



U.S. GOVERNMENT ACCOUNTABILITY OFFICE

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B-337984

January 20, 2026

The Honorable Chuck Grassley
Chairman
The Honorable Richard J. Durbin
Ranking Member
Committee on the Judiciary
United States Senate

The Honorable Jim Jordan
Chairman
The Honorable Jamie Raskin
Ranking Member
Committee on the Judiciary
House of Representatives

Subject: *Department of Homeland Security: Weighted Selection Process for Registrants and Petitioners Seeking To File Cap-Subject H-1B Petitions*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Homeland Security (DHS) entitled “Weighted Selection Process for Registrants and Petitioners Seeking To File Cap-Subject H-1B Petitions” (RIN: 1615-AD01). We received the rule on December 29, 2025. It was published in the *Federal Register* on December 29, 2025. 90 Fed. Reg. 60864. The stated effective date of the rule is February 27, 2026.

This rule amends DHS regulations governing the process by which the United States Citizenship and Immigration Services selects H-1B registrations for unique beneficiaries for filing of H-1B cap-subject petitions (or H-1B petitions for any year in which the registration requirement is suspended). According to DHS, through this rule, it is implementing a weighted selection process that will generally favor the allocation of H-1B visas to higher-skilled and higher-paid aliens, while maintaining the opportunity for employers to secure H-1B workers at all wage levels, to better serve the congressional intent for the H-1B program.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The House of Representatives received the rule on December 29, 2025. 172 Cong. Rec. H11 (daily ed. Jan. 6, 2026). The Senate received the rule on January 5, 2026. 172 Cong. Rec. S89 (daily ed. Jan. 7, 2026). The rule has a stated effective date of February 27, 2026. Therefore, the stated effective date is less than 60 days from the date of receipt by Congress.

Enclosed is our assessment of DHS’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions

about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact me at (202) 512-8156.

A handwritten signature in black ink, appearing to read "Shirley A. Jones".

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Samantha Deshommes
Chief Regulatory Officer, Regulatory Coordination Division
U.S. Citizenship and Immigration Services

ENCLOSURE

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF HOMELAND SECURITY
ENTITLED
“WEIGHTED SELECTION PROCESS FOR REGISTRANTS AND PETITIONERS
SEEKING TO FILE CAP-SUBJECT H-1B PETITIONS”
(RIN: 1615-AD01)

(i) Cost-benefit analysis

The Department of Homeland Security (DHS) prepared an assessment of the costs and benefits for this rule. See 90 Fed. Reg. 60864, 60932–60958 (Dec. 29, 2025). According to DHS, the total cost of the rule for the 10-year period from fiscal year (FY) 2026 to FY 2035 will be \$303,621,200. *Id.* at 60957. DHS estimated that the total benefits from the rule from FY 2026 to FY 2035 will be \$20,083,219,438. *Id.* DHS estimated total transfers of \$34,338,811,909 from FY 2026 to FY 2035. *Id.* DHS estimated the total net benefits to the public between FY 2026 and FY 2035 will be \$19,779,598,238. *Id.*

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

DHS determined that the rule will have a significant economic impact on a substantial number of small entities, and prepared a Final Regulatory Flexibility Analysis. 90 Fed. Reg. 60958–60962.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

DHS stated that this rule does not contain a federal mandate as the term is defined in the Act and thus, DHS did not prepare a statement under the Act. See 90 Fed. Reg. 60864, 60962–60963.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On September 24, 2025, DHS published a proposed rule. 90 Fed. Reg. 45986. DHS stated that they received comments from various interested parties, including individuals (including U.S. workers), companies, law firms, professional organizations, advocacy groups, nonprofit organizations, universities, healthcare providers, and trade and business associations. 90 Fed. Reg. 60864, 60871. DHS responded to comments in the rule. *Id.*

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

DHS determined that this rule contains information collection requirements under the Act. 90 Fed. Reg. 60963.

Statutory authorization for the rule

DHS promulgated this rule pursuant to sections 101, 111(b)(1)(F), 112, 202, 236, 271(a)(3), and 271(b) of title 6, and sections 110, 1101(a)(15)(H)(i)(b), 1103(a), 1184(a)(1), 1184(c)(1), 1184(g), 1184(i), 1225(d)(3), and 1357(b) of title 8, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

DHS stated that this rule is significant under the Order. See 90 Fed. Reg. 60864, 60932. DHS stated that the rule was reviewed by the Office of Management and Budget. *Id.*

Executive Order No. 13132 (Federalism)

DHS determined that this rule does not have federalism implications. See 90 Fed. Reg. 60963.