

SUPPORTING STATEMENT

Arrival and Departure Record (Forms I-94, I-94W) and Electronic System for Travel Authorization-ESTA OMB No. 1651-0111

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.**

ESTA was provided for by Section 711 of The Secure Travel and Counterterrorism Partnership Act of 2007 (part of the Implementing Recommendations of the 9/11 Commission Act of 2007, also known as the "9/11 Act," Public Law 110-53) which requires that the Secretary of Homeland Security, in consultation with the Secretary of State, develop and implement an internet-based system which shall collect such biographical and other information as the Secretary determines necessary to determine, in advance of travel, the eligibility of the alien to travel to the United States and whether such travel poses a law enforcement or security risk.

Recent 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.

As the President of the United States remarked on September 24, 2014 in his address to the United Nations General Assembly, "We will take action against threats to our security and our allies."

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 data elements to the Electronic System for Travel Authorization (ESTA). These improvements are designed to address the immediate foreign fighter threat and to provide an additional layer of enduring security for the VWP and facilitate

visa-free travel to the United States. No single data element by itself enhances ESTA enough to address the foreign fighter threat. It is the combined totality of existing information and the changes DHS/CBP is seeking approval to make that should help the U.S. government mitigate the foreign fighter threat, provide an additional layer of enduring security for the VWP, and facilitate lawful travel under the VWP. In order to be in a better position to disrupt the plans of foreign fighters to travel to the United States and carry out an attack with the expertise they may have built and developed abroad, DHS needs to know more about individuals who are seeking authorization to travel through the Visa Waiver Program.

Passengers from visa waiver countries, traveling under the VWP by air or sea, are required to receive a travel authorization through the ESTA application prior to travel to the United States. DHS has determined that these proposed ESTA enhancements should improve the Department's ability to screen prospective VWP travelers while more accurately and effectively identifying those who pose a security risk to the United States. DHS also believes enhancements to ESTA should help the Department facilitate adjudication of ESTA applications. By requiring ESTA applicants to provide additional information prior to travel, DHS will enhance its ability to reduce 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. DHS continuously seeks to improve its ability to identify prospective travelers to the United States about whom derogatory information exists, but about whom there is currently insufficient information to identify them before they initiate an attack.

Currently approved data elements:

1	Family Name	Mandatory
2	First (Given Name)	Mandatory
3	Birth Date (Day, Month, Year)	Mandatory
4	Country of Birth	Mandatory
5	Country of Citizenship	Mandatory
6	Sex (Male/Female)	Mandatory
7	Country where you live	Mandatory
8	Email Address	Optional
9	Telephone Number (Country Code, Number	Optional
10	Passport Number	Mandatory
11	Passport Issuing Country (Country of Citizenship	Mandatory
12	Passport Issuance Date (Day, Month, Year)	Mandatory
13	Passport Expiration Date (Day, Month, Year)	Mandatory
14	City Where You are Boarding	Optional
15	Carrier Information (Carrier Name, Flight Number or Vessel Name)	Optional
16	Address While In the United States	Optional
17	Do you have a physical or mental disorder; or are you a drug abuser or addict; or currently have any of the following diseases:	Mandatory

	<ul style="list-style-type: none"> • Chancroid • Gonorrhea • Granuloma inguinale • Leprosy, infectious • Lymphogranuloma venereum • Syphilis, infectious • Active Tuberculosis 	
18	Have you ever been arrested or convicted for a crime that resulted in serious damage to property, or serious harm to another person or government authority?	Mandatory
19	Have you ever violated any law related to possessing, using, or distributing illegal drugs?	Mandatory
20	Do you seek to engage in or have you ever engaged in terrorist activities, espionage or sabotage; or genocide?	Mandatory
21	Have you ever committed fraud or misrepresented yourself or others to obtain, or assist others to obtain, a visa or entry into the United States?	Mandatory
22	Are you currently seeking employment in the United States or you were you previously employed in the United States without prior permission from the U.S. government?	Mandatory
23	Have you ever been denied a U.S. visa you applied for with your current or previous passport, or have you ever been refused admission to the United States or withdrawn your application for admission at a U.S. port of entry? If yes, When? _____ Where? _____	Mandatory
24	Have you ever stayed in the United States longer than the admission period granted to you by the U.S. government?	Mandatory

The data elements below are either new elements or current elements that DHS is proposing to change from “optional” to “mandatory” on the ESTA application.

