

March 7, 2023

Samantha Deshommnes, Chief  
Regulatory Coordination Division, Office of Policy and Strategy,  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
20 Massachusetts Avenue N.W.  
Washington, D.C. 20529-2140

**Re: DHS Docket No. USCIS-2021-0010—USCIS Genealogy Program Forms G-1041 and G-1041A**

Dear Ms. Deshommnes:

The Association of Professional Genealogists (APG) submits this comment to ardently oppose proposed fee increases to the USCIS Genealogy Program due to the negative impact it will have on our members' small businesses, as contemplated in the proposed rule. APG is a not-for-profit 501(c)(6) professional organization dedicated to the growth and enhancement of the genealogical profession.<sup>1</sup> Founded in 1979, APG is the world's largest association for professional genealogists, representing more than 2,000 members in forty countries around the world.

APG members utilize USCIS records because of the unique primary source documents and testimonies that cannot be located in other resources. These records are invaluable, and they help our members do valuable work. These fee increases stand to severely cripple genealogists' ability to execute research, repatriation, citizenship, and estate efforts, and would impose a severe financial burden on their livelihoods. USCIS has fallen short of its stated mission to provide essential records on a timely basis, and the proposed fee increase would make the information they control effectively unattainable to our members and their clients.

The proposed fees for the Genealogy Program are not remotely commensurate with fees charged for other kinds of historical public records in the United States. Nearly all federal historical records are available for free or for a small cost through the National Archives and Records Administration (NARA). For the \$350 cost of a single record from the USCIS Genealogy Program, our members can subscribe for an entire year to a database providing access to other Federal records. This reinforces how unique it is that a federal agency besides NARA possesses historical records in the first place.

Many USCIS records pertain to individuals who came to the United States from other regions of the world. They point to complex family structures, which allow genealogists to locate families who span across oceans. The records also document individuals' movements after their immigration. Frequently, records contain photos that might be the only existing image of these individuals. USCIS records are used for legal cases such as assisting the United States Military in the repatriation of service members' remains; helping individuals have their rights of citizenship recognized; and locating heirs in estate cases. More broadly, these records are of immense historical importance, providing exhaustive

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<sup>1</sup> <https://www.apgen.org/cpages/about>

biographical details about tens of millions of immigrants to the United States in the early-to-mid-20th century. The proposed fee increase would hinder APG members' clients' ability to afford these documents, thus depriving them of the information therein contained.

The repatriation of veterans' remains would be particularly impacted by the proposed rule. The U.S. Military hires genealogists to confirm the identity of service members through DNA testing of remains and to locate relatives of the deceased. The new fee structure would eliminate the ability for military-hired researchers to access documents that are vital to this process. This is particularly important for immigrants who gave their lives in battle, as these documents are often the only way to locate their next of kin. While it varies by branch, the Army, for example, provides up to 35.7 hours or 90 days for a researcher to conduct a repatriation case and does not reimburse expenses. If records cost hundreds of dollars and cannot be provided promptly, the Genealogy Program would be essentially unavailable for these initiatives. Many genealogists would be deprived of their livelihoods and veterans' remains would go unidentified, with immigrant veterans affected disproportionately.

Furthermore, access to specific Genealogy Program records can often make or break a case regarding access to dual citizenship. Unlike many other facets of genealogy where other types of surrogate documentation can be used to argue a genealogical conclusion, Foreign Ministries and Courts require specific documents such as Naturalization Certificates. These are often uniquely held by USCIS. Many of our clients are trying to rectify historical wrongs and are reclaiming citizenships that were stripped from families by authoritarian regimes. The proposed fee hikes would further hinder our clients from having their legal rights recognized, and as a consequence, these clients could be denied access to education, employment, and even healthcare. APG professionals have already reported that their clients are worried that the proposed fee would present an insurmountable financial barrier to completing their cases.

APG members have also reported that the Genealogy Program is increasingly debilitated by poor records management and/or staffing issues. Perhaps the clearest example of this mismanagement is in the current system to access Visa Files. It is usually very clear to a genealogist when a Visa File should exist because passenger manifests from the era indicate such. However, due to the way the records are organized, the file numbers are exclusively available via a USCIS Index Search. This means that anyone requesting a Visa File needs to undertake both the Index Search and Records Request steps. Under the proposed system, and based on the current backlog, this request would cost \$340 and would take more than two years.

Some APG members have reported that USCIS has been unable to locate any files for individuals who lawfully arrived for permanent residence during the era in which all such immigrants had Visas. The stated purpose of the Genealogy Program was to hire dedicated staff who were experts in locating these complicated records and could provide access better than the Freedom of Information Act (FOIA) staff could. Instead, USCIS is still frequently unable to find records, takes a year to respond, refuses to honor FOIA requests for these records, and charges for the opportunity.

