

**SUPPORTING STATEMENT FOR
Notice of Appeal or Motion
OMB Control No.: 1615-0095
COLLECTION INSTRUMENT(S): Form I-290B**

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.**

When U.S. Citizenship and Immigration Services (USCIS) denies, revokes the approval of, or takes other adverse actions regarding certain types of immigration benefit requests, an applicant or petitioner may appeal the adverse decision to the Administrative Appeals Office (AAO), or file a motion to reopen and/or a motion to reconsider the decision with the USCIS office that issued the adverse decision. This form also used to appeal bond breach determinations by U.S. Immigration and Customs Enforcement (ICE) to the AAO and by schools appealing decisions on Form I-17 filings for certification to ICE's Student and Exchange Visitor Program (SEVP).

The information collected on Form I-290B is necessary for USCIS to adjudicate the appeal or motion.

Authority: 8 CFR 103.2, 103.3, 103.5

- 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.**

Form I-290B standardizes requests for appeals and motions and ensures that the basic information required to adjudicate appeals and motions is provided by applicants and petitioners, or their attorneys or representatives. USCIS uses the data collected on Form I-290B to determine whether an applicant or petitioner is eligible to file an appeal or motion, whether the requirements of an appeal or motion have been met, and whether the applicant or petitioner is eligible for the requested immigration benefit. Form I-290B is also used by DHS, ICE and submitted by schools appealing decisions on Form I-17 filings for certification to ICE's Student and Exchange Visitor Program (SEVP).

- 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-290B provides the most efficient means for collecting and processing the required data. Form I-290B is available at <http://www.uscis.gov/i-290b> and it can be accessed, completed, and saved electronically. The form must be printed and signed, and submitted to USCIS via 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.

A review of USCIS's Forms Inventory Report revealed no duplication of effort and there is no other similar information currently available which can be used for this purpose. There is no similar data collected. USCIS has investigated its internal processes, files, and data as well as those of other Federal agencies that may service the same population.

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.

Small entities might complete and file this type of information collection with USCIS or ICE. The burden on small entities is no different from that of respondents such as individuals or households that submit this type of request and USCIS has made no modifications to the form's requirements to provide special treatment for 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 collected on Form I-290B is not available, USCIS and ICE will not be able to determine whether the applicant, petitioner, or school is eligible to file an appeal or motion, whether the requirements of an appeal or motion have been met, and whether the applicant or petitioner is eligible for the immigration benefit for which they were previously denied.

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 August 9, 2019 USCIS published a 60-day notice in the Federal Register at 84 FR 39359. USCIS did receive three comments after publishing that notice.

On December 6, 2019, USCIS published a second 60-day notice in the Federal Register at 84 FR 66924. After reviewing public comments received during the first 60-day notice, USCIS made substantive changes to the Form I-290B and its instructions. These changes

necessitated an additional 60-day notice to allow for public comments. USCIS received seven comments after publishing that notice.

Responses to public comments received during both the first and second 60-day notices are provided in the document titled *Appendix: USCIS Responses to 60-day Public Comments*.

On March 17, 2020, USCIS published a 30-day notice in the Federal Register at 85 FR 15222. USCIS 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 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.

This collection is covered under the following Privacy Impact Assessment:

- DHS/USCIS/PIA-016 Computer Linked Application Information Management System (CLAIMS 3) and Associated Systems covers the collection, use, and storage of data elements collected on the Form I-290B and stored in CLAIMS 3; and
- DHS/USCIS/PIA-062 Administrative Appeals Office Case Management System covers the collection and use of data elements collected on the Form I-290B to file an appeal or motion with the Administrative Appeals Office (AAO). Forthcoming Privacy Office update to the AAO Case Management System, to cover the new safe address and date of birth data elements being added to the form.

The collection is covered under the following System of Records Notices:

- DHS/USCIS/ICE/CBP-001- Alien File, Index, and National File Tracking System of Records covers the storage of paper forms in the A-File and Receipt File;
- DHS-USCIS-007 Benefits Information System covers attorney/accredited representative, preparers, interpreters, and petitioner; and
- DHS/USCIS-018 Immigration Biometric and Background Check (IBBC) System of Records covers the collection, use, and maintenance of biometrics information.

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 (=CxD)	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
Individual or Households/ Employers	Form I-290B - Notice of Appeal or Motion	28,000**	1	28,000	1.5	42,000.00	\$36.72	\$1,542,240
Total				28,000		42,000.00		\$1,542,240

* The above Average Hourly Wage Rate is the [May 2018 Bureau of Labor Statistics](#) average wage for All Occupations of \$24.98 times the wage rate benefit multiplier of 1.47 (to account for benefits provided) equaling \$36.72. The selection of "All Occupations" was chosen because respondents to this collection

could be expected from any occupation.

*** This number includes the estimated 50 Forms I-290B filed annually with ICE for a school to appeal a Form I-17 denial.*

- 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 no capital, start-up, operational, or maintenance cost associated with this collection of information. There is, however, a fee charge of \$675 per submission.

This information collection may impose some out-of-pocket costs on respondents in addition to the time burden for the form's preparation. Some respondents may incur expenses to obtain translators and third-party preparers. 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 \$515 and that an

average of 60 percent of the total respondent population may incur this cost. The total estimated cost to respondents generates as follows: 28,000 respondents x .60 = 16,800 respondents multiplied by the average cost per response of \$515 = **\$8,652,000.00**.

- 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 suggested average hourly rate for clerical, officer, and managerial time with benefits) and immigration benefits provided for free. USCIS uses the fee associated with an information collection as a reasonable measure of the collection’s costs to USCIS, because these fees are based on resource expenditures related to the benefit in question. In addition, this figure includes the estimated overhead cost for printing, stocking, distributing and processing of this form.

The estimated cost of the program to the Government is calculated by using the estimated number of respondents (28,000) x filing fee charge (\$675). The total cost to the Federal government is **\$18,900,000.00**.

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

USCIS updated Form I-290B and its Instructions to clarify language and make updates to standard instructions provided across USCIS Forms. USCIS added a Date of Birth field to Form I-290B; individuals filing the form must now provide this information. Additionally, the option for certain filers to provide a Safe or Alternate Mailing Address has been added to the form.

Data collection Activity/Instrument (in hours)	Program Change (hours currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (hours currently on OMB Inventory)	Adjustment (New) [new minus current]	Difference
I-290B				37,317	42,000	4,683

Total(s)				37,317	42,000	4,683
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USCIS is reporting an increase in the estimated annual time burden to respondents for this collection of information due to an increase in the estimated respondent population. The average time burden per response did not change.

Data collection Activity/Instrument (in dollars)	Program Change (cost currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (cost currently on OMB Inventory)	Adjustment (New) [new minus current]	Difference
I-290B				\$7,407,523.00	\$8,652,000.00	\$1,244,477.00
Total(s)				\$7,407,523.00	\$8,652,000.00	\$1,244,477.00

USCIS is reporting an increase in the estimated annual cost to respondents for this collection of information. USCIS has increased its estimate of the out-of-pocket costs respondents may incur when filing this collection of information. Additionally, the estimated number of respondents increased. These two changes resulted in the adjustment of the estimated annual cost.

- 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.