



IMMIGRATION/LABOR & EMPLOYMENT

ALERT

U.S. DEPARTMENT OF LABOR SEEKS AUTHORIZATION TO CHARGE USER FEES FOR LABOR CERTIFICATION APPLICATIONS

After years of discussion, and as part of its proposed 2008 fiscal budget, the U.S. Department of Labor (“DOL”) announced on February 21, 2007 that it will seek authorization from Congress to charge fees for the PERM labor certification process. The increase was requested in order to “recoup the program’s operating expenses.” DOL made its request using a special provision in law that permits user fees for “activities that convey special benefits to recipients beyond those accruing to the general public.” (Title V of the Independent Offices Appropriations Act of 1952 (31 U.S.C. 9701)). Although no specific amount has been disclosed, when DOL was creating the PERM program, DOL officials discussed mandating filing fees in the thousands of dollars.

DOL’s announcement comes on the heels of the U.S. Citizenship and Immigration Services’ (USCIS’) own proposal to increase application and petition fees by an average of 86 percent. According to USCIS, the increase in actual costs to applicants and petitioners will only be 66 percent, because adjustments of status applicants will no longer have to pay a fee to apply for interim benefits. USCIS’ last major fee adjustment occurred in 1998, when fees increased by an average of 76 percent. It also adjusted fees for inflation in February 2002 and October 2005.

USCIS claims that the revenue from the new fee structure, if implemented by the summer of 2007, will

lead to a 20 percent reduction in average application processing times overall by the end of the 2009 fiscal year, and by the end of the 2008 fiscal year will shorten processing times for four key applications: 1. I-90 (Renew/Replace Permanent Resident Card); 2. I-140 (Immigrant Petition for Alien Worker); 3. I-485 (Adjustment of Status to Permanent resident); and 4. N-400 (Naturalization).

While neither DOL’s or USCIS’ proposals alone will increase fees, they initiate regulatory processes by announcing intentions to modify fees. For USCIS’ perspective on its proposed fee increase, please access the following link: [*A Message From USCIS Director Gonzalez.*](#)

If DOL’s and USCIS’ proposals are implemented, the costs to employers and foreign nationals will immediately increase significantly. Consequently, employers should consider preparing and filing their PERM labor certification applications and USCIS-related petitions as soon as possible before the proposed fee increases are imposed.

If you require assistance with your company’s immigration issues, including visa applications, and labor certification applications on behalf of foreign national employees, please contact Alka Bahal, Esq., Partner & Co-Chair, Corporate Immigration Practice at Fox Rothschild, LLP at 973-992-4800 or via email at immigration@foxrothschild.com.