



Practice Alert: USCIS Shares Details on EAD Processing During a CIS Ombudsman Stakeholder Call

On February 27, 2018, the Office of the Citizenship and Immigration Services (CIS) Ombudsman hosted a [stakeholder call](#) featuring representatives from USCIS and the U.S. Postal Service (USPS) focusing on issues with Employment Authorization Documents (EADs).

This information is a compilation of notes taken by AILA members and AILA staff and is not an official record of the call, nor has it been endorsed or approved by USCIS.

Over the last 5 months, the CIS Ombudsman has received as many requests for assistance for EADs than they have received in all of 2017. In the past 2 months, the number of requests for assistance have increased by 55%.

Ombudsman Questions for USCIS:

Note: This data is current as of 11/30/2017 except where noted.

Q: How many I-765s does USCIS have in its inventory awaiting adjudication?

A: A total of 625,000 cases are pending.

Q: How many of these are considered “active pending,” i.e. not awaiting adjudication of an underlying form or status determination, e.g. Form I-821D?

A: There are 394,000 pending I-765s that are not awaiting adjudication of an underlying application for status determination.

Q: Does this take into account numbers where the I-765 adjudication is temporarily suspended, due to, for example, a Request for Evidence (RFE)?

A: Yes. We are waiting for responses on 19,000 I-765 applications that were RFE'd. Also, if an applicant fails to submit a complete I-485 application, USCIS will not adjudicate the associated applications (such as an I-765 or I-131) until applicants submit all requested documentation. As of the end of January 2018, USCIS is currently waiting for evidence to be submitted in 14,000 pending I-485 cases. USCIS will not process the I-765 applications until the requested evidence is received. Additionally, USCIS has a 90-day processing goal for EADs once the I-765 packet is received. However, if there is an RFE, USCIS will reset the clock back to day one once the

requested information/documentation is received. The message to applicants is to please submit complete filing packages.

Q: What percentage of the pending I-765s have been pending:

1. For under 75 days?

A. 43%

2. 76-90 days?

A. 5%

3. 90-120 days?

A. 10%.

4. 121-160 days?

A. 12%

5. 160-180 days?

A. 5%

6. Over 180 days?

A. 24%

Q: Of the I-765s that are pending more than 90 days but fewer than 180 days, how many are eligible for an automatic 180-day extension of the EAD?

A: More than 80% of pending renewals could be eligible. This is an approximation, because there is currently no way for USCIS to identify pending I-765 applications that relate to previously filed I-765s where a renewal is requesting the same eligibility category. To be eligible for the 180-day auto-extension, the individual must file his or her renewal application prior to expiration of the EAD, and the renewal must request the same eligibility category.

Q: Of those applications that are eligible for the 180-day auto-extension, how many have been pending over 150 days?

A: 19,204 applications pending over 160 days, 18,917 over 180 days.

Q: Are all these I-765s “active pending,” i.e. are they adjudication ready?

A: No. These numbers can include applications waiting on underlying status determination, or that are ready for adjudication.

Q: What steps is USCIS taking to reduce EAD processing times?

A: We recognize the situation is not where we want it to be, and as we are on the call, we understand that this places hardship on eligible applicants. We are adjusting resources and looking for ways to make more efficient use of the resources we have. We really encourage people to submit complete applications. We do not have a specific prognosis we can give you but just know that we are aware of it.

Q: What steps does USCIS takes once the I-765 is approved? Also, once approved, when will “My Case Status” reflect the approval?

A: Online case statuses are updated throughout the day as the field office or service center works on the case to reflect the latest status. Applicants can also receive notifications via email or text.

Q: How soon after the case is approved will the EAD card be produced? ¹

A. The case must sit in a 48-hour hold. Then, the EAD card is produced within 96 hours of receiving the card order.

Q: What happens after the EAD card is produced?

A: We conduct quality control checks, but we do not check the spelling of the name or data on the card. We are looking at whether the photograph on the card is recognizable (i.e., that you can tell who it is).

Q: How long does it take for the EAD card to go out?

A: We have a 96-hour production standard. We put the card in an envelope and it is picked up by USPS. More often than not, it is sent to the address on file and is delivered within 2-3 days of mailing. EADs are only sent via USPS.

Q: Is there a law or regulation governing the timing requirements to notify USCIS of an address change?

A: The requirement is to notify USCIS within 10 days of moving, unless exempt pursuant to section 263(b) of the INA. We encourage people to use the online Form AR-11, Change of Address.

Q: If an applicant does not file the AR-11 online, are there alternatives to filing a change of address with USCIS?

A: Yes, but it can make the process more complicated (there was a brief discussion as to why not using the AR-11 to file a change of address would be more complicated).

Q: How early can an applicant file an I-765 renewal application?

A: Generally, applicants should not file an I-765 renewal more than 180 days prior to expiration of their current EAD.

