



U.S. Citizenship
and Immigration
Services

JAN 15 2010

Memorandum

TO: Field Leadership

FROM: Alejandro N. Mayorkas
Director

A handwritten signature in black ink, appearing to read "Alejandro N. Mayorkas", written over the printed name in the "FROM" field.

SUBJECT: Initial Relief Efforts for Aliens Affected by the January 12, 2010 Haiti Earthquake

1. Purpose

This memorandum provides interim field guidance for the various forms of relief that U.S. Citizenship and Immigration Services (USCIS) has committed to undertake as a result of the January 12, 2010 Haiti earthquake. This guidance will apply to nationals and habitual residents of Haiti some of whom may fall outside the scope of a TPS designation. USCIS will continue to work with DHS to determine whether any additional forms of relief may be necessary.

2. Background

The Department of Homeland Security (DHS) is committed to providing certain forms of temporary relief to those who are unable to return to Haiti at this time due to the January 12, 2010 earthquake.

As discussed in more detail below, USCIS will implement procedures to adjudicate favorably, where possible, applications for change or extension of nonimmigrant status following the expiration of an applicant's period of admission; grant an additional period of parole or advance parole in appropriate cases; and authorize "F" nonimmigrant students' requests for off-campus employment work authorization. USCIS will also expedite the processing of advance parole applications and relative petitions for minor children from affected areas.

Additionally, USCIS will grant employment authorization where appropriate. This consideration is given in recognition of the financial losses experienced as a result of the earthquake.

3. Field Guidance

This guidance covers nationals and habitual residents of Haiti. When an officer determines that an applicant is from Haiti, he/she may take one of the following actions:

A. Change or Extend Nonimmigrant Status:

USCIS will use its discretion to more readily approve applications for change or extension of nonimmigrant status by affected aliens. However, certain nonimmigrant classifications are not permitted to apply for or receive employment authorization. Nonimmigrant visitors, for instance, would not be granted work authorization based on that status.

Implementation Guidance: For an approvable application for a change or extension of nonimmigrant status submitted by an affected alien, Directors should exercise discretion in favor of the applicant absent compelling adverse factors. Upon receiving Form I-539, Application for Change or Extension of Status, Service Centers will identify applicants who are nationals and residents of Haiti, and identify such applications for immediate processing.

Haitian B-1 or B-2 visa holders who are unable to return home may file for an extension of status for an additional six months. All other nonimmigrant aliens must continue to meet existing criteria for change or extension of status. Those aliens who are unable to pay the fees may file a fee waiver request in accordance with existing regulations. In cases where an alien is no longer able to extend his or her current nonimmigrant status, favorable consideration should be given to requests for change of status to B-1 or B-2.

In accordance with existing guidelines, Service Center directors have authority to accept applications for extension of stay or change of status submitted after the applicant's period of admission has expired. Such applications must include evidence of the applicant's inability to return to Haiti prior to the expiration of his or her authorized period of admission due to the events of January 12, 2010. Haitian nationals and residents in lawful, nonimmigrant status on January 12, 2010, will be excused for filing late up to March 12, 2010. After March 12, 2010, eligibility for delayed filing will be determined on a case-by-case basis.

B. Reparole Affected Parolees:

Haitian aliens already in the United States pursuant to a grant of parole by USCIS may file for reparole at the District office with jurisdiction over the alien's place of residence. Absent compelling adverse factors, the District Director should exercise his or her discretion favorably for reparole. Parolees in the United States may apply for employment authorization.

Implementation Guidance: The District Director should grant an extension of parole if a national or resident of Haiti presents a genuine, expired or unexpired Form I-94, which contains an expiration date between January 12, 2010 and March 12, 2010 and the alien demonstrates that he or she was or is prevented from returning to his or her home country prior to the expiration of his or her parole as a direct result of the earthquake. The length of the extension is at the Director's discretion but normally should not exceed 6 months.

