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U.S. Citizenship and Immigration Services

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Re: Proposed Rule – Naturalization Application Fee Adjustments, DHS Docket No. USCIS-2026-0265, RIN 1615-AD08, 91 Fed. Reg. 37,500 (June 23, 2026)

Dear Ms. Deshommes:

The Immigrant Legal Resource Center (“ILRC”) submits this comment in opposition to the Department of Homeland Security’s Proposed Rule, Naturalization Application Fee Adjustments, DHS Docket No. USCIS-2026-0265, RIN 1615-AD08, 91 Fed. Reg. 37,500 (June 23, 2026) (the “Proposed Rule”).

Through the Proposed Rule, the U.S. Citizenship and Immigration Services (“USCIS”) seeks to dramatically increase the cost of naturalization. The Proposed Rule would increase filing fees for Form N-400, Application for Naturalization, and Form N-336, Request for a Hearing on a Decision in Naturalization Proceedings, by 75 to 80 percent. At the same time, it would eliminate the reduced fee available to low-income applicants for Form N-400 and eliminate fee waivers for both the Form N-400 and the Form N-336. Taken together, those changes would place naturalization, the immigration benefit that Congress has most consistently sought to make broadly accessible, beyond the reach of a large share of otherwise eligible immigrants.

ILRC strongly opposes the Proposed Rule. As set forth below, the Proposed Rule is contrary to law and arbitrary and capricious in violation of the Administrative Procedure Act (“APA”), 5 U.S.C. § 706(2)(A). Section I of this comment sets out the background against which the Proposed Rule arises, including the recognized value of naturalization to the United States, the Department of Homeland Security’s (“DHS”) longstanding practice of setting naturalization fees with reference to applicants’ ability to pay, and the broader campaign against naturalization. Section II explains that the Proposed Rule, if finalized, cannot survive review under the APA because it is contrary to law and arbitrary and capricious.

ILRC

ILRC is a national non-profit organization that works to advance immigrant rights through advocacy, educational materials, and legal trainings. ILRC's mission is to work with and educate immigrants, community organizations, and the legal sector to continue to build a democratic society that values diversity and the rights of all people. Since its inception in 1979, the ILRC has provided technical assistance on hundreds of thousands of immigration law issues, trained thousands of advocates and pro bono attorneys annually on immigration law, distributed thousands of practitioner guides, provided expertise to immigrant-led advocacy efforts across the country, and supported hundreds of immigration legal non-profit organizations in building their capacity.

ILRC also leads the New Americans Campaign, a national non-partisan effort that brings together private philanthropic funders, leading national immigration and service organizations, and over two hundred local services providers across more than 20 different regions to help prospective Americans apply for U.S. citizenship. Through our extensive naturalization network with service providers, immigration practitioners and immigration benefits applicants, we have developed a profound understanding of the barriers faced by low-income immigrants of color seeking to naturalize. The recommendations that follow are gleaned from the experiences of many low-income immigrants who we and our partners serve.

Introduction

The Proposed Rule would put citizenship out of reach for hundreds of thousands of eligible applicants for naturalization by dramatically raising the fees for Form N-400 and Form N-336, eliminating the reduced fees for Form N-400, and eliminating fee waivers altogether. If implemented, these proposed changes would mark the largest naturalization fee increase in nearly three decades, paired with the elimination of the mechanisms that have made naturalization accessible to low-income applicants.

Congress designed the Immigration and Nationality Act ("INA") to make naturalization broadly attainable. As the Supreme Court has explained, the United States has historically exhibited "extraordinary hospitality to those who come to our country," and "[o]ne indication of this attitude is Congress' determination to make it relatively easy for immigrants to become naturalized citizens." *Foley v. Connelie*, 435 U.S. 291, 294 & n.2 (1978) (citing the INA, 8 U.S.C. § 1427 (1976 ed.)). The importance placed on naturalization is based on a recognition of the value naturalization brings to the United States as a whole. DHS has honored that design for decades, calibrating naturalization fees to applicants' ability to pay and maintaining reduced fees and fee waivers. When DHS attempted to depart from that approach in 2020, a federal court enjoined the rule before it took effect, holding that DHS had failed to justify its shift away from the ability-to-pay principle. *Immigr. Legal Res. Ctr. v. Wolf*, 491 F. Supp. 3d 520, 541 (N.D. Cal. 2020). The Proposed Rule repeats that same unexplained departure.

The Proposed Rule is one of numerous recent USCIS actions that together make naturalization harder to obtain and less secure once obtained. From increasing the burdens associated with the naturalization process to pursuing unprecedented numbers of denaturalization cases, the agency has systematically attacked each stage of the naturalization process. With this Proposed Rule, USCIS continues

to make naturalization less accessible by pricing many eligible immigrants out of naturalization. Naturalization is only available to fully documented green card holders legally present (under anyone's analysis) in the United States. Bipartisan majorities in both houses of Congress and Presidents of both parties have long supported encouraging this population to enjoy the full benefits of U.S. citizenship, a priority that this proposal obstructs without any legal or policy justification.

While USCIS lists cost recovery and increasing agency costs as reasons to increase naturalization fees, these rationales are at best unsupported and at worst pretextual. The Proposed Rule fails to explain why it is necessary to simultaneously raise naturalization fees and eliminate reduced fees and fee waivers at a time when the agency is running a budget surplus and has made changes that should reduce agency costs. Instead, the agency seeks to reduce or eliminate naturalization, particularly for those immigrants who are not wealthy, contrary to the clear intent of the INA. At the same time, the agency has made changes that divert funds toward increased fraud detection, denaturalization efforts and other enforcement priorities that application fees were never intended to so heavily subsidize.

The Proposed Rule also violates the APA because it is contrary to law and arbitrary and capricious. The Proposed Rule is inconsistent with the text and purpose of the INA, which favors an accessible path to naturalization. The Proposed Rule is also arbitrary and capricious because it fails to provide the data on which its conclusions rely, ignores obvious alternatives, brushes past the reliance interests of applicants and the nonprofit legal service providers who depend on the current fee structure, and offers cost-recovery justifications that its own numbers do not support. USCIS reverses course on naturalization's social value and on its own ability-to-pay principle without engaging in the reasoned decision-making the APA requires.

If finalized, these changes will reduce or eliminate access to citizenship for virtually anyone who is not wealthy. The Proposed Rule would cause significant, irreparable harm. Families will be forced to make impossible decisions about which family members can pursue naturalization based on how much money they can pay, and many eligible immigrants will be forever unable to attain citizenship. In addition to these impacts on the person seeking naturalization and their families, this rule will have profound negative impacts on the United States as a whole because it will cause family separation, prevent full civic engagement, reduce economic prosperity, and discourage skilled immigrants and employers from investing in the country.

These issues are detailed further below. For all of the reasons set forth herein, ILRC strongly opposes the Proposed Rule.

Background

Naturalization has long been recognized as valuable to the United States. Accordingly, USCIS has historically prioritized making naturalization accessible through fee waivers and fee reductions. However,

the Proposed Rule departs from past practice in seeking to limit naturalization by making it inaccessible for many immigrants through higher fees and the elimination of fee waivers and fee reductions.

I. Naturalization Has Well-Recognized Value To New Citizens, Their Families And Communities, And The United States.

Congress and the courts have long recognized the beneficial impact of naturalization on new citizens and the United States. These benefits include supporting family unification, increasing civic engagement, and stimulating the U.S. economy.

Naturalization supports family unification, a core value underlying the U.S. immigration system. In amending the INA, Senator Kennedy explained that “[r]eunification of families is to be the foremost consideration.” See H.R. Rep. No. 89-748, at 13 (1965). In line with its emphasis on reunification, the INA’s comprehensive statutory scheme prioritizes the admission of immediate relatives of U.S. citizens by allowing an unlimited number of permanent immigrant visas to be issued to those individuals. See 8 U.S.C. § 1151(b)(2)(A)(i). Courts have also recognized that family unification is an important priority underlying the INA. *Solis-Espinoza v. Gonzales*, 401 F.3d 1090, 1094 (9th Cir. 2005) (“The [INA] was intended to keep families together.”); *Fiallo v. Bell*, 430 U.S. 787, 806 & n.6 (1977) (quoting H.R. Rep. No. 1199, 85th Cong., 1st Sess. 7 (1957)) (the INA’s legislative history “establishes that congressional concern was directed at ‘the problem of keeping families of United States citizens and immigrants united’”). By raising the cost of naturalization and eliminating fee waivers and reductions, the Proposed Rule will undermine this statutory policy goal by causing more family separation. Eliminating affordable pathways to naturalization will force many families to choose which members can apply to move forward with naturalization and which must remain behind based on how much money they can procure. Forcing prospective citizens to make this decision is inhumane and contrary to the recognized purpose of the INA.

Naturalization also increases civic engagement, creating more interactive and representative communities. When immigrants naturalize, they become eligible to vote, serve as jurors, apply for certain government jobs, and run for certain government offices. A greater portion of the community participating in these civic activities furthers the core American values of democracy and representation. Taking on these civic responsibilities gives naturalized citizens a voice in shaping their communities. This results in a more representative electorate and responsive government more likely to reflect the needs and composition of the community.

Further, naturalization has positive economic impacts. Increased naturalization can result in increased Gross Domestic Product (“GDP”) because naturalized citizens experience economic benefits over their non-naturalized peers including higher wages, greater educational attainment, and increased entrepreneurship.¹ In fact, one study found that providing a pathway to citizenship for undocumented

¹ See Raul Hinojosa-Ojeda et al., *A Path to Prosperity: The Macroeconomic Benefits of Four Immigrant Regularization Scenarios*, UCLA Latino Policy & Politics Institute (Mar. 23, 2021), <https://latino.ucla.edu/research/four-citizenship-scenarios/>.

immigrants in the United States would boost U.S. GDP by a cumulative total of \$1.7 trillion over 10 years and create 438,800 new jobs.²

Similarly, reduced barriers to naturalization serve the U.S.'s interest in attracting and retaining skilled immigrants. Many competitive jobs, such as federal research positions and security-clearance-adjacent private-sector roles, require U.S. citizenship. The Proposed Rule would price out many skilled, early-career immigrants from naturalization, preventing them from applying for these roles. Even for immigrants who can afford the increased naturalization fees, the regulatory volatility introduced by shifting fee structures will deter mobile talent from applying for jobs in the United States. Further, by signaling that the value of naturalization does not outweigh the costs, the Proposed Rule will negatively affect how prospective immigrants and employers evaluate the United States against competing destinations, decreasing foreign investment in the United States and deterring talented prospective immigrants from bringing their skills to the country.

Congress has consistently recognized these values associated with citizenship and sought to encourage naturalization as demonstrated by statutory language, appropriations, and statements of Congress members. For example, since the creation of DHS, Congress has mandated that DHS “promot[e] instruction and training on citizenship responsibilities for aliens interested in becoming naturalized citizens.” 6 U.S.C. § 271(f)(2). In 2009, USCIS created the Citizenship and Integration Grant Program (“CIGP”) to provide “support to community-based, non-profit organizations and educational institutions actively working to remove barriers to naturalization.”³ Congress has consistently funded the CIGP, appropriating \$155 million to the program since 2009.⁴ Continued congressional approval of this program intended to remove barriers to naturalization demonstrates a congressional intent to make naturalization accessible. Many Congress members have expressed support for these initiatives because they recognize the importance of ensuring naturalization is accessible to low-income immigrants. For example, in supporting appropriations for the CIGP in 2022, Representative Jimmy Gomez stated that “[o]ur success as a nation of immigrants is rooted in our ongoing commitment to welcome and integrate immigrants into the fabric of our country,” and funding these programs is critical to make “citizenship instruction and naturalization application services accessible in many low income, underserved communities.” Representative Jimmy Gomez, Letter to Chairwoman Roybal-Allard and Ranking Member Fleischmann (Apr. 30, 2021). Overall, these congressional mandates, appropriations, and statements of support for naturalization indicate that Congress recognizes naturalization as a valuable process to the U.S. that USCIS should encourage.

II. Given The Importance Of Naturalization To The U.S., USCIS Has Historically Provided Mechanisms For Low-Income Applicants To Access Naturalization.

USCIS has historically limited fees for Forms N-400 and N-336, offered fee waivers, and set fees based on a comprehensive review of agency-wide costs and revenues. One mechanism to keep naturalization accessible is an “ability-to-pay” model for USCIS fees. See U.S. Citizenship and Immigr. Servs. Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements, 84 Fed. Reg.

² Giovanni Peri and Reem Zaiour, *Citizenship for Undocumented Immigrants Would Boost U.S. Economic Growth*, Center for American Progress (June 2021), <https://www.americanprogress.org/article/citizenship-undocumented-immigrants-boost-u-s-economic-growth/>.

³ U.S. Citizenship & Immigr. Servs., *Grant Program Impact*, <https://perma.cc/9F4LSVLG>.

