

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

Commenters:

Commenter 1 :	Juan Magbojos	Commenter 20:	Just Neighbors
Commenter 2 :	Sandra Singh	Commenter 21:	Helyn Lau
Commenter 3 :	Edson Rezende	Commenter 22:	Maria Gemma Martek
Commenter 4 :	Vora Pradipkumar	Commenter 23:	Cynthia Ingersoll
Commenter 5 :	Xuan Luo	Commenter 24:	Sanctuary for Families
Commenter 6 :	Elbert Solana	Commenter 25:	Her Justice
Commenter 7 :	Francisco Soto	Commenter 26:	Intel Corporation
Commenter 8 :	Jacob Schiffer	Commenter 27:	The Door's Legal Services Center
Commenter 9 :	Moises Rendon	Commenter 28:	KIND
Commenter 10:	Manuel Quezada	Commenter 29:	ASISTA
Commenter 11:	Takaphan Jaruhungsin	Commenter 30:	ILRC
Commenter 12:	Earl DeBrine	Commenter 31:	AILA
Commenter 13:	Anonymous	Commenter 32:	International Rescue Mission
Commenter 14:	Venkatesan Purushothaman	Commenter 33:	Center for American Progress
Commenter 15:	Raghuvir Lavari	Commenter 34:	Immigrant Justice Corps
Commenter 16:	Immigration Equality	Commenter 35:	Massachusetts Law Reform Institute
Commenter 17:	Rodriguez Immigration Law Firm	Commenter 36:	International House
Commenter 18:	Anthony Magbojos	Commenter 37:	Council for Global Immigration
Commenter 19:	National Immigration Law Center	Commenter 38:	Kelly Chauvin

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
1	General Comment -- Length	<p>Commenters 24 and 34 commend USCIS for incorporating Form G-325A into I-485 but are concerned about the length of the form. The commenter also states the form requests information that is duplicative or unnecessary, the wording of questions is sometimes confusing and/or uses language that does not comport with statutory or regulatory requirements.</p> <p>Commenter 28 states that the proposed changes would triple the length of Form I-485, from 6 pages to 18 pages. The increase in length substantially burdens applicants without adding clear benefits. Much of the added text is repetitive, seeks information that either is not relevant for adjustment purposes, or is available to USCIS through other means. The form's added length will inevitably lead to longer adjudication times and processing delays. Similarly, Commenter 8 requests USCIS keep the current form as it works well and has only 6 pages which are more than enough. The commenter adds that this should be done for the sake of US Citizens and USCIS personnel who will process applications.</p> <p>Commenter 28 also states that if the interviewing and adjudicating officers are guided by wording that is overbroad and vague, rather than questions that are faithful to the underlying</p>	<p>USCIS disagrees with commenters' assertions about the length being overly burdensome. USCIS has revised the Form I-485 to make the form more user-friendly for both the public and USCIS officers, while bringing the form up-to-date to accurately reflect various laws enacted by Congress over the last several years.</p> <p>The revised Form I-485 will to make it easier for applicants to understand, fill out, and file complete and accurate applications with all required evidence. The revisions should minimize the need for requests for evidence (RFEs) and may reduce processing times. In addition, the revised form enhances national security and benefits integrity and supports the USCIS mission to grant immigration benefits only to those applicants who are eligible.</p> <p>Officers will receive training on both the revisions to the Form I-485's format and content, including updated terminology.</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		<p>statutory provisions and purposes of the form, the result will be unnecessary Requests for Evidence, and inconsistent and erroneous adjudications.</p> <p>Commenter 30 states that the length of the proposed Form contravenes the intent of the Paperwork Reduction Act. The agency has shown through its use of prior Form I-485s that it can gather the information needed for an Adjustment of Status with a less burdensome form. This form is overwhelmingly detailed, complex, and calls for extraneous information and legal conclusions that are not necessary to the document collection.</p> <p>Commenter 31 expresses appreciation to USCIS for greatly shortening and simplifying the revised Form I-485 and instructions from the versions proposed in 2015.</p>	
2	General Comment - Pro se and vulnerable populations	<p>Commenter 12 supports the proposed changes and thinks they will make it easier for pro se applicants to adjust.</p> <p>Commenter 20 states that the proposed changes will make completion of the form more burdensome and difficult, particularly for low-functioning or illiterate applicants and other pro se applicants. Commenter further states the proposed form is unduly burdensome, long, with complicated, poorly worded and some irrelevant</p>	<p>USCIS agrees with the commenter about the revised form being easier for applicants to apply for adjustment. USCIS has revised the Form I-485 to make the form more user-friendly for both the public and USCIS officers, while bringing the form up-to-date to reflect various laws enacted by Congress over the last several years.</p> <p>The revised Form I-485 will to make it easier for applicants to understand, fill out, and file complete and accurate applications with all required evidence. The</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		<p>questions. Eligible individuals will be deterred from applying.</p> <p>Commenter 32 appreciates USCIS' efforts to update the I-485 but is concerned the proposed revisions will make the adjustment process significantly more expensive and/or confusing, especially for refugee applicants. The commenter states the length and complexity of the form will raise the cost of legal assistance, discourage refugees from applying, and result in more denials, rejections and RFEs for pro se applicants. Commenter also states making the process harder for refugees may also render them vulnerable to the consequences of not applying for adjustment after one year of admission. The lengthier form will make it more difficult for legal service providers to provide assistance for free or nominal fees, as they do now.</p> <p>Commenter 33 expresses concern that expanding the form from 6 to 18 pages will make it more difficult for <i>pro se</i> applicants to fill out the form, increase processing time, and could make it less accessible for LGBT and LEP applicants.</p> <p>Commenter 34 requests USCIS ensure the proposed revisions enhance the form's accessibility to all low-income non-citizens and prioritize ease-of-use and comprehensibility for <i>pro se</i> applicants.</p>	<p>revisions should minimize the need for requests for evidence (RFEs) and may reduce processing times. In addition, the revised form enhances national security and benefits integrity and supports the USCIS mission to grant immigration benefits only to those applicants who are eligible.</p> <p>Regarding the comment about the form being more burdensome and difficult, USCIS has reviewed the form and instructions for plain language and legal accuracy. Whenever possible, USCIS has explained what the law requires applicants to do as clearly as possible on the instructions without oversimplifying the requirements. The instructions also point to web pages where applicants can read additional information about particular topics.</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
3	General Comment – Consolidation of multiple forms	Commenter 31 states: “we appreciate the fact that the revised Form I-485 incorporates the information contained in the current Form G-325, and reduces the number of required forms by one. We suggest that USCIS consider taking this a few steps further and eliminate the need for Forms I-765 and I-131 from an I-485 application package. These forms are currently submitted without fee if filed with an I-485, and all required information is included in the proposed I-485 form. The forms could be replaced with simple “yes” or “no” check boxes at the beginning of the I-485 following the questions, “Do you wish to apply for an Employment Authorization Document?” and “Do you wish to apply for an Advance Parole Document to allow you to return to the U.S. after temporary foreign travel?”	USCIS understands the concerns of the commenter and generally agrees that one form is always preferable to multiple forms and they should be consolidated when possible, as USCIS has done with the merging the G-325A into the Form I-485. USCIS will continue to study ways in which multiple forms can be consolidated to streamline the immigration benefits application process.
4	General Comment – Increase length and incorporation of G-325A	<p>Commenter 17 states the form is absurdly long and recommends not incorporating Form G-325A into the application.</p> <p>Commenter 22 states the form length has increased substantially, and the wording is more cumbersome and will cause more misunderstanding. The commenter recommends the form use the first person singular instead of the second person declarative. The commenter also recommends against incorporating Form G-325A into the form.</p>	USCIS generally believes that one form is preferable to multiple forms whenever consolidation is possible. Although the length has increased, Form I-485 will be more user-friendly for both the public and USCIS officers, as well as up-to-date to reflect various laws enacted by Congress over the last several years. Where possible, USCIS has employed plain language to improve readability and avoid unnecessary complexity.
5	General Comment –	Commenter 7 states that these forms in question	USCIS disagrees with the commenters’ assertions.

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
	Complexity	are complicated for people to fill out, forcing individual requiring the form to seek legal assistance, and that most of the information requested is not binding in deciding the approval or denial of the Adjustment.	<p>USCIS has revised the Form I-485 to make the form more user-friendly for both the public and USCIS officers, while bringing the form up-to-date to reflect various laws enacted by Congress over the last several years.</p> <p>The revised Form I-485 will make it easier for applicants to understand, fill out, and file complete and accurate applications with all required evidence. The revisions should minimize the need for requests for evidence (RFEs) and may reduce processing times. In addition, the revised form enhances national security and benefits integrity and supports the USCIS mission to grant immigration benefits only to those applicants deemed eligible by Congress.</p>
6	General Comment – Changes to substantive requirements require formal rulemaking	<p>Commenter 31 says USCIS is proposing extensive changes to the Form I-485, Supplement A, and instructions, including changes that broaden the evidentiary requirements and information previously requested for adjustment of status. For example, many of the questions regarding the applicant’s criminal history have been broadened to inquire about conduct that would fall outside the scope of the grounds of inadmissibility articulated at INA §212(a).</p> <p>In addition, the requirements spelled out in the additional instructions for applicants filing under special adjustment programs, additional</p>	See response immediately above. Eligibility requirements have not changed; USCIS is simply updating its form and instructions to more accurately collect information necessary to assess eligibility.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		categories, and Registry, seem to have been expanded. Because instructions have the force and effect of regulation, these changes are being made without the opportunity for full notice and comment. The proposed changes exceed DHS's statutory authority, and should instead be promulgated by regulation in accordance with the Administrative Procedure Act (APA).	
7	General Comment - Increased amount of evidence	<p>Commenters 8 and 36 state that the new proposed form contravenes the intent of the Paperwork Reduction Act. Commenter 8 adds that this new form has opened a Pandora's box for USCIS adjudicators to deal with a tsunami of paperwork and evidence coming their way; as if they are not overburdened anyways with the current form (which if fine, but is still very detailed).</p> <p>Commenter 36 states that it is more likely the proposed form will only create more confusion for the applicant and three times the amount of paperwork for USCIS to review before making a determination.</p>	See response immediately below. Officers will receive training on both the revisions to the Form I-485's format and content, including updated terminology.
8	General Comment - Legal assistance and associated costs	Commenter 8 states that new form is very hard for your everyday person to fill out and that most people would require some form of legal assistance which is very expensive and which many US citizens cannot afford in order to file for AOS for their family.	USCIS has revised the Form I-485 to make the form more user-friendly for both the public and USCIS officers, while bringing the form up-to-date to reflect various laws enacted by Congress over the last several years.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
			The revised Form I-485 will to make it easier for applicants to understand, fill out, and file complete and accurate applications with all required evidence. The revisions should minimize the need for requests for evidence (RFEs) and reduce processing times. In addition, the revised form enhances national security and benefits integrity and supports the USCIS mission to grant immigration benefits only to those applicants deemed eligible by Congress.
9	General Comment	The commenter 8 states that many questions are very broad, vague and cannot be answered by just a simple "yes" or "no". The commenter adds that this will slow down the entire process of AOS even for the people who are filing via their spouses.	See response immediately above. Furthermore, applicants are directed to supplement Yes/No answers with more information if needed.
10	General Comment - Accommodating the realities of children who are victims of crimes	Commenter 28 states that the Proposed Form and Proposed Instructions are lacking in accommodations for the particular hardships faced by children who may be victims of domestic violence, human trafficking, or other crimes. Applicants seeking to adjust status based on SIJS, asylum, or U or T nonimmigrant status would be disproportionately burdened by many proposed changes. Such applicants would face a magnified burden of questions on inadmissibility, even where many of the questions would be superfluous in that certain grounds of inadmissibility do not apply to children or victims of crime. Certain documents called for in the	USCIS appreciates this comment and strives to make the application process understandable for all applicants. USCIS must elicit relevant information to adjudicate the immigration benefit request. USCIS adopted several recommendations specific to victims of domestic violence, human trafficking, or other crimes. USCIS will continue to consider how to address the needs of specific immigrant applicants.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		Proposed Instructions would be expensive or difficult for many applicants to obtain, yet the information they contain is already available to USCIS and/or is not necessary to adjudication - e.g., juvenile court orders submitted to USCIS with Form I-360. The commenter requests that USCIS keep in mind the particular vulnerabilities of children and victims of domestic violence, human trafficking, and other crimes, and seek to mitigate unnecessarily heightened thresholds were feasible.	
11	Part 1, Information About You, Item 1.a, Family Name (Last Name)	Commenters 24, 25, 27 and 34 state that the number of characters allotted in response to this question (for applicants to list their last name) is insufficient. As a result, applicants from certain backgrounds are prevented from listing their full legal last names.	USCIS provided the maximum number of characters technically possible (29 characters) in this field. Applicants who cannot fit their last names in this amount of space may use the Part 14, Additional Information section of the form.
12	Part 1, Information About You, Item 6, Sex	<p>Commenters 16 and 27 request "sex" be replaced with "Gender", in line with other USCIS forms (e.g., I-589, I-130). USCIS itself has recognized that "gender" is the appropriate term by, for example, issuing a guidance document on "Adjudication of Benefits for Transgender Individuals" in which "gender" is the preferred term.</p> <p>Commenters 24, 25, 34 and 38 recommend adding an "other" checkbox since gender is not binary and individuals should not be forced to choose between identifying as "male" or</p>	USCIS appreciate the sensitivity that surrounds this issue and fully support the recent actions in this area by the Departments of Education and Defense regarding bathroom access in schools and the ability to serve on the U.S. Armed Forces. However, government-wide policy has not been developed on the issue regarding applications for government benefits. USCIS has been advised to make no changes at this time to questions and data collections regarding sex, gender, male, female, and similar and use the same questions that are currently used. The questions are asked only to authenticate the identity of applicants for adjustment of status, and they need to

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		"female."	be consistent with answers previously provided by the applicant in his or her interactions with immigration authorities. The intent of the questions is clear in the instructions, and applicants are not asked to ascribe any characteristics beyond identity. USCIS will consider changes to this question in future form revisions once legal guidance regarding treatment of this issue becomes uniform across all Executive Branch agencies.
13	Part 1, Information About You, Items 13.a-e, U.S. Mailing Address	Commenters 24, 25, 27, 28 and 34 recommend allowing all applicants (regardless of the specific underlying application case type) to be able to provide a safe mailing address separate and apart from their physical address, not just VAWA, T, U, and SIJ applicants.	At this time, USCIS only provides for safe address protections for certain vulnerable populations. USCIS must have both the applicant's physical and mailing address to properly adjudicate the application (for example, this information is needed to conduct the required background checks).
14	Part 1, Information About You, Items 14 and 15, Alternate and/or Safe Mailing Address and Passport Number Used at Last Arrival	Commenters 24, 25, 28 and 38 recommend that these questions be included in a separate section as they are easily overlooked as they are now.	USCIS will adopt this recommendation by adding a header titled "Recent Immigration History" to indicate a new set of questions beginning with Item 15.
15	Part 1, Information About You, Items 15-19, Passport Number Used at Last Arrival through Nonimmigrant Visa Number from this Passport	<p>Commenter 28 recommends adding "(if any)" to Items 15 and 16.</p> <p>Commenters 16 and 34 recommend prefacing Items 15-19 with a phrase similar to "If you last entered the United States using a passport or travel document, provide the information below," to make it clearer that not all applicants are expected to be adjusting after entry with inspection.</p>	USCIS will adopt this recommendation. USCIS added the following language above Item 15 to clarify that not all applicants are expected to have this information: "Provide the information for Item Numbers 15.-19. if you last entered the United States using a passport or travel document."

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		Commenter 32 expresses concern that these questions will confuse refugees, many of whom will not possess travel documents or passports.	
16	Part 1, Information About You, Items 20-21, Place of Last Arrival into the United States and Date of Last Arrival	Commenters 16 and 34 suggest only using the word “entry” in these questions since prior questions only used that word. The sudden shift to “arrival or entry” is confusing without further clarification, particularly for <i>pro se</i> applicants.	USCIS revised the questions referenced so they consistently only ask about the applicant’s “arrival” instead of “arrival or entry”.
17	Part 1, Information About You, Item 22 (last arrival)	Commenters 16, 27, and 34 suggest restoring “without inspection” as an example answer to the question about the immigration status of the applicant’s last arrival. Some commenters said that providing this example answer would render the form more sensitive to asylees who may have entered without inspection. Other commenters said that it would render the form more sensitive to the likelihood that unaccompanied alien children applying for adjustment based on SIJS or asylum may have entered without inspection.	USCIS revised the question to provide a list of check boxes, including a response stating the applicant came into the United States without admission or parole, or came into the United States without admission or parole but was subsequently paroled.
18	Part 1, Information About You, Item 27 (current immigration status)	Commenter 36 states that immigration status is a conclusion of law that applicants cannot (and arguably should not) make for themselves. Requiring the applicant to answer this question creates potential conflicts on record or misunderstandings concerning status. The commenter recommends removing this question as it is unnecessary for the determination of benefits; applicants already must provide evidence of either their lawful presence or means	The question is necessary. If unsure, the applicant may provide more information in Part 14, Additional Information. Furthermore, the officer adjudicating the application will assess whether the applicant misunderstood the question and if more information is needed. The comment is not adopted.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		by which they are eligible to adjust status.	
19	Part 2-6, Application Type or Filing Category through Information About Your Children - General Comment	<p>Commenter 26 recommends reformatting Part 2 through Part 6 to mimic the current format of the G-325A in order to save space and reduce the likelihood of having to add multiple addendums to the form. The commenter says that currently, Form G-325A consists of 1 page that effectively solicits information that takes the proposed Form I-485 5 pages to solicit. Furthermore, in the proposed revisions to Form I-485, the residential address and employer sections allow for only 2 entries each instead of 5 like the current Form G-325A.</p> <p>The commenter goes on to state the instructions show that Part 14 was added to provide more room for additional information. However, Part 14 only allows for 5 additional slots for additional information for any question on the Form I-485. Thus, if an applicant must add additional addresses, employers, but must also provide explanations to any of the other questions on the form, the final form submission may easily outgrow the 18 pages that the USCIS has estimated. Realistically, many foreign workers who continue to wait for their priority dates to become current change home addresses and/or jobs several times before they are eligible to file Form I-485. The proposed changes to these sections will undoubtedly increase form</p>	<p>The format of the form was redesigned to improve flow and readability. While the white space and length of Part 2-Part 6 is longer than the current format of the G-325A, it collects less information and is less cluttered. Thus, while longer, USCIS expects this revision to require less time and effort.</p> <p>If an applicant must add additional addresses, employers and explanations to any of the other questions on the form, the instructions provide clear guidance on how to attach additional sheets with the application.</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		preparation by an alarming rate. For a company of Intel's size filing an average of 1000 AOS applications per year, this could have the potential of increasing form processing by hundreds of hours.	
20	Part 2, Application Type or Filing Category	Commenter 26 recommends reducing this section by moving these categories into the instructions and assigning each a category with a number similar to how the Form I-765 solicits eligibility criteria information (e.g, (c)(9) AOS applicant as basis for EAD).	USCIS appreciates that this suggestion could serve to shorten the first part of the form, but USCIS thinks the format adopted for application type works well.
21	Part 2, Application Type or Filing Category	Commenter 15 recommends allowing applicants to check multiple boxes in case they have multiple bases for eligibility (e.g. derivative applicant where principal is I-140-based and also principal applicant with his or her own I-130). The commenter also suggests USCIS better streamline transfer of underlying basis for adjustment since currently there is no form for such requests.	An applicant must select one basis for adjustment of status. USCIS believes it is important for applicants to identify the immigrant category under which they are applying for adjustment, as this will allow them to follow specific instructions that relate to that category, ensure that they meet the eligibility requirements and that they are submitting all the required documents for that category. Therefore, USCIS will not adopt this recommendation. If eligible for another basis and that priority date becomes current first, the applicant may request to transfer the basis for adjustment of status. More information is provided in USCIS policy guidance on our website at www.uscis.gov . See Policy Manual, Volume 7, Adjustment of Status, Part A, Adjustment of Status Policies and Procedures, Chapter 7, Transfer of Underlying Basis.
22	Part 2, Application Type or Filing Category	Commenter 37 recommends leaving this Part in a single column as it exists on the current form; the proposed format makes it difficult and confusing	USCIS is using two columns on all forms that undergo significant revision because we think this format works well.

