

**National Interest Waiver Public Comments  
SUMMARY OF RESPONSES**

**Commenters:**

Commenter 1: Passang Lhachoeпа

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<b>FORM I-485</b>			
<b>#</b>	<b><u>Category</u></b>	<b><u>Comment</u></b>	<b><u>Response</u></b>
1	<b>Page 1, Part 1, Question 2 to 3 - “other names used since birth”</b>	The commenter states that three quarters of the page is used to solicit this information. Irrespective of the purpose of this information collection, it can be replaced by a simple “have you used any other names since birth? If yes, provide information on page # 14” which is designated for all additional information.	USCIS has designed the questions in this section to best assure that the necessary information will be submitted and that follow up requests will not be required. USCIS will, however, consider if the section can be streamlined when this form is revised in the future.

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2	<b>Page 1, Part 1, Question 5 - “Sex”</b>	The commenter states this question excludes not only those born with non-binary reproductive organs, but also potentially those who identify as lesbian, gay, bisexual, transgender, transsexual, genderqueer or third gender. By simply adding an additional option “other” with a space to specify should easily solve this problem.	All biographical data collected by USCIS is not intended to impart any value judgements or be considered in the request. The applicant’s birth gender is obtained to permit USCIS to conduct the necessary background checks and validate the applicant’s identity. Permitting non-standard responses that may not match the records of other government agencies regarding the applicant could delay application processing. USCIS will consider if this data may be collected using a differently worded question in future form revisions if the guidance to Executive Branch agencies changes regarding treatment of this issue.

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3	<b>Page 1, Part I, Question 9 – “country of citizenship or nationality”</b>	The commenter states that many applicants, especially amongst refugees and asylees do not have a nationality or citizenship because they lived as refugees in other countries their entire life and, and never acquired citizenship of another country. They are stateless. However, without having an option as “stateless” for this question, applicants are confused. I have personally seen asylum officers writing “stateless” for this question when applicants tell them they are stateless. This is a clear indication that it is an acceptable response to the question. Therefore, I suggest that “stateless” should be added as an option for this question.	Each applicant should answer each question on the form including this one as fully and completely as possible. “Stateless” may be an appropriate response to this question if the applicant is truly stateless.
4	<b>Page 2, Part 1, question 23 – ‘I-94 information</b>	The commenter states there is confusion with this question for people who are applying for adjustment of status as an asylee in the United States. Asylees who entered the country with inspection are issued an I-94. However, they are issued a new I-94 later if their asylum claim is approved. Since they have been issued two I-94s, there is a dilemma as to which information to be provided. Going by the flow of the question, it appears to be asking about the I-94 issued initially. However, there is no clarity. From our experience, providing either information had	USCIS will consider revising the form I-485 instructions when the form and instructions are revised in the future to clarify the information that is being requested by this question.

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		no effect. Nevertheless, applicant’s who chose to file on their own won’t have that experience and will have difficulty/burden of completing the application. The question can be made specific by changing it to: “if you were issued an I-94 upon your last entry...”	
5	<b>Page 4, Part 3, Question 1 - Whether the applicant has “ever applied for an immigrant (permanent resident) visa at a U.S. Embassy or U.S. consulate abroad”</b>	The commenter states from our experience, children who came as minors, or uneducated senior citizens do not remember whether they applied visas in other countries. Moreover, this information is easily accessible to the USCIS electronically, or through checking the I-94 arrival record number which is issued to every alien entering the country. Therefore this information is not necessary. At the least, having “unknown” as an option will make the process much easier and avoid an answer that could create a significant risk of unintended misrepresentation.	Each applicant should answer each question on the form including this one as fully and completely as possible. If the applicant does not know if he or she ever applied for a visa they can use the space provided in Part 14. Additional Answers with an explanation that the answer is unknown. The form instructions state that if a question does not apply to the applicant, type or print “N/A” unless otherwise directed. We will review if the instructions can be made clearer or if other options can be provided the next time this form is revised.

