

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515-1803

May 1, 2023

The Honorable Alejandro Mayorkas  
Secretary  
U.S. Department of Homeland Security  
Mail Stop 0020  
Washington, D.C. 20528

Ur M. Jaddou  
Director  
U.S. Citizenship and Immigration Services  
5900 Capital Gateway Drive  
Camp Springs, Maryland 20746

Secretary Mayorkas and Director Jaddou,

I strongly oppose the Department of Homeland Security's (DHS) Notice of Proposed Rulemaking (NPRM) recently published, which would increase application fees charged by U.S. Citizenship and Immigration Services (USCIS) for employment-based visas and proposes a \$600 Asylum Program Fee for each petition. Shifting the financial burden of the Biden Administration's failed immigration policies to small businesses that rely on the H-2B and H-2A visa programs will have detrimental effects on Americans nationwide.

These visa programs are crucial for employers who need to fill positions that cannot be filled by American workers. The ability-to-pay model is inherently flawed, as it fails to recognize that large multinational corporations utilize H-1B and L visas, whereas small and seasonal U.S. businesses rely on H-2B and H-2A visas. The proposed fee increases, coupled with the Asylum Program Fee, place an excessive burden on these small and seasonal U.S. businesses, which include farmers, seafood processors, and family-owned enterprises. Imposing financial responsibility for the asylum program, a consequence of your unsuccessful border policies, on these businesses is inappropriate and will hinder the growth of our nation's economy.

The proposed changes only impose additional expenses without offering any supplementary support, which is ultimately counterproductive. I urge you in the strongest possible terms to reconsider this proposed rule and concentrate on enhancing border security and upholding the rule of law. Thank you for your attention to this pressing issue, and I look forward to collaborating with you to secure our southern border while ensuring the continued prosperity of American businesses.

Respectfully,



Clay Higgins  
Member of Congress



U.S. Citizenship  
and Immigration  
Services

June 9, 2023

The Honorable Clay Higgins  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Higgins:

Thank you for your May 1, 2023 letter to the Department of Homeland Security (DHS) regarding U.S. Citizenship and Immigration Services' (USCIS) January 4, 2023, proposed fee rule. I am responding on behalf of the Department.

We appreciate your concerns about the impact of fees on small business owners and other stakeholders who rely on H-2B and H-2A visas. The public comment period for the proposed fee rule ended on March 13, 2023, and USCIS is carefully reviewing all public comments as we draft a final fee rule.

USCIS receives about 96% of our funding from our customers in the form of filing fees rather than from taxpayers in the form of congressional appropriations. The last fee adjustment occurred in 2016. USCIS conducted a comprehensive fee review, as we are required to do every two years by federal law, and determined that current fees do not recover the full cost of providing adjudication and naturalization services. Therefore, DHS proposed to adjust the USCIS fee schedule to fully recover USCIS operational costs and to maintain timely USCIS service levels.

As a predominantly fee-funded agency, USCIS allocates the vast majority of costs to fee-paying applicants and petitioners in an effort to ensure the agency can fully recover operating costs. The statute<sup>1</sup> provides that DHS may use fees to fund certain services without a fee, primarily immigration benefits for refugees and asylum seekers. USCIS does other work which provides fee waivers and exemptions for economically disadvantaged individuals and other especially vulnerable populations, such as victims and witnesses to crimes. This means the fees charged for processing a particular form may include the cost of adjudicating that form plus an additional percentage to cover overhead expenses and USCIS costs to adjudicate fee-exempt, fee-reduced, and fee-waived cases.

Furthermore, the President's Fiscal Year (FY) 2024 budget requests appropriated funding to continue the agency's efforts in reducing the backlog of cases, among other key priorities that

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<sup>1</sup> See INA sec. 286(m), [8 U.S.C. 1356\(m\)](#)

The Honorable Clay Higgins

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require appropriations.<sup>2</sup> Congress provided \$275 million in FY 2022 for the backlog reduction initiative, and the USCIS FY 2022 Progress Report<sup>3</sup> explains how these appropriations were crucial in turning the tide on backlogs and achieving greater efficiencies. For your convenience, please see a copy of our Progress Report attached.

Thank you again for your letter and interest in this important issue. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", with a long horizontal flourish extending to the right.

Ur M. Jaddou  
Director

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<sup>2</sup> USCIS requested \$137 million to support the International Refugee Affairs Division and \$342 million to support Asylum adjudications in the FY 2024 budget request. USCIS' full budget request is available at: <https://www.dhs.gov/sites/default/files/2023>.

<sup>3</sup> The FY22 Progress Report is available at: [https://www.uscis.gov/sites/default/files/document/reports/OPA\\_ProgressReport.pdf](https://www.uscis.gov/sites/default/files/document/reports/OPA_ProgressReport.pdf)



U.S. Citizenship  
and Immigration  
Services

# Fiscal Year 2022 Progress Report

December 2022



# FISCAL YEAR 2022 PROGRESS REPORT

USCIS is committed to eliminating unnecessary barriers, restoring faith in the immigration system, and improving transparency, efficiency, and the customer experience. This Fiscal Year (FY) 2022 Progress Report highlights new data illustrating both progress and challenges in fulfilling the agency’s mission.

Crucial appropriations by Congress in FY 2022 supported recent progress on both backlog reduction and humanitarian services. Continued congressional support is critical to eliminate current net backlogs and achieve a robust humanitarian mission, while a new fee rule will help prevent the accumulation of additional backlogs in the future.

