

United States Senate

WASHINGTON, DC 20510

November 12, 2020

Director Francis Cissna
United States Citizenship and Immigration Services
20 Massachusetts Ave NW
Washington, DC 20001

Dear Director Cissna:

The unprecedented COVID 19 virus has directly affected the amount of fee collections for visas, green cards and other USCIS services leading to uncertainty in the funding of the agency. In a letter to DHS Secretary Wolf and Deputy Director Edlow dated August 21, 2020, DHS House and Senate Appropriators “urged DHS to delay planned furloughs and contract cancellations.”

Since this letter was sent to the USCIS, your funding outlook has improved. In fact, according to the letter, “The most recent USCIS Immigration Examinations Fee Account (IEFA) projections for costs not reimbursable with premium processing fees indicate that USCIS will not experience a deficit in operational funding until at least November 2020. As a result, the agency does not need to furlough employees or to cancel or de-scope contracts in fiscal year 2020 to remain solvent.” While this is good news, and averted civil servant layoffs, it is unclear how these funding perturbations effected contracts and the industry partners supporting critical USCIS missions across the country. We want to ensure that your missions continue to be performed efficiently and effectively.

The language in H.R. 8337-the Continuing Appropriations Act, 2021 signed by the President on September 30, 2020 includes language from the Emergency Stopgap USCIS Stabilization Act (HR 8089). This language seeks to address the USCIS budget shortfall by giving the agency immediate access to existing premium processing funds that were dedicated to infrastructure improvement to cover operating expenses. It also increases revenues by raising existing premium processing fees for most form types. There is also language instructing the agency to submit a five-year plan for establishing electronic methods for acceptance, processing, and communication systems to eliminate bureaucracy and fraud.

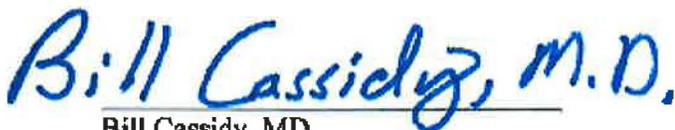
We are in complete support of this language, applaud your efforts to move from legacy systems and lead the Federal IT sector with technology innovation. Whether there is a FY21 Consolidated Appropriations Bill or individual bills, we want to be sure you have the funding to execute your current contracts and have funding to support your five year technology plan required by Congress.

As we prepare for these discussions, we would appreciate your timely answers to the following questions:

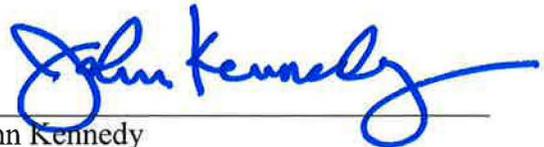
1. Even with the improved revenue projections, it appears that USCIS will face an interim budget gap in FY 2021, and possibly beyond. Please provide an assessment of the USCIS planned budget before COVID reductions versus current and expected revenue considering COVID reductions, including any impacts of a budget shortfall should one exist.
2. With the updated financial projections in FY20 and carryover into FY21, have you averted all civil servant furloughs? Similarly, have you averted any reduction in contracts, contract scope and contractor resource/personnel levels?
3. If there are contract cancellations, reductions or layoffs, what are the impacts to the USCIS mission and how will that negatively affect your ability to advance technology?
4. Are these impacts a “one and done” issue or will this carry over into next year and beyond? Will these impacts cause any delay or disruption in the initial phase of the USCIS five year plan?
5. Can there be an “appropriation loan” to USCIS via the DHS working Capital Fund or in a supplemental appropriation within the FY21 Appropriations process to address the COVID-19 impacts, thereby avoiding any adverse impacts on USCIS programs until the fee revenue catches up with necessary technology expenditures?

Thank you for your continued leadership administering the nation’s lawful immigration system. We look forward to your quick response to our questions as we seek to partner with you to ensure USCIS continues to have resources to safeguard and protect all Americans.

Sincerely,



Bill Cassidy, MD
United States Senator



John Kennedy
United States Senator



U.S. Citizenship
and Immigration
Services

December 23, 2020

The Honorable Bill Cassidy
United States Senate
Washington, DC 20510

Dear Senator Cassidy:

Thank you for your November 12, 2020 letter regarding the U.S. Citizenship and Immigration Services (USCIS) budget shortfall.

As noted in your letter, the COVID-19 pandemic did have a significant effect on USCIS revenue collections during the spring of fiscal year (FY) 2020, which caused a great deal of financial uncertainty. As a result of the pandemic, USCIS temporarily suspended in-person services because of a rapid decline in incoming receipts and revenue. In April, USCIS instituted a hiring pause and significantly reduced non-personnel spending. The aggressive spending reductions along with an increase in revenue and incoming receipts towards the end of FY 2020 enabled USCIS to avoid employee furloughs and end the year with a positive carryover balance.

However, USCIS is still in significant fiscal constraints due to multiple nationwide court-ordered injunctions against the FY 2019/2020 final fee rule that have prevented the implementation of fee adjustments, which were scheduled to be implemented on October 2, 2020. The actions that were implemented during FY 2020 and the extension of the hiring freeze and the implementation of a 32% reduction to non-payroll expenses during FY 2021 have enabled USCIS to continue funding payroll and mitigate the risk of civil servant furloughs. USCIS will continue pursuing all necessary actions to remain fiscally solvent in FY 2021 and beyond.

