

**SUPPORTING STATEMENT FOR
Application to Extend/Change Nonimmigrant Status
OMB Control No.: 1615-0003
COLLECTION INSTRUMENT(S): I-539**

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.**

Under Section 248 of the Immigration and Nationality Act (INA) (8 U.S.C. 1258), the Secretary of Homeland Security may, under such conditions as he or she may prescribe, authorize a change from any nonimmigrant classification to any other nonimmigrant classification in the case of any alien lawfully admitted to the United States as a nonimmigrant who is continuing to maintain that status. 8 CFR 214.1(c)(2) provides for the extension of nonimmigrant stay beyond the initial period of admission under the authority of Section 214 of the INA through the use of the Form I-539.

- 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 on Form I-539 will be used by U.S. Citizenship and Immigration Services (USCIS) to determine if a non-immigrant alien of the appropriate status who seeks to extend his or her stay beyond the currently authorized period of admission meets the criteria necessary to grant an extension or change in 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.**

Form I-539 is currently available as an electronic form that can be accessed and completed online and then printed and mailed to USCIS. Form I-539 is also available through the ELIS system that can be accessed through USCIS's website; the respondent can complete and submit their answers online, but currently they are required to still mail any supporting documentation.

The URL for ELIS:

This form can be electronically filed at url:

<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=b1659e415d116310VgnVCM100000082ca60aRCRD&vgnnextchannel=b1659e415d116310VgnVCM100000082ca60aRCRD>.

The paper version of the Form I-539 is available electronically at:

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=94d12c1a6855d010VgnVCM10000048f3d6a1RCRD&vgnnextchannel=db029c7755cb9010VgnVCM10000045f3d6a1RCRD>.

- 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.**

The information collected on Form I-539 is specific to the benefit sought and is not collected by any other method. Form I-539 is mandated for this purpose by 8 CFR 241.1(c)(2).

- 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.**

Without this information collection there would be no venue by which certain classes of nonimmigrants could apply for and receive an extension of stay or other nonimmigrant classification. If the information is not collected, USCIS will not be able to comply with Section 248 of the Act which provides for certain nonimmigrants to extend or change their status if they meet certain conditions.

- 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.**

On May 4, 2016, USCIS published a Notice of Proposed Rulemaking at 81 FR 26904. USCIS did receive comments after publishing that notice and the responses are contained in the final rule. On October 24, 2016, USCIS published a Final Rule in the Federal Register at 81 FR 73292.

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 in exchange for a benefit sought by the respondents.

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 United States Citizenship and Immigration Services Benefits Information System published in the Federal Register on September 29, 2008 at 73 FR 56596. The associated privacy impact assessment is USCIS Benefits Processing of applications other than petitions for naturalization, refugee status, and asylum. The information is also covered in the associated published system of record notices [DHS-USCIS-015 - Electronic Information System-2 Account and Case Management System of Records, and is also covered by the Privacy Impact Assessment DHS/USCIS/PIA-042 Electronic Immigration System (ELIS-2) Account and Case Management.

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.

In order to examine individuals' eligibility to extend/change nonimmigrant status it is necessary that USCIS ask questions and obtain evidence that is considered sensitive. This information is required in order for USCIS to appropriately adjudicate the application to extend or change nonimmigrant status under Sections 248 of the INA.

USCIS asks questions of a sensitive nature regarding past behavior and activities. These questions are necessary to determine eligibility of the applicant to extend or change nonimmigrant status as required by law. Sensitive questions are asked to determine: whether an individual might be inadmissible under INA 212 (a)(3) (A)-(F) – Security Grounds for Unlawful Activity, Control or Overthrow of the U.S. Government, Terrorist grounds, Adverse Foreign Policy Consequence, Communist or Totalitarian Affiliation; whether an individual might be inadmissible under INA 212 (a)(2)(A)(i)(I) – Conviction or Commission of a Crime Involving Moral Turpitude (CIMT) or INA 212(a)(2)(A)(i) (II), (B), or (C) – Controlled Substance Violations, Multiple Criminal Convictions, or Controlled Substance Traffickers, or; whether an individual might be inadmissible under INA 212 (a)(2)(D)(i) and (ii) – coming to the United States solely, principally, or incidentally to engage in prostitution, or an unlawful commercialized vice.

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 to Extend/Change Nonimmigrant Status / I-539 (paper filers)	117,907	1	1.88	221,665	\$30.44	\$6,747,487
Individuals or households	Supplement A to Form I-539 (Filing Instructions for V Nonimmigrant status) – (USCIS ELIS and paper filers)	1,216	1	.50 (30 mins)	608	\$30.44	18,507
Individuals	Application to	16,385	1	1.75	28,673	\$30.44	\$872,828

or households	Extend/Change Nonimmigrant Status / I-539 (Programmatic portion completed by USCIS ELIS Filers)			(1 hr. 45 mins.)			
Individuals of households	Biometric Processing	134,292	1	1.17 (1 hr. 10 mins.)	157,122	\$30.44	\$4,820,071
Total		134,292			408,068		12,421,604

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 occupation “All Occupations” has been chosen as there is no single occupation of worker targeted by this collection of information; a respondent can be of any occupation.

NOTES ON BURDEN:

The above estimated burden per response for the paper version of Form I-539 includes the time necessary to read all instructions for the form, gather all documents required to complete the collection of information, obtain translated documents if necessary, obtain the services of a preparer if necessary, and complete the form.

The above estimated burden per response for the USCIS ELIS electronic version of Form I-539 includes the time necessary to read all instructions for the form, gather all documents required to complete the collection of information, obtain translated documents if necessary, obtain the services of a preparer if necessary, and complete, in the electronic version of the form, only those questions related to the program functionality of the information collection and not the biographical questions such as name, address, etc. The burden per response for the biographical questions answered via the USCIS ELIS electronic submission process is reported in OMB Control Number 1615-0122.

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 \$370 associated with the filing of this information collection and a biometrics fee of \$85 for certain V-Immigrant and certain CNMI filers.

In addition to the time burden for the form's preparation an estimated 35% of respondents may incur expenses for third party assistance to prepare the responses, legal services, translators, and document search and generation. USCIS estimates that the average cost for these activities is \$490 and that an average of 35% of the total respondent population may incur this cost. The total cost to respondents would generate as follows: 134,242 respondents x 35% of the population = 46,985 multiplied by the average cost per response of \$490 = \$23,022,650. This averages to \$171.50 per respondent (\$23,022,650/134,242).

- 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**

There has been no change to the total burden hours previously reported for this information collection.

Data collection Activity/Instrument	Program Change (cost currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (cost currently on OMB Inventory)	Adjustment (New)	Difference
I-539				\$50,379,863	\$61,102,860	\$10,722,997
Total(s)				\$50,379,863	\$61,102,860	\$10,722,997

There has been no change in the out of pocket cost; there has been an increase the filing fee from \$290 to \$370.

- 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.