



Statement of Marketa Lindt  
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Before the House Judiciary Committee's Subcommittee on Immigration and Citizenship  
"Policy Changes and Processing Delays at USCIS"

July 16, 2019

**Introduction**

Chairwoman Lofgren, Ranking Member Buck, and members of the subcommittee, thank you for the opportunity to speak with you today about USCIS case processing delays that are harming our national interests.

My name is Marketa Lindt, and I serve as the elected President of the nonpartisan American Immigration Lawyers Association. Established in 1946, AILA is a voluntary bar association of more than 15,000 attorneys and law professors who practice, research, and teach in the field of immigration law. As part of its mission, AILA strives to advance this body of law and facilitate fairness and justice in the field.

I am also a partner at the law firm of Sidley Austin LLP, where I specialize in business immigration and I-9 compliance, helping meet the workforce needs of a wide range of American companies.

I and thousands of other AILA members routinely represent clients before USCIS. Those clients include U.S. citizens and noncitizens, individuals and families, corporations, small businesses, universities, and nonprofit institutions. Collectively, we work on virtually every immigration benefit type, spanning business immigration, family-based immigration, student visas, humanitarian protection, naturalization, and more. This combined expertise gives AILA uniquely comprehensive insight into the state of the agency and the services it provides.

Unfortunately, our recent experience has compelled a troubling conclusion: the services provided by today's USCIS – rife with case processing delays driven by inefficient policies and practices – are not aligned with the agency's congressional mandate or with the service levels that its users – many paying substantial fees for processing – deserve. The spikes in processing times are hurting American businesses and families and people in need of humanitarian protection. If USCIS does not rapidly change course, these delays will have severe long-term consequences for the U.S. economy and its vitality as a nation. This hearing presents an essential forum for bringing those delays and their consequences into relief, for assessing contributing policies and practices, and for building, in a bipartisan fashion, toward an efficient USCIS that aligns with its congressional mandate.

## USCIS's Statutory Mission

Congress's intent is for USCIS to function as a service-oriented immigration benefits agency that timely processes applications and petitions for immigration benefits that are established by Congress to address labor needs in our economy, to reunite families, and to provide humanitarian protection.<sup>1</sup> Prior to the creation of DHS, the government housed immigration services and immigration enforcement functions under a single agency – legacy Immigration and Naturalization Service (legacy INS). For years, both the legislative and executive branches criticized this dual, and sometimes conflicting, function as inefficient and counterproductive. In 2002, the Congressional Research Service observed that there “appeared to be a consensus among interested parties that the former INS's two main functions – service and enforcement – needed to be separated.”<sup>2</sup>

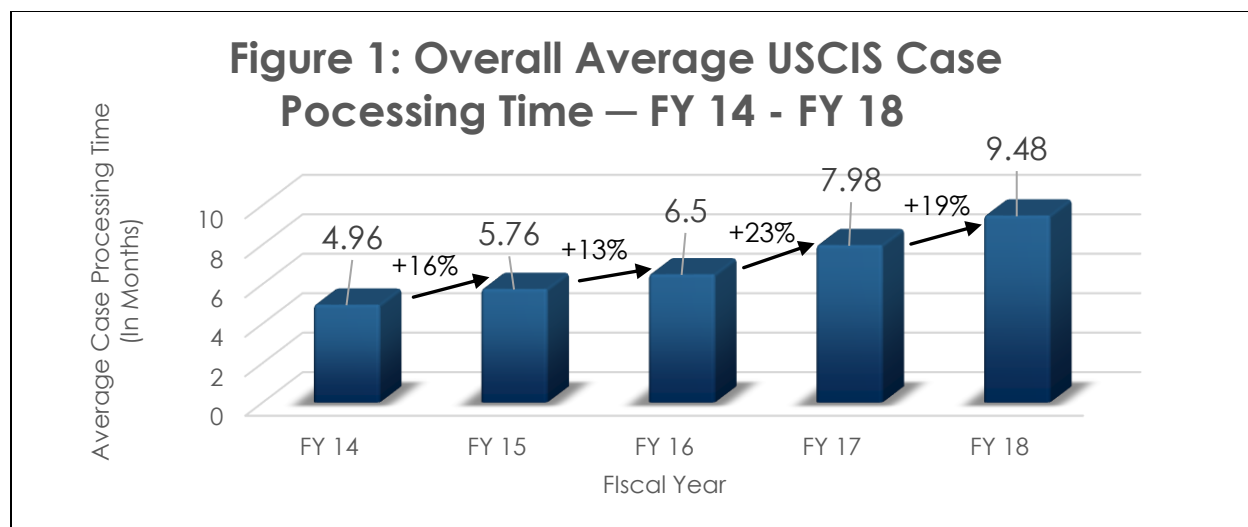
Congress achieved this division with the passage of the Homeland Security Act of 2002, signed into law by President George W. Bush. The Act abolished INS, vesting many of its responsibilities in newly established agencies including the Bureau of Citizenship and Immigration Services, which was later renamed USCIS.<sup>3</sup> The Act transferred adjudication functions from legacy INS to USCIS, while moving enforcement functions to separate agencies that ultimately became Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP). In its official materials, USCIS recognizes Congress's intent that it function as a benefits service:

We were formed to enhance the security and improve the efficiency of national immigration services **by exclusively focusing on the administration of benefit applications**. Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP), components within DHS, handle immigration enforcement and border security functions (*emphasis added*).<sup>4</sup>

Indeed, the Homeland Security Act expressly references the elimination and prevention of case backlogs, highlighting the newly configured agency's responsibility to timely adjudicate cases.<sup>5</sup> The efficient administration of America's legal immigration system, then, is at the core of USCIS's statutory mandate.

