Asylum Application Processing

Fiscal Year 2023

November 1, 2023

Fiscal Year 2023 Report to Congress

Homeland Security

U.S. Citizenship and Immigration Services

Message from the Director

<div align="center">November 1, 2023</div>

I am pleased to present the following report, "Asylum Application Processing," for Fiscal Year (FY) 2023, prepared by U.S. Citizenship and Immigration Services (USCIS).

This report was compiled pursuant to direction in the Joint Explanatory Statement accompanying the FY 2023 Department of Homeland Security (DHS) Appropriations Act (P.L. 117-328).

Pursuant to congressional requirements, this report is being provided to the following Members of Congress:

>   The Honorable David Joyce
>   Chairman, House Appropriations Subcommittee on Homeland Security
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>   The Honorable Henry Cuellar
>   Ranking Member, House Appropriations Subcommittee on Homeland Security
>
>   The Honorable Chris Murphy
>   Chair, Senate Appropriations Subcommittee on Homeland Security
>
>   The Honorable Katie Britt
>   Ranking Member, Senate Appropriations Subcommittee on Homeland Security

If you have any questions, please do not hesitate to contact me at (240) 721-1500.

>   Sincerely,
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>   Ur M. Jaddou
>   Director
>   U.S. Citizenship and Immigration Services

Executive Summary

With the support of Congress in the form of discretionary funding in FY 2022, USCIS has expanded efforts to increase capacity of affirmative asylum case processing and to eliminate the affirmative asylum backlog. This report details the efforts and specific actions that USCIS is taking to reduce the backlog of affirmative asylum applications while ensuring the integrity of the asylum process.

In addition to affirmative asylum adjudications, USCIS handles credible fear screenings of individuals apprehended at the Southwest Border, as well as other land, sea, and air ports of entry throughout the United States, and placed in expedited removal proceedings who claim fear of return to their home countries. Such individuals are entitled to an interview with a USCIS asylum officer to determine if they have a credible fear of persecution or torture. As of May 31, 2022, USCIS may retain the asylum and withholding of removal application of certain individuals found to have a credible fear or place the individuals into removal proceedings with an immigration judge.[1]

As USCIS reported in the FY 2022 report, *Asylum Application Processing,*[2] the backlog of affirmative asylum applications began to grow starting in 2012 as a result of the dramatic increase in the number of credible fear screenings. The ongoing growth in the credible fear caseload at times requires an overwhelming majority of USCIS asylum officers to conduct those screening determinations, thus reducing the number of officers available to conduct affirmative asylum interviews and complete affirmative asylum adjudications.

The diversion of asylum office staff from affirmative asylum processing to other critical and urgent humanitarian caseloads has been a continuing challenge to addressing the full scope of pending affirmative asylum applications and is exacerbated by the fact that USCIS is not appropriated funding generally for its congressionally-mandated humanitarian mission. Through the discretionary funding received with the enactment of the FY 2022 DHS Appropriations Act, (P.L. 117-103), USCIS increased staffing for the affirmative asylum program devoted, as directed by Congress, to the completion of affirmative asylum applications that have been pending for the longest period of time, including applications of individuals who first filed for asylum in 2014 and in 2015. USCIS, however, did not receive continued discretionary funding for asylum processing or backlog reduction in the Department of Homeland Security Appropriations Act, 2023 (P.L. 117-328). Without staff funded specifically for the completion of the longest pending asylum cases, much of these staffing resources are instead prioritized for the screening of detained individuals and newly filed asylum applications by Operation Allies Welcome Afghan parolees. As long as staffing for asylum backlog processing is needed for other urgent asylum-related caseloads, USCIS must examine other ways to reduce the asylum backlog, while also addressing increasing credible fear screenings.

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[1] *See* DHS and DOJ, Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers, 87 Fed. Reg. 18078 (March 29, 2022).
[2] 2022 DHS Congressional Appropriations Reports | Homeland Security

Asylum Application Processing
Fiscal Year 2023

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I.   Legislative Language

This report responds to the direction set forth in the Joint Explanatory Statement accompanying the Fiscal Year (FY) 2023 Department of Homeland Security (DHS) Appropriations Act (P.L. 117-328), which states:

> *Asylum Processing.*—Not later than 90 days after the date of enactment of this Act, USCIS shall provide a report to the Committees that details its efforts to reduce the backlog of asylum applications, while ensuring that asylum applicants are properly reviewed for security purposes.

II. Background

U.S. Citizenship and Immigration Services (USCIS), a Component of DHS, has jurisdiction over affirmative asylum applications. An individual affirmatively seeking asylum may file Form I-589, Application for Asylum and for Withholding of Removal, with USCIS if the individual is currently in the United States and has not been placed in removal proceedings before the Department of Justice (DOJ) Executive Office for Immigration Review (EOIR). The USCIS Asylum Division adjudicates all affirmative asylum applications. In addition, the USCIS Asylum Division has initial jurisdiction over asylum applications filed by unaccompanied children, regardless of whether they are in removal proceedings.

The affirmative asylum process begins when an individual in the United States files an asylum application by mail or electronically with USCIS. The applicant later receives a notice to report to a designated USCIS Application Support Center (ASC) to have their biometrics taken. Next, the applicant receives a notice stating the date, location, and time of the asylum interview. An asylum applicant may apply for employment authorization if 150 days have passed since submitting a complete asylum application and the application is still pending. The asylum applicant is eligible to receive an Employment Authorization Document (EAD) if the asylum application has been pending for a total of 180 days, excluding any delays caused by the applicant, and if no USCIS decision has been made on the application. An asylum office's jurisdiction to adjudicate a particular asylum applicant's case is determined by the applicant's place of residence. Most applicants within an asylum office's jurisdiction are interviewed at the asylum office's principal office. There are currently 11 principal asylum offices, which include: Arlington, Virginia; Bethpage (Long Island), New York; Boston, Massachusetts; Chicago, Illinois; Houston, Texas; Miami, Florida; Newark, New Jersey; New Orleans, Louisiana; San Francisco, California; Tampa, Florida; and Tustin (Los Angeles), California. Those applicants who live far from the principal office may be scheduled to be interviewed at a temporarily staffed circuit ride[3] location in another USCIS location closer to the applicant's residence.

