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UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

HEARING

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER SECURITY, AND INTERNATIONAL LAW

OF THE

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HOUSE OF REPRESENTATIVES

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UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

TUESDAY, MARCH 23, 2010

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP,
REFUGEES, BORDER SECURITY, AND INTERNATIONAL LAW
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:06 p.m., in room 2141, Rayburn House Office Building, the Honorable Zoe Lofgren (Chairwoman of the Subcommittee) presiding.

Present: Representatives Lofgren, Conyers, Jackson Lee, Gutierrez, Sánchez, Chu, King, Poe, and Chaffetz.

Staff present: (Majority) Traci Hong, Counsel; Hunter Hammill, USCIS Detailee; Andrés Jimenez, Staff Assistant; and (Minority) George Fishman, Counsel.

Ms. LOFGREN. The Immigration Subcommittee will come to order, and I will note that just as we sat down the House notified us that there are votes on the floor of the House. There are three votes and since Mr. King is on his way I thought we might do opening statements but that won't work.

So I think what we will do is go over, we will do our votes. We will come back. That will take at least a half an hour so if people want to go get a cup of coffee, you don't have to sit here. We will reconvene no sooner than, I think, 2:35, 2:40.

If people want to go get a snack in the basement, you are free to do that and—hello, Steve. We are just—they just called for votes, so I think we will go vote and come back.

With that we are recessed until after votes and thanks to our witnesses for your patience.

[Recess.]

Ms. LOFGREN. So welcome. Thank you for waiting and this hearing of the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law is now reconvening. We would like to welcome everyone to the hearing.

And before we begin, I would like to recognize that the U.S. Citizenship and Immigration Service has performed extraordinarily with just extra effort in responding to the tragedy in Haiti following the January 12th earthquake.

Two-and-a-half months into the registration period, over 30,000 TPS applications have been filed. In addition, a USCIS' creation of a humanitarian parole policy specifically to deal with Haitian or-

phans in the process of adoption by U.S. citizens has allowed for nearly 1,000 orphans to travel safely to the United States.

The agency has also processed a multitude of other humanitarian parole requests including for Haitians in need of critical medical care and also allowing for escorts of U.S. citizen children from Haiti to family in the United States.

And finally, I would like to specifically recognize the heroic efforts of USCIS Haitian Field Office Director Pius Bannis and Officer Marie Brierre, who worked around the clock for weeks following the earthquake to respond to the tragedy. Again, thank you for your efforts and for responding to the crisis in Haiti.

In this hearing, however, we will examine the funding structure for USCIS and the impact that it has on immigration law and policy. We will also review the status of the agency's decade-long efforts to transform its business and technology processes.

USCIS and formerly the INS have been primarily dependent on fees to fund its adjudication operations since 1989. Between then and now, INS and later USCIS have raised fees for immigration and citizenship applications and petitions at a rate far exceeding the rate of inflation. For example, the fee for citizenship applications has increased from $90 in 1991 to $675 in 2007, an increase of 750 percent.

The last time that USCIS raised its fees in 2007, it did so by an average of 86 percent. But just 3 years later USCIS appears to be considering yet another increase in fees, and we hope to hear a little more about that.

In 2007, this Subcommittee held two hearings on USCIS' most recent fee increase. At that time I expressed my concerns about the enormous size of the increase and the methodology by which USCIS calculated the increase.

I was especially worried about the barriers that such large fees would erect against legal immigrants who are eligible to become U.S. citizens, but may be unable to do so due to the high cost involved.

At the first hearing then USCIS Director Emilio Gonzalez testified that the agency's new fee rules were carefully devised "to ensure USCIS recovers its full business costs."

At the second hearing then Deputy Director, Acting Director Jock Sharfen testified that the new fees were designed to bring about greater efficiency and, as he said, "long term cost reductions."

And in the final fee rule, USCIS wrote that the new fee structure would enable USCIS to make improvements that may ultimately "help avoid future increases and possibly reduce costs."

But 3 years later, I am concerned that USCIS is considering another fee increase instead of reaping the benefits and reducing costs and reducing fees. It already costs $2,700 for a family of four to apply for citizenship. Another increase will make it that much more difficult for persons of limited means to become U.S. citizens.

I hope to have a frank discussion with the witnesses in today's hearing about the financial health of USCIS and how to achieve the right mixture of funding streams for the agency through fees and appropriations.

On a related note, USCIS and the former INS have been trying to transform information and business processes for roughly a dec-

ade. And I know the new director is new on the job, but the agency still continues to use a filing system that is predominantly paper-based.

And with approximately 55 million files spread out over numerous offices across the country, in this day and age it is hard to believe that any Federal agency dealing with millions of files has not yet developed a primarily digital filing system.

In 2005 the DHS Office of Inspector General reported that despite repeated assessment and attempts to modernize, USCIS' processing of immigration benefits continues to be inefficient, hindering its ability to carry out its mission. Processes then remain primarily paper-based and duplicative, resulting in an ineffective use of human and financial resources. I.T. software and hardware systems were not well-configured to meet U.S. users' needs.

In the follow-up report in 2006, the I.G. observed that because of repeated changes in focus and direction, USCIS has tended to duplicate previous modernization initiatives and has not demonstrated the ability to execute its planned strategies.

Since 2007 the Immigration Subcommittee has actively worked with the department and outside experts to evaluate the agency's proposals for the transformation program. To date, however, the Subcommittee and outside observers have not found the transformation efforts to have been successful yet.

We fear that they are some problems, perhaps, or at least questions about progress and the level of detail regarding actual transformation implementation. And so we hope to learn more today about that whole subject.

I also want to mention that the Subcommittee's last hearing following the USCIS fee increase rule on September 20th, 2007 we, again, raised significant concerns about the progress of the transformation efforts. And we had a follow-up report in July of last year from the I.G. that did find that the transformation efforts were ineffective and plagued with problems.

Now, we need to examine what steps have been taken and can be taken to bring USCIS into the 21st century. The stakes are very high and the agency just cannot continue to be buried in a sea of paper if a digital solution is available.

I know that the director is committed to modernization efforts. I know that he agrees with me that we can't just work faster, we have to work smarter to get this done. And so I look forward to his testimony on what we have done and what we need to do and how the Subcommittee can help the agency in that effort.

I do know that you inherited something of a mess and we do hope that you are successful in cleaning the technology scene up. And with that, I will yield to the Ranking Member Steve King for his opening statement.

Mr. KING. Thank you, Madam Chair. The immigrants who will enjoy the priceless benefits of living and working in America should have to pay for the costs the U.S. government incurs on their behalf. The American taxpayers should not have to foot the bill for granting highly sought after immigration benefits.

While I agree that our Nation has been much enriched by legal immigration, in fact, skimmed the cream of the crop off of every donor civilization to build a foundation for the American spirit with

their vitality, but given the competing needs for new tax dollars and any tax dollars, it only makes sense that those who directly receive an individual immigration benefit should pay for it; fee-for-service, so to speak.

The ability to become a naturalized citizen is the greatest benefit a country can bestow. Indeed, it is priceless. Therefore USCIS should structure its application processing fees to recover its full costs. The new fee schedule that USCIS instituted in 2007 was based on a comprehensive fee study conducted at the recommendation of the Government Accountability Office.

Although the fee increases were substantial in some categories, that does not necessarily make them excessive. Full cost recovery includes more than the direct cost of providing services. It covers overhead and support costs such as the cost of personnel and their retirement benefits for the facilities and litigation.

Most importantly, it includes the cost of background checks and fraud detection, both of which are critical to ensuring that immigration benefits are granted to those who deserve them and not to those who plan to do us harm.

USCIS pledged that part of the new fees would go to pay for the enhanced security and integrity of the immigration system. They were to fund 170 additional fraud detection and national security agents to oversee fraud investigations and the processing of applications that have national security concerns.

I hope to learn that these agents were in fact hired at this hearing today, that it is not unprecedented for criminals and terrorist to try to enter the U.S. through legal channels. Mahmud Abouhalima, a terrorist who blew up the World Trade Center in 1993, received amnesty through the 1986 immigration bill.

Further, 9/11 hijackers came into the U.S. on student and visitor visas. As we have tragically learned through background checks, they are especially critical to immigrant processing.

Immigration benefit fraud remains a critical issue. In 2006 the GAO found that individuals who pose a threat to national security and public safety may seek to enter the United States by fraudulently obtaining immigration benefits. It determined that although the full extent of benefit fraud is not known, available evidence suggests that it is an ongoing and serious problem.

USCIS' Office of Fraud Detection and National Security found that an astounding 33 percent of religious worker visa applications were fraudulent. And for some denominations a majority of the applications were fraudulent, and by recollection, it seems to me that all of the applications from an individual country were fraudulent.

Yet GAO found that immigration adjudicators it had interviewed, reported that "communication from management did not clearly communicate to them the importance of fraud control. Rather it emphasized meeting production goals designed to reduce the backlog of applications, almost exclusively."

GAO concluded that "the lack of a clear strategy for how and when to punish fraud perpetrators limits DHS' ability to project a convincing message that those who commit fraud face a credible threat of punishment."

Last year, GAO reported that fraud detection and prevention accounted for only 4¼ percent of USCIS' annual expenditures for ap-

plication processing. And just last October, DHS' Office of the Inspector General found that the Office of Fraud Detection and National Security "has had little measureable effect on benefit fraud."

The inspector general cited a lack of incentives such as in employee evaluations for USCIS personnel to combat fraud, as opposed to simply rubberstamping applications to improve productivity.

Director Mayorkas, while these findings are disturbing, I am heartened that you have elevated the fraud detection to a newly established fraud detection and national security directorate that will report directly to you, demonstrating in your words, and I will quote them, "Our continued commitment to eliminating fraud, identifying national security threats and sharing information with our law enforcement and intelligence partners."

Your continued commitment is indeed crucial, and I appreciate that commitment that you have demonstrated. The balance of the increased fee revenue was promised to go to modernizing the technology and business structure of USCIS and improving the delivery of services. We will find out today how well this transformation has gone.

I think we do understand the importance of the investigative component, especially of USCIS, and I believe that we had set the foundation for fee-for-service and that was a consensus this Congress had voted for.

And I am hopeful that whatever we do with the fee structure in the future it is based on fee-for-services and not taxing American taxpayers who are overtaxed, overstressed, overburdened and over indebted, especially with the acceleration of the government spending that we have had.

They simply cannot fund out of the taxpayer dollars applications that are fee-for-service for a service that benefits individuals that can, in spite of the cost, need to find a way to use their own revenue.

So I look forward to your testimony. and I appreciate this hearing, Madam Chair, and I yield back the balance of my time.

Ms. LOFGREN. We are pleased to have the Chairman of the Judiciary Committee with us this afternoon. Mr. Conyers, it is an honor to have you here. And I would welcome your opening statement should you wish to give one.

Mr. CONYERS. Thank you, Chairwoman, and to my good friend, Steve King and the Members of the Committee. I haven't been to this kind of a hearing before. And I wanted to begin as we examine the United States Citizenship and Immigration Services, USCIS, by commending Director Mayorkas about the diligent way that they have acted in terms of the Haiti earthquake.

I have done a lot of work with that country and its people, and you moved in right away on the issue of granting temporary protective status. And you have done some Haitian adoptions through humanitarian parole, and it is just impressive. And I think you are living up to your informal record on the Hill as a pretty effective administrator, and I commend you for it.

Now, the fee increases and the paperwork burdens are two other challenges that you are faced with. Now, occasionally Steve King

and I disagree and this is one of those instances because I don't want these costs to be continually heaped on the applicant.

Maybe I will find out here at this hearing, and it may give Steve and I an opportunity to work on this issue together, but there are applicants otherwise qualified to apply for citizenship that don't have the money. They can't afford it. Some of them are not working at too good of jobs to begin with.

So I just want to try to get a picture of this. Fee increases should be absorbed by the appropriations process. Good night, when you have got a trillion-dollar budget and we are talking about charging each person, what is it, $500, $625——

Ms. LOFGREN. $675.

Mr. CONYERS [continuing]. $675 each? A family of four—do you know how many people apply for citizenship and never can follow through because they can't afford it? They are otherwise qualified. And so I am for putting these fees into the appropriations process.

But I don't even want a fee increase. Floating this rumor about a tiny increase doesn't work—look, as Zoe Lofgren said, the increases have been astronomic already. So we don't need that. We don't need it as far as I am concerned.

Now the paperwork problem, here we are. We have been getting computers and we are going to digitize all the paperwork, which can only occasionally get lost, but one of your predecessors, Eduardo Aguirre worked on this. Emilio Gonzalez then came along and he gave it his best shot. Jock Sharfen did the job, and now here you are.

And what I think a number of us on the Committee are concerned with is what is the problem? What makes it so difficult to realize that without computerizing this information, papers have to be sent back and forth from one office to the other. They are frequently lost.

Besides your sympathy, I want you to present a plan or construct one that will really take care of the technology transformation that all of your predecessors have tried and quite frankly not been that successful.

So let us see where we go today and I look forward, Madam Chair, to the hearings.

Ms. LOFGREN. Thank you, Mr. Conyers. And I am sure if Mr. Smith arrived we will be pleased to accept a statement at that time. But in the interest in proceeding to our witnesses I would ask other Members to submit their statements for the record within 5 legislative days. And without objection all opening statements will be placed in the record. And without objection, the Chair is authorized to declare a recess of the hearing at any time.

I would like to introduce the witnesses. First, it is my pleasure to introduce Alejandro Mayorkas. Mayorkas was nominated to be the Director of U.S. Citizenship and Immigration Services by President Obama on April 24, 2009, less than 1 year ago.

He was unanimously confirmed by the United States Senate on August 7th, 2009. Director Mayorkas has served as the United States attorney for the Central District of California and previously was a partner in the law firm of O'Melveny and Myers. Last year he was named one of the 50 most influential minority lawyers in America by the "National Law Journal."

Director Mayorkas previously served as an assistant U.S. attorney for the Central District of California from 1989 to 1998. He holds a Juris Doctorate degree from Loyola Law School and a Bachelor's degree from the University of California at Berkeley.

Next I would like to introduce Frank Deffer. Mr. Deffer joined the Office of the Inspector General for the Department of Homeland Security in March of 2003. He previously served as Director, Information Management Division and the Office of Audits at the Department of State and at the Office of Inspector General for the Broadcast Board of Governors.

Before joining the State Department, from 1984 through 1998, he served in a number of positions at the U.S. General Accounting Office. And while at the GAO he directed audits of defense and government-wide technology acquisition programs as an assistant director in the accounting and information management division and produced dozens of reports for Congress.

He is a graduate of Pennsylvania State University where he earned both his Bachelor's of Arts and Master's of Arts degree in political science. Mr. Deffer is also retired from the U.S. Army Reserve, where he last served as a major in the Medical Service Corps.

Finally, I would like to introduce Susan Irving. Ms. Irving is a director for the Federal budget analysis within strategic issues at the GAO. She oversees work on Federal budget structure, the congressional budget process, user fees, U.S. fiscal position, long term fiscal outlook and debt and debt management.

Prior to joining the GAO in 1989, Ms. Irving held a number of positions in and out of government largely concerned with economic and budget policy. She served as a legislative assistant and legislative director to Members of the Senate Finance Committee and as staff director to the President's Council of Economic Advisers in the Executive Offices of the President and as Vice President of the Committee for a Responsible Federal Budget.

Ms. Irving has also been a fellow at the Institute of Politics at Harvard and has taught public management at the John F. Kennedy School of Government at Harvard University. She holds a B.A. in United States studies from Wellesley College and an MPP and Ph.D. in public policy from Harvard University. She is a native of Washington, D.C. where she resides with her husband and son.

Now, your written statements will be made part of the record in their entirety. We ask that you summarize your written statement in about 5 minutes. We have a system of lights here. That little machine on the desk will be green until 4 minutes have gone by, and then it will turn yellow.

And when it turns red it means you have actually spoken for 5 minutes. It always comes as a shock. We won't cut you off mid-sentence, but would ask that you try and summarize at the point so that Members will have an opportunity to ask questions.

And so now we will proceed with the testimony and we will begin with you, Director Mayorkas. Please begin.

TESTIMONY OF ALEJANDRO MAYORKAS, DIRECTOR, U.S. CITIZENSHIP AND IMMIGRATION SERVICES, WASHINGTON, DC

Mr. MAYORKAS. Thank you very much Chairwoman Lofgren, Ranking Member King and Members of the Subcommittee. It is a privilege for me to appear before you today. On behalf of our entire agency thank you for your continued strong support of the U.S. Citizenship and Immigration Services and its programs.

I look forward to testifying today about the state of the USCIS and providing you an overview of our key initiatives and accomplishments, including our current financial condition and progress of the agency's transformation program.

Each of the actions we are undertaking serves our agency's guiding principles of integrity, efficiency, consistency and transparency. Our agency faces several operational and management challenges.

The inherent challenges in our immigration system have led us to improve operational transparency, begin initiatives to create consistency and predictability in agency actions, strengthen community outreach and improve customer service functions.

To enhance our national security and the integrity of our immigration system, we have established a new directorate devoted exclusively to fraud detection and national security, and developed improved safeguards and security measures in our operations.

