Catholic Legal Immigration Network, Inc.
8455 Colesville Road, Ste. 960
Silver Spring MD 20910
(301) 565-4800

Submitted via Regulations.gov

October 15, 2024

Samantha Deshommes, Chief, Regulatory Coordination Division, Office of Policy and Strategy
United States Citizenship and Immigration Services
Department of Homeland Security

RE: OMB Control Number 1615-0020, United States Citizenship and Immigration Services, Department of Homeland Security, Docket ID USCIS-2007-0024

The Catholic Legal Immigration Network, Inc. (CLINIC)[1] submits these comments regarding the current Agency Information Collection Activities; Revision of a Currently Approved Collection: Petition for Amerasian, Widow(er), or Special Immigrant. On August 15, 2024, the *Federal Register* released these proposed revisions to Form I-360. CLINIC supports many of the changes to Form I-360 but recommends certain changes to ensure the language and content of the Form and Instructions are clear and comport with the relevant statutes and regulations.

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 430 diocesan and community-based programs in 49 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. Many of CLINIC's affiliates offer legal services to help survivors of violence, children who have been abused, abandoned or neglected and recent arrivals from Afghanistan. CLINIC trains extensively and provides technical assistance on self-petitioning under the Violence Against Women Act (VAWA), eligibility for Special Immigrant Juvenile Status (SIJS) and benefits for Afghans.

I. Overarching Concern

CLINIC recommends that United States Citizenship and Immigration Services (USCIS) take the opportunity to decouple Form I-360 from all the diverse and disparate immigration benefits[2] rather than making them different options on what is now a proposed 44-page form. CLINIC believes it would be more efficient and less confusing to have separate forms for those filing for different benefits. While further revising Form I-360 is our overarching recommendation, we will now address the specifics of the proposed changes to the form with which we have concerns.

---

[1]Pedro Alemán Perfecto, Policy Advocate, Sarah Bronstein, Supervising Senior Attorney, Elizabeth Carlson, Supervising Senior Attorney, Joanna Mexicano Furmanska, Senior Attorney and Josette Ramirez, Staff Attorney, authored these comments. CLINIC collaborated on the VAWA portion of this comment with ASISTA, one of the non-profit leaders in the field of supporting immigrant survivors of violence. The authors would like to thank Rebecca Eissenova and Cristina Velez, ASISTA, for their contributions to the VAWA portion of this comment.

[2] Form I-360 is used to apply for a wide range of unrelated immigration benefits including Amerasians, Special Immigrant Broadcasters, Widow(ers) of U.S. Citizens and Self-Petitioners Under the Violence Against Women Act.

II. Comments Relating to the Special Immigrant Afghan or Iraqi National Classification Supplement

Most Afghans seeking Special Immigrant Visa classification no longer file Form I-360. This is because authority for adjudicating the underlying special immigrant petition for Afghans has been transferred to the Department of State as of July 2022. Thus, the form changes will have reduced significance for Afghans moving forward, as most will not be required to file it at all. However, for those Afghans for whom an I-360 petition is still required (primarily those who received Chief of Mission approval prior to July 2022 or whose form DS-157 does not explicitly state that it was approved as an immigrant petition), the following change to the form should be considered.

The proposed Form I-360 asks for the name, phone number, and email address of the U.S. citizen supervisor, who normally provides a letter of support along with the Chief of Mission application. It may be helpful to clarify on the Form I-360 itself that the name, phone number and email address of the U.S. citizen supervisor is not absolutely required. Per the Foreign Affairs Manual, "If it is not possible for a contract or subcontract employee to obtain a recommendation from a U.S. citizen supervisor, then the COM [Chief of Mission] or COM designee may accept a letter from a non-U.S. citizen supervisor. In such cases it is helpful if the U.S. citizen responsible for the contract or subcontract co-signs the letter and indicates that based on their relationship with the contract or subcontract supervisor, they are confident that the information provided is correct."[3] For example, the revised I-360 could instead state *"if the contact information for a U.S. citizen supervisor is not available, please provide the contact information for the supervisor even if not a U.S. citizen."*

III. Comments Relating to the Special Immigrant Juvenile Classification Supplement

CLINIC understands the importance of collecting vital information to properly adjudicate an applicant's case. However, we have concerns regarding the collection of the petitioner's physical address and certain information about the state court orders in the Special Immigrant Juvenile Status (SIJS) section of Form I-360.

