

D. Denials, Continued

Denial
(continued)

When the denial falls under one of the categories that requires supervisory review, ensure that concurrence has been obtained before processing the DACA request for denial.

Step		
1	(b) (7)(E)	
2		
3		
4		
5		
6		
7		
8		Prepare and send the denial.
9		Put in ROP order and place a pink coversheet on the left-hand side of the file over the denial letter.
10		Process Form I-765 for denial. See Chapter 12.

Continued on next page

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D. Denials, Continued

Abandonment Denial Letters Abandonment denials are initiated on Form I-821D in the following instances:

- The requestor fails to respond to an RFE or NOID;
- The requestor fails to appear at an ASC for biometrics collection within the specified time frame, after failure to respond to an RFE. Refer to Chapter 5 of this SOP.

Abandonment Denials After ALL A-files have been retrieved when processing an I-821D (unless adjudicating in a T-file if unable to obtain the A-file), follow the steps below to process an abandonment denial.

Step	Action
1	Ensure that no other addresses exist: <ol style="list-style-type: none"> 1. Review the file for any correspondence received; 2. Review the returned envelope for any changes from the post office; 3. Check C3, National Claims, and AR11 for an alternate address or an address change; 4. Check the systems to see if a more recent DACA request was submitted with updated address; and 5. Check Forms I-821D and I-765 to ensure that there is no different address provided between the two forms.
2	(b) (7)(E)
3	
4	
5	

Continued on next page

D. Denials, Continued

Abandonment Denials (continued)

Step	Task
6	(b) (7)(E)
7	(b) (7)(E)
8	(b) (7)(E)
9	Prepare and send the denial.
10	Put in ROP order and place a pink coversheet on the left-hand side of the file over the denial letter.
11	Process the Form I-765 for denial. See Chapter 12.

NOTE: If the RFE/NOID was not stamped as a "No Response," the officer should write it on the document. A "No Response" will **ALWAYS** remain on top of the application for proper ROP and the officer will place the denial/withdrawal letter on top of the "No Response."

Denial for NSF

When Form I-765 has been "rejected" for NSF, for the \$380 I-765 fee and/or the \$85 biometrics fee, Form I-821D shall be denied as the DACA filing did not include a concurrently filed I-765 and I-821D. The officer shall select the appropriate denial box on the denial template and update C3 to reflect the denial. After processing the case for denial and updating the system, hold the A-file for 45 days and then forward to the NRC, if a request to review is not received through SRMT.

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Chapter 10: Post Denial Process

Determining Appropriate Action After Denial

1. Review the grounds for denial.
2. If the denial grounds do not involve criminal, national security, or public safety issues, hold the A-file for 45 days and then forward to the NRC, if a request to review is not received through SRMT.
3. If the denial involves criminal, national security, or public safety issues, refer to the November 7, 2011, memorandum entitled, Revised Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Removable Aliens. Confirmed fraud denials also warrant NTA issuance. See Appendix B.
4. The NTA unit will determine whether NTA issuance is appropriate under the NTA memorandum referenced above.

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Chapter 11: Returned Mail

Check for Address Changes

When notices are returned as undeliverable, the officer should:

1. Review the file for any correspondence received;
2. Review the returned envelope for any changes from the post office, Check C3, National Claims, and AR11 for an alternate address or an address change;
3. Check the systems to see if a more recent DACA request was submitted with an updated address; and
4. Check both Form I-821D and the I-765 to ensure that there is no different address provided between the two forms.

RFE, NOID, Intent to Terminate

When an RFE, NOID, or Intent to Terminate is returned to the Service Center as undeliverable, follow all procedures above to locate a new address and re-mail the RFE, NOIT or Intent to Terminate after updating C3.

If there is no other address to use and the response time indicated has not passed, the file should be placed on hold in accordance with local procedures for the remainder of the response time.

If there is no other address found and the response time has passed on the...	Then...
RFE	Deny as an abandonment denial.
NOID (with NO criminal content),	Deny for cause.
Intent to Terminate,	Terminate DACA.

Denial Notice

When a denial is returned to the Service Center as undeliverable, follow all procedures above to locate a new address and re-mail the denial.

