

**SUPPORTING STATEMENT FOR
REQUEST FOR FEE WAIVER
REQUEST FOR FEE EXEMPTION under 8 CFR 106.3
OMB Control No.: 1615-0116**

COLLECTION INSTRUMENT(S): Form I-912; Exemptions under 8 CFR 106.3 - No form

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 Immigration and Nationality Act (INA), as amended, provides for the collection of fees at a level that will ensure recovery of the full costs of providing adjudication and naturalization services, including services provided without charge to asylum applicants and certain other immigrant applicants, INA section 286(m), 8 U.S.C. § 1356(m). The INA provides that the fees may recover administrative costs as well. The fee revenue collected under INA section 286(m) remains available to the Department of Homeland Security (DHS) to provide immigration and naturalization benefits and ensures the collection, safeguarding, and accounting of fees by U.S. Citizenship and Immigration Services (USCIS), INA section 286(n), 8 U.S.C. § 1356(n).

The INA and other statutory provisions authorize USCIS to provide some services for free at its discretion, allows USCIS to restrict fee waiver availability on benefits while requiring fee waiver consideration on some benefits, and requires USCIS to provide some services for free. For example, USCIS is precluded by law from collecting a fee from members of the military for an Application for Naturalization under INA sections 328 and 329, INA sections 328(b) and 329(b), 8 U.S.C. §§ 1439(b) and 1440(b). In addition, INA 245(l)(7), 8 U.S.C. 1255(l)(7), requires DHS to permit aliens to apply for a waiver of any fees associated with filing an application for relief through final adjudication of the adjustment of status by a Violence Against Women Act self-petitioner or under sections 101(a)(15)(T) (T visas); 101(a)(15)(U) (U visas); 106 (battered spouses of A, G, E-3, or H nonimmigrants); 240A(b)(2) (battered spouse or child of lawful permanent resident or U.S. citizen); and 244(a)(3) (Temporary Protected Status), as in effect on March 31, 1997, INA section 245(l)(7), 8 U.S.C. § 1255(l)(7). Therefore, USCIS has promulgated regulations at 8 CFR 106.3 to allow individuals who are filing certain immigration benefit requests to request that the fee for those benefits be waived based the eligibility requirement as provided in the regulation.

Fee waivers: This information collection is necessary to document the applicant's eligibility for a fee waiver in accordance with the regulation. Waiving a fee transfers the cost of processing applications and petitions to others through higher fees. USCIS relies on the information collected through Form I-912, Request for Fee Waiver, to determine

whether an individual requesting certain immigration benefits is unable to pay the fee required to process the immigration benefit requested.

USCIS implements its fee waiver policies in a manner to best ensure that fee waivers are applied in a fair and consistent manner, and that USCIS will not shift an unreasonable amount of costs to other fee-paying applicants to recover funding lost due to fee waivers.

In addition, under 8 CFR 106.3(e), the USCIS Director may approve a fee exemption if the Director determines that such action would be in the public interest and the action is consistent with other applicable law and the regulation.

Deferred Action for a Childhood Arrival (DACA)-related Application for Employment Authorization Document (Form I-765) fee exemptions: DHS has decided that the fee may not be waived for a DACA-related Form I-765, but certain classes of individuals may be exempted based on specified criteria. USCIS has not prescribed that an information collection instrument (form) must be used and has instructed that a letter and evidence be submitted to the Director asking that an individual be exempt from these fees. This supporting statement encompasses the information collection burden of a DACA-related I-765 exemption request letter.

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 this form to verify that the applicant is eligible for a fee waiver for the immigration benefit being requested. USCIS will consider waiving a fee for an application or petition when the applicant or petitioner clearly demonstrates that he or she is one of the categories identified in the regulation, has household income at or below 125 percent of the FPG, is not subject to the affidavit of support requirements under section 213A of the Act or is already a sponsored immigrant as defined in 8 CFR 213a.1; and is not subject to the public charge inadmissibility ground under section 212(a)(4) of the Act, 8 U.S.C. 1182(a)(4). Form I-912 standardizes the collection and analysis of statements and supporting documentation provided by the applicant with the fee waiver request. Form I-912 also streamlines and expedites USCIS's review, approval, or rejection of the fee waiver request by clearly laying out the most salient data and evidence necessary to determine eligibility. Officers evaluate all information provided, and evidence supplied in support of a fee waiver request when making a final determination. Each case is unique and is considered on its own merits. If the fee waiver is granted, the application will be processed. If the fee waiver is not granted, USCIS will notify the applicant and instruct him or her to file a new application with the appropriate fee.

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.

Fee waiver requests cannot be filed electronically at this time. The methods of collection described in this supporting statement provide the most efficient means for USCIS to collect and the public to provide the information necessary for USCIS to determine whether or not the request accurately documents the individual's eligibility for a fee waiver. Form I-912 provides the most efficient means for collecting and processing the required data.

Form I-912 and its instructions reside on the USCIS website at <http://www.uscis.gov/i-912>. The form and the instructions can be downloaded, completed, and saved electronically, but the form, along with the required supporting documentation, must be mailed to USCIS.

Generally, a person must submit a request for an exemption under 8 CFR 106.3(e) with the attached documentation to USCIS for the Director's consideration.

- 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.**

USCIS has investigated its internal processes, files, and data as well as those of other Federal agencies that may service the same population and we were unable to find any other means by which the information necessary for this process could be obtained except for the collection methods described in this request. No similar information is available that can be used for this purpose. USCIS will continue to examine ways in which information may be obtained from other sources and any identified duplications can be minimized or removed.

