



Questions and Answers

March 31, 2009

USCIS NATIONAL STAKEHOLDER MEETING *Answers to National Stakeholder Questions*

Note: The next stakeholder meeting will be held on May 5, 2009 at 2:00 pm.

Questions and Answers

- 1. Question:** The TVPRA (HR 7311) signed into law in December 2008 included a section requiring a report on the effectiveness of the VAWA Unit at Vermont Service Center. In light of this and a recent spike in denials and RFEs for I-360s, I-914s, and I-918s, confusing and incorrect kickbacks of filings, and long backlogs for I-914 filings, please comment on the training on domestic violence, sexual assault, human trafficking and related issues received since 2005 by adjudicators and supervisors in the Unit, the relationship between VAWA Unit Supervisors and the Office of Policy and Strategy, Family Immigration and Victim Protection Division (which sets policy for the Unit) and any other efforts that the Unit is making to address these issues and respond to Congressional concerns outlined in the TVPRA?

Response:

Denial Rate

The denial rate for FY 2008 was 32.9%, roughly the same as past years. Statements indicating that there has been a spike in denial rates are not accurate.

Kickbacks (files rejected in mailroom for cause) and RFEs

With regard to kick backs, VSC receives hundreds of thousands of petitions and applications covering a wide range of form types including those that are VAWA related. Some form types, such as I485s or I765s, are not exclusive to the VAWA caseload. As an example of an extra step to prevent incorrect rejection, when a VAWA related application or petition is being submitted to VSC, it should be clearly marked as VAWA in red on the front.

We have examined the VAWA RFE/ITD rates for 2008 and determined a rate per month of 50.6%. The RFE rate for 2007 was 50.25%. While there was no appreciable difference year to year, we have experienced an increase of approximately 9 % during the last 5 months as we have added Officers.

New officers have a traditionally higher RFE rate as they work their way through their training cycle. New Officers were necessary as we increased the size of the unit and moved resources to the T and U workload. We would also note that the RFE rate for the I-918 (90%), the I-914 (75%) and the I-914 related I-485 (100%) are new numbers with no historical comparison as we just started adjudicating these case types.

Training



VAWA training has not appreciably changed, and includes, as it always has, the domestic violence training, as well as confidentiality training, VAWA laws, policy and regulation training, and case processing training. Trainee adjudicators are selected from our most experienced staff. We have recently added a component to the training where the trainees review duplicate copies of actual cases that were previously decided by the mentors, and then discuss in a classroom setting what they would do with each case upon initial review. The 3 to 4 days of training are followed by a follow up meeting/training in about a month, and months of mentoring by mentors, senior adjudicators and supervisors. This represents the most comprehensive training program managed by the VSC. We believe that the investment of training is commensurate with the complexity, importance, and sensitivity of the casework. Further, adjudicators and supervisors have not been rotated out of the VAWA/T/U Unit or reassigned (unless due to promotion, management need or specific request by the individual) since 2001. The Unit has continued to grow in size since July 2002.

Additionally, the Office of Policy and Strategy has two visits to the VSC scheduled for this year. First to provide additional training/guidance on the T/U adjustment rule and to discuss specific aspects of the U adjudication, and second, to provide general VAWA/T/U related supplemental training with sessions by the AAO, OP&S, and local contacts from the Vermont State Police Victims Advocacy Group and a Domestic Violence shelter.

Communication between the VSC VAWA Unit and HQ OP&S, OCC, and SCOPs

Communication between the policy division at HQ and the VSC VAWA unit has continued to be frequent and collaborative. The Office of Policy and Strategy (OP&S) contacts the SAOs and ACD of the unit on a daily basis via phone or email regarding policy, interpretation, clarification of standards etc. Additionally, the VSC VAWA unit, OP&S, OCC, and SCOPs have regular monthly teleconferences. OP&S and the VSC continue to represent DHS as technical experts on VAWA and related issues and participated in meetings and conferences on the subject matter.

Other Efforts

The VSC has established a VAWA Hotline: (802)527-4888. The VSC has also provided the email address: Thomas.Pearl@dhs.gov of the VAWA Unit Assistant Center Director to advocacy groups and attorneys as a resource “**to be used only after prior case inquiry attempts via the VAWA Hotline have failed**”. This will allow for access to the Unit for outside entities who have been unable to resolve their issues via normal channels.

- 2. Question:** Please provide an update on N-400 processing times, by local office and the national average.