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		to find a particular category of eligibility.	
23	Part 2, Application Type or Filing Category	Commenters 30 and 36 recommend keeping the version of Part 2, Application Type that appears on the current Form I-485, which asks the applicant to choose from one of eight clearly explained bases for why he or she is applying for Adjustment of Status and is much easier for the applicant to understand. Commenter 30 states that asking for immigrant categories as set forth in Part 2, pages 5 to 6, Application Type or Filing Category is unnecessary and complex. The questions employ technical terms and are thus potentially confusing to an applicant. Further, the adjudicator can easily determine the category based on the facts of the application, so requiring that an applicant respond to this overly technical section is unnecessary. In addition, the confusion created by this section would not be easily resolved by looking at the Instruction Booklet. There is no clearly marked section in the Instruction Booklet to help an applicant understand how to complete this section of the Form I-485.	USCIS does not believe the questions are too lengthy, technical or inapplicable. The instructions have been ordered sequentially and numerically to match the form to help an applicant complete this section. No change will be made based on this comment. The current Form I-485 only lists 8 categories (four of which relate only to Cuban adjustments) for applicants to select as the immigrant category under which they are seeking to adjust status. The revised form is far more comprehensive and up-to-date. USCIS believes it is important for applicants to identify the immigrant category under which they are applying for adjustment, so they know they are submitting all the required documents for that category as well as allow them to follow specific instructions that relate to that category. In addition, the applicant's selection of a particular immigrant category upon which the Form I-485 is based facilitates forms intake, file routing, and assignment to appropriate officers and adjudication.
24	Part 2, Application Type or Filing Category, Items 3-9, Information About Your Immigrant Category	Commenter 20 states these sections are confusing and unnecessary and recommends they be deleted. The commenter adds that applicants will not understand that the form is to be used for one applicant individually and many of them will submit one form for an entire family. The commenter adds that Part 2 requests a copy of I-	USCIS disagrees with the commenter's assertion that these questions will lead to confusion among applicants regarding whether individual Form I-485s must be filed. The form and instructions clearly indicate that a separate Form I-485 must be filed for each individual applicant. The instructions also clearly describe the difference between a principal applicant

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		<p>797 receipt or approval notice, which would likely satisfy the reporting requirements for this section.</p> <p>Commenters 30 and 36 state that it is not necessary to require the applicant to list the receipt number and priority date of the underlying petition. Commenter 30 also states it is unnecessary to separate out whether the applicant is the principal applicant or a derivative applicant, as this information will all be readily available on the face of the Form I-797 Approval Notice for the underlying petition that must be attached to the Form I-485. Requesting this information on Form I-485 creates an additional burden on the applicant. Further, making the applicant distinguish between principal and derivative applicant status introduces a legal distinction that may serve to confuse the applicant.</p> <p>Commenter 32 expresses concern these questions will confuse refugees.</p>	<p>and a derivative applicant.</p> <p>The ability to capture this information on the form allows USCIS to automatically input that data into systems and improve processing efficiency. The ability to capture the priority date is also important since the controlling priority date (e.g. based on a previously approved I-140) may not always be reflected on the I-797 notice on which the adjustment application is based. Furthermore, capturing this information on the form allows USCIS to verify that the Form I-485 is correctly matched with the underlying petition, if applicable.</p> <p>USCIS also believes it is important for an applicant, including refugee applicants, to understand if they are the principal applicant or derivative applicant. The Instructions are designed to give the eligibility requirements for the principal and derivative applicants (when applicable) for each immigrant category.</p>
25	Part 3, Additional Information About You (header)	Commenter 38 states that the header is not clear regarding whether the questions are asking about the principal or derivative applicant. The instructions were not helpful on this point.	USCIS changed the header from “Additional Information About Applicant” to “Additional Information About You” to make it clearer.
26	Part 2, Application Type or Filing Category	Commenter 21 recommends adding this question: “Are you applying for adjustment based on the Immigration and Nationality Act (INA) section 245(k)?” because some individuals who violated	No change will be made based on this comment. USCIS does not believe that the question as recommended is technically correct since INA 245(k) is not a basis for adjustment of status. Rather, INA 245(k) is an

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		their status for less than 180 days from lawful admission may file for adjustment based on approval of certain employment immigrant petitions.	exception, applicable to certain employment-based adjustment applicants, to the INA 245(c)(2), (7) and (8) bars. Consistent with past policy and practice, USCIS will not require an applicant to affirmatively request application of INA 245(k). More information on 245(k) is provided in USCIS policy guidance on our website at www.uscis.gov . See Policy Manual, Volume 7, Adjustment of Status, Part B, 245(a) Adjustment, Chapter 8, Inapplicability of Bars to Adjustment, E. Employment-Based Exemption under INA 245(k).
27	Parts 3-5, Additional Information About You through Information About Your Marital History	Commenter 28 recommends that USCIS should designate Part 3 through Part 5 for completion by applicants 14 and over only.	USCIS will not adopt this recommendation since applicants under 14 years old already must provide some of this information on the current form (for example, information about parents and spouse). USCIS will continue to study the recommendation and may make changes in a future revision if deemed appropriate.
28	Part 3, Additional Information About You, Items 1-4	Commenters 16 and 34 recommend consolidating these questions with Part 8, Item 15 (which asks whether the applicant has “EVER been denied a visa to the United States.”	USCIS disagrees with the commenter’s recommendation and will not adopt this change. The questions in Part 3 are designed to determine if the applicant has ever applied for an immigrant visa with DOS, including based on the same immigrant petition as his or her Form I-485 is based. These questions are separate and distinct from questions pertaining to whether the applicant has ever been denied a visa (immigrant or nonimmigrant) to the United States.
29	Part 3, Additional Information About You, Item 1	Commenters 24, 25, 27 and 34 suggests adding a checkbox for “unknown” since many noncitizens in vulnerable populations (for example, children) are unaware of legal processes previously	USCIS disagrees with the commenter’s recommendation to delete the question or adding a check for “unknown.” Item 1 in Part 3 is designed to determine if the applicant has ever applied for an

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		<p>undertaken on their behalf. Providing only a “yes” or “no” answer creates a significant risk of unwitting misrepresentation.</p> <p>Commenter 20 states most applicants will not know the difference between immigrant and non-immigrant visa and they may include extraneous visa information in their petitions. The commenter also states many people will not have the request for decision information or date of decision, and other questions cover inadmissibility waivers. Commenter recommends deleting the question entirely.</p>	<p>immigrant visa with DOS, including the same immigrant petition as his or her Form I-485 is based. Applicants unsure of their answer or the specifics of the application may provide more information in Part 14, Additional Information. Finally, USCIS did make edits to Item 1 to clarify that an immigrant visa would be sought out if trying to obtain permanent resident status.</p>
30	Part 3, Additional Information About You, Item 3	<p>Commenters 24, 25 and 27 state that the explanatory language in this question is duplicative; there is little difference between “refused” and “denied.” Also, “unknown,” one of the options on the current Form I-485, should be added as a possible answer to this question, as there is a high likelihood that applicants will not know the answer, and having only “yes” or “no” as a potential answer creates a significant risk of unwitting misrepresentation.</p>	<p>USCIS did not make changes based on this comment. The examples provided in this question are not exhaustive and are intended to assist the applicant in understanding the question. Applicants may provide “Unknown” as a response or provide more information in Part 14, Additional Information, if unsure of the response.</p>
31	Part 3, Additional Information About You - Address History, Items 6, 8, 10	<p>Commenter 28 states that reporting precise dates of residence would be impracticable for many minor children, trauma survivors, and other applicants who did not control their place of residence. Detail at that level is not necessary to adjudication. Commenter 28 recommends eliminating the mask that requires the format</p>	<p>USCIS did not make changes based on this comment since some applicants may know the precise dates of residence and such information is relevant to ensure the proper adjudication of the application. Applicants who are unsure of precise dates may provide estimates and more information in Part 14, Additional Information, to explain further if needed.</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		“mm/dd/yyyy,” and permit applicants to omit days and provide their best estimate of the month.	
32	Part 3, Additional Information About You - Employment History, Item 14.b	Commenter 28 states that these proposed items call for a level of detail that is not necessary to adjudication. The preamble to Employment History instructs, “Provide the most recent employment first,” but item 14.b. is pre-filled with “Present.” These instructions are inconsistent for any applicant formerly but not currently employed. Delete the prefilled answer “Present” from 14.b.	USCIS adopted the recommendation to delete the prefilled answer “Present” from Item 14.b.
33	Part 3, Additional Information About You - Employment History, Items 11-22.b	Commenter 28 states that for items 14, 18 and 22, reporting precise dates of employment would be impracticable for minor children, trafficking survivors, and other applicants who did not control or elect their place of employment. Likewise, items 11-12, 15-16, and 19-20 call for details on the employer’s name and address that may not be available to many applicants, and is not necessary to adjudication. The commenter recommends to have the responses be filed by applicants 14 and older and eliminate the mask that requires the format “mm/dd/yyyy,” and permit applicants to omit days and provide their best estimate of the month. Permit applicants to provide employer information that is reasonably available.	USCIS did not make changes based on this comment since some applicants may know the precise dates of employment and such information is relevant to ensure the proper adjudication of the application. Applicants who are unsure of precise dates and employer information may provide estimates and more information in Part 14, Additional Information, to explain further if needed. Since most applicants under 14 years old likely will not have lengthy employment histories to report, USCIS did not make any changes regarding who must complete this section. USCIS will continue to study the recommendation and may make changes in a future revision if deemed appropriate.
34	Part 4, Information About Your Parents,	Commenters 16, 24, 25, 27, and 34 recommend specifying whether you are asking for information	USCIS will not adopt this recommendation. These questions relating to parents are collected for

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
	Items 1-16	<p>about legal or biological parents, e.g., which parents to include when a child has been legally adopted. Also, the form should provide clear instruction if information about one’s parent is unknown.</p> <p>Commenter 26 states that many foreign nationals may not know or have this information readily available for various reasons. Currently, in cases where these questions cannot be answered, they are left blank.</p> <p>Commenter 28 states that minor children separated from parents, particularly children abused, neglected or abandoned by parents, may not have access to parental information such as place of birth, given name, and other information called for in items 1-16. The commenter recommends only requiring these questions be answered by applicants 14 and older.</p> <p>Commenters 30 and 37 state that the additional information that the revised proposed Form I-485 requests about the applicant’s parents is not necessary for the adjudication of the I-485 and creates an additional burden on the applicant.</p>	<p>biographical background purposes. Applicants who are unsure of parental information may provide estimates and more information in Part 14, Additional Information, to explain further if needed. Applicants may make any clarifications regarding whether parents’ information reflects legal or biological parents in Part 14, Additional Information.</p> <p>Further, these questions are incorporated from the G-325A and applicants will not need to submit a separate Form G-325A with Form I-485. Sections 1 and 3 of revised Form I-485 meet the requirements of 8 CFR 245.2(a)(3)(i) by collecting the biographical information formerly required on G-325A.</p>
35	Part 4, Information About Your Parents, Item 12	Commenter 16 recommends replacing “sex” with “gender” ” in line with other USCIS forms, including I-589 and I-130, and guidance.	Until government-wide policy has been developed on the issue, USCIS declines to make no changes to questions and data collections regarding sex, gender,

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
			male, female, and similar and use the same questions that are currently used. The questions are asked only to authenticate the identity of applicants' parents for adjustment of status, and they need to be consistent with answers previously provided by the applicant in his or her interactions with immigration authorities. The intent of the questions are clear in the instructions, and they are not asked to ascribe any characteristics beyond identity. USCIS will consider changes to this question in future form revisions once legal guidance regarding treatment of this issue becomes uniform within all Executive Branch agencies.
36	Part 6, Information About Your Children	Commenter 30 states the additional address details of children that are requested on the revised Form are not necessary to the Form's adjudication and create an additional burden on the applicant to complete this unnecessary information.	The proposed Form I-485 does not request address details of the applicant's children.
37	Part 5, Item 1	Commenters 16 and 34 recommend explaining what "legally separated" means, especially in combination with Items 14-15 (which ask for the "date" and "place" at which a prior marriage "legally ended" – some applicants may be confused if legal separation is the same thing as legally ending a marriage).	USCIS did not make any changes based on this comment because the meaning of the term "legally separated" could vary from state to state. The adjudicator will determine if additional clarification is needed based on the answer provided.
38	Parts 4-6, Information about Your Parents, Information About Your Marital History, and Information about Your	Commenter 22 asks why is it necessary to have such detailed information about number of marriages, former spouses names, family members, etc. Is it to prevent supplemental claims for potentially non -eligible family	USCIS requires this information to determine the applicant's eligibility or need to apply for adjustment. For example, parental information might reveal that the applicant derived citizenship through parentage and does not need to apply for adjustment. Spousal

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
	Children	members?	information and whether or not a marriage has been terminated may impact the applicant's eligibility for adjustment of status. Whether or not prior marriages have been terminated may also impact the admissibility determination.
39	Part 6, Information about Your Children, Item 1, Note	Commenter 38 recommends including "missing" children.	USCIS will adopt this recommendation.
40	Part 7, Biographic Information - General Comment	<p>Commenter 16 states that the biodata requested seems unnecessary, unduly invasive, and will likely cause confusion (especially for non-native English speakers).</p> <p>Commenter 26 states that this information is unnecessary to the adjudication of the Form I-485 and should be removed.</p> <p>Commenter 22 wonders why this information is necessary. The commenter also expresses concern that some of these elements (i.e., weight or hair color) might change between the time the application is submitted and the applicant interview, will the interviewing officer take that into consideration and how will it impact prior attestations.</p>	<p>The questions, categories, instructions definitions, and manner in which the identifying data is collected, comply with the United States, Office of Management and Budget, Standards for the Classification of Federal Data on Race and Ethnicity. OMB makes clear that these classifications are for identification only and should not be interpreted as being scientific or anthropological in nature, nor should they be viewed as determinants of eligibility for participation in any Federal program.</p> <p>The Biographic Data elements were added to Form I-485 to streamline the applicant's visit to the USCIS Application Support Center (ASC). When an applicant arrives at an ASC to provide biometrics, for the purpose of the required background checks, they first must complete FBI Form FD-258, which includes a number of identifying characteristic that the FBI requires to run background checks. USCIS has decided to collect and store that information on the filed forms so it does not need to be provided again, manually, at the ASC.</p>
41	Part 7, Biographic	Commenter 33 recommends including questions	USCIS appreciates this comment but will not adopt this

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
	Information	on sexual orientation and gender identity. Such questions would provide much needed data currently lacking on LGBT immigrants living in the U.S. and could inform USCIS's policy decisions, such as immigration integration initiatives.	recommendation. See response immediately above. USCIS collects biographic data for background checks and not for statistical analysis of the characteristics of program participants. While some parties may find the various traits and characteristics of adjustment applicants to be of interest from an identification standpoint, USCIS has no independent statutory authority to collect race, ethnicity, sex, national origin and physical disability information beyond what is necessary to adjudicate the benefit request. In addition, the Paperwork Reduction Act requires that any data collected have a practical utility to the collecting agency.
42	Part 7, Biographic Information, Items 1, 3, 4, and 6	Commenter 28 recommends race and ethnicity do not have bearing on adjudication, and in other contexts, collection of such information is voluntary. Item 1 singles out the category "Hispanic or Latino," then groups numerous ethnicities into a single category, "Not Hispanic or Latino." Especially for children, height, weight, and hair color may change in the interval between filing the form and presenting at the Application Support Center (ASC) biometrics appointment, creating artificial inconsistencies. Commenter 28 recommends deleting these questions because comparable information is collected at ASC biometrics appointments. Alternatively, delete Item 1, and provide an option to specify other races or ethnicities, optionally. Give an instruction acknowledging that the referenced characteristics	<p>The questions, categories, instructions definitions, and manner in which the identifying data is collected, comply with the United States, Office of Management and Budget, Standards for the Classification of Federal Data on Race and Ethnicity. OMB makes clear that these classifications are for identification only and should not be interpreted as being scientific or anthropological in nature, nor should they be viewed as determinants of eligibility for participation in any Federal program.</p> <p>The Biographic Data elements were added to Form I-485 streamline the applicant's visit to the USCIS Application Support Center (ASC). When an applicant arrives at an ASC to provide biometrics, for the purpose of the required background checks, they first must complete FBI Form FD-258, which includes a number of</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		may change.	identifying characteristic that the FBI requires to run background checks. USCIS has decided to collect and store that information on the filed forms so it does not need to be provided again, manually, at the ASC.
43	Part 7, Items 1-2	<p>Commenters 24, 25, and 34 recommend including “unknown” or “other” checkboxes regarding questions about ethnicity and race since these concepts are not universally understood and the questions may be confusing. Alternatively, instruct that applicants need not answer if they do not know or do not identify with one of the listed ethnicities or races.</p> <p>Commenter 27 also offers the alternative to include an “unknown” or “other” option.</p> <p>Commenter 20 also recommends including an “other” option for race.</p>	See response to above comment.
44	Part 8, General Eligibility and Inadmissibility Grounds - General Comment	Commenter 32 states that many of the inadmissibility questions are redundant for refugees because they have already been examined for admissibility prior to entering the United States.	Like all adjustment applicants, refugees seeking adjustment must show continuing eligibility for the benefit, from the time of filing through adjudication. See 8 CFR 103.2(b)(1). Therefore, despite any prior vetting of admissibility, USCIS must still collect answers to the questions in Part 8 to determine the applicant remains admissible and therefore eligible for the benefit at the time of adjudication.
45	Part 8, General Eligibility and Inadmissibility Grounds, Item 1, “Have you ever been a	Commenter 16 recommends providing greater specification because it is unclear if a religious group or trade union would count as one of the listed (or similar) groups. The commenter also	No change will be made based on this comment. USCIS must elicit relevant information to adjudicate the immigration benefit request. If there is no conduct that applies to the question, the applicant should

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
	member..."	states that it is unclear what level of activity would constitute being a member of, involved in or any way associated with a group. The commenter asks, for example, if automatically deducted union dues or automatic tithing would create membership or association.	answer no. If there is conduct that applies or might apply, the applicant should answer yes. However, it is important to note that an answer of yes does not necessarily mean that the applicant will be found inadmissible on the related ground.
46	Part 8, General Eligibility and Inadmissibility Grounds, Items 1-13	<p>Regarding Item 1, Commenter 28 states: The change from "since your 16th birthday" in the current edition of Form I-485 to "EVER" in the Proposed Form makes the proposed wording overbroad, in disregard of statutory exemptions for a child being involuntarily enrolled in or associated with an organization or group without full knowledge or understanding of the organization's or group's tenets, purpose(s) and/or goal(s).</p> <p>Commenter 28 also states that the phrase "involved in, or in any way associated with" in Item 1 is vague and overbroad, as is the use of a long list of disparate terms plus a catch-all ("similar group"); varying interpretations and arbitrary adjudications are likely to result. In Items 5, 9, and 13, "Dates of Involvement of Membership" is unclear and possibly an error; a month and day may not be knowable.</p> <p>Commenters 24, 25, 28, and 34 recommend expressly limiting the scope of the question to groups in which the applicant had a membership</p>	<p>No change will be made based on this comment. USCIS must elicit relevant information to adjudicate the immigration benefit request. If there is no conduct that applies to the question, the applicant should answer no. If there is conduct that applies or might apply, the applicant should answer yes. However, it is important to note that an answer of yes does not necessarily mean that the applicant will be found inadmissible on the related ground.</p> <p>Header for dates of involvement has been reworded to read, "Dates of Membership or Dates of Involvement."</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		or affirmative voluntary association, after the age of 16. Delete, at a minimum, “involved in, or in any way associated with,” “fund,” “society,” and “similar group.” Reword “Dates of Involvement of Membership” and remove the mask which requires months and days.	
47	Part 8, General Eligibility and Inadmissibility Grounds, Preamble to Items 14-80	<p>Commenter 28 states “Choose the answer that you think is correct” and “if you answer ‘No’ but are unsure of your answer” are misleading directives, as the applicant will be required to certify the truthfulness of his answers. In contrast to the past practice of requiring an explanation only for a “Yes” answer, the proposed directive adds ambiguity to the application process by requiring an explanation for certain “No” answers, and by falsely suggesting that an applicant is “unsure” of any “No” answer as to which he chooses to provide an explanation. The directive also appears to limit the explanation to “the space provided in Part 13.”</p> <p>Commenter recommends if USCIS uses the proposed wording of this directive, it will require qualifying language in the Applicant’s Statement at Part 10 to indicate that the answers to items 14 through 80 are thought to be correct. In the alternative, replace this preamble with, “If your answer is ‘Yes’ to any question, provide an explanation of the events and circumstances according to the instructions provided in Part 13.</p>	<p>USCIS must elicit relevant information to adjudicate the immigration benefit request. If there is no conduct that applies to the question, the applicant should answer no. If there is conduct that applies or might apply, the applicant should answer yes. Applicants unsure of their answer may provide more information in Part 14, Additional Information, to further explain. USCIS will assess the applicant’s answers on the form in the context of evidence submitted and discovered through required background checks as well as information clarified through interviews, if necessary, to ultimately make the determination regarding the applicant’s admissibility and eligibility for the benefit.</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		Additional Information. You may also provide an explanation that you determine to be appropriate for any question to which you answered 'No.'"	
48	Part 8, General Eligibility and Inadmissibility Grounds, Items 14-23	<p>Commenters 24, 25, and 34 commend USCIS for instructing applicants unsure of the appropriate response to answer "no" and provide an explanation. The commenter suggests including an "unknown" or "unclear" checkbox would be more efficient and clear. The commenter also encourages USCIS to define the legal terminology (rescission, exclusion, deportation, etc.) used throughout these questions.</p> <p>Commenter 27 adds that young applicants for adjustment are unaware of prior applications filed on their behalf by parents, caregivers, legal guardians or other relatives.</p>	<p>No change will be made based on this comment.</p> <p>USCIS must elicit all information relevant to the adjudication of the immigration benefit request. This includes any information that might make the applicant inadmissible/ineligible for adjustment.</p> <p>An answer of 'unknown' does not resolve this issue. If there is no conduct that applies, the answer is no. If there is conduct that applies or might apply, the applicant may answer yes.</p> <p>Answering 'yes' does not necessarily mean the applicant is inadmissible or ineligible for adjustment. If an applicant is unsure if certain actions would fall under the question, the applicant can answer yes and disclose the conduct/actions that might apply.</p> <p>A failure to disclose material information may have immigration consequences for this benefit or when applying for future immigration benefits, so it is also in the applicant's best interests to disclose all relevant information,</p>
49	Part 8, General Eligibility	Commenters 30 and 36 recommend deleting this	USCIS disagrees with the commenters' assertion that

