



January 8, 2024

Submitted via www.regulations.gov

Samantha L. Deshombres
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 Deshombres,

Immigrant Defenders Law Center (ImmDef) submits the following comment in response to the U.S. Citizenship and Immigration Services (“USCIS”) request for comment on the extension, without change, of the currently approved Form I-912, Request for Fee Waiver (“Form I-912”). 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).

ImmDef has a keen interest in the proposed extension of the Form I-912 and suggests changes that USCIS should make to the Form I-912 before reauthorizing it. Immigrant Defenders Law Center is Southern California’s largest removal defense provider. We represent indigent individuals and families facing removal in the counties of Los Angeles, Riverside, Santa Ana, and San Diego. We represent numerous applicants who request a fee waiver, including asylum seekers, Immigration and Customs Enforcement (ICE) detainees, and immigrant families. Excessive evidentiary requirements and delays in fee waiver applications cause undue hardship on immigrants and their families.

The financial documentation required by the Form I-192 is unduly burdensome for newly arrived asylum seekers who have resided in the United States for a short period of time. Many asylum seekers who we represent made a treacherous journey on foot through the United States southern border where crime against migrants in Mexico is rampant. We have met hundreds of asylum seekers whose documentation was stolen on their journey to the United States. Furthermore, we have represented detained individuals who are newly arriving asylum seekers. Having been detained upon entry into the United States after a dangerous trek through Mexico, they have almost no evidence of their financial status.

Immigrants who are detained by ICE and placed into removal proceedings often have limited telephonic, in-person, or virtual access to family and friends in the United States. Obtaining access to their financial records is burdensome. ICE often transfers detainees to detention centers hundreds of miles away from their attorneys, family, and loved ones, leaving them at a disadvantage as they attempt to access their financial information in a timely manner to support fee waiver applications.

ImmDef recommends the following changes to the Form I-912, Request for Fee Waiver.

- USCIS should add the Form I-912 to its e-filing system.
- USCIS should simplify the Form I-912 and publish it in multiple languages.
- USCIS should waive the work authorization filing fee for asylum seekers of all nationalities.
- USCIS should waive filing fees for detained immigrants.

I. USCIS should add Form I-912 to its e-filing system.

USCIS must prioritize ensuring the Form I-912 is able to be filed online. Currently, USCIS only accepts Form I-912 and supporting evidence by mail.

The unavailability of online submission creates significant challenges for our organization and our clients. Applicants must use paper filings, which is more costly and time-consuming for organizations. Organizations would be able to help more people if there were online fee waiver applications.

For example, ImmDef provides Employment Authorization Document legal clinics for migrants who were bussed from Texas to Los Angeles. We would be able to assist migrants bussed from Texas to Los Angeles more efficiently with fee waiver submissions if there were an e-filing option. It would also allow other legal services organizations to provide more assistance to individuals in need at legal clinics.

Requiring the Form I-912 and supporting evidence to be mailed raises the following concerns:

- People and organizations experience mailing delays.
- There is a higher likelihood of paper applications being misplaced by USCIS because they need to be transferred from the service center that receives the files to the offices/officers that adjudicate the application.
- It is more cumbersome for USCIS to return applications by mail, and there is a higher likelihood that there will be misplaced documents/evidence because many applicants move residences.

We share the following additional concerns for individuals who lack representation:

- Mailing documents can be confusing for individuals who are *pro se* or unrepresented and recently arrived in the United States.
- Mailing documents is also costly for immigrants who do not yet have access to work permits.

Without online access, USCIS is more likely to receive paper filings, which only further exacerbates processing delays.¹ Requiring paper filings is also inefficient – it collects duplicative information, increases the potential for human error, increases costs, delays resolution of preliminary issues, and reduces access to benefits and services.

We commend USCIS for [examining](#) whether the agency can support e-filing for some fee waiver requests. USCIS should adopt technological solutions to allow all applicants to submit the Form I-912 online. An e-filing option would allow immigrants the opportunity to submit applications more quickly, and it would allow USCIS to process applications faster.

II. USCIS should simplify Form I-912 and publish it in multiple languages.

USCIS should simplify the Form I-912 to “minimize the paperwork burden for individuals . . . and nonprofit institutions” in accordance with the requirements of the Paperwork Reduction Act. 44 U.S.C. § 3501(1). USCIS currently uses a cumbersome eleven-page Form I-912, which poses many challenges for applicants and ImmDef.

¹ As of September 30, 2023, there were 9,027,348 forms pending at USCIS, an increase of more than 300,000 pending forms from the number pending a year earlier. *Compare* U.S. Citizenship and Immigration Services, *Number of Service-wide Forms By Quarter, Form Status, and Processing Time* (Sept. 30, 2023), https://www.uscis.gov/sites/default/files/document/forms/quarterly_all_forms_fy2023_q4.pdf, with U.S. Citizenship and Immigration Services, *Number of Service-wide Forms By Quarter, Form Status, and Processing Time* (Sept. 30, 2022), https://www.uscis.gov/sites/default/files/document/data/Quarterly_All_Forms_FY2022_Q4.pdf.

