

July 27, 2015

**Submitted via e-mail**

Attention: United States Citizenship and Immigration Services  
Office of Policy and Strategy  
Regulatory Coordination Division  
20 Massachusetts Avenue NW.  
Washington, DC 20529-2140

**Re: U.S. Citizenship and Immigration Services Notice (OMB Control Number 1615-0023); Agency Information Collection Activities: Application To Register Permanent Residence or Adjust Status, Form I- 485 Supplement A, and Instruction Booklet for Filing Form I- 485 and Supplement A, Form I- 485; Revision of a Currently Approved Collection, published at 80 Fed. Reg. 36829-36830 (June 26, 2015)**

Dear Sir or Madam:

The Council for Global Immigration (CFG I) is pleased to submit these comments in connection to the proposed revisions of Form I-485, Application to Register Permanent Residence or Adjust Status, and Instructions for Form I-485. CFG I continues to appreciate all opportunities to provide input to USCIS on updates and modernization of the forms our members use.

CFG I, founded in 1972 as the American Council on International Personnel, is a strategic affiliate of SHRM. It is a nonprofit trade association comprised of leading multinational corporations, universities, and research institutions committed to advancing the employment-based immigration of high-skilled professionals. CFG I bridges the public and private sectors to promote sensible, forward-thinking policies that foster innovation and global talent mobility.

**Comments and Recommendations on Instruction Booklet**

- 1. Focus the instructions on the details of how to submit the application rather than copying or paraphrasing legal requirements that can lead unprepared individuals astray in preparing adjustment-of-status applications.**

For many years, CFG I has advocated for clear, concise instructions on USCIS forms that provide basic, useful information about completing forms (see, for example, our [2013 comment on the revision of Form I-129 and instructions](#)). As we stated in our comments on Form I-129 and instructions:

We believe that adding more detail to the instructions will lead petitioners to rely more upon the instructions and less on the regulations. There is no “short-cut” to learning the rules; a fundamental understanding of the statute, regulations and relevant policy guidance is required to complete [immigration forms]. Extensive instructions could well leave a petitioner with the impression that all necessary information is contained in the instructions.

The expansion of Form I-129 instructions (from 24 pages to 29 pages) is miniscule compared to the expansion of instructions now being proposed for Form I-485 and Supplement A. The current instructions are a concise 8 pages. The expansion being proposed would create a new 125 page “Instruction Booklet” – over 15 times the size of the current instructions.

We note that, in response to the comments received on the first public notice with regard to these changes, USCIS wrote:

USCIS provides detailed instructions so individuals are able to complete the form on their own. USCIS believes the instructions are easy to understand, but if applicants need clarification, they may ask a USCIS employee for clarification. Legal concepts are not oversimplified and, if instructions are followed as written, an answer an applicant provides would not be harmful.<sup>1</sup>

We respectfully suggest that, while “USCIS believes the instructions are easy to understand,” it is human nature that those who create instructions, and clearly know what those instructions are meant to convey, would read the instructions and conclude that they are “easy to understand.” This does not necessarily translate into foreign nationals and employers finding the instructions easy to understand and, in fact, the mere breadth of the instructions might discourage an otherwise anxious would-be legal permanent resident from adjusting status.

Furthermore, it is presumptive to state that “[l]egal concepts are not oversimplified” and “if instructions are followed as written, an answer an applicant provides would not be harmful.” Any statement of legal concepts in instructions, outside the legal code, is by definition a simplification, and carries the danger of inconsistency with the law. While it is the goal of USCIS to have instructions that, if followed as written, will not have harmful consequences, legal history is flush with examples of individuals who thought they were following written instructions but faced harmful consequences nonetheless. It naturally follows that it is dangerous for USCIS to have, as an overarching goal in creating instructions, that individuals should be “able to complete the form on their own.” Most people are not attorneys and it is simply unrealistic to believe that everyone completing immigration forms has read and understands the “law” (*i.e.*, not only the instructions, but also the applicable statutory and regulatory sections) to the point where they can understand the questions, much less provide accurate, appropriate and responsive answers.

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<sup>1</sup> I-485/485A Public Comments Summary of Responses, p. 23, available at <http://www.regulations.gov/#!documentDetail;D=USCIS-2009-0020-0083>

It is a nice idea, in theory, that the adjustment of status would be simple enough that most individuals would be able to complete the form on their own; however, that is simply not the case, and USCIS should not be over-simplifying the process by promoting the perception that the I-485 instructions are so “complete” or “exhaustive” that a typical applicant would be able to properly complete the form simply by reading the instruction booklet. In reality, adjustment of status is a complicated process and it is more-often-than-not the case that individuals should seek legal counsel; and if they do not, at the very least, they should familiarize themselves with the law – not merely the instruction booklet – relevant to the adjustment of status process.