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
	and Inadmissibility Grounds, Item 14, “Have you EVER been denied admission...”	question. This question asks whether the applicant has ever been denied admission to the United States. “Admission” is a legal term of art, and will be confusing to non-lawyers. Further, this question is irrelevant to eligibility for Adjustment of Status. It is inappropriate and confusing for USCIS to add questions to Form I-485 that are beyond the scope of the Form I-485’s purpose.	the term “admission” is confusing to non-lawyers and is irrelevant to eligibility. Applicants who are unsure of their manner of arrival into the U.S. may provide more information in Part 14, Additional Information.
50	Part 8, General Eligibility and Inadmissibility Grounds, Item 16, “Have you EVER worked in the United States...”	<p>Commenter 20 recommends deleting this question because, as worded, it is broader than the grounds of inadmissibility.</p> <p>Commenter 23 also states that this question does not constitute a ground of inadmissibility. The question will obligate many applicants to answer yes and provide supplemental statements that USCIS does not need (nor should it want).</p>	USCIS will not adopt this change. This question relates to the adjustment bars at INA 245(c)(2) and (8) and is relevant information for determining eligibility for adjustment of status.
51	Part 8, General Eligibility and Inadmissibility Grounds, Item 17, “Have you EVER violated the terms...”	<p>Commenter 16 and 27 state this question is overbroad and most applicants would not understand all of the circumstances that should result in a “Yes” answer. And if the question includes working without authorization, it is duplicative of Part 8, Item 16. Commenter 16 also recommends adding “(if any)” before the question mark for individuals who did not have nonimmigrant status before adjustment.</p> <p>Commenter 31 says this question could cause confusion, especially for unrepresented applicants who may not understand what it means to violate</p>	USCIS disagrees that this question is overbroad, particularly because it relates to the adjustment bar at INA 245(c)(8), inadmissibility under INA 212(a)(6)(G) and potentially, INA 212(a)(9)(B). Applicants who are unsure of whether or not they have ever violated the terms or conditions of their nonimmigrant status may provide more information in Part 14, Additional Information.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		the terms of conditions of their nonimmigrant status. USCIS should provide specific examples of what might constitute a status violation with a notation that the applicant should consult with a licensed attorney or accredited representative if they are unsure how to answer this question.	
52	Part 8, General Eligibility and Inadmissibility Grounds, Item 23, "Have you EVER applied for any kind of relief..."	Commenters 30 and 36 recommend deleting this question. This question asks whether the applicant has ever applied for any kind of relief from removal. This requires the applicant to understand what is meant by the term "relief," which is a legal term of art. Other questions on the form get to the heart of the issue around removal. This question is unnecessary and creates additional burden for the applicant.	USCIS disagrees with the commenters that the word 'relief' is a legal term of art. Common definitions of the word relief include "feeling of reassurance" or "assistance." The other questions on the form regarding removal do not specifically address relief or protection from removal. Therefore the question is necessary.
53	Part 8, General Eligibility and Inadmissibility Grounds, Item 25, "Have you EVER used any illegal..."	Commenters 24, 25, 27, 28, 34, and 36 state the question is duplicative since the issue of illicit drug use/abuse is determined by a civil surgeon. Commenter 30 recommends deleting this question in its entirety. In the alternative, use the phrase "federally controlled substances" rather than "drugs." Commenter 17 states the wording of the question goes beyond the statutory grounds of inadmissibility and asking about past drug use may have a chilling effect. Commenter also states this should be a question on I-693 for the civil surgeon to determine.	USCIS will adopt the recommendation to remove this question.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		<p>Commenter 20 also recommends deleting this question because it is overbroad and requires the determination of the civil surgeon.</p> <p>Commenter 31 says this question is too broad. An admission of simply having used (but not abused) an illegal drug does not render the applicant inadmissible. The statutory health-related inadmissibility ground under INA §212(a)(1)(A)(iv) is limited to individuals who have been “determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to be a drug abuser or addict.” This statutory provision has been interpreted by the government to implicate conduct that only goes far beyond simple “use” of a drug. For example, the Department of State (DOS) has concluded that “drug addiction” is limited to use resulting in physical or psychological dependence and “drug abuse” does not include experimentation with any particular substance.</p> <p>Commenters 23 and 38 state this question is not appropriate and does not constitute a ground of inadmissibility. The question will obligate many applicants to answer yes and provide supplemental statements that USCIS does not need (nor should it want).</p>	

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		<p>Commenter 36 states the term “drug” is colloquial and may encompass things far beyond federally controlled substances. There is also a conflict between state and federal law concerning the illicit nature of certain substances which the applicant may not readily comprehend when answering the question.</p> <p>Commenter 28 states the terms “drugs,” “used,” and “abused” make this question vague and overbroad. Having used (but not abused) an illegal drug does not implicate health-related grounds of inadmissibility. The issue of drug abuse is a determination properly made by a civil surgeon, not by the applicant or others lacking expertise.</p>	
54	Part 8, General Eligibility and Inadmissibility Grounds, Items 25-26	Commenters 16, 24, 27, and 34 recommend clarifying if these questions apply to just acts in the U.S. or acts inside and outside of the U.S. Commenters 16 and 34 also recommend including in the Form and Instructions an indication that arrests or criminal history do not automatically bar adjustment.	No change will be made based on this comment. Criminal conduct, whether committed inside or outside the United States is relevant to determining whether an applicant is inadmissible or ineligible for adjustment of status.
55	Part 8, General Eligibility and Inadmissibility Grounds, Item 25, “Have you EVER been arrested...”	Commenter 28 states that expressly confirming that the question covers immigration arrests is a welcome clarification. However, the phrase “for any reason” renders the question vague and overbroad, and seeks information not relevant or necessary to adjudicating the application. Because many arrests, citations, charges, and detentions	No change will be made based on this comment. The question is intended to elicit a broad response. Where certain activity may fall outside the scope of an inadmissibility ground, it may still be relevant for purposes of discretion.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
<u>#</u>	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		<p>fall outside the scope of any grounds of inadmissibility, the question is likely to elicit information about law enforcement contacts that occurred “for any reason” yet have no bearing on the applicant’s actual eligibility for status adjustment.</p> <p>Commenter 28 recommends revising the question to be contiguous in scope with statutory grounds of inadmissibility, and replace the phrase “for any reason” with “on the basis of an alleged criminal or immigration violation.”</p> <p>Commenter 31 says that asking whether an applicant has been detained by any law enforcement official is beyond the scope of information that USCIS needs to assess an applicant’s admissibility. The term “detained” should be deleted from this question, and in the corresponding explanatory paragraph preceding this question. USCIS should retain the language on the current form: “Have you EVER, in or outside of the United States ... been arrested, cited, charged, indicted, convicted, fined, or imprisoned for breaking or violating any law or ordinance, excluding traffic violations?”</p>	
56	Part 8, General Eligibility and Inadmissibility Grounds, Item 26, “Have you EVER committed a	Commenter 31 says this question is also overly broad. Admitting to committing any crime or any offense for which you were not arrested does not render the applicant inadmissible. Under INA	No change will be made based on this comment. The question is intended to elicit a broad response. In addition to the inadmissibility grounds the commenter cites, commission of a crime, even if the applicant was

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
	crime..."	§212(a)(2)(A)(i)(I) and §212(a)(2)(A)(i)(II), individuals may be inadmissible if they have committed acts that form the essential elements of a crime involving moral turpitude (CIMT) or certain controlled substances offenses. However, the proposed question asks whether the applicants have ever committed any crime or offense for which they were not arrested. Because the question as currently phrased asks applicants to admit to conduct that goes far beyond the relevant inadmissibility grounds, we ask USCIS to retain the language on the current form: "Have you EVER, in or outside the United States ... knowingly committed any crime of moral turpitude or a drug-related offense for which you have not been arrested?"	never arrested, charged, or convicted, is relevant to discretion. Therefore, asking for information on any crime an applicant committed is necessary to determine eligibility for adjustment of status.
57	Part 8, General Eligibility and Inadmissibility Grounds, Items 25-31	Commenters 24, 25, 27, and 34 recommend specifying how children should answer these questions. Remind applicants they should disclose behavior even if it occurred while they juveniles. Please include current language about there being no need to disclose traffic violations. Lastly, some of these questions are overbroad or vague. Please track the language of the statute and/or cite the statute.	USCIS has included information on juvenile adjudications and traffic fines and incidents in the I-485 instructions.
58	Part 8, General Eligibility and Inadmissibility Grounds, Note before Item 25	Commenter 28 states the phrase "answer 'Yes' to any question that applies to you" literally instructs all applicants to check every "Yes" box. A blanket instruction regarding "your records" is given, yet is irrelevant to many questions in the group. The	USCIS has included information on traffic fines and incidents in the I-485 instructions.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		<p>decision to make an arrest, citation, etc. lies with a law enforcement officer, so an applicant should be asked to explain the circumstances rather than “why” one was arrested, cited, etc.</p> <p>Commenter 28 recommends rewording “any question that applies to you.” Retain the existing instruction that traffic violations need not be disclosed.</p>	
59	Part 8, General Eligibility and Inadmissibility Grounds, Items 25-45	<p>Commenters 20 and 30 recommend revising the Instructions in Part 8 to clarify applicants arrested as juveniles in states where juvenile records are confidential do not need to provide any information beyond the fact of the arrest.</p> <p>Commenter 30’s recommended language: “If you answer “Yes” to Item Numbers 25. - 45., use the space provided in Part 13. Additional Information to provide an explanation that includes why you were arrested, cited, detained, or charged; where you were arrested, cited, detained, or charged; when (date) the event occurred; and the outcome or disposition (for example, no charges filed, charges dismissed, jail, probation, community service), unless your case was handled in juvenile court and state confidentiality laws prevent disclosure of such information.” The commenter says that this approach is consistent with USCIS’s approach in Form I-821D Deferred Action for Childhood arrivals and should be used in all USCIS applications. The commenter says (about the</p>	<p>There is no legal exception that allows nondisclosure of a juvenile adjudication for federal immigration purposes, even where a state law provides that a juvenile adjudication no longer exists. Disclosure of this information is required given the differences in how states address juvenile offenders. It is within USCIS’s jurisdiction to determine whether the state finding corresponds to the Federal Juvenile Delinquency Act and therefore does not qualify as a conviction for immigration purposes. Furthermore, an applicant can always provide documentation that the record is unavailable. For these reasons, USCIS retained the original language.</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		instructions to these questions) that requesting this kind of detailed information without clarifying that it is not required in cases where the applicant was arrested as a juvenile in a state with confidentiality laws that prevent disclosure of such information invites violations of state juvenile confidentiality laws which may carry both civil and criminal penalties. Further, the Department of Homeland Security is clearly prohibited by federal regulation from obtaining and using confidential information.	
60	Part 8, General Eligibility and Inadmissibility Grounds, Item 26, "Have you EVER committed a crime..."	<p>Commenter 17 states that this and subsequent questions are repetitive making the form long and pro se applicants will not understand some of the nuances of the questions. Commenter recommends addressing these questions in an interview.</p> <p>Commenters 25, 27, 34 and 36 state that this question is so broadly written that it includes criminal activity and behavior (e.g. jaywalking) that has no effect whatsoever on an applicant's eligibility for adjustment.</p> <p>Commenter 16 suggests explicitly excluding traffic violations or minor offenses.</p> <p>Commenter 29 recommends deletion and believes the question goes beyond the language of any statutory ground of inadmissibility at INA</p>	<p>No change will be made based on these comments. The question is intended to elicit a broad response. In addition to the inadmissibility grounds the commenter cites, commission of a crime, even if the applicant was never arrested, charged, or convicted, is relevant to discretion. Therefore, asking for information on any crime an applicant committed is necessary to determine eligibility for adjustment of status.</p> <p>In addition, not all adjustment applicants are interviewed.</p>

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		<p>212(a)(2). The commenter says the question is vague and overbroad, potentially encompassing very minor infractions as well as serious criminal activity. Furthermore, the question assumes that applicants for adjustment are aware of all of the elements of every crime.</p> <p>Commenter 36 suggests revising to read: “Have you EVER, in or outside the United States . . . knowingly committed any crime of moral turpitude or drug-related offense for which you have not been arrested?”</p>	
61	Part 8, General Eligibility and Inadmissibility Grounds, Item 27, “Have you EVER pled guilty...”	<p>Commenter 28 states that this question is overly broad and may include minor offenses that do not give rise to grounds of inadmissibility. Commenter 28 recommends: In lieu of this proposed question, retain the question used in the current Form I-485, but revised as follows: “Have you EVER, in or outside the United States knowingly committed any crime of moral turpitude or a controlled substance offense for which you have not been arrested?” or use a comparable formulation contiguous with the scope of grounds of inadmissibility. Commenter 28 also expresses concern this question requires disclosures that violate federal and state laws that protect confidentiality and/or victims’ rights.</p> <p>Commenter 31 says USCIS should add “no contest” or “nolo contendere,” so that this</p>	<p>The question is intended to elicit a broad response. In addition to the inadmissibility determination, commission of a crime, even if the applicant was never arrested, charged, or convicted, is relevant to discretion. Therefore, asking for information on any crime an applicant committed is necessary to determine eligibility for adjustment of status.</p> <p>An applicant is not prohibited from disclosing records about himself or herself.</p> <p>Furthermore, it is not necessary to add “no contest” or “nolo contendere” to this question. It is well-settled in law that an <i>Alford</i> plea or a “nolo contendere plea,” or a “no contest” plea all have the same effect as an ordinary guilty plea.</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		question reads "Have you EVER pled guilty or nolo contendere, or been convicted...."	
62	Part 8, General Eligibility and Inadmissibility Grounds, Item 28, "Have you EVER been ordered punished..."	<p>Commenter 30 recommends deleting this question and states the wording of this question is so broadly phrased that it could be interpreted to include all kinds of situations that are not relevant to the determination of the applicant's eligibility for Adjustment of Status, for example, a child's being sent to detention or being put on trash pick-up duty at school. Further, this question is unnecessary given the plethora of other questions that seek information about the existence of a criminal history.</p> <p>Commenter 28 also recommends deleting this question. In the alternative, after "by a judge," insert the phrase "for committing a crime involving moral turpitude or a violation or conspiracy or attempt to violate any law or regulation relating to a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)," or otherwise revise the question to bring its scope within the grounds of inadmissibility.</p>	<p>No change will be made based on this comment. This information is relevant to determining whether an applicant may be inadmissible based on criminal grounds and to the discretionary determination.</p> <p>Also these questions already ask for conduct that might be a CIMT or controlled substance offense, so adding the suggested terms would be duplicative.</p>
63	Part 8, General Eligibility and Inadmissibility Grounds, Item 29, "Have you EVER been a defendant..."	Commenter 28 says that that the question is overbroad, and would call for a "Yes" answer and explanation from witnesses who testified in any criminal proceeding, including confidential grand jury proceedings. As to persons who were defendants in criminal proceedings, the question	USCIS will adopt the recommendation to revise the question and add "a defendant or the accused" to make it clearer what the question is asking.

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		<p>is duplicative of Item 26.</p> <p>Commenter 28 recommends deleting the question, or at minimum, change “in” to “a defendant in.”</p>	
64	Part 8, General Eligibility and Inadmissibility Grounds, Items 28, 29, 31 (criminal acts and violations)	Commenter 36 recommends deleting these questions as they are redundant and unnecessarily increase the burden on the applicant. Judicial proceedings are already covered by Items 26 and 28 as well as the instructions prior to the questions which already request the applicant fully explain the arrest/detention and all events subsequent.	No change will be made based on this comment. USCIS disagrees that the questions are redundant. This information is relevant to determining whether an applicant may be inadmissible based on criminal grounds and to the discretionary determination.
65	Part 8, General Eligibility and Inadmissibility Grounds, Item 32, “Have you EVER illicitly (illegally) trafficked...”	Commenter 28 recommends limiting this question to controlled substances “as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802),” consistent with the statutory scope of this ground of inadmissibility.	The question is intended to elicit a broad response. Where certain activity may fall outside the scope of an inadmissibility ground, it may still be relevant for purposes of discretion.
66	Part 8, General Eligibility and Inadmissibility Grounds, Items 30, 32, 33 (criminal acts and violations)	Commenter 36 recommends either deleting these questions as redundant and unnecessary or condensing these questions into a single question rather than asking the same thing three different ways. Trafficking of controlled substances is already captured in prior questions regarding criminal conduct.	USCIS disagrees that the questions are redundant. This information is relevant to determining whether an applicant may be inadmissible based on criminal grounds; the questions represent separate and distinct inadmissibility grounds outlined at INA 212(a)(A)(i)(II) and 212(a)(C)(i). USCIS believes compounding the questions would make it more difficult for the applicant to understand. The information collected may also be relevant to the discretionary determination.
67	Part 8, General Eligibility	Commenter 16 states it is unclear what a “purely	No change will be made based on these comments.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
	and Inadmissibility Grounds, Item 31, "Have you EVER been convicted..."	<p>political offense" is and recommends providing examples or guidance in the Instructions. Commenter also states it is unclear if "confinement" as used in Item 32 is the same as it is used in Items 28-30 (and seems duplicative).</p> <p>Commenter 28 recommends deleting this question as it is repetitive. The commenter says that this question lacks clarity on what a "purely political offense" is. It also calls for information that is duplicative of responses to questions such as 26, 28, and 29. Also, instead of the statutory term "aggregate," this question uses "combined."</p>	USCIS disagrees the question is repetitive. This information is relevant to determining whether an applicant may be inadmissible based on criminal grounds and to the discretionary determination.
68	Part 8, General Eligibility and Inadmissibility Grounds, Item 32, "Have you EVER illicitly (illegally) trafficked..."	<p>Commenter 28 states that the phrase "benefited from the trafficking of" renders the question unclear and overbroad. For example, it could require for a "Yes" answer from any member of the public who enjoyed a fireworks display produced by a criminal syndicate. Additionally, the phrase "such as chemicals, illegal drugs, or narcotics" renders the phrase "controlled substances" vague and ambiguous.</p> <p>Commenter 28 recommends retaining the formulation that currently appears on Form I-485 in Part 3, Item 3(d) on Page 3: "Have you EVER illicitly trafficked in any controlled substance, or knowingly assisted, abetted, or colluded in the illicit trafficking of any controlled substance?" Any addition should be consistent with the scope of</p>	No changes will be made based on these comments. The phrasing of the question is intended to elicit a broad response to obtain information relating to two inadmissibility grounds -- INA 212(a)(2)(C)(i) and (ii) -- as well as information relevant to the discretionary analysis. The examples of controlled substances provided are intended to help the applicant understand what the term "controlled substances" means.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		INA 212(a)(2)(C).	
69	Part 8, General Eligibility and Inadmissibility Grounds, Item 34, "Are you the spouse, son, or daughter..."	<p>Commenter 28 states that this question is overbroad and exceeds the scope of the relevant grounds of inadmissibility, which pertain not to a "foreign national" but to an "alien" who is "inadmissible" for reasons of illicit trafficking in a controlled substance. Some child migrants have been abused, neglected, or abandoned by "foreign national" parents who may have been involved in trafficking activities, causing the child to escape and seek immigration relief in the United States. Evaluating what he or she "reasonably should have known" may be unreasonably difficult for many children.</p> <p>Commenter 28 recommends revising this question to be contiguous in scope with INA 212(a)(2)(C)(ii).</p>	As the commenter points out, this conduct is specific to a ground of inadmissibility and is therefore relevant to the adjudication. The phrasing of the question is intended to elicit a broad response to obtain information relating to inadmissibility as well as the discretionary analysis. Since both admissibility and the favorable exercise of discretion are generally required to be eligible for adjustment of status, the question is necessary.
70	Part 8, General Eligibility and Inadmissibility Grounds, Items 35-37 (prostitution)	Commenter 28 states that these questions exceed the statutory grounds of inadmissibility which are limited to the past 10 years. The questions are overlapping, and taken together, they place disproportionate focus on heavily stigmatized conduct that can be a product of human trafficking or coercion, and they lengthen the form. Because item 36 asks about both past and future conduct, a "Yes" answer would inappropriately stigmatize, for example, an applicant who was in the past was forced to engage in prostitution but has no intention of	In addition to the relevant inadmissibility grounds, any related activity outside the scope of the grounds may be relevant to discretion. Therefore, asking for this information is necessary to determine eligibility for adjustment of status.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		<p>doing so in the future; he or she would also be forced to repeat a “Yes” answer to item 38 for the exact same conduct covered by item 36, resulting in needless re-stigmatization.</p> <p>Commenter 28 recommends deleting “are you coming to the United States to engage in prostitution?” Merge the three items into a single question limited to the past 10 years, such as, “Have you within the past 10 years engaged in prostitution, or procured or attempted to procure persons for prostitution, or received any proceeds or money from prostitution?”</p> <p>Commenters 24, 25, and 34 state that the question regarding prostitution is much broader than the relevant ground of inadmissibility and does not include specific exceptions (such as “within the last 10 years”) contained in the statute.</p> <p>Commenter 29 believes that questions 36 through 38 exceed the statutory grounds of inadmissibility which are limited to the past 10 years. The questions are overlapping, and taken together, they place disproportionate focus on heavily stigmatized conduct that can be a product of trafficking or coercion. Because question 36 asks about both past and future conduct, a ‘Yes’ answer would inappropriately stigmatize, for</p>	

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		<p>example, an applicant who was in the past forced to engage in prostitution but has no intention of doing so in the future; he or she would also be forced to repeat a “Yes” answer to item 38 for the exact same conduct covered by item 36, resulting in needless re-stigmatization. The commenter recommends deleting “are you coming to the United States to engage in prostitution?” and to merge the three items into a single question limited to the past 10 years, such as, “Have you within the past 10 years engaged in prostitution, or procured or attempted to procure persons for prostitution, or received any proceeds or money from prostitution?”</p> <p>Commenter 31 says USCIS has expanded the scope of these questions to require the applicant to disclose if he or she has EVER engaged in such conduct; the questions should be limited in scope to the 10-year time limitation set by INA §212(a)(2)(D). USCIS should continue to use the question on the current Form I-485: “Have you ever ... [w]ithin the past 10 years, been a prostitute or procured anyone for prostitution, or intend to engage in such acts in the future?”</p>	
71	Part 8, General Eligibility and Inadmissibility Grounds, Item 38, “Do you intend to engage in illegal gambling...”	Commenters 24, 25, and 34 recommend providing a definition of colloquial terms such as “bootlegging.”	This term “bootlegging” provides an example of what may constitute commercialized vice. USCIS does not believe a definition is warranted.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
72	Part 8, General Eligibility and Inadmissibility Grounds, Item 40, "Have you EVER, while serving as a foreign government official..."	Commenter 16 states it is unclear what "violations of religious freedom" would require an affirmative answer for this item.	This question is relevant to determining conduct that could make the applicant inadmissible under INA 212(a)(2)(G). If the applicant is unsure whether conduct violates religious freedom, he or she should explain the circumstances of the conduct in Part 14, Additional Information.
73	Part 8, General Eligibility and Inadmissibility Grounds, Items 41-43 (trafficking of persons)	Commenter 28 states that "trafficking" is a term that is often confused with smuggling and other concepts (such as drug trafficking and weapons trafficking). The definition of human trafficking also varies between different state laws and federal law. In particular, INA § 212(a)(2)(H)(i) specifically addresses this ground of inadmissibility as covering "a trafficker in severe forms of trafficking in persons, as defined in Section 103" in the Trafficking Victims Protection Act in 22 USC § 7102(9). This definition of trafficking listed here is also incomplete, as the definition in 22 USC §7102(9) of a "severe form of trafficking in persons" is: a) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or b) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.	As the commenter noted, this conduct is relevant to inadmissibility under INA 212(a)(2)(H); the conduct is also relevant to discretion. USCIS disagree that breaking down the questions is confusing.

