

**SUPPORTING STATEMENT FOR
APPLICATION FOR WAIVER OF GROUNDS OF INADMISSIBILITY
OMB Control No.: 1615-0029
COLLECTION INSTRUMENT(S): Form No. I-601**

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.**

Immigration law prescribes acts, conditions, and conducts that bar foreign nationals from obtaining a visa and from being admitted to the United States. These grounds of inadmissibility are codified in section 212(a) of the Immigration and Nationality Act (the Act). Grounds of inadmissibility include health-related, criminal, security, and miscellaneous grounds (such as unlawful voting or child abduction); grounds relating to public charge, ineligibility for U.S. citizenship, Labor Certification, and documentary requirements; and grounds relating to unlawful presence and previous deportation or removal. There are also several waiver provisions incorporated into section 212 of the Act, and other provisions throughout the Act, which allows the Secretary of Homeland Security to exercise discretion in waiving certain grounds of inadmissibility on a case by case basis. The Form I-601 is the U.S. citizenship and Immigration Services (USCIS) form that an individual files to request one of these waivers. This collection of information is necessary to assess a waiver of inadmissibility.

This information collection is used by applicants inadmissible to the United States but seeking lawful permanent resident status based on the family-based and employment based immigration track provided in the INA, fiancé(e) status at the consulate (K nonimmigrant visa applicants), and V visa applicants (nonimmigrant category for spouses and children of lawful permanent residents). Furthermore, this information collection is used by individuals who are seeking for Temporary Protected Status (TPS).

Any applicant, a petitioner, a sponsor, a beneficiary, or other individual residing in the United States at the time of filing an immigration-related application or petition (individuals) may be required to submit biometric information if the regulations or form instructions require such information or if requested in accordance with 8 CFR 103.2(b) (9). DHS may collect, by electronic or other means, and store for present or future use, the biometric information submitted by individuals. DHS may use this biometric information to conduct background and security checks, adjudicate immigration and naturalization benefits, and perform other functions related to administering and enforcing the immigration and naturalization laws.

USCIS might collect biometrics from some I-601 applicants when for example: the Application Support Center (ASC) appointment had to be rescheduled and the last filed I-601 application was used as the reason for scheduling the ASC appointment; the background check results expired, the applicants must provide new prints and the last filed application (I-601) was used to schedule an ASC appointment; the applicant aged into categories of aliens who must be fingerprinted and the last filed application was used to schedule an ASC appointment; the alien is in removal proceedings and USCIS is asked to collect the fingerprints; or fingerprints come back as unclassifiable and the form I-601 was used to do a re-submit.

Authority: 8 U.S.C. 1182, INA section 212; 8 CFR 212.7; 8 CFR 103.2(b)(9); 8 CFR 103.16; 8 U.S.C. 1103; 8 U.S.C. 1254a; INA section 244; INA 245(l); 8 CFR 212.18; NACARA 202 and HIRFA 902.

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 collected on this form is used by USCIS to determine whether the applicant is eligible for a waiver of inadmissibility under section 212 of the Act, and other provisions cited in “Authority” in the response to Question 1, immediately above.

The waiver requirements depend on the ground of inadmissibility and the benefit an individual is seeking. For example, an individual who is inadmissible for fraud (INA 212(i)) must establish different eligibility criteria than one who is inadmissible for unlawful presence (INA 212(a)(9)(B)(v)). The information collected on Form I-601 enables USCIS to determine whether the applicant meets the legal requirements for each waiver required for the immigration benefit he or she is seeking.

USCIS will evaluate the information provided by the applicant together with the background check results obtained from the primary application for lawful permanent residence or TPS (upon which the I-601 application is based), and use the information to determine whether the individual meets the legal requirements for the waiver(s).

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 Form I-601 provides the most efficient means for collecting and processing the required data. Currently, information technology is not used in collecting and

processing information provided on Form I-601. This form can currently be completed electronically on the USCIS Web site at <http://www.uscis.gov/i-601>, but cannot be e-filed.

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 search of USCIS' automated forms tracking system was accomplished and revealed no duplication. There is no similar data collected.

The information is not duplicative of other data collections that are used to grant waivers of inadmissibility, such as Forms I-191, I-192, I-601A, I-602 or I-690. In the INA, Congress provided guidance outlining the types of waivers available for a given immigration benefit. Each category has its own set of requirements that must be met before a waiver of inadmissibility can be granted. To avoid confusion, USCIS continues to maintain the legacy INS waiver applications that are specific to the immigration benefit type that the individual is seeking.

