Form I-589 Public Comments and Response Matrix
Department of Justice and Department of Homeland Security
Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review
OMB Control Number, 1615-0067

Nature of Comments	Public Comments	Departments' Responses
Time and Cost Burden, Generally	The commenters expressed concern that the proposed revisions substantially increase the time and cost burden on asylum applicants. The commenters believe that the proposed revisions significantly increase the time and cost burdens for aliens seeking protection from persecution and torture, and that the increased burden would fall particularly heavily on unsophisticated aliens without representation and often without strong or any English language skills, aliens with claims based on membership in a particular social group, and aliens with political opinions reflecting the modern world. The commenter noted that in the Form I-589 supporting statement, the Departments acknowledged a six-hour increase in the estimated time burden, but the Departments reported no change to the estimated annual cost burden on applicants. The commenter noted that, for the newly proposed version of the Form I-589, the average time estimated to complete the form is a full 50 percent higher than what was calculated in the Form I-589 Supporting Statement available on the Office of Information and Regulatory Affairs (OIRA) website from May 2019 (18 hours as opposed to 12 hours). The commenter noted that the other numbers in the May 2019 Supporting Statement are almost identical to those set forth in the current NPRM, and that there is no explanation in the current NPRM as to why the cost burden would be almost identical as the May 2019 Form I-589 Supporting Statement while the estimated number of hours needed to complete the form would increase by 6 hours. The commenter believes that the actual collection of information required in the proposed revisions is extraordinarily burdensome, far exceeding the 18 hours indicated in the notice of information collection. The commenter claims that the revised form would lead applicants and legal representatives to spend several additional workdays on each application. The commenter noted that the sensitivity and emotional cost of recounting acts of	**Response:** The Departments acknowledge that the proposed and final Form I-589 and accompanying instructions issued in conjunction with the Procedures for Asylum and Withholding of Removal; Credible Fear, and Reasonable Fear Review Notice of Proposed Rulemaking (NPRM) and Final Rule increase the time and cost burdens for applicants and legal representatives. *See* 85 FR 36264 (June 15, 2020). In the NPRM, the Departments stated that the estimated hour burden had increased from 12 hours to 18 hours. *See* 85 FR at 36290. The estimated hour burden has been increased to 18.5 hours. This estimate is higher than the estimate provided in the NPRM because the Departments reevaluated their projections and determined that the hourly burden per response was likely to be higher than had been initially estimated. *See* Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review Final Rule, III. Regulatory Requirements, G. Paperwork Reduction Act. The estimated total cost burden has been increased to $70,406,400 as a result of a reevaluation of the estimated cost that applicants may incur for additional

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	persecution, intimidation, and harm take a devastating toll that cannot be measured solely in economic terms. The commenter believes that the Form I-589 Supporting Statement does not explain what the connection is between the average hourly wage in the United States and the cost of completing the form. The commenter states that while the Departments may be making this calculation based on the time that an individual would be unable to work because they would be burdened with completing the form, the calculation makes little sense when the primary cost of completing the application would be paying for an attorney.	expenses. More information will be provided in the I-589 supporting statement. In response to the commenters' concerns, the Departments have abandoned or revised certain proposed questions to help reduce the burden on applicants and legal services providers. Additional details regarding which proposed questions have been abandoned or revised are provided in the responses below. The Departments also updated the Form instructions to reflect regulatory text changes made in the Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review Final Rule, as compared to the NPRM.
Impact on Asylum Applicants	The commenters expressed concern that the changes to the form will disadvantage asylum applicants and put genuine asylum seekers at risk of erroneous denial and subsequent deportation to a country where they will face harm. The commenter believes that the proposed revisions are inconsistent with fundamental due process principles, and likely to have a devastating impact on pro se applicants, particularly on indigent or unrepresented parties,	**Response:** The I-589 Form and instructions provide adequate detail and guidance on the information that must be provided in the application. The additional questions are meant to account for the regulatory changes in the related rulemaking action. The questions that have been added to the form have

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	and/or those with limited English or education, and that due process requires a meaningful opportunity to be heard and to present evidence orally. The commenter believes that asylum seekers who are detained are unlikely to have legal representation, and have often recently arrived in the U.S., with little or no English language skills, familiarity with the U.S. legal system, or expertise in our asylum laws. The commenter claims that applicants will now, essentially, be required to present all of their legal arguments through the extensive and highly complicated questions on the revised form. The commenter also claims that, without the assistance of an attorney, it will likely be impossible for asylum seekers to fully complete the new version of this form. The commenter believes that the proposed revision would severely impact the rights of asylum seekers subject to the Migrant Protection Protocols (MPP). The commenter believes that access to counsel for aliens subject to MPP is even less available than for those held in ICE detention and that those aliens lack access to safety and security, along with the ability to access interpretation resources that would be available in the United States. The commenter notes that given these obstacles, most asylum applicants in MPP proceedings are only able to submit threadbare applications with the support of volunteer interpreters unfamiliar with asylum law. The commenter believes that given these conditions, the proposed revisions would require more time from asylum seekers and volunteers and increase the probability of errors. The commenter believes that any error would have potentially devastating consequences, including having an immigration judge pretermit an application if it is not filled out correctly, or having an immigration judge make a frivolous finding under the expansive new definition in the proposed rule, which could subject the asylum seeker to a permanent bar on all immigration relief based on an immigration judge's opinion that the application was without merit.	accompanying explanations in the instructions and are designed to elicit the relevant information needed for adjudicators to make informed decisions. The Departments acknowledge that applicants may make errors when completing the I-589 Form, and consistent with current practices and procedures, adjudicators will continue to weigh any evidence presented and assess any errors, as needed. The comments related to the Asylum Application, Interview, and Employment Authorization for Applicants, 85 FR 38532, are outside the scope of this information collection action. The Departments recognize that completing the I-589 form will take additional time, as was explained in the Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review NPRM. *See* 85 FR at 36290. However, the I-589 form and instructions revisions associated with the rule do not prevent applicants from applying for asylum or work authorization. A Form I-589 is required of aliens who apply for asylum affirmatively before U.S. Citizenship and Immigration Services (USCIS) or defensively, before the

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	The commenter state that the proposed changes to the form have the potential to prevent thousands of asylum seekers from having a fair chance at applying for asylum, simply because they do not speak or read English. The commenter states that the vast majority of clients are survivors of torture and trauma, and many clients are unable and unwilling to speak about what happened to them when they first arrive in the United States. The commenter works with clients over an extended period of time to help clients rebuild their sense of safety and trust, and notes that takes time to prepare clients to safely revisit traumatic events in their mind so they can collect details needed for their personal statement. The commenter believes that penalizing asylum seekers because of their inability to converse in English or because they need time, expertise, and flexibility to recall traumatic events is cruel and inhumane. The commenter believes that in addition to the cost of attorneys' fees, there would be additional out of pocket costs for asylum seekers who would, for the first time, have to prove that they have paid income taxes. The commenter believes that, as a result of newly promulgated rules governing initial employment authorization documents for asylum seekers, the vast majority of asylum seekers who file a Form I-589 after August 25, 2020, will likely not be able to obtain an employment authorization document (EAD) before their asylum application is adjudicated. The commenter believes that the unfortunate result of the Asylum Application, Interview, and Employment Authorization for Applicants Final Rule (Asylum EAD Final Rule), 85 FR 38532, will likely be that many asylum seekers will be unable to work lawfully and will therefore have to spend time and money with a tax professional in order to file taxes prior to applying for asylum. The commenter believes that the Asylum EAD Final Rule will also put pressure on counsel and asylum seekers to file the I-589 Form as quickly as possible to get the much longer, 365-day clock started. The commenter believes that there is significant tension between the Asylum EAD Final Rule and this information collection, which may require many weeks and	Executive Office for Immigration Review (EOIR) (including those individuals placed in the MPP program). The Departments recognize the potential challenges faced by individuals subject to MPP but must balance these difficulties with the requirements of the proposed regulatory changes. Completing the revised I-589 form may take additional time, but the form and instruction changes allow for the alien to provide the required information for adjudication by an immigration judge or asylum officer, in concert with proposed regulatory changes. The Departments disagree that the addition of income tax payment-related questions in Part C. Additional Information about Your Application, Questions 19.E. through 19.G., will lead to additional costs for asylum applicants. Regardless of whether the Form I-589 includes a tax payment-related question, an applicant's tax payment obligations remain the same. Nevertheless, in response to the commenters' concerns, the Departments have abandoned or revised certain proposed questions to help reduce the burden on applicants and legal services providers. Additional details regarding which proposed questions have been

