

**SUPPORTING STATEMENT FOR
APPLICATION FOR SUSPENSION OF DEPORTATION OR SPECIAL RULE
CANCELLATION OF REMOVAL (Pursuant to Sec. 203 of Pub. L. 105-100)
OMB Control No.: 1615-0072
COLLECTION INSTRUMENT(S): Form I-881**

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.**

The Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal, was developed to address the special circumstances of persons who became eligible to apply for suspension of deportation or cancellation of removal as a result of the passage of Public Law 105-100, the Nicaraguan Adjustment and Central American Relief Act (NACARA).

Section 203 of NACARA allows certain individuals from Guatemala, El Salvador, and former Soviet bloc countries to apply for suspension of deportation or cancellation of removal (“special rule cancellation of removal”) under eligibility standards that essentially mirror those in place prior to the passage of the section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA).

Section 204 of NACARA also exempts individuals granted relief under the provisions of section 203 from the annual numerical limitations placed on grants of suspension of deportation and cancellation of removal.

On October 28, 2000, the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), Public Law 106-386, was signed into law. This law, in part, created two new categories of individuals who could apply for suspension of deportation or special rule cancellation of removal under section 203 of NACARA. One group of individuals can only apply for relief with the Department of Justice (DOJ), Executive Office for Immigration Review (EOIR), using Form I-881, while the other category of individuals must apply for relief with EOIR using EOIR Form-40 for suspension of deportation cases, or for cancellation of removal and adjustment of status for certain nonpermanent resident cases.

- 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 on the Form I-881 is used by Department of Homeland Security

(DHS), U.S. Citizenship and Immigration Services (USCIS) asylum officers, EOIR immigration judges, and Board of Immigration Appeals board members. The Form I-881 is used to determine eligibility for suspension of deportation or special rule cancellation of removal under Section 203 of NACARA. The form serves the purpose of standardizing requests for the benefits and ensuring that basic information required for assessing eligibility is provided by the applicants.

- 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 the Form I-881 provides the most efficient means for collecting and processing the required data. This form and its instructions reside on the USCIS Web site at <https://www.uscis.gov/i-881> . In addition, the EOIR Forms Web Site page (<https://www.justice.gov/eoir/forms>) includes links to this form on the USCIS Web site. The form and the instructions can be downloaded, completed and saved electronically.

At this time, neither DHS/USCIS nor DOJ/ EOIR can accept e-filing of this form. When filing with DHS/USCIS, the form, along with the required supporting documentation, must be mailed to the appropriate USCIS service center as specified by the Form's Instructions (depending on the applicant's residence), or in certain limited instances directly to the asylum office that has jurisdiction over the respondent . When filing with DOJ/EOIR, completed applications may be filed at the Immigration Court with jurisdiction over the respondent's removal proceedings.

- 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 and EOIR forms presently available revealed no duplication of effort in using the Form I-881.

- 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.**

The Form I-881 is the form currently used by almost all persons eligible to seek

NACARA 203 relief, including the category of individuals eligible to apply for NACARA 203 relief pursuant to enactment of Section 1510(b) of the VTVPA. Without the Form I-881, these individuals seeking NACARA 203 relief and NACARA 203 relief pursuant to enactment of section 1510(b) of the VTVPA would not have a mechanism for obtaining this benefit. Furthermore, USCIS adjudicators and EOIR immigration judges would need to conduct lengthier interviews and hearings to elicit essential information to adjudicate claims for relief without the information collected by the Form I-881.

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 September 11, 2020 USCIS published a Notice of Proposed Rulemaking (NPRM), RIN 1615-AC14, in the Federal Register at 85 FR 56338. USCIS **did/did not** receive comments after publishing that notice.

On **XXXXXX XX, 20XX**, USCIS published a Final Rule in the Federal Register at **XX FR XXXXX**. USCIS **did/did not** receive comments.

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

USCIS and DOJ/EOIR do not provide payments or gifts to respondents in exchange for a 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.

A Privacy Notice is required for this information collection.

