

Supporting Statement for Paperwork Reduction Act Submission
Affidavit of Relationship
OMB Number-xxxx, DS-7656

A. Justification

1. The Department of State, Bureau of Population, Refugees and Migration (PRM) is responsible for coordinating and managing the U.S. Refugee Admissions Program (USRAP). PRM coordinates within the Department of State, as well as with the Department of Homeland Security's U.S. Citizenship and Immigration Services (DHS/USCIS), in carrying out this responsibility. A critical part of the State Department's responsibility is determining which individuals, from among millions of refugees worldwide, will have access to U.S. resettlement consideration. Section 207(a) (3) of the Immigration and Nationality Act (INA) states that admissions "shall be allocated among refugees of special humanitarian concern to the United States in accordance with a determination made by the President after appropriate consultation." Which individuals are "of special humanitarian concern" to the United States for the purpose of refugee resettlement consideration is determined through the USRAP priority system. As set forth in the annual **Proposed Refugee Admissions: Report to the Congress**, submitted by the Secretary of State on behalf of the President, there are currently three priorities or categories of cases that have access to USRAP. Priority 3 (P-3) is for individual cases from designated nationalities granted access for purposes of reunification with anchor family members already in the United States. The Priority 3 category has, however, been suspended since 2008 while PRM and DHS/USCIS have examined how additional procedures may be incorporated into P-3 processing to address indications of a high incidence of fraud in the program.

PRM and DHS/USCIS are now preparing to resume the program. One of the criteria for access will be for an applicant to have an Affidavit of Relationship (AOR), DS-7656, filed on his or her behalf by an eligible "anchor" relative in the United States. Qualifying anchors are persons who were admitted to the United States as refugees or were granted asylum, including persons who are lawful permanent residents or U.S. citizens who initially were admitted to the United States as refugees or granted asylum. Anchors must be at least 18 years of age and have been admitted to the United States as a refugee or granted asylum in the United States no more than five years prior to filing the AOR. Anchors may file an AOR on behalf of their spouse, unmarried children under 21, and/or parents. Information listed in the Affidavit of Relationship (AOR) is essential to determining qualification for access to the USRAP through Priority 3. The AOR also informs the anchor relative that DNA evidence of all claimed parent-child relationships between the anchor relative and parents and/or unmarried children under 21 will be required as a condition of access to P-3 processing and that the costs will be borne by the anchor relative or their family members who may apply for access to refugee processing, or their derivative beneficiaries, as the case may be. Applicants whose claimed biological relationships are confirmed by DNA testing will be eligible for reimbursement of DNA test costs.

Noted above, PRM plays a critical role in determining which individuals, from among millions of refugees worldwide, will have access to U.S. resettlement consideration, or in other words, which individuals are “of special humanitarian concern” under Section 207(a)(3) of the INA. PRM’s authority to require DNA testing as a condition of access to P-3 processing is derived from INA 207(a)(3). In the FY 2012 Report to Congress, in which PRM outlined the access criteria for the USRAP priority system, PRM indicated that DNA testing would be added as a new requirement of access: “PRM will update the Congress when the revisions [to the P-3 Program] are complete, and we are prepared to resume P-3 processing, likely with a DNA relationship testing requirement for certain claimed biological relationships.” Upon resumption of the P-3 Program, PRM will notify Congress that the DNA testing requirement has been added.

The Department of Homeland Security is responsible for determining who is eligible for admission to the United States as a refugee. Section 207(c)(1) of the INA authorizes the Secretary of the Department of Homeland Security to admit any refugee who is determined to be of special humanitarian concern to the United States, meets the U.S. definition of refugee as outlined under INA Section 101(a)(42), is not firmly resettled in any foreign country, and is otherwise admissible as an immigrant. The Department of Homeland Security uses the information listed in the AOR to confirm and verify information related to the family members overseas seeking refugee resettlement as well as subsequent applications or petitions for other immigration benefits they may seek under U.S. law. Accordingly, the AOR serves as an important tool to combat fraud in such adjudications and programs.

2. Working with a resettlement agency that partners with the Department of State, anchor relatives in the United States complete the AOR to: a) establish that they meet the requirements for being an anchor relative by having been previously admitted to the United States as a refugee or granted asylum; b) provide a list of qualifying family members (spouse, unmarried children under 21, and parents) who may wish to apply for refugee resettlement to the United States; c) establish that the family members are nationals of qualifying countries under the P-3 program; and d) provide a comprehensive listing of all relatives to create a family tree that assists DHS/USCIS officers to make determinations of bona fide familial relationships during the refugee adjudication process. Once completed, the AOR is sent by the resettlement agency to the Refugee Processing Center (RPC) for case creation and processing. The information is used by the RPC for case management; by the Refugee Access Verification Unit (RAVU) of USCIS to determine that the refugee applicant overseas is eligible for continued processing; and by a Resettlement Support Center (RSC), which is an organization working under a cooperative agreement with the Department of State to assist in the processing of refugee applicants and conduct case pre-screening.

Once the RSC has conducted initial prescreening of the overseas case, it will contact the anchor relative with instructions on arranging for DNA relationship testing to verify all claimed biological parent-child relationships between the anchor and his/her parents and/or his/her unmarried children under 21. The anchor will select a U.S. lab approved

by the American Association of Blood Banks (AABB) to conduct DNA relationship testing. DNA collection kits will be sent to the U.S. Embassy in the country where the relevant RSC is located, and DNA samples will be collected from the overseas relative(s) through a buccal swab by a designated panel physician. The panel physician will return the samples to the U.S. lab for DNA relationship testing. Results will be forwarded to the RPC, which will record in its system whether each claimed biological relationship was confirmed or not confirmed. The RPC will then redact the lab report so as not to retain any specific information about the matching of alleles between the anchor relative and his/her parents and/or children overseas.

