

What Would It Cost to *Really* Check an Amnesty Application?

By David North

If the United States were to have yet another amnesty program for illegal aliens — something I oppose — what should the fee be for *really* checking each application? Currently United States Citizenship and Immigration Services (USCIS) charges \$465 to process (rubber-stamp?) the applications for Deferred Action on Childhood Arrivals (DACA), the administration's on-going amnesty for some under-31 illegal aliens. The scrutiny in this program is so skimpy that while, as of March 14, 2013, more than 450,000 applications had been filed (and more than 245,000 had been approved), USCIS had yet to announce the denial of a single one of them.

Since all applications should be examined with care, and bearing in mind some illegals have more complex cases than others, there is a need for a sliding scale of fees for any future amnesty to reflect the real costs of checking each application carefully.

These are rough estimates of the costs for each applying illegal alien:

- \$917 each for the processing of the simplest, cleanest applications;
- A sliding scale for more difficult ones, up to a total of \$2,612 at the extreme;
- Varying medical examination fees will also be charged, something like \$200;
- The estimated average administrative cost would be about \$2,000 per amnesty applicant. Multiplying that by 10 million applicants would yield a total administrative cost of \$20 billion;
- This total cost would not include unpaid back taxes or any fine that might be levied.

This may seem to be an expensive package, but the alien involved will be essentially excused for past violations of the immigration law and related crimes (such as using a phony Social Security number), will be able to stay in the United States for the rest of his or her life, and will be allowed to work legally in the United States, all remarkable advantages.

But before we deal with the rationale for the size of the fees, let's look at the underlying situation that will shape any future fee structure. What are the economic factors at work here? What do the illegals owe the society they want to join? How much will they benefit from legalization? Obviously we are not going to legalize every illegal, no matter when they arrived, but exactly what qualifications do we want among those to be amnestied? And, of course, what will it cost administratively to make sure that only the appropriate illegals are granted legalization?

The Economics. Will the United States, generally, benefit from the legalization of millions of more low-skilled workers when we have some 20 million legal residents unemployed? Hardly. Some employers, working at the edges of our economic life, will benefit from the expansion of the legal labor pool at the bottom of our labor markets, but that does not translate into a public good.

David North is a CIS fellow who has studied the interaction of immigration and U.S. labor markets for more than 40 years.



Center for Immigration Studies

On the other hand, will the individuals to be amnestied profit from the process? They will secure the peace-of-mind that they are now lacking, a huge plus. They will also be able to get legal, and probably somewhat better paid, jobs than they have now — or in some cases cannot get now. Will their families benefit directly and indirectly? The answers to all those questions are thunderous yeses.

Given the lack of a benefit to the public, and a huge benefit to the individuals, clearly the aliens should pay substantial one-time costs for the life-long benefits they are about to receive, whether the legal status puts them on the path to citizenship or not.

The Moral Equation. Over and above the economic matters mentioned above, there is a huge moral question that has generally been ignored in the often fact-free debate about a legalization program: How much damage have the to-be-amnestied already done to American systems?

Unfortunately the *mas* migration people have persuaded too many policy makers that the presence of millions of illegal aliens in our midst is cost-free. It is not.

To be cost-free to society, the illegal aliens would have to have had a history of *not* working, *not* using the school systems, and, of course, *not* using any part of the welfare system, a highly unlikely combination. They came here for economic reasons, and it makes sense that virtually all of them have been economically active and/or using public funds during most of their time here.

So what are the costs thrust on society by individual illegal aliens?

First, there is the individual's contribution to lowering wages for other low-skilled workers, and helping to create the growing economic inequality in America. All this is presumably invisible to the alien applicant, but it is there, nevertheless, if hard to quantify.

Second, what are the *legitimate* costs run up by the illegal aliens as they took advantage of tax-supported programs open to them, such as the public schools, emergency Medicaid, and WIC (Women, Infants, and Children)?¹

Third, what are the *additional, illegitimate* costs they have created for the rest of us? To a great extent these costs should be recorded and repaid by the individual illegals, and these costs will vary from alien to alien. These costs are:

- The non-payment of federal and state income taxes, in many but not all cases;
- The widespread use of phony Social Security numbers (the untangling of which is another cost item);
- The *illegitimate* uses of tax-supported programs, such as cash assistance and unemployment insurance; and
- The costs, in some cases, of crimes committed.

Some of these illegitimate cost items can be measured, and some of those can be recaptured; the indirect costs among them, such as depression of the labor market, cannot.

