

**SUPPORTING STATEMENT FOR  
APPLICATION FOR EMPLOYMENT AUTHORIZATION  
OMB Control No.: 1615-0040  
COLLECTION INSTRUMENT(S): FORM I-765**

**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.**

An alien who seeks to be employed in the United States must apply to U.S. Citizenship and Immigration Services (USCIS) for a document evidencing such employment authorization. Aliens authorized to work in the United States must file an Application for Employment Authorization, Form I-765, to request an Employment Authorization Document (EAD), under 8 CFR 274a.13. Employers are required to verify a person's identity and authorization to work in the United States, and the employee is required to provide evidence of his or her authorization to work in the United States. *See* 8 U.S.C. 1324a(a)(1)(B); 8 CFR 274a.2(b)(1). This evidence, the EAD (Form I-766), establishes identity and employment authorization.

Any individual 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 and store for present or future use, by electronic or other means, the biometric information submitted by an individual. 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. *See* 8 CFR 103.16; 8 U.S.C. 1103.

DHS is proposing amendments to its regulations at 8 CFR part 212 to establish a process for paroling foreign entrepreneurs into the United States based on case-by-case discretionary determinations of whether their entrepreneurial activities in the United States will provide the United States with a significant public benefit. Parole under this proposed rule would allow these individuals to temporarily enter the United States to pursue development of start-up businesses in the United States with employment authorization incident to their parole.

In addition, on July 17, 2017, DHS will implement amendments to its regulations at 8 CFR part 212 to establish a process for paroling foreign entrepreneurs into the United States based on case-by-case discretionary determinations of whether their entrepreneurial activities in the United States will provide the United States with a

significant public benefit (82 FR 5238; January 17, 2017). Parole under this regulation allows these individuals to temporarily enter the United States to pursue development of start-up businesses in the United States with employment authorization incident to their parole.

Finally, DHS is amending the Form I-765 to implement the USCIS, the Department of State (DoS), and the Social Security Administration (SSA) Memorandum of Understanding (MOU) currently in place, which covers the process in which USCIS issues Social Security number (SSN) cards in an automated manner (i.e., individual does not have to visit a Social Security office) to immigrants through a process called Enumeration at Entry (EAE). EAE is a joint effort between DoS, USCIS, and SSA. As part of the DoS immigrant visa application process, immigrants outside the U.S. have the option to apply for an SSN card at the same time they apply for an immigrant visa. Once DoS approves their visa application and DHS admits them into the U.S. for permanent residence, SSA automatically issues the SSN card. USCIS will electronically transmit to SSA enumeration data for resident aliens with employment authorization who request a SSN or replacement Social Security card. This process will allow USCIS benefit seekers to request a SSN or SSN replacement card as part of the USCIS benefit process. This MOU applies only to resident aliens with employment authorization.

The MOU complies with the “One DHS” policy for sharing data internally among different departments of the Department of Homeland Security (DHS). The functions formerly performed by Immigration and Naturalization Service (INS) are presently performed by USCIS, Customs and Border Protection (CBP), and Immigration and Customs Enforcement (ICE).

With this non-material change request, USCIS will transfer burden from SSA’s OMB 0960-0066 (Form SS-5) for the 400,000 qualified respondents seeking SSA enumeration with Form I-765.

*See* Section 205(c)(2)(B)(i) and (iii) of the Social Security Act [42 U.S.C. §405(c)(2)(B)(i) and (iii)]; Section 209(b) of the Immigration and Nationality Act [8 U.S.C. §1360(b)]; Economy Act, 31 U.S.C. §1535; Privacy Act, 5 U.S.C. §552a; and 20 CFR §§ 422.103-422.110.

