# *I-90 Revision 60 Day FRN Public Comments Matrix*

| Comment # | Public Comments | USCIS Response |
|---|---|---|
| **Comment 1.** | **Commenter:** The American Immigration Lawyers Association (AILA) | |
| | **<u>Comments on Proposed Revisions to Form I-90 Instructions</u>**<br><br>***Destruction of Original Documents***<br>On page 1 of the proposed Form I-90 Instructions, USCIS has made some minor revisions to the language regarding the submission of original documents that are not required or requested by USCIS, indicating that "If you submit original documents when not required or requested by USCIS, your original documents may be immediately destroyed after we received them." Applicants, especially pro se applicants, may not realize that original documents should not be submitted as part of the application, and may accidentally include them in the Form I-90 application package. It seems drastic for USCIS to immediately destroy original documents that the applicant may need later for another purpose. AILA suggests that USCIS consider other alternatives, such as mailing the documents back to the applicant, sending the applicant a Request for Evidence (RFE) for a Form G-884, Request for the Return of Original Documents, or sending the documents to the National Records Center to combine with the applicant's A file so that the applicant can later file a Form G-884 to request the return of the original documents. | USCIS appreciates the comment but this language is not a change, but rather just re-wording the existing USCIS policy on destruction of documents. The current Form I-90 Instructions state that "If you submit original documents when not required or requested by USCIS, your original documents may remain a part of the record, USCIS will not automatically return them to you, and your original documents may be immediately destroyed upon receipt." |
| | ***Determining if a Permanent Resident Card was Returned to USCIS***<br>On page 5 of the Form I-90 Instructions, USCIS indicates that applicants can determine if their permanent resident card was returned to USCIS by checking the status of the case on the following USCIS webpage: https://egov.uscis.gov/cris/Dashboard.do. This link, however, directs applicants to the "Check Case Processing Times" page of the USCIS website, and not to the "Case Status Online" page of the USCIS website. AILA recommends that USCIS update the link on page 5 of the Form I-90 Instructions to https://egov.uscis.gov/casestatus/landing.do as this link will direct applicants straight to the "Case Status Online" page of the USCIS | USCIS appreciates this comment and will update the instructions to it links to the appropriate page on USCIS.gov. |

| Comment # | Public Comments | USCIS Response |
|---|---|---|
| | website where applicants can check the status of their case online. | |
| | ***Existing Card has Incorrect Data not Caused by Department of Homeland Security Error***<br>On page 5 of the proposed Form I-90 Instructions, in Part 2. Applicant Type, at Item Number 2.d., USCIS indicates in the NOTE section that:<br>NOTE: Item Number 2.d. does not apply if the error was not caused by DHS. Instead you must select Item Number 2.d. (My name or other biographic information has been legally changed since issuance of my existing card).<br>USCIS' reference to Item Number 2.d. in the second sentence above appears to be erroneous. It appears that USCIS intended to indicate that applicants must select Item Number 2.e. if the error was not caused by DHS. Thus, it appears that the language in this section of the Form I-90 instructions should be revised to indicate as follows:<br>NOTE: Item Number 2.d. does not apply if the error was not caused by DHS. Instead you must select Item Number 2.e. (My name or other biographic information has been legally changed since issuance of my existing card). | USCIS appreciates this comment and will make this change in the form instructions. |
| | ***Accommodations for Individuals with Disabilities and/or Impairments***<br>AILA notes that the ability to request an accommodation for individuals with disabilities and/or impairments was deleted in its entirety from Form I-90 and its instructions. As a result of this proposed change, applicants with disabilities and/or impairments will no longer be able to indicate their request for an accommodation as required under Section 504 of the Rehabilitation Act of 1973 on Form I-90 at the time of submitting the application to USCIS. In addition, the revised instructions do not describe any alternative way in which applicants may request accommodations, such as submitting a request through USCIS' Disability Accommodations for Appointments online tool or calling the USCIS Contact Center. By eliminating the accommodation language from the Form I-90 and its instructions, this change will unnecessarily hinder an applicants' | USCIS is committed to providing individuals with disabilities access to its programs, activities and facilities.<br><br>To request an accommodation due to a disability that affects access to a USCIS program, activity, or facility, or, if a disability prevents an individual from going to a designated USCIS location as scheduled, applicants will be instructed to call the USCIS Contact Center at **1-800-375-5283** (TTY **1-800-767-1833**) or go to www.uscis.gov/accommodations to submit a |

