

**SUPPORTING STATEMENT FOR
Notice of Appeal or Motion
OMB Control No.: 1615-0095
COLLECTION INSTRUMENT(S): Form I-290B**

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.**

When U.S. Citizenship and Immigration Services (USCIS) denies or revokes the approval of certain types of immigration benefit requests, an applicant or petitioner may appeal the adverse decision to the Administrative Appeals Office (AAO), or file a motion reopen and/or a motion to reconsider the decision with the USCIS office that issued the adverse decision. This form also used to appeal bond breach determinations by U.S. Immigration and Customs Enforcement to the AAO and by schools appealing decisions on Form I-17 filings for certification to ICE's Student and Exchange Visitor Program (SEVP).

The information collection required on the Form I-290B is necessary for USCIS to adjudicate the appeal or motion.

Authority: 8 CFR 103.2, 103.3, 103.5

- 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 form serves the purpose of standardizing requests for motions and appeals and ensures that the basic information required to adjudicate appeals and motions is provided by applicants and petitioners, or their attorneys or representatives. USCIS uses the data collected on Form I-290B to determine whether an applicant or petitioner is eligible to file an appeal or motion, whether the requirements of an appeal or motion have been met, and whether the applicant or petitioner is eligible for the requested immigration benefit. Form I-290B can also be filed with Immigration and Customs Enforcement (ICE) by schools appealing decisions on Form I-17 filings for certification to ICE's Student and Exchange Visitor Program (SEVP).

- 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 Form I-290B provides the most efficient means for collecting and processing the required data. Form I-290B is available at <http://www.uscis.gov/i-290b> and it can be accessed, completed, and saved electronically. The form must be submitted to USCIS via mail.

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's Forms Inventory Report revealed no duplication of effort and there is no other similar information currently available which can be used for this purpose.

There is no similar data collected. USCIS has investigated its internal processes, files, and data as well as those of other Federal agencies that may service the same population.

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.

Small entities might complete and file this type of information collection with USCIS or ICE. The burden on small entities is no different from that of other respondents such as individuals or households that submit this type of request and USCIS has made no modifications to the form's requirements to provide special treatment for 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.

If the information is not collected through Form I-290B, USCIS and ICE will not be able to determine whether the applicant, petitioner, or school is eligible to file an appeal or motion, whether the requirements of an appeal or motion have been met, and whether the applicant or petitioner is eligible for the immigration benefit for which they were previously denied.

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 January 12, 2018 USCIS published a 60-day notice in the Federal Register at 83 FR 1624. USCIS did receive one comment after publishing that notice. The commenter did not offer any substantive recommendations regarding Form I-129B or its instructions; USCIS is not making any changes to the information collection as a result of this

comment.

On April 10, 2018, USCIS published a 30-day notice in the Federal Register at 83 FR 15395. 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 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.

DHS finds that Form I-290B is a privacy sensitive system and two privacy impacts assessments (PIAs) are required because Form I-290B collects PII from members of the public. The PIAs covering this collection are:

- DHS/USCIS/PIA-062 Administrative Appeals Office Case Management System
- DHS/USCIS/PIA-016(a) Computer Linked Application Information Management System (CLAIMS 3) and Associated Systems

DHS finds that systems of records notice (SORNs) are required because Form I-290B retrieves information by a unique identifier. The SORNs covering this 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, 2016 81 FR 72069

DHS PRIV finds that a Privacy Notice is also required for this information collection.

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.

There are no questions of a sensitive nature.

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
Individual or Households/ Employers	Form I-290B - Notice of Appeal or Motion	24,878**	1	24,878	1.5	37,317	\$34.84	\$1,300,124
Total		24,878		24,878		37,317		\$1,300,124

* 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.

** This number includes the estimated 50 Forms I-290B filed annually with ICE for a school to appeal a Form I-17 denial.

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 is no capital, start-up, operational, or maintenance cost associated with this collection of information. There is, however, a fee charge of \$675 per submission.

In addition, USCIS estimates that respondents will incur an average cost of \$3.75 for postage to submit the completed request to USCIS, for a total of \$93,293. (Calculation: $24,878 \times \$3.75 = \$93,293$.)

This information collection may impose some out-of-pocket costs on respondents in addition to the time burden for the form's preparation. Some respondents may incur expenses to obtain translators and third-party preparers. For form preparation, legal services, translators, and document search and generation, USCIS estimates the average cost of this information collection may vary widely, from as little as \$20 to \$1000 per respondent. USCIS estimates that the average cost for these activities is \$490 and that an average of 60% of the total respondent population may incur this cost. The total cost to respondents would generate as follows: $24,878$ respondents \times 60% of the population = $14,927$ respondents multiplied by the average cost per response of \$490 = **\$7,314,230**.

The estimated total cost to I-290B applicants is \$93,293 plus \$7,314,230, which equals **\$7,407,523**. The estimated cost per respondent is \$7,407,523/24,878 respondents = \$297.75.

- 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. Collection and Processing Cost \$ 16,792,650
- b. Total Annual Cost to Government \$ 16,792,650**

The estimated cost of the program to the government is calculated by multiplying the estimated number of respondents (24,878) x the suggested fee charge (\$675). (Calculation: 24,878 x \$675 = \$16,792,650) The total cost includes the suggested hourly rate for clerical, officer and managerial time with benefits, plus a percent for the estimated overhead cost for printing, stocking and distributing and processing of this form.

- 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
Form I-290B - Notice of Appeal or Motion				33,093	37,317	4,224
Total(s)				33,093	37,317	4,224

There is an increase in the annual burden hours previously reported for this information collection. This change is due to an adjustment in agency's estimates for the number of respondents associated with this collection. USCIS previously reported 22,062 as the estimated number of respondents but is now reporting 24,878 as the estimated number of

respondents. As a result, the annual burden hours have increased by 4,224 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
Form I-290B - Notice of Appeal or Motion				\$2,785,573	\$12,190,220	\$9,404,647
Total(s)				\$2,785,573	\$12,190,220	\$9,404,647

The increase in public cost is due to an increase in the estimated number of respondents. USCIS previously estimated 22,062 respondents but now estimates 24,878 respondents.

In addition, DHS increased the fee for the Form I-290B in 2016 from \$630 to \$675 to recover costs and maintain adequate service (81 FR 73292). DHS also estimates that a greater number of respondents will incur out-of-pocket costs as a result of filing Form I-290B that was previously estimated. As a result, the annual cost burden has increased by \$9,404,647.

- 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.