

United States Senate

WASHINGTON, DC 20510

June 27, 2022

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
3801 Nebraska Ave NW
Washington, DC 20528

Dear Secretary Mayorkas:

I write to express concern about the Department's increased delays in processing applications for initial Employment Authorization Documents (EADs).

In recent years, Departmental data shows that the average processing times for EAD applications have increased enormously. Among EAD applications based on pending asylum cases, the average processing time has risen from 1.7 months in Fiscal Year (FY) 2017 to 8.3 months in FY 2022. Similarly, the Department's average processing time for EAD applications based on pending adjustment of status petitions rose from three months in FY 2017 to seven months in FY 2022. In general, processing times for all other employment authorization applications have increased from an average of 2.6 months to 4.2 months from FY 2017 to FY 2022.¹ According to the latest available data from the agency, the processing backlog for EADs stands at more than 1.5 million applications.²

My office is seeing the harmful impact of the Department's processing delays on individuals and their families in New Hampshire. My staff is working with individuals who arrived in the U.S. ready to work but are unable to do so in the face of these long processing times. We have encountered young professionals, including refugees from Ukraine and Afghanistan, who are eager to use their skills in the U.S. but cannot work and support their families.

While these delays are of course damaging to applicants and their families, industries throughout the economy are also feeling the negative effects of the Department's EAD processing delays. I'm hearing from small businesses in my state that are suffering from staffing shortages because of the delay in EAD processing. Recent analysis of immigration restrictions and visa processing disruptions stemming from the pandemic suggests that the dramatic drop in the supply of foreign labor is a significant contributor to current worker shortages.³ Industries that rely on foreign labor include critical industries like health care, agriculture, transportation and other supply chain industries.⁴

¹ <https://egov.uscis.gov/processing-times/historic-pt>

² https://www.uscis.gov/tools/reports-and-studies/immigration-and-citizenship-data?topic_id%5B%5D=33700&ddt_mon=&ddt_yr=&query=&items_per_page=10

³ <https://econofact.org/labor-shortages-and-the-immigration-shortfall>

⁴ <https://immigrationforum.org/article/americas-labor-shortage-how-low-immigration-levels-accentuated-the-problem-and-how-immigration-can-fix-it/>

I urge you to move swiftly to improve the speed of EAD processing and reduce backlogs, and I am requesting answers to the following questions:

1. How specifically is the Department utilizing FY 2022 appropriated funds to address the backlog of EAD applications?
2. How specifically is the Department working to increase staffing and capacity in order to restore processing capabilities, and what is the Department's timeline for achieving this objective?
3. Is the Department considering taking additional administrative actions to streamline EAD processing and reduce caseloads, such as expanding the use of e-filing and premium processing?
4. How is the Department working to expeditiously process EAD applications from Afghans and Ukrainians who have recently arrived in the U.S.?

Thank you for your urgent attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Jeanne Shaheen". The signature is fluid and cursive, with the first name "Jeanne" being larger and more prominent than the last name "Shaheen".

Jeanne Shaheen
United States Senate



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

November 10, 2022

The Honorable Jeanne Shaheen
United States Senate
Washington, DC 20510

Dear Senator Shaheen:

Thank you for your June 27, 2022 letter to the Department of Homeland Security. Secretary Mayorkas asked that I respond on his behalf.

U.S. Citizenship and Immigration Services (USCIS) recognizes the importance of employment authorization and documentation to employees and their families, as well as to the U.S. businesses and organizations that employ them. USCIS is working to improve internal processes to reduce application processing times. As an immediate solution, USCIS has allocated funds for overtime work to reduce backlogs and processing times; however, we are focused on hiring staff to fill all available positions to ensure we have a workforce to meet our workload demands. We have provided more detailed responses to your specific questions in the accompanying enclosure and hope that you will find this information helpful.

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 that reads "Ur M. Jaddou". The signature is written in a cursive style with a long horizontal stroke at the end.

Ur M. Jaddou
Director

Enclosure

**The Department of Homeland Security's Response to
Senator Jeanne Shaheen's June 27, 2022 Letter**

1. How specifically is the Department utilizing FY 2022 appropriated funds to address the backlog of EAD applications?

U.S. Citizenship and Immigration Services (USCIS) is targeting a reduction in its EAD application backlog through staffing and training, processing and technology, and updated policies. USCIS continues to pursue hiring initiatives to combat staffing and resource losses resulting from the pandemic and hiring freeze (which began in May 2020 and ended on March 31, 2021). After a continuous downward trend in staffing levels dating back to 2020, USCIS is now seeing an increase in our workforce levels and is currently at 85% of funded full-time equivalent (FTEs) positions filled, with nearly 3,519 additional recruitment actions in various processing stages. As of August 29, Service Center Operations has used approximately \$31.4 million in backlog reduction funding towards hiring and overtime. We continue to identify and implement greater efficiencies in our processes to speed up adjudications while maintaining integrity. Additionally, we are expanding digitization and electronic filing to help achieve efficiency without the costs and constraints of physical files. Digitized records and electronically filed requests facilitate easier assignment and transfers to balance workloads, as well as reduce costs associated with storage and movement of physical files.

