

**SUPPORTING STATEMENT FOR
Record of Abandonment of Lawful Permanent Resident Status
OMB Control No.: 1615-NEW
COLLECTION INSTRUMENT Form I-407**

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.**

The Immigration and Nationality Act provides for the granting to an eligible alien the status of having been lawfully admitted to the United States for permanent residence (“LPR status”). Once an alien acquires LPR status, he or she has “the privilege of residing permanently in the United States as an immigrant.” INA § 101(a)(20), 8 U.S.C. § 1101(a)(20). Section 101(a)(20) makes clear that this privilege continues so long as the person’s status has not changed. INA § 101(a)(13)(C)(i), 8 U.S.C. § 1101(a)(13)(C)(i), in turn, acknowledges that abandonment of LPR status is one way in which a person’s status can change. Neither the INA nor DHS regulations discuss, in detail, how one may abandon LPR status. Instead, this issue is developed through the precedent decisions of the Board of Immigration Appeals. The leading cases are *Matter of Huang*, 19 I&N 749 (BIA 1988) and *Matter of Kane*, 15 I&N Dec. 258 (BIA 1975). The essential element of abandonment of LPR status is moving abroad with the intent of living abroad permanently and of giving up one’s right to live in the United States. The intent to abandon can be inferred from the person’s conduct. USCIS has decided to provide a form that the LPR can use to formalize their intent to give up their right to live in the United States so their intent is not required to be inferred.

- 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.**

Lawful permanent residents use Form I-407 to inform DHS and formally record their abandonment of lawful permanent resident status. The Department of Homeland Security (DHS) uses the information collected in the form to record the LPR’s abandonment of lawful permanent resident status.

The Form I-407 and instructions are also used by DHS to inform lawful permanent residents regarding their right to a hearing before an Immigration Judge (IJ) at which hearing the IJ can determine whether the lawful permanent resident abandoned his or her LPR status.

Form I-407 has been used by the Department of Homeland Security to collect information and record the LPR's abandonment of his or her lawful permanent resident status for several years.

The Internal Revenue Code, 26 U.S.C. section 6039G(d)(3), requires DHS to report an individual's loss of LPR status to the International Revenue Service. An individual may also claim that the individual is no longer an LPR, for Federal tax purposes, by filing with IRS a properly completed IRS Form 8854 (2014). Question 5 in Part I of the 2014 edition of Form I-8854 asks the individual to specify the date on which the individual notified DHS of the individual's abandonment of LPR status. The Instructions indicate that the filing of a DHS Form I-407 with DHS is generally taken to be the date of loss of LPR status for Federal tax purposes.

- 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 collection of information using Form I-407 does not involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. The process by which the form is provided and obtained at the U.S. port of entry does not easily lend itself to the use of electronic media. However, the collected information is processed and maintained using the following USCIS technological systems:

- Case and Activity Management of International Operations (CAMINO)
- Central Index System (CIS)
- Computer - Linked Application Information Management System (CLAIMS 3)

The systems are used to record and maintain information regarding the abandonment of permanent residence by a lawful permanent resident (LPR) alien.

To reduce the burden on the Lawful Permanent Residents (LPRs); LPRs will be able to download the Form I- 407 fill it out electronically, and print out the completed form to submit to DHS.

- 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.**

There is no duplication of information collected in the form I-407. There is no similar information available that can be used or modified for the purposes of collecting information regarding an alien's abandonment of lawful permanent resident status.

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 record information submitted by applicants who abandon their Lawful Permanent Resident 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.**

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.**

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

On September 20, 2013 USCIS published a 60-day notice in the Federal Register at 78 FR 57869. USCIS received comments from one commenter after publishing that notice.

Below is a summary of the comments received and USCIS response:

The commenter states in his comments that "USCIS Form I-407 previously did exist as an official form and had for many years under Legacy INS." The commenter also maintains that after the creation of DHS, the form "fell through the cracks" but continued to be used after alterations by the Department of State.

USCIS acknowledges that Form I-407 has been in existence for many years. Between April 1, 1997, 62 FR 10312, 10395 (1997) and October 29, 2011, 76 FR 53754, 53797 (2011), the Form I-407 was included in the list of prescribed immigration forms at 8 CFR 299.1. In fact, a regulation promulgated in 1946, 11 FR 9982, 9984 (1946), provided for the submission of a Form I-407, if an individual wanted to give up LPR status. However, USCIS has not been able to find any record that the former Immigration and Naturalization Service ever obtained approval of the Form I-407 for public use under the Paperwork Reduction Act, nor has the USCIS. The current approval process seeks to correct this deficiency.

The commenter also maintains that "The Form I-407 may be used in conjunction with the abandonment of conditional LPR status so as to allow for a 're-adjustment' (or 're-immigration') in a different immigrant or nonimmigrant visa category."

USCIS does not agree that Form I-407 can be used by someone in the United States who

may be subject to removal and wants to seek a new grant of adjustment of status. Under controlling precedents, “abandonment” of lawful permanent resident (LPR) status consists of leaving the United States with the intent of giving up LPR status. *Matter of Huang*, 19 I&N Dec. 749 (BIA 1988); *Matter of Kane*, 15 I&N Dec. 258 (BIA 1975). The purpose of the Form I-407 is to create a record of that intent. An alien who is in the United States may take actions that result in loss of LPR status. The alien may concede that he or she is subject to removal, or agree not to contest termination of LPR status under INA 216 or 216A. But these actions are not “abandonment.”

