EXHIBIT VV

Application For Employment Authorization

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

USCIS Form I-765
OMB No. 1615-0040
Expires 02/28/2018

For USCIS Use Only	Fee Stamp	Action Block	Initial Receipt	Resubmitted
			Relocated: Received	Relocated: Sent
			Completed: Approved	Completed: Denied
☐ Application Approved ☐ Authorization/Extension Valid From_____ ☐ Authorization/Extension Valid To_____		☐ Application Denied - Failed to establish: ☐ Eligibility under 8 CFR 274a.12 (a) or (c) ☐ Economic necessity under 8 CFR 274a.12(c)(14), (18) and 8 CFR 214.2(f)	A#	
Subject to the following conditions: _____		☐ Applicant is filing under section 274a.12_____		

▶ **START HERE - Type or print in black ink.**

I am applying for:

☐ Permission to accept employment.

☐ Replacement (of lost employment authorization document).

☐ Renewal of my permission to accept employment (attach a copy of your previous employment authorization document).

1. Full Name

Family Name | First Name | Middle Name

2. Other Names Used (include Maiden Name)

Family Name | First Name | Middle Name

3. U.S. Mailing Address

Street Number and Name | Apt. Number

Town or City | State | ZIP Code

4. Country of Citizenship or Nationality

5. Place of Birth

Town or City | State/Province | Country

6. Date of Birth (mm/dd/yyyy)

7. Gender ☐ Male ☐ Female

8. Marital Status

☐ Single ☐ Married ☐ Divorced ☐ Widowed

9. Social Security Number (Include all numbers you have ever used, if any)

10. Alien Registration Number (A-Number) or **Form I-94 Number** (if any)

11. Have you ever before applied for employment authorization from USCIS?

☐ Yes (Complete the following questions.)

Which USCIS Office? | Dates

Results (Granted or Denied - attach all documentation)

☐ No (Proceed to **Question 12.**)

12. Date of Last Entry into the U.S., on or about (mm/dd/yyyy)

13. Place of Last Entry into the U.S.

14. Status at Last Entry (B-2 Visitor, F-1 Student, No Lawful Status, etc.)

15. Current Immigration Status (Visitor, Student, etc.)

16. Eligibility Category. Go to the "**Who May File Form I-765?**" section of the Instructions. In the space below, place the letter and number of the eligibility category you selected from the instructions. For example, (a)(8), (c)(17)(iii), etc.

( ) ( ) ( )

17. **(c)(3)(C) Eligibility Category.** If you entered the eligibility category (c)(3)(C) in **Question 16** above, list your degree, your employer's name as listed in E-Verify, and your employer's E-Verify Company Identification Number or a valid E-Verify Client Company Identification Number in the space below.

Degree | Employer's Name as listed in E-Verify

Employer's E-Verify Company Identification Number or a Valid E-Verify Client Company Identification Number

18. **(c)(26) Eligibility Category.** If you entered the eligibility category (c)(26) in **Question 16** above, please provide the receipt number of your H-1B principal spouse's most recent Form I-797 Notice of Approval for Form I-129.

19. **(c)(35) and (c)(36) Eligibility Category**

a. If you entered the eligibility category (c)(35) or (c)(36) in **Question 16** above, please provide the receipt number of the Form I-140 beneficiary's Form I-797 Notice of Approval for Form I-140.

b. Have you **EVER** been arrested for and/or convicted of any crime? ☐ Yes ☐ No

NOTE: If you answered "Yes" to **Item Numbers 19.b.**, refer to **Item Number 5.**, **Item H.** or **Item I.** in the **Who May File Form I-765** section of these Instructions for information about providing court dispositions.

Certification

I certify, under penalty of perjury, that the foregoing is true and correct. Furthermore, I authorize the release of any information that U.S. Citizenship and Immigration Services needs to determine eligibility for the benefit I am seeking. I have read the "**Who May File Form I-765?**" section of the instructions and have identified the appropriate eligibility category in **Question 16**.

Applicant's Signature

Date of Signature (mm/dd/yyyy)

Telephone Number

Signature of Person Preparing Form, If Other Than Applicant

I declare that this document was prepared by me at the request of the applicant and is based on all information of which I have any knowledge.

Preparer's Signature

Date of Signature (mm/dd/yyyy)

Printed Name

Address

Instructions for Application for Employment Authorization

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

USCIS
Form I-765
OMB No. 1615-0040
Expires 02/28/2018

What Is the Purpose of This Form?

Certain aliens who are temporarily in the United States may file Form I-765, Application for Employment Authorization, to request an Employment Authorization Document (EAD). Other aliens who are authorized to work in the United States without restrictions must also use this form to apply to USCIS for a document that shows such authorization. Review **Eligibility Categories** to determine whether you should use this form.

If you are a lawful permanent resident, a conditional resident, or a nonimmigrant authorized to be employed with a specific employer under 8 CFR 274a.12(b), do **not** use this form.

Definitions

Employment Authorization Document (EAD): Form I-688, Form I-688A, Form I-688B, Form I-766, or any successor document issued by USCIS as evidence that the holder is authorized to work in the United States.

Renewal EAD: An EAD issued to an eligible applicant upon the expiration of a previous EAD issued under the same category.

Replacement EAD: An EAD issued to an eligible applicant when the previously issued EAD has been lost, stolen, mutilated, or contains erroneous information, such as a misspelled name.

Who May File Form I-765?

USCIS adjudicates a request for employment authorization by determining whether an applicant has submitted the required information and documentation, and whether the applicant is eligible. In order to determine your eligibility, you must identify the category in which you are eligible and fill in that category in **Question 16** on Form I-765. Enter only **one** of the following category numbers on the application form. For example, if you are a refugee applying for an EAD, type or print **"(a)(3)"** at **Question 16**.

For easier reference, the categories are subdivided as follows:

1. **Asylee/Refugee Categories (and their Spouse and Children)**

   A. **Refugee--(a)(3).** File Form I-765 with either a copy of your Form I-590, Registration for Classification as Refugee, approval letter, or a copy of a Form I-730, Refugee/Asylee Relative Petition, approval notice.

   B. **Paroled as a Refugee--(a)(4).** File Form I-765 with a copy of your Form I-94, Arrival-Departure Record.

   C. **Asylee (Granted Asylum)--(a)(5).** File Form I-765 with a copy of the USCIS letter, or judge's decision, granting you asylum. It is not necessary to apply for an EAD as an asylee until 90 days before the expiration of your current EAD.

   D. **Asylum Applicant (With a Pending Asylum Application) Who Filed for Asylum on or After January 4, 1995--(c)(8).** For specific instructions for applicants with pending asylum claims, see section entitled **"Special Filing Instructions for Those with Pending Asylum Applications ((c)(8))."**

2. **Nationality Categories**

   A. **Citizen of Micronesia, the Marshall Islands, or Palau--(a)(8).** File Form I-765 if you were admitted to the United States as a citizen of the Federated States of Micronesia (CFA/FSM), the Marshall Islands (CFA/MIS), or Palau under agreements between the United States and the former trust territories.

   B. **Deferred Enforced Departure (DED)/Extended Voluntary Departure--(a)(11).** File Form I-765 with evidence of your identity and nationality.

   C. **Temporary Protected Status (TPS)--(a)(12) and (c)(19).** A category (a)(12) EAD is issued to an individual granted TPS under 8 CFR 244. A category (c)(19) EAD is a temporary treatment benefit under TPS pursuant to 8 CFR 244.5.

      To request an EAD based on TPS, file Form I-765 with Form I-821, or with evidence that your initial Form I-821 was accepted or approved. Include evidence of nationality and identity as required by the Form I-821 instructions. If you are requesting extension of TPS status, also include a copy (front and back) of your last available TPS document: EAD, Form I-94, or approval notice.

      To register for TPS, you must file a Form I-765 with Form I-821, Application for Temporary Protected Status, for each applicant, regardless of age, even if you are not requesting employment authorization. No fee is required for Form I-765 filed as part of TPS registration. (Form I-821 has separate fee requirements.)

      If you have been granted TPS by an immigration judge (IJ) or the Board of Immigration Appeals (BIA) and are requesting your first EAD, you must submit evidence of your IJ or BIA grant of TPS with your application for an EAD along with a copy of your Form I-821 application that the IJ or BIA approved. You must also follow the instructions for filing your application as described in the most recent TPS *Federal Register* notice regarding a TPS designation or extension for your country. As further instructed in those notices, once you receive your Form I-797 application receipt notice, you must also send an email to **tpsijgrant.vsc@dhs.gov** with the following information: Your name; your A number; your date of birth; the receipt number for your application; and the date you were granted TPS.

   D. **NACARA Section 203 Applicants Who Are Eligible to Apply for NACARA Relief With USCIS--(c)(10).** See the instructions to Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal, to determine if you are eligible to apply to USCIS for NACARA 203 relief.

      If you are eligible, you may file a Form I-765 with the Form I-881. See Instructions to Form I-881 for filing location. If you file the Form I-765 separately from the Form I-881 see **"Where to File?"** instructions. Your response to **Question 16** on the Form I-765 must be "(c)(10)."

   E. **Dependent of TECRO E-1 Nonimmigrant--(c)(2).** File Form I-765 with the required certification from the American Institute in Taiwan if you are the spouse or unmarried dependent son or daughter of an E-1 employee of the Taipei Economic and Cultural Representative Office.

3. **Foreign Students**

   A. **F-1 Student Seeking Optional Practical Training (OPT) in an Occupation Directly Related to Studies: (c)(3)(A)--Pre-completion Optional Practical Training; (c)(3)(B)--Post-completion Optional Practical Training; (c)(3)(C)--24-month Extension for STEM (Students With a Degree in Science, Technology, Engineering, or Mathematics) Optional Practical Training.** File Form I-765 with a Certificate of Eligibility of Nonimmigrant (F-1) Student Status (Form I-20 A-B/I-20 ID) timely endorsed by a Designated School Official (DSO) (DSO's recommendation within the past 30 days for Post-Completion OPT and 60 days for the 24-month STEM OPT extension). If you are requesting a 24-month STEM OPT extension under the eligibility code (c)(3)(C), you must submit a copy of your degree and the employer name as listed in E-Verify, along with the E-Verify Company Identification Number, or a valid E-Verify Client Company Identification Number for the employer with whom you are seeking the 24-month OPT extension. You must provide this information in Question 17 of the form.

   B. **F-1 Student Offered Off-Campus Employment Under the Sponsorship of a Qualifying International Organization--(c)(3)(ii).** File Form I-765 with the international organization's letter of certification that the proposed employment is within the scope of its sponsorship, and a Certificate of Eligibility of Nonimmigrant (F-1) Student Status -- For Academic and Language Students (Form I-20 A-B/I-20 ID) endorsed by the Designated School Official within the past 30 days.

   C. **F-1 Student Seeking Off-Campus Employment Due to Severe Economic Hardship--(c)(3)(iii).** File Form I-765 with Form I-20 A-B/I-20 ID, Certificate of Eligibility of Nonimmigrant (F-1) Student Status -- For Academic and Language Students, and any evidence you wish to submit, such as affidavits, that detail the unforeseen economic circumstances that cause your request, and evidence that you have tried to find off-campus employment with an employer who has filed a labor and wage attestation.

   D. **J-2 Spouse or Minor Child of an Exchange Visitor--(c)(5).** File Form I-765 with a copy of your J-1 (principal alien's) Certificate of Eligibility for Exchange Visitor (J-1) Status (Form IAP-66). You must submit a written statement with any supporting evidence showing that your employment is not necessary to support the J-1 but is for other purposes.

   E. **M-1 Student Seeking Practical Training After Completing Studies--(c)(6).** File Form I-765 with a completed Form I-539, Application to Change/Extend Nonimmigrant Status, according to the filing instructions for Form I-539. You must also include Form I-20 M-N, Certificate of Eligibility for Nonimmigrant (M-1) Student Status -- For Vocational Students endorsed by the Designated School Official within the past 30 days, with your application.

4. **Eligible Dependents of Employees of Diplomatic Missions, International Organizations, or NATO**

   A. **Dependent of A-1 or A-2 Foreign Government Officials--(c)(1).** Submit Form I-765 with Form I-566, Interagency Record of Request-A, G, or NATO Dependent Employment Authorization or Change/Adjustment to/from A, G, or NATO Status, Dependent Employment Authorization, through your diplomatic mission to the Department of State (DOS). The DOS will forward all favorably endorsed applications directly to the Nebraska Service Center for adjudication.

   B. **Dependent of G-1, G-3 or G-4 Nonimmigrant--(c)(4).** Submit Form I-765 with Form I-566, Interagency Record of Request-A, G, or NATO Dependent Employment Authorization or Change/Adjustment to/from A, G, or NATO Status, Dependent Employment Authorization, through your international organization to the Department of State (DOS). (In New York City, the United Nations (UN) and UN missions should submit such applications to the United States Mission to the UN (USUN)). The DOS or USUN will forward all favorably endorsed applications directly to the Nebraska Service Center for adjudication.

   C. **Dependent of NATO-1 Through NATO-6--(c)(7).** If you are a dependent of a NATO nonimmigrant who is stationed at Supreme Allied Command Transformation (SACT), NATO/HQ, submit Form I-765 with Form I-566, Interagency Record of Request-A, G, or NATO Dependent Employment Authorization or Change/Adjustment to/from A, G, or NATO Status, Dependent Employment Authorization, to:

USLO to NATO/HQ SACT
7857 Blandy Road, Suite 200,
Norfolk, VA 23551-2491

If you are a dependent of a NATO nonimmigrant who is stationed outside of NATO/HQ SACT, submit Form I-765 with Form I-566, to the Defense Attaché's Office at the embassy of the NATO member that employs the principal alien. For more details on NATO member embassy contacts and on documents required, visit the DOS website **www.state.gov/ofm** under the topic "Dependent Work Authorization."

If you have questions regarding the process or document requirements, email **OFM-EAD@state.gov**.

5. Employment-Based Nonimmigrant Categories

A. B-1 Nonimmigrant Who Is the Personal or Domestic Servant of a Nonimmigrant Employer--(c)(17)(i). File Form I-765 with:

(1) Evidence from your employer that he or she is a B, E, F, H, I, J, L, M, O, P, R, or TN nonimmigrant and you were employed for at least 1 year by the employer before the employer entered the United States, or your employer regularly employs personal and domestic servants and has done so for a period of years before coming to the United States; and

(2) Evidence that you have either worked for this employer as a personal or domestic servant for at least 1 year, or evidence that you have at least 1 year's experience as a personal or domestic servant; and

(3) Evidence establishing that you have a residence abroad that you have no intention of abandoning.

B. B-1 Nonimmigrant Domestic Servant of a U.S. Citizen--(c)(17)(ii). File Form I-765 with:

(1) Evidence from your employer that he or she is a U.S. citizen; and

(2) Evidence that your employer has a permanent home abroad or is stationed outside the United States and is temporarily visiting the United States or the citizen's current assignment in the United States will not be longer than 4 years; and

(3) Evidence that he or she has employed you as a domestic servant abroad for at least 6 months prior to your admission to the United States.

C. B-1 Nonimmigrant Employed by a Foreign Airline--(c)(17)(iii). File Form I-765 with a letter from the airline fully describing your duties and stating that your position would entitle you to E nonimmigrant status except for the fact that you are not a national of the same country as the airline or because there is no treaty of commerce and navigation in effect between the United States and that country.

D. Spouse of an E-1/E-2 Treaty Trader or Investor--(a)(17) or Spouse of an E-3 Certain Specialty of Occupation Professional from Australia. File Form I-765 with evidence of your lawful status and evidence you are a **spouse** of a principal E-1/E-2, such as your Form I-94, and a copy of the principal's visa, and your marriage certificate. (Other relatives or dependents of E-1/E-2 aliens who are in E status are not eligible for employment authorization and may not file under this category.)

E. Spouse of an L-1 Intracompany Transferee--(a)(18). File Form I-765 with evidence of your lawful status and evidence you are a **spouse** of a principal L-1, such as your Form I-94, and a copy of the principal's visa and your marriage certificate. (Other relatives or dependents of L-1 aliens who are in L status are not eligible for employment authorization and may not file under this category.)

F. Spouse of an E-2 CNMI Investor--(c)(12). File Form I-765 with evidence of your lawful status and evidence you are a **spouse** of a principal E-2 CNMI Investor, and a copy of the principal E-2 CNMI Investors long-term business certificate or Foreign Investment Certificate. (Please note that spouse of a principal E-2 CNMI Investor who obtained status on the basis of a Foreign Retiree Investment Certification is not eligible for employment authorization and may not file under this category.)

G. Spouse of an H-1B Nonimmigrant--(c)(26). File Form I-765 along with documentation of your current H-4 admission or extension of stay. You must also submit documentation establishing either that the H-1B principal has an approved Immigrant Petition for Alien Worker (Form I-140), or that your current H-4 admission or extension of stay was approved pursuant to the principal H-1B nonimmigrant's admission or extension of stay based on sections 106(a) and (b) of the American Competitiveness in the Twenty-First Century Act (AC21). For your convenience, you may file Form I-765 with Form I-539, Application to Extend/Change Nonimmigrant Status. However, USCIS will not process Form I-765 (except filing fees), until after USCIS has adjudicated Form I-539. You may also file Form I-765 at the same time as Form I-539 **and** Form I-129, Petition for a Nonimmigrant Worker. Please see the USCIS website at **www.uscis.gov/I-765** for the most current information on where to file this benefit request.

(1) Proof of Your Status. Submit a copy of your current Form I-797 approval notice for Form I-539 or Form I-94 showing your admission as an H-4 nonimmigrant or your most recent approved extension of stay; and

(2) Proof of Relationship to the Principal H-1B. Submit a copy of the marriage certificate for you and the principal H-1B nonimmigrant. If you cannot submit a copy of your current Form I-797, Form I-94, or marriage certificate, USCIS will consider secondary evidence.

(3) Basis for Work Authorization. Acceptable documentation includes:

(a) Approved Form I-140. Submit evidence that the H-1B principal is the beneficiary of an *approved* Immigrant Petition for Alien Worker (Form I-140). You may show this by submitting a copy of the H-1B principal's Form I-797 approval notice for Form I-140; or

(b) H-1B Principal Received AC21 106(a) and (b) Extension. Submit evidence that the principal H-1B nonimmigrant has been admitted or granted an extension of stay under AC21 106(a) and (b). You may show this by submitting copies of the H-1B principal's passports, prior Forms I-94, and current and prior Forms I-797 for Form I-129. In addition, please submit evidence to establish one of the following bases for the H-1B extension of stay:

Based on Filing of a Permanent Labor Certification Application. Submit evidence that the H-1B principal is the beneficiary of a Permanent Labor Certification Application that was filed at least 365 days prior to the date the period of admission authorized under AC21 106(a) and (b) takes effect. You may show this by submitting a copy of a print out from the Department of Labor's (DOL's) Web site or other correspondence from DOL showing the status of the H-1B principal's Permanent Labor Certification Application. If DOL certified the Permanent Labor Certification, you must also submit a copy of Form I-797 Notice of Receipt for Form I-140 establishing that the Form I-140 was filed within 180 days of DOL certifying the Permanent Labor Certification; or

Based on a Pending Form I-140. If the preference category sought for the principal H-1B spouse does not require a Permanent Labor Certification Application with DOL, submit evidence that the H-1B principal's Form I-140 was filed at least 365 days prior to the date the period of admission authorized under AC21 106(a) and (b) takes effect. You may show this by submitting a copy of the Form I-797 Notice of Receipt for Form I-140.

(4) Secondary Evidence. If you do not have the evidence listed in 1, 2, or 3 above, you may ask USCIS to consider other evidence ("secondary evidence") in support of your application for employment authorization as an H-4 spouse. For example, in establishing the Basis for Employment Authorization as described in 3a and 3b, you may submit the receipt number of the H-1B principal's most current Form I-129 extension of stay or the receipt number of the H-1B principal's approved Form I-140 petition.

Failure to provide the evidence listed above or secondary evidence may result in the delay or denial of your application for employment authorization. For additional information on secondary evidence, see **Evidence** in the **General Instructions** section.

H. Principal Beneficiary of an Approved Employment-based Immigrant Petition Facing Compelling Circumstances--(c)(35). File Form I-765 with documents showing that you are eligible for an initial grant or a renewal of employment authorization under the (c)(35) eligibility category.

Initial Application: If this is your first application for compelling circumstances employment authorization under the (c)(35) eligibility category, **and** an immigrant visa number is not yet available to you, you may be eligible if:

(1) You have a Form I-140 approved on your behalf;

(2) You are in the United States in a valid E-3, H-1B, H-1B1, O-1, or L-1 nonimmigrant status; and

(3) You face compelling circumstances.

See "Supporting Evidence by Principal" for more information regarding what documents to submit with your application, including additional requirements where you have been convicted of certain crimes.

Renewal Application: If you already have employment authorization under the (c)(35) eligibility category, you may be eligible for renewal if:

(1) You have a Form I-140 approved on your behalf;

(2) You face compelling circumstances **and** an immigrant visa is not authorized for issuance based on your priority date according to the relevant Final Action Date in the Department of State Visa Bulletin in effect on the date the application for a renewal of employment authorization is filed; **OR**

The difference between your priority date and the Final Action Date for your preference category and country of chargeability is one year or less according to the Department of State Visa Bulletin in effect on the date your renewal application is filed. This means that your priority date cannot be more than 1 year earlier or 1 year later than the Department of State cut-off date in the Visa Bulletin applicable to your preference category and country of chargeability in effect on the date your renewal application is filed. If this is the basis for your renewal application, you are not required to show compelling circumstances; **AND**

(3) You file your renewal application on Form I-765 with USCIS before your current employment authorization expires.

