

## **ITI Policy Roundtable**

Friday, September 14, 2018 from 9:59 a.m. to 10:41 a.m.  
Washington, D.C.

USCIS Speakers: L. Francis Cissna, Director, U.S. Citizenship & Immigration Services

Moderators: Dean C. Garfield, President & CEO, ITI

Dean Garfield: Good morning, everyone. Director Cissna's on a tight schedule so we want to optimize our Friday morning so let's get started. Thank you all for being here. We will go around the table and do introductions. I suspect that most of you know the Director and his bio, but you actually have one of the most interesting resumes that I've seen in that I think you're the first person I've ever met who graduated with a degree in both political science and physics, which is not your typical combination since I was poli-sci and English from MIT nonetheless. Went onto Columbia for grad school, Georgetown to law school, worked in a bunch of law firms. Illustrious career in government doing public service including as a foreign service officer at Department of State including places like Haiti. Has been at Department of Homeland Security for a while and has risen to his current role as the Director of USCIS.

So, Director Cissna, thank you for being here. I see Michael Bars, Acting Chief at the Office of Public Affairs, is also here. Thank you as well.

What I'll do is we'll go around the table, do some introductions. We'll do a bit of a Q&A if that's okay with you and everyone. And I think the best thing to do is as I'm doing the Q&A and pretending to know what I'm talking about interrupt and raise your hand and we'll just make it more conversational if that's okay with you as well.

And so why don't we go this way and do some introductions and then we'll start the conversation .

(Participants' introductions have been redacted.)

Dean Garfield: Great. And I've already introduced you. So we'll start high level and then we'll go granular. And so why don't we start just by talking about -- Michael, do you want to introduce yourself?

Participant: (Inaudible.)

Dean Garfield: Great. Thanks. Welcome. By talking a little a little bit just about your vision for USCIS and where you see the organization and on the path of achieving that vision.

L. Francis Cissna: Correct. So again, as I was telling some of your colleagues just now I truly thank you for inviting me and giving me the opportunity to try to explain some of the stuff that we're doing. I actually I -- when I got the letter I was (inaudible) like good, you know. I like to be asked to explain all these things that we're doing and try to help you understand what -- what's happening and what I see for the agency and our role in all this work.

So I guess, you know, I have talking points but now, you know, it always evaporates. So just off the top of my head, I guess, my vision for the agency is one where -- and my vision for the agency is based on my years of experience having dealt with USCIS as an actual employee, you know, for many years ago and then when I was at DHS headquarters for all these years. I, like you, saw all the things that the agency has done over the years and I appreciate every much both its virtues and its deficiencies.

So, you know, I had a long list of things that I -- I'd always dreamed of performing in the agency and now I'm in a position to actually implement those things. So one of the -- you know, one of the big themes that I'm trying to raise in my directorship is first technology. I want to bring the agency into the 90s. I want it to actually do everything electronically. And I know, I know. This has been a longstanding goal of many prior directors and DHS secretaries, but this time it's really going to happen.

And the -- in the past the focus was on, you know, looking at the guts of the adjudication process, the software and the IT systems that we have to adjudicate stuff. And that's going fine. I mean, the ELIS, I don't know you call it, system that you're all -- you're all aware with is what it is. It started off in a rocky way but now it -- I think it is coming to its own and it's working pretty well. The adjudicators find that it works pretty well. And that will continue. The development of ELIS will go forward and it will keep on improving and getting better.

But that's separate from the initiative that I announced internally at USCIS when I came on last October to make all the incoming stuff electronic. That's the key. If we can get everything coming in electronic then everything, all the efficiencies explode and we have -- we get rid of the paper. And that's a big deal for us and probably a big deal for you all and the lawyers and not to mention (inaudible). So the -- that is the goal. And by the end of calendar year 2020 that will happen. And it may happen on a rolling basis because there are certain form types, there's certain types of cases we process that might be coming out first to be all electronic.

I mean, some of them are already there. If you look at ELIS it's already possible to file a citizenship application totally electronic if you wanted to and the same with lost and missing Green Cards. A few forms that you can do that now. So we have the capacity to do it for few forms. The idea would be to do it for everything. And it doesn't necessarily all have to go funnel right into ELIS. That's -- these are the IT issue -- IT issues we're wrestling with. But I assure you that will happen by the end of 2020. And we've been talking about it constantly inside of the agency and I think I've finally convinced everybody this is really going to happen. That's kind of half the battle is -- the IT part's not really the issue. It's just convincing everybody that it really is going to happen and making them believe it. And you should believe it too and start thinking forward to that time starting, you know, roughly the end of 2020 when we're going to be taking everything in electronically. So that's the first thing, technology. And that leads into efficiency obviously. That's the one big theme.

