



Submitted via email to: USCISFRComment@uscis.dhs.gov

December 14, 2015

Ms. Laura Dawkins
Chief, Regulatory Coordination Division, Office of Policy and Strategy
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
20 Massachusetts Avenue, N.W.
Washington, D.C. 20529-2140

**RE: Agency Information Collection Activities: Petition for Alien Relative (Form I-130);
Docket ID USCIS-2007-0037**

Dear Chief Dawkins:

The Catholic Legal Immigration Network, Inc. (CLINIC) respectfully submits the following comments related to proposed changes to Form I-130, new Form I-130A, and Form I-130 and Form I-130A Instructions. CLINIC supports a national network of community-based legal immigration services programs. This network includes over 275 programs operating out of 350 offices in 46 states, as well as Puerto Rico and the District of Columbia. Ninety percent of CLINIC's affiliates offer family-based immigration, naturalization and citizenship, and Deferred Action for Childhood Arrivals (DACA).

U.S. immigration policy reflects the importance of family reunification. Of the 990,553 foreign nationals admitted to the United States in FY2013 as lawful permanent residents (LPRs), 649,763, or 66 percent, were admitted on the basis of family ties.¹ Similarly, the sanctity of the family is a dominant element of Catholic social teaching and a high priority of the Catholic Church. Accordingly, CLINIC supports immigration policies and procedures that promote and facilitate family unity and welcome changes to forms and petition process that assist families access these important immigration benefits. To this end, CLINIC and our affiliated programs work to identify and address issues that families face when seeking to remain together or reunify in the U.S. CLINIC offers an extensive collection of family-based residency resources for service providers, including in-person and remote trainings, and topic-specific materials.

I. General Comments

We appreciate the opportunity to provide feedback on the proposed changes to Form I-130, new Form I-130A, and Form I-130 and I-130A Instructions. We understand that the United States Citizenship and Immigration Services (USCIS) is in the process of revising its forms in order to

¹ U.S. Congressional Research Service. U.S. Family-based Immigration Policy (R43145; Nov. 19, 2014), by William A. Kande. <https://fas.org/sgp/crs/homesecc/R43145.pdf> (last accessed Dec. 11, 2015).

expand availability of on-line filings and to improve overall clarity and consistency.² The modernization and streamlining of our immigration system is an endeavor that CLINIC supports. We recognize USCIS' challenge of changing forms from a table format (such as Form G-325A) to a two-column format, with individual data fields. However, we note that the related challenge for the practitioner and petitioner completing the forms is the ability to understand the specific data that is required. For this reason, we hope USCIS keeps clarity and user accessibility in mind during the future construction and implementation of such forms.

We encourage the Service to consider offering public and stakeholder engagements when a proposed form revision involves substantial changes. For example, significant changes in form length, the amount and type of data collected, and change in the underlying process. All of these factors are present in the proposed form revision at hand. Most notably, the proposed changes to Form I-130 and new Form I-130A would amount to a large increase in pages.³ Further, the proposed form solicits the collection of highly private, biographic data from the U.S. citizen or LPR including the petitioner's ethnicity, race, height, weight, eye and hair color. Finally, the proposed Form I-130 includes a highly notable change in process that appears to require a petitioner to appear for biometrics (fingerprint, signature, and digital photo) collection at an Application Support Center. Each of these changes are significant in their own right, and we believe would be best clarified through engagement. CLINIC feels further USCIS engagement would help to explain and clarify the changes in these forms. Finally, we also urge USCIS to engage with stakeholders as the implementation of these forms is being considered.

As stated in the White House Report, "Modernizing and Streamlining the U.S. Immigrant Visa System for the 21st Century," the Administration's top priorities are: redesigning systems with an eye towards a human perspective and accessibility for users; and creating clearer, plain language instructions. We applaud these goals. Our review of the proposed forms and the comments we present below are provided with these important objectives in mind.

