

P.O. Box 50922
Pasadena California 91115

April 2, 2007

Director, Regulatory Management Division
USCIS
Department of Homeland Security
111 Massachusetts Ave. NW, 3rd Floor
Washington DC 20529

Re: DHS Docket No. USCIS-2006-0044

Dear Sir:

We are writing to comment on the United States Citizenship and Immigration's proposed rule to increase the fees of the Immigration Examinations Fee Account, 72 Fed. Reg. 4888 (Feb. 1, 2007). The proposed rule seeks to increase the fee for the I-600/I-600A from \$545 to \$665. For the reasons stated below, we are opposed to the fee increases as they pertain to the I-600/I-600A fees.

The preamble to the proposed rule states that the "current fees do not reflect current processes or recover the full costs of services that should be provided." 72 Fed. Reg. 4888. The preamble also states that the fee increase "will ensure sufficient funding to meet immediate national security, customer service, and standard processing time goals, and to sustain and improve service delivery." Id.

Further, the preamble to the proposed rule states that the fee increase reflects the allocation of surcharges and routine processing costs "evenly across for times for which fees are charged" and that a portion of the fee increase is for "broader investments in a new technology and business process platform to improve substantially [USCIS's] capabilities and service levels." Id.

We have read through the entire preamble and the proposed rule, and we do not believe that increasing the fee for the I-600/I-600A is a reasonable way for USCIS to attempt to meet these goals.

USCIS calculated the proposed fee of \$665 in the following manner:

Inform the public: telephone assistance, IIOs to assist persons with information necessary to complete the forms, explain procedures	\$48
Intake: mail, filing, data entry, fee receipting, lockbox	\$18
Conduct IBIS checks: compare information on applications and petitions to various Federal lookout systems	\$10
Review records: processing, new FOIA system	\$45
Make determination	\$453
Fraud prevention and detection: specialists to detect and combat immigration fraud	\$19
Fee waiver surcharge	\$32
Asylum/refugee surcharge	\$40
total	\$665

All of the line items except for the amount allocated to "make determination" are the same as for all other applications and petitions. We believe that allocating costs this way this disproportionately and unfairly places the burden of these expenses on adopting parents -- whose applications comprise only 0.6% of the fee-paying volume -- without any corresponding benefit.

For example, it is clear from looking through the tables in the preamble that the I-600/I-600A program does not suffer from a backlog like many other petitions and applications. Table 3 states that it takes only 3.39 months to process the I-600/I-600A -- well under the President's goal of 6 months. Moreover, the fact that it only takes USCIS staff 1.53 hours to complete an application indicates that the 3.39-month processing time may be the result of waiting for applicants to provide all of the required information rather because of a backlog of applications.¹ In general, adopting parents seem to experience only a 6-week processing time (or shorter) from the time USCIS has all of the required information. Any customer service enhancements paid for by the

¹ It is common for I-600/I-600A applicants to submit their applications before their home study is complete, in order to obtain a biometrics appointment while waiting for their home study to be finalized. For example, we submitted our I-600/I-600A application on June 2, 2006, but did not submit our home study until July 3, 2006. The notice of favorable determination (I-171H) was issued on August 15, 2006. This is almost exactly 6 weeks from the time our application was complete.

fee increase will do little to improve the already acceptable completion rates for the I-600/I-600A. Rather, the increased fees will fund review of other applications, which seems contrary to the intent of OMB's guidance.

In addition, unlike most of the other petitions and applications affected by the proposed rule, I-600/I-600A applications do not involve any national security concerns. Only United States citizens may apply for the I-600/I-600A, and any non-citizen spouse is required to have permanent resident status (which ensures that they have already been screened for national security concerns). Moreover, a foreign-born orphan poses none of the security risks of petitioners or applicants for other types of USCIS authorizations. Thus, allocating \$18 for IBIS checks seems to be unfairly applied because there is no need to screen applicants for national security issues or cross-reference them against Federal lookout systems.² Consequently, customer service enhancements designed to enhance national security systems or otherwise address national security concerns will not benefit the I-600/I-600A applicants or provide them with enhanced service, thus I-600/I-600A applicants should not have pay for associated processing activities.

Other processing activities that I-600/I-600A applicants would be required to pay for under the proposed rule include informing the public and reviewing records. The I-600/I-600A form is quite simple, and the preamble contains no information to indicate the number of calls, if any, to the national customer service center or the HOs that concern this application or how to fill out the required form. Similarly, the preamble contains nothing to demonstrate that the "review records" activity benefits I-600/I-600A applicants, such as the number of FOIA requests that concern I-600/I-600A applications, or the percentage of federal records storage space necessary for processed I-600/I-600A. Consequently, both of these fees seem unfairly allocated to I-600/I-600A applicants.

The other customer service enhancements, security enhancements, humanitarian enhancements, and infrastructure enhancements similarly provide little or no benefit to I-600/I-600A applicants. Moreover, it seems irrational to require I-600/I-600A applicants to shoulder the burden of fee waivers and asylum/refugee expenses (which comprise over half of the \$120 fee increase) when neither of these options is available for people who cannot pay the I-600/I-600A fee.

In sum, increasing the I-600/I-600A fee on these bases does not seem rationally related to the cost recovery goals that purportedly support the fee increase, and we believe that USCIS should reevaluate the increase to relieve the fee burden on adopting parents.

In the alternative, we urge USCIS to consider adding a provision in the final rule that waives the I-600/I-600A fee and the biometrics fee for any applicants who must reapply because their approval will expire while waiting for their adoption to complete. Families currently expecting to

² Even the biometric evaluation for the I-600/I-600A is to certify to the child's country of origin that the adopting parents are not criminals, and not, as with other types of petitions or applications "to ensure that the United States is not placed at risk by failing to identify individuals who may be national security or public safety risks at the earliest possible time in the adjudications process." *Id.* at 4892.


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travel to the People's Republic of China (PRC) (which, according to the State Department comprises the largest number of international adoptions annually) to complete their adoptions have been waiting since the beginning of October 2005. Each one of those families has had to reapply and pay twice for the I-600/I-600A and the biometrics clearance because current USCIS regulations provide that approval of the I-600A is only valid for 18 months, and fingerprinting is only valid for 15 months.

Waiting times for adopting from the PRC continue to increase each month. Substantially all parents currently adopting from the PRC will need to pay the I-600/I-600A fee more than once, and will need to be fingerprinted at least twice for the same adoption.³ This means that many I-600/I-600A applicants will shoulder twice the burden of the across-the-board fee increase as any other petitioner or applicant, still without enjoying any of the benefits of the service, security, or other enhancements they are underwriting. Eliminating the fee or providing a substantially reduced fee for I-600/I-600A applications and biometrics renewals will go a long way toward relieving this burden for the applicants, all of whom are United States citizens and permanent residents (and taxpayers) who have already spent thousands of dollars in pursuing their dream of a family.⁴

We appreciate your taking the time to read our comments. We urge you to consider them before publishing the final rule. Thank you.

Sincerely,



Kendra Nitta, Esq.



Dr. Gordon Squires

³ It is unclear why I-600/I-600A applicants should be required to pay the full biometrics fee when their fingerprint clearance expires while waiting for the adoption to complete. Fingerprinting is done electronically and the agency already has the applicants' biometric information stored in its computer. However, USCIS regulations do not contemplate the possibility that adopting parents will need to be fingerprinted more than once and thus the applicants and the agency are required to expend their time and resources to collect information that the agency already has.

⁴ Another alternative which is not directly implicated by the proposed rule is to increase the validity period for the I-600/I-600A approval from 18 months to 36 months, but no less than 24 months.