We write to express our grave concerns about the alarming growth in processing delays at U.S. Citizenship and Immigration Services (USCIS) and request your prompt and detailed response to the inquiries enumerated in this letter.

Analyses of recent Department of Homeland Security data demonstrate erosion of the agency’s critical services. USCIS was created in 2002, by Congress when it passed the Homeland Security Act, to be a service-oriented, immigration service agency with the mission to adjudicate immigration matters to enable individuals to obtain work authorization, citizenship, humanitarian protection and other important services.

According to recent reports, including a January 30, 2019 report from the American Immigration Lawyers Association, processing delays at USCIS have reached crisis-levels, with adverse consequences to American families, U.S. businesses, and vulnerable populations seeking humanitarian relief.

Processing delays jeopardize the ability of individuals to work, leaving families without income for food, housing, and healthcare. Domestic abuse survivors, abandoned children, and those seeking asylum or refugee status may be left in life-threatening circumstances without timely adjudication. Finally, U.S. businesses, including farmers and small business owners, rely on USCIS’ processing of work-visas to fill critical workforce gaps in order to remain competitive.

USCIS data for fiscal years 2014 through 2018 depict a 46% surge in overall average case processing time and a 91% increase since FY 2014. In an April 2018 report to Congress, DHS identified a net backlog of 2,330,143 USCIS cases at the end of FY 2017, which is more than double the backlog reported after FY 2016 and coincides with the first full year after President Trump took office.

1 AILA, “AILA Policy Brief: USCIS Processing Delays Have Reached Crisis Levels Under the Trump Administration” (January 30, 2019); https://wwwAILA.org/infonet/aila-policy-brief-uscis-processing-delays?utm_source=Congressplus&utm_medium=CP-Email
2 Id; AILA’s analysis based on data from USCIS webpage, “Historical National Average Processing Times for All USCIS Offices” (November 29, 2018); https://www.aila.org/infonet/processing-time-reports/historical-average-processing-times/uscis-national-average-processing-times-9-30-18.
Clearly, policy changes implemented by the current administration in 2017 and 2018 have increasingly shifted the agency away from its service-oriented mission. Rather than continuing to seek ways to simplify and streamline its benefit-delivery systems, USCIS now appears more focused on erecting barriers to the benefits it administers, including by significantly delaying adjudications.

For these reasons and as part of our Congressional oversight duties, we ask that you provide detailed and prompt responses to the following inquiries and requests:

1. Please identify the causes of the current backlog, including all policies introduced under the current administration that have contributed to the USCIS case backlog.

2. Please provide all analyses performed by the agency on how these policies impact processing times, including but not limited to how the following have contributed to the backlog:
   a. Use of "extreme vetting;"
   b. USCIS's new in-person interview requirement for relatives of asylees and refugees as well as individuals seeking employment-based green cards;
   c. USCIS's reversal of longstanding guidance concerning deference towards prior determinations regarding non-immigrant employment extension petitions.

3. In an April 2018 DHS report to Congress, the reported net backlog at the conclusion of FY 2017 exceeded 2.3 million cases. Does this number constitute a new record-high?

4. Please identify the current USCIS "net backlog," "gross backlog," and "case completion rate," as well as those figures at the end of each of the past five fiscal years.

5. USCIS's proposed FY 2019 budget requested the transfer of over 200 million dollars in fee revenue out of USCIS into ICE. The budget specifies that that money would be used, among other purposes, for the hiring of over 300 ICE enforcement officers. This appears to represent part of USCIS's larger shift towards prioritizing immigration enforcement over the service-oriented adjudications at the core of the agency's mandate. Why, at a time when families, vulnerable individuals, and U.S. businesses are suffering around the country due to pervasive USCIS processing delays, did your agency seek to transfer over 200 million dollars of USCIS resources to ICE?

6. USCIS case volume substantially decreased through the first three quarters of FY 2018—the most recent period for which data is publicly available—yet USCIS processing times increased substantially in FY 2018. Why do processing times continue to escalate even as case volume appears to recede?