If there is no new address and the 45 days...	Then...
Have NOT passed,	Hold file
Have passed,	Send to the NRC if no further communication is received

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Chapter 12: Employment Authorization

A. General Information

(c)(33) Eligibility Category	The eligibility category for employment authorization based on a grant of deferred action is 8 C.F.R. § 274a.12(c)(14). To distinguish DACA-related EADs from other deferred action EADs, the (c)(33) code will be used.
Evidentiary Requirements	<p>For a (c)(33) EAD, the individual must be approved for DACA.</p> <p>The information needed to assess economic necessity is collected on the Form I-765WS. This worksheet should have been reviewed during the adjudication of Form I-821D.</p> <p>Before proceeding with the adjudication of the Form I-765, review C3 to ensure that there is no outstanding RFE, as the RFE would have been issued during the adjudication of Form I-821D.</p>
Validity Period of (c)(33) EAD	The "valid from" date is the date of approval and the "valid to" date is 2 years minus one day from the date of approval or to the end date of the deferred removal date under DACA, whichever is earlier.
8 C.F.R. § 274a.13(d) – 90 Day Time Period to Issue an EAD	Pursuant to 8 C.F.R. § 274.12(c)(14), the EAD is predicated on a grant of deferred action. Since Forms I-821D and I-765 are filed concurrently for DACA, Form I-821D will be adjudicated first. If Form I-821D is approved, then Form I-765 would be approved under the (c)(33) code to distinguish the DACA related EADs from other deferred action EADs. Since approval of the Form I-821D is a prerequisite, and since the EAD is based upon a grant of DACA, the 90-day EAD clock begins after Form I-821D is approved for DACA.

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A. General Information, Continued

Reasons for Filing

The DACA requestor should indicate one of the following reasons for filing:

- Permission to accept employment: The initial request for employment authorization under an eligibility category; or
- Replacement (of lost or stolen employment authorization document): A request to replace a lost, stolen, mutilated, or incorrect EAD.

If neither of these boxes is checked, verify the Form I-821D approval in C3 to ensure that removal has been deferred under DACA and then check the Form I-765 history in C3 to see if a prior EAD has been issued under the (c)(33) eligibility category. If yes, process the Form I-765 EAD as a replacement. If no, process the Form I-765 EAD as an initial EAD. If a prior replacement EAD under the (c)(33) eligibility category has been issued, refer the case to CFDO.

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B. Adjudication

Verification of Forms I-821D and I-765

Access C3 and follow the steps below to verify the information:

Step	Action
1	Verify that the requestor has a pending or an approved initial I-821D on file. (If no, see the denial section for processing instructions.)
3	<ul style="list-style-type: none"> Check the signatures on Form I-765. Verify that the biometrics are present.

Biometrics

Officers must check the (b) (7)(E) to determine if the requestor's biometrics (photograph, fingerprints, signature) have been received. (b) (7)(E)
(b) (7)(E)

If...	Then...
(b) (7)(E)	the biometrics have been received.
(b) (7)(E)	the biometric(s) have been waived.
(b) (7)(E)	then the data was not captured and a card will not print.

If the requestor is a child less than 14 years of age, there should be a Waiver (W) for fingerprint and signature.

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B. Adjudication, Continued

Approvals

All corrections made to the information contained on Form I-765 must be made on the face of the application in red.

Application Annotations

When approving Form I-765, follow the steps below for proper annotation of the form:

Step	Description
1	(b) (7)(E)
2	
3	
4	
5	

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B. Adjudication, Continued

CLAIMS Updating for Approvals

Follow the steps below to update C3 for I-765 approval.

Step	Action
1	(b) (7)(E)
2	
3	
4	
5	
6	
7	
8	
9	Place a pink coversheet on the left-hand side of the file.
10	In the alternative, the approval may be updated using I-765 Express per existing protocols.

NOTE: If you go back into the approval screen to view the data before exiting the form after approving, then you must press the "save" button again to retain the approval. If the information is not saved, then a card will not be generated.

