

SUPPORTING STATEMENT

Fee Remittance for Certain F, J and M Non-immigrants

ICE Form I-901

(OMB No. 1653-0034)

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.**

On March 1, 2003, the former Immigration and Naturalization Service (INS) transferred from the Department of Justice (DOJ) to the Department of Homeland Security (DHS), pursuant to the Homeland Security Act of 2002 (HSA), Public Law 107-296, 116 Stat. 2135 (Nov. 25, 2002). The adjudication functions of INS transferred to U.S. Citizenship and Immigration Services (USCIS), and the Student and Exchange Visitor Information System (SEVIS) function transferred to the Bureau of Border Security, now U.S. Immigration and Customs Enforcement (ICE). For the sake of simplicity, any reference to the INS has been changed to DHS, even when referencing events that proceeded March 1, 2003. As such, all references to the INS is changed to DHS.

Public Law 104-208, Subtitle D, Section 641 directs the Attorney General, in consultation with the Secretary of State and the Secretary of Education, to develop and conduct a program to collect information on nonimmigrant foreign students and exchange visitors from approved institutions of higher education, as defined in section 101(a) of the Higher Education Act of 1965, as amended or in a program of study at any other DHS-approved academic or language-training institution, to include approved private elementary and secondary schools and public secondary schools, and from approved exchange visitor program sponsors designated by the Department of State (DOS). It also authorized a fee, not to exceed \$100, to be collected from these students and exchange visitors to support this information collection program.

DHS has implemented the Student and Exchange Visitor Information System (SEVIS) to carry out this statutory requirement. The substantive requirements and procedures for SEVIS have been promulgated in separate rulemaking proceedings. See 67 FR 34862 (May 16, 2002) (proposed rule implementing SEVIS); 67 FR 44343 (July 1, 2002) (interim rule for schools to apply for preliminary enrollment in SEVIS); 67 FR 60107 (September 25, 2002) (interim rule for certification of schools applying for enrollment in SEVIS); 67 FR 76256 (December 11, 2002) (DHS' final rule implementing SEVIS); 67 FR 76307 (December 12, 2002) (DOS interim rule implementing SEVIS). On December 21, 1999, the publication of a Federal Register document at 64 FR 71323 proposed to amend 8 CFR 103.7; 214.2(f), (j), and (m); and 8 CFR 299.1 to provide for this fee as required in the law.

Section 641(e) of IIRIRA, as amended, 8 U.S.C. 1372(e), directs that this information collection system be self-funded by aliens in those visa classifications. Aliens subject to the fee will pay the fee prior to being granted certain F, J, and M nonimmigrant visa status.

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.

This information collection is necessary to implement section 641 of IIRIRA, 8 U.S.C. §1372, directing the program to collect information relating to nonimmigrant foreign students and other exchange program participants and providing for the collection of the required fee to defray the costs of this program. Section 641 of IIRIRA requires DHS to collect current information, on an ongoing basis, from schools and exchange visitor program sponsors relating to nonimmigrant foreign students and exchange visitors during the course of their stay in the United States, using electronic reporting technology to the fullest extent practicable. DHS has implemented SEVIS to carry out this statutory requirement. Form I-901 is used by DHS to send a receipt to the student or exchange visitor upon payment and to positively identify that a particular student or exchange visitor has paid the fee.

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. DHS has employed information technology in collecting and processing this information and has developed the automated capability to accept electronic submission of this form as well as continuing to allow respondents to complete and submit the paper form manually. This decision was made in order to minimize the cost and error rate of manual data entry of paper forms. With the majority of the public having access to the technological capability to submit material electronically for faster and easier processing, DHS estimates that 80% of the forms will be completed electronically (www.fmjfee.com).

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.**

The information supplied can also be obtained from existing documents. Student and school information is obtained from Form I-20 (Certificate of Eligibility for Nonimmigrant Student), which is issued to the student upon acceptance to the school. Exchange Visitor/Sponsor information is obtained from Form DS-2019 (Certificate of Eligibility for Exchange Visitor), which is issued to the exchange visitor by the sponsor upon acceptance to the program. The fee, on the other hand, must be paid prior to issuance of the nonimmigrant visa or change of nonimmigrant classification.

The Form I-901 electronic system supported by the Department of Treasury, Financial Management Service (FMS), and utilized by DHS, aggregates fee data from the Internet, and other potential electronic payment systems and the manual paper-based system (“lockbox”), but is a separate system from the Student and Exchange Visitor Information System (SEVIS) which addresses the Forms I-20 and DS-2019, and most other student and school processes. Therefore, the Form I-901 requires a valid SEVIS ID#, as well as some basic biographical information that should also be contained on the Form I-20 or Form DS2019. DHS is working with FMS to establish a data share interface whereby the Form I-901 system provides SEVIS with payment information. DHS also intends to

continue working closely with DOS to integrate such payment information from SEVIS into the existing data share arrangement providing Forms I-20 and DS-2019 data to the consulates for use during the visa screening process. The ability to locate and match records to confirm payment of the fee is critical, because the failure to pay the fee will result in the denial of visa issuance or in a violation of status. As such, this data matching enables DHS and DOS to credit the alien with payment of the required fee.