A. A Physical Address for the Juvenile, as Requested by Item 1 on Page 21, is Unnecessary and Requiring It Places the Juvenile at Risk

While CLINIC understands USCIS's likely aims in requiring the juvenile petitioner to provide their physical address in the SIJS Supplement, any of these goals can be satisfied by alternative means and without resulting in serious potential risk to the petitioner. CLINIC urges USCIS to remove this requirement from the form and consider the alternatives we propose below.

First, requiring the juvenile petitioner's physical address for the purpose of providing a stable address at which the petitioner can receive receipts, notices, and other information from USCIS, is unnecessary. Indeed, earlier in the proposed form, the Violence Against Women Act (VAWA) Supplement does not require a physical address for the abused and battered beneficiary who may find themselves similarly in need of confidentiality, only a mailing address. In fact, nowhere else in the form is a physical address required for any other beneficiary or self-petitioner. It is clear that USCIS understands that it is the mailing address that is absolutely critical in order for the beneficiary or self-petitioner to receive notices apprising

[3] 9 FAM 502.5-12(C)

them of developments in their case. Just as in any other case, juvenile petitioners in SIJS cases can and typically do provide safe mailing addresses at which to receive crucial notices: their representative's address, a counselor, family member, or friend's address, or the address of a community organization. Providing an alternative address not only serves to safeguard the petitioner in a SIJS case, but is also compliant with the form's instructions, as required by regulations.[4] For this purpose, a physical address is not necessary and should not be required by USCIS.

Second, requiring the juvenile petitioner's physical address for the purpose of ascertaining whether the petitioner meets the physical presence requirements of SIJS is unnecessary.[5] There are alternative means by which USCIS can confirm that the petitioner is physically present in the United States, none of which place the petitioner at risk the way requiring the listing of a physical address does. Accordingly, such a requirement is unnecessary and should not be listed on the new Form I-360.

Ultimately, the most crucial consideration for USCIS must be the SIJS petitioner's safety, and CLINIC's most pressing concern about requiring the physical address is the risk at which it places SIJS petitioners. SIJS petitioners are among the most vulnerable noncitizens in the U.S. immigration system. They are seeking SIJS as relief from parental abuse, neglect, abandonment or a similar basis. The level of risk that SIJS petitioners face is unique as compared to beneficiaries of other humanitarian immigration benefits: they are vulnerable not only due to their status as victims of abuse, but also due to their age of minority. Indeed, many of them may not have a stable physical address as a direct result of their abuse, abandonment, or neglect, a circumstance which only amplifies their vulnerability. As such, SIJS petitioners merit heightened protections specially tailored to their unique circumstances, as acknowledged by USCIS in its most recent regulations governing the SIJS petition process: juveniles cannot be required by USCIS to contact their abuser.[6] USCIS should go a step further and protect juvenile petitioners in SIJS cases by requesting only a safe mailing address and ascertaining their physical presence by alternative means.

CLINIC recommends removing Item 1 from the SIJS Supplement at Page 21 entirely. USCIS can, as an alternative to requiring this information, request a statement under the penalty of perjury by the petitioner that they are currently physically present in the United States, or a check box for the petitioner to complete that confirms that they are physically present in the United States. Should USCIS determine that this item is absolutely necessary, the agency should modify the language to state, *"Please provide a physical address for the juvenile. In the case that it is not safe for the juvenile to provide their specific street address, please complete only the city and state portion and place N/A in the street address portion."* Removing the physical address requirement makes the application clearer, more streamlined, and protects the confidentiality and security of the juvenile petitioner.

B. The Predicate Order Table at Item 2, Section 2, Page 22 is Unnecessary and Will Result in Confusion

CLINIC finds the table at Section 2, Item 2 on Page 22 unnecessary as it is rare for SIJ petitioners to have more than one predicate order. More importantly, however, the table will cause confusion and delay in the processing of SIJ petitions.

