April 2, 2007

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

REF: DHS Docket No. USCIS-2006-0044

Dear Director Gonzalez:

Catholic Community Services respectfully submits this comment in opposition to the proposed rule to increase immigration fees as published in 72 Fed. Reg. 21 at 4888 (Feb. 1, 2007).

Catholic Community Services' Interest in the Proposed Rule

Catholic Community Services of Utah (CCS) is a non-profit organization in Salt Lake City, Utah which serves a diverse array of individuals in need of compassionate service. In addition to its homeless outreach and substance treatment services, CCS of Utah also provides assistance to nearly 300 refugees each year who are cleared for resettlement in the United States. The CCS immigration program strives to provide affordable and competent immigration counseling and assistance with such matters as refugee family reunification, alien relative visa petitions, applications for non-immigrant and immigrant visas, adjustment of status to lawful permanent resident, employment authorization, naturalization, asylum consultation, and immigration court representation. In addition to these core services, CCS provides other related, peripheral legal assistance as required. Also, through outreach activities that occur in cooperation with its charitable community counterparts, CCS works to promote knowledge and awareness of basic immigration principles and to dispel the harmful misinformation circulating among migrant groups.

Many of CCS' clients live at or below the federal poverty level and have significant difficulties learning the English language. For this highly vulnerable population, the complexity of the immigration process can often make even simple immigration matters seem daunting. Moreover the expense of private counsel can put professional immigration assistance out of reach. It is for this reason that the CCS' Immigration Program was established and continues to carry out its mission to provide affordable, quality immigration legal service to refugees and immigrants living in Utah.

Comments on the Proposed Action

Our comment addresses five main issues:

1. The mandate issued by Congress in 8 U.S.C. §1356 (m) that the USCIS recover the full costs of adjudicating immigrant petitions should not be interpreted to mean that immigrants must also bear the burden of funding the USCIS mission to protect national security.

2. Many of the proposed fees are cost prohibitive to qualified law-abiding immigrants. This means that fewer qualified applicants will submit petitions for benefits and that many of those to do elect to file for benefits will likely no longer be able afford legal representation for their filings. Two of the proposed fees will cause immeasurable hardships to immigrant clients:

    A. The proposed fee for the I-485 Adjustment of Status is faulty because it does not present a clear and understandable reason why raising the fee will benefit I-485 applicants or increase operational efficiencies.

    B. The proposed N-400 fee is grossly disproportionate to the average income level of N-400 naturalization applicants and therefore cost prohibitive.

3. The proposal to remove the ability of most applicants to apply for a fee waiver is unreasonable and arbitrary because it does not provide evidence that USCIS has thoroughly analyzed the need for a ban on fee waivers for each type of application type.

4. USCIS has expressed no satisfactory justification for their refusal to approach Congress for funds to make the improvements in USCIS technology and infrastructure which are necessary to ensure the permanent eradication of legacy INS backlogs; nor has USCIS offered a legitimate rationale for Director Gonzalez' refusal to request that Congress appropriate funding for the USCIS goals proposed in the rule. This decision appears to clearly be arbitrary and capricious in light of Senate Bill 795 which has proposed to fund USCIS activities which are not directly associated with processing or adjudication.

1. The statute authorizing USCIS to collect fees to recover the full costs of providing "adjudication and naturalization services" does not authorize USCIS to use those fees to promote the national security objectives of the executive branch.

The proposed rule states in section II that the Immigration and Nationality Act of 1952 (8 U.S.C. 1356) authorizes USCIS to collect "fees for providing adjudication and naturalization services….. [1] *that will ensure recovery of the full costs of providing all such services*… [and] any additional costs associated [2] *with the administration of the fees collected*."

This statute confers rather broad and discretionary power on the USCIS to determine what fee rates will allow it to recover the costs of adjudication and administration. This statute does not envision nor does it authorize the USCIS to collect

costs to devise the means and infrastructure necessary to help to protect national security. The proposed rule, however, clearly includes a proposal to raise fees to help the USCIS protect national security.