We therefore continue to recommend simple instructions that point to the legal code where relevant concepts can be found rather than attempting to restate or simplify complex legal concepts. Upon reading the type of instructions we propose, individuals can make informed decisions as to whether or not to complete the process on their own or whether they would like to seek assistance from an attorney or accredited representative.

## **2. Revise language in Booklet regarding attorney or accredited representative consultation and place it in conspicuous locations throughout the instructions.**

We thank the agency for, pursuant to a prior comment, adding language regarding the possible desirability of attorney or accredited representative consultation. However, we recommend modification of this language.

The language added is as follows:

If you do not understand these instructions, you may wish to consult an attorney or accredited representative.

This fails to recognize, as stated above, that many individuals may think they understand the instructions, but in actuality, will not understand the instructions and could face harmful consequences as a result. We therefore recommend the following language:

Adjustment of status includes many legal concepts that may be best understood by an attorney or accredited representative. If you are not completely sure you understand these instructions, you may wish to consult an attorney or accredited representative.

Additionally, we note that the language regarding the possible desirability of attorney or accredited representative consultation is not easily found in the instructions. The language is only found in one location: on page vi, in the general overview, at the end of a paragraph otherwise focused on what sections of the Booklet an individual should review.

We recommend putting our proposed language in locations more likely to be viewed by individuals reading the instructions: at the beginning of page 1 of the Instructions for Application to Register Permanent Residence or Adjust Status, at the beginning of each set of additional instructions for each category of adjustment of status, and at the beginning of page 1 of the instructions for Supplement A.

**3. Provide separate sets of instructions for each category of adjustment of status rather than one large Booklet covering all sets of instructions, as well as separate instructions for Supplement A.**

As USCIS acknowledges, individuals do not need to read all of the instructions in the Booklet to complete their individual adjustment of status. However, we reiterate that the mere appearance of a 125-page Booklet may be enough to discourage many would-be legal permanent residents from undertaking the adjustment process. Furthermore, many such applicants will want to print the instructions. Printing 125 pages of instructions is highly contrary to the spirit of the Paperwork reduction action.

This proposed Booklet includes the following (after the cover page and table of contents):

- A 4 page “general overview” on using the booklet
- 18 pages of “Instructions for Application to Register Permanent Residence or Adjust Status.” These instructions are essentially the more traditional instructions provided by USCIS for forms and are in the format of the current Form I-485 instructions – hence, even without the added instructional materials in the booklet, the instructions would expand from 8 pages to 18 pages.
- Additional instructions for each category of adjustment of status as follows:
  - Family (15 pages)
  - Employment (8 pages)
  - Special Immigrants (18 pages)
  - Human Trafficking and Crime (13 pages)
  - Asylum and Refugee (6 pages)
  - Programs Based on Certain Public Laws (18 pages)
  - Additional Options for Lawful Permanent Resident Status Under a Special Program (11 pages)
- Instructions for Supplement A (9 pages)

An individual filing for a standard employment-based adjustment of status needs, at most, 30 pages of these instructions (general instructions, Instructions for Application to Register Permanent Residence or Adjust Status, and the additional instructions for employment-based adjustment of status). A full 90 pages of the booklet have no relevance to employment-based immigration.

We believe that employment-based adjustees would greatly benefit from a separate set of instructions for employment-based immigration, which could be as short as 30 pages, even if no other measures were taken to shorten the proposed instructions.

Other such shorter instruction books should be created for each category of adjustment of status, and the instructions for Supplement A should remain separate.

We recommend further measures to shorten the proposed instructions below.

**4. Make the following specific recommended changes to “Instructions for Application to Register Permanent Residence or Adjust Status” section of Booklet.**

With regard to the “Instructions for Application to Register Permanent Residence or Adjust Status,” we reiterate that the goal should be clear, concise instructions for filling out the form rather than an explanation of legal concepts that can be found in legal code. To that end, we urge reformation of this portion of the instructions. While we understand some of the expansion of this section from 8 to 18 pages is due to reformatting aimed at better use of white space which, in theory, improves readability, we also note that the verbiage in this section has increased immensely and could be made much more concise. Some sections could be eliminated entirely. We make the following specific recommendations for improving and decreasing the length of this portion of the instructions:

- a. **Replace “What Immigrant Category Do I File Under?” with a general list of categories of adjustment of status.**

The current instructions contain 4 pages of information detailing 16 categories (and even more subcategories) of adjustment of status. Most individuals would not be looking at the instructions for Form I-485 without knowing what category they fall under. At the very least, they are likely to know their general basis of eligibility (employment, family, asylum/refugee, etc.).