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B. Adjudication, Continued

Notice of Intent to Deny (NOID) Officers will prepare the intent to deny letter, annotate the worksheet, and update CLAIMS as follows:

Step	Action
1	(b) (7)(E)
2	(b) (7)(E)
3	(b) (7)(E)
4	(b) (7)(E)
5	(b) (7)(E)
6	Prepare and send the NOID. NOTE: Make certain all letters are spell checked and previewed prior to sending.

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B. Adjudication, Continued

Denials

Follow the steps below when denying a case.

Step	Action
1	(b) (7)(E)
2	
3	
4	
5	
6	
7	
8	
9	

NOTE: The date on the denial stamp should be date of adjudication.

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B. Adjudication, Continued

Denials
(continued)

Step	Action
10	<p>For cases NOT going to the NTA team:</p> <ul style="list-style-type: none">• The denial for the Form I-765 is included in the DACA Denial Template. <u>See</u> Appendix F.• Place a pink coversheet on the left-hand side of the file over the denial letter. <p>NOTE: When denying only the Form I-765 for abandonment, an officer should use the standard abandonment denial used at his/her center.</p>
11	Charge out the file using local procedure.

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C. Replacement Cards

**Evidence
Required**

- The following evidence is required for replacement cards:
- Biometrics from the applicant's most recent ASC visit.
 - Original signature. All applicants age 14 and over must sign their own application. The contractor can obtain the signature from Form I-765 and waive the fingerprint when scanning and producing an EAD.
 - Current card issued with validity dates that have NOT expired.
 - Valid fingerprints are not required in order to issue a replacement EAD.

Validity Dates

When issuing a replacement card the validity period should mirror the dates authorized under the previous card.

Biometrics

Upon receipt, the contractor will clone from biometrics from the applicant's most recent ASC visit.

Chapter 13: Use of Service Request Management Tool (SRMT) to Respond to Request to Review Certain Denials

Introduction USCIS will accept SRMTs from DACA denials based on a claim that the denial is incorrect and the denial is based on an administrative error. Specifically, USCIS will accept SRMTs where the requestor believes that USCIS incorrectly denied his/her DACA request for one or more of the reasons listed in this chapter of the DACA SOP.

History Action Codes (HAC) When responding to a request to review a denied DACA request, C3 must be updated with the appropriate History Action Code (HAC) created to track the specific action taken and to denote that the SRMT involved a denied DACA request. The following HACs will be used:



Templates When providing an interim response to review a denied DACA request, standard response templates must be used for the interim response and when the denial is affirmed. When the denied DACA request is approved on Service Motion, the standard approval notice will be generated from C3. Appendix G contains the following templates:

- DACA SRMT call-ups for interim SRMT responses.
- DACA SRMT call-ups to respond that the denial was correct and is affirmed.

Continued on next page

Use of SRMT to Respond to Request to Review Certain Denials, Continued

Administrative Errors related to Material Facts

Follow the steps below when an SRMT is filed due to a claimed administrative error related to:

- The denial of the DACA request on the grounds that the requestor did not come to the United States prior to reaching his/her 16th birthday, but the evidence submitted at the time of filing shows that the requestor did, in fact, arrive before the required age; or
- The denial of the DACA request on the grounds that the requestor was under age 15 at the time of filing, but not in removal proceedings, but the evidence submitted at the time of filing and/or systems checks show that the requestor was, in fact, in removal proceedings when the DACA request was filed; or
- The denial of the DACA request on the grounds that the requestor was not under the age of 31 on June 15, 2012, but the evidence submitted at the time of filing shows that the requestor did not exceed the upper age limit on June 15, 2012; or
- The denial of the DACA request on the grounds that the requestor was not in an unlawful immigration status as of June 15, 2012, but the evidence submitted at the time of filing shows that the requestor was, in fact, in a lawful status on June 15, 2012; or
- The denial of the DACA request on the grounds that the requestor was not physically present in the United States on June 15, 2012, up through the date of filing, but the evidence submitted at the time of filing establishes that the requestor was, in fact, present.

Step	Action
1	Request the file.
2	Respond to the SRMT with an interim response.
3	Update C3 (with HAC code) (b) (7)(E)
4	(b) (7)(E)
5	Route the file to the reviewing ISO.

