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February 21, 2007

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

Re: Proposed Rule, 8 CFR Part 103, "Adjustment of the Immigration Benefit Application and Petition Fee Schedule," Federal Register, February 1, 2007 (Volume 72, Number 21)
DHS Docket No. USCIS-2006-0044

Dear Director:

On behalf of the Massachusetts Institute of Technology and the International Scholars Office, we are writing to comment on the proposed fee increases for applications and petitions filed with United States Citizenship and Immigration Services (USCIS). MIT has one of the larger populations of international faculty and researchers in the country, with approximately 1600 international scholars in any given year and in various immigration statuses. USCIS forms, petitions and procedures are routinely used at MIT and we appreciate the opportunity to comment on related changes.

We are pleased by some of the progress USCIS has made thus far and agree with many of the goals stated in the supplementary information to the rule. However, the fee increases are too high, particularly when imposed on an entire family. In addition, there must be more accountability and more direct linkage between what people pay and the service they receive.

OFF-SET OVER-RELIANCE ON USER FEES

We understand that USCIS is working within a mandate to charge fees that will recuperate the full cost of providing special benefits to each recipient. We firmly believe, however, that increased Congressional appropriations are critical. Applicants and beneficiaries are required to bear substantial costs that are unrelated to the costs of processing their request for benefits. Increased fees are meant to recover not only the time and resources spent on a particular application but also "to provide for an adequate and sustainable level of investment in staff, infrastructure, and processes designed to improve the USCIS' ability to administer the nation's immigration laws....The proposed fee structure is designed to recover annual costs for facilities, information technology systems, business processes, and other capacities..." (p. 4893). This includes security and anti-fraud measures. While we agree with these objectives, we believe the burden of overhauling the United States immigration system infrastructure falls unfairly on the

shoulders of individual applicants and their family members. The United States needs to be willing to invest in a secure, streamlined, welcoming system.

DECREASE FEES FOR DERIVATIVE FAMILY MEMBERS

A spouse and children often accompany MIT researchers and faculty members. Fees for a change to H-1 and H-4 status and those for adjustment to permanent resident status are extremely prohibitive when added together for each family member. (The 1-129 for an H-1B: \$320; I-539: \$300 per person; I-140 petition for permanent residence: \$475; Form I-485 for adjustment of status: \$905 per person or \$805 for applicant under age 14.) We urge the Service to devise a more equitable model for derivative family members and we would argue that the time spent on these applications is a fraction of that spent on the principal's request.

IMPLEMENT ADEQUATE PLANNING AND LEAD TIME FOR ALL PROCESSING CHANGES

We agree with USCIS plans for technological and processing improvements that will yield more accurate and timely results. We urge USCIS to make changes in consultation with the applicant, business, academic, and immigration lawyer community. The Service's ambitious plan to restructure its business processes to electronic processing using a system of customer accounts was detailed in its earlier notices in the Federal Register (12/29/05). As stated in our comment letters dated February 13, 2006, we have numerous concerns with the Service's proposals (such as poorly designed forms, burdensome registration procedures, etc.). We urge the Service to fully address these concerns and those of others as it moves forward with this initiative.

In addition, it is critical that the Service Centers are adequately trained and prepared for all changes. Negative fallout from the bi-specialization initiative continues to this day. While we understand that bi-specialization was conceived as a temporary measure to reduce backlogs, the result was chaotic and burdensome. Service center personnel were not adequately trained for different workloads and were unable to handle the additional volume. Documents were lost in the process of cases being transferred from one center to another. Petitioners were burdened with incorrect notices and unnecessary Requests for Evidence. We hope that all the lessons learned from the first phases of bi-specialization will be applied before the next phase begins.

