

Generic Clearance for the Collection of Social Media Identifier(s) on Immigration Forms - Responses to 60-day Public Comments

Public Comments (regulations.gov): [USCIS-2025-0003](https://www.regulations.gov/document/USCIS-2025-0003)

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Publish Dates: March 5, 2025 – May 5, 2025

Comment Topic	Comment Summary	USCIS Response
Topic 1. Legal Authority to Collect		
Violating EO's	The commenters highlight several ways in which the proposed collection of social media information may violate President Trump's Executive Order on "Restoring Freedom of Speech and Ending Federal Censorship." Section 2(a): The policy of the United States is to secure the right of the American people to engage in constitutionally protected speech. The broad scope of social media data collection and the lack of clear metrics for assessing content could create a chilling effect on free speech, thereby violating this policy. Section 2(b): Ensuring that no Federal Government officer, employee, or agent engages in or facilitates any conduct that would unconstitutionally abridge the free speech of any American citizen. The proposed data collection could lead to self-censorship among individuals, infringing on their free speech rights. Section 2(c): Ensuring that no taxpayer resources are used to engage in or facilitate any conduct that would unconstitutionally abridge the free speech of any American citizen. The comments argue that the proposed data collection could misuse taxpayer resources by infringing on free speech rights. Section 3(a): No Federal department, agency, entity, officer, employee, or agent may act or use any Federal resources in a manner contrary to section 2 of this order. The proposed social media data collection could be seen as acting contrary to the protections outlined in Section 2, thereby violating this executive order. Recommendations: 1. Implement Strict, Narrowly Tailored Criteria: Define specific criteria for which applicants may be subject to social media screening, including documented reasonable suspicion requirements. This ensures that the data collection is narrowly tailored and justified by a compelling government interest, aligning with the executive order's requirement to protect free speech.	Response: DHS disagrees that collection of social media information violates President Trump's Executive Order on "Restoring Freedom of Speech and Ending Federal Censorship," which reiterates government commitment to the free speech rights provided in the First Amendment of the Constitution. The Department respects every individual's right to maintain an opinion without interference and to seek, receive, and impart information and ideas of all kinds. The proposal to collect publicly available social media information to assist in determining admissibility or eligibility for immigration benefits is consistent with this commitment. However, DHS notes that this E.O. is stated to relate to the American people and specific provisions relate specifically to American citizens. Most individuals who submit social media information will be aliens applying for immigration benefits. Furthermore, Sec. 4 clarifies that it does not impair nor affect the authority granted to DHS to administer and enforce the United States' immigration laws. Therefore, this proposed data request does not relate to the above stated E.O., nor does the E.O. alter DHS's authority. DHS acknowledges that some of the individuals impacted will be United States Citizens, but that social media information collected from U.S. Citizen petitioners is within the scope of the authority of DHS. In many circumstances, the alien's relationship to a United States Citizen is material to the benefit sought. The Immigration and Nationality Act authorizes USCIS to collect information needed to assess eligibility for an immigration benefit. USCIS notes that identity is always material to the immigration benefit sought, and the information collected will assist USCIS to determine identity and evaluate other information key to benefit eligibility. In many circumstances this will involve information from a United States Citizen who has filed an immigration benefit request on behalf of an alien. Federal laws, including the Immigration and Nationality Act (INA) and Homeland Security Act of 2002, provide authority for this information collection. For example, INA § 287(b), 8 U.S.C. § 1357(b), and 8 C.F.R. § 287.5(a)(2) empower officers and agents to "take and consider evidence concerning the privilege

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	2. Establish Robust Safeguards Against Discriminatory Application: Conduct regular third-party audits to ensure that the implementation of social media screening does not disproportionately impact national, ethnic, or religious groups. This addresses concerns about potential discriminatory practices that could violate the principles of free speech and equal protection. 3. Develop Comprehensive Privacy Protections: Establish clear guidelines for the collection, storage, use, and sharing of social media information. Implement mandatory purging of data after decisions are made to protect individuals' privacy. These measures ensure that the data collection process respects privacy rights and does not lead to unnecessary or prolonged surveillance, in line with the executive order's emphasis on protecting free speech and preventing unconstitutional abridgment. 4. Create Transparent, Publicly Available Guidelines: Provide clear guidelines on how social media content will be evaluated, including considerations for cultural context. Transparency in the evaluation process helps prevent arbitrary or biased decisions that could infringe on free speech rights. 5. Implement a Clear Appeals Process: Develop a process for individuals to appeal adverse findings based on social media content, ensuring they have the opportunity to address any concerns. This recommendation ensures due process and protects individuals' rights to challenge government actions that may infringe on their free speech.	of any person to enter, reenter, pass through, or reside in the United States.” Similarly, for naturalization purposes, INA § 335, 8 U.S.C. § 1446, empowers any employee of USCIS to conduct a personal investigation of the person applying for naturalization, take testimony concerning the admissibility of the applicant for naturalization, and require the production of relevant books, papers, and documents. DHS will handle social media identifiers in the same manner as other information collected through DHS applications and is in the process of updating the relevant System of Records Notices (SORN) and Privacy Impact Assessments (PIA), available on the DHS website (www.dhs.gov/privacy). To ensure compliance with these policies, USCIS officers must complete annual training on the operational use of social media and sign a rules of behavior document. Additionally, DHS will not request user passwords in furtherance of this collection and will not violate or attempt to subvert individual privacy settings or controls the applicants may have implemented on social media platforms. Consistent with the requirements of the Privacy Act (5 U.S.C. § 552a(e)(7)), DHS does not maintain records “describing how any [citizen of the United States or alien lawfully admitted for permanent residence] exercises rights guaranteed by the First Amendment, unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity.” Furthermore, DHS policy directs that “DHS personnel shall not collect, maintain in DHS systems, or use information protected by the First Amendment unless (a) an individual has expressly granted their consent for DHS to collect, maintain and use that information; (b) maintaining the record is expressly authorized by a federal statute; or (c) that information is relevant to a criminal, civil or administrative activity relating to a law DHS enforces or administers. In addition, DHS personnel should not pursue by questioning, research, or other means, information relating to how an individual exercises his or her First Amendment rights unless one or more of the same conditions applies.” DHS components must also adhere to DHS Directive 110-01, “Privacy Policy for Operational Use of Social
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		Media,” and DHS Instruction 110-01-001, “Privacy Policy for Operational Use of Social Media,” which define the authorized use of social media to collect personally identifiable information for the purpose of enhancing situational awareness; investigating an individual in a criminal, civil, or administrative context; making a benefit determination about a person; making a personnel determination about a Department employee; making a suitability determination about a prospective Department employee; or for any other official Department purpose that has the potential to affect the rights, privileges, or benefits of an individual. This policy also requires DHS Operational Components to receive approval from the DHS Privacy Office regarding the privacy implications of any planned operational use of social media to ensure that it is compliant with Departmental privacy policies and standards.¹ DHS employees, who are permitted and trained to utilize social media for operational purposes during the performance of their duties, must adhere to DHS privacy policies, as established by the Chief Privacy Officer. DHS maintains a framework of safeguards, training, and policies for use of social media in vetting programs and to ensure preservation of privacy, civil rights, and civil liberties. When adjudicating eligibility to travel to or be admitted to the United States and immigration benefits, the use of social media is governed by strict privacy provisions, use limitations, and in adherence with all constitutionally protected rights and freedoms.² DHS Oversight Offices, including the Office of the General Counsel, the Privacy Office, and the Office for Civil Rights and Civil Liberties, each review aspects of DHS policies regarding the use of social media information. They regularly advise programs on best practices and methods for ensuring legal and policy compliance. In addition, the USCIS Privacy Office reviews and must approve each office’s operational use of social media and associated activities. These offices are required to take
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¹ DHS authorities for the “Privacy Policy for Operational Use of Social Media” are as follows: Public Law 107-347, “E-Government Act of 2002” as amended, Section 208, codified at 44 U.S.C. § 3501 note; 5 U.S.C. § 552a, Records Maintained on Individuals, (The Privacy Act of 1974, as amended); 6 U.S.C. § 142, Privacy Officer; 44 U.S.C., Chapter 35, Subchapter III, “Information Security” (The Federal Information Security Management Act of 2002, as amended); Delegation 13001, “Delegation to the Chief Privacy Officer.”

² All access controls described in relevant Privacy Impact Assessments and System of Records Notices are available to the public on the DHS website (www.dhs.gov/privacy).

