

**Supporting Statement
Electronic Visa Update System (EVUS)
1651-0139**

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.**

Because changes to biographical and eligibility elements could impact whether an individual may be able to successfully apply for admission into the United States, DHS believes it would be beneficial to have a mechanism for obtaining this updated information in advance of the individual's travel to the United States when the Secretary, in consultation with the Secretary of State, determines that it is warranted. Having a means for regularly collecting updated information, before the alien embarks on travel to the United States and without requiring aliens to apply for a visa on a more frequent basis, would be valuable in assuring a robust traveler screening and verification process and would cut down on the number of visa holders that are found inadmissible at ports of entry.

Given these concerns and considerations, DHS developed the Electronic Visa Update System ("EVUS"), which provides a mechanism through which information updates can be obtained from nonimmigrant aliens who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category. EVUS provides for greater efficiencies in the screening of international travelers by allowing DHS to identify nonimmigrant aliens who may be inadmissible before they depart for the United States, thereby increasing security and reducing traveler delays upon arrival at U.S. ports of entry. EVUS aids DHS in facilitating legitimate travel while also enhancing public safety and national security.

Currently, the program is limited to nonimmigrant aliens who hold unrestricted, maximum validity B-1 (business visitor), B-2 (visitor for pleasure), or combination B-1/B-2 visas, which are generally valid for 10 years, contained within a passport issued by the People's Republic of China (PRC). The PRC's inclusion in this program was noted in the arrangement that allowed the November 12, 2014 increase in reciprocity in these visa categories from one to ten years. The Secretary of Homeland Security, in the Secretary's discretion and in consultation with the Secretary of State, may identify additional countries whose passport holders would be subject to the EVUS regulations for any travel to the United States, and designate applicable visa categories. The public would be notified of any future designation through a notification published in the Federal Register.

CBP has implemented EVUS capabilities in a manner that allows the Secretary of State and the Secretary of Homeland Security to use their statutory authority under

the Immigration and Nationality Act (INA) related to visa revocation and conditions of admission and entry for aliens seeking to enter the United States. The implementation of the EVUS framework is based on the following authorities:

Visa Authorities

The Secretary of State is charged with administering and enforcing immigration laws related to “the powers, duties, and functions of diplomatic and consular officers of the United States.” INA § 104(a), 8 U.S.C. § 1104(a). In carrying out these duties, the Secretary of State, in concert with the Secretary of Homeland Security, is authorized to establish regulations, prescribe forms and reports, and perform necessary acts. Id.; see also 6 U.S.C. § 236(b)(1) (“Notwithstanding section 104(a) of the Immigration and Nationality Act (8 U.S.C. § 1104(a)) or any other provision of law, and except as provided in subsection (c) of this section, the Secretary [of Homeland Security] (1) shall be vested exclusively with all authorities to issue regulations with respect to, administer, and enforce the provisions of such Act, and of all other immigration and nationality laws, relating to the functions of consular officers of the United States in connection with the granting or refusal of visas...”).

Section 221(a)(1)(B) of the INA, 8 U.S.C. § 1201(a)(1)(B), authorizes the Department of State (DOS) to issue nonimmigrant visas to foreign nationals. Section 221(c), 8 U.S.C. § 1201(c), provides that “[a] nonimmigrant visa shall be valid for such periods as shall be by regulations prescribed,” and section 221(i) authorizes the Secretary of State to revoke visas at any time, in his or her discretion. DOS has exercised the section 221(i) authority when information surfaces after visa issuance that calls into question the subject’s continued eligibility for a visa. See 9 Foreign Affairs Manual (FAM) 403.11-5(B).

Failure to comply with EVUS requirements does not render a subject ineligible for a visa. However, because compliance with EVUS regulatory requirements is a condition of admission pursuant to INA §§ 214(a)(1) and 215(a)(1), 8 U.S.C. §§ 1184(a)(1) and 215(a)(1); see also 8 C.F.R. § 215.24, when a nonimmigrant visa holder fails to comply with EVUS, DOS may exercise its visa revocation authority under Section 222(i) of the INA in the form of an automatic provisional revocation. See 8 C.F.R. § 215.24(g)(1); 22 C.F.R. § 41.122(b)(3). That automatic provisional revocation is reversed automatically when the visa holder complies with EVUS. See 22 C.F.R. § 41.122(b)(3).

