



June 6, 2012

PM-602-0038.1

## Policy Memorandum

**SUBJECT:** Requests to Expedite Adjudication of Form I-601, Application for Waiver of Grounds of Inadmissibility, Filed by Individuals Outside the United States; Update to *Adjudicator's Field Manual (AFM)* Chapter 41.7 and Appendix 41-5 (*AFM* Update AD12-09)

### **Purpose**

This policy memorandum (PM) provides guidelines on how U.S. Citizenship and Immigration Services (USCIS) processes requests to expedite the adjudication of Forms I-601 filed by individuals outside the United States. These guidelines will be included in *AFM* Chapter 41.7 and in the revised version of the International Operations Division Field Guidance for Form I-601 adjudications.

This PM updates the *AFM* to reflect a change in the filing and adjudication location of Forms I-601 for most individuals who are outside the United States. Effective June 4, 2012, individuals outside the United States generally will be required to file their waiver applications with a USCIS Lockbox.<sup>1</sup> During a six-month transition period, individuals residing in Mexico will have the option to file their waiver applications with the USCIS Ciudad Juarez Field Office (CDJ) or to mail them to the USCIS Lockbox. The grounds for granting a request to expedite processing of a Form I-601 have not changed. However, certain procedural guidelines are changed to reflect the new requirements for domestic filing of the applications.

### **Scope**

Unless specifically exempted herein, this PM applies to and is binding on all USCIS employees adjudicating Forms I-601 filed by individuals outside the United States.

### **Authority**

8 CFR 212.7 governs USCIS adjudication of Form I-601.

### **Background**

It has been USCIS's longstanding policy to accept requests to expedite processing of petitions or applications where the applicant or the petitioner demonstrates reasons that merit expedited processing of a petition or application. Consistent with this policy, an applicant may request that the adjudication

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<sup>1</sup> In exceptional and compelling circumstances, the director of an international USCIS field office may permit an applicant to file Form I-601, and a related Form I-212, with the field office rather than the Lockbox. Guidance concerning when filing with an international USCIS office may be appropriate is provided in USCIS PM-602-0062: *Exceptions for Permitting the Filing of Form I-601 and Any Associated Form I-212 at International USCIS Offices*, dated May 21, 2012.

of a Form I-601 be expedited. Requests to expedite in the Form I-601 adjudication context present unique challenges.

Almost all Form I-601 applicants outside the United States have an interest in expeditious processing given that most are required to establish extreme hardship to a qualifying family member in order for USCIS to consider whether to exercise its discretion to waive the bar to an applicant's entry into the United States. However, some applicants may be experiencing extraordinary circumstances that present the kind of compelling or time-sensitive reasons that merit expedited processing of a Form I-601. This PM provides guidelines on responding to requests to expedite Forms I-601 filed by applicants outside of the United States.

### **Policy**

Subject to case management requirements and resource constraints, USCIS managers may, in extraordinary circumstances, exercise discretion on a case-by-case basis to approve a request to expedite adjudication of a Form I-601.<sup>2</sup> The strong desire to immigrate to the United States as soon as possible is not by itself "extraordinary." The types of extraordinary circumstances that may, generally, merit expedited processing are those in which there are time-sensitive and compelling situations that necessitate the applicant's presence in the United States sooner than would be possible if the application were processed under normal processing times. There may also be other time-sensitive circumstances that merit expeditious processing, principally where the failure to expedite the adjudication could result in significant delays in family reunification. For example, the applicant may be ineligible to receive a visa in the following month due to forecasted visa regression, and therefore faces an even more prolonged and unanticipated separation from family members if the application is not expedited. Similarly, the applicant may request that the case be expedited to prevent a child not covered by the Child Status Protection Act aging out before visa issuance. There also may be circumstances in which a prior USCIS error merits expeditious processing of a request.

### **Implementation**

The *AFM* and the International Operations Division Field Guidance for Form I-601 adjudications are revised as follows:

☞ (1) Chapter 41.7 is revised to read:

#### **41.7 Expeditious Adjudication of Waivers of Inadmissibility.**

(a) Applications for Waiver of Inadmissibility Filed by Applicants in the United States.  
[Reserved]

(b) Applications for Waiver of Inadmissibility by Applicants Outside the United States.

(1) Applicability.

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<sup>2</sup> When a Form I-212 application is submitted in conjunction with a Form I-601 application, a request or decision to expedite the adjudication of the Form I-601 application will be treated as a request or decision to expedite the accompanying Form I-212 application.

The guidance set forth in this chapter applies to any applications for waiver of inadmissibility filed by an applicant who is outside the United States. This guidance shall also apply to any Form I-212 application submitted in conjunction with a Form I-601 application for which there has been a request or decision to expedite processing.

(2) Criteria.

Subject to case management requirements and resource constraints, USCIS managers may, in extraordinary circumstances, exercise discretion to decide on a case-by-case basis to approve a request to expedite adjudication of a Form I-601 filed by an individual who is outside the United States. The strong desire to immigrate to the United States as soon as possible is not, itself “extraordinary.”

