

Submitted via www.regulations.gov

January 8, 2024

Samantha Deshommes
Chief, Regulatory Coordinator
Division Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
Washington, D.C. 20529

Re: Docket ID USCIS–2010–0008; OMB Control Number 1615–0116, Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Request for Fee Waiver

Dear Chief Deshommes,

The National Immigration Project (NIPNLG)¹ submits the following comment in response to the U.S. Citizenship and Immigration Services (USCIS) request for comment on the extension, without change, of the currently approved Form I-912, Request for Fee Waiver (Form I-912). *See*, Department of Homeland Security, U.S. Citizenship and Immigration Services, *Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Request for Fee Waiver*, 88 Fed. Reg. 77348 (Nov. 9, 2023) (OMB Control Number 1615-0116; Docket ID USCIS–2010–0008). As discussed below, NIPNLG urges the agency to make several critical changes to the form, including simplifying it, making it available online, and making it available in commonly used languages in addition to English.

NIPNLG is a national membership organization of attorneys, advocates, and community members driven by the belief that all people should be treated with dignity, live freely, and flourish. For over 50 years, the organization has litigated, educated, advocated, and built bridges across movements so that those who are most harmed by the immigration and criminal systems are uplifted and supported. Additionally, we fight for fairness and transparency in immigration adjudication systems and believe that all noncitizens should be afforded the right to fair adjudication of their claims to remain in or return to the United States. Many of our members work for nonprofit organizations which serve primarily indigent noncitizens; other, private bar members, routinely provide pro bono services to noncitizens who cannot pay fees. It is critical

¹ The author of this comment is NIPNLG supervising attorney, Victoria Neilson. As discussed below, the comment draws heavily from the Ready to Stay Administrative Advocacy Working Group, *Report Card on the Biden Administration's Efforts to Reduce Barriers to Accessing Benefits Through USCIS*. *See* note 2.

that noncitizens who cannot afford filing fees can nonetheless submit applications for lawful immigration status without facing rejection of complicated fee waiver forms.

In addition to noncitizens who are represented directly by NIPNLG and our members, NIPNLG also has a strong interest in ensuring that all noncitizens, including those without representation, are afforded due process rights in immigration adjudications. Indigent noncitizens are less likely to be able to pay for counsel and, with many nonprofit providers beyond capacity, are more likely to have to navigate forms, including the I-912 on their own. It is therefore especially important that the form be as easy to understand and to complete as possible.

USCIS Should Shorten and Simplify Form I-912, and Make It Available in Common Non-English Languages

On May 4, 2022, NIPNLG, working as part of the Ready to Stay Administrative Advocacy Working Group (RTSAAWG), issued a *Report Card on the Biden Administration's Efforts to Reduce Barriers to Accessing Benefits Through USCIS* [hereinafter *Report Card*].² One of the key critiques offered in the *Report Card* was the need for USCIS to simplify and shorten forms. The *Report Card* highlighted the trend at USCIS over the past several years to lengthen forms and explained that as a result, not only must noncitizens take more time to complete forms, but that longer forms also increase the time for officers to review and adjudicate each form, thereby adding to the backlog. *Report Card* at 15-16.

The I-912 is currently 11 pages long and the instruction sheet is also 11 pages. The form includes complicated language such as “means tested benefit,” “assets you can quickly convert to cash,” and references the “Federal Poverty Guidelines” without explanation. These concepts are complicated even for native English speakers and may not be comprehensible to individuals with limited English proficiency, and with little knowledge of American legal systems. As the *Report Card* pointed out, “If the questions are unclear, it is more likely that an applicant will misunderstand them and respond incorrectly. This could lead to adverse action on the application or prompt USCIS to send an unnecessary Request for Evidence (RFE).” *Report Card* at 15. USCIS should revise the form to use simplified language that is readily comprehensible to lay persons.

