



Righting the Ship: The Current Status of USCIS Processing Delays and How the Agency Can Get Back on Course

March 1, 2022

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Introduction

On December 16, 2021, USCIS issued a press release enumerating its accomplishments throughout Fiscal Year (FY) 2021.¹ USCIS and its customers indeed have a lot to celebrate over the past year. The agency is trying to navigate rough waters exacerbated by a global pandemic. After years of damage caused by processes and policies designed to intentionally slow down case-processing times as noted in AILA's prior policy briefs on processing delays,² USCIS has begun patching up some of the holes consistent with AILA recommendations. These include reinstating the agency's 2004 "deference" policy for nonimmigrant visa extensions involving the same petition and employer, reusing biometrics to reduce the need for appointments,³ vacating the 2019 public charge rule and restoring previous guidance,⁴ and rescinding harmful policies such as the blank space policy.⁵ Importantly, USCIS has appointed a senior executive to lead backlog reduction initiatives.⁶ In response to an executive order from President Biden, the agency has also sought public feedback concerning barriers impeding access to its benefits.⁷

While these actions are commendable, the fact is that even under a new administration USCIS has been unable to make a dent in its still-growing backlog and has allowed its already crisis-level processing delays to continue to grow. One particularly troubling example is the drastic increase in processing times for Form I-765, Application for Employment Authorization, which has resulted in many applicants and U.S. businesses facing work stoppages and unemployment at a critical time for our nation's economic recovery. This is despite stopgap policies previously put in place by the agency, such as the 180-day auto extension of employment authorization documents (EADs) and a recently implemented policy of issuing certain initial and renewal EADs with a two-year validity (or up to the end of authorized deferred action or parole period).⁸

¹ USCIS, *USCIS Announces FY2021 Accomplishments* (Dec. 16, 2021), <https://www.uscis.gov/newsroom/news-releases/uscis-announces-fy-2021-accomplishments>.

² *AILA Policy Brief: Crisis Level USCIS Processing Delays and Inefficiencies Continue to Grow* (Feb. 26, 2020), <https://www.aila.org/advo-media/aila-policy-briefs/crisis-level-uscis-processing-delays-grow>

³ USCIS Policy Alert, *Deference to Prior Determinations of Eligibility in Requests for Extensions of Petition Validity* (Apr. 27, 2021), <https://www.aila.org/infonet/uscis-issues-guidance-on-deference-to-prior>.

⁴ 86 Fed. Reg. 14221 (Mar. 15, 2021); AILA, *USCIS Final Rule Restoring Previous Public Charge Regulations*, <https://www.aila.org/infonet/uscis-final-rule-restoring-previous-public-charge>.

⁵ USCIS, *USCIS Confirms Elimination of "Blank Space" Criteria* (Apr. 1, 2021), <https://www.uscis.gov/news/alerts/uscis-confirms-elimination-of-blank-space-criteria>.

⁶ USCIS, *Remarks Delivered by Director Ur M. Jaddou at the National Immigrant Integration Conference*, <https://www.uscis.gov/newsroom/speeches-statements-testimony/remarks-delivered-by-director-ur-m-jaddou-at-the-2021-national-immigrant-integration-conference>.

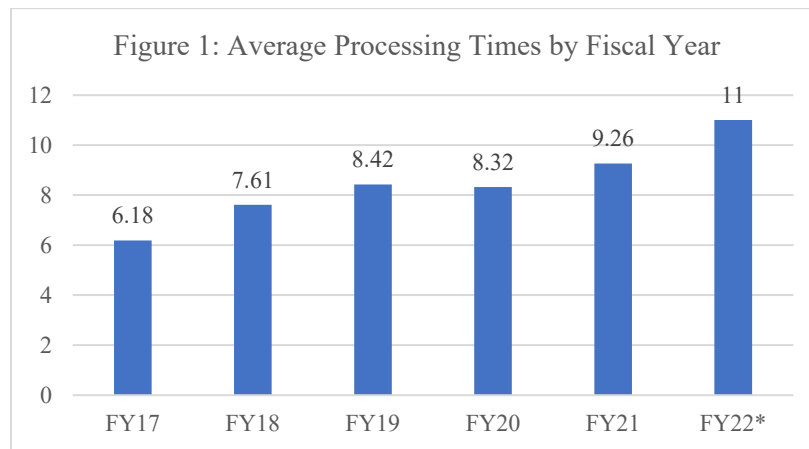
⁷ AILA, *AILA Submits Comments Identifying Barriers to USCIS Benefits and Services* (May 19, 2021), <https://www.aila.org/infonet/comments-identifying-barriers-to-uscis-benefits>.

