

CRS Insights

USCIS Funding and Accountability to Congress

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February 19, 2015 (IN10233)

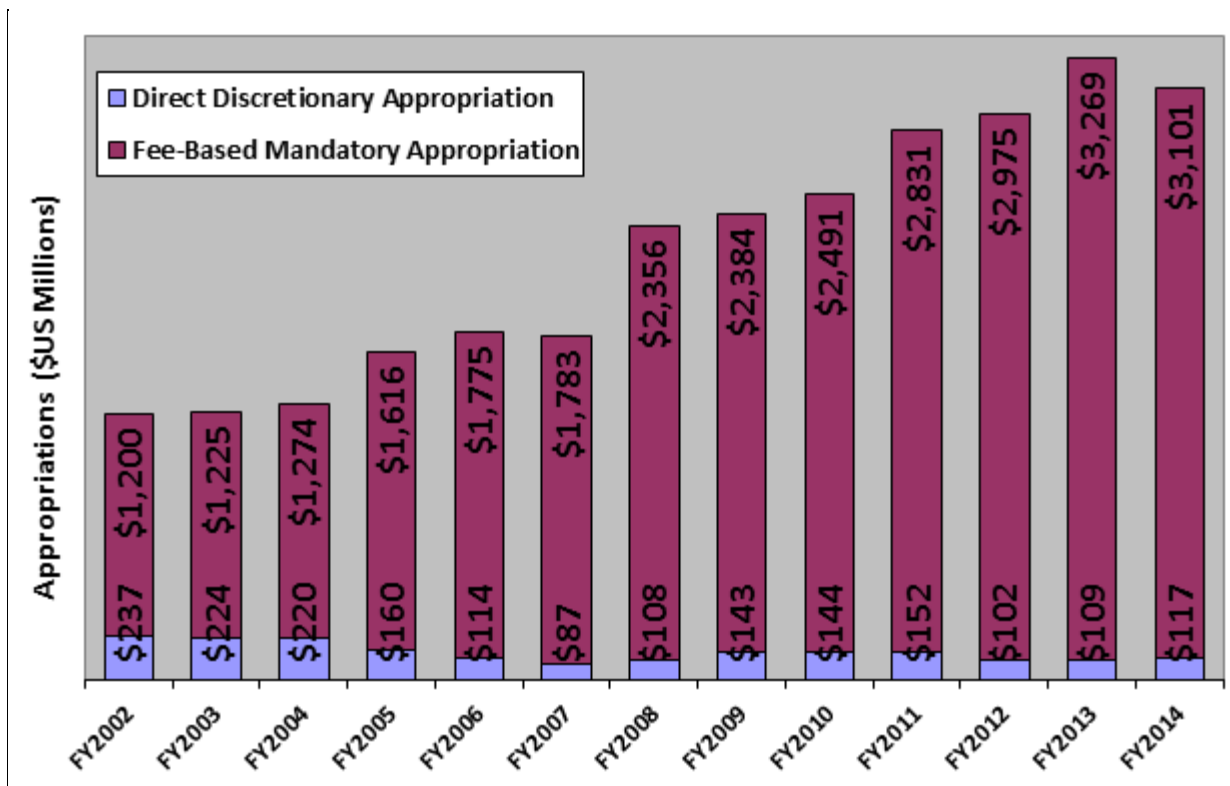
[The President's executive actions of November 20, 2014](#), included, among other provisions, several initiatives that [if implemented](#) may require petitions whose cost would be paid through user fees. The processing for those applications would be handled by U.S. Citizenship and Immigration Services (USCIS), an agency within the Department of Homeland Security (DHS). The executive actions highlight the challenges facing Congress if it wishes to exert control over the budget or activities of a federal agency funded through user fees that are statutorily established as mandatory appropriations.

USCIS handles many immigration administration functions, the most prominent of which is processing and adjudicating immigrant petitions and applications. Each year, the agency processes roughly 6 million petitions, typically for a [fee](#). Two examples are the petition for a nonimmigrant worker (\$325) and the application for lawful permanent resident (LPR) status (\$985).

USCIS and its predecessor, the former Immigration and Naturalization Service (INS), have had the legal authority to charge fees for a range of immigration services at least since passage of the Immigration and Nationality Act of 1952 (INA). In 1988, Congress passed the 1989 Department of Justice Appropriations Act, which established the [Immigration Examination Fees Account](#). That legislation made the portion of USCIS's budget collected from user fees a mandatory appropriation.

USCIS funds almost all of its activities, including the processing and adjudication of immigrant, nonimmigrant, refugee, asylum, and citizenship benefits, through its fee revenues deposited into the Immigration Examinations Fee Account ([Figure 1](#)). The INA states that fees be set at a level that ensures recovery of the full costs of providing adjudication and naturalization services, including similar services to those people who are not charged, such as asylum applicants. Fees can also be set at levels to cover "costs associated with the administration of the fees collected." To set fee levels, USCIS must regularly assess the cost of providing its services and apply cost accounting analyses to appropriately and accurately assess fees to each petition type.

Figure 1. USCIS Appropriations by Type, FY2002-FY2014



Source: CRS presentation of data from the President's budget requests for FY2003 through FY2015.

Note: The agency has two other much smaller accounts that were created to receive monies to support specific purposes, the H-1B Non-Immigrant Petitioner Fee Account and the H-1B and L Fraud Prevention and Detection Fee Account.

Further, the INA provides that deposited funds remain available until expended "for expenses in providing immigration adjudication and naturalization services and the collection, safeguarding and accounting for fees deposited in and funds reimbursed from the 'Immigration Examinations Fee Account'." As such, the authority to set fee levels and expend fee revenue is controlled outside the annual appropriations process and does not depend on annual action by Congress.

In the past decade, annual discretionary appropriations have constituted a declining portion of USCIS' budget. While some may welcome such a shift for reducing the fiscal burden on U.S. taxpayers for running the agency, others may voice concerns over the limits this arrangement places on [congressional oversight](#). [Some immigration observers](#) contend that USCIS, by raising most of its own budget, also faces fewer incentives to either keep fees affordable or provide timely, efficient, or effective customer service.

An enactment of law would be required to alter existing statutory provisions concerning the collection of the fees in the Immigration Examinations Fee Account, their availability for expenditure, or the prohibition of their use for certain purposes.