

United States Senate

WASHINGTON, DC 20510

May 13, 2019

The Honorable L. Francis Cissna
Director
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue NW
Washington, D.C. 20529

Dear Director Cissna:

We write to you to express concern about reports of long processing delays at U.S. Citizenship and Immigration Services (USCIS) experienced by our constituents and constituents' employers. In 2002, Congress created USCIS to be a service-oriented, immigration service agency with the mission to adjudicate immigration matters to enable individuals to obtain work authorization, citizenship, humanitarian protection, and other important services. As such, USCIS is charged with efficiently and effectively administering the American legal immigration system.

However, a recent study by the American Immigration Lawyers Association (AILA) suggests that there are significant processing delays associated with applications for initial and renewed employment authorization. These delays form part of a nationwide slowdown that impacts a broad range of application and petition form types, including family-based case delays as well as humanitarian case delays.

The delays in employment authorization applications have led to disruptions in American businesses, many of which depend on employees who need work authorization to carry out their functions. When an employee experiences an unexpected processing delay in applying for and renewing employment authorization it can destabilize a business and leave mission-critical roles unfilled. During your confirmation hearing before the Senate Judiciary Committee on May 24, 2017, you pledged that, if confirmed, you would "strive to ensure that the agency carries out its mission in a fair, lawful, efficient, and expeditious manner." American businesses urgently need USCIS to fulfill this mission.

We, therefore, ask that you respond to this letter by indicating when your office can provide a staff briefing regarding these processing delays. Both in writing and during our discussion at the staff briefing, we ask that you respond to the following:

1. What are the causes of the administrative delays in processing applications and petitions generally, as well as employment authorizations specifically? Please provide analysis

concerning the extent to which agency policies and practices are contributing to these delays.

2. How has USCIS responded to the delays in processing applications and petitions generally, as well as employment authorization applications specifically? What is the agency's plan for reducing and ultimately eliminating case processing delays while ensuring fair, high-quality adjudications?
3. What efforts can be taken to expedite administrative processing of applications for employment authorization?
4. Does your agency need specific congressional appropriations to upgrade any legacy systems which may be contributing to delays? Please provide a breakdown of how your agency is allocating existing funding across different agency operations, activities, and initiatives.

Thank you for your consideration. We look forward to your response.

