



Seattle
Office of Immigrant and
Refugee Affairs
Cuc Vu, Director

Submitted via www.regulations.gov

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

Re: DHS Docket No. USCIS-2010-0012, RIN 1615-AA22, Comments in Response to Proposed Rulemaking:
Inadmissibility on Public Charge Grounds

Dear Sir/Madam:

The City of Seattle Office of Immigrant and Refugee Affairs (“OIRA”) submits this comment in response to the proposed rulemaking: Inadmissibility on Public Charge Grounds (“Rule”) published by the Department of Homeland Security (DHS) and the United States Citizenship and Immigration Services (USCIS) in their Notice of Proposed Rule Making published in the Federal Register on October 10, 2018.

The City of Seattle Office of Immigrant and Refugee Affairs strongly opposes modifying the criteria for determining inadmissibility based on “public charge.”

The City of Seattle created the Office of Immigrant and Refugee Affairs in 2012 to improve the lives of Seattle’s immigrant and refugee families. In line with the City of Seattle values of social justice and equity, OIRA works to strengthen immigrant and refugee communities by engaging them in decisions about the City of Seattle’s future and improving the City’s programs and services to meet the needs of all constituents. We believe supporting immigrants creates a stronger future for our nation. Just as previous immigrants did before, today’s immigrants are tomorrow’s U.S. citizens who will be fully engaged in the cultural and civic life of our society both locally and nationally.

The City of Seattle (“City”) has also submitted a public comment opposing DHS’s Rule (Tracking Number 1k2-9717-wa17). We consider these comments as an addendum to the City’s comments. We join in supporting the City’s objections wholly and the City’s objections to the expansion of the definition and the interpretation of the totality of circumstances test especially.

I. The Rule creates a chilling effect on vulnerable immigrants for applying for lawful permanent residency and lifeline programs.

As a department in a welcoming city dedicated to immigrant integration, we have been educating Seattle's diverse immigrant communities about the Rule and its inequitable and cruel impacts since the January 2017 leaked executive order related to public charge. Despite these efforts, uncertainty and confusion about what the Rule will mean for immigrant families and how it will be implemented will prevent many qualified individuals from filing immigration applications out of fear of a denial based on public charge grounds.

In addition, as has been well-documented, especially in the City's public comment, widespread misinformation and confusion created by drafts of both the 2017 executive order and the Rule leaked to media outlets have resulted in a marked decline in the use of a wide variety of life-sustaining benefits by immigrant families, as well as instability and anxiety among individuals with lawful status – including those in exempt categories such as refugees. This chilling effect will disproportionately impact applicants for lawful permanent residence through the family immigration system and unduly harm women and families of color.

II. OIRA strongly objects to the proposed threshold of benefits use for inclusion in the expanded definition of public charge.

We object more generally to the expansion of the public charge definition to include public assistance which serves as income supports to meet essential needs. We also oppose the specific thresholds of benefits use proposed by DHS to find someone a public charge. In the Rule, DHS proposes several problematic methods of calculating use of benefits based on dollar amounts or duration of usage: 1) within a 12-month period, use of at least 15 percent of the Federal Poverty Guidelines (“FPG” or “FPL for “Federal Poverty Level”) for monetizable public benefits (i.e., SNAP, housing subsidies, cash assistance); and 2) a 36-month lookback period for non-monetizable public benefits (i.e., Medicaid, Medicare Part D, non-Section 8 housing subsidies, long-term care). DHS also proposes considering use of benefits in lesser amounts in the totality of the circumstances test. DHS seeks comments on these proposed measurements and weighing of public benefit usage.