Asylum offices administer several workloads. USCIS prioritizes the numerous workloads of the Asylum Division according to statutory directives, operational capacity, and other policy considerations, such as the workload's immediate and long-term effects on applicants. In FY 2023, the Asylum Division's highest-volume workloads are:

- Credible fear screenings
- Asylum Merits Interviews (AMI)
- Reasonable fear screenings
- Operation Allies Welcome (OAW) parolees' affirmative asylum applications

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[3] A circuit ride is an alternate, non-asylum office, interview location usually located in a USCIS field office. Although the USCIS field offices host the asylum interview, field office staff do not conduct asylum interviews, schedule asylum interviews, or provide updates on the status of asylum applications.

- Non-OAW affirmative asylum applications

Individuals placed in expedited removal proceedings who indicate an intention to apply for asylum or express a fear of persecution, torture, or return to their home country are referred to an asylum officer for a credible fear screening.[4] USCIS may retain the asylum applications of certain individuals who are placed in expedited removal proceedings after May 31, 2022, and who receive a positive credible fear determination, or may issue a Notice to Appear, placing the individuals into removal proceedings before an immigration judge.[5] For cases retained by USCIS, the interview for this asylum adjudication is called an AMI. The Interim Final Rule, "Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers," is being implemented in a phased approach.[6]

In addition to credible fear screenings, USCIS conducts reasonable fear screenings for noncitizens who are subject to a reinstated order of removal or final administrative removal order under section 238(b) or 241(a)(5) of the Immigration and Nationality Act and express a fear of return to the country to which they have been ordered removed. On a yearly basis, the volume of fear screenings for these programs has regularly reached levels beyond agency projections. In the peak screening volume periods, a majority of all available USCIS Asylum Division staff may be assigned temporarily to conduct credible fear and reasonable fear screenings.

Affirmative asylum applications filed by individuals who were paroled into the United States as part of OAW are being processed on an expedited basis as required under the Extending Government Funding and Delivering Emergency Assistance Act (P.L. 117-43). After receiving more than 8,900 applications filed by OAW parolees in FY 2022, USCIS has received approximately 6,800 receipts in FY 2023 through the second quarter, for an average of 1,100 OAW filings per month. Capacity for this OAW workload is drawn from other affirmative asylum processing.

Impact of Influx at the Southwest Border

As described above, in addition to adjudicating affirmative asylum applications, USCIS is also responsible for protection screenings of noncitizens arriving at the border. USCIS asylum officers conduct credible fear screenings of individuals who are entitled by statute to an interview with a USCIS asylum officer to determine if they have a credible fear of persecution or torture if returned

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[4] In response to the termination of the Title 42 public health Order adopted by the Centers for Disease Control and Prevention (CDC) during the COVID-19 pandemic and the resumption of processing under Title 8 authorities as required by statute, DOJ and DHS published the Circumvention of Lawful Pathways final rule to address the increased number of noncitizens attempting to enter the United States.[4] Effective May 11, 2023, the U.S. Government generally presumes individuals who unlawfully enter the United States through its southwest land border or adjacent coastal borders are ineligible for asylum, unless they can demonstrate an exception to the rule or rebut the presumption. *See* DHS and DOJ, Circumvention of Lawful Pathways, 88 Fed. Reg. 31, 314 (May 16, 2023).

[5] *See* DHS and DOJ, Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers, 87 Fed. Reg. 18078 (March 29, 2022).

[6] *See* FACT SHEET: Implementation of the Credible Fear and Asylum Processing Interim Final Rule | USCIS.

to their home country. USCIS must make credible fear screenings during expedited removal a top priority because, by statute, noncitizens awaiting a credible fear determination are subject to mandatory detention, with limited regulatory exceptions.[7]

Under the Asylum Processing Interim Final Rule, USCIS may either retain and consider the asylum application of individuals who received a positive credible fear determination and also consider their eligibility for withholding of removal and protection under the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in the AMI process, or alternatively USCIS may, in its discretion, place the individual into removal proceedings with an immigration judge. By regulation, the AMI takes place no earlier than 21 days and no later than 45 days after the positive credible fear determination. In most instances, the asylum office serves the asylum merits decision, resulting from the AMI, within 60 days after service of the positive credible fear determination.

In addition to credible fear screenings and AMI adjudications, USCIS conducts reasonable fear screenings for noncitizens who are subject to a reinstated order of removal or final administrative removal order and express a fear of return to the country to which they have been ordered removed. Regulations require that USCIS complete reasonable fear interviews within 10 days of referral, absent exceptional circumstances.[8] Individuals subject to a reinstated order of removal or final administrative removal order are also required to be detained by the Immigration and Nationality Act.

Because of the statutory provisions on mandatory detention, DHS makes the rapid completion of credible fear and reasonable fear cases a high priority. USCIS assigns a substantial portion of its asylum officers to the expeditious completion of these cases. When credible fear and reasonable fear screenings increase due to an influx of individuals arriving at the border, USCIS assigns more asylum officers to these urgent caseloads, which decreases the number of asylum officers available to conduct affirmative asylum interviews and complete adjudications. This extends the amount of time affirmative asylum applicants must wait for their asylum interviews and increases the backlog.

