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Director, Regulatory Management Division
U.S. Citizenship and Immigration Services
Department of Homeland Security
111 Massachusetts Ave., NW, 3rd floor
Washington, DC 20529

RE: DHS Docket # USCIS-2006-0044

Proposed Rule – Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule

To Whom it May Concern:

The National Council of La Raza (NCLR) submits these comments in response to the proposed rule on the Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule published in the *Federal Register* on February 1, 2007.

NCLR is a private, nonprofit, nonpartisan, tax-exempt organization established in 1968 to reduce poverty and discrimination and improve opportunities for Hispanic Americans. Today, with its network of nearly 300 Affiliate organizations, NCLR is the largest national Hispanic civil rights and advocacy organization in the U.S. NCLR strongly believes that the U.S. Citizenship and Immigration Services (USCIS) plays a very important role for the Latino community and the entire immigrant community, and, as such, we believe USCIS must receive adequate funding to perform its vital functions. However, the proposed fee increase would create a large burden on our community and is not justified by the agency, particularly in the current context of poor customer service. We believe that a fee increase which places the financial needs of USCIS entirely on the backs of immigrants will not resolve the financial difficulties of the agency and that fees must be supplemented with congressional appropriations. Therefore, NCLR cannot support fee increases at this time and urges USCIS to work with the Administration and Congress to receive adequate funding to improve service, clear massive backlogs, shorten processing times, and address other systematic problems within the agency.

There are more than 42 million Hispanics in the U.S. today making Hispanics the largest minority in the country. While the majority is native-born U.S. citizens, 40% of the nation's Hispanics are foreign-born. Every year, millions of Hispanics file immigration applications for themselves or petition to be reunited with family members. Because of the propensity to live in mixed-status households and communities, countless more are affected by USCIS application decisions. Throughout history Hispanics have proven that they want to be Americans and have proven their patriotism, even at a great price. For example, countless Hispanics have served in the U.S. Armed Forces and have defended this nation against our enemies. Currently thousands

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of Hispanic immigrants are serving the U.S. in Iraq, many with the hope of becoming U.S. citizens. Hispanic immigrants have contributed in the areas of health, education, business, and government service, among others. NCLR wants to ensure that the American Dream is available to all immigrants, and providing fair and equal access to immigration benefits is an important step toward that goal.

NCLR appreciates this opportunity to share our deep concerns about the impact of the proposed fee increases with you.

The fee increases are excessive in scope and size. The proposed fee increases include a multitude of immigration applications which play a significant role in the lives of millions of immigrants. The fees for 38 applications would increase an average of 66% under the proposed rule. Many of the community members we and our Affiliates work with on a daily basis already struggle to pay the current immigration application fees. The steep increases proposed by USCIS, which in some cases double the current fee, would put the goals of gaining permanent resident status, reuniting with family members, and ultimately becoming a U.S. citizen further out of reach. The Hispanic median household income is \$34,751, which is \$8,813 below the median household income for all Americans. While the increased fees would put a strain on the finances of most average Americans, the impact on Hispanic households would be even greater.

Of particular concern is the large fee increase proposed for the N-400 naturalization application. As recently as 1998, the cost to apply for citizenship was \$95. In 2002 the fee increased from \$250 to \$310. The total fees – including a mandatory biometric fee – are now \$400, a fourfold increase in the past eight years. The newly proposed 70% increase would take the total fee to \$675. While U.S. citizenship is certainly “priceless” in terms of its value, these proposed fees would place many otherwise eligible long term legal immigrants in a very difficult situation. There are now more than eight million long-term legal permanent residents who are eligible to naturalize but have not yet done so. USCIS should be building bridges for immigrants to move toward citizenship, not putting up walls. NCLR firmly believes that U.S. citizenship is an important part of achieving the American Dream and full participation in civic society. We oppose additional barriers that discourage eligible immigrants from pursuing U.S. citizenship, and we believe that the proposed fee increases pose an unnecessary barrier to naturalization.

The proposed fee waiver policy is too restrictive. The large fee increases are made more burdensome because of the proposed restrictions on fee waivers. Under current policy, those who cannot afford filing fees can apply for fee waivers. The proposed rule would restrict the availability of fee waivers to only certain types of applications. In particular, applicants for adjustment of status would no longer be able to seek waivers. The proposal justifies the elimination of the fee waivers for I-485s on the ground that “[a]pplicants for permanent residence must demonstrate that they can support themselves and will not become a public charge.” This ground, however, does not apply to asylee adjustment applicants; yet these applicants would not be allowed to seek fee waivers. Nor does the public charge ground apply to adjustment applicants under section 202 of NACARA, HRIFA, or registry. Categorically barring adjustment applicants from seeking fee waivers would in effect deny indigent asylees and others who are exempt from public charge considerations the opportunity to gain adjustment of status.