⁸ USCIS Policy Alert, *Updating General Guidelines on Maximum Validity Periods for Employment Authorization Documents based on Certain Filing Categories* (Feb. 7, 2022), uscis.gov/sites/default/files/document/policy-manual-updates/20220207-EmploymentAuthorizationValidity.pdf.

Updated Statistics on USCIS Backlog and Processing Delays

USCIS faces a mounting case backlog that has undoubtedly impeded its adjudication of benefits. According to an August 2021 Government Accountability Office (GAO) report, USCIS’s pending caseload, defined as the number of cases awaiting a benefit decision, grew an estimated 81% between FY15 and the second quarter of FY20, from 3.2 to 5.8 million.⁹

Recent statistics made available for FY21 show a continued ballooning of median processing times¹⁰ and a stark contrast from numbers from FY17.¹¹ As shown in Figure 1¹² below, USCIS’s processing delays have continued to grow since FY17, increasing by approximately 50% in FY21.¹³ This is despite only a slight 3.6% increase in cases received annually by USCIS.¹⁴ Over the last fiscal year alone (FY20–FY21), there was about an 11% increase in processing times.



Source: AILA analysis of data from the USCIS webpage *Historical National Median Processing Time (in Months) for All USCIS Offices for Select Forms By Fiscal Year*, <https://egov.uscis.gov/processing-times/historic-pt>.

As shown in Figure 2, the overall increase has particularly impacted certain high-volume forms. For example, Form I-130, Petition for Alien Relative, increased from 6.5 months in FY17 to 10.2 months in FY21, a nearly 57% increase.¹⁵ Processing times for Form N-400, Application for Naturalization, rose from 7.9 months in FY17 to 11.5 months, an increase of nearly 46%. Processing times for both family-based and

⁹ GAO Report, U.S. Citizenship and Immigration Services: Actions Needed to Address Pending Caseload (Aug. 18, 2021), <https://www.gao.gov/products/gao-21-529> [hereafter August 2021 GAO Report].

¹⁰ USCIS, *Historical National Median Processing Time (in Months) for All USCIS Offices for Select Forms By Fiscal Year*, <https://egov.uscis.gov/processing-times/historic-pt>. Please note that this page shows the “national median processing time” for certain USCIS form types. For many forms, this means that the number shown is not reflective of the worst delays being faced by certain customers. Additionally, certain form types such as I-600, I-601A, and I-918 are not included in our analysis based on a lack of data provided by USCIS.

¹¹ Please note that USCIS has recently updated the way in which it calculates its historic processing times, including which forms it includes at <https://egov.uscis.gov/processing-times/historic-pt>. AILA plans to utilize the new statistics provided by USCIS on this webpage moving forward when reviewing the change in processing times overall and for specific USCIS forms. Please also note that this data is subject to change. When releasing new statistics on the webpage, USCIS will occasionally update data from a previous fiscal year to reflect updated information that it has received. The page was last accessed on February 25, 2022.

