



CITIES for ACTION

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By ESEC at 11:17 am, Mar 28, 2023

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
300 7th St SW
Washington, DC 20528, USA

The Honorable Ur M. Jaddou
Director
U.S. Citizenship and Immigration Services
Department of Homeland Security
5900 Capital Gateway Drive
Camp Springs, MD 20746

March 28, 2023

Re: Cities for Action Leaders Call on DHS to Address the Inefficiencies and Inequities in the Processing of Form I-765, Applications for Employment Authorization

Dear Secretary Mayorkas and Director Jaddou:

The undersigned 50+ Cities for Action mayors and county executives write to ask your assistance to address a critical issue facing many of our cities and localities. We request that the U.S. Department of Homeland Security (DHS) accelerate work permit processing, as well as address the inefficiencies and inequities in the policies and regulations on the processing of and access to employment authorization documents (EADs).

U.S. Citizenship and Immigration Services (USCIS) is facing a significant backlog in processing Form I-765, Application for Employment Authorization (EAD application) for certain categories of applicants. We appreciate the ongoing efforts of USCIS to address backlogs more generally by developing technology and hiring additional staff, including significant reductions to other specific backlog categories. Despite these efforts, the backlogs, and delays in EAD application processing continue to persist.

These delays not only wreak havoc on the lives of asylum seekers, parolees, employers, and their local economies, but also place significant burdens on receiving communities. Our communities have asylum seekers that want to work to support themselves and their families, and at the same time, the employers in our cities face a historic labor shortage. Our cities and municipalities feel these unnecessary delays in EAD adjudication. Addressing the work permit backlog will help get work permits into the hands of asylum seekers as soon as possible while expanding the available workforce within our cities.

The current policy and regulatory structure around adjudicating EADs contribute to this backlog, creating unnecessary delays, inefficiencies, and expenses for USCIS. The following are policy and regulatory actions DHS can and should take in order to shape a more efficient and humane EAD adjudicatory system. These recommendations are informed in part by asylum seekers themselves.

USCIS can implement several of the recommendations immediately to speed up work permit processing, and we do not believe that it is necessary to slow down the processing of any other categories in order to achieve this. Taken as a whole, these recommendations will reduce workload and increase USCIS capacity across all categories. The recommendations are divided into two parts: first, policy actions that USCIS can take immediately; second, regulatory changes that the agency should make to improve the system in the long term.

I. Policy Actions USCIS Should Take Immediately

- Devote sufficient resources to achieve the 30-day mandated processing time for asylum seeker initial EAD applications.
- Shorten Form I-765 Application for Employment Authorization.
- Issue I-589 asylum application receipt notices in a timely manner.
- Issue initial work permits for asylum seekers that have a longer validity period.
- Implement online filing for all categories of I-765 work permit applications and fee waivers.
- Publicly post up-to-date processing times for initial EAD applications based on (c)(8) and (c)(11) applications.
- Automatically re-issue I-765 renewal receipt notices for every applicant eligible for an automatic extension that clearly indicates that their employment authorization has been extended for 540 days, in line with the regulatory extension.
- Lengthen the I-94 work eligibility period for refugee applicants and partner with the State Department to reduce work permit application processing times initiated in START (software system used in refugee processing centers).

II. Regulatory Action USCIS Should Take to Improve the Adjudication of EADs Long Term

- Issue a regulation expanding the definition of “asylum application” to allow applicants to apply for a work permit earlier.
- Issue a regulation eliminating the “Asylum Clock.”
- Expand the category of individuals who are eligible for an auto-extension of their work permits.
- Authorize those granted INA § 241(b)(3) withholding of removal or protection under the Convention Against Torture (CAT) to work immediately, by making these “incident to status” work authorization categories.
- Expand work authorization incident to status for all people granted parole, so that they do not need to wait for USCIS to approve their Form I-765, Application for Employment Authorization, before they can work in the United States.

These immediate policy actions and suggested regulatory actions will improve the adjudication process of Form I-765, Application for Employment Authorization, increasing efficiency every step of the way. Most importantly, these actions will support a humane adjudication process that will contribute to creating stability in the lives of asylum seekers, their families, and their communities. Please contact the Cities for Action Program Manager, Jemimah Cochrane at jcochrane@moia.nyc.gov with any questions or to arrange for stakeholder engagement.

