



**Lutheran Immigration
and Refugee Service**

Written Statement from Lutheran Immigration and Refugee Service (LIRS)

**House Judiciary Committee
A Hearing of the Subcommittee on Immigration and Citizenship:**

“Oversight of U.S. Citizenship and Immigration Services”

**Wednesday, July 29, 2020
Rayburn House Office Building, 2141**

Introduction

LIRS (Lutheran Immigration and Refugee Service) appreciates the House Judiciary Subcommittee on Immigration and Citizenship for having this timely and critical hearing on “**Oversight of U.S. Citizenship and Immigration Services**”. As a faith-based organization with over 80-years of experience welcoming refugees and asylum seekers LIRS is concerned by recent news that USCIS will have to furlough nearly 2/3rds of its staff due to lack of funds. USCIS provides critical immigration benefits and services to the clients that we serve. If USCIS does not receive a bailout from Congress, this will cause our refugee and asylum-seeking families extreme hardship, as many rely on USCIS for maintaining their lawful status and obtaining employment authorization. However, any funding Congress provides must also include common-sense reforms for the agency, as well as ensure that USCIS is transparent and responsible regarding its fiscal management.

LIRS submits this statement for the record to underscore the urgent need for USCIS to receive emergency supplemental funding in the amount of 1.2 billion in order to keep the agency operational. Bailing out USCIS should not be misconstrued as a reward, therefore, any supplemental funding Congress provides to USCIS must have also include strict guardrails in place to prevent the agency from mispending funds and/or transferring funds to other immigration agencies. Moreover, any emergency funding Congress allocates should come with the condition -that USCIS adopt cost-saving measures so the agency can catch up on the backlog of applicants, generate revenue, and provide immigration services. In statement for the record LIRS offers cost saving recommendations that we believe will help to ensure that Congressional funds are well-spent. Additionally, we urge Congress to ensure that USCIS takes necessary steps, like extending the validity of security checks, to honor our obligations to resettle refugees and SIVs.

Long Before Covid-19 USCIS Foresaw a Budget Crisis and Failed to Act Wisely

Long before Covid-19 hit our shores, there was a notable decline in immigration applications received by USCIC. As the [Migration Policy Institute](#) reports:

More than 1 million fewer petitions were received in FY 2018 than the year before, driving a \$152 million drop in fee receipts—from \$3.48 billion in FY 2017 to \$3.33 billion the following year. Petitions increased slightly in FY 2019, but those with the highest fees continued downward. As a result, receipts fell again, this time by \$13 million, bringing revenues to \$3.32 billion.

In [November 2019](#), USCIS publicly stated that it was not generating enough fees required to help it avoid a 1.2 billion budget shortfall. To help generate additional income, USCIS published a proposed rule, ***U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements***. The proposed rule, due to be published soon, exponentially raises the costs of certain immigration benefits, for instance, it includes an 83 percent fee increase for naturalization. Moreover, under the proposed rule, USCIS proposes to charge asylum seekers a \$50 fee for filing their asylum applications.

Increasing the fees for immigration applications and services will not salvage the USCIS in the short or long-term. There is a direct correlation between USCIS's budget shortfall and recent immigration policies. Therefore, one corrective measure that USCIS should be required to do as a condition of receiving a Congressional bailout is to enact measures to reduce the cost of adjudicating immigration applications and petitions and rescind implementing problematic immigration policies, such as public charge and stop rejecting applications on frivolous grounds, such as for leaving a question blank and not including N/A.

First, DHS should immediately suspend its public charge rule. DHS's public charge is confusing and limiting. It radically heightens the standard for determining whether an applicant for admission to the U.S. may become a "public charge." The rule, for instance, penalizes people for even the modest use of an array of public benefits that they are legally permitted to use. To implement the new public charge rule, USCIS adjudicators are forced to spend more time adjudicating claims on account of the fact that they must engage in an analysis that is significantly more complex than the prior standard.

There is no benefit to our society or our immigration system under the new public charge rule. In fact, the opposite can be said. The rule has created a significant operational burden that has fallen on USCIS, forcing adjudicators to spend considerably more time in processing individual applications. Significantly, the extra time that adjudicators spend on critically analyzing applications under the new public charge criteria is money lost. The lengthy amount of time determining whether someone is a public charge could be spent on expeditiously processing other applications, and hence-generating more money for USCIS. Moreover, the public charge rule has led to many migrants, entitled to benefits, refraining from doing so out of fear that they will be deported and separated from their loved ones. The chilling effect of the public charge rule has even led some immigrants to avoid hospitals during the COVID-19. In order to ensure that Congressional funds are spent wisely, public charge rule must be rescinded.