A. Specific Recommendations Regarding Form Length

As we noted in the N-400, CLINIC is concerned about the continuing trend of longer forms, particularly through the collection of private data that does not appear to have adjudicatory value. CLINIC objects to requests for data and information that is not directly relevant to determining eligibility for the benefit sought. Further, CLINIC objects to lengthy and repetitive certifications and acknowledgements that may not be relevant and required for a particular case. Our specific recommendations regarding these certifications are noted in the tables below. As a general recommendation, we suggest USCIS consider making: (1) any information that is not required of all petitioners/applicants conditional; (2) certifications and attestations supplemental.

² In July 2015, following the President's Executive Actions of November 2014, the Administration set forth a detailed plan of action "Modernizing and Streamlining the U.S. Immigrant Visa System for the 21st Century." https://www.whitehouse.gov/sites/default/files/docs/final_visa_modernization_report1.pdf (last accessed Dec. 10, 2015).

³ This assumes that G-325A will be eliminated. If Form G-325A is still required, the pages of forms increase to 21 pages. In the case of a Petitioner with representation, the four-page Form G-28 would increase the number of pages to 25.

Although it is not stated in the Federal Register Notice⁴ or the related supplemental materials found at the regulations.gov website⁵, it appears that USCIS plans to eliminate the use of Form G-325A, Biographic Information, by way of offering the revised Form I-130 and new Form I-130A. The one-page Form G-324A is a current requirement when filing a Petition for Alien Relative based upon a marital relationship. The proposed changes would mean a two-page form (I-130) expanding to thirteen pages. The increase in the form's length adds significant preparation time that is unduly burdensome, particularly for petitioners who would not be required to complete Form G-325A. CLINIC is concerned that the change in form length may have the unintended effect of deterring applicants from applying for family-based benefits that are critical to reunifying and maintaining family unity.

II. Specific Feedback on Form I-130

Part of Form I-130	Heading or Question	Comment
Part 1	Question 2	<p>The question provides five choices. The question indicates the petitioning parent or child is to select only one, when more than one may apply. Specifically, a child could be born to parents who are not married and be legitimated before 18 years of age. Also, the term "legitimated" is a term that is not broadly understood by lay persons. As presented, this could be confusing to petitioners and could result in mistakes occurring in the attempt to select the correct box. CLINIC recommends eliminating the choice <i>Child was legitimated before age 18</i> and adding a note or cue referring the Petitioner to the instructions on what documentation is needed to prove the specific family relationship on pages 6-8.</p> <p>Alternatively, if the "legitimated" choice remains on the form, we suggest a cue or definition for "legitimated" on the form as well as additional detail in form instructions.</p> <p>Lastly, CLINIC recommends providing definitions of the child-parent relationship in the instructions under "How to Fill Out Form I-130," page 3. There are explanations in this section for other questions to provide clarity. The addition of these definitions will assist the petitioner in selecting the correct relationship and reduce the risk of error.</p>
Part 2	Main heading, "Information About You (Petitioner)"	CLINIC supports the revision of this heading, as it helps clarify that the questions below pertain to the Petitioner.
Part 2	Address History	CLINIC opposes the collection of information that is not necessary for the adjudication of a petition. The Petitioner's prior five-year address history is only relevant and typically collected in cases of spouse sponsorship. Requiring this information in non-spousal cases places undue burden on Petitioners. We recommend making this question conditional.

⁴ Federal Register Volume 80, Number 198 (Wednesday, October 14, 2015).

⁵ <http://www.regulations.gov/#!docketDetail;D=USCIS-2007-0037> (last accessed Dec. 10, 2015).

