



U.S. Citizenship
and Immigration
Services

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Interoffice Memorandum

TO: Regional Directors
District Directors
Field Office Directors
National Benefits Center Director
Service Center Directors

FROM: Michael L. Aytes /s/
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DATE: May 11, 2007

RE: Processing of Form I-90s Filed by Aliens Who Pose National Security or
Egregious Public Safety Concerns

This memorandum reaffirms the guidance provided in the July 11, 2006, memorandum entitled *Disposition of Cases Involving Removable Aliens* (PM110) as it relates to the processing of an Application to Replace Permanent Resident Card (Form I-90), filed by an alien who poses a national security or egregious public safety concerns. It also modifies the February 16, 2007, memorandum entitled *National Security Reporting Requirements*, and provides new guidance regarding the adjudication of a Form I-90 filed by an alien who poses a national security concern.

Background

Under the July 11, 2006, memorandum, USCIS officers were instructed to refer egregious public safety cases to FDNS and suspend adjudication of such cases for no more than 60 days or until Immigration and Customs Enforcement (ICE) provides notification of its action on the cases, whichever date is earlier. PM 110 also contained a copy of a Memorandum of Agreement (MOA) dated June 6, 2006, between USCIS and ICE detailing the process for handling such cases. For reference purposes, PM 110 is attached. USCIS will continue to work with its law enforcement partners to diligently resolve national security or egregious public safety concerns.

New Guidance Regarding the Processing of Form I-90s for Cases Involving Egregious Public Safety Concerns

An Application to Replace Permanent Resident Card (Form I-90) filed by an applicant who poses an egregious public safety concern should be processed according to the July 11, 2006, and February 16, 2007, memoranda, subject to the following modifications. Service Centers shall no longer refer egregious public safety cases to ICE via the Fraud Detection Unit (FDU), but rather their newly established Background Check Units (BCU). Under these revised procedures, BCUs and local FDNS Operations shall provide the information directly to the appropriate ICE office. The unit that transmits the information to ICE shall be responsible for entering data into FDNS-DS and for following up with ICE to ensure a timely response.

The adjudication of Form I-90s shall be suspended for 60 days or until ICE provides notification of its intended action(s) on the applicant, whichever is earlier. The adjudication of the Form I-90 can resume after that initial suspense period where an applicant is otherwise eligible for such benefit.

New Guidance Regarding the Processing of Form I-90s for Cases Posing National Security Concerns

Form I-90s filed by aliens who pose national security concerns will now be processed in a similar fashion as cases involving egregious public safety concerns.

Officers will still be required to notify FDNS when a Form I-90 application poses a national security concern. The adjudication of the Form I-90 will be suspended for a period of 60 days or until FDNS provides notification of its intended action(s) on the applicant, whichever is earlier. The adjudication of the Form I-90 can resume after that initial suspense period.

Adjudication of the I-90

A lawful permanent resident holds that status until it is removed through rescission or removal proceedings. Until rescission or removal proceedings are final, a lawful permanent resident is entitled to evidence of his or her status. Placing a case in suspense for 60 days allows for the verification of identity and immigration status and an initial determination as to whether rescission or removal proceedings should be instituted.

After compliance with the instructions contained in this memorandum, field officers may approve a Form I-90 filed by an alien if the following conditions have been met:

1. The applicant has established his or her identity, and
2. The applicant is a lawful permanent resident.

Processing of Form I-90 Applications for Aliens in Removal Proceedings or Subject to a Final Order of Removal

If the applicant has been placed in removal proceedings and ICE has not taken the applicant into custody, the above procedures should be followed. If the applicant has been placed in removal proceedings and ICE has taken the applicant into custody, USCIS should adjudicate the Form I-

90 application and deliver the Permanent Resident Card to ICE for delivery, as appropriate. The Form I-90 must be denied where the alien is subject to a final order of removal.

Field offices and service centers will be notified by the Office of Field Operations or the Office of Service Center Operations if the instructions contained in this memo should not be applied in a particular case.

Questions concerning this memorandum should be directed to the Office of Field Operations or Office of Service Center Operations through the normal chain of command.