



Instructions for Application for Provisional Unlawful Presence Waiver

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-601A
OMB No. 1615-0123
Expires 03/31/2015

What Is the Purpose of This Form?

Certain immediate relatives of U.S. citizens may use this form to request a provisional waiver of the unlawful presence grounds of inadmissibility under section 212(a)(9)(B) of the Immigration and Nationality Act (INA), before they depart the United States to appear at a U.S. Embassy or U.S. Consulate for an immigrant visa interview.

Who May File Form I-601A?

You may file this form to seek a provisional unlawful presence waiver if you:

1. Are physically present in the United States;
2. Are at least 17 years of age at the time of filing;
3. Are the beneficiary of an approved Form I-130, Petition for Alien Relative, or Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, that classifies you as the immediate relative of a U.S. citizen;
4. Have a pending immigrant visa case classifying you as an immediate relative with the Department of State (DOS);
5. Believe you are or will be inadmissible only for a period of unlawful presence in the United States that was:
 - A. More than 180 days, but less than 1 year, during a single stay (INA section 212(a)(9)(B)(i)(I)); or
 - B. One year or more during a single stay (INA section 212(a)(9)(B)(i)(II)).

Who Is NOT Eligible to Receive a Provisional Unlawful Presence Waiver?

You are not eligible for a provisional unlawful presence waiver and your application will be denied if any of the following apply to you:

1. You do not meet all of the requirements listed in the **Who May File Form I-601A** section of these instructions.
2. You have Form I-485, Application to Register Permanent Residence or Adjust Status, pending with U.S. Citizenship and Immigration Services (USCIS).
3. You are in removal proceedings, unless your removal proceedings are administratively closed and have not been placed back on the Department of Justice, Executive Office for Immigration Review (EOIR) calendar to continue your removal proceedings at the time you file your Form I-601A.

NOTE: Even if your removal proceedings have been administratively closed, you are still "in removal proceedings" until EOIR terminates or dismisses your case. You are, however, eligible to apply for a provisional unlawful presence waiver if EOIR has not placed your removal proceedings back on its calendar to continue your removal proceedings.

4. You are subject to a final order of removal, exclusion, or deportation or to the reinstatement of a prior order of removal, exclusion, or deportation.

NOTE: You are not eligible for a provisional unlawful presence waiver if you are subject to a final order of removal, exclusion, or deportation and have not left the United States since the order became final.

5. You are subject to reinstatement of a prior removal, exclusion, or deportation order under INA 241(a)(5).

6. DOS initially acted before January 3, 2013, to schedule your immigrant visa interview for the approved immediate relative petition upon which your Form I-601A is based.

NOTE: The actual date and time that you are scheduled to appear for your immigrant visa interview is not the date USCIS will use to determine if you are eligible to file Form I-601A. USCIS will use the date DOS initially acted to schedule your immigrant visa interview for the approved immediate relative petition upon which your Form I-601A is based. If DOS initially acted to schedule your immigrant visa interview **before** January 3, 2013, you are not eligible to file Form I-601A, even if you failed to appear for your interview or you or DOS cancelled or rescheduled your interview on or after January 3, 2013. If you are unsure if DOS scheduled your interview before January 3, 2013, contact the DOS National Visa Center (NVC).

7. You fail to establish that your U.S. citizen spouse or parent would experience extreme hardship if you are refused admission to the United States or that your application should be approved as a matter of discretion. You must establish that refusal to admit you would result in extreme hardship to your U.S. citizen spouse or parent if the U.S. citizen spouse or parent **chooses** to remain in the United States without you or **chooses** to relocate abroad to reside with you outside of the United States.
8. USCIS has reason to believe that you may be subject to grounds of inadmissibility other than unlawful presence under INA section 212(a)(9)(B)(i)(I) or (II) at the time of your immigrant visa interview with a DOS consular officer.

What Should I Do After I File Form I-601A?

After you file your Form I-601A, it is important that you provide all required paperwork for your immigrant visa to the NVC. The NVC cannot schedule your immigrant visa interview until they receive all of your immigrant visa paperwork. Failure to submit the required paperwork will delay your case.

What Should I Do Once USCIS Approves My Provisional Unlawful Presence Waiver?

1. **If you are in removal proceedings, obtain a termination or dismissal order from EOIR.** If you are in removal proceedings and USCIS approves your Form I-601A, it is important that you seek an order from EOIR that terminates or dismisses your removal proceedings **before** you leave the United States. Leaving the United States before your removal proceedings are terminated or dismissed may delay processing of your immigrant visa or render you ineligible for the immigrant visa based on another ground of inadmissibility. Visit the USCIS Web site at www.uscis.gov/provisionalwaiver for information about how to seek termination or dismissal of your removal proceedings before you depart the United States.
2. **Depart the United States to attend your immigrant visa interview.** You must depart the United States to attend your immigrant visa interview for the provisional unlawful presence waiver to become fully effective. If you fail to do this, your provisional unlawful presence waiver will not take effect and the approval may no longer be valid.

How Long Is My Approved Provisional Unlawful Presence Waiver Valid and When Can It Be Revoked?

1. **Validity of an approved waiver.** An approved provisional unlawful presence waiver takes effect once you depart the United States, you appear for your immigrant visa interview, and the DOS consular officer determines you are otherwise admissible to the United States and eligible for an immigrant visa. Once your waiver takes effect, it is valid indefinitely for the period of unlawful presence that was waived.
2. **Revocation of an approved waiver.** An approved provisional unlawful presence waiver is automatically revoked and no longer valid if:
 - A. You enter or attempt to reenter the United States without inspection or admission or parole:
 - (1) While your application for a provisional unlawful presence waiver is pending with USCIS;
 - (2) After your provisional unlawful presence waiver is approved; or
 - (3) Before your immigrant visa is issued;

- B. The DOS consular officer determines that you are ineligible to receive the immigrant visa because you are also inadmissible on grounds other than the 3-year or 10-year unlawful presence bar;
- C. The immediate relative petition approval associated with the provisional unlawful presence waiver is at any time revoked, withdrawn, or rendered invalid, but not otherwise reinstated for humanitarian reasons or converted to a widow or widower petition (Form I-360); or
- D. DOS terminates your immigrant visa **registration in** accordance with INA section **203(g)**.

