



Question & Answer

October 30, 2007

USCIS NATIONAL STAKEHOLDER MEETING, OCTOBER 30th, 2007

Answers to National Stakeholder Questions

UPDATES

1. Next national stakeholder meeting scheduled for December 4th at 2:00pm
2. **Cuban Parole Extension:** At the last USCIS National Stakeholder meeting, the Cuban parole extension issue was discussed in regard to certain USCIS offices not providing this service. USCIS Domestic Operations requested specific information on which offices were involved. By working with USCIS National Stakeholders, five offices were identified in the last month and a satisfactory resolution has been reached in two of those offices. USCIS is currently working to resolve this in the other three offices which we expect to accomplish soon.

NEW BUSINESS

1. **Question:** We have been informed by officers from USCIS' fraud unit who are working on investigations/site visits for religious worker cases that once an organization is investigated and cleared, their "clearance" lasts for five years.
 - a. Is this accurate? Does this mean that if the same religious organization files a petition for another religious worker within 5 years of its initial investigation/clearance, that same organization will not undergo another site visit?
Response: A favorable site visit will be valid for five years per petitioning entity, absent derogatory information.
 - b. How does USCIS track which organizations have been investigated/cleared for religious worker cases, and do USCIS adjudicators who receive religious worker petitions/applications have immediate access to that information?
Response: USCIS tracks verifications by using a database. Adjudications officers can access information about failed verifications.
 - c. USCIS should notify the petitioner and attorney of record as to the exact date that a site visit will take place. What mechanisms are in place to do this?
Response: Petitioners should not expect advance notice of a site inspection. USCIS notifies petitioners on a case-by-case basis.

- d. Once an application is filed, the petitioner should receive notice from USCIS regarding the range of time within which USCIS expects to conduct the site visit (for petitioners that still require one) – as this would enable the petitioner to estimate when their worker’s applications might be approved/completed. Can USCIS provide petitioners with such notice?

Response: As stated in the response above, petitioners should not expect advance notice of a site inspection. USCIS notifies petitioners on a case-by-case basis. Petitioners can consult the USCIS web site to view the predicted processing date for individual petitions.

2. **Question:** Our office has responded to many Requests for Evidence (RFEs) in religious worker I-360 petitions. The RFEs note that USCIS will process the cases within 60 days of receiving the RFE response. We have many cases that remain pending more than 60 days after filing of the RFE response. If after 60 days of filing the RFE response, USCIS has not made a decision on the case, what can we do/how should we inquire to make sure these cases have not fallen through the cracks?

Response: The above referenced case types require that the petitioners have been verified via the Compliance Review Process that is conducted by the Office of Fraud Detection and National Security (FDNS). The processing times of the Compliance Reviews vary depending on the caseload of the FDNS office conducting the Compliance Review. Currently all offices are averaging 90 days, except Los Angeles, Newark, and New York City which are averaging 4-8 months. Once the cases have been processed by FDNS and are returned to an Adjudications Officer, they are immediately adjudicated. The public may inquire about case status by contacting the National Customer Service Center at 1-800-375-5283 or by checking www.uscis.gov. If the National Customer Service Center cannot provide an answer, the inquiry will be referred to the California Service Center customer service division.

3. **Question:** Under bi-specialization religious worker I-485 and I-765 applications are to be filed at NSC or TSC depending upon applicant’s place of residence. I-131’s for religious workers are to be filed at the California Service Center (CSC). Since they are being filed in separate places at the same time, we have no evidence of proof of I-485 payment to send with the I-131 filing at the CSC. We do not want to delay the filing of the I-131 at the CSC until we receive the I-485 receipt notice. What evidence will CSC accept as proof of payment for the I-131? Alternatively, can the I-131 be filed at the NSC or TSC along with the I-485 and I-765?

Response: The EB receipt delay is now under control and customers should not experience delays in getting their receipt notices. As such, the current procedure should be followed. The public may inquire about case status by contacting the National Customer Service Center at 1-800-375-5283 or by checking www.uscis.gov. If the National Customer Service Center cannot provide an answer, the inquiry will be referred to the California Service Center customer service division

4. **Question:** At prior USCIS HQ meetings, advocates voiced concerns that since asylee adjustment applicants could not benefit from/use advance parole, but were forced to pay for it with the increased I-485 filing fee, it was unfair for them to also have to pay a filing fee for a refugee travel document (RTD). USCIS stated that it was considering the possibility of providing asylees with refugee travel documents as part of the I-485 filing fee. Please update us on any developments regarding this issue.

