



U.S. Citizenship and Immigration Services' Immigration Fees and Adjudication Costs: Proposed Adjustments and Historical Context

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Summary

The U.S. Citizenship and Immigration Service (USCIS) in the Department of Homeland Security (DHS) has proposed a fee schedule for immigration services that increases fees by a weighted average of 10%. Under the proposed schedule issued June 11, 2010, most fees would increase, several would decrease, and the naturalization fee would remain unchanged. USCIS has also proposed three new fees for services the agency currently performs. The proposed fee schedule results from an FY2009 USCIS fee review. It represents the agency's attempt to (1) more accurately align processing revenues with costs, (2) redistribute costs of some processing activities for which no fees can be charged, (3) impose new fees to capture costs for currently unreimbursed activities, and (4) resolve anticipated budget shortfalls.

Charging fees for federal government services has long been practiced. Such fees have usually been charged for service cost recovery only to individuals who use the service or benefit—so-called *user fees*. As immigration services grow in complexity, questions arise over what service users should pay. The user fees debate has produced two positions: (1) an agency should recover all of its costs through user fees, and (2) an agency should only recover costs directly associated with providing services. USCIS last increased its fees for immigration and naturalization services in July 2007 by an average of 88%. At that time, cost estimates by USCIS and the Government Accountability Office found that the agency's pre-2007 fee structure was insufficient to maintain proper service levels and avoid backlogs.

How USCIS should be funded remains a divisive issue. Fee increase proponents, who favor greater agency cost recovery, contend that U.S. immigration services are a "good deal" by world standards. They also feel that the cost of processing immigrant applications should not be borne by taxpayers, particularly during an economic downturn. Fee increase opponents, who favor more focused cost recovery, are concerned about detrimental impacts of fee increases on lower-income families, and further believe that the push to make the agency entirely fee-reliant in past years has increased the application backlog and promoted backlog definition changes. Concerns of fee increase proponents and opponents have acquired heightened significance with proposed comprehensive immigration reform.

USCIS obtains over 80% of its funding from fee revenue. After consistently declining from FY2003 to FY2008, the portion of USCIS's budget from appropriations increased consistently for fiscal years 2009, 2010, and 2011. In its FY2011 budget, the agency has requested additional funds to defray the cost of military naturalizations and refugee and asylee applications, thereby shifting this cost from immigration service applicants to U.S. taxpayers. Although the agency has been appropriated several hundred million dollars in the past decade, these appropriations have largely been directed toward specific projects, such as the backlog reduction initiative. Consequently, USCIS fee revenue must cover overhead and adjudication costs for the agency to operate efficiently.

Issues for Congress to consider might include how USCIS fees have been computed and justified; whether anticipated revenue from revised fees will cover agency costs; how fiscal shortfalls might be funded; and what impact higher fees might have on the applicant pool. This report will be updated this year after public comments to the proposed fee schedule are published.

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Introduction

Charging fees for government services has long been practiced in the United States by the federal government, and immigrants have had to pay inspections or admissions fees for entry into the country at least since 1903.¹ Such fees have usually been charged only to those individuals who have used the service or benefit, in order that the government may recover the cost of providing that service—so-called *user fees*.² While this principle seems straightforward, the issue of cost recovery for immigration services³ has grown more complicated in the past two decades. As immigration services take on new obligations and tasks tangentially related to services, questions have emerged concerning what users of fee-based services should be obligated to pay. These questions become especially complex for an agency based almost entirely around providing fee-based services rather than congressional appropriations. These questions are now focused on the U.S. Citizenship and Immigration Service (USCIS) in the Department of Homeland Security (DHS), which adjudicates immigration and naturalization applications.

USCIS has proposed a revised immigration application fee schedule that would increase fees by an average of 10%.⁴ Under this proposal, most fees would increase, several would decline, and the fee for naturalization would not change. In addition, USCIS has proposed several new fees. The proposed fee schedule is the result of a FY2009 USCIS fee review and represents the agency's attempt to more accurately align processing revenues with costs, redistribute costs of some processing activities for which no revenues are mandated, impose new fees to capture costs for currently unreimbursed activities and resolve anticipated budget shortfalls of \$328,000 and \$393,000 for FY2010 and FY2011, respectively.

The agency, formerly a component of the Immigration and Naturalization Service (INS), has transformed into a mostly fee-reliant agency that, until recently, had been recovering an increasing share of its costs from users.⁵ In FY2007, as the result of its first fee schedule review in eight years, USCIS increased its fees by an average of 88% for each service.⁶ At that time, the agency anticipated that eventually over 99% of the agency's budget would come directly from user fees.⁷ Yet, since then the proportion of the agency's budget covered by user fees has decreased, with an increasing budget share obtained from congressional appropriations.

¹ 32 Stat. 1213.

² According to the Office of Management and Budget (OMB), the term "user fee" applies to "fees, charges, and assessments the Government levies on a class directly benefitting from, or subject to regulation by, a Government program or activity, to be utilized solely to support the program or activity." See OMB, *Budget of the U.S. Government, FY2000, Analytical Perspectives* (Washington: 2009), chapter 18, "User Charges and Other Collections," pp. 271-285.

³ Immigration services in this report refers to the full range of services, benefits, and adjudications performed by USCIS in the course of processing immigrant applications.

⁴ Department of Homeland Security, "U.S. Citizenship and Immigration Services Fee Schedule; Proposed Rule," 75 *Federal Register* 33446-33488, June 11, 2010.

⁵ USCIS was originally named the Bureau of Citizenship and Immigration Services (BCIS) when the agency was officially created on March 1, 2003 as a part of the new Department of Homeland Security (DHS). Prior to March 1, 2003, Citizenship and Immigration Services (CIS) had been an entity within the former Immigration and Naturalization Service (INS), which was dissolved with the creation of DHS. This adjudication agency was renamed U.S. Citizenship and Immigration Services on September 1, 2003.

⁶ U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services. "Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule," *Federal Register*, vol. 72, no. 103 (May 30, 2007), pp. 29851—29873.

⁷ U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, *Fiscal Year 2008 Congressional* (continued...)

USCIS funding composition affects the agency's stakeholder composition. If agency funding becomes increasingly fee-based, Congress becomes less of a stakeholder in the agency's activities. While such a shift may be welcome financially, it challenges the extent of congressional oversight possible for an entirely fee-reliant agency. In essence, issues arise over whether the distribution of immigration services are driven by public policy or the market mechanism of agency cost recovery. Opponents of agency cost recovery contend that a fully fee-reliant agency compromises the public interest, since the agency would be accountable only to itself for its costs and expenditures.⁸ Furthermore, if costs escalate, fees could increase to prohibitive levels for some potential users.

Congress may react to the current proposed fee schedule as it did to the revised USCIS fee schedule of July 2007, with a continuum of service cost recovery advocates on one end to agency cost recovery advocates on the other (hereafter referred to as *service cost advocates* and *agency cost advocates*, respectively). Service cost advocates have called on Congress to prevent fee increases.⁹ Although they are generally not opposed to increased funding for USCIS, they wish that USCIS recover only direct service costs and otherwise request direct appropriations to offset agency costs.¹⁰ Agency cost proponents,¹¹ on the other hand, contend that subsidizing agency costs may keep fees low enough to allow some immigrants to receive immigration services who would otherwise be classified as "public charges" under the Immigration and Nationality Act (INA).¹² These proponents contend that USCIS fees represent a "good deal" by world standards¹³ and also favor relatively more thorough and defensive USCIS functioning.

The proposed fee increases may raise other issues for Members. For example, although the 2007 revised fees were based upon cost estimates showing the inadequacy of previous fees on a per application basis, questions remain over how effectively the agency expended previous direct appropriations aimed at reducing the agency's application backlog. On the subject of equity, some question whether future applicants should shoulder the cost of processing previously submitted and previously funded applications or whether uniform fees for most applicants is acceptable. A related concern is whether the applicant pool may change from a de facto selection process that filters legitimate applicants and their family members according to their financial resources.

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Budget Justifications.

⁸ U.S. Senator Barack Obama, "Obama, Gutierrez, Schakowsky Bill Would Send Immigration Fee Hikes Back to the Drawing Board," press release, March 7, 2007, p. 1. This press release was distributed in association with the introduction of the Citizenship Promotion Act of 2007 in both chambers of Congress (H.R. 1379 and S. 795).

⁹ Ibid.

¹⁰ Ibid.

¹¹ Statements by U.S. House Representatives Steve King and Daniel Lungren in U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, *The Proposed Immigration Fee Increase*, 110th Congress, 1st session, February 14, 2007.

¹² INA §212(a)(4). The term "public charge" is used in the context of drawing public benefits for low income households.

¹³ Statements by U.S. House Representative Daniel Lungren in U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, *The Proposed Immigration Fee Increase*, 110th Congress, 1st session, February 14, 2007.

USCIS Functions¹⁴

USCIS performs a variety of functions that cumulatively determine the agency's costs.¹⁵ While most costs result directly from the agency's processing functions, others such as administrative overhead result indirectly from these obligations. Of the activities listed below, administrative overhead and humanitarian functions most frequently have no associated fee.

Three major activities dominate USCIS functions: adjudication of immigration petitions, adjudication of naturalization petitions, and consideration of refugee and asylum claims and related humanitarian and international concerns. USCIS also provides a range of immigration-related services, such as employment authorizations and change-of-status petitions.¹⁶

USCIS Immigration Adjudications and Services

USCIS adjudicators determine the eligibility of immediate relatives and other family members of U.S. citizens; the spouses and children of legal permanent residents (LPR), employees that U.S. businesses have demonstrated that they need; and other foreign nationals who meet specified criteria. They also determine whether an alien can adjust to LPR status.¹⁷

USCIS Naturalization Adjudications

USCIS is responsible for naturalization, a process in which an LPR becomes a U.S. citizen if they meet certain legal requirements. Adjudicators must determine whether aliens have continuously resided in the United States for a specified period; possess good moral character and the ability to read, write, speak, and understand English; and have passed an examination on U.S. government and history. All persons filing naturalization petitions must be fingerprinted to meet required background checks.

USCIS Humanitarian Functions

This activity, located in the USCIS Office of International Affairs, adjudicates refugee applications and conducts background and record checks related to some immigrant petitions abroad.¹⁸ The largest component of this program is the asylum officer corps, a small but occasionally high-profile part of USCIS's workload, whose members interview and screen asylum applicants.

¹⁴ Portions of this subsection were authored by Ruth Ellen Wasem.

¹⁵ For analysis of the USCIS budget, see CRS Report R40642, *Homeland Security Department: FY2010 Appropriations*, coordinated by Jennifer E. Lake and Chad C. Haddal.

¹⁶ For additional discussion on USCIS's immigration-related responsibilities and organizational structure, see CRS Report RL33319, *Toward More Effective Immigration Policies: Selected Organizational Issues*, by Ruth Ellen Wasem.

¹⁷ See CRS Report RL32235, *U.S. Immigration Policy on Permanent Admissions*, by Ruth Ellen Wasem.

¹⁸ For more on refugee and asylum policy, see CRS Report RL31269, *Refugee Admissions and Resettlement Policy*, by Andorra Bruno, and CRS Report RL32621, *U.S. Immigration Policy on Asylum Seekers*, by Ruth Ellen Wasem.

Other USCIS Immigration-Related Matters

USCIS makes determinations on a range of immigration-related issues. The agency decides whether a foreign national in the United States on a temporary visa (i.e., a nonimmigrant) is eligible to change to another nonimmigrant visa. USCIS processes work authorizations to aliens who meet certain conditions and provides other immigration services to aliens under the discretionary authority of the Attorney General (e.g., aliens granted cancellation of removal by the Executive Office for Immigration Removal).

USCIS Fraud Detection and Admissibility

When adjudicating the millions of applications for immigration services each year, USCIS must confirm not only that applicants are eligible for the particular immigration status they are seeking, but also whether they should be rejected because of other legal requirements.¹⁹ USCIS established the Office of Fraud Detection and National Security at its inception in 2003 to work with the appropriate law enforcement entities to handle national security and criminal “hits” on aliens and to identify systemic fraud in the application process. Many of these duties that were formerly performed by the INS enforcement arm are now the responsibility of DHS’s Immigration and Customs Enforcement (ICE).

Administrative Overhead

In addition to the functions listed above, USCIS is currently completing a long-term project to modernize its systems and processes in an effort to improve information sharing, workload capacity, and system integrity.²⁰ Referred to as the USCIS Transformation, the project will transform the current paper-based system to an entirely digital format managed and accessed online by USCIS and users. Additionally, USCIS is responsible for the Employment Eligibility Verification (EEV) program for worksite enforcement,²¹ and is seeking to expand the program through streamlined processes and marketing initiatives.²² USCIS conducts administrative tasks that contribute to overhead costs, including database maintenance and project management. In previous years, Congress granted the agency several direct appropriations to deal with these databases, partly due to the costs associated with the projects.

Immigration Examination Fees

As part of the former INS, USCIS was directed nearly two decades ago to transform its funding structure by creating the Immigration Examinations Fee Account (IEFA) to fund the agency’s

¹⁹ CRS Report RL34007, *Immigration Fraud: Policies, Investigations, and Issues*, by Ruth Ellen Wasem.

²⁰ U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, *Fiscal Year 2011 Congressional Budget Justifications*.

²¹ For additional discussion of the EEV, see CRS Report RL33973, *Unauthorized Employment in the United States: Issues, Options, and Legislation*, by Andorra Bruno, and CRS Report R40848, *Immigration Legislation and Issues in the 111th Congress*, coordinated by Andorra Bruno.

