

**SUPPORTING STATEMENT FOR
APPLICATION FOR PERMISSION TO REAPPLY FOR ADMISSION INTO THE
UNITED STATES AFTER DEPORTATION OR REMOVAL
OMB Control No.: 1615-0018
COLLECTION INSTRUMENT(S): Form I-212; e-SAFE**

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.**

Sections 212(a)(9)(A) and 212(a)(9)(C) of the Immigration and Nationality Act (Act) render an alien inadmissible to the United States unless he or she obtains the consent to reapply (also known as permission to reapply) for admission to the United States. An alien who is inadmissible under these provisions has either been removed (deported, or excluded) from the United States, or illegally reentered after having been removed (deported, or excluded), or illegally reentered after having accrued more than one year of unlawful presence in the United States.

The information collection required on an Application for Permission to Reapply for Admission into the United States After Deportation or Removal, Form I-212, is necessary for U.S. Citizenship and Immigration Services (USCIS) to determine whether the applicant is eligible to file the waiver. If the application is approved, the alien will be permitted to apply for admission to the United States, after being granted a visa with the U.S. Department of State (DOS) as either an immigrant or a nonimmigrant.

Any applicant, a petitioner, a sponsor, a beneficiary, or other individual residing in the United States at the time of filing an immigration-related application or petition (individuals) 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, by electronic or other means, and store for present or future use, the biometric information submitted by individuals. 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.

In most instances when a Form I-212 is filed overseas, fingerprints are collected by DOS during the immigrant/nonimmigrant visa application process. USCIS does collect and/or process biometrics from a small population of individuals who may file the Form I-212 while in the United States. These Form I-212 filings are usually in conjunction with another benefit request. For example, individuals who are filing an application for adjustment of status and are required to submit a Form I-212 because of a prior order of

removal (which has not been reinstated by ICE). Generally, the biometrics request would be initiated based on the underlying application (i.e., Form I-485) but in some instances, if the primary application is already pending or the prints on the underlying application have expired, USCIS must then renew the prints, which it may do as part of the filing of the Form I-212, to obtain the biometrics that are required to conduct the background and security checks that must be completed before a benefit can be granted. In certain instances, these individuals may be required to submit a biometric services fee (\$85) and appear at application support centers to provide biometrics. Please see the burden table provided under question 12 for an explanation on the volume of the population from which USCIS collects biometrics in connection with Form I-212.

Authorities: 8 U.S.C. 1182(a)(9)(A) and (C); INA 212(a)(9)(A) and (C), INA 264; 8 CFR 212.2; 8 CFR 103.2(b)(9); 8 CFR 103.16; 8 U.S.C. 1103.

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 uses the data collected on Form I-212 to determine whether an alien is eligible for and should be granted the benefit of consent to reapply for admission into the United States. This form standardizes requests for consent to reapply and its data collection requirements ensure that, when filing the application, the alien provides the basic information that is required to assess eligibility for consent to reapply.

USCIS must review all documents that relate to the alien's exclusion, deportation, or removal proceedings, the alien's record of immigration violations, and the alien's criminal record, if applicable. Moreover, if the alien is inadmissible under section 212(a)(9)(C)(i) of the Act, evidence must be submitted to demonstrate that the alien has remained outside the United States for a period of at least 10 years since the date of his or her last departure.

In addition to USCIS, U.S. Customs and Border Protection (CBP) and the Executive Board for Immigration Review (EOIR) of the U.S. Department of Justice (DOJ) also rely Form I-212 to grant consent to reapply for admission. These agencies use the application in the same manner as USCIS. CBP has developed an electronic filing system, called Electronic Secured Adjudication Forms Environment (e-SAFE), through which Form I-212 can be submitted when filed with CBP.

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 use of Form I-212 provides the most efficient means for collecting and processing

the required data. CBP respondents can file form I-212 electronically using the e-SAFE system. For USCIS and EOIR respondents, this form can be completed electronically on the USCIS Web site at www.uscis.gov, but cannot be e-filed. Applicants can complete the form electronically, print it and submit it to USCIS along with the required documentation.

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, CBP's and EOIR's forms inventory revealed no duplication of effort, and there is no other similar information collection, other than this form, currently available, which can be used for this purpose.

