

DRAFT FOR COMMENT ONLY

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This draft does not constitute agency policy in any way or any purpose.

U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of the Director (MS 2000)
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U.S. Citizenship
and Immigration
Services

Draft PM-602-XXXX

Draft 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; *Adjudicator's Field Manual (AFM) Update AD 11-10*

Purpose

This Policy Memorandum (PM) provides guidelines on how USCIS processes requests to expedite the adjudication of Forms I-601 filed by individuals outside the United States. These guidelines will be included in the revised version of International Operations Division Field Guidance for Form I-601 adjudications.

Scope

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

Authority

8 CFR Section 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 an application or petition. Consistent with this policy, an applicant may request that the adjudication of a Form I-601 be expedited. Requests to expedite in the Form I-601 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' extraordinary circumstances may present the kind of compelling and urgent, time-sensitive reasons that merit expedited processing of a Form I-601. This memorandum provides guidelines on expediting Forms I-601 filed by applicants overseas.

Policy

Subject to case management requirements and resource constraints, USCIS managers overseas may, in extraordinary circumstances, exercise discretion to decide on a case-by-case basis whether to approve or deny a request to expedite adjudication of a Form I-601. The strong desire to immigrate to the

United States as soon as possible is not by itself “extraordinary.” The types of extraordinary situations that may, generally, merit expedited processing are those in which there are time-sensitive and compelling circumstances that necessitate the applicant's presence in the United States sooner than would be possible if the application were processed under normal processing times.

Implementation

The Adjudicator's Field Manual is revised as follows:

1. A new Chapter 41.7 is added 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.

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, including both applications adjudicated by Overseas Field Offices and applications filed from Canada and adjudicated by the Vermont Service Center.

(2) Criteria.

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

The types of extraordinary situations that may, generally, merit expedited processing of a Form I-601 are those in which there are time-sensitive and compelling circumstances that necessitate the applicant's presence in the United States sooner than would be possible if the application were processed under normal processing times. Those situations that may be raised 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 life-threatening medical condition and has immediate needs related to that condition for the applicant to assist the family member in the United States;
- The applicant is faced with urgent circumstances related to the death or terminal illness of a family member;
- The applicant or qualifying family member is a particularly vulnerable individual due to age or disability;
- 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.

(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, life-threatening 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.

Overseas Field Office Directors will provide instructions for expediting requests on Department of State and USCIS web pages. All requests to expedite will be reviewed 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. Because of limited overseas resources and concerns that responding to all

requests to expedite will divert those limited resources from timely adjudicating all applications, overseas field offices are not required to provide negative responses to requests to expedite. Overseas field offices 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. This information will be posted on all overseas office websites. In addition, Overseas Field Office Directors will include this information on their auto-reply message that is sent out upon receipt of electronically received requests. In response to non-electronically submitted requests, overseas field offices will send out a notice of receipt that contains this same information. See **Appendix 41-5**.

Note: The Vermont Service Center (VSC) has jurisdiction over Forms I-601 filed by applicants residing in Canada and generates notices from CLAIMS3. VSC will continue to send out appropriate CLAIMS3-generated notices for that workload.

(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:

AD 11-10 [DATE]	Chapter 41.7 Appendix 41-5	Adds guidance on consideration of requests for expeditious adjudication of Forms I-601 filed overseas
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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.