So, Who Should Earn Amnesty? Here's a suggestion for a profile of an illegal alien who can, potentially, earn legalization, if there is to be such a program. That person:

- Should have been here for, say, at least four or five years before a specified date; any shorter period suggests only minimal contact with the United States;²
- Should have a relatively clean criminal record, say no felonies, no more than two misdemeanors, no DUI charges;

Center for Immigration Studies

- Should have paid his or her federal and state income taxes in full for the last three years;³
- Should have some minimal education and some minimal command of the language, with the education equal to that of, say, a high school drop-out;
- Should have either a clean record on non-illegitimate use of the welfare system, or have repaid what is owed.

These are minimal requirements. They are being applied to a population whose basic characteristic is that the members of it have broken the law by being here illegally. If we are going to grant them legal status, can't we ask that they have only minor criminal records, and that they have been here for a while, that they have paid their taxes, and have some education and some ability with the language?

If these sensible requirements are in place, then a system has to be devised to make sure that the applicant meets these standards, and it is the costs of such a system that will dictate the fees.

A Proposed Screening System. Currently the screening system for DACA involves filing an application with some supporting documents, a review of some of those documents, the collection of fingerprints, and a check against the criminal record systems. Interviews are not the norm.

In order to make sure that future amnesty applicants meet the minimal standards proposed above, a screening system along the following lines needs to be created. It will be a process designed to cope with various degrees of difficulty, with fewer steps (and lower costs) for those with straightforward situations.

Before getting into the details, let's sketch two case histories at different ends of the difficulty scale. There's Jose's easy-to-handle situation, and Pedro's more complex, and more uncertain one.

Jose, a native of Argentina, is a college graduate, who came here six years ago on an F-1 visa to attend graduate school. He dropped out of grad school, and legal status, nine months later. He speaks sufficient to good English. He has worked continuously since his arrival, if not always full time, using the Social Security number (SSN) he picked up in grad school; he has paid his state and federal income taxes. He has no criminal record, and documents that Jose has secured from the unemployment insurance and welfare systems indicate no use of government-supported programs. Thus his arrival in the United States is known, as is the starting date of illegal status; his education is documented and his language is clearly good; checking IRS, criminal, and welfare records is relatively easy, and the results are clean.

His is an easy case and will be approved, and his fees should be low — but above the \$465 set for the DACA program.

Pedro, who did not complete grade school in Honduras, says that he crossed the U.S. border in the middle of the night six years ago. He is vague about the details, saying an uncle, now dead, accompanied him at the time. Pedro can speak some English and has had no exposure to organized education in the United States, but says he has done some useful reading on his own and might be able to pass a civics/English test. He has worked, mostly for cash, in the underground labor market, and has filed no income tax returns. His family in the United States, which includes at least one legal resident, may have collected food stamps for him and he is pretty sure that he used a phony SSN to obtain some unemployment insurance benefits. He has had some run-ins with the police, but whether that disqualifies him is a matter of dispute.

Pedro's case is a difficult one, which could go either way. Clearly, processing each of the various length-of-stay, educational, tax, criminal, and welfare issues will be expensive for the government and should be met by several different fees, which will be much higher for Pedro than for Jose.

Now, bearing in mind the potential ranges of difficulty presented by these cases, can one design a system that can handle both Pedro and Jose? Yes, it is possible, if costly, and one such approach is outlined below.

A Detailed, Model Screening System

The system is designed to make sure that there is independent evidence on applicants that proves that they meet the entry, duration, education/English, tax, and non-welfare requirements.

Step One, Opening Interview. The system starts with the filing of a complete application that covers the full set of issues outlined earlier, a review by a USCIS officer (not a clerk, not a contract staffer), and a face-to-face interview between the officer and the applicant. There would be a single fee covering the costs of steps one and two.⁴

The officer is expected to handle no more than two interviews a day; the officer is to spend an hour or so examining the application, and checking its claims before the interview.

In the case of Jose, the officer will, for example, call up the U.S. graduate school and find out if it did, in fact, admit Jose, and will check his filed income tax returns with IRS. There will also be a check with the FBI's criminal records files. These checks will be followed by the interview, in which the officer reviews various aspects of the application, and during which the applicant may — if faced by an awkward set of facts uncovered by the officer — withdraw the application and get all or part of the fee refunded.

This option for the voluntary withdrawal of applications (not now part of the DACA process) will presumably eliminate only a minority of the inadequate applications, but the withdrawal will be relatively painless for all concerned; it is modeled on how INS used to handle marginal naturalization applications, but is probably not now used by USCIS in the same way.

