

INTERIM MEMO FOR COMMENT

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This memo is in effect until further notice.

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director (MS 2000)
Washington, DC 20529-2000



U.S. Citizenship
and Immigration
Services

December 15, 2010

PM-602-0015

Policy Memorandum

SUBJECT: Instructions for Handling Regressed Visa Number (Employment-Based and Family-Based) Adjustment of Status Cases Interviewed at USCIS Field Offices; Revision to *Adjudicator's Field Manual (AFM) Chapter 20.1(e) (AFM Update AD 11-02)*

Purpose

This Policy Memorandum (PM) provides USCIS offices with instructions for handling regressed visa number Adjustment of Status cases (employment-based and family-based) interviewed at USCIS field offices on or after January 1, 2011. This memorandum:

- Standardizes the handling of visa-regressed cases throughout USCIS field offices nationwide;
- Eliminates the need for USCIS field offices to request allocation of a visa number for an otherwise eligible applicant for whom a visa number is unavailable at the time of interview;
- Centralizes the storage of each case type at designated locations;
- Facilitates the collection of performance data to enable generation of statistical reports and to improve case tracking and inventory control of visa regressed cases; and
- Offers better visibility to the Department of State (DOS) Visa Office of USCIS inventory levels so that they can better plan and manage the movement of priority dates displayed within their monthly visa bulletin.

This PM also provides specific instructions regarding the handling of regressed visa number cases for which USCIS field offices have already requested, but not yet received, allocated visa numbers. Such cases must be shipped to the locations specified in this memorandum by December 31, 2010.

Scope

Unless specifically exempted herein, this PM applies to and is binding on all USCIS employees.

Policy

Effective January 1, 2011, all:

- Employment-based cases where a visa number is not immediately available at the time of adjudication must be transferred to the Texas Service Center (TSC); and
- Family-based cases where a visa number is not immediately available at the time of adjudication must be transferred to the National Benefits Center (NBC).

USCIS field offices should ensure that the interview and all other processing requirements (except requesting a visa number from DOS) have been completed before transferring such cases to the TSC or NBC. In these cases, a visa number should not be requested by USCIS field offices because the TSC or NBC will do so.

Implementation

a. Guidance

The following processing guidance is to be followed by USCIS field offices handling employment- or family-based cases where a visa number is not readily available at the time of adjudication:

USCIS field offices must:

1. Conduct and complete the interview.
2. Ensure that all security and background related checks have been completed.
3. Ensure that all eligibility and documentary requirements are met.
4. Resolve all issues pertaining to the case, either at the time of the interview or through the use of a Request for Evidence (as applicable).
5. Deny the case, if warranted, following established procedures. In such cases, no visa number should be requested.
6. If the applicant appears eligible, determine visa number availability:
 - a. If a visa number is immediately available, request allocation of a visa number through Consolidated Consular Database (CCD)/Immigrant Visa Management System (IVAMS) and approve the case; or
 - b. If a visa number is not immediately available, complete a pre-adjudication worksheet (**Attachment A**), but DO NOT request allocation of a visa number through CCD/IVAMS.
7. Update the case as "Regressed Visa Number" in Interim Case Management Solution (ICMS).
8. Place the completed pre-adjudication worksheet on the non-record (right-side) side of the A-file.

A. If the case is Employment-based, route the A-file to the TSC – Upon receipt of the A-file from USCIS field offices, the TSC must:

1. Verify that the A-file contains a completed pre-adjudication worksheet. If the pre-adjudication worksheet is not included with the A-file or incomplete, the case must be returned to the initiating USCIS field office.
2. Send an email to "NBC C3 Relocate" mailbox indicating the Form I-485 receipt number and request biometrics transfer or clone (NOTE: Upon receipt of email from the TSC, the NBC must relocate the Form I-485 information in CLAIMS LAN to the TSC).
3. Verify case information and request allocation of a visa number in IVAMS through CCD.
4. Enter case in established regressed visa number National File Tracking System (NFTS) code(s).
5. Store case locally and track pending case information.
6. Ensure that the applicant maintains eligibility for adjustment of status and that all security checks are current and valid at the time of final adjudication.
7. Complete the Form I-485 adjudication when DOS allocates a visa number for the applicant.

