

SUPPORTING STATEMENT FOR
Application to Extend/Change Nonimmigrant Status
OMB Control No.: 1615-0003
COLLECTION INSTRUMENT(S): I-539

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.**

Under Section 248 of the Immigration and Nationality Act (INA) (8 U.S.C. 1258), the Secretary of Homeland Security may, under such conditions as he or she may prescribe, authorize a change from any nonimmigrant classification to any other nonimmigrant classification in the case of any alien lawfully admitted to the United States as a nonimmigrant who is continuing to maintain that status. 8 CFR 214.1(c)(2) provides for the extension of nonimmigrant stay beyond the initial period of admission under the authority of Section 214 of the INA through the use of the Form I-539. As part of the related Final Rule on Inadmissibility on Public Charge Grounds, DHS will require all aliens seeking an extension of stay or change of status to demonstrate that they have not, since obtaining the nonimmigrant status they wish to extend or change, received public benefits, as defined in this rule, for more than 12 months in the aggregate within any 36-month period unless the nonimmigrant classification that they seek to extend, or to which they seek to change, is exempt from the public charge ground of inadmissibility. 8 CFR 214.1 and 8 CFR 248.1.

- 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 Form I-539 will be used by U.S. Citizenship and Immigration Services (USCIS) to determine if a non-immigrant alien of the appropriate status who seeks to extend his or her stay beyond the currently authorized period of admission meets the criteria necessary to grant an extension or change in status.

- 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-539 is available for filing via paper and online. The burden for setting up a USCIS online account is covered under the USCIS Identity, Credential, and Access

Management (ICAM) information collection (OMB control number 1615-0122).

- 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.**

The information collected on Form I-539 is specific to the benefit sought and is not collected by any other method. Form I-539 is mandated for this purpose by 8 CFR 241.1(c)(2).

- 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.**

Without this information collection, certain classes of nonimmigrants would not be able to apply for an extension of stay or change to another nonimmigrant classification. If the information is not collected, USCIS will not be able to comply with Section 248 of the Act, which allows for certain nonimmigrants to extend or change their status if they meet certain conditions.

- 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.

USCIS published a Notice of Proposed Rulemaking for RIN 1615-AC68 in the Federal Register, which can be found at <https://www.federalregister.gov/>.

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 collection is covered under the following Privacy Impact Assessment:

- DHS/USCIS/PIA-003 - Integrated Digitization Document Management Program, which covers the digitizing of paper-based immigration files and stores them in EDMS for mission-related uses.
- DHS/USCIS/PIA-016(a) Computer Linked Application Information Management System (CLAIMS 3) and Associated Systems, which covers the processing and adjudication of Form I-539.
- DHS/USCIS/PIA-071 myUSCIS Account Experience, which covers the completion and online submission of certain USCIS forms.
- DHS/USCIS/PIA-079 Content Management Services (CMS), which covers the document storage in CMS (via STACKS).

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, which covers the physical and electronic immigration files, including A- Files and Receipt Files.
- DHS/USCIS-007 Benefits Information System, which covers the collection, use and storage of data elements USCIS collects about benefit requestors, beneficiaries, legal representatives, interpreters, and preparers.
- DHS/USCIS-018 Immigration Biometric and Background Check (IBBC) System of Records, which covers the collection, use, and maintenance of biometric information.

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.

In order to examine individuals' eligibility to extend/change nonimmigrant status it is necessary that USCIS ask questions and obtain evidence that is considered sensitive. This information is required in order for USCIS to appropriately adjudicate the application to extend or change nonimmigrant status under Sections 248 of the INA.

USCIS asks questions of a sensitive nature regarding past behavior and activities. These questions are necessary to determine eligibility of the applicant to extend or change nonimmigrant status as required by law. Sensitive questions are asked to determine: whether an individual might be inadmissible under INA 212 (a)(3) (A)-(F) – Security Grounds for Unlawful Activity, Control or Overthrow of the U.S. Government, Terrorist grounds, Adverse Foreign Policy Consequence, Communist or Totalitarian Affiliation; whether an individual might be inadmissible under INA 212 (a)(2)(A)(i)(I) – Conviction or Commission of a Crime Involving Moral Turpitude (CIMT) or INA 212(a)(2)(A)(i) (II), (B), or (C) – Controlled Substance Violations, Multiple Criminal Convictions, or Controlled Substance Traffickers, or; whether an individual might be inadmissible under

INA 212 (a)(2)(D)(i) and (ii) – coming to the United States solely, principally, or incidentally to engage in prostitution, or an unlawful commercialized vice.