Entry and Admission Authorities

Section 103(a) of the INA, 8 U.S.C. § 1103(a), charges the Secretary of Homeland Security with the administration and enforcement of the INA and other laws relating to the immigration and naturalization of aliens, and authorizes the Secretary to establish such regulations as she deems necessary for carrying out her authority. In addition, section 402(4) of the Homeland Security Act of 2002 (HSA), 6 U.S.C. § 202(4), makes the Secretary of Homeland Security responsible for establishing and administering rules governing the granting of visas or other forms of permission to enter the United States to individuals who are not citizens or aliens lawfully admitted

for permanent residence in the United States. Further, section 428(b) of the HSA, 6 U.S.C. § 236(b), confers upon the Secretary of Homeland Security the authority “to issue regulations with respect to, administer, and enforce the provisions of [the INA], and of all other immigration and nationality laws, relating to the functions of consular officers of the United States in connection with the granting or refusal of visas.”

Section 214(a)(1) of the INA, 8 U.S.C. § 1184(a)(1), authorizes DHS to prescribe by regulation the conditions for admission of an alien as a nonimmigrant: “The admission to the United States of any alien as a nonimmigrant shall be for such time and under such conditions as the [Secretary of Homeland Security]¹ may by regulations prescribe....”

An applicant for admission to the United States has the burden to prove he or she is clearly and beyond doubt entitled to be admitted and is not inadmissible under section 212 of the INA. INA §§ 235(b)(2)(A), 240(c)(2), 291; 8 U.S.C. §§ 1225(b)(2)(A), 1229a(c)(2), 1361; 8 C.F.R. § 235.1(f)(1). Immigration officers determine whether any grounds of inadmissibility apply at the time an alien is inspected. 8 C.F.R. § 235.1(a), (f)(1). Moreover, an immigration officer has the authority to require an alien to state under oath any information sought by an immigration officer regarding the purposes and intentions of the alien in seeking admission, including the alien’s intended length of stay, intent to remain permanently, and potential grounds of inadmissibility. INA § 235(a)(5), 8 U.S.C. § 1225(a)(5); see also INA § 235(d)(3), 8 U.S.C. § 1225(d)(3) (conferring on the Secretary and “any immigration officer” the “power . . . to take and consider evidence of or from any person touching the privilege of any alien . . . to enter, reenter, transit through, or reside in the United States or concerning any matter which is material or relevant to the enforcement of [the INA] and the administration of [DHS]”); INA § 287(b), 8 U.S.C. § 1357(b) (same).

Additionally, aliens’ authorization to travel to and seek admission to the United States may be limited and conditioned by DHS under INA § 215(a)(1), 8 U.S.C. § 1185(a)(1), which states that “[u]nless otherwise ordered by the President, it shall be unlawful for any alien to depart from or enter or attempt to depart from or enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President may prescribe.” The President assigned his functions under INA § 215 with respect to aliens to the Secretary of Homeland Security, acting with the concurrence of the Secretary of State. Exec. Order No. 13,323, 69 Fed. Reg. 241 (Dec. 30, 2003).

The foregoing authorities permit the Government to require EVUS compliance in

¹ As of March 1, 2003, in accordance with section 1517 of Title XV of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135, any reference to the Attorney General in a provision of the Immigration and Nationality Act describing functions which were transferred from the Attorney General or other Department of Justice official to the Department of Homeland Security by the HSA “shall be deemed to refer to the Secretary” of Homeland Security. See 6 U.S.C. § 557 (2003) (codifying HSA, Title XV, § 1517); 6 U.S.C. 542 note; 8 U.S.C. § 1551 note.

advance of travel to the United States.

Proposed Change:

DHS requests an emergency approval to revise this information collection to include North Korea in the list of countries specified in the following existing question as described below. North Korea was designated a State Sponsor of Terrorism on November 27, 2017.

Have you traveled to, or been present in, Iraq, Syria, Iran, North Korea, Sudan, Yemen, Libya or Somalia on or after March 1, 2011?

- 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 through EVUS provides information required to support DHS mission requirements as they relate to the screening of alien visitors to the United States. The information required for EVUS enrollment is information that DHS, in consultation with DOS, has deemed necessary to evaluate whether a covered alien's travel to the United States poses a law enforcement or security risk. The timely and accurate capture of updated traveler information helps ensure that DHS has the most recent and accurate information for such an evaluation. A "yes" response to the question on presence in a SST at any time on or after March 1, 2011 does not in and of itself determine the ability of a visa holder subject to the EVUS requirement to have his or her EVUS enrollment approved or to travel to the United States.

EVUS must interoperate with secure government vetting systems, visa application processes, and systems that support inspections at POEs. EVUS must also provide live data sharing feeds to other federal partners.

- 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 collection of data in EVUS is automated via www.EVUS.gov.

- 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.**

There is no duplication, as this information had not been collected by CBP prior to this collection. But the Department of State collects a visa holder's biographic and

other information on the DS-160 as part of the visa application process. EVUS allows visa holders in designated visa categories from designated countries to enroll and then update biographic and other information found originally on the DS-160 every two years or when the visa holder's passport expires. When initial EVUS enrollment occurs within 90-days of visa issuance, required information that is also available on the DS-160 will auto-populate into EVUS, on those data elements that are the same, for ease of the customer use. Enrollments that occur 90 days past visa issuance will require enrollees to complete the entire EVUS form given that it is more likely that required information may have changed.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

This information collection does not have an impact on small businesses or other small entities.

