



January 28, 2019

Samantha Deshommes
Chief, Regulatory Coordination Division Office of Policy and Strategy
U.S. Citizenship and Immigration Service
Department of Homeland Security
20 Massachusetts Ave., NW
Washington, DC 20529-2140

**Re: Agency Information Collection Activities; Extension, Without Change, of a
Currently Approved Collection: Petition for Qualifying Family Member of a U-1
Nonimmigrant;
Docket ID number USCIS-2009-0010, OMB Control Number 1615-0106**

Dear Ms. Deshommes:

ASISTA respectfully submits this comment to U.S. Citizenship and Immigration Service Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Petition for Qualifying Family Member of a U-1 Nonimmigrant; Docket ID number USCIS-2009-0010, OMB Control Number 1615-0106 (hereinafter “extension”) published in the Federal Register on November 27, 2018.

ASISTA is a national organization dedicated to safeguarding and advancing the rights of immigrant survivors of violence. For over 15 years, ASISTA has provided attorneys and advocates nationwide with valuable resources to help survivors access the services and status they need to achieve safety and independence. We appreciate the opportunity to provide comments on the I-929 Petition For Qualifying Family Member of a U-1 Nonimmigrant (hereinafter “I-929”) and its accompanying instructions.

In addition to the comments suggested below, we recommend that USCIS consult Legal Momentum’s 2009 comment submission as several of the issues raised in that comment continue to be relevant nearly a decade later.¹

¹ See Comment Submitted by Sameera Hafiz and Leslye E. Orloff, posted May 1, 2009. ID. USCIS-2009-0010-0006, available at: <https://www.regulations.gov/document?D=USCIS-2009-0010-0006> (hereinafter “2009 Legal Momentum Comment”).

I. I-929 Form

A. General Comment

We ask USCIS to amend the gender field on the I-929 form in a way that is more inclusive and representative. An open text box rather than “male” and “female” checkboxes is recommended.

B. Part 2: Information about your alien relative, page 1.

The section entitled “Mailing address If Other Than Above” just has an open space to enter in the address. It would clarify the process for applicants and adjudicators to have the address designations similar to other parts of the form including street name and number, apt. number, city, state, country, and postal/zip code.

C. Part 2, Information About You Continued, page 4.

The regulations at 8 CFR 245.24(g)(4) state that an I-929 may be filed when the principal U-1 holder “has adjusted status to that of a legal permanent resident, has a pending application for adjustment of status, ***or is concurrently filing an applicant for adjustment of status.***”² We recommend the following:

- Part 1. Information about You (Cont’d), page 4.
 - Add a checkbox that indicates the I-929 is being filed concurrently with the principal U-1 holder’s I-485 filing.

II. I-929 Instructions

A. Clarify the availability of fee waivers

Fee waivers are critical to ensuring survivors can access survivor-based forms of immigration benefits. In the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Congress specifically stated that DHS shall allow applicants to apply for a waiver of any fees associated with filing a VAWA self-petition, a T or U visa application, or an application for VAWA cancellation or suspension of deportation.³

In the context of I-929 submissions, DHS promulgated regulations consistent with this

² Emphasis added.

³ William Wilberforce Trafficking Victims Protection Reauthorization Act. Section by section 201(d)(7), Public Law No: 110-457 (December 23, 2008), available at: <https://www.congress.gov/110/plaws/publ457/PLAW-110publ457.pdf>;

statute, confirming that I-929 applications should be submitted with a fee *or fee waiver*.⁴ However, the instructions to the I-929 form do not include any statement about the availability of fee waivers. The I-929 instructions must comply with existing authority and clearly indicate that the fee waivers are available for these applications so that U-1 visa holders and their family members are expressly aware of their availability.

To this end, we recommend that on page 1, “What is the Purpose of this Form?” The following sentence should be amended to read:

- To process your Form I-929, you will need to supply U.S. Citizenship and Immigration Service (USCIS) with a signed I-929, the filing fee ***or fee waiver request***.