²² U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, *Fiscal Year 2011 Congressional Budget Justifications*.

activities and operations.²³ Although the agency has been appropriated several hundred million dollars in the last decade, these appropriations have largely been directed towards specific projects such as the backlog reduction initiative. The vast majority of the agency's funding, however, comes from fee revenue for immigration services applications and petitions. For instance, the agency's FY2011 budget request includes \$386 million in direct appropriations.²⁴ The remaining \$2.4 billion of the USCIS budget is expected to be funded from collected fee revenue.²⁵ Consequently, if the agency is to operate efficiently without backlogs, fee revenue must cover overhead and adjudication costs.

Fee Increases

The proposed changes to the USCIS immigration services fee structure is the direct outcome of a fee study completed in FY2009 assessing its existing fee structure. The existing fee schedule instituted in FY2007 resulted from a similar comprehensive cost estimates of activities funded, the first since FY1998.²⁶ Currently proposed and prior fee schedule revisions stem in part from General Accountability Office (GAO) studies that have analyzed the degree to which the USCIS fee schedule corresponds to its processing costs.²⁷ The proposed changes include fee increases for most applications, fee decreases for five applications, and no fee change for naturalization petitions. On average, the proposed fee changes incorporate a weighted averaged increase of about 10%, compared with the 88% increase in fees in FY2007. The relatively modest overall proposed increases may result from a shorter time interval between the most recent and previous comprehensive fee assessments.

Notable Fee Increases

Appendix A presents current and proposed service fees and current and projected workloads. The unweighted average fee for existing services would increase 10.9% from \$570 according to the current fee schedule to \$633 under the proposed fee schedule.²⁸ Some service fees, however, are

²³ P.L. 100-459 §209. There are two other fee accounts at USCIS, known as the H-1B Nonimmigrant Petitioner Account and the Fraud Prevention and Detection Account. The funding in these accounts is drawn from separate fees that are statutorily determined (P.L. 106-311 and P.L. 109-13, respectively). Furthermore, the former fee funds are required to be paid by employers who participate in the H-1B program. The latter fees are for activities related to detecting and preventing fraud in benefit applications for initial grants of H-1B, H-2B, or L visa classification to foreign nationals. USCIS receives 5% of the H-1B Nonimmigrant Petitioner Account funding and 33% of the Fraud Detection and Prevention Account funding (the remaining portion of these funds are appropriated to other agencies for activities such as worker retraining and fraud prevention). In FY2009, the USCIS shares of funding in these accounts were approximately \$15 million and \$44 million, respectively, and these funds combined for roughly 2% of the USCIS budget. (U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, *Fiscal Year 2011 Congressional Budget Justifications*).

²⁴ U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, *Fiscal Year 2011 Congressional Budget Justifications*.

²⁵ Ibid.

²⁶ U.S. Department of Homeland Security, "U.S. Citizenship and Immigration Services, Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule; Proposed Rule," *Federal Register*, vol. 72, no. 21 (February 1, 2007), p. 4892.

²⁷ U.S. Government Accountability Office, *Immigration Application Fees: Current Fees are not Sufficient to Fund U.S. Citizenship and Immigration Services' Operations*, GAO-04-309R, January 5, 2004. See also footnote 71 and footnote 73.

²⁸ Unlike the average fee figures computed by USCIS, these average fee figures are unweighted, yielding a percentage increase between the average current and proposed fees of 10.9% instead of 10%. Like the USCIS figures, however, (continued...)

substantially higher. Fees for five petitions—the I-526, I-687, I-698, I-829, and the proposed I-924—exceed \$1,000 each, although they represent relatively low volume petitions that amount to a fraction of the total workload. Under the proposed schedule, fees for the four existing forms would increase by an average of 16.3%, from \$1,591 to \$1,850.²⁹

Among the more frequently filed petitions, Form I-485 is used for adjusting status or registering as a permanent resident and is required by all foreign nationals applying for LPR status. USCIS received 613,400 applications in FY2008/2009 and projects an application workload for FY2010/2011 of 526,000, accounting for 7.5% and 7.7%, respectively, of its total application workload. USCIS received substantial criticism in 2007 by raising the I-485 fee by 186% from \$325 to \$930. Critics argued that the fee increase significantly burdened lower income families with children who must pay the same fee for each family member.³⁰ In its proposed fee schedule USCIS has increased the I-485 application fee 6% from \$930 to \$985.

USCIS is also proposing three new fees.³¹ The first, of \$165, would recover currently unreimbursed costs incurred by USCIS that are associated with processing immigrant visas which are issued by the Department of State (DOS) in overseas consulates to foreign nationals seeking U.S. legal permanent residence. The second, of \$615, would apply to physicians who receive a civil surgeon designation that permits them to conduct medical examinations mandated by USCIS for forms I-485 and I-539. The third, of \$6,230, would reimburse USCIS for adjudicating regional center designations under the Immigrant Investor Pilot Program. According to USCIS, such designations, which permit foreign investors to obtain LPR status for capital investments that create jobs in distinct economic regional centers are labor-intensive, and their associated costs have up to now been absorbed into USCIS overhead costs.

In addition, USCIS proposes to collect an unspecified fee for employment authorization applications and related biometric services from aliens who have been granted deferred enforced departure (DED).³² DHS will first clarify its authority to process and collect such charges by proposing to remove an extraneous provision from the employment authorization regulations that granted such authority to the Attorney General but was superseded by provisions in the Immigration Act of 1990.

Finally, in response to feedback over the 80% fee increase in 2007 and in light of the unique act of requesting and receiving U.S. citizenship, USCIS has exempted the N-400 Application for

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they exclude the three new fees proposed by USCIS for FY2010/2011.

²⁹ Forms I-526 and I-829 pertain to “initial application of an alien entrepreneur” and “removal of conditional status on an alien entrepreneur’s legal permanent residence (LPR) classification,” respectively. Proposed form I-924 would be required for applications for Regional Centers under the Immigrant Investor Pilot Program. These applicants must invest at least \$1 million in a U.S.-based enterprise (\$500,000 for targeted areas) to qualify for entry as an alien entrepreneur. Form I-687 petitions for status as a temporary resident, and form I-698 petitions to adjust from temporary to permanent status. For additional information on alien entrepreneurs, see CRS Report RL33844, *Foreign Investor Visas: Policies and Issues*, by Alison Siskin and Chad C. Haddal.

³⁰ Letter from American Immigration Lawyers Association, to the Director of the Regulatory Management Division, USCIS, April 1, 2007, at <http://www.bibdaily.com/pdfs/AILA%20fee%20comment%204-1-07.pdf>.

³¹ Department of Homeland Security, “U.S. Citizenship and Immigration Services Fee Schedule; Proposed Rule,” 75 *Federal Register*, June 11, 2010, pp. 33456-33457.

³² DED is similar to Temporary Protected Status (TPS), in that it temporarily protects aliens of specific countries from removal. It differs from TPS in that the President of the United States, rather than the Secretary of Homeland Security, designates the countries.

Naturalization from any proposed fee increase. Such a policy is consistent with USCIS's policies promoting citizenship and immigrant integration³³ but it requires that commensurate cost increases for processing naturalization applications be allocated to other immigration services applicants. In lieu of a model-based fee computed using USCIS's costing methodology used for most of its other fees, which would have increased the current \$595 fee to \$655, and given estimated application volumes for FY2010/2011, USCIS estimates an average impact of \$8 on the rest of its fee paying volume.³⁴

Projected Workload

Total workload volume for USCIS is projected to decline by 6% from 5,059,579 in FY2008/2009 to 4,772,331 in FY2010/2011 (see **Appendix A**). The projected decrease is 17% if one includes biometric services. Principal changes in volume between FY2008/2009 and FY2010/2011 include increases for Forms I-131 (117,255) and I-751 (40,000) and declines for Forms I-485 (87,400), I-765 (263,000), N-400 (40,826) and biometric services (1,106,153).

Background

Since the passage of the Immigration and Nationality Act of 1952 (INA),³⁵ immigration statutes have prescribed a number of fees for certain government services.³⁶ Furthermore, under a general "user" statute in Title V of the Independent Offices Appropriations Act of 1952,³⁷ government agencies were authorized to charge fees for services they performed. Legislation in 1968 removed the enumeration of statutory fees under the INA,³⁸ and subsequently immigration fees were prescribed in regulations under the authorization of the latter "user" statute.³⁹

Following the 1968 legislation, the INS continued to periodically adjust fees as it deemed necessary.⁴⁰ However, more concerted efforts towards making the adjudication functions of the INS more fee-reliant began during the second term of the Reagan Administration. At the same time that Congress passed the Immigration Reform and Control Act of 1986 (IRCA),⁴¹ which included a legalization program for certain unlawfully present aliens, the INS decreased fees for

³³ USCIS Office of Citizenship Vision and Mission at <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnnextoid=a5e314c0cee47210VgnVCM100000082ca60aRCRD&vgnextchannel=a5e314c0cee47210VgnVCM10000008>.

³⁴ USCIS also receives Temporary Protected Status (TPS) fee revenue but, because of its sporadic occurrence, exempted it and related costs from the agency's long-term fiscal and management planning. Hence, proposed fees are based on the discontinuance of the TPS Program and its associated fee revenue.

³⁵ P.L. 82-414.

³⁶ According to 31 U.S.C. 1301(a), government agencies cannot spend appropriated funds for purposes other than those indicated in the appropriation legislation.

³⁷ P.L. 82-137, 31 USC §9701.

³⁸ P.L. 90-609.

³⁹ Charles Gordon, Stanley Mailman, and Stephen Yale-Loehr, *Immigration Law and Procedure*, vol. 1, §3.25[1] (Matthew Bender, Rev. Ed.).

⁴⁰ Prior to the recently published proposed fee schedule, USCIS underwent at least 14 revisions of its fee schedule. While some of these revisions were due to cost assessments, others were minor inflation adjustments. These fee schedule revisions occurred in 1969, 1976, 1978, 1983, 1986, 1987, 1991, 1994, 1995, 1998, 1999, 2001, 2004, and 2005.

⁴¹ P.L. 99-603.

stays of deportation,⁴² but increased the fees for certain other deportation related motions. In the publication of the final fee schedule after passage of IRCA, the agency stated that it believed it was legally required to recover all of its costs for services it provided.⁴³ The 1987 amendment to the fee schedule added fees for the legalization program under IRCA, and despite opposition to the \$185 filing fee, the INS maintained that the charge was necessary to ensure that the program was self-funding.⁴⁴ In 1988, Congress mandated the creation of the Immigration Exam Fee Account (IEFA) in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1989,⁴⁵ such that the funding for the legalization fees could be isolated. These fees would then be available to the INS to recover any costs associated with providing immigration services. The Chief Financial Officers Act of 1990⁴⁶ implemented the requirement that a federal agency perform biennial fee reviews to determine the full cost of providing fee-based services.⁴⁷

Following the passage of the Immigration Act of 1990,⁴⁸ the INS experienced a period of unprecedented growth in applications and petitions for immigration services.⁴⁹ This growth was further compounded in 1995 when approximately 3 million individuals who had legalized under IRCA became eligible to naturalize.⁵⁰ At roughly the same time, the GAO released a report on the financial practices of the INS.⁵¹ It found that the INS had inadequate controls over its fee funding and was vulnerable to fraud and other abuses. GAO also found that despite a large increase in fee funding, the agency suffered from inadequate service processing times and weak leadership and management.⁵² The INS responded to this report through centralization initiatives within the bureau and by stating that the new fee schedule of 1991 would reduce the growing applications backlog.⁵³ Yet, by 1993 concern among observers had grown that the increasing fees were not

⁴² In present terms, a “stay of deportation” is referred to as a “cancellation of removal.” These changes occurred with passage of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. (P.L. 104-208, 110 Stat. 3009).

⁴³ In its publication of the revised 2007 schedule, the INS stated: “The INS and the EOIR believe it is clear that 31 U.S.C. 9701 and OMB Circular A-25 require Federal agencies to establish a fee system in which a benefit or a service provided to or for any person be self-sustaining to the fullest extent. We believe arguments to the contrary are wholly without merit. Fees are neither intended to replace nor to be influenced by the budgetary process and related considerations, but instead, to be governed by the total cost to the agency to provide the service. A policy of setting fees on any basis other than cost would violate this principle.” (U.S. Department of Justice, Immigration and Naturalization Service, “8 CFR Part 103,” *Federal Register*, vol. 51, no. 213 (November 4, 1986), pp. 39993-39994).

⁴⁴ Charles Gordon, Stanley Mailman, and Stephen Yale-Loehr, *Immigration Law and Procedure*, vol. 1, §3.25[1] (Matthew Bender, Rev. Ed.).

⁴⁵ P.L. 100-459.

⁴⁶ P.L. 101-576.

⁴⁷ Prior to the review of 2005, the most recent examination fee review had been performed by the Department of Justice for the INS in FY1999.

⁴⁸ P.L. 101-649.

⁴⁹ For additional analysis of immigration trends and legislation, see CRS Report RL32235, *U.S. Immigration Policy on Permanent Admissions*, by Ruth Ellen Wasem.

⁵⁰ In response to the growth in naturalization applications, the INS launched an initiative called Citizenship USA, which had the explicit goal of reducing the naturalization backlog and naturalize eligible applicants within six months of submitting an application. According to GAO, the program experienced numerous quality and integrity problems, and resulted in some ineligible applicants receiving citizenship. (U.S. Government Accountability Office, *Immigration Benefits: Several Factors Impede Timeliness of Application Processing*, GAO-01-488, May 2001).

