

SUPPORTING STATEMENT

Arrival and Departure Record (Forms I-94, I-94W) and Electronic System for Travel Authorization-ESTA OMB No. 1651-0111

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.**

Forms I-94 and I-94W are included in the manifest requirements imposed by Sections 231 and 235 of the Immigration and Nationality Act (Act) and are required to be prepared by aliens while en route to the United States and presented upon arrival at a sea or air port of entry within the United States. Under the Act, it is the duty of the master or commanding officer, or authorized agent, owner, or consignee of the vessel or aircraft, having any alien on board to deliver to the CBP officers at the port of arrival lists or manifests of the persons on board such vessel or aircraft. The list or manifest must be in the form of a separate Arrival/Departure Record, CBP Form I-94, prepared on board for most passengers, excluding U.S. citizens, lawful permanent resident aliens of the United States, and aliens seeking to immigrate to the United States.

Aliens traveling under the Visa Waiver Program (VWP) program are required to present a completed, signed Nonimmigrant Visa Waiver Arrival Departure, Form I-94W, as a condition of admission pursuant to 8 C.F.R. § 217.2(b)(1). However, so long as these travelers are traveling in the air or sea environment and have a travel authorization obtained through the Electronic System for Travel Authorization (ESTA), they may forgo completing the paper I-94W form. ESTA is not available for VWP travelers at land border crossings, though it should be noted that the overwhelming majority of VWP travelers (approximately 99 percent) arrive into the United States in the air environment.

ESTA was provided for by Public Law 110-53. Section 711 of the 9/11 Act requires that the Secretary of Homeland Security, in consultation with the Secretary of State, develop and implement an internet-based system which shall collect such biographical and other information as the Secretary determines necessary to determine, in advance of travel, the

eligibility of the alien to travel to the United States and whether such travel poses a law enforcement or security risk.

As of June 29, 2010, CBP is able to use ESTA to admit travelers to the United States at all airports and large seaports, rather than collecting the paper I-94W from travelers as they undergo the admission process. Very few passengers will continue filling out the I-94W, but it cannot be eliminated completely at this time. As noted previously, ESTA is not available in the land environment. Additionally, travelers will occasionally have to complete an I-94W if there is an outage either at the port or with ESTA.

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 Forms I-94/94W and on ESTA provide information required to support DHS mission requirements as they relate to the screening of alien visitors to the United States. Specifically, the information collected is used to assess potential law enforcement and national security risks, and the timely and accurate capture of data that enables matching of alien arrival and departure records that are necessary to monitor alien compliance with United States law.

ESTA was mandated by Congress to enhance national security by increasing the amount of information available to DHS regarding VWP travelers before such travelers embark on a carrier destined for the United States. As the rationale for mandating the implementation of ESTA, Congress noted that VWP travelers are not subject to the same degree of screening as those travelers who must first obtain a visa before departing for the United States. Therefore, the data collected via ESTA is to mitigate the security vulnerabilities of the VWP, whereby travelers seeking to avoid the scrutiny of the visa issuance process or circumvent immigration laws may attempt to enter the United States under the VWP.

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.

Forms I-94 and I-94W are paper documents prepared by most aliens traveling to the United States (though now most VWP travelers will forgo

completing the I-94W). Instructions and samples of these forms can be found at:

http://www.cbp.gov/xp/cgov/travel/id_visa/i-94_instructions/filling_out_i94.xml and http://www.cbp.gov/xp/cgov/travel/id_visa/business_pleasure/vwp/i94_samples.xml

ESTA is a web-based system that enables VWP travelers to electronically enter applications for authorization to travel to the United States via the VWP. ESTA can be accessed at http://www.cbp.gov/xp/cgov/travel/id_visa/esta/

- 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.**

CBP has implemented a multi-phase project that resulted in eliminating the I-94W because much of the information on this form is also provided through ESTA prior to travel. The vast majority of I-94W forms have been eliminated which greatly reduced duplication of information collection.

