Before

U.S. CITIZENSHIP AND IMMIGRATION SERVICES
DEPARTMENT OF HOMELAND SECURITY

Washington, DC 20520

30-Day Notice: Agency Information Collection Activities; New Collection: Generic Clearance for the Collection of Social Media Identifier(s) on Immigration Forms (OMB Control Number 1615-NEW, Docket Number USCIS-2025-0003, FR Doc. 2025-17816)	**COMMENTS OF THE IDENTITY PROJECT (IDP) AND RESTORE THE FOURTH (RT4)**

The Identity Project (IDP)

<https://PapersPlease.org>

October 16, 2025

I. INTRODUCTION

The Identity Project (IDP) and Restore The Fourth (RT4) submit these comments in response to the "30-Day Notice: Agency Information Collection Activities; New Collection: Generic Clearance for the Collection of Social Media Identifier(s) on Immigration Forms", OMB Control Number 1615-NEW, Docket Number USCIS-2025-0003, FR Doc. 2025-17816, published at 90 *Federal Register* 44693-44694 (September 16, 2025).

The proposed collection of information does not comply with the Paperwork Reduction Act (PRA), the Privacy Act, the First and Fourth Amendments to the U.S. Constitution, or the International Covenant on Civil and Political Rights (ICCPR). The proposed vague and overbroad collection of information from permanent residents, applicants for naturalization, and other non-U.S. citizens is inappropriate as a matter of policy and contrary to U.S. national and international interests in democracy and human rights. In many cases, it would be impossible for individuals to provide the requested information or to attest under penalty of perjury to its completeness. The proposed request for information, in its proposed form, would thus function as a pretext for denial of residency or naturalization as a citizen or other adverse decisions.

The proposal for this collection of information by U.S. Citizenship and Immigration Services (USCIS) should be withdrawn. If this proposal is submitted to the Office of Management and Budget (OMB) for approval, it should be rejected as failing to meet the statutory standard of necessity for an agency purpose and as a violation of the Constitutional and human rights of individuals about whom information would be collected, including U.S. citizens who engage in protected acts of assembly and speech with non-U.S citizens.

II. ABOUT THE COMMENTERS

The Identity Project (IDP) is an independent, nonprofit project which provides advice, assistance, publicity, and legal defense to those who find their rights infringed, or their legitimate activities curtailed, by demands for identification, and builds public awareness about the effects of ID requirements on fundamental rights.

Restore The Fourth (RT4) is a not-for-profit social welfare corporation, founded in 2013, dedicated to robust enforcement of the Fourth Amendment and related due-process rights. Restore the Fourth oversees a series of local chapters whose membership includes lawyers, academics, advocates, and ordinary citizens. Restore the Fourth also files amicus briefs in major cases about Fourth Amendment or due process rights.

III. THIS INFORMATION COLLECTION IMPLICATES FREEDOM OF MOVEMENT, FREEDOM OF ASSEMBLY, FREEDOM OF SPEECH, FREEDOM OF THE PRESS, AND FREEDOM FROM UNREASONABLE SEARCHES.

Freedom of speech, freedom of the press, freedom of movement, freedom of association, and freedom of assembly ("the right of the people... peaceably to assemble") are recognized by the First Amendment to the U.S. Constitution. The right to be free from unreasonable searches and seizures is recognized by the Fourth Amendment.

The right to travel is also recognized in Article 12 (Freedom of Movement) of the International Covenant on Civil and Political Rights (ICCPR), a treaty ratified by, and binding on, the U.S. The ICCPR defines *human* rights, which by definition do not depend on citizenship.

It is a fundamental principle of statutory and Constitutional construction that, whenever possible, provisions of the Constitution and of treaties which have the same force of law should be so interpreted as to avoid inconsistency between those provisions. The only way to avoid unnecessary conflict between the provisions of the First and Fourth Amendments to the U.S. Constitution and the parallel provisions of the ICCPR is to interpret those provisions of the Bill of Rights that are restated in the ICCPR as applying to all persons regardless of citizenship.

