National Immigration Law Center

June 24, 2024

SUBMITTED VIA REGULATIONS.GOV

Samantha Deshommes
Chief of Regulatory Coordination Division
Office of Policy & Strategy
U.S. Citizenship and Immigration Services
20 Massachusetts Ave. N.W.
Washington, D.C 20529-2140

RE: DHS e-Docket ID No. USCIS–2005–0024, Comment to Proposed USCIS Agency Information Collection Activities and Revision of a Currently Approved Collection: Biographic Information (for Deferred Action)

The National Immigration Law Center (NILC), in partnership with the Service Employees International Union (SEIU), respectfully submits the following comment to U.S. Citizenship and Immigration Services' (USCIS' or "the Agency's") proposed changes to Form G-325A and the related collection of biographic information, as published in the Federal Register on April 23, 2024.

Established in 1979, the National Immigration Law Center is one of the leading organizations in the U.S. exclusively dedicated to advancing and defending the rights of low-income immigrants. Throughout the past forty-five years, NILC has worked to ensure that immigrants from under-resourced communities are treated with fairness and dignity through increased access to immigration relief and employment authorization. NILC envisions a future in which all people—regardless of race, gender, income, and immigration status—have dignified, equitable treatment under the law. To this end, NILC has developed expertise in policies affecting low-income immigrants, including forms of discretionary immigration relief.

NILC supports the Agency's implementation of the labor-based deferred action process through training, technical assistance, capacity building, and direct representation. This comment is also submitted on behalf of Service Employees International Union (SEIU), which advocates for and supports its members in fully exercising their labor rights.

By providing removal protection and the opportunity for employment authorization, labor-based deferred action empowers migrant workers to assist labor agencies in enforcing labor laws.[1] Without fear of removal and other immigration-related retaliation from employers, workers are more willing "to provide statements to labor agencies regarding their employers, to

[1] DHS Support of the Enforcement of Labor and Employment Laws, U.S. Citizenship and Immigration Services, accessible at https://www.uscis.gov/working-in-the-united-states/information-for-employers-and-employees/dhs-support-of-the-enforcement-of-labor-and-employment-laws ("DHS's practice of offering discretionary protection on a case-by-case basis to victims who lack employment authorization directly increases the ability of labor and employment agencies to more fully investigate worksite violations.").

testify in hearings regarding the violations at their worksites, to support union drives, and to recruit additional co-workers to join them in these efforts."[2]

The labor-based deferred action process has received robust participation and support from all three federal labor agencies.[3] The U.S. Department of Labor (DOL),[4] the Equal Employment Opportunity Commission (EEOC),[5] and the National Labor Relations Board (NLRB)[6] each provide guidance on requesting a Statement of Interest (SOI). The program is also supported by Congress, which "recognize[s] and applaud[s] the important protections provided by DHS' DALE program" in its request to the U.S. Department of Homeland Security (DHS) that the program's renewal process be streamlined.[7] Additionally, state and local agencies across the nation have reported benefits of labor-based deferred action as a tool for combatting labor violations.

To streamline both the initial application and renewal process, the agency should include only those requests for information necessary for the application's proper adjudication. Nonetheless, significant barriers remain for immigrant workers seeking this protection, including a lack of free or affordable immigration legal services.[8] Moreover, even the new, streamlined process continues to require significant information and documentation, in addition to a filing fee, which is prohibitive for many applicants who are victims of wage theft or other such violations. For these reasons, NILC and SEIU respectfully request that the Agency reconsider exempting or waiving the filing fee for workers eligible for this process. With respect to Form G-325A specifically, we urge the Agency to remove sections that require information of limited value to adjudicators but that are burdensome to applicants and immigration practitioners. Further, if the Agency maintains a filing fee for this process, the undersigned propose obviating Form I-912 for these requests by including an option to request a fee waiver on the G-325A itself and using the related economic necessity information (which can be supplemented as needed by a written request and/or documents from the worker) to adjudicate it. Finally, NILC and SEIU

---

[2] *See* Building Worker Power Through Deferred Action: A Report on the First Year at p. 22, National Immigration Law Center (January 12, 2024), accessible at https://www.nilc.org/wp-content/uploads/2024/01/NILC_WorkersRightsReport-1.12.2024_.pdf.

