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February 12, 2013

Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Policy and Strategy
Chief, Regulatory Coordination Division
20 Massachusetts Avenue, NW
Washington, DC 20529-2140

Submitted via www.Regulations.gov
Docket ID: USCIS-2005-0035

**Re: 60-Day Notice of Revision of a Currently Approved
Collection: Form I-765, Application for Employment
Authorization (OMBControl No. 1615-0040)
77 Fed. Reg. 74687 (Dec. 17, 2012)**

Dear Sir or Madam:

The American Immigration Lawyers Association (AILA) submits the following comments in response to the Department of Homeland Security's (DHS) Notice of Revision of a Currently Approved Collection: Form I-765, Application for Employment Authorization, published in the Federal Register on December 17, 2012.

AILA is a voluntary bar association of more than 12,000 attorneys and law professors practicing, researching and teaching in the field of immigration and nationality law. The organization has been in existence since 1946. Our mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, U.S. lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. We appreciate the opportunity to comment on the proposed revisions to Form I-765.

Proposed Changes to Form I-765

The proposed changes to Form I-765, though relatively minor, provide additional clarity to the requested information and will assist applicants in accurately completing the form. We note, however, that the parenthetical examples provided in question 14 were modified from "(Visitor, Student, etc.)" to "(B2, F1, J1, No lawful status, etc.)" Because many pro se applicants might not be familiar with the alphanumeric visa categories, we suggest that these examples be modified

to provide additional context, as follows: “(B-2 Visitor, F-1 Student, J-1 Exchange Visitor, No Lawful Status, etc.).”

Proposed Changes to Form I-765WS, Worksheet

The proposed changes to the Form I-765WS provide additional clarity to individuals applying for work authorization who must demonstrate economic need. We suggest that the introductory paragraph on Form I-765WS be modified slightly to mirror the wording of the questions in “**Part 2. Financial Information**” as follows (additional proposed text in **bold**):

*“... In the spaces provided, please indicate your **annual** income, your **annual** expenses, and the total **current** value of your assets....”*

Proposed Changes to Form I-765 Instructions

Who May File Form I-765?

Page 5: 8.E. Deferred Action—(c)(14) and 8.F. Consideration of Deferred Action for Childhood Arrivals—(c)(33): For the same reasons described above, the third sentence under “Deferred Action,” the second sentence under subparagraph (1)(a) under “Consideration of Deferred Action for Childhood Arrivals,” and the third sentence under paragraph (2) under “Consideration of Deferred Action for Childhood Arrivals,” should be revised to read:

*“ ... USCIS will consider whether you have an economic need to work by reviewing your **annual** income, **your annual** expenses, and the total **current** value of your assets....”*

In addition, the last sentence under subparagraph (1)(a) under “Consideration of Deferred Action for Childhood Arrivals” which reads:

“You do not need to include other household member’s financial information to establish your own economic necessity”

should also be included in the directions under paragraph 8.E, “Deferred Action.”

How to Fill Out Form I-765

The revised instructions state that if an item is “not applicable” or the answer is “none,” the applicant should leave the space blank. While we note that USCIS has included this language in many of its recently published form revisions, most forms have historically instructed applicants to “[s]tate that an item is not applicable with ‘N/A’” and that if the “answer is none, write ‘None.’” Further, it should be noted that the proposed revisions to

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the Form N-400, Application for Naturalization, published in the Federal Register on December 20, 2012,¹ retain the instructions concerning the use of “N/A” or “None.”

Requiring or encouraging applicants to complete the form using “N/A” or “None” will ensure that the applicant has read and answered each and every question on the form and will help avoid unnecessary Requests for Evidence. Therefore, we urge USCIS to amend the new instructions accordingly. At a minimum, however, the instructions should be consistent from form to form.

Thank you for the opportunity to comment on the proposed revisions to Form I-765.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION

¹ 77 Fed. Reg. 75440 (Dec. 20, 2012).