

Submitted via Regulations.gov

Samantha Deshommes
Chief, Regulatory Coordination Division
Office of Policy and Strategy
United States Citizenship and Immigration Services
5900 Capital Gateway Drive
Camp Springs, MD 20746

RE: OMB Control Number 1615-0075, Docket ID USCIS-2007-0029; Public Comment in Response to the Revision of Forms I-864, I-864A, I-864EZ.

Dear Chief Deshommes,

Our organization, Catholic Legal Immigration Network, Inc. (CLINIC),¹ submits these comments in response to the Notice of Proposed Rulemaking (NPRM) published in the Federal Register on October 26, 2023, titled Agency Information Collection Activities; Revision of a Currently Approved Collection: I-864, Affidavit of Support Under Section 213A of the INA; I-864A, Contract Between Sponsor and Household Member; I-864EZ, Affidavit of Support Under Section 213A of the INA. CLINIC supports most of the proposed changes but opposes some changes, as detailed below.

Embracing the Gospel value of welcoming the stranger, CLINIC has promoted the dignity and protected the rights of immigrants in partnership with a dedicated network of Catholic and community legal immigration programs since its founding in 1988. CLINIC's network, originally comprised of 17 programs, has now increased to more than 450 diocesan and community-based programs in 48 states and the District of Columbia. CLINIC is the largest nationwide network of nonprofit immigration programs. Through its affiliates, CLINIC advocates for the just and humane treatment of noncitizens. Most of CLINIC's affiliates offer legal services to individuals who are in the process of adjusting their status to permanent residents. Due to our work with noncitizens around the country, we welcome the proposed changes with the exception of some aspects. We support the overwhelming number of proposed changes to Form I-864 and its Instructions. They improve the language and correct certain ambiguities or errors in the current version of the forms. We do have specific objections and concerns, however, as stated below.

I. SPECIFIC CONCERNS REGARDING THE PROPOSED CHANGES

A. CLINIC Recommends the Following Adjustments to the Proposed Changes to Form I-864

CLINIC recommends the following adjustment:

¹ Charles Wheeler, Senior Attorney/Director Emeritus; Carolina Rivera, Federal Advocacy Attorney & Liaison authored these comments. The authors would like to thank Nubia Torres, Director of Network Services, Karen Sullivan, Director of Advocacy, Jennifer Riddle, Director of Training and Technical Assistance, and Val Christian, Programs Assistant for their contributions to this comment.

On Page 5, Part 5, the proposed Form I- 864 makes various changes to the current language and would read as follows:

“Enter the total number immigrants you are sponsoring on this affidavit which includes the principal immigrant listed in **Part 3**, any immigrants listed in **Part 4, Item Numbers 4-7**, and any additional sponsored immigrants you listed in **Part 11, Additional Information**. Do not count the principal immigrant if you are only sponsoring family members entering more than six months after the principal immigrant.”

This language is confusing and not as accurate as the current language. The following persons may complete and file an I-864: (1) petitioner/sponsors filing for the principal beneficiary and any accompanying derivative family members; (2) petitioner/sponsors filing for the derivative family members (and not the principal beneficiary); (3) joint sponsors filing for the principal beneficiary and one or more derivative beneficiaries; (4) joint sponsors filing for the principal beneficiary (and not any derivative family members); (5) joint sponsors filing for one or more derivative family members (and not the principal beneficiary); and substitute sponsors filing for the principal beneficiary and/or derivative family members. Given the different beneficiaries on whose behalf the I-864 can be filed, it is inaccurate to state that the number must include “the principal immigrant listed in Part 3, any immigrants listed in Part 4, Item Numbers 4-7, and any additional sponsored immigrants you listed in Part 11.” It may or may not include them. It would be more accurate and less confusing to state it the following way (proposed changes in italics):

“Enter the total number immigrants you are sponsoring on this affidavit, *which may include* the principal immigrant listed in **Part 3**, any immigrants listed in **Part 4, Item Numbers 4-7**, and any additional sponsored immigrants ...”

