

I-485 Standard Operating Procedure



Overview

Introduction

This Standard Operating Procedure (SOP) delineates roles and responsibilities for the processing and adjudication of Form I-485: Application for Adjustment of Status. Form I-485 is an application to register permanent residence or adjust status. Applicants may concurrently file other applications with the I-485.

Table of Contents
Section 1: Mailroom
Section 2: INS File Review
Section 3: Central Index System (CIS)/G-325A Processing
Section 4: Data Entry
Section 5: File Maintenance
Section 6: Workload Distribution
Section 7: Adjudications <ul style="list-style-type: none">• Basis For Filing• Discussion of Section 245 of the INA• Adjudicating the I-485• I-485 Processing Procedures• Adjudications Index• Adjudications Appendix A-Haitian Refugee Immigration Fairness Act (HRIFA)• Adjudications Appendix B- Nicaraguan Adjustment and Central American Relief Act (NACARA)• Adjudications Appendix C-Section 212(a) Inadmissibility Overview• Adjudications Appendix D- Affidavit Of Support
Section 8: Post Adjudication Processing of the I-485
Addendum: Processing the I-765
Section 9: I-485 SOP Glossary

This SOP is not intended to be, and should not be taken as, an authoritative statement of the rules of decision for Form I-485 adjustment of status cases. This SOP is essentially just a guide for the consistent processing of Form I-485 adjustment of status cases. The Service bases the actual decision in a particular case on the record of that particular case and on the Act, regulations, precedent administrative and judicial decisions, and general statements of Service policy relating to the case. Thus, nothing in this SOP creates any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

Overview, Continued

General Information

Immigrant Visa Petition In order to be eligible to apply for adjustment of status, the applicant must have an approved underlying visa petition. This underlying petition is submitted for the applicant by a sponsor and, once approved, qualifies him or her to be able to apply for adjustment of status. There are two distinct forms of sponsorship: sponsorship by a business or sponsorship by a family member. Given these two distinct forms of sponsorship, I-485 applications can be classified as either Employment-based or Family-based applications.

Employment-Based Legal Permanent Residence Employment-based I-485 applications are those applications with approved underlying visa petitions that have been submitted by a business or employer. These types of petitions include, but are not limited to:

- Form I-140, Immigrant Petition for an Alien Worker;
- Form I-526, Immigrant Petition for an Alien Entrepreneur; or
- Form I-360, Religious Workers.

Family-Based Legal Permanent Residence Family-based I-485 applications are those applications with approved underlying visa petitions that have been submitted by a family member. Most often, a sponsor will submit Form I-130, Petition for Alien Relative. Vermont is the only Service Center currently accepting Family-based applications. This is a pilot program for Baltimore District cases only.

Special Programs In addition to being eligible via sponsorship from a business or family member, an applicant may also be eligible to apply for permanent residence through other programs (*i.e.*, Cuban, Nicaraguan, refugee, asylee, lottery winner, or a Lautenberg parolee.). The applicant must meet special criteria to qualify under one of these programs. Because the eligibility requirements for these programs differ from normal Employment-based or Family-based cases, applications submitted under their criteria will undergo different review steps.

Continued on next page

Overview, Continued

Principal vs. Dependents Filing I-485 Applications

Each person seeking adjustment of status to that of a lawful permanent resident in the United States must file his/her own I-485 application. The principal applicant is the beneficiary of an approved immigrant visa petition or other underlying Immigration benefit.

In certain situations, family members of that applicant may file an I-485 using the approved immigrant visa petition of the principal applicant. The family member is known as a dependent and is defined as the spouse and/or child of the principal applicant. The principal application must be approved prior to approval of the dependent application.

The following is a list of items to keep in mind when reviewing a dependent's application:

- Dependent 14 years of age or older *must* sign his/her own application;
- Dependent children are unmarried children under the age of 21; and
- Dependents may file an I-485 at the same time, after or during the period of time when the principal's application is pending, so long as the relationship was established prior to or during the pendency of the principal applicant's adjustment application.

Family Packs

Two or more Form I-485 applications may be submitted together as a "family pack" (*i.e.*, when family members submit their applications together as a package). These applications must remain together throughout the entire process.

Employment-based vs. Family-based Applications

For the most part, employment-based applications are subject to the same procedures as family-based applications. However, in some instances, the procedures differ. These differences will be clearly delineated throughout the SOP. In addition, while all service centers accept employment-based forms, Vermont is the only service center currently accepting family-based I-485 forms. Vermont is assisting the Baltimore District Office's pilot for direct mail and as such, accepts and processes all family-based applications received from Baltimore.

Continued on next page

Overview, Continued

Partial List of Key Terms

Duplicate and Second Filings

- Duplicate Filings

Duplicate filings refer to I-485 applications submitted to a service center without a new fee, but with evidence that the original I-485 application is pending at another INS office or Service Center. If the contractor encounters a filing like this, he/she should route it to INS Review.

- Second Filings

Second filings refer to I-485 applications submitted to a service center with a new filing fee even though one may be pending at another INS office. Second filings will be handled under the normal process.

District Filings

On occasion, a district office may accept an I-485 filing and receipt the fee. These cases would then be forwarded to the service center with the proper jurisdiction. If the contractor encounters the following situations, the case should be routed to the designated INS personnel for review:

- An I-485 within the Service Center's jurisdiction;
 - An I-485 with an Immigrant Visa (IV) petition to be revoked by the Service Center;
 - An I-485 within the Service Center's jurisdiction which was filed when the visa was not current; and/or
 - An I-485 outside of Service Center's jurisdiction.
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Overview, Continued

Concurrent Filings

I-485s may be filed concurrently with other applications or forms. The acceptable forms/applications include, but are not limited to:

- Form I-140 Immigrant Petition for an Alien Worker (if a visa is immediately available);
- Form I-131, Application for Travel Document;
- Form I-191, Application for Advance Permission to Return to Unrelinquished Domicile;
- Form I-212, Application for Permission to Reapply for Admission into the United States After Deportation or Removal;
- Form I-130, Petition for an Alien Relative (Vermont only for Baltimore cases);
- Form I-360, Petition for Special Immigrant—Battered Spouses (if the visa is available. Vermont has sole jurisdiction for these cases.);
- I-601, Application for Waiver of Grounds of Excludability;
- Form I-765, Application for Employment Authorization;
- Form I-824, Application for Action on an Approved Application or Petition; and
- Form I-864, Affidavit of Support.

Any forms submitted concurrently with the I-485 are to be processed in accordance with the SOP for that form type.

Not Acceptable Concurrent Submission

The following forms cannot be filed concurrent to the I-485 application:

- Form I-140, Immigrant Petition for an Alien Worker (if the visa is not immediately available);
 - I-360, Petition for Special Immigrants, Religious Workers;
 - Form I-360, Petition for Special Immigrant—Battered Spouses (except Vermont);
 - Form I-612, Application for Waiver of Foreign Residence Requirements of Section 212(e) of the Immigration and Nationality Act (INA), as amended (unless it is accompanied by a "No Objection" letter); and
 - Form I-526, Immigrant Petition for Alien Entrepreneur.
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Overview, Continued

Age-Outs

INS makes every effort to expedite the processing of the I-485 for dependent children who are within one year of reaching the age of 21. These filings are expedited through the process in order to be adjudicated prior to the applicant turning age 21.

Refugee and Asylee applicants do not age-out and therefore will not be expedited. (Asylee adjustment applicants should not be expedited due to cap considerations. They can receive asylum status “Nunc Pro Tunc” after 21, thereby allowing continued processing of their application.)

DV Lottery Winners

The Diversity Visa (DV) Lottery Program creates a special category for immigrant visas, making visas available through a lottery to people who come from countries with low rates of immigration to the U.S. Petitions based on the DV category are only processed in the Vermont Service Center, pursuant to being filed in the Baltimore District Office. DV Lottery winners are also given priority.

Processing Worksheet

When each I-485 applicant file is assembled, a Processing Worksheet is attached to the file in Record of Proceeding order. The Processing Worksheet should be annotated on each line as appropriate. As possible rejects are identified during file set-up, the contractor will annotate the worksheet specifying the reason for the rejection. This worksheet should accompany the application through subsequent INS review procedures to document the identified case deficiency. The worksheet has been attached to this SOP as a separate document.

Section 1: Mailroom

Introduction

The Service Center mailroom retrieves most of its mail from the Post Office. Various Express Mail services also bring correspondence directly to the Center throughout each business day. Regardless of the manner in which mail is received, there are seven key steps that mailroom personnel take to ready the I-485 application and concurrently filed forms for Data Entry.

These steps include:

1. Opening Mail
2. Setting up Mail
3. Reviewing for Eligibility/Penalty Fee
 - Reviewing for Correct Fee
 - Reviewing for 245(i) Penalty Fee
 - Reviewing for Proper Signature
 - Reviewing for Appropriate Basis for Eligibility
 - Reviewing for Visa Availability
 - Reviewing for Jurisdiction
4. Opening the I-693
5. Reviewing the I-765 and I-131
6. Preparing the File for Data Entry
7. Identifying Expedites

Those cases that do not meet eligibility criteria will be routed to INS File Review.

Section 1: Table of Contents

Topic	See Page
Opening Mail	1-2
Setting up Mail	1-3
Reviewing for Eligibility/Penalty Fee	1-7
• Reviewing for Correct Fee	1-7
• Reviewing for Penalty Fee	1-9
• Reviewing for Proper Signature	1-10
• Reviewing for Appropriate Basis for Eligibility	1-11
• Reviewing for Visa Availability	1-14
• Reviewing for Jurisdiction	1-19
Opening the I-693, Medical Form	1-33
Reviewing the I-765 and I-131	1-34
Preparing the file for Data Entry	1-36
Identifying Expedites	1-37

Continued on next page

Section 1: Mailroom, Continued

Opening Mail

When to Perform Upon arrival to the mailroom, all submissions are opened, sorted and batched, according to date of arrival and form type.

Description Throughout processing in both the mailroom and data entry sections, submissions are maintained in groups, or batches. These submissions are stored as groups of like applications (*i.e.* batches), indicating when INS received the forms in the mailroom.

Procedure Complete the steps below for all mail arriving in the mailroom.

Step	Action: Contractor
1	Slit each envelope open to identify contents.
2	Endorse all remittances on the back of the remittance and return them to the envelope.
3	Place all I-485 envelopes in a container labeled "I-485 Filings" and sort by the "received" date.
4	Route to mail set-up.

Continued on next page

Section 1: Mailroom, Continued

Setting-Up Mail

When to Perform Once the mail has been opened, sorted and batched, it will be routed to Set-up.

Description Set-Up is the function performed by mailroom clerks that are responsible for the physical set-up of the I-485 and any concurrently filed applications/petitions and for verification of the fee and signature. Mail Set-Up assembles contents of the envelope (from top to bottom) using black clips.

Procedure Follow the steps below to set-up an I-485 and concurrently filed application(s).

Step	Action: Contractor
1	Slit each envelope on three sides to ensure that all of the contents of the envelope have been removed. Note: The I-693 should be submitted in a sealed envelope. This envelope should remain sealed until the filing is determined to be acceptable.
2	Retain the postmark and return address portion of the mailing envelope and assemble it into the packet.
3	Date stamp the application(s)/petition vertically in the right hand margin of the first page of the form(s) using the received date. The date stamp must be legible and include the date stamp number or employee ID number.
4	Date stamp the Supplement A, if submitted, in the same manner.

Continued on next page

Section 1: Mailroom, Continued

Step	Action: Contractor
5	<p>If photos are supplied, place them in a glassine envelope and staple them to the middle of the left-hand side of the first page of the I-485 so that the bag folds around the front of the I-485.</p> <p>If the I-485 is accompanied by an I-765 and/or I-131, place the photos as follows:</p> <ul style="list-style-type: none">A. I-131 – Place 2 photos in a glassine bag and staple it to the top left corner with the envelope flap folded over the top edge.B. I-765 – Place 2 photos in a glassine bag and staple it on the front to the bottom right corner.C. I-485 – Place 2 photos in a glassine bag and staple it as described above. <p>If there is an insufficient number of photographs, preference is first given to the I-131, followed by the I-765, and then the I-485. If there are no photos submitted, they will be requested during the adjudication process.</p>
6	<p>Verify the G-28 for original signature of attorney and applicant. If only one copy has been submitted and you have concurrently filed applications, photocopy the G-28 for each application and initial the copies with your employee number. Annotate the processing worksheet.</p>

Continued on next page

Section 1: Mailroom, Continued

Step	Action: Contractor	
	IF the signature(s) is...	THEN place the G-28 on the...
	Original and complete	Left side of the file.
	Not original on the G-28	Right side of the file.
	Original, but not complete	Right side of the file.
7	<p>Remove the Optional IRS Form 9003 from the I-485 filing, if submitted, and batch for mailing to the IRS at the following address:</p> <p style="padding-left: 40px;">Internal Revenue Service 11601 Roosevelt Blvd Drop Point 102C Attn: J. McCandless Philadelphia, PA 19154</p>	
8	<p>Establish the Record of Proceeding (ROP) by placing submitted documents for each file in the following order:</p> <p>1. Left-Hand Side of File (Top to Bottom)</p> <ul style="list-style-type: none"> A. G-28, Notice of Appearance as Attorney or Accredited Representative (if submitted) B. I-485 Application C. I-485 Supplement A (245(i) cases only) D. I-864, Affidavit of Support E. G-325A, Biographical Information Form F. Evidence of lawful entry G. Any supporting documentation H. I-693, Medical Examination Report (in sealed envelope) I. I-797, Notice of Action (or concurrently filed I-140) J. I-140 (only if concurrently filed. Place supporting documents in I-140 ROP order). K. Return address portion of original envelope <p>2. Right-Hand Side of File (Top to Bottom)</p> <ul style="list-style-type: none"> A. I-485 Processing Worksheet B. I-765, Employment Authorization Work Document C. Document Checklist D. I-89 (if submitted) E. Miscellaneous Correspondence F. If the I-140 is concurrently filed, place its right-hand ROP documents in the file in their stated order. <p>Make sure that all documents are placed in a file folder. Fasten each group with a black clip.</p>	

Continued on next page

Section 1: Mailroom, Continued

9	<p>Other forms may be concurrently filed with the I-485 (<i>i.e.</i>, I-131, I-601, I-140, etc.). Use the following chart to determine where to file concurrently filed forms:</p> <table border="1" data-bbox="566 380 1388 974"> <thead> <tr> <th data-bbox="566 380 979 457">IF the following form type is submitted...</th> <th data-bbox="987 380 1388 457">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="566 464 979 569">I-131</td> <td data-bbox="987 464 1388 569">Place the form in a separate folder according to the local SOP.</td> </tr> <tr> <td data-bbox="566 575 979 974">Other concurrent form</td> <td data-bbox="987 575 1388 974">Clip together with all other concurrently filed forms and place in the I-485 folder. Place the concurrent petition on the left-hand side on top of the return address, and place its supporting documentation on the right-hand side behind the Miscellaneous Correspondence and I-140 documentation, if included.</td> </tr> </tbody> </table>	IF the following form type is submitted...	THEN...	I-131	Place the form in a separate folder according to the local SOP.	Other concurrent form	Clip together with all other concurrently filed forms and place in the I-485 folder. Place the concurrent petition on the left-hand side on top of the return address, and place its supporting documentation on the right-hand side behind the Miscellaneous Correspondence and I-140 documentation, if included.
IF the following form type is submitted...	THEN...						
I-131	Place the form in a separate folder according to the local SOP.						
Other concurrent form	Clip together with all other concurrently filed forms and place in the I-485 folder. Place the concurrent petition on the left-hand side on top of the return address, and place its supporting documentation on the right-hand side behind the Miscellaneous Correspondence and I-140 documentation, if included.						
10	Keep family packs together by securing all applications for that family in an accordion folder secured with rubber bands.						

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Section 1: Mailroom, Continued

Reviewing for Eligibility

When to Perform Once mailroom clerks in Set-up have placed the file documents in ROP order and in a file folder, contractors should review the case for eligibility criteria and/or 245(i) Penalty Fee involvement.

Description This review involves six basic eligibility criteria:

1. Correct Fee;
2. 245(i) Penalty Fee;
3. Proper Signature;
4. Appropriate Basis for Eligibility;
5. Visa Availability; and
6. Jurisdiction.

Note: If the application is found to involve the 245(i) Penalty Fee or not to meet the basic eligibility criteria at any point in the process, the file will be sent to INS for review. In order for the INS reviewer to understand why the application is being rejected, annotate all reasons on the processing worksheet.

Criteria 1: Review for Correct Fee The first step in Reviewing for Eligibility is that the contractor must ensure that all applicable fees are present.

NOTE: The I-485 filing fee is not required for refugee applicants filing under Section 209 of the INA.

Procedure Complete the following steps to ensure correct fee criteria are met:

Step	Action: Contractor
1	Review the remittance to ensure that the correct amount is attached for each form: <i>I-485 for applicants 14 years of age or older</i> <i>\$220</i> <i>I-485 for applicants less than 14 years of age</i> <i>\$160</i>

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Section 1: Mailroom, Continued

Step	Action: Contractor																				
	<p><i>I-485 Supplement A</i> <i>\$1,000</i> (Not needed at date of filing.)</p> <p><i>Fingerprint Fee (14-79)</i> <i>\$25</i> (Not needed at time of filing.)</p> <p><i>Other forms</i></p> <table style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 60%;">I-140</td><td style="text-align: right;">\$115</td></tr> <tr><td>I-130</td><td style="text-align: right;">\$110</td></tr> <tr><td>I-131</td><td style="text-align: right;">\$95</td></tr> <tr><td>I-601</td><td style="text-align: right;">\$170</td></tr> <tr><td>I-602</td><td style="text-align: right;">No fee</td></tr> <tr><td>I-765</td><td style="text-align: right;">\$100</td></tr> <tr><td>I-824</td><td style="text-align: right;">\$120</td></tr> <tr><td>I-864</td><td style="text-align: right;">No fee</td></tr> <tr><td>I-212</td><td style="text-align: right;">\$170</td></tr> <tr><td>I-191</td><td style="text-align: right;">\$170</td></tr> </table>	I-140	\$115	I-130	\$110	I-131	\$95	I-601	\$170	I-602	No fee	I-765	\$100	I-824	\$120	I-864	No fee	I-212	\$170	I-191	\$170
I-140	\$115																				
I-130	\$110																				
I-131	\$95																				
I-601	\$170																				
I-602	No fee																				
I-765	\$100																				
I-824	\$120																				
I-864	No fee																				
I-212	\$170																				
I-191	\$170																				
2	<p>Refer to local guidelines for determination of fee acceptability. Staple the application remittance and all related remittances to the lower left corner of the G-28. If no G-28 is present, staple the remittances to the lower left corner of the I-485. Staple remittances for concurrent applications according to the SOP for that form.</p> <p>Note: It is acceptable to receive one payment for a family pack or concurrent filings, but ensure that the fee payment is correct.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">IF...</th> <th style="text-align: center;">THEN...</th> </tr> </thead> <tbody> <tr> <td>A request to waive the fee is submitted</td> <td>Annotate the processing worksheet. Send to INS Review for decision on the fee waiver request.</td> </tr> <tr> <td>No fee is present, the fee is not receipted elsewhere, and there is no request to waive the fee</td> <td>Annotate the processing worksheet.</td> </tr> <tr> <td>Only one payment is submitted for a family pack and the fee payment is incorrect</td> <td>Annotate the processing worksheet.</td> </tr> <tr> <td>Only one payment is submitted for the I-485 and all concurrent filings, and the fee payment is incorrect</td> <td>Annotate the processing worksheet.</td> </tr> </tbody> </table>	IF...	THEN...	A request to waive the fee is submitted	Annotate the processing worksheet. Send to INS Review for decision on the fee waiver request.	No fee is present, the fee is not receipted elsewhere, and there is no request to waive the fee	Annotate the processing worksheet.	Only one payment is submitted for a family pack and the fee payment is incorrect	Annotate the processing worksheet.	Only one payment is submitted for the I-485 and all concurrent filings, and the fee payment is incorrect	Annotate the processing worksheet.										
IF...	THEN...																				
A request to waive the fee is submitted	Annotate the processing worksheet. Send to INS Review for decision on the fee waiver request.																				
No fee is present, the fee is not receipted elsewhere, and there is no request to waive the fee	Annotate the processing worksheet.																				
Only one payment is submitted for a family pack and the fee payment is incorrect	Annotate the processing worksheet.																				
Only one payment is submitted for the I-485 and all concurrent filings, and the fee payment is incorrect	Annotate the processing worksheet.																				

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Section 1: Mailroom, Continued

**Criteria 2:
Review for
245(i) Penalty
Fee**

The contractor must then check to see if a 245(i) Penalty fee has been included.

Procedure

Follow the chart below to review for payment of the 245(i) Penalty fee.

Step	Action: Contractor						
1	Initial the I-485 Processing Worksheet with your ID number.						
2	Check for the \$1000 penalty fee. <table border="1" data-bbox="565 699 1386 961"><thead><tr><th>IF...</th><th>THEN...</th></tr></thead><tbody><tr><td>It was submitted</td><td>Annotate the processing worksheet and continue to the next step to review for Criteria 3.</td></tr><tr><td>It was not submitted</td><td>Go to the next step to review for Criteria 3.</td></tr></tbody></table>	IF...	THEN...	It was submitted	Annotate the processing worksheet and continue to the next step to review for Criteria 3.	It was not submitted	Go to the next step to review for Criteria 3.
IF...	THEN...						
It was submitted	Annotate the processing worksheet and continue to the next step to review for Criteria 3.						
It was not submitted	Go to the next step to review for Criteria 3.						

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Section 1: Mailroom, Continued

**Criteria 3:
Review for
Signature**

The contractor must review the application to determine whether the applicant has appropriately signed the I-485 application.

Procedure

Follow the chart below to review for proper signature.

Step	Action: Contractor						
1	<p>Verify that the applicant/petitioner has properly signed the application(s)/petition (<i>i.e.</i>, an original signature in the designated location on the application/petition). All forms of original signature are acceptable, including an "X," thumbprint, or an original facsimile signature stamp. A TYPEWRITTEN NAME IS NOT A SIGNATURE. Applicants 14 years of age or older must sign their own application(s). Applications submitted for applicants under the age of 14 can be signed by a parent/guardian.</p> <table border="1" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th style="text-align: center;">IF the signature is...</th> <th style="text-align: center;">THEN...</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Complete and correct</td> <td style="text-align: center;">Go to the next step to review for Criteria 4.</td> </tr> <tr> <td style="text-align: center;">Incorrect, missing or signed by the wrong applicant</td> <td style="text-align: center;">Annotate the processing worksheet and continue to the next step to review for Criteria 4.</td> </tr> </tbody> </table>	IF the signature is...	THEN...	Complete and correct	Go to the next step to review for Criteria 4.	Incorrect, missing or signed by the wrong applicant	Annotate the processing worksheet and continue to the next step to review for Criteria 4.
IF the signature is...	THEN...						
Complete and correct	Go to the next step to review for Criteria 4.						
Incorrect, missing or signed by the wrong applicant	Annotate the processing worksheet and continue to the next step to review for Criteria 4.						

Continued on next page

Section 1: Mailroom, Continued

Criteria 4: Appropriate Basis for Eligibility

The contractor must determine the basis for eligibility for the filing by the applicant.

In order to be eligible to request adjustment of status, an applicant must have an approved Employment-based or Family-based petition. These petitions validate an applicant's eligibility under a certain section of law.

Approved Employment-based underlying petitions include:

- I-140, Petition for Alien Worker;
- I-526, Immigrant Petition for an Alien Entrepreneur; and
- I-360, Religious Workers.

Exception – Concurrently filed I-140 Petition.

Approved Family-based underlying petitions include:

- I-130, Petition for Alien Relative; and,
- I-360, Petition for Special Immigrant--Battered Spouses.

In addition, an applicant may be eligible to apply for legal permanent residence under a special program. These case types do not require an underlying visa petition.

Procedure

Determine basis for eligibility by completing the following steps:

Step	Action: Contractor								
1	<p>Locate the I-797 in the ROP and review it for approval of the underlying petition.</p> <p>(Note: If the basis of eligibility is a special program, there will not be an I-797 in the ROP.)</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">IF...</th> <th style="text-align: center;">THEN...</th> </tr> </thead> <tbody> <tr> <td>The I-797 confirms approval or there is a concurrently filed I-140</td> <td>Go to Step 2a.</td> </tr> <tr> <td>The I-797 does not confirm approval nor is there a concurrently filed I-140</td> <td>Annotate the processing worksheet and proceed to review for Criteria 5.</td> </tr> <tr> <td>There is no I-797 or a concurrently filed I-140</td> <td>Go to Step 2b.</td> </tr> </tbody> </table>	IF...	THEN...	The I-797 confirms approval or there is a concurrently filed I-140	Go to Step 2a.	The I-797 does not confirm approval nor is there a concurrently filed I-140	Annotate the processing worksheet and proceed to review for Criteria 5.	There is no I-797 or a concurrently filed I-140	Go to Step 2b.
IF...	THEN...								
The I-797 confirms approval or there is a concurrently filed I-140	Go to Step 2a.								
The I-797 does not confirm approval nor is there a concurrently filed I-140	Annotate the processing worksheet and proceed to review for Criteria 5.								
There is no I-797 or a concurrently filed I-140	Go to Step 2b.								

Continued on next page

Section 1: Mailroom, Continued

Step	Action: Contractor		
2	Identify the basis for filing by the form type or by the special program identified.		
2a	IF the underlying petition...	AND the basis for eligibility is...	THEN the application...
	Is an I-140, I-360 Religious Worker, I-526	Employment-based	Meets the basis for eligibility. Go to Criteria 5.
	Is an I-140, I-360 Religious Worker, I-526	Other than employment-based	Does not meet the basis for eligibility. Note on the processing worksheet and proceed to Criteria 5.
	Is an I-130	Family-based	Meets the basis for eligibility. Go to Criteria 5.
	Is an I-130	Other than family-based	Does not meet the basis for eligibility. Note on the processing worksheet and proceed to Criteria 5.
2b	IF there is no underlying petition and...	AND the basis for eligibility is...	THEN the application...
	Is addressed to the Asylee/Refugee Post Office Box in Nebraska	The special program for Asylees/Refugees	Meets the basis for eligibility. Go to Criteria 6.
	Is addressed to the Asylee/Refugee Post Office Box in Nebraska	Not the special program for Asylees/Refugees	Does not meet the basis for eligibility. Note on the processing worksheet and proceed to Criteria 6.

Continued on next page

Section 1: Mailroom, Continued

2b, cont'd.	Indicates that the applicant's country of birth was Cuba	The special program for Cubans.	Meets the basis for eligibility. Go to Criteria 6.
	Indicates that the applicant's country of birth was Cuba	Not the special program for Cubans.	Does not meet the basis for eligibility. Note on the processing worksheet and proceed to Criteria 6.
	Indicates NACARA	The special program for NACARA.	Meets the basis for eligibility. Go to Criteria 6.
	Indicates NACARA	Not the special program for NACARA.	Does not meet the basis for eligibility. Note on the processing worksheet and proceed to Criteria 6.
	Indicates HRIFA	The special program for HRIFA.	Meets the basis for eligibility. Go to Criteria 6.
	Indicates HRIFA	Not the special program for HRIFA.	Does not meet the basis for eligibility. Note on the processing worksheet and proceed to Criteria 6.
	Indicates DV or Lottery	The special program for DV or lottery winners.	Meets the basis for eligibility. Go to Criteria 6.
	Indicates DV or Lottery	Not the special program for DV or lottery winners.	Does not meet the basis for eligibility. Note on the processing worksheet and proceed to Criteria 6.

Continued on next page

Section 1: Mailroom, Continued

Criteria 5: Review for Visa Availability

When applying for adjustment of status the applicant must be immediately eligible for the immigrant visa at the time of filing, unless the immigrant is qualified to apply based on a special program. The clerk must determine the immigrant classification that makes the applicant eligible for adjustment.

Using the priority date of the immigrant visa petition, the clerk is responsible for determining visa availability.

How to Find the Priority Date

To find the priority date, look at the section labeled "priority date" on the applicant's I-797 approval notice. You will need this date to determine visa availability in the steps below. If there is a concurrently filed I-140, use the steps in the chart for concurrent filings in the section "Procedure for Concurrently Filed I-140/I-485" below, to determine if the visa is immediately available.

Procedure

Follow the steps below to determine if a visa is immediately available to the applicant.

Step	Action: Contractor						
1	Locate the priority date of the underlying petition. For concurrently filed I-140 petitions use the chart for concurrent filings to determine priority date.						
2	Determine the section of law of the underlying visa petition. To do this, see below. <table border="1" data-bbox="565 1222 1386 1449"> <thead> <tr> <th>If...</th> <th>Then...</th> </tr> </thead> <tbody> <tr> <td>There is an approval notice in the ROP</td> <td>Check the I-797 approval notice for the section of law.</td> </tr> <tr> <td>If there is not an I-797 and the I-140 is not concurrently filed</td> <td>Annotate the processing worksheet and route the file to INS for review.</td> </tr> </tbody> </table>	If...	Then...	There is an approval notice in the ROP	Check the I-797 approval notice for the section of law.	If there is not an I-797 and the I-140 is not concurrently filed	Annotate the processing worksheet and route the file to INS for review.
If...	Then...						
There is an approval notice in the ROP	Check the I-797 approval notice for the section of law.						
If there is not an I-797 and the I-140 is not concurrently filed	Annotate the processing worksheet and route the file to INS for review.						
3	Locate the date stamp on the I-485 application.						
4	Locate the Visa Bulletin for the month that corresponds to the date stamp on the I-485 application.						
5	Using the section of law and classification chart below, determine the applicant's specific classification and preference category.						

Continued on next page

Section 1: Mailroom, Continued

LAW AND CLASSIFICATION CHART

<i>Employment</i>			
Type of Petition	Section of Law	Classification	Preference
I-140	203(b)(1)(A), 203(b)(1)(B), or 203(b)(1)(C)	E11, E12, E13	1 st
	203(b)(2)	E21	2 nd
	203(b)(3)(A)(i), 203(b)(3)(A)(ii)	E31, E32	3 rd
	203(b)(3)(A)(iii)	EW3	Other workers
I-360	101(a)(27)(C)	SD1	4 th
	101(a)(27)(C)	SR1	Certain religious workers
I-526	203(b)(5)(A)	C51	5 th
	203(b)(5)(B)	T51	Targeted employment areas/regional centers
<i>Family</i>			
Type of Petition	Section of Law	Classification	Preference
I-130	203(a)(1)	F11	1 st
	203(a)(2)	F21, F22	2A
	203(a)(2)	F24	2B
	203(a)(3)	F31	3 rd
	203(a)(4)	F41	4 th
I-130	201(b)	IR1, IR2, IR5, CR1, CR2	Immediate relative – preference not applicable

Continued on next page

Section 1: Mailroom, Continued

Step	Action: Contractor						
6	<p>Locate the preference category of the classification and the country of birth of the applicant on the visa bulletin. Use the "all other" column for all applicants from countries other than those specifically listed.</p> <p>NOTE: If the applicant is an immediate relative spouse, parent, or child of a United States Citizen (USC), no preference is required. Proceed to review for Criteria 6.</p>						
7	<p>Using the priority date of the underlying immigrant visa petition, compare the priority date with the date under the column of the country of chargeability and row, which corresponds to the preference date.</p> <table border="1" data-bbox="565 747 1386 974"> <thead> <tr> <th data-bbox="565 747 977 825">IF the applicant's priority date is...</th> <th data-bbox="977 747 1386 825">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 825 977 900">On or after the date listed on the bulletin</td> <td data-bbox="977 825 1386 900">The visa is not currently available.</td> </tr> <tr> <td data-bbox="565 900 977 974">Before the date listed on the bulletin</td> <td data-bbox="977 900 1386 974">The visa is available.</td> </tr> </tbody> </table> <p>NOTE: If there is a "C" listed in the column, the visa is available. If there is a "U" listed in the column, there are no visas available.</p>	IF the applicant's priority date is...	THEN...	On or after the date listed on the bulletin	The visa is not currently available.	Before the date listed on the bulletin	The visa is available.
IF the applicant's priority date is...	THEN...						
On or after the date listed on the bulletin	The visa is not currently available.						
Before the date listed on the bulletin	The visa is available.						
8	<p>Annotate the processing worksheet accordingly.</p> <table border="1" data-bbox="565 1197 1386 1423"> <thead> <tr> <th data-bbox="565 1197 977 1234">IF the visa is...</th> <th data-bbox="977 1197 1386 1234">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 1234 977 1310">Available</td> <td data-bbox="977 1234 1386 1310">Proceed to review for Criteria 6.</td> </tr> <tr> <td data-bbox="565 1310 977 1423">Not available</td> <td data-bbox="977 1310 1386 1423">Annotate the processing worksheet and proceed to review for Criteria 6.</td> </tr> </tbody> </table>	IF the visa is...	THEN...	Available	Proceed to review for Criteria 6.	Not available	Annotate the processing worksheet and proceed to review for Criteria 6.
IF the visa is...	THEN...						
Available	Proceed to review for Criteria 6.						
Not available	Annotate the processing worksheet and proceed to review for Criteria 6.						

Continued on next page

Section 1: Mailroom, Continued

**Procedure for
Concurrently
Filed I-140/I-485**

Follow the steps below to determine if a visa is immediately available if the I-485 has been filed concurrently with an I-140.

Step	Action: Contractor
1	Locate the underlying petition.
2	Determine the classification/section of law of the underlying visa petition. To do this, check the face of the petition for the eligibility category selected.
3	Locate the date stamp on the I-485 application.
4	Locate the Visa Bulletin for the month that corresponds to the date stamp on the I-485 application.
5	Using the section of law and classification chart, determine the applicant's specific classification and preference category.
6	Use the chart below to determine where to locate the priority date on a concurrently filed I-140

Determining the Priority Date on a Concurrently Filed I-140

Section of Law	Classification	Preference	Priority Date Determined by...
203(b)(1)(A), 203(b)(1)(B), or 203(b)(1)(C)	E11, E12, E13	1 st	The filing date of the petition.
203(b)(2)	E21	2 nd	The L.O. date on the ETA 750.
203(b)(2)	E21 National Interest Waiver	2 nd	The filing date of the petition.
203(b)(3)(A)(i), 203(b)(3)(A)(ii)	E31, E32	3 rd	The L.O. date on the ETA 750.
203(b)(3)(A)(iii)	EW3	Other workers	The L.O. date on the ETA 750.

Continued on next page

Section 1: Mailroom, Continued

Step	Action: Contractor						
7	If unable to determine the priority date, route the file to INS Review. Otherwise, continue on to the next step.						
8	Locate the preference category of the classification and the country of birth of the applicant on the visa bulletin. Use the "all other" column for all applicants from countries other than those specifically listed.						
9	<p>Using the priority date of the underlying immigrant visa petition, compare the priority date with the date under the column of the country of chargeability and row, which corresponds to the preference date.</p> <table border="1" data-bbox="565 716 1388 940"> <thead> <tr> <th data-bbox="565 716 979 789">IF the applicant's priority date is...</th> <th data-bbox="979 716 1388 789">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 789 979 863">On or after the date listed on the bulletin</td> <td data-bbox="979 789 1388 863">The visa is not currently available.</td> </tr> <tr> <td data-bbox="565 863 979 940">Before the date listed on the bulletin</td> <td data-bbox="979 863 1388 940">The visa is available.</td> </tr> </tbody> </table> <p>NOTE: If there is a "C" listed in the column, the visa is available. If there is a "U" listed in the column, there are no visas available.</p>	IF the applicant's priority date is...	THEN...	On or after the date listed on the bulletin	The visa is not currently available.	Before the date listed on the bulletin	The visa is available.
IF the applicant's priority date is...	THEN...						
On or after the date listed on the bulletin	The visa is not currently available.						
Before the date listed on the bulletin	The visa is available.						
10	<p>Annotate the processing worksheet accordingly.</p> <table border="1" data-bbox="565 1163 1388 1388"> <thead> <tr> <th data-bbox="565 1163 979 1199">IF the visa is...</th> <th data-bbox="979 1163 1388 1199">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 1199 979 1272">Available</td> <td data-bbox="979 1199 1388 1272">Proceed to review for Criteria 6.</td> </tr> <tr> <td data-bbox="565 1272 979 1388">Not available</td> <td data-bbox="979 1272 1388 1388">Annotate the processing worksheet and proceed to review for Criteria 6.</td> </tr> </tbody> </table>	IF the visa is...	THEN...	Available	Proceed to review for Criteria 6.	Not available	Annotate the processing worksheet and proceed to review for Criteria 6.
IF the visa is...	THEN...						
Available	Proceed to review for Criteria 6.						
Not available	Annotate the processing worksheet and proceed to review for Criteria 6.						

Continued on next page

Section 1: Mailroom, Continued

**Criteria 6:
Review for
Jurisdiction**

Each Service Center has jurisdiction over (or has the authority to process and adjudicate) a certain sub-set of the total forms received by the INS. Jurisdiction is determined by geography and by basis for eligibility. If a form is not from the area serviced by the Service Center or does not fall under a special program adjudicated by the Service Center, it cannot be processed there. Therefore, a check for appropriate jurisdiction must be made. The following criteria will be used for checking jurisdiction.

**Definition of
Jurisdiction by
Geography**

Most Employment-based applications are subject to jurisdiction based upon geography. An applicant is under the jurisdiction of a Service Center if:

- The applicant resides in a state over which the Service Center has jurisdiction; or
- The I-797 or CLAIMS receipt number indicates that the underlying petition was processed in the Service Center.
- The Service Center has jurisdiction over the concurrently filed I-140.

**Definition of
Jurisdiction by
Basis for
Eligibility**

All special programs' applications are subject to jurisdiction based upon basis for eligibility. An applicant is under the jurisdiction of a Service Center if:

- The applicant qualifies under a special program processed at a designated Service Center.

Continued on next page

Section 1: Mailroom, Continued

Jurisdiction Guidelines Use the chart below to determine the states and special programs under each Service Center's jurisdiction.

Service Center	State	Special Programs
California	AZ, CA, Guam, HI, NV	
Nebraska	AK, CO, IA, ID, IL, IN, KS, MI, MN, MO, ND, NE, OH, OR, SD, UT, WA, WI, WY, MT	<ul style="list-style-type: none"> • HRIFA • Refugee • Asylee
Vermont	CT, DC, DE, MA, MD, ME, NH, NJ, NY, PA, PR, RI, VA, VT, WV, VI	<ul style="list-style-type: none"> • Battered Spouse • Family-based Applications from the Baltimore District Office
Texas	AR, AL, FL, GA, KY, LA, MS, NM, NC, SC, OK, TN, TX	<ul style="list-style-type: none"> • NACARA • Cuban

Procedure To check for jurisdiction, complete the following step:

Step	Action: Contractor
1	Check for proper jurisdiction based upon geography and the basis for eligibility. To do so, use the chart for your Service Center identified on the following pages.
2	Annotate the processing worksheet. Batch any rejected applications and forward them to INS File Review.

Continued on next page

Section 1: Mailroom, Continued

Jurisdiction Table: Vermont Service Center

If the I-485 is submitted with...	And the jurisdiction is Baltimore...	And the jurisdiction is other than Baltimore...	Then you should...
Approval notice: I-140 I-526 I-360 (Religious Worker)	Accept if the visa is available. If not Baltimore, see next column.	<ul style="list-style-type: none"> But within VSC jurisdiction or VSC approved IV petition 	Accept if visa is available.
		<ul style="list-style-type: none"> Outside VSC jurisdiction and VSC did not approve IV petition 	Reject for jurisdiction.
Concurrently filed: I-140	And the visa is immediately available.		Accept the application.
Concurrently filed: I-140	With one remittance and the visa is not immediately available.		Reject, not eligible to file concurrently.
Concurrently filed: I-140	With separate remittances and the visa is not immediately available.		Accept the IV petition and reject the I-485.
Concurrently filed: I-526 I-360 (Religious Worker)	With one remittance.		Reject, not eligible to file concurrently.
	With separate remittance.		Accept IV petition and reject I-485.
Concurrently filed: I-360 (Special Immigrant SKs)	Accept if the visa is available.	Reject for jurisdiction.	
Concurrently filed: I-360 (NATO Applicants)	Accept if the visa is available.	Reject if the visa is not available.	
Approval notice: I-130	Accept if visa is available.	Reject for jurisdiction.	
Concurrently filed: I-130	Accept if visa is available	Reject to allow for filing both forms at the District.	
	If visa is not available: <ul style="list-style-type: none"> With one remittance . . . reject both I-485 and I-130. With separate remittances . . . accept I-130 and reject I-485. 		

Continued on next page

Section 1: Mailroom, Continued

Jurisdiction Table: Vermont Service Center, continued

If the I-485 is submitted with...	And the jurisdiction is Baltimore...	And the jurisdiction is other than Baltimore...	Then you should...
Approval notice: I-129F	Accept		Reject for jurisdiction
Concurrently filed: I-360 (Battered Spouse)	<p>If visa is available, accept I-485.</p> <ul style="list-style-type: none"> • Remember that the applicant may retain his/her priority date from a previously filed I-130, regardless of the decision made on the filing. Refer to 8 CFR Section 204.2(h) for further guidance. <p>If visa is not available:</p> <ul style="list-style-type: none"> • With one remittance, reject both I-485 and I-360. • With separate remittance, accept I-360 and reject I-485. 		
Approval notice: I-360 (Battered Spouse)	<p>Accept if visa is available.</p> <p>Reject if visa is not available.</p> <ul style="list-style-type: none"> • Remember that the applicant may retain his/her priority date from a previously filed I-130, regardless of the decision made on the filing. Refer to 8 CFR Section 204.2(h) for further guidance. 		
Approval notice: I-360 – all other categories	<p>Accept if visa is available.</p> <p>Reject if visa is not available.</p>	Reject for jurisdiction.	
All other eligibilities, <i>i.e.</i> , Diversity, Lautenberg	<p>Accept if eligibility is established.</p> <p>Diversity must have a visa available.</p>		Reject for jurisdiction.
Haitian DED (HRIFA)	Reject. NSC has jurisdiction.		
Asylees / Refugees	Reject. NSC has sole jurisdiction as of 7/6/98.		
Cubans	Reject. TSC has sole jurisdiction.		
NACARA	Reject. TSC has jurisdiction.		

Continued on next page

Section 1: Mailroom, Continued

Jurisdiction Table: Vermont Service Center, continued

If the I-485 is submitted with...	And the jurisdiction is Baltimore...	And the jurisdiction is other than Baltimore...	Then you should...
Supplement A and \$1000 – DV	Reject entire submission.		
Supplement A and \$1000 – IV priority date on or before 4/30/01	Case with penalty fees may be accepted as long as case would otherwise be accepted by the VSC (meets I-485 acceptance criteria above).		
Supplement A and \$1000 – IV priority date after 4/30/01	Reject entire submission.		

Continued on next page

Section 1: Mailroom, Continued

Jurisdiction Table: Nebraska Service Center

If the I-485 is submitted with...	And the jurisdiction is LIN...	And the jurisdiction is other than LIN...	Then you should...
Approval notice: I-140 I-526 I-360 (Religious Worker)	I-797 receipt notice must indicate LIN, then accept if the visa is available	I-797 receipt notice does not indicate LIN, but residence address is within NSC jurisdiction	Accept if visa is available.
		I-797 receipt notice does not indicate LIN, and residence address is not within NSC jurisdiction	Reject for jurisdiction.
Concurrently filed: I-140	And the visa is immediately available.		Accept the application.
Concurrently filed: I-140	With one remittance and the visa is not immediately available.		Reject, not eligible to file concurrently.
Concurrently filed: I-140	With separate remittances and the visa is not immediately available.		Accept the IV petition and reject the I-485.
Concurrently filed: I-526 I-360	With one remittance.		Reject, not eligible to file concurrently.
	With separate remittances.		Accept IV petition IF other than Amerasian, Juvenile or Battered Spouse and reject I-485. Amerasian and Juveniles are rejected back to the applicant along with the I-485 and instructions to file at the local district office. For Battered Spouse, see below.
Concurrently filed: I-360 (Battered Spouse)	Reject with instructions to the applicant to file at the Vermont Service Center (VSC). VSC has sole jurisdiction.		
Approval notice: I-360 (Battered Spouse)	Reject with instructions to the applicant to file at VSC. VSC has sole jurisdiction.		

Continued on next page

Section 1: Mailroom, Continued

Jurisdiction Table: Nebraska Service Center, continued

If the I-485 is submitted with...	And the jurisdiction is LIN...	And the jurisdiction is other than LIN...	Then you should...
Approval notice: I-360 – all other categories	Reject with instructions to the applicant to file at the local district office.		
Approval notice: I-130	Reject and have the applicant file at the local district office.		
Concurrently filed: I-130	With one remittance	Reject, not eligible to file concurrently.	
	With separate remittances	Accept the visa petition and reject the I-485.	
Approval notice: I-129F	Reject with instructions to the applicant to file at the local district office.		
Approval notice: Other form types	Reject with instructions to the applicant to file at the local district office.		
No approval Notice I-797	Reject unless EB IV petition approval is indicated through systems checks, or other basis for adjustment is indicated. (See Below)		
I-485 Supplement A and \$1000 – Employment-based IV Petition has a priority date on or before 4/30/01, or is eligible to grandfather 245(i)	<p>An application with 245(i) penalty fee and Supplement may be accepted as long as the applicant is eligible to file under section 245(i) of the Act.</p> <p>The applicant is eligible for 245(i) if the following criteria is met:</p> <ul style="list-style-type: none"> • The priority date of the EB IV petition is on or before 4/30/01 or • The applicant is eligible to grandfather 245(i), and • The application is otherwise acceptable (fee, signature, visa availability, and jurisdiction). <p>For additional information on the application of 245(i) and grandfathering 245(i), refer to the appropriate adjudications chapter.</p>		

Continued on next page

Section 1: Mailroom, Continued

Jurisdiction Table: Nebraska Service Center, continued

If the I-485 is submitted with...	And the jurisdiction is LIN...	And the jurisdiction is other than LIN...	Then you should...
I-485 Supplement A and \$1000 – Employment-based IV Petition has a priority date after 4/30/01, no claim of eligibility to grandfather 245(i).	Reject entire submission.		
I485 Supplement A Without Fee.	Accept if application is otherwise acceptable		
\$1000.00 Fee –No I-485 Supplement A-Employment Based IV Petition	With One Remittance-Reject entire submission		
	With Two Remittances-Accept I-485 and return \$1000.00 fee.		
Refugee	Accept if the following criteria is met: <ul style="list-style-type: none"> • The applicant was admitted as a refugee and has been physically present for at least one year in the United States prior to filing the I485. • Block H is checked for “Refugee” and/or Form I-485 Part One current INS status indicates “Refugee.” 		
Asylee	Accept if the following criteria is met: <ul style="list-style-type: none"> • The applicant has been physically present for at least one year in the United States in Asylee status prior to filing the I-485. 		

Continued on next page

Section 1: Mailroom, Continued

Jurisdiction Table: Nebraska Service Center, continued

If the I-485 is submitted with...	And the jurisdiction is LIN...	And the jurisdiction is other than LIN...	Then you should...
Haitian DED (HRIFA)	Accept if the following criteria is met: <ul style="list-style-type: none"> • The applicant is a national of Haiti. • Part 2 of the application is marked "H" with "HRIFA - principal" or "HRIFA - dependent" written in the space provided. • HRIFA Dependent applicants who file without a principal will only be accepted if the principal alien's adjustment application has been located. • I-485 Supplement "C" may be included in the submission. • The application may indicate a code of admission (COA) in the COA field, and that COA should match a code of admission on the HRIFA code of admission list. • Law is the Haitian Refugee Immigration Fairness Act (HRIFA). • There is no priority date. 		
NACARA	Reject with instructions to the applicant to file at TSC. TSC has sole jurisdiction.		
PIP-LAUTENBERG	Reject with instructions to the applicant to file at the local district office.		
Marielito PIP	If paroled into the U.S. between 4/1/80-5/18/80, accept.		
Diversity Lottery	Reject with instructions to the applicant to file at the local district office.		
Cuban PL 89-732	Reject with instructions to the applicant to file at the local district office.		
Cuban PL 89-732 Residing in Florida	Reject with instructions to the applicant to file at TSC.		

Continued on next page

Section 1: Mailroom, Continued

Jurisdiction Table: Nebraska Service Center, continued

If the I-485 is submitted with...	And the jurisdiction is LIN...	And the jurisdiction is other than LIN...	Then you should...
Previous A or G Status Section 13 of 1957 Act			Reject with instructions to the applicant to file at the local district office.
Continuous Residence in the US prior to January 1, 1972			Reject with instructions to the applicant to file at the local district office.
Any other claimed basis for Adjustment of Status			Reject with instructions to the applicant to file at the local district office.

Continued on next page

Section 1: Mailroom, Continued

Jurisdiction Table: Texas Service Center

If the I-485 is...	And is submitted with...	And the jurisdiction is TSC...
Employment-based	Approval notice for I-140	Accept if the visa is available.
	Approval notice for I-526	Accept if the visa is available.
	Approval notice for I-360	Hold for INS Review.
Concurrently filed: I-140	And the visa is immediately available.	Accept the application.
Concurrently filed: I-140	With one remittance and the visa is not immediately available.	Reject, not eligible to file concurrently.
Concurrently filed: I-140	With separate remittances and the visa is not immediately available.	Accept the IV petition and reject the I-485.
Concurrently filed: I-526 I-360 (except Battered Spouse) I-130	With one remittance.	Reject, not eligible to file concurrently.
	With separate remittances for each application	Accept the petition but reject the I-485.
Family-based	Approval notice for I-129F or I-130	Reject to the applicant with instructions to file at the local office.
	Approval notice for I-360 Battered Spouse	Reject to the applicant with instructions to file at VSC.
Concurrently filed: I-360 (Battered Spouse)		Reject to the applicant with instructions to file at VSC.