7. How does USCIS intend to reduce and ultimately eliminate processing delays, while ensuring fairness and quality of adjudications, and without passing the costs of the agency's inefficiencies onto the applicants and petitioners experiencing hardship due to USCIS's crisis-level delays?

Whatever the factors may be that are contributing to the current and unprecedented USCIS backlog in processing cases, more must be done to address, reduce, and prevent future delays. The agency was created by Congressional mandate and we, the undersigned Members of Congress, urge the agency to swiftly provide detailed answers to the queries listed above and ask for your ongoing cooperation and full transparency in the efforts to reduce and eliminate the current backlog.

Sincerely,

AILA Doc. No. 19021231. (Posted 2/12/19)
Debbie Dingell
Member of Congress

Ruben Gallego
Member of Congress

TJ Cox
Member of Congress

Ilhan Omar
Member of Congress

Peter Welch
Member of Congress

Suzan DelBene
Member of Congress

Tony Cárdenas
Member of Congress

Nanette Barragan
Member of Congress

Jan Schakowsky
Member of Congress

Norma J. Torres
Member of Congress

Jimmy Gomez
Member of Congress

Mark DeSaulnier
Member of Congress

James P. McGovern
Member of Congress

Alcee L. Hastings
Member of Congress

Gil Cisneros
Member of Congress

Jose Serrano
Member of Congress

Alan Lowenthal
Member of Congress

Kurt Schrader
Member of Congress

Anthony Brown
Member of Congress

Michael San Nicolas
Member of Congress

Sean Patrick Maloney
Member of Congress

AILA Doc. No. 19021231. (Posted 2/12/19)
Chellie Pingree  
Member of Congress

Gregorio Kilili Camacho Sablan  
Member of Congress

Raja Krishnamoorthi  
Member of Congress

Steven Horsford  
Member of Congress

Joseph P. Kennedy III  
Member of Congress

Juan Vargas  
Member of Congress

J. Luis Correa  
Member of Congress

Ted Deutch  
Member of Congress

Susan Davis  
Member of Congress

John Garamendi  
Member of Congress

Suzanne Bonamici  
Member of Congress

Brenda L. Lawrence  
Member of Congress

André Carson  
Member of Congress

Gregory Meeks  
Member of Congress

Earl Blumenauer  
Member of Congress

Adam Smith  
Member of Congress

Bill Foster  
Member of Congress

Grace Napolitano  
Member of Congress

Kathleen M. Rice  
Member of Congress

Frank Pallone Jr.  
Member of Congress

Gwen Moore  
Member of Congress

AILA Doc. No. 19021231. (Posted 2/12/19)
Albio Sires  
Member of Congress

Robin Kelly  
Member of Congress

Danny K. Davis  
Member of Congress

Debbie Mucarsel-Powell  
Member of Congress

Katherine Clark  
Member of Congress

John Yarmuth  
Member of Congress

Al Green  
Member of Congress

Alma S. Adams, Ph.D.  
Member of Congress

Elliot Engel  
Member of Congress

Tom Suozzi  
Member of Congress

Scott H. Peters  
Member of Congress

Diana DeGette  
Member of Congress

David N. Cicilline  
Member of Congress

Andy Levin  
Member of Congress

Linda T. Sánchez  
Member of Congress

Eddie Bernice Johnson  
Member of Congress

Jared Huffman  
Member of Congress

Judy Chu  
Member of Congress

Debbie Wasserman Schultz  
Member of Congress

Alexandria Ocasio-Cortez  
Member of Congress

Jamie Raskin  
Member of Congress

AILA Doc. No. 19021231. (Posted 2/12/19)
April 5, 2019

The Honorable Jesús G. "Chuy" Garcia  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Garcia:

Thank you for your February 12, 2019 letter.

The Department of Homeland Security appreciates your interest regarding processing delays at U.S. Citizenship and Immigration Services. Please find enclosed responses to your questions.

