

**SUPPORTING STATEMENT FOR
National Interest Waivers; Supplemental Evidence to I-140 and I-485
OMB Control No.: 1615-0063
COLLECTION INSTRUMENT(S): No Form**

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 203(b)(2)(B) of the Immigration and Nationality Act, allows the Secretary of Homeland Security to issue national interest waivers on behalf of any alien physician who agrees to work full time as a physician in an area or areas designated by the Secretary of Health and Human Services as having a shortage of health care professionals or at a health care facility under the jurisdiction of the Secretary of Veterans Affairs; and a Federal agency or a department of public health in any State that has previously determined that the alien physician's work in such an area or at such facility was in the public interest.

The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) regulations at 8 CFR 204.12 and 245.18 establish special rules for requests for national interest waivers that are filed with Form I-140, by or on behalf of physicians who are willing to work for either three or five years (depending on filing date) in areas of the United States that have a shortage of health care professionals, as determined by the Department of Health and Human Services (HHS) or at facilities operated by the Department of Veterans Affairs (VA). The Secretary of Homeland security, is not authorized to make a final adjudication on a Form I-485 application (a request for an adjustment of status), until a physician has had time to prove that he or she has practiced in an underserved area for the required time period, either 3 or 5 years. The regulations are only applicable to practicing physicians, not other health care professionals such as nurses, physical therapists, or doctor's assistants. The regulations do not necessitate the creation of a new form or the editing of the existing Form I-140 or I-485. Rather, the regulations require the submission of additional documentary evidence to support the requests for an immigrant visa number and adjustment of 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.**

The information that will be collected will be used by the Department of Homeland Security, USCIS, to determine eligibility for the requested national interest waiver and to

finalize the request for adjustment to lawful permanent resident status.

- 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.**

This collection of information is to support a waiver request that the respondent has submitted. The information requested is submitted in conjunction with the I-140, which is approved under OMB Control Number 1615-0015. The information provided for each instance is unique to the respondent and may include items that require physical signatures, raised seals, originals of official papers, or other supporting documentation that do not allow for electronic submission. Also, based on the unique nature of the request for each respondent, USCIS will communicate directly with the respondent to provide information on what to submit and how, based on the type of documentation, best to submit it to the agency. Based on these circumstances, USCIS respectfully requests an exemption to the Government Paperwork Elimination Act requirement for electronic responses, where practical, from the affected public and for a three-year approval to this collection of information.

- 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 inventory revealed no duplication of effort, and there is no other similar information currently available which can be used for this purpose. The information collected is specific and unique to the needs for which it is required, and no other agency collection would similar information.

- 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 may impact a doctor who functions as their own business or may be completed by a small business on behalf of the physician, but the information requested is kept to the minimal amount to ensure necessary detail is collected to make a determination.

- 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 supplemental evidence noted above is not collected, the USCIS will not be able to comply with section 203(b)(2)(B) of the Act. National interest waivers for physicians

agreeing to practice in shortage areas and the subsequent adjustment of status application will not be able to be accurately adjudicated.

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.**

This information collection is conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2).

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 June 1, 2012, USCIS published a 60-day notice in the Federal Register at 77 FR 32660. USCIS received 01comment on the 60-day notice. The commenter indicated that the related I-140 should be discontinued and that a fee of \$25,000 should be charged for the USCIS Form I-485. The commenter also provided personal thoughts/information regarding immigration in general. USCIS appreciates the comments and after reviewing, finds that the form I-140 should be maintained as an active form and the fee for the form I-485 is correctly established.

On September 27, 2012, USCIS published a 30-day notice in the Federal Register at 77FR 59410. USCIS has not received any comments to date on the 30-day notice.

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 published in the Federal Register on September 29, 2008 at 73 FR 56596. The associated privacy impact assessment is USCIS Benefits Processing of Applications other than Petitions for Naturalization, Refugee Status, and Asylum. There are no questions of a sensitive nature.

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**

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; Business or other for-profit	No form	8,000	2	1	16,000	\$30.44	\$487,040
Total		8,000			16,000		\$487,040

This estimate of the wage-rate cost to the respondent is based on the number of respondents 8,000 x 2 (responses per respondent) x 1 hour per response x \$30.44 (average hourly rate for all occupations including wage rate multiplier). *The above*

Average Hourly Wage Rate is calculated from the [May 2011 Bureau of Labor Statistics average wage for "All Occupations"](#), chosen as a respondent could be of multiple occupations, of \$21.74 times the wage rate benefit multiplier of 1.4 equaling \$30.44.

Note: Information will be collected twice. Physicians with a 5-year service requirement must submit the required documentation within 120 days after the 2nd and 6th anniversaries of the Form I-140 approval.

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, start-up, operational, nor maintenance costs associated with this 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.**

The estimated cost to the Government is \$640,000. This figure was calculated by multiplying the number of respondents 8,000 x (2) the number of responses x 1 hour (time required to collect and process information) x \$40 (suggested average hourly rate for clerical, officer, and managerial time with benefits).

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

There are no changes to the estimated annual hours burden or estimated annual costs from Questions 13 and 14 of the OMB Form 83-I.

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.**

This information collection will not be published for statistical purposes.

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 OMB approval of 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.

B. Collections of Information Employing Statistical Methods.

There is no statistical methodology involved with this collection.