

USCIS Responses to the Congressional Research Service

Question 1: What is the cost of DACA?

USCIS Response:

There is no fee for filing the form I-821D, Consideration of Deferred Action for Childhood Arrivals. As noted on page 11 of the form instructions, there is no filing fee, but the alien must submit the I-821D with a request for Employment Authorization (form I-765) and biometric services. The I-765 fee is currently \$410 and the biometric services fee is \$85. Thus, the I-821D is filed with the I-765 and the biometrics request, and the total fee is \$495 (\$410 + \$85).

USCIS generally uses a full cost recovery model to set its immigration adjudication fees, so fixed overhead costs are spread among all adjudication and naturalization service fees. However, since DACA requests were not included in the full cost recovery model for the I-765, the I-765 overhead cost allocation is spread among fewer requests, and the I-765 fee would be less than it is today if the DACA requests had been included in this overhead allocation. For more information on the cost recovery model see the fee rule in the October 24, 2016, Federal Register notice at 81 Fed. Reg. 73292. DACA is one of few exceptions to the general rule of cost recovery. Benefit types that currently have no fee and whose costs are spread across all other adjudication and naturalization service fees include refugee and asylum applicants, applications filed by victims of a severe form of trafficking in persons, victims of criminal activity, and applicants filing under the Violence Against Women Act.

Through its current draft FY 2019 – FY 2020 Immigration Examinations Fee Account (IEFA) biennial fee review process, USCIS has determined that the cost of processing initial DACA requests under Form I-821D is \$446 and the cost to process DACA renewals is \$216. Thus, the estimated cost to USCIS to adjudicate the two requests is their respective cost multiplied by the volume adjudicated. In 2017, USCIS adjudicated 56,506 initial DACA requests, so the total cost for 2017 is estimated at \$25.2 million. USCIS adjudicated 419,071 renewals in 2017, for a total estimated cost of \$90.5 million.

2016 initial I-821D adjudications: 64,105

2016 renewal I-821D adjudications: 148,860

2015 initial I-821D adjudications: 109,702

2015 renewal I-821D adjudications: 421,617

Question 2: Where does the funding for DACA come from? I understand that the fees charged to applicants for employment authorization and biometric services help fund the program, but it is not clear to me whether they cover the entire cost.

USCIS Response: All USCIS fees are pooled in the IEFA. Funding for DACA is taken from the IEFA. Since all fees are pooled, no direct correlation can be made between IEFA money used to fund DACA and fees collected from specific form types that are deposited in the IEFA.

It is nevertheless important to note that the fee for the Form I-765 applicable at the time DACA was established was set at the \$380 level to account for:

(1) the costs of adjudicating an application for employment authorization and creating an Employment Authorization Document (\$338); and

(2) an additional \$42 to reflect:

(a) the reallocation of \$9 to the I-765 to keep the naturalization application (N-400) fee the same as was set in the FY 2008/2009 fee rule; and

(b) the addition of \$33 to pay for other policy decisions, such as the cost of fee waivers and exemptions, workload that does not generate revenue, and policy decisions to hold certain immigration fees lower than the total cost identified by the cost management model.¹

The \$85 fee for biometrics collection (which was not increased in 2016) is set at a level to cover only the cost of collecting biometrics and contains no extra amounts, as with the EAD application fee.²

¹ See Questions for the Record, Oversight of U.S. Citizenship and Immigration Services: Ensuring Agency Priorities Comply with the Law, Senate Judiciary Committee, Subcommittee on Immigration and the National Interest, Response to Question #34 (March 3, 2015), available at <https://www.judiciary.senate.gov/imo/media/doc/Moore-Neufeld-Renaud%20Responses.pdf>.

² Id.