The second big theme I guess is kind of what you've been seeing and all the stuff we've been doing I am absolutely fanatically committed to having the agency cleave as closely as possible to the law. And the stenographer can say he raised the law in his hand.

Dean Garfield: I note all the notations.

L. Francis Cissna: Yeah.

Dean Garfield: I see you've been well-prepared for my questions because I'm going to take you through those.

L. Francis Cissna: You have to. And this -- you know, whatever we do and whatever you may think, I mean, the effect -- whatever may be the effect of whatever we do it is driven by the law, the law, the law, the law. If we're changing the Reg to do X, it's not at some, you know, malicious or malevolent intent. It is because we're trying to stick to the law.

The administration generally have -- well, sometime last spring in one of those many Executive Orders instructed all the immigration agencies to, you know, in a general -- I think it was a Presidential Executive Order. I don't know off the top of my head -- just to generally enforce the immigration laws. So that's what we're doing and there have been lots of places in the immigration laws I think which have not really been attended to, not really be administered well or administered in accordance with the law with the intent of Congress and nor enforced. But administration and enforcement they are both sides of the same coin. So that's the second theme, cleaving to the law, sticking to the law and doing everything by the law.

This is borne again with my many years or experience in the agency just that's what you do. And those of you who work in government know, I mean, you live and die by the law and by the Regs that implement the law. And so I just want to bring the agency back into -- into alignment with the law. That's as it should be. And if doing that results in policy outcomes that the regulated public doesn't like or maybe even we don't like as a policy matter, well, then, you know, (inaudible) to change the law. That's the second theme.

I guess the third theme I'm going to touch on will probably be transparency and the desire to get as much information out to the public and to you all as is possible. My being here is one -- one aspect of that. If you look at one of the things that drove me nuts for all the many years I was working at these headquarters was the lack of statistics on a lot of different areas of immigration work. And, yes, there is an Office of Immigration Statistics in the department, but I'm talking about more, USCIS data. What's the denial rating on this? What's the approval rating on that? How many of these types of petitions have we processed? What's the processing time for such and such?

And I have, you know, for many, many months since I came in emphasized that over and over and over again. And right -- right now my evidence of that is we have created an electronic reading room on our website where you can go right now and we have whole new categories of data information that we're putting out there. There you can go and you can see all sorts of information about DACA and all the cases, you can see for the first time we put up statistics like on old Visas. You know, something that we never see stats on ever. We put stats on there about L-Visas and company transferees. That's up there too. Of course, planning information about H-1Bs which we already had to do anyway because a lot of Congressional reports, but now they're all being put up there.

In the past a lot of times we'd do a report to Congress which had all these stats and everything and I remember I'd be at HQ and I'd clear these things and then you'd never -- and it would go to Congress and no one would ever hear about it and that drove me nuts. I mean, those things ought to be published because they all have very valuable information that's good for you all and for us.

So over and over and over again I've emphasized to the staff at the agency that we need to put out more information not only because it's the right thing to do, but it also (inaudible) it reduces the amount of questions that we get from the press and from the Hill and from other stakeholders. So if we could just get more of it out there then everyone's better educated and then the better decisions and policies should be.

Dean Garfield: Can I -- can I go deeper on two of your priorities?

L. Francis Cissna: Uh-huh.

Dean Garfield: Namely, the intersection of transparency and the law. You noted in talking about your first priority that you've been very active. There have been a number of guidance memos. I think in the last 18 months there have been 8 or 9. And in the sub regulatory process there isn't an opportunity for the back and forth and the opportunity for us to inform what we're experiencing and the data that we're seeing.

Is there a way to cure for that or solve for that?

L. Francis Cissna: Well, yeah. I mean, you know, as you say there's been all sorts of memos and field guidance going back to last -- even before I was there last spring. And the answer's yes. There should be I think for things that are going to have a big impact some sort of stakeholder mitigation session for -- I mean, I know we did some of those for like (inaudible) presence issue, RFEs, the RFE memo and I think we're going to do one for NTAs very soon our notices to appear. So, I mean, that's the first and obvious thing. You actually have meetings or those big phone calls where people can comment for some things, but not all things.

