



Office of Communications

U.S. Citizenship
and Immigration
Services

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Fact Sheet

USCIS Announces Flexible Response Times for Notices of Intent to Deny and Requests for Evidence

On April 12, 2007, the Department of Homeland Security (DHS) transmitted the final rule *Removal of the Standardized Request for Evidence Processing Timeframe* to the *Federal Register* (FR). The rule will take effect on June 16, 2007. This rule amends DHS regulations to give U.S. Citizenship and Immigration Services (USCIS) flexibility in setting the time allowed for immigration benefit applicants and petitioners to respond to a Request for Evidence (RFE) or to a Notice of Intent to Deny (NOID). This change does not apply to asylum cases, to which a separate set of regulations apply.

The amended rule makes the following key changes and clarifications:

Flexible Response Times to RFEs Permitted

Regardless of the type of evidence requested, the old regulation required USCIS to set an inflexible 12 week period for applicants or petitioners to respond to an RFE. The new regulation permits USCIS to set flexible deadlines. Deadlines will depend on the complexity of cases and types of applications or petitions filed. For example, when requesting readily available or missing initial evidence, USCIS can set a response time much shorter than 12 weeks. On the other hand, USCIS can provide the full 12 week response period for more difficult to obtain evidence.

No Extensions to Submit Responses to RFEs or NOIDs

Regardless of the evidence requested, USCIS has never allowed extensions beyond the maximum 12 week deadline for RFEs and the 30 day deadline for NOIDs. That bar does not change, even though the new rule allows USCIS to set deadlines shorter than those maximums. For example, under the new regulation, USCIS may issue an RFE that gives an applicant 30 days to submit a photo. USCIS will not grant an extension of that 30 day period. Failure to timely respond to the RFE may lead to denial of the application or petition.

When Evidence Submitted With The Application or Petition Does Not Show Eligibility

When initially submitted evidence does not show eligibility, the new regulation allows USCIS to deny the application or petition. As always, USCIS may request that the applicant or petitioner submit additional evidence within a specified time period or may notify the applicant or petitioner that USCIS intends to deny the application or petition. To avoid denial, USCIS urges applicants and petitioners to file complete

applications with **all** of the required initial evidence. The initial evidence for each application and petition type is clearly listed on the form instructions and in the regulations.

Reasons for Issuing a NOID

USCIS may issue a NOID when there is evidence of ineligibility for immigration benefits and is required to issue a NOID when there is negative evidence that the applicant or petitioner does not know about. An applicant or petitioner may respond to the NOID by submitting evidence to disprove the negative information.

If There Is No Response to an RFE or a NOID

The new regulation provides USCIS three options if it does not receive a response to an RFE or a NOID. USCIS may:

- find that the application or petition has been abandoned and, if so, deny it;
- deny the application or petition based on the evidence already received; or
- deny the application or petition for both reasons.

When an Applicant or Petitioner Does Not Appear for a Required Appointment

If an applicant or petitioner fails to appear for biometrics capture, interview or any other required in-person process, USCIS may deny the application or petition as abandoned. However, USCIS may not do so if, prior to the scheduled appointment time, it receives a timely-filed change of address or request to reschedule and decides that the failure to appear is excusable. In such cases, USCIS will reschedule the appointment. USCIS reminds applicants and petitioners that they are required to file an AR-11 change of address form within ten days of their move.

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