

**U.S. Citizenship and Immigration Services Response to  
Representative Garcia's February 12, 2019 Letter**

- 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)

Form Type	Fiscal Year				
	2014	2015	2016	2017	2018
I-485 Employment	0.95	0.76	0.68	0.67	0.57
I-730	0.56	0.49	0.51	0.44	0.34

**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<sup>1</sup>. 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.

Fiscal Year	Net Backlog	Gross Backlog
2018	2,415,573	5,691,839
2017	2,461,906	5,688,515

<sup>1</sup>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.



2016	1,079,454	4,399,156
2015	633,582	3,310,105
2014	543,859	3,290,668

Below is a chart showing the “case completion rate” or the USCIS completions per hour over the past five fiscal years.

USCIS Completions per Hour						
Form Number	Form Name	Fiscal Year				
		2014	2015	2016	2017	2018
I-102	Application for Replacement/Initial Nonimmigrant Arrival-Departure Document	1.91	1.31	1.15	1.22	1.25
I-129	Petition for a Nonimmigrant Worker	1.1	1.02	0.97	0.76	0.64
I-129F	Petition for Alien Fiancé(e)	1.44	1.39	1.54	1.45	1.31
I-130 Preference	Petition for Alien Relative	1.7	1.71	1.62	1.22	1
I-130 Immediate Relative	Petition for Alien Relative	1.14	1.1	1.12	1.03	1.04
I-131 RP/RD	Application for Travel Document	4.06	3.54	3.53	4.13	3.53
I-131 Adv Pri	Application for Travel Document	4.38	4.01	4.99	4.67	3.77
I-131 DACA	Application for Travel Document	79.41	0.29	0.93	26.25	0.07
I-140	Immigrant Petition for Alien Workers	0.59	0.71	0.71	0.62	0.58
I-360s	Petition for Amerasian, Widow(er), or Special Immigrant	0.38	0.56	0.56	0.41	0.25
I-485 Employment	Application to Register Permanent Residence or Adjust Status	0.95	0.76	0.68	0.67	0.57
I-485 Family	Application to Register Permanent Residence or Adjust Status	0.79	0.8	0.77	0.67	0.63
I-485 Cuban	Application to Register Permanent Residence or Adjust Status	1.19	1.16	1.23	1.03	1.02
I-485 Other	Application to Register Permanent Residence or Adjust Status	0.58	0.52	0.48	0.43	0.39
I-485 Indo-Chinese	Application to Register Permanent Residence or Adjust Status	0.71	0.23	0.2	0	0.08
I-485 Refugee	Application to Register Permanent Residence or Adjust Status	1.88	1.73	1.08	1.1	1.15
I-485 Asylee	Application to Register Permanent Residence or Adjust Status	0.64	0.57	0.48	0.36	0.39
I-539	I-539   Application To Extend/Change Nonimmigrant Status	1.09	1.04	0.97	0.9	0.84
I-687-698	I-687 Application for Status as a Temporary Resident Under Section 245A of the Immigration and Nationality Act I-698 Application to Adjust Status from Temporary to Permanent Resident (Under Section 245A of the INA)	0.23	0.27	0.28	0.24	0.34
I-730	Refugee/Asylee Relative Petition	0.56	0.49	0.51	0.44	0.34
I-751	Petition to Remove Conditions on Residence	0.8	0.72	0.71	0.55	0.57
I-765	Application for Employment Authorization	4.31	4.24	3.86	3.79	3.85



I-821 TPS	Application for Temporary Protected Status	3.29	7.91	3.38	4.81	3.68
I-824	Application for Action on an Approved Application or Petition	1.45	1.32	1.34	1.16	1.07
N-400 Reg	Application for Naturalization	0.69	0.66	0.65	0.6	0.62
N-400 Mil	Application for Naturalization	0.36	0.35	0.36	0.43	0.34
N-565	Application for Replacement Naturalization/Citizenship Document	1.58	1.19	1.12	0.93	0.98
N-600/600K	N-600 Application for Certificate of Citizenship N-600K Application for Citizenship and Issuance of Certificate Under Section 322	0.97	0.94	0.93	0.92	0.9
N-336	Request for a Hearing on a Decision in Naturalization Proceedings (Under Section 336 of the INA)	0.35	0.34	0.34	0.3	0.3
I-817	Application for Family Unity Benefits	0.74	0.88	1.26	0.69	0.7
I-360 Widow	Petition for Amerasian, Widow(er), or Special Immigrant	0.36	0.3	0.42	0.31	0.29
I-914/I-914A	Application for T Nonimmigrant Status	0.42	0.35	0.28	0.24	0.22
I-918/I-918A	Petition for U Nonimmigrant Status	0.25	0.35	0.5	0.28	0.26
N-300	Application to File Declaration of Intention	7.71	0	2.21	1.1	1.72
N-470	Application to Preserve Residence for Naturalization Purposes	3.22	7.16	10.5	4.91	6.13
N-648	Medical Certification for Disability Exceptions	2.26	2.17	2.35	2.18	2.16
I-929	Petition for Qualifying Family Member of a U-1 Nonimmigrant	0.58	0.61	0.54	0.36	0.48
I-193	Application for Waiver of Passport and/or Visa	2.87	3.71	4.17	2.59	2.08
I-360 Abusee	Petition for Amerasian, Widow(er), or Special Immigrant	0.28	0.28	0.26	0.21	0.18
I-601A	Application for Provisional Unlawful Presence Waiver	0.3	0.48	0.57	0.2	0.32
I-765 TPS	I-765   Application for Employment Authorization	3.29	7.91	3.4	5.66	9.9
I-90	Application to Replace Permanent Resident Card	4.11	4.06	4.51	4.92	5.32
I-131 PIP	Application for Travel Document	0	0.43	0.41	0.38	0.4
I-360 Sp Imm	Petition for Amerasian, Widow(er), or Special Immigrant	0.56	1.11	0.82	0.57	0.45
I-360 SIJ	Petition for Amerasian, Wldow(er), or Special Immigrant	0.75	0.71	0.89	0.68	0.32
Deferred Action		0.11	0.17	0.18	0.28	0.2
I-192	Application for Advance Permission to Enter as a Nonimmigrant			1.44	0.84	0.74
I-191	Application for Relief Under Former Section 212(c) of the Immigration and Nationality Act (INA)			0.45	0.34	0.14
I-212	Application for Permission to Reapply for Admission into the United States After Deportation or Removal			0.47	0.32	0.38
I-601	Application for Waiver of Grounds of Inadmissibility			0.32	0.29	0.28
I-602	Application By Refugee For Waiver of Grounds of Excludability			0.48	0.48	0.36
I-612	Application for Waiver of the Foreign Residence Requirement (under Section 212(e)			1.97	1.6	1.46



	of the Immigration and Nationality Act, as Amended)					
I-765 DACA	I-765   Application for Employment Authorization	10.15	28.88	16.8	53.99	68.17
I-821D	Consideration of Deferred Action for Childhood Arrivals	1.17	3.26	2.01	4.86	5.26

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, I-601, 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 IEFA 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. IEFA collections will support three main activities within the HSI Domestic Investigations Level IIPPA:

- 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 IEFA-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 IEFA 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 IEFA 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?**

USICS 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.