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		designated training, complete a Rules of Behavior document, and obtain a Privacy Impact Assessment governing the program’s specific operational use of social media before implementation. With regard to the suggestion to implement a clear appeals process, DHS notes that there are already appeals processes in place for the denial of most immigration benefits. There is no need to develop a specialized appeals process for denials related to social media content. Such denials can be reviewed through regular appeals processes. DHS disagrees that it should define specific criteria under which applicants may be subject to social media vetting and believes that social media screening is best applied for all applicants that are submitting to a background investigation as part of their request for an immigration benefit from the United States. Social media involves publicly available information that is accessible to anyone without a warrant and DHS would not be unique in reviewing it. Along with checking against government systems and information, DHS officers may use publicly available information, social media included, as part of the vetting and screening process to verify the information submitted. Moreover, the content of the alien’s public social media can be used to assess and identify immigration fraud, bars to eligibility, and national security and public safety threats, requiring vetting procedures that are as broad as possible. Limiting searches of social media, such as implementing reasonable suspicion requirements, would hinder DHS in its vetting efforts for these legitimate purposes.
Topic 2. Compliance with the PRA		
Practical Utility	The commenters included several recommendations to address the concerns regarding the collection of social media information by USCIS, emphasizing its lack of practical utility. Here are the key points: 1. Lack of Practical Utility: The comments consistently state that social media information does not enhance national security and that the existing vetting processes are sufficient. They argue that social media screening does not provide meaningful or actionable information. 2. Lack of Justification and Effectiveness: There is no empirical evidence that social media surveillance	Response: Social media is a prominent component of modern society, and DHS’s efforts to protect the homeland must evolve as society evolves. Given the nature of DHS’s mission, it is important for DHS to ask for and review this information. All information provided by the applicant may be used to vet the applicant. In addition to checking against government information, DHS officers may use publicly available information, including social media information, as part of the existing vetting process to verify the information submitted. If an initial screening indicates possible information of concern or a need to further validate information, a

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	enhances national security. Past pilot programs have shown minimal results, and the policy is likely to yield false positives and misinterpretations. 3. Administrative Burden: The additional questions would significantly increase the burden on applicants and organizations assisting them. This would also overburden USCIS, leading to longer processing times without improving national security or adjudication processes. Recommendations: 1. Improve Existing Vetting Processes: Instead of adding new requirements, some comments recommend improving the efficiency and effectiveness of existing vetting processes. 2. Limit Collection to Publicly Available Information: If implemented, limit to publicly available information to protect applicants' privacy and anonymity. 3. Focus on Relevant Information: Some comments suggest that the vetting process should focus on information that is directly relevant to determining eligibility for immigration benefits, rather than broad social media activity. 4. Conduct Impact Assessments: Some comments suggest conducting thorough impact assessments to evaluate the effectiveness and consequences of social media information collection.	trained officer will have timely visibility of the publicly available information on the platforms associated with the social media identifier(s) provided by the applicant, along with other information and tools these officers regularly use in the performance of their duties. The officer will review provided identifiers on the relevant platforms in a manner consistent with the privacy settings the applicant has chosen to adopt for those platforms. Social media may be used to support or corroborate application information, which will help USCIS' mission to administer the nation's lawful immigration system by providing an additional means to adjudicate issues related to relevant questions about identity, occupation, previous travel, and other factors. It may also be used to identify potential deception or fraud. Further, it may help detect potential threats because criminals and terrorists, whether intentionally or not, have provided previously unavailable information via social media that identified their true intentions. Social media may therefore help distinguish individuals of additional concern from those individuals whose information substantiates their eligibility for travel to or entry into the United States or immigration benefits. In addition, generally other than discretionary overseas denials, USCIS would not deny a benefit based on social media information without first confronting the applicant, petitioner, or benefit requestor with the information and providing an opportunity to explain it or rebut any negative inferences USCIS may have drawn from it. See 8 C.F.R. § 103.2(b)(16)(i) and (ii).
Underestimation of Burden	The comments highlight several ways in which the collection of social media information increases the burden on applicants: 1. Underestimated Time Burden: The estimate of 0.08 hours per form is seen as grossly inaccurate. Collecting and listing all social media handles used over the past five years can take significantly longer, especially for those with multiple accounts. 2. Redundancy: Social media screening is viewed as redundant for individuals who have already been vetted through other means.	Response: USCIS has increased the estimated hour burden per response by adding an additional 0.59 hours for each impacted information collection to more accurately reflect the burden imposed on the public, with the exception of the Form I-131 where an additional 1.09 hours were added and the Form I-751 where an additional 3.09 hours were added. Based on the proposed collection of social media identifier(s), the estimated hour burden per response to complete these applications will have an overall increase by an average of 1 hour on each application. USCIS has closely reviewed the estimated average hour burden per response based on where social media identifier(s) are being added and instructional content added to

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	3. Complexity and Confusion: The lack of clear guidelines on what constitutes a social media account, and which platforms need to be reported adds complexity and confusion, leading to unintentional omissions and errors. 4. Difficulty for Vulnerable Groups: Vulnerable populations, such as non-English speakers, the elderly, those with disabilities, and individuals with limited internet access, may find it particularly challenging to comply with the requirement. 5. Financial Costs: The increased burden may result in higher legal fees for applicants who need assistance in navigating the complex requirements. Recommendations: 1. Improve Burden Estimates: Provide accurate estimates of the time and effort required for applicants to gather and report social media information. 2. Avoid Redundancy: Avoid duplicating screening processes for individuals already vetted through existing procedures. 3. Provide Clear Guidelines and Resources: Develop clear definitions and guidelines for what constitutes a social media account to minimize confusion. Offer assistance and resources to help applicants navigate the social media reporting requirements.	allow the respondent to provide the requested information, as necessary, and is confident that this increase in burden addresses the commenters' concerns to more accurately reflect the burden estimate. It is projected that the proposed collection of social media identifier(s) will have a minimal impact for many respondents because most social media users do not utilize multiple accounts within a given platform or change usernames regularly. Applicants are not expected to include accounts designed for use by multiple users within a business or other organization. If an applicant has multiple accounts on multiple platforms, they must provide that information to the best of their ability. To provide clearer guidelines on the proposed collection of information, USCIS updated the form instructions for each affected information collection to provide more detailed instructional content on the social media identifier(s) question(s), including how the Department defines social media and examples of social media platforms.
Appropriateness of generic clearance	The comments highlight several concerns regarding the appropriateness of using a generic clearance process to collect social media information: 1. Inappropriateness for Generic Clearance: The proposed collections are not suitable for the generic clearance process, which is meant for voluntary, low-burden, and uncontroversial collections. The extensive and invasive nature of the information required makes it inappropriate for expedited procedures. 2. Lack of Specificity and Transparency: The generic clearance approach lacks specificity about what	Response: The process used by DHS to obtain this generic clearance is similar to, but no less demanding than, the process to obtain approval of any new or revised information collection as it still requires the standard 60 and 30-day notice process. In addition, a generic information collection clearance requires the same level of justification, support, analysis, and level of approval as any other information collection approved by the Office of Management and Budget under the Paperwork Reduction Act and implementing regulations.³ This generic clearance is being used to propose the collection of social media identifier(s) on the affected information collections. This method provides a single docket for the public to provide

³ 44 U.S.C. chapter 35; 5 CFR Part 1320.

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	data will be collected, how it will be used, and what safeguards will be in place. This increases the risk of misuse and mission creep. 3. Potential for Abuse: A generic clearance could allow agencies to collect a wide range of information without specific authorization or oversight, increasing the risk of misuse. Overall, the comments suggest that the generic clearance process is not appropriate for collecting social media information due to its invasive nature, increased burden on applicants, lack of specificity and transparency, and potential for misuse. Recommendations: 1. Use Specific Authorization: Instead of a generic clearance, use a process that requires specific authorization and oversight for collecting social media information to ensure accountability and prevent misuse. 2. Provide Clear Justification: Clearly demonstrate the necessity and practical utility of collecting social media information, including how it will improve security outcomes, before proceeding with any data collection. 3. Increase Transparency: Provide detailed information about what data will be collected, how it will be used, and what safeguards will be in place to protect privacy and prevent misuse.	comments on the proposed collection of social media identifier(s) and affected information collections, which reduces the burden on the public, rather than the public having to identify and comment on a separate notice and docket for nine separate information collections. The use of a generic clearance also reduces burden and cost to the Federal government to publish separate Federal register notices. USCIS agrees that a generic clearance is usually used for information collections that are voluntary, low-burden, and non-controversial.⁴ As per requirements under 44 U.S.C. 3501 <i>et. seq.</i> and 5 CFR 1320, USCIS believes that a generic clearance is appropriate to use for this process in order to make the proposed necessary changes to enable and help inform identity verification, national security and public safety screening, and vetting, and related inspections. USCIS is publishing a 30-day Federal Register Notice for the Generic Clearance for the New Collection of Social Media Identifier(s) on Immigration Forms. The 60-day notice included, and the 30-day notice will include, each affected information collection instrument with instructions which include the proposed changes on the Federal eRulemaking Portal site at: https://www.regulations.gov and entering USCIS-2025-0003.
Topic 3. Compliance with the Privacy Act/Records Act/Information Security/Data Integrity		
Privacy Violation	The comments regarding the collection of social media information emphasize commenters' concerns about how this practice is viewed as a violation of privacy: 1. Invasion of Privacy: The requirement to disclose social media identifiers is seen as an unwarranted intrusion into personal lives, exposing sensitive information that is not necessary for immigration purposes. Many commenters express that social media accounts are deeply personal, and individuals may	Response: DHS disagrees with commenters who believe collection of social media identifiers is a violation of privacy and leads to potential misuse of information for vulnerable and other populations. Any information provided by an individual on a form is done so voluntarily by the individual. DHS does not compel individuals to request immigration benefits from USCIS. Details about collected data, including how USCIS uses information, shares information and protects information are provided publicly via Privacy

⁴ 8 CFR 1320.3(c)(1); Sunstein, Cass R., *Memorandum for the Heads of Executive Departments and Agencies, and Independent Regulatory Agencies: Paperwork Reduction Act – Generic Clearances* (May 28, 2010).