[3] *See, generally,* Building Worker Power Through Deferred Action: A Report on the First Year, National Immigration Law Center (January 12, 2024), accessible at https://www.nilc.org/wp-content/uploads/2024/01/NILC_WorkersRightsReport-1.12.2024_.pdf.

[4] Process for Requesting a Statement of US DOL Interest During Labor Disputes, Department of Labor (April 3, 2024), accessible at https://www.dol.gov/sites/dolgov/files/OASP/files/Process-For-Requesting-DOL-Support-FAQ-English.pdf.

[5] EEOC's Support for Immigration-Related Deferred Action Requests to the DHS, U.S. Equal Employment Opportunity Commission, Equal Employment Opportunity Commission website, accessible at https://www.eeoc.gov/faq/eeocs-support-immigration-related-deferred-action-requests-dhs.

[6] Immigrant Worker Rights, National Labor Relations Board (nlrb.gov), accessible at https://www.nlrb.gov/guidance/key-reference-materials/immigrant-worker-rights.

[7] Letter to DHS Secretary Alejandro N. Mayorkas at ¶ 2, United States Congress (January 25, 2024), accessible at https://www.uscis.gov/sites/default/files/document/foia/DeferredActionforLaborEnforcement-RepresentativeGrijalva.pdf.

[8] *See* Building Worker Power Through Deferred Action: A Report on the First Year at p. 22, National Immigration Law Center (January 12, 2024), accessible at https://www.nilc.org/wp-content/uploads/2024/01/NILC_WorkersRightsReport-1.12.2024_.pdf.

recommend allowing labor-based deferred action requests to be e-filed to increase access to these critical protections for migrant workers and reduce processing burdens on the Agency.

I. The Agency should remove information required by Form G-325A that is burdensome for migrant workers to collect and lacks probative value for the discretionary adjudication of labor-based deferred action.

The undersigned urge the Agency to remove unnecessary and burdensome information from the G-325A. Requestors should be required to provide nothing more than their current mailing address and employment information. They should not need to provide any information about spouses or family members as such information is not related to the case-by-case adjudication of labor-based deferred action. Providing such information is burdensome for applicants and their pro bono counsel, particularly in the context of one-day legal clinics that have become common given the unmet need for immigration legal services providing direct representation of workers.

While a grant of discretionary relief rests upon the weighing of all relevant factors, a key factor in labor-based deferred action adjudications is the labor agency's enforcement interest.[9] More specifically, to be eligible for a grant of labor-based deferred action, an applicant must show that their current or past employment falls within the scope of the investigation described in a labor agency's SOI.[10] In addition to proof of identity and employment at the workplace under investigation, and immigration history, if applicable, applicants are encouraged to submit "[e]vidence of any additional factors supporting a favorable exercise of discretion."[11]

Notwithstanding the broad nature of prosecutorial discretion, much of the information required by the G-325A has no bearing on the adjudication of labor-based deferred action or discretionary factors generally considered by USCIS, such as criminal histories or positive equities. Further, as set forth below, biographical information of the kind required by the Form can be more onerous for low-income immigrant workers who often experience housing and job insecurity. This is particularly acute where, as in labor-based deferred action cases, an applicant has experienced labor violations that rob them of wages or impact their ability to work. Finally, given the dearth of legal services immigrant workers have faced when attempting to access this process, DHS should prioritize limiting the application requirements—including the G-325A—to only the information required to conduct its case-by-case adjudication. Doing so will reduce the burden on pro bono legal services, which will increase access to counsel and make adjudications more efficient for the Agency.

---

[9] Memorandum ("Policy Statement 065-06") from Alejandro N. Mayorkas, Secretary, DHS, to ICE, USCIS, and CBP, re: Worksite Enforcement: The Strategy to Protect the American Labor Market, the Conditions of the American Worksite, and the Dignity of the Individual (October 12, 2021), available at https://www.dhs.gov/publication/memorandum-worksite-enforcement. Under the Secretary's guidance, such consideration should be conducted on a case-by-case basis, and "the legitimate enforcement interests of a federal government agency should be weighed against any derogatory information to determine whether a favorable exercise of discretion is merited."

[10] *See* "DHS Support of the Enforcement of Labor and Employment Laws" on the USCIS webpage, accessible at https://www.uscis.gov/working-in-the-united-states/information-for-employers-and-employees/dhs-support-of-the-enforcement-of-labor-and-employment-laws.