## Growth in USCIS Case Processing Times

The magnitude of the delays facing USCIS applicants and petitioners makes plain the agency's failure to fulfill its statutory mission. AILA's analysis of USCIS data reveals that the agency's average case processing time surged by 46 percent from FY 2016 to FY 2018 and by 91 percent from FY 2014 to FY 2018.<sup>6</sup> Virtually every product line lags – in FY 2018 the agency processed 94 percent of its benefit form types more slowly than in FY 2014.<sup>7</sup> For many of these form types, processing times more than doubled in recent years, and some tripled.<sup>8</sup> This past fiscal year, the agency's overall backlog of delayed cases exceeded 5.69 million, a 69 percent increase over FY 2014.<sup>9</sup>



Source: AILA analysis of data from USCIS webpage, “Historical National Average Processing Times for All USCIS Offices” (Nov. 29, 2018); <https://www.aila.org/infonet/processing-time-reports/historical-average-processing-times/uscis-national-average-processing-times-9-30-18>.

Case processing delays, in short, have reached extraordinary levels. Viewed against this data, the present-day USCIS bears little resemblance to the timely, service-oriented entity that the Homeland Security Act sought to establish.

### **Consequences of Case Processing Delays**

The consequences of this slowdown are pervasive and dire. Current processing delays, to name only some of the repercussions: (1) restrict the ability of U.S. businesses to hire and retain workers vital to their sustainability and global competitiveness; (2) prolong and even trigger the separation of families, including those with U.S. citizen spouses and children; (3) endanger vulnerable populations, including asylum seekers and survivors of human trafficking and domestic violence; (4) stall the full integration of aspiring U.S. citizens; and (5) undermine the capacity of U.S. universities to attract talented foreign students vital to our higher education system.<sup>10</sup>

Ultimately, case processing delays damage our nation in its entirety. Red states and blue, U.S. citizens and noncitizens, employers and workers, all suffer under this slowdown. USCIS’s failure to uphold its statutory mission devastates lives, weakens our economy, and undermines American prosperity.

### **Bipartisan Agreement on the Importance of Timely Adjudications**

The position that USCIS should administer its adjudications function in a timely manner is uncontroversial and nonpartisan. The efficiency of our legal immigration system is not an ideological or political issue, but simply a matter of good governance. Applicants and petitioners pay the agency substantial fees to process their filings and they deserve timely service in return. Timely adjudications benefit not only the individuals concerned but also the families, businesses, and communities whose prosperity depend on a well-functioning legal immigration system that

implements the benefits established by Congress to advance our nation’s economic interests and fundamental values.

Reflecting this commonsense understanding, Congress has taken bipartisan action in opposition to the agency’s growing case backlog. In March, for instance, a delegation of House Republicans and Democrats led by Congressman Pete Olson (R-TX) voiced concern regarding “the inability of USCIS to act in a timely way” in the Houston area, noting the resulting “burden on those who live and work in our community and want nothing more than to follow the law.”<sup>11</sup> And in May, 38 U.S. Senators, 19 Republicans and 19 Democrats, led by Sens. Thom Tillis (R-NC) and Richard Blumenthal (D-CT), expressed alarm over USCIS’s “nationwide slowdown” and emphasized that Congress created USCIS “to be a service-oriented agency.”<sup>12</sup> The House and Senate, Republicans and Democrats, agree that USCIS should do its job by processing cases on time.

### **USCIS’s Own Policies and Practices are Core Drivers of the Case Backlog**

Of course, the causes of the processing delays are far from simple. Processing delays result from a host of factors, some obvious, others subtle. Nonetheless, USCIS’s rhetoric and actions – including its responses to inquiries from Congress and the media concerning the drivers of the backlog – reflect a failure of the agency to look properly inward and account for its own contributions to the delays.

For example, in response to a May 2019 media inquiry concerning processing delays, a USCIS spokesperson appeared to place primary blame on an increase in case filings, asserting that “[t]he truth is that while many factors relating to an individual’s case can affect processing times, waits are often due to higher application rates rather than slow processing.”<sup>13</sup> But according to the agency’s own “All USCIS Application and Form Types Data,” overall application receipts declined by 13% in FY 2018 compared to the prior year, representing a drop of more than a million cases.<sup>14</sup> Despite the reduction in filings, processing times during that timeframe rose by 19%.<sup>15</sup>

The agency has also repeatedly cited resource constraints – and emphasized that changes to the application fee structure would enable more hiring – when seeking to explain delays.<sup>16</sup> However, USCIS’s budget already increased by over 30% from FY 2014 through FY 2018, including a 6% rise last fiscal year.<sup>17</sup> That means that in FY 2018 the agency had more resources with which to adjudicate fewer new cases under unchanged legislative and regulatory standards, yet delays still spiked. Other data, addressed in greater detail below, further demonstrates that USCIS manages its existing resources inefficiently.

