



U.S. Citizenship  
and Immigration  
Services

# Questions and Answers

**USCIS National Benefits Center (NBC) and American Immigration Lawyers  
Association (AILA) Meeting  
November 18, 2014**

**Overview**

The American Immigration Lawyers Association (AILA) met with USCIS's National Benefits Center (NBC) to discuss new NBC initiatives, staffing updates and follow up items. The questions and answers are provided below for the benefits of interested stakeholders.

**Questions and Answers**

**NEW NBC INITIATIVES, STAFFING UPDATES AND FOLLOW-UP ITEMS**

1. **Please provide updates on new NBC initiatives that are currently in process or are scheduled.**

**Response:**

A. Employee Telework - NBC has begun phasing in telework. Individuals from several divisions have begun working from home with many more on the waiting list. Telework should have no impact on processing cases.

B. I-90 and I-601A Adjudications - In an effort to complete more I-90 and I-601A applications, NBC implemented several initiatives:

- *Provisional Unlawful Presence Waivers* – The I-601A initiative involved bringing officers to NBC for 180-day details. The detailed officers came from USCIS offices across the country and assisted in adjudications from May through October. NBC also supplemented this effort by assigning officers within the center to process I-601A applications.
- *Applications to Replace Permanent Resident Cards* – The I-90 initiative involved shipping applications to Field Offices for adjudication. The effort began in May 2014 and continues to date.

C. I-765 Adjudications - We are transitioning the adjudication of some Forms I-765 (Application for Employment Authorization) from Lee's Summit to the Overland Park. The transition should have no impact on processing cases.

D. SRMTs – We have also started up a new team of officers working Service Request Management Tool (SRMT) inquiries at Overland Park. The transition should have no impact on processing inquiries.

E. Electronic Immigration System (ELIS) - NBC has begun a phased-in process to launch adjudication of I-90s in the ELIS system. For a 72-hour period in November 2014, USCIS made it possible for applicants to file the form in ELIS. USCIS is looking toward full implementation in Spring 2015.

2. **Please provide an update on any key staffing changes that have taken place since our last engagement on May 9, 2014.**

**Response:** Assistant Center Director for Customer Relations Norma Limon accepted a Field Office Director position at the Harlingen Field Office in October and Brandi Blackburn, formerly Assistant Center Director for Division 8 (miscellaneous form types), is now the Assistant Center Director for Customer Relations. Division 8 has been dissolved with most tasks moving to Customer Relations Division. In addition, Teresa Clum, Assistant Center Director for our Records Division has accepted a position in the Biometrics Division in the Enterprises Services Directorate in Washington DC.

3. **Please provide an organizational chart for the NBC.**

**Response:** See organizational chart at the end of this document.

**REQUESTS FOR EVIDENCE (RFE)**

4. **At the AILA/NBC liaison meeting on May 9, 2014,<sup>1</sup> the NBC indicated that they would be adding courier mailing addresses to all Requests for Evidence (RFE). Has the NBC updated its templates? If not, is there an estimated timeframe to complete this?**

**Response:**

<b>Form type</b>	<b>Courier address on RFE letters?</b>
Adoptions (I-600A/I-600, I-800A/I-800)	Yes
I-90s	Yes
Ancillaries (I-765, I-131)	Yes
I-601A	Yes
AOS/I-485s	Yes
N-forms (N-400, N-300, N-470, N-600, etc.)	Yes
Motions	Yes
I-102	Yes

<sup>1</sup> AILA NBC Liaison Committee Meeting Minutes (5/9/14), AILA InfoNet Doc. No. 14082152, question 5 (Posted 8/21/14), available at <http://www.aila.org/content/default.aspx?bc=6744|49864>.