You are not required to be in a valid nonimmigrant status when you file your renewal application.

See "Supporting Evidence by Principal" for more information regarding what documents to submit with your application, including additional requirements where you have been convicted of certain crimes.

Supporting Evidence by Principal

(1) Proof You Are in the United States in E-3, H-1B, H-1B1, O-1, or L-1 Nonimmigrant Status. For initial applications, submit a copy of your Arrival-Departure Record (Form I-94) showing your admission as an E-3, H-1B, H-1B1, O-1, or L-1 nonimmigrant, or a copy of your current Form I-797 approval notice for Form I-129.

(2) Proof of Your Approved Form I-140. For initial and renewal applications, submit a copy of a Form I-797 approval notice for Form I-140 showing the Immigrant Petition has been approved on your behalf.

(3) Evidence You Are Facing Compelling Circumstances While You Wait for Your Immigrant Visa to Become Available. For initial and, if applicable, renewal applications based on compelling circumstances, USCIS will review the documents you provide to determine, in its discretion, whether you have established compelling circumstances. USCIS makes this discretionary determination on a case-by-case basis according to the documents submitted and the totality of the record. You should submit any credible evidence you believe supports your claim of compelling circumstances.

(4) Secondary Evidence. If you do not have the evidence listed in 1 or 2 above, you may request USCIS to consider other evidence ("secondary evidence") in support of your application for employment authorization.

For additional information on secondary evidence, see **Evidence** in the **General Instructions** section.

(5) Proof of Arrests and Conviction. For initial and renewal applications, you must submit proof of any arrests and/or convictions. If you were ever convicted of a felony or two or more misdemeanors, you cannot be granted employment authorization under this eligibility category. USCIS will make the determination as to whether your crimes fall into either of these categories. You must, however, provide information and any supporting documentation on all crimes which you were convicted of so USCIS can make an appropriate decision.

NOTE: USCIS may, in its discretion, deny your application if you have been arrested and/or convicted of any crime.

Provide a certified copy of all arrest reports, court dispositions, sentencing documents, and any other relevant documents.

Traffic Violations and Arrests

Do not select the "Yes" box for **Item Number 19.** on the form or submit documentation if you only have had minor traffic violations. Minor traffic violations do **NOT** include violations that are alcohol- or drug-related. If you were **ARRESTED** for any traffic offense, select the "Yes" box for **Item Number 19.b.** on the form and provide arrest and disposition documentation so USCIS can properly assess whether your arrest and/or conviction may impact your employment authorization eligibility.

NOTE: Provide the conviction and disposition documentation even if your records were sealed, expunged, or otherwise cleared. You must provide the documentation even if anyone, including a judge, law enforcement officer, or attorney told you that you no longer have a record or that you do not have to disclose the information.

Failure to provide the evidence listed above or secondary evidence may result in the delay or denial of your application for employment authorization.

I. Spouse or Unmarried Child of a Principal Beneficiary of an Approved Employment-based Immigrant Petition--(c)(36). File Form I-765 along with supporting documentation for an initial grant or a renewal of employment authorization under the (c)(36) eligibility category. You may file your application **WITH** your spouse's or parent's application under (c)(35). You may file your application while your spouse's or parent's application under (c)(35) is **PENDING** or **AFTER** your spouse's or parent's application has been approved by USCIS. If filing with your spouse's or parent's application, USCIS will not adjudicate your Form I-765 until after USCIS has adjudicated your spouse's or parent's Form I-765 first.

Initial Application: If this is your first application for employment authorization under the (c)(36) eligibility category, you may be eligible if:

(1) You are the spouse or unmarried child of an individual who is filing or who has been approved for compelling circumstances employment authorization under (c)(35) (See "Proof of Relationship to Principal Beneficiary of Form I-140" below);

(2) Your spouse's or parent's application for compelling circumstance employment authorization under (c)(35) has been approved or is pending with USCIS *(not required if you are filing your application at the same time as your spouse's or parent's application under (c)(35)*; and

(3) You were in a valid nonimmigrant status when your spouse or parent applies for initial employment authorization under the (c)(35) eligibility category.

See "Supporting Evidence by Spouse or Unmarried Child" below for more information regarding what documents to submit with your application, including additional requirements if you have been arrested or convicted.

Renewal Application: You may be eligible to renew your application under the (c)(36) eligibility category if:

(1) You file Form I-765 before your current employment authorization expires;

(2) You are the spouse or unmarried child of an individual who is filing or who has been approved for compelling circumstances employment authorization under (c)(35) (See "**Proof of Relationship to the Principal Beneficiary of Form I-140**" below); and

(3) Your spouse's or parent's application for compelling circumstance employment authorization under (c)(35) has been approved or is pending with USCIS *(not required if you are filing your application at the same time as your spouse's or parent's renewal application under (c)(35))*.

You are not required to be in a valid nonimmigrant status when you file your renewal application.

See "Supporting Evidence by Spouse or Unmarried Child" below for more information regarding what documents to submit with your application, including additional requirements if you have been arrested or convicted.

Supporting Evidence by Spouse or Unmarried Child

(1) Proof of Your Nonimmigrant Status. For initial applications only, submit a copy of your Arrival-Departure Record (Form I-94) showing your admission as a nonimmigrant, a copy of your current Form I-797 approval notice for Form I-129, or a copy of your current Form I-797 approval notice for Form I-539.

(2) Proof of Relationship to the Principal Beneficiary of the Approved Form I-140. For initial and renewal applications, if you are applying as the spouse of a principal beneficiary of an approved Form I-140, submit a copy of the marriage certificate and if applicable, copies of documents showing the legal termination of all other marriages by you or your spouse. If you are applying as the child of a principal beneficiary of an approved Form I-140, submit a copy of your birth certificate or other documents to demonstrate you qualify as the principal beneficiary's child. If you cannot submit a copy of your marriage certificate or birth certificate, USCIS will consider secondary evidence.

(3) Proof the Spouse or Parent Principal Beneficiary was Granted or has Applied for Employment Authorization Under Eligibility Category (c)(35). For initial and renewal applications, if you submit your Form I-765 after your spouse or parent receives employment authorization under eligibility category (c)(35), submit a copy of your spouse's or parent's employment authorization document or submit a copy of your spouse's or parent's Form I-797 approval notice for Form I-765.

If your spouse's or parent's application under (c)(35) is **pending** when you file your Form I-765, submit a copy of your spouse's or parent's Form I-797 receipt notice for the pending Form I-765 application. USCIS will not adjudicate your Form I-765 until USCIS has adjudicated your spouse's or parent's Form I-765.

(4) Secondary Evidence. If you do not have the evidence listed in 1, 2, or 3 above, you may request USCIS to consider other evidence ("secondary evidence") in support of your application for employment authorization.

For additional information on secondary evidence, see **Evidence** in the **General Instructions** section.

(5) Proof of Arrests and Convictions. For initial and renewal applications, you must submit proof of any arrests and/or convictions. If you were ever convicted of a felony or two or more misdemeanors committed, you cannot be granted employment authorization under this eligibility category. USCIS will make the determination as to whether your crimes fall into either of these categories. You must, however, provide information and any supporting documentation on all crimes which you were convicted of so USCIS can make an appropriate decision.

NOTE: USCIS may, in its discretion, deny your application if you have been arrested and/or convicted of any crime.

Provide a certified copy of all arrest reports, court dispositions, sentencing documents, and any other relevant documents.

Traffic Violations and Arrests

Do not select the "Yes" box for **Item Number 19.b.** on the form or submit documentation if you only have had minor traffic violations. Minor traffic violations do **NOT** include violations that are alcohol- or drug-related. If you were **ARRESTED** for any traffic offense, select the "Yes" box for **Item Number 19.b.** on the form and provide arrest and disposition documentation so USCIS can properly assess whether your arrest and/or conviction may impact your employment authorization eligibility.

NOTE: Provide the conviction and disposition documentation even if your records were sealed, expunged, or otherwise cleared. You must provide the documentation even if anyone, including a judge, law enforcement officer, or attorney, told you that you no longer have a record or that you do not have to disclose the information.

Failure to provide the evidence listed above or secondary evidence may result in the delay or denial of your application for employment authorization.

J. **Department of State Visa Bulletin.** USCIS will adjudicate all applications for initial or renewal employment authorization according to the Visa Bulletin in effect on the date the application is filed. To see the current visa Bulletin, please go to **www.state.gov/travel** and click the link to the Visa Bulletin.

K. **Priority Dates.** For more information about priority dates, please visit our Visa Availability and Priority Date website at **www.uscis.gov**.

L. **Filing Location.** Please see the USCIS website at **www.uscis.gov/I-765** for the most current information on where to file your application for initial or renewal employment authorization under the (c)(35) or (c)(36) eligibility categories.

6. **Family-Based Nonimmigrant Categories**

A. **K-1 Nonimmigrant Fiance(e) of U.S. Citizen or K-2 Dependent--(a)(6).** File Form I-765 if you are filing within 90 days from the date of entry. This EAD cannot be renewed. Any EAD application other than for a replacement must be based on your pending application for adjustment under (c)(9).

B. **K-3 Nonimmigrant Spouse of U.S. Citizen or K-4 Dependent--(a)(9).** File Form I-765 along with evidence of your admission such as copies of your Form I-94, passport, and K visa.

C. **Family Unity Program--(a)(13).** If you are filing for initial or extension of Family Unity benefits, complete and submit Form I-817, Application for Family Unity Benefits, according to the filing instructions on Form I-817. An EAD will be issued if your Form I-817 is approved; you do not need to submit Form I-765.

If your non-expired Family Unity EAD is lost or stolen, file Form I-765 with proper fee(s), along with a copy of your approval notice for Family Unity benefits, to request a replacement.

D. **LIFE Family Unity--(a)(14).** If you are applying for initial employment authorization under Family Unity provisions of section 1504 of the LIFE Act Amendments, or an extension of such authorization, you should not use this form. Obtain and complete Form I-817, Application for Family Unity Benefits. If you are applying for a replacement EAD that was issued under LIFE Act Amendments Family Unity provisions, file Form I-765 with the required evidence listed in the **"Required Documentation"** section of these instructions.

E. **V-1, V-2, or V-3 Nonimmigrant--(a)(15).** If you have been inspected and admitted to the United States with a valid V visa, file this application along with evidence of your admission, such as copies of your Form I-94, passport, and K visa. If you have been granted V status while in the United States, file this application along with evidence of your V status, such as an approval notice. If you are in the United States but you have not yet filed an application for V status, you may file this application at the same time as you file your application for V status. USCIS will adjudicate this application after adjudicating your application for V status.

7. **EAD Applicants Who Have Filed for Adjustment of Status**

   A. **Adjustment Applicant--(c)(9).** File Form I-765 with a copy of the receipt notice or other evidence that your Form I-485, Application for Permanent Residence or Adjust Status, is pending. You may file Form I-765 together with your Form I-485.

   B. **Adjustment Applicant Based on Continuous Residence Since January 1, 1972--(c)(16).** File Form I-765 with your Form I-485, Application to Register for Permanent Residence or Adjust Status; a copy of your receipt notice; or other evidence that the Form I-485 is pending.

   C. **Renewal EAD for National Interest Waiver Physicians:** If you are filing for a renewal EAD based on your pending adjustment status and an approved National Interest Waiver Physician petition, you must also include evidence of your meaningful progress toward completing the National Interest Waiver obligation. Such evidence includes documentation of employment in any period during the previous 12 months (e.g., copies of W-2 forms). If you did not work as a National Interest Waiver Physician during any period of the previous 12 months, you must explain and provide a statement of future intent to work in the National Interest Waiver employment program.

8. **Other Categories**

   A. **N-8 or N-9 Nonimmigrant--(a)(7).** File Form I-765 with the required evidence listed in the **"Required Documentation"** section of these Instructions.

   B. **Granted Withholding of Deportation or Removal--(a)(10).** File Form I-765 with a copy of the Immigration Judge's order. It is not necessary to apply for a new EAD until 90 days before the expiration of your current EAD.

   C. **Applicant for Suspension of Deportation--(c)(10).** File Form I-765 with evidence that your Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal (Pursuant to Section 203 of Public Law 105-100 (NACARA)), or Form EOIR-40, is pending.

   D. **Paroled in the Public Interest--(c)(11).** File Form I-765 if you were paroled into the United States for emergent reasons or reasons strictly in the public interest.

   E. **Deferred Action--(c)(14).** File Form I-765 with a copy of the order, notice, or document reflecting the exercise of deferred action. To determine your eligibility for work authorization, you must establish economic necessity. USCIS will consider whether you have an economic need to work by reviewing your current annual income, your current annual expenses, and the total current value of your assets. Provide this financial information on Form I-765WS, Form I-765 Worksheet. If you would like to provide an explanation, complete **Part 3. Explanation**, of the worksheet. It is not necessary to submit supporting documentation, though it will be accepted and reviewed if you choose to submit it.

   F. **Consideration of Deferred Action for Childhood Arrivals--(c)(33).**

      (1) You must file Form I-765 with Form I-821D if you meet the guidelines described in the Form I-821D Filing Instructions. Enter **(c)(33)** in **Question 16** as the letter and number of the category for which you are applying.

         (a) To determine your eligibility for work authorization, you must establish economic necessity. USCIS will consider whether you have an economic need to work by reviewing your current annual income, your current annual expenses, and the total current value of your assets. Provide this financial information on Form I-765WS, Form I-765 Worksheet. If you would like to provide an explanation, complete **Part 3. Explanation**, of the worksheet. It is not necessary to submit supporting documentation, though it will be accepted and reviewed if you choose to submit it. You do not need to include other household member's financial information to establish your own economic necessity.

         (b) USCIS will not begin adjudicating Form I-765 if filed together with Form I-821D until USCIS has decided whether to defer action in your case.

(c) The fee for Form I-765 filed based on the Consideration of Deferred Action for Childhood Arrivals category cannot be waived. Biometric collection and the biometric services fee for Form I-765 based on the Consideration of Deferred Action for Childhood Arrivals category is also required and cannot be waived.

(1) If U.S. Immigration and Customs Enforcement (ICE) deferred action on your case, file a stand-alone Form I-765 with a copy of the order, notice, or document reflecting the exercise of deferred action. To determine your eligibility for work authorization, you must establish economic necessity. USCIS will consider whether you have an economic need to work by reviewing your current annual income, your current annual expenses, and the total current value of your assets. Provide this financial information on Form I-765WS, Form I-765 Worksheet. If you would like to provide an explanation, complete **Part 3. Explanation**, of the worksheet. It is not necessary to submit supporting documentation, though it will be accepted and reviewed if you choose to submit it. You do not need to include other household member's financial information to establish your own economic necessity.

When completing the Form I-765:

(a) Enter "Unlawful Status: Deferred Action for Childhood Arrivals by ICE" for **Question 15**.

(b) Enter (c)(33) in **Question 16** as the letter and number of the category for which you are applying.

G. Final Order of Deportation--(c)(18). File Form I-765 with a copy of the order of supervision and a request for employment authorization that may be based on but not limited to the following:

(1) Existence of a dependent spouse and/or children in the United States who rely on you for support;

(2) Existence of economic necessity to be employed; and

(3) Anticipated length of time before you can be removed from the United States.

H. LIFE Legalization Applicant--(c)(24). We encourage you to file File Form I-765 together with your Form I-485, Application to Register Permanent Residence or Adjust Status, to facilitate processing. However, you may file Form I-765 at a later date with evidence that you were a CSS, LULAC, or Zambrano class member applicant before October 1, 2000, and with a copy of the receipt notice or other evidence that your Form I-485 is pending.

I. T-1 Nonimmigrant--(a)(16). If you are applying for initial employment authorization as a T-1 nonimmigrant, file Form I-765 only if you did not request an employment authorization document when you applied for T nonimmigrant status. If you have been granted T nonimmigrant status and this is a request for a renewal or replacement of an employment authorization document, file Form I-765 along with evidence of your T nonimmigrant status, such as an approval notice.

J. T-2, T-3, or T-4 Nonimmigrant--(c)(25). File Form I-765 with a copy of your T-1 (principal alien's) approval notice and proof of your relationship to the T-1 principal.

K. U-1 Nonimmigrant--(a)(19). If you are applying for initial employment authorization as a U-1 nonimmigrant, file Form I-765 only if you did not request an employment authorization document when you applied for U nonimmigrant status. If you have been granted U nonimmigrant status and this is a request for a renewal or replacement of an employment authorization document, file Form I-765 along with evidence of your U nonimmigrant status, such as an approval notice.

L. U-2, U-3, U-4, or U-5--(a)(20). If you obtained U nonimmigrant status while in the United States, you must submit a copy of the approval notice for your U nonimmigrant status. If you were admitted to the United States as a U nonimmigrant, you must submit a copy of your passport with your U nonimmigrant visa.

M. VAWA Self-Petitioners--(c)(31). If you are the principal beneficiary or qualified child of an approved VAWA self-petition, you are eligible for work authorization. File Form I-765 with evidence of your status, such as a copy of Form I-360 approval notice. Additionally, you may file Form I-765 together with your initial VAWA self-petition.

General Instructions

Each application must be properly signed and filed. A photocopy of a signed application or a typewritten name in place of a signature is not acceptable.

Each application must be accompanied by the appropriate filing fee.

If you are under 14 years of age, your parent or legal guardian may sign the application on your behalf.

Evidence. You must submit all required initial evidence along with all the supporting documentation with your application at the time of filing.

If a required document does not exist or cannot be obtained, you must demonstrate this and submit secondary evidence pertinent to the facts at issue. If secondary evidence does not exist or is unavailable you must demonstrate this and submit two or more sworn affidavits by non-parties who have direct knowledge of the event and circumstances.

Biometrics Services Appointment. After receiving your application and ensuring completeness, USCIS will inform you in writing when to go to your local USCIS Application Support Center (ASC) for your biometrics services appointment. Failure to attend the biometrics services appointment may result in denial of your application.

Copies. Unless specifically required that an original document be filed with an application or petition, a legible photocopy may be submitted. Original documents submitted when not required may remain a part of the record and will not be automatically returned to you.

Translations. Any document containing foreign language submitted to USCIS must be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.

How To Fill Out Form I-765

1. Type or print legibly in black ink.
2. If extra space is needed to complete any item, attach a continuation sheet, write your name and Alien Registration Number (A-Number) (if any), at the top of each sheet of paper, indicate the Part and item number to which your answer refers, and date and sign each sheet.
3. Answer all questions fully and accurately. State that an item is not applicable with "N/A." If the answer is none, write "None."

We recommend that you print or save a copy of your completed application to review in the future and for your records.

Required Documentation

All applications must be filed with the documents required below in addition to the particular evidence required for the category listed in "**Who May File Form I-765?**" with fee, if required.

If you are required to show economic necessity for your category, submit a list of your assets, income, and expenses. Provide this financial information on Form I-765WS, Form I-765 Worksheet. If you would like to provide an explanation, complete **Part 3., Explanation**, of the worksheet.

Assemble the documents in the following order:

1. Your application with the filing fee. See "**What Is the Filing Fee?**" for details.

2. If you are mailing your application to USCIS, you must also submit:

   A. A copy of Form I-94, Arrival-Departure Record (front and back), if available. If you are filing Form I-765 under the (c)(9) category, Form I-94 is not required.

   B. A copy of your last EAD (front and back). If no prior EAD has been issued, you must submit a copy of a government-issued identity document, such as a passport showing your picture, name, and date of birth; a birth certificate with photo ID; a visa issued by a foreign consulate; or a national ID document with photo and/or fingerprint. The identity document photocopy must clearly show the facial features of the applicant and the biographical information. If you are filing under the (c)(33) category, additional documentation beyond what you submit under "**3. What Documents Do You Need to Provide to Prove Identity?**" of the filing instructions for Form I-821D, Consideration of Deferred Action for Childhood Arrivals, is not required.

   C. You **must** submit two identical color photographs of yourself taken within 30 days of filing your application. The photos must have a white to off-white background, be printed on thin paper with a glossy finish, and be unmounted and unretouched.

   The passport-style photos must be 2" by 2". The photos must be in color with full face, frontal view on a white to off-white background. Head height should measure 1" to 1 3/8" from top to bottom of chin, and eye height is between 1 1/8' to 1 3/8" from bottom of photo. Your head must be bare unless you are wearing headwear as required by a religious order of which you are a member. Using pencil or felt pen, lightly print your name and Alien Receipt Number on the back of the photo.

Special Filing Instructions for Those With Pending Asylum Applications ((c)(8))

Asylum Applicant (with a pending asylum application) who filed for asylum on or after January 4, 1995. You must wait at least 150 days following the filling of your asylum claim before you are eligible to apply for an EAD.

Any delay in processing the asylum application that is caused by you, including unexcused failure to appear for fingerprinting and other biometrics capture, will not be counted as part of that 150 days. If you fail to appear for your asylum interview or for a hearing before an immigration judge, you will be ineligible for an EAD. If you have received a recommended approval for a grant of asylum, you do not need to wait the 150 days and may apply for an EAD immediately upon receipt of your recommended approval. If you file Form I-765 early, it will be denied. File Form I-765 with:

1. A copy of the USCIS acknowledgement mailer which was mailed to you;
2. Other evidence that your Form I-589 was filed with USCIS;
3. Evidence that your Form I-589 was filed with an Immigration Judge at the Executive Office for Immigration Review (EOIR); or
4. Evidence that your asylum application remains under administrative or judicial review.

Asylum applicant (with a pending asylum application) who filed for asylum and for withholding of deportation prior to January 4, 1995, and is *NOT* in exclusion or deportation proceedings.

