



# Question & Answer

August 26, 2008

## USCIS NATIONAL STAKEHOLDER MEETING *Answers to National Stakeholder Questions*

**Note:** The next stakeholder meeting will be held on September 30, 2008 at 2:00 pm.

- Question:** Under section 1059 of the National Defense Authorization Act for Fiscal Year 2006, Public Law 109-163, up to 50 Iraqi and Afghan translators and interpreters employed by the U.S. military have been eligible for Special Immigrant Visas each fiscal year. Public Law 110-36, which the President signed into law on June 15, 2007, amends section 1059 by expanding the total number of beneficiaries to 500 a year for FY 2007 and FY 2008 only. In FY 2009, the number of visas available for this category is set to revert to 50 annually. Sec. 1244 of PL 110-181 (National Defense Authorization Act for Fiscal Year 2008) signed into law January 28, 2007 created a new category of Iraqi (but not Afghan) Special Immigrants, authorizing up to 5,000 Special Immigrants (not counting family members) per year for FYs 2008-2012.

In the announcement “USCIS Announces New Special Immigrant Visa for Certain Iraqi Nationals Who Worked for the U.S. Government” is the following language referencing Sec. 1244 of PL 110-181:

“This new program is not the same as the Section 1059 special immigrant visa program for Afghan and Iraqi translators. However, eligible translators who file or who have filed under that program before Oct. 1, 2008, and who are unable to adjust status or receive an immigrant visa because we have reached the current year’s cap of 500, will automatically become eligible to receive a visa number under the new Section 1244 program.”

Are AFGHAN translator/interpreters who file or who have filed before Oct. 1, 2008, for a Special Immigrant Visa under Section 1059 of the National Defense Authorization Act for Fiscal Year 2006, Public Law 109-163, as amended by Public Law 110-36, AND who are unable to adjust status or receive an immigrant visa because USCIS has reached the current year’s cap of 500, automatically eligible to receive a visa number under the new Special Immigrant Visa program (described above) under Section 1244 of PL 110-181?

**Response:** Yes, an Afghan filing a section 1059 petition before October 1, 2008 is eligible under section 2 of Public Law 110-242 for a visa number under section 1244 of Public Law 110-181 if a visa is not immediately available under section 1059 at the time the petition is approved.

- Question:** Can a fee waiver be denied solely based on the fact that an SSI recipient’s income exceeds the poverty level?

**Response:** In general, no one factor renders an applicant ineligible for a fee waiver, regardless of whether s/he is at, above or below the poverty level. Each request is reviewed based on the specific facts presented. For more information on fee waivers, please see the USCIS Web site homepage / Immigration



Forms / Fee Waiver Guidance. Also see 8 CFR 103.7(c) and the Adjudicators Field Manual, Chapter 10.9.

3. **Question:** How will officers come up with sentences to “dictate” for the writing portion of the naturalization interview? Will they strictly use the words that are on the vocabulary list?

**Response:** For the writing test, a USCIS Officer will dictate to the applicant using sentence(s) from one of the standardized test forms. The sentences are constructed from words included on the English writing vocabulary list. Applicants are required to write 1 sentence out of 3 correctly (same as the current test). During the writing test, the applicant is provided a form with blank lines to write the dictated sentence(s). The USCIS Officer instructs an applicant to write down exactly what he/she says.

For the reading test, a USCIS Officer will use sentence(s) that appear on one of the standardized test forms and will ask the applicant to read the sentence(s), which are constructed from words included on the English reading vocabulary list. The applicant must read 1 sentence out of 3 correctly (same as the current test).

4. **Question:** Please clarify section 8 of the Donald Neufeld memo of July 7, 2008 regarding Iraqi SIVS, and adjustment of status. If an individual is lawfully present in the U.S. on a non-immigrant status other than parole (such as a student visa or visitor), are they able to apply to adjust status concurrently with filing the I-360?

**Response:** No. The memo states, “Petitioners under this category may not file for adjustment of status concurrently” and continues to reference the adjustment of status provisions under Sec. 245 of the INA for those with approved I-360 petitions.

5. **Question:** We greatly appreciate that USCIS has made many memos and other press releases available on the website. We wonder why occasionally certain memos or other documents seem to be pulled down, such as the March 2008 memo on Cuban parolees. Does this mean the memo is no longer valid? This has happened for a number of documents.

