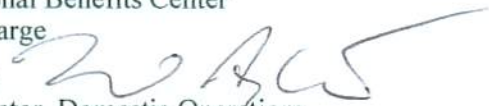




Interoffice Memorandum

Subject Code:

TO: Regional Directors
District Directors
Service Center Directors
Director, National Benefits Center
Officers-in-Charge

FROM: Michael Aytes 
Associate Director, Domestic Operations

DATE: OCT 27 2006

SUBJECT: Case Management Timelines

Over the past several months, Domestic Operations has advocated the principle of “active case management” which simply means that cases are managed through processing in a manner that ensures they do not linger unattended in any processing stage. Meeting our case processing time goals also means taking the right actions at the right time. The *National File Tracking System* (NFTS) has been adapted to help local offices manage case inventories and individual case suspense periods, ensuring that cases are returned to active processing as soon as possible. Reports and processes in service centers provide similar assistance.

In order to ensure that each case is managed through the process, the below guidance provides discrete timeframes relating to case processing. References to days are always calendar days.

Rescheduled interview – Since rescheduling is costly, every effort should be made to conduct the interview as scheduled. We should only reschedule an interview at customer request where there are compelling extenuating circumstances beyond the individual’s control.¹ When we do reschedule an interview, the rescheduled interview should occur within 11 weeks of the initially-scheduled interview.

Rescheduled naturalization testing – Where a person fails the required test(s) on the first try, the second test should be scheduled within 60 to 90 days of the first interview. To the extent practical, the applicant should be notified of the re-test date on the date they fail the test. When that is not possible, they should be advised at the interview that they will be rescheduled in 60 to 90 days and the actual retesting notice

¹ When we reschedule an interview based on the applicant’s request, the processing clock for an associated EAD starts over from the date of the request for rescheduling. See 8 CFR 103.2(b)(10)(i).

should go out as soon as possible. This will give the applicant certainty with respect to when they will be retested.

Manually rescheduled fingerprint notices – Our goal is to reschedule the appointment within 10 days of the request, with a new appointment scheduled within a 14 day timeframe.²

Appointment scheduling lead times –

Customer notification – Applicants should be scheduled for ASC appointments, interviews and oath ceremonies no less than ten days in advance of the appointment and notices should be sent no less than eight days in advance. Shorter lead times can be used when the time for the customer to receive the notice is substantially less than regular mail, such as when scheduling by phone or through e-mail, or during an interview or other in-person interaction. Interviews should not be scheduled more than 60 days in advance.

Lead time for remote scheduling – Where a pre-processing site such as the NBC or a service center is scheduling the interview and then transferring the file to the local office, the interviews should be scheduled according to the following lead times:

- I-485 – no less than 45 but no more than 60 days before the actual interview date.
- Other applications and petitions – no less than 30 but no more than 60 days before the actual interview date.

These lead times give us sufficient time to handle logistics at both the shipping and receiving office, but also preclude scheduling too far in advance. The lead time for notifying the customer of the interview must still meet the above-articulated minimum requirements; however, when possible, it is useful to send the interview notice shortly after the appointment is scheduled to give the applicant or petitioner additional advance notice.

Request for Evidence (RFE) – An RFE is a single opportunity for a customer to provide the requested information. An extension of the standard RFE timeframe cannot be provided, nor should we repeat requests for the same evidence.

On an application or application package (e.g., I-130, I-485, I-131 and I-765) where a customer could receive interim benefits,³ our objective is to pre-screen the EAD and/or Advance Parole application, the underlying application and any pending underlying petition within 10 days of filing to identify whether there is any missing initial evidence, and whether the initial review of the particular case indicates that additional evidence is necessary. We do not want to issue an EAD or advance parole based on an incomplete application because we haven't conducted this initial review.

Conducting this initial review early, and not simply issuing EADs and advance paroles on incomplete applications, is a basic premise of both the NBC process and of the DORA pilot in our Dallas office. One of the results of the earlier, more comprehensive pre-screening that we are now conducting is that when we find missing initial evidence or required additional evidence early, it affects the timing for eligibility for interim benefits.

² Where done as a result of the individual's request for a discrete new appointment as opposed to appearing at the alternate time provided on the earlier appointment notice, this similarly restarts the processing clock for an associated EAD from the date of the request for rescheduling. See 8 CFR 103.2(b)(10)(i).

