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Via Federal eRulemaking Portal and U.S. Mail

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2707 Martin Luther King, Jr. Ave. SE
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Joseph B. Edlow
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Re: Objection to DHS and USCIS’s “Agency Information Collection Activities; Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired: Alien Change of Address” [OMB Control Number 1615-0007; Docket ID USCIS-2008-0018]

Dear Secretary Mullin and Director Edlow,

We, the Attorneys General for the States of New York and California, the District of Columbia, the States of Arizona, Colorado, Connecticut, Delaware, Hawai‘i, Illinois, Maine, Maryland, Michigan, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, Washington, and the Commonwealths of Massachusetts and Virginia (the “States”), write to object to the Agency Information Collection concerning the Alien Change of Address form (Form AR-11) [OMB Control Number 1615-0007; Docket ID USCIS-2008-0018] (the

“Notice,” the “proposed change,” or the “proposed Information Collection”) proposed by the U.S. Department of Homeland Security (“DHS”) and U.S. Citizenship and Immigration Services (“USCIS”). The proposed Information Collection was published in the Federal Register on May 7, 2026.¹

The proposed changes would transform a straightforward, limited administrative form serving recordkeeping and notification purposes into an onerous and expansive information collection from which significant consequences could flow for those subject to the address-change notification requirement (“form respondents”) and their communities. Currently, the Form AR-11 is a one-page form that noncitizen form respondents must fill out within ten days of a change of address to apprise DHS of their new location. 8 U.S.C. § 1305(a); 8 C.F.R. § 265.1. This requirement is longstanding. And it is practical, ensuring that the agency knows where noncitizens live and is able to contact them as needed. Form AR-11 is generally regarded as a straightforward form that noncitizens can fill out on their own (without assistance from an immigration practitioner), and from which no material immigration consequences should flow as long as it is completed accurately. The proposed changes to Form AR-11, however, would transform the form and are an overreach.

The Notice indicates that Form AR-11 would newly include two sections: Part 5, which requires “employment and education information,” and Part 6, which requires detailed information on the receipt of means-tested public benefits. The stated purposes for this information collection are vague: the enforcement of immigration laws, including the public charge ground for deportation, and the enforcement of the Personal Responsibility & Work

¹ 91 Fed. Reg. 24910 (May 7, 2026).

Opportunity Reconciliation Act (“PRWORA”), 42 U.S.C. § 601 *et seq.*, a statute in which DHS has no enforcement role.

The proposed changes should be rejected for multiple reasons. DHS’s changes to AR-11 amount to a substantive regulation, but DHS is planning to adopt these changes without complying with the notice and comment process required by the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 551–559, 701–706. Moreover, DHS is not authorized by statute to collect the information in proposed Parts 5 and 6 through Form AR-11. Additionally, the information that Parts 5 and 6 would seek to require is impermissibly overbroad and burdensome, and cannot be squared with the purposes for which DHS claims the information is sought. In addition to the fact that the Information Collection is not statutorily authorized, it is logically divorced from its stated purpose. Requiring extensive reporting solely from those who have moved is entirely arbitrary. Ultimately, if the proposed Form AR-11 form is adopted, it will have harmful consequences for the States and our residents—including both noncitizens and their U.S.-citizen family members.

For all of the reasons discussed herein, the Notice should be withdrawn, and the AR-11 change of address form should remain unchanged.

I. The agency has not followed all required procedures.

In adding substantive requirements to Form AR-11, DHS must comply with the rulemaking procedures of the APA. *See* 5 U.S.C. § 553. As explained below, 8 U.S.C. § 1305(a) provides that noncitizen registrants must notify the federal government “in writing of each change of address” after moving. That statute also provides that, to the extent DHS requests “additional information” from foreign national registrants, it must do so “by regulation.” *Id.* A “regulation”—more commonly referred to as a “legislative rule,” *see Am. Hosp. Ass’n v. Bowen*, 834 F.2d 1037, 1045 (D.C. Cir. 1987)—is a substantive, policy-changing instrument that is

subject to 5 U.S.C. § 553’s notice and comment process. *See Mendoza v. Perez*, 754 F.3d 1002, 1024 (D.C. Cir. 2014); *see also, e.g.*, 47 Fed. Reg. 44233, 44233–34 (1982) (amending 8 C.F.R. § 265.1 after notice-and-comment rulemaking).

However, in adding new requirements to Form AR-11, DHS is relying solely on the notice process of the Paperwork Reduction Act (“PRA”), 44 U.S.C. § 3501, *et seq.*, not the APA. *See* 91 Fed. Reg. 24910, 24910 (May 7, 2026). A PRA notice cannot substitute for APA rulemaking where, as here, the proposed requirements “embod[y] substantive policy decision making entrusted to an[] agency” other than the Office of Management and Budget. *United Steelmakers of Am. v. Pendergrass*, 855 F.2d 108, 112 (3d Cir. 1988). And using the PRA to circumvent the APA here is particularly inappropriate given that DHS’s proposal has the potential to impact legal rights; foreign nationals who fail to “give written notice to the Attorney General, as required by” 8 U.S.C. § 1305 risk fines, imprisonment, and removal. 8 U.S.C. § 1306(b).

