

# Congress of the United States

Washington, D.C. 20515

November 13, 2019

Kenneth Cuccinelli, Acting Director  
U.S. Citizenship and Immigration Services  
20 Massachusetts Avenue, N.W.  
Washington, D.C. 20529

Paul Ray, Acting Administrator  
Office of Information and Regulatory Affairs  
Office of Management and Budget  
725 17th Street, NW  
Washington, D.C. 20503

RE: Request for 60-Day Comment Period for USCIS Proposed Fee Schedule:  
DHS Docket USCIS-2019-0010; RIN 1615-AC18

Dear Acting Director Cuccinelli and Acting Administrator Ray:

We write to urge you to provide a standard 60-day review period in connection with a U.S. Citizenship and Immigration Services (USCIS) proposal to adjust certain immigration and naturalization benefit request fees and the associated regulatory changes.

On November 8, 2019, USCIS posted for public inspection its biennial fee review and fee adjustment schedule in the Federal Register. The pre-publication notice at page 2 indicated the public would be given only 30 days for comment. This extraordinarily short comment period is inconsistent with both the wide scope of this 300+ page rule, and standard Presidential Administration and USCIS practice of providing a 60-day initial period to review and comment upon fee schedule proposals.

For example, Executive Order 12866 states that agencies should allow “not less than 60 days” for public comment in most cases, in order to “afford the public a meaningful opportunity to comment on any proposed regulation.” Executive Order 13563 states that “[t]o the extent feasible and permitted by law, each agency shall afford the public a meaningful opportunity to comment through the Internet on any proposed regulation, with a comment period that should generally be at least 60 days.”

Moreover, a comparison with prior comparable proposed fee rules shows what a dramatic and unprecedented departure from past practice it would be for USCIS to persist with a 30-day public comment period in this instance:

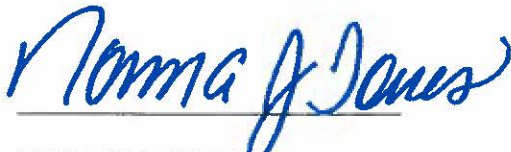
- 2007 proposed fee rule: approx. 25,500 words (60 days for public comments)
- 2016 proposed fee rule: approx. 38,300 words (60 days for public comments)

- 2019 proposed fee rule: approx. 90,900 words (30 days for public comments)

In view of the complexity of the proposed fee rule and its extremely significant and wide-ranging policy implications and consequences, we cannot imagine any justification for deviating from the 60-day standard for comment periods set forth in controlling documents, and USCIS does not provide any rationale at all for taking this extraordinary step in its proposed rule. The balance of equities weighs very heavily in favor of extending adequate time to Members of the Congress and the public to assess the implications of the proposed changes for affected constituents, and to provide meaningful feedback that helps the Administration avoid unintended consequences and the waste of resources.

Thank you in advance for your attention to this important issue.

Sincerely,



NORMA TORRES

Member of Congress



ROBERT MENENDEZ

United States Senator



SUSAN A. DAVIS

Member of Congress



RICHARD BLUMENTHAL

United States Senator



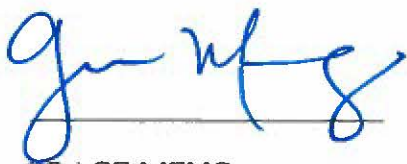
TONY CARDENAS

Member of Congress



KAMALA D. HARRIS

United States Senator

A handwritten signature in blue ink, appearing to read 'Grace Meng', written over a horizontal line.

GRACE MENG

Member of Congress

A handwritten signature in blue ink, appearing to read 'Cory A. Booker', written over a horizontal line.

CORY A. BOOKER

United States Senator

A handwritten signature in blue ink, appearing to read 'Ron Wyden', written over a horizontal line.

RON WYDEN

United States Senator



**U.S. Citizenship  
and Immigration  
Services**

November 15, 2019

The Honorable Norma J. Torres  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Torres:

Thank you for your November 13, 2019 letter related to the U.S. Citizenship and Immigration Services (USCIS) proposed fee schedule. In your letter, you requested an extension of the comment period for USCIS' proposal to adjust certain immigration and naturalization benefit request fees and the associated regulatory changes.

In accordance with the requirements and principles of the Chief Financial Officers Act of 1990 and Office of Management and Budget Circular A-25, USCIS conducts biennial reviews of the non-statutory fees that are associated with administering the nation's legal immigration system.

USCIS conducted a comprehensive biennial fee review and determined that current fees do not recover the full costs of providing adjudication and naturalization services. Adjustments to the fee schedule are necessary to recover the full operating costs associated with administering the nation's immigration benefits system, safeguarding its integrity, and efficiently and fairly adjudicating immigration benefit requests, while protecting Americans, securing the homeland, and honoring our country's values.

The USCIS proposed fee schedule provides an opportunity for the public to comment, consistent with the requirements in existing law. The fee schedule went on public inspection on Friday, November 8, 2019, but was not published in the Federal Register until Thursday, November 14. That means the public received an additional six days, on top of the 30 days provided, to review the fee schedule and prepare comments in response.

The financial situation at USCIS is dire; every day that the fee rule is not in effect, USCIS loses \$4.5 million per business day. Therefore, I have no intention to grant an extension of the comment period beyond the 30 days required by law.

The Honorable Norma J. Torres  
Page 2

USCIS will review and consider all public comments related to the rule. Thank you again for your letter. The co-signers of your letter will receive separate, identical responses. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative and Intergovernmental Affairs at (202) 272-1940.

Respectfully,

A handwritten signature in blue ink, appearing to read "Ken C II", with a stylized flourish at the end.

Ken Cuccinelli II  
Acting Director