

Supporting Statement

**Application for Advance Permission to enter as Nonimmigrant
(Pursuant to 212(d)(3) of the Immigration and Nationality Act)**

Form I-192

(OMB No. 1615-0017)

A. Justification.

1. Section 212(a) of the Immigration and Nationality Act (INA), defines certain classes of aliens who are ineligible to receive nonimmigrant visas and who are excluded from admission into the U.S. Section 212(d)(3) of the INA allows the Secretary of Homeland Security to waive the applicability of section 212(a) for certain non-immigrants and to admit the alien temporarily despite his or her inadmissibility. This form is provided by the U.S. Citizenship and Immigration Services (USCIS) as a means for certain inadmissible nonimmigrant aliens to apply for permission to enter the United States. This form is also used by U.S. Customs and Border Protection (USCBP), to grant temporary permission to certain inadmissible non-immigrants who wish to enter the United States through a port-of-entry pursuant to section 212(d)(3) of the INA. USCIS, also uses this form to address inadmissibility issues for T (Victims of Severe Forms of Trafficking in Persons) and U (Victims of Criminal Activity) petitioners. This is in accordance with 8 CFR 212.16, 8 CFR 212.17 and 8 CFR 214.14.

2. The data collected will be used by USCBP and USCIS to determine whether the applicant is eligible to enter the United States temporarily under the provisions of section 212(d)(3) of the INA.
3. The use of Form I-192 provides the most efficient means for collecting and processing the required data. Currently, neither USCBP nor USCIS has the automated capability in place to accept electronic submission of application. This form can be completed electronically but cannot be submitted electronically. However, this form has been designated for e-filing under the Business Transformation Project.
4. A review of the USCIS's 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 collection of information does not have an impact on small businesses or other small entities.
6. If the information is not collected, under section 212(d)(3) of the INA, certain classes of aliens, who are ineligible to receive visas and to enter the United States, would remain that way with no opportunity for a waiver of inadmissibility .
7. There are no special circumstances applicable to this information collection.
8. In response to the publication of the 60-day notice in the Federal Register, USCIS received three comments from one individual:
 - (a) The commenter believes that USCIS understates the estimated usage of Form I-192. The commenter's calculations for the use of Form I-192 are based on overall USCIS statistics and fee collection data that do not separately list filings by waiver form type. The Form I-192, however, is but one of the forms used to apply for waivers from inadmissibility. Form I-601 and I-602 are other examples of waiver forms reflected in the data. Additionally, only T and U nonimmigrants, and certain

nonimmigrants who do not require a visa to enter the United States, file the paper version of Form I-192. Other nonimmigrants directly apply for the waiver at the U.S. consulate without filing Form I-192. Finally, most T and U status seekers are eligible to file and obtain a fee waiver for the Form I-192 filing fee according to 8 CFR 103.7(c). The fee waiver does not impact the number of actual Form I-192 filings.

However, for reasons other than mentioned by the commenter, USCIS believes that the number of recipients should be adjusted: USCIS now realizes that it had experienced an increase in filings of this form over time and since the Ts and Us were added to the Form I-192. In 2000, Congress passed the Victims of Trafficking and Violence Prevention Act (VTVPA), which created the U visa. Corresponding regulations were published for the U visa September 17, 2007 (72 FR 53036, creating among others 8 CFR 212.17 and 8 CFR 214.14). Between the passage of the VTVPA and U visa regulation, those who may have been eligible for U nonimmigrant status, including derivative family members, were given the opportunity to apply for interim relief until the corresponding regulations were published. After the U visa regulation was published, petitioners and those previously granted interim relief were able to file for U nonimmigrant status if admissible to the United States. Most U visa seekers, however, are inadmissible and in need of a waiver. If inadmissible, the regulation required that inadmissible petitioners or their derivatives file an I-192 waiver request with the appropriate fee as outlined in 8 CFR 103.7. While USCIS received some I-192 requests, the fee appeared to have prevented many from filing the waiver or the application.

To remedy this deficiency, the USCIS fee rule, effective January 12, 2009, provided for a fee waiver for individuals seeking T and U status.

Given the large numbers of filings around that time of individuals who had previously been in the U.S. on interim relief, coupled with the fact that most U visa petitioners require a waiver of inadmissibility at some time of the adjudication, USCIS is now aware that it experienced an increase in filing of this form over time since the Ts and Us were added to the Form I-192.

However, USCIS does not have accurate statistics on these filing numbers as opposed to the numbers that are adjudicated in a given year. Thus, the numbers reflected above is an estimated number of respondents.

Additionally, there has been an increase in CBP filings over the last year. This increase could possibly be attributed to the Western Hemisphere Travel Initiative and more sophisticated enforcement systems that led to an increase in admissibility findings.

- (b) The second comment was that the form facilitates entry of a high-risk T and U population. As indicated above, USCIS uses Form I-192 to waive inadmissibility of T or U status seekers. According to the commenter, most of the T and U filings are problematic, and rarely worthy of being given the possibility of filing for a waiver from inadmissibility. However, Congress accorded these individuals the possibility of applying for a waiver from inadmissibility if certain conditions are met. USCIS uses Form I-192 to comply with the congressional mandate and adjudicates the waiver in a manner consistent with DHS directives.
- (c) Finally, the commenter suggested various form changes. The commenter believes that the form devotes too much space to the applicant's explanation why he or she

should be admitted despite the inadmissibility. The commenter indicates that information collection tied to an individual's location, such as credit card information, should be included to enable DHS to use the information for law enforcement purposes. USCIS rejects the individual's suggestions. The information currently requested is sufficient to make determinations on inadmissibility.

USCIS published a 30-day notice in the Federal Register on November 8, 2011, at 76 FR 69275. USCIS has not received any comments on the 30-day notice to date.

9. Neither USCIS nor CBP provides 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, 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	20,541
b.	Number of Responses per Each Respondent	1
c.	Total Annual Responses	20,541
d.	Hours per Response	.50
e.	Total Annual Reporting Burden	10,270

The total annual reporting burden hours for this information collection is 10,270.

This figure is derived by multiplying the number of respondents 20,541 x the frequency of the response (1) x the hours per response .50 (30 minutes) per response.

13. There are no capital or start-up costs associated with this information collection. There is a fee charge of \$585 associated with the collection of this information.

14. Annualized Cost Analysis:

a.	Printing Cost	\$	1,250
b.	Collection and Processing	\$	12,015,235
c.	Total Cost to Program	\$	12,016,485
d.	Fee Charge	\$	12,016,485
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 (20,541) x the suggested \$585 fee charge (which includes the suggested hourly rate for clerical, officer and managerial time with benefits, plus a percent for the estimated overhead cost for printing, stocking and distributing and processing of this form).

Public Cost

The total annual burden hour cost for respondents is \$315,715. This is based on the number of respondents (20,541) x the number of responses (1) x .50 (30 minutes) per response x \$30.74 (average hourly rate)

The total annual fee burden cost for respondents is \$12,016,485. This figure is based on the number of respondents 20,541 multiplied by the fee charge of \$585.

15. There has been an increase of 3,878 in the burden hours previously reported for this information collection. There is an increase of 7,757 in the number of respondents which is due to an agency adjustment of the estimated number of respondents. 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 date for OMB approval of this information collection.
18. 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,

U.S. Citizenship and Immigration Services,

Department of Homeland Security.

Date