



ASISTA Immigration Bulletin: Covering Developments in Immigration Law¹

Congress Passes VAWA 2013

ASISTA will provide a separate advisory on the contents of VAWA 2013, passed by both the Senate and the House and signed by President Obama on March 7.

USCIS Visa Fee In Effect

As of February 1, 2013, immigrant visa applicants (those processing their lawful permanent residence abroad), including VAWA self-petitioner principles and their derivatives, are required to pay a *non-waivable* fee of \$165 to USCIS. USCIS encourages applicants to pay this fee by credit card or U.S. checking account prior to departing for the United States. Failing to pay the fee will not impact entry into the United States or lawful permanent resident status. However, USCIS will not provide a permanent resident card until the fee is paid. Please visit the [USCIS website](#) for more information.

New USCIS Policy Manual Online

USCIS has started creating a new online policy manual. The manual can be found on the USCIS website at <http://www.uscis.gov/policymanual/HTML/PolicyManual.html>. The policy manual is intended to be a central repository for USCIS's immigration policies. As such, it incorporates policy from individual agency memoranda and the Adjudicator's Field Manual. Ultimately, the manual will replace both of those website resources. At this time, the only section available is the one relating to Citizenship & Naturalization. This section includes information about those who qualify to naturalize in three years because they received their permanent resident status as a result of abuse. This includes those who obtained permanent residence through:

- An approved VAWA self petition INA § 214;
- Removal of conditions due to abuse or extreme cruelty. INA § 214(c)(4)(C); and
- VAWA cancellation of removal. INA § 204(a)(1)(B)

Advocates should consult the policy manual periodically as it will be updated regularly with the latest policy information.

USCIS Forms Updated

USCIS has updated the following forms and instructions, which are simpler and more user-friendly. You **must use these after April 5, 2013**. USCIS will reject applications submitted on the old version of the forms after that date.

¹ Hisham Leil, ASISTA Staff Attorney, prepared this advisory which we hope to provide on a regular basis.

1) I-601: Application for Waiver of Grounds of Inadmissibility. This is the form used by approved VAWA self-petitioners seeking adjustment of status who are inadmissible due to fraud, misrepresentation or any number of grounds. Although the Vermont Service Center (VSC) cannot adjudicate the waivers, they can grant fee waivers for them and will include them in a packet along with the approved self-petition when forwarding for adjustment at a local office. While the instructions accompanying form I-601 do not specify a filing address, they direct applicants to check the [uscis website](#) which specifies the filing address as:

USCIS Vermont Service Center
75 Lower Welden Street
St. Albans, VT 05479

2) N-336: Request for a Hearing on a Decision on Naturalization. This form is filed to request a review of the denial of your client's application for naturalization.

3) I-90: Application to replace permanent resident card. This form is filed to replace a lost or expired Permanent Resident Card. USCIS advises applicants to renew permanent residence cards that are expiring within six months. Please note that this is not a substitute for the form I-751 which is used to remove conditions on residence. If you are working with a client who is unable to use their mailing address for safety reasons, the instructions allow you to use your business or other address and specify that it is "In care of" a given individual.

The New Provisional Unlawful Presence Waiver Process

On January 3, 2013, USCIS published a final rule that allows certain immediate relative beneficiaries to file waiver for unlawful presence under INA § 212(a)(9)(B) & (C) from within the United States, essentially "pre-waiving" unlawful presence. This new approach helps those who must consular process abroad for immigrant visas because of the bars at INA § 245(a) & (c) and who often trigger unlawful presence inadmissibility when doing so.

VAWA self petitioners are not subject to the bars at INA § 245 and may, therefore, stay in the United States to adjust status. *If your VAWA clients travel to consular process for some other reason, however, they may trigger unlawful presence and may now use this process to obtain waivers ahead of time. Remember, however, to check for other inadmissibility issues, since these will NOT be waived ahead of time.*

The new rules lessen the uncertainty and potentially lengthy separation from family that accompanied the old process. This is an enormous improvement for this class of immigrants. The new process would be very helpful to U visa recipients who trigger unlawful presence when they leave, but it is currently limited to family-based immediate relatives. We hope that, if the new process is successful, CIS will consider expanding its application to others.