

Filed via email to USCISFRComment@uscis.dhs.gov

May 30, 2017

Department of Homeland Security
USCIS Office of Policy and Strategy
Chief, Regulatory Coordination Division
20 Massachusetts Avenue N.W.
Washington D.C. 20529-2140

RE: OMB Control Number 1615-0023 and Docket ID USCIS-2009-0020

Dear People:

Please consider these comments regarding the proposed revision to the Application to Register Permanent Residence or Adjust Status, Form I-485 and Adjustment of Status Under Section 245(i), notice of which was published in 81 Fed. Reg. 18636 (March 31, 2017). We are a nonprofit legal services organization that focuses on the needs of low-income people, including immigrants, throughout Massachusetts, and our advocacy includes promoting access to justice for low-income people by reducing the cost, navigability, and other access barriers they may encounter in using the legal system.

While we commend the effort reflected in this I-485 form and Instructions to provide as much information to those who seek to apply for adjustment of status, we are concerned about the scope of the questions and evidence that must be submitted at the time of filing. This may result in delays for many otherwise eligible applicants who are unable to satisfy the evidentiary requirements at the time of filing, especially for those who cannot afford a lawyer, as well as causing delay in obtaining the related employment authorization documents that low-income people need to avoid poverty. To that end, we would generally encourage any improvements that can be made to reduce the information and accompanying evidence required so as to enable more eligible people to effectively pursue their right to apply for adjustment of status.

We also propose a few specific suggestions to reduce the information collected in response to some of the questions and facilitate completion by low-income immigrant filers.

Part 8, Questions 1-13

We propose that dates of and proof of membership be excluded from this question. That information is already requested in Questions 48-57 as to those organizations likely to render the individual inadmissible. With regard to many other types of organizations that are unlikely to be relevant to inadmissibility, such as Girl Scouts of America, Parent-Teacher organizations, AARP, the Teamsters Union, and thousands of other well-known and readily recognizable civic

and community organizations, the name and location should be sufficient for an adjudicator to determine whether or not there is a need for further detail, such as dates of membership and documentation thereof. In addition to the impact on applicants, the collection of this level of detail from everyone merely clogs the adjudication process, given the significant time and effort USCIS adjudicators will need to review such answers and the accompanying submissions.

Part 8, Questions 61-62

We propose that the Instructions accompanying these questions clearly state that individuals exempt from the public charge grounds because they are filing under boxes 1.f. (special adjustment laws), 1.d. (asylee or refugee), 1.e. (human trafficking victim), 1.a. VAWA self-petitioner, 1.c. Special immigrant juvenile, and 1.g. Registry should skip this question. (A “Note” could also be added on the form to the effect that “If you filed under... you should skip these questions.”) Elsewhere in the Instructions, the requirements described for these specific forms of relief recognize that individuals filing under them “do not need to submit evidence of financial support” and the same should be true for evidence of receipt of public assistance. Collecting benefits information from them wastes valuable adjudication resources, as described in our comments above re Questions 1-13.

Additionally, we suggest that the parenthetical “(other than emergency medical treatment)” be expanded to read “(other than a special purpose or non-cash benefit, such as emergency medical treatment, that does not provide income maintenance or institutionalization for long-term-care at public expense).” While the citation on page 7 of the Instructions to the USCIS web site for additional information about public benefits and public charge is helpful, the question itself is worded so broadly that applicants must list programs that do not make them inadmissible and provide evidence thereof, thus diverting adjudicators’ time to unnecessarily reviewing such answers and documentation. Evidence about these special-purpose and non-cash programs, such as those listed in 8 U.S.C. 1611(b) (e.g., crisis counseling and intervention services, soup kitchens, immunizations, and benefits provided for the protection of life or safety) may also be difficult for applicants to supply where such programs do not systematically create records for the recipients. Qualifying the question to narrow the information sought in a manner consistent with current USCIS policies that exclude such benefits from the public charge determination may facilitate the filing of more complete applications in addition to promoting agency efficiency.

Overall comment on the Instructions

We also propose that the form incorporate more broadly the salutary language that elsewhere permits the submission of secondary evidence (i.e., for unavailable certified court dispositions.) In our experience with homeless people, domestic violence survivors, victims of fires, migrant farmworkers, and other low-income people, such individuals frequently have trouble accessing primary sources of evidence quickly and affording them an opportunity to submit secondary evidence at least at this preliminary filing stage would give them time to gather the documentation at a later date, should an adjudicator determine that more is needed.

Thank you for the opportunity to comment on this important form.
Sincerely,

Iris Gomez, Esq.
Director, Immigrants Protection Project
MLRI