[11] *Id.*

Accordingly, to further streamline this process and avoid creating additional barriers for workers seeking to access it, the undersigned recommend removing Part 1, Questions 13-26 and 28 from the proposed G-325A.

a. An applicant's past five-year employment and address history, as well as marital and parental information, provide no utility to adjudications but create burdens for applicants and counsel.

Marital and parental history, as well as the requestor's past five years of employment and residential history, all offer little meaningful information for discretionary adjudication. Even if adjudicators draw some inferences about a worker's positive or negative equities from the extensive biographical information, it would be insignificant when weighed against the demonstrated enforcement interests of labor agencies. Furthermore, having to provide this information will only deter potential requestors from submitting applications or increase burdens on legal service organizations that would be able to help more individuals with streamlined applications.

Indeed, reducing the amount of information collected by the agency furthers efficiency interests and reduces the cost to adjudicate such cases. In fact, the Agency has already taken steps to reduce superfluous information by not including requestors' last address and employment information outside the U.S. in its proposed changes to Form G-325A. We support the removal of that information. We recommend that the Agency further streamline the application process by also eliminating proposed Question 26, which requires that the requestor list her address history throughout the past five years. Additionally, we recommend that the Agency modify Question 28 to request only the requestor's current employment information.

The undersigned's experience with low-income immigrant workers is that many struggle to maintain a permanent address and are often forced to move repeatedly in search of new employment and stable housing.[12] Additionally, undocumented workers face an elevated degree of employment instability due to their undocumented status. Indeed, the population seeking this benefit is only eligible because of their employment with an exploitative employer, illustrating their challenges in providing five years of employment history when compared to workers with work authorization or permanent status. It is also noteworthy that other temporary protections, such as the Form I-821 for requesting Temporary Protected Status (TPS), do not require submitting extensive past residential and employment history.

As a result, advocates have often encountered significant delays in application submission because workers attempt to recall or obtain the details of their address and employment history as requested by the proposed G-325A. For example, NILC recently assisted farmworkers who were eligible to apply for labor-based deferred action. Due to the seasonal nature of this work, workers often had well over ten different employers in the last five years. Piecing together this history, along with the addresses of each employer and the dates of employment, was extremely onerous for both the workers and advocates, often requiring an entire separate page (or more) of employment history beyond the space provided on the form.

[12] *See, generally,* Global Affordable Housing Shortages Can Harm Migrant Reception and Integration, Migration Policy Institute (March 20, 2024), https://www.migrationpolicy.org/article/housing-crisis-immigrants-integration.

Advocates have encountered similar delays for requestors with past marital history. At present, a requestor must provide her spouse's date of birth, city and country of birth, and date and location of marriage. Additionally, a requestor that has been previously married must provide their prior spouses' date of birth, the date and place of the marriage, and the date and place of the marriage's dissolution. This information may be unavailable to applicants, confusing in certain cultural contexts where "marriage" does not necessarily connote a legal status, and may discourage applicants who fear identifying family members without immigration status. The Agency's proposed changes to Form G-325A make no substantive changes to this marital history request despite the information's lack of clear probative value.

Finally, the parental information required can be difficult to obtain, particularly for workers who have resided in the U.S. for many years—and whose parents are deceased—and who do not have access to their parents' records from their home country that would contain place and dates of birth as required by the G-325A. Once again, parental information has no probative value in the case-by-case adjudication of labor-based deferred action, and its requirement functions only as a barrier to accessing this process.

b. The Agency underestimates the burden on immigrant workers of completing Form G-325A even under the new "streamlined" labor-based deferred action process.

The Agency estimates 565,180 submissions of amended Form G-325A, with each individual submission requiring fifteen minutes on average to be completed by applicants.[13] We are not aware of the Agency's source for this time estimate, but in our experience, the form takes *significantly* longer to complete, even when workers are assisted by counsel. Based on our experience, a more realistic estimate of the average time to complete the G-325A would be between one to three hours, based on the workers' history and the time needed for the worker to obtain marriage, parental, residential, and employment history that is not readily available. Sometimes the Form cannot be completed in a single meeting due to the worker's need to search for additional information.