B. If the case is Family-based, route the A-file to the NBC – Upon receipt of the A-file from USCIS field offices, the NBC must:

1. Verify that the A-file contains a completed pre-adjudication worksheet. If the pre-adjudication worksheet is not included with the A-file or incomplete, the case must be returned to the initiating USCIS field office.
2. Verify case information and request allocation of a visa number in IVAMS through CCD.
3. Enter case in established regressed visa number National File Tracking System (NFTS) code(s).
4. Store case locally and track pending case information.
5. Ensure that the applicant maintains eligibility for adjustment of status and that all security checks are current and valid at the time of final adjudication.
6. Complete the Form I-485 adjudication when DOS allocates a visa number for the applicant.

b. Implementation Date

This PM takes effect January 1, 2011. On or after January 1, 2011, USCIS field offices must not request visa numbers for cases where a visa number is not immediately available at the time of adjudication. Such cases must be expedited to the appropriate location as defined in this memorandum using the pre-adjudication worksheet (**Attachment A**). These cases may be shipped as soon as they are completed and ready for transfer; no manifest is required.

After the implementation date, USCIS field offices are required to request visa numbers only when a case is approvable and a visa number is immediately available. All cases, approvable or deniable, must be adjudicated locally by following the currently established procedures.

If the case appears to be approvable but a visa number is not immediately available at the time of adjudication, then USCIS field offices must not request a visa number and the case must be sent

to the appropriate location, either TSC or the NBC. The TSC or the NBC must then directly request allocation of visa numbers for the cases.

For additional operational assistance regarding the processing requirements established in this PM, USCIS offices should contact Vinay Singla (Field Operations Directorate) or Rishiram Lekhrum (Service Center Operations Directorate), through appropriate channels.

c. Recording of Statistics (G-22 reporting)

USCIS field offices must record the number of interviewed regressed visa number cases shipped to the TSC and/or the NBC on their G-22 report under the column for "Center Processing Complete" and **not** under the column for "Transfers Out." All labor hours must be recorded on the line for "I-485 Employment Adjustment" or the line for "I-485 Family Adjustment," as appropriate.

The receiving office (TSC or NBC) must record the number of regressed visa number cases received and report it under the column for "Transfers In." All completions for regressed visa number cases must be reported on the G-22 report and Performance Reporting Tool (PRT) by the designated location performing the **final** adjudication of the case. The NBC will report this data on the "N" record production report associated with the appropriate USCIS field office, while TSC will continue to report this data on their "S" record.

The TSC and NBC must continue to provide inventory counts of regressed visa number cases to the HQ Office of Performance & Quality (Performance Management Branch) via the monthly pipeline report following current procedures.

d. Special instructions for Visa Regressed Cases Pending in IVAMS on or before December 31, 2010

USCIS field offices must continue to follow the existing practice of requesting a visa number until the end of December 2010. However, USCIS field offices must now begin shipping their currently pending visa regressed cases to the appropriate designated storage location for case type (employment-based I-485 cases to the TSC and family-based I-485 cases to the NBC), as established in this memorandum, using the attached pre-adjudication worksheet (**Attachment B**).

All pending cases must be received at the appropriate location by December 31, 2010. These cases must be shipped in boxes and each box must contain the attached manifest (**Attachment C**). The use of this manifest is only required for shipping pending cases for which a visa number was previously requested. A manifest is no longer required once all these cases have been shipped.

For cases where a request for visa allocation was initiated by field offices before January 1, 2011, DOS will continue to notify USCIS field offices of visa number availability via email to their unique office visa regressed mailbox. USCIS field offices must promptly forward those notifications to the visa regressed mailbox of the designated location storing the case for final adjudication. The visa regress mailbox information for the designated locations is as follows:

Texas Service Center: AdjustmentIvams.TSC@dhs.gov (TSCAdjustmentsIVAMS)

National Benefits Center: AdjustmentIvams.NBC@dhs.gov (NBCAdjustmentsIVAMS)

After January 1, 2011, the TSC and the NBC will receive DOS notification directly for cases where they initiated a visa number request.

e. Revisions to the *AFM*

1. Chapter 20.1(e) of the *AFM* is revised to read as follows:

(e) Regressed Visa Number Cases.