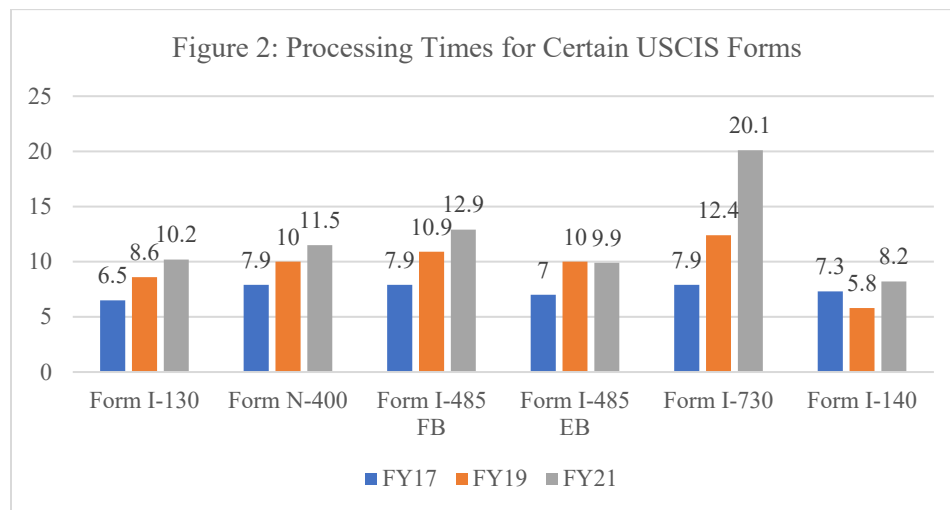
¹² Please note that FY22 numbers are provided as of January 31, 2022.

¹³ *Id.* Please note that the data cited throughout this brief has been rounded to the nearest whole number.

¹⁴ For data on case receipt volume, AILA draws from USCIS’s regularly updated *Immigration and Citizenship Data* webpage at <https://www.uscis.gov/tools/reports-and-studies/immigration-and-citizenship-data>, filtering by “All USCIS Application and Petition Form Types.” These sources reflect some form types not listed in USCIS’s national average processing times data, such as Form I-589. At the time of writing, the data covered up through the fourth quarter of FY 2021.

¹⁵ USCIS, *Historical National Median Processing Time (in Months) for All USCIS Offices for Select Forms By Fiscal Year*, <https://egov.uscis.gov/processing-times/historic-pt>.

employment-based Forms I-485, Application to Register Permanent Residence or Adjust Status, rose from 7.9 and 7 months to 12.9 and 9.9 months, increases of 63% and 41%, respectively.¹⁶ Processing times for Form I-140, Immigrant Petition for Alien Worker, rose from 7.3 to 8.2 months, an increase of roughly 12%. Lastly, processing times for Form I-730, Refugee/Asylee Relative Petition, rose from 7.9 months in FY17 to a remarkable 20.1 months in FY21, an increase of 154%.¹⁷ While we are less than halfway through FY22, it is worth noting that processing times have already increased for the N-400, employment-based I-485, I-730, and I-140.¹⁸



Source: AILA analysis of data from the USCIS webpage *Historical National Median Processing Time (in Months) for All USCIS Offices for Select Forms By Fiscal Year*, <https://egov.uscis.gov/processing-times/historic-pt>.

Though these statistics may be startling for some, ballooning processing times are, unfortunately, nothing new for stakeholders. With limited anomalies, processing times have been on the rise at USCIS for many years, predating the statistics available on the USCIS historic processing times page, as well as the current COVID-19 pandemic.

Troubled Waters in EAD Processing

Particularly troubling is the current state of the agency’s processing of applications for EADs. EADs are of paramount importance for many applicants—some vulnerable—seeking to support, or continue to support, themselves and their families, as well as U.S. businesses whose operations may be impacted by adjudication delays for one or more of their employees. Efficient adjudication of these applications is crucial to individual applicants, their families, and the U.S. economy.

