

EXHIBIT 12

October 31, 2019

Submitted via www.regulations.gov

Department of State, Office of Information and Regulatory Affairs, Office of Management and Budget

Department of State's Bureau of Consular Affairs, Office of Visa Services

Docket Number: DOS-2019-0039

Re: Emergency Submission Comment on Presidential Proclamation No. 9945, Requiring Immigrant Health Insurance Coverage

To Whom It May Concern,

On behalf of Latino Network, Casa of Oregon, Catholic Charities Immigration Legal Services, Causa Oregon, Centro Cultural de Washington County, Centro Latino Americano, Innovation Law Lab, the Justice and Ministry Team of the United Church of Christ's Central Pacific Conference, LatinX Alliance of Lane County, Metropolitan Public Defender's Immigrant Defense Oregon, Oregon AFL-CIO, the Rural Organizing Project, Unidos Bridging Community, VIVA Inclusive Migrant Network, and Voz Workers Rights Education Project, we write to express our opposition to the Presidential Proclamation on the Suspension of Entry of Immigrants Who Will Financially Burden the United States Healthcare System, (hereinafter, "the Proclamation"), which requires immigrant visa applicants to establish, to the satisfaction of a consular officer, that the applicant will be covered by an approved health insurance plan within 30 days of entry into the United States, unless the applicant possesses sufficient financial resources to cover reasonably foreseeable medical costs.

I. Organizational Signatories

Latino Network is a non-profit organization based in Portland, Oregon. Latino Network's organizational mission is to positively transform the lives of Latino youth, families, and communities. Latino Network works to educate and empower Multnomah County Latinos to achieve physical and mental health, safe housing, sustainable financial stability, and social support by offering a variety of programs and services, including early childhood services, community-based programs, school-based programs, arts and culture programs for youth, health and wellness programs, and civic leadership programs.

Casa of Oregon began 30 years ago to help local organizations provide housing for farmworkers and other marginalized populations in primarily rural areas. While focusing on those who are often unable to advocate for themselves, Casa positions itself as a liaison to the community with government, industry and community organizations. Casa works alongside community organizations to provide programs and resources that strengthen families' financial well-being.

Catholic Charities Immigration Legal Services is a nonprofit law program providing low-cost consultations and legal representation to immigrants and refugees throughout Oregon and southwest Washington. The organization also educates the public, immigrant communities, and the organizations who serve them to promote justice for all newcomers and support conditions for their full participation in American society. Legal Services provides representation to support family reunification and assistance to the most vulnerable immigrants and refugees, including survivors of domestic violence, sexual assault, and human trafficking.

Causa is Oregon's immigrant rights organization. Causa works to improve the lives of Latino immigrants and their families in Oregon through advocacy, coalition building, leadership development, and civic engagement. Latino immigrants and their families are the heart of Causa and inspire, implement, and champion the organization's work. Causa envisions a world where all people have the opportunities and resources needed to thrive; and a community that welcomes and values the contributions, strengths, and assets of Latino immigrants and their families.

Centro Cultural is Oregon's oldest Latino non-profit. Founded in 1972, Centro Cultural's legacy is built on community leadership and Latino heritage. Today, its mission promotes personal growth and empowerment for Washington County communities of color and low income families. Centro serves Washington County and the Portland Metro Area by offering Arts & Culture, Civic Leadership & Advocacy, Community Wellness, Prosperidad Economic Empowerment, and Youth Development services. At the heart of Centro Cultural's programming is a commitment to engage and activate the potential of our local families to achieve community resilience.

Centro Latino Americano is a bilingual, multicultural agency that serves Latino families in Lane County, Oregon. Centro Latino Americano was formed in 1972 by a group of activist Chicano students from Lane Community College and the University of Oregon to meet the needs of Mexican immigrant families in Lane County. The organization has continued to serve as the main avenue for the social and civic integration of the Latino population in Lane County. Centro Latino Americano empowers Latino families by providing opportunity and building bridges for a stronger community. Its vision is a thriving, connected community where all people are valued.

