

Agenda for DOS Liaison Committee Meeting with NVC February 9, 2023

The American Immigration Lawyers Association (AILA) Department of State Liaison Committee ("the Committee") thanks the National Visa Center (NVC) for the opportunity to meet and discuss issues of mutual concern. The Committee believes that frequent and frank communication advances the mission of the NVC while providing clarity to the public on current policies and practices. Through extensive outreach to our more than 16,000 members, the Committee has identified several issues impacting the immigrant visa process. By raising these issues here, AILA hopes that we all will better understand the challenges involved in each other's work and that the feedback provided by the Committee will allow the NVC to enhance process efficiencies. We look forward to a continuing dialogue with the NVC.

Statistics

1. AILA appreciates the efforts of the NVC in light of pandemic-related closures and thanks the NVC for its continued efforts to reduce the backlog of documentarily qualified cases. To help manage expectations for both AILA members (members) and applications, AILA would appreciate the following updates:

- a. Can NVC confirm how many cases were completed in FY2022 compared with the 342,392 completed in FY2021?

Documentarily Complete cases (documents received, reviewed, and case entered into scheduling queue) by Fiscal Year:

- FY 2020 = 321,274
- FY 2021 = 342,392
- FY 2022 = 343,277

- b. Can NVC confirm how many cases have been completed so far in FY2023?

The number of immigrant visa cases determined to be documentarily complete by the National Visa Center thus far in fiscal year 2023 (as of 27 January 2023) is 140,084.

- c. What is the monthly volume of immigrant visa cases that the NVC processes?

On average, during FY 2022, NVC performed case creation for nearly 14,974 immigrant visa petitions, received 20,987 ELIS petitions from USCIS, and reviewed supporting forms and documents for another 72,337 immigrant visa cases per month.

- d. What is the monthly volume of nonimmigrant (fiancé) visa cases that the NVC processes?

On average, during FY 2022, NVC performed case creation for 1,138 I-129F petitions for Alien Fiancé(e)s per month.

- e. If a document is not considered acceptable, and the attorney re-submits the requested documents, on average, how long does the NVC take to review the new evidence?

When missing documentation is subsequently provided, it is reviewed in the order it was received. NVC processing times have dropped significantly in the past year. Please refer to the NVC Timeframes page on travel.state.gov to track the current Document Review processing time. The processing dates are updated weekly.

- f. AILA understands that appointment scheduling is done by the consular posts; can NVC report, on average, how long it takes for a “documentarily qualified” case to be sent to post for immigrant visa scheduling?

Pursuant to 9 FAM 504.7-2(b), posts generally strive to schedule immediate relative and nonimmigrant K visa interviews within 30 days, and current family and employment preference cases within 60 days of the receipt of all necessary fees, forms, and documents. However, some posts are still working through pandemic-related IV backlogs. Additionally, post scheduling is also based on staffing, workload distribution, scheduling priorities (like Afghan SIVs), and local conditions.

At the top 20 IV interview-backlogged posts (which account for roughly 90% of the interview-ready IV backlog), there is no average or standard scheduling framework. However, in general, these posts are increasing interview capacity as their staffing levels increase. Scheduling wait times at these posts for all categories can be lengthy, and the Department is focused on reducing the interview-ready IV backlog as quickly as possible. Please refer to the “National Visa Center (NVC) Immigrant Visa Backlog Report” on travel.state.gov to view the worldwide IV backlog updated with current numbers every month.

Inter-Agency Issues

Case Creation Delays

- 2. AILA understands that typically communication between the agencies (NVC/USCIS), as well as consular posts, occurs via the Consular Consolidated Database (CCD); however, in our last engagement with NVC in June 2022, NVC confirmed it receives approved petitions from USCIS by mail. Members continue to report issues with interagency communication during the life of a case, which as a result, causes longer-than-normal delays in case processing at

the NVC. For the benefit of our members, so they better understand the process which can help manage client expectations, we ask for clarity on the following:

- a. Can NVC confirm whether USCIS sends approved petitions electronically through the CCD or in hard copy via postal mail? For reference, members are reporting delays in case creation of I-140 petitions approved by the Texas Service Center.