DHS’s decision not to follow notice and comment rulemaking under the APA will deprive DHS of valuable public input that would help the agency to evaluate all significant impacts of its proposal. In the Notice, DHS has sought comment only on four paperwork-related issues,² without requesting information on the more fundamental concerns about the breadth of DHS’s policy change or its broader impacts on individuals or States. And the agency’s decision to skip over the APA’s requirements is all the more concerning given that the DHS Secretary apparently already “has decided to exercise his statutory authority” to require the additional information from foreign nationals. 91 Fed. Reg. at 24910. Following the more comprehensive procedures set forth in Section 553 of the APA would enable the public to comment on all significant aspects of

² *See* 91 Fed. Reg. at 24910 (seeking comment on only “one or more of . . . four points,” namely: “whether the proposed collection . . . is necessary for the proper performance of the functions of the agency . . .”; “the accuracy of the agency’s estimate of the burden of the proposed collection”; the “quality, utility, and clarity of the information to be collected”; and “the burden of the collection of information on those who are able to respond”).

any changes to 8 U.S.C. § 1305(a)'s implementing regulation, 8 C.F.R. § 265.1, consistent with Congress's mandate that the government proceed only "by regulation."

II. The proposed information collection is improper and beyond DHS's authority to require.

A. 8 U.S.C. § 1357 does not authorize DHS to compel responses to the expansive information collection it proposes.

DHS cites 8 U.S.C. § 1357 as its authority to revise Form AR-11 to include education/employment (Part 5) and means-tested public benefits (Part 6) information, but Section 1357 on its own does not dictate what information is relevant for the agency to collect, and that statutory provision does not provide the agency with authority to compel responses to these new requests. Section 1357(a) establishes the authority of immigration officers and other DHS employees, where authorized by regulation, to engage in certain enforcement actions—such as to effectuate an arrest or to board vessels or other conveyance within a reasonable distance of the border—without a warrant. While subdivision (a)(1) provides DHS employees with the authority to question noncitizens, it does not provide DHS with the authority to compel responses to those questions, let alone to do so under the threat of criminal penalty imposed by a separate section of the Immigration and Nationality Act ("INA") governing registration requirements.

Section 1357(b) similarly does not provide DHS with this authority. This subdivision solely addresses the ability of DHS employees to receive and consider evidence, granting designated immigration officers with the "power and authority to administer oaths and to take and consider evidence concerning the privilege of any person to enter, reenter, pass through, or reside in the United States, or concerning any matter which is material or relevant to the enforcement of [the INA]." 8 U.S.C. § 1357(b). But Section 1357(b) does not dictate what

evidence or information is material or relevant, and as addressed below, the information sought through the new AR-11 is not authorized by the statute that dictates that process, 8 U.S.C. § 1305.

Additionally, Section 1357 does not contain a mechanism for DHS to compel responses to these requests. Notably, 8 U.S.C. § 1225(d)(3), which contains similar language empowering immigration officers to administer oaths and to “take and consider” evidence from noncitizens seeking admission to the United States, is followed by a subsection that addresses subpoena power for the agency. *See id.* at § 1225(d)(4). But Section 1357(b) provides officers with no analogous subpoena power, or other authority to compel responses. When “Congress includes particular language in one section of a statute but omits it from a neighbor,” courts “normally understand that difference in language to convey a difference in meaning.” *Bittner v. United States*, 598 U.S. 85, 94, 143 (2023).

Finally, no other provision of Section 1357 even comes close to suggesting authority for the proposed Information Collection. *See* 8 U.S.C. § 1357(c) (providing limited warrantless search authority); *id.* § 1357(d) (addressing the issuance of detainers for noncitizens arrested for violation of controlled substance laws); *id.* § 1357(e) (restricting warrantless entry in the case of outdoor agricultural operations); *id.* § 1357(f) (authorizing the fingerprinting and photographing of noncitizens in removal proceedings); *id.* § 1357(g) (authorizing voluntary agreements to allow state or local officers to engage in certain immigration enforcement functions).

B. 8 U.S.C. § 1305(a) does not authorize the proposed information collection.

As noted, 8 U.S.C. § 1305(a) requires that noncitizens who are subject to the INA’s registration requirement notify the federal government of address changes. However, this provision does not support the proposed Information Collection either.

Section 1305(a) is limited on its face to notifications of “change of address.” The only potential argument for broader collection is the direction that noncitizens provide, along with change of address notices, “such additional information as the [Secretary] may require by regulation.” But DHS could not rely on this provision if it had asserted it (which it has not) for two reasons: first, such a regulation would exceed the authority of the statute, and second, the agency has not even attempted the process of promulgating such a regulation, as discussed above. *See supra* pp.2–3.

The proposed Information Collection exceeds the scope of the authority provided under Section 1305(a) because, among other infirmities, the information sought in the proposed Form AR-11 has no rational connection to the address information governed by it. The general term “such additional information” follows the specific item “change of address,” and according to ordinary canons of statutory interpretation, the subsequent, more general term must be limited to information similar to that specific term, *i.e.*, address information. *See Wash. State Dep’t of Soc. & Health Servs. v. Guardianship Est. of Keffeler*, 537 U.S. 371, 384 (2003) (when “general words follow specific words in a statutory enumeration, the general words are construed to embrace only objects similar in nature to those enumerated by the preceding specific words” (citing *Circuit City Stores, Inc. v. Adams*, 532 U.S. 105, 114–15 (2001))). Although DHS may have the authority to collect “additional information” that is related to the registrant’s address change, for example updated contact information that would assist in locating a registrant such as telephone number or email address, the information in Parts 5 and 6 of the proposed Form AR-11 goes far beyond that to include education and employment information, and a detailed, complete history of the form respondent’s public benefits use. This information is so dissimilar to the type of information governed by Section 1305(a) that it has no rational connection to the statute, and

DHS lacks the authority to request it under this provision. The Notice contains no argument, for instance, that the addition of either Part 5 or Part 6 would in any way improve the agency's ability to remain informed regarding form respondents' address changes. And as noted, even if it did, Congress made perfectly clear that, if the Secretary wants additional information, he must first promulgate a regulation. *See supra* pp. 2–3. DHS's failure to do so renders its information collection unlawful, even if the substance were not so far removed from the purpose of Section 1305(a). The agency may not seek to effectively rewrite the statute simply because it wants to expand the statute's scope.