What Happens If My Provisional Unlawful Presence Waiver is Denied or Revoked or If I Withdraw My Pending Application?

If your provisional unlawful presence **waiver is denied or is approved, but subsequently revoked**, or you withdraw your pending application:

1. **You may depart the United States to attend your immigrant visa interview and apply for a waiver abroad.** At your immigrant visa interview at the U.S. Embassy or U.S. Consulate abroad, DOS will make an admissibility determination. If DOS determines you are inadmissible, based on unlawful presence or other grounds, you may file Form I-601, Application for Waiver of Grounds of Inadmissibility, with USCIS from abroad, if a waiver is available to you.
2. **You may file a new Form I-601A along with required filing and biometric services fees.** You must still meet all the eligibility requirements for the provisional unlawful presence waiver at the time of filing, including requirements to be physically present in the United **States and to appear** for your biometric services appointment at a USCIS ASC.
3. **USCIS may initiate removal proceedings.** Denial of your provisional unlawful presence application does not automatically trigger initiation of removal proceedings. USCIS will follow its current guidelines for initiation of removal proceedings. For more information on USCIS guidance for referral of cases and issuance of Notices to Appear (NTAs) in cases involving inadmissible and removable aliens, visit the USCIS web site at www.uscis.gov.

How Does a Pending or Approved Provisional Unlawful Presence Waiver Affect My Immigration Status?

The filing or approval of an application for a provisional unlawful presence waiver does not affect your current immigration status in the United States. The provisional unlawful presence waiver approval:

1. **Does NOT provide interim benefits.** Filing this application does not give you interim benefits such as employment authorization or eligibility to apply for advance parole to return to the United States. A pending or approved waiver also does not give you any interim benefits while your immigrant visa application is pending with DOS. If you depart the United States and re-enter without inspection and admission or without parole, your approved waiver will become invalid.
2. **Does NOT provide lawful status.** If you are not otherwise maintaining lawful status in the United States, the filing or approval of this waiver application alone does not give you lawful immigration status in the United States.
3. **Does NOT stop the accrual of unlawful presence or provide protection from removal.** A pending or approved waiver will not prevent DHS from initiating removal proceedings against you or actually removing you from the United States. A pending or approved waiver also does not protect you from accruing additional unlawful presence while still in the United States.
4. **Does NOT remove the requirement to depart the United States and seek an immigrant visa.** If your provisional unlawful presence waiver is approved, you must still depart the United States to process your immigrant visa at a U.S. Consulate abroad. The approval of a provisional unlawful presence waiver does not make you eligible for adjustment of status in the United States.

For more information on adjustment of status, visit the USCIS Web site at www.uscis.gov.

5. **Does NOT guarantee immigrant visa issuance.** A DOS consular officer will determine if you are eligible for an immigrant visa. There are many reasons why individuals may be ineligible for an immigrant visa, and this provisional unlawful presence waiver only provisionally covers one ground of inadmissibility resulting from unlawful presence in the United States. For more information about immigrant visa requirements, consult the DOS web site at www.immigrantvisas.state.gov.
6. **Does NOT guarantee admission to the United States.** Having an approved waiver or immigrant visa does not guarantee that you will be admitted to the United States. A U.S. Customs and Border Protection (CBP) officer will make this determination when you apply for admission at a U.S. Port-of-Entry.

General Instructions

USCIS provides forms free of charge through the USCIS Web site. In order to view, print, or fill out our forms, you should use the latest version of Adobe Reader, which you can download for free at <http://get.adobe.com/reader/>.

Signature. Each application must be properly signed and filed. USCIS will not accept a typewritten name in place of a signature. If you are under 14 years of age, your parent or legal guardian may sign the application on your behalf. A legal guardian may also sign for a mentally incompetent person.

Filing Fee. Each application must be accompanied by the appropriate **filing and** biometric services fees (if applicable). (See the **What Is the Filing Fee** section of these instructions.)

Evidence. At the time of filing, you must submit all evidence and supporting documentation listed in the **What Evidence Should Be Submitted With This Application** section of these instructions.

Biometric Service Appointment. USCIS may require that you appear for an interview or provide fingerprints, photograph, and/or signature at any time to verify your identity, obtain additional information, and conduct background and security checks before making a decision on your application. After USCIS receives your application and ensures it is complete, we will inform you in writing if you need to attend a biometric services appointment. If an appointment is necessary, the notice will provide you the location of your local or designated USCIS Application Support Center (ASC) and the date and time of your appointment. If you fail to attend your biometric services appointment, USCIS may deny your application.

Acknowledgement of Required Appointment at USCIS ASC. Review the USCIS ASC Acknowledgement that appears in **Part 6.** of the application. This acknowledgement is to confirm that you have completed your application, reviewed your responses, and verified that the information is complete, true, and correct. If someone helped you fill out your application, the person should review the acknowledgement with you to make sure you understand it.

Copies. You may submit a legible photocopy of documents requested, unless the instructions specifically state that you must submit an original document. If you submit original documents when not required, the documents may remain a part of the record, and USCIS will not automatically return them to you.

Translations. If you submit a document with information in a foreign language, you must also submit a full English translation. The translator must certify that the English language translation is complete and accurate, and that he or she is competent to translate from the foreign language into English.

