



# Question & Answer

April 29, 2008

## USCIS NATIONAL STAKEHOLDER MEETING

### *Answers to National Stakeholder Questions*

**Note:** The next stakeholder meeting will be held on May 27, 2008 at 2:00 pm

1. **Question:** Offices outside of Miami are still frustrated with Cuban parolee issues. This question comes from a Chicago-area office. The issue is that Cubans are paroled in along the Mexican border (usually at Hidalgo, TX in our office's case) and their passports and all identification documents are seized at that time. When they get to Illinois, they are eligible for work authorization but they cannot have their biometrics taken since they lack any photo ID. They cannot get a Driver's License in Illinois without proof of a valid immigration status including a photo. We understand that in the Miami area they have been allowed by their CBO liaison officer to put their own photos on the I-94 and that solves the problem, but we don't have that authorization from our CBO liaison officer (We have been waiting for a response from him for three weeks). The new guidance is helpful for renewing parole, but even that requires an InfoPass, which will require photo ID and does not address the photo identification issue.

**Response:** Application Support Centers (ASCs), which capture biometric information in support of immigration benefit applications, are required to verify each applicant's identity prior to processing her/him. For applicant categories where government-issued photo identification frequently does not exist, such as for asylee applicants, the ASCs have written procedures that provide alternate means of identity verification. For example, for I-730 beneficiaries without sufficient identification, the National Benefits Center can provide the ASC with a copy of the recent, color photograph that was submitted with the application in order to positively identify the beneficiary.

As most parolees do not seek processing at ASCs nor require Employment Authorization Documents, ASC written procedures do not currently address how to handle parolees with insufficient identification. USCIS is in the process of establishing a written procedure for the ASCs, similar to that noted above for I-730 "without identification" beneficiaries, to ensure that an alternate means of identity verification is available to parolee applicants who do not have sufficient identification. USCIS will advise the USCIS Community Relations office once the written procedures noted above have been finalized and distributed to the ASC network. Until the written procedures are finalized and distributed, the HQASC Program will remind the ASC field managers of the reasonable accommodations needed for individuals with the above noted special circumstances during that program's monthly conference calls.

2. **Question:** Could USCIS provide a break down of the 29 offices wherein the processing period is 6 months versus the other 39 offices where the expected processing period is 12 to 14 months for the N-400 applications?



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**Response:** USCIS recently issued a “USCIS Update” regarding projected naturalization processing times for all USCIS Field Offices at the end of September of this year. A copy of this Update has been included in your folder and can be found on [www.uscis.gov](http://www.uscis.gov).

3. **Question:** Please clarify current procedures for expediting N-400 applications for applicants who are losing Social Security Insurance benefits (SSI). Following an expedite request, one of our affiliates just received a letter instructing the client to contact the local USCIS to schedule an interview. The letter did not provide any contact information for the local office except for an outdated mailing address, which is the office’s old address. We were expecting, based on past cases, to receive a naturalization interview appointment notice. Is this correct procedure?

**Response:** The information sent to this applicant should have been correct, of course. Internally, the Domestic Operations Directorate is in the process of reviewing its existing protocols to make sure situations like those described in this question are not repeated. Please note that USCIS is developing specified institutional procedures to ensure that expedite requests for persons in danger of losing SSI benefits are acted upon in both a timely and standardized fashion. And we continue to work with the Social Security Administration on improvements to our respective processes as they apply to prospective citizens currently receiving SSI benefits.

4. **Question:** Please clarify if the rules have changed for naturalization applicants to renew expiring green cards. According to the current “Guide to Naturalization” (p. 13), if the applicant files for naturalization at least 6 months before the green card is due to expire, they do not have to renew the green card. One of our local affiliates informed us that their USCIS office does not follow this rule, and routinely requires naturalization applicants to renew their green card, even if they have applied for naturalization at least 6 months before it expires. This is very burdensome for low-income applicants who struggle to pay the application fees. In addition, their local office will no longer provide a stamp in these applicants’ passports to allow them to travel when their green card expires while the N-400 is pending. Is this a national policy?

