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Comment

the entire premise of this program i;s to let familiee lie and promise support for immigrants who do not belong here and then the lhey lie and never support the immigrant at all. it is best to deport both the lying families and the immigrants they lie about. none of them should be allowed into the usa to become charges for american citizens to support with higher taxes. we have hundreds of trillions of dollars of debt paying for these leaches from foreign contries. none of them should be here. they have no idea of living under laws. they just flout and ccommit crimes and rob stores and murder americans. deport them all. shut the borders. puit birden in jail.

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July 5, 2024

Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Policy and Strategy
Regulatory Coordination Division
5900 Capital Gateway Dr.
Camp Springs, MD 20588-0009

Attn: Samantha L. Deshommes,
Chief, Regulatory Coordination Division

Submitted via www.regulations.gov
DHS Docket No. USCIS- 2007-0029

Re: OMB Control Number: 1615–0075
Revision of a Currently Approved Collection: Form I-864, Affidavit of Support
Under Section 213A of the INA.

Dear Ms. Deshommes:

The American Immigration Lawyers Association (AILA) submits the following comment in connection with the proposed revision of a currently approved information collection on Form I-864, Affidavit of Support, published in the Federal Register on June 5, 2024.¹

AILA is a voluntary bar association of almost 17,000 attorneys and law professors practicing, researching, and teaching in the field of immigration and nationality law. Our mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. We appreciate the opportunity to provide comments to USCIS relating to Form I-864 as we believe that our collective expertise and experience make us particularly well-qualified to offer views that will benefit the public and the government.

Initially, we would like to commend USCIS for its efforts to simplify Form I-864 as it appears that the proposed changes to the form should make it easier to complete. It should be noted, however, that the proposed version of Form I-864 will lengthen the form, from ten to twelve pages, which would seem in conflict with the overarching paperwork reduction goals of the administration.

¹ 89 FR 48184 (June 5, 2024).

Nevertheless, we appreciate that many of the non-substantive changes to the form appear designed to improve simplicity and make the form easier for *pro se* applicants to understand.

We do have reservations about one proposed revision to the Preparer Section of Form I-864. Specifically, the current version of Form I-864 provides attorneys with the opportunity to specifically limit the scope of representation:

Preparer's Statement

- 7.a. ☐ I am not an attorney or accredited representative but have prepared this affidavit on behalf of the sponsor and with the sponsor's consent.
- 7.b. ☐ I am an attorney or accredited representative and my representation of the sponsor in this case
☐ extends ☐ does not extend beyond the preparation of this affidavit.

NOTE: If you are an attorney or accredited representative, you may be obliged to submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, or G-28I, Notice of Entry of Appearance as Attorney In Matters Outside the Geographical Confines of the United States, with this affidavit.

The proposed version does not include the important clarifying information in item #7.b.. Rather, the only similar explanatory reference is included in the proposed instructions for Form I-864 at page #10:

If the person who helped you prepare your affidavit is an attorney or accredited representative, and his or her representation extends beyond preparation of this affidavit, he or she may be obliged to also submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative or G-28I, Notice of Entry of Appearance as Attorney In Matters Outside the Geographical Confines of the United States, along with your affidavit.

AILA believes that the existing question is important and should be retained as it provides critical information delineating the attorney's scope of representation and does so at a conspicuous location on the form that is obvious to applicants, sponsors and USCIS. Removing the question from the form and relegating the explanatory information to the instructions increases the likelihood of confusion between and among the parties with respect to the attorney's role and responsibilities in the overall immigration process. We also believe the wording of the language in the existing form and proposed instructions creates ambiguity with respect to requirement of an attorney-preparer to submit a Form G-28 when representation is limited to the Form I-1864.

We also wish to provide suggestions on the following issues:

1. To alleviate potential confusion with respect to the calculation of household size, we recommend the language on the form after item #1 of Part #5, which states, “Persons NOT sponsored in this affidavit” should be rephrased to state, “Persons NOT counted at item #1 of this Part and NOT sponsored in this affidavit;” We believe this language should further reduce the occurrence of situations in which a family member is double counted in the calculation of household size;
2. Correspondingly, we suggest that item #3 of Part #5 include the following language, “Leave blank or insert “0” if you are submitting this affidavit on behalf of your spouse.”
3. At Part #3, question #2 of Form I-864, we believe the question should ask for the principal immigrants current mailing address, rather than the sponsor’s current mailing address, which was previously requested at Part 2;
4. At Part #4, Questions #2 and 3, we believe it would more consistent and clearer if these questions solicited an express Yes or No answer.