And there's a process where we put the thing out there, the memo or whatever it is, and people can comment on it. That process actually kind of bothered me when it was initially proposed because I saw this as kind of a cheap work around the APA, you know, the Administrative Procedures Act, to make it look like we were doing a Reg but it was actually just -- it wasn't. It was just a memo and we were soliciting comments from the public that we actually didn't have to respond to in the APA fashion like a proper Reg.

But now --

Dean Garfield: We like it actually.

L. Francis Cissna: I know. But it's a made-up thing that -- whatever the case may be about how it was born -- it is a feature of the way we do business now for better or for worse and it does have its value. So we did get, for example, a lot of good comments on the --

on the unlawful presence memo, for example, we got some good comments out of that. And then we changed it in response to some of those comments. I expect we might get similar feedback on the NTA memo.

So we do respond to those comments when we hear them. It's always been the case and we don't disregard the feedback from stakeholders. We want it to be right. So, yes, I appreciate and I'm sensitive to the fact that people want input on everything we do, but, you know, would say for like the really big and important stuff, yes. I mean, for every little scrap of field guidance I'm sending out to the service centers --

Dean Garfield: Yeah, no.

L. Francis Cissna: No. That's ridiculous. Then we'd never get anything done. We'd have to -- it'd never end. But for the big stuff that is appropriately a policy memo or an article of field guidance, yeah.

Dean Garfield: Yeah.

L. Francis Cissna: I get your point.

Dean Garfield: And the phone calls are useful, but they're not as useful as an in-person opportunity like this or the opportunity to memorialize our thinking so that you can consider it. You mentioned Notice to Appear is one of the memos that has been issued. It was issued in early June and then pulled back at the end of the month.

L. Francis Cissna: Right.

Dean Garfield: Any -- any -- you mentioned that may be forthcoming or there may be a session on that. Any insight you can share on the thinking behind it as well as the next steps?

L. Francis Cissna: Yes. Before I get to that I actually would add onto my first answer about the interaction. You know, there's nothing stopping any of you from sending letters in at any time or any subject and either as an association or in your individual company capacity. And I encourage you to do it. Those letters are read. I read them and I understand them. And so if you say -- if you have some gripe about, you know, this or that do send in a letter and it does work. I do read them. And all of you -- all of your companies are very savvy on these issues and so any criticism you have is appreciated. So please don't not send letters because you're waiting for some stakeholder. Send them anyway. Suspenders and a belt. Send a letter and participate in a stakeholder session. But please do.

Dean Garfield: Good.

L. Francis Cissna: Now on the NTAs -- the origin of that is I guess for many years the agency has not really been issuing NTAs in the way and from the circumstances that I think it should have been issuing NTAs. And for USCIS to be a relevant part of the DHS family when it comes to actual enforcement of the immigration laws we

should be issuing NTAs. I mean, we do it anyway. We do -- we issue thousands of them every year even before the NTA memo was issued. You just probably didn't see it in your line of work because we were issuing them in other categories of cases, people in asylum they're getting NTAs all the time. In fact, when they get an NTA it's a good thing because then they're going to, you know, present their case to an immigration judge which is what they want to do.

But it is I think an appropriate function of the agency to issue NTAs. We have delegated authority from the secretary going back to 2003 to do that. It was one of the first delegations to USCIS when it was first created so it is an appropriate function of the agency. It's been delegated to us since the beginning of DHS and it's something we should do.

So the issuance of the NTA -- the NTA policy was not part of some invisible wall thing. It's a function of the agency that needs to be complied with, it needs to be fulfilled. So the memo went out and when it went out as those of you who work in government know you know nothing's ever perfect when you put it out. And we realized that there were certain steps to properly implement at the field level -- the service centers and the field offices -- because there's so many different places and so many different types of offices where we would be doing NTA work. There's also kind of technical issues relating to the actual issuance of the NTA, what would be the technical system, the electronic system. And all these issues we realized we weren't ready yet and we needed to completely perfect them before this thing went totally live.

So I put the pause on it until we could sort all that stuff out because I didn't want it to go out and have these things be issued in a wrong way or some way that I just messed up the whole -- the whole initiative. So that's what we're working on right now. We're meeting with other DHS components and other federal agencies that have a role in the issuance of the NTAs and along with processing to make sure that all is done correctly and right.

