

October 24, 2025

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Business and Foreign Workers Division  
Office of Policy and Strategy  
5900 Capital Gateway Drive  
Camp Springs, Maryland 20746

**RE: *Comments of ACT | The App Association regarding the Department of Homeland Security Notice of Proposed Rulemaking on the Weighted Selection Process for Registrants and Petitioners Seeking to File Cap-Subject H-1B Petitions (DHS Docket No. USCIS-2025-0040)***

ACT | The App Association writes in response to the Department of Homeland Security (DHS) U.S. Citizenship and Immigration Services (USCIS) notice of proposed rulemaking on the establishment of a weighted selection process for registrants and petitioners seeking to file cap-subject H-1B petitions.<sup>1</sup>

The App Association is a global trade association representing the small business founders, innovators, and independent developers building the technologies that power America's digital economy. App Association members are entrepreneurs who create software and connected tools used by millions of Americans every day and benefit from a policy environment that rewards and inspires innovation, expands access to capital, and enables companies to create quality jobs and bring groundbreaking technologies to market.

The U.S. ecosystem the App Association represents is valued at approximately \$1.8 trillion and is responsible for 6.1 million American jobs.<sup>2</sup> App Association members are key drivers of a broader U.S. digital economy that, on its own, is the world's eighth largest economy. Most of our members have teams in the single digits, yet they drive productivity, competition, and opportunity across industries. Despite fueling so much of America's innovation and growth, small businesses and startups are uniquely vulnerable to unexpected costs created by policies and regulatory barriers that were not crafted with their realities in mind.

To grow and compete globally, our members must fill highly specialized technical roles that can be difficult to staff domestically. Many small firms and startups rely on H-1B

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<sup>1</sup> 90 FR 45986.

<sup>2</sup> ACT | The App Association, State of the App Economy (2022), <https://actonline.org/wpcontent/uploads/APP-Economy-Report-FINAL.pdf>.

talent to bring in skilled engineers, cybersecurity experts, and AI specialists who help develop products that strengthen the U.S. economy and national security. Without access to this skilled workforce, growth stalls, product timelines slip, and small companies are put at a competitive disadvantage against larger domestic and foreign firms.

Unfortunately, DHS's proposal to change the process by which USCIS selects H-1B recipients from a random one to one weighted by wage level will limit the ability of small businesses and startups to access that essential talent pool. Startups in particular often offer incentives other than high base salaries, such as equity, to attract engineers necessary to develop products and services that have not yet brought in revenue. Weighting the H-1B selection process away from such opportunities will significantly disadvantage small businesses and startups in favor of large, established firms that are able to offer higher base wages. Indeed, USCIS's own analysis estimates that "this proposed rule would have a significant economic impact on a substantial number of small entities that file H-1B cap-subject petitions," with some small businesses incurring costs of over \$85,000 per H-1B position lost to others able to pay for higher wage bracket petitioners.<sup>3</sup>

This rulemaking comes alongside the Administration's recently announced \$100,000 fee for each new H-1B visa applicant. Together, these changes to the H-1B process would be an insurmountable barrier for companies like those of our members. While large established companies may be able to pivot their hiring strategies or relocate operations, small businesses often have no such flexibility. If an American entrepreneur wants to start a business with a specific talented partner from overseas, the \$100,000 fee will mean that business may never launch at all, or that American talent and companies will go abroad. The result is fewer startups, fewer jobs, and fewer American technologies competing on the global playing field.

Our members remain deeply committed to growing businesses and creating jobs here in America. Today, the app economy is an incredible engine of creativity and opportunity powered by small American businesses that must be supported through domestic policies. Decades of research show that skilled foreign workers drive American productivity and complement domestic employees. We urge USCIS to reconsider its proposed rulemaking to shift the H-1B petition selection process to a wage-weighted system and instead explore balanced alternatives. Taking this step will ensure that small businesses and startups can fully contribute to a more competitive and innovative America.

Thank you for your attention to this matter. We are eager to work with you to remove regulatory barriers and bolster the success of American small businesses.

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<sup>3</sup> <https://www.federalregister.gov/documents/2025/09/24/2025-18473/weighted-selection-process-for-registrants-and-petitioners-seeking-to-file-cap-subject-h-1b>.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Scarpelli". The signature is fluid and cursive, with a prominent initial "B" and a stylized "S".

Brian Scarpelli  
Senior Global Policy Counsel

Chapin Gregor  
Policy Counsel

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