

The Gold Card Gamble: High Stakes for U.S. Residency

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The United States Citizenship and Immigration Service has released the brand-new form I-140G – the Immigrant Petition for the Gold Card Program. This form can be used by applicants who have previously registered on www.trumpcard.gov. The form also requires a \$15,000 filing fee per applicant. The USCIS also explains the “gift” requirement for the filing. Individuals filing an I-140G must provide a gift of \$1 million **per applicant**. The per-person rule is a significant increase in the program’s anticipated costs since its initial inception. While more details of the process have emerged, significant questions and concerns regarding the program remain.

What We Know About the Gold Card

The Gold Card offers a \$1 million payment to the United States in exchange for legal permanent residence. The 24-page I-140G form lays out the process for potential Gold Card applicants, including biographic information and the usual attestations regarding potential grounds of inadmissibility. The form includes entirely new sections on the applicant’s source of funds and net worth. The source-of-funds instructions lack the complexity of EB-5 applications and are likely to be subjected to additional screening. Further, the form includes a section for corporations to complete if they are the sponsoring entity. Lastly, the G140 form requires a potential recipient to indicate if they are seeking an immigrant visa under one of two categories: the first preference alien of extraordinary ability, or the second preference alien of exceptional ability seeking a National Interest Waiver (NIW). This path was outlined early as the proposed mechanism for gold card applications to be counted with annual immigrant visa limitations imposed by the Immigration and Nationality Act. The form and its instructions state that the entire process will be completed online with biometrics required for all applicants, even if abroad.

What We Don’t Know

While a form is now available, details are still lacking. Vague instructions regarding filing the case online after paying the substantial filing fee are provided, with no evidence that the online portal at MyUSCIS can actually process the cases. No timelines or processing details are provided. The Department of Homeland Security has indicated that proposed rulemaking for the employment-based immigrant petitions is scheduled for early 2026. It is possible that clarity and the creation of the regulatory framework for the gold card will be included.

Significant questions remain regarding the actual program. For example, is the program authorized under the Immigration and Nationality Act? That question is still up in the air. There are some major issues with the current proposed format, as the Executive order that created the program differs from the application process as described. In addition, the authority of the USCIS to create programs is limited by its mandate from Congress. This means that, without a change in the law (not regulation) new programs cannot be created that materially impinge on existing programs such as the EB-5 investment visa.

Given the major questions relating to the legal underpinning of the program, as well as the technical details of its processing, any potential applicant should consider whether to proceed very carefully. For example the stated “nonrefundable” filing fee of \$15,000 per applicant would be at risk, should the program be found in violation of the will of Congress, not to mention the gifted funds should an applicant progress that far. The examination of the potential risk for loss here is critical, especially when compared to existing programs such as the EB-5 investment visa, which also involves risks but provides for a repayment of investment funds to the intending immigrant.