How to Fill Out Form I-601A

1. Type or print legibly in black ink.
2. If you need extra space to complete any item within this application, attach a separate sheet of paper or use the space provided in **Part 9. Additional Information**; type or print your name and Alien Registration Number (A-Number) (if any) at the top of each sheet; indicate the **Page Number**, **Part Number**, and **Item Number** to which your answer refers; and sign and date each sheet.
3. Answer all questions fully and accurately. If an item is not applicable or the answer is "none," type or print "N/A," unless otherwise directed.

Specific Instructions

Approved Immediate Relative Petition

To apply for a provisional unlawful presence waiver, you must be the beneficiary of an approved immigrant visa petition that classifies you as an immediate relative of a U.S. citizen. An "immediate relative" is:

1. The spouse or child (unmarried and under 21 years of age) of a U.S. citizen; or
2. The parent of a U.S. citizen son or daughter who is at least 21 years of age.
3. In certain cases, the widows/widowers of deceased U.S. citizens and the children of such widows/widowers can also be immediate relatives.

The Child Status Protection Act (CSPA) permits certain beneficiaries of immigrant visa petitions to retain classification as a "child" and "immediate relative" even if they have reached 21 years of age. Visit the USCIS Web site at www.uscis.gov for more information.

Immigrant Visa Processing

DOS processes immigrant visas for individuals seeking to immigrate permanently to the United States from abroad. USCIS sends the approved immediate relative petition to the DOS National Visa Center (NVC) for consular processing of the immigrant visa if Form I-130, Petition for Alien Relative, or Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant, indicates that the beneficiary will seek an immigrant visa through the consular process abroad. Once the NVC receives this approved petition, the NVC sends the beneficiary instructions on how to initiate the immigrant visa application process and pay the immigrant visa application processing fee.

You must have already paid the DOS immigrant visa processing application fee and must provide USCIS with a copy of your DOS issued immigrant visa fee receipt when you submit your provisional unlawful presence waiver application. The DOS immigrant visa application fee receipt must be for the NVC case associated with the approved immigrant visa petition classifying you as an immediate relative. Contact the NVC if you need another copy of your DOS issued immigrant visa application fee receipt.

Immigrant Visa Interviews

You can file a provisional unlawful presence waiver if DOS initially acted on or after January 3, 2013, to schedule your immigrant visa interview for the approved immediate relative petition upon which your Form I-601A is based.

NOTE: You **CANNOT** file an application for a provisional unlawful presence waiver if DOS initially acted **BEFORE** January 3, 2013, to schedule your immigrant visa interview. Instead, you must file Form I-601, Application for Waiver of Grounds of Inadmissibility, from outside the United States after you have been interviewed for the immigrant visa, and the DOS consular officer finds you are inadmissible on a ground that may be waived. USCIS will use the date that DOS initially acted to schedule your interview to determine if you are eligible to file Form I-601A and not the date you are scheduled to appear for your immigrant visa interview.

Extreme Hardship to a Qualifying Relative

You must show that you have a U.S. citizen spouse or parent (qualifying relative) who would experience extreme hardship if you are refused admission to the United States. The qualifying relative does not need to be the relative who filed the immigrant visa petition to classify you as an immediate relative, but he or she must be a U.S. citizen spouse or parent. For information about how you can show extreme hardship to your qualifying relative, see the **Extreme Hardship** section of these instructions.

NOTE to parents of a U.S. citizen child: A U.S. citizen child cannot be a qualifying relative for the purpose of showing extreme hardship in this application. USCIS will not consider extreme hardship experienced by your U.S. citizen children except to the extent that it affects the extreme hardship your U.S. citizen spouse or parent would experience if your U.S. citizen spouse or parent **chooses** to remain in the United States without you or **chooses** to relocate abroad to reside with you outside of the United States.

NOTE to surviving immediate relatives: If your U.S. citizen spouse or parent filed your immediate relative petition, but died after filing the petition on your behalf, USCIS will consider the death the functional equivalent of extreme hardship to the applicant if you resided in the United States at the time of the death and you continue to reside in the United States.

You must still complete **Part 3. Information About Your Immediate Relative Petition and the Processing of Your Immigrant Visa Applications** and **Part 4. Information About Your Qualifying Relative**, with information about the Form I-130 petitioner. In **Part 5. Statement from Applicant**, you must explain why you believe your application for a provisional unlawful presence waiver should be approved as a matter of discretion. You must also provide a copy of the U.S. citizen spouse or parent's death certificate with your application.

This application is divided into nine parts. See below for greater detail.

Part 1. Information About You

In this section, provide the following information about yourself:

Item Number 1. Alien Registration Number (A-Number) (if any). Provide your A-Number. Your A-Number is the number used to identify your immigration records. You can find this number on documents you received from USCIS, U.S. Immigration and Customs Enforcement (ICE), or DOJ Executive Office of Immigration Review (EOIR) during immigration proceedings in court.

Item Number 2. U.S. Social Security Number (if any). Provide your U.S. Social Security Number, if you have one.

Item Numbers 3.a. - 3.c. Your Full Name. Provide your full legal name in the spaces provided.

Item Numbers 4.a. - 5.c. Other Names Used (if any). Provide all the names you have used, including maiden names, married names, and nicknames in the space provided.

Item Numbers 6.a. - 6.f. Your U.S. Mailing Address. Provide the address where you would like to receive written correspondence regarding your application.

Item Numbers 7. - 8.e. Your U.S. Physical Address. If your current mailing address is not the same as your physical address, provide your physical street address. You must include a street number and name or a rural route number. Do not provide a post office box (P.O. Box) number here.

Item Number 9. Date of Birth (mm/dd/yyyy). Provide your date of birth in month/day/year format.

Item Number 10. Gender. Indicate whether you are male or female.

Item Numbers 11. - 12. Place of Birth. Provide the city or town and country where you were born in the spaces provided.

