

# Congress of the United States

Washington, DC 20515

April 18, 2023

**RECEIVED**  
By ESEC at 1:27 pm, Apr 18, 2023

The Honorable Alejandro Mayorkas  
Secretary of Homeland Security  
U.S. Department of Homeland Security  
3801 Nebraska Ave NW  
Washington, D.C. 20016

The Honorable Ur M. Jaddou  
Director  
U.S. Citizenship and Immigration Services  
U.S Department of Homeland Security  
5900 Capital Gateway Drive  
Camp Springs, MD 20588

Dear Secretary Mayorkas and Director Jaddou,

We are deeply concerned with the recently published Department of Homeland Security (“DHS”) Notice of Proposed Rulemaking (“NPRM”) to increase application fees charged by U.S. Citizenship and Immigration Services (“USCIS”) for employment-based visas and institute a \$600 Asylum Program Fee on every petition. We understand USCIS is primarily funded through user fees and must occasionally review those fees to determine if they are still sufficient to cover the cost of processing petitions. However, at a time with record low unemployment, small U.S. employers using the H-2B and H-2A non-immigrant visa programs will be adversely impacted by these proposed fee increases.

Employers who rely on the H-2B and H-2A non-immigrant visa programs do so because they cannot hire U.S. workers to fill the needed positions. They turn to these programs to ensure they have the workforce needed to operate their business and contribute to our communities. These programs are a last resort to going out of business or curtailing expansion. Placing the burden of paying for the Asylum Program on employers trying to hire a legal workforce is unconscionable.

Additionally, the proposal to change premium processing from 15-calendar days to 15-business days is concerning as visa processing delays already cause uncertainty for employers who are trying to maintain their workforce. This proposed change is only exacerbated by the Department of Labor’s (“DOL”) lack of ability to process H-2B and H-2A applications in a timely manner in the second half of the fiscal year. Even adding four days to the premium processing timing, after waiting months for DOL to issue a labor certification, will be detrimental to small and seasonal businesses that participate in the H-2B and H-2A programs. This is exacerbated by the fact that visas for small and seasonal H-2B and H-2A business are only valid less than a year.

The proposed rule asserts these shifts are the result of an ability-to-pay model, but in reality, these changes would burden small and seasonal U.S. businesses, not multinational billion-dollar corporations who utilize other visa categories such as the H-1B and L visas. Instead, the agency is planning to make farmers, landscapers, and small family businesses pay for the cost of the Asylum Program. The proposed fee increases, in addition to the Asylum Program Fee, is too much for small and seasonal U.S. businesses.

The federal government should do whatever it can to support small and seasonal U.S. businesses. The proposed rule changes are unacceptable in their current state as they only bring additional expenses without providing any additional support. We demand that you properly take into consideration the detrimental effects these fee increases will have on small and seasonal businesses as you adjust the final rule. We would support USCIS restarting its entire rule making process if it were necessary to ensure that the final rule does not include the fee increases to H2-B and H-2A visa programs. Thank you for your attention to this matter and we look forward to seeing these suggested changes implemented in a final rule.

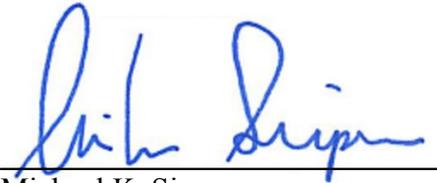
Sincerely,



Chris Pappas  
Member of Congress



David G. Valadao  
Member of Congress



Michael K. Simpson  
Member of Congress



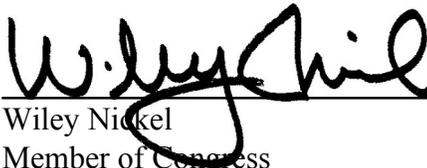
Dan Newhouse  
Member of Congress



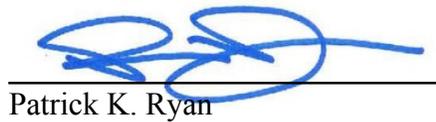
Ralph Norman  
Member of Congress



Nicole Malliotakis  
Member of Congress



Wiley Nickel  
Member of Congress



Patrick K. Ryan  
Member of Congress



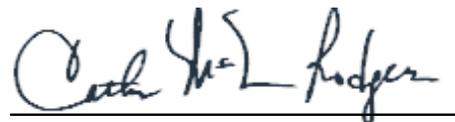
Maria Elvira Salazar  
Member of Congress



Nancy Mace  
Member of Congress



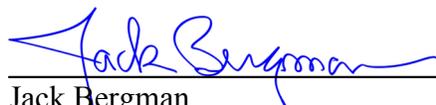
Pete Stauber  
Member of Congress



Cathy McMorris Rodgers  
Member of Congress



Bill Johnson  
Member of Congress



Jack Bergman  
Member of Congress

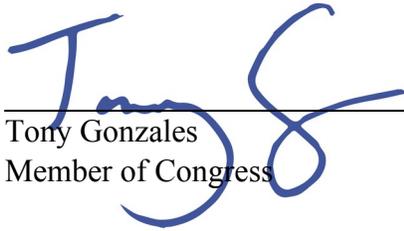


Charles J. "Chuck" Fleischmann  
Member of Congress



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Trent Kelly  
Member of Congress



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Tony Gonzales  
Member of Congress



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John Rose  
Member of Congress



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Austin Scott  
Member of Congress



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Lisa C. McClain  
Member of Congress



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Barry Moore  
Member of Congress



