

May 31, 2016

**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; Docket ID USCIS-2009-0020); Agency Information Collection Activities: Application To Register Permanent Residence or Adjust Status, Form I–485, and Adjustment of Status Under Section 245(i), Supplement A to Form I–485; Revision of a Currently Approved Collection, published at 81 Fed. Reg. 18636-18637 (March 31, 2016)**

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 Instructions**

CFG I submitted [comments](#) last year on USCIS’s prior proposed revisions to Form I-485 and instructions. The revisions, which were ultimately withdrawn by USCIS, would have expanded the Form I-485 instructions from the current 8 pages into a 125-page booklet. While we applaud the agency for withdrawing those excessive proposed revisions, we believe the current proposed revisions still unnecessarily complicate the process by expanding the instructions to 40 pages – five times the length of the existing instructions. For the sake of clarity as well as efficiency in the instructions, we make the following recommendations:

**I. Provide separate sets of instructions for each category of adjustment of status rather than one unwieldy document covering instructions for all categories.**

Of the 40 pages of instructions, 22 pages are “additional instructions” that apply only to specific immigrant categories. For employment-based applicants filing on the basis of Form I-140, less than one-half of one page of those 22 pages applies to their immigrant category; yet, the thousands of applicants in this category would be forced to read all 22 pages and puzzle out which provision(s) apply to their type of case.

Thus, we reiterate the recommendation in our 2015 comments that separate sets of instructions be produced for each category. Eliminating 21 pages of irrelevant additional instructions, on its own, would reduce the length of the instructions for filing based on Form I-140 from the proposed 40 pages to 19 pages. Further reductions could be made by eliminating information in the prefatory sections and general instructions that does not pertain to adjustment of status applications based on Form I-140.

**II. Provide simple and concise instructions on filling out the form rather than instructions which appear detailed but which, in fact, oversimplify the process, leading individuals to the incorrect conclusion that they have all the information and guidance necessary to complete the form properly.**

As we noted in our 2015 comments, USCIS said it “believes the [I-485] instructions are easy to understand.” We responded, “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.’” The current proposed instructions, while less confusing than the ones proposed in 2015, are very far from “easy to understand,” particularly for individuals who are not immigration professionals.

Based on more than four decades of experience, CFGI can confidently state that giving people just enough knowledge to think they know how to properly complete and file immigration forms is a dangerous proposition, often resulting in processing delays, inefficiency and wasted resources (for USCIS, the applicant, and the applicant’s family members and employer); in some cases, innocent errors based on reasonable, but incorrect, interpretations of confusing USCIS instructions have had catastrophic consequences. The collective experience of CFGI members working in-house at large organizations, often with extensive assistance from outside counsel with years of immigration experience, leads us to the conclusion that these processes should generally not be completed without guidance from qualified individuals. This is simply not an instance in which “reading the instructions” is generally sufficient.

We therefore renew our recommendation that instructions avoid restatement (or paraphrasing) of complex legal code; instead, instructions should direct individuals to the specific relevant statutory or regulatory section(s).

By doing this, three prefatory sections could be virtually eliminated, reducing the length of the instructions by about three pages:

- “Who May File Form I-485?” on Page 2
- “Who May Not Be Able to Adjust Status?” on Page 3
- “When Should I File Form I-485?” on Page 4

### **III. Move the checklist to the beginning of the instructions and incorporate elements of general instructions and evidence that must be submitted.**

The checklist on page 18 of the instructions is helpful, but is buried in the middle of 40 pages of instructions. We recommend moving the checklist to the beginning of the document as it is a valuable way to ensure the application is prepared correctly and to avoid unnecessary denials and RFEs.

Furthermore, we recommend incorporating into the checklist certain elements of the general instructions and evidence that needs to be submitted. These changes would make the checklist a convenient reference for individuals attempting to complete the I-485 process without legal assistance as well as individuals who are familiar with the form who do not need to read detailed instructions every time they complete Form I-485. The checklist should not include information irrelevant to the immigrant category (pursuant to our above recommendation for separate sets of instructions) and should clearly delineate what one does or does not need to submit based on other circumstances – for instance, what documents are only required for derivatives or for primary applicants currently holding specific nonimmigrant visas.

A proposed checklist for instructions for adjustment of status applications based on Form I-140 is attached in the appendix to these comments.