The proposed rule states that the protection of national security has become a major objective of the USCIS which demands that USCIS increase processing fees so that USCIS can conduct thorough and comprehensive national security background checks. For example, Section X (pp 4911) of the proposed rule states that "most of the increases in completion rates are associated with the additional time devoted to the expansion of background checks to all immigration benefit applications instituted in July 2002." Section VI (b) and Table 8 announced that nearly 2% or approximately 48 million dollars of all processing costs are attributed to the new IBIS national security which were mandated in July of 2002. In Section III subsection C (3) (Urgency and Rationale for New Fee Schedule) the USCIS states that "this rule proposes additional funding in support of FBI name checks." It is assumed that the additional funding mentioned here relates to the biometrics fee increase which will rise from $70.00 to $80.00. Unfortunately, the proposed rule does not list a specific budget allocation for FBI name checks nor does it make mention of how much money the USCIS will need to ensure the efficient administration of FBI name checks. Previously, the USCIS had only administered a domestic criminal background check of applicants for immigration benefits. This FBI fingerprint check had been authorized by Pub. L. 105-119, 111 Stat. 2448-2449 (1997). To date the fee imposed to recover the cost of taking biometrics to conduct this cost has not been cost prohibitive.

The costs associated with the administration of the FBI name checks, however, are another matter entirely. As of July of 2002 the USCIS changed its security policy to require two new security checks of each immigrant applicant: 1) an IBIS check and 2) an FBI name check. Although the proposed rule describes the funding demands for the new IBIS checks, the rule makes no reference to the administrative and processing problems related to the FBI name check. The DHS' own inspector general published a report on the problems which resulted from the implementation of the FBI name check in 2002. This report entitled "*A Review of U.S. Citizenship and Immigration Services' Alien Security Checks,* (OIG 06-06), (November 2005) available at http://www.dhs.gov/interweb/assetlibrary/OIG_06-06_Nov05.pdf states that:

> "…for a fraction of cases, slow, inconclusive, or legally inapplicable security check results can cause application processing to stall for months or even years. These delays can interfere with USCIS' concluding national security and public safety hits with timely denials or referrals to law enforcement. In addition, stalled cases decrease operational efficiency by reducing productivity and contributing to hundreds of lawsuits against USCIS."[1]

Nowhere in Section VI (which describes USCIS current and proposed expenditures) does the USCIS propose a figure which will eliminate the FBI backlog of name checks. Although the authority of the USCIS to resolve these delays has become a subject of litigation; the USCIS itself has stated that it has both the authority and the capability to take action to resolve delays. In fact, the November 2005 OIG report even

[1] Department of Homeland Security (OIG 06-06) at 24.

referenced the fact that the USCIS had once 'detailed' six staff to the FBI to help resolve the name check delays. [2] In December of 2006 the USCIS released an internal memo titled "FBI Name Checks Policy and Process Clarification for Domestic Operations" issued by Associate Director of Operations Michael Aytes on December 21, 2006 . This memo stated that the USCIS would only expedite name check cases in four situations: 1) military service; 2) age outs; 3) dire medical emergencies and 4) social security income terminations. Both sources verify that the USCIS has the authority necessary to deal with what has become a major obstacle to efficient processing; yet the proposed rule never designates a funding allocation for this purpose.

CCS does not dispute the omission of funding allocations for FBI name checks. This is because FBI name checks are clearly performed pursuant to the promotion of national security objectives, and therefore FBI name checks are not the types of activities which should be funded by immigrant processing fees. CCS does find it worrisome, however that the proposed rule includes the following two features: 1) The statement made by Director Gonzalez on the day he introduced the rule which declared that the USCIS had no intention of requesting Congressional appropriations, which would mean that the USCIS receive no funding to help it eliminate the FBI name check backlog; 2) The rule does state that processing fees will be used to fund IBIS checks, an activity which relates more to the USCIS mission to protect national security than to its mandate to recover the costs of adjudication and administration of immigrant petitions. As shown above, the IBIS checks have become a major cost for the USCIS. The IBIS database, however, is often included in government reports which evaluate the effectiveness of the "terrorist watch list" database system.[3] It is obvious, therefore, that the design, operation and maintenance of the USCIS IBIS checks and the FBI name checks have become critical tools to the ability of the government to protect national security.

Because IBIS and FBI name checks do not amount to mere processing or administrative costs; applicants for immigration benefits should not be forced to bear the burden of this cost alone. Therefore, USCIS should remove from its proposed rule all requests for funding which relate to its mission to protect the national security of the United States. The USCIS should then seek a more proper and appropriate source for this funding by requesting that the Executive and or Congress propose a bill which would allocate funding to the USCIS at a level which will allow the USCIS to design, implement and maintain an efficient and reliable security check system. Unfortunately, the USCIS Director Gonzalez appears unwilling to seek Congressional appropriations; this refusal (as elaborated in point 4) makes the entire premise of the rule arbitrary and capricious.