C. Extend Grants of Advance Parole:

Due to disruption of consular services following the earthquake and in recognition of the humanitarian needs of affected aliens, an automatic extension of advance parole until March 12,

2010, is granted to those aliens who are currently in Haiti and who are outside of the United States if their advance parole authorization, Form I-512, Authorization for Parole of Aliens into the United States, expires between January 12, 2010 and March 12, 2010. Ports of entry have been instructed to accept these auto-extended Form I-512s.

D. Grant Academic (“F”) Student Employment Authorization:

Nonimmigrant F-1 students from Haiti who may be unable to continue to cover the cost to engage in a full course of study may need off-campus employment authorization.

Implementation Guidance: If an F-1 student demonstrates that he or she is a national or resident of Haiti and he or she has been recommended for such employment by the Designated School Official (DSO) per the requirements of 8 CFR 214.2(f)(9)(ii)(C) and (D), the Service Center Director should approve the I-765.

E. Expedite processing for the following applications/petitions:

Given the need for immediate relief, USCIS will expedite certain applications. Standard requirements for security checks remain in place under expedited procedures.

- **Requests for Advance Parole:** Some nationals and residents of Haiti with benefit applications pending in the United States may need to travel quickly to Haiti for emergent reasons and will apply for advance authorization for parole to return to the United States. USCIS will expedite these applications. Individuals from Haiti with pending applications for advance parole may also request expedited processing.

Implementation Guidance: When receiving Form I-131, Application for Travel Document, Adjudications Officers should determine if the applicant is a national or resident of Haiti. If the officer determines that the applicant is from Haiti, the request for advance parole should be processed as an emergency request.

- **Relative Petitions for Minor Children of eligible LPRs and USCs Residing in Affected Areas:** Children are a particularly vulnerable population. In cases where the LPR or USC petitioner requests expedited processing of a Form I-130 Petition for Alien Relative (where visa numbers are available) or an asylee from Haiti requests expedited processing of a Form I-730, Refugee/Asylee Relative Petition for a child from Haiti, the Director will give favorable consideration to the request, if received by July 1, 2010,.

G. Assist Persons Stranded Without Documents:

When the Embassy in Port-au-Prince is open to the public, the USCIS field office there should continue to assist LPRs who have lost their documents. As soon as the Embassy is open to the public and as long as USCIS staff is present in Port-au-Prince, database checks and interviews will be conducted to rapidly verify status and authorize issuance of boarding letters. Boarding letters permit airlines to allow aliens to travel to the United States. The Field Office in Santo

Domingo should also continue to provide assistance to individuals evacuated from Haiti to the Dominican Republic who may have lost their documents.

H. Issue Employment Authorization for Orders of Supervision:

USCIS may receive, and shall adjudicate as promptly as possible, Forms I-765, Application for Employment Authorization, relating to aliens who have been issued Orders of Supervision pursuant to stays of removal by U.S. Immigration and Customs Enforcement.

I. Abandonment and Requests for Evidence

USCIS will consider exercising discretion on a case-by-case basis not to deny for abandonment or failure to respond to a Request for Evidence (RFE) if the applicant, petitioner or beneficiary lives in the affected area or if the alien needed to obtain documentation from the affected area or otherwise demonstrates a direct connection between the disaster and the failure to pursue the application or petition.”

J. Humanitarian Parole

Humanitarian parole is an extraordinary measure, sparingly used to bring an otherwise inadmissible alien into the United States for a temporary period of time, due to a compelling emergency. Humanitarian parole may be used on a case-by-case basis to address compelling and urgent humanitarian needs. Many USC prospective adoptive parents are already in the process of adopting a child from Haiti. In these cases, USCIS will consider granting humanitarian parole to a child without a visa, for whom we have evidence of a final adoption decree issued by the Government of Haiti or who has been granted custody to U.S. citizen adoptive parents for the purpose of emigration and adoption in the United States. We are exploring other categories of children for which humanitarian parole may be appropriate.