

**USCIS Responses to Questions in the January 22, 2015 Letter from
Senators Grassley, Johnson, and Sessions**

- 1. Please provide all details with respect to the leased space in Crystal City, Arlington, Virginia, that will reportedly house adjudication facilities for the DAPA program, including square footage, rental price, term of lease, anticipated utility bills, costs for security (both physical and document security), costs for furnishings, costs for technology (e.g., phones, computers, etc.), costs for equipment to process applicants, costs for parking and/or metro subsidies for staff, costs for contract services (e.g., staffing, cleaning, food service, financial/budgetary analysis, printing, storage). Please indicate the source of the funds that USCIS is using to pay for this lease and the specific account where the funds are located. Please further indicate the specific purposes for which such funds would have been used in FY2015 had they not been used for these programs.**

On November 21, 2014, following the President's November 20 announcement of executive actions on immigration, USCIS signed an occupancy agreement with the General Services Administration (GSA) for 280,039 rentable square feet of GSA-leased office space at 2200 Crystal Drive, Arlington, VA. The lease will expire in April 2016. The building was obtained fully furnished and nearly ready to support immediate operations. It was also already leased to GSA by the landlord and rent was already being paid for it. The estimated costs to USCIS to fully stand up the facility in Fiscal Year (FY) 2015, as planned prior to the court's injunction, are itemized below.

One Time Facility-Related Cost

1. Renovations/furniture	\$1,500,000
2. Telephone/Data Electronics	4,000,000
3. Security Upgrade	850,000
4. Federal Protective Services Security Equipment	6,000
5. Purchase of 16 Copy machines	95,446
6. Mail Inserter Machine	90,000

USCIS Infrastructure Enhancements

7. CLAIMS 3 Services	\$1,200,000
8. CLAIMS 3/Card Production	1,750,000

Data, Voice, and Video Infrastructure

9. Voice Circuits, Data Circuits, and Video Teleconference (VTC)	\$900,000
10. Flex-Pod Installation	750,000
11. Cabling/Installation	35,000

End User Workstations and Peripherals

12. Workstation/Desktop Equipment	\$2,659,984
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13. Printers, Scanners, and Plotters	646,254
14. Barcode Readers and Printers	1,097,500
15. Delivery and Installation Services	225,135

Travel for Site Stand-up

16. Office of Information Technology	\$17,685
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Sensitive Property and Credentialing

17. ISO Approval and Denial Stamps (\$34.51 each)	\$49,004
18. Heavy Duty Dry Seals (\$432.60 each)	43,260
19. Electric Dry Seals (\$1,395 each)	139,462
20. Credential Wallets (\$5.00 each)	21,000
21. ISO Badges (\$64.38 each)	45,710

Recurring Annual Costs of Operating the Crystal City Facility

22. Electric/sub metering for air handler units	\$145,000
23. Preventative maintenance for air handler units and generator	200,000
24. Estimated overtime utilities for 1 floor where shift work will occur (pay for an additional 6 hours of utilities a day, Mondays thru Fridays from May to September)	90,000
25. Kastle key fobs	750
26. Service the air handler units	15,000
27. Annual Rent Payable to GSA (\$27.55 per square foot) ¹	7,771,082
28. Federal Protective Service on site Guard Services ²	1,188,024
TOTAL Cost to Stand Up Facility	\$26,231,296

Cleaning, Building Services, and Employee Parking

Cleaning services, building engineer staff, and on-site maintenance staff are included in the monthly rent bill of \$647,590. Two separate costs relating to multiple air handling units were installed to support government equipment added to the facility. These units support the separately metered Local Area Network (LAN) room, training space, and conference rooms. USCIS will have to pay for the electrical expenses incurred for the air handling units as well as the preventative maintenance contract; both of which will be paid separate from the rent bill under reimbursable work agreements (RWA). The electrical requirements are estimated to cost \$145,000, and the preventative maintenance contract is estimated to cost \$200,000 for the period January – September 2015. In addition, the occupancy agreement includes an allowance for 10 parking spaces. The vast majority of employees will utilize private vehicle parking arrangements offered by local businesses or opt to use local mass transportation systems conveniently servicing the Crystal City, Arlington, VA area (Crystal City). The expense associated with providing employees transit subsidy benefits is unknown

¹ The FY 2015 estimated GSA Rent cost is \$6,475,902 for 10 months of operation given that the effective date of the occupancy agreement is December 1, 2014.