Conclusion

We urge USCIS to continue to review the content and clarity of its forms and we support efforts by USCIS to redesign and re-engineer important forms like Form I-864 in order to make the information collection document simpler, and easier for all parties to understand. We also continue to encourage USCIS to look for ways to shorten the length of its forms in order to make them more accessible for all applicants, including those submitting them *pro se*.

We appreciate the opportunity to comment on the proposed revisions to Form I-864 and look forward to a continuing dialogue with USCIS on its form revision efforts.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION



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July 3, 2024

Submitted online to: www.regulations.gov

Samantha Deshommes, Chief
United States Citizenship and Immigration Services (USCIS)
Office of Policy and Strategy
Regulatory Coordination Division

RE: Information Collections **OMB Control Number 1615-0075, Docket ID USCIS-2007-0029;**
Agency Information Collection: Revision of 864, 864A and 864 EZ

Dear USCIS,

The Immigrant Legal Resource Center (ILRC) submits the following comment in response to the Department of Homeland Security's (DHS), USCIS, Docket ID USCIS-2007-0029; Agency Information Collection: Revision of 864, 864A and 864 EZ. This concerns the revision of the I-864, I-864A, and I-864 EZ, as well as the discontinuation of the I-864W.

The notice appears here: [Federal Register Notice: Agency Information Collection Activities; Revision of a Currently Approved Collection: I-864, Affidavit of Support Under Section 213A of the INA; I-864A, Contract Between Sponsor and Household Member; I-864EZ, Affidavit of Support Under Section 213A of the INA](#) .

The ILRC is a national non-profit organization that provides legal trainings, educational materials, and advocacy to advance immigrant rights. The ILRC's mission is to work with and educate immigrants, community organizations, and the legal sector to continue to build a democratic society that values diversity and the rights of all people. Since its inception in 1979, the ILRC has provided technical assistance on hundreds of thousands of immigration law issues, trained thousands of advocates, and pro bono attorneys annually on immigration law, distributed thousands of practitioner guides, provided expertise to immigrant-led advocacy efforts across the country, and supported hundreds of immigration legal non-profit organizations in building their capacity.

Through our extensive networks with service providers, immigration practitioners and immigration benefits applicants, we have developed a profound understanding of the barriers faced by low-income immigrants of color seeking to obtain immigration benefits. The policies and forms that USCIS develops to define public charge are of great concern to this group of immigrants. The recommendations that follow are gleaned from the experiences of many low-income immigrants who we and our partners serve.

- 1. We oppose the elimination of the I-864W because it will unduly burden applicants by creating processing problems. It will also burden the government with unclear adjudication standards for USCIS and U.S. Department of State adjudicators.**

Our first comment concerns the proposal to eliminate the I-864W, the form currently used by applicants who are eligible for an exemption from the I-864 requirement. We understand that USCIS is revising its benefits applications to include a question on whether an applicant is exempt from public charge that the agency believes will preempt the need for an I-864W.

However, this will not help applicants who are consular processing for an immigrant visa abroad. At the stage where applicants need to process through the National Visa Center (NVC), they must provide an affidavit of support in most family-based immigrant visa cases. Consular processing is delayed or indefinitely stymied where applicants don't provide an I-864 or a clear exemption such as in form I-864 W. For example, in the case of persons who have 40 quarters of Social Security earnings that provide them with an exemption, having a separate form I-864W to claim an exemption is useful. The I-864W signals clearly to applicants and adjudicators how the processing of an application should proceed. Eliminating the I-864W will create unnecessary delays as the application is likely to be returned to applicant for additional documentation where it is unclear to adjudicators that an exemption applies.

The current I-864W has five pages of helpful instructions about who qualifies for an exemption and what an applicant must demonstrate to qualify for the exemption.¹ This information will not be provided to applicants who are checking a box on a benefits application indicating that they are exempt, and thus applicants are less likely to provide the government with the information needed to support the exemption.

There was an effort to eliminate the I-864W under a prior public charge rule. From the experience of the low-income immigrant applicants, this caused considerable confusion with NVC as applicants who believed they had an exemption received repeated requests to provide an affidavit of support.

Even though benefits applications such as the I-485 will be revised so that the applicant can indicate exemption from the affidavit of support requirement, it is useful to have an I-864W to clearly delineate that the exemption is claimed and that the necessary supporting evidence is described to applicant. Our information from the field is that with all requests at USCIS, having a separate form for such a request simplifies the process. When there is no form for a particular request, such as is the case with humanitarian reinstatement², practitioners report that such requests disappear in the agency and are impossible to trace. Having a specific form for a request is practical and eases adjudications. The adjudication of the I-485 involves a multitude of other issues, and it is best to separate out the question of exemption from the affidavit of support by having a separate form expressly for that purpose. For consular processing applicants, it is essential to have the I-864W to document that the exemption has been claimed and granted.

