

**SUPPORTING STATEMENT FOR
APPLICATION FOR SUSPENSION OF DEPORTATION OR SPECIAL RULE
CANCELLATION OF REMOVAL**

OMB Control No.: 1615-0072

COLLECTION INSTRUMENT(S): Form No. I-881

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.*

The Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal, was developed to address the special circumstances of persons who became eligible to apply for suspension of deportation or cancellation of removal as a result of the passage of Public Law 105-100, the Nicaraguan Adjustment and Central American Relief Act (NACARA).

Section 203 of NACARA allows certain individuals from Guatemala, El Salvador, and former Soviet bloc countries to apply for suspension of deportation or cancellation of removal (“special rule cancellation of removal”) under eligibility standards that essentially mirror those in place prior to the passage of the section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA).

Section 204 of NACARA also exempts individuals granted relief under the provisions of section 203 from the annual numerical limitations placed on grants of suspension of deportation and cancellation of removal.

On October 28, 2000, the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), Public Law 106-386, was signed into law. This law, in part, created two new categories of individuals who could apply for suspension of deportation or special rule cancellation of removal under section 203 of NACARA. One group of individuals can only apply for relief with the Department of Justice (DOJ), Executive Office for Immigration Review (EOIR), using Form I-881, while the other category of individuals must apply for relief with EOIR using EOIR Form-40 for suspension of deportation cases, or for cancellation of removal and adjustment of status for certain nonpermanent resident cases.

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 data collected on the Form I-881 is used by Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) asylum officers, and EOIR immigration judges. The Form I-881 is used to determine eligibility for suspension of deportation or special rule cancellation of removal under Section 203 of NACARA. The form serves the purpose of standardizing requests for the benefits and ensuring that basic information required for assessing eligibility is provided by the applicants.

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 the Form I-881 provides the most efficient means for collecting and processing the required data. This form and its instructions reside on the USCIS Web site at <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=ecbcab0a43b5d010VgnVCM10000048f3d6a1RCRD&vgnnextchannel=db029c7755cb9010VgnVCM10000045f3d6a1RCRD> . In addition, the EOIR Forms Web Site page (<http://www.justice.gov/eoir/formspage.htm>) includes links to this form on the USCIS Web site. At this time, EOIR/DOJ cannot accept e-filing of this form. The form and the instructions can be downloaded, completed and saved electronically. The form, along with the required supporting documentation, must be mailed to the USCIS office that has jurisdiction over the respondent. USCIS has designated this form for e-filing under the Business Transformation Project. As such, due to the partial GPEA compliance of allowing for accessing, completing and saving the form electronically, USCIS respectfully requests at least 2-year approval as it continues to move towards full GPEA compliance for all forms.

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 and EOIR forms presently available revealed no duplication of effort in using the Form I-881.

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.*

The Form I-881 is the form currently used by almost all persons eligible to seek NACARA 203 relief, including the category of individuals eligible to apply for NACARA 203 relief pursuant to enactment of Section 1510(b) of the VTVPA. Without the Form I-881, these individuals seeking NACARA 203 relief and NACARA 203 relief pursuant to enactment of section 1510(b) of the VTVPA, would not have a mechanism for obtaining this benefit.

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 April 18, 2012, USCIS published a 60-day information collection notice in the Federal Register at 77 FR 23271. No comments were received in connection with the 60-day information collection notice. On July 25, 2012, USCIS published a 30-day information collection notice in the Federal Register at 77 FR 43606. No comments have been received to the date in connection with that publication.

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

USCIS and DOJ/EOIR do 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. There are two system of record notices associated with this information collection. The DHS USCIS system of record notice is Asylum Information and Pre-Screening System of Records, published in the Federal Register on January 5, 2010, at FR 409. The DOJ system of record notice associated with this information collection is Justice/EOIR-001, Records and Management Information System, which was published in the Federal Register on May 11, 2004, at 69 FR 26179. The DHS privacy impact assessment associated with this information collection is USCIS Refugees, Asylum and Parole System and Asylum Pre-Screening

System, dated November 24, 2009, and updated June 30, 2011.

