

SUPPORTING STATEMENT

Application to Register Permanent Residence or Adjust Status

Form I-485, Supplement A, C and Supplement E

OMB No. 1615 - 0023

A. Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

Section 245 of the Immigration and Nationality Act (INA), provides for the adjustment of status of a nonimmigrant to that of a person admitted for permanent residence.

Authority: Section 245 of the INA, 8 CFR 245.2(a)(3), 245.23(e) – (g), and 8 CFR 245.24, Section 902 of Public Law 105-277 (HRIFA), Section 586 of Public Law 106-429.

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

The data collected on this form is used by U.S. Citizenship and Immigration Services (USCIS) to determine eligibility for the requested immigration benefit. The form serves the purpose of standardizing requests for benefits and ensuring that basic information required to assess eligibility is provided by applicants. Supplement A is used to adjust status under section 245(i) of the INA. Supplement E provides evidentiary requirements for T and U applicants to submit to adjust status.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

The use of the Form I-485, and supplements A and E provide the most efficient means of collecting and processing the information needed to determine eligibility for individuals to acquire permanent residence status. These forms can be completed electronically but cannot be submitted electronically.

4. **Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

USCIS has investigated its internal processes, files and data as well as those of other Federal agencies that may service the same population. The information collected via the I-485 and its associated supplements collect information necessary to adjudicate the respondent's request. Some pieces of the data collected here may be done so via instruments that other agencies utilize, but the bulk of the information necessary to adjudicate the request of a change in status must be up-to-date at the time of the request and decision. Because of the extensive restrictions that preclude an adjustment of status, attempting to gather information from other agencies that might have a few select parts of the required data and then verifying the authenticity and timeliness of the detail would require time beyond what currently is required to process the application. This would increase the cost for the respondent beyond the current fee charged due to the additional processing time that investigating, obtaining and verifying the other agency's information would require.

5. **If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.**

The collection of information does not have an impact on small businesses or other small entities.

6. **Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

If this information is not collected, it would hinder USCIS's ability to accept and analyze information submitted by applicants for permanent residence status.

7. **Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- **Requiring respondents to report information to the agency more often than quarterly;**
- **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **Requiring respondents to submit more than an original and two copies of any document;**
- **Requiring respondents to retain records, other than health, medical,**

government contract, grant-in-aid, or tax records for more than three years;

- **In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **Requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no special circumstances applicable to this information collection. This information collection is conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2).

- 8. If applicable, provide a copy and identify the data and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

On July 25, 2012, USCIS published a 60-day notice in the Federal Register at 77 FR 43608. On September 27, 2012, USCIS published a 30-day notice in the Federal Register at 77 FR 59409. USCIS did not receive any comment the 60-day notice.

USCIS received 24 comments in connection with publication of the 30-day notice.

The following is a summary of the comments and USCIS' response:

One commenter voiced concerns about Cubans and derivatives.

Response:

USCIS acknowledges the public commenter's comments sent in response to the 30-day information collection notice. USCIS is required to provide these benefits based on statutory requirements and regulation provisions.

Twenty three commenters request USCIS to revise and relocate Form I-485, Question C2, Part 3 because it creates confusion over the receipt of public benefits and the public charge ground of inadmissibility in INA, 212(a)(4). Commenters request that the question should either be removed or rewritten to differentiate between the public cash income assistance programs that may be considered for public charge purposes, and non-cash benefits that are not.

Commenters request that USCIS should confirm on the I-485 instructions that noncash benefits are not considered in the public charge determination. Commenters also request that the question be relocated because it is in a section with questions about criminal acts and could be erroneously viewed as implying that receiving public benefits is illegal.

Response:

USCIS is sensitive to the public's concerns that the wording and placement of the question is confusing to applicants. USCIS notes that officers are continuing to follow the public charge guidance as published at 64 FR 28689, as they have been trained to do since 1999. Information on how public charge determinations are made, including what types of assistance may be considered, or are not considered, are also available on the USCIS website at www.uscis.gov, which includes a link to the previously mentioned public charge guidance. Because policy guidance and fact sheets explaining public charge determinations are sufficient and publicly available, USCIS declines to adopt the suggestion that the public charge guidance be fully re-explained in the form instructions.

