

**CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA**

**NEIL L. BRADLEY**  
EXECUTIVE VICE PRESIDENT &  
CHIEF POLICY OFFICER

1615 H STREET, NW  
WASHINGTON, DC 20062  
(202) 463-5310

April 16, 2020

The Honorable Chad Wolf  
Acting Secretary  
U.S. Department of Homeland Security  
Washington, D.C. 20528

The Honorable Eugene Scalia  
Secretary  
U.S. Department of Labor  
Washington, D.C. 20210

The Honorable Michael Pompeo  
Secretary  
U.S. Department of State  
Washington, D.C. 20520

Dear Secretaries Wolf, Scalia, and Pompeo:

The Chamber appreciates the flexibility your departments have provided to firms that rely on foreign nationals working in industries that are contributing to the pandemic response. Hospitals, manufacturers, producers of agricultural commodities, technology companies, among many others, are grateful for the measures you have taken. However, a lack of certainty remains in some areas related to immigration policy, and action on your parts would improve collective efforts to respond to the challenges of the coronavirus.

**Extending Immigration Filing Deadlines** – The imposition of corporate telework policies and stay-at-home orders by state and local governments have made it very difficult for businesses to timely file various immigration benefits requests with USCIS. While companies appreciate USCIS's recent [notice](#) providing some case-by-case flexibility to companies that file late petitions for immigration benefits, it doesn't provide the type of certainty that companies need during this difficult time. Providing more clear, definitive relief on this issue for American businesses that currently employ a significant number of nonimmigrant workers, particularly for commercial airlines, hotel operators, and other businesses that have been hit the hardest by the economic fallout caused by COVID-19, is vitally important for these companies to maintain their operations at this critical juncture. To effectively address this problem, we implore USCIS to extend the filing deadline for any petition or application that was **due** to the agency between March 11, 2020 and May 11, 2020 for an additional 90 days to ensure that employers can maintain workforce continuity and operational capacity.

**Relief for Unintentional Visa Overstays** – Many companies employ individuals whose visas are set to expire in the days and weeks to come, and their countries will not allow their citizens to return home. Neither these individuals nor their employers could have reasonably foreseen this occurring. DHS can rectify this situation by temporarily extending the status of these individuals

for a one-time, 90-day period to prevent them from accruing unlawful presence in the U.S. as they make plans to leave the country when the crisis associated with COVID-19 subsides.

**Reinstatement of Premium Processing:** Businesses across several critical industries are very worried about possible interruptions in the work authorization of their foreign national employees. Medical service providers want to ensure there are no such interruptions for their workers as they confront this pandemic, whereas seasonal employers like seafood processors, and forestry companies are worried that delayed processing would inhibit their company's ability to meet contractual obligations. Gradually reinstating premium processing for employers whose workers fall under the Cybersecurity and Infrastructure Security Agency's (CISA) "Essential Critical Infrastructure Worker" [guidance](#) would provide American businesses with the workforce certainty they desire while upholding USCIS's interest in the fair adjudication of visa petitions.

**Provide Flexible Payment Options for Filing Fees:** The combination of corporate telework policies and state and local stay-at-home orders have created obstacles for many companies to complete the required check payments associated with various USCIS filing fees. USCIS should let companies pay these filing fees with credit card payments to avoid unnecessary operational disruptions caused by the outdated requirement that many of these filing fees be paid by check.

**Reinstate Selective Interview Policy on Employment Based Immigrants:** For years, USCIS provided agency adjudicators with broad discretion in determining whether an employment-based Adjustment of Status (AOS) applicant warranted an in-person interview before being issued a visa. Current agency policy requires all employment-based AOS applicants to have an in-person interview and with many USCIS Service Centers closed, the already long process immigrant workers must endure to obtain Lawful Permanent Resident (LPR) status will expand significantly. USCIS should reinstate its prior policy to help cut down on immigrant visa backlogs and provide more certainty to American companies and their workers. Alternatively, USCIS could incrementally waive this interview requirement for LPR applicants whose field of employment falls under CISA's "Essential Critical Infrastructure Worker" [guidance](#).

#### **Temporarily Extend "Cap-Gap" Protections for International Graduates from U.S.**

**Universities:** COVID-19 is already negatively impacting USCIS's processing efficiency. Employers seeking H-1B visas for their current Optional Practical Training (OPT) recipient employees could experience serious workforce disruptions if USCIS is unable to adjudicate these petitions in a timely fashion, as current regulations only provide these OPT recipients with work authorization through October 1. USCIS should extend the OPT status of these individuals until their H-1B petitions have been adjudicated to prevent unnecessary lapses in work authorization.

**Provide Clarity on Labor Condition Application Requirements:** While many companies appreciate DOL's two [recent FAQs](#) addressing this topic, many unanswered questions remain for companies. DOL should provide additional guidance with hypothetical examples that clarify when employers are required to post a new LCA or file an updated LCA for individuals that are working at home because of the COVID-19 pandemic.