The interview is to be recorded and this is to be made known to the applicant; the recording will be helpful in two connections: 1) it will discourage (or record) any bribery efforts, and 2) it will record the actual level of English spoken by the applicant.

Next, after the interview, the officer will spend another hour checking various data sets, largely computerized, regarding the applicant.

Step Two, Initial Determination. The officer, at this point is to make one of three recommendations: 1) the application for temporary legal status, not yet a green card, should be approved, as would happen in the case of Jose; 2) the application should be left open to resolve identified issues, as would be the case with Pedro; or 3) the application should be denied. In the last instance, if the officer found that the application was fraudulent, as opposed to simply not meeting the standards, a referral would be made to ICE for removal.

Determinations 1 and 3 would be subject to a supervisory review, but the presumption would be that the interviewing officer's recommendation would be accepted. Officers whose approval/denial averages are well out of the local normal range would find their recommendations subject to more intensive review than the recommendations of other officers.

In the case is left open (i.e., resulting from decision 2) the officer would list the problem areas for further review and set in motion one or more of the following steps. There would be an additional fee for each of these steps. There could be as many as five additional steps in difficult cases, such as Pedro's.

Step Three, Confirming the Duration of Stay in the United States. Jose's Argentinian passport, as confirmed by DHS records, shows his arrival on an F-1 visa and his grad school records document his dropping out of status nine months later, all easily confirmed during the initial interview. On the other hand, Pedro's story (which may very well be accurate) that he arrived as an EWI (entry without inspection) with his uncle carries no such confirmation.

Center for Immigration Studies

Pedro's application will need further detailed examination to support his claim that he has been illicitly in the country for five years. Perhaps emergency room records, early employment confirmation, and/or a dated photo at a church event can be collected and evaluated to support Pedro's account. Had Pedro had any contact with American schools, this might provide needed confirmation.

This process would generate a separate fee to USCIS.

Step Four, Confirming the Criminal Record or Lack Thereof. In some cases, a check with the FBI files will not be conclusive, or will present challenges of definition (e.g., were there two or three misdemeanors?).

Sorting this out would create another USCIS fee.

Step Five, the Income Tax Record. The standard here is that a federal income tax return, for a plausible level of income, must be recorded for all the full years that the illegal has been in the United States starting with the year the applicant turned 18. While it will be possible for an applicant to argue that he had an income below \$3,800⁵ in a given year, the burden of proof will be on the applicant. (If there is federal return, there should be a state return as well, except in states like Texas where there is no state income tax.)

If the officer finds an implausible income tax record — or an incomplete one — in the first interview, the officer will tell the applicant he needs to return to USCIS after he has filed the IRS form 1040X and taken care of any state tax requirements for the missing year or years. The 1040X is the IRS form used to correct previous filings or non-filings.⁶

If this step is needed, an additional fee to USCIS would be levied.

Step Six, the Education and English Requirement. In the current DACA program this requirement is virtually meaningless. One can satisfy it by showing a diploma, but one can also meet it by demonstrating that one was enrolled in a U.S. educational program of some kind *on the day* one filed the DACA application.

This requirement can be sorted out in the initial interview if the applicant presents adequate documentation the he/she has completed at least one year of formal education in the United States at the post-primary level, or has a three-or-four year overseas BA degree, *and* speaks plausible English *and* has submitted an amnesty application in plausible written English. Lacking any one of those three, Step Six is invoked.

The applicant has two choices at this point: 1) the alien can opt for a standardized USCIS test covering basic civics (as taught at the ninth-grade level in the United States), and an English language test, again at that grade level. If the applicant fails the test the alien can try again in two months; if the alien fails a second time there would be a third opportunity two months later, and if there is a third failure the application is denied. 2) The alien can ask to be reviewed on the English/education variable nine months to a year later after completing an American educational program. If the alien fails at that point, then the application is denied.

If either the first or the second of these paths is chosen there will be an additional USCIS fee.

Step Seven, the Non-Welfare-Use Requirement. This requirement can be handled during the initial interview if the applicant presents documents from the agencies running the listed programs in each jurisdiction where the alien has lived in the last three years, indicating that no benefits were paid to the alien, directly or indirectly, including food stamps (SNAP), cash assistance (TANF), unemployment insurance, or Medicaid, in all cases, and Social Security in cases with applicants over the age of 50. If the integrity of these four (or five) documents is confirmed by the USCIS officer at the initial session, there is no need for step seven, unless the other data on the illegal, notably the income tax filings, suggest otherwise.

Center for Immigration Studies

The programs consulted by the alien applicant might charge their own fees for these name checks.

