

## Immigration Alert: USCIS Revises Guidance for Some Applications Delayed by FBI Background Checks

2/8/2008

On February 4, 2008, Michael Aytes, Associate Director of Domestic Operations for U.S. Citizen and Immigration Services (USCIS), issued an internal memo to USCIS Field Leadership regarding the process by which approvable cases of various types are adjudicated or not adjudicated based on pending FBI name checks. The USCIS has seen an increase in the number of approvable I-485, I-601, I-687 and I-698 applications that have been significantly delayed due to unfinished FBI name checks.

According to this memo, USCIS will continue to initiate FBI name checks when those applications are received. However, where the application is "otherwise approvable and the FBI name check request has been pending for more than 180 days, the adjudicator shall approve the [relevant application] and proceed with card issuance." The memo specifically notes that there is no change in the requirement for a completed FBI *fingerprint* check or Interagency Border Inspection System (IBIS) check prior to the approval of the above-mentioned applications, and also specifically states that there is no change for N-400 naturalization applications. Practically speaking, this is very good news for a large number of individuals whose I-485 applications to adjust status have been pending for exceedingly lengthy periods of time based solely on backlogs in the FBI name-check system. Unfortunately, the memo did not provide for a mechanism by which applicants or their attorneys can contact USCIS in these cases, and though the USCIS adjudicating officers are still ultimately responsible for determining that a case is "otherwise approvable," the implementation of this guidance *should* result in the approval of a significant number of long-pending I-485 applications delayed solely due to delays in FBI name checks.

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*If you would like more information on any immigration matter, please contact your immigration attorney at Mintz Levin or go to [www.mintz.com](http://www.mintz.com).*

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