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Submitted via regulations.gov

June 25, 2019

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

RE: Public Comments on Agency Information Collection Activities; Revision of a Currently Approved Collection: Application to Replace Permanent Resident Card USCIS Docket No. 2009-0002; OMB Control Number 1615-0082

Dear Ms. Deshommes:

The Catholic Legal Immigration Network, Inc. (CLINIC) respectfully submits the following comments related to proposed changes to Form I-90. These comments are based on the expertise of CLINIC's staff, who have extensive experience in the rights and responsibilities of lawful permanent residents as well as on the I-90 application process. Our experience is also informed by insights from our affiliates who regularly provide green card renewal counseling and application assistance to their lawful permanent resident clients.

CLINIC supports a national network of community-based legal immigration service programs that primarily serve low-income immigrants and regularly advise and assist individuals in filing family-based applications, naturalization applications, humanitarian forms of relief, and more. The network includes approximately 370 affiliated immigration programs, which operate out of more than 400 offices in 49 states. CLINIC's network employs an estimated 2,300 staff, including attorneys and accredited representatives who, in turn, serve hundreds of thousands of low-income immigrants each year.

Our comments to the proposed changes to the Form I-90 focus on three issues: (a) the proposed elimination of Part 4, Accommodations for Individuals with Disabilities and/or Impairments from the form, and (b) the inclusion of new questions related to the length of prior travel by the lawful permanent resident applicant; and (c) the lawful activities of lawful permanent residents while abroad. Each of these concerns is addressed below.

Proposed Elimination of Part 4, Accommodations for Individuals with Disabilities and/or Impairments

USCIS has proposed to delete in its entirety Part 4, Accommodations for Individuals with Disabilities and/or Impairments, on the Form I-90 and to delete this part from the form

instructions as well. Part 4 provides the opportunity for applicants who are deaf, blind, or have another significant disability to indicate any reasonable accommodations needed in the I-90 application process. This follows on the heels of similar proposals previously issued by USCIS to delete the option of requesting special accommodations from both the N-400 and N-336 application forms. These omissions set a very troubling pattern of disadvantaging those with disabilities who are applying for immigration benefits.

USCIS is required to provide reasonable accommodations under Section 504 of the Rehabilitation Act of 1973. The purpose of accommodations is to ensure that persons with disabilities are not excluded from participation in, denied the benefits of, or subjected to discrimination under any federal government program. USCIS stated policy acknowledges this responsibility by providing that USCIS will make "every effort to provide accommodations to persons with disabilities."[1] If USCIS decides to implement these proposed changes, applicants with disabilities may not know that accommodations are available to them or how to apply for them. For this reason, CLINIC very strongly recommends that USCIS restore the sections of Form I-90 and instructions assisting applicants with disabilities to understand how to apply for accommodations in order to comply with both its own policy and the Rehabilitation Act.

Proposed New Questions on Length of Prior Trips Abroad

USCIS is proposing the addition of new questions 7 and 8 in Part 3 of the Form I-90. Question 7 asks the applicant about any absences in excess of 180 days but less than one year since being granted permanent resident status, and Question 8 asks whether the applicant has ever had an absence in excess of one year. Each of these questions is inappropriate for the same reasons, as described below.

1. The Significance of Any LPR Travel Abroad Has Already Been Adjudicated by Customs and Border Protection (CBP)

All persons seeking entry into the United States from abroad go through an inspection process by CBP. Although we understand that CBP no longer has an Inspector's Field Manual, a previous Field Manual released in response to a FOIA request includes an entire chapter devoted to the inspection of returning lawful permanent residents, including a special section on questions related to the length of absence of the lawful permanent resident and whether he or she should be considered an applicant for admission. Regardless of whether this exact guidance is currently in force, it is clearly and appropriately the role of CBP to determine whether lawful permanent residents seeking entry are returning from a trip abroad that has implications related to their status as permanent residents. The inclusion of questions about absences in the Form I-90 is duplicative of a function already carried out by CBP, the DHS agency in the best position to assess the significance of any lawful permanent resident's return from an absence abroad.

[1] See USCIS Policy Manual, Volume 1, Part A, Chapter 6, Disability Accommodation Requests.

