

Congress of the United States

Washington, DC 20515

October 22, 2024

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
3801 Nebraska Avenue NW
Washington, DC 20016

The Honorable Ur Jaddou
Director
U.S. Citizenship and Immigration Services
5900 Capital Gateway Drive Camp
Springs, MD 20746

Dear Secretary Mayorkas and Director Jaddou:

We write to strongly urge U.S. Citizenship and Immigration Services (USCIS) to prioritize eliminating its backlog of unprocessed applications for work permits (or “employment authorization documents” (EADs)) by the end of 2024. As Members of Congress who represent diverse and vibrant immigrant communities, we know that the faster that immigrant families receive work permits, the sooner they can support themselves and better integrate into host communities across the United States.

Under the Biden-Harris Administration, USCIS has made historic progress to reduce its EAD processing backlogs and to shorten processing times.¹ The Department of Homeland Security (DHS) has done so partly through major improvements to its EAD policies, such as allowing asylum seekers’ EADs to remain valid for up to 5 years and permitting asylum seekers to file work permit applications online.² Over the past year, we have sent multiple letters to the Administration recommending additional steps to expedite the issuance of work permits.³ We commend DHS for implementing some of those recommendations, including allowing EAD

¹ U.S. Citizenship and Immigration Services, “Historical Processing Times Trends Fiscal Year 2016 - 2024,” March 5, 2024, https://www.uscis.gov/sites/default/files/document/fact-sheets/historical_pt_factsheet_fy16_to_fy24.pdf; Asylum Advocacy, “Six Month Compliance Report,” July 1, 2024,

<https://help.asylumadvocacy.org/wp-content/uploads/2021/11/231-1-July-2024-Six-Month-Compliance-Report-4-1-1.pdf>; U.S. Citizenship and Immigration Services, “Completing an Unprecedented 10 Million Immigrations Cases in Fiscal Year 2023, USCIS Reduced Its Backlog for the First Time in Over a Decade,” February 9, 2024,

<https://www.uscis.gov/EOY2023#:~:text=By%20the%20end%20of%20FY,the%20end%20of%20FY%202022>.

² U.S. Citizenship and Immigration Services, “USCIS Increases Employment Authorization Document Validity Period for Certain Categories,” September 27, 2023, <https://www.uscis.gov/newsroom/alerts/uscis-increases-employment-authorization-document-validity-period-for-certain-categories>; U.S. Citizenship and Immigration Services, “Asylum Applicants Can Now File Form I-765 Online,” January 23, 2023, <https://www.uscis.gov/newsroom/alerts/asylum-applicants-can-now-file-form-i-765-online>.

³ See, e.g., Letter from Senator Elizabeth Warren, et al., to Secretary Alejandro Mayorkas and Director Ur Jaddou, November 2, 2023, [https://www.warren.senate.gov/imo/media/doc/Letter%20to%20DHS%20on%20EADs%20\(signed\).pdf](https://www.warren.senate.gov/imo/media/doc/Letter%20to%20DHS%20on%20EADs%20(signed).pdf); Letter from Senator Elizabeth Warren, et al., to President Joseph R. Biden, Secretary Alejandro Mayorkas, and Director Ur Jaddou, March 29, 2024,

https://www.warren.senate.gov/imo/media/doc/letter_from_senator_warren_colleagues_to_president_biden_dhs_usc_is_on_ead_permit_extensions1.pdf; Letter from Senator Warren, et al., to Secretary Alejandro Mayorkas and Director Ur Jaddou, July 31, 2023, <https://www.warren.senate.gov/imo/media/doc/2023.07.31%20Letter%20to%20DHS%20and%20USCIS%20on%20expediting%20work%20authorizations%20for%20humanitarian%20parolees1.pdf>.

applicants seeking fee waivers to file their applications online,⁴ temporarily lengthening the automatic extension period for certain expiring EADs, and ensuring that individuals who are deemed *prima facie* eligible for Temporary Protected Status can receive EADs.

