

**SUPPORTING STATEMENT
APPLICATION FOR FEE WAIVERS AND EXEMPTION
OMB Control No.: 1615-0116
COLLECTION INSTRUMENT(S): I-912**

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 Immigration and Nationality Act (INA), as amended, provides for the collection of fees at a level that will ensure recovery of the full costs of providing adjudication and naturalization services, including services provided without charge to asylum applicants and certain other immigrant applicants, INA section 286(m), 8 U.S.C. § 1356(m). The INA provides that the fees may recover administrative costs as well. The fee revenue collected under INA section 286(m) remains available to the Department of Homeland Security (DHS) to provide immigration and naturalization benefits and ensures the collection, safeguarding, and accounting of fees by U.S. Citizenship and Immigration Services (USCIS), INA section 286(n), 8 U.S.C. § 1356(n).

The INA authorizes USCIS to provide some services for free at its discretion, allows USCIS to restrict fee waiver availability on benefits while requiring fee waiver consideration on some benefits, and requires USCIS to provide some services for free. For example, USCIS is precluded by law from collecting a fee from members of the military for an Application for Naturalization under INA sections 328 and 329, INA sections 328(b) & 329(b), 8 U.S.C. §§ 1439(b) & 1440(b). In addition, the INA requires DHS to permit aliens to apply for a waiver of any fees associated with filing an application for relief through final adjudication of the adjustment of status for relief by a Violence Against Women Act self-petitioner or under sections 101(a)(15)(T) (T visas), 101(a)(15)(U) (U visas), 106 (battered spouses of A, G, E-3, or H nonimmigrants), 240A(b)(2) (battered spouse or child of lawful permanent resident or U.S. citizen), and 244(a)(3) (Temporary Protected Status), as in effect on March 31, 1997), INA section 245(l)(7), 8 U.S.C. § 1255(l)(7). Therefore, USCIS has promulgated regulations at 8 CFR103.7(c) to allow individuals who are filing immigration benefit requests to request that the fee for certain benefits be waived based on them being unable to pay.

Fee waivers: This information collection is necessary to document the applicant's inability to pay the fee and resultant eligibility for their fee to be waived. Waiving a fee transfers the cost of processing applications and petitions to others through higher fees. USCIS, however, recognizes that some individuals may not be able to pay the required filing fee. USCIS relies on the information collected through Form I-912, Request for

Fee Waiver, to determine whether an individual requesting certain immigration benefits is unable to pay the fee required to process the immigration benefit requested. USCIS implements its fee waiver policies in a manner to best ensure that fee waivers are applied in a fair and consistent manner, that aliens who are admitted into the United States will not become public charges, and that USCIS will not shift an unreasonable amount of costs to other fee-paying applicants to recover funding lost due to fee waivers.

Director exceptions: The USCIS Director is also authorized to approve and revoke exemptions from fees, or provide that the fee may be waived for a case or class of cases that is not otherwise provided in 8 CFR 103.7(c). USCIS has not prescribed an information collection instrument to be submitted to the Director asking that a fee be waived for an individual benefit or that a group be exempt from fees. Fewer than 10 such requests are expected to be received in a given year. Nonetheless, to the extent ad hoc requests are prepared by the public and submitted to USCIS under the authority of 8 CFR 103.7(d), this supporting statement encompasses any associated information collection burden of such request.

Deferred Action for a Childhood Arrival (DACA) fee exemption: DHS has decided that the fee may not be waived for DACA requests, but certain classes of individuals may be exempted based on specified criteria. USCIS has not prescribed an information collection instrument and has instructed that a letter and evidence be submitted to the Director asking that an individual be exempt from DACA fees. This supporting statement encompasses the information collection burden of such a request.

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 uses the data collected on this form to verify that the applicant is unable to pay for the immigration benefit being requested. USCIS will consider waiving a fee for an application or petition when the applicant or petitioner clearly demonstrates that he or she is unable to pay the fee. The regulations do not require that requests for fee waivers be submitted on a particular form prescribed by DHS thus the applicant may request that the fee be waived by attaching a written request to the front of their immigration benefit request. Fee waivers may also be requested by completing and submitting Form I-912. Form I-912 standardizes the collection and analysis of statements and supporting documentation provided by the applicant with the fee waiver request. Form I-912 also streamlines and expedites the USCIS review, approval, or denial of the fee waiver request by clearly laying out the most salient data and evidence necessary for the determination of inability to pay. Officers evaluate all factors, circumstances, and evidence supplied in support of a fee waiver request when making a final determination. Each case is unique and is considered on its own merits. If the fee waiver is granted, the application will be processed. If the fee waiver is not granted, USCIS will notify the applicant and instruct him or her to file a new application with the appropriate fee.

Director exceptions. Hardship cases may submit a request to their local office for a fee waiver or exemption under 8 CFR 103.7(d). The regulation requires the request to document that such action is in the public interest and consistent with other applicable law. The local USCIS office may decline to forward the exception request up his or her chain of command or request additional information from the applicant if he or she thinks the applicant has not clearly demonstrated such action is in the public interest and consistent with other applicable law. It is up to the applicant to determine what such evidence entails and at the local officer's discretion as to recommend the request or deny it.