On a yearly basis, the volume of fear screenings for these programs has regularly reached levels beyond agency projections. In peak screening volume periods, a majority of all available USCIS Asylum Division staff may be temporarily assigned to the administration of the credible fear and reasonable fear programs. USCIS temporarily diverted most asylum officers assigned to the affirmative asylum workload to credible fear screenings as DHS prepared for the May 11, 2023, termination of the Title 42 public health order adopted by the CDC during the COVID-19 pandemic.[9] USCIS also trained approximately 500 employees from across USCIS to assist with the credible fear workload as needed. USCIS anticipates increasing affirmative asylum adjudication capacity once the agency can recall personnel from the credible fear screening workload and return Asylum Division personnel to the affirmative asylum caseload. As of July

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[7] *See* 8 U.S.C. § 1225(b)(1)(B)(iii)(IV). *See also* 8 C.F.R 235.3(b)(2)(iii).
[8] *See* 8 C.F.R. § 208.31(b).
[9] Under those orders, covered noncitizens who arrived at the southwest border were generally not processed into the United States, but were expelled to Mexico or their home countries.

2023, USCIS assessed its workload capacity and assigned more Asylum Division personnel to the affirmative asylum caseload.

Affirmative Asylum Backlog

As described in detail below, the affirmative asylum backlog is a product of a prolonged, significant increase in affirmative asylum application filings, particularly during a period when USCIS prioritized older asylum applications over newer ones, as well as growing numbers of credible fear screenings, both of which are processed by USCIS asylum officers. USCIS responded to this growth in receipts with significant investment in new facilities, staffing increases, operational changes, and modernization projects.

1. **Receipt Increases**

Starting in FY 2012, resource constraints and operational challenges for asylum offices resulted in backlog growth. For example, beginning in FY 2012, asylum offices began to receive a growing number of credible fear cases for screening, which required the assignment of a high proportion of asylum office staff and significant expansion in capacity. In addition, in response to an increase in the refugee ceiling, USCIS temporarily diverted asylum officers to assist in overseas refugee processing in FY 2016. Another factor in the backlog growth was the temporary shift between 2014 and 2017 to a first in, first out (FIFO) scheduling system for asylum applications, from the last in, first out (LIFO) scheduling system used since January 1995. Since the re-implementation of the LIFO scheduling system in January 2018, USCIS has prioritized for interviews asylum applications that were most recently filed. USCIS uses the LIFO system to discourage individuals from filing non-meritorious asylum applications primarily to obtain employment authorization during the pendency of their applications, as the former Immigration and Naturalization Service observed in the 1990s. Under this system, applicants who may have filed non-meritorious asylum applications risk having their applications adjudicated more quickly and denied or referred to DOJ EOIR during the waiting period, meaning that efforts to obtain employment authorization are less likely to succeed.

But even before the shift to FIFO, a confluence of factors converged in 2014 that made the LIFO scheduling system less effective at that time. Specifically, most USCIS asylum officers were assigned to address a surge of credible fear, reasonable fear, and unaccompanied child asylum cases. Further, because the specter of speedy removal is necessary for LIFO to effectively dissuade individuals from filing non-meritorious asylum applications primarily to obtain employment authorization, DOJ EOIR, prior to 2014, prioritized removal proceedings of asylum applicants whom USCIS had referred to immigration court, enabling immigration judges in most cases to adjudicate those noncitizens' asylum applications before the 180-day EAD clock expired. But in 2014, owing to factors beyond its control, DOJ EOIR had to stop prioritizing removal proceedings of individuals whom USCIS had referred. The asylum applications of many such individuals therefore would remain pending for more than 180 days, enabling those individuals to qualify for employment authorization and dampening LIFO's effectiveness at controlling non-meritorious filings. With the diversion of resources to the border, and fewer adjudications of affirmative asylum applications, the affirmative asylum backlog increased.

Consequently, LIFO's effectiveness in discouraging frivolous, fraudulent, or otherwise non-meritorious filings decreased.

The institution of FIFO on December 26, 2014, was followed by expansion of receipts both in affirmative asylum filings and in asylum-based EADs. In the 12 months prior to the December 26, 2014 institution of FIFO, affirmative asylum applications averaged 5,000 per month. Following the change to FIFO, monthly asylum receipts began to exceed 7,000 applications regularly for the first time since 1996.[10] The backlog grew by more than 1,750 percent during the 5 years prior to the re-implementation of LIFO, and the number of new asylum applications more than tripled. EAD receipts also increased by more than six times after this change, reaching 261,447 annual applications by FY 2017.

In light of these trends, USCIS announced in January 2018, that it would return to the LIFO scheduling system. After reverting to LIFO scheduling on January 29, 2018, receipts immediately fell, decreasing from 12,282 in the month of January 2018 to 8,696 in the month of February 2018. The number of affirmative asylum applications filed per year decreased from 141,695 in FY 2017 to 106,147 in FY 2018 (-25 percent); to 95,959 in FY 2019 (-10 percent); to 94,077 in FY 2020 (-2 percent); and to 59,416 (-37 percent) in FY 2021. Consequently, after reinstituting LIFO, the annual rate of backlog growth dropped, increasing just 10 percent in FY 2018, 7 percent in FY 2019, 13 percent in FY 2020, and 7 percent in FY 2021. The reduced number of affirmative asylum applications filed in FY 2021 may be due in part to the continued travel restrictions resulting from the COVID-19 pandemic.[11] Compared to an average annual increase of 37 percent while FIFO was in effect, LIFO remains a critical tool in controlling non-meritorious applications filed primarily to obtain employment authorization.