² FPS Guard Services costs for FY 2015 for 10 months is projected to be \$802,067, which reflects a lower monthly cost than the annual estimate would indicate. This reflects the gradual buildup of the full complement of guards assumed in the annual cost.

at this time as these costs are dependent upon the individual circumstances of the employees hired to work in the new facility. Information concerning transit subsidy expenses will be provided as part of the monthly reports as this information becomes available.

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). The Treasury Financial Account Symbol for this account is 70X5088. The funds being spent are agency cash reserves, so no material impact to current operations or funding-related tradeoff decisions are being made at this time. Upon implementation of DAPA and expanded DACA (currently suspended due to the preliminary injunction entered in *State of Tex. v. United States*, No. 01:14-CV-00254, 2015 WL 648579 (S.D. Tex. Feb. 16, 2015), *appeal docketed*, No. 15-40238 (5th Cir. Feb. 23, 2015)), the cash reserves would be replenished and all start-up and subsequent operating expenses would be funded through the corresponding fees collected.

If the preliminary injunction is lifted or stayed, USCIS will provide monthly updates, identifying any additional costs.

- 2. Please provide all details with respect to any other leased space or plan to lease space including location, square footage, rental price, term of lease, anticipated utility bills, costs for security (both physical and document security), costs for furnishings, costs for technology (e.g., phones, computers, etc.), costs for equipment to process applicants, costs for parking and/or metro subsidies for staff, costs for contract services (e.g., staffing, cleaning, food service, financial/budgetary analysis, printing, storage). Please indicate the source of the funds that USCIS is using to pay for such lease(s) and the specific account(s) where such funds are located. Please further indicate the specific purpose(s) for which such funds would have been used in FY2015 had they not been used for these programs.**

USCIS is expanding space requirements in several locations around the country to support its normal operations that are unrelated and independent of the requirements associated with implementing DAPA and expanded DACA. If those policies are implemented, additional space may be required in the future based on actual service demands experienced. Any additional space requirements would be funded by the fees collected from request filings, which would be deposited into the IEFA.

- 3. Please provide all details with respect to the number of personnel USCIS has hired or plans to hire to implement the November 20, 2014, executive actions, including grade levels, cost of the employees for the first year and out years, cost of recruitment (e.g., position description writing and classification, posting of job announcements, setting up and running career boards), cost of obtaining security clearances, and cost of training. Please also indicate the length of time from position posting to start date. If such time**

period is more than six months, what USCIS personnel will adjudicate applications for these programs and how much will that cost?

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. 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.

The composition of the staff to be hired at the Crystal City facility and in existing USCIS Service Centers would range from General Schedule (GS) grade 5 employees to grade 15 and Senior Executive Service leadership employees. The majority of the staff hired was to be at the GS 5/7/9 level, which are the average grade levels of our current Immigration Services Officers (ISO) assigned responsibility for adjudicating immigration service requests. Also, because all of the positions that USCIS would hire have already been classified and have established position descriptions for which USCIS actively recruits, there are only nominal expenses being incurred to amend existing position descriptions. All positions would be announced through traditional methods using the Office of Personnel Management's USAjobs tool. However, USCIS would incur a cost of \$20,652 per year over the FY 2015 and FY 2016 period for three USAStaffing licenses to operate the system to produce the selection certificates as part of the hiring process. In addition, USCIS has issued an Order for Supplies or Services from Wonderlic Inc. in the amount of \$6,027 to acquire 1,100 licenses to provide Writing Skills Evaluation and Consulting Services to assist in the review and evaluation of applicant writing samples submitted as part of the ISO recruitment process. Details as to the number of employees hired and their grade levels will be provided within the requested monthly reports.

