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USCIS Comments

Dear USCIS Comments:

I am writing to you as a private citizen who has been made aware of this extreme increase in USCIS fees as a result of my work in the field of international education. It is important for me to tell you that I stand in direct opposition to the February 1, 2007, proposed rule "Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule."

I have been fortunate to work with international students and scholars for ten and a half years now, and I live in a very diverse community in the state of Indiana with a large number of foreign-born persons. The proposed fee increases are so exorbitant they will act as a disincentive for international students and scholars to study and work in the United States. USCIS must reconsider the role of appropriated funds to meet the administrative needs of the agency. I join my professional colleagues and fellow private citizens in asking that fees be reduced to the actual cost of processing the application or petition.

International students and scholars, and campus officials that employ them, file tens of thousands of petitions and applications with USCIS annually, including:

- \* The near-doubling of the I-765 fee for international students in F status to apply for work authorization for Optional Practical Training, from \$180 to \$340. We assist between 600-900 students per year with this type of application, and for students who are at the end of their time in college, coming up with \$340 is a greater task than most people may realize.

- \* The increases in the fees required in connection with change of status from F to H-1B, including the increase from \$200 to \$300 (a 50 percent increase) in the I-539 application to change non-immigrant status for dependents and the increase from \$190 to \$320 (a 68 percent increase) in the I-129 petition for non-immigrant worker. These fees are on top of the required data collection and fraud prevention fee, which is not part of this particular fee schedule.

- \* The huge increases in the fees required to adjust status from H-1B to legal permanent resident (green-card status), including: the near-tripling of the I-485 application fee for permanent residence, from \$325 to \$905; and the increase from \$195 to \$475 (143 percent) in the I-140 immigrant petition for alien worker. (The proposed increase in the I-485 fee is partly offset by the fact that it is accompanied by the elimination of additional filing fees for work authorization and for

permission to re-enter after traveling abroad. However, the inclusion of those fees in the proposed new I-485 fee means that they would have to be paid even by those who do not expect to require the benefit.) Putting the burden on those who neither need nor want some of these benefits in order to pay for "enhancements" to a system in serious need of a complete overhaul seems to be akin to placing Band-Aid where a tourniquet would be applicable.

Many colleges and universities pay the USCIS fees for the green card process for the person being hired. It is less common for the fees for the family members, such as spouse and children, to be paid for by the colleges or universities. The increases in fees will have a severe impact on families.

Apart from the direct impact of the excessive fees, they are contrary to clearly expressed U.S. policies. The President, the Secretary of State, and indeed the Secretary of Homeland Security have expressed clearly and often the high value that the United States places on attracting international students and scholars to this country. The United States reaps immeasurable benefit for our foreign policy, our students' education, our economy, our competitiveness, and our public diplomacy from attracting the best and brightest minds and the next generation of world leaders to America's educational institutions. The United States continues to be seen as retracting the welcome mat rather than extending it to the best and brightest students and scholars in the world. Increasing these fees simply adds fuel to that fire.

Regrettably, the increased fees will reinforce the inefficiencies and dysfunctions USCIS inherited from INS when the Department of Homeland Security was created. The solution to correcting the systemic problems that plague the agency is not to keep raising fees in a futile attempt to finance a twenty-first century agency. Unfortunately, to meet its statutory requirements, USCIS is turning to its only steady source of funding, its filers and petitioners, to finance the required modernization of its systems. That is a common practice in a number of business areas, but it is not acceptable as a matter of public policy, because it prices statutory benefits out of the reach of those who need them.

The fact that USCIS operates on a fee-funded basis creates a built-in incentive to subsidize unnecessary work. This creates an incentive to requiring USCIS approval for things; that way, you can charge a fee for processing the request, which provides necessary income to finance your broader operations. The I-765 fee for Optional Practical Training is a classic example. It used to be possible for school officials designated by the INS to approve OPT in accordance with agency regulations. The benefits of re-instituting and expanding this process speak for themselves: no application, no processing, no fee, one less task to be performed by the agency, more time to devote to what the agency really needs to do. There is no obvious public policy reason for USCIS to require agency approval for OPT today. With the Student and Exchange Visitor Information System (SEVIS) now fully in place, it would be easy to devolve this responsibility back onto the schools. Yet the cost of processing this unnecessary application process continues to drive up the fee. In addition, the spectre of "premium processing" - instituted initially as a temporary procedure in order to alleviate a significant back-log within the Service Centers - has been accepted as a matter of

course, and has in fact been expanded to additional petitions. It seems that it will only be a matter of time before premium processing fees become the sole source for a beneficiary to receive adjudication of his case in a timely fashion.

While I understand that USCIS is permitted by law to recover the full cost of its services through fees, and indeed has no other option so long as Congress is unwilling to appropriate funds for the operation of the agency, I ask that the fees be reduced to the actual cost of processing the application or petition. Meanwhile, I ask Congress to step up to its responsibility for fixing the untenable situation that drives these fee increases.

Thank you for the opportunity to comment.

Sincerely,

Jennifer A. Bowen

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