



Instructions for Forms I-854A and I-854B, Inter-Agency Alien Witness and Informant Record and Adjustment of Status

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

USCIS
Form I-854
OMB No. 1615-0046
Expires 07/31/2015

What Is the Purpose of These Forms?

Form I-854A is used by law enforcement agencies (LEAs) to request that an alien witness and/or informant receive classification as S nonimmigrants. Form I-854B is used by LEAs to request that an alien in S nonimmigrant status is permitted to apply for adjustment of status to adjust to lawful permanent resident (LPR) status under section 245(j) of the Immigration and Nationality Act (INA).

These forms provide 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 U. S. Attorney needing the information or testimony of that alien*). Forms I-854A and I-854B assist DOS and U.S. Citizenship and Immigration Services (USCIS) in their joint responsibility to adjudicate requests by LEAs for S classification and adjustment of status under INA section 245(j).

Who Should Use These Forms?

Federal, state, or local LEAs (*the U.S. Attorney's Office is considered an LEA for purposes of this form*) may use these forms to request that an alien witness and/or informant is:

1. Classified as an S nonimmigrant (Form I-854A); or
2. Allowed to adjust to lawful permanent resident status from the S nonimmigrant classification (Form I-854B).

The LEA must specifically request the following for the alien witness and/or informant and his or her derivatives.

1. S-5 classification

This classification is for an alien who possesses and is willing to provide critical, reliable information to the requesting LEA on a criminal organization or enterprise, and who otherwise qualifies under INA section 101(a)(15)(S)(i) and 8 CFR 214.2(t)(1).

2. S-6 classification

This classification is for an alien who possesses and is willing to provide information about a terrorist organization; who will be or is placed in danger as a result; who is eligible for an award under section 36(a) of the DOS Basic Authorities Act of 1956, 22 U.S.C. 2708; and who otherwise qualifies under INA section 101(a)(15)(S)(ii) and 8 CFR 214.2(t)(2).

3. S-7 classification

This classification is for a spouse, married and unmarried sons and daughters, and parents of an alien witness and/or informant who otherwise qualify under INA section 101(a)(15)(S) and 8 CFR 214.2(t).

NOTE: A Federal or state LEA may request S-5 classification for an alien witness and/or informant. However, only a Federal LEA or Federal Court may request an S-6 classification. The LEA sponsoring an S-5 or S-6 may also sponsor an S-7 derivative.

LEA May Also Make a Request for Derivative Beneficiaries

The LEA may include qualifying relatives (*spouse, married and unmarried sons and daughters, and parents*) of the alien witness and/or informant in a request for the S nonimmigrant classification.

The LEA must fill out separate Forms I-854A and I-854B for each derivative. The LEA must also include all required information for such derivative beneficiaries of this request at the time of filing the nonimmigrant classification request.

USCIS will consider only qualifying relatives identified at the time of filing as accompanying or following to join the alien witness or informant. The LEA must attach proof of family relationship, biological data, and grounds of inadmissibility for each named qualifying relative.

Request for an S Nonimmigrant to File for Adjustment of Status to Lawful Permanent Resident (Form I-854B)

The LEA that originally requested the S classification must submit a request to allow a nonimmigrant in an S classification to file for adjustment to lawful permanent resident status, pursuant to INA section 245(j) and 8CFR 245.11, and may file the request until the alien has fulfilled the terms and conditions of his or her S classification.

The sponsoring LEA must attach all relevant documentation establishing that the alien has fulfilled the terms and conditions of his or her S classification and related recommendations to the request on Form I-854B.

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

General Instructions

USCIS provides forms free of charge through the USCIS Web site. In order to view, print, or fill out our forms, you should use the latest version of Adobe Reader, which you can download for free at <http://get.adobe.com/reader/>.

Each form must be properly signed and filed. USCIS will not accept a photocopy of a signed form or a typewritten name in place of a signature. If you are under 14 years of age, your parent or legal guardian may sign the form on your behalf.

Read the instructions and carefully complete all relevant parts of this form. You must use a separate form for each alien witness and/or informant requested.

Evidence. At the time of filing, you must submit all evidence and supporting documentation listed in the **Required Documentation** section of these instructions.

Copies. You may submit a legible photocopy of documents requested, unless the instructions specifically state that you must submit an original document. If you submit original documents when not required, the documents may remain a part of the record, and USCIS will not automatically return them to you.

Translations. If you submit a document with information in a foreign language, you must also submit a full English translation. The translator must certify that the English language translation is complete and accurate, and that he or she is competent to translate from the foreign language into English.

