

**Submitted Electronically**

March 13, 2023

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

**Re: Docket No. USCIS 2021-0010 [RIN 1615–AC68] – U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements**

Dear Deputy Chief Financial Officer Cribbs:

On behalf of the Information Technology Industry Council (ITI), the Semiconductor Industry Association (SIA), and TechNet, we are pleased to jointly submit comments in response to Docket No. USCIS 2021-0010 [RIN 1615–AC68] concerning the U.S. Department of Homeland Security (DHS) Citizen and Immigration Services (USCIS) notice of proposed rulemaking, which seeks stakeholder input regarding potential changes to USCIS fee schedule and other immigration benefit request requirements. Collectively, our associations represent the leading information and communications companies from all corners of the technology sector, including hardware, software, semiconductor, digital services, network equipment, internet, and other technology-enabled companies. We have a strong interest in ensuring that the U.S. immigration system functions efficiently and effectively. Throughout America’s history, immigrants have been a source of strength for our country and helped drive the economic growth that has made us the most prosperous and innovative country in the world. High-skilled immigrants, particularly immigrants who aspire to work within the U.S. technology sector, are essential to the growth and global leadership of the U.S. technology ecosystem and America’s competitiveness in the 21st century global economy.

## **Introduction**

While we understand that a significant majority of USCIS funding comes from application fees provided by applicants for visas, green cards, and citizenship, we urge USCIS to provide clarity and commit to using any potential increase in fees to address longstanding systemic inefficiencies in our immigration system, such as delays in processing.

Our comments respond to the request by DHS and USCIS regulators for input on how it should proceed in future rulemakings and fee increase considerations, including these areas of interest:

- Impact of proposed USCIS fee increases;
- Justification of proposed USCIS fee increases; and
- Concerns over USCIS FY 23-26 Strategic Roadmap omission

## **Impact of proposed USCIS fee increases**

For U.S. employers to remain competitive, high-skilled immigration is essential, particularly for STEM and tech-focused workers. Many global competitor countries are capitalizing on U.S. outdated policies by pursuing programs to attract American-educated entrepreneurs to compete against the U.S. in the global marketplace. Considering these workforce trends, there will be negative consequences and likely unavoidable unintended consequences should the administration restrict or disrupt the ability of American employers to hire technology professionals, including fee increases. Moreover, these proposed fee increases will disproportionately impact smaller companies and startups seeking to hire talented foreign workers in a consistently competitive sector.

Under the proposed rule, employers hiring high-skilled foreign nationals will experience a fee increase from \$460 to \$780 for H-1B petitions (70% increase); a fee increase from \$460 to \$1,385 for L-1 petitions (201% increase); and a fee increase from \$460 to \$1,055 for O-1 petitions (129% increase). These onerous fee increases will discourage companies from filing petitions under USCIS's jurisdiction and may deprive the agency from critical funding and resources needed to execute priority initiatives. Specifically, for intracompany transferees under the L-1 program, petitioners may prioritize applications administered by the U.S. State Department over USCIS. Furthermore, for small to medium-sized enterprises and startups in the technology sector,

the burden of these significant fee increases may force companies to detract resources that should be used to support research and development initiatives, job growth, and other worthwhile investments.

### **Justification of proposed USCIS fee increases**

Our members recognize the role petition fees play in composing USCIS fiscal year revenues that allow the agency to operate and function. Furthermore, we understand that fee increases may index with rises in inflation, increased cost of living, and other economic factors beyond the agency’s control. However, based on the *Federal Register* notice, we remain concerned over USCIS’s lack of evidence and justification in citing how regulators calculated these increased figures for a majority of the impacted programs.

While USCIS has made efforts in recent years to improve case processing and solicit feedback from the public on ways to reduce these barriers and losses, these longstanding systemic inefficiencies continue. If left unaddressed, these underlying systemic inefficiencies will simply be absorbed into the expanded workforce and technology approaches of the agency, likely manifesting as a temporary reprieve from current caseload backlogs that will grow year-over-year as rising costs outpace current USCIS agency fee policies.

### **Concerns over USCIS FY 23-26 Strategic Roadmap omission**

We applaud the Director’s January 2023 release of the USCIS Strategic Plan for Fiscal Year’s 2023 to 2026 (“Strategic Plan”) as a welcome commitment for USCIS to preserve the integrity and efficiency of U.S. immigration programs.<sup>1</sup> Our members are encouraged by some of the strategic recommendations that call for modernized frameworks for stakeholder engagement, streamlined verification processes for certain immigration programs, and equitable adjudication protocols. However, we are concerned over the lack of clarity and guarantees that USCIS would use the proposed fee increases to effectuate the recommendations put forth in its Strategic Plan. In fact, the rulemaking cites no direct references to USCIS’s Strategic Plan, which raises questions on the agency’s commitment to put its strategic recommendations into action.

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<sup>1</sup> See *FYs 2023-2026 Strategic Plan: USCIS*, U.S. Citizenship and Immigration Services (Jan. 27, 2023) available at <https://www.uscis.gov/sites/default/files/document/reports/StrategicPlanFY23.pdf>

## **Recommendations**

To improve USCIS visa processing, adjudication services, and overall fee structures, the views of ITI, SIA, and TechNet align with the comments to USCIS from the Compete America Coalition<sup>2</sup>, a multi-stakeholder coalition of higher education associations, industry associations, and individual employers that work together on issues pertaining to the U.S. STEM workforce development and the high-skilled immigration system of the United States, that recommend the following for consideration in the final rule:

- **Case Processing Improvements:**
  - We strongly encourage USCIS to provide full transparency on how increased fees improve processing and additional services, including addressing any backlogs. Additionally, we echo Compete America’s recommendation to establish a permanent “Known Employer” program.<sup>3</sup>
- **Electronic Filing:**
  - Prioritizing the transition of an outdated and inefficient paper application process to a fully online filing environment, in line with USCIS five-year plan by FY 2026.<sup>4</sup>
- **Transparency and Consistency in Fee Reviews:**
  - Provide transparency into calculation and review of fee levels on a future basis.

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<sup>2</sup> See *Compete America Coalition* comment to Notice of Proposed Rulemaking, “U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements”; 88 Fed. Reg. 402 (Jan. 4, 2023) (Comment electronically filed on Mar. 13, 2023).

<sup>3</sup> *ibid*

<sup>4</sup> *Section 4103 Plan Pursuant to the Emergency Stopgap USCIS Stabilization Act, Fiscal Year 2021 Report to Congress*, U.S. Citizenship and Immigration Services (Sept. 7, 2021), available at <https://www.uscis.gov/sites/default/files/document/reports/SIGNED-Section-4103-FY2021-Report-9-7-21.pdf>.

## Conclusion

ITI, SIA, and TechNet appreciate the agency's consideration of the above feedback and recommendations. We look forward to continued dialogue and will continue working with Congress and the Administration to advocate for much-needed reform to the United States employment-based immigration system.

Respectfully submitted,



Jason Oxman  
President & CEO – ITI



John Neuffer  
President & CEO – SIA



Linda Moore  
President & CEO – TechNet