

CompeteAmerica

The Alliance for a Competitive Workforce

August 9, 2022

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
Washington, DC 20528

The Honorable Antony Blinken
Secretary of State
Washington, DC 20520

The Honorable Ur M. Jaddou
Director of U.S. Citizenship and Immigration Services
Camp Springs, MD 20588

The Honorable Rena Bitter
Assistant Secretary, Consular Affairs
Washington, DC 20520

VIA ELECTRONIC MAIL

Dear Secretary Mayorkas, Secretary Blinken, Director Jaddou, and Assistant Secretary Bitter:

The Compete America coalition, representing leading employers across the United States, urges you to efficiently utilize all available employment-based (EB) immigrant visa numbers for Fiscal Year 2022. While we commend the Administration for prioritizing the issuance of immigrant visas, we remain concerned that the government will be unable to issue all available EB immigrant visa numbers before they expire at the end of the fiscal year. This concern appears warranted given that as of June 30, 2022, only 176,281 of the 280,000 available visas had been allocated. As you know, the deep backlogs in our EB Green Card system impose a professional and personal cost on our highly skilled foreign national employees and their families, serving to undermine their economic potential by leaving them in temporary status for years and sometimes decades. The United States is facing a pressing deficit of talent in science, technology, engineering, and mathematics (STEM) fields such as cybersecurity, and ensuring the use of all available employment-based Green Cards is critical. We respectfully request that the Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS), and Department of State (DOS) take all available actions within their authority to fully utilize the Green Cards Congress has allocated for FY23 and provide relief to individuals stuck in the Green Card backlog. This letter outlines our recommendations to ensure that FY22 immigrant visas are not lost and the Green Card backlog is not exacerbated by extension.

The Compete America coalition advocates for ensuring that the United States has the capacity to educate domestic sources of professional talent and to obtain and retain the necessary global talent for American employers to innovate and create jobs. Our [coalition members](#) include higher education

associations, industry associations, the nation's largest business and trade associations, and individual employers that work together on issues pertaining to high-skilled immigration in the United States. Members of our coalition comprise the nation's foremost creators of jobs for U.S. workers, while contributing to the nation's economic strength and global competitiveness. Our members also leverage the talents of well-educated and highly skilled professionals from abroad. Many of these highly sought-after professionals have been drawn to this country not only by the vast opportunities for innovation and growth offered by America's employers, but also by the opportunities opened to them by America's unmatched higher education system.

Harms Caused by the Green Card Backlog

The Green Card backlog harms our member companies' employees and their families. Staggering wait times to attain permanent residence in the U.S. make it extremely difficult for skilled talent to make long-term life decisions, such as buying a home. Green Card applicants must repeatedly secure extensions of their nonimmigrant status in the U.S. and often face difficult decisions about how to take advantage of career opportunities without jeopardizing their application. These employees often share the professional and personal hardships that being in limbo causes for themselves and their families. Children of nonimmigrants in the backlog "age out" of their dependent status at age 21, leaving them with few viable options to remain in the United States, despite it being their home. As families await adjudication of their applications, they often are unable to travel outside the United States for years, missing out on important family commitments overseas. For many families, it is simply too difficult to remain in the U.S. without a clear picture of their future.

The Green Card backlog prevents our member companies from retaining highly skilled workers, which hurts the U.S. economy. For the reasons described above, many highly skilled foreign nationals have to make the difficult choice to abandon their pursuit of a Green Card and leave the United States. Individuals who could make significant contributions to innovation in this country choose to settle in a more welcoming destination, such as Canada, which offers a clearer path to a permanent status.¹ The Green Card backlog hinders American companies from hiring and retaining highly skilled workers, particularly in high-demand STEM fields. The Bureau of Labor Statistics projects the U.S. economy will add more than 1 million new STEM positions before 2030, a 10.5% increase.² At the same time, the unemployment rate for the STEM labor force has remained consistently lower than for non-STEM workers, even during early months of the pandemic when unemployment rates spiked.³ To be able to compete in the global economy, the U.S. must be able to attract the best and brightest talent from around the world and provide an efficient route to permanent residence.

¹ See Zachary Arnold, *Canada's Immigration System Increasingly Draws Talent from the United States*, Center for Security and Emerging Technology (CSET) (July 14, 2020), <https://cset.georgetown.edu/publication/canadas-immigration-system-increasingly-draws-talent-from-the-united-states/>; Richard Sanders, *A Layered Look at Canadian and U.S. Immigration*, Wilson Center (July 21, 2020), <https://www.wilsoncenter.org/article/layered-look-canadian-and-us-immigration>; *Analysis of U.S. and Canadian International Student Data*, National Foundation for American Policy (March 2022), <https://nfap.com/wp-content/uploads/2022/03/Analysis-of-International-Student-Data.NFAP-Policy-Brief.March-2022.pdf>.

² *Employment in STEM Occupations*, U.S. Bureau of Labor Statistics (April 19, 2022), <https://www.bls.gov/emp/tables/stem-employment.htm>.

³ *The STEM Labor Force of Today: Scientists, Engineers, and Skilled Technical Workers*, National Science Foundation, National Science Board, National Center for Science and Engineering Statistics (NCSES) (August 2021), <https://nces.nsf.gov/pubs/nsb20212/stem-labor-market-conditions-and-the-economy#stem-and-non-stem-unemployment-in-the-time-of-covid-19>.