A. The 15 percent of the FPG threshold as a measurement of public benefits usage is inappropriate.

The 15 percent measurement deviates substantially from the prior standard of “primary dependence.” As DHS notes in the Rule preamble, in 1999, the United States Immigration and Naturalization Service defined public charge to mean “the likelihood of a foreign national becoming primarily dependent on the government for subsistence” as demonstrated by receipt of cash assistance or institutionalization for long-term care at government expense (FR 51133). In turn, “primary dependence” meant the majority, or more than 50 percent, dependence. *Id.* This prior standard was based on the input and expertise of various federal agencies, including Department of Health and Human Services (“HHS”), Social Security Administration, and Department of Agriculture. DHS has not provided a compelling reason for changing the standard, noting that it does not believe their views “remain fully relevant.” *Id.*

This is not a sufficiently robust reason to overturn decades of precedent in how “public charge” has been defined.

Moreover, DHS provided no real basis for choosing the 15 percent threshold, other than the unsupported assertion that “an individual who receives monetizable public benefits in excess of 15 percent of FPG is neither self-sufficient nor on the road to achieving self-sufficiency” (FR 51165). This determination is unpersuasive, and contradictory to the data from the University of Washington (UW) which shows that receipt of work supports such as food assistance, Medicaid, and housing assistance do in fact significantly help people to become more self-sufficient.¹ The UW study bolsters the notion that work supports can serve as a crucial assistance to working families in attaining self-sufficiency, the purported purpose of the Rule. In addition, in citing the dictionary definitions of “public charge,” DHS comes to the conclusion that “[t]hese definitions generally suggest that an impoverished or ill individual who receives public benefits for a *substantial component* of their support...can be reasonably viewed as being a public charge” [emphasis added] (FR 511589). Fifteen percent seems to be much less than a “substantial component” of one’s support, as Merriam Webster defines “substantial” as “of considerable importance, size, or worth.”

Various federal agencies acknowledge the difficulty in determining dependence on public benefits. HHS, as quoted in the preamble to the Rule at FR 51163, stated that “welfare dependence, like poverty, is a continuum, with variations in degree and in duration.” Given this opinion from the agency which deals regularly in public benefits, it is illogical to try to pin primary dependence or lack of self-sufficiency to a precise percentage in the proposed manner. Similarly, courts have been reluctant to place a quantitative amount on the level of public support that constitutes public charge (see FR 51157-58). While DHS cites a number of such cases, it then goes on to blaze an entirely new trail in proposing that quantifying the threshold of public benefits makes sense, in spite of lack of legislative or case law support for that proposition.

The proposed 15 percent threshold will be nearly impossible to interpret by applicants and difficult to adjudicate. The calculation is unnecessarily complex, particularly when more than one monetizable benefit has been used, or when the benefit usage spans more than one calendar year. It requires first monetizing the non-cash benefits, then determining the applicable percentage based on the FPG for the calendar year in question, and then determining if this amount (whether above or below the 15 percent proposed threshold) indicates likelihood that the applicant will become a public charge in the future. For all the exactitude of the 15 percent calculation, the proposed standard still entails an extremely subjective prediction about the intending immigrant’s future use of public benefit, requiring an assessment that is both overly precise and overly vague, rendering it meaningless not just for experienced immigration attorneys but also for the average applicant. Intending immigrants will have to perform a calculation of monetizable benefits based on the correct year’s FPG, then try to predict how such use will be weighed in the totality of the circumstances. For pro se applicants, this will present an extreme burden. It will also leave considerable discretion to the adjudicating officer, adding to unpredictability. Overall, the proposed calculations will not contribute to an efficient, predictable immigration process and in fact would have the opposite effect.

¹ Pearce, Diana M., “The Self-Sufficiency Standard for Washington State 2017,” The Workforce Development Council of Seattle-King County, September 2017. Available at http://selfsufficiencystandard.org/sites/default/files/selfsuff/docs/WA2017_SSS.pdf