Sincerely,

1. *Mayor Eric Adams, New York, NY*
2. *Mayor Lori E. Lightfoot, Chicago, IL*
3. *Mayor Todd Gloria, San Diego, CA*
4. *Mayor Timothy M. Keller, Albuquerque, NM*
5. *Mayor Esther Manheimer, Asheville, NC*
6. *Mayor Kirk Watson, Austin, TX*
7. *County Executive Johnny Olszewski, Baltimore County, MD*
8. *Mayor Jesse Arreguín, Berkeley, CA*
9. *Mayor Michelle Wu, Boston, MA*
10. *Mayor Aaron Brockett, Boulder, CO*
11. *Mayor Trey Mendez, Brownsville, TX*
12. *Mayor Sumbul Siddiqui, Cambridge, MA*
13. *Mayor Jim Brainard, Carmel, IN*
14. *Mayor Damon Seils, Carrboro, NC*
15. *Mayor Pam Hemminger, Chapel Hill, NC*
16. *Mayor Michael B. Hancock, Denver, CO*
17. *Mayor Elaine M. O'Neal, Durham, NC*
18. *Commissioner Brenda Howerton, Durham County, NC*
19. *Mayor John J. Bauters, Emeryville, CA*
20. *Mayor Joseph V. Schember, Erie, PA*
21. *Mayor Daniel Biss, Evanston, IL*
22. *Mayor Nancy Vaughan, Greensboro, NC*
23. *Mayor Chokwe A. Lumumba, Jackson, MS*
24. *Mayor Indya Kincannon, Knoxville, TN*
25. *Mayor Steve Collier, Lawrence, IN*
26. *Mayor Rex Richardson, Long Beach, CA*
27. *Mayor Karen Bass, Los Angeles, CA*
28. *Mayor Craig Greenberg, Louisville, KY*
29. *Mayor Samson Borgelin, North Lauderdale, FL*
30. *Mayor Alix Desulme, North Miami, FL*
31. *Mayor Sheng Thao, Oakland, CA*
32. *County Executive David Coulter, Oakland County, MI*

33. *Mayor James F. Kenney, Philadelphia, PA*
34. *Mayor Ed Gainey, Pittsburgh, PA*
35. *Mayor Kate Snyder, Portland, ME*
36. *Mayor Brett P. Smiley, Providence, RI*
37. *Mayor Eduardo Martinez, Richmond, CA*
38. *Mayor Levar M. Stoney, Richmond, VA*
39. *Mayor Melvin Carter, Saint Paul, MN*
40. *Mayor Erin Mendenhall, Salt Lake City, UT*
41. *Mayor London N. Breed, City & County of San Francisco, CA*
42. *Mayor Matt Mahan, San Jose, CA*
43. *Mayor Alan Webber, Santa Fe, NM*
44. *Mayor Bruce Harrell, Seattle, WA*
45. *Mayor Jeffrey Slavin, Somerset, MD*
46. *Mayor Katjana Ballantyne, Somerville MA*
47. *Mayor James Mueller, South Bend, IN*
48. *Mayor Katie Rosenberg, Wausau, WI*
49. *Mayor Sepi Shyne, West Hollywood, CA*
50. *Mayor Michael T. Foley, Westbrook, ME*
51. *Supervisor Jim Provenza, Yolo County, CA*

Cc:

CIS Ombudsman, Phyllis Coven

Counselor, Office of the Secretary of DHS, Charanya Krishnaswami

Counselor, Office of the Secretary of DHS, Royce Murray

Senior Advisor, Director of USCIS, Doug Rand

Senior Advisor, Director of USCIS, Avidah Moussavian

FOR IMMEDIATE RELEASE: March 28, 2023

Contact: Mediabox@moia.nyc.gov

Over 50 Cities for Action (C4A) Mayors & County Executives Call on the Department of Homeland Security (DHS) to Address Inefficiencies and Inequities in the Processing of Form I-765, Applications for Employment Authorization

Today, over 50 Cities for Action mayors and county executives sent a bi-partisan letter to the Department of Homeland Security (DHS) to request it address a critical issue facing many cities and counties. In the letter, local leaders request that DHS accelerate work permit processing, as well as address the inefficiencies and inequities in the policies and regulations on the processing of and access to employment authorization documents (EADs).