The consistent decline in our revenue underscores the importance of developing new and greater efficiencies. This is acutely significant for us as an agency funded primarily by applicants' and petitioners' fees. We have a tremendous responsibility to be careful stewards of the funds we receive.

In recognition of the difficulties of our financial situation, upon my arrival I immediately called for an exhaustive and vigorous review of the agency's annual operating plan. The review remains under way and already we have identified cuts exceeding $160 million.

Our USCIS budget request for fiscal year 2011 reflects both cost and fee financing adjustments in response to the current economic climate and the corresponding projected decrease in fee revenue. By the end of this fiscal year, we will be publishing the results of our Fee Study required by the Chief Financial Officer's Act which will indicate any projected changes to the amounts we charge for our services.

We understand that the communities we serve include individuals without significant financial means. We are making every effort to honor this concern amidst our difficult financial circumstances.

Our outdated information technology infrastructure has led us to reassess how we operate so that we can move more quickly from a paper-based workplace to one that is account centric and more reliant on electronic information.

Challenges indeed present opportunities. These opportunities in the hands of the men and women of U.S. Citizenship and Immigration Services will mean a stronger and brighter future for our agency and for the public we serve.

There can be no stronger recent example of this than the dedication and skill our personnel exhibited in the tragic wake of the

January 12th earthquake in Haiti. Thank you very much, Madam Chairwoman, for recognizing our work in this regard.

Working tirelessly and selflessly day and night, our workforce work brought hundreds of Haitian orphans to safety and humanitarian relief to thousands of Haitian nationals in our country who could not return safely to their homeland.

What we have done since January 12th and what we continue to do are shining examples of our abilities and our potential. While USCIS has made vast improvements in both customer service and reduced processing times, USCIS also faces significant challenges that we are working to overcome.

I look forward to working with you on these and other matters critical to the transparency, integrity, consistency and efficiency of our work at USCIS, and of the immigration system we help administer.

Your demands and expectations help further define our goals and our aspirations. I am privileged to be before you today. I look forward to working with you and to answering your questions as best I can. Thank you.

[The prepared statement of Mr. Mayorkas follows:]

PREPARED STATEMENT OF THE HONORABLE ALEJANDRO MAYORKAS

TESTIMONY OF
ALEJANDRO MAYORKAS, DIRECTOR
U.S. CITIZENSHIP AND IMMIGRATION SERVICES

BEFORE
THE HOUSE JUDICIARY COMMITTEE
SUBCOMMITTEE ON IMMIGRATION, REFUGEE, BORDER SECURITY AND INTERNATIONAL LAW

MARCH 23, 2010

Chairwoman Lofgren, Ranking Member King, and Members of the Subcommittee, I appreciate the opportunity to appear before you today to testify about the state of U.S. Citizenship and Immigration Services (USCIS) and to discuss several critical issues important to this Subcommittee.

I am extremely grateful to the Members of this Subcommittee for your continued strong interest in USCIS and its programs. I have appreciated the opportunity to meet with several of you personally and to provide responses to several of your letters.

Since joining this Agency seven months ago, I have witnessed first-hand not only the challenges in managing an effective and efficient immigration services organization, but also the tremendous promise of our mission and the dedication of thousands of employees who administer our nation's immigration laws each day. I fully appreciate that our ability overcome our challenges and take full advantage of our potential requires close relationships with our partners, including Congress and this Subcommittee, in particular.

This afternoon, I would like to provide you with an overview of key initiatives and accomplishments we at USCIS have undertaken and an overview of our current financial condition. Each of the actions we are undertaking stems from our Agency's guiding principles of integrity, efficiency, consistency and transparency. I am a naturalized U.S. citizen and was a refugee from Cuba. It is of personal importance to me that our Agency embodies these principles to become more effective stewards of the resources we receive from Congress for the communities we serve. As a former United States Attorney, it is also my priority that the Agency serves as a fair and efficient administrator of our nation's immigration laws.

USCIS Response to the Tragedy in Haiti

Before discussing the details of our activities, I want to first speak briefly about the USCIS response to the tragic January 12, 2010 earthquake in Haiti. The response of our government to the Haitian crisis was swift, decisive, and comprehensive. I am extremely proud of the role USCIS employees served in this response, both on the ground in Haiti and in the United States as events unfolded and since that time.

Many USCIS employees worked day and night under intense pressure to ensure that Haitian orphans were matched with their families in the United States. The commitment of these employees to the well-being of others has been inspiring. This collective spirit and drive in response to the crisis is perhaps best exemplified by the actions and sacrifice of the USCIS Field Office Director on the ground at the U.S. Embassy in Port-au-Prince, Mr. Pius Bannis. Mr. Bannis worked all hours, providing food and shelter to children without regard to his own needs, while evaluating and processing travel papers amidst the sweep of desperate and scared crowds.

The work on the ground in Haiti was supported by the USCIS Office of International Operations and many other offices here in Washington, DC. Many individuals worked long hours, including through weekends, holidays, and the snow storms, to implement Secretary Napolitano's Jan. 18 announcement of humanitarian parole for certain Haitian orphans, allowing the orphans to be united with their adoptive families and to receive the care they need. I am pleased to say that to date USCIS has provided travel authorization to more than 1,000 orphans who qualify for humanitarian parole. USCIS continues to process these cases and provide follow-up information to the families on how the children can finalize their immigration status.

Other USCIS employees worked tirelessly here in Washington, DC to build the significant operation necessary for us to extend Temporary Protected Status (TPS) to eligible Haitian nationals in this country. Just three days after the earthquake, Secretary Napolitano announced the designation of TPS for Haitian nationals living in the United States on or before Jan. 12. Through March 9, USCIS has received nearly 33,000 applications for Haitian TPS. We have worked tirelessly to ensure our ability to adjudicate TPS applications in a timely manner without undermining the processing of our other responsibilities.

USCIS continues to respond in other aspects of the humanitarian relief effort, including humanitarian parole for individuals needing urgent medical care and continuing to process petitions filed by Haitian relatives living in the U.S. who seek to provide their Haiti-based relatives a legal means to immigrate. We will continue to address these and other issues that arise in an effective manner as the long-term federal response continues to evolve. I promise to do everything I can to ensure USCIS continues an appropriate focus on this tragedy in collaboration with our federal, state, and local partners.

Management Priorities

Our response to the Haitian crisis has shed light on operational areas in which we excel. At the same time, it has helped us identify additional areas in which management improvements are needed. To a broader extent, I have been working every day with my management team to identify areas across the USCIS operational enterprise that require greater focus. Specifically, I have asked my management team to emphasize the need to align our operations with a focus upon the priority principles of transparency, integrity,

consistency and efficiency. These priority principles are now steering our Agency efforts to improve operations and outcomes and help us determine our resource needs.

After careful study over several months, in January we undertook an internal organizational realignment to facilitate management improvement efforts to achieve these goals. As part of that internal realignment, we established a new umbrella management organization under a single executive that will help improve management accountability, results, and priority management outcomes. The improved focus of management upon the guiding principles of transparency, integrity, consistency and efficiency will help USCIS achieve program outcomes that support the Department's mission of enforcing and administering immigration laws. The following are key examples of how we are implementing these principles to achieve practical improvements for the Agency.

Last year, the President called on USCIS to overhaul our communications with our customers. We implemented a vastly-improved website to improve the ability of USCIS customers to access the information and assistance they need. The redesigned USCIS.gov website and its parallel website for Spanish-speaking customers are more customer-centric. The website provides customers with a "one-stop shop" for immigration services and information. Through the website, customers are now able to receive real-time information regarding their case status, obtain office-specific processing times and opt to receive a text message when their status changes. The clarity of language has been improved, customer service tools have been made more accessible, and navigation through the website has been simplified. For example, in the first month-to-month data comparison since the U.S. Citizenship and Immigration Services website redesign, there was a 25% drop in page views and 15% drop in the search engine usage with the same level of overall traffic coming to the site, suggesting that users are finding content more easily and receiving more relevant results from the search engine.

Improvement of services to customers also includes the recent announcement of the FY 2010 Citizenship and Integration Grant Program. This program, led by the USCIS Office of Citizenship, provides two competitive grant opportunities designed to help prepare lawful permanent residents (LPRs) for citizenship. The funding will expand existing programs, build new capacity to prepare immigrants on the path to citizenship, and help them gain the knowledge necessary to become successful citizens. USCIS will also continue to fund integration tools to enhance English language learning, expand the capacity of volunteers to prepare immigrants for citizenship, improve access to information on citizenship education opportunities and resources, and fund a citizenship-focused public awareness effort.

Through our efforts, which began in FY 2009 and will continue into FY 2011, we will be well-positioned to support organizations that serve immigrant communities to achieve better integration of immigrants into our nation. In FY 2009, we awarded 13 separate grants totaling $1.2 million. In FY 2010, I expect USCIS to award upwards of 50 separate grants totaling $7 million. We have developed a rigorous grant review and evaluation process to ensure this important investment will benefit not only those directly receiving services, but the nation as a whole.

We have also emphasized transparency through implementation of a robust and improved stakeholder engagement program. Our new Office of Public Engagement is working to ensure our external partners are included in the consideration of policy and process development, and we plan to keep our customers fully informed of USCIS issues and activities. The Office has already held numerous collaboration sessions with the immigration stakeholder community on a wide variety of topics such as the redesign of the medical certification for disability exceptions form, the development of a new fee waiver form, Haitian TPS, and issues affecting vulnerable populations. On Haitian TPS alone, the Office has coordinated over 156 engagements reaching more than 16,400 individuals.

As a former United States Attorney, I believe it imperative that USCIS maintains the highest standards of integrity. The January organizational realignment of USCIS offices elevated our fraud detection unit out of a combined organization and into a newly established Fraud Detection and National Security Directorate (FDNS). This Directorate reports directly to me to ensure a heightened commitment and focus upon detecting, combating, and deterring abuse of our legal immigration system and threats to national security and public safety. Workloads are being prioritized and, over time, will be expanded to ensure improved efforts of detecting and deterring fraud, identifying national security threats, and sharing information with our law enforcement and intelligence partners. FDNS already has embedded officers in several of these enforcement and intelligence agencies.

With respect to national security, in the fall of 2009 FDNS and the Agency marked a significant accomplishment through its partnership with the Federal Bureau of Investigation (FBI) to eliminate the backlog of responses in the FBI National Name Check Program. The goal was to have responses from the FBI on 98 percent of requests within 90 days and the remaining 2 percent within 180 days; USCIS now receives responses on all cases within 30 days. We view this achievement as another significant step taken toward attaining greater consistency and efficiency in our processes.

I also understand how crucial the uniform application and interpretation of policies across USCIS is to our mission of providing the public with the highest possible level of service. To enhance consistency and integrity, we are also undertaking a complete review of all policy and operational guidance. Policies applied inconsistently impede the ability to deliver our commitment to fairly administer immigration benefits. This initiative will enable USCIS to ensure the consistent application of policies across all our domestic and international offices. We will continue to examine our policies and operations to ensure this consistency becomes a hallmark of our Agency and its adjudications.

With respect to efficiency, and consistent with Secretary Napolitano's Department-wide Efficiency Review, USCIS has implemented several cost-cutting measures. USCIS has developed several common-sense plans to reduce non-mission critical travel, subscriptions, and printing; maximize the use of government space for meetings; and improve utilization of refurbished information technology. USCIS has also issued a reduction in centrally located training that will help reduce associated travel costs.

USCIS has also undertaken a Balanced Workforce Strategy, also consistent with a Department-wide initiative, that will help USCIS reduce workforce-related costs over time. USCIS has begun the process of validating the conversion of numerous contract positions to federal staff. The Agency's stewardship of public resources is particularly important given the difficult financial situation currently facing USCIS.

In fiscal year 2009 USCIS experienced a marked decline in revenue. Revenue declined 15 percent—a drop of approximately $345 million—from the estimate in the fiscal year 2007 fee rule and approximately 8 percent (or $164 million) from our estimate just one year ago. We have not seen a material increase in filing volumes for fiscal year 2010. This is clearly unsustainable.

When I learned of our Agency's budget shortfall shortly after my arrival, I immediately called for an exhaustive and vigorous review of the Agency's Annual Operating Plan (AOP) to identify potential budget cuts. The review remains underway and already we have identified cuts exceeding $160 million. Regrettably, these cuts may impact programs we expected would produce greater system efficiencies, including some identified in our 2007 fee rule. However, any decision to maintain each of these programs could require a proportionate increase in our fee structure; as a primarily fee-based agency, the means of addressing a budget shortfall are limited to budget cuts, greater appropriations, fee increases, or any combination of these three.

As I testified last week before the House Appropriations Committee, our USCIS budget request for FY 2011 builds on the important steps I have outlined so far and focuses on our four guiding principles. The FY 2011 budget request reflects both cost and fee-financing adjustments in response to the current economic climate and to ensure fees are set at a level to recover costs of providing immigration benefits. We also have implemented several common-sense, cost-cutting initiatives in FY 2010 that will improve operational efficiency.

We are grateful for the $55 million appropriation we received from Congress in FY 2010, including the funding to expand and improve E-Verify and expand upon our important collective work to successfully integrate immigrants into our communities. In addition, Congress appropriated funding to begin to cover in FY 2010, the costs of administering our asylum and refugee programs. Currently, the costs of these programs are applied as surcharges on the fees of applicants for other immigration benefits. This year, USCIS intends to release the results of a fee study to reflect the elimination of this cost from unrelated application and petition fees. The FY 2011 budget request seeks a $207 million appropriation that would fully fund these programs.

The Chief Financial Officer's Act of 1990 requires us to undertake a fee study on a biannual basis. Our Agency's financial condition also compels us to examine every option available, including potential changes to the amounts we charge for our services. In reviewing these options we understand that the communities we serve include individuals without significant financial means. This concern is made more acute by the

magnitude of the fee increase two years ago, which resulted from the last fee study. We are making every effort to account for these concerns while ensuring that fees are set to fully recover the costs of providing immigration benefits. I look forward to further discussing the results of the fee study once published later this year.

While we implement budget cuts and carefully measure the results of the fee study, we are undertaking quality improvements in the administration of the immigration system. Processing times for application and petition workload continue to be important indicators of performance. We are proud of the reduction in processing times we have achieved thus far. With few exceptions, processing times currently equal or exceed the standards set in our 2007 fee rule after USCIS finished working through the post-fee rule application surge.

From the first month of the fee increase in August 2007 through the end of the fiscal year in September 2009, the average cycle time for all form types decreased approximately 24 percent. Some of the most significant reductions include the following:

- Reduction of the cycle time for the Form N-400, application for naturalization, from 10.6 months to 4.1 months, which is below the projected goal of 5 months. In addition, the military N-400 cycle time was reduced to 3.5 months, also below projections;

- Reduction of the processing time from the Form I-485, application to register permanent resident or adjust status, from 10.8 months to 4.4 months (with anticipated further reduction to 4 months);

- Reduction of the processing cycle time of the Form I-90, application to replace permanent resident card, from 3.4 months to 2.5 months; and

- Reduction of the processing cycle time of the Form I-140, immigrant petition for alien worker, from 5.7 months to 3 months.

A comparison of USCIS regions and service centers also reveals that we have achieved consistent cycle times across form types; indeed, for offices that adjudicate similar cases, the cycle times for most form types are now within days of each other.

Even in the face of the challenges noted, we have made vast improvements in both customer service and reduced processing times and in many of our other programs. I would like to note the efforts of our E-Verify program and to discuss the efforts of the Transformation program.

E-Verify

E-Verify is a critical program within the Department that encourages and assists employers in their compliance with our immigration laws. We are doing everything we can not only to

optimize performance of the system but to ensure its integrity and accuracy, improve ease of use, and expand customer services. I am committed to building on the success of this program that continues to enroll approximately 1,400 new employers per week in addition to the more than 189,000 employers already enrolled covering more than 700,000 worksites.

During a recent study of data from a three-month period in 2008, the Westat Corporation found that E-Verify's accuracy continues to improve. In this evaluation, Westat found that in approximately 96 percent of the cases, the E-Verify findings were consistent with the workers' true employment authorization status. Further, the study found that of the cases submitted to E-Verify, 6.2 percent of the workers were actually unauthorized and, of that subset, E-Verify detected slightly less than half as unauthorized. The study concluded that this rate is not surprising in light of E-Verify's current limited ability to detect identity fraud.

We are working hard to improve E-Verify's ability to detect identity fraud. USCIS has already added the ability to view photos associated with DHS-issued immigrant status documents to the system, allowing for a biometric comparison for authorized workers, and we are in the process of adding passport photos to E-Verify's photo tool. We have also significantly enhanced our capabilities to monitor system use for evidence of identity fraud, and we are developing tools that would enable individuals who are victims of identity theft and who have filed both a police report and a report with the Federal Trade Commission (FTC) to choose to "lock" and "unlock" their records in E-Verify. However, even with these steps it is important to understand the limitations of the current system. The largest pool of available biometrics is state driver's license photos. Access to these photos would improve E-Verify's ability to effectively combat identity fraud. We are also examining biometric and biographic options to further strengthen verification of employees and to reduce misuse, fraud, identity theft and abuse.