Continued on next page

Section 1: Mailroom, Continued

Jurisdiction Table: Texas Service Center, continued

If the I-485 is...	And is marked...	Then you should...
NACARA	NACARA across the top of the application	Accept the application.
	NACARA as the current status	Accept the application.
	H and NACARA is written on the application	Accept the application.
Cuban	E, F, G, H, or I and is based on Cuban nationality and they reside in Florida	Accept the application.
	E, F, G, H, or I and is based on Cuban nationality and they reside outside of Florida	Accept the application.
Asylee/Refugee	Reject. NSC has sole jurisdiction.	
Haitian DED (HRIFA)	Reject. NSC has sole jurisdiction.	
All other eligibilities, <i>i.e.</i> Diversity, Lautenberg	Reject. Applicant must file at local office.	
Supplement A and \$1000	Case with penalty fee may be accepted as long as case would otherwise be accepted by TSC (meets I-485 acceptance criteria above).	

Continued on next page

Section 1: Mailroom, Continued

Jurisdiction Table: California Service Center

If the I-485 is submitted with ...	And the jurisdiction is CSC...	Then you should...
Approval notice for: I-140 I-526 I-360 (Religious Worker)	With CSC approved IV petition or special handling petition	Accept if visa is available.
	If outside CSC jurisdiction and not special handling petition	Reject for jurisdiction.
Concurrently filed: I-140	And the visa is immediately available.	Accept the application.
Concurrently filed: I-140	With one remittance and the visa is not immediately available.	Reject, not eligible to file concurrently.
Concurrently filed: I-140	With separate remittances and the visa is not immediately available.	Accept the IV petition and reject the I-485.
Concurrently filed: I-526 I-360 (Religious Worker, NATO Applicants, Special Immigrants)	With one remittance	Reject, not eligible to file concurrently.
	With separate remittances	Accept the petition and reject the I-485.
Approval notice: I-130		Reject to applicant.
Concurrently filed: I-130	With one remittance	Reject, not eligible to file concurrently.
	With separate remittances	Accept the petition and reject the I-485.
Approval notice: I-129F		Reject to applicant.
Concurrently filed: I-360 (Battered Spouse)		Reject to applicant with instructions to file at VSC.
Approval notice: I-360 (Battered Spouse)		Reject to applicant with instructions to file at VSC.
Approval notice: I-360 – all other categories		Reject to the applicant.
All other eligibilities, i.e., Diversity, Launtenberg		Reject with instructions to file at the district office.
Haitian DED (HRIFA)		Reject. NSC has jurisdiction.

Continued on next page

Section 1: Mailroom, Continued

Jurisdiction Table: California Service Center, Continued

If the I-485 is submitted with ...	And the jurisdiction is CSC...	Then you should...
Asylees / Refugees		Reject. NSC has sole jurisdiction as of 7/6/98
NACARA		Reject. TSC has jurisdiction.
Supplement A and \$1000		Case with penalty fee may be accepted as long as the case would otherwise be accepted by the CSC (meets I-485 acceptance criteria above).
Supplement A and \$1000 – IV priority date on or before 4/30/01		Case with penalty fees may be accepted as long as the case would otherwise be accepted by the CSC (meets I-485 acceptance criteria above).
Supplement A and \$1000 – IV priority date after 4/30/01		Reject entire submission.

Continued on next page

Section 1: Mailroom, Continued

Opening the I-693 Medical Record

When to Perform

Once the contractor reviews the application and it has met all eligibility criteria, he or she must ensure that the Medical Evaluation Form I-693 and vaccination supplement are submitted by the applicant in an unopened, sealed envelope before assembling the I-693 in the record.

If the application does not meet the eligibility criteria, the I-693 will be rejected along with the application and sent back to the applicant unopened. As a reminder, applications that did not meet the eligibility criteria should have been routed to INS File Review.

Procedure

If no medical record has been submitted, note on the processing worksheet so that a RFE can be mailed to the applicant prior to adjudication.

NOTE: NIW Physicians are not required to submit an I-693 when filing an I-485. Applicants will be notified when the I-693 is to be submitted by a RFE from INS after officer review.

If a case meets all of the eligibility criteria, complete the following steps:

Step	Action: Contractor
1	Annotate the processing worksheet to indicate whether the medical form was received in a properly sealed envelope.
2	Open the sealed medical record envelope containing the I-693.
3	Staple the envelope to the back of the form in the upper left corner. Return and assemble the medical record into the correct ROP order.
4	If the file contains an I-765 and/or I-131, proceed to "Reviewing the I-765 and I-131." If not, proceed to prepare the file for Data Entry.

Continued on next page

Section 1: Mailroom, Continued

Reviewing the I-765 and the I-131

When to Perform

After the I-485 application has been reviewed for eligibility and the I-693 has been assembled, those applications with concurrently filed I-765s and I-131s require a review of these forms. The I-131 will be found in a separate file folder attached to the I-485. If neither form was filed, proceed to prepare the file for Data Entry.

Note: The steps outlined in this section also provide direction for those I-765s and I-131s that are received with a rejected I-485 and/or without the appropriate fee.

Procedure for Reviewing the I-765 and I-131

Complete the following steps to review concurrently filed I-765s and I-131s:

Step	Action: Contractor	
1	Use the chart below to determine appropriate steps for reviewing the I-765. If no I-765 is present, proceed to Step 2.	
	IF...	THEN...
	The I-765 is received with the fee and an accepted I-485	Stamp the I-765 form with the "Concurrent I-485 Filing" stamp. Proceed to Step 2.
	The I-765 is received with a rejected I-485, or with an accepted I-485 but without the fee	Route the file with the I-485 to INS for review.
	The I-765 is filed without an I-485	Use the I-765 SOP to process the form.

Continued on next page

Section 1: Mailroom, Continued

Step	Action: Contractor								
2	<p data-bbox="540 279 1404 384">Use the chart below to determine appropriate steps for reviewing the I-131. If no I-131 is present, proceed to prepare the file for Data Entry.</p> <table border="1" data-bbox="565 420 1388 831"><thead><tr><th data-bbox="565 420 979 455">IF...</th><th data-bbox="979 420 1388 455">THEN...</th></tr></thead><tbody><tr><td data-bbox="565 455 979 604">The I-131 is received with the fee and an accepted I-485</td><td data-bbox="979 455 1388 604">Stamp the I-131 form with the "Concurrent I-485 Filing" stamp. Proceed to prepare the file for Data Entry.</td></tr><tr><td data-bbox="565 604 979 753">The I-131 is received with a rejected I-485, or with an accepted I-485 but without the fee</td><td data-bbox="979 604 1388 753">Route the file with the I-485 to INS for review.</td></tr><tr><td data-bbox="565 753 979 831">The I-131 is filed without an I-485</td><td data-bbox="979 753 1388 831">Use the I-131 SOP to process the form.</td></tr></tbody></table>	IF...	THEN...	The I-131 is received with the fee and an accepted I-485	Stamp the I-131 form with the "Concurrent I-485 Filing" stamp. Proceed to prepare the file for Data Entry.	The I-131 is received with a rejected I-485, or with an accepted I-485 but without the fee	Route the file with the I-485 to INS for review.	The I-131 is filed without an I-485	Use the I-131 SOP to process the form.
IF...	THEN...								
The I-131 is received with the fee and an accepted I-485	Stamp the I-131 form with the "Concurrent I-485 Filing" stamp. Proceed to prepare the file for Data Entry.								
The I-131 is received with a rejected I-485, or with an accepted I-485 but without the fee	Route the file with the I-485 to INS for review.								
The I-131 is filed without an I-485	Use the I-131 SOP to process the form.								

Continued on next page

Section 1: Mailroom, Continued

Preparing the File for Data Entry

When to Perform After the contractor has assembled the I-693 or, if applicable, reviewed the concurrently filed I-765s and I-131s, he or she should prepare the file for Data Entry.

Procedure Complete the following steps to prepare the file for Data Entry:

Step	Action: Contractor
1	Write the receipt number for the underlying approved visa petition on the I-485 processing worksheet in the "Mailroom" section. If the I-485 is concurrently filed with an I-140, write, "Concurrent filing" in this section on the processing worksheet.
2	Initial the I-485 worksheet with your ID code in the appropriate block of the worksheet.
3	Proceed to "Identifying Expedites."

Continued on next page

Section 1: Mailroom, Continued

Identifying Expedites

When to Perform

Once the I-485 Application has been reviewed for eligibility, the I-693 has been incorporated into the record for each file, and the file has been prepared for Data Entry, contractors should identify expedites.

Definition of an Expedite

Applicants under 21 years of age may petition for an I-485 as a child (*i.e.*, an individual under 21 years of age and single) of a principal applying for adjustment of status. Once an applicant turns 21 years of age, the Service is obliged to deny him or her the preference status of being a child. In order to prevent a child from losing this status, the Service will expedite those cases in which the applicant is close to turning 21 or "aging-out." Therefore, files that are 1 year or less from "aging-out" must be identified up front and routed through the expedite process. These cases are known as expedites.

Exceptions: Refugees

Certain HRIFA dependents (Refer to Appendix A)

Asylees (Asylee adjustment applicants should not be expedited due to cap considerations. They can receive asylum status "Nunc Pro Tunc" after 21, thereby allowing continued processing of their application.)

Procedure

Complete the following steps to identify an expedite:

Step	Action: Contractor	
1	To identify an expedite, check the date of birth for any child applicant under 21 years of age.	
	IF...	THEN...
	The applicant is between 20 and 21 years of age and his or her file is not part of a family pack	Pull the file for both the principal and the child so that both files can be worked together. Annotate the processing worksheet.
	The applicant is between 20 and 21 years of age and the file is part of a family pack	Pull the files for the entire family. Annotate the processing worksheet.

Continued on next page

Section 1: Mailroom, Continued

Step	Action: Contractor
2	Place a colored expedite sheet on the file and batch it with the other expedites. Expedites will follow the same process steps as the other files, but will be hand-carried throughout the process and given priority processing by each unit.
3	Route the file (I-485 with the I-765 and I-131, as applicable) to CIS checks.

Section 2: INS File Review

Introduction

Since contractors cannot perform adjudications functions, those applications, which do not meet one or more of the stated eligibility criteria must be routed to INS File Review. The information contained in this section is information you will need to know in order to perform INS Review. Please familiarize yourself with this section prior to performing INS Review.

After the Mailroom has reviewed the I-485 for eligibility, INS must confirm all reasons for rejection cited by the contractor and assess 245(i) eligibility. This stage in the process is referred to as INS Review. These criteria include:

1. Reviewing for 245(i) Penalty Fee;
2. Reviewing Reject Criteria;
3. Reviewing the I-693 Medical Record; and
4. Reviewing the I-765 and I-131.

In addition to reviewing reject criteria, INS must review for more complex adjudicative issues, such as 245(i) eligibility, which is the first topic to be discussed in this section. If after reviewing a potential reject, INS finds the filing to be acceptable, INS must also review the I-693 Medical Record and any concurrently filed I-765s and I-131s.

Note: INS should only review those criteria identified by the contractor and indicate all reject criteria for Data Entry for preparation of the reject notice that will be sent back to the applicant.

Section 2: Table of Contents

Topic	See Page
Reviewing for 245(i) Eligibility	2-6
Reviewing for Reject Eligibility Criteria	2-9
• Reviewing for Correct Fee	2-10
• Reviewing for Signature	2-12
• Reviewing for Basis for Eligibility	2-13
• Reviewing for Visa Availability	2-17
• Reviewing for Jurisdiction	2-22
- Geography	
- Special Programs	
Reviewing for I-693 Medical Record	2-36
Reviewing the I-765 and I-131	2-37

Continued on next page

Section 2: INS File Review, Continued

General Information

Introduction This section provides definitions for key terms that will be used throughout this SOP.

Duplicate and Second Filings

- Duplicate Filings

Duplicate filings refer to I-485 applications submitted to a service center without a new fee, but with evidence that the original I-485 application is pending at another INS office or Service Center.

- Second Filings

Second filings refer to I-485 applications submitted to a service center with a new filing fee even though one may be pending at another INS office. Second filings will be handled under the normal process.

Multiple A-Numbers

Multiple A-Number discrepancies will be handled by Case Resolution Unit (CRU). Once CRU has resolved the discrepancies, the file will be forwarded to Data Entry for receipt of the I-485. If multiple A-Numbers have already been assigned to the applicant, annotate the processing worksheet. This worksheet identifies which A-Number to use for the I-485 and alerts the File Maintenance Unit (FMU) to request the remaining relating A-Numbers from the File Control Office (FCO) for consolidation purposes.

Concurrent Filings

I-485s may also be accompanied by other applications or forms. The acceptable forms/applications include, but are not limited to:

- Form I-131, Application for Travel Document;
 - Form I-191, Application for Advance Permission to Return to Unrelinquished Domicile;
 - Form I-212, Application for Permission to Reapply for Admission into the United States After Deportation or Removal;
 - Form I-130, Petition for an Alien Relative (Vermont only for Baltimore cases);
 - Form I-140 Immigrant Petition for an Alien Worker (if a visa is immediately available);
-

Continued on next page

Section 2: INS File Review, Continued

Concurrent Filings, cont'd.

- Form I-360, Petition for Special Immigrant—Battered Spouses (Vermont only);
- Form I-601, Application for Waiver of Grounds of Excludability;
- Form I-765, Application for Employment Authorization;
- Form I-824, Application for Action on an Approved Application or Petition; and
- Form I-864, Affidavit of Support.

Any forms submitted concurrently with the I-485 are to be processed in accordance with the SOP for that form type.

Not Acceptable Concurrent Submission

The following forms cannot be filed concurrent to the I-485 application:

- Form I-140, Immigrant Petition for an Alien Worker (if the visa is not immediately available);
 - I-360, Petition for Special Immigrants, Religious Workers;
 - Form I-360, Petition for Special Immigrant—Battered Spouses (Except Vermont);
 - Form I-612, Application for Waiver of Foreign Residence Requirements of Section 212(e) of the Immigration and Nationality Act (INA), as amended (unless it is accompanied by a "No Objection" letter); and
 - Form I-526, Immigrant Petition for Alien Entrepreneur.
-

Age-Outs

INS makes every effort to expedite the processing of the I-485 for dependent children who are within one year of reaching the age of 21. These filings are therefore expedited through the process in order to be adjudicated prior to the applicant turning age 21.

Refugee and Asylee applicants do not age-out and therefore will not be expedited. (Asylee adjustment applicants should not be expedited due to cap considerations. They can receive asylum status "Nunc Pro Tunc" after 21, thereby allowing continued processing of their application.)

Continued on next page

Section 2: INS File Review, Continued

Jurisdiction INS Review is responsible for reviewing for proper jurisdiction as outlined in this SOP.

Vermont Service Center's (VSC) jurisdiction:
Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New York, New Jersey, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virgin Islands, Virginia, and West Virginia.

Nebraska Service Center's (NSC) jurisdiction:
Alaska, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming.

California Service Center's (CSC) jurisdiction:
Arizona, California, Guam, Hawaii, and Nevada.

Texas Service Center's (TSC) jurisdiction:
Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas.

Country of Chargeability The officer must determine the country of chargeability of visa issuance. The country of chargeability is the country of the applicant's birth. Visas for the dependents will be first charged against the dependent's country of birth. If unavailable, the visa may be charged against the country of birth of the principal applicant. If the visa is unavailable for the principal applicant's country of birth, the visa may be charged to the country of birth of the principal applicant's spouse (but not the children). If the visa is unavailable for the principal applicant's spouse's country of birth, the visa may be charged to the country of birth of the principal applicant's parents. Note that a parent may not charge to the country of birth of his/her child. See section 202 of the INA for rules of chargeability.

Continued on next page

Section 2: INS File Review, Continued

Underlying Approved Visa Petition

The officer may rely upon an I-797 approval notice, local CLAIMS and/or CLAIMS Mainframe or the applicant's A-file to determine whether an immigrant visa petition has previously been approved.

Principal vs. Dependents Filing I-485 Applications

Each person seeking adjustment of status to that of a lawful permanent resident in the United States must file his/her own I-485 application. The principal applicant is the beneficiary of an approved immigrant visa petition or other underlying immigration benefit.

In certain situations, family members of that applicant may file an I-485 using the approved immigrant visa petition of a principal applicant. This individual is known as a dependent.

The following is a list of items to keep in mind when reviewing a dependent's application:

- A Dependent 14 years of age or older **must** sign his/her own application
 - A Dependent is a spouse or unmarried child under 21 years of age
 - Dependents may file an I-485 at the same time, during or after the period of time when the principal's application is pending, so long as the relationship was established prior to or during the pendency of the principal applicant's adjustment application.
-

Continued on next page

Section 2: INS File Review, Continued

Reviewing for 245(i) Eligibility

When to Perform

Perform this procedure after the I-485 application has gone through the initial mailroom review. If the file was deemed acceptable in the mailroom review, skip this step and move to Reviewing the I-131 and the I-765. For those applications, which involved the 245(i) Penalty Fee and/or did not meet eligibility criteria, proceed to “Reviewing for 245(i) Eligibility.”

Definition of 245(i) Eligibility or “Penalty Fee”

The applicant who is requesting consideration under 245(i) of the Act is required to submit a properly completed I-485 Supplement A Form and the penalty fee of \$1,000.00.

Applicants who are under the age of 17 years at the time the I-485 is filed, or applicants who have received benefits under section 301 Family Unity program are not required to submit the penalty fee, but are required to submit the properly completed I-485 Supplement A Form.

If the penalty fee is submitted without a properly completed Supplement A form, it will be rejected.

If the Supplement A is submitted without the penalty fee, it will be treated as supporting documentation and will not be rejected.

Definition of 245(i) Grandfathering

In order for the applicant to be eligible to grandfather the 245(i) benefit at this stage in the process, the record must contain documentary evidence, which demonstrates that the applicant is eligible to grandfather 245(i). Acceptable evidence may include, but is not limited to, copies of the Form I-797 approval notice, copies of the petition or ETA 750, etc.

Continued on next page

Section 2: INS File Review, Continued

Procedure

To verify whether an applicant is eligible under 245(i) of the Act, complete the following steps.

Note: For more information regarding sections 245(a), 245(k) or 245(i) of the Act, see Section 7: Adjudications, Discussion of Section 245 of the Act.

Step	Action: INS						
1	<p>Review to see if the applicant meets letter A, and letter B or C:</p> <p>A. The application is accompanied by the I-485 Supplement A and penalty fee. The penalty fee for applications filed after December 29, 1996 is \$1,000.00. The penalty fee for applications filed between October 1, 1994 and December 29, 1996 is \$650.00. I-485 applications filed before October 1, 1994 are not eligible for 245(i);</p> <p>B. The underlying visa petition has a priority date on or before April 30, 2001; or</p> <p>C. The applicant is eligible to grandfather the 245(i) benefit by way of a previously filed or approved family or employment-based petition, or ETA 750 filed on his or her behalf, if the petition has a priority date or ETA 750 has a L.O. date on or before April 30, 2001 and has been determined to be "approvable when filed," or in the case of the ETA 750, "properly filed." (If the L.O. date is blank, the R.O. date can be used to determine the priority date.) Dependent applicants may be eligible for the grandfathering benefit by way of the principal applicant's eligibility. The applicant may be eligible by means of a prior petition or labor certification filed by the principal applicant.</p>						
2	<p>Use the following chart to determine subsequent actions once eligibility has been determined. You may also use the 245(i) Eligibility Table below to determine the appropriate next step:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">IF the applicant...</th> <th style="text-align: center;">THEN...</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Is eligible for 245(i) and the I-485 is otherwise acceptable</td> <td style="text-align: center;">Proceed to "Reviewing for Reject Criteria."</td> </tr> <tr> <td style="text-align: center;">Is not eligible under 245(i) and has submitted one remittance</td> <td style="text-align: center;">The entire package will be rejected, but continue to the next section to verify other reject criteria.</td> </tr> </tbody> </table>	IF the applicant...	THEN...	Is eligible for 245(i) and the I-485 is otherwise acceptable	Proceed to "Reviewing for Reject Criteria."	Is not eligible under 245(i) and has submitted one remittance	The entire package will be rejected, but continue to the next section to verify other reject criteria.
IF the applicant...	THEN...						
Is eligible for 245(i) and the I-485 is otherwise acceptable	Proceed to "Reviewing for Reject Criteria."						
Is not eligible under 245(i) and has submitted one remittance	The entire package will be rejected, but continue to the next section to verify other reject criteria.						

Continued on next page

Section 2: INS File Review, Continued

Step	Action: INS	
2. cont'd.	IF the applicant...	THEN...
	Is not eligible under 245(i) and has submitted separate remittances	Reject the I-485 Supplement A form and the \$1,000 penalty fee. Proceed to review for reject criteria.
	Is eligible to file under section 245(k) or 245(a) of the Act and has submitted separate remittances for the I-485 application and penalty fee	Reject the I-485 Supplement A form and the \$1,000 penalty fee. Proceed to "Reviewing for Reject Criteria."

245(i) Eligibility Table

I-485 is submitted with...	And the priority date is...	Then...
Supplement A and Penalty Fee	On or before 4/30/01	Accept the filing and continue to the next step.
	After 4/30/01 with no grandfathering eligibility	Reject the entire package, but continue to the next step to verify other reject criteria.
	After 4/30/01 with grandfathering eligibility	Accept the filing and continue to the next step.
Supplement A and Penalty Fee and it's DV/Lottery	Anytime	Reject the entire package, but continue to the next step to verify other reject criteria.
Supplement A without Penalty Fee	Anytime	Accept the filing and continue to the next step.
Penalty Fee without Supplement A	Anytime with one remittance	Reject the entire package, but continue to the next step to verify other reject criteria.
	Anytime with more than one remittance	Accept the I-485 application, but reject the \$1,000 fee as not needed. Continue to the next step.
I-485 is submitted with...	And the filing date is after November 26, 1997...	Then...
Supplement A and Penalty Fee	Eligible under 245(k) and there is one remittance	Reject the entire package, but continue to the next step to verify other reject criteria.
	Eligible under 245(k) and there is more than one remittance	Accept the I-485, but reject Supplement A and the penalty fee. Continue to the next step.

Continued on next page

Section 2: INS File Review, Continued

Reviewing for Reject Criteria

When to Perform Once the I-485 application has been reviewed for 245(i) eligibility, INS must review any of the remaining 5 reject criteria identified by the mailroom.

Procedure To review the application for reject criteria, perform the following steps:

Step	Action: INS						
1	Identify the reason(s) for rejection annotated by the contractor on the reject notice.						
2	Verify that the reason(s) for rejection is(are) valid using the corresponding instructions below. Instructions for reject criteria are posted in the following order: <ol style="list-style-type: none">1. Correct Fee/ Fee Waiver Request2. Signature3. Basis for Eligibility4. Visa Availability5. Jurisdiction <table border="1"><thead><tr><th>IF...</th><th>THEN...</th></tr></thead><tbody><tr><td>The contractor correctly identified a reject criterion</td><td>Initial and date the notation on the processing worksheet, and route the file to data entry for production of a reject notice.</td></tr><tr><td>The contractor incorrectly identified a reject criterion, and the case is acceptable</td><td>Modify, initial and date the notation on the processing worksheet, and continue to the next section.</td></tr></tbody></table>	IF...	THEN...	The contractor correctly identified a reject criterion	Initial and date the notation on the processing worksheet, and route the file to data entry for production of a reject notice.	The contractor incorrectly identified a reject criterion, and the case is acceptable	Modify, initial and date the notation on the processing worksheet, and continue to the next section.
IF...	THEN...						
The contractor correctly identified a reject criterion	Initial and date the notation on the processing worksheet, and route the file to data entry for production of a reject notice.						
The contractor incorrectly identified a reject criterion, and the case is acceptable	Modify, initial and date the notation on the processing worksheet, and continue to the next section.						

Continued on next page

Section 2: INS File Review, Continued

Step	Action: INS	
	IF...	THEN...
	The contractor incorrectly identified a reject criterion, but other reject criteria are correctly identified	Modify, initial and date the notation on the processing worksheet, and route the file to data entry for production of a reject notice.

Reminders

- Make sure family groupings are kept together:
 - If you reject a family member, reject all I-485 applications for that family.
 - **Exception:** Refugee/Asylee adjustments do not require the I-485 applications for the entire family to be rejected if you reject one family member.
- Check to see if the case requires priority processing (see the “Identifying Expedites” section in the last chapter).

Reject Criteria 1: Review for Correct Fee

The first step in Reviewing for Eligibility is that INS must ensure that all applicable fees are present.

NOTE: The I-485 filing fee is not required for refugee applicants filing under Section 209 of the INA.

Continued on next page

Section 2: INS File Review, Continued

Procedure If the contractor has identified the application as having the incorrect fee, INS must review the application to determine whether it should be rejected:

Step	Action: INS																														
1	<p>Review the remittance to ensure that the correct amount is attached for each form:</p> <table data-bbox="584 525 1104 1365"> <tr> <td><i>I-485 for applicants 14 years of age or older</i></td> <td>\$220</td> </tr> <tr> <td><i>I-485 for applicants less than 14 years of age</i></td> <td>\$160</td> </tr> <tr> <td><i>I-485 Supplement A</i> (Not needed at time of filing.)</td> <td>\$1,000</td> </tr> <tr> <td><i>Fingerprint Fee (14-79)</i> (Not needed at date of filing.)</td> <td>\$25</td> </tr> <tr> <td colspan="2">Other forms</td> </tr> <tr> <td>I-130</td> <td>\$110</td> </tr> <tr> <td>I-140</td> <td>\$115</td> </tr> <tr> <td>I-131</td> <td>\$95</td> </tr> <tr> <td>I-601</td> <td>\$170</td> </tr> <tr> <td>I-602</td> <td>No fee</td> </tr> <tr> <td>I-765</td> <td>\$100</td> </tr> <tr> <td>I-824</td> <td>\$120</td> </tr> <tr> <td>I-864</td> <td>No fee</td> </tr> <tr> <td>I-212</td> <td>\$170</td> </tr> <tr> <td>I-191</td> <td>\$170</td> </tr> </table>	<i>I-485 for applicants 14 years of age or older</i>	\$220	<i>I-485 for applicants less than 14 years of age</i>	\$160	<i>I-485 Supplement A</i> (Not needed at time of filing.)	\$1,000	<i>Fingerprint Fee (14-79)</i> (Not needed at date of filing.)	\$25	Other forms		I-130	\$110	I-140	\$115	I-131	\$95	I-601	\$170	I-602	No fee	I-765	\$100	I-824	\$120	I-864	No fee	I-212	\$170	I-191	\$170
<i>I-485 for applicants 14 years of age or older</i>	\$220																														
<i>I-485 for applicants less than 14 years of age</i>	\$160																														
<i>I-485 Supplement A</i> (Not needed at time of filing.)	\$1,000																														
<i>Fingerprint Fee (14-79)</i> (Not needed at date of filing.)	\$25																														
Other forms																															
I-130	\$110																														
I-140	\$115																														
I-131	\$95																														
I-601	\$170																														
I-602	No fee																														
I-765	\$100																														
I-824	\$120																														
I-864	No fee																														
I-212	\$170																														
I-191	\$170																														
2	<p>Refer to local guidelines for determination of fee acceptability. Complete the following steps, if they have not been done: Staple the remittance and all related remittances to the lower left corner of the G-28. If no G-28 is present, staple the remittance to the lower left corner of the I-485. Staple remittances for concurrent applications according to the SOP for those forms. Proceed to Reject Criteria 2, "Review for Signature."</p>																														

Continued on next page

Section 2: INS File Review, Continued

Step	Action: INS	
2 cont'd.	IF...	THEN...
	A request to waive the fee is submitted	Annotate the processing worksheet and refer to local waiver procedures.
	No fee is present, the fee is not receipted elsewhere, there is no record of a duplicate application, and there is no request to waive the fee	Reject.
	Only one payment is submitted for a family pack and the fee payment is incorrect	Reject.
	Only one payment is submitted for the I-485 and all concurrent files, and the fee payment is incorrect	Reject.

**Reject
Criteria 2:
Review for
Signature**

If the contractor has identified the application as having an incorrect signature, INS must review the application to determine whether it should be rejected:

Procedure

Follow the chart below to review for proper signature.

Step	Action: INS	
1	Verify that the applicant/petitioner has properly signed the application(s)/petition (<i>i.e.</i> , an original signature in the designated location on the application/petition). All forms of original signature are acceptable, including an "X," thumbprint, or an original facsimile signature stamp. A TYPEWRITTEN NAME IS NOT A SIGNATURE. Applicants 14 years of age or older must sign their own application(s). Applications submitted for applicants under the age of 14 can be signed by a parent/guardian.	
	IF the signature is...	THEN...
	Complete and correct	Accept.
	Incorrect, missing or signed by the wrong applicant	Reject.

Continued on next page

Section 2: INS File Review, Continued

Reject Criteria 3: Review for Basis for Eligibility

In order to be eligible to request adjustment of status, an applicant must have an approved Employment-based or Family-based petition. These petitions validate an applicant's eligibility under a certain section of law.

Approved Employment-based underlying petitions include:

- I-140, Petition for Alien Worker
- I-526, Immigrant Petition for an Alien Entrepreneur
- I-360, Religious Workers

Exception – Concurrently filed I-140 Petition.

Approved Family-based underlying petitions include:

- I-130, Petition for Alien Relative
- I-360, Petition for Special Immigrant--Battered Spouses

In addition, an applicant may be eligible to apply for legal permanent residence under a special program. These case types do not require an underlying visa petition.

In all three cases, the approval of the basis for eligibility will be annotated on the approval notice or I-797. If the contractor has identified a rejection for eligibility, INS must review the application to determine if it should be rejected. The section below allows you to determine, based upon the I-797, what the basis for eligibility is for each applicant and if that basis for eligibility is valid.

Procedure

Determine the basis for eligibility by completing the following steps:

Step	Action: INS						
1	<p>Check the applicant's basis for filing. (<i>i.e.</i>, Family-based, Employment-based, or Special Program). Verify that the applicant has checked the appropriate box in Part 2 of the I-485.</p> <table border="1" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th style="text-align: center;">IF...</th> <th style="text-align: center;">THEN...</th> </tr> </thead> <tbody> <tr> <td>The appropriate box is checked</td> <td>Continue to the next step to locate the I-797.</td> </tr> <tr> <td>The appropriate box is not checked</td> <td>Mark the appropriate box and continue to the next step.</td> </tr> </tbody> </table>	IF...	THEN...	The appropriate box is checked	Continue to the next step to locate the I-797.	The appropriate box is not checked	Mark the appropriate box and continue to the next step.
IF...	THEN...						
The appropriate box is checked	Continue to the next step to locate the I-797.						
The appropriate box is not checked	Mark the appropriate box and continue to the next step.						

Continued on next page

Section 2: INS File Review, Continued

2	<p>Locate the I-797 in the ROP and review it for approval of the underlying petition.</p> <p>(Note: If the basis of eligibility is a special program, there will not be an I-797 in the ROP.)</p> <table border="1" data-bbox="565 453 1388 751"> <thead> <tr> <th data-bbox="565 453 979 489">IF...</th> <th data-bbox="979 453 1388 489">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 489 979 604">The I-797 confirms approval or there is a concurrently filed I-140</td> <td data-bbox="979 489 1388 604">Go to Step 3.</td> </tr> <tr> <td data-bbox="565 604 979 751">The I-797 does not confirm approval or is not present, and the I-140 is not concurrently filed</td> <td data-bbox="979 604 1388 751">Search in CLAIMS for evidence of an approved underlying petition. Go to Step 3.</td> </tr> </tbody> </table>	IF...	THEN...	The I-797 confirms approval or there is a concurrently filed I-140	Go to Step 3.	The I-797 does not confirm approval or is not present, and the I-140 is not concurrently filed	Search in CLAIMS for evidence of an approved underlying petition. Go to Step 3.												
IF...	THEN...																		
The I-797 confirms approval or there is a concurrently filed I-140	Go to Step 3.																		
The I-797 does not confirm approval or is not present, and the I-140 is not concurrently filed	Search in CLAIMS for evidence of an approved underlying petition. Go to Step 3.																		
3	<p>Identify the basis for filing by the form type or by the special program identified.</p> <table border="1" data-bbox="565 900 1388 1092"> <thead> <tr> <th data-bbox="565 900 979 974">IF the underlying petition...</th> <th data-bbox="979 900 1388 974">THEN the basis for eligibility is...</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 974 979 1050">Is an I-140, I-360 Religious Worker, I-526</td> <td data-bbox="979 974 1388 1050">Employment-based</td> </tr> <tr> <td data-bbox="565 1050 979 1092">Is an I-130</td> <td data-bbox="979 1050 1388 1092">Family-based</td> </tr> </tbody> </table> <table border="1" data-bbox="565 1127 1388 1614"> <thead> <tr> <th data-bbox="565 1127 979 1201">IF the I-485 indicates...</th> <th data-bbox="979 1127 1388 1201">THEN the basis for eligibility is...</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 1201 979 1316">It is addressed to the Asylee/Refugee Post Office Box in Nebraska</td> <td data-bbox="979 1201 1388 1316">The special program for Asylees/Refugees</td> </tr> <tr> <td data-bbox="565 1316 979 1390">The applicant's country of birth was Cuba</td> <td data-bbox="979 1316 1388 1390">The special program for Cubans</td> </tr> <tr> <td data-bbox="565 1390 979 1463">HRIFA</td> <td data-bbox="979 1390 1388 1463">The special program for HRIFA</td> </tr> <tr> <td data-bbox="565 1463 979 1537">NACARA</td> <td data-bbox="979 1463 1388 1537">The special program for NACARA</td> </tr> <tr> <td data-bbox="565 1537 979 1614">DV or Lottery</td> <td data-bbox="979 1537 1388 1614">The special program for DV or lottery winners</td> </tr> </tbody> </table>	IF the underlying petition...	THEN the basis for eligibility is...	Is an I-140, I-360 Religious Worker, I-526	Employment-based	Is an I-130	Family-based	IF the I-485 indicates...	THEN the basis for eligibility is...	It is addressed to the Asylee/Refugee Post Office Box in Nebraska	The special program for Asylees/Refugees	The applicant's country of birth was Cuba	The special program for Cubans	HRIFA	The special program for HRIFA	NACARA	The special program for NACARA	DV or Lottery	The special program for DV or lottery winners
IF the underlying petition...	THEN the basis for eligibility is...																		
Is an I-140, I-360 Religious Worker, I-526	Employment-based																		
Is an I-130	Family-based																		
IF the I-485 indicates...	THEN the basis for eligibility is...																		
It is addressed to the Asylee/Refugee Post Office Box in Nebraska	The special program for Asylees/Refugees																		
The applicant's country of birth was Cuba	The special program for Cubans																		
HRIFA	The special program for HRIFA																		
NACARA	The special program for NACARA																		
DV or Lottery	The special program for DV or lottery winners																		

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**FAMILY-BASED I-485
QUICK REFERENCE GUIDE**

FAMILY-BASED I-485			
Classification of applicant	And the applicant entered the US...	And the priority date of the underlying visa petition is...	Then apply this section of law...
IR	Legally	Anytime	245(a)
	As an EWI	On or before 4/30/01	245(i)
		After 4/30/01	*ineligible to adjust
Preference	Legally and maintained status	Anytime	245(a)
	As an EWI and/or violated their status	On or before 4/30/01	245(i)
		After 4/30/01	*ineligible to adjust

***Ineligible Applicants**

These applicants are ineligible to adjust status after 4/30/01 under 245(a) or 245(i):

IMMEDIATE RELATIVES

- who entered as a TWOV and crew members

PREFERENCE RELATIVES

- who entered as a TWOV and crew members
- who work without labor certification or authorization from INS
- who have not maintained a valid nonimmigrant status
- who violated the terms of their admission
- who entered under the Visa Waiver Pilot Program

Continued on next page

Section 2: INS File Review, Continued

EMPLOYMENT-BASED I-485 QUICK REFERENCE GUIDE

EMPLOYMENT-BASED I-485			
Applicant entered the U.S...	And received the I-485...	And the priority date of the underlying visa petition is...	Then apply this section of law...
Legally and maintained their status	Anytime	Anytime	245(a)
Legally but violated their status for 180 days or less	On or After 11/26/97	Anytime	245(k) NO PENALTY FEE REQUIRED
Legally but violated their status for more than 180 days	On or After 11/26/97	On or before 4/30/01	245(i) PENALTY FEE REQUIRED AND SUPPLEMENT A
		After 4/30/01	*ineligible to adjust
As an EWI	Anytime	On or before 4/30/01	245(i) PENALTY FEE REQUIRED AND SUPPLEMENT A
		After 4/30/01	*ineligible to adjust

Continued on next page

Section 2: INS File Review, Continued

**Reject
Criteria 4:
Review for Visa
Availability**

When applying for adjustment of status the applicant must be immediately eligible for the immigrant visa at the time of filing. If the contractor has identified a lack of visa availability, INS must review the application to determine if it should be rejected using the priority date of the immigrant visa petition.

**Definition of
Cross-Country
Chargeability**

The officer must determine the country of chargeability of visa issuance. The country of chargeability is the country of the applicant's birth. Visas for the dependents will be first charged against the dependent's country of birth. If unavailable, the visa may be charged against the country of birth of the principal applicant. If the visa is unavailable for the principal applicant's country of birth, the visa may be charged to the country of birth of the principal applicant's spouse (but not the children). See section 202 of the INA for rules of chargeability.

**How to Find
the Priority
Date**

To find the priority date, look at the section labeled "priority date" on the applicant's I-797 approval notice. You will need this date to determine visa availability in the steps below. If there is a concurrently filed I-140, use the steps in the chart for concurrent filings to determine if the visa is immediately available.

Procedure

Follow the steps below to determine if a visa is available to the applicant at the time of filing.

Step	Action: INS						
1	Locate the priority date of the underlying petition. For concurrently filed I-140 petitions use the chart for concurrent filings to determine priority date.						
2	Determine the classification/section of law of the underlying visa petition. To do this, see below. <table border="1" data-bbox="565 1444 1393 1671"> <thead> <tr> <th data-bbox="565 1444 930 1480">IF...</th> <th data-bbox="930 1444 1393 1480">Then...</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 1480 930 1556">There is an approval notice in the ROP</td> <td data-bbox="930 1480 1393 1556">Check the I-797 approval notice for the section of law</td> </tr> <tr> <td data-bbox="565 1556 930 1671">If there is not an I-797 and the I-140 is not concurrently filed</td> <td data-bbox="930 1556 1393 1671">Search in CLAIMS for evidence of an approved underlying petition</td> </tr> </tbody> </table>	IF...	Then...	There is an approval notice in the ROP	Check the I-797 approval notice for the section of law	If there is not an I-797 and the I-140 is not concurrently filed	Search in CLAIMS for evidence of an approved underlying petition
IF...	Then...						
There is an approval notice in the ROP	Check the I-797 approval notice for the section of law						
If there is not an I-797 and the I-140 is not concurrently filed	Search in CLAIMS for evidence of an approved underlying petition						

Continued on next page

Section 2: INS File Review, Continued

Step	Action: INS
3	Locate the date stamp on the I-485 application.
4	Locate the Visa Bulletin for the month that corresponds to the date stamp on the I-485 application.
5	Using the section of law and classification chart below, determine the applicant's specific classification and preference category.

LAW AND CLASSIFICATION CHART

<i>Employment</i>			
Type of Petition	Section of Law	Classification	Preference
I-140	203(b)(1)(A), 203(b)(1)(B), or 203(b)(1)(C)	E11, E12, E13	1 st
	203(b)(2)	E21	2 nd
	203(b)(3)(A)(i), 203(b)(3)(A)(ii)	E31, E32	3 rd
I-360	203(b)(3)(A)(iii)	EW3	Other workers
	101(a)(27)(C)	SD1	4 th
	101(a)(27)(C)	SR1	Certain religious workers
	101(a)(27)(I)(iii)	SK1	4 th
I-526	203(b)(5)(A)	C51	5 th - non targeted employment areas
	203(b)(5)(B), 610 P.L. 102-395	T51, R51, I51	Targeted employment areas/Investor pilot program, non targeted employment areas
<i>Family</i>			
Type of Petition	Section of Law	Classification	Preference
I-130	203(a)(1)	F11	1 st
	203(a)(2)	F21, F22	2A
	203(a)(2)	F24	2B
	203(a)(3)	F31	3 rd
	203(a)(4)	F41	4 th

Step	Action: INS
6	Locate the preference category of the classification and the country of birth of the applicant on the visa bulletin. Use the "all other" column for all applicants from countries other than those specifically listed.

Continued on next page

Section 2: INS File Review, Continued

Step	Action: INS						
7	<p>Using the priority date of the underlying immigrant visa petition, compare the priority date with the date under the column of the country of chargeability and row, which corresponds to the preference date.</p> <table border="1" data-bbox="565 457 1388 682"> <thead> <tr> <th data-bbox="565 457 979 531">IF the applicant's priority date is...</th> <th data-bbox="979 457 1388 531">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 531 979 604">On or after the date listed on the bulletin</td> <td data-bbox="979 531 1388 604">The visa is not currently available</td> </tr> <tr> <td data-bbox="565 604 979 682">Before the date listed on the bulletin</td> <td data-bbox="979 604 1388 682">The visa is available</td> </tr> </tbody> </table> <p>NOTE: If there is a "C" listed in the column, the visa is available. If there is a "U" listed in the column, there are no visas available.</p>	IF the applicant's priority date is...	THEN...	On or after the date listed on the bulletin	The visa is not currently available	Before the date listed on the bulletin	The visa is available
IF the applicant's priority date is...	THEN...						
On or after the date listed on the bulletin	The visa is not currently available						
Before the date listed on the bulletin	The visa is available						
8	<p>Annotate the processing worksheet accordingly.</p> <table border="1" data-bbox="565 903 1388 1127"> <thead> <tr> <th data-bbox="565 903 979 940">IF the visa is...</th> <th data-bbox="979 903 1388 940">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 940 979 1014">Available</td> <td data-bbox="979 940 1388 1014">Continue to the next reject criterion.</td> </tr> <tr> <td data-bbox="565 1014 979 1127">Not available</td> <td data-bbox="979 1014 1388 1127">Continue to the next step to check for cross-country chargeability.</td> </tr> </tbody> </table>	IF the visa is...	THEN...	Available	Continue to the next reject criterion.	Not available	Continue to the next step to check for cross-country chargeability.
IF the visa is...	THEN...						
Available	Continue to the next reject criterion.						
Not available	Continue to the next step to check for cross-country chargeability.						
9	<p>Check for cross-country chargeability to see if the applicant may qualify for a visa from another country.</p> <table border="1" data-bbox="565 1276 1388 1430"> <thead> <tr> <th data-bbox="565 1276 979 1314">IF the visa is...</th> <th data-bbox="979 1276 1388 1314">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 1314 979 1388">Available</td> <td data-bbox="979 1314 1388 1388">Continue to the next reject criterion.</td> </tr> <tr> <td data-bbox="565 1388 979 1430">Not available</td> <td data-bbox="979 1388 1388 1430">Reject.</td> </tr> </tbody> </table>	IF the visa is...	THEN...	Available	Continue to the next reject criterion.	Not available	Reject.
IF the visa is...	THEN...						
Available	Continue to the next reject criterion.						
Not available	Reject.						

Continued on next page

Section 2: INS File Review, Continued

Procedure for Concurrently Filed I-140/I-485

Follow the steps below to determine if a visa is immediately available if the I-485 has been filed concurrently with an I-140.

Step	Action: INS
1	Locate the underlying petition.
2	Determine the classification/section of law of the underlying visa petition. To do this, check the face of the petition for the eligibility category selected.
3	Locate the date stamp on the I-485 application.
4	Locate the Visa Bulletin for the month that corresponds to the date stamp on the I-485 application.
5	Using the section of law and classification chart on page 18, determine the applicant's specific classification and preference category.
6	Use the chart below to determine where to locate the priority date on a concurrently filed I-140

Determining the Priority Date on a Concurrently Filed I-140

Section of Law	Classification	Preference	Priority Date Determined by...
203(b)(1)(A), 203(b)(1)(B), or 203(b)(1)(C)	E11, E12, E13	1 st	The filing date of the petition.
203(b)(2)	E21	2 nd	The L.O. date on the ETA 750.
203(b)(2)	E21 National Interest Waiver	2 nd	The filing date of the petition.
203(b)(3)(A)(i), 203(b)(3)(A)(ii)	E31, E32	3 rd	The L.O. date on the ETA 750.
203(b)(3)(A)(iii)	EW3	Other workers	The L.O. date on the ETA 750.

Continued on next page

Section 2: INS File Review, Continued

Step	Action: INS							
7	Locate the preference category of the classification and the country of birth of the applicant on the visa bulletin. You will use the "all other" column for all applicants from countries other than those specifically listed.							
8	<p>Using the priority date of the underlying immigrant visa petition, compare the priority date with the date under the column of the country of chargeability and row which corresponds to the preference date.</p> <table border="1" data-bbox="565 638 1388 865"> <thead> <tr> <th data-bbox="565 638 979 716">IF the applicant's priority date is...</th> <th data-bbox="979 638 1388 716">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 716 979 789">On or after the date listed on the bulletin</td> <td data-bbox="979 716 1388 789">The visa is not currently available.</td> </tr> <tr> <td data-bbox="565 789 979 865">Before the date listed on the bulletin</td> <td data-bbox="979 789 1388 865">The visa is available.</td> </tr> </tbody> </table> <p>NOTE: If there is a "C" listed in the column, the visa is available. If there is a "U" listed in the column, there are no visas available.</p>		IF the applicant's priority date is...	THEN...	On or after the date listed on the bulletin	The visa is not currently available.	Before the date listed on the bulletin	The visa is available.
IF the applicant's priority date is...	THEN...							
On or after the date listed on the bulletin	The visa is not currently available.							
Before the date listed on the bulletin	The visa is available.							
9	<p>Annotate the processing worksheet accordingly.</p> <table border="1" data-bbox="565 1087 1388 1314"> <thead> <tr> <th data-bbox="565 1087 979 1129">IF the visa is...</th> <th data-bbox="979 1087 1388 1129">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 1129 979 1203">Available</td> <td data-bbox="979 1129 1388 1203">Proceed to review for Criteria 5.</td> </tr> <tr> <td data-bbox="565 1203 979 1314">Not available</td> <td data-bbox="979 1203 1388 1314">Continue to the next step to check for cross –country chargeability.</td> </tr> </tbody> </table>		IF the visa is...	THEN...	Available	Proceed to review for Criteria 5.	Not available	Continue to the next step to check for cross –country chargeability.
IF the visa is...	THEN...							
Available	Proceed to review for Criteria 5.							
Not available	Continue to the next step to check for cross –country chargeability.							
10	Check for cross-country chargeability to see if the applicant may qualify for a visa from another country.							
	IF the visa is...	THEN...						
	Available	Continue to the next step to review for Criteria 5.						
	Not available	Reject.						

Continued on next page

Section 2: INS File Review, Continued

**Reject
Criteria 5:
Review for
Jurisdiction**

Each Service Center has jurisdiction over (or has the authority to process and adjudicate) a certain sub-set of the total forms received by the INS. Jurisdiction is determined by geography and by basis for eligibility. If a form is not from the area serviced by the Service Center or does not fall under a special program adjudicated by the Service Center, it cannot be processed there. Therefore, a check for appropriate jurisdiction must be made. The following criteria will be used for checking jurisdiction.

**Definition of
Jurisdiction by
Geography**

Most employment-based applications are subject to jurisdiction based upon geography. An applicant is under the jurisdiction of a Service Center if:

- The applicant resides in a state over which the Service Center has jurisdiction; or
- The I-797 or CLAIMS receipt number indicates that the underlying petition was processed in the Service Center; or
- The Service Center has jurisdiction over the concurrently filed I-140.

**Definition of
Jurisdiction by
Basis for
Eligibility**

All special program applications are subject to jurisdiction based upon basis for eligibility. An applicant is under the jurisdiction of a Service Center if:

- The applicant qualifies under a special program processed at that Service Center.

Continued on next page

Section 2: INS File Review, Continued

Jurisdiction Guidelines Use the chart below to determine the states and special programs under jurisdiction of each Service Center.

Service Center	State	Special Programs
California	AZ, CA, Guam, HI, NV	
Nebraska	AK, CO, IA, ID, IL, IN, KS, MI, MN, MO, ND, NE, OH, OR, SD, UT, WA, WI, WY, MT	<ul style="list-style-type: none"> • HRIFA • Refugee • Asylee
Vermont	CT, DC, DE, MA, MD, ME, NH, NJ, NY, PA, PR, RI, VA, VT, WV, VI	<ul style="list-style-type: none"> • Battered Spouse • Family-based Applications from the Baltimore District Office
Texas	AR, AL, FL, GA, KY, LA, MS, NM, NC, SC, OK, TN, TX	<ul style="list-style-type: none"> • NACARA • Cuban

Procedure To check for jurisdiction, complete the following steps:

Step	Action: INS
1	Check for proper jurisdiction based upon geography and the basis for eligibility. To do so, use the chart for your Service Center identified below.

