



U.S. Department of Justice  
Immigration and Naturalization Service

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Washington, DC 20536

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MEMORANDUM FOR ALL REGIONAL DIRECTORS  
ALL SERVICE CENTER DIRECTORS  
ALL DISTRICT DIRECTORS  
ALL OFFICERS IN CHARGE

FROM:

*for*   
William R. Yates

Acting Deputy Executive Associate Commissioner  
Office of Field Operations  
Immigration Services Division

SUBJECT: Adjustment of Iraqi Asylees from Guam - Public Law 105-277, Section 128

This memorandum provides further guidance in implementing Public Law 105-277, Section 128, which pertains to the adjustment of certain Iraqi nationals who were granted asylum after arriving in Guam.

As stated in the memorandum issued by the Office of Adjudications on December 7, 1998 (HQADN 70/7), the annual limit of 10,000 asylee adjustments prescribed by Section 209(b) of the Immigration and Nationality Act (Act) does not apply to certain Iraqi nationals who were processed in Guam during 1996 and 1997, and granted asylum. However, the text of the law cited in the December 7, 1998, memorandum was incomplete. The corrected text is as follows:

- (a) The numerical limitation set forth in Section 209(b) of the Immigration and Nationality Act (INA) shall not apply to any alien described in Section (b).
- (b) An alien described in Subsection (a) is an alien who was a United States Government employee, employee of a non-governmental organization based in the United States, or other Iraqi national who was moved to Guam by the United States Government in 1996 or 1997, pursuant to an arrangement made by the United States Government, and who was granted asylum under Section 208(a) of the Immigration and Nationality Act.

### ADJUDICATION CRITERIA

Under the definition found in P.L. 105-277, Section 128 (b), the principal and derivative adjustees must have been moved to Guam in 1996 or 1997 and must be Iraqi nationals to qualify for the exemption from a visa number and the use of the "GA" adjustment code. If the derivative does not meet these criteria, the adjustment may be approved only if a visa number is available. The AS7 (spouse) and AS8 (child under 21) codes must be used for derivatives that need visa numbers because they were not moved to Guam, nor are not nationals of Iraq.

To make this determination, use the information contained on Form I-485, Part 1, the G-325A, and any attached documentation. All the elements must be present in order to classify an applicant as a Guam asylee under P.L. 105-277, Section 128, for exemption from an asylum adjustment visa number and the use of the appropriate "GA" code.

If an applicant's claim to Guam asylee status is not adequately documented, additional information can be sought through the Nebraska Service Center (NSC) points of contact (POC), Thomas Barber or Michael Rohrs, who have the master list of all known qualified Guam asylees. The master list of qualified Guam asylees will be run in CIS to determine the known FCO for each relating file. The Examination's Unit in each FCO will be sent the portion of the master list owned by that FCO as an aid to identifying cases and to determining eligibility.

With regard to medical examination requirements, adjudicators must ensure compliance with the memorandum dated December 31, 1997, entitled Medical Examination for Refugees and Kurdish Asylees. [See electronic bulletin board for immediate reference.]

No visa numbers should be assigned to those Iraqi nationals who qualify as Guam asylees, and the appropriate "GA" adjustment code should be used on the I-181. A date one year prior to the date of approval is used as the date of adjustment on the I-181. The notation referring to P.L. 105-277, Section 128, should be made on the I-181 as the law under which the adjustment occurred. The date of adjustment is one year prior to the date of approval.

Any applications that do not meet the requisite elements of eligibility must be adjudicated as a regular asylum adjustment application. Remember, however, that an asylee visa number must be available before the I-485 can be granted, and the appropriate "AS" adjustment code must be used.