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 information collection 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, we will be unable to adjudicate requests by aliens who require consent to reapply for admission to the United States. Aliens subject to inadmissibility under section 212(a)(9)(A) or (C) of the Act would be temporarily or permanently barred from entering the United States with no available remedy. The information collected on Form I-212 will allow for the effective, standardized adjudications of aliens' requests for consent to reapply for admission to the United States.

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 November 14, 2019, USCIS published a Notice of Proposed Rulemaking in the Federal Register at 84 FR 62280. USCIS did receive comments on this information collection and has responded to them in the preamble of the 2018 Fee Final Rulemaking (1615-AC18).

On August 03, 2020, USCIS published a Final Rule in the Federal Register at 85 FR 46788.

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

USCIS, CBP and EOIR do 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(a) Computer Linked Application Information Management System (CLAIMS 3) and Associated Systems since it's processed in CLAIMS 3;
- DHS/USCIS/PIA-056 USCIS Electronic Immigration System (USCIS ELIS);
- Forthcoming CAP Tracker PIA since this is one of the forms for this system; and
- DHS/CBP/PIA-057 Electronic Secured Adjudication Forms Environment (e-SAFE).

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, November 21, 2013 (78 FR 69864);
- DHS/USCIS-007 Benefits Information System, October 10, 2019 (84 FR 54622);
- DHS/USCIS-018 Immigration Biometric and Background Check (IBBC) System of Records, July 31, 2018, 83 FR 36950,
- DHS/CBP-006 Automated Targeting System (May 22, 2012) 77 FR 30297, and
- DHS/CBP-011 U.S. Customs and Border Protection TECS (December 19, 2008) 73 FR 77778.

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 questions of a sensitive nature.

The Form I-212 requests the following information: The applicant's full name, place and date of birth, phone and e-mail, nationality, A-Number. This information allows USCIS to provide timely and accurate adjudication based on the information the applicant submits regarding his/her eligibility. In addition, background checks will be appropriately attributed to the correct individual, providing ensuring compliance with national security guidance.

The Form I-212 contains questions regarding the applicant's personal and biographical

information, (full name, place and date of birth, nationality) as well as those of a more sensitive nature, such as applicant’s criminal and immigration history (removal (deportation, or exclusion) proceedings, and whether the individual is currently detained.).

The application for consent to reapply is filed for certain individuals who have been found inadmissible under section 212(a)(9)(A) or (C). USCIS requires extensive information regarding the applicant’s immigration status and history in order to determine the applicant’s eligibility for approval of this waiver, which is required for reentry into the United States after the applicant’s deportation or removal. The applicant is asked to submit evidence of paperwork submitted with any proceedings as support for this application. This evidence is evaluated in order to determine the individual’s eligibility for the waiver and to verify that any eligibility bar has been met.

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
Individuals	I-212	4,183	1	4,183	2	8,366	\$35.78	\$299,335

or Households	(Paper)							
Individuals or Households	I-212, CBP e-SAFE Filings	700	1	700	2	1,400	\$35.78	\$50,092
Individuals or Households	Biometrics	100	1	100	1.17	117	\$35.78	\$4,186
Total				4,983		9,883		\$353,614

* The above Average Hourly Wage Rate is the May 2017 Bureau of Labor Statistics average wage for All Occupations of \$24.34 times the wage rate benefit multiplier of 1.47 (to account for benefits provided) equaling \$35.78. The selection of “All Occupations” was chosen because respondents to this collection could be expected 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 capital or start-up costs associated with this information collection. However, for informational purposes only in this response, there is a fee of \$1,050.00 associated with this information collection.

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 (4,183 x \$3.75 average postage) = **\$15,686.25.**

This information collection may impose some additional out-of-pocket costs on respondents in addition to the time burden for the form's preparation. Many 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 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 that an average of 25% of the total respondent population may incur this cost [1,221 (4,883 respondents x 25% anticipated respondents requiring services) x \$490 average cost per respondent]. The total cost to respondents for these services would be approximately **\$598,167.50.**

The estimated total cost to respondents is approximately **\$613,853.75.**

- 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, since 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 (4,883) x filing fee charge (\$1,050.00). The total cost to the Federal government is **\$5,127,150.00.**

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

There are no program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I. There are minor changes to the form or instructions that do not impact the estimated time burden and estimated cost burden.

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.