
REMAPPING DEBATE

Asking "Why" and "Why Not"

Priced out of the American dream?

Original Reporting | By Greg Marx | Immigration



October 26, 2010 — Mid-level federal bureaucrats don't often attract sizable media contingents. But that's where Andrea Quarantillo found herself last week, standing at a touch-screen monitor as a circle of reporters, flipcams at the ready, jostled for a view.

Quarantillo is the director of U.S. Citizenship and Immigration Services' district office in New York City, which on Oct. 20 held its first-ever open house. The event attracted several hundred visi-

tors, mostly immigrants and their advocates, who had the opportunity to ask questions about cases and concerns while their children were greeted by employees dressed as Uncle Sam and Abe Lincoln. It also drew a couple dozen members of the press — reporters for ethnic and international outlets, but also CNN, The Associated Press, and [The New York Times](#) — who came to hear USCIS's pitch about how it is remaking itself. Those touch-screen computer stations, which allow immigrants to schedule appointments with case officers, stand at the entrance to an expansive "customer service" floor. They are part of the agency's ongoing effort to offer better services to people overseas who want to migrate to the U.S., and to immigrants who want to become permanent residents and American citizens.

While political debate tends to focus on undocumented immigrants, the legal pathway to immigration has long been notoriously slow, complicated, and inefficient. But, many advocates and attorneys say, there has been real — if not yet sufficient — improvement over the past three or four years. Straightforward applications, which earlier this decade routinely took years to process, are now usually completed within months. (It can still take many years to get a visa or a green card, but most delays are now the result not of administrative backlogs, but of annual statutory caps on the number of visas, green cards, and other authorizations the government can issue.)

And under Alejandro Mayorkas, the national director of USCIS, the agency has expanded its outreach initiatives, such as mobile offices to help immigrants in remote job centers keep their documents up-to-date. Complaints about poor communication and inconsistent service are still common. But there is "a very impressive breath of fresh air," especially in the agency's upper ranks, said David Leopold, president of the American Immigration Lawyers Association (AILA). "[Mayorkas] is really working hard in good faith to make this system work."

But the upgrades have not come cheap, and a look at the agency’s budget suggests that better “customer service” also translates to “customers” — that is, applicants — footing a growing bill. While most federal agencies are supported by Congressional appropriations, USCIS is primarily funded by fees paid by its applicants, which over the last four years have increased dramatically. In July 2007, with legal challenges to the slow processing times mounting, the agency hiked its fees by an average of 86 percent. (Because of changes to the way in which interim benefits were treated, the actual increase was 66 percent, the agency said.) Another, more modest increase — [about 10 percent, on average](#) — was approved in September as part of a plan to close budget shortfalls, and will go into effect next month.

There is a direct relationship between the fee hikes and the gains in service, Quarantillo said during a break in the media tour. The 2007 increase boosted the agency’s revenues from fees by \$700 million — a figure that dwarfs the \$81 million Congress provided for the agency in the following fiscal year. The increase helped to pay for another 2,000 full-time employees and support other improvements. Quarantillo estimated the New York district office alone added 100 new workers. “It enabled us to hire people and get the kind of facilities and equipment we need to do the work,” she said.

Others, though, have watched this trend with concern. Under the new rates, the cost of a green card, which was \$325 at the start of 2007, will be nearly \$1,000. Add in expenses for a required medical exam and the capture of biometric information, and a family of four will be paying \$5,000 to become permanent residents — likely on top of whatever they paid for visas to enter the country initially. The Catholic Legal Immigration Network (CLINIC), the nation’s largest network of nonprofit immigration programs, has calculated that the total application expense for an immigrant religious worker to become a permanent resident will be \$2,415, more than double what it would have cost four years ago.

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“There has been improvement” in the agency’s performance over the last few years, said Allison Posner, CLINIC’s director of advocacy. But at a certain point, “the costs can’t be borne by the applicants.”

The Immigration and Naturalization Service, the predecessor of USCIS, began charging application fees in 1968, at the onset of the modern period of immigration. But it wasn’t until two decades later that Congress established a special budget line, the Immigration Examinations Fee Account (IEFA), to set aside those funds for the purpose of paying to process newcomers. When, in 2003, the Department of Homeland Security was created, INS was disbanded and its responsibilities were divvied up between Customs and Border Patrol (CBP), Immigration and Customs Enforcement (ICE), and USCIS. CBP and ICE, the enforcement branches, are funded by Congress, to the tune of about \$17 billion during the last fiscal year. The IEFA became the mainstay of the USCIS budget, which now amounts to \$2.9 billion.

With USCIS inheriting a pile of unreviewed applications and a host of post-9/11 security standards — at the end of the 2003 fiscal year, there were more than 6 million pending requests — Congress appropriated at least \$80 million a year through 2006 to address the backlog. But total Congressional appropriations, which are generally earmarked for specific purposes, have never exceeded \$224 million. And the principle that the agency's core operations should be fee-funded seems rarely to have been seriously questioned — including by the agency itself, which in some years has actually requested less funding than it ultimately received. Since the 2004 fiscal year, fees paid by applicants have accounted for between 86 and 96 percent of USCIS's annual budget. No comprehensive list of fee-funded federal agencies exists, but outside of the Patent Office and Post Office, no one interviewed for this story could name a department of comparable size that relies so heavily on user charges.