2. Many of the proposed fees are cost prohibitive for qualified law-abiding immigrants.

[2] Id. at 27 (the report stated specifically that "in March 2005, USCIS detailed five personnel to the FBI National Name Check Program for up to a year to assist with the pending FBI name checks.")

[3] [3] U.S. General Accounting Office (GAO), *Report to Congressional Requesters, Information Technology: Terrorist Watch Lists Should Be Consolidated to Promote Better Integration and Sharing*. GAO-03-322 available at http://www.gao.gov/new.items/d03322.pdf

The immigrants and refugees served by CCS have expressed alarm about the fees proposed in the rule. These clients already work for months to save the resources necessary to pay for immigration benefits at the current fee rate. The 'cost of inflation' fee increases in the last few years have already put many immigration benefits out of reach for low income immigrants and refugees.

CCS resettles several hundred refugees each year. Refugees make a heroic attempt to adapt to American culture, learn English and support large families (CCS routinely resettles families of 8-12 people). It is rare, however, for refugees to be in a position to forgo all federal public assistance within the first 10 years of their resettlement. For example, a majority of the Somali, Sudanese, Liberian, Iraqi and Afghan refugees resettled by CCS from 1995-2001 continue to receive housing assistance and food stamps due to the low wages they receive for their work and the large size of their families. When it comes time for refugees to adjust their status, sponsor family members or naturalize they often have to save what little income they have to be able to pay for the filing fees. As a result, most immigrant and refugee families must pay for immigration benefits like adjustment of status and naturalization on a piecemeal basis. These families also often seek alternatives to immigration benefits which are clearly inferior to the benefits provided by the USCIS but which may be purchased for a lower cost. For example, many refugees and asylees forgo submitting applications for permanent residence because they cannot afford the fees. In doing so they put themselves at risk of repatriation if the country conditions of their home states ever change. Furthermore, many parents of minor children who naturalize in the U.S. elect to obtain U.S. passports for their children rather than the more permanent citizenship certificates simply because passports cost much less than the N-600.

CCS anticipates that trends like this will continue and even worsen if the proposed fees take effect. Moreover, this proposed rule will force most immigrants to divert funds they may otherwise have used for legal counsel to covering the more expensive filing fees. This would mean that more applications will be filed incorrectly, incompletely or submitted by immigrants who are not even eligible for the benefit for which they have applied. This would lead to an increase in inefficiency for the USCIS. It would also likely delay and complicate processing and adjudication because adjudicators will find it necessary to issue more requests for evidence. Even more worrisome, it is likely that qualified applicants may resort to seeking advice from low cost but dishonest practitioners who prey upon economically disadvantaged immigrants. These unlicensed practitioners also often turn clean cases into disorganized messes and frequently submit applications on behalf of ineligible immigrants.

Therefore, CCS proposes that the USCIS reconsider raising the fees for family based petitions, adjustment of status applications and naturalization related petitions. In particular, CCS requests that the USCIS consider the following arguments with respect to the I-485 and the N-400:

A. The proposed rule's discussion of the new I-485 fee is confusing, misleading and unreasonable and therefore the USCIS should reconsider raising the fee for I-485 applications.

CCS is a Catholic Legal Immigration Network Inc (CLINIC) and U.S. affiliate. The CLINIC comment to the proposed rule (submitted by Mirna Torres) declared that: "Under the proposed rule, the I-485 filing fee will rise from the current fee of $325 to $905. An additional $80 biometric fee would bring the I-485 filing fee to $985. This excludes the cost of the medical examination, which must be filed with the I-485 application. Medical examination fees range from $100 to $200. Therefore, at a minimum, an applicant would need $1,100 (excluding the cost of legal services) to file an I-485 form. The current federal minimum wage is $5.15 per hour. A minimum wage worker would need to work 214 hours (nearly five and a half weeks at 40 hours a week) to meet the $1,100 fee. For many of the clients served by our programs, savings after meeting monthly living expenses are minimal, and our clients would require years to save sufficient funds to file an I-485 application at the proposed cost."**(CLINIC comment pp. 2)** CCS believes that this statement is an accurate depiction of the situation which our clients will face if the proposed rule takes effect.

CCS predicts that this fee will likely have a disastrous effect on asylees who do not receive automatic fee waivers for I-485 applications. Asylee applicants often apply for permanent residence with their families. An asylee family of five would have to pay more than $5,000 to adjust status. Because it appears that the proposed rule would refuse to allow an I-485 applicant to submit a request for a fee waiver of the I-485 fee, a low income asylee family of five would never be able to afford to adjust status.