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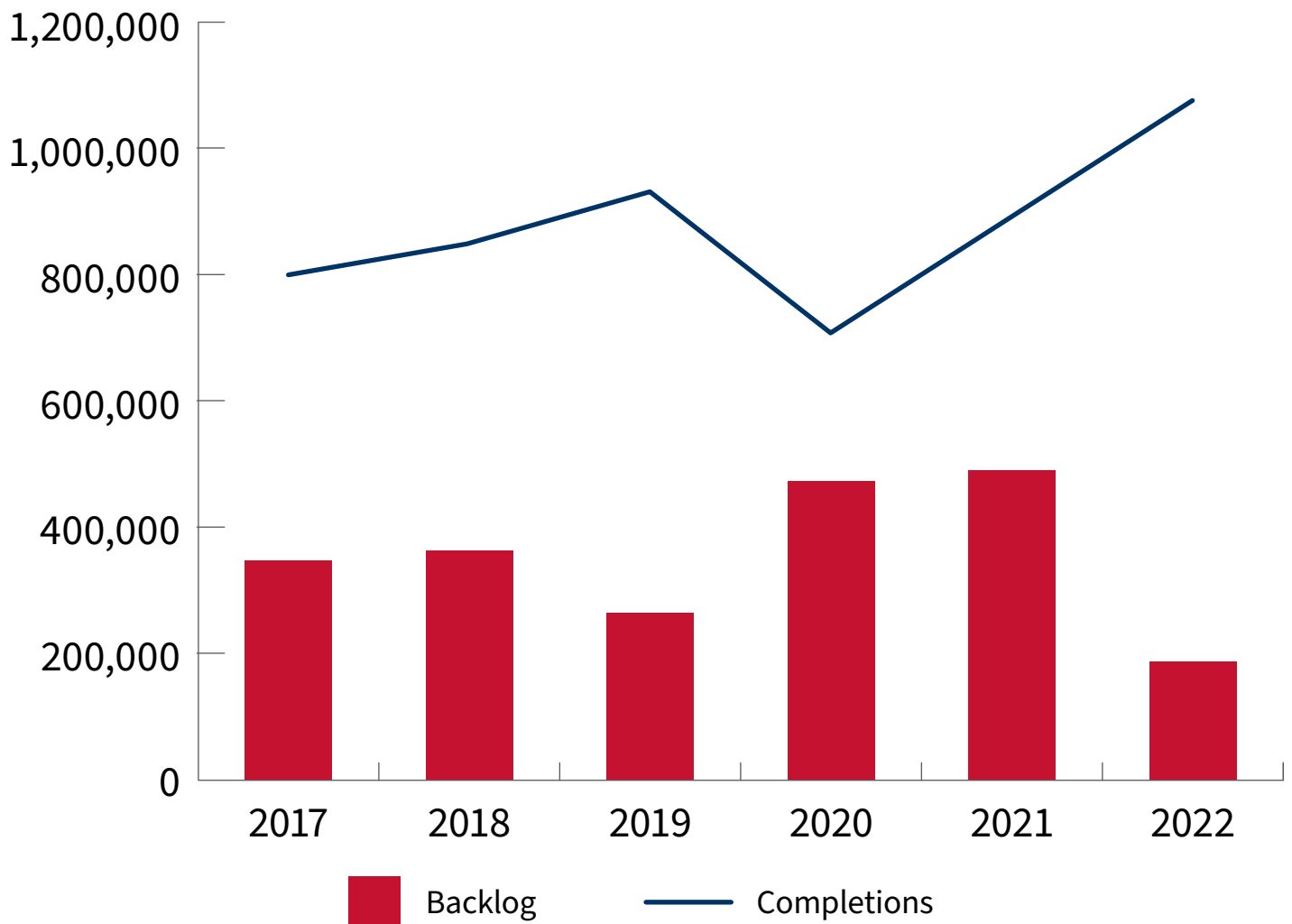
# I. REDUCING BACKLOGS THROUGH INNOVATION

Although there is much work ahead to deliver timely decisions to all customers, USCIS continues to apply every workforce, policy, and operational tool at its disposal to reduce backlogs and processing times. The following examples from FY 2022 demonstrate success in reducing certain backlogs, and represent innovations that will help in our continued efforts to reduce backlogs in other programs.

## Naturalizing New U.S. citizens

Thanks to the commitment and dedication of the USCIS workforce, as well as crucial appropriations from Congress, in FY 2022 the agency welcomed more than 1 million new U.S. citizens. This represents a 62 percent reduction in the net backlog of naturalization applications (Form N-400) from the end of FY 2021 to FY 2022, and the highest number of naturalized citizens in almost 15 years.