It is important to note that E-Verify is but one tool in the Department's efforts to ensure a lawful workforce. USCIS is working this year and in FY 2011 to implement a series of improvements using the $30 million in two-year funding the Congress provided in the FY 2010 appropriations bill. System algorithms are being improved for better data matching in order to continue to reduce inaccurate initial results. USCIS is also developing self-check functionality within E-Verify to help employees proactively identify and resolve data issues outside of the hiring process that could help prevent data mismatches with the E-Verify system.

Transformation

Finally, no project is more important to long-term operational improvement and efficiency than our Transformation initiative, an Agency-wide effort to modernize the way we do our work each and every day. This Subcommittee has heard about USCIS Transformation for the last several years with very few visible results to date. I share the disappointment of those who would expect to see this effort further along. I am pleased to note, however, that our Transformation program is proceeding on a carefully developed path that is mindful of the challenges that lay ahead and is focused on avoiding the customary mistakes that typically affect large transformational projects.

For much of the last year of the Transformation program, USCIS and its key contractor have focused on the critical project management and enterprise architecture planning efforts that are necessary for long-term program success. That planning resulted in a significant shift in the Transformation Program's deployment strategy among immigration benefit types. Specifically, the schedule was first re-sequenced to focus efforts on nonimmigrant benefit types, resulting in a process that follows the natural immigration lifecycle and will enable the earlier use of electronic adjudications. This will strengthen the impact of the first deployment and immediately show a clear tie to mission results.

Our operating plan for FY 2010 assumed more than $322 million for the Transformation program and related activities. We are still working to refine resource needs for this year and FY 2011 and finalize a revised program plan. The budget request provides $164 million in estimated new premium processing fee revenue for Transformation in FY 2011.

Several of the challenges in our Transformation program have been documented by our federal partners in the Government Accountability Office (GAO) and the Department's Office of the Inspector General (OIG). We have worked closely with these offices to address their concerns and are continuing to seek their assistance, and the assistance of our other DHS and federal partners, through an ongoing collaborative partnership.

The most recent feedback from the OIG in late November 2009 requested that USCIS update its strategic approach to communicate the end-state business processes and technology solutions to stakeholders. This includes the development and implementation of plans to ensure sufficient and consistent stakeholder participation in the reengineering of the USCIS process.

USCIS has updated its outreach plan to reflect the newly defined Transformation efforts for this next stage of our process. Our efforts include aggressive implementation strategies to prepare internal and external stakeholders for change, enlist stakeholders in solution development, and integrate the "stakeholder voice" into the transformation efforts. USCIS has developed a series of key action items designed to inform internal and external stakeholders at strategic intervals to maintain consistent awareness and interest. These encounters began earlier this month and will continue as we develop the next phases of this program.

The Transformation program, while on a better path, will require continuous and intense management review, including appropriate stakeholder outreach and participation, during these next development stages, to ensure optimal functionality will be delivered on time and within budget.

Challenges and Path Forward

While USCIS has made vast improvements in both customer service and reduced processing times, USCIS also faces significant challenges that it is working to overcome. There is a great deal to do, but there is a great deal we can do. I am committed to maintaining a strong focus

on improving our performance in all program areas even in the face of fiscal challenges. We must be even more efficient out of respect for the customers who pay fees and the taxpayers who support our operations. Our customer service must be enhanced. USCIS activities must remain more transparent than they have in the past, and we need to work closely with our stakeholders and the public at large to collaborate on the outcomes we collectively want and need to achieve.

Again, I appreciate your support of all of these efforts. I look forward to working with you on these and other matters critical to the transparency, integrity, consistency and efficiency of our immigration system and the work of USCIS.

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Ms. LOFGREN. Thank you very much.
Mr. Deffer?

TESTIMONY OF FRANK W. DEFFER, ASSISTANT INSPECTOR GENERAL FOR IT AUDITS, OFFICE OF THE INSPECTOR GENERAL, DEPARTMENT OF HOMELAND SECURITY, WASHINGTON, DC

Mr. DEFFER. Madam Chairwoman and Members of the Subcommittee, thank you for the opportunity to discuss the United States Citizenship and Immigration Services' efforts to transform its business and modernize the information technology used to support that business. With immigration reform now back on the legislative agenda, this is an important issue to address.

My testimony today will address the need for USCIS transformation and I.T. modernization, progress made thus far and will identify critical challenges to successful transformation and I.T. modernization.

USCIS has recognized that its paper-based processes hinder its ability to verify the identity of applicants, efficiently process immigration benefits and provide other agencies with relevant information on possible criminals and terrorists.

In 2005, USCIS embarked on an enterprise-wide transformation program to transition its fragmented paper-based operational environment to a centralized and consolidated operational environment using electronic adjudication.

Since then it has made progress in a number of areas. Specifically, USCIS has established the Transformation Program Office to oversee all transformation initiative within USCIS. Also, it has developed an acquisition strategy to provide a roadmap for the agency to acquire the resources such as program support and I.T. services necessary to implement the transformation.

USCIS awarded a contract for a transformation I.T. service provider referred to as a solutions architect in November 2008. Further, USCIS has made progress in strengthening I.T. management to support the agency's mission and its transformation efforts.

Specifically, USCIS developed a new organizational structure to facilitate I.T. services, and it has realigned field I.T. staff under the CIO. Still, USCIS faces a number of critical challenges as it moves forward with transformation and I.T. modernization.

First and foremost, it is critical that transformation and I.T. modernization receive the full support of USCIS executive leadership starting with the director. As the champion for transformation, the director and his leadership team can ensure that the program has sufficient resources while at the same time providing strong oversight to keep the program on track.

Business process reengineering is also key to the success of transformation. Without effective business process reengineering, USCIS risks developing new I.T. systems that support ineffective and outdated processes.

Also critical to the success of transformation will be a strong partnership between TPO and the CIO. USCIS business units and I.T. stakeholders need to be closely aligned in setting the direction and managing the transformation effort.

A strong partnership between TPO and the CIO can help ensure that new I.T. systems are developed in accordance with lifecycle development standards, are tested fully and meet I.T. security standards.

In conclusion, over the past 5 years USCIS has elevated the transformation program to an agency-wide priority to more efficiently and effectively meet its mission of administering the Nation's immigration laws.

Moving forward, in addition to addressing current operational needs, USCIS must also prepare for potential increases in benefits, processes and workloads that could result from proposed immigration reform legislation. Consequently, transformation will be critical to support the agency's current workload and prepare for potential future increases in immigration benefits processing.

Madam Chairman, this concludes my prepared statement. I appreciate your time and attention and welcome any questions from you or Members of the Subcommittee.

[The prepared statement of Mr. Deffer follows:]

PREPARED STATEMENT OF FRANK W. DEFFER

STATEMENT OF FRANK W. DEFFER

ASSISTANT INSPECTOR GENERAL FOR INFORMATION TECHNOLOGY

U.S. DEPARTMENT OF HOMELAND SECURITY

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER SECURITY, AND INTERNATIONAL LAW

COMMITTEE ON THE JUDICIARY

U.S. HOUSE OF REPRESENTATIVES

MARCH 23, 2010

Chairwoman Lofgren and Members of the Subcommittee:

Thank you for the opportunity to discuss the United States Citizenship and Immigration Services' (USCIS) efforts to transform its business and modernize the information technology (IT) used to support that business.

My testimony today will address USCIS' transformation and IT modernization, progress made thus far, and future concerns and remaining challenges for IT transformation and IT management. The information provided in this testimony is contained in our reports: *USCIS Faces Challenges in Modernizing Information Technology* (OIG-05-41), *and U.S. Citizenship and Immigration Services' Progress in Modernizing Information Technology* (OIG-07-11), (OIG-09-90).

BACKGROUND

Upon its inception on March 1, 2003, the Department of Homeland Security (DHS) assigned responsibility for delivering citizenship and immigration services to the USCIS. USCIS' mission is to secure America's promise as a nation of immigrants by providing accurate and useful information to its customers, granting immigration and citizenship benefits, promoting an awareness and understanding of citizenship, and ensuring the integrity of the immigration system.

Each year, USCIS receives more than 7.5 million immigration applications and petitions for a range of benefits, including employment authorization, lawful permanent residency, and naturalization and citizenship. To accomplish its mission, USCIS has more than 15,000 employees and contractor personnel in more than 250 offices worldwide, including asylum offices, application support centers, service centers, forms centers, a National Benefits Center, and a National Customer Service Call Center.

We reported in September 2005 that effective use of information technology, coupled with updated processes, is vital to increase efficiency and address demands in immigration benefits processing. We noted that USCIS' IT environment for processing immigration benefits was inefficient, hindering its ability to carry out its mission. In addition, we reported that USCIS' processes were primarily manual, paper-based and duplicative, resulting in ineffective use of human and financial resources to ship, store, track, and process immigration.

USCIS recognizes that its paper-based processes hinder its ability to verify the identity of applicants, efficiently process immigration benefits, and provide other government agencies with relevant information on possible criminals and terrorists. In 2005, USCIS embarked on an enterprise-wide transformation program to transition its fragmented, paper-based operational environment to a centralized and consolidated operational environment, using electronic adjudication. USCIS established the Transformation Program Office (TPO) to oversee all transformation initiatives within USCIS. The TPO's mission is to improve customer service and management of customer data by acquiring electronic capabilities and enabling IT.

To facilitate progress made toward achieving its long-term IT transformation goals of deploying integrated, electronic benefits processing capabilities, USCIS has elevated its transformation program to an agency-wide priority to more efficiently and effectively meet its mission. The agency has developed a strategy to establish a new operational environment, which will be deployed over a six-year period. This approach is made possible by a new fee structure used to support transformation costs. USCIS has also strengthened overall IT management and improved IT governance.

USCIS' Progress in Transformation and IT Management

In 2008 we conducted a follow-up audit to determine USCIS' progress in implementing IT transformation initiatives. We reported that USCIS established a structure to manage transformation initiatives, finalized acquisition and funding strategies, established an approach to deploy new business and IT capabilities, and has begun upgrades to its IT infrastructure. In addition, USCIS implemented pilot programs to test some of these capabilities.

Also, we found that USCIS strengthened IT management by restructuring its Office of Information Technology (OIT) and realigning field IT staff. OIT improved IT governance functions and issued guidelines for local IT development.

Transformation Structure Established

USCIS has taken a number of steps to improve its transformation program. Specifically, USCIS established a transformation program structure and has restructured its organization to provide more centralized management of enterprise-wide transformation initiatives. As part of this revised structure, the TPO is headed by a new Senior Executive Service Coordinator, which should result in more efficient decision-making, executive-level awareness, and agency commitment to transformation success.

Further, USCIS has established a TPO governance structure as a framework for decision-making, authority, and accountability, and to ensure that all transformation project activities involve agency stakeholders. Within this structure, the TPO has defined roles, responsibilities, oversight, and reporting functions at the DHS level, agency level, and TPO level. To achieve the necessary coordination within the agency, a Transformation Leadership Team provides oversight of the transformation program. The TPO Project Management Team oversees strategic planning, acquisition planning, program management, and day-to-day program activities.

Under the Project Management Team oversight, integrated project teams (IPT) lead specific transformation projects for business, technical, and release activities. Each team includes a cross-functional membership of agency business and IT personnel who are responsible for their assigned project's plans, schedules, costs, and performance. The TPO implemented the IPT approach to increase stakeholder involvement and ensure appropriate representation from USCIS subject matter experts. This is a key strategy for increasing stakeholder involvement in its transformation planning efforts. The TPO expects this IPT structure to enhance its existing staff resources and, in turn, project

decisions can be made by members with appropriate business or technical knowledge and who best represent the needs of users who will be affected by new processes and systems.

Transformation Funding and Deployment Plans Finalized

USCIS developed a funding mechanism for its transformation efforts and finalized a plan for acquiring the support services and equipment necessary to implement new business processes and enabling technology. USCIS is almost entirely funded by fees paid by applicants seeking immigration benefits. A new schedule for premium processing fees went into effect in July 2007 that incorporates the anticipated costs of the transformation effort. According to TPO leadership, the agency will structure the transformation in a way that can be supported by this new line of funding.

TPO also developed an acquisition strategy in January 2007 to provide a road map for the agency to acquire the resources, such as program support and IT services, necessary to implement the transformation. According to TPO management, the strategy reflects industry best practices, employs an incremental development approach, and will use strategic sourcing to acquire the needed capabilities. A key element of the strategy is the reliance on an IT services provider to develop the enabling IT operational environment for the electronic adjudication process. Based on the transformation funding plan and acquisition strategy, management approved a formal Acquisition Plan in October 2007, and awarded a contract for a transformation IT service provider, referred to as the Solutions Architect (SA), in November 2008.

USCIS also established a strategy for deploying the transformed business capabilities. Specifically, USCIS developed a multi-year strategy for deploying the capabilities needed to achieve the transformed USCIS business processes and support IT. This strategy calls for creating new business processes and systems incrementally over a six-year period. This approach will allow the agency to leverage work done in each increment to better define the requirements and scope for succeeding increments.

IT Infrastructure Upgrades

At the time of our last review, the OIT was implementing IT upgrades for 236 sites to deliver standardized desktops and increased network bandwidth. During FY 2008, USCIS deployed more than 5,000 standardized workstations to all USCIS domestic offices and most overseas operations, which represent approximately 20% of the enterprise workstations. In addition, USCIS replaced and standardized the operating systems for all servers that run USCIS' applications across the enterprise.

Transformation Pilot Programs Begun

USCIS implemented three pilot programs and one proof-of-concept to test the viability of a number of fundamental IT system capabilities required for the transformation. Efforts supporting electronic adjudication processing include the Integrated Digitization and Document Management Program, Biometric Storage System, Enumeration, and the

Secure Information Management Service proof-of-concept. These actions have positioned USCIS to better plan and prepare for the next phase in the agency's transformation.

IT Management and Organization Strengthened

USCIS has made progress in strengthening IT management to support the agency's citizenship and immigration services mission and its transformation efforts. Specifically, OIT developed a new organizational structure to facilitate IT services, and it has realigned field IT staff under the CIO. USCIS OIT has also taken steps to improve IT oversight and control of the historically decentralized USCIS IT environment. Specifically, the OIT instituted a governance structure and processes, completed an IT strategic plan, developed an enterprise architecture framework, and implemented a system life cycle management approach.

At the time of our last audit, a new OIT organization structure was being implemented. The OIT is consolidating the IT Services Engineering and Enterprise Architecture offices into an Enterprise Architecture and Engineering Division to provide systems engineering support through standard tools, guidance, and enterprise architecture policy and administration. According to the CIO, this organizational structure will better align IT services with USCIS' strategic goals.

We reported in November 2006 that centralization of IT employees, as well as IT assets and budgets, was on hold pending organizational improvements. Since then, the OIT has realigned IT field staff under a centralized OIT organization structure. According to the CIO, 300 IT field staff now report to the CIO through a defined hierarchy within the OIT Service Support Division. This realignment has increased the CIO's ability to centrally manage staff resources and ensure that field offices follow standard IT policies and procedures. The staff realignment has also been an effective means to improve the CIO's oversight of agency IT initiatives. As a result, the realignment represents an essential step in establishing centralized IT management.

IT Oversight and Governance Improvements

USCIS OIT has taken steps to improve IT oversight and control of the historically decentralized USCIS IT environment. Specifically, the OIT has sought to improve IT governance functions by using agency-wide review boards and processes as a formal method to review IT investments. The governance structure includes DHS-level and USCIS-level review boards to ensure that stakeholders are involved and to achieve oversight of investments.

Further, the OIT completed an IT Strategy that aligns its enterprise IT strategic direction with the USCIS Strategic Plan for FY 2008–FY 2012 and the USCIS enterprise architecture. According to the CIO, each objective in the IT Strategy aligns with one or more of the USCIS strategic objectives. Thus, fulfilling an OIT strategic objective completes a step toward USCIS enterprise strategic objectives. The strategy ensures that

the alignment is realized through the use of common elements in the plans, such as vision, mission, and strategic goals and objectives.

USCIS has developed an enterprise architecture framework to support and guide agency programs and IT investments. The OIT placed a high priority on developing its enterprise architecture in alignment with the department's, and established a branch staffed with six full time employees, plus contract support, who serve as architects to ensure this alignment. According to the CIO, the USCIS enterprise architecture has matured to a point where it can be used to support agency programs such as the USCIS transformation.

Finally, USCIS implemented a formal IT life cycle management approach in 2007 to guide development and maintenance of all IT systems within USCIS. As a result, all USCIS technology solution implementations, software development, and infrastructure-related projects must comply with related processes and guidelines. According to IT systems engineering personnel, this approach has helped OIT to ensure that processes, documentation, and technology adhere to organizational standards and best practices.

Transformation Challenges

Previous initiatives to reengineer business processes and modernize technology did not succeed because USCIS had not executed them in an integrated manner with sufficient stakeholder involvement. Although USCIS has made progress in advancing its business transformation, some of these problems persist. Specifically, pilot efforts have been of limited value, process engineering efforts have not been completed, and stakeholder coordination has been limited. Further, collaboration and effective partnership between TPO and the OIT could be improved.