The date on which a juvenile court issues a predicate order can be determinative of whether a child qualifies for SIJS. SIJS applicants must obtain a state court order making the required findings, commonly known

[4] 8 CFR 103.2(a)(1).
[5] 8 CFR 204.11(b)(3).
[6] 8 CFR 204.11(e).

as a predicate order, while they still fall under the jurisdiction of that court according to the relevant state law definition of a child or a juvenile.[7] CLINIC is concerned about the table at Item 2, Section 2 that asks for the "date order issued." The child, or their attorney, must appear at least once in juvenile court for a state court to issue a judicial determination related to their dependency or their custodial placement.[8] However, there are instances where applicants are given several dates to appear for matters related to their custody and best interest determinations. Additionally, each court jurisdiction operates differently and determining the date on which an order is issued is not always straightforward. For example, a state court in a county in California follows a different process of issuing decisions on a predicate order than a state court in Illinois or New York.[9] Furthermore, one juvenile court order could include multiple dates. These could include the date of SIJS findings hearing, the date on which the child was declared dependent or placed under the custody of an individual, the date that reunification was found not viable, and the date on which the order was signed.

CLINIC recommends removing the table as it not only creates confusion, but as explained above, many state court orders include multiple dates that could qualify as the date on which the order was issued. In order to minimize confusion and ensure that USCIS receives the information it needs, CLINIC recommends that instead of using the table, USCIS include a question that states: *I have obtained a qualifying state juvenile court order and attached the order to this Supplement (Yes/No)*. The form instructions would instruct the applicant to include a copy of the state juvenile court order in support of their petition. USCIS should rely on the state juvenile court order in determining whether that order meets the requirements set out by the regulations; the table included in the proposed form does nothing to add to whatever information USCIS ascertains from the order itself.[10]

Should USCIS proceed with the form as currently proposed, changing the words "date order issued" in the table would lessen the potential for confusion. Replacing "date order issued" with the words "*date findings made*" or "*determination made on*" would more accurately reflect the information that is sought on the form to verify the child's eligibility for SIJS.

IV. Comments Relating to the Violence Against Women Act Classification Supplement

A. CLINIC Supports the Following Proposed Changes to the Portions of Form I-360 Pertaining to the Violence Against Women Act

Many of the proposed changes to Form I-360 that pertain to VAWA are benign and may assist applicants who do not have attorneys to help them understand their eligibility and to be able to file successfully.

Breaking out the VAWA-specific questions into a Supplement may make Form I-360 easier to follow than the existing version of the form, because there are fewer places where the applicant must go back and forth between sections of the form. However, it would likely be even easier to follow and less wasteful for paper filings if the Agency created entirely separate forms for each benefit, as was previously discussed.

[7] 8 CFR 204.11(b)(4)
[8] *See* 8 CFR 204.11(c)(3)(i)
[9] A National Immigrant Justice Center (NIJC) Checklist Toolkit for pro-bono attorneys completing a guardianship predicate order is an example of the steps it takes of the potential issuing dates of multiple orders in one county in the state of Illinois.
[10] 8 CFR 204.11(c)

B. CLINIC Recommends the Following Changes to the Proposed Changes to the Portions of Form I-360 Pertaining to the Violence Against Women Act

The bold explanation at the top of the VAWA Classification Supplement adds "Intended Spouse." If this is to alert potential filers of their eligibility as intended spouses, then we recommend also adding *"Former Spouse," "Step-Child"* and *"Step-Parent,"* so as to be consistent about demonstrating the breadth of terms used. Further, Section 1, Page 36, Item 1 should include these additional subcategories. For example, the first checkbox should apply to "Spouse, *intended spouse, or former spouse* of an abusive U.S. citizen." As an alternative to adding so many subcategories to the explanation at the top of the form, we also believe the explanation would be sufficient if it stated simply, *"Complete Only if Filing as a VAWA Self-Petitioner under INA § 101(a)(51)(A) or (B)."* This would be easier to read than the current lengthy explanation. A more plain-language explanation describing who should use this Supplement could be saved for the Form Instructions.

Section 3, Page 37, Item 1 directs applicants to answer how many times they have been married but does not provide a space. A small box should be provided, labeled *"total marriages."*

Section 4, Page 38, Items 4-6 should contain additional instructions, directing only those self-petitioning as the spouse of a USC or LPR to answer those questions. While Items 5-6 indicate that a self-petitioning child or parent may mark "N/A" to those questions, the same is not true for Item 4. It is irrelevant to a VAWA I-360 adjudication for a self-petitioning parent whether or how many times the abuser has been married.

