



U.S. Citizenship
and Immigration
Services

U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements

29 September 2020

Small Entity Compliance Guide

Introduction and Purpose

The U.S. Department of Homeland Security (DHS) has prepared this document as the small entity compliance guide required by section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. Small entity compliance guides summarize and explain final rules DHS has adopted, but they are not a substitute for the rule itself. Only the final rule can provide complete and definitive information regarding its requirements.

Overview

On August 3, 2020, DHS issued a final rule at [85 FR 46788](#) that adjusts certain immigration and naturalization benefit request fees charged by U.S. Citizenship and Immigration Services (USCIS). This final rule also removes certain fee exemptions, changes fee waiver requirements,

alters premium processing time limits, and modifies intercountry adoption processing. USCIS conducted a comprehensive biennial fee review and determined that current fees do not recover the full cost of providing adjudication and naturalization services. Therefore, USCIS fees are adjusted by a weighted average increase of 20 percent, adding new fees for certain immigration benefit requests, establishing multiple fees for nonimmigrant worker petitions, and limiting the number of beneficiaries for certain forms. The rule is intended to ensure that USCIS has the resources it needs to provide adequate service to applicants and petitioners.

The effective date of the final rule is October 2, 2020. This guidance restates some of the information in the final rule, particularly the information related to small entities. However, this guidance does not replace the final regulations; instead, it is a reference for small entities seeking information concerning the potential impact of the regulations on them. As it relates to this rule specifically, DHS prepared a full Regulatory Impact Assessment (RIA) and Small Entity Analysis (SEA) to accompany the rule that are available in the rule's docket at <https://beta.regulations.gov/document/USCIS-2019-0010-12272> and <https://beta.regulations.gov/document/USCIS-2019-0010-12273>, respectively.

Summary of the Final Rule Provisions

This final rule adopts, with appropriate changes, the regulatory text proposed by DHS in the Notice of Proposed Rulemaking (NPRM) published in the Federal Register on November 14, 2019. See *U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements*; Proposed Rule, [84 FR 62280](#). This rule makes the following major revisions as compared to the NPRM:

1. Adjusts certain immigration and naturalization benefit request fees charged by U.S. Citizenship and Immigration Services (USCIS);
2. Removes certain fee exemptions, changes fee waiver requirements, alters premium processing time limits, and modifies intercountry adoption processing;
3. Clarifies the fee waiver documentation requirements for VAWA, T, and U requestors who may not have access to documentation of household income;
4. Separates fee exemptions for Form I-765 for renewal or replacement of Employment Authorization Document and clarifies the provisions related to VAWA self-petitioners who are eligible for a fee exemption;
5. Removes the proposed fee (\$275) that was introduced in the NPRM of this rule for Form I-821D, Consideration of Deferred Action for Childhood Arrivals, filed for renewal of Deferred Action for Childhood Arrivals (DACA). DHS will maintain the DACA policy fees as in effect before September 5, 2017, at \$410 for employment authorization and \$85 biometric services;
6. Does not provide for the proposed transfer of any Immigration Examination Fee Account (IEFA) funds collected by USCIS to U.S. Immigration and Customs Enforcement (ICE);
7. Reassigns the proposed National Record Center (NRC) costs that do not directly apply to the genealogy program, thereby setting genealogy fees lower than proposed;
8. Provides a \$50 reduction in the fee for Form I-485, Application to Register Permanent Residence or Adjust Status, filed in the future for principal applicants who pay the \$50 fee for Form I-589 and are subsequently granted asylum;

9. Consolidates the Director's discretionary provision on fee waivers to remove redundancy;
10. Moves proposed 8 CFR 106.3(d)(1) and (d)(2) (not permitting a fee waiver for a requestor who is subject to the affidavit of support, already a sponsored immigrant, or subject to the public charge inadmissibility ground are not applicable to applicants who are otherwise eligible for fee waivers in this rule);
11. Provides that the fee for forms currently electronically available for online filing with USCIS and filed online will be \$10 lower than the fee for the same paper forms.