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		<p>These questions attempt to break down this legal definition but do not do it accurately. The additional partial explanation of “trafficking” in item 43 confuses the matter. The legal terms “involuntary servitude,” “peonage,” “debt bondage,” “slavery,” and “commercial sex acts” are incorporated into the legal definition of a “severe form of trafficking in persons.”</p> <p>Furthermore, the form could be shortened by consolidating the three questions into a single item citing the proper legal definition.</p> <p>Commenter 28 recommends: Combine and clarify the three items to read, “Have you ever induced (or aided or conspired with others in the inducement of) someone to engage in commercial sex through force, fraud, or coercion, or used force, fraud, or coercion to induce someone to work against their will?”</p>	
74	Part 8, General Eligibility and Inadmissibility Grounds, Item 44, “Are you the spouse, son or daughter...”	<p>Commenters 28 and 29 state that some child migrants have been abused, neglected, or abandoned by parents who may have been involved in trafficking activities, causing the child to escape and seek immigration relief in the United States. Evaluating what they “reasonably should have known” may be unreasonably difficult for many children, and consistent with that, the statute exempts “a son or daughter who</p>	<p>As the commenter points out, this conduct is specific to a ground of inadmissibility and is therefore relevant to the adjudication. USCIS believes the question as written is easier to read and understand without reference to terms of art and the statute. If the applicant is unsure of whether conduct constitutes trafficking, he or she may provide more information in Part 14, Additional Information.</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		was a child at the time he or she received the benefit described” – so, too, should the question. Additionally, the word “trafficking” should be clarified again to be the definition of a “severe form of trafficking in persons” as defined in 21 USC §7102(9). The commenter recommends revising this question consistent with the scope of INA 212(a)(2)(H)(ii) and (iii), and reference the term “severe form of trafficking in persons as defined in 22 USC §7102” instead of the term “trafficking.”	
75	Part 8, General Eligibility and Inadmissibility Grounds, Item 46e, “Engage in any other unlawful activity?”	Commenter 16 states it is unclear why a catch-all question about intention to engage in any other unlawful activity comes in the middle of a list of specific activities.	USCIS rearranged the order of these questions so this catch-all question appears at the end of the list.
76	Part 8, General Eligibility and Inadmissibility Grounds, Item 47, “Are you engaged in...”	Commenters 16, 24, 25, 34 and 36 state the way the question is worded is confusing and unlikely to elicit an accurate response since most applicant have little knowledge of what activities might involve foreign policy. Further, many unremarkable activities could have unintended but still “potentially serious adverse foreign policy consequences” (e.g., inviting the Dalai Lama to a conference), and it would be inappropriate for an applicant to be punished for material misrepresentation in light of an unforeseen externality of otherwise lawful expression after adjustment.	This conduct is specific to a ground of inadmissibility and is therefore relevant to the adjudication. See INA 212(a)(3)(C)(i). Admissibility is an eligibility requirement for adjustment of status, therefore the question is necessary. If the applicant is unsure of his or her answer to this question, the applicant may provide more information in Part 14, Additional Information.

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		Commenter 36 recommends this question be deleted; USCIS should be able to make this determination, as it has in the past, based upon the applicant's answers to other questions in the form, evidence, background checks, and interviewing the applicant as necessary.	
77	Part 8, General Eligibility and Inadmissibility Grounds, Item 48b, "Participated in, or been a member of..."	<p>Commenter 28 states "Participated in" is overly broad, and may include attenuated and/or involuntary affiliations with groups whose range of activities may be unknown to the applicant. "Property damage" is extremely broad, and encompasses activity that does not give rise to inadmissibility.</p> <p>Commenter 28 recommends deleting "participated in, or" and replace "property damage" with "substantial damage to property," consistent with the statutory provision.</p>	USCIS will accept the recommendation to replace "property damage" with "substantial damage to property."
78	Part 8, General Eligibility and Inadmissibility Grounds, Items 48b-f (security and related)	<p>Commenter 16 states 49b-f references to "the above" activities listed in 49a are unclear. Commenter recommends redrafting Item 49 to have a list of terrorist activities and all subsections a-f would refer to Item 49.</p>	USCIS will accept this recommendation and reference Item 48.a specifically in Items 48.b.-f. (formerly Items 49.a and 49.b-f).
79	Part 8, General Eligibility and Inadmissibility Grounds, Items 48b-f (security and related)	Commenter 36 recommends combining these questions into a single question regarding material support for any of the groups or activities mentioned in the prior questions. These questions inquire about similar conduct that has already been asked in preceding questions and nearly mirror each other.	USCIS will not adopt this recommendation. USCIS must elicit relevant information to adjudicate the immigration benefit request. These questions are relevant to inadmissibility under INA 212(a)(3)(B). If there is no conduct that applies to the question, the applicant should answer no. If there is conduct that applies or might apply, the applicant should answer

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
			yes. However, it is important to note that an answer of yes does not necessarily mean that the applicant will be found inadmissible on the related ground.
80	Part 8, General Eligibility and Inadmissibility Grounds, Item 50, "Do you intend to engage..."	Commenters 16 and 34 state that the "NOTE" under Item 50 makes no sense when applied to Item 50 since it asks about past tense (and Item 50 asks about future intentions).	USCIS revised the "NOTE" to address the future tense referenced in Item 50.
81	Part 8, General Eligibility and Inadmissibility Grounds, Items 51b-f (security and related)	Commenter 16 indicated these items were unclear and referred back to comments to Items 49b-f.	USCIS will accept this recommendation and reference Item 51.a specifically in Items 51.b-f.
82	Part 8, General Eligibility and Inadmissibility Grounds, Items 51a-f (security and related)	<p>Commenter 20 states these new proposed questions are provocative, alarming, overbroad and will lead to denials on the basis of guilt by association. The questions are not representative of inadmissibility. Commenter recommends deleting them entirely.</p> <p>Commenter 23 is also concerned about these questions and guilt by association. The commenter also states these questions are un-American and without legitimate purpose. Commenter suggests that applicants should not be compelled to answer them.</p> <p>Commenter 28 states the underlying statutory provision, INA 212(a)(3)(B)(i)(IX), specifies "if the activity causing the alien to be found inadmissible occurred within the last 5 years." The statute also provides an exception for certain spouses and</p>	USCIS must elicit relevant information to adjudicate the immigration benefit request. These questions are necessary to assess inadmissibility under INA 212(a)(3)(B). If there is no conduct that applies to the question, the applicant should answer no. If there is conduct that applies or might apply, the applicant should answer yes. However, it is important to note that an answer of yes does not necessarily mean that the applicant will be found inadmissible on the related ground.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		<p>children, INA 212(a)(3)(B)(ii). Commenter 28 recommends revising the preamble to these items, to limit the scope to the past 5 years and to allow for the statutory exception.</p> <p>Commenter 36 states that these questions reflect a misapplication of the spouse and child grounds of inadmissibility under INA 212(a)(3)(B)(i)(IX) in that this ground is only applicable for terrorist-related conduct that occurred in the last 5 years. The commenter recommends the initial instruction read “Are you the spouse or child of an individual, who in the last 5 years...” and that USCIS combine 51e and 51f into a single question.</p> <p>Commenter 38 recommends inserting “with knowledge” to the question.</p>	
83	Part 8, General Eligibility and Inadmissibility Grounds, Item 53, “Have you EVER worked, volunteered...”	Commenter 20 states this question is confusing and it’s unclear what “served in” means. If “served in” is about being sentenced to “prison, jail, etc.” than the question is duplicative of Items 26 and 29. But if the question is asking if an individual worked in one of the facilities, the words “served in” should be deleted.	USCIS rephrased this question to clarify the meaning of “served in”.
84	Part 8, General Eligibility and Inadmissibility Grounds, Item 54, “Have you EVER been a member of...”	Commenter 36 recommends this question be deleted since it is redundant and already covered by Item 49a. Alternatively, the commenter recommends USCIS combine Items 49a and 54.	USCIS appreciates the concerns expressed in this comment. Item 49 relates to terrorism-related inadmissibility grounds under INA 212(a)(3)(B). This question (Item 54) is meant to elicit information concerning inadmissibility grounds under INA 212(a)(3)(E). The Intelligence Reform and Terrorism Prevention

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
			Act (IRTPA), Pub. L. No. 108-458, 118 Stat. 3638 (Dec. 17, 2004), codified at 42 U.S.C. §2000ee, 50 U.S.C. §403-1 et seq., §403-3 et seq., §404o et. seq.), requires that the Attorney General and Secretary of Homeland Security develop procedures to ‘obtain sufficient evidence to determine whether an alien may be inadmissible under the terms of the amendments made by this subtitle.’ As such, additional questions have been added to the Form I-485.
85	Part 8, General Eligibility and Inadmissibility Grounds, Item 57, “During the period from March 23, 1933...”	Commenter 38 asks whether this question is still relevant since the youngest a person could be to fall under this inadmissibility ground is 89 years old.	This question corresponds with the inadmissibility ground at INA 212(a)(3)(E)(i). Since an applicant applying today could still potentially be inadmissible under this ground, USCIS must ask this question to make a proper determination of the applicant’s admissibility.
86	Part 8, General Eligibility and Inadmissibility Grounds, Item 58d, “Engaging in any kind of sexual contact...”	Commenter 16 recommends clarifying in the question that persons under 18 are among those unable to consent.	USCIS must elicit relevant information to adjudicate the immigration benefit request, and the age of consent will vary depending on the jurisdiction.
87	Part 8, General Eligibility and Inadmissibility Grounds, Item 61, “Have you EVER received any form...”	Commenter 28 states the overbreadth of this item, juxtaposed with a second related question at item 62, would have a chilling effect on immigrants’ access to those limited public benefits to which they are entitled, by suggesting an interpretation broader than the legal meaning of “public charge.” Only current or past receipt of public cash assistance programs can be considered by the agency in determining whether	See response immediately below.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		<p>the applicant is likely to be considered a public charge. Likewise, the phrase “any source, including” is at odds with the term “public assistance,” and may have a chilling effect on immigrants’ access to needed private support or services.</p> <p>Commenter 28 recommends inserting the word “cash” between “public” and “assistance” or enumerate the applicable public assistance programs. Delete the phrase “any source, including.”</p>	
88	Part 8, General Eligibility and Inadmissibility Grounds, Items 61-62 (public charge)	<p>Commenter 30 states that these questions are overly broad and unnecessary. Commenter 35 states that there is no definition of “public assistance” other than to distinguish it from “emergency medical treatment,” suggesting a wide range of non-cash needs-based benefits may be implicated. Commenter 35 also expresses concern that the questions are located near other questions about criminal and/or terrorist activities, which unfortunately associates receipt of “public assistance” with criminal wrongdoing or moral turpitude.</p> <p>Commenter 35 states that the ambiguity of the question’s phrasing (“have <u>you</u> ever <u>received</u>...”) has led to many immigrants believing the question applies to any benefits received for family members who are not derivative</p>	<p>Inadmissibility based on public charge requires an officer to determine whether the foreign national is more likely than not to become primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance or institutionalization for long-term care at government expense. Limiting the question to “public cash assistance” makes the question too narrow. However, USCIS provided additional information on answering these questions in the I-485 instructions. Specifically, USCIS clarified that receipt of public assistance does not necessarily make you ineligible for adjustment of status, but that USCIS needs to know all types of U.S. federal, state, and local public benefits received to properly make the public charge determination. USCIS also provided a link to the public charge fact sheet.</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
<u>#</u>	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		<p>beneficiaries (such as U.S. citizen children). The confusion around public benefits' effect on immigration eligibility leads to underutilization of such benefits by otherwise eligible immigrant-headed households (chilling effect). Many private attorneys advise applicants to avoid receipt of <i>any</i> needs-based benefits to minimize USCIS scrutiny during the adjustment interview and/or delays in the adjustment process. This frustrates Congress' intent to support eligible immigrant families through these public benefits. The government pamphlets and fact sheets designed to myth bust the public charge confusion do not sufficiently address the negative impact of these Form I-485 questions.</p> <p>Commenters 30 and 36 recommend that both questions be limited only to cash aid, as other forms of public assistance will not affect eligibility for Adjustment of Status. Alternatively, Commenter 30 suggests the questions track USCIS's own guidance as stated in the Public Charge Fact Sheet. Commenter 30 recommends revising Question 61 to read (additions in bold and italics; deletions in strikethrough): Have you EVER received public assistance <i>in the form of cash aid</i> in the United States from any source, including the U.S. Government or any state, country, city or municipality (other than emergency medical treatment)? Revise Question</p>	<p>The questions related to admissibility in this section of the form generally follow the order outlined in statute. INA 212(a)(4), the public charge ground of inadmissibility, immediately follows INA 212(a)(3), the security-related grounds.</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		<p>62 to read: Are you likely to receive public assistance <i>in the form of cash aid</i> in the future? Or, in the alternative, revise both questions to track USCIS’s own guidance as stated in the Public Charge Fact Sheet.</p> <p>Commenter 35 urges USCIS to move the location of the question to a section unrelated to criminal activities and amend the text as follows: “Have you received for your own benefit one of the following cash assistance programs: Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), or a monthly needs-based cash from state and local income assistance programs?” and “Have you received Medicaid to pay for your long-term institutional care, such as in a nursing home or mental health institution?”</p> <p>Commenter 19 states that these questions are confusing and overly broad. Commenter further states that the I-485 needs to more clearly distinguish between receipt of cash and non-cash benefits in alignment with USCIS’s own policy. If questions about use of public benefits must be on the form, the Commenter recommends rewriting questions like this:</p> <ul style="list-style-type: none"> - Have you received Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), or cash from state and local income assistance programs? 	

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		<ul style="list-style-type: none"> - Have you received public assistance, including Medicaid, for long-term institutional care such as in a nursing home or mental health institution? <p>Commenter 31 says according to USCIS guidance, noncash benefits and special-purpose cash benefits that are not intended for income maintenance, but rather to promote other important societal interests, should not be considered when evaluating whether a person is likely to become a public charge. This question fails to distinguish between cash and noncash benefits. If a question pertaining to the use of public benefits is deemed necessary, it must be phrased to ask only those questions that are relevant to the public charge determination.</p>	
89	Part 8, General Eligibility and Inadmissibility Grounds, Items 61-62 (public charge)	Commenters 24, 25, and 34 recommend including a “Does not apply” checkbox and revising the instructions to advise VAWA, T, U, and SIJ applicants to answer “does not apply.”	USCIS will not adopt this recommendation. As of this revision, all applicants are required to answer all the question in Part 8. USCIS will continue to study the recommendation and may make changes in a future revision if deemed appropriate.
90	Part 8, General Eligibility and Inadmissibility Grounds, Item 62, “Are you likely to receive...”	Commenter 36 recommends deleting this question as it is vague and unnecessary, asking the applicant to speculate about a future potential inadmissibility. The commenter states that USCIS is tasked with making the public charge determination and can weigh the factors with the info already contained in the form and evidence.	This question addresses a specific ground of inadmissibility. See INA 212(a)(4). Public charge is a prospective determination. Therefore the question is appropriate and relevant to the adjudication.
91	Part 8, General Eligibility	Commenter 30 recommends deleting this	This question generally tracks the statutory language at

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
	and Inadmissibility Grounds, Item 63, "Have you EVER failed or refused..."	<p>question, or in the alternative, revise it to read: "Have you EVER failed to attend your removal, exclusion, or deportation proceeding?" This question asks whether the applicant has failed or refused to attend, or to remain in attendance at his or her removal, exclusion, or deportation proceeding. This question is overly complex and will likely cause confusion to the reader.</p> <p>Commenters 24, 25, 27 and 34 recommend the question track the statutory language at INA 212(a)(6)(B) by including the language "without reasonable cause"</p> <p>Commenter 27 is also concerned that the proposed language would give an adjustment officer discretion over an issue previously resolved at immigration court.</p>	<p>INA 212(a)(6)(B). Any departure from statutory language is intentional, to elicit a broad enough response so USCIS has sufficient information to determine whether reasonable cause existed.</p>
92	Part 8, General Eligibility and Inadmissibility Grounds, Item 65, "Have you EVER lied about..."	<p>Commenter 8 states that lying and concealment are voluntary actions while misrepresentation could be mistaken/involuntary. Commenter 8 believes that this question lacks clarity and is confusing, and that a Yes/No cannot properly answer this question.</p> <p>Commenters 24, 25, 27 and 34 suggests adding an "unknown" checkbox or option to address circumstances where applicants (for example, children) had applications completed for them and are unaware of their contents.</p>	<p>The question is intended to elicit a broad response so USCIS can determine whether the act resulted in inadmissibility. A "Yes" or "No" answer is not expected to be the end of the inquiry; applicants are instructed to provide more information in Part 14, Additional Information, if they answer "Yes" as well as if they answer "No" but are unsure of the answer.</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		Commenter 36 suggests revising the question to read: "Have you EVER willfully lied about, concealed, or misrepresented any material information on an application or petition to obtain a visa, other documentation required for entry into the United States, admission to the United States, or any other kind of immigration benefit?"	
93	Part 8, General Eligibility and Inadmissibility Grounds, Items 65 and 69	Commenter 38 states that these questions seem the same.	These question relate to two distinct inadmissibility grounds at INA 212(a)(6)(C)(i) and INA 212(a)(6)(F).
94	Part 8, General Eligibility and Inadmissibility Grounds, Item 66, "Have you EVER falsely claimed..."	Commenter 36 states that only false claims of citizenship made to obtain a benefit under Federal or State law are inadmissible under INA 212(a)(6)(C)(ii). The commenter recommends revising the question to read: "Have you EVER falsely claimed to be a U.S. citizen (in writing or any other way) for any purpose or benefit under Federal or State law?"	The question is intended to elicit a broad enough response so USCIS has sufficient information to determine whether the applicant is inadmissible under INA 212(a)(6)(C)(ii).
95	Part 8, General Eligibility and Inadmissibility Grounds, formerly Item 70, "Have you EVER obtained a student nonimmigrant visa..."	Commenters 16, 24, 25, 27, 31, and 34 recommend deleting this question since it is already addressed in Item 17.	USCIS will adopt this recommendation and combine the two questions.
96	Part 8, General Eligibility and Inadmissibility Grounds, Item 70, "Have	Commenter 36 states this question replicates and expands upon Items 18-20 in Part 8. The commenter recommends deleting the question.	Unlike Items 18-20 (which are mostly relevant to the determination of whether USCIS has jurisdiction over the adjustment or whether there are bars to eligibility

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
	you EVER been excluded, deported..."	<p>To the extent USCIS wishes to address any "self-removal" issues, the commenter recommends such language be added to a prior question regarding removal.</p> <p>Commenter 38 suggests replacing "departed the U.S. on your own" with "received Voluntary Departure".</p>	<p>for adjustment), this question addresses the inadmissibility under INA 212(a)(9)(A) that results from the departure after a prior removal order.</p> <p>It would not be correct to replace "departed the U.S. on your own" with "received Voluntary Departure". The question whether the alien has ever departed the United States on his or her own after having been ordered excluded, deported or removed from the United States addresses the situation in which the alien has a removal (or exclusion or deportation) order and then decides to leave the United States instead of waiting to be removed by ICE. Any alien ordered deported, excluded or removed who has left the United States is considered to have been deported or removed under the law, <i>See</i> INA 101(g); <i>see also</i> 8 CFR 241.7 (Self-removal).</p> <p>In contrast, voluntary departure is a specific form of relief under INA 240B. If an alien departs under a valid grant of voluntary departure, the alien is not considered to have been deported under INA 101(g) because the alien did not have a removal order in the first place. <i>See also</i> 8 CFR 214.7 (last sentence that departure before the expiration of the voluntary departure period granted (...) shall not be considered to be so deported or removed).</p> <p>Therefore, "received Voluntary Departure" cannot replace the phrase "departed the United States on</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
			your own.”
97	Part 8, General Eligibility and Inadmissibility Grounds, Item 71, “Have you EVER entered...”	Commenter 36 recommends the words “admitted or paroled” be deleted from this question so it reads: “Have you ever entered the United States without being inspected?” These terms are legal terms unlikely to be understood by the applicant; “inspection” effectively covers and clearly asks whether the applicant entered through an appropriate process or not.	The terms “admitted or paroled” are used in statutory language at INA 212(a)(6)(A).
98	Part 8, General Eligibility and Inadmissibility Grounds, Items 72a and 72b (unlawful presence)	Commenter 5 states that the relevant parts of the form ask whether the person has been “unlawfully present in the United States” for a given amount of time and then departed. The commenter believes this seemingly pertains to the INA 212(a)(9)(B) bans. The commenter adds that right after that is a note that attempts to define “unlawfully present in the United States” as “if you entered the United States without being inspected and admitted or inspected and paroled, or if you legally entered the United States but you stayed longer than permitted.” The commenter states that when someone is “unlawfully present” is actually a very complex topic as described in the Adjudicator’s Field Manual (AFM) chapter 40.9.2, and the overly-simplistic definition given on the form is misleading or incorrect in some circumstances. The commenter adds that there is no further guidance in the instructions about what is “Unlawfully present”.	<p>While USCIS agrees that unlawful presence is not an easy concept, the note following the question provides information that somebody who entered without inspection and admission or parole or who overstayed the permission to be in the United States accrues unlawful presence. While this definition does not capture all nuances of a determination, it is a summary of when somebody is accruing unlawful presence that is easy to understand.</p> <p>Additionally, the following question addresses another ground of inadmissibility (INA 212(a)(9)(C)) that is also based on unlawful presence. However, most exceptions that apply to INA 212(a)(9)(B), do not apply to INA 212(a)(9)(B). To avoid confusion, USCIS prefers to keep the information simple.</p> <p>The purpose of the questions is to elicit the information necessary for USCIS to make an inadmissibility determination. USCIS will apply statutory exceptions to accrual of unlawful presence</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		<p>The commenter states that the form does not refer the reader to any resources on the USCIS website for further information. The commenter adds that although the definition does not define what exactly counts as being "permitted" to stay, an F-1 student or J-1 exchange visitor who is admitted to the US for Duration of Status (D/S) and who stays long after the completion of their program without transferring to a new program or obtaining practical training would, in most reasonable people's interpretations, have "stayed longer than permitted". The commenter then states that AFM section 40.9.2(b)(1)(E)(ii) explains that someone who is admitted on D/S does not start accruing unlawful presence by staying past any given period or by simply falling out of status, and only start accruing unlawful presence when 1) USCIS finds a status violation when adjudication a request for an immigration benefit, or 2) an immigration judge makes a determination of status violation in immigration proceedings. The commenter states that this does not follow from the definition on the form. The commenter adds that someone who previously entered on D/S and stayed for a long time past the completion of their program and then departed would likely answer these questions incorrectly if they only relied on the definition on the form. The commenter adds that although there are many circumstances listed in AFM sections 40.9.2(b)(2)</p>	<p>(such as the exception that applies to minors), if relevant, as a part of its inadmissibility determination.</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		and 40.9.2(b)(3) in which one aliens without status do not accrue for unlawful presence. The commenter adds that example, aliens do not accrue unlawful presence while under 18 years of age (AFM section 40.9.2(b)(2)(A); applies for INA 212(a)(9)(B) purposes but not for INA 212(a)(9)(C) or while under a grant of deferred action (AFM section 40.9.2(b)(3)(J)), even if the person entered without inspection, or stayed past all permitted periods. The commenter adds that given the large number of illegal aliens who are minors or have been minors during their stay in the US, and the large number of people granted deferred action via the Deferred Action for Childhood Arrivals (DACA) program in recent years, this is potentially relevant for many people. The commenter states that these exceptions do not follow from the definition in the form at all—someone who had stayed in the US without status for long periods, but whose period without status is covered by being under 18 and/or being under DACA, and who then departed, would likely answer these questions incorrectly if they only relied on the definition in the form.	
99	Part 8, General Eligibility and Inadmissibility Grounds, Item 72, Note	<p>Commenter 27 states that the note fails to specify that minors do not accrue unlawful presence until they turn 18 years old.</p> <p>Commenter 36 recommends deleting the terms “admission” and “parole” from this note as they</p>	The note generally tracks the statutory definition of unlawful presence at INA 212(a)(9)(B)(ii). USCIS will apply statutory exceptions to accrual of unlawful presence, such as the exception that applies to minors, as a part of its inadmissibility determination. The question is intended to elicit a broad response so USCIS

