

October 16, 2018

The Honorable Kirstjen M. Nielsen
Secretary of Homeland Security
Washington, D.C. 20528

Dear Secretary Nielsen:

I am writing to you about an important issue involving the national interest of the United States of America. The issue involves the foreign nationals legally resident and employed as scientists and medical staff in the U.S. life sciences industry. This letter specifically addresses those who have legal status via the H1-B visa program.

Life science product development programs for which these people are employed are fundamentally different than those in other industries, such as the IT or tech industries. The product development time horizons are much longer, often 10 – 14 years for many life science products. Continuity of the research and development teams on a project are vital for success, unlike for situation for the 'gig' employee and consultant projects in use for the development of products in the tech industries. The life sciences products not only serve improve the national health and wellness of US citizens, but are important contributors to the US economy and leadership in the world. Companies such as Endomedix hire such foreign nationals as employees because US citizens with the training and skills in particular areas such as chemistry and biomedical engineering are often simply not available. Unlike the situation in other industries, the development of the needed skills often require 5-10 years of post-graduate experience in particular niches of science to become useful in product development.

A particular and strategic difficulty arises when a key person in a long term project must leave the company and the US due to an error in visa renewal application. Under the new policy in effect on September 11 of this year, USCIS can "deny the (application) for failure to establish eligibility based on a lack of required initial evidence." Even the most minor clerical error can result in a denial, which can lead to the visa renewal applicant finding themselves on a track toward deportation and destroying or interrupting the work of the company in which the foreign national is legally employed. For a start-up company, such a disruption could be fatal as the experience and expertise of the visa applicant in a project central to the success of the firm is often irreplaceable at any cost. I wish to emphasize that I am addressing the situation of foreign born specialists who are in the US legally and re legally employed by US life science companies.

I urge the Department of Homeland Security to consider the situation in life science industries and to develop a refined posture toward the renewal visa applications of scientists and engineers employed in the life science industry. While this suggestion is under consideration, I

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further urge that the policy in effect on September 11 of this year be held in abeyance until the full ramifications of the policy can be better understood.

Respectfully,

A handwritten signature in black ink, appearing to read "Richard Russo", is written over a horizontal line.

Richard Russo
President & Chief Executive Officer

ENDOMEDIX 1 Normal Avenue
CELS 404
Montclair NJ, 07043

Richard Russo
President & CEO

RRusso@Endomedix.com

848-248-1883



U.S. Citizenship
and Immigration
Services

February 5, 2019

Mr. Richard Russo
President and Chief Executive Officer
Endomedix
1 Normal Avenue, CELS 404
Montclair, New Jersey 07043

Dear Mr. Russo:

Thank you for your October 16, 2018 letter. Secretary Nielsen asked that I respond on her behalf.

On April 18, 2017, President Trump signed the *Buy American and Hire American* executive order, which seeks, among other things, to create higher wages and employment rates for U.S. workers and to protect their economic interests by rigorously enforcing and administering our immigration laws. It also directs the Department of Homeland Security, in coordination with other agencies, to advance policies to help ensure H-1B visas are awarded to the most-skilled or highest-paid beneficiaries. U.S. Citizenship and Immigration Services (USCIS) is committed to protecting the economic interests of American workers.

Your letter also refers to the July 13, 2018 USCIS policy memorandum, "Issuance of Certain Request for Evidence and Notice of Intent to Deny; Revisions to *Adjudicator's Field Manual* Chapter 10.5(a), Chapter 10.5(b)." Specifically, you expressed concern that a clerical mistake in the adjudication of a benefits request may lead to adverse consequences. As stated in the memorandum itself, it is not the purpose of the policy "to penalize filers for innocent mistakes or misunderstandings of evidentiary requirements."

USCIS remains committed to the integrity of the immigration system and protecting U.S. workers, and we continue to review various policies to determine if additional changes are needed to better serve the American people.

Thank you again for your letter. Should you wish to discuss this matter further, please do not hesitate to contact USCIS External Affairs at Public.Engagement@uscis.dhs.gov.

Sincerely,

A handwritten signature in blue ink that reads "LFC" in a stylized, cursive font.

L. Francis Cissna
Director