You may file Form I-765 at any time; however, it will only be granted if USCIS finds that your asylum application is not frivolous. File Form I-765 with:

1. A complete copy of your previously filed Form I-589;
2. A copy of your USCIS receipt notice;
3. A copy of the USCIS acknowledgement mailer;
4. Evidence that your Form I-589 was filed with EOIR; or
5. Evidence that your asylum application remains under administrative or judicial review.

Asylum applicant (with a pending asylum application) who filed an initial request for asylum prior to January 4, 1995, and is IN exclusion or deportation proceedings. If you filed your Request for Asylum and Withholding of Deportation (Form I-589) prior to January 4, 1995, and you are IN exclusion or deportation proceedings, file your EAD application with:

1. A date-stamped copy of your previously filed Form I-589;
2. A copy of Form I-221, Order to Show Cause and Notice of Hearing, or Form I-122, Notice to Applicant for Admission Detained for Hearing Before Immigration Judge;
3. A copy of EOIR-26, Notice of Appeal, date stamped by the Office of the Immigration Judge;
4. A date-stamped copy of a petition for judicial review or for *habeas corpus* issued to the asylum applicant; or
5. Other evidence that you filed an asylum application with EOIR.

Asylum application under the ABC Settlement Agreement--(c)(8). If you are a Salvadoran or Guatemalan national eligible for benefits under the ABC settlement agreement, American Baptist Churches v. Thornburgh, 760 F. Supp. 976 (N.D. Cal. 1991), follow the instructions contained in this section when filing your Form I-765.

You must have an asylum application (Form I-589) on file either with USCIS or with an Immigration Judge in order to receive work authorization. Therefore, submit evidence that you have previously filed an asylum application when you submit Form I-765. You are not required to submit this evidence when you apply, but it will help USCIS process your request efficiently.

If you are renewing or replacing your EAD, you must pay the filing fee.

Mark your application as follows:

1. Write "ABC" in the top right corner of your EAD application. You must identify yourself as an ABC class member if you are applying for an EAD under the ABC settlement agreement.
2. Write "(c)(8)" in **Question 16** of the application.

You are entitled to an EAD without regard to the merits of your asylum claim. Your application for an EAD will be decided within 60 days if: (1) you pay the filing fee, (2) you have a complete pending asylum application on file, and (3) you write "ABC" in the top right corner of your EAD application. If you do not pay the filing fee for an initial EAD request, your request may be denied if USCIS finds that your asylum application is frivolous. However, if you cannot pay the filing fee for an EAD, you may qualify for a fee waiver under 8 CFR 103.7(c).

Special Filing Instructions for Spouses of E-2 CNMI Investors ((c)(12)).

Spouses of certain principal E-2 CNMI Investors (E-2C) are eligible to seek employment in the CNMI. An EAD issued under this category is only valid for employment in the Commonwealth of Northern Mariana Islands (the CNMI).

To determine if you are eligible for an EAD under this section, you must determine what type of investor certificate was issued by the CNMI to your spouse, the principal E-2 CNMI Investor. If your spouse was issued either a Long-Term Business Certificate or Foreign Investment Certificate, you may be eligible for an EAD under this category. If your spouse, the principal E-2 CNMI Investor, was issued a Foreign Retiree Investment Certification, you are not eligible to receive an EAD under this category.

File Form I-765 with:

1. Documentation, such as a marriage certificate establishing a legal marriage between you and the principal E-2C. Additionally, documentation such as divorce or death certificates establishing the termination of any prior marriages of you and your spouse.
2. Documentation establishing that you reside in the Commonwealth of the Northern Mariana Islands.
3. Documentation establishing that you have obtained E-2C status as a dependent.

4. Evidence that your spouse has obtained E-2C status.
5. A copy of your spouse's CNMI issued Long-Term Business Certificate or Foreign Investment Certificate.

What Is the Filing Fee?

The filing fee for Form I-765 is **$410**.

Exceptions:

Initial EAD. If this is your initial application and you are applying under one of the following categories, a filing fee is **not** required:

1. (a)(3) Refugee;
2. (a)(4) Paroled as Refugee;
3. (a)(5) Asylee;
4. (a)(7) N-8 or N-9 nonimmigrant;
5. (a)(8) Citizen of Micronesia, Marshall Islands, or Palau;
6. (a)(10) Granted Withholding of Deportation;
7. (a)(16) Victim of Severe Form of Trafficking (T-1);
8. (a)(19) U-1 Nonimmigrant;
9. (c)(1), (c)(4), or (c)(7) Dependent of certain foreign government, international organization, or NATO personnel;
10. (c)(8) Applicant for asylum (an applicant filing under the special ABC procedures must pay the fee); or
11. (c)(31) VAWA Self-Petitioner.

Special Instructions for Childhood Arrivals ((c)(33)). All requestors under this category must submit biometrics. The biometrics services fee of $85 is required for all requestors. *The biometrics services fee and the filing fee for this form cannot be waived.*

Renewal EAD. If this is a renewal application and you are applying under one of the following categories, a filing fee is **not** required:

1. (a)(8) Citizen of Micronesia, Marshall Islands, or Palau;
2. (a)(10) Granted Withholding of Deportation;
3. (c)(l), (c)(4), or (c)(7) Dependent of certain foreign government, international organization, or NATO personnel;
4. (c)(9) or (c)(16) Adjustment applicant who applied after July 30, 2007.

Replacement EAD. If this is your replacement application, and you are applying under one of the following categories, a filing fee is **not** required:

1. (c)(l), (c)(4), or (c)(7) Dependent of certain foreign government, international organization, or NATO personnel.

   NOTE: If you are requesting a replacement EAD under the (c)(9) or (c)(16) Adjustment applicant who applied after July 30, 2007 category, then the full filing fee will be required; however, no biometrics fee is required.

Card Error:

1. If the card issued to you contains incorrect information that is not attributed to USCIS error, a new Form I-765 and filing fee are required. Form I-765 must be accompanied by the card containing the error.
2. If the card issued to you contains incorrect information that is attributed to a USCIS error, a new Form I-765 and filing fee are not required. Instead, you must submit a letter, accompanied by the card containing the error to the Service Center or National Benefit Center that approved your last employment authorization request.

You may be eligible for a fee waiver under 8 CFR 103.7(c) if you are filing for an EAD related to your application or grant of TPS.

Use the following guidelines when you prepare your check or money order for the Form I-765 fee:

1. The check or money order must be drawn on a bank or other financial institution located in the United States and must be payable in U.S. currency; **and**
2. Make the check or money order payable to **U.S. Department of Homeland Security**.

   NOTE: Spell out U.S. Department of Homeland Security; do not use the initials "USDHS" or "DHS."

NOTE: If you filed Form I-485, Application to Register Permanent Residence or Adjust Status, as of July 30, 2007, ***and you paid the Form I-485 filing fee***, no fee is required to also file a request for employment authorization on Form I-765. You may file the Form I-765 with your Form I-485, or you may submit the Form I-765 at a later date. If you file Form I-765 separately, you must also submit a copy of your Form I-797C, Notice of Action, receipt as evidence of the filing of Form I-485 as of July 30, 2007.

Notice to Those Making Payment by Check. If you send us a check, it will be converted into an electronic funds transfer (EFT). This means we will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will usually take 24 hours and your bank will show it on your regular account statement.

You will not receive your original check back. We will destroy your original check, but will keep a copy of it. If USCIS cannot process the EFT for technical reasons, you authorize us to process the copy in place of your original check. If your check is returned as unpayable, USCIS will re-submit the payment to the financial institution one time. If the check is returned as unpayable a second time, we will reject your application and charge you a returned check fee.

How to Check If the Fees Are Correct

Form I-765's filing fee is current as of the edition date in the lower left corner of this page. However, because USCIS fees change periodically, you can verify that the fees are correct by following one of the steps below:

1. Visit our website at **www.uscis.gov**, select "FORMS" and check the appropriate fee; or
2. Call the USCIS National Customer Service Center at **1-800-375-5283** and ask for fee information. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

Fee Waiver

You may be eligible for a fee waiver under 8 CFR 103.7(c), including if you are a TPS applicant. If you believe you are eligible for a fee waiver, complete Form I-912, Request for Fee Waiver (or a written request), and submit it and any required evidence of your inability to pay the filing fee with this application. You can review the fee waiver guidance at **www.uscis.gov/feewaiver**.

Biometrics Services Fee for Beneficiaries of an Approved Employment-Based Immigrant Petition--(c)(35) and Spouses or Children of a Principal Beneficiary of an Approved Immigrant Petition--(c)(36). All applicants under these categories must submit biometrics. An additional biometric services fee of **$85** is required for applicants 14 to 79 years of age, unless waived.

Where to File?

Please visit the USCIS website at **www.uscis.gov/I-765** or contact the USCIS National Customer Service Center at **1-800-375-5283** for the most current information about where to file this benefit request. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

Address Change

If you have changed your address, you must inform USCIS of your new address. For information on filing a change of address go to the USCIS website at **www.uscis.gov/addresschange** or contact the USCIS National Customer Service Center at **1-800-375-5283**. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

NOTE: Do not submit a change of address request to USCIS Lockbox facilities because USCIS Lockbox facilities do not process change of address requests.

Processing Information

Any Form I-765 that is not signed or accompanied by the correct fee will be rejected with a notice that Form I-765 is deficient. You may correct the deficiency and resubmit Form I-765. An application or petition is not considered properly filed until accepted by USCIS.

Initial processing. Once Form I-765 has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file it without required initial evidence, you will not establish a basis for eligibility, and we may deny your Form I-765.

Biometric collection, interview, and requests for more information. We may request more information or evidence, or we may request that you appear at a USCIS office for an interview, which may include collection of biometrics (fingerprints, photograph, and signature). We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

You may be required to provide biometrics at a USCIS Application Support Center (ASC) in order for your EAD application to be adjudicated and your card to be produced. If necessary, USCIS will send you a notice scheduling you for an ASC appointment for the electronic collection of your biometrics. The ASC notice will inform you of the documents that you must bring with you to the appointment. If you fail to attend your ASC appointment, your EAD application may be denied.

Approval. If approved, your EAD will either be mailed to you or you may be required to visit your local USCIS office to pick it up.

Denial. If your application cannot be granted, you will receive a written notice explaining the basis of your denial.

USCIS Forms and Information

To ensure you are using the latest version of this form, visit the USCIS website at **www.uscis.gov** where you can get 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 our USCIS National Customer Service Center at **1-800-375-5283**. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

As an alternative to waiting in line for assistance at your local USCIS office, you can now schedule an appointment through the USCIS Internet-based system, **InfoPass**. To access the system, visit the USCIS Web site. Use the **InfoPass** appointment scheduler and follow the screen prompts to set up your appointment. **InfoPass** generates an electronic appointment notice that appears on the screen.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form I-765, we will deny your Form I-765 and may deny any other immigration benefit.

In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

USCIS Privacy Act Statement

AUTHORITIES: The information requested on this application, and the associated evidence, is collected pursuant to the Immigration and Nationality Act, 8 U.S.C. section 1324a, as amended.

PURPOSE: The primary purpose for providing the requested information on this form is to determine eligibility for certain aliens who are temporarily in the United States requesting an Employment Authorization Document (EAD).

DISCLOSURE: The information you provide is voluntary. However, failure to provide the requested information, and any requested evidence, may delay a final decision or result in the denial of your benefit request.

ROUTINE USES: The information you provide on this benefit application may be shared with other federal, state, local, and 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; DHS/USCIS-007 - Benefit Information System; and DHS/USCIS-010 - Asylum Information and Pre-Screening, which can be found at **www.dhs.gov/privacy**]. The information may also be made 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 as follows: 3.42 hours for reviewing instructions and completing and submitting Form I-765; 1.17 hours associated with biometrics processing; .50 hours for reviewing instructions and completing Form I-765WS; and .50 hours associated with providing passport-style photographs. 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. 1615-0040. **Do not mail your completed Form I-765 to this address.**

Form I-765 Worksheet

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

USCIS
Form I-765WS
OMB No. 1615-0040
Expires 02/28/2018

If you are applying for employment authorization under the (c)(14), Deferred Action, or (c)(33), Consideration of Deferred Action for Childhood Arrivals, categories, you must complete this worksheet so that USCIS can determine whether you have an economic need to work. In the spaces provided, please indicate your current annual income, your current annual expenses, and the total current value of your assets. It is not necessary to submit supporting documentation, though it will be accepted and reviewed if you choose to submit it. You do not need to include other household members' financial information to establish your own economic necessity.

Part 1. Full Name

1.a. Family Name (Last Name)

1.b. Given Name (First Name)

1.c. Middle Name

Part 2. Financial Information

2. My current annual income is: $

3. My current annual expenses are: $

4. The total current value of my assets is: $

Part 3. Explanation

If you would like to provide an explanation regarding your current financial information or your economic need for employment authorization, please use the space below.

EXHIBIT WW

State of California
Office of the Attorney General

XAVIER BECERRA
ATTORNEY GENERAL

July 21, 2017

The Honorable Donald J. Trump
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

RE: June 29, 2017 letter from Ken Paxton re *Texas, et al., v. United States, et al.*, Case No. 1:14-cv-00254 (S.D. Tex.)

Dear Mr. President:

We write to urge you to maintain and defend the Deferred Action for Childhood Arrivals program, or DACA, which represents a success story for the more than three-quarters of a million "Dreamers" who are currently registered for it. It has also been a boon to the communities, universities, and employers with which these Dreamers are connected, and for the American economy as a whole.

Since 2012, nearly 800,000 young immigrants who were brought to this country as children have been granted DACA after completing applications, submitting to and passing a background check, and applying for a work permit. In the case of young adults granted DACA, they are among our newest soldiers, college graduates, nurses and first responders. They are our neighbors, coworkers, students and community and church leaders. And they are boosting the economies and communities of our states every day. In fact, receiving DACA has increased recipients' hourly wages by an average of 42 percent[1] and given them the purchasing power to buy homes, cars and other goods and services, which drives economic growth for all.[2]

In addition to strengthening our states and country, DACA gives these bright, driven young people the peace of mind and stability to earn a college degree and to seek employment that matches their education and training. The protection afforded by

[1] Tom Wong, et al., Center for American Progress, *New Study of DACA Beneficiaries Shows Positive Economic and Educational Outcomes* (Oct. 18, 2016), https://www.americanprogress.org/issues/immigration/news/2016/10/18/146290/new-study-of-daca-beneficiaries-shows-positive-economic-and-educational-outcomes/ (last visited July 17, 2017).

[2] *See, e.g.*, United We Dream, *New National Survey of DACA Recipients: Proof That Executive Action Works* (Oct. 18, 2016), https://unitedwedream.org/press-releases/new-national-survey-of-daca-recipients-proof-that-executive-action-works/ (last visited July 10, 2017) (finding that 95 percent of DACA beneficiaries are working, and that 54 percent bought their first car and 12 percent bought their first home after receiving DACA).

DACA gives them dignity and the ability to fully pursue the American dream. For many, the United States is the only country they have ever known.

The consequences of rescinding DACA would be severe, not just for the hundreds of thousands of young people who rely on the program—and for their employers, schools, universities, and families—but for the country's economy as a whole. For example, in addition to lost tax revenue, American businesses would face billions in turnover costs, as employers would lose qualified workers whom they have trained and in whom they have invested.[3] And as the chief law officers of our respective states, we strongly believe that DACA has made our communities safer, enabling these young people to report crimes to police without fear of deportation.

You have repeatedly expressed your support for Dreamers. Today, we join together to urge you not to capitulate to the demands Texas and nine other states set forth in their June 29, 2017, letter to Attorney General Jeff Sessions. That letter demands, under threat of litigation, that your Administration end the DACA initiative. The arguments set forth in that letter are wrong as a matter of law and policy.

There is broad consensus that the young people who qualify for DACA should not be prioritized for deportation. DACA is consistent with a long pattern of presidential exercises of prosecutorial discretion that targeted resources in a constitutional manner. Indeed, as Justice Antonin Scalia recognized in a 1999 opinion, the Executive has a long history of "engaging in a regular practice . . . of exercising [deferred action] for humanitarian reasons or simply for its own convenience." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483-84 (1999). DACA sensibly guides immigration officials' exercise of their enforcement discretion and reserves limited resources to address individuals who threaten our communities, not those who contribute greatly to them.

Challenges have been brought against the original DACA program, including in the Fifth Circuit, but none have succeeded. On the other hand, in a case relating to Arizona's efforts to deny drivers' licenses to DACA recipients, the Ninth Circuit stated that it is "well settled that the [DHS] Secretary can exercise deferred action." *Ariz. Dream Act Coalition v. Brewer*, 855 F.3d 957, 967-968 (9th Cir. 2017). The court also observed that "several prior administrations have adopted programs, like DACA, to prioritize which noncitizens to remove." *Id.* at 976.[4]

As the Fifth Circuit was careful to point out in its ruling in the *Texas* case, the Deferred Action for Parents of Americans and Lawful Permanent Residents ("DAPA")

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[3] Jose Magaña-Salgado, Immigrant Legal Resource Center, *Money on the Table: The Economic Cost of Ending DACA* (Dec. 2016), https://www.ilrc.org/sites/default/files/resources/2016-12-13_ilrc_report_-_money_on_the_table_economic_costs_of_ending_daca.pdf (last visited July 17, 2017).

[4] In another opinion relating to the Arizona law, while deciding the appeal before it on other grounds, the Ninth Circuit stated that given the "broad discretion" that Congress gave to the executive branch "to determine when noncitizens may work in the United States," the President's decision to authorize (indeed, strongly encourage) DACA recipients to work was legally supported. *Ariz. Dream Act Coalition v. Brewer*, 757 F.3d 1053, 1062 (9th Cir. 2014).

initiative that was struck down is "similar" but "not identical" to DACA. *Texas v. United States*, 809 F.3d 134, 174 (5th Cir. 2015). Indeed, as DHS Secretary Kelly pointed out in a press conference the day after his June 15 memorandum explaining that DACA would continue, DACA and DAPA are "two separate issues," appropriately noting the different populations addressed by each program. Notably, only a fraction of the 25 states which joined with Texas in the DAPA case before the Supreme Court chose to co-sign the letter threatening to challenge DACA.

Among other significant differences, DACA has been operative since 2012 while DAPA never went into effect. More than three-quarters of a million young people, and their employers, among others, have concretely benefitted from DACA, for up to five years. The interests of these young people in continuing to participate in DACA and retain the benefits that flow from DACA raise particular concerns not implicated in the pre-implementation challenge to DAPA. Further, the Fifth Circuit placed legal significance on the "economic and political magnitude" of the large number of immigrants who were affected by DAPA, *Texas*, 809 F.3d at 181; thus, it is notable that many fewer people have received DACA (about 800,000) than would have been eligible for DAPA (up to 4.3 million).

One additional, but related, issue concerns DHS's current practices regarding DACA recipients. A number of troubling incidents in recent months raise serious concerns over whether DHS agents are adhering to DACA guidelines and your repeated public assurances that DACA-eligible individuals are not targets for arrest and deportation. We urge you to ensure compliance with DACA and consistent enforcement practices towards Dreamers.

Mr. President, now is the time to affirm the commitment you made, both to the "incredible kids" who benefit from DACA and to their families and our communities, to handle this issue "with heart." You said Dreamers should "rest easy." We urge you to affirm America's values and tradition as a nation of immigrants and make clear that you will not only continue DACA, but that you will defend it. The cost of not doing so would be too high for America, the economy, and for these young people. For these reasons, we urge you to maintain and defend DACA, and we stand in support of the effort to defend DACA by all appropriate means.

Sincerely,

XAVIER BECERRA
California Attorney General

GEORGE JEPSEN
Connecticut Attorney General

MATTHEW DENN
Delaware Attorney General

KARL A. RACINE
District of Columbia Attorney General

DOUGLAS S. CHIN
Hawaii Attorney General

LISA MADIGAN
Illinois Attorney General

TOM MILLER
Iowa Attorney General

JANET T. MILLS
Maine Attorney General

BRIAN FROSH
Maryland Attorney General

MAURA HEALEY
Massachusetts Attorney General

LORI SWANSON
Minnesota Attorney General

HECTOR BALDERAS
New Mexico Attorney General

ERIC T. SCHNEIDERMAN
New York Attorney General

JOSH STEIN
North Carolina Attorney General

ELLEN F. ROSENBLUM
Oregon Attorney General

JOSH SHAPIRO
Pennsylvania Attorney General

PETER KILMARTIN
Rhode Island Attorney General

TJ DONOVAN
Vermont Attorney General

MARK HERRING
Virginia Attorney General

BOB FERGUSON
Washington State Attorney General

cc: The Honorable John F. Kelly, Secretary of Homeland Security
The Honorable Jeff Sessions, Attorney General of the United States

EXHIBIT XX

Center for American Progress FWD.us

STUDY: THE IMPACT OF DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA) PROGRAM REPEAL ON JOBS

A TIMELINE OF THE DEVASTATING AND FAR-REACHING JOB LOSS CONSEQUENCES IF DACA IS REPEALED

Developed by the Center for American Progress (CAP) and FWD.us

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SUMMARY

Since the Deferred Action for Childhood Arrivals (DACA) Program was established in 2012, nearly 800,000 young people who came to this country as children have been granted temporary protection from deportation and allowed to live, work, and contribute to the only country most of them have ever known (U.S. Citizenship and Immigration Services, 2017). Over the past five years, 91% of DACA recipients have found gainful employment, and are currently working for companies across the country (Wong, T., et al., (2017)).