The U.S. lab that was selected to conduct the testing will retain the DNA sample according to its own policies (usually for six months) and will also retain a copy of the test result in the event that results are contested. The Department of State will not retain the DNA sample. If all claimed biological relationships are confirmed by DNA testing, PRM will present the case to DHS/USCIS for adjudication.

The Privacy Impact Assessment (PIA) for this collection will be posted on the Department of State website at <http://www.state.gov/m/a/ips/c24223.htm>

3. The collection of this information currently involves the limited use of, electronic techniques. Anchor relatives (respondents) in the United States will work closely with a resettlement agency during the completion of the AOR to ensure that the information is accurate. The resettlement agency is often the same organization that helped resettle the refugee (respondent) in the United States and is therefore personally familiar with the particulars of the case. Individuals who were granted asylum in the United States may visit any resettlement agency to complete an AOR. Sometimes anchors (respondents) do not have strong English-language skills and benefit from having a face-to-face meeting with resettlement agency staff. The collection instrument (DS-7656) will be available electronically and responses will be completed electronically. Completed AORs will be printed out for ink signature by the respondents as well. The electronic copy will be submitted electronically to the RPC for downloading into the Worldwide Refugee Admission Processing System (WRAPS), with the signed paper copy remaining with PRM's Resettlement and Placement Agency partners.

4. There is no duplication of information. The information necessary for the processing of family members under the P-3 program is not available elsewhere.

5. This information collection does not impact small businesses or other small entities.

6. Without this information collection, the United States would lack the necessary data to verify family relationships between the anchor relatives and refugee applicants overseas and accomplish its stated policy of permitting qualifying family members of refugees and asylees to resettle in the United States under the P-3 program. The information is collected on an as-needed basis; there is no standardized schedule of collection.

7. There are no special circumstances associated with this collection.

8. A *Federal Register* notice was published to solicit public comments (75 FR 54690, Sept. 8, 2010).

The Department of State/ Bureau of Population, Refugees and Migration received a number of comments from the public with regard to the proposed Information Collection: DS-7656, Affidavit of Relationship (AOR). Substantive comments were received from a number organizations: Refugee Council USA (RCUSA), the United Nations High Commissioner for Refugees (UNHCR), the U.S. Committee for Refugees and Immigrants (USCRI), Refugee Resettlement Watch, Americans for Immigration Control, and Help Save Maryland.

Recommendations from these organizations can be divided into two categories: comments related to the AOR form, and comments related to the changes in policy that are reflected in the form. We address both categories below.

Comments regarding vulnerabilities to fraud submitted by Americans for Immigration Control and Help Save Maryland are also addressed, as well as comments from the general public which mainly focused on concerns about vulnerabilities to fraud and the cost of the program.

In addition to the substantive comments, the PRM office received approximately 65 e-mails indicating opposition to the reinstatement of the P-3 program on the basis that the program is vulnerable to fraud and would be costly to implement. None of these e-mails offered comments or criticisms of the form specifically, but rather voiced opposition to the family reunification program, refugee resettlement and/or immigration in general; however, we address the comments broadly below.

Full public comments are included as part of this submission, divided into 3 areas: Organizations, general public substantive comments, and public comments not specifically relating to the intent of this collection.

Changes to the form have been made since it was published in the Federal Register based on written comments from the Federal Register submission and interaction from partner agencies and organizations. They are intended to result in a form that is “user-friendly,” but still captures the information required by the Department of State and the Department of Homeland Security/U.S. Citizenship and Immigration Services to effectively process and adjudicate applications for classification as a refugee.

During the nearly three-year period that the Priority Three (P-3) refugee family reunification program has been suspended due to fraud uncovered as a result of a DNA pilot conducted in early 2008, PRM has been in close contact with RCUSA, UNHCR and USCRI and is very well aware of the policy concerns expressed in their official comments. Given the extremely high rates of fraud uncovered by the DNA pilot, in which PRM was able to verify all claimed biological relationships in fewer than 15% of cases undergoing P-3 processing, we do not find the concerns adequately compelling to

reverse course on the proposed changes to the program which are essential to maintaining its integrity and ensuring that only eligible, bona fide family members are processed for admission to the United States.

The specific concerns from RCUSA, USCRI and UNHCR, along with PRM's responses, are below.

COMMENTS REGARDING THE PROPOSED REVISED AOR FORM

RCUSA Comments

Comment: Do we need actual photos or can we use scanned images? Can these be any (clear) photos, or do they have specific requirements (i.e. the equivalent of passport-style photos)? If it is the latter, how difficult will it be for refugees to have them taken, and how will they pay for (and send) them? Uploading a passport photo will be very problematic because it will be very difficult to get decent photos of the refugees. Many are in places where they do not have access to a photographer. Will someone overseas be helping to make this happen? This requirement may prevent certain desperate refugees from having access to the program because the anchor cannot get good photos.

Response: Clear photos, with a frontal view of the face of the applicant, from the neck or shoulders up are required so that the adjudicating officer can compare the person in the photo to the person that he or she is interviewing. Submission of such photos is a common requirement for petitions, including relatives of refugees and asylees seeking to immigrate to the United States via the I-730 Refugee/Asylee Relative Petition. Furthermore, since the vast majority of these cases that we process come from urban areas, we believe that most of these applicants will be able to access photo services. If problems obtaining photographs of individuals abroad should routinely occur in particular locations, DOS would like to know that information and will work with assistance organizations to resolve wherever possible.

Comment: The format for uploading photos is .bmp or .tif as per p. 2 of the form (question 8 of the instructions). Is this a common file format for photos?

