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May 26, 2026

Susan Frazier
Principal Deputy Assistant Secretary for Employment and Training, Labor
United States Department of Labor
200 Constitution Ave NW
Washington, DC 20210

Re: Improving Wage Protections for the Temporary and Permanent Employment of Certain Foreign Nationals in the United States (Docket No. ETA-2026-0001 | RIN 1205-AC30)

Dear Ms. Frazier:

The Consumer Technology Association (CTA) submits these comments in response to the Department of Labor's Notice of Proposed Rulemaking ("NPRM"), published on March 27, 2026, and urges the Department to withdraw or substantially revise the proposed rule. As drafted, the proposal would significantly increase costs for U.S. businesses, create uncertainty for workforce planning, reduce access to critical talent, and weaken the competitiveness of the U.S. technology sector without achieving the Department's stated goals. These effects in aggregate will push American companies to open or expand facilities outside the United States in their global efforts to compete for critical talent.

CTA represents leading U.S. companies that develop consumer technology products and services. Our members employ hundreds of thousands of American workers and rely on highly skilled talent, including foreign professionals authorized to work in the United States through the H-1B, H-1B1, E-3, and PERM programs. Small and medium-sized companies make up roughly 80% of CTA's membership. Many are startups and early-stage companies competing in fast-moving global markets where access to skilled talent and manageable labor costs are critical to growth and survival.

CTA supports the Department's goal of protecting U.S. workers and promoting fair labor standards. But the proposed changes to the prevailing wage system would impose major unintended burdens on U.S. employers and the broader innovation economy.

I. The Proposed Rule Will Significantly Raise Costs for U.S. Businesses

The proposed rule would substantially change how prevailing wages are calculated for the H-1B, H-1B1, E-3, and PERM programs by increasing the percentile levels used in the Department's four-tier wage structure. Estimates show these changes would increase required wages by roughly 20% to more than 30%.

The most immediate impact would be a major increase in labor costs for U.S. employers that use employment-based visa programs. The proposal would raise wage thresholds across all occupational levels and effectively move many entry-level wages closer to current mid-level benchmarks. Employers in technology, engineering, and professional services would face significantly higher compensation requirements on a per-employee basis. Even companies with modest hiring needs would see substantial increases in overall labor costs.

These costs would hit startups, small businesses, and early-stage companies especially hard. Unlike larger firms, many smaller companies do not have the financial flexibility to absorb sudden increases in wage requirements. Many already operate with lean staffing and tight margins while competing globally for talent and investment. Because small and medium-sized companies make up roughly 80% of CTA's membership, the proposed rule would disproportionately harm the very companies driving innovation, competition, and job creation in the U.S. technology sector.

As a result, the proposed rule would reduce hiring, delay projects, slow growth, and force some companies to shift work overseas.

II. The Rule Creates Uncertainty for Workforce Planning

The proposed rule would also create significant uncertainty for long-term workforce planning and participation in employment-based immigration programs.

Prevailing wage determinations are central to H-1B petitions and PERM labor certification processes, as well as H-1B1 and E-3 visa applications. Changes to the wage methodology directly affect hiring decisions, sponsorship planning, budgeting, and employee retention strategies. Because the proposed increases would apply to new filings and wage determinations, employers would need to reevaluate existing hiring plans and future sponsorship decisions.

In practice, the rule would create inconsistent outcomes where employees in similar roles are subject to very different wage requirements based solely on filing timing rather than actual labor market conditions or business needs.

III. The Rule Abandons Established Precedent by Failing to Phase In Changes

The proposed rule imposes abrupt, across-the-board changes to prevailing wage methodology without any phased implementation or transition period. This represents a sharp departure from prior Department practice and creates unnecessary disruption for employers who have structured compensation systems, hiring pipelines, and long-term sponsorship strategies around the existing four-tier OEWS framework.

Notably, when the Department last pursued significant prevailing wage changes in 2020 and 2021, it recognized the need for a phased-in approach to allow employers to adjust compensation structures and workforce planning over time. The NPRM does not explain what has changed to justify abandoning that approach now.

At a minimum, the Department should adopt a reasonable phase-in period to mitigate disruption, preserve program stability, and allow labor markets and employers to adjust in an orderly manner

IV. The Proposed Rule Will Reduce Access to Critical Talent

The consumer technology sector depends on access to highly skilled talent in areas such as software engineering, artificial intelligence (AI), cybersecurity, quantum computing, autonomous vehicles, and advanced manufacturing. The proposed rule would make it harder for employers to access that talent by sharply increasing the costs associated with sponsoring foreign workers. Entry-level and early-career positions would become especially difficult to justify financially, reducing opportunities to hire and train junior and mid-level talent.

Higher prevailing wage thresholds reduce employers' ability to sponsor workers for developmental or entry-level roles, even when those roles are essential to innovation and long-term workforce development. Rather than encouraging more domestic investment, the proposed rule would push work, investment, and talent overseas, where companies can access global talent under less restrictive conditions.

V. The Proposed Rule Does Not Reflect Market Realities

CTA also has concerns about the assumptions underlying the proposed rule.

The Department's proposal assumes that current prevailing wage levels are systematically below market rates. But prevailing wages already serve as a floor tied to geographic and occupational wage data through the Bureau of Labor Statistics' Occupational Employment and Wage Statistics system. The proposed increases, especially at lower wage levels, would reduce the distinction between entry-level and experienced positions. That would compress wage bands and weaken the system's ability to account for differences in experience, supervision, and job complexity. Instead of better reflecting the market, the proposal would create new distortions.