### Naturalization case trends

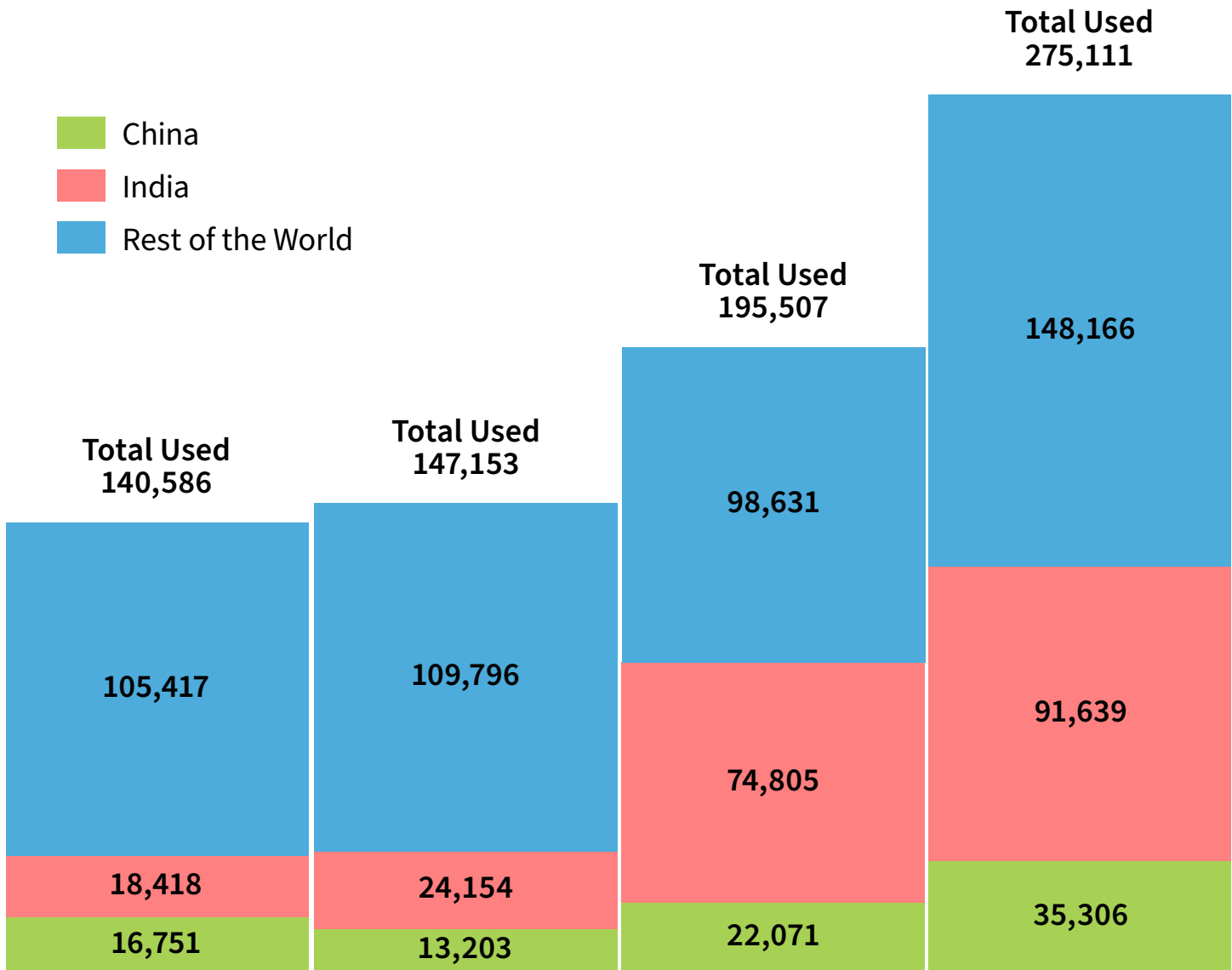


*Above: In FY 2022, USCIS completed 1,075,700 naturalization applications (Form N-400) and administered the Oath of Allegiance for 967,400 new U.S. citizens. Including derivatives (Forms N-400, N-600, N-600k, N-336, and I-551), USCIS completed 1,122,300 naturalization cases and naturalized 1,023,200 new U.S. citizens.*

## Workforce: Utilizing all available employment-based immigrant visas

Together, USCIS and the Department of State issued all available [employment-based immigrant visas](#) in FY 2022 – double the pre-pandemic number. This was an all-hands-on-deck effort across the agency given that any unused visas at the end of the fiscal year would become unavailable starting on Oct. 1, 2022, the start of FY 2023. In the final quarter, USCIS worked cases 7 days a week to effectively address pending applications. This surge of overtime resources was made possible by congressional appropriations specifically directed for backlog reduction efforts.

### Total number of employment-based immigrant visas issued



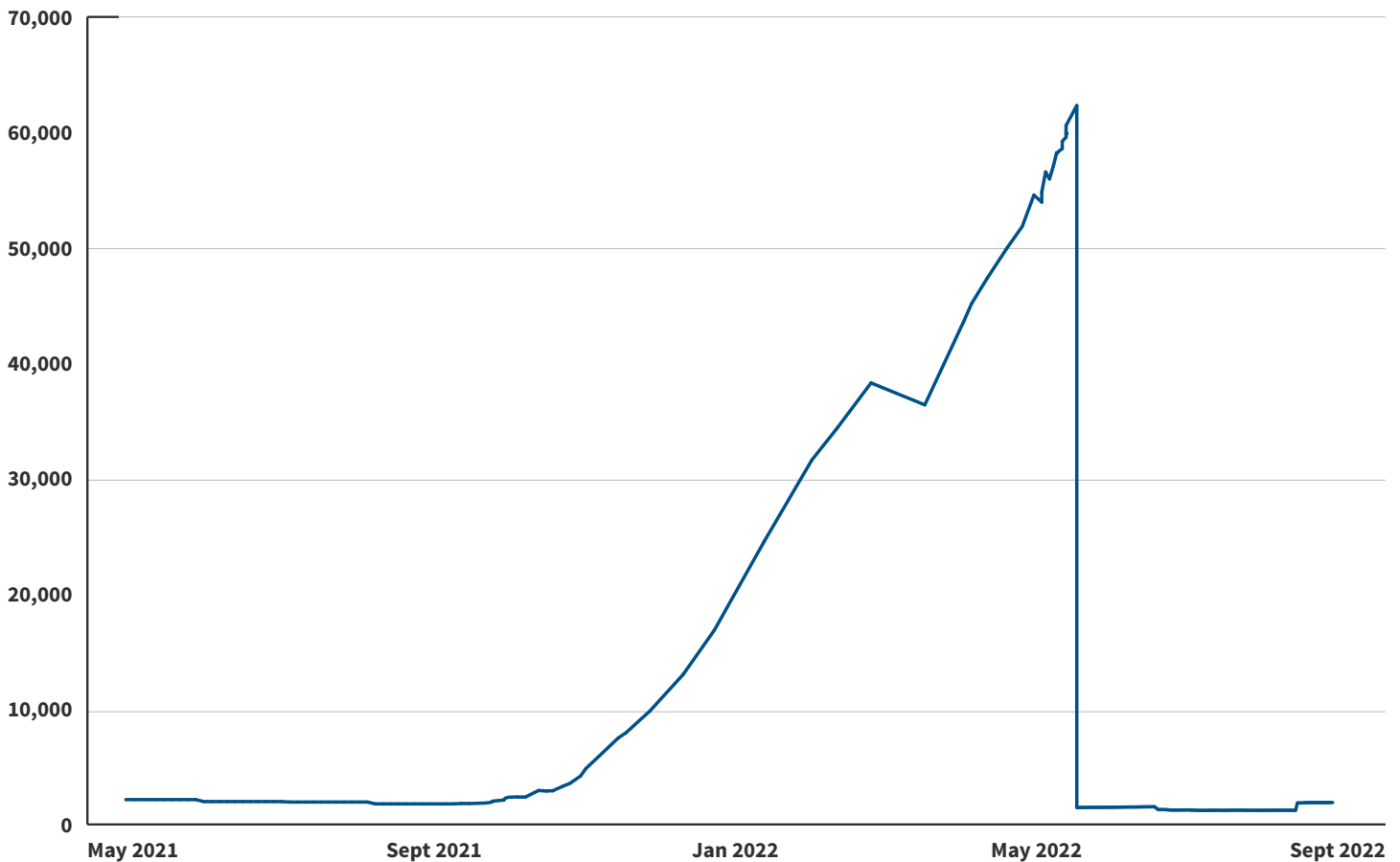
*Above: Total employment-based immigrant visa numbers approved by DHS and the State Dept., by country of origin and fiscal year. Note that the total cap in FY 2022 was over 281,000, due to unused family-sponsored visa numbers carrying over from FY 2021, and Congress allowed nearly 6,400 EB-5 visa numbers to carry over to FY 2023. FY 2019 represents a typical year in terms of the worldwide and per-country caps set by statute.*

