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March 10, 2010

Mr. Stephen Tarragon, Deputy Chief,  
Regulatory Products Division,  
U.S. Citizenship and Immigration Services,  
Department of Homeland Security,  
111 Massachusetts Avenue, NW,  
Suite 3008  
Washington, D.C. 20529-2210

**Re: Information Collection Activities: Form I-129, Revision of an Existing Information Collection; Comment Request.** (*Federal Register*: February 8, 2010 (Volume 75, Number 25, pp. 6212-6213)) OMB Control Number 1615-0009.

Dear Mr. Tarragon:

These comments are made on behalf of the Center for Immigration Studies, Washington, D.C.. They are based on, among other things, our understanding of both the overall problems associated with the massive admissions of nonimmigrant workers at the time of a severe recession, some of the more specialized issues facing the USCIS users of this form (i.e., serious problems in the R-1 visa and the related permanent certification programs) and on my own background as a sometime designer of survey instruments.

We have thoughts to offer regarding items (1), the necessity of the information collection program, and (3), the clarity of the information to be collected.

We have nothing to say about items (2) and (4) regarding the alleged "burdens" of those employers who fill out these forms in the hopes that they can be excused, in essence, from participating in the American labor market. The minuscule paperwork "burden" on those employers is nothing compared to the very real economic and social damage that those employers do to resident workers by using the forms to bring in inexpensive, and largely unneeded, workers at a time when the unemployment rate is about 10%.

**(1) Evaluate whether the collection of information is necessary . . .**

The Form I-129 is used by would-be employers of nonimmigrant workers in several different visa programs, such as E-1, H-1B, and R-1. We understand that there is a desire for "streamlining" on the part of some of these employers, and that you will face a flood of well-

written documents by lawyers and lobbyists complaining about the amount of paperwork that the Department generates in these cases.

I would like you to consider the "burdens" arguments that you will be hearing in the light of two quite different points of view: one from those of us who worry about good jobs being taken by nonimmigrant workers when millions and millions of Americans are looking for work, and the other (coming to you second-hand) from a sophisticated lobbyist for the nation's largest users of H-1B programs.

We agree, for quite different reasons, that USCIS should not worry too much about asking too many questions of those who use these programs.

On the first point, my organization and many others worry that the nonimmigrant worker programs that are facilitated by the I-129 form are extremely detrimental to the millions of American workers who have displaced by, or whose wages have been reduced by, the presence of presumably millions of nonimmigrant workers.

To some extent those job losses are limited by some of the responses to the questions in the I-129, as the government seeks to screen out the least worthy of the applications. These questions, and more, should be asked of the would-be employers of nonimmigrant workers, and little attention should be paid to the corporations that complete the forms should they complain about the number of questions.

For these reasons the answer to the question is: yes, the collection of information is very necessary, and no, no part of this collection is a needless burden on the corporations using the forms.

The other point of view is that of Harris Miller, the highly skilled, longtime lobbyist for the H-1B users, and former counsel to the House of Representatives' immigration subcommittee; we have known each other for decades, and have disagreed with other, generally, on the utility of nonimmigrant worker programs.

Somewhere along the line the two of us were talking about the H-1B program, and documentary hurdles faced by would-be employers. His general reaction surprised me, and he said approximately "we need to make the application process complex and rigorous enough so that we can confine the program only to the really responsible employers."

This may have been an off-the-record comment, and I do not have it in writing, but it is a pro-big business point of view that is worth repeating, whoever first said it.

The bottom line, then, is that extensive data collection in connection with the granting of nonimmigrant visas is a good thing for the country.

### (3) Enhance the quality, utility . . . Suggested Revisions of Form I-129

These are the specific, line-by-line, suggestions we have regarding ways to improve the existing form I-129, Petition for a Nonimmigrant Worker.

#### P. 19, Q-1 and R-1 Classifications Supplement to Form I-129.

##### Question 1. c.

The response, leading to a blank to be filled in, now reads:

"Number of aliens holding special immigrant or nonimmigrant religious worker status currently employed or employed within the past five years"

**Suggestion:** this is an important question, as there have been many indications of inappropriate mass utilizations of these visas, as the reports of the USCIS IG, the GAO, and the Social Security Administration's IG have all indicated. (For a summary of these comments and the citations for the three reports see my blog "What Do You Do With a Visa Program With a Fraud Rate of 30-33%?" at: <http://www.cis.org/north/R1visa fraud> )

The problem with the current text is that it really asks two questions – "how many are employed now?" and "how many were employed over five years?" and forces the respondent to combine the answers in a single box. It might also give the respondent the choice of answering one of the questions, the one he or she prefers, instead of both.