Response: Yes, this is a common file format for photos.

Comment: We are concerned about the undue burden this may have on our resettlement programs in terms of time and administrative cost. The 45 minute estimate for completion time is both unrealistic and unattainable for resettlement agencies to meet or even set as a reasonable goal.

Response: The estimated time burden has been changed to 60 minutes. However, we believe this to be an average. Those agencies which submit a higher volume of AORs

per year eventually will be able to navigate the form more quickly than those who only do a small number of AORs per year, and well under the 60 minute time estimate.

Comment: What is meant by “legally adopted”? Does this include customary adoptions?

Response: The Immigration and Nationality Act (INA) Section 101(b)(1)(E) provides the definition of the term “child,” including when an adopted child can be deemed as such for immigration purposes. The claimed adoption must be a legally valid adoption under the law of the place where it took place and must establish a permanent parent-child relationship between a minor and an adult who is not already the minor’s legal parent. In many countries, adoption can be accomplished only by court order. In other countries, adoption is an administrative process, instead of a judicial process. The critical point is to show that a permanent, legal parent-child relationship was created as specified by the governing, local law. In some countries, “customary adoptions” have the same legal effect as adoptions obtained by court order or administrative decision. If a petitioner can establish that customary adoption has such an effect, and that the petitioner completed a customary adoption according to the governing law, the customary adoption will be recognized for immigration purposes.

Comment: Page 1 of instructions. Missing from the instructions on adopted children at the bottom of the page (last paragraph) is the requirement that the adopted child must have lived with the adoptive parents for two years—either before or after the adoption. Is this still a requirement? Are there new definitions of an adopted child? When processing, we will need to know if the two year rule is still included in the definition for adopted children. We have been using “INS Definitions of a Spouse and Child” to guide us on definitions for legal adoptions.

Response:

For immigration purposes, an adopted child must meet the definition in INA §101(b)(1)(E). The definition requires that the parent have legal and physical custody of the child for at least two years while the child is a minor. The custody and residence requirement may be met by custody and residence that preceded the adoption, however the legal custody must have been the result of a formal grant of custody from a court or other governmental entity.

Comment: Page 2 of instructions indicates the spouse must be physically present at the marriage ceremony. Our working definition for Proxy marriages, also taken from the “INS Definitions for Spouse and Child” just states that the Proxy marriages are not recognized unless consummated. Have the definitions of a spouse changed? Are proxy marriages now outside the definition of a spouse? The working definitions for ‘spouse’ and ‘child’ (taken from “INS Definitions for Spouse and Child”) have been crucial to our understanding of the USRAP guidelines. If the definitions have changed, will OPE be receiving the new definitions?

Response: INA Section 101(a)(35) provides the definition of the term “spouse.” According to this provision, the term "spouse", "wife", or "husband" does not include a spouse, wife, or husband by reason of any marriage ceremony where the contracting parties thereto are not physically present in the presence of each other, unless the marriage shall have been consummated. The line reading “A spouse must have been physically present at the marriage ceremony and the marriage must have been consummated” has been removed.

Comment: Page 2 (and page 4) of instructions are hard to navigate regarding when to answer with an estimate(‘best guess’ and ‘best estimated date’), when to leave blank, when to use N/A and Unknown. Compare page 2, #8, second and sixth paragraphs and the instructions on page 4 for lines 1 to 18. Suggestion: The instructions on page 2, #8, paragraph 2 are the ones that should govern the form. It gets confusing when later on (Page 4) the instructions say to leave some fields blank and enter “unknown in other fields.

Response: The line reading “If it is not possible to provide an estimated date, please indicate ‘unknown’” has been removed. The instructions that appear just above the fields of the form will be removed to minimize confusion. A future version will allow hyperlink to the instructions section of the form.

Comment: Section I f. The instructions make it clear that it is the anchor’s city and country of birth that is needed. The form itself places this field right next to the spouse’s name and this might get filled in to reflect the city and country of birth for the spouse. Change the form to read “Your City/Country of Birth” instead of just “City/Country of Birth.”

Response: This change has been made.

Comment: Section IV The instructions on page 3 (first paragraph) state that aliases should be entered in section IV—it would be good to include that in the section IV instructions. Suggestion: Add the words ‘any aliases’ after the words any ‘unusual name patterns’. The instructions on page 3 (first paragraph) state that aliases should be entered in section IV—it would be good to include that in the section IV instructions. These same instructions should as well appear on the AOR form itself, similar to those instructions that appear in Section III of the form.

Response: This change will be made so that it reads: please use this section to elaborate on any extended or non-traditional relationships that may require further explanation (including adopted, half, and step relatives), any unusual name patterns, **any aliases**, or any unusual circumstances that you wish to address. Please also use this section as a continuation page for any other sections that had insufficient space.

Comment: The code for Husband's Brother has been changed from BH to UB. The code for unrelated is new to OPE. (UR) OPE has adjusted the list of codes to reflect these changes.

Response: The code has been changed back to BH.

Comment: Section II - there is not enough room to fill in names throughout Section II, both in section A and B. Names with more than ten letters will not fit. Electronic completion of the form will allow for expansion of the name fields, but completing the form in black ink (as instructed) may be difficult to do neatly. **Suggestions:** On line IIA1 move the text about marital status to the line below and give more space for the responses. Retain the fields for relationship to anchor and photo upload on line IIA1, but move the marital status boxes (3 in total). If room is needed, take it from lines IIB2-16, since it is there is a high likelihood that most cases will not have more than ten individuals in section IIB.

Response: The instructions have been changed to reflect that this form must be completed electronically. Forms filled out by hand will not be accepted.