¹ I-864W Instructions, <https://www.uscis.gov/sites/default/files/document/forms/i-864winstr.pdf>.

² USCIS, Humanitarian Reinstatement, <https://www.uscis.gov/green-card/humanitarian-reinstatement>.

2. We oppose the extra-regulatory language in Forms I-864, I-864A and I-864EZ instructions regarding biometric appointments.

The three forms published for revision all contain language in their instructions that impose a requirement on sponsors or household members that is not supported by the statute or regulations. Neither the law nor the regulations require biometrics including fingerprints and photographs, nor the conducting of background checks, including criminal history checks with the FBI for those executing an affidavit of support as a sponsor or contributing household member. While the instructions state that USCIS may impose these requirements, it is without any basis in law. Furthermore, such language in these forms is intimidating and discourages people from signing these forms who might otherwise qualify to do so. We propose eliminating these instructions on biometrics from the I-864, I-864A, and I-864 EZ because they are irrelevant and ultra vires.

The section we would like to see eliminated from the instructions are the paragraphs under the title “Biometric Services Appointment.”

3. Detailed comments on the Instructions and Forms

In addition, we have reviewed the forms and instructions line by line and have the following comments:

I-864 Instructions

(1)

Please replace the offensive and xenophobic word “alien” wherever possible with “noncitizen.”

(2)

p. 2

3. Self-petitioning widows or widowers who have an approved Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant; and

4. Self-petitioning battered spouses and children who have an approved Form I-360 (VAWA self-petitioners)

COMMENT: This section should make clear that those widows/widowers/battered spouses and children who are concurrently filing for adjustment of status do not need to file I-864s. We recommend this language instead: “3. Self-petitioning widows or widowers who are concurrently filing for adjustment of status or who have a Form I-360 (whether the I-360 is filed with the adjustment or is already approved), Petition for Amerasian, Widow(er), or Special Immigrant; and 4. Self-petitioning battered spouses and children who are concurrently filing an application for adjustment of status or who have a Form I-360 (VAWA self-petitioners) do not need to submit an I-864 with their adjustment application.”

(3)

p. 5

Signature:

“If you are under 14 years of age, your parent or legal guardian may sign the affidavit on your behalf.”

COMMENT: A 14-year-old would not need to sign an affidavit of support and would not be competent to do so. Fourteen-year-olds cannot file visa petitions for anyone, and as a U visa petitioner, VAWA self-petitioner or SIJS self-petitioner, no I-864 is required. By definition, a sponsor must be at least 18 years old. We propose eliminating this sentence.

(4)

p. 5

Validity of signatures:

COMMENT: We thank USCIS for allowing copies, faxes or scans of signatures. This is a huge step forward and is much appreciated. Thank you for including it in the instructions update.

(5)

p. 5

Biometric Services Appointment. USCIS may **require you to appear** for an interview or provide **biometrics (fingerprints, photograph, and/or signature)** at any time to verify your identity, obtain additional information, and conduct background and security checks, including a check of criminal history records maintained by the Federal Bureau of Investigation (FBI), before making a decision on your **application or petition**. **If we determine that a biometric services appointment is necessary, we will send you an appointment notice with the date, time, and location of your appointment.** **If you are currently overseas, your notice will** instruct you to contact a U.S. Embassy, U.S. Consulate, or USCIS office outside the United States to **schedule** an appointment.

At your biometrics appointment, you must sign an oath reaffirming that:

1. You provided or authorized all information in the affidavit;
2. You reviewed and understood all of the information contained in, and submitted with, your affidavit; and
3. All of this information was complete, true, and correct at the time of filing.

If you do not attend your biometric services appointment, we may deny your affidavit.

COMMENT: As stated above, this whole section should be deleted. It is ultra vires to the statute and the regulations. It discourages potential sponsors who are otherwise eligible to sign the affidavit.

(6)

p. 6

How to Complete Form I-864

1. Type or print legibly in black ink.
2. If you need extra space to complete any item within this affidavit, use the space provided in **Part 11. Additional Information** or attach a separate sheet of **paper**. **Type** or print your name and Alien Registration Number (A-Number) (if any) at the top of each sheet; indicate the **Page Number, Part Number, and Item Number** to which your answer refers; and sign and date each sheet.
3. Answer all questions fully and accurately. If a question does not apply to you (for example, if you have never been married and the question asks "Provide the name of your current spouse"), type or print **"N/A"** unless otherwise directed. If your answer to a question which requires a numeric response is zero or none (for example, "How many children do you have" or "How many times have you departed the United States"), type or print **"None"** unless otherwise directed.