USCIS, along with all other executive agencies, has been ordered by the President to consider human rights treaties including the ICCPR in performing its functions including rulemaking: Executive Order 13107, "Implementation of Human Rights Treaties," directs all executive departments and agencies to "maintain a current awareness of United States international human rights obligations that are relevant to their functions and... perform such functions so as to respect and implement those obligations fully."[1]

In its response to the comments on the 60-day notice of this proposed collection of information ("Social Media 60-day Public Comment Response Matrix", Document ID USCIS-2025-0003-1252, <https://downloads.regulations.gov/USCIS-2025-0003-1252/content.pdf>) USCIS noted that some commenters objected that the proposed information collection would

1. Executive Order 13107 – Implementation of Human Rights Treaties, December 10, 1998, published at 63 *Federal Register* 68991, <https://www.govinfo.gov/content/pkg/FR-1998-12-15/pdf/98-33348.pdf>.

violate other Executive Orders. But USCIS failed to mention or respond to our objection that the proposed information collection would violate EO 13107.

The U.S. has reiterated in its reports to the United Nations Human Rights Committee concerning implementation of the ICCPR that, "In the United States, the right to travel – both domestically and internationally – is constitutionally protected…. As a consequence, governmental actions affecting travel are subject to the mechanisms for heightened judicial review of constitutional questions."[2] This statement was made in the context of review of U.S. implementation of the ICCPR as a treaty respecting human rights, not rights limited by citizenship. In that context, this statement was clearly intended to indicate that protection of the right to travel in the U.S. extends to all individuals regardless of citizenship.

To the extent that responding to this proposed information collection, or providing responses that USCIS deems acceptable, is made a condition of the exercise of the right to freedom of movement, speech, or assembly, or the right to be free from unreasonable searches and arbitrary interference with privacy, it is a condition on the exercise of fundamental Constitutional and international human rights treaty rights. Such a condition requires a showing of necessity, and is subject to strict scrutiny.

The standard for assessing whether restrictions are "necessary" and consistent with the rights recognized by the ICCPR is discussed by the U.N. Human Rights Committee in its General Comment No. 27, "Freedom of movement (Article 12)":

2. Fourth Periodic Report of the United States of America to the United Nations Committee on Human Rights Concerning the International Covenant on Civil and Political Rights, Paragraph 251, December 30, 2011, <https://2009-2017.state.gov/j/drl/rls/179781.htm#art12 >.

> [L]aws authorizing the application of restrictions should use precise criteria and may not confer unfettered discretion on those charged with their execution…. [I]t is not sufficient that the restrictions serve the permissible purposes; they must also be necessary to protect them. Restrictive measures must conform to the principle of proportionality; they must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve the desired result; and they must be proportionate to the interest to be protected. The principle of proportionality has to be respected not only in the law that frames the restrictions, but also by the administrative and judicial authorities in applying the law.[3]

Article 17 of the ICCPR provides that "No one shall be subjected to arbitrary ... interference with his privacy, family, home or correspondence." Article 19 provides, "Everyone shall have the right to … seek, receive and impart information and ideas of all kinds, regardless of frontiers... through any … media of his choice." Article 21 recognizes "the right of peaceful assembly" and imposes an explicit standard of necessity for restrictions on that right.

In its analysis of comments, USCIS failed to acknowledge or respond to our comments that the proposed information collection would violate U.S. obligations pursuant to the ICCPR.

Even if U.S. accession to the ICCPR is not deemed to extend the rights recognized by the First and Fourth Amendment to all individuals regardless of citizenship, many of the individuals whose rights would be affected by this proposal, including U.S. permanent residents, are entitled to First and Fourth Amendment protection. Regarding the Fourth Amendment, the casual beliefs that the Fourth Amendment does not apply at the border or that it does not apply to non-U.S. citizens are not supported by existing Supreme Court and appeals court precedents. Just as forensic examination of a digital device at the border must be supported by reasonable suspicion of involvement in a crime (*U.S. v. Cotterman*, 2013, 9th Cir. *en banc*), so the seizure of an

3. CCPR/C/21/Rev.1/Add.9 (November 1, 1999), <https://docs.un.org/en/CCPR/C/21/Rev.1/Add.9>.

extraordinary and forensic level of detail on one's use of social media can be expected to require reasonable suspicion of involvement of the individual in a crime. Many non-U.S. citizens applying for permanent residency, adjustment of status, or naturalization will in fact be eligible for Fourth Amendment protection of their "person, papers and effects" from "unreasonable ... seizure", as a result of meeting the test of having "substantial voluntary connections" to the U.S. (*U.S. v. Verdugo-Urquidez*, 494 U.S. 259, 1990), which test includes permanent U.S. residents applying for naturalization and millions of other non-U.S. persons.