In addition, the proposed new Form I-864 no longer includes Part 11. The final part of the revised form is Part 9, Additional Information. So, that portion of the same paragraph needs to be revised to read:

“...you listed in **Part 9, Additional Information**. Do not count the principal immigrant if you are only sponsoring family members entering more than six months after the principal immigrant.”

B. CLINIC Recommends the Following Adjustments to the Proposed Changes to Form I-864 Instructions

CLINIC recommends the following adjustments:

1. Page 2 of the proposed changed Instructions identifying the exceptions as to who needs to submit Form I-864 includes:

“4. Self-petitioning battered spouses and children who have an approved Form I-360 (VAWA self-petitioners).”

VAWA self-petitioners have been “exempted” from filing Form I-864 given the unique nature of their relationship to the abuser. Since they are self-petitioning, they do not have a petitioning sponsor like other family- or employment-based beneficiaries. Instead, they have been allowed to file Form I-864W, [Request for Exemption for Intending Immigrant's Affidavit of Support](#).

The current regulations still reference victims of domestic violence self-petitioners who were granted relief under the Violence Against Women Act (VAWA) as exempt from the affidavit of support requirement at the adjustment of status stage.² But subsequent legislation actually exempted them from the public charge ground of

² 8 CFR § 213a.2(a)(2)(ii)(A).

inadmissibility.³ Applicants exempt from public charge are also exempt from the affidavit of support requirements and do not have to separately claim an exemption to filing an I-864. But at the present time, VAWA self-petitioners are still required to complete and file an I-864W, even though they shouldn't be required to. Fortunately, the final DHS regulations defining public charge officially designated VAWA recipients as exempt from public charge.⁴ CLINIC proposes that the agency eliminate this fourth designation of VAWA self-petitioners as exempted from filing Form I-864 since it is no longer accurate; all adjustment of status applicants exempted from public charge are exempted from filing Form I-864.

2. Page 3 of the proposed changed Instructions identifying other applicants not required to submit Form I-864 includes 33 categories of applicants exempt from public charge. This lengthens the instructions by two full pages. CLINIC believes that such detail, especially the eight subcategories (1. A-H) regarding employment-based applicants who rarely need an I-864, are unnecessary and should be eliminated. Instead, CLINIC proposes the agency include a sentence indicating that applicants who are exempt from public charge do not need to file an I-864:

“Other Applicants Not Required to Submit Form I-864

Applicants who are not subject to the public charge ground of inadmissibility are not required to submit a Form I-864. For a full list of these applicants, see 8 CFR 212.23(a).”

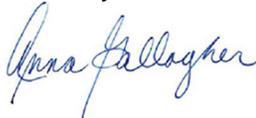
3. Page 9 of the Instructions makes two references to **Part 11, Additional Information**. This part of the revised Form I-864 is now **Part 9, Additional Information** and needs to be revised.

II. Conclusion

While we support most of the proposed changes to the Forms I-864, Affidavit of Support Under Section 213A of the INA; I-864A, Contract Between Sponsor and Household Member; I-864EZ, Affidavit of Support Under Section 213A of the INA., CLINIC urges USCIS to consider the proposed changes detailed above such as, changes regarding wording in the Form I-864 and its instructions; and language regarding VAWA self-petitioners. CLINIC applauds the efforts of the administration to improve the language and correct certain ambiguities or errors in the current version of the form. These changes will assist legal services organizations that directly serve noncitizens filing these applications.

Thank you for your consideration of these comments. Please do not hesitate to contact Karen Sullivan, Director of Advocacy, at ksullivan@cliniclegal.org, with any questions or concerns about our recommendations.

Sincerely,



Anna Gallagher
Executive Director

³ INA § 212(a)(4)(E)(i), (iii).

⁴ 87 Fed. Reg. 55472, 55638 (Sept. 9, 2022), adding 8 CFR § 212.23(a)(20).