Comment: Section II B - the instructions are less instructive than they should be. **Suggestion:** Instructions here should say to list the spouse first and then list the unmarried children under the age of 21 in order of birth from oldest to youngest.

Response: The instructions that appear just above the fields of the form will be removed to minimize confusion. A future version will allow hyperlink to the instructions section of the form.

Comment: Section II #17 - the form refers to further clarification to be found in the instructions regarding those listed in section C. I did not see any additional clarification in the instructions. **Processing Question:** As anchors will now be filling in the compelling reasons for add-ons, will this be the only reason that may be used by the OPE to decide whether to add them on. Or will RAVU (or some other step in the process) be deciding add-ons for us? **Suggestion:** Add the further clarification to the instructions, or remove the clause in section II #17 that states that further clarification is included in the instructions. The way the instructions read in section II #17, it would follow that clarification on the 'exceptional and compelling circumstances' may be found on the Instructions document, but this is not the case.

Response: See instructions for further clarification. RAVU will consider each AOR as it is presented, and determine whether the individual listed in Section II C meets the add-on requirements. The Anchor should still articulate why exceptional and compelling circumstances exist.

Comment: Section III: What are those dotted lines across the 'name' fields? Will the name be squeezed in one on top of another? **Example:**
MOHAMED

**Abdalla
Ahmed**

The space is not large enough to enter names. (The row height is too small).

Response: There is enough space when the names are entered electronically as will be the requirement.

Comment: Section III -the instructions should be tailored to the sub-section. The instructions preceding 3D and E should not include information pertaining to the fields in sections A, B and C. The instructions at the top of section A, B and C should be limited to parents and spouse while the instructions for section D and E should contain specific instructions for children and siblings. I believe the old AOR had better instructions here.

Response: The additional instructions will appear in the instructions section of the form. The instructions that appear just above the fields of the form will be removed to minimize confusion. A future version will allow hyperlink to the instructions section of the form.

Comment: Section IV - The instructions (from the Instructions document) should be included here, similar to those in sections A, B, C, D, and E. Information in this section is very important to processing, hence the instructions should be inclusive. Again, I believe the old AOR had better instructions here.

Response: The additional instructions will appear in the instructions section of the form. The instructions that appear just above the fields of the form will be removed to minimize confusion. A future version will allow hyperlink to the instructions section of the form.

COMMENTS REGARDING THE POLICY CHANGES TO THE P-3 PROGRAM RELATED TO THE PROPOSED REVISED AOR

RCUSA Comments

Comment: The information collection process (P-3 access process) proposed by the Department of State undermines U.S. human rights obligations owed to those individuals offered protection under the refugee act.

Response: The Department of State/PRM is responsible for coordinating and managing the U.S. Refugee Admissions Program (USRAP). A critical part of this responsibility is determining which individuals and groups from among the millions of people termed “refugees” will have access to the USRAP, thereby allowing them to seek refugee resettlement in the United States. PRM, in consultation with DHS/USCIS, has established a processing priority system that currently includes three priorities. Briefly: Priority One cases are individuals referred to the program by virtue of their circumstances and apparent need for resettlement. Priority Two are groups of cases designated as having access by virtue of their circumstances and apparent need for resettlement, and Priority Three are individual cases granted access because they have immediate family

members in the United States who were resettled as refugees or granted asylum in the United States, and their nationality is currently eligible for processing as refugees to allow family reunification.

PRM had several options when faced with the fraud uncovered as a result of the DNA testing pilot in 2008. One option would have been to eliminate P-3 access entirely, given the difficulty of verifying claimed relationships for individuals who do not possess documentation supporting such claims. While some individuals undergoing USRAP processing possess documents such as passports, national ID cards, birth certificates and/or marriage certificates, many do not – particularly those nationalities that made up the vast majority of the P-3 caseload in the years leading up to the 2008 suspension of the program. This lack of a requirement for documentary evidence has been exploited by those seeking to fraudulently access the USRAP. PRM, in consultation with the Department's Office of the Legal Adviser and DHS/USCIS, instead chose to maintain P-3 access so that true families could be reunited, while adding a requirement of DNA evidence of certain claimed parent-child relationships in order to reduce the likelihood that individuals would fraudulently claim such relationships to gain access to U.S. resettlement. We are aware of no U.S. human rights obligations that would govern the process by which we determine access to the P-3 program.

Comment: A five year limit to accessing family reunification benefits under the AOR process unfairly denies the right of family unity to refugees and asylees already in the U.S. who have not been able to access this program.

Response: Principal refugees and asylees in the United States may petition for their spouses and unmarried children by filing an I-730 within the first two years after being granted asylum or being admitted as a refugee. In addition, former refugees and asylees that have become legal permanent residents or U.S. citizens may file an I-130 immigrant visa petition for certain family members. PRM/A and USCIS have agreed that, for a limited period of time, we will accept AORs beyond the five-year deadline, and from parents filing for unmarried children who have “aged out” of the under-21 years of age requirement due to the suspension of the P-3 program.

Comment: The revised process undermines the substantive goal of protection.

Response: A scenario of utmost concern to RCUSA, and to PRM and USCIS, involves a woman who was raped or unfaithful to her husband and has not previously informed him that one or more of their children is/are not in fact biologically his. PRM and USCIS have pledged to work with our non-governmental and international organization partners to establish mechanisms to protect women in such cases. For example, on a case-by-case basis, we will allow a woman to request that a child be tested against her instead of against her husband (as would normally be required) who has submitted an AOR requesting USRAP access for herself and her children.

Comment: This revised process creates procedural barriers which undermine the goals of family unity, best interest determinations for children, integration and self-sufficiency.