I-824	Yes
I-191	Yes
Legalization	Yes
I-539	Yes

**PROVISIONAL WAIVERS (FORM I-601A) – ADJUDICATION, REQUESTS FOR EVIDENCE, DENIALS**

5. **During the AILA/NBC liaison meeting on October 31, 2013,<sup>2</sup> the NBC indicated that USCIS had not yet set an official processing goal for Forms I-601A since, at that time, the I-601A product line was relatively new. Is the NBC in the position to publish official processing times for I-601As? If not, what is the estimated time frame for publishing processing times for this product line?**

**Response:** USCIS is not yet in a position to publish official processing times for I-601As. Once this is okay for release, we will post it on the USCIS web site.

6. **Stakeholders continue to report receiving denials of I-601A provisional waiver applications based upon mistaken identity. For example, it is not uncommon for two or more individuals to have the same name, date of birth, and country of birth. Based on the similar information, two different individuals can easily be confused with one another, or information pertaining to one individual could be erroneously attributed to another.**

- a) **If an applicant’s I-601A waiver is denied due to negative information in the record that he or she believes is due to mistaken identity, what information or documentation would be helpful in establishing the applicant’s true identity and proper immigration record?**

**Response:** USCIS recognizes that it is not uncommon for individuals to share the same name and date of birth, and that the current I-601A application may not request sufficient biographic information to establish the applicant’s identity. On June 27, 2014, DHS posted a 60-day notice inviting public comment on a proposed revision to the Form I-601A and its instructions. The proposed revision includes additional items, such as the first and last names for the applicant’s parents, to aid USCIS in vetting applicants against existing records and in reducing errors related to mistaken identity.

The NBC also relies on biometrics and the results of background checks to ensure that applicants are not mistaken for another individual with similar biographic information.

<sup>2</sup>[AILA NBC Liaison Committee Meeting Minutes \(10/31/13\)](http://www.aila.org/content/default.aspx?bc=6744|48215), AILA InfoNet Doc. No. 14041601), question 9 (Posted 04/16/14, available at <http://www.aila.org/content/default.aspx?bc=6744|48215>).

- b) Does the NBC review I-601A waiver applicants to determine if more than one individual has the same name, date of birth, and country of birth?**

**Response:** Yes. When any application is received, USCIS reviews the application and USCIS records to determine if the applicant has an existing record. If USCIS is unable to locate an existing record or is unable to confirm, based on evidence in the application package, that the applicant and a subject of an existing record are the same individual, USCIS will assign a new A-number to the applicant and create a record when applicable.

**If so, will the NBC issue an RFE to allow the applicant to establish his/her identity?**

**Response:** An RFE generally is not required given the information USCIS has in its systems that can be used to confirm identity, receives from the applicant's biometrics appointment and the results of the applicant's background and security checks.

- c) If the NBC denies the application based on an issue that is revealed in the background check, and the applicant provides additional information to establish that the determination was based on mistaken identity, will the NBC consider reopening the case sua sponte?**

**Response:** As stated in the Final Rule, USCIS reserves the authority to reopen and reconsider a decision, in its discretion and on its own motion, if any new factors come to light that may affect the outcome of the case.

- 7. If an I-601A applicant provided a false name or date of birth when he or she was apprehended at the border for attempting to enter without inspection, but the application is submitted with an explanation as to why the incident would not trigger inadmissibility and supporting documentation, does the NBC consider such evidence in its review of the application and whether there is "reason to believe" the applicant is inadmissible for reasons other than unlawful presence?**

**Response:** The NBC reviews and considers all information submitted by the applicant and contained in the applicant's record(s) when determining if an applicant is eligible for a provisional unlawful presence waiver. This review includes considering the applicant's statements related to a particular incident and the results of security and background checks.

**If such documentation establishes by a preponderance of the evidence that the misrepresentation was not made to procure a visa, documentation, admission into the U.S. or other immigration benefit and therefore does not trigger inadmissibility under INA §212(a)(6)(C), will the NBC approve the I-601A, assuming there are no other ineligibility factors?**

**Response:** As stated above, the NBC reviews and considers all information submitted by the applicant and contained in the applicant’s record(s) when determining if an applicant is eligible for a provisional unlawful presence waiver. However, NBC does not conduct a full admissibility assessment when adjudicating I-601As because it is ultimately the Department of State consular officer who determines if the applicant is inadmissible on any specific grounds. The NBC will approve I-601A for applicants who successfully establish that they meet all eligibility requirements.

8. **Stakeholders remain concerned about certain types of I-601A denials for criminal violation(s) under the “reason to believe” standard. In particular, AILA has seen denials where an applicant has been convicted of a crime involving moral turpitude (CIMT) but such offense falls under the “petty offense” exception.<sup>3</sup> Please describe the steps an adjudicating officer takes when evaluating the petty offense exception. Could the NVC change its denial template so that officers can include additional fact-specific language explaining why they have concluded the applicant has not met the petty offense exception?**

**Response:** When USCIS adjudicates I-601As it determines whether: (1) there is a reason to believe the applicant may be inadmissible on a ground other than unlawful presence at the time of the immigrant visa interview, (2) the applicant has demonstrated the requisite extreme hardship to a qualifying relative, and (3) the applicant warrants a favorable exercise of discretion. The NBC will review any documentation the applicant submits to support his or her application, including any criminal history and disposition information. If the applicant’s criminal history indicates that the applicant may be found inadmissible by a DOS consular officer at the immigrant visa interview on any ground other than unlawful presence, the NBC will deny the I-601A. The NBC does not conduct a full admissibility assessment when adjudicating I-601As because it is ultimately the DOS consular officer who determines if the applicant is inadmissible on any other grounds. DOS will conduct the detailed analysis of law and fact to determine if the applicant’s criminal history is disqualifying or if the applicant’s crime is subject to the petty offense exception under INA section 212(a)(2)(A).

9. **Stakeholders continue to report problems with approved I-130 petitions for consular processing being incorrectly routed to the NRC (National Records Center) instead of to the NVC (National Visa Center).<sup>4</sup> This causes a significant delay for those I-130 beneficiaries who wish to file the Form I-601A provisional waiver since they cannot file the I-601A until they pay the immigrant visa fee, which cannot be paid until the fee bill is issued by the NVC.**

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<sup>3</sup> INA §212(a)(2)(A)(ii)(II); MSC1391864644.

<sup>4</sup> MSC1390530996; MSC1390655068; MSC1391489179.

- a) **In situations where USCIS erred in routing the approved I-130 to the NRC instead of the NVC, is there an e-mail address or fax number that attorneys and/or applicants can contact to request that USCIS transfer the approved I-130 to the NVC, without having to file a Form I-824?**

**Response:** Attorneys can contact NBC's Attorney Liaison mailbox to make this request. Applicants can call National Customer Service Center (NCSC) to request the correction without filing Form I-824. The Attorney Liaison email box is [nbc.attorneyliaison@uscis.dhs.gov](mailto:nbc.attorneyliaison@uscis.dhs.gov).

The NCSC number is 1 (800) 375-5283. We have looked at the examples provided and will provide a separate response.

## **212(c) WAIVER APPLICATIONS**

10. **Stakeholders report that Forms I-191, Application for Advance Permission to Return to Unrelinquished Domicile, that are filed with the Texas Service Center and subsequently transferred to the NBC are being adjudicated without sending a notice of decision to the attorney of record or the applicant.<sup>5</sup> Information regarding the decisions was only obtained through FOIA requests, InfoPass appointments, or through the USCIS online case status system. Would the NBC please confirm that it routinely sends I-191 decisions to the applicant and the attorney of record, if a G-28 is submitted? We have looked at the examples provided and will provide a separate response.**

**Response:** NBC's policy is to comply with the regulation at 8 CFR section 103.2(b)(19) which states, in part: "The Service will notify applicants, petitioners, and their representatives as defined in 8 CFR part 1 in writing of a decision made on a benefit request."

