




70/28

## Interoffice Memorandum

TO: Field Leadership

FROM: Donald Neufeld   
Acting Associate Director

DATE: FEB - 6 2009

SUBJECT: Revised Guidance Pertaining to the Adjudication of Form I-90, *Application to Replace Permanent Resident Card*.

### **Purpose**

This memorandum provides revised guidance pertaining to the adjudication of Form I-90, Application to Replace Permanent Resident Card, which amends previous guidance established in the policy memorandum titled, *Disposition of Cases Involving Removable Alien*, issued July 11, 2006 (PM 110). This new guidance aims to facilitate the processing of Form I-90 to duly provide applicants with evidence of Lawful Permanent Resident (LPR) status. Additionally, this guidance rescinds the memorandum titled, *Guidance for processing "IDENT" I-90 applications*, issued on January 4, 2008.

### **Background**

Policy Memorandum 110 (PM 110) instructs in pertinent part that if an I-90 application has an associated Interagency Border Inspection System (IBIS) record with information indicating that the alien poses a national security concern or a Record of Arrest and Prosecution (RAP) sheet indicating an Egregious Public Safety (EPS) concern (as defined in PM 110), then adjudicators must immediately suspend the adjudication of the Form I-90 and refer the case to Immigration and Customs Enforcement (ICE) via the Office of Fraud Detection and National Security (FDNS). PM 110 also states that the adjudication of such cases must be suspended when identified for no more than 60 days or until ICE provides notification of its intended action(s); whichever is earlier.

An applicant who is a Lawful Permanent Resident (LPR) holds such status until either abandoned by the applicant or revoked through rescission and/or removal proceedings. Until the LPR status is either abandoned or revoked, the applicant is entitled to evidence of his or her status.

**FOR OFFICIAL USE**

Therefore, the guidance pertaining to the adjudication of Form I-90 established in PM 110 is hereby revised and all offices will follow the guidance outlined below while adjudicating an I-90 application.

### **Policy Guidance**

All I-90 applications will be adjudicated when all of the filing requirements and the following conditions have been met:

1. The applicant has established his or her identity; and
2. It has been established that the applicant is a lawful permanent resident.

### **Security checks (Fingerprint & IBIS checks)**

Officers will ensure that fingerprint checks and IBIS checks have been initiated, completed and are valid at the time of adjudication of the I-90 application<sup>1</sup>; however, any derogatory information received as a result of these checks will be resolved **only after** the adjudication of the I-90 application. The issuance of Form I-551, *Permanent Resident Card* **must not** be delayed due to any pending resolutions.

I-90 applications with an associated national security or egregious public safety concern will also be adjudicated pursuant to the above-mentioned instructions before a referral to ICE is made. The adjudication of such cases will no longer be suspended as provided in PM 110. Applications with a national security concern or a RAP sheet indicating a criminal concern that meets the definition of an EPS case (as defined in PM 110) will continue to be referred to ICE for review via FDNS pursuant to established procedures, but only after the adjudication of the I-90 application has been completed.

I-90 applications with a RAP sheet indicating a criminal concern that does not meet the definition of an EPS case should also be referred to ICE for review via FDNS pursuant to established procedures, if it appears that the alien is removable, but only after the adjudication of the I-90 application has been completed.

I-90 applications that indicate an alien may be removable based on any other non-criminal grounds should be reviewed for further action such as rescission of the LPR status and/or NTA issuance at the local USCIS Field Office pursuant to office policy, but only after the adjudication of the I-90 application has been completed.

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<sup>1</sup> In the case of two consecutive “Unclassifiable” fingerprint results, officers should ensure that they have requested and received the necessary Police Clearance(s) prior to the adjudication of the I-90 application. The Police Clearance(s) should be used in lieu of the fingerprint results, so that officers may decide if the case needs to be forwarded to ICE for review via FDNS for further action, when required.

### **Request for Evidence (RFE)**

The issuance of a Request for Evidence (RFE) will be limited to requesting the supporting documentation required with the I-90 application and/or documentation needed to establish identity or status. The issuance of a RFE for arrest records and/or court dispositions is no longer required. As stated in PM 110, ICE is responsible for obtaining such records as part of its decision whether and when it will issue a Notice to Appear.

### **Implementation Instructions**

In an effort to establish a more uniform and consistent approach to the adjudication of Form I-90, offices are instructed to institute local processes that encompass the guidelines provided. USCIS offices are instructed to incorporate the processing requirements established in this memorandum within their respective local operations immediately. Additionally, this memorandum supersedes all previous guidance that pertains to the adjudication of Form I-90.

### **Contact Information**

Questions regarding this memorandum may be directed to Vinay Singla, USCIS Office of Field Operations, through appropriate supervisory channels.

### **Distribution List:**

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