

I-90 Summary of Public Comments and Responses

	<u>Category</u>	<u>Comment and Response</u>
Form I-90 Instructions	1 Form. General Comment	<p>Comment: it is tyime to cuyt down the number of those who immigrate to the usa. this countgry is flooded with tens of milliosn of foreigners, who come here to commity crimee, leach onw elfare, sell drugs, prostituion and be terrorists.</p> <p>we are flooded with foreigners. it is time to cut the number allow=ed here. it is time to make sure visitors leave when they say they are going to leave and charge tghem with cdriminality when they overstay so that they never get back here again. and we need to charge visitors enough to pay for the costs of deporting them. we need ot increase fees to realistic numbers instead of americans being the fall guy for all these foreign leaches.</p> <p>this agency is doing a lousy job of keeping out of this coiuntry the bad guys who are all over commnmiting endless crimes against america and americans. americans are victims of an evil govt intent on flooding america and harming every american citizen here. this comment is for the ublic record. please receipt. jean publee jeanpublic1@gmail.com</p> <p>USCIS Response: The comment received was not germane to the subject of this information collection.</p>
	2 Form. General Comment	<p>Comment: Comment Submitted by Cynthia Escobedo</p> <p>HI...I LOVE TO HAVE YOU AS ONE OF MY CONTACTS..OR AT LEAST IN MY E-MAIL DELIVERERS MAILS...I RECENTLY RECEIVE MY NEW GREEN CARD...AS I NEED IT TO FIND A JOB...IT WAS A REPLACEMENT I REALLY WANT TO BECOME A U.S.A. CITIZEN I AM MEXICAN FROM GUADALAJARA,JALISCO AND LIKE I SAID I,D LIKE TO BECAME AN AMERICAN CITIZEN....I RECENTLY REVIEW A VIDEO FROM IT...LIKE THE QUESTIONNAIRE FOR GET A GOOD TEST "RTERSULTS" THANK YOU U.S.C.I.S. TO HAVE MY DOCUMENTS COMPLETE..I ONLY NEED MY SOC.SEC.CARD...AS I LOST BOTH, MY COLORADO I.D. AND MY SOCIAL SEC. CARD. I HAVEN'T HAVE GOOD LUCK IN DENVER, COL. RIGHT NOW, I AM WRITING YOU FROM HULL,IOWA...THANKS.CYNTHIA E.</p> <p>USCIS Response: The comment received was not germane to the subject of this information collection.</p>

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	3 Form. General Comment	<p>Comment: Comment Submitted by Michele Carnduff I am us citizen born abroad to military father now deceased. I have a set of documents for my proof of citizenship due to the residence of parents at time of birth and a certificate which is birth cert. For foreign country. They have been stolen I am without a y proof other than a California ID and am on ssi I will need these documents in order to get a residence again I am currently staying with parent but is temp I do not make any extra income at this time and the urgency for replacement of documents and my current income have put me in a urgent need situation where I cannot financially afford these necessary documents and considering the state the world is in with the terrorist threats posed the urgency is crucial that I get this resolved and document replaced asap. Plea</p> <p>USCIS Response: The comment received was not germane to the subject of this information collection.</p>
	4 Form. General Comment	<p>Comment: Comment Submitted by Rahmath Kamal The I-90 instruction says "If a question does not apply to you type or print N/A". "If your answer to a question which requires a numeric response is zero or none type or print none" However when the i-90 form is opened in adobe (which also enables the 2d bar code) -None of the text fields in the form accept the character " / " to type N/A. -ARN, Telephone, ELIS number fields does not Alphabetic characters to type None.</p> <p>USCIS Response: The back slash will be removed. The language” type or print zero” will be added in the example after “How many children do you have”.</p>

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	5 Form. General Comment	<p>Comment: Comment Submitted by AILA</p> <p>On page 2 of the proposed Form I-90 Instructions, USCIS has added language indicating that original documents not required or requested by USCIS will be “immediately destroyed upon receipt.” Applicants, especially pro se applicants, may not realize that original documents should not be submitted, and may accidentally include them in the Form I-90 application package. It seems drastic to immediately destroy 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 an RFE for a Form G-884 Return of Original Documents, or sending the documents to the National Records Center to combine with the A file so that the applicant can later file a Form G-884.</p> <p>USCIS Response: Consistent with the Transformation initiative, USCIS is moving away from paper-based filing and record-keeping to an electronic format. Form I-90 currently may be filed electronically or in paper form. Paper-based Form I-90s are scanned and converted into electronic format upon receipt and the original paper filing is then destroyed. To facilitate this process, applicants are explicitly instructed against submitting original documents unless originals are specifically required or requested by USCIS.</p> <p>USCIS, however, will return all original U.S. and foreign passports, and any other original document that appears to be foreign or issued by a foreign government. We have updated the form instructions to reflect this policy.</p>

