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Submitted via www.regulations.gov

Samantha Deshommes, Chief
U.S. Citizenship and Immigration Services
Department of Homeland Security (DHS)
Office of Policy and Strategy – Regulatory Division
20 Massachusetts Avenue, NW
Washington, DC 20529-2140

Re: Docket No. USCIS-2010-0008, OMB Control Number 1615-0116, Comments in Response to Proposed Rulemaking: Agency Information Collection Activities; Revision of a Currently Approved Collection: Request for Fee Waiver; Exemptions

Dear Ms. Deshommes:

On behalf of the Southeast Asia Resource Action Center (SEARAC), we offer comments in response to the Department of Homeland Security (DHS), United States Citizenship and Immigration Services (USCIS) notice of proposed rulemaking (NPRM) to discontinue the use of means-tested benefits as a factor when considering fee waivers for naturalization in favor of using income as the sole determinant.¹

SEARAC is a national civil rights organization that empowers Cambodian, Laotian, and Vietnamese Americans communities to create a socially just and equitable society. As representatives of the largest refugee community ever resettled in the United States, SEARAC strongly believes that fair immigration processes and decreased barriers to citizenship for Southeast Asian American (SEAA) communities are necessary for lawful permanent residents (LPR) to fully participate in the American ecosystem.

The proposed changes to the fee waiver eligibility criteria and accepted forms of evidence create an additional burden for immigrant communities, refugees and vulnerable individuals. Narrowing the scope of factors determining applicant fee waiver needs creates additional monetary hurdles negatively affecting the ability of many low-income immigrants to naturalize. Efforts should be made by the Department to reduce barriers to citizenship rather than make the

¹ Agency Information Collection Activities; Revision of a Currently Approved Collection: Request for Fee Waiver; Exemptions. (2018, September 28). Retrieved November 19, 2018, from <https://www.federalregister.gov/documents/2018/09/28/2018-21101/agency-information-collection-activities-revision-of-a-currently-approved-collection-request-for-fee>.

process less accessible. If USCIS were to make any changes to the fee waiver form, we urge the agency to expand the types of documentary evidence accepted in order to establish eligibility for a fee waiver in order to ensure the fair and efficient adjudication of these applications.

Southeast Asian Americans are Refugees who want to Naturalize

SEAAs are the largest refugee population ever resettled in the United States, with over one million individuals resettled from Laos, Cambodia and Vietnam due to the US-backed war in Southeast Asia over 40 year ago.² Today, SEAAs total nearly 2.8 million across the nation³ and are active, integral members of our society, particularly in often economically stagnant localities

Naturalization is critical for many SEAA lawful permanent residents to fully integrate and engage in the United States. Citizenship is also necessary for many of these individuals to claim entitlements they currently or previously work towards, such as social security. As such, many SEAAs have naturalized. According to the 2013 Census, approximately 68% of Cambodians, 69% of Lao, 74% of Vietnamese, and 70% of Hmong Americans born abroad have naturalized compared to only 46% of immigrants overall.⁴ **However, a sizable portion of these communities have yet to naturalize⁵ due to other barriers, including but not limited to income and language ability.**

Despite Moderate Success, Southeast Asian Americans are still Impacted by High Rates of Poverty and Language Barriers

SEAA communities are particularly sensitive to changes to fee waivers eligibilities. They encompass some of the highest rates of limited English proficiency (LEP) and poverty of all racial and ethnic groups in the United States. According to U.S. Census estimates from 2011-2015, 38.3% of Cambodian, 36.7% of Hmong, 34.5% of Lao, and 48.6% of Vietnamese households that speak English less than “very well,” compared to 8.6% of total US households.⁶ Because of high LEP rates, many require the assistance of translators in their application process, increasing burdens on already under resourced community-based organizations or further increasing the costs of applying for applicants hiring private services.

SEAA communities also experience poverty at high rates, with 11% of Lao families, 13% of Vietnamese families, 14.9% of Cambodian families, and 16.3% of Hmong families still living

² Southeast Asia Resource Action Center (2011). *Southeast Asian Americans at a Glance: Statistics on Southeast Asians adapted from the American Community Survey*. Retrieved from <http://www.searac.org/wp-content/uploads/2018/04/STATISTICAL-PROFILE-2010.pdf>.

³ U.S. Census Bureau. Asian alone or in any combination by selected groups, 2012-2016 American Community Survey 5-Year Estimates. Retrieved from https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_16_5YR_B02018&prodType=table.

⁴ Id. at 3.

⁵ Ink, S. (2016, July 21). CMS Releases More Data on the Naturalization-Eligible. Retrieved from <http://cmsny.org/more-naturalization-data/>. Only 18% of eligible Cambodians, 11% of eligible Lao, and 16% of eligible Vietnamese green card holders naturalized, which means that a sizable portion of the population still faces barriers to naturalization.

