

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DOMINGO ARREGUIN GOMEZ, *et al.*,
 Plaintiffs,
 v.
 DONALD J. TRUMP, President of the United
 States of America, *et al.*,
 Defendants.

Civil Action No. 20-1419 (APM)

MOHAMMED ABDULAZIZ ABDULBAGI
 MOHAMMED, *et al.*,
 Plaintiffs,
 v.
 MICHAEL R. POMPEO, Secretary,
 U.S. Department of State, *et al.*,
 Defendants.

Civil Action No. 20-1856 (APM)

CLAUDINE NGUM FONJONG, *et al.*,
 Plaintiffs,
 v.
 DONALD J. TRUMP, President of the United
 States of America, *et al.*,
 Defendants.

Civil Action No. 20-2128 (APM)

)	
AFSIN AKER, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 20-1926 (APM)
)	
DONALD J. TRUMP, President of the United)	
States of America, <i>et al.</i> ,)	
)	
Defendants.)	
)	
)	
MORAA ASNATH KENNEDY, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 20-2639 (APM)
)	
DONALD J. TRUMP, President of the United)	
States of America, <i>et al.</i> ,)	
)	
Defendants.)	
)	

DEFENDANTS’ STATUS REPORT

Pursuant to the Court’s Order of October 13, 2021, Defendants respectfully submit the following status report concerning their progress in processing the 9,095 Fiscal Year (“FY”) 2020 Diversity Visas (“DV-2020”) that the Court ordered Defendants to issue. *See* ECF No. 244 at 3.

On August 17, 2021, the Court ordered Defendants to process the 9,095 DV-2020 visas that the Court had previously directed Defendants to reserve for *Gomez* class members. *See* ECF No. 237 at 48-53. On October 13, 2021, the Court ordered Defendants “to commence processing the 9,095 DV-2020 visas as soon as is feasible and to conclude such processing no later than the end of the 2022 Fiscal Year, or September 30, 2022.” ECF No. 244 at 3. The Court also ordered

“Defendants to file periodic reports indicating how many reserved DV-2020 visas [they have] adjudicated,” *id.* at 4, and directed Defendants to “file the first such report by January 11, 2022, and file additional reports every 60 days thereafter until adjudication of the reserved visas has concluded.” *Id.* at 4-5.

On December 10, 2021, Defendants noted an appeal from this Court’s Order of October 13, 2021. ECF No. 248.

Notwithstanding Defendants’ Notice of Appeal, *id.*, the U.S. Department of State (“DOS”) has undertaken arduous steps to effectuate information technology system changes necessary to comply with the Court’s Order of October 13, 2021. *See* Declaration of Andrea Whiting (Jan. 11, 2022) (“Whiting Decl.”) (attached as Ex. A). Consistent with the Declaration of Gulcin Halici, *see* ECF No. 241-2 ¶ 2, which Defendants previously filed in support of Defendants’ portion of the Joint Status Report on August 26, 2021, *see* ECF No. 240 at 4, DOS has undertaken the burden of creating, for the first time, the information systems infrastructure to process diversity visa (“DV”) applications after the conclusion of a particular FY. Specifically, the Office of Field Operations of the Visa Office (“VO”) Managing Director submitted a Level of Effort (“LOE”) analysis request to Consular Systems and Technology (“CST”) and, on November 4, 2021, the VO Managing Director submitted a request to CST to make necessary changes to DOS’s information technology systems to allow it to comply with the Court’s orders. *See* Whiting Decl. ¶¶ 5–6. On December 9, 2021, CST provided VO with the LOE analysis, which is a working-level assessment of the effort and agency resources required to accommodate the project including associated costs. *Id.* ¶ 7. The LOE analysis details the system modifications necessary to process and adjudicate DV applications from FY2020 and FY2021 without adversely affecting the processing and

adjudication of FY2022 DV applications. *Id.* These modifications must be implemented on several different systems used in DV processing, each with different functionality. *See id.* Per the LOE analysis, it will take at least four months and cost approximately \$500,000 to make the necessary system changes. *Id.* ¶ 8. As a result, VO estimates that the earliest it could process FY2020 and FY2021 DV cases would be April 2022.¹ *Id.*

Additionally, to process as many FY2022 DV applications as possible during the four-month period that the DV processing systems are being modified, VO has launched a pilot program whereby the Kentucky Consular Center—which normally does the initial intake and document review of DV applications and supporting documentation—will no longer conduct in-depth document review, other than confirming the receipt of the DS-260, the basic immigrant visa application form. *See id.* ¶ 10; *State Department, Diversity Visa 2022 Update*, <https://travel.state.gov/content/travel/en/News/visas-news/diversity-visa-2022-update.html> (last accessed Jan. 11, 2022). This pilot program will allow more DV cases to be more quickly scheduled for interviews and transferred to overseas consular sections for processing. *See Whiting Decl.* ¶ 10. By frontloading the processing of FY2022 DV cases earlier in the year, DOS is attempting to create more capacity for the FY2020 and FY2021 DV adjudications later on in FY 2022, once the systems modifications have been finalized. *See id.* However, whether this pilot program is successful in creating this additional capacity will depend in part upon whether FY2022 DV selectees submit all required documents to consular sections to avoid delays in processing. *See id.*

¹ The Department included FY2021 in its LOE request since this Court in *Goh v. Biden* and another court in this district in *Rai v. Biden* similarly ordered the processing and adjudication of FY2021 DV applications by the end of FY2022. *See Goh, et al. v. Biden, et al.*, No. 21-cv-999 (APM), ECF Nos. 44 and 45 (D.D.C.); *Rai, et al. v. Biden, et al.*, No. 21-cv-863 (TSC), ECF Nos. 53, 54, 61, and 62 (D.D.C.).

Pursuant to this Court's Order of October 13, 2021, ECF No. 244 at 4-5, Defendants will file their next status report by March 14, 2022. *See* Fed. R. Civ. P. 6(a)(1)(C).

Date: January 11, 2022

Respectfully submitted,

BRIAN M. BOYNTON
Acting Assistant Attorney General, Civil
Division
WILLIAM C. PEACHEY
Director, Office of Immigration Litigation,
District Court Section
COLIN A. KISOR
Deputy Director
GLENN M. GIRDHARRY
Assistant Director
JOSHUA PRESS
Senior Litigation Counsel

/s/ Eric C. Steinhart
ERIC C. STEINHART
JAMES J. WEN
Trial Attorneys
U.S. Department of Justice, Civil Division
Office of Immigration Litigation – DCS
P.O. Box 868, Ben Franklin Station
Washington, DC 20044
Tel: (202) 514-0618
Email: eric.c.steinhart@usdoj.gov

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2022, I electronically filed the foregoing document with the Clerk of the United States District Court for the District of Columbia by using the CM/ECF system. Counsel in the case are registered CM/ECF users and service will be accomplished by the CM/ECF system.

/s/ Eric C. Steinhart
ERIC C. STEINHART
Trial Attorneys
U.S. Department of Justice, Civil Division
Office of Immigration Litigation – DCS