Sincerely,



Thom Tillis
United States Senator



Richard Blumenthal
United States Senator



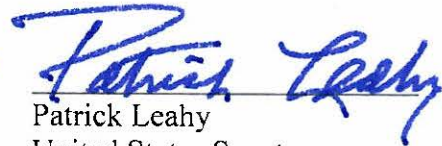
John Thune
United States Senator



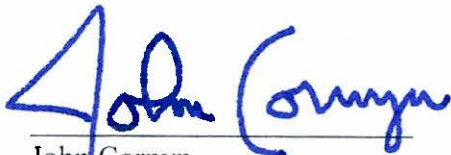
Robert Menendez
United States Senator



Lindsey O. Graham
United States Senator



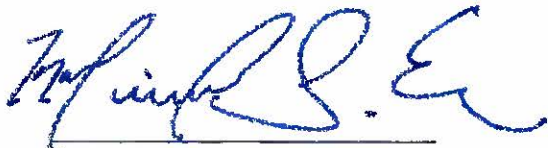
Patrick Leahy
United States Senator



John Cornyn
United States Senator



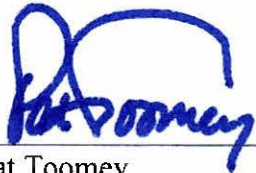
Richard J. Durbin
United States Senator



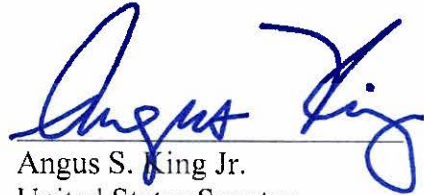
Mike Lee
United States Senator



Sheldon Whitehouse
United States Senator



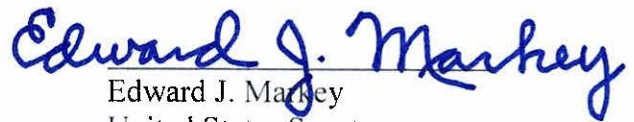
Pat Toomey
United States Senator



Angus S. King Jr.
United States Senator



Richard Burr
United States Senator



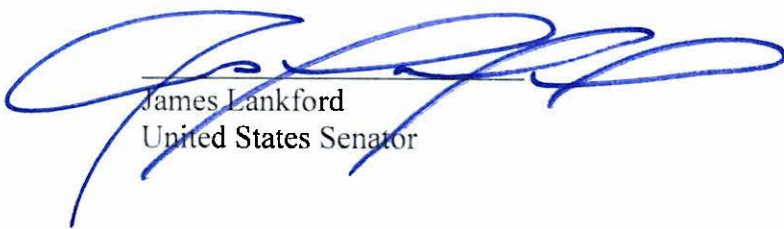
Edward J. Markey
United States Senator



Roy Blunt
United States Senator



Jack Reed
United States Senator



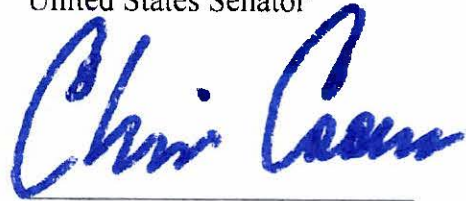
James Lankford
United States Senator



Tina Smith
United States Senator



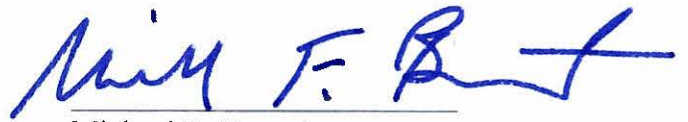
Lisa Murkowski
United States Senator



Christopher A. Coons
United States Senator



Mike Crapo
United States Senator



Michael F. Bennet
United States Senator



M. Michael Rounds
United States Senator



Tammy Duckworth
United States Senator



Martha McSally
United States Senator



Kirsten Gillibrand
United States Senator



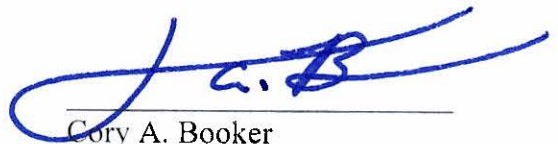
Cory Gardner
United States Senator



Catherine Cortez Masto
United States Senator



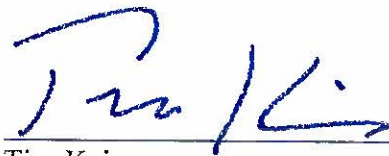
Cindy Hyde-Smith
United States Senator



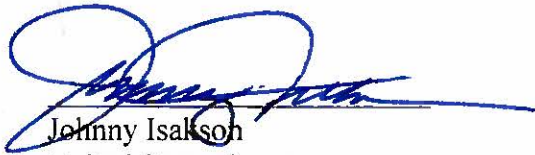
Cory A. Booker
United States Senator



Steve Daines
United States Senator



Tim Kaine
United States Senator



Johnny Isakson
United States Senator



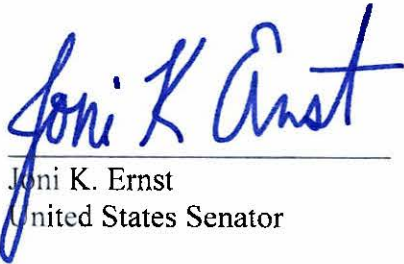
Jeanne Shaheen
United States Senator



Susan M. Collins
United States Senator



Elizabeth Warren
United States Senator



Joni K. Ernst
United States Senator



Amy Klobuchar
United States Senator



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

May 23, 2019

The Honorable Thom Tillis
United States Senate
Washington, DC 20510

Dear Senator Tillis:

Thank you for your letter of May 13, 2019, regarding processing delays at U.S. Citizenship and Immigration Services. Please find enclosed responses to your questions.

Thank you again for your letter and interest in this important issue. The co-signers of your letter will receive a separate, identical response. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative and Intergovernmental Affairs at (202) 272-1940.

Respectfully,

A handwritten signature in blue ink, appearing to read "L. Francis Cissna".

L. Francis Cissna
Director

Enclosure

**The Department of Homeland Security's Response to
Senator Tillis' May 13, 2019 Letter**

1. What are the causes of the administrative delays in processing applications and petitions generally, as well as employment authorizations specifically? Please provide analysis concerning the extent to which agency policies and practices are contributing to these delays.

Generally, factors contributing to U.S. Citizenship and Immigration Services' (USCIS) backlog increases for all petitions and applications include staffing and facility resources, new immigration programs and policies, new case processing systems, increased form complexity, and past removal of performance metrics. The most significant growth in the backlog occurred in Fiscal Years (FY) 2016 and 2017, due to increases in immigration receipts.¹ A final fee rule in 2016 drove an increase in receipt filings, but filings did not decrease immediately after the rule took effect, as they had in the past. The 2016 presidential election also contributed to the increase in receipts, as is typical for an election year.

