



U.S. Citizenship
and Immigration
Services

Employment Division



Nebraska Service Center Open House

July 18, 2017

Introduction



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Welcome to the Nebraska Service Center Open House.
In this segment, we'll introduce the Employment Division.

About the Division



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- On October 1, 2015, the Adjustment Business Division became the Employment Division:
 - Comprised of employment-based (EB) Form I-485 and Form I-140 sections
 - Employment Division also adjudicates certain types of Form I-360
- Record number of filings for both Form I-140 and Form I-485 in FY2016
- We have expanded the I-140 and EB I-485 sections in last 6 months to accommodate increase in filings

Form I-140 at NSC



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Senior ISOs Kathryn Nicholas and Todd Sandsted
will introduce Form I-140.

I-140 Overview



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- Section 203 of the Immigration and Nationality Act (INA) defines the employment-based immigrant visa categories.
- Department of State (DOS) controls how the U.S. issues visas. An applicant needs a USCIS-approved immigrant visa petition in order to apply for a visa to enter the U.S. as a lawful permanent resident.
- Section 204.5 of Title 8 of the Code of Federal Regulations (CFR) contains the regulations governing how we adjudicate most employment-based immigrant visa petitions (Form I-140).

I-140 Overview



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Priority date: The date used by USCIS and DOS to determine a **person's** place in line. Your priority date is determined by the date you filed:

- The labor certification application with the Department of Labor (if required), or
- The immigrant visa petition with USCIS (if labor certification is not required).

Visa Bulletin: Indicates which priority dates are current (available for visa issuance) by country for each visa classification.

EB-1, EB-2 and EB-3 Preference Classifications



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1st Preference

- E11 – Alien with Extraordinary Ability
- E12 – Outstanding Professor and Researcher
- E13 – Multinational Manager and Executive

2nd Preference

- E21 – Member of the Professions holding an Advanced Degree or an Alien of Exceptional Ability (Not seeking a National Interest Waiver)
- NIW – An alien applying for a National Interest Waiver who is a Member of the Professions holding an Advanced Degree or an Alien of Exceptional Ability.

3rd Preference

- E31 – Skilled Worker
- E32 – Professional
- EW3 – Other Worker

What Is Labor Certification?



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- Some classifications require the employer to obtain a permanent labor certification from the U.S. Department of Labor (DOL).
- Employers request certification from DOL through ETA Form 9089, Application for Permanent Employment Certification.
- In granting certification, DOL certifies that there are no U.S. workers who are able, willing, qualified and available for the job offered in the area of intended employment.

I-140 Filing Basics



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- NSC receives many Forms I-140 from a USCIS Lockbox facility. A lockbox is a sort of post office that USCIS uses to receive applications or petitions.
- The lockbox opens and date-stamps mail, processes fees, enters data or scans documentation, issues receipt notices, and resolves unsigned or insufficient-funds fee payments.
- Once lockbox processing is complete, the cases go to either the NSC or the Texas Service Center (TSC). **The NSC and TSC are “sister centers”** that currently adjudicate all employment-based immigrant cases under a program called *bi-specialization*.

Form I-140 General Considerations



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- An approved Form I-140 establishes the **beneficiary's** underlying eligibility for employment-based immigrant visa classification.
- An I-140 does not require proof of admissibility. Any concerns about the **beneficiary's admissibility are addressed at the** visa interview at a consulate or embassy abroad, or upon adjudication of the adjustment of status application (Form I-485) .
- The approval of an I-140 does not in itself grant status to the beneficiary. Approval also does not affect the **beneficiary's** present status.
- Unless revoked, the approval of an I-140 is valid indefinitely. DOS or USCIS will examine the continuing validity of the I-140 employment relationship during consular processing or when reviewing the Form I-485 application.

Premium Processing



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- Premium processing is available for all I-140 categories except multinational executives and managers and the National Interest Waiver (Items c. and i. in Part 2 of Form I-140).
- To request premium processing, petitioners file Form I-907 and the filing fee (currently \$1,225) to receive a notice of action within 15 calendar days.
- You may file Form I-907 at the same time as Form I-140 or at any time while the Form I-140 is pending.
- Once USCIS accepts the Form I-907, a 15-day **“clock” begins**. This clock resets if USCIS issues a Request for Evidence (RFE) or Notice of Intent to Deny (NOID).