COMMENT:

We are concerned that a requirement in the instructions to type or print "N/A" or "None" will result in inappropriately rejected forms. From practitioner experience, this type of inappropriate rejection occurred during the prior administration on a series of forms including I-589 applications for asylum, causing significant additional burdens for USCIS examiners and applicants.

We suggest amending this to the following language:

3. Answer all questions fully and accurately. If a question does not apply to you (for example, if you have never been married and the question asks "Provide the name of your current spouse"), **we recommend that you** type or print

“N/A” unless otherwise directed. If your answer to a question which requires a numeric response is zero or none (for example, “How many children do you have” or “How many times have you departed the United States”), **we recommend that you** type or print “None” unless otherwise directed. **However, your form will not be rejected for failure to type or print “N/A” or “none” in every blank space.**

(7)

p. 8

Item Number 9. Immigration Status.

1. Proof of U.S. citizen or U.S. national status includes a copy of your birth certificate, certificate of naturalization, certificate of citizenship, consular report of birth abroad to U.S. citizen parents, or a copy of the biographic data page of your U.S. passport.
2. Proof of lawful permanent resident status includes a photocopy of both sides of the Permanent Resident Card or Alien Registration Receipt Card (Form I-551), or a photocopy of an unexpired temporary Form I-551 stamp in either a foreign passport or DHS Form I-94 Arrival-Departure **Record**

COMMENT:

We suggest that the following language should be added at the end of #2 above:

“or a copy of an I-751 receipt notice extending lawful permanent residence status.”

We believe this change is needed because some conditional lawful permanent residents will only have that proof of continued lawful residence status, particularly as it can take 2 years or more for a joint petition or waiver to remove conditions to be adjudicated. Current processing times for the I-751 are as much as 33 months in some USCIS service centers, see <https://egov.uscis.gov/processing-times/>.

(8)

p. 8

Item Number 11. Sponsor’s USCIS Online Account Number (if any). **Providing the sponsor’s unique USCIS Online Account Number (OAN) helps them manage their online account. You have an Online Account Number if you previously filed an application, petition, or request online or by mail and received a receipt number that begins with IOE. If you filed a form online, you can find your OAN in your USCIS Online Account profile. If you mailed your form, we still created an OAN for you. You can find the number at the top of the USCIS Account Access Notice we sent you. The OAN is not the same as an A-Number. If you do not have a receipt number beginning with IOE, you do not have an OAN.**

AND

Item Number 6. USCIS Online Account Number (if any). **Providing the Principal Immigrant’s unique USCIS Online Account Number (OAN) helps them manage their online account. They have an Online Account Number if they previously filed an application, petition, or request online or by mail and received a receipt number that begins with IOE. If they filed a form online, they can find their OAN in their USCIS Online Account profile. If they mailed their form, we still created an OAN for them. They can find the number at the top of the USCIS Account Access Notice we sent. The OAN is not the same as an A-Number. If they do not have a receipt number beginning with IOE, you do not have an OAN.**

COMMENT:

We suggest that an OAN clearly be made optional. Language should be added to “(if any),” for example “(if any/optional)” for both these items. There are many ongoing glitches in the USCIS Online Account profile. Until the glitches are fully resolved, it must be made clear that providing such numbers is optional, regardless of whether

USCIS has assigned an OAN or not. (Some practitioners have had numerous OANs assigned, for example, and some cases do not show up even if an OAN was indicated).

(9)

p. 9

Part 4. Information About the Immigrants You Are Sponsoring

Item Number 1. Indicate whether you are sponsoring the principal immigrant listed in **Part 3.** of Form I-864. Select “No” if you are sponsoring only intending immigrants listed in **Part 4., Item Numbers 4. - 7.** and (if applicable) in **Part 11. Additional Information,** and not the principal immigrant listed in **Part 3.** **This only applies if you are sponsoring family members in Part 4. and Part 11. Additional Information, as the second joint sponsor.**

COMMENT:

This is confusing. We suggest the following wording instead, with the “Select “No” as a separate line:

Part 4. Information About the Immigrants You Are Sponsoring

Item Number 1. Indicate “Yes” if you are sponsoring the principal immigrant listed in **Part 3.** of Form I-864. Select “No” if you are sponsoring only intending immigrants listed in **Part 4., Item Numbers 4. - 7. who are family members of the principal immigrant** and (if **more space is needed**) **are listed** in **Part 11. Additional Information,** but you are **not** sponsoring the principal immigrant listed in **Part 3.** This only applies if you are sponsoring certain family members **of the principal immigrant** in **Part 4.** and **Part 11. Additional Information,** as the second joint sponsor.