The following report, developed by the Center for American Progress (CAP) and FWD.us, highlights the escalating job losses that will occur over the course of 2 years if DACA renewals are put on hold, even for a short period of time. The findings reinforce the devastating consequences a repeal would inflict on DACA recipients and their families, as well as the dire, far-reaching consequences to communities across the country, to employers, and to the American economy across all regions and sectors. This report specifically finds that for every business day that DACA renewals are put on hold, more than 1,400 DACA recipients will lose their ability to work and could be let go by American employers. This could result in monthly job losses for more than 30,000 individuals each month. In total, if DACA is revoked, nearly 700,000 individuals who are currently employed and contributing as a productive part of the American

workforce would be stripped of their ability to work and could be fired over the course of the next two years.[1]

BACKGROUND

Five years ago, the Department of Homeland Security issued a memo establishing the DACA program (Department of Homeland Security, 2012). The memo delineated a set of criteria by which "certain young people who were brought to the United States as young children, do not present a risk to national security or public safety, and meet several key criteria" would be able to receive a temporary protection from deportation, for a period of two years, and be eligible to apply for work authorization. Individuals who are eligible are required to complete an application process and undergo a thorough background check, including fingerprinting, and are required to renew their deferred action every two years. Further, the DHS Secretary issued a memo directing the heads of Immigration and Customs Enforcement (ICE), U.S. Citizenship and Immigration Services (USCIS), and Customs and Border Protection (CBP) to establish a process to implement this exercise of prosecutorial discretion across their agencies to ensure that "enforcement resources are not expended on these low priority cases but are instead appropriately focused on people who meet our enforcement priorities" (Department of Homeland Security, 2014).

Despite the positive economic benefits of the program and overwhelming public support for DACA recipients[2], the program has recently come under imminent threat of repeal, putting the safety, livelihoods, and wellbeing of these incredible young people at risk. Ten Republican state Attorneys General and Idaho Governor Butch Otter have threatened to sue President Trump if he doesn't end DACA by September 5 (Attorney General Ken Paxton, 2017), setting up a virtual collision course where DACA could be put on hold by a federal judge, or where the program could be repealed, with DACA renewal applications being halted immediately by the Administration. Further, recent reports have indicated that the Trump Administration is strongly considering ending DACA.[3]

DACA recipients are upstanding members of our communities, and everyone in the program has gone through an application process, passed an extensive

[1] See Fig. 1. Benefit Expiration with Loss of Work Authorization & Subject to Deportation and Forced Job Loss Chart
[2] https://morningconsult.com/wp-content/uploads/2017/04/170409_crosstabs_Politico_v1_AG-2.pdf
[3] https://www.axios.com/trump-seriously-considering-ending-daca-2476724345.html

background check including fingerprinting, paid the required fee, and is a student, or servicemember, or holds a job. DACA recipients are required to renew their deferral every two years in order to maintain their work authorization and their protection from deportation, and to show that they have continued to meet the program requirements. An estimated 200,000 DACA recipients have had their Deferred Action renewed by President Trump since he took office in January.[4]

ECONOMIC IMPACT OF A REPEAL

Total DACA Recipients

Benefit Expiration with Loss of Work Authorization & Subject to Deportation

Quarter	Months	Total DACA Expirations Per Quarter	DACA expirations per month	Per Week
Q4 2017	Oct-Dec	90,299	30,100	7,167
Q1 2018	Jan-Mar	115,380	38,460	9,157
Q2 2018	Apr-Jun	86,165	28,722	6,838
Q3 2018	July-Sept	152,429	50,810	12,098
Q4 2018	Oct-Dec	120,287	40,096	9,547
Q1 2019	Jan-Mar	36,427	12,142	2,891

DACA Recipients With Job

Forced Job Loss Chart

Quarter	Months	Total DACA Expirations	Estimate DACA Job Loss (91% have jobs)	DACA recipient Job loss per Month	Per Week	Per Business Day (5 days per week)	Per Business Day Hour (8 hours per business day)	Per Business Minute	Every XXX seconds, a DACA recipeint loses their job?
Q4 2017	Oct-Dec	**90,299**	82,172	27,391	**6,522**	1,304	163.0	2.7	22.1
Q1 2018	Jan-Mar	**115,380**	104,996	34,999	**8,333**	1,667	208.3	3.5	17.3
Q2 2018	Apr-Jun	**86,165**	78,410	26,137	**6,223**	1,245	155.6	2.6	23.1
Q3 2018	July-Sept	**152,429**	138,710	46,237	**11,009**	2,202	275.2	4.6	13.1
Q4 2018	Oct-Dec	**120,287**	109,461	36,487	**8,687**	1,737	217.2	3.6	16.6
Q1 2019	Jan-Mar	**36,427**	33,149	11,050	**2,631**	526	65.8	1.1	54.7
Average			91,150	30,383	7,234	1,447	180.9	3.0	

Fig. 1. Benefit Expiration with Loss of Work Authorization & Subject to Deportation and Forced Job Loss Chart

New research has brought to light the dramatic consequences to U.S. employers if DACA is repealed and renewals are put on hold, even for a brief period of time. The chart above outlines the chronological job loss consequences of repealing DACA, resulting in the potential for an average of 30,000 DACA recipients to lose their jobs each month. Furthermore, for every business day that DACA renewals are put on hold, an average of more than 1,400 individuals can be fired from their jobs. And because DACA recipients live in all fifty states and the District of Columbia (U.S.

[4] Estimate based on average monthly renewals during first quarter of the Trump Administration, expanded to include estimated 2nd quarter renewals.

Citizenship and Immigration Services, 2017), the economic consequences will be felt all across the country.

This data further shows that job loss resulting directly from the repeal of DACA will begin immediately, and will continue over the course of the next 2 years until all employed DACA recipients, nearly 700,000 individuals, are removed from the work force, and all nearly 800,000 are subject to deportation. This study found that firings will increase over the course of the next 2 years to reach a high point in the 3rd quarter of 2018, when more than 11,000 individuals can be fired each week, a total of nearly 140,000 total individuals fired during that quarter. During the 3rd quarter of 2018, a DACA recipient can be fired from their job every 13 seconds.

Work authorizations issued to DACA recipients are no different than those issued through countless other visa categories, meaning many U.S. businesses may not even know whether they are employing a DACA recipient. Revoking the ability for current DACA recipients to renew their deferrals would force businesses into the impossible and extremely costly position of having to fire productive employees for no other reason than an arbitrary change in federal policy, potentially resulting in backlash from other employees, or their broader community. DACA recipients are already living openly in our communities. They are our coworkers, teachers, nurses and home health care workers, among many other professions. Repealing this program and forcing businesses around the country to fire hundreds of thousands of people within our communities will have a devastating impact. Further, such

action by the federal government would place a staggering cost, both financially and in relationship to their employees, on businesses in nearly every sector of the economy, and, in turn, in the communities across the United States.

Reporting by the Center for American Progress has found that nearly 91% of DACA recipients (Svajlenka, Jawetz and Bautista-Chavez, 2017) are currently employed across the country, contributing billions of dollars to our communities, our economy, and in tax revenue. Removing DACA recipients from the workforce will cost $460.3 billion in GDP loss over a decade (Svajlenka, Jawetz and Bautista-Chavez, 2017). It will cost employers $3.4 billion in unnecessary turnover costs, and would cut contributions to Medicare and Social Security by $24.6 billion over a decade (Magaña-Salgado, 2016). Moreover, DACA recipients have been important drivers of economic growth in their communities. Nearly 6% of DACA recipients have launched businesses, many employing American citizens (Wong et al., 2016). Further, almost 55% of DACA recipients purchased a vehicle, and more than one in ten have purchased their first home (Brannon and Albright, 2017).

CONCLUSION

By every measure, DACA has been extraordinarily beneficial, allowing nearly 800,000 individuals in the United States to live, work legally, and contribute to the only country most of them have ever known. The economic benefits of this program are clear and profound, and the dire consequences of repeal would be devastating. As this report has outlined, even a temporary hold on DACA renewals

would cause tens of thousands of individuals to lose their ability to live and work in the United States. Every day that DACA renewals are put on hold will result in more than 1,400 individuals losing their ability to work legally. In addition to the reprehensible moral consequences, ending DACA would place severe economic strain on businesses around the country, putting them into the impossible and extremely costly position of having to fire productive employees for no other reason than an arbitrary change in federal policy, potentially resulting in backlash from other employees, or their broader community.

DACA was always designed to be temporary, but repealing the program without a process for individuals currently protected by it to continue to live and work in the United States will place an extreme hardship on U.S. businesses, on local communities, and on the American economy. Congress is considering a number of pieces of legislation to protect current DACA recipients statutorily, and the Administration should not take action to change the existing DACA program without first signing legislation to address the urgent challenge or protecting DACA recipients.

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EXHIBIT YY

U.S. Citizenship and Immigration Services

I-821D, Consideration of Deferred Action for Childhood Arrivals

Archived Content

This section contains information that is no longer current but remains on our site for reference purposes.

DACA is Ending

- **We are no longer accepting initial or renewal requests for Deferred Action for Childhood Arrivals. We will consider DACA requests received from residents of the U.S. Virgin Islands and Puerto Rico on a case-by-case basis.**
- **If you are a current DACA recipient and your still-valid Employment Authorization Document (EAD) has been lost, stolen or destroyed, you may request a replacement EAD by filing a new Form I-765 at any time, if the EAD is still valid.**
- **We will no longer approve advance parole requests associated with DACA.**
- **Read the 2017 DACA announcement.**

- Form I-765 (MUST be filed with your Form I-821D) (PDF, 320 KB)
- Instructions for Form I-765 (PDF, 385 KB)
- I-765 Worksheet (PDF, 235 KB)
- Form G-1145, E-Notification of Application/Petition Acceptance (PDF, 229 KB)

Purpose of Form

To request that we consider granting or renewing deferred action, on a case-by-case basis, using guidelines described in the Secretary of Homeland Security's memorandum issued June 15, 2012 (PDF). Deferred action is a discretionary determination to defer removal action of an individual as an act of prosecutorial discretion. Individuals who receive deferred action will not be placed into removal proceedings or removed from the United States for a specified period of time. Individuals filing Form I-821D **must also file** Form I-765, Application for Employment Authorization, **and Form I-765WS**, Form I-765 Worksheet.

Number of Pages

Form 7; Instructions 14.

EXHIBIT 16
McCarrit
Deponent
10/17/17 Rptr
Date
WWW.DEPOBOOK.COM

Edition Date

01/09/17. Previous edition dated 06/04/14 is also accepted. You can find the edition date at the bottom of the page on the form and instructions.

Where to File

Where you file depends on your state of residence; check our Filing Addresses for Consideration of Deferred Action for Childhood Arrivals for the correct mailing address.

Filing Tips for Form I-821D, Consideration of Deferred Action for Childhood Arrivals

Complete **all sections** of the form. The form will be rejected if these fields are missing:

- Part 1 – Information About You
  - Initial Request or Renewal Request
  - Expiration date of most recent period of DACA (renewals only)
  - Family Name
  - U.S. Mailing Address
  - Alien Registration Number (renewals only)
  - Date of Birth
- Part 4 – Criminal, National Security, and Public Safety Information (for initial and renewal requests)
  - Questions 1 – 7 must be marked "Yes" or "No"

Don't forget to sign your form! We will reject any unsigned form.

Filing Fee

The fee to request consideration of deferred action for childhood arrivals, including employment authorization and biometric services, is $495, and cannot be waived.

Special Instructions

Since you will file your forms at a USCIS Lockbox facility:

- We recommend reading our Lockbox Filing Tips.
- To **receive an e-Notification** when your forms have been accepted, complete Form G-1145, E-Notification of Application/Petition Acceptance and clip it to the front of the Form I-821D.

To ensure your request is accepted for processing:

- Sign the forms.
- Submit the correct fees.
- Send the documentation required by the form instructions.

Direct Filing Addresses for Form I-821D, Consideration of Deferred Action for Childhood Arrivals

I live in ...	By regular mail	For FedEx, UPS, and DHL deliveries
Arizona, California	USCIS Phoenix Lockbox Facility USCIS P.O. Box 20700 Phoenix, AZ 85036-0700	USCIS Phoenix Lockbox Facility USCIS Attn: DACA 1820 E. Skyharbor Circle S Suite 100 Phoenix, AZ 85034
Alaska, Alabama, Arkansas, Florida, Guam, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Mississippi, Montana, North Dakota, Nebraska, New Mexico, Oklahoma, Puerto Rico, South Dakota, Tennessee, Texas, Utah, U.S. Virgin Islands, or Wyoming.	USCIS Dallas Lockbox Facility USCIS P.O. Box 660045 Dallas, TX 75266-0045	USCIS Dallas Lockbox Facility USCIS ATTN: DACA 2501 S. State Hwy.121, Business Suite 400 Lewisville, TX 75067
Colorado, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Massachusetts, Maryland, Maine, Michigan, Nevada, North Carolina, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Virginia, Vermont, Washington, Wisconsin, or West Virginia.	USCIS Chicago Lockbox Facility USCIS P.O. Box 5757 Chicago, IL 60680-5757	USCIS Chicago Lockbox Facility USCIS Attn: DACA 131 S. Dearborn – 3rd Floor Chicago, IL 60603-5517

This page can be found at https://www.uscis.gov/I-821D

Last Reviewed/Updated: 10/06/2017

EXHIBIT ZZ

U.S. Department of Justice
Immigration and Naturalization Service

HQINV 50/1

425 I Street NW
Washington, DC 20536

AUG 30 2001

MEMORANDUM FOR MICHAEL A. PEARSON
EXECUTIVE ASSOCIATE COMMISSIONER
OFFICE OF FIELD OPERATIONS

FROM: Michael D. Cronin
Acting Executive Associate Commissioner
Office of Programs

SUBJECT: Victims of Trafficking and Violence Protection Act of 2000 (VTVPA) Policy Memorandum #2 – "T" and "U" Nonimmigrant Visas

The following instructions provide interim guidance to INS relating to the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA) Pub. L. No. 106-386, 114 Stat 1464, (October 28, 2000). This memorandum establishes interim procedures to be followed while the regulations implementing the T and U visa status are being promulgated by INS. The guidance in this memorandum is effective immediately, and will remain in effect until regulations on T and U visa status are in place. This guidance supercedes or augments any previous national or local guidance on T and U visas.

BACKGROUND

The VTVPA reflects the United States Government's strong stance against trafficking and its intent to vigorously pursue the prosecution of traffickers and the protection of victims. It provides access to social services and benefits for some victims, creates stronger criminal penalties and enhanced sentencing for traffickers, and creates a new nonimmigrant classification for victims of severe forms of trafficking ("T Visa" or "T").[1] The VTVPA also reauthorizes and amends the Violence Against Women Act (VAWA) and adds a second new nonimmigrant classification for victims of other specific crimes ("U Visa" or "U").[2]

[1] The statutory purposes of the Trafficking Victims Protection division of the VTVPA "are to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims." VTVPA§102(a)

[2] The "U Visa" related statutory purpose includes the intent "to create a new nonimmigrant visa classification that will strengthen the ability of law enforcement agencies to detect, investigate and prosecute cases of domestic violence, sexual assault, trafficking of aliens and other crimes…committed against aliens, while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States…" VTVPA§1513(a)(2)(A)

DEFINITIONS

Following are several definitions critical to the understanding of this guidance.

Severe Forms of Trafficking in Persons as defined by VTVPA §103(8). The term "severe forms of trafficking in persons" means-

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Certain Criminal Activity for "U Visa" Purposes as defined by VTVPA §1513 (b)(3) refers to one or more of the following or any similar activity in violation of Federal, State, or local criminal law: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes.

Possible Victim is any alien who may be eligible for benefits under the "T" or "U" visa categories.

GENERAL GUIDANCE

The VTVPA creates two new nonimmigrant classifications. These two classifications provide an immigration mechanism for cooperating victims to remain temporarily in the United States to assist in investigations and prosecutions and provide humanitarian protection to victims. The "T" classification is available to victims of severe forms of trafficking and their families and is limited to 5,000 principal aliens per year. The "U" classification is available to victims of certain criminal activity (see Definitions) and their families and is limited to 10,000 principals per year.

The "T" and "U" provisions of the VTVPA went into effect upon enactment, but regulations for implementation and for the processing of applications have not yet been finalized. In the interim, aliens who are identified as possible victims in the above categories **should not be removed from the United States until they have had the opportunity to avail themselves of the provisions of the VTVPA.** Existing authority and mechanisms such as parole, deferred action, and stays of removal will be used to achieve this objective, including continued presence for victims of severe forms of trafficking, as described in interim policy guidelines for continued presence and in the regulations implementing Section 107 (c) of the VTVPA.

IDENTIFICATION OF POSSIBLE VICTIMS

In the absence of governing regulations, Service personnel should ensure broad interpretation of the guidance to ensure an alien is not removed from the United States if it appears that they fit into one of these victim categories. This guidance is an interim measure aimed only at identifying possible victims who may be eligible for relief under the new nonimmigrant classifications.

Service personnel may encounter possible victims in a variety of circumstances, such as at a Port of Entry (POE), between POEs, in detention, in adjudication processes, in Immigration Court, and/or in the course of investigative activities. At times, Service personnel will be the first point of contact with the possible victim; at other times contact may be established through a prosecutor's office, through a local or federal law enforcement agency, or through an attorney. Regardless of the manner of encounter, if the individual is identified as a possible victim, Service personnel should take the necessary steps to ensure that the individual is not prematurely removed. Circumstances will vary from case to case, and INS personnel should keep in mind that it is better to err on the side of caution than to remove a possible victim to a country where he or she may be harmed by the trafficker or abuser, or by their associates.

Possible "T" Victims: The VTVPA specifies that four conditions must be satisfied to classify an alien as a principal "T" nonimmigrant.

1. The alien is or has been a victim of a severe form of trafficking in persons; and

2. The alien is physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a POE, on account of such trafficking; and

3. The alien has complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking - or - the alien is under the age of 15; and

4. The alien would suffer extreme hardship involving unusual and severe harm upon removal.

Additionally, to avoid extreme hardship, the Attorney General may provide "T" nonimmigrant status to the spouses, children, and, in the case of those under age 21, the parents of "T" nonimmigrants.

Possible "U" Victims: The VTVPA specifies that four conditions must be satisfied to classify an alien as a principal "U" nonimmigrant:

1. The alien has suffered substantial physical or mental abuse as a result of having been a victim of the certain criminal activity (see Definitions); and

2. The alien (or in the case of an alien child under the age of 16, the parent, guardian, or next friend of the alien) possesses information concerning that certain criminal activity described in Definitions;

3. The alien (or in the case of an alien child under the age of 16, the parent, guardian, or next friend of the alien) has been helpful, is being helpful, or is likely to be helpful to a Federal, State, or local law enforcement official; to a Federal, State, or local prosecutor; to a Federal or State judge, to the Service; or to other Federal, State, or local authorities investigating or prosecuting one of the certain criminal activities described in Definitions; and

4. The criminal activity described violated the laws of the United States or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States.

Additionally, to avoid extreme hardship, the Attorney General may provide "U" nonimmigrant status to the spouses, children, and, in the case of a child under the age of 16, the parents of "U" nonimmigrants. This would require certification by a government official that an investigation or prosecution would be harmed without the assistance of the spouse, the child, or in the case of an alien child, the parent of the alien. It should be noted that trafficking victims might also be eligible for "U" nonimmigrant classification.

WORK AUTHORIZATION

Service personnel are instructed to use existing authority and mechanisms to prevent removal of possible "T" and "U" victims. These mechanisms include parole, deferred action, continuances, and stays of removal. Individuals who are identified as possible "T" or "U" victims may be granted work authorization pursuant to existing authority and utilizing existing application procedures. For instance, potential applicants that are paroled may be granted work authorization pursuant to 8 C.F.R. §274a.12(c)(11); potential applicants that are placed on deferred action may be granted work authorization pursuant to 8 C.F.R. §274a.12(c)(14); and potential applicants that are granted a stay of removal may be granted work authorization in accordance with the provisions of 8 C.F.R. §274a.12(c)(18). Governing regulations concerning continued presence for victims and other information related to this topic are also contained in the Department of Justice and Department of State interim rule published in the Federal Register on July 24, 2001 concerning the Protection and Assistance for Victims of Trafficking.

JUVENILES

Each District has a juvenile coordinator who should be contacted regarding juvenile victims.

RECORD KEEPING

It is imperative that documentation is maintained on possible victims. As such, information about the possible victim including all pertinent information surrounding the possible victim's circumstances must be maintained in the alien's A-file. If no A-file exists for the individual, one should be created. The use of standard sworn statements and/or applicable question and answer

forms must be maintained for the record. As evidence of contact with the possible victim, the INS investigator and/or officer will include any necessary notes and memorandum for the record.

CONTINUED PRESENCE

Aliens who are victims of severe forms of trafficking and are potential witnesses may be eligible for a "T" nonimmigrant classification and shall be processed in accordance with the guidance contained in the policy memorandum dated August 20, 2001, entitled Interim Guidance #1 – Continued Presence. Governing regulations concerning continued presence are also contained in the Department of Justice and Department of State interim rule published in the Federal Register on July 24, 2001 concerning the Protection and Assistance for Victims of Trafficking, as 28 CFR Part 1100.35.

LEGAL PROCEEDINGS

No alien identified as a possible victim eligible for "T" or "U" nonimmigrant classification should be removed from the United States until they have had the opportunity to avail themselves of the provisions of the VTVPA. When a possible "T" or "U" victim is encountered during the course of proceedings, the District Counsel's office should contact the District Victim-Witness Coordinator so that appropriate action can be taken in accordance with the instructions in this memo. The District Counsel's office has the discretion to seek a continuance of the proceedings or to request administrative closure or termination.