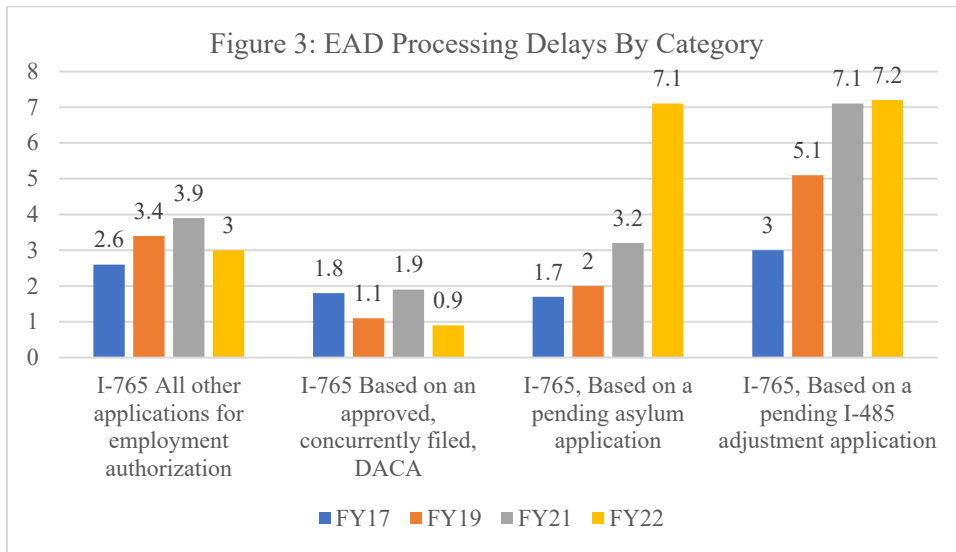
USCIS provides historic processing times for four categories of Form I-765 applications: (1) those based on an approved, concurrently filed Deferred Action for Childhood Arrival (DACA) application; (2) those based on a pending asylum application; (3) those based on a pending I-485 adjustment of status application; and (4) all others. While we are only a few months into FY22, USCIS statistics show that processing times for most I-765 applications have ballooned, many in recent months. Median processing times for I-765 applications based on a pending asylum application rose 318%, from 1.7 months in FY17

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

to 7.1 months as of the writing of this brief in FY22.¹⁹ Processing times for EAD applications based on I-485 adjustment applications rose from 3 months to 7.2 months, over 140%.²⁰



Source: AILA analysis of data from the USCIS webpage *Historical National Median Processing Time (in Months) for All USCIS Offices for Select Forms By Fiscal Year*, <https://egov.uscis.gov/processing-times/historic-pt>.

These increases are significant for several reasons. In January 2017, DHS eliminated the regulatory requirement that EADs should be adjudicated within 90 days, and put in place measures that allowed for a 180-day automatic extension after expiration for certain EADs. Stakeholders, such as AILA and the American Immigration Council, raised alarm bells that elimination of the 90-day processing requirement would increase processing times.²¹ However, USCIS assured stakeholders that it did not believe that the changes would “cause gaps in employment, undue hardship, job losses, or longer adjudication times” and that Forms I-765 “must be adjudicated within reasonable timelines.”²² USCIS followed this change in June 2020 when it removed the 30-day processing provision for initial EAD applicants with pending asylum applications, effective in August 2020.²³

Unfortunately, the very issues that AILA predicted would result from these changes have occurred. As shown in the data included in this brief, the agency has failed to live up to its own expectations regarding EAD processing for pending asylum, adjustment of status, and non-DACA related applications. Without the former regulations, applicants and U.S. businesses have borne the brunt of these inefficiencies. Many applicants now find themselves waiting on the adjudication of their EAD for more than 6.7 months and subsequently well beyond the 180-day automatic extension period. These delays may result in further complications for applicants and U.S. businesses, such as work stoppages and, in some cases, job loss. Further complicating matters, according to the August 2021 GAO report on USCIS processing delays, the agency does not even have an internal processing time target for Forms I-765. That the agency is no longer held by regulation to particular adjudication windows makes the lack of an internal target processing window all the more problematic.

¹⁹ *Id.*

²⁰ *Id.*

²¹ AILA, *AILA/American Immigration Council Comments on Proposed Rule Affecting High-Skilled Workers*, <https://www.aila.org/infonet/comments-rule-affecting-high-skilled-nonimmigrants>.

²² 81 Fed. Reg. 82398, 82456 (Nov. 18, 2016).

²³ 85 Fed. Reg. 37502 (June 22, 2020).

