



# Questions & Answers

February 28, 2008

## BACKGROUND CHECK POLICY UPDATE

### Q1. What applications are affected by this policy change?

A1. Applications included in this policy are:

- I-485, Application to Register Permanent Residence or Adjust Status;
- I-601, Application for Waiver of Ground of Inadmissibility;
- I-687, Application for Status as a Temporary Resident Under Section 245A of the Immigration and Nationality Act; and
- I-698, Application to Adjust from Temporary to Permanent Resident (Under Section 245A of Public Law 99-603).

### Q2. How has USCIS changed its national security requirements?

A2. USCIS has not changed its background check policies for naturalization applications. Recently, the agency did modify its existing guidance for certain applications (see above) where the immigration laws allow for the detention and removal of individuals if actionable information from a FBI name check response is received after approval.

No application for lawful permanent residence will be approved until a definitive FBI fingerprint check and Interagency Border Inspection Services (IBIS) check are completed and resolved favorably. (Please refer to the [USCIS Immigration Security Checks](#) fact sheet on the USCIS website for more information.)

### Q3. How has USCIS changed its adjudications requirements?

A3. For these forms, including applications for lawful permanent residence, USCIS will adjudicate the application based on all required evidence outlined in applicable law and regulation if the application is otherwise approvable, outside of normal processing times, and the FBI name check request has been pending for more than 180 days.

(more)

**Q4. What happens if USCIS later receives adverse information from an FBI name check?**

A4. In the unlikely event that Department of Homeland Security, (DHS) receives actionable adverse information from the FBI name check after the application is adjudicated, DHS may detain the applicant and initiate removal proceedings.

**Q5. Why is this policy being implemented?**

A5. This policy change responds to a 2005 DHS Inspector General recommendation that USCIS better align its background check screening policies with those of U.S. Immigration and Customs Enforcement.

**Q6. Is this policy consistent with the national security priorities of USCIS and the Department of Homeland Security?**

A6. Yes. Applications for lawful permanent residence will not be approved until a definitive FBI fingerprint check and Interagency Border Inspection Services (IBIS) check are completed and resolved favorably. In addition, in the unlikely event that DHS receives actionable adverse information after the application is approved, removal proceedings may be initiated.

**Q7. How many applications for lawful permanent residence are immediately affected by this policy change?**

A7. USCIS is aware of approximately 47,000 applications for permanent residence (I-485) cases that are otherwise approvable but have an FBI name check pending. A portion of these cases are both outside normal processing times and have an FBI name check that has been pending for more than 180 days. These cases will be subject to processing under the new policy. USCIS anticipates the majority of the cases that can now be adjudicated will be processed by mid-March 2008.

**Q8. Does this policy change affect naturalization applications?**

A8. No. There is no change in the requirement that FBI name check, FBI fingerprint and Interagency Border Inspection Services (IBIS) check results be obtained and resolved prior to the adjudication of an Application for Naturalization (N-400).

**Q9. How long will it take for USCIS to work through the cases affected by the policy change?**

A9. USCIS has begun identifying cases affected by this policy modification in each field office and service center. Each office will evaluate the pending cases and will adjust their workload accordingly. USCIS anticipates the majority of the cases subject to this policy modification will be processed by mid-March 2008. We recommend customers wait until March 10 before inquiring about their cases. This will allow each office sufficient time to identify and adjudicate pending cases.

(more)

**Q10. The memorandum identifies I-485, I-601, I-687 and I-698 forms. Is there a plan to include other forms, specifically nonimmigrant and naturalization, in this policy?**

A10. No.

**Q11. Should customers contact USCIS through the 1-800 customer service number or make an INFOPASS appointment to visit their local office if their case is outside of normal processing times and they believe their application meets the criteria of this new policy?**

A11. For pending applications outside of normal processing times, we recommend that customers wait until March 10, 2008, before inquiring about cases affected by this policy modification. This will allow each office sufficient time to identify and adjudicate the relevant pending cases. If no action is taken by mid-March, we recommend inquiring with the USCIS customer service line at 1-800-375-5283. This procedure is for customers who have been previously informed that their case is pending due to the FBI name check. (Cases that are still pending within the processing times will be completed when the related adjudication actions are completed.)

**Q12. Will USCIS automatically notify an applicant to appear at an Application Support Center, (ASC) if his or her fingerprints have expired?**

A12. Applicants will be notified through an appointment notice if new or updated fingerprint checks are needed.



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February 21, 2008

USCIS HQ has informed AILA Liaison that the February 20, 2008 Questions and Answers on its FBI name check policy have been withdrawn from the USCIS website for revision. An update of the Q & As is expected within a few days.



