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02 April 2007

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

SUBJECT: Federal Register Comment: USCIS Fee Increase  
CIS No. 2393-06; Docket No. USCIS-2006-0044] RIN 1615-AB53

Dear Madam or Sir:

Thank you for the opportunity to comment on this proposed regulation.

Duke University, Medical Center, and Health System comprises a major teaching and research university and teaching hospital. We grant undergraduate, graduate, and professional degrees and offer a multitude of organized, formal, and informal educational opportunities, many leading to certification or other professional or vocational recognition. We operate one of the nation's leading medical research facilities and teaching hospitals. Our university and medical facilities host numerous international students, scholars, patients, and visitors as a normal part of our daily operations.

We work cooperatively with government research facilities and with the research and development branches of businesses involved in science, medicine, technology, engineering, computing, mathematics, social sciences, and humanities. Those relationships allow us to offer a broad range of experiences and opportunities to international faculty, research scholars, students, and international visitors. We file H-1B, O-1, TN, and Lawful Permanent Resident (LPR) petitions for approximately 1,000 of our faculty, researchers, and staff, and they file related applications of their own. We have approximately 1,500 international students who may file for student-connected work permission or other benefits.

These significant fee increases will have a direct effect upon costs for our educational and research institutions and on costs for our faculty, staff, and students. The petitions and applications filed most often by educational institutions include the I-129 for H-1B, TN, and O-1, and the I-140 for LPR. We are already being forced by unreliable adjudications to pay the \$1,000 Premium Processing Service (PPS) fee. With the fee increase for the I-129B, our cost for a new H-1B filing will be nearly \$2,000, a cost that decreases the funding available for critical research or for educating the U.S. citizens who attend our colleges and universities.

**Immigration, visa, and related services to the Duke Community**  
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The petitions and applications filed most often by our faculty, researchers, staff, and students include: I-765 for F-1 students applying for optional practical training; I-485, I-131, and I-765 for LPR applicants; and I-539 for change of status to or from F or J status or change between F-1 and F-2 or J-1 and J-2.

The experience with USCIS and legacy INS is that fee increases are generally inevitable, and that simply advocating against them is not likely to be successful. We offer instead our concerns with the fee increases, the justifications, and the stated expected advantages and effects.

1. Will these fee increases really improve service and enhance security? We applaud the underlying intention to do so. We appreciate the statistical evaluations of filings that led to streamlining adjudications by bundling such frequently concomitant applications or petitions as the I-485 with the I-765 and I-131. We recall that similar reasons and solutions have accompanied previous fee increases. We have also read the USCIS Ombudsman's annual report, which demonstrates that fees for many of the filings that originate from or through educational institutions are not used to improve speed or service on those filings, but rather to subsidize other adjudications that generally do not serve the educational community. Indeed, with bispecialization and other changes, we have seen a decrease in service to a level that violates regulations in some areas. For example, those who file the I-765 and have waited 90 days with no response should be allowed to file, in person, for work permission on or after day 91. USCIS has simply discontinued the "greater than 90 days" option, claiming that it is no longer needed because EADs are being done in less than 90 days. While USCIS is issuing EADs promptly in most cases, it is not doing so uniformly or 100% of the time. When they fail to meet that goal, USCIS is, nevertheless, refusing to offer the in-person service that the regulations require. If fee income continues to be redirected for other service, then we wonder whether we will truly see improved services in the areas in which we file.
2. Will the new electronic services be sufficiently flexible, robust, and secure to serve the user community? We understand that some fee revenues will be used to build or enhance electronic services. We encourage and look forward to such services, which are expected to result in more accurate and complete filings from users and improved adjudications and appropriate privacy and confidentiality from USCIS. As an educational institution and employer filer we have experienced errors in current and previous automated systems that have resulted in lost files, misdirected notices, dropped data, mismatched information, and so on that have worked exceptional hardships on our institution and our faculty, staff, and students. An electronic system should be funded sufficiently to avoid or significantly reduce such experiences with that new system.
3. Will the electronic systems and changes in work flow and processes integrate information and services so as not to require duplications of actions by filers and to provide live services from real people? For example, if someone has paid for and accomplished the photograph and biometrics collection for one action, USCIS should ensure that the data is available for all other actions that might require it. If a case appears to be "lost in the system" or otherwise

not being processed normally, then filers should have access to knowledgeable USCIS staff who can investigate appropriately, provide useful specific information and resolve problems.

4. Will the extensive fee changes (raising, lower, adding, and eliminating) and the changes in how the fee income is distributed result in overall better service and enhanced security? To what extent can we be sure that the plans outlined in the rule will be accomplished in a cohesive and goal-oriented way? Does USCIS really control the income, or do other parts of DHS or other parts of the government have access to or authority over these funds? Considering the way in which funds are distributed per the USCIS Ombudsman's report, the representation that there is a direct relationship between the service offered and fee charged for that service would appear inaccurate. In fact, many who pay fees are paying for more than the service they receive.

We understand the need to have adequate funds not only to meet the current demand for services, but also to resource, equip, and staff USCIS for the future. We foresee expenses to university employers that may hinder their ability to hire and retain important faculty and researchers in a timely way. And we foresee financial hardships for individuals who can ill afford "up front" costs that must be paid before they are granted status that permits work.

As mentioned above, we believe that fees should reflect the true cost of service and that services provided for no fees or reduced fees should be funded from other sources more closely connected to the reasons for the reduced or no fee services.

Again, we appreciate the opportunity to comment, and we stand ready to work with USCIS to improve services, to explore alternate filing mechanisms such as e-filing, and to review and revise regulations and processes.

Sincerely yours,

Catheryn Cotten, Director  
International Office