In addition to the above, there are technical adjustments that apply to specific forms, and details can be found in the rule's preamble and accompanying RIA, cited above. DHS has kept certain fees below the level indicated by the fee setting model based on policy choices, or provided that certain fees may be waived, transferring the costs not covered by the lower or waived fee to other benefit requests. However, in this rule, DHS is focusing on the beneficiary-pays principle and assigning fees to those who are going to directly capture the benefits of the applicable immigration benefit request. DHS's policy shift to the beneficiary-pays principle, as detailed in the preamble, recognizes that different immigration services provide varying levels of societal net benefits (whether economic or humanitarian), and previously DHS did account for some aspects of the social benefit of specific services through holding fees below their cost. However, DHS believes that the beneficiary-pays principle is generally more equitable and has largely been adopted in this rule.

A key component of the rule is that it incorporates the biometric services cost into the underlying immigration benefit request fee instead of charging the separate, flat \$85 biometric services fee in place prior to this rule. A separate \$30 biometric services fee is required for Form I-765 filed by pending asylum applicants and applicants for status as a long-term resident from the Commonwealth of the Northern Mariana Islands (CNMI), because the fee does not include the cost of the associated biometrics.

Entities Subject to the Rule

For the 10-year implementation period, DHS estimates the annualized cost of the rule is \$13,856,291, annualized at either a 3- or 7-percent discount rates. The annualized cost-savings are estimated to range from \$6,192,201 to \$22,546,053. DHS estimates the annualized net societal costs and savings of the rule to range from costs of \$7,664,090 to savings of \$8,689,762. Over the 10-year implementation period of the rule, annualized transfers to the government from applicants/petitioners are estimated at \$551,842,481 annualized at either a 3- or 7-percent discount rates. Over the same period, annualized transfers of the rule between different groups of fee-paying applicants and/or petitioners to specific form populations is estimated at \$832,239,426, annualized at either 3- or 7- percent discount rates.

A majority of immigration benefit requests are submitted by individuals who do not meet the definition of “entity” under SBA rules and hence, most of the population impacted by the rule would not be considered small entities. However, entities primarily affected by this rule that file and pay fees for certain immigration benefit requests on behalf of a foreign nationals could

possibly be small entities. Consequently, there are six categories of USCIS benefits that are subject to a small entity analysis for this rule:

1. Petition for a Nonimmigrant Worker, Form I-129, authorizes foreign workers for temporary employment, services, or to receive training in the United States.
2. Immigrant Petition for Alien Worker, Form I-140, authorizes foreign workers to become permanent residents in the United States.
3. Application for Civil Surgeon Designation, Form I-910, authorizes physicians to become designated providers of medical examinations for individuals applying for immigration benefits in the United States with DHS.
4. Petition for Amerasian, Widow(er), or Special Immigrant, Form I-360, authorizes foreign workers for full time employment by a bona fide nonprofit religious organization in the United States.
5. Genealogy Requests, Form G-1041 (Index Search Request) and Form G-1041A (Record Request).
6. Application for Regional Center Designation Under the Immigrant Investor Program, Form I-924, authorizes designation as a Regional Center under the Immigrant Investor Program

Extensive details concerning the data and associated sources, documentation, dating, availability, constraints and caveats are detailed thoroughly SEA, as is the methodology, analytical approach, and sampling procedures employed to conduct the analysis. The SEA also provides more detail concerning the results of the analysis and details of the calculations made to inform the results.

This section abbreviates the information, focusing on key elements of the data, analysis and main results as they relate to small entities. Each category will be addressed in order of numbers above.

For Forms I-129, I-140, I-910, and I-360, internal petition file-tracking data was queried to obtain a global list of petitioners for FY 2017. Next, the data were parsed and filtered to obtain a viable population of entities and records to analyze. Next, statistically valid sampling procedures were developed to apply to the data to obtain unbiased and viable samples to which the analysis could be performed. The filing data did not include information needed to classify the entity according to size standards, such as revenue or number of employees, so DHS relied on third party sources to obtain this information. These sources comprise open-source business data providers which included some subscription-based providers.¹ Each entity was first classified its North American Industry Classification System (NAICS) code, and then Small Business Administration (SBA) size standards were employed to compare the requisite revenue or employee count threshold for each entity. Based on the NAICS code, some entities are classified as small based on their annual revenue and some based on the number of employees. As noted above, the data embody caveats, which included missing data, records that were incomplete, and information that appeared erroneous or not tractable for analysis.

