



LUTHERAN IMMIGRATION  
AND REFUGEE SERVICE

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SENT VIA FACSIMILE TO: 1-866-466-5370

March 29, 2007

Mr. Richard A. Sloan, Director  
Regulatory Management Division  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
111 Massachusetts Avenue, N.W., 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**

Dear Mr. Sloan:

Lutheran Immigration and Refugee Service (LIRS) is a national agency that has strived to bring "New Hope and New Life" to uprooted immigrants and refugees through ministries of service and justice over the last 60 years. In coordination with our network of affiliate partners throughout the United States, LIRS resettles refugees, protects unaccompanied immigrant and refugee children, advocates for fair treatment of asylum seekers, and promotes alternatives to immigration detention. Based on our service experience and pastoral concerns brought to us by Lutheran pastors and congregations, LIRS is deeply concerned about the impact that the proposed fee increases by the U.S. Citizenship and Immigration Services (USCIS) will have on the vulnerable populations we serve.

The recently proposed increases will create a significant obstacle for many vulnerable migrants, including asylees, victims of human trafficking, refugees and unaccompanied children seeking to integrate into the United States by becoming permanent residents or naturalizing as U.S. Citizens. LIRS is troubled by the extraordinary fee increases on a broader level but would like to focus specifically on the onerous burden these increases will impose upon three categories of affected populations: 1) asylees and trafficking victims applying to adjust to Legal Permanent Residents (LPRs); 2) refugees and asylees seeking to naturalize as U.S. Citizens; and 3) abused, abandoned or neglected children seeking to obtain Special Immigrant Juvenile Status (SIJS). Each area of concern is addressed separately with specific recommendations.

1. **Asylee and Trafficking Victim Adjustment of Status:** In Section IX: Proposed Fee Adjustments, USCIS is proposing a fee of \$905 for an I-485 adjustment of status application, representing an increase of \$580 from the current fee of \$325. This proposed fee will prevent many asylees and trafficking victims from being able to apply for legal permanent residence, which will delay their eligibility to naturalize as U.S. Citizens. Presently, many asylees have considerable trouble paying the current \$325 fee and will either wait to adjust, sometimes years after they are eligible, or request a fee waiver. Under this USCIS proposal, however, not only is the application fee undergoing a 178% increase, USCIS is proposing to categorically eliminate the availability of fee waivers for all I-485 adjustment of status applications, except for refugees

adjusting status under INA §209(a) who will continue to be automatically exempt from the paying the I-485 application fee.

In Section XI: fee waivers of the proposed rule, USCIS argues that because the likelihood of becoming a public charge is a ground of inadmissibility under INA §212(a)(4), allowing for a fee waiver for an adjustment application is inconsistent with the requirements of the benefit sought. When the applicant for permanent residence are asylees or victims of human trafficking this rationale is inconsistent with USCIS's mandate in INA §286(m) to offset the fee burden of "similar services provided without charge to asylum applicants or other immigrants." Similar to refugees, asylees and trafficking victims are eligible for public assistance by virtue of their status and, according to 8 C.F.R. §209.2(a)(1)(v), the public charge ground of inadmissibility does not apply to asylees adjusting status.<sup>1</sup> For an asylee or trafficking victim, seeking a need-based waiver for an I-485 application is entirely consistent with the historical treatment of these populations. The current policy is mindful of the desperate circumstances that force asylum seekers to flee their homes, the vulnerability and danger trafficking victims continue to face, even after escaping their traffickers, and the dire financial situation an asylee or trafficking victim faces during the early stages of his/her new life in the United States. The I-485 fee must also take this reality into consideration and, at least, provide waivers for those who most need the assistance.

LIRS thanks USCIS for continuing to exempt refugees adjusting their status under INA §209(a) from paying the I-485 adjustment of status application fee, and for recognizing the hardship suffered by trafficking victims by deciding to eliminate the \$270 fee for an I-914 Application for T Nonimmigrant Status. However, these laudable efforts do not alleviate the extraordinary burden that the proposed adjustment fees will impose upon asylees and trafficking victims seeking to become legal permanent residents.

Therefore, LIRS recommends that USCIS reevaluate the fee structure, especially the extraordinary increase, and institute a fee policy which is consistent, reasonable and affordable for all individuals applying for adjustment of status. In addition, LIRS especially encourages USCIS to maintain an accessible and clear fee waiver policy, particularly for those populations, such as asylees or trafficking victims, who receive public benefits by virtue of their status and/or are otherwise exempt from the public charge ground of inadmissibility. For example, since asylees and trafficking victims are in similar compelling circumstances as refugees, they should receive the same automatic exemption from paying adjustment fees as refugees.

2. **Refugees and Asylees Seeking to Naturalize as U.S. Citizens:** For a refugee or asylee who has fled their home country and sought freedom and protection in the United States, the ability to naturalize as a U.S. citizen is one of the most important steps that individual can make toward becoming full participants in American society. Naturalization is a key component of the integration process and the Bush administration has recognized this, saying that helping immigrants become U.S. citizens is a priority. Furthermore, Article 34 of the 1951 UN Convention Relating to the Status of Refugees, as adopted by the 1967 UN Protocol Relating to Status of Refugees, to which the United States is a party, mandates that states make every possible effort to facilitate the naturalization of refugees and reduce as far as possible the costs of such proceedings.