Another cause for delays in processing can be increased litigation. For example, USCIS Service Center Operations is complying with various court orders, including a court-ordered continuation of accepting and adjudicating certain requests for Deferred Action for Childhood Arrivals (DACA), and the USCIS Field Operations Directorate is complying with court orders related to the EB-5 program and supporting litigation efforts related to military naturalization and other programs.

USCIS is also under an injunction related to Employment Authorization Documents (EAD) for asylum seekers. Due to the surge of asylum applications over the last several years, we cannot keep pace with the regulatory requirement to adjudicate employment authorization requests within 30 days. As a result of the injunction, we have been forced to move adjudicators off other caseloads to comply with the order and expedite processing of employment authorization documents for those who seek asylum.

Additionally, some Forms I-765, Application for Employment Authorization, have longer processing times because they are dependent on the grant of another benefit, and applicants are not eligible to receive an EAD until the underlying application, petition, or request is approved. Thus, backlogs and delays in the underlying benefit request may lead to delays in EAD processing.

With regard to policy changes, USCIS is rigorously reviewing all regulations, policies, and procedures to ensure they are aligned and consistent with the law. Some potential regulatory actions may decrease backlogs by enhancing efficiencies. For example, the agency will seek to require applicants, petitioners, and other requestors to submit immigration benefit requests online. The agency will also seek to streamline the H-1B visa program by implementing the electronic registration system, which will ultimately reduce burdens on the employers as well as the agency. USCIS is also considering policy and regulatory changes affecting

¹ FY 2016: I-765 – 17% growth (>266,000 receipts), N-400 – 25% growth (>190,000 receipts), I-589 – 66% growth (>87,000 receipts). FY 2017: I-821D – 40% growth (>217,000 receipts), I-765 DACA – 29% growth (>183,000 receipts).

employment authorization for certain aliens, in part to reduce caseloads on service center operations. The agency will monitor the effects and update our staffing models, as appropriate.

USCIS recognizes the challenges that delayed processing times may create for applicants and their families and is committed to processing cases as efficiently as possible. We continue to work diligently to give a timely adjudicative response to each.

2. How has USCIS responded to the delays in processing applications and petitions generally, as well as employment authorization applications specifically? What is the agency's plan for reducing and ultimately eliminating case processing delays while ensuring fair, high-quality adjudications?

In FY 2018, the USCIS backlog did not continue to grow at the same rate as the previous two fiscal years, in part because receipts decreased to levels slightly higher than the levels of FYs 2013-2015. The increase in the net backlog was four percent between FYs 2017 and 2018, the smallest backlog growth since 2012.

Two major factors contributed to the reduced backlog growth in FY 2018. USCIS reintroduced the “Last In, First Out” (LIFO) policy for asylum applications, a step that drastically reduced Form I-589, Application for Asylum and for Withholding of Removal, receipts after January 2018 (a 30 percent receipt reduction within the first month of implementation). Additionally, USCIS introduced a streamlined process for the Form I-90, Application to Replace Permanent Resident Card, adjudication, allowing this backlog to drop by 85 percent by September 2018.

Despite this progress, USCIS is still experiencing the challenge of not having the required number of staff to adjudicate all of the backlogged applications/petitions. The implementation of new fees would provide additional funding to hire additional staff beginning in FY 2021 for USCIS domestic workloads.² However, it will take time for new staff to be fully productive, due to timelines associated with onboarding new employees and training them. USCIS, in the interim, is increasing its hiring efforts and will optimize retention and productivity.

In FY 2019, USCIS authorized an additional 737 employees (a five-percent increase) in the operational directorates that conduct adjudications. This follows an increase of 908 authorized positions in FY 2018 (a seven-percent increase). Of these, 250 additional positions were for Service Center Operations in FY 2018 and 366 in FY 2019.

Additionally, USCIS has opened three new field offices³ in the past three years and expanded 10 others in an effort to increase processing capacity of naturalization applications and other immigration benefits.

² Cited figure accounts for staffing authorizations in Field Operations and Service Center Operations.

³³ Montgomery, AL, Nashville, TN and Fort Myers, FL

USCIS is also working to eliminate the backlog by focusing on efficiency. In the future, USCIS will transition more pre-, post-, and non-adjudicative work to non-adjudicators, allowing adjudicators to focus solely on functions requiring their expertise. USCIS will centralize the delivery of information services through the USCIS Contact Center to allow applicants to receive case status updates more quickly, without having to visit a USCIS office. Furthermore, USCIS reintroduced performance metrics to ensure timelier processing and will update processing time goals to reflect operational realities. USCIS will also continue to leverage electronic processing and automation to modernize the agency and increase efficiency.

To address delays in processing times for I-765s, Service Center Operations assesses the resources available at each service center to redistribute work among the centers when appropriate, and they allocate overtime to help address cases pending outside normal processing times.

