

June 4, 2020

The Honorable Richard Shelby
Chairman
Senate Committee on Appropriations

The Honorable Patrick Leahy
Vice Chairman
Senate Committee on Appropriations

The Honorable Lindsey Graham
Chairman
Senate Committee on the Judiciary

The Honorable Dianne Feinstein
Ranking Member
Senate Committee on the Judiciary

The Honorable Ron Johnson
Chairman
Senate Committee on Homeland Security
& Governmental Affairs

The Honorable Gary C. Peters
Ranking Member
Senate Committee on Homeland Security
& Governmental Affairs

Dear Members of the Senate Appropriations, Judiciary, and Homeland Security Committees:

U.S. Citizenship and Immigration Services (USCIS) is stating that it needs \$1.2 billion in order to avoid furloughing [thousands](#) of employees. USCIS has put more than half of its employees on alert of the possibility of furlough and notice of potential furloughs has gone to 11,000 employees represented by the [American Federation of Government Employees](#) and 1,000 thousand USCIS contract employees in [Kansas City](#).

We write to inform you that USCIS has known about this major budget shortfall since November 2019 when, in a proposed fee rule published in the [Federal Register](#), USCIS projected annual deficits of [\\$1.2 billion](#) and a negative carryover balance of [\\$1.5 billion](#) in fiscal year 2020. Just three years ago, at the beginning of the Trump administration, USCIS had a surplus \$800 million carryover balance. Therefore, USCIS efforts to solely blame COVID-19 are an attempt to hide behind the pandemic and the possibility of a government bailout without taking responsibility for their own fiscal mismanagement.

Under the Trump Administration, USCIS has mismanaged their budget and squandered millions of dollars in customer fees. These fees are paid by U.S. citizens, U.S. employers, and immigrants for efficient processing of immigration petitions and applications. USCIS has failed to provide efficient processing and in many instances has chosen to waste resources on unnecessary and duplicative interviews, requests for evidence and flimsy denials. USCIS's financial problems stem in large part from the Trump administration's steady and quiet march toward transforming USCIS into an enforcement agency, instead of a customer services agency.

This is contrary to law. Congress passed the [Homeland Security Act of 2002](#) (HSA) abolishing the Immigration and Naturalization Service (INS) and transferring many of its responsibilities to newly established agencies including the Bureau of Citizenship and Immigration Services—later renamed USCIS. The sole functions transferred from legacy INS to USCIS involve the adjudication of immigration benefits.¹ Enforcement functions were assigned to what ultimately became Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP). The HSA was clear that both the enforcement and services functions and their funding, though separate, are “equally important” and “each should be adequately funded.”² USCIS’s [own website](#) emphasizes that the agency is charged with “exclusively focusing on the administration of benefit applications,” highlighting its function as an immigration services entity and its separation from the enforcement components.

Despite the clear services mission of USCIS under the law, [“Senior Official Performing the Duties of the Director”](#) Ken Cuccinelli [stated](#), “We are not a benefit agency, we are a vetting agency.” He and other USCIS officials have widely applied this view across the agency, implementing a host of new policies that ignore the statutory services mission of USCIS, cost the agency money in lost revenue and increased costs, and require USCIS to increasingly use its resources for enforcement normally reserved for ICE and the Department of Justice. This is an inefficient use of government resources and they have undermined the public’s confidence in the agency, thereby reducing the number of immigrant applications and petitions.

Put simply, this Administration should not be allowed to implement immigration bans and barriers to legal immigration, then ask Congress for a blank check to continue proposing and implementing more of the same xenophobic policies.

Congress must require USCIS to rescind these policies to resume revenue streams, cut wasteful costs, and return the agency to its lawful services mission. Even if these policies are quickly rescinded, USCIS may require some Congressional funding to bridge the gap between their current deficit to a surplus. However, any Congressional funding should be strictly conditioned upon the reversal of policies and actions that produced the current USCIS deficit and subverted the agency’s core services mission, including by:

- Preventing the [transfer of USCIS processing fees](#) and any appropriated funds to ICE or CBP. DHS has consistently requested that USCIS processing fees be transferred to ICE over the last three years.

¹ The specific functions that were transferred involved: adjudications of immigrant visa petitions, naturalization applications, asylum and refugee applications, “[a]djudications performed at service centers,” and “[a]ll other adjudications performed by [INS] immediately before the effective date [of the Act].” See Sec. 451(b) of [Pub. L. No. 107–296](#).

² See sections 474 and 476 of the [Homeland Security Act](#).

