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Electronically Submitted to via [Regulations.gov](http://www.regulations.gov)

November 23, 2015

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, NW
Washington, DC 20529-2140

RE: Agency Information Collection Activities: Application to Replace Permanent Resident Card, Form I-90; Revision of a Currently Approved Collection (November 9, 2015); Docket No. USCIS-2009-0002

Dear Chief Dawkins:

The Immigrant Legal Resource Center (ILRC) submits the following comment in response to the notice of revisions made to Form I-90 and Form I-90 Instructions. Founded in 1979, ILRC is a national resource center that provides training, consultations, publications, and advocacy support to individuals and groups assisting low-income persons with immigration matters. ILRC works with a broad array of individuals, agencies, and institutions, including immigration attorneys and advocates, criminal defense attorneys, civil rights advocates, social workers, law enforcement, judges, and local and state elected officials.

ILRC is uniquely qualified to provide comments regarding the proposed regulations in light of its extensive training of practitioners and community outreach regarding the lawful permanent resident (LPR) process. This extensive technical knowledge includes regular trainings and seminars¹ and its publications *Naturalization and U.S. Citizenship: The Essential Legal Guide*,² *Families & Immigration: A Practical Guide*,³ and *Remedies and Strategies for Permanent Resident Clients*.⁴ ILRC provides technical assistance on hundreds of LPR issues every year to immigration practitioners throughout the United States.

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¹ *Recorded Webinars*, IMMIGRANT LEGAL RESOURCE CENTER (Last accessed Nov. 19, 2015) <http://www.ilrc.org/trainings-webinars/recorded-webinars>.

² ILRC Staff Attorneys, *NATURALIZATION AND U.S. CITIZENSHIP: THE ESSENTIAL LEGAL GUIDE* (Immigrant Legal Resource Center) (13th ed. 2014).

³ Lourdes Martinez et. al, *FAMILIES & IMMIGRATION: A PRACTICAL GUIDE* (Immigrant Legal Resource Center) (4th ed. 2014).

⁴ Nora Privitera et. al, *REMEDIES AND STRATEGIES FOR PERMANENT RESIDENT CLIENTS* (Immigrant Legal Resource Center) (2nd ed. 2011).

Additionally, ILRC leads the New Americans Campaign (NAC), a collaborative comprised of over a hundred local, state, and national organizations that work to expand access to naturalization. Much of ILRC's advocacy on LPR issues stems from the unique perspective of preparing and assisting LPRs naturalize. We submit these comments⁵ In light of the explicit goal enumerated by the White House Task Force on New Americans (Task Force) to increase the rate of naturalization and encourage USCIS to use all avenues to align its forms and instructions with the Task Force's findings.⁶

I. COMMENTS ON FORM I-90 INSTRUCTIONS

1. Page 1. What Is the Purpose of This Application? Make the following changes:

"Upon receipt of your properly filed Forms I-797 . . . permanent resident status.

NOTE: You may be able to apply for naturalization if you are at least 18 years of age and have been a lawful permanent resident of the United States:

1. For at least five years;

2. For at least three years during which you have been, and continue to be, married to and living in a marriage relationship with your U.S. citizen husband or wife; or

3. Have honorable service in the U.S. military.

For more information on eligibility to naturalize, visit USCIS's website at:
<http://www.uscis.gov/n-400>."

The proposed language is virtually identical to the language USCIS provides in its *How Do I Apply for U.S. Citizenship* public guidance.⁷ As the Task Force concluded, there are over 8.8 million LPRs who are eligible to naturalize but, due to a variety of obstacles, have not.⁸ Part of the Task Force's recommendations were for USCIS to engage in vigorous outreach to identify this population and provide the information needed for them to naturalize. Providing general guidance within Form I-90 Instructions regarding the ability to naturalize for LPRs who file to replace their LPR card aligns clearly with the Administration's goal to increase the rates of naturalization.

⁵ Underlined text indicates an insertion. ~~Strikethrough~~ indicates a deletion. For ease of formatting and readability, this comment does not use block quotes, but rather quotation marks in conjunction with indents.

⁶ *Strengthening Communities by Welcoming All Residents: A Federal Strategic Action Plan on Immigrant & Refugee Integration*, The White House Task Force on New Americans, April 2015, available at https://www.whitehouse.gov/sites/default/files/docs/final_tf_newamericans_report_4-14-15_clean.pdf [hereinafter "Strengthening Communities"].

⁷ U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. DEPARTMENT OF HOMELAND SECURITY, *How Do I Apply for U.S. Citizenship* 1, Oct. 2013, available at <http://www.uscis.gov/sites/default/files/USCIS/Resources/B3en.pdf>.

⁸ *Strengthening Communities*, *supra* note 6, at 16.

The naturalization process is often confusing and complicated and many LPRs may not know that they may naturalize after holding LPR status for a specific period. Providing information regarding the naturalization process and a link to USCIS's website for LPRs to conduct additional research on their eligibility and/or consult a licensed attorney, would be a very effective strategy to increase the rates of naturalization without a corresponding monetary or resource expenditure. Moreover, by encouraging LPRs to naturalize, USCIS reduces its future adjudication burden because fewer LPRs will have to replace their LPR cards. Such reference to naturalization would also align with USCIS' efforts to inform online I-90 requestors about the potential to naturalize:



Pop-up that displays when online requestors attempt to file an I-90 through my.uscis.gov

If USCIS decides not to incorporate the above suggested language, it should at least adopt some language or direction that encourages LPRs to verify whether they are eligible to naturalize by consulting USCIS's public facing guidance. To refrain from having *any* reference to naturalization in Form I-90 Instructions would run counter to the Administration's stated goal to increase naturalization rates.