3. What efforts can be taken to expedite administrative processing of applications for employment authorization?

Among other steps to reduce delays, USCIS is moving our casework into an electronic environment and anticipates all benefit requests will be filed and adjudicated electronically by the end of calendar year 2020. The digital environment will facilitate systems integration to allow better updating of systems, as well as quicker notification to applicants. It is anticipated that system improvements will reduce time delays involved in mailing, transferring files, and waiting for related records.

USCIS created various checklists for Form I-765 to assist in the processing of these applications and to reduce applicant errors that lead to delays or rejections. USCIS now allows applicants requesting a renewal of an EAD to file up to 180 days prior to the expiration of the current EAD. Also, the regulations provide a 180-day auto-extension for certain employment authorization categories.

As mentioned above, USCIS has opened three new field offices in the past three years and expanded 10 others in an effort to increase processing capacity of naturalization applications and other immigration benefits.

USCIS is also working to eliminate the backlog by focusing on efficiency. In the future, USCIS will transition more pre-, post-, and non-adjudicative work to non-adjudicators, allowing adjudicators to focus solely on functions requiring their expertise.

4. Does your agency need specific congressional appropriations to upgrade any legacy systems which may be contributing to delays? Please provide a breakdown of how your agency is allocating existing funding across different agency operations, activities, and initiatives.

USCIS does not need specific congressional appropriations to upgrade any legacy systems. The USCIS Office of Information Technology (OIT) and systems are funded through fees collected from applicants and petitioners. USCIS OIT continuously addresses the need for

system upgrades and enhancements. USCIS OIT has made significant strides in improving its technology through recent efforts to move operations from a mainframe-based IT environment to cloud-based environments, as well as in efforts to achieve full electronic filing capability.

USCIS allocates existing funding across agency operations, activities, and initiatives of the Immigrations Examinations Fee Account (IEFA) through the Program, Project, and Activity (PPA) structure, as outlined in the FY 2020 President's Budget:

- District Operations;
- Service Centers Operations;
- Asylum, Refugee, and International Operations;
- Records Operations;
- Premium Processing (including Transformation);
- Information and Applicant Services;
- Administration; and
- Systematic Alien Verification for Entitlements.

The adjudication of immigration benefit requests, including work authorization, citizenship, humanitarian protection, and other important services is funded through three of these PPAs.

The District Operations PPA: Supports the processing of immigration benefit applications where an in-person interview is required, primarily through the USCIS Field Operations Directorate. The District Operations PPA FY 2018 Enacted, FY 2019 Enacted, and FY 2020 President's Budget Pay and Non-Pay funding are as follows:

<i>(Dollars in Thousands)</i>	FY 2018 Enacted	FY 2019 Enacted	FY 2020 President's Budget
Pay	\$1,017,168	\$1,068,638	\$1,105,079
Non-Pay	\$788,773	\$815,178	\$828,954
Total	\$1,895,941	\$1,883,816	\$1,934,033

The Service Center Operations PPA: Supports the processing of immigration benefit applications where an in-person interview is generally not required, primarily through the USCIS Service Centers Operations Directorate. The Service Center Operations PPA FY 2018 Enacted, FY 2019 Enacted, and FY 2020 President's Budget Pay and Non-Pay funding are as follows:

<i>(Dollars in Thousands)</i>	FY 2018 Enacted	FY 2019 Enacted	FY 2020 President's Budget
Pay	\$422,168	\$420,250	\$438,776
Non-Pay	\$265,323	\$311,404	\$307,911
Total	\$687,491	\$731,654	\$746,687

The Asylum, Refugee and International Operations PPA: Supports the adjudication of asylum and refugee status applications for individuals seeking protection from persecution and facilitates the process for close relatives of approved refugees and asylees to immigrate

to the United States, primarily through the USCIS Refugee, Asylum, and International Operations Directorate. The Asylum, Refugee, and International Operations PPA FY 2018 Enacted, FY 2019 Enacted, and FY 2020 President's Budget Pay and Non-Pay funding are as follows:

<i>(Dollars in Thousands)</i>	FY 2018 Enacted	FY 2019 Enacted	FY 2020 President's Budget
Pay	\$188,469	\$202,309	\$206,655
Non-Pay	\$156,631	\$135,235	\$142,640
Total	\$345,100	\$337,544	\$349,295

With the proposed rulemaking to adjust the IEFA fee schedule in FY 2020, USCIS plans to increase its staff to reduce its backlog and keep up with the projected workloads. USCIS welcomes the opportunity for an in-depth staff briefing regarding processing delays and to more thoroughly review how USCIS is allocating existing funding across the different agency operations, activities, and initiatives to ensure the agency carries out its mission in a fair, lawful, efficient, and expeditious manner.