Assessing the Form I-129 is complicated because many employers submit multiple petitions over the course of the year. Nevertheless, DHS was able to parse and filter petitions submitted with an

¹ For the analysis of the effects on the Forms I-129, I-140, I-910, and I-360, DHS used several data sources to capture information on the characteristics of entities required to pay these fees: Hoover's (Dun & Bradstreet), Cortera, Manta, and Guidestar.

employer identification number (EIN) to isolate unique employers. Entities in the population with incomplete or without EIN information were removed before the sample was selected for the analysis because DHS could not determine if the entity was small or not. Using the subscription or public-use databases, revenue and employment information on these entities were obtained and DHS determined that 85.5 percent of these petitioners met the definition of small entities. Of those that could be classified as small entities, 71 percent had annual revenues of less than \$1 million and 9 percent of them had petitioned for five or more workers over the year. Additionally, within the sample nearly 60 percent of entities had submitted just one petition in the 12-month timeframe; over 78 percent submitted only one or two petitions. At the other end of the scale, less than 8 percent of entities submitted more than 10 petitions.

When small and non-small entities are treated separately, the distributions are different. More than 90 percent of identified or assumed small entities submitted four or fewer petitions, whereas only about 62 percent of non-small entities did. From this perspective, submitting four or more petitions would put a company in the top 10 percent of most active small entities but by comparison, a non-small entity would have had to submit between 11 or more petitions join the upmost decile. Although the petition counts per entity ranged from 1 to 317, the majority of small entities submitted only one petition while the majority of non-small entities submitted two or more petitions. While a substantial majority of the entities submitting petitions are considered small, most of these small entities file few petitions.

The distribution of annual revenues of matched small entities in the sample is weighted toward the low-end. The majority of these entities reported revenues of less than \$1 million per year and almost three quarters brought in less than \$5 million. Additionally, the most common state of petitioners in the sample was California (16.2 percent), followed by New York, Florida, Texas, and New Jersey. Together, these top five states accounted for more than half of the distribution.

Assessing the impact is also complicated because DHS is separating Form I-129 into several sub-categories by worker type each with its own fee, per the table below.

| USCIS Fees for Separated Forms I-129 for Fiscal Year 2019/2020 | | | | |
|---|-------------|-----------|----------------|----------------|
| Immigration Benefit Request | Current Fee | Final Fee | Difference Fee | Percent Change |
| Form I-129H1 | \$460 | \$555 | \$95 | 21 |
| Form I-129H2A – Named Beneficiaries | \$460 | \$850 | \$390 | 85 |
| Form I-129H2A – Unnamed Beneficiaries | \$460 | \$415 | -\$45 | -10 |
| Form I-129H2B – Named Beneficiaries | \$460 | \$715 | \$255 | 55 |
| Form I-129H2B – Unnamed Beneficiaries | \$460 | \$385 | -\$75 | -16 |
| Form I-129O | \$460 | \$705 | \$245 | 53 |
| Form I-129L | \$460 | \$805 | \$345 | 75 |
| Forms I-129CW, I-129E&TN, and I-129MISC | \$460 | \$695 | \$235 | 51 |
| Source: USCIS FY 2019/2020 Final Fee Schedule (see preamble). | | | | |