**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.**

U.S. Citizenship and Immigration Services (USCIS) uses Form I-765 to collect the information that is necessary to determine if an alien is eligible for an initial EAD, a new EAD, or an interim EAD. Aliens in many immigration statuses are required to possess an EAD as evidence of work authorization. To be authorized for employment, an alien must

be lawfully admitted for permanent residence or authorized to be so employed by the Immigration and Nationality Act (INA) or under regulations issued by DHS. Pursuant to statutory or regulatory authorization, certain classes of aliens are authorized to be employed in the United States without restrictions as to location or type of employment as a condition of their admission or subsequent change to one of the indicated classes. USCIS may determine the validity period assigned to any document issued evidencing an alien's authorization to work in the United States. These classes are listed in 8 CFR 274a.12.

USCIS also collects biometric information from certain EAD applicants, from whom USCIS has not previously collected biometrics in connection with an underlying application or petition, to verify the applicant's identity, check or update their background information, and produce the EAD card.

USCIS is submitting this request because USCIS will collect the information needed for the enumeration initiative using the Form I-765, *Application for Employment Authorization*. USCIS will electronically transmit the enumeration data of resident aliens with employment authorization who request an SSN or SSN replacement card to SSA. This interface is under development and expected to be implemented July 2017 via the Enterprise Services Bus (ESB).

USCIS will obtain the resident alien's consent for the transmission of his or her enumeration data to SSA via responses completed by the resident alien on the Form I-765 and subsequently transmit the secured data to SSA. SSA will use the enumeration data obtained by USCIS and transmitted to SSA to either assign an SSN and issue an SSN card or issue an SSN replacement card.

- 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 majority of EAD applicants may submit Form I-765 electronically. USCIS may elect to limit who can file EAD applications electronically at its discretion; and currently does not allow electronic filing for certain applicants.

Forms I-765 and I-765WS reside on the USCIS Web site at [www.uscis.gov/i-765/](http://www.uscis.gov/i-765/). Both the Form I-765 and the Form I-765 Worksheet can be completed and printed electronically.

- 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.**

USCIS programs impose no duplication of efforts because no other instrument, form or program can be used to determine employment authorization. USCIS requires applicants under this control number to provide passport-style photographs and also appear at a USCIS Application Support Center (ASC) to provide an electronic photograph and fingerprints. As USCIS improves its methods and tools for collection of biometrics, it is considering eliminating the requirement for passport-style photographs. USCIS will seek public comment on this requirement at the appropriate time.

USCIS has also investigated the information that may be obtained from other Federal programs and agencies and has determined that the information necessary to determine if the alien is eligible to work in the United States is not available through other Federal sources.

- 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, USCIS will not be able to fulfill its core mission of providing effective immigration and information services while ensuring the integrity of the immigration system. The adjudicating officer will not be able to determine whether the applicant is eligible for employment authorization. In addition, if the information is not collected, USCIS will have no basis for issuing a secure identity and employment authorization document to applicants who request EADs. The information provided on this form is not available by any other means. These forms collect data that makes the adjudication of a request for an EAD possible. EADs provide recipients with secure identification documents, acceptable evidence of employment authorization, and facilitate an employer's verification of identity and employment authorization.

- 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.**

There are no special circumstances applicable to this information collection. 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 **XXXX XX, 20XX** USCIS published a 60-day notice in the Federal Register at **XX FR XXXXX**. USCIS **did/did not** receive comments after publishing that notice.

On **XXXXX XX, 20XX**, USCIS published a 30-day notice in the Federal Register at **XX FR XXXXX**. USCIS **did/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 payments or gifts to respondents related to this information collection.

**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 DHS System of Record Notices associated with this information collection are:

- Privacy Act of 1974.
- DHS/USCIS-010 – Asylum Information and Pre-Screening January 5, 2010 (75 FR 409).
- DHS-USCIS-007 - Benefits Information System September, 29, 2008 (73 FR 56596).
- DHS/USCIS-001 - Alien File, Index, and National File Tracking System of Records, November 21, 2013, (78 FR 69864).

The DHS Privacy Impact Assessments associated with this information collection are:

- DHS/USCIS/PIA-016 USCIS Benefits Processing of Applicants other than Petitions for Naturalization, Refugee Status, and Asylum (CLAIMS 3) September 5, 2008.
- DHS/USCIS/PIA-027 Refugees, Asylum, and Parole System and the Asylum Pre-Screening System, June 30, 2011.

