

Supporting Statement

The Student and Exchange Visitor Information System (SEVIS)

(No Agency Form No.; File No. OMB-30)

OMB No. 1653-0038

A. Justification.

1. Explain the circumstances that make the collection of information necessary.

Section 641 of the *Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA)*, Public Law 104-208, Div. C (Sept. 30, 1996) and 8 U.S.C §1372 requires the creation of a program to collect information, on an ongoing basis, from school officials and exchange visitor program sponsors relating to F and M nonimmigrants during the course of their stay in the United States, using electronic reporting technology to the fullest extent practicable. It further requires federal approval and authorization of schools and exchange visitor program sponsors participating in such enrollment.

The *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001*, Public Law 107-56 (October 26, 2001), amended IIRIRA to add the requirement that information be collected on the F and M nonimmigrants' date and port of entry into the United States.

On October 30, 2001, the President issued *Homeland Security Presidential Directive-2 (HSPD-2)*, requiring the Department of Homeland Security (DHS) to conduct periodic and ongoing review of all schools certified to accept F and M students.

On May 14, 2002 the *Enhanced Border Security and Visa Entry Reform Act of 2002 (EBSVERA)*, Public Law 107-173, 116 Stat. 543 (May 14, 2002), was enacted requiring DHS to recertify all schools approved for attendance by F and/or M students within two years of its passage. Further, it mandates that DHS conduct an additional recertification of these schools every two years.

Data collection requirements for Student and Exchange Visitor Program (SEVP) certification, oversight and recertification of schools authorized to enroll F and/or M

students are specified in IIRIRA and detailed by regulation in 8 CFR 214.2, 8 CFR 214.3, and 8 CFR 214.4.

The Student and Exchange Visitor Program is a component of U.S. Immigration and Customs Enforcement (ICE) assigned by DHS to administer the Student and Exchange Information System (SEVIS) and to carry out the responsibilities mandated by the above laws regarding F and M nonimmigrants.¹ Substantive requirements and procedures for SEVP and SEVIS are promulgated in the following rulemaking proceedings:

- *Retention and Reporting of Information for F, J, and M Nonimmigrants; Student and Exchange Visitor Information System (SEVIS)* [67 FR 34862 (May 16, 2002), proposed; 67 FR 76256 (December 11, 2002), final]
- *Allowing Eligible Schools To Apply for Preliminary Enrollment in the Student and Exchange Visitor System (SEVIS)* [67 FR 44343 (July 1, 2002), interim final]
- *Requiring Certification of all Service Approved Schools for Enrollment in the Student and Exchange Visitor Information System (SEVIS)* [67 FR 60107 (September 25, 2002), interim final]
- *Exchange Visitor Program: SEVIS Regulations* [67 FR 76307 (December 12, 2002), Department of State (DoS) interim final]

¹ The Bureau of Educational and Cultural Affairs Exchange Visitor Program, a component of the Department of State, is under the same mandate of IIRIRA as SEVP with respect to the Exchange Visitor Program, authorized under the J visa classification. The Exchange Visitor Program fulfills its requirements within SEVIS and addresses its data collection requirements to the Office of Management and Budget in a separate filing. This Supporting Statement does not include the ongoing annual costs associated with the Exchange Visitor Program of DoS. It does include those costs associated with SEVIS users under the Exchange Visitor Program establishing a DHS customer account and immigration identification number, a requirement for the implementation of SEVIS II.

- *Authorizing Collection of the Fee Levied on F, J, and M Nonimmigrant Classifications Under Public Law 104-208* [64 FR 71323 (December 21, 1999), proposed; 68 FR 61148 (October 27, 2003), proposed; 69 FR 39814 (July 1, 2004), final]
- *Extending Period of Optional Practical Training by 17-Months for F-1 Nonimmigrant Students with STEM Degrees and Expanding Cap-Gap Relief for All F-1 Students with Pending H-1B Petitions* [73 FR 18944, (April 8, 2008), interim final]
- *Adjusting Program Fees and Establishing Procedures for Out-of-Cycle Review and Recertification of Schools Certified by the Student and Exchange Visitor Program To Enroll F or M Nonimmigrant Students* [73 FR 21260 (April 21, 2008), proposed; 73 FR 55683 (September 26, 2008), final]

SEVP has two additional Paperwork Reduction Act of 1995 (PRA) authorizations for forms used in program-related processes, but not produced by SEVIS. The Office of Management and Budget (OMB) form numbers are as follows:

- OMB No. 1653-0037 for the Form I-515A, *Notice to Student or Exchange Visitor*, used when F, M, or J nonimmigrant's arrive at ports of entry without proper documentation, are given temporary admission, and must present proper documentation to SEVP within 30 days to remain in status.
- OMB No. 1653-0034 for the Form I-901, *Fee Remittance Form for Certain F, J and M Nonimmigrant's*, used by prospective F and M students or J exchange visitors in conjunction with their mandatory payment of the I-901 SEVIS fee, which funds SEVP operations.

2. Purpose of collection.

I-20 - Certificate of Eligibility for Nonimmigrant (F1, M1, F2 and M2)

Student Status – For Academic and Language Students – This form collects the information necessary to allow a nonimmigrant student (and their spouse and/or dependents, if any) to supply the information required to attend a school within the United States, its territories or possessions. This information provides information about the applicant including school major, living expenses and educational pursuit. Collection

of this information allows for verification that the student (and spouse and/or dependent) are eligible to continue study in the United States.

This information is shared as follows:

- Allow law enforcement agencies to monitor F and M nonimmigrants with regard to the maintenance of their nonimmigrant status and to apprehend violators before they can potentially endanger national security.
- Government benefits and service providers to better serve their F and M nonimmigrant customers.

SEVIS data is used daily to qualify individuals petitioning for F and M status, and to facilitate:

- Port of entry screening
- Processing of benefit applications
- Nonimmigrant status maintenance
- Timely removal of nonimmigrant's from the United States, as needed.

SEVIS data is used to assist school officials, exchange visitor program sponsors, and the United States government in promoting the *Secure Borders and Open Doors* initiative (January 17, 2006). In concert with biometric assessment technologies that are being introduced, SEVIS data continues to support access to the United States for bona fide aliens seeking F and M nonimmigrant status, while elevating the detection and barring of aliens that might threaten the nation.

I-17 - Maintenance of SEVP Certification – This form is used by schools that are seeking certification to admit nonimmigrant students into its programs or to recertify for continued certification.

3. Use of information technology.

The introduction of SEVIS enabled replacement of complex, time-consuming and inefficient paper-based processes with Internet-based technology which allows for simpler, quicker, more efficient and paperless processing through the data collection within SEVIS. The SEVIS system (<http://www.ice.gov/sevis/>) is completed by the

Designated School Official (DSO) from information received as a part of the school application process – no additional information is requested from the prospective student (and their Spouse/dependent if applicable).

4. Duplication of collection.

The information collected is not duplicated by other processes and is unique to the nonimmigrant student application.

5. Impact on small businesses or any other small entities.

This collection does not impact small business or other small entities.

6. Consequence to the federal program or policy activities if the collection is not conducted or is conducted less frequently.

If information is not collected in SEVIS, DHS will not be able to comply effectively with the statutory mandates of legislation cited in Item 1 (above). The data integrity of the F and M nonimmigrant information may also be compromised. DHS measures to ensure compliance with the law and regulations would be limited without the information being retained and without it being as readily accessible as it is in SEVIS. Collection of data less frequently than is required by SEVP could result in failure to make timely identification of potential F and M nonimmigrant threats to national security or threats of immigration fraud.

7. Explain special circumstances that would cause an information collection to be conducted in a manner inconsistent with OMB guidelines:

a. Requiring respondents to report information to the agency more often than quarterly.

F and M nonimmigrant reporting requirements [as specified in 8 CFR 214.2(f)(17) and 8 CFR 214.2(m)(18)] with respect to enrollment, personal information, address, and maintenance of visa status require that they provide updated information to DSOs much more often than quarterly. Thresholds (i.e., the allowable maximum time before such changes must be reported) for this reporting

are determined by the potential of threats to national security that could result from failure to inform enforcement agencies of changes within a reasonable time.

b. Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it.