Item Number 13. Country of Citizenship or Nationality. Provide the name of the country of which you are a citizen or your country of nationality. This is not necessarily the country where you were born. If you do not have citizenship in any country, type or print "stateless" and provide an explanation in **Part 9. Additional Information**.

Item Numbers 14.a. - 15.b. Your Mother's and Father's Full Legal Name. Provide the full legal name for your parents in the spaces provided.

Item Numbers 16. - 18. Your Last Entry Into the United States. In the appropriate fields, provide the date and place where you last entered the United States and your immigration status, if any, at the time of entry. If you entered without inspection and admission or parole, type or print "EWI" as your immigration status.

Item Numbers 19.a. - 25. Your Previous Entries Into the United States (if applicable). In the appropriate fields, provide the date and place where you previously entered the United States and your immigration status at the time of entry. If you entered without inspection and admission or parole, type or print "EWI" as your immigration status. If you need extra space, use **Part 9. Additional Information**.

Item Numbers 26. - 41. Your Immigration or Criminal History. Provide information about any and all immigration or criminal history.

1. Immigration Proceedings (Item Numbers 26. - 27.e.)

If you answer "Yes" to **Item Number 26.**, provide information in **Item Numbers 27.a. - 27.e.** about the status of your removal, exclusion, or deportation proceedings and provide a copy of the charging document (Notice to Appear or Order to Show Cause) together with your administrative closure order from EOIR or any other documents that show the outcome of your removal, exclusion, or deportation proceedings.

NOTE: Even if your removal, exclusion, or deportation immigration proceedings are administratively closed, you are still "in removal proceedings" until EOIR terminates or dismisses your case. However, you can apply for a provisional unlawful presence waiver as long as EOIR has not placed your removal, exclusion, or deportation proceedings back on its calendar to continue your removal, exclusion, or deportation proceedings before USCIS receives your application for a provisional unlawful presence waiver.

You are not eligible for a provisional unlawful presence waiver if you are subject to a final removal, exclusion, or deportation order and have not left the United States since the order became final OR if you are subject to reinstatement of a prior final removal, exclusion, or deportation order.

2. Criminal History (Item Numbers 28. - 41.)

- A.** If you answer "Yes" to any question in **Item Numbers 28. - 34.**, provide the location, date, and a brief description of the event in **Part 9. Additional Information**. If you answer "Yes" to any question in **Item Numbers 35.a. - 41.**, provide a complete explanation in **Part 9. Additional Information**. The provisional unlawful presence waiver only addresses the inadmissibility grounds associated with unlawful presence under INA section 212(a)(9)(B)(i). USCIS will deny your application if there is reason to believe that you may be subject to grounds of inadmissibility other than unlawful presence under INA section 212(a)(9)(B)(i)(I) or (II) at the time of your immigrant visa interview with a DOS consular officer.
- B.** If you were arrested or detained, you must provide information about the event regardless of the country where the event occurred.
- C.** If you were charged with a crime, you must provide certified court dispositions showing the court proceedings' outcome. You must also provide copies of arrest reports, statements of charges, indictment information, or any other charging document issued against you. You **MUST** provide this information even if:
- (1) Your records were expunged;
 - (2) You were placed in an alternative sentencing or rehabilitation program (e.g., diversion, deferred prosecution, withheld adjudication, deferred adjudication);
 - (3) Your records were sealed or otherwise cleared; or
 - (4) If anyone, including a judge, law enforcement officer, or attorney, told you that you no longer have a criminal record.
- D.** If you were arrested but not charged with a crime or offense, you must provide the arrest report as well as documentation from the arresting authority or prosecutor's office showing that you were not charged.
- E.** If you have ever engaged in, ordered, incited, assisted or otherwise participated in any human rights violations (e.g., acts involving torture, genocide, or human trafficking; murder; severely injuring someone; engaging in sexual activity with anyone made to participate by force or threat), you must provide information about the **events**, place, date, and **description** regardless of the country where the **events** occurred.

Part 2. Biographic Information

You must provide the biometrics information requested in **Part 2., Item Numbers 1. - 6.** Providing this information as part of your application may reduce the time you spend at your USCIS ASC appointment as described in the **Biometric Services Appointment** section of these instructions.

Item Numbers 1. - 2. Ethnicity and Race. Select the boxes that best describe your **ethnicity and race**.

Categories and Definitions for Ethnicity and Race

- 1. Hispanic or Latino.** A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. (**NOTE:** This category is only included under Ethnicity in **Item Number 1.**)
- 2. White.** A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.
- 3. Asian.** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- 4. Black or African American.** A person having origins in any of the black racial groups of Africa.
- 5. American Indian or Alaska Native.** A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
- 6. Native Hawaiian or Other Pacific Islander.** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

Item Number 3. Height. Select the values that best match your height in feet and inches. For example, if you are five feet and nine inches, select "5" for feet and "09" for inches. Do not enter your height in meters or centimeters.

Item Number 4. Weight. Enter your weight in pounds. If you do not know your weight, or need to enter a weight under 30 pounds or over 699 pounds, enter "000." Do not enter your weight in kilograms.

Item Number 5. Eye Color. Select the box that best describes the color of your eyes.

Item Number 6. Hair Color. Select the box that best describes the color of your hair.

Part 3. Information About Your Immediate Relative Petition and the Processing of Your Immigrant Visa Application

In this section, provide information about the approved immigrant visa petition that classifies you as the immediate relative of a U.S. citizen (either Form I-130 or Form I-360), and the status of your immigrant visa application at the NVC.

Item Number 1. USCIS Receipt Number. Provide the receipt number for the approved immigrant visa petition that classifies you as an immediate relative of a U.S. citizen. Submit a copy (if available) of the petition approval notice (Form I-797, Notice of Action). This will assist USCIS in processing your application for a provisional unlawful presence waiver. However, failure to provide a copy of the petition approval notice may result in processing delays or in the rejection of your application.

