



September 14, 2009

Alejandro Mayorkas
Director
U.S. Citizenship and Immigration Services

Dear Director Mayorkas,

The below-listed organizations devote substantial resources to helping America's newcomers become U.S. citizens. Over the course of the past two decades, we have watched immigrants struggle with the immigration bureaucracy as they try to navigate the citizenship process. Periodically, they are forced to wait in extraordinarily long backlogs, as the immigration service only just manages to catch up with the last wave of applications before being overwhelmed by the next wave. All the while, applicants are asked to pay higher and higher fees and are promised a more efficient process.

Most recently, in Fiscal Year 2007, record numbers of applicants filed for U.S. citizenship, catching U.S. Citizenship and Immigration Service (USCIS) unprepared and causing initial processing backlogs of 16 to 18 months. While the agency made a herculean effort to reduce these backlogs, we believe that USCIS can make the naturalization process more welcoming and efficient, and less frustrating for newcomers who want to become full citizens of their adopted country.

The Obama administration has a tremendous opportunity to create a more open and transparent naturalization process that fully engages the community. We have developed a series of recommendations for accomplishing that goal, some of which we recently submitted to Secretary Napolitano as part of a larger response to her recent directive for review of select programs. We would like to discuss with you the following ideas:

Create naturalization advisory committees in each district: Community-based organizations that are familiar with the needs of immigrants can be important partners with USCIS in addressing challenges in the naturalization process. However, USCIS does not require each district to engage these groups on an ongoing basis.

USCIS should create naturalization advisory committees that meet regularly with USCIS district staff to discuss customer service issues and other challenges facing applicants. These committees should be comprised of a broad range of naturalization assistance, adult education, and advocacy groups that fully represent the diversity of the immigrant population served by the district. USCIS should incorporate the implementation of such advisory committees into the performance objectives developed for its district personnel.

Make management improvements to prevent future application backlogs and to enhance customer service: The agency suffers from a history of backlogs and backlog reduction efforts in the naturalization process. The most recent backlog, which developed in the run-up to the 2007 fee increase and from which the agency is just now recovering, might have been avoided or mitigated with better planning, as interest in applying for citizenship was building even before the fee increase deadline was near. The agency should work with community organizations that prepare immigrants for citizenship, as these organizations might

have valuable information for the agency regarding their efforts to promote naturalization, as well as other information that may have an effect on immigrants' interest in naturalization such as the political climate. Predicting the agency's work load will never be a precise science, but seeking input from stakeholders may increase accuracy.

The agency has made great strides in the last 10 years in customer service. More can be done, however. For those customers who are treated badly, there should be a complaint process with clear explanation of that process translated into several languages.

Undertake a thorough examination of the immigration fee system: Immigration fees, including the fee for naturalization, have increased steeply since the early 1990s, becoming a burden for lower-income applicants. Applicants for immigration benefits have been paying not only for the processing of their own applications, but for the processing of those applications for which no fee is charged. In addition, fees have been used to pay for the modernization of USCIS infrastructure and some enforcement functions that perhaps should be funded out of Congressional appropriations.

USCIS should conduct a review of immigration fees, and break down the direct costs of processing applications as well as the overhead costs, including the cost of enforcement-related functions and surcharges placed on applications to cover the cost of processing applications for which there is no fee. Where appropriate, the agency should seek Congressional appropriations to cover some if not all of these overhead costs. Seeking Congressional appropriations for some of the overhead costs that are marginally related to processing applications would reduce the fee burden somewhat on applicants for immigration benefits. We note that in its Fiscal Year 2010 budget, the Administration requested \$206 million from Congress to process the applications of refugee and asylum applicants, and for military naturalization applications.

Streamline fee waiver applications: Fees to initiate the naturalization process have jumped dramatically several times since the early 1990s. In July 2007, a fee increase brought the fees up to \$675. High fees pose a significant burden on low-income applicants. USCIS has established a process for obtaining a fee waiver, but the process and results are not uniform. Moreover, there is no USCIS fee waiver form, and applicants must decipher on their own how to frame the request, and what supporting documentation to submit.

In addition, applicants who are already receiving or have recently received a federal means-tested benefit must go through the process of re-establishing their low-income status, even though they have already done so with another federal agency.

USCIS should develop and widely disseminate a formal fee waiver application form, including a worksheet that would help applicants evaluate their eligibility. In addition, applicants should be automatically eligible if they submit proof that they qualified for or received a federal means-tested benefit within the last 180 days.

Establish "troubleshooting" units in each office for backlogged or problem cases: Immigrants who are confronted with application delays, for whatever reason, do not receive adequate information about the cause of the delay and USCIS's efforts to resolve problems with their application processing. The agency has not established consistent practices across its district offices that allow those offices to "troubleshoot" problem applications effectively.

USCIS should undertake an assessment of its offices with an eye toward identifying managerial and operational “best practice” models for problem-case resolution. These models should be adopted agency-wide. In particular, each district office should create a special unit responsible for “troubleshooting” backlogged or other problem cases.

Assess FBI name check review: Our naturalization process must include effective measures to protect national security and prevent the naturalization of newcomers who do not meet the legal requirements for U.S. citizenship. However, serious questions have been raised about the utility of one specific type of security check—the FBI name check—in promoting national security. This name check is one of the many background checks the USCIS requires to ensure that applicants are qualified for naturalization. However, due to the need to search some of the records by hand in locations scattered around the world, the name-check has proved to be time-consuming and resource-intensive, resulting in many cases in delays of more than a year. The FBI and USCIS have dedicated extraordinary resources in recent months to eliminate the backlog in the name check process. Still, some policymakers, including the USCIS’s Ombudsman Office, have questioned whether the FBI name check has security value commensurate to the costs it places on the system.