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	refuse to provide this information or provide incomplete information, which could jeopardize their applications. There is a significant concern about the invasion of privacy for both applicants and their family members, including U.S. citizens. 2. Government Overreach: The collection is viewed as a form of government overreach, infringing on individual liberties and creating a surveillance state under the guise of security. 3. Potential for Misuse: There are fears that the collected social media data could be misused or accessed by unauthorized individuals, leading to potential harassment or discrimination based on personal beliefs or affiliations. 4. Impact on Vulnerable Populations: Vulnerable groups, such as refugees and asylum seekers, may be particularly affected by privacy invasions, as they often use social media to connect with support networks and express their experiences. Recommendations: 1. Clear Guidelines and Oversight: It was suggested that if social media information must be collected, there should be clear guidelines and oversight to prevent misuse and ensure that the data is used solely for relevant immigration decisions. This includes defining what constitutes "social media," establishing safeguards to protect personal information, and setting standards for how the information will be evaluated. 2. Implement Robust Privacy Protections: Establish comprehensive protections for the collection, storage, use, and sharing of social media information to prevent data breaches, unauthorized access, and misuse of personal information. 3. Ensure Voluntariness: Make sure data collection is truly voluntary. 4. Limit Scope of Data Collection: Limit the scope of data collection to only what is necessary for specific, justified purposes. Avoid broad and vague data collection practices that could infringe on individuals' privacy rights.	Impact Assessments (PIAs) and System of Records Notices (SORNs) on the DHS website. Each USCIS form also has a DHS Privacy Notice that details the authority of DHS to collect information, its purpose, when it may be disclosed, and applicable routine uses. As previously explained, DHS components must also adhere to additional guidelines and requirements when engaging in the operational use of social media. This policy requires DHS Operational Components to receive approval from the DHS Privacy Office regarding the privacy implications of any planned operational use of social media to ensure that it is compliant with Departmental privacy policies and standards. DHS employees, who are permitted and trained to utilize social media for operational purposes during the performance of their duties, must adhere to DHS privacy policies, as established by the Chief Privacy Officer. DHS Oversight Offices, including the Office of the General Counsel, the Privacy Office, and the Office for Civil Rights and Civil Liberties, each review aspects of DHS policies regarding the use of social media information. They regularly advise programs on best practices and methods for ensuring legal and policy compliance. In addition, the USCIS Privacy Office reviews and must approve each office's operational use of social media and associated activities. These offices are required to take designated training, complete a Rules of Behavior document, and obtain a Privacy Impact Assessment governing the program's specific operational use of social media before implementation. DHS will only be viewing publicly available information on the platforms associated with the social media identifier(s). DHS will not be making requests of the social media platforms to violate an individual's privacy settings to help establish the individual's eligibility for travel, entry, or benefits. Additionally, DHS will not collect social media passwords from applicants or petitioners. DHS will make case-by-case determinations based on the totality of the evidence. DHS has a layered approach to security and any social media identifiers collected would be only one piece of a large mixture of information used in the analysis of the applicant's
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		eligibility. Though there may be the potential for an applicant to provide false or inaccurate information, the answers (or lack thereof) provided in conjunction with the other information considered will help inform our direction of inquiry.
Connections Not Giving Consent	The comments provided indicate concerns regarding the lack of consent for collecting social media information: 1. Lack of Consent: Commenters argue that applicants may not feel comfortable providing their social media information or may not fully understand the implications of sharing this information. There is also a risk that people could be discouraged from applying for immigration benefits due to concerns about the privacy of their online activities. 2. Impact on U.S. Citizens: The requirement to disclose social media information could infringe on the privacy and rights of U.S. citizens associated with visa applicants. Commenters highlight that U.S. citizens, including children, have a right to privacy from government searches. Recommendations: 1. Exclusion of Certain Applicants: It was recommended that permanent resident immigrants who are married with children born in the United States and are completing their process by applying for citizenship should be excluded from the social media requirement. Alternatively, they should be allowed to sign a request to not have their social media scanned due to privacy concerns for their children. 2. Respect for Privacy Rights: Commenters emphasized the need to respect the privacy rights of U.S. citizens and lawful permanent residents, particularly children, who cannot consent to having their privacy violated. They recommended that the government should not have access to any information about individuals or their children without explicit consent.	Response: DHS regularly collects information about aliens, U.S. citizens, and children in the course of adjudicating an immigration request. As discussed before, DHS provides appropriate notification to individuals, including those covered by the Privacy Act, by publicly issuing PIAs, SORNs, and publishing privacy notices on individual forms. Further, the information that DHS may access via social media is publicly accessible and DHS may not access information that is designated as private. DHS does not specifically target children’s information, but may collect it if relevant to a case. DHS does not exclude any category of individual from its review of publicly available information on social media sites. Social media platforms provide opportunities to gain valuable insights into aliens’ movements, relationships, and behaviors. DHS can use the content of aliens’ public social media to assess and identify immigration fraud or other bars to eligibility for particular immigration benefits, as well as potential national security and public safety threats.
Data Integrity	The commenters raised several significant concerns about data integrity with the collection of social media information:	Response: DHS takes precautions to maintain the security, confidentiality, and integrity of all information collected about individuals. Safeguards include controls that limit information access to only

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	1. Manipulability and Inaccuracy: Social media data can be easily manipulated, hacked, or falsified. Commenters argue that individuals could provide fake information or have multiple accounts, making it difficult to verify the authenticity of the data. This undermines the reliability and accuracy of using social media information for vetting purposes. 2. Misinterpretation and Bias: The subjective nature of social media content can lead to misinterpretation and bias. Evaluators may not understand the context of posts, cultural idioms, or sarcasm, leading to incorrect conclusions. There is also a risk of evaluators being unintentionally biased by the information they see, which could impact their decisions. Recommendations: 1. Verification and Authentication: To address concerns about the authenticity of social media data, some commenters recommended implementing robust verification and authentication processes to ensure that the information provided is accurate and belongs to the applicant. 2. Focus on Reliable Methods: Instead of relying on social media data, commenters recommended focusing on more reliable and established methods for security screening and identity verification. This includes existing background checks and intelligence-sharing mechanisms.	authorized users. These safeguards employ advanced security technologies to protect the information stored on our systems from unauthorized access. To ensure compliance with these policies, USCIS personnel complete training on the operational use of social media and sign the Operational Use of Social Media Rules of Behavior before any social media use and annually thereafter, if operational use of social media is a continuing requirement. The data collected by USCIS will be safeguarded and stored in accordance with DHS/USCIS-007 Benefits Information System, see 84 FR 54622 (October 10, 2019) and DHS/USCIS-010 Asylum Information and Pre-Screening System of Records, see 80 FR 74781 (November 30, 2015). DHS is aware that social media information can be hacked, manipulated, or falsified. As stated before, DHS will use information from social media as one of several types of evidence that may be used to support or corroborate information about an applicant. It may also be used to identify potential deception or fraud. In addition, generally other than discretionary overseas denials, USCIS would not deny a benefit based on social media information without first confronting the applicant, petitioner, or benefit requestor with the information and providing an opportunity to explain it or rebut any negative inferences USCIS may have drawn from it. See 8 C.F.R. § 103.2(b)(16)(i) and (ii).
Topic 4. Impacts on Immigration Benefit Processing/Travel		
Delay Benefit Processing	The commenters express concern that the collection of social media information will delay the processing of immigration benefits. 1. Strain on USCIS Resources: The proposed collection is expected to require additional time and resources for USCIS officers to review and analyze the social media information provided. This could lead to longer processing times as adjudicators will need to spend more time on each application. 2. Potential for Increased Backlogs: The additional scrutiny and time required to process applications that include social media information could exacerbate existing backlogs within USCIS. Many comments	Response: Any checks of an applicant’s publicly available social media information will occur concurrently with and not after the current processing steps for a particular benefit request. DHS believes adding the social media questions may reduce processing times in many situations as it will allow USCIS to timely use publicly available social media information to support vetting and adjudication programs, in addition to supplementing other information and tools that trained USCIS personnel regularly use in the performance of their duties. DHS defines social media as the “sphere of websites, applications, and web-based tools that connect users to engage in dialogue, share information and media,