The current fee for Form I-129 is \$460. For petitioners filing Form I-129 for H-2A and H-2B workers with unnamed beneficiaries, the fee is decreased, but the fee is being raised when filed for all other worker types. In order to calculate the impact of these fee changes, the total costs/cost savings associated with the proposed fee increase/decrease for each entity and divided that amount by the sales revenue of that entity. Because entities can file multiple petitions, the analysis considers the number of petitions submitted by each entity. Entities that were considered small based on employee count with missing revenue data were excluded. Among the small

entities with reported revenue data, all experienced an economic impact of considerably less than 2 percent of revenue, with the exception of less than a dozen entities. Depending on the specific immigration benefit request, the average impact on all small entities with revenue data ranges from -0.12 to 0.63 percent, again, measured against revenue. In summary, regardless of the version of the newly separated Form I-129 is applicable, the absolute value of the average impact on the identified small entities is less than 1 percent of revenue. The evidence suggests that the fee changes proposed by this rule do not represent a significant economic impact on these entities.

USCIS internal data collected for Form I-140 indicates that many employers submitted more than one petition over the course of the year, as each petition is apropos to an individual (worker). For FY 2017 the I-140 petitions were aggregated to create a total baseline of foreign worker petitions, which was filtered and grouped to comprise entities petitioning for workers, with such entities submitting multiple petitions. From this population, a random sample was obtained which was run through the subscription/public-use databases. The analysis revealed that nearly three-quarters, 73.1 percent, of the petitioners met the definition of small entities, that over half of these small entities had annual revenues of less than \$5 million, and that approximately 7.5 percent petitioned for 5 or more workers over that year. Within the sample, nearly two-thirds of entities submitted a single petition in the 12-month timeframe; over 76 percent—very close to the proportion of small entities—submitted only 1 or 2 petitions. At the other end of the scale, less than 5 percent of entities submitted 10 or more petitions.

When small and non-small entities are treated separately, the distributions are different. More than 90 percent of identified or assumed small entities submitted 4 or fewer petitions, whereas only about 72 percent of non-small entities did. From this perspective, submitting 4 or more petitions would propel a company in the top 10 percent of most active small entities but by comparison a non-small entity would have to have submitted between 6 to 10 or more petitions to be in the highest decile. Although the number of petition counts per entity ranged from 1 to 97, the majority of small entities submitted only one petition, leading to the determination that most of the small entities file a very small number of petitions.

The distribution of annual revenues of matched small entities in the sample is weighted toward the low end. The majority of these entities reported revenues of less than \$5 million per year and about two thirds brought in less than \$10 million. At the lowest end, about 29 percent of the firms with revenue records in Hoover's and other databases had revenue of less than \$500,000 per year. Additionally, the plurality of petitioners in the sample were submitted by businesses in California (22.0 percent), followed by Texas, Florida, New York, and New Jersey. Together, these top five states accounted for more than half of the distribution.

The fee for Form I-140 is being decreased to \$555, a decrease of \$145 (21 percent). Current fees for this form are \$700. In order to calculate the impact of this decrease, we estimated the total cost savings associated with the fee decrease for each entity and divided that amount by the sales revenue of that entity. Because entities can file multiple petitions, the analysis considers the number of petitions submitted by each entity. Entities that were considered small based on

employee count with missing revenue data were excluded. Among the sampled small entities with reported revenue data, all entities experienced an economic impact considerably less than -2 percent. As a result of the fee decrease, these small entities will see a cost savings (\$145 per petition) in filing fees based on petitions. The greatest economic impact imposed by this fee change totaled -1.74 percent and the smallest totaled -0.00000006 percent. The negative number represents cost savings to the petitioner. Therefore, the greater the magnitude, the greater the cost savings for the petitioners. The average impact on all small entities with revenue data was -0.06 percent. The evidence suggests that the decreased fee does not represent a significant economic impact on these entities.

As it relates to Form I-129, we determined that most (85.5 percent), of the entities filing petitions were small entities, and further that, when categorized by entity type, most were small businesses. A few were small governmental jurisdictions and about 6.3 percent were not-for-profits. For Form I-140 petitions—where almost three quarters (73.1 percent)—were small entities, the sample consisted mainly of small businesses, with no small governmental jurisdictions in the sample and less than a dozen not-for-profit entities.