2. LPRs Will Be Needlessly Burdened by Having to Respond to Questions About Their Entire Histories of Travel Abroad

The point in time when a returning resident is in the best position to explain the length and nature of his or her absence from the United States is upon return. The inclusion of questions about absences in the Form I-90 will require applicants to explain and perhaps justify their absences at a point in time when they may lack details and documents related to their trips abroad. At a minimum, each I-90 renewal application covers a span of ten years of travel, and for lawful permanent residents seeking a renewal after twenty, thirty or more years of permanent resident status, responding to questions about absences from decades past is enormously burdensome and may present impossible obstacles in the event that a USCIS adjudicator seeks specific dates or documents. While it is true that a naturalization applicant also has to supply information about trips in excess of six months, a lawful permanent resident who currently lacks information or documents about long-ago extended absences can take that issue into account when deciding whether to apply for naturalization. In contrast, a lawful permanent resident must have proof of status, yet his or her ability to obtain a timely card renewal may be jeopardized by these new and unnecessary questions.

3. Review of Travel History of LPRs will Increase the Already Growing Delays in Adjudication of I-90 Forms

The current processing time for an I-90 renewal for a ten-year card is 8 to 12.5 months, and case inquiries are only being accepted for I-90s filed on or before June 18, 2018. Further, a January 2019 Policy Brief issued by the American Immigration Lawyers Association reports that average case processing times have surged by 46 percent over the past two fiscal years.[2] The inclusion of the new questions on length of absences will undoubtedly result in additional and significant processing delays as USCIS adjudicators re-adjudicate issues already addressed by CBP. These processing delays will in turn lead to more lawful permanent residents needing to go through the laborious process of trying to make InfoPass appointments to obtain temporary evidence of their status, often at a cost of having to take time off from work and undertake lengthy travel to visit a USCIS Field Office.

4. New Form Questions that Convert the I-90 Process to an Adjudication of Status Inquiry will Deter Lawful Permanent Residents from Applying for Required Documentation

The I-90 Form is an application to replace a permanent resident card; it is not, and should not be, a tool for adjudicating whether a lawful permanent resident has potential inadmissibility or deportability issues. Although the current I-90 is seven pages long, Part 3 of the form currently and appropriately has only two questions not related to the identity of the applicant and the reason for the application: whether the applicant has been in removal proceedings and/or has filed an I-407 or otherwise been determined to have abandoned status. With these proposed changes, including the new questions noted below, USCIS is attempting to expand the purpose of

[2] *See* American Immigration Lawyers Association, "AILA Policy Brief: USCIS Processing Delays Have Reached Crisis Levels under the Trump Administration." Jan. 30, 2019, AILA Doc. No. 19012834, *available at* https://www.aila.org/advo-media/aila-policy-briefs/aila-policy-brief-uscis-processing-delays.

the I-90 for use as an enforcement tool. Such a repurposing of the I-90 is both highly inappropriate and likely to have the effect of deterring at least some lawful permanent residents from seeking renewal of proof of status.

Proposed New Questions on Residence and Employment Abroad

For reasons related to the same concerns noted above, CLINIC objects to the inclusion of new questions 9 and 10 in the Form I-90. These proposed new questions ask the applicant if she or he has ever had a residence outside the United States (Q. 9) or been employed outside the United States (Q.10) since being granted permanent resident status. Presumably directed at detecting possible activities that could be connected to abandonment of residence, these inquiries in the I-90 process are overbroad, confusing and misplaced, and will similarly contribute to massive delays in I-90 adjudication.

It is not unlawful or inconsistent with lawful permanent resident status to have a home abroad or to have worked abroad. Many lawful permanent residents may apply for reentry permits when they have known plans to work abroad for an extended period of time. In addition, many lawful permanent residents choose to maintain a residence in the United States and a residence abroad. Asking overbroad questions such as these will sweep in lawful conduct and create needless confusion, adjudication delays, and waste USCIS resources.

The inclusion of these questions also raises the same set of concerns noted above related to duplication of adjudication, in this case not only by CBP but also by USCIS, as concerns reentry permit applications.

Thank you for your consideration of these comments. Please do not hesitate to contact me at jbussey@cliniclegal.org with any questions or concerns about our recommendations.

Sincerely,

Jill Marie Bussey, Esq.
Advocacy Director
Catholic Legal Immigration Network, Inc.