

NVC AILA DOS LIAISON COMMITTEE MEETING

February 17, 2021

CASE VOLUME STATISTICS

1. As DOS noted during the [December 11, 2020, AILA/DOS Committee meeting](#), “(d)uring all phases of the Diplomacy Strong framework, NVC attempted to maintain normal operations.” AILA understands the significant and continuing challenges posed by the COVID-19 global pandemic and thanks the NVC for its continued efforts. What has been the quantitative effect of the pandemic on case processing? How many cases were completed in FY 2020 versus FY 2019?
 - In FY 2019 NVC processed 240,446 cases that were documentarily qualified
 - In FY 2020 NVC processed 321,274 cases that were documentarily qualified
2. To help manage expectations for both AILA members and their clients, AILA would appreciate responses to the following questions
 - a. What is the monthly volume of immigrant visa cases that the NVC processes?
During FY2020 on average, NVC performed case creation for nearly 37,000 petitions and reviewed supporting forms and documents for 77,000 cases per month.
 - b. What is the monthly volume of nonimmigrant (fiancé(e)) visa cases that the NVC processes?
During FY2020, on average, NVC performed case creation for 2,500 I-129F petitions from USCIS per month.
 - c. Approximately what percentage of cases at NVC involve attorney representation?
These counts vary over time but, during FY2020, on average, approximately 25 percent of cases had legal representation on file.

COVID-19 RELATED MATTERS

3. **Visa Processing by NVC and Consular Posts:** Due to the COVID-19 pandemic, an unknown number of IV and NIV applications remain pending within CEAC. Some of these applications had been completed and submitted, and others had been scheduled for interview but were never actually interviewed. Please confirm:

- How is NVC managing documentarily qualified case files for posts that have not yet resumed normal immigrant visa processing? Are they in queue prioritized by date of qualification? If not, what is the prioritization scheme for these cases? Are there standard priorities, or are priorities defined at a post level?

NVC continues to schedule cases only for posts able to conduct interviews.

Due to the COVID-19 pandemic, NVC is warehousing cases for consular sections that have not been able to resume routine IV processing and cases with visa categories subject to the various Presidential Proclamations. Other than age-out cases, intercountry adoptions, and expedites, per 9 FAM 504.4-6 (U) upon visa availability, NVC schedules immigrant visa appointments for visa categories that are able to be processed in the chronological order of documentarily complete applicants - within each visa class - based on post capacity. Host country and Department of State guidance on operating safely during the pandemic also weigh on this approach. NVC will maintain this approach as posts resume routine visa services.

- Please confirm for each individual category how many pending family, employment, and EB-5 cases are documentarily qualified and in the queue for interviews when consular posts resume operations and interviews?

As of January 25, 2021, NVC's queue of documentarily complete employment-based or family-sponsored cases (including family preference and immediate relative cases), with a visa number available, waiting for an immigrant visa interview is:

- Family-Sponsored: 312,782 cases
- Employment: 11,504 cases
- EB-5: 3,930 cases

- Once Consulates resume immigrant visa operations, it is AILA's understanding, based on [our December 11, 2020 meeting with DOS](#), that files will move to post based on a request from post. Can NVC confirm that this is the procedure for NVC to release the files to post once normal visa operations resume? If so, should attorneys attempt to contact NVC to request the release of files?

As post-specific conditions permit, NVC will schedule immigrant visa interviews based on post capacity. Posts generally don't request specific files; instead, they provide interview capacity by visa category. Posts will determine the volume of visa services that they can provide while prioritizing the health and safety of consular staff and applicants. Upon visa availability, NVC fills their available

appointment capacity in a first-in, first-out manner based on the date the case was deemed documentarily complete.

- Will NVC require that applicants update information, including filing new affidavits of support or civil documents, if the documents are more than six months old?

No, NVC will not request additional actions if the submitted and accepted documents are more than six months old.

- Should applicants continue to submit Form DS-260 even if they know that the post is closed for routine processing?