Transformation Pilots Yield Limited Value

According to the USCIS Transformation Program Acquisition Plan, program pilots should create IT capabilities that can be used to support the full transformation effort. Although USCIS implemented three pilot programs to evaluate potential business process and technology solutions, successful execution of these pilots has been limited by ineffective planning, management challenges, insufficient staffing, and limited post implementation performance reviews.

USCIS has spent $28 million on the transformation pilot programs thus far. However, USCIS has not been able to capture enough of the knowledge gained or measure and communicate the successes and failures of the pilots. Although pilot performance measures were developed, USCIS has not consistently performed post implementation reviews to determine the impact or success of its IT systems or business processes. Without consistent or complete pilot post implementation reviews of pilots, it is difficult for transformation management to identify impacts on the current IT environment or plan for future improvements.

Process Engineering Efforts Not Completed

According to OMB Circular A-130 Revised, agencies should simplify or redesign work processes before implementing new technology.[1] USCIS has made progress in defining high-level business processes. The TPO completed a process analysis in early 2007 that examined the "as-is" environment (how existing operations work and perform) and the "to-be" environment (a roadmap for proposed IT initiatives). This analysis provided the agency with alternatives for implementing the TPO's vision. However, the efforts to date provide only high-level requirements that are not detailed enough to drive business process implementation. Without effective business process reengineering, USCIS risks developing new IT systems that support ineffective and outdated processes.

Stakeholder Participation Limited

In 2008, lack of sponsorship continued to be a risk because TPO's ability to implement transformation was limited by its dependence on agency and stakeholder commitment. Further, ineffective collaboration between TPO and the OIT created a growing risk for transformation success.

The TPO has not consistently achieved buy-in and agency-wide support for transformation activities. Despite efforts to engage agency stakeholders, the TPO has not been able to obtain consistent membership in working groups, such as pilot project teams. For example, one transformation pilot was tasked with identifying business requirements. However, the group did not accomplish this task because members have not attended the meetings consistently. Without sufficient subject matter expert involvement, requirements cannot be vetted or finalized adequately or timely.

TPO and OIT Partnership Needs Strengthening

USCIS business units and IT stakeholders are closely aligned in setting the direction and managing the transformation effort; however, collaboration and effective partnership between TPO and the OIT could be improved. TPO and OIT management stated that a difference in their approaches to the transformation has generated ongoing conflict between the two organizations. Prior to 2005, initial transformation efforts resided within the OIT as part of an IT modernization effort. However, as of 2006, the program was restructured as an all-encompassing "business-driven" transformation, meant to incorporate agency-wide business and IT elements. The impact of this change in direction has hindered effective partnership. The establishment of the TPO moved control of the transformation effort outside of CIO authority.

Although the CIO is closely aligned with the TPO Chief in setting the direction and managing the transformation effort, collaboration and partnership in executing the transformation program has at times been ad hoc or unproductive. The CIO is a member of

[1] Transmittal Memorandum 4, *Management of Federal Information Resources*, November 28, 2000.

the Transformation Leadership Team, which provides oversight of the transformation program. According to the Transformation Program Management Plan, the CIO represents the interest of the USCIS technical environment, ensuring the alignment of strategic direction of the TPO and OIT, the development of joint capabilities, and the budget alignment for common efforts. Primary responsibilities of the CIO include advising the TPO on transformation requirements, their impact on current and future technical systems, and necessary changes based on the direction of the technical strategic environment set by the IT Strategic Plan. However, OIT officials stated that the CIO's roles and responsibilities are not defined to a level that would support day-to-day execution of the transformation.

Further, the CIO stated that conflicting IT direction often requires escalation to agency leadership for resolution. For example, the USCIS IT development life cycle requires that IT that is developed should accommodate those with disabilities.[2] However, TPO pilot systems, such as SIMS, were not originally aware of this requirement. Once the TPO was aware of the requirement, a waiver was requested to deploy the pilot system. However, for the next pilot release, the CIO provided conditions for which pilot systems will meet IT controls and standards. After the SIMS application was developed, the TPO requested a waiver of the requirement.

According to TPO and OIT management, the lack of coordination between the two offices has caused delays in decision-making and contract procurements. For example, to extend contract support for the SIMS pilot, the TPO had to obtain OIT approval. However, the CIO would not grant an approval based on lingering unresolved system development testing and reporting requirements. However, a delay in obtaining that approval caused the TPO to elevate the paperwork to agency leadership so the TPO could move forward with the contract.

To increase collaboration and alignment, at least three full-time OIT staff members are embedded within TPO. However, the relationship between the TPO and OIT remains a point of contention. The working relationship between the two has evolved on an "as-needed basis" rather than as a steady partnership. This is evidenced by the ad hoc nature of OIT's involvement in pilot program activities. For example, deployment plans for pilot programs did not include realistic timeframes for procuring IT equipment or services. As a result, pilot initiatives, such as Scan on Demand within the Digitization pilot, were delayed.

Additionally, TPO pilot programs did not consistently comply with OIT testing procedures. For example, the OIT recommended independent verification and validation testing of TPO pilot programs early during the testing stage, specifically on the scanning resolution requirements. However, TPO did not consistently budget for or comply with

[2] Section 508 compliance requirements are outlined by the DHS Office on Accessible Systems and Technology for Web-based Intranet and Internet Information and Applications. *Department of Homeland Security Acquisition Instruction/Guidebook #102-01-001: Appendix B*, November 2008.

such testing for pilot projects during initial pilot phases. Further, the TPO permitted piloted systems to be implemented without completing this step in order to meet schedule demands or to stay within cost estimates. In these cases, the OIT has performed testing after initial releases have been deployed or at the end of the pilot increments.

IT Management Challenges Remain

Despite the progress made to improve IT management functions, significant challenges remain for the OIT to carry out centralized, enterprise-wide IT management responsibilities. CIO staffing remains inadequate to administer support and guidance across all USCIS offices, and field IT staff received insufficient support. Further, effectively managing the array of locally developed IT systems has been difficult. Although the CIO has established guidance and tools to help standardize local IT development practices, the agency has yet to achieve effective centralized management of its IT. These challenges must be addressed for the CIO to meet the increasing demands to further improve the IT infrastructure and deliver IT service support for the agency's transformation program.

CIO's Staffing Levels

We reported in July 2009 that OIT staffing was insufficient to effectively deliver IT services and support, with about 37% of the 242 authorized full time positions remaining unfilled. Although OIT in headquarters administers the staffing decisions for all field offices and informally tracks and manages vacancies and recruiting efforts, there is no formal, overarching staffing plan. The CIO tracks staffing goals, but current documentation does not contain a clearly defined strategy with specific actions and milestones for recruiting and retaining qualified full-time IT employees.

Field IT Employees Need Better Support

IT field personnel recently realigned to the CIO have not received the support needed for effective and efficient operations. During the last audit, most field IT staff we spoke to stated that they have not been able to execute day-to-day operations efficiently since the realignment. This staff found administrative tasks, such as preparing time and attendance records and obtaining approvals for leave requests, time consuming or confusing. For example, a number of personnel claimed that they must fax, email, and call contacts at headquarters numerous times to obtain the required approvals for overtime, leave, or training. In addition, obtaining funding or reimbursements for expenses, such as overtime or training, is often time consuming or difficult. To address these concerns, the OIT recently awarded an administrative support contract to assist with day-to-day operations. Contract personnel will be responsible for, among other things, assisting IT field personnel with reports, purchase requests, and general office tasks.

USCIS Has Not Achieved Centralized IT Management

Although the USCIS OIT has made progress in establishing its IT governance functions, IT systems development efforts remain, in part, outside the purview of the CIO. The USCIS CIO does not have effective budgetary authority over IT investments. Although the CIO was granted IT budget authority by DHS-level management policies, consistent execution of that authority within the agency has been difficult to achieve. Field offices and business units with direct fee revenue or appropriated funds have not historically complied with budgetary control processes. Many OIT personnel stated that business representatives are too heavily involved in system and infrastructure change decisions, and the CIO does not have consistent investment decision-making authority.

The continuation of decentralized IT program efforts has led to a growing number of local systems that are beyond the CIO's current budget or staffing level to manage effectively. Although OIT still does not know the total number of local IT systems, USCIS field offices have reported thousands of applications that were developed "in-house." Historically, these systems were developed to improve workflow of local business processes, and staff rely upon them to perform mission operations. IT management challenges are further compounded when locally developed systems compromise agency-wide IT infrastructure standards or security protocols.

Further IT Infrastructure Improvements are Needed

USCIS has improved the IT infrastructure over the past three years; however, funding cuts have stalled current efforts. The OIT planned to complete network improvements for 243 of 300 U.S. domestic offices and 31 of 71 overseas operations. However, these plans were delayed because of budget cuts. As a result, upgrades in only 25 locations were completed as of January 2009. The OIT is also conducting a full assessment to determine what changes must be made to the current IT environment to adequately prepare for the transformation effort. According to the OIT, considerable work remains to identify specific infrastructure requirements.

Conclusion and Recommendations

Over the past five years, USCIS has elevated the transformation program to an agency-wide priority to more efficiently and effectively meet its mission of administering the nation's immigration laws. The agency has developed a strategy to establish a new operational environment, which will be deployed over a six-year period. This approach is made possible by a new fee structure. USCIS has also strengthened overall IT management and improved IT governance.

Overall, the agency has made moderate progress toward achieving long-term transformation goals to improve operations by deploying integrated, electronic benefits processing capabilities. USCIS has spent more than $117 million since 2005 to develop updated business processes and test the underlying technologies needed for electronic

operations. However, business process engineering efforts have yet to be completed, and pilot programs have been implemented without the completion of operational performance reviews. In addition, stakeholder understanding of and participation in the transformation program has been limited, staffing remains a weakness, and USCIS has not achieved effective centralized management of IT.

Since USCIS was established in 2003, the agency has encountered a significant backlog of cases which impedes its ability to adjudicate the increasing number of applications received each year, thus delaying the delivery of citizenship and immigration benefits to customers. In addition to addressing current operation needs, USCIS must also prepare for potential increases in benefits processing workloads that could result from proposed immigration reform legislation. Consequently, transformation will be critical to support the agency's current workload, address the ongoing backlog, and prepare for potential future increases in demand for immigration benefits processing.

We recommended in our report that the Acting Deputy Director, USCIS:

1. Develop an updated transformation approach, strategy, or plan to communicate end-state business processes and IT solutions to stakeholders.
2. Develop and implement a plan to achieve sufficient and consistent stakeholder participation in process reengineering and requirements definition activities.
3. Complete evaluations to document the results and lessons learned from the pilot and proof-of-concept programs.
4. Develop a USCIS OIT staffing plan that includes specific actions and milestones for recruiting and retaining fulltime employees.
5. Communicate guidelines and procedures for acquiring, developing, and managing IT solutions, as defined by the DHS and USCIS CIOs, to stakeholders.
6. Provide the CIO agency-wide budget and investment review authority for all USCIS IT initiatives and system development efforts.

The Acting Deputy Director concurred with our recommendations.

Report Update

USCIS provided us a status update in November 2009. At that time, USCIS stated it had drafted a transformation program communications plan and a comprehensive stakeholder involvement approach. USCIS also completed lessons learned documentation for two pilot efforts. Progress made within the OIT was evidenced by the development of a staffing plan to increase the OIT's staffing levels and preparation of formal communications to inform personnel of IT lifecycle management guidelines. Finally, USCIS stated that the USCIS CIO has agency-wide investment authority for IT initiatives. After OIG evaluation of these updates, Recommendation #3, to complete pilot evaluations, was closed. All other recommendations remain open at this time. We expect USCIS will provide the next compliance response in March 2010.

Madam Chairwoman, this concludes my prepared statement. I appreciate your time and attention and welcome any questions from you or Members of the Subcommittee.

Ms. LOFGREN. Thank you very much.

And finally we will turn to Dr. Irving for her testimony.

TESTIMONY OF SUSAN J. IRVING, Ph.D., DIRECTOR, FEDERAL BUDGET ANALYSIS, UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, WASHINGTON, DC

Ms. IRVING. Madam Chair, Mr. Chaffetz, Ms. Chu, thank you for inviting me today to stand back a little bit from the operations of the specific agency to talk about user fees and the funding structure as it applies to USCIS.

The decision to fund an agency either partially or fully through fees is fundamentally a policy decision. But we in GAO developed the user fee design guide to help identify the issues, the questions and tradeoffs that must be confronted in creating a workable and effective fee structure.

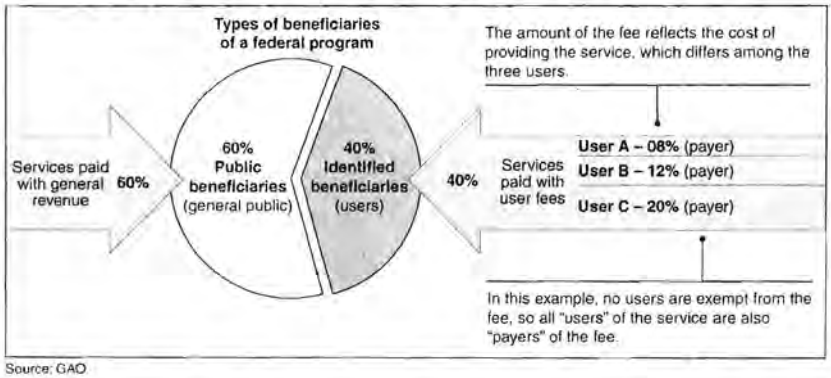
We talk about several stages in the fee process: the setting of the fee, collecting it, how the agency may use the fee and the reviewing of the fee, which strikes me as being very important to you.

The criteria against which you bump up a fee: equity, efficiency, revenue adequacy and administrative burden, I would like to focus today on setting of the fee. It is among the most challenging because you have to both determine the costs and determine who shall pay them.

It highlights one of the more complicated issues in the criteria—that of equity. At one level we all think equity is quite easy. We should all pay our "fair share." We think of that in many areas of American law. But, what is the fair share? This graphic is just an illustrative picture of the question of the beneficiary should pay.

[The information referred to follows:]

Figure 1: Simplified, Hypothetical Example of Assigning Costs to Beneficiaries



Source: GAO

Ms. IRVING. Again, stepping back from one critical—the issue of just USCIS, for many of the fee-funded operations in this country there is not an identity between user and beneficiary. I am going to give you a boringly simple illustration on this, one I used before the Transportation—one of the Transportation Committees when we were talking about next generation air traffic. I suggested that

if I never get on an airplane I benefit if they don't fall out of the sky, which means that it is a more complicated issue for all of you which is how much of NGAT should be funded by user fees paid by current fliers.

Sometimes this is the issue of the circle, who is the identified beneficiary or user versus other beneficiaries, is a policy call that is on a continuum. We range from things like you—with immigration to food inspection, air traffic, parks, even the funding of our roads.

On the other side, once we have identified the identified beneficiaries, the question becomes how do we allocate the cost to them? Let me point out to you that the existence of exemptions and waivers makes this more complicated.

If you have a fully fee-funded operation and through policy grounds and a directive from the Congress, there are people who are exempted from paying that fee but who still receive the service, you have to find some way to cover their costs.

Again, outside just the USCIS example, if I fly into this country from Paris, I pay—that $17.50 you see at the end of your ticket covers the inspection for agriculture, for customs and for immigration.

If I fly in from the Olympics in Vancouver I do not pay the customs portion of that fee. But those of you who have been in from Canada know you are inspected. That means some other user must cover the cost of that inspection.

Assigning costs, therefore, brings into play both cost analysis and equity. At one level I would like to say the three bucket approach USCIS used in its last fee review is not unreasonable: first reform specific costs that can be attributed to specific applications.

Second is overhead, or what I might call the cost of having the agency there to exist, that is the pencils, the papers, the office heat, all of that. There are a number of ways to do that consistent with accounting standards. In our review we raised some concerns about their documentation and level of detail. But allocating that across other payers is not an unreasonable approach.

Finally, as you all know, there is a surcharge imposed for the cost of exemptions and waivers. What appeals to me as an analyst about isolating and identifying the surcharge is it provides to the policymaker—the Congress of the United States—the cost of their decision to exempt something.

Once there is an exemption, as I said, you have only two choices. Other fee payers can carry that cost or there can be a decision made to provide general revenue for that. You cannot prevent cross-subsidization unless you either provide general revenues or you provide that people who are exempt from paying are also exempt from the service, which generally we don't want to do.

Finally, I want to say something about revenue adequacy. This is especially important for fee-funded agencies. They need a carryover balance. You need something and to get to the right carryover balance, the agency needs to conduct an analysis about what makes this fee revenue fluctuate, so down and that. And we dinged them a little bit on that.

Frankly, I want to just mention that infrequent reviews are likely to lead to larger fee increases. We all noticed how big the in-

crease was in 2007, but we don't notice that there were no increases between the last review and that.

I am sorry to have been the one witness who hit the red light, Madam Chair.