In addition to exceeding the authority provided by Section 1305(a), DHS's proposal risks undermining the purpose of that section to locate registrants by discouraging responses. Some form respondents may be hesitant to update their address changes for fear of accidentally providing inaccurate information or disclosing information that they fear could impact their immigration status. This fear is well warranted, as an immigrant who cannot complete this form due to fear or confusion could face dire consequences, including missing a referral notice to the Executive Office for Immigration Review ("EOIR").

The simplicity of Form AR-11, in its current state, facilitates compliance. At the same time, it provides sufficient information to enable DHS to keep track of address changes of admitted individuals. For DHS, efficient compliance with Form AR-11 in its current state ensures DHS receives updated information as to an immigrant's address for important functions (for example, notice of appointments and citizenship swearing in ceremonies). The proposal will discourage responses, compromising the efficacy of this long-standing information collection form.

III. The proposed information collection is overbroad in multiple respects and imposes burdens that cannot be justified by its asserted purpose.

The scope of information required by the proposed additions to the Form AR-11 is overbroad in terms of the information newly required by Parts 5 and 6, and in terms of the respondent group who would be required to complete those burdensome sections. This overbreadth is arbitrary and contravenes the Paperwork Reduction Act’s stated goal of “minimiz[ing] the paperwork burden for individuals, . . . State, local and tribal governments, and other persons resulting from the collection of information by or for the Federal Government,” 44 U.S.C. § 3501.

As a threshold matter, while the Notice specifically provides the public charge ground for *deportability* as a basis for the Information Collection, there is nothing that would limit DHS from also using this information for the public charge ground of *inadmissibility*, a completely separate provision not mentioned in the Notice. While the only public charge ground that the Notice specifically provides as a basis for the information collection is the ground for deportability, *see* 8 U.S.C. § 1227(a)(5), the Notice contains no indication that DHS will limit its use of information from Parts 5 (education/employment information) and 6 (public benefits information) in any way. This point is particularly concerning as DHS has proposed to rescind regulations regarding the public charge ground of inadmissibility.³ Even though the agency already has access to noncitizens’ means-tested public benefits information at other, more appropriate junctures, *see infra* IV.A, because the agency now proposes to additionally collect means-tested benefits information through the routine Form AR-11 change of address, it is

³ *See Public Charge Ground of Inadmissibility*, 90 Fed. Reg. 52168 (Nov. 19, 2025).

foreseeable that the agency plans to use this information in public charge inadmissibility determinations as well.

Public charge determinations could be relevant to noncitizens either as a potential ground for inadmissibility, 8 U.S.C. § 1182(a)(4), or as a potential ground for deportability, *id.* at § 1227(a)(5). Whether a noncitizen is subject to either of these grounds turns, generally, on whether that person is seeking admission to the United States, or has already been admitted. Generally, to have been “admitted,” a noncitizen needs to have entered at a port of entry, been subject to inspection, and presented a visa to border officials. *Id.* at § 1101(a)(13). Examples of these noncitizens may be those with student or tourist visas, who are permitted to enter for a given purpose and time period and for whom *admissibility* determinations are made through consular processing and/or at ports of entry. Another example of a noncitizen whose *admissibility* is under consideration by DHS may be a noncitizen seeking an adjustment of status to become a lawful permanent resident (a “LPR,” or “green card holder”). By contrast, noncitizens who may be subject to *deportability* are those who have already been admitted, and include most LPRs. *See id.* at § 1101(a)(13)(C).

The information required in Part 6 of the draft Form AR-11 regarding means-tested public benefits could have implications for both groups of noncitizens—those who will seek to be admitted (and could be subject to inadmissibility) and those who have been admitted (and could be subject to deportability). And irrespective of which public charge determination the newly included information in the draft Form AR-11 is used for, the requirement to provide this information is overbroad in multiple respects.

First, with respect to either type of public charge determination, the list of means-tested benefits contained in Part 6 of the draft Form AR-11 dropdown menu is broader than those

benefits that can be properly considered in a public charge determination—and even includes benefits *excluded* from consideration for certain public charge determinations. Except in very limited circumstances, the mere fact of benefits use is insufficient to render a person either inadmissible, *New York v. DHS*, 969 F.3d 42, 74 (2d Cir. 2020), or deportable on public charge grounds, *Matter of B*, 3 I&N Dec. 323, 327–28 (AG 1948). Moreover, the regulations and guidance concerning public charge direct immigration officials to consider whether a person is, or is likely to become, “primarily dependent” on the government for “subsistence,” as could be demonstrated by receipt of cash assistance for income maintenance or long-term institutionalization. *See* 8 C.F.R. § 212.21(a) (inadmissibility); *Field Guidance on Deportability and Inadmissibility on Public Charge Grounds*, 64 Fed. Reg. 28689 (May 26, 1999) (deportability).⁴

