

SUPPORTING STATEMENT

National Interest Waivers; Supplemental Evidence to I-140 and I-485 (File No. OMB-22) OMB No. 1615-0063

A. Justification.

1. Section 203(b)(2)(B) of the Immigration and Nationality Act, allows the Secretary of Homeland Security to issue national interest waivers on behalf of any alien physician who agrees to work full time as a physician in an area or areas designated by the Secretary of Health and Human Services as having a shortage of health care professionals or at a health care facility under the jurisdiction of the Secretary of Veterans Affairs; and a Federal agency or a department of public health in any State that has previously determined that the alien physician's work in such an area or at such facility was in the public interest.

The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) regulations at 8 CFR 204.12 and 245.18 establish special rules for requests for national interest waivers that are filed with Form I-140, by or on behalf of physicians who are willing to work for either three or five years (depending on filing date) in areas of the United States that have a shortage of health care professionals, as determined by the Department of Health and Human Services (HHS) or at facilities operated by the Department of Veterans Affairs (VA). The Secretary of Homeland security, is not authorized to make a final adjudication on a Form I-485 application (a request for an adjustment of status), until a physician has had time to prove that he or she has practiced in an underserved area for the required time period, either 3 or 5 years. The regulations are only applicable to practicing physicians, not other health care

professionals such as nurses, physical therapists, or doctor's assistants. The regulations do not necessitate the creation of a new form or the editing of the existing Form I-140 or I-485. Rather, the regulations require the submission of additional documentary evidence to support the requests for an immigrant visa number and adjustment of status.

2. The information that will be collected will be used by the Department of Homeland Security, USCIS, to determine eligibility for the requested national interest waiver and to finalize the request for adjustment to lawful permanent resident status.
3. Currently, the USCIS does not employ the use of information technology in collecting and processing information, nor does the USCIS have the automated capability to accept electronic submission of supplemental documents. However, these supplemental documents are submitted in conjunction with the Form I-140. The Form I-140 can be submitted electronically to USCIS.
4. A review of the USCIS Forms Inventory Report revealed no duplication of effort, and there is no other similar information currently available that can be used for this adjudication.
5. This collection of information does not have an impact on small businesses or other small entities.
6. If the supplemental evidence noted above is not collected, the USCIS will not be able to comply with section 203(b)(2)(B) of the Act. National interest waivers for physicians agreeing to practice in shortage areas and the subsequent adjustment of status application will not be able to be accurately adjudicated.
7. There are no special circumstances applicable to this information collection.

8. On April 28, 2011, USCIS published a 60-day notice in the Federal Register at 76 FR 23832. USCIS received several comments from one commenter on the 60-day notice. On July 6, 2011, USCIS published a 30-day notice in the Federal Register at 76 FR 39413. The following is a discussion of the comments and USCIS's responses.

Comment: The commenter asked if USCIS had taken into account any changes that would have been impacted by the January 23, 2007 USCIS Memorandum.

Response: Yes, USCIS took into account changes that would have been impacted by the January 23, 2007 USCIS Memorandum.

USCIS received numerous comments from the commenter regarding the basic classification of the National Interest Waiver (NIW) and changes to the Form I-140. However, this Information Collection (IC) related to the NIW Physician and supplemental information for the I-485. The NIW Physician is a separate and distinct classification with separate governing rules. As such, these comments are not relevant to this information collection. USCIS will keep these comments on file and will refer to them for any future form I-140 updates.

Comment: The commenter questioned the format and the verbiage used to identify the points addressed in the notice that the public is requested to submit comments.

Response: The format of the 60-day notice, and the points identified in the notice that written comments and suggestions from the public are requested is done in accordance with 5 CFR 1320.

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

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. Published in the Federal Register on September 29, 2008 at 73 FR 56596. The associated privacy impact assessment is USCIS Benefits Processing of Applications 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 (est.) | 8,000 |
| b. Number of Responses per each Respondent | 2 |
| c. Total Annual Responses | 16,000 |
| d. Hours per Response | 1 |
| e. Total Annual Reporting Burden | 16,000 |

Annual Burden Hours

Total annual reporting burden hours is 16,000. This figure is calculated by multiplying the number of respondents (8,000) x (2) the number of responses x 1 hour per response.

Note: Information will be collected twice. Physicians with a 5-year service requirement must submit the required documentation within 120 days after the 2nd and 6th anniversaries of the Form I-140 approval.

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 item 14.

14. **Annualized Government Cost**

| | | | |
|----|--------------------------------|----|------------|
| a. | Printing Cost | \$ | 0 |
| b. | Collection and Processing Cost | \$ | 640,000 |
| c. | Total Cost to Program | \$ | 640,000 |
| d. | Fee Charge | \$ | 0 |
| e. | Total Cost to Government | | \$ 640,000 |

Government Cost

The estimated cost to the Government is \$640,000. This figure was calculated by multiplying the number of respondents 8,000 x (2) the number of responses x 1 hour (time required to collect and process information) x \$40 (suggested average hourly rate for clerical, officer, and managerial time with benefits).

Public Cost

The estimated annual public cost is \$478,240. This estimate is based on the number of respondents 8,000 x (2) x 1 hour per response x \$29.89 (average hourly rate).

15. There is no increase or decrease in the annual burden hours previously reported for this information collection. 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. Since this is supplemental information being submitted in letter format, USCIS is seeking a waiver to display the expiration date for this information collection.
18. The USCIS does not request an exception to the certification of this information collection.

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 have been complied with including paperwork regulations, statistical standards or directives, and any other information policy directives promulgated under 5 CFR 1320.

Sunday Aigbe

Chief,

Regulatory Products Division,

Office of the Executive Secretariat,

U.S. Citizenship and immigration Services,

Department of Homeland Security.

Date