FEDERAL OBLIGATIONS TO VICTIMS

Some of the provisions included in the VTVPA replicate INS responsibilities that are currently included in 42 U.S.C. 10606-10607 (the Victim's Rights and Restitution Act) and the *Attorney General Guidelines for Victim and Witness Assistance, 2000 edition*. This includes the referral of victims of Federal crime to medical care and assistance and the provision of reasonable protection. Victims who fall into the statutory definition of victim found in the *Attorney General Guidelines for Victim and Witness Assistance* must be afforded all the rights contained in that directive.[3] Service personnel should continue to involve the District and Sector Victim-Witness Coordinators in referring these victims for services.

This guidance is to be followed until such time as the alien's status has been confirmed, and, where the alien is an actual or possible material witness, the alien has had an opportunity to be considered for a "T" or a "U" nonimmigrant classification, as appropriate.

[3] For purposes of the Attorney General Guidelines for Victim and Witness Assistance, the term "victim" means a person that has suffered direct physical, emotional, or pecuniary harm as the result of a (federal) crime, including ....in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, another person or persons as listed in 42 U.S.C. 10607. The Attorney General designated District Directors and Chief Patrol Agents of the office having primary responsibility for conducting a Federal investigation as the responsible officials to identify victims of Federal crime.

The principles set forth in this memorandum, and internal office procedures adopted hereto, are intended solely to guide INS personnel in performing their duties. They are not intended to, do not, and may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

EXHIBIT AAA

U.S. Citizenship and Immigration Services

DED Granted Country - Liberia

Current DED Expiration Date:	March 31, 2018
DED Period:	October 1, 2016 through March 31, 2018
EADs Auto-Extended Through:	March 31, 2017
Federal Register Notice Citation:	81 FR 67366

In 2007, President George W. Bush directed that Deferred Enforced Departure (DED) be provided for 18 months to certain Liberians in the United States whose Temporary Protected Status (TPS) was expiring on September 30, 2007. President Bush further directed the Secretary of Homeland Security to issue procedures for granting work authorization to DED-covered Liberians. In March 2009, President Obama extended DED for Liberians an additional 12 months. In March 2010, August 2011 and March 2013, President Obama extended DED for Liberians an additional 18 months each time. In September of 2013, President Obama extended DED for Liberians an additional 24 months. In September of 2016, President Obama extended DED for Liberians an additional 18 months.

For more information on these presidential directives, see the external links to the right. For more information about DED, see the "Deferred Enforced Departure" page.

You are eligible for Liberian DED if you:

- Are a Liberian national, or someone with no nationality (stateless) who last resided in Liberia;
- Are in the United States;
- Have lived in the United States since October 1, 2002;
- Had TPS on September 30, 2007;
- Were covered by DED on September 30, 2016; and
- Are not otherwise ineligible for DED as stated in President Obama's directive dated September 28, 2016 (see the Presidential Memorandum).

Work Authorization

You may request work authorization under DED by filing a Form I-765, Application for Employment Authorization. If you want permission to work in the United States, you must file this form to receive an employment authorization document (EAD). To do this you must submit:

- An Application for Employment Authorization, Form I-765, indicating that you were a beneficiary of Liberian TPS as of September 30, 2007, and were covered by DED for Liberians on September 30, 2016;
- A copy of your last Form I-797, Notice of Action, showing you were approved for TPS as of September 30, 2007; and

- The $380 filing fee (or a fee waiver request)

Mail your completed Form I-765 to:

USCIS
Attn: DED Liberia
P.O. Box 6943
Chicago, IL 60680-6943

Travel Outside the United States

Travel authorization may be provided as a benefit to DED-Liberian beneficiaries. To travel outside of the United States you must file for advance parole. If granted by DHS, advance parole gives you permission to leave the United States and return during a specified period. To request advance parole, you must file Form I-131, Application for Travel Document.

If you leave the United States without first receiving advanced parole, you may no longer be eligible for DED and may not be permitted to re-enter the United States.

NOTE: Pursuant to the Presidential Memorandum, if you return to Liberia (even with an advanced parole), you may be considered as voluntarily returning to Liberia, and therefore no longer eligible for DED.

Last Reviewed/Updated: 09/30/2016

EXHIBIT BBB

The original documents are located in Box 10, folder "Indochina Refugees - Parole Authority (2)" of the Theodore C. Marrs Files at the Gerald R. Ford Presidential Library.

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17-cv-05211-WHA Document 124-1 Filed 11/01/17 Page 54
Digitized from Box 1 of the Theodore C. Marrs Files
at the Gerald R. Ford Presidential Library

THE WHITE HOUSE
WASHINGTON

April 16,1975

Dr. Marrs,

For your information.

Phil Buchen

U.S. Department of Justice
Immigration and Naturalization Service

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SECRET

COVER SHEET

This cover sheet shall be immediately placed on all SECRET MATERIAL prepared or received pending insertion in classified file

SECRET

COVER SHEET

Form M-4
(Rev. 4-20-60)

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EMERGENCY PROGRAM FOR PAROLE OF REFUGEES FROM VIETNAM

At the President's news conference of April 3, 1975 he stated that the Attorney General's authority, 1/ which had been used several times since World War II to permit victims of war and persecution to come to the United States, would be considered for Vietnamese refugees.

In light of past experience with refugee programs generated by varying conditions in foreign countries the following considerations and recommendations are offered.

1. Time element. The period of time available for moving refugees out of Vietnam could be severely limited. It is not unlikely that within a matter of weeks the military situation will prevent any movement of refugees out of that country. Alternatively, some orderly movements may be possible.

2. Potential number of refugees. STATE Department estimates of potential Vietnamese refugees could run as high as 1,707,000, composed of:

- Vietnamese employees of U.S. and their dependents ____164,000
- SENior Vietnamese officials and their dependents and others closely identified with U.S. _____600,000
- Close relatives of U.S. citizens and permanent residents _____ 93,000
- FORmer Vietnamese employees of U.S. and their dependents _____850,000

DECLASSIFIED
E.O. 12356 Sec. 3.6
State Dept. Guidelines
By kgh NARA, Date 6/30/97

3. RElatives of U.S. citizens and permanent residents. These relatives now in Vietnam are entitled to enter the United States under present law, if they so wish, and if proper petitions or applications are submitted on their behalf provided they are otherwise admissible under the law. Arrangements are now being made to process and move these people at the earliest possible date. The parole authority is and should be used to speed this process.

4. Bona fide refugees. Included in this category would be all of those considered by the State Department to be in the high risk category, and their dependents. The number could be large.

   (a) In the 1950's we paroled some 40,000 Hungarian refugees into the United States. In the 1960's we paroled in some 675,000 Cubans into the United States. In the early 1970's we paroled 3500 Ugandans. In the case of the Hungarians and the Ugandans other countries in the world took a share of the total refugees. In the case of the Cubans the President stated publicly that the United States would accept all the Cuban refugees who could get here; a few went in addition to other countries in the world. This unqualified offer to accept Cuban refugees enabled CAStro to rid

himself of several hundred thousand of his undesirables, including large numbers of dissidents as well as many who were infirm or aged.

(b) At this time it is the opinion of the Justice Department that the United States should be called upon to accept only a limited and finite number of refugees. This statement is made in the light of the impact that would be felt on our economy and our social structure by the ingress of very large numbers.

(c) Consequently the United States should decide to accept only a limited number and through all channels and the United Nations other countries should be urged to accept a fair share of however many refugees there may turn out to be.

5. Implementation. The handling of large numbers of refugees will require:

a. TRANSportation.

b. Screening for health, security, and immigration criteria.

c. Staging area in a third country to include representatives of other countries who will accept refugees.

d. Reception centers in the United States.

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e. Housing, food, clothing, jobs - voluntary agencies, HEW, and Labor to play the major roles.

f. Funding for all the above.

6. Recommendations.

a. Immediate parole decisions should be made.

b. Immediate relatives of United States citizens and permanent residents (who are now entitled to enter the United States under present law) be paroled to expedite the process. This matter is being handled now by State and Justice in cooperation with the White House and appropriate Congressional Committees.

c. A maximum of 50,000 bona fide refugees or 40% of the total, whichever is less, be paroled into the United States. All others to be absorbed by other countries under the auspices of U.N. and international agencies.

d. To become permanent residents of the U.S. all in b. and c. above must meet the full requirements of the Immigration and Nationality Act.

e. At the proper time, a public announcement of the foregoing be made to prevent a mass exodus based on false hopes.

f. If the foregoing, or some modification, are approved, the several governmental departments be directed to commence planning accordingly.

12 Noon
April 15, 1975
Draft Outline

Vietnam Contingency Act of 1975

1. If the Presidnt determines that the use of Armed Forces is necessary to withdraw American citizens and their families, the President may use the Armed Forces to take action essential to and directly connected with the protection of Americans and their families while they are being withdrawn subject to the provisions in paragraph 2.

(a) If the President uses U.S. Armed Forces to protect American citizens as above provided, he shall submit a report on the use of these forces in accordance with secion 4(a) of the War Powers Resolution and comply with all other provisions of that Resolution.

(b) In addition to the information required under section 4(a) of the War Powers Resolution, the President would also be required to certify to Congress that:

(2) Every effort was made to terminate the threat to Americans by the use of diplomatic and any other means available without using the Armed Forces;

(1) There existed a direct and imminent threat to the lives of such U.S. citizens and their dependents;

(3) American citizens are being evacuated as rapidly as possible.

2. In carrying out the withdrawal of Americans, the President would be authorized to use U. S. Government personnel and property to assist in bringing out foreign nationals, (who are not members of the families of U. S. citizens), (?) when he determines and certifies to Congress that:

(a) a direct and imminent threat exists to the lives of the foreign nationals;

(b) no additional U. S. Foreces are required beyond those needed to evacuate Americans;

(c) the duration of the possible exposure of U. S. Forces to hostilities is not extended; and

(d) the rescue of foreign nationals is only undertaken incidential to the rescue of Americans and only within areas necessarily controlled by U. S. Forces for the purpose of protecting Americans while they are being evacuated.

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DEPARTMENT OF STATE
WASHINGTON

April 16, 1975

~~SECRET~~

MEMORANDUM FOR MR. PHILIP BUCHEN
THE WHITE HOUSE

Subject: Need to Parole Refugees from Indochina

SITUATION

The State Department has recommended to the Attorney General that he exercise his parole authority under Section 212(d)(5) of the Immigration and Naturalization Act for broad categories of Cambodian and Vietnamese subjects. The Attorney General is requesting the President's guidance and approval. (You have copies of this correspondence.)

The Department of State and the Immigration and Naturalization Service have begun consultations with the House and Senate Judiciary Subcommittees.

It is clear that the Congressional Committees have little or no problem with the use of parole to admit small numbers of Cambodian subjects who are refugees, particularly those with close American ties, those South Vietnamese subjects who are relatives and dependents of American citizens and South Vietnamese persons who are resident aliens of the U.S. who would ordinarily be entitled to immigrant status under the INA given the time, opportunity and desire to use ordinary procedures. On April 13, for instance, the House Subcommittee agreed to the immediate parole of approximately 3,000 Vietnamese dependents of U.S. citizens presently in Vietnam who would otherwise have refused to leave that

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GDS KBH 6/3/97

country. This was done to reduce the American presence there in the event total evacuation became necessary. Congressional and public controversy grows as the numbers of potential parolees increase, as they will if we undertake an evacuation of any scale of South Vietnamese, even though the people may be in a high-risk category. Therefore, assistance to the resettlement of Indochinese refugees in third country is vital. We have already obtained the agreement of the United Nations High Commissioner (UNHCR) and the Intergovernmental Committee for European Migration (ICEM) for such assistance to Cambodians. Our Mission in Geneva is being asked to approach the UNHCR and ICEM on a confidential basis to request similar assistance to Vietnamese refugees once they are out of their own country.

Whatever action is taken, the Congress should be consulted and informed at every step, but the urgency of some of these recommendations may not permit lengthy debate or expectation of unanimous approval.

IMMEDIATE ACTION REQUESTED

In order to fulfill the special obligation described in the President's April 10 speech to the Congress, while at the same time limiting public controversy to the extent possible, the State and Justice Departments have agreed to ask that the President request the Attorney General to use his parole authority to admit certain Cambodian and Vietnamese refugees in identifiable categories into the United States. With the two exceptions noted below, State and Justice are agreed on the following categories and order of priority:

1. Those of the 1,000 "Eagle Pull" Cambodians now in Thailand who may wish to come to the United States. The Thai Government has made it clear that it urgently desires their onward movement.

---

n.b.: all figures used are State Department estimates. Justice Department estimates are included in the Attorney General's memo of April 15 which you have.

2. There are 100 South Vietnamese at Clark Air Force Base, who constitute the exception referred to above. They arrived via American military airlifts and their presence is straining our relationship with the Philippine Government. The State Department recommends that they be paroled. Justice concurs, provided the 100 figures is subtracted from the total number of parolees finally agreed upon.

3. Documented Vietnamese relatives of American citizens in the United States who would otherwise be admissible under normal immigration procedures and whose status will be changed to the appropriate INA preference as soon as feasible after their safe arrival here as parolees. (Embassy Saigon reports 3,000 such relatives currently registered with the Visa Section.)

4. Approximately 5,000 Cambodian diplomats and other refugees in third countries who may face forcible return or expulsion, as in India. If the worst should come to pass, the same parole authority will be required for Vietnamese diplomats and other refugees in third countries, also roughly estimated at 5,000. Justice does not wish to parole any of these categories into the U.S., in order to force the UNHCR to take action. State disagrees.

CONTINGENCY PLANNING

In the event of a large-scale evacuation of those high-risk Vietnamese to whom we have a moral obligation, as many as 200,000 may require resettlement. (Under certain circumstances, this figure could be much larger but there is no clear indication of just how great the number might be.) Every effort will be made to involve third countries, through international mechanisms such as the UNHCR and ICEM, and directly. Nevertheless, it is apparent that a large number will wish to come to the United States. If they are to do so, it would require the Attorney General's use of parole.

The State and Justice Departments are agreed on the principle of parole for Vietnamese who have left their

country under such programs as the President may have authorized for their safety but differ sharply as to numbers. The Justice Department would limit the use of parole to a maximum of 50,000, or 40% of the total number of refugees, whichever is less, because of domestic impact. The State Department believes that we should take our fair share of the residual refugees unable to be resettled elsewhere.

Philip Habib
Assistant Secretary
Bureau of East Asian Affairs

DEPARTMENT OF STATE

ADMINISTRATOR

BUREAU OF SECURITY AND CONSULAR AFFAIRS

WASHINGTON

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April 16, 1975

MEMORANDUM FOR: Mr. Theodore Marrs
The White House

FROM: Leonard F. Walentynowicz

SUBJECT: Expanding Parole Authority

Pursuant to our telephone conversation late this afternoon, and your request for further comment, I am sending you this memorandum to indicate that the State Department believes it is necessary to have broader parole authority than that specifically described in the two proposed cables, attached. We wish to see included in the cable to Cambodia the authority to parole Cambodian refugees beyond those specifically mentioned. We would estimate that the number of Cambodian refugees is not likely to exceed 3,000 persons. To allay any fear of excessive numbers, we would be willing to accept, however, a numerical limitation.

As I am sure the President is aware, that even though the Attorney General can exercise parole authority without the concurrence of Congress, as a practical matter such concurrence is initially desirable as failure to obtain same might result in Congressional hesitation to appropriate sufficient funds to care for those persons who are paroled and who in fact need financial assistance. This, of course, is of greater significance in connection with any additional grants of parole dealing with those Vietnamese who have no family connections in the U.S. and are considered vulnerable to Communist harm.

Attachments:

As stated.

~~SECRET~~-GDS
KBA 6/3/97

THE WHITE HOUSE

WASHINGTON

April 17, 1975

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MEMORANDUM FOR: THE PRESIDENT

FROM: PHILIP BUCHEN
JOHN MARSH
GENERAL SCOWCROFT

Section 212(d)(5) of the Immigration and Nationality Act provides inter alia that "The Attorney General may in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States...."

A history of the use of this authority is provided at Tab A.

From April 3 through April 15, 1,703 orphans have been flown out of Vietnam/Cambodia. The parole process has been applied in these cases. An updated report of this action is attached at Tab B.

On April 13, authorization for movement of families accompanying U. S. citizens returning from Vietnam was given. Parole is being used in this action. It is estimated that between 3,000 and 5,000 persons are involved.

It is now essential to consider additional actions:

1. There are 1,000 Cambodians now in Thailand who were evacuated as part of "Eagle Pull" and who may wish to come to the United States. The Thai Government has made it clear that it urgently desires their onward movement. State and Justice request your authorization to proceed with parole for these persons. We recommend your approval.

AGREE _____

DISAGREE _____

2. There are about 100 South Vietnamese at Clark Air Force Base whose presence is straining our relationship with the Philippine Government. Those who qualify for immigrant status under the INA should be paroled into the United States as soon as possible. State recommends that the remainder also be paroled. INS agrees "provided that the number admitted is subtracted from the total number of parolees finally admitted." We recommend parole without caveat.

AGREE _____

DISAGREE _____

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3. There are approximately 3,000 Vietnamese relatives of American citizens or permanent resident aliens in the United States for whom petitions for entry have already been filed and who would otherwise be admissible in due course under normal immigration procedures. State and INS recommend the use of parole to permit their processing to be completed while they are in the United States. Their status will then be converted to the appropriate INA preference as soon as feasible after their arrival here as parolees. We recommend your approval.

AGREE _____

DISAGREE _____

4. There are also Vietnamese nationals (estimated to number between 10,000 and 75,000) who are immediate relatives of American citizens and permanent residents and for whom petitions have not as yet been filed. The number of those who would and could accept an offer of parole is unknown. State and Justice both recommend parole. We recommend your approval.

AGREE _____

DISAGREE _____

5. Approximately 5,000 Cambodian diplomats and other refugees in third countries may face forcible return or expulsion, as in India. If the worst should come to pass, the same parole authority will be required for Vietnamese diplomats and other refugees in third countries, also roughly estimated at 5,000. State will make every effort to assist and persuade the UNHC for Refugees to arrange for the relocation of refugees throughout the world, but State also wishes the President to request the Justice

Department to authorize entry into the United States of all such persons by parole whenever State determines that the efforts of the UNHC for Refugees are not successful. Immigration disagrees.

We recommend that the State Department position be accepted.

AGREE _____

DISAGREE _____

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6. Planning is also now required for the potential evacuation of certain high risk Vietnamese. These include U. S. employees, labor leaders engaged in the free trade labor movement (particularly those who have worked with U. S. unions), governmental personnel and others along with their dependents. There is no clear indication of just how great the number will be. Every effort will be made to involve third countries, both directly and through international mechanisms such as the UNHCR and the International Committee for European Refugees. Nevertheless, it is apparent that a large number will wish to come to the United States. This will require the Attorney General's use of parole.

State and INS agree that parole should be exercised for such Vietnamese, but differ sharply as to numbers.

State believes that we should take our fair share of refugees who are unable to be settled elsewhere, and recognizes that the total number, given logistical and political limitations could be approximately 200,000. INS would limit the use of parole to 50,000 or 40% of the total number to be evacuated, whichever is less. It is their view that (1) the domestic impact on our society of admitting a large number is undesirable and (2) the Cuban experiences, wherein the President permitted 675,000 persons to enter the United States, should not be repeated. The INS also believes that it may be necessary to publicly announce this limit to prevent a mass exodus based on false hopes.

We recommend that the State Department position be accepted.

AGREE _____

DISAGREE _____

7. We recommend that you direct establishment of a small full-time task force with the necessary authority to improve

your decision making data base, assume interdepartmental coordination, and advise you in this emergency. This task force should include high level representatives from the Departments of State, Justice, Labor, HEW and HUD.

AGREE _____

DISAGREE _____

THE WHITE HOUSE

WASHINGTON

April 17, 1975

MEMORANDUM FOR: THE PRESIDENT

FROM: PHILIP BUCHEN
JOHN MARSH
GENERAL SCOWCROFT

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Section 212(d)(5) of the Immigration and Nationality Act provides inter alia that "The Attorney General may in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States...."

A history of the use of this authority is provided at Tab A.

From April 3 through April 15, 1,703 orphans have been flown out of Vietnam/Cambodia. The parole process has been applied in these cases. An updated report of this action is attached at Tab B.

On April 13, authorization for movement of families accompanying U. S. citizens returning from Vietnam was given. Parole is being used in this action. It is estimated that between 3,000 and 5,000 persons are involved.

It is now essential to consider additional actions:

1. There are 1,000 Cambodians now in Thailand who were evacuated as part of "Eagle Pull" and who may wish to come to the United States. The Thai Government has made it clear that it urgently desires their onward movement. State and Justice request your authorization to proceed with parole for these persons. We recommend your approval.

AGREE _____

DISAGREE _____

2. There are about 100 South Vietnamese at Clark Air Force Base whose presence is straining our relationship with the Philippine Government. Those who qualify for immigrant status under the INA should be paroled into the United States as soon as possible. State recommends that the remainder also be paroled. INS agrees "provided that the number admitted is subtracted from the total number of parolees finally admitted." We recommend parole without caveat.

AGREE _____

DISAGREE _____

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3. There are approximately 3,000 Vietnamese relatives of American citizens or permanent resident aliens in the United States for whom petitions for entry have already been filed and who would otherwise be admissible in due course under normal immigration procedures. State and INS recommend the use of parole to permit their processing to be completed while they are in the United States. Their status will then be converted to the appropriate INA preference as soon as feasible after their arrival here as parolees. We recommend your approval.

