



# Instructions for Application for Provisional Unlawful Presence Waiver

Department of Homeland Security  
U.S. Citizenship and Immigration Services

USCIS  
**Form I-601A**  
OMB No. 1615-0123  
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## What Is the Purpose of Form I-601A?

Certain immigrant visa applicants who are relatives of U.S. citizens or Lawful Permanent Residents (LPRs) may use this application to request a provisional waiver of the unlawful presence grounds of inadmissibility under Immigration and Nationality Act (INA) section 212(a)(9)(B), before they depart the United States to appear at a U.S. Embassy or U.S. Consulate for an immigrant visa interview.

## Who May File Form I-601A?

**You may file this application to seek a provisional unlawful presence waiver if you:**

1. Are physically present in the United States;
2. Are at least 17 years of age at the time of filing;
3. Have an immigrant visa case pending with Department of State (DOS) because you:
  - A. Are the principal beneficiary of an approved Form I-130, Petition for Alien Relative, an approved Form I-140, Petition for Alien Worker, or an approved Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, and have paid the immigrant visa processing fee to DOS, and you are currently in the process of obtaining your immigrant visa;
  - B. Have been selected by DOS to participate in the Diversity Visa (DV) Program (that is, you are a DV Program selectee) and are currently in the process of obtaining your immigrant visa; or
  - C. Are the spouse or child of a principal beneficiary of an approved immigrant visa petition and have paid the immigrant visa processing fee to DOS, or you are the spouse or child of a DV Program selectee (that is, you are a DV Program derivative), and you are currently in the process of obtaining your immigrant visa; and

**NOTE:** The Child Status Protection Act (CSPA) permits certain beneficiaries of immigrant visa petitions to retain classification as a child even if they have reached 21 years of age. Visit the U.S. Citizenship and Immigration Services (USCIS) website at [www.uscis.gov/green-card/green-card-processes-and-procedures/child-status-protection-act-cspa](http://www.uscis.gov/green-card/green-card-processes-and-procedures/child-status-protection-act-cspa) for more information.

**NOTE TO DV PROGRAM SELECTEES AND DERIVATIVES:** Because a DV Program selectee or derivative can only be issued a diversity immigrant visa during the fiscal year for which the DV Program selectee registered, you can only obtain a provisional unlawful presence waiver while you are in the process of obtaining the immigrant visa with DOS. You are in the process of obtaining an immigrant visa if the DOS Kentucky Consular Center (KCC) has assigned you a DV case number, and you are awaiting an immigrant visa interview while in the United States.
4. Believe you are or will be inadmissible only for a period of unlawful presence in the United States that was:
  - A. More than 180 days, but less than 1 year, during a single stay (INA section 212(a)(9)(B)(i)(I)); or
  - B. One year or more during a single stay (INA section 212(a)(9)(B)(i)(II)).

## Who is NOT Eligible to Receive a Provisional Unlawful Presence Waiver?

**You are not eligible for a provisional unlawful presence waiver and USCIS will deny your application if any of the following apply to you:**

1. You do not meet all of the requirements listed in the **Who May File Form I-601A** section of these Instructions;
2. You have Form I-485, Application to Register Permanent Residence or Adjust Status, pending with USCIS;
3. You are in removal proceedings, unless your removal proceedings are administratively closed and have not been placed back on the Department of Justice (DOJ), Executive Office for Immigration Review (EOIR) calendar to continue your removal proceedings at the time you file your Form I-601A;

**NOTE:** Even if your removal proceedings are administratively closed, you are still “in removal proceedings” until EOIR terminates or dismisses your case. You are, however, eligible to apply for a provisional unlawful presence waiver if EOIR has not placed your removal proceedings back on its calendar to continue your removal proceedings.

4. You are subject to an administratively final order of removal, exclusion, or deportation that has been entered or issued against you (including an in absentia order under INA section 240(b)(5)) unless, you applied for, and USCIS has already granted, an application for permission to reapply for admission under section 212(a)(9)(A)(iii) of the Act and 8 CFR 212;

**NOTE:** Permission to reapply for admission is also called “consent to reapply.” The application is filed on Form I-212, Application for Permission to Reapply for Admission into the United States After Deportation or Removal. For more information on Form I-212, please visit USCIS’ website at [www.uscis.gov/I-212](http://www.uscis.gov/I-212).

5. The Department of Homeland Security (DHS) has entered a final decision reinstating a prior deportation, exclusion, or removal order against you under INA 241(a)(5) by serving you with a Form I-871, Notice of Intent/Decision to Reinstate Prior Order, before you filed the provisional unlawful presence waiver application or while the provisional unlawful presence waiver application is pending;

**NOTE:** You are not yet ineligible for the provisional unlawful presence waiver if DHS has only served you with a notice that DHS intends to reinstate a prior deportation, exclusion, or removal order, but only if DHS enters a final order reinstating the prior deportation, exclusion, or removal order. **You must still let USCIS know, if DHS has served you with the notice that DHS intends to reinstate the order, since that fact may be material to the adjudication of your application.**

6. You are currently subject to an unexpired grant of voluntary departure from the immigration judge or the BIA; or
7. You fail to establish that your U.S. citizen or LPR spouse or parent would experience extreme hardship if you are refused admission to the United States or that USCIS should approve your application as a matter of discretion. You must establish that refusal to admit you would result in extreme hardship to your U.S. citizen or LPR spouse or parent. You must also establish that your case warrants a favorable exercise of discretion by showing that favorable factors in your case should be given more weight than the unfavorable factors.

## Can I File Other Forms with Form I-601A?

Form I-601A is a standalone application. You cannot file Form I-601A with **any** other applications, petitions, or requests for immigration benefits. You also should not file any other applications, petitions, or requests for immigration benefits with Form I-601A or request that these applications, petitions, or requests for immigration benefits be considered **with** Form I-601A.

If you submit your Form I-601A with **any** of the following forms, your application will be **REJECTED** and returned to you with any fees paid:

1. Application to Register Permanent Residence or Adjust Status (Form I-485);
2. Petition for Alien Relative (Form I-130);

3. Application for Permission to Reapply for Admission Into the United States After Deportation or Removal (Form I-212);
4. Application for Travel Document (Form I-131); or
5. Application for Employment Authorization (Form I-765).

**NOTE:** You may file Form G-1145, E-Notification of Application/Petition Acceptance, with Form I-601A to request that USCIS electronically notify you when USCIS accepts your Form I-601A application.

**NOTE: Applicants for provisional unlawful presence waivers cannot seek adjustment of status in the United States based on Form I-601A.** A provisional unlawful presence waiver is only effective if the applicant departs the United States, attends the immigrant visa interview scheduled by DOS at a U.S. Embassy or U.S. Consulate abroad, and the consular officer finds that the applicant is eligible for the immigrant visa. For more information about the immigrant visa process, visit the DOS website at [www.state.gov](http://www.state.gov).

### What Should I Do After I File Form I-601A?

After you file your Form I-601A, it is important that you provide all required paperwork for your immigrant visa to the Department of State, National Visa Center (NVC). The NVC cannot schedule your immigrant visa interview **until** it receives all of your immigrant visa paperwork. Failure to submit the required paperwork will delay your case.