## Policy: Restoring and extending work authorization

In FY 2022, a growing number of noncitizens with valid Employment Authorization Documents (EADs) faced a lapse in employment authorization while waiting for their renewal EAD applications to be processed. The root of this problem was reduced agency capacity during the COVID-19 pandemic, compounded by a sudden and dramatic increase in EAD filings.

USCIS implemented a temporary final rule, published in May 2022, that extended the [EAD validity period](#) for over 400,000 noncitizens and immediately restored the ability to work for tens of thousands of noncitizens whose EADs had expired through no fault of their own. This innovation continues to benefit USCIS customers as we work to eliminate backlogs for pending EAD applications.

### **Total number of expired EADs held by certain asylum applicants**



*Above: Total number of expired EADs where an asylum seeker filed a renewal application (Form I-765) prior to expiration of their previous EAD. The EAD auto-extension rule was published on May 3, 2022.*

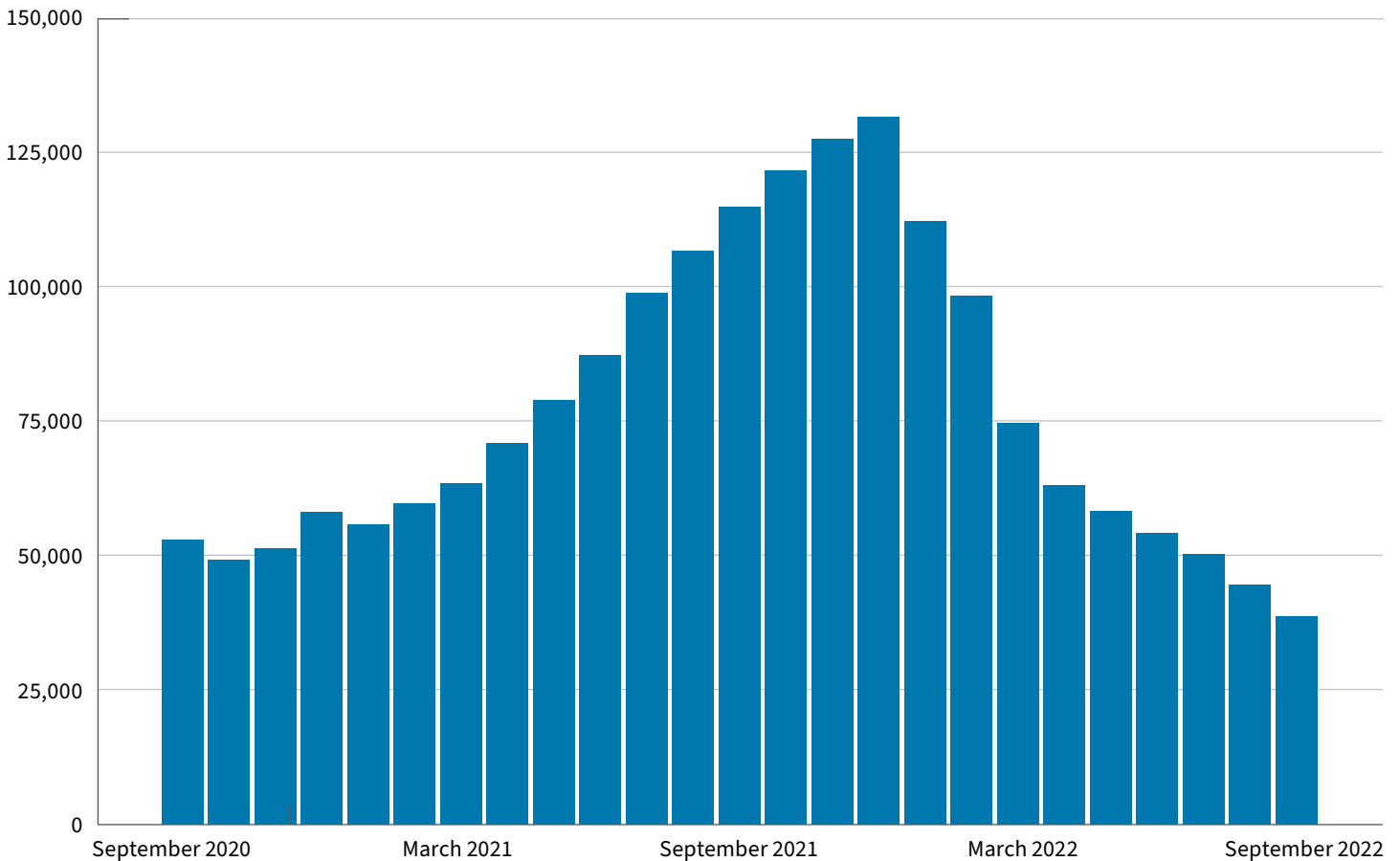


## Operations: Reducing EAD wait times

While extending EAD validity times creates a temporary solution, USCIS continues to focus its efforts on permanently eliminating the backlogs. USCIS has implemented operational improvements that increase efficiency, enhance system integrity, and reduce processing times.

