

**SUPPORTING STATEMENT FOR
APPLICATION FOR WAIVER OF GROUNDS OF INADMISSIBILITY
OMB Control No.: 1615-0029
COLLECTION INSTRUMENT(S): Form No. I-601**

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.*

Section 212(a) of the Immigration and Nationality Act (the Act) provides for the inadmissibility of certain classes of aliens from the United States. Grounds of inadmissibility include health-related, criminal, security, and miscellaneous grounds (such as unlawful voting or child abduction); grounds relating to public charge, ineligibility for U.S. citizenship, Labor Certification, and documentary requirements; and grounds relating to unlawful presence and previous deportation or removal. There are also several waiver provisions incorporated into section 212 of the Act, which allows the Secretary of Homeland Security to exercise discretion in waiving certain grounds of inadmissibility on a case by case basis. This collection of information is necessary to assess a waiver of inadmissibility.

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.*

The information collected on this form is used by U.S Citizenship and Immigration Services (USCIS) to determine whether the applicant is eligible for a waiver of inadmissibility under section 212 of the Act. This form is being revised (see table of changes).

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 currently provides the most efficient means for collecting and processing the required data. This form resides on the USCIS 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 search of USCIS' automated forms tracking system was accomplished and revealed no duplication. There is no similar data collected.

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 this information is not collected, USCIS would not be able to properly assess the alien's eligibility for the requested waiver.

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 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 28 February, 2012, USCIS published a 60-day information collection notice in the Federal Register at 77 FR 12071 to allow the public to review and comment on the information collection.

Comments: USCIS received one comment regarding the revision to Form I-601, *Application for Waiver of Grounds of Inadmissibility*. The comment urges the U.S. Government not to allow the relatives of Lawful Permanent Residents (LPRs) to receive waivers of inadmissibility, arguing that 1) LPRs do not have strong ties to the United States, 2) LPRs who have not applied for U.S. citizenship after becoming eligible to apply probably obtained their resident status through fraudulent marriages, and 3) Allowing relatives of LPRs to apply for waivers diminishes the benefits of U.S. citizenship.

USCIS response: The comment does not address any changes that were made to the Form I-601. The requirements for receiving an immigrant waiver of inadmissibility are

determined by the statute that authorizes the waiver. For example, the statutory authority for waiving inadmissibility due to prior unlawful presence is section 212(a)(9)(B)(v) of the Immigration and Nationality Act (INA). This statute authorizes the Secretary of the Department of Homeland Security the discretion to waive prior unlawful presence based on a showing of extreme hardship to a spouse or parent who is a “United States citizen or... an alien lawfully admitted for permanent residence.” USCIS considers all factors and evidence presented by the applicant, including claims of family ties in the United States. However, USCIS does not recognize a marriage that was entered into for the sole purpose of evading the U.S. immigration laws, and evidence of immigration fraud is a strong negative factor that USCIS would consider when making a discretionary decision on a waiver application. No changes will be made to the form as a result of this comment.

On June 7, 2012, USCIS published a 30-day notice in the Federal Register at 77 FR 33759. Moreover, on June 13th, 2012 USCIS published a correction notice in the Federal Register at 77 FR 35419 to indicate that it had inadvertently stated in the 30-day notice that no comments were received in connection with the previously published 60-day notice. The correction notice clarified that USCIS had received one comment in connection with the 60-day notice.

USCIS has received two comments in connection with the 30-day notice to the date. The comments state:

Comment: One commenter asked USCIS to expedite changes to the waiver process in order to benefit the families of many U.S. citizens who are separated from their relatives for long periods of time while USCIS is processing their waiver applications.

USCIS Response: USCIS is working on two initiatives this year to address the concerns expressed by the commenter. However, this notice does not relate to those initiatives, but only to the revision of the Form I-601 and instructions. The commenter did not make any comments or suggestions related to the revision of the form and instructions. Therefore, USCIS will not make any changes to the form or instructions based on this comment.

Comment: One commenter suggested that USCIS discontinue the use of Form I-601, arguing that waivers should not be available to individuals who are ineligible to immigrate to the United States due to a ground of inadmissibility. The commenter stated that Americans do not wish to continue paying for these application fees with their tax dollars.

USCIS Response: USCIS does not agree. Congress establishes grounds of inadmissibility and corresponding waiver criteria. USCIS merely determines whether applicants meet the criteria set by Congress. Application fees are paid by the applicants unless an applicant requests and is eligible for a fee waiver. For the Form I-601, a fee

waiver may only be granted in limited circumstances, and the cost of processing fee waived applications is recovered from fees charged against other applications. Accordingly, USCIS will not make any changes to the form or instructions based on 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 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.*

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 questions of a sensitive nature relating to an applicant's mental or physical condition. The Form I-601 is used to waive the medical grounds of inadmissibility under section 212(a) of the Act. It includes information concerning communicable diseases, drug abuse addiction, and mental disorders. This information is necessary to determine whether the grounds of inadmissibility, as set by Congress in section 212(a) of the Act, can be waived and Form I-601 approved.

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
Primary: Individuals or Households	Application for Waiver of Grounds of Inadmissibility, Form I-601	20,000	1	1.5	30,000	*30.74	
Total		20,000			30,000		\$11,700,000

**The wage rate category of “All Occupations” has been used for this collection of information. The mean wage for this occupation category as listed by the Bureau of Labor Statistics is \$21.94 and adding the wage rate multiplier of 1.4 provides a total adjusted wage rate of \$30.74.*

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 \$585 associated with the filing of this information collection.

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:

Printing Cost	\$ 7,593
Collecting and Processing	\$ 11,692,407
Total Annual Cost to Government	\$ 11,700,000

Government Cost

The estimated cost of the program to the Government is calculated by multiplying the estimated number of respondents 20,000 (x) \$585 the suggested fee charge (which includes the suggested average hourly rate for clerical, officer, and managerial time with benefits). In addition, this figure includes the estimated overhead cost of \$ 7,593 for printing, stocking, 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 has been an increase in the burden hours associated with this collection of information. This increased, an additional 9,486 burden hours, is due to a higher figure of estimated number of respondents. USCIS previously reported 13,676 respondents, while it now reports an estimated 20,000 number of respondents. USCIS is proposing changes to the information being collected. The changes, however, will not increase the amount of time it will take respondents to complete this information collection. USCIS has revised the overall format of the instructions and form to simplify filing and input. The revised format of the form will also allow for a lower rejection rate and more

accurate data collection to assist the agency and their customers when completing the form. In addition, USCIS has made changes for filing clarity and to improve customer service.

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 in accordance with OMB regulations.

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.