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United States Senate

WASHINGTON, DC 20510-3205

May 11, 2018

The Honorable Lee Francis Cissna
Director
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue N.W.
Washington, DC 20529

Dear Director Cissna,

I am writing in regards to an ongoing issue impacting applicants who have a pending Employment Authorization Document (EAD) application with U.S. Citizenship & Immigration Services (USCIS). In recent months, my office has seen a significant increase in the number of applicants who have found themselves unable to work due to delays in the processing of their EAD applications.

New York State ranks second in the nation in both total number of foreign-born workers and share of all workers who are foreign-born.^[1] Immigrants represent approximately 23 percent of the State's population, yet they make up close to thirty percent of the employed population in the state.^[2] The impact of these delays is substantial not only to the applicants themselves, but to New York's economy as well.

On January 17, 2017 the Department of Homeland Security put into effect two rules which have affected the processing time of EAD applications: (1) automatic 180-day extension of employment authorization for certain applicants, and (2) the elimination of the regulatory provision that required USCIS to adjudicate EAD applications within 90 days of submission. While the automatic extension has certainly been helpful for many applicants, the increased processing times have resulted in a significant number of my constituents finding themselves unable to work due to a lapse in their employment authorization. It is my understanding that approximately 25 percent of all EAD applications are currently pending for over 180 days.

Over the past year, many constituents and nonprofits have reached out to my office to request assistance with delayed EAD applications. One case, in particular, involved a constituent who was a stem cell research fellow at the Albert Einstein College of Medicine whose EAD had been pending for five months when he contacted my office. Unfortunately the lapse in his employment status meant that he was unable to continue his potentially life-saving work conducting research on

^[1] New York State Department of Labor, "Division of Immigrant Policies and Affairs", labor.ny.gov/immigrants/index.shtm.

^[2] New York State Assembly, "The Economic Importance of Immigrants in New York-Task Force for New Americans", <http://nyassembly.gov/comm/NewAmer/20170517/index.pdf>

leukemia at the college's laboratory. There are hundreds of similar stories just like this one that my office has received from constituents around New York.

Thank you for your agency's acknowledgement of the delays in processing of EAD applications. I encourage USCIS to address the backlog that has led to application processing times of up to 22.5 months for some applicants, and I ask that you evaluate how resources may be adjusted in order to address this issue as quickly as possible. If you have any questions, or desire any further information, please do not hesitate to contact my office. I look forward to receiving a response with your findings and recommendations by June 8, 2018.

Sincerely,



Kirsten Gillibrand

US Senator



U.S. Citizenship
and Immigration
Services

July 24, 2018

The Honorable Kirsten Gillibrand
United States Senate
Washington, DC 20510

Dear Senator Gillibrand:

Thank you for your May 11, 2018 letter regarding delays your constituents are experiencing with the processing of their Form I-765, Application for Employment Authorization.

U.S. Citizenship and Immigration Services (USCIS) recognizes the challenges delayed processing times may create for applicants and their families and is committed to processing cases as efficiently as possible. USCIS continues to work diligently to adjudicate each Form I-765 in a timely manner.

As of May 15, 2018, 23 percent of all Form I-765 applications have been pending beyond 180 days. Please keep in mind that processing times for this and other benefits may fluctuate because of various reasons. For example, in instances where USCIS cannot complete adjudication on the Form I-765 until the applicant's underlying benefit application, petition, or request is adjudicated, the processing times for the underlying benefit will directly affect the processing times for the accompanying Form I-765.

Of the 23 percent indicated above, 79 percent of those Form I-765 applications were filed at the same time as or based on an underlying benefit application, petition, or request. Therefore, the perceived delay in adjudicating the I-765 may have been because of the dependency on adjudication of the underlying benefit request.

The processing time for an I-765 may also be impacted by the need to request evidence to support the requested benefit, or security checks required by either the Form I-765, or the underlying benefit application, petition, or request that provides the basis for filing the Form I-765. Additionally, at the National Benefit Center, the migration of a major USCIS case management system to a more modern platform in the early part of this fiscal year impacted all case production, including Form I-765. That system modification is now complete and normal production rates have resumed.

USCIS has undertaken initiatives to prevent the creation and/or increase of existing case backlogs. For example, USCIS Service Centers adopted an enterprise model under which all five USCIS Service Centers will be able to adjudicate many of the form types for which USCIS has jurisdiction. This will enable USCIS Service Centers to better manage sudden receipt volume increases that result from filing surges and/or policy changes.

USCIS will continue to monitor the I-765 workload as part of efforts to meet the highest standards in timely and quality adjudication, even with the elimination of the regulatory provision that required USCIS to adjudicate the Form I-765 within 90 days of filing. We continue to review options for realigning resources and workloads to reduce processing backlogs when they arise, and to use additional resources when available, such as overtime funds, to reduce overall I-765 processing times.

Thank you for your letter and interest in this important issue. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative and Intergovernmental Affairs at (202) 272-1940.

Respectfully,

A handwritten signature in black ink, appearing to read "L. Francis Cissna". The signature is written in a cursive, flowing style.

L. Francis Cissna
Director