The true time burden incurred by requests for superfluous information truncates nonprofit organizations' ability to assist eligible requestors. Migrant workers eligible for labor-based deferred action already face myriad obstacles in the application process. As NILC noted in its one-year report on the process, "most workers' rights organizations do not have in-house immigration services; many nonprofits that offer immigration services are already at capacity; many workers in low-paying jobs cannot afford private immigration attorneys; and some cases involving large numbers of immigrant workers occur in rural and/or under-resourced communities that are 'legal deserts' in terms of immigration services."[14]

[13] *See* Supporting Statement for G-325, G-325A, G-325B and G-325C, Document ID No. USCIS-2005-0024-0027 at p. 6, available for download at https://www.regulations.gov/document/USCIS-2005-0024-0027.
[14] *See* Building Worker Power Through Deferred Action: A Report on the First Year at p. 22, National Immigration Law Center (January 12, 2024), accessible at https://www.nilc.org/wp-content/uploads/2024/01/NILC_WorkersRightsReport-1.12.2024_.pdf.

To address these obstacles, worker advocacy groups have sought to meet this need by organizing *pro se* legal clinics in which volunteer attorneys assist a large number of workers in preparing and submitting applications, similar to those that assisted Deferred Action for Childhood Arrivals (DACA) applicants in years past. By eliminating sections on requestors' marital, employment, and address history, volunteers will have significantly more time to assist a far greater number of eligible workers in submitting their applications.[15] Increasing access to counsel not only benefits applicants, but also decreases the administrative burden to the Agency as applicants with the assistance of counsel will be more likely to provide adequate and streamlined evidence and correctly completed applications, thus reducing the need for Agency Requests for Evidence, follow-up, adjudication times, and appeals.

c. The Agency should amend the instructions for the G-325A to require less information for renewals or subsequent requests of labor-based deferred action.

We welcome the Agency's January 2024 announcement of a process for workers to submit subsequent requests for labor-based deferred action based on the ongoing interests of the labor agencies. However, the current process requires essentially all the same forms and supporting documents as the initial request, raising similar concerns of access for eligible workers with limited legal support. Therefore, even if the Agency retains the required information currently proposed in the revised G-325A, we respectfully request it amend the instructions to allow workers to forego extraneous information that has been previously provided to the agency in the initial request. Specifically, the agency should not require applicants to complete Part 1, Questions 10 through 28 when making subsequent requests for labor-based deferred action.

II. The Agency will advance its humanitarian interests by exempting or waiving filing fees for migrant workers seeking labor-based deferred action and by including an option to request a Social Security number on Form G-325A.

While the undersigned welcome the Agency's efforts to further streamline the labor-based deferred action application process, the additional recommendations below would significantly increase immigrant workers' ability to cooperate with labor law enforcement agencies by facilitating their employment authorization applications.

a. The Agency will best achieve its interest in facilitating labor enforcement by amending controlling regulations to exempt filing fees for requestors seeking employment authorization pursuant to a grant of labor-based deferred action.

Currently, controlling regulations allow USCIS to waive, but not exempt, payment for labor-based deferred action recipients seeking employment authorization under category (c)(14).[16] Nevertheless, Section 286 of the Immigration and Nationality Act[17] empowers the Attorney General to designate adjudication fees for applications to USCIS while making express reference to services rendered without cost to the applicant. USCIS already recognizes a wide variety of employment authorization applicants for whom it has waived or exempted the filing

[15] *See, generally, id.*
[16] 8 C.F.R. § 106.3(a)(3)(ii)(F).
[17] 8 U.S.C. § 1356(m).

fee requirement.[18] In fact, the agency's historical practice of exempting fees on a humanitarian basis has even been recently codified in federal regulations.[19]

Indeed, the recently amended USCIS Fee Schedule reflects prioritizing fee exemptions, rather than waivers only, for nearly all victim-based or humanitarian requests,[20] identifying specifically both the benefit to the applicant as well as reduced cost to the agency in avoiding adjudication of fee waivers for categories that will generally merit them. Labor-based deferred action cases are by-and-large such cases. By definition, these applicants are individuals who have experienced workplace violations *and* are required to show economic necessity to work in order to receive employment authorization. Requiring a fee and processing a waiver that should generally be granted is a waste of Agency resources in addition to a burden on applicants and counsel. [21]

The $520 filing fee associated with the application for employment authorization[22] is cost-prohibitive for many migrants seeking discretionary relief from USCIS, especially in the wake of the Covid-19 pandemic.[23] Accordingly, to more fully advance its humanitarian activity as proposed to Congress,[24] the Agency would do best to altogether exempt applicants seeking employment authorization based on labor-based deferred action from the filing fee. At present, with exception for those applications filed under category (c)(33), USCIS may waive the $520 filing fee[25] for employment authorization applications based on Deferred Action.[26]

b. In the alternative, the Agency should include an option to request a fee waiver on Form G-325A, obviating the need to submit a separate Form I-912.