Continued on next page

Section 2: INS File Review, Continued

Jurisdiction Table: Vermont Service Center

If the I-485 is submitted with...	And the jurisdiction is Baltimore...	And the jurisdiction is other than Baltimore...	Then you should...
Approval notice: I-140 I-526 I-360 (Religious Worker)	Accept if the visa is available. If not Baltimore, see next column.	<ul style="list-style-type: none"> But within VSC jurisdiction or VSC approved IV petition 	Accept if visa is available.
		<ul style="list-style-type: none"> Outside VSC jurisdiction and VSC did not approve IV petition 	Reject for jurisdiction.
Concurrently filed: I-140	And the visa is immediately available.		Accept the application.
Concurrently filed: I-140	With one remittance and the visa is not immediately available.		Reject, not eligible to file concurrently.
Concurrently filed: I-140	With separate remittances and the visa is not immediately available.		Accept the IV petition and reject the I-485.
Concurrently filed: I-526 I-360 (Religious Worker)	With one remittance.		Reject, not eligible to file concurrently.
	With separate remittance.		Accept IV petition and reject I-485.
Concurrently filed: I-360 (Special Immigrant SKs)	Accept if the visa is available.	Reject for jurisdiction.	
Concurrently filed: I-360 (NATO Applicants)	Accept if the visa is available.	Reject if the visa is not available.	
Approval notice: I-130	Accept if visa is available.	Reject for jurisdiction.	
Concurrently filed: I-130	Accept if visa is available	Reject to allow for filing both forms at the District.	
	If visa is not available: <ul style="list-style-type: none"> With one remittance . . . reject both I-485 and I-130. With separate remittances . . . accept I-130 and reject I-485. 		

Continued on next page

Section 2: INS File Review, Continued

Jurisdiction Table: Vermont Service Center, continued

If the I-485 is submitted with...	And the jurisdiction is Baltimore...	And the jurisdiction is other than Baltimore...	Then you should...
Approval notice: I-129F	Accept		Reject for jurisdiction
Concurrently filed: I-360 (Battered Spouse)	<p>If visa is available, accept I-485.</p> <ul style="list-style-type: none"> Remember that the applicant may retain his/her priority date from a previously filed I-130, regardless of the decision made on the filing. Refer to 8 CFR Section 204.2(h) for further guidance. <p>If visa is not available:</p> <ul style="list-style-type: none"> With one remittance, reject both I-485 and I-360. With separate remittance, accept I-360 and reject I-485. 		
Approval notice: I-360 (Battered Spouse)	<p>Accept if visa is available.</p> <p>Reject if visa is not available.</p> <ul style="list-style-type: none"> Remember that the applicant may retain his/her priority date from a previously filed I-130, regardless of the decision made on the filing. Refer to 8 CFR Section 204.2(h) for further guidance. 		
Approval notice: I-360 – all other categories	<p>Accept if visa is available.</p> <p>Reject if visa is not available.</p>		Reject for jurisdiction.
All other eligibilities, <i>i.e.</i> , Diversity, Lautenberg	<p>Accept if eligibility is established.</p> <p>Diversity must have a visa available.</p>		Reject for jurisdiction.
Haitian DED (HRIFA)	Reject. NSC has jurisdiction.		
Asylees / Refugees	Reject. NSC has sole jurisdiction as of 7/6/98.		
Cubans	Reject. TSC has sole jurisdiction.		
NACARA	Reject. TSC has jurisdiction.		

Continued on next page

Section 2: INS File Review, Continued

Jurisdiction Table: Vermont Service Center, continued

If the I-485 is submitted with...	And the jurisdiction is Baltimore...	And the jurisdiction is other than Baltimore...	Then you should...
Supplement A and \$1000 – DV	Reject entire submission.		
Supplement A and \$1000 – IV priority date on or before 4/30/01	Case with penalty fees may be accepted as long as case would otherwise be accepted by the VSC (meets I-485 acceptance criteria above).		
Supplement A and \$1000 – IV priority date after 4/30/01	Reject entire submission.		

Continued on next page

Section 2: INS File Review, Continued

Jurisdiction Table: Nebraska Service Center

If the I-485 is submitted with...	And the jurisdiction is LIN...	And the jurisdiction is other than LIN...	Then you should...
Approval notice: I-140 I-526 I-360 (Religious Worker)	I-797 receipt notice must indicate LIN, then accept if the visa is available	I-797 receipt notice does not indicate LIN, but residence address is within NSC jurisdiction	Accept if visa is available.
		I-797 receipt notice does not indicate LIN, and residence address is not within NSC jurisdiction	Reject for jurisdiction.
Concurrently filed: I-140	And the visa is immediately available.		Accept the application.
Concurrently filed: I-140	With one remittance and the visa is not immediately available.		Reject, not eligible to file concurrently.
Concurrently filed: I-140	With separate remittances and the visa is not immediately available.		Accept the IV petition and reject the I-485.
Concurrently filed: I-526 I-360	With one remittance.		Reject, not eligible to file concurrently.
	With separate remittances.		Accept IV petition IF other than Amerasian, Juvenile or Battered Spouse and reject I-485. Amerasian and Juveniles are rejected back to the applicant along with the I-485 and instructions to file at the local district office. For Battered Spouse, see below.
Concurrently filed: I-360 (Battered Spouse)	Reject with instructions to the applicant to file at the Vermont Service Center (VSC). VSC has sole jurisdiction.		
Approval notice: I-360 (Battered Spouse)	Reject with instructions to the applicant to file at VSC. VSC has sole jurisdiction.		

Continued on next page

Section 2: INS File Review, Continued

Jurisdiction Table: Nebraska Service Center, continued

If the I-485 is submitted with...	And the jurisdiction is LIN...	And the jurisdiction is other than LIN...	Then you should...
Approval notice: I-360 – all other categories	Reject with instructions to the applicant to file at the local district office.		
Approval notice: I-130	Reject and have the applicant file at the local district office.		
Concurrently filed: I-130	With one remittance	Reject, not eligible to file concurrently.	
	With separate remittances	Accept the visa petition and reject the I-485.	
Approval notice: I-129F	Reject with instructions to the applicant to file at the local district office.		
Approval notice: Other form types	Reject with instructions to the applicant to file at the local district office.		
No approval Notice I-797	Reject unless EB IV petition approval is indicated through systems checks, or other basis for adjustment is indicated. (See Below)		
I-485 Supplement A and \$1000 – Employment-based IV Petition has a priority date on or before 4/30/01, or is eligible to grandfather 245(i)	<p>An application with 245(i) penalty fee and Supplement may be accepted as long as the applicant is eligible to file under section 245(i) of the Act.</p> <p>The applicant is eligible for 245(i) if the following criteria is met:</p> <ul style="list-style-type: none"> • The priority date of the EB IV petition is on or before 4/30/01 or • The applicant is eligible to grandfather 245(i), and • The application is otherwise acceptable (fee, signature, visa availability, and jurisdiction). <p>For additional information on the application of 245(i) and grandfathering 245(i), refer to the appropriate adjudications chapter.</p>		

Continued on next page

Section 2: INS File Review, Continued

Jurisdiction Table: Nebraska Service Center, continued

If the I-485 is submitted with...	And the jurisdiction is LIN...	And the jurisdiction is other than LIN...	Then you should...
I-485 Supplement A and \$1000 – Employment-based IV Petition has a priority date after 4/30/01, no claim of eligibility to grandfather 245(i).	Reject entire submission.		
I485 Supplement A Without Fee.	Accept if application is otherwise acceptable		
\$1000.00 Fee –No I-485 Supplement A-Employment Based IV Petition	With One Remittance-Reject entire submission		
	With Two Remittances-Accept I-485 and return \$1000.00 fee.		
Refugee	Accept if the following criteria is met: <ul style="list-style-type: none"> • The applicant was admitted as a refugee and has been physically present for at least one year in the United States prior to filing the I485. • Block H is checked for “Refugee” and/or Form I-485 Part One current INS status indicates “Refugee.” 		
Asylee	Accept if the following criteria is met: <ul style="list-style-type: none"> • The applicant has been physically present for at least one year in the United States in Asylee status prior to filing the I-485. 		

Continued on next page

Section 2: INS File Review, Continued

Jurisdiction Table: Nebraska Service Center, continued

If the I-485 is submitted with...	And the jurisdiction is LIN...	And the jurisdiction is other than LIN...	Then you should...
Haitian DED (HRIFA)	Accept if the following criteria is met: <ul style="list-style-type: none"> • The applicant is a national of Haiti. • Part 2 of the application is marked "H" with "HRIFA - principal" or "HRIFA - dependent" written in the space provided. • HRIFA Dependent applicants who file without a principal will only be accepted if the principal alien's adjustment application has been located. • I-485 Supplement "C" may be included in the submission. • The application may indicate a code of admission (COA) in the COA field, and that COA should match a code of admission on the HRIFA code of admission list. • Law is the Haitian Refugee Immigration Fairness Act (HRIFA). • There is no priority date. 		
NACARA	Reject with instructions to the applicant to file at TSC. TSC has sole jurisdiction.		
PIP-LAUTENBERG	Reject with instructions to the applicant to file at the local district office.		
Marielito PIP	If paroled into the U.S. between 4/1/80-5/18/80, accept.		
Diversity Lottery	Reject with instructions to the applicant to file at the local district office.		
Cuban PL 89-732	Reject with instructions to the applicant to file at the local district office.		
Cuban PL 89-732 Residing in Florida	Reject with instructions to the applicant to file at TSC.		

Continued on next page

Section 2: INS File Review, Continued

Jurisdiction Table: Nebraska Service Center, continued

If the I-485 is submitted with...	And the jurisdiction is LIN...	And the jurisdiction is other than LIN...	Then you should...
Previous A or G Status Section 13 of 1957 Act			Reject with instructions to the applicant to file at the local district office.
Continuous Residence in the US prior to January 1, 1972			Reject with instructions to the applicant to file at the local district office.
Any other claimed basis for Adjustment of Status			Reject with instructions to the applicant to file at the local district office.

Continued on next page

Section 2: INS File Review, Continued

Jurisdiction Table: Texas Service Center

If the I-485 is...	And is submitted with...	And the jurisdiction is TSC...
Employment-based	Approval notice for I-140	Accept if the visa is available.
	Approval notice for I-526	Accept if the visa is available.
	Approval notice for I-360	Hold for INS Review.
Concurrently filed: I-140	And the visa is immediately available.	Accept the application.
Concurrently filed: I-140	With one remittance and the visa is not immediately available.	Reject, not eligible to file concurrently.
Concurrently filed: I-140	With separate remittances and the visa is not immediately available.	Accept the IV petition and reject the I-485.
Concurrently filed: I-526 I-360 (except Battered Spouse) I-130	With one remittance.	Reject, not eligible to file concurrently.
	With separate remittances for each application	Accept the petition but reject the I-485.
Family-based	Approval notice for I-129F or I-130	Reject to the applicant with instructions to file at the local office.
	Approval notice for I-360 Battered Spouse	Reject to the applicant with instructions to file at VSC.
Concurrently filed: I-360 (Battered Spouse)		Reject to the applicant with instructions to file at VSC.

Continued on next page

Section 2: INS File Review, Continued

Jurisdiction Table: Texas Service Center, continued

If the I-485 is...	And is marked...	Then you should...
NACARA	NACARA across the top of the application	Accept the application.
	NACARA as the current status	Accept the application.
	H and NACARA is written on the application	Accept the application.
Cuban	E, F, G, H, or I and is based on Cuban nationality and they reside in Florida	Accept the application.
	E, F, G, H, or I and is based on Cuban nationality and they reside outside of Florida	Accept the application.
Asylee/Refugee	Reject. NSC has sole jurisdiction.	
Haitian DED (HRIFA)	Reject. NSC has sole jurisdiction.	
All other eligibilities, <i>i.e.</i> Diversity, Lautenberg	Reject. Applicant must file at local office.	
Supplement A and \$1000	Case with penalty fee may be accepted as long as case would otherwise be accepted by TSC (meets I-485 acceptance criteria above).	

Continued on next page

Section 2: INS File Review, Continued

Jurisdiction Table: California Service Center

If the I-485 is submitted with ...	And the jurisdiction is CSC...	Then you should...
Approval notice for: I-140 I-526 I-360 (Religious Worker)	With CSC approved IV petition or special handling petition	Accept if visa is available.
	If outside CSC jurisdiction and not special handling petition	Reject for jurisdiction.
Concurrently filed: I-140	And the visa is immediately available.	Accept the application.
Concurrently filed: I-140	With one remittance and the visa is not immediately available.	Reject, not eligible to file concurrently.
Concurrently filed: I-140	With separate remittances and the visa is not immediately available.	Accept the IV petition and reject the I-485.
Concurrently filed: I-526 I-360 (Religious Worker, NATO Applicants, Special Immigrants)	With one remittance	Reject, not eligible to file concurrently.
	With separate remittances	Accept the petition and reject the I-485.
Approval notice: I-130		Reject to applicant.
Concurrently filed: I-130	With one remittance	Reject, not eligible to file concurrently.
	With separate remittances	Accept the petition and reject the I-485.
Approval notice: I-129F		Reject to applicant.
Concurrently filed: I-360 (Battered Spouse)		Reject to applicant with instructions to file at VSC.
Approval notice: I-360 (Battered Spouse)		Reject to applicant with instructions to file at VSC.
Approval notice: I-360 – all other categories		Reject to the applicant.
All other eligibilities, i.e., Diversity, Launtenberg		Reject with instructions to file at the district office.
Haitian DED (HRIFA)		Reject. NSC has jurisdiction.

Continued on next page

Section 2: INS File Review, Continued

Jurisdiction Table: California Service Center, Continued

If the I-485 is submitted with...	And the jurisdiction is CSC...	Then you should...
Asylees / Refugees		Reject. NSC has sole jurisdiction as of 7/6/98
NACARA		Reject. TSC has jurisdiction.
Supplement A and \$1000		Case with penalty fee may be accepted as long as the case would otherwise be accepted by the CSC (meets I-485 acceptance criteria above).
Supplement A and \$1000 – IV priority date on or before 4/30/01		Case with penalty fees may be accepted as long as the case would otherwise be accepted by the CSC (meets I-485 acceptance criteria above).
Supplement A and \$1000 – IV priority date after 4/30/01		Reject entire submission.

Continued on next page

Section 2: INS File Review, Continued

Reviewing the I-693 Medical Record

When to Perform

If INS determines that the application has met all eligibility criteria, INS needs to ensure that the Medical Evaluation Form I-693 and vaccination supplement have been submitted by the applicant in an unopened, sealed envelope before assembling the I-693 in the record.

If the application does not meet the eligibility criteria, it is rejected and sent back to the applicant unopened.

NOTE: If the applicant has not submitted an I-693 and vaccination supplement, a Request for Further Evidence notice will be sent to the applicant to alert them that this piece of information is missing from their file and they must present it at the time of adjudication.

NOTE: NIW Physicians are not required to submit an I-693 when filing an I-485. Applicants will be notified when the I-693 is to be submitted by an RFE from INS after officer review.

*Note: Asylees are required to submit the I-693 and the Supplement per 8 CFR 2-9.2(d), except those applicants who had medical examinations in Guam. All asylees must submit the Supplement. Refugees are not required to submit the I-693, but are required to submit the supplement per 8 CFR 209.1(c).

Procedure

If a case meets all of the eligibility criteria, complete the following steps:

Step	Action: INS
1	Annotate the processing worksheet to indicate whether the medical form was received in a properly sealed envelope.
2	Open the sealed medical record envelope containing the I-693.
3	Staple the envelope to the back of the form in the upper left corner and replace the medical record in the correct order of ROP.
4	Assemble the I-693 in the record.

Continued on next page

Section 2: INS File Review, Continued

Reviewing the I-765 and the I-131

When to Perform After reviewing the I-693 Medical Record, INS should review concurrently filed I-765s and I-131s for I-485 applications that meet all eligibility criteria.

Procedure for Reviewing the I-765 and I-131 If the I-485 filing is determined to be acceptable, complete the following steps to review concurrently filed I-765s and I-131s. Follow the procedure for whichever form(s) is(are) filed.

Step	Action: INS
1	Stamp the I-765 and/or I-131 form with the "Concurrent I-485 Filing" stamp.
2	Write the receipt number for the underlying approved visa petition on the I-485 processing worksheet in the "Mailroom" section. If the I-485 is concurrently filed with an I-140, write, "Concurrent filing" on the processing worksheet.
3	Initial the I-485 worksheet with your ID codes in the appropriate block of the worksheet.
4	Route the file to CIS checks.

Section 3: Central Index System/ G-325A Processing

Introduction

When an alien files with the Immigration Service, he or she is sometimes assigned an Alien Registration Number (A-number). The A-number consists of an "A" followed by 9 digits, for example, A99333888. The A-number is used to create a record for the alien in the Central Index System (CIS) in National Systems. This A-number follows the alien throughout his or her dealings with the Immigration Service, and is attached to his or her immigration documentation. Each A-file is tracked by the corresponding A-number.

Thus, when an I-485 is processed at the Service Center, a search of CIS must be conducted to determine if the applicant has previously been assigned an A-number and/or to validate his/ her alleged number. Searches may also reveal that the applicant has a violation. If multiple A numbers are identified during CIS review or a violation is found, the case is sent to the Case Resolution Unit (CRU). CRU will determine the appropriate A number as well as any other corresponding files for that applicant. Background information from an American consulate or embassy may be required via the G-325A Biographic Information form. If required, G-325A processing will be initiated at this point.

Section 3: Table of Contents

Topic	See Page
Conducting CIS Checks	3-2
Processing the G-325A	3-7
Review by Case Resolution Unit	3-10
Performing File Requests	3-11

Continued on next page

Section 3: Central Index System/ G-325A Processing, Continued

Conducting CIS Checks

When to Perform A CIS search is conducted after the I-485 application is processed at the Service Center mailroom and has gone through INS review, if necessary.

Description A CIS search is completed to determine if the alien has been previously assigned an A-number, if he or she has identified the correct A-number, or to identify whether he or she has been assigned more than one A-number.

Definition of a CIS Search There are three standard ways to check for A-numbers using CIS:

- 9102 or 9106 Sounds-Like Names Search
- 9103 Exact Name Search
- 9101 ID Search

If the search(es) is successful in locating a previous A-number(s), the clerk will need to compare the name, including aliases and the date of birth, with the information provided by the applicant on the I-485. If everything matches, the A-number can be used. If the match is close, but the clerk is not sure, the file should be routed to CRU for further review. If a match is not found, the alien will be assigned an A-number.

Multiple A-numbers When more than one A-number matches the applicant's information exactly, printouts should be made and the I-485 and concurrently filed applications/petition should be forwarded to the Case Resolution Unit (CRU). Annotate the multiple A numbers on the processing worksheet. CRU will reconcile the problem and return the filing to Data Entry, indicating the A-number to be used.

The following A-number series should not be used:

- 90-93 Million;
 - 80-89 Million; and
 - 100 Million.
-

Continued on next page

Section 3: Central Index System/ G-325A Processing, Continued

Procedure for CIS Search

Follow the steps below to perform a CIS Search.

Step	Action: Contractor
1	Select National Systems.
2	Type your User ID and Password at the Teleview menu.
3	Type the number that corresponds to CIS on the command line and press Enter.
4	Type "9103" at the "Command" prompt to perform an "Exact Name Search" and press Enter.
5	<p>Fill in the following information in the appropriate fields exactly as it appears on the I-485.</p> <ul style="list-style-type: none">• LASTNAME• FIRSTNAME• DOB Range – Type the year and then "1"• Press Enter <p>*Search up to 2,000 names. However, do not run this search for more than 10 minutes.</p>
6	Review the results. Regardless of the results (i.e., no record found, a single record found or multiple records found) make a screen print. Continue to Step 7.
7	Type "9106" at the "Command" prompt to perform a "Sounds Like Search" and press Enter.
8	<p>Fill in the following information in the appropriate fields exactly as it appears on the I-485.</p> <ul style="list-style-type: none">• LASTNAME• FIRSTNAME• DOB (Date of Birth)• Press Enter

Continued on next page

Section 3: Central Index System/ G-325A Processing, Continued

Step	Action: Contractor		
9	Verify the record and make a screen print.		
	IF there is/are...	THEN...	
	No record found	Continue to step 10	
	A record found	Continue to step 12	
	Multiple records found	Continue to step 12	
10	Type "9101" at the "Command" prompt to perform an "ID Search" and press Enter.		
11	Press "Home" or press "Alt+9" to return to the main screen and enter "9101." Repeat the search using the Social Security number, if available. Type "SS111223333" and press Enter. When the search is completed, make a screen print of the results.		
	IF there is/are...	THEN...	
	No record found	Continue to step 12	
	A record found	Continue to step 13	
12	Press "Home" or press "Alt+9" to return to the main screen and enter "9101." Repeat the search using the I-94 number, if available. When the search is completed, make a screen print of the results.		
13	Route the file or continue appropriately.		
	IF the A-number is...	AND...	THEN...
	A match	There are not multiple A-numbers	Continue to step 15.
	A match	There are multiple A-numbers	Annotate the processing worksheet and route to CRU.

Continued on next page

Section 3: Central Index System/ G-325A Processing, Continued

Step	Action: Contractor		
13, cont'd.	IF the A-number is...	AND...	THEN...
	A match	The match shows a violation, (i.e. NAILS entry or FBI number).	Place the I-765 in a separate receipt folder. Route the file to Data Entry and then CRU. CRU will route it to Operations if necessary. (Only I-765's included in an A-file will be eligible for auto grant.)
	No match		Assign an A-number, place the corresponding applications in the A-file jacket and go to step 14.
	A questionable match	Verification cannot confirm the A-number should be used	Route the file to CRU.
	A questionable match	The match shows a violation, NAILS entry or FBI number	Place the I-765 in a separate receipt folder. Route the file to Data Entry and then CRU. CRU will route it to Operations if necessary.

Continued on next page

Section 3: Central Index System/ G-325A Processing, Continued

Step	Action: Contractor												
14	<p>At this stage you will be searching on the A-number the applicant has provided or the A-number to be assigned. Press "Home" or press "Alt+9" to return to the main screen and wand or type in the A-number, "A99999999" and press Enter.</p> <table border="1"> <thead> <tr> <th>IF there is...</th> <th>AND...</th> <th>THEN...</th> </tr> </thead> <tbody> <tr> <td>No record found</td> <td></td> <td>Continue to step 15</td> </tr> <tr> <td>A record found</td> <td>The A-number is provided by the applicant</td> <td>Go to step 15</td> </tr> <tr> <td>A record found</td> <td>The A-number has recently been assigned to another applicant</td> <td>Assign a new number, and refer the case to CRU</td> </tr> </tbody> </table>	IF there is...	AND...	THEN...	No record found		Continue to step 15	A record found	The A-number is provided by the applicant	Go to step 15	A record found	The A-number has recently been assigned to another applicant	Assign a new number, and refer the case to CRU
IF there is...	AND...	THEN...											
No record found		Continue to step 15											
A record found	The A-number is provided by the applicant	Go to step 15											
A record found	The A-number has recently been assigned to another applicant	Assign a new number, and refer the case to CRU											
15	Annotate the appropriate A-number on the I-485; I-765, I-131, and any other concurrently filed forms if applicable; and the processing worksheet.												
16	Process the G-325A, if applicable. Refer to the G-325A processing instructions in the next section.												
17	Request externally held A-files in CIS, if applicable. Refer to the File Request section in this SOP.												
18	If neither Step 16 nor 17 is applicable, route the file for data entry.												

Continued on next page

Section 3: Central Index System/ G-325A Processing, Continued

Processing the G-325A

When to Perform

After conducting the CIS check, the I-485 application should be reviewed for the G-325A. A G-325A should only be processed if the applicant entered the United States as a nonimmigrant less than one year prior to the current calendar date of review.

If the applicant has been in the U.S. for more than one year, skip this section and proceed to request externally held A-files in CIS, if applicable. If not applicable, route this application to Data Entry.

Description

Establishing completeness of records may entail preparation of a request for background check from an American consulate or embassy.

The G-325A Biographic Information form must be completed by all applicants between the ages of 14 and 79. Clerically processing this form initiates a record check abroad for the applicant. This request, however, is not needed for all applicants. If the applicant entered the United States more than a year ago, the G-325A will not be processed. This limitation is imposed because the Department of State generally destroys the nonimmigrant visa application when the date of issuance is one year old.

The G-325A is generally submitted with four copies--a white (original), green, pink, and blue copy. You will only need to use two legible copies, usually the white (file) and the blue (consul) copy. The only exception to this rule is when the I-485 is accompanied by an I-130. The applicant of the I-485 is required to submit a G-325A for the underlying I-130 petition. In this instance, you would include the pink copy of the G-325A in the record of proceeding of the I-130.

Further, be aware that if an I-130 petition is included in the A-file, the spouse of the applicant of the I-485 is required to submit a G-325A for that riding petition. The spouse's G-325A should be included in the record of proceeding and not processed according to these instructions. It is considered a supporting document and will be reviewed at the time of adjudication.

Procedure

To determine if the G-325A must be processed for a record check abroad, follow the steps below:

Continued on next page

Section 3: Central Index System/ G-325A Processing, Continued

Step	Action: Contractor						
1	Determine if the applicant is between the ages of 14-79. (If no, skip this section and route the file for data entry.)						
2	<p>Confirm that there is a blue copy of the G-325A.</p> <table border="1"> <thead> <tr> <th>IF...</th> <th>THEN...</th> </tr> </thead> <tbody> <tr> <td>There is a blue copy</td> <td>Continue to Step 2.</td> </tr> <tr> <td>The blue copy is not legible</td> <td>Annotate the processing worksheet in the remarks section for the adjudicator and submit the green copy with the blue copy.</td> </tr> </tbody> </table>	IF...	THEN...	There is a blue copy	Continue to Step 2.	The blue copy is not legible	Annotate the processing worksheet in the remarks section for the adjudicator and submit the green copy with the blue copy.
IF...	THEN...						
There is a blue copy	Continue to Step 2.						
The blue copy is not legible	Annotate the processing worksheet in the remarks section for the adjudicator and submit the green copy with the blue copy.						
3	Annotate the A-number on the G-325A.						
4	<p>Look at "Part 3: Processing Information" of the I-485 application. There is a space for the "Date Visa was Issued (mm/dd/yyyy)."</p> <table border="1"> <thead> <tr> <th>IF the date entered in the blank is...</th> <th>THEN...</th> </tr> </thead> <tbody> <tr> <td>Less than one year from the current calendar year filing date of the I-485</td> <td>Proceed through the steps that follow.</td> </tr> <tr> <td>More than one year from the current calendar year filing date of the I-485</td> <td>Do not process the G-325A. Proceed to step 6.</td> </tr> </tbody> </table>	IF the date entered in the blank is...	THEN...	Less than one year from the current calendar year filing date of the I-485	Proceed through the steps that follow.	More than one year from the current calendar year filing date of the I-485	Do not process the G-325A. Proceed to step 6.
IF the date entered in the blank is...	THEN...						
Less than one year from the current calendar year filing date of the I-485	Proceed through the steps that follow.						
More than one year from the current calendar year filing date of the I-485	Do not process the G-325A. Proceed to step 6.						
5	<p>Verify the following fields are complete on the G-325A:</p> <ul style="list-style-type: none"> • Birthdate; • Nationality; • City and country of birth; • Applicant's signature – if missing, refer to Center Adjudicating Officer (CAO); • Name and A-number in the bottom box should match the data on the top; and • Write in the A-number in the blank provided at the top right of the form and in the BOLDED block near the bottom of the form. <p>If any of this information is missing from the G-325A, you can usually find the information on the I-485 application in order to fill in the blanks. If not, leave the blank empty.</p>						

Continued on next page

Section 3: Central Index System/ G-325A Processing, Continued

Step	Action: Contractor						
6	<p>Complete the "G 325A" line under "CIS" on the I-485 Processing Worksheet.</p> <table border="1" data-bbox="565 457 1386 758"> <thead> <tr> <th data-bbox="565 457 976 489">IF...</th> <th data-bbox="980 457 1386 489">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 495 976 604">The applicant has filed within one year of issue date of the non-immigrant visa.</td> <td data-bbox="980 495 1386 604">Circle "Y" so that the G-325A can be sent to the consulate. Go to Step 7.</td> </tr> <tr> <td data-bbox="565 611 976 758">It has been more than one year since the date of filing</td> <td data-bbox="980 611 1386 758">Circle "N" because the consulate will no longer have the applicant's file. Go to Step 9.</td> </tr> </tbody> </table>	IF...	THEN...	The applicant has filed within one year of issue date of the non-immigrant visa.	Circle "Y" so that the G-325A can be sent to the consulate. Go to Step 7.	It has been more than one year since the date of filing	Circle "N" because the consulate will no longer have the applicant's file. Go to Step 9.
IF...	THEN...						
The applicant has filed within one year of issue date of the non-immigrant visa.	Circle "Y" so that the G-325A can be sent to the consulate. Go to Step 7.						
It has been more than one year since the date of filing	Circle "N" because the consulate will no longer have the applicant's file. Go to Step 9.						
7	<p>Verify that the consulate you are going to forward the G-325A to is an open post by using the Visa Issuing Post Bulletin. The Visa Issuing Post Bulletin is a listing of all the open consulate/embassy(s).</p> <table border="1" data-bbox="565 940 1386 1184"> <thead> <tr> <th data-bbox="565 940 976 1014">IF the consulate annotated on the I-485...</th> <th data-bbox="980 940 1386 1014">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 1020 976 1094">Is not on the list</td> <td data-bbox="980 1020 1386 1094">Use the consulate general (CG) for that country.</td> </tr> <tr> <td data-bbox="565 1100 976 1184">Does not exist, but there is an embassy.</td> <td data-bbox="980 1100 1386 1184">Send it to the embassy</td> </tr> </tbody> </table>	IF the consulate annotated on the I-485...	THEN...	Is not on the list	Use the consulate general (CG) for that country.	Does not exist, but there is an embassy.	Send it to the embassy
IF the consulate annotated on the I-485...	THEN...						
Is not on the list	Use the consulate general (CG) for that country.						
Does not exist, but there is an embassy.	Send it to the embassy						
8	Write the name of the consulate/embassy on the bottom of the blue copy.						
9	Write your ID number in the space provided.						
10	Send the blue copy of the G-325A to the mailroom. The white copy is to be included in the record of proceeding order below the I-485 application.						
11	Proceed to Performing File Requests, if applicable, or, if not applicable, route the file to Data Entry.						

Continued on next page

Section 3: Central Index System/ G-325A Processing, Continued

Review by Case Resolution Unit

Description The Case Resolution Unit (CRU) will review all of the multiple A-numbers or discrepant A-numbers identified during the CIS check. These A-numbers will include the applicant's primary A-number (if any), any additional A-numbers, any data discrepancies, as well as any receipt files. The CRU will determine which files to request for file consolidation and will circle and initial the correct A-number on the processing worksheet and indicate which additional A-numbers (if any) relate. (Notations on the processing worksheet should be made in the space provided for multiple A-numbers.) If the CRU identifies an A-number with a violation, the CRU will modify the I-765 and the I-131 to block automatic granting of the concurrent filing. After review, CRU should return the files to resume normal processing.

Continued on next page

Section 3: Central Index System/ G-325A Processing, Continued

Performing File Requests

When to Perform After conducting the CIS check and processing the G-325A, if applicable, the contractor should follow the steps for external file requests.

If no files were identified, skip this section and route this application to Data Entry.

Description of File Requests File requests are those requests for all receipt files and A-files related to the I-485 applicant, so that they can later be consolidated. These files were identified during the CIS check or by the Case Resolution Unit and annotated in list form (both file number and location) on the I-485 processing worksheet. These files may be located internally at the Service Center or externally at another INS office or at the Harrisonburg storage facility.

In addition, File Requests may entail preparation of a request for an underlying visa petition from National Visa Center (NVC) or an American consulate or embassy.

At this point in the process, only external requests to other INS offices will be made.

Types of Requests There are four types of requests which can be initiated:

- Internal requests for petitions currently housed at the Service Center;
- Requests to an American Consulate/Embassy and the National Visa Center;
- Requests to the Harrisonburg Facility; and
- External requests to other INS offices.

Expedited Requests Expedited requests will be handled on a case-by-case basis. If you encounter a file that requires an expedited visa petition request, *i.e.*, an age-out, please see your supervisor and follow local expedite procedures.

Continued on next page

Section 3: Central Index System/ G-325A Processing, Continued

External Requests

Follow the steps below to perform an external request from another INS facility.

Step	Action: Contractor						
1	Select National Systems.						
2	Type your User ID and Password at the Teleview menu.						
3	Type the number that corresponds to CIS on the command line and press enter.						
4	Type "9501" at the Command prompt.						
5	Type "01" in the "Select Transaction Number" field.						
6	Type the "A-number" you are requesting.						
7	Complete the required fields when the FTR screen is displayed, including the designation I-485 somewhere in the person/action field.						
8	Verify the data you entered for accuracy when the FTR screen is redisplayed. <table border="1" data-bbox="565 1234 1386 1465"> <thead> <tr> <th>IF the data is...</th> <th>THEN...</th> </tr> </thead> <tbody> <tr> <td>Accurate</td> <td>Press Enter to complete the request.</td> </tr> <tr> <td>Inaccurate</td> <td>Press "F3" to cancel the request. Repeat steps 6-8 until the request is completed.</td> </tr> </tbody> </table>	IF the data is...	THEN...	Accurate	Press Enter to complete the request.	Inaccurate	Press "F3" to cancel the request. Repeat steps 6-8 until the request is completed.
IF the data is...	THEN...						
Accurate	Press Enter to complete the request.						
Inaccurate	Press "F3" to cancel the request. Repeat steps 6-8 until the request is completed.						
9	Annotate the processing worksheet to show that the request has been made.						
10	To perform another request, repeat steps 6 through 8.						
11	Route the file to Data Entry.						

Section 4: Data Entry

Introduction

After the application is processed through the Central Index System/G-325A Processing section, it is routed to Data Entry. Data Entry is responsible for receipting all applications and petitions received at the Service Center to include the I-485, I-765, and I-131. This section provides step-by-step instructions for receipting the I-485, I-765, and I-131 into CLAIMS GUI or CLAIMS 3 LAN. It will also outline the steps necessary to produce an Employment Authorization Document (EAD) for those applicants who have filed an I-765 concurrently with the I-485 or after the I-485 has been filed.

Once a file is data entered and scanned, it will be staged (*i.e.*, shelved) to await adjudication. In order to find individual files easily, the INS uses RAFACS, a local tracking system. RAFACS records are created for each file in Data Entry. In addition to processing accepted I-485 applications, Data Entry is also responsible for processing system reject notices for those applicants whose I-485s have been rejected.

Section 4: Table of Contents

Topic	See Page
Entering Data	4-2
Scanning	4-7
• Preparing images for scanning	4-8
• Adjusting the images for scanning	4-9
• Scanning biometric data	4-10
• Printing the card order	4-12
Creating a RAFACS record	4-13
Processing Rejects	4-14
• Process Reject Notices for fee and signature	4-14
• Process Manual reject notices	4-15

Continued on next page

Section 4: Data Entry, Continued

Entering Data

When to Perform

After the I-485 has been received and a CIS check has been performed, Data Entry is responsible for receipting the I-485, I-765, and I-131 into CLAIMS GUI. Once the information from the I-485 is entered into CLAIMS, a record for the applicant is uploaded to CIS. If there is no prior record in CIS, CLAIMS will create one. If a prior record exists, CLAIMS will update the record with the data entered from the I-485.

Procedure

To ensure that a complete record is established, follow the instructions below to receipt the I-485 application. While entering data, leave a field blank if the data requested in CLAIMS is not present on the I-485.

Note: If you are working with a NIW Physician's file, you must manually receipt the entire case and elect not to schedule for fingerprints if there is only one remittance for both the application and fingerprint fee. If the file lacks the fingerprint fee, system receipt the application fee payment, and manually receipt the fingerprint fee payment when submitted.

Step	Action: Contractor
1	Access the LAN.
2	Select the "GUI Receipting" icon from the Icon Menu.
3	Select "Receipt/Modify" from the toolbar at the top of the screen.
4	Type "I-485" and press enter.
5	Verify the following data before proceeding: <ul style="list-style-type: none">• Amount of fee• File has been CIS searched• The signature is correct• Check for Supplement A• Check for I-864

Continued on next page

Section 4: Data Entry, Continued

Step	Action: Contractor						
6	<p data-bbox="545 275 1024 310">Fill in the prompt at the “G-28” field.</p> <table border="1" data-bbox="581 344 1403 1060"> <thead> <tr> <th data-bbox="586 350 966 386">IF there is...</th> <th data-bbox="966 350 1398 386">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="586 386 966 495">No G-28</td> <td data-bbox="966 386 1398 495">This field defaults to “N.” Press the <tab> key to bypass this field and go to the next step.</td> </tr> <tr> <td data-bbox="586 495 966 1054">A G-28</td> <td data-bbox="966 495 1398 1054"> Type “Y” and fill in the information listed below and click on the “Save” button before proceeding to the next step: <ul style="list-style-type: none"> • Last name • First name • Middle name • Firm’s name, if applicable • Address • Type of appearance <ul style="list-style-type: none"> - A = attorney - B = accredited representative - C = other </td> </tr> </tbody> </table>	IF there is...	THEN...	No G-28	This field defaults to “N.” Press the <tab> key to bypass this field and go to the next step.	A G-28	Type “Y” and fill in the information listed below and click on the “Save” button before proceeding to the next step: <ul style="list-style-type: none"> • Last name • First name • Middle name • Firm’s name, if applicable • Address • Type of appearance <ul style="list-style-type: none"> - A = attorney - B = accredited representative - C = other
IF there is...	THEN...						
No G-28	This field defaults to “N.” Press the <tab> key to bypass this field and go to the next step.						
A G-28	Type “Y” and fill in the information listed below and click on the “Save” button before proceeding to the next step: <ul style="list-style-type: none"> • Last name • First name • Middle name • Firm’s name, if applicable • Address • Type of appearance <ul style="list-style-type: none"> - A = attorney - B = accredited representative - C = other 						
7	Type the received date (mm/dd/yyyy). Take this date off the date stamp on the face of the I-485.						
8	<p data-bbox="545 1178 1300 1247">Enter the following fields with data taken from the I-485 application using the TAB key to move from field to field:</p> <ul style="list-style-type: none"> • A-number • Last name, first name, middle name • Address • Date of birth • Country of birth • Social security number • Date of Arrival • I-94 number • Current status • Expiration of status date 						
9	Type the letter checked off in “Part 2, Application Type.”						
10	Tab past the field labeled “Occupation.”						

Continued on next page

Section 4: Data Entry, Continued

Step	Action: Contractor								
11	Highlight the appropriate "sex" (male, female, or unknown).								
12	<p>Enter the following fields with data taken from the I-485 using the TAB key to move from field to field.</p> <ul style="list-style-type: none"> • marital status <ul style="list-style-type: none"> - U= unknown - D= divorced - S= single - M= married - P= separated - W= widowed • mother's first name • father's first name • place of last entry • status at last entry 								
13	<p>Type "Y" or "N" at the prompt asking, "Have you previously applied for INS permanent residence status?"</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>IF the I-485 indicates...</th> <th>THEN...</th> </tr> </thead> <tbody> <tr> <td>No</td> <td>Go to the next step</td> </tr> <tr> <td>Yes</td> <td>Change the default to "Yes" and tab through the fields.</td> </tr> </tbody> </table>	IF the I-485 indicates...	THEN...	No	Go to the next step	Yes	Change the default to "Yes" and tab through the fields.		
IF the I-485 indicates...	THEN...								
No	Go to the next step								
Yes	Change the default to "Yes" and tab through the fields.								
14	Type "Y" in the "IRS Form 9003 provided" field.								
15	Type "Y" in the "I-89 attached" field regardless of the whether the I-89 is in the file. Tab through the screens.								
16	Select the "Save" button to save the I-89 Subscreen.								
17	<p>Fill in the prompt at the "I-485 Supp A Attached" field.</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>IF there is...</th> <th>THEN...</th> </tr> </thead> <tbody> <tr> <td>No Supplement A attached</td> <td>This field defaults to "N." Press the <tab> key to bypass this field and go to the next step.</td> </tr> <tr> <td>A Supplement A with fee attached</td> <td>Type "Y" and fill in the blanks with responses to questions 11, 12 and 13 on Supplement A. At the "Save Changes" button, select "Yes."</td> </tr> <tr> <td>A Supplement A without fee attached</td> <td>Type "N" and go to the next step.</td> </tr> </tbody> </table>	IF there is...	THEN...	No Supplement A attached	This field defaults to "N." Press the <tab> key to bypass this field and go to the next step.	A Supplement A with fee attached	Type "Y" and fill in the blanks with responses to questions 11, 12 and 13 on Supplement A. At the "Save Changes" button, select "Yes."	A Supplement A without fee attached	Type "N" and go to the next step.
IF there is...	THEN...								
No Supplement A attached	This field defaults to "N." Press the <tab> key to bypass this field and go to the next step.								
A Supplement A with fee attached	Type "Y" and fill in the blanks with responses to questions 11, 12 and 13 on Supplement A. At the "Save Changes" button, select "Yes."								
A Supplement A without fee attached	Type "N" and go to the next step.								

Continued on next page

Section 4: Data Entry, Continued

Step	Action: Contractor						
18	<p>Fill in the prompt at the “I-864 attached” field.</p> <table border="1"> <thead> <tr> <th>IF there is...</th> <th>THEN...</th> </tr> </thead> <tbody> <tr> <td>No I-864 attached</td> <td>This field defaults to “N.” Press the <tab> key to bypass this field and go to the next step.</td> </tr> <tr> <td>An I-864 attached</td> <td>Type “Y” and fill in the blanks. See I-864 section in Appendix D.</td> </tr> </tbody> </table>	IF there is...	THEN...	No I-864 attached	This field defaults to “N.” Press the <tab> key to bypass this field and go to the next step.	An I-864 attached	Type “Y” and fill in the blanks. See I-864 section in Appendix D.
IF there is...	THEN...						
No I-864 attached	This field defaults to “N.” Press the <tab> key to bypass this field and go to the next step.						
An I-864 attached	Type “Y” and fill in the blanks. See I-864 section in Appendix D.						
19	<p>Enter the “Fee” information in accordance with the standard keying procedures.</p> <table border="1"> <thead> <tr> <th>IF the fingerprint fee is...</th> <th>THEN...</th> </tr> </thead> <tbody> <tr> <td>Required and paid</td> <td>Continue to the next step</td> </tr> <tr> <td>Required and not paid</td> <td>Prepare a fingerprint fee notice to solicit fee and tag the file to be routed to the “NO FEE SHELF” after the file has completed data entry. (The National Scheduler will automatically generate the fingerprint fee notice.)</td> </tr> </tbody> </table>	IF the fingerprint fee is...	THEN...	Required and paid	Continue to the next step	Required and not paid	Prepare a fingerprint fee notice to solicit fee and tag the file to be routed to the “NO FEE SHELF” after the file has completed data entry. (The National Scheduler will automatically generate the fingerprint fee notice.)
IF the fingerprint fee is...	THEN...						
Required and paid	Continue to the next step						
Required and not paid	Prepare a fingerprint fee notice to solicit fee and tag the file to be routed to the “NO FEE SHELF” after the file has completed data entry. (The National Scheduler will automatically generate the fingerprint fee notice.)						
20	Tab through the “Concurrent” field leaving the default “N.”						
21	<p>“Application signed?” If the application is signed, press the <enter> key or click on the box, and an “x” will appear indicating that the signature is present.</p>						
22	Tab through the “Biometrics” field leaving the default “Y.”						
23	<p>Press “ALT S” or click on the “Save” button to save. CLAIMS will assign a receipt number and print out labels to be used as follows:</p> <ul style="list-style-type: none"> • I-485 receipt block • I-485 Processing Worksheet • I-864, if applicable • Supplement A, if applicable <p>Staple remaining labels appropriately</p>						
24	<p>Remove the fee payment from the I-485 and annotate the following information on the upper portion of the remittance.</p> <ul style="list-style-type: none"> • Receipt number • Date and your ID# 						
25	Place the fee in the lock-box.						

Continued on next page

Section 4: Data Entry, Continued

Step	Action: Contractor
26	Annotate the I-485 Processing Worksheet in the Data Entry portion of the worksheet by circling “Y,” “N,” or “NA” in the blocks requiring an answer and writing your ID # and date.
27	Receipt/ scan concurrent I-140, I-765 and I-131 according to local SOP. See next section.

NOTE: Due to logistical differences, TSC will place the I-765 in a separate folder and route it for adjudications.

Continued on next page

Section 4: Data Entry, Continued

Scanning

When to Perform

Once information from the application has been data entered, the applicant's photograph, signature and fingerprint images should be scanned.

Description

When an applicant applies for Adjustment of Status, he or she becomes eligible for unrestricted employment during the pendency of his or her I-485. The applicant who wishes to obtain employment authorization will file an I-765 concurrently with the I-485 or, in some instances, after the I-485 has been filed. The photograph, signature and fingerprint images will be used to produce an Employment Authorization Document (EAD) for the applicant.

Definition of Acceptable Photographs

Photographs must be submitted with the I-765 in order to produce an EAD. If a photograph has not been submitted, the clerk scanning the I-765 will prepare an "Exams Slip" and route the file to the adjudicating officer to request photos.

There are a number of quality assurance issues that must be considered when choosing to scan a photograph:

- The photo must be an "ADIT" style photo;
- The face of the photo cannot have staple holes, scratches, smudges or spots present; and
- The image cannot be too light or too dark, have shadows, etc.

If the photo does not meet acceptable standards, an "Exams Slip" will be prepared and the case route to the adjudicating officer.

The photograph may need to be placed in one of three places in order to be located next to the other images for scanning. These three places are to be determined by the clerk when preparing the file for scanning. The locations could be:

- On the signature card;
- On the I-765 application; or
- On the G-28.

Continued on next page

Section 4: Data Entry, Continued

Definition of Acceptable Signature

The applicant may sign the I-765, a signature card and a G-28, if applicable. There are many variables to consider when deciding which signature to use for scanning, including:

- Is the signature dark enough?
- Is it impeded by other writing on the document signed?
- Is it impeded by preprinted lines on the documents signed?
- Is it the applicant's signature?
- Is it printed vs. signed?

The signature used must reflect the form consistently used by the applicant. Only one line, either on the top or the bottom of the signature, can show. Any lines to the left or right of the signature must be covered up with tape.

If you choose to use the signature on the I-765, all other images should be arranged and stapled to the I-765 in order to scan the images just once. The same would hold true if you use the signature on the G-28. Keep this in mind when preparing the I-765 for scanning.

Definition of Acceptable Fingerprint

The fingerprint is not required in order to produce an EAD. If the fingerprint is present, it should be used unless its placement on the signature card is too low and lines will show up through the print when scanned, if the fingerprint is smudged, etc.

If the fingerprint is not present, it will need to be waived when preparing the document for printing. This will be discussed later in the SOP under File Connects in Section 5.

Preparing the Images for Scanning

The photograph, signature and fingerprint must be arranged and prepared for scanning before scanning can actually take place. Each piece of evidence will be arranged on the I-765, the signature card or the G-28, if applicable. Use the steps below to prepare the I-765 or the chosen document for scanning.

Step	Action: Contractor
1	Locate the best signature and cover any lines or marks, as necessary.
2	Remove the photos from the glassine envelope and choose the best one.

Continued on next page

Section 4: Data Entry, Continued

Step	Action: Contractor
3	Staple the photo to the right or left of the best signature as appropriate. Do not staple the photo through the face.
4	Arrange the fingerprint, if provided, on the document (if not the signature card) where the best signature is located.

Adjusting the Image(s)

In order to adjust the image(s) that has been scanned, follow the table below or refer to it when performing the scanning function.

Step	Action: Contractor										
1	<p>Follow the table to adjust the images that have been scanned.</p> <table border="1"> <thead> <tr> <th>IF you want the image to be...</th> <th>THEN click on the image...</th> </tr> </thead> <tbody> <tr> <td>Centered</td> <td>And drag</td> </tr> <tr> <td>Enlarged</td> <td>And then click on the “+” arrow side of the magnifying glass button.</td> </tr> <tr> <td>Reduced</td> <td>And then click on the “-“ arrow side of the magnifying glass button.</td> </tr> <tr> <td>Lighter/darker</td> <td> <p>And then click on the “COLOR” button. Nine photos will appear. Select the appropriate image by double clicking on the image.</p> <ul style="list-style-type: none"> • Foreground – click on the “+” or “-“ arrow side of the full sun button • Background – click on the “+” or “-“ arrow side of the half moon button. </td> </tr> </tbody> </table>	IF you want the image to be...	THEN click on the image...	Centered	And drag	Enlarged	And then click on the “+” arrow side of the magnifying glass button.	Reduced	And then click on the “-“ arrow side of the magnifying glass button.	Lighter/darker	<p>And then click on the “COLOR” button. Nine photos will appear. Select the appropriate image by double clicking on the image.</p> <ul style="list-style-type: none"> • Foreground – click on the “+” or “-“ arrow side of the full sun button • Background – click on the “+” or “-“ arrow side of the half moon button.
IF you want the image to be...	THEN click on the image...										
Centered	And drag										
Enlarged	And then click on the “+” arrow side of the magnifying glass button.										
Reduced	And then click on the “-“ arrow side of the magnifying glass button.										
Lighter/darker	<p>And then click on the “COLOR” button. Nine photos will appear. Select the appropriate image by double clicking on the image.</p> <ul style="list-style-type: none"> • Foreground – click on the “+” or “-“ arrow side of the full sun button • Background – click on the “+” or “-“ arrow side of the half moon button. 										

Continued on next page

Section 4: Data Entry, Continued

Scanning

To scan the biometric data, use the following steps.