Response: The new USCIS fee rule that became effective on July 30, 2007 specifically states that “no additional fee will be charged for a request for a travel document (advance parole) or for employment authorization filed by an applicant *who has paid the Form I-485 application fee*, regardless of whether the Form I-131 or Form I-765 is required to be filed by the applicant. . . .” See 8 C.F.R. 103.7(b)(as amended)(emphasis added). Even though “(advance parole)” follows the term

“travel document” in the regulation, that is only one example of the three travel documents that may be requested on Form I-131; the other two travel documents are the Refugee Travel Document (RTD), which both refugees and asylees can request, and the Reentry Permit for certain permanent residents. Therefore, USCIS will apply this new rule that exempts adjustment applicants *who have paid the I-485 application fee* from also having to pay the application fees for an advance parole document, a Refugee Travel Document and/or an Employment Authorization Document (EAD) during the pendency of their adjustment applications. USCIS is also revising the Instructions to the Form I-131 to clarify that adjustment applicants who have paid the I-485 fee do not need to pay the I-131 application fee for either advance parole or an RTD. Asylees who apply to adjust status *and* who pay the I-485 application fee (*i.e.*, they have not been granted a fee waiver for that fee) would fall within the terms of the new rule, and thus would not need to pay the I-131 application fee for either advance parole or an RTD.

Since refugee applicants for adjustment of status under INA, § 209 are exempt, by regulation, from paying the I-485 application fee, they do *not* fall within the terms of the provision that allows adjustment applicants “*who have paid the I-485 application fee*” to avoid the additional Form I-131 application fee for travel documents. *See* 8 C.F.R. § 103.7(b)(1)(emphasis added). Therefore, a refugee who is exempted from paying the \$930 adjustment application fee (or \$600 for certain children under age 14), must still pay the lower, but non-waivable, Form I-131 application fee of \$305 for either an RTD or an advance parole document. *See also* 72 FR 29862 (preamble to USCIS fee rule stating, “[f]urther, although refugees are not required to submit a fee for their initial Adjustment of Status application, they are required to pay the fee for an Application for EAD or for the Application for Travel Document to request a refugee travel document. . . . Applicants with a pending Adjustment of Status Application who did not pay a fee that incorporates the cost of an Application for EAD and an Application for Travel Document must continue to file separate interim benefit applications with the appropriate fee for each service.”)

5. **Question:** At the last 2 meetings USCIS HQ noted that several thousand Liberian I-485s have been placed on hold while USCIS was developing better guidelines to screen for eligibility/admissibility. Please update us on the status of these guidelines.

Response: The guidance referenced has been drafted and is being reviewed.

6. **Question:** To what extent is the March 4, 2004 fee waiver policy guidance still in effect? This guidance has more helpful, detailed information on fee waiver criteria and documentation than the 9/18/07 guidance. However, the 2004 guidance states “This field guidance should be followed until a final rule amending 8 CFR 103.7(c) becomes effective.” Since the regulations were recently amended, is the 2004 guidance, or parts of it, still effective?

Response: The guidelines and criteria noted in the 2004 memo are still in effect. The 2007 Memo identifies the applications and petitions in which the guidelines and criteria apply. The guidelines posted on the website at www.uscis.gov/feewaiver are accurate.

7. **Question:** In late 1998, there was a memo from headquarters directing field offices to adjudicate fee waiver requests within 5 working days. Is this directive still in effect? We’ve heard of fee waiver requests taking much longer in some recent cases, and we don’t think that applicants should be disadvantaged by applying for a fee waiver. For example, if it takes 6 weeks to process a fee waiver request and it is approved, will the applicant be given the receipt date when the application was received, or when the fee waiver was approved?

Response: The June 1999 memorandum, entitled “Additional Instructions Regarding the Fee Waiver Data Collection Report,” advised officers to adjudicate fee waiver requests within 5 business days of their receipt. The 5-day processing time set forth in this memorandum was superseded by instructions in the March 2004 and September 2007 memoranda, which provided updated and controlling fee waiver guidelines. If a fee waiver request is approved, USCIS should provide the applicant with the receipt date that corresponds with the date the application was received by USCIS.