Moreover, the information proposed to be collected would include information about the speech, association, and other activities of U.S. citizens associated with non-U.S. citizens on social media. These U.S. citizens are clearly protected by the First Amendment, and the collection of this information about their protected activities is subject to strict scrutiny.

In addition to the requirements of the U.S. Constitution and the ICCPR that intrusions on freedom of speech, press, movement, assembly, and privacy be justified as “necessary”, the Paperwork Reduction Act (PRA) at 44 USC § 3508 imposes a specific requirement that, “Before approving a proposed collection of information, the Director [of OMB] shall determine whether the collection of information by the agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility.” Those criteria of necessity and practical utility are not met by the proposed collection of information.

In its analysis of comments, USCIS did not mention the standard for collection of First Amendment protected speech, and failed to acknowledge or respond to our comments that the

proposed information collection would be subject to, but would not satisfy, strict scrutiny, and that it is not "necessary" for performance of a lawful agency function as is required by the PRA.

IV. THE PROPOSED COLLECTION OF IS NOT "NECESSARY" OR OF PRACTICAL UTILITY FOR ANY PERMISSIBLE PURPOSE, IS NOT PROPORTIONAL OR THE LEAST RESTRICTIVE INSTRUMENT FOR ACCOMPLISHING ANY PROPER AGENCY FUNCTION, AND DOES NOT WITHSTAND STRICT SCRUTINY OF ITS INTRUSIONS ON RIGHTS.

USCIS plans to request OMB approval to add the following question to multiple forms: "Enter information associated with your online social media presence over the past five years", with each responsive entry to include "Provider/Platform" and "Social Media Identifier(s)".

It should go without saying that this information, in this context, is not "necessary for the proper performance of the functions" of USCIS.

USCIS and its predecessors have been processing applications for permanent residency, adjustment of status, naturalization, and the other purposes of these forms for decades since the first social media platforms – online bulletin board systems (BBSs) and USENET[4] – launched in the 1980s, without collecting this information. There is no indication in the notice of any circumstances in which not collecting this information would in any way prevent USCIS from properly performing all of the functions assigned to it by law, as it is already doing.

4. Michael Hauben and Ronda Hauben, *Netizens: On the History and Impact of Usenet and the Internet*, Wiley-IEEE Computer Society Press, 1997.

A showing of necessity for collection of this information would require a showing that this information would be relevant to and potentially dispositive of some lawful, explicitly defined criterion for USCIS decision-making. The notice makes no such showing.

No statute mentions or defines social media platforms or identifiers, much less makes them a requires criterion for USCIS decision-making or makes disclosing them a requirement.

The notice says that "This collection of information is necessary to comply with section 2 of the E.O. establishing enhanced screening and vetting standards and procedures enabling USCIS to assess an alien's eligibility to receive an immigration-related benefit from USCIS."

That an executive agency such as USCIS has been ordered by the President to carry out certain activities is an *explanation* for agency action, but it is not a *justification*. The lawful functions of USCIS are those assigned to it by statute, and the PRA requires that a collection of information be "necessary" for the proper performance of the agency's lawful functions.

Whether the proposed collection of information is "necessary to comply with" an Executive Order is irrelevant to whether it fulfills the criteria established by the PRA. The President has no authority – whether by Executive Order or otherwise – to override or alter those statutory criteria. Nor does the President have the authority to direct an agency to carry out its assigned functions in an unconstitutional manner, including in a manner which would violate U.S. treaty obligations.

The notice of this proposed collection of information fails to link it to any permissible, much less necessary, use of the requested information for a statutory purpose, and there appears to be none. As a result, we have to speculate as to the actual purpose of the proposal. The nature

of the information requested and the other information that is not requested suggests purposes contrary to the freedom of association guaranteed by the First Amendment and the ICCPR.