AGREE _____

DISAGREE _____

4. There are also Vietnamese nationals (estimated to number between 10,000 and 75,000) who are immediate relatives of American citizens and permanent residents and for whom petitions have not as yet been filed. The number of those who would and could accept an offer of parole is unknown. State and Justice both recommend parole. We recommend your approval.

AGREE _____

DISAGREE _____

5. Approximately 5,000 Cambodian diplomats and other refugees in third countries may face forcible return or expulsion, as in India. If the worst should come to pass, the same parole authority will be required for Vietnamese diplomats and other refugees in third countries, also roughly estimated at 5,000. State will make every effort to assist and persuade the UNHC for Refugees to arrange for the relocation of refugees throughout the world, but State also wishes the President to request the Justice

Department to authorize entry into the United States of all such persons by parole whenever State determines that the efforts of the UNHC for Refugees are not successful. Immigration disagrees.

We recommend that the State Department position be accepted.

AGREE _____

DISAGREE _____

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6. Planning is also now required for the potential evacuation of certain high risk Vietnamese. These include U. S. employees, labor leaders engaged in the free trade labor movement (particularly those who have worked with U. S. unions), governmental personnel and others along with their dependents. There is no clear indication of just how great the number will be. Every effort will be made to involve third countries, both directly and through international mechanisms such as the UNHCR and the International Committee for European Refugees. Nevertheless, it is apparent that a large number will wish to come to the United States. This will require the Attorney General's use of parole.

State and INS agree that parole should be exercised for such Vietnamese, but differ sharply as to numbers.

State believes that we should take our fair share of refugees who are unable to be settled elsewhere, and recognizes that the total number, given logistical and political limitations could be approximately 200,000. INS would limit the use of parole to 50,000 or 40% of the total number to be evacuated, whichever is less. It is their view that (1) the domestic impact on our society of admitting a large number is undesirable and (2) the Cuban experiences, wherein the President permitted 675,000 persons to enter the United States, should not be repeated. The INS also believes that it may be necessary to publicly announce this limit to prevent a mass exodus based on false hopes.

We recommend that the State Department position be accepted.

AGREE _____

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probably agreeable

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AGREE _____

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A


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HISTORY OF THE USE OF PAROLE

Parole is a device by which an inadmissible alien seeking entry is permitted to proceed into the United States, but in contemplation of law is considered to be standing at the water's edge. He is not deemed to be in the United States within the meaning of the expulsion provisions or other provisions of the Immigration and Nationality Act. Standing at the water's edge, as it were, he may be removed only in exclusion proceedings.

Parole is resorted to only in exceptional situations such as emergent medical treatment, avoiding unwarranted detention, and prosecution of criminals returned to the United States. It has also been used for refugees and orphans.

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The first express statutory authorization for parole appeared in the Immigration and Nationality Act which became effective December 24, 1952. 1/ The statute provides that the Attorney General in his discretion may parole any alien seeking admission for emergent reasons or for reasons deemed strictly in the public interest.

Before 1952, parole was utilized as an administrative expedient. 2/ It's peculair status was recognized by the Supreme Court 50 years ago in the case of Kaplan v. Tod. 3/

There has never been any question concerning the authority to parole individual aliens. However, questions have been raised by the Congress concerning authority to parole groups of aliens. For example, a question was raised after 224 Russian Orthodox Old Believers were paroled into the United States in June 1963. In the House Report on the 1965 Amendments, which established permanent Legislation for the conditional entry of refugees, the following statement was made: "The parole provisions were designed to authorize the Attorney General to act only in emergent, individual and isolated situations, such as the case of an alien who requires immediate medical attention, and not for the immigration of classes or groups outside of the limit of the law." 4/

Nevertheless, under the general parole authority of the 1952 Act, large numbers of refugees have been allowed to come into the United States after, as well as before publication of the House Report. 5/ These include:

Over 30,000 refugees from the 1956 Hungarian Revolution, by direction of President Eisenhower.

Over 600,000 refugees from Cuba who began to come to the United States in an almost unbroken stream for more than a decade after the Castro takeover in 1959. (In 1965 when

he signed into law the abolition of the National Origins System, President Johnson revived the Cuban parole program despite the House report.)

15,000 Chinese refugees from Hong Kong, by direction of President Kennedy in 1962.

6,500 Czechoslovak refugees after the Soviet invasion of that country in 1968, at the urging of Congress.

Several hundred Soviet Jews and other minorities in the U.S.S.R., at the urging of Congress in 1971.

1,000 stateless Ugandan-Asians, authorized in 1972, at the urgent request of the State Department.

Following the suppression of the abortive Hungarian revolt in the Fall of 1956 over 200,000 Hungarian refugees fled the country, especially to Austria (180,000) and to Yugoslovia (20,000). Resettlement missions from many countries were eager to accept Hungarian refugees, and the asylum countries -- especially Austria -- served as staging areas. President Eisenhower and the American people in general were eager to accept a generous quota of the Hungarians. Fewer than 7,000 refugee visas remained available, however, under the Refugee Relief Act of 1953 as amended. These were quickly used for Hungarians. At this juncture the decision was made to invoke Section 212 (d)(5) of the Immigration and Nationality Act in order to parole larger numbers of Hungarian refugees into the United States.

The sympathetic 85th Congress enacted P.L. 85-559, which provides for adjustment of status of paroled Hungarians to that of permanent immigrants to the U.S. The majority of the refugees were brought in from Austria into a U.S. staging area, in Camp Kilmer, New Jersey, administered by the Department of the Army. The refugees were resettled from Camp Kilmer, primarily through the efforts of interested voluntary agencies. A total of 30,701 Hungarian refugees regularized their status in the United States under P.L. 85-559 during 1958-59. This represented the overwhelming majority of the Hungarian refugees who were paroled into this country.

The Cuban refugee situation differs from others in that the United States was the country of first asylum. From 1957-72 this country admitted 621,403 Cuban nationals who fled from Cuba. That exodus was generally divided into three distinct periods: from the advent of the Castro government in 1959 to the breaking of diplomatic relations in January 1961; from 1961 until the end of commercial travel in October, 1962; the subsequent period. While diplomatic

GERALD R. FORD

relations existed, Cubans who wanted to leave Cuba went to the consulate in Havana. They were issued B-2 (tourist visas) which documented them and enabled commercial carriers to bring them to the United States. On arrival (usually Miami) the B-2 visa was cancelled by the Immigration Service (INS) and they were paroled into the United States under the parole provisions of the Immigration Act. The B-2 visa was "pro-forma" documentation to enable travel to commence.

After the break in diplomatic relations, the United States initially avoided the use of parole for Cubans fleeing the island the resorted to the device of waiving the visa requirement on a mass basis on the theory that each case represented an unforeseen emergency because of the unavailability of consular services in Cuba. This program largely terminated at the time of the Cuban Missile Crisis of 1962 because travel out of Cuba became impossible.

In October 1962, all commercial transportation between Cuba and the U.S. ended. The Cuban refugee flow was reduced to a trickle. In December 1962 the American Red Cross began sponsoring airflights and vessels which brought Cuban refugees to the United States, primarily relatives of Cubans already here and prisoners from the "Bay of Pigs" invasion. These people were directly paroled.

In 1965, Castro announced that certain Cubans who wanted to leave were free to do so. President Johnson responded that the U.S. would accept all. Direct parole was the method of entry. Some Cubans went to third countries (primarily Spain) as they were unable to get places on the airlifts. Those with close relatives in the U.S. were given "pre-parole" documentation (medicals, affidavit of support, security clearance) by our consulate in Madrid. When they arrived at the U.S. port of entry, they were paroled into the U.S. by INS. In October, 1973, the Attorney General agreed to a one year parole program for those without close relatives here. Documentation was prepared by the consulates as with the pre-parole program, but INS personnel interviewed and issued the actual parole document in Madrid. Cubans in the U.S. were received and processed by the Cuban Refugee Center in Miami run by HEW. The Act of November 2, 1966 enabled Cuban refugees to adjust status to permanent residents.

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B

16 April 1975

Point Paper for the Special Assistant to the Secretary and Deputy Secretary of Defense

SUBJECT: Orphan Evacuation Program - Vietnam/Cambodia

MAIN THRUST OF POINT PAPER

- Provides an update on the orphan evacuation program.

DISCUSSION

- On 3 Apr 75, DOD developed procedures for orphan evacuation. State/AID wholeheartedly concurred.

  -- All orphans, upon verification by US Embassy in Vietnam and Cambodia, would be airlifted on first available military or commercial contract aircraft to Clark AB.

  -- At Clark AB medical evaluation would be made to determine if orphans should be hospitalized, proceed on normal airlift, or be medically evacuated.

  -- Flights then proceed to San Francisco or Los Angeles with Seattle as backup where military and volunteer agency personnel would further process them.

- From 3 through 15 April a total of 1703 orphans (52 Cambodians) have been flown out of Vietnam/Cambodia. Military Airlift Command (MAC) transported 883 through Clark AFB, Philippines, of which 43 are currently enroute. Non-DOD carriers, chartered by private arrangements, transported the balance of 820 orphans.

  -- 914 orphans have been moved to San Francisco.

  -- 330 orphans have been moved to Los Angeles.

  -- 409 orphans have been moved to Seattle.

  -- 201 orphans have been moved to Fort Benning, Ga.

(These figures do not total 1703 due to double handling, i.e., L.A. and Benning)

- Number and location of orphans currently being processed:

  -- Clark AB, Philippines - 5 hospitalized.
  Hickam AB, Hawaii - 5 hospitalized.
  San Francisco - 65
  Los Angeles - 87
  Seattle - 18
  Fort Benning - 170 (14 hospitalized)

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-- Enroute - 43 from Clark AB to Los Alamedas Air Station, Ca.

- Deaths:

-- 5 April crash of C-5 - 190 (figure not final)

-- One died enroute to Clark AB - cause of death, extreme dehydration. (Infant)

-- One died at Clark AB Hospital - cause of death, sepsis (absorption of pathogenic microorganisms into blood stream). (Infant)

-- One died enroute to Los Angeles - cause of death, pneumonia, dehydration and prematurity. Reported 24 days old.

-- Prognosis - No more deaths expected.

- Future orphan airlift requirements:

-- Known - zero - original "Reported 2000" all processed

-- Possible - 80 (Vietnam) Rumors of 500 to 5000 more. Tracking this.

- Problems:

-- Despite the official State/AID/DOD system, certain individuals have operated as free agents making arrangments for contract flights and direct liaison with the orphanages.

-- This has caused considerable confusion and resulted in less than desirable service for the orphans.

-- News reporters covering commercial arrivals at San Francisco and Seattle (outside the State/AID/DOD system) cited health problems with orphans on these flights.

- Current funding status (funded by State/AID):

-- Airlift $1,156,772

-- Medical 166,938

-- Support 71,916

-- Total obligated as of 15 Apr - $1,395,626

Prepared by: MGEN M.F. Casey, USAF
DOD Orphan Lift Coordinator
OX 74121

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THE WHITE HOUSE

WASHINGTON

April 17, 1975

DRAFT

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MEMORANDUM FOR: THE PRESIDENT

FROM: PHILIP BUCHEN
JOHN MARSH
GENERAL BRENT SCOWCROFT

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It is now essential to consider additional actions:

1. There are 1,000 Cambodians now in Thailand who were evacuated as part of "Eagle Pull" and who may wish to come to the United States. The Thai Government has made it clear that it urgently desires their onward movement. State and Justice request your authorization to proceed with parole for these persons. We recommend your approval.

AGREE _____

DISAGREE _____

2. There are about 100 South Vietnamese at Clark Air Force Base whose presence is straining our relationship with the Philippine Government. Those who qualify for immigrant status under the INA should be paroled into the United States as soon as possible. State recommends that the remainder also be paroled. INS agrees provided that the number

admitted is subtracted from the total number of parolees finally admitted." We recommend parole without caveat.

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3. There are approximately 3,000 Vietnamese relatives of American citizens or permanent resident aliens in the United States for whom petitions for entry have already been filed and who would otherwise be admissible in due course under normal immigration procedures. State and INS recommend the use of parole to permit their processing to be completed while they are in the United States. Their status will then be converted to the appropriate INA preference as soon as feasible after their arrival here as parolees. We recommend.

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DISAGREE _____

4. There are also Vietnamese nationals (estimated to number between 10,000 and 75,000) who are immediate relatives of American citizens and permanent residents and for whom petitions have not as yet been filed. The number of those who would and could accept an offer of parole is unknown. State and Justice both recommend parole. We recommend.

AGREE _____

DISAGREE _____

5. Approximately 5,000 Cambodian diplomats and other refugees in third countries may face forcible return or expulsion, as in India. If the worst should come to pass, the same parole authority will be required for Vietnamese diplomats and other refugees in third countries, also roughly estimated at 5,000. State will make every effort to assist and persuade the UNHC for Refugees to arrange for the relocation of refugees throughout the world, but State also wishes the President to request the Justice Department to authorize entry into the United States of all such persons by parole whenever State determines that the efforts of the UNHC for Refugees are not successful. Immigration disagrees.

We recommend that the State Department position be accepted.

AGREE _____

DISAGREE _____

6. Planning is also now required for certain high risk Vietnamese. These include U. S. employees, labor leaders engaged in the free trade labor movement (particularly those who have worked with U. S. unions), governmental personnel and others along with their dependents. There is no clear indication of just how great the number will be. Every effort will be made to involve third countries, both directly and through international mechanisms such as the UNHCR and the International Committee for European Refugees. Nevertheless, it is apparent that a large number will wish to come to the United States. This will require the Attorney General's use of parole.

The State and Immigration Service agree that parole should be exercised for such Vietnamese but differ sharply as to numbers.

State believes that we should take our fair share of refugees who are unable to be settled elsewhere, and recognizes that the total number, given logistical and political limitations could be approximately 200,000. INS would limit the use of parole to 50,000 or 40% of the total number to be evacuated, whichever is less. It is their view that (1) the domestic impact on our society of admitting a large number is undesirable and (2) the Cuban experiences, wherein the President permitted 675,000 persons to enter the United States, should not be repeated. The INS also believes that it may be necessary to publicly announce this limit to prevent a mass exodus based on false hopes.

We recommend that the State Department position be accepted.

AGREE _____

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DRAFT

SECRET

April 17, 1975

MEMORANDUM FOR MR. PHILIP BUCHEN
THE WHITE HOUSE

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Subject: Need to Parole Refugees from Indochina

SITUATION

The State Department has recommended to the Attorney General that he exercise his parole authority under Section 212(d)(5) of the Immigration and Naturalization Act for broad categories of Cambodian and Vietnamese subjects. In view of the very large numbers involved in some of the categories, and their domestic impacts, the Attorney General requests the advice of the President with regard to those categories as indicated below.

The Department of State and the Immigration and Naturalization Service have begun consultations with the House and Senate Judiciary Subcommittees with respect to some of these categories.

It is clear that the Congressional Committees have little or no problem with the use of parole to admit small numbers of Cambodian subjects who are refugees, particularly those with close American ties. Congress would probably also have little problem with the parole of small numbers of South Vietnamese subjects who are relatives and dependents

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E.O. 12356 Sec. 3.6
State Dept. Guidelines
By KBH NARA, Date 6/3/97

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of American citizens and South Vietnamese persons who are resident aliens of the United States who would ordinarily be entitled to immigrant status under the INA given the time, opportunity and desire to use ordinary procedures. On April 13, for instance, the House Subcommittee agreed to the immediate parole of approximately 3,000 Vietnamese dependents of U.S. citizens presently in Vietnam who would otherwise have refused to leave that country. This was done to reduce the American presence there in the event total evacuation became necessary.

Congressional and public controversy grows as the numbers of potential parolees increase, as they will if we propose to parole large numbers of relatives of citizens and permanent residents, or if we propose to parole large numbers of South Vietnamese subsequent to an evacuation of any scale of South Vietnamese, even though the people may be in a high-risk category. Therefore, assistance for the resettlement of Indochinese refugees in third country is vital. We have already obtained the agreement of the United Nations High Commissioner (UNHCR) and the Intergovernmental Committee for European Migration (ICEM) for such assistance to Cambodians. Our Mission in Geneva is being asked to approach the UNHCR and ICEM on a confidential

also roughly estimated at 5,000. Justice does not wish to authorize entry at this time of either of these categories into the United States, in view of the responsibility of the United Nations High Commissioner for Refugees to arrange for the relocation of refugees throughout the world. State disagrees.

~~Under certain circumstances, this figure~~ could be much ~~larger but~~ there is no clear indication of just how great the number might be. Every effort will be made to involve third countries, through international mechanisms such as the UNHCR and the International Committee for European Refugees, and directly. Nevertheless, it is apparent that a large number will wish to come to the United States. If they are to do so, it ~~would~~ will require the Attorney General's use of parole.

~~The~~ State and ~~Justice Departments~~ INS are agreed ~~on~~ that parole should be exercised to some extent for such Vietnamese who have left their country under such programs as the President may have authorized for their safety, but differ sharply as to numbers.

OK

~~The Justice Department~~ INS would limit the use of parole to a maximum of 50,000, including families, or 40% of the total number of refugees, whichever is less. This view stems from (1) the domestic impacts on our economy and society of admitting very large numbers of aliens into the United States, and (2) the Cuban experience wherein the President offered to admit all Cubans who could exit Cuba; 675,000 did and entered the United States. The Justice Department believes a limited number should be decided

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upon and if this becomes necessary, at the appropriate time, it should be decided whether to publicly announce the limit in order to prevent a mass exodus based on false hopes.

The State Department believes that we should take our fair share of the residual refugees unable to be resettled elsewhere.

This matter will require a decision of the President at a later time when the facts are clearer.

Philip Habib
Assistant Secretary
Bureau of East Asian Affairs

L. F. Chapman, Jr.
Commissioner
Immigration and Naturalization Service

April 17, 1975

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On April 13, authorization for movement of families accompanying U.S. citizens returning from Vietnam was given. Parole is being used in this action. The telegraphic instructions are attached at Tab C. It is estimated that between 3000 and 5000 persons are involved.

It is now timely to consider two additional actions involving the use of parole for certain Cambodians and additional Vietnamese:

CAMBODIANS

The State Department and INS have agreed to parole 983 Cambodians now in Thailand who were evacuated to that country by the United States provided:

1. Each in fact was evacuated by the United States.

2. Each is processed in accordance with specific instructions furnished to the Embassy.

VIETNAMESE

Again State Department and INS have agreed to parole the immediate relatives of United States citizens and permanent residents presently in the United States provided:

1. They desire to enter the United States.

2. They qualify fully for admission to the United States under the immigration laws with certain technical exceptions.

The number involved in this category is currently estimated to be "as high as 75,000" by State and INS. Estimates at higher levels have also been discussed but State is convinced that 75,000 is a maximum estimate.

Your authorization is urgently needed to permit consultation with appropriate Congressional leadership prior to making a decision to use the parole authority in these additional categories. State and INS are ready to move promptly on consultation and State strongly emphasizes the urgency in light of changing circumstances.

Approve consultation with Congress_____

Disapprove consultation with Congress_____

Subject to Congressional consultation being favorable, it is recommended that the attached dispatches (Tab D) be released.

Yes_____ No_____

If Congressional consultation is unfavorable or mixed it is recommended that it be evaluated and that a decision to proceed or not be made in that light.

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The next decision level is most difficult. It has been described as the removal of "high risk" Vietnamese citizens. The numerical estimates in this area have ranged from two hundred thousand to over one million. With respect to this category of endangered foreign nationals, it is imperative that you determine how many of these persons the U.S. has a commitment to, and that you define what that U.S. commitment will be.

We are advised that State's planning calls for evacuation of 200,000 persons in this category when the level of Americans in South Vietnam reaches 1200. Military support will presumably be introduced at or before this point.

Assuming no settlement is made in Vietnam to facilitate this decision, we need to reach agreement with Congress on authorizing legislation currently under consideration. This must be accomplished while still seeking military aid. Therefore, this is a most delicate and awkward political decision.

Your Saturday deadline for the Congress in this matter further underscores the critical need for decisions with respect to evacuation and this legislation.

The timing in relation to the Vietnamese military effort and Vietnamese tolerance of implementation adds to the complications. The logistics of withdrawal from vulnerable airfields or by helicopter under various scenarios is being addressed by Defense, but even these revolve around a decision on which persons are to be evacuated.

In the face of these complex factors, you have a firm proposal with recommendations and rationale from INS (Tab E).

a. Immediate parole decisions should be made.

b. Immediate relatives of United States citizens and permanent residents (who are now entitled

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to enter the United States under present law) be paroled to expedite the process.

c. A maximum of 50,000 bona fide refugees or 40% of the total, whichever is less, be paroled into the United States. All others to be absorbed by other countries under the auspices of U.N. and international agencies.

d. To become permanent residents of the U.S. all in b. and c. above must meet the full requirements of the Immigration and Nationality Act.

e. At the proper time, a public announcement of the foregoing be made to prevent a mass exodus based on false hopes.

An alternative proposal has been made by State (Tab F):

In the event of a large-scale evacuation of South Vietnam, it is possible that as many as 211,000 Vietnamese to whom we have a moral obligation will require resettlement. Although every effort will be made to involve third countries, through international mechanisms such as the United Nations Commission on Human Rights, and directly, it is apparent that a large number will wish to come to the United States. The Attorney General should be asked to parole those Vietnamese who have left their country under such programs as the President may have authorized for their safety.

At this point it should be noted that operational feasibility has not been a major consideration and Defense planning factors have not been fully available to State or INS. Your decision on the following options are needed:

1. Go with INS recommendation _____

2. Go with State recommendation _____

3. Direct Secretary of Defense and Labor to resolve the issue in conjunction with the Attorney General and Secretary of State by 5:00 PM of April 17th.