These operative documents specify which benefits may be considered as “cash assistance for income maintenance” in public charge determinations, and which may not be. In the public charge ground of inadmissibility context, the regulations specify that “[p]ublic cash assistance for income maintenance means” Supplemental Security Income (“SSI”), Temporary Assistance for Needy Families (“TANF”), or other “cash benefit programs for income maintenance.” 8 C.F.R. § 212.21(b). The regulations also state that “DHS will not consider [a noncitizen’s] receipt of” SNAP, CHIP (Children’s Health Insurance Program), Medicaid (other than for long-term institutionalization), housing benefits, or other non-cash public benefits in public charge inadmissibility determinations. *Id.* § 212.22(a)(3). Similarly, in the deportation context, the 1999 Field Guidance lists which benefits may be considered to be “cash assistance”: SSI, TANF, or

⁴ While DHS is seeking to rescind the regulations in place as to public charge ground of inadmissibility, they remain in place currently. Furthermore, the pending notice of proposed rulemaking regarding the public charge ground of inadmissibility specifically notes that “this NPRM does not propose to interpret or change DHS’s application of the public charge ground of deportability at Section 237(a)(5) of the INA, 8 U.S.C. 1227(a)(5).” 91 Fed. Reg. at 52180.

other “cash benefit programs for income maintenance.” The 1999 Field Guidance also provides Medicaid, CHIP, WIC, and “housing benefits” as examples of benefits that “should *not* be considered for public charge purposes.” 64 Fed. Reg. at 28693 (emphasis in original). In spite of these clear directives, however, Part 6 of the draft Form AR-11 would require form respondents to provide information about benefits *specifically excluded* from public charge determinations, including SNAP, Medicaid, CHIP, WIC, Section 8 Housing Assistance and Project-Based Rental Assistance. See Draft USCIS Form AR-11, OMB No. 1615-0007, Part 6, items 1.a-1.k, *et seq.* Nothing in the DHS Notice provides any argument as to how information regarding benefits excluded from public charge determinations is relevant to the agency or its statutory mandate.

Second, even as to those means-tested benefits that may be relevant to a public charge determination, the proposed AR-11 is unduly burdensome because it seeks more detailed benefits information than is relevant to such determination.⁵ Apart from collecting information on benefits that do not factor into a public charge determination, the draft Form AR-11 is overbroad because it seeks a level of detail about benefits (both relevant and irrelevant benefits) that is not required. For example, the draft Form AR-11 seeks benefit account numbers, monthly and yearly dollar amounts for benefits, as well as frequency of payments. Items like benefit account numbers and payment frequency are immaterial to public charge determinations, having no bearing on whether a person may be primarily dependent on cash assistance for income maintenance. Moreover, this information is not readily available to immigrants, especially if English is their second language. Cataloging benefit account numbers, start dates, and amounts

⁵ The education and employment information required in Part 5 of the draft Form AR-11 is similarly overbroad and without apparent basis. While a noncitizen’s schooling or employment information may be relevant to a decision about their admissibility depending on the type of visa applied for, that information would already have been provided to DHS (or, in consular processing, to DHS and to the Department of State) in a noncitizen’s visa application, and is unrelated to a noncitizen’s change of address.

is not information a person would typically retain in the ordinary course, and could require contacting multiple federal and state agencies for confirmation and clarification. Additionally, amounts of benefits may change over time, lending further complication to the individual's ability to respond. Tellingly, this level of detail on means-tested public benefits is not even required by Form I-485, which must be filled out by noncitizens applying for adjustment of status. *See infra* Part IV.A. It is nonsensical for a routine change of address form to require *more* detail on public benefits receipt than the form that initiates a noncitizen's application to become a lawful permanent resident of this country.

The draft Form AR-11 collects unnecessarily detailed benefits information with no apparent basis and places a substantial time burden on respondents. As an example, requesting both monthly and yearly dollar amounts is duplicative—and, in many cases, may be confusing for form respondents. The inclusion of these superfluous details is consequential: the Notice's estimate of only thirty minutes as the expected time cost for the new Form AR-11 is simply not realistic.⁶ Accurately filling out a form with this level of detail (including many that are irrelevant), particularly when the consequences for an unintentional error could be as grave as deportation, will foreseeably be more than a full day of work when considering finding an attorney, tracking down old addresses, verifying benefit account numbers and similar hyper-detailed requirements unlikely to require less than an hour. In contrast, noncitizens can now fill out the current Form AR-11 on their own, without need for consultation or attorney review, in fewer than twenty minutes, thereby providing USCIS with required information and satisfying

⁶ By contrast, DHS estimated in a different Notice that the time burden for a simple customer service survey, which is considerably less detailed and with none of the same legal consequences for respondents, would take fifteen minutes—*half* the time that it estimates the new AR-11 form would take. *See* Agency Information Collection Activities: Extension, Without Change, of a Currently Approved Collection: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery, 91 Fed. Reg. 35535 (Jun. 11, 2026).

the requirements of 8 U.S.C. 1305. For those who received benefits many years ago or who for a brief period received multiple supports, the process of completing the expanded form will take even longer.