(10)

p. 9, Part 5.

Item Number 1. Enter the total number of immigrants you are sponsoring on this affidavit from **Part 3.,** any immigrants listed in **Part 4., Item Numbers 4. - 7.** and (if applicable), any immigrants listed for these questions in **Part 11.**

Additional Information. Do not count the principal immigrant if you are only sponsoring family members entering more than 6 months after the principal immigrant

COMMENT:

We suggest the following language would be better to clarify who to list where:

Item Number 1. Enter the total number of immigrants you are sponsoring on this affidavit from **Part 3.,** any immigrants who are family members of the principal immigrant you are also sponsoring that are listed in **Part 4., Item Numbers 4. - 7.** and (if applicable), any additional immigrants listed for these questions in **Part 11.**

Additional Information. Do not count the principal immigrant if you are only sponsoring family members entering more than 6 months after the principal immigrant

(11)

p. 9

Item Number 4. Type or print the number of unmarried children you have who are under 21 years of age, even if you do not have legal custody of these children. You may exclude any unmarried children under 21 years of age, if these children have reached majority under the law of their place of domicile and you do not claim them as dependents on your Federal income tax returns.

COMMENT:

Only “dependent children” are required to be listed. If a sponsor does not have legal custody of their minor children, nor is required to pay child support (for example, where the other spouse has significantly higher income or a marital dissolution agreement has allocated all dependent child support to the spouse with custody), and these children are not tax dependents of the sponsor, then the sponsor should not count them as “dependent children.”

We suggest adding this language at the end: “You may also exclude any unmarried children who are under 21 years of age if you have no legal responsibility to provide child support, due to a court order or other legal agreement, and the children are not listed on your taxes as dependents.”

(12)

p. 9

Item Number 5. Type or print the number of any other dependents. You must include each and every person whom you have claimed as a dependent on your most recent Federal income tax return, even if that person is not related to you. Even if you are not legally obligated to support that person, you must include the person if, in fact, you did support that person and claimed the person as a dependent.

COMMENT:

For clarity, please add “on your tax return” to last line “and claimed the person as a dependent **on your tax return.**”

(13)

Pg. 9

Item Number 6. Type or print the number of lawful permanent residents whom you are currently obligated to support based on your previous submission of Form I-864 as a petitioning, substitute, or joint sponsor, or Form I-864EZ, Affidavit of Support Under Section 213A of the INA, as a petitioning sponsor. Include only those persons who have already immigrated to the United States. Do not include anyone for whom your obligation to support has ended through the sponsored immigrant’s acquisition of U.S. citizenship, death, abandonment of lawful permanent residence in the United States, acquisition of 40 quarters of earned or credited work in the United States, or obtaining a new grant of adjustment of status while in removal proceedings based on a new affidavit of support, if one is required.

COMMENT:

Though this has been mentioned earlier, it is worth repeating at the end of this part of the instructions since this is often a point of confusion.

We suggest adding at the end:

“Do not count anyone you are currently obligated to support twice, for example if you petitioned for your spouse or dependent children and have already counted them in Item Numbers 3 and/or 4, do not count them again here.”

(14)

p. 10

Item Number 7. **You may include** certain other non-dependent relatives who are living in your residence as part of your household size. Such relatives may include your mother, father, sister, brother or adult children, if they are living in your residence. However, the only reason to include these relatives in your household size is if you need to include their income when you calculate your household income for purposes of meeting the income requirement for this affidavit. To be considered, any relative included in this category must sign and submit Form I-864A,

Contract Between Sponsor and Household Member. Type or print “0” (zero) if you have no non-dependent relatives who are living in your residence that can be counted as part of your household size.

COMMENT:

We suggest that you change the last line to “that you want to be counted as part of your household size.” The current statement “that can be counted” is confusing, as there may be non-dependent relatives who “can” be counted, but the sponsor does not want or need them to be counted.

(15)

p. 10. Part 6.

Item Number 7. Current Individual Annual Income. Type or print your current, individual, earned or retirement, annual income that you are using to meet the requirements of this affidavit and indicate the total in the space provided. You may include evidence supporting your claim about your expected income for the current year if you believe that submitting this evidence will help you establish the ability to maintain sufficient income. You are not required to submit this evidence, however, unless specifically instructed to do so by a U.S. Government official. For example, you may include a recent letter from your employer, showing your employer’s address and telephone number, and indicating your annual salary. You may also provide pay stubs showing your income for the previous six months. If your claimed income includes alimony, child support, dividend or interest income, or income from any other source, you may also include evidence of that income.