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Use of SRMT to Respond to Request to Review Certain Denials, Continued

Administrative Errors Related to Material Facts (continued)

Step	Action
6	The ISO will review the claimed administrative error.
If the denial...	Then...
Was correct,	<ul style="list-style-type: none"> The ISO will route the filing to the SISO for concurrence. The SISO will concur or not concur and route back to the ISO for appropriate systems updating. If SISO concurs, the ISO updates C3 with HAC code <i>SRMT DACA Denial Affirmed</i> and respond to the DACA requestor using the appropriate DACA SRMT call-up found in Appendix G. If SISO does not concur, follow the instructions below (Was Not Correct).
Was not correct,	<ul style="list-style-type: none"> The SISO routes the filing to the ISO for review. The ISO approves Forms I-821D and I-765. The ISO updates C3 with the HAC code (b) (7)(E) for each form to show that the case was approved on Service Motion.
Was not correct, but other reasons for denial still exist,	<ul style="list-style-type: none"> The ISO will route the filing to the SISO for concurrence. If the SISO concurs, the ISO will re-deny the case. The ISO updates C3 with the HAC code (b) (7)(E) <i>DACA Denial Affirmed</i> for each form. The ISO produces a new denial using (b) (7)(E) denial template found in Appendix H.

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Use of SRMT to Respond to Request to Review Certain Denials, Continued

Requestor did
Appear to Have
Biometrics
Collected at a
USCIS ASC

Follow the steps below when an SRMT is filed due to a claimed administrative error related to the requestor's biometrics collection.

Step	Action
1	Review the electronic systems to see whether the requestor had his/her biometrics taken. Request the A-file (if needed).
2	Reopen Forms I-821D and I-765 on Service Motion.
3	Update C3 with HAC codes (b) (7)(E) for both forms.
4	Send an interim (b) (7)(E) response using (b) (7)(E)

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Use of SRMT to Respond to Request to Review Certain Denials, Continued

Requestor did
Appear to Have
Biometrics
Collected at a
USCIS ASC
(continued)

If the Requestor:	Then:						
Did not have his/her biometrics taken,	The reviewing officer should check: <ul style="list-style-type: none"> • Returned Mail • Address Changes • Rescheduling Requests • The BPU ASC Reschedule Spreadsheet 						
	<table border="1"> <thead> <tr> <th data-bbox="505 746 716 789">If you:</th> <th data-bbox="716 746 1058 789">Then:</th> </tr> </thead> <tbody> <tr> <td data-bbox="505 789 716 1108">Locate returned mail, an address change, or a rescheduling request,</td> <td data-bbox="716 789 1058 1108"> <ul style="list-style-type: none"> • Initiate ASC appointment rescheduling. • After the biometrics results are received, adjudicate the case. • If Form I-821D is approved, approve Form I-765. • Update C3 with HAC (b) (7)(E) (b) (7)(E) for each form. • If denied, issue a denial using the (b) (7)(E) denial template. • Update C3 with HAC (b) (7)(E) Denial Affirmed for each form. </td> </tr> <tr> <td data-bbox="505 1108 716 1251">Do not locate any returned mail, address change, or rescheduling request,</td> <td data-bbox="716 1108 1058 1251"> <ul style="list-style-type: none"> • Respond to the SRMT that the denial stands, using the SRMT denial template. </td> </tr> </tbody> </table>	If you:	Then:	Locate returned mail, an address change, or a rescheduling request,	<ul style="list-style-type: none"> • Initiate ASC appointment rescheduling. • After the biometrics results are received, adjudicate the case. • If Form I-821D is approved, approve Form I-765. • Update C3 with HAC (b) (7)(E) (b) (7)(E) for each form. • If denied, issue a denial using the (b) (7)(E) denial template. • Update C3 with HAC (b) (7)(E) Denial Affirmed for each form. 	Do not locate any returned mail, address change, or rescheduling request,	<ul style="list-style-type: none"> • Respond to the SRMT that the denial stands, using the SRMT denial template.
If you:	Then:						
Locate returned mail, an address change, or a rescheduling request,	<ul style="list-style-type: none"> • Initiate ASC appointment rescheduling. • After the biometrics results are received, adjudicate the case. • If Form I-821D is approved, approve Form I-765. • Update C3 with HAC (b) (7)(E) (b) (7)(E) for each form. • If denied, issue a denial using the (b) (7)(E) denial template. • Update C3 with HAC (b) (7)(E) Denial Affirmed for each form. 						
Do not locate any returned mail, address change, or rescheduling request,	<ul style="list-style-type: none"> • Respond to the SRMT that the denial stands, using the SRMT denial template. 						