⁵¹ U.S. Government Accountability Office, *Immigration Management: Strong Leadership and Management Reforms Needed to Address Serious Problems*, GAO/GDD-91-28, January, 1991.

⁵² *Ibid.*

⁵³ Testimony of INS Commissioner Gene McNary, in U.S. Congress, House Committee on the Appropriations, (continued...)

producing the promised performance results, and some critics asserted that the INS was using a portion of funds from the IEFA for enforcement activities rather than adjudication services.⁵⁴

Between 1993 and 2001, the INS continued to come under fire for not meeting its service obligations, despite increases in funding from fees and appropriations.⁵⁵ Many observers suspected that the INS was using a portion of its immigration services collections to fund non-service activities such as border security and interior enforcement. As a result of this suspected interweaving of service and non-service funding, there was a significant push to separate the service and enforcement functions of the INS.⁵⁶ These efforts resulted in a series of recommendations made by the U.S. Commission on Immigration Reform (Commission).⁵⁷ In its report, the Commission recommended that the INS be dismantled and the adjudication and enforcement functions be divided up between the Department of State (DOS) and DOJ, respectively.⁵⁸ The Clinton and Bush Administrations, however, categorically rejected the proposal of INS dismantlement, and instead pushed for internal reforms.⁵⁹

Subsequent to the terrorist attacks of September 11, 2001, Congress decided to formally separate the enforcement and adjudication functions. With the passage of The Homeland Security Act of 2002 (HSA),⁶⁰ Congress dissolved the INS and established USCIS, a new immigration adjudication agency, within the newly formed DHS.⁶¹ INS did attempt to increase its fees in FY2003 to cover certain additional costs related to security checks, but DOJ did not act upon the request due to the upcoming transition of immigration functions from DOJ to DHS.⁶² Since created, USCIS has been largely dependent upon fees to fund its services, with direct appropriations provided mainly for temporary special projects such as the backlog reduction initiative.

(...continued)

Subcommittee on Commerce, Justice, State, and the Judiciary Appropriations, *Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations for 1992*, 102nd Congress, 1st session, March 18, 1991.

⁵⁴ Testimony of Theodore Ruthizer, president of the American Immigration Lawyers Association, in U.S. Congress, House Committee on Government Operations, Subcommittee on Information, Justice, Transportation, and Agriculture, *Immigration and Naturalization Service: A Mandate for Change*, 103rd Congress, 1st session, March 30, 1993.

⁵⁵ For example, GAO issued another report which found that despite making some progress, the INS had yet to adequately resolve many longstanding management issues. (U.S. Government Accountability Office, *INS Management: Follow-up on Selected Problems*, GGD-97-132, July 1997).

⁵⁶ For further discussion, see CRS Report RL30257, *Proposals to Restructure the Immigration and Naturalization Service*, by William J. Krouse, available upon request; and CRS Report RL31388, *Immigration and Naturalization Service: Restructuring Proposals in the 107th Congress*, by Lisa M. Seghetti, available upon request.

⁵⁷ U.S. Commission on Immigration Reform, *Becoming an American: Immigration and Immigration Policy*, report to Congress, Executive Summary, September 1997.

⁵⁸ *Ibid.*, pp. XL-LVIII.

⁵⁹ CRS Report RL30257, *Proposals to Restructure the Immigration and Naturalization Service*, by William J. Krouse, available upon request.

⁶⁰ P.L. 107-296.

⁶¹ For discussion on USCIS organizational issues, see CRS Report RL31388, *Immigration and Naturalization Service: Restructuring Proposals in the 107th Congress*, by Lisa M. Seghetti, available on request, and CRS Report RL33319, *Toward More Effective Immigration Policies: Selected Organizational Issues*, by Ruth Ellen Wasem.

⁶² U.S. Government Accountability Office, *Immigration Application Fees: Current Fees are Not Sufficient to Fund U.S. Citizenship and Immigration Services' Operations*, GAO-04-309R, January 5, 2004, p. 22.

GAO's Investigations

The 2002 HSA required that GAO report on whether USCIS could derive sufficient funds from fees to carry out its functions without directly appropriated funds⁶³ and stipulated that USCIS should ultimately fund the entire cost of its services from fees.⁶⁴ In 2004, GAO released a report on fee-based funding and processing costs of INS services for FY2001-2003.⁶⁵

GAO found then-current USCIS fees insufficient to cover the services' entire operation because the fee schedule, based upon an outdated fee study, did not account for additional processing requirement costs that developed in the interim. GAO's cost analysis showed that \$458 million, or approximately 11.4% of total operating costs were not covered by fee collections during the three year period examined.⁶⁶ During this same period, Congress provided annual direct appropriations to INS, approximately \$441 million of which was used for administrative and overhead costs.⁶⁷

GAO also determined that USCIS lacked an effective strategy for reducing processing times to an average of six months,⁶⁸ or reducing the backlog of pending applications.⁶⁹ GAO recommended that USCIS undergo a comprehensive fee study to determine the cost of processing new immigration applications, and that the agency determine the cost of eliminating its application backlog. USCIS generally agreed with GAO's recommendations and performed a comprehensive fee study which served as the justification for the revised fee schedule of 2007.

Since the revised 2007 fees were enacted, GAO has undertaken additional studies related to USCIS fees and operations. In 2008, it issued an over-arching design guide to assist federal agencies that implement user fees.⁷⁰ In addition to providing guidelines on setting, collecting, and using user fees, the report recommends regular substantive fee reviews. USCIS indicated it intended to use these guidelines in future fee reviews.⁷¹

In 2009, GAO examined the USCIS 2007 fee design process and took issue with the agency on several points.⁷² First, it faulted the agency for failing to conduct analyses needed to fully inform Congress and other stakeholders on certain activities. As an example, GAO noted that the "premium processing" fee of \$1,000 instituted in FY2001 and charged for expediting employment based applications is being used for "business process and technology

⁶³ P.L. 107-296, § 477(d)(3).

⁶⁴ P.L. 107-296, § 457.

⁶⁵ U.S. Government Accountability Office, *Immigration Application Fees: Current Fees are Not Sufficient to Fund U.S. Citizenship and Immigration Services' Operations*, GAO-04-309R, January 5, 2004.

⁶⁶ *Ibid.*, p. 13.

⁶⁷ *President's Budget Request* for FY2002 through FY2004.

⁶⁸ As part of a presidential directive on processing time, the agency has as a goal to reducing the processing time of all immigration services to six months or less. (Remarks by the President at INS Naturalization Ceremony (July 10, 2001), at <http://www.whitehouse.gov/news/releases/2001/07/20010710-1.html>).

⁶⁹ The applications backlog was addressed further in a subsequent study by GAO, which found that USCIS had reduced significant portions of its backlog by introducing criteria to redefine "backlogged" applications as "pending." (U.S. Government Accountability Office, *Improvements Needed to Address Backlogs and Ensure Quality of Adjudications*, GAO-06-20, November 2005).

⁷⁰ U.S. Government Accountability Office, *Federal User Fees: A Design Guide*, GAO-08-386SP, May 29, 2008.

⁷¹ U.S. Government Accountability Office, *Federal User Fees: Additional Analyses and Timely Reviews Could Improve Immigration and Naturalization User Fee Design and USCIS Operations*, GAO-09-180, January 23, 2009.

⁷² *Ibid.*

improvements, leaving non-premium processing fee-paying applicants to shoulder the cost of the premium processing program.” Second, GAO faulted the agency for not creating a reserve balance to ensure operational continuity in the event of declining application revenue. Third, GAO cited insufficient documentation to determine whether or how the agency would address shortcomings found in the 2007 fee review. Fourth, GAO expressed concerns about USCIS’s inability to formulate more effective workload projection methods for addressing workload management. Projections do not account for consistent monthly fluctuations and are not shared with USCIS contractors to assist them with application volume spikes. USCIS generally agreed with GAO’s recommendations and specifically agreed to improve its projection methods and tailor them to each USCIS Service Center.

In another 2009 report, GAO critiqued USCIS’s cost accounting methods which the agency employed for its revised 2007 fee schedule.⁷³ Allowing for agency flexibility when applying federal accounting standards, GAO faulted USCIS for not providing sufficient documentation and justification to adequately explain its overhead cost allocation decisions (without actually faulting the decisions themselves). GAO also noted several accountability mechanisms USCIS had instituted to improve its accounting and financial controls while making additional recommendations in this regard. In response to the GAO report, USCIS described in detail the degree to which it had provided documentation and allowed public review of its methods and models for computing revised fees. USCIS generally agreed with GAO’s recommendations for making its fee determination methods and cost assignments consistent with federal accounting standards.

Anticipating USCIS’s proposed fee structure, GAO used USCIS fee schedule review to illustrate challenges facing government agencies wishing to institute or revise user fees in a 2010 report.⁷⁴ GAO identified four criteria that agencies typically use to evaluate user fees: equity, efficiency, revenue adequacy, and administrative burden. The report described how USCIS decided on its fees for each petition in accordance with the four criteria noted and indicated that USCIS had transparently analyzed its fee structure and clearly identified specific trade-offs. However, GAO faulted the agency for not identifying costs directly related to services with statutorily-set fees such as premium processing. Although the agency felt it unnecessary to identify such costs because of its inability to alter the associated fee, the lack of information limits its and Congress’s decision-making ability. Moreover, GAO expressed concerns that USCIS, as a mostly fee-funded agency, had not established a reserve fund to ensure operational continuity in the face of declining fee collections.

Costs and Processing

While specific costs of USCIS’s various activities remains unclear, adjudicating applications or petitions account for most of the agency’s costs. Related tasks include public information, biometric capture, intake operations, interagency border inspection system checks, record reviews, status determinations, fraud detection and prevention, and document issuance. In recent years, USCIS has come under scrutiny for weak cost assessments and inefficient processing

⁷³ U.S. Government Accountability Office, *Immigration Application Fees: Costing Methodology Improvements Would Provide More Reliable Basis for Setting Fees*, GAO-09-70, January 23, 2009.

⁷⁴ U.S. Government Accountability Office, *Federal User Fees: Fee Design Characteristics and Trade-Offs Illustrated by USCIS’s Immigration and Naturalization Fees*, GAO-10-560T, March 23, 2010.

performance. In its 2004 report, GAO linked processing under-performance directly to the agency's insufficient cost recovery. USCIS accepted this conclusion and has been actively engaged in accurately assessing its costs—a process that resulted in revised fee schedules for FY2007 and the one currently proposed. CRS has analyzed USCIS data to verify the agency's cost claims associated with immigration services, described below.

Variance in Processing Costs

How well do specific USCIS fees match the corresponding processing costs? To address this question, CRS correlated current USCIS immigration services fees with FY2008/FY2009 processing times, workload receipts, and completion rates as well as the proposed USCIS fees with anticipated FY2010/FY2011 processing times, anticipated workload receipts, and current completion rates.⁷⁵ CRS found that current USCIS fees correlate positively and strongly with current completion rates, and that the proposed USCIS fees correlate positively and very strongly with current completion rates, suggesting that the FY2009 fee review upon which proposed fee changes are based has helped USCIS more precisely align its costs with its proposed fee structure.

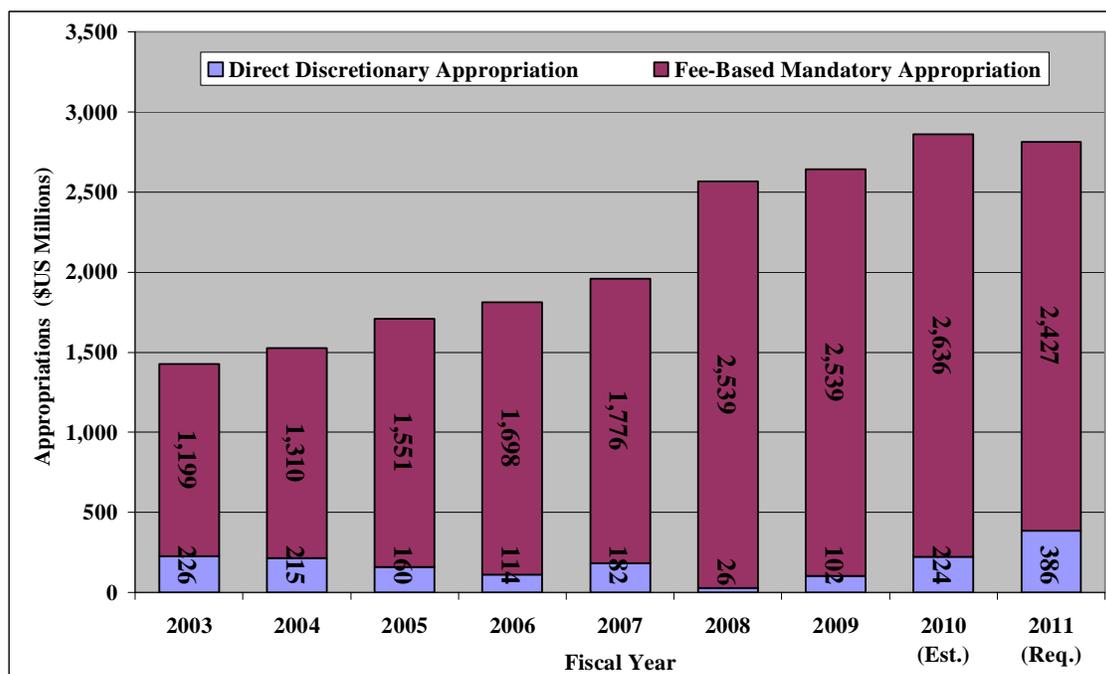
Workload receipts, on the other hand, do not correlate with fees, either for current fees and current workloads or for the proposed fees and anticipated workloads for FY2010/2010. The same lack of correlation exists for processing times and fees. This suggests that the proposed fees far more accurately reflect USCIS costs than either applicant waiting times for USCIS immigration services or immigration services demand, as measured by USCIS workloads.⁷⁶

Funding and Appropriations

In the push to make USCIS an entirely fee-based agency, USCIS requested and Congress appropriated decreasing direct appropriations for USCIS activities from the agencies inception through FY2008, a trend that then reversed beginning in FY2009 (**Figure 1**). The President's FY2011 budget request proposes direct appropriations that are higher in absolute terms than all previous years and also represents 13.7% of the total budget, comparable to 15.9% and 14.1% for FY2003 and FY2004, respectively. The \$1.6 billion in total direct appropriations during this time period (plus an additional \$24 million transferred to other accounts) have largely been dedicated towards backlog reductions and other special USCIS projects, according to USCIS officials. To date, approximately \$574 million of discretionary funds have been received specifically for the backlog reduction initiative. Furthermore, **Figure 1** demonstrates that while the proportion of discretionary appropriations to the total appropriated amount has first declined and more recently increased, mandatory appropriations from fee-based collections have increased consistently, from \$1.4 billion in FY2003 to \$2.9 billion in FY2010. The FY2011 USCIS budget represents the first decline since the agency was established.