Step	Action: Contractor
1	RAFACS the files to the Scanning Unit.
2	Access the LAN.
3	Select the “GUI Receipting” icon from the Icon Menu
4	Select the “Inquiry/ Modify” option from the toolbar at the top of your screen.
5	Wand the barcode for the receipt number.
6	Click on the “Search” button. The fields should populate with data.
7	Verify the following data on the I-765. If the information does not match, prepare an “Exams Slip” and route the file back to the adjudicating officer. <ul style="list-style-type: none">• A-number, (annotated on the upper left corner of the I-765)• I am applying for... (authorized employment, extension must be circled or replacement noted by CAO)• Full name• Address• Country of birth• Date of birth• Gender – male/female• Marital status• Eligibility code (annotated on the upper left corner of the I-765)• G-28 data (click on Cancel or Save)
8	Select the “Capture” icon located on the main Data Entry screen.
9	Fold back the file folder to expose the biometric data arranged for scanning and place it face down on the scanning bed. Align the edge of the folder near the double arrows located outside of the green strip along the front glass of the scanner.
10	Select (click) the “PreScan” button located on the right bottom side of the screen.

Continued on next page

Section 4: Data Entry, Continued

Step	Action: Contractor										
11	<p>Select the red “photograph” box on the right-hand side of the screen and follow the steps below:</p> <table border="1" data-bbox="565 380 1388 758"> <thead> <tr> <th data-bbox="565 380 691 422">Step</th> <th data-bbox="691 380 1388 422">Action: Contractor</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 422 691 495">1</td> <td data-bbox="691 422 1388 495">Move the pointer to the upper left corner of the photo’s image located on the left side of the screen.</td> </tr> <tr> <td data-bbox="565 495 691 569">2</td> <td data-bbox="691 495 1388 569">Click the left mouse button. A red dot should appear.</td> </tr> <tr> <td data-bbox="565 569 691 684">3</td> <td data-bbox="691 569 1388 684">Drag the dot diagonally to the lower right corner of the photo. A red box will form around the photo’s image on the screen.</td> </tr> <tr> <td data-bbox="565 684 691 758">4</td> <td data-bbox="691 684 1388 758">Release the mouse. The image should appear where you placed it.</td> </tr> </tbody> </table>	Step	Action: Contractor	1	Move the pointer to the upper left corner of the photo’s image located on the left side of the screen.	2	Click the left mouse button. A red dot should appear.	3	Drag the dot diagonally to the lower right corner of the photo. A red box will form around the photo’s image on the screen.	4	Release the mouse. The image should appear where you placed it.
Step	Action: Contractor										
1	Move the pointer to the upper left corner of the photo’s image located on the left side of the screen.										
2	Click the left mouse button. A red dot should appear.										
3	Drag the dot diagonally to the lower right corner of the photo. A red box will form around the photo’s image on the screen.										
4	Release the mouse. The image should appear where you placed it.										
12	<p>Select the blue “fingerprint” box on the right hand side of the screen OR the “other” box if the fingerprint is a print taken from a finger other than the index finger.</p> <table border="1" data-bbox="565 940 1388 1352"> <thead> <tr> <th data-bbox="565 940 691 982">Step</th> <th data-bbox="691 940 1388 982">Action: Contractor</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 982 691 1098">1</td> <td data-bbox="691 982 1388 1098">Move the pointer to the upper left corner of the fingerprint’s image located on the left side of the screen.</td> </tr> <tr> <td data-bbox="565 1098 691 1171">2</td> <td data-bbox="691 1098 1388 1171">Click the left mouse button. A blue dot should appear.</td> </tr> <tr> <td data-bbox="565 1171 691 1276">3</td> <td data-bbox="691 1171 1388 1276">Drag the dot diagonally to the lower right corner of the fingerprint. A blue box will form around the fingerprint’s image on the screen.</td> </tr> <tr> <td data-bbox="565 1276 691 1352">4</td> <td data-bbox="691 1276 1388 1352">Release the mouse. The image should appear where you placed it.</td> </tr> </tbody> </table>	Step	Action: Contractor	1	Move the pointer to the upper left corner of the fingerprint’s image located on the left side of the screen.	2	Click the left mouse button. A blue dot should appear.	3	Drag the dot diagonally to the lower right corner of the fingerprint. A blue box will form around the fingerprint’s image on the screen.	4	Release the mouse. The image should appear where you placed it.
Step	Action: Contractor										
1	Move the pointer to the upper left corner of the fingerprint’s image located on the left side of the screen.										
2	Click the left mouse button. A blue dot should appear.										
3	Drag the dot diagonally to the lower right corner of the fingerprint. A blue box will form around the fingerprint’s image on the screen.										
4	Release the mouse. The image should appear where you placed it.										

Continued on next page

Section 4: Data Entry, Continued

Step	Action: Contractor										
13	Select the purple "signature" box on the right hand side of the screen and follow the steps below:										
<table border="1"> <thead> <tr> <th>Step</th> <th>Action: Contractor</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Move the pointer to the upper left corner of the signature's image located on the left side of the screen.</td> </tr> <tr> <td>2</td> <td>Click the left mouse button. A purple dot should appear.</td> </tr> <tr> <td>3</td> <td>Drag the dot diagonally to the lower right corner of the fingerprint. A purple box will form around the fingerprint's image on the screen.</td> </tr> <tr> <td>4</td> <td>Release the mouse. The image should appear where you placed it.</td> </tr> </tbody> </table>		Step	Action: Contractor	1	Move the pointer to the upper left corner of the signature's image located on the left side of the screen.	2	Click the left mouse button. A purple dot should appear.	3	Drag the dot diagonally to the lower right corner of the fingerprint. A purple box will form around the fingerprint's image on the screen.	4	Release the mouse. The image should appear where you placed it.
Step	Action: Contractor										
1	Move the pointer to the upper left corner of the signature's image located on the left side of the screen.										
2	Click the left mouse button. A purple dot should appear.										
3	Drag the dot diagonally to the lower right corner of the fingerprint. A purple box will form around the fingerprint's image on the screen.										
4	Release the mouse. The image should appear where you placed it.										
14	Adjust the images appropriately. See "Adjusting the Image(s)" block above.										
15	Click on the "Accept" button.										
16	Click on the "Save" button.										
17	Click on "Yes" to respond to "Modify Receipt?"										
18	Write the scanner bed # and your ID # on the receipt label of the file jacket.										
19	Click on "Cancel," and										
20	Click on "Clear." You are ready to scan your next file.										

Printing the Card Order

After the I-765 has been scanned, the card will not be produced until the card order is released. This function is usually done by a clerk who did not scan the files. Following scanning, refer the file for Manual Approval Processing (MAP) of the I-765. See Addendum on I-765 processing.

Continued on next page

Section 4: Data Entry, Continued

Creating a RAFACS Record

When to perform RAFACS records are created after the file has been data entered and scanned.

Description Cases at the Service Center are tracked locally in RAFACS. Once a record is created in RAFACS, the record can be queried at any step in the process to determine the location or processing stage of the file. This section will provide instruction to create a RAFACS record.

Procedure To create a RAFACS record, follow the steps below:

Step	Action: Contractor												
1	Select the RAFACS icon from the Icon Menu.												
2	Select "A" for RAFACS Users.												
3	Type "DENA" at the Transaction Identifier screen.												
4	Wand the A/T-file barcode												
5	Press "F7."												
6	Continue to the next file repeating steps 4 and 5 for any other files.												
7	Separate and sort file jackets according to the chart below. <table border="1"><thead><tr><th>IF there is...</th><th>THEN...</th></tr></thead><tbody><tr><td>An I-485 with a concurrent I-765.</td><td>RAFACS, route the file to update and refer for manual approval process.</td></tr><tr><td>An I-485 with no concurrent I-765 or I-140.</td><td>Refer to File Maintenance</td></tr><tr><td>An I-765 in the receipt jacket and a violation has been identified during CIS checks</td><td>RAFACS and route the file to CRU. (The file is routed to CRU for review of the violation.)</td></tr><tr><td>An I-131 in the receipt jacket</td><td>RAFACS and route receipt file to Workload Distribution.</td></tr><tr><td>A concurrently filed I-140</td><td>RAFACS and route the file for processing of the I-140. Follow the guidelines established in the I-140 SOP.</td></tr></tbody></table>	IF there is...	THEN...	An I-485 with a concurrent I-765.	RAFACS, route the file to update and refer for manual approval process.	An I-485 with no concurrent I-765 or I-140.	Refer to File Maintenance	An I-765 in the receipt jacket and a violation has been identified during CIS checks	RAFACS and route the file to CRU. (The file is routed to CRU for review of the violation.)	An I-131 in the receipt jacket	RAFACS and route receipt file to Workload Distribution.	A concurrently filed I-140	RAFACS and route the file for processing of the I-140. Follow the guidelines established in the I-140 SOP.
IF there is...	THEN...												
An I-485 with a concurrent I-765.	RAFACS, route the file to update and refer for manual approval process.												
An I-485 with no concurrent I-765 or I-140.	Refer to File Maintenance												
An I-765 in the receipt jacket and a violation has been identified during CIS checks	RAFACS and route the file to CRU. (The file is routed to CRU for review of the violation.)												
An I-131 in the receipt jacket	RAFACS and route receipt file to Workload Distribution.												
A concurrently filed I-140	RAFACS and route the file for processing of the I-140. Follow the guidelines established in the I-140 SOP.												

Continued on next page

Section 4: Data Entry, Continued

Processing Rejects

When to perform Once INS has determined that an application should be rejected, the application is routed to Data Entry for rejection processing.

Description When an I-485 is submitted to the Service Center, it may not be accepted. Reasons for rejection include, but are not limited to:

- Wrong fee;
- Lack of signature;
- No visa availability; and
- Improper Jurisdiction.

If the I-485 is rejected, the Data Entry clerk will prepare and mail the reject notice to the applicant.

Procedure for Processing Reject Notices for Fee and Signature

To process a reject notice for fee and/or signature, complete the following steps:

Step	Action: Contractor
1	Access CLAIM GUI.
2	Select the "GUI Receipting" icon from the Icon Menu
3	Enter the data from the I-485 as if it were an I-485 for receipting.
4	Click on the "Save" button. A prompt should appear since the fee and/or signature information is not complete as it should be.
5	Click "OK" in response to a statement indicating the application will be rejected. One barcode and one address label will print.
6	Affix the barcode to the application in the "FOR INS USE ONLY" box and staple the remaining label strip to the upper right corner of the application.

Continued on next page

Section 4: Data Entry, Continued

Step	Action: Contractor
7	Annotate reject on barcode listed.
8	Write the principal's receipt number on the rejected barcode label if the rejected application belongs to the dependent.
9	Retrieve the reject letter and staple it to the application.
10	Mail the reject notice, the application(s)/ petition and supporting documents to the applicant or attorney of record.

Procedure for Processing Manual Reject Notices

To process a reject notice for reasons other than fee and/or signature, complete the following steps:

Step	Action: Contractor
1	Using the reason indicated on the I-485 processing worksheet, prepare appropriate manual reject notice.
2	Print/ Copy the Reject Notice.
3	Mail the reject notice, the application(s)/petition and supporting documents to the applicant or attorney of record.

Section 5: File Maintenance

Introduction

File Maintenance operations “stages” or holds files that are received from Data Entry and are waiting to receive responses to requests for files related to the A-number as identified in CIS. Once these files are delivered to the Service Center, they are consolidated into one file. This process is known as Consolidation.

In addition, File Maintenance stages all files while they are awaiting fingerprint responses from the FBI, fingerprint fee receipts, I-765 photo requests and G-325A responses. Once these responses are returned, they are matched up with the appropriate file. This evidence-consolidating process is known as File Connect.

Finally, File Maintenance checks all files to ensure that the appropriate responses and files have been received. If they have not, File Maintenance routes the file accordingly. This process is known as purging, and will be more specifically defined in this section.

Note on Concurrently filed I-140/I-485’s: Once the I-140 has been approved, the file will be routed to File Maintenance to resume processing of the I-485. If the I-140 has been denied, the file will be routed for local denial processing. (Note: The I-485 should not be denied while an appeal on the I-140 is pending.)

Section 5: Table of Contents

Topic	See Page
File Requests	5-2
Staging	5-7
Consolidating Files	5-9
File Connects	5-12
Purging	5-16

Continued on next page

Section 5: File Maintenance, Continued

File Requests

When to Perform After conducting the CIS check, the contractor should follow the steps outlined in “Internal Requests,” “Consulate/Embassy or NVC Requests,” and “Harrisonburg Requests.”

Description of File Requests File requests are those requests for all A-files and receipt files related to the I-485 application, so that they can later be consolidated. These files were identified during the CIS check or by the Case Resolution Unit and annotated in list form (both file number and location) on the I-485 processing worksheet. These files may be located internally at the Service Center or externally at another INS office or at the Harrisonburg storage facility.

In addition, File Requests may entail preparation of a request for an underlying petition from the National Visa Center (NVC), an American consulate or embassy.

At this point in the process, only internal requests, external requests to the American Consulate/Embassy/National Visa Center, and Harrisonburg are made. External requests for files held at other INS offices should have been completed during CIS checks.

Types of Requests There are four types of requests that can be initiated by the File Maintenance clerk.

- Internal requests for petitions currently housed at the Service Center
 - Requests to an American Consulate/Embassy and the National Visa Center
 - Requests to the Harrisonburg Facility
 - External requests to other INS offices
-

Continued on next page

Section 5: File Maintenance, Continued

Expedited Requests

Expedited requests will be handled on a case-by-case basis. If you encounter a file that requires an expedited visa petition request, *i.e.*, an age-out, please see your supervisor and follow local expedite procedures.

Identifying Age-Outs Using CLAIMS Sweeps

During the first week of each month, the file room supervisor will request a sweep of CLAIMS from ADP for cases that are in danger of aging-out. ADP will extract the listing from CLAIMS, including all pending I-485 applicants who will turn 21 years old within the next six months.

Procedure

Complete the following steps to identify and expedite age-outs using a CLAIMS sweep:

Step	Action: Contractor
1	Pull files identified by the CLAIMS sweep (including family packs).
2	Place a colored expedite sheet on the file and batch it with the other expedites. Expedites will follow the same process steps as the other files, but will be hand-carried throughout the process and given priority processing by each unit.

Determining the Type of Request to Perform

Follow the steps below to determine which request must be performed.

Step	Action: Contractor										
1	<p>Check the I-485 Processing Worksheet to determine the location of the petition.</p> <table border="1"> <thead> <tr> <th>IF the screener noted...</th> <th>THEN...</th> </tr> </thead> <tbody> <tr> <td>Harrisonburg (HBG)</td> <td>See the Harrisonburg Request block in this section</td> </tr> <tr> <td>Service Center</td> <td>See the Internal Request block in this section</td> </tr> <tr> <td>National Visa Center</td> <td>See the Consulate/Embassy or NVC request block in this section</td> </tr> <tr> <td>Other INS office</td> <td>See the External Request block of this section</td> </tr> </tbody> </table>	IF the screener noted...	THEN...	Harrisonburg (HBG)	See the Harrisonburg Request block in this section	Service Center	See the Internal Request block in this section	National Visa Center	See the Consulate/Embassy or NVC request block in this section	Other INS office	See the External Request block of this section
IF the screener noted...	THEN...										
Harrisonburg (HBG)	See the Harrisonburg Request block in this section										
Service Center	See the Internal Request block in this section										
National Visa Center	See the Consulate/Embassy or NVC request block in this section										
Other INS office	See the External Request block of this section										

Continued on next page

Section 5: File Maintenance, Continued

Internal Requests

To retrieve the underlying approved visa petition or A/T-file located with the Service Center, follow the steps below.

Step	Action: Contractor
1	Query RAFACS to determine the location of the file within the center.
2	Retrieve the receipt file or A/T-file from its location within the Center.
3	RAFACS the file to your responsible party code.
4	Perform the file consolidation. (See the Consolidating Files section of this SOP.)
5	RAFACS and route the A/T-File to the appropriate "Pending I-485 Shelf." For NIW Physicians, route to INS Review for generation of the Supplemental Notice and Identification of Call Up dates.

Consulate/ Embassy or NVC Requests

Follow the steps below to perform a request for the underlying approved visa petition when it is located at an American Consulate/Embassy and the National Visa Center (NVC). (Sample request form attached.)

Step	Action: Contractor
1	Complete an "Approved Visa Petition Request Memo" by filling in the following blanks: <ul style="list-style-type: none"> • Date • Check off the appropriate "To" location and fill in the blank, if needed • Receipt number of the I-485 • Beneficiary's name • Beneficiary's A-number • Receipt number of underlying approved visa petition
2	Fax the memo to the NVC and associate the memo with the file.
3	RAFACS and route the A/T-file to the appropriate "Pending I-485 Shelf" to wait for the return of the underlying petition.
4	If NVC indicates the petition was forwarded to the consulate, route request to the mailroom for appropriate forwarding.

Continued on next page

Section 5: File Maintenance, Continued

Harrisonburg Request

Follow the steps below to perform a request for the underlying approved visa petition when it is located at the Harrisonburg facility.

Step	Action: Contractor
1	Complete a Harrisonburg Request Form by filling in the following blanks: <ul style="list-style-type: none">• Receipt number• Beneficiary's name• Date of the request• A-number
2	Fax the request to Harrisonburg.
3	RAFACS and route the A/T-file to the appropriate "Pending I-485 Shelf" to wait for the return of the underlying petition.

External Requests

Follow the steps below to perform an external request from another INS facility.

Step	Action: Contractor
1	Select National Systems.
2	Type your User ID and Password at the Teleview menu.
3	Type the number that corresponds to CIS on the command line and press enter.
4	Type "9501" at the Command prompt.

Continued on next page

Section 5: File Maintenance, Continued

Step	Action: Contractor						
5	Type "01" in the "Select Transaction Number" field.						
6	Type the A-number you are requesting.						
7	Complete the required fields when the FTR screen is displayed, including the designation I-485 somewhere in the person/action field.						
8	Verify the data you entered for accuracy when the FTR screen is redisplayed. <table border="1" data-bbox="565 678 1386 905"> <thead> <tr> <th>IF the data is...</th> <th>THEN...</th> </tr> </thead> <tbody> <tr> <td>Accurate</td> <td>Press "Enter" to complete the request.</td> </tr> <tr> <td>Inaccurate</td> <td>Press "F3" to cancel the request and repeat the process with accurate data.</td> </tr> </tbody> </table>	IF the data is...	THEN...	Accurate	Press "Enter" to complete the request.	Inaccurate	Press "F3" to cancel the request and repeat the process with accurate data.
IF the data is...	THEN...						
Accurate	Press "Enter" to complete the request.						
Inaccurate	Press "F3" to cancel the request and repeat the process with accurate data.						
9	To perform another request, repeat steps 6 through 8.						
10	RAFACS and route the file to workload distribution. <table border="1" data-bbox="565 1094 1386 1247"> <thead> <tr> <th>IF the external request is/was performed...</th> <th>THEN...</th> </tr> </thead> <tbody> <tr> <td>Prior to Data Entry</td> <td>Do not RAFACS</td> </tr> <tr> <td>In File Maintenance</td> <td>RAFACS</td> </tr> </tbody> </table>	IF the external request is/was performed...	THEN...	Prior to Data Entry	Do not RAFACS	In File Maintenance	RAFACS
IF the external request is/was performed...	THEN...						
Prior to Data Entry	Do not RAFACS						
In File Maintenance	RAFACS						

Continued on next page

Section 5: File Maintenance, Continued

Staging

When to Perform All files are staged in File Maintenance after they have been data entered and scanned, and are awaiting consolidation.

When to Perform The staging area houses pending I-485 filings. The filings are segregated by the month of receipt. The date on the barcode is the date used to determine upon which shelf the I-485 should be placed. Temporary files (T-files) will be separately segregated at the end of the month's section of files. However, "family packs" will be kept together.

The RAFACS code identifies the month of receipt.

The files on these shelves may be awaiting:

- The return of the underlying approved visa petitions
- The A-file, if requested
- Fingerprint clearance from the FBI
- I-765 photos

NOTE: NIW Physician cases returned from INS Review will be routed to the "NIW Hold Shelf."

Procedure Complete the following steps in order to stage files:

Step	Action: Contractor
1	Separate the files into two groups: A-files and T-files. Sort the files by the month of receipt. A-files will be staged for 120 days pending receipt of the FBI fingerprint response. T-files will be maintained separately at the end of the month for 90 days, pending receipt of the A-File or completion of the diligent search period. (Files awaiting photos will be staged for 87 days.)
2	For staging A-files, locate the section of the hold shelf designated for the month of receipt.
3	RAFACS the code located on the hold shelf section. Charge all of the files to be placed in that section to the assigned RAFACS code by wandling the barcodes on the back of the files.

Continued on next page

Section 5: File Maintenance, Continued

Step	Action: Contractor
4	Place the files in the appropriate section of the shelf. Ensure that accompanying receipt files and family packs remain rubber-banded together in accordion folders.

Continued on next page

Section 5: File Maintenance, Continued

Consolidating Files

When to Perform

As requested files are received by File Maintenance, they are consolidated or matched with their related A- File or T- File.

How to Consolidate Files

Complete the following steps to electronically consolidate received filings into A/T files.

Step	Action: Contractor
1	Receive incoming files.
2	Identify and request all locally held, related A-files, T-files and/or receipt files.
3	Identify and request the underlying visa petition. See file requests.
4	Select the RAFACS icon from the main menu.
5	RAFACS the files into the Responsible Party Code for this function.
6	Type "FMCN" at the Transaction Identifier Screen and press enter.
7	Wand the barcode of the A- or T-file. The following screen will appear: Entry Section: File Maintenance Transaction: Consolidation Survivor A-Number:
8	Wand the barcode of the A/T file.
9	Wand the receipt number(s).
10	Press "F7."

Continued on next page

Section 5: File Maintenance, Continued

Step	Action: Contractor
11	<p>Re-match family file packs:</p> <ul style="list-style-type: none"> A. Access RAFACS via the CLAIMS Menu B. Type "RCRWRC000 (MFS)," press Enter, and enter the Parent/Principal Receipt or A-number C. Scan "Parent" file, plus all family members/riders D. Press F7/ESC to clear screen (this is very important) E. Go into RCIN, scan files to verify that "Riding Process" (F5 should appear on screen) has been completed and is correct F. Rubber band the family pack together in its accordion file G. Proceed with the next family pack
12	<p>Remove the I-485 and supporting documentation from the A-file (clips) and two-hole punch the ROP.</p>
13	<p>Acco-fasten the ROP in the filing jacket accordingly:</p> <p><i>Left-Hand Side of File</i> (Top to Bottom)</p> <ul style="list-style-type: none"> A. G-28, Notice of Appearance as Attorney or Accredited Representative (if submitted) B. I-485 Application C. I-485 Supplement A (245(i) cases only) D. I-864, Affidavit of Support E. G-325A, Biographical Information Form F. Evidence of lawful entry G. Any supporting documentation H. I-693, Medical Examination Report (in a sealed envelope) I. I-797, Notice of Action (or concurrently filed I-140) J. I-140 (only if concurrently filed. Place the left-hand ROP supporting documents in I-140 ROP order.) K. Return address portion of original envelope

Continued on next page

Section 5: File Maintenance, Continued

<p>13 (cont.)</p>	<p><i>Right-Hand Side of File</i> (Top to Bottom)</p> <p>A. I-485 Processing Worksheet B. I-765, Employment Authorization Document Work C. Document Checklist D. I-89 (if submitted) E. Miscellaneous Correspondence F. If the I-140 is concurrently filed, place the right-hand ROP documents in their stated order.</p> <p>Make sure that all documents are placed in a file folder. Fasten each group with a black clip.</p>								
<p>14</p>	<p>Sort files to staging:</p> <table border="1" data-bbox="565 720 1393 1035"> <thead> <tr> <th data-bbox="565 720 979 793">IF the worksheet indicates...</th> <th data-bbox="979 720 1393 793">THEN it goes to...</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 793 979 867">The \$25 fingerprint fee was submitted or is not required</td> <td data-bbox="979 793 1393 867">The monthly filing shelf</td> </tr> <tr> <td data-bbox="565 867 979 940">The \$25 fingerprint fee was not submitted</td> <td data-bbox="979 867 1393 940">The “no fee” shelf</td> </tr> <tr> <td data-bbox="565 940 979 1035">NIW Physician</td> <td data-bbox="979 940 1393 1035">Route to “NIW Physician Hold Shelf” by call up date.</td> </tr> </tbody> </table>	IF the worksheet indicates...	THEN it goes to...	The \$25 fingerprint fee was submitted or is not required	The monthly filing shelf	The \$25 fingerprint fee was not submitted	The “no fee” shelf	NIW Physician	Route to “NIW Physician Hold Shelf” by call up date.
IF the worksheet indicates...	THEN it goes to...								
The \$25 fingerprint fee was submitted or is not required	The monthly filing shelf								
The \$25 fingerprint fee was not submitted	The “no fee” shelf								
NIW Physician	Route to “NIW Physician Hold Shelf” by call up date.								

Continued on next page

Section 5: File Maintenance, Continued

File Connects

When to Perform

After an I-485 application is consolidated, it should be linked to the FD-258 FBI fingerprint responses, rap sheets, fingerprint fees, and G-325A consular background checks, already requested by File Maintenance.

Description

When an I-485 is accepted at the Service Center, requests for FD-258 FBI fingerprint checks, fingerprint fees, and G-325A consular background checks are made by INS. Responses to these requests come back to INS and must be matched up with the appropriate files held in staging. File Maintenance "file connects" these responses to the corresponding files.

Procedures for the three types of "file connects" are described below:

- FBI Responses;
 - Fingerprint Fees;
 - G-325A Responses; and
 - I-765 photos.
-

Definition of FD-258 Fingerprint Checks

Fingerprints are a requirement for all applicants 14 through 79 years old to determine if they have criminal histories. After a case is data entered, the applicant is scheduled for fingerprints. Fingerprints are collected at the Application Support Centers (ASC), and sent to the FBI for criminal checks. Using the fingerprints, the FBI will verify whether the applicant has a criminal history. Once verified, the FBI will send a response indicating the results of the fingerprint check.

NOTE: NIW Physicians will not be scheduled for fingerprints until they are notified by INS.

Continued on next page

Section 5: File Maintenance, Continued

Definition of FD-258 Fingerprint Checks

There are 4 types of responses that can be sent from the FBI:

- IDENT--The applicant was identified in the FBI database,
- Non-IDENT--The applicant was not identified in the FBI Database,
- Reject--The applicant's prints were rejected, because the Fingerprints were unreadable by the FBI, and
- Pending--The FBI is conducting a more thorough search on the Fingerprints.

While the INS is waiting for a response from the FBI for a particular applicant, File Maintenance stages the file by date of data entry.

File Connecting FBI Responses

Complete the following to file connect FBI responses on fingerprints.

Step	Action: Contractor		
1	Review the FBI Update Report as received. The FBI report lists the names and A-numbers of applicants, the FBI response, and the FBI process date.		
	IF...	AND...	THEN...
	A response for an applicant is received	An A-file has been received	File Maintenance retrieves and prints a copy of the FBI response record from FD-258 Tracking and incorporates it into the corresponding A-file. Annotate the processing worksheet. RAFACS and route the file to Workload Distribution.
		An A-file has not yet been received	File Maintenance retrieves and prints a copy of the FBI response record from FD-258 Tracking and incorporates it into the corresponding T-file. Annotate the processing worksheet. Route it to staging to await the A-file.
	<p>*If a response is not received, leave the file on the I-485 hold shelf until the purge date.</p> <p>**Family packs should be staged until responses are received for all family members.</p>		

Continued on next page

Section 5: File Maintenance, Continued

File Connecting Fingerprint Fees Complete the following to file connect fingerprint fee receipts:

Step	Action: Contractor
1	Receive a fingerprint fee receipt for an applicant from Data Entry.
2	Identify the corresponding file location in RAFACS.
3	Pull the file and incorporate the receipt into the file.
4	Route the file for fingerprint scheduling.
5	Return to File Maintenance for staging.

File Connecting G-325A Responses Complete the following to file connect G-325A responses.

Step	Action: Contractor									
1	Receive G-325A responses for an applicant from DOS.									
2	Identify the corresponding file location in RAFACS.									
3	Pull the file and incorporate the response into the file.									
4	<table border="1"> <thead> <tr> <th>IF...</th> <th>AND...</th> <th>THEN...</th> </tr> </thead> <tbody> <tr> <td>There is a G-325A</td> <td>A-File and Fingerprint Response have been received</td> <td>Route to Workload Distribution</td> </tr> <tr> <td>There is a G-325A</td> <td>No A-File or no Fingerprint Response</td> <td>Return to staging</td> </tr> </tbody> </table>	IF...	AND...	THEN...	There is a G-325A	A-File and Fingerprint Response have been received	Route to Workload Distribution	There is a G-325A	No A-File or no Fingerprint Response	Return to staging
IF...	AND...	THEN...								
There is a G-325A	A-File and Fingerprint Response have been received	Route to Workload Distribution								
There is a G-325A	No A-File or no Fingerprint Response	Return to staging								

Continued on next page

Section 5: File Maintenance, Continued

File Connecting I-765 Photos Complete the following to file connect I-765 Photos.

Step	Action: Contractor
1	Receive and review photos.
2	Locate the file and update CLAIMS appropriately.
3	Route to MAP Processing for scanning.

Continued on next page

Section 5: File Maintenance, Continued

Purging

When to Perform A file is purged from File Maintenance after completion of its designated staging period.

Description Purging is a process by which INS identifies and resolves missing information prior to adjudication. Six types of purges are conducted in File Maintenance:

- Temp File Purge;
 - Visa Petition Purge;
 - FD-258 Fingerprint Response Purge;
 - No Fingerprint Fee Purge;
 - I-765 Photo Purge; and
 - G-325A Purge.
-

Continued on next page

Section 5: File Maintenance, Continued

Purging,
cont'd.

Temp File Purge: Temporary files are staged separately at the end of each month's section of files for 90 days, pending receipt of the A-File. Following the initial file request, CIS generates two automated follow-up requests at 30-day intervals. After 90 days, three requests for the A-File will have been completed. File Maintenance must then check any remaining temp files for receipt of the A-File. If the A-File has not been received, File Maintenance will confirm whether all Agency checks have been completed. If Agency checks are complete, File Maintenance will forward the file to INS for review and relocation. If Agency checks are not complete, the file will remain with File Maintenance for continued staging.

Visa Petition Purge: The visa petition purge consists of validating that the underlying visa petition has been consolidated into the file. In most cases, this will not be a problem. However if the visa petition is not in the file, it will be requested again here. If there is no response to the second request, the file should be routed to Workload Distribution. The officer will adjudicate the case based on the I-797.

FD-258 Fingerprint Response Purge: The INS has established a 120-day waiting period from the date of fingerprint scheduling to allow applicants to submit fingerprints. When an applicant fails to appear for fingerprinting or a response is not received within that 120-day period, and the applicant has otherwise not advised the INS of a change of address or requested that he be rescheduled, the case must be denied for abandonment. Accordingly, after 120 days, File Maintenance must check any remaining files for receipt of a processed FD-258 or evidence of a change of address or request for rescheduling. Perform the task "FD-258 Fingerprint Response Purge" for purging of all files awaiting a FBI response.

No Fingerprint Fee Purge: If the applicant did not initially submit the \$25 fingerprint fee, the fee is requested at data entry and an 87-day call-up is established pending receipt of the fee. After that period, purge these cases by performing the task "No Fingerprint Fee Purge."

I-765 Photo Purge: If the applicant did not initially submit photos, they are requested at data entry and an 87-day call-up is established pending receipt of the photos. Purge these cases by performing the "I-765 Photo Purge" task.

G-325A Purge: The response is presumed to be negative if the local office receives no response from the consulate or embassy within 60 days of the date the G-325A was sent. Route the file to Workload Distribution after 60 days.

Continued on next page

Section 5: File Maintenance, Continued

Procedure for Visa Petition Purge

Complete the following steps to request underlying visa petitions. This procedure should be followed only after an initial request has already been made.

Step	Action: Contractor
1	Locate the underlying visa petition in the file. If the visa petition is present, continue with the purge and route the file to Workload Distribution. If no visa petition is present, make a second request to the NVC for the visa petition using the procedure described on page 4. Stage the case for 30 days. Place a copy of the request in the file.
2	<p>If the NVC notifies the INS that the petition is at the consulate, request the petition from the consulate. Stage the file for 90 days while awaiting a response.</p> <p>If there is no response after the second follow-up request, annotate the processing worksheet to indicate that two requests have been made. Route the file to Workload Distribution. The adjudicator will then adjudicate the case based upon the I-797 Approval Notice.</p>

Procedure for FD-258 Fingerprint Response Purge

Complete the following steps regarding FD-258 responses.

Step	Action: Contractor
1	Review the FBI update reports from the FBI Query System for those files with a FD-258 response.
2	Pull all files that have a response.

Continued on next page

Section 5: File Maintenance, Continued

Step	Action: Contractor
3	<p>Conduct a FBI fingerprint query. Select option "15" in the CLAIMS mainframe, to perform an inquiry for each applicant. A query can be performed using one of three methods:</p> <ul style="list-style-type: none"> • Search by A-Number: Type "0" followed by the A-number, • Search by barcode: Cursor to the CIDN selection on this screen and wand in the CIDN barcode on the face of the application. Note: This is not the receipt barcode, but rather the shorter barcode label affixed below the receipt file sticker, or • Search by name: Search using the Last name/First name search option.
4	Run a screen print of the FBI response data and place a copy in the file, attached to the right hand side of the folder. Refer to Table V: FBI Response for required case action, based on response type.
5	Complete the action indicated by the chart based upon the FBI Response Description.

Table V: FBI Response Description

If the FBI Response Description is...		Then you will...	And make this comment on the Batch Sheet. . .
NON-IDENT Or IDENT (w/ rap sheet)	and the "Date Processed by FBI" is less than 12 months old	Route the file to Workload Distribution.	N/A
	and the "Date Processed by FBI" is more than 12 months but less than 15 months	Route the file to INS and process as an expedite.	Mark as an expedite on the batch sheet
	and the "Date Processed by FBI" is more than 15 months	Annotate the worksheet and return the file to the monthly hold shelf for rescheduling.	Reschedule

Continued on next page

Section 5: File Maintenance, Continued

If the FBI Response Description is...		Then you will...	And make this comment on the Batch Sheet. . .
IDENT (w/o rap sheet)		Route the file to the INS POC for FBI contact regarding the rap sheet.	N/A
Only 1 R (UNCLASSIFIABLE)		Annotate the worksheet and return the file to the monthly hold shelf. The case will be rescheduled by the ASC.	To Be Rescheduled
More than 1 R (UNCLASSIFIABLE)		Route the file to INS for relocation.	N/A
R (IMMEDIATE) or R (MASTHEAD)		Annotate the worksheet and return the file to the monthly hold shelf for rescheduling.	Reschedule
No record that an FD-258 was sent to the FBI	Confirm that the applicant notice was sent and today's date is greater than 120 days beyond the date of notice	Route the file to INS for abandonment processing.	N/A
	Cannot confirm that the applicant notice was sent or today's date is greater than 120 days beyond the date of notice	Reschedule for fingerprints and return to the monthly hold shelf.	Reschedule
That the FBI received an FD-258 for the applicant <u>but</u> there is no record or the response is pending	and the FD-258 was received by the FBI more than 30 days ago	Route to INS for problem resolution.	
	and the FD-258 was received by the FBI less than 30 days ago	Route the file back to the monthly hold shelf.	N/A

Continued on next page

Section 5: File Maintenance, Continued

Procedure for No Fingerprint Fee Purge

Complete the following steps for files lacking a fingerprint fee:

Step	Action: Contractor
1	Pull all files once they reach the 87-day call-up. (Verify that the mailroom is current for that call up date.)
2	Send all cases to INS for abandonment processing.

Procedure for No I-765 Photo Purge

Complete the following steps for files lacking I-765 photos:

Step	Action: Contractor
1	Pull all files once they reach the 87-day call-up. (Verify that the mailroom is current for that call up date.)
2	Check CLAIMS to verify that a response has not been received.
3	Send all cases to INS for abandonment processing.

Procedure for G-325A Purge

Complete the following steps regarding G-325A responses:

Step	Action: Contractor
1	Pull all files once they reach the 60-day call-up.
2	Send all cases to Workload Distribution.

Section 6: Workload Distribution

Introduction

After the case is consolidated, connected and purged by File Maintenance, it is routed to Workload Distribution (WD). WD is in charge of staging, routing and distributing files. There are five different types of staging areas that Workload Distribution handles:

- Work ready for adjudication;
- Work awaiting a response from a request for evidence;
- Work awaiting a response from an Intent to Deny;
- Work awaiting submission of an I-89 card;
- Work awaiting a visa number.

WD stages files that had a visa number available at the time of filing; however, between the date of receipt and the date of adjudication, the visa became unavailable. These I-485 filings are otherwise ready for approval. They are staged chronologically by priority date, preference category and country of chargeability.

Section 6: Table of Contents

Topic	See Page
Workload Distribution	6-2
• Staging and Distributing Ready Work	6-2
• Staging and Distributing RFEs	6-2
• Staging and Distributing Intents to Deny	6-3
• Staging and Distributing for I-89s	6-4
• Staging and Distributing for visa hold	6-5

Continued on next page

Section 6: Workload Distribution, Continued

Workload Distribution

When to Perform Once files have been received from File Maintenance, Workload Distribution (WD) is in charge of staging, routing and distributing files.

Procedure for Staging and Distribution of Work Ready for Adjudication Workload Distribution stages work by month of data entry receipt date. All files for that month are RAFACSeD to a shelf labeled with the month of data entry receipt. INS supervisors regularly advise both the adjudicators and WD of current operating priorities. Therefore, when an adjudicator makes a request for work, WD is able to fill and distribute the request based upon priorities and the amount of work requested.

To stage and distribute files, complete the following steps:

Step	Action: Contractor
1	Stage the files by month of data entry receipt date. Keep expedited cases separate from routine cases and route directly to INS for immediate processing. Do not stage these files.
2	Receive request for work.
3	RAFACS and fill work requests.
4	Maintain workload distribution logs.

Procedure for Staging and Distributing RFEs Workload Distribution may stage files awaiting evidence for a Request for Evidence. These files are shelved under a separate RAFACS code. An applicant has 87 days to respond to a Request for Evidence. After the applicant sends in the requested evidence, Workload Distribution file connects these pieces of evidence with the appropriate case and then returns them to the adjudicator who originated the Request for Evidence. If the applicant does not respond within 87 days, the application is considered "abandoned" and is sent for local abandonment processing.
NOTE: NIW Physicians are staged on a separate shelf by call-up date. If the applicant does not submit the required documents by the date indicated on the call-up notice, the officer will issue an Intent to Deny the application.

Continued on next page

Section 6: Workload Distribution, Continued

Step	Action: Contractor						
1	Stage files for which a Request for Evidence has been issued on the RFE hold shelf. Stage these files for 87 days. Exception – NIW Physicians are staged for the amount of time indicated on the call-up notice.						
2	Determine the next appropriate action. (Verify that the mailroom is current on correspondence for that call-up date.) <table border="1" data-bbox="565 632 1386 968"> <thead> <tr> <th>IF a response is...</th> <th>THEN...</th> </tr> </thead> <tbody> <tr> <td>Received</td> <td>The response is updated in CLAIMS, matched to the file and routed to the appropriate adjudicator.</td> </tr> <tr> <td>Not received within 87 days</td> <td>The file is pulled and stamped "NO RESPONSE" and routed for local abandonment processing.</td> </tr> </tbody> </table>	IF a response is...	THEN...	Received	The response is updated in CLAIMS, matched to the file and routed to the appropriate adjudicator.	Not received within 87 days	The file is pulled and stamped "NO RESPONSE" and routed for local abandonment processing.
IF a response is...	THEN...						
Received	The response is updated in CLAIMS, matched to the file and routed to the appropriate adjudicator.						
Not received within 87 days	The file is pulled and stamped "NO RESPONSE" and routed for local abandonment processing.						

Procedure for Staging and Distributing Intentions to Deny

Workload Distribution may stage files awaiting evidence for an Intent to Deny. These files are shelved under a separate RAFACS code. An applicant has 30 days to respond to an Intent to Deny. After the applicant sends in the requested evidence, Workload Distribution file connects the evidence with the appropriate case and returns it to the adjudicator who originated the Intent to Deny (if no fee is involved). If an additional fee is involved, Data Entry will request the file from Workload Distribution when the fee is submitted with the Intent to Deny notice. Data Entry will route the file to the adjudicator who originated the Intent to Deny. If the applicant does not respond within 33 days, the application is considered "abandoned" and is sent for abandonment processing.

Step	Action: Contractor
1	Stage files for which an Intent to Deny has been issued on the RFE hold shelf. Stage these files for 33 days.
2	Verify that the mailroom is current on correspondence for that call-up date.

Continued on next page

Section 6: Workload Distribution, Continued

Step	Action: Contractor	
3	Determine the next appropriate action.	
	IF a response is...	THEN...
	Received with the \$1000 penalty fee	Data Entry will request the file, complete the receipting process, and route the file to the appropriate adjudicator.
	Received with Supplement A, but no fee	The response is updated in CLAIMS, matched to the file and routed to the appropriate adjudicator.
	Received without fee or Supplement A	The response is updated in CLAIMS, matched to the file and routed to the appropriate adjudicator.
	Not received within 33 days	The file is pulled and stamped "NO RESPONSE" and routed to the appropriate adjudicator.

Procedure for Staging for the I-89 Hold Shelf

The I-89 Hold Shelf holds cases awaiting receipt of the I-89 card. These I-485 filings are approved cases. These files are held for 120 days.

Step	Action: Contractor	
1	Stage files awaiting receipt of the I-89 card. Stage these files for 120 days.	
2	Determine the next appropriate action.	
	IF the I-89 is...	THEN...
	Received	The card is matched to the file and routed to Data Entry for scanning and card production.
	Not received after 120 days	The file is pulled and routed to the file room as a completed case.

Continued on next page

Section 6: Workload Distribution, Continued

Procedure for Staging for the Visa Hold Shelf

The Visa Hold Shelf holds cases whereby a visa number was available at the time of filing, however, between the date of receipt and the date of adjudication, the visa became unavailable. These I-485 filings are otherwise ready for approval. These cases are staged chronologically by priority date, preference category and country of chargeability until a visa becomes available. They are reviewed monthly to determine visa availability.

Step	Action: Contractor						
1	Stage files for which a visa is not yet available. Stage these files until a visa becomes available.						
2	Review files monthly to determine the next appropriate action. <table border="1"><thead><tr><th>IF a visa is...</th><th>THEN...</th></tr></thead><tbody><tr><td>Available</td><td>The file is pulled and returned to the appropriate adjudicator.</td></tr><tr><td>Not available</td><td>The file remains on the shelf.</td></tr></tbody></table>	IF a visa is...	THEN...	Available	The file is pulled and returned to the appropriate adjudicator.	Not available	The file remains on the shelf.
IF a visa is...	THEN...						
Available	The file is pulled and returned to the appropriate adjudicator.						
Not available	The file remains on the shelf.						

Section 7: Adjudications

BASIS FOR FILING

Overview

This chapter discusses the filing requirements of principal applicants and their dependents. The basis for filing for each individual application will be covered and provide guidance for the adjudicative process.

In This Chapter

This chapter discusses the following topics:

Topic	See Page
Basis for Filing	7-1.2
Part 2. A	7-1.3
B	7-1.4
C	7-1.4
D	7-1.5
E	7-1.6
F	7-1.6
G	7-1.7
H – Diversity Applicants	7-1.7
H – Lautenberg Parolees	7-1.8
H – HRIFA	Appendix A
H – Refugees	7-1.9
H – NACARA	7-1.10
H – Cubans	7-1.11
H – Section 13 of the 1957 Act	7-1.11

Basis for Filing

Introduction

Applicants may apply for adjustment of status based on one of the provisions listed in Part 2 of the I-485 application. The provisions and the requirements for each will be discussed in this section.

“A derivative applicant may apply for adjustment of status anytime after a spouse or parent was granted lawful permanent residence as long as the relationship existed at the time the principal applicant received the benefit and the visa category allows for derivative status for spouses and children. Keep in mind that the child must also meet the definition of ‘child’ as set forth in Section 101 of the Act.”

When looking at the actual I-485 application, each provision is delineated by a capital letter (A-J). The applicant will check the section under which they wish to adjust. The officer should verify that the correct provision has been noted. For example, block “a” may be checked and annotated with the name of a spouse who is a US citizen. However, block “a” is based on an approved immigrant petition with an immediately available visa, not a spouse’s approval, which is block “b.” The officer must correct the face of the I-485 with red ink and be certain to update CLAIMS with the correct letter delineation. The provisions below are broken down in the same manner.

Continued on next page

Basis for Filing, Continued

I am applying for adjustment to permanent resident status because:

An immigrant petition giving me an immediately available immigrant visa number has been approved, or a relative, special immigrant juvenile, special immigrant military visa petition filed with this application will give me an immediately available visa number if approved

A.

- Section of law is 245
- The priority date is the date that the "immigrant petition" is filed. The exception to this is the I-140 that requires a labor certification. The priority date on this petition is the date the Department of Labor received the labor certification from the petitioner of the I-140.
- Must have a Form I-797 approval notice or an acceptably filed concurrent immigrant petition* (I-130 or I-360 from BAL only).
- Per section 204.2(d)(4), all IRs and CRs must have an I-130 filed in their behalf. Derivative children classifiable as IRs and CRs cannot be adjusted based on the principal applicant's I-130.
- I-140s approved prior to IMMACT 90 as P61s are the equivalent to the approval as an EW3. Similarly, I-140s as P31s are the equivalent to E32s.
- I-485s approved under the Chinese Student Protection Act (CSPA) are classified as EC-6. Visas will be requested from the employment-based third preference visa pool (E-36). Derivatives of EC6s are adjusted as E39s and E30s. Only the principal will maintain the original EC classification.

***Note:** At present, only VSC accepts concurrently filed I-130 and I-360 applications from Baltimore as a valid basis for filing.

Continued on next page

Basis for Filing, Continued

B. *My spouse or parent applied for adjustment of status or was granted lawful permanent residence in an immigrant visa category which allows derivative status for spouses and children*

- Section of law is 245.
 - The priority date for dependents is the priority date of the principal alien's application.
 - These applicants are the spouse and/or children of an alien who is an LPR, or who has an adjustment of status case pending
 - Family members' petitions should remain together.
-

C. *I entered as a K-1 fiancé(e) of a U.S. Citizen whom I married within 90 days of entry, or I am the K-2 child of such a fiancé(e)*

- Section of law is 245.
 - The priority date is the date of filing of the I-485.
 - Must have evidence of admission as a K-1.
 - A Form I-693 medical is not required if the applicant was admitted as a K-1/K-2 within the last year. The vaccination supplement is required.
 - Not held to the "Penalty Fee" requirement.
 - The marriage to the I-129F petitioner has to have occurred within 90 days after entry.
 - If marriage occurred after the 90 days, they are not eligible for CF-1 adjustment. An I-130 must be filed.
 - If the marriage occurred to someone other than the I-129F petitioner, an I-130 must also be filed.
 - **Relocate** these filings to the District office.
-

Continued on next page

Basis for Filing, Continued

D. *I was granted asylum or derivative asylum status as the spouse or child of a person granted asylum and am eligible for adjustment*

- Section of law is 209(b).
- Must have evidence of Asylee status.
- An applicant granted asylum has to wait one year before applying to permanently adjust his/her status to AS6 (or AS7 or AS8). The 1-year period commences the date the applicant is granted Asylee status.
- Because these applicants adjust status under 8 CFR 209, they do not need to have entered legally, do not need to have maintained any status, nor are they eligible to apply under section 245(i) and therefore do not need to pay the penalty fee.
- Dependents can either be included on an asylum application of a principal applicant, or the principal applicant may file an I-730 after he/she has been granted Asylee status. The beneficiary of the I-730 is considered to have acquired AS2 or AS3 status as of the date the I-730 is approved, if the beneficiary was in the United States at the time of approval. If the beneficiary was outside of the US when the I-730 was approved, he/she does not acquire asylum status until admitted to the US.
- **Relocate** these filings to LIN when filed on or after 7/6/98.
- If the I-485 was filed before 7/6/98, it should be relocated to the District office.
- Asylees are required to submit Form I-693 and vaccination supplement. Iraqi Kurds who were processed for asylum under Operation Pacific Haven need to submit only the vaccination supplement, if the record contains a copy of the medical examination performed in Guam. Asylees are not required to submit this evidence until it is requested by INS.