The types of extraordinary circumstances that may, generally, merit expedited processing of a Form I-601 are those in which there are time-sensitive and compelling situations that necessitate the applicant’s presence in the United States sooner than would be possible if the application were processed under normal processing times or other time-sensitive circumstances that nonetheless merit expeditious processing, principally where the failure to expedite the adjudication could result in significant delays in family reunification. Those situations may include, but are not limited to, situations in which the applicant establishes one or more of the following:

- The applicant has urgent and critical medical needs that cannot be addressed in the applicant’s country;
- An applicant’s family member in the United States has a serious medical condition and has urgent and critical medical needs related to that condition that require the applicant to assist the family member in the United States;
- The applicant is faced with urgent circumstances related to the death or serious illness of a family member;
- The applicant or qualifying family member is a particularly vulnerable individual due to age, serious medical condition, or disability and this vulnerability is exacerbated by the applicant’s presence outside the United States;
- The applicant is at risk of serious harm due to personal circumstances distinct from the general safety conditions of those living in the applicant’s country;
- It would be in the national interest of the United States to have the applicant in the United States (for example, the applicant’s presence in the United States is urgently required for work with a U.S. government entity); or
- As described in a request from or for a member of the Armed Forces of the United States:

- The applicant's qualifying family member is a member of the military who is deployed or will soon be deployed; and
- The applicant demonstrates that, in light of the deployment there are compelling reasons to expedite the request due to the impact of the applicant's absence from the United States on the applicant, the qualifying family member, or their children, if any.

The above non-exhaustive list describes some examples of situations that may, depending on the facts of the case, merit a discretionary approval of a request to expedite adjudication of a waiver request. However, these are not the only circumstances that may warrant expeditious processing. There may also be other time-sensitive circumstances that do not necessitate the applicant's presence in the United States sooner than would be possible under normal processing times, but that nonetheless merit expeditious processing. For example, the applicant may be ineligible to receive a visa in the following month due to forecasted visa regression and therefore faces an even more prolonged and unanticipated separation from family members if the application is not expedited. Similarly, the applicant may request that the case be expedited to prevent a child not covered by the Child Status Protection Act from aging out before visa issuance. There also may be circumstances in which a prior USCIS error merits expeditious processing of a request.

### (3) Documentation.

Requests must include sufficient evidence to support the claimed need for expedited processing or an explanation of why that evidence is not available. For example, if the request is based on an urgent, serious medical condition, the applicant should provide a medical report. If the request is based on urgent need by a U.S. government entity to have the applicant in the United States, the applicant should provide a letter from the entity supporting the expedite request.

### (4) Public Information, Notices and Outreach.

The Field Office Director of the USCIS Ciudad Juarez Field Office, the only international USCIS office that will be accepting filings of Form I-601 applications after June 4, 2012 and up to December 4, 2012, will provide instructions for expediting requests on its Department of State and USCIS web pages. All waiver applicants will be able to view the updated PM on the USCIS public website. All requests to expedite will be reviewed by USCIS within 5 business days of receipt of the request and, if the decision is to approve the request to expedite, the applicant will be notified within 10 business days of receipt of the request. In particularly urgent cases, staff will make every effort to notify the applicant of an approval to expedite a request as soon as the decision to expedite has been made. Because of limited resources and concerns that responding to all requests to expedite will divert those limited resources from timely adjudicating all applications, USCIS generally will not provide negative responses to requests to expedite. USCIS will notify applicants that, if they do not receive a response to their request to expedite within 15 days from the

date of notice of receipt of the request, their request to expedite may be presumed to be denied. In addition, the Ciudad Juarez Field Office Director will include this information on the auto-reply message that is sent out upon receipt of electronically received requests. In response to non-electronically submitted requests, USCIS will send out a notice of receipt that contains this same information. See **Appendix 41-5**.

☞ (2) A new Appendix 41-5 is added to read:

[SEE ATTACHED]

☞ (3) The *AFM* **Transmittal Memoranda** button is revised by adding, in numerical order, a new entry to read:

AD12-09 6/6/2012	<b>Chapter 41.7</b> <b>Appendix 41-5</b>	Adds guidance on consideration of requests for expeditious adjudication of Forms I-601 filed by individuals who are located outside of the United States
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#### 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 the International Operations Program Manager for Forms I-601.

## **Appendix 41-5: Template for Notice of Receipt of Request to Expedite I-601 Processing for Applicants Outside the U.S.**

### **Notice of Receipt of Request to Expedite Form I-601 Processing for Applicant Residing Outside the United States**

Dear NAME OF APPLICANT:

We have received your request to expedite the processing of your *Application for Waiver of Grounds of Inadmissibility* (Form I-601). Most Form I-601 applicants residing outside of the United States have a strong interest in expeditious processing, because they are claiming that their inability to reside in the United States is causing extreme hardship to a qualifying family member.

We strive to process all cases within designated processing times. At this time, the average processing time for Forms I-601 in this office is [**insert number of months**]. Expedited processing is rarely granted. In order to receive the privilege of expedited processing, you must establish that there are time-sensitive and compelling circumstances that necessitate your presence in the United States prior to the average processing time.

Please be advised that we are unable to respond to each individual request for expedited processing. You will receive notification if your request to expedite the processing of your Form I-601 is granted. If you have not received a response within 15 business days from the date of this letter, please presume that regrettably your request for expedited processing has been denied.

For more information about the filing requirements for inadmissibility waivers, please visit the USCIS website at [www.uscis.gov](http://www.uscis.gov).

Sincerely,  
[Name]  
[Title]