



Memorandum

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Deputy Administrator,
Office of Information and Regulatory Affairs,
Office of Management and Budget

THROUGH: Eric Hysen
DHS Chief Information Officer

FROM: Samantha Deshommès
USCIS Office of Policy and Strategy,
Regulatory Coordination Division, Chief

SUBJECT: Request for Emergency OMB Paperwork Reduction Act (PRA) Clearance – Form I-907,
Request for Premium Processing Service

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Purpose: USCIS is requesting emergency approval of the revision of USCIS Form I-907, Request for Premium Processing Service, which is an approved collection of information under 5 CFR 1320.13.

Background: Form I-907 is used to request Premium Processing Service for the petitions or applications that U.S. Citizenship and Immigration Services (USCIS) has designated as eligible for Premium Processing Service. The Department of Homeland Security (DHS) is amending DHS premium processing regulations to codify statutory changes made by the Continuing Appropriations Act, 2021 and Other Extensions Act (Continuing Appropriations Act). The Continuing Appropriations Act included the Emergency Stopgap USCIS Stabilization Act (USCIS Stabilization Act), which amended the Immigration and Nationality Act (INA) by modifying USCIS' authority to provide premium processing services and to establish and collect premium processing fees for those services. USCIS is updating the Form I-907 instructions and respondent burden to account for the revised fees and processing time for eligible filers of Form I-140, Immigrant Petition for Alien Workers; Form I-539, Application to Extend/Change Nonimmigrant Status; and Form I-765, Application for Employment Authorization as provided in the USCIS Stabilization Act. USCIS plans to announce implementation of these newly eligible populations via the USCIS website.

Discussion: At the onset of the 2020 COVID-19 pandemic, the U.S. economy was in recession from February to April 2020.¹ Although brief, the recession was unprecedented in its magnitude of employment decline and reach across the entire economy. Following April 2020, U.S. labor market indicators rebounded strongly in the first few months and then continued to gradually rise; however, the U.S. labor market has not yet fully recovered to pre-pandemic levels. Comparing civilian labor force totals between February 2020 and February 2022, Department of Labor’s (DOL) Bureau of Labor Statistics (BLS) reported that the U.S. labor force has 592,000 fewer persons than it did pre-pandemic. (See Table 1.) The labor force participation rate was 62.3 percent in February 2022, 1.1 percentage points below the February 2020 level. In February 2022, the number of unemployed persons in the U.S. stood at 6.3 million, an unemployment rate of 3.8 percent. Additionally, there were nearly 1.5 million marginally attached persons² not counted in the labor force, of which 491,000 were classified as discouraged workers. On the last business day of January 2022, the U.S. had 11.3 million job openings, 4.3 million more job openings than in February 2020.

Table 1. Household and Job Openings data, seasonally adjusted³

	February 2020	February 2022	Change
Civilian Labor Force	164,583,000	163,991,000	-592,000
Participation Rate	63.4	62.3	-1.1
Unemployed	5,717,000	6,270,000	553,000
Unemployment Rate (U-3)	3.5	3.8	0.3
Marginally Attached to Labor Force	1,450,000	1,471,000	21,000
Discouraged workers	411,000	391,000	-20,000
	February 2020	January 2022^P	Change
Job Openings	7,006,000	11,263,000	4,257,000

P: preliminary

This data demonstrates that not only is the labor market tighter than pre-pandemic levels, the current labor supply, even if assuming marginally attached persons would reenter the labor force, cannot meet current labor demand. Implementing immigration policy changes and initiatives to incentivize lawful immigration and increase the supply of labor will help address the economic difficulties brought on by a tight labor market.

Foreign born individuals have historically comprised a notable share of the U.S. labor force, but by the end of 2020, the share of the U.S. civilian labor force that is foreign born declined by 0.4 percentage point to 17 percent, the largest decline since comparable data became available in 1996.⁴ According to BLS, “the economic downturn resulting from the COVID-19 pandemic disproportionately affected the foreign-born labor force.” In 2020, the overall labor force declined by 2.8 million, of which 1.1 million or 38.4 percent was accounted for by foreign born. Similarly, DHS data and reporting shows a decrease in request totals (69.3 percent), adjustment of status (57.0 percent), and new arrivals (82.4 percent) from FY

¹ National Bureau of Economic Research, *Business Cycle Dating Committee Announcement July 19, 2021*, available at <https://www.nber.org/news/business-cycle-dating-committee-announcement-july-19-2021> (visited March 9, 2022).

² These individuals wanted and were available for work and had looked for a job sometime in the prior 12 months but had not looked for one in the preceding 4 weeks.

³ Bureau of Labor Statistics, U.S. Department of Labor, Data Tool: Series Report <https://data.bls.gov/cgi-bin/srgate>. Series IDs LNS11000000, LNS11300000, LNS13000000, LNS14000000, LNS15026642, LNS15026645, JTS0000000000000000JOL, and JTS0000000000000000HIL. (Data pulled March 9, 2022).

⁴ Bureau of Labor Statistics, U.S. Department of Labor, *Foreign-born Workers: Labor Force Characteristics – 2020*, available at https://www.bls.gov/news.release/archives/forbrn_05182021.pdf (visited March 9, 2022).

2020 Q2 to a low in FY 2020 Q3. (See Table 2.) Although requests remained low for the quarters following the FY 2020 Q3 low, the number of requests returned or exceeded their FY 2020 Q2 levels by FY 2021 Q4.