Yet as things stand, there are still currently 1.4 million EAD applications awaiting processing — including roughly 900,000 people seeking their first EAD and 500,000 seeking renewals.⁵ Many of those families are at the mercy of USCIS’s bureaucratic processing delays and remain unable to legally work and support themselves financially for weeks, months, or longer. For fiscal year (FY) 2025, USCIS has estimated that its EAD processing workload will be double that of FY2022.⁶

In light of these facts, we urge the Administration to ramp up its efforts to eliminate the ongoing work permit backlog before the end of President Biden’s term. First, it is our view that DHS should surge additional resources to EAD processing. In FY2024, Congress appropriated \$34 million for USCIS to reduce its work permit processing backlog — more than ever appropriated for this purpose.⁷ USCIS previously noted that such “supplemental funding would promote timely access to EADs.”⁸ Using those funds, USCIS should ramp up investments in technological improvements to streamline processing.⁹ The agency should also increase staff capacity to process EAD applications,¹⁰ which could be done by hiring additional full-time staff and contractors, detailing staff from other agencies, and approving more overtime.¹¹ We also encourage USCIS to dedicate additional resources to providing on-the-ground assistance with completing EAD applications, a model that has been successfully piloted through work permit clinics in some states¹² — or find other creative ways to provide temporary, trained personnel to assist new arrivals with applications.

Second, we urge USCIS to promptly finalize its rule lengthening the automatic extension period for expiring work permits. We commend USCIS’s decision to increase that period from 180 days

⁴ U.S. Citizenship and Immigration Services, “USCIS Launches Online PDF Filing Option,” October 8, 2024, <https://www.uscis.gov/newsroom/stakeholder-messages/uscis-launches-online-pdf-filing-option>.

⁵ U.S. Citizenship and Immigration Services, I-765, Application for Employment Authorization, Counts of Pending Petitions by Days Pending For All Eligibility Categories and (c)(8) Pending Asylum Category, June 30, 2024, https://www.uscis.gov/sites/default/files/document/data/i765_p_allcat_c08_fy2024_q3.xlsx.

⁶ Citizenship and Immigration Services, Annual Report 2024, Ombudsman, June 28, 2024, p. 47, https://www.dhs.gov/sites/default/files/2024-07/24_0628_cisomb_2024-annual-report.pdf.

⁷ United States Senate Committee on Appropriations, “BILL SUMMARY: Homeland Security Fiscal Year 2024 Appropriations Bill,” March 21, 2024, <https://www.appropriations.senate.gov/news/majority/bill-summary-homeland-security-fiscal-year-2024-appropriations-bill-2>.

⁸ Letter from U. S. Citizenship and Immigration Services to Senator Elizabeth Warren, February 29, 2024, https://www.warren.senate.gov/imo/media/doc/uscis_response_-_senwarren1.pdf.

⁹ Citizenship and Immigration Services Ombudsman, “Annual Report 2024,” June 28, 2024, p. 50, https://www.dhs.gov/sites/default/files/2024-07/24_0628_cisomb_2024-annual-report.pdf.

¹⁰ *Id.* at p. 68.

¹¹ Letter from Asylum Seeker Advocacy Project to Director Neera Tanden, Director Ur Jaddou, and Secretary Alejandro Mayorkas, August 7, 2024, https://www.asylumadvocacy.org/wp-content/uploads/2024/08/Work-Permit-Backlog-Letter_August2024.pdf.

¹² *See, e.g.*, Commonwealth of Massachusetts, “Healey-Driscoll and Biden-Harris Administrations Team Up to Assist More Than 1,000 Migrants in One Week at Work Authorization Clinic,” November 17, 2023, <https://www.mass.gov/news/healey-driscoll-and-biden-harris-administrations-team-up-to-assist-more-than-1000-migrants-in-one-week-at-work-authorization-clinic>.

to 540 days, to reduce the risk of EADs becoming invalid before USCIS can renew them.¹³ However, we note that USCIS made this change via a temporary final rule that will sunset on October 15, 2025.¹⁴ We appreciate that DHS aims to finalize this rule by the end of this year,¹⁵ and urge the Administration to ensure that it does so. As experts and stakeholders have recommended,¹⁶ USCIS should also consider expanding the length of the automatic extension period to 730 days and expanding its scope to cover renewal applicants who did not apply before their EAD expiration date.

