



Submitted via email to: USCISPolicyManual@uscis.dhs.gov

May 24, 2019

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director
20 Massachusetts Avenue, N.W.
Washington, D.C. 20529

RE: Policy Guidance Revisions: Volume 1, Part A

Dear Director Cissna:

The Catholic Legal Immigration Network, Inc. (CLINIC) respectfully submits the following comments related to proposed changes to USCIS policy and procedures found in the USCIS Policy Manual at Volume 1, Part A. These comments are based on the expertise of CLINIC's staff, who have extensive experience representing clients, as well as insights from our affiliates who regularly provide services to individual applicants directly and in workshop settings.

CLINIC supports a national network of community-based legal immigration services programs that primarily serve low-income immigrants and regularly advise and assist individuals in filing family-based immigration applications, naturalization applications, humanitarian forms of relief, and more. This network includes over 360 programs operating in 49 states, as well as Puerto Rico and the District of Columbia. CLINIC's network employs an estimated 2,300 staff, including attorneys and accredited representatives.

CLINIC's attorneys conduct training and provide technical support on all of the immigration-related legal problems faced by low-income immigrants. Our Training, Litigation and Support team focuses on family-based and humanitarian immigration issues. In 2018, CLINIC attorneys trained approximately 10,000 people online and in-person. Further, CLINIC's Religious Immigration Services (RIS) specializes in assisting international religious workers and their U.S. organizational sponsors. RIS represents approximately 150 dioceses and religious communities throughout the U.S. and over 800 international religious workers serving the Catholic Church in the U.S.¹

As a Catholic organization, we are called to welcome the stranger and to serve our neighbors through the good works of religious workers. The published changes to the Policy Manual would impede these goals. Therefore, we offer the following comments on USCIS's proposed changes to its policy and procedures.

¹ CLINIC, *Fourth quarter report to the board 2018* (April 2019).

I. General Comments

We appreciate this opportunity to provide feedback on the proposed changes to USCIS' policy and procedural changes. Due to the short period of time available to submit comments on these changes, CLINIC has selected to focus on certain issues for our comments that impact our organization and our network most. Omission from our comments of other changes in the Policy Manual should not be interpreted as tacit approval of those changes.

a. Procedural Concerns

With regard to the time period that USCIS has established to submit comments on these policy manual changes, 14 days is not sufficient time to analyze the changes or their potential impacts and to draft a meaningful comment in response. CLINIC has noted this repeatedly in the past. Most recently, CLINIC and 43 organizations joined in requesting USCIS extend the fourteen-day deadline for submitting comments to policy guidance changing filing procedures and adjudications for the N-648 Medical Certification for Disability Exceptions (PA-2018-12), which were due December 27, 2018.² Despite the particularly vulnerable population implicated in that policy change and the fact that the comment period encompassed a federal holiday, USCIS denied the request for an extension. We urge USCIS to provide the public with a more reasonable timeframe to review and analyze changes and allow stakeholders to provide meaningful comments. We recommend a 60-day timeframe, similar to that provided for proposed changes to forms and rules.

USCIS' current practice of posting the new version of the policy manual without redlined changes and the prior version of the implicated sections of the manual create additional obstacles for stakeholders' efficient evaluation of policy manual changes within the brief, fourteen-day comment period. When USCIS posts new policy manual changes without the prior version of the manual it takes additional time and is more difficult for stakeholders to compare and evaluate the new version with the old version. CLINIC strongly recommends USCIS adopt a more transparent and efficient process, similar to when form changes are proposed, which allows the public to review both the new and prior version as well as redlined version.

Stakeholder engagement prior to and following USCIS policy changes is a crucial aspect of an efficiently-functioning adjudicatory agency. When policy changes are made without any input from stakeholders, the agency loses the opportunity to discover ways in which the policy may be inefficient, counterproductive, or would cause unintended consequences. Also, stakeholders lose the opportunity to ask questions and understand the policy change before it goes into effect. CLINIC recommends that USCIS utilize robust stakeholder engagement both before and after a Policy Manual change.

b. Due Process Concerns

Unlike the before-mentioned policy manual changes concerning N-648 Medical Certification for Disability Exceptions, which went into effect 60 days after notice to the public, this particular Policy Manual change took effect on the same day that it was announced by USCIS (May 10, 2019),

² Catholic Legal Immigration Network, et al (2018, December 19). Letter to USCIS Dir. Francis Cissna regarding Comments on the Policy Changes to the Medical Certification for Disability Exceptions. Available at: <https://cliniclegal.org/resources/sign-request-extension-comment-period-pm-changes-n-648>.

implicating due process concerns. USCIS stakeholders grapple with the difficulties described in detail above at the same time as the published changes are going into effect. Notice of Policy Manual changes should be provided before implementation and should be accompanied by meaningful stakeholder engagement. These measures would help stakeholders to understand and correctly comply with reasonable changes, and timely notify the agency when changes will create inefficiencies, unnecessary burdens, or fail to comply with the law. CLINIC recommends a minimum of 60 days between announcement of a policy change and implementation.