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Rick W. Allen  
Member of Congress



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Diana Harshbarger  
Member of Congress



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Julia Letlow  
Member of Congress



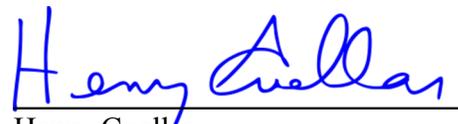
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John R. Moolenaar  
Member of Congress



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James Comer  
Member of Congress



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Henry Cuellar  
Member of Congress



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Mike Ezell  
Member of Congress



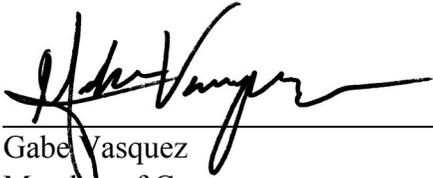
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Clay Higgins  
Member of Congress



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William R. Keating  
Member of Congress



Gabe Vasquez  
Member of Congress



Kim Schrier, M.D.  
Member of Congress



David J. Trone  
Member of Congress



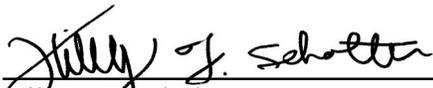
Andy Harris, M.D.  
Member of Congress



Nick LaLota  
Member of Congress



Vicente Gonzalez  
Member of Congress



Hillary J. Scholten  
Member of Congress



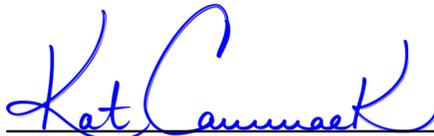
Chrissy Houlahan  
Member of Congress



Eric A. "Rick" Crawford  
Member of Congress



Kelly Armstrong  
Member of Congress



Kat Cammack  
Member of Congress



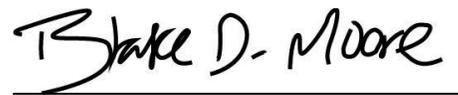
Ann McLane Kuster  
Member of Congress



William R. Timmons, IV  
Member of Congress



Marie Gluesenkamp Perez  
Member of Congress



Blake D. Moore  
Member of Congress



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Jim Costa  
Member of Congress



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A. Drew Ferguson IV  
Member of Congress



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Michael V. Lawler  
Member of Congress



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Mike Carey  
Member of Congress



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Mike Flood  
Member of Congress



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Chellie Pingree  
Member of Congress



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Joe Neguse  
Member of Congress



**U.S. Citizenship  
and Immigration  
Services**

June 6, 2023

The Honorable Chris Pappas  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Pappas:

Thank you for your April 18, 2023 letter to the Department of Homeland Security (DHS). I am responding on behalf of the Department.

We appreciate your sharing your concerns about the impact of U.S. Citizenship and Immigration Services (USCIS) fees on small business owners and other stakeholders in the January 4, 2023, proposed fee rule. The public comment period for the proposed fee rule ended on March 13, 2023, and USCIS is carefully reviewing all public comments as we draft a final fee rule—the first since 2016.

As a predominantly fee-funded agency, USCIS allocates costs to fee-paying applicants and petitioners in an effort to ensure the agency can fully recover its operating costs. As expressly contemplated by statute, USCIS provides certain services without a fee, including immigration benefits for refugees and asylum seekers. USCIS performs other work under fee waivers and exemptions for economically disadvantaged individuals and other vulnerable populations, such as cooperating victims and witnesses to crimes. This means the fees charged for a particular form may include the cost of adjudicating that form plus an additional percentage to cover overhead expenses and the agency's costs to adjudicate fee-exempt, fee-reduced, and fee-waived cases.

To help keep costs down for those we serve at USCIS, the President's FY 2024 budget<sup>1</sup> requests appropriated funding, including for backlog reduction and refugee and asylum processing. In the absence of appropriated funding, USCIS must be funded by higher fees, last raised in 2016, to ensure we are able to fully administer the legal immigration system, and continue our backlog reduction efforts while supporting our increasing humanitarian mission.

USCIS is grateful for Congress' previous appropriations, including for backlog reduction and refugee processing. When Congress provided \$275 million in FY 2022 for the backlog reduction initiative, USCIS was able to turn the tide on backlogs and achieve greater efficiencies

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<sup>1</sup> For FY 2024 USCIS is seeking \$264 million in support of backlog reduction efforts.

throughout the agency.<sup>2</sup> USCIS saw a reduction in the backlog during 2022. In January 2022, USCIS reported a backlog of roughly 5.26 million cases. In February 2023, USCIS reported a backlog of roughly 4.52 million cases, a reduction of 740,000 cases. This reduction would not have been possible without the \$275 million appropriated by Congress to support these efforts.

To provide better and more timely service to petitioners and applicants, the FY 2022/2023 fee rule proposes to adjust premium processing timelines. As stated in the proposed rule, calculating the premium processing timeframes based on the days in which USCIS is actually processing petitions and applications (business days) will enable USCIS to make premium processing more consistently available and expand it to new requests as intended by the USCIS Stabilization Act. This avoids USCIS having to suspend premium processing, which limits access to more applicants and petitioners and extends the pending period for adjudication. Additionally, premium processing revenue supports USCIS operations to address all H-2 visa petitions.

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

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<sup>2</sup> [https://www.uscis.gov/sites/default/files/document/reports/OPA\\_ProgressReport.pdf](https://www.uscis.gov/sites/default/files/document/reports/OPA_ProgressReport.pdf).