

Inspector's Field Manual (IFM) Chapter 17.1 Deferred Inspection

(a) General. A deferred inspection may be used when an immediate decision concerning admissibility cannot be made at a port of entry (POE) and the CBP officer has reason to believe that doubts about the alien's admissibility can be overcome through:

- presentation of additional evidence;
- further review of the case (including perhaps a review of an existing A file);
- the posting of a maintenance of status and departure bond; or,
- other similar action that can only be conducted at the onward location.

The CBP officer should normally only use deferrals when it appears the case would probably be resolved in the alien's favor, with limited exceptions. The CBP officer shall not defer an alien who is not expected to establish his or her admissibility. Before an alien is deferred, the CBP officer shall consider the likelihood that the alien will abscond or pose a security risk. Deferred inspection of aliens who appear to be inadmissible on criminal grounds should only be used in those circumstances when a decision cannot be rendered at the POE based on available records, electronic or otherwise, and any sworn statements provided by the applicant. While deferred inspection of lawful permanent residents (LPRs) may be appropriate in certain limited instances in which the basis for a criminal ground of inadmissibility cannot be confirmed, the deferred inspection of a nonimmigrant criminal alien is more broadly disfavored.

Generally, a CBP officer shall defer the inspection to the office having jurisdiction over the area where the alien will be staying or residing. Deferred inspections may be necessary to review an existing file or some other documentary evidence essential to clarifying admissibility. The CBP officer shall defer for a specific purpose and not as a way to transfer a difficult case to another office.

When deferring an alien, the CBP officer shall query at a minimum the following databases: Treasury Enforcement Communications System (TECS) (SQ11), (b) (7)(E)

IDENT, (b) (7)(E)
Central Index System (CIS), (b) (7)(E)
, to determine if any adverse information exists that would preclude the alien from being paroled into the United States for deferred inspection and to provide additional information regarding the case. The deferring officer shall note the results on CBP Form I-546, Order to Appear for Deferred Inspection, as noted below.

The deferring officer should take the following factors into consideration when making a decision on whether to defer the inspection:

- Likelihood that the alien will be able to establish admissibility;
- Type of documents lacking, and the ability to obtain necessary documentation;

Form I-862, NTA, shall be executed using the information listed on the Form I-546 and mailed to the address provided. All information related to the case shall be added to the A-file. A lookout must be immediately posted in IBIS. Criminal penalties and the possible pursuit of a criminal warrant under 8 U.S.C. 1325 shall be pursued when appropriate. All related information shall be forwarded to the CBP Prosecutions Unit (CBP Enforcement Officers) and ICE to allow further processing of the case. Query ENFORCE by event number and then record the outcome of the deferred inspection in the disposition data entry field located in the Form I-546 Data Collection Screen to record the action taken.

(g) Attorney Representation at Deferred Inspection. At a deferred inspection, an applicant for admission is not entitled to representation. See 8 CFR 292.5(b). However, an attorney may be allowed to be present upon request if the supervisory CBP officer on duty deems it appropriate. The role of the attorney in such a situation is limited to that of observer and consultant to the applicant. Any questions regarding attorney presence in the deferred inspection process may be referred to local CBP Counsel. In general, applicants for admission in primary and secondary processing are not entitled to representation. See 8 CFR 292.5(b).