Since NVC has not stopped processing cases, applicants should continue to send their fees, forms, and documents to NVC even if their assigned embassy continues to be restricted in their ability to provide visa services due to local COVID-19 health restrictions and resource limitations.

Completing the DS-260 form is a necessary step towards completing NVC pre-processing and scheduling of an immigrant visa interview. Submitting the DS-260 form will enable NVC to commence the review process, perform the non-adjudicatory functions, and be ready for when post-resumes all routine visa operations.

- If an insufficient number of officers are available to conduct an interview at post, are documentarily qualified files sent back to the NVC?

Documentarily complete scheduled cases will not be sent back to NVC. Depending on posts' local restrictions and resources, projected scheduling capacity is provided to NVC 30-60 days in advance. If local capacity changes and post cannot accommodate all scheduled interviews, those files are retained and rescheduled locally.

4. ***Expediting Emergency Cases:*** Can NVC confirm that for urgent humanitarian or medical inquiries, applicants and their attorneys should still make use of the NVCExpedite@state.gov email address (as we were told at our last meeting), or should they be using the NVC Public Inquiry Form as instructed in the NVC FAQs [available here](#)?

Yes, attorneys should request that a case be expedited to the processing location by sending an email to NVCExpedite@state.gov. NVC will forward the request to the appropriate post for their consideration.

Expedite requests submitted through the online Public Inquiry Form are forwarded to NVC's expedite mailbox, which delays consideration of the request and subsequent response.

- a. Please also confirm that if an individual cannot resolve the issue electronically, they should contact the NVC call center? If NVC will coordinate the process, what is the expected timeframe to wait before contacting the call center?

For inquiries related to expedite request processing, call center operators will refer callers back to the NVC Expedite mailbox. NVC forwards requests to the appropriate embassy or consulate for their consideration.

It should be noted that NVC cannot provide wait times for expedite requests to be processed since that is dependent on local factors at individual posts.

- b. When submitting the expedite request, please confirm if the local consular post should also be contacted, or will the NVC coordinate the process once a request is made?

Assuming the file is at NVC, NVC will forward the requests to the appropriate embassy or consulate for their consideration; copying the consular section is generally not necessary.

Legal representatives should only contact the relevant U.S. Embassy for a mission-critical case that may merit an expedited interview date if the file is no longer in NVC's possession. Refer to the instructions on the [Embassy or Consulate Visa Section website](#) where the applicant will interview.

- c. Given the urgency of these matters, is there a way to ensure that we reach the appropriate person(s)? Would it be possible for the NVC to acknowledge or confirm receipt of an expedite request?

Thank you for bringing this matter to our attention. NVC will review the recommendation and explore options for this request.

- d. If a matter is not resolved through an expedite request, can NVC offer an escalation process which AILA members may utilize in urgent or extremely time-sensitive matters?

To expedite the interview, the only way to notify NVC is to send the request an email to NVCexpedite@state.gov, along with proof of the need for an earlier appointment.

5. **Staffing Levels – COVID-19 Impact:** We understand, as per correspondence between NVC and AILA in March of 2020, that “(a)s result of the global COVID-19 outbreak, NVC has had to temporarily reduce (its) staffing footprint.” Please confirm:

- a. To what extent has staffing been reduced, and does NVC have a re-hiring plan for resuming fully staffed operations? If so, when?

NVC follows the Department's guidance for safely returning our workforce to Department facilities, following applicable CDC considerations and recommendations for building operations. Please note that NVC has continued operations throughout the pandemic via remote work options for much of its workforce.

- b. How many **contractors** work at the NVC, and what are their roles? We understand from the DOS meeting in March that plans to hire a third-party contractor to reduce backlogs were put on hold due to the pandemic. Can NVC please provide an update on where things stand concerning the planned change in contractors and, if these plans are still on hold, what is being done to deal with any backlog?

The Department respectfully declines to respond to staffing metrics questions.