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	multiple meetings with counsel to prepare. The commenter urges the agencies to rescind this data collection, at least until they are able to accurately assess the cost of the changes in the form and provide the public with accurate data.	abandoned or revised are provided in the responses below.
Impact on Unaccompanied Alien Children	The commenters believe that the proposed revisions pose specific challenges for unaccompanied alien children (UAC). The commenter states that applicants for protection, particularly children, who fear or have experienced cruel or inhuman treatment may be unable to elaborate on their experiences in detail at the time they prepare their written applications. The commenter notes that the applicant may need to file the application rapidly to avoid being forced to seek an exception to the one-year filing deadline, or at the behest of an immigration judge. The commenter notes that, at that point, the applicant may not have obtained assistance of counsel or therapeutic support for the process of recounting traumatic events. The commenter believes that requests for detailed information should be eliminated from the proposed instructions and replaced with an instruction reminding the applicant of future opportunities to supplement the record. The commenter believes that, like the general population of noncitizens in removal proceedings, UAC often must face the system without legal representation. The commenter notes that UACs are a vulnerable population that often do not know or understand the circumstances of their persecution or their flight from their country of origin. The commenter believes that the proposed revisions force UAC to provide details not previously required regarding the circumstances of their persecution, the reason for their persecution, their travel through other countries, their family members' travel through other countries, and their family members' immigration history in other countries, including the United States. The commenter believes that the proposed revisions pose an added challenge for	**Response:** The Departments acknowledge the concerns of the commenters, but disagree that the proposed revisions that require applicants to provide additional details about their claims on the Form I-589 should be eliminated. The additional questions on the form offer applicants, including unaccompanied alien children, additional opportunities to provide information that is relevant to the adjudication. The accompanying instructions also provide additional information to help applicants complete the form. Moreover, information regarding the applicant's ability to supplement the application is provided in Part I. Filing Instructions, Section V. Obtaining and Completing the Form. The Departments considered the alternative proposal of creating a second form for unaccompanied children; however, the Departments decided to continue using a single form for all applicants in the interest of maintaining consistency and continuity across adjudications.

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	all applicants, and UAC are particularly harmed by these complex questions. The commenter believes that if the Departments persist in revising the form, they must consider creating a second form for UAC, who should not be expected to answer many of the questions contained in the form.	
Impact on Legal Services Providers	The commenters believe that the proposed revisions to the form and instructions place a burden on legal services provides and preclude legal services providers from providing pro se legal assistance to applicants. The commenter believes that, given the additional four pages of substantive questions on the proposed form, attorneys who prepare the application would no longer be able to file a basic form with the intention of filling in the details of the claim later, after weeks or months of working closely with their client prior to an interview or hearing. The commenters believe that, instead, attorneys would need to understand every detail of the case, from the exact delineation of the applicant's particular social group, to whether a public official who acquiesced in torture was acting in an official capacity, and how that official became aware of the harm that the applicant suffered. The commenter notes that attorneys cannot generally elicit this level of detail about a case in the first few meetings. The commenter believes that, in addition to the time that an attorney must spend with a client to reach a level of trust to elicit this level of factual detail, the NPRM does not take into account the fact that the proposed rule radically changes how asylum applications would be adjudicated. The commenter claims that, as a result, even an experienced asylum attorney would have to spend more hours on every case researching how the new rules intersect with existing law, what injunctions are currently in effect against rules that have been successfully challenged, and would need to speak with colleagues about how the new rules are being interpreted. The	**Response:** The Departments acknowledge that the revised Form I-589 and accompanying instructions increases the time and cost burdens for applicants and legal services providers. The Departments are balancing the need to obtain information to make informed decisions against the burden that the application places on applicants and legal services providers and believe that the revised I-589 form and instructions strike the adequate balance, in light of the related regulatory changes. The additional questions in the form are designed to help implement the related regulatory changes. The form and instruction changes are also meant to encourage asylum applicants to provide meaningful and relevant information on the application. The estimated total cost burden has been increased to $70,406,400 as a result of a reevaluation of the estimated cost that respondents may inquire for additional expenses. More information will be

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	commenter believes that the notion that the cost to a client for this level of attorney work would run from $20 to $1000 is absurd and the Supporting Statement that set the highest possible cost for attorneys' fees in completing the I-589 is likely a vast underestimate. The commenter believes that attorneys who meet their clients after they have already submitted their application *pro se* will have a huge burden of making amendments and explaining to the department or court the reasons why the application may have been completed as a result of an error related to language or educational barriers or both. The commenter believes that attorneys will have to take on the large task of ensuring that any mistakes or issues with the initial applications are remedied prior to their client's next steps in the application process which in itself is a time-consuming process. The commenter notes that many asylum seekers are survivors of torture and trauma and the process of drafting a client declaration and developing a claim often takes several months and sometimes years. The commenter believes that the deep stigma, shame, and mental health ramifications of the persecution endured, combined with a lack of accessible and affordable mental health services for asylum seekers, can make it very difficult to fully flesh out the asylum claim before an asylum interview or master calendar hearing in immigration court. The commenter believes that the inability of attorneys to make valid and impactful changes to their clients' record will cause further delay and backlogs in an already overwhelmed system. The commenter believes that these hurdles, created by the new form, do not create an environment conducive with efficiency; but rather, put obstacles in place for each and every person that comes in contact with the immigration system no matter what role they play. The commenter believes that the proposed revisions ignore the significant reliance interests of the commenter and organizations like it. The	provided with the I-589 supporting statement The submission of complete applications ensures that asylum officers and immigration judges have the information needed to make informed decisions about applications for asylum, withholding of removal, and deferral of removal, as needed. The Departments believe that the changes to the form and instructions neither preclude nor inhibit asylum applicants from seeking or obtaining *pro se* legal assistance. Nevertheless, in response to the commenters' concerns, the Departments have abandoned or revised certain proposed questions to help reduce the burden on applicants and legal services providers. Additional details regarding which proposed questions have been abandoned or revised are provided in the responses below. The Departments believe that the commenter's statements about reliance interests and burden pertain to the regulatory changes ("The commenter trains its staff, volunteers, and pro bono attorneys on *asylum law* …The commenter also has intake procedures …that screen for and