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	highlight that the agency is already facing significant delays, and this new requirement could further slow down the adjudication process. 3. Administrative Complexity: The vague nature of what constitutes "social media" and how the information will be used could lead to confusion and inconsistent application of the rules, resulting in more appeals and further delays in processing. Recommendations: 1. Limit Collection to Necessary Cases: Collect social media information only in cases where there is a specific reason to believe that an applicant poses a security risk. This targeted approach would reduce the overall burden on both applicants and USCIS officers. 2. Streamline the Process: Develop clear and concise guidelines for what social media information needs to be provided, ensuring that applicants can easily understand and comply with the requirements without extensive effort. 3. Automate and Standardize Review: Implement automated tools and standardized procedures for reviewing social media information to minimize the time required for manual checks by USCIS officers. However, ensure these tools are accurate and reliable to avoid misinterpretations. 4. Provide Adequate Training: Ensure that USCIS officers are adequately trained to efficiently review social media information without causing unnecessary delays. This includes understanding cultural and linguistic nuances to prevent misinterpretations. 5. Increase Resources and Staffing: Allocate additional resources and staffing to handle the increased workload resulting from the new requirement. This could help prevent backlogs and ensure timely processing of applications. 6. Pilot Programs and Phased Implementation: Consider implementing the social media collection requirement as a pilot program or in phases to assess	collaborate, and interact." Social media vetting, which has added an overall negligible amount of time to USCIS processing, has been in effect since 2017 and performed only by trained officers. Officers who are responsible for conducting social media vetting sign agreements outlining Rules of Behavior and receive several annual trainings on privacy requirements and principles, and training specifically related to social media vetting, including how to identify First Amendment activity. These trainings must be completed prior to accessing social media and trained officers must use government-issued equipment to access social media for government purposes. For additional information on how USCIS uses social media, please see the Privacy impact Assessment found at https://www.dhs.gov/sites/default/files/publications/privacy-pia-uscis-013-01-fdns-august2019.pdf. USCIS will continue to provide resources and training to employees to ensure comprehensive, prudent, and efficient social media screening in the future and monitor resource allocation in order to meet the DHS mission needs. USCIS only accesses social media content that is publicly available to all users of the social media platform to fulfill the DHS mission of enhancing national security and the integrity of the legal immigration system. Officers do not communicate with users of social media sites and only passively review information that is publicly available to all users of the social media platform. In addition, generally other than discretionary overseas denials, USCIS would not deny a benefit based on social media information without first confronting the applicant, petitioner, or benefit requestor with the information and providing an opportunity to explain it or rebut any negative inferences USCIS may have drawn from it. See 8 C.F.R. § 103.2(b)(16)(i) and (ii). USCIS requires the ability to consider this information as it may contradict or substantiate information provided by applicants in connection with an immigration request and for national security and public safety purposes. DHS disagrees that it should define specific criteria under which applicants may be subject to social media
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	its impact on processing times and make necessary adjustments before full-scale implementation. 7. Regular Review and Adjustment: Regularly review the impact of the social media collection requirement on processing times and make adjustments as needed to ensure it does not cause significant delays.	vetting and believes that social media screening is best applied for all applicants. The content of the alien's public social media can be used to assess and identify immigration fraud, bars to eligibility, and national security and public safety threats, requiring vetting procedures that are as broad as possible.
Deter Travel or Immigration	The commenters highlighted the following ways in which the proposed collection of social media identifiers could deter immigration or travel to the U.S.: 1. Chilling Effect on Applicants: Concerns about how social media information might be interpreted could discourage eligible individuals from applying for benefits, potentially leading to fewer applications. 2. Chilling Effect on Free Speech: Immigrants and visa applicants may self-censor their online activity, fearing lawful expressions or that dissenting opinions could be misinterpreted or penalized, discouraging them from applying for immigration benefits or traveling to the U.S. 3. Global Reputation: The policy contributes to a perception of the U.S. as unwelcoming or hostile toward immigrants, which could deter immigrants and travelers from choosing the U.S. as a destination. 4. Disproportionate Impact on Marginalized Groups: The policy is perceived as disproportionately targeting certain groups, such as individuals from politically sensitive regions or Muslim-majority countries, discouraging them from seeking immigration benefits or traveling to the U.S. 5. Deterrence of Talent and Innovation: Skilled workers, students, and contributors to the U.S. may be discouraged from immigrating or traveling due to privacy concerns or fears of surveillance, redirecting talent to other countries and harming U.S. competitiveness.	Response: DHS seeks to balance its goals of securing the U.S. border and immigration system while facilitating legitimate travel and provision of immigration benefits to eligible aliens. While we recognize that this collection may influence the decisions of a limited number of travelers or immigration benefit seekers, DHS's top priority is the safety and security of the American people and homeland. DHS does not seek to unnecessarily burden applicants but rather seeks to obtain all information necessary to maintain a robust and dynamic screening system. Additionally, DHS does not anticipate that the collection of this additional information will significantly affect processing times for most applicants. This collection is not targeted at certain regions or countries. Regardless of nationality or country of origin, this collection will affect all applicants completing relevant forms. USCIS does not deny benefits based on the applicant's race, color, age, sexual orientation, religion, sex, national origin, or disability.
Government Burden	The comments express concerns about the proposed collection of social media information by USCIS and state that they believe it will burden the government: 1. Increased Administrative Burden and Costs:	Response: The addition of social media identifiers to the nine impacted forms will add a negligible amount of time to USCIS processing. The collection of applicants' social media identifiers and associated platforms will assist DHS by reducing the time needed

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	▪ The collection and review of social media information will significantly increase the workload for USCIS officers, leading to higher administrative costs and potentially requiring additional staff and resources. ▪ This process will slow down the already lengthy and backlogged immigration system, causing delays in processing applications and petitions. 2. Redundancy and Ineffectiveness: The proposal duplicates existing screening efforts by other agencies, such as the Department of State and Customs and Border Protection, without clear evidence of additional benefits. 3. Economic and Operational Impact: ▪ The proposed changes will increase the economic burden on both USCIS and applicants, potentially leading to higher fees and longer processing times. ▪ The additional workload could strain USCIS' budget and resources, potentially leading to fiscal challenges similar to those experienced in the past. Recommendations: 1. Improve Existing Vetting Processes: Focus on enhancing and streamlining current vetting processes, such as background checks and document verification, rather than adding new requirements. 2. Enhance Coordination with Other Agencies: Improve coordination and information-sharing with other agencies, such as the Department of State and Customs and Border Protection, to avoid duplicative efforts and ensure effective use of existing screening processes. 3. Use Technology Wisely: Consider using advanced technology, such as artificial intelligence, to assist in the initial review of social media information, but ensure human oversight is in place to verify and contextualize findings. 4. Conduct Economic Considerations: ▪ Perform a thorough cost-benefit analysis to determine if the potential security benefits justify the significant economic and operational burdens on USCIS and taxpayers.	to validate the attribution of the publicly available posted information to the applicant and prevent mis-associations. It will provide trained DHS adjudication personnel with more timely visibility of the publicly available information on the platforms provided by the applicant. While social media handles would be only one piece of a large mixture of information used in the analysis of the applicant's eligibility, a more robust screening process may reduce unnecessary delays and costs by limiting the filing of applications for immigration benefits by ineligible aliens or reducing erroneous approvals that must later be addressed through revocation, rescission, or similar processes. DHS may consider any potential costs from increased social media screenings when it conducts a comprehensive fee review in the future. USCIS will continue to provide resources and training to employees to ensure comprehensive, prudent, and efficient social media screening in the future and monitor resource allocation in order to meet the DHS mission.
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	▪ Redirect funds and resources to more effective and efficient measures that enhance national security without imposing undue burdens on the immigration system.	
Artificial Intelligence (AI) Concerns	The comments highlight several concerns about use of AI: 1. Unreliable and Biased Results: AI tools are prone to errors and biases, leading to unreliable and inaccurate assessments of social media content. Misinterpretations by AI can result in false positives or negatives, causing unwarranted denials of immigration benefits. For example, some commenters noted that the use of keyword-based algorithms to comply with the Executive Order on “Ending Radical and Wasteful Government DEI Programs and Preferencing” has been ineffective and has led to the unintended loss of key historical figures on Department of Defense websites and programs, raising concerns that a similar faulty approach could be applied to social media screening. 2. Lack of Specific Parameters and Vague Criteria: The proposal lacks clear definitions for terms like “threats to public safety,” “undermining national security,” and “harmful anti-American ideologies,” leading to potential misuse and arbitrary decisions by AI. 3. Privacy and Surveillance Concerns: Using AI for social media monitoring involves submitting large amounts of personal data to potentially insecure and intrusive analysis. The proposal raises significant privacy concerns, including the potential for continuous monitoring and misuse of collected data. 4. Lack of Effectiveness: There is little evidence that AI-driven social media monitoring improves national security or public safety. 5. Increased Resource Allocation: Implementing AI for social media monitoring will require significant resources, including training and oversight, adding to the administrative burden on USCIS. The use of AI could divert resources from more effective and efficient measures for enhancing national security.	Response: Determinations for travel, entry, and immigration benefits will be made by trained DHS officers and not by computer systems or algorithms. USCIS does not use artificial intelligence for social media vetting. Trained DHS personnel may review publicly available social media information accessed via the social media identifier(s) provided by applicants as additional data points to assist in its vetting of an application. Immigration benefits will be independently reviewed, and a case-by-case determination will be made by DHS officers based on the totality of the circumstances. In addition, generally other than discretionary overseas denials, USCIS would not deny a benefit based on social media information without first confronting the applicant, petitioner, or benefit requestor with the information and providing an opportunity to explain it or rebut any negative inferences USCIS may have drawn from it. See 8 C.F.R. § 103.2(b)(16)(i) and (ii).

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6. Potential for Abuse and Discrimination: AI tools may exacerbate existing biases and lead to discriminatory practices, particularly against vulnerable populations such as refugees and asylees. The lack of human oversight in AI-driven decisions increases the risk of arbitrary and unjust outcomes.

Recommendations:

1. Avoid Using AI for Social Media Monitoring: Many commenters suggest that USCIS should avoid using AI for social media monitoring due to its unreliability and potential for bias.

2. Ensure Human Oversight: If AI is used, it should be accompanied by human oversight to verify and contextualize the findings, ensuring that decisions are not solely based on AI-generated results.

3. Focus on Targeted Investigations: Use AI for targeted investigations based on credible threats rather than blanket social media data collection, which can be more effective and less intrusive.

4. Establish Clear Guidelines and Parameters: Develop and implement clear guidelines and parameters for AI to ensure consistency and fairness in the evaluation of social media content.