Reports Issued by USCIS and Other Administrative Agency Offices Addressing Crisis-Level Processing Delays and Growing Backlog

In its August 2021 report, the GAO surveyed USCIS supervisory immigration and asylum officers, support staff in eight local USCIS field offices, asylum offices, and service centers, and external stakeholders concerning what factors contributed to excessive processing delays. These parties identified competing priorities, form length, interview requirements, delays created by Request for Evidence (RFE) issuance, staffing, and the ongoing COVID-19 global pandemic. AILA identified many of the same issues in the 2021 policy briefs *How USCIS Can Dismantle the Invisible Wall Slowing Case Adjudication*²⁴ and *Walled Off: How USCIS Has Closed Its Doors on Customers and Strayed from Its Statutory Customer Service Mission*.²⁵ In addition, in May 2021, in response to a request from USCIS, AILA identified significant barriers to and recommendations to facilitate USCIS's timely adjudication of immigration benefits and services.²⁶

In recent months, two reports have shed light on how DHS and USCIS intend to overcome the backlog and reduce excessive processing delays. On September 7, 2021, DHS provided a five-year plan to Congress as required by the Emergency Stopgap Stabilization Act passed in October of 2020. The central focus of the agency's plan to improve processing times for immigration and naturalization benefits is to implement electronic filing and processing capabilities for all benefits fully. The plan outlines its schedule to achieve this goal by FY2026.²⁷ Similarly, a December 28, 2021, report by the DHS Office of Inspector General (OIG) documents the issues faced by USCIS during the ongoing COVID-19 pandemic related to its inability to process many petitions and applications electronically, as well as recurring technological problems.²⁸

Both reports discuss the agency's plan to fully implement electronic processing, the benefits of electronic filing on overall processing times, and the pitfalls that could impede that plan. The potential benefits of electronic processing are plentiful. In its five-year plan to Congress, DHS states that electronic processing would allow it to accomplish the four requirements set forth by Congress in section 4103 of the Emergency Stopgap Stabilization Act. These include:

- Establishing electronic filing procedures for all applications and petitions for immigration benefits
- Accepting electronic payment of fees at all filing locations
- Issuing correspondence, including decisions, RFEs, and Notices of Intent to Deny (NOIDs) to immigration benefit requestors electronically
- Improving processing times for all immigration and naturalization benefit requests

The agency's continued push to fully expand electronic processing is exciting, as are the anticipated benefits. However, it is worth noting that full implementation of electronic processing has been an agency goal for nearly 17 years,²⁹ and almost a decade has passed since USCIS launched the Electronic Immigration

²⁴ AILA, *Policy Brief: How USCIS Can Dismantle the Invisible Wall Slowing Case Adjudication* (March 24, 2021), <https://www.aila.org/advo-media/aila-policy-briefs/policy-brief-recommendations-for-how-uscis>.

²⁵ AILA, *Walled Off: How USCIS Has Closed Its Doors on Customers and Strayed from Its Statutory Customer Service Mission* (Feb. 12, 2021), <https://www.aila.org/advo-media/aila-policy-briefs/policy-brief-walled-off-how-uscis-has-closed>.

²⁶ AILA, *AILA Submits Comments Identifying Barriers to USCIS Benefits and Services* (May 19, 2021), <https://www.aila.org/infonet/comments-identifying-barriers-to-uscis-benefits>.

²⁷ USCIS, Fiscal Year 2021 Report to Congress, Section 4103 Plan Pursuant to the Emergency Stopgap USCIS Stabilization Act (Sept. 7, 2021), <https://www.aila.org/infonet/dhs-provides-five-year-plan-pursuant-to-emergency>.

²⁸ OIG Report, *Continued Reliance on Manual Processing Slowed USCIS' Benefits Delivery during the COVID-19 Pandemic* (Dec. 28, 2021), <https://www.oig.dhs.gov/sites/default/files/assets/2022-01/OIG-22-12-Dec21.pdf>.

²⁹ OIG Report, *USCIS Automation of Immigration Benefits Processing Remains Ineffective* (Mar. 9, 2016), <https://www.oig.dhs.gov/assets/Mgmt/2016/OIG-16-48-Mar16.pdf>.

System (ELIS).³⁰ To date, ELIS can only process 17 out of 102 types of immigration benefits.³¹ While this does include high-volume form types such as the N-400 application and the I-130 petition, it is still far short of full implementation. Further complicating matters, according to the agency's five-year plan, most USCIS customers seeking benefits capable of electronic filing are choosing to submit paper-based applications through the mail in lieu of submitting their applications electronically, which likely indicates that the electronic filing mechanisms are not comparable to the way immigration benefit application requests are filed by stakeholders.