Since USCIS shifted I-130 adjudication into its Electronic Immigration System (ELIS) platform in August 2019, data from the approved family-based petition transfers electronically from USCIS systems into NVC Department systems. Currently, only I-130 approved petitions are electronically transferred to NVC through ELIS. USCIS still sends all other approved physical petitions (I-140, I-730, I-129F), to NVC by mail, except for I-526 petitions, which are emailed to NVC for processing.

- b. Can NVC provide an overview of the case transfer process from USCIS to NVC, along with an approximate timeframe for how long it generally takes for NVC to receive an approved petition from USCIS?

ELIS petitions are filed, approved, and transferred to NVC entirely electronically. There is no paper file for I-130 digitized petitions. Petitions transferred to NVC through ELIS receive a fee bill within hours in most cases. USCIS still mails some paper petitions to NVC (as above) which can take 2-3 weeks to receive.

- c. AILA understands that once a case is considered documentarily qualified, NVC will work with the appropriate embassy or consulate to schedule an appointment; can NVC provide an overview and timeline of how that happens? What is the method of communication used by NVC to check post availability? How is the file transferred from NVC to post?

In collaboration with overseas consular sections, NVC updates each post's scheduling instructions and preferences on a monthly basis. Once the final action dates listed in the Visa Bulletin are received from the Visa Office's IV Control and Registration Office (CA/VO/DO/I) - setting the family and employment preference category cut-off dates for the scheduling month, based on the foreign state of chargeability and visa category - NVC starts the scheduling cycle.

As post-specific scheduling capacity permits, other than age-out cases, intercountry adoptions, and expedites, per 9 FAM 504.4-6 (U) upon visa availability, NVC schedules immigrant visa appointments by filling the posts' available appointment capacity in a first-in, first-out manner based on the date the case was deemed documentarily complete. When the appointment is scheduled, NVC sends an appointment notification to all the case parties' email addresses or by physical mail if email addresses are unavailable. The appointment letter contains links and directs

visa applicants to [NVC.state.gov](https://nvc.state.gov) and the embassy's website to learn what to expect on their visa interview day, and most importantly, how to prepare for it.

NVC routinely transfers visa case files to post. Generally, the transfer to the designated processing location occurs in three (3) business days for intercountry adoptions, expedites, and online cases with a successfully scheduled IV appointment.

For fiancé and follow-to-join (FTJ) refugee/asylee cases, NVC does minimal processing and does not collect fees and documents. NVC performs some data entry, and we notify the case parties when NVC transfers the case overseas. Typically, NVC transfers these cases every two weeks.

3. According to the NVC Timeframes posted at <https://travel.state.gov/content/travel/en/us-visas/immigrate/nvc-timeframes.html>, NVC states the current case creation time frame is approximately 62 days from the date of receipt of the approved petition from USCIS. If more than 60 days have passed since receipt of the USCIS petition approval and NVC has not created the case, members have been advised to reach out to NVCResearch@state.gov, attaching a copy of the Form I-797 approval notice and other supporting documentation, and NVC will work with USCIS to locate the petition. Generally, members have reported favorable results with this approach—thank you; however, members continue to report instances in which contacting the NVCResearch email address fails to timely yield case creation. When members contact USCIS to resolve the problem, they are told that the approved petition has already been sent to NVC. Would NVC be willing to implement an escalation process for attorneys that would allow those who do not receive a timely resolution or response within 30 days to a case creation inquiry further raise the issue?

We appreciate AILA's patience while we work through our backlogs. Individual attorneys experiencing this 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.

4. According to the [NVC timeframes](#) site noted above, NVC reports a current response time of approximately five days from receipt of communication via the Public Inquiry Form (PIF) to respond. Can attorneys rely on the same Public Inquiry Form response times posted by NVC as an accurate estimate of the expected response time to inquiries submitted to the NVCResearch email address? If not, how much time should attorneys allow before initiating follow-up to emails submitted through the NVCResearch email address? Would NVC be willing to post approximate response times for follow-up through the NVCResearch email address?

