



November 7, 2023

Samantha Deshommes  
Chief, Regulatory Coordinator  
Division Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
Department of Homeland Security

**Re: Comment in Response to the DHS/USCIS Agency Information Collection Activities; Revision of a Currently Approved Collection: Application To Register Permanent Residence or Adjust Status; Docket No. USCIS–2009–0020; OMB Control Number 1615–0023**

Dear Chief Deshommes,

ASISTA writes to provide a comment in response to the Department of Homeland Security's (DHS) Agency Information Collection Activities; Revision of a Currently Approved Collection: Application to Register Permanent Residence or Adjust Status, published on September 8, 2023.

The mission of our agency is to advance the dignity, rights, and liberty of immigrant survivors of violence. For over 15 years, ASISTA has been a leader on policy advocacy to strengthen protections for immigrant survivors of domestic violence, sexual assault, human trafficking and other crimes that were created by the Violence Against Women Act (VAWA) and the Trafficking Victims Protection Act (TVPA). We assist advocates and attorneys across the United States in their work on behalf of immigrant survivors and submit this comment based on our guiding principles and our extensive experience.

The revisions to Form I-485 proposed by the U.S. Citizenship and Immigration Service (USCIS) would harm immigrant survivors by delaying adjudication of their cases, erecting barriers to their access to lawful permanent residence and naturalization, and potentially penalizing applicants for failing to understand the complex, compound questions included on the form. These outcomes are troubling, with cascading negative impacts on immigrant survivors and their families. ASISTA makes the following recommendations in response to this notice.

1. **USCIS should revise Form I-485 to make the form *more*, not less, accessible to applicants**, particularly those who are unrepresented. Overall, the agency should more narrowly tailor questions to ensure that only information relevant to an applicant's eligibility for permanent residence is requested. Doing so would enable more eligible applicants to obtain permanent residence even if they are not able to obtain legal representation. The longer a form becomes, the more daunting it will be to pro-se applicants, who may feel unable to complete it without assistance; survivors may then delay filing until they can find an attorney, which may come too late for some groups, such as survivors with U and T visas who must file Form I-485 before their U or T status expires. Administrative barriers such as longer, more complex forms thus disadvantages low-income communities that traditionally include immigrant survivors of color. Further, streamlining the form would reduce the burden on adjudicators by ensuring that only information relevant to an applicant's eligibility is submitted.

By making the application for permanent residence less accessible, USCIS would also create a *de facto* barrier to naturalization. If applicants cannot obtain lawful permanent residence or are severely delayed in obtaining lawful permanent residence, their ability to naturalize is restricted as is their full civic participation in the United States. Especially for immigrant survivors - many of whom have already waited over a decade for approval of their status - facilitating their access to naturalization is consistent with the agency's humanitarian goals and furthers the public interest of the United States.

2. **USCIS should exempt applicants already possessing or applying for survivor-based relief from many of the questions included in the revised form.** Many immigrant survivors applying for adjustment of status have already been granted relief in the form of a VAWA Self-Petition, U visa, or T visa, or will be before their adjustment applications will be reviewed. Through those processes, they will have provided extensive information about their backgrounds and admissibility. USCIS should focus on soliciting information about anything that has changed since their admission into status or, in the case of VAWA approvals, since their I-360 applications were granted.

We respectfully suggest that USCIS:

- Clarify, for Part 9, Question 69 on the proposed form, that those exempt from the public charge ground of inadmissibility are exempt from answering. Inclusion and expansion of public charge questions in the Form I-485 is potentially intimidating for exempt applicants, and could discourage them from timely filing, potentially causing them to fall out of status. Eliminating this question, particularly for immigrant survivors who are exempt from public charge, would avoid confusion, lapses of status, and further adjudicatory delays.
- Clarify that applicants filing for adjustment of status based on U or T nonimmigrant status are also exempt from the Affidavit of Support requirements under INA § 212(a)(4)(E) (proposed Form Part 3). The proposed instructions

state that those exempt from the requirement must request the exemption by completing this section, but there is no proposed option for applicants to choose an exemption based on U or T nonimmigrant status.