B. The 36-month look back period is not an appropriate measure for determining use of non-monetizable public benefits.

DHS proposes considering as public charge the use of non-monetizable public benefits for a cumulative 12 months during the previous 36 months. In doing so, it considers 12 months' usage as a proxy for excessive reliance on public benefits. Receipt of non-monetizable benefits for this duration demonstrates to DHS lack of self-sufficiency. As argued above, receipt of the type of benefits contemplated here – Medicaid, Medicare, housing – does not necessarily show lack of self-sufficiency, and instead ensures that immigrant workers remain productive and self-reliant. Moreover, use of benefits that support basic needs is often temporary in nature, which would make their use non-predictive in terms of future usage. U.S. Census Bureau data supports the temporary nature of these benefits for residents. According to a Census May 2015 study, of the one-in-five Americans who participated in a program like Medicaid or SNAP from 2009 through 2012, the Census Bureau reported that 56 percent stopped participating within 36 months, while 43 percent lingered on the programs between three and four years. Nearly one-third quit receiving benefits within one year.² It therefore seems wholly unfair for USCIS to in essence permanently punish someone who will likely use a public benefit for only a temporary period of time. Ultimately, immigrants who come off of public benefits end up paying more taxes and spending more money, paying back to the U.S. economy far more than what they used in public benefits.

Similar to above, use of non-monetizable benefits for one third of the time period does not reflect “primary dependence,” the more applicable standard. This standard, the benefits included in the prior public charge standard, along with the affidavit of support, were all an efficient and predictable means of determining when someone was inadmissible. The addition of benefits, the complex calculations, and the weighing and considering of various factors is confusing and non-transparent. With these proposed calculations of monetary value and duration of use, the proposed Rule would replace a straight-forward method of adjudicating public charge with a confusing framework of various factors and considerations. This change would result in inconsistent outcomes and inefficient adjudications. Uneven results would in turn lead to increased appeals which would tie up additional USCIS resources. Despite trying to link lack of self-sufficiency to a quantifiable number, DHS still grants broad discretion to an adjudicator which leaves an applicant in a state of uncertainty.

Because these proposed calculations would result in unpredictability and inefficiency, and because they are based on a faulty standard, we vehemently oppose their implementation.

III. DHS should not consider children's use of public benefits in the public charge assessment for those children.

At FR 51174, DHS seeks comment on whether and how to consider public benefits use as a child (under age 18 or in some cases age 21) in the totality of the circumstances test, as a predictor of likelihood to become a public charge. The City opposes considering a child's use of public benefits apart from their parents' because children are generally not financially independent from their parents. Children do not

² See <https://www.census.gov/newsroom/press-releases/2015/cb15-97.html>

have the same agency as adults in controlling their financial situation and are often dependent on their parents for support. As such, it makes no sense to hold children's use of public benefits against them.

As a public policy matter, and as discussed above, states tend to invest in the health, well-being, and education of their young residents, and so it seems ludicrous to penalize children and families for use of these benefits, particularly those that serve as income supports for working families. As a practical matter, this category would apply to very few children seeking lawful permanent resident ("LPR") status, as most of them would not be eligible for the proposed public benefits on the list. Thus, the chilling effect on otherwise eligible benefits recipients would be much greater than the practical effect of excluding certain children due to benefit usage, and we therefore assume that would be the purpose of including it. That reason is not a reasonable or humane basis for enacting policy changes, and we strongly object to it.

Age under 18 is already a negative factor in the totality of the circumstances test, given the Rule's obsessive focus on employability. However, as DHS so appropriately notes at FR 51180, "children under the age of 18 generally face difficulties working full-time." Given that state laws require that children attend school (also duly noted by DHS) until age 16 or 18, an implied expectation that children be expected to work if they wish to immigrate, clearly contravenes public policy and common sense.

Consideration of a child's financial situation separately from their parents' could result in a parent being admissible but their child being found inadmissible for public charge. This could result in an entire family choosing not to immigrate because of a child's use of Medicaid for example, or conversely of a child not receiving necessary health care because of fear of affecting the whole family's immigration status. This is already occurring due to rumors of this Rule.³ A recent analysis by Public Health - Seattle & King County found that around 68,900 children in King County would experience this chilling effect.⁴

In general, there is little support for the proposition that receipt of public benefits predicts future likelihood of becoming a public charge.⁵ Particularly in the case of children, past receipt of public benefits is not a good indicator of future receipt, as children have not completed schooling, trained for employment, or begun work. Thus, no rational prediction can be made about use of public benefits as a child, and likelihood of becoming a public charge as an adult. As such, it should not be a consideration in the totality of the circumstances test.