| Comment # | Public Comments | USCIS Response |
|---|---|---|
| | knowledge of and ability to apply for accommodations. As such, applicants with disabilities and/or impairments will be disadvantaged in the process of replacing or renewing their permanent residence card. AILA recommends that the language regarding accommodations for individuals with disabilities and/or impairments be restored to Form I-90 and its instructions, or at the very minimum, that alternative methods for requesting an accommodation, such as submitting a request via the USCIS Disability Accommodations for Appointments tool or by contacting the USCIS Contact Center, be provided on the Form I-90 instructions to inform applicants of their options for requesting an accommodation. | request online. They will also be instructed to go to www.uscis.gov/accommodationsinfo for additional information regarding disability accommodations. |
| | **Comments on Proposed Revisions to Form I-90**<br><br>***Attorney State Bar Number and Attorney or Accredited Representative USCIS Online Account Number***<br>On page 1 of the revised Form I-90, USCIS is seeking to collect the attorney state bar number (if applicable) and the attorney or accredited representative USCIS Online Account Number (if any). This information is already collected by USCIS on Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative. As such, we believe that requesting that this information again on the Form I-90 is repetitive and unnecessary, in contradiction of the Paperwork Reduction Act, which instructs agencies to reduce collection of information when it is not necessary. | For information collections that do not require a G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, submission, USCIS provides the option to disclose this information to ensure we can communicate with the attorney on file (if any.) |
| | **Additional Information Section of Form I-90**<br>On page 3 of the revised Form I-90 in Part 2. Application Type, Section A and Section B, the Form I-90 refers on several occasions to applicants providing a detailed explanation in "Part 8. Additional Information" of the form. The revised Form I-90, however, no longer contains a "Part 8. Additional Information" section. Instead, it appears that the additional information section of Form I-90 has been renumbered as is now located in Part 7 of the Form I-90. AILA recommends that USCIS carefully review the numbered sections that are cross referenced in the Form I-90 and its | USCIS appreciates this comment and will make this edit. |

| Comment # | Public Comments | USCIS Response |
|---|---|---|
| | instructions to ensure that the numbered sections are referenced correctly. | |
| | ***Additional Questions Concerning Maintenance of Permanent Resident Status*** AILA notes that USCIS is proposing to include six additional questions to page 4 of the Form I-90 relating to the maintenance of the applicant's permanent resident status. Among these include questions such as, "Since you were granted permanent resident status, have you ever been absent from the United States for a continuous period for more than 180 days but less than one year?" and "Since you were granted permanent resident status, have you ever been absent from the United States for a continuous period of one year or more?" 4 AILA has concerns regarding the insertion of these additional six questions into the Form I-90. Among other things, the inclusion of these additional questions will increase the time and burden for both applicants and USCIS adjudicators to complete and ultimately adjudicate this form, leading to further backlogs in the processing of I-90 applications, which are already currently taking up to 12.5 months to process. 3 Many of the proposed questions are also duplicative of the type of information and documentation that is already collected by the Department of Homeland Security. U.S. Customs and Border Protection (CBP) officials already inquire about extended periods outside of the United States when inspecting permanent residents arriving at U.S. ports of entry, and also inspect relevant documentation relating to one's ties of the United States. As such, the additional questions added to page 4 of Form I-90, particularly related to the time in which a permanent resident has been absent from the United States, appears to be a repetitive and unnecessary collection of information.<br><br>***Conclusion***<br>In closing, we appreciate the opportunity to comment on the proposed revisions to Form I-90, Application to Replace Permanent Resident Card, and its instructions. We look forward to a continuing dialogue with USCIS on these issues and related matters. | USCIS appreciates this comment. CBP generally does not have an individual's entire immigration history available when inspecting the individual at a port of entry. USCIS officers need to gather additional information for certain cases and review an individual's immigration history when adjudicating a Form I-90. This additional information will place the USCIS officers is in a better position to evaluate whether there has been a potential abandonment of lawful permanent resident (LPR) status or other factors that could affect the individual's status and reduce processing times.<br><br>USCIS will not make any changes to the form based on this comment. |

