



ASYLUM SEEKER ADVOCACY PROJECT

October 14, 2022

Submitted via www.regulations.gov

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Chief
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U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
Washington, D.C. 205287

Re: Docket ID USCIS-2022-0001; OMB Control Number 1615-NEW—Agency Information Collection Activities; New Collection: e-Request Tool

Dear Chief Deshombres,

The Asylum Seeker Advocacy Project (ASAP) respectfully submits the following comment regarding the e-Request Tool [hereinafter the “e-Request Tool” or “the tool”].

ASAP works alongside its members—over 400,000 asylum seekers—toward a future where the United States welcomes individuals fleeing violence. ASAP members come from more than 175 countries and live in every U.S. state and territory. Since the Fall of 2020, ASAP staff have provided guidance on using the eRequest tool to hundreds of asylum seekers who contact us via email.

The e-Request Tool is an important tool to allow people to communicate requests to USCIS, especially to flag delayed I-765 applications.

ASAP has directed many members to the e-Request tool to resolve their issues with USCIS. The tool is an essential component of making USCIS accessible to the thousands of immigrants who rely on its services. Alternatives to using the e-Request platform, including calling USCIS or interacting with the online chat tool, are not always

available. Call wait times are extremely long, especially for Spanish speakers. Furthermore, the automated "Ask Emma" chat option is often frustrating and unhelpful for people. Submitting an e-Request can also be easier and less stressful for people communicating in their second language. Thus, ASAP emphasizes the importance of the e-Request tool and commends all efforts to improve its accessibility and effectiveness.

The e-Request Tool should be made more accessible by making the form available in Spanish and decreasing the number of mandatory fields.

USCIS should make the e-Request tool available in other languages, beginning with Spanish. Currently, this tool is only available in English. USCIS can greatly improve the accessibility of the tool by making it available in Spanish, as it already does for many other aspects of the USCIS website.

USCIS should make the e-Request form shorter and simpler. For example, USCIS could:

- (1) Eliminate or make optional fields for answers that are not actually required to process the request itself, such as requiring a physical or mailing address.
- (2) Provide alternatives to submitting a receipt number to make a request. (See section below about missing notices.)
- (3) Provide multiple choice menus instead of text fields where appropriate. In particular, many ASAP members report that the "Last Action Taken on Case" field is confusing, and USCIS could list several options as possible responses to this question, such as "I sent in my application and it was received by USCIS" or "USCIS sent me a letter asking for more information."
- (4) Provide the option to check a box saying "unknown" so that users are not prevented from submitting an eRequest because they are unable to answer otherwise mandatory questions.

ASAP suggests changes to the language on the eRequest page for "Case outside normal processing time" that would make the tool clearer and easier to use.

ASAP commends USCIS for its recent update to this eRequest form, which now allows asylum seekers applying for work permits to indicate whether their application is for an initial or renewal work permit.

USCIS should now make the language in its announcement about 30-day processing and the *Rosario* class action clearer.¹ This announcement affects thousands of asylum applicants who are waiting for their initial work permits and who, without it, might not realize that the eRequest form is available to them. It is helpful that this information is near the top of the eRequest form. Given its importance, however, we recommend changing the language to be more accessible and clear. The announcement could instead read:²

"Note regarding work permit applications for asylum seekers: if

1. *You have submitted an initial application for a work permit (Form I-765) under category (c)(8) AND*
2. *Over 25 days have passed since USCIS received your application*

You can submit an e-Request form for your work permit application now. Please see <http://www.uscis.gov/rosario> for more information about your rights as a member of the class action, Rosario v. USCIS, Case No. C15-0813JLR."

¹ The announcement currently reads: "You may be a member of the class action, *Rosario v. USCIS*, Case No. C15-0813JLR, if USCIS does not adjudicate within 30 days your initial (first) Form I-765, *Application for Employment Authorization*, based on your pending asylum application." See OUTSIDE NORMAL PROCESSING TIME, U.S. CITIZENSHIP AND IMMIGRATION SERV.S, <https://egov.uscis.gov/e-request/displayONPTForm.do?sroPageType=onpt&entryPoint=init>.

² The same language should accompany the results of the "Check Case Processing Times" tool for "Form I-765, based on a pending asylum application [[c](8)]." See CHECK CASE PROCESSING TIMES, U.S. CITIZENSHIP AND IMMIGRATION SERV.S, <https://egov.uscis.gov/processing-times/>.

USCIS can increase transparency by providing accurate estimated processing times to individuals who file eRequests.

Many ASAP members have contacted us in confusion about the delays in the processing of their initial (c)(8) work permits. There is currently no way for applicants to obtain information about the actual processing times for initial (c)(8) work permits. Many asylum seekers worry that something is wrong with their application when they do not get a response from USCIS within 30 days. Others have communicated that they would like to know how long they should expect to wait, even if the wait time is longer than 30 days. This is important because applicants apply for jobs and set their budgets relying on the 30-day processing time. When 30 days go by and their work permits are still not processed, many are forced to decline job offers. If USCIS provided accurate processing time information for initial (c)(8) EAD applicants,³ individuals and families would be able to plan ahead and budget accordingly, and potential employers could better assess when a job applicant is likely to be authorized to work.

With this in mind, ASAP suggests that USCIS at least include estimated processing times in the email replies to individuals who send processing time requests. As this is information that USCIS is already collecting,⁴ providing this to applicants is a small undertaking that would be greatly beneficial to asylum seekers and their families. Providing this information also benefits USCIS by reducing the number of repeat applications that are filed by individuals who think the delay was caused by a problem with their first application.

ASAP also suggests changes to the eRequest form for Missing Notices.

