

United States Senate

WASHINGTON, DC 20510

March 23, 2000

Doris Meissner, Commissioner
Immigration and Naturalization Service
US Department of Justice
425 I Street NW
Washington, DC 20536

Dear Commissioner Meissner:

We are writing to express our concern that American employers and workers are being adversely affected by increasing delays in the processing of employment-based immigrant visa petitions. We seek your assistance in reducing these delays, which are seriously impacting both American companies and their employees.

Specifically, we are concerned with inordinate delays in the approval of employment-based immigrant petitions (Form I-140) and adjustment of status applications (Form I-485). At the Nebraska Service Center, it is taking up to 14 months for an I-140 petition to be adjudicated. At the California Service Center, the delays are in excess of 16 months. As you know, only after the employer's I-140 petition is approved can the foreign national file his or her application for adjustment to permanent residence (Form I-485), along with a request for an employment authorization document (EAD) and advance parole. Federal regulations require the INS to issue EADs within 90 days of filing; however, the INS is routinely exceeding this regulatory deadline.

It is also routinely taking the INS three months or more to issue advance parole documents. Without these documents, applicants cannot leave the United States without abandoning their adjustment of status application. For the most part, there are not procedures in place at local INS offices to expedite emergency requests for travel documents. Moreover, employment-based applications for adjustment of status to permanent residence (I-485) are experiencing a thirty month delay. Each twelve month delay in adjudication of the I-485 requires the filing of applications for extension of the EADs and advance parole documents, further increasing INS backlogs. Timely adjudication of the adjustment of status applications would certainly seem to be in the best interest of all involved.

The timeliness of the processing of these applications is crucial. If the applicant's nonimmigrant status expires before they receive their EAD, they must stop working. Worse, if their nonimmigrant status expires before their I-140 petition is adjudicated, they must leave the U.S. entirely, often for a full 12 months. We've heard reports of employers that have had to send highly skilled and valued employees out of the country because their I-140 petitions were not approved in a timely fashion, and additional employers and employees are now facing this

difficult situation. Such disruptions can seriously, and needlessly, delay critical project development on the part of American companies competing in a global economy in which product development and production cycles are often as little as six months. An inability to meet this schedule can seriously threaten an American company's competitive edge in the world marketplace.

Some in the industry have suggested several actions that INS could take to alleviate the burden many employers are currently experiencing as a result of the lengthy processing delays. It is our understanding that in the recent past, the INS permitted the simultaneous filing of I-485 adjustment applications and I-765 employment authorization applications with the I-140 immigrant petition, enabling the EAD to be approved and issued shortly after the I-140 is filed. Industry posits that a return to this procedure would be one way to improve the current situation for employers and employees. Another suggestion we've heard would be to allow the receipt for an I-485 adjustment filing to serve as both work and travel authorization. We would welcome your views on these proposed actions.

We are very concerned with the lengthy delays in the processing of employment-based immigrant visa petitions and associated applications. We look forward to hearing from you as to what you are doing to alleviate this problem, and when we can expect to see progress made.

Thank you for your assistance, and we look forward to hearing from you in the very near future.

Sincerely,

Mike Thater

Patty Murray

Chuck Robb

Dick Durbin

John F. Kerry

Thomas J. Toomey

Robert F. Bennett

Scott Brown

Garry Keid

Tom Kyl

John Edwards

James Christian

Carl [unclear]

Barbara Baker

John A. Dominici
