



January 17, 2018

The Honorable Lee Francis Cissna  
Director  
U.S. Citizenship and Immigration Services  
20 Massachusetts Avenue NW  
Washington, D.C. 20529

Re: Employment Authorization for Certain H-4 Dependent Spouses

Dear Director Cissna:

Our organizations write to express our strong support of the Employment Authorization for Certain H-4 Dependent Spouses Rule (H-4 rule), which was published by the Department of Homeland Security (DHS) as a final rule on February 25, 2015, and went into effect on May 26, 2015. As the Trump Administration conducts its review of the H-4 rule, we respectfully encourage you and your colleagues to maintain the program given its importance to the business community and to the American economy.

As you are aware, the H-4 rule extends employment authorization eligibility for a limited subset of H-4 dependent spouses of H-1B nonimmigrant employees seeking employment-based lawful permanent resident (LPR) status.<sup>1</sup> Individuals looking to obtain H-4 authorization already legally reside in the United States and are on the path to permanent residency. They are also eager to work in order to support their families, contribute to their communities by paying taxes, and utilize their skills to help the U.S. economy grow. In fact, these individuals would already have adjusted to permanent status if they were simply from a different country and not otherwise penalized by arbitrary per-country limits. It is a function of the failure to reform our nation's immigration system that this group of H-4 spouses—the

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<sup>1</sup> U.S. Department of Homeland Security, Employment for Certain H-4 Dependent Spouses, 80 Fed. Reg. 10284 (Feb. 25, 2015), available at <https://www.gpo.gov/fdsys/pkg/FR-2014-05-12/pdf/2014-10734.pdf>.

majority of whom are women—continue to face uncertainty and may be prevented from working while they wait for bureaucratic backlogs to be cleared.

We represent employers who are committed to growing the U.S. economy and creating jobs for American workers. However, we cannot achieve these goals unless companies can recruit and retain the most qualified employees. In 2016, there were approximately 3.3 million science, technology, engineering, and mathematics (STEM) job openings posted online.<sup>2</sup> By contrast, in that same year, U.S. universities graduated 568,000 students with STEM degrees.<sup>3</sup> To meet this job demand, it is vital that we not only provide STEM education and training to more U.S. children, workers, and college students, but that we also recruit the top talent from U.S. universities and from abroad. The H-4 rule is instrumental in allowing U.S. employers to fill these critical positions with qualified professionals. Our companies employ individuals whose work authorizations stem not only from H-1B visas, but H-4 visas as well. The H-4 rule represents a valuable but targeted opportunity for us to not just attract and retain talent, but to promote immigration to the United States on the basis of one's skills and merit. This rule also places the United States on par with foreign competitors, such as Canada and Australia, that allow accompanying spouses to work.

The H-4 rule has limited unnecessary disruptions to businesses by ameliorating economic and personal hardships—resulting from the lack of spousal work authorization—previously faced by many H-1B employees and their families as they obtain LPR status. As of October 2017, U.S. Citizenship and Immigration Services (USCIS) reported that there are an estimated 133,502 individuals with pending employment-based adjustment of status applications in the United States.<sup>4</sup> The current demand for visas under certain employment-based preference categories and the application of the per-country quotas currently produce wait times of a decade or more for certain individuals and their families. Ultimately, a legislative solution is required to remove the per-country limits that have caused this green card backlog. In the interim, H-4 visa holders from oversubscribed countries would wait years to work without the H-4 rule. Employers would also face an increased risk that their valued, long-term employees will choose to leave their companies for other employment opportunities in countries that allow these workers and their families to raise their standard of living. This will not only force businesses to incur added costs and endure the disruptions associated with having to fill these key positions in their companies, but it also creates uncertainty that negatively affects long-term workforce planning.

This limited subset of H-4 spouses has a further direct, positive impact on the American economy in that these individuals often have experience and education in vital occupations—from academic researchers, to medical technicians and professionals, to the owners of small businesses who help create jobs for Americans.<sup>5</sup>

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<sup>2</sup> New American Economy, Innovation & STEM Fields, *available at* <http://www.newamericaneconomy.org/issues/innovation-stem-fields/>.

<sup>3</sup> World Economic Forum, The Human Capital Report, *available at* [http://www3.weforum.org/docs/HCR2016\\_Main\\_Report.pdf](http://www3.weforum.org/docs/HCR2016_Main_Report.pdf).

<sup>4</sup> U.S. Citizenship and Immigration Services, Pending Employment-Based I-485 Inventory, *available at* <https://www.uscis.gov/greencard/pending-employment-based-i-485-inventory>.

<sup>5</sup> Sara Ashley O'Brien, CNN, "Spouse of Skilled-Visa Holder: Working 'Changed My Life,'" (March 10, 2017), *available at* <http://money.cnn.com/2017/03/10/technology/h4-work-permits-trump/index.html>.

Our companies are united on the overarching goal to preserve, improve, and expand the pipeline of American STEM workers. In the meantime, we need to address concerns within the existing workforce and the current skills shortage to grow our economy, and H-4 work authorization helps us meet these objectives. As the administration reviews the H-4 rule, we stand ready to work with you to pursue policies that preserve predictability and fairness for employers and employees while protecting American workers.

Thank you for considering our views.

Sincerely,

BSA | The Software Alliance  
Compete America  
CompTIA  
Council for Global Immigration  
FWD.us  
Information Technology Industry Council (ITI)  
National Association of Manufacturers  
Semiconductor Industry Association (SIA)  
Society for Human Resource Management (SHRM)  
TechNet  
U.S. Chamber of Commerce

cc: The Honorable Kirstjen Nielsen, Secretary, Department of Homeland Security