⁷⁵ Completion rates, as termed by USCIS, are not actually rates but rather the average estimate of hours USCIS immigration officers require to process a given benefit request. In contrast, processing times represents the total amount of time in months that applicants and petitioners can expect to wait for their requests to be fully processed by the agency once submitted to USCIS.

⁷⁶ As of December 2009 there were seven immigration benefit applications with distinctly disproportionate processing times averaging over 10 months: Forms I-687, I-690, I-695, I-698, and N-470 (**Appendix B**). These applications constitute less than 0.1% of the CY2009 workload. These applicants are unlikely to face immediate removal, violate their status due to pending applications, or have to apply for continuing services.

Figure I. USCIS Appropriations by Type, FY2003-FY2011

Source: CRS presentation of data from the President's Budget Request for FY2003 through FY2011.

Note: The numbers used for FY2003-FY2009 are actual figures. The amount for FY2010 is estimated. The amounts for FY2011 reflect requested funds. The total requested amount for FY2011 was \$386 million. FY2004 appropriations do not reflect an additional \$20 million in discretionary appropriations funds that were transferred to other accounts.

USCIS's \$386 million appropriation request for FY2011 includes \$207 million for processing asylum and refugee applications and military naturalizations. Currently, these expenses are funded by a surcharge on most other USCIS applications.⁷⁷ The inclusion of this budget item reflects an attempt in the current budget to remove this surcharge and shift costs not directly related to application processing costs to congressional allocations. Similarly, the FY2011 budget proposes to eliminate fee-based financing for USCIS's Office of Citizenship.⁷⁸

Funding Projections

USCIS projects total application workload volume and associated revenues based on which applicants pay fees or receive exemptions. According to **Appendix A**, application workload volume, less biometric services, is expected to decline 6% from 5,059,579 applications in FY2008/2009 to 4,772,331 applications in FY2010/2011. While USCIS makes such projections using sophisticated modeling techniques and a broad range of macro-level time series model data as well as anticipating filing trends and events that may influence volume, final tallies will

⁷⁷ U.S. Department of Homeland Security, "U.S. Citizenship and Immigration Services, Fee Schedule; Proposed Rule," *Federal Register*, vol. 75, no. 112 (June 11, 2010), pp. 33455-33456.

⁷⁸ U.S. Department of Homeland Security, *FY2011 Budget in Brief*, p. 123.

ultimately be influenced by political and economic factors, such as the struggling economic environment.⁷⁹

Table 1. Estimated Costs and Funding from Actual FY2009 and Projected FY2010 Fee-Paying Applicants

Calculation	Fee Revenues (in millions)	Change from FY2008/2009	Processing Costs (in millions)	Change from FY2008/2009
Revenues from FY2008/FY2009 fee-paying volumes with existing fee structure	\$2,573	N/A	\$2,573	N/A
Funding from projected fee-paying volumes for FY2010/2011 with existing fee structure	\$2,231	-13.3%	\$2,237	-13.0%
Revenues from projected fee-paying volumes for FY2010/2011 with proposed new fees	\$2,457	-4.5%	\$2,237	-13.0%

Sources: CRS analysis of USCIS data.

Notes: Figures presented are estimates derived by multiplying application volumes by associated fees and costs. Projected funding in the table does not include fees submitted to the H-1B Nonimmigrant Account or the Fraud Prevention and Detection Account, or premium processing fee revenue. Processing activity costs do not include fee waiver and exemption costs or the asylum and refugee costs.

Figures presented in **Table 1** suggest that based upon its own data and CRS's computations, USCIS fee revenues matched its costs in FY2009. In FY2010/2011, under the current fee structure, processing costs are expected to exceed fee revenues by roughly \$6 million, while under the proposed fee structure, fee revenues would exceed processing costs by \$220 million. While these figures suggest that USCIS might recoup almost all of its costs from fees, the figures do not include any increases in the cost of processing as well as declines in revenue sources that compensate for any lack of fee revenue from certain applications such as military naturalizations.

Historical Perspectives

Congress has expressed concerns over immigration petition processing for decades, and Members may question whether the proposed fee structure will remedy the challenges facing USCIS. Two concerns are likely to emerge: (1) the effect of previous fee increases on workloads (also known as the elasticity of demand),⁸⁰ and (2) general USCIS workload trends over time. The analysis below of each factor illuminates potential impacts of a fee increase by illustrating effects of prior fee increases.

⁷⁹ CRS communication with Richard French and Paul Powell, USCIS, on April 21, 2010.

⁸⁰ The elasticity of price on demand is a concept within economic theory that measures the responsiveness of a change in demand for a good or service to a change in price. Using this measure, economists may determine how changing the price of a good or service changes the demand for that good. Goods and services whose percentage change in demand for quantity of the good are *greater* than the percentage change in the price of that good are said to be "elastic." Alternatively, goods and services whose percentage change in demand for quantity of the good are *less* than the percentage change in the price of that good are said to be "inelastic."

Previous Fee Increases

USCIS has significantly increased its most common fees three times—1998, 2004, and 2007—in just over a decade (**Table 2**). Other relatively minor fee increases during this period reflected inflation adjustments.⁸¹ The FY1998 and FY2004 fee adjustments stemmed from a cost review in FY1998 while that for FY2007 was based on a FY2006 cost review.⁸² All three warrant further examination.

After the fee review implementation of FY1998, the total immigration services workload increased 62%, from 4.5 million initial receipts in FY1998 to 7.3 million in FY2001.⁸³ Following the FY2004 fee increase, the workload increased by 14%, from 5.3 million in FY2004 to 6 million in FY2006. However, between FY1998 and FY2002, when fee increases were significantly smaller, receipts for immigration services initially increased to a peak level of 7.3 million in FY2001, before decreasing to a level of 6.3 million in FY2002. In FY2009, the most recent year for which data are available, application receipts for immigration services (not including biometric services) amounted to 5.06 million. While prior fee increases took place in the context of an increasing USCIS application workload, the fee schedule of FY2007 has since been associated with a declining workload. Hence, given the number of factors affecting workload volume, the relationship between fees and workload remains unclear.

Table 2 compares USCIS service fees across time for the six most popular applications—Forms I-90, I-129, I-130, I-485, I-765, and N-400—that registered more than 400,000 initial receipts in FY2009.⁸⁴ In FY2009, these six applications accounted for 4.03 million or 80% of the fee-based applications processed by USCIS, excluding fees for capturing biometric information.⁸⁵ In FY2010, the same proportion for these six forms is expected to be 75%. Any fee changes on these particular forms alone will affect a significant proportion of applicants, even accounting for concurrent applications.

Table 2. Selected Historical Immigration Services Application Fees

Form	FY 1994 Fee	FY 1998 Fee	% diff.	FY 2002 Fee	FY 2004 Fee	% diff.	FY 2006 Fee	FY 2007 Fee	% diff.	FY 2007 Fee	Proposed Fee	% diff.
I-90	\$75	\$110	47%	\$130	\$185	42%	\$190	\$290	53%	\$290	\$365	26%
I-129	\$75	\$110	47%	\$130	\$185	42%	\$190	\$320	68%	\$320	\$325	2%
I-130	\$80	\$110	38%	\$130	\$185	42%	\$190	\$355	87%	\$355	\$420	18%
I-485	\$130	\$220	69%	\$255	\$315	24%	\$325	\$930	186%	\$930	\$985	6%
I-765	\$70	\$100	43%	\$120	\$175	46%	\$180	\$340	89%	\$340	\$380	12%

⁸¹ *Ibid.*

⁸² U.S. Department of Homeland Security, "U.S. Citizenship and Immigration Services, Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule; Proposed Rule," pp. 4891-4892.

⁸³ *Ibid.*, pp. 4888-4915.

⁸⁴ The specific forms each registered volumes exceeding 400,000, a clear cut-point in the projected workloads for FY2010/2011. For those projected workloads, 400,000 applications represents 8.4% of the fee-paying application total, not including biometrics.

⁸⁵ Capturing and processing biometric information is not included in the workload totals presented in the analysis of this report, except where specifically noted.

Form	FY 1994 Fee	FY 1998 Fee	% diff.	FY 2002 Fee	FY 2004 Fee	% diff.	FY 2006 Fee	FY 2007 Fee	% diff.	FY 2007 Fee	Proposed Fee	% diff.
N-400	\$95	\$225	137%	\$260	\$320	23%	\$330	\$595	80%	\$595	\$595	0%
Avg.	\$88	\$146	63%	\$171	\$228	37%	\$234	\$472	94%	\$472	\$512	11%

Sources: CRS presentation of USCIS data which are available in U.S. Department of Homeland Security, "U.S. Citizenship and Immigration Services, Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule; Proposed Rule," *Federal Register*, vol. 72, no. 21 (Feb. 1, 2007), pp. 4888-4915 and Department of Homeland Security, "U.S. Citizenship and Immigration Services, Fee Schedule; Proposed Rule," *75 Federal Register*, Vol. 75, no. 112 (June 11, 2010), pp.33446-33488.

Notes: Form I-90 is the Application to Replace Permanent Resident Card; Form I-129 is the Petition for a Nonimmigrant Worker; Form I-130 is the Petition for Alien Relative; Form I-485 is the Application to Register Permanent Residence or Adjust Status; and Form I-765 is the Application for Employment Authorization.

Figures in **Table 2** suggest that fee increases included in the proposed fee schedule are less than prior fee increases, in absolute and percentage terms, for the most popular applications. Average figures at the bottom of **Table 2** show that USCIS fees for the six most frequently used application forms increased 63%, 37%, and 94% following the fee schedule revisions of 1998, 2004, and 2007, respectively. Given the more modest percentage increases of 1998 and 2004, it is not surprising that the 2007 fee schedule aroused the degree of concern it did. The FY2006 fee review leading to fee increases in FY2007 followed the 2004 fee increases just three years earlier, but it clearly tied fees to USCIS processing costs more comprehensively than in prior years. In its 2009 report⁸⁶ GAO recommended more frequent fee reviews to reduce the need for disproportionately large increases, an approach that appears to have yielded the intended result with the proposed fee schedule.

Although fee increases represent a potential financial hardship for some applicants, these figures imply that past fee increases had relatively little impact on aggregate demand for immigration services although one cannot infer how individual potential applicants responded on average. Patterns of initial receipts suggest greater applicant responsiveness to external macro-level factors, such as terrorist attacks (e.g., September 11, 2001) or natural disasters (e.g., the 2010 Haitian earthquake).⁸⁷ Variation in the level of immigration services applications likely stems from a complex interaction of push-pull factors of potential immigrants with international events.

Historical Workloads

USCIS's workload fluctuates considerably each year. **Figure 2** depicts initially received, pending, and completed applications.⁸⁸ (Raw data are shown in **Appendix C**). The figure further

⁸⁶ United States Government Accountability Office. *Federal User Fees: Additional Analyses and Timely Reviews Could Improve Immigration and Naturalization User Fee Design and USCIS Operations*, GAO-09-180, January 2009.

⁸⁷ Historical data show that the application rate for immigration services dropped immediately following the terrorist attacks of September 11, 2001. Conversely, subsequent to the destruction caused by the earthquake in Haiti, applications for immigration services from Haitian nationals increased substantially.