Third, we encourage DHS to streamline the process for individuals seeking parole or re-parole to receive permission to work. Currently, those who are applying to receive or renew parole status must separately submit a I-765 application for a work permit. Rather than imposing a separate application requirement (and the lengthy processing delay that comes with it), USCIS should pursue rulemaking to authorize certain eligible parolees and re-parolees to work as an automatic benefit of their parole status, as Members of Congress have previously recommended.¹⁷ Short of that step, USCIS could at least ease the application burden by giving eligible applicants the option of indicating during the parole or re-parole process (via the I-131 form or otherwise) that they wish to seek an EAD, rather than completing a separate I-765 application, as is already permitted for certain parolees.¹⁸ USCIS could then coordinate with sister agencies to obtain information that DHS already has on file about the parolee or parole applicant, thereby eliminating redundancies.¹⁹

Finally, we advise USCIS to permit the receipt provided after submission of an EAD application to temporarily serve as a provisional permit to work until the full application is adjudicated, as experts and Members of Congress have urged.²⁰ We appreciate that USCIS has significantly

¹³ Department of Homeland Security, Federal Register Notice, “Temporary Increase of the Automatic Extension Period of Employment Authorization and Documentation for Certain Employment Authorization Document Renewal Applicants,” April 8, 2024, <https://www.federalregister.gov/documents/2024/04/08/2024-07345/temporary-increase-of-the-automatic-extension-period-of-employment-authorization-and-documentation>.

¹⁴ *Id.*

¹⁵ Office of Information and Regulatory Affairs, “Temporary Increase of the Automatic Extension Period of Employment Authorization and Documentation for Certain Renewal Applicants,” Spring 2024, <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202404&RIN=1615-AC78>.

¹⁶ Letter from Asylum Seeker Advocacy Project to Director Neera Tanden, Director Ur Jaddou, and Secretary Alejandro Mayorkas, August 7, 2024, https://www.asylumadvocacy.org/wp-content/uploads/2024/08/Work-Permit-Backlog-Letter_August2024.pdf; Letter from Global Refuge, et al., to Secretary Alejandro Mayorkas, Director Neera Tanden, and Director Ur Jaddou, August 19, 2024, https://lssnca.org/file_download/5fa67ba8-7cf8-4ce8-bd58-356f8cee6ec6.

¹⁷ Letter from Senator Elizabeth Warren, et al., to Secretary Alejandro Mayorkas and Director Ur Jaddou, July 31, 2023, p. 4, <https://www.warren.senate.gov/imo/media/doc/2023.07.31%20Letter%20to%20DHS%20and%20USCIS%20on%20expediting%20work%20authorizations%20for%20humanitarian%20parolees1.pdf>; Letter from Senator Elizabeth Warren, et al., to Secretary Alejandro Mayorkas and Director Ur Jaddou, November 2, 2023, p. 8, [https://www.warren.senate.gov/imo/media/doc/Letter%20to%20DHS%20on%20EADs%20\(signed\).pdf](https://www.warren.senate.gov/imo/media/doc/Letter%20to%20DHS%20on%20EADs%20(signed).pdf).

¹⁸ U. S. Citizenship and Immigration Services, “Application for Travel Document,” April 1, 2024, p. 4, <https://www.uscis.gov/sites/default/files/document/forms/i-131.pdf>.

¹⁹ Letter from Senator Elizabeth Warren, et al., to Secretary Alejandro Mayorkas and Director Ur Jaddou, November 2, 2023, p. 8, [https://www.warren.senate.gov/imo/media/doc/Letter%20to%20DHS%20on%20EADs%20\(signed\).pdf](https://www.warren.senate.gov/imo/media/doc/Letter%20to%20DHS%20on%20EADs%20(signed).pdf).

²⁰ *Id.* at 4; Pathway for Immigrant Workers, “Memorandum from Pathway for Immigrant Workers, Inc. and Massachusetts Law Reform Institute to Office of Civil Rights and Civil Liberties, U.S. Department of Homeland

shortened processing times to one month for asylum seekers seeking their first work permit, and 1.5 months for parolees.²¹ Nevertheless, processing times remain much longer for some categories of applicants: 12 months for asylum seekers seeking renewal EADs, 18.5 months for those applying based on cancellation of removal, and 14 months for Haiti TPS extension applicants.²² USCIS could at least pursue this proposal for applicants who have waited longer than 2-3 months for an EAD.