Protracted forms require legal services organizations with few resources to spend excessive time on completing these forms. ImmDef often completes fee waiver forms for non-English speaking clients, and if the form were shorter, we would not spend as much time completing the forms.

Other agencies use shorter fee waiver requests. For example, the Executive Office for Immigration Review uses a two-page fee waiver request form, the Form EOIR-26A. USCIS should likewise shorten its form for requesting a fee waiver.

USCIS must also make all its forms accessible. Title VI of the Civil Rights Act of 1964 and Executive Order 13166 require USCIS and other federal agencies to “ensure that the programs and activities they normally provide in English are accessible to [limited English proficiency] persons and thus do not discriminate on the basis of national origin.”² To comply with these requirements, USCIS should publish the Form I-912, instructions, and all additional guidance in the most prevalent languages spoken by applicants who use the Form I-912.

Currently, the Form I-912 and instructions are only available in English. USCIS should make these documents available in multiple languages and allow applicants to submit the Form I-912 and supporting documents in these languages. USCIS can start by making the Form I-912 available in Spanish, given the large amount of Spanish-speaking people who interact with USCIS daily.³ Improving language access will allow applicants to complete the form more easily and without inadvertent errors.

III. USCIS should waive the work authorization filing fee for asylum seekers, making it unnecessary for asylum seekers to file Form I-912s.

It makes an enormous difference when USCIS waives work authorization filing fees for asylum seekers and newly arrived immigrants from certain countries. To apply for work authorization, most applicants must pay a \$410 filing fee or apply for a fee waiver. USCIS exempts some applicants from this fee. For example, applicants from Ukraine who entered the U.S. under the Uniting for Ukraine Program, applicants from Afghanistan granted parole because of the humanitarian crisis in Afghanistan, and applicants who filed the Form I-589, Application for Asylum and Withholding of Removal, do not pay the \$410 filing fee for their initial work permit. However, many asylum seekers must still pay the large filing fee or request a fee waiver.

² Exec. Order No. 13166, *Improving Access to Services for Persons with Limited English Proficiency*, 65 Fed. Reg. 50,121, 50,121 (Aug. 11, 2000); *see also* Department of Justice, LEP.gov: Executive Order 13166, <https://www.lep.gov/executive-order-13166>.

³ According to USCIS, “[t]he USCIS Spanish websites . . . reach approximately 500,000 users per month.” U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, *Language Access Plan* (Dec. 2019), <https://www.dhs.gov/sites/default/files/publications/uscisc-updated-language-access-plan-2020.pdf>, at 8.

Due to the high filing fees, many applicants cannot afford to apply for a work permit and thus cannot access lawful employment. Applicants cannot obtain other benefits incident to obtaining a work permit, such as a U.S. government-issued form of identification.

Waiving the filing fees can save USCIS resources and money. If USCIS exempts more applicants from paying certain filing fees, those applicants will no longer need to request a fee waiver. This will lower the number of pending fee waiver requests at USCIS. The agency can then devote more of its resources to processing other applications, including the Form I-765, Application for Employment Authorization.

USCIS should expand its current policies and waive the \$410 filing fee for asylum seekers and parolees of all nationalities. Such applicants are disproportionately likely to be in precarious economic circumstances. In the alternative, USCIS should expand fee waivers to those individuals who receive parole at the Mexico-U.S. border or who are applying for Temporary Protected Status (“TPS”) for the first time.

IV. USCIS should waive filing fees for detained immigrants.

Detained immigrants face enormous financial hardship as they are generally unable to work while detained. The few detainees who can work while in ICE detention centers earn only a meager income. While detained at some for-profit detention centers, immigrants are charged for additional soap or toothpaste, as well as other items.

Immigrants are often detained for prolonged periods of time, up to several years, which has a severe negative impact on their financial status. Going from a gainfully employed individual in society to an ICE detainee has a profoundly negative and long-lasting impact on the economic status of the individual and their family unit. When the financial breadwinner for an immigrant family is detained, the family’s income can dramatically change overnight. Financial records compiled during the first few months that an immigrant is detained do not adequately represent the individual’s forecasted financial status given that they can be detained for several years depending on the status of their case.

For the foregoing reasons, the Immigrant Defenders Law Center recommends that the Department of Homeland Security and its subagency U.S. Citizenship and Immigration Services add Form I-912 to its e-filing system and both simplify and publish it in multiple languages, and waive certain filing fees for asylum seekers and those migrants who are detained. We thank DHS and USCIS for considering these recommendations.