So I expect those discussions to be done next month or two, something like that. And at the end of that time then we, USCIS, will issue further guidance to the field telling them, okay, now it's on. You know, now service centers, you do X, Y, and Z. Field operations, you do this and this and this. And we'll have it all laid out and the offices can implement well. And so that's what we're working on now. But before that happens we will have a stakeholder engagement session to gather more input from all of you on your concerns about that.

Dean Garfield: Great. So that I think --

Participant: For those sessions do you foresee that being (inaudible) for us to file comments, official comments, or how do you envision (inaudible) stakeholder engagement on that issue?

L. Francis Cissna: We haven't really thought about it to that level of detail, but I'm not opposed to anything like that. So, Michael, (inaudible).

Participant: Yeah. Our public engagement team traditionally takes questions in advance and tries to address them on that through the engagement.

L. Francis Cissna: Okay. And so --

Dean Garfield: Given that it's been pulled back should we be sending the long comments and questions now?

L. Francis Cissna: Yeah. Why not? Like I said, if you have issues right now today that you -- in just looking at the initial memo that you think are concerns, yes, send in letters and say -- say what you think the problems are. Don't just wait for the stakeholder session. I mean, this is an ongoing process. We're looking, as I say, right now today at the implementation of the NTA memo. I don't think I'm going to change the policy. We're still going to issue NTAs. It's just we're now in the implementation stage. If there are certain concerns you have, send them in.

Dean Garfield: I'm going -- yeah, [Participant]. Go ahead.

Participant: Thank you, Director Cissna. One of the questions I had with regard to this one specifically is for those individuals who've been allowed to continue working under the 240-day rule. Can you provide us with some additional information about how that will mesh with the new NTA policy and when you might plan to put the NTA policy fully into effect?

Because there's a tremendous amount of angst within our business about what to do with individuals whose applications for extensions have been filed who may be working under 240-day rule and then there's this worry about them, you know, being out of status and them being called into court.

L. Francis Cissna: I mean, what's the scenario you're thinking of? That the person has applied for an extension and it got denied and then --

Participant: They get an NTA and then they've been working, you know, out of status and then they're barred from ever coming -- coming back in or something to that effect.

Participant: I think that the common fact pattern that a lot of businesses and ITI company members are concerned about is you file an extension of stay. It could be an extension with a change of employer or not. And as you well know, the USCIS processing time is hard to predict and is often late. And is very common, if not true in the majority of cases, that when you're filing an extension at the -- approaching the end of someone's current petition that that beneficiary is going to be working on the -- on the extension of stay with the same employer under the 240-day regulation that's been in place since, you know, after (inaudible).

So the question is if you deny that petition -- if the agency denies the petition based, in fact, on, you know, your new and kind of evolving interpretations of what is a specialty occupation, the employer's thinking that they -- this was the -- someone who was working, you know, from the same job and wasn't planning in advance for these timeline issues. Will the agency take the position that the 240 -- the person working in the 240-day time period has a status that's expired, therefore, you can issue in NTA?

In the normal course of events when an employer gets a denial like that the individual does leave the United States, but you would -- you could be proceeding with an NTA. This person could be leaving and then ordered deported or removed in absentia. They're barred for five years. Like those kinds of things about that timeline.

L. Francis Cissna: Yeah. I'm aware of all those issues.

Participant: Yeah. Of course you are.

L. Francis Cissna: And the -- those are the sorts of things that we are looking at. The whole in absentia issue I'm keenly aware of and we're working with the OIR and with inside our own agency and the OIR to better clarify what exactly happens in that sort of situation and what sort of remedy there might be for somebody who did leave as they should -- who did leave and who nevertheless got an in absentia removal order. We are looking at all of that.

--So I can't give you a specific answer to your question right now, but I assure you I'm very much aware everything you just said.

Participant: Okay.

L. Francis Cissna: And we're looking into all that.

Dean Garfield: [Participant], did you have a question? If I may before we switch to talk about another topic just one more of your guidance memos which is around deference --

L. Francis Cissna: Yes.

Dean Garfield: -- (inaudible) particularly when there has been no change in the underlying status or employment or job or anything else.

L. Francis Cissna: Right.

Dean Garfield: How are you thinking about that limitation for the guidance?

L. Francis Cissna: Well, and that -- that guidance came out when was it last April or something?

Dean Garfield: October.

