




HQ 70/23 & 70/28.1

FEB - 9 2009

## Memorandum

TO: Field Leadership

FROM: Donald Neufeld   
Acting Associate Director, Domestic Operations

SUBJECT: National Security Adjudication and Reporting Requirements-Update

### Background

U.S. Citizenship and Immigration Services (USCIS) conducts background checks on all applicants, petitioners and beneficiaries seeking immigration benefits.

On February 4, 2008, USCIS issued a memorandum advising USCIS officers that if the following types of applications were otherwise approvable, and the name check request was still pending with the FBI for more than 180 days, the application shall be approved.

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

USCIS issued this guidance in response to a DHS Office of Inspector General (OIG-06-06) recommendation that the agency conform its background and security check policies with those of U.S. Immigration and Customs Enforcement (ICE).

Over the past year, the FBI has worked diligently to ensure that definitive FBI name check results are returned to USCIS in less than 180 days. In fact, the FBI is currently returning name check results on average in 90 days. Few, if any, name checks remain pending at the FBI for 180 days. In light of FBI's improved processing and response times, USCIS is revising its policy of automatic approval of certain cases after 180 days. Effective immediately, adjudicators will be

required to contact Headquarters to obtain authorization to approve the pending I-485, I-601, I-687, or I-698 prior to receiving the FBI name check results.

### **Implementation**

This memorandum supersedes the February 4<sup>th</sup>, 2008, memorandum and is effective immediately. USCIS is also retracting the earlier released, January 22, 2009, memorandum that includes an identical subject line. Questions regarding this memorandum should be directed through appropriate supervisory and operational channels. Local offices should work through their chain of command.

### **Revised Guidance**

A definitive FBI fingerprint check and the IBIS check must be obtained and resolved before an Application for Adjustment of Status (I-485), Application for Waiver of Ground of Inadmissibility (I-601), Application for Status as a Temporary Resident Under Section 245A of the Immigration and Nationality Act (I-687), or Application to Adjust Status from Temporary to Permanent Resident (Under Section 245A of Public Law 99-603)(I-698) is approved.

USCIS will continue to initiate FBI name checks when those applications are received. Where the application is otherwise approvable and the FBI name check has been pending for more than 150 days, the adjudicator shall notify a designated point of contact at Headquarters. The Headquarters point of contact will reach out to the FBI to determine the reason for the FBI name check processing delay. HQDOMO will then provide the adjudicating officer with case specific guidance, including where appropriate authorization to approve the pending I-485, I-601, I-687, or I-698 prior to receiving the FBI name check results.

As described in the February 4, 2008, memorandum, if derogatory or adverse information is received from the FBI after the application is approved, USCIS will determine if rescission or removal proceedings are appropriate and warranted.

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

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