6. Describe consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently.

CBP would be unable to ensure that it has current, valid biographical information available to determine eligibility for citizens and nationals of designated countries traveling in designated visa categories to the United States, which would hinder CBP's ability to assess admissibility, including potential law enforcement and national security risk.

7. Explain any special circumstances related to this collection of information.

This information is collected in a manner consistent with the guidelines of 5 CFR 1320.5(d)(2).

8. If applicable, provide a copy and identify the date 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.

Public comments will be solicited and this information collection request will go through a normal PRA approval process, including a response to all comments received from the public, no later than six months after the approval of this emergency request.

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

There is no offer of a monetary or material value for this information collection.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

A PIA for the Electronic Visa Update System (EVUS), dated September 12, 2016, and a SORN for the Electronic Visa Update System, dated September 1, 2016 (81 FR 60371). The SORN for EVUS has been revised to include the revised question. No assurances of confidentiality are provided to respondents

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.

As a result of Executive Order 13295 which was made on July 31, 2014 which includes the list of quarantinable communicable diseases included in Section 264(b) of Title 42. The below questions are already approved for inclusion in EVUS:

Do you have a physical or mental disorder; or are you a drug abuser or addict; or do you currently have any of the following diseases (communicable diseases are specified pursuant to section 361(b) of the Public Health Service Act):

- Cholera
- Diphtheria
- Tuberculosis, infectious
- Plague
- Smallpox
- Yellow Fever
- Viral Hemorrhagic Fevers, including Ebola, Lassa, Marburg, Crimean-Congo
- Severe acute respiratory illnesses capable of transmission to other persons and likely to cause mortality.

The information will not be public, it will only be used for admissibility, security, and law enforcement purposes, but is vital for determining whether or not a person can travel to the United States and/or be admitted to the US. There are no questions included in EVUS that ask about sexual behavior or religious beliefs.

12. Provide estimates of the hour burden of the collection of information.

INFORMATION COLLECTION	TOTAL ANNUAL BURDEN HOURS	NO. OF RESPONDENTS	NO. OF RESPONSES PER RESPONDENT	TOTAL RESPONSES	TIME PER RESPONSE
EVUS	1,499,492	3,595,904	1	3,595,904	25 minutes (0.417 hours)

Public Cost

The estimated cost to the respondents is \$69,126,581. This is based on the estimated burden hours (1,499,492) multiplied by (x) the average hourly wage rate for all-purpose air travelers (\$46.10). CBP calculated this wage rate by adjusting the U.S. Department of Transportation's recommended hourly values of travel time savings for intercity, all-purpose travel by air and high-speed rail (\$44.30 in 2013 dollars) to 2017 dollars using DOT's recommended annual growth rate of 1.0 percent.²

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information.

The recordkeeping burden and costs are described in Item #12 of this Statement. There are no capitalization costs associated with this collection.

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.

According to CBP's Electronic Visa Update System (EVUS) Fee Study, the estimated annual cost to the Federal Government associated with this collection of information is \$26,681,072. This overall cost includes EVUS-related staffing, training, systems engineering and operation, and other non-labor expenses.

15. Explain the reasons for any program changes or adjustments reported in Items 12 or 13.

There has been no increase or decrease in the estimated annual burden hours previously reported for this information collection. DHS requests an emergency approval to revise this information collection to include North Korea in the list of countries.

16. For collection of information whose results will be published, outline plans for tabulation, and publication.

This information collection will not be published for statistical purposes.

17. If seeking approval to not display the expiration date, explain the reasons that

² Source: U.S. Department of Transportation, Office of Transportation Policy. *The Value of Travel Time Savings: Departmental Guidance for Conducting Economic Evaluations Revision 2 (2015 Update)*, "Table 4 (Revision 2-corrected): Recommended Hourly Values of Travel Time Savings for Intercity, All-Purpose Travel by Air and High-Speed Rail." April 29, 2015. Available at <http://www.transportation.gov/sites/dot.gov/files/docs/Revised%20Departmental%20Guidance%20on%20Valuation%20of%20Travel%20Time%20in%20Economic%20Analysis.pdf>. Accessed June 15, 2015.

displaying the expiration date would be inappropriate.

CBP will display the expiration date for OMB approval of this information collection.

18. “Certification for Paperwork Reduction Act Submissions.”

CBP does not request an exception to the certification of this information collection.

B. Collection of Information Employing Statistical Methods

No statistical methods were employed.