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United States Senate
WASHINGTON, DC 20510

July 3, 2020

Kenneth T. Cuccinelli
Senior Official Performer Duties of the Director
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
20 Massachusetts Avenue NW M.S. 2090
Washington, D.C. 20529

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

Dear Mr. Cuccinelli and Acting Director Wolf,

We are deeply concerned by reports that the U.S. Citizenship and Immigration Services (USCIS) has sent furlough notices, some with inaccurate information, to as many as 13,400 federal employees starting August 3rd due to a \$1.2 billion shortfall. USCIS claims that the COVID-19 pandemic has led to a drastic reduction in fee revenue and that without additional funding from Congress, the agency will be forced to reduce staff nationwide and internationally. Many of these hard-working and skilled employees are our constituents. It is unconscionable that USCIS is furloughing employees during the COVID-19 pandemic instead of rescinding harmful policies and practices that have caused budget shortfalls.

While travel restrictions resulting from COVID-19 may have impacted fee revenue, USCIS's questionable policy decisions and fiscal mismanagement throughout the Trump Administration's tenure have negatively impacted USCIS's financial position. A closer examination of the agency's budget reveals that as early as November 2019, the Trump administration used this shortfall as the basis for their 2019 proposed fee increase--the same \$1.2 billion budget shortfall that it now blames on COVID-19. Since that time, USCIS has continually failed to provide necessary details about its financial position. USCIS's current attempt to blame their financial straits on COVID-19 and to shift this burden onto its employees is unacceptable. USCIS must provide Congress with an accurate and complete explanation of its budgetary outlook.

The Homeland Security Act of 2002, signed into law by President George W. Bush, created USCIS as a customer focused service-oriented agency. Congress's longstanding intent has been to encourage naturalization. However, under the Trump Administration, USCIS has changed its focus to immigration enforcement and erected barriers to legal immigration and immigrants seeking legal status, a dramatic shift in policy. Under your leadership, USCIS has removed the phrase "nation of immigrants," as well as any reference to applicants and petitioners as "customers," from the agency's mission statement. USCIS has drastically reduced refugee admissions to its lowest number since 1980 when the U.S. created a refugee resettlement program, implemented barriers for asylum seekers, and announced plans to close 13 international field offices by August 2020. The Trump Administration has implemented numerous Muslim bans, attempted to end the Deferred Action for Childhood Arrivals (DACA) program, and rescinded protections for immigrants with Temporary

Protected Status (TPS). Inefficient and burdensome policy changes such as mandatory review and in-person interviews for applications, even if the applicant has been previously screened and is already in the United States, have decreased the number of applicants and caused a 40 percent increase in processing delays. The backlog has continued to increase even though the number of cases received has fallen by 10 percent. These policies must be considered as contributing factors to USCIS's budget shortfall.

At the beginning of the Trump Administration, USCIS had a surplus \$800 million carryover balance, but by November 2019, USCIS projected annual deficits of \$1.2 billion and a negative carryover balance of \$1.5 billion in fiscal year 2020. Despite these projected shortfalls, over the last three years the Department of Homeland Security (DHS) has consistently requested that USCIS immigration benefit fees be transferred to Immigration and Customs Enforcement (ICE) to fund foolhardy policies like, the hiring of over 300 ICE law enforcement officers. In August 2019, DHS announced it would reprogram \$271 million from the Federal Emergency Management Agency (FEMA) in order to provide \$116 million to ICE for, among other purposes, increased detention beds. Congress consistently rejects the use of USCIS fees to offset ICE expenses and instead directs USCIS to use the funds for their intended purpose--to ensure the efficient processing of immigration petitions and applications.

USCIS is one of the few federal agencies that is primarily funded through fees. These fees are paid by immigrants and U.S. citizens and employers but the Administration's hostile anti-immigration policies have impacted its financial outlook and metrics indicate that USCIS has failed to provide adequate services to its customers. USCIS has an obligation to provide Congress with a full and accurate accounting so that we can ensure that USCIS is using its resources properly, especially since the agency has squandered its surplus. It is clear that USCIS has enacted policies that directly impact its revenue streams.

Instead of rescinding its misguided policies, USCIS prefers to punish its everyday employees and current and future applicants. The overwhelming majority of employees affected by these furloughs are non-political, career civil servants who have served under multiple Administrations, are not responsible for establishing the agency's political agenda, and should therefore not be held financially culpable for the Administration's failure to plan for the budgetary shortfall resulting from the Administration's misguided priorities. In order to provide any necessary funding to USCIS, Congress must know how USCIS intends to use the funds to return to its service-oriented mission and ensure the agency's financial stability, including assurances that the Department of Homeland Security will not attempt to raid USCIS funds to further anti-immigrant policies.

We urge your leadership to reconsider its policies in order to ensure that employees remain employed during these turbulent times.

