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THE CHALLENGE OF IMMIGRATION PROCESSING AND EXECUTIVE ACTION

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EXECUTIVE SUMMARY

The U.S. Court of Appeals in New Orleans has ruled against the Obama Administration and will allow an injunction against its executive action program to continue. Analysis and an examination of government documents finds if court action eventually allows President Obama's executive action to proceed, then unfortunately it is likely to result in delays for individuals and employers with legal immigrant or temporary visa applications.

The only way U.S. Citizenship and Immigration Services (USCIS) can guarantee avoiding delays for legal immigration applications is to not shift experienced personnel away from current duties and product lines to administer applications for the new Deferred Action for Parents of Americans and Legal Permanent Residents (DAPA) or the expanded Deferred Action for Childhood Arrivals (DACA) program. The Administration can avoid the problems if before processing applications under the new DAPA program it allowed a long lead time of at least several months to hire and train sufficient personnel dedicated solely to adjudicating and administering the new program's applications. However, that may not be politically possible, since it would create long delays for those filing for deferred action under the President's executive action. It is more likely the desire to move quickly after a successful court resolution or an end to the injunction, the short amount of time to hire and train personnel, and the challenge of adjudicating a large influx of new applications will prevent USCIS from processing both new and existing applications without delays.

In February 2015, in response to a lawsuit from 26 states, U.S. District Judge Andrew Hanen issued an injunction that blocked the Obama Administration from planning or processing applications under an expanded version of DACA or a new program, Deferred Action for Parents of Americans and Legal Permanent Residents (DAPA). On April 17, the Fifth Circuit court in New Orleans held a hearing on the Administration's motion to lift the injunction. On May 26, the Fifth Circuit ruled 2-1 against lifting the injunction.

The analysis in this report poses the question: What is likely to happen to immigration processing if the Obama Administration (or a succeeding Administration) eventually prevails in court, either by a lifting of the injunction or by winning on the merits of the case at the District Court level or higher?

In 2012 and 2013, after President Obama announced the Deferred Action for Childhood Arrivals (DACA) program, the sudden influx of applications caused significant processing delays when finite resources, most importantly personnel, were stretched too thin. After the announcement of DACA in June 2012, the time for U.S. Citizenship and Immigration Services (USCIS) to process an I-130 petition for an alien relative increased from 5 months in June 2012 to 11 months by October 2013. The near doubling in the wait time for a spouse, parent or child under 21 of a

U.S. citizen happened because of limited resources to deal with both new applications for DACA and the existing flow of cases. The number of I-130 petitions for an alien relative "pending" (i.e., received but not adjudicated) increased from 82,496 to 1.9 million between the third quarter of FY 2012 and June 2013. USCIS blamed the long delays on "unforeseen general deficiencies within the local employment market" in Missouri, the site of a key service center for processing applications (the unemployment rate was above 8 percent in June 2012 and is now below 6 percent, indicating hiring new personnel will be more difficult today).

The executive action announced by President Obama in November 2014 may result in a caseload 3 to 7 times larger than the caseload from the DACA program that started in 2012 – 2 to 4 million applicants vs. the 610,375 initial DACA applications that USCIS approved by the end of FY 2014.

USCIS could shift experienced adjudicators to DAPA and attempt to "backfill" positions for processing legal and business applications with new hires. But given the time constraints and resource limitations it appears this will be difficult to do without causing delays.

Using private sector contract workers for certain functions will help but cannot address all the challenges. Only trained government personnel, not contractors, can perform adjudications. Moreover, while the private sector can hire workers more quickly than the federal government, a two-month timeframe, for example, to hire, train and gain security clearances for workers from the USCIS Office of Security and Integrity is challenging. Yet USCIS intended to implement such a two-month timeframe prior to the District Court injunction. A January 2015 solicitation to hire hundreds of additional contract workers stated, "USCIS intends to award a contract from this solicitation in March 2015 in order to provide the awardee time to hire, train, and process security clearances; and for full performance to commence on May 19, 2015."

The analysis in this report finds problems occur when government fees, which are not received until applications are filed, fail to cover the costs of unanticipated agency structural needs to process a large increase in applications, such as increased personnel, equipment or facilities. The sponsors of S. 744, a bill that passed the U.S. Senate in 2013, sought to avoid that problem by providing "startup costs" to cover key expenses ahead of an influx of applications. That option is not available with President Obama's executive action, since Congress is unlikely to appropriate such funds given the controversy over the President's November 20, 2014 action.

In its January 2015 contract solicitation, U.S. Citizenship and Immigration Services stated it expected only half of those eligible for DAPA – 2 million of the 4 million eligible – may apply for benefits. That figure has not appeared in other Administration pronouncements on executive action. USCIS estimated each applicant would file two to three

applications (Request for Consideration of Deferred Action, Employment Authorization and Advance Parole), for a total of 5 to 6 million forms that must be processed.

Among the findings of this analysis:

- With potentially 2 to 4 million new applicants, the executive action announced by President Obama in November 2014 may result in a caseload 3 to 7 times larger than the number of cases from the DACA program that started in 2012. (As of the end of FY 2014, USCIS had approved 610,375 initial DACA applications.) USCIS planned a startup time of 3 months for the expansion of DACA (removing the current age cap for the deferred action program) and 6 months for the unauthorized immigrant parents of U.S. citizens and lawful permanent residents. That is only somewhat longer than the 2 months given before the start of DACA in 2012.

- While in 2012 and 2013 petitions for alien relatives were delayed, in the future processing delays could happen in any legal immigrant or temporary visa categories. That is because without a sufficient lead-time to hire personnel and train workers an agency such as USCIS can become overwhelmed by an increased workload. In short, not enough hands for too many cases.

- Based on an analysis of previously undisclosed documents obtained from USCIS, the agency may need to hire and train potentially 3,300 to 5,000 new people in a short period of time to deal with applications related to executive action. (That does not include hiring required due to normal attrition.) In response to a Congressional inquiry, USCIS conceded it would likely need to hire at least 3,100 new employees. The hiring challenge is compounded by a lack of time, since it is likely the Obama Administration would seek to start the flow of new applications for the DACA expansion and new DAPA program in the shortest possible timeframe, even though to date it has only hired two new employees to deal with the new applications due to the District Court injunction.

- Based on the expected number of applicants and the application fees, USCIS could collect between $760 million and $1.5 billion in fees for DAPA. One problem is the agency will not have access to that money upfront – only after people apply, although the agency has stated it has other funds available to use for the new program while awaiting the new fee money. Still, sufficient time to complete the hiring and contracting that would permit processing these new applications without affecting other applications from employers and legally present individuals in the United States seems unlikely.