Regarding functions, the contract staff performs a combination of tasks within the Visa Support Services (VSS) contract scope. This includes administrative duties to support immigrant visa adjudications worldwide, such as data-entry, document review, appointment scheduling, file digitization, and file storage management. The contractor also provides communications support by responding to inquiries via email and telephone from the public, attorneys, and members of Congress. Furthermore, the contractor provides quality control, training support, IT services, and operations management.

- c. Would NVC be willing to provide AILA with a staff organizational chart?

The Department respectfully declines to respond to staffing questions.

6. **Unavailable Documents Due to COVID-19:** In the event that attempts to obtain required documents are delayed by the COVID-19 global pandemic, is there any way that a case can move forward until the document is received? For example, forwarding the case to post and asking post to accept the document once it is obtained? Posts are likely in a better position than NVC to understand when local agencies will become operational again.

If a document is unavailable, applicants should submit a detailed explanation for the document's unavailability or their intention to present that document at interview into CEAC (or to NVC by mail if specifically instructed to do so).

At the time of the visa interview, the consular officers may determine on a case-by-case basis whether a document is considered unobtainable using the guidelines outlined in 9 FAM 504.4-4(F).

NVC OPERATIONS & COMMUNICATIONS

7. ***Transfer of Files from USCIS to NVC:*** Our members continue to report situations where files sent by USCIS to NVC either fail to arrive or cannot be located after they do. USCIS will frequently confirm transmission to NVC, but NVC will deny receipt and refer inquirers back to USCIS. Untangling the location of these files can take weeks, and repeated inquiries to both agencies. The following questions are designed to assist our members in understanding the file transfer process:

- a. What percentage of cases are now being transferred electronically between USCIS and NVC?

Sixty-one percent of all newly received petitions are transferred and ingested from USCIS's Electronic Immigration System (ELIS).

- b. How long after approval are these cases transferred to NVC?

Petitions transferred from USCIS's Electronic Immigration System (ELIS) receive a fee bill within hours in most cases.

- c. What is the average time that it takes for a physical file to reach NVC once USCIS approves it?

Once USCIS approves a petition for paper-based cases, it typically takes four to six weeks for the physical petition to reach NVC. After receiving an I-797 Approval Notice from USCIS, please allow the allotted time before contacting NVC about a case. This helps ensure USCIS has sufficient time to mail the case and for NVC to enter it into our database. Refer to the [NVC Timeframes page](#) to track current case creation timeframes. The processing dates are updated weekly.

- d. Once an immigrant petition arrives at the NVC, what is the average time required for NVC to enter data into its system? Is there any difference in timing between employment-based and family-based cases?

Refer to the [NVC Timeframes page](#) to track current case creation timeframes. The processing dates are updated weekly for both family-based and employment-based cases.

- e. What is the process by which NVC notifies the applicant or attorney of record that the file has been transferred to NVC?

Once USCIS approved the petition and transferred the case to NVC for pre-processing, the first step in this processing is creating the case in one of our systems and assign a case-specific case number. Once this process is complete, NVC will generate a “Welcome Letter” notice. The notification will be sent to all case parties’ email addresses - as provided to USCIS - or by physical mail if email addresses are unavailable.

With the information in this letter, applicants can log in to the [Consular Electronic Application Center \(CEAC\)](#) to check status, make payments, submit forms, receive messages (only online cases), and manage the case.

- 8. ***File not received within 10 weeks:*** It is AILA’s understanding based on previous discussions with NVC ([most recently the November 7, 2019 meeting](#)) that when USCIS has approved a case, but the file has not been received within 10 weeks by the NVC, the NVC has indicated its willingness to work with USCIS to locate the petition and have it properly transferred to NVC.

In collaboration with USCIS, NVC recently implemented a process to mitigate some of these concerns for paper-based petitions. When receiving a shipment of petitions from USCIS, NVC now verifies USCIS shipment manifests against shipment contents. If a petition is listed on the manifest, but it was not contained in the shipment, NVC immediately communicates with USCIS to track down the missing petitions.

- a. Suppose a file has not been received at the NVC within ten weeks after USCIS approval. Does NVC still recommend that stakeholders send an email to NVCResearch@state.gov with a copy of the approval notice, correspondence with USCIS and the NVC, and any additional information that may help to identify the case?

