

## Stage 6: Procedure for the Interview

### Overview

This Stage contains the procedures to interview the applicant, examine the application, and determine the applicant's eligibility for benefits sought.

### Processing Steps

Files transferred in from a Service Center or other Field Office are reviewed, scheduled for interview (as needed), and shelved. Correspondence relating to the files is processed.

Topic	See Stage
Pre-Interview File Review and Interview Preparation	6A
Interview Procedure	6B

### Stage 6A Pre-Interview File Review and Interview Preparation

1. Ensure the file is charged in NFTS to responsible party code
2. Review the Processing Sheet. See I-485 Processing Worksheet Form G-1270.
3. An optional I-485 checklist is provided to aid the case review.
4. Verify that the A-file relates to the applicant. If additional files have been identified, check CIS/NFTS for their location.
5. Review background check results:
  - Fingerprint results or RAP Sheet
  - FBI Name Check Results or LHM
  - TECS ROIQ or Resolution Memo
6. Check the Jurisdiction:
  - See 8 CFR 245.2(a)(1) to determine if jurisdiction lies with EOIR or USCIS.
  - If the address of record is not within the geographic jurisdiction of the field office the case will be forwarded to the field office having geographic jurisdiction.
7. Review the available file(s) for other relevant information.

### Stage 6B Interview Procedure

**Note:** The interviewer shall perform all of the following actions. The first SIX steps must be taken in order at the beginning of the interview. The remaining steps do not necessarily have to be taken in the order given in this list. See "Adjudicators Field Manual (AFM) Chapter 15, AFM Appendix 15-2, and PM-602.0055.1 Representation and Appearances and Interview Techniques; Revisions to Adjudicator's Field Manual (AFM) Chapters 12 and 15; AFM Update AD11-42" for additional interview guidance and policies.

1. Identify yourself.
2. Verify the identity of the applicant, PETITIONER, attorney/REPRESENTATIVE, and interpreter using a passport, driver's license or other government issued photo identification.

3. Confirm the G-28 validity. See 8 CFR 292.1, and PM-602.0055.1.
4. If a G-28 is in the file and the attorney or REPRESENTATIVE is not present, obtain a written waiver.
5. If the applicant and/or petitioner are represented, obtain a G-28 for the file.  
**Note: The attorney may present a completed G-28 at the time of the interview.**
6. Place the applicant, petitioner and interpreter under oath as applicable. Ensure interview notes indicate oath was taken.
7. If this case is a LIFE Legalization application, then determine if a Citizenship Skills test is required. If it is required, then conduct the test. See 8 CFR 245a.17.
8. If the applicant brings originals to the interview they will be compared with copies in the file and returned to the applicant.
9. Review additional documentation that the applicant brought to the interview to determine if the document should be added to the Record of Proceedings
10. Review all underlying petitions, waivers, medical reports, and affidavits of support, and ask the applicant or petitioner about issues that need clarification.
11. If articulable suspicion of fraud is identified, ensure the interview is detailed sufficiently to produce an adequate referral to FDNS. Refer to Stage 7B Interview Outcome – Continued.
12. If the fingerprint response shows two current Rejects, prepare Record of Sworn Statement (Form I-263), and request police clearances for all residences within the U.S. See National Background Identity and Security Checks Operating Procedures (NaBISCOP).
13. Interview the applicant, review application with applicant, and annotate the question you asked and the corrections you made in red ink; also, annotate the "Applicant Interviewed" box on the I-485; date the application, and print your first initial and last name.
14. If the applicant is/was in removal proceedings;
  - Identify type of proceeding (Exclusion, Deportation, Removal, and Asylum only).
  - Determine if removal proceedings are pending, closed or terminated.
  - If you determine that the applicant is within EOIR jurisdiction, terminate the adjustment of status interview but continue with adjudication of any pending petition. If the petition was based on a marriage entered into while the beneficiary was in removal proceedings, see INA 204(g) and 8 CFR 245.1(b)(8).
    - Administratively close the I-485.
    - Refer to Stage 7E Interview Outcome – EOIR for further instructions.
15. If you determine that the alien entered without permission after a final order of removal, and is subject to reinstatement under INA 241(a)(5), proceed to Stage 7F: Interview Outcome – Reinstatement of Removal Order.
16. If the relationship is established and proper documents are in file, the I-130, I-140 and I-360 (as appropriate), should be adjudicated BEFORE continuing the I-485 case.
17. If the applicant appears approvable, proceed to Stage 7C Interview Outcome – Approval.

