

USCIS Poised to Increase Immigration Filing Fees

Article By:

Juan S. Steevens

Increases to United States Citizenship and Immigration Services’ (USCIS’s) immigration fees are all but guaranteed as the White House reviews the agency’s final proposed fee schedule. The agency is working to publish the final rule in April 2024, after having reviewed almost 8,000 comments submitted in response to its Notice of Proposed Rulemaking published in January 2023. These increases would mark the first update to the agency’s fee schedule since 2016, with the changes aimed at ensuring USCIS’s solvency.

Background

As a fee-funded agency, USCIS is primarily funded by immigration fees charged to applicants and petitioners for immigration and naturalization benefit requests. These fees fund the cost of adjudicating immigration benefit requests, including those provided without charge to refugee, asylum, and certain other applicants or petitioners.

USCIS has long faced revenue and operational shortfalls. According to its own estimates, if the agency continues operating at current fee levels, it will experience an average annual revenue shortfall of \$1.8 billion. This projected shortfall poses a risk of further degrading USCIS operations at a time when the agency is already facing a number of operational challenges, including substantial backlogs and a significant spike in the agency’s humanitarian workload. To address its funding crisis, in August 2020, USCIS published a final rule that would have increased immigration fees by a weighted average of 20%. The rule was scheduled to become effective in October 2020, but it faced strong opposition and a number of legal challenges and was ultimately preliminarily enjoined in federal court. Thus, USCIS has not implemented the fees set out in the 2020 fee rule.

The New Fee Schedule

In the [2023 fee rule](#), DHS proposed to replace the 2020 fee rule in its entirety, with the new fee schedule representing a 40% overall weighted average increase. The agency justifies these increases by claiming they will be able to fully fund operations and improve services. However, many of the proposed increases are substantial, and some are staggering, including those listed in the table below.

Case Type	Current Fee	Proposed Fee	% Incre
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I-129 for L-1 Intracompany Transferee	\$460	\$1,385	201%
I-129 for O-1 Extraordinary Ability	\$460	\$1,055	129%
I-485 Adjustment of Status	\$1,225	\$2,820	130%
H-1B Registration	\$10	\$205	2,050%

Not surprisingly, the proposed changes spurred widespread commentary, and the agency spent the better part of a year reviewing the almost 8,000 comments it received in response to the proposed rule. Now, USCIS is poised to forge ahead, having submitted its final fee schedule to the White House for review. The White House's review is the final regulatory hurdle the agency must overcome before it can finalize and publish its new fee schedule.

Upcoming Premium Processing Fee Increase

Mintz will publish additional guidance on the forthcoming fee increases when further details become available, or when the Final Rule is published. In the meantime, employers are reminded that USCIS will increase its Premium Processing fee, effective February 26, 2024, in accordance with the USCIS Stabilization Act. The increase to the Premium Processing fee is distinct from the broader fee increases described above. For more information about the Premium Processing fee increase, please see our prior [alert](#).

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