While federal regulations do not mandate that applications for employment authorization under category (c)(14) be submitted on a prescribed form,[27] they do require that a recipient of Deferred Action establish economic necessity to work in order to receive employment

---

[18] *See* USCIS Fee Schedule effective as of April 1, 2024, at p. 33-35 (categorizing EAC applicants exempt from fee payment), accessible at https://www.uscis.gov/sites/default/files/document/forms/g-1055.pdf.

[19] 8 C.F.R. § 106.3(b); *see* "Frequently Asked Questions on the USCIS Fee Rule" on the USCIS webpage accessible at https://www.uscis.gov/forms/filing-fees/frequently-asked-questions-on-the-uscis-fee-rule ("In this final rule, we codify several longstanding fee exemptions, including for humanitarian-related forms, because of the humanitarian nature of these programs and the likelihood that people who file requests related to these categories will qualify for a fee waiver if they request it.").

[20] Other humanitarian benefits that are fee exempt include T and U visas, Violence Against Women Act (VAWA) Petitions, Special Immigrant Juvenile Status (SIJS), and asylum.

[21] "B. New Fee Exemptions" in 89 FR 6194, accessible at https://www.federalregister.gov/d/2024-01427/p-244.

[22] 8 C.F.R. § 106.2(a)(44).

[23] *See, generally*, Comments to the USCIS Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements for DHS Docket No. USCIS-2021-0010 (Comment ID No. USCIS-2021-0010-7183), National Immigration Law Center (03/13/2023), available for download at https://www.regulations.gov/comment/USCIS-2021-0010-7183.

[24] *Id. See, generally*, Budget Overview to Congress for Fiscal Year 2023, accessible at https://www.uscis.gov/sites/default/files/document/reports/U.S._Citizenship_and_Immigration_Services%E2%80%99_Budget_Overview_Document_for%20Fiscal_Year_2023.pdf.

[25] 8 C.F.R. § 106.2(a)(44).

[26] 8 C.F.R. § 106.3(a)(3)(ii)(F).

[27] 8 C.F.R. § 274a.13(a).

authorization.[28] Under controlling regulations, agency adjudicators assess economic necessity with information regarding the applicant's assets, income, and expenses.[29]

As to submission requirements, controlling regulations require only that an applicant's request for adjudication without fee payment be made in writing and contain an explanation of the applicant's inability to pay.[30] In other words, the Agency is not required to adjudicate fee waiver requests submitted only on Form I-912.[31] In fact, in its final rule on changes to the USCIS Fee Schedule, the Agency stated it would not require fee waiver requests to be submitted on a prescribed form.[32]

Instead, the Agency chose to "revert to the current effective language at 8 CFR 103.7(c)(2) (Oct. 1, 2020)" and maintain its historical practice of accepting either Form I-912 *or* a written fee waiver request. Eligibility requirements remain consistent with the 2011 Fee Waiver Policy[33] criteria of inability to pay, which a requestor may establish by showing: 1) Receipt of a "means-tested" benefit[34] at the time of filing[35]; 2) Household income at or below 150 percent of the Federal Poverty Guidelines at the time of filing[36]; or 3) Extreme financial hardship or other circumstances resulting in inability to pay.[37] Nevertheless, at present, agency instructions require labor-based deferred action requestors to seek a fee waiver on Form I-912.[38]

The proposed changes to Form G-325A will allow applicants to apply for employment authorization and establish economic necessity without need of Form I-765 or I-765WS, Worksheet. This is because the information requestors provide to establish economic necessity closely parallels the newly codified regulatory requirements for fee waiver eligibility.[39] Accordingly, the agency should capitalize on its proposed employment-related inclusions in Form G-325A by allowing applicants to request a fee waiver on the new form itself, obviating the need for submission of the I-912. Rather than submitting a separate form with largely duplicate information, an applicant may instead check a box requesting a fee waiver based on the