| Comment # | Public Comments | USCIS Response |
|---|---|---|
| | | |
| **Comment 2.** | **Commenter:** Catholic Legal Immigration Network, INC. | |
| | Proposed Elimination of Part 4, Accommodations for Individuals with Disabilities and/or Impairments<br>USCIS has proposed to delete in its entirety Part 4, Accommodations for Individuals with Disabilities and/or Impairments, on the Form I-90 and to delete this part from the form instructions as well. Part 4 provides the opportunity for applicants who are deaf, blind, or have another significant disability to indicate any reasonable accommodations needed in the I-90 application process. This follows on the heels of similar proposals previously issued by USCIS to delete the option of requesting special accommodations from both the N-400 and N-336 application forms. These omissions set a very troubling pattern of disadvantaging those with disabilities who are applying for immigration benefits. USCIS is required to provide reasonable accommodations under Section 504 of the Rehabilitation Act of 1973. The purpose of accommodations is to ensure that persons with disabilities are not excluded from participation in, denied the benefits of, or subjected to discrimination under any federal government program. USCIS stated policy acknowledges this responsibility by providing that USCIS will make "every effort to provide accommodations to persons with disabilities."1 If USCIS decides to implement these proposed changes, applicants with disabilities may not know that accommodations are available to them or how to apply for them. For this reason, CLINIC very strongly recommends that USCIS restore the sections of Form I-90 and instructions assisting applicants with disabilities to understand how to apply for accommodations in order to comply with both its own policy and the Rehabilitation Act. | **Response:**<br><br>USCIS appreciates this comment. CBP generally does not have an individual's entire immigration history available when inspecting the individual at a port of entry. USCIS officers need to gather additional information for certain cases and review an individual's immigration history when adjudicating a Form I-90. This additional information will place the USCIS officers is in a better position to evaluate whether there has been a potential abandonment of lawful permanent resident (LPR) status or other factors that could affect the individual's status and reduce processing times.<br><br>USCIS will not make any changes to the form based on this comment. |
| | Proposed New Questions on Length of Prior Trips Abroad<br>USCIS is proposing the addition of new questions 7 and 8 in Part 3 of the | USCIS appreciates this comment. CBP generally does not have an individual's entire |

| Comment # | Public Comments | USCIS Response |
|---|---|---|
| | Form I-90. Question 7 asks the applicant about any absences in excess of 180 days but less than one year since being granted permanent resident status, and Question 8 asks whether the applicant has ever had an absence in excess of one year. Each of these questions is inappropriate for the same reasons, as described below.<br>1. The Significance of Any LPR Travel Abroad Has Already Been Adjudicated by Customs and Border Protection (CBP)<br>All persons seeking entry into the United States from abroad go through an inspection process by CBP. Although we understand that CBP no longer has an Inspector's Field Manual, a previous Field Manual released in response to a FOIA request includes an entire chapter devoted to the inspection of returning lawful permanent residents, including a special section on questions related to the length of absence of the lawful permanent resident and whether he or she should be considered an applicant for admission. Regardless of whether this exact guidance is currently in force, it is clearly and appropriately the role of CBP to determine whether lawful permanent residents seeking entry are returning from a trip abroad that has implications related to their status as permanent residents. The inclusion of questions about absences in the Form I-90 is duplicative of a function already carried out by CBP, the DHS agency in the best position to assess the significance of any lawful permanent resident's return from an absence abroad.<br><br>2. LPRs Will Be Needlessly Burdened by Having to Respond to Questions About Their Entire Histories of Travel Abroad<br>The point in time when a returning resident is in the best position to explain the length and nature of his or her absence from the United States is upon return. The inclusion of questions about absences in the Form I-90 will require applicants to explain and perhaps justify their absences at a point in time when they may lack details and documents related to their trips abroad. At a minimum, each I-90 renewal application covers a span of ten years of travel, and for lawful permanent residents seeking a renewal after twenty, thirty or more years of permanent resident status, | immigration history when inspecting the individual at a port of entry. USCIS officers need to gather additional information for certain cases and review an individual's immigration history when adjudicating a Form I-90. This additional information will place USCIS officers in a better position to evaluate whether there has been a potential abandonment of lawful permanent resident (LPR) status or other factors that could affect the individual's status and reduce processing times.<br><br>While the revised Form I-90 contains additional questions relating to potential abandonment, applicants will not necessarily need to provide extensive details or documents about prior travel as part of their application. The revised form only asks applicants to provide a detailed explanation if they respond yes to Part 3, Item Number 4-11 (or if they answer no but are unsure of their answer). If applicants provide information upfront, this should reduce the need for RFEs.<br><br>USCIS will not make any changes to the form based on this comment. |

