



Questions and Answers

USCIS International Operations – American Immigration Lawyers Association (AILA) / Los Angeles California Bar Association (LACBA) Meeting

January 26, 2011

Overview

On January 26, 2011, the USCIS Los Angeles Asylum Office (ZLA) hosted an engagement with AILA representatives in Anaheim, California. Questions related to Form I-601 waiver applications were addressed by Pilar Peralta Mihalko, Branch Chief of the International Operations Division's (IO) International Adjudications Support Branch (IASB).

The IASB was established in May 2009 to provide adjudicative and program management assistance to the 29 USCIS overseas field offices. The IASB is an International Operations Headquarters branch physically co-located in the Los Angeles Asylum Office in Anaheim, but is not an operational component of ZLA. The IASB branch chief, Pilar Peralta Mihalko oversees a team of 9 adjudication officers and 2 support staff.

During Fiscal Year 2010, the IASB provided support to the USCIS Mexico District by adjudicating Form I-601 applications received in Ciudad Juarez (CDJ), Mexico with assistance from detailees from ZLA. The IASB was responsible for training and supervising the ZLA detailees. The IASB continues to provide I-601 support to CDJ; however, the detailees from ZLA resumed their asylum responsibilities at the end of Fiscal Year (FY) 2010.

The information below provides a review of the questions solicited by AILA and the responses provided by USCIS.

Waiver Statistical Questions

Question 1: Please provide statistics for I-601 waiver processing – when possible comparing this year with last.

Response: By the end of FY 2010, the International Operations Division achieved an overall 3.8-month processing time for Forms I-601 filed overseas, based on mathematical calculations (i.e., at the end of the year we had pending a number of cases equal to 3.8 months of receipts). In Fiscal Year 2010, we

reduced the total number of pending Forms I-601 by 42% from 11,318 to 6,508. Approximately 75% of all overseas Forms I-601 were filed in Ciudad Juarez (CDJ). Of cases filed in Ciudad Juarez (CDJ) and adjudicated in Fiscal Year 2010, we approved approximately 50% within 2 weeks of receipt. We reduced the pending number of cases that could not be processed within that time period (the “referred” cases) by 65% from a high of 11,000 to 3,900 CDJ cases at the end of the Fiscal Year 2010.

As you probably know, at the start of Fiscal Year 2010 the CDJ office had a large backlog of un-adjudicated I-601 applications. The elimination of the CDJ backlog was a priority for the International Operations Division during Fiscal Year 2010. All Mexico City Field Offices located in Mexico (the CDJ, Mexico City Field Office, and Monterrey Field Office), the IASB (in its first full year of operation), and four detailed domestic offices (the LA Asylum Office, Miami Asylum Office, El Paso Field Office and the Vermont Service Center) worked on reducing the CDJ backlog and, as a result, in Fiscal Year 2010, I-601 completions for cases received at CDJ increased by 58% from Fiscal Year 2009 to Fiscal Year 2010. By the end of Fiscal Year 2010 the number of pending CDJ I-601s had fallen to approximately 3,900, well below IO’s target of 4,500 by the end of Fiscal Year 2010 that was IO’s goal.

The ZLA I-601 detail adjudicated a total of 5,361 I-601 applications or 18% of Fiscal Year 2010 completions. The IASB adjudicated 2,206 applications or 8% of total completions.

It is IO’s goal for Fiscal Year 2011 to adjudicate I-601 applications within 6 months or less from receipt of the application. This time is adjusted for any time pending receipt of information from sources outside USCIS such as responses to request for evidence (RFE) or fingerprint results. It is important to understand that if a case is not approved at CDJ during same-day processing that the applicant will generally be issued an RFE; the processing time will be tolled pending receipt of the evidence or 84 days if no evidence is received. We now have a backlog of pending Forms I-601 in some overseas offices, such as El Salvador and Guatemala, but are working to identify resources to help eliminate those backlogs.

Question 2: What were the approval rates for these (waiver) cases in Fiscal Year 2010 and this year?

Response: HQ is working on posting this information on the Internet soon and will provide you with the link once available.

I-601 Waiver Issues

Question 3: Please describe how the Los Angeles Asylum Office handles the processing of I-601 waivers.

Response: The Asylum Office does not adjudicate Form I-601. Moreover, the LA Asylum Office (ZLA) no longer has detailees adjudicating I-601 applications filed at CDJ. The IASB continues to provide I-601 adjudications support to CDJ. Three Field Offices, within the Mexico District, as well as the El Paso Field Office, Vermont Service Center and the Miami Asylum Office (ZMI) still have officers adjudicating I-601 applications.

All offices within the International Operations Division and the detailed domestic offices process I-601 applications in the order the application was received at post. When I-601 applications are relocated from CDJ to the IASB, a transfer notice is provided to the applicant and their U.S. based attorney or representative on record, if applicable.

Question 4: Does the Los Angeles Asylum Office receive the complete file from the consular post?

Response: The Asylum Office does not adjudicate Form I-601. The IASB does not receive the full consular file; only such documents that are needed to adjudicate the I-601 application are sent to the IASB including hardship documentation.

Question 5: Is the Los Angeles Asylum Office participating in CAMINO, the new case management system? If so, to what extent is it participating?