⁴ *Id.*

62,280, 62,298 (Nov. 14, 2019). Applying this principle, USCIS has assessed fees based on applicants' ability to pay and has provided discretionary waivers of fees for certain immigration benefit requests when an applicant is unable to pay. *See* 8 C.F.R. § 103.7(c).

In particular, DHS has historically limited the fees for Forms N-400 and N-336. *See, e.g.*, U.S. Citizenship and Immigr. Servs. Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements, 88 Fed. Reg. 402, 485–89 (Jan. 4, 2023) (2023 Proposed Fee Rule); U.S. Citizenship and Immigr. Servs. Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements, 89 Fed. Reg. 6,194, 6,300–01 (Jan. 31, 2024) (“2024 Fee Rule”). As the Proposed Rule itself notes, the most recent USCIS Fee Rules, including those that took effect in 2010, 2016, and 2024, have emphasized keeping naturalization fees low. *See* U.S. Citizenship and Immigr. Servs. Fee Schedule, 75 Fed. Reg. 58,962, 58,975 (Sep. 24, 2010) (“2010 Fee Rule”); U.S. Citizenship and Immigr. Servs. Fee Schedule, 81 Fed. Reg. 73,292, 73,308 (Oct. 24, 2016) (“2016 Fee Rule”); 88 Fed. Reg. at 486–87. For example, in its 2016 Fee Rule, DHS created a reduced fee for Form N-400 for low-income immigrants who do not qualify for a fee waiver but fall between 150 and 200 percent of the Federal Poverty Guidelines (“FPG”). Similarly, DHS’s 2024 Fee Rule significantly expanded eligibility for reduced fees by raising the household income ceiling from 200 percent to 400 percent of the FPG. 8 C.F.R. § 106.2(b)(3)(ii).

Additionally, for over two decades, USCIS has offered fee waivers for Forms N-400 and N-336 for qualifying applicants pursuant to 8 U.S.C. § 1356(m). The current fee waiver form, Form I-912, and its supporting guidance have been in effect since 2010. Prior to 2010, USCIS also issued fee waivers, but in a less formalized manner based on internal guidance that provided USCIS officers with broad discretion.⁵ Currently, to establish eligibility for a fee waiver, an applicant must demonstrate that he or she is unable to pay the fee through one of three criteria: (1) receipt of a means-tested benefit, (2) household income at or below 150 percent of the FPG, or (3) extreme financial hardship. 8 C.F.R. § 106.3(a)(1).

Congress has demonstrated an intent, in laws signed by past Presidents, to maintain fee waivers. In the 2019 House Report on the Department of Homeland Security Appropriations Bill, Congress stated, “USCIS is expected to continue the use of fee waivers for applicants who can demonstrate an inability to pay.” H.R. Rep. No. 115-948, at 61 (2018). It went on to “encourage” USCIS “to consider whether the current naturalization fee is a barrier to naturalization for those earning between 150 percent and 200 percent of the federal poverty guidelines, who are not currently eligible for a fee waiver.” *Id.* The continued legislative intent to make naturalization accessible is further evidenced by the fact that the 2026 One Big Beautiful Bill Act (“OBBBA”), Public Law 119-21, did not raise fees for the Form N-400 or the Form N-336, despite raising other immigration fees such as application fees for Asylum, Special Immigrant Juvenile Status, and Temporary Protected Status. The Proposed Rule entirely ignores this consistent statutory history.

DHS itself recognized the importance of reduced fees and fee waivers only two years ago, when it last addressed the issue. In the 2024 Fee Rule, DHS repeatedly emphasized the importance of accessibility of naturalization to low-income individuals. The 2024 Fee Rule increased the populations that are exempt from naturalization fees by expanding access to half-priced fees for the N-400 for applicants with household income at or below 400 percent of the FPG. 89 Fed. Reg. at 6195–97. These changes were prompted in

⁵ Vasil Yassenov et al., *Standardizing the Fee-Waiver Application Increased Naturalization Rates of Low-Income Immigrants*, PNAS, 16768 (Aug. 2019), <https://www.pnas.org/doi/10.1073/pnas.1905904116>.

part by a consideration of DHS's authority to "shift the costs of benefits and services based on adequately funding USCIS, balancing beneficiary-pays and ability-to-pay principles, burdening requestors and USCIS, considering humanitarian concerns, and other policy objectives as supported by data." *Id.* at 6195. Further, the 2024 Fee Rule expanded access to fee waivers, noting that "DHS acknowledges the importance of ensuring that individuals who cannot afford filing fees have access to fee waivers. DHS has primarily sought to ease the burden of fee increases by significantly expanding the number of forms that are now fee exempt." *Id.* at 6197.

In addition to maintaining reduced fees and fee waivers, USCIS has historically set Fee Rules based on a comprehensive review of agency-wide costs and revenues. Fee waivers have been incorporated into USCIS budgeting through projections and cross-subsidization. By contrast, the Proposed Rule targets individual forms without a full cost analysis. In this way, the Proposed Rule departs from the historical approach to fee setting by making naturalization less accessible for low-income immigrants and raising fees and eliminating waivers for a discrete set of forms.

III. The One Exception To This History Of Expanding Access To Naturalization For Low-Income Individuals, The 2020 Fee Rule, Was Found Unlawful And Enjoined.

USCIS previously attempted to shift from an "ability-to-pay" to a "beneficiary-pays" model in 2020, but a federal court found it unlawful under the APA. *See* United States Citizenship and Immigr. Servs. Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements, 85 Fed. Reg. 46,788 (Aug. 3, 2020) ("2020 Fee Rule"). The 2026 Proposed Rule follows the same flawed path. The 2020 Fee Rule increased the fee for Form N-400 from \$640 to \$1,170, raised the fees for Forms N-300, N-336, and N-470, and eliminated fee waivers for those forms altogether. *Id.* at 46,792. DHS explained that the increase reflected a deliberate shift away from the ability-to-pay principle, noting, "[i]n this final rule DHS is emphasizing the beneficiary-pays principle of user fees." *Id.* at 46,799.

However, the 2020 Fee Rule was enjoined on the basis that it violated procedural and substantive requirements of the APA, including through its failure to justify its shift from the ability-to-pay principle to the beneficiary-pays principle. *Immigr. Legal Res. Ctr.*, 491 F. Supp. 3d at 541. The court explained that because DHS's prior ability-to-pay approach "had engendered serious reliance interests," DHS was required to supply "a more detailed justification" for abandoning it and that DHS had not done so. *Id.* at 542–43 (quoting *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009)). The court also found that DHS's stated rationale for the shift was not supported by the administrative record and, in fact, appeared "to ignore information presented during the notice and comment period that contradict[ed] DHS' beliefs about price elasticity of demand," including comment letters citing peer-reviewed research on the relationship between naturalization fees and application rates. *Id.* at 540. Based on these and other APA violations, the court granted a nationwide preliminary injunction and stayed the 2020 Fee Rule's effective date in its entirety. *Id.* at 548.

Subsequently, USCIS reverted to its historical use of an ability-to-pay model and expanded access to fee reductions. *See* 8 C.F.R. § 106.2(b)(3)(ii). The Proposed Rule now proposes to repeat the same unexplained departure that has already been rejected.

IV. The Proposed Rule Is Part Of A Broader Attack On Naturalization.

Despite Congress's intent to encourage naturalization given the numerous benefits it brings to the United States, the current administration has demonstrated a hostility to immigration including through efforts to discourage naturalization by increasing burdens associated with naturalization and prioritizing denaturalization efforts.

A. The Administration Has Increased Burdens Associated With Naturalization.

The administration has substantially increased the burdens associated with the naturalization process by reinterpreting eligibility requirements, restarting onerous and costly neighborhood visits, enhancing vetting, delaying or cancelling key steps in that process, making the citizenship test more difficult and challenging birthright citizenship. For instance, USCIS completely paused the processing of naturalization applications for applicants from certain "high-risk" countries.⁶

The administration has also adopted more restrictive interpretations of eligibility requirements and increased vetting to make applying for naturalization more difficult. Practitioners report that interviews have generally become longer and more invasive with more irrelevant questions that are outside the scope of eligibility.⁷ Further, in August 2025, USCIS issued a memorandum on the Good Moral Character requirement, providing that applicants must establish positive attributes to demonstrate that they meet the good moral character requirement and not just the absence of misconduct.⁸ Since August 2025, home visits and good moral character investigations have been reported in several states, with reports of Fraud Detection officers visiting homes unannounced or scheduling separate pre-interviews.⁹ These increased hurdles to naturalization make an already long and complex process more arduous and uncertain.

Additionally, crucial steps in the naturalization process have been abruptly delayed or cancelled, and many have yet to be rescheduled. Naturalization interviews have been cancelled at the last minute, preventing prospective citizens from completing a step in the naturalization process that they often spent significant time and resources preparing for.^{10,11} Naturalization oath ceremonies have likewise been cancelled abruptly, with some applicants reporting being told as they arrived to their oath ceremony that their ceremony was cancelled, preventing them from completing the final step in the naturalization

6 See U.S. Citizenship & Immigr. Servs., *Policy Memorandum*, PM-602-0194, 1, (Jan. 1, 2026), <https://www.uscis.gov/sites/default/files/document/policy-alerts/PM-602-0194PendingApplicationsAdditionalHighRiskCountries-20260101.pdf>.

7 See U.S. Citizenship & Immigr. Servs., *Update on USCIS' Strengthened Screening and Vetting*, (Mar. 30, 2026), <https://www.uscis.gov/newsroom/alerts/update-on-uscis-strengthened-screening-and-vetting>. This makes it harder for prospective citizens to prepare for interviews and increases the scrutiny of each applicant.

8 USCIS, *Policy Memorandum*, PM-602-0188 at 1 (Aug. 15, 2025), https://www.uscis.gov/sites/default/files/document/policy-alerts/08.15.2025-Restoring_a_Good_Moral_Character_Evaluation_Standard_for_Aliens_Applying_for_Naturalization-Policy_Memorandum_FINAL.pdf.

9 See USCIS, *Policy Memorandum*, PM-602-0189 at 1 (Aug. 25, 2025), https://www.uscis.gov/sites/default/files/document/policy-manual/PM-602-0189_INA335.pdf.

10 See Alexandra Yoon-Hendricks, *Citizenship interviews canceled in Seattle amid Trump crackdown*, The Seattle Times (Jan. 8, 2026) <https://www.seattletimes.com/seattle-news/citizenship-interviews-canceled-in-seattle-amid-trump-crackdown/>;

11 Catherine Shoichet, *Cancelled citizenship ceremonies and interviews are another part of Trump's immigration crackdown*, CNN (Feb. 12, 2026), <https://www.cnn.com/2026/02/12/us/us-citizenship-immigration-freeze-trump>.

process.¹² Together, cancelled interviews and naturalization ceremonies unnecessarily extend the naturalization process and make it functionally impossible for some eligible applicants to become naturalized citizens.

Further, the administration also made the citizenship test harder by raising the bar to pass the test and introducing more questions. Notice of Implementation of 2025 Naturalization Civics Test, 90 Fed. Reg. 45,047 (Sept. 18, 2025). To pass the citizenship test, applicants must now answer twelve of twenty questions correctly, as opposed to the six of ten correct answers previously required to pass. Additionally, the pool of questions increased from 100 to 125, expanding the topics about which applicants must prepare to answer questions.¹³ DHS has also recently proposed further increasing the difficulty of the citizenship test by enhancing the English language and civics requirements and introducing “additional flexibilities in administering the naturalization test.”¹⁴ This increased difficulty and uncertainty increases the time and resources that eligible applicants for citizenship must invest in studying for the citizenship test and has a chilling effect on naturalization applications.

The administration has also launched attacks on statutory waivers from the citizenship test for applicants with disabilities. USCIS recently proposed amending its regulations governing the process for Form N-648, Medical Certification for Disability Exceptions.¹⁵ Through this process, immigrants may qualify for an exemption from the English proficiency and/or civics requirements for naturalization. These amendments would create a form more than twice the length of the current form.¹⁶ This increased burden could lead to some physicians refusing to complete the form, leaving no path to naturalization for eligible applicants who are unable to proceed without this waiver.¹⁷

These changes are on top of the enhanced vetting process that the administration has imposed at earlier stages of the immigration process, including on applicants for all types of visas, and on applicants for permanent legal residency (green cards). The enhanced vetting process at earlier stages of the immigration process should, if anything, reduce the need for duplicative, time-consuming and burdensome obstacles at the naturalization stage. But rather than rely on its prior vetting of the same applicants to reduce the cost of naturalization, the administration requires naturalization applicants to go through an additional vetting process. This approach appears to reflect a hostility to naturalization itself, despite clear statutory support for naturalization.

