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Comment Submitted by ASISTA Immigration Assistance

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Please see attached file. Thank you for this opportunity for comment.

Attachments 1



2023.10.10.I-192 Revision Public Comment.docx



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October 10, 2023

Chief Samantha L. Deshommes
Regulatory Coordination Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security

Submitted online at regulations.gov

RE: Docket ID USCIS-2008-0009
OMB Control Number 1615-0017
Agency Information Collection Activities; Revision of a Currently Approved
Collection: Application for Advance Permission to Enter as a Nonimmigrant

Dear Chief Deshommes:

On behalf of ASISTA, I am submitting this response to the second notice and request for public comment published in the Federal Register on Sep. 8, 2023, entitled “Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Advance Permission to Enter as a Nonimmigrant.” Like its predecessor, this document proposes revisions to Form I-192, Application for Advance Permission to Enter as a Nonimmigrant, and the Form’s instructions. We appreciate the opportunity to provide additional comments.

ASISTA is a national organization dedicated to safeguarding and advancing the rights of immigrant survivors of violence. For over 15 years, ASISTA has been a leader on policy advocacy to strengthen protections for immigrant survivors of violence. Our agency assists advocates and attorneys across the United States in their work on behalf of immigrant survivors, so that survivors may have greater access to protections they need to achieve safety and independence. Based upon this extensive expertise, we respectfully make the following observations and recommendations regarding the proposed revisions to Form I-192, a key document in the application process for survivors seeking U and T nonimmigrant status.

I. Form I-192, Item 26

Observation: It is very easy to miss the critical Item 26 because it has no answer box or spaces.

Recommendation: Provide a box, even if small, and instruct the applicant to finish their answer at Part 6, Additional Information, or on a different page specifically for that question. One option for the box could be a “Yes/No” alternative, for the question “Have you explained the grounds of inadmissibility that may apply in your case in **Part 6. Additional Information?**” Then follow that with, “You must provide this explanation in **Part 6. Additional Information.**” Providing a different page from Part 6 for this could also help encourage applicants to provide a fulsome answer and not skimp on providing sufficient information about prior employment, address, etc., which often must overflow into Part 6, too.

II. Form I-192, Items 32-34

Observation: These fields address other visa applications which may be pending or decided, but do not request complete information about them.

Recommendation: Add an optional field for receipt numbers. This will facilitate connecting the Form I-192 to multiple nonimmigrant applications if appropriate (e.g., to a pending U petition and pending T application). We recommend also providing in the instructions, under “USCIS Processing,” a statement on what USCIS does when a single I-192 is filed while multiple nonimmigrant petitions are pending. For instance, does USCIS automatically transfer the I-192 to be decided with the petition being adjudicated earliest? Once that first status is decided, must a new I-192 be filed if the person still wishes to pursue the alternative nonimmigrant status?

III. Form I-192, Special Directions for U and T Applicants

Observation: On page 1, the form advises U and T applicants to skip several questions. It is unclear why some of these questions are skipped, and it may be confusing for applicants to jump around the form, leading to errors and unnecessary rejections or Requests for Evidence.

Recommendations: (1) Instead of advising U and T applicants to skip the USCIS account number field, simply indicate it is for completion “if you already have one; skip if not,” or “optional” for everyone. This will eliminate one of the “jumps” around the form. It will also enable U and T applicants to take advantage of the online system to the extent it is available, as recently encouraged during USCIS stakeholder engagements. (2) Include U and T applicants in the gender and safe address questions (Items 8 and 9). Again, this will decrease the amount of jumping around. It would also better correspond to the instructions at page 3, which call for U and T applicants to complete Item 9 in certain situations, and may provide a way for U and T applicants to update a safe mailing address if it has changed since a prior I-918 or I-914 was submitted. (3) Clarify in the form and instructions whether U and T applicants need to provide their address history for the past five years. In response to a commenter’s recommendation about questions 10-11 during the prior 60-day comment period, USCIS suggested it expects the address history to be provided, and the instructions, as well as the language directly preceding Item 10 support this notion. However, Item 10 itself asks only for the Applicant’s “current address,” and the form advises U and T applicants to answer Item 10 then skip ahead to Item 26. Together, these make it ambiguous whether U and T applicants should provide only their current address or their addresses for the past five years. (4) Write the full list of questions that U and T applicants can skip in a single place, and also reinforce it with additional instructions as appropriate, where those questions appear. For instance, on page 5, a notation states these applicants may skip Items 37-43, but these are not listed on page 1, where the rest of the directions appear regarding Items that can be skipped by U and T applicants. It is helpful to have this reminder on page 5, but Items 37-43 should be noted as skip-able on page 1, too. Inconsistent placement of this type of direction may increase confusion, error, unnecessary expenditure of resources, and need for RFEs.

IV. Form I-192, Special Directions for U and T Applicants

Observation: On page 1, there are special instructions about questions to skip if the person is “filing this form concurrently with a USCIS Form I-914 or Form I-918.”

Recommendation: Please specify whether this instruction also pertains to filers who are derivatives on those forms (i.e., filing concurrently with or subsequent to a USCIS Form I-914 Supplement A or I-918 Supplement A).

V. Instructions for Form I-192

Observation: The instructions do not set forth the standard by which the Form I-192 will be evaluated for different waiver provisions, nor when the different provisions are implicated.

Recommendation: As is done with the instructions for Form I-601, provide more information on the standards for waivers under INA § 212(d)(3), (d)(13), and (d)(14). Explain both when the different waiver standards apply, and what the standards require. Providing this clarity and a summary of how USCIS evaluates the standards will increase the quality of applications and decrease the need for RFEs and NOIDs.

VI. Conclusion

ASISTA appreciates USCIS's efforts to make the Form I-192 both effective and efficient by tailoring aspects of the Form to what is truly needed for a U- or T-based waiver application. We respectfully suggest that the increased clarity to the Form and Instructions as recommended above will further those efforts and lead to higher quality waiver applications. The improvements will benefit both the noncitizen survivors who Congress intended to help access U and T nonimmigrant protections, as well as the USCIS officers who evaluate their cases.

Respectfully submitted,

Rebecca Eissenova
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ASISTA