Employment-Based Form I-485



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Christian Carvalho, a senior **ISO in NSC's Employment-Based (EB) I-485** section, will now discuss Form I-360 and EB I-485s.

What is Adjustment of Status?



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Adjustment of status is a process that allows a person to become a lawful permanent resident (LPR) or **“green card” holder without leaving the United States**. Eligible applicants do not need to obtain an immigrant visa at a U.S. Consulate or Embassy.

- Many immigrant classifications, including asylees, refugees, family-based, employment-based (EB) and religious workers, are eligible to apply for adjustment.
- Applicants file with USCIS using Form I-485, Application to Register Permanent Residence or Adjust Status.
- EB adjustment is governed by section 245 of the Immigration and Nationality Act (INA).

Form I-360 Overview



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International Organization Employee or Family Member (G-4)

- Certain employees of certain international organizations and their family members may adjust their status from a G nonimmigrant to an immigrant.
- They may file Form I-360 separately or concurrently with Form I-485. The applicant must have an immigrant visa immediately available when he or she filed the adjustment of status application. Both I-360 and I-485 are only filed with the Nebraska Service Center (NSC).

Form I-360 Overview



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NATO-6

- Certain individuals who entered the United States in NATO-6 nonimmigrant status are eligible to apply for adjustment of status.
- This includes retired NATO-6 nonimmigrants and the spouses and children or deceased or retired NATO-6 nonimmigrants.
- They may file Form I-360 separately or concurrently with Form I-485. The applicant must have an immigrant visa immediately available when he or she filed the adjustment of status application. Both I-360 and I-485 are only filed with the NSC.

Form I-360 Overview



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International Broadcaster

- Certain individuals (and their spouse and children) who are coming to work in the United States as a broadcaster for the International Broadcasting Bureau of the Broadcasting Board of Governors (BBG) or for a grantee of the BBG may apply to adjust status to an LPR.
- USCIS must adjudicate the Form I-360 before they may file a Form I-485. NSC has sole jurisdiction over the I-360 and I-485 for international broadcasters.

Form I-360 Overview



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Religious Worker

- Certain individuals (and their spouse and children) who are coming to work full-time in the United States as a minister, or in a religious vocation or occupation, may apply to adjust status to LPR.
- The California Service Center (CSC) adjudicates these types of Form I-360.
- The CSC must approve the Form I-360 before the Form I-485 may be filed. The NSC and TSC adjudicates the Form I-485.

EB I-485 Overview



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- EB adjustment of status is a discretionary benefit based on the principal **applicant's intended** employment in the United States. Congress sets annual numeric limits on EB visas, which are further divided into preference categories (such as first, second and third preference workers).
- **A principal applicant's** spouse and unmarried children (under 21) are eligible for derivative EB immigrant status. If present in the United States, these derivatives may file their own Form I-485 applications:
 - At the same time as the principal applicant
 - While the **principal applicant's Form I-485** is still pending, or
 - After the principal applicant has become an LPR (if the relationship existed when **USCIS approved the principal applicant's Form I-485**).

EB I-485 Overview



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- Generally, USCIS must first approve your EB immigrant visa petition (Form I-140, I-360 or I-526) before you may apply for EB-based adjustment of status.
- In some instances (e.g., I-140 petitions in the first, second, and third preference categories), you may file the adjustment application *concurrently* with the EB immigrant visa petition or while the immigrant visa petition is still pending.
- The visa petition is usually filed by a U.S. employer, but in some cases the applicant may *self-petition*.

Who Applies for EB Adjustment?



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- Aliens of extraordinary ability (1st Preference)
- Outstanding professors or researchers (1st)
- Multinational executives or managers (1st)
- Advanced degree professionals or aliens of exceptional ability (2nd)
- Professionals, skilled and other workers (3rd, Other)
- Religious workers, G-4, NATO, and International Broadcasters (Special Immigrants)
- Immigrant investors/entrepreneurs (5th)

EB I-485 Filing Basics



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- Most EB I-485s are filed by mail with the USCIS lockbox facilities.
- Whenever possible, USCIS processes the principal applicant together with any dependents. USCIS must approve the **principal applicant's** I-485 first in order for dependents to be eligible for approval.

