

USCIS Issues Policy Guidance on Deference to Previous Petition Decisions

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On April 27, 2021, the U.S. Citizenship and Immigration Services (USCIS) issued policy guidance in the USCIS Policy Manual instructing USCIS officers to give deference to prior determinations when adjudicating petition extension requests involving the same parties and facts. With this recently issued guidance, USCIS is reverting to prior long-standing guidance issued in 2004 directing USCIS officers to defer to prior determinations of eligibility when adjudicating petition extension requests involving the same parties and facts of the initial petition. In 2017, under the guidance of the previous Trump Administration's "Buy American and Hire American" Executive Order, USCIS rescinded the prior long-standing 2004 guidance. The USCIS policy change in 2017 resulted in a sharp increase in requests for evidence (RFEs) and case denials across various case types that are common extension petitions employers file on behalf of foreign national employees such as H-1B and L-1 petitions. According to the USCIS announcement, this update is in accordance with President Biden's executive order, "Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans."

Practice Areas

Business Immigration
Employment-Based Visas
and Green Cards