How To Fill Out Forms I-854A and I-854B

1. Type or print legibly in black ink. Failure to answer all questions will delay the processing of this form and may result in its denial.
2. If you need extra space to complete any item within this form, attach a separate sheet of paper; type or print your name, the name of the alien, and the LEA requestor 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. You should make copies of these completed forms for your records.
3. Answer all questions fully and accurately. If an item is not applicable or the answer is “none,” type or print “N/A,” unless otherwise directed.

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.

4. **Form I-94 Arrival-Departure Record.** If U.S. Customs and Border Protection (CBP) or USCIS issued the alien a Form I-94, Arrival-Departure Record, provide his or her I-94 admission number and date that his or her authorized period of stay expires or expired (*as shown on the Form I-94*). The I-94 admission number also is known as the Departure Number on some versions of Form I-94.

NOTE: If the alien was admitted to the United States by CBP at an airport or seaport after April 30, 2013, he or she may have been issued an electronic Form I-94 by CBP, instead of a paper Form I-94. The alien may visit the CBP Web site at www.cbp.gov/i94 to obtain a paper version of an electronic Form I-94. CBP **does not** charge a fee for this service. Some travelers admitted to the United States at a land border, airport, or seaport, after April 30, 2013 with a passport or travel document, who were issued a paper Form I-94 by CBP, may also be able to obtain a replacement Form I-94 from the CBP Web site without charge. If the alien’s Form I-94 cannot be obtained from the CBP Web site, it may be obtained by filing Form I-102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Record, with USCIS. USCIS **does** charge a fee for this service.

Passport and Travel Document Numbers. If the alien used a passport or travel document to travel to the United States, enter either the passport or travel document information in the appropriate space on the form, even if the passport or travel document is currently expired.

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. [Contact the Department of Justice \(DOJ\), Office of Enforcement Operations, Special Operations Unit for details of specific requirements.](#)

NOTE: LEAs may not make promises for immigration benefits to an alien seeking S classification.

For Ground(s) of Inadmissibility

Form I-854A, Part 1., Item Number 8. You must ascertain and attach all grounds of inadmissibility (*i.e., the reasons the alien may not be admissible to the United States*) and a statement of each ground, or suspected ground, 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 **denial of this request and/or** removal from the United States.

For each ground checked in **Part 1., Item Number 8.**, you must provide a statement of all reasons why you believe USCIS should exercise discretionary waiver authority favorably for this alien for admission in the S classification.

Be as specific as possible and attach affidavits, statements, memorandums, or other documentation as necessary to explain circumstances. You should present specific reasons for exercising discretionary waiver authority 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. You may submit evidence to verify the basis of the request (*i.e., for a waiver, classification, or adjustment of status*) in the form of affidavits, statements, memorandums, or other documentation.

You must also submit the following for each alien named in this request.

1. Two sets of the alien's fingerprints and signatures on Form FD-258.
2. Two identical color photographs of the alien taken within 30 days of filing this form. The photos must have a white to off-white background, be printed on thin paper with glossy finish, and be unmounted and **unretouched**.

Passport-style photos must be 2" x 2." The photos must be in color with a full face, frontal view. Head height should measure 1" to 1 3/8" from top of hair to bottom of chin and eye height is between 1 1/8" to 1 3/8" from bottom of photo. The alien's head must be bare unless he or she is wearing headwear as required by a religious denomination of which he or she is a member. Using pencil or felt pen, lightly print the alien's name and his or her alien's Alien Registration Number (A-Number) on the back of each photo.

3. The alien's A-Number (*if any*), FBI Number, U.S. Social Security Number (*if any*), and Form G-325, Biographical Information.
4. Copy of the alien's birth certificate (*with translation*) or passport.
5. Evidence of the alien's current immigration status or legal presence (*e.g., parole, deferred action*).

Required Certifications

Alien Certification

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

After you have carefully explained the certifications in **Part 2. of Form I-854A** and reviewed all statements on or attached to the form for accuracy, read the certifications to the alien and ensure that the alien understands each condition of admission and continued stay in lawful permanent resident status.

Indicate if the certification is interpreted to ensure the alien's understanding. Make sure the alien understands that an adjustment of status is not available until he or she has satisfied the conditions of admission and has continued to stay in lawful permanent resident status in the S classification.

LEA Certification (Form I-854A)

The LEA certification is necessary to provide a signatory witness to the alien's signature and stated understanding of his or her certification. LEA headquarters level certification is required to ensure that no promises were made other than those afforded by section 101(a)(15)(S) of the INA, and that full assumption of the responsibilities outlined in the request are authorized. The name of the LEA agency contact on this case, who is available by telephone for questions and verification of information, is also necessary.

