



USCIS Data on Application and Petition Processing Times: Inaccurate, Outdated, and Opaque

Each year, U.S. Citizenship and Immigration Services (USCIS) adjudicates or processes millions of petitions and applications (hereafter “filings”) for immigration benefits such as temporary and permanent visa classifications, adjustment of status to permanent residence (for a green card), work authorization, and naturalization. Depending on the filing type, adjudication may occur at more than 100 locations, including the National Benefits Center, five service centers, more than 80 field offices, 26 international operations offices, or several other locations.¹ Unfortunately, many adjudications are backlogged or delayed, and a lack of reliable data published by USCIS on processing times creates more confusion. This fact sheet provides an overview of how USCIS calculates processing times, concerns about the published data, and how backlogs negatively impact people trying to move through the process.

Adjudication backlogs are more than just an inconvenience. In many cases, they have serious, far-reaching repercussions on the lives of individuals and U.S. businesses. Those who file with USCIS or could be affected by the application—employers, individuals and their family members, and attorneys—have a strong interest in knowing where their filings are and how long it will take to complete the process.

As a result of delays, individuals can lose jobs and benefits, such as health care, leaving them in financial jeopardy. They may be forced to delay or cancel employment opportunities. They may have to postpone or cancel travel plans and miss important events. Without valid employment authorization, individuals may not be able to renew their driver’s licenses, making it difficult to get to work and take care of a family. For employers, adjudication delays can lead to missed hiring opportunities and significant resource expenditures. Businesses may not be able to hire new or retain existing employees due to the backlog, forcing them to use additional resources to hire and train replacements for those who could not continue to work.

Compounding matters is the lack of accurate, reliable, and published data regarding current processing times. USCIS regularly provides information about processing times—for particular filings and by location—on its website. However, the way USCIS calculates processing times is inaccurate, outdated, and opaque. As a result, there is a great deal of confusion, and inquiries about individual filings tie up USCIS’ customer service center, the office of the Ombudsman, and Congressional offices.

How does USCIS calculate processing times?

USCIS’ Office of Performance and Quality (OPQ) regularly calculates processing times—also referred to as cycle times—and posts them on the USCIS website.² Processing times are given for each location and by filing type (but not all types of filings are listed). However, these posted processing times “are not a direct representation of the actual processing time for a given form in the month reported.”³ They are estimates based on a calculation that takes into account the number of cases pending and the monthly completion rate for the most recent month.⁴

Each month, USCIS calculates the cycle time for a particular filing type by taking the total number of pending cases at the end of the reporting month (beginning balance plus monthly receipts minus monthly completions) and dividing by the number of completions during the reporting month. The cycle times are then reviewed by the responsible offices to ensure accuracy and remove statistical anomalies.⁵ Table 1 provides sample cycle time data using this calculation.

Table 1: Examples of USCIS Cycle Times

Month	Beginning pending balance	Monthly receipts	Monthly completions	End of month pending balance	Cycle time in months
April	2,250	500	750	2,000	4.0
March	2,250	500	500	2,250	4.5
February	2,000	500	250	2,250	4.5
January	2,000	500	500	2,000	4.0

The processing time information USCIS provides is not listed in terms of months as shown in Table 1. Instead, the processing time will either be presented as the processing time goal or as a date, depending on whether or not the agency is meeting its processing time goal.⁶

- By processing time goal:** USCIS has established processing time goals for various filing types. Some goals—such as the 30 day processing time for Form I-129L, Petition for Nonimmigrant Managers and Executives⁷—are established by statute.⁸ Others—like the five month goal for Form N-400, Application for Naturalization—have been publicly announced. A complete list of these goals has not been made publicly available, and USCIS’s methodology for calculating goals is unknown. However, if the particular office is meeting or exceeding its processing time goal, USCIS’ chart will list the processing time goal, in months. For example, if the processing time goal for N-400s is five months and applications are being processed in five months or less, processing time will be listed as five months.

- **By date:** If the office is not meeting its goal, the chart lists the date of the last filing the office worked on when the data was sent to OPQ. The date listed reflects when the receipt notice was generated, which might be slightly later than the date the filing was physically received.

Table 2: Example USCIS Processing Time information for the California Service Center with information “as of” November 30, 2015

Form	Form Name	Processing Time	What does this mean?
I-485	Application to Register Permanent Residence or to Adjust Status	4 months	As of November 30, 2015, the service center is processing some I-485s within the 4 month processing time goal. This does NOT mean that all cases have been adjudicated within the 4 month goal.*
I-539	Application to Extend/Change Nonimmigrant Status (Extension of Stay for J Exchange Visitors)	August 12, 2015	As of November 30, 2015, the service center processed an I-539 for extension to stay in the U.S. in J status with a receipt notice date of August 12, 2015. This does NOT mean that all cases received before August 12, 2015 have been adjudicated.*

* USCIS does not publish information on the percentage of applications/petitions actually adjudicated within the published processing times.

Source: U.S. Citizenship and Immigration Services, “USCIS Processing Time Information for the California Processing Center,” January 13, 2016, AILA Doc. No. 16011301.