Thank you again for your letter and interest in this important issue. The co-signers 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,

L. Francis Cissna  
Director

Enclosure
1. Please identify the causes of the current backlog, including all policies introduced under the current administration that have contributed to the USCIS case backlog.

Backlogs of immigration benefits are not a new phenomenon. Throughout the Agency’s history, multiple factors have driven increases in applications. New laws and policies may expand benefit eligibility criteria, causing an uptick in new receipts. Events such as the Sept. 11 terrorist attacks ushered in a new era of security and background checks. Humanitarian crises, political instability, or conflict can cause unexpected migratory flows or cause a spike in workload as certain individuals suddenly become eligible for asylum or Temporary Protected Status. Visa number availability published in the Department of State’s Visa Bulletin ebbs and flows based on worldwide demand. A pending increase in fees for immigration benefits or a presidential election can affect an individual’s decision on whether to apply for a benefit or naturalize. It is against this backdrop that U.S. Citizenship and Immigration Services (USCIS) performs its work. There are multiple drivers behind the current backlog:

- **Receipt increases:** Historically, USCIS experiences increased receipts during a year when a new fee structure is implemented, followed by reduced applications the following fiscal year (FY). In an unanticipated change, filings did not decrease in FY 2017 following the implementation of the new fees in December 2016 and the presidential election in November 2016. As a result, the increase in receipts, coupled with the other factors noted below, outpaced the capability of USCIS to adjudicate and complete applications within its processing time goals. In FY 2018, however, USCIS’ backlog did not continue to grow at the same rate as the previous two fiscal years, in part because receipts declined.

- **Presidential election:** As is typical with a presidential election year, there was an increase in naturalization applications in 2016 which contributed to the backlog. And unlike prior elections, the increase in naturalization applications did not decrease.

- **Resources:** USCIS develops annual Staffing Allocation Models (SAMs) and forecasts volumes for each form type to estimate its resource needs. Due to affordability concerns, USCIS was not able to authorize all staff recommended by the SAMs. Additionally, USCIS was not able to fill all authorized positions due to lags in the hiring process and the need to backfill existing positions. Hiring lags are caused by the significant amount of time it requires to complete and post announcements, assess applicants, conduct interviews, complete background checks, and confirm an Entry of Duty date. Furthermore, newly hired staff members are not fully productive until they have completed BASIC training and other on-the-job trainings, creating a lag in productivity.

- **Facilities:** The existing USCIS-occupied facilities cannot accommodate a large number of additional staff and it generally takes anywhere from 18-36 months to deliver space that is ready to occupy.
• **New programs and policies:** DACA, Executive Order 13768, and additional interview requirements have increased workloads, security checks, and overall adjudication times.

• **New technology:** Introduction of a new case processing system (ELIS) in 2012 caused temporary increases to the adjudication times for some forms during initial implementation phases. Staggered implementation by form type has caused impacts on certain forms in different fiscal years.

• **Quality Workplace initiative:** USCIS changed the focus for employee evaluations to the quality of their work product and away from numerical case production metrics in FY 2014. This appears to have affected processing times. In 2018, metrics were reintroduced for some components. For example, Field Operations Directorate identified office level targets for major form types and Service Center Operations added metrics for Immigration Services Officers.

2. Please provide all analyses performed by the agency on how these policies impact processing times, including but not limited to how the following have contributed to the backlog:

   a. **Use of “extreme vetting;”**

   An executive order suspended travel of refugees into the U.S. for a 120-day period and directed a review of the U.S. Refugee Admissions Program. As a result, new procedures were implemented to ensure that all individuals admitted as refugees receive similar, thorough vetting – whether they are principal refugees, accompanying family members, or following-to-join refugees. The implementation of new security vetting procedures, while necessary, has lengthened processing times for some cases and slowed admissions in FY 2018. We anticipate that this is a temporary impact and that over time, as we and our vetting partners adjust to these changes and address resource constraints, the process will speed up.

   b. **USCIS’ new in-person interview requirement for relatives of asylees and refugees as well as individuals seeking employment-based green cards;**

