



Seattle
Office of Immigrant and
Refugee Affairs
Cuc Vu, Director

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Submitted via www.regulations.gov

Samantha Deshombres, 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. Deshombres:

I write this comment on behalf of the City of Seattle Office of Immigrant and Refugee Affairs in opposition to United States Citizenship and Immigration Services (USCIS) proposal to introduce the new Form G-1530: USCIS Tip Form, OMB Control Number 1615 - NEW, Docket ID USCIS-2019-0001, published in the Federal Register on February 15, 2019.

The City of Seattle strongly opposes the proposed USCIS Tip Form, as it will victimize vulnerable immigrants.

Form G-1530 ("USCIS Tip Form") is a tool that exemplifies the ongoing transformation of USCIS—from an agency focused on benefits adjudication to one engaging in extensive enforcement in support of the current Administration's anti-immigrant policy initiatives. The USCIS Tip Form allows members of the public to make anonymous, potentially unfounded claims about their coworkers or neighbors or even strangers about whose "fraud" they may only speculate. Many "tips" will be the direct result of prejudice, hate, and ignorance, demonstrated by the fact that many immigrant communities already face increasing harassment and violence at alarming rates.¹

¹Federal 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>.

The City of Seattle ("the City") has made great efforts to protect our immigrant and refugee workers and residents. Such efforts include executive orders², resolutions³, and ordinances⁴ to ensure immigrants feel welcome and safe in the city. The City has also funded social programs to help income-eligible residents with what we consider to be basic needs. Additionally, the City believes it is the responsibility of our government to assist all Seattleites, including taxpayers, residents, and workers. In this role, the City manifests its core value of providing infrastructure, goods, and services for all residents, but especially for vulnerable, disabled, and marginalized people who cannot individually provide for themselves.

To this end, the City created the Office of Immigrant and Refugee Affairs (OIRA) in 2012 to improve the lives of Seattle's immigrant and refugee families. In line with the City's values of social justice and equity, OIRA works to strengthen immigrant and refugee communities by engaging them in decisions about the City's future and improving the City's programs and services to meet the needs of all constituents. We believe supporting immigrants creates a stronger future for our nation. As with prior generations, today's immigrants are tomorrow's U.S. citizens, who will be fully engaged in the economic, cultural, and civic life of our society, both locally and nationally.

I. THE USCIS TIP FORM PROVIDES AN OUTLET FOR UNSUBSTANTIATED ACCUSATIONS AND ANTI-IMMIGRANT PREJUDICE.

The USCIS Tip Form appeals to the worst of human nature. It pits neighbor against neighbor, coworker against coworker by encouraging individuals to report one another to the authorities, potentially without any valid justification to do so. The USCIS Tip Form creates an outlet for prejudice, a means to put anti-immigrant bias into action.

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.⁵ Similarly, the FBI reports that hate crimes against Hispanics and Latino communities have risen nationally.⁶ The sharp increase of hate crimes against immigrants during the current administration has served to further isolate immigrant communities who are afraid of reporting such crimes to the police for fear of deportation.⁷

In Seattle, the number of reported hate crimes doubled between 2016 and 2017, with Washington State having the third highest rate of hate crimes per capita. More than half of the hate crimes reported in Seattle were racially motivated, and local advocacy groups have noted an uptick in crimes against

² See http://murray.seattle.gov/wp-content/uploads/2016/11/Executive-Order-2016-08_Welcoming-City.pdf

³ See <http://clerk.seattle.gov/~scripts/nph-brs.exe?s1=&s3=&s2=&s4=Ordinance+121063&Sect4=AND&l=200&Sect2=THESON&Sect3=PLURON&Sect5=RESNY&Sect6=HITOFF&d=RESF&p=1&u=%2F~public%2Fresny.htm&r=7&f=G>

⁴ See <http://clerk.ci.seattle.wa.us/~scripts/nph-brs.exe?d=CBOR&s1=114436.cbn.&Sect6=HITOFF&l=20&p=1&u=/~public/cbor2.htm&r=1&f=G>

⁵ 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>.

⁶ 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).

⁷ <https://www.revealnews.org/blog/the-hate-report-the-state-of-anti-immigrant-hate-2018/>

immigrants and refugees.⁸ The FBI acknowledges that hate crime incidents are underreported across the board, due to an increased fear of reporting racially motivated crimes and incidents to law enforcement.⁹ We are very concerned that these local and national hate crime perpetrators will essentially weaponize the USCIS Tip Form and use this kind of reporting to further their intimidation tactics.

II. THE USCIS TIP FORM IS AN UNNECESSARY WASTE OF VALUABLE GOVERNMENT RESOURCES THAT WILL LIKELY WORSEN USCIS' EXISTING BACKLOGS.

