SUPPORTING STATEMENT FOR
Application to Register Permanent Residence or Adjust Status
OMB Control No.: 1615-0023
COLLECTION INSTRUMENT(S): Form I-485. Supplement A, and Supplement J

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

Section 245 of the Immigration and Nationality Act (INA) is the primary law that provides for the adjustment of status of foreign nationals in the United States to that of a lawful permanent resident. INA Section 245A provides for the adjustment of status of "legalization" applicants. INA Section 209 provides for the adjustment of status of asylees and refugees. Special laws (cited below) provide for the adjustment of status of certain Afghan and Iraqi nationals. INA Section 249 provides for the "registry" of lawful permanent residence for persons residing continuously in the United States since before January 1, 1972.

Section 7611 of the National Defense Authorization Act for Fiscal Year 2020 (NDAA 2020), Liberian Refugee Immigration Fairness (LRIF), allows Liberian nationals and certain family members living in the United States who meet the statute's eligibility requirements to apply to adjust status to become lawful permanent residents.

INA Section 291 provides that "whenever any person makes an application for a visa . . . or makes an application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such visa or such document, or is not inadmissible under any provision of this Act, and, if an alien, that he is entitled to the . . . immigrant . . . status claimed.

INA Section 204(b) states:

Investigation; consultation; approval; authorized to grant preference status. After an investigation of the facts in each case, and after consultation with the Secretary of Labor with respect to employment-based immigrant [Form I-140] petitions to accord a status under section 203(b)(2) or 203(b), the Attorney General shall, if he determines that the facts stated in the petition are true and that the alien in behalf of whom the petition is made is eligible for preference under subsection (a) or (b) of 203(b), approve the petition.

INA Section 204(e) states:

Subsequent finding of non-entitlement to preference classification. Nothing in this

section shall be construed to entitle an immigrant, on behalf of whom a petition under this section is approved, to be admitted to the United States as an immigrant under subsection (a), (b), or (c) of section 203 . . . if upon his arrival at a port of entry in the United States he is found not to be entitled to such classification.

The employment-based immigrant visa process generally involves a multi-step process that may involve various U.S. governmental departments, including USCIS, DOL, and the U.S. Department of State (DOS).

Because of the passage of time between the approval of the labor certification process, the approval of the employment-based immigrant petition [Form I-140] process, and adjustment of status, [Form I-485] process, this information collection is necessary to ensure that the applicant is still entitled to employment-based immigrant visa classification under INA Section 203(b) and is not inadmissible to the United States at the time the Form I-485 is filed and adjudicated. Regarding inadmissibility grounds that this information collection relates to see INA Section 212(a)(5)(A); INA 212(a)(4).

Additionally, Section 106(c) of The American Competitiveness in the Twenty-First Century Act of 2000, Pub. L. No. 106-313, 114 Stat. 1251 ("AC21"), amended INA Section 204 by adding subsection (j), titled "Job Flexibility for Long Delayed Applicants for Adjustment of Status to Permanent Residence." INA Section 204(j) states:

A petition under subsection (a)(1)(D) [redesignated as (a)(1)(F)] for an individual whose application for adjustment of status pursuant to INA section 245 has been filed and remained unadjudicated for 180 days or more shall remain valid with respect to a new job if the individual changes jobs or employers if the new job is in the same or a similar occupational classification as the job for which the petition was filed.

Importantly, AC21 created a parallel provision at INA Section 212(a)(5)(A)(iv) that extended the validity of any underlying labor certification if the conditions of INA Section 204(j) are satisfied.

Authority: INA Section 245 and 8 CFR 245.1 et seq.; INA Section 245A and 8 CFR 245(a).1 et seq.; INA Section 209 and 8 CFR 209.1 et seq.; Section 1059 of Public Law 109-163, as amended by Public Law 110-36; Section 1244 of Public Law 110-181, as amended by section 602(b)(9) of Public Law 111-8; Section 602(b) of Public Law 111-8; INA Section 249 and 8 CFR 249.1 et seq; INA Section 291; INA Section 204(b); INA Section 204(e); INA Section 212(a)(5)(A); INA Section 212(a)(4); INA Section 204(j); Section 902 of Public Law 105-277 (HRIFA).

Authority: INA Section 245and 8 CFR 245.1 et seq.; INA Section 245A and 8 CFR 245(a).1 et seq.; INA Section 209 and 8 CFR 209.1 et seq.; Section 1059 of Public Law 109-163, as amended by Public Law 110-36; Section 1244 of Public Law 110-181, as amended by section 602(b)(9) of Public Law 111-8; Section 602(b) of Public Law 111-8;

INA Section 249 and 8 CFR 249.1 et seq; INA Section 291; INA Section 204(b); INA Section 204(e); INA Section 212(a)(5)(A); INA Section 212(a)(4); INA Section 204(j); Section 902 of Public Law 105-277 (HRIFA); Section 7611 of Public Law 116-92 (LRIF).

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The data collected on these forms are used by U.S. Citizenship and Immigration Services (USCIS) to determine eligibility for the requested immigration benefit. The forms serve the purpose of standardizing requests for benefits and ensuring that applicants provide all essential information required for USCIS to assess eligibility and adjudicate the applications. Form I-485 is used by all applicants seeking to adjust status to permanent resident under INA section 245(a). Supplement A to Form I-485 is used by a very small subset of applicants seeking to adjust status under INA section 245(i). The Form I-485 instructions provide general guidance applicable to all applicants for adjustment of status, along with additional instructions that provide guidance specific to an applicant's particular immigrant category under which they are filing (such as family-based, employment-based, etc.).

Supplement A to Form I-485 is used by a subset of applicants seeking to adjust status under INA section 245(i).

Supplement J will be used by applicants whose adjustment of status is based on an approved employment-based immigrant visa petition that requires a job offer.

Like all adjustment applicants, applicants applying to adjust status based on LRIF will use Form I-485. USCIS needs the information collected on Form I-485 to determine if an applicant is eligible to adjust status based on LRIF.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

The use of the Form I-485, Form I-485 Supplement A, Supplement J, and the Instructions for filing provide the most efficient means of collecting and processing the information needed to determine eligibility for individuals to acquire permanent residence status through adjustment of status. The forms can be completed electronically but currently cannot be filed electronically.

Forms I-485 and I485A will be available electronically at www.uscis.gov/ keyword search "Form I-485."

USCIS is in the process of investigating the requirements for electronic submission of Forms I-485 and I-485A. Currently, respondents can access and complete the forms online but they must submit the completed application by mail.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

USCIS has investigated its internal processes, files and data as well as those of other Federal agencies that may service the same population. In an effort to minimize collecting duplicate information, USCIS reviews the applications and make a request for specific information using the I-797.

The information collected via the I-485 and its associated instructions collect information necessary to adjudicate the applicant's request. Some pieces of the data collected here may be done so via instruments that other agencies utilize, but the bulk of the information necessary to adjudicate the application for adjustment of status must be up-to-date at the time of the request and decision. Because of the extensive eligibility requirements for adjustment of status, attempting to gather information from other agencies that might have a few select parts of the required data and then verifying the authenticity and timeliness of the detail would require time beyond what currently is required to process the application. This would increase the cost for the applicant beyond the current fee charged due to the additional processing time that investigating, obtaining, and verifying the other agency's information would require.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

The collection of information does not have an impact on small businesses or other small entities.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If this information is not collected, it would hinder USCIS's ability to accept and analyze information submitted by applicants for permanent residence status.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **Requiring respondents to report information to the agency more often than quarterly;**

- **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**

- **Requiring respondents to submit more than an original and two copies of any document;**

- **Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**

- **In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**

- **Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**

- **That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**

- **Requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

This information collection is conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. If applicable, provide a copy and identify the data and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

On June 25, 2020, USCIS published a 60-day notice in the Federal Register at 85 FR 38151. USCIS received several comments after publishing that notice. We have summarized the comments and provided responses in the attached Appendix A. On September 29, 2020, USCIS published a 30-day notice in the Federal Register at 85 FR 61023. USCIS received additional comments in response to that notice and we have summarized those and provided responses in Appendix B, attached.