1	Other Names or Aliases	Mandatory
2	Other Country of Citizenship	Mandatory
3	If yes, passport number on additional citizenship passport	Optional
4	Home Address	Mandatory
5	Parents	Mandatory
6	Current or Previous Job Title	Optional
7	Current or Previous Employer Name	Mandatory
8	Current or Previous Employer Address	Mandatory

9	Current or Previous Employer Telephone number	Optional
10	Primary Email	Mandatory – currently optional
11	Primary Telephone Number	Mandatory – currently optional
12	U.S. Point of Contact Name	Mandatory
13	U.S. Point of Contact Address	Mandatory
14	U.S. Point of Contact Email	Mandatory
15	U.S. Point of Contact Phone	Mandatory
16	City of Birth	Mandatory
17	National Identification Number	Mandatory
18	Emergency Point of Contact Information Name	Mandatory
19	Emergency Point of Contact Information Email	Mandatory
20	Emergency Point of Contact Information Phone	Mandatory
22	Do you have a current or previous employer?	Mandatory
21	Is your travel to the U.S. occurring in transit to another country?	Mandatory

For the following “mandatory” fields ESTA applicants will be permitted to enter “unknown,” if they do not have or know the information, without impeding the submission of their ESTA application: City of Birth, Parents, National Identification Number, Emergency Contact Information, U.S. Point of Contact information, and Employer Address.

These improvements are designed to address the immediate foreign fighter threat and to provide an additional layer of enduring security for the VWP and facilitate visa-free travel to the United States. No single data element by itself enhances ESTA enough to address the foreign fighter threat. It is the combined totality of existing information and the changes DHS/CBP is seeking approval to make that should help the U.S. government mitigate the foreign fighter threat, provide an additional layer of enduring security for the VWP, and facilitate lawful travel under the VWP.

Background

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 in the air and sea environments. As stated in the ESTA Privacy Impact Assessment Update dated [insert date], 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 travel authorizations are not issued to individuals who pose a threat to national security.

CBP Forms I-94 and I-94W are included in the manifest requirements imposed by Sections 231 and 235 of the Immigration and Nationality Act, and are required to be prepared by aliens while en route to the United States and presented upon arrival at a sea or air port of entry within the United States. Under the Act, it is the duty of the master or

commanding officer, or authorized agent, owner, or consignee of the vessel or aircraft, having any alien on board, to deliver lists or manifests of the persons on board such vessel or aircraft to CBP officers at the port of arrival. However, CBP now gathers I-94 data from existing automated sources such as the Advance Passenger Information System (APIS) in lieu of requiring passengers arriving by air or sea to submit a paper I-94 upon arrival. The paper I-94 is still required from travelers entering the United States at a land border. Passengers can access and print their electronic I-94 via the website www.cbp.gov/I94.

Aliens traveling under the VWP are required to present a completed and signed Nonimmigrant Visa Waiver Arrival Departure Form I-94W as a condition of admission pursuant to 8 C.F.R. § 217.2(b)(1). However, so long as these aliens are traveling in the air or sea environment and have a travel authorization obtained through ESTA, they may forgo completing the paper Form I-94W. ESTA is not available for VWP travelers at land border crossings, though it should be noted that the overwhelming majority of VWP travelers (approximately 99 percent) arrive in the United States in the air environment.

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.

Information on the ESTA application helps DHS determine whether an alien is eligible to travel to the United States under the VWP. The data elements and questions included in the ESTA application help gather information necessary to ensure that someone does not need to pursue a visa through the Department of State instead of being able to travel under this program.

The data collected on CBP Forms I-94/I-94W and on the ESTA application provide information required to support DHS mission requirements as they relate to the screening of alien visitors to the United States. Specifically, the information collected is used to assess potential law enforcement and national security risks, and the timely and accurate capture of data that enables matching of alien arrival and departure records that are necessary to monitor alien compliance with United States law. Additionally, as stated in the ESTA Privacy Impact Assessment Update dated [insert date], 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 travel authorizations are not issued to individuals who pose a threat to national security.

As stated above, it is the combined totality of existing and newly proposed ESTA data elements that should help the U.S. government mitigate the foreign fighter threat, add an enduring layer of security to the VWP program, and facilitate lawful travel under the VWP. In order to be in a better position to disrupt the plans of foreign fighters or others to travel to the United States and carry out an attack with the expertise they have built and developed abroad, DHS needs to know more about individuals who are seeking authorization to travel through the Visa Waiver Program. The newly proposed elements

should enhance the information currently collected from travelers and allow DHS to increase identification of those who would seek to do harm to the United States under the auspices of the VWP. Extensive research by DHS and our interagency partners has determined that these additional data elements will increase the ability to stop these travelers before they attempt to travel to the United States. Further justification and a detailed description of each data element collected will be in item #15.