Section 4, Page 38, Item 7 asks for dates the self-petitioner lived with the abuser. We recommend including an instruction next to the "To" box that reads, *"If you still live with your abuser, write 'Present.' If you are in the U.S., you can call the National Domestic Violence Hotline for assistance safety planning: 1-800-799-7233."* This will help avoid inadvertently signaling that the applicant must have stopped living with their abuser to be eligible for VAWA. In addition, this may allow information about the Hotline to reach more self-petitioners, who might not read the instructions themselves, only the form.

Section 4, Page 38, Item 7 should also contain additional instructions asking the self-petitioner to list other dates during which the self-petitioner and abuser lived together. While Item 9 requests this information, it may be unclear to applicants which range of time to include as an answer to Item 7 when the self-petitioner and the abuser have lived together at different periods of time. In the alternative, Item 7 should clarify that it is asking for the dates between which the self-petitioner most recently lived with the abuser.

USCIS should add a new segment to either Sections 4 or 5 of the VAWA Classification Supplement titled, *"Other Immigration Petitions,*" with fields to indicate whether an I-130 petition was previously submitted by the abuser and, if so, its receipt number, priority date, and status of that form. This section should also include an answer option based on whether the abused spouse does not have information on the previously filed I-130, such as: *"I believe an I-130 was filed on my behalf by my spouse, but I do not know the receipt number or other details."* This change would ensure that USCIS properly implements the requirement to transfer an abuser's I-130 priority date to the new I-360 self-petition.[11] When the priority date is not transferred, it disrupts the self-petitioner's ability to file Form I-485 and, in turn, the self-petitioner's ability to seek a work permit and become self-sufficient. Collecting this information will facilitate that.

[11] 8 CFR 204.2(h)(2)

V. CLINIC Recommends the Following Changes to the Proposed Changes to the Portions of the Instructions for Form I-360 Pertaining to the Violence Against Women Act

In the Table of Contents, under "Who May File Form I-360," we recommend that USCIS match the terms here with the explanation of who can file the VAWA Supplement that appears on the Supplement (see Comment above). The same applies to the title of the section on Page 12.

On Page 13, where the qualifications for VAWA self-petitioners are listed in bullet points, the following should be added to the fourth red bullet point: "Have been battered by or have been the subject of extreme cruelty perpetrated by your qualifying relative, *including battery or extreme cruelty perpetrated outside the United States, as long as you are living in the United States when you are filing this petition*." This addition will eliminate confusion as to which self-petitioners must demonstrate the battery or extreme cruelty happened in the U.S., and which need not.[12]

On Page 13, there appears to be a typo on the sixth red bullet point, which should read, "Entered into the marriage (or, for an intended spouse, *entered into* the relationship which you had believed to be a marriage)."

A provision explaining USCIS's policy on after-acquired children should be added to the final paragraph right before the last sentence on Page 13.[13] For example, the following could be added: *"If you become the parent of a new child after this self-petition is filed, that child can be treated as a derivative beneficiary without requiring a new petition or an amendment to your petition."* This will give clarity and peace of mind to pregnant self-petitioners and potentially decrease the likelihood of unnecessary filings.

On Page 15, USCIS should add the website for the National Domestic Violence Hotline: thehotline.org. The instructions should specify that the Hotline's assistance is free and confidential. USCIS might also consider titling this section a bit more informatively, i.e., *"Assistance for Abuse Survivors."* These changes will help encourage survivors to access the Hotline.

On Page 15, the instructions should clarify that only those aged 14 or older and 79 or younger must provide biometrics.

The instructions should also instruct the self-petitioner, when relevant, to include evidence that an abuser's loss of status is connected to the domestic violence and include examples of the type of evidence that USCIS would accept in that case. This could help avoid form processing delays due to issuances of requests for evidence.

VI. CONCLUSION

Overall, CLINIC finds that many of the proposed changes to Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant do not raise concerns. There are certain aspects of the proposed changes, however, that CLINIC believes could be clarified or improved to allow non-citizens to more easily access the benefits they seek through use of the form.

[12] 3 USCIS-PM D.2(H)
[13] 3 USCIS-PM D.2(I)

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