



U.S. Citizenship
and Immigration
Services

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i Alert: USCIS encourages public comment on this [proposed rule](#). The 60-day public comment period will begin on Jan. 4, 2023, and will end on March 6, 2023. The public should visit <https://www.regulations.gov>, and type “Docket No. USCIS-2021-0010” in the search bar and follow the prompts to submit comments. Note that the comment period closes at 11:59 pm, Eastern Time, on the last day of the comment period.

U.S. Citizenship and Immigration Services (USCIS) receives approximately 96 percent of its funding from its customers in the form of filing fees, not from taxpayers in the form of Congressional appropriations. The last fee adjustment occurred in 2016.

USCIS conducted a comprehensive fee review as we are required to do every two years by federal law and determined that current fees do not recover the full cost of providing adjudication and naturalization services. Therefore, the Department of Homeland Security (DHS) is publishing a proposed rule that would adjust the USCIS fee schedule to fully recover our operational costs, in order to reestablish and maintain timely USCIS service levels as well as improve the customer experience.

As explained in greater detail below, core elements of the proposed rule include:

- Preserving existing fee waiver eligibility for low-income and vulnerable populations;
- Adding new fee exemptions for certain humanitarian programs;
- Limiting the fee increase for naturalization applicants; and
- Distributing fees based primarily on the filers’ ability to pay.

Note that this is a proposed rule, with a 60-day public comment period that begins on the date specified in the [Federal Register](#). The USCIS fee schedule will not change until a final rule is ultimately published and goes into effect.

Frequently Asked Questions

Q. Why does USCIS need a new fee schedule?

A. Current fees do not cover operational costs to timely adjudicate USCIS immigration and naturalization benefits. Stated simply, USCIS requires higher fees to cover the cost of doing business and avoid the accumulation of future backlogs.

Q. What about funding from Congress?

A. USCIS generally receives 96 percent of its funding from its customers in the form of filing fees, not from taxpayers in the form of Congressional appropriations.

Fortunately, Congress did provide much-needed support in Fiscal Year 2022, appropriating \$275 million specifically to reduce current backlogs and advance our humanitarian mission.

Going forward, USCIS will require continued Congressional support to eliminate our current backlogs, and USCIS' intention is that the new fee rule will allow USCIS to keep pace with incoming inventories and avoid future backlogs.

Q. How did current backlogs accumulate in the first place?

A. As described in our recent [progress report \(PDF, 1.08 MB\)](#), receipts decreased dramatically in the wake of the COVID-19 pandemic and revenue temporarily dropped by 40 percent. A hiring freeze and workforce attrition reduced the agency's capacity to complete cases, even as incoming caseloads rebounded to pre-COVID levels.

The hiring freeze was lifted in March 2021, and USCIS is working to fill current vacancies by recruiting and training new staff—[we are hiring!](#)

To stay on a strong fiscal footing and continue improving our delivery of timely decisions, USCIS needs the resources that this proposed fee rule would provide.

Q. How much revenue does USCIS expect to receive under the current fee schedule compared with the proposed fee schedule?

A. USCIS' current fee schedule is expected to yield an average of \$3.28 billion (Table 6, NPRM Section V. A. 4) per year during FY 2022 and 2023. (With the addition of premium processing, total fee revenue is expected to be \$4.5 billion per year on average.)

Under the fee schedule in the proposed rule, USCIS would expect to receive an average of \$5.2 billion per year during FY 2022 and 2023. (With the addition of premium processing, total fee revenue would be projected as \$6.4 billion per year on average.)

Thus, the proposed fee rule would generate an additional \$1.9 billion per year on average compared with the current baseline. This is the amount necessary to match agency capacity with projected workloads, so that backlogs do not accumulate in the future.