**Allow Electronic Signatures on Immigration Forms and Documents:** Businesses appreciate the flexibility that USCIS and DOL have provided to companies to use scanned signatures on

various forms and documents, but the imposition of telework and “stay at home” orders have created situations where company representatives do not have the appropriate equipment at home to print, sign, and scan these documents on a large scale. USCIS and DOL should expand their respective guidance to allow employers to temporarily utilize digital/electronic signatures on forms and documents to both comply with the law and minimize the spread of COVID-19.

**Expand the Use of Consular Interview Waivers to Other Nonimmigrant Visa Categories:**

The State Department, in consultation with the Department of Homeland Security, instituted a temporary policy of waiving the requirement that H-2 nonimmigrant workers be interviewed by a consular official abroad before obtaining an H-2 work visa. In embarking upon this policy, the State Department noted that the “H-2 program is essential to the economy and...is a national security priority.” There are many other nonimmigrant workers under other visa classifications that are employed as “essential workers” under CISA’s guidance and we urge the State Department and DHS to expand the usage of consular interview waivers to cover workers under various other temporary worker classifications.

**Provide Visa Revalidation Services Domestically:** Many nonimmigrants that need to extend their current visa’s validity must travel outside the country to have these new visas affixed in their passports. With many other nations imposing strict travel restrictions and many consulates and embassies closed abroad, obtaining updated visas has become incredibly difficult for many workers that are critical to the operations of various businesses. If the State Department were to temporarily reinstate broad visa revalidation services for various nonimmigrant workers in the U.S., it would provide companies across a host of industries with more confidence that their businesses will avoid serious workforce disruptions as the U.S. confronts this pandemic.

We look forward to working with your departments to implement these policy changes.

Sincerely,

A handwritten signature in blue ink, appearing to read "Neil L. Bradley", with a stylized flourish at the end.

Neil L. Bradley



**U.S. Citizenship  
and Immigration  
Services**

May 14, 2020

Neil L. Bradley  
Senior Vice President and Chief Policy Officer  
Chamber of Commerce of the United States  
1615 H Street, NW  
Washington, DC 20062

Dear Mr. Bradley:

Thank you for your April 16, 2020 letter. The Acting Secretary has asked that I respond on his behalf.

The Department of Homeland Security (DHS) has no greater responsibility than ensuring the safety and security of our country. Responding to the pandemic requires everyone to work within rapidly changing, complex circumstances that create a variety of situations and conditions unique to individuals and communities.

We recognize that there are immigration-related challenges that individuals, employers, and others face as a direct result of the national emergency. We carefully analyze these issues and leverage our resources to effectively address these challenges within our existing authorities. DHS continues to act to protect the American people and our communities and is considering a number of policies and procedures to improve the employment opportunities of U.S. workers during this pandemic.

It is important for us to emphasize that U.S. Citizenship and Immigration Services (USCIS) continues to accept and process petitions and applications for immigration benefits. Our primary goal is to ensure the safety of the public and our employees as the situation evolves. Therefore, we have temporarily suspended routine in-person services at our offices. Importantly, however, our workforce continues to perform mission-essential duties that do not involve face-to-face contact with the public, and we provide emergency services for certain situations.

Our website and outreach efforts provide guidance, resources, and information to the public on the actions and policies we are implementing through these uncertain times. As we announced in our public-facing website, several options are available to nonimmigrants to extend or change their status. We have also amended certain requirements to lessen the impact from the public health emergency. For policy updates, operational changes, and COVID-19 information, please visit [uscis.gov/coronavirus](https://uscis.gov/coronavirus).

While Congress has granted DHS extensive statutory authority, it has also prescribed specific statutory limitations regarding many nonimmigrant visa programs, including in relation

to extensions of status. I should note that when similar concerns arose in the aftermath of the 9/11 terrorist attacks, Congress passed legislation providing relief to impacted legal aliens. Section 422 of the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001," Pub. L. No. 107-56, provided automatic extensions of status, but only to those nonimmigrants lawfully present in the United States on September 1, 2001 who had been disabled as a result of the terrorist attacks (and family members). Such aliens could "remain lawfully in the United States in the same nonimmigrant status until the later of . . . the date such . . . status otherwise would have terminated . . . or 1 year after . . . the onset of disability . . . ." For those lawfully present nonimmigrants who had not been disabled, Congress provided only that "if the alien was prevented from filing a timely application for an extension or change of nonimmigrant status as a direct result of a specified terrorist activity, the alien's application shall be considered timely filed if it is filed not later than 60 days after it otherwise would have been due." The House of Representatives passed similar legislation on a bipartisan basis by voice vote in the aftermath of Hurricane Katrina. *See* H.R. 3827, the "Immigration Relief for Hurricane Katrina Victims Act of 2005."

Thank you again for your letter and interest in this important matter. We will consider the recommendations you have put forward.

Sincerely,



Joseph Edlow  
Deputy Director for Policy