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	6 Form. General Comment	<p>Comment: Comment Submitted by AILA</p> <p>On page 4 of both the proposed and current Form I-90, the Applicant’s Statement includes an introductory statement with a note that says: “You must file Form I-90 while in the United States.” There are many reasons why an applicant may file Form I-90 while temporarily outside the United States. In fact, the form instructions contemplate that commuters who file Form I-90 may not actually reside in the United States. This language adds a substantive requirement that is not supported by the statute or regulations, and should be removed.</p> <p>USCIS Response: USCIS policy has been to accept Form I-90 filings made from within the United States. This requirement is consistent with other policies, such as requiring Form I-90 biometrics capture from within the United States. USCIS mails a Permanent Resident Card under its secured mailing initiative using the US Postal Service, Certified Mail, Return Receipt Requested, so we are certain that the card is delivered to the proper owner of the card and that cards do not fall into the wrong hands. The US Postal Service does not deliver Certified Mail to a foreign mailing address. Aliens in commuter status must maintain U.S. employment and a foreign residence in a contiguous territory. No changes to the form have been made based on this comment.</p>

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	7 Form. General Comment	<p>Comment: Comment Submitted by AILA</p> <p>On August 17, 2015, USCIS released a revised Form I-129 with a new Preparer's Declaration that reads: <i>By my signature, I certify, swear, or affirm, under penalty of perjury, that I prepared this petition on behalf of, at the request of, and with the express consent of the petitioner or authorized signatory. The petitioner has reviewed this completed petition as prepared by me and informed me that all of the information in the form and in the supporting documents, is complete, true, and correct.</i></p> <p>USCIS has also taken steps to implement this language on Form I-129S, Nonimmigrant Petition Based on Blanket L Petition. We applaud USCIS for amending the Preparer's Declaration on Form I-129 and I-129S and urge the Service to implement similar, simplified language across all forms, including the Form I-90 moving forward.</p> <p>As AILA has noted in previous discussions and form comments, it is almost never the case that an attorney preparer completes an application or petition based solely on responses from the applicant or petitioner. Counsel consults a variety of sources, including the beneficiary, family members of the applicant, public records, and other sources to ensure that the information contained on the forms is accurate and complete. Moreover, any concerns about fraud detection and prevention are more than adequately covered in the existing regulations. Preparers are already required to attest to the veracity and truth of what is submitted under 8 CFR §103.2(a)(2) which states: "[b]y signing the benefit request, the ... petitioner ... certifies under penalty of perjury that the benefit request, and all evidence submitted with it, either at the time of filing or thereafter, is true and correct." Under 8 CFR §1003.102(j)(1), "[t]he signature of a practitioner on any filing [or] application ... constitutes certification by the signer that the signer has read the filing [or] application ... and that, to the best of the signer's knowledge, information, and belief, formed after inquiry reasonable under the circumstances, the document is well-grounded in fact" Finally, an attorney who engages in frivolous behavior or who knowingly or with reckless disregard makes a false statement of material fact or law is subject to disciplinary sanctions including disbarment or suspension. <i>See generally</i> 8 CFR §1003.101–108.</p> <p>USCIS should remove the preparer's certification on proposed Form I-90 and replace it with the simple, direct, and effective language found on Form I-129.</p>

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		<p>USCIS Response: We are updating our forms to incorporate standard certification language, including language for petitions prepared for and filed on behalf of entities and by individuals. The new language is simplified and addresses the commenter’s concerns</p>
8	Form. General Comment	<p>Comment: Comment Submitted by Family Equality Counsel</p> <p>The “Mother’s Name” and “Father’s Name” fields on Form I-90 can easily be changed without undermining or compromising the information gained from this form, namely the ability to distinguish between requesters with similar names, by changing the fields to read “Parent 1” and “Parent 2.” In fact, altering the question as recommended would allow requesters to complete the form more fully and truthfully, and more accurately match any previous records with which Form I-90 is being compared. While the form’s governing statute includes and defines “mother” and “father” as gender-specific terms, it also includes and defines “parent,” a gender non-specific designation.⁴ Because the term “parent” is already included in the governing statute, altering Form I-190’s fields in the recommended fashion does not require statutory or regulatory changes. Thus, these recommended changes are solely of internal government policy and can be made by the Director of United States Citizenship and Immigration Services, through power granted him by the Secretary of Homeland Security as established by 8 U.S.C. § 1103.</p> <p>The federal government’s hundreds of programs, services, and benefits are intended to be accessible to all who qualify. Changing Form I-90 to read “Parent” rather than “Mother” and “Father” will be a cost-neutral change to more accurately reflect the varied composition of today’s families. It will also increase governmental efficiency by alleviating the needless delays and denials caused by confusion and incorrect completion of the outdated form.</p> <p>We respectfully recommend that USCIS include children of LGBT parents in its information gathering, and modernize the “Mother” and “Father” fields on their forms to read “Parent” to better reflect and serve contemporary American families. We commend USCIS and the Department of Homeland Security for their work, and look forward to the final draft of this form.</p>