Continued on next page

Basis for Filing, Continued

- E. *I am a native or citizen of Cuba admitted or paroled into the U.S. after January 1, 1959, and thereafter have been physically present in the U.S. for at least one year.*
- Section of law is Section 1 of Public Law 89-732, 11/2/66.
 - The priority date is 30 months prior to filing the I-485 OR the date of last entry into the U.S., whichever is later.
 - Applicant must have been inspected and admitted or paroled after 1/1/59, and have been physically present in the U.S. for at least one year. They do not have to maintain status and are not held to the "Penalty Fee" requirement.
 - **Relocate** these filings to the Texas Service Center.
-

- F. *I am the husband, wife or minor unmarried child of a Cuban described in (E) and am residing with that person, and was admitted or paroled into the U.S. after January 1, 1959, and thereafter have been physically present in the U.S. for at least one year.*
- Section of law is Section 1 of Public Law 89-732, 11/2/66.
 - The priority date is 30 months prior to filing the I-485 OR the date of last entry into the U.S., whichever is later.
 - Applicant must have been inspected and admitted or paroled after 1/1/59, and have been physically present in the U.S. for at least one year. They do not have to maintain status and are not held to the "Penalty Fee" requirement.
 - **Relocate** these filings to the Texas Service Center.
-

Continued on next page

Basis for Filing, Continued

G. *I have continuously resided in the U.S. since before January 1, 1972*

- Section of law is 249.
 - The priority date is the date of proper filing of the I-485.
 - **Relocate** these filings to the District Office.
-

H. *Diversity*

- The Section of law is 245. The section on the I-485 indicating "Eligibility Under Sec. 245" must be annotated "Diversity" next to the "Other" block. Diversity immigrants are also referred to as "DVs" or "lottery winners."
- The priority date is the case number. This number is annotated on the I-485, worksheet and I-181.
- If you encounter a Diversity case, it should be put in the crate labeled "DV Lottery Cases" in the POC's office.
- I-485s filed by lottery winners will be supported by an approval notice from the DOS. The letter identifies the applicant's case number and classification. The classifications are as follows:

If admitted as...	Then adjusted code is...
DV-1	DV-6 principal DV-7 spouse DV-8 children
AA-1	AA-6 principal AA-7 spouse AA-8 children

- To determine if a visa number is available, refer to the Diversity section of the Visa Bulletin. If the applicant's case number is BELOW the specified allocation cut-off number on the visa list for the applicant's country/region of chargeability, then a visa number IS available.
 - DV Derivative applicants need not be listed on the DOS approval letter as long as they can establish their relationship as a spouse/child of the DV applicant.
-

Continued on next page

Basis for Filing, Continued

H. (cont'd)

Diversity, continued

- Section 212(e) is automatically waived.
- ***Relocate*** these filings to the District Office.

Lautenberg Parolees

- Section of law is 245. The applicant may indicate "Lautenberg Parolee" or "Public Interest Parolee" on line h of the I-485.
- The priority date is the date the applicant was paroled into U.S.
- The classification is LA-6 including spouse and children.
- The nonimmigrant classification on the I-181 is annotated "PIP."
- Eligibility:
 - The applicant must be a national of the former Soviet Union, Vietnam, Laos, and Cambodia who has been inspected and paroled into the U.S. between Aug. 15, 1988 and Sept. 30, 1996.
 - The applicant must have been physically present in the U.S. for one year as of the date of filing the I-485
 - The applicant must have been denied refugee status. If the applicant was processed for parole in Moscow, we will assume he or she was denied refugee status. If the applicant is a Vietnamese National, the attached FAX sheet should be used to obtain evidence that the applicant was in fact denied refugee status. Additionally there is a telephone number at HQ to be used to verify refugee denials [(202) 305-2662 or (202) 305-2757]. Beneficiaries of non-current visa petitions who were paroled into the country through the Orderly Departure Program were not denied refugee status and therefore are not eligible to adjust under this provision.
- ***Relocate*** these filings to the District Office.

Continued on next page

Basis for Filing, Continued

H. (cont'd)

Haitian Refugee Immigration Fairness Act (HRIFA)

- See Appendix A

Refugees

- No fee is required for the refugee I-485.
- Because applicants adjust under section 209, the penalty fee under 245(i) does not apply.
- Applicants must have evidence of refugee status.
- Applicants must wait one year after admission to the US as a refugee before applying to permanently adjust his/her status to RE6, RE7 or RE8.
- A refugee may file for the following to join dependents on Form I-730. If the beneficiary of the I-730 was in the United States at the time of approval of the I-730, s/he became a refugee as of the date of the approval of the I-730. If the beneficiary was abroad at the time of the I-730 approval, s/he did not become a refugee until the date of admission to the US.
- Refugees are not required to submit an Affidavit of Support.
- Refugees do not require Form I-693. The vaccination supplement, however, is required. The supplement must be completed by a designated civil surgeon, or by a state/local health department.
- Refugees must not have had their admission terminated by the Attorney General.
- Refugees must have been physically present in the United States for at least one year prior to filing for adjustment; or,
- Applicants must have not otherwise obtained permanent resident status [Section of law is 209(a).]
- **Relocate** refugee applications to the NSC if the application was filed on or after 7/6/98. If the application was filed prior to 7/6/98, relocate it to the District Office.

Continued on next page

Basis for Filing, Continued

H. (cont'd)

Nicaraguan Adjustment and Central American Relief Act (NACARA)

- NACARA, a limited provision that provides relief in the form of lawful permanent residence to certain Nicaraguan and Cuban nationals, was signed into law on November 19, 1997, under section 202 of Public Law 105-100.
- NACARA applicants must be nationals of Nicaragua or Cuba.
- Applications must be filed on or before 3/31/00, applicants must have been in the U.S. since 12/1/95, and must be present in the U.S. at the time of filing.
- The priority date is the date of adjudication.
- No underlying petition is necessary.
- The penalty fee under 245(i) does not apply.
- Medical Form I-693 is required for NACARA applicants.
- NACARA family members (dependents) do not necessarily “age-out.” Some family members may qualify on their own (see Adjudication Appendix B for more information).
- *Relocate* NACARA applications to TSC.

The following criteria **do not** apply to NACARA applicants:

- Outstanding OSC/NTA/WD (I-122)
- Visa availability
- INA Sec. 245(a) alien who was inspected and admitted or paroled into the U.S. may be adjusted by the Attorney General if (1) alien makes an application, (2) alien is eligible to receive immigrant visa and (3) immigrant visa is immediately available

And 245(c) Subsection (a) shall not be applicable to (1) alien crewman; (2) alien who accepts unauthorized employment; (3) TWOV; (4) WT/WB; or (5) any alien with class of admission of “S.”

- 8 CFR 245.1
- Discretion
- INA Sec. 212(e) two year foreign residency requirement
- Rollback dates

Continued on next page

Basis for Filing, Continued

H. (cont'd.) *NACARA, continued*

The following criterion **does** apply to NACARA applicants:
INA Sec. 212(a)(6)(D) Stowaways. Any alien who is a stowaway is inadmissible.

I am a native or citizen of Cuba and meet the description in (E), above.

OR

I am the husband, wife or minor unmarried child of a Cuban, and meet the description in (F), above.

- Section of law is Section 2 of Public Law 89-732, 11/2/66.
- The priority date is the date of arrival in the U.S. (not necessarily the date of adjustment) or 5/2/64, whichever is later.
- These sections are requests for a roll back of adjustment dates for applicants who are already granted permanent resident status.
- Applicant must have been granted permanent resident status prior to 11/6/66.
- *Relocate* these filings to the District Office.

Section 13 of the 1957 Act - (Proof of previous A or G Status)

- See 8CFR 245.3. *Relocate* these filings to the District Office.
-

Discussion of Section 245 of the INA

Overview

This chapter will discuss sections 245(k) and 245(i) of the INA, which allows certain aliens, otherwise ineligible to adjust under section 245(a) due to certain violations of their status (i.e., overstay, EWI, etc.), to adjust status.

In This Chapter

This chapter discusses the following topics.

Topic	See Page
General Information Regarding 245(a) Filings	7-2.2
General Information Regarding 245(k) Filings	7-2.3
General Information Regarding 245(i) Filings	7-2.4
Grandfathering under 245(i)	7-2.9
Family-based I-485 Quick Reference Guide	7-2.14
Employment-based I-485 Quick Reference Guide	7-2.15

Continued on next page

General Information Regarding 245(a)

245(a)

Section 245(a) of the act is the section of law which permits an alien, who is the beneficiary of an immigrant visa, to adjust status to that of a lawful permanent resident, provided that the following requirements are met:

- The applicant was inspected, admitted or paroled into the U.S.;
- The alien has made an application for adjustment;
- The applicant is eligible to receive an immigrant visa;
- An immigrant visa is immediately available to the applicant at the time his application was filed;
- The applicant is admissible to the U.S. under section 212 of the Act.

***Note:** See Appendix C for Inadmissibility Overview

Continued on next page

General Information Regarding 245(k)

In General Section 245(k) is for those employment-based applicants who are ineligible to adjust status under section 245(a).

If it is determined that an applicant is ineligible to adjust status under section 245(a), the officer should first consider eligibility under section 245(k). If section 245(k) is inapplicable, section 245(i) should then be considered.

Applicants who meet the eligibility requirements of section 245(k) of the Act became entitled to its benefits as of November 26, 1997.

Eligibility Section 245(k) provides that certain aliens who:

- were lawfully admitted to the United States; and
- are eligible to receive an employment based immigrant visa under section 203(b) paragraphs (1), (2), or (3), or section 203(b)(4), in the case of a section 101(a)(27)(C) religious worker,

and became eligible to apply for adjustment of status under section 245(a); provided that subsequent to their admission they have not, for an aggregate period of more than 180 days:

- failed to continuously maintain a lawful status;
- engaged in unauthorized employment; or
- otherwise violated the terms and conditions of their admission.

Refer to the Quick Reference Guides provided on pages 7-2.14 and 7-2.15 to determine if 245(a), (i), or (k) applies.

Filing Requirements These applicants are not required to submit Form I-485 Supplement A or to pay the penalty fee as required in 245(i).

There may be some adjustment applicants who have erroneously submitted a Supplement A and the section 245(i) penalty fee between November 26, 1997 and April 30, 2001. If you encounter a case like this, you should return the Form I-485 Supplement A and refund the penalty fee. Otherwise, we will not refund unsolicited penalty fees.

To initiate a refund, attach the worksheet to the front of the file and route it according to local policy.

Continued on next page

General Information Regarding 245(i) Filings

In General Section 245(i) is for those applicants who are ineligible to adjust status under section 245(a) because of violations of status or entering without inspection.

Eligibility Section 245(i) is available to an alien physically present in the U.S. who:

- entered without inspection; or
- violated status (ineligible under 245(c))

AND

- is the beneficiary (including spouse or child of the principal alien) of an I-140, I-130, I-360 (religious worker only), or I-526 filed with INS on or before 4/30/01; or an I-140 with underlying labor certification filed with Department of Labor on or before 4/30/01.

Adjustment of status under 245(i) was not available prior to October 1, 1994.

NOTE: The Legal Immigration Family Equity Amendments of 2000 add the new requirement that all aliens who seek to adjust on the basis of a visa petition or application for labor certification filed after January 14, 1998, must have been physically present in the United States on December 21, 2000. The physical presence requirement only applies to principal applicants. Dependent spouses and children do not need to demonstrate physical presence on December 21, 2000.

Refer to the Quick Reference Guide provided on pages 7-2.14 and 7-2.15 to determine if 245(a), (i), or (k) applies.

Restrictions in 8 CFR 245.1(b) that are removed under 245(i)

The following restriction cited in 8 CFR 245.1(b) are removed under 245(i):

1. Any alien admitted as a visitor under the visa waiver provisions of 8 CFR 212.1(e).
 2. Any alien admitted as a Visa Waiver Pilot Program visitor under section 217 other than an immediate relative as defined in section 201(b) of the Act.
-

Continued on next page

General Information Regarding 245(i) Filings, Continued

**Restrictions in
8 CFR 245.1(b)
that are
removed under
245(i) (cont'd.)**

3. Any alien who entered in transit without a visa (TWOV)
4. Any alien who, upon arrival, was admitted as a crewman
5. Any alien who was not admitted or paroled following inspection
6. Any alien, on or after 01/01/77, who has been employed in the US without authorization prior to the filing of the I-485 unless the alien is 1) an immediate relative; 2) a special immigrant as defined in 101(a)(27)(H), (J), or (K); 3) eligible for INRA of 1989 and files an I-485 on or before 10/17/91; or 4) eligible for INRA of 1989 and has not entered into or continued in unauthorized employment on or after 11/29/90.
7. Any alien who, on or after 11/06/86, is not in legal immigration status on the date of filing of I-485 except an applicant who is an immediate relative or a special immigrant under section 101(a)(27)(H), (I), (J), or (K).
8. Any alien who, on or after 11/06/86, who has failed (other than through no fault of his or her own or for technical reasons) to maintain continuously a legal status since entry into the US except an applicant who is an IR as defined in section 201(b) of the Act or a special immigrant as defined in section 101(a)(27)(H), (I), (J), or (K) of the Act.
9. Any alien who seeks adjustment of status pursuant to an employment based immigrant visa petition under section 203(b) of the Act and who is not maintaining a lawful nonimmigrant status at the time he or she files an application for adjustment of status.
10. Any alien who was ever employed in the United States without the authorization of the Service or who has otherwise at any time violated the terms of his or her admission to the United States as a nonimmigrant, except an alien who is an immediate relative as defined in section 201(b) of the Act or special immigrant as defined in section 101(a)(27)(H), (I), (J), or (K) of the Act. For purposes of this paragraph, an alien who meets the requirements of section 274.a12(c)(9) of this chapter shall not be deemed to have engaged in authorized employment during the pendency of his or her adjustment application.

Continued on next page

General Information Regarding 245(i) Filings, Continued

Restrictions in 8 CFR 245.1(c) that remain even if the penalty fee is paid

There are some restrictions that remain even if the section 245(i) penalty fee is paid. These restrictions are as follows:

1. Any alien who is seeking or engaging in gainful employment in the US who is not the beneficiary of a valid individual or blanket labor certification issued by the Secretary of Labor or who is not exempt from certification requirements under section 212.8(b).
2. Any alien who has or had status of J and who is subject to the foreign residence requirement of section 212(e) unless they have been granted a waiver of such requirement.
3. Any alien admitted as an A, E, or G unless the alien executes and submits the written waiver required in section 247(b) (waiver request filed on Form I-508).
4. Any 201(b), 203(a) or 203(b) alien unless the applicant is the beneficiary of an approved, valid, unexpired visa petition filed in accordance with part 204.
5. Any alien who is already a conditional resident alien pursuant to section 216 or 216A of the act regardless of other quota or non-quota immigrant visa classification for which the alien may be eligible.
6. Any alien admitted to the US as a K-1 unless the alien is applying for adjustment of status based upon a marriage which was contracted within 90 days of entry with the USC who filed the I-129F.
7. Any alien who seeks to adjust based on a marriage which occurred on or after 11/10/86 and while the alien was in deportation or exclusion proceedings or judicial proceedings relating thereto. (See 8 CFR 245.1(b) (14) for definitions regarding commencement and termination of proceedings). Exceptions are contained in 204(g).
8. A nonimmigrant classified pursuant to section 101(a)(15)(S) of the Act, unless the nonimmigrant is applying for adjustment of status pursuant to the request of a law enforcement authority, the provisions of section 101(a)(15)(S) of the Act, 8 CFR 245.11.
9. Any alien who is in removal proceedings pursuant to section 235(b)(1) or section 240 of the Act.

Continued on next page

General Information Regarding 245(i) Filings, Continued

Filing Requirements

Certain Requirements must be met in order to file under section 245(i). The applicant must submit the following:

- a completed Supplement A to Form I-485, regardless of age, and
- a payment of the penalty fee.

* **Note:** The additional fee is not required for persons who are under 17 years of age, at the time of filing the I-485, or persons who have received benefits under section 301 (Family Unity Program). However, each applicant is required to amend his or her application by submitting the properly completed form Supplement A. The penalty fee may be submitted at the time of filing or solicited by the officer with an Intent to Deny letter (8 CFR 245.10).

Continued on next page

General Information Regarding 245(i) Filings, Continued

Penalty Fee The correct penalty fee is to be determined as outlined in the chart below.

If the I-485 is filed...	Then the penalty fee is...
on or after October 1, 1994 and prior to December 29, 1996	\$650
on or after December 29, 1996	\$1000

Has the Penalty Fee Been Paid? There are several ways to determine if the penalty fee has been paid such as:

- the worksheet will be annotated in the appropriate block (“Y”);
- there will be a CLAIMS generated barcode on the Supplement A;
- there will be CLAIMS (LAN) remittance information;
- some older filings may be found in CLAIMS Mainframe; and/or
- there will be a local office receipt.

NOTE: The officer is responsible for determining if the fee has been paid or needs to be solicited. If the penalty fee and/or Supplement A needs to be solicited, then the officer should prepare an Intent to Deny letter. A transfer out is not appropriate in this circumstance.

Use of Prior Payment Payment of the 245(i) penalty fee is NOT a one-time payment since it is considered as a part of the filing fee of the I-485. Therefore, if the I-485 has to be re-filed under section 245(i), the penalty fee must be repaid.

The only exception to this rule is when an applicant’s previous I-485, which was accompanied by payment of the penalty fee, was denied because a visa was not available at the time of filing **and the applicant was not issued a refund of the penalty fee.** If the previous amount paid was \$650, the remaining \$350 will be solicited to provide for the balance of the penalty fee. NOTE: If the applicant was issued a fee refund for the previous penalty fee, the file will contain a completed copy of Form G-266, Refund of Immigration and Naturalization Fees. The amount refunded as indicated on this form must be reviewed to determine if the penalty fee was returned to the applicant.

Continued on next page

Grandfathering under 245(i)

Introduction **Public Law 105-119 amended section 245(i) of the Act to include only those applicants who are beneficiaries of an immigrant petition filed under section 204 on or before January 14, 1998. The Legal Immigration Family Equity Act Amendments of 2000 extended this date to April 30, 2001.**

Eligibility This Service has issued guidance which permits an applicant for adjustment of status under 245, based upon a post April 30, 2001 immigrant petition, to “grandfather” the benefit of 245(i) by way of a pre-April 30, 2001 immigrant family or employment petition or labor certification, filed on his or her behalf, provided that the following conditions apply:

- The petition has not been previously used for adjustment of status or as the basis for entry as an immigrant;
- The pre April 30, 2001 petition is determined to be “approvable when filed;”
- In the case of a labor certification, the labor certification was “properly filed” with the Secretary of Labor on or before April 30, 2001.

The pre-April 30, 2001 filing must have been pending on or filed after October 1, 1994, the effective date of 245(i).

Approvable When Filed • In order to utilize a previously filed or approved immigrant visa petition, the visa petition must be “approvable when filed.” This means that the petition must meet all of the regulatory and documentary requirements for that filing in order to confer the applicant the benefit of grandfathering.

- Immigrant petitions or labor certifications that are deficient because they were submitted without fee or any basis in law or fact, or those that are fraudulent, should not be considered when grandfathering the alien for 245(i) purposes.

Continued on next page

Grandfathering under 245(i), Continued

Approvable When Filed Cont.

- The burden is upon the applicant to establish that he or she is eligible for the grandfathering benefit sought. While adjudicators should make a reasonable effort to verify an alien's claim that he or she is eligible to adjust status under 245(i), the alien must ultimately provide proof that he or she is eligible for the grandfathering benefit. If a check of Service records and available files does not substantiate an alien's claim to be grandfathered and the alien cannot establish this fact to the adjudicator's satisfaction, then the applicant cannot be treated as a grandfathered alien for 245(i) purposes.
-

Denied, Revoked and Withdrawn Petitions

When an immigrant visa petition has been denied and the alien claims that petition as the basis for grandfathering, the adjudicator must look at the reasons for the denial to determine whether the petition was "approvable when filed."

Petitions that were denied, withdrawn or revoked based on a change in circumstances, which do not cast doubt on the statutory or regulatory basis of the petition, can be used as a vehicle for grandfathering the adjustment applicant under 245(i).

Pre-April 30, 2001 immigrant petitions or labor certifications which are deficient because they were submitted without fee, or submitted without any basis in law or fact, or those which are fraudulent should not be considered when grandfathering the alien for 245(i) purposes.

Continued on next page

Grandfathering under 245(i), Continued

Unadjudicated Petitions

Regarding unadjudicated immigrant petitions, the adjudicator shall review the petition to determine whether it meets the threshold of being “approvable when filed.”

In other words, the pre-April 30, 2001 filing must meet all of the statutory, regulatory and documentary requirements for that filing in order to confer the applicant beneficiary the benefit of grandfathering 245(i).

Petitions that are deficient because the Service requires additional information or evidence in which the petitioner would ordinarily be permitted to submit such information pursuant to 8 CFR 103.2(b)(8) are not sufficient for grandfathering 245(i), until the requested information or evidence is received.

Labor Certifications filed with the DOL

When the claimed basis for grandfathering is an application for labor certification (Form ETA 750 Parts A and B) filed with, but not approved by, the Department of Labor (DOL) the beneficiary of that application must demonstrate that the application is “*properly filed*” with the Secretary of Labor.

It is the proper filing of the ETA 750, which begins the labor certification process and eventually establishes a priority date for a petition filed under section 203(b), if the labor certification is approved.

However, for the purposes of grandfathering 245(i), evidence that the labor certification was “properly filed” with the Department of Labor is all that is required. Secretary of Labor and Department of Labor both mean any office within the employment service system of the Department of Labor, to include State and Local offices. (See 8CFR 204.5 and 20CFR 656.21)

For the purposes of grandfathering 245(i), “properly filed” means that the ETA 750 Parts A and B were properly completed by the sponsoring employer and that the alien filed with the Secretary of Labor on or before April 30, 2001. The Department of Labor will indicate the filing date on the ETA 750.

Therefore, mere proof that the individual labor certification was mailed on or before April 30, 2001 is not sufficient for grandfathering 245(i).

Continued on next page

Grandfathering under 245(i), Continued

Accompanying and Following to Join Dependents

The spouse or child of a grandfathered alien accompanying or following to join the principal applicant is also grandfathered for 245(i) purposes, so long as the requisite relationship existed prior to the time the principal applicant adjusted status.

This means that the spouse or child is grandfathered for 245(i) purposes irrespective of whether the spouse or child adjusts with the principal alien, so long as they met the definition of spouse or child before the principal is ultimately granted an adjustment of status.

Dependent children who reach the age of 21 years prior to the principal applicant adjusting status may also be grandfathered for 245(i) purposes, although they are no longer eligible as an accompanying or following dependent.

Other Concerns

The grandfathering of 245(i) cannot occur by way of a previously filed Diversity Immigrant application filed with the Department of State.

The Grandfathering of the 245(i) benefit by way of the pre-April 30, 2001 filing DOES NOT accord the adjustment applicant the priority date of the pre-April 30, 2001 filing. The petition used as the vehicle for adjustment of status establishes the requirement for adjustment set forth in 245(a) of the act. The rules for retention of priority dates for employment-based petitions are governed by Title 8 CFR 204.5(e).

Continued on next page

Grandfathering under 245(i), Continued

Documenting the I-485

In order to properly document the record for adjustment of status purposes, a notation shall be made in the remarks section of the I-181 “245(i) Eligibility Grandfathered by way of Petition Number [list petition receipt number].”

In the case in which a properly filed ETA 750 is utilized, the petition number shall be substituted with “ETA 750” and the date that the labor certification was properly filed with the Department of Labor.

The I-485 Processing Worksheet shall also be properly annotated by the adjudicating officer to show that the applicant was eligible for the benefit of 245(i) by way of the grandfathering provision. The officer should annotate this information in the remarks section of the I-485 Processing Worksheet.

Continued on next page

FAMILY-BASED I-485

QUICK REFERENCE GUIDE

FAMILY-BASED I-485			
Classification of applicant	And the applicant entered the US...	And the priority date of the underlying visa petition is...	Then apply this section of law...
IR	Legally	Anytime	245(a)
	As an EWI	On or before 4/30/01	245(i)
		After 4/30/01	*ineligible to adjust
Preference	Legally and maintained status	Anytime	245(a)
	As an EWI and/or violated their status	On or before 4/30/01	245(i)
		After 4/30/01	*ineligible to adjust

***Ineligible Applicants**

These applicants are ineligible to adjust status after 4/30/01 under 245(a) or 245(i):

IMMEDIATE RELATIVES

- who entered as a TWOV and crew members

PREFERENCE RELATIVES

- who entered as a TWOV and crew members
- who work without labor certification or authorization from INS
- who have not maintained a valid nonimmigrant status
- who violated the terms of their admission
- who entered under the Visa Waiver Pilot Program

Continued on next page

EMPLOYMENT-BASED I-485

QUICK REFERENCE GUIDE

EMPLOYMENT-BASED I-485			
Applicant entered the U.S...	And received the I-485...	And the priority date of the underlying visa petition is...	Then apply this section of law...
Legally and maintained their status	Anytime	Anytime	245(a)
Legally but violated their status for 180 days or less	On or After 11/26/97	Anytime	245(k) NO PENALTY FEE REQUIRED
Legally but violated their status for more than 180 days	On or After 11/26/97	On or before 4/30/01	245(i) PENALTY FEE REQUIRED AND SUPPLEMENT A
		After 4/30/01	*ineligible to adjust
As an EWI	Anytime	On or before 4/30/01	245(i) PENALTY FEE REQUIRED AND SUPPLEMENT A
		After 4/30/01	*ineligible to adjust

ADJUDICATING THE I-485

Overview

In this chapter we will discuss the initial evidence to be filed with each Form I-485 filing. Each type of evidence will be discussed so you can ascertain what is acceptable for immigration purposes, when further information is needed, when an I-485 can be adjudicated to completion at the Service Center or if the case should be relocated out of this office.

In This Chapter

This chapter will discuss the following topics.

Topic	See Page
Inter-Agency Records Checks	7-3.2
Required Initial Evidence	7-3.7
- Reviewing Evidence	7-3.7
- Record of Proceeding	7-3.7
- Uncertified Health Care Workers	7-3.8
- ADIT Photos	7-3.8
- Form G-325A	7-3.10
- Evidence of Admission/Status	7-3.10
- Public Charge	7-3.11
- Birth Certificate	7-3.12
- Form I-693	7-3.13
- Immunization Requirement	7-3.16
- Form I-508	7-3.19
- Form I-566	7-3.20
- Two Year Foreign Residence Requirement	7-3.21
- Approved Underlying Immigrant Visa Petition	7-3.23
- Interview Waiver Criteria	7-3.24

Inter-Agency Record Checks

Introduction

There are several record checks that must be performed before an applicant for adjustment of status can be granted a benefit. These record checks are performed by other government agencies in cooperation with INS. The Central Intelligence Agency (CIA), the Department of State (DOS) and the Federal Bureau of Investigations (FBI) all perform specific background checks. Each specific background check is outlined below.

CIA Records Checks

The CIA performs a record check on each I-485 applicant. The information utilized by the CIA is gathered from the field offices and service centers through the creation of records via the I-181 for field offices or receipting of the I-485 application into CLAIMS 3.

Pursuant to a November 24, 1999 memorandum issued by the INS Office of Field Operations, INS field offices and service centers must continue to submit information on adjustment of status applicants to the CIA. However, field offices and service centers processing these applications are no longer required to wait for 1) a CIA response, or 2) release from Headquarters, before commencing final adjudication of the applications.

The CIA will continue to send information on adjustment of status applicants to the National Security Unit (NSU) in the INS Office of Field Operations at Headquarters. The NSU will review information sent by the CIA to determine if the information relates to an applicant's eligibility for adjustment of status. If so, the NSU has the authority to 1) suspend adjudication of the adjustment of status application(s); 2) initiate investigation of applicants; 3) recommend initiation of rescission proceedings when information is unclassified or declassified; and 4) recommend or institute removal proceedings. This procedure applies to newly filed adjustment of status applications as well as applications pending adjudication.

If there is...	Then...
no response from the CIA after 60 days	proceed with the adjudication of the I-485.
a response record	NSU will review for necessary action – case will not reach adjudication.

Continued on next page

Inter-Agency Record Checks, Continued

Consulate/ Embassy Records Check

The Department of State will also conduct a record check abroad if the G-325A is processed and forwarded to the consulate/embassy where the applicant last was granted a nonimmigrant visa. However, the G-325A is sent to the consulate only when the applicant was issued a nonimmigrant visa one year ago or less. This limitation is imposed because the Department of State generally destroys the nonimmigrant visa application when the date of issuance is one year old.

In these instances, a copy of the G-325A will be sent to the appropriate consulate/embassy for a record check prior to the adjudicative process.

If there is...	Then...
no response after 60 days	proceed with the adjudication of the I-485.
a response record in the file	adjudicate the I-485 based upon the information provided.

*Note: The 60 days is a “hold period” to allow for response for the consulate/embassy. Usually this is not an issue since processing of the case takes at least this much time. However, there are cases where you must **not** proceed with adjudicating the case until the 60 days has passed (*i.e.* when the G-325A is sent at the request of an officer due to fraud or a consular document check).

FBI Name Check

A name check with Division 4 of the FBI is initiated electronically by the CLAIMS 3 receipt of the I-485. If no response is received within 60 days after the C3 entry is made, the CAO may proceed with the I-485 adjudication.

Positive responses are sent to the local Law Enforcement Support Center who will send the relating material within 48 hours of receipt or contact to the Service Center POC holding the I-485 to ensure that adjudication of the I-485 is withheld until the third agency material is obtained and reviewed.

Continued on next page

Inter-Agency Record Checks, Continued

Expedited Name Check Procedure

In rare cases an applicant may seek a benefit in less than 60 days from the date of receipt of the I-485 (e.g., age-out filings, DV filings). The Service may take the following steps to expedite the name check through the FBI.

Step	Action
1	Initiate the name check with the FBI using the green copy of the G-325A. If the green copy is not legible, attach a legible copy to the green copy and send both to the FBI. This is an absolute requirement.
2	Annotate the bottom of the G-325A with the Service Center name.
3	Place a coversheet on top of the G-325A that includes the following information: 9. "Expedite Requested" 10. 3 Letter code of the requesting office 11. fax number of the requesting office where response should be sent 12. date the benefit will expire
4	FedEx or fax the copies to: Field Coordinations Branch US Department of Justice Immigration and Naturalization Service 800 K Street, 10 th Floor Washington, DC 20001 Fax: (202) 514-0197.
5	Write "FBI NAME CHECK EXPEDITE" on the outside of the envelope.

Continued on next page

Inter-Agency Record Checks, Continued

FBI Records Check

Fingerprints are a requirement for every applicant age 14 through 79 years old to determine if they have a criminal history. The INS will send the applicant a notice to appear for fingerprinting at an Application Support Center (ASC) located within the jurisdiction of their residence.

Applicants who file prior to their 14th birthday do not require the fingerprint fee. However, if at the time of adjudication an applicant has reached the age of 14, he/she is required to pay the \$25.00 fingerprint fee and must be scheduled for fingerprinting. If you encounter a case like this, the 14 year-old dependent filing should be separated from the rest of the family group for solicitation of the \$25 fee.

Once the fee has been requested, the file will be routed to the appropriate shelf until such time as the file is purged or the fee is received.

Continued on next page

Inter-Agency Record Checks, Continued

FBI Fingerprint Response

At the time of adjudication, the file will contain a screen print of either FBI Query or the CLAIMS-based MRD Fingerprint Tracking System to indicate the present status of the fingerprint checks. Fingerprints may be requested prior to relocation according to local policy. The response is valid for 15 months from the date the FBI processed the fingerprints.

A definitive response from the FBI regarding fingerprint clearances is required before the application can be approved or transferred to the local office for interview. The chart below will assist you in determining how the case should be handled based on the response received from the FBI.

IF the printout shows...	THEN can...
The FBI response description as NON-IDENT	Continue processing the I-485 as the fingerprints have cleared.
The FBI response description as IDENT	Relocate the file once all other evidence is contained in the record, as the applicant must be interviewed. A rap sheet must be included in the file before relocation. If not, send the file to the appropriate POC.
The FBI has REJECTED two sets of prints for any reason	Relocate the file once all other evidence is contained in the record, as the District Office will have to adjudicate this case.

Abandonment Denials for Fingerprints

Applicants who do not appear at the ASC for fingerprinting within the time frame allowed them will be denied as we consider this an abandonment of their application for failure to appear. If you encounter a case that has been previously scheduled and 120 days have lapsed since the first day they were scheduled, you must prepare an abandonment denial.

Continued on next page

Required Initial Evidence

Reviewing Evidence

The officer is responsible for reviewing all initial evidence to determine if it meets the standard for acceptability and that each documentary requirement has been submitted. This section lists the acceptable types of initial evidence required in the adjudication of Form I-485.

Regardless of whether the I-485 is to be adjudicated to completion at the Service Center or relocated to another office, the record of proceeding must be complete. If the evidence is missing, the officer must prepare a RFE.

Remember, each piece of evidence must meet the standard of acceptability as noted. If for any reason the evidence is deemed to be unacceptable, the officer must prepare an RFE for acceptable evidence.

The I-485 Adjudications Checklist, included as part of the processing worksheet, must be completed by the adjudicating officer for every I-485 adjudicated.

Record of Proceeding

The record of proceeding within the files should fall as noted below:

Beginning from top to bottom:

- G-28
- I-485 application
- I-485 Supplement A
- Public Charge Information/Affidavit of Support I-864
- Form G-325A
- Evidence of Admission/Passport
- Birth Certificate
- Medical Form I-693 and Supplement
- T/O notices and Intent to Deny notices (if applicable)
- I-797 Approval Notice for underlying petition
- IV Petition

*Note: The FD-258 is no longer required, although it may be submitted with the application.

Continued on next page

Required Initial Evidence, Continued

Two ADIT Photos

These photos must:

- have a white background, glossy, not retouched and not mounted; and
- show the entire face in 3/4 view showing the right ear and left eye.

The photos should be in a glassine envelope and stapled to the I-485 application.

***Note:** ADIT requirements dictate that ADIT photos be taken within 30 days of the date of filing of the application. Adjudicators should use discretion when determining the recentness of these photos.

Uncertified Health Care Workers

Section 343 of IIRIRA is codified in section 212(a)(5)(C) of the Act as a new ground of inadmissibility for health care workers. In general, grounds listed in section 212(a) are bars to admission to the United States that must be overcome when an alien applies for admission or adjustment of status.

There are several organizations authorized to issue certificates to certain health care professions in order to overcome this section of inadmissibility. Review the chart below to determine which organizations can issue certificates to specific occupations so that applicants meet the requirements spelled out in the interim rules published for health care workers.

There are no exceptions to this requirement. Health care workers who received their degree in the United States or are licensed to practice in the state in which they reside are not exempt from this requirement.

Also note that there are no exceptions to the requirement for all health care workers to obtain visa screen certificates. Even if the applicant received his/her degree from an institution in the United States, the applicant is still required to obtain the visa screen certificate.

Continued on next page

Required Initial Evidence, Continued

Authorized Organizations	Occupations	Certificates issued after...
Commission on Graduates of Foreign Nursing Schools (CGFNS)	<ul style="list-style-type: none">• Nurses (Licensed Practical Nurses, Licensed Vocational Nurses, and Registered Nurses.)• Occupational Therapists• Physical Therapists	10/14/98 6/29/99 6/29/99
National Board of Certification in Occupational Therapy (NBCOT)	<ul style="list-style-type: none">• Occupational Therapists	10/14/98
Foreign Credentialing Commission on Physical Therapy (FCCPT)	<ul style="list-style-type: none">• Occupational Therapists• Physical Therapists	6/29/99

On January 16, 2001, an interim rule was published in the Federal Register that amended the regulations of the INS to enable CGFNS to issue certificates to aliens seeking adjustment of status based on the following occupations:

- Speech Language Pathologists and audiologists
- Medical Technologists
- Medical Technicians
- Physician Assistants

This rule is effective on March 19, 2001.

Continued on next page

Required Initial Evidence, Continued

Form G-325A

A G-325A, Biographical Information Form is required initial evidence for all applicants 14-79 years of age (other ages waived). This form provides additional biographical information to that on the I-485. A comparison of the information provided on the G-325A vs. that provided on the I-485 and in the record of proceeding can provide valuable information to the adjudications officer. Follow the steps below when reviewing the G-325A.

Step	Action						
1	Verify the G-325A is completed and properly signed by the I-485 applicant.						
2	Verify the information on the G-325A corresponds with the I-485 and the information provided in the record. <table border="1" data-bbox="565 802 1386 957"> <thead> <tr> <th>IF there is...</th> <th>THEN...</th> </tr> </thead> <tbody> <tr> <td>no discrepancy</td> <td>continue with your adjudication.</td> </tr> <tr> <td>a discrepancy</td> <td>prepare a RFE or Intent to Deny to sort out the discrepancy.</td> </tr> </tbody> </table>	IF there is...	THEN...	no discrepancy	continue with your adjudication.	a discrepancy	prepare a RFE or Intent to Deny to sort out the discrepancy.
IF there is...	THEN...						
no discrepancy	continue with your adjudication.						
a discrepancy	prepare a RFE or Intent to Deny to sort out the discrepancy.						

Evidence of Admission/Status

If the applicant is claiming admission to the U.S. the record must contain evidence of inspection and admission or parole. Such evidence may include, but is not limited to:

- I-94,
- passport stamp,
- I-797 nonimmigrant approval notice,
- NIIS or other INS record.

If the evidence is not contained in the record of proceeding, you may need to initiate a Request for Evidence [for eligibility under 245(k) or 245(a)] or an Intent to Deny [for eligibility under 245(i)] based upon the applicant's basis of eligibility. (See 245 of the INA in this SOP)

Continued on next page

Required Initial Evidence, Continued

Public Charge Pursuant to section 212(a)(4) of the Act, a determination as to the likelihood of any applicant to become a public charge must be made in all cases. A “public charge” is defined as someone who cannot support him or herself, and may therefore become reliant on the adopted country (i.e., the United States).

Some applicants will file the I-864 even if they are not required to submit it. An employment-based applicant who is not required to file the I-864 must establish that s/he is capable of supporting him/herself without the assistance of a sponsor. An I-864 is **not** enforceable unless the applicant is required to file it.

Most adjustment of status applicants must be able to demonstrate that they will not become a public charge. Evidence to this effect may include, but is not limited to:

- Form I-864, Affidavit of Support;
- W-2 forms;
- Bank statements;
- Letters of employment.

Effective December 19, 1997, certain adjustment of status applicants must submit an I-864, Affidavit of Support, as part of their required initial evidence to demonstrate that they are not likely to become a “public charge.” The I-864 is the document that indicates that the petitioner can financially support the family member that has filed an I-485.

All applicants filing family-based I-485s must complete the I-864. Applicants filing employment-based I-485s for whom the petitioning employer is a relative or applicants of whom a relative owns a significant interest (5% or more) in the petitioning entity also must complete the I-864.

Asylees, refugees and self-petitioning widow/ers, battered spouses and children are exempt from the requirement to submit an I-864. The public charge grounds of inadmissibility do not apply to asylees or refugees. Applicants filing based on HRIFA are not required to submit the I-864 either.

The adjudicator must determine from the I-864 guidelines whether the affidavit of support is acceptable. If the I-864 is acceptable, the I-485 can be processed as usual. If the I-864 is not acceptable the I-485 must be denied. For further guidance in reviewing the I-864, see Appendix D.

Continued on next page

Required Initial Evidence, Continued

Evidence of Birth/ Birth Certificate

The applicant must submit evidence of their place of birth for purposes of chargeability, identity and derivative relationship. The most common evidence is the birth certificate. The birth certificate must:

- be issued by a recognized civil authority from the applicant's country of birth,
- be timely registered,
- show date and place of birth, and
- show the names of both parents.

*Note: If the document is written in another language, the applicant must include a certified English translation.

Verify the data on the I-485 with information from the birth certificate. If the name or date of birth is not complete or correct, you must make corrections to the I-485 with red ink and update CLAIMS with the correct data.

There is other acceptable evidence of the place of birth for an applicant. If you do not have, or cannot get, the applicant's birth certificate, the following documents may be acceptable as **secondary evidence**:

- the biographical data pages of the applicant's passport;
- baptismal certificates; or
- affidavits (these may be substituted for certain countries, see FAM when in question).

This evidence can establish chargeability, identity and derivative relationships for dependent spouse and children.

Continued on next page

Required Initial Evidence, Continued

Form I-693

The Form I-693, Medical Examination for Aliens Seeking Adjustment of Status, must:

- be received in a sealed envelope;
- be in original form, completed and signed by a designated civil surgeon; and
- have been executed no more than one year prior to the date of filing the I-485. (In exceptional cases, where the adjustment application has been pending over one year, the I-693 may still be considered valid as long as no Class A or B condition is indicated.)

All applicants must submit this evidence, regardless of age. However, only an applicant age 2 and older must have the Tuberculin Skin Test conducted per 42 CFR 34.3(b)(2). Furthermore, only applicants that are age 15 and older must have the Serologic Tests for Syphilis and HIV.

If the filing is based upon residence in U.S. since 1/1/72 or the applicant is a K-1 nonimmigrant who is adjusting status, a new medical examination is not required, as long as a medical screening has been performed as part of the processing of their NIV. However, if the K-1/K-2 did not meet the vaccination requirements overseas, he/she will need to submit the supplement.

- A Form I-693 and supplement are not required if the applicant was medically examined prior to, and as a condition of, the issuance of the K non-immigrant visa. (8 CFR 245.5)

NIW Physicians do not submit the I-693 initially. It will be submitted with the second set of required documents.

Asylees/ Refugees Evidence Requirements

Asylees are required to submit the Form I-693 and supplement per 8 CFR 209.2(d) except those applicants who had medical examinations in Guam. Adjusting asylees who are Iraqi Kurds processed through Guam in Operation Pacific Haven may submit a copy of the medical examination performed in Guam rather than Form I-693. Iraqi Kurds are required to submit the supplement to the I-693. Asylees are not required to submit this evidence until requested by INS.

Adjusting refugees are not required to submit Form I-693, but they are required to submit vaccination supplements. The supplement must be completed by a designated civil surgeon, or by a state/local health department.

Continued on next page

Required Initial Evidence, Continued

**Determining
I-693
Acceptability**

There are four parts to the medical examination. The chart below takes you from top to bottom through the I-693. It will assist you in determining if the I-693 is acceptable.

Step	Action	
1	Has the physician annotated the block for “No apparent defect, disease, or disability?”	
	IF...	THEN...
	Yes	Go to step 2.
	No, and Class A condition is annotated	The applicant may require a waiver, pursuant to 8 CFR 212(a)(1). Go to Step 2.
	No, and Class B condition is annotated	Be sure the condition will not affect the applicant’s ability to earn a living if the public charge issue applies, and no other means of support is demonstrated. If so, relocate to the District Office. If not, go to step 2.
The physician did not fill in the blank and no Class A or Class B condition is annotated	Go to step 2.	

Continued on next page

Required Initial Evidence, Continued

Determining I-693 Acceptability, cont'd.

Step	Action									
2	<p data-bbox="545 443 1406 506">Has the physician annotated that there was “no reaction” to the Tuberculin Skin Test?</p> <table border="1" data-bbox="566 548 1386 1045"> <thead> <tr> <th data-bbox="574 552 976 594">IF...</th> <th data-bbox="980 552 1386 594">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="574 600 976 674">The reaction was normal or <5 mm</td> <td data-bbox="980 600 1386 674">Go to step 3.</td> </tr> <tr> <td data-bbox="574 680 976 932" rowspan="2">The reaction is >5mm, look for the results of the chest x-ray.</td> <td data-bbox="980 680 1386 753">Go to step 3, if the results are normal.</td> </tr> <tr> <td data-bbox="980 760 1386 932">T/o for a chest x-ray and the results of this test. Relocate the file to the District Office if the results are other than normal.</td> </tr> <tr> <td data-bbox="574 938 976 1041">The physician did not fill in the blank</td> <td data-bbox="980 938 1386 1041">You must t/o for evidence that this test was completed and for the results.</td> </tr> </tbody> </table> <p data-bbox="545 1087 1406 1226">This test can be performed on a pregnant applicant. However, if the test is positive, the civil surgeon will not perform an x-ray. Therefore, you should hold the case for 60 days after the expected delivery date.</p>	IF...	THEN...	The reaction was normal or <5 mm	Go to step 3.	The reaction is >5mm, look for the results of the chest x-ray.	Go to step 3, if the results are normal.	T/o for a chest x-ray and the results of this test. Relocate the file to the District Office if the results are other than normal.	The physician did not fill in the blank	You must t/o for evidence that this test was completed and for the results.
IF...	THEN...									
The reaction was normal or <5 mm	Go to step 3.									
The reaction is >5mm, look for the results of the chest x-ray.	Go to step 3, if the results are normal.									
	T/o for a chest x-ray and the results of this test. Relocate the file to the District Office if the results are other than normal.									
The physician did not fill in the blank	You must t/o for evidence that this test was completed and for the results.									
3	<p data-bbox="545 1236 1406 1299">Has the physician annotated that the Serologic Test for Syphilis is “non-reactive?”</p> <table border="1" data-bbox="566 1341 1386 1677"> <thead> <tr> <th data-bbox="574 1346 976 1388">IF...</th> <th data-bbox="980 1346 1386 1388">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="574 1394 976 1425">Yes</td> <td data-bbox="980 1394 1386 1425">Go to step 4.</td> </tr> <tr> <td data-bbox="574 1432 976 1568">No, reactive</td> <td data-bbox="980 1432 1386 1568">There must be evidence that the applicant has completed treatment. If not, relocate the file to the District Office.</td> </tr> <tr> <td data-bbox="574 1575 976 1677">The physician did not fill in the blank</td> <td data-bbox="980 1575 1386 1677">You must t/o for evidence that this test was completed and for the results.</td> </tr> </tbody> </table>	IF...	THEN...	Yes	Go to step 4.	No, reactive	There must be evidence that the applicant has completed treatment. If not, relocate the file to the District Office.	The physician did not fill in the blank	You must t/o for evidence that this test was completed and for the results.	
IF...	THEN...									
Yes	Go to step 4.									
No, reactive	There must be evidence that the applicant has completed treatment. If not, relocate the file to the District Office.									
The physician did not fill in the blank	You must t/o for evidence that this test was completed and for the results.									

Continued on next page

Required Initial Evidence, Continued

Determining I-693 Acceptability, cont'd.

Step	Action	
4	Has the physician annotated that the Serologic Test for HIV Antibody is non-reactive?	
	IF...	THEN...
	Yes	See the section regarding immunization requirements.
	No, reactive	A waiver is required. Relocate the case to the District Office.
	The physician did not fill in the blank	You must t/o for evidence that this test was completed and for the results.

Immunization Requirement

Immunizations are required for all applicants regardless of age. The documentary requirements differ depending on the date the I-693 was signed. The chart below will assist you in determining acceptability of the I-693. If the I-693 has been submitted but is not complete (for example a test has not been performed or the Supplement to the I-693 was not submitted), return the original I-693 to the applicant in a sealed envelope with a Request for Further Evidence to correct the deficiency.

Continued on next page

Required Initial Evidence, Continued

Immunization Requirement, cont'd.

If there is a problem with the I-693, the officer should leave it loose in the file and flag it so the clerk will make a copy of it before returning the original to the applicant.

IF the I-693 was signed...	AND the physician indicated that the applicant is...	THEN you must...
On or after 9/30/96 but prior to 5/1/97	Either "current for recommended age-specific immunizations" or did not specify	Accept the I-693.
	"Not current for recommended age-specific immunizations"	Request the Supplemental Form to I-693.
After 5/1/97 (The Supplemental Form to I-693 is always required. If the Supplemental Form is not included in the record, you must request it.)	Either "current" or "not" for "recommended age-specific immunizations"	See next chart for guidelines for acceptability of the Supplemental Form to I-693.

Continued on next page

Required Initial Evidence, Continued

Supplemental Form to I-693

The chart below will assist you in determining the acceptability of the Supplemental Form to I-693. This chart makes reference to Section #3 - Results on the Supplemental Form.

IF...	THEN...
The first block is checked,	The I-693 requirement has been met.
The second block is checked,	Review for additional development and relocate I-485 if required.
The third block is checked,	The I-693 requirement has been met.
The fourth block is checked,	Review for additional development and relocate I-485 if required.
No blocks are checked and the rest of the Form is complete, meaning the civil surgeon has annotated each row of the form with a check mark or date,	The I-693 requirement has been met.
No blocks are checked and the rest of the Form is not complete,	You must t/o once to try and obtain a completed form before relocating the I-485 to the District Office.

Supplemental Form to the I-693 for Pregnant Applicants

If the applicant is **pregnant** at the time you are adjudicating the I-485, see below:

IF...	THEN...
The applicant's immunization requirements are waived by the physician, and the form is signed	Proceed with adjudication
The applicant's immunization requirements are not waived, but the doctor has signed the supplement and indicated that the applicant is pregnant	RFE to the applicant
The applicant's immunization requirements were not waived and the doctor has not signed the supplement	RFE to the applicant to obtain a complete form

Continued on next page

Required Initial Evidence, Continued

Form I-508

Form I-508, Waiver of Rights, Privileges, Exemptions, and Immunities, must be submitted for any applicant who was admitted as an A, E, or G nonimmigrant and has not changed status to another nonimmigrant classification. This form must be submitted regardless of whether the applicant continues to maintain A, E, or G status. The applicant must submit a complete original form that is properly signed.

*Note: French nationals must submit an original I-508F that is completed and properly signed.

The four copies must be disseminated as follows:

I-508	Action
File copy	Staple to the I-485 application
CO Index copy	Send on a buck slip to "CO Index Section"
State Dept. copy	Send to: Department of State Visa Office Washington, DC 20520
IRS copy	Send to: Internal Revenue Service Center P.O. Box 245 Bensalem, PA 19020

Continued on next page

Required Initial Evidence, Continued

Form I-566

All applicants who are currently maintaining A or G status must submit a completed Form I-566 (Inter-Agency Record of Individual Requesting Change/Adjustment to, or from, A or G Status or Requesting A or G Dependent Employment Authorization). The applicant must submit a complete original form that is properly signed.

Regardless of whether the applicant is applying for a Change of Status or an Adjustment, the DOS portion of the I-566 must be completed.