Third, the draft form is not clear as to which noncitizen respondents are actually required to fill out new Parts 5 and 6 of Form AR-11. The only instruction indicating which form respondents are required to fill out the education/employment and public benefits sections of the updated draft Form AR-11 is a single checkbox asking whether that respondent is “an alien updating my address as required under INA 265.” If the box is checked, the form respondent is required to complete all parts of the form. *See* Draft USCIS Form AR-11, OMB No. 1615-0007. But whether a noncitizen is required under INA 265 to fill out Form AR-11 is not a straightforward determination. Understanding who all is encompassed in this provision of the immigration code requires an understanding of complex immigration laws, and is therefore unlikely to be a determination that most respondent noncitizens can make without the judgment of a legal professional.⁷ Given the serious consequences that an accidentally incomplete form could potentially subject a noncitizen to—including deportation, *see* INA § 237(a)(3)—the imprecision of the form as to which form respondents are required to fill out Parts 5 and 6 is unreasonable.

Fourth, and related, the draft Form AR-11 contains no exclusion from the information requirements of Part 6 for noncitizens who are entirely exempt from the public charge ground of inadmissibility, including those seeking admission based on various enumerated types of humanitarian relief. *See, e.g.*, 8 C.F.R. § 212.23. Information concerning the use of benefits by

⁷ Rhea Jha, *DHS proposal would greatly expand information collected from immigrants*, <https://perma.cc/4AY4-99FD> (May 12, 2026).

those classes of noncitizens is irrelevant to DHS and, accordingly, the burden of collecting the information cannot be justified. DHS' draft proposed information collection fails to mention, let alone account for, that population. The draft form contains no exception whereby those noncitizens seeking admission, and to whom one or more of the exemptions apply, can leave Part 6 regarding benefits blank. As an example, a noncitizen refugee who has previously lawfully accessed SNAP benefits and then applies for admission as a lawful permanent resident, would need to provide detailed SNAP information to DHS in the draft Form AR-11—even though this information is irrelevant to any determination that DHS could lawfully make about this noncitizen. The draft Form AR-11, in these and other regards, is not appropriately tailored to ensure that form respondents who are exempt by regulation from public charge determinations do not have to provide this information.

The overbreadth of the new sections of the Form AR-11 transforms a relatively simple change of address form, which may have been something a noncitizen could fill out on their own and within ten days of an address change, into a substantive document imbued with potentially serious immigration consequences for form respondents, and requiring a legal assessment of one's reporting and registration responsibilities to the federal government.

IV. The stated purposes for the information collection are impermissible.

The stated purposes for the information collection are also impermissible. The notice identifies three purposes for the collection: (1) to enforce the immigration laws of the United States, including the public charge ground of deportation under INA Section 237(a)(5), 8 U.S.C. 1227(a)(5); (2) to identify aliens who may be receiving means-tested public benefits in violation of the restrictions on eligibility established by Congress in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193 (PRWORA), codified in 8 U.S.C. 1601, et seq.; and, (3) to coordinate with means-tested public benefits granting agencies to

better enforce those restrictions. None of those purposes is a permissible basis for the collection of the requested information under Section 1357(b).

A. The enforcement of immigration laws, including the public charge ground of deportation, does not require changes to the Form AR-11.

To the extent that DHS seeks to impose these novel reporting requirements in an effort to “enforce immigrations laws,” including as related to public charge admissibility and deportability determinations, the collection of means-tested benefits information with change of address information in the Form AR-11 is unnecessary, because this information is already collected at more appropriate junctures—that is, in conjunction with noncitizens’ applications for immigration benefits.

Determinations regarding noncitizen applicants’ potential ineligibility for admission on public charge grounds are made “at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status.” 8 U.S.C. § 1182(4)(A). The rigorous application process for both non-immigrant and immigrant visa applicants presents multiple opportunities for the government to collect the data necessary to make such a determination. For example, for non-immigrant visa applicants, such as students, certain tourists, and foreign workers, with limited exceptions, an interview with a consular officer is required. 22 C.F.R. § 41.102. Similarly, for any non-citizen “seeking an immigrant visa . . . based upon a petition filed by a relative of the alien (or in the case of a petition filed under INA 203(b) by an entity in which a relative has a significant ownership interest), shall be required to present to the consular officer an affidavit of support” 22 C.F.R. § 40.41.

As for noncitizens who have already been admitted to the United States, and who are seeking adjustment of status to become lawful permanent residents, these noncitizens must apply and provide information relevant to the public charge admissibility determination, unless

they are exempt from doing so. *See* 8 U.S.C. § 1255. In particular, applicants who must clear the public charge admissibility bar are obligated to disclose to DHS whether they “[h]ave ever received [SSI, TANF, or cash benefits for income maintenance],” and to provide “the dates of receipt and dollar amount received” of any “public cash assistance for income maintenance[.]” *See* USCIS Form I-485: Instructions for Application to Register Permanent Residence or Adjust Status, Part 9 (General Eligibility and Inadmissibility Grounds), Item Nos. 63-65.

Applicants for admission and for adjustment of status are almost always required to provide an interview to immigration officers. *See, e.g.*, 8 U.S.C. § 1202(4) (interviews for “every” applicant for nonimmigrant visa); *see also* 8 C.F.R. § 209.1(d) (interviews for adjustment of status of refugees); 8 C.F.R. § 209.2(e) (interviews for adjustment of status of asylees); and, 8 C.F.R. § 245.6 (interviews for adjustment of status applicants generally).⁸ These required interviews are part of the agency’s adjudication of applications before them, rather than an arbitrary juncture such as when a noncitizen happens to be changing addresses.