The budget structure rests on the assumption that immigrants and their employers are the primary beneficiaries of immigration. In narrow economic terms — setting aside any consideration about whether the fostering of a well-functioning legal immigration system promotes core national values — that may be true. But as a practical matter, that logic sometimes leads to peculiar consequences. During the global economic downturn of the last few years, applications to USCIS have been lower than expected. That means revenues, too, have been lower than expected. (Application fee revenues were basically flat from fiscal years 2008 to 2010, and are expected to decline slightly in fiscal 2011, according to a budget history provided by USCIS.) According to Allen Kaye, an immigration lawyer in New York, at a recent stakeholder meeting agency representatives said that the dip in volume would lead to fewer staff, and thus to slower processing times. USCIS did not respond to a question about the accuracy of this claim by press time.

Advocates like CLINIC, meanwhile, worry that rising fees may discourage legal immigrants from pursuing permanent residency and citizenship, thus inhibiting integration efforts. (USCIS has acknowledged the concern with respect to citizenship; the naturalization fee, \$595, is one of few not to rise during the current increase.) Advocates have also raised concerns that the fee levels force applicants to forego legal assistance, or leave them unable to pay the small fees sought by non-profit groups that help immigrants fill out forms correctly and navigate the system, which could result in further delays. (This argument was less persuasive to USCIS: [the formal announcement](#) of the fee increase notes that “it is not a function of [the government] to ensure that the [non-profit] organizations have sufficient funds.”) That announcement, published in the Federal Register, includes other threads of the agency's response to criticism: fees make up only a portion of the full cost of immigrating; waivers are available in the event of financial hardship; a fully means-tested system would be cumbersome and expensive to operate; and ultimately, “the purpose of the fee schedule is not to establish broad immigration policy or induce individuals to immigrate to the United States, but to recover the costs necessary to operate USCIS.”

In other words, its purpose is to relieve current taxpayers from the cost of welcoming legal immigrants. There is reason, though, to believe subsidies are paid by people within the system. In 2000, Congress authorized INS to charge a \$1,000 premium fee for employment-backed visa requests; businesses that choose to pay the surcharge receive a decision on a prospective worker's application within two weeks.

The fee, which will rise to \$1,225 next month, now represents a substantial revenue stream for USCIS and helps to support the agency's technology investments. But [a pair of 2009 reports](#) by the Government Accountability Office found that because USCIS had not at that time determined how much the expedited service actually cost and set aside funds for it, "the additional costs of premium processing services are funded by nonpremium... applicants, raising equity concerns."

Further, all fee-paying applicants bear the cost of one expression of America's national interest. USCIS does not charge fees to refugees and asylum seekers. But because Congress has not historically covered the expense of those services, the policy results in an effective surcharge of \$40 on other applicants. The House Appropriations Committee, in its 2010 report, noted that, "it may be appropriate for the costs of these programs to be paid from general tax revenues since they support fundamental values of the United States such as freedom from persecution [and] compassion for the disadvantaged" — and Congress did set aside \$50 million in the fourth quarter of fiscal 2010 for that purpose.

But the appropriation came over the objection of the Senate Appropriations Committee, [which had recommended no funding](#). Under Mayorkas, the agency has requested about \$200 million for refugees and asylees in fiscal 2011, enough to cover the cost over a whole year. The Senate committee has suggested no further increase, [writing instead](#) that it "supports the existing method used to cover the costs for those activities." Sen. Frank Lautenberg (D-NJ), chairman of the relevant subcommittee, did not respond to requests for comment. (The House Appropriations Committee has not completed its 2011 report.)

Is welcoming legal immigrants, and naturalizing new citizens, itself a "fundamental value" of America?

The House committee report's invocation of "fundamental values" prompts another question: is welcoming legal immigrants, and naturalizing new citizens, itself a "fundamental value" of America? And if so, should the agency in charge of those tasks be funded by fees in the first place?

That's a question that seems not to be raised often in this debate, even among those who worry about the impact of higher fees. In February 2007, a House subcommittee [held a hearing on the fee increase](#) that was planned for that year. Several members of the committee faulted the erstwhile USCIS director, Emilio Gonzalez, for not asking Congress for more funds. (In his testimony, Gonzalez said that reliance on Congressional appropriations was "part of the [agency's] funding problem.") But even they tended to describe the goal as a better balance between fees and appropriated funds, and a more watchful eye to make sure current applicants are not paying for the agency's past failures. "Immigrants are prepared to pay the cost of processing the applications they submit to USCIS," said Rep. Luis V. Guitierrez, an Illinois Democrat.

On the advocacy front, Posner said CLINIC has raised arguments about the inherent value of immigrant integration and promoting citizenship when prodding Congress to increase the modest amount

it spends in those efforts. (USCIS received a record \$11 million for immigrant integration programs in fiscal 2010, and is seeking \$7 million for its Office of Citizenship Services in 2011 — a request that the latest Senate report rejected.) But CLINIC has never argued that Congress should cover the agency's costs in full. "We've advocated for them to keep [the fees] lower, but not to eliminate it entirely," Posner said. Similarly, AILA [objected to the latest increase](#) on the grounds that application charges were being used for purposes "unrelated to the services for which fees are being paid" — not that those services were themselves a core government function which might be funded by Congress.

This approach has the benefit of focusing on what seems, in the near term, to be feasible. But the focus on economic concerns and budgetary fairness may, more broadly, help to reinforce a framework in which immigration is seen as a series of individual transactions, rather than a step in the ongoing process of building a cohesive nation.

At the open house, Quarantillo said, "There isn't anything that the federal government does that's more important than bringing in new citizens and naturalizing people." She addressed 25 new citizens at a naturalization ceremony that concluded the event, urging them to help the country live up to the Constitution's charge to form "a more perfect union."

"America needs and welcomes the diversity, the energy, and the spirit that each of you brings," she said. "We are so happy to have you as part of the American family today." It was a powerful moment, but on reflection it was hard not to wonder: how many families charge you for the privilege of joining?