Upon final adjudication of the I-485, the officer must complete Part G, Section one and two of the I-566 then route as follows:

Step	Action									
1	Write your CAO ID# in the Examiner's Name block.									
2	Write the INFO phone number for the Service Center in the phone block.									
3	Write "3 letter office code" in the INS Office block.									
4	Write the I-485 receipt number in the file block.									
5	The second section of Part G must be completed. <table border="1" data-bbox="565 1024 1386 1289"> <thead> <tr> <th>IF the applicant was previously a/an...</th> <th>THEN check the block for...</th> <th>AND send copy 2 to the...</th> </tr> </thead> <tbody> <tr> <td>A nonimmigrant</td> <td>Protocol</td> <td>DOS/Office of Protocol</td> </tr> <tr> <td>G nonimmigrant</td> <td>USUN</td> <td>U.S. Mission To The United Nations</td> </tr> </tbody> </table>	IF the applicant was previously a/an...	THEN check the block for...	AND send copy 2 to the...	A nonimmigrant	Protocol	DOS/Office of Protocol	G nonimmigrant	USUN	U.S. Mission To The United Nations
IF the applicant was previously a/an...	THEN check the block for...	AND send copy 2 to the...								
A nonimmigrant	Protocol	DOS/Office of Protocol								
G nonimmigrant	USUN	U.S. Mission To The United Nations								
6	Copy 1 should be put directly under the I-485 application.									

Continued on next page

Required Initial Evidence, Continued

Two Year Foreign Residence Requirement

Any alien who has or had status of J and who is subject to the foreign residence requirement of section 212(e) is not eligible to adjust status unless he or she has fulfilled the two-year foreign residence requirement or has been granted a waiver of such requirement by virtue of:

Pub. L. 103-416 & PL 104-208 and 8 CFR 212.7(c)(9):

- Any applicant who was admitted as a J-1 to participate in an exchange program of graduate medical education may apply for a waiver of the 2-year foreign residency requirement based on a request for a waiver from an interested State Government Agency or Federal Agency (or its equivalent) for the purpose of practicing medicine. If granted, such a waiver shall be subject to the terms and conditions imposed under section 214(l) of the Act.
- The foreign medical school graduate must agree to commence employment for the health care facility specified in the waiver application within 90 days under Pub. L 103-416/Pub. L 104-208. The foreign medical school graduate may only fulfill the requisite 3-year employment contract as an H-1B nonimmigrant. An applicant who receives a waiver under this section of law, and changes his or her nonimmigrant classification from J-1 to H-1B may not apply for permanent residence unless he/she has fulfilled the 3-year employment contract with the health care facility in the specified HHS designated shortage area named in the waiver application. PL103-416 has a 20 per State Limitation. There is no limitation on the number of waivers issued by Federal Agencies.
- A foreign medical school graduate who fails to meet the terms and conditions imposed on the waiver under section 214(l) of the Act will once again become subject to the 2-year requirement of section 212(e) of the Act.

Exceptions

- 1) **The Department of Veterans Affairs (VA):** The VA can also make the request as an interested Federal Agency. If the VA requests the waiver in order for the applicant to practice medicine with the VA, the applicant must practice medicine for three years with the VA; however, he/she does not need to do so in a medical shortage area.

Continued on next page

Required Initial Evidence, Continued

- 2) **Extenuating Circumstances:** Further, there may be extenuating circumstances whereby the alien may not be able to fulfill the 3-year contractual obligation; however, the alien will be required to serve the balance of the 3-year period with another qualifying health care facility or employer. Refer to recently issued guidance in memorandum issued by the Office of Field Operations titled Waiver of the Two-Year Foreign Residence Requirement under section 212(e) of the Immigration and Nationality Act (the Act). October 4, 1999.
- **Eligibility to Adjust Status:** To be eligible to file Form I-485, these applicants must have served at least three years under the terms and conditions of the waiver request granted by the interested Federal agency or State Department of Public Health prior to the filing of the I-485. **There is no exception to this restriction. If the terms and conditions of the waiver are not fulfilled, the applicant again becomes subject to the restrictions of 212(e).** [See 8 CFR 212.7(c)(9)(iv) and 8 CFR 245.1(c)(2)]
 - **Waivers Granted Under Prior Law:** Be aware that former regulations permitted a waiver to be granted in similar circumstances based upon a request from a State Government Agency. PL 104-208 amended the statute to permit Federal Agencies to make the request. Applicants granted a waiver under the previous law were not permitted to change status within the United States but also did not incur the three-year obligation. Waivers under the former regulations that were considered by the USIA were those date prior to January 27, 1997. **Therefore, USIA letters dated after January 27, 1997 will be reviewed under the criteria of Pub. L. 103-416 & PL 104-208.**
 - **Other waiver provisions such as an approved I-612:** If it is determined that the alien is subject to section 212(e), a request for evidence will be prepared requesting evidence that the applicant has fulfilled or received a waiver of this requirement as of the date the I-485 was filed. If the applicant cannot establish that the waiver was obtained as of the date of filing of the I-485, the I-485 must be denied.

Form I-612 cannot be submitted concurrently with the I-485; however, if the USIA no objection letter is submitted, the Center will accept it and work it. If the I-485 is accompanied by an approval notice for Form I-612, the applicant has met the waiver requirement. If the evidence is not provided, prepare an RFE.

Continued on next page

Required Initial Evidence, Continued

**Approved
Underlying
Immigrant
Visa Petition**

The underlying immigrant visa petition must be approved prior to adjustment of status. If this is not a concurrent filing, the file should contain the underlying approved visa petition (Form I-130, I-140, I-360 or I-526). The I-485 may be adjudicated based on the I-797 Approval Notice if the Service was unable to obtain the petition after a diligent search was made.

Interview Waiver Criteria

General Information

Pursuant to 8CFR 245.6 each applicant for adjustment of status shall be interviewed by an immigration officer. This interview may be waived if the Service determines that an interview is unnecessary. The interview waiver criteria are standards set at the national level.

Employment-based Criteria

The adjudicating officer must determine whether the employment-based I-485 meets waiver of interview criteria set forth below.

Employment-based:

- The principal applicant is employed by the same petitioner who submitted the approved underlying employment-based visa petition.
- The principal applicant has been interviewed in the course of an investigation or field examination, and the adjudicating examiner determines that further interview of the applicant is unnecessary.
- The principal applicant has been approved as an alien of extraordinary ability or alien of exceptional ability and is otherwise eligible for adjustment of status.
- The principal applicant has been approved as an outstanding professor or researcher, or a multinational executive/manager and has a continuing offer of employment from the same petitioner who submitted the underlying approved petition.
- Adjustment applicants who received national interest waivers based on performing primary medical care to a medically under-served area must demonstrate that they intend to continue according to the terms and conditions of the underlying petition.

Other:

- Sufficient evidence is contained in the record to support a denial of the adjustment of status application. For example, if an I-485 that should have been rejected at Visa Screening/INS Review was accepted in error, a denial would be processed by the adjudicating officer.

Continued on next page

Interview Waiver Criteria, Continued

Family-based Criteria

Family-based:

- The applicant will be classified as an IR-7 or IR-0 (unmarried child/parent of USC).
 - If you receive a family group that contains an IR-1 and IR-2 filing, keep the cases together and relocate them to the District Office.
-

Deviation From Interview Waiver Criteria

The above interview waiver criteria may be modified by individual officers in response to developing local circumstances and regional concerns, which would dictate the need for further restrictions.

On a case-by-case basis, an officer may choose to relocate an I-485 for interview if he/she deems it necessary. Applications require a relocation if the officer determines:

- a need for validation of identity
 - a need for validation of legal status
 - questionable admissibility and/or qualifications
 - apparent fraud
 - a second filing
 - an applicant with fingerprint rejected twice
 - an applicant with medical condition class A or B
 - the A-file cannot be located at the time of adjudication.
-

I-485 Processing Procedures

Overview

Once you have made a decision about the I-485, you will need to process the application to completion. This chapter will take you through the process for each decision.

In This Chapter

This chapter discusses the following topics.

Topic	See Page
Application Completion	7-4.2
Processing Your Decision	7-4.4
- Visa Hold	7-4.4
- I-485 Recommended Approval	7-4.4
- Approval	7-4.5
- Generating the I-181	7-4.7
- Request for Evidence (RFE)	7-4.8
- Recommended Relocation	7-4.9
- Denial	7-4.10
- Abandonment Denials	7-4.11
- Intent to Deny	7-4.11
- Motions	7-4.12
- Recessions	7-4.12
- Composing and Intent to Deny	7-4.13

Application Completion

In General

Regardless of the decision made on the I-485, the face of the application must have certain blocks filled out by the officer. These blocks must be filled out before the file is routed beyond the officer’s desk.

Sections to Complete on the I-485

At the time of initial review, the officer must complete the following blocks of the I-485. Follow the steps below.

Step	Action										
1	<p>Verify Part 2. Application Type on the I-485 to ensure the applicant has chosen the correct type of filing. If he/she has chosen the wrong type of filing, make a correction to the I-485 using red ink and follow the steps below to update CLAIMS.</p> <table border="1" data-bbox="565 835 1386 1104"> <thead> <tr> <th data-bbox="565 835 727 877">Step</th> <th data-bbox="727 835 1386 877">Action</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 877 727 915">1</td> <td data-bbox="727 877 1386 915">Select “Adjudicate a Case.”</td> </tr> <tr> <td data-bbox="565 915 727 1024">2</td> <td data-bbox="727 915 1386 1024">Find “Part 2” on the initial receipt screen and press “Insert”<input type="checkbox"/>twice to view the option types.</td> </tr> <tr> <td data-bbox="565 1024 727 1062">3</td> <td data-bbox="727 1024 1386 1062">Select the correct type of filing and hit “enter.”</td> </tr> <tr> <td data-bbox="565 1062 727 1104">4</td> <td data-bbox="727 1062 1386 1104">Hit “F4” to save.</td> </tr> </tbody> </table>	Step	Action	1	Select “Adjudicate a Case.”	2	Find “Part 2” on the initial receipt screen and press “Insert” <input type="checkbox"/> twice to view the option types.	3	Select the correct type of filing and hit “enter.”	4	Hit “F4” to save.
Step	Action										
1	Select “Adjudicate a Case.”										
2	Find “Part 2” on the initial receipt screen and press “Insert” <input type="checkbox"/> twice to view the option types.										
3	Select the correct type of filing and hit “enter.”										
4	Hit “F4” to save.										
2	<p>Locate the block labeled “Section of Law” and mark the appropriate block.</p> <table border="1" data-bbox="565 1255 1386 1520"> <thead> <tr> <th data-bbox="565 1255 1003 1331">IF the applicant is filing as a/an...</th> <th data-bbox="1003 1255 1386 1331">THEN mark the section of law labeled...</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 1331 1003 1402">Asylee/Refugee</td> <td data-bbox="1003 1331 1386 1402">Sec. 209(a), INA – Refugee Sec. 209(b), INA – Asylee</td> </tr> <tr> <td data-bbox="565 1402 1003 1478">Cubans/HRIFA</td> <td data-bbox="1003 1402 1386 1478">Annotate appropriate Public Law</td> </tr> <tr> <td data-bbox="565 1478 1003 1520">all other categories</td> <td data-bbox="1003 1478 1386 1520">Sec. 245, INA</td> </tr> </tbody> </table>	IF the applicant is filing as a/an...	THEN mark the section of law labeled...	Asylee/Refugee	Sec. 209(a), INA – Refugee Sec. 209(b), INA – Asylee	Cubans/HRIFA	Annotate appropriate Public Law	all other categories	Sec. 245, INA		
IF the applicant is filing as a/an...	THEN mark the section of law labeled...										
Asylee/Refugee	Sec. 209(a), INA – Refugee Sec. 209(b), INA – Asylee										
Cubans/HRIFA	Annotate appropriate Public Law										
all other categories	Sec. 245, INA										

Continued on next page

Application Completion, Continued

Sections to Complete on the I-485, cont'd.

Step	Action
3	Locate the block labeled "Country Chargeable" and write the country of the applicant's birth. **See Chapter 1 - Things To Be Aware Of / Country of Chargeability for further guidance when the visa is not available for the applicant.
4	Locate the block labeled "Eligibility Under Sec. 245." Check the appropriate block.
5	Locate the block labeled "Preference" and write the applicant's adjustment classification and priority date.

Processing Your Decision

In General This section is a guide for processing the decision you make when adjudicating the I-485.

Visa Hold If the applicant of the I-485 meets interview waiver criteria and all of the required evidence is acceptable and present but the visa is no longer immediately available due to processing time between filing and adjudication of the application, the case will be placed in a processing hold. If you place a hold on a principal applicant, the same must be done for each dependent. To do this, follow the steps below.

Step	Action
1	Check off "N" under "Visa Availability Confirmed" in the "Adjudication" section of the I-485 Processing Worksheet and initial and date the same.
2	Update CLAIMS by accessing "Adjudicate a Case" and wand in the barcode of the I-485.
3	Hit "F10" and select "Case Review," then "Place in Suspense" and lastly, "Processing Hold Placed."
4	Hit "Esc" three times to exit this form.
5	Route the file(s) to the Visa Hold Shelf.

I-485 Recommended Approval If the applicant of the I-485 is immediately eligible for a visa, all the required evidence is acceptable and meets the interview waiver criteria, and you have the A-file, you may recommend approval.

***Note:** If the A-file cannot be located at the time of adjudication, the officer should make an additional attempt to locate the file. If the A-file cannot be located after one attempt, the file must be relocated to the district office and cannot be approved. (Cases cannot be adjudicated using T-files alone.)

IRs that are adjudicated to completion (IR-0 and IR-7), do not require that a visa number be allocated. Refugees and HRIFA applicants do not require a visa number either. Therefore, you should refer to the section regarding Approvals.

Continued on next page

Processing Your Decision, Continued

I-485 Recommended Approval, cont'd.

To recommend approval on an I-485, follow the steps below.

Step	Action
1	Annotate the I-485 Processing Worksheet by initialing and dating the "Recommend Approval" block.
2	Drop off the file on the shelf labeled "Visa Requests" in the Workload Distribution sort area. (If INS clerical or the contractor does not perform this function, the adjudicating officer can request the visa and continue on to the next step.)

Approval

After you have recommended approval and the visa has been allocated, the I-485 is ready to be approved. To do this, follow the steps below.

Step	Action
1	Access "Adjudicate a Case" in CLAIMS and wand in the barcode of the I-485 with which you are working.
2	Delete the "Expires on" date and the "Date of arrival," if any, on the initial receipt screen and type in the <i>date of approval</i> in the "Date of arrival" field.
3	Highlight the "I-89 provided?" field and hit "Enter" twice to complete the I-89 information. Complete the following fields: <ul style="list-style-type: none"> • Mother's/Father's first name – type "unknown" if you are unsure • Date of this I-89 - date you are updating • POE - type "3 letter office code" • Card Type - should always be "A1" • Transaction Type - should always be "A1" • Class - type their adjustment classification • ADM/ADJ date - date you approved the application • CR EXP Date - delete this date if one is there • Sex – type "M" or "F" • Fingerprint waiver - (Y or N) Y for children under 14 years of age and adults 79 years of age older • Signature waiver - (Y or N) Y for children under 14 years of age and adults 79 years of age and older • LOC – "3 letter office code"

Continued on next page

Processing Your Decision, Continued

Approval,
cont'd.

Step	Action						
4	Hit "F4" to save this information.						
5	Hit "F10" and select "Approve the Case" and then select "Approve - order notice" to access the approval screen.						
6	<p>Select the appropriate approval phrase. Follow these guidelines to determine which phrase to use. (If the applicant is under 14 or over 79, proceed to the next step.)</p> <table border="1"> <thead> <tr> <th>IF the applicant is between the ages of 14 and 79 and...</th> <th>THEN...</th> </tr> </thead> <tbody> <tr> <td>An I-89 is not included in the file</td> <td>Select "ADIT Process Required."</td> </tr> <tr> <td>There is an I-89 already included in the file</td> <td>Select "No ADIT Process Required."</td> </tr> </tbody> </table>	IF the applicant is between the ages of 14 and 79 and...	THEN...	An I-89 is not included in the file	Select "ADIT Process Required."	There is an I-89 already included in the file	Select "No ADIT Process Required."
IF the applicant is between the ages of 14 and 79 and...	THEN...						
An I-89 is not included in the file	Select "ADIT Process Required."						
There is an I-89 already included in the file	Select "No ADIT Process Required."						
7	<p>Complete the following fields:</p> <ul style="list-style-type: none"> • Section of Law – type "05," or appropriate section • Decision date • Adm/Adj date • Country Chargeable • Class - type the adjustment classification • Labor Certification (Y/N) • Visa Allocated? (Y/N) – type "Y" • Country of Citizenship • Country of Last Residence - verify this from G-325A • Priority - type the priority date • Job Code • Send to Clerical – always type "N" 						
8	Hit "F4" to save. You will be asked if you want to save your changes. Select "Yes." Then you will be asked if you want to change case status. Select "Yes <input type="checkbox"/>						
9	Hit "Esc" twice and exit this form.						
10	Place your approval stamp in the "Action" block of the I-485 and sign it with your full name.						
11	Print I-181s (see Generating the I-181 below for instructions).						
12	If the I-89 is required, route the file to the "I-89 Hold" shelf.						

Continued on next page

Processing Your Decision, Continued

Generating the I-181

The I-181, Memorandum of Creation of Record of Lawful Permanent Residence, is the document you will create to serve three purposes:

- creates a record of lawful permanent residence (copy 1)
- initiates records checks (copy 2) *not used at Service Centers, discard it
- provides data to the ICPS staff to produce the I-551 (copy 3)

The I-181 will be printed only at the time of recommended relocation or final approval. Follow the steps below to generate the I-181.

NOTE: Due to resource constraints, I-181's will be printed after data entry at NSC.

Step	Action						
1	Access "Claims Program Options" in CLAIMS.						
2	Select "Exams Options," by pressing "Enter."						
3	Select "I-181s," by pressing "Enter."						
4	Wand in the receipt number of the I-485 with which you are working (several cases can be wanded at this point).						
5	Hit "Alt+F3" to specify the copies you wish to print. After you make your selections and are ready to print, hit "Escape." <table border="1" data-bbox="565 1100 1386 1255"> <thead> <tr> <th>IF the I-485 is to be...</th> <th>THEN you will need...</th> </tr> </thead> <tbody> <tr> <td>Approved</td> <td>Copy 1</td> </tr> <tr> <td>Recommended for relocation</td> <td>Copies 1 and 3 – discard copy 2</td> </tr> </tbody> </table>	IF the I-485 is to be...	THEN you will need...	Approved	Copy 1	Recommended for relocation	Copies 1 and 3 – discard copy 2
IF the I-485 is to be...	THEN you will need...						
Approved	Copy 1						
Recommended for relocation	Copies 1 and 3 – discard copy 2						
6	Hit "F4" to print the I-181(s).						
7	Stamp and sign the file copy of the I-181 with your approval stamp, place it on top of the record of proceeding and place a pink cover sheet, Form M-175, on top. (Relocates are not stamped.)						

Continued on next page

Processing Your Decision, Continued

Request for Evidence (RFE)

There are three different updates in CLAIMS when requesting evidence:

- Initial evidence - required evidence that is missing at the time of the I-485 filing.
- Additional evidence - required evidence that does not meet acceptability standards.
- Initial and Additional evidence - a combination of both of the above.

Once you have decided that you need more evidence to support the I-485, you must prepare a request for evidence. To do this, follow the steps below.

Step	Action														
1	Initial and date the I-485 Processing Worksheet in the block next to "RFE."														
2	<p>On the reverse side of the worksheet, annotate the standard call-ups and/or text that the clerk must include in the notice to the applicant.</p> <p>If you have prepared your own request for evidence on the LAN, indicate the name of the document to be retrieved on the reverse side of the worksheet.</p> <p>NOTE: Some Centers may require supervisory review prior to referral for clerical processing.</p> <p>NOTE: Officers may complete the notice themselves.</p>														
3	<p>Access "Adjudicate a Case" in CLAIMS and update by following the steps below.</p> <table border="1"> <thead> <tr> <th>Step</th> <th>Action</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Wand in the barcode on the file/application.</td> </tr> <tr> <td>2</td> <td>Hit "F10."</td> </tr> <tr> <td>3</td> <td>Select "Case Review."</td> </tr> <tr> <td>4</td> <td>Select "Place in Suspense."</td> </tr> <tr> <td>5</td> <td>Select appropriate phrase to indicate evidence ordered.</td> </tr> <tr> <td>6</td> <td>Hit "Esc" until you are asked to "Exit."</td> </tr> </tbody> </table>	Step	Action	1	Wand in the barcode on the file/application.	2	Hit "F10."	3	Select "Case Review."	4	Select "Place in Suspense."	5	Select appropriate phrase to indicate evidence ordered.	6	Hit "Esc" until you are asked to "Exit."
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1	Wand in the barcode on the file/application.														
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3	Select "Case Review."														
4	Select "Place in Suspense."														
5	Select appropriate phrase to indicate evidence ordered.														
6	Hit "Esc" until you are asked to "Exit."														
4	Route the file appropriately.														
5	Once the RFE is completed, access batch case status update in CLAIMS to indicate that the notice was sent.														

Continued on next page

Processing Your Decision, Continued

Recommended Relocation

Once you have decided that the I-485 does not meet interview waiver criteria and all initial required evidence has been submitted, you will need to relocate it to the appropriate District Office. To do this, follow the steps below.

Step	Action														
1	Initial and date the I-485 Processing Worksheet next to "Relocate I-485 to _____" and fill in the blank with the appropriate 3 letter district office code.														
2	Complete a "Case Relocation Memorandum" to related District Office indicating the reason for the relocation. (This memo has been attached as a separate document.) Place the memo on the right side of the file, above the Processing Worksheet. Some Centers may require a supervisory review of these notices. Follow your Service Center's guidance, and, if necessary, forward to an SCAO for review before relocating the file.														
3	Print the I-181's. (These I-181's are not stamped by the CAO.) <table border="1" data-bbox="565 905 1386 1205"> <thead> <tr> <th>Step</th> <th>Action</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Select the "Print I-181" option from the "Exams Options" menu in CLAIMS.</td> </tr> <tr> <td>2</td> <td>Wand in the barcode on the file(s) you are relocating.</td> </tr> <tr> <td>3</td> <td>Hit "F4" to print. Three copies of the I-181 will be generated. Copies 1 and 3 should be left loose inside the file under the relocation worksheet filled out in Step 2 above. Copy 2 may be recycled.</td> </tr> </tbody> </table>	Step	Action	1	Select the "Print I-181" option from the "Exams Options" menu in CLAIMS.	2	Wand in the barcode on the file(s) you are relocating.	3	Hit "F4" to print. Three copies of the I-181 will be generated. Copies 1 and 3 should be left loose inside the file under the relocation worksheet filled out in Step 2 above. Copy 2 may be recycled.						
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4	Access "Relocate Update" in CLAIMS. (If this function is performed by the contractor, route the file appropriately.) <table border="1" data-bbox="565 1318 1386 1692"> <thead> <tr> <th>Step</th> <th>Action: INS/Contractor</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Select "Adjudicate a Case."</td> </tr> <tr> <td>2</td> <td>Case Movement: select "relocate out."</td> </tr> <tr> <td>3</td> <td>Choose the appropriate text: Transfer to local office for standard interview.</td> </tr> <tr> <td>4</td> <td>Supervisory override will appear. The CAO or SCAO will enter their override password.</td> </tr> <tr> <td>5</td> <td>Transfer notice will automatically be generated by CLAIMS.</td> </tr> <tr> <td>6</td> <td>RAFACS the file to Records for transfer.</td> </tr> </tbody> </table>	Step	Action: INS/Contractor	1	Select "Adjudicate a Case."	2	Case Movement: select "relocate out."	3	Choose the appropriate text: Transfer to local office for standard interview.	4	Supervisory override will appear. The CAO or SCAO will enter their override password.	5	Transfer notice will automatically be generated by CLAIMS.	6	RAFACS the file to Records for transfer.
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4	Supervisory override will appear. The CAO or SCAO will enter their override password.														
5	Transfer notice will automatically be generated by CLAIMS.														
6	RAFACS the file to Records for transfer.														
5	Drop off the file in the crate labeled "Relocates."														

Continued on next page

Processing Your Decision, Continued

Denial

Once you have decided that the I-485 must be denied, you must compose the denial. Then, you must follow the steps below.

Step	Action												
1	Initial and date the I-485 Processing Worksheet next to the "Denial" block.												
2	<p>On the reverse side of the worksheet, annotate the denial standard and standard call-ups and/or text that the clerk must include in the denial notice to the applicant.</p> <p>If you have prepared your own denial on the LAN, indicate the name of the document to be retrieved on the reverse side of the worksheet.</p>												
3	<p>Access "Adjudicate a Case" in CLAIMS and update by following the steps below.</p> <table border="1"> <thead> <tr> <th>Step</th> <th>Action</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Wand in the barcode on the file/application.</td> </tr> <tr> <td>2</td> <td>Hit "F10."</td> </tr> <tr> <td>3</td> <td>Select "Deny the Case."</td> </tr> <tr> <td>4</td> <td>Select "Order Denial Notice."</td> </tr> <tr> <td>5</td> <td>The system will ask you if you want to "Change Case Status." Select "Yes."</td> </tr> </tbody> </table>	Step	Action	1	Wand in the barcode on the file/application.	2	Hit "F10."	3	Select "Deny the Case."	4	Select "Order Denial Notice."	5	The system will ask you if you want to "Change Case Status." Select "Yes."
Step	Action												
1	Wand in the barcode on the file/application.												
2	Hit "F10."												
3	Select "Deny the Case."												
4	Select "Order Denial Notice."												
5	The system will ask you if you want to "Change Case Status." Select "Yes."												
4	<p>Once you have denied the case, the system automatically places a supervisory hold on it. Therefore you must lift that hold. To do this, follow the steps below.</p> <p>(NOTE: Some Centers require supervisory review of denials. Follow local guidelines.)</p> <table border="1"> <thead> <tr> <th>Step</th> <th>Action</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Hit "Alt+F8."</td> </tr> <tr> <td>2</td> <td>Enter your User ID and password.</td> </tr> <tr> <td>3</td> <td>Hit "Alt+F4."</td> </tr> <tr> <td>4</td> <td>Select "Confirm Action."</td> </tr> <tr> <td>5</td> <td>Hit "Esc" to exit the form.</td> </tr> </tbody> </table>	Step	Action	1	Hit "Alt+F8."	2	Enter your User ID and password.	3	Hit "Alt+F4."	4	Select "Confirm Action."	5	Hit "Esc" to exit the form.
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4	Select "Confirm Action."												
5	Hit "Esc" to exit the form.												
5	Drop off the file in the clerical sort area in the appropriate box.												
6	Once the clerical notice is completed, access batch case status update in CLAIMS to indicate notice sent.												

Continued on next page

Processing Your Decision, Continued

Abandonment Denials

The three instances when an Abandonment Denial would be initiated are listed below:

- 1) “No response” – the applicant failed to respond to a request for evidence
- 2) “Fingerprint No- Show” – the applicant failed to appear at the ASC for fingerprinting within the time frame allowed
- 3) “No Fee”- the applicant failed to submit the \$25 fingerprint fee

Follow the above steps to process an Abandonment Denial.

NOTE: NIW Physicians are issued an Intent to Deny for noncompliance to a request for evidence rather than an Abandonment Denial.

Intent to Deny

Follow the steps below to process an Intent to Deny.

Step	Action														
1	Initial and date the I-485 Processing Worksheet next to the “Intent to Deny” block.														
2	On the reverse side of the worksheet, annotate the intent standard and standard call-ups and/or text that the clerk must include in the intent notice to the applicant. If you have prepared your own intent on the LAN, indicate the name of the document to be retrieved on the reverse side of the worksheet.														
3	Access “Adjudicate a Case” in CLAIMS and update by following the steps below. <table border="1" data-bbox="565 1314 1386 1623"> <thead> <tr> <th>Step</th> <th>Action</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Wand in the barcode on the file/application.</td> </tr> <tr> <td>2</td> <td>Hit “F10.”</td> </tr> <tr> <td>3</td> <td>Select “Case Review.”</td> </tr> <tr> <td>4</td> <td>Select “Place in Suspense.”</td> </tr> <tr> <td>5</td> <td>Select “Order Intent to Deny Notice.”</td> </tr> <tr> <td>6</td> <td>The system will ask you if you want to “Change Case Status.” Select “Yes.”</td> </tr> </tbody> </table>	Step	Action	1	Wand in the barcode on the file/application.	2	Hit “F10.”	3	Select “Case Review.”	4	Select “Place in Suspense.”	5	Select “Order Intent to Deny Notice.”	6	The system will ask you if you want to “Change Case Status.” Select “Yes.”
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4	Drop off the file in the clerical sort area in the appropriate box.														
5	Once the notice is completed, access batch case status update in CLAIMS to indicate that the notice was sent.														

Continued on next page

Processing Your Decision, Continued

Motions

If a motion is submitted, the officer must determine if the motion meets the filing criteria set forth in 8 CFR 103. If these criteria are met, then consider the new evidence and process the I-485 accordingly.

Keep this in mind. If the principal applicant in a family group is denied then his/her dependents are denied. (**NOTE:** This does not apply to refugee/asylee dependents.) Therefore, if the principal files a motion with fee and we reopen the case, we will “Open on Service Motion” the dependents of this principal if they do not individually file a motion on their respective I-485. The only time this would not apply would be if the dependent was denied for cause as well as because the principal applicant was denied. The dependent in this case would require a motion to reopen along with the proper fee.

In instances where the I-485 will be relocated after the motion has been accepted, the officer must notify the applicant that the case is being reopened and forwarded to the district office.

If the filing criteria for the motion is not met but the Supplement A and penalty fee were received, you must initiate a refund through your supervisor to CRU.

Rescissions

If derogatory information is received or a determination is made indicating that the applicant was ineligible to adjust at the time of the approval of the I-485, rescission proceedings may be initiated. The Service has 5 years from the date of approval of the I-485 to initiate such proceedings.

All rescissions are initiated at the District level. The I-485 should be relocated to the district office with a memo explaining the grounds for rescission. The Workload Distribution will update CLAIMS as relocated.

Follow the steps below when handling rescissions.

Step	Action
1	Initiate the rescission memo.
2	Place any derogatory information on the non-record side of the file.
3	Send to Workload Distribution for relocation to appropriate office.

Processing Your Decision, Continued

Composing an Intent to Deny

Composing an Intent to Deny

It is important to write a complete order so that it is clear what is exactly wrong with the submission and what must be submitted to overcome the problem. Because of this philosophy, this section is provided to assist you in formatting an Intent to Deny. This format may also be applied to any other order you may compose.

Format	Description	Example
1 st	Identify what the applicant has claimed on the application.	On your application you claim to have entered the United States as a B-2 visitor with admission valid until 3/12/97.
2 nd	Identify what the ROP and Service records establish or indicate.	You have not submitted an endorsed I-94, Arrival/Departure record to support this claim, nor do Service records verify your arrival in the United States as a B-2 visitor for pleasure.
3 rd	State the basis for the intent.	Therefore, the record does not establish that you have been admitted to the United States as a nonimmigrant in order to be eligible for adjustment of status. In addition, if you have been admitted for the period that you have identified on your application, you are no longer maintaining your lawful nonimmigrant status.
4 th	State what needs to be submitted to overcome the basis of the intent to deny.	Submit evidence of your admission to the United States, such as a copy of both sides of your I-94 and a complete copy of your passport. You must also submit evidence that your lawful admission to the United States has been extended beyond 3/12/97.
5 th	State that if the applicant cannot overcome the grounds for denial, he/she may be eligible under 245(i).	If you are unable to establish that you have been admitted to the United States and are presently maintaining your status, you may still be eligible for adjustment of status under Section 245(i) of the Act by completing Supplement A and submitting the \$1000 penalty fee.

INDEX

Topic	See Page
245(a)	7-2.2
245(i) Eligibility	7-2.4
245(i) Filing Requirements	7-2.7
245(i) Grandfathering Eligibility	7-2.9
245(k) Eligibility	7-2.3
245(k) Filing Requirements	7-2.3
Abandonment Denials for Fingerprints	7-3.6
Abandonment Denials (processing)	7-4.11
Accompanying and Following to Join Dependents	7-2.12
Adjudicating the I-485	7-3.1
Application Completion	7-4.2
Approvable When Filed (Grandfathering)	7-2.9
Approval (processing)	7-4.5
Approved Underlying Immigrant Visa Petition	7-3.23
Asylees/Refugees Evidence Requirements	7-3.13
Basis for Filing – In General	7-1.2
Basis for Filing – Part 2. A.	7-1.3
Basis for Filing – Part 2. B.	7-1.4
Basis for Filing – Part 2. C.	7-1.4
Basis for Filing – Part 2. D.	7-1.5
Basis for Filing – Part 2. E.	7-1.6
Basis for Filing – Part 2. F.	7-1.6
Basis for Filing – Part 2. G.	7-1.7
Basis for Filing – Part 2. H. Cuban applicants	7-1.11
Basis for Filing – Part 2. H. Diversity Applicants	7-1.7
Basis for Filing – Part 2. H. Lautenburg Parolees	7-1.8
Basis for Filing – Part 2. H. NACARA	7-1.10
Basis for Filing – Part 2. H. Refugee	7-1.9
Basis for Filing – Part 2. H. Section 13 of the 1957 Act	7-1.11
Birth Certificate	7-3.12
CIA Records Checks	7-3.2
Composing an Intent to Deny	7-4.13
Consulate/Embassy Record Checks	7-3.3
Denial (processing)	7-4.10

Continued on next page

INDEX, continued

Topic	See Page
Denied, Revoked and Withdrawn Petitions (Grandfathering)	7-2.10
Determining I-693 Acceptability	7-3.14
Deviation from Interview Waiver Criteria	7-3.25
Documenting the I-485 (Grandfathering)	7-2.13
Employment-based Criteria (Interview Waiver Criteria)	7-3.24
Employment-based I-485 Quick Reference Guide	7-2.15
Evidence of Admission/Status	7-3.10
Expedited Name Check Procedure	7-3.4
Family-based Criteria (Interview Waiver Criteria)	7-3.25
Family-based I-485 Quick Reference Guide	7-2.14
FBI Fingerprint Response	7-3.6
FBI Name Check	7-3.3
FBI Record Checks	7-3.5
Form G-325A	7-3.10
Form I-508	7-3.19
Form I-566	7-3.20
Form I-693	7-3.13
Generating the I-181 (processing)	7-4.7
Has the Penalty Fee Been Paid?	7-2.8
I-485 Processing Procedures	7-4.1
I-485 Recommended Approval (processing)	7-4.4
Immunization Requirement	7-3.16
Intent to Deny (processing)	7-4.11
Inter-Agency Record Checks	7-3.2
Interview Waiver Criteria	7-3.24
Labor Certification filed with DOL (Grandfathering)	7-2.11
Motions (processing)	7-4.12
Other Concerns (Grandfathering)	7-2.12
Penalty Fee	7-2.8
Processing Your Decision	7-4.4
Public Charge	7-3.11
Recessions (processing)	7-4.12

Continued on next page

INDEX, continued

Topic	See Page
Recommended Relocation (processing)	7-4.9
Record of Proceeding	7-3.7
Request for Evidence (RFE) (processing)	7-4.8
Required Initial Evidence	7-3.7
Restrictions in 8 CFR 245.1(c) that remain even w/ penalty fee	7-2.6
Restrictions in 8CFR 245.1(b) that are removed under 245(i)	7-2.4
Reviewing Evidence	7-3.7
Sections to Complete on the I-485	7-4.2
Supplemental Form to I-693	7-3.18
Two ADIT Photos	7-3.8
Two-Year Foreign Residence Requirement	7-3.21
Unadjudicated Petitions (Grandfathering)	7-2.11
Uncertified Healthcare Workers	7-3.8
Use of Prior Payment	7-2.8
Visa Hold (processing)	7-4.4

ADJUDICATIONS APPENDIX A

Haitian Refugee Immigration Fairness Act (HRIFA)

23.13 Adjustment of status under the Haitian Refugee Immigration Fairness Act, Pub. L. 105-277 (HRIFA).

(a) General. HRIFA, a limited provision that provides relief in the form of lawful permanent residence to certain Haitian nationals, was signed into law on October 21, 1998. Regulations governing the filing and adjudication of applications for HRIFA adjustment are contained in 8 CFR 245.15, although the HRIFA statute is separate and apart from section 245 of the Act. The HRIFA program expires March 31, 2000 for principal applicants, and their applications must be properly filed at the Nebraska Service Center no later than that date. For qualifying dependent applicants, the application period for HRIFA adjustment remains open indefinitely.

(b) Receipting and Data Entry by Support Services Contractor Personnel. Unless in deportation, removal, or exclusion proceedings that have not been administratively closed with the consent of the Service (or where a motion to reopen or reconsider has not been continued indefinitely with the consent of the Service), the applicant must file Form I-485 with the Nebraska Service Center, in accordance with the instructions contained on that form as modified by Form I-485 Supplement C. (An alien who is in proceedings should file the application with the immigration judge having jurisdiction over his or her case.) A separate I-485 application, including the fee specified in 8 CFR 103.7, is required for each applicant and dependent.

The support services contractor receiving the mail date-stamps the application immediately upon receipt, and ensures the application has the correct fee and has been signed by the applicant. The contractor records the fee, endorses and forwards the check (or other payment vehicle) to the fee account, and places each new application in a bar-coded receipt file for delivery to the next stage of the process. Once this step has been completed, the application has been received by the Service and can no longer be rejected without going through the process of refunding the fee.

To the extent possible, the contractor should bundle applications submitted by family groups to facilitate later processing.

The contractor completes data entry into CLAIMS, and scans the photograph and signature for card production later, preparation of Form I-181, and for other CLAIMS notices and reports. The contractor sends out G-325A checks. The CLAIMS system will automatically generate a notice to the applicant advising him or her of the location of the ASC where he/she should report for fingerprinting, and when.

Finally, as part of the data entry process for HRIFA cases (and unlike the data entry process for most other applications), the contractor must enter the classification code under which the applicant is seeking adjustment of status. This additional requirement is the result of the

statutory mandate contained in HRIFA that the Comptroller General of the United States (i.e., the GAO) report to Congress on a semi-annual basis regarding the number of HRIFA cases received and the number of HRIFA cases completed. The statute goes on to require that the report include a breakdown specifying the number of applicants by their basis of eligibility. In order for the GAO to meet this statutory mandate, the CLAIMS system must be able to generate accurate reports containing such specificity.

(c) Preliminary Screening by INS Support Personnel. (1) Processing Actions. Service personnel perform preliminary review of the application after the initial receipting process is complete. The preliminary review ensures that all relevant questions on the form have been completed, that necessary supporting documents are attached, and that the case is ready for adjudication. If the application is lacking relevant answers or documents, these must be requested from the applicant through the I-797 procedure once the application has been receipted. If such deficiencies can be identified prior to fee acceptance, a "rejection" notice may be used, rather than a request for additional information. The preliminary reviewer may annotate the application with information important to the adjudicator, taking care to always identify such notations as the work of the preliminary reviewer. Follow the steps listed below in items (A) through (Q).

(A) Ensure that the application is being submitted under the provisions of HRIFA. Block "h" should be checked and endorsed with one of the following classifications, as specified in the instructions:

- HRIFA principal - asylum applicant
- HRIFA principal - parolee
- HRIFA principal - child without parents
- HRIFA principal - orphaned child
- HRIFA principal - abandoned child
- HRIFA dependent - spouse
- HRIFA dependent - child under 21 years old
- HRIFA dependent - unmarried son or daughter

An application from a "HRIFA principal" must be received prior to April 1, 2000. (Remember that there is no filing deadline for a HRIFA dependent.)

(B) Verify the applicant's nationality. Except as noted below, each HRIFA applicant, including any dependent applicant, must submit evidence of Haitian nationality. Ordinarily this will be in the form of a birth certificate; however, someone may submit other documentation, such as a

baptismal certificate or a copy of his or her passport. It is also possible that an applicant who was not born in Haiti derived or acquired such nationality, and may submit evidence of such.

Note: In many cases, the applicant's birth record may be unavailable, especially considering the short time period during which a principal applicant may file an application. Accordingly, if the applicant is applying as either an alien who applied for asylum prior to December 31, 1995, or as a parolee prior to December 31, 1995, and the record created at that time shows that the alien indicated Haitian nationality, the birth record requirement may be waived by the adjudicating officer during the interview. In such cases, annotate the applicant's file to indicate that the birth record was not submitted and that the issue of nationality must be determined by the interviewing officer.

(C) Examine Form I-485 for completeness. Form G-325A, local police clearances, and ADIT-style photographs are required. However, if the applicant attempted to obtain local police clearances, but was unable to do so because of State or local policies, he/she may submit evidence of such in lieu of the local police clearances. The director of the NSC has the authority to waive the local police clearances requirement where the applicant is able to establish that he/she made a good faith effort to obtain them.

(D) Ensure that contractor personnel have initiated clearances.

(E) Check for a completed INS medical examination record, Form I-693, endorsed by a Service-approved physician and that all vaccination requirements have been met.

(F) Ensure that the applicant has submitted evidence regarding the physical presence requirements of HRIFA. A principal alien must submit evidence that he or she:

- was present in the U.S. on December 31, 1995; and
- maintained continuing physical presence through the date the adjustment application is filed (not counting absences totaling 180 days or less);

and that he or she falls within one of the five eligible classes. A separate statement is required explaining the duration and purpose of every absence since the last arrival on or before December 31, 1995.

(G) Evidence of presence in the U.S. on December 31, 1995 may consist of the following types of documentation:

- Copy of Form I-94, issued upon arrival on or prior to 12/31/95;
- Copy of Form I-122, issued on or prior to 12/31/95;
- Copy of Form I-221, issued on or prior to 12/31/95;

- Evidence of an application for any other benefit under the INA: Copy of a filing receipt or other official correspondence establishing submission of any application by or on behalf of the applicant on or prior to 12/31/95, which establishes the applicant's presence in the U.S. on 12/31/95;

- Other official evidence: Other documentation issued by, or filed with, a Federal, State, or local authority which shows that the applicant was present in the U.S. on 12/31/95. Such documents must bear the official seal of the issuing authority (if normally present), be dated at the time of issuance or filing, and be dated not later than 12/31/95. Included in this group are items such as: motor vehicle record, driver's license or ID card, public hospital record, public school record, and income tax records;

- Certain school records: For persons applying as children as described in section 902(b)(1)(C) of HRIFA, records of the private or religious school which the applicant attended, provided that the private or religious school was registered, approved, or licensed by the appropriate State or local authorities, was accredited by the appropriate State or local accrediting body or private school association, or maintains enrollment records in accordance with State or local requirements or standards. If the adjudicating officer has doubts whether the private or religious school meets these standards, he or she should consult with the district's student school officer or Mr. Jack Klenk of the Office of Non-Public Education, U.S. Department of Education by telephone at 202-401-1365/0375 or by fax at 202-401-1368.

Note: Such evidence may relate to presence in the United States on a date prior to the "magic" date of December 31, 1995. Since people may not be able to document where they were on a particular date the regulations allow an applicant to submit evidence of presence in the United States on a date prior to December 31, 1995, so long as the adjudicating officer is satisfied that the alien did not leave the country between that prior date and December 31, 1995. The amount of material needed to satisfy the adjudicating officer will vary from case to case. In many, if not most, situations, the officer should be satisfied with the applicant's oral or written claim that he or she did not depart the United States between the two dates, especially if the gap between them is rather small. On the other hand, if there is some indication that the alien may have left the country, or if the gap between the dates is especially large, the officer can require additional evidence. In deciding whether to ask for additional evidence, the officer may be guided by logic and common sense, as much as by documentation. Furthermore, Service experience has shown that Haitians who arrived in the United States during the 1990's and fall within the categories specified in item I below rarely, if ever, departed from the United States. Generally speaking, an applicant's verbal or written statement that he or she had not departed since arrival, coupled with the absence of any record of departure, may be accepted at face value.

(H) Requirements for submission of evidence of continuing physical presence are more flexible. These may consist of either governmental or non-governmental documentation, including lease agreements, copies of tax returns, regular bills showing account activity and the applicant's mailing address, canceled checks or bank records, employment records, etc. While there is no specific requirement establishing a number of documents which must be submitted (i.e., it is not necessary to submit a utility bill for every month since entry), ideally, documents will not leave unaccounted periods of more than 90 days. Furthermore, once an applicant has established the

existence of an ongoing family unit, documentation pertaining to one family member may also be used by other members of that family unit to establish continuity of presence. For example, a parent may use a grade school report card issued to his or her child. The credibility and volume of these documents will heavily influence the decision on whether or not an interview will be required. Affidavits executed after the fact attesting to the presence of an applicant are not acceptable. However, it may be necessary to use affidavits to clarify discrepancies such as employment under an assumed name, etc.

Note: See the discussion in item (G) regarding acceptance of verbal or written statements of non-departure at face value.

(I) Along with the physical presence requirements above, a principal applicant must submit evidence to show that he or she falls within one of the five eligible classes below. Verify that the applicant has submitted such evidence:

- Haitians who filed for asylum before December 31, 1995;
- Haitians who were paroled into the United States prior to December 31, 1995, after having been identified as having a credible fear of persecution, or paroled for emergent reasons or reasons deemed strictly in the public interest;
- Haitian children who arrived in the U.S. without parents and have remained without parents in the U.S. since arrival;
- Haitian children who became orphaned subsequent to arrival in the U.S.; and
- Haitian children who were abandoned by their parents or guardians prior to April 1, 1998, and have remained abandoned since.

For the last three of these classes, the applicant must have been a child at the time of arrival in the U.S. and on December 31, 1995, but not necessarily at the time of his or her adjustment of status. In other words, someone who turned 21 and/or married on or after January 1, 1996, could still adjust status under the provisions of HRIFA as a child. Furthermore, any otherwise-eligible Haitian dependents acquired through a marriage occurring on or after January 1, 1996, could apply for adjustment under the provisions of HRIFA section 902(d) relating to dependents.

(J) If an applicant is unable to produce a Service-issued document, but claims that such a document exists, Service records must be checked to verify the claim. If the claim is verified, attach a printout or other evidence from the Service record. If the claim cannot be verified, annotate the application: "Unable to verify through INS records," adding your initials and the date.

(K) If the applicant states he or she is inadmissible to the United States, check to see that he or she filed a waiver application, the fee was paid, and that the application was properly completed. Applicants who are inadmissible (except under sections 212(a)(4), (5), (6)(A), (7)(A) and (9)(B),

which are inapplicable) may concurrently submit an application for any waiver for which they claim eligibility.

(L) Check for evidence of eligibility as a dependent, if the alien is applying as such:

- Evidence of Haitian nationality;
- Evidence of relationship. A HRIFA dependent must submit evidence of the existence of the claimed relationship at the time of the principal beneficiary's adjustment of status, and that such relationship continued to exist at least through the time that the dependent is granted adjustment. Such evidence is the same as would be required for an I-130 petition (i.e., marriage certificate and evidence of termination of any prior marriages for a spouse, birth certificate for a child, etc);
- Evidence of presence, if applying as an unmarried son or daughter. The unmarried son or daughter of a HRIFA applicant must show evidence of continuous physical presence in the U.S. since December 31, 1995, as well as information regarding subsequent absences. A dependent son or daughter must also submit a statement regarding any and all absences since December 31, 1995, and provide evidence to document his or her continuous presence. For documentary requirements for proving continuity of presence, refer to the discussion pertaining to principal applicants above.

Note: A spouse or child must be physically present in the U.S. in order to apply but need not have been present on December 31, 1995, or during any particular period since that date, and need not submit a statement regarding subsequent absences or continuing presence. Furthermore, see the discussion in item (G) regarding acceptance of verbal or written statements of non-departure at face value.

(M) Check for a Form I-94, either original or a copy, which must be submitted if the applicant claims a lawful entry. However, the lack of such entry (or of the Form I-94, if the alien claims it was lost) does not affect the alien's eligibility for adjustment under HRIFA.

(N) Check to see that the alien has attached a statement regarding his or her absences from the United States since December 31, 1995. This statement is in addition to the evidence of continuity of presence discussed above.

(O) Determine if there are one or more existing A-files relating to the applicant. Files must immediately be requested. If no file exists, one must be created. Create a temporary file if an existing A-file is located in another Service office. It is critical that any and all existing files be identified and obtained prior to adjudication. Review supporting documents closely to determine existing file number(s).

Note: A certain number of A-files were created in Port-au-Prince prior to the closure of the INS office in 1994 and subsequently routed through El Paso to Headquarters, Office of International Affairs, although CIS lists them as being located in Mexico City. If you are requesting a file on

a Haitian national and CIS indicates the file is in Mexico City, contact Mr. Gil Jacobs of the Office of International Affairs.

(P) If the application is to be adjudicated by an NSC adjudicator, place the case on hold pending the results of the records checks and fingerprint clearance. Once the checks have been completed, remove the hold and route the file to the adjudicator.

(Q) If the application is being routed to a local office for interview and adjudication:

- At NSC, update CLAIMS and transfer the file to the appropriate local office. CLAIMS will generate a notice to the applicant advising him/her that the application has been transferred and then update CIS.

- At the local office, shelve the file by receipt date until the records checks and fingerprint clearances are complete. At that point, schedule the case for the next available interview time and reshelv the case according to the interview date. (However, see the discussion below regarding employment authorization.)