### What Should I Do Once USCIS Approves My Provisional Unlawful Presence Waiver?

1. **If you are in removal proceedings, resolve your removal proceedings.** If you are in removal proceedings and USCIS approves your Form I-601A, it is important that you resolve your removal proceedings **before** you leave the United States. Leaving the United States before your removal proceedings are resolved may delay processing of your immigrant visa based on another ground of inadmissibility. Leaving the United States before your removal proceedings are resolved may also result in the automatic revocation of your approved provisional unlawful presence waiver. Visit the USCIS website at [www.uscis.gov/provisionalwaiver](http://www.uscis.gov/provisionalwaiver) for information about how to resolve your removal proceedings before you depart the United States.
2. **Depart the United States to attend your immigrant visa interview.** You must depart the United States to attend your immigrant visa interview for the provisional unlawful presence waiver to become fully effective. If you fail to do this, your provisional unlawful presence waiver will not take effect and the approval may no longer be valid.

### How Long Is My Approved Provisional Unlawful Presence Waiver Valid and When Can USCIS Revoke It?

1. **Validity of an approved waiver.** An approved provisional unlawful presence waiver takes effect once you depart the United States, you appear for your immigrant visa interview, and the DOS consular officer determines you are otherwise admissible to the United States and eligible for an immigrant visa. Once your waiver takes effect, it is valid indefinitely for the period of unlawful presence that was waived.
2. **Revocation of an approved waiver.** An approved provisional unlawful presence waiver is automatically revoked and no longer valid if:
  - A. You enter or attempt to reenter the United States without inspection and admission or parole:
    - (1) While your application for a provisional unlawful presence waiver is pending with USCIS;
    - (2) After your provisional unlawful presence waiver is approved; or
    - (3) Before your immigrant visa is issued;

- B. The DOS consular officer determines at the immigrant visa interview that you are ineligible to receive the immigrant visa because you are inadmissible on grounds other than the 3-year or 10-year unlawful presence bars;
- C. The immigrant visa petition that was the basis for the provisional unlawful presence waiver is at any time revoked, withdrawn, or rendered invalid, but not otherwise reinstated for humanitarian reasons or converted to a widow or widower petition (Form I-360);
- D. DOS terminates your immigrant visa registration in accordance with INA section 203(g), and it has not been reinstated; or
- E. The DOS consular officer determines that you are ineligible for the immigrant visa.

### **What Happens If My Provisional Unlawful Presence Waiver is Denied or Revoked or If I Withdraw My Pending Application?**

If your provisional unlawful presence waiver is denied or is approved, but subsequently revoked, or you withdraw your pending application:

- 1. You may depart the United States to attend your immigrant visa interview and apply for a waiver abroad.** At your immigrant visa interview at the U.S. Embassy or U.S. Consulate abroad, DOS will make an admissibility determination. If DOS determines you are inadmissible, based on unlawful presence or other grounds, you may file Form I-601, Application for Waiver of Grounds of Inadmissibility, with USCIS from abroad, if a waiver is available to you.
- 2. You may file a new Form I-601A along with the required fees.** You must still meet all the eligibility requirements for the provisional unlawful presence waiver at the time of filing, including requirements to be physically present in the United States and to appear for your biometric services appointment at a USCIS Application Support Center (ASC).
- 3. USCIS may initiate removal proceedings.** Denial of your provisional unlawful presence application does not automatically trigger initiation of removal proceedings. USCIS will follow its current guidelines for initiation of removal proceedings. For more information on USCIS guidance for referral of cases and issuance of Notices to Appear (NTAs) in cases involving inadmissible and removable aliens, visit the USCIS website at [www.uscis.gov/provisionalwaiver](http://www.uscis.gov/provisionalwaiver).

### **How Does a Pending or Approved Provisional Unlawful Presence Waiver Affect My Immigration Status?**

The filing or approval of an application for a provisional unlawful presence waiver does not affect your current immigration status in the United States. A pending or approved provisional unlawful presence waiver:

- 1. Does NOT provide interim benefits.** Filing this application does not give you interim benefits such as employment authorization or eligibility to apply for advance parole to return to the United States. A pending or approved waiver also does not give you any interim benefits while your immigrant visa application is pending with DOS;
- 2. Does NOT provide lawful status.** If you are not otherwise maintaining lawful status in the United States, the filing or approval of this waiver application alone does not give you lawful immigration status in the United States;
- 3. Does NOT stop the accrual of unlawful presence or provide protection from removal.** A pending or approved waiver will not prevent the Department of Homeland Security (DHS) from initiating removal proceedings against you or actually removing you from the United States. A pending or approved waiver also does not protect you from accruing additional unlawful presence while still in the United States;

4. **Does NOT remove the requirement to depart the United States and seek an immigrant visa.** If your provisional unlawful presence waiver is approved, you must still depart the United States to process your immigrant visa at a U.S. Embassy or U.S. Consulate abroad. The approval of a provisional unlawful presence waiver **does not** make you eligible for adjustment of status in the United States. For more information on adjustment of status, visit the USCIS website at [www.uscis.gov/greencard](http://www.uscis.gov/greencard);
5. **Does NOT guarantee immigrant visa issuance.** A DOS consular officer will determine if you are eligible for an immigrant visa. There are many reasons why individuals are ineligible for an immigrant visa, and this provisional unlawful presence waiver only provisionally covers one ground of inadmissibility resulting from unlawful presence in the United States. For more information about immigrant visa requirements, consult the DOS website at <http://nvc.state.gov>; and
6. **Does NOT guarantee admission to the United States.** Having an approved waiver or immigrant visa does not guarantee your admission to the United States. A U.S. Customs and Border Protection (CBP) officer will make a determination when you apply for admission at a U.S. Port-of-Entry.

### **What Happens If I Depart the United States While My Form I-601A Is Pending or If I Enter or Attempt to Reenter Without Inspection and Admission or Parole?**

All applicants for a provisional unlawful presence waiver must be in the United States at the time of filing Form I-601A and appear for biometrics capture at a USCIS ASC.

USCIS may consider your case abandoned and deny it pursuant to 8 CFR 103.2(b)(13) if you do not appear for biometrics capture, if you do not respond to a request for evidence (RFE), or if you do not appear for an interview when requested by USCIS.

If you depart the United States, and at any time before or after filing Form I-601A, enter or attempt to reenter the United States without inspection and admission or parole, you may be placed in removal proceedings, may be subject to additional grounds of inadmissibility that would render you ineligible for a provisional unlawful presence waiver, and any approval of Form I-601A would be automatically revoked.

### **General Instructions**

We provide free forms through the USCIS website. To view, print, or complete our forms, you should use the latest version of Adobe Reader, which you can download for free at <http://get.adobe.com/reader/>. If you do not have internet access, you may call the USCIS Contact Center and ask that we mail a form to you.

**Signature.** You (or your signing authority) must properly complete your application. USCIS will not accept a stamped or typewritten name in place of any signature on this application. If you are under 14 years of age, your parent or legal guardian may sign the application on your behalf. A legal guardian may also sign for a mentally incompetent person. If your application is not signed, or if the signature is not valid, we will reject your application. See 8 CFR 103.2(a)(7)(ii)(A). If USCIS accepts a request for adjudication and determines that it has a deficient signature, USCIS may deny the request.

**Validity of Signatures.** USCIS will consider a photocopied, faxed, or scanned copy of an original handwritten signature as valid for filing purposes. The photocopy, fax, or scan must be of the original document containing the handwritten ink signature.