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	commenter is dedicated to providing legal counsel and support to those seeking refuge in the United States. As such, the commenter has developed a wealth of materials, information, and media to educate, assist, and support asylum seekers. The commenter trains its staff, volunteers, and *pro bono* attorneys on asylum law using curricula that have been standardized and perfected. The commenter also has intake procedures and forms and Know Your Rights materials that screen for and discuss the parameters of asylum as it currently exists. The commenter believes that the proposed revisions would cause the commenter to expend significant resources to revise, reprint, and retrain staff on all of the materials and procedures, to the detriment of the commenter and the communities it serves. The commenter believes that the information required by the proposed revisions effectively precludes *pro se* assistance. The commenter believes that the proposed revisions effectively preclude nonprofit organizations from providing *pro se* help because they require an applicant to provide legal analysis, making it nearly impossible for a *pro se* adviser to avoid applying applicable laws to the facts of the case in order to complete the form. The commenter believes that the estimated 18-hour response time for the revised form will severely limit the number of applicants who can receive assistance and counsel from non- profit legal service providers. Assuming that the commenter could find a way to provide *pro se* assistance, the commenter believes that the amount of time required to complete the form would pose another insurmountable obstacle.	discuss the *parameters of asylum as it currently exists*,") (emphasis added). The Departments stated in the proposed rule that "Comments received on the information collection that are intended as comments on the proposed rulemaking rather than those specific to the collection of information will be rejected." The Departments recognize that some of commenter's materials would need to be amended, but all of the form and instructions revisions are intended to reflect only the changes proposed by the rule. Accordingly, the Departments will not respond further on the reliance interests portion of the comment.
Impact on Asylum Officers and Immigration Judges	The commenter believes that most of the threshold questions and prompts on the form have become more specific and rigid, and that asylum officers and immigration judges will bear the burden of fact checking and researching country conditions. The commenter believes that the heightened burden on the applicant will create an even higher responsibility for asylum officers and immigration	**Response:** The Departments disagree that the revised Form I-589 and accompanying instructions imposes a burden on asylum officers and immigration judges. The additional questions on the form are designed to help implement the revised regulations and ensure that asylum officers

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	judges to ensure that applications are all in compliance with the newly proposed rules, specifically, the rules related to the level of detail required for describing the persecution an applicant has faced. The commenter believes that asylum officers and immigration judges are ostensibly given broader discretion when it comes to granting asylum and these decisions must be made on the basis of very rigid and structured parameters that do not in fact allow the officer or judge to use their best judgment, but rather require all successful asylum applications to fit within certain parameters. The commenter believes that requiring applicants to articulate the "boundaries of a particular social group" and the "knowledge requirement for persecution by a government official" are all facts and evidence that an applicant may not have readily available to them within the one-year filling timeframe. The commenter believes that the full articulation of a particular social group and its boundaries generally requires extensive country conditions research and even expert testimony on country conditions. The commenter believes that the physical application does not have enough room to allow an applicant to thoroughly discuss these claims in depth as required under the new rules. The commenter believes that asylum officers and immigration judges will bear the burden of fact checking and researching country conditions themselves before deciding whether an applicant is, in fact, a part of a social group or if they have been targeted by their home government. The commenter believes that the current rules allow applicants to provide a full developed record at a later date and leaves room for a speedier asylum application process. The commenter believes that this makes sense given that country conditions are constantly evolving and will have to be revisited at the time of adjudication.	and immigration judges have the information needed to make informed decisions about applications for asylum, withholding of removal, and deferral of removal. Asylum officers receive significant specialized training in international human rights law, nonadversarial interview techniques, and other relevant national and international refugee laws and principles and also receive information concerning the persecution of persons in other countries on account of race, religion, nationality, membership in a particular social group, or political opinion, torture of persons in other countries, and other information relevant to asylum determinations. See 8 CFR 208.1(b). Asylum officers are thus qualified to make determinations regarding asylum claims. Immigration judges also receive extensive training and possess the experience necessary to adequately interpret and apply the relevant regulations and statutes. *See* 8 CFR 1003.10(b). Immigration judges already have extensive experience weighing evidence and interpreting and applying complex laws as required by statutes and regulation.

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Complexity of Form and Instructions	The commenters believe that the proposed revisions include complex legal questions that combine facts and law, and that the proposed revisions are confusing and make it impossible for pro se applicants to have their cases heard. The commenter believes that the form and instructions to file for asylum and related relief should be simple enough for unrepresented applicants to complete the form and have a day in court before the immigration judge or an interview before an asylum officer. The commenter is concerned that this form will lead to confusion and many asylum seekers being unjustly barred from asylum. The commenter is very concerned that the additional four pages of complex questions on the proposed form will make it impossible for pro se applicants to have their cases heard at all. The believes that the additional questions in the proposed form include complex questions combining facts and law. The commenter believes that pursuant to recently imposed policies under which U.S. Citizenship and Immigration Services (USCIS) may reject any forms with any blank fields, applicants may be unable to have their applications accepted and adjudicated at all. The commenter believes that pro se applicants face the real risk of answering these questions incorrectly and then facing adverse credibility decisions when an adjudicator faults them for testifying inconsistently with the responses on their form. The commenter believes that expanding the form and requiring applicants to make complicated legal conclusions does not minimize the burden of the collection of information on those who are to respond. Furthermore, the commenter believes that the proposed revisions are not necessary for the proper performance of the functions of the Departments. The commenter claims that the revisions will sow confusion in an already chaotic and complex asylum system where many aliens struggle to navigate the application process and court system without legal representation. The	**Response:** The Departments acknowledge the concerns of the commenters. However, the Departments disagree that the additional questions will make it impossible for applicants to have their claims considered by the Departments. The Departments disagree that the revised form and instructions are meant to intimidate or discourage asylum seekers. To the contrary, the proposed revisions give applicants additional opportunities to provide information by adding prompts and questions that elicit the relevant information. For example, the revised questions related to past harm, mistreatment, or threats and fear of future harm or mistreatment in Part B. Information About Your Application, Question 1.A through 1.D., include more opportunities for applicants to provide the appropriate details about the harm they experienced or fear and the reason(s) for harm, mistreatment, or threats. This revised section offers additional, focused prompts to encourage applicants to provide the information needed. The Departments believe that the form allows ample opportunity for applicants to present relevant information, including applicants who are detained. Even if an applicant provides irrelevant information,

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	commenter believes that the proposed revisions are clearly meant to intimidate and discourage asylum seekers and further obscure the immigration system for applicants, which is a shameful abdication of the U.S. government's obligations under international law. The commenter believes that the proposed revisions pose specific challenges for detained applicants. The commenter states that the proposed revisions require more time and details from applicants, which will make the application process even more difficult for detained applicants. The commenter believes that the proposed revisions will also force applicants to provide more detailed information about their claims, possibly before they have had the opportunity to consult with an attorney, which may lead to some applicants providing irrelevant information that weakens their claim. The commenter claims that even applicants who manage to secure counsel are often only able to meet with their attorneys once or twice before their hearings due to unreliable phone access and limited space for attorney meetings at detention centers.	asylum officers and immigration judges are adequately trained to distinguish relevant information from irrelevant information and consider credibility and the weight of any evidence presented. The Departments consider the comment related to the rejection criteria for the Form I-589 to fall outside of the scope of this information collection action, and therefore, decline to respond to the comment. As explained below, in response to the commenters' concerns, the Departments have revised or abandoned some of the proposed questions in the interest of simplicity and clarity.

