Seattle
Office of Immigrant and
Refugee Affairs
Cuc Vu, Director

Submitted via www.regulations.gov

March 16, 2021

Samantha L. Deshommes
Chief, Regulatory Coordination Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
111 Massachusetts Avenue NW
Washington, DC 20529

RE: Docket ID USCIS-2008-0025, OMB Control Number 1615-0052, Public Comment Opposing Revision to N-400, Application for Naturalization

Dear Division Chief Deshommes:

The City of Seattle Office of Immigrant Refugee Affairs (OIRA) submits this comment in opposition to the Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Naturalization, as published by U.S. Citizenship and Immigration Services (USCIS) on January 15, 2021. The proposed revisions to the Form N-400, Application for Naturalization, will create needless barriers for lawful permanent residents (LPRs) eagerly seeking the benefits and privileges of U.S. citizenship.

In its notice outlining the intended changes to the N-400, USCIS does not provide any rationale for why such changes would be helpful, necessary, or even likely to aid in the fair and efficient adjudication of the N-400 Application. Conversely, the changes to the N-400 will cause the application, already 20 pages long, to be more complicated and time-consuming in its preparation.

The proposed changes to the N-400 are not necessitated by any changes in law or policy, nor by any known deficiency in the form's current version. These changes will serve only to make the application process more challenging for would-be applicants and the legal advocates who assist them, all while making the application's adjudication more time-consuming for USCIS.

The City of Seattle ("the City") is a Welcoming City with a commitment to protect the rights of immigrants and refugees, who are integral members of our families and communities. Seattle has made great efforts to protect our immigrant and refugee workers and residents. Such

efforts include executive orders[1], resolutions[2], and ordinances[3] to ensure immigrants feel welcome and safe in the city. The City has also funded social programs to help income-eligible residents with what we consider to be basic needs. In 2012, the City created the Office of Immigrant and Refugee Affairs (OIRA) to improve the lives of Seattle's immigrant and refugee families. The City of Seattle, through OIRA, funds and coordinates two programs that assist Seattle-area LPRs with applying for citizenship: the New Citizen Campaign and the New Citizen Program. The New Citizen Campaign hosts citizenship clinics and provides outreach and education to further the goal of naturalizing all eligible LPRs in the Seattle/King County area.[4] Organizations in the New Citizen Program provide legal assistance, tutoring, and other services to vulnerable low-income clients, including many who are elderly, illiterate, or disabled.[5]

As a Welcoming City that respects and upholds the American value of welcoming immigrants, OIRA strongly urges USCIS to withdraw the proposed revisions to the N-400. The proposed changes do not fix any of the problems associated with the current application form. Rather they merely lengthen it and make it more confusing and time-consuming for potential applicants. The Biden administration has made it a priority to repair our "long-broken" immigration system.[6] Any action that creates new barriers for immigrants is clearly in contradiction with this goal.

The proposed changes to the N-400 include numerous additions, omissions, and the relocation of text. This comment focuses primarily on the changes to Part 5, Question 1 of the form, "Information About Your Residence" and Part 9, "Time Outside the United States", proposing to require ten years of information in each section, instead of the five years required in the current form.[7]

I. The proposed revisions require information beyond the scope of what is required to demonstrate eligibility for naturalization.

The statutory requirements for naturalization, as outlined in 8 United States Code section 1427 include provisions around 1) *physical presence*, the required amount of time that an applicant must have been physically present in the U.S. as a LPR prior to applying for naturalization and 2) *continuous residence*, the required period of time that an applicant must have resided continuously in the U.S. prior to applying.

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[1] See http://murray.seattle.gov/wp-content/uploads/2016/11/Executive-Order-2016-08_Welcoming-City.pdf

[2] See http://clerk.seattle.gov/~scripts/nph-brs.exe?s1=&s3=&s2=&s4=Ordinance+121063&Sect4=AND&l=200&Sect2=THESON&Sect3=PLURON&Sect5=RESNY&Sect6=HITOFF&d=RESF&p=1&u=%2F~public%2Fresny.htm&r=7&f=G

[3] See http://clerk.ci.seattle.wa.us/~scripts/nph-brs.exe?d=CBOR&s1=114436.cbn.&Sect6=HITOFF&l=20&p=1&u=/~public/cbor2.htm&r=1&f=G

[4] See http://www.seattle.gov/iandraffairs/programs-and-services/citizenship#clinics

[5] See http://www.seattle.gov/iandraffairs/programs-and-services/citizenship#NCC

[6] https://www.whitehouse.gov/priorities/

[7] If an applicant for naturalization has resided in the U.S. for less than ten years, but still meets the residency requirement for naturalization (usually 5 years after admission as an LPR) they would only be required to provide information for their actual time of residency in the U.S., not to exceed ten years prior to the date of the N-400's submission.

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Part 5, question 1, "Information About Your Residence" currently requires the applicant to provide their residential addresses for the last five years, and the proposed revision would extend that time period to ten years. The response to this question would demonstrate the applicant's required physical presence in the U.S., usually, that they have been physically presence in the U.S. for at least half of the previous five years.[8]

The response to this question may also shed light on whether the applicant meets the continuous residence requirement, which states that the applicant must have resided continuously in the U.S. after admission as an LPR for at least five years prior to filing the naturalization application.[9] If the applicant states that they resided abroad for an extended period, this may suggest that they lack the requisite period of continuous residence in the U.S.

