

**I-485/485A/Supp J Public Comments  
60-Day Period (March 31 - May 31, 2017)  
SUMMARY OF RESPONSES**

**Commenters:**

- Commenter 1: Elaine Smith, Received April 3, 2017
- Commenter 2: HCFANY, Received May 30, 2017
- Commenter 3: AILA, Received May 30, 2017
- Commenter 4: NYIC, Received May 30, 2017
- Commenter 5: MLRI, Received May 30, 2017
- Commenter 6: New York City Mayor's Office of Immigrant Affairs, Received May 30, 2017
- Commenter 7: NYLAG, Received May 30, 2017
- Commenter 8: NILC, Received May 30, 2017
- Commenter 9: CLASP, Received May 30, 2017
- Commenter 10: City of Seattle, Received May 30, 2017
- Commenter 11: Baltimore City Mayor's Office of Immigrant and Multicultural Affairs, Received May 30, 2017
- Commenter 12: Legal Aid Society, New York, Received May 30, 2017
- Commenter 13: Los Angeles Mayor's Office of Immigrant Affairs, Received May 30, 2017

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1	Part 8, Questions 1-13	Commenter 5 proposes that “dates of and proof of membership be excluded from this question. That information is already requested in Questions 48-57 as to those organizations likely to render the individual inadmissible. With regard to many other types of organizations that are unlikely to be relevant to inadmissibility, such as Girl Scouts of America, Parent-Teacher organizations, AARP, the Teamsters Union, and thousands of other well-known and readily recognizable civic and community organizations, the name and location should be sufficient for an adjudicator to determine whether or not there is a need for further detail, such as dates of membership and documentation thereof. In addition to the impact on applicants, the collection of this level of detail from everyone merely clogs the adjudication process, given the significant time and effort USCIS adjudicators will need to review such answers and the accompanying submissions.”	No change will be made based on this comment. While USCIS appreciates the concern expressed by Commenter 5 about the impact on applicants and adjudicators in connection with these questions, USCIS must elicit relevant information to adjudicate the immigration benefit request. The question is intended to elicit a broad response that may be relevant to the discretionary determination. It is more efficient for USCIS to request all the necessary information about membership in the Form I-485 rather than issue Requests for Evidence later on in the adjudication process. Finally, the commenter discusses “proof of membership”; however, USCIS is not requesting proof of membership for Part 8, Questions 1-13.
2	Part 8, Questions 61 and 62	Commenter 2 opposes the proposed revisions to questions 61 and 62. “These questions are confusing to applicants, attorneys, advocates, and adjudication officials. Although these two questions have been separated, they remain, as written, unclear, confusing, and at odds	No change will be made based on this comment.  Questions 61 and 62 splits the current (1/17/17) published version of this question on Form I-485 that is posted on the USCIS website ( <a href="#">see question 2 on page 3.</a> ) into two parts for improved clarity.

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		<p>with the USCIS policy on public charge.”</p> <p>“The current USCIS rule provides that an individual is inadmissible to the United States on public charge grounds in two narrow instances: (1) when he or she has or is likely to receive cash assistance for income maintenance; or (2) when he or she has or is likely to be institutionalized for long-term care at government expense. However, the receipt of these benefits does not automatically make an individual inadmissible, ineligible to adjust to lawful permanent residence, or deportable on public charge grounds. HCFANY supports this narrow approach to evaluating public charge because it provides clarity and does not inhibit New York residents from accessing crucially needed services and resources that promote the health and safety of our communities, such as health services, domestic violence services, and emergency food and shelter.”</p> <p>“HCFANY believes that any approach that would have the effect of broadening the definition of public charge would negatively impact immigrant access to these important</p>	<p>This form revision, however, does not change USCIS’s current public charge policy.</p> <p>Receipt of any form of public assistance does not necessarily make an adjustment applicant ineligible for adjustment of status based on public charge inadmissibility. However, USCIS needs to know all types of U.S. federal, state, and local public benefits received or expected to be received to properly make the prospective public charge determination.</p> <p>Please visit <a href="http://www.uscis.gov/green-card/green-card-processes-and-procedures/public-charge">www.uscis.gov/green-card/green-card-processes-and-procedures/public-charge</a> and <a href="http://www.uscis.gov/news/fact-sheets/public-charge-fact-sheet">www.uscis.gov/news/fact-sheets/public-charge-fact-sheet</a> for information about:</p> <p><b>A.</b> Which public benefits may be considered for public charge purposes; and</p> <p><b>B.</b> The categories of adjustment applicants to whom the public charge ground of inadmissibility does not apply.</p>