There is no requirement to submit the information in fewer than 30 days after receipt, however follow-up updates to information submitted must be provided upon the change in that data.

c. Requiring respondents to submit more than an original and two copies of any document.

Respondents are not required to submit more than an original and two copies of any document.

d. Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years.

The length of a student's program varies depending on the academic or vocational goal. To ensure student and school compliance and to enable auditing of compliance, schools are required to maintain a student's record for at least three years after program completion or student transfer to another school. To facilitate maintenance of F or M visa status and the processing of future applications for visitation to the United States, F and M nonimmigrant students are encouraged to retain personal copies of the information supplied for admission, visas, passports, entry, and benefit-related documents indefinitely.

e. 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.

There is no statistical survey involved with this data collection.

f. Requiring the use of a statistical data classification that has not been reviewed and approved by OMB.

There is no use of statistical data classification involved with this data collection.

g. 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.

There is no pledge of confidentiality that is not supported by authority in statute or regulation necessary for this data collection.

h. 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.

There are no requirements for respondents to submit proprietary trade secret or other confidential information for this data collection.

8. Solicitation of public comments.

On November 10, 2010, ICE published a notice in the Federal Register at 75 FR 69095, soliciting public review and comment for a 60 day period on the proposed extension of this information collection. ICE received no comments during this period. On February 14, 2011, ICE published a follow up notice in the Federal Register at 76 FR 8373, soliciting public review and comment for an additional 30 day period on the proposed new information collection.

9. Explanation of payment or gift to respondents.

SEVP does not provide payments or gifts to respondents for this information collection.

10. Assurance of confidentiality.

Further, DHS has designated SEVIS to be a Privacy Act system of records and SEVIS information will be used and disclosed in accordance with 5 U.S.C. §552a, Privacy Act of 1974, as amended. A System of Records Notice was published at 75 FR 412-417 on January 5, 2010. A Privacy Impact Assessment was completed on December 4, 2009.

11. Justification of questions of a sensitive nature.

There are no questions of sensitive nature asked in this information collection.

12. Annual and onetime public reporting burden and public cost.

Estimated Annual Hour and Cost Burden to Respondents							
Form Name / Form Number	No. of Respondents	No. of Responses per Respondent	Total No. of Responses	Avg. Burden per Response (in hours)	Total Annual Burden (in hours)	Avg. Hourly Wage Rate	Total Annual Respondent Cost
Certificate of Eligibility for Nonimmigrant (F-1) Student Status - For Academic and Language Students / ICE Form I-20 (Students)	280,000	3	840,000	0.5	420,000	\$20.01	\$8,404,200
Certificate of Eligibility for Nonimmigrant (M-1) Student Status - For Academic and Language Students / ICE Form I-20 (Spouse/Dependents)	90,000	1	90,000	0.5	45,000	\$20.01	\$900,450
Optional Practical Training 12 Month Request / No Form	280,000	3	840,000	0.083	69,720	\$20.01	\$1,395,097

Optional Practical Training 17 Month Extension Request / No Form	12,000	1	12,000	0.083	996	\$20.01	\$19,930
Maintenance of SEVP Certification / ICE Form I-17	5,525	1	5,525	4	22,100	\$20.01	\$442,221
Total			1,787,525		557,816		\$11,161,898

Instruction for Wage-rate category multiplier: Take each non-loaded “Avg. Hourly Wage Rate” from the BLS website table and multiply that number by 1.4. For example, a non-loaded BLS table wage rate of \$42.51 would be multiplied by 1.4, and the entry for the “Avg. Hourly Wage Rate” would be \$59.51.

According to the U.S. Department of Labor, Bureau of Labor Statistics website (www.bls.gov) the wage rate category for Office and Administrative Support Workers, All Other is estimated to be \$14.27 per hour and when the 1.4 wage multiplier is applied the loaded wage rate is \$20.01. Therefore, the estimated burden hour cost to respondents Office and Administrative Support Workers, All Other is estimated to **\$11,161,898** annually.