Thus the single question should become two questions, with two boxes for the replies.

This will add virtually nothing to the time used to reply, and it may even save some time, as the suggested text is clear, while the current question is muddled.

#### P.24, Section 2 Religious Denomination Certification

**Suggestion:** the petitioning organization is identified as the "employing organization" near the top of the page and, apparently, identified as the "attesting organization" in three other places on the same page. My assumption is that these terms all relate to the same entity, the would-be employer of alien labor, and thus should be the same. I would suggest that "employing" be used in all four places.

Further, near the top of the page there is a blank space for "Name of Religious Denomination."

I would suggest that the text be changed to read: "Full name and postal address of the religious denomination to which the employing organization is affiliated."

The motivation for the suggestion is that this will encourage the would-be employers of alien workers to better identify the over-all organization, and this better identification might help the adjudicating officer. The possibility, indeed the probability, of a vague and/or misleading identification of the religious denomination is enhanced by the current wording.

Again, the additional data will be at the fingertips of the would-be employers of alien labor, and will take no time at all.

**Related Suggestion:** Data on approved and denied petition requests should be organized along religious denomination lines, so as to give the agency a better idea as to the likely location of problem, and no-problem applications. It is my understanding that this is not the current practice within the initial decision-making part of USCIS. I may be wrong about that.

It is known, however, that the Administrative Appeals Office, for some reason, blocks out the names of the would-be employers of alien workers when R-1 appeals come to its attention. Typically would-be employers of alien workers are identified by name in all other governmental record-keeping systems, as well they should be. If any entity wants to be excused from the U.S. labor market, as would-be R-1 employers do, they should be identified for all to see.

This better utilization, by USCIS, of the collected data will not add a minute to the form-completion time as that data is already being requested.

**Suggested Additional Requirement:** According to the three governmental reviews of the R-1 program cited earlier, one of the problems with the R-1 program is that non-religious entities seek to bring in alien labor when they have no right to do so. Apartments and accounting offices have been found to be the would-be R-1 employers in the past. To head off such applications, we make the following suggestions:

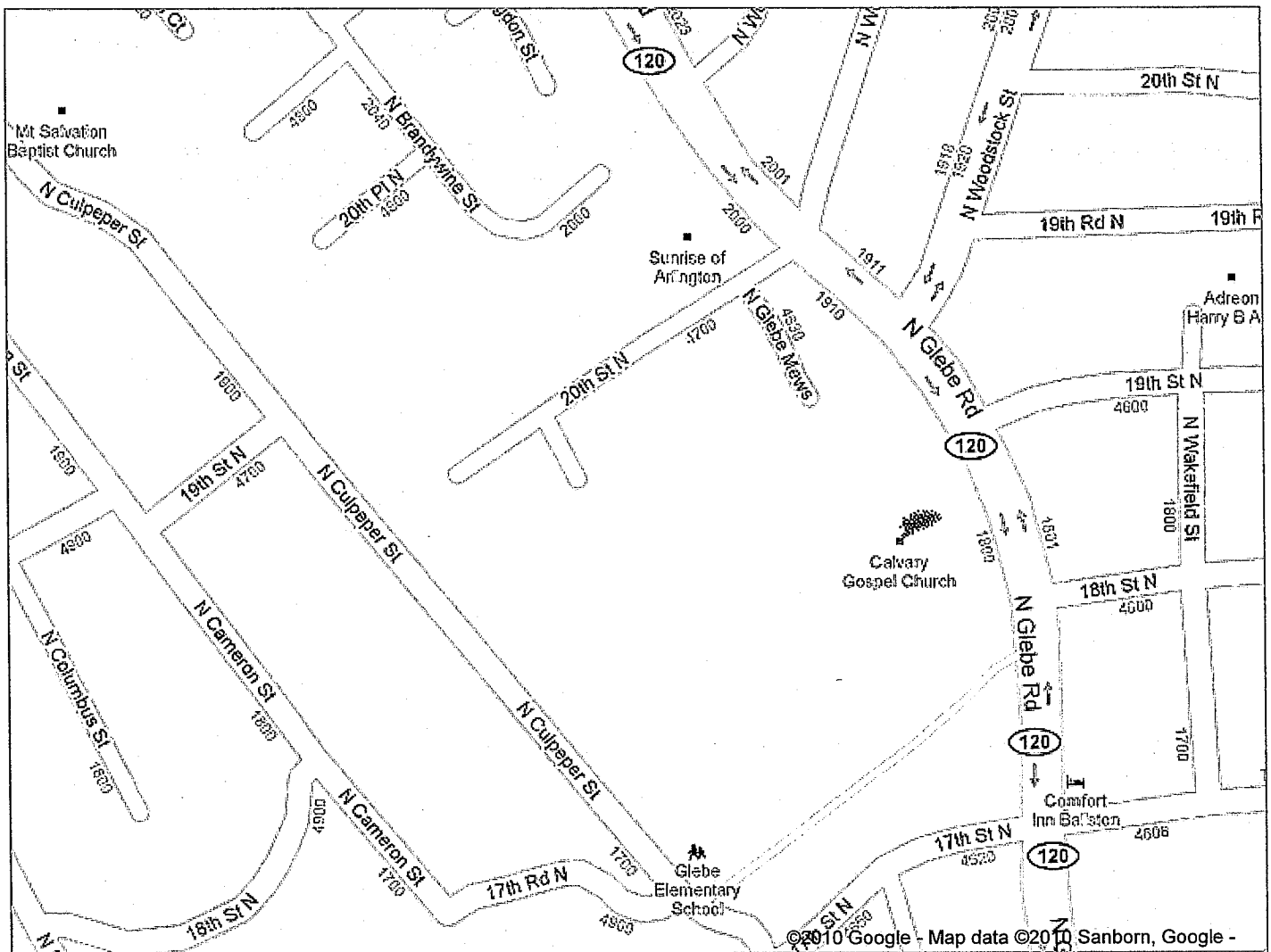
1. The would-be employers of R-1 labor would be asked to print out a Google map showing a detailed map of their immediate neighborhood, a map detailed enough to show either housing lots or street addresses. The map should be ordered from Google (and it would be free) by the street address of the would-be employer, and nothing else, just the street address.