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		<p>services and resources. These questions, as written, would perpetuate a longstanding misunderstanding and concern among immigrant residents that receiving any public benefits will undermine their ability to adjust their immigration status or will otherwise put them at risk, because they will be considered a “public charge.” This, in turn, would have a chilling effect on immigrants’ willingness to apply for critical benefits for themselves or their children.”</p> <p>Commenter 2 “strongly urges USCIS to revise questions 61 and 62 in Part 8 of the Form I-485 to use language that only inquires about benefits relevant to public charge determination, for example:</p> <ul style="list-style-type: none"> <li>• Have you received Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), or cash for income maintenance purposes from state and local income assistance programs?</li> <li>• Have you received Medicaid for long-term institutional care—such as in a nursing home or mental health</li> </ul>	

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		institution?"	
3	Part 8, Questions 61 and 62	<p>Commenter 3 states that "the 'public charge' question on the current (1/17/17) version of Form I-485 that is posted on the USCIS website reads:</p> <p><i>"Have you received public assistance in the United States from any source, including the U.S. Government or any State, county, city, or municipality (other than emergency medical treatment) or are you likely to receive public assistance in the future?"</i></p> <p>USCIS proposes to split the question into two parts to read as follows:</p> <p><i>61. Have you received public assistance in the United States from any source, including the U.S. Government or any state, county, city, or municipality (other than emergency medical treatment)?</i></p> <p><i>62. Are you likely to receive public assistance in the future in the United States from any source, including the U.S. Government or any state, county, city, or municipality (other than emergency medical treatment)?</i></p>	No change will be made based on this comment. See response above.

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		<p>Though the proposed changes modify the substance of the inquiry only slightly to clarify the scope of the question regarding likelihood of future receipt of public assistance, we'd like to take this opportunity to encourage USCIS to adopt a more narrowly tailored inquiry into the public charge inadmissibility grounds in an effort to ensure that immigrant communities are not inhibited in any way from accessing critical services such as emergency food and shelter, domestic violence services, and others.</p> <p>Under INA §212(a)(4), an individual seeking admission to the United States or seeking to adjust status to lawful permanent resident is inadmissible if he or she "is likely at any time to become a public charge." According to USCIS guidance, "[w]hen determining whether someone is likely to become a public charge, USCIS will consider whether the individual is likely 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." The</p>	

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		<p>guidance goes on to state that “[n]on-cash or special-purpose cash benefits are generally supplemental in nature and do not make a person primarily dependent on the government for subsistence. Therefore, past, current, or future receipt of these benefits do not impact a public charge determination.”</p> <p>Examples of non-cash or special purpose cash benefits that are not considered for public charge purposes include Medicaid and related services, nutritional programs such as Food Stamps and school lunch programs, housing benefits, emergency disaster relief, job-training programs, and educational assistance.</p> <p>The questions on the proposed I-485 ask the applicant to paint a broad picture of all public benefits received, with the exception of emergency medical treatment, and fail to distinguish between cash and non-cash benefits. Questions pertaining to the use of public benefits should be phrased to inquire only into receipt of public assistance that is relevant to the public charge determination.”</p>	
4	Part 8, Questions 61 and 62	Commenter 5 suggests that the parenthetical “(other than emergency medical treatment)”	No change will be made based on this comment. See response above.