8. **Question:** Can you please provide further information about waiving biometrics fees? If someone requests a waiver of an application fee and it is granted, will the biometrics fee be waived as well? (We previously raised this question but only in the context of an I-485 application. We want to ensure that in all applications where biometrics are required and fee waivers are allowed, if the application fee is waived, the biometrics fee will be waived as well).

Response: If an applicant requests a waiver of an application fee and the applicant also wants a waiver for the biometrics fee (where biometrics are required for the specific benefit requested), then the applicant should state clearly in his or her written fee waiver request all of the fees for which the applicant desires the waiver. This also includes any fee waiver request for the I-765 for an Employment Authorization Document (EAD) if the individual’s application package includes the I-765 and he or she is seeking a waiver of the I-765 application fee. Provided that the applications are all submitted simultaneously in the same package, the applicant may submit a single set of the required supporting documentation demonstrating the applicant’s inability to pay the fees for all the fee waivers that the applicant is requesting. However, if the applicant is filing his or her benefit application(s) and EAD applications at different times or to different locations, then the supporting fee waiver documentation should accompany each submission. USCIS views the application fee and the biometrics fee as part of a total fee package and will generally grant or deny both at the same time, depending on the merits of the fee waiver submission (including supporting documentation). Guidance in regard to Fee Waivers is provided on the USCIS website; please go to www.uscis.gov/feewaiver for more information.

9. **Question:** Should I be worried if I receive a different A-number after filing an application for adjustment of status on Form I-485?

Response: No, a temporary receipt process was implemented for Employment Based I-485 applications filed between July 2, 2007, and August 17, 2007. The temporary receipt process allowed USCIS to receipt the high volume of I-485 applications filed during the summer in a faster and more efficient manner. New A numbers were assigned during the receipt process. At a future date the newly assigned A numbers will be reconciled with previous A-numbers that may exist for each applicant and the newly assigned A-number will be deleted. The temporary A number will also appear on the EAD card. This temporary receipt process also facilitated the receipting of I-765 applications for employment authorization and I-131 applications for advance parole.

10. **Question:** What steps is USCIS taking to address the pending waiver applications in the Mexico City District offices?

Response: As a result of increased visa interviews being conducted by the Department of State, USCIS has seen a substantial increase in the receipt of related Applications for Waiver of Inadmissibility (Form I-601s). This increase is having a particularly significant impact on USCIS operations in Ciudad Juarez. As of October 15, 2007, the Ciudad Juarez office had over 4,200 pending waiver requests. USCIS is implementing a comprehensive plan to eliminate this backlog of pending work as quickly as possible.

11. **Question:** I provided the TSC with three examples of applications that were filed with the TSC before July 30th (and thus with the “old” fees) but which are currently being “suspended from processing” due to underpayment of fees. The applications were marked as received on 7/31/07 even though the applicants/representatives have proof in the form of certified mail receipts that the applications were received by the TSC prior to 7/30/07. In response to my initial inquiry, the TSC indicated that they were aware of this problem and applicants did not need to take any action. I asked the TSC several follow up questions as I did not feel that applicants/representatives would be comfortable “doing nothing” about an I-797 notice indicating that their application was being held in suspense due to insufficient fees.

a. How will applicants who received notices indicating that their cases have been held in suspense know that the Texas Service Center identified their case as one that should NOT have been held in suspense and that the TSC is continuing with the processing?

Response: Applicants should contact the Texas CRU unit. All submissions should include the original filing, original check, rejection notice, reason applicant feels rejection is incorrect, attached with a colored sheet on the front for faster identification, and double wrapped with the inner envelope labeled: DO NOT OPEN IN MAILROOM. Address to:

Texas: USCIS Texas Service Center
Attn: Morris Whitacre, ACD, Records/COTR
4141 N. St. Augustine Road
Dallas, TX 75227

If the rejection comes from another service center, the following addresses apply:

Nebraska: USCIS Nebraska Service Center
Attn: CRU
850 S Street
Lincoln, NE 68508

California: USCIS California Service Center
Attn: CRU
24000 Avila Road, 2nd Floor
Laguna Niguel, CA 92677

Vermont: USCIS Vermont Service Center
Attn: CRU
75 Lower Welden Street
St. Albans, VT 05479

b. Does the TSC or USCIS HQ plan to issue any notices informing the public that it is aware of this problem, explain how it is working to address it, and inform applicants/practitioners of any action they need to take?

Response: We believe most of these cases have already been corrected, but will post this information on the website.