COMMENT:

We recommend adding at the end of the above paragraph: “However, you may not use means-tested public benefits as income for purposes of meeting the income requirement.” This is noted below on page 15 but could easily be missed there. Worth noting here as well, as this question does come up from time to time.

(16)

p. 11

NOTE: Do not leave the boxes for **Item Number 16.** blank. Type or print the most recent tax year and your total income for that most recent tax year. If the amount was zero, type or print “zero” or if you were not required to file a Federal income tax return type or print “N/A” for not applicable.

COMMENT:

Since the instructions already make clear that a tax transcript or return from the most recent tax year is the only one required, this wording is confusing. It seems to indicate that ALL the boxes for the most recent AND the prior two years be filled out. This section should clarify that only the most recent tax year return must be included.

(17)

p. 12

Example of How to Use Assets: If you are petitioning for a parent and the poverty line for your household size is \$22,062 and your current income is \$18,062, the difference between your current income and the poverty line is \$4,000. In order for assets to help you qualify, the combination of your assets, plus the assets of any household member who is signing Form I-864A, plus any available assets of the sponsored immigrant, would have to equal five times this difference (5 x \$4,000). In this case, you would meet the income requirements if the net value of the assets equaled at least \$20,000.

COMMENT:

We appreciate USCIS including this very helpful example.

(18)

p. 16

Address Change

If you are a sponsor and are not a U.S. citizen, you must notify USCIS of your new address within 10 days of moving from your previous residence. To do this, you must complete and file Form I-865, Sponsor's Change of Address. For information on filing Form I-865, go to our website at <https://www.uscis.gov/i-865> or call the USCIS Contact Center.

COMMENT:

We appreciate the clarification that only non-USC sponsors must submit a change of address to USCIS. The I-864 form should also be amended to reflect this.

(19)

p. 17

NOTE: Do not submit a change of address request to the USCIS Lockbox. For information on reporting a change of address to DOS, see www.travel.state.gov.

COMMENT:

This instruction is confusing. It is unclear when a change of address needs to be made to Department of State with regard to an affidavit of support. This also would be irrelevant, as an affidavit of support would not become effective unless and until the beneficiary of the I-864 enters the U.S. as an immigrant, and then the change of address would be made to USCIS.

(20)

p. 17

Requests for Interview. We may request that you appear at a USCIS office for an interview based on your affidavit. During your interview, USCIS may require you to provide your fingerprints, photograph, and/or signature to verify your identity and/or update background and security checks

COMMENT:

Again, as in the earlier comment, requirements of biometrics are not relevant to eligibility as a sponsor and are ultra vires. This second sentence of this paragraph should be eliminated.

(21)

p. 17

If you fail to provide notice of your change of address, as required by 8 U.S.C. 1183a(d) and 8 CFR 213a.3, you may be liable for the civil penalty established by 8 U.S.C. 1183a(d)(2). The amount of the civil penalty will depend on whether you failed to provide this notice because you were aware that the immigrants you sponsored had received Federal, state, or local means-tested public benefits. If the failure to report your change of address occurs with knowledge that the sponsored immigrant received means tested public benefits (other than benefits described in section 401(b), 403(c)(2), or 411(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which are summarized in **Part 8. Sponsor's Contract, Contact Information, Certification, and Signature** of Form I-864)

such failure may result in a fine of not less than \$2,000 or more than \$5,000. Otherwise, the failure to report your change of address may result in a fine not less than \$250 or more than \$2,000.

COMMENT:

Since it is indicated previously that a change of address form is only required from a non-USC sponsor, this should be indicated here as well. For example. “If you are not a U.S. citizen, and you fail to provide notice....” and in the second paragraph “If you are not a U.S. citizen, and if the failure to report your change of address occurs....”.

I-864A instructions

Same as I-864 regarding:

- (1) Signatories/sponsors under age 14
- (2) Validity of signatures
- (3) Biometrics requirements of sponsors/I-864A signatories (pages 3 & 7)
- (4) Requirement to put “N/A” or “none” in any blank space
- (5) OAN account number
- (6) Claimed person as dependent – add “on tax return”
- (7) Income from means-tested benefits cannot be counted (add to clarify on page 4, in Part 3, Item #7)
- (8) Clarify that address changes do not apply to USC sponsors (under Penalties) – under “Address Change” it is fine.