In FY 2022, affirmative asylum receipts increased approximately 305 percent, and the asylum backlog increased 39 percent to 572,022[12] applications. Although the Asylum Division has observed an increase in total receipts, the data nevertheless indicate that LIFO continues to disincentivize non-meritorious applications filed primarily to obtain employment authorization, as the uptick in current receipts compared to prior years in which UCIS prioritized new filings over older ones is a result of new developments. Specifically, USCIS is now observing a significant surge in asylum applications filed by nationals of Cuba and Venezuela, both of which are currently experiencing documented humanitarian crises catalyzing increased emigration from those countries. Between FY 2021 and FY 2022, annual affirmative asylum receipts from Cuban nationals increased from approximately 2,800 to 65,100 cases (2,225 percent), while receipts from Venezuelan nationals increased from 9,200 to 47,500 cases (416 percent). Applications from just these two countries alone comprised approximately 47 percent of total receipts in FY 2022. This trend continued through the third quarter of FY 2023 with over 140,300 applications filed by Cuban and Venezuelan nationals comprising approximately 44 percent of total receipts.

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[10] Between 1997 and 2014, affirmative asylum receipts exceeded 7,000 or more in only 2 months. In June 2001, monthly affirmative receipts reached 7,293. In April 1998, affirmative asylum receipts reached 9,171.

[11] For the impact of the COVID-19 pandemic on affirmative asylum processing, see the 2022 Asylum Application Processing report 2022 DHS Congressional Appropriations Reports | Homeland Security.

[12] This is the number of affirmative asylum applications pending as of September 30, 2022, as reported by the asylum case management system on October 31, 2022.

As depicted in the following chart, between FY 2013 and FY 2017, when USCIS utilized a FIFO scheduling system for affirmative asylum interviews, despite significant staffing increases, receipt growth in asylum office workloads outpaced the expansion of asylum office staffing and the establishment of new or expanded facilities needed to support additional staffing growth.

Exhibit 1, Asylum Office Receipts and Staffing

| Fiscal Year | Case Type | | | | | Total Cases | Annual % Change | Asylum Officers Onboard (Year End) |
	Affirmative	*Credible Fear*	*Reasonable Fear*	*Migrant Protection Protocols* [13]	*AMI*[14]			
2012	41,900	13,880	5,070	n/a	n/a	60,850	n/a	238
2013	44,453	36,035	7,735	n/a	n/a	88,223	45%	245
2014	56,898	51,001	9,084	n/a	n/a	116,983	33%	337
2015	83,197	48,052	8,015	n/a	n/a	139,264	19%	349
2016	114,965	94,048	9,632	n/a	n/a	218,645	57%	500
2017	141,695	78,564	10,273	n/a	n/a	230,532	6%	546
2018	106,147	99,035	11,101	n/a	n/a	216,283	-6%	542
2019	95,959	105,301	13,177	11,704	n/a	226,141	5%	552
2020	94,077	30,839	8,721	12,352	n/a	145,989	-35%	840
2021	59,416	58,947	5,106	1,470	n/a	124,939	-14%	736
2022[15]	240,787[16]	68,330	6,930	16,623	757	333,427	167%	826
2023 Q3[17]	316,495	95,272	7,090	n/a	1,067	419,924	n/a	n/a

[13] Implementation of the Migrant Protection Protocols (MPP) was terminated by Secretary Mayorkas during FY 2022. DHS disenrolled all individuals in MPP who returned to a port of entry as of November 1, 2022. For more information about MPP, visit Court Ordered Reimplementation of the Migrant Protection Protocols | Homeland Security (dhs.gov).

[14] Generally, asylum officers and supervisory asylum officers who complete AMI cases and review AMI cases, respectively, were hired specifically to implement the Interim Final Rule titled "Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers" and are not normally assigned to other workloads so long as their offices have AMI cases. *See* FACT SHEET: Implementation of the Credible Fear and Asylum Processing Interim Final Rule | USCIS.

[15] FY 2022 credible fear, reasonable fear, and MPP statistics were extracted from USCIS systems on October 31, 2022, for cases received through September 30, 2022. FY 2022 AMI statistics are through September 30, 2022, from the DHS Office of Immigration Statistics. *See* Asylum Processing Rule Cohort Reports, DHS, https://www.dhs.gov/immigration-statistics/special-reports/asylum-processing-rule-report (last updated June 26, 2023).

[16] This is the number of asylum applications that USCIS Service Centers or the Asylum Vetting Center (collectively, the "Centers") entered into the asylum case management system (called "Global"), as of July 5, 2023, with receipt dates through September 30, 2022, and includes applications filed online through September 30, 2022.

[17] FY 2023 credible fear, reasonable fear, and MPP statistics were extracted from USCIS systems on July 5, 2023, for cases received through June 30, 2023 (i.e., Q3). Asylum filings include applications that USCIS Service Centers

2. Staffing Allocation Increases

USCIS utilizes an annual workforce planning process to assess staffing requirements, known as the Staffing Allocation Model (SAM). The SAM is focused on allocating staff to process the anticipated number of new/incoming receipts for all workloads for the next fiscal year. Since 2015, asylum office staffing authorizations in the SAM have not included staffing requirements for the completion of any prior-year receipts. Following the suspension of LIFO scheduling in 2014, new receipts rose too rapidly to provide new staffing allocations within the SAM for both new receipts and backlog cases. Separate planning was initiated to address the need to reduce the backlog of pending cases. USCIS now relies on a combination of internal processes and plans, unrelated to the SAM, to plan for backlog reduction.

Workforce planning is based on USCIS estimates for each adjudication workload for the coming year. These workload estimates are established through the Volume Projection Committee, a cross-disciplinary committee that forecasts receipts on the basis of statistical modeling and any recent policy changes. The following volume estimates for FY 2023 were established in June 2022.

