

**Supporting Statement**  
**Application for Permission to Reapply for Admission**  
**into the United States after Deportation or Removal**  
**Form I-212**  
**(OMB No. 1615-0018)**

**A. Justification.**

1. Sections 212(a)(9)(A) and 212(a)(9)(C) of the Immigration and Nationality Act (Act) render an alien inadmissible to the United States unless he or she obtains the consent to reapply for admission to the United States. The information collection required on Form I-212 is necessary to make a determination regarding the alien's eligibility to receive consent to reapply. For example, all documents must be reviewed that relate to the alien's exclusion, deportation, or removal proceedings, the alien's record of immigration violations, and the alien's criminal record, if applicable. Moreover, if the alien is inadmissible under section 212(a)(9)(C)(i) of the Act, evidence must be submitted to demonstrate that the alien has remained outside the United States for a period of at least 10 years since the date of his or her last departure. If the Form I-212 is approved, the alien will be permitted to apply for admission to the United States, after being granted a visa with the Department of State (DOS) as either an immigrant or a nonimmigrant.
2. The data collected on Form I-212 is used to determine whether an alien is eligible for and should be granted the benefit of consent to reapply for admission into the United States. This form serves the purpose of standardizing requests for consent

- to reapply. The Form I-212 data collection requirements ensure that the basic information required to assess eligibility for consent to reapply is provided by the alien when filing the application.
3. The use of Form I-212 provides the most efficient means for collecting and processing the required data. Currently, none of the agencies employ the use of information technology in collecting and processing information provided on Form I-212. However, this form can currently be completed electronically on the USCIS Web site at [www.uscis.gov](http://www.uscis.gov), but cannot be e-filed..
  4. 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. This information collection does not have an impact on small businesses or other small entities.
  6. If the information is not collected, we will be unable to adjudicate requests by aliens who require consent to reapply for admission to the United States. Aliens subject to section 212(a)(9)(A) or (C) of the Act would be temporarily or permanently barred from entering the United States with no available remedy. The information collected on Form I-212 will allow for the effective adjudication of requests by aliens for consent to reapply.
  7. There are no special circumstances applicable to this information collection.
  8. On March 16, 2011, USCIS published a 60-day notice in the Federal Register at 76 FR 14419. USCIS did not receive comments in connection with the 60-day notice. On June 2, 2011, USCIS published a 30-day notice in the Federal Register

at 76 FR 31971. USCIS received one comment in connection to the 30-day notice to date. The commenter believes that section 813(b) of Public Law 109-162 means that an alien who is inadmissible based on section 212(a)(9)(C), as distinct from section 212(a)(9)(A), can obtain relief from removal under 8 CFR 212.2 without having to comply with the clear statutory requirements of section 212(a)(9)(C)(ii) – in particular, the requirement that one may seek consent to reapply only if one is seeking admission more than 10 years after leaving the United States. The Board of Immigration Appeals squarely held in *Matter of Torres-Garcia* that 8 CFR 212.2 has no applicability at all to someone who is inadmissible under section 212(a)(9)(C). Section 212.2 applies *only* to cases involving inadmissibility under 212(a)(9)(A). The Courts of Appeals have agreed that this conclusion is entitled to deference. *See Sarango v. Attorney General*, 2001 WL 2573515 (3<sup>rd</sup> Cir. 2011); *Padilla-Caldera v. Holder*, 637 F.3d 1140 (10<sup>th</sup> Cir. 2011); *Gonzales-Balderas v. Holder*, 597 F.3d 869 (7<sup>th</sup> Cir. 2010); *Ramirez-Canales v. Mukasey*, 517 F.3d 904 (6<sup>th</sup> Cir. 2008); *Delgado v. Mukasy*, 516 F.3d 131 (2<sup>nd</sup> Cir. 2008); *Gonzales v. DHS*, 508 F.3d 1227 (9<sup>th</sup> Cir. 2007). Moreover, after enactment of Public Law 109-162, Congress specifically amended INA section 212(a)(9)(C)(ii). *See* VAWA and DOJ Reauthorization Technical Corrections Act, Pub. L. 109-271, sec. 6(b), 120 Stat. 750, 752 (2006). Under this amendment, only DHS, and not the Attorney General or Secretary of State, has authority to grant consent to reapply under INA 212(a)(9)(C)(ii). USCIS has determined not to revise this form as a result of this comment.

- 9. Payments or gifts to respondents in exchange for a benefit sought are not provided.
- 10. There is no assurance of confidentiality. The system of record notice associated with this information collection is United States Citizenship and Immigration Services Benefits Information System, which was published in the **Federal Register** on September 29, 2008 at 73 FR 56596. The privacy impact assessment associated with this information collection is USCIS Benefits Processing of Applicants other than Petitions for Naturalization, Refugee Status, and Asylum
- 11. There are no questions of a sensitive nature.

12. **Annual Reporting Burden:**

a. Number of Respondents:	3,272
b. Number of Responses per each Respondent:	1
c. Total Annual Responses:	3,272
d. Hours per Response:	2
e. Total Annual Reporting Burden:	6,544

**Annual Reporting**

**Total annual reporting burden hours is 6,544.** This figure was derived by multiplying the number of respondents (3,272) x (1) frequency of response x 2 hours per response.

- 13. 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. However, there is a fee of \$585 for this information collection.
- 14. **Annualized Cost Analysis:**

a. Printing Cost	\$ 1,134
b. Collection and Processing	\$ 1,912,986
c. Total Cost to Program	\$ 1,914,120
d. Fee Charge	\$ 1,914,120
e. Total Cost to Government	\$ 0

**Government Cost**

The estimated cost of the program to the Government is calculated by multiplying the estimated number of respondents (3,272) x \$585 the suggested fee charge (which includes the 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.

**Public Cost**

**The estimated annual public burden cost is \$199,788.** This estimate is calculated by multiplying the number of respondents (3,272) x 2 hours per response x \$30.53 (average hourly rate).

**The estimated annual public fee cost is \$ 1,914,120.** This estimate is calculated by multiplying the number of respondents (3,272) x \$585 fee charge.

15. There has been no increase or decrease in the annual burden hours previously reported for this information collection. There has been no increase or decrease in the total annual public cost. There is no change in the information being collected.
16. USCIS does not intend to employ the use of statistics or the publication thereof for this collection of information.

- 17. USCIS will display the expiration in accordance with OMB regulations.
  - 18. USCIS does not request an exception to the certification of this information collection.
- B. No statistical methods will be employed for this information collection.**
- Not Applicable.
- C. Certification and Signatures.**

**PAPERWORK CERTIFICATION**

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

<b>Sunday Aigbe</b>	<b>Date</b>
<u>Chief,</u>	
<u>Regulatory Products Division,</u>	
<u>Office of the Executive Secretariat,</u>	
<u>U.S. Citizenship and Immigration Services,</u>	
<u>Department of Homeland Security.</u>	