## **ADJUSTMENT OF STATUS AND RELATED APPLICATIONS**

11. **For interview-waiver eligible adjustment of status cases, when the case is transferred to a service center for adjudication, a transfer notice is issued three to four months after the case was filed indicating that it may take an additional six months for adjudication. That means that it takes USCIS approximately nine to ten months to adjudicate interview-waiver cases. Is the NBC able to identify interview-waiver eligible cases and transfer the files in a timelier manner to reduce processing times?**

**Response:** NBC does identify potential Interview Waiver I-485 cases based on systems data. We flag the cases in our process and prepare them for adjudication in the field. At this time, NBC has limited capacity to prepare and ship Interview Waiver cases to the

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<sup>5</sup> See denial decisions SRC1312450712 and SRC1302351208 and approval SRC1313451384.

field for adjudication. Applicants and attorneys/representatives will continue to receive letters advising them of the delayed processing. We are working to increase our capacity and our goal is to get Interview Waiver I-485s to the same processing time as interview I-485s but expect it will be some time. We do not have a timeline for this yet.

- 12. Stakeholders report adjustment of status denials and RFEs citing abandonment of the application due to the applicant's alleged departure from the United States prior to receiving advance parole, when the applicant had not left the country.<sup>6</sup> Which DHS databases do NBC officers check when determining whether an application has been denied due to departure and abandonment?**

**Response:** We have several tools available. The U.S. Visitor and Immigrant Status Indication Technology (US-VISIT) Program's Arrival and Departure Information System (ADIS), and the SQ94 tracking system available in TECS both track departures and arrivals. We are unaware of specific instances where an individual's application was denied erroneously because of the situation you describe. Please provide receipt numbers and we will research the cases.

- 13. It appears that the Texas Service Center (TSC) is separating I-765s and I-131s from certain employment-based adjustment of status application packages and transferring some of them to the NBC. This results in longer than usual delays in obtaining initial employment authorization documents, as well as renewals, causing great hardship to applicants and their employers. Is TSC or any other service center still transferring I-765s and I-131s in employment-based adjustment of status application packages to the NBC? Is there a procedure whereby such applications can be expedited at the NBC or at least processed within the standard processing times for the service center at which the applications were initially filed?**

**Response:** The NBC receives few I-765s and I-131s transferred in from Texas (from January 2014 to January 2015, we received about 29 Forms I-765 and 3 Forms I-131 per month). These come directly to the floor and they are done immediately. There is no hold up at the NBC as far as processing time goes.

## **VAWA ADJUSTMENT OF STATUS**

- 14. In VAWA adjustment of status cases that are forwarded to a field office for interview, Forms I-693, Medical Examination are often expired because the case has been pending for more than one year.<sup>7</sup> Some members report that the interviewing officer asks the applicant to obtain a new medical exam, while others report receiving an RFE from the NBC for a new Form I-693 prior to the interview being scheduled.**

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<sup>6</sup> See MSC1490507619; MSC1491419655 (RFE).

<sup>7</sup> See [USCIS Policy Alert on Form I-693 Validity Period](#), AILA InfoNet Doc. No. 14053043 (posted 5/30/14), available at <http://www.aila.org/content/default.aspx?docid=48745>.

- a) **In what circumstances will the NBC issue an RFE for a new medical examination, and in what circumstances will it rely on the field office to make the request?**

**Response:** Effective June 1, 2014, USCIS changed the I-693 medical filing policy to allow the applicant to either submit the I-693 medical with their I-485 application, or submit it any time prior to final adjudication to ensure it meets the 1-year validity period from the date of civil surgeon signature. Beginning June 2, 2014, for all I-485s received at the NBC, the NBC began issuing notices, not RFEs, to applicants whose I-485 applications contained no I-693 medical or an incomplete I-693 medical. The notice instructs I-485 applicants to bring a complete medical to their scheduled interview. Any I-485 files shipped to the field offices prior to June 2, 2014, did not receive this notice thereby requiring the field office to make the request as needed.

