



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

June 25, 2019

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

Submitted via www.regulations.gov
Docket ID No. USCIS-2009-0002

Re: OMB Control Number: 1615-0082

USCIS 60-Day Notice and Request for Comments: Application to Replace Permanent Resident Card, Revision of a Currently Approved Collection

To Whom It May Concern:

The American Immigration Lawyers Association (AILA) respectfully submits the following comments in response to the above-referenced 60-day notice and request for comments on proposed revisions to Form I-90, Application to Replace Permanent Resident Card and its accompanying instructions, published in the Federal Register on April 26, 2019.¹

Established in 1946, AILA is a voluntary bar association of more than 15,000 attorneys and law professors practicing, researching, and teaching in the field of immigration and nationality law. Our mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, U.S. lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. We appreciate the opportunity to comment on the proposed revisions to Form I-90 and its instructions and believe that our members' collective expertise and experience makes us particularly well-qualified to offer views on this matter.

Comments on Proposed Revisions to Form I-90 Instructions

Destruction of Original Documents

On page 1 of the proposed Form I-90 Instructions, USCIS has made some minor revisions to the language regarding the submission of original documents that are not required or requested by USCIS, indicating that "If you submit original documents when not required or requested by USCIS, your original documents may be immediately destroyed after we received them."

¹ 84 FR 17870 (April 26, 2019).

Applicants, especially pro se applicants, may not realize that original documents should not be submitted as part of the application, and may accidentally include them in the Form I-90 application package. It seems drastic for USCIS to immediately destroy original documents that the applicant may need later for another purpose. AILA suggests that USCIS consider other alternatives, such as mailing the documents back to the applicant, sending the applicant a Request for Evidence (RFE) for a Form G-884, Request for the Return of Original Documents, or sending the documents to the National Records Center to combine with the applicant's A file so that the applicant can later file a Form G-884 to request the return of the original documents.²

Determining if a Permanent Resident Card was Returned to USCIS

On page 5 of the Form I-90 Instructions, USCIS indicates that applicants can determine if their permanent resident card was returned to USCIS by checking the status of the case on the following USCIS webpage: <https://egov.uscis.gov/cris/Dashboard.do>. This link, however, directs applicants to the "Check Case Processing Times" page of the USCIS website, and **not** to the "Case Status Online" page of the USCIS website. AILA recommends that USCIS update the link on page 5 of the Form I-90 Instructions to <https://egov.uscis.gov/casestatus/landing.do> as this link will direct applicants straight to the "Case Status Online" page of the USCIS website where applicants can check the status of their case online.

Existing Card has Incorrect Data not Caused by Department of Homeland Security Error

On page 5 of the proposed Form I-90 Instructions, in Part 2. Applicant Type, at Item Number 2.d., USCIS indicates in the NOTE section that:

NOTE: Item Number 2.d. does **not** apply if the error was not caused by DHS. Instead you must select Item Number 2.d. (My name or other biographic information has been legally changed since issuance of my existing card).

USCIS' reference to Item Number 2.d. in the second sentence above appears to be erroneous. It appears that USCIS intended to indicate that applicants must select Item Number 2.e. if the error was not caused by DHS. Thus, it appears that the language in this section of the Form I-90 instructions should be revised to indicate as follows:

NOTE: Item Number 2.d. does **not** apply if the error was not caused by DHS. Instead you must select Item Number 2.e. (My name or other biographic information has been legally changed since issuance of my existing card).

