



Instructions for Inter-Agency Alien Witness and Informant Record and Adjustment of Status

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

USCIS
Form I-854AB
OMB No. 1615-0049
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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 be 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

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 form. USCIS will not accept a stamped or typewritten name in place of any signature on this form. If you are under 14 years of age, your parent or legal guardian may sign the form on your behalf. A legal guardian may also sign for a mentally incompetent person. If your form is not signed, or if the signature is not valid, we will reject your form. 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.

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.

Filing Fee. See Form G-1055, available at www.uscis.gov/forms, for specific information about the fees applicable to this form.

Evidence. When you file your form, you must submit all evidence and supporting documents listed in the **What Evidence Must You Submit** section of these Instructions.

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 they are competent to translate from the foreign language into English. The certification must also include their signature, printed name, the signature date, and their 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 or call **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.

How To Complete Forms I-854A and I-854B

1. Type or print legibly in black ink.
2. If you need extra space to complete any item within this form, 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.
4. **Form I-94 Arrival-Departure Record.** If U.S. Customs and Border Protection (CBP) or USCIS issued you a Form I-94, Arrival/Departure Record, provide your Form I-94 number and date that your authorized period of stay expires or expired (as shown on your Form I-94). The Form I-94 number also is known as the Departure Number on some versions of Form I-94.

NOTE: If CBP admitted you into the United States at an airport or seaport after April 30, 2013, they may have issued you an electronic Form I-94 instead of a paper Form I-94. You may visit the CBP website at www.cbp.gov/i94 to obtain a paper version of your electronic Form I-94. CBP **does not** charge a fee for this service. Some travelers may also be able to obtain a replacement Form I-94 from the CBP website for free if they were admitted to the United States at a land border, airport, or seaport after April 30, 2013, with a passport or travel document and received a paper Form I-94 from CBP. If you cannot obtain your Form I-94 from the CBP website, you may obtain it by filing Form I-102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Record, with USCIS. We **do** charge a fee for this service. See the USCIS website at www.uscis.gov/i-102 for more information.

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

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 on a separate sheet of paper. Type or print your name and A-number (if any) at the top of this sheet and indicate the **Page Number**, **Part Number**, and **Item Number** to which your answer refers, and sign and date the sheet.

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.

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
1301 New York Avenue NW, 9th floor
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 version of this application, visit www.uscis.gov.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form I-854A and Form I-854B, we will deny your form 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 these forms, and the associated evidence, is collected under 8 U.S.C. section 1101(a)(15)(S).

PURPOSE: The primary purpose for providing the requested information on these forms are to obtain either S nonimmigrant status or adjustment of status after assisting a law enforcement agency as a witness or informant. 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 (if applicable), and any requested evidence, may delay a final decision or result in denial of your form.

ROUTINE USES: DHS may, where allowable under relevant confidentiality provisions, share the information you provide on these forms and any additional requested evidence with other Federal, state, local, and foreign government agencies and authorized organizations. DHS follows approved routine uses described in the associated published system of records notices [DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records] and published privacy impact assessment [DHS/USCIS/PIA-013-01 Fraud Detection and National Security Directorate] which you can find at 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 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, Office of Policy and Strategy, Regulatory Coordination Division, 5900 Capital Gateway Drive, Mail Stop #2140, Camp Springs, MD 20588-0009; OMB No. 1615-0046. **Do not mail your completed form to this address.**