



March 1, 2013

PM-602-0081

Policy Memorandum

SUBJECT: Standard Timeframe for Applicants to Respond to Requests for Evidence Issued in Relation to a Request for a Provisional Unlawful Presence Waiver, Form I-601A

Purpose

This policy memorandum (PM) sets the amount of time U.S. Citizenship and Immigration Services (USCIS) officers may provide an applicant to respond to a Request for Evidence (RFE) that is issued in relation to an Application for Provisional Unlawful Presence Waiver, Form I-601A. It also amends previous interim RFE guidance by assigning a specific timeframe to RFEs issued during the Form I-601A adjudication. This PM accordingly revises Appendix 10.9 of the Adjudicator's Field Manual (AFM), AFM Update AD12-02.

Scope

Unless specifically exempted herein, this PM applies to and binds all USCIS employees.

Authority

8 CFR 103.2(b)

Background

On July 7, 2011, USCIS issued an interim memorandum revising the AFM to provide greater consistency in the issuance of RFEs by amending the standard timeframes that USCIS provides for responding to RFEs.¹ The guidance outlines a standard RFE response time of 30 days for Form I-539 and 84 days for all other form types, regardless of whether the request is for initial or additional evidence, or whether the evidence is available in the United States or has to be obtained from abroad.

On January 3, 2013, USCIS published a final rule in the *Federal Register* creating the Provisional Unlawful Presence Waiver Process and 8 CFR 212.7(e).² The rule allows certain

¹ Change in Standard Timeframes for Applicants or Petitioners to Respond to Requests for Evidence: Revisions to AFM Chapter 10.5(b), Chapter 25.2(e)(3), Chapter 38.1(e)(6), and Appendix 10-9; AFM Update AD11-36. (July 7, 2011).

² Provisional Unlawful Presence Waivers of Inadmissibility for Certain Immediate Relatives, 78 FR 576 (January 3, 2013). The rule is effective March 4, 2012.

immediate relatives of U.S. citizens, who are physically present in the United States, to request a provisional unlawful presence waiver prior to departing from the United States for consular processing of their immigrant visa applications. The purpose of the new regulation is to reduce the length of time U.S. citizens are separated from their immediate relatives who are consular processing and to streamline the unlawful presence waiver process.

Policy

USCIS and the Department of State (DOS) closely coordinated on implementation of the provisional unlawful presence waiver process. The new provisional unlawful presence waiver process allows the agencies to act simultaneously, with USCIS adjudicating the Form I-601A at the same time DOS collects required information from the applicant to complete the immigrant visa packet. DOS will hold scheduling of immigrant visa interviews until USCIS has notified the National Visa Center (NVC) of its decision on the Form I-601A.

To avoid lengthy delays in immigrant visa processing, USCIS is limiting the RFE response time to 30 days for RFEs issued for Form I-601As. The 30-day RFE timeframe will help streamline USCIS processing, prevent delays at the NVC and at consular posts, and allow applicants to complete immigrant processing in a more timely manner.

The standard time frames listed in Appendix 10-9 of the AFM, therefore, are amended to include a standard timeframe of 30 days for the Form I-601A.

When an RFE is served by mail, USCIS officers should include additional mailing time of three days as stated in the regulations. 8 CFR 103.8(b).

Implementation

This PM is effective immediately.

Appendix 10.9 of the AFM (AFM Update AD12-12) is revised as follows.

☞ 1. Appendix 10-9 of the AFM is amended to read:

In compliance with 8 CFR 103.2(b)(8), (11), (12), and (13), the guidelines below provide general timeframes for applicants or petitioners to respond to RFEs. The maximum response time for an RFE remains 12 weeks (84 days). These general timeframes do not apply to circumstances in which a fixed maximum response time is specified by regulation.

Due to the relatively short processing times required by the Form I-539, Request to Extend/Change Nonimmigrant Status, a response time of only 30 days will apply to RFEs related to Form I-539 filings.

In addition, due to the streamlined nature of the provisional unlawful presence waiver process and to avoid long delays of the immigrant visa processing, a response time of 30 days will apply to RFEs related to the Form I-601A, Application for Provisional Unlawful Presence Waiver. Adjudicators, in their discretion, may increase the response time for the Form I-601A after obtaining supervisory concurrence. This discretion should be used on a case-by-case basis when warranted by circumstances as determined by the adjudicator and the supervisor.

The standard response time for all other benefit types is 84 days. Adjudicators, in their discretion, may reduce the standard response time only after obtaining supervisory concurrence. This discretion should be used on a case-by-case basis when warranted by circumstances as determined by the adjudicator and the supervisor.

In any case where an RFE is served by mail, the regulations already provide an applicant or petitioner an additional three days to respond. **8 CFR 103.8(b)**. As a matter of policy, USCIS has determined that mailing time should be greater for applicants and petitioners residing outside the United States. The table below includes additional mailing time that should be added to the prescribed response time.

Circumstance	Standard Response Time (calendar days)	Additional Mailing Time When Residing	
		In the U.S.	Outside the U.S.
To submit evidence required for the Form I-539 (extension of stay or change in status) requires.	30	3	N/A
To submit evidence required for the Form I-601A, Application for Provisional Unlawful Presence Waiver.	30	3	N/A
To submit evidence for all other benefit types, regardless of whether the request is for initial or additional evidence, or whether the evidence is available in the United States or from overseas sources.	84	3	14

- ☞ 2. The AFM **Transmittal Memorandum** button is revised by adding a new entry, in numerical order, to read:

AFM Update AD12-12 3/1/2013	Appendix 10-9	This PM amends Appendix 10.9 of the AFM.
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Use

This PM is intended solely for the guidance of USCIS personnel in the performance of their official duties. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

Contact Information

Questions or suggestions regarding this PM should be addressed through appropriate channels to the Field Operations Directorate or the Office of Policy and Strategy.