The key issue that USCIS has not properly emphasized, but that the evidence increasingly shows, is that the agency’s own inefficient policies and practices are core drivers of the case backlog. In fact, in various official materials, DHS and USCIS have already conceded the adverse impact of a range of USCIS measures on processing delays.<sup>18</sup>

Policies and practices fueling the case backlog include:

- (1) Universal, unnecessary in-person interview requirements that USCIS began implementing in October 2017 for all individuals seeking green cards through their employers (employment-based I-485s) as well as certain relatives seeking family

reunification with asylees and refugees (I-730s).<sup>19</sup> Under prior policy, USCIS officers had discretion to require such interviews on a case-by-case basis, where, for example, applications presented fraud or national security concerns. The new policy mandates those interviews for every filing, despite no meaningful evidence of the value of this categorical requirement. Mandating unneeded, time-intensive in-person interviews drains valuable adjudications resources – resources that the agency could otherwise direct toward reducing the existing backlog instead of increasing it. In an April 2019 letter to 86 Members of the House, USCIS conceded that this policy contributes to the case backlog.<sup>20</sup>

- (2) USCIS’s October 2017 rescission of longstanding guidance under which adjudicators deferred to prior approvals of temporary benefits when processing requests to extend those benefits absent error or a material change in circumstances.<sup>21</sup> As a result, USCIS personnel must now effectively re-adjudicate many previously processed petitions despite no meaningful change in the facts of the cases. This needless duplication of efforts wastes resources, drives delays, and creates inconsistency in adjudications.
- (3) Spikes in unnecessary Requests for Evidence (RFEs) from the agency that freeze case processing and drain adjudication resources. For example, in the first quarter of FY 2019, USCIS issued RFEs in response to 60% of H-1B petitions, dramatically higher than the 20.8% H-1B RFE rate in FY 2016.<sup>22</sup> Often these RFEs seek irrelevant or previously furnished information, or reflect subregulatory policy changes or heightened legal standards that the agency has implemented without a change in statute or regulation and of which the agency failed to provide adequate notice to the public.
- (4) The institution of “extreme vetting” of immigration cases beginning in 2017, despite USCIS’s failure to establish that prior vetting procedures were inadequate<sup>23</sup> or that the new procedures have advanced any actual security interest.
- (5) The agency’s lengthy suspension of longstanding “premium processing” services for certain lines of USCIS applications and petitions<sup>24</sup> without proper justification.
- (6) The increased length of numerous USCIS forms, resulting in more time-intensive processing. For instance, in 2019 DHS acknowledged that the elevated complexity of its citizenship application form (N-400), including the addition of numerous questions, “has caused individual adjudications to take longer.”<sup>25</sup>

USCIS’s data on its declining “case completion rates per hour” illustrate the processing inefficiencies that such unnecessary policy changes create. This metric, which the agency defines as the “average hours per adjudication of an immigration benefit request,”<sup>26</sup> offers a key index of agency productivity. AILA’s analysis of USCIS data disclosed to Congress in April 2019 shows that USCIS case completions rates per hour decreased for 79 percent of immigration benefit types from FY2014 to FY2018 and for 81 percent of immigration benefit form types from FY2016 to FY2018.<sup>27</sup> Critically, USCIS has acknowledged the association of these falling rates with various policy changes cited herein, including the categorical in-person interview requirements and lengthier forms.<sup>28</sup> Moreover, DHS observed that diminished case completions per hour “limit our ability to reduce the current overall backlog.”<sup>29</sup>

## **Proposed USCIS Policies Would Exacerbate Processing Delays**

In addition to the inefficient policies already implemented, the agency has proposed various policy changes that, if instituted, would compound existing delays. These include a public charge “wealth test” that USCIS would administer to hundreds of thousands of green card applicants annually. As proposed, this new test would require adjudicators to process substantial additional paperwork, imposing a massive administrative burden on the agency.<sup>30</sup> USCIS also intends to close all its international offices,<sup>31</sup> a significant and unprecedented operational change that threatens to lengthen case processing times for, among other populations, family members of our nation’s armed forces servicemen and women as well as U.S. citizen parents seeking to adopt children from abroad.

## **Increasing Prioritization of Immigration Enforcement**

Many of the aforementioned USCIS policies signal a distressing shift within the agency – its increasing prioritization of, and allocation of resources to, immigration enforcement rather than the service-oriented adjudications that are at the core of its mandate.<sup>32</sup> Other examples of this trend include USCIS’s 2018 announcement of a policy dramatically expanding the circumstances in which it may issue Notices to Appear that initiate deportation proceedings for certain applicants and petitioners who receive case denials from the agency.<sup>33</sup> This change directly diverts personnel into conducting enforcement rather than reducing the backlog. And in its FY 2020 budget request, USCIS sought to transfer over \$200 million in applicant and petitioner fees out of USCIS into ICE to support the hiring of hundreds of ICE enforcement officers,<sup>34</sup> further calling into question USCIS’s utilization of fees paid by users of our immigration system to obtain congressionally mandated services, as well as the agency’s commitment to efficient adjudications.