¹ At a USCIS Service Center Operations (SCOPS) National Stakeholder Engagement at the Vermont Service Center, USCIS provided detailed information on EAD card production. See [“VSC Liaison Committee Provides Note from VSC Stakeholder Event \(9/15/17\)”](#), AILA Doc. No. 18011101.

Q: How long should customers wait until contacting USCIS to report that the I-765 is outside of posted processing times?

A: For EADs, customers can submit an inquiry if a case has been pending for more than 75 days. We will have a new site available to the public that presents processing times in a new design, and there may be changes to the intake process around EADs, but USCIS will be fully communicating that to the public as the website comes out.

Q: How can customers contact USCIS about delays?

A: Customers can file an [e-Request](#) or contact USCIS by calling 800-375-5283.

Q: If an applicant believes his or her case may meet USCIS's [expedite criteria](#), is this process available for I-765s? How does the process work?

A: Yes, the process is available for I-765s. The expedite criteria is posted on our website.

Q: What happens if a customer receives his/her EAD card, but it contains a USCIS error?

A: Form I-797, Notice of Action, lays out what to do when an EAD is received – check to make sure it is correct. If the card is not correct, the I-797 includes directions for how to return the card containing the error.

Q. What if the error is customer error?

A: The customer must file a new I-765.

Q: If the EAD card is returned as undeliverable to USCIS, where does it go?

A: If the card is returned as undeliverable, it goes to the Post Office Non-deliverables (PONDS) Unit. PONDS checks to see if the address is wrong, and then check USCIS's systems for a new address. If they do not know where to send the card again, the card will remain with PONDS. If a new address becomes available, USCIS will mail the card out again.

Q: What is the best way to report that an EAD card was not received?

A: The best way to report to USCIS that an EAD card was not received is to update the address using the online AR-11 tool.²

Q: Will this prompt a search for a card sitting in PONDS?

A: No, but before the card is destroyed, PONDS will check their system again. Also, if a customer submits a service request to report the card was never received, then a Service Request

² AILA suggests that, in addition to filing an AR-11 online, members file an e-Request to report to USCIS that an EAD card was not received. That way, USCIS has the most up-to-date information when preparing to re-mail the EAD card.

Management Tool (SRMT) tracking number is initiated and the service center or office is notified.

Q: How long after determining the new address will an EAD card be re-mailed?

A: Within 60 days. For expedites (i.e. inquiries coming from the Ombudsman), then it is a shorter time frame.

Ombudsman Questions for USPS:

Q: When a customer notifies the post office that he/she is changing his/her address, how does USPS handle USCIS mailings?

A: USCIS sends documents in a mailer that states “Return Service Requested” (via Priority Mail), so that if USPS cannot deliver the document, the mail will be returned to the sender (USCIS). USPS will also indicate the reason the mail cannot be delivered.

Q: Is USPS not allowed to forward USCIS mail to a new address?

A. Returned mail will get a new address receipt. Therefore, when the return mail is sent back to USCIS, USCIS will have the forwarding label, which will inform USCIS of the new mailing address/change. If the card can’t be delivered at all, USPS will notify USCIS of the reason they cannot deliver, like missing address information, person not at address, etc.

Q: If a customer is temporarily out of town and puts his/her mail on hold, what happens to USCIS mail?

A: The post office will hold all the customer’s mail until he/she picks it up (up to 30 days).

Q: Can you tell us about “Informed Delivery”? What is this new initiative?

A: Informed delivery is an initiative offered by USPS as a way for people to know what mail they are supposed to receive in their mailbox that day. Currently, this service is only available for letter size envelopes (there was a brief, general discussion on this service. For more information, AILA recommends visiting USPS’s website).

USCIS noted that “My Case Status” email/text notifications will notify customers with an online account of when the card is delivered, including customers with Informed Delivery. People will potentially know the day their mail is delivered.

Stakeholder Q&As

Q: What can customers do when they enter their case number in USCIS's online system but the receipt number is not recognized?

A: Send an email to: myuscissupport@uscis.dhs.gov.

Q: Is there a correlation between the issuance of the Social Security Card and the EAD card, since the timing of the issuance of the cards is not the same?

A: No correlation. For questions regarding the Social Security Card, USCIS instructed stakeholders to contact the Social Security Administration.

Q: (to USPS) In situations where the EAD card is not delivered to the applicant, but not returned to USCIS, what happens with the tracking number? How many facts are stored by the USPS?

A: The Priority Mail tracking number will show the mail was delivered to a zip code and sorted for delivery. This will result in a "stop the clock" scan. Further scans may happen as they occur, but the mail delivery person is not under instructions to scan again. If USPS gets a delivery scan and there are no further scans, USPS assumes the mail was delivered. USPS must investigate what happened with the delivery if a customer reports that mail was not received.