

**SUPPORTING STATEMENT FOR
Notice of Appeal or Motion.
OMB Control No.: 1615-0095
COLLECTION INSTRUMENT(S): Form No. I-290B**

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.*

When certain non-immigrant or immigrant visa petitions or applications are denied or revoked by USCIS, an affected party may appeal that decision to the Administrative Appeals Office (AAO), or move to reopen or reconsider the service center denial to the service center or district office. Additionally, an affected party may move to reopen or reconsider an adverse decision issued by the AAO subsequent to the service center or district office decision. The information collection required on the Form I-290B is necessary in order for USCIS to make a determination that the appeal or motion to reopen or reconsider meets eligibility requirements, and for the AAO to adjudicate the merits of the appeal or motion to reopen or reconsider.

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.*

USCIS and the AAO use the data collected on Form I-290B to determine eligibility for the requested immigration benefit. The form serves the purpose of standardizing requests for the benefit, and ensuring that basic information required to assess eligibility is provided by petitioners, applicants, or beneficiaries, or their attorneys or representatives.

Authority: 8 CFR 103.5

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 Form I-290B provides the most efficient means for collecting and processing the required data. Currently this form resides on the USCIS Internet Web site and can be completed electronically but cannot be e-filed. However, this form has been designated

for e-filing under the Business Transformation Project.

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.*

A review of USCIS' 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. *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.*

Small entities might complete and file this type of information collection with USCIS; their burden however is no different from that of other respondents such as individuals or households that submit this type of request.

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 on Form I-290B USCIS will not be able to establish whether the person filing the appeal or motion meets the requirements set forth in the regulation.

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.*

There are no special circumstances described in this item 7 associated with 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 February 7, 2012, USCIS published a 60-day information collection activity notice in the Federal Register at 77 FR 6134. No comments were received in connection with that publication. USCIS also published 30-day information collection activity notice in the Federal Register on April 18, 2012 at 77 FR 23270.

USCIS received two comments in connection with the 30-day notice:

One commenter opines that “this form should be shut down” and that USCIS should “stop giving appeal after appeal after appeal.” USCIS thanks the commenter for submitting this comment. No changes, however, will be made to this information collection as a result of this comment.

Another commenter responded: “I see little to no point in this Information Collection and

especially the comment request period's 30-day extension. The anticipated AAO Rulemaking (which is now overdue) will most likely necessitate a *substantive* revision of this particular form to follow shortly thereafter. 'Rubber-stamp' this form 'as-is' and move on. Time would be better spent on planning for a form 'revision' rather than dragging out this rather pointless 'extension of an existing' form. AAO was expected to issue their NPRM in MARCH 2012 (it is late but still in the works). In that rule it is expected that a new section will be added to the controlling regulations at 8 CFR § 105." USCIS would like to thank the commenter for this comment. The commenter refers to other prospective USCIS proposed regulations and recommends that USCIS continue with the current Form I-290B as it has been proposed for extension and then focus revisions to the form with future proposed regulations. The commenter does not provide any substantive comment regarding the request to extend the I-290B nor does the commenter suggest any amendment to the form. USCIS will not be making any changes to the form at the present moment as a result of this comment.

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

USCIS does not provide payments or gifts to petitioners or applicants 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.*

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 dated September 5, 2008.

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 from 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*

Type of Respondent	Form Name / Form Number	No. of Respondents	No. of Responses per Respondent	Avg. Burden per Response (in hours)	Total Annual Burden (in hours)	Avg. Hourly Wage Rate	Total Annual Respondent Cost
Individual or Households/Employers	Notice of Appeal or Motion	38,926	1	1.5	58,389	30.74	
Total		38,926			58,389		\$1,794,877.8

Total annual reporting burden hours is 58,389. This figure was derived by multiplying the number of respondents 38,926 x (1) frequency of response x 1.5 hours (1 hours and 30 minutes) per response.

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 is no cost burden to respondents for actually responding to this information collection- start-up, maintenance, and operating costs associated with completing the paperwork. There is, however, a fee charge of \$630.

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	\$	16,200
b.	Collection and Processing Cost	\$	24,507,180
c.	Total Annual Cost to Government	\$	24,523,380

The Total Cost to the Government is \$24,523,380.

The estimated cost of the program to the government is calculated by multiplying the estimated number of respondents 38,926 x \$630 the suggested 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).

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

There is an increase in the annual burden hours previously reported for this information collection. This change is due to an adjustment in the agency estimate for the number of respondents. USCIS previously reported 28,134 estimated number of respondents but it is now reporting 38,926 estimated number of respondents. As a result, the annual burden hours have increased by 15,288. There have been no changes in the information being collected. The prior cost to respondent listed in ROCIS has been removed as it was erroneously included in the last submission.

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.*

USCIS 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.*

USCIS will display the expiration date for this information collection.

18. *Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.*

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