In addition to the individual Form I-129 and Form I-140 analyses, summarized above and detailed more thoroughly in the accompanying SEA, USCIS sought to determine joint impacts of these form types to small entities. Entities from both samples were filtered to isolate those entities that overlapped in both samples of Forms I-129 and I-140 by EIN. A single entity had an EIN that overlapped in both samples; this was a small entity that submitted 3 Form I-129 petitions and 1 Form I-140 petition. Due to little overlap in entities in the samples and the relatively minor impacts on revenue of fee increases of Forms I-129 and I-140, USCIS does not

expect the combined impact of these two forms to be an economically significant burden on a substantial number of small entities.

By law, a civil surgeon is a physician designated by USCIS to conduct immigration medical examinations for individuals applying for an immigration benefit in the United States. Form I-910 is used by a physician to request that USCIS designate him or her as a civil surgeon to perform immigration medical examinations in the United States and complete USCIS Form I-693, Report of Medical Examination and Vaccination Record. Data for submissions of Form I-910 were provided by the USCIS National Benefits Center from the National Processing Workflow Repository for FY 2017. These applications contain many duplicates, as an individual can apply for multiple clinic practices and a practice can have multiple individual applicants. However, we were able to develop a statistically-valid sample comprising individual doctors associated with these requests, based on medical license entries. From the revenue and employment information on these entities, we determined that 90 percent of the applicants met the definition of small entities, that over half of these small entities had annual revenues of less than \$1 million, and that approximately 4 percent of them had requested a civil surgeon designation for 3 or more of their employee doctors over that year. Within the sample, 85.3 percent of entities had submitted just one request in the 12-month timeframe; over 95 percent of entities submitted only 1 or 2 requests. At the other end of the scale, only about 1 percent of entities submitted more than 4 petitions. When small and non-small entities are treated separately, the distributions are similar. However, those entities identified or assumed to be small were more likely to submit multiple requests per entity, whereas those entities identified as non-small only submitted two or fewer requests per entity.

Among small entities in the population, revenues were generally lower in comparison to Form I-129 and Form I-140 samples; nearly 82 percent of applicants reported less than 1 million dollars in revenue and about 2 percent made over \$10 million in revenue.

The fee for Form I-910 is being decreased to \$635, a decrease of \$150 (19 percent) from the current \$785 fee. In order to calculate the economic impact of this decrease, USCIS estimated the total cost savings associated with the fee decrease for each entity and divided that amount by the sales revenue of that entity. Because entities can file multiple requests, the analysis considers the number of requests submitted by each entity. Entities that were considered small based on employee count with missing revenue data were excluded. Among the small entities with reported revenue data, all experienced an economic impact considerably less than 1 percent, measured against revenue. As a result of the fee decrease, these small entities will see a cost savings (\$150 per application) in filing fees based on application. The greatest economic impact by this fee change totaled -1.50 percent and the smallest totaled -0.001 percent. The average impact on all of the small entities with revenue data was -0.116 percent. Therefore, the greater the magnitude, the greater the cost savings for the petitioners. The negative number represents cost savings to the applicant. Therefore, the larger it is, the greater the cost savings for the applicants. The evidence suggests that the decreased fee does not represent a significant economic impact on these entities.

As it relates to the Petition for Amerasian, Widow(er), or Special Immigrant, Form I-360, USCIS collected internal data for Form I-360 for religious workers, and a random sample of petitioning

entities was obtained in order to conduct the analysis. The results revealed that 92.4 percent of these petitioners met the definition of small entities, that over half of these small entities had annual revenues of less than \$5 million, and that approximately 3 percent of them had petitioned for 5 or more foreign workers over the year. Within the sample in table 22, nearly 79 percent of entities had submitted just one petition in the 12-month timeframe; over 89 percent entities submitted only one or two petitions. At the other end of the scale, less than 3 percent of entities submitted more than 4 petitions. The average filings per entity are estimated to be 1.5 petitions.