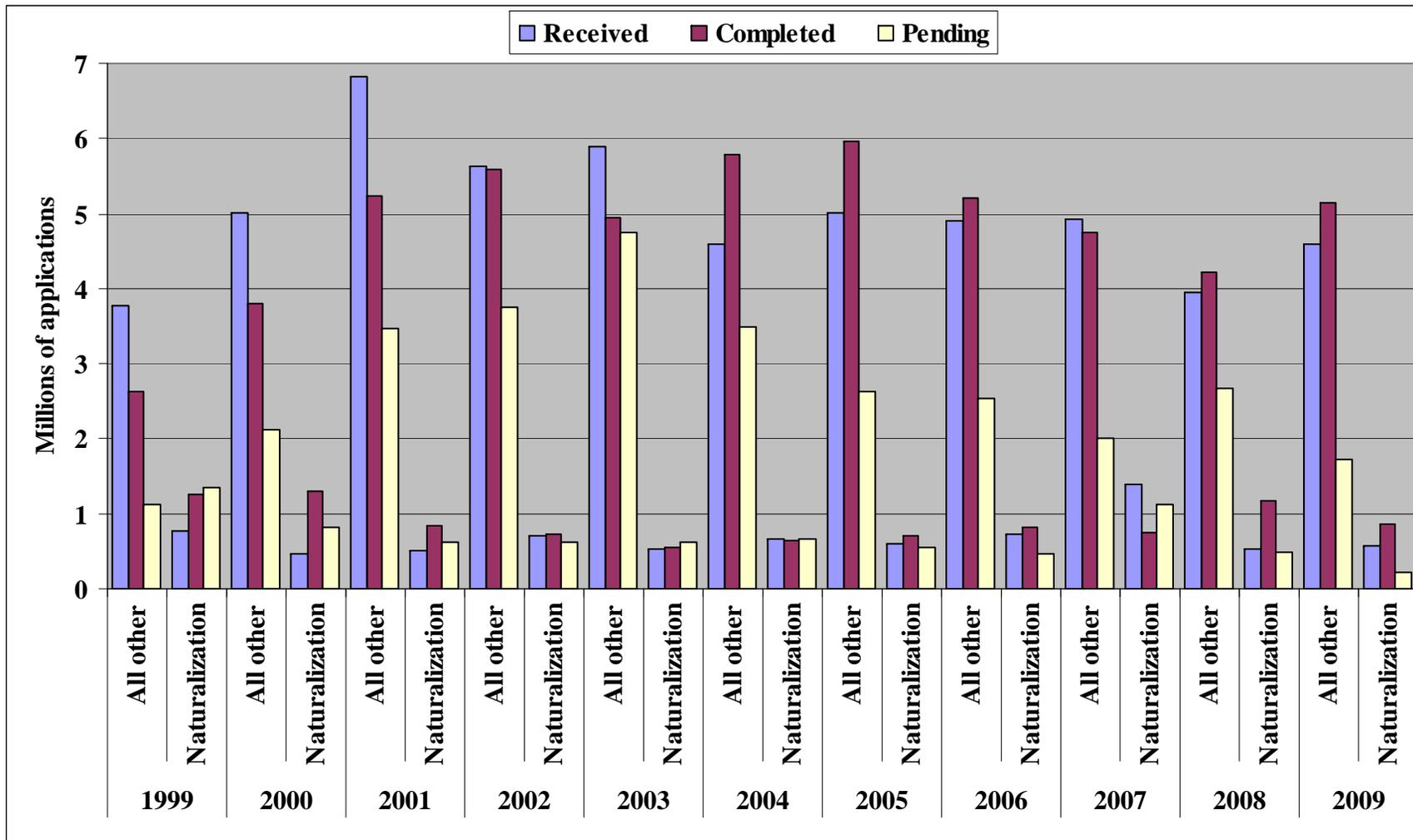
⁸⁸ "Initial receipts" are those applications received in a given fiscal year. "Pending" applications include all applications pending at USCIS from the current and previous fiscal year. "Completed" applications consists of applications that are approved and denied in the given fiscal year. Since not all applications that are received in a given fiscal year are adjudicated in the same fiscal year, numerical discrepancies may exist across categories in certain fiscal years. These discrepancies generally result from the "rolling over" of applications between fiscal years.

distinguishes between naturalization applications (Form N-400) and all other immigration services applications. Initial receipts of *all* applications (all other plus naturalization) increased between FY1999 and FY2001 and subsequently remained below the FY2001 peak. Completion of *all* applications steadily increased between FY1999 and FY2005 before dropping and remaining below the six million mark for the remaining four years shown. In contrast, the number of *all* pending applications increased markedly by 170% from FY1999 to FY2003 before dropping by 41% between FY2003 and FY2008. The significant drop in all pending applications between FY2008 and FY2009 resulted from the agency's change in backlog definition (see the "Definition Changes and Measuring the Backlog" section below).

For N-400 naturalization applications, patterns differ notably. Application volume converged across initial receipts, completions and pending categories from FY1999 through FY2005. Prior to FY2002, initial receipts and pending applications declined, while completions increased. However, beginning in FY2002, these three categories converged through FY2005, with a decline in the number of pending naturalization applications coinciding with that of all other pending applications. In FY2009, pending and completed applications for naturalization have declined markedly, coinciding with the revised 2007 revised fee schedule.⁸⁹

⁸⁹ For more information on naturalization trends, see CRS Memorandum, January 15, 2008, *Naturalization Receipts and Fees: Analysis of Selected Trends*, by Ruth Ellen Wasem

Figure 2. Received, Completed, and Pending Applications for All Other and N-400 Naturalization Applications, FY1999-FY2009



Source: CRS presentation of unpublished data from the Performance Management Branch, USCIS.

Note: The category of “completed” applications represents the sum of “approved” and “denied” applications.

Congressional Concerns, Legislative Developments, and Philosophical Tensions

Fee increases for immigration services generate debate over Congress's proper course of action. Agency cost advocates favor a laissez-faire approach, contending that Congress intended for USCIS to recoup all agency costs through fees and become fully fee-reliant.⁹⁰ In contrast, service cost proponents argue that sizeable fee increases may make wealth a *de facto* driving element of immigration policy.⁹¹ These critics also express concerns over potentially detrimental effects to congressional oversight of executive agencies that receive no direct congressional appropriations. These two opposing views are further complicated by (1) the contextual relationship of fees to income levels, (2) linkages between legal adjudication and enforcement activities, and (3) the potential for comprehensive immigration reform. Thus, the cleavage of agency cost recovery versus service cost recovery has sparked a number of related issues for Congress.

Recovering Service Costs or Recovering Agency Costs?

The fee debate centers on which costs USCIS should recover. While both sides agree that the agency should recover direct costs of adjudication services provided, they disagree over whether cost recovery should extend to indirect costs. Since its establishment as a separate agency in 2003, USCIS had been recouping an increasing portion of its costs through application and petition fees. That trend reached its apex in FY2008, when the agency recovered almost 99% of its budget funding. Some observers expressed concerns over the financial burden borne by applicants of other agency functions in addition to those services being directly sought. As **Figure 1** shows, however, this trend reversed in FY2009. For the FY2011 budget request, fee-based collections would support only 86% of the proposed budget.⁹²

User fees represent payments for services provided and often correspond to costs of services provided. In some cases, additional collections are permitted to recover certain unreimbursed costs, such as the costs of processing refugees and asylees whose fees are waived. However, for many service cost advocates, the trend towards recovering full agency cost places excessive financial burdens on applicants.⁹³ Moreover, service cost advocates argue that greater dependence of USCIS upon direct appropriations from Congress increases congressional oversight and provides an additional check on an executive agency.⁹⁴ These critics believe that the push to make

⁹⁰ Statements by U.S. House Representatives Steve King and Daniel Lungren in U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, *The Proposed Immigration Fee Increase*, 110th Cong., 1st session, February 14, 2007.

⁹¹ U.S. Senator Barack Obama, "Obama, Gutierrez, Schakowsky Bill Would Send Immigration Fee Hikes Back to the Drawing Board," press release, March 7, 2007, p. 1.

⁹² Reports by the Congressional Budget Office and GAO conducted during the Clinton Administration found that collections of user fees had increased during the 1970s and 1980s. GAO studied 27 fee-reliant agencies and found that fees had also increased by approximately 27% between FY1991 and FY1996. (U.S. Congressional Budget Office, *The Growth of Federal User Charges: An Update*, October 1999; U.S. Government Accountability Office, *Federal User Fees: Budgetary Treatment, Status, and Emerging Management Issues*, AIMD-98-11, December 1997).

⁹³ National Council of La Raza, "NCLR Critical of Fee Increases for Immigration Services," press release, April 15, 2007, p. 1, at <http://www.nclr.org/content/news/detail/25082>.

⁹⁴ Fawn Johnson, "Democrats Aiming to Roll Back Planned Hike in Citizenship Fee," *Congress Daily*, March 7, 2007, (continued...)

the agency entirely fee-funded has increased the backlog and encouraged the agency to change how it defines application backlog.⁹⁵ Service cost advocates believe that more rigorous oversight by Congress of directly appropriated funds would protect the interests of immigration services applicants and provide more transparency and accountability in the agency.⁹⁶

Fee Waivers

Under current regulations, applicants may receive a fee waiver if they can demonstrate an inability to pay.⁹⁷ According to USCIS, about 1% of applicants apply for fee waivers.⁹⁸ Because USCIS policy evaluates each case on its own merits, criteria for demonstrating an inability to pay are general.⁹⁹ For example, while it is desirable that a fee waiver applicant documents financial hardship, detailed testimony may be deemed sufficient by a USCIS supervising officer.¹⁰⁰ More commonly, an individual demonstrates eligibility with evidence that they have qualified for or received a “federal means-tested public benefit” within the last 180 days or tax documents showing their income at or below poverty level.¹⁰¹ The USCIS officer with jurisdiction over the request may grant a fee waiver if he or she is satisfied the applicant is unable to pay the fee.

Removing fee waivers has been considered. For instance, as part of the proposed revised 2007 fee schedule, fee waivers were to be removed for several services applications and petitions.¹⁰² USCIS justified this change on the basis that an inability to pay would invoke the Immigration and Nationality Act’s (INA) §212(a)(4) clause which states that an alien who is likely to become a public charge is inadmissible,¹⁰³ and as such would be ineligible for the service.¹⁰⁴ However, under the previous fee structure the USCIS field guidance memorandum stated that for fee waiver

(...continued)

at <http://www.govexec.com/dailyfed/0307/030707cdpm2.htm>.

⁹⁵ Ibid.

⁹⁶ Ibid.

⁹⁷ 8 CFR 103.7(c).

⁹⁸ CRS communication with Richard French and Paul Powell, USCIS, on April 21, 2010.

⁹⁹ Memorandum, William R. Yates, “Field Guidance to Granting Fee Waivers Pursuant to 8 CFR 103.7(c),” March 4, 2004, at <http://www.uscis.gov/files/article/FeeWaiverGd3404.pdf>.

¹⁰⁰ The applicant’s affidavit of his or her inability to pay is the only required document.

¹⁰¹ Additional qualifying documents for fee waivers may include evidence verifying the applicant’s disability; employment records, including pay stubs, W-2 forms, and tax returns; receipts for essential expenditures, including rent, utility, food, medical expenses, and child care; evidence of applicant’s living arrangements, such as living in a relative’s household or having numerous dependents residing in his or her household; and evidence of essential extraordinary expenditures for the applicant or dependents residing in the United States. (Charles Gordon, Stanley Mailman, and Stephen Yale-Loehr, *Immigration Law and Procedure*, vol. 1, §3.25[1] (Matthew Bender, Rev. Ed.)). For further information on federal public assistance for noncitizens, see CRS Report RL33809, *Noncitizen Eligibility for Federal Public Assistance: Policy Overview and Trends*, by Ruth Ellen Wasem.

¹⁰² U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services. “Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule,” *Federal Register*, vol. 72, no. 103 (May 30, 2007), pp. 29851—29873.

¹⁰³ For further discussion on inadmissibility, see CRS Report RL32564, *Immigration: Terrorist Grounds for Exclusion and Removal of Aliens*, by Michael John Garcia and Ruth Ellen Wasem.

¹⁰⁴ The forms for which a fee waiver is no longer available following the revised 2007 fee schedule include Form I-90, Form I-485, Form I-751, Form I-765, Form I-817, Form N-300, Form N-336, Form N-400, Form N-470, Form N-565, Form N-600, Form N-600k, and Form I-290B (if related to a motion or appeal on a waiver eligible application). See **Appendix A**.

petitions for Form I-485: “The granting of a fee waiver does not necessarily subject the applicant or petitioner to a public charge liability under other provisions of the INA, such as deportability under §237(a)(5) or inadmissibility under §212(a)(4).”¹⁰⁵ Additionally, this public charge rationale does not apply to U.S. citizens who may be petitioning USCIS on behalf of relatives or fiancés, even though these citizens would also be ineligible for fee waivers.¹⁰⁶ At a congressional hearing on the revised 2007 fee structure, USCIS representatives testified that across all potential fee waiver categories, 85% of fee waiver applicants based on financial hardship were granted a waiver.¹⁰⁷ Ultimately, the provision for removing fee waivers from the revised 2007 fee schedule was withdrawn by USCIS. One issue Congress might consider is reinstating or restricting fee waiver applications or adjusting the criteria under which applications may be filed.

Asylees and Refugees

Regarding fees, USCIS continues to treat differently refugees and asylees who adjust their status. Prior to the FY2007 fee schedule, asylees could apply for fee waivers when using Form I-485 to adjust their status to legal permanent resident. The revised 2007 fee schedule eliminated the waiver option, an omission that extends to the proposed fee schedule. Refugees, on the other hand, are specifically exempted from status adjustment fees. USCIS asserts that aliens who could become a public charge can be denied admission, yet refugees remain exempt from these inadmissibility grounds, and USCIS publications do not clarify the legal justification for the distinct treatment regarding fee waivers for both groups. From a policy perspective it remains unclear why USCIS continues to have disparate fee policies between refugees and asylees on its I-485 applications to adjust status or register permanent residence.

