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Policy Alert

SUBJECT: Deference to Prior Determinations of Eligibility in Requests for Extensions of Petition Validity

Purpose

U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance in the [USCIS Policy Manual](#) to address the issue of deference to prior determinations of eligibility by an officer when adjudicating a request for an extension of petition validity.

Background

In 2004, USCIS issued guidance addressing the issue of deference in prior determinations of eligibility.¹ That guidance directed officers to generally defer to prior determinations of eligibility when adjudicating petition extensions involving the same parties and facts as the initial petition. In 2017, USCIS rescinded the 2004 guidance.²

This guidance, contained in Volume 2 of the Policy Manual, generally restores the 2004 deference policy, with updates, and is effective immediately. The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance.

Policy Highlights

- Clarifies that USCIS gives deference to prior determinations when adjudicating extension requests involving the same parties and facts unless there was a material error, material change in circumstances or in eligibility, or new material information that adversely impacts the petitioner's, applicant's, or beneficiary's eligibility.
- Affirms that USCIS considers, but does not defer to, previous eligibility determinations on petitions or applications made by other U.S. government agencies; that officers make determinations on the evidence of record in the petition or application under adjudication.

Citation: Volume 2: Nonimmigrants, Part A, Nonimmigrant Policies and Procedures, Chapter 4, Extension of Stay, Change of Status, and Extension of Petition Validity [[2 USCIS-PM A.4](#)].

¹ See [The Significance of a Prior CIS Approval of a Nonimmigrant Petition](#), HQPRD 72/11.3, issued April 23, 2004.

² See [Rescission of Guidance Regarding Deference to Prior Determinations of Eligibility](#), PM-602-0151, issued October 23, 2017.