A. Wage Level Is an Imprecise Proxy for Worker Qualifications

The NPRM effectively eliminates the current Level I prevailing wage by shifting those positions to higher wage tiers, based on the assumption that too many Level I workers lack the education or experience required for specialty occupations. The Department provides no data to support this conclusion.

Wage levels alone are an imprecise proxy for qualifications. Lower wages may reflect differences in geographic location, cost of living, employer size, nonprofit or public-sector employment, or localized labor market conditions, not a lack of education or skill. Many legitimately entry-level or early-career specialty occupation positions are appropriately compensated at lower wage levels, particularly outside major metropolitan areas.

Eliminating Level I wages would reduce employers' ability to hire, train, and develop early-career talent while doing little to address actual cases of wage underpayment or program abuse. A more targeted approach is needed.

B. The NPRM should align with EO 13932's skills-based hiring framework.

President Trump's June 26, 2020, Executive Order directs federal agencies to reduce reliance on formal education credentials and instead prioritize demonstrated skills and competencies in hiring. Premised on the finding that degree requirements can exclude qualified talent, especially in emerging technology fields, the Order reflects a federal policy shift toward recognizing alternative pathways to technical expertise. A prevailing wage framework that implicitly ties wages or job classifications to degrees rather than demonstrable skills risks undermining this approach by narrowing the qualified labor pool and exacerbating workforce shortages in critical information technology occupations. CTA urges DOL to ensure its methodology supports, rather than conflicts with, skills-based hiring across federal programs.

C. The Proposal Relies on Outdated Assumptions About the H-1B Program

The underlying rationale for the NPRM assumes a composition of the H-1B program that no longer reflects current realities. In recent years, the Department and the administration have already made substantial changes to the program, including implementing wage-weighted selection mechanisms that favor higher-paid petitions.

These changes have materially altered who receives H-1B visas and how wages function within the program. Before layering on additional, across-the-board prevailing wage increases, the Department should reassess whether the purported problems the NPRM seeks to address still exist in their claimed form. Proceeding without such reassessment risks compounding distortions rather than correcting them.

VI. The Proposed Rule Does Not Provide Evidence that the Current System is Failing

The NPRM does not demonstrate that the existing prevailing wage framework fails to protect U.S. workers from wage undercutting. Nor does it show that mechanically escalating percentile benchmarks is an effective or targeted solution.

Independent empirical research has found that percentile-based wage benchmarking is an imprecise tool for identifying underpayment and does not reliably distinguish between appropriately compensated workers and abusive practices. Broad percentile shifts risk overshooting market wages while failing to address the specific behaviors of concern.

The Department should withdraw or substantially revise the proposal to consider more targeted, experience-based approaches that directly address enforcement concerns without imposing unnecessary costs on compliant employers.

VII. Competitive Impacts on U.S. Innovation

The proposed rule would have broader consequences for the U.S. innovation economy. The technology sector competes in a highly global marketplace. Higher labor costs and reduced access to talent will discourage investment in U.S. operations, push high-skilled work overseas, and slow innovation in emerging technologies.

Many PERM filings involve workers who are already employed in the United States on temporary visas. Disruptions to these programs will affect ongoing projects, product development timelines, and broader business operations.

The rule would be especially damaging to startups and high-growth companies working on the technologies that will define the future economy, including AI, quantum computing, robotics, autonomous vehicles, cybersecurity, and advanced manufacturing.

VIII. Prevailing Wage Compliance Should Reflect Total Compensation

The NPRM's exclusive focus on base salary does not reflect modern compensation practices, particularly in the technology sector. Many employers rely on total compensation structures—including equity-based compensation—to attract talent, align incentives, and support long-term innovation.

By ignoring total compensation, the proposal may force employers to eliminate equity awards in favor of inflated base salaries that satisfy regulatory metrics but weaken long-term alignment and innovation incentives. While equity compensation may fluctuate in value, employers routinely manage this risk, and the Department already recognizes mechanisms such as catch-up payments in other regulatory contexts.

In today's economy, total compensation—not base salary alone—should be the relevant metric for prevailing wage compliance. Preserving flexibility in compensation structures would better reflect labor market realities without undermining worker protections.

IX. Conclusion

CTA urges the Department to withdraw or substantially revise the proposed rule. At a minimum, the Department should conduct a more detailed economic impact analysis, consider phased or more moderate adjustments to wage levels, and preserve flexibility for employers to respond to real-world market conditions and operational needs.

The United States is in a global race to lead in AI, quantum computing, autonomous vehicles, robotics, and other transformational technologies that will define the future economy and global competitiveness. America's competitors are moving aggressively to attract investment, talent, and innovation. If the United States intends to lead and win, it must maintain affordable access to the world's best talent and preserve an environment where startups, small businesses, and innovators can grow and compete.

Policies that dramatically increase hiring costs and restrict access to skilled workers will weaken U.S. competitiveness, slow innovation, and push investment and jobs overseas. The Department should not adopt policies that make it harder for American companies to build, invest, and innovate in the United States.

CTA appreciates the opportunity to provide comments and welcomes continued engagement with the Department on policies that protect U.S. workers while strengthening U.S. innovation, competitiveness, and economic growth.

Sincerely,

Handwritten signature of Edward J. Brzytwa II in black ink.

Ed Brzytwa
Vice President of International Trade
Consumer Technology Association

Handwritten signature of Michael Petricone in black ink.

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