To support this suggestion I chose the address of a church I know about (but have no relationship with) in Arlington, Virginia. I asked Google for a map by its address, 1800 North Glebe Rd., Arlington, Va. The print-out I received is attached. It shows, at the address cited, a little shadow (the exact location is a little more vividly marked on the computer.) In this case, the printout also shows both in the map, and in the title under the map, that the address is that of a church. (That church, I hasten to add, may or may not have anything to do with the R-1 program; I picked it at random to see what would happen when I plugged in an address that I knew to be the address of a local church.)

The text of the requirement for including the Google map, would include a passage like this: "USCIS requires the map to facilitate, should it be needed, a site visit by USCIS officials."

Google maps

To see all the details that are visible on the screen, use the "Print" link next to the map.

[Get Directions](#) [My Maps](#)
[Print](#) [Send](#) [Link](#)


[Christian Calvary Church](#) - addresses.com - Christian Calvary Church Get Phone, Address, Directions, Web Washington, VA

#### A. Calvary Gospel Church

1800 North Glebe Road, Arlington, VA -  
(703) 525-1233

[Report a problem](#)

The general idea is that this additional requirement would help discourage non-church applicants from applying. It is also submitted in response to the *Federal Register's* request for suggestions regarding "the use of ... electronic.. technology."

This requirement would add a minute or two to the time needed to fill out the application, as Google maps are omnipresent. Perhaps a really, really clever electronic hacker could get inside the Google system, and manipulate a map to show a church where none really existed, but I think this is very unlikely.

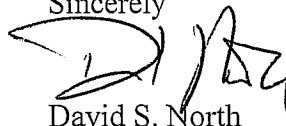
2. Would-be employers of R-1 workers would be required to submit a photograph of the outside of the structure at their address, with the suggestion in the form that: "the photograph should show either the street number of the would-be employer, or if that is not available, a street sign."

Unlike the Google requirement, and the others made above, this bit of additional data would add some time to the completion of the form – useful in my estimate, but an acknowledged time expenditure.

With the photo and the map, if both indicated the existence of what looks to the viewer (and to Google) like a church, the question of its credentials would be all but solved, in its favor. If either or both looked non-churchly, then more investigation on this point would be needed.

The inclusion of both, or perhaps the map alone, would in the case of clearly legitimate churches save a little time for the adjudicating officer, and that is important.

Sincerely

A handwritten signature in black ink, appearing to read 'David S. North', with a stylized, cursive flourish extending to the right.

David S. North

cc: Mark Krikorian, Director, Center for Immigration Studies

*These suggestions are being submitted by David S. North, a fellow of the Center for Immigration Studies, 1522 K Street, NW, Washington, D.C. 20005-1202; phone: (202) 466-8076. Mr. North can be reached at (703) 241 1724, or <[snrascal@yahoo.com](mailto:snrascal@yahoo.com)>. A long time researcher in the field of immigration policy, who has written extensively about nonimmigrant worker programs, he is a former Assistant to the Secretary, U.S. Department of Labor.*

(An additional copy of this material is attached should it be useful.)