AILA's Recommendations to Get Back on Course

AILA understands that USCIS has faced difficulties due to the COVID-19 pandemic and appreciates the work of USCIS staff throughout the last couple of years to ensure the continued processing of immigration benefits. We also welcome the prospect of USCIS's long-awaited shift towards electronic processing. However, it is important to understand that the agency's processing troubles began long before the current pandemic and that electronic processing is not a silver bullet that will alleviate its processing woes. This is especially true when considering that full implementation and customer utilization is at best several years away. The fact remains that the agency is and has, for several years, been facing crisis-level processing delays. The recent rise in delays for particularly time-sensitive applications like EAD applications further underscores the need for additional remedies while the agency works to implement full access to electronic processing through ELIS. AILA provides recommendations below for both USCIS and Congress to address general processing delays and the crippling delays impacting customers' applications for work authorization, and to ensure greater transparency and efficiency moving forward.

Adjudication of Employment Authorization Document Applications

While many of AILA's recommendations will facilitate USCIS's efficient processing of benefits, AILA encourages the adoption of the following recommendations specific to the crisis-level EAD processing delays that impact many individuals and U.S. businesses. AILA also encourages the agency to continue considering creative solutions such as the recently implemented policy of issuing of EADs with as much as a two-year validity period for certain applications for asylees and refugees, VAWA self-petitioners, and noncitizens with withholding of deportation or removal, which recently became effective on February 7, 2022.³²

- **Reimplement the 90-day and 30-day Rules for Adjudication of EAD Applications.** USCIS should reissue regulations that require agency staff to issue EADs within 90 days, initial EADs based on a pending asylum application within 30 days, and interim EADs if an EAD is not adjudicated within those timelines to avoid significant delays and lapses in work authorization that impact customers' ability to support themselves and their families and to allow U.S. businesses to continue operating. If the agency does not take action to establish these required timelines, Congress should step in to pass legislation mandating that USCIS adhere to a window for processing EAD applications to ensure consistency in the adjudication of these critical and time-sensitive applications.

³⁰ USCIS, *USCIS Launches Online Immigration System, USCIS ELIS* (May 22, 2012), <https://www.uscis.gov/archive/uscis-launches-online-immigration-system-uscis-elis> (archived content).

³¹ OIG Report, *Continued Reliance on Manual Processing Slowed USCIS' Benefits Delivery during the COVID-19 Pandemic*, Appendix C.

³² USCIS Policy Alert, *Updating General Guidelines on Maximum Validity Periods for Employment Authorization Documents based on Certain Filing Categories* (Feb. 7, 2022), uscis.gov/sites/default/files/document/policy-manual-updates/20220207-EmploymentAuthorizationValidity.pdf.

- **Issue an Interim Final Rule (IFR) that Expands the 180-Day Automatic Extension for Certain EAD Renewals to 365 Days.** In the absence of strict adjudication timelines for EAD applications, AILA encourages USCIS to issue an Interim Final Rule (IFR) to extend the current 180-day automatic extension for work authorization document validity to 365 days, given the excessive processing times that continue to plague EAD applications, extending well beyond 180 days for many. Issuance of an IFR would allow the agency’s expansion of the duration of the automatic extension to take immediate effect, allowing those individuals at risk of losing their authorization to work to continue doing so. The agency can support its decision to issue an IFR by using the adverse impact caused by work authorization delays to demonstrate that it meets the “good cause” exception included in section 553 of the Administrative and Procedure Act.³³ The additional breathing room provided to USCIS officers working under the constraints created by the COVID-19 global pandemic will also ensure that countless individuals will be able to continue to work and support themselves and their families and that U.S. businesses will continue to operate without the need to dismiss certain staff due to a lapse in work authorization. As with any policy, the agency should provide adequate guidance and notice to ensure U.S. businesses can comply with employment verification requirements.
- **Use the Prior Edition of I-765 Form to Facilitate Expeditious Adjudication.** AILA understands that to facilitate fair and efficient adjudication of work authorization for Afghan parolees, USCIS allowed certain applicants to file an EAD application with a previous edition of Form I-765, which was two pages. AILA applauds the agency’s creative solution to handle the processing of these applications efficiently and urges the agency to address the ongoing severe delays plaguing EAD processing with the same ingenuity. In the August 2021 GAO report, form length was among the factors that USCIS staff say contributed to the now crisis-level backlogs and processing delays.³⁴ The current Form I-765 is seven pages and 61 questions, a far cry from recent editions, which were as short as one page and 18 questions in 2015. Shortening Form I-765 would not only allow for a quicker collection of information but also less time for officers’ review as well.