Yes, attorneys can rely on the same Public Inquiry Form response times posted by NVC as an accurate estimate of the expected response time to inquiries submitted to the NVC Research email address.

I-601A Waiver –

5. As mentioned above, members report difficulty resolving problems resulting from interagency communication issues between USCIS and NVC, particularly with I-601A applications adjudicated either at the Nebraska Service Center or the Potomac Service Center. AILA members have reported the following issues:

- Pre-approval: Some case files are being sent to post for interview prematurely before adjudication of the I-601A, contrary to 9 FAM 302.11-3(D)(1)b.(3).
- Post-approval: Some case files are not being sent in a timely fashion and are held well past the approval of the I-601A.

a. Can NVC explain the process and timeline for communication of the I-601A waiver approval by USCIS to NVC?

USCIS generally notifies NVC when a beneficiary files an I-601A. If the case is in NVC's system, we update and hold the case to hold it until we receive USCIS' decision (approving or denying the waiver).

b. If members experience long delays in communication between USCIS and NVC regarding the I-601A waiver approval, what is the best way to report the I-601A waiver approval to NVC? Is it similar to the case creation process described above (e.g., If more than 60 days have passed since receipt of the I-601A approval and NVC has not created the case, members should email NVCResearch@state.gov, attaching a copy of the approval notice and other supporting documentation.)? Does NVC have other recommendations on how best to pre-empt or resolve these issues in interagency communications that we can share with AILA members?

When you encounter I-601A delays, please submit an inquiry through our online Public Inquiry Form and provide us with an overview of the matter for further investigation. NVC will work to get your case back on track.

Priority Dates

6. 9 FAM 504.4-2(B) highlights the importance of initiating NVC processing of cases that are within Dates for Filing timeframes posted in the Visa Bulletin. When a preference petition is well outside the Dates for Filing, applicants and counsel may still receive case-creation notification, even for applications for which visa availability may be years away. INA 203(g) provides for termination of inactive IV cases (failure to apply within one year of notification of visa availability). Per 9 FAM 5014.13-2, NVC requires annual contact to preserve an

application. Can NVC confirm that when an application is based on a petition with a priority date that has not yet become current (according to the Dates for Filing chart in the Visa Bulletin):

- a. the applicant is not obliged to pay the fee or initiate any action on the case and;
- b. the application will not be terminated for inactivity until the Priority Date is within the Dates for Filing timeframe.

Except when application filing dates retrogress, only applicants with current priority dates should receive a notification to assemble and submit required fees and documentation to the National Visa Center. Our notification systems are not calibrated to accommodate retrogressed application filing dates, so Visa Bulletin movement may result in case-creation notification for some cases that are not current.

Regardless, applicants will not become liable for possible termination of registration under INA 203(g). If applicants have mistakenly received a case-creation notification before their priority dates are current, they will not be subject to termination of registration under INA 203(g). If you have examples of this scenario occurring, please share with NVC to investigate.

Communication

7. As NVC continues to reduce backlogs, AILA believes transparency in case processing times will help manage applicant, attorney, and client expectations. We have received a number of questions and reports from our members that the immigrant visa (IV) case review times [reported by NVC](#) are sometimes inaccurate. Currently, the website states about one month of case review time; however, members report wait times of six months and longer. To increase transparency and reduce case inquiries resulting in less administrative burden on NVC staff, AILA encourages NVC to modernize its systems to report on the following:
 - a. NVC wait times from when a case is fully documented to being sent to post for scheduling of the interview.
 - b. NVC response times after a document is re-submitted or a new document is provided at the request of NVC.
 - c. NVC response times to a PI Supervisor email inquiry.

NVC has made great strides in eliminating nearly all its internal workload backlogs and we appreciate AILA's patience as the significant increase in interest in the Afghan SIV program had follow-on effects in all NVC's workflows and business units. NVC's document-review timeframe from as few as 6 months ago is vastly different from its current document review turnaround. NVC continues to strive to minimize the length of processing and is current on most pending reviews. The Department has no immediate plans to update the processing timeframe mechanism the NVC currently publishes. NVC will continue updating the NVC Timeframes page on

travel.state.gov once a week. Please keep in mind that each case is different and processing times can vary depending on individual case circumstances.

