

**Congress of the United States**  
Washington, DC 20510

May 8, 2024

Director Ur Jaddou  
U.S. Citizenship and Immigration Services  
20 Massachusetts Ave. N.W.  
Washington, D.C. 20001

Director Jaddou:

We write to you regarding our ongoing concerns with the process for submitting Employment Authorization Document (EAD) applications for asylees and humanitarian parolees.

As you are aware, a significant number of individuals are seeking humanitarian parole or asylum in the United States. We are pleased to see that U.S. Citizenship and Immigration Services (USCIS) has worked to resolve some of the ongoing backlogs of EAD adjudications. However, according to the Department of Homeland Security (DHS), only a small percentage of working-age individuals who are eligible to apply for EAD have done so.<sup>1</sup>

This is concerning given reports of workforce shortages in the U.S. economy,<sup>2</sup> some of which could be filled by asylum-seekers or humanitarian parolees who are eligible to work legally in the U.S.<sup>3</sup> While we appreciate the Administration's efforts to directly notify individuals of their eligibility to apply for work authorizations, including by sending e-mail reminders, sending text messages,<sup>4</sup> and deploying personnel in person to work permit clinics across the country,<sup>5</sup> we urge you to take further action to ensure more individuals complete timely work authorization applications and to relieve backlogs at USCIS.

Several barriers may prevent EAD-eligible individuals from completing their forms and receiving work authorization. Most notably, the cost of filing a Form I-765 (an application for employment authorization) ranges from \$470 to \$520 starting April 1, 2024 for parole-based EAD submissions. Although parolees can apply for a fee waiver with form I-912, there is no option to file it online, despite the fact that form I-765 can be completed online and a discount is offered for doing so.<sup>6</sup> Additionally, both the Form I-765 and the Form I-912 are only available in English.

Furthermore, the EAD application is a lengthy, multi-step process, which may require assistance from an attorney or translator to complete. While in 2016 the form was one page long, it is

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<sup>1</sup> Department of Homeland Security (DHS), "Fact Sheet: The Biden-Harris Administration Takes New Actions to Increase Border Enforcement and Accelerate Processing for Work Authorizations, While Continuing to Call on Congress to Act." September 20, 2023.

<sup>2</sup> Bernal, "Business leaders plea with Biden for work visas to help with unfilled jobs." *The Hill*. June 28, 2023.

<sup>3</sup> Preston, "Migrants Desperate for Jobs Trapped in Asylum Maze." *The Marshall Project*. September 8, 2023.

<sup>4</sup> DHS, "DHS Supports Interior Cities by Educating Qualified Noncitizens on Work Permit Eligibility." September 6, 2023.

<sup>5</sup> Katie Lannan, "Clinic has helped over 1,700 migrants with getting work permits." *GBH News*. November 30, 2023.

<sup>6</sup> American Immigration Lawyers Association, AILA Doc. No. 24013003. January 31, 2024.

currently seven pages long.<sup>7</sup> In August 2021, the Government Accountability Office reported, “Longer forms increased the amount of time it takes for staff to adjudicate applications and petitions, and resulted in longer interviews, since adjudicators were [able] to collect and confirm additional information.”<sup>8</sup>

Another challenge facing those applying for EAD is the “asylum clock,” a mechanism USCIS uses to prevent asylum-seekers from delaying non-meritorious claims solely to obtain a work authorization. The asylum clock refers collectively to the number of days an asylum claim has been pending adjudication and the number of days after an applicant files for asylum before they are eligible for work authorization.<sup>9</sup>

DHS has previously acknowledged that asylum clock calculations are “one of the most complex and time-consuming aspects of EAD adjudications.”<sup>10</sup> Additionally, since 2011, the USCIS Ombudsman’s Office has called on DHS to address ongoing problems with the asylum clock. In 2022, the Ombudsman’s Office reported, “EAD Clock errors related to the sharing of information and parsing of jurisdiction between USCIS and [the Executive Office for Immigration Review] increases the chances of an incorrect denial resulting in periods of financial uncertainty and unnecessary hardship.”<sup>11</sup> A coalition of immigration legal services and advocacy groups highlighted these issues in a March 8, 2023 letter to USCIS, arguing that the asylum clock has contributed substantially to administrative delays at USCIS, financial hardship for their members’ clients, and inconsistent enforcement of immigration law.<sup>12</sup>

Information about the asylum clock may also be difficult to access for migrants not proficient in English or without an immigration attorney. PDF files on the USCIS website with details about the EAD asylum clock (“The 180-Day Asylum EAD Clock Notice”<sup>13</sup>) are only available in English. On multilingual variations of the website, links to the document in another language (“Notificación sobre el Conteo de 180 Días para el EAD de Solicitantes de Asilo”, et al.) open the same English-language PDF. A similar PDF in Spanish (“Notificación Sobre El Conteo De 180 Días Para El Documento De Autorización De Empleo De Solicitantes De Asilo”<sup>14</sup>), the only searchable Spanish-language PDF on the USCIS website, appears to be from 2015, and now is inaccurate.

To further understand the Administration’s plans to increase the percentage of work-eligible asylees and parolees applying for EAD, we ask that you answer the following questions:

1. When does the Administration plan to accept online fee waiver applications for form I-912?

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<sup>7</sup> Bier, “Streamlining to End Immigration Backlogs.” The Cato Institute. April 20, 2023.

<sup>8</sup> Government Accountability Office, “U.S. Citizenship and Immigration Services Actions Needed to Address Pending Caseload.” August 2021.

<sup>9</sup> Wettstein, Creighton, & Wadhia, “Up Against the Clock: Fixing the Broken Employment Authorization Asylum Clock.” February 12, 2010.