Accommodations for Individuals with Disabilities and/or Impairments

AILA notes that the ability to request an accommodation for individuals with disabilities and/or impairments was deleted in its entirety from Form I-90 and its instructions. As a result of this

² AILA previously provided this suggestion to USCIS in January 2016, however, USCIS has not yet adopted this proposal. See *AILA Comments on Proposed Revisions to Form I-90*, AM. IMMIGRATION LAWYERS ASS'N (Jan. 8, 2016), <https://www.aila.org/infonet/aila-comments-proposed-revisions-form-i-90>.

proposed change, applicants with disabilities and/or impairments will no longer be able to indicate their request for an accommodation as required under Section 504 of the Rehabilitation Act of 1973 on Form I-90 at the time of submitting the application to USCIS. In addition, the revised instructions do not describe any alternative way in which applicants may request accommodations, such as submitting a request through USCIS' Disability Accommodations for Appointments online tool or calling the USCIS Contact Center. By eliminating the accommodation language from the Form I-90 and its instructions, this change will unnecessarily hinder an applicants' knowledge of and ability to apply for accommodations. As such, applicants with disabilities and/or impairments will be disadvantaged in the process of replacing or renewing their permanent residence card. AILA recommends that the language regarding accommodations for individuals with disabilities and/or impairments be restored to Form I-90 and its instructions, or at the very minimum, that alternative methods for requesting an accommodation, such as submitting a request via the USCIS Disability Accommodations for Appointments tool or by contacting the USCIS Contact Center, be provided on the Form I-90 instructions to inform applicants of their options for requesting an accommodation.

Comments on Proposed Revisions to Form I-90

Attorney State Bar Number and Attorney or Accredited Representative USCIS Online Account Number

On page 1 of the revised Form I-90, USCIS is seeking to collect the attorney state bar number (if applicable) and the attorney or accredited representative USCIS Online Account Number (if any). This information is already collected by USCIS on Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative. As such, we believe that requesting that this information again on the Form I-90 is repetitive and unnecessary, in contradiction of the Paperwork Reduction Act, which instructs agencies to reduce collection of information when it is not necessary.

Additional Information Section of Form I-90

On page 3 of the revised Form I-90 in Part 2. Application Type, Section A and Section B, the Form I-90 refers on several occasions to applicants providing a detailed explanation in "Part 8. Additional Information" of the form. The revised Form I-90, however, no longer contains a "Part 8. Additional Information" section. Instead, it appears that the additional information section of Form I-90 has been renumbered as is now located in Part 7 of the Form I-90. AILA recommends that USCIS carefully review the numbered sections that are cross referenced in the Form I-90 and its instructions to ensure that the numbered sections are referenced correctly.

Additional Questions Concerning Maintenance of Permanent Resident Status

AILA notes that USCIS is proposing to include six additional questions to page 4 of the Form I-90 relating to the maintenance of the applicant's permanent resident status. Among these include questions such as, "Since you were granted permanent resident status, have you ever been absent from the United States for a continuous period for more than 180 days but less than one year?" and "Since you were granted permanent resident status, have you ever been absent from the United States for a continuous period of one year or more?"

AILA has concerns regarding the insertion of these additional six questions into the Form I-90. Among other things, the inclusion of these additional questions will increase the time and burden for both applicants and USCIS adjudicators to complete and ultimately adjudicate this form, leading to further backlogs in the processing of I-90 applications, which are already currently taking up to 12.5 months to process.³ Many of the proposed questions are also duplicative of the type of information and documentation that is already collected by the Department of Homeland Security. U.S. Customs and Border Protection (CBP) officials already inquire about extended periods outside of the United States when inspecting permanent residents arriving at U.S. ports of entry, and also inspect relevant documentation relating to one's ties of the United States. As such, the additional questions added to page 4 of Form I-90, particularly related to the time in which a permanent resident has been absent from the United States, appears to be a repetitive and unnecessary collection of information.

Conclusion

In closing, we appreciate the opportunity to comment on the proposed revisions to Form I-90, Application to Replace Permanent Resident Card, and its instructions. We look forward to a continuing dialogue with USCIS on these issues and related matters.

Respectfully submitted,

AMERICAN IMMIGRATION LAWYERS ASSOCIATION

³ *Check Case Processing Times*, U.S. CITIZENSHIP & IMMIGRATION SERV., <https://egov.uscis.gov/processing-times/>.