- 3. USCIS should significantly reduce or eliminate questions related to criminal legal system contacts.** Many immigrant survivors of gender-based violence have had contact with the criminal legal system and may have convictions that were either waived when their applications for relief were granted or did not trigger eligibility bars or grounds of inadmissibility. Many of those eligible for adjustment of status to permanent residence will have already had their criminal legal system contacts fully examined before being granted relief. The revisions to the Form I-485 greatly expand upon already-extensive portions of the form relating to criminal acts, requiring more details and again, adding to potential confusion for any noncitizen completing the form without legal representation.

We respectfully suggest that USCIS:

- Eliminate questions that ask applicants to self-report criminal activity (e.g., proposed Form Part 9, Question 23) even where there has been no contact with the criminal legal system. These questions require applicants to draw legal conclusions about whether certain activity violates the laws of any country or state he or she has lived in up to the point of application. Applicants may not even be aware of whether their conduct was illegal, given the differences between jurisdictions, and the ongoing evolution and interpretation of criminal liability and defenses. Conversely, applicants may mistakenly believe that they committed an illegal act out of guilt, misunderstanding, or coercion, and make erroneous admissions resulting in additional delay and potentially grave immigration consequences.
- Eliminate Proposed Form Part 9, Questions 29 and 41, which require applicants to state whether they “reasonably should have known” whether their foreign national spouse or parent engaged in certain illegal activity and that the applicant received any benefits from those illegal activities. These questions also call for complex legal conclusions, including the scope of criminal liability in potentially multiple jurisdictions and the level of awareness considered reasonable. For immigrant survivors especially, this question may force them to repeat details that were part of their applications for relief, thus potentially also causing retraumatization. Differences in interpretation could lead to protracted litigation and adjudication delay, thus further exacerbating the impact of long waits for adjudication caused by backlogs.
- Eliminate the requirement, in Proposed Form Part 9, Question 57, that applicants provide details related to certain activities committed by a spouse or parent. For the foregoing reasons, this question should be eliminated.

4. **USCIS should eliminate additional changes that are not relevant to the adjudication of applications for lawful permanent residence and cause confusion and distress to immigrant survivors.** The proposed form changes by USCIS include additional items that are difficult for applicants to knowingly answer, impose additional duties on preparers, or could permit information sharing inconsistent with confidentiality and privacy limitations elsewhere in immigration policy.

We respectfully suggest that USCIS:

- Eliminate the requirement, in Proposed Part 4, Questions 7 and 8, that applicants provide information relating to financial support during periods of unemployment.
- Eliminate the requirement, in Proposed Part 6, Question 8 and in Proposed Part 7, that applicants provide the Country of Citizenship or Nationality for their current spouse and for their children.
- Withdraw the proposed change to the Applicant's statement that includes "Furthermore, I authorize the release of any information from any and all of my records that USCIS may need to determine my eligibility for an immigration request and to other entities and persons where necessary for the administration and enforcement of U.S. immigration law." Such language was not in the prior version of the statement and the limits of this are unclear, particularly as it states it could be used for the "enforcement of U.S. immigration law" which could mean adjudication of the form or actual immigration enforcement.
- Withdraw the proposed change to the preparer statement that includes "I certify, under penalty of perjury, that I prepared this application for the applicant at their request and with express consent and that all of the responses and information contained in and submitted with the application are complete, true, and correct and reflects only information provided by the applicant." This is a change from the previous version which required the preparer to certify, under penalty of perjury, that *the applicant* informed the preparer that "all of this information is complete, true, and correct. This proposed change, as written, implies that the preparer is also responsible for the completeness, correctness, and veracity of the statements provided by the applicant.

Given the importance of permanent residence to the ability of immigrant survivors and their families to safely engage in economic, social, and civic life in the United States, USCIS should revise Form I-485 to clarify exemptions for beneficiaries of immigrant survivor-based relief, reduce the potential for confusion, and increase accessibility for applicants overall. Doing so will also streamline adjudication processes and reduce the burden on the agency as it works to honor its priorities and reduce adjudication backlogs for immigrant survivors.

Thank you for your consideration. We would be happy to meet with you to discuss our comments in more detail. If you have any questions or require any further information, please contact Cristina Velez at [cristina@asistahelp.org](mailto:cristina@asistahelp.org) or Lia Ocasio at [lia@asistahelp.org](mailto:lia@asistahelp.org).

Sincerely,

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