



U.S. Citizenship  
and Immigration  
Services

May 5, 2005

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Director  
Office of Public Housing – Management & Occupancy Division  
U.S. Department of Housing and Urban Development  
451 7<sup>th</sup> Street, SW, Room 4220  
Washington, D.C. 20410

Dear Ms. Arnaudo:

This is in response to your request for information regarding the procedures for verification of immigration status in connection with applications for public housing made by battered immigrants.

A requirement for immigration status verification appears at 8 U.S.C. § 1642 (section 432 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) (PRWORA), as amended by section 504 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and by section 5572 of the Balanced Budget Act of 1996. This provision requires the Attorney General to promulgate regulations requiring verification that an applicant for most federal public benefits is a “qualified alien” and is eligible to receive the benefit. Four groups of battered immigrants benefited from this expansion:

- (1) Battered immigrants filing self-petitions under the immigration provisions of the Violence Against Women Act (VAWA), and VAWA cancellation of removal and suspension of deportation applicants;
- (2) Children included as derivatives in a battered immigrant’s self-petition;
- (3) Battered immigrants who were the beneficiaries of I-130 family-based visa petitions filed by U.S. citizen or lawful permanent resident spouses or parents; and
- (4) Battered immigrant conditional or lawful permanent residents who had previously been barred from access to public benefits by deeming.

Currently, States may use the Department of Homeland Security’s automated Systemic Alien Verification for Entitlements (SAVE) system, which conducts primary verification of an individual’s immigration status, to fulfill status verification requirements. However, victims of domestic violence who have applied for or who have been approved for immigration status through the immigration provisions of VAWA may not appear in the SAVE system due to confidentiality provisions that attach to VAWA cases. These provisions prohibit DHS from releasing any

information about battered immigrants to anyone without the immigrant's consent.<sup>1</sup> DHS has determined that placing in the SAVE system information regarding battered immigrants who have applied for or received immigration relief through the VAWA immigration provisions puts the protection of such confidential information at risk. There are, however, limited exceptions to the confidentiality provisions, one of which expressly permits the disclosure of information to Federal, State, and local agencies providing benefits solely for making determinations of eligibility for benefits as a "qualified alien."<sup>2</sup>

To comply with the special confidentiality provisions but also enable benefit-granting agencies to verify immigration status, DHS has developed an alternative system for such verification. An agency seeking immigration status verification may fax a request for verification to DHS's Vermont Service Center, the location where self-petitions filed by battered immigrants are adjudicated. The system may be used in cases involving the following battered immigrants:

- (1) Battered immigrants filing self-petitions under the immigration provisions of the Violence Against Women Act (VAWA), and VAWA cancellation of removal and suspension of deportation applicants; and
- (2) Battered immigrants who were the beneficiaries of I-130 family-based visa petitions filed by U.S. citizen or lawful permanent resident spouses or parents.

The following are acceptable forms of documents for battered immigrants seeking immigration verification:

- Copy of I-360 Approval Notice Self-Petitioning Spouse of U.S.C. or L.P.R.;
- Copy of I-360 Establishment of Prima Facie Case; or
- Copy of I-130 Approval Notice for Petition for Alien Relative

Please note that while USCIS will be able to verify that an individual is the beneficiary of an I-130, the agency will not be able to verify that the applicant has been battered or subjected to extreme cruelty because the I-130 petition is not a vehicle through which status as a battered spouse or child is determined. Applicants who present to your agency a copy of an I-130 approval notice should present to you evidence of battery or extreme cruelty and your agency should make that determination.

I am attaching the sample form that should be used when seeking immigration status verification for battered immigrants from the Vermont Service Center. This form should be faxed on requesting agency letterhead to (802) 527-4864. Please send a separate form for the battered immigrant and each of his or her children included in his or her application. Be sure to reference the parent's case number on the child's status verification request.

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<sup>1</sup> Section 384(a)(2) of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, codified at 8 U.S.C. § 1367. Victims of domestic violence protected by this provision are those filing self-petitions under INA § 204, applicants for a battered spouse waiver pursuant to INA § 216(c)(4)(C), and applicants for VAWA cancellation of removal, formerly INA § 244(a)(3), now INA § 240A(b)(2).

<sup>2</sup> 8 U.S.C. § 1367(b)(5).

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An affirmative response from USCIS may mean that the applicant is a “qualified alien” for purposes of benefits under section 431 of PWRORA. Before that final determination can be made, your agency would need to determine that there is a substantial connection between the battery or extreme cruelty and the need for the benefit as cited by section 501 of IIRIRA before the applicant could be determined to be a “qualified alien.”

If you have any questions or require additional information, please feel free to contact me at (202) 514-4754.

Sincerely,

Pearl B. Chang

Attachment