- S. 744, which passed the U.S. Senate in 2013, contained a $3 billion "startup" fund for the Department of Homeland Security (which includes USCIS) and $1 billion for other cabinet departments that could fund important infrastructure needs such as hiring and facilities and be paid back to the U.S. Treasury as application fees arrive (at no cost to taxpayers).

- The analysis finds that plausible legislative scenarios that include legalization would confront many of the processing challenges posed by the President's execution action but could be addressed by including a startup fund similar to S.744.

- Beyond the immediate processing dilemmas posed by executive action, USCIS should modernize and streamline where possible, including by implementing ideas received from stakeholders in a recent Request for Information.

When (and if) a favorable court ruling occurs, it seems unlikely the Obama Administration can hire and train the needed personnel quickly enough to process new applications for the Deferred Action for Parents of Americans and Lawful Permanent Residents program without having a negative impact on other immigration filings. Therefore, those who apply for legal immigrant or temporary visas may see their applications delayed. Having undertaken executive action and the significant challenges of its implementation, the Administration should do all within its power to minimize the damage to individuals and employers applying through the legal immigration system.

INTRODUCTION

"Inefficient immigration processes coupled with the growing need to obtain visas for foreign talent has resulted in a majority of respondents' dissatisfaction with the U.S. immigration system," according to a 2014 survey of U.S. multinational companies.[1] The survey found the U.S. government already takes nearly 5 times longer to complete the H-1B process than government estimates, while the employment-based green card process takes even longer.[2] In short, government processing of immigration benefits is already costly and time-consuming for individuals and employers – and the situation may soon worsen.

"There is no such thing as a free lunch," the late Nobel Prize winning economist Milton Friedman used to say. While many support enacting changes to America's immigration system, advocates for reform recognize that reforms will come with costs. Good planning and an understanding of those costs and the resources needed to cover those costs are essential to the success of any immigration reform.

The goal of this analysis was to estimate the resources U.S. Citizenship and Immigration Services (USCIS) needs in the event of legislative or administrative reforms to the immigration system. The estimates would measure the resources to allow USCIS to continue processing cases already in the system, along with new cases, if reforms resulted in a significant increase in caseloads. An additional goal was to determine if legislation could ensure USCIS has sufficient funds to prepare for any increased caseload that would accompany immigration reform.

The first step in the analysis was to establish estimates for the number of new cases under President Obama's executive action. This was done by examining the details of the executive action and utilizing the best available information on those in the country in unauthorized immigrant status.

The second step in the research was to evaluate the likely resources needed for USCIS in the event of an increased workload. To evaluate the necessary resources it was useful to examine government documents and identify the likely additional costs associated with an increased caseload. The analysis uses USCIS documents on the costs of processing cases for Deferred Action for Childhood Arrivals. It also utilizes statements issued by the Obama Administration to explain its implementation of executive action.

The third step was to identify plausible legislative scenarios and estimate their impact on immigration caseloads. If Congress were to appropriate additional funds in anticipation of the additional processing that results from legislation, then the impact of legislative reforms could differ from administrative changes made through executive

[1] Roy Maurer, "Immigration Process Delays Hurt Business," Society for Human Resource Management, November 24, 2014.
[2] "Employer Immigration Metrics: 2014 Survey Results," Council for Global Immigration, November 2014.

action, which must rely on fees paid at the time applications are received. In fact, one of the key findings of the analysis is that money to fund "startup" costs for any major increase in caseload can be crucial to prevent long processing delays. That is the case even when an agency pays back to the U.S. Treasury such startup costs for personnel and facilities once applications fees are received.

BACKGROUND

Maintaining sufficient resources to process immigration benefits in a timely manner is not a theoretical issue. "Eighty-six percent of respondents – and 100 percent of employers with at least 20,000 full-time equivalent employees – reported that the ability to obtain visas in a timely, predictable and flexible manner is critical to their organization's business objectives," according to a recent survey.[3]

Unlike most other government functions, fees, rather than appropriations, cover the cost of benefits processing for immigrants, foreign nationals and U.S. sponsors. Typically the recipient of the benefit, such as a permanent resident (green card holder) applying for naturalization, pays the fee. In the case of an employer-sponsored green card, the employer would typically pay the government fees and other costs.

Problems can occur when fees do not cover costs or fail to allow for unanticipated agency structural needs, such as increased personnel, equipment or facilities. This is likely what happened in the case of DACA applications in 2012 and 2013, when a sudden influx of applications resulted in finite resources, most importantly personnel, being stretched too thin.

Matching the policy with the necessary resources prevents long delays in immigration processing. Otherwise, the burden falls on individuals and employers who pay a significant business or personal cost due to the delays. The challenge of processing one type of application when the workload rises for another application became apparent in 2012.

In June 2012, President Barack Obama announced the Deferred Action for Childhood Arrivals program. The goal of the program was to allow unauthorized immigrants who came to America as children to receive work authorization and temporary protection from deportation. The administrative action responded, in part, to a lack of legislative support at that time to pass the DREAM Act, a bill which would have granted lawful permanent residence to primarily the same group of beneficiaries targeted in the initial DACA program.

[3] Ibid.

The Challenge of Immigration Processing and Executive Action

While supporters of DACA have not complained about its administration, problems arose for other immigration benefits due mainly to U.S. Citizenship and Immigration Services personnel switching to work on DACA cases. "After Mr. Obama announced the deferral program, known as Deferred Action for Childhood Arrivals, in 2012, he gave Citizenship and Immigration Services only two months to get it running. Agency officials scrambled," reported the *New York Times*.[4]

It is estimated U.S. Citizenship and Immigration Services, which became the immigration benefits part of the old Immigration and Naturalization Service in 2003, processed in excess of 2,000 DACA applications daily. "The agency drew rare praise from immigrants and advocates for the efficiency of the program, which is highly popular among Latinos. It has been widely regarded as a successful dress rehearsal for a larger legalization," according to the *New York Times*. "But soon after the deferrals were underway, Americans with green card applications felt the impact."[5]

The problems were most felt by the "immediate relatives" of U.S. citizens, a category that includes the spouses and minor children of Americans. As the *New York Times* reported: "Until recently, an American could obtain a green card for a spouse, child or parent — probably the easiest document in the immigration system — in five months or less. But over the past year, waits for approvals of those resident visas stretched to 15 months, and more than 500,000 applications became stuck in the pipeline, playing havoc with international moves and children's schools and keeping families apart."[6]

The reason for the extended delays have now become clear. "An immigration service center near Kansas City assigned to handle both the green card applications and many of the deferrals was rapidly overwhelmed, officials said. But although the agency is financed by fees and does not depend on congressional appropriations, no new employees were brought on at that center, because of 'unanticipated hiring difficulties,' officials said, without elaborating."[7]

