

## SUPPORTING STATEMENT

### Arrival and Departure Record (Forms I-94, I-94W) and Electronic System for Travel Authorization-ESTA OMB No. 1651-0111

#### 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.**

#### Background

Passengers from visa waiver countries, traveling under the Visa Waiver Program (VWP) by air or sea, are required to receive a travel authorization through the Electronic System for Travel Authorization (ESTA) application prior to travel to the United States. ESTA is a web-based application and screening system used to determine whether certain aliens are eligible to travel to the United States under the VWP in the air and sea environments.

ESTA was provided for by Section 711 of The Secure Travel and Counterterrorism Partnership Act of 2007 (part of the Implementing Recommendations of the 9/11 Commission Act of 2007, also known as the "9/11 Act," Public Law 110-53) which requires that the Secretary of Homeland Security, in consultation with the Secretary of State, develop and implement an internet-based system which shall collect such biographical and other information as the Secretary determines necessary to determine, in advance of travel, the eligibility of the alien to travel to the United States and whether such travel poses a law enforcement or security risk.

CBP Forms I-94 (Arrival/Departure Record) and I-94W (Nonimmigrant Visa Waiver Arrival/Departure Record) are included in the manifest requirements imposed by Sections 231 and 235 of the Immigration and Nationality Act, and are required to be prepared by aliens while en route to the United States and presented upon arrival at a sea or air port of entry within the United States. Under the Act, it is the duty of the master or commanding officer, or authorized agent, owner, or consignee of the vessel or aircraft, having any alien on board, to deliver lists or manifests of the persons on board such vessel or aircraft to CBP officers at the port of arrival. However, CBP now gathers I-94 data from existing automated sources such as the Advance Passenger Information System (APIS) in lieu of requiring passengers arriving by air or sea to submit a paper I-94 upon

arrival. The paper I-94 is still required from travelers entering the United States at a land border. Passengers can access and print their electronic I-94 record via the website [www.cbp.gov/I94](http://www.cbp.gov/I94).

Aliens traveling under the VWP are required to present a completed and signed Nonimmigrant Visa Waiver Arrival Departure Form I-94W as a condition of admission pursuant to 8 C.F.R. § 217.2(b)(1). However, so long as these aliens are traveling in the air or sea environment and have a travel authorization obtained through ESTA, they may forgo completing the paper Form I-94W. ESTA is not available for VWP travelers at land border crossings, though it should be noted that the overwhelming majority of VWP travelers (approximately 99 percent) arrive in the United States in the air environment.

Recent and Proposed Changes

In response to the increasing concerns regarding national security, the Department of Homeland Security (DHS) used the emergency Paperwork Reduction Act (PRA) process to strengthen the security of the Visa Waiver Program (VWP) by adding data elements to the Electronic System for Travel Authorization (ESTA) and to Form I-94W. Passengers from visa waiver countries, traveling under the VWP by air or sea, are required to receive a travel authorization through the ESTA application prior to travel to the United States. DHS determined that the addition of these new data elements improves the Department’s ability to screen prospective VWP travelers while more accurately and effectively identifying those who pose a security risk to the United States and facilitates adjudication of ESTA applications.

The following data elements are either new elements that were approved in the emergency PRA submission or data elements that were collected previously that were changed from “optional” to “mandatory” on the ESTA application.

1	Other Names or Aliases	Mandatory
2	Other Country of Citizenship	Mandatory
3	If yes, passport number on additional citizenship passport	Optional
4	Home Address	Mandatory
5	Parents	Mandatory
6	Current or Previous Job Title	Optional
7	Current or Previous Employer Name	Mandatory
8	Current or Previous Employer Address	Mandatory
9	Current or Previous Employer Telephone number	Optional
10	Primary Email	Mandatory – was optional
11	Primary Telephone Number	Mandatory – was optional
12	U.S. Point of Contact Name	Mandatory