Therefore, while students and exchange visitors must provide a minimum amount of Form I-20 or DS-2019 information on Form I-901, the information repeated is minimal and the purpose is to benefit the student or exchange visitor by ensuring that they are properly credited with having paid the fee in order to maintain their status as a nonimmigrant student or exchange visitor.

Credit card and bank account information is requested for those paying the fee over the Internet (www.fmjfee.com). This option is being offered to provide as many means as possible for the student or exchange visitor to pay the fee. Information on the form is required by banks in order to process the payment. This information is not stored in the SEVIS database or retained by the FMS system beyond the time it takes to settle the transaction. The Internet site has been implemented in partnership with the Department of Treasury and developed with appropriate security measures in place to safeguard the applicant's information.

Additionally, the phone number is required only in the case where the student or exchange visitor requests an expedited receipt. The phone number is required by the mail carrier service in order to ensure an expedited delivery. Again, this information is not retained by the DHS and is only needed by the mail carrier service in rare instances where delivery is difficult.

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.

If the information is not collected, DHS cannot send receipts to students and exchange visitors to serve as proof of payment of the fee. In addition, DHS will be unable to positively identify those students and exchange visitors who have paid the fee. Therefore, DHS' ability to ensure compliance with the law and enforce fee collection will be severely limited without this information.

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 April 14, 2011, ICE published a notice in the Federal Register at 76 FR 20996, soliciting public review and comment for a 60 day period on the proposed extension of the approval of this information collection. ICE received no comments during this 60 day period. On June 22, 2011, ICE published a follow up notice in the Federal Register at 76 FR 36562, soliciting public review and comment for an additional 30 day period on the proposed extension of the approval of this information collection with instructions that any comments should be sent directly to the Office of Management and Budget. ICE did not receive any comments or request for additional information during this 30 day period, and was not notified by OMB that they received any comments during this period.

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

DHS does not provide payment 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.**

The use and potential sharing of information in this collection is covered by the Student and Exchange Visitor Information System of Records. Notice of this system of records was published in the Federal Register on January 5, 2010 at 75 FR 412. No Privacy Impact Assessment (PIA) was completed for this collection of information.

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.**

There are no questions of a sensitive nature.

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	600,000
b.	Number of Responses per each Respondent	1
c.	Total Annual Responses	600,000
d.	Hours per Response	0.32 hours (19 minutes)
e.	Total Annual Reporting Burden	192,000 hours

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	9 Minutes

Assembling and Filing the Form	5 Minutes
TOTAL Hours per Response	0.32 hours (19 minutes)

For all components, we used tests to determine completion times. People who were not conversant with immigration processes were used to determine average completion times.

Annual Reporting Burden

Total annual reporting burden hours is 192,000. This figure was derived by multiplying the number of respondents (600,000) x frequency of response (1) x .32 hours (19 minutes) per response.

Annual Public Cost

The estimated annual public cost is \$109,920,000. This figure is based on the number of respondents 600,000 multiplied by 0.32 hours (19 minutes), multiplied by \$10 (average hourly rate); plus the number of respondents (600,000) x fee of \$180.

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. However, there is a fee charge of \$180 associated with the collection of this information.

- 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	\$	162,000
b.	Collection and Processing Cost	\$	59,838,000
c.	Total Cost to Program	\$	60,000,000
d.	Fee Charge	\$	108,000,000
e.	Total Annual Cost to Government	\$	0

Government Cost

The estimated cost of the program to the Government is calculated by using the estimated number of respondents (600,000) multiplied by the suggested \$180 fee charge, (which includes the suggested hourly rate for clerical, officer, technical, and managerial time with benefits, plus a percent for the estimated overhead cost for printing, stocking and distributing and processing of this form).

*These calculations are based upon the \$180 fee charge. This fee is not applicable to those J-1 non-immigrants who are participating in a program sponsored by the Federal government. The section of IIRIRA mandating the SEVIS fee, IIRIRA section 641, provides that an alien seeking J-1 status to participate in an exchange visitor program that is sponsored by the Federal government is exempt from paying a fee. Accordingly, J-1 exchange visitors

exempt from the fee as participants in a Federal government sponsored exchange visitor program are those participating in an exchange visitor program with a program identification designator prefix of G-1, G-2, or G-3. Additionally, a reduced fee is required for those J-1 non-immigrants sponsored by Au Pair programs, summer/work/travel programs, and camp counselor programs.

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

There have been no changes to the information being collected and no increase or decrease in the estimated annual burden hours previously recorded 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 is seeking approval not to display the expiration date for OMB approval of this information collection on the FMJfee.com page where respondents can complete the I-901 and submit their fee payment to ICE electronically. As the Student and Exchange Visitor Program is in a unique position of being required to be completely self-sufficient financially, it would become costly for ICE, which will spend approximately \$162,000 annually for printing and distributing this form to individuals without electronic access to it, to continually upgrade the system to change only expiration dates as well as counter-productive and inefficient. As the cost of updating the standalone version of the form is incurred by other funding sources within the agency, ICE will maintain the current OMB expiration date on this version of the collection instrument.

- 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.