LEA Certification (Form I-854B)

The LEA certification for Form I-854B is the formal request by the LEA that the Department of Justice, Criminal Division recommends that alien is allowed to apply for adjustment of status under INA section 245(j).

United States Attorney Certification

The U.S. Attorney's certification is necessary if the alien witness and/or informant will participate in a prosecution or investigation that falls within the jurisdictional authority of a United States Attorney or if a state or local LEA will submit this form.

In some cases, the U.S. Attorney can defer their certification to the Assistant Attorney General for the Department of Justice, Criminal Division.

What is The Filing Fee?

There are no filing fees for processing Forms I-854A or I-854B.

Where to File

Submit requests for S nonimmigrant classification or for S nonimmigrants to file for adjustment of status to:

U.S. Department of Justice
Criminal Division, Office of Enforcement Operations
Special Operations Unit
John C. Keeney Building, 11th Floor
10th & Constitution Ave NW
Washington, D.C. 20530-0001

NOTE: The Criminal Division, will forward certified requests on Forms I-854A and I-854B for processing to USCIS. USCIS will not adjudicate any request made on Forms I-854A and I-854B without the certification of the Criminal Division.

Other Information

Employment Authorization

Alien witnesses and/or informants who have received S nonimmigrant classification are eligible to receive an Employment Authorization Document (EAD) enabling them to seek employment in the United States. Alien witnesses and/or informants may request an EAD by filing Form I-765, Application for Employment Authorization, under the C21 eligibility category. Instructions for Form I-765 are available on the USCIS Web site at www.uscis.gov/I-765. You may not file Form I-765 with Forms I-854A and I-854B. You must file Form I-765 separately.

Authority for Collecting This Information

You can find the authority that requires you to file Form I-854A, when requesting to classify an alien witness and/or informant as an S nonimmigrant, at INA section 101(a)(15)(S). You can find the authority to require you to file Form I-854B, when requesting that an S nonimmigrant is permitted to apply for adjustment of status, under INA section 245(j).

Information you provide on Forms I-854A and I-854B is used to determine eligibility for the requested benefit/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/or informants.

Failure to provide all information as required may result in the denial or rejection of this form. USCIS, DOS, and DOJ may also disclose the information you provide to other Federal, state, local, and foreign law enforcement, intelligence, and regulatory agencies.

USCIS Forms and Information

To ensure you are using the latest versions of these forms, visit the USCIS Web site at www.uscis.gov where you can obtain the latest USCIS forms and immigration-related information. If you do not have Internet access, you may order USCIS forms by calling our toll-free number at **1-800-870-3676**. You may also obtain forms and information by calling the USCIS National Customer Service Center at **1-800-375-5283**. For TDD (deaf or hard of hearing) call: **1-800-767-1833**.

Penalties

All statements made in response to questions on this form are declared to be true and correct under penalty of perjury 18 U.S.C. 1546, which 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 thereunder, 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 form may subject the alien and/or the preparer of this form to criminal penalties under Title 18 U.S.C. 1546(a). The knowing placement of false information on this form may also subject the alien 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.

USCIS Privacy Act Statement

AUTHORITIES: 8 U.S.C. section 1101(a)(15)(S) authorizes USCIS to collect the information and the associated evidence for this application.

PURPOSE: The primary purpose for providing the requested information on these forms are to obtain S nonimmigrant status after assisting a law enforcement agency as a witness or informant. DHS will use the information you provide to grant or deny the benefit sought.

DISCLOSURE: The information you provide is voluntary. However, failure to provide the requested information and any requested evidence, may delay a final decision in your case or result in denial of your form for S nonimmigrant status for the alien.

ROUTINE USES: DHS may share the information you provide on this form with other Federal, state, local, foreign government agencies, and authorized organizations in accordance with approved routine uses, as described in the associated published system of records notices [DHS/USCIS-001 – Alien File, Index, and National File Tracking System of Records], which can be found at www.dhs.gov/privacy. DHS may also make the information available, as appropriate for law enforcement purposes or in the interest of national security.

Paperwork Reduction Act

An agency may not conduct or sponsor an information collection, and a person is not required to respond to a collection of information, unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 3 hours per response on Form I-854A and 1 hour per response on Form I-854B, including the time for reviewing instructions and completing and submitting the form. Send comments regarding 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, Regulatory Coordination Division, Office of Policy and Strategy, 20 Massachusetts Ave NW, Washington, DC 20529-2140; OMB No. 1615-0046. **Do not mail your completed form to this address.**

DRAFT
Not for
Production