

Supporting Statement
Application for Asylum and Withholding of Removal
Form I-589
(OMB No. 1615-0067)

A. Justification.

- (1) The information provided on this form is used by the Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS), and the Executive Office for Immigration Review (EOIR), a component of the Department of Justice (DOJ), to determine whether an alien applying for asylum and/or withholding of removal or deportation in the United States is classifiable as a refugee, and is eligible to remain in the United States. Section 208(b) of the Immigration and Nationality Act (INA), charges DHS and DOJ with establishing procedures whereby aliens may apply for asylum. Under 8 CFR 208.3 and 208.4 the Form I-589 is used to standardized the collection of information relevant to the asylum determination.

- (2) USCIS and EOIR use the data collected on the Form I-589 to determine eligibility of persons applying for asylum and for withholding of removal. Under section 208(a)(1) of the INA, any alien who is physically present in the United States, or at a land border or port of entry, may apply for asylum regardless of such alien's status. In the first instance, a corps of professional asylum officers adjudicate the applications from aliens who are not subject to removal proceedings, or who have not yet been placed in removal proceedings. Immigration judges adjudicate asylum applications of individuals in removal proceedings. The form serves the purpose of standardizing the application and ensuring that applicants provide the required information necessary for assessing eligibility.

USCIS also uses the Form I-589 to serve as an alternate application for evidence of employment authorization for individuals granted asylum, eliminating their need to file a separate Form I-765, Application for Employment Authorization (OMB No. 1615-0040) with USCIS if, after being granted asylum, they wish to receive an Employment Authorization Document (EAD) containing both evidence of employment authorization and identity. The Form I-589 collects the same biographic information as that collected by the Form I-765. In cases where asylum is granted, the biographic information contained on the Form I-589 could also be used to generate the Employment Authorization Document (EAD). USCIS must issue an EAD with a photo and fingerprint to asylees “immediately” upon the grant of asylum.

USCIS uses information on the Form I-589 that is entered into the asylum processing database (Refugee, Asylum and Parole System (RAPS)) and electronically shares this data with the database used to process employment authorization applications (Computer Linked Application Information Management System (CLAIMS)), which eliminates the need for duplicate mailroom and data entry functions and the associated personnel costs.

Dual use of the form also benefits asylees and persons granted withholding of removal. They receive USCIS-issued evidence of identity and work authorization immediately after they obtain notice of decision to grant asylum, thus enabling them to promptly work and access any public benefits to which they may be entitled. The instructions to the form have been revised (see table of changes).

- (3) At this time, this form provides the most efficient means for collecting and processing the required data. USCIS is in the process of further enhancing

customer service by developing a means of accepting electronic submission of the Form I-589 as part of the Business Transformation Project.

- (4) A review of the DHS Forms Inventory Report revealed no duplication of effort for this information collection. The information on the asylum application is not currently collected in another context, such that it could be made available for the purpose of adjudicating asylum and withholding of removal eligibility.
- (5) The collection of information does not have an impact on small businesses or other small entities.
- (6) If the information were not collected, DHS and DOJ would not be in compliance with section 208(b) of the INA, that charges DHS and DOJ to establish procedures whereby aliens are able to apply for asylum. This instrument facilitates the ability of aliens to apply for asylum as well as for withholding of removal under section 241(b)(3) of the INA. The use of a form, rather than permitting a free narrative, focuses the applicant on the specific details that are legally relevant, and ensures that all necessary elements are addressed. If this information were not collected, the adjudicator would be unable to prepare for the interview or hearing by reviewing relevant law and country conditions, and there would be no sworn, written record of the applicant's claim. Because the applicant is required to come forward with his or her claim in a systematic and organized fashion, this form allows DHS and DOJ to address a greater volume of applications and to concentrate efforts on approving meritorious claims.
- (7) The special circumstances contained in item 7 of the supporting statement are not applicable to this information collection.