2. Page 1. General Instructions. Make the following changes:

"Signature. Each application must be . . . ~~A legal guardian may also sign for a mentally incompetent person.~~ A designated representative may sign if the requestor is unable to sign due to a physical or developmental disability or mental impairment."

The proposed Form I-90 Instructions only allows a legal guardian to sign on behalf of a *mentally incompetent* person, but does not provide a similar allowance for individuals with a physical or developmental disability that interferes with the requestor to sign. The proposed language mirrors the language present in Form I-821D Instructions⁹ which makes allowances for these additional categories of disability.

3. Page 1. General Instructions. Make the following changes:

"Filing Fee. Each application must . . . fee (if applicable) or fee waiver."

⁹ See U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. DEPARTMENT OF HOMELAND SECURITY, Form I-821D Instructions, Consideration of Deferred Action for Childhood Arrivals 3 (June 4, 2014), *available at* <http://www.uscis.gov/sites/default/files/files/form/i-821dinstr.pdf> [hereinafter "Form I-821D Instructions."].

For many, filing Form I-90 without a fee waiver is economically impossible. While USCIS provides some guidance for fee waivers, that guidance is located deep within the instructions on page 11. Individuals seeking to apply for Form I-90 would greatly benefit from having some reference to the availability of fee waivers on page 1 of the instructions. Furthermore, individuals may interpret the current language to indicate that no fee waivers are available for Form I-90, discouraging them from reading the entirety of the instructions or completing Form I-90 altogether.

4. Page 1. General Instructions. Make the following changes:

“Evidence. At the time . . . of these instructions.

NOTE: If you submit original documents when not required or requested by USCIS, **your original documents will be immediately destroyed upon receipt.**”

USCIS, recognizing the potential negative consequences stemming from the destruction of original documents—which may be incredibly difficult or impossible to re-obtain—wisely places the above warning in two different sections of Form I-90 Instructions. However, due to the potential confusion arising from this new policy and the substantial importance of preserving original documents, USCIS should also include this warning on the very first page of the Form I-90 Instructions under the *Evidence* section.

5. Page 2. General Instructions. Make the following changes:

“Translations. If you submit . . . foreign language into English. An example certification would read “I, [typed name], certify that I am fluent (conversant) in the English and [language] languages, and that the above/attached document is an accurate translation of the document attached entitled [name of document].” The certification should also include the date and the translator’s signature, typed name, and address.”

USCIS states that applicants must submit translated documents with a translation certification. However, the instructions do not provide an example of a template translation certification. Consequently, applicants may not provide all the necessary information in a certification due to the absence of this guidance. This recommendation ensures that a requestor will provide a certification that contains all of the necessary information and is identical to the guidance provided by USCIS under the *General Tips on Assembling Applications for Mailing* section of its website¹⁰ and Form I-821D Instructions.¹¹

¹⁰ See U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. DEPARTMENT OF HOMELAND SECURITY, *General Tips on Assembling Applications for Mailing*, U.S. Citizenship and Immigration Services (Nov. 21, 2013), <http://www.uscis.gov/forms/forms-and-fees/general-tips-assembling-applications-mailing>.

¹¹ See U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. DEPARTMENT OF HOMELAND SECURITY, *Form I-821D, Consideration of Deferred Action for Childhood Arrivals* (June 04, 2014), *available at* <http://www.uscis.gov/sites/default/files/files/form/i-821d.pdf> (hereinafter “Form I-821D”).

6. Page 4. Specific Instructions. Make the following changes:

“Item Number 16. U.S Social Security Number (if any). Provide your 9-digit U.S. Social Security Number, if any. You should only provide Social Security numbers that were officially issued to you by the Social Security Administration.”

USCIS should clarify that it only seeks social security numbers that the Social Security Administration officially issued to an individual. In light of the confusion surrounding the disclosure of social security numbers, including that some individuals may have social security numbers that were not issued by the Social Security Administration, USCIS provided identical guidance in the Frequently Asked Questions for Deferred Action for Childhood Arrivals.¹² USCIS should adopt that guidance in Form I-90 Instructions as well.

Thank you for your consideration of ILRC’s views. Should you have any questions regarding these comments, please feel free to contact Jose Magana-Salgado at (202) 777-8999 or jmagana@ilrc.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jose Magana-Salgado', with a stylized flourish at the end.

Jose Magana-Salgado
Immigration Policy Attorney

¹² See U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. DEPARTMENT OF HOMELAND SECURITY, Frequently Asked Questions Q73 (June 15, 2015), available at <http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process/frequently-asked-questions> (“**Q73: How should I fill out question 9 on Form I-765, Application for Employment Authorization?** A73. When you are filing a Form I-765 as part of a DACA request, question 9 is asking you to list those Social Security numbers that were officially issued to you by the Social Security Administration.”).