When small and non-small entities are treated separately, the distributions are very different. Those entities identified or assumed to be small were much more likely to submit fewer petitions per entity (approximately 81 percent of entities only submitted 1 petition), compared to approximately 81 percent of entities identified as non-small submitted four or more petitions per entity. Among small entities in the population, revenues were generally lower than in the Form I-129 and Form I-140 samples; nearly 90 percent of applicants reported less than \$5 million in revenue. Only a few entities (about 1 percent) made over \$10 million in revenue.

The plurality of petitions in the sample were submitted by businesses in California, with 80 (or 19.0 percent of 420 entities), followed by New York, Texas, Florida and New Jersey. As was similarly the case with the I-129 and I-140 petitions, these top five states accounted for about half (47.1 percent) of the distribution).

The fee for petitioners who file Form I-360, including entities who petitions on behalf of foreign religious workers, is increasing from \$435 to \$450, a \$15 (4 percent) increase. In order to

calculate the impact of the increase, DHS estimated the total costs associated with the fee increase for each entity and divided that amount by the sales revenue of that entity. As was the case with Forms I-129, I-140, and I-910, DHS estimated the total costs associated with the fee increase for each entity. Among the small entities with reported revenue data, all experienced an economic impact considerably less than 1.0 percent. The greatest economic impact imposed by this fee change totaled 0.35 percent and the smallest totaled 0.000002 percent, and the average impact on all small entities with revenue data was 0.01 percent.

DHS also analyzed the costs of the final rule on the petitioning entities relative to the costs of the typical employee's salary. Guidelines suggested by the SBA Office of Advocacy indicate that the impact of a rule could be significant if the cost of the regulation exceeds 5 percent of the labor costs of the entities in the sector. According to the Bureau of Labor Statistics (BLS), the mean annual salary is \$53,290 for clergy, \$46,980 for directors of religious activities and education, and \$35,860 for other religious workers. Based on an average of 1.5 religious workers petitioned-for per entity, the additional average annual cost will be \$22 per entity. The additional costs per entity in this rule represents only 0.04 percent of the average annual salary for clergy, 0.05 percent of the average annual salary for directors of religious activities and education, and 0.06 percent of the average annual salary for all other religious workers. Therefore, using average annual labor cost guidelines, the additional regulatory compliance costs in this final rule are not significant.

As it relates to Genealogy Requests, Form G-1041 (Index Search Request) and Form G-1041A (Record Request), this rule increases the fee for the Genealogy Index Search Request, Form G-1041 from \$65 to \$170, an increase of \$105 (162 percent), for those who mail in this request on paper. This rule increases the fee for requestors who use the online electronic Form G-1041 version from the current \$65 to \$160, an increase of \$95 (146 percent). In this rule, DHS increases the fee for Form G-1041A from \$65 to \$265, an increase of \$200 (308 percent) for those who mail in this request on paper. In this rule, DHS increases the fee for requestors who use the online electronic Form G-1041A from the current \$65 to \$255, an increase of \$190 (292 percent).

Based on DHS records, an average of 3,840 requests were made annually for an index search and an average of 2,152 records requests were made annually over the 5-calendar year span of 2013 to 2017. DHS does not have sufficient data on the requesters for the genealogy forms to determine if entities or individuals submitted these requests, as the management tracking system used by DHS for genealogy requests does not allow for requesters' data to be readily pulled. DHS has previously determined that requests for historical records are usually made by individuals. If professional genealogists and researchers submitted such requests in the past, they did not identify themselves as commercial requesters and therefore could not be separated within the data. Genealogists typically advise clients on how to submit their own requests. For those that submit requests on behalf of clients, DHS does not know the extent to which they can pass along the fee increases to their individual clients. Therefore, DHS does not currently have sufficient data to definitively assess the impact on small entities for these requests. However, DHS must still recover the full costs of this program.

For this final rule, DHS is expanding the use of electronic genealogy requests to encourage requesters to use the electronic versions of Form G-1041 and Form G-1041A. DHS is also changing the search request process so that USCIS may provide requesters with electronic records, if they exist, in response to the initial index request. These changes may reduce the time it takes to request and receive genealogy records, and, in some cases, it will eliminate the need to make multiple search requests and submit separate fees. Moreover, DHS notes that providing digital records in response to a Form G-1041 request may reduce the number of Form G-1041A requests that will be filed since there would already be a copy of the record if it was previously digitized. Some small entities may be impacted by these proposed increased fees, but DHS cannot determine how many or the exact impact.