Sincerely,

/Chris Van Hollen/
Chris Van Hollen
United States Senator

/Benjamin C. Cardin/
Benjamin C. Cardin
United States Senator



U.S. Citizenship
and Immigration
Services

July 31, 2020

The Honorable Chris Van Hollen
United States Senate
Washington, DC 20510

Dear Senator Van Hollen:

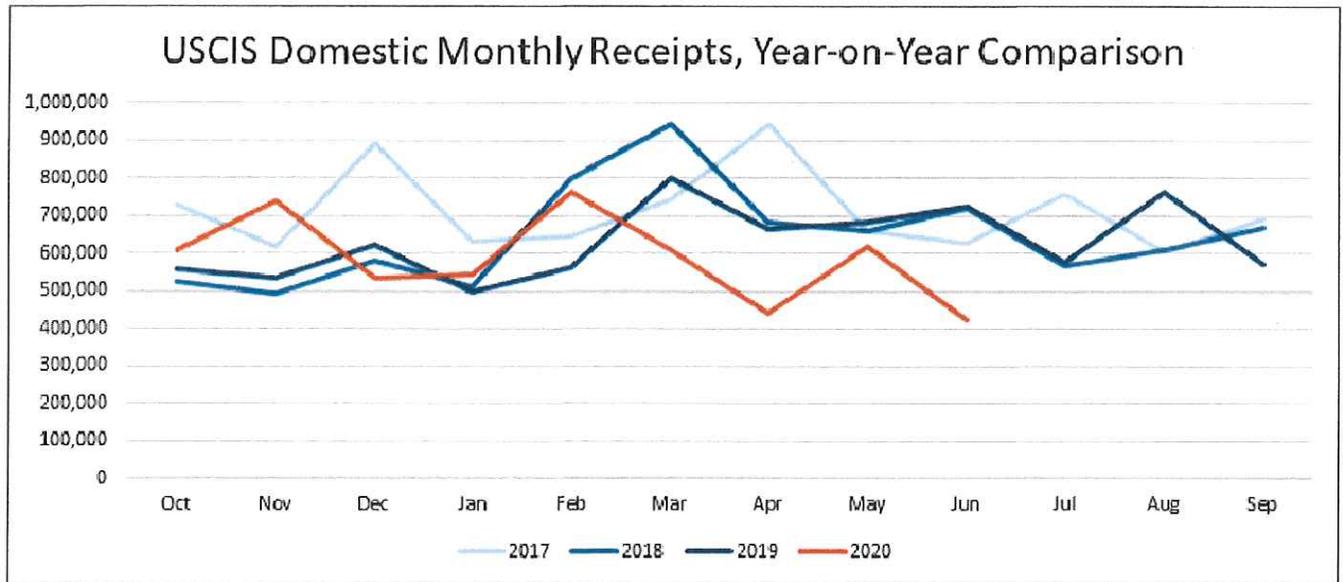
Thank you for your July 3, 2020 letter. Acting Secretary Wolf asked that I respond on his behalf.

Let me begin by saying that I share the frustration at this very unfortunate turn of events. U.S. Citizenship and Immigration Services (USCIS) leadership has been working tirelessly for several months to avoid a potential furlough. Over the past eight weeks, I have had positive and productive conversations with over four dozen members of the House and Senate, both appropriators and authorizers, on both sides of the aisle. In these conversations, I have provided background on our current budget and outlined our request for assistance and the need for USCIS to rebuild its base budget moving forward. I have been transparent regarding the root causes of our budget shortfall. I look forward to working with Congress, beyond resolution of this budget matter, to address many of the concerns raised by Members.

The potential impact of a furlough to our workforce and to local economies never strays far from my mind. I would like to personally thank you for taking the time to discuss these serious concerns with me. I believe we both agree that the employees of this agency deserve our best efforts to avoid any potential disruptions to our operations, and I appreciate your willingness to work with your colleagues in Congress to resolve this matter.

As you correctly mentioned in your letter, USCIS is one of the few federal agencies that is primarily funded through fees. Our agency generates revenue based on fees that are collected by applicants and petitioners applying for immigration benefits. In the chart below, you will see that over the last four years, USCIS revenue fluctuates monthly but generally falls within the same average range year-to-year. This was largely the case until March 2020 when the agency saw a significant drop in receipts and incoming fees – nearly half of our previous estimates – due to the coronavirus (COVID-19) pandemic. Prior to the pandemic, receipts had been stable and within expectations throughout the present administration. As our data shows, the policy decisions made during this administration have not negatively impacted our financial position.

Senator -
Thanks for taking the time to
discuss with me. Look forward to
speaking again soon. Grately appreciate
your support. Joe

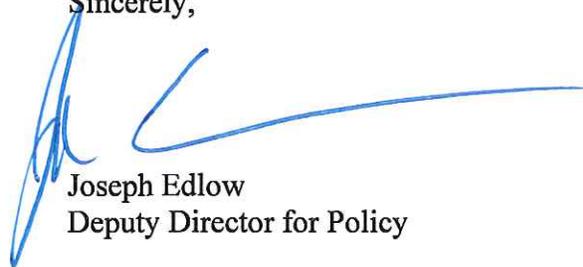


I would further note that as a fee-funded agency, USCIS is authorized to charge for its services at a level to “ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum applicants or other immigrants.” 8 U.S.C. 1356(m). The Chief Financial Officer of USCIS is required to biennially review and recommend updates to the fees imposed. 31 U.S.C. 901-03. Since the last fee rule was adopted in December 2016, USCIS is past due for an update and had recognized, prior to the pandemic, that USCIS revenue would not be enough to recover the full cost of operations. Between this shortfall and capital expenditures to specifically try to address the case backlog, USCIS has nearly exhausted the carryover balance that existed.

Lastly, in every conversation on this matter, I make clear that my first priority is to protect the outstanding workforce of USCIS and the critical mission that our agency is tasked with administering. I am in complete agreement with you that our workforce, and those that file petitions and applications with our agency, should not be punished.

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

Sincerely,



Joseph Edlow
Deputy Director for Policy