President Obama announced DACA in June 2012. USCIS processing times, available on the agency's website, indicate the time for processing an I-130 petition for an alien relative increased from 5 months in June 2012 to 11 months in October 2013.[8] Responding to the problem, USCIS issued the following notice in October 2013: "USCIS is experiencing delays in adjudicating Form I-130, Petition of Alien Relative, filed by U.S. citizens for their qualifying immediate relatives. To facilitate timelier processing, USCIS is transferring immediate relative petitions from the National Benefits Center to the Nebraska, Texas and California Service Centers."[9]

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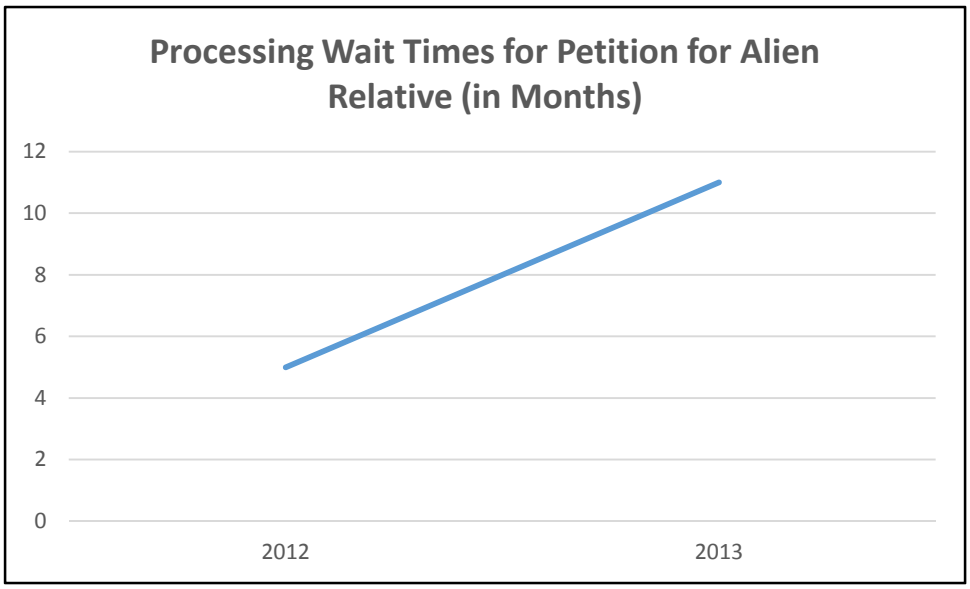
[4] Julia Preston, "Program Benefiting Some Immigrants Extends Visa Wait for Others," *The New York Times*, February 8, 2014.
[5] Ibid.
[6] Ibid.
[7] Ibid.
[8] Analysis of USCIS documents on processing times.
[9] "Supplement to I-130 Transfer Notice Issued by NBC, U.S. Citizenship and Immigration Services, October 21, 2013.

Figure 1



Source: U.S. Citizenship and Immigration Services.

USCIS data show the number of I-130 petitions for an alien relative listed as "pending" (i.e., received but not adjudicated) increased from 82,496 to 1.9 million between the third quarter of FY 2012 and June 2013.[10] The near doubling in the wait time for a spouse, parent or child under 21 of a U.S. citizen and the increase in pending I-130 petitions happened because of limited resources to deal with both new applications for DACA and the existing flow of cases. As discussed in the next section, the executive action announced by President Obama in November 2014 may result in a caseload 3 to 7 times larger than the caseload from the DACA program that started in 2012 – an estimated 2 to 4 million cases vs. the 610,375 initial DACA applications that USCIS approved by the end of FY 2014.

While in 2012 and 2013 petitions for alien relatives were delayed, in the future it could happen in any or multiple legal immigrant or temporary visa categories. That is because without a long lead-time to hire and train workers an agency such as USCIS can become overwhelmed by an increased workload.[11]

[10] Data Set: Form I-130 Petition for Alien Relative, USCIS. http://www.uscis.gov/tools/reports-studies/data-set-form-i-130-petition-alien-relative. See also Testimony of Luke Peter Bellocchi before the U.S. Senate Homeland Security and Government Affairs Committee, "Defference Action on Immigration: Implications and Unanswered Questions, Feburary 4, 2015.
[11] For example, filings for H-1B petitions for FY 2016 started on April 1, 2015, in the middle of what would have been preparations for DAPA if not for the court injunction.

USCIS concedes the delays occurred but blames them on "unforeseen general deficiencies within the local employment market" in Missouri. "In preparing for the implementation of the original DACA policy, USCIS decided to reassign Form I-130 Immediate Relative (IR) casework pending in the Service Centers to the National Benefits Center (NBC) in Lee's Summit, Missouri," according to a USCIS response to a Congressional inquiry. "This was done in an effort to create immediate capacity within the Service Centers to prepare for an anticipated surge in DACA filings once the filing period opened. However, the NBC experienced hiring difficulties that led to the development of backlogs for this product line as a result of unforeseen general deficiencies within the local employment market."[12] It is worth noting the U.S. unemployment rate was above 8 percent in the summer of 2012 and is now below 6 percent, indicating hiring new workers will be more difficult than three years ago.

POTENTIAL IMPACT OF EXECUTIVE ACTION ON PROCESSING

On November 20, 2014, President Obama announced the "Immigration Accountability Executive Action," which most people refer to as "executive action." According to the White House, "The President's Immigration Accountability Executive Actions will help secure the border, hold nearly 5 million undocumented immigrants accountable, and ensure that everyone plays by the same rules."[13]

While the President announced several measures, the most important ones for the purpose of this analysis are those that would allow unauthorized immigrants to gain deferred action and work authorization, which requires U.S. Citizenship and Immigration Services to adjudicate additional applications. Here are the two central elements of the President's executive action:

- Under the Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA), "DHS is establishing a new deferred action program for parents of U.S. Citizens or LPRs (lawful permanent residents) who are not enforcement priorities and have been in the country for more than 5 years," according to the White House.[14] "Individuals will have the opportunity to request temporary relief from deportation and work authorization for three years at a time if they come forward and register, submit biometric data, pass background checks, pay fees, and show that their child was born before the date of this announcement."[15]

[12] USCIS Responses to Questions in the January 22, 2015 Letter from Senators Grassley, Johnson, and Sessions.
[13] Fact Sheet: Immigration Accountability Executive Action, The White House, Office of the Press Secretary, November 20, 2014.
[14] Ibid.
[15] Ibid.