DACA fee exemption: Individuals who are members of the following groups may be exempt from paying a fee Form I-765, Application for Employment Authorization Document, in connection with their request for consideration for deferred action.

- o The requester is under 18 years of age and is homeless, in foster care, or otherwise lacks any parental or other familial financial support and his or her income is less than 150% of the U.S. poverty level;
- o The requester cannot care for himself or herself because of a serious and chronic mental or physical disability and his or her income is less than 150% of the U.S. poverty level; or
- o The requester has in the past 12 months incurred significant un-reimbursed medical expenses of at least \$25,000 in the care of himself or herself or an immediate family member and his or her income is less than 150% of the U.S. poverty level.

For evidence USCIS will accept:

- Affidavits from community-based or religious organizations to establish a requestor's homelessness or lack of parental or other familiar financial support; or
- Copies of tax returns, or an affidavit from the applicant or a responsible third party attesting that the applicant does not file tax returns, has no bank accounts, and/or has no income to prove income level.

If the requestor meets one of the above criteria, they may submit a written exemption request to USCIS in accordance with instructions provided at www.USCIS.gov for the filing location and suggested documentation for the fee exemption.

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.**

Requests that a fee be waived cannot be filed electronically at this time. The methods of collection described in this supporting statement provide the most efficient means for

USCIS to collect and the public to provide the information necessary for USCIS to determine whether or not the request accurately documents the individual's inability to pay their immigration benefit request fee. Form I-912 provides the most efficient means for collecting and processing the required data and applicants are encouraged to utilize it in order to hasten the USCIS decision. Although 8 CFR 103.2(a)(1) requires every benefit request or other document submitted to DHS to be executed and filed in accordance with the form instructions, Form I-912 is not mandated for use by USCIS thus requests that a fee be waived will be accepted when prepared and submitted using other forms of writing.

Form I-912 and its instructions reside on the USCIS website at <http://www.uscis.gov/i-912>. The form and the instructions can be downloaded, completed, and saved electronically, but the form, along with the required supporting documentation, must be mailed to USCIS. Director's exception and DACA fee exemption requests may be submitted via a facsimile machine or as an attachment to an electronic mail message but otherwise cannot be submitted electronically.

Due to the partial Government Paperwork Elimination Act (GPEA) compliance of allowing for accessing, completing, and saving the form electronically, USCIS respectfully requests at least a 2-year approval due to USCIS's effort to make the process conform to the GPEA as much as possible.

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.

USCIS has investigated its internal processes, files and data as well as those of other Federal agencies that may service the same population and we were unable to find any other means by which the information necessary for this process could be obtained except for the collection methods described in this request. There is no other similar information currently available which can be used for this purpose. USCIS will continue to examine ways in which information may be obtained from other sources and any identified duplications can be minimized or removed.

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 because fee waivers are not generally available for employment-based immigration benefit requests. There is an inherent inconsistency between sponsoring an alien for employment and being unable to pay the requisite small fee for that sponsorship. Anyhow, USCIS expects that the situations when an employer would adequately demonstrate an inability to pay will be extremely limited and the information that is required to facility a determination is kept to the minimal amount necessary.

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, USCIS could not efficiently review and determine the propriety of a fee waiver request. Without this information, individuals seeking to waive immigration fees in connection with certain immigration benefits requests will not be able to demonstrate their inability to pay immigration fees.

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 applicable to this information collection. 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 August 21, 2012, USCIS published a 60-day information collection notice in the Federal Register at 77 FR 50521. Two commenters submitted comments in response to that publication.

USCIS received a comment from the public that expressed disagreement with offering fee waivers to individuals who may be in the country without status. The benefit types that are eligible for a fee waiver if the applicant demonstrates an inability to pay are not available to individuals who are in the country without a proper immigration status.

One of the commenters suggested that the text on the form that currently reads "Before you fill out this form, please read the instructions" be replaced with "[b]efore you fill out this form, be aware that all USCIS fees can be paid with credit cards, or with loans from reputable banks and credit unions; also, before you complete the form, read the instructions." The commenter further requests that page 1, line 7, be changed by reducing the space as according to the commenter, that part of the form "has seven lines for dependents who may be covered by the request; this is an excessive amount of space, particularly given the instruction on the form which says: 'If you need more space, attach a separate sheet of paper.'"

USCIS appreciates the suggestions of the commenter but will not be making changes to the form as a result of these comments. USCIS has provided for waivers of its fees for documented inability to pay. It is true that USCIS accepts credit or debit cards for fees or that applicants who have credit cards or who can obtain short term loans may not necessarily have sufficient resources at the time of the immigration benefit request to pay their fee without undue hardship. As for the excessive space, the entire form does not have to be printed, completed or mailed for each request so that space is not necessarily excessive.

On October 30, 2012, USCIS published a 30-day notice in the Federal Register at 77 FR 65702. No comments have been received in connection with that publication to date.

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 related to this information collection.