FY 2023 New Receipt Estimates, by Program – *June 2022*	Total Receipt Estimates
Affirmative Asylum	150,000
Credible Fear	105,000
Reasonable Fear	4,680

Using the SAM process, USCIS increased the Asylum Division's overall staff from 600 total positions in FY 2012 to approximately 1,700 total authorized[18] positions in FY 2020. Significantly, with the latest staffing approvals in FY 2021, USCIS increased the number of asylum officer positions from 840 to 950 by the end of FY 2021.

In terms of staffing levels, as of June 2019, the USCIS Asylum Division's onboard rate was 75 percent. Following the hiring surge between the fourth quarter of FY 2019 through the third quarter of FY 2020, the Asylum Division reached a 100-percent onboard rate overall. Due to a drop in new receipt filings for USCIS that reduced revenue, USCIS then implemented a lengthy hiring freeze that depleted its pipeline of selections and resulted in staffing losses because of attrition for vacancies that could not be filled. Since July 2021, the

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or the Asylum Vetting Center (collectively, the "Centers") or USCIS Lockboxes entered into the asylum case management system (called "Global"), as of July 5, 2023, with receipt dates through June 30, 2023, and includes applications filed online through June 30, 2023. FY 2023 AMI statistics are through April 30, 2023, and were obtained from the DHS Office of Immigration Statistics. *See* Asylum Processing Rule Cohort Reports, DHS, https://www.dhs.gov/immigration-statistics/special-reports/asylum-processing-rule-report (last updated June 26, 2023).

[18] Changes to staffing levels for USCIS Directorates and Program Offices are reviewed and subject to the approval of the USCIS Office of the Chief Financial Officer and based on the priorities of the USCIS Strategic Plan and available resources. Such approved staffing is considered "authorized" for funding within USCIS.

Asylum Division has experienced significant staffing growth with a total of 370 additional positions[19] and had a 71 percent onboard rate with 727 onboarded asylum officers as of June 29, 2023. As a result of these new positions and an internal reconciliation of employees who occupied over-hire positions, the Asylum Division's authorized asylum office staffing increased dramatically. As of June 29, 2023, the Asylum Division was authorized for 2,148 total positions, including 1,028 asylum officers.

USCIS regularly evaluates staffing enhancements recommended by the SAM.

3. Backlog Reduction Staffing

Staffing for adjudication of applications received in prior years are not part of the annual SAM process described above. Rather, USCIS analyzes staffing requirements for backlog reduction as part of the agency's internal backlog planning effort. Further, authorizations to hire backlog reduction staff are considered separately from the annual SAM process.[20] Staffing requirements for the reduction of affirmative asylum backlogs are updated annually as part of the USCIS backlog elimination planning effort. These reviews have found that although staffing exists to begin reducing the affirmative asylum backlog, this effort is often delayed because high volumes of priority caseloads currently require the reassignment of this staff to other workloads.

As described in the FY 2022 Asylum Application Processing report, the Asylum Division expended $5.1 million to support backlog reduction, including $3.1 million to support new positions. As of December 30, 2022, 113 of the 152 formerly appropriated positions were filled, including 59 asylum officer positions. The appropriated positions served as dedicated and consistent staffing to the completion of the longest pending applications, providing a consistent workforce dedicated to reducing the backlog. Throughout FY 2022 and the first quarter of FY 2023, this staff focused on the completion of asylum applications received on or before January 31, 2018, beginning with the oldest applications and working forward. In FY 2022, USCIS completed 14,495 of the oldest pending applications. In FY 2023, through June 30, 2023, USCIS completed 7,018 of the oldest pending applications.

The FY 2023 DHS Appropriations Act did not continue funding for asylum processing or addressing USCIS backlogs. USCIS nevertheless retained the staff hired under the FY 2022 DHS Appropriations Act, realigning them into fee-funded positions. USCIS is examining ways to continue to dedicate a similar number of staff to reducing the oldest pending asylum applications, while also addressing increasing credible fear and reasonable fear screenings, without congressional funding. However, due to the challenges this poses because of increased work for asylum officers, the FY 2024 President's Budget includes $62 million for staffing and overtime in support of backlog reduction, a portion of which would support reducing the affirmative asylum backlog. Since 1996, when the asylum offices first began backlog reduction efforts following the 1995 asylum reforms, it has been clear that having dedicated staff assigned

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[19] A portion of these new positions were hired to implement the Asylum Processing Rule, specifically to conduct AMI and review these decisions.
[20] The SAM is limited to future workloads in order to inform annual budget planning most appropriately with projected annual fee receipts and the expected costs to administer those receipts.

to process both new asylum applications and the longest-pending applications is necessary to control and prevent a rise in the affirmative asylum backlog. Appropriated funding from Congress, however, remains necessary to reach and maintain the levels of staffing needed to address, reduce, and eliminate the affirmative asylum backlog.

III. Status Report

Addressing the USCIS asylum backlog is a priority for the Administration and USCIS leadership. USCIS recognizes the backlog is a significant concern for asylum applicants who applied during the highest years of receipts. During periods when the backlog increases, applicants experience longer wait times to receive a decision on their benefit requests. USCIS understands the impact that delays in receiving decisions have on applicants.

A.   Actions Taken to Reduce the Backlog

As part of workload planning for asylum offices, USCIS has expanded asylum facilities, increased staffing, and continued to pursue process improvements for case adjudication as well as staffing recruitment.

