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A Lot More Financial Disclosures Required to Apply for U.S. Green Cards

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To implement its new standards for assessing whether someone is "likely to become a public charge," the U.S. government now requires gobs of intrusive data and documents from almost every green card applicant. New application forms require information and evidence about household members, income, assets, liabilities, tax returns, public benefits applied for or received, credit report and score, bankruptcy filings, health insurance, past immigration fee waivers, education and skills, retirement status, and dependent caregiving status.

From now on, all green card applications to U.S. Citizenship and Immigration Services (USCIS) must include new [Form I-944](#), and the State Department requires immigrant visa applicants to submit a similar new [Form DS-5540](#). The agencies estimate these forms take an extra 4.5 hours to complete, but those usually are underestimates. This is in addition to the [I-864 forms](#) required mainly in family sponsorship cases. A valid Affidavit of Support, especially from a joint sponsor not living in the applicant's household, might no longer be sufficient for approval. The applicant or household members may need to show savings, income, or investments sufficient to support the applicant or the entire household.

Even applicants for temporary visa status will be required to disclose if they have received certain kinds of public benefits during the preceding three years, through new versions of Forms I-129, I-539, and I-539A. Form I-944 and DS-5540 are not initially required for nonimmigrants, but officers can choose to require them if the applicant does not appear to be self-supporting for the period requested. For nonimmigrants, receipt of public benefits even in the past three years will be considered under the new rule, whereas for immigrants the new rule will only apply to benefits received after February 24, 2020.

We discussed in a [prior alert](#) the new "totality of circumstances" analysis for determining if someone is likely to become a public charge and certain exceptions. In essence, the adjudicator is to decide if the applicant is more likely than not to receive public benefits for 12 months out of a 36-month period. Borrowing from standards used in family sponsorship cases with Form I-864, under the new rules the green card applicant generally must show household income of at least 125 percent of the published poverty level for the household's size (100 percent for active duty military) or five times that amount of net assets or "resources." Any family-sponsored applicant who requires a joint sponsor not living in his "household" should take extra efforts to document why the joint sponsor truly is likely to provide the committed support. Medical conditions requiring expensive treatment will require even more showing of resources to cover the cost.

If someone is found inadmissible exclusively on this ground, the adjudicating agency in its discretion may set a cash, cash equivalent, or surety bond of at least \$8,100 to be put up by the applicant or other "obligor." Bonds have been legally possible for generations but practically unheard of before this rule. USCIS seems to plan to use them in borderline cases and the State Department tells consular officers to use them "sparingly," because "the filing of a bond would not serve any purpose if the needs of the applicant would easily overcome the value of the bond." The bond can be "canceled" (and refunded, if cash) through a fee-based process after five years or if the applicant naturalizes, dies, or permanently departs the U.S. surrendering green card status.