USCIS and DHS are working on a number of initiatives that may have an effect on the Form I-485. While the new administration analyzes and determines the direction these initiatives will take, USCIS has decided to limit the revision of this information collection, the USCIS Form I-485, to adding questions provided by the U.S. Social Security Administration (SSA), and the related instructions. The added questions will enable respondents to request a new or replacement Social Security Number/Card concurrently with their application for adjustment of status to lawful permanent resident. Respondents will no longer need to complete a separate information collection and submit it to SSA. USCIS and SSA have analyzed the associated burden as required by 5 CFR 1320.5 and determined that information sharing between USCIS and SSA is least burdensome method for respondents to obtain a social security number. All other changes that USCIS proposed in the versions of Form I-485 and its instructions posted with the 60-day Federal Register Notice (FRN) at 85 FR 38151 and 30-day FRN at 85 FR 61023 will not be incorporated at this time.

Because USCIS is only adding the SSA questions in this revision, we are only responding to the public comments that substantively address those changes in Appendix A and Appendix B. USCIS has summarized all of the comments received and provided responses to the comments related to the SSA questions. USCIS has responded to the remaining comments on changes that are not being adopted with "Not applicable" due to the decision to remove those changes from this revision.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

USCIS does not provide any payment for benefit sought.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation or agency policy.

The Privacy Act of 1974 (Public Law 93-589) mandates that personal information solicited from individuals completing federal records and forms be kept confidential. The respondent is informed prior to submission that USCIS may provide this information to other agencies.

The PIA associated with this information collection is:

- DHS/USCIS/016(a) CLAIMS 3

The system of records notices associated with this information collection are:

- DHS/USCIS/ICE/CBP-001 A-File SORN
- DHS/USCIS-007 Benefits Information System (BIS) SORN
- DHS/USCIS-018 Immigration Biometric and Background Check

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

USCIS asks questions of a sensitive nature regarding past behavior and activities. These questions are necessary to determine eligibility of the applicant for adjustment to permanent residence status as required by law. Sensitive questions are asked to determine: whether an individual might be inadmissible under INA 212 (a)(3) (A)-(F) – Security Grounds for Unlawful Activity, Control or Overthrow of the U.S. Government, Terrorist Activities, Adverse Foreign Policy Consequence, Communist or Totalitarian Affiliation; whether an individual might be inadmissible under INA 212 (a)(2)(A)(i)(I) – Conviction or Commission of a Crime Involving Moral Turpitude (CIMT) or INA 212(a)(2)(A)(i)(II), (B), or (C) – Controlled Substance Violations, Multiple Criminal Convictions, or Controlled Substance Traffickers; or whether an individual might be inadmissible under INA 212 (a)(2)(D)(i) and (ii) – coming to the United Sates solely, principally, or incidentally to engage in prostitution or an unlawful commercialized vice.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**

- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**

- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate**

categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.

Type of Respondent	Form Name / Form Number	No. of Respondents	No. of Responses per Respondent	Total Number of Responses	Avg. Burden per Response (in hours)	Total Annual Burden (in hours)	Avg. Hourly Wage Rate	Total Annual Respondent Cost
Individuals and households	Application to Register Permanent Residence or Adjust Status, Form I-485	578,708	1	578,708	6.42	3,715,305	$37.55	$139,514,175
Individuals and households	Supplement A to Form I-485, Adjustment of Status Under Section 245(i), Form I-485A	29,213	1	29,213	1.25	36,516	$37.55	$1,371,229
Individuals and households	Confirmation of Bona Fide Job Offer or Request for Job Portability Under INA Section 204(j), Supplement J	37,358	1	37,358	1.00	37,358	$37.55	$1,402,838
Individuals and households	Biometrics Processing	578,708	1	578,708	1.17	677,088	$37.55	$25,425,480
Total				1,223,987		4,466,268		$167,713,722

* *The above Average Hourly Wage Rate is the May 2019 Bureau of Labor Statistics average wage for All Occupations of $25.72 times the wage rate benefit multiplier of 1.46 (to account for benefits provided) equaling $37.55 The selection of "All Occupations" was chosen because respondents to this collection could be expected from any occupation.*

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**

- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**

- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995; (2) to achieve regulatory compliance with requirements not associated with the information collection; (3) for reasons other than to provide information or keep records for the government; or, (4) as part of customary and usual business or private practices.**

There are no capital or start-up costs associated with this information collection. Any cost burdens to respondents as a result of this collection are identified in question 14.

However, there is a fee charge of:

- $1,140 for filing fee for Form I-485; and $750 (under the age of 14 years)
- $1,000 fee for filing Form I-485A; and
- $85 biometric fee for filing Form I-485; and

Form I-485 respondents will incur costs associated with this collection of information. These costs include, but are not limited to, hiring attorneys, translators or preparers, obtaining copies of documents required for submission, and postage. USCIS estimates the total average cost to respondents to be:

I-485: $490 (average cost) * 578,708 * 70 percent (estimated weighted average) is the

percentage of respondent estimated would incur any cost. This totals $198,496,844. The out-of-pocket cost per respondent is estimated at $343 (Calculated: $198,496,844 / 578,708 = $343).

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

USCIS establishes its fees using an activity-based costing model to assign costs to an adjudication based on its relative adjudication burden and use of USCIS resources. Fees are established at an amount that is necessary to recover these assigned costs, plus an amount to recover unassigned overhead (which includes the clerical, officer, and managerial time with benefits) and immigration benefits provided without a fee charge. As a consequence of USCIS immigration fees being based on resource expenditures related to the benefit in question, USCIS uses the fee associated with an information collection as a reasonable measure of the collection's costs to USCIS. USCIS has established the fee for Form I-485 at $1,140, I-485 Supplement A at $1,000, and Biometrics Processing Fee at $85.

The following calculations were used to determine the estimated cost to the Government:

Form I-485

- Estimated number of respondents (578,708) x (1) x the $1,140 fee, equaling $659,727,120.

Form I-485, Supplement A

- Estimated number of respondents (29,213) x (1) x the $1,000 fee, equaling $29,213,000.

Form I-485, Supplement J

- The cost to the government for Supplement J is included in the I-485.

Biometrics Processing Fee

- Estimated number of respondents (578,708) x (1) x the $85 Biometrics Fee, equaling $49,190,180.

The total estimated cost to the Government is $738,130,300. The total cost includes

the suggested hourly rate for clerical, officer, and managerial time with benefits, plus a percent for the estimated overhead cost for printing, stocking, distributing, and processing of this form.

15. Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.

Data collection Activity/Instrument	Program Change (hours currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (hours currently on OMB Inventory)	Adjustment (New)	Difference
I-485	3,619,240	3,715,305	96,065			
I-485A	36,516	36,516	0			
I-485J	37,358	37,358	0			
Biometrics Processing	677,088	677,088	0			
Total(s)	**4,370,202**	**4,466,268**	**96,066**	**0**	**0**	**0**

There is an increase in the estimated annual time burden due to the addition of SSA questions and instruction language. There are no other program changes.

Data collection Activity/Instrument	Program Change (cost currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (cost currently on OMB Inventory)	Adjustment (New)	Difference
I-485				$198,496,844	$198,496,844	$0
Total(s)	**$0**	**$0**	**$0**	**$198,496,844**	**$198,496,844**	**$0**

There is no change to the estimated annual cost burden due to the addition of SSA questions and instruction language. There are no other program changes.

16. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and

ending dates of the collection of information, completion of report, publication dates, and other actions.

This information collection will not be published for statistical purposes.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

USCIS will display the expiration date for OMB approval of this information collection.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.

USCIS does not request an exception to the certification of this information collection.

B. Collections of Information Employing Statistical Methods.

There is no statistical methodology involved with this collection.

Appendix A: 60-day FRN Comment Response

On June 25, 2020 USCIS published a 60-day notice in the Federal Register at 85 FR 38151. USCIS received comments after publishing that notice. Below, USCIS describes the 7 comments received and provides a response.

Commenter	Comment	USCIS Response
Jean Publieee	Overall comment that America should stop allowing permanent residence. Immigrants are a threat to American citizens.	This comment is outside the scope of the form revision. No changes will be made in response to this comment.
Xuan Lo	Part 1, Items 33a-c and 34a-c ask that about the applicant's I-94. In the case of an applicant who was granted an Extension of Stay or Change of Status after the last arrival, it is unclear whether these questions ask about the I-94 from arrival or the I-94 from the last approval of Extension of Stay or Change of Status. Part 2, Item 9a asks, among other things, whether a relative filed the associated I-140 for you. It is unclear who "you" refers to in the case where the I-485 is being filed by a derivative beneficiary. Should it be answered with "you" being the principal beneficiary? Also, in a case where the principal beneficiary self-petitioned (e.g., EB1A or National Interest Waiver), should a derivative beneficiary answer Yes since the principal beneficiary (the applicant's relative) filed the I-140? Part 2, Item 13 is a duplicate of Part 2, Item 1. Part 3, Item 1 added the redundant "to obtain U.S. permanent resident status" when it already said "to obtain permanent resident status".	Not applicable. Not applicable. Not applicable. Not applicable.

	Part 3, Item 5 asks "Have you ever applied for permanent residence while in the U.S.?" It is unclear whether this refers only to Adjustment of Status applications or potentially other types of applications also. Part 8, Item 72d, one of the conditions that needs to be met is "I am not a relative of the Form I-140 petitions". Is this condition not met in the case where the I-485 is being filed by a derivative beneficiary, and the principal beneficiary self-petitioned (e.g., EBA1A or National Interest Waiver), so that the petitioner (the principal beneficiary) is a relative of the I-485 applicant (the derivative beneficiary)?	Not applicable. Not applicable.
Anna Marie Gallagher (CLINIC)	Part 1, Item 32.b. includes "Cuban parole" as an option in the parenthetical. All persons who are paroled for humanitarian reasons are paroled under INA 212(d)(5). There is no separate classification for Cubans who are paroled into the country. Therefore, CLINIC recommends that USCIS delete the words "Cuban parole." Part 2. Items 1 and 13. Questions are duplicative. Questions regarding whether the applicant is a principal or derivative beneficiary, and questions about the principal should all be in the same place on the form. Part 2, Item 4.a. contains a typo. The number "360" is written twice. Part 3. Item 1. Addition of phrase "*to obtain permanent resident status*" is redundant and should be deleted. USCIS should also	Not applicable. Not applicable. Not applicable. Not applicable.

	delete the word “abroad,” since all U.S. embassies and consulates are located abroad.	
	Part 8. Items 29-33. Recommends deleting questions. Questions relate to possible immigration violations in countries other than the United States and are not relevant to inadmissibility under INA 212(a). It is unreasonable to ask applicants for adjustment of status whether terms used in U.S. law have any equivalency in the laws of other countries, especially when they have no bearing on the applicant’s inadmissibility.	Not applicable.
	Part 8. Item 71. Overall issue is that the revision requires applicants who are exempt from public charge to explain why they are exempt from filing Form I-864, and the wording merges two distinct requirements or exemptions and compounds confusion in the current form. Suggests the alternative changes to Item 72.: • Insert: “If you are exempt from public charge, you do not need to file a Form I-864” before the words “You may need to file Form I-864.” • Change: “You may need to file Form I-864” to “If you are subject to public charge, you need to file a Form I-864 unless you are exempt under one of these categories.” • Change: “I am	Not applicable.

	EXEMPT from filing Form I-864 because:" to "I am subject to public charge but EXEMPT from filing Form I-864 because:" • Delete all text contained in Items 72.f. and h. U and T nonimmigrants are not subject to public charge. • Delete all text contained in Items 72.g. and i. Exemptions to public charge and affidavit of support for T and U nonimmigrants applying under a different category are subject to that category. • Delete the text in Item 72.j. If the applicant is exempt from public charge, it is unnecessary to indicate that they are also exempt from filing Form I-864. • Delete the text in Item 72.o. Amerasians are exempt from public charge. Instructions. There is an inconsistency between the proposed Instructions and the proposed Form I-485. On page 5 of the Instructions it states that USCIS may require the applicant to complete biometrics. On page 10 of Form I-485 it states that the applicant will be required to appear for a biometrics appointment. These should be made consistent.	Not applicable.

	Instructions. Page 18, under what documentation to include if an applicant is unable to obtain certified copies of court dispositions, being required to submit all of three of the documents (written explanation from the custodian of the documents explaining why it is unavailable; written statement from the applicant explaining why the record is not available and describes the charge, arrest/conviction, and final outcome, rehabilitation; any other secondary evidence that shows the disposition, or if unavailable, one or more written statements from someone other than the applicant with personal knowledge of the disposition) is duplicative and overly burdensome. If the custodian of the records provides a letter explaining why records are not available, there is no need to require a statement from the applicant explaining the same issue. Similarly, if the applicant can provide a statement explaining the charge and final outcome of the case, signed under penalty of perjury, the applicant should not be required to obtain a statement containing the same information from another witness.	Not applicable.
AILA	Instructions. Opposes revision to Instructions relating to signature: "If USCIS accepts a request for adjudication and determines that it has a deficient signature, USCIS will deny the request." The regulations at 8 CFR 103.2 state that an applicant or petitioner must sign his or her benefit request, and that a benefit request will be rejected if it is not	Not applicable.

	signed with a valid signature. Nowhere in the regulations or the INA is USCIS granted the authority to deny a benefit request for lack of a valid signature. Proposal exceeds USCIS authority and is bad policy. Will create uncertainty if applicant receives a Form I-797 receipt notice and then denies application. "Deficient signature" is not defined in the INA, the regulations, or the Policy Manual. Use of this term leaves stakeholders unclear about which types of signatures could subject a benefit request to a denial.	
	Instructions. Overall issue is requirement to fill in all fields on the form. Opposes language requiring applicants to fill in all fields. Would be "a significant policy shift that would impose unnecessary burdens on I-485 applicants" and attorneys, "create additional barriers to the I-485 application process," and "drain agency resources." The requirement is "particularly unconscionable during a national pandemic." Delays could impact an individual's eligibility (may be subject to new fee rule and incur additional costs to filing).	Not applicable.
	Instructions. U.S. Mailing Address. AILA is opposed to prohibiting applicants from using their attorney or representative's address as a valid U.S. mailing address. It interferes with the attorney-client relationship. Attorney's address may be the best option to ensure that any notices sent by USCIS are received and timely responded to. USCIS has ignored requests for USCIS to send correspondence to	Not applicable.

