

## 2021 Conference on Immigration and Nationality Law

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### Business NIV Solutions - Practical Timing Considerations to Maintain/ Extend Status and Consular Processing

*Philip Eichorn  
James Prappas*



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## Employment Authorization Document (EAD)



### 8 CFR §274a – Control of Employment of Aliens


- **8 CFR §274a.12(a)** - Foreign nationals authorized employment incident to status – With some exceptions, an EAD **IS** required.
- **8 CFR §274a.12(b)** - Foreign nationals authorized for employment with a specific employer incident to status or parole...EAD is **NOT** required.
- **8 CFR §274a.12(c)** – Foreign nationals who **MUST** apply for employment authorization.


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- Service Center Dependent
  - Premium Processing Not Currently Available
  - 10/01/2021 - Texas Service Center – Allegedly 1 to 13 months
    - 10.5 Months to 14.5 Months - H-4 spouse of an H-1B nonimmigrant (filed with I-539 H4) [(c)(26)]
    - 8.5 Months to 12 Months - H-4 spouse of an H-1B nonimmigrant (Standalone; not filed with I-539 H4) [(c)(26)]
    - 8.5 Months to 14 Months - L-2 spouse of an L-1 nonimmigrant [(a)(18)]

AILA Doc. No. 19042400 | Dated September 22, 2021 -  
[Why Is Your Case Taking So Long? USCIS Processing Delays Have Now Hit Crisis Levels](#)

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- Case by Case Basis
  - Sole Discretion and No Appeals
  - Criteria:
    - Severe financial loss to a company or person, provided that the need for urgent action is not the result of the petitioner's or applicant's failure to:
      - Timely file the benefit request, or
      - Timely respond to any requests for additional evidence;
    - Emergencies and urgent humanitarian reasons;
    - Nonprofit organization (as designated by the Internal Revenue Service (IRS)) whose request is in furtherance of the cultural and social interests of the United States;
    - U.S. govt. interests (such as urgent cases for federal agencies such as the USDOS, USDOL, DHS, or other public safety or national security interests); or
    - Clear USCIS error.
  - Present Well-Documented Case via Phone to USCIS Customer Service

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- Case Inquiries
    - Case Outside Normal Processing Time
    - Undelivered Notice / Card
  - Ask “Emma”
  - Contact Center Live Assistance - AILA provides a Practice Pointer at [AILA - Practice Pointer: Navigating the USCIS Contact Center](#) AILA Doc. No. 19101631

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- Confirm Expiry Data
    - Against Customary Issued Validity Periods
    - EAD card against I-797 Approval Notice
    - E-Request for Typographical Error, Ask “Emma”, or Contact Center Live
  - Data Management
    - Case Management System
    - 180 Day (From Expiry Date) Filing Window for Extension
      - 210 Days for Most Extensions
      - 240 Days for L-2 Consular Renewals (primary or dependent)
    - Timely File! And Provide Applicant with Current Processing Times.

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## Title search: Business NIV Solutions – Practical Timing Considerations to Maintain/Extend Status and Consular Processing

Also available as part of the eCourse

[2021 eConference on Immigration and Nationality Law](#)

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"Business NIV Solutions – Practical Timing Considerations to Maintain/Extend Status and Consular Processing"