IV. We strongly oppose the introduction of public charge bonds, as these are unnecessary, increases inefficiency, and puts intending immigrants at risk for fraud and economic ruin.

Like the entirety of this Rule, the introduction of public charge bonds appears intended only to make immigrants suffer.

³ See e.g., Jonathan Blitzer, *Trump's Public-Charge Rule Is a One-Two Punch Against Immigrants and Public Assistance*, The New Yorker, Sept. 28, 2018. Available at: <https://www.newyorker.com/news/dispatch/trumps-public-charge-rule-is-a-one-two-punch-against-immigrants-and-public-assistance>

⁴ Public Health - Seattle & King County; Assessment, Policy Development & Evaluation Unit, November 2018.

⁵ See e.g., *Matter of Perez*, 15 I&N Dec. 136 (BIA 1974): "The fact that an alien has been on welfare does not, by itself, establish that he or she is likely to become a public charge."

A. The Public Charge Bond is unnecessary.

The Rule purports that “public charge bonds are intended to hold the United States and all states, territories, counties, towns, municipalities, and districts harmless against aliens becoming a public charge” (FR 51218). Yet, there is already a mechanism in place to prevent harm from LPRs who receive public benefits in the form of USCIS Form I-864 Affidavit of Support.

The Rule discusses the historic use of public charge bonds dating back to the late 1800s. The use of public charge bonds went out of practice when the I-864 was made legally binding with the passage of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The I-864 Affidavit of Support creates a legal contract between the U.S. government and the intending immigrant’s sponsor, in which the sponsor agrees to support the immigrant financially. The law stipulates that should the applicant renege on the agreement, resulting in the immigrant receiving public assistance, any of the following can take action against the sponsor: the federal government, the benefit-granting agency, or the immigrant.

Thus, USCIS already has a reliable legal mechanism to ensure an immigrant does not become a public charge – or to recoup the financial loss if he or she does – which renders the proposed public charge bond unnecessary. The Rule outlines that although the practice of issuing public charge bonds had been in place for nearly one hundred years under various legal and regulatory guidelines, the practice became moot when the Affidavit of Support was made binding through IIRIRA. Congress had every opportunity with the passage of IIRIRA and the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) to outline a public charge bond authority and process, but they did not do so. Congress instead chose to implement the Affidavit of Support as a legal contract. Thus, DHS and USCIS have every authority to hold sponsors accountable through the Affidavit of Support. DHS has offered no information to show that the current process has been ineffective or provided an explanation as to why it needs to be replaced or duplicated. This proposal to reinstate the public charge bond as a mechanism to prevent harm from public charge is therefore redundant.

B. The Public Charge Bond will further complicate and increase inefficiency in the adjustment of status process.

USCIS has not processed public charge bonds since 1996 and there is no mechanism in place to process these bonds. The Rule outlines bits and pieces of the process to be implemented to accept and cancel these bonds, including the introduction of two new USCIS forms: the I-945 and the I-356. The I-945 Public Charge Bond Application would be used for an obligor, who pledges a sum of money as a guarantee to the government that the immigrant will not become a public charge. The I-356 Request for Cancellation of Public Charge Bond would be used to determine if the conditions of the bond have been breached. It is impossible to discuss the specific collection of information on Forms I-945 and I-356 because it is unclear what information or evidence will be required for each. Each form is completely unnecessary given the existence and ongoing adjudication of Form I-864. Therefore, the creation of two new forms, and the processes and training that surround them, as well as the collection of any information therein will be a waste of government and applicant resources.

