



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION



The Honorable Charles Schumer
Senate Majority Leader
322 Hart Senate Office Building
Washington, DC 20515

The Honorable Kevin McCarthy
Speaker of the House of Representatives
2468 Rayburn House Office Building
Washington, D.C. 20510

The Honorable Mitch McConnell
Senate Minority Leader
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Hakeem Jeffries
Minority Leader of the House of Representatives
2433 Rayburn House Office Building
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Chairwoman Patty Murray
U.S. Senate Committee on Appropriations
154 Russell Senate Office Building
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Chairwoman Kay Granger
U.S. House Committee on Appropriations
2308 Rayburn House Office Building
Washington, DC 20515

Vice Chair Susan Collins
U.S. Senate Committee on Appropriations
413 Dirksen Senate Office Building
Washington, DC 20510

Ranking Member Rosa DeLauro
U.S. House Committee on Appropriations
2413 Rayburn House Office Building
Washington, DC 20515

September 22, 2023

**RE: American Immigration Lawyers Association and American Immigration Council
Joint Recommendations on FY 2024 Appropriations and Continuing Resolution**

Dear Leaders of the House and Senate:

The American Immigration Lawyers Association (AILA) is the national bar association comprised of more than 16,000 immigration law attorneys and professors. Every day, AILA members help people and businesses navigate complex law and procedures in nearly every aspect of the U.S. immigration system. Drawing upon these comprehensive perspectives, AILA strives to provide solutions for a more effective system that affords high quality service and fair and humane treatment to every individual it serves.

The American Immigration Council (Council) is a non-profit organization established to increase public understanding of immigration law and policy, advocate for the just and fair administration of our immigration laws, protect the legal rights of noncitizens, and educate the public about the enduring contributions of America's immigrants. The Council litigates in the federal courts to protect the statutory, regulatory, and constitutional rights of noncitizens, advocates on behalf of

noncitizens before Congress, and has a direct interest in ensuring that those seeking protection in the United States have a meaningful opportunity to do so.

As Congress continues negotiations on the FY 2024 appropriations cycle and a potential short-term continuing resolution, we urge you to recognize the indispensable role that immigrants play in nearly every part of American society and its economy. It is vital that Congress appropriate adequate funds to ensure agencies process all immigration visas and applications on-time so that all forms of travel and migration for commerce, pleasure, family or humanitarian purposes function smoothly, efficiently, and fairly. Severe, now chronic, backlogs plague U.S. Citizenship and Immigration Services (USCIS), the immigration courts, the U.S. Department of Labor, and the U.S. Department of State, resulting in months- or years-long waits for decisions on their cases. These delays across immigration agencies are hurting families, businesses, and people in need of humanitarian protection.

With respect to management of the U.S. southern border, an “all of government” approach must be adopted. Effective border management cannot be achieved unless greater attention is paid to modernizing processing across agencies and the facilitation of inter-agency coordination. While efficiency is important, attempts to speed-up the review of asylum and other humanitarian cases erode the most fundamental principles of due process. Families and individuals who need and deserve legal protection are not getting a fair chance to present their cases and are being forced back into harm’s way. AILA and the Council urge Congress to increase funding to improve asylum processing, community shelter and support services, and access to legal counsel.

Improve the Processing of Immigration Benefits

Without a properly functioning immigration system, where eligible individuals can apply for and receive immigration benefits in a timely and accurate manner, the pressures on our southern border will only continue to grow. The fix begins with proper funding to modernize adjudications and reducing growing backlogs at USCIS, DOL and DOS. Each agency plays an integral role in identifying where foreign workers can fill critical gaps in our economy, ensuring eligibility for family, employment and humanitarian benefits, and protecting our national security. However, they cannot function properly and meet the needs of our country with significant processing delays that are apparent across multiple agencies, in every stage of the immigration process. For example, in some cases, it can take [close to a year](#) to receive a prevailing wage determination and more than [two years for a visitor visa interview](#).

Fund USCIS to address case backlogs and delays in processing.

Congress must provide regular and adequate funding for USCIS to address its significant backlog, which continues to impact individuals’ ability to work, separates families, and harms U.S. businesses. USCIS is the only immigration agency that is almost entirely dependent on user fees to fund its budget, but with the shifting regional migration patterns and subsequent increase in humanitarian workload this is not a sustainable model. AILA and the Council are concerned that the House FY 2024 DHS bill provided no additional funding to reduce the overall backlog at USCIS, and disappointed that the Senate FY 2024 bill only provided funding to address EAD processing. The overall backlog continues to increase every year and as of the latest data provided,

now exceeds [8.9 million cases](#), an over 57% increase from [the end of FY 2017](#). This number includes over 1.5 million work authorization applications and has resulted in significant delays across several benefit types. To address these deleterious delays, we recommend the following:

- Provide increased and targeted funding of at least \$400,000,000 to address backlog reduction, intake delay, and facilitate efficient processing of cases at USCIS asylum, field, and service center offices.
- Provide additional funds for the processing of employment authorization applications for noncitizens who are kept unnecessarily waiting for months without the ability to work. At a minimum, AILA and the Council recommend Congress appropriate the amount included in the Senate FY 2024 DHS bill which provides \$71.5 million to address the EAD backlog and \$71.5 million for the processing of newly filed EAD applications.
- Provide funds for DHS to provide regular reports detailing how appropriated funding is being utilized to reduce its backlog and improve overall efficiency, as well as improve its electronic processing capabilities and support its customer service initiatives.