The proposed forms indicate that respondents will be required to list all social media platforms and identifiers they have used in the last five years, even if the content of those platforms is not public. Chat groups on the Signal or WhatsApp messaging platforms, for example, constitute, by many definitions, social media, but their membership is not public. The membership and/or content of Facebook groups, Google Groups, and other Web and/or email discussion platforms may or may not be public.

In its analysis of comments, USCIS claims that "the information that DHS may access via social media is publicly accessible and DHS may not access information that is designated as private."

This claim is entirely unsupported, and clearly false.

The association between an individual and a particular anonymous or pseudonymous social media account or posting is, by definition, not public information. In requiring individuals to disclose with which social media accounts they are associated, including anonymous or pseudonymous accounts, USCIS is demanding disclosure of non-public information.

Of course, if all of the requested information including which individuals are associated with which anonymous or pseudonymous social media accounts and postings were public, USCIS would have no need to request it from individuals or require them to provide it. USCIS is requiring individuals to list all social media accounts with which they are associated, including anonymous and pseudonymous accounts, precisely *because* this information is deliberately

private – in some cases intensely private – and because USCIS cannot obtain this information without forcing individuals to disclose this private information and make it public.

The purpose – the *only* purpose – of requiring individuals to disclose anonymous and pseudonymous social media accounts is to enable USCIS to access *private* information.

By falsely claiming that all of this information is public, USCIS entirely avoids responding to any of the comments regarding the compelled disclosure of *private* information.

Demanding information about deliberately private group discussions raises particularly severe First Amendment concerns. The only information obtained by the government by requiring disclosure of participation in private social media discussions is the fact that the individual filling out the form has participated in some discussion on a particular platform, not what was said or by whom. The only conceivable use that could be made of this information by USCIS would be if mere participation in certain group discussions is to be construed as a basis for USCIS decisions, without regard for the individual's role in the group or what they said. This would clearly be contrary to the First Amendment and the ICCPR.

What about *public* discussions on social media? If mere participation in a discussion group is not, and cannot Constitutionally be, grounds for an adverse USCIS decision, the only plausible inference is that USCIS intends to use the identifiers provided on the proposed forms to attempt to retrieve the *content* and/or identify the *other participants* in these discussions, greatly heightening the First Amendment concerns raised by the proposed collection of information.

With respect to social media content, it's important to note that none of the forms on which this information is to be collected ask individuals to list their *published* books or articles,

or the names, pen names, or pseudonyms in which they have written or published in any print or electronic media other than "social" media. The notice gives no explanation of why information about publications in other media is not requested and has not been deemed "necessary" for the functioning of USCIS, but "social media" identifiers are now being requested.

Why would USCIS consider it unnecessary to identify what someone has published, said, or broadcast, including in pseudonymous publications such as a pseudonymous blog, but consider it necessary to identify what they have said, even pseudonymously, in a social media discussion with other individuals? The obvious inference is that the goal is to collect *associational* information, not just content, and not solely or primarily about individuals completing these forms but also about third parties – many of whom are, of course, U.S. citizens.

USCIS wants information about social media, and only *social* media, because it is social. The apparent goal is to collect information about, and to base USCIS decisions on, not just what individuals say but *with whom* they associate and communicate on social media.

In its analysis of comments, USCIS does not mention or respond to any of the comments regarding the collection of associational information or its impact on First Amendment rights.

USCIS may argue that it is impossible to collect this information about non-U.S. persons without also collecting information about U.S. persons with whom they speak and associate. That may be true. But if so, that only goes to show the need for strict scrutiny of the proposed collection of information. If collecting this information about non-U.S. citizens will *inevitably* result in the collection of information about U.S. citizens – as it will - then the proposal must be assessed according to the criteria for collection of information about U.S. citizens.

This collection of information also is not "necessary for the proper performance of the functions" of USCIS. This information as to who individuals have associated with on social media has "practical utility" only for other, impermissible purposes, *viz.*:

- robotic predictive pre-crime profiling;
- suspicion generation and guilt by association; and
- pretextual denial of applications for permanent residency, naturalization, etc.