DHS mentions this lack of process several times in the Rule to justify certain decisions about its planned implementation. First, DHS states that it is implementing a \$25 fee for Forms I-945 and I-356 because it does not have a good estimate for the cost of processing the public charge bonds (FR 51227). Second, DHS mentions not having a clear estimation of the number of LPRs who would become a public charge under these new rules, so estimates on the number of bonds that would be accepted, breached, or cancelled are guesses at best (FR 51227). Third, DHS does not offer an estimation of the costs associated with immigrant use of public benefits in violation of public charge rules, current or proposed (FR 51226). DHS is proposing to implement a program that has no infrastructure and has not provided the public adequate estimates of the costs of executing the public charge bond.

C. The use of the Public Charge Bond is unjust.

The proposed public charge bond process sets up the scenario in which low-income immigrants must pay for their green cards. This intent is clear in the proposal to implement the public charge bond when the legally binding I-864 Affidavit of Support already serves to hold immigrants accountable should they become a public charge. Using a mechanism to force immigrants who are already deemed to be economically unsound to pay at least \$10,000 as a hold on their green card serves only to make their economic situation more precarious. This is made worse by the fact that the determination for public charge is at the discretion of the immigration officer, thereby making the imposition of this hefty immigration tax wholly subjective.

The Rule's intent is also clear in DHS's estimation of the obligors' ability to cancel bonds in the future. DHS estimates 960 immigrants will be eligible to post a public charge bond annually, but they also estimate that only 25 individuals will even apply to cancel bond annually. DHS believes that more than 97 percent of intending immigrants who post bond will be unable to fulfill the bond requirements. It is unjust to expect 97 percent of immigrants to fail in their obligation to avoid becoming a public charge, but allow them to go forward with a process through which they will lose \$10,000 at a minimum. It is immoral for DHS to propose ignoring the Affidavit of Support, the legal means within its authority for enforcing public charge laws, and instead impose a policy that would strip immigrants of \$9,350,000 annually.

Moreover, the public charge bond removes the intending immigrant as a party to the agreement, making this proposal even more unjust. Through the Affidavit of the Support, the immigrant may sue the sponsor if the terms of the agreement are not met. Through the public charge bond, the immigrant is cut out of the contract, with only the obligor and the government remaining. The immigrant neither has power to act against the obligor, nor has the ability to reply to the government's decisions regarding the bond. This makes the immigrant completely reliant on the obligor for actions such as updating contact information, responding to claims that the immigrant received benefits, or appealing the decision not to release the bond. The creation of the public charge bond removes the immigrant's agency in defending herself against breach of contract. Again, this action seems both unnecessary and unjust in the ultimate consequences to immigrants.

D. The processes proposed in the Rule to implement the bonds are predatory.

The proposed implementation of public charge bonds is predatory in several ways. One, setting the bond minimum at \$10,000 is unreasonable, out of line with prior practice, and not fully reasoned in the Rule. The Rule states that the previous minimum of \$1,000 set forth in 1964 would equal \$8,100 in June 2018 adjusted dollars. DHS also offers no estimation on a reasonable public charge bond amount as it relates to historical public benefit data because this calculation would be too complex. Without direction from Congress, DHS should make no unreasoned determination of the bond minimum beyond the previous minimum adjusted annually for inflation.

Second, through this Rule, DHS proposes to give immigration officers full discretion in the conditions of the public charge bond, with no possibility of appeal. The Rule does not establish an upper limit for these bonds. An immigration officer could easily set bond for \$15,000, \$20,000, \$30,000 or more, as has been witnessed in the immigration courts for immigrants in detention.⁶ Yet, an intending immigrant would have no process available for protesting this decision. An individual faced with separation from her family or a ludicrously high bond amount, would likely still choose to take on the bond, putting herself in financial peril.

Third, the Rule's requirement that public charge bonds be surety bonds creates a situation ripe for abuse. DHS will require obligors be surety companies instead of allowing cash bonds. The immigration court system again offers us an example of why this is a bad idea. Though only 9 percent of immigration bonds are issued by surety companies,⁷ some 12,500 immigrants have chosen to contract bonds with Libre by Nexus, a surety company being sued for ensnaring immigrants into contracts with astronomical fees.⁸ These include down payments of 20 percent or more of the cost of the bond, plus monthly fees of \$420.