5. Invest in Training and Resources: Invest in training for USCIS officers to accurately interpret AI-generated data and make informed decisions.

6. Conduct Thorough Testing and Validation: Conduct thorough testing and validation of AI tools to ensure their accuracy and reliability before deployment.

7. Protect Privacy and Data Security: Implement robust privacy and data security measures to protect the personal information collected and analyzed by AI tools. Ensure that AI-driven data collection complies with privacy laws and regulations.

8. Accountability: Provide mechanisms for applicants to challenge and correct any AI-generated errors or misinterpretations.

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	9. Avoid Automated Tools: Given the potential for errors and misinterpretations, commenters recommended avoiding the use of automated tools for analyzing social media data. Instead, they suggested relying on human evaluators with proper training and context-specific understanding.	
Topic 5. Constitutional Issues		
First Amendment/Free Speech/Chilling Effect	The comments provided indicate the proposed collection of social media information by USCIS violates First Amendment rights. 1. Invasion of Privacy and Free Speech: Collecting social media identifiers is seen as an invasion of privacy and a violation of the First Amendment rights to free speech and expression. The requirement could deter individuals from expressing their views freely online due to fear of government scrutiny. 2. Chilling Effect on Free Expression: The requirement infringes on First Amendment rights, potentially chilling lawful speech and associations. Applicants may feel compelled to delete or avoid political or religious speech online for fear of misinterpretation. 3. Potential for Misinterpretation and Misuse: Posts made in jest, cultural idioms, or sarcastic remarks could be misconstrued as threatening without context. Liking or following certain posts or accounts does not signify endorsement, yet may unjustly flag an applicant. 4. Discriminatory Impact: The policy risks introducing systemic discrimination, as marginalized communities—particularly immigrants—are more likely to be misjudged or scrutinized for online expression that is culturally nuanced, misunderstood, or taken out of context. 5. Dangerous Precedent: The proposal sets a dangerous precedent for expanding surveillance practices to other sectors of society, threatening the rights of all individuals.	Response: The Department respects every individual's right to maintain an opinion without interference and to seek, receive, and impart information and ideas of all kinds. The proposal to collect publicly available social media information to assist in determining admissibility or eligibility for immigration benefits is consistent with this commitment. Consistent with the requirements of the Privacy Act (5 U.S.C. § 552a(e)(7)), DHS does not maintain records "describing how any [citizen of the United States or alien lawfully admitted for permanent residence] exercises rights guaranteed by the First Amendment, unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity." Furthermore, DHS policy directs that "DHS personnel shall not collect, maintain in DHS systems, or use information protected by the First Amendment unless (a) an individual has expressly granted their consent for DHS to collect, maintain and use that information; (b) maintaining the record is expressly authorized by a federal statute; or (c) that information is relevant to a criminal, civil or administrative activity relating to a law DHS enforces or administers. In addition, DHS personnel should not pursue by questioning, research, or other means, information relating to how an individual exercises his or her First Amendment rights unless one or more of the same conditions applies." DHS will handle social media identifiers in the same manner as other information collected through DHS applications and is in the process of updating the relevant System of Records Notices (SORN) and Privacy Impact Assessments (PIA), available on the DHS website (www.dhs.gov/privacy). To ensure compliance with these policies, USCIS officers must complete annual training on the operational use of social media and sign a rules of behavior document. Additionally, DHS will not request user passwords in

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		furtherance of this collection and will not violate or attempt to subvert individual privacy settings or controls the applicants may have implemented on social media platforms.
Fourth Amendment i. Overreach	The comments provided in response to the USCIS proposal mandating the collection of social media identifiers highlight several key concerns regarding potential violations of the Fourth Amendment. Here are the main points raised: 1. Expectation of Privacy: The collection of social media identifiers is seen as an intrusion into individuals' private digital spaces. Many argue that social media profiles, especially those set to private, should be protected under the Fourth Amendment, which guards against unreasonable searches and seizures. 2. Warrant Requirement: Critics emphasize that the Fourth Amendment typically requires law enforcement to obtain a warrant based on probable cause before conducting searches. The proposal to collect social media information without such judicial oversight is viewed as a violation of this requirement. 3. Scope of Collection: The broad and indiscriminate nature of the proposed data collection is a significant concern. Commenters argue that it constitutes a generalized search without specific suspicion, which the Fourth Amendment explicitly forbids. 4. Presumption of Guilt: The policy is criticized for presuming guilt by subjecting individuals to unwarranted surveillance. This inversion of the presumption of innocence is seen as a violation of due process and an unconstitutional preemptive punishment. Recommendations: 1. Require Warrants for Social Media Data Collection: Ensure that any collection of social media information is conducted with a warrant based on probable cause. This would align the process with traditional Fourth Amendment protections against unreasonable searches and seizures.	Response: DHS disagrees that the collection of social media identifiers violates the Fourth Amendment, individual expectations of privacy, prohibition on unlawful or warrantless searches and seizures, and otherwise presumes guilt of an individual. This collection is also consistent with Supreme Court rulings related to Fourth Amendment protections to the extent such protections are applicable in this context. It is not a violation of the Fourth Amendment to ask questions of an individual who is not detained and may choose whether or not to answer them. <i>See, e.g., Florida v. Royer</i>, 460 U.S. 491, 497 (1983) (citing cases). Individuals who choose to seek admission to the United States or apply for immigration benefits do so on a voluntary basis. DHS provides ample notice that information provided by applicants may be verified and additional background searches may be conducted for the requested benefit eligibility. Additionally, federal laws, including the Immigration and Nationality Act (INA) and Homeland Security Act of 2002, provide authority for this information collection. For example, INA § 287(b), 8 U.S.C. § 1357(b), and 8 C.F.R. § 287.5(a)(2) empower officers and agents to “take and consider evidence concerning the privilege of any person to enter, reenter, pass through, or reside in the United States.” Similarly, for naturalization purposes, INA § 335, 8 U.S.C. § 1446, empowers any employee of USCIS to conduct a personal investigation of the person applying for naturalization, take testimony concerning the admissibility of the applicant for naturalization, and require the production of relevant books, papers, and documents. USCIS personnel will only use social media identifiers to locate and review publicly available social media information, and as the Supreme Court has explained, “What a person knowingly exposes to the public . . . is not a subject of Fourth Amendment protection.” <i>Katz v. United States</i>, 389 U.S. 347, 351 (1967); <i>see, e.g., Palmieri v. United States</i>, 72 F. Supp. 3d 191, 210

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	2. Limit Data Collection to Specific, Justified Cases: Restrict social media data collection to cases where there is clear, individualized suspicion of wrongdoing or a direct connection to national security concerns. This would prevent broad, indiscriminate searches and ensure that data collection is relevant and necessary. 3. Implement Judicial Oversight: Establish a system of judicial oversight to review and approve requests for social media data collection. This would provide an additional layer of protection and ensure that searches are conducted lawfully and with proper justification. 4. Define Clear and Narrow Criteria for Data Collection: Clearly define the criteria and scope for social media data collection to prevent overly broad or vague searches. This would help ensure that only relevant information is collected and that the process is transparent and accountable. 5. Ensure Transparency and Accountability: Provide clear guidelines and publicly available information on how social media data will be used, stored, and protected. This transparency would help build trust and ensure that data collection practices are subject to public scrutiny and accountability. 6. Minimize Data Retention and Access: Limit the retention period for collected social media data and restrict access to only those officials who need it for specific, justified purposes. This would reduce the risk of misuse or unauthorized access to personal information. 7. Conduct Privacy Impact Assessments: Regularly conduct privacy impact assessments to evaluate the potential impact of social media data collection on individuals' privacy rights. These assessments should be used to inform and adjust policies and practices to better protect Fourth Amendment rights. 8. Provide Opt-Out Options: Allow applicants to opt out of providing social media identifiers without facing negative consequences, unless there is a specific, justified reason for requiring the information. This would respect individuals' privacy and autonomy.	(D.D.C. 2014) (holding that a Plaintiff cannot claim a Fourth Amendment violation because there is “no reasonable expectation of privacy in the information [the Plaintiff] made available to ‘friends’ on his Facebook page”); <i>United States v. Meregildo</i>, 883 F. Supp. 2d 523, 525 (S.D.N.Y. 2012) (“When a social media user disseminates his postings and information to the public, they are not protected by the Fourth Amendment.”). DHS disagrees that it should define specific criteria under which applicants may be subject to social media vetting and believes that social media screening is best applied for all applicants. Social media involves publicly available information that is accessible to anyone without a warrant and DHS would not be unique in reviewing it. Along with checking against government systems and information, DHS officers may use publicly available information, social media included, as part of the vetting and screening process to verify the information submitted. Moreover, the content of the alien’s public social media can be used to assess and identify immigration fraud, bars to eligibility, and national security and public safety threats, requiring vetting procedures that are as broad as possible.
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	9. Implement Robust Data Security Measures: Ensure that collected social media data is protected with strong security measures to prevent unauthorized access, breaches, or misuse. This would help safeguard individuals' private information. 10. Regularly Review and Update Policies: Establish a process for regularly reviewing and updating social media data collection policies to ensure they remain compliant with Fourth Amendment protections and adapt to evolving legal standards and technological changes.	
Due Process under the Fifth and Fourteenth Amendments	The comments provided raise several concerns about how the collection of social media information could violate the Fifth and Fourteenth Amendments, which guarantee due process. Due Process Violations: ○ Arbitrary Decisions: The lack of clear standards for using social media information could lead to arbitrary decision-making in immigration proceedings. This undermines the due process rights of applicants, as decisions may be made without fair procedures or consistent criteria. ○ Procedural Due Process: The policy raises questions about how social media content will be interpreted and whether petitioners will have a meaningful opportunity to address adverse findings based on such content. This could result in decisions being made without giving individuals a fair chance to defend themselves or correct misunderstandings. ○ Disproportionate Impact: The collection could disproportionately affect certain groups, potentially leading to unequal treatment and further due process concerns. This selective targeting could result in unfair and biased decision-making processes. Recommendations: 1. Clear and Specific Justification: Implement strict, narrowly tailored criteria that specifically define which applicants may be subject to social media screening, with documented reasonable suspicion requirements. This ensures that the collection of social media	Response: DHS disagrees that collection of social media identifiers violates the individual's right to due process under both the Fifth and Fourteenth Amendments. The Supreme Court has construed the Fourteenth Amendment's Due Process Clause to impose the same due process limitations on the states as the Fifth Amendment does on the federal government. As DHS is part of the Executive Branch, and thus, the Federal Government, it is not clear how the Fourteenth Amendment is applicable in this instance. Regarding the Fifth Amendment, the proposed information collection does not impact the due process rights of applicants, petitioners, or benefit requestors. For example, in general other than discretionary overseas denials, USCIS would not deny a benefit based on social media information without first confronting the applicant, petitioner, or benefit requestor with the information and providing an opportunity to explain it or rebut any negative inferences USCIS may have drawn from it. See 8 C.F.R. § 103.2(b)(16)(i) and (ii). Additionally, if USCIS makes an adverse finding on any request or application, the individual may be entitled to additional immigration processes which may include the right to appeal or appear before an immigration judge.