13. Capital startup and ongoing equipment costs.

There is a fee of \$200 per registered student and spouse/dependent (if applicable) to be paid by the student. The cost for this collection would be 280,000 students + 90,000 spouses/dependents = 370,000 x \$200.00 = \$74,000,000. **SEVP is mandated by law to be fully fee-funded (see Item 1). Section 286(m) of the Act, 8 U.S.C. 1356(m), provides that fees may be set at a level that will ensure the recovery of all costs of providing adjudication services. That section, together with Title V of the Independent Offices Appropriations Act of 1952, 31 U.S.C. 9701, and the OMB Circular No. A-25, Revised requires that a fee be set at an amount sufficient to recover the full cost to the federal government. Fees are developed at a level projected to cover the aggregate of SEVP operating costs. Expenditures are restricted from exceeding the actual amount of revenue received. For a detailed explanation of the cost to the federal government and the fees that compensate the government for this cost, see the following rule: *Adjusting Program Fees and Establishing Procedures for Out-of-Cycle Review and Recertification of Schools Certified by the Student and Exchange Visitor Program To Enroll F or M Nonimmigrant Students* [73 FR 21260 (April 21, 2008), proposed; 73 FR 55683 (September 26, 2008), final]. SEVP is mandated by law to be fully fee-funded (see Item 1). Section 286(m) of the Act, 8 U.S.C. 1356(m), provides that fees may be set at a level that will ensure the recovery of all costs of providing adjudication services. That section, together with Title V of the Independent Offices Appropriations Act of 1952, 31 U.S.C. 9701, and the OMB Circular No. A-25, Revised requires that a fee be set at an amount sufficient to recover the full cost to the federal government. Fees are developed at a level projected to cover the aggregate of SEVP operating costs. Expenditures are restricted from exceeding the actual amount of revenue received. For a detailed explanation of the cost to the federal government and the fees that compensate the government for this cost, see the following rule: *Adjusting Program Fees and Establishing Procedures for Out-of-Cycle Review and Recertification of Schools Certified by the Student and Exchange Visitor Program To Enroll F or M Nonimmigrant Students* [73 FR 21260 (April 21, 2008), proposed; 73 FR 55683 (September 26, 2008), final]. SEVP is mandated by law to be fully fee-funded (see Item 1). Section 286(m) of the Act, 8 U.S.C. 1356(m), provides that fees may be set at a level that will ensure the recovery of all costs of providing adjudication services. That section, together with Title V of the Independent Offices Appropriations Act of 1952, 31 U.S.C. 9701, and the OMB Circular No. A-25, revised requires that a fee be set at an amount sufficient to recover the full cost to the federal government. Fees are developed at a level projected to cover the aggregate of SEVP operating costs. Expenditures are restricted from exceeding the actual amount of revenue received. For a detailed explanation of the cost to the federal government and the fees that compensate the government for this cost, see the following rule: *Adjusting Program Fees and Establishing Procedures for Out-of-Cycle Review and Recertification of Schools Certified by the Student and Exchange Visitor Program To Enroll F or M Nonimmigrant Students* [73 FR 21260 (April 21, 2008), proposed; 73 FR 55683 (September 26, 2008), final].**

14. Annual government burden and cost.

There is no net cost to the federal government for SEVP and SEVIS.

15. Change in the burden of hours and cost.

Itemized Changes in Annual Hour Burden						
Data collection Activity / Instrument	Program Change (hours currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (hours currently on OMB Inventory)	Adjustment (New)	Difference
Certificate of Eligibility for Nonimmigrant (F-1, F-2) Student Status - For Academic and Language Students / I-20 (Students)				202,767	420,000	217,233
Certificate of Eligibility for Nonimmigrant (M-1, M-2) Student Status - For Academic and Language Students / I-20 (Spouse/Dependents)				0	45,000	45,000
Optional Practical Training 12 Month Request / No Form				0	69,720	69,720
Optional Practical Training 17 Month Extension Request / No Form				0	996	996
Maintenance of SEVP Certification / I-17				69,403	22,100	(47,303)
Total(s)				272,170	557,816	285,646