We once again thank DHS for its ongoing commitment and engagement on this issue, and we urge USCIS to implement the actions above — along with the other unfulfilled recommendations described in a November 2023 letter from Members of Congress.²³ Doing so will help ensure that immigrant families are not left for months or years with no way to legally support themselves, mutually benefiting the families and their host communities.

To help us better understand USCIS’s efforts to expedite EAD processing, we request responses to the following questions, either in writing or via a briefing, by November 5, 2024:

1. Please provide updates on any progress USCIS has made toward implementing the recommendations in this letter:
 - a. Improving technological capacity and staffing for processing EADs.
 - b. Finalizing the rule lengthening the automatic extension period for expiring work permits.
 - c. Rulemaking to authorize more parolees who are applying for EADs within the (c) (11) category to work incident to their parole status.
 - d. Streamlining the EAD application process for more parolees, to eliminate the need for a separate I-765 application.
 - e. Permitting an EAD application receipt to serve as temporary authorization to work.
2. Please provide updates on USCIS’s planned or completed improvements to the technology and staffing for EAD processing and provide details on how the agency is using the \$34 million in EAD-related funding appropriated for FY2024.
3. What additional funding or other resources, if any, may USCIS need in order to expedite EAD processing and significantly reduce the work permit backlog?

Security on Expedited Work Authorization for New Arrivals; Proposed Solutions,” January 6, 2024, <https://static1.squarespace.com/static/630008b4a452570bf909dca2/t/65ba52044ee934690db01cd9/1706709508805/Expedited+Work+Authorization+for+New+Arrivals+%3B+Proposed+Solutions.pdf>; Letter from Senator Elizabeth Warren, et al., to Secretary Alejandro Mayorkas and Director Ur Jaddou, November 2, 2023, [https://www.warren.senate.gov/imo/media/doc/Letter%20to%20DHS%20on%20EADs%20\(signed\).pdf](https://www.warren.senate.gov/imo/media/doc/Letter%20to%20DHS%20on%20EADs%20(signed).pdf).

²¹ U.S. Citizenship and Immigration Services, “Check Case Processing Times,” last viewed October 22, 2024, <https://egov.uscis.gov/processing-times/>.

²² *Id.*

²³ Letter from Senator Elizabeth Warren, et al., to Secretary Alejandro Mayorkas and Director Ur M. Jaddou, November 2, 2023, [https://www.warren.senate.gov/imo/media/doc/Letter%20to%20DHS%20on%20EADs%20\(signed\).pdf](https://www.warren.senate.gov/imo/media/doc/Letter%20to%20DHS%20on%20EADs%20(signed).pdf).

4. Please clarify the process for adjudicating re-parole applications and associated employment authorization applications and any plans for streamlining this process.
5. Please clarify USCIS's current biometric requirements for initial and renewal EAD applications, the agency's protocol for reusing prior biometrics rather than requiring a new set, and any plans for streamlining the biometric process.

We look forward to your prompt action and appreciate your attention to this important matter.

Sincerely,



Elizabeth Warren
United States Senator



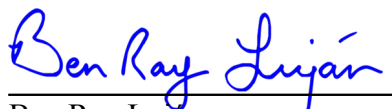
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Member of Congress



Kirsten Gillibrand
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Maxwell Alejandro Frost
Member of Congress



Ben Ray Lujan
United States Senator



Eleanor Holmes Norton
Member of Congress



Tammy Duckworth
United States Senator



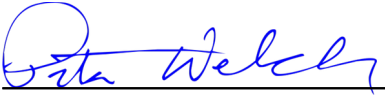
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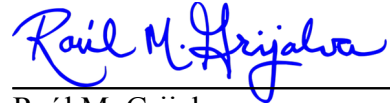
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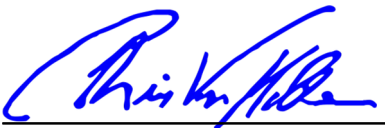
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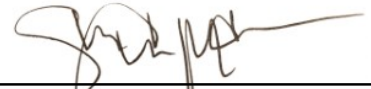
Peter Welch
United States Senator



