

Supporting Statement
Application for Stay of Deportation or Removal
(Form I-246)
OMB No. 1653 - 0021

A. Justification:

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The information collected on the Form I-246 is necessary for U.S. Immigration and Customs Enforcement (ICE) to make a determination that the eligibility requirements for a request for a stay of deportation or removal are met by the applicant. Upon approval of the application the alien's removal from the United States is stayed at the discretion of the Field Office Director or other designated Department of Homeland Security official, pursuant to section 241.6 of Title 8 Code of Federal Regulations (CFR).

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The data collected on this form is used by ICE to determine eligibility for the requested immigration benefit. The form serves the purpose of standardizing requests for the benefit, and will ensure that basic information required to assess eligibility is provided by applicants.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

The use of this form provides the most efficient means for collecting and processing the required data. In this case ICE does not employ the use of information technology in collecting and processing information. Currently the ICE does not have the automated capability in place to accept electronic submission of applications.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

A review of the Forms Inventory Report revealed no duplication of effort, and there is no other similar information currently available which can be used for this purpose.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

This collection of information does not have an impact on small businesses or other small entities.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Sections 241.6 of Title 8 Code of Federal Regulations provide that an alien under a final order of deportation or removal may request a stay of deportation or removal on the Form I-246. Form I-246 provides a crucial means of establishing the authenticity of such claims and the absence of this form would impede the processing of such requests for a stay of removal. The information collected on the Form I-246 is essential to documenting whether the applicant has met all of the eligibility requirements to receive an administrative and discretionary grant of a stay of removal. The information is also collected to ensure a complete and accurate adjudication.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:
 - Requiring respondents to report information to the agency more often than quarterly;
 - requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
 - requiring respondents to submit more than an original and two copies of any document;
 - requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
 - In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
 - requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
 - that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
 - requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

The special circumstances contained in item 7 of the supporting statement are not applicable to this information collection.

8. If applicable, provide a copy and identify the data and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

On March 26, 2008, DHS, Immigration and Customs Enforcement (ICE) published a notice in the Federal Register at 73 FR 16035, soliciting public review and comment on the proposed extension of this information collection. No public comments were received by DHS. Therefore, DHS ICE is requesting a three-year approval on this information collection

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

ICE does not provide payments or gifts to respondents in exchange for a benefit sought.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

ICE will use the information and evidence requested on Form I-246 to determine the applicant's eligibility for the requested immigration benefit. ICE may provide the information on the application to other government agencies.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to person's form whom the information is requested, and any steps to be taken to obtain their consent.

The applicant may present a medical reason as justification for their request for the benefit. Any reason given must be supported with evidence, which would entail disclosure of confidential medical information. However, this information is necessary to make a determination on the applicant's eligibility for the requested immigration benefit.

12. Provide estimates of the hour burden of the collection of information. The statement should:
 - Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.
 - If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.
 - Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here.

Instead, this cost should be included in Item 14.

Annual Reporting Burden:

- a. Number of Respondents 10,000
- b. Number of Responses per each Respondent 1
- c. Total Annual Responses 10,000
- d. Hours per Response 0.5
- e. Total Annual Reporting Burden 5,000

The projected hours per response for this collection of information were derived by first breaking the process into three basic components:

Learning about the Law and the Form:	5 Minutes
Completion of the Form:	20 Minutes
Assembling and Filing the Form:	5 Minutes
Total Hours per Response:	30 Minutes

Annual Reporting Burden

Total annual reporting burden hours is 5,000. This figure was derived by multiplying the number of respondents (10,000) x frequency of response (1) x (0.5) hours per response.

- 13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).
 - The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
 - If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
 - Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government or (4) as part of customary and usual business or private practices.

There are no capital or start-up costs associated with this information collection. Any cost burdens to respondents as a result of this collection are identified in question 14. There are fees associated with this information collection. The fee for filing the Form I-246 is \$155 (8 CFR §103.7(b)).

Public Cost

The estimated annual public cost is \$ 1,600,000. This estimate is based on the number of respondents (10,000) x number of responses (1) x hours per response (0.5) x (\$10) average hourly rate; plus 10,000 respondents x the fee (\$155).

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

Annualized Cost Analysis:

a. Printing Cost	\$ 0
b. Collecting and Processing	\$ 0
c. Total Cost to Program	\$ 5,000,000
d. Fee Charge	\$ 1,550,000
e. Total Annual Cost to Government	\$ 3,450,000

Government Cost

The estimated cost of the program to the Government is calculated by subtracting the Total Cost of Program from the Fee Charge. Total Cost of Program is calculated by the estimated number of respondents (10,000) filing Form I-246, multiplied by fifty (50) hours (Time required to collect, process, and adjudicate, as well as a (12) month case management, and enforcement requirement) x \$40 (Suggested average hourly rate for clerical, officer, and managerial time with benefits, plus a percent for the estimated overhead cost for printing, stocking, distributing and processing of this form). The Fee Charge is calculated by estimated number of respondents (2,500) filing Form I-246, multiplied by the \$155 fee.

15. Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.

There is no increase or decrease in the burden hours previously reported for this information collection.

16. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

ICE does not intend to employ the use of statistics or the publication thereof for this collection of information.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

ICE will display the expiration date for OMB approval of this information collection.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.

ICE does not request an exception to the certification of this information collection.

B. Collection of Information Employing Statistical Methods.

Not applicable.