	the address of the applicant's attorney by selecting the applicable item on Form G-28. If the basis for this change is the concern regarding physically locating the applicant, the option for an applicant to use a P.O. box in this section would "vitiate that concern."	
	Instructions. Page 17, Form I-693. AILA opposes instruction that applicants must submit Form I-693 at the same time as an applicant files Form I-485. Current policy permits applicants to submit the Form I-693 concurrently with their application or at any time after filing the benefit, but before USCIS finalizes adjudication. Language is in direct conflict with Policy Manual and USCIS offers no explanation for the policy shift or how it will help applicants. The Visa Bulletin also becomes current and retrogresses with little notice, which makes it difficult for applicants who are waiting for an appointment with a civil surgeon to submit Form I-693 with the Form I-485.	Not applicable.
	Instructions. Page 18, Certified Police and Court Records. Added language would impose additional, duplicative, and unnecessary evidentiary burdens on applicants who are unable to obtain certified copies of court dispositions. By requiring a written explanation on government letterhead from the custodian of documents regarding why a certified copy of a court disposition is not available, USCIS is attempting to add new evidentiary requirements not in the regulations or INA. Such	Not applicable.

	evidence would be particularly difficult to obtain for charges, arrests, or convictions that took place several decades ago, or in foreign countries. AILA recommends keeping the language in the current (10/15/19) edition of Form I-485.	
	Instructions. Page 18, Foreign Police Certificates. These instructions will cause confusion with applicants about whether or not this evidence is required as initial evidence. Recommends that USCIS update the language to make it clear that the foreign police certificates are not required as initial evidence. Recommended language: "**Although not required as initial evidence,** USCIS may issue a request for foreign police certificates…"	Not applicable.
	Instructions. Page 18, Waiver of Inadmissibility. USCIS has been inconsistent on the timing of when an applicant should file Form I-601. Recommends the following revision on Page 18, Subsection 13: "If USCIS (or the Immigration Judge, if you are in exclusion, deportation, or removal proceedings) determines that a ground of inadmissibility does apply to you and you qualify for a waiver, you will be given the opportunity to apply for a waiver or other form of relief that would eliminate the inadmissibility." Clarification that Form I-601 will only be required after a finding of inadmissibility has been made will ensure the applicant's and USCIS' resources will be used more efficiently.	Not applicable.
	Form I-485. Page 1, Note to All Applicants. AILA opposes	

	proposed language "if you leave any fields blank on this form," as outlined in previous comment about this policy in the Instructions.	
	Form I-485, Page 2, Part 1. Item 10. USCIS does not clarify whether or not the "USCIS#" that appears on Form I-766 EAD documents constitutes an "A#" that should be included by applicants. Instructions should clarify whether USCIS wants an EAD USCIS# included.	Not applicable.
	Form I-485, Page 4, Part 1, Item 32.a. The revision proposes to eliminate "visitor, waived through" as an admission option. AILA recommends adding "waived through" back into the Form I-485 for greater clarity and to minimize confusion among applicants who were waived through a port of entry, which is still a common practice, particularly along the U.S.-Canada border.	Not applicable.
	Form I-485, Page 6, Item 9.d. The placement of these questions in the subsection "Additional Alien Worker Information" is confusing. Item 9.a. states that it pertains to only applicants who selected Item 3.a. (Alien Worker), but Item 9.d. pertains to all applicants. AILA recommends moving the questions into a newly created subsection or to another part of the form where they are more relevant.	Not applicable.
	Form I-485. Page 13. Items 29-33. AILA opposes these proposed questions, as they are not relevant to an applicant's eligibility for adjustment of status and are	Not applicable.

	beyond the scope of INA 212(a). Proposed information collection conflicts with the Paperwork Reduction Act's purpose of minimizing the paperwork burden for individuals. USCIS provides no justification for how collecting this information outweighs the PRA's goal of minimizing the paperwork burden for individuals completing Form I-485. Recommends deleting these items. Notification of Medical Service Requirements for National Interest Waiver Physicians. General comment is that AILA recommends USCIS create a process, such as a standalone form, by which applicants can submit the information outlined in the Notification of Medical Service Requirements for National Interest Waiver Physicians affirmatively to USCIS and not have to wait for USCIS to directly ask for it. This will allow evidence to be submitted in a timely way, reducing the risk of lost documentation and decreasing visa backlogs while applicants wait for an RFE from USCIS to submit their information.	Not applicable.
Anonymous (posted 8-12-20)	The classification of immediate relative needs to be amended, as it is not a one way street. If a parent is an immediate relative regardless of the child's age of sponsorship, that begs to say that child will always be an immediate relative regardless of their age. In the medical field, if a person does not have an emergency contact, they go to the next of kin, their parent, or their child, (regardless of age but the child has to be over 18 as under 18 would be	Not applicable.

	determined a minor who it now allowed to make decisions for the adult parent. Does this make either category any more or less a direct/immediate relative? No, because they are referred to the direct relation of the parent or child … depending on who is admitted). The same goes to say that this category or immediate relative is misleading on one front and accurate the other, and in such, it contradicts each other because on one side it states, one is an immediate relative, and on the other it is saying, the other person isn't (makes no logical sense and can confuse any non-English speakers). Same goes with the classification of what is considered a minor, on one side it is shown to be under 18, yet on another it is under 21. There should be a solid understanding of which is considered a minor. As we all know, 21 for most is still very young.	
Rachel Grant	The commenter includes a lengthy comment concerning the instruction that Form I-485 may be denied due to blank fields on the form. The commenter objects to this change and wrote that this policy is "entirely at odds with the mission of a benefit granting agency" and there "is no reasonable justification for this policy." The commenter indicates that if USCIS has "some sort of objective analysis that can establish blank fields are an actual problem, it should be made public …" The commenter also thinks applicants will be confused about how to respond to questions and suggests USCIS needs to re-write conditional questions. **Part 1, item numbers 14-15 (page 2).** Item number 14—"is	Not applicable. Not applicable.

	your physical address the same as your mailing address"—has no purpose. You've already threatened the applicant with denial if any fields are blank. Item #12 asks for the current mailing address, and #15 asks for the current physical address. There is no indication that an affirmative answer to #14 means that #15 can be left blank, and it will be plainly obvious to anyone whether #12 and #15 are the same. So why is there a separate question asking about it?	
	Part 1, item numbers 21-24 (page 3). What is the purpose of the word "officially" in this question? Can the SSA unofficially issue cards? Isn't what you are trying to ascertain is whether the applicant has ever been assigned a Social Security number? At least based on the instructions, it doesn't seem to matter whether the applicant received a card but whether a number was assigned. The question would be more precise as "Has the Social Security Administration (SSA) ever issued a Social Security card or assigned you a Social Security number?" For #23, the Instructions indicate that this question can be used to request a new SSN or have a card reissued, so it would be more precise if phrased as "Do you want the SSA to issue or re-issue you a Social Security card?" Also, in #24, you use the abbreviation "SSN" without ever having defined it, which you could most logically do at #22—in which case you could use the abbreviation in #23.	In response to this comment, USCIS added "(SSN)" to Part 1, Item 22 for clarity. No other changes will be made based on this comment. These questions are consistent with similar questions on Form I-765 (Application for Employment Authorization).
	Part 1, item number 33 (page	Not applicable.