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	information is based on clear, individualized reasons rather than arbitrary or broad criteria. 2. Transparency and Guidelines: Develop comprehensive, transparent guidelines for how social media content will be evaluated, including cultural context considerations. This helps ensure that decisions are made consistently and fairly, providing applicants with a clear understanding of how their information will be used. 3. Appeals Process: Create a clear appeals process for adverse findings based on social media content. This provides applicants with a meaningful opportunity to challenge and address any negative decisions, ensuring that they can defend themselves and correct misunderstandings. 4. Case-by-Case Basis: Collect social media information on a case-by-case basis as needed, rather than from all applicants. This targeted approach reduces the risk of arbitrary decision-making and ensures that only relevant information is collected. 5. Regular Audits and Oversight: Implement regular third-party audits of the implementation patterns to prevent discriminatory application and ensure compliance with due process standards. This helps maintain accountability and transparency in the decision-making process.	
Fifth Amendment – Self Incrimination	The comments provided in response to the USCIS proposal mandating the collection of social media identifiers highlight concerns regarding potential self-incrimination. Self-Incrimination: ○ Compelled Disclosure: Requiring applicants to disclose their social media identifiers could be seen as a form of compelled speech, forcing individuals to provide information that may be used against them. This could violate the Fifth Amendment's protection against self-incrimination, as individuals might be compelled to reveal potentially incriminating information through their social media activity.	Response: The Fifth amendment prohibition against self-incrimination applies to proceedings in which the Government seeks to compel testimony that a witness reasonably believes could be used against him in a state or federal criminal proceeding. A risk that the testimony might subject the witness to deportation or other civil consequences (such as, here, denial of an immigration benefit) is not a sufficient ground for asserting the privilege. <i>See United States v. Balsys</i>, 524 U.S. 666, 671–72 (1998). Additionally, here, the Government does not seek to compel testimony, but rather plans to collect publicly available social media information already posted by the applicant. Despite the inapplicability of the Fifth Amendment in this situation, DHS is not requiring individuals to incriminate themselves by providing social media

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	Recommendations: 1. Clear and Specific Justification: Implement strict, narrowly tailored criteria that specifically define which applicants may be subject to social media screening, with documented reasonable suspicion requirements. This ensures that the collection of social media information is based on clear, individualized reasons rather than arbitrary or broad criteria. 2. Transparency and Guidelines: Develop comprehensive, transparent guidelines for how social media content will be evaluated, including cultural context considerations. This helps ensure that decisions are made consistently and fairly, providing applicants with a clear understanding of how their information will be used. 3. Appeals Process: Create a clear appeals process for adverse findings based on social media content. This provides applicants with a meaningful opportunity to challenge and address any negative decisions, ensuring that they can defend themselves and correct misunderstandings. 4. Case-by-Case Basis: Collect social media information on a case-by-case basis as needed, rather than from all applicants. This targeted approach reduces the risk of arbitrary decision-making and ensures that only relevant information is collected. 5. Regular Audits and Oversight: Implement regular third-party audits of the implementation patterns to prevent discriminatory application and ensure compliance with due process standards. This helps maintain accountability and transparency in the decision-making process.	identifiers to USCIS on its forms. Filing for immigration benefits and including requested information is a voluntary action by an individual. Information about the use of provided information by the government is explained in SORNs, PIAs and the DHS Privacy Notice provided on every USCIS form.
Fourteenth Amendment - Equal Protection	The comments express concerns that the collection of social media information violates the Fourteenth Amendment in several ways: 1. Equal Protection: ○ Disproportionate Impact: The collection of social media identifiers could disproportionately affect certain groups, particularly those more active on social media or those from specific backgrounds. This could lead to unequal treatment and	Response: These commenters are referring to the Equal Protection clause located at the end of Section 1 of the Fourteenth Amendment of the Constitution of the United States. That clause states, “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life,

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	discrimination, violating the equal protection clause of the Fourteenth Amendment. ○ Selective Enforcement: There is concern that the regulation could be used to target specific individuals or groups based on their immigration status or other characteristics, leading to unequal application of the law. 2. Privacy Rights: The comments highlight that social media profiles often contain private and personal information. Broad and vague data collection practices without clear limitations could infringe on individuals' privacy rights, which are protected under the Fourteenth Amendment's due process clause. Recommendations: 1. Specific Justification: Ensure that any collection of social media information is based on clear, individualized reasons. This would help prevent arbitrary decision-making and ensure that data collection is necessary and relevant to specific cases. 2. Voluntary Disclosure: Allow individuals to provide social media identifiers voluntarily, without facing negative consequences for opting out. This respects individuals' privacy and reduces the risk of coercion. 3. Clear Standards and Transparency: Develop and publish clear standards for how social media information will be used in immigration proceedings. This would help ensure consistency and fairness in decision-making. Provide transparency about what data will be collected, how it will be used, and the criteria for its use. 4. Privacy Protections: Implement strong safeguards to protect the collected data from misuse. This includes ensuring that data is securely stored and only accessible to authorized personnel for legitimate purposes. Avoid broad and vague data collection practices that could infringe on individuals' privacy rights. 5. Dispute Resolution Process: Establish a clear process for individuals to assess the data collected about them and to dispute any adverse actions taken as a result.	liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." As noted above, the Fourteenth Amendment applies to the States, and not the federal government, and thus it is inapplicable here. Although the Fourteenth Amendment is not applicable, DHS strives to be fair and efficiently execute the immigration laws established by Congress. Social media identifiers will be provided by all individuals requesting benefits under specified forms. DHS has not exempted any group of people from vetting or providing the information. Social media identifiers and information will be handled in the same manner by DHS, regardless of the applicant's race, color, age, sexual orientation, religion, sex, national origin, or disability.
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	This ensures that individuals have a fair opportunity to challenge decisions that may affect their rights. 6. Equal Treatment: Ensure that the regulation does not disproportionately affect certain groups or lead to unequal treatment. This includes monitoring and evaluating the impact of the regulation to prevent discrimination.	
Topic 6. Public Safety		
Discriminatory/Safety Risk	The comments express concern about how the collection of social media information can be discriminatory and pose public safety concerns. Discriminatory Concerns: 1. Targeting Vulnerable Demographics: ○ Bias Based on Race, Religion, and Identity: The lack of specificity in the regulation about which "certain populations" will be subject to social media information collection creates opportunities for bias based on race, religion, and other identity factors. This could lead to disproportionate targeting of specific groups, such as Muslims, immigrants from certain countries, or political activists. ○ Disproportionate Impact on Marginalized Communities: The policy could disproportionately affect marginalized communities, including immigrants, asylum seekers, and refugees. These groups may already face significant scrutiny and discrimination, and the additional burden of social media surveillance could exacerbate these issues. ○ Cultural and Linguistic Misunderstandings: Social media posts made in different languages or cultural contexts could be misinterpreted, leading to unfair treatment and discrimination. 2. Selective Enforcement: ○ Without clear standards for how social media information will be used, there is a risk of arbitrary decision-making. This could lead to selective enforcement against individuals based on their political beliefs, religious affiliations, or other personal characteristics. Public Safety Concerns:	Response: DHS is steadfastly committed to the highest standards of conduct, especially when it comes to the fair, unbiased, and transparent enforcement of our mission responsibilities. The collection of this additional information will be used to help enforce our immigration laws by assisting in the adjudication of eligibility to travel to or be admitted to the United States or be granted an immigration-related benefit. Existing DHS policy prohibits the consideration of race or ethnicity in our investigation, screening, and enforcement activities in all but the most exceptional instances. This policy is reaffirmed in manuals, policies, directives, and guidelines. Existing DHS policy also prohibits profiling, targeting, or discrimination against any individual for exercising his or her First Amendment rights. We will not use the information in a discriminatory manner that prevents entry into the United States or denies benefits based on the applicant's race, color, age, sexual orientation, religion, sex, national origin, or disability. DHS will handle social media identifiers in the same manner as other information collected for immigration benefit purposes. Social media information is one data point for benefit requestors and is intended to be considered along with other information, including other application data provided by applicants. DHS will make case-by-case determinations based on the totality of the circumstances. In addition, generally other than discretionary overseas denials, USCIS would not deny a benefit based on social media information without first confronting the applicant, petitioner, or benefit requestor with the information and providing an opportunity to explain it or rebut any negative inferences USCIS may have drawn from it. See 8 C.F.R. § 103.2(b)(16)(i) and (ii).