Reducing Bottlenecks

Fee waivers are one of four application types sent to the Federal Bureau of Investigation (FBI) for background checks through the National Name Check Program (NNCP), a program which conducts electronic and manual searches of the FBI’s Central Records System.¹⁰⁸ USCIS’s partnership with the FBI in FY2009 to address the NNCP backlog has reduced response times to requests for background checks from as many as 180 days to 30 days on all cases.¹⁰⁹

¹⁰⁵ Memorandum, William R. Yates, “Field Guidance to Granting Fee Waivers Pursuant to 8 CFR 103.7(c),” March 4, 2004, at <http://www.uscis.gov/files/article/FeeWaiverGd3404.pdf>.

¹⁰⁶ Immediate relatives of U.S. citizens are not subject to a public charge determination when petitioning.

¹⁰⁷ Testimony of USCIS Chief Financial Officer Rendell Jones, in U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, 110th Congress, 1st session, February 14, 2007.

¹⁰⁸ The other types of applications that require NNCP background checks are asylum, adjustment of status to legal permanent resident, and naturalization. USCIS pays the FBI for NNCP services with a portion of the biometrics fee funding. The NNCP is one of several types of security checks USCIS conducts.

¹⁰⁹ Testimony of USCIS Director Alejandro Mayorkas, in U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, 111th Congress, 2nd session, March 23, 2010.

Fees and Low Income Citizens and Legal Permanent Residents

Fee increases concern service cost advocates who argue that they place disproportionate hardship on immigration service applicants.¹¹⁰ As evidence, advocates note the continued absence of any per family fee cap for immigration services. The revised 2007 fee structure included some discounted rates for juveniles under age 14, but unless a fee waiver is granted, all family members would continue to pay for individual applications for a given service as required under the proposed fee structure. Service cost advocates contend that higher fees force some families to seek services incrementally rather than as a family unit, causing some members to forgo the application process entirely.¹¹¹

Public Charges

To further illustrate potential impacts of fee increases on lower-income families, service cost advocates in the face of the proposed FY2007 increases cited the effect on a U.S. citizen or LPR seeking to sponsor the admission of family members, but with an income slightly above the public charge level.¹¹² Under INA §212, an admissions officer concerned about an applicant's potential to become a public charge may consider as evidence an affidavit of support to serve as a sponsor. The statutory requirement for such an affidavit is that the sponsor must maintain the sponsored alien(s) at a level not less than 125% of the federal poverty line specified by the Department of Health and Human Services.¹¹³ For a family of four, the 2009/2010 poverty guidelines¹¹⁴ specify an income level of \$22,050 as the upper limit of the poverty level for the 48 contiguous states and the District of Columbia.¹¹⁵ For such a household, a gross income of \$27,562.50 would render the U.S. citizen or LPR eligible for sponsorship. Under the proposed fee structure, applying to adjust status to LPR for the applicant and his/her spouse and two derivative minor children would cost between \$3,240 and \$3,940 depending on the age of the dependents, plus an additional \$170 to \$340 for biometrics.¹¹⁶ A household head earning at 125% of the federal poverty line who wishes to adjust the status of himself, his spouse and two children must expend between 12.4% and 15.5% of his annual gross income.¹¹⁷ Applicants continue to be able

¹¹⁰ American Immigration Lawyers Association, "AILA Dismayed With Proposed 10% USCIS Fee Increase: Users Must Receive Better Value for Fees Paid", AILA InfoNet Doc. No. 10060910 (posted June 9, 2010).

¹¹¹ Letter from American Immigration Lawyers Association, to the Director of the Regulatory Management Division, USCIS, April 1, 2007, at <http://www.bibdaily.com/pdfs/AILA%20fee%20comment%204-1-07.pdf>.

¹¹² Statements by U.S. Representatives Luis Gutierrez, Artur Davis, and Keith Ellison in House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, *The Proposed Immigration Fee Increase*, 110th Cong., 1st session, February 14, 2007.

¹¹³ INA §213A(a)(1).

¹¹⁴ U.S. Department of Health and Human Services, "Annual Update of the HHS Poverty Guidelines," *Federal Register*, Vol. 74, No. 14, January 23, 2009, pp. 4199–4201. As of this writing, Congress has extended the 2009 poverty guidelines through the present date.

¹¹⁵ The 2009/2010 poverty guidelines specify an upper income level of \$27,570 for Alaska, and \$25,360 for Hawaii for a four person household.

¹¹⁶ The proposed 2010 fee schedule sets the fee for capturing and processing biometric information at \$85. Since children under age 14 and adults over age 79 are exempt from the biometrics requirement, the biometrics fee for a family of four would vary depending upon the ages of the household members. USCIS may chose to waive the biometric fee on an individual basis.

¹¹⁷ For more information on noncitizen eligibility, see CRS Report R40889, *Noncitizen Eligibility and Verification Issues in the Health Care Reform Legislation*, by Ruth Ellen Wasem and CRS Report RL33809, *Noncitizen Eligibility for Federal Public Assistance: Policy Overview and Trends*, by Ruth Ellen Wasem.

to apply for fee waivers for most USCIS forms,¹¹⁸ but if they do not receive such assistance, they bear the full financial obligation of USCIS fees.

Agency cost advocates contend that such examples of potential hardship actually justified USCIS's unsuccessful proposed removal of numerous fee waivers in 2007.¹¹⁹ They note that under INA §212(a)(4) a person who is likely to become a public charge is inadmissible to the United States¹²⁰ and cite immigration statutes to argue that potential financial hardship is invalid for developing a USCIS fee schedule. In addition, they posit that compared with those of other advanced industrialized countries, current immigration fees represent a relative bargain for applicants and object to "overtaxed and overstretched Americans" being asked to shoulder portions of these user fees.¹²¹

Policy Impact

Despite the possibility of admitting public charges, fee increase opponents remain concerned about how fee increase might affect immigration policy.¹²² Family unification has been a pillar of immigration policy since passage of the INA in 1952. Critics of the 2007 fee increases expressed concern that their sheer magnitude would cause a latent shift in immigration policy as services were *de facto* denied to qualifying but less well-off aliens, forcing some families to choose which members, if any, should receive services. They argued that Congress needed to provide USCIS direct appropriations to avoid creating income-based double standards in USCIS services processing.¹²³

It is unknown to CRS whether changes in the immigration fee structure since July 2007 have caused significant shifts in the socio-demographic composition of the immigration services applicant pool. Shifts commensurate with greater ability to pay the higher fees might favor applicants with relatively higher education levels, higher paying occupations, greater U.S. experience, greater family resources, and other determinants of income. However, it is possible that higher fees may gradually impose a subtle and ostensibly unintended selection criterion for obtaining legal status and other immigration application services. Nor would this trend contradict the earlier suggestion in this report that demand for services is relatively inelastic to the size of the USCIS fees, given the large unmet demand for immigration services. In other words, higher fees may not reduce the number of applicants as much as change the composition of those who apply. As such, higher fees could potentially hinder an unknown proportion of potential applicants from seeking legal pathways for residing in the United States.

¹¹⁸ USCIS, Revisions to Adjudicators' Field Manual (AFM) Chapters 10.9(a) (AFM Update AD07-19) Fee Waiver Guidelines as Established by the Final Rule of the Immigration and Naturalization Benefit Application and Petition Fee Schedule, July 20, 2007.

¹¹⁹ Statements by U.S. House Representatives Steve King and Daniel Lungren in U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, *The Proposed Immigration Fee Increase*, 110th Cong., 1st session, February 14, 2007.

¹²⁰ As noted earlier, this criterion is not applicable to denying fee waivers to U.S. citizens petitioning on behalf of family members or a fiancé.

¹²¹ Statement by U.S. House Representative Steve King in U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, Hearing on the United States Citizenship and Immigration Services, 111th Cong., 2nd session, March 23, 2010.

¹²² Letter from American Immigration Lawyers Association, to the Director of the Regulatory Management Division, USCIS, April 1, 2007, at <http://www.bibdaily.com/pdfs/AILA%20fee%20comment%204-1-07.pdf>.

¹²³ *Ibid.*

Backlog Reduction

Congress has repeatedly called upon USCIS to improve its processing time and to eliminate the backlog of unadjudicated applications, and, since FY2002, has appropriated substantial funds including direct appropriations towards backlog reduction efforts.¹²⁴ Although USCIS reports that the backlog has been reduced since Congress began appropriating direct funds for backlog elimination, questions remain because of new definitions of what constitutes a backlog. The current application backlog due to factors under the control of USCIS has dropped significantly and stood at 46,300 at the end of CY2009 (see **Figure 3**). According to USCIS, the agency is on track to eliminate their backlog during FY2010.¹²⁵ However, critics cite the roughly 870,000 additional applications pending for more than six months that USCIS excludes from its backlog figures, and contend that changes in the agency's backlog definition mask the seriousness of the USCIS backlog.¹²⁶

According to USCIS, declining application receipts and increased training have helped reduce processing times substantially, and the agency anticipated reaching its goal of processing many key services applications in about four months and naturalization applications in roughly six months.¹²⁷ These goals were established as part of the revised 2007 fee schedule but were interrupted with the application surge in the middle of that year. As of March 31, 2009, USCIS reported processing time declines of 20% or more for several frequently used forms.¹²⁸ However, the agency did meet its goals for processing naturalization applications, the time to process for which was reduced from 8.8 months at the end of FY2008 to 4.5 months at the end of FY2009.¹²⁹

Definition Changes and Measuring the Backlog

The definition of application “backlog” for immigration services has changed several times since FY2002. Redefinitions usually involve determining that an aspect of the adjudications process lies outside the control of USCIS, thereby reclassifying a case as pending as opposed to backlogged. Reclassifications may involve delays with background checks conducted by other agencies, USCIS awaiting customer information, or in some naturalization cases the applicant still needing to take the oath. Critics argue that definition changes were a significant factor in the backlog reduction¹³⁰ from approximately 3.5 million cases in March 2003 to 914,864 cases at the end of FY2005—a reduction of nearly 2.6 million cases.¹³¹ Over half of the backlog reduction

¹²⁴ As of June 2007, the figure allocated was \$574 million, including \$494 million in direct appropriations. According to USCIS, no additional funds have been appropriated for this purpose since then.

¹²⁵ CRS communication with Richard French and Paul Powell, USCIS, on April 7, 2010.

¹²⁶ The DHS Inspector General has expressed concern that the changing backlog definitions “will not resolve the long-standing processing and IT problems that contributed to the backlog in the first place. (U.S. Department of Homeland Security, Office of the Inspector General, *USCIS Faces Challenges in Modernizing Information Technology*, OIG-05-41 (September 2005), p. 28) The USCIS Ombudsman also criticized the definition changes, saying that “these definitional changes hide the true problem and the need for change” (U.S. Department of Homeland Security, Citizenship and Immigration Service Ombudsman, *Annual Report 2006*, June 29, 2006, p. 9).

¹²⁷ U.S. Department of Homeland Security, Citizenship and Immigration Service Ombudsman, *Annual Report 2009*, June 30, 2009, p. 6.

¹²⁸ *Ibid*, p. 21.

¹²⁹ U.S. Department of Homeland Security, *FY2011 Budget in Brief*, p. 121.

¹³⁰ U.S. Department of Homeland Security, Citizenship and Immigration Service Ombudsman, *Annual Report 2006*, June 29, 2006, p. 9

¹³¹ U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, *Backlog Elimination Plan*: (continued...)

occurred between June and August, 2004, when the agency twice redefined what constituted a backlog. Thus, while the backlog was reduced by 1.9 million applications in this time period, the number of pending applications increased by almost 1.5 million cases. Because of multiple changes of the backlog definition, the actual number of backlogged applications varies depending upon the definition used. This report employs the most current USCIS definition.

In 2005, GAO released a report on the USCIS backlogs and reduction strategy the agency established.¹³² The report noted the importance of addressing the backlog to reduce incentives for businesses and individuals to circumvent legal immigration procedures. While acknowledging improvements in the adjudication process, the report also recommended streamlining several processes and improving its quality assurance program. USCIS indicated they planned to address current and future backlogs through improved resource allocation and investments in technological transformation that would transition services processing from a fragmented paper-based to a centralized electronic enterprise.

Prior to FY2008, USCIS had launched several initiatives in response to specific challenges within the agency. However, beginning in FY2008, USCIS engaged the firm of IBM to launch what it titled “USCIS Transformation”, a five-year \$491 million program to improve data security, centralization, and intra-agency communication, as well as improve customer service and tracking of personal cases.¹³³ Although delays have stymied the agency’s initial schedule, it expects to yield its first “transformation experience” in early FY2011 when naturalization applicants are expected to be able to complete, file, and track applications online.

Figure 3 presents USCIS data that cover USCIS receipts, completions, pending applications and the application backlog for all forms from March 2003 to December 2009. The two line graph categories near the bottom of the graph indicate total application completions and receipts. While both lines fluctuate during the period—most notably the increased receipts prior to the 2007 fee increases—the volume of application receipts and completions appear to have remained relatively consistent over time. The three area graphs within **Figure 3** reflect pending applications, active pending applications, and cases outside of USCIS control. The difference between pending applications and the other two categories represents the net backlog. Since USCIS’s last fee schedule revision in July 2007, the application backlog increased from 139,000 to a peak of 1.5 million in January 2008—the “application surge”—before declining to just 46,000 by December 2009.