I-864EZ instructions comments:

Same as I-864 and I-864A regarding:

- (1) Signatories/sponsors under age 14
- (2) Validity of signatures
- (3) Biometrics requirements of sponsors/I-864A signatories (pages 3 & 7)
- (4) Requirement to put “N/A” or “none” in any blank space
- (5) OAN account number
- (6) Claimed person as dependent – add “on tax return”
- (7) Clarify that address changes do not apply to USC sponsors (under Penalties) – under “Address Change” it is fine.

I-864 form comments:

(1)

p. 3

COMMENT:

Part 4, #2. Says “(Do not include any relative listed on a separate visa petition).” However, DOS for consular processing does not require separate visa petitions for children in all circumstances.

(2)

p. 5

Part 5, #5

COMMENT:

For clarity and consistency with the definition of “dependent” provided in the instructions, please amend to: “If you have any other **tax** dependents, enter the number here.”

(3)

p. 6, after #11

COMMENT:

It would be helpful to add the same note here as at the end of pg. 4:

“If you need additional space, use the space provided in Part 11, Additional Information.”

(4)

p. 8

Under “What Does Signing Form I-864 Require Me To Do?”

COMMENT:

Add the word “additional” to the following statement under “A.” to clarify that sponsors do not necessarily need to always provide support to the intending immigrant after they become a permanent resident – that it is only necessary if the immigrant is not maintaining themselves or being otherwise maintained at 125 percent of the poverty guidelines. Otherwise, this part is confusing and appears to require all sponsors to provide all support to the intending immigrant always, regardless of the financial situation of the immigrant and their own household.

We suggest that the following language would be clearer:

“Provide the intending immigrant any additional support necessary...”

Under B. Clarify that this only applies to non-U.S. citizens:

“If you are not a U.S. citizen, notify U.S. Citizenship and Immigration Services....”

(5)

p. 8

Last line:

COMMENT:

To be consistent with the instructions, suggest amending to “If you are not a U.S. citizen, and you do not file a properly completed I-865....”

(6)

p. 9

“NOTE: Select the box for either Item A. or B. in Item Number 1....”

COMMENT

This sentence should be moved to UNDER “Sponsor’s Statement” as that is what the note refers to.

(7)

p. 10

Under “Interpreter’s Certification and Signature”

COMMENT: Delete a “that” in the line “I certify, under penalty of perjury that: that I am fluent”

(8)

p. 12.

Part 9. Additional Information

COMMENT:

This should be “Part 11” not Part 9.

I-864A form comments

p. 2, Part 2, Item 3

COMMENT:

For clarity, add “Tax” between “Other” and “Dependent” e.g. “Other Tax Dependent”

p. 2, Part 3, line 5

COMMENT:

“retired from” is not necessary, is inconsistent with same line on form I-864 and is confusing.

Delete “from” and delete the box on that line. Move up the box immediately below.

We suggest this language:

“Retired Since (mm/dd/yyyy)”

p. 3, Part 5, Sponsor’s Promise:

COMMENT:

The purpose of the box at the **end** of the first statement beginning “I, THE SPONSOR” is unclear and should be deleted.

p. 5, Part 6 “Promise to provide” line, should, as suggested for the I-864, include the word “additional” – “Promise to provide any and all **additional** financial support necessary” for same reason as outlined for I-864.

We have no comments on the I-864EZ form.

Thank you for your consideration of our comments.

Sincerely,

Peggy Gleason

Senior Staff Attorney

Immigrant Legal Resource Center

600 14th Street NW, 502

Washington, DC 20001



Submitted via Regulations.gov

Samantha Deshommes
Chief, Regulatory Coordination Division
Office of Policy and Strategy
United States Citizenship and Immigration Services
5900 Capital Gateway Drive
Camp Springs, MD 20746

RE: OMB Control Number 1615-0075, Docket ID USCIS-2007-0029; Public Comment in Response to the Revision of Forms I-864, I-864A, I-864EZ.

Dear Chief Deshommes,

The Catholic Legal Immigration Network, Inc (CLINIC),¹ submits these comments connection with the proposed changes to Form I-864, Affidavit of Support under Section 213A of the INA, and Instructions for Form I-864, Affidavit of Support under Section 213A of the INA.

Embracing the Gospel value of welcoming the stranger, CLINIC has promoted the dignity and protected the rights of immigrants in partnership with a dedicated network of Catholic and community legal immigration programs since its founding in 1988. CLINIC's network, originally comprised of 17 programs, has now increased to more than 430 diocesan and community-based programs in 48 states and the District of Columbia. CLINIC is the largest nationwide network of nonprofit immigration programs. Through its affiliates, CLINIC advocates for the just and humane treatment of noncitizens by providing legal services to low-income immigrants and creating and disseminating educational materials for their local communities. CLINIC's affiliates regularly assist clients with family-based immigration, a benefit that will be affected by the proposed changes to Form I-864 and its Instructions.

