

## UPDATE ON R-1 PROCESSING TIMES



by

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The California Service Center recently published its most recent processing time report. Since all R-1 and I-360 cases are now processed at the California Service Center, it was interesting to note that, according to the California Service Center, it was taking the CSC approximately 2 months to process R-1 cases. In fact, the CSC recently announced to the American Immigration Lawyers Association (AILA) that it had cleared out its R-1 backlog entirely! This comes as a great surprise to many R-1 and I-360 applicants who have been waiting months and, in some cases, over a year for a decision on their cases. Unfortunately, the CSC processing time reports is not very accurate.

What the CSC failed to disclose to the public (but did disclose to the American Immigration Lawyers Association) was that the fairly-quick processing times it is now reporting only pertain to cases which have already had the routine site check conducted by a USCIS fraud detection officer. Most R-1 and I-360 cases are backlogged for months because they have not yet had a site check performed. Essentially, if the case has not yet had a site check completed and the results of that site check returned to CSC, then CSC does not consider the case ready for adjudication and does not include all of those cases in its backlog. CSC only included cases in its processing time report that had already had a site inspection. R-1 and I-360 cases routinely have site checks conducted before the case is reviewed by an immigration officer. When the immigration officer gets the case, he or she reviews not only the R-1 or I-360 package submitted by the applicant but also the results of the site inspection performed by the fraud detection officer.

What this means is that you cannot rely entirely on the processing time reports posted on the USCIS website because they do not tell the entire story. Also, it shows how even within the USCIS blame is shifted from part of the agency to the other. Essentially, the CSC is trying to shift the blame for the dreadfully long processing times in R-1 cases and I-360 cases from its office to the officers who are conducting the site checks. While many people were starting to wonder whether USCIS had actually stopped processing R-1 and I-360 cases until the proposed R-1/I-360 regulations became law, it is clear now that USCIS is processing R-1 and I-360 cases, although it still is taking quite a long time due to site checks not having been performed on many pending cases.

For those individuals who are seeking a change of status to R-1, consular processing appears to be a much faster option. In consular processing cases, the applicant can apply directly to the U.S. Consulate outside the United States for the R-1 visa. No site check is performed in these cases. In addition, at present, the applicant does not have to have a

petition approved in the United States before applying for the visa. Note, however, that this may soon change as there are proposed religious worker regulations which would require that, before applying for a visa outside the United States, the applicant have a petition approved in the United States. This is an important consideration for those F-1 foreign nationals working on OPT who need to change to R-1 status in order to continue working.

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