	4). The instructions for these questions are "Provide the information on your Form I-94 Arrival-Departure Record Number. But the word "Number" should not be here. You are asking about information from the Arrival-Departure Record. That is also what this item number is called in the Instructions.	
	Part 1, item number 34 (page 4). This is another example of where the blank fields policy discussed above causes confusion. It asks for the name that appears on the applicant's I-94, but to write "NA" in the fields if the applicant was not issued an I-94. What about applicants who have no middle name? Can they leave item number 34.c. blank, since that is "exactly as it appears" on the I-94? Or will that risk a denial? Do they put "NA" even though they were issued an I-94, just to avoid this absurd result, even though that conflicts with the directions for this question?	Not applicable.
	Part 2, item number 2.b. (page 4). The subparts of this question should be indented the way they are in #2.a. and #2.c.	Not applicable.
	Part 2, item number 4.a. (page 5). There is a typo in this question —"360" appears twice.	Not applicable.
	Part 2, Additional Alien Worker Information (page 6). The instructions here say that #9.a. should only be answered if #3.a. was selected. (That instruction is also present at #3.a, referring to #9.a.) But #9.b. and #9.c. also need conditional instructions, because they only	Not applicable.

	need to be answered if the applicant selects "Yes" to #9.a. This instruction exists in the current Form I-485 and it's unclear why it would be removed, as the condition hasn't changed. Those questions would still only be answered if #9.a. is "Yes."	
	Part 2, item number 13 (page 7). How is this question any different from what is asked in Part 2, #1? If you're asking whether the I-485 applicant is also the principal beneficiary of the underlying immigration petition, then this needs to be rephrased and not use the word "applicant." If this question is a duplicate of #1, it should be removed.	Not applicable.
	Part 3, Additional Information About You (page 7). The new draft proposes to add words to #1 that are already present, making the addition redundant. In addition, you have removed the instructions to only answer #2.a. - 4. if the answer to #1 is "Yes." Why? Those questions are still only applicable if the individual selected "Yes" to #1. Is this part of your "blank fields" policy discussed above where you're trying to trap people into a procedural denial? Many practitioners have been completing Form I-485 for years and would reasonably skip over these questions. You should restore the instructions and—if you insist on keeping the blank fields policy—add instruction to write NA in the fields if the answer to #1 was "No." The same principle applies to #5, because #6-#8 are only applicable if the answer to #5 is "Yes."	Not applicable.

	Part 6, item numbers 7, 14, and 21 (page 11). These questions are unnecessary and only serve to cause additional confusion. "Biological child" is not a "legal relationship" between a parent and a child. A child born in wedlock is a legal child, irrespective of biology. There are sufficient regulations that define the parent-child relationship, in all of its permutations, for the purposes of immigration and. There is absolutely no reason to require an applicant to provide invasive information about the way in which each of his or her children came to be, particularly since this form requires identification of all children, including adults and those who are not even applying for any immigration benefit. The supporting evidence required to be produced to establish the parent-child relationship for any derivative applications will sufficiently demonstrate the nature of the parent-child relationship, to the extent it is relevant.	Not applicable.
	Part 8, item numbers 17 & 18 (page 13). First, these questions have a grammatical error because it should be "three or more persons WHO acted together," not "three or more persons THAT acted together." More importantly, though, these questions are confusing, subjective, and unnecessary. There are enough questions asking about criminal activity and membership in organized groups. This also risks requiring victims to disclose information about their associations with criminal	Not applicable.

	groups who victimized them, which has no bearing on an applicant's admissibility to the United States.	
	Part 8, item numbers 29-33 (page 13). These questions do not seem relevant. Participation in the immigration system of another country does not make an applicant inadmissible to the United States. Not all countries have a system of work authorization, particularly third-world countries, and the idea of being "unlawfully present" is a very American concept that may or may not have a direct equivalent in other places. Furthermore, it is unfair to ask applicants to have an understanding of the immigration systems of every country they have ever been in. The current state of global migration, the ever-expanding refugee crisis, and the fluctuating boundaries of some younger nation-states makes all of this subjective and difficult to ascertain. We should not be requiring anyone to make such determinations when it has no bearing on their admissibility to the United States.	Not applicable.
	Part 8, item number 34 (pages 13-14). You removed the instruction that states the 2nd and 3rd subpart of this question only need to be answered if the first subpart is answered "Yes," but these are still items that are not applicable to most applicants. This is the same situation described in Point #9 above. Don't try to trap people into making a mistake. Restore the instruction or add an "N/A" check box to these questions so that they	Not applicable.

	can be answered if you're going to require it of everyone.	
	Part 8, item number 44 (page 14). Why did you remove the exclusion for purely political crimes? There are an increasing number of authoritarian regimes around the world that punish dissidents for such crimes. In fact, China's new national security law imposed on Hong Kong so severely punishes political crimes that our own government has moved to sanction China and U.S. universities are taking steps to project Chinese students. Your removal of this exclusion suggests that you intend to consider purely political crimes as potential reasons for inadmissibility or exclusion. That is reprehensible and contrary to the foundational principles of our country.	Not applicable.
	Part 8, item number 51 (page 15). First, you have two typographical errors in this question. There is a closing parenthesis in line 3 instead of an opening parenthesis, and in line 9, you have "soliciting BE any means" when it should be "soliciting BY any means." More importantly, this question—to the extent that it would indicate inadmissibility due to criminal acts—should more explicitly exclude victims of sex trafficking.	Not applicable.
	Part 8, item numbers 59.b. and 61.b. (pages 15-16). This question is too broad and vaguely worded. Anyone who has ever shot a gun would likely have to answer "yes" to this question. Even target practice has the intent to cause damage to a target,	Not applicable.

	which is someone's property. Anyone who has ever used pepper spray to defend herself from a violent attacker would have to answer "yes" to this question, because pepper spray is a dangerous device and the intent was to harm the attacker, albeit in self-defense. Any inquiries in this Part of the Form need to be limited only to those activities that would actually make someone inadmissible.	
	Part 8, item number 61.d. (page 16). There is a typographical error in this question. It says "death OF bodily injury" when it should say "death OR bodily injury."	Not applicable.
	Part 8, item number 62 (page 16). This question is also too broad and encompasses lawful activity. Anyone who lawfully sold handguns to a police department would have to answer "yes." Again, this section is supposed to be about criminal activity, so it should be limited to activity that is actually criminal.	Not applicable.
	Instruction #14 on page 9 seems incredibly broad and burdensome. Why do you need to know about someone's membership in Boy Scouts, or Student Council, or the Drama Club, or Future Farmers of America, or their Homeowner's Association, or a particular church, or the Delta frequent flyers club? What about registration as a member of a political party? Or donating to the ASPCA—that's an association with a group. (It gets me on their mailing list, at least.) As a country that put freedom of association in our Constitution's Bill of Rights, it's incredibly	Not applicable.

	hypocritical and borderline unconstitutional to suggest that an individual's association with others would be a reason he or she would be ineligible for permanent residency. **[I-485 Instructions]** The filing fees and biometric fees on page 19 do not reflect the new fees that will be in effect by the time this revised form is finalized. Similarly, page 20 indicates that a returned check fee will be charged, but the most recent Final Rule on USCIS's new fee schedule indicates that there will no longer be a returned check fee. **[I-485 Instructions]** The instructions for derivative applicants at the top of page 12 fails to consider the situation in which derivative applications are submitted together with the principal's concurrently filed immigration petition and I-485. In that case, no approval or receipt notice yet exists, either for the principal's immigration petition or the principal's adjustment application.	Not applicable. Not applicable.
Boundless Immigration Inc.	Commenter objects to the "new requirement[] for applicants to fill in fields, even when a reasonable person would leave such fields blank … At best, these changes are picayune and unnecessary. At worst, they are a pretext to deny applications for adjustment of status for no legitimate reason, as has recently become the agency's well-documented practice with regard to certain humanitarian visa applications. USCIS should not demand that applicants fill out every field, even when a reasonable person would leave	Not applicable.