As it relates to Regional Center Designation Under the Immigrant Investor Program, Form I-924 and I-924A, Congress established the fifth-preference employment benefit (EB-5) immigrant visa classification to incentivize employment creation in the United States. Under the EB-5 program, lawful permanent resident (LPR) status is available to foreign nationals who invest the required amount in a new commercial enterprise (NCE) that will create at least 10 full-time jobs in the United States. A foreign national may also invest a lower amount in a targeted employment area (TEA), defined to include rural areas and areas of high unemployment.

Under the Regional Center Program, foreign nationals based their EB-5 petitions on investments in new commercial enterprises located within “regional centers.” DHS regulations define a regional center as an economic unit, public or private, that promotes economic growth, regional productivity, job creation, and increased domestic capital investment. Requests for regional center designation must be filed with USCIS on Form I-924, Application for Regional Center Designation Under the Immigrant Investor Program. Once designated, regional centers must

provide USCIS with updated information to demonstrate continued eligibility for the designation by submitting Form I-924A, Annual Certification of Regional Center on an annual basis or as otherwise requested.

DHS is not changing the \$17,795 fee for entities seeking designation as a regional center under the Immigrant Investor Program, Form I-924. However, DHS is increasing the fee for the annual filings of Form I-924A from \$3,035 to \$4,465, an increase of \$1,430 per filing (47 percent). The application process would require the same information from applicants that is currently required. During the 12-month period from October 1, 2016 to September 31, 2017, USCIS received a total of 280 Form I-924 applications and 847 Form I-924A applications.

Regional centers are difficult to assess because there is a lack of official data on employment, income, and industry classification for these entities. It is difficult to determine the small entity status of regional centers without such data. Such a determination is also difficult because regional centers can be structured in a variety of different ways, and can involve multiple business and financial activities, some of which may play a direct or indirect role in linking investor funds to new commercial enterprises (NCEs) and job-creating projects or entities. Regional centers also pose a challenge for analysis as the structure is often complex and can involve many related business and financial activities not directly involved with EB-5 activities. Regional centers can be made up of several layers of business and financial activities that focus on matching foreign investor funds to development projects to capture above market return differentials. In the past, DHS has attempted to treat the regional centers similar to the other

entities in this analysis. DHS was not able to identify most of the entities in any of the public or private databases. Furthermore, while regional centers are an integral component of the EB-5 program, DHS does not collect data on the administrative fees the regional centers charge to the foreign investors who are investing in one of their projects. DHS did not focus on the bundled capital investment amounts for either \$900,000 for TEA projects or \$1.8 million for a non-TEA projects per investor that get invested into an NCE. Such investment amounts are not necessarily indicative of whether the regional center is appropriately characterized as a small entity for purposes of the RFA. Due to the lack of regional center revenue data, DHS assumes regional centers collect revenue primarily through the administrative fees charged to investors.

DHS did consider the information provided by regional center applicants as part of Forms I-924 and I-924A; however, it does not include adequate data to allow DHS to reliably identify the small entity status of individual applicants. Although regional center applicants typically report the North American Industry Classification (NAICS) codes associated with the sectors they plan to direct investor funds toward, these codes do not necessarily apply to the regional centers themselves. In addition, information provided to DHS concerning regional centers generally does not include regional center revenues or employment.

DHS was able to obtain some information under some specific assumptions in an attempt to analyze the small entity status of regional centers. In the DHS final rule “EB-5 Immigrant Investor Program Modernization,” at [84 FR 35750](#), DHS analyzed estimated administrative fees and revenue amounts for regional centers. DHS found both the mean and median for

administrative fees to be \$50,000 and the median revenue amount to be \$1,250,000 over the period fiscal years 2014 to 2017. DHS does not know the extent to which these regional centers can pass along the fee increases to the individual investors. Passing along the costs from this rule can reduce or eliminate the economic impacts to the regional centers. While DHS cannot definitively claim there is no significant economic impact to these small entities based on existing information, DHS would assume existing regional centers with revenues equal to or less than \$446,500 per year (some of which DHS assumes would be derived from administrative fees charged to individual investors) could experience a significant economic impact if DHS assumes a fee increase that represents 1 percent of annual revenue is a “significant” economic burden under the RFA.