All applicants accepting a USCIS job offer or hired under a contract arrangement would undergo a full background investigation to ensure suitability for federal employment. The estimated average cost of providing the background investigation is \$3,978 per person. Consequently, USCIS estimates that it would expend approximately \$5,569,200 on employee suitability background checks to achieve its initial hiring targets, and spend \$105,000 on pre-employment drug testing (\$75 x 1,400) as part of the applicant security clearance process.

The actual length of time that is required to complete each investigation and clear a new hire employee to enter on duty would vary according to the applicant's circumstances and the nature of any specific issues uncovered during the background investigation. Before the injunction was issued, USCIS projected that the Crystal City facility would be fully staffed, and staff properly trained, by the end of the first quarter of FY 2016.

USCIS estimates that it would incur \$651,000 in instructor travel expenses to deliver BASIC Immigration Services Officer Training in Crystal City; \$76,800 on BASIC training books

and supplies; and \$47,512 for mandatory Law Enforcement Institution Training for instructors selected to deliver the on-site BASIC training. USCIS had planned to phase its staffing to correlate with the phased receipt of requests contained within its production model, which was based upon the actual FY 2012 DACA filing pattern experienced. Accordingly, USCIS had projected that it would incur payroll costs of \$21 million during FY 2015 relating to the on-boarding of approximately 1,000 new federal employees. USCIS had also issued a request for proposals (RFP) for a new mail and file room operations support contract for the Crystal City facility that would have employed approximately 400 contractor personnel. However, in response to the court injunction, USCIS cancelled the solicitation. USCIS planning was based on the assumption that 60 percent of all individuals who may be considered for 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.

4. How will the initial processing of applications occur? Please include in your answer which existing USCIS personnel will adjudicate the initial applications and from which offices they will be drawn. Please also include the other benefits programs for which you anticipate backlogs (similar to the backlogs of I-130s after DACA was implemented) in order for USCIS to be able to process applications for these programs.

USCIS had planned to commence operations in support of the expansion of DACA on or about February 18, 2015, but suspended that plan on February 17 in response to the preliminary injunction entered by the district court in *State of Tex. v. United States* on February 16, 2015. Because the DACA expansion would be an extension to the original initiative announced in June 2012, the USCIS Service Centers that have been processing both initial and renewal DACA requests since that time were also expected to receive and process requests under the expanded DACA guidelines. As is customary with all workloads managed by USCIS Service Centers, which collectively employ more than 2,000 ISO employees, there is always a balancing of experienced officers and newly hired officers to ensure that cases being received are being appropriately examined by individuals with the requisite training, experience and skills. Service Center leadership personnel routinely adjust staff assigned to the various product lines in response to actual workload volumes received, pending inventories of cases on hand, and established processing times. It is customary that the more experienced officers will be assigned the more complex and difficult cases, whereas recently hired employees who have not yet acquired the experience and skills needed to handle these types of cases are assigned less technically difficult cases to develop their proficiency. Absent the court injunction, USCIS expected that, as the Service Centers began to receive requests under the expanded DACA guidelines, it would undertake the same sort of personnel assessment of all on-board ISO staff and make appropriate workload assignments to ensure that all customers seeking service from USCIS were given the proper

attention and servicing of their cases, while endeavoring to minimize service delays and any accumulation of backlogs.