The system of records notices (SORN) associated with this information collection are:

- DHS/USCIS/ICE/CBP-001-Alien File, Index, and National File Tracking System of Records;
- DHS/USCIS-010 Asylum Information and Pre-Screening System of Records; and
- DHS/USCIS-018 Immigration Biometric and Background Check (IBBC) System of Records

The Privacy Impact Assessments associated with this information collection are:

- DHS/USCIS/PIA-027(b) Refugee, Asylum, and Parole System (RAPS), and the Asylum Pre-Screening System (APSS)

- 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.**

Certain questions on the Form I-881 relate to topics of a sensitive nature such as the applicant’s good moral character. Answers to these questions could indicate that the applicant does not meet the law’s requirement to “be of good moral character.” (For example, commissions of or convictions for certain crimes could indicate a lack of good moral character.) Other questions ask for information that may normally be considered private but relate to the applicant’s ability to establish extreme hardship if returned to his or her country. (For example a serious medical condition that can only be adequately treated in the United States could demonstrate that the applicant would suffer extreme hardship if returned to his or her country). Adjudicators probe the answers to these questions only to the degree that they are raised by the applicant’s claim and are relevant to eligibility determinations.

- 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 or Households	I-881	520	1	520	12	6,240	\$35.54	\$221,770
Individuals or Households	Biometrics	858**	1	858**	3.67	3,149	\$35.54	\$111,910
Total				1,378		9,389		\$333,680

* 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.

**This estimate represents the numbers of responses for the collection of biometrics associated with form I-881 because an application can cover several persons: the principal applicant and any current spouse and/or children.

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 start-up, maintenance, and operating costs associated with this collection of information. For informational purposes, there is a \$285 fee associated with this information collection per individual or \$570 fee charge per immediate family group for forms filed with USCIS, and a USCIS biometrics fee of \$85 per individual. If filed before the Immigration Court, there is a \$165 fee, which covers both individual and family applications). The USCIS biometrics fee of \$85 per individual must also be paid.

USCIS estimates that respondents will incur an average cost of \$10.18 to mail their completed package to USCIS. USCIS estimates that approximately 70 percent of the total respondent population (364 respondents) will submit their package by mail. Postage to mail completed package (364 x \$10.18 average postage) = \$3,705.52. The remaining 30 percent of the total respondent population (156 respondents) would file in front of an EOIR judge, so no mailing costs would be incurred.

This information collection may impose some additional out-of-pocket costs on respondents for form preparation, legal services, translations, and document search and generation. USCIS estimates the average cost of these activities may vary from as little as \$20 to \$1,000 per respondent. USCIS estimates that the average cost for these activities is \$490. The total out-of-pocket cost to respondents would generate as follows: 520 respondents multiplied by the average cost per response of \$490 = \$254,800.00.

The total estimated annual cost to I-881 respondents is \$258,505.52.

- 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 adjudicative 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 clerical, officer, and managerial time with benefits and printing costs) and immigration benefits provided at no cost. Since USCIS immigration fees are based on resource expenditures related to the benefit in question, USCIS uses the fee associated with an information collection as a reasonable measure of the collection's costs to the agency.

USCIS estimates that the average cost to the Federal government is as follows. It is estimated that 364 respondents will file with USCIS. Fifty percent of those respondents (182 respondents) will file an individual application at \$285 for a total cost of \$51,870.00. The other 50 percent (182 respondents) will file a family application at \$570 for a total cost of \$103,740.00. The total cost to the government is \$155,610.00.

USCIS estimates that 156 respondents will file an application with EOIR at \$165 for a total of \$25,740.00.

USCIS estimates that 858 persons will require biometrics at a cost of \$85 for a total of \$72,930.00.

The total cost to the federal government is \$155,610+ \$25,740+ \$72,930 = \$254,280.00.

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

Data collection Activity/Instrument	Program Change (hours currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (hours currently on OMB Inventory)	Adjustment (New)	Difference
I-881	6,240	6,240	0			
Biometrics	1,004	3,149	2,145			
Total(s)	7,244	9,389	2,145			

There is an increase in the estimated annual hour burden to respondents for this collection of information. USCIS is increasing the estimated time burden per response for the collection of biometrics from 1.17 hours to 3.67 hours. There is no change in the estimated annual hour burden for Form I-881. The total estimated annual hour burden for this collection of information will increase by 2,145 hours.

Data collection Activity/Instrument	Program Change (cost currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (cost currently on OMB Inventory)	Adjustment (New)	Difference
I-881	\$258,505.52	No change	\$0			

Biometrics	\$0	No change	\$0			
Total(s)	\$258,505.52	No change	\$0			

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