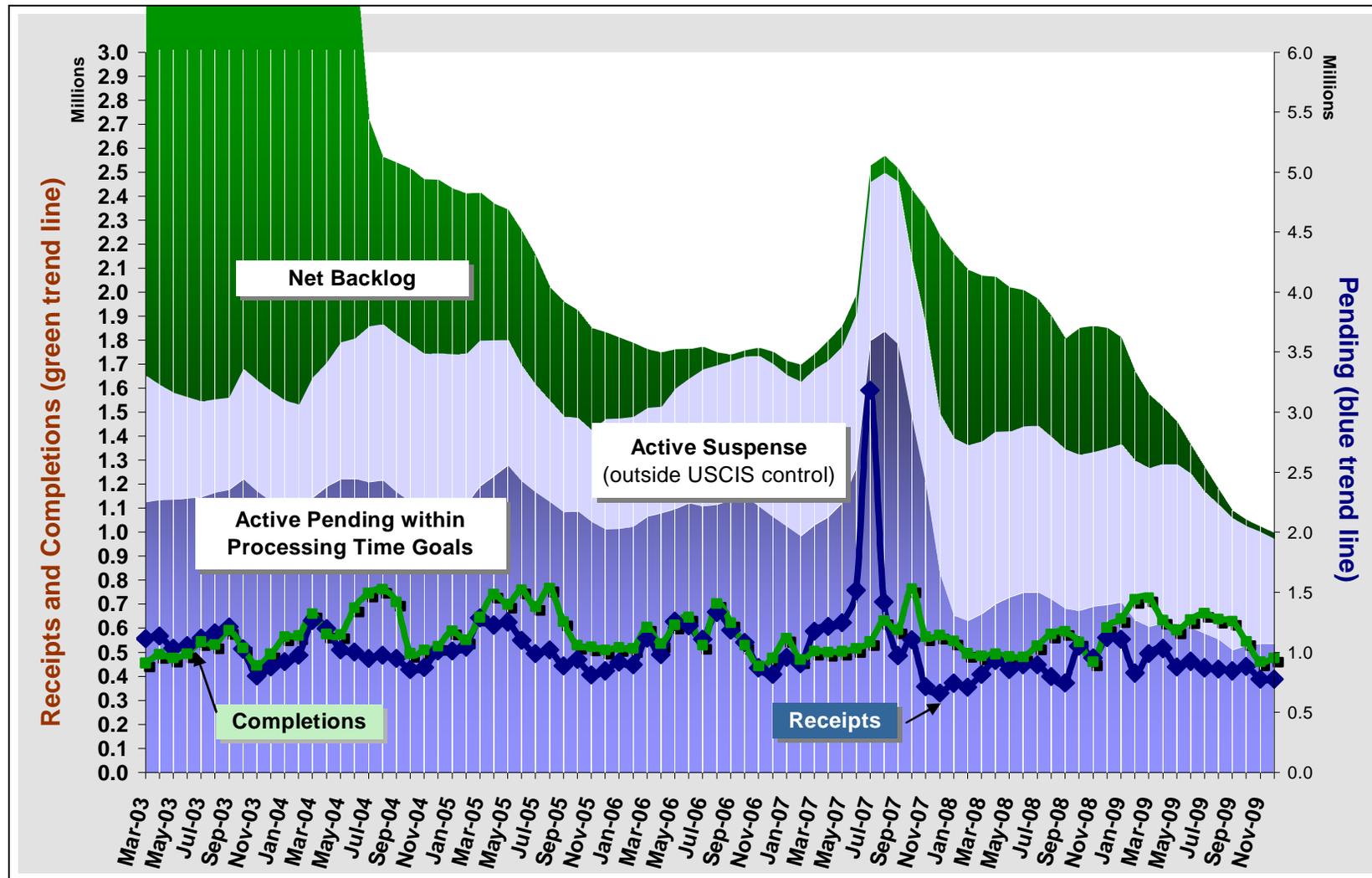
(...continued)

Fiscal Year 2006, 2nd Quarter Update, September 28, 2006.

¹³² U.S. Government Accountability Office, *Immigration Benefits: Improvements Needed to Address Backlogs and Ensure Quality of Adjudications*, GAO-06-20, November 2005.

¹³³ U.S. Department of Homeland Security, Citizenship and Immigration Service Ombudsman, *Annual Report 2009*, June 30, 2009, p. 8.

Figure 3. USCIS Receipts, Completions, Pending Applications and Backlog for All Forms, March 2003-December 2009.



Source: CRS presentation of unpublished data from the Performance Management Branch, USCIS.

Notes: On June 16, 2004, USCIS decided that the backlog calculation would no longer include applications received in the previous six months. In July 2004 the agency also decided not to include cases in the backlog total where services were not immediately available for the applicant.

Notes: Receipts refer to petitions or applications received with proper information, signatures, and fee. Completions refer to petitions or applications worked to completion (denial or approval). Pending refers to any receipt not worked to completion. Backlog refers to pending cases not worked to completion within the allotted cycle time. For instance, the I-485 Form has a cycle time (established by USCIS and Congress) of 4 months, hence a I-485 Form received more than 4 months prior to the reporting period would be considered in backlog. Finally, active suspense cases cannot be worked to completion due to visa regression (State Department action is required) and cases that are awaiting the return of evidence from the petitioner or applicant, and as such do not count against the backlog inventory. USCIS is incapable of working those cases until the visa dates are moved or the evidence is returned. Cases on hold awaiting FBI fingerprint and name checks are no longer deducted as an Active Suspense cases since the FBI involvement is part of the adjudication process.

Subsequent to GAO's backlog report, USCIS has taken additional steps to reduce its backlog and increase its processing efficiency.¹³⁴ **Appendix B** presents processing times as of December 31, 2009. According to these data, 25 immigration services forms had processing times under six months, eight had processing times exceeding six months, and three had processing times that USCIS did not disclose. For FY2009, roughly 0.5% of USCIS's total application workload consisted of forms exceeding the six month processing standard.

Despite improvements in processing times, questions remain about whether the revised fee structure has improved USCIS's ability to deal with backlogs. USCIS asserted in 2007 that the revised fees corresponded more accurately to the agency's adjudication costs,¹³⁵ represented an appropriate response to criticisms raised in the 2004 GAO report on the USCIS cost structure,¹³⁶ and better positioned the agency to prevent future backlogs.¹³⁷ Some critics, however, believe that USCIS's reliance on other agencies to conduct background checks limits the agency from preventing future backlogs, even with funding that fully covers adjudication costs.¹³⁸

Immigration Adjudication and Enforcement Linkages

Service cost advocates have expressed concerns over how increased fees might impact not only the economic well-being of immigrants but also the size of the unauthorized immigrant population. Slow processing times and higher fees encourage illicit work arrangements and visa overstays, since workers are either priced out of immigration services or placed in limbo by extended waiting periods for USCIS adjudication.¹³⁹ Higher fees are more likely to affect the behavior of workers in low wage sectors of the economy, which in turn can adversely affect businesses and industries that rely upon lower-cost foreign-born workers.

Prior to implementing the 2007 fee structure, USCIS conducted a statutorily mandated study¹⁴⁰ to address concerns over how fee increases would impact small businesses. The agency found that all employers in its randomly selected sample would experience a decline in sales revenue of less than 1% and that small businesses in particular would experience a decline of less than 0.06%, impacts the USCIS considered economically insignificant.¹⁴¹ Moreover, according to some critics,

¹³⁴ GAO reported that USCIS's strategy for the backlog reduction initiative since FY2002 was to commit approximately 70% of backlog reduction funds to authorizing overtime and employing approximately 1,100 temporary adjudicator staff. (*Ibid*, p.5).

¹³⁵ U.S. Citizenship and Immigration Services, "Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule; Proposed Rule," pp. 4893-4894.

¹³⁶ U.S. Government Accountability Office, *Immigration Application Fees: Current Fees are Not Sufficient to Fund U.S. Citizenship and Immigration Services' Operations*, GAO-04-309R, January 5, 2004.

¹³⁷ U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services. "Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule," *Federal Register*, vol. 72, no. 103 (May 30, 2007), pp. 29851—29873.

¹³⁸ For immigration benefit applications, USCIS submits names to the FBI for checks against the National Name Check Program (NNCP) for the following services: asylum, adjustment of status to legal permanent resident, naturalization, and waivers. According to USCIS Director Alejandro Mayorkas, the FBI responds to USCIS requests within 30 days, at which time additional manual secondary checks are conducted (see footnote 109).

¹³⁹ Council on Foreign Relations, *U.S. Immigration Policy*, Independent Task Force Report No. 63, 2009, pp. 49-64.

¹⁴⁰ Regulatory Flexibility Act, 5 U.S.C §601(6).

¹⁴¹ U.S. Department of Homeland Security, "U.S. Citizenship and Immigration Services, Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule; Proposed Rule," p. 4913.

any pricing out of low wage foreign-born workers would reduce the labor supply, provide employment opportunities and increase wages in those economic sectors to the benefit of U.S. citizens.¹⁴² Service cost advocates responded by arguing that some business owners would seek out unauthorized aliens if low wage authorized aliens were unavailable to remain competitive.¹⁴³

Congressional Response

With Congress confronting proposed increases to USCIS fees, it is useful to revisit its response to the 2007 revised fee schedule. Following the February 2007 announcement of revised USCIS fees, Representatives Gutierrez and Schakowsky in March 2007 introduced H.R. 1379, the Citizenship Promotion Act of 2007, which would have prevented USCIS from increasing citizenship application fees to levels above application processing costs and mandated that Congress provide USCIS with a direct appropriation for any immigration service-related indirect costs. Senator Obama introduced an identical version for consideration in the Senate (S. 795). Despite receiving criticism for shifting some adjudication costs to taxpayers, sponsors of H.R. 1379 contended that the bill not only reduced costs for immigration services applicants but also improved congressional oversight over USCIS. At that time, Congress did not act on either bill.

Comprehensive Immigration Reform

If the 111th Congress considers the task of comprehensive immigration reform, issues of managing adjudication workloads and recovering service costs could play a role in the debate. The experience from previous efforts at comprehensive immigration reform suggest that its passage could significantly increase inflows of migrants, applications for immigration services, and USCIS's overall adjudication costs.¹⁴⁴ Some observers question whether USCIS can process in a timely fashion the projected application increase from comprehensive immigration reform.¹⁴⁵ Given USCIS's challenges in reducing its current backlog, they believe the agency would require a substantial funding increase to address both the current backlog and anticipated additional application receipts. GAO, for example, noted that when the three million individuals who legalized under IRCA in 1986 became eligible for naturalization in 1995, the application backlog increased markedly.¹⁴⁶

¹⁴² George J. Borjas, "Increasing the Supply of Labor Through Immigration; Measuring the Impact on Native-born Workers," *Center for Immigration Studies Background*, May 2004, at <http://ksghome.harvard.edu/~GBorjas/Papers/cis504.pdf>.

¹⁴³ Council on Foreign Relations, *U.S. Immigration Policy*, Independent Task Force Report No. 63, 2009, pp. 50-56.

¹⁴⁴ In the House, Representative Ortiz has introduced the Comprehensive Immigration Reform ASAP Act of 2009 (H.R. 4321), which would create several new immigration categories and wider visa eligibility for aliens abroad. In the Senate, comprehensive immigration reform efforts are currently being led by Senator Schumer, although a bill has yet to be introduced in the Senate.

¹⁴⁵ See CRS Congressional Distribution Memorandum CD06164, *Legal Immigration: Modeling the Principal Components of Permanent Admissions*, and CRS Congressional Distribution Memorandum CD06124, *Legal Immigration: Modeling the Principal Components of Permanent Admissions, Part 2*, by Ruth Ellen Wasem, available upon request.

¹⁴⁶ U.S. Government Accountability Office, *Immigration Benefits: Several Factors Impede Timeliness of Application Processing*, GAO-01-488, May 2001.

Conclusion

The current debate surrounding USCIS fees continues to be divided between charging fees that recover the specific immigration service costs and charging fees that recover all USCIS agency costs. The proposed fee schedule and previous fee increases in FY2007 reflect a strategy to charge immigration services user fees according to precise cost estimates for their provision. The doubling of fees for immigration services in FY2007 generated concerns about whether USCIS fees had exceeded a tipping point of what Members found acceptable, and whether the appropriate fee strategy should shift from what applicants should *pay for* to what should the government *charge*. The more modest fee changes in percentage and absolute terms currently proposed compared with those of FY2007, the efforts made by USCIS to more accurately cost out its immigration services, and the growing proportion of the USCIS budget funded by congressional appropriations may have ameliorated this debate since the fee changes instituted in FY2007. Forthcoming publication of public comments on USCIS's proposed fee increases will further clarify public positions held by service cost and agency cost advocates.