For immigrant visa applicants awaiting an EAD renewal, for example, the pending caseload has returned to a normal level. This EAD renewal category is well on track to meet USCIS Director Ur M. Jaddou’s ambitious [backlog reduction goals](#) for the coming year. We are pursuing similar progress in other EAD categories and our programs generally, in further support of reducing backlogs and returning to normal inventory levels.

### **Total number of pending EAD renewals filed by adjustment of status applicants**



Above: Monthly total number of pending EAD renewal applications (Form I-765) filed by applicants for adjustment of status.

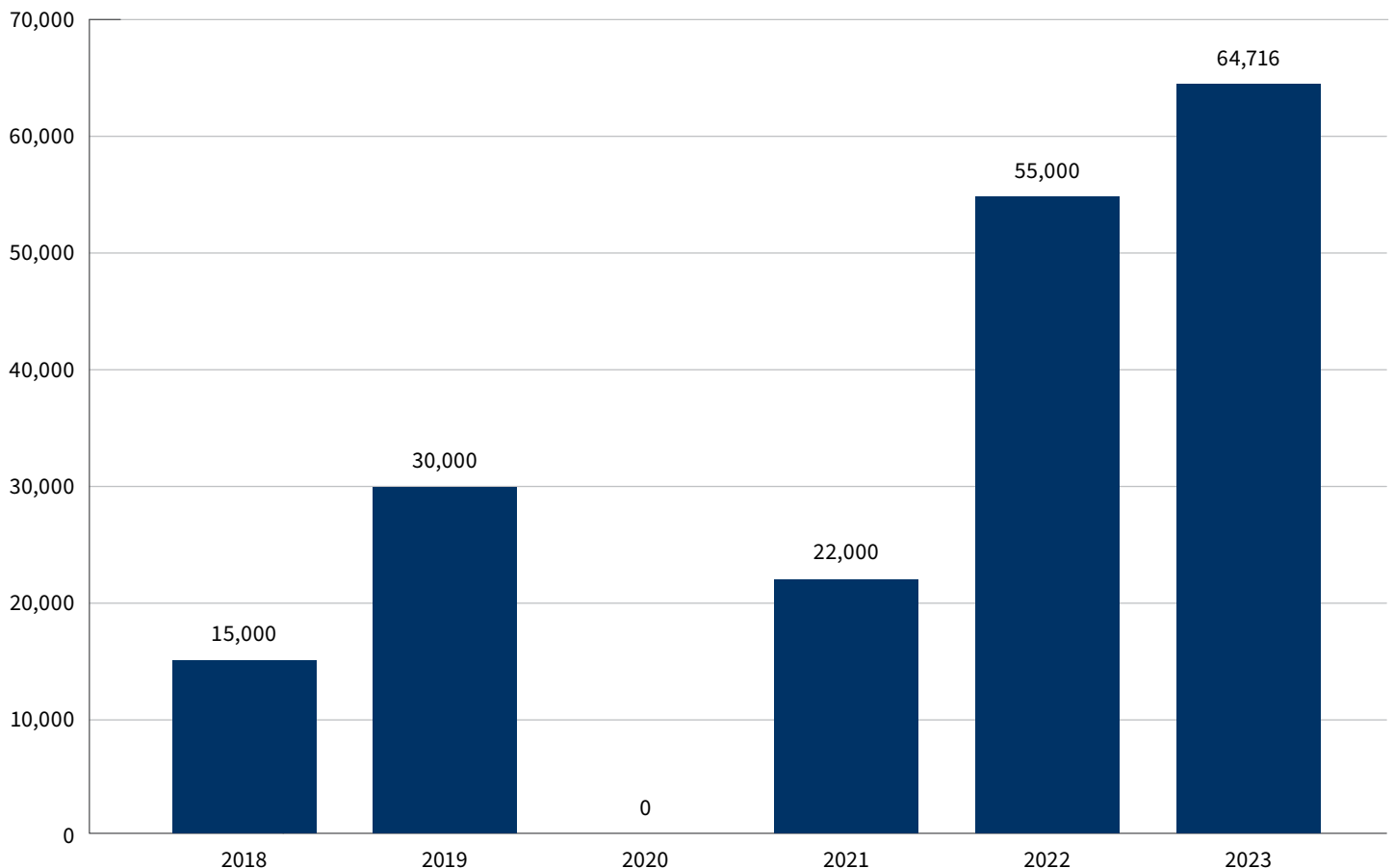
## II. ADDRESSING LABOR SHORTAGES

USCIS took several actions over the past year to address U.S. labor shortages, above and beyond the agency's commitment to reducing backlogs across the board. This included making more temporary visas available to U.S. businesses, as well as clarifying policies to ensure access and transparency for employment-based programs.

### More temporary visas for seasonal workers at U.S. businesses

Through joint rulemakings between the Department of Homeland Security (DHS) and the Department of Labor, USCIS is making available more [supplemental H-2B nonagricultural worker visas](#) than ever before, in addition to ensuring robust protections for U.S. and foreign workers alike. Furthermore, the H-2B Worker Protection Taskforce was created to focus on addressing possible threats to H-2B program integrity, H-2B workers' fundamental vulnerabilities, and the impermissible use of the program to avoid hiring U.S. workers.

