

Statement for the Record

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U.S. House Judiciary Committee
Subcommittee on Immigration and Citizenship

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

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Thank for you for the opportunity to submit this written statement for this important hearing.

Refugees International is an independent, non-governmental organization that advocates for lifesaving assistance and protection for displaced people and promotes solutions to displacement crises. As such, this statement is primarily concerned with the impact of the U.S. Citizenship and Immigration Services (USCIS) budget crisis on the agency’s processing of humanitarian visas, asylum seekers, and refugees. Our concern is that the impact of USCIS’s funding shortfall and furloughs would fall heavily on these vulnerable populations. Congress should look at this funding crisis as an opportunity to oversee the protection system it designed.

For the past three years, the current administration’s unjustified suspicion of those seeking protection from violence, persecution, and torture, and efforts to limit the number of people who apply for, and are accorded, protection in the United States—efforts implemented in ways contrary to Congressional intent and obligations under international law—have drained the budget of USCIS.

USCIS has over-spent on redundant anti-fraud programs targeting applicants for visas under the Violence Against Women’s Act, for example.¹ It has prolonged by months the adjudication of visas for victims of trafficking, serious crime, and Special Immigrant Juvenile Status, burdening applicants with unnecessary requests for evidence and prolonging lack of access to work and services and making them susceptible to re-exploitation and removal. USCIS has unreasonably rejected applications for humanitarian visas for alleged incompleteness, such as a failure to mark “N/A” in response to a question when the applicant has simply left the space blank. And denials mean applicants must either start applying all over again or possibly face removal.²

These USCIS policies not only are inefficient but also undermine the Congressional intent behind these visas: to encourage victims to apply for protection without fear of enforcement action. USCIS has also implemented a complicated public charge rule that has needlessly frightened people from submitting applications (and accessing medical care during the pandemic).

After the administration slashed the number of refugees resettled from overseas to a historical low, USCIS shifted officers engaged in interviewing refugees abroad to interviewing asylum

¹ <https://www.gao.gov/assets/710/701807.pdf>

² <https://www.ilrc.org/in-harms-way-report>

seekers in the United States. USCIS then implemented illegal asylum policies at the southern U.S. border and reallocated funds to train Customs and Border Protection (CBP) officers to do asylum interviews, which is an inappropriate task for officers whose focus is enforcement.³ Meanwhile, the backlog of affirmative asylum applications continues to grow. Many of those in the backlog have left family members in dangerous situations and cannot petition for them while their cases are pending. After gaining asylum, they face delays in the processing of applications to bring family members to the United States.

USCIS has also significantly delayed processing re-registration and associated work applications for those with Temporary Protected Status (TPS), causing hardship for families from El Salvador, Haiti, Syria, and Honduras, among others. Through it all, ever-changing policies regarding TPS and asylum—policies that are frequently found illegal by the federal courts—has led to inefficient stops and starts in adjudication.⁴ Right now it is absolutely imperative that USCIS process applications for deferred action for essential workers and those helping to combat COVID-19.

In order to ensure that asylum seekers, refugees, and survivors of violence have access to protection accorded to them under U.S. and international law, Congress needs not only to fund USCIS but also to ensure reporting and accountability on these funds. USCIS is a fee-for-service agency, but victims of trafficking should not be denied fee waivers and asylum seekers should not be made to pay for their applications, as the administration proposed months before the pandemic.⁵ And despite anticipating a budget shortfall at that time, the proposed fee rule, if adopted, would transfer more than \$100 million of USCIS funds to U.S. Immigration and Customs Enforcement (ICE). In providing funding to USCIS—an agency designed under the Homeland Security Act of 2002 to be service-oriented and separate from the Department’s enforcement agencies—Congress should also require a careful accounting of the use of its funds.

Refugees International recommends that Congress fund USCIS but engage in this oversight and demand these accountability measures:

Congress should hold hearings requiring testimony from those in charge of USCIS’s Refugees, Asylum and International Operations division and from USCIS officers handling humanitarian visas and appeals to the Administrative Appeals Office. Congress should require disclosure about training received and the standards and procedures used.⁶

³ <https://www.documentcloud.org/documents/6798341-Signed-MOA-by-Morgan-INTC-1647-Redactions-Applied.html>; <https://www.harris.senate.gov/imo/media/doc/Harris%20credible%20fear.pdf>

⁴ <https://www.aclu.org/legal-document/grace-v-barr-court-appeals-opinion>;

<https://www.uscis.gov/humanitarian/temporary-protected-status>

⁵ <https://www.federalregister.gov/documents/2019/11/14/2019-24366/us-citizenship-and-immigration-services-fee-schedule-and-changes-to-certain-other-immigration>

⁶ For why this is needed in the case of T-visas, see

<https://www.refugeesinternational.org/reports/2019/5/21/abused-blamed-and-refused-protection-denied-to-women-and-children-trafficked-over-the-us-southern-border>

Congress should require that USCIS establish a plan to adjudicate refugee, Special Immigrant (SIV), and humanitarian visas in a timely manner and mandate adherence to that plan through regular reporting.

Congress should prevent USCIS from using funds provided to implement the expensive, inhumane, and illegal Migration Protection Protocols and Asylum Cooperative Agreements.⁷ More generally, Congress should ensure that none of the funds provided are transferred to ICE or CBP.

There are cost-cutting measures, which Congress should explore and which could enhance protection, such as: 1) extending the validity periods for security checks for refugees and SIVs whose travel has been delayed by the pandemic; 2) ending in-person interviews for refugees (who were thoroughly vetted abroad) applying for adjustment of status and re-using recently collected biometric information; 3) reinstating deference to prior approvals when processing requests to extend temporary immigration benefits absent change in circumstances; and 4) allowing for electronic filing of applications and payment for them during the pandemic.

⁷ <https://www.refugeesinternational.org/reports/2020/5/8/deportation-with-a-layover-failure-of-protection-under-the-us-guatemala-asylum-cooperative-agreement>;

<https://www.refugeesinternational.org/reports/2020/1/29/remain-in-mexico-a-year-of-deliberate-endangerment-and-evasion>