Response: As noted above, ZLA is no longer working I-601 cases. The IASB is utilizing CAMINO..

The International Operations Division has been using CAMINO to track all overseas adjudications for applications that arrived at an overseas USCIS office on or after August 1, 2010, or was adjudicated after that date. CAMINO is a web-based integrated system that for the first time combines all overseas cases in one system.

Once IO has full confidence in the data, we will develop reports on processing times by field office, which we will post to the USCIS website. Our aim is to develop the capability to provide access to case status online in a subsequent release of CAMINO.

Question 6: On average, how long does it take for a file to be received at the Los Angeles Asylum Office from (1) the date of the original consular appointment and (2) the date of the initial waiver appointment?

Response: The Asylum Office does not adjudicate Form I-601. Not all “referred” I-601s filed at CDJ (i.e. not approved during same day filing) are sent to the IASB for processing. Accordingly, an average case receipt time from the date of the original consular appointment and the date of the initial waiver appointment is unavailable.

Question 7: What is the processing time for an I-601 waiver once the file arrives at the Los Angeles Asylum Office?

Response: The Asylum Office does not adjudicate Form I-601. We have not calculated the average processing time for cases once they have arrived at IASB; although that is something we may soon be able to extract from CAMINO. It is important to note that the processing time can vary significantly, depending on a number of factors including the number of officers working overseas.

Question 8: Can an attorney request expedited processing of an I-601? If so, when and how can this be done?

Response: Requests to expedite the adjudication of an I-601 application should be sent to the CDJ Field Office Director. The **CDJ** Field Office Director will forward the expedite request to the appropriate office if the application has been relocated. For relocated cases the Field Office Director or supervisor at that USCIS office will make the decision on whether the adjudication of the case will be expedited.

If the applicant, or representative, received notification that their case was transferred from CDJ to the IASB, an expedite request may be sent directly to the IASB mailing address noted below or the IASB public inquiries email address (uscis.internationalops-labbranch@dhs.gov)

On January 13, 2011, draft expedite guidance for overseas USCIS Field Offices was published on the USCIS website for public comment until January 28, 2011. The draft guidance may be found at: <http://www.uscis.gov/USCIS/Outreach/Draft%20Memorandum%20for%20Comment/expedite-adjudication-form-i601.pdf> .

Question 9: Under what circumstances does the Los Angeles Asylum Officer review the ground of inadmissibility at issue and how is that review done?

Response: The Asylum Office does not adjudicate Form I-601. It is IO policy to review cases for all inadmissibility findings in order to make an inadmissibility determination. Adjudicators do not assume that the Consular Officer correctly identified the inadmissibility grounds.

Question 10: What weight, if any, is given in the Asylum Office's adjudication of an I-601 waiver to an immigration judge's finding on extreme hardship in the context of a cancellation claim?

Response: The Asylum Office does not adjudicate Form I-601s. The IASB has not come across this scenario. IASB is not bound by the IJ's finding, whether favorable or unfavorable, should this situation arise. The IJ's decision may have persuasive weight. But ultimately whether extreme hardship has been shown depends on the facts at the time of the particular decision, not at an earlier time.

Question 11: Does the Los Angeles Asylum Office ever make requests for additional evidence on I-601 waivers? If so, is there a preferred method for an attorney to submit that evidence?

Response: The Asylum Office does not adjudicate Form I-601. The IASB does make requests for additional evidence. The evidence should be sent to the P.O. Box address noted below.

Question 12: Does the Asylum Office have any plans to assist individuals with pending or approved waiver applications who are awaiting their immigrant visas and who may be subject to visa retrogression as of January 1, 2011? Would the Asylum Office entertain requests to expedite the processing of I-601 waiver applications to complete consular processing before any further visa retrogression?

Response: The Asylum Office does not adjudicate Form I-601. CDJ has not seen any requests to expedite based on visa retrogression. An applicant who believes they will suffer seriously adverse impacts due to visa retrogression can submit a request to have their application expedited.

Change of Address

Question 13: If a person with an application pending before the Los Angeles Asylum Office changes his address, must he inform the Los Angeles Asylum Office directly in Anaheim (in person, by mail or by fax) or is it enough to complete the change of address procedure outlined on the CIS website?

Response: The Asylum Office does not adjudicate Form I-601. Changes of address should be sent to CDJ field office and they will forward the notification to the office adjudicating the I-601 application. Applicants frequently confuse notification to the Consulate at CDJ with notification to USCIS. Notification of address change should be given to both USCIS and the Consulate.

If an applicant has been notified their case has been transferred to the IASB for adjudication, the applicant may also send the notification to the following address:

**USCIS- International Operations
International Adjudications Support Branch**

**P.O. Box 65006
Anaheim CA 92815-5006**

This P.O. Box address is different from ZLA's P.O Box address

Please Note: The IASB has a public inquiry email address that may also be used for address changes for cases that have been transferred to the IASB. The email address is:

uscis.internationalops-labbranch@dhs.gov

The IASB does not offer in person public information services despite being co-located with the ZLA. ZLA staff members are not able to answer questions relating to cases at the IASB. Similarly, inquiries on I-601s at the IASB should not be forwarded to the ZLA legal representative liaison.