**Filing Fee.** See Form G-1055, available at [www.uscis.gov/forms](http://www.uscis.gov/forms), for specific information about the fees applicable to this form.

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**Evidence.** When you file your application, you must submit all evidence and supporting documents listed in the **Specific Instructions** and/or **What Evidence Must I Submit With Form I-601A** sections of these Instructions.

**Biometric Services Appointment.** USCIS may require you to appear for an interview or provide biometrics (fingerprints, photograph, and/or signature) at any time to verify your identity, obtain additional information, and conduct background and security checks, including a check of criminal history records maintained by the Federal Bureau of Investigation (FBI), before making a decision on your application or petition. If we determine that a biometric services appointment is necessary, we will send you an appointment notice with the date, time, and location of your appointment. If you are currently overseas, your notice will instruct you to contact a U.S. Embassy, U.S. Consulate, or USCIS office outside the United States to schedule an appointment.

At your biometrics appointment, you must sign an oath reaffirming that:

1. You provided or authorized all information in the application;
2. You reviewed and understood all of the information contained in, and submitted with, your application; and
3. All of this information was complete, true, and correct at the time of filing.

If you do not attend your biometric services appointment, we may deny your application.

**Copies.** You should submit legible photocopies of requested documents unless the Instructions specifically instruct you to submit an original document. USCIS may request an original document at any time during our process. If we request an original document from you, we will return it to you after USCIS determines it no longer needs the original.

**NOTE:** If you submit original documents when they are not required or requested, **USCIS may destroy them after we receive them.**

**Translations.** If you submit a document with information in a foreign language, you must also submit a full English translation. The translator must sign a certification that the English language translation is complete and accurate, and that he or she is competent to translate from the foreign language into English. The certification must also include the translator's signature, printed name, the signature date, and the translator's contact information.

**USCIS Contact Center.** For additional information on the application and Instructions about where to file, change of address, and other questions, visit the USCIS Contact Center at [www.uscis.gov/contactcenter](http://www.uscis.gov/contactcenter) or call at **800-375-5283** (TTY **800-767-1833**). The USCIS Contact Center provides information in English and Spanish.

**Disability Accommodations/Modifications.** To request a disability accommodation/modification, follow the instructions on your appointment notice or at [www.uscis.gov/accommodationsinfo](http://www.uscis.gov/accommodationsinfo).

### **How To Complete Form I-601A**

1. Type or print legibly in black ink.
2. If you need extra space to complete any item within this application, use the space provided in **Part 9. Additional Information** or attach a separate sheet of paper. Type or print your name and Alien Registration Number (A-Number) (if any) at the top of each sheet; indicate the **Page Number**, **Part Number**, and **Item Number** to which your answer refers; and sign and date each sheet.
3. Answer all questions fully and accurately. If a question does not apply to you (for example, if you have never been married and the question asks, "Provide the name of your current spouse"), type or print "N/A," unless otherwise directed. If your answer to a question which requires a numeric response is zero or none (for example, "How many children do you have" or "How many times have you departed the United States"), type or print "None," unless otherwise directed.



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## Specific Instructions

### Approved Immigrant Visa Case or DV Program Selectee or Derivative

To apply for a provisional unlawful presence waiver, you must have an immigrant visa case pending with DOS based on:

1. An approved immigrant visa petition and payment of the immigrant visa processing fee to DOS; or
2. Selection by DOS to participate in the DV Program for the fiscal year for which you registered.

### Immigrant Visa Processing

DOS processes immigrant visas for foreign nationals who wish to immigrate permanently to the United States from abroad, including foreign nationals who are ineligible to adjust their status to that of an LPR in the United States.

### Based on a USCIS-Approved Immigrant Visa Petition

USCIS sends the approved immigrant visa petition to the DOS NVC for consular processing of the immigrant visa if Form I-130, Petition for Alien Relative, Form I-140, Immigrant Petition for Alien Worker, or Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, indicates that the beneficiary will seek an immigrant visa through the consular process abroad or if the beneficiary is not eligible to adjust status in the United States. Once the NVC receives this approved immigrant visa petition, the NVC sends the beneficiary instructions on how to initiate the immigrant visa process and pay the immigrant visa processing fee.

You must have already paid the DOS immigrant visa processing fee and must provide USCIS with a copy of your DOS-issued immigrant visa processing fee receipt or other evidence of fee payment when you submit your provisional unlawful presence waiver application. You must submit the DOS immigrant visa processing fee receipt or other evidence of fee payment for the NVC case associated with the approved immigrant visa petition. Contact the NVC if you need another copy of your DOS-issued immigrant visa processing fee receipt.

### Based on the Diversity Visa Program

DOS administers the DV Program. To participate in the program, a foreign national must register with DOS during the designated registration period. If DOS selects the foreign national from the pool of registrants to continue the DV process, DOS instructs the DV Program selectee and any derivatives on how to obtain an immigrant visa.

If you are a DV Program selectee or derivative, you can submit a provisional unlawful presence waiver request to USCIS as soon as you are selected. You must submit a printout from the DV Entrant Status Check page of the DOS Electronic Diversity Visa system website at [www.dvlottery.state.gov/](http://www.dvlottery.state.gov/), confirming that you are a DV Program selectee or derivative.

**NOTE:** DV Program selectees and derivatives DO NOT need to show that they have already paid the DOS immigrant visa processing fee and they DO NOT have to submit a copy of the DOS-issued immigrant visa processing fee receipt.

### Extreme Hardship to a Qualifying Relative

You must show that you have a U.S. citizen or LPR spouse or parent (qualifying relative) who would experience extreme hardship if you are refused admission to the United States. The qualifying relative does not need to be the relative who filed the immigrant visa petition, but he or she must be your U.S. citizen or LPR spouse or parent. For information about how you can show extreme hardship to your qualifying relative, see **Extreme Hardship** in the **What Evidence Must I Submit With Form I-601A** section of these Instructions.

**NOTE to parents of a U.S. citizen or LPR child:** A U.S. citizen or LPR child is not a qualifying relative for the purpose of showing extreme hardship in this application. USCIS will not consider extreme hardship experienced by your U.S. citizen or LPR children except to the extent that it affects the extreme hardship your U.S. citizen or LPR spouse or parent would experience.

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**NOTE to surviving relatives:** If your U.S. citizen or LPR spouse or parent filed your immigrant visa petition, but died after filing the immigrant visa petition on your behalf, USCIS will consider the U.S. citizen or LPR spouse's or parent's death the functional equivalent of extreme hardship to the U.S. citizen or LPR spouse or parent, if you resided in the United States at the time of the death and you continue to reside in the United States.

You must still complete **Part 3. Information About Your Immigrant Visa Case** and **Part 4. Information About Your Qualifying Relative** with information about the Form I-130 petitioner. In **Part 5. Statement From Applicant**, you must explain why you believe USCIS should approve your application for a provisional unlawful presence waiver as a matter of discretion. You must also provide a copy of the U.S. citizen or LPR spouse's or parent's death certificate with your application.

**This application is divided into nine parts. See below for greater detail.**

### **Part 1. Information About You**

In this section, provide the requested information about yourself.

**Item Number 1. Alien Registration Number (A-Number)** (if any). Provide your A-Number. We use your A-Number to identify your immigration records. It begins with an "A" and can be found on correspondence you have received from USCIS, U.S. Immigration and Customs Enforcement (ICE), or DOJ Executive Office of Immigration Review (EOIR) during immigration proceedings in court.