Response: The USRAP recognizes there may be instances when, for humanitarian reasons, a Principal Applicant (PA) may wish to include individuals other than a spouse or child on his or her case. To address these situations, USCIS has established a policy outlining the circumstances in which a non-derivative can be afforded the same processing priority as the principal refugee applicant so that he or she may access the USRAP with the PA for resettlement consideration.

Furthermore, we note that the P-3 program is but one avenue to be resettled as a refugee in the United States. UNHCR has a broader definition of family than the one statutorily defined by the INA and frequently submits Priority 1 (P1) referrals that include case members who do not meet USCIS case composition rules. In order to honor the broader dependency relationships that exist among families around the world, USCIS considers any case member included on a UNHCR referral as qualifying for access to the USRAP. While P-1 applicants who do not meet the definition of a derivative or add-on must be included on their own separate case, they can be presented with the principal applicant for interview and cross-referenced for resettlement together if approved. As such, individuals who may not meet current case composition guidelines under the Priority 3 program may seek an individual P1 referral from UNHCR.

Comment: Using a minimum filing age will potentially keep families apart.

Response: The minimum age requirement of 18 is an anti-fraud measure to discourage persons who are not eligible for P-3 processing from fraudulently adding their minor child to the case of a family that is eligible for P-3 processing. In such a case, the child could enter the U.S. as a refugee and then immediately file an AOR for his/her real parents. Parents would be discouraged from this practice if they knew that the child would have to wait many years to file the AOR. It also serves to discourage parents from possibly abandoning a child so that the child enters the U.S. as an Unaccompanied Refugee Minor (URM), who then “discovers” his/her parent(s) upon arrival in the United States and files an AOR for them. (In many locations, URM status is given priority for UNHCR interviews, creating an additional incentive to falsely claim URM status.) In those few cases where a URM legitimately learns the whereabouts of his/her refugee parent(s), PRM can refer the case to UNHCR and the appropriate Refugee Coordinator for investigation and possible processing for admission under the P-1 category. The establishment of minimum filing ages are common in other immigration programs; for example, the minimum age for filing an I-130 immigrant visa petition for a parent is 21.

Comment: When verifying family relationships, DNA testing is an expensive measure that should be used as a last resort, and only when it is clear on an individualized level that primary documentation or traditional means of family tracing are not available or will prove unreliable.

Response: PRM and USCIS view the DNA testing requirement as a last resort to maintaining P-3 processing as a viable option. Given the level of fraud uncovered by the DNA pilot, it would be difficult to justify resuming the P-3 program without significant new anti-fraud measures.

USCRI Comments (Note: many of USCRI's comments are duplicative of the comments from RCUSA – only new/different comments are noted here.)

Comment: Limited List of Eligible Nationalities (refugees and asylees from all countries should be permitted to file AOR applications).

Response: This comment is not germane to this Federal Register announcement. There has long been a limited list of nationalities eligible for P-3 processing.

Comment: Qualifying Anchor Entrant Status (the requirement to have entered as a refugee or granted asylum should be abolished).

Response: This comment is not germane to this Federal Register announcement. There has for several years been a requirement that qualified anchor relatives must have entered as a refugee or have been granted asylum in the United States.

Comment: DNA testing should not be mandatory and universal, but instead be employed similarly to other immigration programs.

Response: Our intention is that DNA testing will initially be mandatory for all claimed biological parent-child relationships between the anchor relative and his/her parent(s) and child(ren) overseas. We will review the program after one year to determine whether mandatory testing is necessary for all claimed biological parent-child relationships, or whether we can move to targeted or random testing without undermining the integrity of the P-3 program.

Comment: RAVU Processing (RAVU should become more efficient and transparent).

Response: DHS/USCIS is fully committed and prepared to review and process in a timely manner the AORs expected to be filed upon reinstatement of the P-3 program.

UNHCR Comments (Note: many of UNHCR's comments are duplicative of the comments from RCUSA and USCRI – only new/different comments are noted here.)

Comment: DNA testing must be done in a manner that respects the rights and dignity of the individuals being tested.

Response: Individuals will be tested only after giving full and informed consent, and will be provided with pre-test counseling. Post-test counseling will be available for

individuals whose negative results may result in a protection concern, such as a woman whose husband has learned that a child is not his.

Comment: DNA requirement could be a significant barrier for many refugees who reside in locations that are remote from a capital. Unclear whether appropriate staff and infrastructure are in place to ensure that a safe and reliable chain of custody exists for the transmission of DNA from overseas to labs in the U.S.

Response: While most applicants for the P-3 program have traditionally resided in urban areas, a small number have lived in more remote locations such as refugee camps, and we assume that will continue to be the case if/when the P-3 program resumes. Reaching individuals in remote locations will not be problematic, as PRM's processing partners conduct routine "circuit rides" to such locations to process P-1 and P-2 referrals from UNHCR. PRM is also acutely aware of the need to maintain a clean and reliable chain of custody of DNA test kits and samples during the DNA collection process, and to the extent possible will follow chain of custody procedures established by the Bureau of Consular Affairs for DNA testing in the immigrant visa context. Each OPE will hire (or identify among current staff) a U.S. citizen DNA coordinator who will oversee all aspects of DNA sample collection. Test kits will be maintained and secured at each OPE. The panel physician will collect the DNA sample on OPE premises (or in remote locations, at the processing site) in the presence of the DNA coordinator or his/her designee, with periodic, unannounced participation of the Refugee Coordinator as a second observer. Test kits will be sealed by the DNA coordinator in the presence of the panel physician and shipped to the U.S. lab for testing according to established procedures.

Comment: There is no indication what will ultimately be done with the DNA samples.

Response: As PRM will not retain the DNA samples, but will send them to AABB-accredited labs for testing, it is not within our purview to determine how long DNA samples are kept at the labs or what is ultimately done with them. Most AABB-accredited labs keep samples on hand for six months and then destroy them.