**Note:** If the applicant appears for interview, but no longer lives within the jurisdiction of the interviewing office, conduct the interview. Ensure all systems have been updated with the current address. If the case is approvable, the interviewing office will complete the adjudication. If continuance or adverse action is anticipated, issue a Notice of Interview

Results advising the applicant that their case is being transferred to the office having jurisdiction over their new address. No Request for Evidence will be issued by the interviewing office; instead the case will be transferred to the appropriate office with a memo to file or notes indicating that the applicant was interviewed and identifying issues leading to continuance.

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## Stage 7: Interview Outcome

### Overview

The purpose of Stage 7 is to guide the adjudicating officer in making a proper decision in a timely manner and ensure appropriate notification is provided to the applicant.

### Processing Steps

The Interview Outcome Stage has several different procedures, each of which depends on the actual outcome of the interview: Failed to Appear, Continue, Approval, Denial, EOIR Has Jurisdiction, or Reinstatement of Removal Order. This Stage contains six sections that outline these six separate procedures.

Topic	See Stage
Interview Outcome- Failed to Appear, Denial Due to Abandonment	<u>7A</u>
Interview Outcome – Continuance	<u>7B</u>
Interview Outcome – Approval	<u>7C</u>
Interview Outcome – Denial	<u>7D</u>
Interview Outcome – EOIR Has Jurisdiction	<u>7E</u>
Interview Outcome – Reinstatement of Removal Order	<u>7F</u>

### Stage 7A Interview Outcome – Failed to Appear, Denial Due to Abandonment

1. Check the file to determine if the applicant made a request for rescheduling. If request for reschedule has been received, process using local procedures. See Domestic Operations memorandum dated November 23, 2005 Guidance on Evaluating a Request for the Rescheduling of an Interview and Handling the Failure of an Applicant, a Petitioner, a Sponsor, a Beneficiary, or other Individual to Appear for a Scheduled Interview (AFM Update AD06-01).

- 1.1. Notification of Change of Address. The adjudicator must confirm whether the individual required to appear for an interview has submitted notification of a change of address.

The adjudicator is required to:

- Check local pertinent electronic systems, such as CLAIMS, and pertinent physical records, particularly the file of the application or petition under consideration and any AR-11 (Change of Address) notices, to verify whether any change of address notification was received before or after the interview notice was sent.
- Query the USCIS National Systems AR-11 (Change of Address) database by name and date of birth, A-number, and/or I-94 admission number, if necessary, to confirm whether any changes of address have occurred after the interview

notice was generated and mailed.