USCIS should stop rejecting applications and petitions due to alleged [incompleteness or blank spaces](#). In January 2020, while fully aware of its budget woes, USCIS began implementing a policy in which the agency is rejecting, and in some cases denying, applications and petitions for failing to complete certain sections of the form. Under the new policy, applicants are informed by USCIS of the following: “Please follow the instructions above by filling in every field on a USCIS form, ***even if the field is optional***, has been answered elsewhere, ***or does not apply to you***, in order to avoid rejection by USCIS.’ In practical terms, if an applicant fails to write “N/A,” in any section of an application the risk having their entire application rejected. This can even extend to situations in which someone is living in a house, and fails to write “N/A” on the portion of the application that asks for an apartment number. Requiring officers to review for non-material spaces and expend resources to return petitions and fees is an inefficient use of agency resources and creates an unnecessary barrier to accepting applications and petitions, especially for unrepresented applicants. This is another wasteful policy and any Congressionally allocated funds should be conditioned on the USCIS rescinding this newly instituted policy.

Congress Must Set Guardrails on Emergency Funding

Congress should prohibit the transfer of USCIS funds to other federal agencies. In its recent budget requests and in its proposed fee rule, USCIS has sought to transfer over \$100 million from the agency's fee account to U.S. Immigration and Customs Enforcement (ICE), to be used for enforcement purposes. Congress must ensure that USCIS is prohibited from transferring any funds from the fee account to ICE or any other immigration enforcement agency, through binding language restricting USCIS transfer authority.

Solutions for Generating Fees

There are practical measures and solutions that Congress and USCIS can take to generate revenue. Congress, for instance, can help is by recapturing unused green cards. There are currently 176,000 unused immigrant visas that can be recaptured through legislation. This simple act can lead to revenue-generating visa petitions and adjustment of status filings, which could generate hundreds of millions of dollars of revenue. Congress has utilized visa recapture in the past in the appropriations process. Emergency appropriations for USCIS that include visa recapture represent a unique opportunity to simultaneously cut immigrant visa backlogs and ensure revenue generation.

USCIS still operates largely by paper filings and payments, and if the agency takes measures to digitalize its application system and accept electronic payments, these two adjustments will undoubtably lead to the receipt of more applications and petitions. Thus, LIRS recommends that:

- USCIS must accept digital signatures on applications. With many individual working from home, or having lost their jobs, applicants may not have equipment at home that allows them to print, copy or scan signed documents.
- USCIS must allow for electronic payment for all application types. Currently USCIS requires that all petitions and applications submitted to a USCIS Service Center include a physical check for payment of the filing fee. Requiring filing fees to be paid with a check is archaic and problematic, especially during the pandemic.

Emergency Funding and Covid-19 Protections for Applicants

Government office closures, limited transportation, financial hardships, are some of the obstacles and constraints applicants are experiencing in this time of Covid-19. If Congress provides emergency funding for USCIS, it should mandate USCIS to enact the following provisions in light of Covid-19:

- (1) USCIS should suspend all deadlines and extend all nonimmigrant statuses for at least 90 days beyond the duration of the COVID-19 national emergency and avoid denying applications or petitions where individuals do not attend interviews, appointments, or naturalization oath ceremonies during the pandemic.
- (2) USCIS should waive in-person interviews when legally authorized and permit naturalization oaths to be taken through video.
- (3) USCIS should also excuse any late filings of extension or change of status requests for up to 90 days after the end of the national emergency and provide an automatic grant of deferred action for the duration of the national emergency for individuals whose status has expired and cannot be extended or changed.

Greater Oversight and Guaranteed Protections for Refugees and SIVs

The combined impact of the USCIS funding crisis and Covid-19 has had a distinct impact on refugees and the refugee admissions program. LIRS contends that it would be unfair to punish refugees on account of USCIS mismanaged funds and the pandemic. In order to ensure USCIS funds are maximized and spent accordingly, we call for greater Congressional oversight and immediate action to protect refugees and ask for your Congressional support in:

- (1) Admit refugees marked ready for departure in FY20 regardless of the category that they are classified under.

- (2) Ensure that USCIS reduces the backlog and mandate that USCIS adjudicate refugee and SIV applications within 180 and establish benchmarks for USCIS to meet and require reports to Congress to track progress.
- (3) Extend validity periods for security checks for refugees and SIVs. In light of the pandemic and travel delays that have prohibited the normal flow of refugee resettlement, the only fair and just response is to extend the validity period for security checks for refugees and SIVs. This will also save USCIS time and money.

Conclusion

USCIS needs emergency funding, but not without guardrails and requiring USCIS to implement significant policy changes. Rescinding harmful policies, such as public charge, is a necessary first step, as this policy is a drain on USCIS resources and time. Allowing for video swearing in ceremonies is another small way that USCIS can generate funds and function more efficiently. LIRS is optimistic that Congress will provide the necessary oversight and funding to ensure that USCIS does not continue down the path of financial mismanagement and archaic practices. Through the dark we can enter the light. Alternatively, with an emergency bailout and increased oversight measures Congress can help restore USCIS to the agency it once was, a service agency intended to welcome the stranger.