

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

July 7, 2016

Samantha Deshommes
Acting Chief, Regulatory Coordination Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue NW
Washington, D.C. 20529-2140

**Re: Agency Information Collection Activities: Application for Temporary Protected Status, Form I- 821: Revision of Currently Approved Collection
e-Docket ID number USCIS-2007-0013**

Dear Ms. Deshommes,

The Catholic Legal Immigration Network, Inc. (CLINIC) submits the following comments in response to U.S. Citizenship and Immigration Services' (USCIS) May 23, 2016 notice regarding the revision of the currently approved Form I-821 and the accompanying instructions.

CLINIC supports a national network of community-based legal immigration services programs which regularly advise and assist individuals with applications for Temporary Protected Status (TPS). CLINIC's network includes over 280 programs operating out of 350 offices in 47 states, as well as Puerto Rico and the District of Columbia. Over 70% of CLINIC's affiliates provide free and low-cost representation to thousands of applicants for TPS.

I. General Comments

We appreciate this opportunity to provide comments on Form I-821 and instructions. We urge USCIS to clarify existing language on: Part 4.1 & 4.2 regarding the spouse's USCIS online account; the instruction related to the availability of a waiver; and under the general information, clarify the material that should be destroyed. We also request that USCIS reconsider the positioning of the checklist that is now found on page 17 of the revised instructions.

Finally, with respect to the burden of information collection from families who may apply for the same benefit together, USCIS may increase efficiency of adjudication and avoid unnecessary data duplication by considering new processes that enable family members in the same household to apply together. CLINIC encourages USCIS to explore future opportunities for families seeking TPS and other immigration benefits to submit bundle or family applications or, with the consent of the parties, to link common data in USCIS ELIS that may be used to populate forms for parents, spouses and children.

II. Specific Comments to Form I-821.

1. Reduce the number of marital status categories

➤ Page 2, Part 2.17. Question 17

USCIS asks applicants to report marital status. Four new marital status categories were added, to state: “Single; Never Married; Marriage Annulled; Separated; and Other.” These new categories require the applicant to understand potentially complex nuances of family law with respect to marital status. It is possible that the applicant could be unclear or confused as to the exact status of their previous marriages or relationships and could accordingly inadvertently answer incorrectly.

Recommendation: In order to avoid potential confusion, the question should revert to the previous version of Form I-821 where the applicant was only required to indicate whether they were married, widowed, single or divorced:

17. Current Marital Status (select **only one** box)

☐ Married ☐ Widowed ☐ Single ☐ Divorced

2. Eliminate Biographic information

➤ Page 3, Part 3. Questions:

The “Biographic Information” section requests biographic information, including an applicant’s ethnicity, race, height, weight, eye color, and hair color. This information is not relevant to TPS eligibility. In the interest of keeping the form as accessible and as short as possible, we suggest this section be eliminated.

Recommendation: The proposed “Biographic Information” section should be eliminated from the form entirely.

Alternatively, if these particular biographic questions are retained, the form instructions and outward facing guidance should advise applicants of the purpose for collecting the data and confirm that adjudicators may not take this information into consideration when making a

determination. Additionally, internal guidance to USCIS adjudicators should clearly advise adjudicators that such information should not be taken into consideration when making a TPS determination.

3. Clarify That Former Spouse's A Number Should Be Provided When Known To The Applicant

➤ *Page 4, Part 5. Question 3*

The applicant is instructed to provide any former spouse's A number: "if any, and available to you." This language is confusing and erroneously implies that the applicant may have a former spouse's A number "available" to them for a purpose other than reporting the A number on the form. This could be construed by an applicant that they have a burden or responsibility to seek out this information, which could potentially discourage some individuals from applying.

Recommendation: The form should be amended to read (new language in bold italics):

A Number of Former Spouse (if any and ***if known***).

Form I-821 Instructions

1. Provide a Brief Explanation of Discretionary Waivers.

- *Page 1. Who Is Eligible For TPS?*
- *Page 2. What Waivers are Available for TPS?*

There is discussion in these sections of an individual's potential discretionary waiver eligibility that assumes the applicant will understand what a discretionary waiver is.

Recommendation: To make the instructions as clear as possible the form should include a short explanation in plain language of what it means to receive a discretionary waiver. The forms should be amended to read (new language in bold italics):

USCIS may grant discretionary waivers of certain inadmissibility grounds for humanitarian purposes, to assure family unity, or because it is otherwise in the public interest. ***If USCIS grants a discretionary waiver it means an applicant will receive TPS even though they are inadmissible.***

2. Avoid Destruction of Original Documents. If Original Documents Must be Destroyed Clarify Whether they *May* or *Will* be Destroyed

➤ *Page 3. General instructions.*

The form warns that original documents will be destroyed when they are submitted in error. However, under Processing Information (p. 14) the form warns that original documents may be destroyed when submitted in error.

Recommendation: Instead of destroying original documents, they should be returned to the applicant in the same way a rejected application is returned. If original documents must be destroyed, then clarify whether they *may* or *will* be destroyed and what the exact circumstances are under which they will or may be destroyed.

3. Ensure Checklist for Form I-821 Instructions is Prominent

The Checklist, which is currently found at page 9 of the form instructions is now found on page 17 of the revised instructions. This checklist is a helpful tool for applicants to ensure that they have completed all necessary items before filing the Form I-821. The location of the checklist at the end of a lengthy document makes it difficult to find if not completely missed.

Recommendation: Ensure this helpful Checklist is a more prominent feature.

Conclusion

We thank you for your consideration of these comments and look forward to continuing to work on opportunities to further expand this important humanitarian program. Please do not hesitate to contact me at 301-565-4829 or jatkinson@cliniclegal.org, with any questions regarding our recommendations.

Sincerely,

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

Jeanne M. Atkinson
Executive Director