



May 22, 2024

PA-2024-13

## Policy Alert

SUBJECT: Family-Based Immigrant Visa Petition Approvals

### Purpose

U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance in the [USCIS Policy Manual](#) on family-based immigrant visa petitions,<sup>1</sup> including explaining how USCIS handles correcting approval notice errors, requests for consular processing or adjustment of status, and routing procedures for approved petitions.

### Background

USCIS generally approves a properly filed family-based immigrant visa petition if the petitioner demonstrates the requisite status to file a petition and establishes the existence of a qualifying relationship to the beneficiary.<sup>2</sup> USCIS sends an approval notice<sup>3</sup> to the petitioner, which includes information such as the priority date, the section of law with the beneficiary's immigrant classification, and confirmation of the beneficiary's intent to consular process or adjust status. In general, if an error is made on the approval notice or if information is missing, petitioners may notify USCIS.

USCIS either retains an approved family-based immigrant visa petition for adjustment of status processing or routes it to the U.S. Department of State (DOS) for consular processing, depending on the beneficiary's intent, location, and eligibility for adjustment of status.<sup>4</sup> A beneficiary of an approved petition may apply for an immigrant visa and consular process with the DOS while outside of the United States. In this case, USCIS forwards the petition to DOS' National Visa Center (NVC).<sup>5</sup> Some beneficiaries who are already in the United States may be eligible to adjust their status to that of a lawful permanent resident without leaving the United States. In these cases, USCIS retains the petition.<sup>6</sup>

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<sup>1</sup> Family-based visa petitions refers to both the Petition for Alien Relative ([Form I-130](#)) and the Petition for Amerasian, Widow(er), or Special Immigrant ([Form I-360](#)) where the noncitizen files as a self-petitioner seeking to immigrate as an abused spouse, child, or parent; as an Amerasian; or as a widow or widower of a U.S. citizen.

<sup>2</sup> See [INA 204\(b\)](#). See [8 CFR 204.1](#), [8 CFR 103.2](#), and [8 CFR 204.2](#). See *Matter of O-*, 8 I&N Dec. 295 (BIA 1959).

<sup>3</sup> See [8 CFR 103.2\(b\)\(19\)](#).

<sup>4</sup> See [8 CFR 204.2](#).

<sup>5</sup> See [8 CFR 204.2](#).

<sup>6</sup> See [8 CFR 204.2](#).

In accordance with the Petition for Alien Relative ([Form I-130](#)) and its instructions, the petitioner must inform USCIS of the beneficiary's current address and whether the beneficiary will consular process with DOS or adjust status in the United States. Providing this information allows USCIS to properly route the petition to DOS or retain an approved petition.

If the petitioner does not provide the accurate information on the petition, it can lead to delays in the immigrant visa or adjustment of status process. For example, if USCIS retained an approved petition based on the petitioner's inaccurate information and the petition needs to be sent to the NVC for consular processing, the petitioner files an Application for Action on an Approved Application or Petition ([Form I-824](#)) with fee to transfer the petition. In cases where the petitioner did not inform USCIS whether the beneficiary will adjust status or consular process, USCIS must determine, based on the beneficiary's location and eligibility for adjustment of status, whether the petition should be forwarded to the NVC, in accordance with the regulations.<sup>7</sup>

Prior to issuing this new guidance, available guidance did not address circumstances where the beneficiary's intent to consular process or adjust status is not clear based on incomplete or contradictory information on the petition, and USCIS generally retained such petitions. This update addresses various scenarios officers might encounter and clarifies procedures for family-based immigrant petition approvals where the beneficiary's intent to consular process or adjust status is unclear, has changed, or a correction is needed. This update also addresses the importance of benefit requestors providing USCIS with accurate information about the beneficiary's intent.

This guidance, contained in Volume 6 of the Policy Manual, is effective immediately and applies to petitions pending or filed on or after May 22, 2024. This policy update incorporates and replaces the related guidance that is addressed in this update found in Chapter 21.2(b)(1)(B), 21.2(c), 21.2(g)(1)(A)-(C), 21.2(g)(2), 21.4(f)(B), 21.8(c)(4)(A), and 21.9(c)(4)(A) of the Adjudicator's Field Manual (AFM), related AFM appendices, and related policy memoranda. The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance on the topic.

### **Policy Highlights**

- Provides that in cases where the petitioner does not clearly indicate the intent of the beneficiary to consular process or adjust status, USCIS uses discretion to decide whether to send the petition to the NVC or retain the petition for adjustment of status processing based on evidence of the beneficiary's most recent location, including the beneficiary's address on the petition.
- Provides information about how a petitioner may notify USCIS to correct an error or provide an update on a pending or approved [Form I-130](#) petition, including an update related to the beneficiary's location and intent to adjust status or consular process.
- Provides general guidance on how USCIS determines whether to approve or deny a family-based immigrant petition.

### **Summary of Changes**

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<sup>7</sup> See [8 CFR 204.2](#).

Affected Section: Volume 6 > Part B > Chapter 5, Adjudication of Family-Based Petitions

- Adds content under new Section D (Decision) and adds and reserves new Sections A, B, C, and E.

USCIS may also make other minor technical, stylistic, and conforming changes consistent with this update.

**Citation**

Volume 6: Immigrants, Part B, Family-Based Immigrants, Chapter 5, Adjudication of Family-Based Petitions [[6 USCIS-PM B.5](#)].