In March 2013, USCIS implemented the Provisional Unlawful Presence Waiver program. This program reflects a procedural change to the processing of waivers for unlawful presence and presents an alternative to the waiver process offered through the Form I-601. However, by regulation, the provisional waiver process can only be used by certain immediate relatives seeking consular processing of their immigrant status. Additionally, the provisional unlawful presence waiver process codified at 8 CFR 212.7(e) stipulates various qualification requirements and restrictions that are different from the I-601 process. Therefore, the information collection of Form I-601A is tailored to the specific legal requirements of the I-601A process.

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.

If this information is not collected, USCIS would not be able to properly assess the alien's eligibility for the requested waiver.

The collection instrument submitted under this request is submitted on an "as needed"

basis in connection with an immigration benefit request. The information provided must be current, thus previously submitted data cannot be used. If the information is not collected, USCIS will not be able to fulfill its core mission of providing immigration benefit and information services while ensuring the integrity of the immigration system. USCIS would not be able to properly assess the alien's eligibility for waivers of grounds of inadmissibility to overcome an inadmissibility ground under section 212(a) of the Act and, as a result, the applicant's request will not be accurately adjudicated.

Under 8 U.S.C. Section 1367 the respondent who holds T nonimmigrant status or has an approved VAWA self-petition is informed that the information provided in the application package is confidential, and that it will only be used to determine eligibility and to enforce penalties for false statements. Further, the respondent is informed that the information will be released only as necessary to investigate the claim and to determine an applicant's eligibility for the requested 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.

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 4, 2014, USCIS published a 60-day notice in the *Federal Register* at 79 FR 45212. USCIS did receive comments after publishing that notice.

USCIS received two comments in response to the 60-day notice. Both comments were submitted by the same individual and expressed the same issues. The comments indicate that the author disagrees with the entire concept of providing waivers for qualified individuals. The comments further state that aliens who have not entered the U.S. legally should be removed to prevent further burden on the U.S. taxpayer.

The Form I-601, Application for Waiver of Grounds of Inadmissibility, allows individuals who are inadmissible to the U.S. for specific reasons, to be allowed to enter the U.S. or to adjust their status, based on their relationship to one or more family members in the United States and for reasons of undue hardship to the qualifying relative, if the waiver were not granted. The changes suggested in these two comments reflect the author's feelings about the existence of a waiver of inadmissibility and do not discuss any specific changes to the Form I-601. Therefore, USCIS will make no amendments to the I-601 based on these comments.

On December 30, 2014, USCIS published a 30-day notice in the *Federal Register* at 79 FR 78464. USCIS has not received comments in response to that notice to the date.

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

USCIS does not provide any payment for 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 records notices associated with this information collection are the United States Citizenship and Immigration Services Benefits Information System, which was published in the Federal Register on September 29, 2008 at 73 FR 56596. The privacy impact assessments associated with this information collection is USCIS Benefits Processing of Applicants other than Petitions for Naturalization, Refugee Status, and Asylum dated September 5, 2008.

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.

There are questions of a sensitive nature relating to an applicant's mental or physical condition. The Form I-601 is used to waive the medical grounds of inadmissibility under section 212(a) of the Act and other provisions (depending on the benefit type the applicant is seeking). It includes information concerning communicable diseases, drug abuse addiction, and mental disorders. Additionally, there are questions asked about an individual's criminal activity and personal information such as social security number. The information is used to facilitate the adjudication of the waiver by assisting with the verification of true identity, validating immigration history and conducting required security checks that ensure the correct adjudication of benefits. This information is necessary to determine whether the grounds of inadmissibility, as set by Congress in section 212(a) of the Act and other provisions, can be waived and the Form I-601 approved.

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
Primary: Individuals or Households	Application for Waiver of Grounds of Inadmissibility, Form I-601	20,625	1	1.75	36,094	\$31.26	\$1,128,291
Individuals or Households	Biometrics	100**	1	1.17	117	\$31.26	\$3,657.42
Total		20,625			36,211	TBD	\$1,131,948.42

* The above Average Hourly Wage Rate is the [May 2013 Bureau of Labor Statistics](#) average wage for “All Occupations” of \$22.33 times the wage rate benefit multiplier of 1.4 (to account for fringe benefits) equaling \$31.26. The selection of “All Occupations” (for example) was chosen as the expected respondents for this collection could be expected to be from any occupation.

**This estimated number of respondents is accounted for too under the estimated number of I-601 respondents. USCIS estimates that 100 individuals of the 20,625 it estimates might file a form I-601, might be fingerprinted.