L. Francis Cissna: October when it was -- yeah, that's right. So I'm -- I'll tell you I never liked that guidance when it came out in the first place when -- many years I mean to be totally frank with you. I think that when that came out that there were -- many of you may have been in the room when I -- at the meeting when that was announced.

I don't think -- I don't think that's appropriate. I don't think that the agency should be held to or shackled to previous approvals or denials in a certain case, you know, when the person comes up again. Every single case should be adjudicated on its own merits, period. And just because, you

know, a case has been some Ode (phonetic) -- it was about Ode which is where this originally came from ten years ago. The -- just because a case has been approved over and over and over again doesn't mean it needs to be approved this time.

I'm aware that the memo had the caveat for borrowing the new information, but as a matter of agency principle we shouldn't be shackling adjudicators to prior adjudications. Every case should stand on its own merits and that's it. I mean, that's the principle. I'm not going to part from that. I think if there are issues about adjudications where you see, you know, case approved, approved, approved, approved, denied, well, you know, either the case is correctly denied which I would hold is usually the case or if it isn't and you're seeing a pattern of something like that then tell us. Maybe it's a training issue. Maybe it's something that we need to tell the adjudicators to look at more carefully. Maybe they're not looking at something well enough.

Let us know if you see patterns like that. Every single one of our cases has been approved for the past 20 years and now you're not approving this one. What happened? We'll look at it in good faith. I can't guarantee you we'll start approving them all, but if -- if there's something that's going on on our side that could be fixed by better training, yeah, we'll do it. I assure you. I'm not telling the agency to go around just denying stuff for, again, any kind of invisible walls.

If cases are being denied, they're being denied because they should be denied. So that's my thinking on the deficit.

Dean Garfield: I'm going to jump to starting to talk about H-4s.

L. Francis Cissna: Yeah.

Dean Garfield: The concern that I think as I understand it is that one of the other guidances is around requests for evidence and notices of intent to deny. That combination of intent to deny before getting the evidence combined with not having given any precedent to previous decision determinations makes it appear as if the determination is being made without the benefit of all the data that's available about that person. And so I think that is a concern we can, as you've suggested, dot -- write that down, memorialize it, and share it with you so it can be considered. In the unified agenda that was published it went through a list of things that -- towards your second priority or third priority of being more transparent of things that were forthcoming. One of those things was around H-4 and getting rid of that I guess. Can you say more about the thinking behind that and where we are in the process? Because we haven't seen anything on H-4 since that memo.

L. Francis Cissna: Right. So you're right. There's a whole lot of things on the unified agenda. There's a couple of H-1B regulations on there.

Dean Garfield: While you're looking at that just so you know and can be forewarned, but there's also -- yeah. I'll let you look at that.

L. Francis Cissna: Right.

Dean Garfield: No. That's my follow up and not to confuse this.

L. Francis Cissna: You all have probably seen it. Public charge of course is on there, registration requirements for H-1B petitions. You all have seen that before...

Dean Garfield: Yes.

L. Francis Cissna: And then the H-1B of general reform regulation. I mean, all these changes are going to have to be full blast notice and comment so, it's going to take, you know, a while to get to some of these. But, yeah, H-4 is on there. So I am aware of and intimately familiar with all the policy reasons why people want to keep that.

And but those in my personal opinion are not -- are not as important as the kind of legal ones and questions relating to Congressional intent. Is it appropriate for H-4s to get employment authorization documents at all? You all know very well that the spouses of (inaudible) can get work authorization and the spouses of treaty investors can get work authorization and we spoke about that. They said it. And that was back in '05 or somewhere around there and they didn't say anything about H-4s.

So I do not believe it unreasonable to interpret the law to say that it perhaps is not Congressional intent to allow H-4s to work. So that I think is one of the many reasons why we would be proposing that. It's not the only one, but I do hear all these policy -- you know, policy arguments. I mean, you have all these highly skilled spouses of H-1Bs. Of course, you know, they want to work. Of course, by the way, there's nothing stopping them from being petitioned for an H-1B of their own or an L or an O or anything else.

But that aside -- and that's a big aside -- that all those policy reasons are perhaps very -- very valid and meritorious. In which case go to Congress. Tell them that, you know -- if that is what you want, Congress intervene .. And, again, if we rescind that regulation it is not because we hate women or we hate Indians or anything like that, it is because of the law. It's because of our fidelity to the law that we're doing that. It's about restoring integrity to the immigration system.