Appendix A. USCIS Fees, Processing Time, and Workloads for Immigration Applications and Petitions

Form Number	Description	Current		Percent Change	Actual	Projected	Percent Change
		(FY2007)	Proposed		FY2008/2009	FY2010/2011	
		Fees	Fees		Workload	Workload	
				Receipts	Receipts		
I-90	Application to Replace Permanent Resident Card	290	\$365	26%	552,025	540,000	-2%
I-102	Application for Replacement/Initial Nonimmigrant Arrival—Departure Document	\$320	\$330	3%	24,035	17,165	-29%
I-129	Petition for a Nonimmigrant Worker	\$320	\$325	2%	400,000	395,000	-1%
I-129F	Petition for Alien Fiancé(e)	\$455	\$340	-25%	66,177	54,000	-18%
I-130	Petition for Alien Relative	\$355	\$420	18%	743,823	690,520	-7%
I-131	Application for Adv Parole / Reentry Permit / Refugee Travel Document	\$305	\$360	18%	139,000	256,255	84%
I-140	Immigrant Petition for Alien Worker	\$475	\$580	22%	135,000	75,000	-44%
Waivers	Waiver Applications (I-191, I-192, I-193, I-212, I-601, I-612)	\$545	\$585	7%	45,459	31,432	-31%
I-290B/ Motions	Appeal for any decision other than BIA; Motion to reopen or reconsider decision other than BIA	\$585	\$630	8%	47,645	28,734	-40%
I-360	Petition for Amerasian, Widow(er), or Special Immigrant	\$375	\$405	8%	16,000	17,669	10%
I-485	Application to Register Permanent Residence or Adjust Status	\$930	\$985	6%	613,400	526,000	-14%
I-526	Immigrant Petition by Alien Entrepreneur	\$1,435	\$1,500	5%	600	1,399	133%
I-539	Application to Extend/Change Nonimmigrant Status	\$300	\$290	-3%	220,000	195,000	-11%
I-600/ 600A	Petition to Classify Orphan as an Immediate Relative/Application for Advance Processing of Orphan Petition	\$670	\$720	7%	29,601	25,241	-15%

Form Number	Description	Current		Percent Change	Actual	Projected	Percent Change
		(FY2007)	Proposed		FY2008/2009	FY2010/2011	
		Fees	Fees		Workload	Workload	
					Receipts	Receipts	
I-687	For Filing Application for Status as a Temporary Resident	\$710	\$1,130	59%	500	48	-90%
I-690	Application for Waiver of Excludability	\$185	\$200	8%	3,293	74	-98%
I-694	Notice of Appeal of Decision	\$545	\$755	39%	3,696	50	-99%
I-695	Application for Replacement Employment Authorization or Temporary Residence Card	\$130	\$130	0%	N/A	N/A	N/A
I-698	Application to Adjust Status from Temporary to Permanent Resident	\$1,370	\$1,020	-26%	494	704	43%
I-751	Petition to Remove the Conditions on Residence	\$465	\$505	9%	143,000	183,000	28%
I-765	Application for Employment Authorization	\$340	\$380	12%	983,000	720,000	-27%
I-817	Application for Family Unity Benefits	\$440	\$435	-1%	5,762	1,750	-70%
I-821	Application for Temporary Protected Status	\$50	\$50	0%	N/A	N/A	N/A
I-824	Application for Action on an Approved Application or Petition	\$340	\$405	19%	40,785	20,961	-49%
I-829	Petition by Entrepreneur to Remove Conditions	\$2,850	\$3,750	32%	88	441	401%
—	Civil Surgeon Designation Registration	\$0	\$615	New fee	N/A	3,410	New fee
I-881	Application for Suspension of Deportation or Special Rule Cancellation of Removal (pursuant to section 203 of P.L. 105-100) (NACARA)	\$285	\$285	0%	N/A	N/A	N/A
I-905	Application for Authorization to Issue Certification for Health Care Workers	\$230	\$230	0%	N/A	N/A	N/A
I-914	Application for T Nonimmigrant Status	\$0	\$0	0%	N/A	N/A	N/A
I-924	Application for Regional Center under the Immigrant Investor Pilot Program	\$0	\$6,070	New fee	N/A	132	New fee
N-300	Application to File Declaration of Intention	\$235	\$250	6%	100	45	-55%

Form Number	Description	Current			Actual	Projected	Percent Change
		(FY2007) Fees	Proposed Fees	Percent Change	FY2008/2009 Workload Receipts	FY2010/2011 Workload Receipts	
N-336	Request for Hearing on a Decision in Naturalization Procedures	\$605	\$650	7%	14,000	4,145	-70%
N-400	Application for Naturalization - Regular	\$595	\$595	0%	734,716	693,890	-6%
N-400	Application for Naturalization - Military	\$0	\$0	0%	N/A	N/A	0%
N-470	Application to Preserve Residence for Naturalization Purposes	\$305	\$330	8%	669	621	-7%
N-565	Application for Replacement Naturalization/Citizenship Document	\$380	\$345	-9%	32,000	29,298	-8%
N-600/ 600K	Application for Certification of Citizenship/Application for Citizenship and Issuance of Certificate Under Section 322	\$460	\$600	30%	64,711	45,347	-30%
—	Immigrant Visas	\$0	\$165	New fee	N/A	215,000	New fee
Total, Services less Biometrics					5,059,579	4,772,331	-6%
Biometric Services	Capturing and Processing Biometric Information	\$80	\$85	6%	3,154,330	2,048,177	-35%
Total, All Services					8,213,909	6,820,508	-17%

Sources: Department of Homeland Security, “U.S. Citizenship and Immigration Services Fee Schedule; Proposed Rule,” 75 *Federal Register* 33446-33488, June 11, 2010.

Notes: Waiver applications include Form I-191, Application for Advance Permission to Return to Unrelinquished Domicile; Form I-192, Application for Advance Permission to Enter as Nonimmigrant; Form I-193, Application for Waiver of Passport and/or Visa; Form I-212, Application for Permission to Reapply for Admission into the U.S. After Deportation or Removal; Form I-601, Application for Waiver on Grounds of Excludability; and Form I-612, Application for Waiver of the Foreign Residence Requirement. Regarding the identical 2010 and 2011 projected workload volumes, USCIS's Performance Management Branch assumes a steady-state receipt total for 2011 for future planning purposes only. In addition, no laws have been introduced to date that would have affected FY2011 receipts. USCIS adjusts FY2011 projections as FY2010 receipt activity occurs. During the 4th quarter of each year the following year's projections are reviewed and adjusted, and production goals are established. Biometric services are required for the following applications: I-90, I-131, I-360, I-485, I-600/600A, I-687, I-698, I-751, I-817, I-829, and N-400.

Appendix B. Processing Time and Completion Rates, 2007, 2009

		Processing Time (Months)			Completion Rate		
		2007	2009	% chg	2007	2009	% chg
I-90	Application to Replace Permanent Resident Card	4.38	2.53	-42%	0.72	0.35	-51%
I-102	Application for Replacement/Initial Nonimmigrant Arrival—Departure Document	2.91	1.61	-45%	0.43	1.15	165%
I-129	Petition for a Nonimmigrant Worker	2.03	1.30	-36%	0.25	1.58	545%
I-129F	Petition for Alien Fiancé(e)	2.90	4.14	43%	1.92	2.59	35%
I-130	Petition for Alien Relative	6.02	4.32	-28%	0.62	1.07	73%
I-131	Application for Advanced Parole Travel Document	N/A	1.06	N/A	0.29	0.65	N/A
I-131	Application for Reentry Permit / Refugee Travel Document	1.97	1.67	-15%	0.29	1.36	364%
I-140	Immigrant Petition for Alien Worker	3.31	3.00	-9%	1.44	3.81	166%
Waivers	Waiver Applications	9.39	5.04	-46%	1.03	2.01	95%
I-290B/ Motions	Appeal for any decision other than BIA; Motion to reopen or reconsider decision other than BIA	7.73	N/A	N/A	N/A	N/A	N/A
I-360	Petition for Amerasian, Widow(er), or Special Immigrant	6.34	7.91	25%	1.61	1.45	-10%
I-485	Application to Register Permanent Residence or Adjust Status	7.07	4.35	-38%	2.08	1.74	-16%
I-526	Immigrant Petition by Alien Entrepreneur	4.14	3.47	-16%	3.21	1.42	-56%
I-539	Application to Extend/Change Nonimmigrant Status	2.07	1.76	-15%	0.64	1.54	142%
I-600/ 600A	Petition to Classify Orphan as an Immediate Relative/Application for Advance Processing of Orphan Petition	3.39	2.40	-29%	1.53	1.48	-3%
I-687	For Filing Application for Status as a Temporary Resident	10.59	12.07	14%	1.84	3.06	66%
I-690	Application for Waiver of Excludability	10.19	12.07	18%	1.88	3.06	63%
I-694	Notice of Appeal of Decision	4.50	N/A	N/A	2.36	N/A	N/A
I-695	Application for Replacement Employment Authorization or Temporary Residence Card	22.76	12.07	-47%	7.43	3.06	-59%
I-698	Application to Adjust Status from Temporary to Permanent Resident	26.85	12.07	-55%	2.42	3.06	27%
I-751	Petition to Remove the Conditions on Residence	3.74	4.89	31%	0.91	2.19	141%
I-765	Application for Employment Authorization	1.97	1.34	-32%	0.22	0.45	105%

I-817	Application for Family Unity Benefits	3.94	6.27	59%	0.97	1.48	53%
I-821	Application for Temporary Protected Status	2.54	6.46	154%	N/A	2.09	N/A
I-824	Application for Action on an Approved Application or Petition	3.63	3.06	-16%	0.73	1.11	53%
I-829	Petition by Entrepreneur to Remove Conditions	38.94	0.16	-100%	4.35	8.59	98%
I-881	Application for Suspension of Deportation or Special Rule Cancellation of Removal (pursuant to section 203 of P.L. 105-100) (NACARA)	0.35	2.22	534%	N/A	N/A	N/A
I-905	Application for Authorization to Issue Certification for Health Care Workers	N/A	N/A	N/A	N/A	N/A	N/A
I-914	Application for T Nonimmigrant Status	3.64	5.89	62%	N/A	N/A	N/A
N-300	Application to File Declaration of Intention	23.88	5.00	-79%	1.67	1.71	2%
N-336	Request for Hearing on a Decision in Naturalization Procedures	6.22	5.40	-13%	1.34	1.85	38%
N-400	Application for Naturalization—Regular	5.57	4.06	-27%	1.17	1.19	2%
N-400	Application for Naturalization—for Military Personnel	5.57	4.44	-20%	N/A	1.45	N/A
N-470	Application to Preserve Residence for Naturalization Purposes	16.18	10.84	-33%	1.70	1.68	-1%
N-565	Application for Replacement Naturalization / Citizenship Document	4.35	1.75	-60%	0.59	1.00	69%
N-600/ 600K	Application for Certification of Citizenship / Application for Citizenship and Issuance of Certificate under Section 322	5.27	4.15	-21%	0.99	0.98	-1%
Biometrics	Capturing and Processing Biometric Information	N/A	N/A	N/A	N/A	N/A	N/A
Average		7.80	4.80	-38%	1.55	1.94	25%

Sources: Data from 2007 are available in U.S. Citizenship and Immigration Services. “Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule; Proposed Rule.” *Federal Register*, vol. 72, no. 21 (Feb. 1, 2007), pp. 4888-4915. Data for 2009 were provided by the USCIS Performance Management Branch, May 27, 2010. 2009 processing time and completion rate data reflect activity from January through December 2009. Data presented in the proposed rule in the *Federal Register* (footnote 4) reflect activity from May 2008 to April 2009.

Notes: Waiver applications include Form I-191, *Application for Advance Permission to Return to Unrelinquished Domicile*; Form I-192, *Application for Advance Permission to Enter as Nonimmigrant*; Form I-193, *Application for Waiver of Passport and/or Visa*; Form I-212, *Application for Permission to Reapply for Admission into the U.S. After Deportation or Removal*; Form I-601, *Application for Waiver on Grounds of Excludability*; and Form I-612, *Application for Waiver of the Foreign Residence Requirement*.

Appendix C. Data on Applications for All Immigration Services and for N-400 Naturalizations, FY1998-FY2009

Fiscal Year	Applications for Immigration Services						N-400 Naturalization Services			
	Initial	Approved	Denied	Completed	Pending	Receipts	Approved	Denied	Completed	Pending
1998	4,531,702	3,661,246	344,192	4,005,438	1,992,137	932,957	473,152	137,395	610,547	1,802,902
1999	4,534,938	3,572,263	314,833	3,887,096	2,487,403	765,346	872,427	379,993	1,252,420	1,355,524
2000	5,483,792	4,734,328	353,479	5,087,807	2,928,254	460,916	898,315	399,670	1,297,985	817,431
2001	7,333,338	5,606,705	460,844	6,067,549	4,083,052	501,646	613,161	218,326	831,487	618,750
2002	6,324,496	5,690,938	635,557	6,326,495	4,383,154	700,649	589,728	139,779	729,507	623,519
2003	6,419,618	4,833,017	665,895	5,498,912	5,370,248	523,370	456,063	91,599	547,662	628,025
2004	5,253,844	5,658,329	764,473	6,422,802	4,151,484	662,794	536,176	103,339	639,515	653,128
2005	5,609,957	5,893,064	777,438	6,670,502	3,182,223	602,972	600,609	108,247	708,856	552,940
2006	5,638,673	5,217,132	823,057	6,040,189	3,013,741	730,642	702,663	120,722	823,385	473,467
2007	6,296,430	4,901,626	601,326	5,502,952	3,142,585	1,382,993	659,233	89,683	748,916	1,128,723
2008	4,486,563	4,861,594	524,379	5,385,973	3,150,316	525,786	1,050,399	121,283	1,171,682	480,786
2009	5,161,964	5,222,817	767,739	5,990,556	1,952,466	570,442	741,982	109,832	851,814	230,120

Source: Data is compiled from tables published in the DHS Office of Immigration Statistics' Fiscal Year End Statistical Report for FY1999-FY2009.

Notes: The data in these tables are referred to as "to date" and are thus not the numbers considered final by DHS. Thus, some final adjustments to these numbers may have occurred. The category of 'initial receipts' are those applications which are received in a given fiscal year. Pending applications includes all applications pending at USCIS, both from the current fiscal year and previous fiscal year. Completed applications consists of the total of those applications that are approved and denied in the given fiscal year. Since not all applications that are received in a given fiscal year are adjudicated in the same fiscal year, there may appear to be some numerical discrepancy across categories in certain fiscal years. These discrepancies are generally attributable to the "rolling over" of applications from one fiscal year to the next.

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