



# Questions and Answers

## USCIS Service Center Operations Directorate – American Immigration Lawyers Association (AILA) Liaison Meeting

August 31, 2011

### Overview

On August 31, 2011, the USCIS Service Center Operations Directorate hosted an engagement with AILA representatives. USCIS discussed issues related to operations and adjudications. The information below provides a review of the questions solicited by AILA and the responses provided by USCIS.

### Questions & Answers

#### **Question 1: Guidance regarding USCIS policies and the National Security Entry-Exit Registration System (NSEERS)**

During the last three calls, Service Center Operations Directorate has indicated that USCIS was in the process of reviewing its policies respecting NSEERS. Is there any update on this process or any additional guidance as to whether USCIS will continue to deem aliens inadmissible for failure to register, or will prior noncompliance no longer be an issue?

**USCIS Response:** USCIS reaffirms its response to Question 1 in the July 27, 2011 Field Service Center Operations Directorate AILA Liaison Q&A. USCIS continues to hold with no change to the NSEERS policy regarding prior violations.

#### **Question 2: Adam Walsh Act cases and processing delays**

AILA members report of four cases involving lengthy adjudication delays for Adam Walsh Act cases and request Service Center Operations Directorate review.

**USCIS Response:** Service Center Operations Directorate requests the information regarding these four cases be forward to HQ for review and response.

**Question 3: Updates regarding USCIS discussions with Customs and Border Protection (CBP) respecting Canadian L petitions filed at the border**

**USCIS Response:** USCIS has issued Form I-797 approval notices for approximately two-thirds of the NAFTA L petitions adjudicated by CBP that were on backlog. USCIS is continuing to work to resolve the remaining cases.

**Question 4: Processing times for O and P petitions**

AILA members are reporting 3-4 week processing times for O and P petitions, rather than the mandated 14 days.

**USCIS Response:** USCIS is currently showing a 2 week processing time on uscis.gov. While we strive to complete cases within our 2 week processing goal, unfortunately there are times when cases may fall outside the 2 week processing time goal.

**Question 5: How to submit an inquiry to the National Customer Service Center (NCSC) for a case that is Outside Normal Processing Time (OPNT)**

AILA members state that a source of concern is the 45-day lag from the time service center processing time data is collected to the actual posting of service center processing times on the USCIS website, particularly where a customer is submitting an inquiry to the National Customer Service Center (NCSC) for a case that is Outside Normal Processing Time (OPNT). For example, the August 17, 2011, NSC processing time report states that I-140 processing time is four months, based on data gathered on June 30, 2011. May a customer submit an inquiry to the NCSC where an I-140 has been pending more than four months as of the date the data was gathered (in this example, June 30, 2011), or, is a customer not permitted to submit a case status inquiry unless the case has been pending at least four months as of the date of posting of the processing time report (in this example, August 17, 2011)?

**USCIS Response from Customer Service:** USCIS will research your case only if it has been pending beyond the current processing times. The processing times are an estimate of how long it will take to process a case from start to finish. Each case is different, so some cases may take longer to process than others. You also may use the receipt number to check your case status on the USCIS website.

The Office of Performance and Quality is working on the ePAS & SMART systems to convert the posting of the processing times to be real time data, so that at a minimum the data posted would probably be approximately a week old.

**Question 6: L-1 petitions and question 12 of the L Supplement**

When a company has been dormant and has not been “doing business” - defined in 8 CFR 214.2(l)(1)(ii)(H) as the regular, systematic, and continuous provision of goods and/or services - for a year or more prior to the filing of the L-1 petition, how should question 12 of the L Supplement be answered?

**USCIS Response:** Depending on the specific facts, it may be appropriate for you to indicate at question 12 of the L Supplement that you are filing on behalf of a “new office.” To explain, DHS regulations do not specifically address this question. 8 CFR 214.2(l)(1)(ii)(F), which defines a new office as “an organization which has been doing business in the United States through a parent, branch, affiliate, or subsidiary for less than one year,” is silent on this. Similarly, 8 CFR 214.2(l)(1)(ii)(H), which defines the term “doing business,” does not address the specific question of whether an entity that once did business, can, after a period of dormancy, be considered to be a new office. USCIS will review each petition on a case-by-case basis, taking into consideration all the facts before it, to determine whether an entity that once did business for a year or longer may now be considered to be a “new office.” There is no bright-line test for making this factual determination, and as such, no single factor is dispositive.