Given that noncitizens applying for admissibility and/or adjusting status are subject to strict application, reporting, and interviewing requirements that already entail sharing of detailed means-tested public benefits information at the times when DHS’s access to such information may be relevant, the additional reporting requirements of Part 6 of the draft AR-11 Form, which would occur at a juncture when benefits information is not relevant to any DHS inquiry (*i.e.*, any time a noncitizen moves residences) serve no apparent purpose other than to burden and harass respondents.

⁸ While interview waivers may be granted for certain applicants for adjustment of status, such waivers are limited at the discretion of DHS and/or the Department of State (depending on relevant context). 8 C.F.R. § 245.6 (adjustment of status); *see also* 22 C.F.R. §§ 41.102(b)–(d) (nonimmigrant visa applications).

B. The enforcement of PRWORA does not require changes to Form AR-11.

As noted above, Section 1357(b) only permits, in specified circumstances, the collection of information “concerning the privilege of any person to enter, reenter, pass through, or reside in the United States, or concerning any matter which is material or relevant to the enforcement of this chapter and the administration of the Service.” PRWORA establishes eligibility requirements for federal public benefits, *see* 8 U.S.C. §§ 1611-1615, but does not directly concern a person’s entitlement “to enter, reenter, pass through, or reside in the United States,” *id.* § 1357(b). Indeed, the receipt of means-tested public benefits in violation of PRWORA is not itself a ground for inadmissibility or removal, *see generally* 8 U.S.C. §§ 1182, 1227; and many noncitizens lawfully present in the United States are precluded from obtaining benefits under PRWORA, *see id.* § 1613 (barring “qualified aliens” from obtaining means-tested public benefits for a period of five years, following their entry into the country). Nor does the enforcement of PRWORA “concern any matter which is relevant to the enforcement of *this chapter* and the administration of the Service,” *id.* § 1357(b) (emphasis added). PRWORA is codified in a different chapter of the U.S. Code than Section 1357—Chapter 14 of Title 8, rather than Chapter 12—and its enforcement is plainly not part of “the administration of” DHS.

In addition, PRWORA contains its own detailed scheme for collecting information to ensure compliance with its requirements. That statute directs “the applicable agency” administering a federal means-tested public benefits program to review a noncitizen’s documentation to ensure eligibility at the time they reapply for benefits. 8 U.S.C. § 1631(c). It requires the Attorney General to “promulgate regulations requiring verification” of a noncitizen’s eligibility and provides that “a State that administers a program that provides a Federal public benefit shall have in effect a verification system that complies with the

regulations” within 24 months of their promulgation. *Id.* § 1642(a)-(b). And it exempts nonprofit charitable organizations from any obligation to “determine, verify, or otherwise require proof of eligibility of any applicant for such benefits.” *Id.* § 1642(d).

It is not plausible that, alongside this reticulated scheme, Congress granted DHS—which plays no role in administering PRWORA—the authority to impose a sweeping information-collection requirement to ensure compliance with the statute. Even if Section 1357 did permit DHS to collect public benefits information (which it does not), the clearly delineated information-collection requirements and exceptions in PRWORA would plainly supersede any such general authorization. *See RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 566 U.S. 639, 645 (2012) (“It is a commonplace of statutory construction that the specific governs the general.” (citation modified)).

C. The proposed collection’s data-sharing proposal is impermissible and risks running afoul of federal law.

Another stated purpose of DHS’s proposed collection is so that the public benefit information collected can be used “to coordinate with means-tested public benefits granting agencies to better enforce [PRWORA] restrictions.” 91 Fed. Reg. at 24910. But, as discussed above, Section 1357 does not permit DHS to collect information for this purpose. Moreover, data-sharing and coordination risks violating several federal privacy laws, is unnecessary, and could cause irreparable damage to the partnership between states and the federal government in administering these public benefits programs.

In addition to DHS’s lacking statutory authority to engage in proposed data-sharing, the proposal articulated in the Notice also seems designed to offer DHS an end-run around federal privacy protections, including the Privacy Act of 1974; the Social Security Act and its implementing rules, which limit the use of data collected for the purposes of Medicaid,

Medicare, and other Social Security Act programs;⁹ the Health Insurance Portability and Accountability Act (HIPAA),¹⁰ which regulates the use and disclosure of an individuals' protected health information; and the protections outlined in 42 U.S.C. § 290dd-2 and 42 C.F.R. pt. 2, which provide strong protections for the confidentiality of substance use disorder related patient records held by federally assisted programs.

Perhaps most profoundly, the proposal risks violating the Privacy Act of 1974, which was designed to “provide certain safeguards for an individual against an invasion of personal privacy,” and which bars the federal government from the unauthorized use or sharing of data on lawful permanent residents.¹¹ Core to the Privacy Act is that no agency may disclose the protected personal information of lawful permanent residents without their consent, unless it is for a specific purpose described by the Act. *See* 5 U.S.C. § 552a(b). The Privacy Act also dictates that federal agencies should maintain in their records “only such information about an individual as is relevant and necessary” to accomplish a lawful agency purpose. *Id.* at § 552a(e)(1).

The Privacy Act requires federal agencies to publish a System of Records Notice (“SORN”) in the Federal Register whenever they establish or revise a system of records that contains personally identifiable information. 5 U.S.C. § 552a(e)(4).¹² These notices must include nine specific categories of information, including: (1) the name and location of the system; (2) the categories of individuals whose records will be maintained in the system; (3) the categories of records maintained in the system; (4) any routine use of the records contained in the system, including the categories of users and the purpose of such use; (5) the agency’s policies and

⁹ 42 U.S.C. § 1306(a), 42 C.F.R. § 401.134(a).