## **Erosion of Customer Service and Case Resolution**

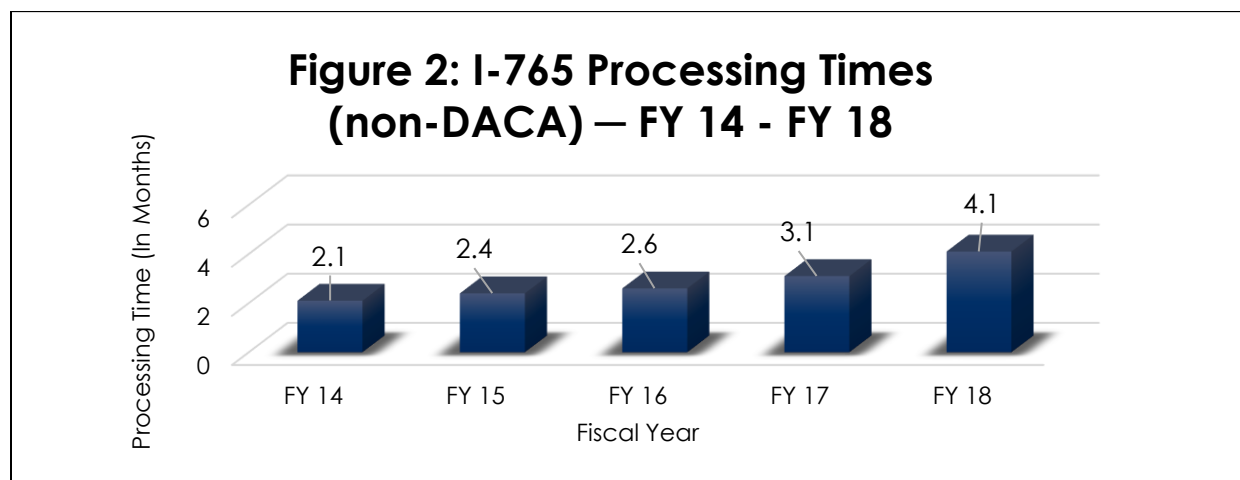
USCIS is also decreasing transparency and rolling back customer services long offered to applicants and their attorneys for inquiring into the status of their cases and the reasons for delays.<sup>35</sup> In March 2018, the agency began phasing out self-scheduled “InfoPass” appointments, which are informational in-person visits with USCIS officers for applicants to obtain proof of their status, request expedited service, pay fees, and, importantly, use one of the few available mechanisms to bring excessively delayed cases to the attention of the agency. Instead, USCIS is now transitioning to an agency-scheduled appointment model that in practice has prevented many individuals who are facing urgent circumstances from obtaining in-person appointments at all and has caused significant inconvenience to many individuals trying to schedule an appointment. Less than a year later, the agency eliminated the public email inboxes used by USCIS Service Centers to receive and respond to case-specific questions.<sup>36</sup> USCIS’s online case status system, meanwhile, routinely provides out-of-date or inaccurate case status information.<sup>37</sup>

In fact, in direct contradiction of Congress’s intent that USCIS function as a service-oriented benefits agency, USCIS eliminated the word “customer” from its mission statement altogether.<sup>38</sup> The agency described the term as an inappropriate characterization of applicants and petitioners,<sup>39</sup> despite Congress’s express inclusion of that term in the legislation prompting the agency’s creation.<sup>40</sup>

## **The Impact of Processing Delays on American Businesses and Workers**

As noted, my law practice focuses on business immigration, and my clientele encompasses a broad range of American companies. In recent years, I and my colleagues have observed the growth in case processing delays along with their harmful consequences for businesses throughout the nation.

AILA’s analysis of USCIS data illustrates this sharp rise in processing times for key employment-based form types. For instance, from FY 2016 to FY 2018, the average processing time for non-premium filed petitions for permanent foreign workers (Form I-140) surged by 37%; for EB-5 petitions (I-526) by 39%; for employment-based green card applications (employment-based Form I-485) by 62%; and for applications for employment authorization (Form I-765)(non-DACA) by 68%.<sup>41</sup>



Source: USCIS webpage, “Historical National Average Processing Times for All USCIS Offices” (Nov. 29, 2018); <https://www.aila.org/infonet/processing-time-reports/historical-average-processing-times/uscis-national-average-processing-times-9-30-18>.

This far-reaching slowdown in USCIS’s business immigration lines has undermined American companies’ ability to hire and retain workers critical to their sustainability and competitiveness. As a result of delays, affected companies are unable to project staffing needs, workforce gaps go unfilled, key personnel lose employment authorization, and uncertainty and unpredictability pervade business environments. Increasingly, talented international professionals choose destinations other than the United States to avoid the uncertain working environment that has resulted directly from the agency’s processing delays and inconsistent adjudications. In all, USCIS’s inefficiency weakens America’s economic preeminence. Congress has taken note – in May 2019, 19 Republican and 19 Democrats Senators affirmed that “American businesses urgently need USCIS to fulfill [its] mission.”<sup>42</sup>

Those 38 Senators emphasized, in particular, the consequences of the widespread delays in processing applications for employment authorization. They observed, “When an employee experiences an unexpected processing delay in applying for and renewing employment authorization it can destabilize a business and leave mission-critical roles unfilled.”<sup>43</sup>

I too share this bipartisan concern. I am aware of all too many cases where such waits have left businesses, and lives, in precarious states. One civil engineering company, for instance, extended offers to a group of foreign students for jobs essential to key projects the company had planned. But delays in USCIS's processing of those students' employment authorization applications prevented them from working and the projects from proceeding. In many other instances, such delays prevent employees or their family members from receiving or renewing driver's licenses. Without those documents, these individuals cannot obtain groceries, pick up their children, or perform a host of other activities essential to day-to-day life in parts of the country where a car is a necessity.