Part of Form I-130	Heading or Question	Comment
Part 2	Marital History, Place of Current Marriage, Names of All Your Spouses	CLINIC recommends changing the “separated” option to “legally separated” to avoid confusion and to aid in the collection of more accurate data that is relevant to the petition adjudication. The term “separated” is subjective and does not accurately reflect a marital status. CLINIC opposes the collection of information that is not required for the adjudication of a petition. The Petitioner’s marital information is not relevant if he or she is sponsoring a brother, sister, or parent. We recommend making this question conditional.
Part 2	Information About Your Parents	CLINIC opposes the collection of information that is not required for the adjudication of a petition. The Petitioner’s parental information is not relevant to an application for a child. We recommend making this question conditional.
Part 2	Question 38	The current version of Form I-130 at Part B, question 14 is worded, “If you are a lawful permanent resident alien, complete the following: Date and place of admission for or adjustment to lawful permanent residence and class of admission.” CLINIC recommends rewording the three parts to this question to clarify that it also applies to individuals who have adjusted their status to lawful permanent residence. We also recommend a cue for applicants who may not understand how to complete “class of admission.”
Part 2	Employment History, Questions 40-47	CLINIC opposes the collection of information that is not required for the adjudication of a petition. The Petitioner’s employment history for the past five years is only relevant and typically collected in cases of spouse sponsorship. Requiring this information in non-spousal cases places undue burden on petitioners. We recommend making this question conditional.
Part 3	Biographic Information, Questions 1 – 6	CLINIC opposes the collection of information that is not required for the adjudication of a petition. We recommend redacting this section.
Part 4	Information about Beneficiary, Question 11	This question asks the Petitioner if <i>anyone</i> has <i>ever</i> filed a petition for the beneficiary. This information may not be known to the beneficiary, let alone the Petitioner. Parents and siblings often file petitions for their relatives, knowing that the wait for a visa number may be decades long. Such petitions are often forgotten over a period of years. In combination with the Petitioner’s statement requiring certification, under penalty of perjury, that the response to this question is correct, this places an unfair burden on a Petitioner whose spouse may have been the beneficiary of a past petition. The Service is in the best position to have this type of information. CLINIC contemplates that Petitioners and Beneficiaries would first have to file a FOIA request to review the Beneficiary’s immigration history prior to proceeding with an immigrant petition. This could be extremely burdensome and time consuming for all parties involved.
Part 6	Petitioner’s Statement, Contact Information, Acknowledgment of	CLINIC recommends redacting. The implementation process for this section is currently unknown, but it appears that USCIS would require the Petitioner to appear for biometrics collection and to verify the accuracy of their application, again, during

Part of Form I-130	Heading or Question	Comment
	Appointment at USCIS Application Support Center, Certification, and Signature.	biometrics collection. If this is the case, this is a process that has not been required of Petitioners in the past. This requirement would confuse the roles of DHS employees and contractors at the Application Support Center (ASC) with adjudicating officers. Additionally, there appears to be no mechanism by which a Petitioner, while attending such an appointment, may actually review and submit updated information, correct typographical errors, or otherwise revise data on the petition. Finally, the Acknowledgement of Appointment appears to require the Petitioner engage a practitioner or representative, who will review and explain the ASC acknowledgement. CLINIC is concerned that this may imply that a practitioner or representative may be required to attend the ASC appointment with their client, which would be highly unlikely and tremendously burdensome.
Part 7	Interpreter's Certification	Only a portion of individuals who petition for their family members will require the assistance of an interpreter. CLINIC recommends that it be included as a supplement. CLINIC urges USCIS to re-evaluate these statements, certifications, and acknowledgements and replace them with more concise language that is less cumbersome and easier to understand.
Part 8	Contact Information, Statement, Certification, and Signature of the Person Preparing this Petition, If other Than the Petitioner	<p>As stated above, CLINIC opposes the integration of any conditional certification or acknowledgements in the form and recommends that they be included as a supplement or addendum. We understand that the USCIS has agreed to use plainer, simpler language as in Form I-140.⁶ We recommend the use of the following language instead.</p> <p>Preparer's Declaration from Form I-140:</p> <p><i>I declare that I prepared this petition at the request of the petitioner, that it is based on all of the information of which I have knowledge, and that the information is true to the best of my knowledge.</i></p>

III. Specific Feedback on Form I-130A

Form I-130A, Supplemental Information for Spouse Beneficiary is a new form that would be required of all spousal beneficiaries. Its stated purpose is to collect additional information for a spouse beneficiary of a Form I-130, Petition for Alien Relative. We understand that if the beneficiary resides outside of the U.S., they are required to complete the form but not required to sign it. It is not clear whether USCIS intends to eliminate the use of Form G-325A, replacing it with Form I-130A.

⁶ American Immigration Lawyers Association (AILA), AILA - USCIS HQ Liaison Notes. <http://www.aila.org/publications/videos/quicktakes/quicktake-145-uscis-headquarters-liaison-update> (last accessed Dec. 11, 2015).