	such fields blank – and the agency should certainly not deny applications for failure to 'write none or equivalent in the blanks.'"	
	[Part 3, Item Numbers 5-8] The proposed Form I-485 adds the question, "Have you ever applied for permanent residence while in the U.S.?" This is followed by an additional demand for the following information (Page 7, Part 3): USCIS Field Office or Service Center that adjudicated your application. It is incumbent on USCIS to know which of its own field offices or service centers adjudicated a prior Form I-485. Requiring the applicant to provide this information would serve only to increase the complexity of the form, the burden on the applicant, and the likelihood of errors, for no legitimate reason. Such adjudications may have happened years in the past, and while an applicant may be reasonably expected to retain documentation of the result and date of the adjudication, only USCIS need retain records of the specific bureaucratic unit that adjudicated the form. If USCIS makes this proposed change, it will effectively force many applicants to submit a FOIA request to acquire this information – a process that is expensive, complex, and slow. By the time USCIS responds to such a FOIA request, the applicant may no longer be eligible to adjust status.	Not applicable.
	[Part 3, Item Numbers 9-20] In addition to requiring a detailed employment history, the proposed Form I-485 adds an entirely new	Not applicable.

	requirement for an equally detailed educational history (Page 7, Part 3): Provide ALL of your employment and educational history for the last five years, whether inside or outside the United States. Provide the most recent employment or school attended first. USCIS provides no justification for this additional burden, and educational history does not appear to constitute necessary evidence for adjustment of status eligibility.	
	[Part 3, Item Numbers 9-20] In addition to listing employment history, the proposed Form I-485 add the following new requirements (Page 7, Part 3): Include periods of self-employment or unemployment. For each period of unemployment, list source of financial support. USCIS provides no justification for this additional burden. Periods of unemployment and sources of financial support do not appear to constitute necessary evidence for adjustment of status eligibility. USCIS has already gone through a rulemaking process for public charge determinations, under which the agency demands redundant information about unemployment and financial support in its Form I-944 ("Declaration of Self-Sufficiency").	Not applicable.
	Commenter raises "Defects Under the Paperwork Reduction Act" and the "proposed changes [] violate both the spirit and the letter of the PRA."	
	-None of the proposed changes to the collection of information are	Under 5 CFR 1320.3(I), OMB requires that an agency demonstrate "practical utility" of the

	necessary for the proper performance of the functions of the agency, as status quo Form I-485 already allows the agency to obtain more than enough information to comply with its regulatory and statutory obligations. Likewise, the proposed collection of information will have limited-to-no practical utility for the agency in the performance of its statutorily authorized duties. If the agency believes otherwise, it has provided no basis for this belief in the information collection request that was made available as the sole basis for public comment.	information collected. USCIS demonstrates the practical utility of the information collected in the Form I-485 in the accompanying Supporting Statement A Justification, question 1. (See above.) While some of the edits to this revision of the Form I-485 were minor clarifying edits, some edits were more substantive. For example, we have added a Social Security Administration (SSA) section to streamline respondents' ability to request a Social Security Number and/or card along with instructions. This addition would eliminate the need for the respondent to complete a separate information collection with SSA that would require similar information be collected. This section is voluntary. Other examples of changes to the Form I-485 include a request for the respondent to provide more information about employment, relationships, etc. This information would provide the respondent the opportunity to update information and help USCIS verify identify and identify cases of fraud. A final example is the transfer of the National Interest Waiver (NIW) letter from OMB Control No. 1615-0063 to the Form I-485 OMB Control No. 1615-0023. Consolidating these information collections under one OMB Control number will streamline their review. Other edits made in this update reflect a similar effort to identify efficiencies for the respondent and USCIS.
	-The agency has made no effort to provide transparency about its methodology or the assumptions underlying its estimate of the burden of the proposed collection.	In compliance with 5 CFR 1320.9, USCIS shares its methodology on estimating burden in the Supporting Statement A, questions 12-15.
	-As described above, the proposed information collection does nothing to enhance the quality, utility, or clarity of the information to be collected. On the contrary, each of the proposed changes would substantially impair the clarity of the information to be collected, as they are phrased in a way that is more ambiguous than the status quo.	See response above.

	-Nothing in the proposed changes would reduce, let alone minimize, the burden of the collection of information on those who are to respond. The proposed changes would be comparably onerous whether the information is collected via traditional or electronic means, because the burden stems from the nature of the information demanded, not the relative difficulty of transmitting this information in paper format.	USCIS understands that new request for information may increase the time and/or cost burdens associated with any information collection; similarly, removing information requested may decrease the time and/or cost burdens associate with any information collection. Specific to the Form I-485, this update will result in an increase time and cost burden for some respondents. USCIS has estimated, reported, and explained this increase in the Supporting Statement A, questions 12-15.
	"Additional PRA Concerns" - [Absence of the required description of agency's need and use] DHS Management Directive 142-01 establishes the department's policy implementing the provisions of the Paperwork Reduction Act concerning collections of information. This management directive (referred to here as "DHS policy") prohibits an information collection unless the Federal Register notice includes "a brief description of the need for the information and proposed use of the information" (§ 1320.5(a)(1)(iv)(B)(3)). In fact, the agency's notice provides no such description, and does not provide the public with any way to ascertain the agency's need for, or proposed use of, the additional information under the proposed changes. The notice states simply, "The information on Form I-485 will be used to request and determine eligibility for adjustment of permanent residence status." This is so brief as to be meaningless.	USCIS explained the use of and need for Form I-485 in the abstract that was provided in the Federal Register notice. Additional details are provided in the supporting statement that was submitted to OMB with this information collection request. The management directive cited by the commenter provides guidance on what USCIS must include in the final ICR and not what is required for the proposed form and 60-day notices. The certifications required by 5 CFR 1320.9 cited by the commenter are provided in the submission provided to OMB after considering the comments on the 60-day Federal Register notice and are not required to be in the Federal Register notice. The commenter is encouraged to review out justifications provided in the package submitted to OMB.
	-[Failure to comply with the "least burdensome" standard]	See response above regarding the efficiencies gained through the revisions. Additionally, see the

	DHS policy requires that, "[t]o obtain OMB approval of a collection of information, an agency shall demonstrate that it has taken every reasonable step to ensure that the proposed collection of information … is the least burdensome necessary for the proper performance of the agency's functions to comply with legal requirements and achieve program objectives" (§ 1320.5(d)(1)). As described in detail above, the proposed changes would create significant new burdens and are wholly unnecessary for the proper performance of the agency's functions. The agency has not demonstrated otherwise to the public, and it is difficult to conceive of how it has demonstrated otherwise to the DHS Chief Information Officer or to OMB.	Supporting Statement.
	-[Violation of the three-year record retention limit] DHS policy states that, "[u]nless the agency is able to demonstrate, in its submission for OMB clearance, that such characteristic of the collection of information is necessary to satisfy statutory requirements or other substantial need, OMB will not approve a collection of information … requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years" (§ 1320.5(d)(2)). There is certainly no statutory requirement or substantial need for USCIS to effectively force applicants to retain records of prior adjustment of status adjudications for any number of years, placing the	Concerning the comment on record retention, USCIS deleted Part 3, Item Numbers 6 and 8 from the form in response to comments.

	burden on the applicant to remember which field office or service center adjudicated the form. -[Inadequate agency review] DHS policy provides that the agency designate a "Senior Official" to carry out its responsibilities under the Paperwork Reduction Act, that such official shall "review each collection of information before submission to OMB for review," and that such review shall include, among other things: ● an evaluation of the need for the collection of information, which shall include, in the case of an existing collection of information, an evaluation of the continued need for such collection; ● a functional description of the information to be collected; ● a plan for the collection of information; and ● a specific, objectively supported estimate of burden, which shall include, in the case of an existing collection of information, an evaluation of the burden that has been imposed by such collection (§ 1320.8(a)). Based on the flawed assumptions and scant justifications provided in the information collection notice, there is no evidence that the agency's Senior Official adequately conducted these elements of the required review. -[Inadequate disclosure of agency plans] DHS policy requires that the Senior Official "shall ensure that each collection of information … informs and provides reasonable notice of the	DHS and USCIS have provided an explanation in the Supporting Statement certifying that this information collection meets the requirements of 5 CFR 1320. See the Supporting Statement. 5 CFR 1320 does not require this information in a Federal Register Notice.

