





**ASIAN PACIFIC
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OF
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**** Via Fax ****

Director, Regulatory Management Division
U.S. Citizenship and Immigration Services
Department of Homeland Security
111 Massachusetts Ave., NW, 3rd floor
Washington DC 20529
Fax (866)466-5370

Re: DHS Docket # USCIS-2006-0044, Proposed rule— Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule

Dear Madam or Sir:

Founded in 1983, the Asian Pacific American Legal Center of Southern California (APALC) is a nonprofit organization dedicated to advocating for civil rights, providing legal services and education, and building coalitions to positively influence and impact Asian Pacific Americans and to create a more equitable and harmonious society. APALC is affiliated with the Asian American Justice Center in Washington, D.C.

Over our 24-year history, APALC has served tens of thousands of individuals and their families with immigration needs, many involving naturalization applications. Although we direct our services to lower-income Asian Americans, approximately a quarter to a third of our clients come from Latin American nations. This experience, combined with our work with dedicated community-based organizations throughout greater Los Angeles, allows us to understand the concerns and realities of immigrant communities in a way that governmental agencies often cannot or will not. More importantly, it compels us to strenuously object to the application and petition fee increases proposed by U.S. Citizenship and Immigration Services (USCIS). The proposed fee increase plan is unfair and untimely to immigrants, and ultimately detrimental to the needs of our immigration system and our nation as a whole.

As a community based organization, we are troubled by the sheer size and scope of the increases. Under the new fee schedule, citizenship fees would jump from \$400 (\$330 application fee plus \$70 biometric fee) to \$675 (\$595 application fee plus \$80 biometric fee), an increase of 69%. Similarly, fees would be raised for 37 other immigration and naturalization petitions and applications at an average increase of 66%. Furthermore, it appears that the fee hikes for all targeted benefits will be implemented at once rather than being spread out over a period of time.

The proposed increases, which in some cases double the current fees, would put

permanent resident status, family reunification, and citizenship beyond the reach of the typical immigrant. Many of the immigrants and refugees we work with on a daily basis already struggle to pay the existing fees, and would not be able to afford higher prices. Our nation benefits from those who choose to make the U.S. their home; USCIS should be building bridges for them to move toward citizenship and full integration into American society, rather than devising economic barriers to our cherished immigrant tradition.

While virtually all immigrant communities will likely be significantly affected by USCIS's proposal, abrupt fee hikes of such magnitude are expected to have a disproportionate and detrimental impact on the Asian American community. As the following figures reflect, Asian Americans constitute a large portion of USCIS's customer base:

- 39% of people who naturalized in 2005 were born in Asia.
- Five of the top ten countries of birth for new U.S. citizens are Asian (Philippines, India, Vietnam, People's Republic of China, and Korea).
- 36% of people who became lawful permanent residents (LPRs) in 2005 were born in Asia.
- Five of the top ten countries of birth for new LPRs are Asian (India, China, Philippines, Vietnam, and Korea).
- A significant number of asylees and refugees came from Asian countries such as Laos (16% of refugees admitted in 2005) and China (21% of asylum cases granted in 2005).

The impact on individual immigrants and their families will be even more profound, as the following examples illustrate:

- A married couple applying for citizenship at the same time would have to have \$1,350 at their disposal in order to achieve their American dream together. A family of four would face a \$2,700 naturalization bill or be forced to file separately, an affront to our nation's commitment to family.
- A family of four asylees, often among the most economically challenged immigrants due to the trauma of persecution suffered in their homeland, must somehow come up with \$3,620 to apply for legal permanent residence.
 - To add insult to injury, USCIS intends to categorically eliminate fee waivers for adjustment applications, denying asylees who wish to become permanent residents the opportunity to qualify for a fee waiver despite the financial difficulties they face. USCIS argues that adjustment applicants must file affidavits of support which "demonstrate that they can support themselves and will not become a public charge," thereby obviating the need for fee waivers. However, the agency's rationale fails when applied to asylees, who are exempt from the public charge ground of inadmissibility. 8 C.F.R. §209.2(a)(1)(v).
- By the same reasoning, a U.S. citizen mother who wishes to be reunited with her adult son from the Philippines would not be able to obtain a waiver of the \$355 initial petition fee. USCIS's proposal would eliminate fee waivers for such petitions since, as above,

waivers are not consistent with the affidavit of support requirement. However, the proposal ignores the reality of the existing immigration system wherein U.S. citizens and permanent residents first file petitions, then wait years – sometimes decades – before the affidavit would be required for immigration to take place. In this example, the U.S. citizen mother faces a 14-year wait before she would even need to show her ability to support her immigrating son. The absence of a fee waiver at the petition stage would unfairly preclude many families from reuniting at all.

The fee hike and the blanket ban on fee waivers on certain applications and petitions would be particularly burdensome to the roughly 12% of the Asian American community who live below the poverty level.

Given the speed, scope, and scale of the proposed fee increase, we believe that USCIS customers must receive faster and greater improvements in processing times and service. The fee increase proposal itself does not appear to set forth any concrete targets for progress in these areas. In its press release, USCIS claimed that the fee hike, "if implemented in full by this summer," would result in "a 20 percent reduction in average application processing times by the end of fiscal year 2009." The numbers, however, do not add up: a hike in prices by an average of 66% now in return for a 20% processing time reduction two to three years down the road does not appear to be "the type of exceptional immigration service that our nation expects or deserves," as USCIS asserts.

Finally, we believe that certain improvements which USCIS hopes to finance through fee increases would be better addressed through the normal budget and appropriation process. For example, while we support USCIS's efforts to improve its fraud detection capacity and to modernize its business and technological infrastructure, we strenuously object to piling the burden of these efforts on the backs of immigrants and their families. These improvements will benefit the immigration system and the national interest as a whole, but the budgetary process remains the best mechanism for Congress, USCIS, its customers, and other interested parties to determine how such functions would be optimally funded.

We urge USCIS to reconsider the proposed fee increase and to seek the necessary funding for infrastructure and service improvements from Congress. We trust that the agency will work with immigrant communities and with Congress to develop a functioning, effective immigration system that will benefit all those who call America home.

Thank you.

Sincerely,



Mark Yoshida, Staff Attorney
Immigration & Citizenship Unit