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		<p>be expanded to read “(other than a special purpose or non-cash benefit, such as emergency medical treatment, that does not provide income maintenance or institutionalization for long-term-care at public expense).” While the citation on page 7 of the Instructions to the USCIS web site for additional information about public benefits and public charge is helpful, the question itself is worded so broadly that applicants must list programs that do not make them inadmissible and provide evidence thereof, thus diverting adjudicators’ time to unnecessarily reviewing such answers and documentation. Evidence about these special-purpose and non-cash programs, such as those listed in 8 U.S.C. 1611(b) (e.g., crisis counseling and intervention services, soup kitchens, immunizations, and benefits provided for the protection of life or safety) may also be difficult for applicants to supply where such programs do not systematically create records for the recipients. Qualifying the question to narrow the information sought in a manner consistent with current USCIS policies that exclude such benefits from the public charge determination may facilitate the filing of more complete</p>	



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		applications in addition to promoting agency efficiency.”	
5	Part 8, Questions 61 and 62	<p>Commenter 8 makes the following recommendations, “If questions pertaining to the use of public benefits are deemed necessary, they must be rewritten to ask the questions that are relevant to the public charge determination:</p> <ul style="list-style-type: none"> <li>• <i>Have you received Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), or cash from state and local income assistance programs?</i></li> <li>• <i>Have you received public assistance, including Medicaid, for long-term institutional care—such as in a nursing home or mental health institution?”</i></li> </ul> <p>Provide a link and refer to existing USCIS guidance on public charge determinations, as currently appears in the “current text,” and below.</p> <p><i>Before responding to Item Numbers 61. and 62., please see Item 8. in the “How To Fill Out Form I-485” section of the General Instructions section and Item 9. in the What</i></p>	No change will be made based on this comment. See response above.

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		<p><i>Evidence Must You Submit with Form I-485 section of the Instructions. Please visit <a href="http://www.uscis.gov/green-card/green-cardprocesses-andprocedures/public-charge">www.uscis.gov/green-card/green-cardprocesses-andprocedures/public-charge</a> and <a href="http://www.uscis.gov/news/fact-sheets/public-chargefactsheet">www.uscis.gov/news/fact-sheets/public-chargefactsheet</a>.”</i></p>	
6	Part 8, Questions 61 and 62	<p>Commenter 9 stated “It is our belief that rather than clarifying the agency’s rules on public charge, the proposed Form I-485 and its accompanying instructions may increase confusion and fear among immigrant families. Immigrant families who already face barriers to accessing publicly funded assistance may be even less likely to apply for critical benefits for which they or their family members might be eligible, which will result in negative social and public health consequences for American communities. In 2015, 17.9 million children ages 18 and younger – one quarter of all children in the U.S. -- lived with at least one immigrant parent, the vast majority U.S.-born citizens. Public benefits, including nutrition assistance, health insurance, and other supports, are vitally important for many of these children’s well-being.”</p> <p>“USCIS must act to address “considerable public confusion about the relationship</p>	<p>No change will be made based on this comment. See response above.</p>

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		<p>between the receipt of federal, state and local public benefits” and “public charge” determinations in immigration law. The current question on the form I-485 (version dated 1/17/17) and the proposed revisions to questions 61 and 62 of Part 8 on Form I-485 fail to distinguish between cash and noncash benefits.”</p> <p>“Recommendations: If questions pertaining to the use of public benefits are deemed necessary, we recommend that they be revised to track the rules governing the public charge grounds for admissibility, and inquire only about benefits that are relevant to public charge determinations. We offer the revised questions below as recommendations:</p> <ul style="list-style-type: none"> <li>• Have you received Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), or cash for income maintenance purposes from state and local cash assistance programs?</li> <li>• Have you been in long-term institutional care—such as in a nursing home or mental health institution—paid for by Medicaid?</li> <li>• Are you likely to receive Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), or cash for income maintenance purposes from state and local</li> </ul>	

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		<p>cash assistance programs in the future?</p> <ul style="list-style-type: none"> <li>• Are you likely to be in long-term institutional care—such as in a nursing home or mental health institution—paid for by Medicaid in the future?”</li> </ul> <p>“The misunderstandings of USCIS policy related to public charge would only be exacerbated by failure to clarify the “public charge” questions on Form I-485 as recommended. Moreover, because the current and proposed questions on the adjustment forms are overly broad, asking about the use of public benefits generally, including those that are not relevant to the public charge inquiry, the resulting responses and data collected would likely be flawed and lacking in practical utility.”</p>	
6	Part 8, Questions 61 and 62	Commenters 6, 7, 10, 11, 12 and 13 expresses “strong concern about DHS’s current proposed changes to questions 61 and 62 on Form I-485. DHS proposes to ask applicants for adjustment of status to provide their entire history and likelihood of receiving public assistance from any source. We urge DHS to revise questions 61 and 62 to use more specific language that reflects its definition of ‘public charge.’ Questions 61 and	No change will be made based on this comment. See response above.