II. Specific Concerns About USCIS' Policy Manual Changes

Below, we will address CLINIC's concerns with the changes to the customer service focus of the Policy Manual, and the removal of nonprofit requests from the expedite criteria. We request that USCIS reinstitute the customer-service-focused language in the Policy Manual, and reconsider the elimination of nonprofit requests from the list of expedite criteria.

a. Loss of Customer Service Focus

CLINIC opposes USCIS' changes to the Policy Manual that remove the entire Customer Service aspect of Part A of Volume 1 of the Policy Manual, including the Purpose, Core Principle, and Governing Principles that ensured that USCIS serves its customers well. USCIS is a fee-for-service agency. A Policy Manual change cannot erase this very basic fact established by law in the 2002 Homeland Security Act.³ As an agency that accepts filing fees from U.S. citizen and non-citizen petitioners, applicants, and beneficiaries, USCIS has an obligation to provide timely adjudication and clear communication.

It is very alarming that the entirety of the first chapter of the Policy Manual has eliminated any mention of the Agency's responsibility and accountability for delivering services to its paying customers, including:

- Ensure the delivery of accurate, useful, and timely information to USCIS customers;
- Treat everyone USCIS affects with dignity and courtesy regardless of the outcome of the decision;
- Be responsive to customers' inquiries and provide information and services that demonstrate courtesy and cultural awareness; and
- The goal of "First Contact Resolution," which is giving an accurate and complete answer with the first customer contact.⁴

This policy manual change is just the latest development in a long-standing shift away from USCIS' customer service obligations. These philosophical changes are not limited to the written word; they have

³ See Homeland Security Act of 2002, [Pub. L. 107-296 \(PDF\)](#), 116 Stat. 2135 (November 25, 2002).

⁴ See U.S. Citizenship and Immigration Services. USCIS Policy Manual. [Washington, District of Columbia] Vol. 1, Pt. A. *Citing to the version prior to the changes instituted on May 10, 2019.*

palpable consequences, as demonstrated by growing backlogs, slow processing times, rising fees, and curtailing of stakeholder dialogue and feedback.⁵

The shift in rhetoric in this Policy Manual change is not reflective of USCIS' role as mandated by the Homeland Security Act; does not reflect the reality that individuals pay a fee to receive an adjudicatory service and are therefore customers; and does not serve its citizen and non-citizen customers who rely on USCIS for family reunification, educational and humanitarian benefits and a well-rounded workforce. Accordingly, CLINIC requests that USCIS reinstate the language in the Policy Manual that sets expectations of its employees to deliver quality customer service to paying customers.

Further, CLINIC is concerned about the way the Information Services Modernization Program, or InfoMod, is being implemented. This Policy Manual update changed language about access to case information through various electronic and live channels, but did not sufficiently explain how the InfoMod program has changed or is changing these procedures. InfoMod is making significant changes in the way applicants and representatives interact with USCIS, but stakeholder engagement and education have been insufficient to ensure broad understanding and efficient change management.

In particular, CLINIC is concerned that USCIS has not made public the specific conditions under which an applicant or representative can make an InfoPass appointment through the InfoMod program. We understand that Contact Center employees have been given a list of criteria to determine whether a caller needs an InfoPass appointment in order to address their concern. However, to date, USCIS has not informed applicants or stakeholders what those criteria are. If stakeholders know what criteria they must meet in order to qualify for an InfoPass appointment, they will not call the Contact Center needlessly and take up employees' time only to find they do not meet the criteria for an InfoPass appointment. Maintaining robust communication with stakeholders about the InfoMod program and other USCIS policy changes would benefit both USCIS and the stakeholders as both parties would be knowledgeable about the procedures to achieve their goals.

b. Expedite Criteria Changes

CLINIC opposes USCIS' change in procedure for accepting requests to expedite applications or petitions. Specifically, at Volume 1, Part A, Chapter 1, USCIS has removed three categories of situations under which a customer may seek expedited treatment of their case: emergency situations, certain nonprofit requests, and cases involving the compelling interests of USCIS. Further, USCIS has significantly qualified or limited the instances by which a customer may seek expedited treatment based on severe financial loss to a company or person. USCIS also releases itself from the obligation to even respond to a request for expedited service or provide any explanation for a denial.