- (8) On June 29, 2007, USCIS published a 60-Day Notice in the Federal Register at 72 FR 35713 requesting comments from the public. USCIS did not receive any comments for this information collection.
- (9) DHS and DOJ do not provide payments or gifts to applicants in exchange for a benefit sought.
- (10) Confidentiality of an application for asylum or withholding of removal is governed by 8 CFR 208.6 and 1208.6.
- (11) Certain questions on this form relate to topics of a sensitive nature such as race, religion, nationality, membership in a particular social group, or a person's political opinion. However, these questions are necessary to help determine whether an applicant for asylum qualifies as a refugee, as that term is defined in section 101(a)(42) of the INA: a refugee is a person who is unable or unwilling to return to his or her country of nationality or last habitual residence, because of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. Aside from some general questions, these issues are explored only to the degree that they are raised by the applicant's claim for protection as an asylee under section 208(a) of the INA, or for withholding of removal under section 241(b)(3) of the INA.
- (12) Annual Reporting Burden:
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|----|---|---------|
| a. | Number of Respondents | 63,138* |
| b. | Number of Responses per each Respondent | 1 |

| | | |
|----|-------------------------------|---------|
| c. | Total Annual Responses | 63,138 |
| d. | Hours per Response | 12 |
| e. | Total Annual Reporting Burden | 757,656 |

*(This figure is based on approximately 45,000 affirmative applications filed with USCIS, on average, over the last 5 fiscal years (FY 2001-05)(of the 45,000 applications filed with USCIS, 31,500 (affirmative filings not granted by USCIS) are referred to EOIR. In addition, it is estimated that 18,138 defensive applications are filed directly with EOIR on average, over the same 5 year period.)

The projected hours per response for this collection of information were derived by first breaking the process into three basic components.

| | |
|-------------------------------------|-----------------|
| Learning about the law and the form | 2 hours |
| Completing the form | 5 hours |
| Assembling and filing the form | 5 hours |
| TOTAL Hours per Response | 12 hours |

The time estimates are based on the time it takes to complete the current form. The third component of the process, assembling and filing the form, was broken down into sub-tasks. For example, the form can be mailed to a DHS office or filed in person. Thus

the time necessary to actually file the form can vary widely depending on the circumstances of the applicant.

Annual Public Burden

The total annual reporting burden hours are 757,656. This figure was derived by multiplying the number of respondents (63,138) x frequency of response (1) x hours per response (12 hours).

(13) There are no capital or start-up costs associated with this information collection. Any cost burdens to respondents as a result of this collection are identified in item 14.

There are no fees associated with this information collection.

(14) Annualized Cost Analysis:

| | | |
|----|---------------------------|--------------|
| a. | Printing Cost | \$ 53,036 |
| b. | Collection and Processing | \$80,840,016 |
| c. | Total Cost to Program | \$80,893,052 |
| d. | Fee Charge | 0 |
| e. | Total Cost to Government | \$80,893,052 |

Government Cost

The estimated cost of the program to the Government is \$80,893,052.

The cost for USCIS is \$29,753,036. This figure is calculated by using the estimated average number of respondents (45,000) multiplied by 16.5 hours (This figure includes

the total time required to collect, process, and adjudicate information by the Asylum Division, Service Centers, and Trial Attorneys, multiplied by \$40.00 (the suggested average hourly rate for clerical, Asylum Officer, Trial Attorney, and managerial time with benefits), plus the estimated annual overhead cost for printing, stocking, and distributing this form (\$53,036).

The cost for EOIR is \$51,140,016 . This figure is calculated by:

- Multiplying EOIR's affirmative and defensive filings (49,638) x \$582 (this cost figure represents the average cost for all affirmative (31,500) and defensive (18,138) filings completed by EOIR's, Immigration Judges); and
- Multiplying the number of cases transmitted for appeal with EOIR's Board of Immigration Appeals (20,100**) x \$1,107 (this cost figure represents the average cost for all appeals completed by EOIR's, Board of Immigration Appeals).

**Of the affirmative (31,500) and defensive (18,138) filings adjudicated by EOIR's Immigration Judges, approximately 20,100 cases are appealed to EOIR's, Board of Immigration Appeals.

Public Cost

The estimated annual public cost is \$7,576,560. This is based on the number of respondents 63,138 x 12 hours per response x \$10 (average hourly rate).

(15) Although the instructions to the form are being revised (see table of changes), there has been no increase or decrease in the annual burden hours for this information collection.

(16) DHS does not intend to employ the use of statistics or the publication thereof for this collection of information.

(17) DHS is not seeking a waiver to display the expiration date of the OMB approval for this information collection.

(18) DHS does not request an exception to the certification of this information collection.

B. Collection of Information Employing Statistical Methods.

Not Applicable.

Certification and Signature.

PAPERWORK CERTIFICATION

In submitting this request for OMB approval, I certify that the requirements of the Privacy Act and OMB directives have been complied with including paperwork regulations, statistical standards of directives, and any other information policy directives promulgated under 5 CFR 1320.

Richard A. Sloan,

Date

Chief.

Regulatory Management Division,
U.S. Citizenship and Immigration Services,
Department of Homeland Security.