   USCIS routinely estimates and monitors case completions per hour for major benefit types. The completions per hour for in-person interview requirement for relatives of asylees and refugees who are living in the United States (Form I-730) and individuals seeking employment-based green cards (Form I-485 Employment) are shown in the table below. Historical data were also included for comparison. As demonstrated below, these requirements are reducing the completions per hour because of the additional time required for interviews, which is contributing to increased cycle times and the backlog. Completions Per Hour: Fiscal Years 2014-18, Employment-Based Adjustment of Status (I-485) and Refugee/Asylee Relative Petition (I-730)
c. USCIS’ reversal of longstanding guidance concerning deference towards prior determinations regarding non-immigrant employment extension petitions.

USCIS does not have specific completions per hour for non-immigrant employment extension petitions (Form I-129 Extensions) to be able to perform an analysis on the impact of this policy.

3. In an April 2018 DHS report to Congress, the reported net backlog at the conclusion of FY 2017 exceeded 2.3 million cases. Does this number constitute a new record-high?

No. USCIS had a backlog of 3.6 million cases in 2003 as a result of new security measures introduced for each applicant following the terrorist attacks of September 11, 2001. Another contributing factor to this backlog was a growth in petitions for family members following the filing deadlines for the LIFE Act 245 (i) adjustment in 2001\(^1\). The law allowed individuals who had an immigrant visa immediately available but who had entered without inspection to apply for adjustment of status in the United States if they paid a $1,000 penalty. Congress appropriated funds to help combat the backlog and USCIS used the funds for term hires and overtime.

4. Please identify the current USCIS “net backlog,” “gross backlog,” and “case completion rate,” as well as those figures at the end of each of the past five fiscal years.

Below is a chart showing the “net backlog” and the “gross backlog” for USCIS over the past five fiscal years.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Net Backlog</th>
<th>Gross Backlog</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>2,415,573</td>
<td>5,691,839</td>
</tr>
<tr>
<td>2017</td>
<td>2,461,906</td>
<td>5,688,515</td>
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\(^1\)Adjustment of status under section 245(i) of the Immigration and Nationality Act (Act) as amended by the Legal Immigration Family Equity Act (LIFE Act) Amendments of 2000. The LIFE Act 245(i) allows certain persons, who have an immigrant visa immediately available but entered without inspection or otherwise violated their status and thus are ineligible to apply for adjustment of status in the United States, to apply if they pay a $1,000 penalty. The LIFE Act temporarily extends the ability to preserve eligibility for this provision of law until April 30, 2001. Use of Section 245(i) adjustment of status previously was limited to eligible individuals who were the beneficiary of a visa petition or labor certification application filed on or before January 14, 1998.
Below is a chart showing the “case completion rate” or the USCIS completions per hour over the past five fiscal years.

<table>
<thead>
<tr>
<th>Form Number</th>
<th>Form Name</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
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<td>I-102</td>
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<td>1.71</td>
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<td>I-130 Immediate Relative</td>
<td>Petition for Alien Relative</td>
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<td>1.12</td>
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<td>0.62</td>
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<td>I-360s</td>
<td>Petition for Amerasian, Widow(er), or Special Immigrant</td>
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<td>0.56</td>
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<td>Application to Register Permanent Residence or Adjust Status</td>
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<td>Application To Extend/Change Nonimmigrant Status</td>
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<td>I-687-698</td>
<td>I-687 Application for Status as a Temporary Resident Under Section 245A of the Immigration and Nationality Act</td>
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<td>I-730</td>
<td>Refugee/Asylee Relative Petition</td>
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<td>Naturalization/Citizenship Document</td>
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<td>N-600/600K N-600 Application for Certificate of</td>
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<td>Naturalization Purposes</td>
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April 2019

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of the Immigration and Nationality Act, as Amended

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1 All completion rates shown in Completions Per Hour
2 Completion rates shown for Field Offices and Service Center workloads
3 I-131 DACA only had 15 completions in FY2018 due to program suspension which affected the rate
4 For waiver forms (I-192, I-191, I-212, I601, I-602, I-612), data was not previously available at the specific form type prior to FY2016