To the extent that Part 5, Question 1 informs both the physical presence and continuous residence requirements for naturalization, providing five years of residential addresses is statutorily sufficient as per 8 United States Code section 1427. The physical residence requirement documents whether the applicant has been physically present in the U.S. for at least half of the previous five (or three) years, *not* the previous ten years. The N-400 has never required applicants to provide more than five years of address and travel information, and it has not offered any explanation as to why five years is no longer good enough.

Requiring applicants to provide more information than what is required to determine their eligibility for naturalization seems extraneous on its face as it creates unnecessary work for the applicant and likely increased work for USCIS. Additionally, USCIS has provided no rationale for increasing this burden. Requiring five more years of address history simply creates a higher barrier for would-be applicants and their legal advocates, who may be challenged to provide with confidence the exact dates and addresses of a time even further in the past.

The proposed change to Part 9, "Time Outside the United States" would pose a similar hurdle for LPRs by compelling applicants to provide information beyond what is required to demonstrate their statutory eligibility. Documenting the total amount of time the applicant has spent outside of the U.S. over the previous five years already informs whether the applicant has been physically present in the U.S. for at least half of the previous five years.

The USCIS policy manual states that applicants must "demonstrate physical presence in the United States for at least 30 months (at least 913 days) before filing the application."[10] Information about the applicant's foreign travel in the five years *prior* to the relevant five years, as would be required by the proposed revisions to the N-400, has no bearing on whether the applicant meets this requirement. Requiring the applicant to recall their exact travel dates between five and ten years in the past is a daunting task for an applicant who travels often,

[8] The physical presence requirement is only three years for applicants married to U.S. citizens.
[9] For applicants married to U.S. citizens, only three years of continuous residence is required. Applicants are also required to have resided at least three months in their current U.S. state at the time of filing their N-400 and to continue residing continuously in the U.S. up until the time of naturalization.
[10] https://www.uscis.gov/policy-manual/volume-12-part-d-chapter-4

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especially someone who may no longer be in possession of the passport used during that time. It creates uncertainty for someone who may not be sure about the exact dates and has no easy way to verify such information.

Requiring additional information that is not statutorily required creates a needless hassle for naturalization applicants and anyone who assists them with their N-400. Expanding the scope of these questions makes it more likely that the applicant would *unintentionally* provide inaccurate information, which would cause significant problems in the adjudication of their application, again, likely increasing more work for USCIS, which continues to experience an increasing backlog in the processing of over 650,000 N-400 applications.[11] As would be necessary with long-time LPRs, doubling the information required in response to Part 5, Question 1 and Part 9 of the form presumably doubles the time taken by USCIS staff and interviewing officers to verify this information. This wastes time the agency desperately needs to work through the significant backlog in naturalization adjudications.

II. The proposed revisions are in conflict with the stated values and priorities of the Biden Administration.

The Biden Administration has made a clear commitment to fixing the immigration system and undoing many of the harms perpetuated by the prior administration. To formalize such intent, President Biden issued an Executive Order on February 2, 2021 which states the following:

> *Our Nation is enriched socially and economically by the presence of immigrants, and we celebrate with them as they take the important step of becoming United States citizens. The Federal Government should develop welcoming strategies that promote integration, inclusion, and citizenship, and it should embrace the full participation of the newest Americans in our democracy*.[12]

Specifically, the recent executive order calls on the Secretary of State, the Attorney General, and the Secretary of Homeland Security to "eliminate barriers in and otherwise improve the existing naturalization process, including by conducting a comprehensive review of that process, with particular emphasis on the N–400 application."[13] By creating additional barriers for naturalization applicants, these proposed revisions to the Form N-400 are in direct opposition to the stated aims of this order.

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[11] *Citizenship and Immigration Services Ombudsman Annual Report 2020*, June 30, 2020, page 10: "As of December 31, 2019, USCIS had 652,431 pending N-400 applications, which is 184 percent higher than the number of N-400 applications pending at the end of FY 2009." https://www.dhs.gov/sites/default/files/publications/20_0630_cisomb-2020-annual-report-to-congress.pdf

[12] *Executive Order on Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans*, February 2, 2021, found at https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/02/executive-order-restoring-faith-in-our-legal-immigration-systems-and-strengthening-integration-and-inclusion-efforts-for-new-americans/

[13] Id.

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If the Biden administration wants the government to "develop welcoming strategies" and "promote integration, inclusion, and citizenship" for those applying for citizenship, it should not make the process any more challenging that it already is. Revising the N-400 to require information *that has no bearing* on the actual requirements for naturalization does a disservice to individuals striving to be those "newest Americans" and blatantly contradicts the administration's stated values and priorities.

III. Conclusion

The current administration has made clear its intention to improve the naturalization process and reduce the barriers to eligible LPRs who want to apply for U.S. citizenship. The proposed changes to the Form N-400 are in direct contradiction to this stated goal. The proposed changes do not improve the application form nor the naturalization process, but instead make it more burdensome for applicants, legal practitioners, and USCIS itself, which additionally undermines the administration's aim of reducing the naturalization backlog.

OIRA agrees that the current Form N-400 does feature many outdated and burdensome requirements. However, USCIS should thoughtfully review and revise these issues through an open and collaborative process informed by the actual, lived experiences of both applicants and legal advocates. The introduction of these proposed changes just days before the start of the new administration, the burdensome nature of the proposed revisions, and their direct contradiction with the stated aims of the Biden White House demonstrate that these form changes have been proposed in a manner that is *not* thoughtful, open, or collaborative. Such changes should therefore be abandoned until a careful revision process can be initiated.

The Seattle Office of Immigrant and Refugee Affairs is in complete opposition to the proposed revisions to the N-400, and urges USCIS to rescind it immediately.

Sincerely,

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