

Wednesday, 4 May 2016

Dear Members:

I am writing to advise you that USCIS has proposed a 42% fee increase to the I-129 petition related to the P and O permits for artists/entertainers/athletes. If this proposed increase ends up going through, the fee to Department of Homeland Security [petition fee] will increase to \$460 (currently its \$325). There are no proposed fee increases to I-907 petition, which is related to Premium Processing. This information was released just this morning and AFM Legislative Director Alfonso Pollard and Theatre, Touring, Immigration Director Micheal Manley and I have already been in discussions on AFM's efforts to vehemently oppose the increase. USCIS is required to seek Public Comment before implementing any proposed increases. The period for Public Comment ends July 5th, so if the increase is to go through it will not be until mid-July at earliest. We have been down this road before [the last increase was in 2010] and unfortunately our opposition to the increase was not successful at that time. We is not just AFM – we is all U.S. based, arts non-profit groups, which are also in opposition to the increases; we have numbers so hopefully our collective voices will be heard [this time]. It is recommended to anyone requiring a work permit this year, to get their applications in to us not later than July 5 if at all possible. See more information below, should you wish to indulge yourself in the nitty-gritty.

a. Petition for a Non-immigrant Worker, Form I-129

USCIS proposes to increase the fee for the Petition for a Nonimmigrant Worker, Form I-129, from \$325 to \$460, a \$135 (42 percent) increase. Using a 12-month period of data on filings of Form I-129 from September 1, 2014 to August 31, 2015, USCIS collected internal data for each filing organization including the name, Employer Identification Number, city, state, ZIP code, and number/type of filings. Each entity may make multiple filings; for instance, there were 482,190 Form I-129 petitions, but only 84,490 unique entities that filed those petitions. Since the filing statistics do not contain information such as the revenue of the business, USCIS looked for this information by researching databases from third-party sources. USCIS used the subscription-based online database from Hoover's, as well as three open-access databases from Manta, Cortera, and Guidestar, to help determine an organization's small entity status and apply Small Business Administration size standards. Show citation box

USCIS devised a methodology to conduct the small entity analysis based on a representative sample of the affected population for each form. To achieve a 95 percent confidence level and a 5 percent confidence interval on a population of 84,490 unique entities for Form I-129, USCIS used the standard statistical formula to determine a minimum sample size of 382 entities was necessary. Based on past experience, USCIS expected to find about 40 to 50 percent of the filing organizations in the online subscription and public databases. Accordingly, USCIS selected a sample size approximately 40 percent larger than the minimum necessary in order to allow for non-matches (filing organizations that could not be found in any of the four databases). Therefore, USCIS conducted searches on 534 randomly selected entities from the population of 84,490 unique entities for Form I-129.

The 534 searches for Form I-129 resulted in 404 instances where the name of the filing organization was successfully matched in the databases and 130 instances where the name of the filing organization was not found in the databases. Based on previous experience conducting regulatory flexibility analyses, USCIS assumes filing organizations not found in the online database are likely to be small entities. Thus, in order not to underestimate the number of small entities affected by this rule, USCIS makes the conservative assumption to consider all of the non-matched entities as small entities for the purpose of this analysis. Among the 404 matches for Form I-129, 287 were determined to be small entities based on their reported revenue or employee count and their North American Industry Classification System (NAICS) code. Combining non-matches (130), matches missing data (27), and small entity matches (287), enables us to classify 444 of the 534 entities as small for Form I-129.

With an aggregated total of 444 out of a sample size of 534, DHS inferred that a majority, or 83.1 percent, of the entities filing Form I-129 petitions during the period were small entities. Furthermore, 284 of the 534 searched were small entities with the sales revenue data needed to estimate the economic impact of the proposed rule. Because these 284 small entities were a subset of the random sample of 534 searches, they were statistically significant in the context of this research. In order to calculate the economic impact of this rule, USCIS estimated the total costs associated with the proposed fee increase for each entity, divided by the sales revenue of that entity.^[78] Based on the proposed fee increase of \$135 for Form I-129, this would amount to an average impact of 0.08 percent on all 284 small entities with reported revenue data.

In terms of range, among the 284 small entities with reported revenue data, all experienced an economic impact of considerably less than 1.0 percent in the analysis, with the exception of one entity. Using the above methodology, the greatest economic impact imposed by this fee change totaled 2.55 percent on that one entity and the smallest totaled 0.0001 percent.

The evidence suggests that the additional fee imposed by this rule does not represent a significant economic impact on these entities.

To read even more see here: <https://www.federalregister.gov/articles/2016/05/04/2016-10297/us-citizenship-and-immigration-services-fee-schedule>

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