

**SUPPORTING STATEMENT FOR
APPLICATION FOR ASYLUM AND FOR WITHHOLDING OF REMOVAL
OMB Control No.: 1615-0067
COLLECTION INSTRUMENT(S): I-589**

A. Justification

1. *Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.*

The information provided on this form is used by the Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS), and the Department of Justice (DOJ), Executive Office for Immigration Review (EOIR), to determine whether an alien applying for asylum and for 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. The form is also used by aliens in removal proceedings before EOIR to apply for withholding of removal as provided by section 241(b)(3) of the Immigration and Nationality Act (INA) and for withholding of removal under the Convention Against Torture as provided by 8 CFR 208.16, 208.17, 208.18, 1208.16, 1208.17, and 1208.18. Under 8 CFR 208.1, 208.3, 208.4, 1208.1, 1208.3, and 1208.4, Form I-589, Application for Asylum and for Withholding of Removal, is used to standardize the collection of information relevant to asylum and withholding of removal determinations.

2. *Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.*

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, USCIS asylum officers adjudicate the applications from aliens who are not subject to removal proceedings, or who have not yet been placed in removal proceedings. EOIR 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 can also be used to generate the EAD.

Dual use of the form also benefits asylees. They receive USCIS-issued evidence of identity and work authorization immediately after they obtain notice of a decision to grant asylum, thus enabling them to promptly work and access any public benefits to which they may be entitled.

3. *Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.*

The use of the Form I-589 provides the most efficient means for collecting and processing the required data. This form, and its instructions, reside on the USCIS Web site at <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=de9814836a14d010VgnVCM10000048f3d6a1RCRD&vgnnextchannel=db029c7755cb9010VgnVCM10000045f3d6a1RCRD> and they can be downloaded, completed and saved electronically. The form, along with the required supporting documentation, must be mailed to the USCIS office that has jurisdiction over the respondent. USCIS has designated this form for e-filing under the Business Transformation Project. As such, due to the partial GPEA compliance of allowing for accessing, completing and saving the form electronically, USCIS respectfully requests at least 2-year approval as it continues to move towards full GPEA compliance for all forms.

In addition, the EOIR Forms Web site page includes links to this form on the USCIS Web site. See: <http://www.justice.gov/eoir/formspage.htm>

4. *Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.*

A review of the USCIS automated forms tracking system was accomplished and revealed no duplication of effort for this information collection. A review conducted by EOIR reveals no duplication of effort for this information collection.

5. *If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.*

The collection of information does not have an impact on small businesses or other small entities.

6. *Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.*

If the information were not collected, DHS and DOJ would not be in compliance with sections 208(b) and 241(b)(3) of the INA or 8 CFR 1208.1, and 1208.16 that charge DHS and DOJ with the responsibility to establish procedures whereby aliens are able to apply for asylum and for withholding of removal under 241(b)(3) of the INA, or withholding of removal under the Convention Against Torture . 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 and for withholding of removal under the Convention Against Torture under 8 CFR 208.16, 208.17, 208.18,1208.16, 1208.17, and 1208.18. 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. *Explain any special circumstances that would cause an information collection to be conducted in a manner:*

- *Requiring respondents to report information to the agency more often than quarterly;*
- *requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*
- *requiring respondents to submit more than an original and two copies of any document;*
- *requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;*
- *In connection with a statistical survey, that is not designed to produce valid and*

reliable results that can be generalized to the universe of study;

- *requiring the use of a statistical data classification that has not been reviewed and approved by OMB;*
- *that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or*
- *requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*

This information collection is conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2). The circumstances described in question seven of this supporting statement do not apply to the information collection in question.

8. *If applicable, provide a copy and identify the data and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.*

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

On March 19, 2012, USCIS published a 60-day information collection notice in the Federal Register at 77 FR 16047. USCIS did not receive any comments in connection with that notice. On May 24, 2012, USCIS published a 30-day information collection notice in the Federal Register at 77 FR 31033. No comments have been received in connection with that publication to the date.

9. *Explain any decision to provide any payment or gift to respondents, other than*

remuneration of contractors or grantees.

USCIS does not provide payments or gifts to applicants in exchange for a benefit sought.

10. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.*

Confidentiality of an application for asylum or for withholding of removal is governed by 8 CFR parts 208.6 and 1208.6. The regulation provides that “information contained in or pertaining to any asylum application shall not be disclosed without the written consent of the applicant, except as permitted by this section or at the discretion of the Attorney General” as articulated at 8 CFR parts 208.6(a) and 1208.6(a). This discretion may also now be exercised by the Secretary of Homeland Security.

There are two system of record notices associated with this information collection. The DHS system of record notice associated with this information collection is Asylum Information and Pre-Screening System of Records, which was published in the Federal Register on January 5, 2010 at 75 FR 409. The DOJ system of record notice associated with this information collection is Justice/EOIR-001, Records and Management Information System, which was published in the Federal Register on May 11, 2004 at 69 FR 26179. The DHS privacy impact assessment associated with this information collection is USCIS Refugees, Asylum and Parole System and Asylum Pre-Screening System, dated November 24, 2009, and updated June 30, 2011. A Privacy Threshold Analysis is currently pending with the Office of Privacy.

11. *Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to person’s from whom the information is requested, and any steps to be taken to obtain their consent.*

Certain questions on Form I-589 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 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, or withholding of removal under the Convention Against Torture.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.
- If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.
- Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14

Type of Respondent	Form Name / Form Number	No. of Respondents	No. of Responses per Respondent	Avg. Burden per Response (in hours)	Total Annual Burden (in hours)	Avg. Hourly Wage Rate	Total Annual Respondent Cost
Individuals or Households	Application for Asylum and for Withholding of Removal, Form I-589	*46,000	1	12	552,000	** \$30.74	\$16,968,480
Total		46,000			552,000		\$16,968,480

*(This figure is based on approximately 27,800 affirmative applications filed with USCIS, on average, over the last 5 fiscal years. In addition, it is estimated that 18,200 defensive applications are filed directly with EOIR on average, over the same 5 year period.)

**The wage rate category of “All Occupations” has been used for this collection of information.

The mean wage for this occupation category as listed by the Bureau of Labor Statistics is \$21.94 and adding the wage rate multiplier of 1.4 provides a total adjusted wage rate of \$30.74.

13. *Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).*

- The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.*
- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.*
- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government or (4) as part of customary and usual business or private practices.*

There is no cost burden to respondents for actually responding to this information collection- start-up, maintenance, and operating costs associated with completing the paperwork. For informational purposes only, please know that there is no fee associated with this information collection.

14. *Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff),*

and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

Annualized Cost Analysis:

The estimated cost of the program to the Government is \$65,204,178

Cost to USCIS:

a.	Printing Cost	\$ 10,438
b.	Collection and Processing	\$13,344,000
c.	Total Cost to the Gov.	\$13,354,438

The cost for USCIS is \$13,354,438. This figure is calculated by multiplying the estimated average number of respondents (27,800) x 12 hours (This figure includes the total time required to collect, process, and adjudicate information by the Asylum Division, Service Centers, and Trial Attorneys, x \$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 (\$10,438).

The cost to EOIR is \$51,849,740.

This figure is calculated by:

- Multiplying **average** EOIR's affirmative and defensive filings (49,800) x \$592 (this cost figure represents the average cost for all affirmative (31,606) and defensive (18,191) filings completed by EOIR's, Immigration Judges); and
- Multiplying the average number of cases transmitted for appeal with EOIR's Board of Immigration Appeals (11,810**) x \$1,894 (this cost figure represents the average cost for all appeals completed by EOIR's, Board of Immigration Appeals).

****Of the affirmative (31,606) and defensive (18,191) filings adjudicated by EOIR's Immigration Judges, approximately 11,810 cases are appealed to EOIR's, Board of Immigration Appeals.**

15. *Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.*

There has been a decrease in the annual burden hours for this information collection. The burden hours have decreased by 205,656 due to the fact that the estimated number of respondents has decreased from 63,138 to 46,000. USCIS has made some clarifying changes to the language of the instructions to facilitate reading and completion of the form. USCIS, however, has not change to the information being collected.

16. *For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.*

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

17. *If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.*

USCIS will display the expiration date for this information collection in accordance with OMB regulations.

18. *Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.*

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