

United States Senate

WASHINGTON, DC 20510

July 16, 2020

The Honorable Mitch McConnell
Senate Majority Leader

The Honorable Chuck Schumer
Senate Minority Leader

The Honorable Richard Shelby
Chairman
Senate Committee on Appropriations

The Honorable Patrick Leahy
Vice Chairman
Senate Committee on Appropriations

The Honorable Lindsey Graham
Chairman
Senate Committee on the Judiciary

The Honorable Dianne Feinstein
Ranking Member
Senate Committee on the Judiciary

The Honorable Ron Johnson
Chairman
Senate Committee on Homeland Security
& Governmental Affairs

The Honorable Gary C. Peters
Ranking Member
Senate Committee on Homeland Security
& Governmental Affairs

Dear Colleagues,

We recently became aware¹ that U.S. Citizenship and Immigration Services (USCIS), the fee-based component of the Department of Homeland Security (DHS) that administers lawful immigration to the United States, needs emergency funds in the amount of \$1.2 billion dollars in order to fully continue its operations. We are disappointed that the Trump administration has not formally requested funding to resolve the financial problems USCIS faces. The fiscal mismanagement of the agency will result in thousands of USCIS employees being furloughed and potentially losing their jobs, and severely limit the United States' ability to process our legal immigration system. We should provide emergency funding, but it is equally critical that we establish firm parameters and sideboards to ensure the funds are used appropriately, not used to intimidate or discourage immigration, and to encourage the agency to develop procedures that will prevent a funding shortfall in the future.

Although USCIS has been facing financial woes² for over a year now³, it only recently approached Congress in May⁴ with an informal notice of severe financial issues. However, there are disturbing reports that much of the current financial crisis of the organization is not solely based on the coronavirus crisis but on mismanagement and dangerous policy choices, including wasted resources on unnecessary interviews, reallocation of resources to train unqualified Customs and Border Protection officers on asylum cases, burdensome requests for evidence, and attempts to divert resources to enforcement efforts instead of its mission to process immigration benefits. Under the Trump administration there are

¹ USCIS "Deputy Director for Policy Statement on USCIS' Fiscal Outlook" 2020
<https://www.uscis.gov/news/news-releases/deputy-director-policy-statement-uscis-fiscal-outlook>

² CSPAN "House Judiciary Subcommittee in Immigration and Citizenship hearing" 2019 <https://www.c-span.org/video/?462672-1/house-judiciary-subcommittee-examines-immigration-processing-delays>

³ Federal Register "USCIS Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements" DHS 2019 <https://www.federalregister.gov/documents/2019/12/09/2019-26521/us-citizenship-and-immigration-services-fee-schedule-and-changes-to-certain-other-immigration>

⁴ USCIS "Deputy Director for Policy Statement on USCIS' Fiscal Outlook" 2020
<https://www.uscis.gov/news/news-releases/deputy-director-policy-statement-uscis-fiscal-outlook>

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allegations that USCIS has become solely a “vetting agency,”⁵ instead of an immigration benefits agency, which has resulted in a culture of creating barriers to the immigration process that has been fostered at the agency.

According to USCIS’ Deputy Director for Policy⁶, “Without congressional action before August 3, USCIS will need to furlough over 13,000 staff members, which will have tremendous negative impacts on [its] mission administering our nation’s lawful immigration system...” The funding Congress is being asked to provide is “needed to pay [USCIS’] dedicated staff and ensure [USCIS] operations continue uninterrupted during these unprecedented times.”

We must act now to protect USCIS public servants, who have already begun to receive furlough notices⁷, and are facing the reality of unemployment in a time of economic insecurity caused by the global pandemic. It is important for their livelihood, but also for the livelihood of the communities they serve.

USCIS provides essential services to our country, such as adjudicating employment and family immigrant visa petitions, naturalization applications, and asylum and refugee applications. It is also critical to economic growth and the ability of working men, women, and families from achieving their American dream, whether U.S. citizen or immigrant. As the nation sees an increased need for essential workers—many of whom are immigrants, in the agricultural, childcare, hospitality and transportation spaces—we could see some of these essential workers⁸ lose their lawful immigration status because USCIS does not have the capacity to process their renewal filings in a timely manner.