**Response:** The existing policy has not changed and the Guide to Naturalization continues to reflect the abiding USCIS policy on this issue. If one of our field offices is not following these procedures, please let us know so that we can look into the situation and, if warranted, advise the office of the correct protocols.

Due to the inherent lack of security surrounding a stamp in an individual’s passport, local offices have become more judicious in their discretion of using stamps to denote LPR status. Local field offices no longer have “adit” stamps assigned to each officer/each office now only has a few of these stamps and they are used only in the most emergent of circumstances. However, those with expired cards and proof of a pending N-400, in the form of a receipt notice, who need to travel, are eligible to receive an I-551 “adit” stamp.

5. **Question:** Has there been a change in filing procedures for I-751s? Instructions for the I-751 state that such applications should be filed with the Service Center having jurisdiction over the place of an applicant’s residence. Recently and in accordance with the form instructions, one of our affiliates filed three I-751 petitions with the TSC. A month passed and no receipt or transfer notices were received – but biometrics notices were issued. As you are aware receipt notices are essential to I-751



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applicants since they extend the validity of their conditional LPR status. After multiple inquiries we learned that the 3 cases had been transferred to the VSC.

The VSC has recently acknowledged that there were problems with receipt notices getting issued in I-751 cases that were transferred from the TSC to the VSC and has agreed to issue duplicate receipt notices in these cases. They also indicated that the VSC would now be responsible for processing I-751s. We would like to know therefore, whether or not all I-751s should be filed with the VSC. If so, will the filing instructions on the USCIS website be changed to reflect this?

**Response:** Applicants should continue to file their I-751 at the Texas Service Center if the applicant falls within the jurisdiction of the TSC. The recent shifting of I-751s is an internal workflow project and does not affect filing procedures for customers.

6. **Question:** There has been some confusion related to fees required for the I-290B, Motion to Reopen or Reconsider. The fee rule indicates that this form is eligible for consideration of a fee waiver. Does it make a difference whether an application for a fee waiver request is filed depending on the reason the I-290B is filed or the application type? For example, for I-485 refugee adjustment applications or I-730 refugee/asylee family reunification petitions that have been denied, is a fee required for the I-290B, even though the underlying application did not require a fee?

**Response:** 8 CFR Section 103.7(b)(1) states in part, "Motion. . . No fee shall be charged for a motion to reopen or reconsider a decision on an application for relief for which no fee is chargeable or for any motion to reopen or reconsider made concurrently with any initial application for relief under the immigration laws for which no fee is chargeable. . . "

Motions filed on refugee adjustment applications do not require a fee; however, motions filed on asylum adjustment applications do require a fee. There also is no fee for the motion filed on behalf of a denied I-730 since there is no fee for the I-730.

7. **Question:** When individuals in removal proceedings are granted an I-485 fee waiver and subsequently file an I-765 application (based on the pending I-485) – is the I-765 fee automatically waived since the I-485 fee was waived? According to 8 C.F.R. 103.7(b), no filing fee is required with the I-765 Application for Employment Authorization when the I-485 application fee has been paid. If USCIS has already found that an individual merits a fee waiver for the I-485, it seems unnecessary for the agency to require a separate fee waiver for an I-765 (an application/benefit for which the fee is included in the I-485 filing fee). Is it also USCIS' view that no filing fee is required with the I-765 when the I-485 application fee has been waived? Please clarify.

- a. When an I-485 and I-765 are filed together with a request for a waiver of the I-485 filing fee, will the fee for both the I-485 and I-765 be waived or does USCIS want two separate fee waivers for each application to be submitted. Please clarify.

**Response:** If the I-485 and I-765 were filed concurrently *after* July 30, 2007 and the fee waiver application was granted on the I-485, then it also applies to the I-765 and I-131 (if submitted). If the I-485 and I-765 were filed separately *after* July 30, 2007, the I-765 fee is not required as long as a copy of the receipt for the I-485 is provided when filing. However, if the I-485 and I-765 were filed concurrently *prior to* July 30, 2007 and a fee waiver was granted on the I-485, then a separate fee



waiver request must be submitted for the I-765 along with proof that a waiver was granted on the underlying I-485.