[The prepared statement of Ms. Irving follows:]

PREPARED STATEMENT OF SUSAN J. IRVING

United States Government Accountability Office

GAO

Testimony

Before the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, Committee on the Judiciary, U.S. House of Representatives

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FEDERAL USER FEES

Fee Design Characteristics and Trade-Offs Illustrated by USCIS's Immigration and Naturalization Fees

Statement of Susan J. Irving, Director
Federal Budget Analysis
Strategic Issues

GAO
Accountability * Integrity * Reliability

GAO-10-560T

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Highlights

Why GAO Did This Study

March 23, 2010

FEDERAL USER FEES

Fee Design Characteristics and Trade-Offs Illustrated by USCIS's Immigration and Naturalization Fees

What GAO Found

There are four key design and implementation characteristics of user fees—how fees are set, collected, used, and reviewed. Each design and implementation characteristics presents its own set of decisions to consider and embodies trade-offs among the four criteria that are often used to assess user fees: equity, efficiency, revenue adequacy, and administrative burden.

Equity: Equity means that everyone pays his/her fair share, but there is more than one way to think about fair share. Under the beneficiary-pays principle, the beneficiaries of a service pay for the cost of providing the service from which they benefit. Under the ability-to-pay principle, those who are more capable of bearing the burden of fees should pay more for the service than those with less ability to pay.
Efficiency: By requiring identifiable beneficiaries to pay for the costs of services, user fees can simultaneously constrain demand and reveal the value that beneficiaries place on the service. If those benefiting from a service do not bear the full social cost of the service, they may seek to have the government provide more of the service than is economically efficient.
Revenue adequacy: Revenue adequacy is the extent to which the fee collections cover the intended share of costs. It encompasses the extent to which collections may change over time relative to the cost of the program and the concept of revenue stability, or the degree to which short-term fluctuations in economic activity and other factors affect the level of fee collections.
Administrative burden: This is the cost of administering the fee, including the cost of collection and enforcement, as well as the compliance burden.

Setting the fee is perhaps is the most challenging of the fee design decisions because determining the cost of the service is often quite complex and requires considering a range of issues. One of the biggest issues in fee setting is how to define and apply the equity criterion, such as determining the overlap between beneficiaries and users, whether to employ a beneficiary pays or ability to pay equity principle, how to address fee exemptions and waivers, and finally, how to assign costs among users. Many of these design choices described in USCIS's 2007 fee review provide transparent analysis and identify deliberate trade-offs. However, USCIS did not conduct the analysis necessary to fully inform either congressional decision making or USCIS's internal deliberations on key areas such as the cost of activities funded by statutorily-set fees that led to unknown cross-subsidizations.

When fees are supposed to cover all or a set portion of the costs of an agency or activity the criterion of "revenue adequacy" may be especially important to consider. For example, a reserve is important for fully fee-funded programs because it provides a cushion if program costs would not drop proportionally with a drop in fee collections. A reserve could also help support preparation for any anticipated surge in users, especially if fee collections would come after the expenditures to prepare for the surge.

Chairwoman Lofgren, Mr. King, Members of the Subcommittee:

It is a pleasure to join you today as you think about issues related to the U.S. Citizenship and Immigration Services' (USCIS) user fees. User fees can be designed to reduce the burden on taxpayers by financing the portions of activities that provide benefits to identifiable users above and beyond what is normally provided to the public. By charging the costs of programs or activities to identifiable beneficiaries, user fees can promote economic efficiency and equity just as prices for goods and services can do in a free and competitive market. However, to achieve these goals, user fees must be well designed.

In light of recent increased congressional interest in user fee financing, we at GAO developed a normative framework for examining user fee design characteristics that may influence the effectiveness of user fees. Specifically, our federal user fee design guide examined how the four key design and implementation characteristics of user fees—how fees are set, collected, used, and reviewed—may affect the economic efficiency, equity, revenue adequacy, and administrative burden of cost-based fees.[1] Since 2007, we have examined a variety of federal user fees—including those at USCIS—in the context of this framework. I am pleased to be here today to talk about effective user fee design in general and USCIS fees in particular.

As this subcommittee knows, USCIS is responsible for granting or denying the millions of immigration and naturalization applications it receives each year and charges fees to recover all processing costs.[2] In February 2007, USCIS completed a fee review to determine the level at which fees should be set to recover the full cost of its services. USCIS's most recent fee schedule, which became effective July 30, 2007, increased application fees by an average of 86 percent.[3] The fee schedule was widely questioned, in part because of the magnitude of the increases and in part because of the agency's failure to foresee and manage the surge in applications received immediately before the effective date of the fee increases.

[1]See GAO, *Federal User Fees: A Design Guide*, GAO-08-386SP (Washington, D.C.: May 29, 2008).

[2]For the purposes of this testimony, the term "application" refers to both applications and petitions.

[3]USCIS's 2007 user fee review was issued prior to the issuance of GAO-08-386SP, however the comparison of USCIS's review to the user fee design principles is important to identifying opportunities for future improvements.

USCIS is preparing its first fee review since the 2007 fee increase. The time is ripe for analyzing and understanding the elements and trade-offs in designing a fee structure so that both USCIS and the Congress have the best possible information available to them when overseeing these fees and the critical operations they fund. Further, because USCIS's operations are mostly funded by user fees, it is critical that fee collections and operating costs remain aligned to ensure collections are sufficient such that applicants may enjoy continued access to the timely, high-quality services they deserve.

As agreed with this Subcommittee, my testimony today focuses on:

1. user fee design and implementation characteristics and criteria,
2. cost assignment and trade-offs identified in USCIS's 2007 fee review, and
3. additional considerations for fee-funded agencies.

Before doing that, however, I would like to step back and talk a bit about some important considerations for the practical application of any normative framework.

Any user fee design embodies trade-offs among the four dimensions of equity, efficiency, revenue adequacy, and administrative burden. While there are purely analytic aspects to each of these criteria, the trade-offs depend on policy and value decisions. No single design will satisfy everyone on all dimensions—every fee design will have pluses and minuses—and the weight that different policymakers place on different criteria will vary depending on how they value different attributes. As a general rule, the design of a fee should be viewed in its entirety. Focusing only on the pros and cons of any single design element can obscure how the pieces fit together and could make it difficult to achieve consensus on a fee's design. Instead, policymakers will ultimately need to balance the relative importance they place on each of these criteria and focus on the overall fee design. Moreover, there will undoubtedly be cases in which policy considerations outweigh normative design principles.

My testimony today is based on GAO reports and testimonies issued from May 2008 through January 2009 on the principles of effective user fee design in general and on USCIS's user fees and fee review specifically. In developing the design guide, we reviewed economic and policy literature on federal and nonfederal user fees, including our prior work on user fees. To review USCIS's fee structure, we reviewed legislation and agency documentation, such as the proposed and final Federal Register notices

regarding the 2007 fee schedule and USCIS's February 2007 fee review analysis. We conducted the work for both of those reports according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Fee Design and Implementation Characteristics and Criteria

Each of the four design and implementation characteristics presents its own set of decisions to consider. In this statement I touch briefly on the main considerations at each stage; a summary of key questions to consider is included in appendix I.

Setting user fees: For cost-based fees, the extent to which a program provides benefits to the general public versus to identifiable users, and the cost of providing those benefits should, in the abstract, guide how much of total program costs are paid for by user fees and the amount each user pays.

Collecting user fees: The primary challenge of determining when and how to collect a fee is striking a balance between ensuring compliance and minimizing administrative costs. In some cases, the collection systems of another agency or a nonfederal entity, such as a private sector enterprise, may be leveraged, as when the airlines collect passenger inspection fees.

Using user fees: Determining how fees will be used is a balancing act between Congressional oversight and agency flexibility. Congress gives agencies various degrees of access to collected fees. For example, fees may be dedicated to the related program or may instead be deposited to the general fund of the U.S. Treasury and not used specifically for the related program or agency. In addition, fee collections may be subject to appropriation or obligation limits, which increase opportunity for oversight but may limit agencies' ability to quickly respond to changing conditions.

Reviewing user fees: Agencies must substantively review their fees on a regular basis to ensure that they, the Congress, and stakeholders have complete information. Reviews provide information on whether the fee rates and authorized activities are aligned with actual program costs and activities, may provide opportunities for stakeholder input, and can help promote understanding and acceptance of the fee.

Criteria for Assessing Design

Our May 2008 user Fee Design Guide discusses four criteria that are often used to assess user fees and taxes: (1) equity, (2) efficiency, (3) revenue adequacy and (4) administrative burden on the agency and payers of the fees. As I noted, these criteria interact and are often in conflict with each other; as such, there are trade-offs to consider among the criteria when designing a fee. Further, the design characteristics are interrelated: how you set the fees can influence the activities for which they are used, and how often they are reviewed can influence the level at which the fee is set. To understand the implications of any fee design, it is important to understand the options and trade-offs between these criteria.

Equity: Equity means that everyone pays his/her fair share, but there is more than one way to think about fair share. Under the beneficiary-pays principle, the beneficiaries of a service pay for the cost of providing the service from which they benefit, but even this can be complicated when beneficiaries and users differ. Under the ability-to-pay principle, those who are more capable of bearing the burden of fees should pay more for the service than those with less ability-to-pay.

Efficiency: By requiring identifiable beneficiaries to pay for the costs of services, user fees can simultaneously constrain demand and reveal the value that beneficiaries place on the service. If those benefiting from a service do not bear the full social cost of the service, they may seek to have the government provide more of the service than is economically efficient.

Revenue adequacy: Revenue adequacy is the extent to which the fee collections cover the intended share of costs. It encompasses the degree to which collections may change over time relative to the cost of the program. Revenue adequacy also incorporates the concept of revenue stability, which generally refers to the degree to which short-term fluctuations in economic activity and other factors affect the level of fee collections.

Administrative burden: This is the cost of administering the fee, including the cost of collection and enforcement, as well as the compliance burden (the administrative costs imposed on the payers of the fee).

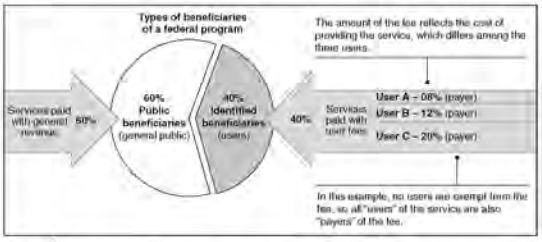
USCIS's 2007 Fee Design Reflects Trade-Offs among Some Key Fee Design Principles and Provides a Foundation for Further Improvements in the 2010 Fee Design

Today I will spend most of my time discussing the issues involved in setting a user fee. It perhaps is the most challenging of the fee design decisions because determining the cost of the service is often quite complex and requires considering a range of issues. One of the biggest issues in fee setting is how to define and apply the equity criterion, such as determining the overlap between beneficiaries and users, whether to employ a beneficiary-pays or ability-to-pay equity principle, how to address fee exemptions and waivers, and finally, how to assign costs among users. Many of these design choices described in USCIS's 2007 fee review provide transparent analysis and identify deliberate trade-offs. However, USCIS did not conduct the analysis necessary to fully inform either congressional decision making or USCIS's internal deliberations on key areas such as the cost of activities funded by statutorily set fees. As a result, the amount being cross-subsidized was unknown.

According to the beneficiary-pays principle, the extent to which a program is funded by user fees should generally be guided by who primarily benefits from the program. Under this principle, if a program primarily benefits the general public (e.g., national defense), it should be supported by general revenue, not user fees; if a program primarily benefits identifiable users, such as customers of the U.S. Postal Service, it should be funded by fees; and if a program benefits both the general public and users, it should be funded in part by fees and in part by general revenues[4] (see figure 1).

[4]Programs that primarily benefit the general public are generally nonexcludable, that is, there is no practical way of preventing someone from benefiting from the program, and nonrival, that is, once the program is in operation, there is no additional cost of providing it to more people.

Figure 1: Simplified, Hypothetical Example of Assigning Costs to Beneficiaries



Source: GAO.

Note: Though not shown in this example, fees may include exemptions, so that some "users" of the program are not "payers" of the fee. The cost of providing the service to exempt users may be paid for with general revenues or by the fees of other users.

Although the beneficiary-pays principle is a useful guideline for assigning costs, determining a program's beneficiaries and the extent to which a program benefits users, the general public, or both is not usually clear cut. For example, in prior work we found that National Park Service staff reported that they did not want to raise federal grazing fees assessed on ranchers, even though these fees were lower than fees charged by other government agencies and private landowners, in part because grazing not only benefits ranchers but also benefits parks—for example, by controlling vegetation.[8] In another example, United States Department of Agriculture (USDA) food safety inspections benefit the meat and poultry industries as well as the general public: inspections improve consumer confidence in the safety of those food products and the companies can advertise their products as USDA-inspected, which may enhance the perceived quality. The inspections also benefit the general public by preventing the spread of communicable diseases carried by meat and poultry products, but it is difficult to quantify that public health benefit and consequently the extent to which the program should be covered by

[8]See GAO, *Livestock Grazing: Federal Expenditures and Receipts Vary, Depending on the Agency and the Purpose of the Fee Charged*, GAO-05-869 (Washington, D.C.: Sept. 30, 2005), and *National Park Service: Opportunities Exist to Clarify and Strengthen Special Uses Permit Guidance on Setting Grazing Fees and Cost-Recovery*, GAO-06-355R (Washington, D.C.: Feb. 9, 2006).

user fees versus general revenues. Secondary beneficiaries of a program generally are not considered in this examination. For example, consumers of new prescription drugs are secondary beneficiaries of prescription drug reviews, which provide a primary benefit to the drug sponsors.[6] Similarly, fees should be charged to the direct user, even if that payer then passes the cost of the fee on to others.

Strictly following the beneficiary-pays principle is not always desirable or practical. The government may wish to charge some users a lower fee or no fee to encourage certain activities. For example, potential profits from the development of "orphan" drugs—those that treat rare diseases—are limited by the small size of their market, and therefore drug companies may be reluctant to invest in them; such drugs are exempt from the Food and Drug Administration (FDA) prescription drug application fee to encourage their development.

Beneficiary-Pays Versus Ability-to-Pay

While the beneficiary-pays principle may promote one aspect of equity, it may run contrary to another—the ability-to-pay principle. Fees that are proportionally more burdensome for low-income than high-income individuals are said to be regressive. To address this concern, the design of a fee may consider the ability of a user to pay, by for example, exempting low-income users or scaling fees by some measure of ability-to-pay. When those who are more capable of bearing the burden of fees pay more for the service than those with less ability-to-pay, the ability-to-pay definition of equity is employed, creating conflict with the beneficiary-pays definition of equity and causing cross-subsidization among applicants.

USCIS demonstrated the ability-to-pay principle of equity by limiting the 2007 increase in the fees charged for some low-volume applications, such as the Form I-360, Petition for Amerasian Widow(er) or Special Immigrant. This avoided what, in some cases, would have been a 250 percent fee increase or greater, levied on a population unlikely to be able to pay. Instead USCIS only increased the fees by the total average increase across all applications. The unrecovered processing costs for these form types were distributed across other form types and thus distributed among other fee-payiug applicants.

[6]A drug sponsor is the person or entity who assumes responsibility for the marketing of a new drug, including responsibility for complying with applicable provisions of laws, such as the Federal Food, Drug, and Cosmetic Act and related regulations. The sponsor is usually an individual, partnership, corporation, government agency, manufacturer, or scientific institution.

USCIS demonstrated the beneficiary-pays principle of equity by not limiting a second set of fees, for which the population would likely be able to pay the large fee increase. For example, by not adjusting fees for the Form I-829, Petition by Entrepreneur to Remove Conditions—a form for which the applicants are entrepreneurs with $500,000 to invest—USCIS closely aligned these fees with the cost of providing the services to these users.

Both ability-to-pay and beneficiary-pays are valid applications of the equity principle. Choosing between them depends on the policy goal to be achieved.

Exemptions and Waivers

Fees can also include provisions for exemptions and waivers to promote certain policy goals and these provisions affect how program costs are allocated among users. The cost of providing services to fee-exempted or fee-waived users is commonly funded by general revenues or by the fees of other users. Fee exemptions and waivers may also increase an agency's administrative burden—the cost of administering the fee—since the agency must carefully track when fees are due and from whom rather than simply charging every applicant. Fee-paying applicants also bear an administrative burden in terms of compliance costs associated with waiver and exemption policies.

USCIS's user fee design allows fee exemptions for certain form types and fee waivers for some applicants, and USCIS funds these activities through a surcharge added to fee-paying applicants. By law, USCIS's immigration and naturalization fees "may be set at a level that will ensure recovery of the full costs of providing all [adjudication and immigration] such services, including the costs of similar services provided without charge to asylum applicants or other immigrants. Such fees may also be set at a level that will recover any additional costs associated with the administration of the fees collected."[7] As a result, certain form types are fee-exempt, such as for refugees and applicants seeking asylum, and fee waivers are granted on a case-by-case basis for applicants who demonstrate an inability to pay by

[7] 8 U.S.C. § 1356 (m).

meeting certain need-based criteria.[8] The cost of fee exemptions and waivers is allocated to the fee-based applications as a flat-rate surcharge.

