



Questions and Answers

USCIS National Benefits Center – Florida Bar Teleconference April 24, 2012

Overview

On April 24, 2012, the USCIS National Benefits Center (NBC) hosted a teleconference with Florida Bar representatives. Among the issues USCIS discussed are processing times, scheduling interviews, special needs applicants. The information below provides a review of the questions solicited by the Florida Bar and the responses provided by USCIS.

Question and Answers

Question 1: Are there any mechanisms in place between the NBC and the local offices to fulfill the needs of special needs clients? We know that delays are locally caused, but it seems that indicating on the application that the person has a disability does not have any effect on waiting times when special handling is requested.

Response 1: At the current time, USCIS recommends that an applicant or petitioner call the National Customer Service Center (NCSC) at 1-800-375-5283 to request a sign language interpreter or another type of accommodation, even if the accommodation request was indicated on an application or petition. The recommended procedure for requesting an accommodation (Notice to Customers with Disabilities) is also located on the back of all I-797C Notices, such as the ASC Appointment Notice and Interview Notice.

When NBC receives an accommodation request from an applicant, through a NCSC referral, NBC will transfer the referral to the Field Office with jurisdiction to give them notice of the applicant's request. Additionally, NBC will recommend to the applicant or representative, via letter or email, to make an Infopass appointment with the local Field Office, if possible. NBC will also contact the Field, by phone or email, to notify of the requested accommodation, if necessary.

NBC is currently working with USCIS HQ and Regional Offices to create a new process to identify to the Field Office any N-400 applicant that has requested a sign language interpreter. The new process will provide the Field Office with sufficient time to obtain the services of a sign language interpreter for the interview. We are planning to begin this process in the summer of 2012.

For additional information regarding this topic, please go online at www.uscis.gov under “Resources”. You will find “Requesting Accommodations for Disabilities” in the menu on the left side of the screen. Please click [here](#) for the link.

Question 2: During a recent meeting the issue of USC’s petitioning for parents was raised and NBC said normally an interview is not scheduled. However in almost all cases we are seeing interviews scheduled. Has there been a policy change?

Response 2: USCIS policy regarding the criteria for interview waiver cases has not changed. NBC’s determination to waive the interview for certain cases is based on standards set at the national level. The standards include adjustment categories in which there is normally enough evidence included with the case to make a final determination without an interview. NBC takes into account these standards, as well as the specific situation of each applicant, on a case by case basis, to determine whether the interview may be waived.

NBC identifies cases that may be eligible for an interview waiver, in part, by means of an electronic sweep of the case information obtained from the I-485 and/or I-130, if present. The following adjustment categories are considered possible interview waiver cases:

- Unmarried minor children and stepchildren of US Citizens (IR7 and CR7)
- Parent of US Citizen (IR0)
- K1/K2 entrant— Fiancé(e) of US Citizen and children of Fiancé(e) (CF1/CF2)
- Native/Citizen of Cuba filing under 11/2/66 Act (also spouses/children) (CU6/CU7)
- Unmarried & Under 14 year old child of Lawful Permanent Resident (F27)

Though an applicant may qualify for interview waiver based on one of these criteria, there are instances when the application will not be transferred to the Service Center for processing without an interview. For example, NBC maintains the integrity of all “family pack” applications. If an interview waiver eligible application was filed with a family pack, all applications in the family pack will be placed in the scheduling queue for interview scheduling by the Field Office. NBC will not separate applications if filed together.

Additionally, NBC may send an interview waiver eligible application to the Service Center based on the criteria described above, and the Service Center may determine that the application requires an interview. In those circumstances, the Service Center will return the application to NBC for interview scheduling by the Field Office.

USCIS guidance regarding interview waiver cases may be found in the Adjudicator’s Field Manual (AFM), Chapter 23.2, General Adjustment of Status Issues, subsection (h) Interview Waivers.

The AFM may be found on the USCIS website under Laws, select Immigration Handbooks, Manuals, and Policy Guidance, select Chapter 23.2 and scroll down to section (h).

This is a [link](#) to the AFM on the USCIS website.

Florida Bar provided four case-specific examples of interview waiver cases that were scheduled for interview. Two of the cases were never received by NBC as they were employment-based filings. The two that were family-based filings, were received with B-2 status, not as K-1. With a B-2 classification, they would not qualify under the interview waiver criteria.