8. **Question:** We understand that Iraqis who receive special immigrant visas while in the U.S. must apply for adjustment of status. Must they pay the regular filing fee, even though they are eligible for many refugee resettlement benefits? If so, are they eligible to file a fee waiver request?

**Response:** Applicants who are applying for adjustment of status based upon an approved SIV petition under P.L. 109-163 would have to pay the regular filing fee. They are eligible to file a fee waiver request in accordance with Interoffice Memorandum HQ 70/5.5 and AFM Update AD07-19 dated July 20, 2007.

9. **Question:** Would Iraqi or Afghani SIVs who were processed abroad have a receipt notice for their applications like you see with petitions filed from here or is there another form that is issued? This question is based upon an Iraqi SIV who was not issued an A number and does not have a receipt number for his application but would like to file a change of address form.

**Response:** USCIS provides a receipt number for all I-360 approval notices. An A-file is not routinely created at the visa petition stage, if the visa petition is approved, and the alien will seek consular processing. Once the approved petition is forwarded to the Department of State's (DOS) National Visa Center (NVC), the NVC will issue a letter containing a consular processing number. For cases that are already at the consular processing stage, the individual should consult DOS for guidance on how to file a change of address. For cases that have not yet been forwarded to the NVC, and for which no A-number has been assigned, the individual may use the I-360 receipt number to file a change of address with USCIS.

10. **Question:** We understand and greatly appreciate that I-130 petitions filed by LPRs and USCs are being expedited for Iraqis, regardless of whether they are immediate relatives. Please indicate whether the petitioner needs to request that USCIS expedite processing of the case (especially between filing and approval stage), or whether it is automatically expedited because it is an Iraqi.

**Response:** Form I-130 petitions involving Iraqi beneficiaries are automatically culled by the California and Vermont Service Centers via weekly sweeps. The purpose of the sweep is to identify the cases for expedited processing before USCIS forwards the approved I-130 petitions to the NVC for processing. Thus, it is not necessary to specifically ask for expedited processing.

- a. After the cases are approved, are they supposed to receive follow-up instructions from USCIS on the next steps the petitioner and/or beneficiary should follow? Or are the cases just sent to the NVC and processed until the beneficiary is notified abroad for a refugee interview?

**Response:** Further instructions regarding eligibility for the United States Refugee Admission Program and refugee processing are provided to the petitioner via a letter from the Department of State's Office of Refugee Admissions, Bureau of Population, Refugees, and Migration (RPM).



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- b. Approximately how long a time frame should be expected between approval of the I-130 and notification of a refugee interview?

**Response:** The timeframe between the sweeps conducted at the USCIS service centers to the forwarding of the cases to the NVS take approximately 1 week. If the beneficiary elects to proceed with refugee processing, then he or she will be made aware that the timeframe for refugee processing will depend on the particular circumstances of his/her particular case. When the refugee processing for Iraqi beneficiaries began in Egypt and Jordan, it was anticipated that the total processing may take any where from 4 to 8 months.

- c. Are sweeps being done for older I-130 petitions that are still pending in order to bring them back into the adjudications workflow?

**Response:** After the sweeps are done and the I-130 petitions are approved, the petitioners are asked to contact DOS/RPM, if their alien relatives are interested in applying for resettlement in the United States as refugees. The program is also open to future cases.

11. **Question:** We are having an issue with the question of when asylees, particularly derivative asylees, are required to have an I-693 Medical Exam when filing an I-485. According to the Adjudicator's Field Manual (Chapter 23.6), it seems that in some cases, derivative asylees are not required to submit the medical exam because they completed the medical exam overseas:

"(2) Asylees . With limited exceptions, all asylee adjustment applicants must obtain full medical examinations and vaccination certificates as part of the adjustment process (**8 CFR 209.2(d)** and **Chapter 23.3** of this *field manual* ). Subject to your verification that a full report, with vaccination requirements, is contained in the alien's file, **the exceptions which are not required to submit medical examination reports are: Persons who received derivative asylum status through the I-730 process and received a medical examination before being issued travel authorization by a consular officer.** (Note: this does not apply to persons whose status was changed to derivative asylee based on an I-730 petition approved while the beneficiary was in the U.S.; such persons must submit medical examination reports as part of the adjustment process.)" (Emphasis added)

However, the TSC has sent RFEs requiring the submission of the I-693 for derivative asylees; even when a copy of the overseas medical exam and explanation from the AFM was included with the I-485 application, we have been unable to convince them that the medical exam is not required.