Unfortunately, the USCIS has not offered a reasonable, rational or even clearly understandable motive for raising the I-485 fee to such a cost prohibitive level. Instead the USCIS has stated that since current I-485 applicants now already "pay for the processing costs of interim benefits," (at a cost of nearly $400.00) the $580 increase in the I-485 application fee "is far less significant" than it would seem. The obvious error in this reasoning is that with the promised improvements in efficiency, the need for interim benefits will decrease with the presumably shorter adjudication period. Moreover, this rationale completely dismisses that fact that a large percentage of I-485 applicants never applied for interim benefits in the first place. Furthermore, at no point in the discussion relating to the I-485 fee increase did the USCIS state that it would grant work authorization or advance parole to travel automatically. In fact, the rule states in III(C)(5)(pp4892) that the USCIS will reserve the right to continue to use the I-131 application and the I-765 applications to process interim benefits for those cases where "delays in processing will require issuance of interim benefits." This means that the proposed rule will fail to help the USCIS become more efficient because it appears that applicants will still need to submit separate applications for interim benefits which would require that the USCIS continue to adjudicate three petitions instead of one. Therefore, the new fee will essentially charge each I-485 applicant for a work authorization and advance parole even though payment of the new fee will neither guarantee that applicants will automatically receive these benefits nor will it even increase USCIS efficiency. For this reason, the proposed I-485 fee increase is both misleading and unreasonable because it will impose an enormous burden on applicants without providing any real benefit.

B. The proposed N-400 fee will impose a cost prohibitive obstacle to immigrants who desire to apply for citizenship.

The CLINIC comment submitted by Mirna Torres published these findings: "A study by the Urban Institute found that 41 percent (2.4 million) immigrants now eligible to naturalize have incomes under 200 percent of the poverty level, including 17 percent with income under the federal poverty level. The proposed rule would increase the combined N-400 and biometrics fees from a total of $400 to $675. An immigrant working at a minimum-wage job would need to work for more than three weeks and save all of his or her earning to pay this fee." (CLINIC comment pp 2) This depiction accurately describes the client population which CCS serves. Refugees and who reach the five year mark of their permanent residence and have often worked hard to become self sufficient enough to forgo federal public assistance. Refugees limited education and English language abilities, however, often mean that they struggle to stay afloat financially which means that it is often extremely difficult for them to pay the N-400 filing fees. These clients often express their frustration about the immigration fee system because they feel that their ability to stay off the welfare roles is not rewarded. They state that it is unfair for the USCIS to continue to raise the costs associated with citizenship applications if it refuses to grant fee waivers or fee breaks to low income immigrants who have worked hard to stay off welfare. The proposed N-400 fee increase exacerbates this problem. In fact, it may even send a message to immigrants that the US government is trying to put citizenship out of the reach of low to middle income immigrants.

CCS, as a community advocate, already struggles to encourage refugees and immigrants to take the steps necessary to become U.S. citizens. CCS anticipates that the proposed rule will create another needless obstacle in the road toward citizenship, which for many refugees and immigrants is already filled with many hurdles. English language and civic education remain huge obstacles to immigrants and refugees who desire to become U.S. Citizens. Refugees, as persecuted minorities, often lack basic literacy skills in their own language and have enormous difficulties grasping constitutional concepts given their long history of persecution and torture. As a result, they often have to participate in fee based ESL/Civic education programs for several months before they feel competent enough to apply for citizenship. The proposed rule makes no attempt to address the educational hurdles faced by immigrants who wish to apply for citizenship. In fact, the proposed fee appears to be a mere arbitrary fee increase which fails to allocate any funds to USCIS community liaisons who are charged with a congressional duty to "promote the opportunities and responsibilities of U.S. citizenship" by designing and distributing materials in cooperation with community groups and "private voluntary agencies" pursuant to INA § 332 (h).

Therefore the proposed rule not only fails to improve the ability of the USCIS to promote civic education and understanding, it will make the situation worse.

3. The proposed fee waiver system discussed in section XI proposes an unnecessary and ill reasoned bar to fee waivers for most applications.

It is undisputed that there are instances in which the rejection of a fee waiver application is appropriate. The proposed rule states that currently even businesses attempt to apply for fee waivers under the current discretionary system. While it may make sense for the USCIS to bar applicants for employment based immigration benefits

from requesting that the USCIS waive the application fees; it will be unfair and unreasonable for the USCIS to impose such a ban on I-485 applicants and family reunification petitioners.