Question 3: On cases where an employment based adjustment is pending and an I-130 is filed by a USC child who has turned 21 – how are these cases being consolidated? The I-130 petitions are being adjudicated by California Service Center and the I-485 is with either the Texas or Nebraska Service Center. How can we make sure that these cases are consolidated and sent to NBC as it appears these cases are being scheduled for interview? What do you recommend members do to get these cases on track?

Response 3: An applicant or his counsel or accredited representative who wishes to change the basis of a pending employment-based adjustment of status application may contact the NCSC. NCSC will create a referral to the Service Center where the employment-based case is located to request the change in basis to family-based adjustment of status.

When the case is received, if NBC is aware of the change of basis request, we will handle the case as a family-based case, i.e., we will request the pending or approved I-130 application from the USCIS office where the petition is located, and we will put the application through our processes to the point where the application may be scheduled for interview by the Field Office with jurisdiction.

Unfortunately, we believe that NBC may be receiving these cases from Service Centers without notification that the applicant has requested a change in basis from employment to family. If NBC is unaware of the requested change in basis, the application will be placed in the scheduling queue as an employment-based case that requires an interview.

NBC will pursue developing a standard operating procedure for these cases with Service Center Operations Directorate.

Question 4: As this is an election year are you moving resources to expedite adjudication of naturalization cases?

Response 4: USCIS has experienced an increase in N-400 filings in the last few months. NBC is constantly monitoring our workloads and adjusting resources to ensure timely processing of cases. Field Offices monitor their workloads continuously as the receipts at NBC will impact their scheduling/interviews. N-400's are currently on average at a five-month processing time. Please check the USCIS web site for processing times at the local Field Offices.

Question 5: If so, what do you expect the processing times to be to have cases ready for scheduling? Also, do you know if local field offices are making arrangements to handle the expedited processing of cases by NBC?

Response 5: Please see response to Question 4.

Question 6: We are receiving the yellow sheets requesting copies of State issued driver's licenses to be presented at the time of naturalization interview, even when the copy of the driver's license was submitted with the application. Is this for identification purposes or for other reasons?

Response 6: The State issued driver's license, or other Government issued photo ID, is required for identification purposes and may be used to support other evidence requirements. The NBC's Complete File Review (CFR) process produces a case specific notice to the applicant, on yellow paper, of any missing evidence that is required at the time of interview. If you receive a CFR Notice for this evidence and it was previously submitted, please notify NBC and we will be glad to review the issue further. Examples would be helpful to evaluate this process.

Question 7: If there is an issue with physical presence on a naturalization case why is this addressed at the local field office and not by NBC? Why doesn't NBC issue an RFE? If the case is ready for scheduling does it mean that NBC has already pre-screened the case?

Response 7: NBC does not issue RFE's for N-400 cases. NBC conducts the CFR and sends a notice to the applicant advising them of any missing evidence in their application that may be required at the time of interview. We believe this process provides the applicant with as much time as possible to prepare for the interview and reduces the continuance of cases in the Field. The CFR Notice does not delay the processing of the N-400 application, unlike an RFE in an I-485 application, which puts a hold on the case until the RFE response with missing evidence is received.

NBC's CFR process was designed to be comprehensive in most instances; however, it does not include validation of an N-648, nor does it validate the physical presence requirement.

The system utilized for N-400 applications automatically moves a case through the process provided that background checks have cleared. Therefore, it is possible for a case to be ready for interview scheduling prior to completion of our CFR process.

Question 8: What are the current processing times for DV Lottery cases which must be completed by September 30, 2012. Are the local field offices cooperating with scheduling these in a timely manner?

Response 8: Preliminarily, we note that "winning" the State Department's annual DV "lottery" does not ensure that an applicant will be found eligible to adjust status on the basis of the DV program. Selection in the "lottery" merely renders the person eligible for further processing for a DV visa (or adjustment of status) in the relevant fiscal year. An alien may not apply for adjustment of status before the current State Department Visa Bulletin indicates that a DV visa number has become available to the person in question. USCIS has procedures in place to process DV adjustment applications in an expeditious manner, but because of existing variables (e.g., admissibility, need to complete background checks), it is impossible to guarantee that the agency can approve a given I-485 application before the end of the relevant fiscal year.

DV cases are initially identified by the Lockbox. When the Lockbox identifies DV cases, a coversheet is placed on the file indicating to NBC that the application is a DV case. As these cases are received at NBC, they are sorted and shipped immediately to the Field Office with jurisdiction. Interviews for these cases are manually scheduled by the Field Office with jurisdiction as soon as possible.