The Homeland Security Investigations (HSI) Tip Line is an already existing mechanism for the public to anonymously report immigration fraud and abuse and is managed by U.S. Immigration and Customs Enforcement (ICE), an actual law enforcement agency. The HSI Tip Line even has an online form submission option, making the USCIS Tip Form redundant and unnecessary. The additional resources required to monitor and pursue tips reported through the USCIS Tip Form would divert staff time and funding away from USCIS's primary function to review and adjudicate applications. As it is, USCIS is facing significant backlogs and attributes the growing wait times to staff shortages and increased volume of applications.¹⁰ USCIS should not divert its scarce resources to creating and supporting an online interface that will almost certainly be abused by those who harbor anti-immigrant sentiment.

If the USCIS Tip Form is intended to be a tool to fight immigration fraud and abuse, significant resources must be allocated for the thorough investigation of tips. USCIS's proposal is lacking, among other things, an estimate of how much this additional enforcement will cost. The USCIS Tip Form will require unknown financial resources and needlessly extend the adjudication process at a time when USCIS simply cannot afford it. The current backlog of citizenship applications is nearly 740,000, more than double the amount from late 2015, despite the fact that there were 100,000 fewer applications filed in fiscal year 2017 than in the previous one. The adjudication wait time in numerous field offices is longer than 20 months, a drastic increase from just a few years ago.¹¹ In addition to increased costs and extended wait times, bogging down the adjudications process with anonymous and unfounded allegations—which may have nothing to do with fraud and abuse—will harm applicants and their families.

Under the current service model, USCIS case files are transferred from a service center to the local office whenever an interview is required. As it is, case files sometimes go missing temporarily or arrive too late for the interview. The notice regarding the USCIS Tip Form does not indicate how and when the tips will be added to an applicant's file, which may further complicate the tracking of the file. A tip could potentially come to USCIS at any point in the adjudications process, so staff at the service centers and local offices would all need to be trained on the procedure of adding tips to case files. Nor does the notice indicate how the adjudicating officer should handle or clarify tips added by a different USCIS staff member. Adjudicating

⁸ <https://www.kiro7.com/news/local/number-of-hate-crimes-in-seattle-double-from-year-to-year/872623282>

⁹ 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>.

¹⁰ 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>.

¹¹ "Democracy Strangled: Second Wall of Barriers to Citizenship Risks Preventing Hundreds of Thousands of Immigrants from Naturalizing and Becoming Voters in Presidential Election of 2020" National Partnership for New Americans (March 19, 2019). Available at <https://drive.google.com/file/d/1t1oW06zc97qBpeXq93f5ycjFJfdBAlo6/view>.

officers would need to receive specialized guidance on how to consider this new evidence type. USCIS will therefore waste additional resources training officers on how to weigh these tips against other evidence and how to discern the veracity and legality of such tips.

III. THE USCIS TIP FORM IS A VIOLATION OF DUE PROCESS.

A. The USCIS Tip Form is vague and does not indicate how collected information will be used.

The USCIS Tip Form fails to set any criteria for reporting fraud and does not attempt to define this legally complex term. USCIS has not indicated how the information collected through the USCIS Tip Form would be used in adjudications and to what extent tips will be investigated or confirmed through other means to distinguish between valid claims and claims simply motivated by vengeance, hate, or ignorance. USCIS has no formal mechanism to follow up on allegations, and applicants for benefits are not given access to the derogatory information lodged against them or are not allowed to refute the allegations. Without this information, it is unclear whether reported individuals will have any access to due process or any recourse against false reports. Many applicants for immigration benefits have faced a similar struggle with background checks that take months or years to clear, while they are denied any information as to the reason for the delay. It seems likely that the USCIS Tip Form will similarly create pretextual delays in case processing, even if the tips are without merit and/or have been fully investigated.

B. The USCIS Tip Form encourages users to submit tips that have nothing to do with immigration fraud.

Individuals submitting a tip through the USCIS Tip Form are asked to provide their name and contact information, but they are permitted to submit the tip without doing so. Form users do not need to submit any background information or evidence in support of their allegation. The form does not require the allegation to bear any connection to a pending immigration application. The form can be used to make allegations against someone who is not even seeking an immigration benefit, even though that means the individual could not, by definition, be committing immigration fraud. While the definition of fraud is legally complex, many individuals will submit reports based on animus or unsubstantiated rumors—even if the accused individual has had no contact with USCIS. USCIS seems to acknowledge this likelihood by creating an "other" category. In doing so, USCIS encourages claims with no connection to immigration fraud, instead creating yet another avenue for bigotry and harassment with serious consequences for vulnerable immigrants—both individuals and targeted communities.

C. USCIS already has ample mechanisms in place to expose immigration fraud.

Within its existing forms and procedures, USCIS has already made it extremely difficult to commit immigration fraud. The Forms I-485 and N-400 have been expanded in recent years to mine for discrepancies, even inconsequential ones, that may expose a basis for ineligibility, including fraud. The distinct possibility of a marriage fraud interview or a DNA test in a family-based immigration case serves as a strong deterrent for many would-be applicants, and in fact, unfairly disqualifies some applicants with completely bona fide marriages or family ties. What additional information is USCIS seeking to obtain from the USCIS Tip Form that cannot be adequately gleaned from the tools and mechanisms already in place?