Yes, it is the current procedure. If it has been more than ten (10) weeks after receipt of an I-797 Approval Notice from USCIS, and NVC did not receive your client’s approved petition, we recommend that you email NVCResearch@state.gov for assistance. Please provide a copy of your client’s I-797 Approval Notice and any additional information you may have about the petition. NVC will work with USCIS on your client’s behalf to locate the petition and have it transferred to NVC.

- b. If this is not the current recommendation, what is the process for making this request? Is there a process for follow up if an initial request is not adequately resolved?

See above response.

- c. Would NVC consider adding an option to the Ask NVC Public Inquiry form to follow up on these cases?

Thank you for bringing this matter to our attention. NVC will review the recommendation and explore options for this request.

CONSULAR RETURNS

9. During the [November 2019](#) meeting between AILA and NVC, NVC confirmed to AILA that NVC plays the role of intermediary, reviewing revocation requests from consular officers for administrative errors and routing these requests to USCIS. NVC does not make adjudicatory decisions but will alert consular officers to material errors for corrections as necessary. Could NVC please confirm that this remains the process for consular returns?

All IV, K, and asylee/refugee follow-to-join petition revocation requests are returned to USCIS through NVC. NVC performs an administrative review to ensure the petition revocation request is complete and forwards the petition to the approving USCIS office.

NVC returns petitions processing at NVC directly to USCIS when:

- the petitioner or attorney requests withdrawal
- NVC receives evidence of death, marriage, or divorce that is relevant to the petition validity

10. Has the COVID-19 global pandemic and any reduction in staffing impacted or altered this process or contributed to delays?

The level of visa services a post provides during the ongoing pandemic due to staffing limitations and local restrictions, along with staffing limitations at NVC, contribute to delays processing consular returns. These delays are more significant with petitions that must be physically returned from post to NVC and then to USCIS.

11. In those cases where the NVC returns a file to USCIS, would NVC be willing to notify the attorney of the return and the reasons for returning the file?

NVC notifies case parties when we return a petition processing at NVC to USCIS. Case parties will receive a notice to log into their CEAC account where they will encounter the following message:

Your petition has been returned to USCIS for administrative action and is no longer at the NVC. Further inquiries should be directed to USCIS by telephone at 1-800-375-5283, or via the internet at www.uscis.gov.

This is a general notification that applies to all petitions returned from NVC to USCIS; we are unable to provide the specific reason for each case.

NVC does not notify case parties when a petition is returned by post to USCIS for petition revocation; post informs the applicants via a written refusal explicitly stating the provision of law under which the visa is refused.

ONE YEAR CONTACT REQUIREMENT & PAYING FILING FEES

12. We understand that NVC takes steps to terminate a pending I-130 or I-140 petition in its possession where there has been no action taken within one year. Can NVC confirm that the most effective way to maintain contact with the NVC within one year of notice of visa availability remains to undertake one or all of the actions below? Please also elaborate on any additional methods.

- a. Pay a fee, which is tracked in CEAC. (Please confirm that if the fee is paid, the applicant is no longer required to check in yearly to keep the file open)

Paying a fee counts as an action to avoid 203(g) termination, but applicants who pay and take no other qualifying action to apply for a visa for a subsequent year will still be subject to termination.

- b. Submit a document (which can be tracked in CEAC for electronic cases) Yes.
- c. Use the Ask NVC Public Inquiry Form Yes.
- d. Call the NVC phone line. Yes.
- e. Log into CEAC account satisfies the “contact” requirement to avoid termination under 203(g).
- f. Complete form DS-260

13. Can NVC confirm that the best procedure to reopen a matter if it was closed despite contact having been made in at least one or more of the above manners is to submit digital proof, corroborating contact, using the online Ask NVC Public Inquiry Form?

If you believe a termination notice was issued in error, we confirm that contacting NVC through our online Public Inquiry Form is the best mechanism for dealing with these issues. Submit digital proof corroborating contact; you can attach documents at the bottom of the form.