Q. What does USCIS plan to do with this additional revenue?

A. The proposed FY2022/2023 Fee Rule Budget, of \$5.2 billion, is needed in order for USCIS to fully recover the cost of all expenses and meet projected demand for services. This budget used the FY 2016/2017 Fee Rule Budget as a baseline and added the following additional costs that are required for USCIS to operate:

- Staffing Updates, to increase personnel by 7,778 in order to meet demands for service;
- Annual Federal Employee Pay raises approved by Congress;
- Contract Cost Increases, due to rising costs over the past six years as well as projected demand;
- Technology Maintenance and Refresh, to fund upgraded information technology resources for USCIS employees, operations and maintenance of USCIS systems, and Help Desk improvements;

- Customer Service/Communications, due to increases in the cost of Call Center operations and investments in customer relationship management that allows USCIS to better support public inquiries and provide information to applicants;
- Other Operations, including new officer training, FOIA responses, Lockbox activity and contract increases, and Secure Mail enhancements;
- Asylum Processing Rule, to fund more asylum officers adjudicating credible fear and reasonable fear claims at the border; and
- Refugee Processing, to cover the cost of refugee resettlement.

The following table provides a summary of this FY2022/2023 Fee Rule Budget build-up from the FY2016/2017 Fee Rule Budget:

Description	Budget (\$M)	Comments
FY 2016/2017 Fee Rule Budget	\$3,037.8	
Staffing	1,165.7	To increase personnel by 7,778 in order to meet demands for service
Pay Raises	149.0	Annual federal Employee Pay raises approved by Congress
Contact Cost Increases	102.2	Due to rising cost over the past six years as well as projected demand
Technology Maintenance and Refresh	102.8	To fund upgraded information technology resources for USCIS employees, operations and maintenance of USCIS systems, and Help Desk improvements
Customer Service/Communications	63.5	Due to increases in the cost of Call Center operations and investments in customer relationship management that allows USCIS to better support public inquiries and provide information to applicants
Other Operations	21.6	Including new officer training, FOIA responses, Lockbox activity and contract increases, and Secure Mail enhancements

Description	Budget (\$M)	Comments
Asylum Processing Rule	425.9	To fund more asylum officers adjudicating credible fear and reasonable fear claims at the border
Refugee Budget Increase	82.2	To cover cost of refugee resettlement
FY2016/2017 Fee Rule Budget + Operations Costs + FY2022/2023 Additional Activities	\$5,150.7	

Q. When was the last time USCIS increased fees?

A. The current USCIS fee schedule was published in a [fee rule \(PDF\)](#) that went into effect more than six years ago, on Dec. 23, 2016.

Q. When will DHS issue a final fee rule?

A. DHS will accept public comments on the proposed rule for 60 days following publication of the [proposed rule](#) in the Federal Register. DHS will then carefully review and consider each comment before drafting and publishing a final rule to implement a new fee schedule.

Q. How would this proposed rule change the USCIS fee schedule, in summary?

A. Core principles of the [proposed rule](#) include:

- Preserving existing fee waiver eligibility for low-income and vulnerable populations;
- Adding new fee exemptions for certain humanitarian programs;
- Limiting the fee increase for naturalization applicants; and
- Distributing fees based on filers’ ability to pay.

Specific changes in the proposed rule include:

- Adjusting fees according to the schedule in Table 1 of the [proposed rule](#).
- Adding new fee exemptions for certain humanitarian programs and preserving the fee waiver requirements that are currently in effect.
- Removing fee exemptions that are based only on the age of the person submitting the request.
- Eliminating the \$30 returned check fee.
- Incorporating biometrics costs into the main benefit fee and removing the separate biometric services fee in most cases. (Temporary Protected Status and the filings accepted on behalf of the Executive Office for Immigration Review are exceptions, where the rule proposes a separate biometric services fee of \$30 instead of the current \$85.)
- Requiring separate filing fees for Form I-485 and associated Form I-131 and Form I-765 filings.

