

**SUPPORTING STATEMENT FOR
Public Charge Bond
OMB Control No.: 1615-NEW
COLLECTION INSTRUMENT(S): I-945**

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 213 of the Immigration and Nationality Act (INA), an alien who is inadmissible under section 212(a)(4) may be admitted in the discretion of DHS upon the giving of a suitable and proper bond¹.

Public charge bonds are a unique form of bond, intended to hold the United States and all states, territories, counties, towns, municipalities and districts harmless against aliens becoming a public charge. A public charge bond is issued on the condition that the alien is not receiving public benefits as defined in proposed 8 CFR 212.21 at the time the bond is submitted, and does not use or received public benefits in the future. If the alien receives public benefits at any during the validity of the bond, the bond is breached and forfeited. The money is then used by DHS to reimburse the public entity that provided public assistance.

Although DHS has the authority to require an alien who is inadmissible under section 212(a)(4) to submit a public charge bond, the authority has rarely been exercised since 1996, and consequently, USCIS does not have a process in place to accept and administer public charge bonds.²

The proposed rule specifies and clarifies when the alien may be permitted to have a bond posted on his or her behalf and the conditions of the bond. USCIS would only accept public charge bonds that are posted on behalf of immigrant visa applicants (processed through the U.S. Department of State, but when the consular officers submit a request to USCIS that the alien may be permitted to post a public charge bond) or adjustment of status applicants (processed through USCIS).

An immigration bond is a contract between the United States government (the obligee) and an individual or a company (the obligor) who pledges a sum of money to guarantee a set of conditions set by the government concerning the alien. For purposes of public

1

2 Currently, ICE uses Form I-352, Immigration Bond, to collect delivery bonds, voluntary departure bonds, and order of supervision bonds. Although Form I-352 is approved for use for public charge bonds, DHS has determined that the public charge bond process requires its own bond form.

charge bonds, Form I-945 Public Charge Bond) outlines the set of conditions; it is the actual bond contract between the U.S. government and the obligor. The form is completed by the obligor who posts the bond on the alien's behalf. The Form I-945 is not completed by the alien.

The information collection required on the Form I-945 (Public Charge Bond) is necessary for USCIS to insure that the conditions of the bond are fully articulated and met when USCIS accepts the public charge bond posting. Without the form, and given the complexity of the Federal and State laws governing bonds and surety bond submissions, USCIS would not be able to determine the sufficiency of the bond and USCIS or the U.S. Department of State would not be able to finalize the adjudication of immigration benefits (Adjustment of status and immigrant visa applications).

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.

According to INA 213 and the proposed rule, it is within DHS's discretion to permit the posting of a public charge bond. Therefore, if USCIS determines that a public charge bond is warranted, DHS will notify the alien that he or she may post a public charge bond with USCIS, and the bond amount. The obligor will then post the bond on behalf of the alien by submitting the new Form I-945, as security for performance and fulfillment of the bonded alien's obligations to the government (that the alien not use or receive any public benefits). The U.S. government accepts the bond from the obligor, posted on the alien's behalf, under the condition that the alien will not use or receive public benefits, as defined in 8 CFR 212.21, after admission to the United States and during the effective date of the bond. The obligor also has to agree to maintain the bond as outlined in proposed 8 CFR 213.1 including the timely substitution of a new bond on the alien's behalf at least one year before the expiration of the bond on file with USCIS.

An acceptable surety is a company listed on the Department of the Treasury's Listing of Approved Sureties (Department Circular 570) in effect on the date the bond is requested, or a surety that deposits cashier's check or money order for the full value of the bond. See proposed 8 CFR 103.6. USCIS plans to initially only use surety bonds.

If a suitable bond is posted on behalf of an adjustment of status applicant (USICS Form I-485, OMB Control Number 1615-0023) but who is determined to be inadmissible on public charge under section 212(a)(4), the alien's adjustment of status application will be finally adjudicated, and granted provided the alien meets the other eligibility criteria.

In addition to processing public charge bonds in adjustment of status cases, DHS proposes that USCIS processes public charge bonds for immigrant visa applicants, upon the request from a Department of State Consular officer. If a suitable bond is posted on behalf of the immigrant visa applicant who is determined to be inadmissible on public

charge under INA section 212(a)(4), the immigrant visa application will be finally adjudicated, and, if otherwise eligible, be issued. A visa permits an alien to travel to the United States to be admitted to the United States by DHS.

As part of this public charge bond (Form I-945), the obligor agrees to certain conditions. The bond must remain in effect until the alien naturalizes, permanently departs, or dies, or until the bond is substituted with another bond. During this period, the condition of the bond is that an alien on whose behalf a public charge bond has been accepted, does not use or receive a public benefit. An obligor has to actively seek to cancel the bond. A bond is considered breached if an alien uses or receives any public benefit or if the obligor files to substitute a bond of limited duration with another valid bond. See proposed 8 CFR 213.1.

- 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 form will be available electronically from USCIS forms website. USCIS will review this for possible electronic submission at a future date.

- 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 bond process is unique to USCIS review of adjustment of status submissions under OMB Control Number 1615-0023, or for processing of an alien's immigrant visa application by the U.S. Department of State upon request from a consular officer to DHS. There is no duplication.

- 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.**

USCIS is limiting the information collected for the bond process to that needed to process.

- 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 collection of information is not conducted, USCIS would be unable to complete the review of certain adjustment of status submissions, filed under OMB Control Number 1615-0023. If this collection of information is not conducted, USCIS would not be able process bonds requested in the immigrant visa context, DS-260 Immigrant Visa

Electronic Application (. The information collection is also necessary to ensure that the conditions of the bonds are met.

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 October 10, 2018 USCIS published a Notice of Proposed Rulemaking in the Federal Register at 83 FR 51114.

- 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 provided. The collection will be covered by an updated System of Records Notice DHS/USCIS/ICE-CBP-001 Alien File. Index, and National Tracking System of Records, September 18, 2017, 82 FR 43556.

- 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.**

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.**

		A	B	C (=AxB)	D	E (=Cx D)	F	(=ExF)
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
Business or other for profit	Immigration Public Charge Bond / I-945	960	1	960	1	960	\$53.51	\$51,370
Total				960		960		\$51,370

* The above Average Hourly Wage Rate is the May 2016 Bureau of Labor Statistics average wage for Financial Specialists, all other of \$36.65 times the wage rate benefit multiplier of 1.46 (to account for benefits provided) equaling \$53.51.

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.**

Companies that provide bonds do not incur a reportable cost as they recover a fee for providing the bond.

There is a fee of \$25 is for this form.

- 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.**

The cost to the Federal government is calculated by the total fee cost per response of \$25 times the number of respondents 960 equaling \$24,000.

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

This is a new collection of information.

- 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.