14. Some AILA members report confusion as to whether simply logging into CEAC is sufficient to satisfy the one-year-contact requirement. Can NVC confirm whether this is the case?

Logging into CEAC satisfies the “contact” requirement to avoid termination under 203(g). The specific role of the case party logging into CEAC is not relevant. Please note this is only applicable for electronic cases. Logging into CEAC does not prevent 203(g) termination for paper cases.

15. What is NVC's policy when it learns that an applicant with an approved I-130 has also filed form I-485? Does NVC proactively search the USCIS system to determine if an adjustment has already been filed? In this instance will NVC move to close the case file? Can an applicant request that his or her I-130 be kept open after an I-485 is filed?

NVC will continue processing the petition unless USCIS requests the petition back to adjudicate the I-485. If your client is planning to adjust status with USCIS, do not submit any fee payments to NVC; instead, notify NVC of your intent to adjust status using the online [Public Inquiry Form](#) and contact USCIS for further information.

16. The NVC has recently issued numerous initiation notices for cases where the filing date will not be current for anywhere from six years to over ten years. Given the NVC's standard practices and the reasons behind them, this raises numerous questions about cases where the NVC has issued an initiation notice but where the filing date is still far from being current. Please address the following questions:

Upon receiving an approved petition from USCIS, NVC issues Welcome Letters to all case parties, whether the case is current by the Final Action dates or not. The Welcome Letter contains instructions on logging into CEAC and directs applicants to consult [Travel.state.gov](#) for processing instructions.

For immediate relative cases and for preference cases eligible for processing according to the Dates for Filing Applications, NVC will send a Welcome Letter by email or physical mail notifying applicants to assemble and submit required fees and documentation to NVC.

For applicants whose petition is not eligible for processing - due to the numerical limitations on immigrant visa issuance prescribed by law - logging into CEAC will produce an announcement. The message informs the applicant that, according to the [Visa Bulletin](#), which provides up-to-date priority dates for cases NVC is processing, a visa number is unavailable, and they should use the Department of State's Visa Bulletin to check whether a visa is available for their petition.

NVC's Welcome Letter does not alter the termination of registration under INA 203(g) calculations. The Welcome Letter instructions are evergreen, so while the letter is issued a few years in advance, it will still provide accurate instructions when the visa is available for their petition.

- a. When does the one-year contact rule become active? For example, if a case was initiated by the NVC on 01/01/2021 and the filing date is not expected to become current until 2026, will the NVC issue a notice of possible cancellation if no action has been taken by 01/01/2022?

The hypothetical presented appears to be based on a misunderstanding. If a case would only become current in 2026, the one-year contact rule would not be relevant until 2027. If current procedures were still in place in 2027, then per 9 FAM 504.13-2(B)(1), NVC will send a follow-up package including notification of possible termination of registration pursuant to INA 203(g) in cases in which applicants have not responded to the instruction package for immigrant visa applicants within one year of visa availability. This is only applicable to available visas (immediate relatives or preference cases current by final action date).

- b. Is NVC moving away from its past practice of issuing login credentials, thereby starting the one-year “contact” warning, once the “date for filing” has become current?

[See above responses.](#)

- c. Should petitioners/applicants submit completed visa applications and supporting documentation early, even though such information will become obsolete by the time the final action date is current and an interview can be scheduled? Will petitioners/applicants who submit such documents early be required to resubmit DS-260s and/or supporting documents when their final action date becomes current or when the embassy schedules an interview several years later?

[See above responses.](#)

17. In cases where an initiation notice has been issued, but the filing date is still far from current, please address the following:

- a. What are the standard procedures for when and how the NVC is scheduling I-130 and I-140 cases for payment of fees and initiation of processing?

[See responses to number 16 above.](#)

- b. AILA members report that when NVC issues a one-year cancellation warning, petitioners/applicants have sometimes been required to repay fees in order to continue processing. Can NVC clarify when fee repayment is required? Is fee

repayment triggered by the issuance of a one-year cancellation warning, or is it triggered by a set amount of time elapsing since the initial payment?