Problems with current system for calculating processing times

- **Processing time information is out of date.** Unfortunately, there is a delay between when the offices send their updates to OPQ and when OPQ publishes the processing times. Each office has 10 working days after the end of every month to send its processing time information to OPQ, after which OPQ works with individual offices to review the data and to aggregate and publish the cycle time tables.⁹ USCIS reported that it takes an average of 45 days to receive and process the data from the offices, which means 75 days pass between the first day of the performance month and publication. Data for the month of March, for example, will be sent to OPQ in mid-April and will be published mid-May (about 45 days after the end of March and 75 days from March 1).¹⁰ In Fiscal Year 2016, OPQ published a table on May 12, 2016 using data “as of” March 31, 2016. By using this process, information is already out of date the moment it is published. Priorities and workloads can shift substantially between the times the data is gathered and published, making it difficult to know whether the posted processing times are relevant to currently pending applications.
- **Actual processing times are longer than those published.** Lawyers who regularly appear before the immigration agencies have noted that the processing time reports do not reflect actual processing times. For example, a letter from the American Immigration Lawyers Association (AILA) to USCIS Director Leon Rodriguez in March 2016 noted that while published processing times for the California Service Center claimed that O and P petitions were being processed in two weeks, AILA members reported that these petitions were taking between 8 and 10 weeks to adjudicate.¹¹
- **USCIS does not post processing times for all types of applications.** For example, there are no published processing times for applications and petitions returned to USCIS from foreign consulates, Forms I-601 (application for waiver of grounds of inadmissibility) that are adjudicated at field offices, or Forms I-290B (notice of appeal or motion).
- **Processing times do not reflect delays due to Requests for Evidence.** A Request for Evidence (RFE) is sent to the petitioner or applicant if the USCIS adjudicator believes the filing is not complete or does not adequately demonstrate eligibility for the immigration benefit.¹² An RFE can result in lengthy processing delays because the RFE recipient has to determine what additional information is needed, gather more documentation, and submit it to USCIS. Recipients have 30 days to respond to an initial RFE and 87 days if the RFE is seeking additional evidence.¹³ USCIS states that time to respond to RFEs is included in cycle time calculations, but the agency cannot differentiate between cases with and without RFEs.¹⁴
- **Processing times do not reflect the reality of multi-step adjudications.** Some adjudications require multiple steps. For example, in the case of a foreign national applying for an employment-based green card, an employer must file an I-140 Immigration Petition for Alien Worker and the worker must also submit a Form I-485 to adjust status to permanent residence, if a visa number is immediately available. These processing times are sequential; USCIS adjudicates the I-140 first and then the I-485. An individual checking a case’s status must add both processing times together to get a rough estimate of how long processing will take to complete.

- **Individuals cannot always appeal to USCIS for help.** The National Customer Service Center (NCSC) provides “nationwide assistance by telephone to customers calling from within the United States about immigration Services and Benefits,” including assistance on pending filings.¹⁵ NCSC operators will only take a service request if the case is not outside of the processing times NCSC operators reference, even if the case is outside of USCIS’ published processing times.¹⁶ NCSC relies on current posted processing time data, not the processing times posted at the time the filing was submitted.¹⁷ As a result, customers and NCSC may not agree on whether a filing is taking longer than the posted processing times. Petitioners, applicants, and their attorneys must have a documented service request in order to utilize the system that USCIS established for bringing a long-pending case to the attention of the relevant office.
- For long-pending cases at a USCIS Field Office, customers or their attorneys may also schedule an in-person appointment through USCIS InfoPass to get more information.¹⁸ However, the system can only display available appointment times for a 14-day range, and sometimes no appointments are available.
- **Frustrated customers go elsewhere for assistance.** When USCIS customers cannot get the information they need from NCSC, they must put professional, travel, and personal plans on hold. They may also enlist the help of their Member of Congress, which means increased workloads for congressional case workers.

USCIS “Transformation” to electronic system is unlikely to resolve issues

After receiving concerns from the office of the Ombudsman in 2014, USCIS convened a working group to consider new approaches to calculating case processing times. However, USCIS stated that it would not be making changes in the short-term.¹⁹ USCIS expects that once the “transformation” from paper-based adjudications to an electronic system is completed,²⁰ the agency should be able to provide more accurate and up-to-date processing time information.²¹ However, the Government Accountability Office (GAO) has found that there has been little movement on the Transformation Program to date.²² In March 2016, the DHS Office of Inspector General found that the program was “deeply troubled,” and has “wasted hundreds of millions of dollars.”²³

Conclusion

Immigration benefit processing delays mean that businesses have trouble securing the workers they need and foreign nationals and their families may face separations and financial hardships. USCIS’ inaccurate and unreliable posted processing times exacerbate these problems, and put a greater burden on the Office of the Ombudsman, Members of Congress, and others who are asked to resolve processing delays. USCIS must commit to being more transparent, addressing its backlogs and delays, and restructuring the way it calculates processing times. This is particularly important since the agency is planning to raise its fees again, and will need to justify why it is charging higher fees while the information and services it provides remain unreliable.²⁴ These improvements would have a very positive impact on the integrity of the agency as well as on the U.S. economy, foreign workers, and their employers.

