

I-601A Process at the NBC

The new Form I-601A, Application for Provisional Unlawful Presence Waiver, will be available on the USCIS website on March 4, 2013. Applicants may begin filing their forms and supporting documents with the Chicago Lockbox on the same day. The lockbox will create an A- or T-file for each accepted form and route the files to the National Benefit Center for adjudication. USCIS will also send biometric appointment notices to applicants requesting that they appear for biometrics collection. Form I-601A requires both fingerprint and FBI name checks.

After the NBC receives the files, contractors will add them to NFTS. They will also search for and request any other A- or T-files that may be associated with an applicant. When fingerprint and FBI name check results are received, the contractors will run TECS queries on applicants and forward to adjudications or BCU, depending on the results of the TECS query.

ISOs will determine whether the applicant is eligible for the provisional unlawful presence waivers, first with a series of USCIS and DOS system checks, and then with a review of the evidence submitted by the applicants. USCIS and DOS system checks will verify that the applicant (1) has an approved immigrant visa petition for classification as an immediate relative; (2) is not in removal proceedings (i.e. the proceedings must have been terminated OR administratively closed and not re-calendared at the time of filing); (3) does not have a pending application for adjustment of status; (4) has an immigrant visa case as an immediate relative pending at the National Visa Center and the IV fee has been paid; and (5) was not scheduled by the NVC before January 3, 2013, for his/her immigrant visa interview. The ISOs will then review the evidence to determine whether the applicant has established that he/she has a qualifying relative who will experience extreme hardship and that he/she warrants a favorable exercise of discretion. If the applicant's eligibility for the waiver cannot be established through the system checks and review of the evidence, ISOs will either deny the waiver application or send an RFE requesting the necessary documentation. If the I-601A is approved, the NBC notifies the National Visa Center that the applicant has an approved provisional waiver for unlawful presence and ships the A-file to the Texas Service Center for storage (pending the applicant's entry into the US as an LPR). If the I-601A is denied or withdrawn by the applicant prior to adjudication, the A-file will be sent to the Background Check Unit in accordance with current NTA policies or to the National Records Center.

Anticipated Processing Times

USCIS has worked closely with Department of State on the I-601A process to align adjudication of the I-601A with the NVC's evidence collection procedures. The goal is to process these waiver applications within 60 – 90 days; however, the processing times may be constrained by biometric fee deficiencies, the availability of ASC appointments, and delays in obtaining the results of background and security checks results. Due to the short time period for adjudication, the RFE response time for the I-601A will be 30 days (plus 3 days for mailing) rather than the 12-week standard.

Volume (or expected volume) of I-601As at the NBC

Current projections place the first year volume at about 62,000 filings. Since this is a new form, that number is really a "guesstimate." We really don't know what the volume will be. The Final Rule included a table of projected receipts based on historical data that included the number of immediate relative visas issued by DOS; the number of waivers filed by IV applicants found ineligible for unlawful presence; and the number of administratively closed removal or deportation cases. The projected number of first year receipts varies from 43,000 to 103,000, depending on the amount of constraint on

demand for a waiver. In addition, USCIS projects that between 14,000 and 35,000 applicants will re-file a new I-601A after withdrawing a previous filing or after USCIS denies a previous filing.

How will expedites (if any) be handled?

The NBC will handle requests for expedited adjudication in accordance with current USCIS expedites guidance.

Expedite Criteria

All expedite requests are reviewed on a case-by-case basis, and are granted at the discretion of the Director. The burden is on the applicant or petitioner to demonstrate that one or more of the expedite criteria have been met. The criteria are as follows:

Severe financial loss to company or individual

Extreme emergent situation

Humanitarian situation

Nonprofit status of requesting organization in furtherance of the cultural and social interests of the United States

Department of Defense or National Interest Situation (Note: Request must come from official United States Government entity and state that delay will be detrimental to our Government)

USCIS error

Compelling interest of USCIS

How will the Field Offices be impacted by this new process?

In most cases, the I-601A will be adjudicated to completion at the National Benefits Center. There may be circumstances, however, when an in-person interview is necessary to complete adjudication of the I-601A. If an NBC ISO suspects benefit or relationship fraud, an interview may be necessary to determine whether the suspicion is warranted. In that type of case, the NBC ISO will clearly articulate the reason for the interview request and transfer the case to the Field Office having jurisdiction over the applicant's place of residence. The Field Office will be responsible for scheduling the interview and providing the applicant with an interview notice. After the interview, the Field Office will prepare a memorandum with the interviewing officer's findings and return the case to the NBC ISO to complete adjudication.

Notification of Interview

As previously stated, I-601As will usually be adjudicated at the NBC without an in-person interview. If an interview is necessary, the Field Office will be responsible for scheduling the interview and providing the applicant with an interview notice. Applicants should also receive a transfer notice when their case moves from the NBC to the Field Office and when the case is returned to the NBC for adjudication.