⁶ U.S. Census Bureau. Language Spoken at Home, 2011-2015 American Community Survey 5-Year Estimates. Retrieved from https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_15_SPT_DP02&prodType=table.

below the poverty line.⁷ As such, these communities rely heavily on programs like SNAP and Medicaid to help support their livelihoods⁸ and demonstrate the reliability of means-tested public benefits as a primary evidence of financial hardship. Because of these communities' low English ability, high poverty, and reliance on welfare programs, removing automatic waivers only further decreases the ability of SEAAAs from naturalizing.

The Proposal Increases Barriers to Naturalization

Many Southeast Asian immigrants and refugees rely on fee-waivers to naturalize. The filing fee associated with various immigration benefits can be an insurmountable obstacle for an immigration benefit or naturalization application. Any opportunity to mitigate the costs associated with filing should be designed to ease, rather than exacerbate, these obstacles.

The application requirements and additional evidence necessary derived from this proposal increases the complexity for filing Form I-912. Given the already high rates of LEP individuals in SEAA communities,⁹ this will likely lead to higher rates of mistakes in the process for these applicants. The complex form for a fee waiver and the already daunting naturalization fee will likely decrease the ability of LPRs from applying for U.S. citizenship.

Additionally, the naturalization fee has gone up 600% over the last 20 years, pricing many qualified green card holders out of U.S. citizenship. As mentioned above, there is a high rate of poverty in SEAA communities. However, many SEAA LPR families face additional financial hardships in addition to their low-income. Since 1998, at least 16,000 SEAA community members have received final orders of deportation to the countries they originally fled as refugees.¹⁰ Many of these individuals are the primary breadwinners in their families, and their detentions and deportations have further impoverished their already poor families, primarily women and children.¹¹ Removing means-tested benefits as evidence for a fee waiver only further reduces the ability of the remaining family members from naturalizing. By limiting the ways a person can show they qualify for a fee waiver, USCIS is creating a process inaccessible to many SEAA individuals.

The Federal Poverty Standard is Insufficient for Accurately Measuring Financial Hardship

USCIS argues that inconsistent income levels utilized by states to determine eligible for means-tested benefits results in varied incomes levels used for the determination of fee waivers.¹² However, the current federal poverty guidelines do not accurately measure the costs of living in

⁷ U.S. Census Bureau. 2017 American Community Survey 1-Year Estimates. Retrieved from https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_17_1YR_S0201&prodType=table.

⁸ Id at 7.

⁹ Id. at 6.

¹⁰ (n.d.). Retrieved November 21, 2018, from

http://trac.syr.edu/phptools/immigration/court_backlog/deport_outcome_charge.php.

¹¹ National Asian Pacific American Women's Forum & Southeast Asia Resource Action Center (2018). *Dreams Detained, in Her Words: The effects of detention and deportation on Southeast Asian American women and families*. Retrieved from https://www.searac.org/wp-content/uploads/2018/09/dreams_detained_in_her_words_report-2.pdf.

¹² Proposed I-912 Fee Waiver Form Revision. (2018, September 27). Retrieved November 21, 2018, from <https://www.uscis.gov/news/alerts/proposed-i-912-fee-waiver-form-revision>.

2018.¹³ It does not take into account regional differences in cost of living nor does it account for necessary expenses outside of food.

States are correct in employing different income levels to determine financial need. Because current federal poverty guidelines do not sufficiently capture financial hardship, in 2008, then New York City Mayor Michael Bloomberg adopted the 1992 National Academy of Sciences' recommendations for measuring poverty.¹⁴ Additionally, the modern costs of living in locations such as California (home to almost one million SEAAAs) are substantially different than those in Oklahoma.¹⁵

Given that many SEAAAs are concentrated in major metropolitan areas,¹⁶ their economic status may not be accurately captured using even the 150% federal poverty standard. Under the proposed changes, applicants must now pass a more subjective standard relative to the automatic waiver granted using the more objective means-tested benefits. The proposal prioritizes outdated standards that would only increase barriers to citizenship for LPRs.

For the reasons discussed above, we strongly urge DHS and USCIS to withdraw the proposal. Of the options currently available, means-tested benefits as a factor for fee waivers provides the most objective and accurate standard for determining financial hardship. Efforts to eliminate this criteria would only prevent more LPRs from naturalizing.

Sincerely,



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¹³ Fessler, P. (2009, September 10). In New York City, Poverty Defined In New Terms. Retrieved November 21, 2018, from <https://www.npr.org/templates/story/story.php?storyId=112641330>.

¹⁴ Id. at 13.

¹⁵ Sauter, M. B. (2018, May 10). Cost of living: The purchasing power of a dollar in every state. Retrieved November 21, 2018, from <https://www.usatoday.com/story/money/economy/2018/05/10/cost-of-living-value-of-dollar-in-every-state/34567549/>.

¹⁶ Rodriguez-Gitler, A. (2017, September 08). Top 10 metro areas by Vietnamese American population. Retrieved November 21, 2018, from <http://www.pewsocialtrends.org/chart/top-10-u-s-metropolitan-areas-by-vietnamese-population/>. This chart focuses on Vietnamese Americans, but Cambodian, Hmong, and Laotian Americans follow similar trends.