- Expansion of DACA – "DHS is expanding DACA so that individuals who were brought to this country as children can apply if they entered before January 1, 2010, regardless of how old they are today. Going forward, DACA relief will also be granted for three years."[16]

To analyze the impact of these policy changes it is necessary to estimate the total number of new applicants this policy will inject into the system. Utilizing Census data, a reasonable estimate comes from the Pew Research Center, which concludes, "President Obama's new programs could affect about 4 million total unauthorized immigrants who will be eligible for deportation protection and a three-year work permit." It notes, "The largest group – at least 3.5 million, according to Pew Research estimates of 2012 data – consists of unauthorized immigrant parents who have lived in the U.S. for at least five years and have children who either were born in the U.S. or are legal permanent residents." According to Pew Research, approximately 2.8 million of the 3.5 million are the parents of children under 18 and the other 700,000 are 18 years or older.[17]

In addition, expanding the Deferred Action for Childhood Arrivals program to those older than age 30 "would allow an additional 330,000 people, according to our estimates, to apply for and receive temporary deportation relief."[18]

The Obama Administration believes that an additional 500,000 people may be eligible beyond those identified by the Pew Research Center. "In some cases, the Obama administration's estimates of how many would be affected differ from those calculated by Pew Research," the organization's analysts note. "For example, the government estimates that more than 4 million parents of U.S. citizen children or legal permanent residents could apply for relief compared with our 3.5 million figure. One possible difference is that the data Pew Research uses only includes parents who live with their children."[19] It appears the Obama Administration's figure of "nearly 5 million" individuals eligible for deferred action includes the 610,375 individuals already approved under the initial DACA program as of October 2014, according to USCIS.[20] (See "Total Cumulative Initial" approvals in Table 6.)

In sum, it is likely more than 4 million people are eligible for relief under President Obama's executive action. However, in a January 23, 2015 contract solicitation, USCIS estimated the number of individuals who would actually *apply* for DAPA at 2 million. "The population of potential requestors who may be considered for deferred action consistent with the guidelines announced by the Secretary is expected to be approximately four million people, according to the USCIS document. "Based on estimated projected filing rates for the eligible population, USCIS

[16] Ibid.
[17] Jens Manuel Krogstad and Jeffrey S. Passel, "Those from Mexico will benefit most from Obama's executive action," Pew Research Center, November 20, 2014.
[18] Ibid.
[19] Ibid.
[20] U.S. Citizenship and Immigration Services. Despite requests for clarification on the numbers, the Obama Administration would not provide any additional information on the substance of its "nearly 5 million" estimate.

anticipates the initial filing of approximately five to six million forms related to the deferred action for parents of U.S. citizens and lawful permanent residents. *For example, at a fifty percent filing rate among the eligible population, approximately two million Forms I-821P and two million Forms I-765 may be filed, along with an additional one to two million Forms I-131*."[21] The three applications cited in the contract solicitation are Request for Consideration of Deferred Action (I-821P), Employment Authorization (I-765) and Advance Parole (I-131).

PROCESSING COSTS

Documents obtained from U.S. Citizenship and Immigration Services provide insight into the costs incurred by the agency in FY 2012, FY 2013 and FY 2014. Table 1 describes the volume of applications, over 900,000, including renewals, between the last quarter of FY 2012, when DACA started, and the end of FY 2014. It also shows over $130 million in spending related to DACA in FY 2013 and FY 2014, which was funded by fees received as applications arrived. As USCIS notes, "These figures only include the costs that USCIS is able to specifically assign and track to the DACA program, and do not include general overhead expenses, management and oversight, or customer service activities that are not specifically assigned to the DACA program, but provide support."[22]

Table 1
DACA Volumes, Obligations and Unit Cost of Tracked Activity

	Request Volume*	Obligations**	Unit Cost of Tracked Activity
FY 2012	152,420	$ 15,424,195	$101
FY 2013	427,602	$132,792,003	$311
FY 2014 (projected)	343,985	$132,338,141	$385
Totals	**924,007**	**$280,554,339**	**$304**

Data Source: USCIS Lockbox for FY 2012 and FY 2013, USCIS Volume Projection Committee (VPC) estimates for FY 2014.
*FY 2014 projections include DACA renewal requests due to the expiration of the two-year grant period. DACA recipients may file for renewal 5 months in advance of their grant expiration date. Volumes are based on filings of Form I-821D (Consideration of Deferred Action for Childhood Arrivals). Volumes exclude requests not accepted by the USCIS lockbox due to improper filing.
**Obligations include actual expenditures and funds encumbered for personnel, contracts, facilities, etc. These figures only include the costs that USCIS is able to specifically assign and track to the DACA program, and do not include general overhead expenses, management and oversight, or customer service activities that are not specifically assigned to the DACA program, but provide support.

One can see in Table 2 that with DACA announced in June 2012, U.S. Citizenship and Immigration Services did not have time to spend money on rent and facilities prior to September 30, 2012 (the end of FY 2012). One can also see that the projected $385 per unit cost in FY 2014 roughly matches the processing fee USCIS charges for

[21] HSSCCG-15-R-00011, Notice Type: Combined Synopsis/Solicitation, Synopsis: Added: Jan 23, 2015, 6:30 pm, "RECORDS SUPPORT SERVICES FOR DEFERRED ACTION FOR PARENTS OF CITIZENS AND LEGAL PERMANENT RESIDENTS (DAPA)," U.S. Citizenship and Immigration Services. Emphasis added.
[22] USCIS.

DACA – $380 processing fee plus $85 to pay for a "biometric services fee" (submitting fingerprints, etc.), for a total of $465.

Table 2
Deferred Action for Childhood Arrivals
FY 2012 Obligations

Cost Category	Actual FY 2012 Obligations
Employee Salary and Benefits	$ 503,664
Employee Overtime	$ 1,446,145
General Operating Expenses	$ 6,540,303
Contracts	$ 6,934,083
Rent/Facility Costs	
Total	**$15,424,195**

Source: U.S. Citizenship and Immigration Services

U.S. Citizenship and Immigration Services announced it will continue to charge a $380 processing fee (plus a separate "biometric services fee") in 2015 for those applying for DAPA or DACA. If one uses the 2 to 4 million estimate for applicants and multiplies that by the $380 fee that equals $760 million to $1.5 billion. Eventually U.S. Citizenship and Immigration Services will collect that money and it is possible over time economies of scale could emerge. The problem is the agency will not have access to that money upfront – only after people apply. By that time it is likely there will not be sufficient time to complete the hiring and contracting that would have permitted processing of these new applications without affecting other agency applications.

Prior to the injunction, USCIS planned to start accepting applications for the expansion of DACA on February 18, 2015 and applications under Deferred Action for Parents of Americans and Legal Permanent Residents (DAPA) May 19, 2015. Both would have been tight deadlines to meet considering the challenge of hiring new personnel.

