

INTERIM MEMO FOR COMMENT

Posted: 05-31-2012
Comment Period Ends: 06-13-2012
This memo is in effect until further notice.

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director (MS 2000)
Washington, DC 20529-2000



U.S. Citizenship
and Immigration
Services

PM-602-0062

Policy Memorandum

SUBJECT: Exceptions for Permitting the Filing of Form I-601, *Application for Waiver of Grounds of Inadmissibility*, and Any Associated Form I-212, *Application for Permission to Reapply for Admission into the United States After Deportation or Removal*, at International USCIS Offices

Purpose

This policy memorandum (PM) provides guidance and procedures regarding the circumstances when it is permissible for international USCIS managers to allow the filing of a Form I-601 and any associated Form I-212.

Scope

This PM applies to all USCIS employees.

Authority

8 CFR 212.2 and 212.7 and the instructions for Form I-601 and Form I-212

Background

Historically, waiver applicants located outside the United States filed Form I-601, *Application for Waiver of Grounds of Inadmissibility*, as well as any associated Form I-212, *Application for Permission to Reapply for Admission into the United States After Deportation or Removal*, with USCIS by submitting the applications to United States Embassies or Consulates. The Embassy or Consulate then forwarded the applications to the international USCIS office with jurisdiction for decision. Applications filed by applicants outside of the United States were adjudicated by the international USCIS office having jurisdiction over the country where the application was filed. In 2011, there was an interim change to the historical filing process in that international USCIS offices co-located with American Consulates and Embassies began to receive the filing of Form I-601 and Form I-212 applications at their respective locations.

On June 4, 2012, USCIS will implement a comprehensive change to the filing process for waiver applicants located outside the United States requiring the filing of Form I-601 applications and associated Form I-212 applications with a USCIS Lockbox for adjudication by the Nebraska Service Center (NSC). For the first six months of this change in process, Form I-601 waiver applicants located in Mexico will have the option of filing their applications either with the USCIS Lockbox or with the USCIS Ciudad Juarez Field Office.

USCIS recognizes that, in some situations, Lockbox filing may not be feasible. For example, there is no direct mail service between the United States and Cuba. Even in cases in which direct mail service is available, there may be cases that involve exceptional and compelling circumstances that require the immediate filing of the application, because even expedited processing by the NSC would be insufficient to address the urgency of the circumstances.

Policy

Applicants residing in Cuba

Any applicants residing in Cuba may continue to file Form I-601 and associated Form I-212 with the USCIS Havana Field Office. The Havana Field Office will continue to adjudicate all applications filed with that office.

If an applicant who is residing in Cuba has an authorized attorney or other representative in the United States, the applicant may elect to file Form I-601 or Form I-212 *either* with the Lockbox in the United States *or* with the Havana Field Office.

Applicants in countries other than Cuba

An international USCIS Field Office Director (FOD) is authorized to accept the filing of, and also adjudicate, any Form I-601 and any associated Form I-212 filed by an applicant who is in that country at the time of filing, if the FOD finds the existence of exceptional and compelling circumstances that require the immediate filing of the application, because even expedited processing by the NSC would be insufficient to address the urgency of the circumstances. Whether the applicant resides in that country or is merely present there is a factor that the FOD can properly consider in assessing whether exceptional and compelling circumstances exist. This authorization should be very rare and applies only in countries where a USCIS office is located. If the Form I-601 or Form I-212 are accepted for filing overseas, the USCIS international office will also accept any Form I-290B, Notice of Appeal or Motion, associated with a denial of a Form I-601 or Form I-212. If Form I-290B is filed as a motion, the international office will adjudicate the motion. If Form I-290B is filed as an appeal, the international office will forward the record to the Administrative Appeals Office for adjudication of the appeal.

The following are some examples of time sensitive, compelling, and exceptional circumstances:

- *Medical emergencies:* The applicant or qualifying family member is facing a medical emergency that requires immediate travel. This includes the situation where a petitioner or beneficiary is pregnant and delaying travel for the time it would take for expedited NSC adjudication may create a medical risk or extreme hardship for the mother or child.
- *Threats to personal safety:* The waiver applicant or the qualifying family member is facing an imminent threat to personal safety.
- *Close to aging out:* A beneficiary is within a few weeks of aging out of visa eligibility.
- *Adoption of a child:* A petitioner who has adopted a child locally and has an imminent need to depart the country.

This is not an exhaustive list of examples. FODs have discretion to accept and adjudicate Forms I-601 and I-212 when there are exceptional and compelling humanitarian reasons. If necessary, FODs should consult with their District Director or Deputy District Director when they have questions about whether to authorize the local filing of waiver applications.

If the FOD determines that an applicant should not be permitted to file the application with the international office, the FOD should inform the applicant that he or she may provide a written request for expedited adjudication when they file the Form I-601 or Form I-212 with the Lockbox. The request should contain a clear explanation of the reason for the request and any available supporting documentation for the need to expedite.

The FOD in an international office is not authorized to accept the filing of, or adjudicate, any Form I-601 and Form I-212 if, at the time of filing, the applicant is not in the country in which the USCIS international office is located. Applicants in countries where USCIS is not present must file their applications with the USCIS Lockbox. Further, the FOD of an international office is not authorized to review or consider requests to expedite the adjudication of waiver applications filed with a USCIS Lockbox. Waiver applicants who have already filed a waiver application domestically must make requests for expedited adjudication to the NSC. Information on contacting the NSC can be found at www.uscis.gov/contact.

Use

This PM is intended solely for the guidance of USCIS personnel in the performance of their official duties. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

Contact Information

Questions or suggestions regarding this PM should be addressed through appropriate channels to International Operations Division, Refugee, Asylum, and International Operations Directorate.