The letter highlights that delays in processing the Form I-765 not only wreak havoc on the lives of asylum seekers, parolees, employers, and their local economies, but also place significant burdens on receiving communities. Local communities across the country have asylum seekers that want to work to support themselves and their families, and at the same time, the employers in these cities face a historic labor shortage. Addressing the work permit backlog will help get work permits into the hands of asylum seekers as soon as possible while expanding the available workforce within our cities and counties.

The letter outlines several policy and regulatory actions that DHS could take immediately to improve the adjudication process of Form I-765, Application for Employment Authorization.

[CLICK HERE TO VIEW THE LETTER](#)

New York, NY, Mayor Eric Adams: "I've spoken with countless asylum seekers who all tell me they want the same thing: the ability to work," said New York City Mayor Eric Adams. "As we've said for months, expediting work authorization for asylum seekers is a win-win, setting up arriving families for success and supporting our local economies. I join my fellow Cities for Action mayors and county executives across the country in calling on our federal partners to address the bureaucratic slowdowns and expedite work authorizations for asylum seekers."

Boston, MA, Mayor Michelle Wu: "Ensuring efficient work permit processing and employment authorization documents processing and access at the federal level is crucial to provide stability for asylum seekers and their families here in Boston," said Mayor Michelle Wu. "These critical actions will support a more humane, predictable process for asylum seekers, their families, and all of our communities."

Carmel, IN, Mayor Jim Brainard: "A critical aspect to resettlement is employment. I believe the federal government must give asylum seekers the opportunity to work while giving our economy the boost it needs," said Carmel, Indiana, Mayor Jim Brainard. "Our cities and municipalities often hear from asylum seekers that they desperately want to work in order to provide for themselves and their families. America has been built by immigrants that sought freedom and opportunity and these immigrants are no different than those that came before to our shores. They want to contribute, build community, and make a new home here. A six-to-eight month waiting period for a work-permit is much too long. In the meantime, receiving cities and counties are filling in the gaps to ensure that asylum seekers are supported throughout their journey."

Philadelphia, PA, Mayor Jim Kenney: "When people—including refugees and asylum seekers—have the right and opportunity to work, they are not only provided a means to care for their loved ones, but they become important contributors to the overall strength and sustainability of our economies," said **Mayor Jim Kenney**. "The U.S. Citizenship and Immigration Services must take immediate action to remedy the existing and harmful backlog on processing work permits as well as take the necessary steps to improve the system long-term."

Somerset, MD, Mayor Jeffrey Slavin: "Somerset is a welcoming, neighborly town that thrives on hard work and community ties. Many of our new neighbors are people looking for a safe haven where they can rebuild their lives and raise their kids, but they are waiting 8 months to over a year to get work authorization. No one - especially families fleeing violence - can wait a year to pay rent and put food on the table. Asylum seekers have told us that they need faster access to work permits, and Somerset needs their contributions to our community. As we navigate through a historic labor shortage, let's make sure that everyone living in Somerset has every opportunity to work to support themselves and their family. It's the right thing to do."

Wausau, WI, Mayor Katie Rosenberg: "Over the last several years, we've seen that the delays in employment authorization application processing not only hurts individuals who are in limbo, waiting for approval to start supporting themselves, but also hurts their families and the whole heartland economy that was built by and continues to be bolstered by the hard work of immigrants of all kinds. From agricultural processors to the hospitality industry to right here in local government, I've heard over and over from employers in Central Wisconsin that they can't find enough employees. This is at the same time, we have months-long waiting lists for people who want to work here so they can support their families. The ethical way to continue rebuilding our economy, especially in our nation's heartland, is to immediately address the delays, gaps, and inequalities in the permitting and authorization process."

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About Cities for Action

[Cities for Action](#) is a bipartisan coalition of nearly 200 [U.S. mayors and county executives](#) working to advocate for and promote civic inclusion of our immigrant communities. Click [HERE](#)

to see a list of Cities for Action mayors and county executives. To learn more about our work, follow us on [Twitter](#).