Table 3
Deferred Action for Childhood Arrivals
FY 2013 Obligations

Cost Category	Actual FY 2013 Obligations
Employee Salary and Benefits	$ 52,432,529
Employee Overtime	$ 15,004,576
General Operating Expenses	$ 12,132,209
Contracts	$ 36,851,046
Rent/Facility Costs	$ 16,371,643
Total	**$132,792,003**

Source: U.S. Citizenship and Immigration Services

Table 4
Deferred Action for Childhood Arrivals
FY 2014 Projected Obligations

Cost Category	FY 2014 Projected Obligations
Employee Salary and Benefits	$ 88,212,608
Employee Overtime	$ 1,636,773
General Operating Expenses	$ 5,578,432
Contracts	$ 28,476,777
Rent/Facility Costs	$ 8,433,551
Total	**$132,338,141**

Source: U.S. Citizenship and Immigration Services

Table 5
Estimated Processing Cost of Executive Action

Estimated Number of Applicants	2 to 4 million
Cost Per Application	$380
Estimated Processing Cost of Executive Action (DACA and DAPA)	$760 million to $1.5 billion

Source: Pew Research, White House, U.S. Citizenship and Immigration Services.

Table 6
Deferred Action for Childhood Arrivals
FY 2012-2014

FISCAL YEAR	APPROVED	DENIED	PENDING
FY 2012	1,686		150,737
FY 2013	472,831	11,115	94,388
FY 2014	158,338	21,285	152,795
FY 2014 Initial	135,858	21,280	59,715
FY 2014 Renewal	22,480	Data Withheld	93,080
Total Cumulative	632,855	32,400	152,795
Total Cumulative Initial	610,375	32,395	59,715
Total Cumulative Renewal	22,480	Data Withheld	93,080

Source: U.S. Citizenship and Immigration Services. Some data withheld by USCIS.

In response to issues raised at a Senate hearing about the ability of USCIS to process its regular flow of cases at the same time a large number of new cases arrive under DAPA and expanded DACA, the agency issued a general statement without detail: "In preparing for the workloads associated with the executive actions, USCIS has developed production and staffing models that allow agency leadership to assess the potential impacts on service delivery for existing workloads as well as the new workloads — all while maintaining the integrity and security of the immigration process."[23]

USCIS Hiring and Training

In December 2014, U.S. Citizenship and Immigration Services put out a notice seeking applicants to fill 1,000 jobs related to immigration processing in Arlington, Virginia.[24] "USCIS is taking steps to open a new operational center in Crystal City, a neighborhood in Arlington, Virginia, to accommodate about 1,000 full-time, permanent federal and contract employees in a variety of positions and grade levels," according to the announcement. "The initial workload will include cases filed as a result of the executive actions on immigration announced on Nov. 20, 2014."[25]

USCIS has elaborated on its hiring plans, explaining in more detail what the agency plans to do if the injunction is lifted and processing resumes. "Should the preliminary injunction be lifted or stayed, USCIS estimates that approximately 1,000 federal and contract staff would be needed at the Crystal City facility to process requests for DAPA, and 400 federal positions would be needed at USCIS Service Centers to process requests for expanded DACA," according to a USCIS letter to Senators Charles Grassley (R-IA), Ron Johnson (R-WI) and Jeff Sessions (R-AL).[26] "However, the actual number of employees needed to process this workload may vary depending on the number of requests actually received. As of February 17, 2015, USCIS had only on-boarded two employees."

Will 1,000 new workers (not all of them federal employees) be sufficient to cover the expected influx of new DAPA cases and prevent long delays for other applications? It seems unlikely. In fact, based on the fees charged and the number of expected applicants, U.S. Citizenship and Immigration Services must anticipate hiring more people.

Moreover, USCIS has become more realistic about the number of potential new personnel needed to deal with new applications. In responses to questions from Senators Grassley, Johnson and Sessions, USCIS reiterated that it planned to hire 1,000 new federal employees and noted it had issued a request for proposal (RFP) for 400 (contractor) personnel to work in Crystal City on the mail and in the file room. "However, in response to the court injunction, USCIS cancelled the solicitation," the agency noted. "USCIS planning was based on the assumption that

[23] Seung Min Kim, "Obama's Immigration Actions Could Overwhelm Agency, Witness Tells Senate," *Politico*, February 4, 2015.
[24] USCIS Today e-News, December 1, 2014.
[25] Ibid.
[26] USCIS Responses to Questions in the January 22, 2015 Letter from Senators Grassley, Johnson, and Sessions.

60 percent of all individuals who may be considered for the expanded DACA or DAPA would elect to file a request. *Should that initial planning estimate hold true and the injunction were lifted, USCIS might ultimately need to increase its hiring plan up to a total of 3,100 new employees* at an annual cost of $184.3 million, and total program costs of between $324 and $484 million per year."[27]

The positions listed in the December 2014 USCIS announcement included "Immigration Services Officer (recent graduates)," earning $34,000 to $55,000 a year, and "Adjudications Officer," a more experienced (GS-13) job in the $89,000 to $138,000 range. If the agency decides to hire more high-level employees than recent graduates, then it will hire fewer people. More recently, USCIS indicated it would staff the Crystal City facility with a mix of less experienced personnel (GS - 5) and higher level workers (GS - 15 to Senior Executive Service leadership), although not all of these would necessarily be new hires.[28]

Based on the data on DACA for FY 2014 (Table 4), approximately 66 percent of the fee money collected for DACA in that fiscal year went to employee salary and benefits, which does not include money for workers included under "contracts." If USCIS collects $760 million to $1.5 billion in fees under DAPA (not including fees under the DACA extension), then 66 percent of that money would equal $502 million to $1 billion. If the average modular cost is $150,000, then that would translate into about 3,345 to 6,600 new employees. If the modular cost of each hire is $100,000, then that would come to 7,600 to 10,000 new hires. The calculation is intended to be illustrative, since U.S. Citizenship and Immigration Services currently employs only about 19,000 people.[29]

The challenges of gaining government clearances and hiring and training 3,100 or more new people are significant. Any government agency must also hire new people on a regular basis due to attrition. This challenge is compounded by a lack of time – if the agency decides to move forward quickly, as expected, if the injunction is lifted.

If the agency hopes to avoid significant processing delays for individuals and employers with benefit applications not related to executive action – and also be able to process DACA and DAPA cases – it needs to hire and train a large number of people in a short amount of time. In fact, the agency anticipates most applications will arrive in the first 6 to 9 months. "The projected filing estimates are likely to occur within the next two years, with *most requests expected in the first six to nine months*," according to the January 2015 USCIS contract solicitation.[30]

Using private sector contract workers will help but only trained government personnel, not contractors, can perform adjudications. The private sector hires workers more quickly than the federal government. However, it likely will be

[27] Ibid. Emphasis added.
[28] Ibid.
[29] USCIS.
[30] HSSCCG-15-R-00011. Emphasis added.

challenging for contractors to hire, train and gain security clearances for workers from the USCIS Office of Security and Integrity in two months. A January 2015 solicitation to hire hundreds of additional contract workers stated, "USCIS intends to award a contract from this solicitation in March 2015 in order to provide the awardee time to hire, train, and process security clearances; and for full performance to commence on May 19, 2015." That would have been a turnaround of only two months.