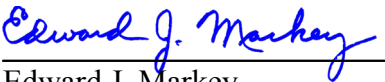
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Member of Congress



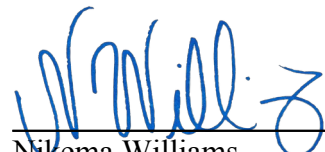
Chris Van Hollen
United States Senator



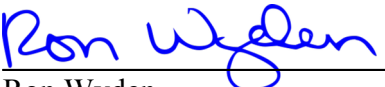
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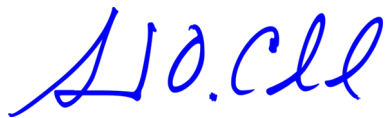
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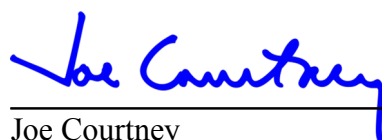
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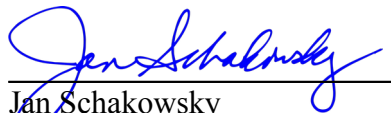
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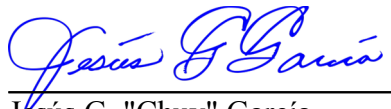
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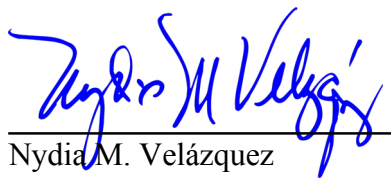
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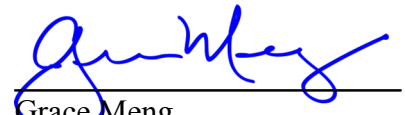

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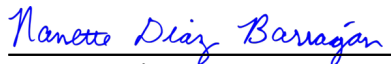

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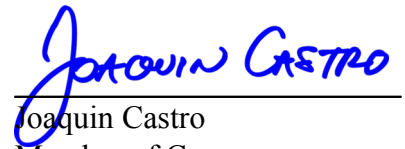

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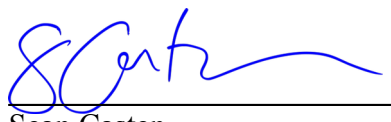

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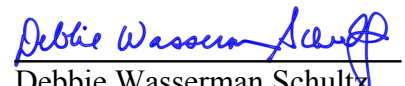

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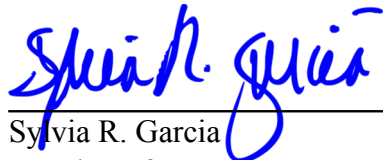

MARK TAKANO
Member of Congress



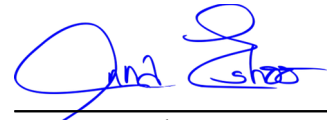
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Member of Congress



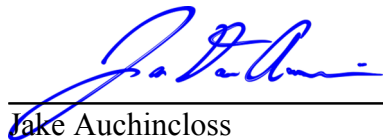
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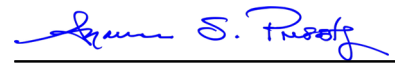
Sylvia R. Garcia
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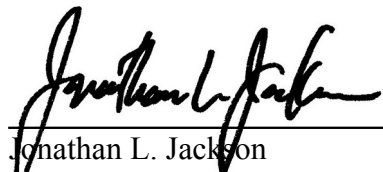
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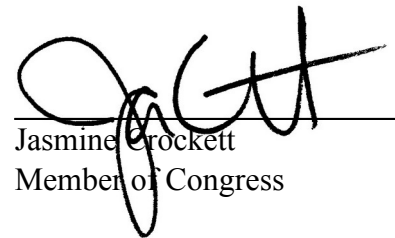
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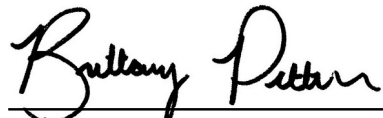
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Cc: Shoba Sivaprasad Wadhia, Officer for Civil Rights and Civil Liberties, Department of Homeland Security