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.*

Certain questions on the Form I-881 relate to topics of a sensitive nature such as the applicant's good moral character. Answers to these questions could indicate that the applicant does not have good moral character. (For example, commissions of or convictions for certain crimes could indicate a lack of good moral character.) Other questions ask for information that may normally be considered private but relate to the applicant's ability to establish extreme hardship if returned to his or her country. (For example a serious medical condition that can only be adequately treated in the United States could demonstrate that the applicant would suffer extreme hardship if returned to his or her country). Adjudicators probe the answers to these questions only to the degree that they are raised by the applicant's claim and are relevant to eligibility determinations.

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
Individuals or Households	Application for Suspension of Deportation or Special Rule Cancellation of Removal (Pursuant to Section 203 of Public Law 105-100) Form I-881	6,272*	1	12 hours	75,264	\$30.44	\$2,291,036
Individuals or Households	Biometrics	4,329**	1	0.167hours (10 minutes)	723	\$30.44	\$22,008
Total		6,272			75,987		\$2,313,044

**(This figure is based on approximately 4,036 NACARA applications filed annually with USCIS, on average, over the last 5 fiscal years. In addition, it is estimated that 2,236 NACARA applications were filed annually with EOIR on average, over the same 5 year period.*

*** This figure represents the total number of applicants from whom USCIS collected biometrics, on average, over the last 5 fiscal years.*

****The above Average Hourly Wage Rate is calculated from the [May 2011 Bureau of Labor Statistics](#) average wage for “All Occupations” of \$21.74 times the wage rate benefit multiplier of 1.4 equaling \$30.44.*

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. For informational purposes only, there is, a \$285 fee charge per individual or \$570 fee charge per immediate family group, associated with the filing of this application with USCIS, and a USCIS biometrics fee of \$85 per individual. Alternatively, there is a \$165 fee for filing this application with an EOIR immigration judge, and there may be a USCIS biometrics fee of \$85. This \$165 fee may cover a principal applicant, as well as applications for their eligible family members who are in the same removal proceedings before EOIR.

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.

The estimated total cost to the Government is \$3,684,007. This total cost includes the combined costs to USCIS and DOJ/EOIR

USCIS Annualized Costs Analysis:

a.	Printing	\$	1,628
b.	Collecting and Processing	\$	1,518,225
c.	Total Cost to USCIS	\$	1,519,853

The cost for USCIS is \$1,519,853. This figure is calculated by multiplying the estimated number of respondents (4,036) that submit this application to USCIS x (1) number of responses x \$285 the suggested fee charge (which includes the suggested hourly rate for clerical, officer, and managerial time with benefits), plus 4,329 respondents from whom biometrics are collected x \$85 associated biometric fee, in addition to the printing cost (estimated overhead cost for printing, stocking and distributing and processing of this form).

The cost for DOJ/EOIR is \$2,164,154.00. This figure is calculated by multiplying the average annual EOIR filings (2,072) x \$592 (this cost figure represents the average cost for all filings received by EOIR's immigration judges); and multiplying the average number of cases appealed to EOIR's Board of Immigration Appeals (BIA) (495)** x \$1,894 (this cost figure represents the average cost for all appeals completed by the BIA) and adding the two sums together.

(** Of the 2,072 annual average filings adjudicated by EOIR's immigration judges, approximately 495 cases are appealed on a yearly average to the BIA).

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 a decrease in the burden hours previously reported for this information collection. The burden hours have decreased by 584,736 hours. USCIS previously reported 660,000 burden hours while it is now reporting a combined USCIS and EOIR

total of 75,987. This change is due to a decrease in the number of respondents from 55,000 to 6,272. Moreover, USCIS discloses its estimated number of respondents for biometric services and indicates that it estimates .167 hours (10 minutes) per biometric collection. USCIS has also removed the annual information collection cost burden from the system as this information is not required. There is no change in the information being collected. USCIS, however, has made some format-related, nonsubstantive changes to the instructions (i.e. formatting, consistency, standard language, and updated Privacy language) to the form's instructions.

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.