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		are legal terms unlikely understood by the applicant.	has all relevant information to make such determination.
100	Part 8, General Eligibility and Inadmissibility Grounds, Item 72 (unlawful presence)	Commenter 16 states it's unclear if the question is asking about cumulative unlawful presence or individual periods of unlawful presence.	The wording generally tracks the statutory wording of INA 212(a)(9)(B)(i). The question intends to elicit the information necessary for USCIS to make an inadmissibility determination.
101	Part 8, General Eligibility and Inadmissibility Grounds, Item 73 (illegal reentry after previous immigration violations)	Commenter 16 states these questions are duplicative of Items 71 and 72 in Part 8.	These questions represent distinct inadmissibility grounds at INA 212(a)(9)(A), (B), and (C).
102	Part 8, General Eligibility and Inadmissibility Grounds, Items 72a-73b (unlawful presence and illegal reentry after previous immigration violations)	Commenter 31 says these questions regarding unlawful presence should be removed because they require the applicant to have a thorough understanding of one of the most technical aspects of U.S. immigration law in order to provide a correct answer. It is likely that only represented individuals will be able to understand and accurately answer these questions.	<p>While USCIS agrees that unlawful presence is not an easy concept, the note following the question provides information that somebody who entered without inspection and admission or parole or who overstayed the permission to be in the United States accrues unlawful presence. While this definition does not capture all nuances of a determination, it is a summary of when somebody is accruing unlawful presence that is easy to understand and that generally tracks the language of INA 212(a)(9)(B)(ii).</p> <p>The purpose of the questions is to elicit the information necessary for USCIS to make an inadmissibility determination.</p>
103	Part 8, General Eligibility and Inadmissibility Grounds, Item 73a (illegal reentry after previous immigration)	Commenters 24 and 25 state this question requires applicants to reach a complicated legal conclusion. At the least, the instructions should address exceptions to unlawful presence and instruct applicants on how to make a	While USCIS agrees that unlawful presence is not an easy concept, the note following the question provides information that somebody who entered without inspection and admission or parole or who overstayed the permission to be in the United States accrues

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
	violations)	<p>determination if they have accrued unlawful presence.</p> <p>Commenter 36 recommends using the more common term “total” instead of “aggregate” (which is likely to confuse or be misunderstood by the applicant): “Having been unlawfully present in the U.S. for a total of more than one year?”</p>	<p>unlawful presence. While this definition does not capture all nuances of a determination, it is a summary of when somebody is accruing unlawful presence that is easy to understand, and that generally tracks the language of INA 212(a)(9)(B)(ii).</p> <p>Question 72 addresses inadmissibility under INA 212(a)(9)(B) while Question 73 addresses inadmissibility under INA 212(a)(9)(C) that is also, in part, based on unlawful presence. However, most exceptions that apply to INA 212(a)(9)(B) unlawful presence determinations do not apply to INA 212(a)(9)(C). To avoid confusion, and to elicit all of the information necessary, USCIS does not address these exceptions and nuances on the form.</p> <p>The purpose of the questions is to elicit the information necessary for USCIS to make an inadmissibility determination. USCIS will apply statutory exceptions to accrual of unlawful presence (such as the exception that applies to minors), when relevant, as a part of its inadmissibility determination.</p> <p>USCIS retains the term “aggregate” because it is the term used in INA 212(a)(9)(C).</p>
104	Part 8, General Eligibility and Inadmissibility Grounds, Item 75, “Are you accompanying another...”	Commenter 36 recommends deleting this question; it asks for a detailed understanding of guardianship and medical inadmissibility for someone the applicant is accompanying. Civil surgeons make such determinations and USCIS	This question generally tracks the statutory language at INA 212(a)(10)(B).

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		should already have access to this information through the medical exam.	
105	Part 8, General Eligibility and Inadmissibility Grounds, Item 77, "Have you EVER voted in violation..."	Commenters 24, 25, and 34 recommend amending the question to include "in violation of law" so as to track the statutory language.	USCIS will adopt this recommendation.
106	Part 10, Applicant's Statement, Contact information, Declaration, Certification, and Signature	Commenter 29 states that the Applicant's Statement, Contact Information, Certification, and Signature in I-485 forms should reference VAWA confidentiality provisions. The commenter recommends: USCIS should include the following bolded and underlined language: I further authorize release of information contained in this petition, in supporting documents, and in my USCIS records to other entities and persons where necessary for the administration and enforcement of U.S. immigration laws. Any disclosure shall be in accordance with the VAWA confidentiality provisions at 8 U.S.C. §1367.	USCIS thanks the commenter for this suggestion. USCIS has added information about the VAWA confidentiality provisions at 8 USC 1367 in the I-485 instructions (see additional instructions for VAWA self-petitioners).
107	Part 10, Applicant's Statement, Contact information, Declaration, Certification, and Signature, Item 1.a	Commenters 24, 25, and 34 recommend separating from the question whether the applicant can read and whether the applicant understands the form. As written, the question assumes applicants are literate.	The Statement contains a check box indicating that the applicant read the application or had it read to them by an interpreter, which could be in English if they are illiterate. No change will be made based on this recommendation.
108	Part 10, Applicant's Statement, Contact	Commenters 24, 25 and 34 recommend revising the question since an applicant cannot affirm that	It is important that the form be completely accurately and all questions answered and an applicant must

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
	information, Declaration, Certification, and Signature, Item 1.b	<p>someone else has read them the entirety of the form, or that the applicant understood the entirety of the form.</p> <p>Commenter 28 states it is problematic to request that an applicant affirm that the interpreter (someone else) has read the entirety of the form, and that the applicant thereby understood the entirety of the form. Where an applicant's limited English language proficiency required the use of an interpreter, the applicant may not be aware of any omissions or errors in the interpretation.</p> <p>Commenter 28 recommends revising this language in a way that does not require the applicant to affirm that someone else has properly read the entire form and that the applicant has understood the entirety of the form.</p>	<p>certify as the veracity of what they have provided in requesting adjustment to permanent residence. That requirement applies to applicants with no or limited English proficiency as well and the strictures of the applicant certifications cannot be reduced for one applicant versus another. No change will be made based on this recommendation.</p>
109	Part 10, Applicant's Statement, Contact information, Declaration, Certification, and Signature, Items 3-5	<p>Commenters 24, 25, and 34 suggest adding "if any" to each of these questions, and also making clear that if a G-28 is included, all communication must be through the attorney or accredited representative.</p>	<p>"If any" is self-evident as the instructions provide that any question that does not apply can be answer as N/A or left blank unless the questions or instruction states that it cannot be left blank.</p> <p>8 CFR 103.2(b)(19) provides that representatives are provided originals or copies of notices and correspondence. <u>All</u> communications do not go through an attorney or accredited representative.</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
			No changes will be made based on this comment.
110	Part 10, Applicant's Statement, Contact information, Declaration, Certification, and Signature -- Applicant's Certification	<p>Commenters 27 and 36 state that the certification is overly broad and fails to account for records that are protected by state and federal law.</p> <p>Commenter 27 also states that the oath is duplicative to the certification on the I-485 form itself and, furthermore, raises concerns that non-English speakers and applicants who are minors will be asked to swear to it at the time of their biometrics without fully understanding what they are swearing to.</p> <p>Commenters 24, 25, and 34 recommend revising to incorporate the info the applicant is providing is correct "to the best of [the applicant's] knowledge." Further, the oath applicants are asked to sign at time of biometrics is duplicative of that on the Form I-485 itself and potentially problematic for clients who do not know how to read and/or do not speak English.</p> <p>Commenter 17 states it is pointless to have applicants swear to the truth of the application at the biometrics appointment – the workers there are contractors rather than Immigration Service Officers and some applicants will not speak English and cannot attest at that time.</p> <p>Commenter 31 says while it continues to question</p>	<p>The release of USCIS is simply a reminder of what is permissible under the Privacy Act and the applicable System of Records Notice. The release is less broad than what is permissible under that law and notice.</p> <p>The attestations that must be signed on the LiveScan screen at the ASC are translated into 19 languages. If the applicant's language is not available, they can reschedule to bring an interpreter to their appointment. If a child under age 14 is uncertain what they are signing, their parent can sign for them.</p> <p>The ASC appointment acknowledgment and biometrics services accomplish the identity-proofing required under the Government Paperwork Elimination Act (GPEA) and Federal Information Security Modernization Act of 2014 (FISMA) by linking the individual and the online account. As USCIS progresses to more forms filed in an electronic environment USCIS is changing our forms to add features to meet the identity-proofing and attribution requirements established for electronic remote authentication under federal law, establish a legally enforceable electronic signature process, and combat immigration fraud in cases filed electronically where the applicant's signature is not obtained. The updated certification and attestation language and acknowledgement provide notice to an applicant that they must re-affirm the content of their application at their ASC</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		<p>whether the Application Support Center (ASC) certification language is necessary, it commends USCIS for significantly reducing the length of the certification language that is included on many new USCIS forms and which was proposed for the I-485 in May 2015. If necessary at all, the applicant should only be required to sign an oath certifying that the information was complete, true, and correct at the time of filing, instead of at the time biometrics are taken.</p> <p>Commenter 28 states that those three (“All of this information was complete, true, and correct at the time of filing. I certify, under penalty of perjury, that I provided or authorized all of the information in my application, I understand all of the information contained in, and submitted with, my application, and that all of this information is complete, true, and correct”) enumerated undertakings are duplicative of the paragraph that follows them. This request for redundant certifications is not only confusing (particularly for children, whose grasp of temporal and causal relationships is still developing), but also undermines the certification process by implying that a certification under penalty of perjury is somehow not reliable without repetition.</p> <p>In the certification proposed to be signed at the ASC, the applicant is asked to certify the accuracy</p>	<p>appointment. In addition, the ASC notice will remind applicants again that by appearing for their ASC appointment they would be re-affirming the contents of their applications were complete, true, and correct. The LiveScan screen at the ASC will display the attestation to the applicant when they provide their digital signature, and the signature will be linked to the attestation and become part of the account record.</p> <p>This in-person identity verification is necessary for a paperless process to comply with the identity-proofing required by the Government Paperwork Elimination Act (GPEA) and Federal Information Security Modernization Act of 2014 (FISMA) for individuals who access a government system remotely, and has been implemented in anticipation of including Form I-485 into the electronic system of USCIS ELIS. Current processing time and programming requirements, requires that USCIS include this language now so that requirements and procedures are in place in time for implementation of electronic filing capability.</p> <p>Although commonly requested by commenters on USCIS forms, USCIS cannot add, “to the best of [the applicant’s] knowledge” to any forms. 28 USC 1746 requires applicants to sign under penalty of perjury and any attempt to pursue claims of knowingly engaging in immigration fraud would be hindered by the ability of the applicant to assert that they could not have knowingly provided false or misleading information</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		of information in the form <i>as of the time of filing</i> , irrespective of later amendments if any. Facts true at the time of filing Form I-485 may change by the time of the ASC appointment (e.g., if since the time of filing, an applicant has moved, has discovered an error, or has traveled internationally). The timeframe of the requested certification must be made unambiguously clear to the applicant, particularly if the applicant is a child	because their application was only completed to the best of their knowledge and that knowledge was very limited.
111	Part 10, Applicant's Statement, Contact information, Declaration, Certification, and Signature -- Applicant's Certification and privacy concerns	<p>“Furthermore, I authorize the release of any information from any of my records that USCIS may need to determine my eligibility for the immigration benefits I seek.”</p> <p>Commenter 28 states this modification may conflict with state and federal privacy and confidentiality provisions. While an applicant may generally “authorize the release of any information from any” records to USCIS, the applicant cannot herself circumvent state or federal law with these authorizations. In some states, a juvenile court, not the child applicant, is the entity that has the power to authorize disclosures of otherwise confidential information and documents. Additionally, this certification does not adhere to HIPAA requirements under federal law.</p> <p>Commenter 28 recommends revising the</p>	<p>The language limits USCIS access to information it needs, not any information it chooses to collect. USCIS strives to protect the privacy of the individual and ensures the collection, use, and dissemination are consistent with the Fair Information Practice Principles (FIPPs) derived from the Privacy Act. USCIS will provide and receive only relevant information to/from authorized recipients at authorized entities, when needed, to determine eligibility for the immigration benefit that the individual seeks. This sharing is consistent with the FIPPs “Use Limitation” principle which states that, “PII should solely be used for the purpose(s) specified in the notice. Sharing PII outside the Department should be for a purpose compatible with the purpose for which the PII was collected.” Furthermore, our System of Records Notices (SORNs) published under the Privacy Act permit this type of sharing.</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		<p>statement to, "Furthermore, I authorize the release of any information from any of my records that USCIS may need to determine my eligibility for the immigration benefits I seek, except as prohibited under state or federal law."</p> <p>Commenter 28 also expressed concern about this language: "I further authorize release of information contained in this application, in supporting documents, and in my USCIS records to other entities and persons where necessary for the administration and enforcement of U.S. immigration laws." The commenter states this would condition the filing of the application upon a limitless release of information, including sensitive, protected, or personal information, with potential to compromise the privacy, physical safety, and well-being of the applicant and other persons. Information about third persons could be broadly shared without their knowledge, and without affording them an opportunity to challenge the release or the content of the information. Through legal actions, internet postings, and media reports, the information could be exposed to the general public and to foreign governments and persecutors - all without testing the relevance and accuracy of the information. This proposed statement posits an unacceptable quid pro quo between adjudication</p>	

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		of the application and an involuntary role in enforcement actions of an unspecified nature against unspecified “entities or persons” through the mining of data furnished in good faith by an applicant seeking a benefit for which he believes himself qualified. Children in particular are not equipped to understand the scope of this certification, and because they are particularly sensitive to the potential (warranted or not) that family members could “get in trouble,” the provision will likely have a chilling effect on children’s applications.	
112	Part 11, Interpreter’s Contact Information, Certification, and Signature	Commenters 24, 25, 28 and 34 state that this Part does not take into account telephonic interpretation. The commenters (including Commenter 36) also recommends deleting (or clarifying) the last clause - “and has [sic] verified the accuracy of every answer”—be deleted since the interpreter cannot verify an answer’s accuracy, only the translation’s accuracy.	USCIS revised the certification to make it clear that the applicant has verified the accuracy of every answer. In the cases of telephonic interpretation, USCIS will accept a scan or fax of the interpreter’s section that was completed and submitted remotely. The interpreter must verify that their answer entered on the form based on their interpretation was verified by the applicant as accurately interpreted, not that the information is accurate based on their own knowledge. No changes are made based on this comment.
113	Part 11, Interpreter’s Contact Information, Certification, and	Commenter 37 recommends moving this Part into a supplement that can be added only if necessary since it is needed only by applicants who require	USCIS appreciates this comment but will not make any changes to this section at this time. USCIS will continue to study the recommendation and may make changes

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
	Signature	an interpreter.	in future form revisions.
114	Part 12, Contact Information, Declaration, and Signature of the Person Preparing this Application, if Other Than the Applicant	Commenter 31 says the NOTE in 7.b. should read that attorneys and accredited representatives whose representation extends beyond preparation of the application <i>are obliged</i> to submit a Form G-28, instead of <i>may be obliged</i> to submit a Form G-28. The same change should be made to page 7 of the form instructions.	<p>USCIS agrees that a Form G-28 is necessary when the actions of the attorney reach the point of being representation. It is up to the attorney in compliance with his or her bar rules of professional conduct to decide if the actions they are taking require them to submit a notice of appearance. USCIS has added may be obliged to remind them of the obligation to determine what is required. Under 8 CFR 1003.102(t) USCIS may impose discipline on an attorney who habitually fails to file a G-28 when required.</p> <p>No change will be made based on this comment.</p>
115	Part 12, Contact Information, Declaration, and Signature of the Person Preparing this Application, if Other Than the Applicant	Commenter 31 thanks USCIS for revising the preparer’s certification and believes that the new language, if adopted without change, is a vast improvement over prior objectionable language. It also believes the new proposed language could be more concise, and prefers the language in the current Form I-129.	<p>USCIS appreciates the recommendation but no changes will be made based on this comment.</p> <p>USCIS cannot use the same language as the Form I-129 because the I-129 is a petition filed mainly by entities, while Form I-485 is an application filed by individuals. The task of the prepare is different between such types of forms and the information necessary to complete it derives from different sources; thus the preparer language must vary.</p>
116	Part 12, Contact Information, Declaration, and Signature of the Person Preparing this Application, if Other than the Applicant	Commenter 28 states that the “Preparer Certification” language is repetitive of the practitioner’s standing professional obligations and imposes a burdensome and unnecessary process for preparing and reviewing the I-495. The commenter further states, citing 8 CFR §§ 103.2(a)(2) and 1003.102(j)(1), that preparers are	As more USCIS forms are available to be filed in an electronic, paperless environment USCIS is adding language to combat immigration fraud as requested by federal law enforcement agencies. USCIS is also utilizing the attestation process to meet its identity-proofing and attribution requirements established for electronic remote authentication under federal law.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	Category	Comment	Response
		<p>already required to attest to the veracity and truth of what is submitted. Further states that it is beyond USCIS’s authority to stipulate a specific review process for attorneys and their clients. The commenter recommends the following revised certification language: “By my signature, I certify, under penalty of perjury, that I prepared this application at the request of the applicant (or, if appropriate, the next friend of an applicant lacking competence) based only on information that the applicant provided to me or authorized me to obtain or use. The applicant (or next friend) reviewed this completed application and informed that he or she understands all of the information contained in, and submitted with, the application, and that all of this information is complete, true and correct.”</p>	<p>USCIS does not believe the language is overly long, repetitive or that it adds excessive burden on respondents. The language does not exceed USCIS’ authority to make requests necessary to complete case processing. If any person other than the applicant completes the form, including an attorney, he or she is required to complete and sign the preparer’s section. The certification does not require an attorney to swear to his or her knowledge and truth of all information in the application, and does not encumber the attorney/client relationship. Rather, by completing the certification, the attorney or preparer is certifying that he or she “completed the form based only on information the applicant provided to” him or her and “[t]he applicant then reviewed the completed application and informed [the preparer] ... that all of this information is complete, true, and correct.” The preparer certification language clarifies that the signatories are assuring DHS as to the source and completeness of the information on the form.</p>
117	Part 13, Signature at Interview	<p>Commenters 24, 25, and 34 recommend adding “to the best of my knowledge” to the affirmation.</p>	<p>USCIS cannot add, “to the best of [the applicant’s] knowledge” too any forms. 28 USC 1746 requires applicants to sign under penalty of perjury and any attempt by DHS or DOJ to pursue a claim of knowingly engaging in immigration fraud would be hindered by the ability of the applicant to assert that they could not have knowingly provided false or misleading information because their application was only completed “to the best of their knowledge” and that knowledge was very limited.</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
118	General Comment— Certifications	Commenter 28 states that the expanded certifications in the Proposed Form contain statements that are duplicative, ambiguous, and overreaching. Commenter further states that redundant re-certifications of truthfulness and the unlimited release of personal and third-party information are unnecessary. We ask that USCIS examine whether the intended goals of the certifications can be met with existing regulations or more concise attestations that are less burdensome, easier to understand, and within the scope of USCIS’s authority.	See responses above.