I. SPECIFIC CONCERNS REGARDING THE PROPOSED CHANGES

a. CLINIC Recommends the Following Adjustments to the Proposed Changes to the Form I-864:

CLINIC recommends the following adjustments:

¹ Charles Wheeler, Senior Attorney/Director Emeritus & Carolina Rivera, Federal Advocate & Liaison Attorney authored these comments. The authors would like to thank Nubia Torres, Director of Network Services, Karen Sullivan, Director of Advocacy, Jennifer Riddle, Director of Training and Technical Assistance, and Val Christian, Programs Assistant for their contributions to this comment.

1. On **Part 1, page 1**, the proposed Form current language states: “**NOTE:** If you are filing this form as a sponsor, you must include proof of your U.S. citizenship, U.S. national status, or lawful permanent resident status.”

CLINIC proposes deleting the conditional language: “if you are filing this form as a sponsor...” Everyone completing Form I-864 is a sponsor, so there is no need to include that language. It would be more accurate to state it the following way: “**NOTE:** As a sponsor you must include proof of your U.S. citizenship, U.S. national status, or lawful permanent resident status.”

2. On **Part 7, page 7, item 10** the proposed language states as follows: “Add together **Item Numbers 4., 5.b., and 9.** And enter the number here.” CLINIC proposes deleting **5.b.** since there is no Item Number 5.b. The proposed text should read: “Add together **Item Numbers 4., 5., and 9.** And enter the number here.”

3. On **Part 8, page 8**, the proposed language states: “**Note:** Select the box for either **Item A. or B.** in **Item Number 1.** If applicable, select the box for Item Number 2.

Sponsor’s Statement.” CLINIC proposes a change in where the language is placed. The position of the proposed language is incorrect; it precedes the section ***Sponsor’s Statement***” when it should follow it. Otherwise, as currently positioned, it pertains to the preceding section titled “**When Will These Obligations End?**” Proposed Change:

“Sponsor’s Statement

Note: Select the box for either **Item A. or B.** in **Item Number 1.** If applicable, select the box for Item Number 2.”

4. On **Part 11, page 12**, the proposed language states: “**Part 9. Additional Information**”; it should read “**Part 11. Additional Information.**”

b. CLINIC Recommends the Following Adjustments to the Proposed Changes to the Instructions for Affidavit of Support Under Section 213A of the INA:

CLINIC recommends the following adjustments:

1. On **Page 2. Who needs to Submit Form I-864?** The proposed language states: “**5. Accompanying a Principal Intending Immigrant**

Intending immigrants accompanying a principal intending immigrant must submit clear and true photocopies of any relevant Form I-864(s) and attachments filed on behalf of the principal intending immigrant.”

Accompanying derivatives need to submit a copy of the I-864 but not the attachments filed by the principal intending immigrant. See 8 CFR § 213a.2(g)(1). This issue is also dealt with on page 16, Do I Need to Submit a Separate Affidavit for Each Family Member? But in that section, the documentation requirement is stated correctly: “If you are sponsoring such dependents, you only need to provide a photocopy of the original Form I-864, as long as these dependents are immigrating at the same time as the principal immigrant or within six months of the time he or she immigrates to the United States. You do not need to provide copies of the supporting documents for each of the photocopied Form I-864s.”

As such, CLINIC proposes the following change:

“5. Accompanying a Principal Intending Immigrant

Intending immigrants accompanying a principal intending immigrant must submit clear and true photocopies of any relevant Form I-864(s) but do not have to submit copies of attachments filed on behalf of the principal intending immigrant.”

II. CONCLUSION

CLINIC, while supporting most of the proposed changes to the Forms I-864, Affidavit of Support Under Section 213A of the INA; I-864A, Contract Between Sponsor and Household Member; I-864EZ, Affidavit of Support Under Section 213A of the INA, urges the USCIS to consider the proposed changes detailed above. CLINIC applauds the efforts of the administration to improve the language and correct certain ambiguities or errors in the current version of the form. These changes will assist legal services organizations that directly serve noncitizens filing these applications.

Thank you for your consideration of these comments. Please do not hesitate to contact Karen Sullivan, Director of Advocacy, at [REDACTED] with any questions or concerns about our recommendations.

Sincerely,

A handwritten signature in blue ink that reads "Anna Gallagher". The signature is fluid and cursive, with the first name "Anna" and last name "Gallagher" clearly distinguishable.

Anna Gallagher
Executive Director