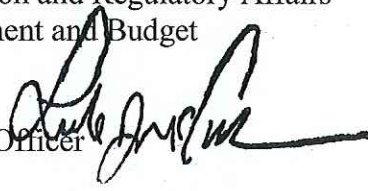# Homeland Security

September 22, 2014

TO: Howard Shelanski
Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget

FROM: Luke McCormack
Chief Information Officer

SUBJECT: Emergency Approval Request for Revision of the Electronic
System for Travel Authorization Application under the Paperwork
Reduction Act

This memorandum requests an emergency approval to revise a collection of information under the Paperwork Reduction Act (PRA) for Customs and Border Protection's Electronic System for Travel Authorization (ESTA). ESTA is an application used for passengers traveling to the United States under the Visa Waiver Program (VWP). This information collection is approved under OMB control number 1651-0111.

The Department of Homeland Security (DHS) requests an emergency approval to revise this information collection to add new data elements to the ESTA application. Recently, very public incidents have brought to the public eye a security threat to the United States. Although the United States does not currently have any credible information that the Islamic State in Iraq and the Levant (ISIL) or other Syria-based terrorist groups are planning imminent attacks against the United States, we do know that a significant number of foreign fighters have traveled to Syria over the past three years, including citizens from the United States and Europe. Many of these foreign fighters have joined ISIL's and other terrorist groups' ranks and there are significant concerns that these groups may use these fighters to conduct external attacks. These foreign fighters are likely to gain experience and training from the Syria-based groups and eventually may return to their own countries battle-hardened and further radicalized. Many of these fighters may possess valid European and U.S. passports or travel documents, and pose a potential threat for committing terrorist attacks in Europe or the United States.

In response to the increasing concerns regarding foreign fighters, the Department of Homeland Security (DHS) is strengthening the security of the Visa Waiver Program (VWP) by adding additional data elements to the Electronic System for Travel Authorization (ESTA). No single data element by itself enhances ESTA enough to address the foreign fighter threat. It is the combined totality of existing and newly proposed ESTA data elements that will help the U.S. Government mitigate the foreign fighter threat and facilitate lawful travel under the VWP. In order to disrupt any plans of foreign fighters to return to the United States and carry out an attack with the tools they have built and developed abroad, DHS is doing a number of things to give us more information from passengers, to include this effort with visa waiver countries, to know more about individuals who attempt to travel. DHS has determined that ESTA enhancements

will improve the Department's ability to screen prospective VWP travelers and more accurately and effectively identify those who pose a security risk to the United States. DHS also believes enhancements to ESTA will help the Department facilitate adjudication of ESTA applications. By requiring ESTA applicants to provide additional information, DHS will enhance its ability to identify those ESTA applicants who are on the terrorist watch list thereby reducing the number of inconclusive matches that currently result in an ESTA denial, requiring the applicant to apply for a visa for travel to the United States.

This revision will improve DHS's ability to screen prospective VWP travelers and more accurately and effectively identify those who pose a security risk to the United States. All ESTA data elements will help DHS adjudicate applications and, in many cases, will enable DHS to distinguish between lawful applicants and individuals of concern. Those who intend to harm the United States and our VWP allies are likely to evaluate all available public information pertaining to ESTA. DHS is requesting an emergency information collection with the intention of completely carrying out all the regular requirements for publication and review after implementation.

DHS is concerned that publishing the new data elements prior to implementation of the enhancements will allow persons who may be trying to cause harm to the United States to attempt to circumvent this increased security of ESTA.[1] When DHS implemented the fee for ESTA, there was a surge of applicants who applied for ESTA prior to implementation of the new fee. However, DHS fears that those we are trying to prevent from entering the U.S. will apply for an ESTA prior to entering these new data elements in an attempt to evade detection and therefore gain entry to the United States.

ESTA is a web-based application and screening system used to determine whether certain aliens are eligible to travel to the United States under the VWP. As stated in the ESTA Privacy Impact Assessment Update dated June 5, 2013, DHS has entered a Memorandum of Agreement with the National Counterterrorism Center (NCTC) that permits NCTC to use ESTA information to facilitate NCTC's counterterrorism efforts and help to ensure that travel authorizations are not issued to individuals who pose a threat to national security.

The addition of the new data elements requested will enhance the information collected by DHS and therefore increase the security and fidelity of the decisions made concerning authorization to travel of Visa Waiver travelers. This will also help DHS identify those who should not be allowed to travel to the United States.

After implementation of the new data elements, upon publication, DHS would then stand ready to address comments and concerns as necessary under the Paperwork Reduction act. Thank you for your consideration of this Emergency Request.

cc:
Chief Privacy Officer
Chief Procurement Officer
Chief Security Officer
Executive Director, Enterprise Business Management Office

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[1] See OMB Directives Controlling Paperwork Burdens on the Public, 5 C.F.R. § 1320(i) (2014)