- Establishing separate fees for Form I-129, Petition for a Nonimmigrant Worker, by nonimmigrant classification.
- Limiting the number of named beneficiaries on certain petitions for nonimmigrant workers.
- Revising the premium processing timeframe interpretation from calendar days to business days.
- Clarifying that USCIS will not redeposit payments returned as unpayable for a reason other than insufficient funds.
- Stating that fees paid to USCIS using a credit card are not subject to dispute, chargeback, forced refund, or return to the cardholder for any reason except at the discretion of USCIS.
- Revising certain processes for adoptions from countries that are not party to the Hague Adoption Convention (orphan cases) to align them with the processes for adoptions from countries that are party to that Convention.
- Revising regulations related to genealogy searches, including establishing a fee for Form G-1566, Request for Certificate of Non-Existence.
- Instituting lower fees for certain forms filed online.

Q. What does the proposed rule say about fee waivers?

A. DHS does not propose to change fee waiver eligibility based on an inability to pay and will maintain the 2011 Fee Waiver Policy criteria that established a streamlined process where USCIS can waive applicable fees for certain forms. However, DHS proposes that fee waiver requests must be submitted on [Form I-912, Request for Fee Waiver](#), and would no longer allow for a non-form written request. (Such non-form requests are relatively rare at present.) Fee waivers will continue to be available for applicants who receive public benefits, have income at or below 150% of the Federal Poverty Guidelines, or who demonstrate a financial hardship.

Q. How is DHS proposing to expand fee exemptions?

A. Currently, DHS provides fee exemptions, as authorized under the INA section 286(m), 8 U.S.C. 1356(m), through policy guidance documents, such as form instructions, the USCIS policy manual, or similar directives, but not in regulations. In this proposed rule, DHS proposes to codify several humanitarian benefit requests as exempt from fees because of the humanitarian nature of these programs and the likelihood that individuals who file requests related to these categories will qualify for a fee waiver if they request it. In addition, DHS is proposing to provide additional fee exemptions for certain humanitarian-based immigration benefit requests, including, but not limited to:

- All forms associated with an application for T nonimmigrant status through final adjudication of the T nonimmigrant's application for adjustment of status to lawful permanent resident (LPR).
- All forms associated with U nonimmigrant status up until (but not including) the filing of a Form I-485.
- All forms associated with a VAWA-based Form I-360 filing through final adjudication of the adjustment of status application, including the filing of Form I-290B.
- Abused spouses and children seeking benefits under NACARA for all forms filed through final adjudication for adjustment of status to LPR, including the Application for Suspension of Deportation or Special Rule Cancellation of Removal (Pursuant to Section 203 of Public Law 105-100 (NACARA)) (Form I-881) and associated forms.

- Special Immigrant Juveniles (SIJs) for all forms through final adjudication of the adjustment of status application, which will include Form I-485 and associated forms.
- Filing of Form I-131, Application for Travel Document, for persons admitted or paroled as refugees, including LPRs who obtained such status as refugees in the United States.

You can find a complete list of current and proposed additional fee exemptions in the NPRM in Tables 13A, B, and C.

Q. Is DHS proposing to increase the fee for naturalization applications?

A. Yes. The proposed fees represent a \$35 increase, setting the total naturalization fee at \$760, compared to the current total fees of \$725 (\$640 application fee plus \$85 biometric services fee). USCIS proposes to combine the application fee with the biometric services fee to make the filing process easier.

The increase remains below the Consumer Price Index price calculation, which if followed would have increased fees to a total \$865, a \$140 increase over current fees. This adjustment in the fee is done to support access for all eligible immigrants interested applying for naturalization.

