



Agenda

USCIS NATIONAL STAKEHOLDER MEETING

June 30, 2009

111 Massachusetts Avenue, NW

Tomich Conference Center

2:00 - 4:00 pm

Note: The next stakeholder meeting will be held on July 28, 2009 at 2:00 pm.

Questions and Answers

- Question:** Under a Joint Business Plan between CIS and FBI, the FBI apparently has made good progress toward eliminating the backlog of FBI name checks done for USCIS according to a schedule of benchmarks. This progress was made possible through a substantial commitment of resources, including a \$15 million capital contribution from USCIS. Has the \$15 million capital contribution been exhausted at this point? Can you provide data showing whether all past benchmarks under the Joint Business Plan have been met throughout the U.S.? The Joint Business Plan provides for a "steady state" goal of completing 98% of FBI name checks within 30 days and 100% within 90 days of submission. How does CIS intend to meet this goal in light of current and projected resources and the end of the hard benchmark dates in the Joint Business Plan?

Response: On Monday, June 22, 2009, USCIS announced that, in partnership with the FBI, it met all milestones set forth in the joint business plan announced April 2, 2008, resulting in the elimination of the FBI National Name Check Program (NNCP) backlog. As mentioned, the "steady state" goal of the business plan was to achieve a sustainable performance level by the NNCP of completing 98 percent of name check requests submitted by USCIS within 30 days, and the remaining two percent within 90 days. This performance level is expected to become the new standard.

These vastly improved performance levels were achieved through a variety of collaborative steps taken by USCIS and the FBI, including:

- an increase in NNCP staffing made possible by the transfer of appropriated funds from USCIS funding and additional fee revenue for name check processing;
 - name check process improvements initiated by the FBI;
 - refinements in the name check file search criteria which enabled the FBI to focus on files most likely to yield pertinent search results;
 - training of NNCP staff on USCIS adjudication requirements and the applicability of name check search results to USCIS adjudications; and
 - other cooperative measures including assignment of USCIS personnel to the NNCP.
- Question:** We have had frequent reports of great confusion by affiliates on where to file appeals from waiver denials when clients are overseas. The letter that they are sent with the denial notice is either unclear or sometimes lists two addresses, an address in DC and CIS office overseas address. Appeals are being denied



Community Relations

for un-timeliness because the instructions on where to file were not clear and applicants are finding out that express mail are not accepted at certain addresses. Denial notices should clearly state a standard mail address and an express mail address. Can the instructions be standardized and clarified?

Response: Standard Operating Guidance issued by the USCIS International Operations Division includes a standard template for overseas staff to use when issuing denials of requests for waivers of inadmissibility grounds.

In most cases, the letterhead of the office issuing the denial will include both a U.S. mail address (all offices overseas can receive mail via diplomatic pouch through a U.S. based address) and an overseas mailing address. The instructions have not specified which address to use depending on how the filing is being submitted. To make our communication about where to send appeals clearer, we will instruct our overseas offices to indicate on the letterhead which address to use for standard mailing and which to use for express mailing. In addition, we will instruct our overseas offices to accept an appeal as timely filed if the appeal form, with the appropriate fee and signature, are received timely at either the U.S. address or the overseas address. Whether the appeal is sent by regular mail or by an overnight or other expedited delivery service, the applicant is responsible for taking the steps necessary to ensure that USCIS receives the appeal before the appeal period lapses.

3. **Question:** Persons who win the diversity lottery are supposed to adjust their status in the same Fiscal Year. If for whatever reason, including processing delays, they do not adjust by the end of the fiscal year, they are unable to obtain lawful permanent resident status. Does USCIS have any statistics on how many people win the diversity lottery and are unable to adjust within the fiscal year?

