



International Rescue Committee
122 East 42nd Street
New York, New York 10168-1289
212-551-3000

April 2, 2007

To: USCIS

Re: DHS Dockets No. USCIS – 2006-0044

The recommended fee increase policy is detrimental and contrary to the U.S. national interest as it will ultimately discourage and inhibit new immigrants from integrating fully into civic life and institutions. Although USCIS conducted a comprehensive fee review, the agency has not realistically considered whether immigrants, most specifically refugees and asylees, can afford the new fees. Increasing fees will likely result in fewer individuals applying for permanent residence and naturalization, thereby resulting in a miscalculation of the agency's anticipated rise in revenues. At the same time, there will be more fee waiver requests, placing additional strain on USCIS' already limited resources. Furthermore, the proposal fails to address cyclical fluctuations or 'surges' in submissions of applications to USCIS, and does not consider Temporary Protected Status (TPS) applications as a source of income and labor.

As an agency that resettles refugees and provides immigration assistance to refugees and asylees in twenty-three offices nationwide, the International Rescue Committee has first-hand knowledge of the competing demands and responsibilities that asylees and refugees must meet to support themselves and their families as new immigrants. This includes payment of travel loans¹, legal services and fees, rent and bills with income from low-paying entry-level employment in expensive cities like New York, Miami, and Los Angeles.² Asylees and refugees often face even greater challenges to assimilation in the United States including limited or no knowledge of English (or lack of literacy in any language), few marketable skills, little or no education, and lack of financial resources. With all these obstacles, they must find a way to adapt and integrate themselves into American culture and society. One of the most important steps to achieving this is gaining lawful permanent residence and ultimately citizenship, as it represents stability and security which was denied to them both in their country of origin, and during their traumatic experience of flight from oppression.

¹ The International Office for Migration provides refugees with a travel loan for the cost of transportation to the United States that refugees promise to repay.

² Salary found at <http://www.payscale.com>; Rental information is for 1 bedroom found by comparing rates at Craigslist.org. Please see Appendix A for a detailed chart.

Fee Increases for I-485s are Cost-Prohibitive and Bar Civic Integration of Asylees

a) Proposed Fee Increases are a Financial Burden to Asylees

Although refugees and asylees share a common experience and a unique set of challenges, asylees will be adversely financially impacted by the proposed dramatic increase in the cost of applying for permanent resident status, while refugees still remain exempt from application fees. Thus the proposed fee increase will force asylee families to make difficult life choices about who can/cannot apply for adjustment of status; choices no one should have to make, least of all by those who already have suffered persecution, separation and/or other traumatic loss.

For example, if the adjustment of status application fee is increased to \$905, this means that an asylee two-parent family with one child over 14 years old, living in Houston, with an average monthly income of \$2,017.78 (based on a full-time hourly wage of \$11.65), paying an average of \$781.94³ for rent plus expenses for transportation, utilities, food and clothing, would be unable to afford the \$2715 application filing fees.

By forcing family members to submit their applications for lawful permanent residence one by one as finances permit, the remaining family members are in limbo, excluded from full participation in American society. As it often takes asylees several years to rebuild their lives and become fully-integrated, prolonging the wait to become lawful permanent residents further delays the assimilation process that is crucial to their physical, mental and psycho-social well-being.

b) Implement a Family Fee Cap for All Adjustment of Status Applications

Similar to the NACARA application, USCIS should cap the fee for adjustment applications for members of a single household. This would accommodate the needs of families with dependent children, as well as low-income households. In addition, while alleviating some of the financial burden on asylee families in particular, it would not deprive USCIS of needed revenues

Streamline and Standardize the Fee Waiver Process

USCIS admits that fee waivers have increased recently, but attributes this increase to customers “avoid(ing) the rising costs of applying for a benefit or a service.”⁴ It seems only logical that as fees increase, so does the number of fee waiver requests, as fewer immigrants who wish to pursue lawful permanent residence and citizenship can afford to apply.

Additionally, underlying USCIS’ generalization is the erroneous assumption that all immigrants share identical circumstances. While some come here with financial means to pursue higher education, professional careers, and well-paid employment, others such as asylees and refugees, have risked everything and arrive with nothing. As previously stated asylees often have difficulty procuring and securing well-paid employment due to their lack of English, education and job skills; making ‘luxuries’ such as USCIS application fees often unattainable. When asylees seek fee waivers it is not

³ See 2.