Endnotes

1. U.S. Citizenship and Immigration Services (USCIS), "Processing Time Information," accessed August 11, 2016, <https://egov.uscis.gov/cris/processTimesDisplayNit.do;jsessionid=bacXD1OC9RCyFagONRyeu>. The Potomac Service Center adjudicates certain filings, but is not listed on USCIS' Processing Time webpage. See USCIS, "Potomac Service Center Now Processing Certain Form I-765 Cases," last updated March 18, 2016, <https://www.uscis.gov/news/potomac-service-center-now-processing-certain-form-i-765-cases>.
2. U.S. Citizenship and Immigration Services Ombudsman, "USCIS Processing Times Teleconference Recap," last published June 28, 2016, <https://www.dhs.gov/uscis-processing-times-teleconference-recap#>.
3. U.S. Citizenship and Immigration Services Ombudsman, *Annual Report to Congress June 2016*, (Washington, DC: U.S. Department of Homeland Security, 2016), 32, https://www.dhs.gov/sites/default/files/publications/CISOMB%20Annual%20Report%202016_0.pdf.
4. Ibid.
5. Ibid.
6. U.S. Citizenship and Immigration Services Ombudsman, "USCIS Processing Times Teleconference Recap," last published June 28, 2016, <https://www.dhs.gov/uscis-processing-times-teleconference-recap#>.
7. INA §214(c)(2)(C)
8. U.S. Citizenship and Immigration Services Ombudsman, *Annual Report to Congress June 2016*, (Washington, DC: U.S. Department of Homeland Security, 2016), 32, https://www.dhs.gov/sites/default/files/publications/CISOMB%20Annual%20Report%202016_0.pdf.
9. U.S. Citizenship and Immigration Services Ombudsman, "USCIS Processing Times Teleconference Recap," last published June 28, 2016, <https://www.dhs.gov/uscis-processing-times-teleconference-recap#>.
10. Ibid.
11. American Immigration Lawyers Association, "Letter to Leon Rodriguez Re: USCIS Processing Times on Applications and Petitions for Immigration Benefits," March 11, 2016, AILA Doc. No. 16031103.
12. 8 CFR §103.2(b)(8)
13. U.S. Citizenship and Immigration Services Ombudsman, "USCIS Processing Times Teleconference Recap," last published June 28, 2016, <https://www.dhs.gov/uscis-processing-times-teleconference-recap#>.
14. Ibid.
15. U.S. Citizenship and Immigration Services, "National Customer Service Center," last updated May 13, 2015, <https://www.uscis.gov/about-us/contact-us/national-customer-service-center>.
16. American Immigration Lawyers Association, "Letter to Leon Rodriguez Re: USCIS Processing Times on Applications and Petitions for Immigration Benefits," March 11, 2016, AILA Doc. No. 16031103.
17. U.S. Citizenship and Immigration Services Ombudsman, "USCIS Processing Times Teleconference Recap," last published June 28, 2016, <https://www.dhs.gov/uscis-processing-times-teleconference-recap#>.
18. U.S. Citizenship and Immigration Services, "InfoPass: Schedule an Appointment," accessed August 11, 2016, <https://my.uscis.gov/appointment>.
19. U.S. Citizenship and Immigration Services Ombudsman, *Annual Report to Congress June 2016*, (Washington, DC: U.S. Department of Homeland Security, 2016), 86, https://www.dhs.gov/sites/default/files/publications/CISOMB%20Annual%20Report%202016_0.pdf.
20. ²⁰ In November 2005, USCIS initiated the Transformation Program to transition from its paper-based application, processing, and adjudication system to a new electronic system. The key component of the Transformation Program is the USCIS Electronic Immigration System (ELIS) which will provide online case management to support automatic adjudication of immigration benefits. See U.S. Citizenship and Immigration Services, "Office of Transformation Coordination," last updated October 1, 2012, <https://www.uscis.gov/about-us/directorates-and-program-offices/office-transformation-coordination>; U.S. Department of Homeland Security, Office of the Inspector General, "USCIS Automation of Immigration Benefits Remains Ineffective," OIG-16-48, March 9, 2016, <https://www.oig.dhs.gov/assets/Mgmt/2016/OIG-16-48-Mar16.pdf>.
21. U.S. Citizenship and Immigration Services Ombudsman, *Annual Report to Congress June 2016*, (Washington, DC: U.S. Department of Homeland Security, 2016), 86, https://www.dhs.gov/sites/default/files/publications/CISOMB%20Annual%20Report%202016_0.pdf.
22. U.S. Government Accountability Office, "Immigration Benefits System: Better Informed Decision Making Needed on Transformation Program," GAO-15-415, May 2015, <http://www.gao.gov/assets/680/670259.pdf>.
23. U.S. Department of Homeland Security, Office of the Inspector General, "USCIS Automation of Immigration Benefits Remains Ineffective," OIG-16-48, March 9, 2016, <https://www.oig.dhs.gov/assets/Mgmt/2016/OIG-16-48-Mar16.pdf>.
24. 81 Fed. Reg. 26904 (May 4, 2016).