8. AILA appreciates the response time for communication via the PIF, but a week may be too long in urgent cases. Historically, NVC maintained telephone inquiry lines for immigrant (603-334-0700) and nonimmigrant (603-334-0888) visas. These inquiry phone lines were incredibly helpful to get timely information. They provided greater access to NVC by the public, particularly for applicants around the globe that do not have internet access. Communication with NVC is vital to resolve simple problems, such as paying filing fees or uploading documents in CEAC. The inability to make timely payments or upload documents can significantly impact an individual's case. What is the best mechanism to address issues like these in a timely manner, given the current wait time for a response via PIF and the lack of a telephonic option?

Case parties should review <https://nvc.state.gov> to review NVC's processing tips, FAQs, and helpful information. Also, please refer to known issues at <https://nvc.state.gov/troubleshooting> for known systematic issues and statuses. While the phone lines remain suspended, contacting NVC through our online Public Inquiry Form is the best mechanism for dealing with these issues. Please note that response times to the Public Inquiry Form are under seven (7) days and NVC is confident we will be able to maintain that level of rapid response moving forward. Please note as well that the suspension of our phone lines was essential to improving our overall level of service and response times.

9. Does NVC have an anticipated timeline for the resumption of the telephone line?

No, NVC does not have an anticipated timeline, but NVC is exploring ways to most effectively resume telephone inquiry lines. As our online response time has dropped to less than seven (7) days, email is still the fastest—and most comprehensive—method of getting answers to questions and providing case updates and statuses.

10. AILA understands and appreciates the line of communication using the PIF and the means of escalating *general* issues and case queries by indicating "ATTN PI SUPERVISOR" in the body of the message. For more complex questions or legal issues that require more sophisticated analysis, is there a means by which attorneys can make inquiries where cases can be further escalated (e.g., to address a question of law that may not be effectively addressed through the PI SUPERVISOR)? Per 9 FAM 103.4-2, LegalNet will not provide a substantive response to requests regarding cases still being processed at the NVC, including those relating to an Affidavit of Support, etc.

The administrative nature of NVC's business units means that attorneys should reserve their more sophisticated legal questions to a later stage of the IV process—at the time of or after adjudication of their clients' cases. Please continue to use the "ATTN PI Supervisor"

mechanism. NVC appreciates ALLA's suggestion that a mechanism for resolving more complex issues at the case processing stage would be helpful and will take that suggestion into consideration for the future service.

Civil Documents

11. On its [website](#), in Step 9 of the Immigrant Visa process, NVC advises applicants to "upload and submit scanned documents" and notes the following: *"You should only send mail to National Visa Center if explicitly instructed to through an email, telephone call, or letter from National Visa Center. In most cases, this request for documentation will be for a case that is not processing electronically. If necessary for your case, NVC will provide you with a mailing address. Never send original documents to the National Visa Center."* However, in its notices, NVC does not provide these explicit instructions to applicants. As a result, the process for whether to use the online vs. mail-in process is never clearly communicated, nor is this information available on the [travel.state.gov](#) website. Members report that the only way to decipher which process applies (online vs. mail-in submission of documents) is to log in to the applicant's CEAC profile. If the 'upload documents' function or tab is unavailable in the CEAC platform, the applicant proceeds with the mail-in process for submitting documents to NVC using the addresses [provided by NVC](#), which is difficult to find. In light of this inconsistency, can NVC please update its online instructions and welcome letters to include clear instructions to the applicant as to which process will apply for their particular case – online, email, or mail-in submission?

Thank you for the suggestion, we will take it under consideration.