| Comment # | Public Comments | USCIS Response |
|---|---|---|
| | responding to questions about absences from decades past is enormously burdensome and may present impossible obstacles in the event that a USCIS adjudicator seeks specific dates or documents. While it is true that a naturalization applicant also has to supply information about trips in excess of six months, a lawful permanent resident who currently lacks information or documents about long-ago extended absences can take that issue into account when deciding whether to apply for naturalization. In contrast, a lawful permanent resident must have proof of status, yet his or her ability to obtain a timely card renewal may be jeopardized by these new and unnecessary questions.<br><br>3. Review of Travel History of LPRs will Increase the Already Growing Delays in Adjudication of I-90 Forms<br>The current processing time for an I-90 renewal for a ten-year card is 8 to 12.5 months, and case inquiries are only being accepted for I-90s filed on or before June 18, 2018. Further, a January 2019 Policy Brief issued by the American Immigration Lawyers Association reports that average case processing times have surged by 46 percent over the past two fiscal years.2 The inclusion of the new questions on length of absences will undoubtedly result in additional and significant processing delays as USCIS adjudicators re-adjudicate issues already addressed by CBP. These processing delays will in turn lead to more lawful permanent residents needing to go through the laborious process of trying to make InfoPass appointments to obtain temporary evidence of their status, often at a cost of having to take time off from work and undertake lengthy travel to visit a USCIS Field Office.<br><br>4. New Form Questions that Convert the I-90 Process to an Adjudication of Status Inquiry will Deter Lawful Permanent Residents from Applying for Required Documentation<br>The I-90 Form is an application to replace a permanent resident card; it is not, and should not be, a tool for adjudicating whether a lawful permanent resident has potential inadmissibility or deportability issues. Although the | |

| Comment # | Public Comments | USCIS Response |
|---|---|---|
| | current I-90 is seven pages long, Part 3 of the form currently and appropriately has only two questions not related to the identity of the applicant and the reason for the application: whether the applicant has been in removal proceedings and/or has filed an I-407 or otherwise been determined to have abandoned status. With these proposed changes, including the new questions noted below, USCIS is attempting to expand the purpose of the I-90 for use as an enforcement tool. Such a repurposing of the I-90 is both highly inappropriate and likely to have the effect of deterring at least some lawful permanent residents from seeking renewal of proof of status. | |
| | <u>Proposed New Questions on Residence and Employment Abroad</u><br>For reasons related to the same concerns noted above, CLINIC objects to the inclusion of new questions 9 and 10 in the Form I-90. These proposed new questions ask the applicant if she or he has ever had a residence outside the United States (Q. 9) or been employed outside the United States (Q.10) since being granted permanent resident status. Presumably directed at detecting possible activities that could be connected to abandonment of residence, these inquiries in the I90 process are overbroad, confusing and misplaced, and will similarly contribute to massive delays in I-90 adjudication. It is not unlawful or inconsistent with lawful permanent resident status to have a home abroad or to have worked abroad. Many lawful permanent residents may apply for reentry permits when they have known plans to work abroad for an extended period of time. In addition, many lawful permanent residents choose to maintain a residence in the United States and a residence abroad. Asking overbroad questions such as these will sweep in lawful conduct and create needless confusion, adjudication delays, and waste USCIS resources. The inclusion of these questions also raises the same set of concerns noted above related to duplication of adjudication, in this case not only by CBP but also by USCIS, as concerns reentry permit applications. Thank you for your consideration of these comments. Please do not hesitate to contact me at jbussey@cliniclegal.org with any questions or concerns about our recommendations. | USCIS appreciates this comment. These two questions (Part 3, Item Numbers 9-10) will help USCIS officers elicit more information upfront about potential factors related to abandonment of LPR status or other factors that could affect an individual's status. Applicants who answer yes to these questions (or answer no but are unsure their answer) are instructed to provide a detailed explanation as part of the I-90 application. An applicant's responses will allow USCIS officers to better determine if additional follow up is necessary.<br><br>No changes will be made in response to this comment. |