#### **Total number of supplemental H-2B visas made available**



*Above: Total number of supplemental H-2B seasonal nonagricultural worker visas made available or announced by fiscal year. Note that this is in addition to the baseline of 66,000 H-2B visas that are normally available each fiscal year.*

## **New clarity and services for U.S. employers and noncitizen workers**

USCIS further supported U.S. employers and noncitizen workers through key developments for employment-based immigration in FY 2022. These policy developments ensured U.S. businesses and noncitizen workers could access the immigration system, while understanding program guidelines and procedures. Efforts include the following:

- Publishing a [comprehensive menu of options for professionals in science, technology, engineering, and math \(STEM\)](#) to work in the United States, along with detailed policy guidance for those seeking [O-1 status for individuals of “extraordinary ability”](#) or [EB-2 green cards with a “national interest waiver”](#) that allows self-petitioning by individuals of exceptional ability or holding advanced degrees.
- Authorizing [spouses of E and L visa holders](#) to work immediately, without the requirement to apply and wait for an EAD, and applying the [automatic extension of employment authorization](#) for renewal EAD applications filed by these E and L spouses as well as certain H-4 spouses.
- Implementing major reforms to the [EB-5 immigrant investor program](#) following bipartisan passage of the EB-5 Reform and Integrity Act.
- Establishing a process for [healthcare and childcare workers](#) to make an expedited request for processing of initial EAD applications that have been pending for more than 90 days, or renewal applications that would expire within 30 days or have already expired.
- Initiating the [expansion of premium processing](#), while adhering to the congressional requirement that such services must not cause an increase in processing times for regular immigration benefit requests.
- Issuing double the typical number of employment-based immigrant visas, as discussed above.

## **New commitments for FY 2023**

In the coming months, USCIS is prepared to build on this progress by:

- Implementing premium processing for all employer petitions for immigrant workers (Form I-140) and certain EAD applications for students and exchange visitors (Form I-765).
- Removing the requirement to submit biometrics for applicants for change and extension of nonimmigrant status (Form I-539).
- Simplifying several major forms, including the applications for EADs (Form I-765), adjustment of status (Form I-485), and naturalization (Form N-400).

### III. FULFILLING OUR HUMANITARIAN MISSION

Over the last fiscal year, USCIS has risen to meet a growing humanitarian need by those seeking assistance or protection from oppression, violence, and other urgent circumstances. The agency remains committed to pursuing critical improvements in administering these programs in FY 2023.

- In support of vulnerable Afghans, including those who worked alongside the United States in Afghanistan for the past two decades, USCIS has completed over 92,000 EAD applications, almost 2,500 Adjustment of Status applications, over 2,700 asylum applications, over 15,000 Special Immigrant Visa (SIV) petitions, and over 7,000 family-based immigrant petitions as of mid-November 2022. USCIS interviewed over 6,250 refugee applicants from Afghanistan, completing decisions for over 2,000 applications, and adjudicated Temporary Protected Status (TPS) requests filed beginning in May, when the country became eligible.
- USCIS has confirmed the financial suitability of over 177,000 supporters for the Uniting for Ukraine (U4U) process, and over 82,000 Ukrainians and their immediate family members have been paroled into the United States under the U4U process.
- USCIS has implemented several new TPS designations, redesignations, and extensions, including for Afghanistan, Burma, Cameroon, Ethiopia, Haiti, Somalia, Sudan, Syria, Ukraine, Venezuela, and Yemen. In FY 2021 and FY 2022 combined, USCIS received 483,000 initial TPS applications — an extraordinary number of new filings, of which nearly half have been approved.

#### **Policy Improvements**

In addition to responding to immediate humanitarian needs, USCIS improved policies within many of its humanitarian programs. The following list highlights some of the accomplishments made in the last year.

##### *Special Immigrant Juveniles (SIJ)*

- Made critical [regulatory](#) and [policy](#) updates, providing much-needed clarity to both adjudicators and the public and providing direct relief to approximately 55,000 SIJ classified noncitizens.

##### *Victims of Domestic Violence, Other Serious Crime, and Trafficking*

- Published comprehensive policy guidance on [T visa](#) and [VAWA self-petition](#) adjudications, issued law enforcement resource [guides](#) for both the T and U visas, and introduced a [process](#) by which U visa applicants can more quickly access benefits to ensure their safety and stability.

##### *Asylum and Refugees*

- DHS and DOJ published the [Credible Fear and Asylum Processing interim final rule](#), which allows for the transfer of jurisdiction over some applications for asylum for individuals subject to expedited removal from EOIR to USCIS, and swift review of those protection claims.
- USCIS, with interagency partners, began refugee processing of Afghan applicants at Camp As Sayliyah in Qatar, with the aim of completing refugee processing within 30 days. DHS and DOS announced exemptions to the terrorism-related inadmissibility grounds, allowing eligible Afghans to qualify for protection and immigration benefits on a case-by-case basis where they pose no risk to national security or public safety and have undergone rigorous screening and vetting.

## **Moving Forward in Fiscal Year 2023**

Looking ahead, USCIS remains committed to continuing, and expanding, its robust public engagement on humanitarian immigration programs as well as exploring policy and operational measures to improve processing times for humanitarian benefits. This includes:

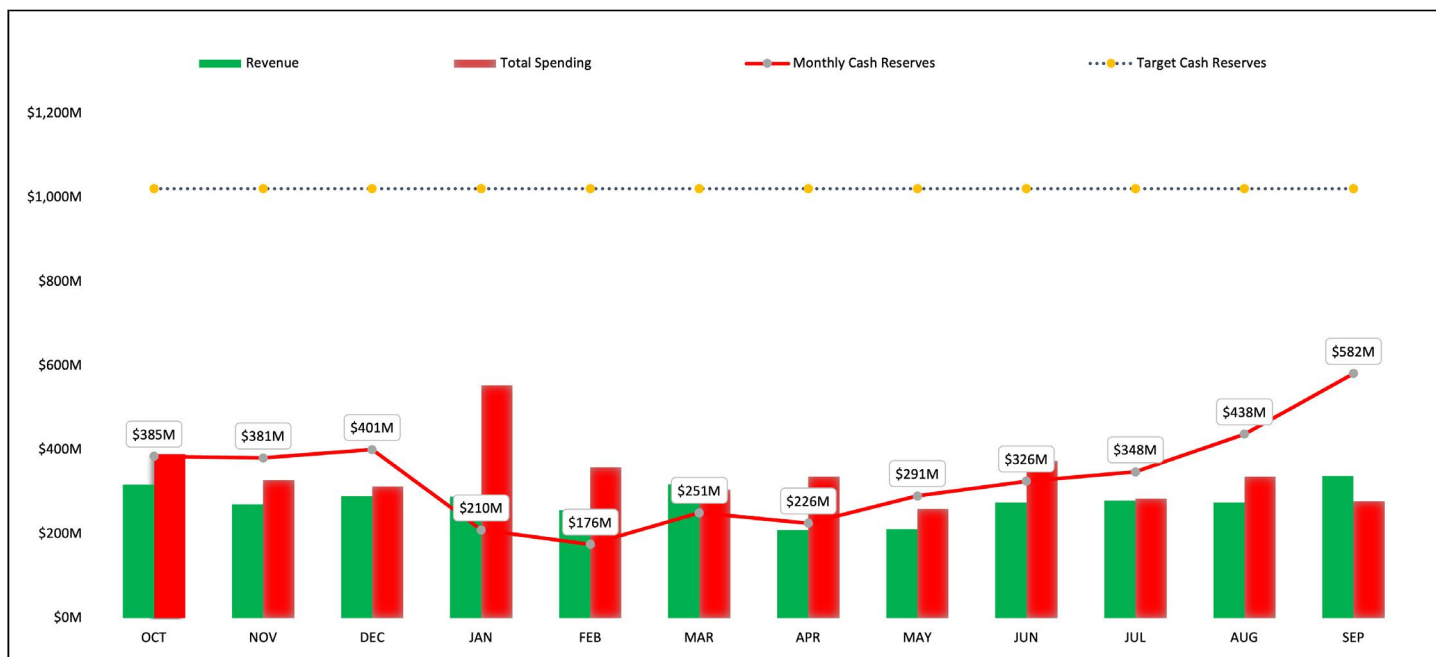
- Improving the asylum filing process, through launching [e-filing for the Form I-589 Application for Asylum and for Withholding of Removal](#) and transferring the paper Form I-589 filing location from USCIS Service Centers to the Lockbox to improve intake efficiency.
- Providing refugee applicant notices and case status updates through myUSCIS, as part of an effort to create efficiencies in refugee processing.
- Sharing notices and case status updates via myUSCIS for all Form I-131 humanitarian parole requests submitted to the USCIS Lockbox.
- Streamlining the adjudications, and improving processing times, of Form I-131 Advance Parole applications.
- Continuing use of the direct hiring authority in FY 2023 for officers working on protection cases.
- Adding more adjudicators and exploring policy and operational efficiencies in the VAWA/U/T portfolios to improve processing times.
- Resuming quarterly VAWA/U/T stakeholder engagements and reinvigorating regular engagements on the local level.
- Publishing several [proposed and final rules](#) in FY 2023 to further clarify eligibility requirements and promote efficient and consistent adjudications of certain humanitarian benefits.
- Publishing revised forms and more clarifying policy guidance and providing additional training support for adjudicators at applicable Service Centers on domestic violence, sexual assault, and trafficking to help improve consistency in adjudications.
- Leveraging technology solutions to increase the integrity and efficiency of TPS case processing.

## IV. FROM FISCAL CRISIS TO FISCAL RESPONSIBILITY

### Fiscal Crisis in 2020

As a predominantly (96%) fee-funded agency, USCIS keeps a cash reserve to cover the agency's expenses over the coming months. Although USCIS had long targeted \$1 billion as a safe cash reserve level, due to high spending in FY 2019 that continued into FY 2020, actual cash reserves decreased to only \$176 million by February 2020.

#### Monthly USCIS revenue, expenses, and cash reserves in FY 2020



Above: Monthly USCIS revenue, expenses, and cash reserves (carryover balance) throughout FY 2020, in \$ millions. The COVID-19 pandemic began in the United States in March 2020. Cash reserves subsequently increased in part due to USCIS closing out prior-year obligations.

In April and May of 2020, receipts decreased dramatically due to the pandemic, and revenue dropped by 40 percent. Facing low cash reserves and a possible inability to make payroll, the agency initiated a hiring freeze and issued furlough notices to 70 percent of its workforce.

Fortunately, revenue began to rebound by June 2020. Furlough notices were revoked, but adjudication capacity was severely impaired by the continued hiring freeze, workforce attrition, and \$500 million in budget cuts that included reducing contract worker staffing at the National Benefits Center by over 1,000 positions. These contract workers play a critical role in preparing cases for adjudication by our USCIS workforce.

## Returning to Fiscal Strength

During the first year of the Biden-Harris Administration, USCIS was able to lift the hiring freeze and began the lengthy process of recruiting and hiring back to authorized levels. USCIS has returned to firmer fiscal footing, with cash reserves well on their way to the designated target level, to ensure the agency avoids another fiscal crisis. Effective management of current reserves, combined with implementation of an upcoming new fee rule, will allow USCIS to continue the hiring surge, enhance technology investments, and seek further operational improvements to achieve greater efficiency and improve customer service throughout the agency.