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	1. Ineffectiveness in Enhancing Security: ○ Lack of Evidence: There is little evidence to suggest that collecting social media identifiers meaningfully improves national security. ○ False Positives and Misinterpretation: Social media posts can be easily misinterpreted, especially when taken out of context. This can lead to false positives, where innocent individuals are flagged as security threats based on misunderstood or out-of-context posts. 2. Avoid Disproportionate Impact: ○ Monitor and Evaluate Impact: Ensure that the regulation does not disproportionately affect certain groups or lead to unequal treatment. This includes monitoring and evaluating the impact of the regulation to prevent discrimination. ○ Cultural Sensitivity Training: Provide training for officials to understand cultural and linguistic nuances to avoid misinterpretation and bias.	
Topic 7. Unreliable Information		
Imprecise/Confusing Social Media terms	The comments highlight concerns that applicants may be confused about what constitutes a “social media platform” or “social media identifier,” leading to inconsistent reporting by applicants. Recommendations: 1. Define Social Media Clearly: There is a need for a clear and precise definition of what constitutes a “social media platform” or “social media identifier.” This would help applicants understand exactly what information they need to provide. 2. Limit Scope to Relevant Platforms: Focus the collection on mainstream social media platforms where public posts are more likely to be relevant. Avoid including platforms where social interactions are incidental to the primary function (e.g., payment apps like Venmo). 3. Improve Instructions and FAQs: Provide detailed instructions and FAQs to help applicants understand their obligations. This could include examples of what is and isn’t considered social media and what types of identifiers need to be disclosed. This could include a list of notable social media platforms (e.g., Facebook,	Response: DHS defines social media as the “sphere of websites, applications, and web-based tools that connect users to engage in dialogue, share information and media, collaborate, and interact.” Social media platforms include Facebook, X (formerly Twitter), Instagram, among others, that are commonly identified as “social media”. That definition has been used by DHS previously. Please see the Privacy Impact Assessment found at https://www.dhs.gov/sites/default/files/publications/privacy-pia-uscis-013-01-fdns-august2019.pdf. This definition of “social media,” as well as a list of examples of social media platforms, is specifically included in the form instructions for each of the forms collecting social media information, and DHS expects the definition and examples to eliminate any confusion concerning the definition of a “social media platform.” DHS believes the term “social media identifier” is sufficiently descriptive and will be commonly understood by the public to signify one’s “username”, “ID”, or “handle”. Based on our research, we think the terms used and the additional information in form instructions are sufficient, but we welcome public comments on additional terms that

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	Instagram, X, Truthsocial, Bluesky, Reddit, TikTok, Snapchat) that would help clarify what is expected. This list should be regularly updated to reflect changes in the social media landscape.	we should consider. If a social media platform does not use a handle, the new form instructions request that applicants provide the relevant associated identifiable information used to access the platform, such as an email address or phone number.
No Social Media Presence/False Information	The comments provide several specific points about how the collection of social media information may lead to unreliable information due to the lack of social media presence or the presence of false information. 1. Lack of Social Media Presence: ○ No Social Media Accounts: Some individuals do not use social media, raising concerns about how their applications will be handled and whether they will be unfairly penalized. ○ Inactive or Forgotten Accounts: Applicants may have old, inactive, or forgotten social media accounts that they do not remember to report, leading to potential penalties for non-disclosure. ○ Private Use: Some people use social media only privately with friends and family, making it difficult for USCIS to access and evaluate their content. 2. Forgotten or Inactive Accounts: Applicants may have forgotten about old accounts, lost access to them, or the platforms may have been shut down. This adds to the difficulty of accurately reporting all relevant social media handles. 3. False or Misleading Information: ○ Fake Accounts: Social media accounts can be easily faked, hacked, or manipulated, leading to the potential for incorrect information being attributed to an applicant. ○ Multiple Accounts: Individuals may have multiple social media accounts, including some that are not disclosed or are used for different purposes, complicating the verification process.	Response: DHS has a layered approach to security and any social media identifiers collected would be only one piece of information used in the analysis of the applicant's eligibility. Although the potential exists for an applicant to provide false or inaccurate information about their social media identifiers on a form, the response (or lack thereof) the applicant provides in the context of the larger picture will guide the line of inquiry pursued by the DHS officer. The potential for inaccurate/false social media or other application information does not render the collection of this information unnecessary. DHS makes case-by-case determinations based on the totality of the circumstances consistent with its authorities. In addition, generally other than discretionary overseas denials, USCIS would not deny a benefit based on social media information without first confronting the applicant, petitioner, or benefit requestor with the information and providing an opportunity to explain it or rebut any negative inferences USCIS may have drawn from it. See 8 C.F.R. § 103.2(b)(16)(i) and (ii). DHS is aware that some individuals may not have social media accounts, therefore USCIS has updated the proposed collection of information to include the following question on each impacted information collection: "Have you had or used a social media account in the past five (5) years? Yes/No." In addition, to address the recommendation to provide clarity on the time limits for reporting requirements, the form instructions for each impacted form state that applicants, petitioners, or benefit requestors must provide all social media handles, identifiers, or usernames used on social media over the past five (5) years. To address the recommendation to provide clarity on specifying whether inactive or deleted accounts need to be reported, USCIS updated the form instructions for each impacted information collection to reflect

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	○ Impersonation: There is a risk of mistaken identity or impersonation, where someone else's actions or posts are wrongly attributed to the applicant. Recommendations: 1. Acknowledge Lack of Social Media Presence: Provide clear guidelines for non-users by establishing procedures for applicants without social media accounts to ensure they are not unfairly penalized. 2. Clarify Reporting Requirements: Guidelines should specify whether inactive, forgotten, or deleted accounts need to be reported. There should also be clarity on the time limits for reporting inactive accounts. 3. Verification Mechanisms for False Information: Develop robust methods to verify the authenticity and ownership of social media accounts. Use cross-referencing techniques with other data sources to validate social media information. 4. Avoid Overreliance on Automated Tools: Ensure human oversight in social media vetting to verify accuracy and context.	that responses should include both active social media accounts and inactive or deleted accounts.
Language Concerns	Commenters expressed concerns around not being able to recognize the English-language names of some of the social media platforms.	Response: The platforms selected represent those which are among the most popular on a global basis. The platforms listed may be updated by the Department by adding or removing platforms in order to evolve the U.S. Government's uniform vetting with emerging communication technologies and common usage; therefore, the list will change over time. The Department believes the social media platforms are recognizable, but the form also offers the ability for the user to enter their preferred social media platform. A person who does not speak English may prepare the form with the assistance of an interpreter. The interpreter must read each question to the applicant, including the contents of any drop-down menu choices for selection of the correct response. The applicant must certify that the interpreter named on the form has also read every question and instruction on the application as well as his or her answer to every

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		question, in a language in which he or she is fluent and that they understand every question and instruction on the form as translated. DHS understands that the name of some social media platforms may not translate completely or exactly to a foreign language, but that is true for many English language words and business trade names. We do not think that most social media companies go by a different name in different countries. To the extent that they do, DHS believes that applicants will be able to understand if one referenced in the options provided is one that they have used. This is further strengthened by social media platforms' use of branding, a digital marketing strategy that uses unique platform-specific versions of identity, visuals, content, and formats. However, even if an applicant does not understand that the platform they have used is one referenced in the list provided, they can still provide their social media information by selecting "other" and entering the information under that category.
Topic 8. Public Concerns Expressed		
General Opposition	The commenters expressed general opposition to the collection of social media information. Overall, the feedback reflects a significant apprehension that the policy would undermine democratic values and civil liberties. Some commenters expressed that other Federal government agencies should be sifting through social media for bad actors and conducting the screening and vetting, not DHS.	Response: Many commenters did not make clear objections. Therefore, DHS cannot provide specific responses to many of these general oppositions. DHS's role in reviewing publicly available social media information accessed via social media identifier(s) provided by applicants is appropriate given that DHS's mission to is to secure the Nation from threats. This includes denying immigration benefits to inadmissible or ineligible aliens, as appropriate and in accordance with law, including criminals and terrorists. USCIS officers make their decisions based on the requirements of U.S. immigration law. Information found on social media via the provision of social media identifier(s) will enhance the vetting process and identify potential threats. For example, social media may be used to support or corroborate a benefit seeker's application by providing an additional means to adjudicate issues related to relevant questions about identity, occupation, previous travel, and other factors. It may also be used to identify potential deception or fraud. Social media may help distinguish individuals of additional concern from those