12. As provided on the [travel.state.gov](#) website, Canadian civil documents vary by province, and territory-specific information on obtaining acceptable birth, marriage, death, and name change certificates is provided on the [travel.state.gov](#) website [here](#). Members report rejection of documents that are consistent with the Reciprocity Schedule for Canada. (Specific examples include the rejection of long-form marriage certificates from Nova Scotia and Newfoundland). Would NVC be willing to review and update its internal guidance to remind officers to review acceptable province and territory standards for documents when assessing Canadian applications?

NVC provides regular updates and periodic training to processors on civil documents and has provided samples of documents for reference. Likewise, NVC works with constituent posts to keep the document reciprocity schedules current and reflective of acceptable documents. Processors use visual aids and internal resources when deciding whether to accept civil documents. Adjudicators at post adhere to post policies regarding acceptability of documents, applicants can visit the U.S. Embassy Ottawa web page for further information regarding acceptable Canadian documents.

Affidavit of Support

13. Members report erroneous requests by NVC for joint sponsor evidence and documentation where the petitioner/sponsor clearly meets the affidavit of support and income eligibility requirements. This causes unnecessary delays in processing. Where counsel confirms that the petitioner has met the sponsorship requirements and a joint sponsor is not required, but NVC erroneously requests such documentation, what is the best way to avoid unnecessary requests for joint sponsors? For example, would it be helpful to include a statement from counsel or the applicant explaining how the petitioner satisfies the I-864 requirements?

NVC assesses affidavits of support based on the supporting income evidence required by 9 FAM 601.14-6. Where the petitioner has not provided evidence of income that overcomes the poverty guidelines, NVC will suggest that the applicant submits a joint-sponsor document to the immigrant visa appointment. Applicants should present any complete joint-sponsor documents, as well as proof of petitioner assets, to the consular officer at the time of immigrant visa interview. Alternatively, the applicant can provide the consular officer any statements from counsel on why the petitioner has satisfied the I-864 requirements.

14. [NVC guidance](#) on travel.state.gov states: The visa applicant needs to file a Form I-864A to have their assets included in the minimum income level calculations. This is contrary to instructions for Form I-864A. These instructions state:

If the Intending Immigrant Is a Household Member, Must He or She Complete This Contract? If you are the intending immigrant and the sponsor is including your income on Form I-864 to meet the eligibility requirements, you need to complete this I-864A contract only if you have accompanying dependents. If you are the intending immigrant and the sponsor is including only your assets on Form I-864, you do not need to complete this contract, even if you have accompanying dependents.

Will NVC Update its guidance to ensure consistency with the USCIS instructions for Form I-864A?

We appreciate AILA's regular feedback on these types of issues. NVC will review its internal processes for potential updates and liaise to review and update the information posted to travel.state.gov.

Tech Issues

15. AILA also appreciates the utility of accessing case status information via CEAC. Some members have noted concern as to the accuracy of the information reported. For example, members have reported CEAC classifying documents as "submitted" or "accepted" only later to indicate them as "Not submitted."

- a. How long does it take for case and document statuses to be updated online?

Once NVC updates the system, the system is updated almost immediately before the changing status shows in CEAC's status chart.

- b. Is there a reason why document status may regress as described above, or is it just a technical glitch?

Yes, there is a known issue with the system, however, this should be rare. Please see nvc.state.gov/troubleshooting for more information.

- c. What is NVC's recommendation to attorneys on how to report or resolve these technical errors within the CEAC system?

Contacting NVC through our online Public Inquiry Form is the best mechanism for dealing with these issues. Please submit your inquiry, attach digital proof (if available), and provide us with an overview for further investigation.

16. Similarly, some members report receiving emails indicating a "status update," but upon review of CEAC, find there has been no apparent update. In some cases, an update may be posted weeks later. Are these status update messages a mistake or indicative of something not apparent from CEAC?

This issue arose in December when CEAC was not updating in a timely manner. The problem was fixed, and a fix to prevent this in the future is being developed.

17. Will NVC consider uploading all relevant case notices and communications (e.g., Welcome Letter, Interview Notice, etc.) into CEAC so the applicant and attorney are notified and well-informed of the case status?