In preparing for the implementation of the new initiatives, USCIS evaluated the potential workload and the staffing requirements that would allow agency leadership to assess the potential impacts on service delivery for existing workloads as well as the new workloads. This is a routine response that USCIS employs whenever there is a sudden or unexpected change in workload volumes. Managing service delivery expectations during times of fluctuating workloads is one of the agency's most challenging operational activities, as it takes time, attention, and a focus on production data to effect course corrections. Consequently, it is not uncommon for USCIS to experience periods where case backlogs exist. Actions are taken in response to those backlogs. In assessing the new workloads and their staffing requirements, USCIS was able to also evaluate the potential impact on existing agency workloads and processing times. To do this, USCIS applied a comprehensive approach that considered all form types currently being processed, as well as their pending inventories and case completions needed to maintain acceptable processing times and service delivery. In assessing the workloads and potential impacts, agency leadership considered all available adjudicative strategies to ensure that the workload associated with the new initiatives would not unduly impact the processing of existing applications and petitions, while ensuring that the integrity of the processes remained sound. These strategies included assigning preexisting staff to workloads commensurate with their level of training and skills, effectively integrating new hire employees into the adjudications flow, and providing overtime to employees to increase adjudication capacity while hiring efforts continue in response to established staffing plans. Finally, as new workloads were received within USCIS, further assessments and operational planning would be undertaken and adjustments made as necessary, to respond to the actual situations encountered. USCIS is committed to managing all agency workload in the most timely, efficient and responsible manner possible, while ensuring the integrity of the immigration system and our national security.

a. How many USCIS personnel were transferred from adjudications work on existing legal visa programs to administer DACA?

As noted above, USCIS assigns work to ISOs based on their level of experience and skill, and as a result manages its workforce in a manner that best blends the talents and skills of its employees to achieve its adjudicative case processing goals. 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. 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. With regard to

DAPA and expanded DACA, there was no immediate intention to transfer work out of the Service Centers similar to what was done in 2012. Rather, our performance assessments indicated that the Service Centers possessed adequate capacity to manage existing and new workloads within the Centers while hiring was taking place to increase the Service Center workforce by 400 personnel.

- b. Please describe in detail any formal or informal instructions prescribing which visa programs, because of their relative priority, could not have resources, including personnel, diverted to DACA adjudications. Please provide copies of any such instructions that may have been reduced to writing.**

USCIS administers a complex immigration system that includes more than 100 visa types, more than 200 different forms and applications, and more than 100 immigrant and nonimmigrant classifications. In managing the processing of more than 6 million applications and petitions per year, USCIS recognizes that certain form types need special emphasis because they must be processed within certain time periods due to statutory, regulatory, or humanitarian considerations. This understanding informs USCIS production planning, staffing analysis, and resource allocation decisions as a matter of routine business operations. Through a longstanding practice of discretely tracking the receipt, processing and inventory of cases received from customers, USCIS is able to ensure the most efficient allocation of resources to support the timely processing of every form type received. Whenever USCIS receives a sudden increase in workload, a detailed analysis of the services requested is performed. Considering the need to provide special emphasis to certain form types, USCIS is able to make initial risk-based resource allocation decisions so that all USCIS customers are given the attention and service they deserve.

In implementing the initial DACA policy in June 2012, USCIS performed extensive analysis to identify the potential impacts on existing agency workload and processing times, as well as to determine the appropriate response. USCIS conducted a full assessment of its adjudication capacity, determined the status of agency processing relative to established processing times, and then applied appropriate consideration for ensuring that those form types needing special emphasis were not unduly impacted by the new workload. This process, however, does not mean that resources are not applied to all other form types; on the contrary, all remaining available adjudicative capacity is distributed to these form types to ensure that all customers receive the most timely processing possible. USCIS applied its traditional production management methods to develop case processing goals and staffing plans to address the new workloads. The following chart, prepared prior to entry of the district court's February 16, 2015 preliminary injunction, identifies those form types possessing special emphasis designation.

U.S. Citizenship and Immigration Services

Special Emphasis Form Types based on Legal, Regulatory or Humanitarian Considerations

