

**National Benefits Center/Florida Bar Liaison Meeting
January 17, 2006**

Attending on behalf of Florida Bar:

Larry S. Rifkin, Esq.
Cecilia M. Olavaria, Esq.

Attending on behalf of the National Benefits Center:

Rob Cowan	Director
Jack Bennett	Deputy Director
Terri Robinson	Assistant Center Director, Customer Relations
Chris Saucedo	Acting Assistant Center Director, Adjudications
Cindy Einhellig	Supervisor, Congressional Liaison Group
Janet Clay	Congressional/Attorney Liaison
Leslie Tritten	Center Adjudications Officer

- 1. What is the policy re: submitting photos with EAD applications with adjustment applications? Since the client is later scheduled for a biometrics appointment where a digital photograph is taken for production of the card, we have not submitted photos, but lately, we have received a couple of RFEs asking for pictures.**

Applicants should continue to submit photographs if required by Form instructions until the instructions are changed. However, the NBC does not normally request photographs when electronic biometrics are captured. Please provide us with examples of cases you believe were RFE'd in error through the NBC Attorney Liaison Mailbox.

In addition, the NBC will raise the issue of updating Form instructions with USCIS Headquarters.

Practice Point

Photos should be submitted for I-131s because these are scanned to generate the document. Also photos may be requested for an I-130 in instances in which the I-485 is denied, and the I-130 is approved and transferred to National Visa Center.

2. Why did the NBC stop allowing clients to self-schedule biometric appointments through the 1-800 number?

ASC scheduling processes have changed for cases handled by the NBC. Specifically, applicants who filed cases that were receipted *on or after* July 25th, 2005 receive a separate notice from the NBC providing them with a set date, time and location for the ASC appointment. (Applicants who filed cases that were receipted *prior to* July 25th, 2005 received instructions via the I-485 and/or I-765 Receipt Notice(s) to call the National Customer Service Center's 1-800 number to self-schedule an ASC appointment.)

Cases can only move forward for interview and adjudication once biometrics and fingerprints have been captured. The past practice of allowing applicants to schedule their own biometrics appointments often left cases in a "limbo" status. Specifically, applicants would either delay setting a biometrics appointment or not set an appointment at all. Without fingerprints, the case could not move forward for interview, and without a specified fingerprinting date, the Service had no basis upon which to deny the case for failure to appear at such an appointment. Providing the applicant with a set fingerprinting and biometrics appointment date ensures that cases can move forward for adjudication.

Practice Point

The system is about 98% accurate on locating and combining an applicant's I-485 and I-765 receipt numbers onto one biometrics appointment notice. However, if these Forms are not filed together, or if the system cannot match an individual's I-765 and I-485 for any reason (i.e. because the names on both Forms do not match exactly, such as "Mike" on one application and "Michael" on another), the system may not be able to issue a combined biometrics notice, and the applicant may receive two separate biometrics appointment notices. If this occurs, applicants may bring in both receipt notices to one of the scheduled appointments, and the ASC should be able to capture biometrics for both receipt numbers at the same time.

3. How long is NBC currently taking to schedule biometrics for I-765's?

Upon receipt of the applicant's electronic case data, the NBC immediately forwards this information to USCIS Headquarters for Application Support Center (ASC) scheduling. However, the date that the ASC appointment notice is mailed, and the appointment date, itself, are greatly dependent on the capacity of the applicant's local ASC. There is a greater demand for appointment slots at certain ASCs, and this may affect how long after the date of filing the applicant is scheduled for the biometrics/fingerprinting appointment and when he or she receives notice of this appointment.

Practice Point

Once the I-765 is approved *and* biometrics are captured, the EAD will be produced and mailed within 7 to 10 days after the last of these two actions occurs (approval or biometrics upload).

4. Where do we request expedited issuance of advance paroles: Through NBC or local USCIS office?

Customers or their representatives requesting expedited processing should first contact their local Field Office. The Field Office will then channel meritorious requests through the established points of contact at the NBC for further action.