Table 2. Persons Obtaining Lawful Permanent Resident Status by Type of Admission, Level and Percent Change⁵

	Levels			
	FY 2020 Q2	FY 2020 Q3	FY 2021 Q2	FY 2021 Q4
Total ⁶	258,117	79,193	143,098	281,411
Adjustment of Status	140,833	60,489	104,327	177,103
New Arrivals	106,344	18,704	38,771	104,308
	Percent Change			
	FY 2020 Q2 - FY 2020 Q3	FY 2020 Q2 - FY 2021 Q2	FY 2020 Q2 - FY 2021 Q4	FY 2020 Q3 - FY 2021 Q4
Total	-69.3	-44.6	9.0	255.3
Adjustment of Status	-57.0	-25.9	25.8	192.8
New Arrivals	-82.4	-63.5	-1.9	457.7

DHS reported that “these significant increases show a return to more typical levels after COVID-19-related public health challenges in 2020 resulted in a reduction in the volume of in-person services provided at USCIS field offices in order to increase safety and accommodate social distancing protocols, as well as travel restrictions and closures in the United States and worldwide.”⁷ However, before the restrictions were lifted, the temporary shutdown of USCIS facilities among other factors presented and perpetuated operational challenges for the agency, including but not limited to increases in processing times for Form I-140, Form I-539, and I-765. (See Table 3.) Applicants of all three forms experienced a processing time increase in FY 2021; processing times continue to remain higher than pre-pandemic medians in FY 2022 Q1.

Table 3. Historical National Median Processing Time (in Months) for All USCIS Offices for Select Forms By Fiscal Year 2019 - 2022⁸

Form	Fiscal Year			
	2019	2020	2021	2022 ⁹
I-140 (non-Premium filed)	5.8	4.9	8.2	11.4
I-539	4.4	4.8	9.6	7.5
I-765 (All classifications)	1.1-5.1	1.1-4.8	1.9-7.1	0.9-7.2

Strict statutory requirements dictate the number of employment and family-based Immigrant Visas (IVs) available every year. While Congress has enacted provisions to help ensure that all allocated visas are used in a given fiscal year, there are a variety of circumstances under which some IVs go unused and are

⁵ Department of Homeland Security, Office of Immigration Statistics, *Legal Immigration and Adjustment of Status Report Fiscal Year 2021, Quarter 4*, available at <https://www.dhs.gov/immigration-statistics/special-reports/legal-immigration> and Legal Immigration and Adjustment of Status Report Quarterly Data, available at <https://www.dhs.gov/immigration-statistics/readingroom/special/LIASR>. (visited March 9, 2022).

⁶ Note: Total is not equivalent to the sum of adjustment of status and new arrivals.

⁷ See Legal Immigration and Adjustment of Status Report Fiscal Year 2021, Quarter 4, available at <https://www.dhs.gov/immigration-statistics/special-reports/legal-immigration> (visited March 9, 2022).

⁸ See <https://egov.uscis.gov/processing-times/historic-pt> (visited March 9, 2022).

⁹ FY2022 captures data from October 1, 2021 to January 31, 2022; as of this memo only FY 22 Q1 data is available.

permanently lost. For FY 2022, USCIS has alerted the public to an exceptionally high number of employment-based visas available relative to pending adjustment of status applications pending currently with USCIS, particularly in first- (priority workers) and second- (workers with advanced degrees or of exceptional ability) preference employment-based visa categories.¹⁰ Facilitating an opportunity for speedier immigration processing for these populations and supporting highly-talented individuals to permanently stay and contribute to the U.S. economy would provide long-term benefits in overall economic metrics of entrepreneurship, innovation, higher wages, and productivity.¹¹

This emergency action request in connection with the *Implementation of the Emergency Stopgap USCIS Stabilization Act* (RIN 1615-AC73) Final Rule¹² will enable USCIS to implement additional premium processing requests for the additional categories of I-140 filers upon the effective date of the regulation change. To obtain long-term approval of the edits to the approved information collection's instruction and burden as made in the Final Rule, USCIS is requesting comment under 5 CFR 1320.8(d)(1) within the rule in addition to the emergency approval being requested under 5 CFR 1320.13. Following the effective date of the Final Rule, USCIS will take the following steps: 1) review and respond to any public input received from the 60-day comment period on the Form I-907 Information Collection Request revisions; and then, 2) publish a 30-day Federal Register Notice as required by 5 CFR 1320.12(c) and submit the collection of information for Office of Information and Regulatory Affairs review.

The changes to the Form I-907 are essential to the mission of USCIS to effectively support premium processing. USCIS cannot reasonably comply with the normal clearance procedures as it would delay the agency's ability to provide immediate support to the economic recovery of the United States following the pandemic.

Accordingly, USCIS revised the Form I-907 to reflect premium processing procedures as instructed by regulatory authority. Changes to the form have been thoroughly reviewed and vetted by USCIS.

USCIS seeks emergency processing of the Form I-907 in accordance with 5 CFR 1320.13. USCIS certifies that the requirements of 5 CFR 1320.13(a) are met and that:

- The collection of information is needed immediately and is essential to the mission of the agency.
- The use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information.

USCIS greatly appreciates the timely consideration of this request.

Recommendation: Please sign decision memo requesting emergency approval of this collection of information under 5 CFR 1320.13.

¹⁰ See <https://www.uscis.gov/green-card/green-card-eligibility/green-card-for-employment-based-immigrants> (visited March 9, 2022).

¹¹ National Academies of Science, *The Economic and Fiscal Consequences of Immigration* (2017), available at <https://www.nap.edu/catalog/23550/the-economic-and-fiscal-consequences-of-immigration> (visited March 9, 2022).

¹² Department of Homeland Security, U.S. Citizenship and Immigration Services. *Implementation of the Emergency Stopgap USCIS Stabilization Act* (RIN 1615-AC73) Final Rule. 87 FR 18227. March 30, 2022.