In summary, for Forms I-129, I-140, I-910, and I-360, our analysis informs that most of the entities that could be impacted by this rule are small entities, but further that impacts are likely to be very small, in terms of costs measured against revenue. For Forms G-1041/G-1041A, a determination of small entity status and impact could not be made due to lack of sufficient data and information. For Forms I-924A DHS assumes that regional centers could be small entities, but cannot definitively assess the impact of the fee increase for this form.

Description of the Projected Reporting, Record-keeping, and Other Compliance Requirements of the Regulations, Including an Estimate of the Classes of Small Entities that Are Subject to the Requirement and the Type of Professional Skills Necessary for Preparation of the Report or Record

This final rule imposes lower or higher fees for filers of Forms I-129. DHS is changing the following fees for new Forms I-129 (separated into new forms by worker type). The new fee structure as it applies to the small entities outline above, resulting the following fees: I-129H1 (\$555), I-129H2A (Named Beneficiaries, \$850) I-129H2A (Unnamed Beneficiaries, \$415), I-129H2B (Named, \$715), I-129H2B (Unnamed, \$385), I-129O (\$705), I-129L (\$805), I-129CW (\$695), I-129E&TN (\$695), I-129MISC (Includes H-3, P, Q, or R Classifications, \$695), I-140 (\$555), I-910 (\$635), I-924 (\$17,795), I-924A (\$4,465), Form I-360 (\$450), G-1041 (\$170 paper, \$160 online) and G-1041A (\$265 paper, \$255 online).

This rule does not require any new professional skills for reporting. This rule would not directly impose any reporting, recordkeeping, or other compliance requirements on small entities.

Resources to Support Compliance Among Small Entities

Without an increase in fees, DHS would not be able to maintain the level of service for immigration and naturalization benefits that it provides. DHS considered the alternative of maintaining fees at the current level with reduced services and increased processing times but

determined that this will not be in the interest of applicants and petitioners. Therefore, this alternative was rejected. While most immigration benefit fees apply to individuals, as described above and, more fully, in the accompanying documents referenced above, some also apply to small entities. DHS seeks to minimize the impact on all parties, in particular, small entities. Another alternative to the increased economic burden of the fee adjustment is to maintain fees at their current level specifically for small entities. The strength of this alternative is that it eliminates new fee-burdens placed on small entities; however, small entities would still experience negative effects due to the service reductions that would result in the absence of the fee adjustments in the rule. Without the fee adjustments provided, significant operational changes to USCIS would be necessary. Given current filing volume considerations, DHS requires additional revenue to prevent immediate and significant cuts in planned spending that would include reductions in areas such as Federal and contract staff, infrastructure spending on information technology and facilities, and workforce training. Depending on the actual level of workload received, these operational changes could result in longer processing times, a degradation in customer service, and reduced efficiency over time. These cuts would ultimately represent an increased cost to small entities by causing delays in benefit processing and reductions in customer service.

The final regulations are on the Office of the Federal Register web site at:

<https://www.federalregister.gov/documents/2020/08/03/2020-16389/us-citizenship-and-immigration-services-fee-schedule-and-changes-to-certain-other-immigration>.

Additional resources for small entities are available at [the USCIS website for the Small Business Regulatory Enforcement Fairness Act \(SBREFA\)](https://www.uscis.gov/legal-resources/small-business): [https://www.uscis.gov/legal-resources/small-](https://www.uscis.gov/legal-resources/small-business)

[business-regulatory-enforcement-fairness-act-sbrefa](#). USCIS can help small entities with questions about the final rule. Please refer to the above website for additional information and resources for addressing inquiries and resources.