These changes will significantly hinder the work of CLINIC's RIS team and its clients, particularly in the face of growing processing delays at USCIS and fluctuations in adjudications associated with sunset provisions. As stated above, USCIS has removed the expedite criterion for nonprofit organizations whose request is in furtherance of the cultural and social interests of the United States. This expedite criteria has proven to be a valuable tool for nonprofit organizations, including the nonprofit, religious

⁵ See American Immigration Lawyers Association, "Deconstructing the Invisible Wall: How Policy Changes by the Trump Administration Are Slowing and Restricting Legal Immigration," April 24, 2018. Available at: <https://www.aila.org/infonet/aila-report-deconstructing-the-invisible-wall>.

organizations that CLINIC serves. With increasing processing delays, many religious organizations have faced significant problems when trying to ensure that foreign-born religious workers can continue to work in the United States while pursuing permanent residency.

Using the expedite criterion for nonprofit organizations is an essential aspect of maintaining valid immigration status while a religious worker in R-1 status is seeking permanent residence. USCIS policy does not allow R-1 religious workers to concurrently file a Form I-360, Special Immigrant Visa Petition, and Form I-485, Application to Adjust Status. In our experience, religious workers are currently waiting 6-7 months and sometimes longer for USCIS to adjudicate their immigrant visa petition. While waiting for the approval of the I-360 petition, a religious worker may reach the 5-year maximum amount of allowable stay in R-1 status. In these situations, our attorneys often assist their clients in requesting expedited processing with USCIS. Immigrant visa number quotas and the resultant backlogs for certain countries exacerbate the situation, making it difficult for religious orders to plan ahead and with any certainty.

When religious workers are nearing the end of their 5-year maximum stay, they may be forced to leave the U.S., leaving the nonprofit religious organizations to bear the cost of their international travel as well as scrambling to find a qualified worker to take their place. Once religious workers leave the U.S., they often find it difficult to return and face long delays in completing the permanent residency process at consulates abroad. Expedited processing in these circumstances is critical to ensuring the nonprofit religious organization and the community it serves does not suffer the disruption of the religious worker's absence.

In addition, current processing delays can be devastating for nonprofit religious communities when a "sunset" expiration is looming ahead. The non-minister program that allows religious Sisters and Brothers to become permanent residents is only authorized by the Congress for short periods of three to six months at a time, at which point it "sunset" and must be renewed. This has created uncertainty for the religious communities and their religious workers. They continue to file immigrant visa petitions despite the fact that in 6 months from the date of filing, the non-minister program may not be renewed and they may completely lose the ability to file for permanent residency.

Our attorneys often request expedited processing for these pending I-360 petitions with the looming non-minister sunset date, easing the anxiety and stress of these religious workers who worried that their I-485 applications may not be filed in time. These religious communities employ religious workers who have made a lifetime commitment to faithfully serve in their God-given ministries. They serve communities that are desperately in need of their assistance. They may serve as teachers or nurses, or they may operate after-school programs or local food pantries. These jobs are done in fulfillment of their religious vocations and call to serve the most vulnerable among us. Withdrawing the expedited service tool that allows non-minister workers to continue to provide these essential services to American communities throws these valuable nonprofit organizations into chaos, and it does not serve USCIS or the American public well.

CLINIC requests that USCIS reinstate the language in the Policy Manual and the practice of allowing requests for expedited service by nonprofit organizations whose request is in furtherance of the cultural and social interests of the United States.

III. Conclusion

We request that the USCIS reconsider these proposed changes to the Policy Manual at Volume 1, Part A. The excision of customer service terminology and standards from the Policy Manual further degrades expectations of USCIS providing good service to its paying customers, and reduces public confidence in the quality of USCIS' service. Removal of the expedite criterion for nonprofit organizations whose request is in furtherance of the cultural and social interests of the United States will cause further delays in the processing of religious workers' applications, resulting in shortages of religious personnel in greatly-needed service areas in American communities.

We appreciate and encourage USCIS's continued dialogue and engagement with the community and stakeholders. Thank you for your consideration of these comments. Please do not hesitate to contact Jill Marie Bussey, Director of Advocacy at 301-565-4844 or jbussey@cliniclegal.org, with any questions or concerns about our recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill Marie Bussey". The signature is written in a cursive, flowing style.

Jill Marie Bussey, Esq.
Advocacy Director
Catholic Legal Immigration Network, Inc.