13	U.S. Point of Contact Address	Mandatory
14	U.S. Point of Contact Email	Mandatory
15	U.S. Point of Contact Phone	Mandatory
16	City of Birth	Mandatory
17	National Identification Number	Mandatory
18	Emergency Point of Contact Information Name	Mandatory
19	Emergency Point of Contact Information Email	Mandatory
20	Emergency Point of Contact Information Phone	Mandatory
22	Do you have a current or previous employer?	Mandatory
21	Is your travel to the U.S. occurring in transit to another country?	Mandatory

For the following “mandatory” fields ESTA applicants will be permitted to enter “unknown,” if they do not have or know the information, without impeding the submission of their ESTA application: City of Birth, Parents, National Identification Number, Emergency Contact Information, U.S. Point of Contact information, and Employer Address.

Pursuant to 42 U.S.C. 264(b) and Executive Order 13295, as amended on July 31, 2014, CBP proposes to revise the question on communicable diseases as follows:

In accordance with guidelines from the Centers for Disease Control and Prevention (CDC), CBP also proposes to revise the current question about diseases on ESTA and on Form I-94W as follows:

Currently approved question

Do you have a physical or mental disorder; or are you a drug abuser or addict; or currently have any of the following diseases:

- Chancroid
- Gonorrhea
- Granuloma inguinale
- Leprosy, infectious
- Lymphogranuloma  
venereum
- Syphilis, infectious
- Active Tuberculosis

Proposed new question

Do you have a physical or mental disorder; or are you a drug abuser or addict; or do you currently have any of the following diseases (communicable diseases are specified pursuant to section 361(b) of the Public Health Service Act):

- Cholera

- Diphtheria
- Tuberculosis, infectious
- Plague
- Smallpox
- Yellow Fever
- Viral Hemorrhagic Fevers, including Ebola, Lassa, Marburg, Crimean-Congo
- Severe acute respiratory illnesses capable of transmission to other persons and likely to cause mortality.

**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.**

Information on the ESTA application helps DHS determine whether an alien is eligible to travel to the United States under the VWP. The data elements and questions included in the ESTA application help gather information necessary to ensure that someone does not need to pursue a visa through the Department of State instead of being able to travel under this program.

DHS was mandated by Congress to enhance national security by increasing the amount of information available regarding VWP travelers before such travelers embark on a carrier destined for the United States. As the rationale for mandating the implementation of ESTA, Congress noted that VWP travelers are not subject to the same degree of screening as those travelers who must first obtain a visa before departing for the United States. Therefore, the data collected via ESTA is to mitigate the security concerns of the VWP, whereby travelers seeking to avoid the scrutiny of the visa issuance process or circumvent immigration laws may attempt to enter the United States under the VWP.

The data collected on CBP Forms I-94/I-94W and on the ESTA application provide information required to support DHS mission requirements as they relate to the screening of alien visitors to the United States. Specifically, the information collected is used to assess potential law enforcement and national security risks, and the timely and accurate capture of data that enables matching of alien arrival and departure records that are necessary to monitor alien compliance with United States law.

**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.**

Forms I-94 and I-94W are paper documents prepared by most aliens traveling to the United States (though now most travelers will forgo completing these forms on conveyances. Information about these forms can be found at:

<http://www.cbp.gov/travel/international-visitors/i-94-instructions/i94-rollout> and <http://www.cbp.gov/travel/international-visitors/visa-waiver-program>

ESTA is a web-based system that enables VWP travelers arriving in the U.S. by air and sea to electronically enter applications for authorization to travel to the United States via the VWP. ESTA can be accessed at: <https://esta.cbp.dhs.gov> Samples of Forms I-94 and I-94W can be found at:

<http://www.cbp.gov/document/forms/form-i-94-arrivaldeparture-record> and <http://www.cbp.gov/document/forms/form-i-94w-visa-waiver-arrivaldeparture-record>

CBP captures I-94 data for passengers arriving by air or sea from the Advance Passenger Information System (APIS) in lieu of passengers submitting a paper I-94. Passengers can access and print their electronic I-94 via [www.cbp.gov/I94](http://www.cbp.gov/I94). This supplements the existing process whereby a passenger who wants a copy of their Form I-94 would need to file a Form I-102. Passengers may still file a Form I-102 for this purpose if desired.