Reliably accounting for the costs and benefits associated with such provisions is important in order to ensure that these provisions are achieving the intended results. In fully fee-funded programs, if some users are exempt from paying fees, total fee collections cannot cover total program costs unless other users pay a higher fee to cover the costs of the exempted users. For example, commercial and private vessels are both subject to Agricultural Quarantine Inspections (AQI), but private vessels are exempt from the AQI fees. In prior work we found that the costs of these private vessel inspections are included in the AQI fee charged to commercial vessels.[9] Thus commercial vessels are paying for the cost of inspecting private vessels. An alternative to cross-subsidization would be to pay for the costs of providing services to exempt entities through general revenues. USCIS received an appropriation for asylum, refugee, and humanitarian parole activities, and military naturalizations beginning in fiscal year 2010.[10] In this way the policy goal is attained and the general public, rather than other users, make up the cost of exempt users or discounted fees.

Finally, fee exemptions and caps can increase an agency's administrative costs because it must carefully track when fees are due and from whom rather than simply charging everyone. The U.S. Customs and Border Protection (CBP) generally assesses a $437 customs inspection fee on commercial vessel operators when they arrive at port, but the fee is capped at $5,955 per calendar year. This is approximately 13.6 payments. This means that CBP has to calculate the point at which the vessel has

[8]In determining inability-to-pay, USCIS considers the totality of all factors, circumstances, and evidence the applicant supplies including age, disability, household income, and qualification within the past 180 days for a federal means tested benefit, as well as other factors associated with each specific case. More information about fee waiver guidance can be found at http://www.uscis.gov/feewaiver.

[9]GAO-08-386SP

[10]For fiscal year 2010, Congress appropriated $50 million to USCIS for the processing of applications for asylum or refugee states; of which $5 million was for the processing of military naturalization applications. Department of Homeland Security Appropriations Act of 2010, Pub. L. No. 111-83, 123 Stat. 2142, 2164 (Oct. 28, 2009). However, the act restricted USCIS from obligating any of these funds for processing applications for asylum or refugee status until the agency "has published a final rule updating part 103 of title 8, Code of Federal Regulations, to discontinue the asylum/refugee surcharge."

reached the cap and is no longer subject to the fee. We recently reported that the cap increases CBP's administrative costs and the potential for errors.[11] This issue was particularly problematic in 2007 because a fee increase took effect on April 1, 2007, so vessels arriving before and after that date paid two different rates. Since the fee cap applies to payments received within a calendar year, it was even more difficult for CBP to calculate the total amount paid and determine if a vessel had reached the cap.

Assigning Costs among Users

Assigning costs among fee-payers requires determining (1) total program costs and (2) how to assign these costs among different payers. The beneficiary-pays principle can be useful in guiding decisions about cost allocation among users. That is, basing fees on the cost of providing the program or service to various groups of users enhances equity as each user pays for the cost of services actually used.

When the cost of providing a service varies for different types of users, the fee may vary (i.e., a user-specific fee), or be set at an average rate (i.e., a systemwide fee). All other things being equal, user-specific fees promote equity and economic efficiency because the amount of the fee is more closely aligned with the cost of the service.[12] In contrast, systemwide fees may be higher or lower than the actual cost of providing a service to certain types of users and may result in cross-subsidies across users. For example, we previously reported that the Federal Aviation Administration's (FAA) funding structure had raised concerns about equity and efficiency because users paid more or less than the costs of the air traffic control services they receive and therefore may lack incentives to use the national airspace system as efficiently as possible.[13] However, because user-specific fees require agencies to track the costs of providing

[11]See GAO-08-321.

[12]Unless fees are perfectly user specific, some users will pay a higher proportion of the costs they impose and some users will pay a lower proportion of their costs. In the case of a fee that is not user specific and recovers full program costs (i.e., does not use general revenue funding), some users will pay more than the costs they impose, essentially cross-subsidizing other users, who will pay less. For more information about funding options for the FAA see *National Airspace System Modernization: Observations on Potential Funding Options for FAA and the Next General Airspace System*, GAO-06-1114T (Washington, D.C.: September 27, 2006).

[13]See *Aviation Finance: Observations on the Current FAA Funding Structure's Support for Aviation Activities, Issues Affecting Future Costs, and Proposed Funding Changes*, GAO-07-1163T (Washington, D.C.: August 1, 2007).

service to different users, these fees are often more costly to administer than systemwide fees. In managing the trade-offs between the benefits and drawbacks of user-specific versus systemwide fees, several factors may be important to consider, such as the purpose of the program, the amount of the fee and the amount of cost variation among users when assigning costs.

Program purpose. In general, national systems are often best supported by a systemwide fee whereas a user-specific fee may be the better choice to support individual entities or locations or when maximizing economic efficiency outweighs the desire for a national system.

Amount of the fee. If the fee is small relative to other costs that a user faces, it may be less important to have a user-specific fee with different rates.

Cost variation among users. Lastly, if there are numerous different groups of users and a small cost variation among them, the efficiency gains of a user-specific fee may be overwhelmed by the added administrative costs. Conversely, if a program has a relatively small number of user groups and the cost of providing the service to those groups differs significantly, then user-specific fees might be both beneficial and feasible.

Whether fee rates will be set using average cost or marginal cost is also an important consideration when setting fees. Setting a fee at a rate equal to the marginal cost of providing the service or product to the specific user maximizes economic efficiency, but is often not easy to do. In part because it is often difficult to measure marginal cost, fee rates are sometimes set based on average cost.[14] For example, while international arriving airline passengers all pay a fee for AQIs at the airport, it is difficult to know at the time the fee is assessed which passenger will require which level of inspection. The AQI fees are intended to cover total program costs; to set these fees, the Animal and Plant Health Inspection Service (APHIS) projects program costs for different inspection types (e.g., air passenger, commercial aircraft, and commercial vessels) and divides each by the total projected number of each type of payer. That is, each airline pays the same fee per arrival to cover the costs related to inspecting aircraft.

[14]Marginal cost is equal to the cost of providing an additional unit of the good or service.

Even when marginal costs are measurable, setting the fee equal to marginal cost could be problematic. When marginal costs are measurable but are low relative to the fixed costs of the program, setting the fee at marginal cost will lead to collections less than total costs. In such a situation either a program may be funded in part through general revenues or—if an agency, program or activity is completely fee-funded—users would have to be charged more than marginal costs.[15] A third approach might be to create a two-part fee consisting of (1) a flat fee to cover fixed costs and (2) a usage-based fee to cover marginal costs. For example, the marginal cost of providing electricity (i.e., operating power plants and maintaining transmission lines) is small compared with the costs of building power plants and transmission lines; thus, electricity consumers could be charged a flat monthly charge to cover fixed costs plus a charge that would vary based on their consumption.

In its last fee review USCIS determined its fee rates by assigning different costs to various fee-paying users in different ways. First, USCIS identified the costs for adjudicating each form type, referred to as the "make determination" costs. As I noted before, user-specific fees promote equity and economic efficiency because the amount of the fee is closely aligned with the cost of the service.[16] USCIS's make-determination costs, which comprise 49 percent of its total costs, vary by form type and are assigned accordingly; as such, this portion of the costs are aligned with the associated fees. Next, USCIS allocated $732 million in overhead costs, including payroll, accounting, and legal services, in proportion to full-time equivalents. Such systemwide fees minimize administrative burden because they do not require identifying and charging specific costs to each user.[17] Lastly, all fee-paying applicants pay a flat-rate $72 surcharge to recover the costs associated with asylum and refugee services and fee-waived and fee-exempt applications. However, in fiscal year 2010, USCIS received an appropriation for asylum, refugee, and humanitarian parole

[15]There will be some loss of economic efficiency in either case: user fees set above marginal cost and taxes—that is, general revenues—both result in some loss of economic efficiency. See GAO-05-1009SP.

[16]In USCIS's case, this would be a form-specific fee as all fee-paying applicants for a certain form type would pay the same amount regardless of how much their individual application cost to process.

[17]However, we raise concerns about the lack of justification and support for USCIS's allocation of remaining costs in our related report, including how USCIS allocated certain overhead costs and whether alternate assignment methods may offer greater precision. See GAO-09-70.

activities, and military naturalizations.[18] Both methods achieve the policy goal but these decisions illustrate two approaches to covering the cost of exempt users—distribute the costs among other users or have the cost made up by the general public.

Unknown Costs Create Unknown Cross-Subsidizations

As this Subcommittee knows, some of USCIS's fees are set in statute. In our work, we reported that at the time of the 2007 fee review USCIS did not know the relationship between those statutorily set fees and the costs of the activities associated with them. Because USCIS cannot change these fee rates through the regulatory process, USCIS officials told us that they had not identified the costs associated with statutorily set fees and that doing so was not a priority for them. This means that decision makers lack this key information; in addition, it raises the possibility that processing costs for these services are being partially borne by other fee-paying applicants. Absent information on the cost of these services, however, the amount of cross-subsidization is unknown.

The most notable of the statutorily set fees is the $1,000 fee for the premium-processing service, which was USCIS's fifth largest single generator of funds in fiscal year 2007.[19] In December 2000, the Congress authorized the collection of a premium processing fee for employment-based applications, to be paid in addition to the regular application fees.[20] The Congress set the amount of the premium processing fee at $1,000; pursuant to this authority and as established in regulations, USCIS guarantees that certain employment based applications will be processed within 15 calendar days of receipt.[21]

[18]For fiscal year 2010, Congress appropriated $50 million to USCIS for the processing of applications for asylum or refugee states; of which $5 million was for the processing of military naturalization applications. Department of Homeland Security Appropriations Act of 2010, Pub. L. No. 111-83, 123 Stat. 2142, 2164 (Oct. 28, 2009). However, the act restricted USCIS from obligating any of these funds for processing applications for asylum or refugee status until the agency "has published a final rule updating part 103 of title 8, Code of Federal Regulations, to discontinue the asylum/refugee surcharge."

[19]In addition to the premium processing fee, USCIS did not know the relationship between the cost of processing the H-1B applications and its statutorily-set fee imposed on employers and therefore did not know the amount being subsidized by other fee-paying applicants.

[20]Pub.L.No. 106-553, App. B, Title I, § 112, 114 Stat. 2762, 2762A-68 (Dec. 21, 2000), *codified at* 8 U.S.C. § 1356 (u).

[21]8 C.F.R. § 103.2(f). USCIS may designate the employment-based applications that are eligible for premium services pursuant to public notice in the *Federal Register*.

Although the premium processing fees are not—unlike most of USCIS's application fees—cost-based, information on the cost of the services for which the fee is charged should be determined. We have previously reported that reliable information on the costs of federal programs and activities is crucial for agencies and the Congress to ensure effective management of government operations, which includes setting user fees.[22]

The cross-subsidization issue for premium processing fees is complicated by the statutory provision that premium processing fees be available for two activities: (1) certain premium processing services for business customers and (2) infrastructure improvements associated with adjudications and customer-service.[23] In its 2007 fee review, USCIS stated that the agency's intent was to use all premium-processing collections to fund planned infrastructure improvements, which are a significant component of USCIS's Transformation Program.[24] As a result, the cost of premium processing is borne by other fee payers (see figure 2 below). Funding the Transformation Program with premium-processing activities is consistent with report language accompanying the fiscal years 2008-2010 Department of Homeland Security appropriations bills, which direct USCIS[25] to allocate all premium-processing fee collections to information technology and business-system transformation. It is worth noting that if the agency (a) is directed to use all its premium processing fee revenue for infrastructure improvements, (b) provides premium processing services, and (c) is an entirely fee funded agency, it can only cover the costs of premium processing activities by imposing them on other fee payers.

While the Congress continues to support this use of premium processing collections, we note that it does raise several issues. First, as noted above and shown in figure 2, the cost of premium processing is being borne by other fee payers. Second, premium processing applicants are bearing an uneven amount of the costs of the Transformation Program—an initiative

[22]GAO-07-1131

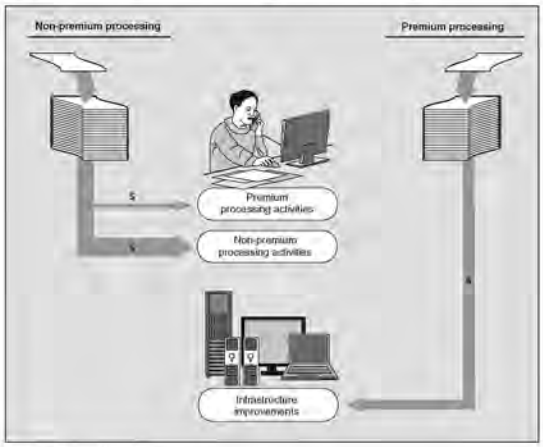
[23]8 U.S.C. §1356(u).

[24]USCIS is embarking on an agencywide Transformation Program that is intended to transform USCIS's current paper-based data systems into a modern, digital processing resource that will enhance customer service and better prevent future backlogs. The transformation program was not included in the agency's definition of overhead costs for purposes of the 2007 review.

[25]H.Rep. No. 110-181, at 114 (2007); H. Rep. No. 110-862, at 131 (2008); H. Rep. No. 111-298, at 115 (2009).

that will ultimately benefit all types of future applicants. Spreading the transformation costs among all application fees would distribute the burden across all fee-paying applicants, but it could be seen as creating inequities across time because today's applicants would be paying for improvements likely to benefit future applicants.

Figure 2: The Flow of Premium Processing Collections and Usage



Source: GAO analysis of USCIS data.

Additional Considerations for Fee-Funded Agencies

The criterion of "revenue adequacy" may be especially important when fees are supposed to cover all or a set portion of the costs of an agency, program or activity. As noted, revenue adequacy is the extent to which the fee collections cover the intended share of costs. Let me touch on two aspects of revenue adequacy: (1) the extent to which collections may change over time relative to the cost of the program and (2) the degree to which short-term fluctuations in economic activity and other factors affect the level of fee collections.

Program costs change over time. This means that fees intended to cover all or a set share of the costs of an agency, program, or activity must be not only set but also adjusted——even between formal reviews—to cover those costs. This in turn requires agencies to project and consider future program costs—even if they conduct periodic fee reviews. For example, USDA's Food Safety and Inspection Service did this in 2006 when it set fee rates through fiscal year 2008 for overtime inspection services for meat, poultry, and egg products. The fee rates for each year included adjustments for inflation and employee pay raises, so that future fee collections were projected to grow with program costs.[26]

If an agency or program is fully fee-funded, a reserve is important because it provides a cushion if program costs would not drop proportionally with a drop in fee collections. A reserve could also help support preparation for any anticipated surge in users, especially if fee collections would come after the expenditures to prepare for the surge. For example, the AQI fee statute gives APHIS permanent authority to use the collected fees. APHIS maintains a reserve in case of emergency. For example, following the September 11, 2001 attacks, there was a significant drop in international passenger travel, which led to a significant drop in certain AQI user fee collections. In order for APHIS to continue the AQI programs through that uncertain time, APHIS relied heavily on its 25-percent reserve. Without a sufficient reserve balance in place, experienced full-time personnel would have been furloughed and services reduced. We have previously reported, however, that while a reserve is necessary, it is also possible that the provision of permanent spending authority may mean agencies have less incentive to limit total collections to total costs.

We found that in its 2007 fee review, USCIS did not conduct the analysis needed to establish a target level of carryover balance, or "reserve," that would allow for the continuity of operations funded by the Immigration Examinations Fee Account (IFEA) in the event of a decrease in application volume. As a result we determined that USCIS did not fully consider issues related to revenue adequacy. Without analyzing its

[26]Agencies must use realistic inflationary indicators if they want to reasonably estimate future program costs and better align future collections with those costs. OMB Circular No. A-94, which provides guidance to agencies on benefit-cost analysis for federal programs, notes that future inflation is highly uncertain and recommends that when a general inflation assumption is needed, agencies use the rate of increase in the gross domestic product deflator from the administration's economic assumptions for the period of the analysis.

contractual and operating costs to determine an appropriate target carryover balance, USCIS is at risk of reducing or disrupting services if collections decrease. Further, absent analysis, it is unclear for how long and at what service level USCIS could operate with its current carryover balance. USCIS officials did say, however, that an appropriate level of carryover should reflect: (1) USCIS's first-quarter obligations, which includes the full contract value for the whole fiscal year;[27] (2) deferred revenue equal to the amount of its outstanding workload,[28] and (3) the operating "tempo" of the organization.

While regular fee reviews should be done for all fees, they may be especially important where fees represent a significant source of support for an agency or program.[29] Absent timely review, the agency lacks up-to-date knowledge about the cost of fee-funded activities and the relationship of those costs to the fees charged. Where either the level of the fee or the activities covered by it are set in statute, lack of timely analysis means the agency cannot provide the Congress with the information it needs to make informed decisions about any changes.[30] Most of USCIS's user fees are cost-based fees set through the regulatory process and deposited into the Immigration Examinations Fee Account. Prior to 2007, USCIS's last comprehensive fee review was in Fiscal Year 1997. As I noted, the lack of timely, comprehensive fee reviews in the years between 1997 and 2007 contributed to the size of the fee increase.