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
1	General Comment	Commenters 26 and 37 recommend that separate sets of instructions be produced for each category. This would be an effective method of informing applicants and form preparers of the exact requirements and information needed for each category, while keeping page length as low as possible for each applicant.	The 2015 version of the 485 revision did have a separate set of instructions for each category, including evidence checklists for every category. However, many of the 60-day and 30-day comments stated that the Instruction Booklet (which was over 100 pages) was too long. It is not possible to keep the page length low and have separate instructions for so many different types of adjustment.
2	General Comment	Commenters 24, 27, and 34 state the new 40-page long accompanying instructions (the “Instruction Booklet”) is unduly complicated, poorly organized,	USCIS has adopted many of the public comments and made corrections where necessary. USCIS has also worked on the table of contents and overall

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		<p>and contains factually incorrect information.</p> <p>Commenter 30 states the Instructions Booklet is unwieldy and not organized in an intuitive manner. The time burden on an applicant to read the over 100 pages of instructions will be well over the 6 hours estimated by the agency.</p> <p>Commenter 32 states the instructions are too long and confusing, and provide apparently contradictory information.</p>	<p>organization to improve navigation and usability of these revised instructions. The organization of the instructions is based on how all of our forms are organized as well as how the current 485 is organized. USCIS has added a new feature "Additional Instructions." Furthermore, the table of contents shows applicants on page 1 how everything is organized.</p> <p>Most of the public comments received in 2015 expressed concern about the length of the revised Form I-485 and instructions. As a result, USCIS decided not to finalize the Form I-485 revision in 2015 and instead decided to continue work on improving Form I-485, Form I-485 Supplement A, and related instructions to address these concerns. This year, USCIS has significantly reduced the length of the proposed Form I-485 and instructions, compared with the version proposed last year. The new Form I-485 is now 2 pages shorter, going from 20 to 18 pages. The new Form I-485 instructions are now about 1/3 the size of the 2015 proposed revision, going from 116 pages down to 43 pages. This is a major decrease in size.</p> <p>Regarding the time burden, all applicants must read the general instructions which are on pages 1 through 18. The "Additional Instructions" provide more specific information on individual filing categories or bases for adjustment. Each applicant only needs to read the general instructions and the one section in the additional instructions, if any, that is relevant to the</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
			filing category the applicant selected. Not all filing categories are covered in the “Additional Instructions” so some applicants might only need to refer to the general instructions since there is no corresponding section in the additional instructions for their filing category. Depending on the applicant’s filing category, these “Additional Instructions” are generally less than one page.
3	General Comment – Plain Language	Commenter 22 states the instructions are more lengthy, not necessarily written more understandably, and will be cumbersome for individuals, especially non-native English speakers.	Regarding the comment about the instructions being cumbersome for non-native English speakers, USCIS has reviewed the instructions for plain language and legal accuracy. Whenever possible, USCIS has explained what the law requires applicants to do as clearly as possible without oversimplifying the requirements. The instructions also point to web pages where applicants can read additional information about particular topics.
4	General Comment – practical filing tips	Commenter 37 recommends providing practical filing tips, such as recommended order of document submission, how to attach checks, how to fasten documents together, and other practical instructions to aid service centers and lockboxes in processing filings. This information is not readily available elsewhere and would be a simple measure to enhance the quality of submissions, more so than the confusing explanatory information contained in the instructions which is likely to result in more RFEs.	USCIS already has a webpage on Tips for Filing Forms with USCIS. USCIS will review your comment and this webpage and see if there are other practical filing tips USCIS can add to this webpage in the future.
5	General Comment – website	Commenter 31 suggests all url hyperlinks be made	USCIS will adopt this recommendation and provide

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
	links	more specific than merely www.uscis.gov	more specific links in the form instructions.
6	General Comment – disclaimer about need for legal counsel or accredited representative	<p>As last year, Commenters 31 and 37 remain concerned that the instructions are complex could ultimately prove harmful to pro se applicants, and suggests that USCIS add a disclaimer that applicants should consider consulting a licensed attorney or an accredited representative if they have questions concerning their eligibility.</p> <p>Commenter 37 suggests this language be included at the beginning of the instructions: “Adjustment of status includes many legal concepts that may be best understood by an attorney or accredited representative. If you are not completely sure you understand these instructions, you may wish to consult an attorney or accredited representative.”</p> <p>Commenter 28 states that USCIS should avoid giving incomplete or inaccurate explanations of complex legal issues that may arise in seeking status adjustment, particularly for child applicants. The proposed Instructions oversimplify a number of complex legal concepts, including areas of the law that have been interpreted differently by various Circuit Courts; such incomplete explanations could ultimately prove harmful to an applicant. If USCIS elects to retain such discussions in the Proposed Instructions, it should add a disclaimer stating that applicants may want to consult competent legal counsel or an accredited representative.</p>	It is clear from looking at the Form and the Instructions that an applicant can obtain the help of an attorney or an accredited representative. This is true for all of the USCIS forms.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
7	General Comment - Inadmissibility (Unlawful presence)	Commenter 34 suggests addressing exceptions to unlawful presence and instructing applicants on how to make a determination of whether or not they have accrued unlawful presence in order to answer the question at Part 8, Item 74.a in the form.	No changes will be made based on this comment. While USCIS agrees that unlawful presence is not an easy concept, the note following Item 72.b. (formerly Item 73.b.) provides information that somebody who entered without inspection and admission or parole or who overstayed the permission to be in the United States accrues unlawful presence. While this definition does not capture all nuances of a determination, it is a summary of when somebody is accruing unlawful presence that is easy to understand. The purpose of the unlawful presence questions on the form is to elicit the information necessary for USCIS to make an inadmissibility determination. USCIS will apply statutory exceptions to accrual of unlawful presence (such as the exception that applies to minors), if relevant, as a part of its inadmissibility determination.
8	General Comment - Inadmissibility (Public charge)	Commenter 35 states that the instructions fails to provide any definition of “public assistance,” or how and when to complete the public charge question on the form. There is no information or assurances on the consequences of an affirmative answer. The commenter recommends providing clear written guidance clarifying that only cash-assistance and long term care programs are implicated by the question.	Based on this recommendation, USCIS provided additional information on answering these questions in the I-485 instructions (See General Instructions, Item 8). Specifically, USCIS clarified that receipt of public assistance does not necessarily make you ineligible for adjustment of status, but that USCIS needs to know all types of U.S. federal, state, and local public benefits received to properly make the public charge determination. USCIS also provided a link to the public charge fact sheet.
9	Page 2, Item 1: Who May File Form I-485?	Commenters 24, 25, 31 and 34 expressed concern over the limited list of only few potential principal applicants (“asylee or refugee...”). Such lists tend to confuse applicants unfamiliar with immigration	USCIS will adopt this recommendation and will delete the non-exhaustive list in question.

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		law and do not see their specific applicant category listed.	
10	Who May File Form I-485? Who May Not Be Eligible to Adjust Status?	Commenter 28 states that prospective applicants may be unaware that they can be placed in removal proceedings if an application to adjust is denied. Commenter recommends prominently including a brief warning that, in some circumstances, an applicant may be placed in removal proceedings if the application is denied or filed by an applicant ineligible for adjustment.	The information contained in the instructions is designed specifically to help an applicant fill out the Form I-485. USCIS specifically did not include all information regarding other aspects of adjustment of status if outside this scope.
11	Who May File Form I-485? Who May Not Be Eligible to Adjust Status? When Should I File Form I-485?	Commenter 37 recommends replacing these sections (approx. 3 pages) with instructions that simply direct individuals to specific relevant statutory or regulatory section(s). The commenter recommends avoiding restatement or paraphrasing complex immigration rules, since doing so leads to oversimplification and applicants who think they know how to properly complete and file immigration forms but do not.	USCIS provides references to the relevant statutes and regulations if helpful, but ultimately aims to assist and empower applicants by communicating the applicable requirements in plain language. We have tried to avoid oversimplification and ensure that applicants have all the information they need to properly file an application in the first instance.
12	General Instructions. Signature.	Commenter 28 states that many child applicants, especially those who survived violence, do not have positive relationships with parents and may rely on a custodian, foster caretaker, next friend or other trusted adult rather than a “legal guardian”. Commenter also states USCIS has sometimes rejected applications where a child under 14 signed on his own behalf. Commenter recommends including the terms “or custodian, caretaker, next friend or other trusted adult” after “legal guardian”, and clarify that an adult	We appreciate your comment that children might have other trusted adults in their lives besides parents or legal custodians, however, at this time, no change will be made to this language which is standard for all of our forms. Regarding signatures, the instructions (under General Instructions, Signature) clearly state that “If you are under 14 years of age, your parent or legal guardian may sign the application on your behalf.” This allows for a child under 14 to sign on his/her own behalf. USCIS agrees with the commenter that an adult signature is optional and the child can

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		signature is optional and the child can sign for himself, particularly when applying for adjustment as an asylee or Special Immigrant Juvenile.	sign for himself. However, USCIS made no change based on the comment because USCIS believes that the current language is clear.
13	General Instructions. Biometric Services Appointment.	<p>Commenters 24, 25, and 34 state that the oath applicants are asked to sign at time of biometrics is duplicative of that on the Form I-485 itself, and potentially problematic for clients who do not know how to read and/or do not speak English. Commenters 24, 25, and 34 recommend revising the language of this certification to state that the information the applicant is providing is correct “to the best of [the applicant’s] knowledge.”</p> <p>Commenter 28 also states that signing a certification at the biometrics appointment may confuse children, who may not have the appointment notice with them or may not recall the details and complexity of the questions and responses on the application which was prepared weeks prior to the biometrics appointment. The commenter also states neither the applicant nor the Application Service Center contractor has the ability or authority to correct typographical errors on the form at the biometrics appointment. The commenter recommends deleting this certification on the I-485 and removing the corresponding instructions.</p>	<p>The ASC appointment acknowledgment and biometrics services accomplish the identity-proofing required under the Government Paperwork Elimination Act (GPEA) and Federal Information Security Modernization Act of 2014 (FISMA) by linking the individual and the online account. As USCIS progresses to more forms filed in an electronic environment USCIS is changing our forms to add features to meet the identity-proofing and attribution requirements established for electronic remote authentication under federal law, establish a legally enforceable electronic signature process, and combat immigration fraud in cases filed electronically where the applicant’s signature is not obtained. The updated certification and attestation language and acknowledgement provide notice to an applicant that they must re-affirm the content of their application at their ASC appointment. In addition, the ASC notice will remind applicants again that by appearing for their ASC appointment they would be re-affirming the contents of their applications were complete, true, and correct. The LiveScan screen at the ASC will display the attestation to the applicant when they provide their digital signature, and the signature will be linked to the attestation and become part of the account record.</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
			<p>This in-person identity verification is necessary for a paperless process to comply with the identity-proofing required by the Government Paperwork Elimination Act (GPEA) and Federal Information Security Modernization Act of 2014 (FISMA) for individuals who access a government system remotely, and has been implemented in anticipation of including Form I-485 into the electronic system of USCIS ELIS. Current processing time and programming requirements, requires that USCIS include this language now so that requirements and procedures are in place in time for implementation of electronic filing capability.</p>
14	General Instructions. Copies.	<p>Commenter 31 notes that USCIS has added language which states that original documents not required or requested by USCIS may be “immediately destroyed upon receipt.” Applicants, and in particular, pro se applicants, may not realize that original documents should not be submitted and include them in their application package. It seems drastic to immediately destroy documents that the applicant may need later for another purpose. Commenter 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 retrieve the documents by filing a Form G-884.</p>	<p>Original documents that are required or requested will be returned to the applicant when no longer needed as required by 8 CFR 102.2(b)(5).</p> <p>The Government Paperwork Elimination Act (GPEA) requires Federal agencies to use electronic forms, electronic filing, and electronic submissions. To facilitate the digitizing of files as required by GPEA, USCIS will destroy all original documents upon intake after the filing has been electronically scanned, uploaded, and stored. To reduce administrative burden and minimize storage costs, unrequested original documents will be destroyed after digital storage as of September 2016.</p> <p>In addition, the National Archives and Records Administration’s (NARA) permanent record standards also require USCIS to begin digitizing records. USCIS</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		<p>Commenter 31 suggests that USCIS consider alternatives to the immediate destruction of original documents, 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 retrieve the documents by filing a Form G-884.</p>	<p>has updated its system of records to comply with the NARA standard for records and the Federal Records Act authority to destroy certain records that do not “have sufficient administrative, legal, research, or other value to warrant their continued preservation by the Government.” NARA, retention schedules are mandatory and authorize the disposal of unneeded records.</p> <p>To mitigate the new policy, USCIS has developed a list of “original” and “hard to replace” original documents that will be returned after they are electronically stored. Items submitted with an application that will be scanned and returned are passports, foreign government documents, or documentation that appears to be issued by a foreign government. Difficult to replace documents and original documents requested by USCIS will be returned. Non-originals or originals that are not considered difficult to replace will be shredded. Originals that were returned to USCIS after an attempt to return them to the filer will be stored for a year then destroyed pursuant to the General Records Schedule. Therefore, all USCIS forms from hereon will include instructions that state “unrequested originals <i>may</i> be destroyed” in order to provide notice that should suffice in case the attempt to return documents fails.</p>
15	General Instructions. Selective Service.	<p>Commenter 31 says that in order to lessen the potential for confusion regarding the Selective Service requirements, the form instructions should</p>	<p>USCIS will adopt the recommendation and added the second sentence proposed.</p>

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	Category	Comment	Response
		include a sentence at the beginning of the first paragraph so that it reads: <i>Most males between ages 18 and 26 of age are required by the Military Service Act to register with the Selective Service System. Nonimmigrants are not required to register.</i>	
16	General Instructions. How to Fill Out Form I-485. Item 1.	Commenter 24, 25, and 34 state USCIS routinely rejects applications completed and signed in black ink because the black ink makes it difficult to verify any signature as original. USCIS should advise applicants to sign in blue ink.	Black ink is necessary for intake scanning. Blue ink may not get picked up by the scanners. The Lockbox Filing Tips clearly states that if you hand write your answers, use black ink. Make sure your entries are neat, legible, and within the space provided.
17	General Instructions. How to Fill Out Form I-485. Item 3.	Commenter 28 states that variations within the form as to the use of responses such as “N/A” or “none” lead to confusion and invite error. Commenter recommends eliminating the use of “unless otherwise directed” and adopting a position on filling in blanks with “None” or “N/A” that is consistent across the I-485 (and ideally other common USCIS forms).	The instructions are not unclear and work well as written because Adobe forms that may be completed on a computer must have a standard way to answer such questions to accommodate that capability. In addition, a certain data element may require an answer and therefore, None or NA cannot be accepted. Such a questions will, be “as otherwise directed.” No change will be made based on this comment.
18	General Instructions. How to Fill Out Form I-485. Item 5. (Alternate/Safe Address)	Commenter 31 applauds USCIS for providing an alternate and/or safe mailing address option for applicants filing based on VAWA or T or U status. Commenter 28 requests that USCIS clarify that applicants should update their “safe address” at the same time they submit a change of address form. Commenter recommends adding this language: “If you are filing an adjustment of status based on a VAWA Self-Petition, you should also	USCIS made changes to the Additional Instructions (VAWA self-petitioners) and included information about how VAWA self-petitions applying for adjustment are to file a change of address. USCIS will not accept requests for Change of Address submitted online, requests mailed to USCIS Lockbox facilities, or by telephonic requests at the National Customer Service Center (NCSC) for adjustment of status applications filed by VAWA self-petitioners. For information on filing a change of address applicants

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	Category	Comment	Response
		update your safe mailing address at the same time you notify USCIS that you have or plan to file a VAWA Self-Petition. When you change your safe address, you should immediately file a Form AR-11 online to reflect these changes, which can be found at https://www.uscis.gov/ar-11 .”	are directed to visit the USCIS Web site at www.uscis.gov/addresschange .
19	General Instructions. How to Fill Out Form I-485. Item 6	Commenters 24, 25, and 34 recommend specifying that it is unnecessary for certain categories of applicants (such as VAWA self-petitioners) to include Form I-94 or passport/travel document numbers.	USCIS will adopt this recommendation. USCIS has updated the language under the “What Evidence Must You Submit with Form I-485?” section, Item 4 (Inspection and Admission or Inspection and Parole) to clarify that VAWA self-petitioners adjusting under INA 245(a) do not need to submit documentation of inspection and admission or parole.
20	General Instructions, P. 8 Top Box	Commenter 31 recommends this language be revised to reflect the changes made to the ASC certification on the form. Specifically, the third sentence should read “At your appointment, USCIS will permit you to complete the application process only if you are able to confirm, under penalty of perjury, that all of the information in your application was complete, true, and correct at the time of filing. ”	USCIS will adopt this recommendation.
21	General Comment – What Evidence Must You Submit with Form I-485	Commenter 32 states that information about required supporting documentation for those applying under INA 209(a) as refugees is listed in different locations in the instructions, creating confusion. Commenter states, for example, that the instructions for Item 3 (birth certificates) indicate that all applicants except refugees must submit a birth certificate, but in the section	USCIS has made some edits based on this comment. However, USCIS would like to point out, that the What Evidence Must You Submit with Form I-485 is as exhaustive as possible . USCIS included the general rule as well as the exceptions in the What Evidence Must You Submit with Form I-485 . The Additional Instructions, for any category, only have information that is important to each category that is not covered

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		specific to refugee applicants, there is no indication if a birth certificate is required or not. In contrast, the commenter states the instructions for people applying as the derivative spouse of a principal applicant must provide a marriage certificate but the later section specific to refugee derivatives the instructions state they do not need to show proof of relationship to the principal applicant. The commenter states there is a similar problem with evidence of financial support. And there is no information specific to refugees about Form I-693.	in the What Evidence Must You Submit with Form I-485 . All applicants must read the general instructions which are on pages 1 through 18. The additional instructions provide more specific information on individual filing categories or bases for adjustment. The additional instructions, if any, must be read together with the general instructions. Each applicant only needs to read the general instructions and the one section in the additional instructions, if any, that is relevant to the filing category the applicant selected. Not all filing categories are covered in the additional instructions, so some applicants might only need to refer to the general instructions. Depending on the applicant's filing category, these additional instructions are generally less than one page.
22	What Evidence Must You Submit with Form I-485? Item 2, Government-Issued Identity Document with Photograph	For the instructions on addressing name changes made subsequent to issuance of photo ID provided in support of applications, Commenter 16 recommends adding information on the documentation required to support the selection of a gender marker different from that on supporting photo ID.	USCIS has not made any changes based on this comment but will continue to consider this issue for future revisions to determine if additional instructions are needed.
23	What Evidence Must You Submit with Form I-485? Item 2, Government-Issued Identity Document with Photograph	Commenters 24, 25, and 34 recommend providing more inclusive language regarding acceptable government-issued identity documents. The second sentence of the first paragraph should be revised to read: "Typically, this will be your passport, even if the passport is now expired, but	USCIS revised the instructions based on this comment to clarify other documents may also be acceptable. Children who do not have any other form of government issued identity document may submit a school identification document.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	Category	Comment	Response
		<p>can also be any other identity document issued by the United States or your country of citizenship.”</p> <p>Commenter 28 states, reflecting what children can access and obtain, a school ID card should be deemed sufficient to satisfy this instruction and as proof of identity at a child’s biometrics appointment. The commenter further states this would be consistent with 8 CFR § 274a.2(b)(1)(v)(B)(ii) and the instructions for Form 821-D (DACA). Special Immigrant Juvenile applicants, asylees, and other trauma survivors may lack passports or consular identification, or it may be difficult to obtain if foreign consulates require both parents to consent to issue ID. Commenter recommends including this language: “If you are a child under 21, you may submit a school identification card with a photograph if you do not have any other type of government-issued identity document with a photograph.”</p>	
24	What Evidence Must You Submit with Form I-485? Item 3, Birth Certificate	<p>Commenters 24, 25, and 34 recommend the language requiring “both parents” listed on the birth certificate be deleted since this instruction is potentially confusing for people who have only one parent listed on their birth certificate.”</p> <p>Commenter 28 states that requiring a long-form birth certificate which lists both parents would defeat eligibility for many Special Immigrant Juveniles, for whom the omission of one or both</p>	<p>USCIS made some edits based on this comment. Here are the edits, “USCIS will only accept a long-form birth certificate which lists at least one parent.”</p>