- Contact the National Benefits Center (NBC) by e-mail at NBC Failure to Appear Review, if necessary, to determine if the Service Request Management Tool (SRMT) contains a pending change of address notification.
2. If the application is a LIFE Legalization application, then complete the following steps:
    - 2.1. Review the file to ensure that the notice was sent to the last known and complete address.
    - 2.2. If the notice was sent to the last known address, then determine if the notice was for the first or second interview.
    - 2.3. If the notice was the first notice, and 30 days have elapsed since the scheduled interview date, go to Stage 5C and reschedule. See 8 CFR 245a.19(a).
    - 2.4. If the notice was the second notice, proceed to step 3. See 8 CFR 245a.19(a).
  3. If the applicant or attorney/REPRESENTATIVE of record has not made a request for rescheduling or responded to the request for evidence, deny the application for abandonment (Step 4). See 8 CFR 103.2(b)(13).
  4. Abandonment Denial
    - 4.1. Conduct Just in Time (JIT) background checks. See Field Operations "Just in Time Checks Questions and Answers."
    - 4.2. Mail the denial notice to the applicant and attorney/REPRESENTATIVE of record. Retain a copy of the denial notice on the top left side of the file. Note: The denial notice must include motion rights. See 8 CFR 103.5.
    - 4.3. Refer the I-485 for further action, as appropriate. Examples:
      - Reinstatement to prior status.
      - Referral to FDNS.
      - Notice to Appear. See Policy Memorandum 602-0050, Revised Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Removable Aliens.
      - Referral to ICE.
      - Visa waiver removal. See Policy Memo PM-602-0029 titled "Guidance for Coordinating the Adjudication of Applications and Petitions Involving Individuals in Removal Proceedings; Revisions to the Adjudicator's Field Manual (AFM) New Chapter 10.3(i): AFM Update AD 11-16."
      - Other action as directed by Supervisory Immigration Services Officer
    - 4.4. Complete the Action Block on the I-485 to reflect denial.
    - 4.5. Consolidate files if appropriate and as necessary.
    - 4.6. Update denial in ICMS.
    - 4.7. Update I-485 Processing worksheet Form G-1270.
    - 4.8. Record denial on currently used statistical reporting tools.
    - 4.9. The file will be held for 40 days in case a Motion to Reopen or other correspondence is received.
    - 4.10. Charge the file in NFTS and route to appropriate location.

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## Stage 7D Interview Outcome – Denial

1. Prepare Notice of Intent when required; if not required, proceed to step 2. See 8 CFR 103.2(b)(16)(i); PM-602-0040: Change in Standard Timeframes for Applicants or Petitioners to Respond to Requests for Evidence; Revisions for Evidence; Revisions to Adjudicator's Field Manual (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.
  - 1.1. Forward Notice of Intent to your supervisor for review.
  - 1.2. After review and concurrence by the supervisor, notify the applicant and attorney/REPRESENTATIVE of record in writing. Retain a copy of the Notice of Intent on the top left side of the file. See 8 CFR 103.2(b)(13) & 8 CFR 103.2(b)(15).
  - 1.3. Update ICMS with "Notice of Intent to Deny Sent." See ICMS User Guide
  - 1.4. Charge file to appropriate NFTS code and place file in holding location according to local procedure.
  - 1.5. If a response is received then adjudicate and proceed to the appropriate stage of the application process.
2. Prepare and serve the denial.
  - 2.1. Denial review will be discretionary. Forward all denials for supervisor review that are required by your field office management.
  - 2.2. Perform Just in Time TECS checks.
  - 2.3. Notify applicant and attorney/REPRESENTATIVE of record in writing. Retain a copy of the denial letter on the top left side of the file.
  - 2.4. Complete the Action Block on the I-485 with a denial stamp to reflect the denial or annotate "Administratively Closed" as appropriate.
  - 2.5. Update the I-485 Processing Worksheet to reflect the denial.
3. Ensure documents supporting denial (NOID, response and denial) are placed on top of the application. See ROP, Appendix D.
4. Verify that all petitions and applications have been closed out in C-3, ICMS etc. See ICMS User Guide
5. Initial and processing worksheet Form G1270.
6. Update ICMS to indicate "Denial notice sent." See ICMS User Guide
7. The file will be held for 40 days in case a Motion to Reopen or other correspondence is received.
8. Refer I-485 for further action, as appropriate. Examples:
  - 8.1. LIFE Legalization:
    - If the application is a LIFE Legalization application, then hold the file in accordance with 8 C.F.R. 245a.20(b)(1).
    - If an appeal is not received, then forward the file to the National Records Center (NRC).
    - If an appeal is received, process it in accordance with 8 CFR 245a.20(b).
  - 8.2. Referral to Fraud Detection and National Security (FDNS).
  - 8.3. Notice to Appear. See PM – 602-0050; Revised Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Removable

## Stage 8: Post-Decision Processes

### Overview

The purpose of these steps is to allow for review of a previously rendered decision.