The conditions put forth in the Rule exacerbate the potential for abuse. The five-year term for LPRs to avoid public charge is longer than most immigration bonds or bail bonds for criminal court in which most trials are completed within two years. The five-year term increases the liability for surety companies, which in turn increases the costs they charge to immigrants. The less than 3 percent odds that DHS predicts immigrants will be able to cancel their bonds will also incentivize surety companies to set costly parameters and payment schedules for immigrants.

The stated reason for requiring surety bonds is insufficient. The Rule states that "due to operational feasibility considerations USCIS plans to initially allow for only surety bonds" as taking on cash bonds "involves additional accounting mechanisms" (FR 51222). It is ironic that USCIS, an agency that relies predominately on fee-based revenue, would struggle to establish accounting mechanisms for accepting cash and money orders. Furthermore, DHS does not allow the lack of operational mechanisms to stop them from proposing any other aspect of the public bond program, so it should not use this reasoning to institute practices that will inevitably victimize immigrants.

Fourth, the Rule's requirements around breach of the public charge bond are unfair and put immigrants in economic jeopardy. In the historical implementation of public charge bonds prior to IIRIRA, if an

⁶ See <https://www.seattletimes.com/seattle-news/bonds-set-in-tacoma-for-immigrants-are-among-nations-highest/>

⁷ See <https://cliniclegal.org/resources/immigration-bond-how-get-your-money-back>

⁸ See https://www.washingtonpost.com/local/this-company-is-making-millions-from-americas-broken-immigration-system/2017/03/08/43abce9e-f881-11e6-be05-1a3817ac21a5_story.html?noredirect=on&utm_term=.2e2394cae6f9

immigrant received public benefits and the benefit-granting agency requested repayment, the obligor was required to repay the sum of the value of public benefits used by the immigrant within 30 days. If the obligor did not pay within that time frame, they would be required to pay the amount requested from the benefit-granting agency and an extra \$200. If this amount was still not paid, it would be taken from the bond itself. Through this proposal, DHS is reserving right to keep the entire amount of the bond if the terms are breached.

This is a huge departure from previous policy. This Rule also removes the phrase “substantial violation” from the conditions for breaching bond. This means that any breach of the terms of the bond, which are not fully outlined in the Rule, would render the obligor liable for the full amount of the bond. This creates a punitive policy against intending immigrants instead of fulfilling the purported purpose of recouping losses from public benefits use. It also unnecessarily puts immigrants at great financial risk. For example, an immigrant who has obtained a public charge bond works steadily but who experiences a financial emergency, would face an impossible decision. Believing that all public assistance would put her at risk of becoming a public charge and breaching the terms of her public charge bond, she may take on debt greater than the amount of the bond out of fear.

Fifth, the Rule’s passages related to the cancellation of the bond are unreasonable. The proposed public charge bond may be cancelled. An obligor may file to cancel the bond for the reasons of death, permanent departure from the U.S., naturalization, obtaining status that is not subject to public charge grounds, or completion of five years of residency without receipt of public benefits. But DHS does not automatically cancel the bond. Instead the obligor must *apply* to have the bond cancelled, and DHS must approve the application. Despite the automatic triggering of cancellation of traditional immigration bonds when the terms have been met, as well as years of established protocol and procedure, it remains difficult, confusing, and time-consuming to cancel immigration detention bonds. It is hard to imagine the difficulty of obtaining a public charge bond refund without an automatic cancellation mechanism.

For the I-356, the burden of proof rests on the obligor and immigrant, including when the applicant has naturalized, despite USCIS’s adjudication of the naturalization application and clear understanding that the terms of the bond have accordingly been met. Yet USCIS proposes to proactively collect evidence from benefit-granting agencies to prove breaches of public charge bonds. Moreover, the terms of bond remain *until* the bond is cancelled. This means that a person who completes the terms of the bond by avoiding public benefits during the five-year period, would have no recourse to recoup the bond amount if they then receive public assistance after the specified term period, but before they apply to have the bond cancelled. Without a process of automatically releasing bonds upon completion of the terms of the bond, the Rule proposes to keep immigrants in peonage despite their compliance.

