



Privacy Impact Assessment
for the

Fraud Detection and National Security Directorate

DHS/USCIS/PIA-013(a)

Appendix C

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Contact Point

Donald K. Hawkins

Privacy Officer

United States Citizenship and Immigration Services

(202) 272-8030

Reviewing Official

Jonathan R. Cantor

Acting Chief Privacy Officer

Department of Homeland Security

(202) 343-1717



APPENDIX C

Form I-854, *Inter-Agency Alien Witness and Informant Record*

Summary:

The USCIS Fraud Detection and National Security Directorate (FDNS) Law Enforcement Support Operation (LESO) Branch adjudicates benefit applications and ancillary benefits, coordinates with USCIS field offices for various programs, generates notional documents for undercover operations, and provides advice on law enforcement and intelligence agency-sponsored immigration benefits programs. One of the roles of FDNS is to provide immigration assistance to law enforcement entities. The S nonimmigrant program falls under this responsibility.

Congress established the S nonimmigrant program as part of the Violent Crime Control Act of 1994.¹ This program provides a nonimmigrant status for alien witnesses or informants who meet the requirements and are sponsored by law enforcement entities. The alien witness or informant may be eligible to receive S nonimmigrant status by: (1) providing critical and reliable information concerning a criminal or terrorist origination or enterprise; (2) willing to supply such information to law enforcement entities or court; or (3) showing his or her presence in the U.S. is essential to the success of a criminal investigation or prosecution of an individual involved in a criminal or terrorist organization or enterprise. Law enforcement agencies (LEA) use USCIS Form I-854, *Inter-Agency Alien Witness and Informant Record*, to bring alien witnesses and informants to the United States in an S nonimmigrant classification.

Form I-854 consists of two parts: the I-854A and I-854B. Form I-854A is used to place an alien in S nonimmigrant status while Form I-854B is used to recommend the alien for adjustment of status.² Both parts are submitted by the sponsoring LEA to request inadmissibility waivers for the alien and as a supporting document when submitting an application for permanent residence on behalf of a witness or informant. The form is circulated through several entities for review and concurrence before reaching USCIS, starting with the sponsoring LEA, the alien, a United States Attorney's office, U.S. Department of State, and U.S. Department of Justice, Criminal Division, before finally reaching USCIS. Each of these entities provides its signatory endorsement, which is required under 8 CFR Part 214.2(t)(4). The concurrence of each entity is required in order to waive any inadmissibility. When Form I-854A reaches USCIS, the form and supporting documentation are presented to the Associate Director of FDNS and a decision is made to approve or deny the request. Upon USCIS approval of the status, Form I-854A and all documentation provided in support of the Form are placed in the alien's respective Alien File (A-File). USCIS provides an approval letter to the LEA and the applicant may choose to submit an I-765, *Application for Employment Authorization*.

¹ Pub. L. No. 103-322 § 13003, 108 Stat. 1796, 2024-26 (codified at 8 U.S.C. 1101(a)(15)(S) (2012)).

² The Form I-854B step occurs after the individual has completed the terms and conditions of his or her S classification.



FDNS reviews the Form I-854B in support of Form I-485, *Application to Register Permanent Residence or Adjust Status*. USCIS will then process the Form I-485 pursuant to USCIS adjudicator's standard operating procedures.

Data Elements:

USCIS may collect personally identifiable information (PII) about the alien witness or informant and the alien witness or informant's derivative family members in connection with a Form I-854 filing, including: name, alias, address, A-Number, I-94 number, current location of alien, marital status, date of birth, place of birth, nationality, occupation, date of last entry into the U.S., criminal history, FBI number, Social Security Number, passport number, travel document number, S-Visa number, country of issuance of passport or travel document, expiration date of passport or travel document, place of last entry, date of last entry into the U.S., current immigration status (if changing status), class of admission, country of origin, gender, and signatures. The Form only collects this information for alien witnesses and informants sponsored by a law enforcement entity, as well as any family members that may be deriving the benefit.

USCIS may collect PII about the LEA in connection with a Form I-854 filing, including: agent name, requesting LEA, address, e-mail address, phone number, fax number, and signature.

Population:

The form is used by LEAs to bring an alien witness and informants to the United States in an S nonimmigrant classification, change an existing nonimmigrant classification to an S classification or adjust an S nonimmigrant classification to lawful permanent resident status.

When completing the Form I-854A, LEAs must request one of the following classifications:

- (1) S-5 nonimmigrant classification: For an alien who possessed and is willing to provide to the requesting LEA critical, reliable information on a criminal organization and who otherwise qualifies under section 101(a)(15)(s) of the Immigration and Nationality Act (Act) and 8 CFR 214.2(t).
- (2) S-6 nonimmigrant classification: For an alien who possessed and is willing to provide information on a terrorist organization, who will be or is placed in danger as a result, and is eligible for an award under section 36(a) of the State Department Basic Authorities Act of 1956, 22 USC 2708(a), and who otherwise qualifies under section 101(a)(15)(S) of the Act and 8 CFR 214.2(t).



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

Privacy Mitigation:

USCIS only collects a limited amount of PII in order to adjudicate this form. The information collected is pursuant to 8 U.S.C. § 1101(a)(15)(S). The information is only used for the purposes outlined on the form instructions.

USCIS ensures that the PII that is collected is accurate and complete as best practical, by collecting information directly from the applicant and/or LEA.

After USCIS processes this form, USCIS places it directly into the individual's A-File. USCIS controls the subject's A-File for 100 years from the date of birth, and then transfers the files to National Archives and Records Administration (NARA) for permanent retention pursuant to the approved retention schedule [N1-566-08-11]. The A-File is the only place USCIS retains the form.