The I-693 notice to Applicant includes the following verbiage to remind applicants submitting I-693 medical upon request.

You will be required to submit a valid, completed, and signed Form I-693 at a later date. Please follow these instructions:

- “ - If you receive an interview notice in the mail, you must bring your updated Form I-693 to your interview appointment.
- If your case does not require an interview, you will receive a Request for Evidence for Form I-693 with instructions on where to send Form I-693.

“DO NOT MAIL DOCUMENTS AT THIS TIME. Mailing documents before receiving one of the notices referenced above may result in a delay to your case.”

- b) **Will the NBC accept a new medical examination if the applicant refuses to accept new immunizations because they remain valid from the last medical exam? Note that some civil surgeons are noting "refused shots" on these new medical exams.**

**Response:** If the immunization page is missing or blank, NBC will send a notice to the applicant asking them to bring the immunization page to the interview or upon request. NBC will also place a memo in the file for the field office to review the insufficient items. Field offices will determine if the new medical is acceptable or not.

15. **Stakeholders report that VAWA-based adjustment of status applicants are informed at the conclusion of the adjustment of status interview that although their fingerprints are current and the application is approvable, USCIS is unable to approve the I-485 because NBC has not updated the online system that produces the actual hard copy I-551 with the entire file.<sup>8</sup> Field officers state that a manual**

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<sup>8</sup> See EAC-14-002-50168, EAC-13-185-51113, EAC-13-231-50305, EAC-13-099-50527, and EAC-14-048-50451.

**request must be made by the field office for the NBC to update the system so that the card may be issued. A continuation notice is typically issued at the interview.**

- a) **What steps are taken by the NBC in updating the internal system prior to transferring a case to the field office?**

**Response:** The biometrics (i.e. fingerprints, photographs, and/or signature) that are needed to create the I-551 card originate in the Vermont Service Center (VSC) system. Prior to September 2, 2014, no VAWA cases shipped to the field offices from the NBC for interview had the biometrics attached to the record. Therefore the field offices had to open a helpdesk ticket for each case. Effective September 2, 2014, the NBC began opening a bulk helpdesk ticket on all VAWA files being shipped to the field offices to have the biometrics attached to the records to allow I-551 card generation. We have looked at the examples provided and will provide a separate response.

- b) **How can members inquire with the NBC to determine whether the online system has been updated?**

**Response:** Since the process has changed after September 2, 2014, this issue should be resolved.

- c) **Is there a time period that applicants should expect this system to be updated before an inquiry is necessary?**

**Response:** Since the process has changed after September 2, 2014, this issue should be resolved.

16. **In some circumstances, an I-360 VAWA self-petitioner already has an I-130 petition and I-485 application pending with the Service. It would be ideal for these individuals to be able to substitute the I-360 VAWA petition for the pending I-130 and to utilize the already pending I-485 application.**

- a) **What is the recommended way to request substitution of a pending or approved I-360 VAWA petition for a pending I-130 petition that is attached to an I-485 application?**

**Response:** Here is how to contact USCIS for cases like this (two options):

1. Contact Vermont Service Center and ask them to request the A-file with the pending I-485. We will send the A-file with the applications to them for processing the I-360. Once VSC completes the processing, they will return the A-file package to us to continue the process.

2. AILA attorneys may contact NBC through the established email box ([nbcattorney.liaison@uscis.dhs.gov](mailto:nbcattorney.liaison@uscis.dhs.gov))

- b) **Can NBC set up a P.O. Box or e-mail address for attorneys to make this type of request?**

**Response:** See the response to question 16a.

## **LOCATING “A” FILES**

17. **Stakeholders often have difficulty in determining the location of an A file once an I-130 or I-360 has been adjudicated but has not yet been sent to the NVC or the field office. Often, the last Service notice indicates that the file is located at the NBC. AILA has previously requested that transfer notices be sent when A-files are transferred from the NBC, though we understand limited resources are an issue. Has the NBC given any additional thought to the possibility of issuing transfer notices in these cases?**