Failure to provide a copy of the petition approval notice will not, by itself, result in the denial of your application.

Item Numbers 2.a. - 2.c. Petitioner's Full Name. Provide the full name of the U.S. citizen petitioner who filed Form I-130 on your behalf. If you self-petitioned using Form I-360, type or print "Self."

Item Numbers 3.a. - 3.d. Petitioner's Relationship to You. Indicate whether the petitioner is your U.S. citizen spouse, parent, son, or daughter or if you self-petitioned using Form I-360.

Item Number 4. DOS Consular Case Number. Provide your consular case number (also called the NVC case number). It is located on your receipt for the DOS immigrant visa application processing fee. The NVC case number must be associated with the approved petition you listed in **Part 3., Item Number 1.**

Item Number 5. Immigrant Visa Interview. Indicate whether DOS initially acted **before January 3, 2013**, to schedule your immigrant visa interview for the approved immediate relative petition upon which your Form I-601A is based.

NOTE: The actual date and time that you are scheduled to appear for your immigrant visa interview is not the date USCIS will use to determine if you are eligible to file Form I-601A. USCIS will use the date DOS initially acted to schedule your immigrant visa interview for the approved immediate relative petition upon which your Form I-601A is based. Information about how to determine when DOS took action to schedule your immigrant visa interview may be found on the DOS Web site at www.immigrantvisas.state.gov or you may contact the NVC. If DOS initially acted before January 3, 2013, you are not eligible to file Form I-601A, even if you failed to appear for your immigrant visa interview or you or DOS cancelled or rescheduled the interview on or after January 3, 2013.

If you indicate on your Form I-601A that DOS initially acted before January 3, 2013, to schedule you for an immigrant visa interview, or if you do not answer the question, USCIS will reject your application for a provisional unlawful presence waiver and return your filing and biometric services (if applicable) fees and package. USCIS may also deny your application if you indicate that DOS did not initially act before January 3, 2013, to schedule you for an immigrant visa the interview, but DOS records indicate the opposite.

Part 4. Information About Your Qualifying Relative

In this section, provide information about the U.S. citizen spouse or parent you believe would experience extreme hardship if you were refused admission to the United States and your U.S. citizen spouse or parent **chooses** to remain in the United States without you or **chooses** to relocate abroad to reside with you outside of the United States.

Item Numbers 1.a. - 2.b. Your Qualifying Relative's Full Name and Relationship to You. Provide the full name of your qualifying relative and **indicate whether** the qualifying relative is your U.S. citizen spouse or parent.

Item Number 3. Your Other Qualifying Relative. Indicate whether you have another qualifying relative (U.S. citizen spouse or parent) who would experience extreme hardship if you were refused admission to the United States. If you answer "Yes," provide the name, relationship, and evidence of U.S. citizenship of the additional qualifying relative in the space provided.

Item Numbers 4.a. - 5.b. Additional Qualifying Relative's Full Name and Relationship to you. Provide the full name of your additional qualifying relative and indicate whether the additional qualifying relative is your U.S. citizen spouse or parent.

Part 5. Statement from Applicant

In the space provided, describe all the reasons that you believe support your application for a provisional unlawful presence waiver. If you need extra space to complete your statement, use the space provided in **Part 9. Additional Information.**

Your statement must explain why you believe your qualifying relative would experience extreme hardship if you are refused admission to the United States and your U.S. citizen spouse or parent **chooses** to remain in the United States without you or **chooses** to relocate abroad to reside with you outside of the United States. For information about how you can show extreme hardship, see the **Extreme Hardship** section of these instructions.

Your statement must also explain why you believe USCIS should approve your waiver application as a matter of discretion. Approval of a provisional unlawful presence waiver is discretionary, and the USCIS officer will weigh favorable and unfavorable factors presented in your case to determine whether your request should be approved. You should explain why you believe your application for a provisional unlawful presence waiver should be approved because of the favorable factors, and why unfavorable factors should not carry as much weight as the favorable ones.

You may provide USCIS with your statement using a separate letter that you submit along with your Form I-601A. If you choose to submit a statement using a separate letter, type or print into the space provided in **Part 5.** that you are attaching a separate letter to your application. Include your name and A-Number (if any) at the top of each sheet; indicate the **Page Number, Part Number,** and **Item Number** to which your answer refers; and sign and date each sheet.

Part 6. Applicant's Statement, Certification, USCIS ASC Acknowledgement, Signature, and Contact Information

Item Numbers 1.a. - 6. Select the box that indicates if you filled out this application yourself or if someone interpreted this application for you. If applicable, select the box to indicate if someone else prepared this application for you. You also must affirm that you have read and understand the **Acknowledgement of Required Appointment at USCIS ASC.** Further, you must sign and date your application and provide your daytime telephone number, mobile telephone number, and email address. Every application **MUST** contain the original signature of the applicant (or parent or legal guardian, if applicable). A typewritten name in place of signature is not acceptable.

Part 7. Interpreter's Contact Information, Certification, and Signature

Item Numbers 1.a. - 6.b. If you used an interpreter to read the instructions to you and record your responses to each question on this application in a language in which you are fluent, he or she must verify the accuracy of the information recorded on the application. The interpreter must also complete this section of the application, provide the name and address of his or her business or organization (if any), his or her daytime telephone number, and his or her email address. The interpreter also must certify that he or she has read to you the **Acknowledgement of Required Appointment at USCIS ASC** in the same language in which you are fluent. The interpreter must sign and date the application.