5. USCIS’ proposed FY 2019 budget requested the transfer of over 200 million dollars in fee revenue out of USCIS into ICE. The budget specifies that the money would be used, among other purposes, for the hiring of over 300 ICE enforcement officers. This appears to represent part of USCIS’s larger shift towards prioritizing immigration enforcement over the service-oriented adjudications at the core of the agency’s mandate. Why, at a time when families, vulnerable individuals, and U.S. businesses are suffering around the country due to pervasive USCIS processing delays, did your agency seek to transfer over 200 million dollars of USCIS resources to ICE?

The President’s Budget for FY 2019 proposed to fund certain U.S. Immigration and Customs Enforcement (ICE) activities from the Immigration Examinations Fee Account (IEFA) rather than from annual appropriations. Congress did not approve this proposal. The Department of Homeland Security FY 2019 ICE Budget Overview submitted to Congress described the basis for the proposal:

Description
In FY 2019, ICE proposed a decrease of $207.6M for O&S Homeland Security Investigations (HSI) Domestic Investigations Operations as a result of a non-expenditure transfer from the IEFA which shifts requirements from discretionary to mandatory funding. IEFA was established by Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) and funds the cost of providing immigration adjudications and naturalization services. This cost includes investigations to determine whether individuals or organizations requesting immigration benefits pose a threat to national security, public safety, or the integrity of the nation’s immigration system to include work performed after an adjudication decision has been rendered by USCIS. USCIS collects fees with the submission of immigration benefit applications and petitions and deposits the fee revenue into the IEFA.

Justification
ICE would have used $207.6M of IEFA collections to offset costs incurred in the HSI Program, Project, and Activity (PPA) in the O&S appropriation. IEFA collections would have funded domestic investigative activities performed by HSI, supporting several benefit fraud-related investigations and programs including investigatory work necessary to adjudicate immigration applications. In response to EO 13767 Border Security and Immigration Enforcement Improvements and EO 13768 Enhancing Public...
Safety in the Interior of the United States, ICE expects an increase in investigative leads and cases involving identity and benefit fraud related crimes. To meet the level of these anticipated investigations, ICE would have utilized collections from IEF A to fund the additional hiring of 300 special agents and 212 support personnel in HSI Domestic Investigations. These positions would have specifically support the prevention and detection of immigration benefit fraud and the investigative work necessary to adjudicate applications, including visa overstay. IEF A collections will support three main activities within the HSI Domestic Investigations Level IIPP A:

- **Document and Benefit Fraud Task Forces (DBFTFs):** HSI's DBFTFs combat crime by targeting criminal enterprises and individuals who attempt to use document and benefit fraud to compromise the integrity of the immigration system. The additional IEF A-funded personnel would have allowed DBFTFs to further improve information sharing, reduce duplication of efforts, and conduct more effective investigations alongside other federal, state, and local law enforcement partners.

- **Operation Janus:** Operation Janus is an interagency initiative designed by DHS to prevent aliens who received a final removal order under a different identity from obtaining immigration benefits. The additional special agents funded by IEF A would have allowed HSI to more quickly and effectively investigate the estimated 887 leads expected from the second wave of Operation Janus.

- **Operation Second Look (OSL):** OSL is a program initiated by HSI to address leads received from Operation Janus. HSI is in the second phase of OSL, and increased staffing would support the review of an estimated 700,000 remaining alien files.

- **The HSI Domestic Investigations staff will also support a variety of other fraud prevention and investigative activities, such as forensic document examination, outreach programs, lead referrals, employer compliance inspections, and adoption of compliance best practices.**

- **HSI domestic investigative activities funded by IEF A support DHS Mission, secure and manage our borders and mission, and enforce and administer our immigration laws.** An increase in LEO staffing and associated support staff is critical to supporting ICE’s ability to apprehend, detain, and remove aliens, to efficiently represent the U.S. Government in immigration proceedings, and to disrupt and dismantle TCOs.