Applicants are informed that USCIS may provide this information to other government agencies and failure to provide this information, and any requested evidence, may delay a final decision or result in denial of their request.

The SSA System of Record Notices associated with this information collection are:

- Master Files of SSN Holders and SSN Applications (referred to as the “Enumeration System”), 60-058, 75 FR 82121, December 29, 2010, as amended 78 FR 40542 (July 5, 2013) and 79 FR 8780 (February 13, 2014).

- 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 from whom the information is requested, and any steps to be taken to obtain their consent.**

There are no questions of a sensitive nature in this collection.

- 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 Projected Respondents	Responses per Respondent	# of Responses	Avg. Burden per Response (in hours)	Total Annual Burden (in hours)	Avg. Hourly Wage Rate *	Total Annual Respondent Cost
Individuals or Households	Application for Employment Authorization, Form I-765	2,139,523**	1	1	3.42 hours***	7,317,169	\$32.52	\$237,954,336
Individuals or Households	SSA Enumeration	400,000****	1	1	0.0833 hours (5 minutes)~	33,320	\$32.52	\$1,083,566
Individuals or Households	Biometric processing	405,067~	1	1	1.17 hours ~~~	473,928	\$32.52	\$15,412,139
Individuals or Households	Form I-765WS, 765.	250,000†	1	1	.50 hours	125,000	\$32.52	\$4,065,000
Individuals or Households	Passport-Style Photographs	2,139,523††	1	1	.50 hours	1,069,762	\$32.52	\$34,788,660
<b>Total</b>		<b>2,139,523</b>				<b>9,019,179</b>		<b>\$293,303,701</b>

\* The above Average Hourly Wage Rate is derived from the [May 2015 Bureau of Labor Statistics](#) Mean Hourly Wage for “All Occupations”. The wage rate of \$32.52 is calculated from the base average wage rate of \$23.23 time the wage rate benefit multiplier of 1.4. The selection of “All Occupations” represents the possibility that a respondent can be employed in any type of work; the collection is not targeting any specific category of employment.

\*\* The estimated number of respondents for the form I-765, 2,139,523 includes 2,940 estimated new respondents USCIS anticipates would be requesting EADs under the provisions the final rule, “International Entrepreneurs Rule,” RIN 1615-AC04 (82 FR 5238; January 17, 2017).



\*\*\* USCIS has estimated the average time required to complete an EAD application as 3.42 hours (3 hours and 25 minutes). This time includes researching the regulations and requirements for an EAD, reading the form instructions, completing and signing the form, and submitting the form and any associated evidence required.

\*\*\*\* USCIS estimates that 400,000 applicants of the total estimated number of applicants for the form I-765 will seek a new Social Security Number or a replacement Social Security Card.

~ USCIS estimates that completing the SSA enumeration questions of the I-765 is 5 minutes – this estimate includes referencing the instructions to complete the SSA enumeration questions.