- 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.**

This information is not duplicated in any other place or any other form.

- 5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

This information collection does not have an impact on small businesses or other small entities.

- 6. Describe consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

The new elements enhance the information previously collected from travelers and allow DHS to increase identification of those who would seek to exploit the VWP and to do harm to the United States. Extensive research by DHS and our interagency partners has determined that these additional data elements will increase the ability to stop these travelers before they attempt to travel to the United States.

- 7. Explain any special circumstances.**

This information is collected in a manner consistent with the guidelines of 5 CFR 1320.6.

- 8. If applicable, provide a copy and identify the date 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.**

Public comments were solicited through two Federal Register notices including a 60-day notice published on December 9, 2014 (Volume 79, Page 73096) on which no comments were received, and a 30-day notice published on April 16, 2015 (Volume 80, Page 20503) on which no comments have been received.

- 9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

There is no offer of a monetary or material value for this information collection.

- 10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

A PIA entitled Electronic System for Travel Authorization, dated November 3, 2015, a SORN entitled Electronic System for Travel Authorization, dated November 4, 2014 (Vol. 79, Page 65414), and a SORN entitled Non-Immigrant Information System, dated December 19, 2008 (Vol.73, Page 77739) are included in this ICR. There is no assurance of confidentiality provided to the respondents.

- 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, and the explanation to be given to persons from whom the information is requested.**

As a result of Executive Order 13295 which was made on July 31, 2014 revising the list of quarantinable communicable diseases included in Section 264(b) of Title 42, CBP proposes to change question #1 on the yes/no questions of the ESTA application and the Form I-94W to:

Do you have a physical or mental disorder; or are you a drug abuser or addict; or do you currently have any of the following diseases (communicable diseases are specified pursuant to section 361(b) of the Public Health Service Act):

- Cholera
- Diphtheria
- Tuberculosis, infectious

- Plague
- Smallpox
- Yellow Fever
- Viral Hemorrhagic Fevers, including Ebola, Lassa, Marburg, Crimean-Congo
- Severe acute respiratory illnesses capable of transmission to other persons and likely to cause mortality.

All the narrative questions (the yes/no questions) on ESTA and the I-94W are to assist CBP in determining admissibility into the United States under US immigration law. All eight questions directly address the grounds of inadmissibility as per the Immigration and Nationality Act (INA) Section 212(a). There are no I94W questions on either ESTA or the I-94W ask about sexual nature and attitudes or religious beliefs, or any other personal information that is outside the scope of the INA.

**12. Provide estimates of the hour burden of the collection of information.**

<b>Form/ Collection</b>	<b>Number of Respondents</b>	<b>Total Annual Responses</b>	<b>Time Per Respondent (in hours)</b>	<b>Annual Reporting Burden Hours</b>
I-94	4,387,550	4,387,550	0.133 (8 mins)	583,544
I-94 Website	3,858,782	3,858,782	0.066 (4 mins)	254,679
I-94W	941,291	941,291	0.217 (13 mins)	204,260
ESTA burden	23,010,000	23,010,000	0.333 (20 mins)	7,662,330
ESTA fee* (subset of total ESTA respondents)	18,930,000 (subset of 23.01m above)	18,930,000 (subset of 23.01m above)	0.00 (already included in ESTA burden above)	0.00 (already included in ESTA burden above)
<b>TOTAL</b>	<b>32,197,623</b>	<b>32,197,623</b>		<b>8,704,813</b>

\*Note that the 18.890 million respondents paying the \$14.00 for the ESTA fees are a subset of the total 23.01 million ESTA respondents. They should not be added to the total respondents (or else they would be double counted).