If there is a single inappropriate use of the welfare system, the applicant will be given the opportunity to repay the system for the benefits received. If the abuses extend to more than one agency, or more than one round of related benefits,⁷ there will be no such opportunity, and the application would be denied.

If the reviewing officer has to extend his or her scrutiny of the non-use of welfare requirement for any reason, beyond the initial interview, there will be another USCIS fee.

It should be noted that the required documents on non-use of income transfer and welfare programs would apply to only four, and sometimes five, of the largest of these programs, and only relate to those programs to which the applicant could not possibly be eligible. There is no requirement here that applicants report the use of tax dollars in programs such as WIC or K-12 education, which they are allowed to use by law.

I estimate, very roughly, that on average each of these five additional steps, numbers three through seven, would consume about three hours of an officer's time on average. Some would, of course, take much more and some less, but an average is needed for billing purposes.

Two Other Processes

Two other parts of the overall amnesty process need to be considered, though neither relates to USCIS fees. The first is the medical screening that will take place before any final amnesty decision is made, and the second is the question of Social Security numbers, a process that should only begin after amnesty has been granted.

Medical Screening. Immigrants routinely are subject to a self-financed medical screening, which was also the practice during the legalization program set in motion by the Immigration and Control Act of 1986 (IRCA). I would assume that such a screening would be mandatory for any new amnesty program.

The results are rarely used to block admission of an alien, but they are extremely useful in conveying information to the alien about his or her health problems. They also make sure that newcomers to the United States have a full set of vaccinations. The system, oddly, no longer tests for HIV, but continues to run skin tests (and, if needed, chest x-rays) for tuberculosis.⁸

My sense is that this is an extremely useful, enforced contact between aliens in this country and the medical system and is as helpful to society at large as it is to the aliens.

The screenings are done by civil surgeons who are designated by USCIS. Their fees are not subject to any USCIS rulings, but during the IRCA amnesty we observed that in areas of many applicants, the market held down the fees.⁹ A March 2013 Google search found no hard and fast information on these fees, but most *ad hoc* mentions of them seemed to range from \$129 to \$400.

Frankly, given the public health benefits to all of us, I think these fees should be subsidized by the federal government, but this seems unlikely. Some lucky applicants who have some form of health insurance may find their policies cover some of the costs.

My very rough estimate is an average cost of about \$200 per applicant. This cost is separate from, and in addition to, the USCIS fees discussed in this paper.

Straightening Out Social Security Numbers. One of the useful by-products of the IRCA program was the correction of something like two million Social Security accounts that had been scrambled by illegal aliens using either made-up numbers or those belonging to other people.¹⁰

It is clear that a similar, and presumably larger operation, will take place as a result of any future amnesties. The process, though expensive to the government, was funded last time by the agency's own substantial budget, with no fees being charged to the illegal aliens.

What Will Be the Costs of a Careful USCIS Screening?

Let's return to the central question of the cost of a comprehensive review of legalization applications, given the seven-step procedure outlined above.

The formula used to estimate costs is based on three variables. First, there is the \$465 that USCIS charges for the receipt of an application and a superficial check to make sure that the documents are complete, signed, and the fees are paid;¹¹ that sum also covers other things that USCIS currently does with these applications, such as the collection of fingerprints and checking the criminal records system. These things continue to need to be done so the \$465 should be a basic building block for the new set of fees.

The second variable is the amount of officer time not now spent on DACA applications that should be spent on any new round of amnesty. We have estimated this at an additional four hours for the universal interview and related activities for all applicants, and three hours on average for each of the five additional steps that will be needed in many cases. If anything, I suspect that these estimates are understated.

The third variable is the cost of an officer hour. To make this estimate, a number of subsidiary estimates must be made, as follows.

First, I assume that the GS pay scales in effect on January 2013 will not increase during the period of the amnesty.¹²

Second, I assume that while many of the officers will be in grades 11 and 13, on the GS pay scale, the average annual pay will be that of a GS 12 in the second step, or \$77,368 a year. (It is important to the integrity of the program that journeymen civil servants make these determinations, not people with less experience and less knowledge of the immigration system.)

Third, a year's salary is likely to produce 214 days of work interviewing applicants; that is based on 260 total work days in the year, minus an estimated average of 19 days of vacation, 13 days of sick leave, nine federal holidays, and five days of training; a total subtraction of 46 days, leaving 214.

Fourth, the raw salary paid to a federal employee is only a fraction of the total cost of providing a day's or an hour's services. My estimate is that the raw salary cost should be multiplied by 2.5 times to cover, among other things, benefits for the worker, several layers of supervision, a little clerical support, and some time from the agency lawyers as well as equipment, rent, and utilities. Clearly others might make different allowances for the same factors. Some of these differing estimates could balance each other out and some would not, but I suspect these are roughly fair ballpark estimates.