Provide Funding to Ensure Effective Management of Southwest Border Migration

To properly manage migration at the U.S. southern border, Congress must make long term investments and fund systemic and structural improvements across immigration agencies. Enormous delays in border processing stem from regional shifts in migration and from the lack of uniform systems, data and file sharing, and policies to coordinate across CBP, ICE, USCIS and the immigration courts. We are concerned that the administration has requested large amounts of supplemental funding to address “surges” along the southwest border without providing explanation for how those funds will be used to ensure accountability. We recommend the following:

- Increase funding for CBP to increase staffing for the [Office of Field Operations](#) at ports of entry (POEs). These investments should be directed at increasing processing capacity, offering more lanes at POEs, and increasing operating hours to ensure timely processing of vehicular and pedestrian traffic for local residents, visitors, merchants, and migrants.
- Increase funding for USCIS to ensure the hiring of [asylum officers](#) to increase the capacity to [conduct asylum screenings](#) in a trauma-informed manner and reduce case backlogs.
- Provide receiving communities with the resources they need to support new arrivals by funding the administration’s request for the Shelter and Services Program (SSP). Communities across the country are stepping up and welcoming newcomers. They need consistent federal support with these critical efforts.
- Fund technology, data systems, and appropriate information sharing among relevant agencies to improve the tracking of a person’s immigration case from apprehension to the court proceedings. Fund interagency systems to provide more timely information about removal proceedings and increase appearances and compliance at hearings.

- Provide funding targeted at narcotics trafficking and human smuggling operations that place vulnerable migrants in even greater danger.
- Establish an [Office of Migrant Protection](#) to coordinate the multi-agency, rapid scale-up of screening and protection capacity at high-volume areas on the southern border.
- Fund the new Safe Mobility Offices in Guatemala, Colombia, Costa Rica, and other countries.

Reduce Immigration Detention and Increase Access to Counsel in Detention

AILA and the Council are deeply concerned about the continued high levels of funding for immigration detention. The congressional record and oversight agency findings are clear that noncitizens in detention are vulnerable to abuse and mistreatment. Congress should [significantly reduce funding](#) for immigration detention from the current, unnecessarily high, levels of approximately \$2.9 billion annually (which provide detention space for up to 34,000 noncitizens). Detention is costly, [inhumane and unsafe](#), and plagued by [ineffective oversight](#) that has proven incapable of preventing [abuses](#) of noncitizens. We recommend that Congress:

- Invest in alternatives to detention that impose significantly less burden on liberty and freedom of movement and [are far less costly](#). Continue funding for the congressionally authorized [case management pilot](#) operated by Federal Emergency Management Agency (FEMA) and the Office for Civil Rights and Civil Liberties (CRCL).
- Continue to require ICE to improve access to counsel at every location which holds noncitizens for immigration purposes, from county jails to for-profit processing centers. Mandate that ICE be transparent with how it is using government funds to achieve these goals.
- Continue funding for the Office of Immigration Detention Ombudsman, the only oversight agency tasked with providing immediate and remedial relief to detained noncitizens for violations of ICE standards and policies.

Immigration Courts

AILA and the Council urge Congress to fund immigration court initiatives that will improve the fairness of proceedings. We have significant concerns that the Senate FY 2024 CJS bill allocates a much smaller percentage to the Executive Office for Immigration Review (EOIR) than it requested. The EOIR case backlog exceeds 2 million cases and continues to grow. Congress should increase funding to enable EOIR to reduce the backlog and expand programs that increase access to counsel. AILA and the Council recommend the following:

- Fund a pilot legal representation program for people who cannot afford counsel. We support the President's FY 2024 budget which requested \$150 million for such programs.

Federal law guarantees the right to legal counsel in removal proceedings, but the government still does not pay for legal counsel for people who are indigent. Legal representation increases the efficiency of courts in processing cases and ensures people appear at court at extremely high rates ([96 percent](#) of the time). Representation also makes court proceedings fairer. People with counsel are [five times](#) more likely to obtain legal relief; and people who have counsel and are detained are [ten times](#) more likely to succeed.

- Increase funding for Legal Orientation Programs (LOP) which improves the efficiency and productivity of court proceedings and should be accessible to all people in detention nationwide. AILA and the Council supports the Senate FY 2024 DHS bill level of \$30 million to expand LOP especially in remote immigration detention sites.
- Provide funding for increased support staff to ensure basic court functions operate efficiently, including processing of notice of proceedings and motions.

We urge your consideration of the joint recommendations and welcome the opportunity to work with you and your staff on these important matters. Please contact Greg Chen, gchen@aila.org.

Sincerely,

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