Delays in applications for other employment-based benefits often prove no less harmful. For example, a U.S. business with 2000 employees that filed for a green card application on behalf of a manager has awaited adjudication for two years, causing the business significant expense, uncertainty, and stress. The universal in-person interview requirement directly contributed to this lengthy and ongoing delay. Meanwhile, a law firm had to terminate an attorney on its trial team – in the middle of trial preparations – because USCIS had not yet adjudicated the attorney's H-1B petition. This termination occurred amid USCIS's suspension of H-1B premium processing, which left employers with no option but to rely on USCIS's standard, and in many cases significantly delayed, timeframe. Only after the reinstatement of premium processing, the law firm's payment of a significant fee, and four months without the attorney's crucial services, did USCIS adjudicate the case, enabling the law firm to re-hire him.

Importantly, such employment-based delays are harmful not just for American businesses, but also for American workers. Many companies that depend on timely USCIS adjudications employ numerous U.S. workers. A company cannot hire new American employees, much less retain existing ones, if severe processing delays make its operations unsustainable. Immigrants, moreover, serve as vital engines of job creation for U.S. citizens nationwide. A 2016 study found that immigrants are twice as likely as native-born Americans to start businesses.<sup>44</sup> Another study from the same year concluded that immigrants founded 51% of startup companies valued at \$1 billion or more – companies that employed an average of 760 workers.<sup>45</sup> Yet USCIS delays and the misguided policies that drive them are alienating precisely the kind of enterprising foreign nationals who create new businesses and jobs in our country.

### **AILA Recommendations for USCIS and Congress to Decisively Address the Backlog**

Millions of backlogged applicants and petitioners, and indeed, all Americans, urgently need USCIS to remedy the case processing delays that are harming our national interests. Both USCIS and Congress must undertake measures to align the agency with its statutory mandate and to eliminate the serious impacts of the case backlog on our economy, on companies, and on individuals.

**1. USCIS should end unnecessary policies that delay adjudications.** First and foremost, USCIS must end its own inefficient policies and practices that needlessly delay adjudications and divert resources away from the agency's core function of service-oriented adjudications. For example, the agency should undo categorical interview requirements for employment-based I-485s and I-730s; restore the prior policy regarding case deference; cut unnecessary paperwork; and halt duplicative RFEs. Some of these practices are the result of agency policies that establish new legal



interpretations and standards without following required procedures under the Administrative Procedures Act. To become a properly functioning adjudications agency, USCIS needs to reverse the inefficient and unwarranted policies and practices that result in significant procedural impediments that drive today's case backlog.

**2. USCIS should forecast and measure the impact that its policies have on the case backlog.**

USCIS should establish and adhere to rigorous processes for forecasting the impact of potential policies and practices, and measuring the impact of implemented ones, on the case backlog. It is unacceptable for the agency to institute significant new measures without first thoroughly analyzing their implications for processing efficiency, or to persist in implementation without conducting regular assessments of actual impact on the case backlog. In an illustration of one such failure, after 86 House Members asked USCIS for “all analyses performed by the agency” regarding the impacts on processing times of USCIS's rescission of its longstanding deference policy, the agency responded that it does not even maintain the data needed to perform that analysis.<sup>46</sup> Moving forward, USCIS must analyze the operational impacts of its policies, exercising the due diligence incumbent upon a service-oriented benefits agency.

**3. USCIS should refrain from imposing unwarranted fee increases.** It is imperative that USCIS not levy unjustified fee increases on customers. For many individuals, families, and American businesses, fee hikes could prove prohibitive, precluding them from accessing the legal immigration system that Congress has established. Moreover, unwarranted fee increases would transfer to applicants and petitioners the costs of the agency's own inefficiency. In a telling April 2018 report to Congress, DHS noted the adverse impact of its diminishing case completions per hour – that is, its decreasing productivity – on the value of its most recent fee increase in December 2016. DHS stated, “The new fee schedule...will not generate sufficient revenue to support hiring at the FY 2017 recommended staffing levels due to declining completions per hour of work.”<sup>47</sup> This admission suggests that further fee increases imposed by USCIS would stem in significant part from the agency's inefficient management of its existing fees and resources. Instead of charging unreasonable new fees to subsidize the agency's wasteful policies, USCIS should take the necessary steps to fix the policies themselves.

**4. Congress should enact reforms to hold USCIS accountable.** Finally, Congress should pass commonsense bipartisan legislation that strengthens transparency and accountability around USCIS's case backlog. Despite periodic acknowledgments from DHS and USCIS of the delay-inducing effects of its policies, the agency still has not satisfactorily accounted for the full relationship between its own measures and the current backlog. After 38 U.S. Senators issued a letter asking USCIS to, among other things, “provide an analysis concerning the extent to which agency policies and practices are contributing to these delays,” the statement from USCIS most nearly resembling a reply was the following: “With regard to policy changes, USCIS is rigorously reviewing all regulations, policies, and procedures to ensure they are aligned and consistent with the law.”<sup>48</sup> This patent non-response is emblematic of the agency's failure to hold itself properly accountable for delays.