(1) **General.** Generally, the availability dates on the Visa Bulletin move forward, but they sometimes move backward, or “regress.” If a visa number regresses after an alien has properly filed an application for adjustment of status, and the alien appears to be eligible for such adjustment, he or she is allowed to remain in the United States until a visa number again becomes available. The application is held in abeyance pending a visa number availability only if the application is otherwise approvable. While the case is awaiting availability of the regressed visa number, the alien is eligible for issuance of interim benefits such as an employment authorization document and advance parole for the purposes of employment and travel outside the United States and return, respectively, at the discretion of the director having jurisdiction over the matter (see **AFM Chapter 54**). However, if the alien is ineligible for adjustment due to an issue not related to visa availability (e.g., inadmissibility under **section 212(a)** of the Act), the application should be denied accordingly. Therefore, the adjudication (including the interview) should proceed regardless of the visa number availability at the time of adjudication to determine the applicant’s eligibility.

(2) **Handling of Visa-Regressed Cases by USCIS Field Offices.** If a visa number is not immediately available at the time of adjudication, USCIS Field Offices must transfer all regressed visa number cases to the designated locations described below. USCIS Field Offices should ensure that the interview and all other required processing requirements (except request for allocation of visa number from DOS) have been completed before transferring those cases. For those cases, a visa number should not be requested by USCIS Field Offices because the request for allocation of the visa number will be initiated by the office that will be storing the case. **Note:** Headquarters sent appropriate worksheet and manifest forms to all field offices as attachments to the December 15, 2010 memorandum “Instructions for Handling Regressed Visa Number (Employment-based and Family-based) Adjustment of Status Cases Interviewed at USCIS Field Offices.”

(A) Employment-based Cases. After completing case processing at the local level, USCIS Field Offices must transfer all employment-based regressed visa number cases to the Texas Service Center (TSC).

(B) Family-based Cases. Upon completion of case processing at the local level, USCIS Field Offices must transfer all family-based regressed visa number cases to the National Benefits Center (NBC).

2. The *AFM Transmittal Memorandum* button is revised by adding, in numerical order, a new entry to read:

AD 11-02 12/15/2010	<u>Chapter 20.1(e)</u>	Provides guidance on transferring visa-regressed adjustment of status cases from field offices to the TSC or NBC.
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Use

This PM is intended solely for the guidance of USCIS personnel in the performance of their official duties. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

Contact Information

Questions or suggestions regarding this memorandum should be addressed to the Field Operations Directorate through appropriate supervisory channels.

Attachments

- A. Pre-adjudication worksheet for cases in which allocation of a visa number has not been previously requested (*To be used on or after January 1, 2011*)
- B. Pre-adjudication worksheet for cases in which allocation of a visa number has previously been requested (*To be used on or before December 31, 2010*)
- C. Manifest for shipping cases for which allocation of a visa number has previously been requested (*To be used on or before December 31, 2010*)

Attachment A

A#: _____

<p><u>PRE-ADJUDICATED</u> (VISA NOT AVAILABLE)</p> <p><input type="checkbox"/> <u>Employment</u> <input type="checkbox"/> <u>Family</u> TSC NBC</p> <p>Case: <input type="checkbox"/> PRINCIPAL <input type="checkbox"/> DERIVATIVE</p> <p>Preference Category: _____</p> <p>Priority Date: _____</p> <p>Country of chargeability: _____</p> <p>Family Pack: YES NO</p> <p>All files together: YES NO</p> <p>Other A#(s) if all files NOT together: _____ _____</p>	<p><u>FINAL ADJUDICATION</u> (VISA AVAILABLE)</p> <p style="text-align: center;"><u>NOTE:</u> REQUEST VISA NUMBER</p>
<p><u>Mark each item as appropriate:</u></p> <p><input type="checkbox"/> IBIS COMPLETED & CURRENT</p> <p><input type="checkbox"/> NAME CHECK CLEARED</p> <p><input type="checkbox"/> FINGERPRINTS VALID</p> <p><input type="checkbox"/> ALL ELIGIBILITY REQS. MET</p> <p><input type="checkbox"/> ALL DOCUMENTARY REQS. MET</p> <p><input type="checkbox"/> CASE UPDATED AS "REGRESSED VISA NUMBER" IN ICMS</p> <p><i>If you cannot mark each and every item listed above, you cannot pre-adjudicate this case: STOP</i></p>	<p><u>Mark each item as appropriate:</u></p> <p><input type="checkbox"/> IBIS COMPLETED & CURRENT</p> <p><input type="checkbox"/> NAME CHECK CLEARED</p> <p><input type="checkbox"/> FINGERPRINTS VALID</p> <p><input type="checkbox"/> IVAMS PRINT-OUT SHOWING VISA APPROVAL INCLUDED IN A-FILE</p> <p><input type="checkbox"/> CASE UPDATED AS "APPROVED" IN GUI/CLAIMS</p> <p><i>If you cannot mark each and every item listed above, you cannot adjudicate this case: STOP</i></p>
<p><u>Immigration Services Officer:</u> <i>Case approvable upon visa availability</i></p> <p>NAME: _____</p>	<p><u>Immigration Services Officer:</u> <i>Case approved</i></p> <p>NAME: _____</p>

