



The National Association of Government Archives & Records Administrators
The Government Archives and Records Administration Experts

December 19, 2019

Ms. Samantha Deshommès, Chief
Regulatory Coordination Division, Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue NW
Mailstop #2140
Washington, DC 20529-2140

RE: DHS Docket No. USCIS-2019-0010 (Proposed USCIS Fee Increases)

Dear Ms. Deshommès:

The National Association of Government Archives and Records Administrators (NAGARA) was dismayed to learn of the proposed changes to the fees for accessing the historic public records of the United States Citizenship and Immigration Service (USCIS). These changes, outlined in the agency's proposed rulemaking under **DHS Docket No. USCIS-2019-0010**, seek to increase two fees in significant ways. USCIS proposes to increase the fee for the agency to search the Master Index of the Genealogy Program from \$65 to \$240 and the fee to request a record from \$65 to \$385.

These fees represent a staggering increase of 269% and 492% from existing fees, which were a significant (~300%) increase from their previous iteration (in 2016, the fees stood at \$20 and \$35¹). USCIS provides the following justification for the fee increases: *"Ultimately, these changes are intended to allow USCIS to provide genealogy search results and historic records more quickly when pre-existing digital records exist."*² Further, the agency notes that

"The proposed fees for Forms G-1041 and G-1041A are \$240 and \$385 respectively. They are based on the projected costs and volumes of the genealogy program. The projected costs include a portion of Lockbox costs and an estimated staffing requirement for

¹ <https://www.federalregister.gov/documents/2008/05/15/E8-10651/establishment-of-a-genealogy-program>

² <https://www.federalregister.gov/d/2019-24366/p-591>

genealogy workload. As such, the proposed fees each represent the average staff time required to complete the request, similar to most other fees proposed in this rule.”

The fee increases proposed by USCIS and the arguments used to justify them are both equally problematic.

First, the fee increase is substantially divergent from fees charged by other federal agencies, including the National Archives and Records Administration (NARA) and the Department of Homeland Security (DHS) itself, for similar access, searching, and reproduction of records³. It is hard to conceive how the agency arrived at the conclusion that asking \$240 to merely search their indexes is acceptable. Compared to standard DHS costs and timeframes for FOIA (Freedom of Information Act) requests (which top at 10.25 for 15 minutes of managerial staff time), this change would suggest that it takes the agency more than 6 hours to complete a search, and even more time to reproduce records⁴. While NAGARA certainly understands and appreciates the challenges associated with maintaining a large, complex set of records, the burden of exorbitant fees flies in the face of the spirit of FOIA and would undoubtedly restrict access to these records to only those with significant financial means. Additional costs for staffing, technology, and other services associated with the management and inspection of public records is part of the cost of running a federal agency. Shifting this burden to citizens is irresponsible and undemocratic.

Second, we express concern that over time, USCIS has removed these records, which belong to the American people, from general access by the American people. Prior to 2008, they were accessible, for the cost of photocopying, via a FOIA request. In 2008, this morphed into a genealogy program, increasing the cost of copies and adding a new cost to discover if records even exist. Since that time, the fee for access to records under this program has increased substantially and has diverged especially from DHS’ own fees for FOIA.

We also note that it’s unclear why USCIS continues to possess some of these records when legally-binding records schedules mandated their transfer to the custody of NARA years ago. In 1991, USCIS’s predecessor Immigration and Naturalization Service agreed to transfer its [AR-2 forms](#) (1940-1945) to NARA in 2005. In 2004, USCIS agreed to transfer its [Registry Files](#) (1929-1944) to NARA in April 2019. At NARA, these records can be managed more efficiently, accessed more freely, and reproduced more cheaply. Why does USCIS continue to maintain these records when NARA can manage the materials more efficiently and at much less cost to the public?

³ NARA’s fee schedule can be found here: <https://www.archives.gov/research/order/fees>; Consider that NARA charges \$3.50 to produce paper copies from microform records (and \$4.00 for microform to digital images), about 1% of the rates that USCIS proposes in this rule.

⁴ <https://www.dhs.gov/foia-fee-structure-and-waivers>

NAGARA understands that there are considerable challenges working with a large set of records, especially those records that contain significant amounts of personal information which the government has an obligation to protect. Further, this type of protection can be very expensive and time-consuming, but the solution to this problem is more effective and efficient records management solutions, not pushing the cost onto the public. Increasing the efficiency of operations is easier said than done, but USCIS in its rulemaking states its desire to more efficiently deliver records and conduct searches through digital means, something which should reduce costs, not require an attendant fee increase.

The only conclusions that can be drawn from these fee increases are that the agency's records management situation with regard to these records is so dire that merely searching and making copies from microfilm requires hundreds of dollars in costs (due to staff time spent) per request, or the agency's cost modeling has significant errors in methodology. Further, we reiterate that exorbitant fees restrict the access to public records unduly; doing so, even if unintentional, would significantly damage the public trust and citizens' ability to access public records which contain crucial information about their families and their personal history.

NAGARA strongly urges USCIS to reconsider these fees in its current rulemaking process. The existing fees (\$65 for searching the index and \$65 for reproducing records) are already quite high for this kind of work and were significantly increased from their original levels three years ago. While we understand that the costs to preserve, manage, and access records may have increased, NAGARA believes that a fee increase of this size runs counter to the tenets of government accountability that the United States has long espoused and demonstrated. Additionally, NAGARA strongly suggests that USCIS work closely with NARA to commence the transfer of historical records to the agency with a clear statutory mandate and more effective and efficient processes to do so.

About NAGARA

The National Association of Government Archives and Records Administrators (NAGARA) is dedicated to the improvement of federal, state, and local government records and information management and the professional development of government records administrators and archivists. Members include county, municipal, and special district governments; state agencies (state records centers, archives, and libraries); federal agencies and employees; public universities; and provincial and institutional programs. NAGARA represents over 1,200 members nationwide. Read more at www.nagara.org