The table above reflects updated estimates based on the most recent numbers of respondents. Specific changes are:

- The number of respondents for the I-94 website was decreased by 1,188,899 from 5,047,681 to 3,858,782 and the burden hours were adjusted accordingly;

- The number of respondents for the ESTA burden was increased by 920,000 from 22,090,000 to 23,010,000; and
- The number of respondents paying the ESTA fee was increased by 747,000 from 18,183,000 to 18,930,000.

**Public Cost:**

The estimated annual public cost is **\$672,644,621** and is calculated as follows:

Form/ Collection	Number of Respondents	Annual Reporting Burden Hours	Value of time*	Fee charge (\$6.00 per respondent)	ESTA fee (\$14.00 per respondent)	Total public cost
I-94	4,387,550	583,544	\$11,373,275	\$26,325,300	\$0	\$37,698,575
I-94 Website	3,858,782	254,679	\$11,608,269	\$0	\$0	\$11,608,269
I-94W	941,291	204,260	\$3,981,030	\$5,647,746	\$0	\$9,628,776
ESTA burden	23,010,000	7,645,330	\$349,249,001	\$0	\$0	\$349,249,001
ESTA fee	18,930,000		\$0	\$0	\$265,020,000	\$265,020,000
<b>TOTAL</b>			<b>\$376,211,575</b>	<b>\$31,973,046</b>	<b>\$265,020,000</b>	<b>\$672,644,621</b>

\* Recall from the previous table that the burden for the I-94 is 8 minutes; the burden for the I-94 website is 4 minutes (0.066 hours); the burden for the I-94W form is 13 minutes (0.217 hours); and the burden for ESTA is 20 minutes (0.333 hours). We use the Department of Transportation's guidance on value of travel time for value of time estimates: \$19.49 for travel by land (this applies to I-94 and I-94W) and \$45.58 for travel by air and sea (this applies to ESTA and I-94 Website).

**13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information.**

There are no record keeping, capital, start-up or maintenance costs associated with this information collection. The fee charges related to this ICR are described in item #12 above.

**14. Provide estimates of annualized cost to the Federal Government.**

ESTA applications cost the Government \$4.00 to process multiplied (x) by the number of applications filed (18,930,000) = \$75,720,000. These costs are offset by the ESTA fee.

Note that \$10.00 of the \$14.00 ESTA fee is a travel and tourism fee that is not related to the costs of ESTA. CBP is required to collect this fee by the Travel Promotion Act. So the ESTA application fee is actually \$4.00.

Forms I-94 and I-94W cost the Government \$6.00 to process multiplied (x) by the number of applications filed (5,328,841) for a total of \$31,973,046. These costs are offset by the I-94 and I-94W application fee.

**15. Explain the reasons for any program changes or adjustments reported in Items 12 or 13 of this Statement.**

The number of respondents for the I-94 website, and the ESTA burden and the ESTA fee was revised. These changes were based on the most recent numbers of respondents and are detailed in Item #12 of this Statement.

Although the number of responses and burden decreased for the I-94 website, the overall burden increased because the number of responses for ESTA increased by approximately 1 million respondents and each response is 20 minutes. So that results in a net increase in burden. Although the number of responses and burden decreased for the I-94 website, the overall burden increased.

CBP also proposes to revise the first yes/no question on ESTA and on the I-94W regarding communicable diseases to be consistent with Executive Order 13295. This change is also detailed in Item #1 of this Statement. This requested change will not result in a change to the time per response or to the burden hours. There are no proposed changes to Form I-94 or to the I-94 website.

**16. For collection of information whose results will be published, outline plans for tabulation, and publication.**

This information collection will not be published.

**17. If seeking approval to not display the expiration date, explain the reasons that displaying the expiration date would be inappropriate**

CBP requests not to display the expiration date on these two paper forms because large quantities are stocked at CBP ports and by airlines in 17 languages. However, the expiration date is displayed on the ESTA website and on the I-94 website.

**18. "Certification for Paperwork Reduction Act Submissions."**

CBP does not request an exception to the certification of this information collection.

**B. Collection of Information Employing Statistical Methods**

No statistical methods were employed.