

SUPPORTING STATEMENT FOR
Application for Employment Authorization for Abused Nonimmigrant Spouse
OMB Control No.: 1615-0137
COLLECTION INSTRUMENT(S): Form I-765V

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.**

Section 814(c) of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005) amended the Immigration and Nationality Act (INA) to provide eligibility for employment authorization to certain abused spouses of nonimmigrants admitted under INA section 101(a)(15)(A), (E)(iii), (G), or (H). This provision is codified in INA section 106.

Employers are required to verify a person's identity and authorization to work in the United States, and the employee is required to provide evidence of his or her authorization to work in the United States. *See* 8 U.S.C. 1324a(a)(1)(B); 8 CFR 274a.2(b)(1). This evidence, the Employment Authorization Document (EAD), establishes identity and employment authorization.

Applicants are required to submit biometric information in accordance with 8 CFR 103.2(b)(9). DHS may collect and store for present or future use, by electronic or other means, the biometric information submitted by an individual. 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. *See* 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.**

U.S. Citizenship and Immigration Services (USCIS) uses Form I-765V, Application for Employment Authorization for Abused Nonimmigrant Spouse, to collect the information needed to determine if the applicant is eligible for an initial EAD or renewal EAD as a qualifying abused nonimmigrant spouse. Noncitizens are required to possess an EAD as evidence of work authorization. To be authorized for employment, a noncitizen must be lawfully admitted for permanent residence or authorized to be so employed by the INA or under regulations issued by DHS. Pursuant to statutory or regulatory authorization, certain classes of noncitizens are authorized to be employed in the United States without

restrictions as to location or type of employment as a condition of their admission or subsequent change to one of the indicated classes. USCIS may determine the validity period assigned to any document issued evidencing a noncitizen's authorization to work in the United States.

USCIS also collects biometric information from EAD applicants to verify the applicant's identity, check or update their background information, and produce the EAD card.

The Form I-765V, Application for Employment Authorization for Abused Nonimmigrant Spouse, permits battered spouses of nonimmigrants admitted under subparagraph (A), (E)(iii), (G), or (H) of section 101(a)(15) of the Act to apply for employment authorization based on section 106 of the INA.

To be eligible for employment authorization issued under INA section 106, credible evidence must be submitted demonstrating that the applicant:

1. Is married to a qualifying principal nonimmigrant spouse, or was married to a qualifying principal nonimmigrant spouse and
 - a. The spouse died within two years of filing the EAD application,
 - b. The spouse lost qualifying nonimmigrant status due to an incident of domestic violence, or
 - c. The marriage to the principal spouse was terminated within the two years prior to filing for the INA section 106 employment authorization, and there is a connection between the termination of the marriage and the battery or extreme cruelty;
2. Was last admitted as a nonimmigrant under INA section 101(a)(15)(A), (E)(iii), (G), or (H);
3. Was battered or has been subjected to extreme cruelty, or whose child was battered or subjected to extreme cruelty, perpetrated by the principal nonimmigrant spouse during the marriage and after admission as a nonimmigrant under INA section 101(a)(15)(A), (E)(iii), (G), or (H); and
4. Currently resides in the United States.

Form I-765V will provide the information needed to determine eligibility for employment authorization based on INA section 106. If the applicant remarries prior to adjudication of the application, he or she is ineligible for initial issuance or renewal of employment authorization under INA section 106.

In addition, if an applicant for employment authorization is filing based on a claim that their child was battered or subjected to extreme cruelty, USCIS requires submission of evidence establishing the applicant's parental relationship with the abused child.

Confidentiality provisions of Title 8, United States Code, section 1367 extend to applicants for employment authorization under INA section 106.

- 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-765V is available as a fillable PDF at www.uscis.gov/i-765v, and can be completed and saved electronically. Form I-765V must be completed and submitted via mail. It is not available for electronic submission.

- 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 programs impose no duplication of efforts because no other instrument, form or program can be used to determine employment authorization. USCIS requires applicants under this control number to appear at a USCIS Application Support Center (ASC) to provide an electronic photograph and fingerprints.

USCIS has also investigated the information that may be obtained from other Federal programs and agencies and has determined that the information necessary to determine if the alien is eligible to work in the United States is not available through other Federal sources.

- 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.**

The form may have a small impact on the workloads of nonprofit organizations and small law firms which complete a majority of applications for immigration benefits on behalf of these vulnerable populations.

- 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.**

Form I-765V is the only information collection USCIS has to determine if the applicant has been battered or subjected to extreme cruelty perpetrated by their spouse and otherwise qualifies for employment authorization under INA section 106. Without Form I-765V, USCIS would have no basis for issuing an employment authorization document to this vulnerable population and fulfill Congressional intent of providing a means for certain nonimmigrants to achieve financial independence for their abusers. In addition, if the information is not collected, USCIS will have no basis for issuing a secure identity

and employment authorization document to abused nonimmigrant applicants who request EADs. The information provided on this form is not available by any other means, ensures compliance with INA section 106, and makes effective adjudications possible. An EAD provides recipients with a secure identification document, acceptable evidence of employment authorization, and facilitates an employer's verification of identity and employment authorization.