**Item Number 2. U.S. Social Security Number** (if any). Provide your U.S. Social Security number. If you do not have a U.S. Social Security number, type or print "N/A."

**Item Number 3. USCIS Online Account Number** (if any). You will only have a USCIS Online Account Number (OAN) if you previously filed a form that has a receipt number that begins with IOE. If you filed the form online, you can find your OAN in your account profile. If you mailed us the form, you can find your OAN at the top of the Account Access Notice we sent you. If you do not have a receipt number that begins with IOE, you do not have an OAN. The OAN is not the same as an A-Number.

**Item Numbers 4.a. - 4.c. Your Full Name.** Provide your full legal name in the spaces provided.

**Item Numbers 5.a. - 6.c. Other Names Used** (if any). Provide all the names you have used, including maiden name, married names, and nicknames in the space provided.

**Item Numbers 7.a. - 7.f. Your U.S. Mailing Address.** Provide the address where you would like to receive written correspondence regarding your application.

**Item Numbers 8. - 9.e. Your U.S Physical Address.** Provide your physical address if it is different from your mailing address.

**Item Number 10. Sex.** Indicate whether you are male or female as provided on your birth certificate issued at the time of birth or issued closest to the time of birth or in secondary evidence you provided to USCIS, if applicable.

**Item Number 11. Date of Birth** (mm/dd/yyyy). Provide your date of birth in mm/dd/yyyy format.

**Item Numbers 12. - 13. Place of Birth.** Provide the city or town and country where you were born in the spaces provided.

**Item Number 14. Country of Citizenship or Nationality.** Provide the name of the country where you are a citizen and/or national. This is not necessarily the country where you were born. If you do not have citizenship in any country, type or print "stateless" and provide an explanation in **Part 9. Additional Information**.

**Item Numbers 15.a. - 16.b. Your Mother's and Father's Full Legal Name.** Provide the full legal name for your parents in the spaces provided.

**Item Numbers 17. - 19. Your Last Entry Into the United States.** In the appropriate fields, provide the actual or approximate date and place where you last entered the United States and your immigration status, if any, at the time of entry.



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If you were inspected at a port-of-entry as an applicant for admission, and the U.S. Customs and Border Protection officer then admitted or paroled you, provide the place of the port-of-entry and your immigration status at the time of entry (for example, immigrant, any nonimmigrant classification, or parolee).

If you came into the United States without inspection by U.S. Customs and Border Protection at a port-of-entry, type or print “PWI” as your immigration status.

**Item Numbers 20.a. - 26. Your Previous Entries Into the United States** (if applicable). In the appropriate fields, provide the date when (on or about) you previously entered the United States and the place (actual or approximate) for each prior entry into the United States. Also provide your immigration status at the time of each prior entry.

If you were inspected at a port-of-entry as an applicant for admission, and then the U.S. Customs and Border Protection Officer admitted or paroled you, provide the place of the port-of-entry and your immigration status at the time of entry (for example, immigrant, any nonimmigrant classification, or parolee).

If you came into the United States without inspection by U.S. Customs and Border Protection at a port-of-entry, type or print “PWI” as your immigration status.

If you need extra space to complete this section, use the space provided in **Part 9. Additional Information**.

**Item Numbers 27. - 45. Your Immigration or Criminal History.** Provide information about any and all immigration or criminal history.

### **1. Immigration Proceedings (Item Numbers 27. - 30.)**

**Item Number 27. You Are In Removal Proceedings But There Is No Final Order Yet.** Indicate whether you are currently in removal, exclusion, or deportation proceedings because the immigration judge, the Board of Immigration Appeals, or a Federal court has not issued an order in your case yet. You are generally not eligible for a provisional unlawful presence waiver unless your case is administratively closed and has not been put back on the court’s docket at the time you file your Form I-601A.

If you answer “Yes” to **Item Number 27.**, you should proceed to **Item Numbers 28.a - 28.b.** Based on the scenario that applies to you in **Item Numbers 28.a. - 28.b.**, you may be eligible for a provisional unlawful presence waiver.

If your removal proceedings were terminated, you must submit a copy of all documents relating to the removal, deportation, or exclusion proceedings, including the order terminating the removal proceedings. If removal proceedings were terminated, you are not in removal proceedings.

**Item Numbers 28.a. - 28.b. Removal Proceedings Administratively Closed or Removal Proceedings Put Back on EOIR’s Calendar to Continue The Case.** Indicate which statement applies to you if you are currently in removal, deportation, or exclusion proceedings. Provide the evidence requested in the scenario that applies to you.

If your case is administratively closed and has not been put back on EOIR’s calendar to continue your case, you may be eligible for a provisional unlawful presence waiver. If your case was administratively closed but has been put back on EOIR’s calendar to continue your case, you are ineligible for a provisional unlawful presence waiver.

**Item Numbers 29.a. - 29.b. Being Subject to Final Order of Removal, Exclusion, or Deportation.** Indicate whether you are currently subject to a final order of removal, exclusion, or deportation.

**NOTE:** If you answer “Yes” to **Item Number 29.a.**, you are ineligible for a provisional unlawful presence waiver unless you applied for and USCIS has already approved an application for permission to reapply for admission under INA section 212(a)(9)(A)(iii) and 8 CFR 212.2 on Form I-212, Application for Permission to Reapply for Admission into the United States after Deportation or Removal. If you have already applied for, and USCIS has already granted, you permission to reapply for admission, provide the relevant information about the approved Form I-212 in **Item Number 29.b.** You may also provide a copy of the approval notice that USCIS sent to you when it approved your Form I-212.

**Item Number 30.a. Reinstated Removal.** Indicate in **Item Number 30.a.** whether DHS has served you with a Form I-871, Notice of Intent/Decision to Reinstate Prior Order, indicating that DHS intends to reinstate a prior deportation, exclusion, or removal order against you under INA section 241(a)(5).

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**Item Number 30.b.** If you answered “Yes” to **Item Number 30.a.**, indicate whether DHS has entered a final order reinstating a prior deportation, exclusion, or removal proceeding.

**Item Number 31. Being Subject To An Unexpired Grant Of Voluntary Departure.** Indicate whether you are currently subject to an unexpired grant of voluntary departure that was granted to you by an immigration judge or the Board of Immigration Appeals (BIA) during your removal proceedings.

If you are currently subject to an unexpired grant of voluntary departure from the immigration judge or the BIA, you are not eligible for a provisional unlawful presence waiver. If you were granted voluntary departure in the past, but then you withdrew your voluntary departure request or otherwise terminated voluntary departure you should not select “Yes” to **Item Number 31**. In this case, you may be in removal proceedings or you may be the subject of a final order of removal, deportation or exclusion. You should select the statements that apply to you in **Item Numbers 27. - 28.b.** or **Item Number 29.a.**

If you withdrew your request for voluntary departure or otherwise terminated the voluntary departure, please provide a copy of all the relevant court documents.