Comment: The cost of DNA testing should be borne by the government.

Response: Applicants will be required to pay all DNA test fees up front. For those cases where all claimed biological relationships are supported by DNA evidence, PRM will reimburse the applicants for the cost of DNA testing. PRM believes that it would not be a sound use of U.S. taxpayer dollars to pay DNA test costs at the outset, as it lowers the disincentive to the applicant to submit frivolous and/or fraudulent AORs.

Comment: The signature of both the affiant and the resettlement agency representative preparing the AOR should be properly notarized at the time the AOR form is finalized, and the affiant should be provided with a copy of the notarized AOR.

Response: Given that the Anchor signs the AOR under penalty of perjury and that the preparer signs the AOR attesting to having assisted with the preparation of the form and having received valid identification of the Anchor's identity, we will not require that the AOR be notarized.

Comment: The definition of "Qualifying Family Member" should be changed.

Response: This comment is not germane to this Federal Register announcement. The definition of a qualifying family member has been in place for many years and we are not proposing to change it with this proposed new AOR.

Refugee Resettlement Watch Comments

Comment: If for some reason we have closed resettlement from a certain country that we had accepted refugees from in some previous year (within 5 years), their relatives would not be eligible for the P-3 program?

Response: As the United States does not "close" resettlement from certain countries, we would similarly not make any decision to render their relatives ineligible for the P-3 program. It is important to keep in mind that PRM determines which nationalities are eligible for P-3 processing at any given time, based on a number of factors. Not all nationalities are eligible.

Comment: It is not clear on whether all ALL P-3 applications would include DNA testing no matter where in the world the family member is located. What if a Somali has gotten himself/herself to Yemen and then a family member in the US applies for that person to be admitted?

Response: DNA testing of parent and child biological relationships between the anchor relative and his/her relatives overseas will be initially required for all P-3 applicants, no matter their nationality or location. However, PRM, in consultation with USCIS, reserves the right to periodically review the program, and to determine that DNA testing may not be required for certain nationalities or in certain locations in the future.

Comment: All AOR applications should be taken only by authorized U.S. State Department and/or Homeland Security personal.

Response: Although AORs are completed with the assistance of resettlement agency staff, they are ultimately reviewed by U.S. Department of State and Homeland Security personnel. Resettlement agency staff has no authority to make a decision regarding the validity of an AOR or to make a final determination regarding whether the AOR meets P3 access criteria.

Comment: DNA testing should be used for all "refugee" families (not just P-3 applicants) from now on and make sure the original anchor family is a biological unit first.

Response: The requirement for DNA evidence will apply only to the P-3 program. It is a criterion to ensure that only eligible family members of refugees and asylees have initial access to the USRAP through the P-3 family reunification program. Each individual who is permitted to file a refugee application in the program must then meet all eligibility requirements for U.S. refugee status. It is important to note, however, that refugee applicants under any priority can submit DNA test results to USCIS as secondary evidence when it is determined that primary evidence is insufficient to establish the claimed relationship. Submission of DNA evidence in such cases is strictly voluntary.

Americans for Immigration Control Comments

On behalf of my organization, Americans for Immigration Control, I would like to comment on the proposal to reinstate the P-3 family reunification program. First, however, I would like to say that much needs to be done to tighten up our policies for accepting refugees. Many are now admitted who do not meet the United Nations definition of standard of a refugee. Quite often their motive for leaving seems to be economic advancement, rather than fear of persecution. If we have P-3 we should require genetic testing of individuals, along with their purported family members, who petition to bring in relatives. The testing will ensure that all are indeed members of the same family unit. If not, unrelated members of the "family" can improperly petition to bring in more people. This precaution is reasonable, given fraudulent claims of family ties, documented by the Department of State and Homeland Security, by many refugee applicants abroad. Please act to uphold the integrity of our admissions policy

Applicants to the P-3 program are not required to be registered with UNHCR to be considered for U.S. resettlement. They must however meet the definition of refugee and be otherwise eligible for resettlement according to U.S. law, a determination made by a USCIS officer following an in-person interview as well as analysis of all evidence and the applicants' credibility.

As part of the anti-fraud measures established for the revised P-3 program, DNA testing will initially be mandatory for all claimed biological parent-child relationships between the anchor relative and his/her parent(s) and child(ren) overseas. P-3 applicants found qualified to access the U.S. Refugee Admissions Program (USRAP) will then be interviewed by a specially-trained USCIS officer to determine if they are eligible for resettlement. While USCIS regulations do not authorize USCIS to require DNA testing as primary evidence to establish eligibility for family-based immigration benefits, if a USCIS officer at the time of the refugee status interview finds that the applicant has not provided sufficient evidence to establish the claimed relationship between the applicant overseas and/or his/her claimed accompanying family members, additional DNA evidence may be provided to overcome these doubts.

Help Save Maryland Comments

With P-3 reinstated, taxpayers are once again forced to pay the financial and social costs of bringing in and sustaining non-related persons who would not qualify for entry under normal immigration procedures. Your notice mentions usage of DNA testing to prove family lineage. An excellent idea which really should be extended to all immigrants entering the country. It is the final word on whether "families" are real or not.

This proposed information collection vehicle pertains only to those seeking access to the P-3 refugee family reunification program for their overseas relatives, not other immigration benefit programs.

I can see a problem however with those effectively being "grand fathered in" from before the 2008 termination of P-3. These refugees were fraudulently allowed to enter as a family under a Refugee Program and if P-3 is reinstated they will benefit from their deception. I would recommend conducting DNA testing for all refugees prior to 2008 as well who want to bring in family members.