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		parents from a birth certificate is common. The commenter also states that regulations on SIJ eligibility require a birth certificate but they do not require both parents' names. Commenter recommends ending the instruction language at "long-form birth certificate."	
25	What Evidence Must You Submit with Form I-485? Item 4, Inspection and Admission or Inspection and Parole	<p>Commenter 31 says that because the arrival/departure records in CBP's electronic I-94 system are not always correct, evidence of lawful entry should be able to be satisfied by submitting either a Form I-94 or a passport page with an admission or parole stamp. This section should read as follows: "This evidence must relate to your most recent U.S. entry. Submit copies of the following documents, if available:</p> <ul style="list-style-type: none"> • Passport page with nonimmigrant visa; and • Either the passport page with the admission or parole stamp issued by a U.S. immigration officer OR Form I-94 Arrival-Departure Record (See Form I-94 Arrival-Departure Record in the General Instructions section of these Instructions). <p>If you do not have any of these documents, you should explain why they are not available."</p>	No change will be made based on this comment. Submission of all the referenced documents, if available, will help USCIS correctly determine the applicant's most recent arrival into the United States. Incorrect electronic I-94s should be refuted by the other evidence of arrival requested.
26	What Evidence Must You Submit with Form I-485? Item 4, Inspection and Admission or Inspection and Parole	Commenters 16, 24, and 34 recommend adding VAWA self-petitioners and asylees to the list of those exempted from having to demonstrate admission or parole into the U.S.	USCIS will adopt these recommendations and add VAWA self-petitioners adjusting under INA 245(a) and asylees to the list of those exempted from having to submit documentation of inspection and admission or parole into the U.S.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		Commenter 25 recommends adding VAWA self-petitioners to the list of those exempted from having to demonstrate admission or parole into the U.S.	
27	What Evidence Must You Submit with Form I-485? Item 9, Evidence of Financial Support	Commenter 16 recommends specifically mentioning that asylees are not subject to the public charge requirement.	Item 9 specifically refers applicants to read the category-specific instructions to determine if an applicant does not need to file Form I-864W. In the Additional Instructions, it mentions that asylees filing an I-485 do not need to submit evidence of financial support.
28	What Evidence Must You Submit with Form I-485? Item 9, Evidence of Financial Support	Commenter 28 states that certain groups, including refugees, Special Immigrant Juveniles, and U and T visa-holders, are exempt from the public charge ground of inadmissibility or may obtain a waiver. Commenter further states that the two proposed questions (Part 8, Item 61 and 62) are broadly written and can be confusing for applicants. Commenter also states the questions perpetuate a concern among immigrants that receiving public benefits undermines their ability to adjust, which may prevent immigrants from applying for benefits for themselves or children in their care. Commenter recommends clarifying the instructions to specifically address the cash income assistance programs (TANF, SSI, and state and local subsistence benefits) that may be a factor for public charge, and also clarify that some groups are exempt from being a public charge or may obtain a waiver (and include a link to USCIS	USCIS will make edits based on these comments by adding new instructions for Part 8, Item numbers 61 and 62. Specifically, USCIS clarified that receipt of public assistance does not necessarily make you ineligible for adjustment of status, but that USCIS needs to know all types of U.S. federal, state, and local public benefits received to properly make the public charge determination. USCIS also provided a link to the public charge fact sheet.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		website for more details).	
29	What Evidence Must You Submit with Form I-485? Item 11, Certified Police and Court Records of Criminal Charges, Arrests, or Convictions	Commenter 24, 25, and 34 recommend including information directing applicants to the Department of State visa reciprocity webpage for info on availability of records in their birth countries and how to obtain them.	While USCIS opted not to add reference to the DOS visa reciprocity webpage, USCIS will add general information in this section on what applicants should submit if they are not able to obtain certified copies of any court dispositions.
30	What Evidence Must You Submit with Form I-485? Item 11, Certified Police and Court Records of Criminal Charges, Arrests, or Convictions	Commenter 30 recommends revising the Instructions to read (deletions in strikethrough): Certified Police and Court Records of Criminal Charges, Arrests, or Convictions. Requiring certified police records of criminal charges is unnecessary and creates an extra burden on the applicant. First, for most inquiries, police records are irrelevant to determine whether a criminal conviction causes inadmissibility under the categorical approach. Second, even where the question is about the person's conduct rather than the conviction, police records and even charging documents are considered not reliable. Arrest records and charging documents are by definition <i>allegations</i> of criminal conduct; they are not proof of such conduct. A conviction does not mean that the conviction was a result of the information contained in the arrest report or charging document, or that information alleged in those documents is accurate. When the arrestee is an immigrant who may have limited English skills,	Police records are relevant to both the inadmissibility and discretionary determination. An applicant may be found inadmissible based on conduct for which they were arrested but not convicted. An immigration benefit may also be denied as a matter of discretion based on conduct for which they were arrested but not convicted. The reliability of the records and the weight given this evidence is for an officer or an immigration judge to consider as part of the adjudication. The applicant has the burden of proof to demonstrate that the conduct does not make the applicant ineligible for adjustment of status.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	Category	Comment	Response
		<p>police reports may involve dramatic miscommunications with the defendant that further undermines their reliability. Accordingly, in criminal court, arrest records (police reports) are excluded by rule as inherently untrustworthy hearsay. Consulting inherently unreliable police reports will only lead to inaccurate assessments of the offense.</p>	
31	<p>What Evidence Must You Submit with Form I-485? Item 11, Certified Police and Court Records of Criminal Charges, Arrests, or Convictions</p>	<p>Commenter 30 recommends revising this item as follows (additions in bold and italics; deletions in strikethrough): Certified police and court records of criminal charges, arrests, or convictions, <i>unless disclosure is prohibited under state law.</i> The commenter states that it is inappropriate for USCIS to request state court records when it is aware that state confidentiality laws may, and often do, prevent disclosure of juvenile state court files without a court order. In the context of SIJS petitions, USCIS has recognized that state confidentiality laws may prevent disclosure of documents from the juvenile court file. Further, in a different context – that of Deferred Action for Childhood Arrivals (DACA) – USCIS has also officially recognized that state court files may be confidential, and disclosure may be prohibited under state law.</p> <p>Commenter 28 states police records are not wholly determinative to whether a criminal conviction or juvenile disposition exists or gives</p>	<p>There is no legal exception that allows nondisclosure of a juvenile adjudication for federal immigration purposes, even where a state law provides that a juvenile adjudication no longer exists. Disclosure of this information is required given the differences in how states address juvenile offenders. It is within USCIS’s jurisdiction to determine whether the state finding corresponds to the Federal Juvenile Delinquency Act and therefore does not qualify as a conviction for immigration purposes. Furthermore, an applicant can always provide documentation that the record is unavailable. Even if a state finding is determined to be an adjudication of juvenile delinquency, such information may still be relevant to the discretionary analysis.</p> <p>USCIS revised the paragraph regarding juvenile delinquencies in this section of the instructions to clarify these points.</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		<p>rise to a ground of inadmissibility, and police records and charging documents are not proof of criminal conduct. Further police records can be unreliable or inaccurate. Commenter also states is it inappropriate for USCIS to request state court records where state confidentiality laws may prevent disclosure of juvenile state court files without a court order and DHS is prohibited by federal regulation from obtaining and using confidential information. The proposed instructions are not clear enough about state confidentiality laws and related civil and criminal penalties. The commenter notes that for SIJS petitions and DACA applications, USCIS has recognized that state confidentiality laws may prevent disclosure of documents from juvenile court files. Commenter recommends changing Part 11 subtitle to "Certified court records of criminal charges or convictions". Further recommends changing the first sentence to "You must submit certified court records for any criminal charges or convictions, if applicable, unless disclosure is prohibited under state law. If the charges against you were handled in juvenile court, and the records are from a state with laws prohibiting their disclosure, this evidence is not required," delete all references in section to "certified police record" and allow for certified copies where relevant.</p>	

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	Category	Comment	Response
		<p>Commenter 31 says the last paragraph in this section regarding juvenile delinquency is confusing. The last two sentences should be rewritten to read:</p> <p><i>You must disclose all arrests and charges, even if the arrest occurred when you were a minor. While an adjudication of juvenile delinquency is not a “conviction” under U.S. immigration law, a charge in a criminal court proceeding (rather than a juvenile court proceeding) could be relevant to the adjudication of this application. If any arrest or charge was disposed of as a matter of juvenile delinquency, include the court or other public record that establishes this disposition.</i></p>	
32	What Evidence Must You Submit with Form I-485? Item 11, Certified Police and Court Records of Criminal Charges, Arrests, or Convictions	<p>Commenter 16 states that in some countries law enforcement activity is not well documented and these types of documentations may be unavailable. Commenter recommends specifying that such documentation need only be submitted where reasonably available. Commenter further recommends exempting asylees from seeking such documentation if it would require them to interact with law enforcement officials in their home countries.</p>	<p>There are no applicants exempt from Item 11. However, USCIS added information in the instructions to address circumstances where the applicant cannot obtain certified copies of court dispositions.</p>
33	What Evidence Must You Submit with Form I-485? Item 11, Certified Police and Court Records of Criminal Charges, Arrests, or Convictions	<p>Commenter 31 notes that USCIS has expanded the list of required evidence, adding greatly to the applicant’s burden. Many of the optional documents under the current instructions would be required if the proposed instructions are adopted without change. For example, the current</p>	<p>No change will be made based on this comment. USCIS has added information in the instructions to address circumstances where the applicant cannot obtain certified copies of court dispositions.</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		<p>instructions allow submission of an original or certified copy of a court order vacating, setting aside, sealing, expunging, or otherwise removing the arrest or conviction, <i>OR</i> an original statement from the court confirming that there is no record of an arrest or conviction. However, the proposed instructions on page 12, section D eliminate the option of providing a letter and require the applicant to produce an original or certified copy of the court order <i>AND</i> an original or certified copy of the complete arrest report; the indictment, information, or other formal charging document, any plea agreement, and the final disposition for each incident. Similarly, under Section A, an arrest report, which is currently an option for an applicant who was arrested but not charged, would become a requirement.</p> <p>These changes ignore the practicalities and procedures of the criminal justice system in the United States and around the world. There are countless jurisdictions, all with different rules regarding the retention of arrest and court records. Many jurisdictions destroy records after a certain amount of time, making it impossible to retrieve the information USCIS would require under the proposed instructions. Some jurisdictions keep no records of convictions which have been expunged, thus the clerks cannot even see that there ever was a record, much less provide a copy of it. Moreover, information that is</p>	

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		<p>technically available to the applicant may be extremely difficult to obtain. For example, an applicant would be required to disclose an incident where he or she was detained by CBP at the airport. To document that incident, the applicant would have to file a FOIA request to obtain the records. CBP FOIA requests can often take a year or more to process, and when the request finally is processed, many times, the results are that no records were found. In addition, where court records are not available, court clerks often resist providing proof of their unavailability. Additionally, refugees and asylees who have been arrested or imprisoned as part of their persecution are often unable to obtain any documents. These burdens may be insurmountable for many applicants, but especially so for pro se applicants.</p> <p>We ask USCIS to be more flexible in terms of the evidence that it deems acceptable to documents criminal charges, arrests, and convictions. It should accept an explanation of unavailability and allow alternative forms of evidence to prove the disposition of an arrest including letters and affidavits. This section should also provide a warning to potential applicants that, pursuant to INA §212(a)(2), an applicant may be deemed inadmissible and therefore ineligible for adjustment of status for certain types of criminal offenses or convictions, unless such inadmissibility</p>	

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	Category	Comment	Response
		can be overcome with a waiver. It should also warn applicants that they may be placed into removal proceedings if their application for adjustment of status is denied.	
34	What Evidence Must You Submit with Form I-485? Item 13, Documentation Regarding J-1 or J-2 Exchange Visitor Status	Commenters 24, 25, and 34 state that many applicants who previously held J-1 nonimmigrant exchange visitor status no longer have copies of Form IAP-66 or Form DS-2019 and have no way of obtaining those forms other than by submitting a FOIA request to USCIS or the Department of State. Should USCIS require these forms to adjudicate an application for adjustment of status, they would be most easily accessible to USCIS, as they are available in the government's own records.	USCIS revised this instruction to read: If you previously held or currently hold J-1 (principal) or J-2 (dependent) nonimmigrant exchange visitor status, you must submit copies of all relevant Forms IAP-66 and/or Forms DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status, ever issued to you (if available).
35	What is the Filing Fee?	Commenter 31 notes that on May 4, 2016, USCIS released a proposed fee schedule that would change the filing fee for Form I-485.6 If these proposed fees go into effect before this form is finalized, the fees will need to be updated. Alternatively, USCIS could refer the applicant to the USCIS website for current fee information.	USCIS will adopt this recommendation if the proposed fees go into effect before this form is finalized.
36	What is the Filing Fee? <i>Filing Form I-485 with Forms I-765 and I-131</i>	Commenter 31 recommends that USCIS delete the words "and pay the required fees" from the first sentence, so that it reads: "If you file Form I-485, you may file Form I-765 and Form I-131 without paying additional fees." If an applicant's Form I-485 fees are waived, they are also able to file Form I-765 and I-131 concurrently without paying additional fees.	The commenter is incorrect. 8 CFR 103.7(b)(1)(i)(L)(4) provides that Form I-131 is free if filed in conjunction with a pending or concurrently filed Application to Register Permanent Residence or Adjust Status (Form I-485) <u>when that application was filed with a fee</u> . It is not free when filed with an I-485 with a waived fee. The fee waiver for Form I-131 must be requested independently.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
			8 CFR 103.7(b)(1)(i)(HH) provides the same requirement for Form I-765.
37	Processing Information	Commenter 31 recommends USCIS should note that it will not reject applications that are accompanied by an approvable fee waiver.	This change is unnecessary as self-evident. The form instructions clearly state that you do not need to pay the filing fee or biometrics services fee if an applicant qualifies for and receive a fee waiver based on an applicant's inability to pay.
38	USCIS Compliance Review and Monitoring	Commenter 28 states that, with regard to the compliance statement, children may have incomplete knowledge or lack knowledge of events and details relevant to their application but may provide responses in as much detail as they know to be true. Commenter recommends editing the statement to read "all information and documentation submitted with this application are complete, true and correct to the best of the applicant's knowledge" in the statement in the proposed instructions.	USCIS will not adopt this recommendation. USCIS cannot add "to the best of my knowledge" because the application must be knowingly completed. Also, a parent or legal guardian who files and assists with the completion of an adjustment of status application for a minor child may provide the required information or an explanation why that formation is either unavailable or unknown. The regulations permit the parent or legal guardian to sign the application for a child under age 14.
39	Checklist	Commenter 37 recommends moving the checklist to the beginning of the instructions to ensure the application is prepared correctly and avoid unnecessary denials and RFEs. The commenter also recommends incorporating into the checklist certain elements of the general instructions and evidence that needs to be submitted, thereby making the checklist a convenient reference for pro se I-485 applicants as well as those familiar with the form and who do not need to read detailed instructions every time they complete it.	In order to ensure the checklist applies to all applicants, the checklist remains very basic. Since the categories of adjustment applicants that use Form I-485 vary greatly in their filing and evidentiary requirements, expanding the checklist according to the commenter's suggestion is not practical without excluding certain applicants from its use. In order for an adjustment applicant to know what evidence to submit to USCIS, the applicant should go read, What Evidence Must You Submit with Form I-

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	Category	Comment	Response
		The checklist should not include info irrelevant to the immigrant category (see suggestion to provide separate sets of instructions) and should clearly delineate what one does or does not need to submit based on other circumstances (e.g. what documents are only required for derivatives or principals currently holding specific nonimmigrant visas). Commenter 37 includes a proposed checklist appended to their comment for Form I-140-based adjustment applicants.	485. In addition, the applicant should also read any the Additional Instructions for more category-specific information (if applicable).
40	Additional Instructions for Family-Based Applicants. VAWA self-petitioner (Form I-360).	Commenters 24, 25, and 34 suggest explaining the difference between “child” and “son or daughter” so that applicants may assess their eligibility for VAWA. Further, it would be helpful to add a note to these instructions about VAWA self-petitioners being exempt from public charge grounds of inadmissibility (and hence the affidavit of support).	USCIS will make some edits based on this comment. USCIS will delete “adult” before son or daughter and add “and is at least 21 years old” after to distinguish from children. USCIS will also add a note that VAWA-based applicants are exempt from the Affidavit of Support requirement, but they must still include Form I-864W with the adjustment application.
41	Additional Instructions for Family-Based Applicants: VAWA Self-Petition Form I-360	Commenter 28 states that the proposed instructions on confidentiality could be confusing for abused children adjusting their status from approved I-360 VAWA self-petitions. The instructions should clarify that the underlying I-360 petition and its contents will always remain confidential. Commenter recommends editing the language as follows: “VAWA confidentiality provisions (8 USC 1367) apply to you as the abused spouse or child of a U.S. citizen or lawful permanent resident or the abused parent of a U.S. citizen. This means that VAWA confidentiality provisions will extend through the pendency of	USCIS revised the language explaining confidentiality based on this recommendation. The new language is as follows: “Special confidentiality protections (described at 8 U.S.C. § 1367) apply to you as a VAWA self-petitioner. 8 U.S.C. § 1367 provides two forms of critical protections for VAWA self-petitioners. The first form of protection is a prohibition on adverse determinations against the victim based on information provided solely by their abuser and other prohibited sources. The second form of protection is a prohibition on disclosure of any information about the victim to third parties, except in certain very limited circumstances.” Similar language was added to other

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		the application and final appeal rights, and that the underlying Form I-360 petition will always remain confidential and cannot be accessed by the abusive family member.” Recommends this change in two other relevant sections of the instructions.	relevant sections of the instructions.
42	Additional Instructions for Employment-based Immigrants. Alien worker.	Commenter 31 suggests USCIS add “National Interest Waiver” to the first paragraph’s list of EB-2 classifications.	Since the National Interest Waiver subsection closely follows the paragraph referenced by the commenter, USCIS will not make changes based on this comment.
43	Additional Instructions for Special Immigrants. Special immigrant juvenile (Form I-360).	<p>Commenters 24, 25, 28, 31 and 34 state that there should be no need to submit additional evidence from the state juvenile court, should the applicant file the Form I-485 after Form I-360. The I-360 Approval Notice should be sufficient evidence of the applicant’s eligibility to apply for adjustment.</p> <p>Commenter 28 also recommends replacing the term “juvenile court” with “a court located in the United States having jurisdiction under state law to make judicial determinations about the custody and care of juveniles, including, e.g., a juvenile court, family court or probate court.”</p>	<p>USCIS removed the additional evidence requirement section from these additional instructions. However, as a general matter, USCIS may request evidence that the applicant is eligible for the underlying category of adjustment if needed.</p> <p>USCIS also added the 8 CFR 204.11(a) cite for the definition of a juvenile court.</p>
44	Additional Instructions for Special Immigrants, Special Immigrant Juvenile (Form I-360)	Commenter 28 states that the instructions note the filing can proceed if a visa is immediately available but many SIJ applicants will not know that the fourth employment-based category (EB-4) governs visa availability for SIJ, and the EB-4 category is now oversubscribed for some countries. Commenter recommends clarifying that	USCIS clarified in the additional instructions for SIJs that the fourth employment-based category (EB-4) governs visa availability.

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		SIJS visas are allocated as part of the EB-4 category and instruct applicants to check visa availability with the State Department before filing.	
45	Additional Instructions for Human Trafficking Victims and Crime Victims. Evidence of Continuous Physical Presence.	Commenters 24, 25, 28, 29 and 34 recommend specifying that if applicants do not have a passport or travel document they instead may include a valid explanation as to why such a document is not in their possession, in accordance with the regulations.	USCIS will adopt this recommendation.
46	Additional Instructions for Human Trafficking Victims and Crime Victims. Evidence of Continuous Physical Presence	Commenters 24, 25, 28, 29 and 34 state that as long as the applicant did not depart for a trip of more than 90 days or multiple trips of more than 180 days, the applicant’s reason for travel is irrelevant and requiring an applicant to provide an explanation is ultra vires of statutory and regulatory requirements.	USCIS will adopt this recommendation and remove the language requiring the applicant to provide a reason for travel involving a single trip of not more than 90 days or multiple trips of not more than 180 days.
47	Additional Instructions for Human Trafficking Victims and Crime Victims. Evidence of Continuous Physical Presence	Commenter 28 recommends the instructions clarify that the “Attorney General” is the federal Attorney General of the United States.	USCIS will adopt this recommendation.
48	Additional Instructions for Human Trafficking Victims and Crime Victims. Evidence of Continuous Physical Presence (List of Documentation)	Commenter 29 states that the list of documentation that may be used to establish continuous physical presence should reflect the “credible evidence” standard and be more inclusive regarding the types of documents that may be submitted. For example, “College Transcripts” should be changed to “Education	USCIS will adopt this recommendation and change “college transcripts” to “educational documents.” USCIS also added instructions on the use of affidavits to establish continuous physical presence to the additional instructions for human trafficking victims; this information already existed in the additional instructions for crime victims.

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		Documents” which may include but is not limited to evidence such as registration documentation, academic progress reports, program certificates, and/or high school or college transcripts.	
49	Additional Instructions for Crime Victims, Evidence of Compliance with Reasonable Requests for Assistance in the Investigation or Prosecution of the Qualifying Criminal Activity	<p>Commenters 24, 25, 28 and 34 state the instructions for submission of an affidavit attesting to evidence of ongoing compliance with reasonable requests for assistance are poorly organized. Following “if you submit an affidavit, it must include ...”, only points 1, 2, 3, and 5 relate to information that would be included in an applicant’s affidavit. Point 4, referring to “court documents, police records and news articles” and other documents, does not track the language of the regulation. It should either be deleted or included as a separate paragraph at the end of this section immediately preceding the note about assistance from persons other than the principal applicant.</p> <p>Commenter 29 also stated that the I-485 instructions continue to state the following:</p> <p>If you submit an affidavit, it must include:</p> <p>1. A description of all instances when you were requested to provide assistance in the criminal investigation or prosecution of persons in connection with the qualifying criminal activity after you were granted U nonimmigrant status and how you responded to such requests;</p>	<p>USCIS will adopt this recommendation. USCIS will move Item 4 (“Court documents, police reports, news articles, copies of reimbursement forms for travel to and from court, and affidavits of other witnesses or officials”) from the affidavit requirements to the list of possible evidence of ongoing assistance.</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	Category	Comment	Response
		<p>2. Any identifying information you have about the law enforcement personnel involved in the case;</p> <p>3. Any information you have about the status of the criminal investigation or prosecution, including any charges filed and the outcome of any criminal proceedings, or whether the investigation or prosecution was dropped and the reasons why;</p> <p>4. Court documents, police reports, news articles, copies of reimbursement forms for travel to and from court, and affidavits of other witnesses or officials; and</p> <p>5. If you have refused a request for assistance in the investigation or prosecution, you must provide a detailed explanation of why you refused to comply with requests for assistance and why you believed that the requests for assistance were unreasonable. [Emphasis added].</p> <p>Commenter 29 further stated these instructions go beyond the regulatory instruction on affidavits found at 8 CFR 245.24(e)(2). Item 4 on this list refers to documentation that is not listed in the regulations nor is it an appropriate addition to information that may be included in an affidavit. Furthermore, these item is incorrectly concluded by an “and” instead of an “or.” The language in 8 CFR 245.24(e)(2) also indicate that the information listed in points 1, 2, 3, and 5 “should” be included “when possible” and “if applicable,” and not a requirement (thus the word “must” is too</p>	

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		stringent of a standard).	
50	Additional Instructions for Crime Victims, Evidence of Compliance with Reasonable Requests for Assistance in the Investigation or Prosecution of the Qualifying Criminal Activity	<p>Commenter 29 states that introductions to this section are subtitled incorrectly. This section begins, “You are required to provide ongoing assistance, as needed, to law enforcement agencies involved in the investigation or prosecution of the qualifying criminal activity. 8 CFR 245.24(a)(5) defines ‘refusal to provide assistance in a criminal investigation or prosecution’ as a refusal by the U nonimmigrant to provide assistance to law enforcement authorities after being granted U nonimmigrant status.” This introduction is problematic because it reiterates an incorrect interpretation of the law, and contradicts existing guidance and regulatory authority.</p> <p>Stakeholders have previously stated the requirement that U adjustment applicants show they have not unreasonably refused to provide assistance in a criminal investigation or prosecution is ultra vires and an incorrect interpretation of the U adjustment statute.</p> <p>The certifying agency is already mandated to notify USCIS if, after certifying that a U visa applicant has been helpful, that applicant later unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of</p>	<p>“USCIS will adopt the recommendation to change “and” to “or” in the list of possible evidence on ongoing assistance. USCIS believes that the current language regarding this eligibility requirement is accurate.”</p> <p>With respect to the comment that this is too short, much of the comment suggests that USCIS is not correctly reading the language of the regs, because we suggest that there is an ongoing responsibility to cooperate with law enforcement. Unless we want to delve into each point that they make about why our interpretation is not correct, I suggest keeping this comment concise—we agreed with their suggestion to change “and” to “or”, but we are standing by our proposed language about the duty to provide ongoing assistance.</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		<p>which he or she is a victim. To impose this additional evidentiary requirement is an imposition both on crime victims and on certifying agencies and is counter to Congressional intent.</p> <p>The U adjustment statute states that “Secretary of Homeland Security may adjust the status of an alien admitted into the United States (or otherwise provided nonimmigrant status) under INA § 101(a)(15)(U) to that of an alien lawfully admitted for permanent residence if the alien is not described in INA § 212(a)(3)(E), unless the Attorney General determines based on affirmative evidence that the alien unreasonably refused to provide assistance in a criminal investigation or prosecution.” Thus, the requirement requires adjustment applicants to prove a negative – that they have not unreasonably refused to provide assistance in a criminal investigation or prosecution – is ultra vires and an incorrect interpretation of the statute.</p> <p>Commenters 28 and 29 state that the additional instructions confuse “on-going” assistance with an unreasonable refusal to provide assistance. Under 8 CFR 245.24(b)(5), the standard for a U nonimmigrant holder to adjust status, applicants must show that they have not unreasonably</p>	