In addition, on page 4, the section entitled “What is the Filing Fee” The first sentence be amended to read:

- The filing fee for form I-929 is \$230. ***If you are unable to pay the I-929 filing fee, you may apply for a fee waiver request under 8 CFR 103.7(c).***

We recommend adding a paragraph to this section:

- Fee Waiver: You may be eligible for a fee waiver under 8 CFR 103.7(c) and 8 CFR 245.24(h)(1)(ii). If you believe you are eligible for a fee waiver, complete Form I-912, Request for Fee Waiver (or a written request) and submit it and any evidence of your inability to pay the filing fee with this application.

B. Clarify the ability of U-1 visa holders to file for adjustment concurrently with the I-929 Form for their Qualifying Family Member

As mentioned above, the regulations at 8 CFR 245.24(g)(4) state that an I-929 may be filed when the principal U-1 holder “has adjusted status to that of a legal permanent resident, has a pending application for adjustment of status, ***or is concurrently filing an applicant for adjustment of status.***”⁵ To comply with existing regulations, to provide clarity to applicants, and to improve efficiency of adjudication, we believe that the I-929 instructions should specifically state that applicants may submit the I-929 concurrently with the U-1 visa holder’s application for adjustment of status. For individualized changes to specific sections in the I-929 form instructions related to this point, see 2009 Legal Momentum Comment, Section II, pages 3 and 4.⁶

⁴ See 8 CFR 245.24(h)(1)(ii), Emphasis added.

⁵ Emphasis added.

⁶ See 2009 Legal Momentum Comment, USCIS-2009-0010-0006, available at: <https://www.regulations.gov/document?D=USCIS-2009-0010-0006>

C. Clarify the accurate evidentiary standards that comport with existing regulations

The section “What if a Document is Not Available” on page 3 of the I-929 instructions indicate that if a document is not available, that applicants should “submit a statement from the appropriate civil authority certifying that the document or documents are not available.”

We believe that requiring U visa holders to obtain statements from civil authorities go beyond the scope of what is required and necessary according to the standards set for in 8 CFR 245.24(h)(1)(iii) and 8 CFR 103.2(b)(2).⁷ We echo the recommendations made in the 2009 Legal Momentum Comment and recommend that the Instructions be amended in the following ways:

Page 3: What if a Document is not Available:

- “In such a situation, ~~submit a statement from the appropriate civil authority certifying that the document or documents are not available. You must also submit~~ secondary evidence, including.”
- Add a paragraph that states, “If required document or secondary evidence is not available, submit evidence that good faith attempts were made to obtain the required document or statement. USCIS will consider any credible evidence provided that explains why a required document is unavailable.”

D. Privacy Act Statements

We recommend adding in language reiterating that any disclosure of information must be done in accordance with the confidentiality provisions at 8 USC §1367.

On page 5 of the instructions, under “Routine Uses,” it should be stated that the information contained in the Form I-929 will not be shared with other government agencies **unless specifically permitted under 8 USC §1367**. For example, the instructions for the I-765V, Application for Employment Authorization for Abused Nonimmigrant Spouses, the routine uses statement reads:

“Routine Uses: The information you provide in the application is confidential and protected from disclosure under 8 USC 1367. The information will be used by and disclosed to DHS personnel and contractors or other agents in accordance with approved routine uses, as described in the associated published system of records notices [DHS USCIS-001 - Alien File, Index, and National File Tracking System of

⁷ See also, 2009 Legal Momentum Comment, Section III, pages 4 and 5.

Records and DHS-USCIS-007 – Benefit Information System] which you can find at www.dhs.gov/privacy. DHS may also make the information available, as appropriate, for law enforcement purposes or in the interest of national security.”⁸

Conclusion

We appreciate the opportunity to comment on the I-929 application the accompanying instructions. Thank you in advance for your consideration.

Respectfully submitted:

A handwritten signature in black ink, appearing to read 'Cecelia Friedman Levin', written in a cursive style.

Cecelia Friedman Levin
Senior Policy Counsel
ASISTA Immigration Assistance

⁸ See Instructions for I-765V, Application for Employment Authorization for Abused Nonimmigrant Spouses, available at: https://www.uscis.gov/system/files_force/files/form/i-765vinstr.pdf?download=1 [Emphasis added].