"After the Border Crisis, possibly the Greatest Risk to US Immigration Processing" by Adam Edward Rothwell, Esq.

The crisis involving minor children at the US Border has wrecked a portion of the US Immigration system, specifically removal proceedings. And since most natural-born Americans know very little about the entire US Immigration system, this current border crisis may be spreading belief that the tremendous influx of unaccompanied minors to the US Border has substantially slowed processing of all US Immigration applications. However, with the obvious exception of removal proceedings, the border crisis has had limited impact on other areas of US Immigration.

Some of the most common US Immigration applications are by green card holders applying for US Citizenship, US employers sponsoring foreign workers, US citizens/green card holders sponsoring foreign relatives and/or foreign students applying for US student visas. These applications usually do not involve removal proceedings. Rather, these applications are mostly submitted to an entirely different agency within the US Department of Homeland Security than the agency that handles removal proceedings.

While US removal proceedings have become a huge mess, there has been no real impact to applications by either US businesses sponsoring foreign workers, US Citizens sponsoring spouses, green card holders applying for US Citizenship or foreign students applying to US Universities for example. That being said, disregarding border crisis issues, the next largest potential internal wreck to the US Immigration system in my opinion involves business immigration applications with the US Department of Labor.

Congress has an ongoing goal for the entire US Immigration system to pay for itself. In essence, the goal is to get cumulative processing costs equal to cumulative filing fees, so in theory a business that sponsors a foreign citizen applicant pays the total costs (including labor, administrative fees and any investigative costs) of processing that same application. While the US Immigration system has never come close to paying for itself, self-sufficiency is the goal. And government filing fees are modified regularly in furtherance of this goal. Yet, an exception completely exists with the US DOL.

The US DOL charges absolutely no filing fees to businesses for processing immigration sponsorship applications. Even when the US DOL requires an application audit, the US DOL charges US businesses no filing fees to then adjudicate the audit. And the majority of applications by US businesses for foreign workers involve a major component with the US DOL.

The US DOL processes literally hundreds of thousands of applications by US businesses for foreign worker sponsorship every year and doesn't charge anything for any of them. Whether it takes officers and support staff at the US DOL either a couple of hours or a couple of weeks' or more combined total time to process an individual application for foreign worker sponsorship, there is no fee charged by the US DOL to the US business. Based on this, an unexpected very high number of US businesses suddenly submitting certification applications (especially at certain points in the year) to the US DOL on behalf of foreign workers runs the serious risk of causing US DOL immigration sponsorship processing to crash.

In fact I am surprised the above has not happened yet, whether through a random but extremely heavy US DOL application increase or by unlawful practices. Regarding the latter, with so many US businesses run by individuals adamantly opposed to all foreign worker sponsorship, by charging no filing fees the US DOL opens itself up to the potential of being application bombed.

Almost all applications to the US DOL for foreign worker sponsorship are submitted online, which means these applications are submitted with potentially very little prior notice to the US DOL. Also, while substantial work must occur before a good faith application by a business is submitted, it does not take much time for a business to actually engage and then submit an application to the US DOL. Rather

applications submitted to the US DOL largely involve completing form fields, which means it often takes officers and support staff of the US DOL considerably more total time to adjudicate these applications than it takes a US business to input the required form fields. So if the system with the US Department of Labor does not change, at some point in time (maybe not this year, next year or even in ten years but at some point in time) there is a high chance it will someday get slammed with applications, causing it to swiftly wreck and crash.

That all being said, there is an easy way to alleviate almost all chance for this referenced potential issue to occur- The US DOL just needs to charge filing fees for application processing. By charging filing fees, any influx in applications may just be met by hiring new workers. Also requiring filing fees would practically eliminate the chance that the US DOL might ever be application bombed. And if the goal is for the immigration service to pay for itself, the US DOL should share this goal. Moreover, whenever I am contacted by new employers regarding applications that involving the US DOL, they always fully expect the US DOL to charge filing fees.

I am not saying they think it's a possibility- It has been my experience US employers who submit their first foreign worker sponsorship involving the US DOL almost always expect to pay US DOL filing fees. And when they find out the US DOL does not charge filing fees, it has further been my experience they don't then feel greater pride to the US DOL or federal government. Instead they say, "OK- No fee." However, they still get just upset at the US Department of Labor if their cases to sponsor foreign workers are not speedily processed just as much as they would be if there was a filing fee.

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