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		<p>refused to provide assistance to an official or law enforcement agency that had responsibility in an investigation or prosecution of persons in connection with the qualifying criminal activity after the applicant was granted U nonimmigrant status. Demonstrating that the applicant has not refused to provide assistance is distinctly different than demonstrating ongoing compliance with reasonable requests for assistance.</p> <p>Commenters 28 and 29 recommend: 1) Change the subtitle to “Evidence that Applicant has not Unreasonably Refused to Provide Assistance in the Investigation or Prosecution of the Qualifying Criminal Activity.” 2) Remove the requirement of needing to show “ongoing assistance.” For example, the statement in the instructions, “ You are required to provide ongoing assistance until USCIS adjudicates your Form I-485” is an incorrect reading of the law and should be deleted.</p> <p>The instructions for submission of an affidavit attesting to evidence of ongoing compliance with reasonable requests for assistance in lieu of a newly executed Form I-918 Supplement B does not align with the requirements in 8 CFR 245.24(e). For example, the instructions on page 28 state the evidence regarding non-refusal to assist may include:</p> <ol style="list-style-type: none"> 1. A newly executed Form I-918, Supplement 	

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		<p style="text-align: center;">B, U Nonimmigrant Status Certification;</p> <p>2. A photocopy of the original Form I-918, Supplement B, with a new date and signature from the certifying agency;</p> <p>3. Documentation on official letterhead from the certifying agency stating that you have not unreasonably refused to cooperate in the investigation or prosecution of the qualifying criminal activity; and</p> <p>4. An affidavit describing any efforts you made to obtain a newly executed Form I-918, Supplement B, or other evidence describing whether you received any requests to provide assistance in the criminal investigation or prosecution of the qualifying criminal activity, and your response to these requests. [Emphasis added].</p> <p>Recommendation: The “and” between items 3 and 4 should be an “or” as it may not be possible for U visa adjustment applicants to obtain official documentation from the certifying agency at the time of adjustment and so the regulations at 8 CFR 245.24(e)(2) permit the submission of an affidavit. To require documentation in items 3 and 4 is beyond the statutory and regulatory authority.</p> <p>Recommendations:</p>	

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
		<p>-Change the language in the instructions on page 28 to say "If you submit an affidavit, it may include..."</p> <p>-Delete Item 4 in its entirety</p> <p>-Review this section to ensure its compliance with the statutory and regulatory authority.</p>	
51	Cuban Adjustment Act for Abused Spouses and Children, Evidence of Battery or Extreme Cruelty	<p>Commenter 31 says in list items number 4 and 5, "and" should be replaced with "or," so that those phrases read:</p> <p>4. Reports or affidavits from medical personnel, school officials, and clergy</p> <p>5. Reports or affidavits from social workers or other social service agency personnel.</p>	USCIS will adopt this recommendation.
52	Additional Instructions for Asylees and Refugees. Refugee Status.	Commenter 38 recommends providing examples of evidence of refugee status (e.g. I-94, travel authorization).	USCIS will adopt this recommendation.
53	Additional Instructions for Applicants Filing Under Special Adjustment Programs, Cuban Adjustment Act for Abused Spouses and Children, Evidence of Physical Presence and of Inspection and Admission or Inspection and Parole	<p>Commenter 29 states:</p> <p>The instructions, as written, state: "The law does not require the one-year period of physical presence to occur after your parole. Abused spouses and children of CAA-eligible applicants must have been inspected and admitted or inspected and paroled into the United States. If you are present in the United States without inspection, you are not eligible for CAA adjustment unless you first present yourself to DHS and DHS paroles you under INA section 212(d)(5)(A), pending a final determination of your admissibility."</p>	<p>No changes will be made based on this comment. Congress made explicit changes to the Cuban Adjustment Act in VAWA 2005, specifically removing the residency requirements for abused spouses and children and creating death and divorce exceptions for abused spouses, but did not remove the requirement that qualifying applicants demonstrate inspection and admission or parole into the United States after January 1, 1959. The purpose of the April 11, 2008 Aytes memo you have cited was to address the USCIS interpretation of the exception under INA 245(a) of the Act for VAWA self-petitioners present without admission or parole seeking to adjust under section 245(a). The exemption under INA 245(a) does not</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	Category	Comment	Response
		<p>Comment: We are concerned that the instructions imply that abused spouses and children of qualified Cuban principals must themselves be “inspected and admitted” or “inspected and paroled” to apply for the VAWA protections of the CAA. We firmly believe, based upon existing law and USCIS guidance, that abused spouses and children who are eligible derivatives may apply for these protections regardless of their manner of entry.</p> <p>According to INA 212(a)(6)(A)(ii) “the admission or parole” requirement does not apply to those who are applying for adjustment of status as VAWA self-petitioners. In 2006, Congress expanded the definition of “VAWA self-petitioner,” to include an individual or child of an individual who qualifies for relief under “the first section of Public Law 89-732 (8 U.S.C. 1255 note) (commonly known as the Cuban Adjustment Act) as a child or spouse who has been battered or subjected to extreme cruelty. See INA § 101(a)(51)(D).</p> <p>In 2008, USCIS issued a memoranda entitled, “Adjustment of status for VAWA self-petitioner who is present without inspection.” This guidance instructs: “Effective immediately, USCIS interprets the introductory text in Section 245(a) of the Act as effectively waiving inadmissibility under section</p>	<p>extend to abused spouses and children seeking to adjust pursuant to the Cuban Adjustment Act. USCIS’s position is that the exemption at INA 212(a)(6)(ii)(I) to the 212(a)(6)(i) ground of inadmissibility is applicable to VAWA self-petitioners seeking to adjust under the Cuban Adjustment Act. However, in order to be exempt from INA 212(a)(6)(i) as a VAWA self-petitioner you must demonstrate a substantial connection between the battery or cruelty and the unlawful entry (See INA 212(a)(6)(A)(ii)(III)).</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	Category	Comment	Response
		<p>212(a)(6)(A)(i) of the Act for any alien who is the beneficiary of an approved VAWA self-petition. All USCIS adjudicators will follow this interpretation in adjudicating a VAWA self-petitioner's adjustment of status application." [emphasis added]</p> <p>The memo further makes changes to the Adjudicator's Field Manual, including:</p> <p>"Under section 245(a) of the Act, the alien beneficiary of a VAWA self-petition may apply for adjustment of status even if the alien is present without inspection and admission or parole. USCIS has determined that this special provision in section 245(a) of the Act, in effect, waives the VAWA self-petitioner's inadmissibility under section 212(a)(6)(A)(i) for purposes of adjustment eligibility. Thus, a USCIS adjudicator will not find, based solely on the VAWA self-petitioner's inadmissibility under section 212(a)(6)(A)(i), that the VAWA self-petitioner cannot satisfy the admissibility requirement in section 245(a)(2) of the Act.</p> <p>The VAWA self-petitioner is not required to show a "substantial connection" between the qualifying battery or extreme cruelty and the VAWA self-petitioner's unlawful entry." Given that the Cuban Adjustment Act is reproduced as a historical note to INA §245, it follows that the</p>	

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	Category	Comment	Response
		<p>provisions for VAWA self-petitioners apply thusly to VAWA-based provisions of the CAA, and that eligible derivatives for VAWA-based protections of the CAA, regardless of their manner of entry, should be eligible for protection.</p> <p>Assuming <i>arguendo</i>, that abused spouses and children of qualified Cuban principals may "cure" their entry without inspection by presenting themselves for parole with DHS under 212(d)(5) (A), then USCIS should amend its current guidance on the VAWA provisions of the CAA and existing Cuban parole guidance to reflect this option, so that it is applied uniformly and consistently.</p>	
54	Additional Instructions for Applicants Filing Under Special Adjustment Programs, CAA for Abused Spouses and Children, Evidence of Battery or Extreme Cruelty	<p>Commenter 31 says in list items number 4 and 5, "and" should be replaced with "or," so that those phrases read:</p> <p>4. Reports or affidavits from medical personnel, school officials, and clergy</p> <p>5. Reports or affidavits from social workers or other social service agency personnel.</p>	USCIS will adopt this recommendation.
55	Additional Instructions for Applicants Filing Under Special Adjustment Programs Lautenberg Parolees, Denied Refugee Status	Commenter 31 says Lautenberg parolees should not be required to re-submit evidence of refugee status given that they had to have a denied I-590 to obtain parole.	No change will be made based on this comment. The additional instructions state the applicant should "[p]rovide evidence of denied refugee status, if available." If primary evidence is not available, the applicant may provide secondary evidence or affidavits as outlined in the What Evidence Must You Submit with Form I-485? section of the instructions.
56	Additional Instructions for Applicants Filing Under	Commenter 31 says that in order to qualify for adjustment of status, former diplomats and high	USCIS made some changes to this language based on this comment. In particular, USCIS added a sentence

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
#	<u>Category</u>	<u>Comment</u>	<u>Response</u>
	Special Adjustment Programs, Diplomats or High Ranking Officials Unable to Return Home (Section 13 of the Act of September 11, 1957), Failing to Maintain Status	<p>ranking officials must demonstrate, <i>inter alia</i>, that they failed to maintain lawful A or G nonimmigrant status. This section of the instructions states says that A and G nonimmigrants maintain their diplomatic status until DOS terminates it upon receipt of a Form DS-2008 from the foreign mission. However, following a change in the controlling government of a foreign country, if the new government neglects or refuses to submit Form DS-2008, DOS could still confirm that the former diplomat has failed to maintain status. The current wording of this section may discourage eligible individuals from filing and should be revised.</p> <p>Additionally, we note that 8 CFR §245.3 states that “any alien who is prima facie eligible for adjustment of status ... under another provision of law shall be advised to apply ... pursuant to such other provision of law.” The language in this section that says individuals “may wish” to consider applying under another immigrant category should be revised accordingly.</p>	that instructs applicants to contact DOS about information regarding termination of diplomatic status. We will continue review the “may wish” comment.
57	Additional Instructions for Applicants Filing Under Special Adjustment Programs, Continuous Residence in the United States Since Before January 1, 1972 (Registry), Evidence	Commenter 31 recommends that USCIS more clearly note that the types of evidence listed are just examples, and not required. Additionally, affidavits are a form of evidence, and the instructions should make this clear. Instead, the instructions state that “[a]lthough you may submit affidavits, you should provide some type of	The list of evidence of continuous residence is preceded by this sentence: “Examples of the types of evidence you may submit include...” USCIS believes this language clearly indicates that the items listed are examples and not required. USCIS disagrees that the language regarding affidavits might discourage individuals from submitting affidavits. Further,

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

FORM I-485 INSTRUCTIONS			
<u>#</u>	<u>Category</u>	<u>Comment</u>	<u>Response</u>
	of Continuous Residence and Individuals Born under Diplomatic Status in the United States, Evidence of Continuous Residence	additional evidence to support the application.” This statement could discourage people from submitting affidavits and should either be deleted or revised to read: “Although you may submit affidavits, <i>it is recommended that you provide some type of additional evidence to support the application.</i> ”	individuals <i>should</i> provide additional evidence to supplement affidavits when filing Form I-485, if possible, to reduce the need for USCIS to request such evidence after filing.

FORM I-485 SUPPLEMENT A			
<u>#</u>	<u>Category</u>	<u>Comment</u>	<u>Response</u>
1	General Comment	<p>Commenter 1 states: This is a big help and long awaited reinstatement of section 245i with approved petition from FAMILY or Employment base petition. Thanks for making this section 245i reinstated.</p> <p>Commenter 2 states that reinstatement of section 245i is a great thing as everyone should have an opportunity to adjust their status regardless if they came to the US illegally or not.</p>	This comment reflects a misunderstanding of the 245(i) program. The program has existed continuously since Congress first created it; thus, it is not being “reinstated.” It is only natural that as the deadline of April 30, 2001 for filing a qualifying immigrant petition or permanent labor certification application becomes more remote in time, in general USCIS sees fewer and fewer 245(i) applications with each passing year.

SUPPLEMENT A INSTRUCTIONS			
<u>#</u>	<u>Category</u>	<u>Comment</u>	<u>Response</u>
1	General – instructions may be confusing	Commenter 31 says that while it appreciates USCIS’s desire to provide comprehensive guidance on INA §245(i), the Instructions to Supplement A	USCIS has done its best to prepare these instructions for legal accuracy and using plain language principles. Whenever possible, USCIS explained what the law

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

		could create confusion as they assume applicants will understand the meaning of a variety of legal terms used in the instructions. There are numerous references to statutory language that is copied from the INA without providing adequate context as to the meaning of that language, the exceptions that might apply, and the manner in which the statutory language itself is applied in practice.	requires applicants to do as clearly as possible without oversimplifying the requirements. USCIS also pointed to web pages where applicants can read additional information about particular topics.
2	General, Bars to Admission and Grounds of Inadmissibility	Commenter 31 says the instructions related to Bars to Admission and Grounds of Inadmissibility are particularly confusing. As a result, these instructions may unintentionally encourage ineligible individuals to apply and discourage eligible individuals from applying because they will not fully understand the interactions between the legal standards for admissibility, the bars to adjustment, and the available waivers. We suggest that in the instant case, a “less is more” approach would be more productive.	See response above.
3	Page 1, Item 1E, Who May File to Adjust Status Under INA Section 245(i) Using Supplement A?	Commenter 31 says this sentence is confusing, and should be revised to read: “You are paying the required filing fee as described in the What is The Filing Fee section of these Instructions.”	USCIS agrees with this comment and made a corresponding edit.
4	P. 2, Who May File to Adjust Status Under INA Section 245(i) Using Supplement A?	Commenter 31 says it appears that there is an error in the numbering. The numbers go from 2(A) through 2(E) and then switch to (A) through (C) without a corresponding number.	This comment has been addressed and resolved by our reorganization of this section.

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

5	What Evidence Must You Submit to Establish Your Eligibility for Adjustment of Status Under INA 245(i)?	Commenter 31 says while it is clear that the Supplement A may be rejected if required evidence is not submitted, there is no mention of the accompanying Form I-485. For the sake of clarity, USCIS should specify what will happen to the accompanying Form I-485.	USCIS agrees with this comment and made a corresponding edit.
6	General Instruction, Copies and Processing Information, Note	Commenter 31 repeats its suggestion that USCIS consider alternatives to the immediate destruction of original documents, 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 retrieve the documents by filing a Form G-884.	<p>Original documents that are required or requested will be returned to the applicant when no longer needed as required by 8 CFR 102.2(b)(5).</p> <p>The Government Paperwork Elimination Act (GPEA) requires Federal agencies to use electronic forms, electronic filing, and electronic submissions. To facilitate the digitizing of files as required by GPEA, USCIS will destroy all original documents upon intake after the filing has been electronically scanned, uploaded, and stored. To reduce administrative burden and minimize storage costs, unrequested original documents will be destroyed after digital storage as of September 2016.</p> <p>In addition, the National Archives and Records Administration's (NARA) permanent record standards also require USCIS to begin digitizing records. USCIS has updated its system of records to comply with the NARA standard for records and the Federal Records Act authority to destroy certain records that do not "have sufficient administrative, legal, research, or other value to warrant their continued preservation by the Government." NARA, retention schedules are mandatory and authorize the disposal of unneeded records.</p>

**I-485/485A Public Comments
60-Day Period (March 31 - May 31, 2016)
SUMMARY OF RESPONSES**

			<p>To mitigate the new policy, USCIS has developed a list of “original” and “hard to replace” original documents that will be returned after they are electronically stored. Items submitted with an application that will be scanned and returned are passports, foreign government documents, or documentation that appears to be issued by a foreign government. Difficult to replace documents and original documents requested by USCIS will be returned. Non-originals or originals that are not considered difficult to replace will be shredded. Originals that were returned to USCIS after an attempt to return them to the filer will be stored for a year then destroyed pursuant to the General Records Schedule. Therefore, all USCIS forms from hereon will include instructions that state “unrequested originals <i>may</i> be destroyed” in order to provide notice that should suffice in case the attempt to return documents fails.</p>
7	P. 10, Paperwork Reduction Act	<p>Commenter 31 says it believes that the burden for reviewing the 10 pages of instructions and completing Supplement A will exceed 30 minutes, particularly for individuals who lack the background and experience to fully understand the parts of the instructions that require legal analysis.</p>	<p>USCIS agrees with this comment and is adjusting the time burden estimate.</p>

The primary goals we set out to accomplish with this revision:

- 1) To comprehensively update the form and instructions so they are more user-friendly for adjustment applicants.

I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES

- 2) To help applicants navigate the many different filing categories and determine the appropriate filing category they should select as their underlying basis to adjust status.
- 3) To provide applicants the information they need in order to prepare complete and accurate Form I-485 applications, including providing specific information for certain filing categories if needed.
- 4) To help applicants understand the required evidence and documentation they should submit with the Form I-485 to minimize requests for evidence and decrease delays in adjudication.
- 5) To more comprehensively address eligibility requirements and incorporate the inadmissibility questions that Congress requires we inquire about in order to determine if an applicant is eligible for adjustment of status.

Form I-485

There are several key improvements to the new Form I-485:

- 1) Part 2 “Application Type or Filing Category” in the revised Form I-485 provides a comprehensive list of 27 immigrant categories that an applicant can select from to indicate his or her underlying basis for adjustment eligibility. In contrast, the current Form I-485 contains only ten categories (four of which relate only to Cuban Adjustment Act cases – which is a very small percentage of adjustment filings.)
- 2) Applicants no longer need to file a separate Form G-325A, Biographic Information, because questions from the G-325A are now incorporated directly into Form I-485. Parts 1 and 3 of the revised Form I-485 meet the requirements of 8 CFR 245.2(a)(3)(i) by collecting the biographical information formerly required on G-325A.
- 3) The questions in Part 8 of the revised Form I-485 (“General Eligibility and Inadmissibility Grounds”) now directly address adjustment eligibility requirements as well as grounds of inadmissibility set forth in the Immigration and Nationality Act (INA) section 212(a) that apply to adjustment applicants. We want to be sure the public understands that USCIS has *not* created new inadmissibility grounds. These inadmissibility grounds were created by Congress and come directly from INA 212(a). The added inadmissibility questions allow USCIS to ensure officers have the necessary information to make a comprehensive assessment of the applicant’s admissibility. Furthermore, responses to these questions are also relevant to the discretionary analysis.
- 4) We revised the form to improve the flow and organization of questions and to make it more user-friendly for both the public and USCIS.

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

- 5) The revised Form I-485 incorporates the current standardized language for: a) the applicant attestation and signature; b) the preparer information and signature; and c) the interpreter information and signature -- making these sections consistent across USCIS forms.

Form I-485 Instructions

The main concept behind these revised instructions to Form I-485 is that they now include much more detailed information that an applicant needs to fully complete Form I-485, based on his or her specific filing category. In contrast, the current Form I-485 only provides very general information about filing the application. It provides a limited amount of information specific to each filing category.

We sought out to make three key improvements to the Form I-485 instructions:

- 1) The revised Form I-485 instructions now have two sections: (1) the general instructions and (2) the additional instructions.
 - The general instructions apply to the vast majority of adjustment applicants. These instructions can be found on pages 1 through 18.
 - The additional instructions provide more specific information on individual filing categories or bases for adjustment.
 - Each applicant only needs to read the general instructions and the one section in the additional instructions, if any, that is relevant to the filing category the applicant is applying under. Not all filing categories are covered in the additional instructions, so some applicants might only need to refer to the general instructions since there is no corresponding section in the additional instructions for their filing category.
 - Depending on the applicant's filing category, these additional instructions are generally less than one page.
- 2) Except for the instructions to Supplement A, the Form I-485 instructions consolidate adjustment instructions into one document. Currently, applicants seeking to adjust status under HRIFA or as T or U nonimmigrants must refer to separate supplements. Having one set of instructions, with a table of contents, makes it easier for applicants to find the information they need to file the application.
- 3) The Form I-485 instructions provide more detailed information on the evidence applicants must submit with the Form I-485, based on their specific filing category. We expect this to reduce the need for USCIS to request additional evidence when adjudicating the application and thereby reduce processing delays.

Supplement A

While we did not drastically change Supplement A, we did make three key improvements:

- 1) We added a section on the form for an applicant to indicate the filing category selected on the accompanying Form I-485.

**I-485/485A Public Comments
60-Day Period (March 31 – May 31, 2016)
SUMMARY OF RESPONSES**

- 2) We added a place for the applicant to enter the receipt number of the grandfathered beneficiary's qualifying immigrant petition.
- 3) Finally, we added a check box for applicants who were seeking to adjust as family members of grandfathered beneficiaries.

Supplement A Instructions

The key improvements to the instructions to Supplement A:

- 1) We added a comprehensive explanation of *who* may qualify as a grandfathered beneficiary of a qualifying immigrant petition or permanent labor certification application under INA 245(i) and *what evidence* is required to prove eligibility.
- 2) We clarified that the petition or permanent labor certification application that qualifies someone for INA 245(i) adjustment *does not* need to be the same petition or application that underlies the filing category chosen by the applicant on Form I-485.

Finally, we want to clarify an important point: The INA 245(i) program is not being renewed or reinstated. The program has existed continuously since Congress first created it in 1994 and later set a final deadline to file a qualifying petition or application by 2001. The updates we made to Supplement A and the accompanying instructions are *only* to make the *existing* INA 245(i) program easier to understand.