

United States Senate

WASHINGTON, DC 20510

June 11, 2019

The Honorable Kenneth T. Cuccinelli II
Acting Director
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
20 Massachusetts Avenue NW, 4th Floor
Washington, DC 20529

Dear Acting Director Cuccinelli,

We write concerning the backlogs that our constituents are currently facing at U.S. Citizenship and Immigration Services (USCIS). The processing delays, particularly as it pertains to family-based immigration petitions and employment authorization documents, are alarming and impose an undue burden on applicants, their families, and community businesses.

Congress increased USCIS's budget in hopes that the additional funding would lead to a reduction in application times but the opposite has occurred despite a drop in applications. The inefficiencies, delays and backlogs are significant and must be swiftly addressed.

In order to serve our constituents please provide us with a written response to the questions below within 30 days of receipt:

How many pending applications/petitions does USCIS have for the following form types

- I-130, Petition for Alien Relative
- I-140, Immigrant Petition for Alien Worker
- I-765, Application for Employment Authorization
- I-485, Application to Register Permanent Residence or Adjust Status; and
- N-400, Application for Naturalization

What is USCIS's stated processing-time goal for each application type?*(Example: 90 days (I-765s), 120 days (I-485))*

- What percentage of applications are processed within the agency's stated timeframe?

What is the average processing time for these application types currently?

- What is the percentage of applications are processed within this average?

Has a policy change occurred in the last 18 months that has led to increased processing times?

- If so, please provide the policy memorandum/memoranda that are affiliated with these changes;
- In particular, please share any changes in the processing of I-765s that explain increased processing times for first-time and renewal applications.

Consular-returned petitions (petitions denied by Embassies that must be reviewed by USCIS a second time) currently have no stated processing time. Reports of petitions returned to USCIS in 2015 and 2016 with no further action are being received.

- What is the number of consular-returned petitions (I-130, I-140 namely) that await USCIS review?
- What is the average length of time a consular-returned petition waits to be reviewed?
- What plans does USCIS have in place or plan to implement to address this growing backlog?

Thank you for your attention to this matter.

Sincerely,



Chris Van Hollen
U.S. Senator



Benjamin L. Cardin
U.S. Senator



U.S. Citizenship
and Immigration
Services

July 25, 2019

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

Dear Senator Van Hollen:

Thank you for your June 11, 2019 letter requesting information concerning processing delays at U.S. Citizenship and Immigration Services (USCIS). USCIS is committed to efficiently and fairly adjudicating requests for immigration benefits. USCIS has provided responses to your specific questions below.

1. How many pending applications/petitions does USCIS have for the following form types:

- **I-130, Petition for Alien Relative**
- **I-140, Immigrant Petition for Alien Workers**
- **I-765, Application for Employment Authorization**
- **I-485, Application to Register Permanent Residence or Adjust Status**
- **N-400, Application for Naturalization**

Form	Total (Gross) Pending
I-130, Petition for Alien Relative (Visa available)	520,000
I-130, Petition for Alien Relative (Visa not available)*	1,038,000
I-140, Immigrant Petition for Alien Workers	36,000
I-765, Application for Employment Authorization**	683,000
I-485, Application to Register Permanent Residence or Adjust Status***	530,000
N-400, Application for Naturalization	707,000

Source: US Citizenship and Immigration Services, Office of Performance and Quality.

Notes: Data as of April 2019, which is the most recent available. Pending counts are a snapshot in time; the pending counts reflected above are as of April 30, 2019. Total (gross) pending volume includes cases subject to applicant-induced delays that are outside government control, including pending responses to USCIS-issued requests for additional evidence and notices of intent to deny/revoke. It also includes cases where the visa is unavailable.

*Visas are not available for 1.038 million family preference petitions.

**I-765 excludes DACA-based I-765 cases.

***I-485 includes family, employment-based and other adjustments but excludes humanitarian adjustments such as refugee and asylee adjustments.

2. What is USCIS' stated processing time-goal for each application type? (Example: 90 days (I-765s), 120 days (I-485))
- o What percentage of applications are processed within the agency's stated timeframe?

Form	Cycle Time Goals	Percent adjudicated within the goal
I-130, Petition for Alien Relative	150 days	41%
I-140, Immigrant Petition for Alien Workers	120 days	58%
I-765, Application for Employment Authorization*	90 days	46%
I-485, Application to Register Permanent Residence or Adjust Status**	120 days	5%
N-400, Application for Naturalization	150 days	11%

Source: US Citizenship and Immigration Services, Office of Performance and Quality.

Notes: Data as of April 2019, which is the most recent available.

*I-765 excludes DACA based I-765 cases.

**I-485 includes family, employment-based and other adjustments but excludes humanitarian adjustments such as refugee and asylee adjustments.

3. What is the average processing time for these application types currently?
- o What percentage of applications are processed within this average?

Form	Estimated mean (gross) cycle time	Percent adjudicated within the estimated average (gross) cycle time
I-130, Petition for Alien Relative*	715 days	89%
I-140, Immigrant Petition for Alien Workers	113 days	57%
I-765, Application for Employment Authorization**	137 days	66%
I-485, Application to Register Permanent Residence or Adjust Status	295 days	60%
N-400, Application for Naturalization	316 days	53%

Source: US Citizenship and Immigration Services, Office of Performance and Quality.

Notes: Data as of April 2019, which is the most recent available.

*The I-130 estimated mean (gross) cycle time includes cases waiting for a visa to become available.

**I-765 excludes DACA based I-765 cases.

***I-485 includes family, employment-based and other adjustments but excludes humanitarian adjustments such as refugee and asylee adjustments.

****N-400 estimated mean (gross) cycle time excludes military naturalizations.

4. Has a policy change occurred in the past 18 months that has led to increased processing times? Please share any changes in the processing of I-765s.

Although many factors relating to an individual's case can affect processing times, the most significant drivers of the current backlog include: receipt increases, especially during the presidential election and before the implementation of a final fee rule in 2016; statutory changes; new programs and policies; court-ordered continuation of accepting renewal requests for Deferred Action for Childhood Arrivals (DACA); added security requirements; and insufficient staffing levels and facilities.

Some Form I-765s have longer processing times because they are dependent on the grant of another benefit and applicants are not eligible to receive an Employment Authorization Document (EAD) until the underlying application, petition, or request is approved. Thus, backlogs and delays in the underlying benefit request may lead to delays in EAD processing.

USCIS recognizes the challenges that delayed processing times may create for applicants and their families and is committed to processing cases as efficiently as possible. We continue to work diligently to give a timely adjudicative response to each employment authorization application.

5. What is the number of consular returned petitions (I-130, I-140 namely) that await USCIS review? What is the average length of time for review and does USCIS have a plan to address this backlog?

USCIS and the Department of State formed an interagency task force to assess the issue and make recommendations to the leadership of both agencies. Petitions awaiting review are below:

Form	Fiscal Year	Number of consular returns awaiting review	Mean time to adjudicate consular returns (in days)
I-130, Petition for Alien Relative	2015	1,400	416
	2016	8,500	319
I-140, Immigrant Petition for Alien Workers	2015	700	290
	2016	1,000	437

Source: US Citizenship and Immigration Services, Office of Performance and Quality.

Notes: This report reflects the most up to date data as recorded in USCIS systems as of June 26, 2019. Cases could be adjudicated in a different year than the year received.

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

Respectfully,



Ken Cuccinelli II
Acting Director