Immigration forms ask questions designed to obtain the information necessary to adjudicate the immigration benefit. Questions can often be phrased simply or broadly for the ease of the applicant's understanding. Question C2, Part 3 on Form I-485 seeks relevant information that is necessary for making a determination as to whether an adjustment of status applicant is inadmissible as a public charge, where that ground applies to the category of adjustment the person is seeking. Responses to this question may also reveal information related to the mandatory factors in INA 212(a)(4)(B), such as the applicant's health and financial resources, that must also be considered in the public charge inadmissibility analysis. Because admissibility is an eligibility requirement for adjustment of status, USCIS does not agree with the suggestion that the question be removed in its entirety from the form.

Part 3 of the Form I-485 asks questions to collect information on whether an individual might be inadmissible under one of the grounds articulated in section

212 of the INA. Question C2 was placed in Part 3 of the form because the question asks for information that is part of determining whether an applicant is inadmissible. As stated above, the receipt of public benefits is relevant to making a determination of whether someone is inadmissible as a public charge. USCIS has determined that the question is appropriately located in this section.

Commenters also suggested ways to reword the question. USCIS believes the questions, as revised by the commenters, would not ask for all the information necessary to determine whether the applicant is inadmissible and could create the risk that some applicants might misunderstand the question and inadvertently fail to list a public benefit that is relevant. USCIS further believes that asking applicants to determine themselves whether a particular public benefit is considered public cash or non-cash assistance for immigration purposes would create more questions and confusion than simply asking them to describe all public assistance received or likely to be received. With a full listing of all such public benefits, USCIS will be better able then to determine which particular benefits to consider in a totality of the circumstances analysis under its long-standing public charge policy. As stated above, admissibility is an eligibility requirement for adjustment of status, and USCIS needs to ask questions that obtain the necessary information to determine eligibility for the benefit sought. Therefore, USCIS does not believe that the commenters' suggested revisions to the questions would provide any benefit.

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9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

USCIS does not provide payments or gifts to respondents related to this information collection.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation or agency policy.

The Privacy Act of 1974 (Public Law 93-589) mandates that personal information solicited from individuals completing Federal records and forms be kept confidential. The respondent is informed prior to submission that USCIS may provide this information to other agencies.

The system of records notices associated with this information collection are Privacy Act of 1974; USCIS Benefits Information System, published at 73 FR 56596 on September 29, 2008.

The associated privacy impact assessment is USCIS Benefits Processing of Applicants other than Petitions for Naturalization, Refugee Status, and Asylum (CLAIMS 3), September 5, 2008.

- 11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

USCIS asks questions of a sensitive nature regarding past behavior and activities. These questions are necessary to determine eligibility of the applicant for adjustment to permanent residence status as required by law. Sensitive questions are asked to determine: whether an individual might be inadmissible under INA 212 (a)(3) (A)-(F)– Security Grounds for Unlawful Activity, Control or Overthrow of the U.S. Government, Terrorist grounds, Adverse Foreign Policy Consequence, Communist or Totalitarian Affiliation; whether an individual might be inadmissible under INA 212 (a)(2)(A)(i)(I) – Conviction or Commission of a Crime Involving Moral Turpitude (CIMT) or INA 212(a)(2)(A)(i)(II), (B), or (C) – Controlled Substance Violations, Multiple Criminal Convictions, or Controlled Substance Traffickers, or; whether an individual might be inadmissible under INA 212 (a)(2)(D)(i) and (ii) – coming to the United States solely, principally, or incidentally to engage in prostitution, or an unlawful commercialized vice.