~~ Not all Form I-765 respondents must provide biometrics at each submission. Only DACA requestors are required to submit to this collection of information.

~~~ USCIS has estimated the average burden for biometrics to be approximately 1.17 hours (1 hour and 10 minutes) based upon the time it takes to fingerprint and photograph the applicant and visit the ASC.

† All Deferred Action for Childhood Arrivals (DACA requestors) in addition to individuals whose cases are deferred and who are not childhood arrivals will complete form I-765WS.

†† All applicants are currently required to provide passport-style photographs. USCIS estimates that obtaining these photographs takes approximately .50 hours (30 minutes).

**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 a \$410 fee associated with the request submitted under this information collection, as well as an \$85 biometrics services fee (applicable only to DACA requestors). See response to Question 14 below for more information.

In addition, USCIS estimates that respondents must pay \$10 fee to obtain the required passport-style photographs (Total estimated cost: 2,139,523 Respondents x \$10/per photograph fee = \$21,395,230).

In addition, this information collection may impose some out-of-pocket costs on respondents in addition to the time burden for the form's preparation. Many I-765 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 that the average cost for these activities is \$490 and that an average of 60% of the total respondent population may incur this cost. The total cost to respondents would generate as follows: 2,139,523 respondents x 60% of the population multiplied by the average cost per response of \$490 = \$629,019,762

The estimated total cost to I-765 respondents: \$21,395,230 + \$629,019,762 = **\$650,414,992**. The estimated cost per respondent is \$304.

- 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. Collection and Processing Cost: \$877,204,430
- b. Biometrics Cost: \$34,430,695
- c. **Total Cost to Government (funded by USCIS user fee collections):  
\$911,635,125**

**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 printing costs) 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-765 at \$410, and the fee for biometric processing at \$85.

The cost to the government is calculated by multiplying the \$410 fee times the total number of respondents (2,139,523) equaling \$877,204,430 plus the \$85 fee times the total number of respondents (405,067) equaling \$34,430,695 for a total of **\$911,635,125**.

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

| <b>Data collection Activity/Instrument</b> | <b>Program Change (hours currently on OMB Inventory)</b> | <b>Program Change (New)</b> | <b>Difference</b> | <b>Adjustment (hours currently on OMB Inventory)</b> | <b>Adjustment (New)</b> | <b>Difference</b> |
|--------------------------------------------|----------------------------------------------------------|-----------------------------|-------------------|------------------------------------------------------|-------------------------|-------------------|
| I-765                                      |                                                          |                             |                   | 7,317,169                                            | 0                       | 0                 |
| SSA Enumeration                            |                                                          |                             |                   | 0                                                    | +33,320                 | +33,320           |
| Biometrics                                 |                                                          |                             |                   | 473,928                                              | 0                       | 0                 |
| Worksheet                                  |                                                          |                             |                   | 125,000                                              | 0                       | 0                 |
| Passport-style Photos                      |                                                          |                             |                   | 1,069,762                                            | 0                       | 0                 |
| <b>Total(s)</b>                            |                                                          |                             |                   | <b>8,985,859</b>                                     | <b>9,019,179</b>        | <b>+33,320</b>    |

The current hour inventory approved for this form is 8,985,859 hours, and the requested new total hour burden is 9,019,179, which is an increase of 33,320 annual burden hours.

As discussed in the response provided under question 2, USCIS is facilitating social security enumeration for qualified respondents of the Form I-765 using the Form I-765. This benefit is permitted through a Memorandum of Understanding with the Department of State, USCIS, and the Social Security Administration.

USCIS is implementing a non-material change both Form I-765 and the instructions to permit qualified I-765 respondents (an estimated 400,000 of the total number of Form I-765 respondents) to request a SSN or replacement SSN card through the use of Form I-765. The estimated 400,000 respondents seeking SSA enumeration are estimated to spend an additional 5 minutes reading the instructions and responding to the six SSA enumeration questions on the form, which is an 33,320-hour increase in annual burden hours to this collection. USCIS is transferring the associated annual burden hours from the SSA’s OMB 0960-0066 (Form SS-5) for the 400,000 qualified respondents seeking benefits associated with Form I-765.

| 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-765                               |                                                  |                      |            | \$629,019,762                                | 0                | 0          |
| SSA Enumeration                     |                                                  |                      |            | 0                                            | 0                | 0          |
| Biometrics                          |                                                  |                      |            | 0                                            | 0                | 0          |
| Worksheet                           |                                                  |                      |            | 0                                            | 0                | 0          |
| Passport-style Photos               |                                                  |                      |            | \$21,395,230                                 | 0                | 0          |
| <b>Total(s)</b>                     |                                                  |                      |            | <b>\$650,414,992</b>                         | <b>0</b>         | <b>0</b>   |

There is no change in the estimated cost burden to the respondents based on the change in the total number of respondents for this collection of information.

- 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 on this form in accordance with OMB's regulations.

- 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.