The proposed rule states that many immigrant applicants will be held to the public charge grounds of inadmissibility. The rule asserts that permitting one of these applicants to apply for a fee waiver is contrary to the very purpose of the application. The rule also states that eliminating the ability of most applicants to apply for a fee waiver will also increase processing efficiency. (see rule pp. 4912). While it may be efficient to impose such a ban it will certainly not be fair. Moreover, the list of applicants who will continue to be eligible for a fee waiver is grossly under-inclusive. In fact, it appears that the USCIS has failed to present any figures in Section XI which verify that the USCIS has undertaken a cautious and thoughtful study of the fee waiver issue. Therefore, the proposal to eliminate fee waivers for most immigration benefit applicants is clearly arbitrary and capricious.

There are two major examples of the arbitrary way in which the USCIS has imposed the fee waiver bar. First, the proposal bars all I-485 applicants from applying for fee waivers because it states that all adjustment applicants must prove that they will not become public charges. This is an obvious error because many classes of I-485 applicants are exempt from the public charge grounds of inadmissibility. Refuges and asylees are statutorily exempt from the public charge grounds. Similarly, applicants who petition for permanent residence pursuant to the Violence Against Women Act, the Cuban Adjustment Act, the Nicaraguan Adjustment and Central American Relief Act, and the Haitian Refugee Immigration Fairness Act are also exempt from the public charge ground of inadmissibility. These exemptions were granted by Congress because the populations in question were historically disadvantaged, low income, or like Cubans, refugees and asylees, would have already received direct grants of federal public assistance in recognition of their financial hardships. Therefore, it would be contrary to the clear intent of Congress for USCIS to bar these applicants from filing fee waiver applications when they apply for permanent residence.

The second major oversight made by the USCIS' proposed fee waiver ban is its inclusion of the family reunification petition. The proposed I-130 fee will nearly double under the proposed fee increase, yet the USCIS intends to forbid all I-130 applicants from filing for fee waivers. While it could be argued that I-130 sponsors will be asked to prove that they have sufficient income to ensure that their beneficiaries do not become public charges and thus should not receive fee waivers; this argument does not recognize the reality of family sponsorship. Most family sponsors face a 5-10 year wait prior to the arrival of their family member depending on visa availability. It is therefore advantageous for immigrants to sponsor family members as soon as they are eligible. Moreover, immigrants must often file more than I-130 application at a time because they have more than one family member with whom they wish to be reunited. These circumstances often necessitate that the sponsor submit a fee waiver application with his/her I-130 petition. Because the sponsor is not required to demonstrate his/her ability to support the beneficiary until the Visa becomes available (in some cases 5-10 years after the date the I-130 was submitted); the imposition of a fee waiver ban on this category of applicant would impose a needless hardship on an immigrant who will likely be eligible to support the family member when the visa for the relative becomes available.

Refugees in particular would suffer if this ban is put into effect. Many refugees whose relatives to not qualify for reunification pursuant to an I-730 application wish to file an I-130 shortly after they arrive. Most refugees do not have the capacity to support the relative on the date of filing, nor do they have sufficient resources to pay the I-130 filing fee. Because refugees apply for family members as permanent residents, they routinely wait 5-8 years before the arrival of the relative. This normally gives the refugee enough time to become self sufficient and earn enough resources to be able to file the affidavit of support when the Visa becomes available. If the proposed fee increase raises the I-130 fee to $305.00 and the USCIS bans all I-130 applicants from filing for a fee increase it would effectively bar most refugees and other similarly situated low income immigrants from filing an I-130 application. Moreover, if Congress elects to renew the INA 245(i) provision, the deadline will likely not allow most immigrants sufficient time to save to pay the new I-130 fee. Therefore, the fee waiver bar would also block the opportunity of thousands of aliens to qualify for future 245(i) relief.

Because the fee waiver bar neither addresses nor even predicts the potential problems which a few waiver bar could create for immigrant and refugee petitioners, it is clearly arbitrary and capricious and should be removed from the proposed rule.

4. The USCIS Director has failed to express a satisfactory justification for his refusal to approach Congress for allocation of additional funds to support USCIS services, therefore the USCIS this proposed fee increase amounts to an arbitrary and capricious fee increase which will overwhelm immigrant applicants and burden them with costs which would be better allocated to U.S. taxpayers via congressional appropriations.

