

Weather vanes for Determining U.S. Immigration Benefit Processing Timelines



By [Eileen M. Martin](#)

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U.S. Citizenship and Immigration Services (“USCIS”) is the primary agency in the United States that adjudicates petitions and applications for benefits such as visitor extensions, work permits, green cards, and U.S. naturalization. The agency publishes the timeline for completion of 80% of its cases. These timelines are sometimes accurate and can experience wide swings from long processing times to shorter, and from short to longer. While applicants, beneficiaries, and counsel look to them as guidelines, there are other places to which we can turn for guidance.

Family members of U.S. citizens have always been said to maintain a priority position with USCIS, and spouses of U.S. citizens have, historically, been at the top of that list. From a review of a sampling of USCIS offices, time frames for 80% of cases to be completed are currently between 12 and 24 months. These green card applicants for Adjustment of Status are permitted to work in the U.S. as soon as USCIS issues them Employment Authorization Documents (“EADs”). In the past few months, these EAD’s have been issued for five years. This is a strong suggestion that USCIS plans to allocate its resources such that spouses of U.S. citizens may need to wait

up to five years for USCIS to adjudicate their applications. This will cause delays in eligibility for other, related processes—such as U.S. citizenship and potential Green Card sponsorship of the new citizen’s qualifying relatives.

That said, it is also true that the location of the applicant—and therefore, the location where permanent residence is being ultimately adjudicated by the local field office—can also impact timelines. It is generally true that time frames are much longer in major cities than in more rural or smaller city locations. Historically, it has not been unusual to see Green Card approvals take several years in big cities, whereas less populated locations have been able to adjudicate on a faster timeline. It is likely that this trend will continue moving forward, with those in large cities subject to the longest waits for Green Card interviews and approval due to demand outstripping available resources for case processing.

When a spouse of a U.S. citizen obtains a green card based on the relationship, a condition is sometimes attached to the green card. There is a 90-day window for filing a petition to remove the condition later on. Once filed, USCIS claims 80% of these petitions are completed in 19-33 months, depending on the adjudicating office. However, earlier in 2023 USCIS extended the approved time frame of all the receipt notices that extend the green card validity while these petitions are pending. This means that as long as the petition to remove the conditions on residence is timely filed, petitioners’ status is extended for 48 months (from the initial expiration of status). That is a strong sign that USCIS expects many of these petitions to take a full four years to be adjudicated.

USCIS also accepts and adjudicates nonimmigrant petitions for work permits. The regulations that determine how they do so specifically require a 30-day period of adjudication. However, USCIS processing times have extended up to 20 months at times. It became clear that USCIS never planned to comply with the 30-day regulatory adjudication time when it instituted its Premium Processing (“PP”) system. PP provides for a guaranteed 15 to 45-day response from USCIS for a hefty fee of up to \$2,500. The government has not provided any explanation as to why it requires additional payment by applicants and petitioners to provide a service that is rather similar to that which it must do by regulation. However, the only way to compel the agency (USCIS) to make a timely decision is to file a lawsuit after the 30-day time frame has run. In truth, this is an impractical and expensive way to go—and is unlikely to reduce the time frame for adjudication by much anyway, since lawsuits take time to work their way through the system. Functionally, this logical impracticality for most work authorization petitioners gives USCIS ultimate power to adjudicate work permit petitions when and how it sees fit. The other option is to request expedited processing of your work visa petition, for those eligible based on several defined factors. This request can be made by an individual or company if: (1) they would experience severe financial loss, provided that the need for urgent action is not the result of the petitioner’s or applicant’s failure to timely file the request or respond to a request for additional evidence by the agency; (2) there is an emergency or an urgent humanitarian reason to adjudicate sooner; (3) the applicant is a nonprofit organization whose request is in furtherance of the cultural or social interests of the United States; (4) to further U.S. government interests; or (5) there has been clear USCIS error. However, by the agency’s design, the quickest and most sure way to receive expedited processing is to simply pay the Premium Processing fee.

The immigration attorneys at Lippes Mathias recommend that those who have time-sensitive immigration filings seek the advice of counsel to look up published processing times for additional information that may reflect future delay. Our team can also advise on specific availability of expedite options where possible.

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