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6	<b>Page 6, Part 4, Questions 1-16 - “Information About Your Parents”</b>	The commenter states this item creates a confusion/dilemma as to whether the question is asking about legal or biological parents. For example, in Form I-730, it has options for children such as ‘biological’, adopted, step-child’. The same can be included here, with the additional option as ‘unknown’ for applicants who have never known their parents.	USCIS believes the term “parent” is sufficiently clear for applicants to answer this question sufficiently.

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7	<b>Page 7, Part V, Question 11.a to 16.c ‘information about prior spouse’</b>	The commenter states that more than half a page is devoted to this hypothetical question. If the applicant has never married, or is a minor, or has never divorced, these additional questions are obsolete. This can be shortened with a simple question such as: ‘were you previously married? If yes, provide additional information on page #14”.	USCIS appreciates that its forms should be as brief as possible and not ask extraneous questions. Nevertheless, the applicant can write N/A in those sections and questions that do not apply to him or her. USCIS will look at ways to shorten this question in the future.

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8	<b>Page 10, Part 8, Questions 26-32 - “Criminal Acts and Violations”</b>	The commenter states there is no instruction/exemption/guidance as to how children are expected to respond to these questions. Additional instructions can be helpful, especially if it pertains to children under a certain age being exempt from these questions if the statute permits.	No change will be made based on this comment. The application and the instructions state that an applicant should select the answer he or she thinks is correct and provide an explanation of the events and circumstances in the space provided in Part 14. Additional Information. We also want to clarify that answering “Yes” will not necessarily result in a finding of inadmissibility. USCIS will evaluate the specific facts and circumstances to determine your admissibility.



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9	<b>Page 10, Part 8, Question 27 - Whether the application has ever “committed a crime of any kind (even if you were not arrested, cited, charged with, or tried for that crime)”</b>	The commenter states this question is so broad that it could potentially include even bad behavior such as jaywalking, urinating in public etc. such behavior have no effect on the applicant’s eligibility for a green card. Therefore, specific instructions that limit the provision of criminal history information to only those that may potentially effect an applicant’s eligibility for the immigration benefit sought must be added.	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 never arrested, charged, or convicted, is relevant to the discretion USCIS officers have in making their decision regarding the applicant’s admissibility. Therefore, asking for information on any crime an applicant committed is necessary to determine eligibility for adjustment of status.

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10	<b>Page 11, Part 8, Question 48 - Whether the applicant will engage in “any activity that could have potentially serious adverse foreign policy consequences for the United States”</b>	This is not only confusing language, but the answer will also depend on a specific foreign policy position of the US at a particular time. Certain governments may be designated a ‘terrorist organization’ at one point of time, but may be designated a ‘friendly country’ and vice versa at another time. Based on the changing policies, an applicant’s activities may be deemed against the US foreign policy or not. Moreover, such issues should be covered under the myriad of questions under “security related’ part of the questions in the form.	No change will be made based on this comment. This conduct is specific to a ground of inadmissibility under INA 212(a)(3)(C)(i) and is therefore relevant to the adjudication and eligibility 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.
11	<b>Page 13, Part 8, Questions 61-62 - “Public Charge”</b>	It is a given that a large number of immigrants seeking to adjust their status are under a category by which ability to support themselves without becoming a public charge is a requirement to be eligible. However, there are also a large number of people who do not have to show whether they will become a public charge, or have received public benefits in the past.  Asylees and refugees receive various federal grants such as cash, health, housing, employments assistance benefits etc. These	If the applicant thinks a section of the form does not apply them, USCIS form instructions state that, “If a question does not apply to you...type or print “N/A” unless otherwise directed.” Still, an applicant should answer all of the questions on the form that he or she believes may apply to his or her situation. If an applicant completes questions that are unnecessary, USCIS would only consider the information he or she provides to the extent they are applicable to and necessary to either approve or deny the request. If information on the receipt of subsidies, benefits or government assistance is not a requirement, the answers will not affect the

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		<p>are federally approved benefits that is automatically available. Since refugees, asylees and other immigrant categories do not requirement proving that they will not become public charge, the question requiring blanket disclosure of any government assistance is misleading, confusing, and creates unnecessary tension in the minds of refugees and asylees.</p> <p>Therefore, an option “does not apply’ can be added to prevent such confusion amongst these categories of applicants.</p>	<p>USCIS decision.</p>