<sup>10</sup> Federal Register Vol. 84, No. 220. November 14, 2019.

<sup>11</sup> Office of the USCIS Ombudsman, “U.S Citizenship and Immigration Services Ombudsman Annual Report 2022.” June 30, 2022.

<sup>12</sup> American Immigration Lawyers Association, AILA Doc. No. 23030801. March 8, 2023.

<sup>13</sup> U.S. Citizenship and Immigration Services, “The 180-Day Asylum EAD Clock Notice.” Updated February 2024.

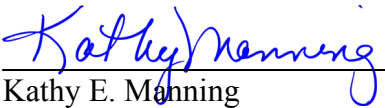
<sup>14</sup> U.S. Citizenship and Immigration Services & Executive Office for Immigration Review, “Notificación Sobre El Conteo De 180 Días Para El Documento De Autorización De Empleo De Solicitantes De Asilo.” N.d.

2. Does the Administration plan to translate Forms I-912 and I-765 to other languages and to make them available for viewing and submitting online? If so, has the Administration set an internal deadline to complete this process?
3. Does the Administration plan to simplify or shorten form I-765? If not, why?
4. Does the Administration plan to reform the asylum clock regulations? If not, why?
5. Will USCIS update non-English-language resources explaining the asylum clock on its website and remove outdated and inaccurate documents?

We hope to work with the Administration to resolve agency-level barriers for EAD applicants in order to shorten processing and adjudication times. It is up to both Congress and the Administration to ensure an orderly, efficient, and lawful immigration system.

We look forward to your response.

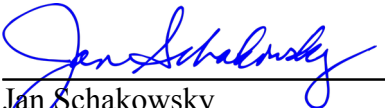
Sincerely,



Kathy E. Manning  
Member of Congress



Shri Thanedar  
Member of Congress



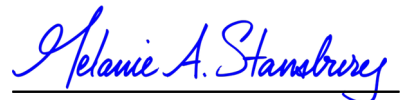
Jan Schakowsky  
Member of Congress



Eleanor Holmes Norton  
Member of Congress



Mark Pocan  
Member of Congress



Melanie Stansbury  
Member of Congress



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Veronica Escobar  
Member of Congress



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Bill Foster  
Member of Congress



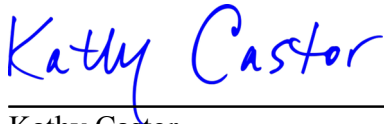
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Dan Goldman  
Member of Congress



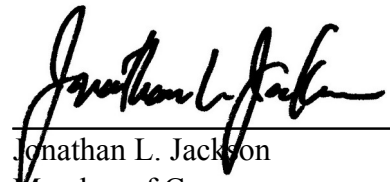
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Jamie Raskin  
Member of Congress



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Kathy Castor  
Member of Congress



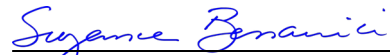
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Jonathan L. Jackson  
Member of Congress



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Adriano Espaillat  
Member of Congress



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Suzanne Bonamici  
Member of Congress



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Adam Smith  
Member of Congress



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Ro Khanna  
Member of Congress

Cc: EOIR Director David L. Neal



U.S. Citizenship  
and Immigration  
Services

June 13, 2024

The Honorable Kathy Manning  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Manning:

Thank you for your May 8, 2024 letter to U.S. Citizenship and Immigration Services (USCIS) regarding the timely processing of employment authorization documents (EAD). USCIS is strongly committed to ensuring that EAD-eligible individuals receives work authorization in a timely manner.

Your letter asks if the Administration has plans to reform the Asylum Employment Authorization Document (EAD) Clock regulations. The regulations governing employment authorization based on a pending asylum application are found at 8 CFR 208.7 and 8 CFR 274a.12(c)(8) and can only be changed by Congress. In describing challenges facing applicants subject to the Asylum EAD Clock, your letter cites the USCIS Ombudsman Annual Report 2022. We note this report did not recommend any changes to the regulations governing the Asylum EAD Clock. Rather, it recommended USCIS make certain operational changes to address the challenges identified. USCIS has already implemented some changes that benefit asylum applicants. In January 2023, USCIS began allowing online filing of applications for employment authorization based upon a pending asylum application. In March 2024, USCIS also updated the Case Status Online function on the USCIS website<sup>1</sup> to display information on EAD clock stoppages for pending asylum seekers.

In response to your question regarding whether USCIS will update non-English-language resources explaining the Asylum EAD Clock and remove outdated and inaccurate information, USCIS updated the 180-Day Asylum EAD Clock Notice in February 2024 to account for changes related to the Executive Office for Immigration Review adjournment codes. USCIS is working to translate the updated version of the notice into Spanish for publication on the website.

In response to your question regarding the online acceptance of the Form I-912, Request for Fee Waiver, USCIS acknowledges the importance of making fee waivers available online and is currently working to implement such a change. We will provide information to the public as we make additional progress on this development. As to your request that we translate Form I-912, Request for Fee Waiver, and Form I-765, Application for Employment Authorization, to

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<sup>1</sup> See <https://egov.uscis.gov/>.

The Honorable Kathy Manning

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other languages and make them available for viewing and submitting online, USCIS continues to examine this possibility, but we have not identified the resources required to adjudicate a filing in a language other than English, which would be a significant and costly endeavor. We are currently examining the Form I-765 for possible revisions aimed at reducing the overall administrative burden associated with filing the form and to make the form and instructions clearer. Any resulting revisions will be posted in the *Federal Register* and will be available for review and public comment before being implemented.

Thank you again for your letter and interest in this important issue. The cosigners of your letter will receive a separate, identical response. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", with a long horizontal flourish extending to the right.

Ur M. Jaddou  
Director