Response: Please note that the Department of State, not USCIS, tracks unused diversity (DV) visa numbers each fiscal year. Figures for DV visa usage and adjustments of status for fiscal years 1999 through 2008 can be found at the following Department of State web site: <http://www.travel.state.gov/pdf/FY08-AR-TableVII.pdf>

Individual offices keep track of the diversity adjustment cases received from the NBC, primarily by use of spread sheets. USCIS notes that the Lockbox, NBC and local field offices do everything possible to adjust these cases within the fiscal year. The Lockbox segregates out Diversity cases and expedites shipment to the NBC. The NBC, in turn, expedites the processing and routes the file(s) to the responsible field office as quickly as possible. Near the end of a fiscal year, the NBC will take extraordinary measures (for example, scanning files, overnight shipments) to get files into the hands of a field office for adjudication. Despite such extraordinary measures, you should note that by law, USCIS cannot adjust the status of any person until all background and security checks have been completed and the DV adjustment applicant has met his or her burden of establishing statutory eligibility to adjust status. There may be cases, therefore, where USCIS cannot approve an adjustment application prior to the end of the fiscal year. For this reason, USCIS encourages persons seeking to adjust status on the basis of selection in the DV lottery file their completed adjustment applications as soon as they become eligible to do so based on the State Department's monthly Visa Bulletin.

Please note however that the vast majority of lottery winners consular process overseas. For FY2008 for example, USCIS adjusted the status of 1,440 cases, while 41,761 aliens were admitted with DV immigrant visas.



USCIS does not have information on those winners who are eligible for adjustment of status and fail to apply within the filing timeframes.

4. **Question:** Advocates for refugees are increasingly concerned about the issue of refugees being detained when immigration authorities discover that they have not adjusted status to LPR after one year in the United States. Section 209(a)(1) of the INA provides that refugees present in the U.S. one year after arrival, who have not yet acquired LPR status, "shall . . . return or be returned to the custody" of DHS for inspection and examination for adjustment of status. ICE, in some locations, has read this language to mean that it can apprehend and detain unadjusted refugees while they are forced to complete the application for a green card. Typically, the refugees subject to detention under this policy pose no threat to society, have families in the US, have no or minimal criminal records, and are victims of torture or other trauma that makes them particularly vulnerable to the harsh conditions of detention. The refugee clients are being held without immigration charges against them during the time their adjustment applications are pending.

The adjustment of status application process for detained refugees usually lasts four to six months, but it can sometimes take a year or more. What actions can USCIS take to ensure that the detention of refugees during the adjustment of status process is as short as possible? In particular:

- a. Can USCIS institute a process for expediting adjustment applications for refugees in detention – for example, to ensure that the process takes no longer than three months?
- b. Currently, USCIS accepts adjustment applications from detained refugees only through the ICE / DRO officials in the detention facility. Can USCIS change its policy in order to accept the I-485 application directly from the detained refugee? Many of the delays in the adjustment process result from coordination problems between USCIS and ICE, and this would help prevent such problems at the early stages.

Response: USCIS recommends that LIRS reach out to the ICE Office of the Principle Legal Advisor on any questions related to ICE's detention authority.

Regarding USCIS actions, the Nebraska Service Center (NSC) does expedite adjustment applications for refugees in detention. When ICE/DRO and/or an attorney of record (filed G-28) alerts NSC of a detained refugee, NSC verifies whether the individual is a refugee and whether he/she has already filed an I-485 or whether one needs to be filed. If an I-485 has already been filed, NSC works with DRO and the local USCIS field office in getting the case adjudicated. If an I-485 has not been filed, DRO facilitates the filing with NSC. NSC has an effective tracking and expedite procedure in place. However, often the I-485 is missing required evidence (such as vaccinations), which results in delayed adjudication. NSC or the field office cannot complete the adjudication until the filing is complete. If the detained refugee files the I-485 directly with the center, NSC may not be able to identify it immediately as a detained case requiring expedited handling. It is recommended that DRO continue to contact NSC and facilitate the filing of the I-485.

5. **Question:** I sent an inquiry to the California Service Center about two weeks only to find out that the email no longer works. When I followed up with the Nebraska Service Center, I found out that the CSC only takes inquiries from congressional offices and their staff. It appears that CSC is following a directive or a memorandum (not sure which) from HQ that inquiries not coming from congressional offices should be directed to Customer Service. Perhaps HQ meant to include accredited agencies and their staff when the



Office of Communications

U.S. Citizenship and Immigration Services

Community Relations

directive was sent to CSC; can HQ include us so we can again enjoy the wonderful benefits of being able to send CSC inquiries and receive a resolution to clients' cases.

Response: Service Center Operations provided a briefing on Customer Service, outreach and access to the Centers. ICS was also available for questions about the NCSC.