Membership in a Particular Social Group	The commenters believe that asking applicants seeking protection on account of membership in a particular social group (PSG) to identify PSGs on the form presents a hurdle for pro se applicants and violates applicants' due process rights. The commenters believe that adding a requirement to identify the particular social group on the form imposes high time and cost burden on applicants and will present a huge hurdle for *pro se* applicants, who are already at a disadvantage. The commenter believes that properly identifying a particular social group that meets the requirements of the law requires expertise in U.S. asylum law that is far beyond the ability of most *pro se* applicants with meritorious claims. The commenter claims that the increased burden stems from the proposed rule's attempt to narrow the definition of "particular social group," which undermines the 1951 Convention and Refugee Act by providing a non-exhaustive list of nine specific bases that will no longer meet the definition of a particular social group. The commenter believes that the new form would force asylum seekers to articulate their particular social group(s) on the form, and even those applicants who rely on ineffective counsel would be unfairly precluded from later asserting a legitimate basis for asylum protection, in violation of the Fifth Amendment, contrary to long-established precedent. The commenter claims that demanding that asylum seekers articulate the particular social group on the form facilitates the agency's violation of applicants' due process rights. The commenter is concerned about asylum seekers having to articulate their specific particular social group in the proposed form because legal analysis surrounding particular social groups is in constant flux and what may be a widely accepted particular social group at the time an asylum seeker files for asylum might no longer be considered viable in the months or years it takes for the applicant to be scheduled for an individual hearing. The commenter urges the agencies to remove the prompt. The commenter claims that for pro se individuals, again many of whom will be detained, to have to articulate the precise particular social group formulation or else waive the ability to raise that group upon appeal, is	**Response:** As proposed, the Departments are including a prompt for applicants to provide information about their membership in a particular social group, if applicable. The Departments revised the originally proposed prompt in response to the concerns raised by the commenters. *See* Form I-589, Part B. Information about Your Application, Question 1. The additional prompt in the form and explanation in the instructions related to membership in particular social groups is related to the regulatory text proposed in the NPRM and included in the final rule in 8 CFR 208.1(c). *See* Instructions for Form I-589, Part 1. Filing Instructions, II. Basis of Eligibility, A. Asylum. The form gives applicants ample opportunity to offer information related to their membership in a particular social group, if applicable. Adjudicators are experienced with addressing the substance rather than the form of a claim, and aliens will have an opportunity to correct articulation deficiencies before an immigration judge renders a decision. *See* Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review Final Rule, 4.1 (Membership in a Particular Social Group). The Departments disagree that the prompt requires expertise in asylum law, is a violation of substantive or procedural due

	unreasonable and undermines U.S. obligations to protect those fleeing persecution and threats to their life or freedom under the regulations implementing Article 33 of the Refugee Convention and the 1967 Refugee Protocol. The commenter believes that expecting asylum applicants, especially those appearing pro se, to delineate and articulate the particular social group in their initial asylum filings is simply unrealistic and undermines due process and U.S. obligations to provide a meaningful process of protect refugees. The commenter noted that the new box could easily be used to confound applicants during a hearing if they identified a particular social group that, upon further research and testimony is not the actual group that forms the legal basis for a claim**.** The commenter believes that at a minimum, the prompt should be revised to ensure that the applicant provides a description to the best of his or her ability and an acknowledgment that this information may be supplemented at the time of hearing. The commenter maintains that if such guidance is not provided, an immigration judge would then have the opportunity to pretermit the claim based on the applicant's inability to adequately state a legally cognizable social group. The commenter claims that survivors of abuses such as forced marriage, "honor" crimes, and human trafficking most often apply for asylum on account of their membership in a particular social group, and that they will undoubtedly and arbitrarily suffer immensely as a result. In the commenter's experience, few if any child applicants are equipped to articulate a particular social group in a manner that Question 1 calls for, especially during the early stages of their case. The commenter believes that, for most child applicants, even coming to understand the concept of a particular social group (and the factors that contribute to whether a particular social group is legally cognizable) requires significant time and explanation in developmentally appropriate terms, often over the course of numerous meetings.	process rights, or otherwise incongruous with the 1951 Convention and Refugee Act. The regulatory intent is to allow for an alien to either articulate or provide a basis for determining the contours of a particular social group. The Departments have long held that applicants both with or without counsel must provide evidence of eligibility for protection including, if applicable, their membership in a particular social group. In *M-E-V-G-*, 26 I. & N. Dec. 227, and *W-G-R-*, 26 I. & N. Dec. 208 (BIA 2014), the Board of Immigration Appeals clarified the term's scope, ruling that a "particular social group" must be: (1) composed of members who share a common immutable characteristic; (2) defined with particularity; and (3) socially distinct within the society in question. *M-E-V-G-*, 26 I. & N. Dec. at 237. The Board emphasized that social distinction and particularity were "fact-based" and depended on evidence of how the group was perceived in the society in question. *Id.* at 242. The Departments' proposed prompt aims to document claims on the record at the very outset of an alien's desire to apply for protection. Rather than delimit due process, this prompt affords more process to allow for a fulsome review of the alien's claim for asylum or for withholding of removal.

		For additional responses to the commenter's claim that expecting an alien to articulate a particular social group undermines U.S. obligations or is in violation of U.S. law, see Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review Final Rule, 4.1 (Membership in a Particular Social Group).
Non-Government Actors and the Role of the Government	The commenters believe that the proposed revisions related to non-government actors increase the burden on victims of persecution by non-government actors. The commenter believes that the proposed revision requires asylum seekers seeking protection based on persecution committed by non-state organizations to provide significant details about the role of the government in the persecution. The commenter claims that the form gives the impression that persecution can only occur if the government is involved, and the questions ignore the reality that the political landscape of the modern world has drastically changed since the 1951 Convention and 1967 Protocol. The commenter believes that placing an additional time burden on applicants facing persecution by non-state organization disfavors applicants with claims based on gang, criminal, and terrorist organizations that governments are unable or unwilling to control. The commenter claims that the proposed revisions hinder the Departments' ability to carry out statutory mandates and address the needs of modern refugees, respond to modern conflicts around the world, and provide protection to victims of these non-state organizations. The commenter opposes the proposed questions for applicants seeking protection under the Convention Against Torture regulations to explain the exact role of government officials and believes these questions will be impossible for most pro se applicants to answer. The commenter believes that an individual who has fled torture will generally not know whether or not a government official was acting in their "official capacity" and even if	**Response:** In response to commenters' concerns, the Departments abandoned certain proposed revisions in the form and accompanying instructions related to harm and torture by non-government actors and the role of the government. *See* Form I-589, Part B., Information about Your Application, Questions 1.A. through D.; Instructions for Form I-589, Part II. Basis of Eligibility, Part B.

	the applicant may ultimately be able to retain an expert witness and/or do further investigation about conditions in their country to support their claim before an individual hearing, it is absurd to require this level of detail at the filing stage of the process. Furthermore, the commenters believe that the proposed questions asking about torture by non-government actors are confusing at best and misleading at worst. Moreover, the commenters claim that the question would require a CAT protection applicant to guess how a government official would respond if they were made aware of the torture. The commenters believe that applicants for protection from torture should not be required to guess about what their government might do. The commenter states that in circumstances involving threats or harm to children, adult family members or caregivers are usually involved in the decision of whether to report incidents to government officials, and/or carry out the reporting. The commenter notes that child applicants therefore rarely have direct knowledge of the full circumstances surrounding police reports without seeking additional information from others involved, usually with the assistance of counsel.	
Deferral of Removal under CAT	The commenter believes that the form should mention deferral of removal under the CAT regulations. The commenter states that the proposed form specifically states on page 1 and page 5 that it is to be used for both statutory withholding of removal and withholding under the CAT regulations. The commenter believes that neither the form nor the accompanying instructions clarify that this form is also the one that applicants for deferral of removal under the CAT regulations must use to apply for protection. The commenter believes that it is confusing to specify one use of the form under the CAT regulations and to leave out the other use, and that the form and instructions should be rewritten to clarify that the Form I-589 is the correct form to seek deferral of removal.	**Response:** The Departments do not agree that deferral of removal under the CAT regulations needs to be mentioned on the Form I-589. The accompanying instructions provide an adequate overview of the statutory and regulatory framework for withholding of removal and deferral of removal under the CAT regulations. *See* Instructions for Form I-589, Part 1. Filing Instructions, II. Basis of Eligibility, B.-D.