ESTA was mandated by Congress to enhance national security by increasing the amount of information available to DHS regarding VWP travelers before such travelers embark on a carrier destined for the United States. As the rationale for mandating the implementation of ESTA, Congress noted that VWP travelers are not subject to the same degree of screening as those travelers who must first obtain a visa before departing for the United States. Therefore, the data collected via ESTA is to mitigate the security concerns of the VWP, whereby travelers seeking to avoid the scrutiny of the visa issuance process or circumvent immigration laws may attempt to enter the United States under the VWP.

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.**

Forms I-94 and I-94W are paper documents prepared by most aliens traveling to the United States (though now most VWP travelers will forgo completing the I-94W) that are filled out on conveyances or at the land border. Information about these forms can be found at: <http://www.cbp.gov/travel/international-visitors/i-94-instructions/i94-rollout> and <http://www.cbp.gov/travel/international-visitors/visa-waiver-program>

ESTA is a web-based system that enables VWP travelers arriving in the U.S. by air and sea to electronically enter applications for authorization to travel to the United States via the VWP. ESTA can be accessed <http://www.cbp.gov/travel/international-visitors/esta> and a sample of Form I-94 can be found at <http://www.cbp.gov/sites/default/files/documents/CBP%20Form%20I-94%20English%20SAMPLE%20Watermark.pdf>, and I-94W can be found at <http://www.cbp.gov/sites/default/files/documents/%20I-94W%20English%20%2811-11%29%20FINAL%20%28reference%20only%29.pdf>

CBP captures I-94 data for passengers arriving by air or sea from the Advance Passenger Information System (APIS) in lieu of passengers submitting a paper I-94. Passengers can access and print their electronic I-94 via www.cbp.gov/I94. This supplements the existing process whereby a passenger who wanted a copy of their Form I-94 would need to file a Form I-102. Passengers may still file a Form I-102 for this purpose if desired.

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.**

This information is not duplicated in any other place or any other form.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

This information collection does not have an impact on small businesses or other small entities.

6. Describe consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently.

Recent 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.

As the President of the United States remarked on September 24, 2014 in his address to the United Nations General Assembly, "We will take action against threats to our security and our allies."

In response to the increasing concerns regarding foreign fighters, DHS is strengthening the security of the VWP by adding data elements to ESTA and changing some existing fields from optional to mandatory in ESTA. These improvements are designed to address the immediate foreign fighter threat and to provide an additional layer of enduring security for the VWP and facilitate visa free travel to the United States. No single data element by itself enhances ESTA enough to address the foreign fighter threat. It is the combined totality of existing information and the changes DHS/CBP is seeking approval to make that should help the U.S. government mitigate the foreign fighter threat, provide an additional layer of enduring security for the VWP, and facilitate lawful travel under the VWP. In order to be in a better position to disrupt the plans of foreign fighters or others to travel to the United States and carry out an attack with the expertise they have built and developed abroad, DHS needs to know more about individuals who are seeking authorization to travel through the Visa Waiver Program.

The newly proposed elements should enhance the information currently collected from travelers and allow DHS to increase identification of those who would seek to exploit the VWP and to do harm to the United States. Extensive research by DHS and our

interagency partners has determined that these additional data elements will increase the ability to stop these travelers before they attempt to travel to the United States.

7. Explain any special circumstances.

This information is collected in a manner consistent with the guidelines of 5 CFR 1320.6.

8. If applicable, provide a copy and identify the date 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.

CBP is seeking emergency review and approval of this collection of information under 5 CFR 1320.13. If OMB approves this emergency request, CBP will seek public comment and publish both a 60 and a 30 day notices in the Federal Register as required under 5 CFR 1320. CBP will respond fully to all public comments in its subsequent information collection request.

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

There is no offer of a monetary or material value for this information collection.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

A PIA, entitled Electronic System for Travel Authorization, dated September 11, 2014, was submitted with this ICR. Also, a SORN entitled Electronic System for Travel Authorization, dated November 3, 2014, and a SORN entitled, Non-Immigrant Information System, dated December 19, 2008 (Vol. 73, Page 77739), are included in this ICR. There is no assurance of confidentiality provided to the respondents.

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, and the explanation to be given to persons from whom the information is requested.

The ESTA application and the Form I-94W currently asks applicants “Do you have a physical or mental disorder; or are you a drug abuser or addict; or currently have any of the following diseases:

- Chancroid
- Gonorrhea
- Granuloma inguinale
- Leprosy, infectious
- Lymphogranuloma venereum
- Syphilis, infectious
- ActiveTuberculosis

These diseases listed are consistent with communicable diseases outlined in 42 CFR 34.2.