If you did not depart during the voluntary departure period, you now have an outstanding final order of removal, deportation, or exclusion. You should not select “Yes” to **Item Number 31.**, but “Yes” to **Item Number 29.a.**

## **2. Criminal History (Item Numbers 32. - 45.)**

- A.** If you answer “Yes” to any question in **Item Numbers 32. - 38.**, provide the location, date, and a brief description of the event in **Part 9. Additional Information**. If you answer “Yes” to any question in **Item Numbers 39.a. - 45.**, provide a complete explanation in **Part 9. Additional Information**. The provisional unlawful presence waiver only addresses the inadmissibility grounds associated with unlawful presence under INA section 212(a)(9)(B)(i). USCIS may deny your application as a matter of discretion due to unfavorable factors related to your criminal and/or immigration history unless you are able to establish that you warrant a favorable exercise of discretion.
- B.** If you were arrested or detained, but not charged with any crime or offense, you must provide information about the event regardless of the country where the event occurred.
- C.** If you were charged with a crime, you must provide certified court dispositions showing the court proceedings’ outcome. You must also provide copies of arrest reports, statements of charges, indictment information, or any other charging document issued against you. You **MUST** provide this information even if:
  - (1) Your records were expunged;
  - (2) You were placed in an alternative sentencing or rehabilitation program (for example, diversion, deferred prosecution, withheld adjudication, deferred adjudication);
  - (3) Your records were sealed or otherwise cleared; or
  - (4) Anyone, including a judge, law enforcement officer, or attorney, told you that you no longer have a criminal record.
- D.** If you were arrested but not charged with a crime or offense, you must provide the arrest report as well as documentation from the arresting authority, prosecutor’s office, or court, if available, showing that you were not charged with a crime or offense.
- E.** If you have ever engaged in, ordered, incited, assisted, or otherwise participated in any human rights violations (for example, acts involving torture, genocide, or human trafficking; murder; severely injuring someone; engaging in sexual activity with anyone made to participate by force or threat), you must provide information about the events, place, date, and description regardless of the country where the events occurred.

## **Part 2. Biographic Information**

Provide the biographic information requested in **Part 2., Item Numbers 1. - 6.** Providing this information as part of your application may reduce the time you spend at your USCIS ASC appointment as described in the **Biometric Services Appointment** section of these Instructions.

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**Item Numbers 1. - 2. Ethnicity and Race.** Select the boxes that best describe your ethnicity and race.

### Categories and Definitions for Ethnicity and Race

- 1. Hispanic or Latino.** A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. (**NOTE:** This category is only included under Ethnicity in **Part 2., Item Number 1.**)
- 2. American Indian or Alaska Native.** A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
- 3. Asian.** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- 4. Black or African American.** A person having origins in any of the black racial groups of Africa.
- 5. Native Hawaiian or Other Pacific Islander.** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- 6. White.** A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

**Item Number 3. Height.** Select the values that best match your height in feet and inches. For example, if you are five feet and nine inches, select “5” for feet and “09” for inches. Do not enter your height in meters or centimeters.

**Item Number 4. Weight.** Enter your weight in pounds. If you do not know your weight, or need to enter a weight under 30 pounds or over 699 pounds, enter “000.” Do not enter your weight in kilograms.

**Item Number 5. Eye Color.** Select the box that best describes the color of your eyes.

**Item Number 6. Hair Color.** Select the box that best describes the color of your hair.

### Part 3. Information About Your Immigrant Visa Case

In this section, provide information about the approved immigrant visa petition (either Form I-130, Form I-140, or I-360), and the status of your immigrant visa application at the NVC.

**Item Numbers 1.a. - 1.e.** Provide the basis on which you are immigrating to the United States (Select **only one** box).

**NOTE:** If you are a Diversity Visa (DV) program selectee or derivative, provide the information requested in **Item Numbers 2.a. - 2.d.** If you are not filing this application as a Diversity Visa Selectee, skip to **Item Number 3.**

**Item Number 2.a. DOS DV Program Case Number.** Provide the DV Case number that was assigned to you (or your spouse or parent) by the KCC when you (or your spouse or parent) became a DV Program selectee. You can find the number on your printout from the DV Entrant Status Check page of the DOS Electronic Diversity Visa system website at [www.dvlottery.state.gov/](http://www.dvlottery.state.gov/).

**Item Numbers 2.b. - 2.d. DV Program Selectee’s Full Name.** (If you are not filing this application as a Diversity Visa Selectee, skip to **Item Number 3.**) If you are filing as the derivative of a DV program selectee, provide the name of the principal DV Program selectee (your spouse or your parent).

**Item Number 3.** If you are (or your spouse or parent) is the beneficiary of an immigrant visa petition filed by a family member or an employer, provide the information requested in **Item Number 3.**

**Item Number 3.a. USCIS Receipt Number.** Provide the receipt number for the approved immigrant visa petition that was filed on your (or your spouse’s or parent’s) behalf or that you used to self-petition on your behalf. Submit a copy (if available) of the petition approval notice (Form I-797, Notice of Action). This will assist USCIS in processing your application for a provisional unlawful presence waiver. Failure to provide a copy of the immigrant visa petition approval notice may result in processing delays or in the rejection of your application.

**NOTE:** Failure to provide a copy of the petition approval notice will not, by itself, result in the denial of your application.

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**Item Number 3.b. DOS Consular Case Number (NVC Case Number).** Provide your consular case number (also called the NVC case number). It is located on your receipt for the DOS immigrant visa processing fee. The NVC case number must correspond to the approved immigrant visa petition you listed in **Part 3., Item Number 3.a.**

**Item Numbers 3.c. - 3.f. Petitioner's Full Name and Company or Organization Name.** Provide the full name of the family member or company who filed Form I-130, Form I-140, or Form I-360 on your (or your spouse's or parent's) behalf. If you self-petitioned using Form I-140 or Form I-360, type or print "Self."

#### **Part 4. Information About Your Qualifying Relative**

In this section, provide information about the U.S. citizen or LPR spouse or parent you believe would experience extreme hardship if you were refused admission to the United States.

**Item Numbers 1.a. - 2.d. Your Qualifying Relative's Full Name and Relationship to You.** Provide the full name of your qualifying relative and indicate whether the qualifying relative is your U.S. citizen or LPR spouse or parent.

**Item Number 3. Your Other Qualifying Relative.** Indicate whether you have another qualifying relative (U.S. citizen or LPR spouse or parent) who would experience extreme hardship if you were refused admission to the United States. If you answer "Yes," provide the name, relationship, and evidence of U.S. citizenship or LPR status in the United States of the additional qualifying relative in the space provided.

**Item Numbers 4.a. - 5.d. Additional Qualifying Relative's Full Name and Relationship to You.** Provide the full name of your additional qualifying relative and indicate whether the additional qualifying relative is your U.S. citizen or LPR spouse or parent.

#### **Part 5. Statement from Applicant**

In the space provided, describe all the reasons that you believe support your application for a provisional unlawful presence waiver. If you need extra space to complete your statement, use the space provided in **Part 9. Additional Information.**

Your statement must explain why you believe your qualifying relative would experience extreme hardship if you are refused admission to the United States. For information about how you can show extreme hardship, see **Extreme Hardship** in the **What Evidence Must I Submit With Form I-601A** section of these Instructions.

Your statement must also explain why you believe USCIS should approve your waiver application as a matter of discretion. Approval of a provisional unlawful presence waiver is discretionary, and the USCIS officer will weigh favorable and unfavorable factors presented in your case to determine whether he or she should approve your request. You should explain why you believe USCIS should approve your application for a provisional unlawful presence waiver because of the favorable factors, and why the unfavorable factors should not carry as much weight as the favorable ones.

