

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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<https://oversight.house.gov>

January 24, 2022

The Honorable Ur Mendoza Jaddou
Director
U.S. Citizenship and Immigration Services
One Capital Gateway Drive
Camp Springs, MD 20588

Dear Director Jaddou:

I am writing to request information regarding the processing delays and lack of transparency surrounding the administration of the U.S. Citizenship and Immigration Services' (USCIS) Form I-918, entitled "Petition for U Nonimmigrant Status."¹

This process grants eligible noncitizens who were victims of crimes access to employment authorization documents, allowing them to seek employment and defer deportation. It also provides refuge to individuals and their families who might otherwise experience poverty, injury, human trafficking, or even death if they are left in the United States without proper work authorization or are returned to their country of origin. The timely processing of these documents is therefore vital to applicants and is a priority for the members of Congress who represent them.

As you know, USCIS implemented the Bona Fide Determination (BFD) process in June 2021 to address the longstanding U visa backlog, improve the efficiency of the initial reviews of Form I-918 petitions, and provide petitioners with some stability, such as work authorization, while awaiting final adjudication. According to USCIS's website, prior to implementing BFD, Form I-918 processing times were between 60.5 to 61 months. Currently, the site states that BFD will enable "USCIS to review petitions more efficiently and provide the benefits of employment authorization and deferred action to more petitioners in a shorter time period" than the previous process.²

On June 14, 2021, USCIS removed Form I-918 processing times from its website, making it impossible for stakeholders, including Congress, to track its progress in reducing processing delays. Concurrent with the removal of the processing data, USCIS posted publicly that it planned to update its website with the online tracker "on January 1, 2022, or once USCIS

¹ U.S. Citizenship and Immigration Services, *Check Case Processing Times* (online at <https://egov.uscis.gov/processing-times/>) (accessed Jan. 6, 2022).

² *Id.*

has collected sufficient data to report accurate BFD processing times, whichever occurs earlier.”³ As of the date of this letter, USCIS has neither updated its website nor provided a date by which it expects to collect enough BFD data to update the online tracker.

Without the ability to track Form I-918 processing times, petitioners are left entirely in the dark for extended periods of time. These applicants, including my constituents, deserve for these administrative processes to occur in a timely, transparent manner.

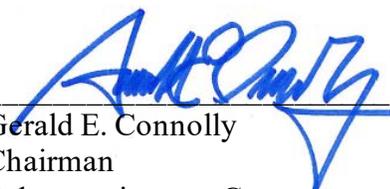
I write, therefore, to respectfully request that USCIS immediately repost the online processing time tracker data.⁴ I further request that USCIS prioritize the expedited processing of Form I-918 petitions and Employment Authorization Applications.

In addition, by February 27, 2022, please provide a briefing for my staff to explain the circumstances contributing to delayed Form I-918 processing times before and after implementing the BFD process and the expected timeframe for when the processing time tracker will be restored.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. If you have any questions regarding this request, please contact Committee staff at (202) 225-5051.

Thank you for your critical work on these important issues and your urgent attention to this matter.

Sincerely,



Gerald E. Connolly
Chairman
Subcommittee on Government Operations

cc: The Honorable Jody Hice, Ranking Member
Subcommittee on Government Operations

³ *Id.*

⁴ U.S. Citizenship and Immigration Services, *Chapter – Bona Fide Determination Process* (online at www.uscis.gov/policy-manual/volume-3-part-c-chapter-5) (accessed Jan. 7, 2022).



U.S. Citizenship
and Immigration
Services

March 22, 2022

The Honorable Gerald E. Connolly
Chairman
Subcommittee on Government Operations
Committee on Oversight and Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your January 24, 2022 letter regarding Form I-918, Petition for U Nonimmigrant Status, processing delays.

U.S. Citizenship and Immigration Services' (USCIS) ability to adjudicate pending petitions for placement on the waiting list, in addition to meeting the statutory cap every fiscal year, has been and continues to be outmatched by the steady number of new filings. For context, in Fiscal Year (FY) 2010 2010, USCIS received 9,657 principal petitions, which is below the statutory cap of 10,000 principal U visas per fiscal year. Since then, receipts have exceeded the statutory limit of 10,000 in each fiscal year. In 2021, 21,874 principal petitions were filed. As of the end of FY 2021, approximately 285,255 principal and derivative petitions were pending final adjudication.

The pending backlog and the corresponding delay in adjudication time is due to the increase in U visa filings overall, the complexity of the adjudication, the statutory cap mandated by Congress, and the agency's priorities and limited resources. USCIS generally processes cases in receipt date order, subject to certain exceptions, and notes that the backlog continues to grow because of limited resources.

Due to drastic increases in the volume of U nonimmigrant petition filings and a growing backlog awaiting placement on the waiting list or final adjudication, in June 2021, USCIS, in its discretion, implemented the bona fide determination (BFD) process pursuant to section 214(p)(6) of the Immigration and Nationality Act to provide discretionary Employment Authorization Documents and deferred action to individuals in the United States with a pending, bona fide petition for U nonimmigrant status who merit a favorable exercise of discretion. If a principal petitioner does not receive a bona fide determination, USCIS proceeds to a full waiting list adjudication for the principal petitioner and qualifying family members, and if found to be eligible for U nonimmigrant status but for the statutory cap, they are placed on the waiting list.

The Honorable Gerald E. Connolly

Page 2

Both the BFD process and placement on the waiting list provide access to employment authorization and a grant of deferred action for a period of four years.

Regarding posted processing times, USCIS is continuing to gather initial data on BFD adjudications, including the possible impacts of the new process on overall U adjudications. USCIS is collecting the data necessary to report accurate BFD processing times and plans to update the Form I-918 processing time page in the near future.

With respect to your request for a briefing, we apologize that we were unable to accommodate your suggested timeframe. Our Office of Legislative Affairs would be happy to schedule a briefing, should you still desire one.

Thank you again for your letter and interest in this important issue. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", followed by a long horizontal flourish.

Ur M. Jaddou
Director