Appendix B: I-601A Adjudication Worksheet

Application Information		
A #:	Receipt #:	NVC Case #:
ISO Initials: _____	Decision Date: <input type="checkbox"/> Approve <input type="checkbox"/> Deny	SISO Review Date: SISO Initials _____

Security/System Checks Reviewed				
Security Checks				
	Date	Initials	Results	
IBIS / TECS			<input type="checkbox"/> No record	<input type="checkbox"/> Record (Results attached)
Fingerprints			<input type="checkbox"/> No record	<input type="checkbox"/> Record (Results attached)
FBI Name Check			<input type="checkbox"/> No record	<input type="checkbox"/> Record (Results attached)
System Checks				
	Date	Initials	Results	
CIS				
NFTS				
EOIR				
CCD				
CLAIMS				
Other (identify):				

1. Is the applicant the beneficiary of an approved immediate relative petition (I-130 or I-360)?

- Yes:** (circle one) CR-1, CR-2, IR-1, IR-2, IR-5, IW-1. **Go to step 2.**
- No:** Deny the I-601A.

2. Did the applicant pay the DOS immigrant visa processing fee?

- Yes:** Copy of DOS IV fee receipt is in file or CCD report shows fee paid. **Go to step 3.**
- No:** Deny the I-601A.

3. Did the NVC act to schedule the immigrant visa interview before January 3, 2013?

- Yes:** Verify in CCD and deny the I-601A.
- No:** **Go to step 4.**

4. Was the applicant ever in removal/exclusion/deportation proceedings?

Yes: Go to step 5.

No: Go to step 7.

5. Is the applicant subject to a final order of removal/deportation/exclusion or to the reinstatement of a prior removal order?

Yes: Deny the I-601A.

No: Go to step 6.

6. Is the applicant currently in removal proceedings (not dismissed or terminated) that are not administratively closed, or were administratively closed but have since been re-calendared?

Yes: Deny the I-601A.

No: Go to step 7.

7. Does the applicant have a pending I-485?

Yes: Verify with FCO or through file review and deny the I-601A.

No: Go to step 8.

8. Is there reason to believe the applicant may be found inadmissible at the time of his/her immigrant visa interview for any INA 212(a) ground other than unlawful presence?

Yes: (circle one) fraud or misrepresentation / alien smuggling / criminal / prior deport / other
Deny the I-601A.

No: Go to step 10.

9. Was a qualifying relationship established?

Yes: (circle one) U.S. Citizen spouse / U.S. Citizen parent. Go to step 11.

No: Issue RFE or deny the I-601A.

10. Was extreme hardship to a qualifying relative established?

Yes: List factors below; or Yes: Surviving relative and meets INA 204(i). Go to step 12.

No: Issue RFE or deny the I-601A (will generally issue RFE when initial evidence is insufficient).

Health/Medical Considerations	
Financial Considerations	

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Educational Considerations	
Personal Considerations	
Special Factors	

11. Is favorable discretion warranted?

- Yes:** Favorable factors outweigh unfavorable factors. **Approve** the I-601A.
- No:** Unfavorable factors outweigh favorable factors (attach explanation). Obtain supervisory concurrence and deny the I-601A.

Favorable factors (list):

Unfavorable factors (list):

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1. Is the applicant the beneficiary of an approved immediate relative petition (I-130 or I-360)?

- Yes: (circle one) CR-1, CR-2, IR-1, IR-2, IR-5, IW-1. Go to step 2.
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- No: Go to step 4.

4. Was the applicant ever in removal/exclusion/deportation proceedings?

Yes: Go to step 5.

No: Go to step 7.

5. Is the applicant subject to a final order of removal/deportation/exclusion or to the reinstatement of a prior removal order?

Yes: Deny the I-601A.

No: Go to step 6.

6. Was the applicant in removal proceedings (not dismissed or terminated) that were not administratively closed at the time of filing or that had been administratively closed but were re-calendared at the time of filing?

Yes: Deny the I-601A.

No: Go to step 7.

7. Does the applicant have a pending I-485?

Yes: Verify with FCO or through file review and deny the I-601A.

No: Go to step 8.

8. Is there reason to believe the applicant may be found inadmissible at the time of his/her immigrant visa interview for any INA 212(a) ground other than unlawful presence?

Yes: (circle one) fraud or misrepresentation / alien smuggling / criminal / prior deport / other
Deny the I-601A.

No: Go to step 9.

9. Was a qualifying relationship established?

Yes: (circle one) U.S. Citizen spouse / U.S. Citizen parent. Go to step 10.

No: Issue RFE or deny the I-601A.

10. Was extreme hardship to a qualifying relative established?

Yes: List factors below; or Yes: Surviving relative and meets INA 204(l). Go to step 11.

No: Issue RFE or deny the I-601A (will generally issue RFE when initial evidence is insufficient).

Health/Medical Considerations	
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