12 See Armando Garcia and Luke Barr, *Some citizenship naturalization ceremonies canceled 'at the finish line,' lawyer says*, ABC (Dec. 23, 2025), <https://abcnews.com/Politics/citizenship-naturalization-ceremonies-canceled-finish-line-lawyer/story?id=128630195>.

13 Eric Bazail-Eimil, *Trump administration plans to make citizenship test harder*, Politico (Sep. 4, 2025), <https://www.politico.com/news/2025/09/04/trump-administration-citizenship-test-00544390>.

14 Dep't of Homeland Sec., *Protecting the Integrity of Naturalization through Enhanced Educational Standards*, RIN: 1615-AD13 (2026), <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202510&RIN=1615-AD13>.

15 Dep't of Homeland Sec., *Improving the Process of Certification of Form N-648, Medical Certification for Disability Exceptions*, RIN:1615-AD07 (2026), <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202510&RIN=1615-AD07>.

16 Immigr. Legal Resource Center, *ILRC Comment Opposing Changes to N-648 Medical Certification for Disability Exceptions Form*, (July 7, 2026), <https://www.ilrc.org/resources/ilrc-comment-opposing-changes-n-648-medical-certification-disability-exceptions-form>.

17 *Id.*

Additionally, in February 2025, DHS began eliminating funding that Congress appropriated to support organizations that provide services to reduce barriers to naturalization through the CIGP. Despite dedicated congressional appropriations to the program, in February 2025, DHS announced that all DHS grant funds that were awarded to nonprofits and “touch[ed] in any way on immigration” would be frozen indefinitely. *Solutions in Hometown Connections v. Noem*, No. 25-1640, 5 (4th Cir. 2026) (internal quotation marks omitted). DHS provided little explanation for this action other than that the grant “no longer effectuates the program goals and the Department’s priorities.” *Id.* at 6. This stands in stark contrast with statements from USCIS director Ur M. Jaddou in 2023 noting that through the CIGP, the agency aims to “encourage naturalization by educating remote, underserved and vulnerable populations about the benefits of citizenship and the naturalization process.”¹⁸ USCIS provided no rationale for this drastic change in its stance on the CIGP or for its deviation from congressional intent as manifested by continued appropriations for the program. The termination of these grants disrupted access to citizenship and naturalization services for lawful permanent residents and forced community organizations to lay off staff and cancel programming. *Solutions in Hometown Connections*, No. 25-1640 at 8.

Moreover, the administration recently attempted to limit even natural-born citizenship through an executive order challenging the Fourteenth Amendment’s guarantee of birthright citizenship. *See Trump v. Barbara*, 146 S. Ct. 2438 (2026). While the Supreme Court ruled against the administration in an action challenging the executive order, this unprecedented step was part of a coordinated attack on various forms of citizenship. Most recently, on August 6, 2026 in the face of its loss, the administration issued a new executive order (“Continuing to Protect the Meaning and Value of American Citizenship”) seeking to overturn the Supreme Court’s holding.

Compounding the burdens the administration has placed on naturalization are increased average processing times for applications. As of July 2, 2026, the average processing time for 80 percent of cases is over ten months and has been steadily increasing.¹⁹ This is compared to an average processing time of under seven months as recently as November 2025.²⁰ As a result, applicants must wait even longer and expend more time and resources to complete the naturalization process. At the same time, the administration has decreased annual naturalization targets to approximately 40 percent of prior years.

Predictably, these increased barriers to naturalization have resulted in fewer applications for naturalization and fewer adjudications. Denial rates for naturalization are at 13 percent year-to-date. Since January, denial rates have trended from 11 percent in the first quarter steadily higher to 18 percent in May, the last month for which data are available.²¹ The number of Forms N-400 received and adjudicated has dropped significantly over the last seven months. While there was a spike in applications received in October 2025, best explained by applicants seeking to get their applications in before the more difficult

18 U.S. Citizenship & Immigr. Servs., *Fiscal Year 2023 Citizenship and Integration Grant Program*, (last visited Aug. 21, 2026) <https://www.uscis.gov/archive/fiscal-year-2023-citizenship-and-integration-grant-program> (internal quotation marks omitted).

19 U.S. Citizenship & Immigr. Servs., *Case Processing Times*, (last visited Aug. 21, 2026) <https://egov.uscis.gov/processing-times>.

20 *Id.*

21 U.S. Citizenship & Immigr. Servs., *Immigration and Citizenship Data*, (last visited Aug. 21, 2026) https://www.uscis.gov/tools/reports-and-studies/immigration-and-citizenship-data?topic_id%5B%5D=33692&ddt_mon=&ddt_yr=&query=&items_per_page=10.

civics test went into effect, numbers have been far below average since then.²² Forms N-400 received by USCIS from January through May 2026 were 46 percent lower than in the same period in 2025, and Forms N-400 approved by USCIS from January through May 2026 were 70 percent lower than in the same period in 2025.²³

B. The Administration Has Prioritized Denaturalization Efforts.

In addition to imposing more barriers to naturalization, the administration has made a public commitment to pursue more denaturalization cases. Shortly before taking office, President Trump posted on Truth Social that he would remove anyone who wasn't a "net asset" to the United States "or is incapable of loving our Country, end all Federal benefits and subsidies to noncitizens of our Country, denaturalize migrants who undermine domestic tranquility, and deport any Foreign National who is a public charge, security risk, or non-compatible with Western Civilization."²⁴ In June 2025, the Department of Justice declared that denaturalization was a top enforcement priority.²⁵ Among the cases prioritized for denaturalization were any that "the Division determines to be sufficiently important to pursue."²⁶ This open-ended mandate means that USCIS may effectively pursue denaturalization cases against any citizens it decides to target, increasing uncertainty even for immigrants who have already achieved naturalization.

There has been a corresponding increase in denaturalization cases, some of which are focused on post-oath conduct. In December 2025, the administration directed USCIS to supply the Department of Justice ("DOJ") with 100 to 200 denaturalization cases per month.²⁷ In comparison, denaturalization cases averaged only 11 filings per year from 1990 to 2017, with fewer than 150 people total being denaturalized between 1967 and 2017.²⁸ Since January 2025, at least 123 civil denaturalization cases have been filed, marking a dramatic increase from previous years.²⁹ The administration is ramping up the number of denaturalization cases it brings each month. From July 20, 2026 to August 3, 2026 alone, it filed 25 new denaturalization cases.³⁰

²² *Id.*

²³ *Id.*

²⁴ Colleen Long et al., *Trump administration working to expand effort to strip citizenship from foreign-born Americans*, NBC (Feb. 12, 2026), <https://www.nbcnews.com/politics/immigration/trump-administration-working-expand-effort-strip-citizenship-foreign-b-rcna255427>.

²⁵ See U.S. Dep't of Just., Civil Division, Civil Division Enforcement Priorities, at 3 (June 11, 2025), <https://www.justice.gov/civil/media/1404046/dl>.

²⁶ *Id.* at 6

²⁷ Lily Quiroz, *Trump administration wants to set quota for denaturalizing American citizens*, NPR (Dec. 24, 2025), <https://www.npr.org/2025/12/24/nx-s1-5649729/trump-administration-wants-to-set-quota-for-denaturalizing-american-citizens>.

²⁸ Muzaffar Chishti and Colleen Putzel-Kavanaugh, *From Last Resort to Intimidating Enforcement Tool: Denaturalization in the Trump Era*, Migration Policy Institute, (June 24, 2026), <https://www.migrationpolicy.org/journal/policy-beat/last-resort-intimidating-enforcement-tool-denaturalization-trump-era>.

²⁹ U.S. Dep't of Just., Off. of Pub. Aff., *Justice Department Files Record 25 Denaturalization Cases Against Naturalized Criminals Including Attempted Murderers, Spousal Abusers, and Child Sex Offenders* (Aug. 3, 2026), <https://www.justice.gov/opa/pr/justice-department-files-record-24-denaturalization-cases-against-naturalized-criminals>.

³⁰ *Id.*

By increasing barriers to naturalization and aggressively pursuing denaturalization of citizens, the administration has demonstrated hostility toward naturalization as a whole. Not only is it now more difficult for an immigrant to become a naturalized citizen; even if they do overcome these hurdles to become a citizen, their status as a citizen is more precarious than ever before.

Discussion

The Proposed Rule, if finalized, would be contrary to law and arbitrary and capricious, in violation of the APA. As a result, the Proposed Rule should not be finalized and should be withdrawn.

I. The Proposed Rule is Contrary to Law

A. The Proposed Rule Is Inconsistent With The Text And Purpose Of 8 U.S.C. § 1356 And Other Relevant Statutes.

1. *Section 1356(m) is not a general revenue authority.*

Congress granted the USCIS discretion in the amount of fees it charges, but it did not hand the agency an open-ended fee-setting power. Section 286(m) of the INA provides that “fees for providing adjudication and naturalization services may be set at a level *that will ensure recovery of the full costs of providing all such services*, including the costs of similar services provided without charge to asylum applicants or other immigrants,” and that “[s]uch fees may also be set at a level that will recover *any additional costs associated with the administration of the fees* collected.” 8 U.S.C. § 1356(m) (emphasis added).

The plain meaning of the statute affords the agency discretion as to *how much* it may charge, up to full cost recovery, while limiting *what* those fees may fund. This limitation is explicit: the agency may solicit fees to fund only “adjudication and naturalization services” and “the administration of the fees collected.”

Congress indicated the type of costs it contemplated when it specified that recoverable costs included the costs of services provided without charge to asylum applicants or other immigrants. 8 U.S.C. § 1356(m); see 91 Fed. Reg. at 37,503, 37,516. This indicates Congress intended to authorize fees to recover the cost of adjudicative services rendered to a non-paying applicant, not enforcement infrastructure or election-administration systems.

Finally, Section 344 of the INA, 8 U.S.C. § 1455, requires the Secretary to charge and collect naturalization fees “consistent with the principles outlined in 31 U.S.C. 9701,” and requires that those fees be deposited under section 1356(m), and, as DHS acknowledges, “specifies that the prescribed fee should be set in accordance with the principles outlined in 31 U.S.C. 9701.” See 91 Fed. Reg. at 37,503, 37,516; 8 U.S.C. § 1455. Section 9701(b) requires that each charge be “fair” and “based on” four factors: the costs to the Government; the value of the service or thing to the recipient; public policy or interest served; and other relevant facts. 31 U.S.C. § 9701(b).

DHS resists these clear statutory limitations. It asserts that “[t]he longstanding interpretation of DHS is that the ‘including’ clause in INA sec. 286(m) 8 U.S.C. 1356(m), does not constrain DHS’s fee authority under the statute,” and that the clause “offers only a non-exhaustive list of some of the costs that DHS may

consider part of the full costs of providing adjudication and naturalization services.”³¹ 91 Fed. Reg. at 37,503 n.9 (citing 84 Fed. Reg. 23,930, 23,932 n.1; 81 Fed. Reg. 26,904, 26,906 n.10). That reading leaves the statute with no boundary whatsoever. If “adjudication and naturalization services” constrains nothing, the phrase does no work, and a construction that renders the operative limitation a nullity is not a permissible reading of the statute.

Even when an agency is afforded broad fee-setting discretion, its authority is not unlimited. Where an agency funds a program from user fees, it must identify the program’s components and explain why each falls within the statutory authorization. *Am. Med. Ass’n v. Reno*, 57 F.3d 1129, 1135 (D.C. Cir. 1995) (interpreting a similar statutory limit on fees “relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances”) (citation omitted). When addressing a similar fee-setting statute, the D.C. Circuit held that “it is clear that Congress intends some boundaries on the scope of the program that may be fee-funded,” and that “[t]he drawing of these boundaries is amenable to judicial review, albeit with a sound amount of deference.” *Id.* at 1135 (citing *Fla. Power & Light Co. v. United States*, 846 F.2d 765, 768, 770 (D.C. Cir. 1988)). A court may say that a given activity is “too far afield to be attributed to” the fee-funded program. *Id.*

2. *Through the Proposed Rule, DHS is attempting to recover the costs of activities that must be—and historically have been—supported by Congress.*

Several new costs DHS proposes to recover from fees are too far afield to be “adjudication and naturalization services.” These new costs include funding for post-verification screening through the Fraud Detection and National Security (“FDNS”) Directorate, a new Voter Verification System which incorporates Social Security Administration and passport data as part of an effort to press state election agencies to verify prospective voters’ immigration status and eligibility to vote, and costs for construction of new facilities. 91 Fed. Reg. at 37,505, 37,513. DHS attempts to circumvent the statute’s limitations by relabeling its new expenditures as “other purposes” and “net additional costs.” DHS then defends these expenditures as “sufficiently related to adjudication services,” a limitation neither stated nor implied by the statutory text.