(2) Screening Notes. (A) Examining Documentation Establishing Physical Presence in the U.S. and Continuous Physical Presence. Each of the forms of documentation of presence in the U.S. on or before December 31, 1995, listed above must establish that the relating event or action occurred on or prior to December 31, 1995, not simply claim that the alien was present prior to that date. For example, if presence is documented by the filing of an asylum application, the application itself must have been submitted on or before December 31, 1995. A mere statement in a later application claiming entry prior to that date is insufficient. If Social Security earnings statements are used, those must reflect earnings beginning on or before December 31, 1995. Secondary evidence, such as affidavits should normally not be submitted or accepted unless such claims can be verified in Service records. Where the documentation cannot be verified by Service records or differs from information contained in Service records, the file should be so noted. Evidence of entry on or before December 31, 1995 that is not verifiable from Service records shall be regarded as fraud-prone. All such cases, including all cases supported by Social Security records and all cases supported by documents issued by other (non-INS) Federal, State or local agencies, must be referred for a personal interview.

Documentation of continuous physical presence may be considered less restrictively. In general, reliable, government-issued documents that strongly support a claim of continuous physical presence for the required period should be accepted without official verification. Other, less reliable documents, such as documents supported by affidavits purporting to explain a falsely assumed identity, should be routinely or at least randomly verified and the case referred for interview. Where the file or other information casts doubt on the continuing physical presence since entry, this should be so noted and the case referred for a personal interview.

(B) Secondary Evidence. Other than as discussed in paragraph (A), an alien may submit secondary evidence in support of the application, if the alien establishes that the primary evidence is unavailable. For example, a baptismal record may be submitted for a birth certificate

that cannot be obtained due to destruction of the records by fire or warfare. (See also the note to item (1)(B) regarding evidence of nationality already on file.)

(C) Dependents. It is important to note that the statute provides for two distinct classes of dependents:

- Spouses and children under age 21, and
- Unmarried sons and daughters who are 21 years of age or older.

All dependents must be Haitian nationals. All dependents must provide evidence of the claimed relationship, in the same manner required for a visa petition or any other adjustment. The spouse or child (under 21) of a HRIFA principal is not required to have been present on or since December 31, 1995, but must demonstrate that the qualifying relationship existed when the principal's application was approved, and continues to exist through the time the dependent's application is approved. The unmarried son or daughter (21 and older) must demonstrate physical presence since December 31, 1995, but not necessarily on that date. Claims of dependent eligibility are more likely to be supported by documents issued by authorities other than INS. If a principal applicant's supporting documents are supported by Service records, but the dependents are supported by other sources, the adjudicating officer need not refer the case for interview, but may do so if there is any suspicion regarding the documentation submitted. For example, if a dependent claims to have been present in the United States at a time when the principal's previous asylum application shows that dependent was still residing in Haiti, the file should be so noted and the case referred for an interview at a local INS office. An application by a dependent may be filed concurrently with or subsequent to the principal applicant's but may not be approved until the principal applicant is granted permanent residence.

(D) Inadmissibility. Several grounds of inadmissibility are inapplicable to HRIFA cases, and others may be waived. Those that are statutorily inapplicable include:

- Section 212(a) (4) - public charge;
- Section 212(a)(5) - labor certification and qualifications for certain immigrants;
- Section 212(a)(6)(A) - unlawful entry; 212(a)(7)(A) - immigrant visa; and
- Section 212(a)(9)(B) - 180/365 day unlawful presence.

Waivers of other applicable grounds may be available on a case-by-case basis as otherwise provided in the INA and 8 CFR 212. If, upon review, it appears the applicant may be inadmissible, the file should be so noted to alert the adjudicator of the possibility.

(d) Adjudication. (1) General Processing Actions. The following actions are required during the adjudicative process:

(A) Verify that the application was timely filed, if from a principal applicant.

(B) Review any existing file. This action is mandatory, but may be waived if the electronic record supports the alien's claimed status and the file cannot be retrieved within 90 days. An

interview is required when a file cannot be located, even if the electronic record supports the alien's claim. Review the file to determine if there is evidence of the required physical presence. The file may also contain evidence, such as an advance parole document, that the alien has been outside the United States for more than 180 days, or it may contain evidence of inadmissibility on other grounds. One of the more critical items of information that must be obtained from the file is whether the alien is in exclusion, deportation or removal proceedings, since this relates directly to the issue of whether INS or EOIR has jurisdiction.

(C) Determine jurisdiction. In the event an adjustment applicant is in exclusion, deportation or removal proceedings that have not been administratively closed, refer the case to the appropriate Immigration Court. EOIR has authority to grant adjustment of status under HRIFA in any case that the alien is in proceedings. The Service has jurisdiction for HRIFA adjustment over (1) aliens who have not been placed in proceedings and (2) aliens under final orders of exclusion, deportation, or removal who had not filed a motion to reopen with EOIR before the date on which the HRIFA regulations were published (05/11/99). The Service also has jurisdiction over any cases involving aliens whose proceedings have been administratively closed, or in whose case a motion to reopen or reconsider has been continued indefinitely with the consent of the Service.

(D) Carefully review supporting documents and statements made on the application for completeness and for any indication the applicant does not meet the requirements of HRIFA regarding physical presence, nationality and admissibility. Any discrepancy between the applicant's statements and the evidence contained in the file may be resolved during the personal interview at a local office. Remember that (with regard to principal applicants) there are two aspects to the physical presence requirement. The first aspect deals with the physical presence on December 31, 1998, which can only be established through one of the specified forms of documentation listed above in paragraph (c)(1). The other aspect has to do with the continuity of physical presence, which can be established through a wider range of supporting documentation. If there is any doubt about either aspect, such doubt must be resolved during the personal interview. Remember also that in cases where the commencement of presence is supported only by evidence that cannot be verified through the INS file (such as a Social Security or other non-INS document), an interview is mandatory.

(E) Ensure that background checks have been completed if the applicant is 14 years of age or older. If there is a positive response to any background check that indicates possible inadmissibility, refer the case for an interview at the local office. Review local police clearances to ensure the requisite clearance has been submitted for each jurisdiction in the U.S. where the alien has resided for at least six months. In some cases, the alien may have attempted to obtain the required local police clearances, but was unable to do so due to local or State policies prohibiting the issuance of such clearances. If the alien submits proof of both his/her attempt to obtain such clearances and of the local or State prohibitions, the Director of the Nebraska Service Center may waive the requirement that local police clearances be submitted.

(F) Ensure fingerprint checks have been properly completed. If the applicant fails to comply with the Service's instructions for obtaining fingerprints, the application for adjustment of status must be denied for failure to prosecute.

(G) Review Form I-693 medical examination. The examination form must be signed by a designated physician. If there is any medical condition that would result in a finding of inadmissibility, determine if a waiver is available.

(H) Determine if there is any regulatory or statutory bar that prohibits favorable consideration of the application or if a waiver is required. It is important to note that HRIFA adjustment cases are not subject to the limitations and requirements of section 245 of the Immigration and Nationality Act, such as the bars to adjustment of status for illegal entry or unlawful employment.

(I) Check for A or G status. Although unlikely, if a HRIFA applicant indicates he or she previously or currently held A or G non-immigrant status, Form I-566 is required. If the State Department's response to the I-566 indicates that the applicant has diplomatic immunity, Form I-508 will also be required.

(J) Determine if the continuous physical presence requirement has been met. HRIFA permits an alien applying as a principal applicant or as an unmarried son or daughter of a principal applicant to have been outside the United States for a maximum of 180 days in the aggregate since December 31, 1995. Any day on which the alien was present for at least part of the day should not be counted towards the 180-day cumulative total. If an absence commenced prior to December 31, 1995, count only the time beginning on that date.

(2) Special Processing Actions Relating to NSC Adjudication. While a large percentage of applications will be able to be adjudicated at the Nebraska Service Center without referral to a local office for an interview, many others will require such referral and interview. The following types of cases must be referred to a local office for interview and adjudication:

- Any case where the adjudicator is not in possession of all A-files pertaining to the applicant.
- Any case where the evidence presented does not fully support the claimed eligibility or where there is any discrepancy between documentation provided and the information contained in the Service file or other government record pertaining to the applicant.
- Any case involving an inadmissible alien (other than those inadmissible under grounds that HRIFA specifically exempts).
- Any case involving a waiver of inadmissibility.
- Any case involving a medical condition that would result in a finding of inadmissibility.
- Any case where the evidence of presence in the U.S. on 12/31/95 is supported only by non-INS documentation.

- Any case in which there is any question as to the nationality of the applicant (e.g., where the applicant claims to have derived or acquired Haitian nationality, or where there is a question as to whether he or she may have lost such nationality).

- Any case in where there are doubts about the familial relationship between the principal applicant and one or more of the dependents.

- Any case where the alien is applying as a Haitian national who applied for asylum prior to December 31, 1995, or as a Haitian national who was paroled into the United States prior to December 31, 1995, and who did not submit a birth record but is instead relying on a consistent prior claim to Haitian nationality made at the time of the parole or asylum application.

In any case being referred, the service center adjudicator must provide in the file for the interviewing officer a memorandum or informal note explaining the discrepancies noted or other reasons for conducting the interview.

If there are no issues to be resolved by interview, approve or deny the case on its merits, and follow NSC guidelines for quality assurance and supervisory review.

(3) Special Processing Actions Relating to Local Office Interview and Adjudication. In adjudicating an application for adjustment of status filed by an alien who requires a waiver of inadmissibility, remember that while HRIFA does not give the Service discretionary authority to deny the application for adjustment itself, the Service does retain its discretionary authority when adjudicating any application for a waiver of inadmissibility. If the alien is statutorily ineligible for adjustment of status without a waiver, and his or her application for a waiver is denied as a matter of discretion, the adjustment application must also be denied. During the course of the interview in a case involving such waiver, the adjudicator should elicit all information, both favorable and unfavorable, which has a bearing on the exercise of administrative discretion regarding the waiver.

If the applicant fails to appear for a required interview (and INS received no request for rescheduling), the application for adjustment of status must be denied for failure to prosecute.

If the case does not involve an application for a waiver, the scope of the interview should be limited just to the factors pertaining to eligibility for adjustment under HRIFA:

- Nationality;

- Admissibility;

- If the alien is a principal applicant, proof of physical presence on 12/31/95 (including authenticity of documentation);

- If the alien is either a principal applicant or an unmarried son or daughter of a principal applicant, proof of continuity of physical presence (including authenticity of documentation);

- Proof of eligibility in one of the five qualifying classes;
- Relationship of dependents.

If office policy permits, field examiner procedures may be used when appropriate for determining veracity of claims and eligibility for benefits.

(4) Adjudicator's Notes. (A) Determining Case Status and Jurisdiction. Because aliens affected by Pub. L. 105-277 were in a variety of lawful and unlawful immigration statuses at the time of passage, you may encounter applications which fall within the jurisdiction of the Immigration Court or the Board of Immigration Appeals. Some applicants will not be in any sort of removal proceedings, others may be in proceedings, and still others may have received a final order of removal that has not been executed. Before adjudication, determine the current status and jurisdiction. Jurisdiction rests with the Immigration Court (or BIA) in any case where an OSC or NTA has been served on the Court and no final order (or order administratively closing the case) has been issued, or if a motion to reopen filed on or before May 11, 1999, is pending with the Court or BIA. If a final order has been issued, the proceedings have been administratively closed, or if action on any pending motion to reopen or reconsider filed prior to May 11, 1999, has been continued indefinitely with the consent of the Service, jurisdiction rests with INS. Furthermore, if any pending motion to reopen was filed on or after May 11, 1999, jurisdiction also rests with INS, since the implementing regulations provide that the Immigration Court only regains jurisdiction for HRIFA adjustment purposes if a motion to reopen proceedings is filed prior to the publication date of the regulation. Transfer out any application where the jurisdiction does not lie with the Service and notify the applicant of the action. Some applicants may have an asylum application pending at an asylum office or have some other action pending before the Service. Once you determine the disposition of the HRIFA application, actions may be required to conclude other Service adjudicative procedures. In the event the HRIFA application is denied, follow-up action may be required to reinitiate other pending matters.

(B) Determining Eligibility: Nationality and Relationship. Every HRIFA applicant and dependent must be a national of Haiti. Dependents of other nationalities do not qualify. Ordinarily, nationality is established by a birth certificate. Other documentation, such as a passport, is secondary evidence and may be accepted if primary evidence is unavailable. Evidence of dependent relationships must be established by birth or marriage certificates, divorce or adoption decrees, etc. (See AFM Appendix 23-3 regarding Haitian nationality law.)

(C) Determining Eligibility: Classification as a Principal Applicant under HRIFA. In order to be granted adjustment of status under HRIFA, the alien applying as a principal applicant must establish that he or she falls within one of the categories described in section 902(b)(1) of HRIFA:

- For those adjustment applicants who claim to have applied for asylum before either the Service or EOIR prior to December 31, 1995, the INS or EOIR records are definitive. Because locating the INS or EOIR record may, in some cases, prove difficult, it is important that the applicant provide whatever information or document he or she can (such as a copy of the Form I-

589 previously filed), especially in cases where the alien may have used a slightly different name.

· Likewise, for those adjustment applicants who claim to have been paroled into the United States prior to December 31, 1995, the Service record contained in the alien's file or in NIIS is definitive. As with cases based on asylum applications filed before December 31, 1995, any person claiming to have been paroled prior to December 31, 1995, should submit whatever documentation he or she has to that effect (such as a copy of the Form I-94) to assist the Service in locating the proper record. It is important to remember the distinction between being paroled into the United States under section 212(d)(5) of the Act, and being released from custody on a conditional parole under section 236(a)(2)(B) of the Act. As used in HRIFA section 902(b)(1)(B), the term "parole" refers only to those aliens were paroled under section 212(d)(5).

· For applicants seeking classification under one of the three categories for children, Service and EOIR records are unlikely to be definitive. In some cases, the Service record may show that the child was paroled into the United States as an unaccompanied minor and placed into appropriate foster care. In other cases, there may be no Service record of the child at all, let alone any record of his or her arrival as an unaccompanied minor or his or her being orphaned or abandoned. With regard to children, the statute does not require any prior interaction between the child and the Service. If the alien who is otherwise eligible under HRIFA can prove that he or she arrived in the United States (regardless of whether he or she was admitted, paroled, or entered without inspection) prior to December 31, 1995, that he or she was a child at the time of arrival and on December 31, 1995, and that he or she falls within one of the three subcategories for children set forth in section 902(b)(1)(C)(i) through (iii) of HRIFA, he or she may be granted adjustment. As in all such immigration proceedings, the burden of proof is on the applicant, but such burden can be met through the submission of satisfactory records from the appropriate Federal, State, or local court or child welfare agency. The records must have been created at the time the alleged event occurred and must be from a court or agency having jurisdiction over such matters where and when the alleged event occurred. With regard to orphaned and abandoned children, remember that the event must have occurred while the applicant was still a child (i.e., under 21 years of age and unmarried). Also remember that in the case of an abandoned child, the abandonment must have occurred prior to April 1, 1998, and that the child must have remained abandoned thereafter. However, an otherwise-eligible applicant could have either attained the age of 21 or married on or after January 1, 1996, or the date of orphanage or abandonment, whichever comes latest, and still qualify for adjustment as a child under HRIFA.

(D) Determining Eligibility: Entry and Continuous Physical Presence. Each HRIFA principal alien must demonstrate presence in the United States on December 31, 1995, continuing until the date on which adjustment of status is approved. Each unmarried son or daughter HRIFA applicant must demonstrate presence in the United States commencing not later than December 31, 1995, and continuing until the date on which adjustment of status is approved. Absences, with or without prior Service approval, totaling 180 days or less have no effect on eligibility. Furthermore, under certain circumstances, time outside the United States may be tolled and not counted toward the 180-day maximum. Accordingly, the implementing regulations provide that:

- Travel pursuant to an advance parole authorization granted by the Service, regardless of whether such travel exceeds 180 days, has no effect on eligibility.

- For an applicant who after December 31, 1998, departed from the United States without an advance parole, time spent outside the United States counts toward the 180-day cumulative time period.

- For an applicant who departed the United States between October 21, 1998, and December 31, 1998, time spent outside the United States on or after October 22, 1998, and prior to July 12, 1999, does not count toward the 180-day cumulative time period. This provision was included in the regulations in order to allow otherwise-eligible individuals who were required to depart prior to the date of the field guidance on advance parole an opportunity to seek parole authorization from the Director of the NSC.

- Time spent outside the United States after the alien has submitted a request for parole into the United States for the purpose of filing an adjustment application under HRIFA and before the alien is actually paroled for such purpose, does not count toward the 180-day cumulative total.

Physical presence for HRIFA purposes may be established in any of several specific ways identified in paragraph (c)(1). HRIFA applicants must produce documentation that is verifiable, through Service records, the records of other government agencies including public schools, or, if the applicant is applying as a child, the records of a private or religious school he or she attended. Affidavits and other secondary evidence may be accepted in unusual circumstances, if primary evidence is unavailable, only if such secondary evidence documents one or more of the specific actions enumerated in paragraph (c)(1) and which is conclusively verified by Service records. For example, an affidavit may be accepted which attests to the fact that an applicant was previously granted an INS employment authorization provided that Service records corroborate the issuance of that document. Documentation of continuous presence may be accepted from a wider range of sources than documentation of physical presence on 12/31/95. An interview is required in any case involving an applicant who has no prior Service record.

If file review indicates possible unexplained absence from the U.S. (e.g., a subsequent apprehension along the border, an application which was formally abandoned or other similar situation) the case should be referred to the appropriate local office for questioning and resolution.

Note: Departure from the United States after the filing of the application for adjustment constitutes an abandonment of the application for adjustment of status, unless the applicant applied for an advance parole prior to his or her departure, and the Service granted such advance parole request. Furthermore, the time spent outside the United States during an unauthorized absence counts toward the 180-day maximum allowed under the statute; this is likely to be significant if the alien either returns to the United States and files a new application for adjustment or files an I-131 seeking parole into the U.S. for the purpose of filing a new I-485.

(E) Determining Eligibility: Inadmissibility. The grounds of inadmissibility specified in the screening notes (paragraph (2)(D), above) are inapplicable. Other grounds may be waived, on a case-by-case basis, provided eligibility exists pursuant to other provisions of the Act. Waiver applications, with fee, may be filed and processed concurrently with a HRIFA adjustment application. All waiver cases must be referred for a personal interview to the local office having jurisdiction over the applicant's residence.

(F) Dependent Eligibility. No dependent's application for adjustment may be approved until the adjustment application of the principal applicant has been approved. Dependents already present in the United States should be encouraged to submit their applications simultaneously with the principal applicant.

Note: If the dependent relationship is created after the principal's status is adjusted (e.g., through a marriage, birth or adoption which occurred subsequent to the adjustment), HRIFA dependent status is not permitted. In such situations, the principal would be required to submit an I-130 petition for his or her dependent, if the dependent is not able to qualify as a principal HRIFA applicant in his or her own right. Also note that unlike HRIFA principals, HRIFA dependents do not have a filing deadline.

(e) Case Closing Actions. (1) Approval. Endorse the approval block on the I-485. If the case is being approved at the local office following an interview, endorse the "applicant interviewed" block on the application. Sign Form I-181 and endorse it with the correct adjustment code, office information and date of action. Due to the extensive Congressional reporting requirements contained in the HRIFA statute, it was necessary for the Service to create a multiplicity of class codes in order to be able to capture the requisite information. It is extremely important that class of admission codes be applied properly and in accordance with the table of codes.

Note: In some cases, the applicant may have applied under one category, but the adjudicating officer may find that he or she is more appropriately classified under another. In such cases, the adjudicating officer should approve the application under the more appropriate classification. For example, a child who was paroled into the United States may have applied for adjustment of status claiming to be an orphan (classification HD-6), but be unable to provide evidence of the death of his or her parents. If the Service records clearly show that the parole took place before December 31, 1995, and the alien is otherwise eligible for adjustment under HRIFA, approve the application under classification HB-6. Furthermore, in some cases, the code that the adjudicating officer determines is appropriate will differ from the one that was indicated at the time of initial data entry by the employee of the contractor. It is the responsibility of the adjudicating officer to ensure that the correct code is assigned at the time of case approval.

(A) Upon approval at the NSC:

- Update CLAIMS, thereby ordering the approval notices and production of the alien registration card (Form I-551) and entry of new data into the Central Index System;

- If the file contains an unadjudicated asylum application, offer the alien the opportunity to withdraw that application by sending him or her a letter of withdrawal which can be signed and

brought to the local office when he or she appears for ADIT processing (the local office person handling the I-551 processing should place the resulting withdrawal letter in the file and notify the appropriate asylum office so that the RAPS record may be updated); and

- If there is no other Service action pending, route the file to the file room for storage. If other Service action is pending, ensure that appropriate steps are taken.

(B) Upon approval at a local office:

- Advise the applicant of the decision (in person if the application is approved during the interview or by mail if it is approved afterwards);

- Process the applicant for an I-551;

- Endorse the passport with the "Processed for I-551 stamp" or issue a temporary I-551;

- If the file contains an unadjudicated asylum application, offer the alien the opportunity to withdraw that application. Place the resulting withdrawal letter in the file and notify the appropriate asylum office so that the RAPS record may be updated; and

- If there is no other Service action pending, such as an application or petition to be adjudicated, Deportation Docket Control to be cleared, or NAILS lookout to be updated, route the file to the NSC for CIS and CLAIMS updates and I-551 production. If such other Service action is required, ensure that such action is taken and then route the file to the NSC.

(2) Denial. If a HRIFA adjustment application is denied, prepare a denial notice setting forth the specific basis for the adverse action. The denial notice may be served by personal service in accordance with 8 CFR 103.5a(a)(2). As with section 245 adjustment cases, HRIFA decisions cannot be appealed. The Immigration Court has jurisdiction to reconsider HRIFA eligibility during the course of a removal hearing. If the alien is:

- Already subject to a final order of removal, certify the case for review by the immigration judge, as described in paragraph (4), below.

- Not already in removal proceedings, but the application is denied and the alien is not maintaining status, institute removal proceedings.

- In removal proceedings which were administratively closed, or if a motion to reopen or reconsider was continued indefinitely with the Service's consent, notify district counsel so that the removal proceedings may be calendared again or action on the motion may be reinstated.

Notify the NSC of the decision so that the CLAIMS record may be updated.

(3) Supervisory Review. HRIFA decisions are subject to the same review and quality assurance procedures as other adjustment of status cases. Follow local procedures for such review.

(4) Appeals and Certifications. If a HRIFA adjustment cases is filed with, and denied by, the Service after the alien has been ordered removed by an immigration judge in proceedings in Immigration Court, certify the adverse decision for review to the Immigration Court which ordered the removal, in accordance with 8 CFR 245.15(r)(3). It is not necessary to certify denied cases where the alien has not been ordered removed, since the immigration judge has authority to reconsider HRIFA eligibility, along with other forms of relief, during the course of the removal proceedings. In the unlikely event that a HRIFA application is denied and the alien is maintaining valid non-immigrant status, certify the decision to the Administrative Appeals Office in accordance with 8 CFR 103.4(a)(4).

(5) Feedback to NSC. For any applications adjudicated at the local office, and especially those which are denied, the adjudicator should review the case to determine whether there is any information which should be relayed to the NSC to assist that office in determining which cases should be interviewed. Such information should be directed to "NSC HRIFA I-485 POC" as a memo attached to the file or by cc:Mail.

(f) Ancillary Applications. (1) Waivers. Various immigrant waivers are available to HRIFA applicants on a case-by-case basis. Waivers may be filed concurrently with the application for adjustment or may be filed later, if an inadmissibility ground is identified subsequent to initial filing. Adjudication of a waiver should be completed in the local office at the time of the interview.

(2) Advance Parole: Alien Present in U.S. at Time of Request. The Nebraska Service Center Director is delegated authority to authorize advance parole of aliens whose properly filed applications for adjustment under HRIFA are pending at the Nebraska Service Center, except those cases in which a final order has been issued. In any case where the alien is determined to be in removal proceedings, do not adjudicate the parole request, transfer the HRIFA application to the appropriate Immigration Court and the parole request to the local office. If the alien is not in proceedings, adjudicate the parole request, granting parole for the amount of time required for any legitimate business or personal reason. If the alien is the subject of a final order, the local office should contact the Assistant Commissioner for International Affairs in Headquarters regarding any parole request.

(3) Parole Authorization: Alien Outside the U.S. at Time of Request. Parole authorization requests for the purpose of filing an application by aliens eligible for HRIFA adjustment may be filed by prospective applicants who are not physically present in the United States, provided they are otherwise qualified for HRIFA adjustment as a principal applicant. If otherwise eligible, principal aliens who have not been outside of the U.S. for more than 180 days in the aggregate after December 31, 1995 (not counting any time which may be tolled as discussed above), may submit an application for parole authorization together with a photocopy of a fully documented HRIFA adjustment application (except for the fee, fingerprints, medical examination and police clearances) to the Nebraska Service Center. A HRIFA dependent not physically present in the United States may not be granted parole authorization unless he or she otherwise meets all HRIFA requirements and the application for the principal applicant has been approved.

A parole authorization issued in such circumstances must be noted: "You must properly file an application for adjustment of status within 60 days of your parole into the United States, or March 31, 2000, if you are filing as a principal applicant, whichever comes first. Failure to do so may result in termination of parole and institution of removal proceedings."

If the I-131 is approved, the I-512 should be prepared by NSC and delivered to the alien through the American Embassy or American Consulate having jurisdiction over the alien's location, using normal procedures for transmission of documents to consular posts (e.g., DHL or similar courier service). Include a copy of the alien's application for parole (including the supporting documents) and an explanation that the parole authorization has been issued pursuant to 8 CFR 245.15(t)(2), and request that the consular personnel verify the alien's identity and review the case for possible fraud before issuing the document. In setting the expiration date for the I-512, the NSC should allow a reasonable amount of time for (a) the I-512 to reach the consulate, (b) the consulate to call in and interview the alien, and (c) the alien to make arrangements to travel to the United States. The I-512 should authorize a single-entry parole.

Note: In order to be adjudicated by the Director of the NSC pursuant to 8 CFR 245.15(t)(2), requests for advance parole must be filed and approved by March 31, 2000. This applies to all HRIFA applicants and potential applicants who are outside the United States.

(4) Employment authorization. A HRIFA applicant may request an EAD concurrently with, or subsequent to, the filing of his or her HRIFA application. For principal applicants, if the adjustment application is supported by an INS-issued or INS-received document to establish presence in the United States on December 31, 1995, the EAD should be issued by the NSC as soon as the preliminary screener determines such (unless the applicant is clearly ineligible for adjustment under HRIFA, in which case the application should be routed for an expeditious denial). For dependent applicants, employment authorization may be issued as soon as the principal applicant case is so documented, provided the dependent applicant has submitted satisfactory evidence of the relationship. However, if the principal's application is supported by evidence of physical presence on December 31, 1995, consisting of non-INS documentation, such immediate action should not be taken on either the principal or dependent's EAD request. However, because the statute requires that an EAD application must be approved if a HRIFA adjustment application has been pending for 180 days or longer, the office having jurisdiction over the case at that point must ensure that an EAD is issued by the 180th day.

Previously authorized employment by a HRIFA applicant based on some other employment eligibility (e.g., employment authorization issued as the result of a pending asylum application or the Deferred Enforced Departure (DED) program for Haitians initiated December 23, 1997) does not terminate because of the filing of a HRIFA adjustment application.

If the I-765 and I-485 are not filed concurrently, the Service is not bound by the statutory requirement that an EAD be issued if the application is pending for 180 days. In that case, the Service would have to adjudicate the I-765 within 90 days of its filing, or within 180 days of the filing of the I-485, whichever comes later.

Note: EADs, which were issued pursuant to the DED program, were automatically extended until December 22, 1999, even though the program itself was not extended.

ADJUDICATIONS APPENDIX B

Nicaraguan Adjustment and Central American Relief Act (NACARA)

GENERAL: NACARA, a limited provision that provides relief in the form of lawful permanent residence to certain Nicaraguan and Cuban nationals, was signed into law on November 19, 1997. Regulations governing the filing and adjudication of applications for NACARA adjustment are contained in 8 CFR 245.13, although the NACARA statute is separate and apart from section 245 of the Act. The NACARA program expired March 31, 2000. Application for benefits under this provision must be properly filed at the Texas Service Center on or before that date.

Note: Several grounds of inadmissibility are inapplicable to NACARA cases, while others may be waived. Those that are statutorily inapplicable include: 212(a)(4)-public charge; 212(a)(5)-labor certification and qualifications for certain immigrants; 212(a)(6)(A)-unlawful entry; 212(a)(7)(A)-immigrant visa; and 212(a)(9)(B)-180/365 days of unlawful presence. Waivers of other applicable grounds may be available on a case-by-case basis as otherwise provided in the INA and 8 CFR 212.

- A. Initial evidence
 - 1. Application to Adjust Status/Form I-485
 - a. Block “h” is marked or any indication of NACARA eligibility
 - b. Ensure application has fee and date stamp
 - c. Verify applicant’s presence in the U.S. at the time of filing
 - d. Verify adjustment applicant is not in exclusion, deportation or removal proceedings before the Immigration Judge
 - 2. Form G-325/Biographic Information Sheet
 - a. The contractor should have forwarded the G-325A to the consulate as indicated on the I-485. If no consulate is indicated, the G-325A should be sent to the consulate general in the capital city of the country of the applicant’s last residence as indicated. This will be noted on the worksheet with the date sent and the initials of the sender. The G-325A is not required for applicants under 14 or over 79 years old.
 - 3. Medical/Form 693
 - a. The physician listed under the “Civil Surgeon Certification” section of the Form I-693 must be checked against the Civil Surgeon List, which will be distributed by the Headquarters Coordination Branch of HQ Office Benefits. The Form I-693 is not acceptable if the physician’s name does not appear on this list.

- b. Tuberculosis: If the skin test is reactive and the chest X-ray is abnormal, the applicant must complete nine months of treatment. A waiver is required when the applicant has not completed the treatment.
 - c. Syphilis: If reactive, the applicant must submit evidence that they received treatment.
 - d. HIV: If the serologic test is positive, a waiver is required and the case should be relocated.
 - e. Vaccinations: Any Form I-693 signed by the designated civil surgeon on or after May 1, 1997 must be accompanied by "Supplemental Form to I-693" and reviewed in accordance with Headquarters' Memorandum dated April 10, 1997 entitled "New Vaccination Requirements."
 - f. Request for Evidence: The original I-693 is to be returned to the applicant or representative of record with notification citing why the I-693 is unacceptable. A copy of the medical form is to be made and kept in the file.
4. Police letter
- a. Applicants 14 years and older must submit a letter of clearance from the police department in every city in the United States where the applicant has resided for 6 months or longer. Letters from the Circuit Court Records are not acceptable. (*See regulations for final ruling on the clearance letters for 14-year-old applicants.*)
5. Arrest records
- a. If the applicant has been arrested, the applicant must submit a copy of the arrest record, indictment, and a copy of the final court disposition for each arrest. These cases may contain a rap sheet from the FBI. The sheet may have immigration charges, such as Entered Without Inspection (EWI) or deportation proceedings. Such cases cannot be removed. Only certain severe criminal charges can be removed.
6. Birth Certificate
- DO NOT TRUST TRANSLATIONS-Always read the original document
- a. Verify Cuban or Nicaraguan nationality.
 - b. If a Cuban applicant does not have a birth certificate, the applicant can send a request to the Embassy of Switzerland to request one. This form can be found at U:\USERS\COMMON\CUBANS\SWITZ. Include this form with any request for additional evidence when a birth certificate is needed. Effective December 5, 1994, passports do not qualify as evidence of birth. Passports can be accepted as secondary evidence only after the applicant has submitted evidence that he or she attempted to obtain a birth certificate and was not able to do so.
 - c. An applicant who was not born in Cuba or Nicaragua may have derived or acquired such nationality and may submit evidence of such (i.e., passport).
 - d. Verify child of principal (FOR DEPENDENTS ONLY). Relationship must have existed on or before the date the principal's application was approved.
 - e. May submit secondary evidence such as a baptismal certificate
- NOTE: Birth Certificate Fraud

NACIMIENTO-birth-birth certificates from Leon are suspect
REPOSICION-retroactive birth certificate-possible fraud
RECTIFICACION-rectification of birth certificate-possible fraud
RECONOCIMIENTO-date added later to birth certificate-
possible fraud

7. Marriage Certificate
DO NOT TRUST TRANSLATIONS-Always read the original document.
 - a. Verify spouse of principal (FOR DEPENDENTS ONLY). Relationship must have existed on or before the date the principal's application was approved.
 8. 2 ADIT photographs
- B. Evidence for Principal (and unmarried son/daughter over 21) Only
1. Commencement of physical presence prior to 12/01/95
Applicant must prove one of the following:
 - Applied for Asylum
 - Issued an Order to Show Cause
 - Issued an I-122 (Exclusion Proceedings)
 - Applied for Adjustment of Status Sec. 245
 - Applied for Employment Authorization
 - Worked (etc.) in U.S. as evidenced by Social Security Administration Records
 - Applied for any other Immigration benefit under INA (I-94)
 - Statement listing the type and date of such evidence (which is already contained in the INS file)
 - Issued a document authorized by any other Federal, State or Local government authority which bears the seal of such authority and the date of issuance is prior to 12/01/95, i.e., State driver's license, State identification card, county or municipal hospital records, college or public school transcripts or income tax records (*private hospitals, college and schools are not acceptable*)
 2. Continuity of physical presence since 12/01/95
By law the applicant is allowed absences from the U.S. totaling 180 days or less, applicant must submit a statement regarding his or her absences from the U.S. For an applicant who departed from the U.S. without an advanced parole prior to December 31, 1997, time spent outside the U.S. during the period beginning November 19, 1997 (date of enactment) and ending on July 20, 1998, does not count toward the 180-day cumulative total.
Normally gaps of 3 months or less are not considered significant.
Applicant may submit:
 - Rent receipts
 - Utility bills
 - School records
 - Bank statement/Personal checks
 - Employment Records
 - Traffic tickets
 - Credit card statements

- Other dated receipts
- Statement listing the type and dates of such evidence (which is already contained in the INS file)
- One document to cover the entire post-12/01/95 period (e.g., EAD cards showing employment authorization from 12/01/95 on or college transcripts showing attendance from Fall of 1995 on)

C. NACARA I-485 with I-566/I-508/I-601/I-212:

Although unlikely, if a NACARA applicant indicates he or she previously or currently held A or G nonimmigrant status, Form I-566 is required; however, the Department of State's endorsement is not required prior to adjudication of the I-485. If the State Department's response to the I-566 indicates that the applicant has diplomatic immunity, Form I-508 will also be required.

1. Once completed, the various copies of the I-566 should be distributed as follows:
 - a. "Copy 1": Place directly under the I-485 application on the record side of the file.
 - b. "Copy 2": - A's: Distribute to DOS, Office of Protocol
- G's: Distribute to U.S. Mission to the United Nations (USUN)
2. Once completed, the various copies of the I-508 should be distributed as follows:
 - a. "File Copy": Place on the record side of the file.
 - b. "CO Index Copy": Send to "CO Index Section"
 - c. "State Dept. Copy": Send to the "Dept. of State Visa Office, Washington, DC 20520"
 - d. "IRS Copy": Send to the "Internal Revenue Service Center, P.O. Box 245, Bensalem, PA 19020"
3. Form I-601, Application for Waiver of Grounds of Excludability, will not be adjudicated by the Service Center and must be relocated with the I-485 to the local office.
4. Form I-212, Application for Permission to Reapply for Admission into the United States after Deportation or Removal, may be filed concurrently with an I-485. The I-485 will initially be reviewed for statutory eligibility and completeness. The I-212 must be adjudicated prior to the adjudication of the I-485.

D. Waiver of Interview

General: The decision whether to require an interview is solely within the discretion of the Service. The Service may elect to waive the interview of the applicant.

E. Request for Evidence (RFE)

If any initial evidence is missing or insufficient, a request for evidence (RFE) pursuant to section 103 will be mailed to the applicant clearly identifying what evidence is missing. The applicant will be afforded a maximum of 12 weeks to respond. See "Processing of Accompanying Applications" below.

Request additional evidence by sending a RFE:

1. Prepare the RFE letter in Word.
2. Attach photocopy or second print of the RFE to the right side of the A-file in order to maintain RFE history.
3. Prepare a gold return cover sheet

4. Place a call-up sticker on the back of the file jacket, on the same end of the file as the "A" or "T" number. The call-up date must be noted on the sticker.
5. Update CLAIMS to note that a request for additional evidence was sent: Go to the CLAIMS Exams Menu, BATCH CASE STATUS UPDATE. Select OFF SYSTEM NOTICE SENT/REQUEST FOR ADDITIONAL EVIDENCE SENT. Wand in the SRC receipt number for the applications that have been RFE'd.
6. RAFACS the file to Work Distribution Unit. The RAFACS code for WD is ZZCOWDU.
7. Place the original RFE and the gold cover sheet in a window envelope. Make sure the address is clearly visible and place it in the outgoing mail bucket.
8. Count each file as a Return on your G-22.

NOTE: *Headquarters requires a weekly statistical report. The NACARA Unit is responsible for tracking cases received, pending, remoted, approved and denied.*

F. Relocation

In any case being referred, the Service Center adjudicator must provide in the file for the interviewing officer, a memorandum or inform note explaining the discrepancies noted or other reasons for conducting the interview.

The following types of cases must be referred to a local office for interview:

- False claim to Nicaraguan or Cuban nationality
- Doubts about absences totaling more than 180 days
- Doubts about evidence of commencement of presence
- Doubts about evidence of continuity of presence
- Discrepancy between applicant's claim and INS documents
- Any case involving an inadmissible alien (other than those inadmissible under grounds which NACARA specifically exempts)
- Any case involving waiver of inadmissibility
- Any cases involving a medical condition which would result in a finding of inadmissibility
- Doubts about the family relationship between the principal applicant and one or more of the dependents
- Any case in exclusion, deportation or removal proceedings before the Immigration Judge

1. In CLAIMS, update relocated files:
 - a. Enter ADJUDICATE A CASE from menu
 - b. Wand in the SRC receipt number
 - c. If you wand an SRC number already transferred out, you will get a message informing you that the SRC application has already been transferred out. To continue, press ESC.
 - d. Verify the address. If the address is different from application address, press "F2" to confirm that the address was changed after the receipt date.
 - e. Press "F10."
 - f. Select CASE MOVEMENT – RELOCATE OUT, Press ENTER

- g. Select OTHERWISE TRANSFER CASE TO ANOTHER OFFICE. Press ENTER
 - h. Press "F4" and make note of the INS Office Code that was displayed on the screen for later use.
 - i. CHANGE CASE STATUS – select "YES", Press ENTER
 - j. Press ESC to exit application
 - k. At the ENTER A RECEIPT OR A NUMBER screen, repeat the above procedures d. through j. for any additional I-485's that are to be transferred out. Press "F10."
2. When you have finished updating, press ESC and select YES to EXIT FORM and return to CLAIMS EXAMS MENU.
 3. The I-485 "A/T" files should be Refaced to the file room:
 - a. Enter RAFACS
 - b. Select RAFACS USER
 - c. In the TRANSACTION IDENTIFIER screen, type in ZZCOSA000. Press ENTER
 - d. In the TRANSACTION IDENTIFIER screen, wand in the "A/T" file number.
 - e. Attach a routing slip requesting that Records transfer the "A/T" files out in CIS to the office listed on the routing slip.
 - f. Count each file as Relocated on your G-22.

NOTE: Headquarters requires a weekly statistical report. The NACARA Unit is responsible for tracking cases received, pending, remoted, approved and denied.

G. Denial

If the alien is clearly ineligible for the benefit, deny the case. Prepare a denial notice setting forth the specific basis for the adverse action. As with Section 245 adjustment cases, NACARA decisions cannot be appealed. The Immigration Court has jurisdiction to reconsider NACARA eligibility during the course of a removal hearing. The following types of cases should be denied:

- Not Nicaraguan or Cuban
- Not in U.S. prior to 12/1/95
- Out of U.S. for more than 180 days since 12/1/95 (make sure absences are not covered by I-512)
- Records show alien is an aggravated felon
- Stowaway

IMPORTANT: ONLY THE FOLLOWING CASES ARE CERTIFIED.

- TO IMMIGRATION COURT – An alien ordered removed by the Immigration Judge
 - TO ADMINISTRATIVE APPEALS OFFICE – An alien maintaining a valid nonimmigrant status
1. In CLAIMS, update the denial:
 - a. Enter ADJUDICATE A CASE
 - b. Wand in the SRC Number
 - c. Verify information (i.e., personal data, A#, address, etc.)
 - d. Press "F4" if there are changes/additions
 - e. Press "F10"
 - f. Select DENY THE CASE

- g. Select ORDER DENIAL NOTICE
 - h. CHANGE CASE STATUS – select “YES” and press ENTER
 - i. Press ESC to exit the application
 - j. Remove Supervisory Hold
2. Update the application to note that a denial notice was sent:
 - a. Enter BATCH CASE STATUS UPDATE
 - b. Select OFF SYSTEM NOTICE SENT/DENIAL NOTICE SENT
 - c. Wand in the SRC Number
 - d. Press ESC to exit
 3. The I-485 “A/T” files should be Refaced to the file room:
 - a. Enter RAFACS
 - b. Select RAFACS USER
 - c. In the TRANSACTION IDENTIFIER screen, type in ZZCOSA000. – Press ENTER
 - d. In the TRANSACTION IDENTIFIER screen, wand in the “T/A” file Number
 - e. Attach routing slip requesting that the File Room transfer the “A/T” files out in CIS to the office listed on the routing slip.
 - f. Count each file as Relocated on your G-22.

WARNING: In the case of an alien who is not maintaining valid nonimmigrant status and who had not previously been placed in exclusion, deportation or removal proceedings, initiate removal proceedings (NTA).

NOTE: Headquarters requires a weekly statistical report. The NACARA Unit is responsible for tracking cases received, pending, remoted, approved and denied

G. Approval

In the event that the applicant is eligible to adjust, meets interview waiver criteria and there are no other issues to resolve, the officer recommends approval. The officer endorses the approval block of the I-485. If the case was approved at the service center without an interview, so note on the application.

Approval codes are as follows:

- NC6 for NACARA principals
- NC7 for NACARA spouses
- NC8 for NACARA children under 21; and
- NC9 for NACARA unmarried sons and daughters 21 years of age and older.

1. In CLAIMS, update approved files:
 - a. Enter ADJUDICATE A CASE
 - b. Wand in the SRC Number
 - c. Verify information (i.e., personal data, A#, address, etc.) Be sure to press “F4” to save any changes.
 - d. Verify block H (Other basis for adjustment) is marked in Part 2: Application Type
 - e. Highlight I-89 selection – Press ENTER twice
 - Enter mother’s first name and father’s first name
 - POE – Enter SRC
 - Card type – Enter 1

- Transaction type – Enter 1
 - Class – Enter (NC6, NC7, NC8, or NC9)
 - ADM/ADJ Date – today’s date
 - Sex – M or F
- f. Press “F4”
 - g. Save changes: Yes
 - h. Press “F10,” to Adjudicate a Case.
 - i. Select APPROVE THE CASES
 - j. Select ORDER APPROVAL NOTICE
 - Select the appropriate approval phrase –
 - (1) Select “ADIT processing required,” if the I-89 is NOT in the file
 - (2) Select “ADIT Processing not required,” if the I-89 IS in the file
 - Section of Law – Section 202 (Code-13)
 - Class – Enter the correct class of admission
 - Visa Allocated – Y
 - Country of Last Residence – Cuba or Nicaragua, unless otherwise established
 - Priority Date – TODAY’S DATE
 - Occupation Code – Enter Job Code (“INSERT” key) by selecting the code that most resembles the occupation listed on the I-485
 - Send to Clerical – MUST ALWAYS BE NO
 - k. Press “F4” to confirm
 - l. CHANGE CASE STATUS – select YES
 - m. ESC to Exit
2. In CLAIMS, print I-181s:
 - a. Select Special Print Function
 - b. Select Print I-181s
 - c. Wand in the SRC Numbers (limited to thirty)
 - d. Press “F4”
 - e. I-181s will print on your assigned CLAIMS printer.
 - Place one copy of the I-181 (File Copy) on the left side of the file, on top of the I-485
 - If there is NO I-89 in the file, one copy of the I-181 (ADIT and Statistical Copy) should be fastened to the inside right of the file. One photo must be stapled on the lower right hand corner of the I-181. (Only for those cases where the person still requires ADIT processing.)
 - Second I-181 (Master Copy) is not needed and should be shredded. On the File Copy and ADIT and Statistical Copy of the I-181s, complete the following blocks:
 - City of Birth
 - Remarks (Write “w/o interview”)
 - Endorse Date of Action (stamp with approval stamp and sign full name)
 3. The I-485 “A” files should be Refaced to the file room:

ADJUDICATIONS APPENDIX B

- a. Enter RAFACS
- b. Select RAFACS USER
- c. In the TRANSACTION IDENTIFIER screen, type in ZZCOSA000. – Press Enter
- d. In the TRANSACTION IDENTIFIER screen, wand in the “A” file Number
- e. Count each file as Approved on your G-22

NOTE: *Headquarters requires a weekly statistical report. The NACARA Unit is responsible for tracking cases received, pending, remoted, approved and denied.*

H. **Certification** of I-485 NACARA Denial

The following is intended to assist the CAO with the certification of NACARA I-485 denials to the Immigration Court and the Administrative Appeals Office (AAO) in Washington, DC.

1. Deny the I-485: Write a denial or retrieve one from U:\users\common, making sure that it includes the I-290C Notice of Certification and an attachment discussing the grounds for the denial. Update CLAIMS as DENIED: ORDER DENIAL AND CERTIFICATION NOTICE.
2. Prepare I-290C Cover Sheet: Print a copy of the I-290C Cover Sheet from U:\users\common\I485\I290C.CVR. Attach either a copy of the first page of the I-485 application or a printout of the first screen from CLAIMS LAN for the application. This page contains the name, address, receipt number, etc. for the application.
On the I-290C Cover Sheet, fill in the A-number, SRC number, and your officer number in the appropriate blanks. Fill in the “Date to Data Entry” and initial. Place the I-290C Cover Sheet with attachments in the “I-290C Cover Sheet: TO Data Entry for Stickers” bucket. This cover sheet will be returned to the CAO after data entry has created bar code stickers for the I-290C.
3. Mail the Denial: Mail a copy of the denial to the applicant. Update CLAIMS in BATCH CASE STATUS UPDATE as “Batch Off-System Notice Sent/Denial Sent.”
4. Place Bar Code Sticker: After the stickers have been returned to the CAO from data entry, place the I-290C bar code sticker on the back of the A-file underneath the I-485 receipt sticker. On the front of the A-file, attach a red sticker stating “On Loan From SRC.” On the bottom half of the front of the A-file, staple a yellow I-725 “Administrative Appeal Control Card” with the appropriate information filled in the blanks (applicant’s name, A-number, case type, region, FCO code, filing date, and decision date). Photocopies of the Administrative Appeal Control Card may also be used.
5. Ensure A-file is in ROP Order: After the stickers have been affixed by data entry, arrange the A-file according to Service “record of proceeding order.” Generally, this mandates that the A-file contain the most recent application on the left-hand side, on top of all supporting material and evidence, with all previous applications underneath.
Specifically, the A-file containing the denied I-485 should be arranged in the following order (items listed top to bottom):
 - a. Left Side of A-file.

- (1) I-290C Cover Sheet with attached bar code stickers and printout of CLAIMS LAN. Place SRC receipt number sticker on cover sheet.
 - (2) Two redacted copies of the denial. Mark out all personal data with a black permanent marker or grease pencil. A-numbers, names, addresses, criminal file numbers, etc., should not be readable.
 - (3) I-485 application (with G-28 on top)
 - (4) Supporting evidence for application (G-325A, birth certificate, police report, etc.)
 - (5) Any earlier applications or petitions contained in the A-file.
 - b. Right Side of A-file.
 - (1) I-468 Appeal/Certification Processing Sheet, filled out with A-file number and all questions answered.
 - (2) Two copies of the denial (I-290C and Attachment)
 - (3) Any earlier Service documents already contained in the A-file.

THIS NON-RECORD INFORMATION IS NOT AVAILABLE
TO THE PUBLIC – DO NOT TRANSFER TO THE LEFT SIDE.
6. Update CLAIMS.
- a. Enter ADJUDICATE A CASE
 - b. Wand the I-485 SRC Number
 - c. Press “F10.”
 - d. Select CASE MOVEMENT-RELOCATE OUT
 - e. If AAO, select TRANSFER APPEAL/MOTION/CERTIFICATION TO AAU. If Immigration Court, select OTHERWISE TRANSFER CASE TO ANOTHER OFFICE.
 - f. Press “Esc” to exit.
 - g. Wand the I-290C SRC Number
 - h. Press “F10.”
 - i. Select CASE MOVEMENT-RELOCATE OUT
 - j. If AAO, select TRANSFER APPEAL/MOTION/CERTIFICATION TO AAU. If Immigration Court, select OTHERWISE TRANSFER CASE TO ANOTHER OFFICE.
 - k. Press “Esc” to exit.
7. RAFACS Applications: (The I-485 “A/T” files should be Refaced to the file room.)
- a. Enter RAFACS
 - b. Select RAFACS USER
 - c. In the TRANSACTION IDENTIFIER screen, type in ZZCOSA000. – Press ENTER.
 - d. In the TRANSACTION IDENTIFIER screen, wand in the “A/T” file Number
 - e. Attach a routing slip requesting that the File Room transfer the “A/T” files out in CIS to the office listed on the routing slip.
 - f. Count each file as Relocated on your G-22.

NOTE: Headquarters requires a weekly statistical report. The NACARA Unit is responsible for tracking cases received, pending, remoted, approved and denied.