**Response:** The removal of a memorandum from the public website does not necessarily mean the provisions of the memorandum are no longer in effect. Occasionally USCIS internal memoranda have been removed from the public web page when USCIS has determined that they were posted in error. HQ components will be reminded to pay special attention to posting protocols so as to avoid any confusion with the public.

6. **Question:** Lautenberg parolees often are given two years on their I-94 cards when they enter, so they do not have as many problems with parole and employment authorization expiring as Cuban parolees do. Nevertheless, since adjustment applications are taking more than a year to process, many Lautenberg parolees have a lapse of parole status and therefore employment authorization while the adjustment is pending. Is it possible for them to use similar procedures as Cubans pursuant to the March 2008 memo to apply to extend their parole and employment authorization?

**Response:** Lautenberg parolees should be seeking adjustment of status after one year of physical presence in the United States pursuant to 8CFR 245.7 by filing Form I-485. During the pendency of their I-485s the applicants are eligible to apply for work authorization, and they are also protected from the accrual of



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unlawful presence for purposes of future inadmissibility under section 212(a)(9)(B) of the Act. Requests for extension of parole or re-parole are handled on a case-by-case basis considering the individual applicant's circumstances.

7. **Question:** Please clarify whether a 13-year-old child who is filing an I-485 should file a G-325A. Although it is not required until he or she turns 14, we are wondering if USCIS would prefer the form to be completed when s/he is 13, to avoid having to send an RFE.

**Response:** According to 8 CFR 245.2(a)(3)(i), USCIS will only accept the G-325A from an applicant that has reached his or her 14<sup>th</sup> birthday at the time of filing the I-485 application. If the applicant reaches his or her 14<sup>th</sup> birthday after the I-485 application was filed, USCIS will then RFE for the Biometric Fee and the G-325A. A case will not be rejected if the G-325A is included for a child under 14. However, a new G-325A and biometrics fee will be requested once the child turns 14 years of age. Although we understand and appreciate the pro-active approach, USCIS cannot accept the biometrics fee for an applicant under 14 years of age and must obtain the child's signature on the Form G-325A once the child becomes 14 years old. The RFE process is not extensive for these cases and should not significantly slow down the adjudication of the case.

*8 C.F.R. § 245.2 (a)(3) Submission of documents —(i) General.* A separate application shall be filed by each applicant for benefits under section **245**, or the Act of November 2, 1966. Each application shall be accompanied by an executed Form G-325A, if the applicant has reached his or her 14th birthday. Form G-325A shall be considered part of the application. An application under this part shall be accompanied by the document specified in the instructions which are attached to the application.

8. **Question:** Our offices are starting to see Case File Review Notice/Interview Document Check Lists from the NBC on clients filing N-400s. Please explain how and why these are being used. USCIS does not require birth certificates when filing the N-400, so we wonder why USCIS is asking for them at interviews. These are especially concerning for refugees, many of whom do not have birth certificates and have already established their identity through the refugee process and adjustment. It adds another burden to them in preparing for the interview. Is the checklist process part of transferring files to other Service Centers and speeding up the processing for N-400?

**Response:** Complete File Review (CFR) is a standard practice of the NBC as they prepare cases for interview. That said, we will work with the NBC to ensure that the documents they recommend applicants take with them to naturalization interviews are not different than what is suggested by the Service Centers. It is important to remember that the CFR is not a process that slows down or stops the processing of a case while pending at the NBC. The CFR is conducted to provide the applicant with a complete list of items USCIS suggests be brought to interview in order to help reduce delays in rendering decisions.

9. **Question:** In June, USCIS announced that it had centralized initial processing of all applications for naturalization at its National Benefits Center in Missouri. How does this change affect the issuance of N-400 application receipts?

**Response:** There is no change to the issuance of receipts due to this centralization of initial processing. N-400 applicants will continue to receive a receipt from the Service Center to which they have sent their application package.



- a. How would this change affect the subsequent transfer of applications from the National Benefits Center back to USCIS District Offices?

**Response:** This internal administrative change will not change where applicants file their naturalization applications. Applicants will continue to file their naturalization applications (N-400), including all supporting documents and fees with the USCIS Service Center having jurisdiction over their place of residence. Applicants will also continue to report to a local field office for the interview and naturalization test.