Despite the expenditures’ asserted relationship to adjudication and naturalization services, each category fails on its own terms. Post-approval screening is not an adjudication or naturalization service: the adjudication is complete when the application is granted. Whatever authority DHS has to investigate naturalized citizens, it cannot charge the applicant for the cost of scrutinizing her after she has become one. A nationwide voter-verification system serves state election administrators, not naturalization applicants; its beneficiaries are not the fee-payers, which cannot be reconciled with the beneficiary-pays principle DHS invokes to justify the rule. Finally, DHS has historically charged applicants for the operating costs and overhead associated with providing immigration services, including facilities-related costs such as rent. However, USCIS has not explicitly said application fees would be used to finance the construction of new agency facilities in prior fee setting rulemaking. Indeed, prior fee reviews have described fee-funded

31 The clause also affirmatively authorizes the very practice DHS now disclaims. In providing that recoverable costs include “the costs of similar services provided without charge to asylum applicants or other immigrants,” Congress expressly contemplated that fee-payers would bear the cost of services provided to others without charge. DHS’s assertion that naturalization applicants should not receive “lower fees at the potential expense of other immigration benefits” is therefore in tension with the statutory text it invokes. 91 Fed. Reg. at 37,502–03.

facilities expenses as operating overhead while separately identifying the investments that proposed fee increases would support. None of the prior Fee Rules identified above included construction of a new agency facility among those investments.

DHS cannot simply label these expenditures as “sufficiently related” in place of providing an explanation. *Id.* at 37,505; *see Am. Med. Ass’n*, 57 F.3d at 1135. At a minimum, the agency must demonstrate *how* its fee-funded expenditures relate to authorized uses, and a mere conclusory statement is not sufficient. Because these expenditures do not relate directly to approved fee uses, and because DHS makes no attempt to explain how each relates to “adjudication and naturalization services,” DHS has failed to identify each component of the fee-funded program and explain why each falls within section 1356(m).

3. *In increasing fees and eliminating fee waivers and fee reductions, DHS disregards factors Congress made mandatory.*

DHS has satisfied only the portion of § 9701 that favors its preferred result. Section 9701(b) requires that each charge be “fair” and “based on” four factors: the costs to the Government; the value of the service or thing to the recipient; public policy or interest served; and other relevant facts, yet DHS only engages with cost recovery, self-sustainment, and uniformity. 31 U.S.C. § 9701(b); 91 Fed. Reg. at 37,516. It never identifies a public policy or interest served by pricing naturalization beyond the reach of many lawful permanent residents, and it never explains how a fee that nearly doubles from \$760 to \$1,330 in two years while waivers are eliminated is “fair.”

Indeed, DHS inverts the statutory inquiry: it treats “the President’s policy goals regarding naturalization” as a reason to set fees at full cost, rather than asking, as § 9701(b)(2)(C) requires, what *public* policy or interest is served by placing citizenship out of reach for the lawful permanent residents Congress made eligible for it. 91 Fed. Reg. at 37,507. Because an agency acts unreasonably when it wholly fails to consider a factor the governing statute makes relevant, DHS’s failure to address fairness and the public interest renders the Proposed Rule unreasonable. *See Michigan v. EPA*, 576 U.S. 743, 752 (2015).

4. *The Proposed Rule sets fees above the statutory cost-recovery ceiling.*

Section 1356(m) permits fees set “at a level that will ensure recovery of the full costs.” Full cost recovery is a ceiling on what DHS may charge applicants, which operates at the account level, not the individual level. The statute itself addresses this holistic approach to fee setting by authorizing recovery of “the full costs of providing *all such services*” and directing that all USCIS fees be commingled in a single account. 8 U.S.C. §§ 1356(m), (n), (t), (u) (emphasis added). Prior rulemakings acknowledged that an increase in one area should be accompanied by a decrease elsewhere. *See* U.S. Citizenship and Immigr. Servs. Fee Schedule, 81 Fed. Reg. 26,904, 26,916 (May 4, 2016); 88 Fed. Reg. 402 at 487. The agency therefore cannot assess whether it is collecting above its authorization by looking only at the individual applicant level. It must look at the agency’s budget holistically.

By refusing to assess fee-funding holistically, the agency overcharges applicants in excess of its statutory authority. USCIS has reported an Immigration Examinations Fee Account (“IEFA”) carryover balance of \$3.53 billion, projected revenue of \$7.01 billion, and projected obligations of \$6.56 billion,

leaving a projected surplus of approximately \$452 million.³² Because IEFA funds remain available until expended, that balance is available to defray the costs DHS says require a fee increase. However, DHS neither discloses this balance nor accounts for it. 8 U.S.C. § 1356(n). Nor does USCIS explain how it will use the fee increases it already received as part of the 2026 OBBBA (which declined to increase naturalization fees), and why those fee increases should not offset some or all of the fee increases it proposes here. Nor does the proposal explain why the enormous new revenues from the “Trump Gold Card Program,” with its \$1 million “contribution” from individuals, or \$2 million “contribution” from corporations, does not defray the costs of naturalization or fund waivers. The entire program goes unmentioned in the Proposed Rule.

Finally, the Proposed Rule does not identify an offsetting reduction anywhere in the fee schedule. The result is a net revenue increase extracted from a single population of benefit-seekers, without any showing of how that increase comports with the holistic, cost-limited fee-setting scheme Congress authorized. On the record DHS has presented, the Proposed Rule collects more than the full costs § 1356(m) permits USCIS to recover, and DHS has supplied nothing that would allow the public to conclude otherwise.

To support these fee changes, DHS invokes the “longstanding guidance of OMB Circular A-25, which directs agencies to recover their full costs.” 91 Fed. Reg. at 37,516. But Circular A-25 is executive guidance that cannot expand the scope of “adjudication and naturalization services” beyond what Congress authorized. To the extent A-25 directs full cost recovery, it directs recovery of the full costs of the services the statute actually covers, which the Proposed Rule exceeds.

5. *DHS’s interpretation of section 1356(m) is not entitled to deference, and the agency’s longstanding prior interpretation is the more persuasive reading.*

Under *Loper Bright Enterprises v. Raimondo*, courts exercise independent judgment in determining the meaning of statutes and do not defer to an agency’s interpretation merely because the statute is ambiguous. 603 U.S. 369, 412–13 (2024). DHS’s construction of § 1356(m) therefore stands or falls on its own merits: “[I]f it is not the best, it is not permissible.” *Id.* at 400. DHS attempts to circumvent *Loper Bright* by citing its discretionary carve-out recognizing that statutory meaning “may well be that the agency is authorized to exercise a degree of discretion” alongside caselaw suggesting that section 1356(m)’s two uses of “may” carry “discretionary import.” 91 Fed. Reg. at 37,516 n.73 (citing *Loper Bright Enters.*, 603 U.S. at 394).

That carve-out does not reach the questions presented. Section 1356(m) poses two distinct questions. The first is *scope*: what counts as providing adjudication and naturalization services, and what counts as additional costs associated with the administration of the fees collected, are pure questions of statutory meaning. The word “may” says nothing about either, because “may” modifies whether and at what level DHS sets fees, not what the recoverable categories of cost are. The second is whether DHS may set fees at full cost recovery.

Nothing in section 1356(m) expressly delegates to DHS the authority to define adjudication and naturalization services, and that phrase is not the kind of open term like “appropriate” or “reasonable” that *Loper Bright* identified as leaving agencies room to maneuver. See *Loper Bright Enters.*, 603 U.S. at 395. The

32 U.S. Citizenship & Immig. Servs., IEFA FY 2024 Statement of Financial Condition, (2024), https://www.uscis.gov/sites/default/files//data/DHS%20SIGNED%20REPORT_%20USCIS%20IEFA%20FY2024%20Statement%20of%20Financial%20Condition.pdf.

principal statutory defects of the Proposed Rule, including the Voter Verification System and post-approval screening, are scope defects.

Nor does discretion solve the ceiling problem. The agency is limited to setting fees at a level that will ensure recovery of the full costs. 8 U.S.C. § 1356(m). The statute does not authorize collection beyond *demonstrated* cost, and discretion to choose a level within a statutory ceiling is not discretion to exceed it.

DHS's own longstanding prior reading is persuasive evidence of the statute's best meaning. For decades, DHS read section 1356(m) to permit and support an ability-to-pay model, fee waivers, reduced fees, and cross-subsidization in order to promote naturalization. Congress repeatedly legislated against that backdrop without disturbing it and directed USCIS to "continue the use of fee waivers for applicants who can demonstrate an inability to pay." H.R. Rep. No. 115-948, at 61 (2018). *Loper Bright* confirms that statutory meaning is "fixed at the time of enactment" and does not shift with administrations. It is DHS, not the statute, that has changed. An interpretation adopted to serve "the President's policy goals regarding naturalization" is by its own terms policy-driven, and it carries correspondingly less persuasive force as evidence of the statute's meaning. 91 Fed. Reg. at 37,507.

Finally, DHS cannot fall back on section 1455 and the Independent Offices Appropriations Act ("IOAA") to rescue its reading. DHS asserts that section 1455, through section 9701(b)(2), "allows self-sustaining cost recovery and service fee uniformity." *Id.* at 37,516. But section 9701(b)(2) directs that a charge be fair and based on the costs to the Government, the value of the service to the recipient, the public policy or interest served, and other relevant facts. 31 U.S.C. § 9701(b)(2)(A)–(D). DHS concedes that the IOAA "instructs DHS to consider other factors [...] including the 'public policy or interest served,'" and then reads subsection (b)(2)(C) out of the statute. *Id.* at 37,516. In the 2024 Fee Rule, DHS explained that § 9701 "permits discounts and shifting costs based on considerations of public policy or interests served and other relevant facts and does not require that fees charged by agencies be uniform and not deviate from actual costs." 89 Fed. Reg. at 6,246 n.149 (citing 31 U.S.C. § 9701(b)(2)(C)–(D)). DHS's current position thus cannot be squared with either the statute or the agency's own prior construction of it, and section 1455 supplies no independent authority to fill the gap.

6. *DHS's "beneficiary pays" principle ignores who actually benefits from naturalization.*

The DHS presents its proposal as a simple policy shift from "ability to pay" to "beneficiary pays." But it does so entirely through a sleight-of-hand, suggesting the recipient of naturalization is the sole beneficiary whose interests may be considered. This approach is contradicted by the facts and contrary to the INA itself. As discussed above, naturalization benefits a broad range of people beyond the individual who is naturalized. Naturalization benefits the new citizen's entire family, and as discussed above, family reunification is a key policy objective of the INA. Naturalization benefits the entire community in which the new citizen lives by providing certainty and stability. Naturalization promotes civic engagement and strengthens democracy by allowing the new citizen fully to participate in civic life and the political process. Naturalization benefits the local and national economy through promoting jobs, economic growth and tax receipts. Naturalization benefits the entire nation through the promotion of science, sports and entertainment, the humanities, and the arts. If USCIS truly sought to adopt a "beneficiary pays" principle, it would seek to spread the costs of naturalization across all the beneficiaries of naturalization, not merely the individual recipient. Its focus on the naturalization recipient alone ignores all the other beneficiaries of

naturalization – in other words, it is not a true “beneficiary pays” principle at all. This logical inconsistency further demonstrates that USCIS’s proposed shift away from the longstanding “ability to pay” framework is arbitrary and capricious.

II. The Proposed Rule Is Arbitrary And Capricious.

A. The Proposed Rule Is Arbitrary And Capricious Because DHS Fails To Justify Its Departure From Past Practice.

An agency changing position must, at minimum, demonstrate awareness of that change and provide a reason for its new position. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). An agency “may not, for example, depart from a prior policy *sub silentio* or simply disregard rules that are still on the books.” *Id.* Further, the agency’s reasoning must be apparent on the face of what it says: though a reviewing court will “uphold a decision of less than ideal clarity if the agency’s path may reasonably be discerned,” it “may not supply a reasoned basis for the agency’s action that the agency itself has not given.” *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (citation omitted). The agency’s stated reasoning must be more than conclusory. Under *Encino Motorcars, LLC v. Navarro*, conclusory assertions cannot amount to reasoned decision-making. *See* 579 U.S. 211, 224 (2016) (“In light of the serious reliance interests at stake, the Department’s conclusory statements do not suffice to explain its decision.”); *see also* *Nw. Immigrant Rts. Project v. USCIS*, 496 F. Supp. 3d 31, 76 (D.D.C. 2020) (appeal dismissed, No. 20-5369, 2021 WL 161666 (D.C. Cir. Jan. 12, 2021)). DHS must, at minimum, display awareness that it is changing position and show that there are good reasons for the new policy. *Fox*, 556 U.S. at 515.

1. DHS does not adequately explain its changed view of what services fees may fund.

As explained above, the Proposed Rule reflects a change in how the agency interprets the services for which it may collect fees under section 1356(m) by expanding the scope of fee-funded expenditures to, for example, a nationwide voter-verification system and post-approval services. *See supra* Part I.A.2. That departure is not merely inconsistent with the statute; it is inadequately explained. DHS nowhere acknowledges that it is expanding the universe of fee-recoverable functions.

