



**U.S. Customs and
Border Protection**

March 3, 2025

MEMORANDUM FOR: Dominic Mancini
Acting Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget

THROUGH: Randolph D. Alles
Deputy Under Secretary for Management,
U.S. Department of Homeland Security

FROM: Diane J. Sabatino
Acting Executive Assistant Commissioner
Office of Field Operations
U.S. Customs and Border Protection

SUBJECT: Emergency Request under the Paperwork Reduction Act Regarding Arrival and Departure Record (Form I-94) and Electronic System for Travel Authorization (ESTA) OMB No. 1651-0111

This memorandum requests emergency approval, pursuant to the Paperwork Reduction Act (PRA), from the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), for the U.S. Customs and Border Protection (CBP) collection of information titled, Arrival and Departure Record (Form I-94) and Electronic System for Travel Authorization (ESTA) OMB No. 1651-0111. The Department of Homeland Security (DHS), in consultation with CBP, is seeking a new data collection in the CBP GO application, formerly called CBP One™, to allow aliens to verify their departure in compliance with I-94 requirements on an emergency basis because “public harm is reasonably likely to result if normal clearance procedures are followed.”¹ The PRA change also includes updates to permit photo collection for the ESTA website to mirror the collection of information via the ESTA mobile application.

The changes outlined below seek to: Implement a new capability to allow aliens who are subject to I-94 requirements, and who are departing the United States, to voluntarily provide biographic data, facial images, and geolocation to provide evidence of that departure. Additionally, the ESTA application website will be updated to now require applicants to provide a photograph of their face, or “selfie”, in addition to the photo of the passport biographical page consistent with the ESTA mobile application.

Voluntary Self Reporting Exit (VSRE) Capability

¹ DHS CBP is seeking emergency approval pursuant to OMB’s regulations implementing the PRA at 5 C.F.R. § 1320.13, *Emergency processing*

CBP is implementing a new capability within the CBP GO mobile application, or any successor mobile application, to allow aliens who are subject to I-94 requirements, and who are departing the United States, to voluntarily provide biographic data, facial images, and geolocation to provide evidence of that departure. This collection is a part of CBP's critical efforts in fulfilling DHS's statutory mandate to collect biometric information from departing aliens and CBP's plans to fully automate I-94 information collection.² This capability will close the information gap on alien entries and exits by making it easier for aliens subject to I-94 requirements to report their exit to CBP after their departures from the United States. It will also create a biometrically confirmed, and geolocation confirmed, and thereby more accurate, exit record for such aliens leaving the United States. Aliens subject to I-94 requirements may use the application to voluntarily submit their biographic information from their passports, or other travel documents after they have exited the United States.

These aliens would then submit their facial images using CBP GO in order to report their exit from the United States. Note that while the use of the self-reporting functionality is optional, if they choose to use it, submitting a facial image is a required part of this functionality.

CBP will use geolocation services to confirm that the alien reporting their departure is outside the United States and will run liveness detection software to determine that the selfie photo is a live photo, as opposed to a previously uploaded photo. The mobile application will then compare the facial image submitted to facial images for that person already retained by CBP from previous encounters to confirm the exit biometrically.

CBP will use this information to help reconcile an alien's exit with her or his last arrival. The report of exit will be recorded as a confirmed departure in the Arrival and Departure Information System (ADIS) maintained by CBP. Aliens can use this information as proof of departure, which is most relevant in the land border environment where other means to record departure are less available, but may also be used for departures via air and sea if desired.

As it pertains to the land environment, there is currently no requirement for aliens leaving the United States to report their departure to CBP. However, as described further below, CBP encourages aliens to report their departure to CBP when they exit, so that CBP can record their exit from the United States.

² Numerous federal statutes require DHS to create an integrated, automated biometric entry and exit system that records the arrival and departure of aliens, compares the biometric data of aliens to verify their identity, and authenticates travel documents presented by such aliens through the comparison of biometrics. These include: section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-828, 110 Stat. 3009-546, 3009-558; section 2(a) of the Immigration and Naturalization Service Data Management Improvement Act of 2000 (DMIA), Pub. L. 106-215, 114 Stat. 337, 338; section 205 of the Visa Waiver Permanent Program Act of 2000, Pub. L. 106-396, 114 Stat. 1637, 1641; section 414 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), Pub. L. 107-56, 115 Stat. 272, 353; section 302 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Border Security Act), Pub. L. 107-173, 116 Stat. 543, 552; section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), Pub. L. 108-458, 118 Stat. 3638, 3817; section 711 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Implementing Recommendations of the 9/11 Commission Act), Pub. L. 110-53, 121 Stat. 266, 338; and section 802 of the Trade Facilitation and Trade Enforcement Act of 2015, Pub. L. 114-125, 130 Stat. 122, 199 (6 U.S.C. 211(c)(10)).