Abrupt imposition of new or substantially increased user fees could have unintended consequences on workload. For example, prior to the 2007 fee increases large numbers of applicants filed for benefits before the increase took effect, which contributed to a surge that exacerbated USCIS's backlog of applications. In cases like this, transitional measures such as grandfather clauses or phasing in increases might help address concerns about the adverse effects of the abrupt imposition of a fee, while implementing the beneficiary-pays principle gradually. However, as is the

[27]USCIS enters into yearlong contracts at the start of the year and therefore must have collections equal to the full contract value available for obligation at the start of the year.

[28]USCIS's deferred revenue are fee collections received by the agency for applications for which the adjudications have not been completed.

[29]OMB Circular A-25 recommends, and the Chief Financial Officers (CFO) Act of 1990 requires agency CFOs to review their user fees biennially.

[30]GAO-07-1131, GAO-08-321.

case with exemptions, the benefits of transitional measures must be balanced with the likelihood of reduced efficiency and equity gains and increased administrative costs. Furthermore, delaying a fee increase may also have adverse effects on an agency's operations.

Concluding Observations

The transparency and quality of USCIS's user fee design depends on complete, reliable information on which to base informed trade-offs that support the goals of USCIS. Analyzing and understanding the costs of providing these services are important so that both USCIS and the Congress have the best possible information available to them when designing, reviewing, and overseeing these fees. To this end, USCIS took an important step forward with its 2007 fee review. In the next review it should build on this by including the full costs of its services regardless of whether the fee is set through the regulatory or statutory process. Fee reviews are critical for any agency, but especially for agencies—like USCIS—that are mostly or solely fee funded.

We at GAO do not take a position on whether an agency should be partially or fully fee-funded, or whether the costs of exemptions and waivers should be distributed across other fee payers or funded through general revenues. These are policy questions appropriately decided by policymakers. With the design guide we have tried to provide a kind of "road map" for policymakers that lays out the questions and issues to consider—the decisions that must be made—in the design of any fee. In our analyses of various fees we have sought to illustrate the application of this design guide and assist the Congress in its review of existing fees and consideration of possible new fees.

Any user fee design embodies trade-offs among equity, efficiency, revenue adequacy, and administrative burden. Focusing only on the pros and cons of any single design element could make it difficult to achieve consensus on a fee's design. Instead, policymakers will ultimately need to balance the relative importance they place on each of these criteria and focus on the overall fee design.

Chairwoman, this completes my prepared statement. I would be happy to respond to any questions you or other Members of the Subcommittee may have at this time.

Contacts and Acknowledgments

For further information on this testimony, please contact Susan J. Irving at (202) 512-6806 or by e-mail at irvings@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement.

In addition to the contact named above, Jacqueline M. Nowicki, Assistant Director; Chelsa Gurkin; Lauren Gilbertson; Barbara Lancaster; and Michael Dino, Assistant Director made key contributions to this statement.

Appendix I: Key User Fee Design Questions

We note that some of these questions may overlap.

Section I: Setting User Fees

1. To what extent does the program benefit the general public and identifiable users?
    a. Does use of the program by certain users, or for certain types of uses, provide a public benefit, for example, by advancing a public policy goal?
    b. What is the users' ability to pay?
    c. To the extent that the fees are used to replace funding by general revenues, what is the impact on the distribution of the burden of financing the program?
    d. What would be the impact of a fee on users' competitiveness with others that would not be subject to the fee?
    e. Is a similar service provided by the private sector? If so:
        - Will private producers be subject to unfair competition if the fee is not set to recover the full costs of the service?
        - Should their charges be a reference point in setting fees?
    f. For programs that have not been paid for by fees in the past, has the value of the program been capitalized into private assets? If so:
        - Could transitional measures be used to address these concerns?
2. How will the fee be linked to the cost?
    a. Does the agency have timely and reliable cost data to link the fee to program costs?
    b. Will the fee recover full or partial costs?
    c. Will the fee structure include exemptions or reduced fees?
    d. Will the fee be set as a percentage rate or as a fixed dollar amount?
    e. If the fee varies, will fee minimum amount, maximum amount, or both be set?

f. Will the fee structure be user-specific or systemwide?

- Is the amount of the fee small or large relative to other costs that the user faces?
- Are there numerous different groups of users?
- Is the cost variation among the different groups of users large or small?

g. Does the program have high fixed costs?

- Is a two-part fee structure, with a flat rate plus a fee based on usage, appropriate?

3. How will the fee be structured to cover the intended share of program costs over time?

   a. Are fee collections projected to change over time in relation to the cost of the program due, for example, to inflation?

   b. To what degree will short-term fluctuations in economic activity and other factors affect the level of fee collections?

   c. Will the fee design include a maintenance-of-effort requirement?

Section II: Collecting User Fees

1. What mechanisms are available to ensure payment and compliance with requirements while minimizing administrative costs?

   a. To what extent do payment and compliance mechanisms impose administrative costs on the agency, the payers, or both?

   b. Do rewards and penalties for compliance correspond to performance?

2. Is there an agency or other entity that already collects or audits fees from the users?

   a. How will compatible policies and procedures and regular communication be established?

   b. How does coordination affect the administrative costs of fee collection for the agency and payers?

   c. Will collection by another entity affect compliance with fees?

Section III: Using User Fees	1. What degree of access will the agency have to collected fees? a. Will the fees directly support the related program or agency or be deposited to the general fund of the U.S. Treasury? b. Will agency access to fees be subject to congressional appropriation? c. Will the budget execution of fee collections be through reimbursement, or will the agency receive fee collections directly? d. Will the amount of spending be tied to the amount of collections? e. Will the fee be categorized as mandatory or discretionary? 2. How broadly or narrowly will the activities for which fee collections can be used be defined?
Section IV: Reviewing User Fees	1. Will the fee be updated through legislation or by agency regulation? 2. How frequently will fees be reviewed and updated? a. Will legislation include a sunset provision to trigger fee updates? b. Will legislation direct the agency to submit regular fee reviews to the Congress, different from the biennial fee review required by the Chief Financial Officers Act of 1990? 3. What mechanisms will be used to gather stakeholder input? a. Will the agency establish an advisory committee? b. Will proposed changes to the fees be published for comment in the Federal Register? c. What safeguards will be used to prevent the agency from becoming beholden to fee payers/stakeholders?

Appendix II: GAO Homeland Security User Fee Related Products

Federal User Fees: A Design Guide. GAO-08-386SP. Washington, D.C.: May 29, 2008.

Federal User Fees: Additional Analyses and Timely Reviews Could Improve Immigration and Naturalization User Fee Design and USCIS Operations. GAO-09-180. Washington, D.C.: January 23, 2009.

Immigration Application Fees: Costing Methodology Improvements Would Provide More Reliable Basis for Setting Fees. GAO-09-70. Washington, D.C.: January 23, 2009.

Federal User Fees: Improvements Could Be Made to Performance Standards and Penalties in USCIS's Service Center Contracts. GAO-08-1170R. Washington, D.C.: September 25, 2008.

Federal User Fees: Substantive Reviews Needed to Align Port-Related Fees and the Programs They Support. GAO-08-321. Washington, D.C.: February 22, 2008.

Federal User Fees: Key Aspects of International Air Passengers Should Be Addressed Regardless of Whether Fees Are Consolidated. GAO-07-1131. Washington, D.C.: September 24, 2007.

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Ms. LOFGREN. That was very interesting. Thank you all for your testimony, and now we will begin our questions, and depending on what is going on, on the floor, maybe we will have a chance to do two rounds.

I would like to begin and start with you, Mr. Director, about the fee issue and really the issues that Dr. Irving has mentioned. The USCIS has requested and received appropriations for certain other enforcement type activities, for example, E-Verify and SAVE.

And I am thinking about the fraud detection and national security directive. I gather, and I don't disagree that your creation and elevation of this function is an important one. We have to have, you know, integrity. You listed that first among the agency values.

But it seems to me that that might be a good candidate for an appropriation because, just as with other law enforcement activities, you don't necessarily, you know, charge that against a refugee admission or an adoption. Do you have a comment on that or are you allowed to comment on that?

Mr. MAYORKAS. Madam Chairwoman, those are two different questions you have asked me now.

Ms. LOFGREN. They are. Maybe I should ask the first one first.

Mr. MAYORKAS. I am going to answer the first one about the issue of whether the fraud detection and national security responsibility that our agency has is one that should be executed with an appropriation rather than the fee-for-services model which is, I think, a policy worthy of discussion.

We have indeed sought in the fiscal year 2011 budget an appropriation for our E-Verify program and for the SAVE program, both of which are integrity tools, if you will. And so I understand the Chairwoman's question with respect to fraud detection and national security.

Ms. LOFGREN. Thank you, I think that is a fair response and one that really probably the Subcommittee needs to discuss or perhaps even the full Committee.

I would like to get into the question of the transformation and the details. Five minutes is not enough to talk about the details, I realize that, but the OIG report highlighted that the transformation efforts to date have focused primarily on high level business processes and various alternatives to implement transformation.

We spent a fair amount of money, most of it spent before you were on the job I might add, $117 million spent since 2005. But it is not clear what benchmarks we are meeting. What technology is actually being deployed? What business engineering processes have been changed to make it work?

Is it possible for you to give us some expectation of when and how we might expect that detail from your department? Not necessarily in a hearing but in a report of a briefing. Are there benchmarks that can be provided and that we could look to, to hold the agency accountable for?

Mr. MAYORKAS. Most certainly, Madam Chairwoman. We will provide this Committee with a report that identifies the benchmarks we currently have in place for the immediate future and for the longer term future of the transformation effort. And we do believe in such an undertaking of considerable breadth that benchmarks are pivotal to the program's success.

And one thing I would like to comment about, if I may, Madam Chairwoman, is that I think the request for this hearing served a tremendous purpose for me personally, as the director of the agency, in establishing a very important and, hopefully, what will be a regular line of communication with the Office of the Inspector General.

Given the breadth and depth of that office's knowledge of our transformation effort, its knowledge of the problems that we have encountered in the past, and hopefully, the path we are paving to success. And so I think that is a wonderful byproduct of the request for this hearing. We will provide to this Committee a schedule that we intend to honor.

Ms. LOFGREN. I would just like to say, Director Mayorkas, that is the first time in my entire service in Congress that a member of the Administration has thanked the Committee for holding a hearing and said it was useful. So that is a thrill to me, and I appreciate it very much and I am, well, I am just glad to hear that.

I want to ask about something I think I know the answer to, but I want to explore it further. We had a huge backlog when you were confirmed on I-130 Petitions. I think, you know, I don't really know, but millions. I think it is down to round 600,000 or 700,000, not that that isn't a substantial amount.

You have plans to reduce that backlog. I would like to know, what are they? When do we think those backlogs will be done? And, further, as we look at how we could reform our immigration laws, how could we make them work better?

Having details, actually a snapshot really would help inform us to make decisions, in terms of age of beneficiaries and relationships and the like. Will we be able to get a yield on that kind of information, as you work through this backlog?

Mr. MAYORKAS. Thank you, Madam Chairwoman. We have distributed the I-130 caseload throughout our offices across the country, in light of the significance of that caseload. We anticipate that the majority of the caseload will be worked through by the end of fiscal year 2010, this year.

We intend to complete the processing of all the I-130's currently pending by the first quarter of fiscal year 2011, as that caseload has already been distributed throughout the field office across the country for adjudication.

With respect to our ability to slice and dice, if you will, the data that are so important to our agency and to this Committee, we can do that now manually. One of the benefits we will receive from the transformation program is indeed the ability to assess that data and to collect it and to analyze it in real time by virtue of the electronic environment.

Ms. LOFGREN. I appreciate that so much and my light, red light is on so I will turn now to the Ranking Member for his 5 minutes of questions.

Mr. KING. Thank you, Madam Chair, and I thank you for this hearing and for the witnesses and especially for the gratitude of the witnesses for having a hearing.

I would direct first to Director Mayorkas, you know, you made a comment. It is in your written testimony at least, that your customers that you serve are those who file immigration and naturalization applications.

And I would just ask you if you could reflect upon that. The applicants as your customers as opposed to the American public, and we are hearing discussing whether it is their fees, the applicants' fees that will be picking up the slack, so to speak, or whether it will be the American taxpayer. So would you care to clarify that?

Mr. MAYORKAS. Thank you very much, Congressman. Customer is a particular term that I am not fond of. It speaks of a barter relationship and the work of our agency is more fundamental than that. And so we are indeed looking for a different term.

I view the term "customer," for the time being, as pertaining to the individual who in fact is seeking a benefit from our agency, very different from the term that I use that is more encompassing, which is a "stakeholder." The term "stakeholder" includes the customer, includes the general public, includes the law enforcement community and it is a more encompassing term.

Mr. KING. Well, thanks for that clarification and I do agree with that, as it goes across the spectrum and focusing on the interests of the United States of America. And I made a point in my opening statement about 170 fraud detection and national security agents. How are you doing on that?

Mr. MAYORKAS. Congressman, since that statement, we have, indeed, I believe we have hired more than 200 individuals who are devoted to the fraud detection and national security effort.

Mr. KING. That is good news. Thank you, Director. And then I want to say it was stated that the GAO found that USCIS immigration adjudicators had interviewed and then I would pick up—this is a quote from the GAO report "reported that communication from management did not clearly communicate to them the importance of fraud control. Rather it emphasized meeting production goals designed to reduce the backlog of applications almost exclusively."

Would you care to speak to that statement out of the GAO report as to how you would react to that and how you would like to characterize it?

Mr. MAYORKAS. Congressman, I can only speak of my efforts and the ethics that characterize our agency today. And I can say that the importance of our fraud detection and national security work is well understood by everyone throughout our agency. I have underscored it as well.

Focus on production goals not only has a potential expense upon our fraud detection and national security work, but it also has a potential expense upon the rights of the customers who come before us.

Mr. KING. Thank you, Director, and I hear that focus back on the security as opposed to the just simply processing the numbers through and scoring according to the number of applications processed.

And then I would just direct, also, your attention to the I.G.'s report that makes a recommendation that there be more site visits to the religious workers site, site visits to verify. I know that that was an initiative that was picked up when we discovered the fraud in the religious workers' visas component of this, and the recommendation of the I.G. that that be accelerated. I don't have the exactly quotes in front of me here, but to add site visits.

Have you taken steps on that or do you have comments about the inspector general's recommendation?

Mr. MAYORKAS. Congressman, the administrative site visit verification program is under way and we have plans to continue it in fiscal year 2010.

Mr. KING. And has it been increased at the recommendation of I.G.?

Mr. MAYORKAS. I would have to get back to you with respect to its scope, Congressman. I would like to, if I may, just share with you a thought that is not born of my experience as the Director of U.S. Citizenship and Immigration Services, because I am only 7 months into my tenure there.

If I may draw upon my 12 years of experience as a Federal prosecutor—9 years as an Assistant U.S. attorney, almost 3 as a United States attorney—I think "more or bigger" is not necessarily "better." I think the key to a verification visit and verification program, its effectiveness, is ensuring that it is well-targeted—that it is strategic in nature.

It is not necessarily to say that it should not grow, but we want to make sure we have the proper foundation, the proper strategic framework in place and then build from there.

Mr. KING. Thank you, Director. And watching this clock, I really had one more subject I would like to get to, if the Chair would indulge me?

Ms. LOFGREN. Yes, please extend additional minutes to the gentleman.

Mr. KING. Thank you, Madam Chair. I was anxious to get down to the E-Verify component of this, and I am curious as to what you might like to tell this panel. I am seeing progress in E-Verify. I am seeing that the accuracy of it goes up, if I remember from your written testimony, 96 percent accuracy or 90.

What I am interested is if there is an effort to work in cooperation with the Social Security Administration and identify the duplicate or the multiple use of Social Security numbers. And if you could tell us also, in the same response from a time perspective, what you are able to do with digital photographs attached to the E-Verify records to provide a visual biometric, just to give us a sense of what is going on there with E-Verify.

Mr. MAYORKAS. Thank you very much, Congressman. You correctly cite to my written testimony with respect to the improved accuracy rate of the E-Verify program, a critical tool in ensuring the lawfulness of the workplace.

We have worked with not only the Social Security Administration but other departments within the Administration to increase use of biometric information to further improve the accuracy of the E-Verify program.

We use photographs from the Department of Homeland Security database, US-Visit and we will soon be utilizing passport photographs from the Department of State by way of example.

Mr. KING. Driver's licenses?

Mr. MAYORKAS. We do not yet have that full functionality across the country. We hope to achieve that over time.

Mr. KING. Thank you, Madam Chair, thank you, Director. I yield the witness.

Ms. LOFGREN. The gentleman's time has expired.

I turn now to the gentleman from Illinois, Mr. Gutierrez.

Mr. GUTIERREZ. Thank you, Madam Chairwoman, pleasure to have you all here before us. Just following up on the gentleman from Iowa's question, if 100 people showed up and underwent E-

Verify and they were all undocumented, that is to say they were unqualified to work, they weren't authorized to work, how many of them would ultimately be verified and given a clearance to continue working?