Facilities Expansion[21]

USCIS has been working with its U.S. Government partners to identify available facilities and development projects to provide sufficient in-person facilities to maximize the number of asylum officers who can be assigned at the same time in the same facility to affirmative asylum case processing. This effort builds upon a longer planning process to expand asylum offices in order to accommodate the rapid growth in staffing. Specifically, USCIS has approved new projects for the following asylum offices to ensure dedicated workspace for all field staff positions that were allocated before August 2022: Arlington, Chicago, Houston, Miami, New Orleans, Newark, New York, and San Francisco. Projects also were approved to create new asylum offices in Dallas, Seattle, and Denver. The total one-time costs of these projects are $20.2 million. Of the $20.2 million, $11.9 million was obligated. The facilities lease acquisition program (LAP) budget has $8.3 million to cover the remaining one-time cost. Of the remaining cost, $5.9 million is for FY 2023 and $2.4 million for FY 2024. The LAP budget includes both premium processing and Immigration Examinations Fee Account (IEFA) funding. The above-noted locations and projects have been selected based on the workload volumes within the jurisdiction, including the pending affirmative asylum caseload. These new asylum offices will reduce government travel costs and will add capacity in underserved communities.

> **Dallas Asylum Sub-Office Temporary Space**
>
> This project is for the temporary occupancy of the Farmers Branch Office until the renovations at the Texas Service Center are complete. The project includes nine workstations, two check-in/biometric stations, and five offices.
>
> o   Total Project Cost: $9,743,692

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[21] As of January 2023.

- In September 2022, $7,342,618 in premium processing was obligated. Also, in September 2022, there was $68,706 in IEFA funding obligated.
- In FY 2023, there was $2,332,368 in funding.

o Projected Occupancy Date: September 2023.

Seattle

This project is to procure space to accommodate 107 employees: 64 offices and 43 cubicles. A location for this project has not yet been determined. USCIS is waiting to see if the Columbia building occupied by the Social Security Administration is an option; otherwise, USCIS will need to conduct a market survey.

o Total Project Cost: $4,800,827

- In FY 2023, there was $3,606,910 in funding.
- In FY 2024, there is $1,193,917 in funding planned.

o Projected Occupancy Date: July 2025.

Denver

This project is to establish a new asylum office to accommodate 90 staff members. The space to be acquired will be approximately 44,000 square feet. This space will be for new staff.

o Total Project Cost: $5,702,292

- In August 2022, $4,510,921 in IEFA was obligated.
- In FY 2024, there is $1,191,371 in funding planned.

o Projected Occupancy Date: December 2025.

In addition to the 11 current asylum offices and the three new above-noted asylum offices, ongoing facilities projects include new asylum offices in Atlanta, Georgia (projected occupancy in March 2024) and in San Antonio, Texas (projected occupancy is October 2024), and an additional interview location for the New York Asylum Office in Queens, New York (projected occupancy is February 2024).

Program Enhancements

Although a large focus of backlog reduction has been increasing the Asylum Division's capacity in terms of staff and facilities, USCIS also has implemented operational changes

designed to improve program security measures, to increase the number of interviews that it can complete, to realize other efficiency gains, and to mitigate backlog growth.

Examples include:

- **Post-Interview Case Processing** – The Asylum Division continues to review pending asylum applications that were not completed immediately following the affirmative asylum interview by monitoring post-interview applications for adjudication readiness. In FY 2023 through July 11, 2023, asylum offices have completed 63 percent of cases within 20 days after the interview for cases filed and interviewed on or after January 31, 2023. The percentage of case completions that meet the FY 2023 goal is a decrease from FY 2022 due to increased case receipts as well as the reallocation of resources to processing higher priority caseloads. USCIS expects more cases to be completed within the 20-day timeframe as more resources are available to be dedicated to this caseload.

- **Centralized Case Vetting** – USCIS established the Asylum Vetting Center in Atlanta, Georgia, to centralize intake and prescreening processes (such as background checks, security vetting, fraud analysis, jurisdictional issues). As of June 2023, USCIS estimates that the Asylum Vetting Center will be fully occupied in December 2023. USCIS envisions that the center will deliver interview-ready cases to the asylum offices so that all field resources are focused on interviewing and completing applications instead of conducting necessary, but time-consuming, pre-interview adjudication processes. Centralizing functions that currently are spread across the asylum offices will allow USCIS to take advantage of economies of scale, while ensuring a consistent and holistic approach to pre-interview preparation and intake. This change will also ensure applications are readied for completion in a timely manner. Once the Asylum Vetting Center's facilities and staffing allow for the beginning of providing interview-ready cases, timeliness will be tracked with benchmarks that take into account center capacity and processes. The center is also intended to support text analytics operations (a technology that assists in detection of possible fraud indicators across affirmative asylum applications), terminations, and other non-interview functions.

- **Backlog Sweeps and Tools** – USCIS continues to utilize data sweeps of the backlog and tools to identify applications that may be amenable to expedited or non-interview processing. These include identifying for expedited scheduling, if appropriate, pending applications of principal applicants: who have gained lawful permanent resident status; who have approved immigrant visa petitions; over whom USCIS may lack jurisdiction; who may have serious criminal histories; or who may have abandoned their asylum applications. In FY 2023 through July 5, USCIS completed approximately 6,200 cases within these categories. USCIS also extended approximately 3,900 interview waivers in FY 2023 through July 5 to individuals who, based on their extended period of time in the United States prior to filing, may be applying for asylum solely to be placed in removal proceedings in immigration court where they can request cancellation of removal. Extending interview waivers for certain cases following data sweeps allows for more judicious use of asylum office resources.