---

[28] 8 C.F.R. § 274a.12(c)(14).
[29] 8 C.F.R. § 274a.13(a)(1).
[30] 8 C.F.R. § 106.3(a)(2).
[31] *Id.*
[32] *See* "7. Fee Exemptions and Fee Waivers" in 89 FR 6194, accessible at https://www.federalregister.gov/d/2024-01427/p-152.
[33] *Id.* (citing U.S. Citizenship and Immigr. Servs., U.S. Dep't of Homeland Security, Policy Memorandum, PM-602-0011.1, "Fee Waiver Guidelines as Established by the final rule of the USCIS Fee Schedule; Revisions to Adjudicator's Field Manual (AFM) Chapter 10.9, AFM Update AD11-26" (Mar. 13, 2011), https://www.uscis.gov/sites/default/files/document/memos/FeeWaiverGuidelines_Established_by_the_Final%20Rule_USCISFeeSchedule.pdf).
[34] *See* 8 C.F.R. § 106.1(f)(3); *see also* "7. Fee Exemptions and Fee Waivers" in 89 FR 6194 accessible at https://www.federalregister.gov/d/2024-01427/p-150 ("DHS also decided to modify the instructions for Form I-912 to accept evidence of receipt of a means-tested benefit by a household child as evidence of the parent's inability to pay because the child's eligibility for these means-tested benefits is dependent on household income.").
[35] 8 C.F.R. § 106.3(a)(1)(i).
[36] 8 C.F.R. § 106.3(a)(1)(ii).
[37] 8 C.F.R. § 106.3(a)(1)(iii).
[38] *See* "Process for Noncitizens Requesting Deferred Action" on the USCIS webpage, accessible at https://www.uscis.gov/working-in-the-united-states/information-for-employers-and-employees/dhs-support-of-the-enforcement-of-labor-and-employment-laws.
[39] 8 C.F.R. § 106(3)(a).

economic necessity information, with the option to submit additional supporting documents. Such an allowance will further streamline the application process for applicants who are unable to pay the $520 filing fee and wish to request a fee waiver. Moreover, it will also ease the Agency's operational costs by no longer requiring agency adjudicators to process a lengthy Form I-912 containing much of the same information already provided within Form G-325A for applicants showing economic necessity.

c. The revised G-325A should allow workers to request automatic issuance of a Social Security number upon approval of the labor-based deferred action request.

At present, Form I-765 contains the option for applicants to request issuance of a Social Security number (SSN) upon approval of the underlying application for employment authorization.[40] However, the proposed G-325A does not include this option despite allowing in-form requests for both labor-based deferred action and employment authorization. As Social Security numbers are critical for lawful employment, as well as providing access to other benefits and services, we urge the Agency to reproduce Questions 12 through 17 of Part 2 of the current Form I-765 in the updated G-325A. The Agency should additionally update the corresponding forms instructions.

Although a worker can apply for an SSN after having received Form I-766 (Employment Authorization Document/EAD) from USCIS, the worker must presently do so at their local Social Security Administration (SSA) office by submitting Form SS-5, Application for a Social Security Card.[41] Additionally, the recipient must present two documents proving their identity and employment-authorized immigration status.[42] The documents must be originals or copies certified by the issuing agency.[43] Instead, USCIS should allow--as it does in other benefits requests--the applicant to simply request a Social Security number on the amended Form G-325A.

The separate application process for an SSN imposes additional time and monetary burdens on immigrant workers seeking to access this process, especially those living in rural areas with little or no transportation options to the appropriate Social Security office. Additionally, an application for an SSN may take several weeks to be processed, thus further prolonging a worker's inability to seek lawful employment, a driver's license, and certain state and federal benefits.[44] Advocates have further found that Social Security offices differ in their understanding of and ease with processing requests for noncitizens, which further exacerbates these harms to workers, distracts them from assisting the investigating agency, and increases

[40] Form I-765, Instructions for Application for Employment Authorization (OMB No. 1615-0040) at p. 17, United States Citizenship and Immigration Services (uscis.gov) (04/01/2024), accessible at https://www.uscis.gov/sites/default/files/document/forms/i-765instr.pdf.
[41] Application for Social Security Card (ssa.gov), accessible at https://www.ssa.gov/forms/ss-5.pdf.
[42] Social Security Numbers for Noncitizens (ssa.gov), accessible at https://www.ssa.gov/pubs/EN-05-10096.pdf.
[43] *Id.*
[44] *See, generally,* Overview of Immigrant Eligibility for Federal Programs, National Immigration Law Center (May 2024), accessible at https://www.nilc.org/issues/economic-support/overview-immeligfedprograms/.

burdens on social service organizations which often help applicants liaise with SSA offices and other agencies.