5. What are the updated procedures to follow when we don't receive a receipt notice for an application?

Please contact the NBC through the procedures detailed at the end of this document (“Attorney/Accredited Representative Procedures for Contacting the NBC”), providing the applicant’s name, date of birth, A-number, receipt number (MSC#), and current address, as well as your name as the attorney of record.

Practice Point

You are not required to provide a copy of the I-485 receipt notice as evidence that you filed this application when you submit a renewal I-765 or I-131 to the Lockbox, but it is helpful in the adjudication of the I-765. In most cases, the NBC can normally find evidence of the pending I-485 in the system.

6. In a situation where an Immigrant Petition is denied for failure to respond to RFE however attorney of record never received RFE or copy of denial despite numerous inquiries, what are the standards/procedure for requesting that the Service reopen on its own without paying \$385 filing fee? Where do you file Motions to Reopen?

Please contact the NBC through the procedures detailed at the end of this document (“Attorney/Accredited Representative Procedures for Contacting the NBC”), providing the applicant’s name, date of birth, A-number, receipt number (MSC#), and current address, as well as your name as the attorney of record.

Motions to Reopen may be filed, with fee, with the Chicago Lockbox.

7. In Cuban Adjustment cases where the alien is claiming derived citizenship through a parent, members have recently received RFEs from NBC requesting a Certificate of Cuban Nationality from the Cuban Interests section in Washington, DC, while in other cases at other Service Centers, the USCIS has approved the cases directly. Is there some national standard/policy on this issue?

Some Cuban Adjustment cases have NBC (MSC) receipt numbers but are actually being adjudicated at the California Service Center as interview waiver cases. These particular RFEs may be coming from the California Service Center. Please provide us with specific receipt numbers of the cases in question so that we can research this issue.

- 8. In family based cases (namely, son/daughter-parent relationships), we have seen NBC approve the I-130 petitions directly from the documentation submitted. If the alien has no admissibility issues (i.e. medical exam turned in, Petitioner overcomes public charge requirement, and the alien has no criminal record), can or will NBC approve the I-485 directly without interview or is it mandatory that the case be sent to the local office for an interview?**

8 CFR 245.6 states that each applicant for adjustment of status shall be interviewed by an immigration officer. However, in an effort to reduce backlog, we have recently identified cases in which we have made an initial determination that an interview may not be necessary, and sent these to the California Service Center (CSC) for adjudication. These cases are being transferred to the CSC because they currently have available officers to help our office with this caseload, whereas the NBC is still working to obtain our optimum staffing level.

The determination to waive the interview is based upon standards set at the USCIS national level, and include adjustment categories in which there is normally enough evidence submitted with the case to make a final determination without an interview. The NBC takes into account these standards, as well as the specific situation of each applicant, in order to make a determination as to whether or not an interview is necessary. We identify cases that may be eligible for an interview waiver, in part, by means of an electronic sweep of the case's information obtained from the I-485 and/or I-130.

- 9. Will the NBC adjudicate I-130's in marriage to USC cases without interview if the I-130 is supported by sufficient documents of the validity of the marriage? (i.e. where the parties have already been married for a year or more and have good joint documentation).**

NBC forwards unadjudicated I-130s to the Field Office with the I-485, and a decision will be made on both Forms at that time. The only exception to this is when an I-485 is denied at the NBC; in that event, the I-130 will be adjudicated separately, on its own merits.

- 10. Michael Aytes (USCIS Acting Director of Domestic Operations) recently announced that the submission of only the most recent year of Income tax returns (instead of 3 years) is required with the I-864. Are the Officers at NBC aware of this change?**

Yes, NBC has changed our file review and Request for Evidence process to reflect this change on all cases reviewed following the issuance of this memo.

- 11. If the I-485 file of an applicant is at the local office (i.e. Miami) and the applicant moves out of the local office's jurisdiction (i.e. to Orlando), is the applicant's file returned to NBC to then be sent to the new USCIS office (Orlando) that has jurisdiction or does the first office (Miami) forward the file directly to the new office (Orlando)?**

Miami can forward the case on to Orlando; it does not need to return to the NBC again.

