

**NBC/AILA General Meeting
November 7, 2008**

1. Please provide an update regarding NBC processing of Form N-400s.

The NBC will perform pre-interview processing in much the same manner as the Service Centers have done for the last several years. Background checks will be initiated and completed, and applicant A-files will be requested and received. A complete file review will be performed on cases and NBC will issue a notice to the applicant if the applicant needs to bring additional evidence to the interview at the local USCIS Field Office. Further improvements of the N-400 process will be implemented as the NBC process is refined to provide, to the extent possible, decision-ready cases for Field Offices at the time of interview and to reduce the number of continuances at the time of interview.

a. Has NBC developed any procedures for handling applications under INA § 319(b) where the spouse is eligible to naturalize without regard to residence/physical presence requirements because the U.S. citizen spouse meets certain conditions, specified in INA § 319(b), relating to employment abroad?

The NBC identifies N-400 cases under INA § 319(b) during the initial file review process.

b. What is the procedure for requesting that a naturalization application filed under INA §§ 316 or 319(a) be expedited?

To request the expeditious handling of an N-400 application, please contact the local USCIS Field Office with jurisdiction. The NBC does not schedule N400 interviews. The NBC serves as a pre-interview processing hub for N-400 applications. When the NBC completes the pre-interview processing steps and determines a case to be interview ready, it places the application in the scheduling queue. USCIS field offices then schedule these cases for interview.

2. In the interest of having the most recent addresses in a single document, please either confirm that the following addresses are correct or, if not, provide us with the correct addresses for the following.

For attorney submission of Form G-28 or attorney change of address:

USCIS - NBC
P.O. Box 648006
Lee's Summit, MO 64002

The address shown above is correct for submission of a Form G-28 or an attorney change of address.

We note that as of Oct. 2, 2008, the NBC Filing Tips (dated April 2008) list a different P.O. Box, which you advised was not correct. We understand that you have requested that the web site information be updated.

For RFE responses:

For overnight courier service (including Express Mail):
USCIS/NBC
Attn: RFE Response
850 NW Chipman Road, Ste 5000
Lee's Summit, MO 64063

For mail:
USCIS/NBC
PO Box 648004
Lee's Summit, MO 64002

The NBC Liaison Committee respectfully requests that the street address be included in all Requests for Evidence, in addition to the P.O. Box address, as many attorneys prefer to use a courier service for delivery. We note that while the April 2008 NBC Filing Tips posted on the USCIS web site warn, in bold, that RFE responses should not be sent to the Chicago Lockbox, the "Tips" then tell the reader to use the address provided in the RFE response.

The NBC's zip code 64002 is a unique zip code provided by the Postal Service for the NBC. No other location in the city of Lee's Summit has this zip code. This ensures that all RFE responses are received at one location and are processed timely and accurately. Mail delivered to the street address at zip code 64063 may be misrouted or cause delays because this zip code is not unique to the NBC. Therefore, the NBC prefers to provide one P.O. Box address for RFE responses.

The street address above is a valid address for express mail service; however, RFE responses sent by express mail will be processed as those received through the PO Box 648004, and will not receive expeditious processing. The NBC will explore providing the street address for express mail purposes on RFE letters.

3. To what address should a response to a Request for Evidence (RFE) relating to the filing of a Form I-817 based on LIFE Act Legalization, be filed with NBC? The only address that appears on the RFE, in the upper right corner, is:

U.S. Department of Homeland Security
P.O. Box 648006
Lee's Summit, MO 64064.

This is confusing to AILA members as the USCIS instructions for the filing of the Form I-817 under LIFE Act Legalization are to file with the Chicago Lockbox, while NBC previously provided the addresses listed in #2 above for submitting responses to RFEs issued by NBC.

[A scanned copy of the RFE has been provided to NBC for reference.]