We urge the administration to conduct an interagency assessment of the value and efficacy of FBI name checks in protecting national security and revealing useful information about applicants’ eligibility for naturalization. This assessment should examine whether the name checks can provide relevant information that cannot be otherwise obtained from other naturalization background checks.

Make naturalization exam passage rates transparent: USCIS began implementing its re-designed naturalization exam in October 2008. Beginning in October 2009, all applicants must take the new exam. Understanding the impact of the new test on naturalization applicants will be critical to ensuring that the new test does not become a barrier to citizenship. A meaningful review of the new examination will require USCIS to develop and disseminate statistics about passage rates.

USCIS should be required to regularly share with naturalization stakeholders statistics that break down the portion(s) of the exam failed by applicants and compare the rates of failure between those taking the new and old exams. More broadly, USCIS should collect and disseminate all information related to naturalization denials (including failure for reasons not related to the exam), broken down by district office and national origin of the applicant.

Review practices for adjudicating waivers for persons with disabilities: Legal permanent residents who have disabilities that render them unable to meet the English language or civics requirements for naturalization can seek a waiver exempting them from those requirements. Waiver applicants, however, face increasingly restrictive requirements that exceed the governing statute and regulations. USCIS practices for adjudicating such waivers should be reviewed for consistency and fairness.

Address challenges presented by judicial oath ceremonies: In a December 2008 report, the USCIS Ombudsman documented instances where some of the federal courts that have chosen to exercise exclusive authority over the naturalization oath ceremony failed to hold

sufficient additional ceremonies to accommodate the large number of U.S. citizenship applicants who had completed processing in the fall of 2008. The report also raised concerns over whether federal courts were complying with the law and regulations governing the allocation of fees and costs of the ceremonies.

We understand that USCIS will issue formal guidance to its district officials clarifying the agency's authority over oath ceremonies. This guidance should address when those officials are entitled to administratively naturalize armed services personnel and others without deference to the court, including persons who have not been provided an oath ceremony by the courts within 45 days of USCIS approval. USCIS and the Administrative Office of the United States Courts should collaborate on guidance for those jurisdictions where courts exercise exclusive authority over oath ceremonies to ensure that federal courts fulfill their swearing-in obligations responsibly and effectively.

Make voter registration a part of the swearing-in process: The greatest responsibility of citizenship is participating in our democracy through the vote. When immigrants are sworn in as citizens, they should also be encouraged to register to vote. In some districts, USCIS works with outside non-partisan groups that provide voter registration information at naturalization ceremonies and that help immigrants register to vote, but this collaboration is not uniform from office to office.

USCIS should include voter registration information in the packet of materials it provides immigrants when they are sworn in as citizens. Beyond that, USCIS should assess the practices of all district offices collaborating with groups that assist immigrants with voter registration at swearing-in ceremonies. The agency should identify offices with the best models for registering immigrants and replicate those models in all offices where possible.

End the practice of initiating removal proceedings against applicants whose applications are denied: In October 2006, USCIS began to implement a policy of regularly initiating deportation proceedings for removable applicants who were denied immigration benefits, if no grounds for relief appeared to be available. USCIS initiates the proceedings by issuing a "Notice to Appear" (NTA). We believe that the initiation of removal proceedings is essentially an immigration enforcement activity that is inconsistent with the agency's mission to adjudicate applications for benefits and provide services to newcomers. The agency should cease this practice, and leave this function to Immigration and Customs Enforcement (ICE), the agency that is generally in charge of enforcing removal orders.

In this connection, we note that the expenses involved in issuing NTA's are included when USCIS determines the costs of adjudicating applications for the purposes of setting immigration fees. While these expenses are fairly minimal, leaving this function in ICE's jurisdiction could result in some reduction of the fees charged to applicants. If USCIS continues to retain responsibilities for issuing NTA's, the agency should at least exclude the associated expenses from the costs used to determine applicant fees. We do not believe that these expenses are reasonably related to the adjudication of applications, and applicants for benefits should not be required to bear the costs for initiating removal proceedings against those whose applications are denied.

Ultimately, the successful integration of New Americans will depend in part on a naturalization system that encourages immigrants to become U.S. citizens, and is not so economically burdensome that it excludes those of modest means. In particular, we urge the Administration to address the need for fundamental changes in our system of financing immigration services so that naturalization fees do not put the American Dream beyond the reach of our nation's newcomers. We hope to meet with you to discuss the above-listed ideas, and how we might work together to create a system where there is better balance between the government's need for security and integrity and the affordability and accessibility of the naturalization process.

You may respond to Maurice Belanger, National Immigration Forum, (202) 383-5982, and he will make arrangements on behalf of the group.

Sincerely,

Arab American Institute
Asian American Justice Center
Catholic Legal Immigration Network, Inc.
Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)
Hebrew Immigrant Aid Society
Illinois Coalition for Immigrant and Refugee Rights
Immigration Policy Center
Massachusetts Immigration and Refugee Advocacy Coalition
National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund
National Council of La Raza
National Immigration Forum