Even for those records that can be found, USCIS's wait times already have a significant, negative impact on our work. Average wait times under the current system exceed one year for the first step of the

process—the Index Search. It takes, on average, an additional 1–2 years to obtain the actual files via a Records Request—some of which are simply a few pages printed out of the MiDAS System.<sup>2</sup> In one example, an APG professional ordered an Index Search for a Visa File in May 2020, received positive results, yet still waits for USCIS to produce the corresponding file. These significant backlogs are detrimental to professionals. Many of our clients are unwilling to engage our members’ services after learning of these extensive wait times. Even the proposal to provide digitized records as part of the initial request would represent more than a year’s wait for our clients, based on current wait times. This is simply unacceptable. APG questions why the USCIS Genealogy Program presents no explicit plans to reduce these backlogs while simultaneously planning to triple the costs.

This is an appalling system, especially considering that these records should no longer be under the oversight of USCIS in the first place. The Disposition Schedule<sup>3</sup> signed by USCIS in 2004 agreed that Quota Immigrant Visa Files (July 1, 1924–March 31, 1944) would transfer to NARA on April 1, 2019—seventy-five years after the closure of the file series. To date, none of these files have been transferred, violating the agreement and federal regulations.

As stipulated in 36 CFR § 1235.14, if an agency wants to keep records past a disposition date, they may do so only with “written approval from NARA.” To our knowledge, no such waiver has been granted. If the transfer had occurred according to the agreed-upon schedule, all 3.1 million Visa Files, as well as all 250,000 Registry Files, would be freely available to the general public through NARA facilities. This would allow genealogists the ability to research the files themselves, instead of paying hundreds of dollars and waiting multiple years for results. This would also relieve some of the backlog of the Genealogy Program Records Requests.

Those requesting A-Files numbered above 8 million have quite a different experience than those who are relegated to the Genealogy Program. For reasons unclear to APG, USCIS does not require that FOIA requesters first submit an Index Search for these records. One simply needs to submit a FOIA request for the immigrant’s file. As long as the name, date of birth, and country of birth are provided, USCIS produces the document within a few weeks. Considering that the number of pages in these documents is often orders of magnitude larger than most Genealogy Program responses, we find this disparity to be inexplicable. USCIS has put requesters into different buckets based on fairly arbitrary criteria, fulfilling some requests in a few weeks, and others after many years. The vast majority of records requests that the agency processes are for these higher-numbered A-Files—comprising about 250,000 per year. Meanwhile, USCIS neglects the far fewer requests for older files.

In making past proposals to raise Genealogy Program fees, USCIS has acknowledged that small businesses might be impacted, yet it has done nothing in the ensuing years to attempt to capture this data from requesters—instead leaving it to organizations such as APG to demonstrate how detrimental these

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<sup>2</sup> <https://www.uscis.gov/records/genealogy/genealogical-records-help/request-status>

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[https://www.archives.gov/files/records-mgmt/rcs/schedules/departments/department-of-homeland-security/rg-0566/n1-566-04-003\\_sfl15.pdf](https://www.archives.gov/files/records-mgmt/rcs/schedules/departments/department-of-homeland-security/rg-0566/n1-566-04-003_sfl15.pdf). See also: [https://www.archives.gov/files/records-mgmt/rcs/schedules/departments/department-of-homeland-security/rg-0566/n1-566-04-004\\_sfl15.pdf](https://www.archives.gov/files/records-mgmt/rcs/schedules/departments/department-of-homeland-security/rg-0566/n1-566-04-004_sfl15.pdf), which stipulates that Registry Files should have transferred on the exact same date.

fees truly are. We can tell you that our members are hurting because of how the Genealogy Program operates.

Increasing fees would make this problem paralyzingly worse. APG's member directory shows that 438 members specialize in immigration and emigration, and each and every one of these professional genealogists would be impacted negatively. Many of these genealogists are sole practitioners or work for small businesses. They would be forced to either pass the costs onto clients or take significant hits to their income.

Given all of these issues, the proposed rule is clearly beyond the pale. USCIS has outlined no explicit designs to improve customer service, reduce backlogs, or meet its obligations under its disposition schedules that have been ignored for years, while insisting that FOIA does not apply to these records. The rule, if enacted, would make the Genealogy Program effectively unviable to genealogists. APG's sole proprietors and small business owners would suffer greatly.

USCIS has already demonstrated its inability to manage the historical records under its control, and we oppose this proposal, which would virtually cancel out our ability to use these records. APG strongly urges USCIS to: (1) publicly present a plan to fix this program; (2) outline how they intend to work with NARA to implement the overdue transfer of records; and (3) permanently shelve the proposed fee schedule increase.

Sincerely,

A handwritten signature in cursive script, reading "Annette Burke Lyttle". The signature is written in black ink and includes a long horizontal flourish extending to the right.

Annette Burke Lyttle, President  
Association of Professional Genealogists