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		<p>USCIS Response: USCIS policy is to use gender neutral terms when the gender of the applicant is not relevant to the applicable immigration benefit request. You are correct that the gender of the parents is not relevant to request a replacement green card. However, because the intake of the Form I-90, like most USCIS forms, is automated, changing the wording for these data elements would require re-programming that would be costly and time consuming. The scope of this I-90 revision project was simply to change the form instructions to provide applicants notice that unrequested original documents may be destroyed after they are scanned into ELIS, and not re-program any automated intake functions. The Form I-90 instructions still provide the option of providing the names of same gender mothers or fathers regardless of the title of the data element. We will consider changing the form as you suggest in a future revision.</p>

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	9 Page 1 General Instructions	<p>Comment: COMMENTS ON FORM I-90 INSTRUCTIONS submitted by ILRC</p> <p>1. Page 1. What Is the Purpose of This Application? Make the following changes: “Upon receipt of your properly filed Forms I-797 . . . permanent resident status. NOTE: You may be able to apply for naturalization if you are at least 18 years of age and have been a lawful permanent resident of the United States: 1. For at least five years; 2. For at least three years during which you have been, and continue to be, married to and living in a marriage relationship with your U.S. citizen husband or wife; or 3. Have honorable service in the U.S. military. For more information on eligibility to naturalize, visit USCIS’s website at: http://www.uscis.gov/n-400.”</p> <p>The proposed language is virtually identical to the language USCIS provides in its How Do I Apply for U.S. Citizenship public guidance.⁷ As the Task Force concluded, there are over 8.8 million LPRs who are eligible to naturalize but, due to a variety of obstacles, have not.⁸ Part of the Task Force’s recommendations were for USCIS to engage in vigorous outreach to identify this population and provide the information needed for them to naturalize. Providing general guidance within Form I-90 Instructions regarding the ability to naturalize for LPRs who file to replace their LPR card aligns clearly with the Administration’s goal to increase the rates of naturalization.</p> <p>The naturalization process is often confusing and complicated and many LPRs may not know that they may naturalize after holding LPR status for a specific period. Providing information regarding the naturalization process and a link to USCIS’s website for LPRs to conduct additional research on their eligibility and/or consult a licensed attorney, would be a very effective strategy to increase the rates of naturalization without a corresponding monetary or resource expenditure. Moreover, by encouraging LPRs to naturalize, USCIS reduces its future adjudication burden because fewer LPRs will have to replace their LPR cards. Such reference to naturalization would also align with USCIS’ efforts to inform online I-90 requestors about the potential to naturalize: Pop-up that displays when online requestors attempt to file an I-90 through my.uscis.gov If USCIS decides not to incorporate the above suggested language, it should at least adopt some language or direction that encourages LPRs to verify whether they are eligible to naturalize by consulting USCIS’s public facing guidance. To refrain from having any reference to naturalization in Form I-90 Instructions would run counter to the Administration’s stated goal to increase naturalization rates.</p> <p>USCIS Response: Your request was taken into consideration, however, the Form I-90 is an information collection instrument used for the replacement of the Permanent Resident Card, and not an advertisement about naturalization.</p>

