

OVERVIEW OF MARRIAGE-BASED GREEN CARDS



MELTZER HELLRUNG
IMMIGRATION SOLUTIONS

OVERVIEW OF THE MARRIAGE-BASED GREEN CARD

U.S. citizens can sponsor spouses for green cards. Spouses of U.S. citizens are always immediately eligible for the green card, so both the Forms I-130 (Petition for Alien Relative) and I-485 (Application to Register Permanent Residence or Adjust Status) are typically filed together.

I-130/I-485 APPLICATION PROCESS OVERVIEW

1 Individual opens a case with Meltzer Hellrung



IN ORDER TO OPEN A CASE, WE NEED THE FOLLOWING INFORMATION:

- Name of U.S. citizen
- Name of spouse to receive green card
- Email address for spouse to receive green card

2 Meltzer Hellrung reaches out to the U.S. citizen or legal permanent resident sponsor and the relative to receive the green card to complete an online questionnaire and provide the required documentation



We will email the instructions to complete this step.

3 Review of documentation



Family-based green cards require evidence of a bona fide relationship. A bona fide relationship is one that is real and true, and not one for the purpose of circumventing immigration laws. For children and parents, this typically just requires a birth certificate. For spouses, additional evidence of the bona fide relationship is required, including photos, joint accounts, etc.

4 **Meltzer Hellrung drafts all necessary forms and letters to file the I-130/I-485 petition and forwards to U.S. citizen sponsor and green card applicant for review**



Meltzer Hellrung will prepare the relevant forms (Form I-130, I-485, I-864, I-944) for the filing. At this time, the individual may also file an I-131 application for travel authorization also known as advance parole (AP) and an I-765 application to request an employment authorization document (EAD). While we strongly recommend filing these applications for all applicants, these filings are particularly valuable for individuals in visa statuses other than H-1B and L-1, as they will not be able to travel outside the U.S. without advance parole otherwise.

Adjustment of status applicants must also complete Form I-944, Declaration of Self-Sufficiency in order to ensure that the applicant is not inadmissible based on public charge grounds. Applicants for adjustment are required to report certain information related to receiving public benefits and financial self-sufficiency. Adjustment of status applicants will need to demonstrate that they have not utilized the public programs for more than 12 months in the aggregate in the last 36 months, but the adjudicating officer will also be looking to determine if the applicant is likely to become a public charge in the future. Adjudicating officers will be looking at a totality of the circumstances to determine future likelihood of becoming a public charge, including age, health, assets, resources, financial status, education and skills, among others.

U.S. citizen sponsors are required to complete Form I-864, Affidavit of Support, to demonstrate they have adequate means of financial support and are not likely to rely on the U.S. government for financial support.

The applicant will review all the forms which were prepared by Meltzer Hellrung. The I-130 and I-485 forms contain extensive biographical information regarding employment history, address history, and membership in various groups which require the sponsor's and the applicant's review.

5 **Once all forms and letters have been finalized and all required documentation provided, Meltzer Hellrung will ship the completed petition to United States Citizenship and Immigration Services (USCIS)**



Once the sponsor and applicant approve the forms, Meltzer Hellrung will file the application with USCIS. Approximately 2 weeks after USCIS has received the filing USCIS will issue receipt notices in relation to the filing.

Thereafter, a biometric appointment will be scheduled roughly 6 weeks after we file the applications. The applicant will have his/her photo and fingerprints taken at this appointment.

6 USCIS review of the I-130/I-485 petition

Generally, USCIS takes several months to process I-130 petitions. Premium processing is not available for I-130 applications. Once filed, USCIS may not immediately approve a petition. USCIS may first issue a Request for Evidence (“RFE”). Should an RFE be issued, USCIS provides about three months to respond. If we receive an RFE, we will analyze the RFE and reach out to the respective parties with a list of documents needed. Once received, we will draft the response and submit to USCIS. Once submitted, USCIS typically issues a decision within 60–90 days.

The EAD and AP, if filed, will be issued within approximately 90–150 days. Applicants will be notified of approval by notice sent to Meltzer Hellrung and the applicant.



7 AOS Interview Scheduled

After biometrics have been taken, an interview notice will be issued. USCIS requests an interview with all applicants before approving an application. The applicant and U.S. citizen sponsor will have to attend an interview where they will be asked questions regarding the I-130 and the biographical information contained in the I-485. A phone call with your Meltzer Hellrung attorney can be scheduled to prepare for the interview.



8 Post interview outcomes

After the interview, the USCIS issues a green card and a welcome notice to the applicant within 30 days. Most marriage-based green cards are conditionally issued for a period of 2 years. The card itself is limited to a 2-year validity, but the permanent resident status does not expire. The green card holder will subsequently need to apply for the removal of conditions on Form I-751 in order to receive a green card which is valid for a full 10-year period.

A permanent resident married to a U.S. citizen is eligible to apply to become a U.S. citizen after 3 years of permanent residency.



I-130/I-485 APPLICATION DOCUMENT REQUEST OVERVIEW



DOCUMENTS TO BE PROVIDED BY SPONSOR:

- Proof of U.S. citizenship or legal permanent resident status — Passport, birth certificate, naturalization certificate, copy of green card, etc.
- Marriage license
- Divorce decrees or death certificates for prior marriages (if applicable)
- Evidence of income for affidavit of support
 - 3 most recent tax returns
 - Most recent W-2s
- 1 passport photo

DOCUMENTS TO BE PROVIDED BY SPONSORED RELATIVE:

- Proof of bona fide relationship
 - Joint financial accounts, such as bank statements, credit cards, 401(k), investments, etc.
 - Joint tax returns
 - Photos together including wedding, vacations, family celebrations, etc.
 - Mortgage/lease listing both individuals
 - Health insurance benefits
- Non-blank pages of passport
- Documentation of any previous U.S. immigration status (e.g. I-797 approval notices, electronic I-94 if already in the U.S., I-20s, DS-2019, etc.)
- Birth certificate with both parents' names listed
- 2 most recent paystubs (if available)
- Name change documentation (if applicable)
- Divorce decrees or death certificates for prior marriages (if applicable)
- Military record (if applicable)
- 6 passport photos
- Certified police and court records of all criminal charges, arrests, or convictions (regardless of whether found guilty or innocent)

I-130/I-485 APPLICATION DOCUMENT REQUEST OVERVIEW (CONT.)



DOCUMENTS TO BE PROVIDED BY SPONSORED RELATIVE (CONT.):

- Evidence of assets and resources:
 - Checking and savings account statements
 - Annuities
 - Stocks and bonds (cash value)/certificates of deposit
 - Retirement accounts
 - Net cash value of real estate holdings
 - Any other evidence of substantial asset that can be easily converted into cash within 12 months

- Credit report
 - You can obtain a free credit report once a year under the Fair Credit Reporting Act from each one of the three credit reporting agencies. You are only required to provide one credit report from any of the three nationwide credit reporting agencies — Equifax, Experian or TransUnion. See usa.gov/credit-reports for more information.

- Proof of health insurance
 - A copy of each policy page showing the terms and type of coverage and individuals covered, or
 - A letter on the company letterhead or other evidence from your health insurance company stating that you are currently enrolled in health insurance and providing terms and type of coverage
 - The latest Form 1095-B, Health Coverage; Form 1095-C Employer-Provided Health Insurance Offer and Coverage (if available) with evidence of renewal coverage for the current year. **Please note a health insurance card is insufficient without listing a current effective and expiration date.**