



Policy solutions that work for low-income people

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Submitted via www.regulations.gov

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

Re: Public Comment Opposing Form G-1530: USCIS Tip Form
OMB Control Number 1615–NEW
Docket ID USCIS-2019-0001

Dear Ms. Deshommès:

The Center for Law and Social Policy (CLASP) is grateful for the opportunity to comment on the United States Citizenship and Immigration Services (USCIS) proposal to implement the new Form G-1530: USCIS Tip Form, published in the Federal Register on February 15, 2019.

Established in 1969, CLASP is a national, non-partisan, non-profit, anti-poverty organization that advances policy solutions for low-income people. Our comments draw upon the work of CLASP experts in the areas of immigration and anti-poverty policies. As an anti-poverty organization, we understand the critical importance of ensuring that low-income immigrants are able to obtain immigration benefits for their own economic security as well as that of their families. CLASP opposes the Department of Homeland Security's proposed Tip Form and we urge that the proposed form be withdrawn immediately. Such reporting is a waste of government resources and will create yet another avenue for bigotry and harassment with serious consequences for individuals and communities of color.

I. The USCIS Tip Form permits unsubstantiated reporting to USCIS and creates a high likelihood that bias and bigotry will play a role in reporting.

The USCIS Tip Form is unnecessary and encourages the presumption of fraud in the immigration benefits process. USCIS's primary function, as established by the Homeland Security Act of 2002, is to adjudicate immigration benefits.¹ Over the last two years, USCIS has transformed into another immigration enforcement agency through its increased focus on fraud and the implementation of other sweeping policy changes.² There are already existing mechanisms for collecting information about fraud. Creating another avenue to invite the public to submit unsubstantiated reports of fraud about individual immigrants not only creates unnecessary redundancies but also significant harm to immigrant communities.

According to the Department of Justice, hate crimes continue to rise, particularly those motivated by racial, ethnic, or religious animus.³ For example, Muslim, Arab, Iranian, Middle Eastern, and South Asian communities face targeted harassment and violence at alarming rates, particularly in the last few years, like many other communities of color and immigrant communities. Recent reports from the Federal Bureau of Investigations (FBI) show that Muslim, Arab, Iranian, Middle Eastern, and South Asian Americans are facing heightened levels of

harassment and violence, and these numbers are severely underreported by the FBI's own admission.⁴ Similarly, the FBI reports that hate crimes against Hispanics and Latino communities have risen nationally.⁵ These incidents are also underreported, due to an increased fear of reporting racially motivated crimes and incidents to law enforcement.⁶ This form gives people another government-sanctioned tool by which to submit unsubstantiated and unsolicited information to harass and intimidate immigrants and people of color without consequence. Reported individuals face increased scrutiny, surveillance, and potential loss of benefits without any due process that could enable them to refute allegations of fraud.

II. The USCIS Tip Form is a Waste of USCIS Resources and Will Cause Additional Delays

Resources put toward vetting unsubstantiated tips from anonymous members of the public will take away from adjudication of immigration benefits and cause additional delays for families who have already been waiting for far too long. USCIS has radically slowed application processing in the past two years. In fact, four out of the five highest-volume form types increased in processing time by more than 25 percent from 2017 to 2018.⁷ The well-being of many immigrant families depends on USCIS's efficient adjudication of benefits requests. For instance, processing delays frequently jeopardize the ability of individuals to work, leaving families without a source of income for necessities such as food, housing, and transportation.⁸ Rather than relieving the backlog, this proposal will exacerbate it by inhibiting efficiency and prioritizing immigration enforcement over the administration of legal immigration benefits. This proposal is just another brick in the Trump administration's "invisible wall" curbing legal immigration in the United States.

III. The USCIS Tip Form is Overbroad and Encourages Misuse

USCIS fails to set any criteria for reporting fraud and there is no requirement that an allegation be made in connection with a pending application for benefits. USCIS has not provided any direction on what types of information should be submitted nor provided a notice that a submission to this government system is subject to perjury laws. The form also provides no definition of "fraud," which has a complex definition under the Immigration Act and in case law. Additionally, it is unclear how the information collected through the USCIS Tip Form will be shared with other law enforcement agencies and used in adjudications.

The proposed USCIS Tip Form requests that individuals provide their name and contact information but does not require it to make a report. Thus, USCIS has no formal mechanism to follow up on allegations, and applicants for benefits have no opportunity to learn about derogatory information lodged against them or refute any allegations. Furthermore, USCIS has not provided any information how it will handle and respond to these anonymous tips. It is unknown what mechanisms are in place for USCIS to determine the validity of information provided by anonymous tips and to accurately assess whether they are impermissibly motivated. Without this information, it is unclear whether reported individuals will have any access to due process or any recourse against false reports. The failure to collect information from the person completing the form creates a likelihood that those targeting individuals based upon racism and bigotry will have the option of submitting numerous baseless claims with no accountability.

IV. Conclusion

CLASP strongly opposes the publication of the USCIS Tip Form as it creates additional hardship for immigrant communities and vulnerable individuals. USCIS should withdraw the Tip Form immediately and instead work on developing policies that do not threaten immigrant communities, waste resources, or undermine access to critical immigration benefits. We thank you again for opportunity to submit these comments. If you have additional questions, you can contact Wendy Cervantes, Director of Immigration and Immigrant Families, at wcervantes@clasp.org or 202-906-8059.

¹ U.S. Citizenship and Immigration Services was created with the Congressional intent of focusing on benefits adjudication, rather than an enforcement-focused agency. On its website it states that it was “formed to enhance the security and improve the efficiency of national immigration services by exclusively focusing on the administration of benefit applications. Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP), components within DHS, handle immigration enforcement and border security functions” (emphasis added). USCIS Webpage, “Our History” (May 25, 2011), available at <https://www.uscis.gov/about-us/our-history>.

² Joshua Breisblatt. “USCIS Is Slowly Being Morphed into an Immigration Enforcement Agency” (July 9, 2018), available at <http://immigrationimpact.com/2018/07/09/uscis-guidance-immigration-benefit/>.

³ Federal Bureau of Investigations Uniform Crime Reporting Program 2017 Hate Crimes Statistics, available at <https://ucr.fbi.gov/hate-crime/2017/topic-pages/incidents-and-offenses>.

⁴ John Eligon, Hate Crimes Increase for the Third Consecutive Year, F.B.I. Reports, New York Times (November 13, 2018), available at <https://www.nytimes.com/2018/11/13/us/hate-crimes-fbi-2017.html>.

⁵ See Arab American Institute, Hate Crimes Continue to Surge in America (November 13, 2018), available at http://www.aaiusa.org/hate_crimes_continue_to_surge_in_america (summarizing FBI 2017 statistics).

⁶ Brendan Campbell, Angel Mendoza and Tessa Diestel, Rising hate drives Latinos and immigrants into silence, News21 (August 22, 2018), available at <https://www.philly.com/philly/living/rising-hate-drives-latinos-and-immigrants-into-silence-20180822.html>.

⁷ Jason Boyd and Greg Chen, AILA Policy Brief: USCIS Processing Delays Have Reached Crisis Levels Under the Trump Administration, American Immigration Lawyers Association (January 30, 2019), available at <https://www.aila.org/advo-media/aila-policy-briefs/aila-policy-brief-uscis-processing-delays>.

⁸ AILA, “Deconstructing the Invisible Wall: How Policy Changes by the Trump Administration Are Slowing and Restricting Legal Immigration” (Apr. 24, 2018), available at <http://www.aila.org/infonet/aila-report-deconstructing-theinvisible-wall>.