



Question & Answer

August 25, 2009

USCIS NATIONAL STAKEHOLDER MEETING *Answers to National Stakeholder Questions*

Questions and Answers

1. **Question:** Is there anything that can be done for I-730s and I-485s that are placed on hold for material support issues—i.e., should we send in a declaration stating that the client did not participate in any violence, does not believe the organization was violent, and did not provide material support to support violent activity? Or should we just wait for further guidance?

Response: USCIS is open to inquiries regarding these cases that are on hold. Although we will not provide a response to additional submissions, we will review any evidence that an applicant wishes to provide and take appropriate action. Please note that the type of evidence or statement described most likely will not result in the application being cleared for final adjudication. Specifically, the statute does not require that an individual participate in violence or provide material support toward violent activities in order to trigger the application of a terrorist activity related inadmissibility ground. In a number of cases, a declaration may not meet the criteria necessary to make a favorable determination regarding terrorism-related grounds. USCIS is actively working with DHS Headquarters and the interagency to establish additional mechanisms to allow us to consider these cases. In most cases we advise applicants to wait for further guidance, though we will entertain questions or concerns where there are unique circumstances. If additional documents are being submitted, they should be sent to the service center that is holding the case with the A-number and receipt number included on all correspondence. In addition, the applicant should clearly mark on the documents and/or letterhead that the information should be routed to the “Refugee/Asylum Unit.”

2. **Question:** Please provide an update on the status of any holds on I-485s due to the issue of material support, particularly among Burmese I-485 applicants.

Response: The Consolidated Appropriations Act of 2008 (CAA) included an “automatic relief provision” that named ten Tier III organizations, including several Burmese organizations, that were not to be considered terrorist organizations based on activities that took place before the date of enactment of the CAA (December 26, 2007). In addition, Secretary Chertoff exercised his exemption authority in June 2008 not to apply exemptible terrorist-related inadmissibility provisions of the INA to individuals affiliated with these named groups for activities or associations that were not covered by the “automatic relief” provisions of the CAA. The service centers have granted adjustment of status in cases involving Burmese groups specifically included in this provision of the CAA, and in cases eligible for exemption under the June 2008 exercises of the Secretary’s exemption authority. If an applicant was granted an exemption at the time of the initial grant of asylum or refugee status, that exemption should continue to be effective at the time of adjustment of status. Regarding groups that were not part of this provision, DHS is currently engaged with interagency partners to consider additional exercises of the Secretary’s discretionary exemption authority.



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If it appears that a case is still on hold that would qualify for the “automatic relief provision” of the CAA or for any available exemptions, please bring the case to our attention through the appropriate channels.

3. **Question:** Two clients of CLINIC were initially denied TPS by USCIS. Pursuant to Matter of Barrientos, their TPS applications were brought before the Immigration Court when the individuals were in proceedings. The cases were granted and the clients both received employment authorization under TPS in 2008. During the last TPS registration period, their representative filed to renew their applications with USCIS. In both instances, the Vermont Service Center denied the applications and work authorization. How do we contact the VSC regarding this matter? What is the policy for ensuring that TPS granted by the judge will be honored by USCIS during re-registration?

Response: The process for informing VSC that TPS was granted by an IJ or the BIA is for the applicant to email the VSC at tpsiigrant.vsc@dhs.gov with a copy of the judge’s final orders attached. This request, the email address, and required information are provided on the internet and on the Federal Register Notice (FRN). Furthermore, the internet and FRN also ask an applicant to submit evidence of a TPS grant by an IJ or the BIA with their re-registration application. If the applicant emails the above address, the VSC will then update their systems to reflect that TPS was granted.

4. **Question:** In the March 20, 2009 semiannual regulatory agenda published by the Department of Homeland Security [DHS Docket No. OGC-RP-04-001], a rule (RIN: 1615-AB82) is proposed with a title of "Preference Alien Registration of intention to apply for adjustment of status; Pre-filing of certain applications" to streamline adjustment of status application processing. This proposed rule will remove an alien's reliance on the Department of State's (DOS) Visa Bulletin to determine visa availability and therefore eligibility to file for adjustment of status. Instead, the rule proposes that USCIS utilize a registration process for adjustment of status applicants by requiring an applicant to file a registration packet after the granting of an immigrant petition and prior to visa availability, based on the use of "qualifying dates" established by DOS.

What is the progress of this proposed rulemaking and when the proposed rule will be disclosed to the public?