U.S. Department of Homeland Security
U.S. Citizenship and Immigration
Services
Office of the Director
Camp Springs, MD 20588-0009



U.S. Citizenship
and Immigration
Services

May 12, 2023

Jemimah Cochrane
Action Program Manager
Cities for Action
jcochrane@moia.nyc.gov

Dear Ms. Cochrane:

Thank you for your March 28, 2023 letter to the Department of Homeland Security regarding employment authorization and Employment Authorization Documents (EADs). I am responding on behalf of the Department.

We appreciate the immediate policy actions and long-term regulatory actions that you suggested in your letter and are pleased to report that several of your suggestions are currently being implemented. In December 2022, USCIS released the “[Fiscal Year 2022 Progress Report](#),” which details USCIS actions in a variety of areas, including steps we are taking that related to your specific recommendations. The report notes that in Fiscal Year 2023, USCIS is committed to simplifying several major forms, including Form I-765, Application for Employment Authorization. This report also details our efforts to restore and extend work authorization and reduce EAD wait times.

In terms of devoting resources to EAD processing, USCIS has allocated funds for overtime work to reduce backlogs and processing times and we are focused on hiring staff to fill all available positions to ensure our workforce can meet its humanitarian mission. We are also coordinating with our interagency colleagues to support the White House’s commitment to fulfill America’s promise to refugees,¹ including providing EADs in a timely manner.

USCIS has also taken actions consistent with the immediate policy actions you suggested regarding online filing for work permits and timely issuing of asylum receipt notices. On January 23, 2023, USCIS [announced](#) that certain asylum applicants can now file Form I-765 online. This online filing option is available to applicants for employment authorization under category (c)(8), Pending Asylum and Withholding of Removal Applicants, and applicants for pending asylum under the ABC Settlement Agreement. This online filing option fosters a more efficient, secure,

¹ See <https://www.whitehouse.gov/omb/briefing-room/2023/03/09/fact-sheet-president-bidens-budget-strengthens-border-security-enhances-legal-pathways-and-provides-resources-to-enforce-our-immigration-laws/>.

and convenient process for applicants while increasing operational efficiencies for USCIS. Previously, on July 28, 2022, USCIS [announced](#)² that certain parolees can file Form I-765 online, and the agency continues to explore online filing for additional Form I-765 categories. Also, since November 2022, USCIS has offered online filing for certain affirmative Form I-589, Application for Asylum and for Withholding of Removal. For those applicants that are required or choose to submit paper filings of Form I-589, we are currently in the process of changing the filing location from USCIS Service Centers to USCIS Lockbox facilities. These changes will improve the efficiency of intake and help ensure that asylum applicants receive timely proof of the submission of their Form I-589.

Additionally, USCIS is issuing receipt notices containing language about the up to 540-day automatic employment authorization and/or EAD extension available for certain applicants. Some populations of these applicants did not receive a receipt notice with this language, so USCIS is providing corrected notices both electronically and by mail. USCIS agrees that transparency regarding processing times is important, and we are working to provide this data on our website as soon as possible for I-765 (c)(8) and (c)(11) applications.

In addition to considering many options, including implementing new policy and technological innovations for (c)(8)-based EADs, we are working diligently to ensure that defensive asylum applicants filing with EOIR, and affirmative asylum filing applicants with USCIS, have accurate Asylum EAD Clock calculations. More broadly, we remain committed to adjudicating I-765 (c)(8) applications timely and have devoted significant resources to this ever-increasing workload, which is currently exceeding 75,000 new applications per month, a 250% increase compared to Fiscal Year 2022 levels.

USCIS will continue to evaluate several policy and regulatory options to reduce backlogs of Form I-765 applications and reduce the likelihood of applicants experiencing gaps in employment.³

Thank you again for your letter and interest in these important issues. Please share this response with the Cities for Action mayors and county executives who signed your letter. Should you require any additional assistance, please do not hesitate to contact me.

Sincerely,



Ur M. Jaddou
Director

² Available at <https://www.uscis.gov/newsroom/alerts/parolees-can-now-file-form-i-765-online>.

³ For more information on how to submit a formal petition for rulemaking pursuant to Title 6 Section 3.5 of the Code of Federal Regulations, please see <https://www.ecfr.gov/current/title-6/chapter-I/part-3>.