CCS in no way wishes to imply by submitting this comment that the projected improvements in service, processing, technology and security proposed by the rule are ill devised or unnecessary. Rather, these proposals are commendable and reflect the new USCIS dedication to service and efficiency which has been welcomed and lauded by immigrant and refugee groups. In fact, immigrants and refugees are across the board more satisfied than ever before with the level of service and commitment to fairness and efficiency which USCIS has demonstrated in recent years. The proposed rule declares, however, that the USCIS must receive a large influx in cash in order for the USCIS to continue offering these types of higher quality service.

Many of these improvements were made possible by the Congressional allocations which granted beginning in FY2002 pursuant to the President's backlog elimination plan. The proposed rule, the statement of the director and the community presentations made by community liaisons have all asserted that this funding was insufficient to remedy the systemic problems which caused the backlog. In fact, this funding allowed USCIS to hire temporary staff, fund a customer service contract company to respond to customer queries and rent temporary overflow facilities. These activities helped the USCIS to achieve its goal of a 6 month processing turnaround time. This heroic effort was applauded by most immigrant groups. The proposed rule and the accompanying figures, facts and statements have made clear however, that the backlog elimination plan and the allocations provided pursuant to this plan were insufficient to address the systemic problems which created the backlog. CCS and many other legal

advocates contend that the President and the U.S. Congress have the duty to continue to allocate and appropriate funds to the USCIS until the USCIS has eliminated the root causes for the backlog. Therefore, all of the funding which the USCIS requires to make technological upgrades, staff training, increased resources for staff hiring and additional facilities should be provided by Congress not processing fees.

While the USCIS is under an executive mandate to operate primarily as a fee-based organization, Congress has expressed willingness to work with the Agency to improve services. This willingness was evidenced with the 2002 budget appropriation and the renewal of this appropriation every year for four years. Last month Congressional leaders (including Senator Barak Obama), proposed bill S795 which intends to block the proposed fee increase and provide enough appropriations (at a level which will be proposed by a new GAO study) to promote citizenship education. This bill even proposes to clarify the USCIS funding mandate by declaring that:

> (b) Sense of Congress- It is the sense of Congress that--
> (1) the Secretary of Homeland Security should set fees under section 286(m)(3) of the Immigration and Nationality Act (8 U.S.C. 1356(m)(3)), as amended by subsection (a) of this section, at a level that ensures recovery of only the direct costs associated with the services described in such section 286(m)(3); and
> (2) Congress should appropriate to the Secretary of Homeland Security such funds as may be necessary to cover the indirect costs associated with the services described in such section 286(m)(3). (Text of Bill S 795 §2 (b))

Many commentators, legal practitioners, for profit and non profit organizations have expressed willingness to lobby Congressional leaders in support of bills like S795. Sadly, the USCIS appears largely uninterested in pursuing the possibility of Congressional appropriations to help it meet its technological, infrastructural and service oriented goals. In fact, Director Gonzalez stated that: "we have a mandate that we be a self-sustaining, fee-based agency, and I have not in my conversation with Congress ever gone and asked for an appropriation. At this point I have no intention of doing so." This response is clearly inadequate given both the compelling national security needs faced by the USCIS and the willingness of Congress to provide funding to the USCIS. This irrational and unreasonable attitude undermines the very purpose of proposing this rule which is supposedly based on a study of all available sources of income for the USCIS. Therefore, the rule itself appears to be arbitrary and capricious in that is not based on a sound reasoning or analysis of all possible funding sources.

As stated in point 1 of this comment, the rule also clearly inappropriately shifts the burden of the USCIS to protect the national security from Congress to immigrant applicants themselves. As such the rule should be withdrawn until such time as the USCIS proposes and receives a level of Congressional appropriations which will allow it to permanently eliminate the processing backlog by removing the systemic inefficiencies, staff and building shortages, and out dated technology which led to the backlog in the first place. USCIS also clearly needs to evaluate what level of resources it will need to implement, maintain and efficiently administer the type of background checks which are essential to its ability to protect national security. After conducting this thorough evaluation the USCIS needs to present its findings to Congress and ask for a level of funding which will allow it to meet its national security objective. Until and unless the

USCIS makes this effort, all major increases in application fees will be arbitrary and capricious and an abuse of the discretion held by the USCIS to make a well reasoned and informed rule.

We thank you for your consideration of our comment and hope that you will seek to address the issues herein.

Most Sincerely,

Aden Batar, Director; Alyssa Williams, Immigration Attorney
Refugee Resettlement and Immigration
Catholic Community Services of Utah