SIGNATURE: _____	SIGNATURE: _____
OFFICE/NFTS CODE: _____	OFFICE/NFTS CODE: _____
DATE SENT: _____	DATE ADJUDICATED: _____

For use after JANUARY 1, 2011

Interim Memo

Attachment B

A#: _____

<p><u>PRE-ADJUDICATED</u> (VISA NOT AVAILABLE)</p> <p><input type="checkbox"/> <u>Employment</u> <input type="checkbox"/> <u>Family</u> TSC NBC</p> <p>Case: <input type="checkbox"/> PRINCIPAL <input type="checkbox"/> DERIVATIVE</p> <p>Preference Category: _____</p> <p>Priority Date: _____</p> <p>Country of chargeability: _____</p> <p>Family Pack: YES NO</p> <p>All files together: YES NO</p> <p>Other A#(s) if all files NOT together: _____ _____</p>	<p><u>FINAL ADJUDICATION</u> (VISA AVAILABLE)</p> <p style="text-align: center;"><u>NOTE:</u> DO NOT REQUEST VISA NUMBER VISA NUMBER PREVIOUSLY REQUESTED</p>
<p><u>Mark each item as appropriate:</u></p> <p><input type="checkbox"/> IBIS COMPLETED & CURRENT</p> <p><input type="checkbox"/> NAME CHECK CLEARED</p> <p><input type="checkbox"/> FINGERPRINTS VALID</p> <p><input type="checkbox"/> ALL ELIGIBILITY REQS. MET</p> <p><input type="checkbox"/> ALL DOCUMENTARY REQS. MET</p> <p><input type="checkbox"/> CASE UPDATED AS "REGRESSED VISA NUMBER" IN ICMS</p> <p><i>If you cannot mark each and every item listed above, you cannot pre-adjudicate this case: STOP</i></p>	<p><u>Mark each item as appropriate:</u></p> <p><input type="checkbox"/> IBIS COMPLETED & CURRENT</p> <p><input type="checkbox"/> NAME CHECK CLEARED</p> <p><input type="checkbox"/> FINGERPRINTS VALID</p> <p><input type="checkbox"/> IVAMS PRINT-OUT SHOWING VISA APPROVAL INCLUDED IN A-FILE</p> <p><input type="checkbox"/> CASE UPDATED AS "APPROVED" IN GUI/CLAIMS</p> <p><i>If you cannot mark each and every item listed above, you cannot adjudicate this case: STOP</i></p>
<p><u>Immigration Services Officer:</u> <i>Case approvable upon visa availability</i></p> <p>NAME: _____</p>	<p><u>Immigration Services Officer:</u> <i>Case approved</i></p> <p>NAME: _____</p>

SIGNATURE: _____	SIGNATURE: _____
OFFICE/NFTS CODE: _____	OFFICE/NFTS CODE: _____
DATE SENT: _____	DATE ADJUDICATED: _____

For use before DECEMBER 31, 2010

Interim Memo

Attachment C

FROM: _____ DATE: _____

TO: NBC / TSC (Circle one)

For use before DECEMBER 31, 2010

MANIFEST for CASES IN IVAMS	(Visa Number already Requested)
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#	A-number	Receipt Number of I-485
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