¹⁰ Pub. L. 104-191, 110 Stat. 1936; 45 C.F.R. pts. 160, 164.

¹¹ Pub. L. No. 93-579, § 2(b), 88 Stat. 1896 (1974).

¹² “System of records” is defined as “a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some ... other identifying particular assigned to the individual.” *Id.* at (a)(5).

practices for storage, retrievability, access controls, retention, and disposal of the records; (6) the title and business address of the agency official who is responsible for the system of records; (7) procedures for individuals to confirm whether their information is included in a system of records; (8) how those individuals can contest its contents; and (9) the categories of sources of records in the system. *Id.* §§ 552a(e)(4)(A)-(I).

Here, DHS has violated the Privacy Act by failing to comply with the SORN notice requirements despite the proposed collection's applicability to lawful permanent residents. DHS's information collection establishes a new system of records because it proposes to begin collecting the employment, education, and public benefit use information of noncitizen registrants, but DHS failed to publish a SORN notice and did not include many of the required disclosures, including the name and location of the system, the specific categories of records maintained in its system—such as the specific public benefits DHS will track, or any of the other administrative policies and practices outlined in 5 U.S.C. § 552a(e)(4)(E)-(H). DHS has also violated the Privacy Act by failing to comply with the procedures outlined in 5 U.S.C. § 552a(f), which require that any agency that maintains any system of records must also promulgate rules for that system in accordance with the APA's rulemaking requirements, including providing a notice of proposed rulemaking and an opportunity for public comment, 5 U.S.C. §§ 552a(f), 553(b)–(c), and establishment of procedures for individuals to be notified whether a system contains records pertaining to them, among other protections. 5 U.S.C. § 552a(f)(1)–(5).

The Privacy Act further limits federal agencies to only collecting and maintaining personal records that are relevant and necessary to accomplishing the agency's mandate. 5 U.S.C. § 552a(e)(1). It is federal and/or state benefit-granting agencies, not DHS, that have a statutory mandate to administer public benefit programs, enforce eligibility for those benefits, and ensure

program integrity. The proposed additional data sharing is unnecessary because benefit granting agencies already have access to the SAVE system to verify immigration status for eligibility determinations, and those federal and states agencies work diligently to ensure that eligibility is correctly determined, and to identify and reduce fraud. The States remain committed to these efforts, which already often involve the use of SAVE, as well as substantial record gathering and review at the state and local level. Submissions from individuals are more likely to introduce inadvertent errors than the information collected by professionals at benefit granting agencies. Additional interference by DHS will cause irreparable damage to the partnership between the States and the federal benefits granting agencies in administering these programs, and discussed *infra*, Part V.

The States' concerns about DHS's violations of the Privacy Act are particularly relevant now, given whistleblower reports that the federal government is racing to expand its domestic surveillance capabilities with the help of the data analysis contractor Palantir.¹³ DHS must ensure it complies with the Privacy Act, including its data matching provisions,¹⁴ before using the data of protected individuals to coordinate with public benefits granting agencies to ensure compliance with PRWORA, as it proposes to do here.

¹³ See Jason Koebler, *Inside a Powerful Database ICE Uses to Identify and Deport People*, 404 Media (Apr. 9, 2025), <https://perma.cc/X6DY-PHVG> (detailing how Palantir created an ICE database that can search and filter people, including citizens, by hundreds of categories and provide real-time location data); Priscilla Alvarez, et al., *DOGE is building a master database for immigration enforcement, sources say*, CNN (Apr. 25, 2025), <https://perma.cc/8A8R-BRAT> (detailing efforts by DOGE to create a master database using Palantir software that will combine data across the federal government to locate and detain immigrants); Joseph Cox, *ICE Plans Central Database of Health, Labor, Housing Agency Data to Find Targets*, 404 Media (Apr. 19, 2025), <https://perma.cc/LYG4-JLLG> (detailing ICE's Alien Tracker tool, which will combine DOL, HHS, HUD, SSA, USCIS, and IRS data to track targets in real time).

¹⁴ 5 U.S.C. § 552a(o).

V. The revised Form AR-11 will chill participation in benefits programs and will harm States and local communities.

DHS’s proposal to use Form AR-11 to collect non-relevant information about public benefits use will deter individuals and families from obtaining critical health and support services they are entitled to, even when their receipt of benefits has no implications for immigration status. Because the laws, regulations, and policies governing which noncitizens are subject to public charge inadmissibility or deportation—and which means-tested benefits may be considered in making such determinations—are complex and often difficult for the public to understand, a significant proportion of individuals will forgo public benefits to which they are entitled, out of a fear, even if unfounded, that reporting such benefits on the new Form AR-11 could result in their deportation.¹⁵ These concerns are even more serious in light of DHS’s notice that it will use the additional information collected on Form AR-11 “to enforce” unspecified “immigration laws of the United States,” 91 Fed. Reg. at 24910, and the agency’s pending proposal to rescind public charge inadmissibility regulations, which DHS has acknowledged may lead to “public confusion or misunderstanding” and “decreased participation in public benefit programs by individuals who are not subject to the public charge ground of inadmissibility.” 90 Fed. Reg. 52618, 52207 (2025).¹⁶

