



**U.S. Customs and
Border Protection**

MAR 09 2015

MEMORANDUM FOR: Directors, Field Operations
Director, Preclearance Operations
Office of Field Operations (b)(6)(b)(7)(C)

FROM: Acting Executive Director (b)(6)(b)(7)(C)
Admissibility and Passenger Programs

SUBJECT: Withdrawal of Application Procedures at Ports of Entry

The purpose of this memorandum is to clarify the Withdrawal of Application for Admission procedures at Ports of Entry. According to the Immigration and Nationality Act (INA) Section 235(a)(4) and Title 8 Section 235.4 of the Code of Federal Regulations (CFR), an alien who is an applicant for admission may be permitted to withdraw his or her application for admission in lieu of removal proceedings.

Before a CBP officer allows an alien to withdraw his or her application for admission, the officer must ensure the alien has both the intent and the means to depart immediately from the United States. An alien cannot, as a matter of right, withdraw his or her application for admission. An officer must provide the alien with that benefit. Withdrawal is strictly voluntary and should not be coerced in any way. Further, withdrawal may only be considered as an alternative to removal proceedings when the alien is clearly inadmissible.

In light of the consequences associated with the issuance of an expedited removal order, including a five (5) year bar to re-entry, the decision of whether to extend the benefit of a withdrawal should be based on the consideration of relevant favorable and unfavorable factors in order to reach an equitable decision. Such factors might include, but are not limited to:

- The seriousness of the immigration violation;
- Previous findings of inadmissibility against the alien;
- Intent on the part of the alien to violate the law;
- Ability to easily overcome the ground of inadmissibility (i.e., lack of documents);
- Age or poor health of the alien; and,
- Humanitarian or public interest considerations.

In situations where there is (b)(7)(E) an expedited removal order should ordinarily be issued except in Preclearance where Expedited Removals or

Withdrawal of Application Procedures at Ports of Entry

Expedited Removal/Credible Fear cases are not authorized and aliens determined to be inadmissible to the U.S. are refused admission.

(b)(7)(E)

Please ensure that this memorandum is disseminated to all ports of entry within your jurisdiction. If you have any questions or require additional information, please contact **(b)(6)(b)(7)(C)**, Branch Chief at **(b)(6)(b)(7)(C)** or **(b)(6)(b)(7)(C)**, Director Enforcement Programs Division at **(b)(6)(b)(7)(C)**.