Part 8. Name, Contact Information, Declaration, and Signature of the Person Preparing this Application, If Other than the Applicant

Item Numbers 1.a. - 8.b. If the person who completed this application is someone other than the person named in **Part 1.**, he or she must complete this section of the application, provide his or her name, the name and address of his or her organization (if any), and his or her contact information. If the person completing this application is an attorney or accredited representative, he or she must submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, along with your application. An attorney and accredited representative, and any other individual who assists in preparing your application also must certify that he or she has read the **Acknowledgement of Required Appointment at USCIS ASC** to you. Further, the attorney or accredited representative, and anyone who assisted in preparing your application, must sign and date the application. This section of the application **MUST** contain the original signature of the attorney or accredited representative or anyone who assisted in preparing your application. A typewritten name in place of signature is not acceptable.

Part 9. Additional Information

Item Numbers 1.a. - 7.b. If you need extra space to provide any additional information within this application, attach a separate sheet of paper or use the space provided in **Part 9.** If you need more space than what is provided in **Part 9.**, you may make copies of **Part 9.** to complete and file with your application. Include your name and A-Number (if any) at the top of each sheet; indicate the **Page Number, Part Number,** and **Item Number** to which your answer refers; and sign and date each sheet.

What Evidence Should Be Submitted With this Application?

You must submit all evidence requested in these instructions with your application. If you fail to submit required evidence, USCIS may reject or deny your application for failure to submit requested **evidence in accordance with** 8 CFR 103.2(b)(1) and these instructions.

Petition Approval Notice

You must submit a copy (if available) of the USCIS approval notice (Form I-797, Notice of Action) for the immigrant visa petition (Form I-130 or Form I-360) that classifies you as an immediate relative of a U.S. citizen. This will assist USCIS in processing your application for a provisional unlawful presence waiver.

However, failure to provide a copy of the petition approval notice may result in processing delays or in the rejection of your application. Failure to provide a copy of the petition approval notice will not, by itself, result in a denial of your application. See the **General Instructions** section of these instructions for more information.

DOJ EOIR Administrative Closure Order

You must submit a copy (required where applicable) of the administrative closure order issued by EOIR.

DOS Immigrant Visa Application Processing Fee Receipt

You must submit a copy of your fee receipt for your DOS immigrant visa application processing fee. Place this fee receipt on top of your Form I-601A when you submit your application. See the **General Instructions** section of these instructions for more information.

Relationship to a Qualifying Relative

If you claim extreme hardship to a U.S. citizen spouse or parent who is the immigrant visa petitioner, you do not need to present evidence of your relationship to the petitioner. The immigrant visa petitioner will have already presented this evidence when he or she filed the immediate relative petition (Form I-130 or Form I-360).

However, if you claim extreme hardship to a qualifying relative who is not the immigrant visa petitioner, you must submit evidence that shows the qualifying relationship.

The following evidence may be submitted to establish the relationship:

1. To your **spouse**:
 - A. A copy of your marriage certificate; or
 - B. If either you or your spouse were previously married, copies of documents showing that all prior marriages were legally terminated.
2. To your **mother**:
 - A. A copy of your birth certificate that shows your name and the name of your mother; or
 - B. If your mother's name has changed since your birth and is different from what is shown on your birth certificate, a copy of the legal document that authorized the name change.
3. To your **father**:
 - A. A copy of your birth certificate that shows both parents' names;
 - B. A copy of your parents' marriage certificate or other evidence that shows you were legitimated before reaching 18 years of age;
 - C. Evidence of legal termination of your parents' prior marriages, if any; or
 - D. If you were born out of wedlock and were not legitimated before reaching 18 years of age, you must include any evidence establishing that a bona fide parent-child relationship existed between you and your father while you were unmarried and under 21 years of age. You may include evidence that your father lived with you, supported you, or otherwise showed continuing parental interest in your welfare.

4. To your **step-parent:**

- A.** A copy of your birth certificate that shows your parents' names;
- B.** A copy of the marriage certificate between your natural parent and step-parent that established the relationship before you reached 18 years of age; or
- C.** Evidence of legal termination of any prior marriages for your natural parent and step-parent, if applicable.

5. To your **adoptive parent:**

- A.** A copy of the final adoption decree listing the individual as your adoptive parent; or
- B.** Evidence that your adoptive parent adopted you before you reached 16 years of age (or reached 18 years of age if your adoptive parent also adopted your natural sibling) and that your adoptive parent had legal custody of you and resided with you for at least 2 years.

Citizenship Status of a Qualifying Relative

If you claim extreme hardship to a U.S. citizen spouse or parent who is the immigrant visa petitioner, you do not need to present evidence of your relationship to the petitioner or evidence of the petitioner's U.S. citizenship status. The immigrant visa petitioner will have already presented this evidence when he or she filed the immediate relative petition (Form I-130 or Form I-360).

However, if you claim extreme hardship to a qualifying relative who is not the immigrant visa petitioner, you must submit evidence showing that your qualifying relative is a U.S. citizen.

Evidence of U.S. citizenship includes, but is not limited to, any of the following:

- 1.** If your relative was born in the United States, a copy of his or her birth certificate, issued by a civil registrar, vital statistics office, or other civil authority of a U.S. state, county, municipal authority, or territory;
- 2.** A copy of your relative's naturalization certificate or certificate of citizenship issued by USCIS or the Immigration and Naturalization Service (INS);
- 3.** A copy of your relative's unexpired U.S. passport; or
- 4.** A copy of your relative's DOS issued Form FS-240, Report of Birth Abroad of a Citizen of the United States.