Congress should pass a bill that compels accountability by requiring heightened, ongoing reporting on the case backlog by USCIS as well as the independent Government Accountability Office. Among other provisions, this legislation should mandate: (1) ongoing, comprehensive reporting from USCIS on the status of the backlog, the impacts of agency policies and practices on the

backlog, existing and planned agency efforts to eliminate the backlog, the relationship of agency budget and resource allocations to backlog reduction, and relevant operational statistics and (2) regular reporting from the Government Accountability Office regarding the impact of USCIS policies and practices on the backlog, the assessed effectiveness of USCIS efforts to reduce the backlog, and recommended measures for more efficient case processing. Taken together, such reporting would promote more transparent, responsible, and effective agency operations.

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<sup>1</sup> AILA Policy Brief, “USCIS Processing Delays Have Reached Crisis Levels Under the Trump Administration” (Jan. 30, 2019); <https://www.aila.org/infonet/aila-policy-brief-uscis-processing-delays>.

<sup>2</sup> Congressional Research Service, “Immigration and Naturalization Service: Restructuring Proposals in the 107th Congress” (Dec. 30, 2002);

[https://www.everycrsreport.com/files/20021230\\_RL31388\\_3678de56f7aba9d7d612f19a020d1f0030db4d9c.pdf](https://www.everycrsreport.com/files/20021230_RL31388_3678de56f7aba9d7d612f19a020d1f0030db4d9c.pdf).

<sup>3</sup> Pub. L. No. 107–296, 116 Stat. 2135 (Nov. 25, 2002);

[https://www.dhs.gov/sites/default/files/publications/hr\\_5005\\_enr.pdf](https://www.dhs.gov/sites/default/files/publications/hr_5005_enr.pdf).

<sup>4</sup> USCIS Webpage, “Our History” (May 25, 2011); <https://www.uscis.gov/about-us/our-history>.

<sup>5</sup> See Pub. L. No. 107–296, 116 Stat. 2135, Sec. 451 (Nov. 25, 2002);

[https://www.dhs.gov/sites/default/files/publications/hr\\_5005\\_enr.pdf](https://www.dhs.gov/sites/default/files/publications/hr_5005_enr.pdf).

<sup>6</sup> AILA Policy Brief, “USCIS Processing Delays Have Reached Crisis Levels Under the Trump Administration” (Jan. 30, 2019); <https://www.aila.org/infonet/aila-policy-brief-uscis-processing-delays>.

<sup>7</sup> *Id.*

<sup>8</sup> USCIS Webpage, “Historical National Average Processing Times for All USCIS Offices” (Nov. 29, 2018);

<https://www.aila.org/infonet/processing-time-reports/historical-average-processing-times/uscis-national-average-processing-times-9-30-18>.

<sup>9</sup> USCIS, “USCIS Responds to Letter from 86 House Members Regarding Case Processing Delays,” (Apr. 5, 2019); <https://www.aila.org/advo-media/whats-happening-in-congress/congressional-updates/uscis-responds-to-letter-from-86-house-members>.

<sup>10</sup> See, e.g., AILA Policy Brief, “USCIS Processing Delays Have Reached Crisis Levels Under the Trump Administration” (Jan. 30, 2019); <https://www.aila.org/infonet/aila-policy-brief-uscis-processing-delays>; Caldwell University, “President Blattner and other NJ university leaders send letter to NJ congressional delegation on immigration” (May 3, 2019); <https://www.caldwell.edu/news/president-blattner-and-other-nj-university-leaders-send-letter-to-nj-congressional-delegation-on-immigration>.

<sup>11</sup> “Bipartisan Letter from Texas Members of the House Regarding USCIS Processing Delays” (Mar. 28, 2019); <https://www.aila.org/advo-media/whats-happening-in-congress/congressional-updates/bipartisan-letter-from-texas-members-of-the-house>.

<sup>12</sup> “Bipartisan Group of 38 U.S. Senators Calls USCIS to Account for Crisis-Level Processing Delays” (May 14, 2019); <https://www.aila.org/advo-media/press-releases/2019/bipartisan-group-of-36-senators-calls-uscis>.

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<sup>13</sup> Kanyakrit Vongkiatkajorn, “Report: Immigration Applications Are Seeing ‘Crisis-Level’ Delays Under The Trump Administration” (Jan. 30, 2019); <https://www.motherjones.com/politics/2019/01/report-immigration-applications-are-seeing-crisis-level-delays-under-the-trump-administration/>.

<sup>14</sup> USCIS, “Immigration and Citizenship Data: All USCIS Application and Petition Form Types;” [https://www.uscis.gov/tools/reports-studies/immigration-forms-data?topic\\_id=23035&field\\_native\\_doc\\_issue\\_date\\_value%255Bvalue%255D%255Bmonth%255D=&field\\_native\\_doc\\_issue\\_date\\_value\\_1%255Bvalue%255D%255Byear%255D=&combined=&items\\_per\\_page=10](https://www.uscis.gov/tools/reports-studies/immigration-forms-data?topic_id=23035&field_native_doc_issue_date_value%255Bvalue%255D%255Bmonth%255D=&field_native_doc_issue_date_value_1%255Bvalue%255D%255Byear%255D=&combined=&items_per_page=10).