Given that citizenship is optimal for both an individual applicant and the country as a whole, LIRS is particularly troubled by the size and scope of the proposed fee increase for naturalization. Under the proposed fee, in Section IX: Proposed Fee Adjustments, the cost for the N-400

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<sup>1</sup> USCIS has yet to issue regulations on adjustment of status for T visa holders, though has indicated that there are regulations drafted and going through DHS internal review processes. Because trafficking victims are eligible for the same benefits to the extent as a refugee by receiving DHS certification, LIRS is assuming that INA §212(a)(4) will also be automatically waived for trafficking victims seeking to adjust status.

naturalization application would increase from \$330 to \$595, which represents an increase of 80 percent. For a family of four to naturalize, they would have to have \$2,380 in hand (an extra \$1,060 over the current fee), solely for the application fee. Such an expense would create an unreasonably difficult economic hardship for individuals who are eligible for naturalization and want to strengthen our nation's life by participating more fully in it as citizens.

LIRS recommends USCIS reconsider this extraordinarily large increase and adopt a fee policy that is more realistic with what individuals and families, who receive benefits by virtue of their status as refugees or asylees, may be able to afford when seeking to naturalize. This should also include an affordable flat fee or a fee cap for a family to naturalize.

3. **Special Immigrant Juvenile Status (SIJS):** USCIS-proposed fee increases will be particularly harmful to one of the most vulnerable of immigrant populations: special immigrant juveniles, who are undocumented minors who have been determined to be eligible for long term foster care based on abuse, neglect, or abandonment. In order to obtain this benefit, an SIJS applicant must file a Form I-360 self-petition, approval of which makes the minor immediately eligible to adjust status by filing a Form I-485.

In Section IX: Proposed Fee Adjustments, Table 12: Current and Proposed Fees, USCIS outlines the comparative costs of different benefit applications. Currently an I-360 self-petition costs the child applicant \$190 and the I-485 costs \$325, a total of \$515, though a minor may request a fee waiver for either the I-360 or I-485 if they are unable to afford this expense. Under the new USCIS proposal, the fee for the I-360 increases from \$190 to \$375 and the fee for the I-485 increases from \$325 to \$905, for a total of \$1280 for the two-step process. On top of these increases, the proposed elimination of fee waivers for these petitions is an additional burdensome obstacle to receiving the protection of the United States. Vulnerable minors will be left with no options if they are unable to pay these dramatically higher fees.

SIJS applicants are foster children who rarely have work authorization prior to filing the I-485 petition; they are unable to legally work, provide for themselves, or earn the money necessary to apply to USCIS for immigration relief. These are minors with no financial resources. Also by definition, SIJS applicants can "age-out" of eligibility for failure to adjust prior to their 21<sup>st</sup> birthday, regardless of the merits of the underlying claim. An increase in fees that makes it too difficult to obtain SIJS may actually make it impossible for the individual to obtain any future immigration benefit.

LIRS recommends that in addition to automatically exempting VAWA self-petitioners (abused spouses, parents or children of a U.S. citizen or LPR) from paying the \$375 I-360 fee, USCIS should also automatically waive the I-360 fee for special immigrant juveniles. LIRS encourages USCIS to set all adjustment of status fees at a more reasonable level. In particular, LIRS would like USCIS to maintain a fee waiver policy that considers the hardships suffered by one of our most vulnerable immigrant populations: abandoned, abused or neglected children.

In conclusion, LIRS urges USCIS to reconsider the proposed fee increase's impact on asylees, refugees, trafficking victims and special immigrant juveniles and requests that USCIS work with members of Congress to help resolve the disparity in adjudication costs versus revenues collected. USCIS must create an alternative and permanent funding stream that will support its operations. Seeking appropriations from Congress that supplement what USCIS collects in fees is a realistic way for USCIS to operate effectively without imposing undue hardship upon individuals seeking to access immigration benefits. It also helps to assure that vulnerable individuals are not marginalized but are integrated into U.S. communities, achieving a good outcome for the individuals and a common good for the greater community. LIRS supports the efforts of USCIS in modernizing its infrastructure, reducing backlogs and adjudication times, and ensuring that all security background checks are completed accurately and

efficiently. Nevertheless, we do not believe the expenses should not be passed off onto USCIS customers alone.

LIRS hopes that USCIS will work with immigrant communities and with Congress to develop a functioning, effective immigration system that will benefit our country. If you have any questions, please contact Annie Sovcik, [asovcik@lirs.org](mailto:asovcik@lirs.org) or 410/230-2744. Thank you for hearing our concerns.

Sincerely,



Ralston H. Deffenbaugh, Jr.

President, Lutheran Immigration and Refugee Service