

AILA Minutes from NSC Stakeholder Call

January 12, 2017

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AILA Minutes from the Nebraska Service Center Thursday, January 12, 2017 stakeholder teleconference on Refugee/Asylee Product Line

Includes the following topics:

- * I-730
- * I-485 Refugee
- * I-485 Asylee
- * I-485 HRIFA
- * I-485 Indochina
- * I-485 Jewish Syrian National
- * I-131 Advance Parole
- * I-765 a(5) and c(8)
- * I-589
- * I-824 as appropriate
- * Waivers as appropriate

NOTE: These minutes are notes from an informal stakeholder call hosted by the Nebraska Service Center to provide general information on issues and questions submitted to the Nebraska Service Center. Statements made during this call are not to be considered binding policy on the Nebraska Service Center or the United States Citizenship & Immigration Services.

Specific questions, concerns or to be added to the mailing list, please send an email to ceo.nsc2@uscis.dhs.gov.

Policy related questions should be directed to USCIS Service Center Operations at Headquarters by email at SCOPSSCATA@uscis.dhs.gov.

To contact the USCIS National Customer Service Center (NCSC) please call 1-800-767-1833, or submit an e-request at <https://egov.uscis.gov/e-Request/Intro.do>

USCIS Service Center Follow-up Emails are available at <https://www.uscis.gov/about-us/contact-us#USCIS%20Service%20Centers>. Do Not Send a Follow-up email to the Service Center unless you have not received a response from the NCSC within 30 days. You must include the SMRT# that you received from the NCSC in the subject line of the follow up email to the Service Center.

I-765

1. Is the NSC transferring I-765 renewal applications to the Potomac Service Center for processing? An AILA member received notice of a transfer for an asylum applicant (category (c) (8)). Is NSC transferring these cases to the PSC for staffing and/or workload reasons?

Response: Yes, the NSC has started transferring I-765(c)(8) asylum EAD renewal applications to the Potomac Service Center (PSC) for adjudication to help balance workload demands.

FOLLOW UP QUESTIONS & ANSWERS – I-765/Document Production Section

Q: Please provide an update on document production backlog for refugees.

A. Please look at the most recent NSC processing time report for the most up-to-date information. (Available at <https://egov.uscis.gov/cris/processTimesDisplayInit.do;jsessionid=bacXD1OC9RCyFagQNRyeu>). NSC continually strives to reduce processing backlogs.

Q: If a Refugee does not receive his/her initial EAD, how can we follow-up?

A: The issue in this situation is that the refugee will not have a receipt # when he or she contacts the National Customer Service Center (NCSC) (please see contact information above). The refugee can provide his or her alien registration number (A#). Additionally, the refugee can request a tier II level officer, who might be able to find the case using a name search.

I-730

1. The USCIS website states, *“If we transfer a case to an international field office for adjudication, we will send a transfer notice to the petitioner and any representative identifying the USCIS international field office responsible for adjudicating the Form I-730. Once the international field office receives the petition, we will notify the petitioner, the beneficiary, and any representative, and will provide further processing instructions. Due to customs delays, it may take up to two months for transferred cases to reach a USCIS international field office.”* Is it correct that with the new process NSC will not be approving cases, just checking all information on eligibility (person is an asylee, derivative is unmarried child -21 or spouse married before asylum was granted) and that they have documentation showing both of those)? From there, you will ship for further processing (review and approval) by the USCIS international field office). However, we’re not sure what happens if there’s a denial of the decision at the Embassy. Is it communicated to NSC and then NSC sends a denial to petitioner and attorney? Or does the Embassy send the denial?

Response: If the beneficiary of the I-730 resides abroad in a location covered by one of the USCIS international field offices (a list of USCIS international offices, contact information and case processing times is available at <https://www.uscis.gov/about-us/find-uscis-office/international-immigration-offices>), following the interview the case will be adjudicated by the office abroad and an approval, denial, or any request for additional information will be issued by that office directly to beneficiary and/or his or her representative. If there is a denial of the decision by the Embassy, then the embassy will directly notify the beneficiary and/or his or her representative. NSC only has jurisdiction over the I-730 petition if there is no overseas USCIS international field office that has jurisdiction over the case or there is a clear reason for a denial based on case review.

FOLLOW UP QUESTIONS & ANSWERS – I-730 Section

Q: How long will it take to hear from a USCIS International Field Office that is adjudicating an I-730 petition? How do we communicate with the international field office and will we be given the opportunity to respond to a RFE or NOID?

A: NSC doesn't have any control over consular processing or how cases are adjudicated by the USCIS international field offices. NSC believes that if any additional information is needed by the USCIS international field office that the office will request that information in writing from the beneficiary and/or his or her representative and provide a timeframe to respond.

Q: Expressed concern regarding timely adjudication of I-730 petitions and communication with USCIS international field offices.