To the contrary, DHS presents the expansion as consistent with prior practice, asserting that “full costs” under section 1356(m) “necessarily includes support costs,” and it introduces the new Voter Verification System and increased post-approval screening not as newly fee-recoverable functions requiring justification, but as unremarkable “net additional costs, such as the costs of additional budget items.” 91 Fed. Reg. at 37,504, 37,513. Of the contested categories, DHS defends only one: it asserts that new FDNS screening and vetting activities are “sufficiently related to adjudication services to allow their funding from IEFA fees.” *Id.* at 37,505. For the Voter Verification System, DHS offers no explanation at all. This failure is arbitrary. Under the Proposed Rule, DHS’s reading of section 1356(m) has changed, and the change is made *sub silentio*, which *Fox* forbids.

Because DHS has neither identified the components of the expanded fee-funded program nor explained why each falls within section 1356(m), the Proposed Rule cannot be sustained on this record.

2. *DHS has not adequately explained its departure from the ability-to-pay principle.*

DHS abandons the ability-to-pay principle entirely in favor of a beneficiary-pays approach. This decision contrasts starkly with prior rules where DHS found that “[b]y shifting its fee-setting approach away from the beneficiary-pays principle toward the historical balance of ability-to-pay and beneficiary-pays principles, DHS has sought to reduce barriers and promote accessibility to immigration benefits.” 89 Fed. Reg. at 6,240–43. DHS acknowledges the shift, stating:

DHS proposes to shift toward the beneficiary-pays principle in setting the fees for Form N–400 and Form N–336 because DHS believes it is not only consistent with Congressional intent, but promotes fairness, and is better suited to achieving the President’s policy goals regarding naturalization. 91 Fed. Reg. at 37,507.

But DHS offers nothing beyond conclusory assertions to support this sea change. It does not say *why* abandoning its long-standing adherence to ability-to-pay principles is “consistent with Congressional intent,” or *why* it “promotes fairness.” Further, DHS does not explain how—or even whether—other immigration-related applications will see reduced fees as a result of this change. Although the Proposed Rule notes that DHS may issue separate rules in the future, it does not indicate that a comprehensive Fee Rule is contemplated in the near term. *Id.* at 37,523.

On this record, DHS has not provided the requisite reasoning for abandoning the ability-to-pay balance it reaffirmed two years ago.

3. *DHS has not explained its departure from the practice of setting the fee schedule holistically.*

The agency has traditionally evaluated fee changes holistically, but now addresses two fees in a separate, “one-off” rule without reference to any other fee. As discussed above, previous Fee Rules were based on comprehensive reviews of agency-wide costs and revenues; the present proposal targets individual forms without first completing a full cost analysis.

The 2007 fee increase, for example, formed part of a comprehensive reform of the USCIS fee structure rather than a selective adjustment to individual forms. *See generally* Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule, 72 Fed. Reg. 29,851 (May 30, 2007). USCIS’s historical practice reinforces that major fee changes ordinarily follow an agency-wide assessment of costs, revenues, overhead, cross-subsidization, and affordability. In the experience of former agency personnel, USCIS did not historically set fees on an individual, form-by-form basis except when establishing a fee for a newly created form.

In the 2024 Fee Rule, USCIS similarly conducted a comprehensive fee study supported by significant agency-wide statistical analyses of projected costs and revenue. When USCIS proposed the 2024 Fee Rule, it produced multi-year, form-specific projections of the number of applicants expected to file each immigrant benefit request based on historical data adjusted for expected policy changes including fee

changes.³³ Relatedly, in the past, USCIS produced elasticity analyses with its fee rules that documented predictions about how fee changes would affect the demand for immigration services.³⁴ USCIS separately estimated the direct cost of processing each form by translating projected workload and officer completion rates into a per-application processing cost.³⁵ USCIS supported these projections with extensive documentation including regression analyses testing the relationship between the N-400 fee and application volume using data dating back to 1989.³⁶

The Proposed Rule supplies almost none of this supporting documentation. It does not disclose the number of N-400 or N-336 applicants USCIS expects to receive if the Rule were implemented, estimated agency overhead costs, or how USCIS allocated overhead across immigration benefit requests. The Proposed Rule is also not accompanied by an elasticity analysis. By failing to provide this supporting analysis, USCIS departs from the comprehensive fee analysis practice that has accompanied its previous fee rules. This departure is especially consequential because USCIS has traditionally allocated agency overhead across numerous benefit requests. Changing the fees for selected forms without recalculating the broader allocation of overhead prevents both the agency and the public from determining whether the resulting fees accurately reflect costs or instead produce over-recovery.

DHS acknowledges the departure, but provides insufficient explanation for that change, stating it “has decided to propose adjusting the fees for Form N–400 and Form N–336 in a separate rule rather than waiting to adjust those fees as part of a comprehensive change to USCIS’ Fee Schedule” for two reasons. 91 Fed. Reg. at 37,523. First, it says that the “primary purpose of a comprehensive Fee Rule is to adjust the fees based on the increased overall costs to USCIS using an ABC total cost recovery model; not to implement policy goals,” whereas the changes here are “necessary to align the fees for Form N–400 and Form N–336 with USCIS’ recent policy initiatives related to naturalization.” *Id.* Second, “[t]he need for a thorough explanation of the rational basis for these proposed fee changes as well as the prominence of the Form N–400 fee, fee waivers, and reduced fees in past Fee Rules and related litigation, make it prudent for DHS to propose these fee changes in a rule separate from a comprehensive USCIS fee schedule.” *Id.*

Neither reason survives scrutiny. In its first reason, DHS admits explicitly that this rule is not a cost-recovery exercise, but a vehicle to accomplish policy goals. The second is not a reason at all. That a comprehensive rule would require “a thorough explanation” and invite litigation may explain DHS’s decision-making, but it is not a basis for abandoning its methodology. An agency may not avoid the analytical burden of justifying a fee change by declining to perform the analysis that would make the justification testable and judicially reviewable. That is especially so where DHS concedes that only a comprehensive review could answer the question its own rationale raises: “Were DHS to propose this rule as part of a comprehensive revision to the USCIS Fee Schedule, it would be possible to consider reductions to the fees for other immigration fees based on the adjustments to the fees for Form N–400 and Form N–

33 See U.S. Citizenship & Immigr. Servs., *Immigration Examinations Fee Account: Fee Review Supporting Documentation with Addendum*, 56–59 (Nov. 2023) <https://www.regulations.gov/document/USCIS-2021-0010-8176?utm>.

34 U.S. Citizenship & Immigr. Servs., *Price Elasticity Regression Analysis* (Jan. 2023) <https://www.regulations.gov/document/USCIS-2021-0010-0033?utm>.

35 USCIS., *Immigration Examinations Fee Account: Fee Review Supporting Documentation with Addendum*, 41–45.

36 See, e.g., U.S. Citizenship & Immigr. Servs., *Regulatory Impact Analysis*, 172–176 (Jan. 2024) <https://www.regulations.gov/document/USCIS-2021-0010-8179?utm>.

336.” *Id.* (emphasis added). DHS therefore asks the public to accept that this rule ends cross-subsidization while expressly declining to conduct the only analysis capable of showing whether cross-subsidization exists, how large it is, or whether this rule corrects it.

4. *DHS departs from past practice by setting fees at cost-prohibitive levels while simultaneously eliminating waivers and reductions.*

These fee changes usher in the largest dollar increase in naturalization fees in the past three decades, while simultaneously eliminating the fee waiver and reduced fee availability. In the last twenty-eight years, the only comparable increase came in 2007. But the 2007 rule increased fees that had remained relatively stable since 1998; here, only two years have passed since the 2024 rule increased fees to account for increased costs. And unlike the proposed changes here, the 2007 increases were accompanied by fee waivers designed to alleviate the financial hardship caused by the higher fees. *See* 72 Fed. Reg. at 29,853. Indeed, USCIS specifically identified the continued availability of individual fee waivers as a factor mitigating the increase in the naturalization application fee. *Id.* at 29,861. Now, by contrast, the agency proposes an extraordinary increase in fees together with the elimination of fee waivers.

The history is summarized below:

Year	Federal Register	N-400 filing fee	Fee Waiver
1998	63 Fed. Reg. 43,604	\$225	Yes
2001	66 Fed. Reg. 65,811	\$260	Yes
2007	72 Fed. Reg. 29,851	\$595 (+ \$80 biometrics)	Yes
2010	75 Fed. Reg. 58,962	\$595 (+ \$85 biometrics)	Yes
2016	81 Fed. Reg. 73,292	\$640 (+ \$85 biometrics); \$320 reduced fee (150–200% FPG)	Yes
2024	89 Fed. Reg. 6,194	\$710 online / \$760 paper; \$380 reduced fee (≤400% FPG)	Yes
2026	91 Fed. Reg. 37,500	\$1,280 online / \$1,330 paper	No

DHS concedes that “[h]istorically, forms related to citizenship and naturalization (including Form N–400 and Form N–336) have been eligible for fee waivers,” and that in its most recent comprehensive Fee Rule it maintained that availability. 91 Fed. Reg. at 37,510. DHS then offers three reasons for eliminating fee waivers: to “[m]itigate the proposed fee increases [...] by increasing the percentage of fee-paying filers;” to “[i]mprove USCIS processing efficiency [...] by simplifying intake procedures and reducing adverse incentives for ineligible aliens to file;” and to “[a]lign with the beneficiary-pays principle.” *Id.* at 37,519. None of these reasons is sufficient.

The first reason is circular: eliminating waivers “mitigates” only the increase DHS itself proposes, and DHS quantifies that mitigation at \$85–\$120 per form—a fraction of the \$570 increase it proposes for naturalization forms. Without explaining why this large increase in one form is worth the relatively minor savings to other forms, DHS fails to provide sufficient reasoning for its change.

The second rests on an inference DHS never validates. DHS reasons from raw approval-rate differentials of 93 percent for full-fee filers versus 83 percent for fee-waiver recipients that low fees “incentivize[] [...] [aliens] to apply for naturalization prematurely.” *Id.* at 37,521. But a court reviewing a materially identical inference in the 2020 Fee Rule held that such reasoning “fails to control for any other variables” and “falls far short of DHS’s obligation to grapple with contrary evidence.” *Nw. Immigrant Rts. Project*, 496 F. Supp. 3d at 75.

The third simply restates the policy preference at issue rather than justifying it. Most significantly, DHS never addresses the combined effect that makes this rule unprecedented: unlike 2007, where an increase of comparable magnitude was expressly cushioned by an expanded fee waiver policy, DHS here proposes the fee increase and the elimination of every income-based fee reduction at once, and it nowhere explains why the fee waiver it found necessary in 2007 is unnecessary now.

B. The Proposed Rule Is Arbitrary And Capricious Because DHS Abandons Prior Factual Findings Without Adequate Justification.

An agency must provide a more detailed justification when “its new policy rests upon factual findings that contradict those which underlay its prior policy.” *Fox*, 556 U.S. at 515. An agency “cannot [...] disregard contrary or inconvenient factual determinations that it made in the past, any more than it can ignore inconvenient facts when it writes on a blank slate.” *Id.* at 537 (Kennedy, J., concurring in part and concurring in the judgment). DHS abandons two sets of prior factual findings here. First, it discounts the benefits of naturalization, and second, it dismisses prior evidence suggesting that naturalization is an elastic good.

1. DHS reverses its factual findings regarding the benefits of naturalization, and it fails to provide a detailed justification for changing course.

DHS previously recognized the significant benefits that naturalization confers on new citizens and on the United States. 89 Fed. Reg. at 6,300. It found that, “[u]pon naturalizing, new citizens can vote in public elections, participate in jury duty, and run for elected office where citizenship is required,” that “there are proven, beneficial economic and civic outcomes for immigrants who become citizens, which include increased earnings and homeownership,” and that “[t]hese earning gains from naturalization may translate to greater city, State, and Federal tax revenues.” *Id.*

The Proposed Rule now says that “[w]hile newly naturalized citizens *may* provide benefits to the United States [...] the benefits of naturalization, such as increased civic participation or tax revenue [...] may be less immediate, more uncertain, and more dispersed” than previously reported. 91 Fed. Reg. at 37,517 (emphasis added). The agency questions the empirical evidence it credited in 2024 without offering any contrary evidence of its own.

