



Seattle
Office of Immigrant and
Refugee Affairs
Cuc Vu, Director

August 13, 2019

Submitted via email

OMB USCIS Desk Officer

dhsdeskofficer@omb.eop.gov

Re: Agency USCIS, OMB Control Number 1615-0082 - Public Comment Opposing Agency Information Collection Activities; Revision of a Currently Approved Collection: Application To Replace Permanent Resident Card 2019-15179, Filed 7-17-19; 84 FR 17870

Dear Desk Officer:

The City of Seattle ("the City") submits this comment in response to the proposed revision of the Form I-90, Application to Replace Permanent Resident Card based on the currently approved collection published by the Department of Homeland Security (DHS) and the United States Citizenship and Immigration Services (USCIS) in their Agency Information Collection Notice published on July 17, 2019.

The City of Seattle created the Office of Immigrant and Refugee Affairs (OIRA) in 2012 to improve the lives of Seattle's immigrant and refugee families. The City of Seattle, through its Office of Immigrant and Refugee Affairs, funds and coordinates two naturalization programs called the New Citizen Campaign (NCC) and the New Citizen Program (NCP). Both are joint efforts to help the estimated 75,000 Seattle-area LPRs become U.S. citizens. Since its inception in 1997, NCP has served over 19,000 people, provided naturalization assistance to over 12,300 LPRs, successfully naturalized 9,500 LPRs, and provided over 90,000 hours of citizenship instruction. NCC works with community partners to co-host events called citizenship clinics and workshops all over Seattle that have, to date, served approximately 1,900 LPRs.

Our comments are informed by the experiences of the community partner agencies that participate in NCC and NCP. These nonprofit legal services agencies serve low-income clients in matters related to naturalization, and in many cases, assist with other immigration law matters, including completion and submission of the Form I-90.

I. The City of Seattle strongly opposes the proposed revisions to the Form I-90.

The Form I-90 is an application for *replacing* a permanent resident card. It has never been, and should never be, a tool to determine whether an applicant has inadmissibility or deportability issues. The proposed changes to the I-90 will add needless complexity to a common, yet vital, immigration process in which lawful permanent residents (LPRs) comply with the law that requires all noncitizens to maintain unexpired proof of their immigration status¹. The proposed changes, specifically the questions related to time spent outside the United States, will require many individuals to seek legal assistance. This places an additional unnecessary burden on both applicants and the nonprofit immigration legal services community that provides assistance to low-income clients at little to no cost. For these reasons, the City of Seattle strongly opposes the proposed revisions to the Form I-90.

II. The proposed I-90 includes new questions that are difficult for applicants, especially long-term LPRs, to answer completely and accurately.

As mentioned above, the I-90 is a relatively short and simple application, allowing LPRs to quickly renew proof of their lawful status. Yet the proposed changes to the form would make the process much more confusing and could lead LPRs to commit mistakes with dire consequences for their immigration status. On page 4, the proposed I-90 asks the applicant to provide information about trips in excess of 180 days (specifying either "more than 180 days but less than one year" or "one year or more") at any point during their time as an LPR. For someone who has been an LPR for multiple decades, it can be challenging to accurately remember incidents and exact durations of past travel abroad, especially if such travel was not recorded in a passport or if the passport has since expired and been discarded. While this is a normal exercise for an LPR wanting to prove eligibility for U.S. citizenship, this is not a regular expectation of an individual attempting to simply renew their green card. An LPR who lacks complete information about such extended absences may be unable to obtain a timely green card renewal.

If the applicant is unsure and answers "yes" to travel abroad lasting longer than 180 days/one year, he or she may unknowingly admit to a basis for abandonment of permanent residency, even if he or she did not actually remain outside for more than 180 days/one year. If the applicant is unsure and mistakenly answers "no" when the proper answer is "yes," he or she has unintentionally provided false information to USCIS. The form does not give applicants the option to answer "unsure" nor is it clear that applicants are able to explain the circumstances for remaining outside the country for over six months/one year. The instructions do not provide detailed instructions as to what documentary evidence, if any, may be enclosed with the I-90. Without clear guidance, most applicants applying pro se will not know how to demonstrate their past and current ties to the U.S., and as such, potentially forego the chance to rebut the presumption of abandonment.

¹ 8 USC §1304(e)

USCIS has not yet explained how the revised I-90 would be adjudicated, especially for individuals who answer "yes" to having traveled outside the U.S. for over 180 days or one year. For applicants seeking naturalization, the Form N-400 provides the option of including an addendum and supporting evidence to rebut a presumption of abandonment. Further, the naturalization interview allows USCIS to examine, and the applicant to directly respond to, potential claims of abandonment. Because the current I-90 adjudication process does not typically include an interview, or even explicitly call for the submission of supporting documentation, it is unclear how individuals in this situation will rebut a presumption that they have abandoned their LPR status. If the revised I-90 does not allow the applicant to submit relevant evidence, it is also unclear whether USCIS will presume that anyone who has remained abroad past the 180 days or one-year duration has, in fact, abandoned their LPR status. This creates serious problems for individuals who, if given the opportunity to explain their circumstances and present evidence, could adequately rebut the presumption of abandonment.

