



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, NY 10007

May 30, 2017

Strategy, Chief, Regulatory Coordination Division
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue NW
Washington, DC 20529-2140

**RE: Request for Comments: Agency Information Collection Activities
DHS Docket No. USCIS-2009-0020**

To Whom It May Concern:

The New York City Mayor's Office of Immigrant Affairs together with the following New York City agencies: the Department of Social Services, Department of Health and Mental Hygiene, Administration for Children's Services, Department of Education, Department of Finance, Health and Hospitals, Housing Preservation & Development, Department of Consumer Affairs, Office of Emergency Management, and the New York City Housing Authority, submit this comment in response to the U.S. Department of Homeland Security's ("DHS") request for comment on the proposed revision of the Application to Register Permanent Residence or Adjust Status, Form I-485.

With nearly 3 million foreign-born New Yorkers, immigrants are vital to the strength and growth of the economy of the City of New York. Nearly half of the workforce of our city is foreign-born and over half of the owners of small businesses within the city are immigrants. The positive contributions of immigrants are felt in every corner of our communities, in myriad ways. Immigrants occupy numerous positions within our government. They work in the City's medical facilities. They are teachers and university students and corporate employees. In addition, they are consumers, and their presence keeps many of our City's industries thriving.

Therefore, the City has a keen interest in ensuring that immigrants in our community are able to live safe and healthy lives, and, in pursuit of these ends, that they are able to access the services they need in order to flourish. In addition, recognizing that obtaining immigration status helps communities maintain economic stability, we also have a strong interest in supporting programs and policies that help immigrant New Yorkers apply for benefits for which they are eligible.

We take this opportunity to offer our perspective on the “public charge” grounds of inadmissibility, as it relates to the proposed changes to Form I-485. In determining inadmissibility, USCIS defines “public charge” as an individual who is likely to become “primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance, or institutionalization for long-term care at government expense.”¹ We support this focused approach to evaluating public charge because it provides clear parameters and does not inhibit our residents from accessing other crucially needed services and resources that promote the health and safety of our communities, such as health services, domestic violence services, and emergency food and shelter.

We believe that any approach that would have the effect of broadening the definition of public charge further would negatively impact immigrant New Yorkers’ access to important services and resources. For example, a broad definition of public charge could inhibit many eligible immigrants from applying for the Disaster Supplemental Nutrition Assistance Program (DSNAP) following a significant emergency like Hurricane Sandy, out of fear that their receipt of such benefits would prohibit them from lawfully adjusting status. It is in New York City’s best interest that inadmissibility on public charge grounds continue to be evaluated in a narrow and specific way.

An overly broad inquiry into “public charge” would likely deter applicants or potential applicants from receiving crucial services needed to maintain healthy and safe communities. As stated above, the City of New York maintains a strong interest in encouraging our residents to continue to avail themselves of publicly available assistance and benefits. Programs and services like public education, public hospitals and vaccinations, domestic violence services, emergency food and shelter, Supplemental Nutritional Assistance Program (SNAP), and Medicaid play a crucial role in ensuring that individuals are able to live and thrive to the greatest possible extent and to ultimately feel like an integral part of our community. Broadly tying any utilization of these public services to the likelihood of successfully adjusting to lawful permanent resident status may create a chilling effect on immigrants’ use of these programs, which could impact the health, safety, and well-being of New York City residents in general. These harms might also extend to many immigrants with legal status and U.S.-born citizens whose immigrant family members who become afraid to seek help for their basic needs.

We are particularly concerned about how a reduction in the use of these vital services could threaten to upend strides made in population health over the course of decades, undermining the health and safety of all New Yorkers and increasing costs. Delays in diagnosis and treatment of communicable diseases increase the risk of onward disease transmission, with detrimental, far-reaching, and lasting impacts on public health. In short, a decline in the willingness and ability of foreign-born populations to access public services and resources could have significantly negative impacts on the public health and overall economic security of our City.

¹ See “Field Guidance on Deportability and Inadmissibility on Public Charge Grounds,” 64 FR 28689 (May 26, 1999). In determining whether an alien meets this definition for public charge inadmissibility, a number of factors are considered, including age, health, family status, assets, resources, financial status, education, and skills. No single factor, other than the lack of an affidavit of support, if required, will determine whether an individual is a public charge. 8 USC 1182(a)(4); 8 CFR 245a.3.

In light of these interests, we express strong concern about a broad examination of “public charge” for adjustment applicants, and, by extension, DHS’s current proposed changes to questions 61 and 62 on Form I-485. DHS proposes to ask applicants for adjustment of status to provide their entire history and likelihood of receiving public assistance from any source.² We urge DHS to revise questions 61 and 62 to use more specific language that reflects its definition of “public charge.” Questions 61 and 62 should only inquire about an individual’s history or likelihood to receive cash assistance or to be institutionalized for long-term care.

Revising questions 61 and 62 to be more specific and clear will also help immigrants and their representatives prepare their adjustment applications and facilitate efficient determinations by U.S. Citizenship and Immigration Services (USCIS). New York City has invested significant resources in supporting legal services to help more eligible immigrants apply for immigration benefits. We have an interest in encouraging the efficient and effective representation of low-income immigrants and the smooth adjudication of immigration benefits applications so that New Yorkers who are eligible for adjustment of status are able to apply and receive a response from USCIS quickly. A narrower inquiry would help applying immigrants and their advocates provide the precise documentation that USCIS needs to make determinations relevant to public charge determinations, and move the application through the adjudication process. It would also lessen the administrative burden on City agencies in providing such documentation quickly to clients applying for immigration benefits.

We appreciate the opportunity to comment on this highly important topic and we look forward to a continuing dialogue with DHS on these and many other issues.

Sincerely,



Nisha Agarwal
Commissioner
NYC Mayor’s Office of Immigrant Affairs

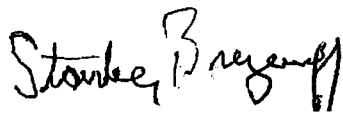


Steven Banks
Commissioner
NYC Department of Social Services

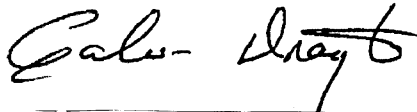


Dr. Mary Bassett, MD, MPH
Commissioner
NYC Department of Health and Mental Hygiene

² Currently proposed language on question 61 asks, “Have you received public assistance in the United States from any source, including the U.S. Government or any state, county, city, or municipality (other than emergency medical treatment)?”




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