BUYING TIME WITH A "STARTUP" FUND

The sponsors of S. 744, which passed the U.S. Senate in 2013, sought to avoid the problem of fee-based programs by providing "startup costs" to cover expenses related to the increased processing that would result from the bill becoming law. "S. 744 would appropriate about $1 billion for the Departments of State, Labor, Agriculture, and Justice to cover startup costs for activities that would be required under the bill, including improvements to the security and integrity of documents and identification materials used in the immigration process," according to the Congressional Budget Office. "S. 744 also would appropriate $3 billion to DHS to cover a variety of expenses related to the initial implementation of the bill, including additional personnel and information technology systems. All of the funds appropriated by the legislation are intended to be offset by the collection of new fees and penalties imposed on individuals seeking to adjust their immigration status and certain other people."[31]

The sponsors of S. 744 and relevant staff decided upon the $4 billion estimate in "startup costs" ($3 billion to DHS and $1 billion to other cabinet departments) after consulting with the relevant federal agencies and the Office of Management and Budget, according to executive branch staff. The Congressional Budget Office did not calculate new figures but rather reported on the $4 billion in costs cited in the bill, according to a CBO analyst.[32]

The "startup" fund established by S. 744 may be one of the bill's strongest features. It acknowledged a unique aspect of immigration benefit processing, that it is "fee for service," and allowed money upfront to permit the necessary hiring, facility or information technology costs to be completed in advance of the increase in applications. That means in addition to a startup fund, effective dates for any immigration reform legislation should either be staggered or at least established with a concession to allowing sufficient lead time for building up staffing and other needs. Moreover, since the money would be paid back to the U.S. Treasury out of fees, the initial amount "fronted" to USCIS or other agencies should not be controversial.

To facilitate processing for new executive action cases, USCIS established a new facility in Crystal City, Virginia. "USCIS is financing the costs associated with the standup of the Crystal City facility with carry forward fee revenue balances brought forward from the prior fiscal year within its Immigration Examinations Fee Account (IEFA),"

[31] Congressional Budget Office Cost Estimate of S. 744, Congressional Budget Office, June 18, 2013.
[32] Information from discussions with Department of Homeland Security and Congressional Budget Office staff.

according to USCIS responses to a Congressional inquiry.[33] Whether these revenue balances are sufficient to cover other startup costs related to executive action is unclear.

Note that a feature of "fee for service" is that the money does not require additional appropriations by Congress. "DHS currently collects fees to process applications for immigration services. Collections from those existing fees, most of which total several hundred dollars or more per application, are classified as offsetting receipts (that is, offsets to outlays) and are available for spending by DHS without further appropriation action," according to the Congressional Budget Office.[34] That means USCIS, which is part of the Department of Homeland Security, can spend the money it receives but that does not mean it can necessarily spend it on large infrastructure improvements, the type that could be necessary under immigration reform. This is why a "startup" fund, as appeared in S. 744, can be vital.

A key lesson of the 1986 legalization contained in the Immigration Reform and Control Act is the potential impact of relying on fees to process a large influx of immigration applications. "Although the application fees ultimately generated more revenue than was needed to administer the program, fewer applications were received than expected in the early stages of the effort," note analysts Muzaffar Chishti and Charles Kamasaki of the Migration Policy Institute. "This led INS to begin to scale down its legalization infrastructure in the program's third quarter, only to be nearly overwhelmed by a surge of applications at the end of the application period. Any future legalization program, even if completely self-funded, should be structured to avoid such problems."[35]

LEGISLATIVE SCENARIOS

Given the concerns raised by Republicans about executive action, it is possible Congress will enact changes to immigration law. To evaluate the potential processing-related costs of such changes it is necessary to estimate the likely additional caseload of potential reform scenarios. The two scenarios: 1) a House-passed immigration bill, and 2) a compromise bill combining high skill immigration and the DREAM Act. The immigration bill that passed the U.S. Senate in 2013 (S. 744) is not evaluated for costs since opposition to the bill in the House of Representatives makes it unlikely to be the template for future legislation in a Republican-controlled Congress.

Scenario #1 – House-Passed Immigration Bill

In June 2013, the U.S. Senate passed an immigration bill that would make comprehensive changes to the U.S. immigration system. At the time, the House of Representatives was expected to follow suit. Instead, the House Judiciary Committee passed individual bills on immigration but none moved to the House floor for a vote on final

[33] USCIS Responses to Questions in the January 22, 2015 Letter from Senators Grassley, Johnson, and Sessions.
[34] Congressional Budget Office Cost Estimate of S. 744.
[35] Muzaffar Chishti and Charles Kamasaki, *IRCA in Retrospect*, Migration Policy Institute, January 2014.

passage. Moreover, the individual bills did not cover all issues related to immigration reform, including the legal status of millions of people in the country in unauthorized immigration status or visas for lower-skilled temporary workers.

It is expected if any broader immigration legislation passes the House of Representatives, then it will need bipartisan support. That likely means addressing the situation of those in the country out of legal status to gain Democratic support. House Republican lawmakers did not introduce legislation in 2013 or 2014 to legalize the status of unauthorized immigrants. However, public statements allow for estimates of what such legislation might look like.

Many House Republicans have stated they oppose separate or special paths to grant green cards to unauthorized immigrants. To address this concern House Judiciary Committee Chairman Bob Goodlatte (R-VA) has discussed providing legal status to unauthorized immigrants and allowing those who could be sponsored for green cards to utilize the current legal immigration system. For example, an unauthorized immigrant with a U.S. citizen spouse could be sponsored through the "immediate relatives" category.

Examining the number of unauthorized immigrants who could be sponsored for permanent residence once grounds to inadmissibility are waived reveals a surprisingly large number. How large would depend on the details of the legislation. For example, over 4 million unauthorized immigrants have U.S.-born children who could sponsor them as the parents of U.S. citizens in the immediate relatives category once such children reached the age of 21.[36] (That includes those who entered in the past 5 years.)

A January 2014 National Foundation for American Policy analysis estimated overall 4.4 million to 6.5 million unauthorized immigrants could gain lawful permanent residence under a potential House approach.[37] A shorter time frame would reduce the overall total of unauthorized immigrants who would gain green cards under a potential House approach.[38]

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[36] Pew Research Center.