Per 9 FAM 504.13-2(B)(1), NVC will send a follow-up package including notification of possible termination of registration pursuant to INA 203(g) in cases in which applicants have not responded to the instruction package for immigrant visa applicants within one year of visa availability. If they wish to continue with their immigrant visa application after that, they would need to repay their fees.

- c. In light of current practices, it seems that if payment is made years before the filing date is current, repayments will likely be required by NVC due to time elapsing and payments “expiring.” If payment is made early, can repayment be avoided if contact is maintained with NVC such that no “one year” warning notice is issued?

If the fees were already paid and the applicant responded to the instruction package for immigrant visa applicants or remained in contact with NVC within one year, then repayment is unnecessary. See response to question number 12 on how to maintain effective contact with NVC.

18. In numerous cases where the NVC has issued a one-year cancellation notice and fee repayment has been required, AILA members report that it has not been possible to submit the repayment online through CEAC. Trying to do so has resulted in an error message, and members have had to submit an inquiry to the NVC to obtain a letter instructing them to mail payment with a copy of the letter included. Does NVC have plans to make repayment of lapsed fees possible through the online system? Alternatively, is there a more streamlined process by which repayment of fees can be submitted without having to obtain NVC’s permission via the submission of an inquiry form?

Yes, this is a known issue relayed to the software developers. The development team is currently monitoring a recent fix put in place so that payments subsequent to termination can be made through CEAC.

ATTORNEY OF RECORD MATTERS

19. Members continue to report difficulties changing the legal representative on client files. CEAC’s website instructs applicants to submit a request through the Ask NVC Public Inquiry Form when they change counsel, but this process is cumbersome and frequently requires the submission of repeat public inquiry forms or a phone call directly to NVC to make this happen. Would NVC be willing to create a dedicated email address such as “NVCchangeattorney@state.gov” or adding an option to the ASK NVC Public

Inquiry Form for members to use to specifically flag for NVC a change in legal representation? This could considerably reduce the problem of inquiries being misdirected and the additional work such cases create both for NVC and for our members.

NVC will explore the technical possibilities of adding this functionality to the Public Inquiry form.

20. In cases where a successor attorney takes over an approved I-130 case on file with NVC and the priority date becomes current, but the applicant does not receive a welcome letter with the case and invoice ID number, how should new counsel request NVC to send the welcome letter and case information to them? How long would it normally take for NVC to process this type of request?

If a successor attorney takes over an approved case - located at NVC - for NVC to take action on a case as requested by an attorney or representative, we would require an updated G-28 Notice of Appearance form.

Using the Public Inquiry form, submit the updated G-28 form and request a duplicate Welcome Letter. The notification will be resent to all case parties' email addresses or by physical mail if email addresses are unavailable.

21. AILA Members report issues in which the email address indicated on Forms G-28 and I-130 is not used by the NVC for correspondence. Rather, members note that correspondence is sent to another member of their firm who had previously submitted a case to NVC. How does NVC determine which attorney email address to use for a particular matter? Is there a procedure for ensuring that correspondence for each open case is sent to the last G-28 that was filed with that case? If NVC has used an incorrect email address, what is the best way to request a correction?

To protect applicants' privacy and the sensitive information in an IV petition, NVC uses the representatives' addresses from either the petition or the G-28 form. If a representative wishes to update their email address, attorneys need to contact NVC through our Public Inquiry Form if there is a change to their contact information. NVC will not automatically update an address if a representative sends an email from a new email address.

AFFIDAVIT OF SUPPORT

22. Given ongoing litigation and changes to the public charge regulations, how has NVC changed the way it reviews affidavits of support for documentary sufficiency, including any changes to the content of assessment letters?