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		individuals whose information substantiates their eligibility for immigration benefits.
Waste of taxpayer dollars	The commenters argue that the initiative is a waste of public resources and taxpayer dollars. They believe that the funds could be better allocated to more effective and necessary programs. Recommendations: 1. Terminate the Initiative: Many comments recommend that the policy be terminated immediately due to its perceived ineffectiveness, ethical concerns, and waste of taxpayer money. 2. Focus on Existing Vetting Processes: Several comments recommend relying on the current rigorous vetting processes that are already in place, rather than adding an additional layer of social media surveillance. 3. Focus on Real Security Threats: Several comments recommend focusing surveillance and security efforts on real threats, such as violent criminals and terrorists, rather than targeting individuals who are legally seeking immigration benefits. 4. Utilize More Reliable Methods: Some comments suggest using more reliable and effective methods for security screening, rather than relying on potentially unreliable and easily manipulated social media data.	Response: Unlike many other federal agencies, USCIS is primarily (roughly 96%) fee funded, meaning its operations are funded by fees charged to applicants for immigration or naturalization benefits, rather than taxpayer money, and this funding is used to adjudicate immigration benefit requests and related services. Generally, fees collected by USCIS are deposited into the IEFA, which is a special fund used to cover the costs of adjudicating immigration benefit requests. Congress does provide a small portion (approximately 4%) of the agency's budget through appropriations, typically for activities like employment verification and civic integration. DHS disagrees with commenters' statements indicating the addition of vetting social media identifiers would not add value to security screenings. DHS has a layered approach to security and any social media identifiers collected would be only one piece of various information used in the analysis of the applicant's eligibility.
Police State/Excessive Government Oversight	The comments express strong opposition to the proposal to collect social media information from immigration applicants, arguing that it is fascist, leads to a police state, and undermines democratic principles. Here are the key points made in the comments: 1. Authoritarian Tactics: The proposal is described as authoritarian mirroring tactics. 2. Police State Concerns: ○ The collection of social media information is seen as a step towards mass surveillance and a police state. ○ There is fear that this policy will create an environment where individuals are constantly monitored and afraid to express their opinions freely.	Response: Individuals who present a threat to national security or public safety are not eligible for certain benefits and U.S. immigration laws preclude DHS from granting immigration and naturalization benefits to individuals with certain disqualifying characteristics including association with terrorist organizations. See, e.g., INA § 208(b)(2)(A), 8 U.S.C. § 1158(b)(2)(A) (mandatory bars to asylum); INA § 245(a)(2), 8 U.S.C. § 1255(a)(2) (admissibility requirements for adjustment of status applicants and agency discretion); and INA § 316(a)(3), 8 U.S.C. § 1427(a)(3) (good moral character requirement for naturalization). Investigation of social media activity will assist USCIS in making sure that these requirements are met. As noted in prior responses, USCIS collects information from individuals voluntarily applying for immigration benefits. USCIS follows all applicable laws, regulations

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	3. Undemocratic Practices: ○ The proposal is criticized for violating fundamental democratic values, such as freedom of speech and the right to privacy. ○ It is seen as an attack on the First Amendment, which protects free speech, and the Fourth Amendment, which protects against unreasonable searches and seizures. ○ Commenters argue that this policy contradicts the principles of liberty and justice that the United States claims to uphold. Recommendations: 1. Focus on Due Process and Evidence-Based Investigations: Commenters recommend that the government should only conduct investigations based on legitimate evidence and due process, rather than treating every applicant as a suspect from the start. 2. Protect Free Speech and Privacy: There are calls to uphold the First Amendment rights to free speech and the Fourth Amendment rights to privacy, ensuring that individuals are not penalized for their opinions or personal communications. 3. Safeguard Against Misuse and Abuse: Commenters emphasize the need for strong safeguards to prevent the misuse and abuse of collected data, ensuring that it is not used to target individuals for their political views or personal beliefs. 4. Engage in Public Dialogue and Review: There are recommendations for the government to engage in a public dialogue and review process, allowing for input from various stakeholders to ensure that any implemented policies are fair and just.	and policies to protect collected information and use it for its designated purpose. Furthermore, as noted in a prior response, Officers who are responsible for conducting social media vetting are trained specifically on how to identify First Amendment activity. USCIS has extensively detailed the process for social media vetting publicly via the Privacy Impact Assessment (PIA) in 2019: https://www.dhs.gov/sites/default/files/publications/privacy-pia-uscis-013-01-fdns-august2019.pdf.
Embarrassing (International)/Reprisal	The comments express concerns about the international embarrassment and potential for reprisal associated with the collection of social media information by USCIS. 1. Damage to International Reputation: ○ One comment mentions that implementing this policy will draw further ire from the	Response: The United States is a beacon of admiration across the world. Our economic, cultural, military, and technological achievements remain unmatched. With these proposed additions, DHS seeks to again lead the world in responding to new and emerging technologies to secure our homeland. If other nation states harbor a desire to retaliate for steps DHS takes to ensure proper screening and vetting, then the U.S. government will address those parties. DHS will not

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	international community, making the USA look like a "clown" on the global stage. ○ Another comment states that the policy undermines the United States' commitment to privacy and free speech, damaging its international reputation as a defender of these fundamental rights. It compares the policy to actions taken by authoritarian regimes. 2. Fear of Reprisal: The comments mention that the collection of social media creates a system of fear where individuals may fear reprisal for their online activities or expressions of personal beliefs.	limit our proactive and protective actions due to fear of reprisal.
Topic 9. Administrative Procedure Act		
	The comments provided raise several concerns regarding potential violations of the Administrative Procedure Act (APA) by the USCIS proposal to collect social media identifiers. Here are the key points related to APA violations: 1. Lack of Reasoned Decision-Making: The comments argue that USCIS' claim of national security benefits is unsupported by substantial justification, thus violating the APA's requirement for reasoned decision-making. The comments assert that the proposed collection is not necessary for the proper performance of the agency's functions and lacks practical utility. 2. Failure to Provide a Legal Basis: The comments highlight that the Federal Register notice does not provide a specific legal requirement justifying the collection of social media information for the nine forms impacted. The notice only vaguely states that the information is necessary for "vetting" without explaining how this relates to any legal requirement for the forms. 3. Violation of 5 CFR 1320.9(a): The comments state that the proposed collection violates 5 CFR 1320.9(a) because it lacks practical utility and is not necessary or relevant to determining the eligibility of the requestor for the benefits sought. The comments argue that USCIS has not demonstrated any actual use of the information that would justify its collection. 4. Violation of 5 CFR 1320.9(c): The comments argue that the proposed information collection imposes an	Response: USCIS disagrees that this collection of information violates the Administrative Procedure Act. USCIS' statutory and regulatory authorities permit the agency to request information necessary for determining eligibility for an immigration request. Here, USCIS is asking for additional data points to enhance vetting that it already lawfully conducts. Regarding the comments related to 5 CFR 1320.9, please see responses in Topic 2. Compliance with the PRA, Practical Utility, Underestimation of Burden, and Appropriateness of Generic Clearance.

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	unjustifiable burden on the public, violating the PRA under 5 CFR 1320.9(c). The estimated burden increase is seen as grossly underestimated and unverifiable, and the comments suggest that the actual burden would be significantly higher. 5. Failure to Aggregate Burden Estimates: The comments criticize USCIS for announcing simultaneous form revisions in separate Federal Register notices, which confounds the public and makes it difficult to ascertain the combined impact on the forms. This approach is seen as subversive and disingenuous, violating 5 CFR 1320.9(c) by creating an unjustifiable burden on the public. In summary, the comments argue that the USCIS proposal to collect social media identifiers violates the APA by failing to provide a reasonable justification, imposing unjustifiable burdens, and lacking practical utility. The comments call for the immediate withdrawal of the proposal to protect constitutional rights and ensure compliance with legal requirements. Recommendations: 1. Provide Substantial Justification: USCIS should provide a clear and substantial justification for the collection of social media identifiers, demonstrating how this information is necessary for the proper performance of the agency's functions and has practical utility. 2. Articulate Legal Basis: USCIS should articulate a specific legal requirement that justifies the collection of social media information for each of the nine forms impacted. The agency should explain how the collection relates to statutory or regulatory eligibility requirements. 3. Demonstrate Practical Utility: USCIS should demonstrate the practical utility of collecting social media identifiers by showing how the information will be used in a way that is relevant and necessary for determining eligibility for the benefits sought. This includes providing examples of how social media information has been or will be used effectively in the vetting process. 4. Accurate Burden Estimates: USCIS should provide accurate and verifiable estimates of the burden	
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	imposed on the public by the proposed information collection. This includes detailing the specific questions or data elements to be collected and the time required to gather and provide this information. 5. Aggregate Burden Estimates: USCIS should aggregate the burden estimates for all proposed form revisions to provide a clear picture of the total impact on the public. This includes combining the burden estimates from simultaneous form revisions announced in separate Federal Register notices. 6. Transparency and Public Participation: USCIS should ensure transparency and provide opportunities for meaningful public participation in the proposed collection process. This includes addressing public concerns and comments.	
Topic 10. Support		
	There are 67 comments expressing support.	Response: DHS appreciates the positive feedback and comments.
Topic 11. Out of Scope		
	There are 16 comments that are out of scope.	Response: DHS did not address these comments because they are outside the scope of the proposed generic clearance.