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		<p>62 should only inquire about an individual’s history or likelihood to receive cash assistance or to be institutionalized for long-term care.” Commenter 4 also shares the same concern.</p> <p>Commenters 4, 6, 7, 10, 11 and 13 state, “Revising questions 61 and 62 to be more specific and clear will also help immigrants and their representatives prepare their adjustment applications and facilitate efficient determinations by U.S. Citizenship and Immigration Services (USCIS).”</p> <p>Commenter 7 also discusses the origin of the public charge ground and concept.</p>	

FORM I-485 INSTRUCTIONS			
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1	General Instructions	<p>Commenter 9 states “It is important for the instructions for Form I-485 to track the long-standing USCIS policy on public charge and clearly explain related questions by:</p> <ul style="list-style-type: none"> <li>• Specifying that noncash benefits such as SNAP, Medicaid, CHIP, WIC, housing benefits,</li> </ul>	<p>No changes will be made based on this comment. See related responses above.</p>

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		<p>child care assistance, energy assistance, emergency disaster relief, foster care and adoption assistance, education assistance, Head Start, and job training are not considered in the public charge determination. Instructions for Form I-485 should clarify that immigrants should feel safe accessing the above forms of non-cash assistance and that receipt of public benefits does not affect eligibility for citizenship.</p> <ul style="list-style-type: none"> <li>• Specifying that receipt of monthly cash benefits for income maintenance purposes—SSI, TANF, cash from state and local income assistance programs and long-term institutional care—may be considered as a factor in the public charge determination, but does not automatically make an individual ineligible to adjust status to lawful permanent residence on public charge grounds.”</li> </ul>	
2	General Instructions	<p>Commenter 8 offers the following recommendations, “The Instructions for Form I-485 must include a section explaining these questions by:</p> <ul style="list-style-type: none"> <li>• Specifying that noncash benefits such as SNAP, Medicaid, CHIP, WIC, housing benefits, child care services, energy assistance,</li> </ul>	No changes will be made based on this comment. See related responses above.

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		<p>emergency disaster relief, foster care and adoption assistance, education assistance, job training are not considered in the public charge determination.</p> <ul style="list-style-type: none"> <li>• Specifying that receipt of monthly cash benefits for income maintenance purposes—SSI, TANF, cash from state and local income assistance programs and long-term institutional care—may be considered as a factor in the public charge determination, but does not automatically make an individual ineligible to adjust status to lawful permanent residence on public charge grounds.”</li> </ul>	
3	General Instructions	<p>Commenter 2 states that there is “...brief mention and little guidance on how to respond to questions regarding public assistance in the instructions for Form I-485. The sections instructs applicants to ‘Attach evidence of any public assistance you received, or are likely to receive while in the United States. For more information on the receipt of public benefits and its impact on public charge determinations, please see www.uscis.gov.’ These instructions also create confusion for applicants about the relationship between the receipt of public benefits and a public charge determination.”</p>	<p>No change will be made based on this comment.</p> <p>Applicants can visit <a href="https://www.uscis.gov/green-card/green-card-processes-and-procedures/public-charge">https://www.uscis.gov/green-card/green-card-processes-and-procedures/public-charge</a></p> <p>and</p> <p><a href="https://www.uscis.gov/news/fact-sheets/public-charge-fact-sheet">https://www.uscis.gov/news/fact-sheets/public-charge-fact-sheet</a></p> <p>for information about:</p>