Extreme Hardship

You may submit any evidence to support your claim that your qualifying relative would experience extreme hardship if you are refused admission to the United States and your U.S. citizen spouse or parent **chooses** to remain in the United States without you or **chooses** to relocate abroad to reside with you outside of the United States. Factors USCIS considers when determining extreme hardship include, but are not limited to:

- 1. Health.** Examples include: Ongoing or specialized treatment required for a physical or mental condition, availability or quality of such treatment in the foreign country, anticipated treatment duration, whether the condition is long term, and whether it is chronic or acute.
- 2. Financial considerations.** Examples include: Future employability, loss due to sale of home or business or termination of a professional practice, a decline in standard of living, ability to recoup short-term losses, cost of extraordinary needs (such as special education or training for children with special needs), or the cost of care for family members such as elderly or sick parents.
- 3. Education.** Examples include: Loss of opportunity for higher education, lower quality or limited scope of education options, disruption of a current program, requirement to be educated in a foreign language or culture with ensuing loss of time or grade, and availability of special requirements, such as training programs or internships in specific fields.

4. **Personal considerations.** Examples include: Close relatives in the United States and country of birth or citizenship, separation from spouse or children, ages of involved parties, and length of residence and community ties in the United States.
5. **Special factors.** Examples include: Cultural, language-related, religious, and ethnic obstacles; valid fears of persecution, physical harm, or injury; social ostracism or stigma; and lack of access to social institutions or structures (official or unofficial) that provide support, guidance, or protection.

Evidence of extreme hardship includes, but is not limited to:

1. Expert opinions;
2. Evidence of employment or business ties (e.g., payroll records or tax statements);
3. Evidence of monthly expenditures (e.g., receipts from mortgage, rental or bill payments);
4. Other financial records that support any claimed financial hardships;
5. Medical documentation or evaluations by medical professionals that support any claimed medical hardships;
6. Records of membership in community organizations or confirmation of volunteer service, and evidence of cultural affiliations;
7. Certificates of birth, marriage, or adoption that support any claimed family ties;
8. Affidavits from the qualifying relative or other individuals with personal knowledge of the claimed hardships;
9. Country condition reports; and
10. Any other evidence you believe supports the claimed extreme hardships.

NOTE: USCIS will consider extreme hardship only to a qualifying relative. If you describe extreme hardship to yourself or anyone other than a U.S. citizen spouse or parent, you must show how this extreme hardship affects the extreme hardship your qualifying U.S. citizen spouse or parent would experience if you are refused admission to the United States and your U.S. citizen spouse or parent **chooses** to remain in the United States without you or **chooses** to relocate abroad to reside with you outside of the United States.

What Is the Filing Fee?

The filing fee for Form I-601A is **\$585**. A **biometric services fee** of **\$85** is also required for applicants 14 through 79 years of age.

Therefore, the fees you must submit with the application are:

1. **\$585 plus \$85 for biometric services fee** if you are under 79 years of age; or
2. **\$585** if you are 79 years of age or older.

NOTE: You may not request a fee waiver for the Form I-601A **filing or biometric services fees**.

The **filing and biometric services fees** are not refundable, regardless of any action USCIS takes on this application. **DO NOT mail cash.** You must submit all fees in the exact amounts.

Use the following guidelines when you prepare your checks or money orders for the Form I-601A **filing and biometric services fees:**

1. The check or money order must be drawn on a bank or other financial institution located in the United States and must be payable in U.S. currency; **and**
2. Make the checks or money orders payable to **U.S. Department of Homeland Security**.

NOTE: Spell out U.S. Department of Homeland Security; do not use the initials "USDHS" or "DHS."

Notice to Those Making Payment by Check. If you send us a check, USCIS will convert it into an electronic funds transfer (EFT). This means we will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will usually take 24 hours and your bank will show it on your regular account statement.

You will not receive your original check back. We will destroy your original check, but will keep a copy of it. If the EFT cannot be processed for technical reasons, you authorize us to process the copy in place of your original check. If USCIS cannot complete the EFT because of insufficient funds, we may try to make the transfer up to two times.

How to Check If the Fees Are Correct?

Form I-601A **filing and** biometric services **fees** are current as of edition date in the lower left corner of this page. However, because USCIS fees change periodically, you can verify that the fees are correct by following one of the steps below.

1. Visit the USCIS Web site at www.uscis.gov, select "FORMS," and check the appropriate fee; or
2. Call the USCIS National Customer Service Center at **1-800-375-5283** and ask for fee information. For TDD (deaf or hard of hearing) call: **1-800-767-1833**.

Where To File?

Please see our Web site at www.uscis.gov/I-601A or call our National Customer Service Center at **1-800-375-5283** for the most current information about where to file this application. For TDD (deaf or hard of hearing) call: **1-800-767-1833**.

Address Changes

You must inform USCIS if you change your address. For information on filing a change of address, go to the USCIS Web site at www.uscis.gov/addresschange or contact the USCIS National Customer Service Center at **1-800-375-5283**. For TDD (deaf or hard of hearing) call: **1-800-767-1833**.

NOTE: Do not submit a change of address request to USCIS Lockbox facilities because these facilities do not process change of address requests.

Processing Information

USCIS will reject your Form I-601A if it is not signed or accompanied by the correct fees. USCIS will send you a notice that Form I-601A is deficient. USCIS will also reject Form I-601A if you:

1. Fail to provide your full name, U.S. physical address, and date of birth;
2. Are under 17 years of age;
3. Do not include evidence of an approved immigrant visa petition that classifies you as an immediate relative of a U.S. citizen;
4. Do not include a copy of the DOS fee receipt as evidence that you have paid DOS the immigrant visa processing fee; or
5. Have indicated on the application that DOS initially acted before January 3, 2013 to schedule the immigrant visa interview or have not selected either box in **Part 3., Item Number 5**.

If USCIS rejects your Form I-601A, we will return it to you with any fees you submitted with the form. You may correct the deficiency and resubmit your Form I-601A. An application is not considered properly filed until accepted by USCIS. **If USCIS denies your application after fully adjudicating your Form I-601A, USCIS will not refund the fees originally submitted with your Form I-601A.**

Initial Processing. Once USCIS accepts your application, we will check it for completeness. If you do not completely fill out this application, you will not establish a basis for your eligibility, and USCIS may deny your request.