### **IV. Insert language advising applicants to seek professional assistance, if necessary.**

The 2015 proposed instructions included the following sentence which is not in the current proposed instructions:

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

In our 2015 comments, we recognized the value of that instruction, but thought the language should be even more specific. We therefore suggest that this instruction be included in the revised instruction, but be expanded as follows:

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.

We recommend that this language be inserted at the beginning of the Instructions.

**V. After removing unnecessary explanatory information, provide more practical information about filing the I-485 application.**

In our 2015 comments, we made the following comment and recommendation which we believe apply equally to the changes currently being proposed:

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.

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

**1. Reduce the length of the form.**

CFGI continues to have general concerns over the length of USCIS forms. Here, the proposed revisions increase the form from 5 to 18 pages. As we said in our 2015 comments, we recognize that there are some legitimate reasons for lengthening the form, such as incorporating the G-325A into the form; however, we fear that the sheer mass of the form and instructions as proposed will simply discourage many would-be applicants from applying for legal permanent residence.

In general, we believe that USCIS should create more streamlined forms for all their product lines, not forms and instructions which seem to become exponentially longer and more confusing with each revision. With regard to the proposed revisions to Form I-485, we reiterate the following recommendations we made in 2015:

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

We again recommend leaving Part 2 in a single column as it exists on the current form. The current proposed revision is similar to what the agency proposed in 2015, with 27 categories instead of 31. The proposed format makes it difficult and confusing to find a particular category of eligibility. It would be much easier to find the category in a single column.

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

We stated in our 2015 comments:

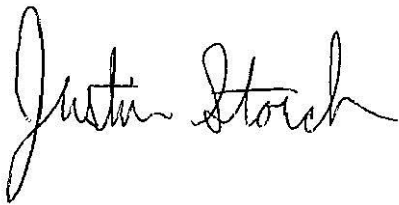
It is our understanding that information about parents is unnecessary for adjudication of Form I-485 and we thus recommend its removal. We understand from your response to a previous commenter that this information is included on the form because it is taken from Form G-325A. The fact that the information 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.**

As we noted in our 2015 comments, the interpreter information, certification and signature is needed only by applicants who require an interpreter. As such, we recommend moving this page into a supplement that can be added only if necessary.

CFGFI 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

**Appendix: Proposed Checklist for Form I-485 Instructions to be used when the adjustment is based on Form I-140**

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- ☐ I have read these Instructions.
- ☐ I have signed Form I-485 in Part 10., Item Number 6.a.
- ☐ I have included the required filing fee and biometric services fee (if applicable) unless I am exempt or the fee has been waived.
- ☐ I have included legible photocopies of documents requested, unless the Instructions specifically state that I must submit an original document.
- ☐ I have submitted full certified English translations meeting the standards laid out in these instructions for any documents I submitted with information in a foreign language.
- ☐ I have typed or printed the form legibly in black ink.
- ☐ I have submitted the following items:
  - **Two identical passport style photos** meeting the standards laid out in these instructions;
  - **Copy of government issued identity document with photograph;**
  - **Copy of birth certificate** (except for refugees and asylees for whom a birth certificate is unavailable);
  - **Documentation showing that I was inspected by a DHS official and either admitted or paroled into the United States** meeting the standards laid out in these instructions (except for registry applicants, 245(i) applicants, and individuals born under diplomatic status in the United States);
  - **Documentation of my eligibility to adjust pursuant to Form I-140;**
  - **Evidence of continuously maintaining a lawful status since entry into the United States** meeting the standards laid out in these instructions.
  - **Evidence of financial support** meeting the standards laid out in these instructions.
  - **Report of Medical Examination and Vaccination Record (Form I-693)**
  - **Certified police and court records** for any criminal charges, arrests or convictions I may have.
  - **Evidence of a job offer** meeting the standards laid out in these instructions.
- ☐ If I am applying as the derivative applicant spouse of the principal applicant, I have submitted a photocopy of my marriage certificate meeting the standards laid out in these instructions.
- ☐ If I am inadmissible to the United States based on one or more grounds of inadmissibility outlined in INA section 212(a). I have submitted a waiver of inadmissibility.
- ☐ If I currently hold J-1 or J-2 nonimmigrant exchange visitor status, I have submitted documentation regarding my J status meeting the standards laid out in these instructions.
- ☐ If I currently hold A, G, or E nonimmigrant status and enjoy diplomatic privileges and immunities as a result of that status, I have submitted the required forms for waiver of diplomatic rights, privileges, exemptions, and immunities pursuant to these instructions.