

SUPPORTING STATEMENT FOR
Petition by Entrepreneur to Remove Conditions on Permanent Resident Status
OMB Control No.: 1615-0045
COLLECTION INSTRUMENT(S): Form I-829

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.**

Alien entrepreneurs admitted to the United States under section 203(b)(5) of the Immigration and Nationality Act (INA) are required to petition for removal of the conditional residence status imposed on them and their accompanying spouse and children, within a 90-day period before the second anniversary of their conditional residence under section 216A of the INA. The Petition by Entrepreneur to Remove Conditions on Permanent Resident Status, Form I-829, provides a uniform petition that enables alien entrepreneurs to request the removal of the conditional basis of their lawful permanent resident status.

The Petition by Entrepreneur to Remove Conditions on Permanent Resident Status, Form I-829 collects the entrepreneur's social security number (SSN) which is used to establish the entrepreneur's eligibility in the context of compliance with the statutory requirement of job creation for qualifying employees and to address program concerns regarding the lawful source of investment funds and the sustainment of lawful business activities. The SSN may also be used for fraud detection and national security concerns.

General legal authority of U.S. Citizenship and Immigration Services (USCIS) to collect the SSN is under INA sections 101 et. seq. (requires background checks be conducted for immigration benefits), 103(a)(1) and (3) (generally charges the Secretary of Homeland Security [the Secretary] with the administration and enforcement of all laws relating to the immigration and naturalization of aliens and authorizes the Secretary to issue regulations, forms, and instructions and to perform such other acts as the Secretary deems necessary to exercise his authorities under the INA) and 264(f) (authorization to require any alien to provide the alien's SSN) .

- 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 will use the data collected on the Petition by Entrepreneur to Remove Conditions on Permanent Resident Status, Form I-829, to determine eligibility for the requested immigration benefit. The form standardizes requests for removal of conditions and ensures that petitioners provide the basic information required to assess eligibility.

- 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 this form currently provides the most efficient means for collecting and processing the required data. USCIS provides this petition to the public via the USCIS Internet Web site at www.uscis.gov/i-829. This form can be downloaded, completed and saved electronically but cannot be e-filed at this time, rendering this form partially compliant with the Government Paperwork Elimination Act. USCIS is currently working to develop full electronic submission capabilities.

- 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 the USCIS Forms Inventory Report revealed no duplication of effort, and there is no other similar information currently available that 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 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 the collection of information is not conducted, USCIS would not be able to determine if eligibility requirements to remove conditions on permanent resident status have been 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 November 14, 2019, USCIS published a Notice of Proposed Rulemaking in the Federal Register at 84 FR 62280. USCIS did not receive comments on this information collection after publishing that notice of proposed rulemaking.

On August 3, 2020, USCIS published a Final Rulemaking in the Federal Register at 85 FR 46788.

This rulemaking is titled *U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements*, RIN 1615-AC18.

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.

The system of record notices associated with this information collection are:

- 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 19, 2016, 81 FR 72069.

The privacy impact assessments associated with this information collection are:

- DHS/PIA/USCIS-016(a) Computer Linked Application Information Management System (CLAIMS 3) and Associated Systems.
- EB-5 Program PIA (forthcoming).

- 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 regarding past behavior and activity. For example, the form requests information regarding whether there have been civil or criminal proceedings involving fraud or unlawful activity against the new commercial enterprise, job creating entity, or those in outlined positions of authority. However, without this information, provided for in 8 CFR 216.6(a)(4), USCIS cannot make a determination on a petitioner's request to remove conditional residence status.

Petitioners must also provide his/her SSN. The SSN is essential to process and adjudicate the Petition by Entrepreneur to Remove Conditions on Permanent Resident Status, Form I-829. The SSN is used to determine whether or not the alien entrepreneur has maintained his or her status in the United States. While removing the conditions on the status of an alien entrepreneur, financial issues are at the forefront of the adjudication and most of the evidence USCIS relies on to make a determination contain the SSN and it is used to verify the information provided.

USCIS officers must determine whether at least ten jobs have been created through the alien entrepreneur's capital investment for qualifying employees. INA section 203(b)(5) (A)(ii) states that the jobs cannot be created for the alien entrepreneur, and/or members of his or her family and 8 CFR 204.6(e) defines the term "qualifying employee," and excludes the alien entrepreneur, the alien entrepreneur's spouse, sons, or daughters, or any nonimmigrant alien.

Based on the statutory and regulatory requirements, USCIS officers must disallow jobs created for the alien entrepreneur and his family; therefore, collecting the SSNs of alien entrepreneurs is critical to identify such individuals on payroll documentation and the Internal Revenue Service Form W-2 to make sure that the alien entrepreneur is not being credited with creating jobs for persons that do not meet the statutory and regulatory requirements.

- 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 |
| Individuals and Households | Petition by Entrepreneur to Remove Conditions on Permanent Resident Status (Form I-829) | 3,500 | 1 | 3,500 | 4 | 14,000 | \$35.54 | \$497,560 |
| Individuals and Households | Biometrics Collection | 3,500 | 1 | 3,500 | 1.17 | 4,095 | \$35.54 | \$145,536 |
| Total | | | | 7,000 | | 18,095 | | \$643,096 |

* 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 1.46 (to account for benefits provided) equaling \$35.54. 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, start-up, operational or maintenance costs associated with this collection of information. For informational purposes only, the filing fee for Form I-829 is \$3,900, which includes covers all costs 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. Many respondents may incur expenses to obtain tax, financial, or business 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 per respondent and that an average of 25 percent of the total respondent population may incur this cost. The total estimated cost to respondents would be calculated as follows: 3,500 respondents x 25 percent of the population x the average cost per response of \$490 = **\$428,750.**

Annual cost per respondent is $\$428,750 / 3,500 \text{ respondents} = \$122.50.$

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 estimated cost of the program to the Government is calculated by using the estimated number of respondents 3,500 x \$3,900 fee charge (which includes the suggested average hourly rate for clerical, officer, and managerial time with benefits). In addition, this figure includes the estimated overhead cost for printing, stocking, distributing and processing of this form. The total cost to the Federal government is **\$13,650,000**.

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

(From Question 12 above)

| Information Collection Instrument | Program Change | | | Adjustment | | |
|-----------------------------------|-----------------------------------|------------------|------------|-----------------------------------|------------------|------------|
| | Current OMB-Approved Hours Burden | New Hours Burden | Difference | Current OMB-Approved Burden Hours | New Hours Burden | Difference |
| Form I-829 | | | | 14,000 | 14,000 | 0 |
| Biometrics Collection | | | | 4,095 | 4,095 | 0 |
| Total(s) | | | | 18,095 | 18,095 | 0 |

There is no change to the estimated annual time burden to respondents for this collection of information.

| Information Collection Instrument | Program Change | | | Adjustment | | |
|-----------------------------------|----------------------------------|-----------------|------------|----------------------------------|------------------|------------|
| | Current OMB-Approved Burden Cost | New Cost Burden | Difference | Current OMB-Approved Burden Cost | New Cost Burden | Difference |
| Form I-829 | | | | \$428,750 | \$428,750 | 0 |
| Biometrics Processing | | | | 0 | 0 | 0 |
| Total(s) | | | | \$428,750 | \$428,750 | 0 |

There is no change to the estimated annual cost burden to respondents for this information collection.

- 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 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.