# Questions & Answers

February 20, 2008

## FBI Name Check

### **Q1. How has USCIS changed its national security reporting and adjudication requirements?**

A1. USCIS has not changed its background check policies as those policies related to naturalization applications. Recently, the agency did modify its existing guidance for applications where the immigration laws allow for the detention and removal of individuals if actionable information from a FBI name check response is received after approval. For these types of applications, including applications for lawful permanent residence, the adjudicators will approve the application if it is otherwise approvable and the FBI name check request has been pending for more than 180 days. No application for lawful permanent residence will be approved until a definitive FBI fingerprint check and Interagency Border Inspection Services (IBIS) check are completed and resolved favorably.

### **Q2. Why is this policy being implemented?**

A2. This policy change is in response to a 2005 DHS Inspector General recommendation that USCIS align its background check screening policies with those of U.S. Immigration and Customs Enforcement.

### **Q3. Is this policy consistent with the national security priorities of USCIS and the Department of Homeland Security?**

A3. Yes. No application for lawful permanent residence will be approved until a definitive FBI fingerprint check and Interagency Border Inspection Services (IBIS) check are completed and resolved favorably. In addition, in the unlikely event that DHS receives actionable information after the application is approved, it will initiate removal proceedings. Lastly, in general these individuals have been in the United States for some time and have previously been subjected to DHS background checks.

### **Q4. What applications are affected by this policy change?**

A4. Applications included in this policy are:

- I-485, Application to Register Permanent Residence or Adjust Status;
- I-601, Application for Waiver of Ground of Inadmissibility;
- I-687, Application for Status as a Temporary Resident Under Section 245A of the Immigration and Nationality Act; and
- I-698, Application to Adjust Status from Temporary to Permanent Resident (Under Section 245A of Public Law 99-603).

**Q5. How many applications for lawful permanent residence are affected by this policy change?**

A3. USCIS is currently aware of approximately 47,000 applications for permanent residence (I-485) cases that are otherwise approvable but for the fact that an FBI name check is pending. In a subset of these cases, the FBI name check request has been pending for more than 180 days. USCIS anticipates that the majority of the cases that are subject to this policy modification will be processed by mid-March 2008.

**Q5. Does this policy change affect naturalization applications?**

A5. No. There is no change in the requirement that FBI name check, FBI fingerprint and IBIS check results be obtained and resolved prior to the adjudication of an Application for Naturalization (N-400),

**Q6. How long will it take for USCIS to work through these cases affected by the policy change?**

A6. USCIS has begun identifying the cases affected by this policy modification in each field office and service center. Each office will evaluate the pending cases and will adjust their workload accordingly. USCIS anticipates that the majority of the cases that are subject to this policy modification will be processed by mid-March 2008. We recommend that customers wait until mid-March before inquiring about their cases. This will allow each office sufficient time to identify and adjudicate pending cases.

**Q7. USCIS Director Gonzalez pledged in his January 17, 2008, testimony regarding naturalization backlogs before Congress not to cut corners in the adjudicative process or risk national security in the interest of production? Does this policy comply with the Director's pledge?**

A7. Yes. There is no change in the requirement that FBI name check, FBI fingerprint and IBIS check results be obtained and resolved prior to the adjudication of an Application for Naturalization (N-400),

For those applications for permanent residence that are affected by this policy modification, no application will be approved until a definitive FBI fingerprint check and Interagency Border Inspection Services (IBIS) check are completed and resolved favorably. USCIS will continue to initiate the FBI name check requests upon receipt of the applications and will review, monitor and track cases approved under this policy until the FBI name check is complete. In the unlikely event that DHS receives actionable information after the application is approved, it will initiate removal proceedings.

**Q8. The memorandum identifies I-485, I-601, I-687 and I-698 forms. Is there a plan to include other forms, specifically nonimmigrant and naturalization, in this policy?**

A8. No.

**Q9. Should customers contact USCIS through the 1-800 customer service number or make an INFOPASS appointment to visit their local office if they believe their application meets the criteria of this new policy?**

A9. We recommend that customers wait until mid-March before inquiring about cases affected by this policy modification. This will allow each office sufficient time to identify and adjudicate the relevant pending cases. If no action is taken by mid-March, we recommend inquiring with the USCIS customer service line at 1-800-375-5283.

**Q10. Will USCIS automatically notify an applicant to appear at an Application Support Center if their fingerprints have expired?**

A10. Applicants will be notified through an appointment notice if new/updated fingerprint checks are needed.

– USCIS –



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