Finally, the Rule’s proposals for the appeal of public charge bond decisions are unfair. If a decision is made by an immigration officer that the terms of the bond have been breached or that a request for cancellation is to be denied, the obligor is denied the right to file a motion before filing an appeal with Form I-290B. Form I-290B requires a filing fee of \$675. This appeals process requires the same officer who issued the initial denial to review that decision (FR 51225). Thus, the obligor must proactively apply to have the bond cancelled, even when USCIS knows that the terms of the bond have been satisfied. If a USCIS officer denies the bond cancellation application, the obligor must pay \$675 to appeal that decision by having the *same* officer review his or her own decision. Throughout this process, the immigrant must rely on the obligor to complete all of these steps, as he or she is not party to the bond contract. Because

the Rule stipulates the bonds must be posted by a surety company, the immigrant can be sure to pay that company additional fees for each of these steps taken to cancel the bond. The steps outlined to appeal a cancellation denial are unfair and made more unfair by the fact that the immigrant will have no agency to direct these actions to.

E. Seattle immigrants will suffer due to the public charge bond.

We estimate that 51,186 immigrants in the City of Seattle will be directly affected by the Rule as being subject to the new totality of circumstances test. A subset of this group will not be hampered by a heavily weighted negative factor, but may still be deemed inadmissible on public charge grounds as a result of the totality of circumstances test. Implementing this test means that a greater proportion of visa applicants will face a subjective and perhaps arbitrary evaluation of their likelihood of becoming a public charge.

We can also presume that Seattle applicants for the I-945 will be proportionate to the number of adjustment of status applicants from Seattle as compared to the rest of the country. According to USCIS data, during federal fiscal year 2017, the Seattle-Tacoma-Bellevue Core Based Statistical Area (CBSA) processed 1.8 percent of all adjustment of status applications nationally.⁹ Assuming DHS's estimate of 960 public charge bond applicants nationwide annually is trustworthy, the Seattle area would see 17 to 18 individuals annually apply for the public charge bond, representing \$177,270.72 annually in bonds posted to USCIS from the region. In Washington State, we would see \$233,048.64 in bonds posted to the federal government annually, representing tens of thousands of dollars more spent in interest and fees to surety companies.

Not only will the Rule wastefully support a financial industry that preys on the citizenship hopes of low-income immigrants all over the U.S., but it will also create much more additional work for USCIS, an agency that has long experienced underfunding and understaffing. For example, naturalization applicants already face long wait times due to USCIS processing delays in regions across the U.S.¹⁰ Finally, the public charge bonding process as outlined in the Rule is vague and undescribed, likely resulting in absurd and utterly confusing situations for immigrants who receive these bonds.

V. Conclusion

In conclusion, the City of Seattle Office of Immigrant and Refugee Affairs opposes the proposed public charge Rule. Additionally, we join with the City of Seattle and agree with the entirety of their public comment opposing the DHS Rule.

DHS should immediately withdraw its current proposal and dedicate its efforts to advancing policies that strengthen – rather than undermine – the ability of immigrants to support themselves and their families in the future.

⁹ See <https://www.dhs.gov/immigration-statistics/lawful-permanent-residents>

¹⁰ <http://partnershipfornewamericans.org/portfolio/npna-report-building-a-second-wall-uscis-backlogs-preventing-immigrants-from-becoming-citizens/>

It is the intent of OIRA and the City of Seattle to support our communities in thriving. Therefore, everyone in those communities must be able to stay together and get the care, services, and support they need to remain healthy and productive.

Thank you for the opportunity to submit comments on the proposed rulemaking. Please do not hesitate to contact me at cuc.vu@seattle.gov if you have any questions or need any further information.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Cuc Vu', with a long horizontal stroke extending to the right.

Cuc Vu, Director
Office of Immigrant and Refugee Affairs
City of Seattle
cuc.vu@seattle.gov