The likelihood that individuals will forgo public benefits as a result of the proposed changes to Form AR-11 is worrying for our States because the harms will be felt by vulnerable

¹⁵ See, e.g., Samantha Artiga et al., *Potential “Chilling Effects” of Public Charge & Other Immigration Policies on Medicaid & CHIP Enrollment*, KFF (Dec. 2, 2025) (noting that roughly 20% of immigrant adults living in a household with a noncitizen reported that they stopped participating in a public program for food, health care, or housing assistance due to concerns about immigration implications); Hamutal Bernstein et al., *Amid Confusion Over Public Charge Rule, Immigrant Families Continued Avoiding Public Benefits in 2019*, Urban Inst. (May 18, 2020), <https://perma.cc/GZ7C-G7KJ> (reporting that more than 26% of adults in low-income immigrant families reported chilling effects with respect to public benefits access).

¹⁶ See, e.g., Arturo V. Bustamante et al., *The Public Health Consequences of the 2025 Public Charge Announcements*, JAMA Net. Open (Jan. 29, 2026) (noting that “families often protect themselves by withdrawing

families and children, including the U.S. citizen children of immigrants.¹⁷ The consequences of forgone medical care, poor nutrition, and the loss of other essential services can be disastrous for individuals, and can also impact their families and their wider communities.¹⁸ The consequences for public health will be particularly severe, as disenrollment from Medicaid and CHIP reduces revenue for local hospitals and healthcare providers while increasing uncompensated care. The result will be an increased burden on our States, which will need to invest scarce resources in improving outreach and education about State-administered benefit programs to ensure that those who qualify for critical public services are enrolled, and expend funds to support public health programs, food banks, shelters, and other services to address the increased “food insecurity, malnutrition, poverty, and homelessness” and spike in “long-run health costs” that will inevitably follow from decreased participation in formal benefits programs.¹⁹ These are serious harms for our residents and for our States. *See, e.g., Cook County v. Wolf*, 962 F.3d 208, 218 (7th Cir. 2020) (observing that DHS effort to expand public charge inadmissibility criteria “is likely to cause immigrants to forgo routine treatment, immunizations, and diagnostic testing, resulting in more costly, uncompensated emergency care and an increased risk of communicable diseases spreading to the general public” and that the resulting “costs of community health epidemics and of uncompensated care are likely to fall particularly hard on” State entities).

from essential programs” and that even a “simple announcement of a rule change, before even taking effect, [is] enough to motivate a behavioral response with immediate financial and health implications”).

¹⁷ *See* Hamutal Bernstein et al., *supra* note 15, at 2 (reporting that only 19.1% of adults in immigrant families knew that children’s enrollment in Medicaid would not be considered in parents’ public charge determinations).

¹⁸ *See, e.g.,* Samantha Artiga et al., *supra* note 15 (discussing “higher prevalence of communicable diseases” that results when individuals disenroll from health programs due to fears of deportation).

¹⁹ Leah Zallman et al., *Implications of Changing Public Charge Immigration Rules for Children Who Need Medical Care*, 173 JAMA Pediatrics Online (July 1, 2019).

Additionally, State benefits agencies will be burdened by foreseeable requests from noncitizen residents seeking detailed information regarding their benefits use and accounts. The draft Form AR-11 requires a broad set of details regarding form respondents' use of means-tested public benefits, including, for example, account numbers and precise dates related to benefits use. *See supra* at Part III. Noncitizens who may have used benefits in the distant past, or for short time periods, may understandably need to contact state agencies administering benefits for assistance in ascertaining such details, to ensure that the form is completed accurately. State agencies' time and resources will be required to respond to such inquiries. This burden will be particularly acute for State agencies given that the Form AR-11 must be submitted within just ten days of a noncitizen's address change.

These harms to States merit DHS's full consideration under APA notice and comment procedures. *See supra* pp.2-3.

VI. Conclusion

If finalized, the proposed new Form AR-11 will harm the undersigned States and our residents, and will have an impact on our States' resources. The new information collection proposed in the Notice, and effected through the draft Form AR-11, is not authorized by any of the statutory bases cited by DHS, nor is it required for any of the purposes stated by DHS in the Notice (or for any other purposes within the agency's statutory responsibilities). The change would transform a simple, routine form into an unauthorized immigration enforcement and surveillance tool while imposing an unprecedented burden on those required to complete Form AR-11. For these reasons, we strenuously object to the Notice and respectfully request the withdrawal of the proposal to change Form AR-11.

Sincerely,



Letitia James
Attorney General of New York



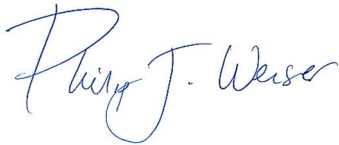
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Attorney General of California



Brian L. Schwalb
Attorney General for the District of Columbia



Kristin Mayes
Attorney General of Arizona



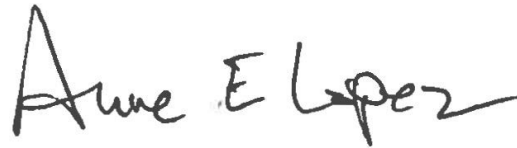
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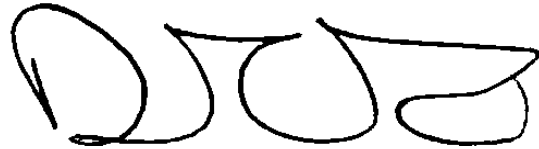
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