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Finally, I recommend that you direct establishment of a small full-time task force with necessary authority to improve your decision making base and advise you in regard to this emergency.

Approve_____

Disapprove_____

Enclosures

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A

HISTORY OF THE USE OF PAROLE

Parole is a device by which an inadmissible alien seeking entry is permitted to proceed into the United States, but in contemplation of law is considered to be standing at the water's edge. He is not deemed to be in the United States within the meaning of the expulsion provisions or other provisions of the Immigration and Nationality Act. Standing at the water's edge, as it were, he may be removed only in exclusion proceedings.

Parole is resorted to only in exceptional situations such as emergent medical treatment, avoiding unwarranted detention, and prosecution of criminals returned to the United States. It has also been used for refugees and orphans.

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The first express statutory authorization for parole appeared in the Immigration and Nationality Act which became effective December 24, 1952. 1/ The statute provides that the Attorney General in his discretion may parole any alien seeking admission for emergent reasons or for reasons deemed strictly in the public interest.

Before 1952, parole was utilized as an administrative expedient. 2/ It's peculair status was recognized by the Supreme Court 50 years ago in the case of Kaplan v. Tod. 3/

There has never been any question concerning the authority to parole individual aliens. However, questions have been raised by the Congress concerning authority to parole groups of aliens. For example, a question was raised after 224 Russian Orthodox Old Believers were paroled into the United States in June 1963. In the House Report on the 1965 Amendments, which established permanent Legislation for the conditional entry of refugees, the following statement was made: "The parole provisions were designed to authorize the Attorney General to act only in emergent, individual and isolated situations, such as the case of an alien who requires immediate medical attention, and not for the immigration of classes or groups outside of the limit of the law." 4/

Nevertheless, under the general parole authority of the 1952 Act, large numbers of refugees have been allowed to come into the United States after, as well as before publication of the House Report. 5/ These include:

Over 30,000 refugees from the 1956 Hungarian Revolution, by direction of President Eisenhower.

Over 600,000 refugees from Cuba who began to come to the United States in an almost unbroken stream for more than a decade after the Castro takeover in 1959. (In 1965 when

he signed into law the abolition of the National Origins System, President Johnson revived the Cuban parole program despite the House report.)

15,000 Chinese refugees from Hong Kong, by direction of President Kennedy in 1962.

6,500 Czechoslovak refugees after the Soviet invasion of that country in 1968, at the urging of Congress.

Several hundred Soviet Jews and other minorities in the U.S.S.R., at the urging of Congress in 1971.

1,000 stateless Ugandan-Asians, authorized in 1972, at the urgent request of the State Department.

Following the suppression of the abortive Hungarian revolt in the Fall of 1956 over 200,000 Hungarian refugees fled the country, especially to Austria (180,000) and to Yugoslovia (20,000). Resettlement missions from many countries were eager to accept Hungarian refugees, and the asylum countries -- especially Austria -- served as staging areas. President Eisenhower and the American people in general were eager to accept a generous quota of the Hungarians. Fewer than 7,000 refugee visas remained available, however, under the Refugee Relief Act of 1953 as amended. These were quickly used for Hungarians. At this juncture the decision was made to invoke Section 212 (d)(5) of the Immigration and Nationality Act in order to parole larger numbers of Hungarian refugees into the United States.

The sympathetic 85th Congress enacted P.L. 85-559, which provides for adjustment of status of paroled Hungarians to that of permanent immigrants to the U.S. The majority of the refugees were brought in from Austria into a U.S. staging area, in Camp Kilmer, New Jersey, administered by the Department of the Army. The refugees were resettled from Camp Kilmer, primarily through the efforts of interested voluntary agencies. A total of 30,701 Hungarian refugees regularized their status in the United States under P.L. 85-559 during 1958-59. This represented the overwhelming majority of the Hungarian refugees who were paroled into this country.

The Cuban refugee situation differs from others in that the United States was the country of first asylum. From 1957-72 this country admitted 621,403 Cuban nationals who fled from Cuba. That exodus was generally divided into three distinct periods: from the advent of the Castro government in 1959 to the breaking of diplomatic relations in January 1961; from 1961 until the end of commercial travel in October, 1962; the subsequent period. While diplomatic

relations existed, Cubans who wanted to leave Cuba went to the consulate in Havana. They were issued B-2 (tourist visas) which documented them and enabled commercial carriers to bring them to the United States. On arrival (usually Miami) the B-2 visa was cancelled by the Immigration Service (INS) and they were paroled into the United States under the parole provisions of the Immigration Act. The B-2 visa was "pro-forma" documentation to enable travel to commence.

After the break in diplomatic relations, the United States initially avoided the use of parole for Cubans fleeing the island the resorted to the device of waiving the visa requirement on a mass basis on the theory that each case represented an unforeseen emergency because of the unavailability of consular services in Cuba. This program largely terminated at the time of the Cuban Missile Crisis of 1962 because travel out of Cuba became impossible.

In October 1962, all commercial transportation between Cuba and the U.S. ended. The Cuban refugee flow was reduced to a trickle. In December 1962 the American Red Cross began sponsoring airflights and vessels which brought Cuban refugees to the United States, primarily relatives of Cubans already here and prisoners from the "Bay of Pigs" invasion. These people were directly paroled.

In 1965, Castro announced that certain Cubans who wanted to leave were free to do so. President Johnson responded that the U.S. would accept all. Direct parole was the method of entry. Some Cubans went to third countries (primarily Spain) as they were unable to get places on the airlifts. Those with close relatives in the U.S. were given "pre-parole" documentation (medicals, affidavit of support, security clearance) by our consulate in Madrid. When they arrived at the U.S. port of entry, they were paroled into the U.S. by INS. In October, 1973, the Attorney General agreed to a one year parole program for those without close relatives here. Documentation was prepared by the consulates as with the pre-parole program, but INS personnel interviewed and issued the actual parole document in Madrid. Cubans in the U.S. were received and processed by the Cuban Refugee Center in Miami run by HEW. The Act of November 2, 1966 enabled Cuban refugees to adjust status to permanent residents.

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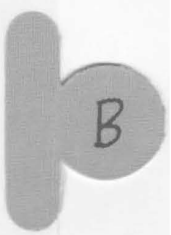
B

16 April 1975

Point Paper for the Special Assistant to the Secretary and Deputy Secretary of Defense

SUBJECT: Orphan Evacuation Program - Vietnam/Cambodia

MAIN THRUST OF POINT PAPER

- Provides an update on the orphan evacuation program.

DISCUSSION

- On 3 Apr 75, DOD developed procedures for orphan evacuation. State/AID wholeheartedly concurred.

  -- All orphans, upon verification by US Embassy in Vietnam and Cambodia, would be airlifted on first available military or commercial contract aircraft to Clark AB.

  -- At Clark AB medical evaluation would be made to determine if orphans should be hospitalized, proceed on normal airlift, or be medically evacuated.

  -- Flights then proceed to San Francisco or Los Angeles with Seattle as backup where military and volunteer agency personnel would further process them.

- From 3 through 15 April a total of 1703 orphans (52 Cambodians) have been flown out of Vietnam/Cambodia. Military Airlift Command (MAC) transported 883 through Clark AFB, Philippines, of which 43 are currently enroute. Non-DOD carriers, chartered by private arrangements, transported the balance of 820 orphans.

  -- 914 orphans have been moved to San Francisco.

  -- 330 orphans have been moved to Los Angeles.

  -- 409 orphans have been moved to Seattle.

  -- 201 orphans have been moved to Fort Benning, Ga.

(These figures do not total 1703 due to double handling, i.e., L.A. and Benning)

- Number and location of orphans currently being processed:

  -- Clark AB, Philippines - 5 hospitalized.
  Hickam AB, Hawaii - 5 hospitalized.
  San Francisco - 65
  Los Angeles - 87
  Seattle - 18
  Fort Benning - 170 (14 hospitalized)

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-- Enroute - 43 from Clark AB to Los Alamedas Air Station, Ca.

- Deaths:

-- 5 April crash of C-5 - 190 (figure not final)

-- One died enroute to Clark AB - cause of death, extreme dehydration. (Infant)

-- One died at Clark AB Hospital - cause of death, sepsis (absorption of pathogenic microorganisms into blood stream). (Infant)

-- One died enroute to Los Angeles - cause of death, pneumonia, dehydration and prematurity. Reported 24 days old.

-- Prognosis - No more deaths expected.

- Future orphan airlift requirements:

-- Known - zero - original "Reported 2000" all processed

-- Possible - 80 (Vietnam) Rumors of 500 to 5000 more. Tracking this.

- Problems:

-- Despite the official State/AID/DOD system, certain individuals have operated as free agents making arrangments for contract flights and direct liaison with the orphanages.

-- This has caused considerable confusion and resulted in less than desirable service for the orphans.

-- News reporters covering commercial arrivals at San Francisco and Seattle (outside the State/AID/DOD system) cited health problems with orphans on these flights.

- Current funding status (funded by State/AID):

-- Airlift $1,156,772

-- Medical 166,938

-- Support 71,916

-- Total obligated as of 15 Apr - $1,395,626

Prepared by: MGEN M.F. Casey, USAF
DOD Orphan Lift Coordinator
OX 74121

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SCA:LUALENTYNOWICZ/AANTIPPAS:SJB
04/13/75
SCA:LWALENTYNOWICZ

NODIS

IMMEDIATE SAIGON

IMMEDIATE MANILA

GERALD R. FORD

LW
LW/AA

E.O. 11652: GDS

TAGS: AEMR, VS

SUBJECT: E & E AND ALIEN DEPENDENTS OF U.S. CITIZENS

REF: A) SAIGON 4878; B) SAIGON 4829

1. VERY MUCH APPRECIATE YOUR THOUGHTFUL RECOMMENDATIONS IN THE REFTEL. WE ARE STUDYING YOUR COMMENTS AND WILL RESPOND IN DETAIL. IN THE MEANTIME WE HAVE SUCCEEDED IN OBTAINING AUTHORITY FOR A VERY LIMITED RPT VERY LIMITED PAROLE PROR‡GRAM. THIS PROGRAM DEALS ONLY WITH ALIEN RELATIVES PHYSICALLY PRESENT NOW IN VIET-NAM, OF U.S. CITIZENS ALSO PHYSICALLY PRESENT NOW IN VIET-NAM. THE PURPOSE OF THE PROGRAM IS TO ELIMINATE ONE OF THE REASONS WHY SOME AMERICANS REFUSE TO LEAVE VIET-NAM. IT WILL BE YOUR RESPONSIBILITY TO MONITOR SUCH PROGRAM AS CAREFULLY AS POSSIBLE AND YOU SHOULD MAKE AVAILABLE WHATEVER SECURITY FACILITIES NECESSARY TO PERMIT YOU TO SAY NO REPEAT NO TO THOSE WHO DON'T QUALIFY.

2. THE CRITERIA OF SUCH A PAROLE PROGRAM IS AS FOLLOWS:

A) EVERY SUBJECT MUST BE PHYSICALLY RPT PHYSICALLY PRESENT IN VIET-NAM AND MUST HAVE THE SPECIAL FAMILY RELATIONSHIP HEREAFTER DESCRIBED;

~~SECRET~~
KBH 6/2/97

B) SUCH FAMILY RELATIONSHIP MUST BE ONE OF THE FOLLOWING TYPE AS MORE SPECIFICALLY DEFINED IN THE INA AND THE REGULATIONS:

1) LAWFUL SPOUSE
2) CHILDREN
3) MOTHER OR FATHER OF U.S. CITIZEN
4) MOTHER OR FATHER OF ALIEN SPOUSE
5) MINOR UNMARRIED SIBLINGS OF ALIEN SPOUSE
6) MINOR UNMARRIED SIBLINGS OF AN AMERICAN CITIZEN

C) EACH SUBJECT MUST HAVE IN PHYSICAL POSSESSION ALL AVAILABLE DOCUMENTS NECESSARY TO ESTABLISH SUCH SPECIAL FAMILY RELATIONSHIP AND BASIS TO ESTABLISH THAT SUBJECT'S QUALIFICATION AS AN IMMIGRANT UNDER THE INA WHERE EVER APPLICABLE.

D) FORM I-94 MUST BE FILLED OUT FOR EACH AND EVERY SUBJECT.

E) EVERY EFFORT SHOULD BE MADE TO ASCERTAIN THAT APPLICANTS ARE MEDICALLY QUALIFIED, OR IF THEY HAVE A CLASS A CONDITION THAT IT IS WAIVEABLE. APPROPRIATE TRANSPORTATION ARRANGEMENTS SHOULD BE MADE FOR APPLICANTS WITH CONTAGIOUS CONDITIONS, SUCH AS ACTIVE PULMONARY TUBERCULOSIS. ANY PERSONS WITH SERIOUS MEDICAL PROBLEMS, INCLUDING WOMEN ABOUT TO GIVE BIRTH, SHOL‡ULD BE RETAINED AT CLARK AFB OR OTHER INTERMEDIATE MILITARY STOP FOR APPROPRIATE MEDICAL TREATMENT AND CLEARANCE AND/OR APPROPRIATE TRANSPORTATION (I.E., MEDEVAC).

F) THE AMERICAN CITIZEN WHO IS IN THE STATED FAMILY RELATIONSHIP MUST ACCOMPANY THE INTENDED PAROLEES WHEN THEY DEPART UNLESS CONTINUED PRESENCE OF SUCH AMERICAN CITIZEN IN VIET-A‡NAM IS ESSENTIAL AS DETERMINED BY THE EMBASSY.

3. LISTS OF THE NAMES OF RELATIVES ELIGIBLE FOR PAROLE SHOULD BE CABLED TO DEPARTMENT SLUGGED FOR SCA, INS, AND VO. SUCH LISTS SHOULD ALSO BE PROVIDED TO THE TRANSPORTATION COMPANY CONCERNED WITH A LETTER AUTHORIZING THEIR TRANSPORTATION WITHOUT VISA TO A U.S. POST OF ENTRY. IT IS CONTEMPLATED THAT MAJORITY OF POTENTIAL PAROLEES WILL BE ARRIVING INDEPENDENTLY AT VARIOUS POSTS OF ENTRY, CONSEQUENTLY THE TRANSPORTATION COMPANIES AND INS PARTICULARLY SHOULD BE ADVISED AS AVO‡‡ABOVE SO AS TO BE ABLE TO IDENTIFY THOSE CLEARED AND AUTHORIZED TO SO TRAVEL BY THE EMBASSY.

FORM DS 322A (OCR)

~~SECRET~~ | 3

4. THE AMERICAN CITIZEN WHO IS IN THE STATED FAMILY RELATIONSHIP SHOULD BE AWARE THAT HE IS RESPONSIBLE FOR SUCH PAROLEES INCLUDING THE COST OF TRANSPORTATION, CARE, MAINTENANCE AND RESETTLEMENT, ETC.

5. IN ORDER TO MAXIMIZE MANPOWER AND SPACE SUGGEST THAT PERSONNEL FROM CONGENS CAN THO AND BIEN HOA BE PRESSED INTO SERVICE AS A SECOND SHIFT TO THE EXTENT SAIGON CURFEW REGULATIONS PERMIT. YOU SHOULD L‡ALSO ASK FOR ADDITIONAL EMBASSY STAFF, PARTICULARLY LANGUAGE OFFICERS IF NECESSARY.

6. IN CASE OF VISA APPLICANTS SH‡‡WHO ARE CLAIMED BY FOREIGN SERVICE EMPLOYEES AS DEPENDENTS, PLEASE COORDINATE WITH EMBASSY PERSONNEL OFFICE OR PERSONNEL OFFICES OF OTHER AGENCIES. THESE OFFICES CAN ASSIST EMPLOYEES IN PREPARING AND SUBMITTING NECESSARY FORMS (FOR STATE DEPT A JF-20) FOR LISTING BONA FIDE DEPENDENTS.

7. FINALLY, WOULD ALSO APPRECIATE IT IF YOU WOULD GIVE US AS ACCURATE FIGURES AS POSSIBLE ON NUMBER OF ALIEN DEEP‡‡PENDENTS IN CATEGORIES ENUMERATED ABOVE WHO WILL REQUIRE ENTRY INTO THE UNITED STATES. WE HAVE EXPERIENCED SOME DIFFICULTY IN RATIONALIZING THE FIGURES GIVEN IN PARA 2, REFTEL B WITH DAILY 3‡E&E STATISTICAL READOUT.

NOTE: TO THE EMBASSY IN MANILA: PLEASE GIVE THE PHILIPPINE GOVERNMENT THE NECESSARY ASSURANCES THAT ANY PAROLEES STOPPING IN THE PHILIPPINES ARE THERE TEMPORARILY AND THAT THE U.S.G. WILL ARRANGE FOR THEIR ONWARD MOVEMENT WHEN CIRCUMSTANCES PERMIT. ¥¥


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~~SECRET~~
KBH 6/3/97

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ACTION: IMMEDIATE SAIGON

INFO: _____ ALL OTHER EAST ASIAN AND PACIFIC DIPLOMATIC AND CONSULAR POSTS

EO 11652:GDS

Tags: CVIS; SREF; VM, US

SUBJECT:

REF: State _____

1. An additional, but still very limited rpt very limited parole authorization has been granted for certain relatives of persons who are US citizens or Vietnamese permanent resident aliens, but who are not physically present in Viet-Nam, provided the aliens are desirous of travelling to the US.

2. Classes of aliens to whom this parole authority applies are -

a. beneficiaries of approved immediate relative or first, second and fourth preference petitions; and

b. beneficiaries of approved fifth preference petitions who are unmarried and under twenty-one years of age; and

c. parents of Vietnamese permanent resident aliens provided conditions set forth in para 4 below are met; and

d. aliens entitled to derivative immigrant status (under Sec. 203(a)(9)) from categories a, b, and c above.

3. In cases involving beneficiaries of approved petitions, petition or notice of approval thereof must be received at EMbassy prior to alien's departure from Viet-Nam.

4. Before parents of permanent resident aliens (see par. 2(c) above) may qualify for parole relationship to and status of permanent resident must be established. Department foresees possible problems in informing resident aliens of need to file Form I-550 with INS for verification of status. Department and INS prepared assist in this process if Embassy can cable names and US address of resident aliens in such cases. Would appreciate Embassy's comments as to feasibility of this proposal.

5. All grounds of inadmissibility set forth in section 212(a) of Act other than (14), (15), (20), (21) and (26) will apply to aliens in authorized categories. An ineligibility which could be waived pursuant to section 212(g), (h) or (i) in a normal IV case is deemed to be overcome for purposes of parole. Other grounds of inadmissibility are not waived and preclude parole for aliens concerned. Consular officer should make every possible effort to satisfy himself of alien's admissibility in each case.

6. Every alien who will be paroled under this authority must have properly completed form I-94 (parole edition, if available) ready for submission to INS upon arrival at port of entry. Department assumes, however, that this can be handled while aliens enroute to US and requests that Embassy emphasize to carriers necessity of proper completion of forms.

7. Lists of the names with date and place of birth of relatives eligible for parole should be cabled daily to Department slugged for SCA, INS, and VO. Such lists should also be provided to the transportation company concerned with a letter authorizing their transportation without visa to a US port of entry. It is contemplated that majority of potential parolees will be arriving independently at various ports of entry, consequently the transportation companies and INS particularly should be advised as above so as to be able to identify those cleared and authorized to so travel by the Embassy. Embassy should use its discretion as to when to issue group or individual letters authorizing such travel, as long as the letters adequately serve the above-stated purpose.

8. All parolees should be advised that they or their sponsor are responsible for the cost of transportation, care, maintenance, and resettlement, etc. In addition all parolees should understand that parole is simply a temporary admission into the US and that each of them still have to adjust their status and qualify as lawful immigrants under US law.

9. Department quite concerned about possible medical problems among parolees. Appropriate special travel arrangements must be made for any parolee having active pulmonary tuberculosis. Any other persons with serious medical problems, including women about to give birth, should be referred to and retained at Clark AFB or other intermediate military stop for medical treatment and clearance and/or appropriate transportation (i.e., MEDEVAC).

10. Again it will be your responsibility to monitor this program as carefully as possible. Failure to do so will result in adverse reaction so as to prevent any further extension of parole authority to any other groups of aliens that could be considered in future. Emphasize this again to military and other functionaries who for reasons of compassion and otherwise are permitting undocumented aliens, not potentially qualified as immigrants, to board military transports.

SCA/VO:CDScully;JArias;lcg 4/16/75

SECRET

KSH 6/3/97

ACTION: IMMEDIATE CAMBODIA

INFO: _____ ALL OTHER EAST ASIAN AND PACIFIC DIPLOMATIC AND CONSULAR POSTS

EO 11652:GDS

Tags: CVIS; SREF; VM, US

SUBJECT: Parole of Cambodians in Thailand

REF: State _____

1a. We understand from your cable No. 6282 that the US evacuated 983 cambodians. Parole has been authorized for those Cambodians who have in fact been evacuated by the US provided they express a desire to come to the United States and are processed in accordance with the procedure set forth below. Any other Cambodians whom you believe should be authorized to come to the United States as parolees because of extraordinary circumstances should be rpported with identifying data and pertinent facts on an individual basis for consideration.