### Monthly USCIS revenue, expenses, and cash reserves in FY 2022



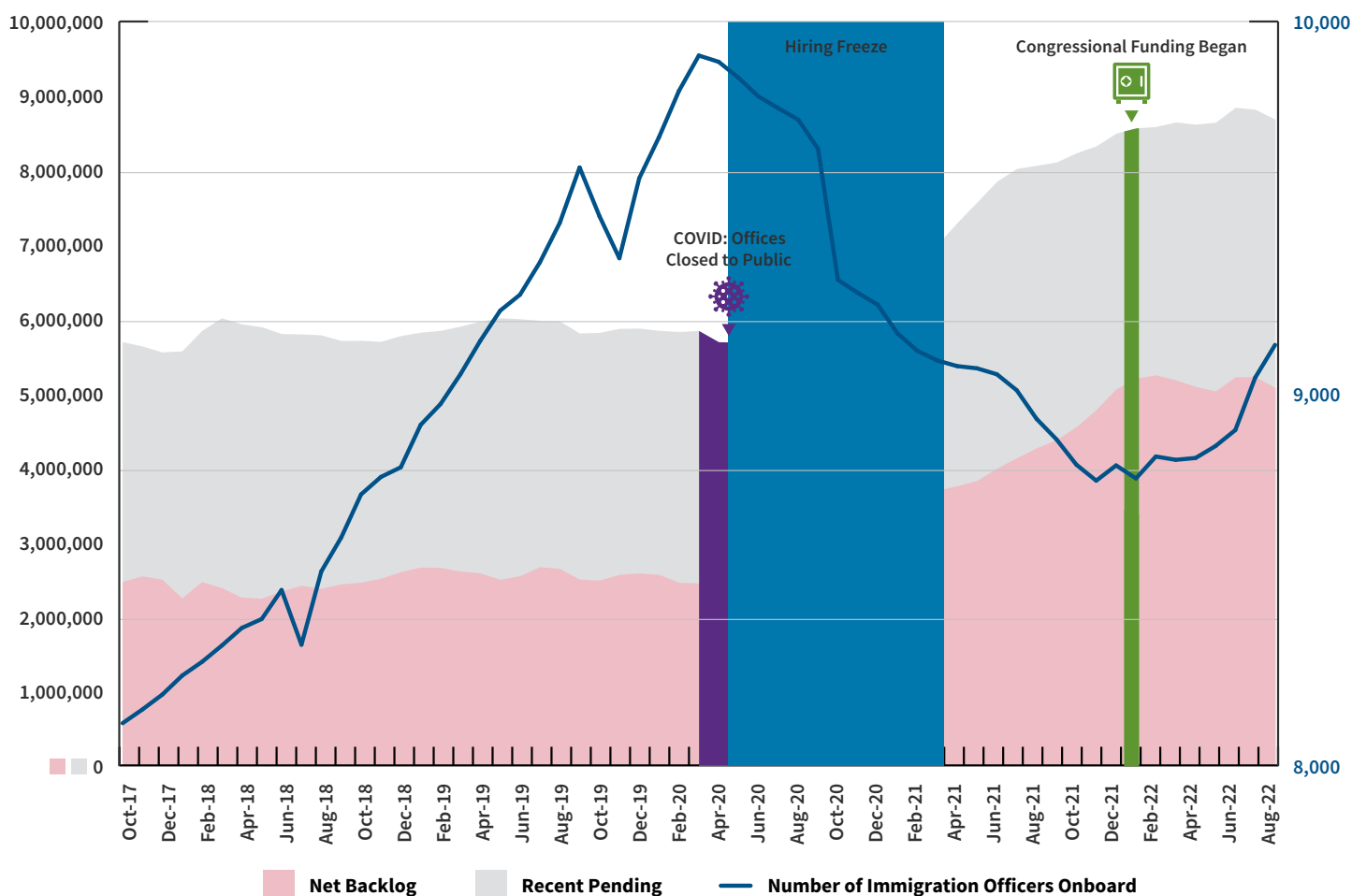
Above: Monthly USCIS revenue, expenses, and cash reserves (carryover balance) throughout FY 2022, in \$ millions.

## Turning the Tide on Backlogs

The hiring freeze, which ran from May 1, 2020, through March 31, 2021, led to an immediate and steep reduction in the number of USCIS adjudicators, as employees who left the agency could not be replaced, including the 1,000 contract support staff. At the same time, COVID-19 caused USCIS to close in-person work for three months, followed by many more months of adjustments to respond to new COVID safety protocols, sending the agency scrambling for solutions to meet its mission to adjudicate millions of requests each year. As a result, the total USCIS net backlog—that is, the number of cases pending longer than agency processing time goals—doubled by December 2021.

In early 2022, USCIS stopped the growth of the backlog through an ongoing hiring surge and drive to find new efficiencies in case processing. The dedicated workforce of USCIS is turning the tide on its pending caseload, even while bolstering government-wide efforts such as Operation Allies Welcome and Uniting for Ukraine.

### USCIS pending caseload and total number of immigration officers



Above: USCIS' total pending caseload by month, consisting of net backlog (pending cases outside of target processing times) and recent pending (cases still within target processing times). "Number of Immigration Officers Onboard" refers to the total number of adjudicators (immigration service officers and asylum officers), excluding supervisors, employed by USCIS during a given month.



## V. CONCLUSION

In the months ahead, USCIS plans to build on its FY 2022 progress by implementing premium processing for all petitions for immigrant workers (Form I-140) and certain employment authorization applications (Form I-765) for students and exchange visitors; establishing a permanent biometrics exemption for all applicants for change of nonimmigrant status and extension of nonimmigrant stay (Form I-539); and simplifying several common forms, including the applications for employment authorization (Form I-765), adjustment of status (Form I-485), and naturalization (Form N-400).

This progress on both backlog reduction and humanitarian services was supported by crucial appropriations by Congress in FY 2022. Going forward, USCIS will require continued congressional support to help *eliminate* its current net backlogs and meet its humanitarian mission, and plans to pursue a new fee rule to prevent the accumulation of new backlogs in the future.

USCIS will continue to expand its robust public engagement on humanitarian immigration programs as well as explore policy and operational measures to improve processing times for humanitarian benefits.

While we've made progress in FY 2022, we recognize there is more to do to eliminate unnecessary barriers, restore faith in the immigration system, and improve transparency, efficiency, and the customer experience. We remain committed to these goals and anticipate more progress, as outlined, in the coming year.