[37] Stuart Anderson, *A Path to an Agreement?: Analyzing House and Senate Plans for Legalizing the Unauthorized Immigrant Population*, NFAP Policy Brief, National Foundation for American Policy, January 2014. The numbers assume many years will likely pass before a large number of those legalized could obtain permanent residence and not everyone eligible for a benefit will apply. The 4.4 million to 6.5 million estimate of the potential House approach includes green cards for young adults brought here as children in unlawful status (providing green cards for 800,000 to 1.5 million people), allowing unauthorized immigrants to be sponsored by their U.S.-born children as the parents of U.S. citizens (3.1 million to 4.4 million individuals), permitting U.S. citizens and lawful permanent residents to petition for unauthorized immigrant spouses (420,000 to 600,000) and other unauthorized immigrants to utilize the Other Workers category (40,000 to 45,000 over 20 years)," according to the analysis.

[38] Ibid. For example, if House legislation required unauthorized immigrants to be sponsored within 6 years of a bill's passage, then that "would likely reduce the number of unauthorized immigrants gaining green cards under a House approach to a range of 2.7 million to 4.1 million," the analysis found.

In addition to legalization of unauthorized immigrants, it is likely any House bill (or bills) would include passage of something similar to H.R. 2131, the SKILLS Visa Act, which passed the House Judiciary Committee in June 2013. H.R. 2131 would add up to 95,000 employment-based green cards a year over current law, would eliminate 50,000 Diversity Visa green cards, and would increase family-based green cards initially by 25,000 a year (before reducing it starting in 2024). It would also add, in effect, 110,000 new H-1B petitions each year by increasing the H-1B cap from 65,000 to 155,000 and increasing the exemption for those with a graduate degree from a U.S. university by an additional 20,000 per fiscal year (although narrowing it to STEM fields).

Table 7
Potential Increase in Immigration Processing Caseloads

Category	Number of New Cases	Potential Cost (paid by fees)
Potential House Legalization	2.7 million to 6.5 million	$1 billion to $2.5 billion
Additional Employment-Based Green Cards	95,000 per year	$55 million
Additional H-1B Petitions	110,000 per year	$36 million

Source: National Foundation for American Policy; Analysis of H.R. 2131

At a cost of $580 per application, adding 95,000 additional employment-based green cards would generate approximately $55 million in additional processing costs. An increase of 110,000 H-1B petitions ($325 per application) would cost about $36 million. These costs would be paid by fees. Given the smaller number of new cases compared to legalization, the potential level of H-1B visas and employment-based green card increases do not raise the same processing concerns. Adequate planning and upfront funding might be necessary to avoid processing delays if the provisions were added to other increases, such as those seen in a large-scale legalization program.

As Table 7 illustrates, the cost of processing new cases resulting from such legislation would be paid by fees, not taxpayers. However, depending on the lead time granted U.S. Citizenship and Immigration Services the agency could have difficulty processing this level of new applications without funding received prior to the date applications begin arriving.

With a range of 2.7 million to 6.5 million eligible applicants from potential House legislation (at a cost of $380 per application), legalization would cost $1 billion to $2.5 billion in processing – with fees paid on a rolling basis, not upfront prior to the start of the application influx.

Scenario #2 – Bill Combining High Skill Immigration and DREAM Act.

It is possible that passing a large bill that covers all aspects of immigration policy may not be possible. An alternative approach could emerge, for example, that combines passing a new version of H.R. 2131, the SKILLS Visa Act from 2013-14, and a variation on the DREAM Act for young people brought here as children. If that's the case, then we should assume an additional 95,000 employment-based green cards a year, an additional 110,000 H-1B visas, and approximately 1 million DREAM Act recipients. The estimate assumes the House would have a somewhat tougher eligibility criteria than the Senate. The Congressional Budget Office estimated up to 1.5 million unauthorized would be eligible for the DREAM Act provisions included in the Senate-passed immigration bill. A House version would likely be on the lower end of 800,000 to 1.5 million.

With a range of 800,000 to 1.5 million for legalization of those eligible for the DREAM Act (at a cost of $380 per application), the processing costs would be $304 million to $570 million, with fees paid as applications arrive. At a cost of $580 per application, adding 95,000 additional employment-based green cards would generate approximately $55 million in additional processing costs, while an increase of 110,000 H-1B petitions ($325 per application) would cost about $36 million. These costs would be paid by fees.[39] Even this scaled-down legalization measure would benefit from upfront appropriations.

Table 8
Potential Increase in Immigration Processing Caseloads

Category	Number of New Cases	Potential Cost (paid by fees)
Potential House Legalization of DREAM Act Recipients (Young People)	800,000 to 1.5 million	$304 million to $570 million
Additional Employment-Based Green Cards	95,000 per year	$55 million
Additional H-1B Petitions	110,000 per year	$36 million

Source: National Foundation for American Policy; Analysis of H.R. 2131 (for H-1B and Employment-based green card provisions.) Not all eligible applicants will apply.

[39] USCIS charges a different level of fee depending on the category of benefit.

CONCLUSION

Three primary conclusions emerge from the research. First, it is essential that any immigration reform legislation be accompanied by a "startup" fund similar to the fund in S. 744. (See appendix for legislative text.) That is the most logical and fiscally responsible way to ensure USCIS has sufficient upfront resources to increase staff, equipment and facilities ahead of an expected increase in caseload. The risk to taxpayers is minimal, since fees from applicants collected will be used to "pay back" the appropriations to the U.S. Treasury. Given that Republicans have opposed broad administrative relief from deportation, it is unlikely Congress will appropriate funds to help cover the startup costs associated with executive action.

Second, any large-scale administrative relief effort similar to – or larger than – the President's DACA program is likely to result in processing delays for other benefits. That is because a new administrative relief program would likely result in removing staff from current responsibilities, at least temporarily, to adjudicate or manage applications for the new program, which happened in 2013. The analysis concludes that executive action is likely to result in 3 to 7 times the number of applicants the original DACA program experienced. It seems unlikely the Obama Administration can hire and train (and gain clearances for) the needed personnel quickly enough. Therefore, those who apply for legal immigrant or temporary visas are likely to see their applications delayed if current personnel are shifted to new cases and new hires cannot fill the gaps that emerge to process applications. The problems could be avoided if before processing applications under the new DAPA program USCIS allowed at least several months of lead time to hire and train sufficient personnel dedicated solely to adjudicating and administering the new program's applications.

The recent Simeio decision released by USCIS's Administrative Appeals Office is likely to add to the agency's processing challenges, since it requires employers to file amended petitions for H-1B professionals who change geographic locations. With the additional fees this will generate for the agency it could eventually hire more personnel to handle the additional workload. But the need to hire and train more adjudicators will likely add to processing delays. USCIS announced on May 26, 2015 that for a two-month period employers could not pay $1,225 for faster service (premium processing) for H-1B extensions while the agency coped with an increased caseload for EADs (employment authorization documents) for H-4 visas (dependents of H-1B visa holders). If USCIS can stop offering the option of premium processing whenever the agency wishes, then employers are likely to be without options in high volume situations, such as could be the case under executive action.