I don't like it any more than you do that you have highly skilled people that we perhaps need in this country not being able to get visas to contribute to our economy and bring their skills to help us. But I'm -- I do not feel comfortable going around what Congress asked us -- had let us do so.

Dean Garfield: Have you prioritized how you intend to move through the unified agenda?

L. Francis Cissna: Uh-huh, well --

Dean Garfield: Because it sounded --

L. Francis Cissna: -- yeah.

Dean Garfield: -- as if on the H-4 it's a lower priority to --

L. Francis Cissna: Well, I mean, you know, those of you who worked in government know that there's all sorts of obstacles and hurdles to getting a Reg out the end. And a lot of it is front end just the drafting of it and the getting it cleared through the agency. That alone could take forever and then you have to go through the OMB process.

So you could have two or three Regs all start at the same time and then, you know, it's unpredictable, you know, how long something's going to take. So, the H-4 regulation it's still not at OMB. It's still within the department. There are other Regs that started later but are further along.

Dean Garfield: For example?

L. Francis Cissna: Well, I would say -- I would say public charge is one of those. But the -- I can't predict inside the agency much less you all outside the agency which one's going to come out first or what's going to happen. There's just so many different people whose input is being solicited in the process.

But H-4 is definitely there. Another one is EB-5. That's another one where, you know, I was in a judiciary committee hearing a month or two ago and I had Senator Graham scream at me for a good 30 seconds. I felt like the -- that guy in the -- that speaker ad from the 80s where he's sitting in a chair listening to a speaker and there's like wind blowing at him. That's what I felt. And, you know, so I went --

Dean Garfield: Hopefully you don't feel that way today.

L. Francis Cissna: No, no, no. So I want to get that Reg out. I really want to get the EB-5 reform Reg out, but there are -- it's just taking forever. There's just clearance issues. Just it's lawyers, it's everything. And so even having a committee chairman scream at you is not necessarily going to make things move faster. It's the process is what it is and H-4s in the middle of all that so.

Dean Garfield: I've got two more and then it's all call.

L. Francis Cissna: Ah.

Dean Garfield: Ah, because I know your time is short. So I'll give you the two and then I'll do the softball after you answer depending on how you answer. So optional practical training also

in the unified and the idea of revising that. I know there's also litigation around it so you're thinking on that.

And then the second of the two is around H-1s and specialized skills which the experience is there's been a suggestion that your interpretation of that will change. There hasn't been any memo or guidance of the change, but the experience from the companies is that it's taking a lot longer to get an answer. And so we're trying to -- they're trying -- we're trying to figure out what gives.

L. Francis Cissna: Well, so on the first one on OPT, well, that's ICE so it's not CIS, but I'm very familiar with that issue. And, yes, it's on the unified agenda. I haven't checked in with recently on what -- what they're up to on that, but absolutely that needs to be reformed. But I'm not going to speak for ICE. I'll let them speak for themselves about what they're planning on that.

On the H-1Bs more generally, no. Actually, yeah, you're right. We haven't come out with big set piece regulations that fundamentally change what qualifies as specialty occupation or anything like that. We haven't done that. The only things we've done they're like, you know, I consider them little things. I'm sure you consider them big things like the guidance we issued regarding wage levels and how wage levels should comport to the skill level.

I mean, how could you possibly disagree with that? The wage level should comport with the skill level. That's the whole idea behind the LC -- the Labor Condition Application process, the (inaudible) process. You have lots of companies, I'm sure nobody in this room, they totally lie to us. They will tell us such and such a person's coming in, you know. Oh, they're fantastic, you know, their work reaches the level of specialized occupation and they're rolling in on Level 1.

Something's wrong with that picture. You can't have -- either they're entry level needing constant supervision Level 1 workers or they're the superstar that they claim to be in which case they should be 2 or 3 or 4.

Dean Garfield: So is the -- is the increased denial rate in the time because greater scrutiny is being given? Is there a different set of training that's being provided to the folks deciding?

L. Francis Cissna: No. -- one of the biggest issues I had with when I was at DHS headquarters all those years with USCIS was I would ask for something or someone would ask the agency something and the response would be we don't track that. And I hated that. Well, then start tracking it, you know, start tracking it now.