CLINIC would oppose the use of both Forms, as the data is duplicative. Our specific comments and suggestions about this form are below listed.

Question, Page	Section or Language	Comment
Part 1	Address History	The proposed form solicits Physical Address 1 and then Physical Address 2, which could interpreted by others that the individual should provide two physical addresses. We recommend adding a simple statement on the form indicating that the petitioner should list addresses held for the past five years starting with the current address.
Part 4	Spouse Beneficiary's Statement, Contact Information, Certification, and Signature, NOTE	The note in this section refers to Form I-130A Instructions. There are currently no such separate Instructions. As we understand, there is only one set of Instructions that is for Form I-130 and Form I-130A. We recommend changing the language to, "Read the information on penalties in the Penalties section of the Form I-130 and I-130A Instructions before completing this part."
Part 4	Spouse Beneficiary's Statement, Contact Information, Certification, and Signature. Spouse Beneficiary's Signature	In the box below > Start Here on page 1 of Form I-130A, the last statement says, "If you reside overseas, you still must complete Form I-130A, but you do not need to sign the form." At this section of the form, the signature appears to be required. Further, the following Note indicates, "if you do not completely fill out this form or fail to submit required documents listed in the Instructions, USCIS may deny the Form I-130 filed on your behalf." We recommend a clarifying statement at or above Question 6.a. that reiterates that a signature is not required for the beneficiary abroad.
Part 4	Spouse Beneficiary's Statement, Contact Information, Certification, and Signature. Preparer's Certification	CLINIC opposes the integration of any conditional certification or acknowledgements in the form and recommends that they be included as a supplement or addendum. We understand that the USCIS has agreed to use plainer, simpler language as in Form I-140. ⁷ We recommend the use of the following language instead. Preparer's Declaration from Form I-140: <i>I declare that I prepared this petition at the request of the petitioner, that it is based on all of the information of which I have knowledge, and that the information is true to the best of my knowledge.</i>

IV. Specific Feedback on Form I-130 and Form I-130A Instructions

CLINIC acknowledges how important instructions to applicants and practitioners form. Further, they serve as the basis for developing training materials for adjudicating officers. We offer the following comments and suggestions with that perspective in mind.

⁷ AILA - USCIS HQ Liaison Notes. <http://www.aila.org/publications/videos/quicktakes/quicktake-145-uscis-headquarters-liaison-update> (last accessed Dec. 11, 2015).

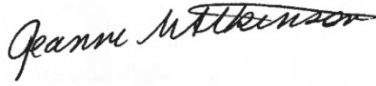
Instruction Page	Section or Language	Comment
Page 1	Who May File Form I-130? Note #1	CLINIC supports the additional instructions regarding Form I-130A, particularly the notice that spouses overseas do not have to sign the form.
Page 1	Who May File Form I-130? Note #1	<p>As indicated above, CLINIC recommends a cue to Petitioners on Form I-130 that they should carefully consider the definitions of these terms as they make their selection. We recommend that the form instructions include definitions in simply terms, with reference to legal citations, as necessary. We propose the following:</p> <p>Child was born to parents who were married to each other at the time of the child's birth. Biological child of parents in valid marriage at the time of child's birth.</p> <p>Stepchild/Stepparent. Parent relationship created by valid marriage between biological parent and stepparent before child reaches 18 years of age.</p> <p>Child was legitimated before 18 years of age. Child born outside a valid marriage BUT legitimated under the law of the child's residence or domicile or under the law of the father's residence of domicile, before the child reaches 18 years of age. Legitimation places the child in the same legal position as a child born in wedlock. The law of a state or foreign country may recognize various forms of legitimation. The most widely recognized form of legitimation is the subsequent marriage of the child's parents after the child's birth.</p> <p>Child was born to parents who were not married to each other at the time of the child's birth. Child born outside a valid marriage and NOT legitimated under the law of the child's residence or domicile or under the law of the father's residence of domicile, before the child reaches 18 years of age. Includes relationship to biological mother or biological father if the father has or had a bona fide parent-child relationship with the child before the child reaches (ed) 21 years of age.</p> <p>Child was adopted (not an Orphan or Hague Convention adoptee). Child legally adopted while under 16 years of age (or under age of 18 if biological sibling adopted under age 16) and who is in the legal custody of, and has resided with the adoptive parent for at least two years before or after the adoption. This definition does not include children who meet the definition of an Orphan or must comply with rules under the Hague Convention.</p>
Page 1	Who May File Form I-130? Note #2	CLINIC supports the proposed changes, as it includes simpler language to help clarify that a petition for an F2B beneficiary will automatically be denied or revoked if the beneficiary marries.
Page 1	Who May File Form I-130? Note #3	CLINIC supports the proposed change clarifying that U.S. national petitioners should indicate that they are LPRs on the Form I-130.
Page 1	Who May File Form I-130? Note 4 & 5	<p>Proposed changes attempt to clarify who can be considered a derivative beneficiary and that separate petitions are not required for derivatives.</p> <p>Paragraph 4 does not state that it refers to a USC Petitioner while paragraph 5 states that it refers to a LPR Petitioner. If the two separate paragraphs are retained they should be consistent with each other.</p>