The proposal would also prohibit U.S. citizens and legal permanent residents from requesting fee waivers on I-130 relative petitions on the ground that the petitioners must file affidavits of support to show that they can support the beneficiaries if they are not able to do so themselves. But such a rationale ignores the fact that given the current backlogs in the family immigration system, it may be years, sometimes even decades, before a visa is available and the petitioner will have to file an affidavit of support for the beneficiary. The elimination of fee waivers for I-130 family petitions means that many U.S. citizens and lawful permanent residents (LPRs) must pay an enormous fee to file the I-130 petitions simply to establish their family member's place in line. By the time a visa becomes available and the affidavit of support must be filed – which may be years or even decades – many families' financial situation will have changed. Unfortunately many families will not have the chance to file an affidavit because they may not be able to afford the fee and will not even be able to secure a place in line for their loved ones. The proposed fee increases and new fee waiver policy will result in separating American families.

Proposed improvements are necessary, but fee increases must not be the sole source of funding. USCIS claims that the fee increase is necessary to improve service. USCIS definitely needs to improve service, as shown by the continuing backlogs in application processing and the months-long (even years-long) delays caused by security checks. Last October, the Government Accountability Office reported that the agency had lost track of 110,000 files needed to process citizenship cases. In addition to lost files, reports of inaccurate databases, poor customer service, and lengthy backlogs run rampant. Past fee increases have not resulted in improvements, and the proposed fee increases are no guarantee of improvements.

The USCIS press release announcing the fee increase proposal states that the fee hike, "if implemented in full by this summer," will result in "a 20 percent reduction in average application processing times by the end of fiscal year 2009." A hike in prices by an average of 66% now in return for a 20% reduction in processing times several years down the road is no bargain. Forcing today's applicants to pay for improvements that they will not benefit from is unjust.

While we applaud USCIS's efforts to strengthen the agency and improve service, we nevertheless believe that the burden of paying for such improvements should not rest solely with immigrants who are already paying for agency costs and receiving poor service.

Improvements and additional funding are welcome, but the burden cannot fall entirely on immigrants. For years USCIS has argued that it has no funding options other than raising fees. The fact is that there are no laws that require USCIS to fund all of its operations through fees, and nothing prevents USCIS from receiving appropriations from Congress. Section 286(m) of the Immigration and Nationality Act (INA) states that the fees "may be set at a level that will ensure recovery of the full costs of providing all such services." Nowhere does it state that fees must cover all costs.

We do not advocate the termination of all user fees; fees that cover the processing costs of certain immigration benefits are legitimate. However, the proposed fees go well beyond financing costs directly associated with the application process. The proposed rule identifies

more than \$900 million in indirect costs, which are defined as “ongoing administrative expenses of a business which cannot be attributed to any specific business activity, but are still necessary for the business to function.” In other words, these costs are not the direct costs of processing an application but rather “indirect” costs, or overhead. While we applaud the fact that USCIS intends to make capital investments, infrastructure improvements, and other investments in the future, it does not make good business sense to fund these investments solely with user fees.

NCLR strongly believes that immigration and citizenship are public goods that benefit our entire country. Furthermore, it is in our national security interests to complete background checks and thoroughly vet all applicants seeking immigration benefits. Capital investments in USCIS add value in that immigrants start businesses, employ American workers, pay taxes, and otherwise contribute to the U.S. economy. In fact, the more integrated immigrants become, the more **productive they are and the more contributions they make**. An investment in USCIS is an investment in America’s future. We believe that Congress understands this and will support public funding of the portions of USCIS’s budget that relate to security, overhead, and other costs which are not directly related to the processing of immigration benefits.

NCLR opposes the proposed rule. NCLR believes that the U.S. should be encouraging immigrants to become part of our community by gaining legal status and becoming citizens, not setting up barriers that block their path and keep them out. For all the above reasons, we believe the proposal to increase immigration fees is misguided and counterproductive. The fee increases are not justified at this time, and we urge USCIS to reconsider this proposal, and to seek other sources of funding for its operations, rather than add additional burdens on tax-paying immigrants and their families. Moreover, we believe that USCIS must be held accountable for following through on its promises of enhanced infrastructure, for spending additional funds effectively, and for providing improved service.

Please feel free to contact Michele Waslin, Director of Immigration Policy Research, at (202) 776-1735 if you have any comments or questions regarding these comments. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Janet Murguía". The signature is written in a cursive, flowing style.

Janet Murguía
President and CEO