⁴ USCIS Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule, Docket No. USCIS- 2006-0044, p. 90.

an attempt to avoid paying fees, but because income must be spent on basic necessities (i.e. food, shelter).

a) **Eliminating Fee Waivers for Asylee Adjustment of Status is Punitive.**

Asylees and refugees are exempt from public charge considerations when filing for lawful permanent residence. However, asylees, unlike refugees, must pay filing fees for I-485 applications. The new fee rule categorically eliminates asylees from obtaining fee waivers. In exempting asylees from the public charge criteria and allowing them to receive public benefits, the law recognizes that they deserve special consideration on account of their unique circumstances. Thus by mandating asylees to pay the adjustment of status filing fee without a waiver option is contrary to the special and humanitarian status accorded to them by law and public policy.

b) **Streamline the Waiver Process Without Restricting Application Submissions.**

To maximize efficiency and cost effectiveness, the fee waiver process should be streamlined and standardized. USCIS recognizes that adjudicating fee waivers is time consuming, but instead of restructuring and streamlining the process for easier requests and adjudication, the agency proposes to restrict availability of fee waivers to only certain application types as a way to reduce the workload. As result, this will disproportionately impact many immigrants, including asylees, making permanent residence and citizenship unattainable.

c) **Create a Standardized Fee Waiver Request Form Similar to EOIR.**

The current USCIS practice of individual affidavits in no pre-set format to support requests for fee waivers is inefficient and unfair to those with limited English and literacy, or knowledge of legal documents. USCIS should follow the Executive Office for Immigration Review (EOIR)'s example and create a standard fee waiver request form. EOIR Form-26A is a simple one-page form used to request fee waivers from the immigration court for appeals and motions.

Fee Increases Will Deter Eligible Immigrants from Naturalization

If the proposed fee increase is approved, fewer immigrants will apply for naturalization: (1) many eligible naturalization applicants cannot afford the cost so will defer applying; and (2) many who delay becoming lawful permanent residents due to the higher adjustment of status fees will further delay citizenship because of the fee increase for naturalization applications. According to the Los Angeles Times⁵, naturalization filings nationwide for the month of January 2007 increased 79% over the same month last year. Clearly anxiety over impending fee increases is motivating many to file now. For some, filing now may mean the difference between becoming a US citizen now or never, as the proposed fee increase would push naturalization out of reach for many low and middle income immigrant families.

Instead of encouraging and facilitating assimilation and integration, the fee increase for naturalization is creating roadblocks and barriers. If unable to naturalize, lawful immigrants will be prevented from actively participating in the political process and instead will become further marginalized and alienated. Unfortunately, this is a path already too familiar to refugees and asylees who have fled to the US to escape exclusion, discrimination and persecution in their homelands.

⁵ LA Times, California Requests Soar Before Big Changes, February 25, 2007.

Contingency Plans Needed for TPS and a Temporary Worker Program

a) Temporary Protected Status

The fee proposal fails to consider the effect of cyclical increases or 'surges' in applications submitted to USCIS that slows productivity and leads to processing backlogs. In fact, this issue was totally discounted in regards to TPS applications (filings, adjudication, and income derived from I-765s). Every year re-registration of TPS from Honduras, El Salvador, and Nicaragua creates recurring processing backlogs at the Chicago Lockbox. However, USCIS never has a contingency plan for the allocation of appropriate labor and resources to handle the problem. As it is both premature and unwise to assume there will be no re-designation for these countries, USCIS will once again be unprepared to process cases. As such, USCIS must act now to develop plans in anticipation of Lockbox surges.

b) Temporary Worker Program

USCIS has also failed to consider the potential effect of a Temporary Worker Program (TWP), frequently discussed as one of the components of immigration reform legislation under consideration by Congress. Should this program or any other major immigration reform be enacted, USCIS will have to rethink its operations and reassess its budget needs and capacity. In its current state, the agency is ill-prepared to handle an anticipated dramatic increase in applications for new benefits which would surely accompany any future comprehensive new immigration policy.

In conclusion, USCIS' proposed new fee structure would have a radical negative impact on the lives of refugees, asylees and other immigrants. While acknowledging the need for upgrades in infrastructure and technology, enhanced training and improved customer service, USCIS is asking immigrants and intending immigrants to assume the burden of helping it transform itself by paying astronomical fees for applications. The proposed fee increase will force low-income immigrants, most notably asylees and refugees, to make difficult choices and sacrifices. USCIS has failed to consider the long-term ramifications of this policy on these people as they strive to reconstruct their shattered lives, become full and productive members of their communities and share equally as citizens in their new homeland.

Moreover, we ask that you reverse your decisions regarding the above described matters, and request the implementation of our recommendations.

Sincerely,

Elissa Mittman Esq.
National Immigration Director

Paula Forero Esq.
Immigration Advisor

enc. Appendix A

APPENDIX A

City, State	Average Salary/Hour	Average Rent
Arlington, Virginia	\$10.66	\$1,323.60
Chicago, Illinois	\$10.50	\$797.43
Houston, Texas	\$11.65	\$781.94
Los Angeles, California	\$11.48	\$1,145.59
Miami, Florida	\$10.65	\$1267.98
Newark, New Jersey	\$11.39	\$1,045.74
New York, New York	\$12.39	\$1,115.00
San Francisco, California	\$11.60	\$1,038.16