Continued on next page

Use of SRMT to Respond to Request to Review Certain Denials, Continued

Requestor did Appear to Have Biometrics Collected at a USCIS ASC (continued)

If the Requestor...	Then...
Did have his/her biometrics taken,	<ul style="list-style-type: none"> The ISO will adjudicate Forms I-821D and I-765. If Form I-821D is approved, ISO approves Form I-765. ISO updates C3 with HAC (b) (7)(E) for each form. If denied, ISO issues a denial using the SRMT denial template. ISO updates C3 with HAC (b) (7)(E) for each form.

Requestor requested that His/Her Biometrics Appointment at a USCIS ASC be Rescheduled Prior to the Scheduled Date

Follow the steps below when an SRMT is filed due to a claimed administrative error related to the request to reschedule the ASC appointment.

Step	Action
1	Request the A-file.
2	Reopen Forms I-821D and I-765 on Service Motion.
3	Update C3 with HAC code (b) (7)(E) for both forms.
4	Send an interim SRMT response using (b) (7)(E)

Continued on next page

Use of SRMT to Respond to Request to Review Certain Denials, Continued

Requestor requested that His/Her Biometrics Appointment at a USCIS ASC be Rescheduled Prior to the Scheduled Date (continued)

Step	Action						
5	Review the filing and SRMT to determine if a request was received to reschedule the ASC Appointment.						
	<table border="1"> <thead> <tr> <th>If the requestor...</th> <th>Then...</th> </tr> </thead> <tbody> <tr> <td>Requested to have his/her biometrics appointment rescheduled, prior to the scheduled date,</td> <td> <ul style="list-style-type: none"> The ISO will schedule a new ASC appointment and route the A-file to the appropriate holding shelf to await the biometrics results. Adjudicate the case after the biometrics results are received. If Form I-821D is approved, approve Form I-765. Update C3 with HAC [REDACTED] Approved on Service Motion for each form. If denied, issue a denial using the SRMT denial template. Update C3 with HAC [REDACTED] for each form. </td> </tr> <tr> <td>Did not request to have his/ her biometrics appointment rescheduled, prior to the scheduled date,</td> <td> <ul style="list-style-type: none"> Respond to the SRMT that the denial stands, using the SRMT denial template. </td> </tr> </tbody> </table>	If the requestor...	Then...	Requested to have his/her biometrics appointment rescheduled, prior to the scheduled date,	<ul style="list-style-type: none"> The ISO will schedule a new ASC appointment and route the A-file to the appropriate holding shelf to await the biometrics results. Adjudicate the case after the biometrics results are received. If Form I-821D is approved, approve Form I-765. Update C3 with HAC [REDACTED] Approved on Service Motion for each form. If denied, issue a denial using the SRMT denial template. Update C3 with HAC [REDACTED] for each form. 	Did not request to have his/ her biometrics appointment rescheduled, prior to the scheduled date,	<ul style="list-style-type: none"> Respond to the SRMT that the denial stands, using the SRMT denial template.
If the requestor...	Then...						
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Use of SRMT to Respond to Request to Review Certain Denials, Continued

Requestor Paid the Filing and Biometric fees for the I-765

Follow the steps below when an SRMT is filed due to a claimed administrative error related to Non-Sufficient Funds.

Review the electronic systems to see whether the requestor paid the associated fees with the filing.

Step	Action
1	Records Division reviews electronic systems to determine if the fee was paid timely and properly (if necessary, Request the A-file)
2	Reopen Forms I-821D and I-765 on Service motion
3	Update C3 with HAC code (b) (7)(E) for both forms.
4	Send an interim SRMT response using (b) (7)(E)

If the Records Division determines	Then
The appropriate fees were not paid,	<ul style="list-style-type: none"> Respond to the SRMT that the denial stands, using the SRMT denial template.
The appropriate fees were paid,	<ul style="list-style-type: none"> The ISO obtains the file and schedules a new ASC appointment and routes the A-file to the appropriate holding shelf to await the biometrics results. Adjudicate the case after the biometrics results are received. If Form I-821D is approved, approve Form I-765. Update C3 with HAC code (b) (7)(E) for each form. If denied, issue a denial using the SRMT denial template. Update C3 with HAC code (b) (7)(E) for each form.