Consider why and how each of these invidious uses of the information proposed to be collected by USCIS is inevitable and is portended by the nature of this information collection:

Robotic predictive pre-crime profiling: The volume of information on social media is such as to preclude any possibility of it being read or individually assessed by human staff of USCIS. According to the notice, USCIS estimates that more than three million people a year will be required to respond to the proposed collection of information. Consider how long it would take to review a single historical Facebook timeline, much less the snowballing web of that user's friends, people who have commented on that user's page, and people on whose pages that user has commented. It simply is not plausible to imagine that USCIS has sufficient investigatory or adjudication staff to review more than a tiny fraction of even those social media postings that are in the English language. Now consider that many social media activities are carried on in other languages, many of them languages for which USCIS probably has minimal staff literate and fluent in the contemporary slang used on social media. Even for the numbers of respondents estimated by USCIS, most of this information cannot possibly be, and will never be, read by a human being at USCIS.

Either USCIS wishes to amass a data lake of currently unused personal information for possible future data mining for as-yet-undefined purposes – which would itself be unnecessary, in violation of the basic goals of the Paperwork Reduction Act, and a violation of Constitutional and international treaty privacy rights – or USCIS wants to use this fire hose of data today as grist for the mill of robotic predictive pre-crime profiling.

This is illegitimate for two reasons. First, there is no evidence that either robotic or human "pre-cogs", or any algorithmic profiling ruleset, have any actual predictive utility – regardless of the communications data or metadata they are fed. Second, the Constitution does not permit the imposition of sanctions or the denial of rights based on either algorithmic scoring or predictions of possible future criminality, but only on the basis of fact-finding about past conduct proscribed by laws or regulations.

Suspicion generation and guilt by association: Much of the information obtainable through social media identifiers would pertain to other individuals associated with those completing USCIS forms, rather than to those filling out the forms. And as discussed above, social media information appears to have been selected for collection (in preference to otherwise similar but more narrowly targeted information, such as publications in media other than social media) primarily because of their spillover into information regarding associations between individuals filling out the forms and other individuals including U.S. citizens.

This suggests that an intended use is to assign guilt by association: to place people under suspicion and further surveillance, place them on blocklists (euphemistically called "watchlists"),

or assign other sanctions or adverse consequences solely on the basis of social media associations or communications with other blocklisted or disfavored individuals or groups.

Aside from its inherent illegitimacy as collective punishment, any such snowballing scheme of suspicion generation and guilt by association will, even if the process of linking each individual to others is nominally unbiased, tend to replicate and universalize any biases (whether with respect to religion, ethnicity, national origin, gender, political views, or otherwise) in the initial blocklist of villains or initial exemplars of negative profiles with which it is seeded.

"Garbage in, garbage out," can be restated in the context of such a suspicion-generating or guilt-by-association *deus ex machina* as, "Bigotry in, bigotry out" (on an ever-growing scale).

Pretextual denial of applications for permanent residency or naturalization: As discussed further below, many people would find it impossible to provide complete answers to the questions on the proposed forms. Because the terms used on the forms are so vague (there is no statutory or regulatory or case law definition of "social media", for example, nor is it defined in the notice of the proposed collection of information or on any of the proposed forms), most answers could be interpreted by hostile or malign USCIS staff as inaccurate or incomplete. And if we follow social media network connection maps, anyone in the world is associated with any arbitrarily designated individual "axis of evil" by no more than six degrees of separation.

One way or another, almost everyone who is asked to complete one of the proposed forms will provide, either through their answers or their inability to provide them, grounds for denial of their application for permanent residence, naturalization, etc. and/or other sanctions for

incomplete answers, for "false" good-faith responses to ill-defined or undefined queries, or for being "associated" through social media (however distantly) with blocklisted individuals.

As we said in our comments on a similar proposal for collection of information about social media platforms and identifiers from visa applicants by the Department of State:

> The proposed form reminds us unpleasantly of the invidious historic "Jim Crow" use of a literacy or civics test of arbitrary difficulty, required as a condition of registering to vote and administered in a standardless manner. By making the test impossible to pass, voter registrars could use it as an arbitrary and discriminatory – but facially neutral – excuse to prevent any applicant to whom they chose to give a sufficiently difficult test from registering to vote, on the ostensible basis of their having "failed" the test.[5]

Potential applicants for permanent residency, naturalization, etc. would also be chilled in the exercise of their rights by fear that, if USCIS finds a social media platform or identifier that they had forgotten or innocently overlooked when they completed one of these forms, they might be wrongly prosecuted for perjury in addition to having their application wrongly denied.