2. How specifically is the Department working to increase staffing and capacity in order to restore processing capabilities, and what is the Department's timeline for achieving this objective?

USCIS has largely completed the hiring of higher graded positions with internal promotions, given the skill sets required for those positions, and is progressing with filling mid-level and entry-level positions that will add to the increasing number of 'net new' positions and help us achieve the authorized workforce levels. USCIS anticipates achieving expected hiring goals by the end of calendar year 2022. Director Jaddou also announced a 3-month cycle time goal by the end of FY2023 for certain form types, including the I-765, Application for Employment Authorization. USCIS is employing a multi-pronged approach to work toward this goal and is actively identifying cases pending beyond normal processing times to ensure no "workable" cases languish. As previously noted, overtime funds are being used to target critical workloads including I-765s.

3. Is the Department considering taking additional administrative actions to streamline EAD processing and reduce caseloads, such as expanding the use of e-filing and premium processing?

USCIS published a Temporary Final Rule (TFR) that increases the automatic extension period of employment authorization and EADs, available to certain EAD renewal applicants, from up to 180 days to up to 540 days. The auto-extension increase, which went into effect on May 4, 2022, helps avoid gaps in employment authorization and documentation for noncitizens with pending EAD renewal applications and stabilizes the continuity of operations for U.S. employers. It also enables USCIS to focus on initial EAD filings and be more strategic in reducing renewal backlogs.

The Department of Homeland Security's Response to Senator Jeanne Shaheen's June 27, 2022 Letter

USCIS is also prioritizing EAD expedite requests for healthcare and childcare workers who have a pending I-765 initial application pending over 90 days or a renewal application and whose EAD expires within 30 days or less, or has already expired. Applicants can call the USCIS Contact Center to request expedited processing of their EAD based on their circumstance as a healthcare or childcare worker and should be prepared to provide evidence of their profession or current employment.

On July 28, 2022, USCIS announced¹ that certain individuals who were paroled into the United States can now file Form I-765, Application for Employment Authorization, online. This policy ensures the most vulnerable who are in the United States for urgent humanitarian reasons or significant public benefit have access to work authorization and can stabilize their lives more quickly. USCIS is working to expand e-filing and electronic adjudication capabilities to additional categories of EAD applications and across all USCIS benefit types.

While the Implementation of the Emergency Stopgap USCIS Stabilization Act final rule allows the agency to expand premium processing to the Form I-765, it also mandates that the expansion of premium processing cannot negatively impact non-premium processing benefit requests. As such, the agency is carefully considering future premium processing expansions while ensuring we have the available resources to offer this service without negatively impacting other benefit requests.

4. How is the Department working to expeditiously process EAD applications from Afghans and Ukrainians who have recently arrived in the U.S.?

For individuals who were paroled under Operations Allies Welcome (OAW), the Department established safe havens around the United States.² Among other operations, USCIS leveraged technology to allow OAW parolees to submit biometrics and apply for work authorization at the safe havens. On average, these applications have been processed in less than a month. For OAW parolees who have not gone to the safe havens, or who leave before their applications can be completed, USCIS has issued guidance at: <https://www.uscis.gov/humanitarian/information-for-afghan-nationals> regarding applying for work authorization. All requests for work authorization from OAW parolees are given priority.

USCIS is also using technology to improve the processing of applications for work authorization that are received as a part of OAW and Uniting for Ukraine (U4U). On July 28, 2022, USCIS announced online filing of the Form I-765 for certain individuals who were paroled into the United States, including OAW and U4U parolees. This efficiency bypasses the administrative process required to mail and intake a paper filing, saving time and resources for both the applicant and the agency. Applicants seeking a waiver of the filing fee or those eligible for a fee exemption, such as Afghan nationals paroled through OAW and filing an initial Form I-765, must continue to submit Form I-765 by mail. Whether applications are submitted by mail or electronically, USCIS is committed to employing technological solutions and efficiencies to reduce processing times. Whether applications are

¹ See USCIS News Alert, [Parolees Can Now File Form I-765 Online](#) (July 28, 2022).

² Although the Department originally established nine safe havens, only one safe haven remains at this time.

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submitted by mail or electronically, USCIS is committed to employing technological solutions and efficiencies to reduce processing times.