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Office of Public Engagement
United States Citizenship and Immigration Services
20 Massachusetts Ave. NW
Washington, DC 20529
Via e-mail: opefeedback@uscis.dhs.gov

**Re: AILA Comments on USCIS Draft Policy Memorandum:
Requests to Expedite Adjudication of Form I-601,
Application for Waiver of Grounds of Inadmissibility, Filed
by Individuals Outside the United States; *Adjudicators Field
Manual* (AFM) Update (AD 11-10)**

The American Immigration Lawyers Association (AILA) submits the following comments on the USCIS draft memorandum, “Requests to Expedite Adjudication of Form I-601, Application for Waiver of Grounds of Inadmissibility, Filed by Individuals Outside the United States.”

AILA is a voluntary bar association of more than 11,000 attorneys and law professors practicing, researching and teaching in the field of immigration and nationality law. Our mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, U.S. permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. We appreciate the opportunity to comment on this draft memorandum and believe that our members’ collective expertise provides experience that makes us qualified to offer views that will benefit the public and the government.

Introduction

AILA appreciates the opportunity to comment on the draft policy memorandum regarding expedited processing of Form I-601 waivers filed by individuals outside the United States. The memorandum provides guidance to USCIS personnel on the discretionary adjudication of expedite requests under extraordinary circumstances. The memorandum states that “the types of extraordinary situations that may, generally, merit expedited processing are those in which there are time-sensitive and compelling circumstances that necessitate the applicant’s presence in the United States sooner than would be possible if the

application were processed under normal processing times.” Given that normal processing times vary and can sometimes stretch to one year or longer, AILA appreciates the Service’s recognition that there are situations where the immediate return of an I-601 applicant to the United States is warranted.

1. Examples of Time-Sensitive and Compelling Circumstances

AILA commends USCIS for setting forth a number of specific examples of situations that would merit expedited processing, such as the urgent medical needs of the applicant or family member, death or terminal illness of a family member, vulnerability of the applicant or family member, risk of harm of the applicant in his or her home country, U.S. national interest, and imminent deployment of the qualifying family member who is a member of the U.S. Armed Forces. While the memorandum states that expedited processing is “not limited to” these situations, we believe adjudicators would benefit from an additional “catch-all” provision making it clear that other extraordinary circumstances may similarly warrant expedited treatment. For example, one could certainly envision a situation where the applicant’s presence in the United States is needed for urgent work for a private company, non-profit, or university that would strongly benefit the national interest, or a situation where the applicant’s presence is required in connection with imminent judicial proceedings, or an urgent law enforcement matter. Additional examples of exceptional circumstances can be found in the general [USCIS expedite criteria](#). An open-ended provision will reinforce the “but not limited to” language and allow for greater flexibility in adjudications.

2. Time Frame for Review and Notification

AILA appreciates the inclusion of a clear processing time frame in the memorandum. The memorandum provides that “[a]ll requests to expedite will be reviewed within 5 business days of receipt of the request and, if the decision is to approve the request to expedite, the applicant will be notified within 10 business days of the request.” AILA understands that due to limited resources, overseas field offices are not required to notify the applicant if an expedite request is denied, and that if the applicant does not receive a response within 15 days, the request for expedited processing may be presumed to be denied. While a 10 business-day notification period may be reasonable in some situations, in extremely urgent cases, such as those involving the imminent death or serious illness of a family member, every effort should be made to notify the applicant of the approval of the request as soon as the decision is made. We ask that language reflecting this position be included in the memorandum.

3. Delay of File Transfer

AILA notes that in certain overseas jurisdictions, significant delays can arise, up to six months or more, in the transfer of a denied immigrant visa file with an I-601 waiver to the USCIS adjudicating office. Although we assume that the transferring post would be aware that an expedite request is being made before forwarding to USCIS, we urge

USCIS to work with consular posts to ensure the immediate transfer of files when expedited adjudication is requested. We also ask that USCIS establish a means for applicants and/or their representatives to communicate with USCIS when file transfer is unreasonably delayed, so that USCIS can contact the post to facilitate the process.

Conclusion

AILA appreciates the opportunity to comment on this draft memorandum, and we look forward to a continuing dialogue with USCIS on issues concerning this important matter.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION