



## ASYLUM SEEKER ADVOCACY PROJECT

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Submitted via [www.regulations.gov](http://www.regulations.gov)

Samantha L. Deshommes  
Chief, Regulatory Coordination Division  
Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
Washington, D.C. 20529

Re: Docket ID USCIS–2010–0008; OMB Control Number 1615–0116, Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Request for Fee Waiver

Dear Chief Deshommes,

The Asylum Seeker Advocacy Project (ASAP) respectfully submits the following comment in response to the United States Citizenship and Immigration Services (“USCIS”) request for comment on the extension, without change, of the currently approved Form I-912, Request for Fee Waiver (“Fee Waiver Form”). Department of Homeland Security, U.S. Citizenship and Immigration Services, *Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Request for Fee Waiver*, 88 Fed. Reg. 77348 (Nov. 9, 2023) (OMB Control Number 1615–0116; Docket ID USCIS–2010–0008).

### I. Summary of the Argument

ASAP respectfully requests USCIS implement the following recommendations to the Fee Waiver Form to ensure accessibility and transparency of the Fee Waiver Form for our members and others. First, USCIS should allow for e-filing of the Fee Waiver Form and its supporting evidence. Second, USCIS should make the Fee Waiver Form more accessible by shortening and simplifying the form and making it available in other languages, starting with Spanish. Third, USCIS should waive the filing fee for work permit applications of parolees, which would allow more recent arrivals to access work permits, and would be beneficial for the agency, immigrants, businesses, and state and local governments. Last, USCIS should make the Notice and Comment process more accessible to immigrants and asylum seekers, including by

translating the requests for Notice and Comment and allowing submissions in languages other than English.

## II. Interest in the Proposed Rule

The Asylum Seeker Advocacy Project (ASAP) believes that asylum seekers can make great change by standing together. We provide our membership of asylum seekers with legal and community support. ASAP's members—now over 600,000 asylum seekers—come from 175 countries and live in every U.S. state and territory.

ASAP staff have created resources and answered legal questions that have helped hundreds of thousands of asylum seekers apply for fee waivers, work permits, and immigration relief. As the largest membership organization of asylum seekers in the United States, ASAP is uniquely positioned to offer insight into the Fee Waiver Form based on member feedback. Hundreds of thousands of ASAP's members have filled out the Fee Waiver Form and thousands more will do so in the future. Thus, ASAP members – and ASAP as an organization – have a strong interest in ensuring the Fee Waiver Form is accessible, transparent, and not burdensome.

## III. USCIS Should Make the Fee Waiver Form and Supporting Evidence Available for Online Filing.

USCIS should expand their e-filing system to allow for online filing of the Fee Waiver Form. Being able to file all immigration forms online is of tremendous importance to ASAP members, and as a result is a priority for ASAP. When asked "what is one thing you would want to change about the immigration system?", many ASAP members have responded how critical it is to make the process of applying for immigration relief and work permits more efficient, including through online filing. Here are some of those responses:

"I would remove the paper-based system and make it online."

– ASAP Member from Kenya

"I would make a single portal where all the necessary information would be available, where you can submit the completed documents online."

– ASAP Member from Russia

"I would like to be able to do everything online to speed up the process."

– ASAP Member from Venezuela

ASAP recommends that USCIS make the Fee Waiver Form available for online filing, which would (a) be beneficial for both the agency and the immigrants it serves and (b) allow

more people to access the automatic work permit extension, which would allow asylum seekers to remain employed.

a. E-filing of Fee Waiver Forms Benefits Both USCIS and Immigrants.

If USCIS truly wishes to modernize their systems, it must allow the Fee Waiver Form and its supporting evidence to be filed online. ASAP commends USCIS for making the Form I-765, Application for Employment Authorization (“Work Permit Application”), and the Application for Asylum and for Withholding of Removal, Form I-589, available online. But this is not enough. Many ASAP members and other asylum seekers struggle to file a Work Permit Application online without being able to file the corresponding Fee Waiver application.

It is in the best interest of the agency to make e-filing available for every applicant who submits the Fee Waiver Form and supporting documents. E-filing allows the agency to avoid requesting and collecting duplicative information, reduces the likelihood of human error on the part of USCIS staff, and enables quicker (if not immediate) resolution of preliminary issues. All of these factors would save USCIS staff time, which is critical for an agency suffering from having limited resources and long backlogs. Additionally, allowing for online submission of the Fee Waiver Form will save the agency money by eliminating costs incurred by the agency when it has to mail back rejected applications.

Ensuring the Fee Waiver Form can be filed online will also benefit ASAP members and other immigrants who apply for a fee waiver. The requirement of mail submission creates a higher likelihood of delay and errors, as sometimes applications are lost in transit, and applicants must send more than one application before USCIS is able to adjudicate it. Additionally, requiring mail submission imposes logistical and financial burdens on the applicants. One of ASAP’s most popular resources is about how to use a U.S. post office, indicating that there is significant confusion among newly arrived immigrants about how to mail the Fee Waiver Form and other USCIS forms. Allowing e-filing of the Fee Waiver Form will help reduce delays and prevent confusion over how to use the U.S. postal service.

b. E-filing Fee Waiver Forms Will Help More Immigrants Access Automatic Work Permit Extensions.

If asylum seekers and other immigrants can apply for a fee waiver online alongside their work permit renewal application, it will make it more likely that they are able to receive an automatic work permit extension. USCIS should take this into account, as it impacts immigrants, their families, their employers, and the communities where they work.

Right now, when immigrants and asylum seekers apply for work permit renewals and need to submit a Fee Waiver Form, they must do so through paper applications. Sometimes these fee waivers are rejected, but the rejection of the fee waiver comes back after the

individual's work permit has expired. The automatic extension of work permits does not apply to individuals who applied to renew their work permits after the expiration date. An individual would then have to reapply for a work permit renewal, but because their work permit has now expired, they are no longer eligible for the automatic extension of their work permit. This causes great distress to individual applicants as well as their employers. These difficulties are significantly less likely to occur once an individual can apply for a fee waiver online because applicants will receive a much faster response about whether their fee waiver request was rejected. If their fee waiver request was rejected, they would then be able to try to reapply for a work permit online before their work permit expires.

#### IV. USCIS Should Make the Fee Waiver Form More Accessible.

The Fee Waiver Form is one of the most complex forms asylum seekers and other immigrants encounter when navigating the immigration process. When asked what is one thing they would want to change about the immigration system, many ASAP members expressed concerns about the complexity of USCIS forms and processes. ASAP members recommended that USCIS make the forms easier to complete, stating:

"Simplify the process, particularly the application. It should not be difficult for anyone to understand and complete even without legal knowledge."

– ASAP Member from Venezuela

"I would make it that much easier to understand the instructions and make it easier to understand the whole process in general."

– ASAP Member from Kenya

ASAP recommends the following changes that USCIS can make to the Fee Waiver Form to reduce the burden on applicants and adjudicators: (a) shortening the Fee Waiver Form; (b) creating a more comprehensive list of documents that can establish financial hardship; and (c) making the Fee Waiver Form, and its accompanying instructions, available in more languages.

##### a. USCIS Should Shorten the Fee Waiver Form.

USCIS should develop a shorter fee waiver request than the unwieldy eleven-page Fee Waiver Form that it currently uses. In fact, much of the information and documentation required by the Fee Waiver Form is unnecessary to determine whether an applicant is entitled to a fee waiver. As evidenced by the Executive Office for Immigration Review's (EOIR's) two-page Fee Waiver Form (EOIR-26A), there are ways to create a shorter, more accessible form for an agency to determine whether an applicant is entitled to a fee waiver.

**b. USCIS Should Create a More Comprehensive List of Documents to Submit as Proof of Financial Hardship to Accompany the Fee Waiver Form.**

USCIS does not have a sufficiently comprehensive list of commonly used (and accepted) documents that applicants can submit as proof of financial hardship. Instead, applicants are left to guess in many cases whether the documents they have submitted would be sufficient for USCIS to establish financial hardship. Furthermore, ASAP members routinely express confusion over what documents to attach to the Fee Waiver Form. It is the job of the agency to create clear guidelines and instructions, which it has failed to do as it relates to proof of financial hardship for the Fee Waiver Form.

We recommend that USCIS eliminate some of the ambiguity involved in deciding which documents should be submitted for purposes of establishing financial hardship. Specifically, USCIS should publish a longer, more comprehensive list of commonly used (and accepted) documents that constitute sufficient proof of financial hardship. For example, ASAP often advises our members that the following documents can be used to constitute proof of financial hardship: a receipt of services from a legal aid organization, a food pantry ID card, proof that a child receives a means-tested benefit, or a letter from a shelter. However, these are documents that USCIS has not included in its short list of evidence to prove financial hardship, but should consider doing so.

**c. USCIS Should Make the Fee Waiver Form and Instructions Available in More Languages and Eliminate the Requirement of Using an Interpreter for non-English Speakers.**

Currently, USCIS only issues and accepts its forms in English, and it requires applicants to provide certified translations of any non-English supporting documents. Although most pages on USCIS's website are available in Spanish, the Fee Waiver Form and instructions for the Fee Waiver Form are exclusively provided in English. USCIS does not offer any translations of the Fee Waiver Form, even for purely illustrative purposes. In contrast, the IRS provides its forms and instructions and accepts forms in Spanish. Moreover, taxpayers who interact with the IRS can access over-the-phone interpreter services in over 350 languages. USCIS can and should do better.

USCIS's failure to offer the Fee Waiver Form in languages other than English impedes access to a fee waiver for many ASAP members. In order to eliminate these barriers, the agency should begin by translating the Fee Waiver Form and accompanying instructions to Spanish. After that, USCIS could generate a list of the other most commonly spoken non-English languages and ensure that the Fee Waiver Form and instructions are available in those languages.

Furthermore, the Fee Waiver Form requires individuals to either affirm that they can read and understand English or affirm that they have used an interpreter. Therefore, individuals who are not fluent in English and cannot find an English speaker to fill out the form as an interpreter simply cannot apply. This requirement harms individuals who are not able to find the assistance of reliable translation services, and especially affects those who speak relatively uncommon languages. Given the advanced capabilities of modern translation services such as Google Translate, all applicants should be able to complete and submit USCIS forms without assistance. USCIS should therefore remove the English affirmation and interpreter sections on its forms altogether.

#### V. USCIS Should Waive the Work Permit Filing Fee for Asylum Seekers Who Have Been Paroled into the U.S.

In addition to the recommendations described above to the Fee Waiver Form, ASAP recommends that USCIS categorically waive the work permit filing fee for asylum seekers applying for a work permit under the parole category for the first time. As recent arrivals, those who are paroled often do not have social networks to rely on, and are disproportionately likely to be in precarious economic circumstances. ASAP members report that USCIS fees are burdensome and often deter them from applying for benefits they are eligible to receive. In many instances, what deters people from applying for work permits is having to either pay the filing fee or having to provide lengthy documentation of eligibility for a fee waiver.

Most parolees need the fee waiver in order to apply for a work permit. As recent arrivals, there is a higher likelihood that parolees will be applying for fee waivers along with their work permit application because they have not yet worked in the United States. The same consideration to categorically waive the fee for an initial work permit is made for those applying for a work permit as asylum applicants. Furthermore, it is also likely that parolees will not have many commonly used documents to establish financial hardship, such as tax returns, thus making it impossible for them to prove that they need a fee waiver.

Parolees are significantly more likely to apply for a work permit upon arriving in the United States if there is a blanket fee waiver. As a result, exempting the filing fee for initial work permits for parolees would also benefit the business community because a greater proportion of newly arrived asylum seekers will be able to work legally. This is increasingly important as the United States grapples with a labor shortage. More recently arrived asylum seekers having work permits will also mean that they will have the ability to get jobs and take financial care of themselves and their families without needing as much social services support from local and state governments.

Additionally, USCIS will save precious resources by waiving work permit fees for parolees applying for their first work permit. Categorically exempting the filing fee for their work permit applications will reduce the number of fee waiver requests that the agency has to

process. Reducing the number of people that are applying for fee waivers frees up agency time and would allow USCIS to focus its attention on backlogs in other applications. It would be helpful for the agency to report how much is spent on processing fee waiver requests accompanying applications for initial work permits for parolees, and whether it would be less costly for the agency to announce a blanket fee waiver for this category of applicants.

#### VI. The Notice and Comment Process Should Be More Accessible.

ASAP has attempted to outline the main recommendations our members have related to the Fee Waiver Form. However, USCIS should encourage immigrants and asylum seekers to engage in the Notice and Comment process directly as well. ASAP members have a wealth of knowledge about how to improve the immigration system based on their experience navigating it. USCIS and other immigration agencies should seek out guidance from ASAP members and other directly affected individuals, and give their recommendations serious consideration, particularly when those recommendations pertain to “minimiz[ing] the burden of the collection of information on those who are to respond.” 88 Fed. Reg. at 77349.

USCIS should make changes to the notice and comment process with the goal of encouraging immigrants and asylum seekers to comment on regulations being considered by the agency. To make the notice and comment process more accessible to directly affected individuals, USCIS should translate its request for comment into multiple languages, and clearly state that it will accept comments in languages other than English. If the agency truly aims to improve accessibility for the most marginalized individuals, it must ensure that those individuals have a meaningful opportunity to provide comment.

#### VII. Conclusion

In summary, ASAP respectfully requests that USCIS implement the following solutions to the Fee Waiver Form to ensure it is accessible and transparent. First, USCIS should enable e-filing of the Fee Waiver Form and its supporting evidence. Second, USCIS should make the Fee Waiver Form more accessible by shortening and simplifying the form, making it available in a broader array of languages, and eliminating the requirement to use translation services for non-English speakers. Third, USCIS should categorically waive the filing fee for work permit applications of parolees, a solution that helps not only immigrants but also their employers and local communities. Last, USCIS should make the Notice and Comment period more accessible to immigrants and asylum seekers by translating the requests for Notice and Comment and allowing individuals to submit responses in languages other than English.

Thank you for your time and consideration.

Sincerely,



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