NIPNLG further recommends that USCIS make Form I-912 and the instructions sheet available in languages in addition to English. At a minimum, USCIS should make the form available in the top languages identified by the Department of Civil Rights and Civil Liberties (CRCL) in its Language Access Plan.³ Adding availability in these languages would be an important step

² Ready to Stay Administrative Advocacy Working Group, *Report Card on the Biden Administration's Efforts to Reduce Barriers to Accessing Benefits Through USCIS* (May 4, 2022) https://nipnl.org/sites/default/files/2023-11/2022_June-report-card.pdf. The Working Group was chaired by the National Immigration Project (NIPNLG) and included as members: Black Alliance for Just Immigration (BAJI); Coalition for Humane Immigrant Rights (CHIRLA); Catholic Legal Immigration Network Inc. (CLINIC); Faith in Action; Immigrant Advocates Response Collaborative (I-ARC); Immigrant Legal Resource Center (ILRC); Immigrant Welcome Center; National Immigration Law Center (NILC); Massachusetts Immigrant and Refugee Advocacy Coalition (MIRA); National Immigrant Justice Center (NIJC); Presente.org; and UnidosUS.

³ According to the CRCL Language Access webpage, the top five languages, other than English, spoken in the United States as identified by the U.S. Census Bureau are “Spanish, Chinese (including Mandarin and Cantonese),

toward fulfilling the mandates of President Biden’s Executive Order on Improving Access to Services for Persons with Limited English Proficiency.⁴ CRCL has identified as a strategy for 2024:

Expanding Translation of Forms and Instructions. CRCL will provide guidance to Components on processes for identifying and translating vital documents into select languages and will work with Components to explore opportunities to increase translation of vital documents, including forms and instructions, in top languages. CRCL will also establish a schedule for translations and develop DHS-wide guidance on translations of these documents with Component concurrence. CRCL will share progress on these efforts on its Language Access webpage in Fiscal Year 2024.⁵

Given the importance of the I-912, and that it is submitted in connection with many different USCIS applications, USCIS should prioritize making the I-912 available in languages in addition to English.

USCIS Should Allow Noncitizens to File Form I-912 Online

The *Report Card* included a section specifically about the work that the Biden Administration still needs to do on the fee waiver. In addition to highlighting the need to simplify the form, the *Report Card* also stressed the importance of being able to file Form I-912 online. Since the Administration has, unfortunately, not taken any further positive steps in implementing these suggestions since the *Report Card* was issued over 18 months ago, we will include those recommendations verbatim here:

RTSAAWG urges the Biden administration to implement a simpler fee waiver process that broadens the qualification criteria to allow applicants to access and submit the fee waiver application online before it raises USCIS fees. Many lower income people face difficulties qualifying for a fee waiver because they do not receive any means-tested benefits or have incomes that are marginally over the income threshold, which does not accurately reflect the reality of poverty in the United States and makes no accounting for differences in locality. The effect is very often that eligible applicants decline to apply for a benefit due to the cost of the benefit.

Moreover, fee waiver applicants should have access to an easy online filing system, especially when they can file the benefit application itself online. For example, a naturalization applicant who can submit an N-400 online should also be able to access and submit a fee waiver online. Otherwise, limited income naturalization applicants are shut out of the more efficient online filing system solely because of

Vietnamese, Korean, and Tagalog (including Filipino).” DHS, Language Access at the Department of Homeland Security (Last updated Dec. 6, 2023) <https://www.dhs.gov/language-access>.

⁴ President Biden, Executive Order 13166, Improving Access to Services for Persons With Limited English Proficiency (Aug. 11, 2000) <https://www.govinfo.gov/content/pkg/FR-2000-08-16/pdf/00-20938.pdf>.

⁵ CRCL, U.S. Department of Homeland Security Language Access Plan at 12 (Nov. 2023) https://www.dhs.gov/sites/default/files/2023-11/23_1115_dhs_updated-language-access-plan.pdf.

their economic status and potentially subject to longer processing times. *Report Card* at 25.

NIPNLG strongly opposes a two-tiered system, where those who are able to pay fees have their applications adjudicated faster because they can file online, whereas those who must file fee waivers, are relegated to the slower, paper-based system. Not only does the requirement to mail in the application add delays, it also adds costs as indigent noncitizens may have to pay significant mailing fees or overnight fees in order to be able to track delivery of their applications. The paper-based application requirement also creates time and financial burdens on nonprofit legal providers who must take more time to complete the paper forms and expend money on mailing fees.

Conclusion

NIPNLG appreciates the opportunity to comment on Form I-912 and urges USCIS to make the revisions proposed above rather than simply extending the form as it currently is. Please do not hesitate to contact Michelle N. Méndez at michelle@nipnlg.org if you have any questions or need any further information. Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "Michelle Méndez". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Michelle N. Méndez
Director of Legal Resources and Training
National Immigration Project
1200 18th Street NW Suite 700
Washington DC 20036
(540) 907-1761