#### **Part 6. Applicant's Statement, Contact Information, Declaration, Certification, and Signature**

**Item Numbers 1.a. - 6.b.** Select the appropriate box to indicate whether you read this application yourself or whether you had an interpreter assist you. If someone assisted you in completing the application, select the box indicating that you used a preparer. Further, you must sign and date your application and provide your daytime telephone number, mobile telephone number (if any), and email address (if any). Every application **MUST** contain the signature of the applicant (or parent or legal guardian, if applicable). A stamped or typewritten name in place of a signature is not acceptable.

#### **Part 7. Interpreter's Contact Information, Certification, and Signature**

**Item Numbers 1.a. - 7.b.** If you used anyone as an interpreter to read the Instructions and questions on this application to you in a language in which you are fluent, the interpreter must fill out this section; provide his or her name, the name and address of his or her business or organization (if any), his or her daytime telephone number, his or her mobile telephone number (if any), and his or her email address (if any). The interpreter must sign and date the application.

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## Part 8. Contact Information, Declaration, and Signature of the Person Preparing this Application, if Other Than the Applicant

**Item Numbers 1.a. - 8.b.** This section must contain the signature of the person who completed your application, if other than you, the applicant. If the same individual acted as your interpreter **and** your preparer, that person should complete both **Part 7.** and **Part 8.** If the person who completed this application is associated with a business or organization, that person should complete the business or organization name and address information. Anyone who helped you complete this application **MUST** sign and date the application. A stamped or typewritten name in place of a signature is not acceptable. If the person who helped you prepare your application is an attorney or accredited representative, he or she may be obliged to also submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, along with your application.

## Part 9. Additional Information

**Item Numbers 1.a. - 7.d.** If you need extra space to provide any additional information within this application, use the space provided in **Part 9. Additional Information.** If you need more space than what is provided in **Part 9.**, you may make copies of **Part 9.** to complete and file with your application, or attach a separate sheet of paper. Type or print your name and A-Number (if any) at the top of each sheet; indicate the **Page Number, Part Number,** and **Item Number** to which your answer refers; and sign and date each sheet.

**We recommend that you print or save a copy of your completed application to review in the future and for your records. We recommend that you review your copy of your completed application before you come to your biometric services appointment at a USCIS ASC.** At your appointment, USCIS will allow you to complete the application process only if you are able to confirm, under penalty of perjury, that all of the information in your application is complete, true, and correct. If you are not able to make that attestation in good faith at that time, we will require you to return for another appointment.

## What Evidence Must I Submit With Form I-601A?

You must submit all evidence requested in these Instructions with your application. If you fail to submit required evidence, USCIS may reject or deny your application for failure to submit requested evidence or supporting documents in accordance with 8 CFR 103.2(b)(1) and these Instructions.

If you are unable to submit the required primary evidence (for example, a birth certificate or marriage certificate), you may provide secondary evidence (for example, court orders, church or school records) instead if you can explain why the primary evidence is unavailable. If you are unable to submit secondary evidence, you may submit two or more affidavits, sworn to or affirmed by individuals who are not parties to the immigration benefit sought and who have direct personal knowledge of the event and circumstances. You must also explain why primary and secondary evidence are unavailable.

## Immigrant Visa Petition Approval Notice or DOS Electronic Diversity Visa Entrant Status Check Print Out

You must submit a copy (if available) of the USCIS approval notice (Form I-797, Notice of Action) for the immigrant visa petition (Form I-130, Form I-140, or Form I-360) that was filed on your (or your spouse's or parent's) behalf or that you used to self-petition on your behalf. If the immigrant visa petition was filed on your spouse's or parent's behalf, you must submit evidence establishing your relationship to your spouse or parent. See the **Relationship to Qualifying Relative** section in these Instructions for a list of evidence that can be submitted. If you are a DV Program selectee or derivative, you must submit a printout from the DV Entrant Status Check page of the DOS Electronic Diversity Visa system, that confirms you (or your spouse or parent) are a DV Program selectee. If you are a DV program derivative spouse or child, you must also submit evidence establishing your relationship to the DV program selectee. See the **Relationship to Qualifying Relative** section in these Instructions for a list of evidence that can be submitted.

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Having a copy of the immigrant visa petition approval notice or printout from the DV Entrant Status Check page of the DOS Electronic Diversity Visa system showing you are a DV Program selectee will assist USCIS in processing your application for a provisional unlawful presence waiver.

Failure to provide a copy of the petition approval notice or printout from the DV Entrant Status Check page of the DOS Electronic Diversity Visa system will not, by itself, result in a denial of your application. However, failure to provide a copy of these documents may result in processing delays or in the rejection of your application. See the **Specific Instructions** section of these Instructions for more information.

### **DOJ EOIR Administrative Closure Order**

You must submit a copy (required where applicable) of the administrative closure order issued by EOIR.

### **Approval Notice (Form I-797, Notice of Action) for Form I-212, Application for Permission to Reapply for Admission into the United States After Deportation or Removal**

If you are subject to an administratively final order of removal, exclusion, or deportation that has been entered or issued against you (including an in absentia order under INA section 240(b)(5) of the Act) and you applied for, and USCIS has already approved, an application for permission to reapply for admission into the United States after deportation or removal under INA section 212(a)(9)(A)(iii) of the Act and 8 CFR 212.2, you may submit a copy of the approval notice that USCIS sent to you.

### **DOS Immigrant Visa Processing Fee Receipt** (for immediate relatives, family-sponsored, and employment-based immigrant visa applicants only)

If you are seeking your immigrant visa based on an approved immigrant visa petition (Form I-130, Form I-140, or Form I-360), you must submit a copy of your fee receipt for your DOS immigrant visa processing fee. Place this fee receipt on top of your Form I-601A when you submit your application. See the **Specific Instructions** section of these Instructions for more information.

**NOTE:** If you are applying for a provisional unlawful presence waiver based on your selection as a DV Program selectee or derivative, you do not need to provide a copy of the DOS immigrant visa processing fee receipt with your provisional unlawful presence waiver application.

### **Relationship to Qualifying Relative**

If you are seeking your immigrant visa based on an approved family-sponsored immigrant visa petition and claim extreme hardship to a U.S. citizen or LPR spouse or parent who is the immigrant visa petitioner, you do not need to present evidence of your relationship to the petitioner. The immigrant visa petitioner will have already presented this evidence when he or she filed the immigrant visa petition (Form I-130 or Form I-360).

You must submit evidence that shows the qualifying relationship if:

1. You are seeking your immigrant visa based on an approved employment-based immigrant visa petition;
2. You are a DV Program selectee or derivative; or
3. You are seeking your immigrant visa based on an approved family-sponsored immigrant visa petition and you claim extreme hardship to a qualifying relative who is not the immigrant visa petitioner.

You must submit the following evidence to establish the relationship.