The evidence in fact supports DHS’s prior position and is inconsistent with its new one. Naturalized citizens are more likely to access higher education, become homeowners and business owners, and earn higher wages than their non-naturalized foreign-born peers.³⁷ Studies show a potential \$5.7 billion earnings

37 Madeleine Sumption & Sarah Flamm, *The Economic Value of Citizenship for Immigrants in the United States*, Migration Policy Institute, (Sept. 2012), <https://www.migrationpolicy.org/sites/default/files/publications/citizenship-premium.pdf>.

increase from increased naturalization across 21 major cities, and a \$2.03 billion increase in federal, state, and city income tax and payroll tax revenue; increased naturalization also decreases the cost of government programs as individuals gain access to better employment opportunities.³⁸ Additionally, a 2016 analysis from Washington State found that if just 5 percent of fee-waiver-eligible naturalization clients delayed or forwent naturalization for at least one year, the State would lose \$1,237,976 in additional spending and sales tax revenue annually.³⁹

The Proposed Rule would accordingly have a substantial direct effect on the States, on the relationship between the national government and the States, and on the distribution of power and responsibilities among the various levels of government. It would produce major declines in local and state income tax revenue, as fewer individuals could afford to apply for naturalization, and could also result in higher unemployment and reduced financial and civic contributions from less wealthy immigrants.

2. *DHS discounts prior data suggesting that naturalization is an elastic good and fails to provide justification for this departure.*

The data DHS itself reports in this rulemaking contradict the inelasticity premise, and DHS does not reconcile past data with its new assumptions. The Proposed Rule acknowledges that approved N-400 fee waivers increased by roughly 16 percent, and that reduced-fee filings increased by more than 1,000 percent, after reduced-fee eligibility expanded to 400 percent of the FPG in 2024. Those data indicate that lowering the cost of naturalization materially increased applications among newly eligible applicants, consistent with DHS's prior position that naturalization demand is responsive to price.

Rather than explain how these data bear on its new theory of the relationship between fees and naturalization demand, DHS dismisses elasticity studies without supplying its own independent analysis. It asserts that “[s]tudies, including those cited by courts in challenges to past Fee Rules, do not demonstrate that naturalization is an elastic good,” 91 Fed. Reg. at 37,521, and that “[p]rice elasticity (the impact that changes in price have on the amount demanded) is not a strong justification for DHS to maintain lower fees and fee waivers.” *Id.* at 37,522. Neither statement explains why DHS now rejects the implications of the very evidence it acknowledges, and neither supplies a reasoned explanation for changing course on a consideration the agency has long treated as material.

DHS also abandons the inelasticity premise when it justifies eliminating fee waivers on the ground that “free filing or inexpensive fees may encourage aliens who know or suspect that they are ineligible for naturalization to apply anyway,” *Id.* at 37,520, and when it reasons that applicants “can choose to avoid or delay the potential hardship imposed by a high fee.” *Id.* at 37,522. Both propositions acknowledge implicitly that price drives filing behavior. Because an agency's decision is unreasoned when it is internally inconsistent, DHS cannot treat naturalization demand as insensitive to price when affordability concerns are raised and then later treat naturalization demand as sensitive to price when deterrence is the goal.

38 Maria E. Enchautegui & Linda Giannarelli, *The Economic Impact of Naturalization on Immigrants and Cities*, Urban Institute, (Dec. 9, 2015), <https://www.urban.org/sites/default/files/publication/76241/2000549-The-Economic-Impact-of-Naturalization-on-Immigrants-and-Cities.pdf>.

39 Sarah Sumadi, *Economic Impact of Decreased Naturalizations from Non-Use of Fee Waiver in Washington*, OneAmerica, (last visited Aug. 21, 2026), <https://www.reginfo.gov/public/do/eoDownloadDocument?publd=&eodoc=true&documentID=3669>.

C. The Proposed Rule Is Arbitrary And Capricious Because It Is Irrational And Not Supported By Or Consistent With The Agency's Own Rationales.

A proposed rule must disclose adequate information about the rationales and data on which the rule is based. *See, e.g., Cal. ex rel. Becerra v. U.S. Dep't of the Interior*, 381 F. Supp. 3d 1153, 1173 (N.D. Cal. 2019) (citing *Home Box Office, Inc. v. FCC*, 567 F.2d 9, 35 (D.C. Cir. 1977)). “The Administrative Procedure Act requires the agency to make available to the public, in a form that allows for meaningful comment, the data the agency used to develop the proposed rule.” *Engine Mfrs. Ass’n v. EPA*, 20 F.3d 1177, 1181 (D.C. Cir. 1994) (remanded without vacatur). Agencies may not make conclusory statements about cost allocations without explaining the underlying analysis or methodology. *Id.* at 1181–82 (finding no reasoned decision-making where the agency submitted “page after page of impressive looking but utterly useless tables” with assumptions that were “complete gibberish” and provided “no basis for a number of key assertions”).

Because “Congress intends some boundaries on the scope of the program that may be fee-funded,” the public is entitled to information sufficient to determine whether the funded activities fall within the scope of the statute. *Am. Med. Ass’n*, 57 F.3d at 1135. Without adequate information, the public cannot determine whether fees would be used consistent with USCIS’s statutory mandate or instead to cover functions that are “too far afield to be attributed to” adjudication services. *Id.*

DHS fails to demonstrate that the budgeting behind its decision-making is sound. For example, DHS fails to disclose or account for available surplus carryover funds or explain why efficiency measures that previously reduced costs can no longer do so. It also relies on costs unrelated to naturalization, fails to demonstrate whether or how increased naturalization fees will lead to reduced fees for other forms, and relies on otherwise unsupported assumptions throughout. Without—and at times contrary to—underlying data, DHS’s rulemaking arbitrarily and capriciously relies on “implausible” explanations. *Ctr. for Biological Diversity v. U.S. Bureau of Land Mgmt.*, 698 F.3d 1101, 1109 (9th Cir. 2012).

1. DHS arbitrarily increased naturalization fees through a piecemeal rulemaking without evaluating the integrated USCIS fee system.

An agency must consider costs in interrelated systems where a change in one factor would affect the calculation of other factors. *See Medica Ins. Co. v. Kennedy*, 805 F. Supp. 3d 307 (D.D.C. 2025) (appeal dismissed, No. 25-5439 WL 191679 (D.C. Cir. Jan. 21, 2026)).

All USCIS fees are commingled in a single account. 8 U.S.C. §§ 1356(m), (n), (t), (u). Because USCIS historically spreads overhead and subsidy costs across many forms, the agency cannot rationally determine that naturalization fees specifically must increase without first calculating its total agency-wide costs, revenues, appropriations, carryover funds, and existing cross-subsidies. Because USCIS distributes agency overhead across numerous benefit requests, changing the fees for selected forms without recalculating the broader allocation prevents both the agency and the public from determining whether the resulting fees accurately reflect costs or instead produce over-recovery. And because DHS is authorized to charge only up to the full cost of the service, any increase in fees in one area should be accompanied by a reduction in fees elsewhere. 8 U.S.C. § 1356(m) (“Fees for providing adjudication and naturalization services may be set at a level that will ensure recovery of the full costs of providing all such services . . .”).

DHS has historically acknowledged the importance of a holistic fee review. The 2007 fee increase, for example, formed part of a comprehensive reform of the USCIS fee structure rather than a selective adjustment to individual forms. *See generally* 72 Fed. Reg. 29,851. There, USCIS treated its fee schedule as an integrated system in which adjudication costs, humanitarian priorities, ability-to-pay considerations, and agency-wide overhead were evaluated together through a comprehensive fee study. Despite the integrated system of fees, DHS here seeks to change only two fees in a vacuum.

DHS states that the Proposed Rule is not a comprehensive Fee Rule based on an activity-based costing (ABC) total cost recovery model:

DHS has decided to propose fee changes for the Form N-400 and Form N-336 in a separate rule for multiple reasons. First, the primary purpose of a comprehensive Fee Rule is to adjust the fees based on the increased overall costs to USCIS using an ABC total cost recovery model; not to implement policy goals.

91 Fed. Reg. at 37,523.

DHS admits that this rule is not a cost-recovery exercise, but a vehicle to accomplish policy goals. It distinguishes a comprehensive rule, the purpose of which is to adjust fees to overall agency costs under the ABC model, from this rule, the purpose of which is to “implement policy goals” and to “align” these two fees with “USCIS’ recent policy initiatives related to naturalization.” *Id.* But § 1356(m) authorizes fees set at a level that recovers the costs of providing services; it does not authorize a fee untethered from that calculation and set instead to advance policy preferences. Having disclaimed the cost-recovery model, DHS cannot show that the resulting fees satisfy the only standard the statute supplies.

At the same time, DHS acknowledges that only a comprehensive Fee Rule could evaluate reductions to other immigration fees: “*Were* DHS to propose this rule as part of a comprehensive revision to the USCIS Fee Schedule, *it would be possible to consider reductions* to the fees for other immigration fees based on the adjustments to the fees for Form N-400 and Form N-336.” *Id.* (emphasis added).

DHS even identifies categories of applicants who apparently subsidize naturalization applications and who, under a beneficiary-pays approach, should no longer do so *were DHS to engage in holistic rulemaking*. *Id.* at 37,517. The affected forms include:

Form I-129F (Petition for Alien Fiancé(e));
Form I-130 (Petition for Alien Relative);
Form I-131 (Application for Travel Documents);
Form I-140 (Immigrant Petition for Alien Workers);
Form I-485 (Application to Register Permanent Residence or Adjust Status); and
Form I-765 (Application for Employment Authorization).

The agency must disclose the amount of naturalization-related or agency-wide subsidy costs currently embedded in each of these fees and must explain whether those costs will be removed if naturalization applicants are required to bear a greater share of their purported adjudication costs. Otherwise, the Proposed Rule risks retaining the old subsidies while layering new charges on top of them—collecting both the existing fees previously used to subsidize lower naturalization fees *and* the new,

significantly increased naturalization fees, leading to double charging that is precisely the over-recovery that § 1356(m) forbids.

Yet, because USCIS chose not to conduct an agency-wide fee review, it cannot determine its total agency costs or revenues, the extent of pre-existing cross-subsidization, whether other fees should increase or decrease and by how much, or whether the increased naturalization fee actually reflects full cost recovery. Notably, USCIS did not determine its projected revenue from fees that Congress has separately mandated by statute, which alter the funds available for cross-subsidization. For example, the OBBBA imposed additional, non-waivable application fees for Asylum and Special Immigrant Juvenile Status applicants. 8 U.S.C. § 1802; 8 U.S.C. § 1805. Without calculating the increase in agency revenue expected from these separate fee changes, it is impossible to know whether the fee increase in the Proposed Rule is necessary to meet full cost recovery or exceeds the statutory limits.

DHS's attempt to explain away its decision to engage in piecemeal rulemaking is itself evidence that DHS lacks a defensible rationale. DHS explains that undertaking a comprehensive rule would require "a thorough explanation of the rational basis for these proposed fee changes," particularly in light of "related litigation," making it "prudent" to proceed separately. 91 Fed. Reg. at 37,523. True, and that is why DHS must disclose its budgeting and engage in a comprehensive and thorough analysis of all relevant fees to survive arbitrary and capricious review.

2. *DHS does not explain the basis for fee increases of this magnitude, or its simultaneous elimination of fee waivers and reduced fees.*

Nor does the agency provide a basis for simultaneously increasing fees and eliminating fee waivers and reduced fees. The Proposed Rule raises Form N-336 paper filing fees by 80 percent and Form N-336 online filing fees by 78 percent. *Id.* at 37,502. It raises Form N-400 paper filing fees by 75 percent and Form N-400 online filing fees by 80 percent. *Id.* These fee increases are far above any increase that might be needed to address inflation and other costs associated with new mandates given to USCIS. While the Proposed Rule repeatedly cites increased costs as precipitating the need for increased naturalization fees and reduced fee waivers, it does not provide a thorough explanation of why costs are increasing or how increased naturalization fees and the elimination of fee waivers will impact the USCIS budget.

Fee waivers have historically been incorporated into USCIS budgeting through projections and cross-subsidization. The Proposed Rule does not explain what data or accounting methods the agency used to justify its narrower approach to adjusting fees for a small set of immigration benefits here.

3. *The available data show that the agency's assertions about its finances are incorrect.*

DHS asserts that it is addressing "localized average shortfalls of –\$336.6 million and –\$1.6 million annually, respectively," (*Id.* at 37,511) and that "[w]hen comparing those costs to the current FY 2026/2027 average revenue projections, the result is a projected shortfall of –\$636.0 million [...] for Form N–400 and –\$2.8 million [...] for Form N–336 under the current fee structure." *Id.* at 37,514.

In reality, USCIS is reporting a surplus. USCIS had a surplus in Fiscal Year 2024: *See supra* at I.A.4. Additionally, the "shortfall" framing itself is misleading because the cost of fee waivers and reduced fees

are already incorporated into the fees charged to other applicants. This means that those costs are recoverable and there is no actual shortfall attributable to fees and fee waivers for Forms N-400 and N-336.

DHS neither discloses the calculations underlying its purportedly skyrocketing costs nor explains why it projects a budget shortfall despite the agency's history of running a surplus with substantial cash reserves. Indeed, the Proposed Rule concedes that "DHS is unable to accurately estimate the resource expenditure impacts of USCIS' initiatives on processing naturalization applications." *Id.* at 37,523.