Given the new format of the instructions, which include additional instructions for each general category, we recommend replacing the current “What Immigrant Category Do I File Under?” section with a simple list of those categories. Each category should have minimal description with references to more detailed information about the category in the additional instructions for that category. Such a format could reduce this current 4 page section to about half a page.

- b. **As the bars and grounds of inadmissibility vary by the basis of adjustment of status, remove the “Who is Not Eligible to Adjust Status” section and put more specific instructions in additional instructions for each category.**

The section on adjustment bars in the general instructions is likely to cause confusion. The section lists 13 bars to adjustment, and provides two crucial notes after the list: one indicating that the list is not comprehensive, and one indicating that, depending on the individual’s circumstances, certain listed bars may not apply.

Given that these instructions are category-specific, we recommend removing these instructions from the general instructions and placing the more specific instructions in the additional instructions for each category.

**5. After removing unnecessary explanatory information, provide more practical information about filing applications.**

USCIS has indicated that extensive explanatory information is included in the instructions in part to reduce the need for Requests for Evidence (RFEs). We respectfully suggest that the confusing explanatory information contained in the proposed Booklet is likely to have the opposite effect, necessitating more RFEs.

A more effective way to reduce RFEs is to provide practical filing tips, such as the recommended order of document submission, how to attach checks, how to fasten documents together, and other practical instructions that will aid service centers and lockboxes in processing the filings. This information is not readily available elsewhere and would be a simple measure to enhance the quality of submissions.

**6. Create separate sets of instructions for employers filing Form I-140, Immigrant Petition For Alien Worker, and those filing Form I-526, Immigrant Petition by Alien Entrepreneur.**

With regard to the “additional instructions” sections, we once again recommend clear, concise instructions for completing the form rather than lengthy explanation of legal concepts that can be found in legal code.

Additionally, we note the current 8-page set of Additional Instructions for Employment-Based Adjustment of Status includes 4 pages of information about filing an adjustment of status based on Form I-140 and 3 pages of information about filing an adjustment of status based on Form I-526. It is extremely unlikely that one would not know prior to reading the instructions which form is the basis for the adjustment. Thus, there is no reason for employers filing Form I-140 to have the instructions for Form I-526, and vice versa. In the spirit of the Paperwork Reduction Act, we thus recommend providing separate sets of additional instructions for each.

**Comments and Recommendations on Form I-485**

**1. In the spirit of the Paperwork Reduction Act, make a concerted effort to reduce the length of the form.**

The increased length of the form – from 5 to 20 pages – is (as indicated by the comments USCIS previously received) a real concern for many stakeholders. While we recognize that the agency has many reasons for increasing the length of the form (including incorporation of Form G-325A, use of “white space” aimed at improving readability, creation of a form that will more easily be incorporated for electronic filing, and additional information collection that has now become necessary), we fear that the appearance of the form as proposed will discourage would-be applicants from applying for legal permanent residence.

While we encourage the agency to use experts in form development to create a more streamlined form in general, we offer the following recommendations as a starting point:

**a. Reformat Part 2, Application Type or Filing Category, to be more readable and to save space.**

We understand the desirability of listing more specific filing categories than the previous version of Form I-485 contained. However, the new version of the form contains 31 boxes that are generally placed into 7 categories and it is difficult and confusing to find a particular category of eligibility given the current format of the page.

The previous version of the form, while it might not use optimized “white space,” is much easier to read and understand. We recommend placing the filing categories in a single column as was done in the previous version of the form.

**b. Remove Part 4, Information About Your Parents.**

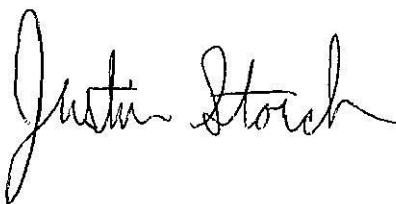
It is our understanding that information about parents is unnecessary for adjudication of Form I-485 and we thus recommend its removal. We understand from your response to a previous commenter that this information is included on the form because it is taken from Form G-325A. The fact that the information appeared on a now-obsolete form is irrelevant; new forms should request only information which is relevant to the benefit being sought.

**c. Move interpreter information, certification and signature into a supplement.**

The interpreter information, certification and signature is an extraneous page to most applicants who do not require an interpreter. As such, we recommend moving this page into a supplement that can be added only if necessary.

CFGI once again thanks USCIS for the opportunity to comment on the proposed revisions to Form I-485 and its Instructions. We would be pleased to provide additional information and feedback at any time.

Sincerely,

A handwritten signature in black ink that reads "Justin Storch". The signature is written in a cursive, flowing style.

Justin Storch  
Manager or Agency Liaison