

June 9, 2006

Jane Arellano, District Director  
U.S. Citizenship and Immigration Services (USCIS)  
300 N. Los Angeles Street  
Los Angeles, California 90012

Dear Director/CIS Officers:

The following items have been proposed by members of the American Immigration Lawyers Association, Los Angeles County Bar Association-Immigration Section, Mexican American Bar Association, San Fernando Bar Association, Century City Bar Association, and Cuban American Bar Association for discussion with you at our June 15, 2006 meeting:

#### I-130 QUESTIONS

1. How do we handle proof of filing of a family based petition on 1/14/98 for 245(i) eligibility, when applicants were told to drop petitions in a basket when filing with the District on the date of the deadline? Petitioner has copies of petition and money order but can no longer get verification of who cashed the money order. Will the copies and affidavit suffice if she never got a receipt to determine 245(i) eligibility?

The burden is on the applicant. Please utilize Info pass appointment; the information office can look into the data base re: I-130 status. It is advisable to provide as much evidence as possible such as cancelled checks, etc to info pass officer.

#### ADJUSTMENT OF STATUS

2. Applicant applied for AOS and filed with Chicago lockbox. At the time the application was filed, applicant was living in San Bernardino County. Afterward, applicant moved to Orange County and filed an AR-11. AOS interview was scheduled at San Bernardino sub-office. San Bernardino sub-office would not interview by saying that San Bernardino sub-office only do cases in San Bernardino and would not do cases outside of county (by SDAO). Applicant missed work that day and his case was not interviewed. What is the policy on this issue?

Irene Martin, San Bernardino OIC will handle such transfers. She will forward the case to the appropriate jurisdiction, if the jurisdiction is not San Bernardino.

3. LADO Officers are telling attorney that they are no longer authorized to inform the public that a case is being held up because of "background checks." This policy was confirmed with a supervisor

LADO Officers are unable to provide more information. CIS is unable to provide information with respect to internal procedures. Please refer to the fact sheet on USCIS web site for more information.

Question: Is this really current policy AND why the change?

CIS officers are not authorized to provide more information and this policy has been in effect and it is not a "new" policy.

4 When the I-485 is filed with USCIS the IP background check is ordered within a few months of the filing. Is it the policy of the Los Angeles District Office to reorder the background check when the background check has been pending over a certain amount of time? What period of time does the IP need to be pending before the USCIS will reorder the IP? What is the procedure?

Please refer to response to # 3.

What is the policy in the District Office to correct an error or omission of data in the initial ordering of the IP? For example, a wrong country code has been entered or an incorrect birth date. What is the procedure to have this information corrected?

If there is a Country code error or other error, please inform the info pass officer. CIS is unable to provide any more information. Kindly refer to the USCIS fact sheet on our web site for more information.

5. How long is it taking for the MTR Unit at 300 North to process motion to reopen of adjustment denials based on Service error? When should enough time lapse to take special action?

Officer Robin Pignatelli responded to this question. If MTR is pending for over 90 days, please make an info pass appointment to speak with the duty officer or to re-schedule an appointment.

#### I-601 WAIVERS

6. For asylum adjustment that was interviewed at LADO and I-602 waiver was requested with instruction that I-602 waiver be sent to Chicago, who will adjudicate the I-602. Will it go back to LADO or will it be referred to the Nebraska Service Center?

Chicago Lockbox forwards the waivers to the appropriate jurisdiction for adjudication. [To carry over I-602 waiver question for our next meeting for more up-dated information.]

7. Attorneys are continuing to see I-601 waivers denied using cases addressing hardship from circuits other than the 9<sup>th</sup> Circuit and without using any from the 9<sup>th</sup>? Can this be a training issue? What can an attorney do if this happens? Due to member complaints, were CIS officer's in San Bernardino and Santa Ana trained to adjudicate I 601s? Please advise? (THIS IS A CARRY OVER QUESTION FROM LAST MEETING)

Please forward your denial samples to room 8010 attention Sany Alegria, SDAO. Jonathan Katz, USCIS counsel and Sany Alegria will look into this matter. USCIS has conducted a training session and this matter should not re-surface. Kindly submit your samples to Sany as soon as possible.