Mr. MAYORKAS. Congressman, the Westat study that has received——

Mr. GUTIERREZ. The Westat study that you paid to have done?

Mr. MAYORKAS. Correct.

Mr. GUTIERREZ. Okay.

Mr. MAYORKAS. The Westat study that has been discussed at considerable amount in recent days reported—putting aside, if I may, the statistical standard deviation for error rate in its methodology—indicated that the E-Verify program would accurately capture the unauthorized workers that perpetrated, that are sought to perpetrate identity fraud 46 percent of the time.

Mr. GUTIERREZ. Okay. So 54 percent of the time it doesn't do it. So 54 out of every 100 people—so if I were to go to——

Mr. MAYORKAS. I am sorry, I reversed it. I think it is 54 percent of the time.

Mr. GUTIERREZ. Great. You know, let us not split hairs here. One hundred people, all of them undocumented, decide I am fearless, E-Verify is here to rein me in. I am going to go through the process if E-Verify. The fact is half of them, if they do it on Friday show up to work on Monday, all good, ready to go like nothing happened. That is how great the E-Verify system is.

Let me just go on to other questions. Have you encountered Muslim Islamic buildup that would threaten this country within the religious visa program?

Mr. MAYORKAS. Within the religious worker program?

Mr. GUTIERREZ. Yes, religious worker with your visa program.

Mr. MAYORKAS. Congressman, that is a question to which I do not have the answer today.

Mr. GUTIERREZ. Well, you should look into it because there have been allegations made before this Committee in the past about just such a situation which, of course, we can't turn a blind eye to. We should look into those allegations, and if they are false we should certainly state that they are false.

Let me ask, everyone has to pay for the citizenship processing fee and the fee must include all of the salaries and all of the expenses of your agency. Those fees must cover all of that, is that correct?

Mr. MAYORKAS. For those who are required to pay a fee, the cost does include agency overhead.

Mr. GUTIERREZ. Okay. So they pay for it. There is no government assistance here or government, well, funded process here, right?

Mr. MAYORKAS. There are certain groups of people that as a matter of policy Congress has determined would not have to pay.

Mr. GUTIERREZ. And who are they?

Mr. MAYORKAS. For example, to a limited extent, refugees and asylees. For the fiscal year 2011 budget we have sought a greater appropriation to further relieve that disadvantaged group from paying a fee that they can ill afford.

We also have a fee waiver program that does assess the inability to pay, and it does seek to extend a benefit to an individual that might not otherwise be able to afford it.

Mr. GUTIERREZ. Let me—but in that sense, you are a fee-driven agency.

Mr. MAYORKAS. We are.

Mr. GUTIERREZ. Thank you. I should have just asked the question that way. But there are people that don't pay. So the people that do pay subsidize the ones that don't, right?

Mr. MAYORKAS. Yes.

Mr. GUTIERREZ. Like if you are a soldier——

Mr. MAYORKAS. Yes.

Mr. GUTIERREZ. Right. If you are a soldier, you don't have to pay——

Mr. MAYORKAS. Unless there is an appropriate——

Mr. GUTIERREZ [continuing]. Right? You are an asylee you don't have to pay. But the other ones have to pay because when that soldier gets processed, the American taxpayer doesn't help defray the cost of his citizenship application. The other people that participate in your citizenship program defray the costs and subsidize the costs, is that accurate?

Mr. MAYORKAS. Yes.

Mr. GUTIERREZ. Good. You see because I would be happy to help defray the cost of that soldier.

May I ask for an additional minute?

Ms. LOFGREN. Without objection, the gentleman is authorized for an additional minute.

Mr. GUTIERREZ. Yes. Again, I would be happy to pay. I am sure they are, too. But as the fees continue to mount and to mount and to mount I think we have a responsibility to those soldiers. We have a responsibility to those asylees. And I would just like to state a quote and see if you agree with this quote.

"I have always pledged to be your partner as we work to fix our immigration system and that is a commitment that I reaffirm today. Nobody knows the cost of inaction better than you. You see it in the families that are torn apart and the small business owners who tried to do the right thing, while others gamed the system. You see it in the workers who deserve the protection of our laws and the officers who struggle to keep our communities safe while earning the trust of those that serve."

That was your boss, President Barack Obama. Your boss also said when he was a U.S. Senator and introduced legislation jointly with this Member—I got to stay in the House. I didn't get the promotion.

But before he went on to the White House, and you should seriously look at it, not having everybody defray the costs of others, and making sure that we are all there. So I hope you take a look at that legislation.

Mr. MAYORKAS. Thank you very much, Congressman.

Mr. GUTIERREZ. Thank you, sir.

Ms. LOFGREN. The gentleman's time has expired.

The gentlelady from California, Ms. Sánchez is now recognized.

Ms. SÁNCHEZ. Thank you, Madam Chair. I appreciate that USCIS has looked for cost cutting measures and is implementing them before raising fees again or requesting additional appropriations. And you mentioned in your testimony that USCIS has identified cuts to the tune of about $170 million. Is that correct?

Mr. MAYORKAS. That is the approximate amount under way.

Ms. SÁNCHEZ. Okay. Can you give me an overview of what those budget cuts would consist of?

Mr. MAYORKAS. If I can, Madam Congresswoman, give you some examples. We have reduced our allocated workforce by over 300 people. We have reduced overtime by approximately 90 percent. We have cut travel costs. We have centralized our training programs. Those would be just a few examples that come immediately to mind.

Ms. SÁNCHEZ. Okay. So with respect to the staffing issues, if I am hearing you correctly that there are some staff that, what, are going to be let go or their hours cut or—clearly the overtime is cut——

Mr. MAYORKAS. I am sorry. We have reduced the contractor's staff by, I believe, approximately 200 spots or perhaps more.

Ms. SÁNCHEZ. Have I——

Mr. MAYORKAS. We have not filled——

Ms. SÁNCHEZ [continuing]. I am sorry to interrupt you but the contractor spots are those being filled by in-house hires or they are just being eliminated?

Mr. MAYORKAS. They are being eliminated. We are not filling certain Federal vacancies.

Ms. SÁNCHEZ. My concern is that it is admirable that you are trying to cut costs before you raise fees because we certainly don't want to see people priced out of the American dream. But on the other hand when you are cutting positions and a lot of the casework that we see in my district office suggests that the backlogs that currently exist are lengthy, and in fact in some cases, kind of ridiculous.

My fear is that now you want to cut costs but then services will also be cut and the wait times may become even longer. Have you considered that fully?

Mr. MAYORKAS. We most certainly have, and I appreciate the question and I appreciate the concern. It is our intention, and I should be held accountable to this, that the cuts that we have made will not impose upon the quality of the service. We hope to and are focused upon achieving greater efficiencies to ensure that our level of service remains high and hopefully, in fact, improves despite the economic challenges we face.

To not make the reductions in force, to not undertake the cost saving measures that we have, would perhaps lead to an even more difficult conversation with those who are very concerned about the accessibility of immigration benefits to those who seek them and who are financially challenged.

Ms. SÁNCHEZ. Okay. Do you still expect completion of non-immigrant services under the transformation model by October of 2012? Or is that——

Mr. MAYORKAS. Yes. Yes, we do. And we actually anticipate in fiscal year 2011 the first stage of making certain non-immigrant visas available in the transformed environment. In 2012 we anticipate launching all capabilities of non-immigrant benefit types.

Ms. SÁNCHEZ. Okay. And you expect that that will happen. I am interested in knowing since the system is fee-based, the number of people in the system or utilizing the system and the fees that they

pay sort of affect the services that everybody receives. Is that not correct to some degree?

Mr. MAYORKAS. The fees that people—yes. Yes.

Ms. SÁNCHEZ. Okay. So if, for example, there is a dramatic decline in the number of people who apply that would affect your bottom line and your ability to service the people that are currently in the pipeline. Is that not correct?

Mr. MAYORKAS. It is precisely what we have endured in 2009 and are enduring now, which is a decline in the number of applications and therefore corresponding revenue.

Ms. SÁNCHEZ. I mean, is there any modeling that you do or any way that you can predict what the number of applicants will be for any given year or are you just sort of subject to the whims of those who apply or don't apply? And I would ask unanimous consent for an additional minute?

Ms. LOFGREN. Could you take 30 seconds because we have two more——

Ms. SÁNCHEZ. Thirty seconds.

Ms. LOFGREN [continuing]. More Members before——

Ms. SÁNCHEZ. Certainly. Certainly.

Mr. MAYORKAS. We worked very hard to forecast anticipated workloads in the agency realignment that we performed. But several months ago one of the things that we did was create an Office of Performance and Quality.

One of the functions of that office is indeed to engage with our Chief Financial Officer and other personnel projections of anticipated workload. So we do not leave it to whim. We do the best we can.

Ms. SÁNCHEZ. Okay. I realize you have a daunting task, but again, I am going to make the plea that raising those fees really does price people out of the system and at the same time there is a huge concern with—I know you want to cut costs.

But cutting service and potentially causing those that are waiting in line patiently and have been even further delays is a tremendous concern because Members of Congress deal with that on the case work end. And with that I will thank the Chairwoman and yield back.

Ms. LOFGREN. Gentlelady's time has expired.

Ms. Chu has been here from the beginning of the hearing and is now recognized for 5 minutes.

Ms. CHU. Thank you, Madam Chair. I have great concerns about this increase in the fee, and I saw that there has been an increase that is far above the cost of living and inflation, from $90 in 1991 to $675 in 2007. And now you are proposing to increase the fees even more.

To me it amounts to a poll tax because here we are encouraging people to participate in the American system as fully as possible in the, you know, in the days when we were encouraging people to vote the poll tax became an impediment. And here having this high fee for the citizenship application is even more of an impediment for them to become a citizen.

So let me ask this. I know that we have the relief of the fee for military members and asylees and refugees and that in fact it has been determined that there is a $72 surcharge to recover the costs

associated with asylum and refugee services. In reality, you are putting the burden on all the applicants to pay for that surcharge, correct?

Mr. MAYORKAS. Yes, but that would be absent the appropriation that we obtained in fiscal year 2010 and what we are seeking in additional appropriated funds in fiscal year 2011 to relieve other fee-paying customers of the surcharge so that we can afford to service the refugee and asylee community.

Ms. CHU. Well, actually I have a question about that because last year the President requested $206 million to fund this processing but Congress only appropriated $55 million. So it didn't cover the cost of it.

Mr. MAYORKAS. And we have requested a greater appropriation for fiscal year 2011 to indeed cover that gap.

Ms. CHU. What was the actual cost in 2009?

Mr. MAYORKAS. I am sorry?

Ms. CHU. What was the actual cost in 2009 for that processing?

Mr. MAYORKAS. Congresswoman, I would have to get back to you on the precise cost.

Ms. CHU. And what is it that you are requesting for 2011?

Mr. MAYORKAS. I believe it is just over $200 million.

Ms. CHU. And would that cover that cost 100 percent?

Mr. MAYORKAS. I believe it would.

Ms. CHU. I certainly would encourage us to fund that and not put that burden on the rest of the persons who are trying become U.S. citizens. The other issue I have that I hear from advocacy organizations is that in past the fee review process has been a closed process with little transparency.

And it has been a mystery to many who could foresee some things. For instance, who could foresee that there would be a surge of applications before the last fee increase? And yet, it seems like there was little readiness to deal with it at the time.

So what could be done this time to make the process more transparent and to make sure that there is more community and congressional input with regard to the fee increase this time?

Mr. MAYORKAS. I appreciate that question a great deal, Congresswoman, and if I may speak to an example of what already has been done. When I arrived at the agency and first learned that there was even a prospect of a fee increase, ever mindful of what the communities endured with the 2007 fee increase, I traveled around the country and met with community groups and community stakeholders to inform them of the potential.

I wanted to inform them of the issues that our agency was confronting with respect to its financial challenges and the different possibilities that were before us in terms of addressing those financial challenges. And so I met with the communities in Chicago, in Los Angeles, in New York, in Texas and elsewhere.

And so one thing that we have most certainly achieved in terms of the four pillars of which I spoke at the outset, was greater transparency. I believe we have made tremendous strides with respect to all four pillars.

One that is, I think, receiving tremendous public accolades is, in fact, our increased transparency. We stood up in September of 2009, but 1 month after I first arrived, an Office of Public Engage-

ment that is dedicated to engaging with our stakeholders in the most encompassing sense to inform them of the challenges that we have and to capture the issues and concerns that they have with respect to our performance, our past performance and our future.

Ms. LOFGREN. Gentlelady's time has expired. We have 5 minutes left on the clock. Mr. King has indicated he has gone to vote, which is reasonable.

I would now recognize our colleague, Ms. Jackson Lee for up to 5 minutes, but we don't want to miss this vote. So——

Ms. JACKSON LEE. Let me thank the witnesses and pointedly will focus my questions and points on two areas. This past weekend we witnessed an amazing exhibition of, I think, hundreds of thousands—it was represented to be a hundred thousand plus, who came to ask the question about comprehensive immigration reform?

The Federal Government will be a key player in the work of this Congress and so my question is to the Director Mayorkas about the preparedness of your agency for the possible passage of comprehensive immigration reform?

And then to Frank Deffer on this question of the transforming the system to electronic. I cannot imagine if we pass comprehensive immigration reform what a paper system will do, so preparedness and this whole idea of a pilot. I think we will pilot ourselves into the 22nd century and when are we going to find the wherewithal to do electronic records, to the director and then to Mr. Deffer?

Mr. MAYORKAS. Madam Congresswoman, many of the efficiencies that we have engineered and implemented in our agency will serve us well in terms of our preparedness should comprehensive immigration reform pass and should the reform that passes include a path to legalization for the approximately 11 million undocumented individuals in this country.

Interestingly, the challenges that confronted us in the context of the tragic January 12th earthquake in Haiti presented a dry run, if you will, as to how we respond to a previously unforeseen volume of work on an emergency basis. And I think it is a testament to the engineered and implemented efficiencies that we had put in place that we were so ably and, frankly, nobly to address that challenge.

We as an agency will be able to implement comprehensive immigration reform.

Ms. JACKSON LEE. Mr. Deffer?

Mr. DEFFER. Congresswoman, thank you for that question. It is actually one of the reasons we started looking at USCIS 5 years ago is we were concerned that immigration reform would in effect place 12 million more people into the system. And it was clear to us in 2005 that the systems and the processes could not handle. It would be overwhelmed.

And in fact, since then USCIS constantly has been serving this cycle of we have a backlog. Let us get money and get rid of the backlog. And so in effect adding 12 million more people to the system would be the, you know, the mother of all backlogs.

And clearly to us the systems could not handle it now. It is the reason transformation has to address those processes, the underlying inefficient processes and get systems in place that can get rid of the paper. But it is going to take a few years.

So it is something for Congress to consider that when they implement this they don't have a date that is too soon because it is going to take a while to get these systems that are properly tested and they meet requirement and they do the job in place. Thank you.

Ms. JACKSON LEE. Madam Chair, let me thank you very much. Obviously follow-up questions are warranted.

Ms. LOFGREN. That is absolutely right.

Ms. JACKSON LEE. But I will engage with both of you to really probe and I hope that—well, let me just do this. Let me ask a question on the record. If you could provide this Committee with a detailed analysis of the question, meaning here is what we have done in terms of the preparation for the 12 million, I would appreciate a response in writing. Thank you. I yield.

[The information referred to follows:]

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Legislative Affairs (2150)
Washington, DC 20529-2150

U.S. Citizenship and Immigration Services

Response of U.S. Citizenship and Immigration Services (USCIS) Director Mayorkas for the March 23 hearing record before the House Subcommittee on Immigration:

As I stated before the Senate Judiciary Committee on May 11, USCIS will be prepared to implement comprehensive immigration reform when the legislation passes Congress. At USCIS, what we have done each and every day is to review our processes and develop greater efficiencies. These efficiencies will serve us in the implementation of any reform legislation that is passed by the Congress. For example, since I became the Director, I have realigned the Agency's organizational structure to reflect our priorities and more efficiently and effectively achieve our mission. I created a Fraud Detection and National Security Directorate focused on preventing, detecting, combating and deterring threats to our public safety and fraud in our immigration system. Our Office of Public Engagement is working to ensure we develop and solidify our partnership with the public we serve. Our Customer Service Directorate is developing new ways to communicate with and serve the public.

We will require funding to implement a congressional plan should the plan include a path to legalization for the reported more than 10 million undocumented people already in this country. We will need the opportunity of funding and the time to implement whatever plan the Congress approves. I say with confidence that, as an Agency, USCIS will be ready to implement comprehensive immigration reform legislation.

Ms. LOFGREN. An excellent question and I would—the gentlelady yields back. I would like to thank all the Members and the witnesses, each of you. It has been very helpful. Without objection Members will have 5 legislative days to submit any additional written questions to you which we will forward and ask that you answer as promptly as you can so that they can be made part of the record.

Without objection the record will remain open for 5 legislative days for the submission of any other material. And we thank you again, and the hearing is adjourned.

Mr. MAYORKAS. Thank you very much.

[Whereupon, at 4:13 p.m., the Subcommittee was adjourned.]