Form Number	Form Name	Special Emphasis Form Type Y/N	
		FY 2012 DACA	FY 2014 DACA/DAPA
I-102	App for Replace/Initial Non-Immigrant Arr-Dep Document	N	N
I-129	Petition for a Non-Immigrant Worker	Y	Y
I-129	Petition for a Non-Immigrant Worker - Premium Processed	Y	Y
I-129F	Petition for Alien Fiancé	N	N
I-130	Petition for Alien Immediate Relative	N	Y
I-130	Petition for Alien Preference Relative w here Visa is available	N	Y
I-130	Petition for Alien Preference Relative w here Visa NOT available	N	N
I-131 Advance Parole	Application for Travel Document	Y	Y
I-131 RP/RTD	Application for Reentry Permit/Refugee Travel Document	Y	Y
I-140	Immigrant Petition for Alien Worker	Y	Y
I-360	Petition for Amerasian Widow	N	N
I-485 Asylee	Application for Adjustment of Status - Asylee	N	N
I-485 Refugee	Application for Adjustment of Status - Refugee	N	N
I-485 Indo Chinese Adjustment	Application for Adjustment of Status - Chinese	N	N
I-485 Regular	Application for Adjustment of Status - Employment	N	Y
I-485 Regular	Application for Adjustment of Status - Family	N	Y
I-526	Immigrant Petition for Alien Worker	N	N
I-539 other	Immigrant Petition for Alien Worker	N	N
I-539 ELIS	Immigrant Petition for Alien Worker - ELIS	N	N
I-589	Application for Asylum for Withholding	N	N
I-600/600A	Petition to Classify Orphan as Immediate Relative	Y	Y
I-601A	Provisional Waiver	N	N
I-687 / 690 / 694 / 695 / 698	Legalization / Spcl Ag worker	N	N
I-730	Refugee/Asylee Relative Petition	N	N
I-751	Petition to remove condition on residence	N	N
I-765	Application for Work Authorization	Y	Y
I-800/800A	Petition to Classify Convention Adoptee	Y	Y
I-817	Application for Family Unity Benefits	N	N
I-821	Application for Temp Protect Status	N	Y
I-824	App for Action on Approved Application or Petition	N	N
I-829	Petition by Entrepreneur to Remove Conditions	N	N
I-90	App for Replacement of Green Card	N	Y
I-914	App for T Nonimmigrant Visa	N	N
I-918	Petition for U Nonimmigrant Visa	N	N
I-924	Application for Regional Center	N	N
I-929	Petition for Qualifying Family	N	N
N-300	Application to File Declaration of Intention	N	N
N-336	Request for Hearing on Decision in Naturalization proceedings	N	N
N-400 Military	Application for Naturalization - Military Member	Y	Y
N-400 Regular	Application for Naturalization - Non-Military	N	Y
N-470	Application to Preserve	N	N
N-565	App for Replacement of Naturalization Document	N	N
N-600/600K/643	App for Certificate of Citizenship	N	N
N-644	App for Posthumous Citizenship	N	N
N-648	Medical Certification for Disability Exceptions	N	N
Waivers	Waivers of Inadmissibility	N	N
I-821D (DACA)	Request for DACA Expansion	N	N
I-821P/I-765/I-131 (DAPA)	Request for DAPA, Employment and Travel Authorization	N	N

- c. **Please describe in detail any formal or informal instructions prescribing which visa programs, because of their relative priority, will not have resources, including personnel, diverted to DAPA adjudications or DACA expansion adjudications. Please provide copies of any such instructions that may have been reduced to writing.**

Please see the response provided to item b. above.

5. **What is the actual cost of adjudicating the I-821D for Deferred Action for Childhood Arrivals (DACA), including direct costs for adjudication, management costs, and support and overhead, not the cost of taking the biometrics or adjudicating the application for an employment authorization document (EAD)?**

To request consideration for DACA, an individual is required to submit properly filed I-821D and I-765 forms, and pay the required fees (including a biometric services fee). If an applicant does not file the request for consideration for DACA with both the I-821D and I-765 forms and fees in the same package, the request will be rejected. Within this package, there is no fee associated with filing the I-821D. The fees that are required to cover USCIS processing costs include \$380 for Form I-765 and an \$85 biometric services fee that is linked to the I-765 application. At the overall level, DACA revenue collected since 2012 has been sufficient to cover all DACA costs, and USCIS expects that this financial condition will continue with the expansion of DACA and the introduction of DAPA should the preliminary injunction be lifted or stayed.

6. **Do you anticipate the cost of adjudicating the new DAPA application to be the same as DACA? If not, please explain the differences in cost and why.**

USCIS has not yet finalized the procedures for processing and adjudication DAPA requests. As such, USCIS is currently unable to estimate costs with respect to such requests.