2a. All grounds of inadmissibility set forth in section 212(a) of Act other than (14), (15), (20), (21) and (25) will apply to all aliens. An ineligibility which could be waived pursuant to section 212(g), (h), or (i) in a normal IV case is deemed to be overcome for purposes of parole. Other grounds of inadmissibility are not waived and preclude parole for aliens concerned. Consular officer should make every possible effort to satisfy himself of alien's admissibility in each case.

b. All aliens should be encouraged to make every effort to present and carry passport, birth certificate, or other appropriate identity documents.

c. Every alien approved for parole pursuant to the authority in

this telegram shall be given a letter addressed to INS officer-in-charge at port of entry stating that parole authorized. Letter should contain name and DPOB of alien. Also attach to letter photograph of alien and affix impression seal thereto.

d. All paroless should be advised that if financially able, they or their sponsor are responsible for the cost of transportation, care, maintenance, and resettlement, etc. In addition all paroless should understand that parole is simply a temporary admission into the US and that each of them still have to adjust their status and qualify as lawful immigrants under US law.

e. Every alien who will be paroled under this authority must have properly completed form I-94 (parole edition, if available) ready for submission to INS upon arrival at port of entry. Department assumes, however, that this can be handled while aliens enroute to US and requests that Embassy emphasize to carriers necessity of proper completion of process.

f. Department quite concerned about possible medical problems among paroless. Appropriate special travel arrangements must be made for any parolee having active pulmonary tuberculosis. Any other persons with serious medical problems, including woman about to give birth, should be referred to and retained at Clark AFB or other intermediate military stop for medical treatment and clearance and/or appropriate transportation (i.e., MEDEVAC).

DEPARTMENT OF STATE

ADMINISTRATOR

BUREAU OF SECURITY AND CONSULAR AFFAIRS

WASHINGTON

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April 16, 1975

MEMORANDUM FOR: Mr. Theodore Marrs
The White House

FROM: Leonard F. Walentynowicz

SUBJECT: Expanding Parole Authority

Pursuant to our telephone conversation late this afternoon, and your request for further comment, I am sending you this memorandum to indicate that the State Department believes it is necessary to have broader parole authority than that specifically described in the two proposed cables, attached. We wish to see included in the cable to Cambodia the authority to parole Cambodian refugees beyond those specifically mentioned. We would estimate that the number of Cambodian refugees is not likely to exceed 3,000 persons. To allay any fear of excessive numbers, we would be willing to accept, however, a numerical limitation.

As I am sure the President is aware, that even though the Attorney General can exercise parole authority without the concurrence of Congress, as a practical matter such concurrence is initially desirable as failure to obtain same might result in Congressional hesitation to appropriate sufficient funds to care for those persons who are paroled and who in fact need financial assistance. This, of course, is of greater significance in connection with any additional grants of parole dealing with those Vietnamese who have no family connections in the U.S. and are considered vulnerable to Communist harm.

Attachments:

As stated.

~~SECRET~~-GDS
KBH 6/3/97

EMERGENCY PROGRAM FOR PAROLE OF REFUGEES FROM VIETNAM

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At the President's news conference of April 3, 1975 he stated that the Attorney General's authority, 1/ which had been used several times since World War II to permit victims of war and persecution to come to the United States, would be considered for Vietnamese refugees.

In light of past experience with refugee programs generated by varying conditions in foreign countries the following considerations and recommendations are offered.

1. Time element. The period of time available for moving refugees out of Vietnam could be severely limited. It is not unlikely that within a matter of weeks the military situation will prevent any movement of refugees out of that country. Alternatively, some orderly movements may be possible.

2. Potential number of refugees. STATE Department estimates of potential Vietnamese refugees could run as high as 1,707,000, composed of:

- Vietnamese employees of U.S. and their dependents ____ 164,000
- SENior Vietnamese officials and their dependents and others closely identified with U.S. _____ 600,000
- Close relatives of U.S. citizens and permanent residents _____ 93,000
- FORmer Vietnamese employees of U.S. and their dependents _____ 850,000

DECLASSIFIED
E.O. 12958 Sec. 3.6
State Dept. Guidelines
By KBH NARA, Date 6/2/07

3. RElatives of U.S. citizens and permanent residents. These relatives now in Vietnam are entitled to enter the United States under present law, if they so wish, and if proper petitions or applications are submitted on their behalf provided they are otherwise admissible under the law. Arrangements are now being made to process and move these people at the earliest possible date. The parole authority is and should be used to speed this process.

4. Bona fide refugees. Included in this category would be all of those considered by the State Department to be in the high risk category, and their dependents. The number could be large.

(a) In the 1950's we paroled some 40,000 Hungarian refugees into the United States. In the 1960's we paroled in some 675,000 Cubans into the United States. In the early 1970's we paroled 3500 Ugandans. In the case of the Hungarians and the Ugandans other countries in the world took a share of the total refugees. In the case of the Cubans the President stated publicly that the United States would accept all the Cuban refugees who could get here; a few went in addition to other countries in the world. This unqualified offer to accept Cuban refugees enabled CAStro to rid

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himself of several hundred thousand of his undesirables, including large numbers of dissidents as well as many who were infirm or aged.

(b) At this time it is the opinion of the Justice Department that the United States should be called upon to accept only a limited and finite number of refugees. This statement is made in the light of the impact that would be felt on our economy and our social structure by the ingress of very large numbers.

(c) Consequently the United States should decide to accept only a limited number and through all channels and the United Nations other countries should be urged to accept a fair share of however many refugees there may turn out to be.

5. Implementation. The handling of large numbers of refugees will require:

a. TRANSportation.

b. Screening for health, security, and immigration criteria.

c. Staging area in a third country to include representatives of other countries who will accept refugees.

d. Reception centers in the United States.

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e. Housing, food, clothing, jobs - voluntary agencies, HEW, and Labor to play the major roles.

f. Funding for all the above.

6. Recommendations.

a. Immediate parole decisions should be made.

b. Immediate relatives of United States citizens and permanent residents (who are now entitled to enter the United States under present law) be paroled to expedite the process. This matter is being handled now by State and Justice in cooperation with the White House and appropriate Congressional Committees.

c. A maximum of 50,000 bona fide refugees or 40% of the total, whichever is less, be paroled into the United States. All others to be absorbed by other countries under the auspices of U.N. and international agencies.

d. To become permanent residents of the U.S. all in b. and c. above must meet the full requirements of the Immigration and Nationality Act.

e. At the proper time, a public announcement of the foregoing be made to prevent a mass exodus based on false hopes.

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f. If the foregoing, or some modification, are approved, the several governmental departments be directed to commence planning accordingly.

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
Presidential Libraries Withdrawal Sheet

WITHDRAWAL ID 01963

REASON FOR WITHDRAWAL . . . . National security restriction

TYPE OF MATERIAL . . . . . Memorandum

DESCRIPTION . . . . . re program for parole of refugees from Vietnam

CREATION DATE . . . . . 04/1975?

VOLUME . . . . . 5 pages

COLLECTION/SERIES/FOLDER ID . 016400102
COLLECTION TITLE . . . . . Theodore C. Marrs Files
BOX NUMBER 10
FOLDER TITLE . . . . . Indochina Refugees - Parole Authority (1)-(2)

DATE WITHDRAWN 12/21/1989
WITHDRAWING ARCHIVIST . . . . WHM

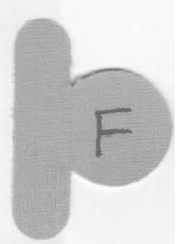
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EXHIBIT CCC

The Secretary of State presents his compliments to Their Excellencies and Messieurs and Mesdames the Chiefs of Mission and has the honor to refer to the Executive Order of April 11, 1990, issued by George Bush, President of the United States of America. The Executive Order regulates the immigration status of nationals of the People's Republic of China present in the United States as of April 11, 1990. Among other things, it directs that no enforced departure of such PRC nationals will occur before January 1, 1994.

For humanitarian reasons, the Executive Order also directs the Secretary of State and Attorney General to "take all steps necessary with respect to such PRC nationals (a) to waive through January 31, 1994, the requirement of a valid passport and (b) to process and provide necessary documents, both within the United States and at U.S. consulates overseas, to facilitate travel across the borders of other nations and reentry into the United States in the same status such PRC nationals had upon departure."

The United States Immigration and Naturalization Service now issues to PRC nationals in the United States, who fall under the order and who request it, authorization for advance parole (Form I-512), which is annotated in the following manner: "The holder of this document will be readmitted under the President's Executive Order 12711 of April 11, 1990." A sample of the I-512 is attached.

The Government of the United States requests the Governments to whom this note is addressed to give due consideration to the circumstances of such PRC nationals who, in some instances, may be unable to obtain valid PRC passports or other travel documents, and to permit such PRC nationals to enter their territories temporarily on the basis of the Form I-512, provided such PRC nationals are otherwise admissible.

Enclosures:

Executive Order of April 11, 1990

Sample Form I-512, Authorization for Advance Parole

Department of State,

Washington,

June 1, 1990

EXECUTIVE ORDER

- - - - - - -

POLICY IMPLEMENTATION WITH RESPECT TO
NATIONALS OF THE PEOPLE'S REPUBLIC OF CHINA

By the authority vested in me as President by the Constitution and laws of the United States of America, the Attorney General and the Secretary of State are hereby ordered to exercise their authority, including that under the Immigration and Nationality Act (8 U.S.C. 1101-1557), as follows:

Section 1. The Attorney General is directed to take any steps necessary to defer until January 1, 1994, the enforced departure of all nationals of the People's Republic of China (PRC) and their dependents who were in the United States on or after June 5, 1989, up to and including the date of this order (hereinafter "such PRC nationals").

Sec. 2. The Secretary of State and the Attorney General are directed to take all steps necessary with respect to such PRC nationals (a) to waive through January 1, 1994, the requirement of a valid passport and (b) to process and provide necessary documents, both within the United States and at U.S. consulates overseas, to facilitate travel across the borders of other nations and reentry into the United States in the same status such PRC nationals had upon departure.

Sec. 3. The Secretary of State and the Attorney General are directed to provide the following protections:

(a) irrevocable waiver of the 2-year home country residence requirement that may be exercised until January 1, 1994, for such PRC nationals;

(b) maintenance of lawful status for purposes of adjustment of status or change of nonimmigrant status for such PRC nationals who were in lawful status at any time on or after June 5, 1989, up to and including the date of this order;

(c) authorization for employment of such PRC nationals through January 1, 1994; and

(d) notice of expiration of nonimmigrant status (if applicable) rather than the institution of deportation proceedings, and explanation of options available for such PRC nationals eligible for deferral of enforced departure whose nonimmigrant status has expired.

Sec. 4. The Secretary of State and the Attorney General are directed to provide for enhanced consideration under the immigration laws for individuals from any country who express a fear of persecution upon return to their country related to that country's policy of forced abortion or coerced sterilization, as implemented by the Attorney General's regulation effective January 29, 1990.

Sec. 5. The Attorney General is directed to ensure that the Immigration and Naturalization Service finalizes and makes public its position on the issue of training for individuals in F-1 visa status and on the issue of reinstatement into lawful nonimmigrant status of such PRC nationals who have withdrawn their applications for asylum.

Sec. 6. The Departments of Justice and State are directed to consider other steps to assist such PRC nationals in their efforts to utilize the protections that I have extended pursuant to this order.

Sec. 7. This order shall be effective immediately.

GEORGE BUSH

THE WHITE HOUSE,
April 11, 1990.

U.S. Department of Justice
Immigration and Naturalization Service

AUTHORIZATION FOR PAROLE OF AN ALIEN INTO THE UNITED STATES

Name of Alien (First) (Middle) (Last)	Date
	File Number
Date of Birth (Month) (Day) (Year)	Place of Birth (City or town) (State or province) (Country)
U.S. Address (Apt. number and/or in care of) (Number and street) (City or town) (State) (ZIP Code)	

Presentation of the attached duplicate of this document will authorize a transportation line to accept the named bearer on board for travel to the United States without liability under section 273 of the Immigration and Nationality Act for bringing an alien who does not have a visa.

Presentation of the original of this document prior to _____ will authorize an immigration officer at a port of entry in the United States to permit the named bearer, whose photograph appears hereon, to enter the United States:

☐ as an alien paroled pursuant to section 212(d)(5) of the Immigration and Nationality Act.

☐

Remarks:

(Signature of Immigration Officer)

(Authorizing Office)

PHOTOGRAPH

ARRIVAL STAMP

Form I-512 (Rev. 10-1-82) Y

TO ALIEN

EXHIBIT DDD

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA and JANET NAPOLITANO, in her official capacity as President of the University of California, Plaintiffs, v. U.S. DEPARTMENT OF HOMELAND SECURITY and ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, Defendants. AND RELATED CASES.	Case No. 17-CV-05211-WHA

Wednesday, October 18, 2017

Videotaped deposition of PHILIP T. MILLER, taken at the offices of Gibson, Dunn & Crutcher, 1050 Connecticut Avenue NW, Washington, D.C., beginning at 9:06 a.m., before Nancy J. Martin, a Registered Merit Reporter, Certified Shorthand Reporter.

that question once more and ask for a "yes" or "no" answer, and you can let me know what you decide.

MS. DAVIS: Can you just hold on one second?

MR. LEE: Of course.

(Ms. Davis and Mr. Arnold conferred sotto voce.)

(Pause in proceedings.)

MS. DAVIS: Can we go off the record so my colleague and I can consult.

MR. LEE: Absolutely.

THE VIDEOGRAPHER: We're going off the record. The time on the video is 11:40 a.m.

(A recess was taken from 11:40 a.m. to 11:43 a.m.)

THE VIDEOGRAPHER: We're back on the record. The time on the video is 11:54 a.m.

BY MR. LEE:

Q. Mr. Miller, you understand you are still under oath?

A. Yes, I do.

Q. So let me go back to the question that was pending. You discussed a spring 2017 meeting with Mr. Loiacono in which he referenced the possible amendment of rescission of DACA; correct?

MS. DAVIS: Objection to the characterization

of his testimony.

THE WITNESS: We talked about DACA, yes.

BY MR. LEE:

Q. And about the possibility of amendment or rescission?

A. Yes.

Q. And the pending question, were there any subsequent conversations with Mr. Loiacono in which the general subject matter was either the amendment or the rescission of DACA?

A. No.

Q. When did you next develop an understanding that the decision to rescind DACA was to be made final?

A. The evening before it was issued.

Q. How did you come to that understanding?

A. I was contacted by our press secretary and asked if I would do a media availability call the following morning.

Q. And who is that press secretary?

A. Liz Johnson.

Q. And is this an individual within the ICE organization or the DHS level?

A. Within ICE. Let me find where she sits. I'm sorry. I guess on here her title is Assistant

Director, Office of Public Affairs. So that would be in the upper left-hand quadrant, middle box.

Q. Between the time you spoke with Mr. Loiacono in spring 2017 and the evening of September 4, did you have any discussions with anyone within DHS about the possible amendment or rescission of DACA?

A. No.

Q. Is it your understanding, as a result of the issuance of this memo, that there are individuals who have lost DACA?

A. That's not my understanding of the memo, no.

Q. Okay. Is it your understanding that under this memo for those individuals whose DACA expires before September 5, and had not yet applied for renewal, would no longer be eligible nor DACA?

A. No. That's not my understanding.

Q. Is it your understanding that with respect to this category of individuals, that they are still eligible to renew their DACA protection?

A. It was my understanding that they were eligible to file for renewal prior to October 5.

Q. So to be clear, an individual whose DACA expired before September 5 but had not yet applied for renewal -- in other words, there was no pending renewal application for them, that they were eligible

to apply by October 5 for renewal?

A. I mean I would have to review the memo. If you're asking me to recall from memory the specifics of a program that I don't administer, I don't remember the specifics of a program that I don't administer.

Q. Sure.

A. If you'd like me to review it and answer your question, I'm happy to do that. But if this is a memory game, I'd rather not play that.

Q. My intention is not to play a memory game with you. My intention is to develop an understanding of what you know about the rescission of DACA and the parameters around the rescission of DACA.

A. Sure.

Q. At this present time, without reviewing the rescission memo and the parameters around the rescission of DACA, you do not know one way or the other whether that category of individuals I just described would be eligible for renewal or not?

A. No. I think to clarify what I previously said -- and we can ask the court reporter to read it back if you'd like. But I'm fairly certain, best of my recollection is that folks had until October 5 to apply for renewal.

Q. And that's anybody who had DACA?

anything need to be transmitted from the ICE officer to the ICE, PICS officer? Can this just be done by phone? I'm calling the officer to say --

A. Again, I was never a PICS officer. So you're asking me something I cannot possibly answer. But I know when I was a FOD, to set up a PICS account, I would have to sign -- there's a standard form to issue a PICS ID, and what would be the baseline databases that the officer would need access to. But in terms of subsequent -- gaining access to additional databases, I don't have visibility into that.

Q. And there you were talking about the initial request for a PICS ID?

A. Yes.

Q. Okay. And with respect to the process after you've gotten the PICS ID to go back to the PICS ID officer for an adjustment to the permission level, you do not know presently what documentation or paperwork that might be necessary for that to happen?

A. Correct.

Q. I'd like to just circle back to a couple of quick points. We never discussed any communications you may have had with DHS personnel about the potential rescission of DACA. Do you recall?

A. Yes.

Q. Are you aware that on August 21 an internal DHS meeting was held to discuss the rescission of DACA?

A. No, I'm not.

Q. Are you aware of whether a meeting with -- including DHS personnel that took place at the White House occurred on August 24 to discuss the rescission of DACA?

A. I'm not aware of that at all.

Q. Okay. Since September 5 of this year, have you had any discussions with anybody with respect to the rescission of DACA?

A. No.

Q. Have you had any discussions with anyone about the reasons or the basis for the rescission of DACA?

A. No.

Q. Have you had any meetings to discuss enforcement priorities as it relates to DACA grantees or former DACA grantees?

A. No.

Q. We discussed earlier, you know, whether or not operational documents out of ERO were being generated sort of in response to the rescission of DACA, and you indicated that no such documents have

been generated; is that correct?
A. Yes.
Q. And that there's no present intention to generate any such documents?
A. That's correct.
Q. And there's nobody else in your office currently working on any such documents?
A. Not that I'm aware of, no.
Q. Did you ever make a suggestion to anyone within DHS that perhaps such operational documents were necessary?
A. I didn't, no.
Q. Did any -- to your knowledge, did anybody else?
A. No.
Q. Did anyone ever instruct you to not produce any operational documents with respect to the rescission of DACA?
A. No.
(Deposition Exhibit 27 was marked for identification.)
MR. LEE: I'd like to mark as Exhibit 27 a document dated April 25, 2017 entitled "Privacy Policy Guidance Memorandum."
Q. Mr. Miller, are you familiar with this

C E R T I F I C A T E

I do hereby certify that the aforesaid testimony was taken before me, pursuant to notice, at the time and place indicated; that said deponent was by me duly sworn to tell the truth, the whole truth, and nothing but the truth; that the testimony of said deponent was correctly recorded in machine shorthand by me and thereafter transcribed under my supervision with computer-aided transcription; that the deposition is a true and correct record of the testimony given by the witness; and that I am neither of counsel nor kin to any party in said action, nor interested in the outcome thereof.

Nancy J. Martin, RMR, CSR

Dated: October 19, 2017

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying shorthand reporter.)

EXHIBIT EEE

Talking Points - DACA Rescission

BACKGROUND

On June 15, 2012, then-Secretary of Homeland Security Janet Napolitano issued a memorandum entitled "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children," establishing an administrative program that permitted certain individuals who came to the United States as juveniles and met several criteria-including lacking any lawful immigration status-to request consideration of deferred action for a period of two years, subject to renewal and eligibility for work authorization.

Recognizing the complexities associated with terminating the program, the Department will provide a limited window during which it will adjudicate certain requests for DACA and associated applications meeting certain parameters specified below.

TALKING POINTS: President Trump Directs Phased Ending of DACA

- Acting Secretary Duke issued a memo rescinding the June 15, 2012 memorandum that created the Deferred Action for Childhood Arrivals (DACA) program.

- President Donald J. Trump, in close coordination with the Department of Homeland Security and the Department of Justice, considered a number of factors, including the legality of the DACA program, the likely outcome of imminent litigation, and the administrative complexities associated with ending the program.

- We are a nation of laws. DACA was an unconstitutional, unwarranted exercise of authority by the Executive Branch. Only the U.S. Congress has the authority to pass legislation to provide immigration benefits to individuals.

- President Obama noted repeatedly in the months and years leading up to the creation of DACA that the President of the United States does not have the authority to create such a an open-ended, wide-ranging program without Congressional authorization.

- DACA will be phased out. All DACA benefits are provided on a two-year basis, so individuals who currently have DACA will be allowed to retain both DACA and their work authorizations (EADs) until they expire.

- U.S. Citizenship and Immigration Services will adjudicate-on an individual, case-by- case basis-properly filed pending DACA initial requests and associated applications for Employment Authorization Documents that have been accepted as of September 5, 2017.

- USCIS will adjudicate-on an individual, case-by-case basis-properly filed pending DACA renewal requests and associated applications for Employment Authorization Documents from current beneficiaries that have been accepted as of the date of this memorandum, and from current beneficiaries whose benefits will expire between September 5, 2017 and March 5, 2018 that have been accepted as of October 5, 2017.

- Individuals who have not submitted a request by September 5th, for an initial grant under DACA may no longer do so. All requests for initial grants received after September 5th will be rejected.

- In general, individuals who will no longer have DACA will not proactively be referred to ICE and placed in removal proceedings unless they satisfy one of the Department's enforcement priorities.

- The Department of Homeland Security urges DACA recipients to use the time remaining on their work authorizations to prepare for and arrange their departure from the United States-including

proactively seeking travel documentation-or to apply for other immigration benefits for which they may be eligible.

- As of September 4, 2017, there are 689,821 individuals with current valid DACA.
- It should be noted that DACA was not intended to be available to persons who entered illegally after 2007. Thus, persons entering the country illegally today, tomorrow or in the future will not be eligible for the wind down of DACA.