Although CBP routinely collects biometric data from aliens entering the United States, there currently is no comprehensive system in place to collect biometrics from aliens departing the country. Collecting biometrics at both arrival and departure, consistent with the congressional mandate for DHS to implement a comprehensive biometric entry-exit system, will thus enable CBP and DHS to know with better accuracy whether an alien required to depart the country is doing so when required. Further, collecting biometric data will help to reduce visa or travel document fraud and improve CBP's ability to identify known or suspected terrorists or other criminals. CBP has been testing various options to collect biometrics at departure in the land and air environments since 2004.

Historically, aliens have had the option to return their physical I-94 when they exit the United States as a means of reporting their timely exit. Most aliens did not choose to do so and numbers have diminished further in recent years as CBP has worked to fully automate all I-94 processes.³ Currently CBP issues electronic I-94 forms to most aliens entering the United States at land, sea, and air ports of entry and while aliens have the option to print them, many do not do so and even if they did, turning them into CBP is burdensome.

Currently, CBP does not routinely staff exit lanes at land border ports of entry, nor does CBP possess a single process for aliens subject to I-94 requirements to voluntarily report their departure. Aliens can currently report their departure by any one of the following means: (1) stopping at a land border port of entry and presenting a printed copy of their electronic I-94 form to a CBP officer; (2) stopping at a land border port of entry and placing a printed copy of their electronic I-94 form in a drop box provided by the port where available; (3) or, if exiting by land on the northern U.S. border, by turning in a printed copy of their electronic I-94 form to the Canadian Border Services Agency (CBSA) when entering Canada. CBSA will then return the form to CBP.

The current options are burdensome and, in many cases, impractical or inconvenient due to the location and design of the ports. They also lead to haphazard record keeping and inaccurate data collection with respect to the aliens leaving the country. Most land border ports of entry provide limited access to CBP officials at the port for vehicles exiting the United States and have minimal parking available to the public. For this reason, most aliens do not report their departure when exiting at land border ports of entry. In those cases, CBP has no way to confirm that an alien has exited the United States at their required time of departure.⁴ CBP often discovers that an alien has previously left the United States at a later date when that same alien attempts to re-enter the United States. Having proof of an exit via a CBP mobile application would provide aliens some information for Officers to consider in the event the Officer is unsure whether a nonimmigrant complied with the I-94 requirements provided upon their previous entry.

Photo Upload for ESTA Website and Mobile

³ CBP has already automated the I-94 process for air and sea travel. CBP is in the process of automating the I-94 process at land border ports of entry. For aliens traveling with a commercial carrier (such as airline or cruise ship), CBP obtains the I-94 entry and exit information from the carrier and automatically records that entry and exit information in CBP systems.

⁴ CBP may receive proof of departure information at a later date in some cases such as through records provided by CBSA or through mailed forms sent in by the alien. However, even in these cases, the information can be delayed or inaccurate and CBP has no way to verify the information.

CBP intends to update the ESTA application website to require applicants to provide a photograph of their face, or “selfie”, in addition to the photo of the passport biographical page. In addition, CBP intends to update the mobile application and require third party submissions to include a “selfie” or photograph of the applicant's face. These photos would be used to better ensure that the applicant is the rightful possessor of the document being used to obtain an ESTA authorization.

Currently, applicants are allowed to have a third party apply for an ESTA on their behalf. While this update would not remove that option, third parties, such as travel agents or family members, would be required to provide a photograph of the ESTA applicant’s face.

The ESTA Mobile application currently requires applicants to take a live photograph of their face, which is compared to the passport photo collected during the ESTA Mobile application process. This change will better align the application processes and requirements of ESTA website and ESTA Mobile applicants.