The Green Card backlog makes USCIS operations less efficient. Employers must repeatedly file petitions with USCIS to extend the nonimmigrant status of employees and their families waiting for their priority date to become current so that they can file their adjustment of status applications. Employees and families who have been able to apply for a Green Card must also often apply for an employment authorization document and advance parole—sometimes multiple times before receiving a Green Card. These filings place burdens on the agency to process and adjudicate those petitions. For each required submission, at minimum USCIS must intake a paper filing, an officer must review and adjudicate the petition, and the agency must issue a paper receipt and decision notice to the petitioner. All of these steps contribute to the agency’s current case backlog and processing delays, which USCIS has recognized create significant burdens for applicants and petitioners.⁴ Addressing the Green Card backlog would eliminate entire USCIS work streams for the agency and allow it to focus on improving processing times for other immigration benefit requests.

Recommendations

For these reasons, it is critical that the immigration agencies issue all immigrant visas Congress authorizes each year. Failing to fully utilize this limited, in-demand resource exacerbates the harms caused by the Green Card backlog, including harms to the American economy and to the lives of our valuable employees and their families. Compete America recognizes that DHS and DOS have now issued a higher number of immigrant visas than in any year. We commend the departments for their efforts to streamline processing and conduct outreach to foreign nationals to maximize Green Card utilization. We also commend the government’s improved communications with public stakeholders and the increased transparency of the departments when responding to congressional oversight.

Despite the progress the government has made in processing employment-based Green Cards, we are concerned that wastage may occur again this fiscal year. We therefore urge the agencies to continue to explore all options to maximize visa issuance between now and the end of the fiscal year to ensure that employment-based Green Cards do not go to waste. Additionally, we believe DHS can do more to provide relief to employees and their families who are stuck in the Green Card backlog. As we proposed in our 2021 comment to the USCIS Request for Information on barriers to immigration benefits, we encourage the agency to take action to recapture the more than 220,000 employment-based Green Card numbers that the agency did not issue between FY 1992 and FY 2019 due to administrative delays. Issuing these unused visa numbers to applicants who have been waiting for years for a Green Card would considerably reduce the current backlog. It would provide long-overdue relief to these applicants and their families and would eliminate the obligation of USCIS to continually adjudicate renewals of their nonimmigrant status.

Finally, the Administration must take steps to prevent visas from going unissued before the end of the fiscal year consistent with congressional intent to ensure that all available visa numbers are fully utilized. Specifically, government agencies could reserve visa numbers for “issuance” for purposes of the numerical caps earlier in the process to ensure the visa number is not lost simply because processing continues beyond the end of the fiscal year. For example, the Administration could consider a visa number reserved and issued when applicants establish that they are documentarily qualified, and a visa

⁴ *USCIS Announces New Actions to Reduce Backlogs, Expand Premium Processing, and Provide Relief to Work Permit Holders*, U.S. Citizenship and Immigration Services (March 29, 2022), <https://www.uscis.gov/newsroom/news-releases/uscis-announces-new-actions-to-reduce-backlogs-expand-premium-processing-and-provide-relief-to-work>.

number is available. This avoids punishing applicants for delays in application processing outside of their control and allows for full use of the immigration system within normal legal limits.

Conclusion

Compete America greatly appreciates the agencies' consideration of the above recommendations. We would welcome any opportunities to assist in the agencies' efforts and provide feedback. The Administration has a unique opportunity to advance the freedom and agency of tens of thousands of our nation's top innovators, engineers, and scientists, as well as their families, and we call on you to do all within your power to leave no EB immigrant visa unissued this year. We look forward to continued dialogue and will continue working with Congress and the Biden Administration to advocate for positive, meaningful reforms to the United States immigration system.

Should you have any questions or would like to discuss this further, please contact Scott Corley, Compete America Coalition Executive Director by telephone 202-906-0127 or by email at scott@corleydc.com.

Respectfully submitted,

Compete America Coalition

CC: Doug Rand, Senior Advisor to the Director, USCIS



September 21, 2022

Scott Corley
Executive Director
Compete America
scott@corleydc.com

Dear Mr. Corley:

Thank you for your August 9, 2022 letter to the U.S. Department of Homeland Security (DHS) concerning the utilization of the available employment-based (EB) immigrant visas in Fiscal Year (FY) 2022. Secretary Mayorkas asked that I respond on his behalf.

In FY 2022, U.S. Citizenship and Immigration Services (USCIS) and its partners at U.S. Department of State (DOS) intend to use all the available EB immigrant visas. The two agencies have consistently stated that this is our goal, as it is every fiscal year, and USCIS remains committed to taking every viable policy and procedural action to maximize our use of all available EB immigrant visas by the end of the fiscal year. We appreciate your shared commitment to this goal and thank you for your support and recommendations.

The FY 2022 employment-based annual visa limit is 281,507—more than double the typical annual total—due to unused family-based visa numbers from FY 2021 being added to the current fiscal year’s available employment-based limit. Through August 31, 2022, DOS and USCIS used 263,510 employment-based immigrant visas and will continue to update these numbers for the public on our [Fiscal Year 2023 Employment-Based Adjustment of Status FAQs](#) webpage recently updated on September 8, 2022.

In the second week of September, DOS made visas unavailable for further issuance or adjustment of status approval in the first, second, and third employment-based preference categories because the agencies had reached the annual limit for FY 2022 in those categories. USCIS expects that, at some point before the end of FY 2022, DOS will similarly make visas unavailable in the fourth employment-based preference category. The agencies are working diligently to use the remaining visas in the fifth employment-based preference category and expect to use all of the remaining numbers except for those in the newly-created reserved subcategories, which carry over to the next fiscal year.

Mr. Scott Corley
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Thank you again for your letter and interest in this important issue. Should you require any additional assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", followed by a long horizontal flourish.

Ur M. Jaddou
Director