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	10 Page 1 General Instructions	<p>Comment: 2. Page 1. General Instructions. Make the following changes: “Signature. Each application must be . . . A legal guardian may also sign for a mentally incompetent person. A designated representative may sign if the requestor is unable to sign due to a physical or developmental disability or mental impairment.” The proposed Form I-90 Instructions only allows a legal guardian to sign on behalf of a mentally incompetent person, but does not provide a similar allowance for individuals with a physical or developmental disability that interferes with the requestor to sign. The proposed language mirrors the language present in Form I-821D Instructions which makes allowances for these additional categories of disability.</p> <p>USCIS Response: The Department believes that current regulations are sufficient to address the commenter’s concerns. First, current regulations provide that a legal guardian may sign for an individual who is mentally incompetent. <u>See</u> 8 CFR 103.2(a)(2). Second, even if no legal guardianship has been established, applicants with disabilities have various options for affecting signatures. Under USCIS policy, a valid signature does not need to be legible or in English, and it may be abbreviated provided it is consistent with the manner in which the individual normally signs his or her name. An individual who is unable to write in any language may place an “X” or similar mark in lieu of a signature. DHS believes existing regulations already address the commenters concern and did not adopt the suggestion. The only time a designated representative may act on behalf of an alien is when the alien qualifies for an oath waiver under section 337(a) of the Immigration and Nationality Act (INA), 8 U.S.C. 1448(a). Form I-821D, Consideration of Deferred Action for Childhood Arrivals, is unique as it relates to cases involving the exercise of prosecutorial discretion and it is not a request to receive a legal status under the INA.</p>

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	11 Page 1 General Instructions	<p>Comment: 3. Page 1. General Instructions. Make the following changes: “Filing Fee. Each application must . . . fee (if applicable) or fee waiver.” For many, filing Form I-90 without a fee waiver is economically impossible. While USCIS provides some guidance for fee waivers, that guidance is located deep within the instructions on page 11. Individuals seeking to apply for Form I-90 would greatly benefit from having some reference to the availability of fee waivers on page 1 of the instructions. Furthermore, individuals may interpret the current language to indicate that no fee waivers are available for Form I-90, discouraging them from reading the entirety of the instructions or completing Form I-90 altogether.</p> <p>USCIS Response: Your comment was taken into consideration however the fee waiver language will remain on page 11. USCIS encourages applicant’s to read of <u>all</u> of the instructions prior to filling out the form.</p>
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	11	<p>Comment: 5. Page 2. General Instructions. Make the following changes: “Translations. If you submit . . . foreign language into English. An example certification would read “I, [typed name], certify that I am fluent (conversant) in the English and [language] languages, and that the above/attached document is an accurate translation of the document attached entitled [name of document].” The certification should also include the date and the translator’s signature, typed name, and address.” USCIS states that applicants must submit translated documents with a translation certification. However, the instructions do not provide an example of a template translation certification. Consequently, applicants may not provide all the necessary information in a certification due to the absence of this guidance. This recommendation ensures that a requestor will provide a certification that contains all of the necessary information and is identical to the guidance provided by USCIS under the General Tips on Assembling Applications for Mailing section of its website and Form I-821D Instructions.</p> <p>USCIS Response: DHS did not adopt this suggestion. Regulations require that any document containing foreign language submitted to USCIS must be accompanied by 1) a full English language translation that the translator has certified as complete and accurate, and 2) the translator’s certification that he or she is competent to translate from the foreign language into English. See 8 CFR 103.2(b)(3). DHS believes the regulation is sufficiently clear, and the Department is worried that providing an example translation certification will be understood by applicants as a required form, thus effectively limiting options for obtaining translation services</p>

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	11	<p>Comment: 6. Page 4. Specific Instructions. Make the following changes: “Item Number 16. U.S Social Security Number (if any). Provide your 9-digit U.S. Social Security Number, if any. You should only provide Social Security numbers that were officially issued to you by the Social Security Administration.”</p> <p>USCIS should clarify that it only seeks social security numbers that the Social Security Administration officially issued to an individual. In light of the confusion surrounding the disclosure of social security numbers, including that some individuals may have social security numbers that were not issued by the Social Security Administration, USCIS provided identical guidance in the Frequently Asked Questions for Deferred Action for Childhood Arrivals.¹² USCIS should adopt that guidance in Form I-90 Instructions as well.</p> <p>USCIS Response: The commenter asks USCIS to add language to Form I-90 asking applicants to only provide social security numbers (SSNs) officially issued to the applicant by the Social Security Administration (SSA). The draft Form I-90 instructions ask the applicant to, “[p]rovide your 9-digit U.S. Social Security Number, if any.” Given that SSA is the only government agency authorized to issue SSNs, USCIS finds little justification for instructing applicants to omit SSNs obtained outside of the lawful process. All bona fide Form I-90 applicants are Lawful Permanent Residents and eligible to obtain SSNs lawfully. USCIS finds no justification for adopting the commenter’s suggestion and no changes will be made.</p>