1. To your **spouse**:
  - A. A copy of your marriage certificate; and
  - B. If either you or your spouse were previously married, copies of documents showing that all prior marriages were legally terminated.
2. To your **mother**:
  - A. A copy of your birth certificate that shows your name and the name of your mother; and



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- B.** If your mother's name has changed since your birth and is different from what is shown on your birth certificate, a copy of the legal document that authorized the name change.
- 3. To your father:**
- A.** A copy of your birth certificate that shows both parents' names;
  - B.** A copy of your parents' marriage certificate or other evidence that shows you were legitimated before reaching 18 years of age;
  - C.** Evidence of legal termination of your parents' prior marriages, if any; or
  - D.** If you were born out of wedlock and were not legitimated before reaching 18 years of age, you must include any evidence establishing that a bona fide parent-child relationship existed between you and your father while you were unmarried and under 21 years of age. You may include evidence that your father lived with you, supported you, or otherwise showed continuing parental interest in your welfare.
- 4. To your step-parent:**
- A.** A copy of your birth certificate that shows your parents' names;
  - B.** A copy of the marriage certificate between your natural parent and step-parent that established the relationship before you reached 18 years of age; and
  - C.** Evidence of legal termination of any prior marriages for your natural parent and step-parent, if applicable.
- 5. To your adoptive parent:**
- A.** A copy of the final adoption decree listing the individual as your adoptive parent; and
  - B.** Evidence that your adoptive parent adopted you before you reached 16 years of age (or reached 18 years of age if your adoptive parent also adopted your natural sibling) and that your adoptive parent had legal custody of you and resided with you for at least two years.

#### **Citizenship or LPR Status of a Qualifying Relative**

If you are seeking your immigrant visa based on an approved family-sponsored immigrant visa petition and claim extreme hardship to a U.S. citizen or LPR spouse or parent who is the immigrant visa petitioner, you do not need to present evidence of the immigrant visa petitioner's U.S. citizenship or LPR status. The immigrant visa petitioner will have already presented this evidence when he or she filed the immigrant visa petition (Form I-130 or Form I-360).

You must submit evidence that shows the qualifying relative is a U.S. citizen or LPR if:

- 1.** You are seeking your immigrant visa based on an approved employment-based immigrant visa petition;
- 2.** You are a DV Program selectee or derivative; or
- 3.** You are seeking your immigrant visa based on an approved family-sponsored immigrant visa petition and you claim extreme hardship to a qualifying relative who is not the immigrant visa petitioner.

Evidence of U.S. citizenship includes, but is not limited to, any of the following:

- 1.** If your relative was born in the United States, a copy of his or her birth certificate, issued by a civil registrar, vital statistics office, or other civil authority of a U.S. state, county, municipal authority, or territory;
- 2.** A copy of your relative's naturalization certificate or certificate of citizenship issued by USCIS or the former Immigration and Naturalization Service (INS);
- 3.** A copy of your relative's unexpired U.S. passport; or
- 4.** A copy of your relative's DOS-issued Form FS-240, Report of Birth Abroad of a Citizen of the United States.

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Evidence of LPR status is established by submitting a copy of your qualifying relative's permanent resident card. You must submit a copy of the front and back of your qualifying relative's permanent resident card. If your qualifying relative has not yet received his or her permanent resident card, submit copies of the biographic pages of your qualifying relative's passport, and copies of the pages in your qualifying relative's passport, or any other USCIS or former INS issued evidence that shows your qualifying relative's LPR status.

### **Admission or Parole at a Port-of-Entry**

If you claim in **Part 1., Item Numbers 17. - 19.**, of the application that, on your last arrival in the United States, you were inspected by U.S. Customs and Border Protection at a port-of-entry, and then admitted or paroled, please submit your Form I-94, a copy of your passport with an admission or parole stamp or other DHS-issued evidence of your admission or parole.

If you cannot produce this evidence, and DHS has no record of the admission or parole, USCIS will presume that you came into the United States without inspection and admission or parole.

You may, however, provide secondary evidence (records maintained in the ordinary course of business by any individual or organization other than DHS) to support your claim that you were admitted or paroled.

If no secondary evidence is available, you may submit written statements, signed under penalty of perjury under United States law, from yourself and from any other individuals who have personal knowledge of the circumstances of your claimed admission or parole.

### **Extreme Hardship**

You may submit any evidence to support your claim that your qualifying relative would experience extreme hardship if you are refused admission to the United States and your U.S. citizen or LPR spouse or parent must remain in the United States without you or relocate abroad to reside with you outside of the United States. Factors USCIS considers when determining extreme hardship include, but are not limited to:

- 1. Health.** Examples include: Ongoing or specialized treatment required for a physical or mental condition, availability or quality of such treatment in the foreign country, anticipated treatment duration, whether the condition is long term, and whether it is chronic or acute;
- 2. Financial considerations.** Examples include: Future employability, loss due to sale of home or business or termination of a professional practice, a decline in standard of living, ability to recoup short-term losses, cost of extraordinary needs (such as special education or training for children with special needs), or the cost of care for family members such as elderly or sick parents;
- 3. Education.** Examples include: Loss of opportunity for higher education, lower quality or limited scope of education options, disruption of a current program, requirement to be educated in a foreign language or culture with ensuing loss of time or grade, and availability of special requirements, such as training programs or internships in specific fields;
- 4. Personal considerations.** Examples include: Close relatives in the United States and country of birth or citizenship, separation from spouse or children, ages of involved parties, and length of residence and community ties in the United States; and
- 5. Special factors.** Examples include: Cultural, language-related, religious, and ethnic obstacles; valid fears of persecution, physical harm, or injury; social ostracism or stigma; and lack of access to social institutions or structures (official or unofficial) that provide support, guidance, or protection.

### **Evidence of extreme hardship includes, but is not limited to:**

- 1.** Expert opinions;
- 2.** Evidence of employment or business ties (for example, payroll records or tax statements);
- 3.** Evidence of monthly expenditures (for example, receipts from mortgage, rental or bill payments);
- 4.** Other financial records that support any claimed financial hardships;

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5. Medical documentation or evaluations by medical professionals that support any claimed medical hardships;
  6. Records of membership in community organizations or confirmation of volunteer service, and evidence of cultural affiliations;
  7. Certificates of birth, marriage, or adoption that support any claimed family ties;
  8. Affidavits or statements signed under the penalty of perjury (as permitted by 28 USC 1746), or letters from the qualifying relative or other individuals with personal knowledge of the claimed hardships.
  9. Country condition reports; and
  10. Any other evidence you believe supports the claimed extreme hardships.

**NOTE:** USCIS will consider extreme hardship only to a qualifying relative. If you describe extreme hardship to yourself or anyone other than a qualifying U.S. citizen or LPR spouse or parent, you must show how this extreme hardship affects the extreme hardship your qualifying U.S. citizen or LPR spouse or parent would experience if you are refused admission to the United States.

### **Establishing That Your Case Warrants A Favorable Exercise of Discretion**

Approval of Form I-601A is discretionary. To determine if your case warrants a favorable exercise of discretion, USCIS will review the evidence in the records and weigh all favorable and unfavorable factors when deciding whether to approve your application as a matter of discretion. You should describe the favorable and unfavorable factors in your case and explain why you think the favorable factors should be given more weight.

#### **Some favorable factors may include, but are not limited to:**

1. Close family ties in the United States;
2. Hardship to your relatives who are U.S. citizens or LPRs, or to yourself, or your employer in the United States;
3. Evidence of reformation and rehabilitation;
4. Length of lawful presence in the United States and your immigration status while you were lawfully present;
5. Evidence of respect for law and order, good moral character, and family responsibilities or intent to hold family responsibilities;
6. Absence of significant undesirable or negative factors; and
7. Likelihood that you will become an LPR in the near future.