Similarly Situated	The commenters believe that it is unduly burdensome and unrealistic to require asylum applicants to provide information about similarly situated persons. The commenter believes that one example of a significant increase in the information collection burden with no stated purpose in the proposed rule is the question about the past harm and torture experiences that includes a reference to "other similarly situated persons". The commenter notes that proposed question 1.A. in Part B., Information about Your Application, adds the language "other similarly situated persons" and deletes the modifier "close" when referring to friends or colleagues. The commenter claims that both changes significantly expand the universe of information requested, presupposing that the applicant has knowledge of harm that may have occurred to anyone in his or her orbit and extending to people who may be completely unknown to the applicant. The commenter believes that these revisions should be deleted as overly burdensome and outside the applicant's scope of knowledge. The commenter notes that the term "similarly situated" is not defined. The commenter believes that applicants who do have even partial knowledge of harm, threats, or torture to the individuals in this list may fear for victims' safety upon disclosing it, especially in writing. The commenter claims that applicants may hesitate to disclose the information requested for fear of breaking victims' trust if they provided sensitive details in confidence. The commenter believes that this question unfairly sets applicants up for negative credibility determinations through no fault of their own and that a similar question could be asked during the asylum interview in a trauma-informed manner. Thus, the commenter believes that the question should be eliminated.	**Response:** In response to the commenters' concerns, the Departments abandoned the proposed revisions to include a reference to "similarly situated persons" in Part B. Information about Your Application, Questions 1.A. and 1.C. of Form I-589.
Nexus	The commenters believe that the proposed revisions require applicants to make sophisticated arguments regarding nexus requirements and should be removed.	**Response:** The Departments disagree that the additional prompt in Form I-589, Part B, Information About Your Application, related to why the harm, mistreatment, or

	The commenter believes that Question 1.A.4. of Part B, which asks asylum applicants to explain why they believe the harm they suffered is on account of a protected ground requires the applicant to engage in a sophisticated legal analysis which increases the time burden and will undoubtedly lead to user confusion. The commenter notes that case law has provided ample interpretation of the nexus requirement, and that an applicant need not and cannot prove the exact motivation of the persecutor. The commenter claims that the proposed instructions simply reiterate the regulatory text, without any acknowledgement of existing case law or the fact that asylum rules are modified constantly by agency and judicial interpretation. The commenter is concerned that pro se applicants will not understand the relationship between the instructions and the cited proposed regulations. The commenter believes it would be impossible for many asylum applicants, especially those who are unrepresented to fully comprehend what they must demonstrate to prove that harm is "on account of" their protected characteristic at the outset of their case when completing Form I-589. The commenter believes that the proposed rules in 8 CFR § 208.1(f) and 8 CFR § 1208.1(f) subject all asylum seekers to a laundry list of measures designed to deny asylum to most applicants on nexus grounds, while failing to require adjudicators to engage in a mixed motive analysis. The commenter believes that the nexus question on the proposed form therefore lays a trap for asylum seekers, and that if they do not explain why they believe they were harmed, the case could face pretermission. The commenter also believes that if an alien states a reason from the laundry list of automatic denials, such as anything related to "personal animus" or "gender", the adjudicator may deny the case without having to determine whether this was only one reason among others. The commenter strongly opposes the inclusion of this question, which will lead to many applicants' claims being unfairly denied. In the commenter's experience, child applicants are frequently unable to understand or fully articulate the reason(s) they were harmed. The	threats occurred or would occur requires sophisticated legal analysis or lays a trap for asylum applicants. *See* Form I-589, Part B, Information About Your Application, Questions 1.A.4. and 1.B.3. Questions 1.A.4. and 1.B.3. invite applicants to explain why they believe they were harmed, mistreated, or threatened, or could be harmed or mistreated, and now include additional guidance to prompt applicants to explain why the applicant believes the harm is on account of a protected ground. The form already asks applicants to check any of the protected grounds boxes in Part B, Information about Your Application, and thus, the additional guidance in Questions 1.A.4 and 1.B.3 are meant to complement this line of inquiry and offers applicants the opportunity to provide relevant information to support the claim. Applicants are not expected to engage in any sort of legal analysis, but rather, they are expected to provide information related why they believe they have been or will be harmed. With regard to child applicants, the Departments recognize that children may face challenges when completing the Form I-589. Information regarding an applicant's ability to supplement the application is provided in Part I. Filing Instructions, Section V. Obtaining and Completing the Form. Also, the

	commenter notes that a legal determination that harm was experienced "on account of" a protected ground involves consideration of both direct and circumstantial evidence the latter of which children are often less capable of readily identifying.	Departments continue to maintain the ability to request additional information, as needed. The additional information in the prompt is designed to provide greater clarity as to the type of information being requested. Therefore, the Departments retained the proposed prompt. For additional responses to the commenters' concerns related to the role of adjudicators when making assessing nexus, *see* Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review Final Rule, 4.4. (Nexus).
Previous Applications and Travel History	The commenters expressed concern that the proposed questions about previous applications for refugee status, asylum, and withholding of removal require applicants to provide information that may not be available to them. The commenters are also concerned that the proposed questions about travel history will force asylum applicants to provide information that is not relevant and has no legal bearing on their cases. The commenters noted that the questions regarding past immigration history currently contained in Part C, Additional Information about Your Application, Questions 1 and 2, have been significantly expanded in the form to encompass Questions 1 through 4, which ask for extensive information on the activities of the applicant and family members regarding prior applications for asylum, travel through other countries, and immigration status in those countries. The commenters believe that, while the current form frames these questions so that an applicant may provide narrative answers, the proposed revisions break many of the initial	**Response:** The Departments believe that the additional questions in Part. C, Additional Information About Your Application, of the Form I-589 related to previous applications and travel history are appropriate and relevant to the adjudication. The additional questions and prompts in Part C, Additional Information about Your Application, Questions 1 through 4, help provide adjudicators with relevant information, including prior applications for protection pursued by the applicant or certain family members, prior denials, countries through which the applicant and certain family members traveled, and countries in which the applicant or certain family members

