§ 244.7 Filing the application.

(a) An application for Temporary Protected Status must be filed on Form I–821, Application for Temporary Protected Status.

(b) An application for Temporary Protected Status must be filed during the registration period established by the Attorney General, except in the case of an alien described in § 244.2(f)(2).

(c) Each applicant must pay a fee, as determined at the time of the designation of the foreign state, except as provided in § 244.5(a).

(d) If the alien has a pending deportation or exclusion proceeding before the immigration judge or Board of Immigration Appeals at the time a foreign state is designated under section 244(h) of the Act, the alien shall be given written notice concerning Temporary Protected Status. Such alien shall have the opportunity to submit an application for Temporary Protected Status to the director under paragraph (a) of this section during the published registration period unless the basis of the charging document, if established, would render the alien ineligible for Temporary Protected Status under § 244.3(c) or § 244.4. Eligibility for Temporary Protected Status in the latter instance shall be decided by the Executive Office for Immigration Review during such proceedings.

§ 244.8 Appearance.

The applicant may be required to appear in person before an immigration officer. The applicant may be required to present documentary evidence to establish his or her eligibility. The applicant may have a representative as defined in § 222.1 of this chapter present during any examination. Such representative shall not directly participate in the examination; however, such representative may consult with and provide advice to the applicant. The record of examination shall consist of the application, documents relating to the application, and the decision of the director.

§ 244.9 Evidence.

(a) Documentation. Applicants shall submit all documentation as required in the instructions or requested by the Service. The Service may require proof of unsuccessful efforts to obtain documents claimed to be unavailable. If any required document is unavailable, an affidavit or other credible evidence may be submitted.

(1) Evidence of identity and nationality. Each application must be accompanied by evidence of the applicant’s identity and nationality, if available. If these documents are unavailable, the applicant shall file an affidavit showing proof of unsuccessful efforts to obtain such identity documents, explaining why the consular process is unavailable, and affirming that he or she is a national of the designated foreign state. A personal interview before an immigration officer shall be required for each applicant who fails to provide documentary proof of identity or nationality. During this interview, the applicant may present any secondary evidence that he or she feels would be helpful in showing nationality. Acceptable evidence in descending order of preference may consist of:

(i) Passport;

(ii) Birth certificate accompanied by photo identification; and/or

(iii) Any national identity document from the alien’s country of origin bearing photo and/or fingerprint.

(2) Proof of residence. Evidence to establish proof of continuous residence in the United States during the requisite period of time may consist of any of the following:

(i) Employment records, which may consist of pay stubs, W-2 Forms, certification of the filing of Federal, State, or local income tax returns; letters from employer(s) or, if the applicant has been self employed, letters from banks, and other firms with whom he or she has done business. In all of the above, the name of the alien and the name of the employer or other
interested organization must appear on
the form or letter, as well as relevant
dates. Letters from employers must be
in affidavit form, and shall be signed
and attested to by the employer under
penalty of perjury. Such letters from
employers must include:
(A) Alien’s address(es) at the time of
employment;
(B) Exact period(s) of employment;
(C) Period(s) of layoff; and
(D) Duties with the company.
(ii) Rent receipts, utility bills (gas,
electric, telephone, etc.), receipts, or
letters from companies showing the
dates during which the applicant re-
ceived service;
(iii) School records (letters, report
cards, etc.) from the schools that the
applicant or his or her children have
attended in the United States showing
name of school and period(s) of school
attendance;
(iv) Hospital or medical records
showing medical treatment or hos-
pitalization of the applicant or his or
her children, showing the name of the
medical facility or physician as well as
the date(s) of the treatment or hos-
pitalization;
(v) Attestations by churches, unions,
or other organizations of the appli-
cant’s residence by letter which:
(A) Identifies applicant by name;
(B) Is signed by an official whose
title is also shown;
(C) Shows inclusive dates of member-
ship;
(D) States the address where appli-
cant resided during the membership pe-
riod;
(E) Includes the seal of the organiza-
tion impressed on the letter or is on
the letterhead of the organization, if
the organization has letterhead sta-
tionery;
(F) Establishes how the attester
knows the applicant; and
(G) Establishes the origin of the in-
formation being attested to.
(vi) Additional documents to support
the applicant’s claim, which may in-
clude:
(A) Money order receipts for money
sent in or out of the country;
(B) Passport entries;
(C) Birth certificates of children born
in the United States;
(D) Bank books with dated trans-
actions;
(E) Correspondence between the ap-
plicant and other persons or organiza-
tions;
(F) Social Security card;
(G) Selective Service card;
(H) Automobile license receipts,
title, vehicle registration, etc;
(I) Deeds, mortgages, contracts to
which applicant has been a party;
(J) Tax receipts;
(K) Insurance policies, receipts, or
letters; and/or
(L) Any other relevant document.
(3) Evidence of eligibility under section
244(c)(2) of the Act. An applicant has the
burden of showing that he or she is eli-
gible for benefits under this part.
(4) Evidence of valid immigrant or non-
immigrant status. In the case of an alien
described in §244.2(f)(2), Form I–551 or
Form I–94 must be submitted by the
applicant.
(b) Sufficiency of evidence. The suffi-
ciency of all evidence will be judged ac-
cording to its relevancy, consistency,
credibility, and probative value. To
meet his or her burden of proof the ap-
plicant must provide supporting docu-
mentary evidence of eligibility apart
from his or her own statements.
(c) Failure to timely respond. Failure
to timely respond to a request for in-
formation, or to appear for a scheduled
interview, without good cause, will be
debemed an abandonment of the applica-
tion and will result in a denial of the
application for lack of prosecution.
Such failure shall be excused if the re-
quest for information, or the notice of
the interview was not mailed to the ap-
plicant’s most recent address provided
to the Service.
[56 FR 619, Jan. 7, 1991, as amended at 56 FR
Redesignated at 62 FR 10367, 10382, Mar. 6,
1997, as amended at 63 FR 63596, Nov. 16, 1998]
§ 244.10 Decision by the director or
Administrative Appeals Unit (AAU).
(a) Temporary treatment benefits. The
director shall grant temporary treat-
ment benefits to the applicant if the
applicant establishes prima facie eligi-
bility for Temporary Protected Status
in accordance with §244.5.
(b) Temporary Protected Status. Upon
review of the evidence presented, the