All anchor relatives who file an AOR on behalf of their relatives overseas under the P-3 program will be required to submit DNA evidence to support certain claimed relationships, regardless of when the anchor relative was admitted as a refugee or received asylum status.

International Rescue Committee Comments

Instruction #3 Adopted children: the AOR states the children should be under 16 years of age. Technically, in cases where siblings from the same family are adopted, if one sibling is under 16 years, then an older siblings may also be adopted, as long as he/she is under 18 years at the time of the adoption. This is done in order not to separate the siblings. This is followed in the context of immigrant visa petitions and should also be followed for AORs.

The form has been changed to make this clarification.

Instruction #6: In immigrant visa processing or V-93s, DNA is not mandatory, but it may be suggested, would other proof of relationship (ie., documents) be accepted rather than DNA?

When the P-3 program is re-launched, DOS will require that all individuals applying for family members to be considered for refugee resettlement under the P-3 program initiate DNA relationship testing against all claimed biological children and parents for whom they are applying, without exception.

Instruction #8: It says not to submit the AOR without all relevant information, what if the 5-year deadline is approaching? Is there a humanitarian exception for submitting a late AOR as with V-93s? Or is there an exception to submit as is because of the filing deadline?

DOS/PRM will make exceptions to the five year filing deadline on a case by case basis for extraordinary circumstances. It is important to note that after five years, the anchor in the U.S. may have access to other means by which to apply for overseas relatives, such as the I-130 program.

Lutheran Immigration and Refugee Service Comments

- 1. All minors should be able to reunify with family members.**
- 2. The new DNA relationship verification process should not undermine refugee protection.**
- 3. Refugee family reunification opportunities through the USRAP should not be limited to do financial hardship.**

1. All minors should be able to reunify with family members.

The requirement that an individual who files an AOR must be at least 18 years of age is an anti-fraud measure to protect minors. It is intended to discourage persons who are not eligible for refugee resettlement processing from attempting to fraudulently add their minor child to the case of a family that is eligible for refugee resettlement processing. In such a case, the child could enter the U.S. as a refugee and then file an AOR for his/her real parents. Parents would be discouraged from this practice if they knew that the child would have to wait many years to file the AOR. It also serves to discourage parents from “abandoning” a child so that the child can enter the U.S. as an Unaccompanied Refugee Minor (URM), and then files an AOR for his/her parent(s) upon arrival in the United States. This is a serious concern in overseas processing locations where URM status is given priority for UNHCR interviews, creating an incentive to falsely claim URM status. In those cases where a URM legitimately learns the whereabouts of his/her refugee parent(s), PRM will refer the case to UNHCR and the appropriate Refugee Coordinator for investigation and possible processing for admission under the P-1 category. The establishment of a minimum filing age is common in other immigration programs; for example, the minimum age for filing an I-130 immigrant visa petition for a parent is 21.

2. The new DNA relationship verification process should not undermine refugee protection.

A scenario involving a woman who was raped or unfaithful to her husband and has not previously informed him that one or more of their children is/are not in fact biologically his, putting the woman at risk, is of utmost concern to PRM. We have pledged to work with our non-governmental and international organization partners to establish mechanisms to protect women in such cases. On a case-by-case basis and in certain circumstances we will allow a woman to request that a

child be tested against her instead of against her husband (as would normally be required) who has submitted an AOR requesting USRAP access for herself and her children.

3. Refugee family reunification opportunities through the USRAP should not be limited to do financial hardship.

We will require that applicants pay all DNA test fees to the lab up front. For those cases where all claimed biological relationships are supported by DNA evidence, PRM will reimburse the applicants for the cost of DNA testing, subject to the availability of funds. Once the mechanics of this process are finalized, PRM will send a program announcement detailing the exact procedure for reimbursement.

I hope this information is helpful to you. We appreciate the input of LIRS as we worked toward restarting the P-3 program, and look to continued cooperation in the future.

RESPONSE TO COMMENTS THAT THE P-3 PROGRAM IS VULNERABLE TO FRAUD

The P-3 refugee family reunification program was suspended due to fraud uncovered as a result of a DNA pilot conducted in early 2008. Following a review of the program, PRM and USCIS jointly agreed that the following measures were necessary to address the fraud concerns prior to resumption of the P-3 program: creation of a new AOR that is an official U.S. Government form, the institution of DNA testing to support claimed relationships, establishment of a 5-year filing deadline, and a minimum age requirement to file as an anchor.

DNA confirmation of the relationship between the U.S.-based anchor relative and his/her parent(s) and child(ren) overseas will be a condition of access to the P-3 program. The cost of DNA testing will be borne by the U.S.-based anchor, who will be reimbursed if all claimed biological relationships are confirmed by DNA.

RESPONSE TO COMMENTS ON COSTS

In all cases, the anchor refugees should be responsible, in advance, for the costs of the P-3 DNA testing, with no reimbursement from U.S. taxpayer monies, whatever the outcome of the tests.

Why must the taxpayer pay instead of the so-called “sponsors”?

Applicants will be required to pay all DNA test fees upfront. For those cases where all claimed biological relationships are supported by DNA evidence, PRM will reimburse the applicants for the cost of DNA testing.

OTHER COMMENTS

The “family members” who were then being brought in, were not even related to the non-refugees who had previously been admitted;

Individuals admitted prior to 2008 will be required to submit DNA evidence when requesting access to P-3 processing for their relatives overseas. Each individual who is allowed access to file a refugee application under the P-3 program must still demonstrate that he or she meets the refugee definition and all other requirements for refugee status. By requiring DNA for biological parent/child relationships claimed on an AOR, DOS and DHS are working diligently to disrupt and end the fraud that was discovered in the P-3 program.