Response: see statistics below

REGION	DISTRICT	OFFICE	January-09	REGION	DISTRICT	OFFICE	January-09
COR	CHI	CHI	5.0	SER	ATL	ATL	4.4
COR	CHI	MIL	5.3	SER	ATL	CHL	10.2
COR	CLE	CIN	5.3	SER	ATL	CLT	5.8
COR	CLE	CLE	6.3	SER	ATL	GRR	n/a
COR	CLE	CLM	4.4	SER	MIA	CHA	4.0
COR	CLE	INP	6.6	SER	MIA	CHR	6.5
COR	CLE	LOU	5.4	SER	MIA	MIA	9.4
COR	DAL	DAL	7.8	SER	MIA	SAJ	6.6
COR	DAL	OKC	5.7	SER	NOL	FSA	6.2
COR	DEN	BOI	8.0	SER	NOL	MEM	8.8
COR	DEN	DEN	5.8	SER	NOL	NOL	7.9
COR	DEN	HEL	5.8	SER	TAM	JAC	6.6
COR	DEN	SLC	3.4	SER	TAM	ORL	10.9
COR	DET	DET	6.0	SER	TAM	TAM	7.7
COR	HOU	HOU	7.7	SER	TAM	WPB	7.7
COR	KAN	DSM	6.9	WOR	HHW	AGA	4.2
COR	KAN	KAN	6.0	WOR	HHW	HHW	5.9
COR	KAN	OMA	4.2	WOR	LOS	LOS	8.8
COR	KAN	SPM	8.4	WOR	LOS	SAA	6.7
COR	KAN	STL	7.6	WOR	LOS	SBD	10.5
COR	KAN	WIC	3.9	WOR	PHO	LVG	7.0
COR	SNA	ABQ	7.7	WOR	PHO	PHO	5.5
COR	SNA	ELP	13.4	WOR	PHO	REN	7.7
COR	SNA	HLG	12.5	WOR	PHO	TUC	5.7
COR	SNA	SNA	3.8	WOR	SAC	FRE	4.2
NER	BAL	BAL	8.0	WOR	SAC	SAC	5.4
NER	BOS	BOS	6.1	WOR	SEA	ANC	6.4
NER	BOS	MAN	4.7	WOR	SEA	POO	4.8
NER	BOS	POM	5.4	WOR	SEA	SEA	8.3
NER	BOS	PRO	6.2	WOR	SEA	SPO	4.5
NER	BUF	ALB	6.9	WOR	SEA	YAK	4.5
NER	BUF	BUF	8.1	WOR	SFR	SFR	5.5
NER	BUF	HAR	11.1	WOR	SFR	SNJ	7.9
NER	BUF	STA	6.3	WOR	SND	SND	6.0
NER	NEW	CNJ	4.3	COW	ESC	ESC	0.0
NER	NEW	NEW	5.7	COW	NBC	NBC	0.0
NER	NYC	GCU	n/a	COW	NSC	NSC	0.0
NER	NYC	NYC	6.3	COW	SSC	SSC	0.0
NER	PHI	CHS	1.0	COW	WSC	WSC	0.0
NER	PHI	DVD	0.0	SERVICEWIDE	7.1		
NER	PHI	PHI	7.8				
NER	PHI	PIT	4.6				
NER	WAS	NOR	6.9				
NER	WAS	WAS	4.6				

3. **Question:** The Lockbox Support Team recently indicated to us that requests for fee waivers had been denied because the applicants had not signed the requests. However, the requests had signed G-28s attached and the representatives had signed the fee waiver requests. It has been our understanding that an applicant's signature on a G-28 serves as his permission for his representative to sign on his behalf. Please clarify USCIS' policy on this.

Response: The client's signature on a USCIS Form G-28 establishes only that the client has consented, under the Privacy Act, to the disclosure to the attorney or representative of information from DHS records about the client. The client's signature on the G-28 does not authorize the attorney or representative to sign documents on the client's behalf. The fee waiver request, moreover, must be

signed under penalty of perjury, attesting to the truth of the factual basis alleged for the fee waiver. 8 CFR 103.7(c)(1). Since the request is to be based on the requester's own personal knowledge of the facts, the requester signs the request himself or herself. If a guardian or parent may sign the relevant petition or application, the guardian or parent would also be the person to sign the fee waiver request. Cf. 8 CFR 103.2(a)(2).