- 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 because fee waivers are not generally available for employment-based immigration benefit requests. USCIS expects that the situations when an employer would adequately demonstrate an eligibility for a fee waiver will be extremely limited. Additionally, the information that is required to facilitate a determination is kept to the minimum amount necessary.

- 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, it would significantly hinder the ability of USCIS to

efficiently review and adjudicate the fee waiver request. Without this information, individuals seeking to waive filing fees in connection with certain immigration benefit requests will not be able to demonstrate their eligibility for a fee waiver.

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 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. This information collection is covered under the following Privacy Impact Assessments (PIA):

- DHS/USCIS/PIA-003(b) Integrated Digitization Document Management Program (IDDMP);
- DHS/USCIS/PIA-015 Computer Linked Application Information Management System (CLAIMS 4);
- DHS/USCIS/PIA-016 Computer Linked Application Information Management System (CLAIMS 3); and
- DHS/USCIS/PIA-056 USCIS ELIS.

The applicable System of Records Notices (SORN) are:

- DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, September 18, 2017, 82 FR 43556, and
- DHS/USCIS-007 Benefits Information System, October 19, 2016, 81 FR 72069.

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.

An applicant may be required to provide sensitive income, information to USCIS to document their eligibility for a fee waiver including income information. In addition, the applicant may be required to provide information concerning household status. This information is required for USCIS to determine whether or not the applicant is eligibility for the fee waiver.

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 | Application | 116,832 | 1 | 116,823 | 2.33 | 272,219 | \$36.47 | \$9,927,811 |

| | | | | | | | | |
|---------------------------|---|-----|---|----------------|------|----------------|---------|--------------------|
| or Households | for Fee Waiver, Form I-912 | | | | | | | |
| Individuals or Households | DACA Exemptions | 108 | 1 | 108.00 | 1.17 | 126 | \$36.47 | \$4,608 |
| Individuals or Households | 8 CFR 106.3(e) Director's Exemption Provision | 20 | 1 | 20.00 | 1.17 | 23 | \$36.47 | \$853 |
| Total | | | | 116,960 | | 272,368 | | \$9,933,273 |

* 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 1.46 (to account for benefits provided) equaling \$36.47. The selection of "All Occupations" was chosen as the expected respondents for this collection could be expected to be 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. There is no fee cost to respondents for filing these requests. However, USCIS estimates that all respondents will incur a cost of \$3.75 average postage to mail the completed package to USCIS.

Postage to mail completed package (116,960 x \$3.75 average postage) = **\$438,600.**

- 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.**

Annualized Cost Analysis

| | | |
|--|-----------|------------------|
| a. Printing Cost: | \$ | 7,766 |
| b. Collecting and Processing: | \$ | 4,678,400 |
| c. Total Annual Cost to the Government: | \$ | 4,686,166 |

Government Cost

The estimated cost to the Government is **\$4,686,166**. This figure is calculated by multiplying the estimated number of respondents (116,960) x (1) hour (USCIS time required to collect and process information) x \$40.00 (suggested average hourly rate for clerical, officer, and supervisory time with benefits). The estimated cost for collecting and processing (\$4,678,400) is added to the estimated printing cost (\$7,766) for a total cost to the government of **\$4,686,166**.

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

In its discretion, USCIS has amended the reasons for which a fee waiver may be requested. USCIS is no longer accepting the receipt of means-tested benefits as a reason for requesting a fee waiver. USCIS will only consider fee waiver requests made on the basis of the applicant, petitioner, or requester with certain immigrant categories whose household income being at or below 125% of the Federal Poverty Guidelines or the applicant is impacted by a disaster declaration and who are not subject to the affidavit of support requirements under section 213A of the Act or is already a sponsored immigrant as defined in 8 CFR 213a.1 and not subject to the public charge inadmissibility ground under section 212(a)(4) of the Act, 8 U.S.C. 1182(a)(4). The I-912 Form and Instructions

have been updated to reflect this change in USCIS’s fee waiver policy and regulation update.

| Data collection Activity/Instrument | Program Change (hours currently on OMB Inventory) | Program Change (New) | Difference | Adjustment (hours currently on OMB Inventory) | Adjustment (New) | Difference |
|---|---|----------------------|------------------|---|------------------|------------|
| Form I-912 | 815,500 | 272,219 | (543,281) | | | |
| DACA-Related I-765 Fee Exemption Request | | | | 126 | 126 | 0 |
| 8 CFR 103.7(d) Director’s exception request | | | | 23 | 23 | 0 |
| Total(s) | 815,500 | 272,219 | (543,281) | 149 | 149 | 0 |

The change in the total hour burden estimate is due to a change in the estimated number of respondents for the form as a result of the reducing the household income criteria from at or below 150% to at or below 125% of the Federal Poverty Guidelines. USCIS has also eliminated the financial hardship option and the changed the form types eligible for a fee waiver.

| Data collection Activity/Instrument | Program Change (cost currently on OMB Inventory) | Program Change (New) | Difference | Adjustment (cost currently on OMB Inventory) | Adjustment (New) | Difference |
|---|--|----------------------|--------------------|--|------------------|------------|
| Form I-912 | \$1,312,500 | \$438,120 | (\$874,380) | | | |
| DACA-Related I-765 Fee Exemption Request | | | | \$405 | \$405 | 0 |
| 8 CFR 103.7(d) Director’s exception request | | | | \$75 | \$75 | 0 |
| Total(s) | \$1,312,500 | \$436,120 | (\$874,380) | \$480 | \$480 | 0 |

The change in the total cost burden is due to a change in the estimated number of respondents for the form as a result of the reducing the household income criteria from at or below 150% to at or below 125% of the Federal Poverty Guidelines. USCIS has also eliminated the financial hardship option and the changed the form types eligible for a fee waiver.

- 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.