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		<p>“HCFANY strongly urges USCIS to revise the instructions for Form I-485 to include a section that explains that:</p> <p>(1) noncash benefits such as SNAP, Medicaid, CHIP, WIC, housing benefits, child care services, energy assistance, emergency disaster relief, foster care and adoption assistance, education assistance, job training are not considered in the public charge determination; and</p> <p>(2) receipt of monthly cash benefits for income maintenance purposes, such as SSI, TANF, cash from state and local income assistance programs and long-term institutional care, may be considered as a factor in the public charge determination, but does not automatically make an individual ineligible to adjust status to lawful permanent residence on public charge grounds.”</p> <p>“HCFANY strongly urges USCIS to revise the instructions for Form I-485 to include a section that explains that: (1) noncash benefits are not considered in the public charge determination; and (2) receipt of monthly</p>	<p><b>A.</b> Which public benefits may be considered for public charge purposes; and</p> <p><b>B.</b> The categories of adjustment applicants to whom the public charge ground of inadmissibility does not apply.</p>



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		cash benefits for income maintenance purposes may be considered as a factor in the public charge determination, but does not automatically make an individual ineligible to adjust status on public charge grounds.”	
4	General Instructions	Commenter 5 proposes “that the form incorporate more broadly the salutary language that elsewhere permits the submission of secondary evidence (i.e., for unavailable certified court dispositions.) In our experience with homeless people, domestic violence survivors, victims of fires, migrant farmworkers, and other low-income people, such individuals frequently have trouble accessing primary sources of evidence quickly and affording them an opportunity to submit secondary evidence at least at this preliminary filing stage would give them time to gather the documentation at a later date, should an adjudicator determine that more is needed.”	No change will be made based on this comment. The “What Evidence Must You Submit with Form I-485?” section of the Form I-485 Instructions, clearly lays out information about providing primary and secondary evidence.
5	General Instructions	Commenter 5 proposes “that the Instructions accompanying these questions clearly state that individuals exempt from the public charge grounds because they are filing under boxes 1.f. (special adjustment laws), 1.d. (asylee or refugee), 1.e. (human trafficking victim), 1.a. VAWA self-petitioner, 1.c. Special immigrant juvenile, and 1.g. Registry should	USCIS appreciates this comment but does not consider it advisable to make any changes to the Instructions at this time. USCIS will consider this recommendation during review of future form instructions.

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		skip this question. (A “Note” could also be added on the form to the effect that “If you filed under... you should skip these questions.”) Elsewhere in the Instructions, the requirements described for these specific forms of relief recognize that individuals filing under them “do not need to submit evidence of financial support” and the same should be true for evidence of receipt of public assistance. Collecting benefits information from them wastes valuable adjudication resources, as described in our comments above re Questions 1-13.	
6	General	Commenter 5 states that the new instructions must be consistent with existing “public charge” rules, not suggest a broader definition of public charge.	No change will be made based on this comment. See response on page 3 to commenter #2.

<b>I-485 Supplement J</b>			
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1	Page 2, Part 4	Commenter 1 states that page 2, part 4 is duplicate information and therefore should be deleted.	Thank you for your feedback. Part 4 (if applicable) is for preparers of the individual applicant while Part 8 (if applicable) is for preparers of the individual employer or authorized signatory of the business entity employer whose job offer is the basis for the

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			applicant's request to adjust status. We will re-evaluate the need for both sections in a future revision.
2	Page 3, Part 5, #8	Commenter 1 states that this number field should allow for punctuation for better clarity and accuracy.	Thank you for your feedback. We will incorporate this adjustment to the functionality of the form for this item in a future revision.
3	Page 3, Part 5, #9	Commenter 1 states that this number field should allow for punctuation for better clarity and accuracy. Additionally, the programming automatically adds zeros (i.e. 007, 123, 456, 789). This is unnecessary and only causes confusion. That function should be removed.	Thank you for your feedback. We will incorporate this adjustment to the functionality of the form for this item in a future revision.
4	Page 5, Part 7, #8	Commenter 1 suggests adding a field for the job title of the person with signatory authority. This will better clarify and distinguish the person with signatory authority from the preparer when they are not the same person.	Thank you for your feedback. The job title of the person with signatory authority is already collected under Part 7., Item Number 4 on page 4 of the Form. We will consider your recommendation in a future revision.