

SUPPORTING STATEMENT FOR
Application for Relief under Former Section 212(c) of the Immigration and Nationality Act
OMB Control No.: 1615-0016
COLLECTION INSTRUMENT(S): I-191

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.**

Before November 29, 1990, former section 212(c) of the Immigration and Nationality Act (INA) provided:

Aliens lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of deportation, and who are returning to a lawful unrelinquished domicile of seven consecutive years, may be admitted in the discretion of the Attorney General without regard to the provisions of paragraphs (1)-(25), (30), and (31) of subsection (a) of this section. Nothing contained in this subsection shall limit the authority of the Attorney General to exercise the discretion vested in him under section 1181(b) of this title.

Through a series of amendments, Congress narrowed the availability of this relief, and then, effective April 1, 1997, repealed it entirely.

However, in 2001, the U.S. Supreme Court decided in *INS v. St. Cyr*, 533 U.S. 289 (2001) that the repeal does not apply to lawful permanent residents (LPR) who pled guilty to a crime before April 1, 1997. In *Matter of Abdelghany*, 26 I&N Dec. 254 (BIA 2014), the Board of Immigration Appeals held that relief under former INA section 212(c) is also available to an otherwise eligible LPR, even if they were convicted after a trial before April 1, 1997. Therefore, relief under former section 212(c) remains available to certain aliens under these decisions.

An individual seeking relief under former section 212(c) files Form I-191 to apply for the relief. The individual files with U. S. Citizenship and Immigration Services (USCIS) if the individual is not in removal proceedings, or with the Department of Justice, Executive Office for Immigration Review (EOIR) if the individual is in removal proceedings. USCIS and EOIR use the information from the Form I-191 to decide whether to grant or deny relief under former section 212(c).

This form was previously titled “Application for Advance Permission to Return to

Unrelinquished Domicile.” The title was changed to “Application for Relief under Former Section 212(c) of the Immigration and Nationality Act.” This title is a better “plain language” description of the use of the form under *St. Cyr* and *Matter of Abdelghany*.

- 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.**

USCIS and EOIR use the information on the form to properly assess and determine whether the applicant is eligible for a waiver under former section 212(c) of INA.

- 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-191 is currently available on the USCIS Forms website at <http://www.uscis.gov/i-191>. This information collection is partially Government Paperwork Elimination Act (GPEA) compliant: it can be accessed, completed, and saved electronically but must be submitted to USCIS via postal mail.

- 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 uses the information collected on Form I-191 to grant or deny a request by a lawful permanent resident for relief under former section 212(c). This information is not collected in any other form, and is therefore not duplicated elsewhere.

- 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 relief under former section 212(c).

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 May 14, 2018 USCIS published a 60-day notice in the Federal Register at 83 FR 22286. USCIS did receive one comment after publishing that notice. The commenter expressed an opinion about immigration law and policy generally, but did not provide any comments specifically about the information collection. USCIS is not making any changes as a result of the comment.

On August 31, 2018, USCIS published a 30-day notice in the Federal Register at 83 FR 44643. USCIS received one comment. The commenter expressed an opinion about immigration matters generally, but did not provide any suggestions regarding the form or instructions. USCIS is not making any changes to this information collection as a result of the comment.

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

USCIS does not provide any payments or gifts to respondents in exchange 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 privacy impact assessment associated with this information collection is:

- DHS/USCIS/PIA-016(a) Computer Linked Application Information Management System (CLAIMS 3) and Associated Systems.

The associated system of records notices are:

- DHS/USCIS/ICE/CBP-001 – Alien File, Index, and National File Tracking System of Records, November 21, 2013, 78 FR 69864, and
- DHS/USCIS-007 - Benefits Information System, September 29, 2008, 73 FR 56596

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 form asks questions about the applicant’s criminal history, which is considered sensitive personally identifiable information when presented with the applicant’s name or other identifying information. The criminal history questions are necessary because statutory eligibility for former section 212(c) relief depends on the nature of the applicant’s criminal history - applicants with certain convictions are statutorily ineligible for relief under former section 212(c). Section 212(c) relief is discretionary in nature, and therefore, even if an applicant is statutorily eligible for relief, USCIS may still deny relief as a matter of discretion depending on the nature/severity of the criminal history and balancing that with other factors. Therefore, collecting criminal history information is necessary for adjudicating this application as a matter of law and discretion.

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.**

		A	B	C (=AxB)	D	E (=CxD)	F	(=ExF)
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Type of Respondent	Form Name / Form Number	#. of Respondents	#. of 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 Relief under Former Section 212(c) of the Immigration and Nationality Act (Form I-191)	240	1	240	1.5	360	\$34.84	\$12,542
Total		240	1	240	1.5	360	\$34.84	\$12,542

* The above Average Hourly Wage Rate is the May 2016 Bureau of Labor Statistics average wage for All Occupations of \$23.86 times the wage rate benefit multiplier of 1.46 (to account for benefits provided) equaling \$34.84. The selection of "All Occupations" was chosen as the expected respondents for this collection could be expected to be from any occupation.

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 start-up, maintenance, and operating costs associated with this collection of information. For informational purposes, there is a \$930 fee associated with the filing of 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.

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 approximately 25% of the total respondent population may incur this cost. The total cost to respondents would generate as follows: 240 respondents x 25% of the population = 60, multiplied by the average cost per response of \$490 = \$29,400.

In addition, USCIS estimates that respondents will incur an estimated cost of \$3.75 average postage cost to each respondent to submit the completed package to USCIS. Postage to mail completed package (240 x \$3.75 average postage) = \$900.

The estimated total cost to respondents is \$29,400 plus \$900, which equals **\$30,300**. The estimated cost per respondent is \$30,300 divided by 240, which equals **\$126.25**.

- 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.**

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-191 at \$930. The cost to the government is calculated by multiplying the \$930 fee times the total number of respondents (240), which equals \$223,200.

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
I-191				900	360	(540)
Total(s)				900	360	(540)

The estimated hour burden for this collection of information has decreased as a result of the decrease in the estimated number of respondents from 600 to 240. There are no changes to the form; the Privacy Notice in the instructions was updated.

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-191				\$75,750	\$30,300	(\$45,450)
Total(s)				\$75,750	\$30,300	(\$45,450)

The estimated cost burden for this collection of information has decreased as a result of the decrease in the estimated number of respondents 600 to 240. There are no changes to the form; the Privacy Notice in the instructions was updated.

- 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.