The result is an asserted deficit that DHS's own financial reporting does not support and that DHS never reconciles. DHS identifies a form-level shortfall while omitting the account-level surplus and multi-billion-dollar carryover balance that Congress made available until expended (see 8 U.S.C. § 1356(n)), and it concedes it cannot quantify the very cost drivers on which the purported shortfall depends. An agency must "examine the relevant data and articulate a satisfactory explanation for its action including a 'rational connection between the facts found and the choice made.'" *State Farm*, 463 U.S. at 43 (citation omitted). DHS has not made that connection, and because it withholds the underlying calculations, the public cannot test the single premise on which the entire fee increase rests.

4. *The Proposed Rule does not account for developments that should reduce the cost of adjudicating naturalization applications.*

DHS projects sharply rising costs while ignoring the substantial cost reductions its own recent operational and staffing changes should produce. A cost projection that counts only one side of the ledger is not the product of reasoned decision-making. An agency must "examine the relevant data," not merely the data that favor its desired result. *Id.*

USCIS has stopped adjudicating whole categories of applications and has begun conducting enhanced vetting at earlier stages of the process.⁴⁰ While USCIS is technically adjudicating these cases after the decision vacating the policy memorandum, *Dorcas Int'l Inst. of R.I., et al. v. USCIS, et al.*, No. 26-cv-00132-JJM-PAS (D.R.I. 2026), only a small number of affected applications have been completed since USCIS announced it would re-start adjudications on June 12, 2026. It is not processing many applications, and refugee intake is lower.⁴¹ Technology improvements and increased volumes of online filings should likewise be reducing USCIS's per-application processing costs.⁴² DHS has also reduced its own workforce

40 USCIS, *Policy Memorandum*, PM-602-0194, at 1.

41 See Cecilia Esterline, *Legal Immigration in Numbers: June 2026 Status Update*, (June 30, 2026), <https://www.niskanencenter.org/immigrationdata/>.

42 See, e.g., U.S. Citizenship & Immigr. Servs., *SAVE Enhances Case Processing*, (last updated June 23, 2026), <https://www.uscis.gov/save/current-user-agencies/news-alerts/save-enhances-case-processing>.

and offered staff deferred resignation, early retirement, and voluntary separation agreements, which should further reduce agency staffing costs.^{43,44}

5. *DHS relies on costs that, by its own admission, are unrelated to the fees at issue.*

To support its claim that these fee increases must be adopted now, in a stand-alone rule, rather than through the comprehensive fee review its own methodology ordinarily requires, DHS cites the costs of resuming personal investigations of applicants, imposing Good Moral Character requirements, revising Form N-400, and administering a new naturalization civics test. But DHS concedes that “*these recent initiatives relating to naturalization do not directly impact the fees in this proposed rule*, they are reasons why DHS is taking these steps to increase the fees associated with the Form N-400 and the Form N-336 at this time, in advance of a comprehensive Fee Rule.” 91 Fed. Reg. at 37,523. An agency may not justify a fee increase with costs it admits do not bear on the fees being set. *See Am. Med. Ass’n*, 57 F.3d at 1135 (agency “was required to identify the components of the fee-funded diversion control program and provide a brief explanation of why it deemed each component to be a part of that program”); *State Farm*, 463 U.S. at 43. DHS then concedes not only that these initiatives “do not directly impact the fees in this proposed rule,” but that it “is unable to accurately estimate” their resource impacts and therefore “did not consider these policy changes when deriving the ABC model output costs.” 91 Fed. Reg. at 37,523. DHS thus offers, as its reason for acting now rather than through a comprehensive review, a set of costs it has neither quantified nor modeled.

6. *The Proposed Rule’s economic analysis is built on a faulty premise.*

DHS relied on an inadequately supported assumption by treating demand for immigration services as inelastic, an assumption that impacts the ABC model. Further, DHS’s budget is an input to the ABC model, and DHS has not adequately explained its budget estimate, rendering the entire model unreliable.

DHS fails to account for the likelihood that application volume will fall as prices rise because the ABC model does not account for price elasticity at all. The Proposed Rule estimates that the fee increases for Forms N-400 and N-336 would result in annualized transfer payments from current full-fee-paying applicants to USCIS of approximately \$430,049,505; that the fee waiver amendments would result in annualized transfers from current fee-waiver-eligible applicants of approximately \$196,353,305; and that the reduced-fee amendment for Form N-400 would result in annualized transfers from current reduced-fee-eligible applicants of approximately \$16,730,450. *Id.* at 37,524. It does not provide data on the effect of raising the naturalization fee while also eliminating currently available fee waivers and fee reductions.

The above-referenced estimated transfer payments rest on the faulty premise that demand for immigration services is inelastic. The Congressional Research Service (“CRS”) has concluded that “[e]mpirical studies suggest that the volume of naturalization petitions filed may be inversely related to the

43 American Immigration Council, *Mass Deportation: Analyzing the Trump Administration’s Attacks on Immigrants, Democracy, and America* (July 23, 2025) <https://www.americanimmigrationcouncil.org/report/mass-deportation-trump-democracy/>.

44 Justin Doubleday, *DHS employees consider workforce transition amid major uncertainty*, Federal News Network (Apr. 11, 2025), <https://federalnewsnetwork.com/hiring-retention/2025/04/dhs-employees-consider-workforce-transition-amid-major-uncertainty/>.

naturalization fee amount.”⁴⁵ Further, DHS’s own data show that applications for naturalization surged before prior fee increases and dropped thereafter.⁴⁶

DHS may not rely on an assumption of inelasticity without confronting this evidence. Courts “do not defer to [an] agency’s conclusory or unsupported suppositions,” and DHS bears an “obligation to grapple with contrary evidence.” *Nw. Immigrant Rts. Project*, 496 F. Supp. 3d at 73, 75 (internal quotation marks omitted). DHS failed to meet this obligation when it advanced materially the same assumption in the 2020 Fee Rule. *Id.* Until DHS explains how the CRS’s conclusion and its own filing data support the premise that demand for naturalization is inelastic, DHS cannot rely on this premise to support the above-described transfer payment estimates reflected in the Proposed Rule.

7. *The Proposed Rule’s economic analysis relies on overstated benefits and understated costs.*

The Proposed Rule also asserts that it would reduce administrative costs because higher fees will weed out ineligible applicants, but it offers no evidence for that claim. 91 Fed. Reg. at 37,525. Although the Rule notes a statistically significant difference in denial rates as between fee-waiver, reduced-fee, and full-fee applicants, that difference is likely attributable to factors other than frivolous filing—for example, fewer resources with which to prepare an application and lower English proficiency.

Meanwhile, the implementation of the increased fees reflected in the Proposed Rule would trigger consequences including a higher incidence of predatory lending directed at applicants and their families; a greater likelihood of family separation as households struggle to assemble thousands of dollars per person; and lost income and payroll tax revenue. The Proposed Rule suggests that the changes will not affect the vast majority of immigrants seeking naturalization, but that is wrong: more than two-thirds of the eligible-to-naturalize population in the United States currently qualifies for a fee waiver or a reduced fee.⁴⁷

DHS must account for this evidence before it may claim administrative savings. An agency “must provide reasons for disregarding the evidence, especially when the contrary evidence is substantial.” *Nw. Immigrant Rts. Project*, 496 F. Supp. 3d at 75–76. Because DHS neither controls for the alternative explanations for the denial-rate differential nor addresses the share of the eligible population its rule will price out, its projected administrative savings rest on an inference the record does not support and its analysis counts benefits that may not materialize while omitting costs that will.

8. *DHS relies on a series of unsupported assumptions.*

First, DHS assumes without factual support that lawful permanent residents (“LPRs”) have greater financial flexibility. It states that, “[b]ecause LPR status is generally a requirement for naturalization, aliens considering filing Form N–400 already may live and work in the United States indefinitely, and, therefore,

45 Cong. Rsch. Serv., *U.S. Naturalization Policy* (Jan. 16, 2014), https://www.everycrsreport.com/files/2024-04-15_R43366_f0d14734c61c946c593c69be7b17d1202323a04e.pdf.

46 U.S. Citizenship & Immigr. Servs. Ombudsman, *2020 Annual Report to Congress* (June 30, 2020), https://www.dhs.gov/sites/default/files/publications/20_0630_cisomb-2020-annual-report-to-congress.pdf.

47 Andrés Bautista, *Over two in three eligible-to-naturalize immigrants now qualify for waived or reduced fee for naturalization, new data finds* (Apr. 16, 2024), <https://partnershipfornewamericans.org/over-two-in-three-eligible-to-naturalize-immigrants-now-qualify-for-waived-or-reduced-fee-for-naturalization-new-data-finds/>.

should generally have more financial flexibility to delay applying for naturalization and save up for the fee.” 91 Fed. Reg. at 37,522. It cites no evidence to support this assumption and fails to account for the numerous benefits to which LPRs lack access compared to naturalized citizens.

Second, DHS assumes that naturalization can simply be delayed, without considering the costs of that delay. In doing so, DHS treats naturalization as a non-essential expense, which is at odds with the agency’s own statements about the importance of citizenship. DHS states that it “acknowledges that elimination of fee waivers for Form N–400 and Form N–336 may prevent certain aliens from applying for naturalization in the short term, but notes that these aliens could apply for naturalization in the future” (*Id.*); that “[a]liens who possess other reasonable alternatives can choose to avoid or delay the potential hardship imposed by a high fee” (*Id.*); and that “[e]ligibility for a fee waiver means that USCIS has determined that the alien currently lacks the ability to pay [...] not that the alien is permanently unable to pay.” *Id.* at 37,521. It further assumes that “aliens applying for other immigration benefits will, in general, tend to have a more immediate need to acquire their status so they can seek lawful employment and avoid unlawful status in the United States,” (*Id.* at 37,522) and that “because the need to naturalize is generally less immediate in comparison to other benefit requestors [...] below-cost fees are generally less necessary for filing for naturalization.” *Id.* at 37,517. These assumptions are directly at odds with USCIS’s history of recognizing the special importance of naturalization, a contradiction for which USCIS provides no justification.

Third, DHS assumes that naturalization applicants have a greater ability to pay, reasoning that, “[h]aving continuously resided in the United States with employment authorization before applying for naturalization, these naturalization applicants should have more financial stability, on average, than other categories of aliens, most of whom have not lived in the United States or possessed unrestricted employment authorization for as long.” *Id.* at 37,517–18. On that basis, DHS concludes that “preferencing naturalization applications with lower fees merely shifts these problems onto other populations—who may be in a worse position to cope with them than naturalization applicants because they must pay the resulting higher fees or leave the United States.” *Id.* at 37,522.

None of these assumptions is supported. In practice, individuals who cannot afford naturalization find themselves in a cycle of applications and fees that can permanently prevent them from affording high application fees. Applicants who cannot afford to naturalize often delay applying for years, remaining lawful permanent residents and continuing to incur recurring immigration-related costs—including green card renewals—that may make it *harder*, not easier, to save for naturalization. *See infra* Part II.E–F. DHS’s argument also ignores that the agency is doing nothing to reduce the costs of applying for lawful permanent resident status, and is in fact making that status more difficult to obtain.⁴⁸

D. The Proposed Rule Is Arbitrary And Capricious Because DHS Gave Only A cursory Evaluation Of Serious And Obvious Reliance Interests.

When serious reliance interests are at stake, an agency must provide “a more detailed justification” and “a reasoned explanation . . . for disregarding facts and circumstances that underlay or were engendered by the prior policy.” *Encino Motorcars*, 579 U.S. at 221–22 (quoting *Fox*, 556 U.S. at 515). That explanation

⁴⁸ *See* Adriel Orozco, *New USCIS Memo May Force More Green Card Applicants to Apply from Abroad, Causing Chaos and Confusion* (May 27, 2026), <https://www.americanimmigrationcouncil.org/blog/green-card-news-uscis-memo/>.

must (1) recognize that reliance interests exist, (2) assess their significance, and (3) weigh them against competing policy concerns. *Regents*, 591 U.S. at 33; *Kentucky Mun. Energy Agency v. FERC*, 45 F.4th 162, 187 (D.C. Cir. 2022). DHS does none of these adequately.

1. *DHS acknowledges the reliance interests of nonprofit legal service providers and low-income applicants but offers only cursory justifications for disregarding them.*

DHS acknowledges that nonprofit legal service providers serving low-income applicants and lawful permanent residents have serious and obvious reliance interests, but provides only unsupported or cursory justifications for disregarding the interests engendered by the prior policy. 91 Fed. Reg. at 37,522. DHS compounds the error by suggesting that the Proposed Rule affects only the individuals seeking naturalization, and that it will have no effect on small businesses for purposes of the Regulatory Flexibility Act (“RFA”). *Id.* at 37,544. That assertion ignores that numerous nonprofit legal service providers qualify as “small entities” under the RFA and that their operations would be severely affected by the Proposed Rule.