Fifth, when all those factors are taken into account an officer's total cost comes to \$904 a day, or \$113 an hour; the numbers are $\$77,368 \text{ per year} \times 2.5 = \$193,420$; $\$193,240 \div 214 = \904 a day , after rounding.

With these calculations and estimates in hand we have the following amnesty fees:

Steps One and Two, the current fee \$465 plus \$452 (four hours of officer time) = \$917.

Steps Three through Seven = \$339 (for three hours each).

Center for Immigration Studies

Total USCIS fees, thus would have a range of \$917 for the most straightforward cases to \$2,612 for the most time-consuming cases. The medical examination fee, and perhaps some other agency fees, will be in addition to the range noted above, as would, in many cases, moneys used to compensate for non-payment of income taxes in the past.

Given the huge financial (as well as peace of mind) benefits amnesty will bring to the applicants there should be no fee-waiver arrangements. However, given the low income levels of most of the applicants, and presumably a low level of savings, some creative governmental arrangements probably should be made in this connection to keep the amnesty applicants out of the hands of the lawless loan sharks and their cousins, the not-quite-lawless payday lenders.

USCIS will have major inflows of cash from this program; perhaps some small part of that cash could be used to make loans to micro-finance organizations sponsored by the Office of Refugee Resettlement and to other non-profit, migrant-serving agencies to run low-interest-rate loan programs for amnesty fee loans. Presumably there would be an upper limit placed on the interest rates to charged by these entities.

USCIS might allow up to 50 percent of its amnesty fees to be paid via credit cards; USCIS already allows such charges for other fees but, to my knowledge, barely mentions this possibility to applicants. I suggest only 50 percent to cause at least some expenditure of non-credit money by the applicant

And, as suggested earlier, some part of the government might fund, in full or in part, the fees charged in connection with the medical examinations.

End Notes

- ¹ WIC provides nutritious food for infants and nursing and pregnant mothers, regardless of immigration status.
- ² If the applicant is 20 years old, the five-year requirement indicates that it is acceptable that he has spent only 25 percent of his life in the United States and 75 percent elsewhere; this is a way of looking at the matter that is rarely mentioned.
- ³ The IRS system currently accepts corrections only on the last three years' filings.
- ⁴ This up-front fee would also cover the fingerprinting that USCIS terms its "biometrics" fee.
- ⁵ IRS rules, as shown in the agency's ["Instructions for Form 1040NR"](#) indicate that, for the year 2012, those who earn less than \$3,800 need not file: \$3800 is the standard deduction for all individual filers. That dollar figure was slightly lower in earlier years. The 1040NR is the form to be used by aliens in their first five years in the States; it is less generous in its terms than the 1040; aliens filing the 1040 when they should file the 1040NR is a problem.
- ⁶ I have had an extensive amount of contact with form 1040X in recent years because I manage, as a volunteer, an income tax assistance program for graduate students, many of them F-1s, at a DC- area university. The 1040X, unlike the 1040, is not well designed and often my colleagues and I in the tax assistance program (with the exception of me, all are PhDs or candidates for doctorates) are puzzled by its intricacies. It works best when the correction is to note income when none previously had been reported; it works less well when something more complicated has to be recorded.
- ⁷ Collecting unemployment insurance illicitly for one period of six weeks, say, would count as a single transgression, but collecting it in two different cycles of unemployment would be regarded as a multiple violation.
- ⁸ See the USCIS [document on TB screening](#).
- ⁹ I was retained by both the Ford Foundation and the Administrative Conference of the United States (a federal agency) to monitor the IRCA legalization program; for more on the medical screenings, see the resulting report: David North and Anna Mary Portz, *The U.S. Alien Legalization Program*, Washington, DC: TransCentury Development Associates, 1989 (out of print), p. 29.
- ¹⁰ *Ibid.*, pp. 73-75.
- ¹¹ This work is done by contractor staff belonging to JPMorgan, and if the applications are not complete they are returned to the applicant for re-submission. These are called "rejections" and do not block subsequent re-applications. Whether JPMorgan would get this work in a subsequent amnesty is not known to me, but it currently has a monopoly on paper-handling for USCIS, as we noted in a blog on the subject entitled ["JPMorgan Sends U.S. Jobs to India, Gets H-1Bs and Millions from USCIS"](#).
- ¹² See this [pay scale chart](#). In this paper's calculations the wage rates in the Baltimore/Washington area was used.