V. THE PROPOSED COLLECTION OF INFORMATION WOULD VIOLATE THE PRIVACY ACT.

In its analysis of comments, USCIS says that, “Consistent with the requirements of the Privacy Act (5 U.S.C. § 552a(e)(7)), DHS does not maintain records ‘describing how any [citizen of the United States or alien lawfully admitted for permanent residence] exercises rights

5. Comments of the Identity Project, Center for Financial Privacy and Human Rights, Knowledge Ecology International, Center for Media and Democracy, Privacy Activism, Consumer Travel Alliance, Robert Ellis Smith, and John Gilmore, Department of State Public Notice 7345, "60–Day Notice of Proposed Information Collection: DS–5513, Biographical Questionnaire for U.S. Passport, 1405–XXXX" (April 24, 2011), available at <https://papersplease.org/wp/wp-content/uploads/2011/04/idp-passport-ds-5513-comments.pdf>.

guaranteed by the First Amendment, unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity."

This conclusionary restatement of the law and conclusionary claim that USCIS does not violate this provision of the law is unresponsive to the comments that (1) records of how individuals use social media platforms, including the names or pseudonyms they use and what they say, are records of how they exercise rights protected by the First Amendment, and (2) the proposed collection of information satisfies none of the grounds specified in the quoted statute.

USCIS fails to cite any statute that expressly mandates the collection of this information, or any law enforcement (as distinct from administrative) function to which it is pertinent.

VI. THE PROPOSED COLLECTION OF INFORMATION WOULD UNNECESSARILY AND DISPROPORTIONATELY BURDEN FREEDOM OF SPEECH, FREEDOM OF THE PRESS, AND FREEDOM OF ASSEMBLY.

The first and most fundamental privacy setting or control for a social media user (or, for that matter, for most other modes of speech and publication) is whether to write or speak in a known name, a pseudonym, or anonymously. For pseudonymous speech or writing on social media, the social media identifier is effectively the "key" needed to unlock the identity of the speaker or writer, and equivalent to the password for an encrypted message.

To require a pseudonymous social media user to disclose her handle or identifier is, in effect, to require her to change her most fundamental privacy settings and to disclose the root password protecting her exercise of her rights to freedom of speech and of the press.

As such, it is *per se* an invasion of her privacy, and the legality of such a demand should be assessed according to the standards that would apply to compelled disclosure of a password.

The burden of the proposed information collection is also relevant to whether its impact on individuals and their rights is "proportional" to any utility for a permissible purpose. We cannot overstate the significance of anonymity or pseudonymity as a potentially life-or-death matter for social media users, most especially for dissidents, victims of discrimination, and those living under the jurisdiction of repressive regimes or otherwise in fear of persecution.

Anonymous or pseudonymous speech, publication, and assembly are the only forms of dissident speech, publication, or assembly that are possible under some repressive regimes.

Activities which are protected by the First Amendment, including some which advance U.S. interests in freedom and democracy, are subject to legal sanctions in many other countries.

Capital crimes in Saudi Arabia, for example, include blasphemy against the state religion, disparagement of members of the royal family or the institution of hereditary absolute monarchy, trafficking in prohibited mind-altering substances including alcoholic beverages, and private sexual activity between consenting adults of the same gender in their home.

Saudi Arabia is a U.S. ally with which USCIS and other U.S. agencies might be expected to share information obtained through this collection of information – including information that could identity Saudi Arabian citizens or residents who have perpetrated these "crimes". As a

result, this collection of information could subject these individuals, including pro-democracy activists, to sanctions in Saudi Arabia ranging from public whipping to beheading.

Even if this compelled disclosure of information were lawful – which we believe it isn't – it would be bad public policy. The possibility of anonymous and pseudonymous discourse is an essential element of an open marketplace of ideas, and plays a particularly important role in the places where identifiable speakers and speech are subject to the greatest repression.