Response: The rule is currently in DHS review. If and when a proposed rule is published in the Federal Register, the public will have the opportunity to comment. This is one of many rulemaking priorities, and USCIS cannot state definitively if or when this rule might be published. Thus the estimated publication date in the Unified Agenda of Planned Regulatory Actions is the most current estimated publication date.

5. **Question:** On April 24, 2009, Mr. Mike Aytes, the Acting Deputy Director of the USCIS, in a post addressing employment-based visa wait times in the Department of Homeland Security Leadership Journal, promised that the USCIS will work to make available on its website the information regarding how many people are waiting in line with pending adjustment of status applications or how long it may be before USCIS can process and approve an employment-based immigrant visa applicant's adjustment of status application.

How much progress has been made on disclosing such information on the USCIS website and will information on pending adjustment of status cases by country, category, and calendar year in which priority date falls be made available?



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Response: SCOPS is currently working with the USCIS website administrators to best display this information in a way that is easy for the customer to understand. The USCIS' pending employment-based I-485 inventory includes both principal and dependent applications. The first part of the report contains summary data on the number of pending I-485s by country of chargeability and preference, as listed in the Department of State Visa Bulletin. The second part of the report consists of a series of tables, each for a different preference, for each country of chargeability. Each table is broken down by month and year, and each cell contains the number of pending I-485s with a priority date within that particular month and year. By adding a series of cells, the applicant will know how many applicants there are with priority dates earlier than their own.

6. **Question:** We recently contacted the NCSC regarding a case outside of processing times. The call center created an SMRT request which went to the California Service Center. The response received via the SMRT was generic and only indicated that the case is still pending. According to the new guidelines provided for the Service Center email boxes, we should be able to send an email directly to the CSC. However, since it was the CSC who provided the generic response via the SMRT request, will this only generate the exact same response?

Response: Our apologies for the miscommunication. In general, it is not acceptable to simply inform a customer that their case is "pending." CSC has acknowledged that it is an improper response. A second inquiry by you on the same case should not generate the same response. If you continue having this issue, let us know.

7. **Question:** Does the CSC or TSC offer regular calls with stakeholders, as Nebraska does? These are very helpful calls. If they are offered, how do we find out about upcoming calls? Is there an email list?

Response: Currently CSC and TSC do not have a monthly teleconference calls with stakeholders like NSC does. The CSC hosts a meeting with external stakeholders on a quarterly basis. They send email invitations to CBOs in the greater San Diego and Los Angeles area and to a designated representative from AILA, ACIP and NAFSA. In the future, CSC plans to publish the Q & As from these meetings on the USCIS website so they may be available online. The TSC schedules stakeholder meetings as needed based upon requests to the Center Director's Office. In addition, TSC holds quarterly conference and a newsletter to congressional staffers as well as quarterly conference call with community-based organizations (CBOs). TSC is also calling all the CBOs on the roster to offer them contact information and verify their contact information. Service centers participate in or host (on a rotational basis) the yearly National Service Center Congressional Conference. This year, CSC is hosting the conference and TSC is a presenter in four breakout sessions: Congressional Basics, Form I-485 (Employment-Based), Form I-140 (two sessions).

8. **Question:** On AILA Infonet there is a fax cover sheet that one can use to request the CSC upgrade an I-130 when an LPR petitioner has naturalized. Do you know if the CSC is still honoring this form and process? May those of us who are not AILA members use this form? The form link is below:
<http://www.aila.org/content/fileviewer.aspx?docid=10990&linkid=41078>

Response: The form on the AILA Infonet is not the correct format by which these requests should be made to the California Service Center (CSC). Rather, petitioners or their designated representatives should contact the National Customer Service Center (NCSC) to request upgrades. Upon receipt of those upgrade requests, the NCSC will in turn send them to the CSC via USCIS's internal customer interface system.



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9. **Question:** We contacted the Vermont Service Center regarding a case that we believe was improperly denied. The VSC responded very quickly stating that we had to contact the National Benefits Center since the application had been adjudicated there. Unfortunately, there is no email contact for the National Benefits Center. How are we to contact the NBC?

Response: Representatives for applicants or petitioners can request information or assistance by calling the USCIS National Customer Service Center (NCSC) at 1-800-375-5283. When information for a response is needed from NBC, a referral for information is sent to NBC by the Customer Service Representative taking the call. NBC then responds to the inquirer via letter, fax, email or telephone. If an expedite request is made for an I-765 or I-131 application, NBC typically responds by email.