Additionally, existing backlogs in processing immigration applications will be further exacerbated, resulting in U.S. citizens and lawful permanent residents being further kept apart from their family members, thousands of people awaiting in limbo for naturalization ceremonies, U.S. businesses unable to hire the talent they need to succeed, and, most severely, freezing protections for individuals such as asylum seekers, those with Deferred Action for Childhood Arrivals (DACA), and those granted Temporary Protected Status.

For these very reasons, we must both fund USCIS but also put sideboards on the funding we provide to ensure that we are never again put in the unenviable position of rescuing an agency that we intentionally crafted to be primarily self-sufficient.

While we can and *should* further debate the exact guardrails necessary to ensure USCIS responsibility and accountability in the coming days, we strongly encourage you to consider the following general suggestions now:

- Require USCIS to implement measures that generate new revenue without new or increased fees on under-resourced families or asylum seekers and facilitate increased filing of applications and petitions.

⁵ Wall Street Journal “Ken Cuccinelli Takes Reins of Immigration Agency With Focus on Migrant Vetting” Louise Radnofsky 2019 <https://www.wsj.com/articles/ken-cuccinelli-takes-reins-of-immigration-agency-with-focus-on-migrant-vetting-11562410802>

⁶ USCIS “Deputy Director for Policy Statement on USCIS’ Fiscal Outlook” 2020 <https://www.uscis.gov/news/news-releases/deputy-director-policy-statement-uscis-fiscal-outlook>

⁷ USCIS “DHS Letter to Appropriations Committee Char Shelby” DHS 2020 https://www.uscis.gov/sites/default/files/USCIS/files/DHS_letter.pdf

⁸ Courthouse News “Immigrants Work Essential Jobs on Front Lines of Coronavirus Crisis” Cameron Langford 2020 <https://www.courthousenews.com/immigrants-work-essential-jobs-on-front-lines-of-coronavirus-crisis/>

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- Ensure the availability of fee waivers⁹. Via proposed rule, USCIS has proposed to eliminate fee waivers for low-income applicants, which includes green card holders applying for citizenship.
- Prohibit USCIS from transferring funding to enforcement agencies, or from using Congress' funding within USCIS on redundant anti-fraud programs, such as the tip form for reporting suspected fraud, which Immigration and Customs Enforcement already manages, so as to ensure that USCIS remains focused on its service-oriented mission.
- Require USCIS to adopt measures to increase transparency, fiscal responsibility and efficiency¹⁰, such as prohibiting USCIS from using funds to require in-person interviews when not necessary or denying cases without first issuing requests for evidence or notices of intent to deny or revoke to provide an opportunity to cure any deficiencies. Additionally, require USCIS to first take measures to reverse recent policy choices and practices¹¹ that have been cost-inefficient.
- Require USCIS to provide remote naturalization ceremonies to accommodate people who have been on a lengthy legal pathway to U.S. Citizenship during the coronavirus crisis.

In light of the above, we request that we – as Members of Congress – unite by giving USCIS emergency funding and enacting appropriate parameters as a condition of those funds in the next coronavirus relief package. In order to ensure that thousands of U.S. citizens do not lose their public service jobs at USCIS, millions of U.S. citizens are not kept apart from their family members, U.S. employers are not denied the workers essential to their success, and the neediest are not refused life-saving protections.

Sincerely,

Jeffrey A. Merkley

United States Senator

Benjamin L. Cardin

United States Senator

Tammy Baldwin

United States Senator

Kirsten E. Gillibrand

United States Senator

⁹ NALEO Educational Fund “Making Citizenship Affordable” 2017 https://naleo.org/PRA/Natz%20Fee%20Action%20Alert%2011-2019/9_5_19%20-%20Fee%20Waiver%20Fact%20Sheet%20-%202020.pdf

¹⁰ CLINIC “CLINIC’s Written Testimony to the House Judiciary Committee’s Subcommittee on immigration and Citizenship” 2019 <https://cliniclegal.org/resources/clinics-written-testimony-house-judiciary-committees-subcommittee-immigration-and>

¹¹ AILA and the American Immigration Council Send Letter to Congressional Appropriators Regarding USCIS Emergency Funding Request” 2020 <https://www.aila.org/advo-media/whats-happening-in-congress/congressional-updates/aila-and-aic-letter-to-congressional-appropriators>

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