<sup>15</sup> Jason Boyd, “USCIS Processing Delays Soared While Application Rates Fell” *Think Immigration Blog* (Mar. 1, 2019); <https://thinkimmigration.org/blog/2019/03/01/uscis-processing-delays-soared-while-application-rates-fell/>.

<sup>16</sup> *See, e.g.*, USCIS, “USCIS Responds to Bipartisan Senate Letter Regarding Case Processing Delays” (May 23, 2019); <https://www.aila.org/advo-media/whats-happening-in-congress/congressional-updates/uscis-responds-to-bipartisan-senate-letter>.

<sup>17</sup> *See* DHS, “Budget-in-Brief: Fiscal Year 2016;” [https://www.dhs.gov/sites/default/files/publications/FY\\_2016\\_DHS\\_Budget\\_in\\_Brief.pdf](https://www.dhs.gov/sites/default/files/publications/FY_2016_DHS_Budget_in_Brief.pdf); USCIS, “Budget Overview, Fiscal Year 2020: Congressional Justification;”

[https://www.dhs.gov/sites/default/files/publications/19\\_0318\\_MGMT\\_CBJ-Citizenship-Immigration-Services\\_0.pdf](https://www.dhs.gov/sites/default/files/publications/19_0318_MGMT_CBJ-Citizenship-Immigration-Services_0.pdf); USCIS, “2018 Annual Statistical Report” (May 31, 2019); <https://www.uscis.gov/news/news-releases/uscis-releases-2018-statistical-annual-report>.

<sup>18</sup> *E.g.*, USCIS, “USCIS Responds to Letter from 86 House Members Regarding Case Processing Delays,” (Apr. 5, 2019); <https://www.aila.org/advo-media/whats-happening-in-congress/congressional-updates/uscis-responds-to-letter-from-86-house-members>.

<sup>19</sup> USCIS Webpage, “USCIS to Expand In-Person Interview Requirements for Certain Permanent Residency Applicants,” (Aug. 28, 2017); <https://www.uscis.gov/news/news-releases/uscis-to-expand-in-person-interview-requirements-for-certain-permanent-residency-applicants>.

<sup>20</sup> USCIS, “USCIS Responds to Letter from 86 House Members Regarding Case Processing Delays” (Apr. 5, 2019); <https://www.aila.org/advo-media/whats-happening-in-congress/congressional-updates/uscis-responds-to-letter-from-86-house-members>.

<sup>21</sup> *See* USCIS Policy Memorandum, “Rescission of Guidance Regarding Deference to Prior Determinations of Eligibility in the Adjudication of Petitions for Extension of Nonimmigrant Status” (Oct. 27, 2018); <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2017/2017-10-23Rescission-of-Deference-PM6020151.pdf>.

<sup>22</sup> Fragomen, “Employers See More RFEs and Denials, USCIS Data Confirm” (Feb. 25, 2019); <https://www.fragomen.com/insights/alerts/employers-see-more-rfes-and-denials-uscis-data-confirm>.

<sup>23</sup> *See* AILA, “Deconstructing the Invisible Wall: How Policy Changes by the Trump Administration Are Slowing and Restricting Legal Immigration” (Apr. 24, 2018); <http://www.aila.org/infonet/aila-report-deconstructing-the-invisible-wall>.

<sup>24</sup> *See, e.g.*, USCIS, “USCIS Extends and Expands Suspension of Premium Processing for H-1B Petitions to Reduce Delays” (Aug. 28, 2018); <https://www.uscis.gov/news/uscis-extends-and-expands-suspension-premium-processing-h-1b-petitions-reduce-delays>.

<sup>25</sup> DHS, “FY 2018-2020 Annual Performance Report;” [https://www.dhs.gov/sites/default/files/publications/19\\_0318\\_MGMT\\_CBJ-Annual-Performance-Review-DHS-Overview\\_0.pdf](https://www.dhs.gov/sites/default/files/publications/19_0318_MGMT_CBJ-Annual-Performance-Review-DHS-Overview_0.pdf).

<sup>26</sup> USCIS, “FY 2016/2017 Immigration Examinations Fee Account Fee Review Supporting Documentation with Addendum” (Oct. 2016); <https://www.regulations.gov/document?D=USCIS-2016-0001-0466>.

<sup>27</sup> Jason Boyd, “USCIS Acknowledges That Its Own Policies Compound Case Processing Delays” *Think Immigration Blog* (Apr. 30, 2019); <https://thinkimmigration.org/blog/2019/04/30/uscis-acknowledges-that-its-own-policies-compound-case-processing-delays/>.

<sup>28</sup> *See* DHS, “Annual Report on the Impact of the Homeland Security Act on Immigration Functions Transferred to the Department of Homeland Security” (Apr. 13, 2018); <https://www.uscis.gov/sites/default/files/reports-studies/Annual-Report-on-the-Impact-of-the-Homeland-Security-Act-on-Immigration-Functions-Transferred-to-the-DHS.pdf>; USCIS, “USCIS Responds to Letter from 86 House Members Regarding Case Processing Delays” (Apr. 5, 2019); <https://www.aila.org/advo-media/whats-happening-in-congress/congressional-updates/uscis-responds-to-letter-from-86-house-members>.