Overall Recommendations to Combat Excessive Processing Delays

AILA offers the following additional recommendations to help USCIS tackle the growing processing delays and expanding backlog of cases, and to ensure that the agency is held accountable to stakeholders for continued efforts to address the critical issues it faces.

- **Make Electronic Filing More Accessible to Attorneys.** In order to encourage the use of electronic filing, USCIS should work with external stakeholder groups and technology partners to allow for attorneys to upload information and documents collected via case filing systems into an electronic filing. This will encourage greater stakeholder use of electronic filing, and by extension would greatly assist the agency in reducing inefficiencies and processing delays. AILA and our Technology Advisory Group consisting of 21 of the top case-filing systems stand at the ready to work with the agency to achieve its goals of full electronic filing and processing capabilities.³⁵
- **Expand Premium Processing to Additional Form Types as Quickly as Possible.** As AILA has previously recommended, USCIS must use the authority granted by Congress³⁶ to expand premium processing to additional form types. Currently, the agency offers premium processing

³³ 5 USC §553.

³⁴ August 2021 GAO Report, <https://www.gao.gov/products/gao-21-529>.

³⁵ AILA, *AILA and Technology Advisory Group Send Letter to USCIS Regarding Digitization Efforts* (Mar. 10, 2021), <https://www.aila.org/advo-media/aila-correspondence/2021/aila-and-the-technology-advisory-group-send>.

³⁶ Continuing Appropriations Act, 2021 and Other Extensions Act, Pub. L. No. 116-159, 134 Stat. 709.

for 30 classifications within Forms I-129 and I-140. AILA urges USCIS to expeditiously implement premium processing to additional form types, starting with high-volume forms listed by Congress, like Form I-765 and Form I-539.³⁷ As required by Congress, USCIS must also ensure that any expansion does not adversely impact the standard processing of other form types, and develop a thorough plan to reduce case processing times.

- **Adjudicate Related Cases Together.** The agency should implement a procedure for adjudicating related cases together to minimize the need for separate officers to confirm the eligibility for related benefits. For example, having the same officer adjudicate Forms I-129, I-539, and I-765 for beneficiaries and their dependents will allow the officer to make determinations on the dependent’s relationship and the eligibility for work authorization once the beneficiary is confirmed as being eligible based on the Form I-129.³⁸ For many years, USCIS adjudicated I-765 and I-131 applications together, issuing one card containing both work and travel authorization. Recently, in an attempt to expedite EAD processing, USCIS seems to have abandoned this practice, which has unnecessarily caused concern among applicants and seems to require duplicative efforts by adjudicators based on the same facts. USCIS should resume the issuance of “combo cards” by having the same adjudicator make a decision on both the employment and travel authorization applications. Adjudicating related cases that are based on the same facts together would not only ensure consistency for the adjudication of an application but also reduce the unnecessary time needed for staff to familiarize themselves with the principal petition or application.
- **Implement and Publish Internal Processing Goals for All High-Volume Form Types.** As noted above, according to the August 2021 GAO report, the agency does not currently have an average processing time target for several high-volume forms, including Form I-765. In a session on February 2, 2022, USCIS indicated that it would return to developing “Cycle Time Goals” for form types. Moving forward, AILA urges the agency to set processing goals for all form types and post those processing targets publicly to ensure both transparency and accountability.
- **Provide Median Processing Times for All USCIS Form Types and Allow for Quicker Follow-Up.** AILA appreciates USCIS providing average historic processing times for certain form types, as well as its current processing times page, which provides processing windows for 37 forms as well. However, AILA urges the agency to provide median processing times for all USCIS benefits. Furthermore, currently customers are only allowed to follow up on a case once it is beyond the time needed to process 93% of the case type.³⁹ This limits the accessibility of the agency to field inquiries for all but the most extreme examples of cases outside of normal processing times. AILA urges the agency to adopt a policy that allows customers to follow up on a long-pending case when it has been pending beyond the median for processing of the same case types.
- **Perform an Agency Review of Form Length.** As stated above, when asked by the GAO, USCIS staff said that longer forms increased the amount of time needed to adjudicate immigration benefits and led to more extended interviews. The August 2021 report highlights seven forms, five of which have increased in length since 2015, and three of which, Form I-130, Form I-485, and Form I-765, have significantly increased by 500%, 233%, and 600%, respectively, since 2015.⁴⁰ Added questions are often confusing or duplicative. Moreover, form instructions are extremely lengthy