EB I-485 Filing Basics



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A visa must be available at the time of filing.

- The Department of State Visa Bulletin has a “Dates for Filing” chart and a “Final Action Dates” chart.
- USCIS may or may not choose to use the “Dates for Filing” chart when determining if a visa is available at the time of filing.
- USCIS will update its website at www.uscis.gov/visabulletininfo to show whether applicants may file under the “Dates for Filing” chart or the “Final Action Dates” chart.

What Should Applicants Send?



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- Form I-485 filing requirements are detailed in the Instructions to Form I-485.
- Applicants must complete all sections and blocks of all required forms.
- Applicants must submit the correct fee for the Form I-485 and biometrics (fingerprint) processing. Filing fees and mailing address are subject to changes. Fees also vary by age and adjustment program.
- It is best to consult the USCIS website (www.uscis.gov) for the most up-to-date forms, filing and fee information.

Required Documents for EB I-485



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- Proof of lawful admission to the United States and valid nonimmigrant status
- A government-issued photo identity document, such as a passport
- Supplement J (for principal applicants, if applicable)
- Form I-693, Report of Medical Examination and Vaccination Record, completed by a designated civil surgeon (not required at the time of filing)
- A copy of the receipt or approval notice for the **principal applicant's** Form I-140/360/526 immigrant visa petition.
- Applicants must provide documentary evidence of their birth and parentage.
- Dependents must submit proof of their relationship to the principal applicant (e.g., civilly-issued marriage, birth or adoption certificates)

Required Documents for EB I-485



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Discontinuation of Form G-325A, Biographic Information Sheet

USCIS released a revised version of Form I-485 on June 26, 2017. This form incorporates all the questions for the Form G-325A. Applicants using the 6/26/17 edition of the Form I-485 do not need to submit a Form G-325A with their Form I-485. Note that the 6/26/17 edition of Form I-485 must be used beginning August 25, 2017. Prior I-485 editions, which do require a properly completed and signed Form G-325A, will not be accepted as of that date.

Interim Benefits



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While waiting for a final decision on Form I-485, an applicant may file for certain interim benefits:

- An Employment Authorization Document (EAD), which allows the applicant to work in the United States. EADs may be valid for one or two years. Form I-765 is used to apply for an EAD.
- An Advance Parole or travel document, which allows applicants to depart the United States temporarily, without abandoning his or her application, while the Form I-485 is pending. Form I-131 is used to request advance parole documents.
- **“Combo Cards”** which combine an EAD and an advance parole document into a single document. More information on Forms I-765 and I-131, including the combo card, can be found at www.uscis.gov.

Background Checks & Adjudication



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- USCIS must complete mandatory background checks before adjudicating the case to determine if the applicant has any history of criminality or status violations that would render him or her inadmissible or ineligible for adjustment.
- An immigration services officer (ISO) reviews the Form I-485 and all supporting documents, verifies the results of the background checks, requests any missing or incomplete documentation, and ultimately determines eligibility.
- An ISO must also review the case for potential fraud indicators and National Security concerns. The ISO must ensure **the applicant's information in USCIS** electronic systems is accurate.

Approval of EB I-485



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- If the applicant meets all the requirements and an immigrant visa is available, USCIS may approve Form I-485.
- USCIS strives to maintain the publicly-posted processing times. However, our ability to make a final decision on an EB I-485 depends on whether a visa is available.
- Upon approval, the applicant is mailed a Permanent Resident Card (a Green Card). **The date of approval becomes the person's date of adjustment, which in turn determines how soon he or she may apply for U.S. citizenship.**
- Permanent Resident Cards are valid for 10 years. Prior to the expiration of the card, the applicant may file Form I-90, Application to Replace Permanent Resident Card.

Sources of Information



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- USCIS provides a great deal of information, forms and services online, by phone, and through various agency liaisons.
- The official USCIS website is www.uscis.gov.
- USCIS Customer Service toll free by phone is 1-800-375-5283. Automated menu options are available 24 hours a day, 7 days a week.
- Appointments for in-person assistance are available through USCIS InfoPass.

About this Presentation



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