

# USCIS Increases Fees for Most Petitions and Applications

**September 29, 2010**

USCIS has finalized an adjustment to immigration filing fees, the effect of which is an overall weighted average increase of 10 percent. The largest increases affect certain business-oriented petitions and applications. The new fee structure will go into effect on **November 23, 2010**.

USCIS posits that the fee increase is necessary to bridge a budgetary gap between the agency's costs and anticipated revenue. The agency points out that it is a fee-based organization, and that its revenue from collecting fees has dropped significantly since 2008. Much of the decrease in fees can be attributed to the suppressed job market, which affects the number of petitions filed by employers for work visas and green cards. Employers also have been effectively discouraged from filing many employment-based petitions due to the seemingly more stringent review standards applied by USCIS to such categories as the L-1 visa petition, certain H-1B visa petitions for technology consultants, the multinational manager immigrant visa petition, and the extraordinary ability immigrant visa petition.

The rule does not alter the fee for the naturalization application, but does introduce three new fees:

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\$6,230 for organizations seeking Regional Center designation under the Immigrant Investor Pilot Program

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\$615 for physicians seeking designation as a USCIS civil surgeon

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\$165 to recover the cost of processing immigrant visas granted by the U.S. Department of State (via immigrant visa processing abroad)

Several application fees have been reduced, including that for Form I-539, Application to Change or Extend Nonimmigrant Status. Although this application is used by different kinds of nonimmigrants, many businesses use the application to change or extend the status of their employee's dependent family members. The fee for Form I-539 has been reduced by \$10, from \$300 to \$290 per application. Fees for the vast majority of petitions and applications used by businesses, by intending immigrants, or by individuals who are already permanent residents (other than the application for naturalization), have been increased.

The greatest impact of the new rule will be felt by companies that sponsor their employees for temporary work visas and green cards, and that support their employees who already have a green card. One of the most surprising changes, the increase of the Premium Processing application fee from \$1,000 to \$1,225, affects employers directly and explicitly, since the only petitions available for premium processing are filed by employers. While the premium processing fee may be paid by the beneficiary, the program is aimed at employers. If that were not the case, premium processing would be available for family-based petitions and individual applications, with the increased fee revenue devoted to the staffing of an expanded premium processing unit.

The new fee structure comes only 45 days after the imposition of a "super fee" on significant users of the H-1B and L-1 work visas. The super fee is levied on any petitioner employing at least 50 people in the U.S. if at least 50 percent of its U.S. workforce is in H-1B or L status. The fees, \$2,000 for an H-1B petition and \$2,250 for an L-1 petition, apply to petitions for affected employers made to the USCIS, or to a U.S. Consulate in the case of a Blanket L petition, requesting an initial grant of H-1B or L-1 status for the worker, or a change of employer for a worker already employed in the U.S. in H-1B, L-1A or L-1B status.

The new fee structure stands to significantly raise the costs associated with the immigration process. To compare the impact, imagine the following scenarios:

A company filing an H-1B petition for a new professional worker.

	<b>Current Fee</b>	<b>Proposed Fee</b>
I-129 petition	\$320	\$325

Training & Education	\$1,500	\$1,500 (no change)
Anti-Fraud	\$500	\$500 (no change)
	<b>\$2,320</b>	<b>\$2,325</b>
(I-129 Premium Processing)	\$1,000	\$1,225
<b>Total:</b>	<b>\$3,320</b>	<b>\$3,550</b>

An employee sponsored by his employer for permanent residence, and his three-member (principal applicant, spouse and child under the age of 14) family's filing the final stage of the green card process (I-485).

	<b>Current Fee</b>	<b>Proposed Fee</b>
I-140 petition by employer	\$475	\$580
I-485 application (principal)	\$905	\$985
I-485 application (spouse)	\$905	\$985
I-485 application (child)	\$600	\$600 (filed with his parents)
Biometrics (principal)	\$80	\$85
Biometrics (spouse)	\$80	\$85
Biometrics (child)	\$0	\$0
I-765 EAD (principal)	\$0	\$0*
I-765 EAD (spouse)	\$0	\$0*
I-131 Advance Parole (pr.)	\$0	\$0*
I-131 Advance Parole (sp.)	\$0	\$0*
I-131 Advance Parole (ch.)	\$0	\$0*
<b>Total:</b>	<b>\$3,045</b>	<b>\$3,320</b>

(I-140 Premium Processing)	\$1,000	\$1,225
<b>Total:</b>	<b>\$4,045</b>	<b>\$4,545</b>

\*Since 2007, the I-485 filing fee includes submission of an EAD application and an Advance Parole application, and any renewals of those documents.

Individuals seeking classification under the Immigrant Investor Program may see the largest increase in fees:

	<b>Current Fee</b>	<b>Proposed Fee</b>
I-924 application (new, seeking Designation as Regional Center)	\$0	\$6,230
I-526 petition by entrepreneur	\$1,435	\$1,500
I-829 petition to remove conditions	\$2,850	\$3,750
<b>Total:</b>	<b>\$4,285</b>	<b>\$11,480</b>

For further information on the fee adjustment, or any questions you might have relating to immigration fees, please do not hesitate to contact any attorney in Proskauer's Immigration Practice Group.