The commenter asserts that EB-5 alien entrepreneurs may utilize the I-407 form where seeking to cure a defect or acknowledge a material change in the investment plan that forms the basis of the entrepreneur’s LPR status. The commenter suggests that “additional oddball situations” should be included in this practice.

USCIS acknowledges that the unapproved Form I-407 has been accepted in the case of alien entrepreneurs. This hybrid practice is an outgrowth of the provisions of sections 11031-11037 of the 21st Century Department of Justice Appropriations Authorization Act, Pub. L. 107-273. Congress expressly permitted certain alien entrepreneurs to cure problems with their investment plans. Congress also limited the ability of DHS to take adverse action against these aliens. Thus, the affected alien cannot naturalize (since the acquisition of LPR status was not correct), but also cannot be placed in removal proceedings (where the LPR might be able to successfully contest termination). In this context, the Form I-407 is not used as an “abandonment” of LPR status, but as written evidence that the alien does not contest termination of his or her prior status. However, USCIS sees no reason to expand this hybrid use of the Form I-407 beyond this unique situation.

On January 24, 2014, USCIS published a 30-day notice in the Federal Register at 79 FR 4169. USCIS received a comment after publishing that notice.

Below is a summary of USCIS response:

USCIS does not “adjudicate” a Form I-407, but rather accepts it as a method for an LPR to notify USCIS of the LPR’s abandonment of status. To complete the processing the Form I-407 USCIS updates the alien’s record to reflect that the alien has properly submitted the Form I-407, and that the alien is no longer an LPR. USCIS does not make a determination of the actual date of abandonment, because the date of the abandonment is not relevant to USCIS processes. Since USCIS does not need the exact date of abandonment for immigration purposes, the Form I-407 will not be further revised to incorporate that information.

The commenter’s concerns about the “date of abandonment” seem chiefly to relate to issues of the alien’s tax liability. But neither USCIS nor other DHS components administer the Internal Revenue Code (“IRC”). If, for purposes of the IRC, an alien claims to have abandoned LPR status as of a certain date, the alien should present

appropriate evidence in support of that claim to the Internal Revenue Service.

The commenter also refers to certificates of loss of nationality, issued by the Department of State. A citizen would not file the Form I-407 to document loss of citizenship. Only an alien who was an LPR, but claims to have abandoned that status, would file Form I-407.

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

USCIS does not provide any payment for benefit sought.

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

There is no assurance of confidentiality. The system of records notices associated with this information collection are: Privacy Act of 1974, 5 U.S.C. 552a; U.S. Citizenship and Immigration Services, Immigration and Customs Enforcement, Customs and Border Protection--001 Alien File, Index, and National File Tracking System of Records, published on June 13, 2011, at 76 FR 34233, and United States Citizenship and Immigration Services, Benefits Information System, published at 73 FR 56596 on September 29, 2008. The associated privacy impact assessments are USCIS Benefits Processing of Applicants other than Petitions for Naturalization, Refugee Status, and Asylum (CLAIMS 3), September 5, 2008, and Central Index System, June 22, 2007.

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.

Form I-407 does not collect any of the type of information described in this question.

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 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
United States Lawful Permanent Residents who abandon Lawful Permanent Resident status.	Record of Abandonment of Lawful Permanent Resident Status/ Form I-407	9,371	1	15 minutes (.25 hours)	2,342	\$31.69	\$74,217
Total		9,371			2,342		\$74,217

* The above Average Hourly Wage Rate is $\$22.01 \times 1.44$ to account for benefits. See, Bureau of Labor Statistics, Economic News Release, Table 1. The Employer costs per hour worked for employee compensation and costs as a percent of total compensation: Civilian workers, by major occupational and industry group, Dec. 2012, available at: http://www.bls.gov/news.release/archives/ecec_03122013.pdf. The selection of "All Occupations" (for example) was chosen as the expected respondents for this collection could be expected to be from any occupation.

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, start-up, operational or maintenance cost associated with this information collection. There is no fee charge with this collection.

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. Collecting and Processing:	\$93,710
b. Total Cost to Government	\$93,710

Government Cost

The estimated cost to the Government is \$93,710. This figure is calculated by multiplying the estimated number of respondents (9,371) x (1) frequency of response x (.25 hours) 15 minutes per response x \$40 (suggested average hourly rate for clerical,

officer, and supervisory time with benefits) for USCIS time required to collect and process information.

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-407	0	2,342			0	2,342
Total(s)	0	2,342			0	2,342

There has been an increase of 2,342 in the burden hour inventory. While this information collection has been in use, this is the first submission to OMB for approval. This newly submitted time burden results in an increase in the time burden inventory. There is no fee charged for Form I-407 because DHS does not want the fee to serve as a deterrent to the filing of the form by an LPR who wishes to abandon that status.

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.

This information collection will not be published for statistical purposes.

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 OMB approval of 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.