<sup>29</sup> *See* DHS, “Annual Report on the Impact of the Homeland Security Act on Immigration Functions Transferred to the Department of Homeland Security” (Apr. 13, 2018); <https://www.uscis.gov/sites/default/files/reports->

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[studies/Annual-Report-on-the-Impact-of-the-Homeland-Security-Act-on-Immigration-Functions-Transferred-to-the-DHS.pdf](#).

<sup>30</sup> See AILA and the American Immigration Council, “AILA and the Council Submit Comment Opposing the Proposed Public Charge Rule” (Dec. 10, 2018); <https://www.aila.org/infonet/aila-council-submit-comment-opposing-public-charge>.

<sup>31</sup> Hameed Aleaziz, “The Trump Administration Has Set Projected Dates For Closing Foreign Immigration Offices” (Apr. 19, 2019); <https://www.buzzfeednews.com/article/hamedaleaziz/trump-administration-overseas-immigration-offices>.

<sup>32</sup> AILA, “Policy Brief: Seven Ways USCIS Is Defying the Will of Congress” (Feb. 25, 2019); <https://www.aila.org/advo-media/aila-policy-briefs/seven-ways-uscis-is-defying-the-will-of-congress>.

<sup>33</sup> *Id.*

<sup>34</sup> USCIS, “Budget Overview, Fiscal Year 2020: Congressional Justification;” [https://www.dhs.gov/sites/default/files/publications/19\\_0318\\_MGMT\\_CBJ-Citizenship-Immigration-Services\\_0.pdf](https://www.dhs.gov/sites/default/files/publications/19_0318_MGMT_CBJ-Citizenship-Immigration-Services_0.pdf).

<sup>35</sup> AILA Policy Brief, “USCIS Processing Delays Have Reached Crisis Levels Under the Trump Administration” (Jan. 30, 2019); <https://www.aila.org/infonet/aila-policy-brief-uscis-processing-delays>.

<sup>36</sup> USCIS Webpage, “Update on Case Assistance by Service Centers” (Dec. 21, 2018); <https://www.uscis.gov/news/alerts/update-case-assistance-service-centers>.

<sup>37</sup> See AILA, “AILA Submits Comments on USCIS Case Status Online and MyUSCIS tools” (Nov. 13, 2018); <https://www.aila.org/infonet/aila-submits-comments-on-uscis-case-status-online>.

<sup>38</sup> See AILA, “Policy Brief: Seven Ways USCIS Is Defying the Will of Congress” (Feb. 25, 2019); <https://www.aila.org/advo-media/aila-policy-briefs/seven-ways-uscis-is-defying-the-will-of-congress>.

<sup>39</sup> Ryan Devreaux, “U.S. Citizenship and Immigration Services Will Remove “Nation of Immigrants” From Mission Statement” *The Intercept* (Feb. 28, 2018); <https://theintercept.com/2018/02/22/u-s-citizenship-and-immigration-services-will-remove-nation-of-immigrants-from-mission-statement/>.

<sup>40</sup> See Pub. L. No. 107–296, 116 Stat. 2135, Sec. 451 (Nov. 25, 2002); [https://www.dhs.gov/sites/default/files/publications/hr\\_5005\\_enr.pdf](https://www.dhs.gov/sites/default/files/publications/hr_5005_enr.pdf).

<sup>41</sup> AILA analysis of USCIS data found at USCIS webpage, “Historical National Average Processing Times for All USCIS Offices” (Nov. 29, 2018); <https://www.aila.org/infonet/processing-time-reports/historical-average-processing-times/uscis-national-average-processing-times-9-30-18>.

<sup>42</sup> “Bipartisan Group of 38 U.S. Senators Calls USCIS to Account for Crisis-Level Processing Delays” (May 14, 2019); <https://www.aila.org/advo-media/press-releases/2019/bipartisan-group-of-36-senators-calls-uscis>.

<sup>43</sup> *Id.*

<sup>44</sup> See Dan Kosten at National Immigration Forum, “Immigrants as Economic Contributors: Immigrant Entrepreneurs” (Jul. 11, 2018); <https://immigrationforum.org/article/immigrants-as-economic-contributors-immigrant-entrepreneurs/>.

<sup>45</sup> *See id.*

<sup>46</sup> USCIS, “USCIS Responds to Letter from 86 House Members Regarding Case Processing Delays,” (Apr. 5, 2019); <https://www.aila.org/advo-media/whats-happening-in-congress/congressional-updates/uscis-responds-to-letter-from-86-house-members>.

<sup>47</sup> See DHS, “Annual Report on the Impact of the Homeland Security Act on Immigration Functions Transferred to the Department of Homeland Security” (Apr. 13, 2018); <https://www.uscis.gov/sites/default/files/reports-studies/Annual-Report-on-the-Impact-of-the-Homeland-Security-Act-on-Immigration-Functions-Transferred-to-the-DHS.pdf>.

<sup>48</sup> USCIS, “USCIS Responds to Bipartisan Senate Letter Regarding Case Processing Delays” (May 23, 2019); <https://www.aila.org/advo-media/whats-happening-in-congress/congressional-updates/uscis-responds-to-bipartisan-senate-letter>.