Q. How did DHS calculate the various fee increases in the proposed rule?

A. Stated simply, the total fees received by USCIS must cover the agency’s total operational costs.

This means that the fees for a particular form may include the unit cost of adjudicating that form, plus an additional fixed percentage to cover the agency’s non-adjudication overhead expenses. As part of that overhead, filers who pay the full fee may cover the agency’s costs to adjudicate fee-exempt, fee-reduced, and fee-waived cases. In many cases, DHS proposes to limit fees to be less than the cost of adjudicating them. The NPRM discusses these limited fee increases in section V.B.3. Assessing Proposed Fees and various places throughout the preamble.

In addition, the proposed rule would institute a new Asylum Program Fee surcharge of \$600 to be paid by employers who file either [Form I-129, Petition for a Nonimmigrant Worker](#), or [Form I-140, Immigrant Petition for Alien Workers](#) to cover some of the costs associated with asylum processing, which does not include a fee. DHS proposes this fee increase for employer petitioners as a way to mitigate the size of the proposed fee increases for individual applicants and petitioners. DHS arrived at the proposed Asylum Program Fee by calculating the amount that would need to be added to the fees for Form I-129 and Form I-140 in order to cover the estimated annual cost of the [Asylum Processing Rule \(PDF\)](#).

USCIS continues to emphasize that Congress could reduce the burden on our fee-paying customers by fully funding our humanitarian mission, as it does for other agencies.

Q. Does DHS propose to reduce any fees?

A. Yes, DHS has proposed to reduce the fees of select immigration benefits requests. You can find a complete list of the proposed fees in Table 1 in the [proposed rule](#).

Q. How would the proposed rule change adoption processes for orphan cases?

A. The proposed rule would change the validity period for a [Form I-600A](#) approval in an orphan case to 15 months. Another key change would be creating a USCIS form supplement that prospective adoptive parents can use for requests for action on approved suitability determinations for orphan cases (instead of prospective adoptive parents having to draft their own letter). Both of these changes would help align processes for adoptions from countries that are not party to the Hague Adoption Convention

(orphan cases) with the processes for adoptions from countries that are party to that Convention.

Q. Why are some proposed fees for the same form different for online vs. paper filing?

A. USCIS encourages online filing—where available—to allow for a more efficient electronic submission and adjudication process. Intaking, storing, and handling paper require significant operational resources, and information recorded on paper cannot be as effectively standardized or used for fraud and national security, information sharing, and system integration purposes. Every benefit request submitted online instead of on paper provides direct and immediate cost savings and operational efficiencies to both USCIS and filers—benefits that will increase throughout an individual’s immigration journey as more benefit requests become [available for online filing](#) and case management.

Q. Why does the proposed rule state that USCIS may require that certain fees be paid using a certain payment method or that certain fees cannot be paid using a particular method?

A. This proposed change would allow USCIS to reduce administrative burdens and processing errors associated with certain fee payments. Lockboxes, which specialize in intaking and depositing multiple payment types, receive about 53% of all USCIS filings. However, the requirements and circumstances for some filing requests do not allow lockbox submission and intake, and such requests must be filed at a particular office or in person. Various offices, such as field offices, embassies, and consulates, are limited in the method of payment that they can receive or process. Additionally, certain payment methods, such as checks or cash, require time-intensive procedures for cashiers and their supervisors to input, reconcile, and verify their daily receipts and deposits. Generally, federal agency offices must deposit money that they receive on the same day that it is received. There are additional requirements and guidance for timely record keeping and redundancy in personnel that similarly increase workload and processing costs. The time that USCIS currently spends complying with payment processing requirements could be used to adjudicate cases.

Q. Why would the proposed rule increase the H-1B registration fee?

A. In 2019, DHS established a \$10 registration fee per beneficiary for H-1B petitions. The \$10 registration fee is separate from and in addition to the H-1B petition filing fee. USCIS requires the registration fee regardless of whether the petitioner’s registration is selected. At the time, USCIS lacked sufficient data to precisely estimate the costs of the registration process and implemented the \$10 fee to provide an initial stream of revenue to fund part of the costs to USCIS of operating the registration program. DHS stated that USCIS would review the fee in the future.