³⁷ For additional context concerning the Emergency Stopgap USCIS Stabilization Act, see AILA, *AILA and Coalition Partners Send Letter to USCIS Urging Implementation of the Emergency Stopgap USCIS Stabilization Act* (Mar. 1, 2021), <https://www.aila.org/advo-media/aila-correspondence/2021/letter-to-uscis-urging-implementation-emergency>.

³⁸ AILA, *AILA Submits Comments Identifying Barriers to USCIS Benefits and Services* (May 19, 2021), <https://www.aila.org/infonet/comments-identifying-barriers-to-uscis-benefits>.

³⁹ AILA, *CIS Ombudsman Provides Presentation from Teleconference on USCIS Processing Times* (Apr. 5, 2018), <https://www.aila.org/infonet/cis-ombudsman-telecon-uscis-processing-time-report>.

⁴⁰ August 2021 GAO Report.

and hard to follow, resulting in unnecessary rejections. AILA urges USCIS to perform a review of all forms to determine if the current iteration and length facilitate both an effective and efficient adjudication of benefits and reduce the paperwork burden.⁴¹

- **Reduce Unnecessary Requests for Additional Evidence Usage.** In the same August 2021 GAO report, certain USCIS staff and external stakeholders discussed RFE issuance as a factor contributing to excessive processing times. AILA urges USCIS to limit RFEs and NOIDs, train USCIS officers to ensure they understand when they are appropriate to issue, and review current recommended instructions and checklists for all immigration benefits to ensure that customers are made aware of required information and supporting documentation.
- **Provide Robust Congressional Oversight and Ensure Regular Agency Updates Concerning Backlog Reduction and Processing Delays.** AILA calls on Congress to provide robust oversight to ensure that USCIS is consistent and transparent in providing updates concerning backlog reduction and in addressing processing delays. AILA continues to support the reporting requirements and oversight provisions included in the Case Backlog and Transparency Act of 2020 and welcomes additional efforts from members of Congress to reintroduce and pass legislation that provides for and expands on these requirements. While reporting requirements and oversight are helpful, USCIS should also affirmatively make additional information publicly available about its efforts to reduce its backlog and fix the extreme delays currently plaguing many immigration benefits. AILA urges USCIS to affirmatively and regularly provide the information included in the Case Backlog and Transparency Act of 2020 and develop and make processing goals publicly available.

Conclusion

Over the last year, USCIS has taken several steps to rescind harmful policies that slowed adjudication and drastically increased processing delays. However, despite these efforts, significant hurdles such as a voluminous case backlog and excessive processing delays continue to hamper the agency's forward movement. If the agency is going to clear these hurdles and get itself back on course toward fulfilling its statutory mission, it is clear that we need an all-hands-on-deck effort. While the full capability of electronic processing and adjudication is an exciting goal, it is not one that the agency will likely accomplish in the immediate future. USCIS must work simultaneously to implement the solutions discussed above to ensure that immediate issues such as crisis-level EAD processing delays, general processing delays, and its massive backlog are addressed. Furthermore, Congress needs to continue to provide robust oversight and ensure that the agency is transparent with its stakeholders and held accountable for continued reduction in both processing times and the overall case backlog.

⁴¹ AILA, *Policy Brief: How USCIS Can Dismantle the Invisible Wall Slowing Case Adjudication* (March 24, 2021), <https://www.aila.org/advo-media/aila-policy-briefs/policy-brief-recommendations-for-how-uscis>.