Again, it seems probable that the USCIS Tip Form will do less to root out actual fraud and more to merely expose vulnerable immigrants living in our communities.

IV. THE USCIS TIP FORM THREATENS VAWA CONFIDENTIALITY AND PUTS SURVIVORS AT RISK.

The USCIS Tip Form puts survivors of domestic violence at particular risk. An abuser who seeks to further isolate his or her immigrant partner may threaten to report them to USCIS, and this threat, even if it is never carried out, instills great fear in the partner. The USCIS Tip Form allows abusers to act without consequence or repercussion in reporting their partners to USCIS. Abusers often threaten survivors that if they go to police or the court they will be arrested because they are undocumented, or threaten to call immigration enforcement to have survivors arrested or deported.¹²

The USCIS Tip Form provides an easy-to-access tool for abusers to manipulate, harm, and further isolate their partners. This is extremely problematic and dangerous, as "one of the most intimidating tools abusers and traffickers of immigrants use is the threat of deportation."¹³ The likelihood that the USCIS Tip Form will further enable abusers completely undermines the intent of the Violence Against Women Act (VAWA). VAWA protections allow survivors of domestic violence, sexual assault, human trafficking, and other forms of violence to seek protection without fear of deportation. Recognizing that abusers often try to manipulate the legal system, VAWA ensures that the government should not make an adverse determination based solely on information provided by a perpetrator or a member of a perpetrator's household or family member.¹⁴ These protections, codified at 8 USC § 1367 are "designed to ensure that abusers and other perpetrators cannot use the immigration system against their victims."¹⁵

DHS's own guidance instructs adjudicators to use caution and be skeptical of "tips":

"There are a number of ways DHS employees might receive 'tips' from an abuser or an abuser's family, such as: calling ICE to report the victim as illegal, a 'landlord' (who may actually be a human trafficker) calling ICE to report that his 'tenants' are undocumented, or providing information to USCIS rebutting the basis for the victim's application. When a DHS employee receives adverse information about a victim of domestic violence, sexual assault, human trafficking or an enumerated crime from a prohibited source, *DHS employees treat the information as inherently suspect.*"¹⁶

Congress gave USCIS the mandate to protect survivors who have applied for benefits under VAWA. It is unclear at this point whether USCIS has considered the Tip Form's effect on survivors of abuse and

¹² National Domestic Violence Hotline, *Abuse and Immigrants*. Available at: <https://www.thehotline.org/is-this-abuse/abuse-and-immigrants/>.

¹³ Stacey Ivie et al., *Overcoming Fear and Building Trust with Immigrant Communities and Crime Victims*, INT'L ASS'N OF CHIEFS OF POLICE (Apr. 2018). Available at http://library.niwap.org/wp-content/uploads/PoliceChief_April-2018_Building-Trust-With-Immigrant-Victims.pdf.

¹⁴ See 8 USC 1367.

¹⁵ *Id.*; See also, *Department of Justice Appropriations Authorization Act, Fiscal Years 2006 through 2009: Report of the Committee on the Judiciary, House of Representatives, to accompany H.R. 3402* H.R. Rep. No. 109-233, at 120 (2005). Available at <https://www.congress.gov/109/crpt/hrpt233/CRPT-109hrpt233.pdf>.

¹⁶ *Id.*

violence, much less how the agency will ensure compliance with the confidentiality provisions of § 1367. If an abuser provides a tip about someone who has applied for immigration benefits under VAWA, how will USCIS respond? If USCIS follows up with the abuser, the system is validating the abuser and working against the survivor. The lack of guidance on how the Tip Form will be used makes it seem likely that USCIS will improperly consider tips submitted by abusers and perpetrators of violence.

V. THE USCIS TIP FORM HAS A LACK OF ACCOUNTABILITY REGARDING INFORMATION-SHARING.

Historically, with the notable exception of information collected from applicants seeking VAWA benefits, information collected by USCIS could be shared with other government agencies, especially those within the Department of Homeland Security. The USCIS Tip Form does not appear to make any restrictions on how collection information, however unsubstantiated, may be shared with other law enforcement agencies, including Immigration and Customs Enforcement (ICE). The USCIS Tip Form does not guide form users on the type of information to be provided or require users to submit their tip under penalty of perjury.

VI. CONCLUSION

The City of Seattle stands in vehement opposition to the creation of the Form G-1530.

This action would be a poor use of government resources. It encourages unsubstantiated, animus-driven reporting, and it puts already-vulnerable individuals more at risk. We ask USCIS to withdraw its planned publication of the USCIS Tip Form and instead focus its time and resources on reducing the backlog of pending immigration applications.

Sincerely,



Cuc Vu, Director

Office of Immigrant and Refugee Affairs

City of Seattle

cuc.vu@seattle.gov

(206) 727-8515

PO Box 94573

Seattle, WA 98124