DHS now proposes a \$215 registration fee based on the results of the FY 2022/2023 fee review. Although an increase from \$10 to \$215 may appear dramatic at first glance, the \$10 fee was established simply to cover a small portion of the costs of the program, as opposed to no fee at all. As stated in the [2019 rule \(PDF\)](#) setting the registration fee, “DHS proposed a \$10 fee to provide an initial stream of revenue to mitigate potential fiscal effects on USCIS. Following implementation of the registration fee provided for in this rule, USCIS will gather data on the costs and burdens of administering the registration process in its next biennial fee review to determine whether a fee adjustment is necessary to ensure full cost recovery.”

Q. Why has DHS proposed to increase EB-5 program fees?

A. DHS proposes to increase EB-5 program fees consistent with the fees proposed for other benefit requests. DHS proposes that the fee amounts indicated by the full cost recovery model for the immigrant investor forms are not capped or decreased below the estimated full cost recovery as with some other forms. DHS believes that the requirements for financial wherewithal in the program are inconsistent with shifting the costs of the EB-5 program to be funded by the fees paid for other

requests.

Notwithstanding the EB-5 program fees that DHS has proposed, DHS is also gathering the information necessary to evaluate the EB-5 fees to meet the additional fee guidelines and processing time requirements provided in the EB-5 Reform and Integrity Act of 2022. The law requires DHS to conduct a fee study no later than one year after the date of its enactment (i.e. March 15, 2023), and then, no later than 60 days after completing the study, to set fees for EB-5 program-related immigration benefit requests at a level sufficient to recover the costs of providing such services and completing the adjudications within certain time frames.

Q. Why is DHS proposing to prohibit filers from getting their fees back by filing a dispute of their USCIS fee charges with their credit card company?

A. The increased acceptance of credit card payments for USCIS fees has resulted in a sizeable increase in the number of disputes filed with credit card companies challenging USCIS' retention of the fee. USCIS has a process where a filer may request a fee refund in the very uncommon instance of a fee being paid or collected erroneously. Disputes are generally filed when the fee is due, but we denied the filer's request, they have changed their mind about the request, or they assert that the service was not provided or was unreasonably delayed. Because credit card companies usually withdraw the fee in the case of disputes, abuse of the credit card dispute process could have negative fiscal effects on USCIS. Therefore, DHS is proposing that fees paid to USCIS by credit card are not subject to a chargeback by the issuing financial institution.

Q. Does the proposed rule consider USCIS' expansion of premium processing services?

A. Consistent with past practice, the current fee review and proposed rule exclude [premium processing](#) revenue and costs, to ensure that premium processing funds are reserved to cover the full cost of providing premium processing service, as well as infrastructure investments largely related to information technology and backlog reduction.

Q. What happened to the 2020 fee rule?

A. On Aug. 3, 2020, DHS published the 2020 final fee rule, with an effective date of Oct. 2, 2020, to adjust the USCIS fee schedule and make changes to certain other immigration benefit request requirements. On Sept. 29, 2020, the United States District Court for the Northern District of California granted a motion for a preliminary injunction of the 2020 fee rule in its entirety and stayed the final rule's effective date. On Oct. 8, 2020, the United States District Court for the District of Columbia also granted a motion for a preliminary injunction and stay of the effective date of the final rule.

DHS subsequently issued a notification on Jan. 29, 2021, to inform the public of the two preliminary injunctions. DHS continues to comply with the terms of those orders and is not enforcing the regulatory changes set out in the 2020 fee rule. USCIS continues to accept the fees that were in place before Oct. 2, 2020, and to follow the guidance in place before Oct. 25, 2019, to adjudicate fee waiver requests.

At the conclusion of the current rulemaking, DHS will address how the new rule affects the lawsuits against the 2020 fee rule and the applicable preliminary injunctions.

Last Reviewed/Updated: 01/03/2023