

USCIS Issues Proposed Rule to Adjust Certain Immigration and Naturalization Fees

Overview

- On January 3, 2023, USCIS published a Notice of Proposed Rulemaking (NPRM) to adjust certain benefit request fees that haven't changed since 2016.
- Fee changes could dramatically increase both L-1 and H-1B filings, among other categories, with the proposed fees representing a 40% overall weighted average increase with no improvement to overall USCIS processing times.
- The proposal from the USCIS was published in the federal register on January 4, 2023, and will accept public comments for a 60-day period.
- Once the USCIS submits a report to Congress, it will not be able to implement it until at least 60 days after that time period.
- USCIS will hold a virtual public listening session on January 11, 2023, at 2:00 PM EST.
- The new rule would also change premium processing adjudication time from calendar days to business days.

The USCIS has conducted a fee review and has determined that unless fees are not adjusted, it will not have the resources it needs to provide adequate service to applicants and petitioners. The proposed dramatic fee increase would ensure that the USCIS costs associated with adjudicating immigration benefits would be covered.

Cozen O'Connor Analysis

These fee increases represent a significant burden on employers who sponsor employment-based immigrant and non-immigrant petitions on behalf of foreign national employees. This will directly impact the employer's recruitment planning and onboarding processes, given the additional filing fee costs and budget planning and forecasting. While there will be a public comment period and then will have to go to Congress, historically, once the USCIS puts forth these proposals, the changes are fully implemented. Employers will need to consider these increased fees going forward and work closely with their immigration providers to determine the direct impact and long-term strategies.

These are the largest fee increases seen in more than a decade, and some of the language used in the bill seems to target large companies that employ foreign nationals. The Department of Homeland Security (DHS) is proposing a \$600 Asylum Program fee to be paid by employers who file either a Form I-129, Petition for a Nonimmigrant Worker, or Form I-140, Immigrant Petition for Alien Worker. The DHS has determined that the Asylum Program Fee is an effective way to shift some costs to requests that are generally submitted by petitioners who have more ability to pay, as opposed to shifting those costs to all other fee payers.

Cozen O'Connor will continue to monitor this situation and will provide updates accordingly.

Here is a sample list of some key categories which will be impacted. A full list can be found by clicking [here](#).

Immigration Benefit Request	Current Fee	Proposed Fee	% increase
H-1B Cap Registration	\$10	\$215	2050%



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Related Practice Areas

- Immigration Policy & Strategy
- Labor & Employment

I-129 (H-1B)	\$460	\$780	70%
I-129 (L-1)	\$460	\$1,385	201%
I-129 (O)	\$460	\$1,055	129%
I-129 (TN)	\$460	\$1,015	121%
I-140 Immigrant Visa Petition	\$700	\$715	2%
I-485 Application to Adjust Status	\$1,140	\$1,540	35%