### Processing Steps

This Stage contains three different processes, each of which addresses a specific area of I-485 post-decision adjudication:

Topic	See Stage
Process for Motions to Reopen or Reconsider Filed by the Applicant	<u>8A</u>
Process for Motions to Reopen or Reconsider Filed by the Service	<u>8B</u>
Process for Rescissions	<u>8C</u>

### Stage 8A Process for Motions to Reopen or Reconsider (MTR) Filed by the Applicant

1. Fee collected and processed at the Lockbox.
2. MTR receipt file is forwarded to NBC for processing and forwarding to appropriate Field Office.
3. Field Office joins the MTR receipt file with the A-file.
4. Field Office routes file for adjudication.
5. Officer adjudicates the motion.
  - 5.1. Ensure MTR (I-290B) was filed within 30 days of the date on the form I-485 denial notice (33 days if denial was mailed). An untimely motion may be accepted for good cause.
  - 5.2. Review the motion to determine if reopening of form I-485 is merited.
6. If the officer grants the motion, complete the following steps:
  - 6.1. Notify the applicant and attorney or REPRESENTATIVE of record that the application will be reopened or reconsidered, and a new decision on the application will be made. A copy of the notification will be placed on the left side of the file on top of the application.
  - 6.2. Update ICMS with Motion action, as appropriate.
  - 6.3. Review and place the application in the appropriate stage/step of the process. Note: identify Special Handling cases.
  - 6.4. Capture statistics in appropriate system as they relate to the MTR. If the MTR is approved, the statistics should indicate that the application or petition has been reopened.
  - 6.5. Charge the file in NFTS.
7. If the officer dismisses the motion, complete the following steps:
  - 7.1. Notify the applicant and attorney or REPRESENTATIVE of record that the application will not be reopened or reconsidered, and a new decision on the application will not be made; also, provide notification of any right to re-file. A copy of the notification will

be placed on the left side of the file on top of the application.

7.2. Update ICMS with Motion action, as appropriate.

7.3. Charge the file in NFTS and capture statistics in appropriate systems.

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## **Stage 8B Process for Service Motions to Reopen or Reconsider (MTR)**

1. Review of the case by an officer reveals that a new decision needs to be made or USCIS is notified of an administrative error. See "Expedited Case Review Process for Specifically-Defined Administrative Errors" [IM-602-0059](#)
2. If the new decision on the application is favorable to the applicant, and the case can be approved, complete the following steps: See [8 CFR 103.5\(a\)\(5\)\(i\)](#).
  - 2.1. Notify the attorney or REPRESENTATIVE of record of the approval of the case in question and place a copy of the decision on the left side of the file on top of the application.
  - 2.2. Update ICMS with Motion action, as appropriate (i.e. "Reopened or Reconsidered on Service Motion").
  - 2.3. Review and place the application in the appropriate stage/step of the approval process Refer to [Stage 7C: Interview Outcome— Approval](#). Note: identify SPECIAL HANDLING cases.
  - 2.4. Charge the file in NFTS and capture statistics in appropriate system.
3. If the new decision on the application is unfavorable to the applicant, complete the following steps:
  - 3.1. Notify the applicant and attorney or REPRESENTATIVE of record that the Service is making a new decision and that the applicant has 30 days to provide a rebuttal. Place a copy on the left side of the file on top of the application.
  - 3.2. Update ICMS with Motion action, as appropriate.
  - 3.3. If a rebuttal is received, proceed to Decision Outcome as appropriate (refer to the appropriate Interview Outcome Stage ([Stage 7](#))).
  - 3.4. If a rebuttal is not received, prepare final notice (refer to [Stage 7D: Interview Outcome – Denial](#)).
  - 3.5. Charge the file in NFTS and capture statistics in appropriate system.

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## When to Open on Service Motion

Case was denied or revoked in error

Denial was incomplete (*only if appeal or motion has not yet been filed*)

Timely evidence was not matched with the file prior to denial



U.S. Citizenship  
and Immigration  
Services