7. **Please provide projections of the number of administrative appeals generated from the executive action and costs related thereto.**

USCIS has not, and would not, offer individuals the opportunity to appeal an unfavorable decision on their request for DACA or DAPA consideration.

8. **What are the actual costs of creating and adjudicating EAD applications? If there are “excess fees” collected in the \$380 fee set by rule in September 2010, what are they? If the cost of the EAD application exceeds actual costs, why was an extra amount added to the fee in the first place? What was the extra amount intended to cover?**

Although no fee is currently charged for a request for DACA (Form I 821D), individuals who elect to request consideration must also file the Application for Employment Authorization (Form I-765), which has a \$380 fee, plus an \$85 biometric services fee, for a total of \$465.

The specific costs that USCIS is able to discretely track within its financial management system related to DACA do not include a share of USCIS overhead costs such as management and oversight, customer service, etc. However, the USCIS fee for the Application for Employment Authorization (Form I-765) and the biometric services fee do include an allocation of costs which are also borne by all other fee paying applicants and petitioners. This is an accepted cost accounting principle within the fee setting process and is applicable to USCIS form types beyond the I-765. The assignment of overhead costs to individual form types is also reflective of specific policy choices being made within the fee setting process, such as when the decision is made to hold the fee related to the application for naturalization (Form N-400) flat, when the fee study indicates an increase may be warranted. Moreover, USCIS typically adds a surcharge to all of its fees to recover the costs associated with granting fee waivers and exemptions, as well as to finance the operations of its Refugee and Asylum programs that are administered without charging a fee due to the humanitarian nature of the immigration services provided. Consequently, almost all fee paying customers are, to some extent, subsidizing the costs of services provided to those for whom a fee is not charged or is not set at a level enabling the recovery of costs incurred for services provided. With respect to the 2012 DACA policy, revenue collected to date has been sufficient to cover all costs of its administration.

9. What are the actual costs of collecting biometric information? If there are “excess fees” collected in the \$85 fee set by rule in September 2010, how much are they? If the biometric fee exceeds actual costs, why was such an extra amount added to the fee in the first place? What was the extra amount intended to cover?

Although no fee is charged for the request for DACA (Form I-821D), individuals requesting consideration under the 2012 DACA policy must concurrently file Form I-821D with Form I-765, which has a \$380 fee, plus the \$85 biometric services fee, for a total of \$465.

The costs tracked for DACA do not capture a share of USCIS overhead costs built into the fee amount such as management and oversight, customer service, etc. Similarly, the direct costs related to capturing and checking the requestor’s biometrics are captured within the USCIS financial management system (FBI name/fingerprint costs, Application Support Center costs to capture biometrics), but the indirect overhead expenses and surcharges that are built into the USCIS biometric services fee are not captured. Similar to the form I-765 and most all other USCIS applications and petitions, these overhead and surcharge costs enable USCIS to collect sufficient fee revenues to fully cover the cost of its operations.

10. Please provide the statutory authority that USCIS believes permits it to collect fees for DACA. If fees are being collected to implement the programs announced in the executive action, please provide the statutory authority that USCIS believes permits it to collect fees for those programs. Please also provide a legal explanation for why the collection of fees for DACA and the programs announced in the executive action is not a violation of the Anti-deficiency Act.

USCIS derives its authority to charge and collect a fee for DACA and (if implemented) DAPA from section 286(m) of the Immigration and Nationality Act (INA) (8 U.S.C. 1356(m)), which authorizes USCIS to set fees and deposit such fees into the Immigration Examinations Fee Account (IEFA). The collection of fees from DACA requesters to apply for an employment authorization document is authorized by this authority. Section 286(n) of the INA (8 U.S.C. 1356(n)) further provides that deposits into the IEFA are available until expended for expenses in providing immigration adjudication and naturalization services.

USCIS's collection of fees is fully authorized by section 286 of the INA and, as such, does not violate the Antideficiency Act.