NVC has not altered its current process. NVC exists to help prepare applicants for a successful visa interview by performing pre-processing so a consular officer can adjudicate the visa application. NVC will assess affidavits of support based on the income information provided by the sponsor. As a matter of procedure, in any situation where the petitioner's income does not overcome poverty guidelines, NVC will suggest that the applicant presents any complete joint-sponsor forms and documents to the consular officer at the time of the immigrant visa interview. The case will not be delayed until receipt of the joint sponsor/household member and supporting documentation.

PROVISIONAL WAIVERS

23. AILA has received several reports of applicants receiving termination letters under INA Section 203(g) despite the fact that an I-601A has been filed and remains pending. AILA thanks the NVC for providing a mechanism to address this occurrence through Online Public Inquiry Form (2019 AILA/NVC Liaison meeting question 37). Nevertheless, has NVC considered any modifications to its own procedures to avoid the issue of erroneous termination letters being issued?

A case with a pending I-601A waiver application should not enter a termination process. NVC relies on an interagency communication process with USCIS to notify us of which cases are pending adjudication of an I-601A waiver application, so case parties should not need to take any action during that period to avoid termination. However, they should keep NVC updated on changes of contact information, representative, or relevant familial updates. If NVC failed to receive or record notification of the provisional waiver application and a case enters termination, provide evidence of the I-601A filing via the Online Public Inquiry form, and NVC will reinstate the case upon confirmation of the application with USCIS. NVC believes this issue was resolved some months ago, so if AILA is able to provide any examples of this happening recently, NVC would look into those.

HONG KONG NORMALIZATION

24. AILA understands from our [December 11, 2020 liaison meeting](#) (question 7a) with DOS that it has not come to a definitive position with regard to how this executive order impacts chargeability for persons born in Hong Kong. As a practical matter, how is NVC handling preference category cases for Hong Kong born persons? Are they being processed based upon the Dates for Filing for the Rest of World or Mainland China categories? Are these cases on hold if the applicants are not current for filing under both the Rest of World and Mainland China categories?

There has been no change to NVC's handling of preference category cases for Hong Kong born persons. Any change in procedures would be reflected in the Visa Bulletin.

PRESIDENTIAL PROCLAMATION

25. [Presidential Proclamation 10014](#), issued on April 22, 2020, suspended the entry of immigrants, specifically those who “are outside the United States on the effective date of this proclamation.” The State Department has since confirmed that an individual in the United States on the effective date of the latter proclamation is eligible to receive a new nonimmigrant visa and re-enter the U.S. Similarly, and confirmed by DOS during our [December 2020 liaison meeting](#), it is also the case that an individual in the United States on the effective date of Proclamation 10014 is eligible to receive an immigrant visa and use it to enter the U.S. Notwithstanding this clarity, it appears that some applications for individuals not subject to PP 10014 are “stuck” at the NVC and have not been put into the queue for an interview. Please confirm:

- a. What is the process NVC is following with cases that they believe are subject to PP10014?

NVC continues to process age-out cases, intercountry adoptions, some family-based immediate relative categories, certain special immigrants, fiancé(e)s of U.S. citizens applications, other family-preference IVs, and employment preference categories. However, NVC prioritizes scheduling services for applicants not subject to, or excepted from, the various Presidential Proclamations.

- b. If an attorney believes a beneficiary is not subject to the proclamation, how can we best communicate that to NVC? What evidence should be submitted?

NVC does not play a role in assessing eligibility under the national interest exception. Applicants who are subject to PP 10014 but who believe they may qualify for a national interest exception or other exception, should submit a request, including a concise summary of the argument and any relevant evidence, through the online Public Inquiry Form for NVC to forward to the appropriate post for their consideration.

- c. What is the estimate of how many qualified IV cases, not subject to PP 10014, are at the NVC waiting in queue for an interview?

[As of January 25, 2021, there are 118,648 documentarily complete cases at NVC waiting for an immigrant visa interview.](#)

- d. What is the estimate of how many qualified IV cases, subject to PP 10014, are at the NVC waiting in queue for an interview?

As of January 25, 2021, there are 209,568 documentarily complete cases, with a visa number available, at NVC waiting for an immigrant visa interview.