	potential persons to whom the collection of information is addressed of," among other things: ● the reason the information is planned to be and/or has been collected; and ● the way such information is planned to be and/or has been used to further the proper performance of the functions of the agency (§ 1320.8(b)). The information collection notice includes no such disclosures, and there is no evidence that the agency's Senior Official plans to make such disclosures in the future.	
	-[Apparent failure to provide OMB with required certifications] Section 1320.9 of the DHS Management Directive ("Agency certifications for proposed collections of information") states in its entirety: As part of the agency submission to OMB of a proposed collection of information, the agency (through the head of the agency, the Senior Official, or their designee) shall certify (and provide a record supporting such certification) that the proposed collection of information- (a) is necessary for the proper performance of the functions of the agency, including that the information to be collected will have practical utility; (b) is not unnecessarily duplicative of information otherwise reasonable accessible to the agency; (c) reduces to the extent practicable and appropriate the burden on persons who shall	USCIS agrees that it is necessary for the "Senior Official" to certify that the information collection request (ICR) complies with 5 CFR 1320.9 and the related provision of 5 CFR 1320.8(b)(3), and as summarized by the comments. USCIS had not submitted an ICR to OMB at the time this comment was received during the 60-day FRN in compliance with 5 CFR 1320.8. However, in addition to the information collection, Supporting Statement, etc., USCIS will also include a "Certification for Paperwork Reduction Act Submissions" to OMB for review as required by the Paperwork Reduction Act. This certification will be made publicly available at www.reginfo.gov.

	provide information to or for the agency, including with respect to small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601(6)), the use of such techniques as: (1) establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond; (2) the clarification, consolidation, or simplification of compliance and reporting requirements; or (3) an exemption from coverage of the collection of information, or any part thereof; (d) is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond; (e) is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond; (f) indicates for each recordkeeping requirement the length of time persons are required to maintain the records specified; (g) informs potential respondents of the information called for under § 1320.8(b)(3); (h) has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to	

	agencies and the public; (i) uses effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected; and (j) to the maximum extent practicable, uses appropriate information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public. The information collection notice does not inspire public confidence that the agency has fulfilled its own certification requirements. In particular: ● As described in detail above, there is no evidence that the proposed changes are "necessary for the proper performance of the functions of the agency, including that the information to be collected will have practical utility." ● The proposed changes would require applicants to information that is "unnecessarily duplicative of information otherwise reasonable accessible to the agency," i.e. the correct USCIS office with jurisdiction over a prior adjustment of status adjudication. ● The proposed changes certainly do not "reduce[] to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, including with respect to small entities." In fact, the agency makes no mention of the great many nonprofit organizations and small law firms that help immigrants complete their naturalization forms, almost all of which are small entities under the	

	Regulatory Flexibility Act that would be unduly burdened by the proposed changes, including the new education and unemployment history requirements. • The proposed changes would not "be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond." The proposed changes would, retroactively and with harm to reliance interests, require a substantial change to these reporting and recordkeeping requirements, as many respondents would need to locate prior immigration records going back years or even decades. **Conclusion** Section 1320.5(f) of the DHS Management Directive states that, "to the extent that OMB determines that all or any portion of a collection of information is unnecessary, for any reason, the agency shall not engage in such collection or portion thereof. OMB will reconsider its disapproval of a collection of information upon the request of the agency head or Senior Official only if the sponsoring agency is able to provide significant new or additional information relevant to the original decision." In light of the discussion above, the agency has only three options that are fully consistent with this DHS policy, along with relevant OMB policies, Executive	

	Orders, agency regulations, and statutes: (1) Rescind this information collection notice and retain the status quo Form I-485. (2) Rescind this information collection notice and publish a new information collection notice that actually reduces the paperwork burden of the status quo Form I-485. (3) Rescind this information collection notice and publish a proposed rule under the Administrative Procedure Act that provides a full explanation for public comment as to why the proposed changes are consistent with relevant regulations and statutes.	

Appendix B: 30-day FRN Comment Response

On September 29, 2020 USCIS published a 30-day notice in the Federal Register at 85 FR 61023. USCIS received 6 comments after publishing that notice. One comment was out of scope and for this reason it is not described below. Below, USCIS describes the 5 salient comments received and provides a response.

Commenter	Comment	USCIS Response
Kim Kushner Dominguez	Please add VAWA as an option in Public Charge + I-864 Exemptions list in Part 8 questions 62 on the form.	Not applicable.
Monica Kane	Objects to the new blank space policy that prohibits any blanks on the form and requires "None" or "N/A". Refers to and reiterates submitted by AILA on this issue.	Not applicable.
	Part 8, Item Numbers 71 and 72 are confusing to practitioners and applicants. Supports the comments CLINIC submitted at the 60-day public comment period.	Not applicable.
	Part 1, Item 5, "Other Date of Birth Used": This is an odd, confusing, and unnecessary addition to the form. The subsequent language asking the applicant to provide any other date of birth used in Part 14, Additional Information, is more than adequate to cover instances where an applicant may have used a different date of birth, whether through confusion, error, or fraud. This language should follow Item 4, "Date of Birth," and item 5 should be stricken.	Not applicable.
	Part 1, Item 10, "Any other…A number assigned to you": This clarification is welcome because the current version of the form just appears to ask for the applicant's A number for a	Not applicable.

	second time, but it seems like it would be more appropriate to include it where the initial A number is requested.	
	Part 1, Items 20-23, "Social Security Card": This proposed language mirrors that included on the current version of Form I-765. Usually, an adjustment of status applicant will have their Form I-765 adjudicated (and Social Security number issued) prior to the adjudication of Form I-485 so this feels redundant (although occasionally it could be helpful where Form I-485 is actually adjudicated first). It is also unclear whether Social Security will know not to issue a new number upon adjudication of Form I-485 to a person who has already been assigned a number upon adjudication of Form I-765 (or to someone who already had a number assigned prior to applying for adjustment of status). At times, USCIS adjudicates Form I-765 and I-485 for one applicant within days of each other, and I would be concerned about duplicate numbers being assigned, unless Social Security already has a mechanism in place to prevent this.	USCIS appreciates this comment. USCIS notes that not all adjustment applicants will file Form I-765 concurrently with Form I-485, therefore Part 1, Item Numbers 20-23 are not necessarily redundant. Also, not all adjustment applicants will answer "Yes" to Item Number 22 to request a Social Security card. Additionally, SSA has robust internal data matching routines in place to cross-reference the data received from DHS/USCIS through the EBE (I-765 and I-485 processes) against SSA's existing records and prevent the issuance of a new SSN to an applicant who has already been assigned a number. If SSA finds the individual already has an SSN, a new SSN will not be assigned. Rather the individual would get a replacement SSN card for their current number. This process is in place for all of SSN card processing to prevent multiple SSN assignment to the same individual.
	Part 2, "Application Type or Category": The proposed language indicating to select only one box is confusing for applicants under categories 2a, 2b, 2c, 2f, 3a, and 4a, where there is a box for the main category (e.g., "Immediate Relative of a U.S. citizen") as well as for the subcategory (e.g., "Spouse of a U.S. citizen"). This confusion may be alleviated by removing	Not applicable.

	the checkbox next to the main category, where there are separate subcategories to choose from. Part 2, "Application Type or Category": In trying to guide applicants to select the correct category, some of the descriptions can be misleading, particularly where Child Status Protection Act provisions may apply. In 2f – "VAWA self-petitioning child," including "(unmarried and under 21 years)" ignores the fact that some VAWA self-petitioning children maybe be over 21 years old at the time they apply for adjustment of status (or even when they file their VAWA self-petition in the case of certain petitioners between the ages of 21 and 25). Part 2, "Employment and Educational History": Requesting information about source of support for periods of unemployment seems unnecessary. If a person is subject to the public charge ground of inadmissibility, they will complete and submit Form I-944 with abundant data and evidence regarding their financial status. Source of financial support should be irrelevant for applicants who are not subject to the public charge ground of inadmissibility and not required to submit Form I-944.	Not applicable. Not applicable.
CLINIC	Part 1. Information About You Question #32b includes "Cuban parole" as an option in the parenthetical. All persons who are paroled for humanitarian reasons are paroled under INA § 212(d)(5). There is no separate classification for Cubans who are paroled into the country.	Not applicable.

