



U.S. Immigration
and Customs
Enforcement

MEMORANDUM FOR: Assistant Directors Deputy FEB 11 2008
Assistant Directors Field
Office Directors Deputy Field
Office Directors

FROM: John Torres
Director
Office of Detention and Removal Operations

SUBJECT: Fee Waiver Guidelines

A handwritten signature in blue ink, appearing to read "John Torres".

Purpose

This memorandum provides field offices with guidance for consideration and approval of fee waiver requests in accordance with 8 CFR §103.7(c) *Waiver of fees*.

Background

Applicants for DRO services may request a waiver of the required filing fee after first establishing an inability to pay. An applicant is considered "unable to pay" per 8 CFR §103.7(c)(I), once the totality of all factors, circumstances, and evidence are provided; including age, disability, household income, and qualification within the past 180 days for a federal means tested benefit.

Field Guidance

The following forms and services are either fee exempt or may be eligible for a fee waiver under 8 CFR §103.7(c)(1):

- Form 1-246, Application for a Stay of Deportation or Removal;
- Form I-290B, Motion to Reopen or Reconsider a Bond Decision, only if the applicant is filing because the decision was incorrect due to an ICE administrative error;
- Form 1-290B and motions filed with United States Citizenship and Immigration Services relating to the specified forms in 8 CFR 103.7(c);
- Biometrics service fee; and
- Other fee based DRO forms or applications;

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Documentation

Along with the affidavit or unsworn declaration pursuant to 28 USC §1746 and as required by 8 CFR §103.7(c), the applicant may submit additional documentation to provide proof of their "inability to pay." The fee waiver request should be decided based upon the affidavit and any additional documentation submitted in support of the fee waiver request. A fee waiver request may be approved in the absence of such additional documentation provided that the applicant's affidavit or unsworn declaration is sufficiently detailed to substantiate his or her inability to pay the required fee. If the Officer determines that the individual did not substantiate his or her inability to pay, then the fee waiver request should be denied and the application or form rejected as improperly filed without appropriate fee.

Submission of Both Fee and Fee Waiver Request

When a form is submitted with both the appropriate fee for the form and a fee waiver request, the form should be processed, if otherwise acceptable, as properly filed with fee. No subsequent consideration should be given to, nor action taken on the fee waiver request.

Please direct your questions regarding this guidance as well as any other bond questions or inquiries to [\[REDACTED\]@dhs.gov](mailto:(b)(7)(E)@dhs.gov).