Undersigned acknowledge the Covid-19 pandemic's detrimental impact to agency revenue.[45] Nevertheless, by amending Form G-325A to include applications for employment authorization and obviating the need for a fee waiver request, the agency also preserves the resources it would have spent adjudicating Forms I-765, I-765WS, and I-912. The subsequent reduction in operational costs will offset the loss in revenue resulting from such a fee exemption. In fact, the benefits resulting from increased participation in the deferred action program more than justify amending controlling regulations.[46] Additionally, USCIS should look to recover any remaining loss in revenue from Congressional appropriations rather than raising fees for applicants whose circumstances are analogous to those for whom the filing fee is presently exempted.[47] The agency's demonstrated history of success following financial support from Congress is well documented by the agency itself.[48]

III. Allowing for E-filing of labor-based deferred action requests and applications for work authorization, in addition to paper filing, would streamline the application process and enhance access to immigration protections for immigrant workers involved in labor disputes.

Given the lack of immigration services to support workers seeking labor-based deferred action, particularly in rural communities where many large labor disputes have arisen, remote representation has become critical to ensuring workers can access the process. Thus far, the streamlined process has only been available through paper filing of the forms and supporting documents to the Montclair, California USCIS filing location.

For those who can secure representation remotely, paper filing adds another challenge in terms of mailing documents back and forth and getting signatures. Allowing electronic filing would ensure greater access to this process for workers unable to meet with advocates in person. With that said, some workers with in-person legal assistance or applying pro se may still find the process more accessible on paper. Accordingly, we urge the agency to allow for both paper and electronic filing to maximize the flexibility and accessibility of the process.

---

[45] *See* USCIS Fiscal Year 2022 Progress Report at p. 11, accessible at https://www.uscis.gov/sites/default/files/document/reports/OPA_ProgressReport.pdf (Applications post pandemic surged dramatically, leading to a 40% drop in agency revenue April and May of 2020.).

[46] *See* "10. Procedural Changes To Address Effects of Fee Exemptions and Discounts" in 89 FR 6194, accessible at https://www.federalregister.gov/d/2024-01427/p-277 ("DHS is making procedural changes in the final rule to address issues that it has experienced with fee-exempt and low fee-filings. DHS appreciates the concerns of commenters and is making changes to address those concerns by lowering many fees below the amount that was proposed, establishing discounts for small employers and nonprofits, and adding multiple fee exemptions. However, to provide the requested changes, DHS must make some adjustments to codified procedural requirements to mitigate some of the unintended consequences of providing limited discounts and free services and some of the actions for which those changes may provide an incentive.").

[47] *Id.*

[48] *See* "Completing an Unprecedented 10 Million Immigration Cases in Fiscal Year 2023, USCIS Reduced Its Backlog for the First Time in Over a Decade" published February 9, 2024, on the USCIS webpage, accessible at https://www.uscis.gov/EOY2023#:~:text=In%20FY%202023%2C%20USCIS%20received,reduced%20overall%20backlogs%20by%2015%25.

E-filing would also further the agency's 5-year directive (under Section 4103 of the Emergency Stopgap USCIS Stabilization Act, Title I, Div. D of Public Law (P.L.) 116-159 (8 U.S.C. 1103 note)) to enable e-filing and e-payment for all applications as described in 2021 fiscal report to Congress.[49]

Sincerely,

/s Lynn Damiano Pearson
Immigration Attorney

/s Dania Quezada
Legal Intern

National Immigration Law Center

/s Claudia Lainez
Associate General Counsel

Service Employees International Union

[49] Fiscal Year 2021 Report to Congress, United States Citizenship and Immigration Services (09/07/2021), accessible at https://www.uscis.gov/sites/default/files/document/reports/SIGNED-Section-4103-FY2021-Report-9-7-21.pdf; *see, generally*, Monthly Report to Congress on Form Processing Times, Fiscal Year 2022 Annual Statistics Report , accessible at https://www.uscis.gov/sites/default/files/document/reports/FY2022_Annual_Statistical_Report.pdf.