



MEMORANDUM FOR: Service Center Directors
District Directors
Regional Directors
Director, National Benefits Center
Director, Office of Refugee, Asylum and International Operations

FROM: William Yates, Director, Domestic Operations /S/

DATE: January 10, 2005

SUBJECT: Relief Efforts for Aliens Affected by the December 26, 2004 Tsunami

The Department of Homeland Security (DHS) is committed to providing temporary relief to those who are unable to return to their country at this time due to the December 26, 2004 tsunami. This memorandum provides interim field guidance for the various forms of relief that U.S. Citizenship and Immigration Services (USCIS) has committed to undertake. USCIS will continue to work with DHS to determine whether any additional forms of relief may be necessary. 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 may grant employment authorization where appropriate. This consideration is given in recognition of the financial losses experienced as a result of the tsunami.

This guidance covers individuals from Sri Lanka, Maldives, Seychelles, and the affected regions of the following countries: Bangladesh, Burma, India, Indonesia, Kenya, Malaysia, Somalia, Tanzania, and Thailand. Officers should determine if the applicant is from one of these countries. If the applicant is from a country where damage was regional, the officer should determine if the applicant is from the affected region of that country. Additional guidance will be provided specifying the affected regions of these countries and the documents that may be used to adjudicate the benefit applications or petitions described below.



➤ **Action: Change or Extension of 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.

Implementation Guidance: For an otherwise approvable application for a change or extension of nonimmigrant status submitted by an affected alien, Directors should exercise discretion in favor of the applicant. Service Centers, in receiving Form I-539, Application for Change or Extension of Status, will identify applications received from the above-named countries, and pull such applications for immediate processing.

B-1 or B-2 visa holders, who are unable to return to their countries, 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.

Service Center directors have existing authority and guidelines for accepting applications for extension of stay or change of status submitted after the applicant's period of admission has expired. Aliens wishing to utilize this provision must submit an application, per existing standards, and submit evidence that their inability to return prior to the expiration of their authorized period of admission was due to the events of December 26, 2004. Anyone in lawful, nonimmigrant status on December 26, 2004, will be excused for filing late up to February 28, 2005. After February 28, 2005, eligibility for delayed filing will be determined on a case-by-case basis.

➤ **Action: Reparole Affected Parolees:**

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. If the alien is otherwise eligible for parole, 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 Director should grant an extension of parole if an alien presents a genuine, expired or unexpired Form I-94, which contains an expiration date from December 26, 2004 to February 28, 2005, 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 tsunami. The length of the extension is at the Director's discretion but normally should not exceed 6 months.



➤ **Action: Extend Grants of Advance Parole:**

Due to disruption of consular services following the tsunami, and in recognition of the humanitarian needs of affected aliens, an automatic extension of advance parole until February 28, 2005, is granted to those aliens from affected countries or regions of countries 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 December 25, 2004 and February 27, 2005. Ports of entry have been instructed to accept these auto-extended Form I-512s.

➤ **Action: Academic (“F”) Student Employment Authorization:**

Nonimmigrant F-1 students from tsunami-affected countries 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 from an affected country or region of a country 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.

➤ **Action: Expedite processing:**

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 of the affected countries with benefit applications pending in the United States may need to travel quickly to the country for emergent reasons and will apply for advance authorization for parole to return to the United States. USCIS will expedite these applications. Individuals from affected countries 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 from one of the countries named at the beginning of this guidance. If the applicant is from a country where damage was regional, the officer should determine if the applicant is from the affected region of that country. Additional guidance will be forthcoming (**Note:** USCIS is working with the Department of State Bureau of Consular Affairs to identify documents that will help with regional determinations.). If the officer determines that the applicant is from a tsunami affected country or region of a country, the request for advance parole should be processed as an emergency request.



- **Relative Petitions for Minor Children of LPRs and USCs Residing in Affected Areas:** Children are a particularly vulnerable population. In cases where the petitioner requests expedited processing of a Form I-130, Petition for Relative, for a child from an affected country or region of a country, the Director will give favorable consideration to the request by a USC or LPR, received by February 28, 2005, where visa numbers are available.

➤ **Action: Assist Persons Stranded Without Documents:**

USCIS overseas offices should continue to assist LPRs who have lost their documents. Database checks and interviews will continue to be conducted during and outside of business hours to rapidly verify status and authorize issuance of boarding letters at the consulates throughout the affected country. Boarding letters permit airlines to allow aliens to travel to the United States.

➤ **Action: Employment Authorization:**

In addition to the employment authorization authorities described above, USCIS may receive, and shall adjudicate as promptly as possible, Forms I-765 relating to aliens who have been issued Orders of Supervision pursuant to stays of removal by U.S. Immigration and Customs Enforcement.