- e. How does DOS plan to proceed with scheduling cases in the queue for an IV interview once PP 10014 expires or is rescinded?

Per 9 FAM 504.4-6 (U) upon visa availability, NVC will schedule immigrant visa appointments in the chronological order of documentarily complete cases, based on post capacity, consistent with host country and Department of State guidance on operating safely during the pandemic.

EB-5 MATTERS

- 26. The USCIS Immigrant Investor Program Office (IPO) forwards cases to NVC for processing following the approval of the I-526 petition.

- a. Is the NVC regularly receiving files from the IPO within 90 days of I-526 petition approval?

During CY 2020, the median time for an approved I-526 petition to reach NVC was 126 days.

- b. How long does it take for NVC to begin working on an approved EB-5 case after it receives and receipts the file?

The contractor has a performance requirement of ten (10) days and is currently meeting that target. The average time for newly received I-526 electronic copies of petitions to be transferred and data-entered through the Department's system is three (3) days.

- c. It appears that a follow-up inquiry to NVC is required for most cases to determine if the NVC has received the file, and then the immigrant must email the IPO to ask about the file transfer. Would NVC comment on the process and timing for an approved I-526 petition to be transferred from the IPO to the NVC?

NVC does not have a way to proactively search USCIS systems for approved I-526 petitions that have not been electronically transferred to NVC.

- 27. It is AILA's understanding that NVC does not send a fee bill after reviewing the child's age where the primary applicant has a backlogged priority date, and the child has turned 21. In some cases, the child's CSPA age is under 21. We recognize that consular officers and not NVC determine the CSPA age and that this is not determined until the consular section is advised that a visa number is available. However, without the fee

bill for the apparent age out child from the NVC, we are unable to pay and file the DS-260 along with the rest of the family, even though they remain eligible for visa issuance. Attorneys have been contacting NVC to explain why a child is still eligible under CSPA. However, members have experienced substantial delay with adding a child back to the NVC process and obtaining a fee bill. More importantly, CSPA requires the CSPA-eligible child to act within one year to preserve eligibility. One of the actions is to pay the DS-260 fee. However, without the fee bill, we are unable to pay the fees and protect the child. One member has been trying to add a child since June 2020, and the current response from NVC is that the request is “under advisement”. Is there a way that attorneys can proactively alert the NVC to the fact that an EB-5 dependent covered by CSPA needs to obtain a fee bill in order to reduce both frustration and unnecessary resources expended by submitting and responding to multiple inquiries?

NVC does not adjudicate or make final decisions; NVC performs a preliminary review of CSPA by performing pre-processing so a consular officer can final determinations at the immigrant visa interview.

If a case is current by Chart B (Dates for Filing) and not current by Chart A (Final Action Dates), NVC will review the applicant's age while the visa number is not available yet, to determine if they appear to have already aged out. For preference family cases, both the child's CSPA age and the sought to acquire provision must be met to be eligible for CSPA protection.

When a child appears to be ineligible based on the CSPA formula alone, NVC does not generate the fee bill when the case is current by Chart B. If an immigrant visa applicant disagrees with NVC's CSPA assessment, they may dispute it and insist that a case be forwarded to post for a consular officer's determination. However, applicants must pay all applicable fees and provide all required documentation. Immigrant visa fees are non-refundable outside of very narrow circumstances.

28. Members report a potential technical issue at the NVC matching up documents that were submitted under the former Guangzhou (GZO) abbreviation numbers, but where the case numbers were then switched back to GUZ abbreviation. The change in abbreviation occurred in Members frequently receive checklists requesting new fees and applications under the GUZ abbreviation that were submitted under the GZO number and that are documentarily qualified. Would NVC please confirm what the process would be to resolve this issue if members are certain that the case had been fully processed under the GZO number but have now received a new set of requests under the GUZ number?

We appreciate AILA's regular feedback on these types of issues. Individual attorneys experiencing this particular issue can provide feedback via the online Public Inquiry Form and add 'ATTN: PI Supervisor' on the question box at the bottom of the form.