6. **USCIS case volume substantially decreased through the first three quarters of FY 2018—the most recent period for which data is publicly available—yet USCIS processing times increased substantially in FY 2018. Why do processing times continue to escalate even as case volume appears to recede?**

USCIS has implemented a range of process and operational reforms, hired additional staff, and expanded its facilities to ensure its ability to adjudicate keeps pace with unprecedented and extraordinary demand for its services over recent years. Where possible, cases are completed well within the agency's standard processing goals. USCIS strives to adjudicate all applications, petitions, and requests as effectively and efficiently as possible in accordance with all applicable laws, policies, and regulations. Note that changes in backlog generally lag about six months following changes in receipt volumes because receipts within
processing time goals are not considered to be in the backlog.

7. How does USCIS intend to reduce and ultimately eliminate processing delays, while ensuring fairness and quality of adjudications, and without passing the costs of the agency's inefficiencies onto the applicants and petitioners experiencing hardship due to USCIS's crisis-level delays?

USCIS is adding staff and also working to eliminate the backlog by focusing on efficiency. USCIS aims to (1) transition more pre, post and pre, post and non-adjudicative work to non-adjudicators; (2) centralize the delivery of information services through the USCIS Contact Center; (3) reintroduce performance metrics; (4) Redefine some of the publicly stated processing time goals; and (5) Leverage electronic processing and automation.

USCIS has already taken some initial steps towards making organizational changes to keep up with current workload and eliminate processing delays.

- In FY2019, USCIS authorized an additional 726 employees (a 5 percent increase) within the operational directorates that adjudicate immigration forms.
- Space has often been a limiting factor, therefore in order to complete more face-to-face interviews and adjudications, additional field offices were recently established in Greer, SC; Montgomery, AL; Ft. Myers, FL; Nashville, TN; and Brooklyn, NY.

Additionally, USCIS is taking the following actions to address increased workload demands and backlogs:

- Moving adjudications to an electronic environment by the end of calendar year 2020, allowing full electronic processing and a more streamlined processing workflow. By utilizing the electronic processing platform to strengthen background check and national security vetting, USCIS expects a significant positive impact to processing efficiency.
- Redirecting officers to adjudicate more applications/petitions by identifying and implementing process improvements, to include the deployment of Information Services Modernization. Information Services Modernization is an initiative that seeks to resolve as many inquiries as possible through the USCIS Contact Center, and only scheduling in-person visits to a field office to speak with an Immigration Services Officer (ISO) if the Contact Center cannot resolve the individual’s inquiry. This is estimated to increase adjudication completions by allowing the Contact Center to handle all incoming InfoPass appointment requests, rather than allowing individuals to self-schedule an in-person appointment to speak with an ISO at a field office without first trying to resolve their issue with the Contact Center, as was previously possible and resulted in ISOs being diverted from adjudications to handle information counter inquiries.
- Balancing workloads within its operations to reduce disparate impacts of resource constraints on cycle time by location.
- Piloting new methodologies to realign field office workloads to build capacity for increased interviews. This includes the centralization of non-regional specific workloads, like the issuance of the Notice to Appear documents. The goal of this approach is to build a proficient workforce that completes the same workload in a central location and allow the field offices to focus on interviews and adjudication.
• Working to make additional resources available to the field by detailing additional staff to work on USCIS priorities, workload prioritization, and other scheduling options.
• Continuing to focus on filling positions, leveraging overhires, and reducing vacancy rates.

Some of the efforts employed by USCIS are beginning to reduce or stabilize the growth of the backlog. For example, USCIS reintroduced the “Last In, First Out” policy for affirmative asylum (Form I-589) applications, which reduced I-589 receipts since January 2018 (a 30 percent receipt reduction within the first month of implementation). Additionally, USCIS introduced an online streamlined process for Form I-90 (Application to Replace Permanent Resident Card) adjudication, allowing this backlog to drop by 75 percent by September 2018.