	questions down into yes or no answers for which the applicant may not have sufficient knowledge. The commenter notes that there is no opportunity to answer "I do not know" or to provide additional explanation. The commenter believes that much of the information requested is likely outside the scope of the applicant's knowledge and may require legal expertise. In the commenter's experience, unaccompanied and separated children frequently do not have sufficient information about the whereabouts and activities of their family members to accurately answer these questions. The commenter believes that, at a minimum, these questions must include a response option where the applicant does not know the answer. The commenter is concerned that the proposed I-589 form requires applicants to include information that is not legally relevant about siblings' applications for status in the United States or potential for application for status abroad. The commenter believes that, given the sensitive nature of information disclosed in asylum applications, it may not be appropriate for an asylum seeker to have to discuss their application with a sibling. The commenter believes that the scope of Question 4 in Part C, which requests the travel history and information about applications for lawful status pursued in other countries for the applicant's spouse, children, and other family members is wide and the purpose is unclear. The commenter believes that it is possible that asylum seekers will either provide more or less information than the Departments need and could take many hours and expend substantial money trying to include comprehensive responses to questions which likely have no legal bearing on the case. The commenter believes that the new form would also force asylum applicants to evaluate the immigration law of any countries they or their family members previously visited. The commenter claims that the scope of Question 4.B. in Part C could include trips that took place years prior to any persecution and even trips that family members made before the asylum applicant was born. Furthermore, the commenter claims that answering this question requires asylum applicants and their lawyers to research the historical immigration laws of third countries in order to determine whether	resided. These matters come into play when adjudicators assess bars to applying for asylum and eligibility for asylum, as well as discretion. The Departments disagree that the questions do not allow for applicants, including children, to provide additional explanation or require legal expertise. As indicated in the Form I-589, Part C. Additional Information about Your Application, applicants may use Form I-589, Supplement B, or attach additional sheets of paper as needed to complete the responses to the questions contained in Part C. Thus, the Departments retained the additional questions. Nevertheless, in response to commenters' concerns, the Departments revised the proposed questions related to travel history and previous applications. *See* Form I-589, Part C., Additional Information about Your Application, Questions 1 through 4.

	the asylum seekers or their family members could have applied for any lawful status. The commenter notes that this research will not only take a tremendous amount of time, but it is also likely to lead to user and adjudicator confusion since it requests information that is not relevant to the claim.	
Discretionary Factors	The commenters believe that the proposed revisions in Form I-589, Part C., Additional Information about Your Application, Questions 9 and 10, related to the adverse discretionary factors require complex legal analysis and are biased against the applicant. The commenter believes that the proposed revision prioritizes gathering transit-related information, uncovering possible technical errors, and exploiting administrative deficiencies over the legitimacy of asylum claims. The commenters claim that these proposed discretionary factors strip decision makers of meaningful discretionary authority and require blanket denials. The commenters believe that the questions regarding discretionary factors make clear how dramatically the proposed rule would change the asylum system as it has existed for decades in the United States. The commenter believes that each discretionary question requires complex legal analysis, it would be impossible for most pro se applicants to fully comprehend and complete these questions, and even for experienced attorneys, these additional questions will add a substantial burden in time and cost in completing them. The commenter believes that the result could be that the applicant leaves the question blank, and has the I-589 form rejected, or the applicant could guess at the answer and potentially face an adverse credibility finding if they guessed incorrectly. The commenter claims that the structure of the questions and the accompanying boxes that allow an applicant to provide information about the exceptions are confusing and biased against the applicant. The commenter is concerned that, in many circumstances throughout Questions 9 and 10, "I don't know" is a reasonable answer, whereas a binary option may lead the applicant to fail to complete the	**Response:** The Departments disagree that the questions related to discretionary factors require complex legal analysis or are biased against the applicant. The questions are designed to elicit information related to the adverse discretionary factors in 8 C.F.R. sections 208.13(d) and 1208.13(d) and corresponding exceptions, and give applicants the opportunity to provide the relevant information. As indicated in the Form I-589, Part C., Additional Information about Your Application, applicants may use Form I-589, Supplement B, or attach additional sheets of paper as needed to complete the responses to the questions contained in Part C. Nevertheless, in response to the commenters' concerns, the Departments revised certain questions and explanations in the form and instructions. See Form I-589, Part C., Additional Information about Your Application, Questions 18 and 19; Instructions for the Form I-589, Section V. Obtaining and Completing the Form, Part C. Additional Information about Your Application.

	question, or to answer "incorrectly," both of which could be used to deny the application, question the applicant's credibility, or even lead to a determination of a frivolous filing. The commenter also notes that neither the proposed instructions nor the proposed form provides the applicant with guidance about the nature of positive factors. The commenter believes that the applicant will likely need to submit significant evidence to address this question, and yet no guidance is offered regarding these new measures. The commenter claims that this is particularly troublesome with respect to claims filed by unaccompanied children, for whom the TVPRA has explicitly required that the asylum process be adapted to their particularly needs and vulnerabilities.	For responses to comments related to the discretionary factors themselves, see Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review Final Rule, 4.7 (Factors for Consideration in Discretionary Determinations).
Frivolous Filings	The commenters believe that the proposed revisions related to frivolous filings do not sufficiently provide applicants notice of the revised definition of the term, frivolous, or the consequences of filing frivolous applications. The commenter believes that while the new I-589 references the consequences of filing a frivolous application, neither the new form nor the new instructions explain the new and expansive definition of frivolous under the proposed rule. The commenter notes that asylum seekers, many of whom are unrepresented, will first have to read the new proposed rule to understand how frivolous is defined, and will then need to understand whether the reason they fear returning to their country meets this new definition. The commenter strongly opposes the additional references to filing a frivolous application without any explanation of how the proposed rule would expand this definition. The commenter believes that, while the proposed form and instructions include information about the proposed change that would allow asylum officers to find an application frivolous, neither the form nor the instructions provides any information about how the proposed rule would significantly expand the definition of frivolous. The commenter believes that the warning is meaningless if the asylum seeker is not apprised of the fact that if an adjudicator determines that the	**Response:** The Departments believe that the Form I-589 and accompanying instructions provide applicants with sufficient notice regarding frivolous filings and related consequences. As such, the Departments retained the proposed references to the rules related to frivolous filings and associated warnings. *See* Form I-589, Part D. Your Signature; Instructions for Form I-589, Part 1. Filing Instructions, V. Obtaining and Completing the Form, Part D. Your Signature. For additional responses to commenters' concerns about the definition of frivolous, see Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review Final Rule, 3.1 (Frivolous Applications).

	application lacks merit, the asylum seeker may be forever barred from any immigration benefit. The commenter is concerned that the proposed form and instructions would implement a radically expanded definition without giving asylum seekers fair notice of the change.	
Confidentiality	The commenters believe that the proposed revisions related to confidentiality will discourage asylum applicants from providing information. The commenter believes that the proposed instruction related to confidentiality fails to provide sufficient clarity to an asylum applicant, in particular, one fleeing gender-based violence, about the universe of entities or persons to whom the information may be shared. The commenter believes that, without clearer and more definite assurances of confidentiality, survivors and other asylum seekers likely be discouraged from fully disclosing the harms they have experienced, potentially jeopardizing their asylum claims, to protect themselves. The commenter is concerned that where applicants have abusers or traffickers who have connections to law enforcement, the sharing of information may also place survivors at risk. The commenter believes that there must be clearer limits on disclosure, including for law enforcement purposes with specific, proscribed information sharing in exceptional circumstances. The commenter believes that neither the proposed form nor the corresponding instructions provide further explanation for what the categories enumerated in the proposed regulations mean; any specific or adequate reason that such broad and seemingly public disclosure is necessary; or any safeguards to mitigate the harm if an exception is utilized, such as redactions or protective orders. Furthermore, the commenter expressed concern that the proposed confidentiality regulations and the confidentiality warning in the instructions are likely to have a chilling effect on the full disclosure by the applicant of sensitive and traumatic circumstances that serve as the basis for their asylum claim.	**Response:** The Departments believe that the information provided in the Instructions for Form I-589 regarding confidentiality is appropriate and properly mirrors the regulation. *See* 8 CFR 208.6 and 1208.6. The Departments retained the information with a minor change (added "state" to the clause about the mandatory reporting requirement) to mirror the regulatory text in 8 CFR 208.6 and 8 CFR 1208.6. *See* Instructions for Form I-589, Part 1. Filing Instructions, III. Confidentiality.
Recommendations for Form I-589 Instructions	The commenters believe that the proposed revised instructions for the Form I-589 are confusing and create the expectation that applicants need to conduct legal research. The commenters believe that the proposed revisions	**Response:** The Departments believe that the revised instructions for the Form I-589 are sufficiently clear and provide the