Emergency Justification

1. Information is Essential to the Mission of the Agency (Required)

In the January 20, 2025 Executive Order “Protecting the American People Against Invasion,” Section 12 of the Executive Order States: “The Secretary of Homeland Security shall take all appropriate action, in coordination with the Secretary of State and the Attorney General, and subject to adequate safeguards, assurances, bonds, and any other lawful measure, to adopt policies and procedures to encourage aliens unlawfully in the United States to voluntarily depart as soon as possible, including through enhanced usage of the provisions of section 240B of the INA (8 U.S.C. 1229c), international agreements or assistance, or any other measures that encourage aliens unlawfully in the United States to depart as promptly as possible, including through removals of aliens as provided by section 250 of the INA (8 U.S.C. 1260).”

The VSRE assists CBP in accomplishing the goals in the Executive Order and CBP’s mission to safeguard the borders of our country. Knowing when an illegal alien has biometrically confirmed their departure from the United States upon termination of parole or other status is critical for maintaining accurate information about illegal aliens remaining in the country. Additionally, requiring a photographic submission as part of the ESTA application process, regardless of whether the applicant is submitting the application via the mobile application or website, is vital to strengthen the integrity of ESTA application and to reduce fraud. The information collected in these processes is essential to the mission of the agency as CBP cannot safeguard its borders without accurate information about those seeking to enter.

2. Public Harm Is Reasonably Likely to Result if Normal Clearance Procedure Are Followed

In the January 20, 2025, Executive Order “Protecting the American People Against Invasion,” the Order States:

“Over the last 4 years, the prior administration invited, administered, and oversaw an unprecedented flood of illegal immigration into the United States. Millions of illegal aliens crossed our borders or were permitted to fly directly into the United States on commercial flights

and allowed to settle in American communities, in violation of longstanding Federal laws.

Many of these aliens unlawfully within the United States present significant threats to national security and public safety, committing vile and heinous acts against innocent Americans. Others are engaged in hostile activities, including espionage, economic espionage, and preparations for terror-related activities. Many have abused the generosity of the American people, and their presence in the United States has cost taxpayers billions of dollars at the Federal, State, and local levels.”

There are over 1 million aliens who will be ordered to depart the United States in the coming weeks. In the interest of public safety and the integrity of our immigration system and to preserve the U.S. economy, it is vital that CBP collect this departure information so that resources are not inadvertently expended seeking to remove aliens who have already departed the United States. Providing means for compliant aliens to voluntarily report their departure allows government resources to focus efforts on apprehending illegal aliens who are potential terrorists, foreign spies, members of cartels, gangs, and violent transnational criminal organizations, and other hostile actors with malicious intent attempting to hide among the American public.

If the collection of photographs does not commence immediately for ESTA applicants, there is a public safety risk that a person submits fraudulent and/or act as an imposter to a legitimate ESTA traveler with the intention of seeking entry into the United States to conduct criminal activities.

3. Unanticipated Event

If the parole status of an alien is revoked and he or she is ordered to depart the United States, there is no way to anticipate how the alien will depart the United States. If departing by commercial air or sea environments, there is a strong likelihood that a biometric verification of departure will be available through existing carrier processes. However, if a large number of aliens depart via the land border and if they report their departure through the existing burdensome processes, CBP’s operations could be crippled by these inquiries. Immediate implementation of VSRE through the CBP GO application ensures an orderly and defined voluntary process for the vast majority of aliens to report their departure without the risk of interrupting CBP’s critical operations.

4. Conclusion

Following the normal clearance procedures under the PRA would delay their implementation and harm the agency’s ability to collect vital departure information in order to prevent expending of resources to find aliens subject to I-94 requirements who have already left the United States and significantly reduce the harm of potential imposters and fraudsters completing their ESTA application.

As discussed, CBP certifies that this request meets the requirements of 5 C.F.R. § 1320.13(a) and it is vital that this revised collection be implemented immediately because: (1) this information is essential to the mission of the Agency and (2) this information is necessary prior to the timeframes established under the PRA.

Thank you for your consideration.

Upon approval and after implementation of this collection, CBP will undergo the normal PRA process, including providing the opportunity for public comment, to renew the collection authority within six months or will discontinue the collection of this information.

Please contact Jody Hardin, Executive Director, Innovation and Strategy Directorate at 202-531-8116 with any additional questions or concerns.