**Response:** There is not enough information to answer this question informatively. Please provide examples of the receipt number or RFE so that we can investigate the matter more fully.

12. **Question:** If someone has an old approved I-730, how can they "revive" it? The scenario is an asylee who filed I-730s for his two children about 7 years ago (within the 2 year window for filing after his asylum grant). The children were approved but their mother, not his wife, refused to allow the children to travel to the US. The consulate has sent the cases back to USCIS but recently, the children have become teenagers and wish to travel to the US. What are the logistical steps to take in order to get old I-730s revived?



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**Response:** If the I-730 was administratively closed for failure to prosecute the case to completion, you may provide the petitioner and beneficiary A-number(s) and receipt number(s) to the Nebraska Service Center. This information can be sent through the National Customer Service Center number or the Congressional division with a request to reaffirm the case to the consulate now that the derivatives are able to travel to the United States. The files will be requested and reaffirmed back to the consulate.

13. **Question:** On the USCIS website under Asylum Resources (Home > Education & Resources > Asylum Resources) it states that “We produce a number of publications that are available for downloading at our RIC Country Information Pages. Most are available in their entirety in Adobe Acrobat PDF files. The exceptions are Maters Exhibits and Information Packets which are compilations of open source documents and only have the Table of Contents available.” Contrary to this statement, the table of contents are not available for these information packets. Also on the same pages, under “Country Information Pages” the “profile series,” “perspective series,” and “question and answer series” are all very old (most are dated between 1992 and 2001) and most are not available at all. Will USCIS please make this information in its most current form available?

**Response:** The Asylum Division is reviewing the information provided to the public via the USCIS website and is working with the USCIS web team on revisions. In that review we will determine whether any documents referred to need to be re-posted. We welcome the input of the NGO community on this issue, and we invite any specific comments or suggestions to assist us in this effort.

The Asylum Division no longer prepares many of the country conditions documents referenced on the RIC Country Information Pages, and thus there are not more recent versions to post. In addition, the Asylum Division does not plan to post newly-created country conditions documents to the website, though we will consider whether it would be appropriate to refer users to other sites where similar information can be obtained.

14. **Question:** One of our affiliates is representing an asylee client who is under 14 and who is about to file her I-485. Her parents have already filed their I-485s, (the family did not have enough money to file all 3 applications at the same time) so her I-485 is not being submitted with her a parent’s application. The USCIS fee schedule states that the I-485 filing fee for applicants under 14 who are filing with at least one parent is \$600 and \$900 if not filing with the I-485 application of at least one parent. May an applicant who is under the age of 14 and who files an I-485 after his/her parents have already filed their I-485 (due to the fact that the family had to save enough money for the filing fees), pay the \$600 fee since at least one of his/her parents already have an application pending with USCIS?

**Response:** Applicants under 14 years of age and who are filing with the I-485 application of at least one parent have a fee total of \$600. If the applicant under 14 years of age is not filing with the I-485 application of at least one parent, then the applicant would have a fee total of \$930; however no biometric fee is needed.

An asylee applying for adjustment of status under section 209(b) of the Act is eligible to apply for a fee waiver. To apply for a fee waiver, an applicant must submit an affidavit - or unsworn declaration



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that is signed and dated and includes the statement: "I declare under penalty of perjury that the foregoing is true and correct" - requesting a fee waiver and stating the reasons why he/she is unable to pay the filing fee. The affidavit and any supporting documentation (see above, Documentation) must be submitted along with the benefit application or petition. To facilitate the processing of fee waiver requests, applicants should write in large print "Fee Waiver Request" on the outside of the mailing envelope containing their application or petition and fee waiver request, as well as at the top of their affidavit and each page of their supporting information. If a fee waiver request is denied, the entire application package will be returned to the applicant, who must then begin the application process again by re-filing for the benefit with the appropriate fee.