	to the instructions fail to provide guidance to applicants on how to complete the Form I-589, and will instead, further confuse applicants.	necessary background information and guidance to applicants on how to complete the form.
	The commenter recommended that the instructions should not solely refer to the "CAT regulations", but rather, specifically to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.	**Response:** The Departments believe that the recommended change is outside of the scope of this information collection action; and therefore, decline to make the recommended change. Both the prior and new versions of the instructions for the Form I-589 refer to the Convention Against Torture. See Instructions for Form I-589, Part 1. Filing Your Application, II. Basis of Eligibility, D. Legal Sources and Guidance Related to Eligibility.
	The commenter believes that the definition of torture included in the proposed revisions to the instructions is insufficient and should include examples of "public official", "acquiescence", "color of law", "official capacity." The commenter notes that the instructions refer to the proposed regulations regarding the definition of particular social group, political opinion, persecution, and nexus; however, the proposed revisions do not refer to the fact that federal Circuit Courts often define the contours of these terms, and the law may differ among circuits.	**Response:** The Departments believe that the proposed revisions in the instructions provide the appropriate additional information and properly align with the regulations and case law. *See* Instructions for Form I-589, Part 1. Filing Your Application, II. Basis of Eligibility. The Departments decline to make the recommended change.
	The commenter notes that on Page 2, Part 1, Section I (Who May Apply and Filing Deadlines), the proposed instructions state, "You must submit certain documents for your spouse and each child included as required by these instructions. Children 21 years of age or older and married children must file separate applications." The commenter claims that this incorrectly implies by omission that children who are under 21 and unmarried do not have the right to file applications separately from a parent on whom they are dependent.	**Response:** The Departments believe that the recommended change is outside of the scope of this information collection action; and therefore, decline to make the recommended change. Both the prior and new versions of the instructions include this instruction. *See* Instructions for Form I-589, Part 1. Filing Instructions, I. Who May Apply and Filing Deadlines.

	The commenter notes that in the proposed particular social group instruction in Part 1, Section II.A., the statement makes clear that an applicant is not required to "articulate" the formulation of a claimed particular social group before the immigration judge, and may provide a basis on the record for determining the definition and boundaries of the alleged particular social group. However, the commenter believes that the syntax of this instruction renders it confusing and that the instruction should be revised. The commenter believes that the proposed instruction related to the failure to define a particular social group is groundless and therefore, improper, and that, under the principle of *esjudem generis,* the protected grounds of a particular social group must not be adjudicated differently than the four other protected grounds. The commenter believes that a heightened requirement cannot apply to particular social group claims as distinct from claims based on race, religion, nationality, or political opinion.	**Response:** The Departments decline to make the recommended changes. The Departments believe that the proposed revisions in the instructions provide the appropriate additional information and properly align with the regulations and case law. *See* Instructions for Form I-589, Part 1. Filing Instructions, II. Basis of Eligibility, A. Asylum. For additional responses to comments related to membership in a particular social group, see Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review Final Rule, 4.1 (Membership in a Particular Social Group).
	The commenter is concerned that in Part 1, Section II.B., the proposed instructions introduce, but cannot effectively illuminate numerous legal concepts, including acquiescence, rogue officials, and breach of a legal responsibility. The commenter believes that, in effect, the applicant is prompted to pre-judge his or her own claim for relief, instead of adducing information, in writing and at a hearing, that enables the adjudicator to determine eligibility. Moreover, the commenter is concerned that, for certain cases, the proposed instructions require the applicant to "explain whether and how" an official or person acting in an official capacity "had awareness of the activity and breached his or her legal responsibility to intervene to prevent such activity." The commenter believes that, to the extent that this instruction calls for an assessment of how a third person acquired awareness, compliance with this instruction is not only infeasible,	**Response:** The Departments disagree that the instructions prompt applicants to pre-judge their own claims for relief. The Departments believe that the revised instructions provide the appropriate additional information and properly align with the regulations and case law. *See* Instructions for Form I-589, Part 1. Filing Your Application, II. Basis of Eligibility. Notwithstanding, as described above, the Departments revised the form and accompanying instructions in response to

	but an attempt to speculate on the applicant's part that may expose the asylum applicant to the more severe penalties envisioned under the expansion of the definition of frivolous filings proffered in the proposed rule.	concerns raised by several commenters related to questions and instructions focused on harm and torture by non-government actors and the role of the government.
Form Versions	The commenters are concerned that the form revision is based on the form version approved on September 10, 2019, rather than the most recent version changed by the Asylum Application, Interview, and Employment Authorization for Applicants Final Rule (Asylum EAD Rule), 85 FR 38532, that became effective on August 25, 2020. The commenter believes that the public is unable to evaluate an accurate draft of the final Form I-589 and instructions, and the inability to accurately comment is a consequence of the agencies' patchwork attempts to overhaul the nation's asylum system through piecemeal regulations proposed in rapid succession during a global pandemic. The commenter believes that the sweeping nature of these revisions means that the commenter is unable to provide comprehensive comments to every revision or to even fully understand how they interact with one another. The commenter is concerned that there are conflicting new versions of the I-589 and does not understand how comments on the current proposed version of the I-589 will affect the final form when there is apparently a more recent version than the one on which the information collection is based. The commenter urges the agencies to rescind this information collection and reissue it at a later date using a version of the I-589 form that integrates the newest version of the existing I-589 form.	**Response:** The proposed revisions to the Form I-589 and accompanying instructions were provided on the form edition approved by the Office of Management and Budget (OMB) on September 10, 2019, which was the OMB approved form at the time of the publication of the NPRM and accompanying information collection notice in the Federal Register. The revisions to the Form I-589 and instructions associated with the Asylum EAD Final rule had not been approved by OMB at the time of the publication of the information collection notice in the Federal Register. Given that the Form I-589 revisions associated with the Asylum EAD Final Rule have been approved by OMB and the form is currently available to the public for use, the revised Form I-589 and instructions now include the Asylum EAD Final Rule-related revisions.

Comment Period	The commenter believes that even though the information collection allotted the required 60 days for comment submission, the first 30 days were effectively nullified. The commenter submitted a 101-page comment on that proposed rule and still did not have time to adequately address every concern that the proposed rule raised. Since the commenter had to divert substantial resources to that comment, it was not possible to focus on the information collection during that time period. The commenter notes that with so many complex, far-reaching rulemakings on the same topic at the same time, the public did not really have a full 60 days to respond to the substantial changes in the proposed I-589 and accompanying instructions. For this reason, the commenter asks that the information collection be rescinded and reissued with a new 60-day comment period.	**Response:** The Departments appreciate the comment but note that the form revisions are intended to reflect only the changes proposed by the rule. The Departments believe 60 days provides a meaningful period for comment on the forms, especially because the rule itself had a 30-day comment period. Further, as the commenter notes, the Departments are in compliance with the Paperwork Reduction Act (PRA) and its relevant regulations. See, e.g., 5 CFR 1320.11.
Federal Vacancies Reform Act	The commenter believes that the information collection instrument is void as a threshold matter because it was issued in violation of the Federal Vacancies Reform Act (FVRA). The commenter believes that the form was signed by Chad Mizelle in his purported capacity as "Senior Official Performing the Duties of the General Counsel, U.S. Department of Homeland Security." The commenter believes that because the DHS General Counsel does not have the authority to sign proposed or final rules under the Homeland Security Act or existing DHS delegations, the Information Collection also includes a paragraph in which purported Acting Secretary Chad Wolf "delegate[s] the authority" to	**Response:** The NPRM and the final rule, including associated form revisions, were signed by Chad Mizelle, the Senior Official Performing the Duties of the General Counsel for DHS. As indicated in the proposed rule at section V. Regulatory Requirements, H. Signature, Chad Wolf, the Acting Secretary of Homeland Security, reviewed and approved the proposed rule and delegated the signature

