

## **NVC/Bureau of Consular Affairs Information Sheet**

### **Overview of the K-1 Visa**

A Fiancé (male) and Fiancée (female) apply for the K-1 nonimmigrant with the sponsorship of the U.S. citizen fiancé. A K-1 provides for the foreign fiancée to enter the U.S. and marry her U.S. sponsor within 90 days after arrival. The fiancée can then apply for adjustment of status to a permanent resident (LPR) by filing I-485 with the U.S. Citizenship and Immigration Services (USCIS). Because a K-1 visa allows for immigration to the U.S. to marry a U.S. citizen and live permanently the fiancée must meet some of the requirements of an immigrant visa even though technically the visa is a non-immigrant visa. Children of K-1 visa applicants receive K-2 visas and can come at the same time or later.

### **Definition of a “Fiancée”**

Once a U.S. citizen has filed the Petition for Alien Fiancée, Form I-129F, and it has been approved by the USCIS that person has been deemed a Fiancée for immigration law purposes. Next the US Department of State/US Embassy issues a nonimmigrant K-1 visa to the Fiancée for travel to the United States for the purpose of marrying her U.S. citizen fiancée within 90 days. Both persons applicant must be legally free to marry at the time the petition was filed with the USCIS. The marriage must be legally possible – because of age and family relations, according to governing laws of the U.S. state where the marriage will take place.

Also, the Fiancée and U.S. sponsor must have met in person within the past two years. It is possible for USCIS to allow an exception to this requirement, but only with a showing of extreme hardship for the U.S. citizen sponsor that prevented meeting. An example would be that the U.S. sponsor's or Fiancée's culture prohibits a man and woman to meet before marriage.

There are also regulations regarding The International Marriage Broker Regulation Act of 2005 (IMBRA) that you can read in Form I-129F, Petition for Alien Fiancé(e), instructions.

### **The 1<sup>st</sup> Step: Filing the I-129F Petition/NVC**

The form refers to “You”, the U.S. citizen sponsor. You file Form I-129F, Petition for Alien Fiancé(e), with USCIS. Check the USCIS.gov website Direct Filing Addresses for Form I-129F, Petition for Alien Fiancé(e) on where to file the petition. Unfortunately, Form I-129F cannot be filed at a U.S. Embassy, Consulate, or USCIS office abroad.

After USCIS approves the I-129F petition, it is next sent to the National Visa Center (NVC) for further processing. Finally NVC will send it to the U.S. Embassy or Consulate where your fiancée lives and she will appear at an interview for the K-1 nonimmigrant visa.

### **The 2<sup>nd</sup> Step: Visa Application**

Every U.S. Embassy has its own system and instructions on how to obtain the K-1 Visa. The NVC and the Embassy sends you instructions that includes where to go for the medical examination and police certificates. During your interview they will review your documents, take fingerprints, and ask questions. The Consular Officer will approve it, refuse it or require further processing, which takes an unknown amount of time.

Children of K-1 visa applicants apply for K-2 visas on their own applications and must pay an additional fee.

Required Documentation for the Visa Interview (K-1 and K-2 applicants). Documents in foreign languages must be translated unless they are in the language of the country in which the application takes place. Legible photocopies and originals of civil documents and translations should be taken to the visa interview. Original documents and translations will be returned at the interview.

Two Form DS-156 (prepared in duplicate) Nonimmigrant Visa Applications – not the Form DS-160, Online Nonimmigrant Visa Application

One Form DS-156K Nonimmigrant Fiancé(e) Visa Application

One Form DS-230, Part I Application For Immigrant Visa and Alien Registration – Part II is not required.

Note: The U.S. Consulate General Montreal and U.S. Consulate General Ciudad Juarez require different forms. Check their websites for the latest information.

A valid passport with at least six months of validity beyond your intended period of stay in the U.S..

Form I-134, Affidavit of Support, along with proof of income or assets.

Divorce or death certificate of any previous spouses for both you and the U.S. sponsor

Police certificates from your country of residence and all countries where you have lived six months or more since age sixteen, including your accompanying K-2 children ages 16 or older.

Evidence of good faith fiancé relationship with your U.S. citizen sponsor.

Certified and Sealed Medical examination results (vaccinations are optional, see below)

Two 2x2 passport style photographs.

Proof that all fees have been paid.

### **Vaccination and Medical Exams for Fiancées**

Before the Embassy approves of the K visa all applicant must obtain a medical exam. This is true for all ages of applicants, and must be scheduled with a certified medical officer before the visa interview. This information is listed on the Embassy website.

Vaccinations are not required of K visa applicants. However, they will be required when the applicant applies to adjust status to a permanent resident in the United States. See the NVC website at Vaccination Requirements for Immigrant Visa Applicants for the updated list of required vaccinations and additional information.

### **Affidavit of Support**

Form I-134 does not require the 125 percent of the poverty guidelines as required by the Form I-864. Sponsors need to show 100 percent of the poverty guidelines.

### **Visa Fees**

K Visa fees are listed at the Department of State Website under Fees for Visa Services. You will have to pay the USCIS filing fees, the NVC filing fees, medical exam fees, police certificates, copies of documents, passport fees, and of course your travel expenses.

### **Validity Period**

The I-129F petition is valid for only four months and usually expires before the interview date with the Embassy. The normal procedure is for the Consular Officer to extend the validity of the petition.

### **Grounds of refusal – ineligible and inadmissible issues**

You must first qualify for all of the requirements of the visa – have met within two years, be free to marry, etc. You must also be admissible and not have bad activities in the past, such as drug trafficking, drug use, overstaying a previous visa, smuggling, submitting fraudulent documents, etc.

If you are ineligible or inadmissible for a visa, you will be informed by the Consular Officer at your interview. You must be told if there is a waiver of the ineligibility and about the waiver process.

### **Post Processing Issues**

Processing times vary widely from Embassy to Embassy and at the NVC. There are tracking capabilities on the USCIS website

Once you are approved for the K-1 Fiancée Visa the Consular Officer will either send you your passport or you will come back and pick it up. It will have the K-1 visa glued into the passport and there will be a sealed packet containing civil documents and documents prepared by the U.S. Embassy or Consulate for the DHS immigration official at the port of entry. You should not open this sealed packet. K-1 visa holders must enter before or at the same time as children with K-2 visas. Remember that your entry is not guaranteed. USCIS, USICE and USCBP can deny your entry.

You can travel within 6 months to the U.S. from the date of issuance. You must marry your U.S. citizen sponsor within 90 days of entering the United States.

Your U.S. Citizen sponsor does not need to file separate I-129F petitions for your children. They must be listed on your petition and have separate visa applications prepared and paid for. After your marriage in

the U.S. your children must file their own I-485 applications for adjustment of status with the USCIS. In addition, the children must be unmarried and be under the age of 18 at the time of the marriage.

Your children can either travel with (accompany) you to the U.S. or travel later (follow-to-join) and must enter the U.S. before their K-2 visas expire. If your children accompany or follow to join you within one year from the date of issuance of your K-1 visa then you will not have to file separate I-130 petitions. They cannot obtain K-2 visas if they travel later than one year from the date your K-1 visa was issued. Your child may still travel on the K-2 visa if your child has a valid K-2 visa and you have already adjusted status to that of permanent resident.