#### **Some unfavorable factors may include, but are not limited to:**

1. Evidence of bad moral character, including criminal tendencies reflected by past convictions or an ongoing unlawful activity or continuing police record;
2. Repeated violations of U.S. immigration laws and a willful disregard for other laws;
3. Absence of close family ties or hardships;
4. Fraudulent marriage to a U.S. citizen for the purpose of gaining an immigration benefit; and
5. Unauthorized employment in the United States.

### **Where To File?**

Please see our website at [www.uscis.gov/I-601A](http://www.uscis.gov/I-601A) for the most current information about where to file this application.

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## Address Change

If you are not a U.S. citizen, you must notify USCIS of your new address within 10 days of moving from your previous residence. For information on changing your address, go to our website at [www.uscis.gov/addresschange](http://www.uscis.gov/addresschange), or call the USCIS Contact Center.

**NOTE:** Do not submit a change of address request to the USCIS Lockbox.

## Processing Information

**USCIS will reject your Form I-601A if it is not signed or accompanied by the correct fees. USCIS will send you a notice that Form I-601A is deficient. USCIS will also reject Form I-601A if you:**

1. Fail to provide your full name, U.S. physical address, and date of birth;
2. Are under 17 years of age;
3. Do not include evidence of an approved immigrant visa petition filed on behalf of you, your spouse, or your parent or yourself (if you self-petitioned), or evidence that DOS selected you or your spouse or parent as a DV Program selectee;
4. Have an immigrant visa case based on an approved immigrant visa petition and you **do not** include documentation, such as the DOS immigration visa processing fee receipt that shows you have paid DOS the immigrant visa processing fee.
5. Have indicated on the application that DOS initially acted **before January 3, 2013**, to schedule the immigrant visa interview or have not selected either box in **Part 3., Item Number 5.**

If USCIS rejects your Form I-601A, we will return it to you with any fees you submitted with the application. You may correct the deficiency and resubmit your Form I-601A. An application is not considered properly filed until accepted by USCIS. **If USCIS denies your application after fully adjudicating your Form I-601A, USCIS will not refund the fees originally submitted with your Form I-601A.**

**IMPORTANT: You must have a United States address to file this application.**

**Initial Processing.** Once USCIS accepts your application we will check it for completeness. If you do not properly complete this application, you will not establish a basis for your eligibility and we may reject or deny your application.

**Requests for More Information.** USCIS may request that you provide more information or evidence to support your application. We may also request that you provide the originals of any copies you submit. If we request an original document from you, we will return it to you after USCIS determines it is no longer needed.

**Requests for Interview.** We may request that you appear at a USCIS office for an interview based on your application. During your interview, USCIS may require you to provide your biometrics to verify your identity and/or update background and security checks.

**Decision.** The decision on Form I-601A involves a determination of whether you have established eligibility for the immigration benefit you are seeking. USCIS will notify you of our decision in writing.

## USCIS Forms and Information

To ensure you are using the latest version of this application, visit [www.uscis.gov](http://www.uscis.gov).

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## Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false, altered, forged, or counterfeited writing or document with your Form I-601A, we will deny your Form I-601A and may deny any other immigration benefit. In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

## DHS Privacy Notice

**AUTHORITIES:** The information requested on this application, and the associated evidence, is collected under the Immigration and Nationality Act sections 212(a)(9)(B) (i)(I) and (II), and 212(a)(9)(B)(v).

**PURPOSE:** The primary purpose for providing the requested information on this application is to determine if you have established eligibility for the provisional unlawful presence waiver. DHS uses the information you provide to grant or deny the immigration benefit you are seeking.

**DISCLOSURE:** The information you provide is voluntary. However, failure to provide the requested information, including your Social Security number, and any requested evidence, may delay a final decision or result in denial of your application.

**ROUTINE USES:** DHS may share the information you provide on this application with other Federal, state, local, and foreign government agencies and authorized organizations. DHS follows approved routine uses, as described in the associated published system of records notices [DHS-USCIS-001 - Alien File, Index, and National File Tracking System and DHS-USCIS-007 - Benefits Information System] and published privacy impact assessment [DHS/USCIS/PIA-016(a) Computer Linked Application Information Management System and Associated Systems], which you can find at [www.dhs.gov/privacy](http://www.dhs.gov/privacy). DHS may also share this information, as appropriate, for law enforcement purposes or in the interest of national security.

## Paperwork Reduction Act

USCIS may not conduct or sponsor an information collection, and you are not required to respond to a collection of information, unless it displays a currently valid Office of Management and Budget (OMB) control number. The public reporting burden for this collection of information is estimated at 1.317 hours per response, including the time for reviewing instructions, gathering the required documentation and information, completing the application, preparing statements, attaching necessary documentation, and submitting the application. The collection of biometrics is estimated to require 1 hour and 10 minutes. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Office of Policy and Strategy, Regulatory Coordination Division, 5900 Capital Gateway Drive, Mail Stop #2140, Camp Springs, MD 20588-0009; OMB No. 1615-0123. **Do not mail your completed Form I-601A to this address.**

## Is My Form I-601A Complete?

Ensure that you have completed **ALL** of the following actions before you file your Form I-601A with USCIS.

If I am filing as the principal or derivative beneficiary or as the self-petitioner of an approved immigrant visa petition, I placed documentation showing that I paid **DOS the immigrant visa processing fee** on top of my Form I-601A and supporting documentation.

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If I am filing as a Diversity Visa program selectee or derivative, I placed documentation showing that I (or my parent or spouse) was selected by DOS to participate in the DV Program on top of my Form I-601A and supporting documentation.

If I am in removal, exclusion, or deportation proceedings, I included a copy of my **administrative closure order** from the U.S. Department of Justice, Executive Office for Immigration Review (EOIR).

If I have an administratively final order of removal, exclusion, or deportation that has been entered or issued against me (including an in absentia order under INA section 240(b)(5)) but I applied for and USCIS already approved, an application for permission to reapply for admission to the United States after deportation or removal (Form I-212), I included my USCIS Receipt number in **Part 1., Item Number 29.b.** on Form I-601A or I included a copy of the approval notice that USCIS sent when it notified me of the Form I-212 approval, or both.

I included arrest records and conviction documents for any criminal offenses, if applicable.

I completed every applicable item on my Form I-601A, including my full name, my U.S. mailing and physical addresses, and my date of birth. I attached documents to support my statements, when requested, on Form I-601A or in the **What Evidence Should I Submit With Form I-601A** section of these Instructions.

In **Part 3. Information About Your Immigrant Visa Case**, I provided information about the approved immigrant visa petition (Form I-130, Form I-140, or Form I-360) that was filed on my (or my spouse's or parent's) behalf, or that I filed as a self-petitioner, and I attached a copy (if available) of the immigrant visa petition approval notice (Form I-797, Notice of Action).

In **Part 3.**, I provided information about my DOS immigrant visa case.

In **Part 4. Information About Your Qualifying Relative**, I provided information about my qualifying relatives and I explained the extreme hardship to my qualifying relatives in **Part 4.** I also explained in **Part 4.** why USCIS should approve my application for a provisional unlawful presence waiver as a matter of discretion.

I read the **Penalties** section of these Instructions and I (or a parent or legal guardian, if applicable) signed this Form I-601A.

I included the required filing fee.