Furthermore, recognizing a reliance interest is only the first of three required steps. DHS must also determine whether these reliance interests were significant and then weigh any such interests against competing policy concerns. *DHS v. Regents of the Univ. of Cal.*, 591 U.S. 1, 33 (2020). DHS takes neither of these remaining steps. It does not ask how many nonprofit providers depend on fee-waiver-eligible clients, what share of their caseloads those clients represent, or whether the resulting loss threatens their capacity to operate at all. Simply acknowledging a reliance interest “does not account for the broad scope of financial and non-financial interests staked” on the prior policy and does not show that the agency “considered those myriad interests before issuing” the rule. *Am. Pub. Health Ass’n v. NIH*, 145 F.4th 39, 54 (1st Cir. 2025) (granting stay pending appeal).

The tension between two parts of the Proposed Rule confirms that DHS never assessed the reliance interests it acknowledged. DHS concedes that nonprofit legal service providers “have client bases that qualify for fee waivers and reduced fees more frequently than most aliens” and that these providers “might experience a temporary decrease in clients that they can assist in applying for naturalization.” 91 Fed. Reg. at 37,522. Twenty-two pages later, in certifying the Proposed Rule under the Regulatory Flexibility Act, DHS asserts that the Proposed Rule “does not directly regulate small entities and is not expected to have a direct effect on small entities,” on the ground that it “directly regulates and impacts aliens requesting naturalization benefits, and individuals are not considered ‘small entities,’” and on that basis certifies that the Proposed Rule “would not have a significant economic impact on a substantial number of small entities.” *Id.* at 37,544.

However, DHS’s own definition of “small entities,” stated in the same section, encompasses “not-for-profit organizations that are independently owned and operated and are not dominant in their fields.” *Id.* The agency thus treats the loss of fee-waiver-eligible clients as a foreseeable consequence of the Proposed Rule in one section while suggesting that there will be no impact to nonprofit legal service providers in another. That is the definition of unreasoned decision-making: “An agency’s decision is unreasoned if it is internally inconsistent.” *Affirmed Energy, LLC v. FERC*, 166 F.4th 1070, 1087 (D.C. Cir. 2026) (internal quotation marks omitted) (quoting *World Shipping Council v. Fed. Mar. Comm’n*, 152 F.4th 215, 221 (D.C. Cir. 2025)). Thus having certified the effect away, DHS did not generate the data that would have allowed it to assess appropriately whether these provider reliance interests were significant.

2. *DHS acknowledges short-term impacts but fails to consider their severity.*

DHS states that it “acknowledges that elimination of fee waivers for Form N–400 and Form N–336 may prevent certain aliens from applying for naturalization in the short term, but notes that these aliens could apply for naturalization in the future,” and that “[j]ust as some low-income aliens might have to delay filing for naturalization due to these proposed changes, nonprofit legal service providers might experience a temporary decrease in clients that they can assist in applying for naturalization.” 91 Fed. Reg. at 37,521–37,522.

DHS never considers the consequences of even short-term delay. It assumes without evidence that low-income applicants who cannot pay today will eventually be able to pay. *Id.* at 37,521. It fails to acknowledge that even temporary reductions in client volume, or reduced capacity to serve target populations, threaten the continued existence of nonprofit legal service providers. And it ignores that immigration enforcement is increasing and that naturalization is the strongest available protection against it; the immediacy of the need to naturalize is heightened, not diminished, in the face of the administration’s de-documentation efforts.

DHS cannot avoid measuring the impact of its action by labeling that impact as short-term. The First Circuit granted a stay for a materially identical response in *American Hospital Association v. Kennedy*, where the government relied on a record statement conceding that its rule “could fundamentally shift how the 340B Program has operated for over 30 years.” 164 F.4th 28, 33–34 (1st Cir. 2026). Though “unquestionably true,” that concession “d[id] not demonstrate that the federal government considered whether and to what extent such a ‘shift’ would impact the hospitals, whose financial survival relies on” the prior policy. *Id.* DHS similarly argues that naturalization applicants “*could* apply for naturalization in the future” and that providers may face only a “temporary decrease in clients” without defining how long the “temporary decrease” may last. It does not estimate how many organizations will not survive such a decrease, nor does it grapple with the impact even a “temporary decrease” in clients could have on nonprofit legal service providers. When DHS fails to ascertain the costs of its action, its actions are arbitrary and capricious.

3. *DHS dismisses contrary evidence of harm to reliance interests on the basis of belief rather than analysis.*

DHS states that it “understands that some studies conclude that higher naturalization fees would prevent some LPRs from applying for naturalization, but *does not believe* that the level of impact is as great as these studies have attributed to fee increases.” 91 Fed. Reg. at 37,521 (emphasis added). Assertions grounded only in belief cannot satisfy the heightened justification required for disregarding reliance interests. DHS also attempts to dismiss any long-term impact on naturalization rates on the grounds that naturalization is an inelastic good, but, as described elsewhere herein, that analysis is largely unsupported.

Belief is not the “more detailed justification” that serious reliance interests require. *Fox*, 556 U.S. at 515. Such “conclusory statements do not suffice to explain” an agency’s decision where serious reliance interests are at stake, and courts “do not defer to [an] agency’s conclusory or unsupported suppositions.” *Encino Motorcars*, 579 U.S. at 224; *Nw. Immigrant Rts. Project*, 496 F. Supp. 3d at 73. DHS identifies no methodological flaw in the studies it discounts, offers no competing data, and never states what level of impact it does expect. Having declined to quantify a harm it concedes will occur, DHS cannot attest to

having genuinely weighed that harm. *Regents*, 591 U.S. at 30 (quoting *Fox*, 556 U.S. at 515) (“It would be arbitrary and capricious to ignore such matters.”).

4. *DHS entirely fails to acknowledge the impact on moderate-income applicants.*

DHS eliminates the reduced fee for moderate-income applicants without evidence and dismisses any impact on them outright. It asserts that “[t]he current income ceiling for the reduced fee for Form N–400 (at or below 400 percent of the FPG) is extraordinarily high,” and that “[a]liens in the 200–400 percent FPG range should be less price sensitive than those in the pre-existing 150–200 percent range.” 91 Fed. Reg. at 37,518–19. Building on that unsupported premise, DHS concludes without justification that “[i]f aliens at this income level choose not to apply for naturalization in the absence of a reduced fee, *this may not reflect a difficulty in paying the filing fee, but a choice to not file for naturalization.*” *Id.* at 37,519 (emphasis added). DHS argues against claims that decreases in naturalization applications are a result of inability to pay, labeling this as speculation, but “[a]n agency cannot shirk its obligation to ‘consider an important aspect of the problem’ [...] by asserting that any such impact is ‘speculative.’” *Centro Legal de la Raza v. EOIR*, 524 F. Supp. 3d 919, 959 (N.D. Cal. 2021).

E. The Proposed Rule Is Arbitrary And Capricious Because DHS Failed To Evaluate Obvious Alternatives.

Even where an agency concludes that rescinding a prior rule is appropriate, it must consider other reasonable options that fall within its existing authority. *Spirit Airlines, Inc. v. DOT*, 997 F.3d 1247, 1255 (D.C. Cir. 2021). The agency need not adopt those alternatives, but it must at least consider them where they are reasonably available. *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 30–31, 38–40 (2020). “The failure of an agency to consider obvious alternatives has led uniformly to reversal.” *Yakima Valley Cablevision, Inc. v. FCC*, 794 F.2d 737, 746 & n.36 (D.C. Cir. 1986).

1. *DHS failed to demonstrate that it has pursued available efficiency measures.*

Before seeking additional fee revenue, DHS should demonstrate that it has pursued obvious, available efficiency measures and rooted out redundancies in its vetting procedures. DHS’s own 2024 Fee Rule demonstrates that a well-reasoned fee rule should address efficiency measures before raising fees. In the 2024 Fee Rule, USCIS explained that it was reviewing its adjudication and administrative policies to find efficiencies, including evaluating the utility of interview requirements, requests for evidence, and biometric requirements to reduce the amount of officer time required per adjudication. *See* 89 Fed. Reg. at 6,208, 6,254. DHS further acknowledged that future fee rules should incorporate updated completion rates reflecting those efficiencies. *Id.* at 6,254. The Proposed Rule does not engage in this efficiency analysis, nor does it explain why it departs from this practice. Having told the public only two years ago that it was actively working to reduce per-case adjudication costs, the agency cannot now assume the opposite trajectory with no consideration of how efficiency measures could reduce agency costs.

Instead of considering efficiency measures, DHS rolled back several such measures in place before this administration, including expanded digital processing and streamlined background-check procedures. USCIS previously used an automated Prima Facie Eligibility Streamlined Case Processing system to perform certain steps in the adjudication process, including background and biometric checks, that had previously required manual staff time. *See Mansor v. U.S. Citizenship and Immigr. Servs.*, No. C23-0347JLR, 5–7 (W.D.

Wash. 2025). In February 2025, USCIS reduced automated processing and returned a growing share of applicants to the slower, manual review process, increasing agency overhead costs. *See id.* at 7. The agency cannot credibly claim that rising application costs necessitate higher application fees while simultaneously abandoning the very efficiencies it had implemented to reduce application processing costs without explanation.

USCIS also fails to consider new technologies that the Department is deploying elsewhere, particularly artificial intelligence.⁴⁹ The government’s increasing reliance on technology in other areas makes its failure to quantify the potential efficiencies from those tools particularly significant.

2. *DHS failed to consider obvious alternatives to eliminating fee waivers and reduced fees.*

DHS did not evaluate a lower threshold as an alternative to eliminating fee waivers and reduced fees. It did not consider capping military waivers at the \$7.5 million in funding appropriated by Congress, or requesting additional Congressional subsidies to cover the full cost of military waivers that will now be borne entirely by naturalization applicants. Neither did it consider reducing its own expenses to cover this cost.

DHS did consider maintaining the current fees for Forms N–400 and N–336, maintaining the fee waivers, and maintaining the reduced fee, but it rejected each option on the sole ground that each would continue to produce a projected cost/revenue gap:

DHS considered the possibility of maintaining the current fee for Form N–400 and the current fee for Form N–336. However, the annual cost/revenue gap for keeping the current general fees for Form N–400 of \$760 (paper) and \$710 (online) is estimated at \$82.4 million (paper) and \$232.2 million (online). The annual cost/revenue gap for keeping the current general fees for Form N–336 of \$830 (paper) and \$780 (online) is estimated at \$0.6 million (paper) and \$1.1 million (online). 91 Fed. Reg. at 37,543.

DHS similarly estimated that “maintaining fee waivers for both these forms while proposing new fees would result in an extra \$85–\$120 per form,” and rejected the reduced fee because “it would simplify intake procedures for USCIS,” “reduce the resources spent on adjudicating fee waiver requests” and remove the “adverse incentives for aliens to apply for naturalization.” *Id.* at 37,520.

Despite relying almost entirely on purported cost-based rationales for its decision-making, DHS never shows its math. It does not explain why each of these options would, in fact, result in increased costs for other forms. This omission is especially glaring, given that DHS elsewhere refuses to conduct the holistic fee review that would be required to assess what changes, if any, may be warranted with respect to the fees charged for such other forms.

DHS’s rationale is also internally contradictory. In rejecting subsidization as contrary to current policy, DHS never acknowledges that it has expressly *maintained* cross-subsidization to fund statutorily required military subsidies. Instead of implementing a straightforward beneficiary-pays model for all

49 *See, e.g.*, U.S. Dep’t of Homeland Sec., *Artificial Intelligence at DHS*, (last updated: Dec. 12, 2025), <https://www.dhs.gov/ai>.

naturalization applicants, DHS will subsidize the approximately \$12.5 million deficit associated with military applicants through increased Form N-400 fees. *Id.* at 37,514, 37,530. That discussion suggests either that DHS did not consistently apply its stated beneficiary-pays rationale when evaluating the reduced fee for military personnel, or that the agency in fact recognizes circumstances in which cross-subsidization remains appropriate for naturalization-related fees. Either way, the agency has not reasonably explained why cross-subsidization is unacceptable for some low-income applicants but acceptable for others.

III. Conclusion

For the reasons set forth above, the Proposed Rule is contrary to law and arbitrary and capricious in violation of the APA. The Proposed Rule would make naturalization unaffordable for a large portion of otherwise eligible immigrants. It serves no lawful purpose and would cause serious, in many cases irreparable, harm to immigrants, their families, and the United States. In issuing this rule, USCIS has failed to disclose the data and methodology underlying its cost and revenue projections, evaluate the reasonable alternatives identified above, and meaningfully address the reliance interests and adverse effects on applicants and their families.

ILRC urges USCIS to withdraw the Proposed Rule and to retain the existing fees, fee waivers, and reduced fees for Forms N-400 and N-336.

Respectfully Submitted,

The Immigrant Legal Resource Center