Anonymous and pseudonymous speech and publication have a long and honorable tradition in the U.S., going back to the anonymous authors and publishers of anti-monarchist handbills in the British colonies of North America and the pseudonymous authors of the *Federalist Papers*. Today, these works would probably be published on social media, and "Publius" – the pseudonym used by the authors of the *Federalist* – would probably be a social media identifier rather than a name printed on the title pages of a series of pamphlets.

Anonymity and pseudonymity are especially critical for social media users, whose speech can be, and sometimes is, held not only against themselves but against any or all of their social media "friends", friends-of-friends, associates, contacts, and/or commenters.

The possibility that, at some unknown future time, any individual social media user might be required to disclose her identity to the U.S. government, and have it passed on by the U.S. to unknown third parties including other governments around the world, is already exerting a profound chilling effect on the exercise of rights to freedom of speech, freedom of the press, and freedom of assembly by individuals around the world who think they might someday wish to visit the U.S., apply for permanent U.S. residence, or apply for naturalization as U.S. citizens,

and by U.S. citizens who wish to associate with them online and/or in person. In the absence of publicly-defined criteria for what speech on social media or association with which other individuals might lead to adverse decisions by USCIS, people who want to visit the U.S. and associate with U.S. persons are afraid to say anything on social media.

VII. USCIS GROSSLY UNDERESTIMATES THE DIFFICULTY OF COMPLETING THE PROPOSED FORM AND THE TIME REQUIRED TO ATTEMPT TO DO SO.

USCIS has slightly increased some of its estimates of the average time required for each respondent to obtain and provide the requested information. But the 30-day notice still provides absolutely no basis for these estimates, and we believe that they are still much too low.

Many people do not know the answers to the questions on the proposed forms.

The request for social media platforms and identifiers, without those terms being defined by statute or regulations or on the forms, is both vague and overbroad. Similar statutory mandates for persons convicted of specified sexual offenses to register with police all "social media identifiers" they use have been found to be unconstitutionally vague and overbroad.

By any definition, ordinary individuals often have used dozens of social media platforms, most of which they would be unlikely to remember without prompting.

Is a respondent expected to remember every Web site on which they have registered as a participant or commenter, what pseudonym they chose, or what auto-generated identifier they were assigned? What are the chances that they will remember or reconstruct these all correctly?

Do you remember all the news sites, blogs, and Substacks on which you registered as a commenter? Shopping sites with which you registered in order to post ratings and reviews of products? Book review and recommendation sites? Health and wellness forums on which patients pseudonymously discuss intimate medical questions? Hobby and how-to discussion sites? RateMyTeachers.com? Ancestry.com? MeetUp.com? Dating and relationship sites? Funeral home sites on which you posted memories and condolences?

An individual may have had multiple identifiers on the same website or platform, whether simultaneous (some people have different pseudonyms for different circles of associates) or sequential (some people are constantly forgetting their usernames and/or passwords, and routinely sign up for one new account after another with different IDs rather than bother to try to recover their old IDs). Many sites and platforms use an email address as an identifier. Who can remember every email address they have ever used? What if you have used one of the services that provides “one-time” email address for each use, which are particularly likely to be used by people wishing to sign up pseudonymously for bulletin boards, comment and discussion forums, and other types of social media platforms for discussion of sensitive topics?

Every website or other platform that allows users to register a username has an “I can’t remember my username” function, which is indicative of the fact that most people can’t remember all of the identifiers they have requested or have been assigned. If an individual can’t

remember or no longer has access to the email address, phone number, or other information they provided when they signed up with a site or service, they may be unable to find or recover their previous username(s). Indeed, a common reason that an individual has used multiple usernames on the same platform is that they didn't remember or couldn't access their previous account(s).

A public relations or marketing professional may have been one of the users of dozens or hundreds of social media accounts of her clients over a five-year period.

We believe that few people would be able to provide complete answers, and that USCIS continues to grossly underestimate the time that would be required to attempt to respond to the proposed collection of information, even for those respondents who are eventually able to do so.

We urge USCIS to withdraw the proposal, and we urge OMB to reject it if submitted.

Respectfully submitted,

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October 16, 2025