A: NSC acknowledged the concern. Please refer to the website listed above for information on each USCIS international field office. Also, any policy related questions can be raised directly to USCIS HQ through the SCOPSSCATA email above. The NSC Community Engagement Officer will also raise these concerns directly to USCIS HQ.

RFEs

1. What is the best procedure to follow when we learn through online case status that an RFE has been sent, but it was not received by the attorney's office or the client?

Response: First, contact the USCIS National Customer Service Center (NCSC) (see contact information above), indicate that you have not received the RFE even though the online case status system shows that the RFE has been sent, and request a duplicate RFE. If you have not received a response within 30 days, send a follow-up email to the Service Center (see above for link to follow up email addresses). You must include your SMRT # in the follow up email. If you haven't received a response from the follow up email after 21 days, then contact USCIS HQ at the SCOPSSCATA email address listed above.

2. If the attorney has not received a copy of the RFE, and there is not enough time to request a copy to prepare an adequate response before the due date, is it possible to request an extension and, if so, to whom should we make the request?

Response: Per regulation at 8 C.F.R. § 103.2(b)(8)(iv), USCIS officers may not extend the response time for an RFE beyond 87 days. The regulation at 8 C.F.R. § 103.2(b)(13), gives the USCIS officer the discretion to deny the petition/application if the response to the RFE is submitted untimely, but does not mandate a denial. Thus, the adjudicating Officer has the discretion to accept the untimely filed RFE response, issue a second RFE, or deny the

petition/application for failure to respond on time. If the USCIS officer denies the petition/application, then the petitioner/applicant can file a Motion to Reopen.

3. Would the NSC consider sending RFEs via fax or email when the above scenario occurs and we learn that a due date is possibly looming?

Response: No, for security reasons, including encryption/system issues, RFEs will continue to be sent by mail and not by fax or email. If an RFE is returned to USCIS with a forwarding address, then USCIS will resend the RFE, but will not extend the RFE response time. Again, only the USCIS adjudicating officer can extend the RFE response time (or issue a second RFE). If the case is denied, then you can file a Motion to Reopen.

FOLLOW UP QUESTIONS & ANSWERS – RFE Section

Q: If a duplicate RFE is issued, will USCIS extend the timeframe to respond to the RFE?

A: No. If a duplicate RFE is issued, the response time will be the same as the original RFE. The response time will not be reset or extended. USCIS adjudicators will consider whether USCIS error resulted in untimely receipt of the RFE. The USCIS Officer has discretion to accept an untimely response to an RFE, issue a new RFE, or deny the case based on an untimely filed response to an RFE. If the case is denied, you can file a Motion to Reopen.

ADDITIONAL FOLLOW UP QUESTIONS

Q: Regarding NSC's responses to RFE questions above, is this information readily available on the USCIS website or in the RFE letter? Is information about filing a Motion to Reopen readily available on the USCIS website or in the RFE/denial letters? If not, would USCIS consider include this information on its website and in RFE/denial letters?

A: Yes, this information is included in RFE/denial letters.

Q: Regarding Motions to Reopen (MTR) for I-730 Petitions – Do you have to file a formal Motion to Reopen even if USCIS erred? Are there any situations where you can file the MTR directly with NSC?

A: You now must file a formal MTR (Form I-290B) and all filing requirements (including fees) must be met. There used to be a less formal procedure whereby you could just send USCIS a letter asking them to reopen the case based on USCIS error. This process no longer exists. However, you can also contact the USCIS NCSC at the 1-800 number listed above (or by submitting an e-request), and state that there was an administrative error. The danger is that you only have 30 days to file a MTR and if USCIS determines that USCIS did not make an error through the online case inquiry process and reopen the case, then you might have to refile because the 30 day deadline may have passed.

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Q: Expressed concern about paying the I-290B filing fee when USCIS made the error. Can file with a fee waiver request?

A: NSC acknowledged the concern. The Lockbox determines if fee waiver is accepted. Form I-290B instructions don't exempt cases where no filing fee was paid (i.e., I-730 petitions). Also, you have the option of refiling the case.

NSC Community Engagement Officer Comments: Another option for researching/investigating a case status error is to create a MY USCIS account at <https://egov.uscis.gov/casestatus/showSplash.do>, which allows the user to see the entire case history online, not just the last action taken on the case. Also, don't circumvent the USCIS NCSC, you must have the SMRT# and have waited 30 days for a response, or you won't receive a response from the Service Center follow up email.

Q: Can you create a MY USCIS account for each individual client?

A: Yes. I believe you can. Also, if the case was filed through ELIS, then you can find a copy of the RFE online in the ELIS account.

Please address any additional questions or concerns Janelle Herres, Community Engagement Officer, at ceo.nsc2@uscis.dhs.gov and any additional policy related questions to USCIS HQ at the SCOPSSCATA email listed above.

NEXT STAKEHOLDER ENGAGEMENT

The next call will be on **Thursday, February 9, 2017 at 10am Central** on the humanitarian/family/document product/other issues product line.