USCIS has sought comments in conjunction with other information collection requests on how the burden of the following information collection requirements affects respondents.

USCIS will revise its burden estimates based on any public comments received, its own expert analysis, and informational resources.

1. *Affidavits. This information collection also provides that a motion must state new facts and must be supported by, among others, affidavits. An affidavit may require research and preparation by a third party as well as payment for the third party's effort.*

2. *Preparers/Attorneys. 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.*

3. *Records. Respondents might need to provide documentary evidence demonstrating eligibility at the time the underlying petition or application was filed. 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 capital, start-up, operational or maintenance cost associated with this collection of information. There is a fee cost to respondents of \$585 per I-601 submission. In addition, USCIS estimates that respondents will incur an estimated out of pocket cost of \$3.75 average postage cost associated with the submission of the completed package to USCIS.

Fee associated with submission (20,625 respondents x \$585) = \$12,065,625
(See response to Question 14.)

Postage to mail completed package (20,625 x \$3.75 average postage) = \$ 77,344

This information collection may impose some additional out-of-pocket costs on respondents in addition to the time burden for the form's preparation. Many respondents may incur expenses to obtain, medical, military, education, or religious records. For form preparation, legal services, translators, and document search and generation, USCIS estimates the average cost of this information collection may vary widely, from as little as \$20 to \$1000 per respondent. USCIS estimates that the average cost for these activities is \$490 and that an average of 75% of the total respondent population may incur this cost. The total cost to respondents would generate as follows: 20,625 respondents x 75% of the population = 15,469 multiplied by the average cost per response of \$490 = \$7,579,688.

The total estimated cost to respondents (postage and preparation) is \$7,657,032.

- 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:

Printing Cost	\$ 7,404
Collecting and Processing	\$ 12,066,721
Total Annual Cost to Government	\$ 12,074,125

Government Cost

USCIS establishes its fees using an activity-based costing model to assign costs to an adjudication based on its relative adjudication burden and use of USCIS resources. Fees are established at an amount that is necessary to recover these assigned costs, plus an amount to recover unassigned overhead (which includes the clerical, officer, and managerial time with benefits) and immigration benefits provided for free. As a consequence of USCIS immigration fees being based on resource expenditures related to the benefit in question, USCIS uses the fee associated with an information collection as a reasonable measure of the collection's costs to USCIS. USCIS has established the fee for Form I-601 at \$585 and \$85 associated with biometric services.

The estimated cost of the program to the Government is calculated by multiplying the estimated number of respondents 20,625 (x) \$585 the suggested fee charge (which includes the suggested average hourly rate for clerical, officer, and managerial time with benefits). In addition, this figure includes the estimated overhead cost of \$7,404 for printing, stocking, distributing and processing of this form. The government cost also includes the cost associated with collection of biometrics which is derived by multiplying the estimated number of respondents from whom USCIS collects biometrics in connection with this request, 100 (x) \$85 the suggested fee charge.

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 an increase in the burden hours associated with this collection of information. This increase, an additional 3,464 burden hours, is due to a higher figure of estimated number of respondents and an increase on the time burden associated with this collection due to recent changes USCIS is making to the form and its instructions to improve the overall content of the collection. USCIS previously reported 20,000 respondents, while it now reports an estimated 20,625 number of respondents. USCIS also previously estimated that it would take an applicant 1.55 hours to complete and file this request, while it now estimates it would take 1.75 hours. Furthermore, USCIS is also now reporting the burden associated with the collection of biometrics which is estimated at 1.17 hours per response.

USCIS is proposing changes to the information being collected. USCIS will be collecting the USCIS ELIS Account Number to verify whether the applicant has an existing USCIS ELIS account; an applicant's gender and alias names-to allow USCIS to conduct more accurate system searches and identity verification; the physical address and mobile telephone to assist in locating and communicating with applicants; the A-Number and Date of Birth for Qualifying Family members and other relatives in the U.S.-to accurately assess identity and establish the claimed relationship; as well as the inclusion of standardized contact information interpreters. Lastly, USCIS is inserting clarifying language to the instructions concerning Special Immigrant Juvenile applicants' concurrent filing of a request for a waiver for a ground of inadmissibility with an

application for adjustment of status.

Data collection Activity/ Instrument	Program Change (hours currently on OMB Inventory)	Program Change (New)	Difference
I-601	30,000	36,094	+6,094
Electronic Filing	0	117	+117 (newly estimated hour burden)
Total(s)	30,000	36,211	+ 6,211 (total change in number of respondents)

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.