IMPROVE PROCESSING TIMES AND RESOLVE "STUCK" CASES

We appreciate work the Service has done thus far to reduce processing backlogs and wait times. We agree that going forward, this must be continued and improved upon. The proposed fees for permanent residence applications are exorbitant. Processing time for all first preference petitions must be improved. Resources must be devoted to resolving long-pending cases, particularly those involving FBI clearances. One of MIT's eminent tenure-track faculty members has been waiting nearly FOUR YEARS for approval of his pending adjustment of status case. Approval is contingent on an FBI response to the background check. Our inquiries with USCIS, the FBI and members of Congress have not yielded any progress. Clearly this case and others are simply

stuck in the system; no background check that is actively moving forward could possibly take this long to resolve. Resources must be devoted to finishing these cases.

We agree with the proposal to remove interim benefits (employment authorization and advance parole) from the fee structure. This must be accompanied by faster adjudication times so that petitioner and USCIS staff time is not wasted on multiple requests for interim benefits as well as repeated fingerprint and security check procedures. Finally, for a truly equitable and successful system, old cases must be handled before newly filed cases, and all USCIS timeframes for adjudication must indeed be met or improved upon.

MAXIMIZE THE VALUE OF BIOMETRICS

The biometric system needs to be updated and its benefits more fully realized with regard to fingerprints and photographs. For example, applicants for adjustment of status to permanent resident now await adjudication of their applications for two years or longer. They are fingerprinted early in the application process, yet once 15 months elapses they are notified that they must visit a designated center to be re-fingerprinted. This is an enormous waste of applicant and USCIS time and could be resolved by both faster adjudication times and *electronic storage of fingerprints*. We know the technology exists, as demonstrated by US-VISIT.

PROVIDE FOR ACCOUNTABILITY AND DIRECT LINKS BETWEEN EXPENDITURE AND OUTCOME

We agree that time and resources must be devoted to more streamlined processing and decreased wait times. However, the proposed fees are extraordinarily high. We ask for lower fees in the short term, and certainly in the long-term as investments in infrastructure are complete and economy of time and effort are realized. Furthermore, we urge USCIS to differentiate and protect its funds and to be held accountable. The quality of service received must match the substantial investment petitioners and applicants make. USCIS personnel and petitioners alike waste precious time with erroneous requests for further evidence (requests for evidence that was already submitted or that is not relevant to the application in question) and clerical errors (incorrect name spelling, birth date, status, start or end dates). It is a time-consuming and frustrating exercise for applicants to get simple corrections made. There also needs to be far greater consistency in the guidelines and standards used from one Service Center to the next.

CONTINUE IN A POSITIVE DIRECTION

We applaud numerous changes the Service has made in recent years. The web site provides a wealth of information and the availability of on-line forms and instructions is tremendously useful to the public. We would ask that USCIS devote attention to improving the search engine for the web site. We are tremendously appreciative that individuals may now file AR-11 electronically, and we also appreciate the ability to schedule appointments on line.

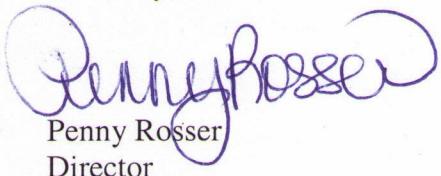
Filing Form I-140 and Form I-485 concurrently has been a great improvement and we urge the Service to maintain this procedure.

Premium processing procedures provide a “model” that should be used as an example for maximum use of technology, more streamlined adjudications of *all* petitions, and more effective, rapid communication with petitioners.

We are grateful for the Service’s numerous processing and technological enhancements and, going forward, for its commitment to upgrading facilities, adding and training staff, automating and modernizing processes, and reducing processing times.

Thank you for this opportunity to comment. Please do not hesitate to contact me at 617-253-2851 if you should have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Penny Rosser".

Penny Rosser
Director

Cc: Prakash Khatri, USCIS Ombudsman
Emilio Gonzales, Director, USCIS
Michael Aytes, Associate Director for Domestic Operations, USCIS
Rendell Jones, Chief Financial Officer, USCIS