Innovation Law Lab is a nonprofit organization dedicated to upholding the rights of immigrants and refugees. Founded in 2014, in response to the mass detention and deportation of asylum-seeking immigrant families, Innovation Law Lab specializes in the creation of scalable, highly replicable, and connected sites of resistance that create paradigm shifts in immigration representation, litigation, and advocacy. By bringing technology to the fight for immigrant justice, Innovation Law Lab empowers advocates to scale their impact and provide effective representation to immigrants in detention and in hostile immigration courts across the country.

The Justice and Witness Ministry Team is a part of the Central Pacific Conference of the United Church of Christ. The team provides the focus and support for the Conference and local churches to actively participate in ministries of compassion, advocacy and reconciliation, including with our immigrant community members, and supports the Conference's goals of experiencing and sharing the varied gifts of God's love, celebrating and enhancing congregational vision and vitality, and demonstrating and promoting peace and justice.

The Latinx Alliance of Lane County is a coalition of community organizations and members, organized to coordinate efforts and better support Latinos in the Lane County area in the face of federal attacks against Latino immigrants.

Metropolitan Public Defender (MPD) has been on the cutting edge of public defense since its inception in 1971, with the goal of providing quality legal representation for people living in poverty. MPD is a 501(c)(3) non-profit law firm that provides public defense, including criminal cases from misdemeanors to capital murder, juvenile cases from delinquency to dependency, mental health cases from civil commitments to mental health courts, and specialty projects from drug courts to community court. Its Community Law Division hosts, among other projects, Immigrant Defense Oregon, which is made up of a team of immigration attorneys who defend Oregonians who have been targeted for deportation, educate our communities on deportation proceedings and ongoing changes in immigration enforcement, ensure that our immigrant neighbors understand their rights and due process protections within the U.S. immigration system, and provide advice to MPD's public defenders regarding the potential immigration consequences of a criminal conviction. MPD is committed to the shared vision of standing in solidarity and support with our immigrant communities.

The Oregon American Federation of Labor- Congress of Industrial Organizations (AFL-CIO) primarily focuses on building power for working people. Oregon AFL-CIO accomplishes this in every facet of its Federation's work, especially in its four pillar programs which are devoted to organizing new workers; electing leaders and advocating for legislation which supports working people; and engaging with communities in Oregon and with organizations outside of the labor movement.

The Rural Organizing Project (ROP) is a statewide organization of locally-based groups that work to create communities accountable to a standard of human dignity: the belief in the equal worth of all people, the need for equal access to justice and the right to self-determination. Starting in 1992, ROP's challenges to the anti-democratic right have earned ROP a national reputation for being an effective grassroots organization that takes on the hard issues. Today, ROP works with over 65 member groups to organize on issues that impact human dignity and to advance inclusive democracy. ROP's mission is to strengthen the skills, resources, and vision of primary leadership in local autonomous human dignity groups with a goal of keeping such groups a vibrant source for a just democracy.

UNIDOS Bridging Community is a diverse and welcoming nonprofit organization that advocates for Latino immigrant families and builds bridges of support and understanding among Latino and non-Latino communities in rural Yamhill County, Oregon. With many dedicated volunteers and a small and energetic staff, UNIDOS achieves its goals through education, leadership development, active collaboration, and relationships built on the respect of each other's story.

VIVA Inclusive Migrant Network is a nonprofit organization that supports Oregon migrant communities. VIVA defends migrant communities by helping them identify useful tools about their rights and ending family separation. VIVA believes that the criminalization of immigration is immoral because migration is a human right. By uniting forces and working together, VIVA seeks to make a difference for humanity. Voz Workers' Rights Education Project is the only organization in the state of Oregon working with the day laborer community. Day laborers are temporary workers, many of them immigrants, many of them homeless, many of them facing multiple barriers to long-term employment.

Voz builds leadership and economic power in this community through economic empowerment, leadership development, and grassroots organizing. Voz has almost 20 years of experience organizing day laborers in Portland and is a founding member of the National Day Laborer Organizing Network. Voz believes that sustainable and transformative social justice work must be led by the communities most affected. Voz models this philosophy by striving to be a fully worker-led organization, and by empowering Portland day laborers not just through economic opportunities, but through opportunities to become leaders in their community.

