capacity. Over-weighting wage levels would narrow the talent pipeline, excluding early-career professionals whose future contributions far exceed their initial compensation.

A wage-driven system also overlooks the realities of today's labor market. Roles in artificial intelligence, advanced manufacturing, health care, and academic research often begin at lower wage levels but are foundational to innovation and long-term competitiveness. Limiting access to global talent in these sectors would weaken the diversity and vitality of the U.S. innovation ecosystem.

Finally, restricting the H-1B program to a weighted wage-based system would potentially harm America's global competitiveness. Other advanced economies—including Canada, the United Kingdom, Germany and Australia—are actively expanding pathways for high-skilled immigration. If the U.S. system becomes overly restrictive, global talent will go elsewhere, undermining U.S. leadership in science, technology, and economic growth.

Negative Impact on American Workers

Contrary to the claims underpinning this proposal, research shows that H-1B workers complement, not replace, U.S. workers. New analysis by the [National Foundation for American Policy \(NFAP\)](#) tells a very different story. The research concludes that H-1B professionals do not harm U.S. workers. On the contrary, their presence is associated with:

- Lower unemployment rates among college graduates, including recent graduates.
- Faster earnings growth for U.S. workers in fields where more H-1B visa holders are employed.
- Greater alignment of careers and education for U.S.-born graduates, with more opportunities to work in jobs closely tied to their college majors.

In short, adding an H-1B worker is not a zero-sum game. These professionals often bring rare and highly specialized skills that complement those of American workers, enhancing productivity, innovation, and firm performance. When American and foreign-born professionals collaborate, the result is more creativity, higher output, and stronger growth—leading to more, not fewer, jobs for U.S. workers.

Using USCIS data on H-1B petitions and U.S. Census Bureau’s American Community Survey data between 2005- 2018, NFAP found:

- A 1% increase in the share of H-1B workers in an occupation reduces the unemployment rate in that field by roughly 0.2 percentage points, boosting employment opportunities for others.
- That same increase raises wage growth for U.S. workers by 0.1 to 0.26 percentage points, countering claims that H-1B workers suppress wages.
- Recent graduates in fields with more H-1B professionals see lower unemployment and better early-career outcomes, with no evidence of displacement.

Immigrants as Drivers of U.S. Innovation and Global Leadership

Adding to the above-mentioned positive attributes of immigrants in the U.S., [three of this year’s six American Nobel Prize winners](#) in the science categories are immigrants. Indeed, immigrants have earned 40% of all Nobel Prizes awarded to Americans in chemistry, medicine, and physics since 2000. The data by NFAP underscores the immense value of global talent and the direct contributions immigrants make to U.S. innovation, economic growth, and competitiveness—aligning squarely with the Administration’s stated goal of strengthening America’s leadership on the world stage.

Congressional Authority

While a wage-based selection system could benefit some CHRO Association member companies—particularly those that primarily petition for senior-level engineers and other highly compensated professionals—the Association remains concerned that the Department’s proposed approach exceeds the agency’s legal authority.

The H-1B program was created under the Immigration Act of 1990, which expressly directed that when petitions exceed the annual statutory cap, visas must be allocated through a random lottery to ensure fairness, neutrality, and equal access across employers of all sizes and industries. See 8 U.S.C. § 1184(g)(3). By seeking to replace this congressionally mandated process with a wage-weighted framework, the Department is

substituting its own policy judgment for that of Congress, and contrary to the law and Congress's intent.

Such a change represents a significant departure from the statutory scheme and could be subject to legal challenge. Absent explicit authorization from Congress, DHS does not have the authority to rewrite the allocation mechanism established by statute. As the U.S. Supreme Court has made clear, "An agency may not rewrite clear statutory terms to suit its own sense of how the statute should operate." *Utility Air Regulatory Group v. EPA*, 573 U.S. 302, 327 (2014).

Beyond these legal concerns, a wage-based allocation system could narrow H-1B access to a small subset of high-paying employers, undercutting the program's purpose of supplementing the U.S. workforce with diverse, specialized skills that fuel innovation and economic growth. For this reason, any fundamental change to the selection process should be pursued through congressional action, not unilateral rulemaking.

Policy Effectiveness

A one-size-fits-all approach will not work. As policymakers pursue H-1B reforms, it is essential to consider the differing implications for employers based on company size, industry, and geography.

While a wage-based allocation system may benefit some employers, it does not address the core challenge—the outdated statutory cap of 85,000 visas per year, unchanged for more than three decades. This cap, set when the U.S. economy and workforce looked vastly different, no longer reflects today's demand for highly skilled professionals or the growth of new, technology-driven industries.

Each year, employers submit hundreds of thousands of petitions for a fixed number of visas, illustrating how the issue lies not in allocation methods but in structural limits that constrain access to global talent. Merely redistributing a capped pool of visas by wage level risks narrowing opportunity, favoring only the highest-paying employers while excluding those driving innovation in research, health care, education, and regional economies.

Meaningful reform must modernize the cap, streamline the process, and ensure fairness and transparency across sectors. Rather than using wage data to reallocate visas, DHS could instead apply it to enhance program integrity—identifying anomalies or potential fraud—while avoiding undue burdens on compliant employers.

Without modernizing the statutory cap and improving administrative efficiency, a wage-based system will only deepen existing challenges. Sustainable reform requires a balanced, forward-looking approach that supports diverse employers, strengthens the talent pipeline, and safeguards America's competitiveness and leadership in innovation.

The Association values the opportunity to provide feedback on the proposed changes to the H-1B lottery process. We welcome continued dialogue with USCIS to promote employer compliance with immigration regulations while preserving the ability of U.S. companies to attract and retain the global talent that drives competitiveness in the 21st-century economy.

Sincerely,



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