### REQUIRED FIELD OFFICE ACTION

Field offices are to identify and adjudicate all Guam-processed asylee adjustment applications by May 1, 1999, and forward the related A-files to the NSC. The appropriate "GA" code and notation referring to P.L. 105-277, Section 128, must be noted on the I-181. A-files are to be routed to the NSC in separate batches, with individual cover sheets attached to the outside face of each file reflecting "GUAM ASYLEE". If, for whatever reason, a field office cannot accomplish this adjudication goal, they are to provide a report to their respective region identifying each case, explaining the reason(s), and advising when they anticipate being able to

complete the adjudication. Regions are requested to review the report and take appropriate action. A copy of the field office report and a regional assessment shall be provided to the Immigration Services Division Office of Field Operations.

**SERVICE CENTER ACTION ON APPROVED ASYLEE APPLICATIONS**

The NSC must review all approved asylum adjustment cases received via Direct Mail as well as all cases forwarded to them from the field. This is to cull out those Iraqi nationals whose applications contain evidence of Iraqi nationality, arrival in Guam in 1996 or 1997, and a grant of asylee or asylee dependent status, and ensure the proper adjudication is made without the use of an asylee adjustment number. The NSC must also retrieve A-files belonging to qualifying Iraqi applicants inappropriately coded as "AS" adjustments, and take corrective action. A list containing the names of Guam-processed Iraqi asylees has already been provided to the NSC to help in this regard. The NSC will also track the receipt of each case as it is approved.

**SUPPLEMENTAL FILING INSTRUCTIONS**

The Form I-485 supplemental filing instructions are being modified to instruct qualified applicants to identify themselves by writing "GUAM ASYLEE" in Part 2, Block 2. Since many qualified Guam asylees may be unaware of their special classification or the correct way to claim it, the NSC should review all newly submitted asylee adjustment applications, and, when appropriate, endorse the I-485 as described above. When an applicant's eligibility to adjust under P.L. 105-277, Section 128 has been verified, the adjudicator will check the "other" block in the "Section of Law" portion of the FOR INS USE ONLY Section of Form I-485 and will enter the notation, "P.L. 105-277, SEC. 128".

**NEW IMMIGRANT ADJUSTMENT CODES**

Applications adjusted under the provisions of P.L. 105-277, Section 128, must be identified by a separate immigrant adjustment code recently recreated for this kind of asylee. Use of a distinct immigrant code enables the NSC to count the number of Guam asylees who adjust, and thereby to calculate how many asylee adjustment numbers have been recovered for the use of other pending asylee adjustment applications. The new immigrant codes used for the adjustment of the Guam asylees are as follows:

<u>CODE</u>	<u>DESCRIPTION</u>
GA6	Iraqi national who arrived in Guam in 1996 or 1997, and was granted asylum, and who adjusts to permanent resident status under Section 128 of P.L. 105-277
GA7	Iraqi national spouse of a principal GA6 applicant, who arrived in Guam in 1996 or 1997, and who was adjusted to permanent resident status under Section 128 of P.L. 105-277.

**GA8** Iraqi national child of a principal GA6 applicant, who arrived in Guam in 1996 or 1997, and who was adjusted to permanent resident status under Section 128 of P.L. 105-277.

**Note:** The codes GA7 and GA8 apply only to spouses or children of a principal Iraqi asylee who are themselves nationals of Iraq and who were processed on Guam, along with the principal applicant during 1996 or 1997. If the Iraqi spouse or child of an Iraqi asylee is granted asylum in his or her own right, the GA6 code should be used. On the other hand, if the spouse or child is not an Iraqi national, the derivative may be adjusted using the ordinary AS7 or AS8 code for dependents; however, a visa number must be available before the adjustment is granted. Similarly, since beneficiaries of I-730s were not moved to Guam should be assigned the AS code, and a visa number must be available at the time the derivative beneficiary is adjusted.

In conclusion, segregating the Guam asylum adjustments for proper adjudication is essential to preserve the use of the 10,000 visa numbers authorized annually for other asylees who are eligible to adjust their status. If you have questions regarding the adjudication of Guam-processed asylum adjustments, please contact your regional representative. If needed, regional representatives may contact HQISD coordinator, Michelle A. Egan either via e-mail or by telephone, at (202) 514-2982.