- Requiring USCIS to suspend finalization of its [2019 proposed fee rule](#), conduct a new fee study that accounts for policy changes recommended in this letter, and reopen the public comment period prior to finalizing fee changes.
- Ending the [leading role](#) USCIS is taking on [denaturalization](#) which wastes significant resources and is a role generally reserved to the Department of Justice and intended to be used for limited and exceptional circumstances.
- Halting the major, unexplained expansion of the Fraud Detection and National Security Directorate by [over 100%](#) since 2016, a resource drain that takes away from efficient and timely adjudications.
- Reversing [unnecessary](#) “extreme vetting” ordered by the President that has little to no rational justification except to slow down processing, including new [social media vetting](#) policy that fails to consider a critical [Inspector General report](#) on social media vetting at DHS.
- Prohibiting the use of [USCIS offices and adjudications officers for ICE arrests](#) of spouses of U.S. citizens trying to follow the law.
- Reversing the 2018 [Notice to Appear](#) memo that turns more and more immigration adjudicators into deportation prosecutors by requiring them to issue Notices to Appear following application denials -- which places an individual into removal proceedings -- a time and resource intensive endeavor once generally reserved for ICE in public safety or national security cases.
- Reversing [2018 policy](#) authorizing adjudicators to outright deny applications for errors, even simple ones, thereby denying due process and creating inefficiencies for the government and the applicant. Coupled with the Notice To Appear memo, this means many more applicants could find themselves [mired](#) in the deportation process for correctable issues.
- Ending the [USCIS co-Location with ICE](#) in Vermont.

We, the undersigned, urge you to put in place these conditions on any USCIS appropriations request so that the public can start rebuilding its trust with the agency. If you have any questions, please contact [Nithya Nathan-Pineau](#) at the Immigrant Legal Resource Center or [Ur Jaddou](#) at DHS Watch.

Sincerely,
 African Communities Public Health Coalition
 African Communities Together
 Alianza Americas
 Alianza Nacional de Campesinas
 ALMA
 AFSC - Colorado
 American Friends Service Committee

Americans for Immigrant Justice
Apoyo Legal Migrante Asociado
Asian Americans Advancing Justice - Atlanta
Asian Americans Advancing Justice - Los Angeles
Asian Americans Advancing Justice | AAJC
Asian Law Alliance
Asian Pacific Institute on Gender-Based Violence
ASISTA
Asylum Seeker Advocacy Project
Benedictine Sisters of Baltimore
California Human Development
Casa de Esperanza: National Latin@ Network for Healthy Families and Communities
Center for Gender & Refugee Studies
Center for Victims of Torture
Centro de Trabajadores Unidos
Chicago's Legal Aid Society of MFS
Church World Service
Citizenship News
Coalition for Humane Immigrant Rights (CHIRLA)
Coalition on Human Needs
Colorado People's Alliance
Community Action Board of Santa Cruz County, Inc.
DHS Watch
Detention Watch Network
Disciples Refugee and Immigration Ministries
Dolores Street Community Services
East Bay Sanctuary Covenant
Education and Leadership Foundation
Empowering Pacific Islander Communities (EPIC)
Entre Hermanos
Families Belong Together
Freedom Network USA
Friends of Miami-Dade Detainees
Georgia Association of Latino Elected Officials (GALEO)
Grassroots Leadership
HIAS Pennsylvania
Her Justice
Hispanic Federation
Human Rights Defense Center
Human Rights First

Human Rights Initiative of North Texas
Immigrant Legal Advocacy Project
Immigrant Legal Resource Center
Immigration Center for Women and Children
Immigration Counseling Service (ICS)
Immigration Institute of the Bay Area
Inter-faith Coalition on Immigration, MN
Interfaith Welcome Coalition
International Refugee Assistance Project
Jefferson County Immigrant Rights Advocates
Justice for Our Neighbors Michigan
Korean Community Center of the East Bay
Latin American Coalition
Latinos Unidos en Massachusetts
Leadership Conference of Women Religious
Lights for Liberty
Mano Amiga
Massachusetts Jobs with Justice
Mi Familia Vota
Montana Coalition Against Domestic and Sexual Violence
Muslim Advocates
National Advocacy Center of the Sisters of the Good Shepherd
National Council of Jewish Women
National Immigrant Justice Center
National Immigration Law Center
National Immigration Project of the National Lawyers Guild (NIPNLG)
National Justice for Our Neighbors
National Network for Immigrant & Refugee Rights
National Partnership for New Americans
Nebraska Coalition to End Sexual and Domestic Violence
NETWORK Lobby for Catholic Social Justice
New Orleans Workers' Center for Racial Justice
OneJustice
Organizacion en California de Lideres Campesinas, Inc.
Public Counsel
Quixote Center
Rian Immigrant Center
San Francisco Immigrant Legal & Education Network
Seattle Office of Immigrant and Refugee Affairs
Services, Immigrant Rights & Education Network (SIREN)

Sisters of Mercy of the Americas Justice Team
South Asian Americans Leading Together (SAALT)
St Mark Community Education Program
St. Louis Inter-Faith Committee on Latin America (IFCLA)
Tahirih Justice Center
Takoma Park Mobilization - Equal Justice Committee
The Human Trafficking Legal Center
The Legal Clinic, Hawa'i
The RISE/Levantate Coalition of Western Maryland
UnidosUS
Unitarian Universalist Service Committee (UUSC)
United We Dream
Virginia Coalition for Immigrant Rights
Wind of the Spirit
Young Center for Immigrant Children's Rights