12. Provide estimates of the hour burden of the collection of information.

Form/Collection	Number of Respondents	Total Annual Responses	Time Per Respondent (in hours)	Annual Reporting Burden Hours
I-94	4,387,550	4,387,550	0.133 (8 mins)	583,544
I-94 Website	5,047,681	5,047,681	0.066 (4 mins)	333,147
I-94W	941,291	941,291	0.217 (13 mins)	204,260
ESTA burden	22,090,000	22,090,000	0.333 (20 mins)	7,355,970
ESTA fee* (subset of total ESTA respondents)	18,183,000 (subset of 22.1m above)	18,183,000 (subset of 22.1m above)	0.00 (already included in ESTA burden above)	0.00 (already included in ESTA burden above)
TOTAL	32,466,522	32,466,522		8,476,921

*Note that the 18.183 million respondents paying the \$14.00 for the ESTA fees are a subset of the total 22.1 million ESTA respondents. They should not be added to the total respondents (or else they would be double counted).

The numbers in the table above reflect the following changes:

- 1) The time per response for the Form I-94W was changed from 8 minutes to 13 minutes as a result of the proposed changes. The burden hours were recalculated

accordingly.

- 2) The time per response for ESTA was changed from 15 minutes to 20 minutes as a result of the proposed changes. The burden hours were recalculated accordingly.

Public Cost:

The estimated annual public cost is **\$652,359,305** and is calculated as follows:

Form/ Collection	Number of Respondents	Annual Reporting Burden Hours	Value of time*	Fee charge (\$6.00 per respondent)	ESTA fee (\$14.00 per respondent)	Total public cost
I-94	4,387,550	583,544	\$11,373,275	\$26,325,300	\$0	\$37,698,575
I-94 Website	5,047,681	333,147	\$15,184,840	\$0	\$0	\$15,184,840
I-94W	941,291	204,260	\$3,981,030	\$5,647,746	\$0	\$9,628,776
ESTA burden	22,090,000	7,355,970	\$335,285,113	\$0	\$0	\$335,285,113
ESTA fee	18,183,000		\$0	\$0	\$254,562,000	\$254,562,000
TOTAL			\$365,824,259	\$31,973,046	\$254,562,000	\$652,359,305

* Recall from the previous table that the burden for the I-94 and I-94W forms is 13 minutes (0.217 hours); the burden for ESTA is 20 minutes (0.333 hours). We use the Department of Transportation's guidance on value of travel time for value of time estimates: \$19.49 for travel by land (this applies to I-94 and I-94W) and \$45.58 for travel by air and sea (this applies to ESTA and I-94 Website).

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information.

There are no record keeping, capital, start-up or maintenance costs associated with this information collection. The fee charges related to this ICR are described in item #12 above.

14. Provide estimates of annualized cost to the Federal Government.

There are no government costs to process these forms because the costs are offset by the fee charges.

15. Explain the reasons for any program changes or adjustments reported in Items 12 or 13 of this Statement.

CBP proposes to add data elements to Form I-94W and ESTA, as well as change some information that is currently optional to provide now to be mandatory if this request is approved. Please see the table in question #1 for more information regarding these changes.

As the President of the United States remarked on September 24, 2014 in his address to the United Nations General Assembly, “We will take action against threats to our security and our allies.”

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The newly proposed elements should enhance the information currently collected from travelers and allow DHS to increase identification of those who would seek to exploit the VWP and do harm to the United States. Extensive research by DHS and our interagency partners has determined that these additional data elements will increase the ability to stop these travelers before they attempt to travel to the United States.

Adding the proposed data elements, as well as making some current optional fields mandatory, in the ESTA application and Form I-94W collections, will cause an estimated increased burden of 5 minutes per response. This would be considered an agency discretion in burden. The time per response for the Form I-94W will increase from 8 minutes to 13 minutes and the time per response for ESTA will increase from 15 minutes to 20 minutes.

16. For collection of information whose results will be published, outline plans for tabulation, and publication.

This information collection will not be published.

17. If seeking approval to not display the expiration date, explain the reasons that displaying the expiration date would be inappropriate

CBP requests not to display the expiration date on these two paper forms because large quantities are stocked at CBP ports and by airlines in 17 languages. However, the expiration date is displayed on the ESTA website and on the I-94 website.

18. “Certification for Paperwork Reduction Act Submissions.”

CBP does not request an exception to the certification of this information collection.

B. Collection of Information Employing Statistical Methods

No statistical methods were employed.