So I hate to say it, but that's the reasons for the denials I don't know that we track that. But I would guess, yeah, probably a lot of the increase in denials is because we're seeing in particular in H-1Bs petitions where the (inaudible) skill level does not match the proffered wage and that's a problem. The RFE rate as well goes with that and

that too has gone up. I will not deny it. But I am fine with that if the RFE rate increases because we want to get more information to make better adjudications. That is as it should be.

There's no -- there has been no directive to the fields who increase RFEs. That is a natural product of the adjudication process. If we need more information then we'll ask for it. And if the denial rate is up because petitioners are, in fact, not paying their people the right amount or then that is an appropriate denial.

Dean Garfield: Okay. So my soft -- my softball and then I'll let [Participant] ask you a question before so you can think about it. It's just --

L. Francis Cissna: Yeah.

Dean Garfield: -- how can we be most helpful giving the mission that you identified? [Participant], question? You get the last one.

Participant: I think one of the most palpable problems that I'm hearing about is the fact that we're still waiting to hear back on over half of the petitions that we filed for this -- in this cap season. Can you talk of it about where you are in the adjudication process with these cap cases? And given that it's only two weeks before October 1 should we hear by -- in the next few weeks on --

L. Francis Cissna: Well --

Dean Garfield: I think can we combine that with [Participant's] question? [Participant], do you have a -- so you can hear them both.

Participant: Sure. This is sort of pulling a lot of time (inaudible). I hear your point about adhering to the law. I think one of our concerns, though, is, first of all, a specific point you made there can be people who are starting off in a specialty occupation or a highly technical field. Whether it be your first job in quantum computing you're still a highly skilled person, but people have to have that first job. And that doesn't -- I think we feel pressure as companies to say, oh, bump your wages up to 2 or 3 when, in fact, that's still a -- and getting a little personal, but we're concerned about that dynamic. You don't want to, you know, subvert the law in any way.

But I also want to say I'm concerned that the bigger picture you use about following the law. You know, Congress has said there's portability for H-1Bs. Congress has said people can stay in this country during the backlog and continue to renew. But the cumulative effect that a lot of these regulatory or some of the regulatory policies is it seems like it's undermining that portability. And so we're concerned about that (inaudible).

L. Francis Cissna: Well, unfortunately I have to hustle out of here in like one minute. But I don't even know where to begin to reply. I guess first on how you can help do send letters. You know, scream at us. Send us letters that say all these things that you want us to look at or you think are wrong. They really are read and I personally read especially on this issue which I know very well. Send those letters and we will do it.

Ask to meet with me and then we can talk more, you know, one on one. Ask to meet with me. I will meet with you and hear all your issues myself personally. It's one of my frustrations that people don't ask to meet with me enough. These people think I'm some sort of monster or something, but I'm not. As you see, I'm just a big nerd. So if you'll just ask to meet with me I will do it.

There were a couple of conferences I know I was invited to and I couldn't do it because I was on travel. So I want to do those things. I want to meet and that's why I wanted to come here today. And I do have to hustle out of here, but I will just say, you know, I know that many of the things that have been going on especially in this part of immigration may be dismaying to you. And but, again, I repeat it is not because I'm trying to hurt or the agency's trying to hurt the IT industry or the tech industry.

The President himself has gone on and on about how more than anything we want to attract and retain the people that we truly need in this country who have very high skills. And that I completely agree with. I do not disagree with that. A lot of that has to be done legislatively and there's different, you know, ways of doing that. But that is something I've always -- I mean, many of you have known me for many years when I was at DHS headquarters (inaudible). I'm always -- I'm the same guy. I have never not believed that.

And if I'm doing something -- if the agency's doing something now don't think that I've forgotten that. And that what we're trying to do is just cleave to the law. If we're not doing it very well, then let us know and we'll try to fix it to the degree we can.

Dean Garfield: Thank you.

Participant: And the cap case adjudication?

L. Francis Cissna: So, yeah.

Participant: Because that's really pressing right now.

L. Francis Cissna: We're aware. I know the premium process is (inaudible). And, yes, the people in service center are hustling right now to try to get through as many cases as they can before the fiscal year they are. And they're -- they know which categories are the ones that are most sensitive and trying to prioritize the ones that have the earliest employment start dates to ensure that that happens.

And also cap gap people and people like that that are coming in that we need to get them through fast. And I could go on, but I can't on the premium process and extension and all that.

Dean Garfield: Thank you.

L. Francis Cissna: But thanks for inviting me. Okay.