DV lottery applicants will be scheduled for biometrics through the normal system; however, if necessary, the Field Office may send the applicant to the ASC to expedite the capture of biometrics and fingerprints.

NBC tracks DV lottery cases from the date electronic case data is entered into our Local Area Network (LAN) to the date the case is shipped to the local office. As of 5/22/12, 961 DV cases have been received by NBC in FY 2012. These were shipped to the Field Offices on average in 10.2 days. During FY 2012, NBC has shipped 165 DV lottery cases to the Field Offices in the Southeast Region. There have been 107 DV cases sent to Field Offices in Florida.

If you are concerned about the processing of a particular DV Lottery I-485 application, please contact the NBC so we may review the matter.

Question 9: What methods should members use to bring these DV Lottery cases to the attention of NBC to make sure they are being processed in a timely manner. Making inquiries through NCSC will not work as they will not take inquiries on cases unless they are at least 30 days past posted processing times.

Response 9: To clearly identify the applicant's DV status to the Lockbox, submit the I-485 package with the "Notification of Selectee Letter" starting with "Congratulations" from the Department of State with the applicant's DV case number. This letter states the applicable DV year and fiscal year in which the applicant is eligible. On Form I-485, the applicant should check box "h" under Part 2, Application Type, and write or type "Diversity Visa" in the blank within box "h." NBC recommends filing as soon as possible after receiving the "Congratulations" letter to ensure that the application is processed prior to the end of the fiscal year.

Question 10: If a beneficiary has a current combination card (employment authorization and travel document) and it is lost prior to the renewal eligibility period, what fees have to be paid to replace the card? Do they have to file both the I-765 and the I-131 to get a replacement card and pay both the filing fees for a total of \$740?

Response 10: To replace a lost or stolen combination card (c)(9) or (c)(16), an applicant will need to file both applications (I-765 and I-131) concurrently with the correct fee for the applications. The biometrics fee is not required for a replacement card. Currently, \$740.00 is the correct fee for both applications. An applicant should consult the USCIS website to determine the current application fee.

Question 11: When employment-based I-485 applications are received at NBC from the Service Center, how long does it take before the case is scheduled for interview?

Response 11: These applications are electronically added to the Field Office interview scheduling queue almost immediately upon receipt at NBC. The interview scheduling queue drops the oldest cases into interview appointment slots. Before shipping an employment-based case for interview, NBC checks for valid fingerprints and that FBI name check results are present.

Question 12: What type of cases is NBC currently handling?

Response 12: NBC processes or adjudicates over 20 different immigration forms. They are:

Adjustment of Status Related

- I-485 Application to Register Permanent Residence or Adjust Status (Family-based Adjustment of Status, Adjustment of Status under Section 249 and Section 13)
- I-485 Regressed Visa Cases
- I-130 Petition for Alien Relative (Concurrently filed with I-485)
- I-765 Application for Employment Authorization
- I-131 Application for Travel Document

Naturalization Related

- N-400 Application for Naturalization
- N-300 Application to File Declaration of Intention
- N-336 Request for a Hearing on a Decision in Naturalization Proceedings (under Section 336)
- N-600 Application for Certificate of Citizenship
- N-600K Application for Citizenship and Issuance of Certificate under Section 322 (adopted child)

International Adoptions Related

- I-600 Petition to Classify Orphan as Immediate Relative
- I-600A Application for Advance Processing of Orphan Petition
- I-800 Petition to Classify Convention Adoptee as an Immediate Relative
- I-800A Application for Determination of Suitability to Adopt a Child from a Convention Country

Legalization Related

- I-485 Application to Register or Adjust Status (LIFE Act)
- I-539 Application to Extend /Change Nonimmigrant Status (V Status).
- I-687 Application for Status as a Temporary Resident under 245A of the INA
- I-690 Application for Waiver of Grounds of Inadmissibility under 245A or 210 of INA
- I-485 Application to Register or Adjust Status (LIFE Act)

- I-817 Application for Family Unity Benefits under the LIFE Act

Other Immigration Forms

- I-824 Application for Action on an Approved Application or Petition
- I-102 Application for Replacement/Initial Nonimmigrant Arrival-Departure Document
- I-212 Application for Permission to Reapply for Admission into the U.S. after Deportation or Removal
- I-290B Notice of Appeal or Motion
- I-601 Application for Waiver of Grounds of Inadmissibility
- I-862 Notice to Appear
- I-191 Application for Advance Permission to Return to Unrelinquished Domicile