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Consular Returns Teleconference Recap

On October 28, 2015, the Citizenship and Immigration Services Ombudsman's Office hosted a public teleconference regarding U.S. Department of State (DOS) Consular Returns to the U.S. Citizenship and Immigration Services (USCIS). Representatives from the USCIS Service Center Operations and DOS' National Visa Center (NVC) and Kentucky Consular Center (KCC) responded to questions posed by the Ombudsman's Office and the public. The discussion focused on why a consulate may return a petition, the process for returns within DOS and USCIS, and processing times.

DOS Consular Return Process

During the call, DOS indicated that less than .5% of non-immigrant visa (NIV) petitions and less than 1% of immigrant visa (IV) petitions are returned to USCIS for further action. A consular officer will return a petition when facts previously unknown and material to the petition are discovered. Returns are not based on inadmissibility grounds.

The return process starts with the officer drafting a memo detailing the reason(s) for the return. For non-immigrant petitions, the memo is emailed to KCC. Documentary evidence in support of the return is mailed separately to KCC via the most efficient service (diplomatic pouch, express mail, etc). Next, KCC reviews the return for completeness, records it in its internal database and then mails a hard copy to USCIS, usually within 5 days. If KCC has to go back to the consulate for more information, then the process may take longer. Returns are tracked in PIMS. For employment-based NIV petitions, the designated representative is not informed.

For immigrant petitions, the memo is mailed (via express mail, diplomatic pouch, etc.) to the NVC and it performs a similar review to the KCC before forwarding the return to the service center. The processing time is usually within 15 days, unless additional information from the consulate is needed.

The NVC also handles re-affirmed petitions, which are processed and sent back to the consulate within 10 days.

USCIS Consular Return Process

USCIS then explained the next steps in the consular return process. Once a petition is returned to USCIS from KCC or NVC, USCIS updates its system notice to indicate that USCIS has the case, and a receipt notice is generated and sent to the petitioner. The return is also reflected in USCIS' online My Case Status. Returned IV petitions are forwarded to the field office that originally approved the petition.

Because of the amount of time that can pass since the petition was originally sent to the overseas consulate, the speakers stressed the importance of petitioners informing USCIS and the National Benefits Center of any address changes.

The 5 reasons for a return are: statutory ineligibility, fraud, withdrawal of petition, missing or incorrect information, and death of petitioner/qualifying relative. If the petition is missing information or there are inaccuracies, then USCIS will issue Request for Evidence (RFE). If fraud is detected, then USCIS will issue Notice of Intent to Revoke (NOIR) and give the petitioner 30 days to respond. If the deficiency was not well founded or has been overcome, USCIS will re-affirm the petition. There are no processing times for consular returns and they are not strictly pegged to the processing time for the particular benefit. However, reference points are the petition and consular return dates.

USCIS tries to handle consular returns it receives on a first in, first out basis. The speakers mentioned they are aware of concerns related to delay in responses and noted that they strive to keep things moving and that the service centers have to balance competing priorities. DOS also mentioned that it is working toward being more efficient by digitizing IV packets. Six posts are currently piloting this. For now, speed of IV returns depends on the location of the post and available mail services.

In response to the Ombudsman's question on how returns are prioritized, USCIS stated it tries to respond within 120 days after a response to a NOIR is received. Expedite is possible and is reviewed on a case-by-case basis.

Last Published Date: November 23, 2015

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