

BOUNDLESS

November 5, 2019

To: The Honorable Jamie Raskin
Chairman
Subcommittee on Civil Rights and Civil Liberties
House Committee on Oversight and Reform
Washington, D.C. 20510

The Honorable Chip Roy
Ranking Member
Subcommittee on Civil Rights and Civil Liberties
House Committee on Oversight and Reform
Washington, D.C. 20510

Dear Chairman Raskin and Ranking Member Roy:

On behalf of Boundless, I am urging Members of Congress to hold U.S. Citizenship and Immigration Services (USCIS), under the leadership of USCIS Acting Director Ken Cuccinelli, accountable for its inadequate efforts to ensure a fair and smoothly-functioning legal immigration system.

At [Boundless](#), we strive to empower families to navigate the immigration system confidently, rapidly, and affordably. In recent months, we have seen firsthand the unnecessary hardship and anxiety that Mr. Cuccinelli's sweeping new policies and procedures have placed on immigrants and their families. While [2018 was a tough year](#) for the legal immigration system, [2019 has turned out to be even worse](#).

During his short tenure, Mr. Cuccinelli has sought to [impose roadblocks on non-wealthy immigrants](#), [deport critically ill undocumented immigrants](#) (many of them children), [make the naturalization process much more expensive](#), and [deny citizenship](#) to certain children born abroad to U.S. citizens, including U.S. servicemembers.

Among the measures that USCIS has pursued to restrict legal immigration, the "[public charge rule](#)" could have the biggest adverse impact. The policy would deny green cards

and other visas to applicants who are deemed likely to use public benefits, using a 20-factor test so byzantine and subjective that it will inevitably lead to confusion and logjams throughout the legal immigration system.

To visualize just how needlessly complex the USCIS public charge test would be, I encourage Members of the Subcommittee to visit the [Public Charge Risk Estimator](#), created by my team at Boundless as a free resource for families concerned about how this policy will affect them and what they need to do to prepare.

Fortunately, multiple courts have [temporarily blocked the controversial rule from going into effect](#), at least for applicants already in the United States. In the coming months, the Department of State's own version of the rule will likely [be rolled out for applicants filing from abroad](#).

Our research has shown that the public charge rule, if implemented, could [separate nearly 200,000 married couples each year](#), including the spouses of U.S. citizens. The rule could cost applicants, including U.S. citizens and U.S. companies, [billions of dollars in new compliance costs](#). Beyond its human toll, this policy is so manifestly bad for business that over 120 CEOs and other business leaders issued a public comment last year blasting the public charge rule as [devastating to business growth, economic vitality, and U.S. competitiveness](#).

On Mr. Cuccinelli's watch, the basic functioning of USCIS has measurably worsened. Since 2017, USCIS processing times have increased substantially, in some cases to unprecedented levels. The processing time for [a citizenship application](#), for instance, has over the past two years surged to 10 months—double the average processing time between 2012 and 2016. Meanwhile, processing times for [employment-based green cards](#) have also doubled, from six months in 2015 to one year in 2019. Companies need access to a global talent pool to remain competitive and continue to innovate.

We must not forget the human cost of USCIS delays, as well: According to [USCIS data](#), the national average processing time *has quadrupled* for victims of domestic abuse and other crimes seeking U visas, who must now wait *nearly four years*.

Unfortunately, Mr. Cuccinelli has not inspired confidence that USCIS is on a path to improving this situation. Consider the following public statements, all of which have inspired widespread concern and confusion:

- In a recent [letter](#) to the President of Harvard University, Mr. Cuccinelli casually mentioned that USCIS has “updated processing time goals to reflect operational realities.” This would appear to mean that, rather than fixing the serious processing delays described above, USCIS is simply moving the goalposts. I hope that this Subcommittee can obtain more details about what these “updated processing time goals” actually are.
- In repeated statements [to the press](#) and [to this Congress](#), USCIS has claimed that current processing delays are based on “unprecedented and extraordinary demand.” In fact, the total USCIS backlog was 3.6 million cases in 2003, compared with 2.4 million cases in FY18. Focusing on applications for U.S. citizenship, USCIS received about 987,000 in FY17, compared with 1.3 million in FY1996, over 1.4 million in FY1997, and nearly 1.4 million in FY2007. Clearly, based on objective math, it is false for USCIS to claim that current demand is “unprecedented.”
- In a recent breakfast hosted by the *Christian Science Monitor*, Mr. Cuccinelli referred to President Trump’s [recent proclamation](#) ordering immigration officials to deny green cards to applicants [who are unable to prove they have health insurance](#) or have the means to pay for medical expenses when in the United States. Mr. Cuccinelli told reporters that “When we see requests for extensions, that’s more likely where we’re going to see it. We’re going to design guidance that requires proof of insurance.” This remains extremely perplexing, since the proclamation is a directive to the State Department, not USCIS, and makes no mention of the visa extensions to which Mr. Cuccinelli refers.
- At a [White House press conference](#) announcing the final USCIS public charge rule, a reporter asked Mr. Cuccinelli: “Does this new public charge rule impact future applications? For example, would there be a higher bar for U.S. citizens to prove that they can financially support a family member for a family-based immigrant visa?” Mr. Cuccinelli responded, “So what you would normally have in the family circumstance is you’d have an affidavit of support. So they wouldn’t necessarily fall into the category of being addressed by the public charge rule, because if they have an affidavit of support which has been scrutinized by a USCIS officer, and it is believed that sponsor can, in fact, support those identified at over 125 percent of the federal poverty guidelines — which is the standard — then that would be the end of the discussion as it relates to that sort of application.” This is a complete mischaracterization of the USCIS public charge

rule, which compels immigration officers to consider [19 factors in addition to the affidavit of support](#) in deciding whether to deny a green card application.

- There are numerous misleading statements in a recent press entitled “[Cuccinelli Announces USCIS’ FY 2019 Accomplishments and Efforts to Implement President Trump’s Goals](#),” including a boast that “USCIS also naturalized 833,000 new citizens in FY 2019 – an 11-year high in new oaths of citizenship.” These numbers obscure the fact that the number of naturalization applications has gone down in recent years, USCIS is struggling with the [largest backlog in over a decade](#), and average processing times are double the average since FY14—now over 10 months. Moreover, if an individual happens to live in Seattle, the median citizenship processing time is now 16 months and could be higher than 20 months. In New York City and Baltimore, the maximum citizenship processing time is shooting north of *26 months*. Thus there are millions of people across America right now who are eligible for U.S. citizenship but will not be able to vote in the next election even if they apply well over a year ahead of time.

Thank you for your continued oversight of these critical matters. As part of this letter for the record, please see the attached document showing the steep increase in USCIS processing times. If you have any questions regarding this letter, please don’t hesitate to contact me at xiao@boundless.com.

Sincerely,

Xiao Wang
CEO and Co-Founder
Boundless Immigration Inc.