When NVC updates a case status or requests additional information, its systems automatically post a message in the applicant's CEAC account. These messages appear on the top-right of the summary page in a box titled "Messages." When NVC puts a new message in the applicants' CEAC account, NVC sends an email to every email address listed on the case, directing the recipient to log into CEAC to read the message.

These messages remain in the applicant's CEAC account for future reference. We cannot configure our systems to upload NVC-issued notices and communications because they operate independently by design. For example, the Welcome Letter contains the information required to access the portal, and the appointment letter is not generated by or within the CEAC system.

18. As suggested above, members continue to encounter occasional difficulties with CEAC, including problems processing payments, uploading documents, maintaining the DS-260, and the accuracy of case status. AILA understands there are protocols for contacting NVC

through the PIF on case-specific matters. Still, our members would appreciate any information that can be shared regarding any improvements that are being or have been made to the online systems?

The Department continues to work with the CEAC Development Team to improve the application. The team periodically releases updated versions about which your members may not be aware. We welcome your suggestions about how we can improve the end-user experience, with the understanding that changes typically involve software development time.

19. Would NVC consider establishing a direct line of communication for reporting technical problems?

Thank you for the suggestion; we will take it into consideration.

20. CEAC currently limits document size for upload to 2MB. In [our last engagement](#) with NVC in June 2022, NVC confirmed they expected to increase the file size limit to 4MB and that this enhancement was still in the queue for development. Does the NVC have a projected timeline or update for its implementation?

The Department still expects to increase the size limit to 4 MB but this update is still in the queue for development and does not have a projected timeline for implementation.

If a digital image is too large, compress it or attempt to scan again at a lower resolution before uploading it. Zipped files or password-protected files are not accepted. Please verify that files contain only the needed information and are not unnecessarily large because they contain extra pages, information not requested, etc.

Encourage your clients to review NVC's website and use the links built into CEAC to obtain helpful information, processing tips, and submit online documents correctly. Visit nvc.state.gov/scan for scanning tips, quality help, naming help, and document orientation requirements.

21. Members continue to report receiving case notifications from NVC for applicants who are not their clients. This is confusing and raises questions about data protection and privacy. Depending on the nature of the communication, attorneys may not be able to notify NVC through the PIF because they may not have complete information about the applicant (e.g., date of birth) to report the error to NVC. What is the best way to communicate these errors to NVC so that the proper attorney is notified, and the applicant's data is protected?

Contacting NVC through our online Public Inquiry Form is the best mechanism for reporting these issues. Please submit your inquiry and provide us with an overview for further investigation.

The Department is committed to protecting personally identifiable information (PII) of foreign nationals and U.S. citizens as part of the U.S. visa application process to prevent the misuse of PII and the severe impact its improper release could have on applicants, citizens, and the Department. NVC leadership is actively implementing contingency planning to mitigate privacy risks and vulnerabilities by developing secure standard operating procedures for using this data. In addition, all users receive security awareness training to safeguard Sensitive but Unclassified data (SBU) from unauthorized users.

Backlog Reduction

22. Members report that NVC processing delays contribute to immigrant visa backlogs by holding back cases that NVC does not consider Fully Qualified (or 'Documentarily Complete'). AILA understands that, per 9 FAM 504.4-5(B)(2), cases may be scheduled for interview, notwithstanding errors or omissions, as long as they are not "critical" and, concerning missing civil documents, the applicant informs NVC of the inability to obtain the document. To help reduce backlogs and maximize efficiency, AILA encourages NVC to make full use of the flexibility suggested in 9 FAM 504.4-5(B)(2) to move cases forward, particularly where posts are ready and willing to schedule the IV interview for final adjudication. Would NVC be able to relax its requirements to enable faster transfer to posts?

NVC regularly transfers cases that are not documentarily complete to posts that have accepted them on an expedited basis. NVC's role in the pre-IV interview process, however, is to prepare cases for a successful visa interview before a consular officer. NVC documentarily completes cases where applicants are unable to obtain additional supporting documentation or where that documentation is not available. Applicants unable to obtain a document should provide NVC with a statement explaining why it is unavailable or why they cannot obtain it.