- 12. Provide estimates of the hour burden of the collection of information. The statement should:**
- Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
 - If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**
 - Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.**

Type of Respondent	Form Name / Form Number	No. of Projected Respondents	No. of Responses per Respondent	Avg. Burden per Response (in hours)	Total Annual Burden (in hours)	Avg. Hourly Wage Rate	Total Annual Respondent Cost
Individuals or households	<u>Form I-485</u>	580,133	1	6.25	3,625,831	\$30.44	\$110,370,303
Individuals or households	<u>Supp. A</u>	3,888	1	0.216	840	\$30.44	\$25,564
Individuals or households	Supp. C	386	1	0.5	193	\$30.44	\$5,875
Individuals or households	Supp. E	31,000	1	1	31,000	\$30.44	\$943,640
Total		580,133			3,657,863		\$111,345,349

* The above Average Hourly Wage Rate is calculated from the [May 2011 Bureau of Labor Statistics](#) average wage for “All Occupations” of \$21.74 times the wage rate benefit multiplier of 1.4 equaling \$30.44.

* Form I-485 number of respondents is representative of the total population of the categories of filers that file Form I-485.

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and, (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing**

equipment; and record storage facilities.

- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995; (2) to achieve regulatory compliance with requirements not associated with the information collection; (3) for reasons other than to provide information or keep records for the government; or, (4) as part of customary and usual business or private practices**

There are no capital or start-up costs associated with this information collection. Any cost burdens to respondents as a result of this collection are identified in question 14.

However, there is a fee charge of:

- \$985 for filing fee for Form I-485;
- \$85 biometric fee for filing Form I-485; and a
- \$1,000 fee for filing Form I-485A.

- 14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.**

Annualized Cost Analysis

a. Printing Cost:	\$50,065
b. Collecting and Processing:	\$624,580,245
c. Total Annual Cost to the Government: (funded by USCIS user fee collections)	\$624,630,310

Government Cost

The estimated cost to the Government includes the suggested average hourly rate for clerical, officer, and managerial time with benefits, plus a percent for the estimated overhead cost for printing, stocking, distributing, and processing of this

form. The following calculations were used to determine the estimated cost to the Government:

Form I-485

- Estimated number of respondents (580,133) x (1) x the \$985 fee.
- Estimated number of respondents (580,133) x (1) x the \$85 biometrics fee.

Form I-485, Supplement A

- Estimated number of respondents (3,888) x (1) x the \$1,000 fee.

Form I-485, Supplement C and E

No fee charged for Form I-485, Supplements C and E.

The total estimated cost is \$624,531,810. The total cost includes the suggested hourly rate for clerical, officer, and managerial time with benefits, plus a percent for the estimated overhead cost for printing, stocking, distributing, and processing of this form.

15. Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.

Data collection Activity/Instrument	Program Change (hours currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (hours currently on OMB Inventory)	Adjustment (New)	Difference
I-485				3,069,450	3,625,831	556,381
I-485 Supplement A				839	840	1
I-485 Supplement C				0	386	386
I-485 Supplement E				31,000	31,000	0
Total(s)				3,101,289	3,658,057	556,768

For the form I-485, there is an increase of annual hour burden from 3,069,450 to 3,625,831, a total increase of 556,381, due to an increase of the agency's estimation of the number of respondents for the form. For the I-485A, there is an increase of annual hour burden from 839 to 840, a total of 1 hour, due to a rounding error that occurred at the last submission. For the I-485C, there is an

increase in the annual hour burden of 386 hours due to the agency's consolidation of the burden from OMB Control Number 1615-0024, where the I-485C was previously approved for use, into OMB Control Number 1615-0023. Please note that there is a decrease from the total previously reported in 1615-0024 (1,000 hours) due to a revision in the agency's estimate of the number of respondents for this form. There is no change to the estimated annual hour burden for the I-485E Supplement.

USCIS is revising Form I-485, and Supplements A and E to add Supplement C, and to incorporate instructions for Indochinese parolees who complete this form. See the attached TOCs.

- 16. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

USCIS does not intend to employ the use of statistics or the publication thereof for this collection of information.

- 17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

USCIS will display the expiration date for this information collection.

- 18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.**

USCIS does not request an exception to the certification of this information collection.

- B. Collections of Information Employing Statistical Methods.**

There is no statistical methodology involved with this collection.