USCIS is appreciative of the language included in Pub. L. 116-159, which helps mitigate the impact of the final fee rule injunctions by increasing the premium processing fee for the petitions previously designated for premium processing service, allowing more petitions/applications to be made eligible for premium processing, and expanding the authorized use of premium processing funding.

With respect to the specific questions that were included in your letter, the responses are included as an enclosure to this letter.

The Honorable John Kennedy
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Thank you again for your letter and interest in this important issue. Senator Kennedy will receive a separate, identical response. 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 blue ink, consisting of a large, stylized 'J' followed by 'B. Edlow' and a long horizontal flourish extending to the right.

Joseph B. Edlow
Deputy Director for Policy

Enclosure

**U.S. Citizenship and Immigration Services' Response to
Senator Cassidy's November 12, 2020 Letter**

- 1. Even with the improved revenue projections, it appears that USCIS will face an interim budget gap in FY 2021, and possibly beyond. Please provide an assessment of the USCIS planned budget before COVID reductions versus current and expected revenue considering COVID reductions, including any impacts of a budget shortfall should one exist.**

At the beginning of fiscal year (FY) 2020, U.S. Citizenship and Immigration Services (USCIS) anticipated a small shortfall and reduced non-personnel budget by three percent. As a result of the COVID-19 pandemic, USCIS was forced to temporarily suspend in-person services while experiencing a rapid decline in incoming receipts and revenue. In April 2020, USCIS instituted a hiring pause and significantly reduced non-personnel spending. The aggressive spending reductions along with an increase in revenue and incoming receipts towards the end of FY2020 enabled USCIS to avoid employee furloughs and end the year with a positive carryover balance.

The current financial challenge in FY 2021 is primarily attributable to the fact that USCIS expects to forgo approximately \$760M of revenue in FY 2021 due to the current nationwide injunctions of the FY 2019/2020 fee rule, which was scheduled to increase fees by a weighted average of 20% beginning on October 2, 2020. To mitigate the impact, USCIS has reduced planned FY 2021 non-payroll expenses by 32% and has continued the hiring pause. In addition to the USCIS budget reductions, Congress provided changes to premium processing in the FY 2021 Continuing Resolution, which are projected to generate additional revenue. The premium processing fee increase, the ability to expand premium processing to additional forms, and the expanded use of premium processing funds will partially mitigate the loss of revenue due to the fee rule injunctions.

- 2. With the updated financial projections in FY20 and carryover into FY21, have you averted all civil servant furloughs? Similarly, have you averted any reduction in contracts, contract scope and contractor resource/personnel levels?**

USCIS remains committed to funding payroll and barring any unforeseen circumstances, does not anticipate any civil servant furloughs in FY 2021. However, USCIS implemented a 32% reduction to non-payroll expenses in FY 2021. As a result, there will be reductions to contract scope and contractor resource/personnel levels. This budget cut is necessary to keep the agency solvent as the FY 2019/2020 fee rule is currently enjoined nationwide, which resulted in approximately \$760M less revenue in FY 2021 than initially projected.

- 3. If there are contract cancellations, reductions or layoffs, what are the impacts to the USCIS mission and how will that negatively affect your ability to advance technology?**

Contract modifications and reductions will have negative impacts on USCIS. For example, USCIS expects applicants and petitioners will experience increased wait times to speak to live agents when contacting the USCIS Contact Center and slower response times from helpdesk and onsite support. USCIS also expects delays in the adoption of new technologies and increased digitization. The termination of some contracts and the

**U.S. Citizenship and Immigration Services' Response to
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restructuring of others used to support IT modernization and electronic processing efforts will delay USCIS efforts to enable an end-to-end digital environment with more efficient electronic filing and adjudication processes. This modernization effort also includes identity initiatives focused on improving data integrity and availability.

4. Are these impacts a "one and done" issue or will this carry over into next year and beyond? Will these impacts cause any delay or disruption in the initial phase of the USCIS five year plan?

No, these impacts are not a "one and done" issue. They will carry over into the next fiscal year and beyond, until enough resources are available to fully fund all necessary expenses. USCIS is in the process of developing its five-year plan, which will consider resource constraints and their impact on each phase of the plan.

5. Can there be an "appropriation loan" to USCIS via the DHS working Capital Fund or in a supplemental appropriation within the FY21 Appropriations process to address the COVID-19 impacts, thereby avoiding any adverse impacts on USCIS programs until the fee revenue catches up with necessary technology expenditures?

USCIS is unaware of any mechanism that would allow for a loan from a working capital fund to a component. A supplemental appropriation within the FY 2021 appropriations process remains possible, although it would not be needed to specifically address COVID-19 impacts given that the current financial challenge is primarily attributable to the fact that USCIS expects to forgo approximately \$760M of revenue in FY 2021 due to the current nationwide injunctions of the FY 2019/2020 fee rule, which was scheduled to go into effect on October 2nd and increase fees by a weighted average of 20%.