III. The proposed changes to the I-90 would create huge additional inefficiencies and is a waste of resources.

The proposed changes would waste government resources in more than one way. The current processing time for I-90 applications is between 12-12.5 months². The proposed changes to the I-90 form would increase its complexity and potentially require follow-up, potentially to include interviews, which are not typically part of the green card renewal process. Without additional staff resources assigned, this increased complexity will also increase processing times. USCIS is already facing record backlogs in processing N-400 applications.³ Creating additional complexity in a process that is relied upon by many long-time LPRs will likely exacerbate the ongoing adjudication backlogs including for the N-400, especially if scarce resources are diverted away from N-400 processing. Ultimately, by making it harder to file the I-90, USCIS creates an unnecessary obstacle to an immigrant's ability to comply with U.S. immigration laws. Our government should be doing exactly the opposite of this: encouraging compliance and making the process as accessible and efficient as possible.

Moreover, the additional questions are unnecessary since several of the travel-related questions are duplicative of information and documentation already collected by U.S. Customs and Border Protection (CBP). When LPRs return to the U.S., CBP officials inspect them and inquire about any extended periods outside of the U.S. They also inspect relevant documentation relating to one's ties of the U.S. As such, the additional questions added to page 4 of Form I-90, particularly those related to the time in which an LPR has been absent from the U.S., are inefficient and unnecessary. If additional staff resources are assigned to I-90

² *Check Case Processing Times*, U.S. CITIZENSHIP & IMMIGRATION SERV., <https://egov.uscis.gov/processing-times/>.

³ <http://partnershipfornewamericans.org/portfolio/npna-report-building-a-second-wall-uscis-backlogs-preventing-immigrants-from-becoming-citizens/>

processing in response to the form's increased complexity, it would be a waste of government resources since the same information is already collected at the point of re-entry to the U.S. Inquiry at the time of re-entry, when travel is still fresh in the minds of returning LPRs, almost certainly yields a more reliable response compared to when the same information is sought years later.

IV. Nonprofit partners would bear the brunt of the additional work caused by the proposed changes to the I-90.

The City of Seattle works closely with 20 local nonprofits who assist LPRs applying for naturalization. When asked about the likely impact to their programs if the proposed changes to the I-90 are adopted, several staff at the organizations responded with concern. One stated, *"Our agency prepare[s] about ten I-90 forms per month...I think the 'absent from the U.S.' questions might increase the time and burden for both the clients and [agency] staff to prepare for the I-90 forms."*

Another agency's staff member replied, *"This will definitely impact a lot of people. In about half of the [naturalization] clinics I have attended, I have found people who needed assistance with I-90s and helped them in our office. This is usually because they are ineligible at the time for [naturalization] sometimes due to their extended departures."*

A third agency's staff member explained the difficult position that many of their clients will be left in, if the form is changed as currently proposed, *"We submit I-90 renewals, or refer for an I-90 renewal, about 15-20 times per year. Out of these 15-20, we submit about 4-6 each year for clients who have extended travel in their past...Adding these questions will feel like a significant change in how we advise these clients, leaving fewer options for clients with extended travel histories. I see this change leaving clients with travel issues feeling like they have no good option for maintaining a current LPR card or applying for citizenship without taking a significant risk of denial and referral to an immigration judge to determine abandonment of residency."*

The nonprofit legal services community is already stretched thin, and these proposed changes would complicate an application that has never previously included questions that would potentially trigger inadmissibility or deportability issues. As such, more would-be applicants will seek legal advice and potentially need time-intensive representation, and legal service providers will bear much of that burden. Additionally, without further information from USCIS as to the changes to the adjudication process that would accompany this form change, nonprofit service providers must estimate, without guidance, the additional time required to provide full representation for I-90 clients. Nonprofit agency staff face the possibility of representing I-90 clients in interviews, which is hugely burdensome and not currently reflected in their grants, contracts, or fee structures, nor in their case management processes.

V. The City of Seattle strongly opposes the proposed changes to the I-90.

The City of Seattle opposes the proposed changes to Form I-90 because it would cause additional obstacles for individuals applying, and otherwise eligible for, the immigration benefit they need to maintain proof of their LPR status. The proposed changes to the I-90 will not improve efficiency or reduce costs for the U.S. government, and would instead create redundancies by collecting information already collected by CBP, another agency with the Department of Homeland Security. The proposed changes will likely cause frustration, confusion, inaccuracies, and significant additional work for applicants and legal services providers. This rule change would cause irrevocable damage to the City of Seattle's New Citizen Campaign and New Citizen Program, our community partners, and the vulnerable clients we serve.

Thank you for the opportunity to submit comments on the proposed changes to this form. Please do not hesitate to contact Meghan Kelly-Stallings at meghan.kelly-stallings@seattle.gov for comments or clarifications regarding this response.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Cuc Vu', with a long horizontal stroke extending to the right.

Cuc Vu, Director

Office of Immigrant and Refugee Affairs

City of Seattle

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