- 5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

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

- 6. Describe consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

Without this information collection, CBP would be unable to track or document an alien's arrival to and departure from the United States.

- 7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

This information is collected in a manner consistent with the guidelines of 5 CFR 1320.6.

- 8. If applicable, provide a copy and identify the date 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.**

Public comments were solicited through two Federal Register: a 60-day notice published on September 28, 2010 (Volume 75, Page 59733) on which no comments were received, and a 30-day notice on December 10,

2010 (Volume 75, Page 76997) on which no comments have been received.

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

There is no offer of a monetary or material value for this information collection.

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

A PIA dated July 2, 2008, and a SORN dated December 19, 2008 (Vol. 73, Page 77739) will be included in this ICR for the paper forms. ESTA has a separate SORN dated June 10 2008 (Vol. 73, Page 32720).

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, and the explanation to be given to persons from whom the information is requested.

There are no questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information.

Form/Collection	Number of Respondents	Total Annual Responses	Time Per Respondent (in hours)	Annual Reporting Burden
I-94	14,000,000	14,000,000	0.133 (8 mins)	1,862,000
I-94W	100,000	100,000	0.133 (8 mins)	13,300
ESTA burden	18,900,000	18,900,000	0.25 (15 mins)	4,725,000
ESTA fee* (subset of total ESTA respondents)	16,000,000 (subset of 18.9m above)	16,000,000 (subset of 18.9m above)	0.00 (already included in ESTA burden above)	0.00 (already included in ESTA burden above)
TOTAL	33,000,000	33,000,000		6,600,300

*Note that the 16 million respondents paying the \$14.00 for the ESTA fees are a subset of the total 18.9 million ESTA respondents. They should not be added to the total respondents (or else they would be double counted).

The number of respondents who pay the ESTA fees is different from the total number of applicants. Under the 2008 ESTA interim final rule, we believe that most travelers will need to access ESTA each time they intend to travel to the United States to update their information. Under the 2010 ESTA interim final rule, which implements the \$14.00 fees, these fees are paid only once—during initial application or to update an expired travel authorization—not for every trip to the United States. Thus, the number of respondents estimated under the ESTA fee accounts for *repeat* travelers.

Public Cost:

The estimated annual public cost is **\$612,728,400** and is calculated as follows:

Form/Collection	Respondents	Value of time (\$28.00 per hour)*	Fee charge (\$6 per respondent)	ESTA fee (\$14.00 per respondent)	Total public cost
I-94	14,000,000	\$52,136,000	\$84,000,000	\$0	\$136,136,000
I-94W	100,000	372,400	\$600,000	0	\$600,000
ESTA burden	18,900,000	132,300,000	0	0	132,300,000
ESTA fee	16,000,000	0	0	224,000,000	224,000,000
Grand total		\$184,808,400	\$84,600,000	\$224,000,000	\$493,036,000

* Recall from the previous table that the burden for the I-94 and I-94W forms is 8 minutes (0.133 hours); the burden for ESTA is 15 minutes (0.25 hours).

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information.

There are no record keeping, capital, start-up or maintenance costs associated with this information collection. The fee charges related to this ICR are described in item #12 above.

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.

There are no Government costs to process these forms because the costs are offset by the fee charges.

15. Explain the reasons for any program changes or adjustments reported in Items 12 or 13 of this Statement.

There has been no increase or decrease in the estimated annual burden hours previously reported for this information collection. There are no changes to the information being collected.

- 16. For collection of information whose results will be published, outline plans for tabulation, and publication.**

This information collection will not be published.

- 17. If seeking approval to not display the expiration date, explain the reasons that displaying the expiration date would be inappropriate**

CBP requests not to display the expiration date on these two forms because large quantities (50 million) are stocked at CBP ports in 17 languages. However, when a new expiration date is provided by OMB, CBP will display it on the ESTA website.

- 18. “Certification for Paperwork Reduction Act Submissions.”**

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

B. Collection of Information Employing Statistical Methods

No statistical methods were employed.