Why aren’t refugees who petition for relatives via the I-730* program being tested?

This proposed information collection vehicle only pertains to those applying to access the P-3 program. PRM does note, however, that USCIS does inform I-730 petitioners when the evidence provided does not sufficiently demonstrate a claimed biological parent/child relationship and recommends that additional evidence, such as a DNA test, be submitted to verify the relationship. At present, USCIS’ regulations do not allow for mandatory DNA testing, although voluntary DNA submission is acceptable.

It (P-3) was overwhelmingly being used to bring people into the country who were not refugees, according to the U.N.’s definition; Anyone accepted via refugee programs should individually meet the criteria for refugee status; otherwise, we're simply discussing a backdoor route to family-preference immigration (chain migration).

While significant levels of relationship fraud were identified in the P-3 program prior to suspension, there is no evidence to indicate that individuals accessing the P-3 program did not meet the refugee definition as outlined by the Immigration and Nationality Act (INA). Like all refugee applicants, P-3 applicants overseas must: be of special humanitarian concern to the United States, meet the refugee definition under 101(a)(42) of the INA, be otherwise admissible to the United States, and not be firmly resettled in another country. These determinations are made by a specially-trained USCIS officer who conducts in-person interviews with applicants to assess their credibility, admissibility and overall claim. Only those who meet all eligibility criteria according to U.S. law are approved for refugee resettlement.

The new “family members” were not even related to each other;

There is no proof, via DNA verification, that the initial "anchor" family unit is really a family unit. So such a family can come over with children who are not related to each other and each of these children can serve as an anchor for a parent, elsewhere. That parent then brings in other children. And so on. This is especially important when the sending societies of these "refugee" flows are polygamous, a point directly applicable to the "countries of fraud" that stimulated the P-3 suspension in the first place.

If the P-3 program is, nevertheless going to resume, then it is important to be much more sure that any anchor family unit is, indeed, a family unit. In practice this means DNA verification of each child with respect to both parents or ironclad documentation confirming adoptive status.

USCIS' Refugee Access Verification Unit (RAVU) conducts records checks and file reviews to confirm the family relationships claimed by anchor relatives. RAVU compares the AOR with the anchor's prior immigration records (i.e, the a-file) in order to determine whether the individual claimed the family members for whom he/she is now filing on previous immigration applications. This process can prevent attempted fraud by an individual who falsely claims a qualifying family member on an AOR whom he/she never claimed previously. Incorporating DNA relationship testing into the P-3 program will provide an added anti-fraud mechanism beyond the paper review conducted by RAVU.

While DNA testing will initially be mandatory for all claimed biological parent-child relationships between the anchor relative and his/her parent(s) and child(ren) overseas, the P-3 program does accommodate and recognize non-traditional relationships as well. The USCIS RAVU review and the in-person interview conducted by USCIS to assess the bona fides of these relationships remain a critical anti-fraud measure that will be maintained even with DNA testing requirements in place.

My question is how bad people caneling (sic) an official program?

Why the big U.S. government can't correct that problem and tooked that long? So I was waiting my Relatives in 7 years. Now some of them are over age, in this New program, How can I apply again, while I don't know How long will be waiting again and some of my brothers and sisters are over age.

In addition, If I apply with this new (AOR) there is only one brother qualify fo the age so what can I say my other brother and sisters? They waiting that long without any future, NO life, No sleep they are a refugee comp (sic), sometime no food even.

For those family members who have aged out of P-3 eligibility since the suspension, there will be a seven month "grandfathering" period during which applicants who have turned 21 since the program was suspended in October 2008 will be allowed to access the program.

9. There are no payments or gifts to respondents.

10. Department records related to refugee processing are confidential per Section 222(f) of the Immigration and Nationality Act (8 U.S.C. §1202(f)). That section states that such records “shall be considered confidential and shall be used only for the formulation, amendment, administration, or enforcement of immigration, nationality, and other laws of the United States.”

As some of the information collected might be subject to the Privacy Act, 5 U.S.C. § 552a, the AOR contains a Privacy Act Statement and explains to the respondent how the information may be used.

11. There are no questions of a sensitive nature on the AOR.

12. The estimated annual number of respondents is 3,500. The annual hour burden is estimated to be 3,500 hours, based on 60 minutes per form x 3,500. The annual hour burden was determined after consultation with the resettlement agencies, which have years of experience collecting this type of information.

13. Based on 3,500 applicants to this program, it is estimated that 25% (875 respondents) will not have the cost of performing DNA testing reimbursed due to the failure of DNA to confirm all of the claimed biological relationships. At an average testing cost of \$560, these 875 individuals each will incur a cost of \$560, for a cost burden of \$490,000. We are also estimating that the 3,500 applicants will each have to provide an average of 2 photos, at \$5 per photo. The total estimated photos costs will be \$35,000, making the total cost burden $\$490,000 + \$35,000 = \$525,000$.

14. RPC staff estimates devoting 50 minutes per AOR to processing information submitted by applicants. The total cost to the Federal Government of this processing, at a \$44.00 hourly rate, is \$128,333. The cost of reimbursing the applicants for DNA testing is based on the assumption that 75% of the 3,500 applicants will have their relationships confirmed by DNA. At an average testing cost of \$560, the total cost reimbursed to these 2,625 individuals will be \$1,470,000. The cost that the PRM contractor would have to pay for staff salary to provide reimbursements would be \$80,000 per year. Therefore, the total cost incurred by the government is: $128,333 + 1,470,000 + 80,000 = \$1,678,333$

15. The program changes indicated are associated with this submission as a new collection.

16. The Department does not plan to publish the results of this collection.

17. The Department will display the expiration date for OMB approval of the information collection

18. There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods

This collection does not employ statistical methods.