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. This information collection is covered under the USCIS Benefits Processing of Applicants other than Petitions for Naturalization, Refugee Status, and Asylum dated September 5, 2008, and the system of records notice titled, United States Citizenship and Immigration Services Benefits Information System published in the Federal Register on September 29, 2008 at 73 FR 56596.

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 persons from whom the information is requested, and any steps to be taken to obtain their consent.

An applicant must provide sensitive income, expense and asset information to USCIS to document their inability to pay their immigration benefit request fee. In addition, the applicant, may be required to provide information concerning household status and medical conditions. This information is required for USCIS to determine whether or not the applicant is unable to pay the immigration benefit request fee.

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.**

Collection Instrument, Form Name/Form Number	No. of Respondents **	Responses per Respondent	Avg. Burden per Response (in hours)	Total Annual Burden (in hours)	Avg. Hourly Wage Rate (dollars) *	Total Annual Cost
Application for Fee Waiver, Form I-912	400,000	1	1.17 (1 hour and 10 minutes)	468,000	30.44	\$14,245,920
Non-form request for fee waiver	2,000	1	1.17	2,340	30.44	\$71,230
8 CFR 103.7(d) Director's exception request	10	1	1.17	12	30.44	\$365
DACA fee exemption request	200	1	1.17	234	30.44	\$7,123
	402,210			470,586		\$14,317,515

**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. The wage category of "All Occupations" is the most appropriate as the respondent could be from any type of employment; the collection of information is not targeted to any one type of occupation.*

*** From October 1, 2011 through August 30, 2012 (fiscal year 2012), USCIS has received 422,193 fee waiver requests and has approved 339,876. In fiscal year 2011, USCIS received 209,292, fee waiver requests and approved 180,240, and in fiscal year 2010, applicants filed 123,741 and USCIS approved 100,588.*

NOTES ON BURDEN:

USCIS will seek comments in conjunction with other information collection requests on how the burden the following information collection requirements place on applicants. USCIS will revise its burden estimates for fee waiver requests in its next submission of this supporting statement to OMB based on the results of public comments it receives, its own expert analysis, and information that can be found from other resources.

Translations. Respondents might incur burden for translations of documents in foreign languages. USCIS will evaluate the burden associated requiring translations of supporting documents.

Preparers. Some respondents may hire third parties for form completion so there may be a burden for a preparer to assist in the form completion process.

Records. Respondents might need to provide some documentation to demonstrate that they are unable to pay the required immigration fee. There may be a burden associated with having to gather the required documentation.

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. This information collection may impose some out-of-pocket costs on respondents in addition to the time burden for the form’s preparation. USCIS will seek public comments on and provide estimates in its next submission to OMB based on the results of public comments it receives and information that can be found from other resources on these costs:

Translations. Respondents might incur expenses for translations of foreign documents or documents prepared or issued in foreign languages. USCIS is currently evaluating the estimated cost associated with this activity.

Preparers. Some respondents may hire third parties to assist in the request process and may incur costs to hire paid preparers for the preparation and submission of this form.

- 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:	\$ 12,000
b. Collecting and Processing:	\$ 18,811,428
c. Total Annual Cost to the Government:	\$ 18,823,428

Government Cost

The estimated cost to the Government is \$18,823,428 (which is funded by USCIS user fee collections). This figure is calculated by multiplying the estimated number of respondents (402,210) x (1) number of response x (1.17) hours (USCIS time required to collect and process information) x \$40.00 (suggested average hourly rate for clerical, officer, and supervisory time with benefits). This \$40 cost per form includes overhead cost for printing, stocking, distributing, and processing of \$10 per request to be received under this request. USCIS will analyze the accuracy of its cost estimate and if determined necessary will provide more details on the government costs for this program

in its subsequent information collection request.

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

USCIS previously estimated 85,000 respondents and 99,100 burden hours for this collection. The number of fee waiver requests actually received has increased substantially from what was previously estimated. Between fiscal years 2008 and 2011, the number of applicants requesting fee waivers increased 230 percent. No study has been performed to determine why the volume of fee waivers has increased and no direct relationships have been documented, but USCIS believes it is likely as the result of the declining economic conditions during that period. From October 2011 to June 2012, USCIS received more than 150,000 Form N-400 fee waiver requests, with a total revenue loss of over \$72 million. Forms I-90 and I-765 also have a high rate of fee waiver requests. Based on the recent volume of fee waiver requests received, USCIS estimates this upward trend will continue. USCIS now estimates that 402,210 individuals might request fee waivers or exemptions requiring 470,586 burden hours. The total burden hours have increased by 368,902 burden hours because USCIS is now reporting this increase in the number of respondents.

In addition, this information collection request has been changed to add methods for an individual or group to request they not be required to pay a fee in addition to using the Form I-912. This control number was previously approved to only encompass Form I-912, but USCIS realized that, while allowed under regulations, special requests, ad hoc formats and non-form requests were not fully accounted for in the approved burden or under another control number.

USCIS has also eliminated the social security number data field from the form since USCIS can adjudicate this type of request without that piece of information. USCIS has also clarified language in the form and instructions to improve readability and simplify completion of the form. Please see the Table of Changes submitted with the Paperwork Reduction Act collection for information.

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 in the form 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.