

**SUPPORTING STATEMENT FOR
Application for Advance Permission to Enter as Nonimmigrant
[Pursuant to Section 212(d)(3)(A)(ii) of the INA]
OMB Control No.: 1615-0017
COLLECTION INSTRUMENT(S): Form I-192**

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 212(a) of the Immigration and Nationality Act (INA), defines certain classes of aliens who are ineligible to receive nonimmigrant visas and who are excluded from admission into the United States. Section 212(d)(3) of the INA and 8 CFR 212.4 allows the Secretary of Homeland Security to waive the applicability of section 212(a) for certain nonimmigrants and to admit the alien temporarily despite his or her inadmissibility. This form is provided by the U.S. Citizenship and Immigration Services (USCIS) as a means for certain inadmissible nonimmigrant aliens to apply for permission to enter the United States. This form is also used by U.S. Customs and Border Protection (CBP), to grant temporary permission to certain inadmissible nonimmigrants who wish to enter the United States through a port of entry pursuant to section 212(d)(3) of the INA and 8 CFR 212.4. USCIS also uses this form to address inadmissibility issues for T (Victims of Severe Forms of Trafficking in Persons) and U (Victims of Criminal Activity) petitioners. This is in accordance with 8 CFR 212.16, 8 CFR 212.17 and 8 CFR 214.14.

- 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 data collected will be used by CBP and USCIS to determine whether the applicant is eligible to enter the United States temporarily under the provisions of section 212(d)(3), 212(d)(13), and 212(d)(14) of the INA. The respondents for this information collection are certain inadmissible nonimmigrant aliens who wish to apply for permission to enter the United States and petitioners for T and U nonimmigrant 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.**

The use of Form I-192 provides the most efficient means for collecting and processing the required data. Form I-192 is available at <http://www.uscis.gov/i-192> and have partial Government Paperwork Elimination Act (GPEA) compliance as it can be accessed, completed and saved electronically. Currently, neither CBP nor USCIS has the automated capability in place to accept electronic submission of applications. USCIS is in the process of converting forms to be electronically accessed, completed and submitted by the respondent. At this time, there is no finalized timeframe for the form submissions to be converted to the electronic environment but USCIS will provide an update when the information becomes available.

- 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 collection of information is unique to USCIS and is not conducted elsewhere. A review of the USCIS's Forms Inventory Report revealed no duplication of effort, and there is no other similar information currently available which can be used for this purpose.

- 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 the information is not collected, under section 212(d)(3) of the INA, and additionally for T nonimmigrant applicants section 212(d)(13) and for U nonimmigrant petitioners section 212(d)(14), certain classes of aliens, who are ineligible to receive visas and to enter the United States, would remain ineligible with no opportunity for a waiver of inadmissibility.

- 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 December 18, 2014 USCIS published a 60-day notice in the Federal Register at 79

FR 75579. USCIS did receive comments after publishing that notice. One comment was general in nature and no changes were made to the form or instructions. The second comment resulted in some changes to the form and/or the instructions. Specifically: USCIS received one comment from the publication of the 60-day Federal Register Notice that had a number of issues raised. The commenter indicates that the Form I-192 does not specify how long the waiver will be good for. The “Terms of Authorization” include the “Validity” in regard to the exercise of discretion under the Immigration and Nationality Act (INA) 212(d)(3)(A)(ii) are defined in 8 USC 212.4(c). In order to clarify this, 8 USC 212.4(c)(1)(iii), the exact USC cite, will be proposed as an addition to the Form I-192 instructions, page 9, under “For How long is an Approved Form I-192 Valid?”. Additionally the suggestion to “clarify whether an I-212 is also required” has been addressed and a note placed on Page 5 of the Form I-192 Instructions will be recommended as an addition in the 30 day publication notice.

The commenter goes on to state that “it is also not apparent that waivers will be limited to specific nonimmigrant categories” however 8 USC 212.4(c)(iv) requires that “the purpose of each stay” be listed by the applicant, which determines the nonimmigrant classification as described in section 101(a)(15)(A) of the Act, and as such is listed on each approved decision and therefore should not be accepted. Several other comments were made that are not resulting in changes as the form and instructions and processing of the information are appropriate as currently implemented. For example, requesting a determination that a the applicant is not inadmissible as this is not the purpose of the form and any request for redress should be submitted to the Department of Homeland Security Traveler Redress Inquiry Program (DHSTRIP), information which can be accessed through www.cbp.gov which is listed on pages 7, 8 and 9 of the Form I-192 Instructions. Other issues included additional staffing be made available and posting of time frames for processing – these are activities that will continue as currently administered. Also, attorneys can send inquiries to attorneyinquiry.waiver.aro@dhs.gov or by sending in written correspondence to the address listed on the instructions, though email is preferred. Other comments did not result in changes as the Form I-192 concentrates on asking questions that assist the adjudicating agency to determine whether the individual is eligible to enter the United States in the nonimmigrant status despite of the inadmissibility and the requested changes would not conform to the purpose of the form.

On April 21, 2015, USCIS published a 30-day notice in the Federal Register at 80 FR 22217. USCIS did not receive comments.

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 record notice associated with this information collection is DHS/USCIS-007 - Benefits Information System (September 29, 2008 73 FR 56596) and DHS/USCIS/ICE/CBP-001 - Alien File, Index, and National File Tracking System of Records (June 13, 2011, 76 FR 34233). The privacy impact assessment associated with this information collection is DHS/USCIS/PIA-016 - Benefits Processing of Applicants other than Petitions for Naturalization, Refugee Status, and Asylum (CLAIMS 3).

- 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.**

This information collection contains questions that are of a sensitive nature. The respondents must provide information on why they are inadmissible and the grounds of inadmissibility that apply to them. If a ground of inadmissibility is not provided but USCIS or CBP discovers the inadmissibility, USCIS or CBP will request a Form I-192 describing the inadmissibility issue and may request further documentation pertaining to them (i.e. court records, immigration documents, etc.).

This information is necessary for USCIS or CBP officers to make a determination on whether the nonimmigrant or the T applicant or U petitioner is eligible for the immigration relief being sought.

- 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	Application for Advance Permission to Enter as Nonimmigrant [Pursuant to Section 212(d)(3)(A)(ii) of the INA] (Form I-192)	10,448	1	0.5 hours	5,224	\$31.26	\$163,302
Total		10,448			5,224		\$163,302

* The above Average Hourly Wage Rate is derived from the May 2013 Bureau of Labor Statistics Mean Hourly Wage for "All Occupations". The wage rate of \$31.26 is calculated from the base average wage rate of \$22.33 times the wage rate benefit multiplier of 1.4. The selection of "All Occupations" represents the possibility that respondents can be employed in any type of work; the collection is not targeting any specific category of employment.

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 or start-up costs associated with this information collection. There is a fee charge of \$585 associated with the collection of this information. However, under the TVPRA 2008, T nonimmigrant applicants and U nonimmigrant petitioners may request a fee waiver for the Form I-192 with USCIS. There is no estimated cost to the respondent for this collection of information.

- 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	\$	1,246
b.	Collection and Processing	\$	6,110,834
c.	Total Cost to the Government	\$	6,112,080

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-192 at \$585.

The total estimated cost of the program to USCIS is then is calculated by multiplying the estimated number of respondents (10,448) by the fee charge (\$585), which is \$6,112,080. This total includes the suggested average hourly rate for clerical, officer and supervisory time with benefits and the estimated overhead cost for printing, stocking, and distributing this form (\$ 1,246).

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 hour or cost burden associated with this collection. The changes to this collection of information are reflected in the table of changes for the form and instructions.

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.