12. If we have a problem at the lockbox facility (i.e. application keeps getting wrongfully rejected), who can we contact at the facility, since the liaison contacts we have are in Missouri and the facility is in Chicago?

At this time, please continue to send your questions regarding Lockbox issues to the NBC through the procedures detailed at the end of this document (“Attorney/Accredited Representative Procedures for Contacting the NBC”).

13. What issues do you have for us? How can we make your jobs easier; make the place run better?

Please review the NBC’s website on www.uscis.gov (see link below), especially the list of Frequently Asked Questions, which contains a great deal of helpful information. If you have any general questions or comments, or if you have a question about a specific case, please contact our NBC Attorney Liaison Mailbox and provide as much specific information as you can to help us research these issues.

NBC Website

<http://uscis.gov/graphics/fieldoffices/nbc/index.htm>

Additional Practice Points

- **NBC sends decision-ready cases to the District Offices. However, the District Offices have stated that they have found many deficiencies in supporting documentation that have delayed decision making and created more continued cases, particularly with regard to those supporting documents related to the I-864 Affidavit of Support. As of January 3, 2006, NBC now reviews all cases to check for an I-864 and the required supporting documents, and to make sure that the I-864 sponsor meets the minimum income requirements. If not, NBC will issue an RFE. NBC has issued RFEs in about 37% of cases related to supporting documents.**
- **If the case is appropriate for an interview waiver, the case will be sent to CSC for adjudication.**
- **Cases are normally sent to the District Office 19 days prior to the interview date in order for the officer to have the physical file 14 days prior to the interview.**
- **An address change may trigger a change in the interviewing office having jurisdiction over the case. If the case has already been scheduled for interview and it is *still at the NBC*, the case can be rescheduled for the new office of jurisdiction. However, *if the case is no longer at the NBC* (i.e. it was sent to the District Office for interview), the District Office will determine whether or not to interview the case or to send the case to the new office of jurisdiction.**
- **Always respond to an RFE even if you think it has been issued erroneously. Even if the information requested is duplicative of what has been submitted, it is better to provide it again for ease of adjudication, and to avoid a denial of the case due to failure to respond to the request (i.e. lack of prosecution/abandonment denial).**
- **All case specific issues should be addressed through the attorney liaison.**

Attorney/Accredited Representative Procedures for Contacting the NBC

Attorneys and accredited representatives who have a properly executed G-28 on file may contact the NBC for specific case inquiries and problems, such as:

- Forms that are un-adjudicated and are beyond the NBC's posted processing times
- Specific case inquiries or problems
- No receipt notice after 30 days
- EAD or Advance Parole Document errors

Please keep in mind that fee issues, receipt notices, and rejections are all *Lockbox* issues. The NBC has no control over Lockbox procedures, but we can forward inquiries to the Lockbox for investigation.

MAIL

Regular Mail
USCIS—NBC
PO Box 648003
Lee's Summit, MO 64063

Regular or FedEx Mail
UCSIC—NBC
705 B Melody Lane, #107
Lee's Summit, MO 64063

EMAIL

Please forward all inquiries to your Florida Bar Point of Contact (Lsrifkin@rifkinfox.com), who may then forward a consolidated list to the NBC for resolution.

Please do not send address changes to these postal or email addresses. To ensure a timely update of your client's address, please follow the below procedures:

To submit a change of address, applicants and petitioners who have filed for benefits with the NBC should:

1. File a Form AR-11 (<http://uscis.gov/graphics/formsfee/forms/ar-11.htm>) with the USCIS address listed on the Form

AND

2. Notify the NBC of the address change by either
 - calling the National Customer Service Center (NCSC) toll free at 1-800-375-5283 (preferred),
 - or
 - writing the Center at:
USCIS-NBC

PO Box 648005
Lee's Summit, MO 64064