	Therefore, CLINIC recommends that USCIS delete the words "Cuban parole."	
	Part 2. Application Type or Filing Category Question #4a, Religious Worker, contains a typo. The number "360" is written twice.	Not applicable.
	Questions #1 and #13 are duplicative. Questions regarding whether the applicant is a principal or derivative beneficiary, and questions about the principal, should all be in the same place on the form.	Not applicable.
	Part 3. Additional Information About You Question #1 reads: "Have you ever applied for an immigrant visa to obtain permanent resident status at a U.S. embassy or U.S. consulate abroad to obtain permanent resident status" [added language in italics]. The proposed added language is redundant and should be deleted. USCIS should also delete the word "abroad," since all U.S. embassies and consulates are located abroad.	Not applicable.
	CLINIC commented that Part 8, Questions 29-33 relate to possible immigration violations in countries other that the U.S. and are not relevant to inadmissibility under INA 212(a). They also said it is unreasonable to ask applicants for adjustment of status whether terms (e.g., "unlawful presence") used in U.S. law have any equivalency in the laws of other countries, especially when they have no bearing on the applicant's admissibility. CLINIC strongly recommends that these questions be deleted.	Not applicable.

	CLINIC commented that Part 8, Questions 71-72 and the corresponding instructions are confusing, especially because Question 72a-n include applicants who are both exempt from public charge and those who are subject to public charge but exempt from the affidavit of support. Some of the confusion is because the form deletes what is currently #61 that asks if the applicant is exempt from public charge; if the applicant answers "Yes" he or she can skip #62. But the proposed revised form still makes applicants answer the follow up question (now #72) and explain why they are exempt from public charge. CLINIC also says that T and U nonimmigrants should not be listed in #72. CLINIC recommends keeping the current language on the Form I-485 but eliminating #62f and 62g; CLINIC also suggested alternative edits to more substantively revise Question #72.	Not applicable.
	There is an inconsistency between proposed Instructions and the proposed I-485. On page 5 the Instructions it states that USCIS may require the applicant to complete biometrics. On page 10 of the proposed Form I-485 it states that the applicant will be required to appear for a biometrics appointment. If the Form I-485 will be changed, then the instructions should be consistent.	Not applicable.
	For the instructions (p. 18) about applicants who are unable to get certified copies of court dispositions, CLINIC commented	Not applicable.

	that requiring an applicant to submit all three of these documents is duplicative and burdensome: • A written explanation on government letterhead from the custodian of the documents explaining why it is unavailable (unless generally unavailable); • Written statement from the applicant that explains why the record is not available and describes the charge, arrest/conviction, and final outcome, rehabilitation; and • Any other secondary evidence that shows the disposition of the criminal case; or if secondary evidence is not available, one or more written statements from someone other than the applicant with personal knowledge of the disposition. If the custodian of the records provides a letter explaining why records are not available, there is no need to require a statement from the applicant explaining the same issue. Similarly, if the applicant can provide a statement explaining the charge and final outcome of the case, signed under penalty of perjury, the applicant should not be required to obtain a statement containing the same information from another witness.	
Massachusetts Law Reform Institute (Ben Gessel)	Instructions, Page 6, How to Fill out Form I-485, and Form I-485, Page 1, Note to All Applicants.	Not applicable.

	Opposes the proposed language to reject or deny applications with blank responses, which represents a significant policy shift that would impose unnecessary burdens on I-485 applicants and the attorneys who represent them, create additional barriers to the I-485 application process, and needlessly drain agency resources at a time when USCIS is claiming dire financial straits. - Puts already-vulnerable victims further at risk of harm by delaying the adjudication of their applications - Has caused some individuals to lose their eligibility altogether - Particularly unconscionable during the national pandemic - Takes the agency too long to reject or deny applications - Imposes unnecessary obstacles for applicants to file Part 8, Questions 71-72.p. Delete current Questions 62.f. and 62.g. rather than add a separate category for VAWA applicants instead of merging the two requirements or exemptions of public charge and affidavit of support. Creates confusion as-is by asking applicants if they are exempt from public charge and then making them explain why they are exempt from filing Form I-864. Proposed revision (Question 71) deletes the language from current Question 61 stating if he applicant is exempt from public charge,	Not applicable.

	he/she can skip the I-864 questions. Part 2, Questions 7-18.c. Whether or not an adjustment applicant has a particular educational background is irrelevant to establishing eligibility for adjustment of status itself and has limited applicability to only the admissibility criteria for where education is relevant—criteria that do not apply to all adjustment of status applicants. Duplicate questions on the Form I-944. Self-support questions appear to impose an ultra vires eligibility question for an individual to attain adjustment of status under the INA and related statutes, as Congress never required all adjustment applicants to demonstrate an absolute ability to support themselves. Also duplicates questions from I-944.	Not applicable.
Rachael Grant	Part 1, Question 23. If question cannot be left blank, more instruction should be added because most will leave it blank if the answer to Question 22 is "No." Part 2, Question 2.b. The subparts of this question should be indented the way Questions 2.a. and 2.c. are indented. Part 3, Question 15. This section has been modified to include school so the item number should say "Employer, Company, or School," similarly to Questions 7 and 11. Part 4, Questions 7-8 and 15-16.	Not applicable. Not applicable. Not applicable. Not applicable.

	Should be instruction for applicants whose parents are deceased due to blank fields policy.	
	Part 7, Question 5. Maroon is not an eye color.	Not applicable.
	Part 8, Questions 43.b., 54.b., 73.b., and 84. Yes/No questions need an "N/A" box or special instructions, similar to 34.b. and c.	Not applicable.
	Part 8, Question 51. Two typos – closing parenthesis in the third line instead of an opening; 9th line has "soliciting be any means" when it should be "soliciting by any means"	Not applicable.
	Part 8, Question 84. Appears to be a space missing after the comma before "was a severe…"	Not applicable.
	Footer. Don't forget to change the edition date.	Not applicable.
	Instructions, Page 20. Change filing fees in light of court injunction on new fee schedule.	Not applicable.
	Instructions for Part 1, Question 10. Provide clarification between paragraphs 4 and 5 on page 7 on whether the USCIS# (a nine-digit number that starts with a 1) is considered an A number for this purpose.	Not applicable.
	Instructions, Page 7, Paragraph 8. Says "completing Item Numbers 20-23 is optional" but under blank fields policy an application can be rejected or denied for blank fields. Instructions should be modified to explain how to answer.	Not applicable.

	Supplement J, Pages 5 and 6. Header box for Part 8 should specify that it is contact info, etc. for the “Person Preparing Parts 5-8 of This Supplement” (not 4-8).	Not applicable.