The attachment that was filed with the question is an older version of the I-817 RFE. The current address for RFE responses is:

USCIS - NBC
P.O. Box 648004
Lee's Summit, Mo 64002

The I-817 instructions inform the applicant to file their I-817 application at the Chicago Lockbox with fee. This is done for receipt of the application and fees and input of data in USCIS systems.

If the NBC determines that initial evidence is required, an RFE will be sent. The submission of the evidence back to NBC ensures the evidence review process is completed. If an RFE response is sent to the Chicago Lockbox, the Lockbox will return the evidence and supporting documentation to the sender.

We will work to ensure that all RFE templates utilized at the NBC provide the accurate P. O. Box for RFE responses. Please let us know if you experience inconsistencies with the return address provided for RFE responses.

4. A member reports that a "Customer Service" 800 number representative told her that NBC accepts mail deliveries on Saturday. Is this correct? Is a response to a Request for Evidence that arrives at NBC on a Saturday recorded as received on Saturday?

- Please confirm that when a due date falls on a Saturday or a Sunday, and the response is received at NBC on the next business day, the response is considered to be timely filed (assuming it meets any other filing requirements). We note that the Adjudicator's Field Manual 10.5(b)(2) provides under "Flexible Response Times" that responses are timely filed if they are received by mail no more than three days after the due date.

The NBC does not accept mail on Saturdays. The mail delivery dates and the due dates are taken into account when items are received.

5. Under the Child Status Protection Act, certain classifications of a derivative beneficiary will automatically convert to a different classification when the petitioner's status changes, while the derivative beneficiary retains the priority date from the original petition.

What procedure is supposed to be followed so that the derivative beneficiary can file to adjust his status to lawful permanent resident even though he is over the age of 21?

- Must the petitioner file a new petition seeking retention of the original priority date and conversion to the appropriate classification?

- Or, may the applicant file Form I-485 based upon the original petition since the conversion is supposed to be automatic?

These issues are currently the subject of ongoing litigation before the BIA (USCIS has certified two decisions and requested publication of the BIA's decision) and in the Federal Courts. Upon resolution of the litigation, USCIS will issue appropriate guidance.

Example:

U. S. citizen petitioner files a fourth preference petition for brother (beneficiary), who is in the U.S. with his wife and, at the time of filing, the minor children. The Form I-130 is approved, with a priority date on which all of the children of the beneficiary are under the age of 21. When visa numbers become available, some of the beneficiary's children are over 21. What procedure should be followed for his children over 21 in order to adjust using the original priority date?

Should the over-21 children wait until the beneficiary (their father) becomes a U.S. lawful permanent resident and then have the beneficiary file I-130s for them but ask for the priority date on the original fourth preference I-130 filed for the beneficiary?

The answer to this question is also dependent upon the outcome of the litigation described above, and the resolution of this issue will be included in any guidance issued as described above.

Or can the over-21 children file just I-485s with the approval notice of the original I-130 for the beneficiary?

The answer to this question is also dependent upon the outcome of the litigation described above, and the resolution of this issue will be included in any guidance issued as described above.

6. Does NBC have jurisdiction over a Form I-90 for correcting a Form I-551 that was issued by NBC but the error (an incorrect date of birth due to a typo in the Form I-485) was not the fault of the NBC? The current attorney confirmed that the prior attorney had submitted a copy of the birth certificate with the Form I-485.

If the original card has an MSC receipt number, then the NBC has jurisdiction to make a correction to the card. If the NBC receives an I-90 "D" application, the application will be processed according to the following procedures:

- If an error occurs on Form I-551, the NBC will determine through USCIS systems if the error was a USCIS administrative error or applicant error.
- If the error on the card is due to a Service error, not applicant error, the Service will correct the card at no additional cost to the applicant.
- If the error on the card is not a Service error, and the applicant provided incorrect information on their original filing, the applicant will be advised to file an I-90 (e) "My name or other biographic information has changed since the card was issued," with the correct fee to the LA Lockbox. Please see the I-90 Instructions on the USCIS website for the correct fee and address of the LA Lockbox.