

Instructions

Contents		
Parts		Page No.
I.	General Information.	1
II.	Who Should Use This Form?	1-2
III.	Required Documentation.	2-3
IV.	Required Certifications.	3
V.	Where to File.	3
VI.	Other Information.	4

Provide exact information about the request you are making (e.g., for S classification waivers of grounds of inadmissibility or adjustment of status) and complete and attach all necessary certifications and documentation.

Part II. Who Should Use This Form?

This form may be used only by a Federal or State and Local LEA (The U.S. Attorney's Office is considered an LEA for purpose of this application) and only to request that an alien witness or informant, be allowed to:

- (1) Proceed into the United States pursuant to the S nonimmigrant classification;
- (2) Change nonimmigrant classification to an S classification, or;
- (3) Adjust to lawful permanent resident status from the S nonimmigrant classification.

For the witness/informant the LEA must specifically request:

- **S-5 or S-6 nonimmigrant classification.**

The S classification may be requested when an alien witness or informant intends to remain permanently in the United States

- **An S-5 classification may be requested.**

For an alien who possesses and is willing to provide to the requesting LEA critical, reliable information on a criminal organization and who otherwise qualifies under section 101(a)(15)(S) of the Immigration and Nationality Act and 8 CFR 214.2(t).

- **S-6 Classification may be requested.**

For an alien who possesses and is willing to provide information on a terrorist organization, who will be or is placed in danger as a result, and is eligible for an award under section 36(a) of the State Department Basic Authorities Act of 1956, 22 U.S.C. 2708(a), and who otherwise qualifies under section 101(a)(15)(S) of the Act and 8 CFR 214.2(t).

NOTE: A federal or state LEA may request S-5. However, only a Federal LEA or Federal court may request an S-6 classification for an alien witness or informant.

Part I. General Information.**Purpose of This Form.**

This form is used by law enforcement agencies (LEAs) to bring alien witnesses and informants to the United States in an "S" non-immigrant classification.

This form provides the Department of State (DOS) and Department of Homeland Security (DHS) with information necessary to identify the requesting LEA, the alien witness and/or informant, and others, e.g., the United States Attorney, needing the information or testimony of that alien. It assists DOS and USCIS in the exercise of their joint responsibility to adjudicate requests by LEAs for S classification.

General Instructions.

Please read the instructions and carefully complete all relevant parts of this form. A separate form must be used for each witness/informant requested.

Answer all questions by typing or clearly printing in black ink. Failure to answer all questions will delay the processing of this application and may result in its denial. Indicate a non-applicable question with "N/A." If the answer is "none," so state.

If you, as requesting agent, need extra space to answer any item, attach a sheet of paper with your name on it, as well as the name of the alien, the LEA requestor and the control agent. You should make copies of this completed form for your records.

An LEA May Also Make a Request for Derivative Beneficiaries (Part A-6 of Form).

Qualifying relatives (spouse, married and unmarried sons and daughters, and parents) of the principal alien witness and informant may be included in a request for the S nonimmigrant classification.

All required information for such derivative beneficiaries of this request must be included at the time of filing the request for nonimmigrant classification.

Only qualifying relatives identified at the time of filing will be considered as accompanying or following to join. Proof of family relationship, biological data and grounds of inadmissibility must be attached for each named qualifying relative.

LEA May Request Status Change to S-5 or S-6 Classification.

The sponsoring LEA may request USCIS to change the classification of an alien already in the United States from another classification to S-5 or S-6 classification [8 CFR 214.2(t)(12)] by filing this form and Form I-539, Application to Extend/Change Nonimmigrant Status, together with the relevant documentation and requisite fees, pursuant to the instructions below relating to filing requests for an S classification.

Request for an S Nonimmigrant to File for Adjustment of Status to Lawful Permanent Resident (LPR)

A request to allow a nonimmigrant in an S classification to file for adjustment of status as a lawful permanent resident pursuant to 8 CFR 245.11 must be submitted by the LEA that originally requested the S classification, and may not be filed until the alien has fulfilled the terms and conditions of his or her S classification.

Attach to the request on Part F of this form all relevant documentation establishing that the alien has fulfilled the terms and conditions of this or her S classification and related recommendations.

Only the derivative beneficiaries named on the request for S classification are eligible to adjust pursuant to 8 CFR 245.11.

Part III. Required Documentation.

For S Classification.

Requests for the S classification (8 CFR 214.2(t)) are premised on the alien witness and informant's willingness to provide critical, reliable information. You must provide clear, **very specific** statements of the following:

- The operations that form the basis of the request. For example, if you need the alien to appear as a witness, give the date and place of the trial and the nature of the testimony you expect to receive.
- The objective of the request. Explain fully why the admission of this alien is necessary, essential and in the national interest. The terms and conditions must be stated very clearly on or attached to this form.
- The nature of the alien's cooperation with the Government, any bargains you have made with the alien and any benefits promised in returned.

NOTE: No promises for immigration benefits may be made to an alien seeking S classification.

For Ground(s) of Inadmissibility.

Part A. All grounds of inadmissibility (i.e., the reasons the alien may not be admissible to the United States) must be ascertained and a statement of each ground, or suspected ground, must be attached to this form.

Review the grounds of inadmissibility carefully with the alien and remind him or her that failure to disclose all grounds of inadmissibility (conduct or conditions) on this form may result in removal from the United States.

For each ground checked in Part A 7, you must provide a statement of all reasons why you believe discretionary waiver authority should be exercised favorably for this alien so that he or she may be admitted in the S classification.

Be as specific as possible and attach affidavits, statements, memorandums or other documentation as necessary to explain circumstances. Specific reasons for exercising discretionary waiver authority should be presented whenever possible, e.g., if the alien has a history of drug abuse, you may present evidence of rehabilitation, such as the affidavits from doctors, psychiatrists or other experts.

Documentation. Evidence submitted with this request to verify the basis of the request, i.e., for a waiver, classification or adjustment of status, may be in the form of affidavits, statements, memorandums or other documentation.

You Must Also Submit for Each Alien Named in This Request:

- Two-sets of fingerprints and signatures on Form FD-258;
- Two passport-style photographs of the alien, with a white background and taken no earlier than 30 days before submission. The photo should be un-mounted, printed on thin paper and show the alien's face in a full frontal position. The head should be bare unless the alien is wearing a headdress as required by a religious order. Using a pencil, lightly print the alien's name and the alien registration number (A#), if known, on the back of each photo. The name of the LEA may also be noted.
- The alien's A #, FBI number, U.S. Social Security number, if one has been issued, and Form G-325, Biographical Information.

Part IV. Required Certifications.

Alien Certification.

The certifications made by the alien and you, the LEA requestor, provide a critical record for the future.

After you have carefully explained the certifications in **Part B** and reviewed all statements on or attached to the form for accuracy, read the certifications to the alien and be sure that the alien understands each condition of admission and continued stay in lawful status.

If the certification is translated to ensure the alien's understanding, please so indicate. Make sure the alien understands that adjustment of status is not available unless and until he or she has satisfied the conditions of admission and continued stay in lawful status in the S classification.

LEA Certification.

Your signature as a witness to the alien's certification certifies your assurance of the alien's understanding of his or her certification. LEA headquarters level certification is required to ensure that no promises have been made other than those afforded by section 101(a)(15)(S) of the Act, and that full assumption of the responsibilities outlined in the request has been authorized. The name of the LEA agency contact on the case who is available by telephone for questions and verification of information is also necessary.

United States Attorney Certification.

The United States Attorney's certification is necessary if the alien witness or informant will be participating in a prosecution or investigation that falls within the jurisdictional authority of a United States Attorney, or if this form is to be submitted by a State or Local LEA.

The United States Attorney may and sometimes does refer to the Criminal Division or another federal entity. In such a case, the referred entity must provide the required certification and documentation of the referral by the United States Attorney.

Part V. Where to File.

Requests for an S nonimmigrant classification or for an S nonimmigrant to file for adjustment of status, should be submitted to:

**U.S. Department of Justice
Criminal Division, Office of Enforcement
Operations
Policy and Statutory Enforcement Unit
John C. Keeney Building, 10th Floor
10th And Constitution Avenue, NW
Washington, D.C. 20530-0001**

NOTE: The Criminal Division, will forward certified requests for processing to DHS for S classification. No request for S classification may be adjudicated without the certification of the Criminal Division.

Part VI. Other Information.

Employment Authorization.

Witnesses and informants who have received S nonimmigrant classification are entitled to receive an Employment Authorization Document (EAD), enabling them to seek employment in the United States. Aliens so entitled may request an EAD by filing Form I-765, Application for Employment Authorization, according to the instructions on that form. Form I-765 may not accompany this form and must be filed separately.

Authority for Collecting This Information.

The authority to require you to file Form I-854, Inter-Agency Alien Witness and Informant Record, when requesting authorization to bring a witness or informant into the United States, is found at section 101(a)(15)(S) of the Act and the Congressional concerns behind that provision.

Information you provide on Form I-854 is used to determine eligibility for the requested classification/authorization to record the numbers of requests and determinations made on this form, track and monitor the alien, and provide Congress with a required annual report on the admission of alien witnesses and informants.

Failure to provide all information as required may result in the denial or rejection of this application. The information you provide may also be disclosed to other Federal, State, local and foreign law enforcement, intelligence and regulatory agencies.

Penalties for Perjury.

All statements made in response to questions on this application are declared to be true and correct under penalty of perjury 18 U.S.C 1546, provides in part:

Whoever knowingly makes under oath, or as permitted under penalty under 28 U.S.C. 1746, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed hereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement - shall be fined in accordance with this title or imprisoned for not more than five years, or both.

The knowing placement of false information on this application may subject you and/or the preparer of this application to criminal penalties under Title 18 of the U. S. Code. The knowing placement of false information on this application may also subject you and/or the preparer to civil penalties under section 274C of the Act, 8 U.S.C. 1324c. Under 8 U.S.C. 1324c, a person subject to a final order for civil document fraud is removable from the United States and may be subject to fines.

Paperwork Reduction Act Notice.

A person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

We try to create forms and instructions that are accurate, can be easily understood and impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex.

Accordingly, this collection of information is computed as follows: (1) learning about the law and form, 60 minutes; (2) completing the form, 75 minutes; and (3) assembling and filing the application 120 minutes, for an estimated average of 4 hours and 15 minutes per response.

If you have comments regarding the accuracy of this estimate or suggestions for making this form simpler, you can write to U.S. Citizenship and Immigration Services, Regulatory Management Division, 111 Massachusetts Avenue, N.W., Room 3008, Washington, D.C. 20529; OMB Number 1615-0046.

Do not mail your completed application to this address.