- **Technology** – USCIS continually looks for ways to improve the Asylum Division's modernized case management system, Global, and to develop and implement tools to streamline application processing and strengthen the integrity of the process. In late FY 2022 and FY 2023, USCIS worked closely with its technology partners to develop several new tools including:
  - Online filing, which permits certain applicants to file affirmative asylum applications via myUSCIS and allows asylum officers to review the application and all supporting documentation in a paperless environment within Global;[22]
  - Global's Case Contents feature, which allows asylum office staff to organize, find, and view electronically available case documentation;
  - Global's new Attorney Management System, which enables the efficient and streamlined documentation of attorneys of record and ensures that correct attorney information is readily available;
  - The addition of various notices to Global to permit automatic, efficient creation and timely dissemination and communication with applicants and their attorneys of record, if applicable; and,
  - The incorporation of several key security check enhancements to modernize and streamline background check information review and resolution.

- **Digitization and Data Analysis** – USCIS now allows for the online (paperless) filing of certain affirmative asylum applications and worked in FY 2023 to transition receipt of newly filed paper applications to a USCIS Lockbox facility, to digitize A-files containing asylum applications in the backlog, and to make enhancements to Global focusing on the interview and decision-making processes.

  In November 2022, USCIS launched the online filing process for certain affirmative asylum applications. Filing online allows for faster receipting and faster biometrics scheduling than filing a paper application by mail. It also offers the ability to supplement the online application with additional evidence and receive correspondence through an individual's online account. From the start of FY 2023 through June 30, 2023, almost 202,400 individuals filed their asylum applications online.

  On May 31, 2023, USCIS announced the filing locations for paper asylum applications changed from the USCIS Service Centers to the USCIS Lockbox facilities, which will help streamline asylum processing and improve adjudication efficiency by digitizing paper filings.

  With an increased amount of data available in Global through these initiatives, USCIS will have new data sources to monitor for and correct problems that may generally affect asylum processing and, more specifically, the affirmative asylum backlog. These tools will reduce or eliminate manual data entry and the management of paper files, providing greater insight into steps that may cause delays in application processing. By having

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[22] *See* USCIS Announces Online Filing for Affirmative Asylum Applications at ttps://www.uscis.gov/newsroom/news-releases/uscis-announces-online-filing-for-affirmative-asylum-applications.

more of the process in Global rather than in paper files, USCIS will be able to review and compare processing times between offices and applicants to identify results-based best practices and the underlying reasons for any new delays in application processing. Furthermore, online-filed applications and these enhancements to Global will allow USCIS to flexibly assign staff virtually, both locally and across offices, using video-assisted interviewing methods. The uniform use of technology, processes, and efficiencies developed for online processing for all asylum applications will promote more consistency and productive decision-making by asylum officers. The online filing process is being monitored through metrics in several ways: the adoption of online filing is being tracked to understand past and future volumes of this filing method; the receipt of paper applications is monitored for volume and intake delays; and the impact that this transition from paper to online filing has on the asylum adjudication is being monitored through regular quality and efficiency assessments at each office overseen by the Asylum Division's operational leads.

- **Video-Assisted Interviewing** – After deploying video-assisted interviewing during the COVID-19 pandemic, USCIS has continued a small-scale variation of this interviewing method which allows offices to conduct circuit-ride interviews with minimal travel, providing a cost-effective means of maximizing staffing resources. During a video-assisted interview, an asylum officer may conduct the asylum interview or complete the adjudication from another asylum office or from their home while on telework. This practice was tested for quality, performance, and reliability prior to rollout on a large scale. Testing was performed at each office and involved regular feedback and improvements to ensure that the practice was effective, scalable, and sustainable. As video-assisted interviewing increases for online-filed or otherwise digitized asylum applications, it will allow for more flexible work assignments, both locally and across offices.

  Expanded Telework – Expanded telework opportunities have maximized both administrative and adjudicative functions, allowing USCIS to reexamine operations and provide asylum offices with more flexibility to complete appropriate tasks remotely. Employees have remarked that increased telework opportunities allow for improved work/life balance and provide an opportunity for flexible scheduling, thereby boosting employee morale. USCIS continues to look for ways to maximize telework to free up more office space for additional affirmative asylum interviews.

B. Integrity Measures

Asylum adjudications involve numerous measures to prevent abuse of the asylum process. These measures include mandatory biographical and biometric checks and mandatory manual file reviews for all asylum applicants. USCIS must receive and review the results of all security checks prior to granting asylum; in fact, the asylum case management system will not allow a grant of asylum to be entered until each security check issue is resolved. Equally important as the security checks outlined in this document, USCIS also considers timely case processing to be a significant deterrent to individuals who might otherwise use the existence of the backlog to remain in the United States. The efforts made to increase operational capacity are critical for this

purpose. The following is a list of measures in place to preserve the integrity of the USCIS asylum process.

Mandatory Biographical Checks (checks using the applicant's name, date of birth, and aliases): When a new asylum application is entered, the USCIS asylum case management system automatically initiates checks against numerous immigration, national security, and terrorist and law enforcement databases, to determine if the applicant, for example, has made previous undisclosed immigration filings, has been subject to immigration enforcement, is wanted by law enforcement agencies, or is a national security threat. This includes checks against a variety of holdings of interagency partners, including CBP, FBI, and the National Counterterrorism Center. Additionally, USCIS is working with interagency partners to streamline and enhance this vetting of asylum cases through use of the National Vetting Center process, with a deployment target of late 2023. In addition, officers must document completion of security checks for each case by making a record of the completion and recording the results of all required security checks. This documentation is then reviewed by a supervisor.

Mandatory Biometric Checks (checks using the applicant's fingerprints and photograph): USCIS schedules all asylum applicants for fingerprinting appointments prior to interview. These fingerprints are checked against DHS, DOJ, Department of Defense (DOD), and Department of State (DOS) databases to verify the applicant's identity at the time of interview and screen for criminal records. USCIS may not grant asylum until a response from the FBI is received and reviewed. Fingerprints are also run against DOD's holdings to screen for overseas encounters with the U.S. military.