**Response:** Applicants and attorneys/representatives of record receive approval notices which indicate if an approved petition is routed to the National Visa Center. Applicants and attorneys/representatives of record should receive interview notices from NBC when an interview is scheduled at the USCIS field office with jurisdiction. This interview notice means the A-file will be shipped to the field office within days of the notice. NBC’s goal is for files (I-485s and N-400s) to arrive at the field office 10 days before the interview. NBC does not mail or produce a separate notice when the file ships. Our system does produce a transfer notice if we relocate an un-adjudicated case from NBC to a service center. If you are not receiving these notices or the language or procedure is unclear, please let us know. Currently we do not produce transfer notices for I-485 Interview Waiver or I-485 VAWA cases shipped from NBC to the field office for adjudication and have no plans to do so.

## **G-28 ISSUES**

18. **Attorneys continue to report trouble with the NBC recognizing them as attorney of record despite a Form G-28 being submitted with the initial filing. This can lead to the attorney not receiving various notices and RFEs in connection with the filed case.**
- a) **Can the NBC provide any helpful tips for ensuring that a Form G-28 submitted with the initial filing is recognized?**

**Response:** Please refer to the USCIS website, [www.uscis.gov/forms/g-28-notice-entry-appearance-attorney-or-accredited-representative-tips-lockbox-facility-filings](http://www.uscis.gov/forms/g-28-notice-entry-appearance-attorney-or-accredited-representative-tips-lockbox-facility-filings), to reference G-28, Notice of Entry of Appearance as Attorney or Accredited Representative: Tips for Lockbox Facility Filings.

- b) **If an attorney realizes that he or she has not been entered as the attorney of record but has the receipt number for the case, to what address should a new G-28 be submitted to ensure that future notices get mailed to the attorney?**

**Response:** Please send properly completed G-28 requests to us at one of the following addresses:

Email: [nbc.attorneyliaison@uscis.dhs.gov](mailto:nbc.attorneyliaison@uscis.dhs.gov).

Mail: DHS/USCIS/NBC

P.O Box 648005

Lee's Summit MO 64002

Please note: names on G-28 must match exactly the names on the applications.

## I-824 PROCESSING

19. **For action on already-approved cases, the instructions to Form I-824 require the form to be filed with one of the three lockbox facilities. After receipting, is the I-824 ever adjudicated by the NBC or is it always sent to the office which adjudicated the underlying application or petition? In cases where the I-824 is transferred to another office, how soon after receipting does NBC transfer the I-824 for adjudication?**

**Response:** The lockbox uses the receipt number of the underlying petition or application to determine the jurisdiction of the I-824. This information is obtained from the form (Part 3, Receipt number) or the I-797.

<b>If the Receipt Number of the Primary Petition or Application Begins with:</b>	<b>Then Ship the Physical Application to the:</b>
EAC	Vermont Service Center
LIN	Nebraska Service Center
SRC	Texas Service Center
WAC	California Service Center
MSC	National Benefits Center
SIM	National Benefits Center

If the underlying petition or application is located at another field office or service center, the NBC will forward the I-824 to the location of the underlying petition or application. If it is determined that the underlying petition or application was adjudicated at the NBC, is located at the NBC, or located at the NRC, the NBC will review the application for adjudication.

The processing goal for I-824 is six months.

## USCIS – AILA ENGAGEMENTS

20. **AILA continues to value the opportunity to speak with representatives of the NBC and NRC to discuss issues of mutual interest to USCIS and its stakeholders. Our committee is interested in learning how we can improve our engagements with you. We welcome your comments, complaints and suggestions. Thank you.**

**Response:** NBC also welcomes the opportunity we have twice a year to engage on topics of interest to both AILA and NBC. Thank you for your commitment to work together on issues to benefit Stakeholders of USCIS. NBC does not have anything to offer at this time regarding improving engagements.

## NATIONAL BENEFITS CENTER