	sign the document to Mr. Mizelle. However, the commenter believes that both Mr. Wolf and Mr. Mizelle are serving in violation of the FVRA, 5 U.S.C. §§ 3345 & 3346. As a result, the commenter believes that both Mr. Wolf's delegation and Mr. Mizelle's signature are without force and effect under the FVRA, 5 U.S.C. § 3348(d)(1), and contrary to law under the Administrative Procedure Act, 5 U.S.C. § 706(2)(A), and the form must be withdrawn.	authority to Mr. Mizelle. *See* 85 FR 36290. Secretary Wolf is validly acting as Secretary of Homeland Security. On April 9, 2019, then-Secretary Nielsen, who was Senate confirmed, used the authority provided by 6 U.S.C. 113(g)(2) to establish the order of succession for the Secretary of Homeland Security. This change to the order of succession applied to any vacancy. Exercising the authority to establish an order of succession for the Department pursuant to 6 U.S.C. 113(g)(2), superseded the FVRA and the order of succession found in E.O. 13753. As a result of this change and pursuant to 6 U.S.C. 113(g)(2), Mr. McAleenan, who was Senate confirmed as the Commissioner of CBP, was the next successor and served as Acting Secretary without time limitation. Acting Secretary McAleenan subsequently amended the Secretary's order of succession pursuant to 6 U.S.C. 113(g)(2), placing the Under Secretary for Strategy, Policy, and Plans position third in the order of succession below the positions of the Deputy Secretary and Under Secretary for Management. Because these positions were vacant when Mr. McAleenan resigned, Mr. Wolf, as the Senate confirmed Under Secretary for Strategy, Policy, and Plans, was the next successor and began serving as the Acting Secretary.

		The Secretary is authorized to delegate his or her authority to any officer or employee of the agency and to designate other officers of the Department to serve as Acting Secretary. *See* INA 103 (8 U.S.C. 1103) and 6 U.S.C. 113(g)(2). The HSA further provides that every officer of the Department "shall perform the functions specified by law for the official's office or prescribed by the Secretary." 6 U.S.C. 113(f). Thus, the designation of the signature authority from Acting Secretary Wolf to Mr. Mizelle is validly within the Acting Secretary's authority.
Paperwork Reduction Act	The commenter believes that the proposed Information Collection is contrary to the intent of the PRA. The commenter believes that the burden shifting in the Collection and outline above run contrary to the purpose of the Paperwork Reduction Act ("PRA") precipitating the Notice. The commenter believes that the information collection clearly violates the explicit purpose of the PRA. The commenter claims that the additional information that the information collection attempts to collect is not factual data, such as biographical data or employment history, that may be, indeed, more efficiently collected via a paper application than an oral, in-person interview. Rather, the commenter believes that the collection requires individuals, through unduly burdensome paperwork, to engage and articulate complex legal analysis and to anticipate and address, through increased paperwork, the legal arguments that an asylum officer, trial attorney, or immigration judge would pose. The commenter believes that while the form provides limited space to provide the collection's requested information, the additional questions cannot be properly answered in that limited space. The commenter claims	**Response:** The Departments disagree that the proposed information collection is contrary to the purposes of the PRA. As articulated at 44 U.S.C. 3501, the purposes of the PRA include to: "minimize the paperwork burden . . . ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government … improve the quality and use of Federal information to strengthen decisionmaking, accountability, and openness in Government and society; minimize the cost to the Federal Government of the creation, collection, maintenance, use, dissemination, and disposition of information;". The Departments believe that this information

	that for an applicant to fully respond to the information collection request, the applicant must include mountains of supplemental information via paperwork that again is simply contrary to the intent of the PRA.	collection will aid the Departments in implementing the changes proposed in the rule in the most transparent and efficient manner. In response to specific comments received, the Departments are amending the form and instruction to make them more applicant friendly. Additionally, as the Departments anticipated there may be an additional impact to applicants, they accordingly modified the PRA burden statement to reflect a possible 6 hour increase in reporting burden per response.
Formatting, Redundancy, and Error	The commenters believe that the proposed revisions include formatting changes and redundant questions that make the Form I-589 less user-friendly and may lead applicants to inadvertently commit mistakes. The commenter believes that the proposed revisions are poorly organized. They will inevitably lead to consistent user error, straining the Asylum Office and the immigration courts. The commenter notes that the proposed revisions split discrete sections across multiple pages. The commenter believes that Part A.II., which requires information about the applicant's children, is confusing, and there is discontinuity that is bound to confuse some applicants. The commenter claims that it will likely lead to many applicants failing to mark "yes," even though they do, in fact, want to include their child in the application. The commenter strongly recommends that the Departments reconfigure the form so that each discrete section about each child is contained on just one page. The commenter believes that Part B., Information about Your Application, Question 1.A., which breaks down the question of what happened to an individual into distinct parts, may make it easier for some applicants to identify the important elements in their claim and is therefore, more in	**Response:** The Departments believe that the revised form and instructions are comprehensible, organized, and properly formatted. The form and instructions provide the relevant information and properly align with the regulations and case law. Moreover, the additional questions in the form give applicants the opportunity to provide information that is pertinent to different aspects of their claims, including bars to applying for asylum, bars to eligibility for asylum, and discretionary factors and related exceptions. The Departments corrected the grammatical error that appeared in the proposed Form I-589, Part C. Additional Information about Your Application, Question 4.B.

	keeping with creating an accessible form. The commenter notes that for other applicants, the breakdown may simply create more opportunities for an applicant to inadvertently contradict earlier statements. The commenter believes that, while a more precise set of questions may be valuable generally, in the context of the current revisions, these changes are likely to contribute to additional obstacles for some applicants. The commenter believes the proposed revisions are poorly labeled and confusing. The commenter believes that another formatting flaw with the proposed form is that creates new boxes to break down questions from the previous form, including Part B, 1.A.1-4, 1.B.1-3, 1.C.1-4, 1.D.1-3, Part C. Questions 3-4, 9.C., and 10.I. The commenter notes that some of these boxes are labeled, while others are not. The commenter recommends that the Departments assign either numerical or letter identifiers for each box. The commenters believe that the proposed revisions contain many redundant questions, including the second unlabeled box under Part C., Questions 3, 4.A, 4.B, 10.A., 10.C., and 10.H. The commenter believes that these proposed revisions are incomprehensible and unnecessary, and the Departments could more efficiently solicit this information by simply asking, "Have you, your spouse, or children ever applied for or received, any permanent lawful status?" and providing a box to allow the applicant to explain. The commenter believes that Part C. Question 4.B. is grammatically incorrect and unfair, and it should read, "Have you, your spouse, your child(ren) or other family members, such as your parents or siblings, ever *applied for*, *received*, or *been eligible to apply for*, but did not, any lawful status in any country other than the one from which you are now claiming asylum?" However, the commenter notes that even with this grammatical correction, the question is confusing and convoluted.	