- b. How will applicants be able to track the status of their applications with the National Benefits Center?

**Response:** Applicants can track the status of their N-400 application by calling the National Customer Service Center, checking Case Status Online or making an InfoPass appointment to visit their local USCIS field office.

10. **Question:** There have been instances when we have been unable to obtain the monthly data on N-400 receipts, completions, and pending cases during local USCIS CBO meetings that we receive at the national stakeholders' meetings. Furthermore, in one instance a USCIS field office suggested filing a Freedom of Information Act request if organizations needed naturalization numbers.

- a. Is filing a Freedom of Information Act request regular procedure when a local group wants N-400 naturalization numbers from their local USCIS office?

**Response:** No, instructing local groups to file a Freedom of Information Act (FOIA) request when wishing to obtain N-400 naturalization numbers is not regular procedure. Each local office is capable of providing prior fiscal year and current fiscal year to date N-400 statistics via their Integrated Multi Annual Production Summary (IMAPS) reports.

- b. Is the monthly data on N-400 receipts, completions, and pending cases provided to the national groups available to USCIS field offices and are USCIS field offices allowed to share this information with local groups? If not, could these numbers be shared with those offices?

**Response:** Yes, monthly data on N-400 receipts, completions and pending cases is available to USCIS office through their monthly IMAPS report that is posted to the HQ Production Management Branch website.

- c. From time to time, one local USCIS office will provide statistics on the number of persons naturalized in that office by country of origin, but the office does not appear to provide that information on a consistent basis. Can the USCIS provide information on the numbers people who have been naturalized by country of origin for each district office, on a monthly basis?

**Response:** No, the requested data is not currently available and would require that a special Information Technology Service Request (ITSR) be drafted and submitted to the Office of Information Technology (OIT). The OIT would in turn have to submit the request to the C4 case management system, operations and maintenance (O&M) contractor to have a program query



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developed to enable the data to be extracted. All future queries run to extract the requested data would require that the O&M contractor divert their attention away from other agency priorities to handle this special monthly request. The administrative burden on USCIS to pursue an ITSR solution and add an additional workload on the O&M contractor cannot be justified given the level of effort involved. Alternatively, stakeholders are encouraged to visit the DHS Office of Immigration Statistics (OIS) website [immigrationstatistics@dhs.gov](mailto:immigrationstatistics@dhs.gov) where the requested information is published for past fiscal years.

11. **Question:** USCIS Office of Citizenship has been scheduling regional training conferences for civics and citizenship teachers of adults. The regional training website indicates that trainings have been and will be held in Miami, Las Vegas, Raleigh, Houston, Los Angeles and Denver. Is the USCIS scheduling additional regional trainings? Are there going to be regional trainings for the Midwest and North East?

**Response:** The USCIS Office of Citizenship is scheduling additional training opportunities nationwide. Upcoming regional training conferences include Denver, CO on September 8, 2008 and Milwaukee, WI the week of October 20th. Registration for the Denver training conference is currently open. Registration for the Milwaukee training conference will open soon. Please visit [www.uscis.gov/teachertraining](http://www.uscis.gov/teachertraining) for updates and/or to register for a training conference.

In addition to training conferences, the Office of Citizenship continues to hold regular training workshops for adult educators, volunteers, and other immigrant-serving organizations. We have conducted training workshops in several locations in the Northeast, including New York, NY; Rochester, NY; Boston, MA; Providence, RI; and Trenton, NJ. These workshops are handled on a more informal basis. If an organization would like to express interest in hosting the Office of Citizenship for a training workshop in the future, they should send an email to [office.of.citizenship@dhs.gov](mailto:office.of.citizenship@dhs.gov). The Office of Citizenship cannot accommodate all training requests it receives. Determinations on where to conduct training workshops are based on several factors. These factors include, among others, size of the immigrant population in the community, host site capabilities, and naturalization processing times.

12. **Question:** Of the new 3,000 new USCIS hires, how many are adjudicators or other staff people dedicated to reducing the naturalization backlog?

**Response:** Of the 3,000 new USCIS positions allocated through the FY2007 Fee Rule and FY2008 Surge Elimination Plan, 1,471 are Adjudication Officers and 707 are support staffs who are all dedicated to processing all pending (including naturalization backlog cases) and newly filed immigration applications and petitions.