Third, the Administration and Congress should consider additional methods of saving money and improving processing for immigration benefits, including a form of Trusted Employer, similar in concept to the Known Shipper

program run by the Transportation Security Administration. The idea is to speed processing and save the government money when dealing with companies or non-profit entities with a track record of compliance, not to disadvantage any group of employers. Increasing the use of electronic filing should also be an agency objective, particularly in concert with employer input and testing to ensure it will be beneficial for both employers and adjudicators.

On January 29, 2015, a group of 16 trade associations and business groups responded to an Administration Notice of Request for Information with more than a dozen recommendations for improving the operations of U.S. Citizenship and Immigration Services and the U.S. Department of State.[40] One recommendation was that USCIS adopt a policy of deference to prior adjudications on extensions of status when little or nothing has changed from the initial approved application (similar to what the Administration has proposed in recent L-1B guidance but more broadly applicable). That would save time for adjudicators and reduce the large of number of Requests for Evidence filed by adjudicators that result in added burdens for both the agency and employers.

Improving the immigration filing process is difficult when U.S. Citizenship and Immigration Services must deal with an influx of new cases without adequate resources. If Congress passes immigration reform legislation it should include a "startup" fund for personnel and facilities, with the money being reimbursed to the U.S. Treasury after application fees are paid. Absent such a startup fund, individuals and employers are likely to experience significant delays in processing, as may be the case with executive action.

[40] Re: Docket No. USCIS-2014-0014, Notice of Request for Information, January 29, 2015, signed by American Immigration Lawyers Association, Business Roundtable, Compete America Coalition, Council for Global Immigration, FWD.us, HR Policy Association, Information Technology Industry Council, National Association of Home Builders, National Association of Manufacturers, National Venture Capital Association, Partnership for a New American Economy, Society for Human Resource Management, Semiconductor Industry Association, Silicon Valley Leadership Group, TechNet, and U.S. Chamber of Commerce.

APPENDIX

From Section 6 of S. 744 (Establishment of a Comprehensive Immigration Reform Startup Account)

(b) Comprehensive Immigration Reform Startup Account.--

(1) Establishment.--There is established in the Treasury a separate account, to be known as the ``Comprehensive Immigration Reform Startup Account,'' (referred to in this section as the ``Startup Account''), consisting of amounts transferred from the general fund of the Treasury under paragraph (2).

(2) Deposits.--There is appropriated to the Startup Account, out of any funds in the Treasury not otherwise appropriated, $3,000,000,000, to remain available until expended on the later of the date that is--

(A) the date of the enactment of this Act; or

(B) October 1, 2013.

(3) Repayment of startup costs.--

(A) In general.--Notwithstanding section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)), 50 percent of fees collected under section 245B(c)(10)(A) of the Immigration and Nationality Act, as added by section 2101 of this Act, shall be deposited monthly in the general fund of the Treasury and used for Federal budget deficit reduction until the funding provided by paragraph (2) has been repaid.

(B) Deposit in the immigration examinations fee account.--Fees collected in excess of the amount referenced in subparagraph (A) shall be deposited in the Immigration Examinations Fee Account, pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)), and shall remain available until expended pursuant to section 286(n) of the Immigration and Nationality Act (8 U.S.C. 1356(n)).

(4) Use of funds.--The Secretary shall use the amounts transferred to the Startup Account to pay for one-time and startup costs necessary to implement this Act, including--

(A) equipment, information technology systems, infrastructure, and human resources;

(B) outreach to the public, including development and promulgation of any regulations, rules, or other public notice;

(C) grants to community and faith-based organizations; and

(D) anti-fraud programs and actions related to implementation of this Act.

(5) Expenditure plan.--Not later than 90 days after the date of the enactment of this Act, the Secretary, in consultation with the Attorney General and the Secretary of

Defense, shall submit to the Committee on Appropriations and the Committee on the Judiciary of the Senate and the Committee on Appropriations and the Committee on the Judiciary of the House of Representatives, a plan for expenditure of the one-time and startup funds in the Startup Account that provides details on--

(A) the types of equipment, information technology systems, infrastructure, and human resources;

(B) the plans for outreach to the public, including development and promulgation of any regulations, rules, or other public notice;

(C) the types and amounts of grants to community and faith-based organizations; and

(D) the anti-fraud programs and actions related to implementation of this Act.

(c) Annual Audits.--

(1) Audits required.--Not later than October 1 each year beginning on or after the date of the enactment of this Act, the Chief Financial Officer of the Department of Homeland Security shall, in conjunction with the Inspector General of the Department of Homeland Security, conduct an audit of the Trust Fund.

(2) Reports.--Upon completion of each audit of the Trust Fund under paragraph (1), the Chief Financial Officer shall, in conjunction with the Inspector General, submit to Congress, and make available to the public on an Internet website of the Department available to the public, a jointly audited financial statement concerning the Trust Fund.

(3) Elements.--Each audited financial statement under paragraph (2) shall include the following:

(A) The report of an independent certified public accountant.

(B) A balance sheet reporting admitted assets, liabilities, capital and surplus.

(C) A statement of cash flow.

(D) Such other information on the Trust Fund as the Chief Financial Officer, the Inspector General, or the independent certified public accountant considers appropriate to facilitate a comprehensive understanding of the Trust Fund during the year covered by the financial statement.

(d) Determination of Budgetary Effects.--

(1) Emergency designation for congressional enforcement.--In the Senate, amounts appropriated by or deposited in the general fund of the Treasury pursuant to this section are designated as an emergency requirement pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(2) Emergency designation for statutory paygo.--Amounts appropriated by or deposited in the general fund of the Treasury pursuant to this section are designated as an emergency requirement under section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111-139; 2 U.S.C. 933(g)).

About the Author

Stuart Anderson is Executive Director of the National Foundation for American Policy, a non-profit, non-partisan public policy research organization in Arlington, Va. Stuart served as Executive Associate Commissioner for Policy and Planning and Counselor to the Commissioner at the Immigration and Naturalization Service from August 2001 to January 2003. He spent four and a half years on Capitol Hill on the Senate Immigration Subcommittee, first for Senator Spencer Abraham and then as Staff Director of the subcommittee for Senator Sam Brownback. Prior to that, Stuart was Director of Trade and Immigration Studies at the Cato Institute in Washington, D.C., where he produced reports on the military contributions of immigrants and the role of immigrants in high technology. He has an M.A. from Georgetown University and a B.A. in Political Science from Drew University. Stuart has published articles in the *Wall Street Journal*, *New York Times*, *Los Angeles Times*, and other publications. He is the author of the book *Immigration* (Greenwood, 2010).

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