³ Interim benefits include advance parole and, depending on the basis upon which it is being requested, employment authorization. In addition, an applicant or petitioner will normally be allowed to remain in the U.S. while their application or petition to extend or obtain status is pending when they would otherwise have no legal basis to remain.

An RFE places the case in active suspense until we receive a response or the time frame lapses, whichever comes first. When a case is missing *initial* evidence the RFE stops the 90-day processing clock on the associated EAD and/or Advance Parole application(s). The clock will *start over* when we receive a timely response to a request for required initial evidence. An RFE for *additional* evidence, however, only suspends the processing clock, and the clock *resumes at the point where it had stopped* when we receive a timely response.⁴

When we send an RFE, also commonly referred to by the I-72 or N-14 pre-printed forms that are sometimes used, the following timelines apply:⁵

- N400 – consistent with 8 CFR 335.7, customers are given 30 days from the date of our request; if a response is not received, the case is adjudicated on its merits.
- All other applications – consistent with 8 CFR 103.2(b)(8)-(15), customers are given 12 weeks (84 calendar days) to respond.⁶

Where an interview notice indicated that the customer was to bring a specific document or evidence to the interview, but the customer does not do so, we should not repeat the request through an RFE. An exception, however, is when we have requested that an applicant bring, for example “all evidence of your claim to eligibility to your interview.” Here, because the request was not specific, if a customer fails to bring some evidence that could be inferred from the blanket request, issuing an RFE for the still missing evidence is appropriate. Similarly, if an issue first arises at an interview, the customer should be afforded an opportunity to respond to the new request for evidence.⁷

When necessary evidence or information is identified at the interview and we decide that a short-term (generally 1-2 weeks and no more than a month) opportunity to submit the materials is appropriate, it can be done as an extension of the interview. Where more time is clearly appropriate, it should be done as an RFE. Ideally, even when done as an RFE, the applicant or petitioner leaves the interview with the notice. Where that is not possible, the RFE notice should be sent within 14 days of the interview.

Customers should be informed of missing evidence as early in the process as possible and should be encouraged to submit material as soon as they can in order for case processing to resume. (They should be advised, however, to submit all of their response at one time, not piecemeal.)

Notices of Intent to Deny (NOIDs) – Where NOIDs are specifically mentioned in regulation, the response time is 30 days. However, unlike an RFE response time, the time for NOID response can be extended upon the customer’s request. Directors should, however, only grant these extensions in compelling circumstances.

Post-RFE/NOID processing – Offices should have procedures in place to promptly connect an RFE/NOID response with the pending application and to resume processing promptly once the response is received. Such cases should be returned to their pre-RFE/NOID place in the processing queue. In fact, USCIS has a discrete processing goal for these cases. Our processing time goal for cases that have had RFEs or NOIDs sent is 60 days after the customer’s response is received. To ensure customer

⁴ For more information on the processing clock and EADs, see the separate guidance memorandum of this date titled “Adjudication of Form I-765, Application for Employment Authorization (EAD).”

⁵ USCIS is working with DHS on a final rule that would allow USCIS to better tailor RFE periods to the type and source of the material needed in order to minimize delays.

⁶ 8 CFR 204.1(h) provides an alternate process for I-130 petitions, wherein we can initially give a petitioner 60 days to respond. If an office uses this alternate timeline in order to provide a shorter initial response period, it must be aware that it must entertain a discretionary extension of up to 60 days, up to a maximum total response time of 120 days.

⁷ An RFE should not be used where there is clear evidence of eligibility or ineligibility. For more information on RFEs and NOIDs, see the February 16, 2005 memorandum from William Yates titled “Requests for Evidence (RFE) and Notices of Intent to Deny (NOID).”

expectations are consistent with our objectives and to minimize unnecessary case status inquiries. RFE and intent notices should clearly indicate this.

In summary, active case management means managing each case through the process, with a goal of each case being completed correctly and within our timeframes with the exception of any discrete times spent in active suspense. It also means managing cases in active suspense based on the associated call-ups and returning them to active processing as soon as possible and appropriate.

cc: Chief, Service Center Operations
Chief, Field Operations

This memorandum is intended solely for the guidance of USCIS personnel in performing their duties relative to the adjudication of applications and petitions. It is not intended, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any individual or other party in removal proceedings, in litigation with the United States or in any other form or manner.