Latino Network and the other signatory organizations are all members of Oregon Ready. Oregon Ready is a coalition of immigrant rights groups from throughout the state who came together to create a stronger immigrant rights infrastructure; meshing community-based organizing, immigrant defense work, immigrant rights policy development, and public discourse. Together, these organizations strongly oppose the Proclamation and the immediate and devastating effect it will have on immigrant Oregonians.

II. The Proclamation is Unlawful

Latino Network, along with several individual plaintiffs, has recently filed a lawsuit against the Proclamation. *John Doe #1 v. Donald Trump*, No. 3:19-cv-01743-SB (D. Or.) (filed Oct. 30, 2019). For the reasons outlined in the complaint, and described in this comment, the Proclamation is unlawful and should not be implemented.

First, the Proclamation will immediately cause family separation by preventing reunification of immigrant families in Oregon, and also limit Oregon's immigrant diversity by blocking immigrants coming on other types of visas from the United States. In fact, the Proclamation applies to a significant majority of immigrants seeking to enter the United States on an immigrant visa, with very limited exceptions. Researchers estimate that close to **two-thirds** of future immigrants otherwise entitled to admission would be kept out of the country under the Proclamation.¹ Many Oregonians who have already endured years-long waits, and expensive and complex legal processes, in order to bring close relatives to the United States will be forced into prolonged, and perhaps permanent, separation under the Proclamation's rule. The Proclamation will have an especially devastating effect on low-income immigrants, who will struggle to find an affordable and qualifying healthcare plan on such short notice.

Second, even for those immigrants who can afford a healthcare plan, the requirements for obtaining a qualifying plan are vague and nearly impossible to decipher. For example, a "catastrophic" health care plan will supposedly qualify- but this term can be used to refer both to high-deductible plans generally, and to certain Affordable Care Act (ACA)-defined plans specifically. The Proclamation provides no further guidance as to which specific plans will satisfy its requirements. There is also a troubling lack of guidance on how consular officers are to interpret the Proclamation's suspension of entry of those who do not have the financial resources to pay for reasonably foreseeable medical costs." We especially fear that this standard could be manipulated to discriminate against older and disabled intending immigrants.

Moreover, the narrow range of plans available to satisfy the Proclamation's requirements are largely unavailable to the vast majority of intending immigrants, especially within the first 30 days of their arrival to the United States. Medicare, for example, is only available to persons over 65 years of age who have resided in the United States for at least five years, making it entirely inaccessible to intending immigrants. Other qualifying plans are available only to specific and narrow groups, like members of the military and their immediate family members, or the plans of family members, which are only available to spouses or to children under the age

¹ Nicole Narea, *Trump just quietly cut legal immigration by up to 65%*, VOX, <https://www.vox.com/2019/10/9/20903541/trump-proclamation-legal-immigration-health-insurance> (last visited Oct. 30, 2019).

of 27. Similarly, employer plans are only available to intending immigrants who have already secured employment, and even in that case, many employers impose a waiting period of more than 30 days post-hire before benefits are actually extended.² That leaves, in large part, only short-term limited duration insurance plans as an option. But many of these plans require U.S. citizenship or lawful permanent residence as a coverage requirement; and in almost *half* of U.S. states, these plans do not extend to the 364-day duration required by the Proclamation.³ Indeed, Oregon law limits the duration of such plans to only *three months*, including renewals.⁴

III. The Office of Management and Budget Should Not Grant Emergency Clearance for this Information Collection Request (ICR)

Finally, we strenuously object to the extremely short, and unlawful, 48-hour period provided comments. Under the Paperwork Reduction Act (PRA), Information Collection Requests (ICRs) such as this one must undergo a 60- and 30-day notice for public comment.⁵ Emergency approvals are “discouraged” and “granted only rarely,”⁶ and must meet narrow legal criteria that are not met here. According to the PRA Guide:

An agency may request emergency clearance only when it needs to begin collecting the information more quickly than the time a full clearance will require. In every case, the agency must show that: (1) The collection of information must be needed prior to the expiration of the normal time periods; and (2) The collection of information is essential to the mission of the agency. In addition to those two criteria, the agency must, in every case, demonstrate that one of the following four circumstances is present: (1) Public harm is likely if normal procedures are followed; or (2) An unanticipated event has occurred; or (3) The use of normal procedures is likely to prevent or disrupt the collection; or (4) The use of normal procedures is likely to cause a statutory or court ordered deadline to be missed.⁷

Neither of the two preliminary requirements, nor any one of the four circumstances, are present in this case. The Proclamation imposes monumental changes on our nation’s immigration laws and will cause serious harm to immigrant communities throughout the United

² See 2018 Employer Health Benefits Survey, KAISER FAMILY FUND, (Oct. 3, 2018), <https://www.kff.org/report-section/2018-employer-health-benefits-survey-section-3-employeecoverage-eligibility-and-participation/>.

³ *Is Short-term Health Insurance Right for You?*, HEALTHINSURANCE.ORG, <https://www.healthinsurance.org/short-term-health-insurance/>; Short Term Health Insurance Eligibility Information for Short Term Health Insurance, or STM, ELIGIBILITY.COM (Updated Jan. 28, 2019), <https://eligibility.com/short-term-healthinsurance>.

⁴ Or. Rev. Stat. § 743B.005(16)(b)(H).

⁵ U.S. Office of Personnel Management, Paperwork Reduction Act (PRA) Guide, Version 2.0 (April 2011) at p. 9.

⁶ *Id.*

⁷ *Id.*

States. There is no reasonable justification for such a shortened comment period, and the time allotted does not provide a meaningful opportunity for the Office of Management and Budget to review public input. Moreover, as described above, the Proclamation that the ICR seeks to implement is unlawful, making the proposed information collection “[un]necessary for the proper functions of the [State] Department” and therefore inappropriate.⁸ The emergency request should be denied.

IV. Conclusion

For the above stated reasons, Latino Network, Casa of Oregon, Catholic Charities Immigration Legal Services, Causa Oregon, Centro Cultural de Washington County, Centro Latino Americano, Innovation Law Lab, the Justice and Ministry Team of the United Church of Christ’s Central Pacific Conference, LatinX Alliance of Lane County, Metropolitan Public Defender’s Immigrant Defense Oregon, Oregon AFL-CIO, the Rural Organizing Project, Unidos Bridging Community, VIVA Inclusive Migrant Network, and Voz Workers Rights Education Project strongly oppose the Proclamation and its changes to our immigration system. All of this shows the true intent behind the Proclamation: to limit lawful immigration to the United States, and, in particular, to close the door even more forcefully on intending immigrants of color. Our nation’s immigrant visa system is governed by statute, and prioritizes immigration for the purposes of family unity, business, humanitarian reasons, and diversity. These priorities, which have been enshrined in the Immigration and Nationality Act since 1952, should not be eviscerated by an ill-considered and facially nonsensical Presidential Proclamation. If allowed to remain in place, the Proclamation will effectively eviscerate long-standing and Congressionally established avenues to lawful status in the United States. After waiting years to reunite with family members in the United States, many vulnerable and low-income immigrants will face indefinite family separation because of this cruel and illogical policy.

The Proclamation’s intended effect on the immigrant community is not unanticipated. Indeed, Latino Network and other signatory Oregon Ready members have spent significant time over the past year developing educational materials, conducting outreach, and answering community questions regarding the recently blocked public charge rule, which shares many of the same problems, and xenophobic goals, as the Proclamation. While we will continue advocacy in our local communities, we raise our voices to strenuously object to the Proclamation and its impending implementation. The integrity of our immigration system should not be undermined in this significant way.

Thank you for the opportunity to submit these comments. Please do not hesitate to contact any of the organizational representatives listed below should you have any questions about our comments or require further information.

⁸ 84 Fed. Reg. 58199.

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