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Use of SRMT to Respond to Request to Review Certain Denials, Continued

USCIS Denied the Request for DACA Based on Abandonment and the Requestor Claims He/She did Respond to a RFE Within the Prescribed Time

Follow the steps below when an SRMT is filed due to a claimed administrative error related to the requestor's response to a RFE.

Step	Action
1	Request the A-file.
2	Reopen Forms I-821D and I-765 on Service motion.
3	Update C3 with HAC code (b) (7)(E) for both forms.
4	Send an interim SRMT response using (b) (7)(E)
5	Review A-file and local systems to determine if a response to the RFE was received before the due date.

If the requestor...	Then...
Responded to the RFE within the prescribed time,	<ul style="list-style-type: none"> Route the filing to the reviewing officer. Adjudicate based on the evidence submitted initially and the RFE response. If Form I-821D is approved, approve Form I-765. Update C3 with HAC code (b) (7)(E) for each form. If denied, issue a denial using the SRMT denial template. Route to SISO for denial concurrence Update C3 with HAC cod (b) (7)(E) for each form.
Did not respond within the required time, or no response was received.	<ul style="list-style-type: none"> Respond to the SRMT that the denial stands, using the SRMT denial template.

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Use of SRMT to Respond to Request to Review Certain Denials, Continued

USCIS Mailed the RFE to the Wrong Address and the Requestor Submitted a COA Prior to the RFE Issuance

Follow the steps below when an SRMT is filed due to a claimed administrative error related to the requestor's change of address.

Step	Action
1	Request the A-file.
2	Reopen Forms I-821D and I-765 on Service Motion
3	Update C3 with HAC code (b) (7)(E) for both forms.
4	Send an interim SRMT response using (b) (7)(E)
5	Verify the requestor's address.

If the requestor...	Then...
Filed a change of address, prior to the issuance of an RFE,	<ul style="list-style-type: none"> Re-issue the RFE with a new 87-day response time to the correct address and route the A-file to the RFE hold shelf. After the RFE response is received, adjudicate Forms I-821D and I-765 based on the evidence submitted initially and the RFE response. If Form I-821D is approved, approve Form I-765. Update C3 with HAC code (b) (7)(E) for each form. If denied, issue a denial using the SRMT denial template. Update C3 with HAC code (b) (7)(E) for each form.

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Use of SRMT to Respond to Request to Review Certain Denials, Continued

USCIS Mailed the RFE to the Wrong address and the Requestor Submitted a COA Prior to the RFE Issuance (continued)

If the requestor...	Then...					
Did not file a COA prior to the issuance of an RFE.	Review that the RFE was sent to the correct address.					
	<table border="1"> <thead> <tr> <th>If the RFE was sent to:</th> <th>Then:</th> </tr> </thead> <tbody> <tr> <td>The correct address,</td> <td> <ul style="list-style-type: none"> Respond to the SRMT stating that the denial stands, using the SRMT denial template. </td> </tr> <tr> <td>An incorrect address,</td> <td> <ul style="list-style-type: none"> Route the filing to the SISO. The ISO shall re-issue the RFE with a new 87-day response time to the correct address and route the A-file to the RFE hold shelf. After the RFE response is received, adjudicate Forms I-821D and I-765 based on the evidence submitted initially and the RFE response. If Form I-821D is approved, approve Form I-765. Update C3 with HAC code (b) (7)(E) for each form. If denied, issue a denial using the SRMT denial template. Update C3 with HAC code (b) (7)(E) for each form. </td> </tr> </tbody> </table>	If the RFE was sent to:	Then:	The correct address,	<ul style="list-style-type: none"> Respond to the SRMT stating that the denial stands, using the SRMT denial template. 	An incorrect address,
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