Requests for More Information. We may request that you provide more information or evidence to support your application. We may also request that you provide the originals of any copies you submit. USCIS will return any originals when they are no longer needed.

Requests for Interview or Appearance at a USCIS ASC. We may request that you appear at a USCIS office for an interview based on your application. At the time of any interview or other appearance at a USCIS office, we may require that you provide your fingerprints, photographs, and/or signature to verify your identity and/or update background and security checks.

Decision. The decision on Form I-601A involves a determination of whether you have established eligibility for the immigration benefit you are seeking. USCIS will notify you of the decision in writing.

USCIS Forms and Information

To ensure you are using the latest version of this application, visit the USCIS Web site at www.uscis.gov where you can obtain the latest USCIS forms and immigration-related information. If you do not have Internet access, you may order USCIS forms by calling our toll-free number at **1-800-870-3676**. You may also obtain forms and information by calling the USCIS National Customer Service Center at **1-800-375-5283**. For TDD (deaf or hard of hearing) call: **1-800-767-1833**.

Instead of waiting in line for assistance at your local USCIS office, you can now schedule an appointment through the USCIS Internet-based system, **InfoPass**, at infopass.uscis.gov. Use the **InfoPass** appointment scheduler and follow the screen prompts to set up your appointment. **InfoPass** generates an electronic appointment notice that appears on the screen.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form I-601A, we will deny your Form I-601A and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

USCIS Privacy Act Statement

AUTHORITIES: The information requested on this application, and the associated evidence, is collected under the INA section 101, et seq., including INA section 212(a)(9)(B)(i) and (v), and Title 8 of the Code of Federal Regulation (CFR) Section 212.7(e).

PURPOSE: The primary purpose for providing the requested information on this application is to determine if you have established eligibility for the immigration benefit for which you are filing. DHS will use the information you provide to grant or deny the benefit sought.

DISCLOSURE: The information you provide is voluntary. However, failure to provide the requested information, and any requested evidence, may delay a final decision in your case or result in denial of your application.

ROUTINE USES: DHS may share the information you provide on this application with other Federal, state, local, and foreign government agencies and authorized organizations following approved routine uses described in the associated published system of records notices [DHS-USCIS-007 - Benefits Information System and DHS-USCIS-001 - Alien File, Index, and National File Tracking System of Records], which you can find at www.dhs.gov/privacy. DHS may also make the information available, as appropriate, for law enforcement purposes or in the interest of national security.

Paperwork Reduction Act

An agency may not conduct or sponsor an information collection, and a person is not required to respond to a collection of information, unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 1.5 hours per response, including the time for reviewing instructions, gathering the required documentation and information, completing and submitting the application, preparing statements, attaching necessary documentation, and submitting the application. The collection of biometrics is estimated to require 1 hour and 10 minutes. Send comments regarding this burden, to: U.S. Citizenship and Immigration Services, Regulatory Coordination Division, Office of Policy and Strategy, 20 Massachusetts Ave NW, Washington, DC 20529-2140; OMB Control No. 1615-0123. **Do not mail your completed Form I-601A application to this address.**

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Is My Application Complete?

Ensure that you have completed **ALL** of the following actions before you file Form I-601A with USCIS.

- ☐ I placed a copy of my **DOS immigrant visa fee receipt** on top of my Form I-601A and supporting documentation.
- ☐ If I am an alien in removal, exclusion, or deportation proceedings, I included a copy of my **administrative closure order** from the U.S. Department of Justice, Executive Office for Immigration Review (EOIR).
- ☐ I included arrest records and conviction documents for any criminal offenses, if applicable.
- ☐ I completed every applicable item on my Form I-601A, including my full name, my address, and my date of birth. I attached documents to support my statements when requested on Form I-601A or in the **What Evidence Should Be Submitted With the Application** section of these instructions.
- ☐ In **Part 3. Information About Your Immediate Relative Petition and the Processing of Your Immigrant Visa Applications**, I provided information about the approved immediate relative petition (Form I-130 or Form I-360) that was filed on my behalf, and I attached a copy (if available) of the immigrant visa petition approval notice (Form I-797, Notice of Action).
- ☐ In **Part 3**, I provided information about my DOS immigrant visa case.
- ☐ DOS did not initially act prior to January 3, 2013 to schedule my immigrant visa interview and I answered the question in **Part 3., Item Number 5**.

NOTE: The actual date and time that you are scheduled to appear for your immigrant visa interview is **not** the date USCIS will use to determine if you are eligible to file a Form I-601A. USCIS will use the date DOS initially acted to schedule your immigrant visa interview for the approved immediate relative petition upon which your Form I-601A is based. If DOS initially acted before January 3, 2013, you are not eligible to file Form I-601A, even if you failed to appear for your immigrant visa interview or you or DOS cancelled or rescheduled the interview on or after January 3, 2013.

USCIS will reject your Form I-601A and return the filing fee, biometric services fee (if applicable), and package to you if you answered "Yes" to the question in **Part 3., Item Number 5**. USCIS may deny your application if you indicate on your Form I-601A that you were not scheduled for an immigrant visa interview before January 3, 2013, but DOS records indicate that you were scheduled prior to this date.

- ☐ In **Part 4. Information About Your Qualifying Relative**, I provided information about my qualifying relatives and I explained the extreme hardship to my qualifying relatives in **Part 4**. I also explained in **Part 4**. why USCIS should approve my application for a provisional unlawful presence waiver as a matter of discretion.
- ☐ I read the **Penalties** section of these instructions and I (or a parent or legal guardian, if applicable) signed this Form I-601A.
- ☐ I included checks or money orders as described in the **What Is the Filing Fee** section of these instructions.