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.**

| Type of Respondent | Form Name / Form Number | No. of Respondents | No. of Responses per Respondent | Total Number of Responses | Avg. Burden per Response (in hours) | Total Annual Burden (in hours) | Avg. Hourly Wage Rate | Total Annual Respondent Cost |
|---------------------------|---|--------------------|---------------------------------|---------------------------|-------------------------------------|--------------------------------|-----------------------|------------------------------|
| Individuals or Households | Application to Extend/Change Nonimmigrant Status / I-539 (paper filers) | 174,289 | 1 | 174,289 | 1.817 | 316,683 | \$34.84 | \$11,033,236 |
| Individuals or Households | Application to Extend/Change Nonimmigrant Status / I-539 (e-filers) | 74,696 | 1 | 74,696 | 1.083 | 80,896 | \$34.84 | \$2,818,409 |
| Individuals or | Supplement A to Form I-539 | 54,375 | 1 | 54,375 | 0.50 | 27,188 | \$34.84 | \$947,213 |

| | | | | | | | | |
|---------------------------|---|---------|---|---------|------|---------|---------|--------------|
| Households | (Instructions for V Nonimmigrant status – (USCIS paper filers)) | | | | | | | |
| Individuals or Households | Biometric Processing | 186,738 | 1 | 186,738 | 1.17 | 218,483 | \$34.84 | \$7,611,948 |
| Total | | | | 490,098 | | 643,250 | | \$22,410,806 |

* The above Average Hourly Wage Rate is the May 2016 Bureau of Labor Statistics average wage for All Occupations of \$23.86 times the wage rate benefit multiplier of 1.46 (to account for benefits provided) equaling \$34.84. 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. For informational purposes only, the filing fee for Form I-539 (paper) is \$620, which includes the biometric services fee associated with the filing of this information collection. For informational purposes only, the filing fee for Form I-539 (electronic) is \$525, which includes the biometric services fee associated with the filing of this information collection.

In addition to the time burden for the form's preparation an estimated 35 percent of respondents may incur expenses for third party assistance to prepare the responses, legal services, translators, and document search and generation. USCIS estimates that the average cost for these activities is \$490 and that an average of 35 percent of the total respondent population may incur this cost. The total cost to respondents would generate as follows: (174,289 paper respondents + 74,696 e-file respondents) x 35 percent of the population x \$490 average cost per response = \$42,700,928. This averages to \$171.5 per respondent (Calculated: \$42,700,928 / 248,985 respondents = \$171.5 per respondent).

- 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 (303,360) x filing fee charge (\$620). The total cost to the Federal government is **\$188,083**.

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

This information collection has been revised to reflect changes proposed by the Fee Rule. USCIS has consolidated filing fee information from individual form instructions into the Form G-1055, Fee Schedule. These changes include removing instructional information about: filing fees, biometric services fees, processing information, payment methods, electronic funds transfers, fee waivers, and premium processing.

| Data collection Activity/Instrument (in hours) | Program Change (hours currently on OMB Inventory) | Program Change (New) | Difference | Adjustment (hours currently on OMB Inventory) | Adjustment (New) [new minus current] | Difference |
|---|--|-----------------------------|-------------------|--|---|-------------------|
| Application to Extend/Change Nonimmigrant Status / I-539 (paper filers) | 348,578 | 316,683 | (31,895) | | | |
| Total(s) | 348,578 | 316,683 | (31,895) | | | |

There is a decrease in the annual estimated hour burden to respondents, due to the removal of fee related content in instructions and consolidation and reformatting of fee related language in the Form G-1055, Fee Schedule.

There is no change to the annual estimated cost burden to respondents for this information collection as a result of the proposed rulemaking.

- 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.

- 1. 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.