In addition, asylum applicants' fingerprints are enrolled and checked electronically against the vast network of biometric data contained in DHS databases, which include criminal and national security related records; other DHS immigration-related encounters; DOS's consular records; and DHS entry/exit information. This check is vital in verifying the asylum applicant's identity at the earliest stage possible. For instance, the asylum office can immediately determine if an asylum applicant applied for a visa under a different name, or if an applicant entered the United States at a different time and place than reported on their asylum application. In addition, an alert system notifies the asylum office if the individual is wanted by the U.S. Marshals Service. Through this kind of biometric verification, offices have assisted in apprehensions of criminals and absconders and have identified individuals who attempted to change their identities after previously having been denied asylum.

In addition, all asylum applicants appearing for an interview are biometrically verified. Verification allows asylum offices to compare an individual's biometrics (fingerprint and photograph) and biographic information to information previously captured at an ASC, ensuring that the person who appeared at the ASC is the same person appearing at the USCIS asylum office.

Mandatory Supervisory Review: As a matter of policy and consistent with DHS regulation, 100 percent of asylum decisions are reviewed by supervisory asylum officers prior to service on applicants.

Internal Controls: Asylum officers do not choose the cases assigned to them. Applications are largely randomly assigned to asylum officers, taking into account officers' specialized training and experience levels. This prevents any individual employee from pre-arranging receipt of a particular asylum claim. In addition, each officer leaves an electronic imprint in the case management system for each decision made, enabling USCIS management to track the individuals who updated the system for all asylum decisions.

Fraud Prevention and National Security (FDNS) Teams: Teams of USCIS FDNS personnel are assigned full time at each asylum office, and Asylum Division headquarters. FDNS teams monitor the asylum caseload for fraud, national security, and public safety risks and trends through pre-interview screening and post-interview review of asylum files and share information with law enforcement and intelligence community partners. When asylum officers identify possible fraud, national security, or public safety issues, they refer the cases to FDNS for further review and analysis. FDNS leverages specialized tools and partnerships to conduct in-depth administrative investigations of suspected fraud, including through pattern recognition software and relationships with Immigration and Customs Enforcement Homeland Security Investigations (ICE HSI) and DOJ, which may prosecute asylum fraud. In addition, when an application has been identified through interview or security checks as potentially involving national security or public safety risks, FDNS personnel liaise with local and national law enforcement and intelligence community partners to obtain any relevant information. No application presenting such risks may be approved until Asylum Division headquarters, in consultation with appropriate partners, have concurred with the decision.

FDNS officers and field and headquarters adjudications staff work together to combat fraud and maintain vigilance over national security and public safety matters, both at the local asylum offices and at the national level. Asylum Division headquarters staff coordinate fraud prevention and national security efforts at a national level with their counterparts at FDNS headquarters as well as with FDNS officers and other asylum office staff in the field.

Government-Funded Interpreters: The Asylum Division has instituted, through September 12, 2023, the use of neutral, government-paid interpreters to interpret during affirmative asylum interviews for applicants who speak one of 47 languages identified in 8 C.F.R. 208.9(h). Prior to the implementation of the temporary final rule that permitted this practice, the Asylum Division was using neutral, government-funded interpreters only to monitor and ensure the accuracy of the interpretation of interpreters brought by applicants. Both practices act as a strong deterrent to asylum fraud.

Information Sharing with Certain Countries: Under a bilateral agreement between the United States and Canada, and a Secretary-level waiver of asylum confidentiality to allow this sharing, both countries are authorized to share information with each other on asylum applicants. USCIS now exchanges information with Canada on individual asylum applications, where warranted, to confirm aspects of the claim and to follow leads on criminal histories. Additionally, USCIS has a similar program for the systematic exchange of biometric information on asylum seekers with the United Kingdom, Australia, and New Zealand. The results of these programs have shown that information sharing with other countries helps preserve the integrity of each nation's

respective asylum programs by expanding the sources of information available regarding asylum applicants, their identities, backgrounds, and prior immigration histories.

IV. Conclusion

Given the size of the affirmative asylum backlog, asylum offices must engage in a sustained, multi-year effort to significantly reduce and ultimately eliminate the current backlog. USCIS's long-term plans focus on maintaining the current high level of staffing and prioritizing information technology investments based on the potential to promote more efficient processing of applications and use of staff time. USCIS's planned facility growth and staffing is expected to provide the capacity to fully administer the affirmative asylum program. However, lingering effects of budget constraints continue to affect both the development of new facilities and the ability to operationalize full program capacity. Nonetheless, USCIS is continuing to move forward on implementing numerous efficiencies to improve current processing while maintaining and enhancing program integrity.

V.   Appendix: Abbreviations

Abbreviation	Definition
AMI	Asylum Merits Interview
ASC	Application Support Center
CAT	Convention Against Torture
CDC	Centers for Disease Control and Prevention
COVID-19	Coronavirus Disease 2019
C.F.R.	Code of Federal Regulations
DHS	Department of Homeland Security
DOD	Department of Defense
DOJ	Department of Justice
DOS	Department of State
EAD	Employment Authorization Document
EOIR	Executive Office for Immigration Review
FDNS	Fraud Detection and National Security
FIFO	First In, First Out
FY	Fiscal Year
IEFA	Immigration Examinations Fee Account
LAP	Lease Acquisition Program
LIFO	Last In, First Out
MPP	Migrant Protection Protocol
OAW	Operation Allies Welcome
SAM	Staffing Allocation Model
USCIS	U.S. Citizenship and Immigration Services