ADJUDICATIONS APPENDIX C

Section 212(a) Inadmissibility Overview

Admissibility - Sec. 212

1. health grounds
 - waiver - 212(g) spouse, unrm s/d, parent of USC/LAPR
2. criminals
 - idents
 - waiver - 212(h) spouse, parent, s/d of USC/LAPR; hardship
3. security grounds
 - terrorists
 - Communists
 - exceptions
 - involuntary
 - past membership
 - parent, spouse, s/d, sibling of USC
 - parent, spouse, s/d of LAPR
 - Nazis
4. public charge
 - I-864 8CFR 213a
 - emp pet filed by relative(spouse, parent, s/d, sibling)
 - relative owns 5%
5. labor certs
 - physicians
 - must pass parts I & II of Nat Board of Med Examiners Examination
 - must have completed 3 years as H-1B if changed from J-1 before being eligible to apply for adj/stat - 8 CFR 212.7(c)(9)(iii)
 - nurses
 - current status-ASC processing
 - certificate requirement
 - health care workers (memos under ADJ Guide)
 - phys ther, occup ther, speech-lang pth, med technol & techni, phys asst
 - current ASC sched of occupational therapists
6. illegal entrants and immigration violators
 - failure to attend removal proceedings
 - 5 yr bar from date of departure/removal
 - misrepresentation

- waiver 212(i)
 - spouse, s/d of USC/LAPR & hardship
 - false claim to USC
 - stowaways
 - smugglers
 - waiver 212(d)(11)
 - if smugglee was spouse, parent, s/d, no other
 - final order under 274C - civil violation
 - waiver 212(d)(12) for
 - returning resident or
 - committed solely to assist spouse/child
 - student visa abusers
 - (enters F-1 for private school and changes to public funded school)
- 7. documents
 - waiver 212(k)
- 8. ineligible for citizenship
 - draft evaders
- 9. previously removed
 - arriving aliens (exclusion)
 - 5 yr bar
 - 20 yr bar (2nd removal or ag felon)
 - others (deportation)
 - 10 yr bar
 - 20 yr bar (2nd removal)
 - permanent bar (ag felon)
 - exceptions (AG consents prior to application for entry- in the case of a 'removed' Returning Resident)
 - unlawfully present - HQ memo
 - must make a departure (and reentry) after period of
- unlawful presence for this to apply
 - >180 days <1 yr
 - 3 yr bar from date of departure
 - ≥ 1 yr
 - 10 yr bar from date of departure
 - definition
 - expiration of authorized stay
 - present without admission/parole
 - tolling for good cause
 - up to 120 days
 - nonfrivolous appl. for change/ext. of stay
 - lawful admission/parole
 - no unauthorized employment
 - waiver 212(a)(9)(B)(v)
 - spouse, son/daughter
 - hardship

10. miscellaneous

polygamists

guardian of inadmissible alien

international child abductors

unlawful voters

renounced US citizenship to avoid taxation

subject to 212(e)-not waived

ADJUDICATIONS APPENDIX D

AFFIDAVIT OF SUPPORT

Overview

Introduction

The Form I-864, Affidavit of Support, is initial evidence required for certain applicants who wish to adjust to lawful permanent resident status. The I-864 will be adjudicated only if the I-485 otherwise meets interview waiver criteria. For cases that do not meet interview waiver criteria, the I-864 will be considered as initial evidence and will be reviewed by the local office. This chapter will provide guidance in adjudicating the I-864 as it relates to the adjustment process.

In This Chapter

This chapter discusses the following topics.

Topic	See Page
General Information	2
Sponsor or Joint Sponsor Requirements	5
– Joint Sponsor	5
– Sponsor Eligibility	6
– Proof of Citizenship/LRP Status	6
– Determination of Domicile	7
– Sponsoring Family Units	8
– Withdrawal of I-864	8
Income and Assets	9
– Federal Income Tax Returns	9
– Determination of Income/Assets	10
– Sponsor’s Assets & Liabilities	11
– Foreign Income/Assets	12
– Means-tested Public Benefits	12
Adjudicating the I-864	13
– Properly filed I-864, Affidavit of Support	13
– Record of Proceeding	13
– Eligibility to Sponsor	14
– Household Size	15
– Determining if the I-864 Meets the Requirements	16
– Request for Evidence	18
– Denials	18

Continued on next page

General Information

In General Effective December 19, 1997, certain adjustment of status applicants must submit an I-864, Affidavit of Support, as part of the documentary requirement. The officer adjudicating the I-485 must also review the I-864 and supporting documentation for acceptability.

Purpose of the I-864 The I-864, Affidavit of Support is required to show that an intending immigrant has adequate means of financial support and is not likely to become a public charge.

Purpose of the I-864A The I-864A, Contract Between Sponsor and Household Member may also be submitted with the I-864. By signing this form, a household member, agrees to make his/her income and/or assets available to the sponsor to help support the immigrant(s) for whom the sponsor has filed an affidavit of support and to be responsible, along with the sponsor, to pay any debt incurred by the sponsor under the affidavit of support. A Household Member may be the sponsored immigrant as long as they are related to the sponsor by birth, marriage or adoption and have been living in the sponsor's residence for the previous 6 months, or if they are shown as a dependent on the sponsor's Federal income tax return for the most recent year.

Acceptable Forms The first edition of Form I-864 and I-864A was October 6, 1997. The Service subsequently made two minor corrections to the form and released that revision on January 21, 1998. Both versions of this form may be used.

Expiration of the I-864/I-864A Once an I-864/I864A and supporting documents has been received, it will not expire, but it must be submitted within 6 months of the date on which the sponsor signed it before a notary public or an immigration officer. However, if more than 12 months have passed between the time an I-864/I-864A is submitted and the visa is issued or adjustment of status is approved, the officer should request updated supporting documentation (for example, current employment letter, most recent tax return(s), etc.).

If updated documentation is requested, the officer should note the "Agency Use" block with this information (e.g., "new employment letter attached.")

Continued on next page

General Information, Continued

- Who Must File** The following individuals seeking adjustment of status are required to submit at least one legally enforceable affidavit of support:
- immediate relatives, including orphans;
 - family-based immigrants;
 - employment-based immigrants, if the petitioning employer is a relative of the alien; and
 - employment-based immigrants, if a relative of the alien has a significant ownership interest (5% or more) in the for-profit petitioning entity.

For purposes of this section, relative is defined as a spouse, parent, child, adult son or daughter, or sibling.

Accompanying spouses and children also need to submit I-864s. However, they can submit photocopies of the principal's I-864. The original signature and notary seal are not required.

- I-134 Requirement** The I-134, Affidavit of Support is still required to be submitted by employment-based immigrants and their family members. However, a letter of employment may be substituted for this documentary requirement.
-

- Exempt Applicants** Asylees and self-petitioning widow/ers, battered spouses and children are exempt from the requirement to submit an I-864.
-

- Notations to the I-864** The I-864 is a legally binding contract; therefore, officers **should not** add, cross out or change information on the form once it is received at this office. The "Agency Use" block on the first page may be used for any required notations to be made. The officer must use red ink in the "Agency Use" block. Officer's notes may also be attached to the I-864 using a separate sheet of paper.
-

Continued on next page

General Information, Continued

CLAIMS LAN All I-864s are entered into CLAIMS for the purpose of tracking and enforcement. They are entered into CLAIMS attached to the I-485. However, because we do not have access to GUI, you cannot view this information through CLAIMS LAN. You can tell that an I-864 has been data entered into CLAIMS by the fact that Data Entry will affix one of the I-485 barcodes to the I-864 once it has been entered. If an applicant submits an I-864 in response to a request for evidence, it must be forwarded to Data Entry for entry into CLAIMS with instructions for it to be returned to the adjudicator when the entry is completed.

CLAIMS Mainframe Sponsor information can be viewed by accessing the CLAIMS Mainframe and choosing option 11, which is titled Case Status Inquiry/I-864 Sponsor Inquiry. The system searches by the social security number of the sponsor and will allow you to view the total number of applicants that a particular person is sponsoring or has sponsored.

Sponsor or Joint Sponsor Requirements

Introduction This section will explain to you the requirements of the sponsor or joint sponsor of an I-864, Affidavit of Support. You must ensure that the sponsor meets the established requirements in order to fulfill the criteria of the I-864.

Definition A Sponsor is...

- the **petitioning** relative;
- the relative (**petitioner**) with a significant ownership interest in the **petitioning** entity; or
- a person who is accepting joint liability with the sponsor.

The sponsor **must** complete and file the Affidavit of Support under Section 213A of the Act on behalf of a sponsored immigrant.

Joint Sponsor A petitioner who cannot demonstrate the means to maintain an income of at least 125% (or 100% when applicable) of the Federal poverty guidelines may have one or more joint sponsors. These joint sponsors must be willing to accept joint liability for the sponsored alien during the period in which the affidavit is enforceable.

When a joint sponsor is used, there will be at least two I-864s for each application. There may also be more than one joint sponsor, but each joint sponsor must individually meet the minimum income requirement. The joint sponsor must meet all eligibility requirements to be a sponsor, except that the joint sponsor is not the petitioner (or a relative with 5% or more ownership interest).

Multiple joint sponsors are permitted to allow several persons to assume legal responsibility for the support of an immigrant if they wish to do so. If there are multiple joint sponsors, only one of them may use the assets of the sponsored immigrant to qualify. Each must include the sponsored immigrant(s) in their household size.

The use of a joint sponsor does not relieve the petitioner of his or her full financial responsibility for any immigrant sponsored in the affidavit of support.

Continued on next page

Sponsor or Joint Sponsor Requirements, Continued

**Sponsor
Eligibility**

The SINGLE SPONSOR or JOINT SPONSOR must be:

- a person (a sponsor cannot be a corporation, organization or other entity)
- a citizen or national of the United States or an alien lawfully admitted to the United States for permanent residence (including conditional residence);
- at least 18 years of age;
- domiciled in the United States or its territories and possessions; and
- able to demonstrate the means to maintain an income of at least 125% of the Federal poverty guidelines **(at the time of adjudication)** for the sponsor's household size, including the immigrants being sponsored or previously sponsored.

**Proof of
Citizenship/
LPR Status**

In family-based filings the proof of a petitioner-sponsor's INS status is demonstrated on Form I-130. However, this is not the case with joint sponsors since they did not file a petition. All sponsors, including joint sponsors must be U.S. citizens or nationals, or lawful permanent residents (LPR).

Therefore, joint sponsors are required to submit proof of status when they submit Form I-864. Such proof may include, but is not limited to, a passport, birth or naturalization certificate, or copies of both sides of an Alien Registration Card.

Continued on next page

Sponsor or Joint Sponsor Requirements, Continued

Determination of Domicile

To qualify as a sponsor, a petitioner who is residing temporarily abroad must have a principal residence in the United States with the intent to maintain that residence as his/her domicile for the foreseeable future. LPR sponsors must further demonstrate that they have maintained their status. A U.S. citizen or LPR spouse or dependent that has maintained a residence in the United States and/or whose spouse/parent works in one of the categories listed below would also qualify as a sponsor.

- Many U.S. citizens and legal permanent residents reside outside the United States on a temporary basis. **Temporary** is a relative term and may cover an extended period residing abroad. The regulation provides that sponsors who can show that they have a domicile in the United States, but who are now living temporarily abroad because of certain types of employment, are considered to have retained their domicile in the United States. Sponsors are considered to be domiciled in the United States if they are:
 - employed by the U.S. government, an American Institution of research recognized as such by the Attorney General, an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce with the United States or a subsidiary thereof, or a public international organization in which the United States participates by treaty or statute;
 - authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States and stationed abroad pursuant to that calling; or
 - engaged solely as a missionary by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States and stationed abroad pursuant to that calling.

Continued on next page

Sponsor or Joint Sponsor Requirements, Continued

Determination of Domicile, cont'd. There may be other circumstances in which a sponsor can show that his/her sojourn abroad is clearly of a temporary nature, so that the sponsor can be found still to have a domicile in the United States. For example, persons who are abroad temporarily to study, teach or engage in other activities that do not meet the requirements of Section 316(b), 317 or 319(b) of the INA, may satisfy the officer that they did not give up their domicile in the United States and establish a domicile abroad.

There is no minimum period of time required to establish residence, but a credible demonstration of an actual residence in the United States is required. A convincing combination of **several** of the following types of action might be considered as an indication of residence: establishing an address; setting up a bank account; transferring funds to the U.S.; making investments; seeking employment; applying for a Social Security number; voting in a local, state or federal election; etc.

Sponsoring Family Units There may not be *separate* joint sponsors for any family members if they are accompanying the principal immigrant. For example, one joint sponsor may not sponsor one or more family members of a family unit, while a second joint sponsor accepts responsibility for the other family members. And each joint sponsor for a family unit must meet the minimum 125% income requirement for the indicated household size.

Withdrawal of I-864 A sponsor or joint sponsor who has provided a signed I-864/I-864A to an intending immigrant may notify INS that he/she no longer wishes to sponsor an immigrant if he/she does so **before** the adjustment of status is approved. In this instance, the applicant of the I-485 must be provided the opportunity to submit an adequate I-864. If the petitioner/sponsor withdraws his or her I-864, the case must be denied because in this instance, the applicant will never be able to provide an adequate I-864. Form I-864 from a joint sponsor may not be used in lieu of a Form I-864 that was withdrawn from the petitioner/sponsor.

Income and Assets

Introduction This section will discuss what to look for as evidence of income or assets to enable the sponsor and/or joint sponsor to meet the minimum income requirements of Section 213A.

Federal Income Tax Returns Most U.S. citizens and lawful permanent residents (LPRs) with incomes sufficient to qualify as sponsors are required to file income tax returns, although there may be years in which a sponsor was not employed or earned income that was below the dollar amount required to file with the IRS. U.S. citizens and LPRs who are working abroad are required to file a tax return even if that overseas income is excluded from U.S. taxes. The following chart gives the income requirements for filing in calendar year 1997:

Filing Status at end of 1997	Gross Income of at Least
<u>Single:</u>	
- Under age 65	\$ 6,800
- Age 65 and over	7,800
<u>Married, filing jointly:</u>	
- Both spouses under age 65	\$12,200
- One spouse under age 65	13,000
- Both spouses age 65 or over	13,800
<u>Married, filing separately</u>	\$ 2,650
<u>Head of Household</u>	
- Under age 65	\$ 8,700
- Age 65 or over	9,700
<u>Certain widow(ers) with dependent child</u>	
- Under age 65	\$ 9,500
- Age 65 or over	10,350

It is up to the sponsor to provide a copy of the relevant provision or instruction from an IRS publication demonstrating that he or she was not obligated to file a Federal income tax return.

Continued on next page

Income and Assets, Continued

Federal Income Tax Returns, cont'd.

It is a statutory requirement that the sponsor must submit tax returns for each of the most recent three tax years in which he/she was obligated to file. If the sponsor did not file an income tax return for a year when he/she was obligated to do so, he/she may file a late or amended tax return to the IRS and submit a copy of such return(s) for the year(s). Until the late or amended return has been filed and a copy submitted, the I-864 will be considered incomplete and cannot be considered sufficient.

Generally speaking, you will be determining the sponsor's income on the Federal tax return by using the "adjusted gross income" reported on the tax return. However, you may also want to consider the "Taxable Interest" reported on the tax return as well. When a person reports a considerable amount of taxable interest, that usually means they have investments, which generate this interest income.

Determination of Income/ Assets

If a sponsor did not have sufficient income listed on his/her tax returns for the most recent three years to be a sponsor, but now is employed with an income sufficient to be a sponsor, the income from employment may be used. For example, a law student who earned no income for the most recent three tax years but in June began earning an annual salary of \$50,000 would probably meet the income requirements. Conversely, a potential sponsor who showed an income for the most recent three years but who is now unemployed would not meet the requirements based on income.

A sponsor may include **non-taxable income**, such as a housing allowance for clergy or military personnel, as well as taxable income. The sponsor would bear the burden of proving the nature and amount of any such income on which he/she relies. Evidence of non-taxable income can be shown through notations on the W-2 Form (such as box 13, for military allowances), Form 1099, or other documents that substantiate the claimed income.

Taxes owed the IRS should not be subtracted from gross income in determining the sponsor's income.

Continued on next page

Income and Assets, Continued

Determination of Income/ Assets, cont'd. In the case of **jointly owned assets**, a sponsor may use 100% of the value of such assets as his/her own assets on the I-864. The sponsor's spouse does not need to complete a Form I-864A in this instance.

Offers of employment for the principal immigrant or his/her accompanying family members may not be considered in lieu of or to supplement the income requirement for the I-864. The offer of employment may be taken into account, however, in assessing whether the applicant could overcome the factors in 212(a)(4)(B)(i).

Sponsor's Assets and Liabilities

If the sponsor cannot meet the poverty line requirement based on income, he or she may show evidence of assets owned by the sponsor, or members of the sponsor's household, that are available for the support of the sponsored immigrant(s) and can be readily converted into cash within one year. Evidence of such assets includes, but is not limited to:

- bank statements covering the last 12 months, or statements from an officer of a financial institution in which the sponsor has deposits, including the deposit/withdrawal history for the last 12 months and the current balance.
- evidence of ownership, value, and acquisition dates of stocks, bonds, and certificates of deposit.
- evidence of ownership, value, and acquisition dates of other personal property.
- evidence of ownership, value, and acquisition dates of any real estate.

In order to qualify using assets, the total cash value of all assets must equal at least five times the difference between the sponsor's total household income and the minimum income requirement for the current year.

Continued on next page

Income and Assets, Continued

**Sponsor's
Assets and
Liabilities,
cont'd.**

For example, say a petitioner/sponsor has an income of \$9,000, however, the income requirement for his household size is \$24,000. The difference between his actual income and the poverty guideline is \$15,000. To meet the requirements of Section 213A the petitioner/sponsor would then have to meet the requirements through assets, by including income of a household member, or through the assistance of a joint sponsor. If the sponsor/petitioner chose to meet the requirements through assets, the assets would have to be worth 5 times \$15,000 (or \$75,000) in order to meet the requirements of Section 213A.

**Foreign
Income/Assets**

Foreign income, such as income from property or a business, may be included on the I-864 if the sponsor or applicant (who meets the residency requirements) can demonstrate that this source of income is likely to continue in the foreseeable future.

A sponsor or applicant may include assets owned outside the United States, such as real estate or personal property, on the I-864 as long as they are readily convertible to cash within 12 months and the applicant can demonstrate the ability to take the money or assets out of the country where they are located. Many countries have strict regulations that severely limit the amount of cash or liquid assets an individual may take or send abroad.

**Means-tested
Public Benefits**

If the sponsor indicated that he/she or a member of the sponsor's household received means-tested public benefits in the last three years, the officer's review of the evidence remains the same. The sponsor is still required to maintain a sponsored immigrant at an annual income that is not less than 125% of the Federal poverty line. If the sponsor does not meet that requirement, they may require a joint sponsor.

Keep in mind that some programs provide non-cash means-tested benefits to families with incomes that are higher than 125% of the poverty line. For example, Medicaid for pregnant women and their children up to age 6 is available to persons with incomes up to 188% of the poverty line in some States, and food stamps are available to households with income up to 135% of the poverty line in some situations. In this circumstance, a joint sponsor would not be required.

Adjudicating the I-864

Introduction

The officer is responsible for reviewing all initial evidence to determine if it meets the standard for acceptability and that each requirement as it relates to the initial evidence has been met. This section will take you through the process of determining if the I-864, Affidavit of Support, meets the acceptability requirements set forth in Section 213A.

Properly Filed I-864, Affidavit of Support

A sponsor and/or joint sponsor must provide Form I-864/Form I-864A to the applicant of the I-485. The applicant must submit the I-864/I-864A with original signatures and notary information for the principal sponsored immigrant. A foreign notary may **not** witness signatures on the I-864/I-864A.

Accompanying spouse and children also need to submit I-864s. However, they can submit photocopies of the principal's I-864. The original signature and notary seal are not required.

Record of Proceeding

The Service has provided guidance on the order in which it would like to have aliens package the I-864 and supporting documentation. The documentation and ROP for the I-864 is as follows (from top to bottom):

- applicant's I-864 with original notarized signature (foreign notary cannot be used)
- proof of citizenship or lawful permanent residence status (if applicable)
- copies of the sponsor's Federal tax returns for the 3 most recent tax years
- evidence of the sponsor's employment (pay stubs, letter from employer indicating type of work performed, salary/wages, date employment began)
- evidence of the sponsor's assets (if used to qualify)
- any forms I-864A, submitted by household members with original notarized signature
- household members' Federal tax returns for 3 most recent tax years
- evidence of household members' employment
- evidence of household members' assets (if used to qualify)
- a photocopy of Form I-864, without supporting documentation, for each accompanying spouse or child.

Documentation for any joint sponsor(s) should follow subsequently in the same order as provided above for the principal sponsor.

Continued on next page

Adjudicating the I-864, Continued

Record of Proceeding for Accompanying Family Members

The sponsor must submit a photocopy of the principal's I-864 for each accompanying spouse or child. However, to avoid unnecessary paperwork for the sponsor, the sponsored immigrant and the Government, the sponsor needs to submit only one copy of the required supporting documentation even if there are accompanying family members. ***In those cases where there are accompanying family members, the adjudicating officer must write the A-number of the principal applicant in the "agency use" block of the Form I-864 for each family member*** to permit retrieval of the documentary evidence from the principal applicant's A-file, should it be necessary. Note that a separate and complete I-864 and supporting documentation is required for immediate relatives.

Eligibility to Sponsor

The determination of the individual sponsor's ability to serve as a sponsor is based upon his or her ability to maintain an annual income at or above 125% of the Federal poverty line (100% if the sponsor is on active duty in the U.S. Armed Forces and is petitioning for his/her spouse and children).

The sponsor may demonstrate the means to maintain the sponsored immigrant at the required income level by using:

- the income of the sponsor or of any relative of the sponsor who has either been living in the sponsor's household for the previous 6 months, or is listed as a dependent on the sponsor's federal income tax return for the most recent tax year;
- the assets of the sponsors or of any relative of the sponsor who has either been living in the sponsor's household for the previous 6 months, or is listed as a dependent on the sponsor's most recent tax return;
- the assets of the sponsored immigrant(s); or
- the income or assets of a joint sponsor.

The sponsor must provide evidence of any income or assets used to qualify. Evidence of six months of residency for any relative in the household whose income is used should also be provided. This would require the filing of an I-864A.

Continued on next page

Adjudicating the I-864, Continued

Household Size The total household size will be used to determine the correct Federal poverty guideline for the current year. For purposes of the I-864, this includes the total of the following groups of individuals:

- the sponsor and the number of persons related to the sponsor by birth, marriage or adoption living in the sponsor's household;
- the number of persons being sponsored in this I-864;
- the number of persons NOT living in the sponsor's household for whom the sponsor has previously submitted an I-864, if the obligation has not been terminated; and
- the number of persons not included in any of the above categories who are otherwise dependent on the sponsor, notwithstanding where they reside, if the sponsor lawfully claimed them as dependents on the sponsor's income tax returns for the most recent year.

Keep in mind, a divorced parent's dependent children are considered members of his/her household even if they live part of the time with a former spouse. If the parent has a legal obligation to support his/her children, they must be claimed as members of the household even if the parent does not claim them as dependent(s) on his/her tax return.

Continued on next page

Adjudicating the I-864, Continued

Determining if the I-864 Meets the Requirements

Follow the steps below to determine if the I-864, Affidavit of Support, meets the standards of acceptability:

Step	Action
1	Verify the I-864 has been signed, dated and notarized on page 6.
2	Verify the citizenship, age and domicile of the sponsor on page 1.
3	Verify the applicant(s) of the I-485(s) is(are) listed in Part 3 of the I-864.
4	Check the ROP for the required evidence for the I-864: <ul style="list-style-type: none">- three most recent tax returns of the sponsor- evidence of sponsor's employment- evidence of sponsor's assets, if applicable- evidence of I-864A submitted by household member with supporting documentation- evidence of I-864 for joint sponsor with supporting documentation, if applicable
5	Verify the sponsor's household size in Part 4, C. of the I-864.
6	Verify the sponsor's annual household income in Part 4, D. of the I-864 with the income reported on the most recent Federal tax return (usually this is reported as "adjusted gross income"). If this figure includes combined income from a household member, an I-864A should be included in the ROP of the I-864.

Continued on next page

Adjudicating the I-864, Continued

Determining if the I-864 Meets the Requirements, cont'd.

Step	Action						
7	<p>Determine the poverty guideline to which the sponsor will be held in determining the minimum income requirement.</p> <table border="1" data-bbox="565 632 1388 856"> <thead> <tr> <th data-bbox="565 632 889 705">IF the sponsor is...</th> <th data-bbox="889 632 1388 705">THEN apply the household income at...</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 705 889 779">Not on active duty</td> <td data-bbox="889 705 1388 779">125% of the poverty guidelines for the specified household size.</td> </tr> <tr> <td data-bbox="565 779 889 856">On active duty in the Armed Forces</td> <td data-bbox="889 779 1388 856">100% of the poverty guidelines for the specified household size.</td> </tr> </tbody> </table>	IF the sponsor is...	THEN apply the household income at...	Not on active duty	125% of the poverty guidelines for the specified household size.	On active duty in the Armed Forces	100% of the poverty guidelines for the specified household size.
IF the sponsor is...	THEN apply the household income at...						
Not on active duty	125% of the poverty guidelines for the specified household size.						
On active duty in the Armed Forces	100% of the poverty guidelines for the specified household size.						
8	<p>Determine if the sponsor has met the minimum income requirement.</p> <table border="1" data-bbox="565 1010 1388 1598"> <thead> <tr> <th data-bbox="565 1010 976 1083">IF the sponsor has an income...</th> <th data-bbox="976 1010 1388 1083">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="565 1083 976 1339">= to or > than the minimum income noted for his/her specified household size</td> <td data-bbox="976 1083 1388 1339">He/she has met the I-864 requirement and the officer must check the “meets” option, initial, date and note “3 letter office code” in the “For Agency Use Only” block on the first page of the I-864.</td> </tr> <tr> <td data-bbox="565 1339 976 1598">< than the minimum income noted for his/her specified household size</td> <td data-bbox="976 1339 1388 1598">You must send a RFE to the applicant of the I-485 to give the sponsor the opportunity to provide evidence of other income or to give the applicant a chance to obtain a joint sponsor.</td> </tr> </tbody> </table>	IF the sponsor has an income...	THEN...	= to or > than the minimum income noted for his/her specified household size	He/she has met the I-864 requirement and the officer must check the “meets” option, initial, date and note “3 letter office code” in the “For Agency Use Only” block on the first page of the I-864.	< than the minimum income noted for his/her specified household size	You must send a RFE to the applicant of the I-485 to give the sponsor the opportunity to provide evidence of other income or to give the applicant a chance to obtain a joint sponsor.
IF the sponsor has an income...	THEN...						
= to or > than the minimum income noted for his/her specified household size	He/she has met the I-864 requirement and the officer must check the “meets” option, initial, date and note “3 letter office code” in the “For Agency Use Only” block on the first page of the I-864.						
< than the minimum income noted for his/her specified household size	You must send a RFE to the applicant of the I-485 to give the sponsor the opportunity to provide evidence of other income or to give the applicant a chance to obtain a joint sponsor.						

Continued on next page

Adjudicating the I-864, Continued

Request for Evidence (RFE)

Once you have decided that you need more evidence to support the I-864, you must prepare a request for evidence. To do this, follow the steps in Section 7-4, Adjudications: I-485 Processing Procedures, under “Requests for Evidence.” All requests for additional information should be addressed to the applicant of the I-485 and not to the sponsor and/or joint sponsor of the I-864. If the I-864 is not included in the ROP, you will update CLAIMS to show “Initial Evidence Requested.” However, if the I-864 is included in the ROP but you need further documentation, you will update CLAIMS to show “Additional Evidence Requested.”

Denials

If the I-864 is clearly insufficient after you have exhausted efforts to obtain additional evidence, the entire adjustment of status application should be denied because the intending immigrant is inadmissible on public charge grounds, as well as, for any other reason there may be for denying the I-485. Details of personal finance matters of the sponsor should not be revealed in the denial letter to the adjustment applicant unless they are relevant to the denial.

When adjustment cases requiring Form I-864 are denied due to an insufficient I-864, a photocopy of the I-864 and all supporting documentation as well as a photocopy of the denial notice sent to the applicant must be sent to the Nebraska Service Center for tracking. Therefore, for these denials you will need to leave the I-864 and supporting documents loose in the file before forwarding them to clerical for preparation of the denial. This will allow the clerk to identify those cases that require that this process be completed after denial.

Section 8: Post Adjudication Processing of the I-485

Introduction

Once an adjudicator has made a decision on a case, INS clerical or the contractor is responsible for processing the decision appropriately. There are several key decisions an adjudicator can make:

1. Recommended Approval
 2. Approval
 3. Non-approvals
 - RFEs and Intents to Deny (See Workload Distribution)
 - Relocation (See Adjudications)
 - Denial (See Adjudications)
 - Abandonment Denial (See Adjudications)
-

Section 8: Table of Contents

Topic	See Page
Processing Recommended Approvals	8-2
Processing Approvals	8-3
Processing Non-Approval Notices <ul style="list-style-type: none">• Denials• Relocations• Motions• Recessions	Section 7: Adjudications

Continued on next page

Recommended Approvals

When to Perform

Once an I-485 application has been adjudicated, and the adjudicator deems it ready for approval, the adjudicator should follow the "Recommended Approvals" process.

Description

If an adjudicator finds that the I-485 application is ready for approval, he/she indicates that the case is "Recommended for Approval" and sends a sheet to INS clerical or the contractor requesting a visa. INS clerical or the contractor contacts the Department of State (DOS) to verify that a visa is currently available. Once DOS verifies that a visa is available the clerk will route the case back to the adjudicator. The adjudicator will approve the case and send it back to INS clerical or the contractor for card production activities. (If the adjudicating officer faxes the visa request to DOS directly, the file will be routed to INS clerical or the contractor for card production activities after he/she has approved the case.)

Procedure

Complete the following steps to determine if the visa is available.

Step	Action: INS/Contractor
1	Receive the files for visa requests.
2	Fax or email the list of all visa requests to the Department of State.
3	Once responses are returned, copy the list and return it along with the files to the appropriate adjudicator.
4	Once approved and returned from the adjudicator, RAFACS and forward the files back to the adjudicator.

Continued on next page

Approvals

When to Perform

After the adjudicator has approved the case, INS sends an approval notice to the applicant asking him/her to appear at the local office for I-89 ADIT processing. Once the I-89 has been received, refer the file and I-89 for review and scanning.

Procedure

To do this, follow the steps below:

Step	Action: INS Clerical/Contractor	
1	Receive the I-89 and the I-797 in the mailroom.	
2	Verify that a fingerprint on the I-89 is present or waived.	
	If the fingerprint...	THEN...
	Is present and acceptable	Continue
	Is not present and not waived	Issue an RFE for another I-89.
3	Verify that a signature on the I-89 is present or waived.	
4	Identify ADIT-style photos. At least one photo must be present to complete the processing.	
	If...	THEN...
	One photo is present	Affix the photo to the appropriate box on the I-89 and review the I-89 for completion.
	Two photos are present	Place the extra photo in the glassine envelope.
	No photos are present	Continue to the next section.

Continued on next page

Approvals, Continued

Step	Action: INS Clerical/Contractor																		
5	<p>Review the following fields on the I-89 on the side of the card labeled "Transaction 1 - Initial Card" for completion.</p> <ul style="list-style-type: none"> “2. Alien Number” --Type the Alien Registration number <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">IF...</th> <th style="text-align: left;">THEN...</th> </tr> </thead> <tbody> <tr> <td>No number is present</td> <td>Obtain it from the I-797</td> </tr> <tr> <td>No I-797 is present</td> <td>Reject</td> </tr> </tbody> </table> <ul style="list-style-type: none"> “7. DOB(MM/DD/YY)“--Type the alien’s Date of Birth <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">IF...</th> <th style="text-align: left;">THEN...</th> </tr> </thead> <tbody> <tr> <td>The applicant is 14 to 79 years of age</td> <td>Leave blank</td> </tr> <tr> <td>The applicant is under 14 or over 79 years of age or older</td> <td>Initial this section.</td> </tr> </tbody> </table> <p>There is a “Certification” block on both sides of the bottom of the I-89, which must be completed. The fields are:</p> <ul style="list-style-type: none"> 26./ U. “Certification” – Print your name in the block provided 27./ V. “Officer's Signature” -- Sign your name in the block provided. <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">IF this box...</th> <th style="text-align: left;">THEN...</th> </tr> </thead> <tbody> <tr> <td>Is signed by the district office</td> <td>Go to field 28</td> </tr> <tr> <td>Is not signed by the district office</td> <td>Reject</td> </tr> </tbody> </table>	IF...	THEN...	No number is present	Obtain it from the I-797	No I-797 is present	Reject	IF...	THEN...	The applicant is 14 to 79 years of age	Leave blank	The applicant is under 14 or over 79 years of age or older	Initial this section.	IF this box...	THEN...	Is signed by the district office	Go to field 28	Is not signed by the district office	Reject
IF...	THEN...																		
No number is present	Obtain it from the I-797																		
No I-797 is present	Reject																		
IF...	THEN...																		
The applicant is 14 to 79 years of age	Leave blank																		
The applicant is under 14 or over 79 years of age or older	Initial this section.																		
IF this box...	THEN...																		
Is signed by the district office	Go to field 28																		
Is not signed by the district office	Reject																		

Continued on next page

Approvals, Continued

Step	Action: INS Clerical/ Contractor						
6	<ul style="list-style-type: none"> 28. "LOC Code" -- Follow the instruction in the table below. <table border="1" data-bbox="565 485 1386 636"> <thead> <tr> <th>IF this box...</th> <th>THEN...</th> </tr> </thead> <tbody> <tr> <td>Has not been filled out</td> <td>Write your Service Center's code (<i>i.e.</i>, RECEIPT FILE).</td> </tr> <tr> <td>Has already been completed</td> <td>Leave as is</td> </tr> </tbody> </table> 29. "Alien Number" -- type the Alien Registration Number. 	IF this box...	THEN...	Has not been filled out	Write your Service Center's code (<i>i.e.</i> , RECEIPT FILE).	Has already been completed	Leave as is
IF this box...	THEN...						
Has not been filled out	Write your Service Center's code (<i>i.e.</i> , RECEIPT FILE).						
Has already been completed	Leave as is						
7	Retain the extra photo in the glassine envelope, if submitted, by stapling the envelope to the left-hand side of the I-89 card.						
8	Batch and forward the I-89 and I-797 receipt notices to the file room.						
9	Associate the I-89 with the file. Update CLAIMS to show that the I-89 was received.						
10	Route to Workload Distribution for INS review.						
11	INS will compare the I-89/I-485 photos to confirm identity.						
12	INS will send the batched I-89s to Data Entry for update and scanning.						

I-89 Requests after Approval of the I-485

When I-89 card and photos are received at the Service Center, they do not always meet INS standards for quality and it may not be possible to use them to produce the Permanent Resident Card. INS will determine this upon review of the I-89.

Step	Action: INS Clerical
1	Prepare the notice to request additional photos and/or a new I-89 card based upon the call-ups indicated by the adjudicator's notice.

RFEs and Intents to Deny

See Workload Distribution.

Addendum: Processing the I-765

Background

The I-765 application affords the benefit of receiving an Employment Authorization Document (EAD) if the request is granted. The I-765 application may be received individually or in addition to another form, usually the I-485. An I-765 that is received with the I-485 is the focus of the I-765 Manual Approval Process (MAP).

Due to the large number of I-485 applications waiting adjudication, the task of manually approving the I-765s that meet predetermined criteria has become an upfront processing task. The I-765 must be filed with an accompanying I-485 to be considered for I-765 MAP Processing. This could be an Asylum, Refugee, or Employment-based filing. HRIFA-based filings are not authorized to be manually approved.

*Note: The I-765 will only be considered for manual approval after the I-485 has been properly receipted into CLAIMS. See CLAIMS screens attached on the following pages.

I-765 Processing

1	<p>Make sure that the I-765 has been submitted with an acceptable I-485:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">IF...</th> <th style="text-align: left;">THEN...</th> </tr> </thead> <tbody> <tr> <td>The I-765 is received with an accepted I-485</td> <td>Continue to review.</td> </tr> <tr> <td>The I-765 is received with a rejected I-485</td> <td style="background-color: yellow;">Forward to INS for review.</td> </tr> <tr> <td>The I-765 is received without the fee, but with an accepted I-485</td> <td style="background-color: yellow;">Forward to INS for review.</td> </tr> <tr> <td>The I-765 is filed without an I-485</td> <td>Use the I-765 SOP to process the form</td> </tr> </tbody> </table>	IF...	THEN...	The I-765 is received with an accepted I-485	Continue to review.	The I-765 is received with a rejected I-485	Forward to INS for review.	The I-765 is received without the fee, but with an accepted I-485	Forward to INS for review.	The I-765 is filed without an I-485	Use the I-765 SOP to process the form
IF...	THEN...										
The I-765 is received with an accepted I-485	Continue to review.										
The I-765 is received with a rejected I-485	Forward to INS for review.										
The I-765 is received without the fee, but with an accepted I-485	Forward to INS for review.										
The I-765 is filed without an I-485	Use the I-765 SOP to process the form										
2	The I-765 will be accepted either as an initial or a renewal. In the rare instance that they are applying for a replacement, route to INS Review to determine the proper application filing status.										

Continued on next page

Processing the I-765, Continued

REMITTANCE INFORMATION

File Help

1. 

3. Type of remittance: Amount received: Signature

Remitter:

4. Bank Transit Number: Credit card number: Expires: Validation:

8.

Type	Remitter	-	Amount	Signature	Bounced

Application Signed? Biometrics Attached?

Buttons: Cancel, Save, Clear, Add, Update, Retrieve, Delete, Delete All

Continued on next page

Processing the I-765, Continued

I-765 File Void Remove Hold Reprint Bar Codes Options Reprint Endorsement Reprint Notices Help

Receipt #: _____

Received Date: A-number: ...

I am applying for:

1. Name: Last First Middle

3. Address in US: C/O:
Street: Zip: ...
City: State: ...

4. Country of Citizenship: ... 12. Date of last entry:

5. COB: ... 13. Place of last entry: ...

6. DOB: 7. Sex: M F 14. Manner of last entry: ...

8. Marital Status: ... 15. Current status: ...

9. SSN: 16. Eligibility: ...

10. I-94 Number: Telephone: ...

G-28 Attached? Fee:

Concurrent: Application Signed? Biometrics Attached?

Cancel

Save

Clear All

Clear R#

 History

 Capture

Image Data

Photograph:

FingerPrint:

Signature:

Continued on next page

Processing the I-765, Continued

3	<p>In CLAIMS 3, enter updates in “Adjudicate a Case” as follows:</p> <ul style="list-style-type: none"> • Approval phrase: “approval – card sent to applicant” • Class: Any of the following – A03, A05 or C09 • Valid period: 1 year (<i>e.g.</i> 08/17/2000 to 08/17/2001) • Send to clerical? (Defaults to “N”. Change to “Y” if completing a manual or amended notice.)
4	<p>After Data Entry, RAFACS to 765/512 MAP Approvals or 765/512 Approvals</p>
5	<p>The I-765 must be accompanied by at least two photographs: one (1) to stay with the I-485 and one (1) to be available for the I-765. *Note: The one exception to this rule is for employment-based applications, which may submit a photocopy of the photograph with the I-485. However, one (1) actual photo is needed for the I-765.</p>
6	<p>Name matching criteria: any of the following examples would be considered an acceptable match whether in the CIS name or aliases fields.</p> <p>Nguyen, Quoc, Van or Nguyen, Van, Q. or Van, Nyugen, Q. Nguyen, Quoc, V. or Nguyen, Van or Van, Q. Nyugen Nguyen, Van, Quoc or Nguyen, Quoc or Van, Nyugen Quoc, Van, Nyugen or Quoc, Van N. or Quoc, Nyugen Quoc, Van or Quoc, Nyugen V. or Quoc, Nyugen, Van</p> <p>Ty, Nguyen or Nguyen, Ty – could also be an acceptable match if shown as an alias.</p> <p>If the Name is considered a match, the Name in CIS is what will be entered into the CLAIMS approval update screen.</p>
7	<p>If there is a FBI number shown or a NAILS entry in CIS, only the I-765 will be referred to CRU. The I-765 Manual Approval Process “processing check sheet” will stay on these files.</p> <p>NOTE: If CRU determines there is a need, the file may be forwarded to Operations. It may be determined that the file is acceptable and should be returned to process. If this happens, CRU or Operations will annotate the check sheet to show processing may continue.</p>

Continued on next page

Processing the I-765, Continued

8	<p>If there is a date of birth discrepancy, refer the file to CRU. Refer multiple files (I-765, I-485, and I-131) together. The I-765 MAP “processing check sheet” will stay on these files. A date of birth written as 17-08-2000 would be acceptable for 08-17-2000.</p> <p>CRU may correct the problem and return the file to the Manual Approval Process. If this happens, CRU will annotate the check sheet to show processing may continue.</p>
9	<p>If there is a name mismatch, refer the file to CRU. Refer multiple files (I-765, I-485, and I-131) together. The I-765 MAP “processing check sheet” will stay on these files.</p> <p>NOTE: CRU may correct the problem and return the file to the Manual Approval Process. If this happens, CRU will annotate the check sheet to show processing may continue</p>
10	<p>After Approval updating, RAFACS to 765/ 512 MAP Audit Hold NOTE: Card production will not occur until the system is updated with approval information.</p>
11	<p>Rejects: Will be stamped with the “Filed with I-485” stamp</p>
12	<p>An I-765 that comes back in with the “Filed with I-485” stamp can be sent through the Manual Approval Process.</p>

Section 9: I-485 SOP Glossary

Definitions

A-file Alien file. The file containing all data and documentation relating to a given alien, identified by an A-number. All aliens with green cards have A-files, but nonimmigrant aliens usually do not.

Age-Out An application where a derivative child will reach the age of 21 prior to the expected date of adjudication.

CLAIMS Computer Linked Application Information Management System. Case processing system in which petitions/applications are data-entered, receipted, and electronically updated.

Employee ID# A two-letter, four-number identifier for a contract employee who works at one of the service centers.

Fee Waiver Request A written request submitted by the applicant or attorney to be exempt from paying the filing fee. A decision on the request must be made by INS staff prior to receipting the petition.

G-28 Notice of entry of appearance as attorney or representative. This form is used to provide notice that an attorney or representative is acting on behalf of the applicant or petitioner.

HRIFA Haitian Refugee Immigration Fairness Act. This is a limited provision that provides relief in the form of lawful permanent residence to certain Haitian nationals. For further information, see Adjudications Appendix A.

I-140 This form is used to petition for eligibility as an immigrant, based on employment in the United States (U.S.).

Continued on next page

Section 9: I-485 SOP Glossary, Continued

Immediate Relative	Certain immigrants who because of their close relationship to U.S. citizens are exempt from the numerical limitations imposed on immigration to the United States. Immediate relatives are: spouses of citizens, children (under 21 years of age and unmarried) of citizens, and parents of citizens 21 years of age or older. Orphans duly adopted by citizens qualify as immediate relatives.
Labor Certification (ETA-750)	The form ETA-750 is the document used by the petitioner to demonstrate to the Department of Labor (DOL) that there are no qualified and available U.S. workers who are willing to accept the position offered to the beneficiary in the geographic location of the petitioner's business.
NACARA	Nicaraguan Adjustment and Central American Relief Act. This is a limited provision that provides relief in the form of lawful permanent residence to certain Nicaraguan and Cuban nationals. For further information, see Adjudications Appendix B.
NIW Physician	National Interest Waiver Physician. Physicians seeking lawful permanent residence based on medical service in an under-served area of the United States or at a Veterans Affairs facility.
Petitioner	The person or company submitting the I-140 to the INS.
Preference Relative	Relatives whose preference in the adjudications process is based on their relationship to a USC or legal permanent resident other than as an immediate relative. Preference Relatives must adhere to the numerical limitations imposed on immigration to the U.S. and require a visa.
RAFACS	Receipt and A-File Accountability and Control System. The system that reports a file's location and maintains a history of file movement.

Continued on next page

Section 9: I-485 SOP Glossary, Continued

Receipt Date The date that the application information is data-entered into **CLAIMS** (see definition). This date is **NOT** the filing date and is **NOT** used in determining the application's processing order.

Received Date The date the petition or application is physically received by the Service. For properly filed petitions or applications, this is the date that is used to determine the processing order, processing times, etc. For all legal purposes and statistics, this is the Service's date of record. The received date may also be referred to as the filing date.

ROP Record of Proceeding. The order in which documents in a file are assembled for legal purposes.

Representative A person authorized to appear before the Service on behalf of someone else. The Service will not recognize the person unless the person has filed a form G-28 signed by the client.

T-file Temporary file. A temporary file is created when an applicant's A-file cannot be found after, at minimum, a diligent 90-day search of all INS locations. A T-file is used if the permanent file is missing or temporarily if the A-file is located at another INS service location.

Continued on next page

Section 9: I-485 SOP Glossary, Continued

Acronyms List

ADIT	Alien Documentation, Identification and Telecommunication System
ASC	Application Support Center
CAO	Center Adjudications Officer
CFR	Code of Federal Register
CG	Consulate General
CGFNS	Commission on Graduates of Foreign Nursing Schools
CIA	Central Intelligence Agency
CIS	Central Index System
CLAIMS	Computer Linked Application Information Management System
COA	Code of Admission
CRU	Case Resolution Unit
CSC	California Service Center
CSPA	Chinese Student Protection Act
DED	Deferred Enforced Departure
DOL	Department of Labor
DOS	Department of State
DV	Diversity Visa (Lottery Program)
EAD	Employment Authorization Document
EWI	Entry without Inspection
FAM	Foreign Affairs Manual
FBI	Federal Bureau of Investigation
FCCPT	Foreign Credentialing Commission on Physical Therapy
FCO	File Control Office
HBG	Harrisonburg
HHS	Health & Human Services
HRIFA	Haitian Refugee Immigration Fairness Act
IIRIRA	Illegal Immigration Reform and Immigrant Responsibility Act
INA	Immigration & Nationality Act
IR	Immediate Relative
IRS	Internal Revenue Service
IV	Immigrant Visa
LIN	Lincoln (Nebraska)
MAP	Manual Approval Processing

Continued on next page

Section 9: I-485 SOP Glossary, Continued

NACARA	Nicaraguan Adjustment and Central American Relief Act
NAILS	National Automated Immigration Lookout System
NATO	North Atlantic Treaty Organization
NBCOT	National Board of Certification in Occupational Therapy
NIV	Non-immigrant Visa
NIW	National Interest Waiver
NSC	Nebraska Service Center
NSU	National Security Unit
NVC	National Visa Center
PIP	Public Interest Parole
PL	Public Law
POC	Point of Contact
POE	Port of Entry
RAFACS	Receipt and A-File Accountability and Control System
RFE	Request for Evidence
ROP	Record of Proceeding
SOP	Standard Operating Procedures
TSC	Texas Service Center
TWOV	Transit without Visa
USC	United States Citizen
USIA	United States Information Agency
VA	Veterans Affairs
VSC	Vermont Service Center
WD	Workload Distribution

Continued on next page

Section 9: I-485 SOP Glossary, Continued

Forms List

ETA 750	Application for Alien Employment Certification (DOL)
FD-258	Fingerprint Card
G-22	Statistical report for headquarters
G-28	Notice of Entry of Appearance as Attorney or Representative
G-325A	Biographic Information
I-89	Card Data Collection
I-94	Arrival-Departure Record
I-122	Notice to Applicant for Admission Detained for Hearing before Immigration Judge (now part of the Notice to Appear)
I-129F	Petition for Alien Fiancé(e)
I-130	Petition for an Alien Relative
I-131	Application for Travel Document
I-134	Affidavit of Support
I-140	Immigrant Petition for Alien Worker
I-181	Memorandum of Creation of Record of Lawful Permanent Residence
I-191	Application for Advance Permission to Return to Unrelinquished Domicile
I-212	Application for Permission to Reapply for Admission into the United States After Deportation or Removal
I-290C	Notice of Certification
I-360	Petition for Amerasian, Widow(er), or Special Immigrant
I-468	Appeal/Certification Processing Sheet
I-485	Application to Register Permanent Residence or to Adjust Status
I-508	Waiver of Rights, Privileges, Exemptions, and Immunities
I-508F	Waiver of Rights, Privileges, Exemptions, and Immunities for French Nationals
I-512	Advance Authorization for Parole
I-526	Immigrant Petition by Alien Entrepreneur
I-551	Permanent Resident Card (Green Card)
I-566	Inter-Agency Record of Individual Requesting Change/Adjustment to, or from, A or G Status; or Requesting A, G or NATO Dependent Employment Authorization
I-601	Application for Waiver of Grounds of Excludability
I-602	Application By Refugee For Waiver of Grounds of Excludability

Continued on next page

Section 9: I-485 SOP Glossary, Continued

I-612	Application for Waiver of the Foreign Residence Requirement of Section 212(e) of the Immigration and Nationality Act, as amended
I-693	Medical Examination of Aliens Seeking Adjustment of Status
I-725	Administrative Appeal Control Card
I-730	Refugee/Asylee Relative Petition
I-765	Application for Employment Authorization
I-797	Notice of Action
I-824	Application for Action on an Approved Application or Petition
I-864	Affidavit of Support Under Section 213A of the Act
I-864A	Contract Between Sponsor and Household Member
M-175	(pink coversheet for the I-181)
Supplement A	Supplement A to Form I-485, Application to Register Permanent Residence