Instruction Page	Section or Language	Comment
		Alternatively, paragraphs 4 & 5 could be consolidated since some information listed in the section is repetitive. It may be simpler to list all categories that may have derivative beneficiaries (“If your relative qualifies under Items 1.C., 1.D., 1.E, 2.A., 2.B., or 2.C. above, you are not required to file separate petitions…”).
Page 1	Who May File Form I-130? Note 6	<p>The language does not refer to the correct paragraphs describing derivative beneficiaries. Language stating that derivatives may apply for an immigrant visa “along with your relative” is unclear. Greater clarification on this would be helpful.</p> <p>Recommended language: The derivative beneficiaries described in Items 4 and 5 above can apply for an immigrant visa along with the principal beneficiary. The derivative beneficiary can be included on the same Form I-130 and you do not need to file a separate petition.</p>
Page 2	Who May Not File Form I-130	<p>CLINIC recommends adding a category in this section to warn Petitioners against filing an I-130 if they have adopted a child, or plan to adopt a child from a Hague Convention country and inform Petitioners that they must follow the Hague process. We also suggest a link to the State Department’s webpage to help individuals identify Hague Convention countries.</p> <p>Recommended language:</p> <p><i>An adoptive parent or prospective adoptive parent of a child from one of the Hague Convention countries who must comply with specific requirements under the law. For a list of Convention countries, please visit the Department of State’s adoption webpage.</i></p>
Page 2	General Instructions, Biometrics Service Fee; Biometrics Service Appointment; Acknowledgement of Appointment at USCIS Application Support Center	It is unclear whether the proposed language will result in procedural changes at ASCs, requiring a Petitioner to affirm the contents of the Form I-130. The proposed Instructions indicate that a Petitioner may be required to attend a biometrics appointment. We suggest clarifying in the Instruction that the affirmation should only be signed if the Petitioner is called for biometrics.
Page 3	How to Fill Out Form I-130, # 5	CLINIC opposes the collection of information that is not required for the adjudication of a petition.
Page 4	How to Fill Out Form I-130, #6	<p>As stated above, CLINIC opposes the integration of any conditional certification or acknowledgements in the form and recommends that they be included as a supplement or addendum. The instruction refers to the Acknowledgement of Appointment at ASC on the Form I-130 part 6, but does not provide any context for the new requirement.</p> <p>CLINIC recommends clarifying in the instructions that the petitioner should fill in name in the Part 6 ASC certification. Petitioner may receive a biometrics appointment. If so, USCIS will ask the petitioner to sign the following certification.</p>

Conclusion

Thank you for your consideration of these comments. We appreciate and encourage continued dialogue and engagement with USCIS on this issue, particularly as USCIS implements the new versions of the forms. Please do not hesitate to contact me at 301-565-4829 or jatkinson@cliniclegal.org, with any questions or concerns about our recommendations.

Sincerely,

A handwritten signature in black ink, reading "Jeanne M. Atkinson". The signature is written in a cursive, flowing style.

Jeanne M. Atkinson
Executive Director