

22 March 2007

Director
Regulatory Management Division
U.S. Citizenship and Immigration Services
Department of Homeland Security
Washington, DC 20529

Ref: DHS Docket No. USCIS-2006-0044

I am the Director of the Office of International Faculty and Staff Services at the University of Wisconsin-Madison and am writing to comment on the 1 February 2007 proposed rule "Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule." UW-Madison enrolls approximately 3,500 international students and hosts over 1,200 international faculty, academic staff and visiting scholars each year. Many are accompanied by their dependents.

The proposed fee increases represent an excessive burden on international students and scholars, as well as the educational institutions with which they are affiliated. While I understand the need to fund much needed improvements in USCIS customer service, the burden should not be placed disproportionately on the beneficiaries, many of whom have limited financial resources. UW-Madison departments, students and employees file over 1,000 petitions to the USCIS each year.

- The University employs nearly 400 internationals in H-1B, O-1 and TN status. The proposed fee increase for the form I-129 is from \$190 to \$320, a 68 percent increase. These fees are on top of the required \$500 data collection and fraud prevention fee, which is not part of the fee schedule. Either the employee or the University pays the filing fee, but the University is required to pay the additional \$500 fee, as well as the \$1,000 fee for Premium Processing. Due to excessive USCIS delays in processing petitions, we are forced to pay for Premium Processing in a large number of cases, resulting in an excessive financial burden on a state institution with limited financial resources.
- The dependents of our international employees must apply for extension of their stay on form I-539, the fee for which is proposed to increase from \$200 to \$300, a 50% increase. Since the dependents of H-1Bs, O-1s and TNs are not eligible to be employed, and the university does not pay these fees, the increase will have a severe impact on families.
- Well over half of our 850 J-1 scholars bring dependents with them, and many of those dependents apply for employment authorization on form I-765. The near-doubling of the I-765 fee, from \$180 to \$340, will have a

significant financial impact on them. Similarly, it will affect the over 500 F-1 students who apply for Optional Practical Training each year, as well as the dependents of our J-1 students.

- Each year, UW-Madison files up to 50 applications for permanent residence on behalf of our faculty and permanent academic staff. The fee increase from \$195 to \$475, 143 percent, in the I-140 immigrant petition for alien worker, as well as the near-tripling of the I-485 application fee for adjustment of status to permanent residence, from \$325 to \$905, will have a very significant impact on our international employees because the university does not pay these fees.

The proposed increase in the I-485 fee is partly offset by the fact that it is accompanied by the elimination of additional filing fees for form I-765 for work authorization and I-131 for Advance parole. However, the inclusion of those fees in the proposed new I-485 fee means that they would have to be paid by those who do not require the benefit. Virtually all of the employees for whom we file for permanent residence are in H-1B status, and the vast majority of them maintain their H-1B status throughout the adjustment of status process. Therefore, inclusion of the fees for the I-131 and I-765 in the I-485 fee represents a huge increase in fees for which they derive no benefit whatsoever.

While I understand that USCIS is permitted by law to recover the full cost of its services through fees, and indeed has no other option unless Congress appropriates funds for the operation of the agency, the fees should be calculated to recover the actual cost of processing the application or petition. Congress needs to appropriate funds to cover the costs of future improvements in technology and business processes; beneficiaries should not have to bear the burden.

Furthermore, since many of the forms serve multiple purposes, USCIS needs to give consideration to assessing different fees for the various purposes of the form. The I-765 is a prime example. The cost of adjudicating an F-1 student's request for Optional Practical Training is far less than, for example, an initial application for Temporary Protected Status. All background checks for the student have already been completed and the school has certified that the student is eligible through SEVIS. Similarly, when an I-539 for extension of stay for an H-4 dependent of an H-1B is submitted concurrently with the I-129, there is little or no adjudication required, as compared to an individual who is applying for a change from one nonimmigrant status to another.

Apart from the direct impact of the excessive fees, they are contrary to clearly expressed U.S. policies. The President, the Secretary of State, and indeed the Secretary of Homeland Security, have expressed clearly and often the high value that the United States places on attracting international students and scholars to this country. The United States reaps immeasurable benefits—for our foreign policy, our students' education, our economy, our competitiveness, and our public diplomacy—from attracting the best and

brightest minds and the next generation of world leaders to America's educational institutions.

Thank you for the opportunity to comment.

Sincerely,

Deborah Ahlstedt, Director
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University of Wisconsin-Madison