#### I-751 QUESTIONS

8. What is LADO policy/procedure on allowing Conditional LPR to file AOS again based on new marriage but same spouse while still in Conditional lawful resident status if initial Conditional grant was based in error (i.e., a prior marriage was not dissolved before marriage)? Must alien wait until Conditional LPR expires to file new AOS? Is there any policy barring this subsequent filing, even after Conditional LPR expires?

Officer Roland Lyons responded to this question. CR is not eligible for adjustment of status in such cases. If you have issues, please make an info pass appointment and get referral to room 2024 to look into it. If the first marriage was not terminated when the second marriage took place, you can ask for recession of your first filing and immediately file a second I-485 package and then re-file for

the second marriage upon recession of the first filing when the first marriage is terminated. For a VAWA beneficiary, there is a forgiveness provision for such errors.

### ADMINISTRATIVE 212(c) RELIEF

9. What are the Los Angeles District Office's procedures for aliens filing for 212(c) relief, form I-191, with the District Office pursuant to 8 CFR Section 1212.3(a)? Where do you fee in? If fee in the cashier, where do you file after the payment? How long are these cases taking to adjudicate? (Carry over Questions from last meeting)

I-191 can be filed at LADO and it will be treated like any other application. USCIS is unable to provide an adjudication time line since there are only a few of such applications filed at LADO.

### EAD PROBLEMS

10. Why is the Los Angeles District Office telling people that they can only issue one interim employment authorization document when the EAD application is still pending after 90 days? For instance, if the EAD is not processed and the interim EAD expires? Officers telling people they can work legally with an expired interim EAD card as long as they have proof that an application was filed? The law says that the CIS has 90 days to adjudicate the application. There is nothing in the regulations that say that you can work with an expired EAD and a receipt notice. Please explain?

Diana Armenteros, SDAO responded to this question. Interim EADs are issued pursuant to the regulation not to exceed 240 days. Officer needs to review whether it is warranted to issue the second EAD interim card. Second interim EAD cards are decided on a case-by-case basis

11. There has been a pattern of long delays in receiving EAD's under I-485 cases filed through marriage. In many cases, the interview is set before the EAD is received and, many times, the case even approved before EAD is received. In addition, recent attempts to set Infopass appointments for Interim EAD have proved useless since the website has often had no appointments available. Is there any explanation for this pattern?

Roland Lyons and Diana Armenteros responded to this question. This issue should be referred and discussed with the National Benefit Center. Diana mentioned that new IOs are assigned to handle info pass appointments and all 22 windows are processing info pass appointments in room 1001. If there is a true emergency, attorneys can approach window #7 and request an emergency appointment.

**UPDATE ON STAFFING AND POLICY CHANGES AND CURRENT  
PROCESSING TIMES:**

- a) Have there been any staffing changes?

Many officers are going for training at our USCIS Eastern Region.

- b) Have there been any policy changes?

Service center reviewed I-130s that should not have been transferred to LADO, and upon review, 2500 cases will be sent back to the service center. Consequently, judge cases will move faster.

- c) For adjustment of status applications for interviews at the Los Angeles District Office:

AOS at LA office w/in 6 months

- 1) What are the current processing times for I-130 and I-751?

I-130 – judge cases May 2005 are scheduled; August 2001 is for all others

I-751 – initial backlog will be resolved by the end of August 2006

I-140 (transferred cases) –

- d) For adjustment of status applications pending in Santa Ana:

- 1) What are the current processing times for:

I-130 – End of Fed is scheduled

I-140 (transferred cases) - couple of months from receipt date

- e) For adjustment of status applications pending in San Bernardino:

N/A

- 1) What are the current processing times for:

I-130 –

I-140 (transferred cases) –

- f) For Naturalization applicants:

1) What is the current processing time between the date of filing and the preliminary interview? 8-10 months from Prelim to interview for LA office; Santa Ana is processing early November 2005

2) What is the current processing time between the date of passing the preliminary interview and the Naturalization ceremony? 60 days

For LIFE cases:

- 1) How many interviews have occurred? 12,464 (more LIFE cases will be interviewed)
- 2) Second interviews? 1,143
- 3) How many have been approved? 5,913
- 4) How much notice is being given? 30 days notice is given

For LEGALIZATION/LULA/NEWMAN cases:

- 1) How many interviews have occurred? 3,336
- 2) Second interviews? 120
- 3) How many have been approved? 336
- 4) How much notice is given? 30 days notice

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