There has been no change in the information being collected which is the cause of the change in the annual burden hours, rather the information on student respondents has

been added to this collection request, whereas previously only the Designated School Officials were being counted as respondents. Also, the information is being more clearly reported and adjusted to reflect actual respondent count. The change in Annual Hours Burden for Certificate of Eligibility for Nonimmigrant (F-1, F-2, M-1, M-2) Student Status (Students and Spouse/Dependents) results from a more accurate accounting of the total number of students responding. ICE has also now broken the total out by student and spouse/dependent. The Optional Practical Training and Optional Practical Training Extension burden was previously also included in the burden for the above Certificate and is represented separately. The decrease in the hour burden for the Maintenance of SEVP Certification represents a more accurate accounting of the number of schools applying or recertifying their SEVP compliance.

Itemized Changes in Start Up Cost Burden						
Data collection Activity/Instrument	Program Change (cost currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (cost currently on OMB Inventory)	Adjustment (New)	Difference
Certificate of Eligibility for Nonimmigrant (F-1, F-2) Student Status - For Academic and Language Students / No Form (Students)	0	0	0	0	\$56,000,000	\$5,362,695
Certificate of Eligibility for Nonimmigrant (M-1, M-2) Student Status - For Academic and Language Students / No Form (Spouse/Dependents)	0	0	0	0	\$18,000,000	\$18,000,000
Total(s)				\$0	\$74,000,000	\$74,000,000

On the previous ICR's ICE did not categorize or report the \$200 registration cost to students and spouses/dependents (if applicable) as a Capitol/Start up cost. This has changed with this submission.

Itemized Changes in Annual Cost Burden						
Data collection Activity/Instrument	Program Change (cost currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (cost currently on OMB Inventory)	Adjustment (New)	Difference
Certificate of Eligibility for Nonimmigrant (F-1, F-2) Student Status - For Academic and Language Students / No Form (Students)				3,041,505	\$8,404,200	\$5,362,695
Certificate of Eligibility for Nonimmigrant (M-1, M-2) Student Status - For Academic and Language Students / No Form (Spouse/Dependents)				0	\$900,450	\$900,450
Optional Practical Training 12 Month Request / No Form				0	\$1,395,097	\$1,395,097
Optional Practical Training 17 Month Extension Request / No Form				0	\$19,930	\$19,930
Maintenance of SEVP Certification / No Form				\$1,041,045	\$442,221	(\$598,824)
Total(s)				\$4,082,550	\$11,161,898	\$7,079,348

The full cost burden was not captured in previous ICR submission for this collection. This in addition to actual changes in the cost from the last submission are the reason for the significant increase in the cost burden. The change in the annual cost burden is due to the addition/subtraction of the hour burden as listed in the annual hour burden chart, and its affect on the cost associated with the increase or decrease in hours. Also, the wage rate category has been updated to more accurately reflect the respondent. The wage rate category also reflects the 1.4 multiplier to account for benefits effect.

16. Published results.

DHS did not employ the use of statistics or the publication thereof for this collection of information.

17. Waiver of display of expiration date.

SEVP is seeking approval to not display the expiration date for OMB approval of this information collection. As mandated by 5 CFR 1320.3(f)(2), the first screen of SEVIS will include the OMB control number and PRA burden statement. However, as the collection of this information utilizes the complete electronic submission of responses for various types of notification and reporting requirements there is no single place to display the expiration date. Additionally, to continually upgrade an automated system to change only expiration dates would be costly to SEVP, as well as counter-productive and inefficient.

18. Exception to the certification statement.

SEVP does not request an exception to the certification of this information collection. See attached Item 19 of Form OMB 83-I.

B. Collection of Information Employing Statistical Methods.

Not Applicable.

C. Certification and Signature.

PAPERWORK CERTIFICATION

In submitting this request for OMB approval, I certify that the requirements of the Privacy Act and OMB directives are complied with, to include paperwork regulations, statistical standards or directives, and any other information policy directives promulgated under 5 CFR 1320.

xxx

Date

xxx

Records Management Branch

Immigration and Customs Enforcement

Department of Homeland Security