USCIS should make it possible to ask about delays in receiving receipt notices through the tool. ASAP members frequently contact us about not receiving a receipt notice from USCIS for a work permit or asylum application. However, when an applicant

³ USCIS should also provide specific estimated processing times for other categories of I-765s, such as (c)(11) (parole) and (c)(19), (a)(12) (TPS) for nationals of countries other than El Salvador and Haiti.

⁴ For example, USCIS collects monthly processing times data as part of the *Rosario* lawsuit. *E.g. I-765 - Application for Employment Authorization Eligibility Category: C08, Pending Asylum Initial Permission to Accept Employment Completions by Processing Time Buckets*, USCIS CLAIMS3 & ELIS/Office of Performance & Quality - PAER Division (September 2022).

visits the eRequest tool for “Non-Delivery of Notice,” there is no option to submit a request concerning a missing receipt notice. ASAP currently recommends adding receipt notices to the menu so that this option is clear, and so that applicants do not have to select “Other” and describe the notice.

USCIS should also make it possible to submit an eRequest form without a receipt number. Specifically, it should be possible to submit the form if the inquiry is about a receipt notice that has not been received, given that an applicant will not have a receipt number to enter in the eRequest form. ASAP recommends that this field be made optional, or that USCIS specify that applicants may list “unknown” or “none” in this field.

ASAP recommends that USCIS create a new eRequest form that can be specifically used to request a new I-765 receipt notice with the 540-day work authorization extension.

USCIS should make it possible to get new receipt notices that reflect the 540-day extension at any time after receiving the initial receipt. Thousands of immigrants were affected by the Temporary Final Rule that created a 540-day extension for applicants awaiting the renewal of their work permits.⁵

Many ASAP members have told us that they are unable to benefit from the 540-day extension because employers are requiring evidence of the 540-day extension in the form of a receipt stating that the individual’s work permit is extended. Because USCIS did not broadly reissue receipt notices after the new rule took effect, thousands of immigrants who are work authorized are unable to prove this authorization to their employers. Although a receipt notice with a 180-day extension authorizes applicants to work for 540 days after the expiration of their work permits, many employers and Departments of Motor Vehicles do not trust or accept these outdated notices. Therefore, ASAP recommends that USCIS create an eRequest form through which applicants may

⁵ *Temporary Increase of the Automatic Extension Period of Employment Authorization and Documentation for Certain Renewal Applicants*, 87 Fed. Reg. 26614, 26636 (May 4, 2022), <https://www.federalregister.gov/documents/2022/05/04/2022-09539/temporary-increase-of-the-automatic-extension-period-of-employment-authorization-and-documentation>; AUTOMATIC EMPLOYMENT AUTHORIZATION DOCUMENT (EAD) EXTENSION, U.S. CITIZENSHIP AND IMMIGRATION SERV.S., <https://www.uscis.gov/eadautoextend>.

request a new receipt notice with the 540-day extension.⁶ This mechanism would ensure that thousands of immigrants are able to benefit from the 540-day extension.

The government should make it easier for asylum seekers to comment directly on changes to USCIS' information collection, including by accepting comments in languages other than English.

Finally, USCIS should make it a priority to encourage and facilitate immigrants and asylum seekers to comment on changes related to information collection being considered by the agency. The agency would significantly benefit from the comments of those individuals who are most closely acquainted with the immigration process and USCIS' website. This goal of encouraging immigrants and asylum seekers to comment on regulations is in line with USCIS's new mission statement. In announcing this new mission, USCIS Director Ur Jaddou stated, "USCIS is committed to ensuring that the immigration system we administer is accessible and humane." Encouraging comments from immigrants and asylum seekers who interact with the agency is a critical source of feedback and ideas for how the agency can be more accessible and humane.

ASAP is concerned that the current comment process is not as accessible as it should be if the goal is to encourage asylum seekers and immigrants to engage in the process. First, the agency does not highlight the importance of receiving comments from immigrants and asylum seekers through the comment process. Moreover, many immigrants and asylum seekers do not know they are welcome to comment and may be afraid to criticize the government. As a result, USCIS should make it clear that feedback is welcome, and that comments will not be used against immigrants with cases before DHS. This could be accomplished with alerts on USCIS's website as well as through social media.

Second, USCIS does not clarify whether it will read and respond to comments in languages other than English. If USCIS would like to encourage immigrants and asylum

⁶ USCIS has advised that people seeking a new I-765 receipt notice can send an email request to lockboxsupport@uscis.dhs.gov. However, we have heard from many ASAP members that they do not get any response from the Lockbox even after several weeks. Further, the Lockbox only retains records for six months and will not reissue receipt notices to anyone whose application was originally received more than six months prior.

seekers to comment in other languages, it can include language in future comments that clearly states that comments in languages other than English will be accepted and translated into English to the best of USCIS’s ability. This process could be done quickly and expeditiously using Google Translate – in fact, the process could be automated. Consistent with DHS policy, accepting comments in languages other than English would “provide meaningful access for individuals with limited English proficiency.”

Third, many asylum seekers and immigrants may have a difficult time accessing the technology needed to participate in this process. For example, the vast majority of ASAP’s more than 340,000 members access online materials via their mobile phones as opposed to laptop or desktop computers, in part due to their lack of access to the latter forms of technology. As a result, it is important for the notice and comment process to be as mobile-friendly as possible. And while the majority of our members are quite mobile savvy, many of them do not maintain an email address or are unfamiliar with this form of contact and identification. Given this reality, a more accessible process would make it much clearer that no email address is required for comment submission.

In sum, ASAP commends USCIS’s efforts to collect public feedback and hopes that the above recommendations can make the eRequest tool more clear, accessible, and useful. We thank the agency for your time in reviewing and considering our recommendations.

Respectfully submitted,



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