4. **Question:** Has USCIS produced, or will it be producing, a new CD or other audio materials for the new naturalization test? If so, when and how will these be available?

Response: The audio CD included in the updated publication, *Learn About the United States: Quick Civics Lessons* will be available to the public shortly at www.gpo.gov. The Application Support Centers will also soon be handing them out when they receive the new stock of the publication and audio. Additionally, we are also currently working to get the audio online.

5. **Question:** There has been confusion on the filing directions for bundled asylee adjustment, travel document, and employment authorization documents and where to file. For example, our office in Georgia (according to the USCIS website instructions) should be filing the I-485 in Texas. We sent a case to Texas including the I-485, I-765 and I-131. The I-765 and I-131 were returned, noting that Texas does not process those applications. We refiled the I-131 and I-765 there and highlighted the instructions that say to file the applications where the I-485 is being processed. Texas returned them again. So then we filed them with Nebraska with the receipt notice for the I-485, and Nebraska also rejected them. Please clarify where the I-765 and I-131 are supposed to be filed, and what to do if Texas is rejecting them in error.

Response: Historically, when AOS for asylees was initiated in the 1990s, NSC processed all the related filings, to develop an agency expertise with asylum specific filings. Subsequently under bi-specialization the I-485 was changed to provide for filing by jurisdiction with the TSC, but the I-765 was not included with that filing change.

For an asylee living in Georgia, the AOS I-485 was properly filed at the Texas service center by geographic jurisdiction. However, the I-131, if it was filed to obtain a refugee travel document, should have been filed at the Nebraska service center. See the instructions at page 5. If the I-131 was filed to obtain advance parole, it could properly have been filed either concurrently with the I-485 or, for an asylee in Georgia, separately at the Texas service center. An asylee under (a)(5) filing an I-765 should send it to the Nebraska service center. See page 8 of the I-765 instructions. A copy of the I-485 receipt notice must accompany the I-131 and I-765 if they are filed separately from the I-485. We apologize if these applications were rejected in error; if a copy of the applications and the rejection notices can be provided we would be happy to look into the matter and get back to you.

Please note that all filing of I-485, I-765 and I-31 related to asylum are scheduled to be transitioned to the lockboxes effective August 2009.

Please see table below for further guidance.

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Filing based on Asylum Status	Nebraska Service Center	Texas Service Center
Submitting Form I-485 only	Residents of: Alaska, Arizona, California, Colorado, Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington, Wisconsin, Wyoming	Residents of: Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New Mexico, New York, North Carolina, South Carolina, Oklahoma, Pennsylvania, Puerto Rico, Rhode Island, Tennessee, Texas, Vermont, Virginia, U.S. Virgin Islands, West Virginia, Washington DC
Submitting Form I-485 with Form I-131 for a Refugee Travel Document	Form I-131 Form I-485 only if resident in location above	Form I-485 only if resident in location above
Submitting Form I-485 with Form I-131 for Advance Parole	File both I-131 and Form I-485 (together or separately) if resident in location above	File both I-131 and Form I-485 (together or separately) if resident in location above
Submitting I-765 based on Filed/Pending I-485	File I-765 <ul style="list-style-type: none"> ▪ File with I-485 if resident in location above ▪ File with copy of receipt notice (I-797C) for I-485 if the I-485 is filed separately 	

6. Question: Since biometrics are now part of processing for the I-131, are photographs still required to be submitted with the application?

Response: Photos are required in addition to biometrics since photos are necessary to place on the travel document created, whether it is a re-entry permit, Refugee Travel Document or advance parole, whereas biometrics are needed for security checks in USCIS database.

The Application for Travel Document, Form I-131, is a multi-use form. Until all uses of this form can address the photo requirements through technological avenues, a photograph will be required of all applicants.

7. **Question:** USCIS sends two advance parole documents when an individual's application for adjustment of status is pending. Is there a requirement that the individual present both documents upon entry into the United States? If not, is there a way to indicate to CBP that **both documents** are not required for travel with the advance parole document.

Response: There is not a requirement that they present both documents upon entry. According to the adjudicators field manual the two documents are issued only when the request is for multiple entries:

The second part of the question is whether there is a way to indicate to CBP that both documents are not required. The Inspector's field manual does not indicate that CBP expects or requires both copies. We can refer this to our Office of Policy and Strategy who meet with CBP but we suggest that you also address this directly with CBP as well.