

SUPPORTING STATEMENT
Immigrant Petition for Alien Workers
(Form I-140)
OMB No. 1615-0015

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.**

This form is used to petition to classify an alien under sections 203(b)(1), 203(b)(2) or 203(b)(3) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1153(b)(1), (b)(2), and (b)(3). *See* INA §§ 204(a)(1)(E)-(F) (8 U.S.C. 1154(a)(1)(E)-(F)); 8 C.F.R. § 204.5(a). A U.S. employer may file this petition to employ: (1) an outstanding professor or researcher who is recognized internationally as outstanding in the academic field; (2) a multinational executive or manager employed for at least 1 year by a firm, corporation, or other legal entity who seeks to enter the United States to continue to render services to the same employer or to a subsidiary or affiliate thereof in a managerial or executive capacity; (3) a member of the professions holding an advanced degree or its equivalent or a person who, because of his or her exceptional ability in the sciences, arts, or businesses, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States; (4) a skilled worker to perform labor, not of a temporary or seasonal nature, for which qualified United States workers are not available; (5) a member of the professions with a baccalaureate degree; or (6) a worker to perform unskilled labor, not of a temporary or seasonal nature, for which qualified United States workers are not available. In addition, any employer, person, or third party may file this petition: for an alien of extraordinary ability in the sciences, arts, education, business, or athletics which is demonstrated by sustained national or international acclaim; or to obtain a national interest waiver for an alien who is a member of the professions holding an advanced degree or who is an alien with exceptional ability in the sciences, arts, or business.

- 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 on this form is used by U.S. Citizenship and Immigration Services (USCIS) to determine eligibility for the requested immigration benefit. The form serves the purpose of standardizing requests for the benefit, and ensuring that basic information required to determine eligibility is provided by petitioners.

- 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-140 is available online at <http://www.uscis.gov/i-140> to access, complete, save and print. The form currently is not able to be filed electronically but USCIS is currently working to establish a new electronic filing platform. Form I-140 is currently not scheduled for conversion to this method, and future updates will be provided when 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 USCIS Forms Inventory Report revealed no duplication of effort, and there is no other similar information currently available nor is the information accessible from other databases 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 83-1), describe any methods used to minimize burden.**

This information collection impacts small businesses or other small entities. USCIS estimates that approximately 53 percent would be considered small entities. USCIS has minimized the amount of information collected from small entities by only requesting the information necessary to determine eligibility for the benefit requested. USCIS has also provided for electronic submission of the information as indicated in Question 3 above.

- 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.**

The law requires that for a person to be classified as an immigrant under section 203(b)(1), 203(b)(2), or 203(b)(3) of the INA, he or she, or an employer or third party must file a petition using this information collection. See INA §§ 204(a)(1)(E)-(F) (8 U.S.C. 1154(a)(1)(E)-(F)); 8 C.F.R. § 204.5(a). This information collection requests information necessary for determining eligibility. Without this information collection, the public will not have a means to request this immigration benefit, which is one of the initial steps necessary for an individual to acquire an employment-based lawful permanent resident status.

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 C.F.R. § 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 31, 2015, USCIS published a proposed rule entitled, “**Retention of EB-1, EB-2, and EB-3 Immigrant Workers and Program Improvements Affecting Highly-Skilled H-1B Alien Workers**” (80 FR 81899) and allowing for a 60-day public comment period for this information collection. USCIS addressed comments in the final rule which published on November 18, 2016 (81 FR 82398).

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.

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 USCIS Benefits Information System (DHS/USCIS-007) which was published in the Federal Register on September 29, 2008 at 73 FR 56596 and the DHS/USCIS-001 – Alien File, Index, and National File Tracking System of Records, November 21, 2013 (78 FR 69864). The privacy impact assessment associated with this information collection is USCIS Benefits Processing of Applicants other than Petitions for Naturalization, Refugee Status, and Asylum (CLAIMS 3, DHS/USCIS/PIA-016 of 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 person’s form whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature.

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
Businesses or other for-profit; Not-for-profit organizations	Immigrant Petition for Alien Worker (Form I-140)	213,164	1	1.08	230,217	\$32.52	\$7,486,657
Total		213,164			230,217		\$7,486,657

* The above Average Hourly Wage Rate is the [May 2015 Bureau of Labor Statistics](#) average wage for “All Occupations” of \$23.23 times the wage rate benefit multiplier of 1.4 (to account for benefits provided) equaling \$32.52. “The selection of “All Occupations” was chosen as the expected respondents for this collection could be expected to be from any occupation.”

The current estimated number of respondents for the I-140 is 77,149, it is estimated that AC21 respondents will add an additional 136,015 number of respondents.

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).

There are no capital or start-up costs associated with this information collection. Any cost burdens to respondents as a result of this collection are identified in item 14. There is a \$580 fee charge for this information collection.

This information collection may impose some out-of-pocket costs on respondents in addition to the time burden for the form’s preparation. Many respondents may incur expenses to obtain tax, financial, or business records, and/or other evidentiary documentation depending on the specific employment-based immigrant visa classification requested on the form. 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 85% of the total respondent population may incur this cost. The total estimated cost to respondents would be calculated as follows: 213,164 respondents x 85% of the population x the average cost per response of \$490 = \$ 88,782,806.

- 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	\$	7,500
b. Collection and Processing Cost	\$	123,635,120
c. Total Annual Cost to the Government	\$	123,642,620

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-140 at \$580.

The total estimated cost of the program to USCIS (\$123,635,120) is calculated by multiplying the estimated number of respondents (213,164) by the fee charge (\$580). This total includes the suggested average hourly rate for clerical, officer and supervisory time with benefits, and the overhead cost for printing, stocking, and distributing and processing of this form (\$7,500) and collection and processing cost of this form (\$123,642,620).

15. Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.

Data collection Activity/Instrument	Program Change (hours currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (hours currently on OMB Inventory)	Adjustment (New)	Difference
Form I-140				83,321	230,217	146,896
Total(s)				83,321	230,217	146,896

The increase annual burden is a result of an increase in respondents.

Under the proposed rule referenced in item #8, DHS is proposing to revise the Form I-140 instructions to remove ambiguity regarding whether information about the principal beneficiary’s dependent family members should be entered on Form I-140, by revising the word “requests” to “requires” for clarification. Ensuring that the dependent family members’ information is entered in the applicable section of Form I-140 is needed to validate familial relationships claimed in requests for employment authorization for the principals and family members of approved Form I-140 petitions that have been approved for one year or more. This clarification will reduce the potential for delays in the adjudication of these benefits and other future benefit requests.

USCIS is also revising the instructions to remove the terms “in duplicate” in the second paragraph under the labor certification section of the instructions because USCIS no longer requires uncertified ETAs to be submitted in duplicate.

There is no change in the data being captured on the information collection instrument, and there is no change to the estimated annual burden hours as a result of this revision.

Data collection Activity/Instrument	Program Change (cost currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (cost currently on OMB Inventory)	Adjustment (New)	Difference
Form I-140				\$32,132,559	\$123,642,620	+\$91,510,061
Total(s)				\$32,132,559	\$123,642,620	+\$91,510,061

The increase in the public cost estimate is a result of an increase in the 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.**

USCIS does not intend to employ the use of statistics or the publication thereof for this collection of information.

- 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 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. Collection of Information Employing Statistical Methods.** Not Applicable.