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 October 29, 2021, USCIS published a 60-day notice in the Federal Register at 86 FR 60060. USCIS received two comments after publishing that notice. USCIS did not make any changes as a result of the comments. The first commenter expressed an opinion about immigration policy generally. The second commenter made a statement about the determination of burden estimates but did not request any changes. Neither of the comments resulted in changes to the information collection.

On January 19, 2022, USCIS published a 30-day notice in the Federal Register at 87 FR 2893. USCIS received one comment after publishing that notice. The commenter expressed an opinion about immigration policy generally. USCIS did not make any changes as a result of the comment.

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.

The confidentiality provisions of 8 U.S.C. section 1367 extend to applications for employment authorization under INA section 106. The disclosure of information relating to a pending or approved Form I-918 will be remain confidential except in certain limited circumstances as described in 8 U.S.C. section 1367.

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, September 18, 2017, 82 FR 43556,
- DHS/USCIS-007 Benefits Information System, October 19, 2019, 84 FR 54622, and
- DHS/USCIS-018 Immigration Biometric and Background Check (IBBC) System of Records, July 31, 2018, 83 FR 36950.

The privacy impact assessments associated with this information collection are:

- Forthcoming Special Protected Immigrant PIA, and
- DHS/USCIS/PIA-016 (a) Computer Linked Application Information Management System (CLAIMS 3) and Associated Systems.

Applicants are informed that USCIS may provide this information to other government agencies and that failure to provide this information and any requested evidence may delay a final decision or result in denial of their request.

- 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.**

The Form I-765V asks questions of a sensitive nature because applicants for employment authorization based on INA section 106 must establish that they are victims of battery or extreme cruelty. Sensitive questions on the Form ask for information about the abusive spouse, the physical address of the victim, and a safe mailing address where the victim can receive confidential correspondence. These questions are necessary as they help reach a determination as to whether the applicant has met the program's eligibility requirements and to receive the EAD itself.

A safe mailing address is requested because many applicants for employment authorization under INA section 106 will submit applications without their abuser's knowledge or consent. The safe address provision allows confidential correspondence to be mailed to the applicant.

Applicants must identify themselves as an abuse victim in one of four categories to establish eligibility:

- **Abused spouse of an A nonimmigrant** (A-1, A-2, and A-3 visa holders)-(c)(27).
- **Abused spouse of an E-3 nonimmigrant** (E-3 visa holder)-(c)(28).
- **Abused spouse of a G nonimmigrant** (G-1, G-2, G-3, G-4, and G-5 visa holders)-(c)(29).
- **Abused spouse of an H nonimmigrant** (H-1B, H-1B1, H-2A, H-2B, H-3, and H-4 visa holders)-(c)(30).

- 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 or Households	Form I-765V	350	1	350	3.75	1,313	\$39.52	51,890
Individuals or Households	Biometrics Submission	350	1	350	1.17	410	\$39.52	16,203
Total				700		1,723		68,093

* The above Average Hourly Wage Rate is the May 2020 Bureau of Labor Statistics average wage for All Occupations [or Insert Other Category from BLS Table] of \$27.07 times the wage rate benefit multiplier of 1.46 (to account for benefits provided) equaling \$39.52. 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.

For informational purposes, there is no fee to file the Form I-765V.

This information collection may impose some out-of-pocket costs on respondents in addition to the time burden for the form's preparation. For form preparation, legal services, translators, and document search and generation, USCIS estimates that the average cost for these activities is \$250. The total cost to respondents is calculated by multiplying 350 applicants by the average cost per response of \$250, which equals \$87,500.

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 to the government for processing and adjudication of Form I-765V is expected to be similar to that for Form I-765 (OMB Control Number 1615-0040) as the requested benefit and process necessary to determine the applicant's eligibility are similar in nature. USCIS estimates that the cost will be \$410 per form submitted multiplied by 350 respondents, which equals \$143,500. The cost for biometric services is calculated by

multiplying the \$85 biometrics services fee by 350 respondents, which equals \$29,750. The total estimated cost to the government is \$173,250.

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-765V				1,875	1,313	-562
Biometrics				585	410	-175
Total(s)				2,460	1,723	-737

USCIS is reporting a decrease in the estimated annual hour burden to respondents for this collection of information. The decrease is a result of a downward adjustment in the estimated number of respondents for this information collection.

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-765V				\$125,000	\$87,500	-\$37,500
Biometrics				\$0	\$0	\$0
Total(s)				\$125,000	\$87,500	-\$37,500

USCIS is reporting a decrease in the estimated annual cost burden to respondents for this collection of information. The decrease is the result of a downward adjustment in the estimated number of 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 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.