

## SUPPORTING STATEMENT

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

#### A. Justification

**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.**

On December 18, 2015, the President signed into law the Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015 (the Act) as part of the Consolidated Appropriations Act of 2016. To meet the requirements of this new act, the Department of Homeland Security (DHS or the Department) is strengthening the security of the Visa Waiver Program (VWP) through enhancements to the Electronic System for Travel Authorization (ESTA) application and to the Nonimmigrant Visa Waiver Arrival/Departure Record (Form I-94W) form.<sup>1</sup> Section 203 of the Act inserts a new provision in section 217(a) of the Immigration and Nationality Act, generally barring travel under the VWP for nationals of VWP countries who have been present at any time on or after March 1, 2011, in Iraq or Syria, those countries designated as state sponsors of terrorism (Syria, Iran, and Sudan), or other countries or areas of concern as designated by the Secretary of Homeland Security, and who are dual nationals of Iraq, Syria, one of the state sponsors of terrorism, or other designated country or area of concern. 8 U.S.C. § 1187(a)(12)(A)(i)-(ii). Many of the provisions of the new law, including section 203, became effective on the date of enactment of the Act. On February 18, 2016, after careful consideration and in consultation with the Director of National Security and the Secretary of State, the Secretary of Homeland Security designated Libya, Somalia, and Yemen as countries of concern, thereby restricting VWP travel by individuals who have been present within these countries since March 1, 2011. DHS requests emergency approval to amend the ESTA application and Form I-94W to include a question that will be used to determine if an applicant from a VWP country has at any time on or after March 1, 2011, traveled to or been present in Libya, Somalia, or Yemen.

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<sup>1</sup> Note that the Form I-94 is not affected by this change.

A delay in implementation of this provision would have national security implications and would put DHS at risk of not being in compliance with these new statutory requirements.

Although the number of known terrorists from VWP countries who traveled to Libya, Somalia, or Yemen is small in proportion to the total number of travelers from VWP countries to those countries, the security implications of such travel are such that exclusion from the VWP is an appropriate security response. The threat of terrorism related travel to foreign conflict zones is demonstrated by recent successful attacks by returned foreign fighters against Western targets. According to unclassified estimates, more than 39,000 foreign fighters are believed to have traveled to territory controlled by the Islamic State of Iraq and the Levant (ISIL), and among this number are an estimated 6,900 Westerners. These individuals could be encouraged or inspired to return to VWP countries or travel to the United States to conduct terrorist attacks. This could be done without their receiving any further direction from terrorist groups in one of the designated countries. Over the last year, there have been attacks attempted or successfully perpetrated by holders of passports from VWP countries. In particular, the March 2016 Brussels and November 2015 Paris attacks were the most lethal to date perpetrated by returned foreign fighters.

As a second revision, the ESTA application will be updated to request an applicant's Global Entry program number. Record of successful enrollment in the Global Entry program will provide those responsible for vetting and adjudicating the individual's ESTA application with valuable information for consideration when granting waivers and will ultimately lead to a better informed waiver determination, an authority granted to the Secretary of Homeland Security under the new law. Participation in the Global Entry program is completely voluntary and allows applicants to exchange personally identifiable information in return for expedited transit at United States border entry points. If an individual is deemed ineligible to travel to the United States under the VWP based on the dual national and prior travel restrictions contained in the Act, certain categories of applicants may be considered for waivers at the discretion of the Secretary of Homeland Security. An individual referred for consideration for a waiver may have a Global Entry Program Number. If an individual has been pre-approved for travel under the Global Entry program, DHS has already assessed the individual to be low-risk traveler.

DHS has determined that the ESTA application and Form I-94W enhancements will help the Department uphold Congress' intent, meet our legal requirements, and adapt to the heightened threat environment as well as the continued threat posed by foreign fighters from VWP countries. The previously approved data elements that are currently on the ESTA and Form I-94W applications are included in Attachment A. DHS proposes adding questions to the ESTA application and Form I-94W in accordance with the new restrictions in the Act, as discussed further in this document.

Proposed Changes

DHS requests an emergency approval to revise this information collection to add the following new questions (or revise existing questions as specified below) to the ESTA application and Form I-94W, per the new restrictions in the Act:

Number	Question	Notes
1	Are you a member of CBP Global Entry Program?	Mandatory
	If Yes, Please provide your GE member number	Conditional (only seen if answer yes to member of CBP Global Entry Program).
2	Have you traveled to, or been present in, Iraq, Syria, Iran, Sudan, Yemen, Libya, or Somalia on or after March 1, 2011?	Mandatory (for each instance of travel or presence).
	If yes, must answer the questions below	
	Which country?	Conditional (only seen if answer yes to above), but if answered yes to question above – have to provide an answer)
	What dates?	Conditional (only seen if answer yes to above), but if answered yes to question above – have to provide an answer)
	If yes, what was the primary reason for the visit? <ul style="list-style-type: none"> <li>➤ To travel as a tourist (vacation)</li> <li>➤ For personal travel or a family visit (including emergencies)</li> <li>➤ For commercial/business purposes</li> <li>➤ To carry out official duties as a full-time employee of the government of a Visa Waiver Program country</li> <li>➤ To carry out official duties on behalf of a sub-national government or body of a VWP country</li> <li>➤ To perform military service in the armed forces of a Visa Waiver Program country</li> <li>➤ To conduct work as a journalist</li> <li>➤ To engage in humanitarian assistance on behalf of a humanitarian or international non-governmental organization</li> <li>➤ To carry out official duties on behalf of an international organization or regional (multilateral or inter-governmental) organization</li> <li>➤ To attend an academic institution</li> <li>➤ To participate in a professional exchange or conference</li> <li>➤ To participate in a cultural exchange program</li> <li>➤ Other [Write-in field]</li> </ul>	Conditional (only seen if answer yes to above), but if answered yes to question above – have to provide an answer)

DHS requests an emergency approval to revise this information collection to add the following new questions to the ESTA application to permit the adjudications, on a case-by-case basis, of the waiver authority included in the Act. Because potential waivers will only be considered through the ESTA process, these questions will not be included on the I-94W form.

Number	Question	Notes
4	<p>If the applicant answers Yes to “presence in” question and selects “Humanitarian” as reason:</p> <ul style="list-style-type: none"> <li>• Please identify the organization or entity on behalf of which you traveled to Iraq, Syria, Iran, Sudan, Yemen, Libya or Somalia for humanitarian purposes. [Write-in field]</li> <li>• Does your organization or entity have consultative status with the United Nations Economic and Social Council? [Yes, No] [Write-in field]</li> <li>• What was your official position/title with the organization or entity identified? [Write-in field]</li> <li>• If different than your current employer, please provide contact information for the organization or entity identified, including primary address and telephone number. [Write-in field]</li> <li>• Please provide your Iraqi, Syrian, Iranian, Sudanese, Yemeni, Libyan, or Somali visa number related to your humanitarian travel. [Write-in field]</li> <li>• If your organization or entity has been a recipient of U.S. government funding for humanitarian assistance within the last five years, please provide the most recent grant number. [Write-in field]</li> <li>• Please provide us information about the type of work you were doing in country during this time [write-in field]</li> <li>• Please include any information you are willing to share about other NGOs or international, national or state agencies with which you worked. (optional) [Write-in field]</li> <li>• Any additional comments: [ Write-in field]</li> </ul>	Conditional
5	<p>If the applicant answers Yes to “presence in” question and selects “International or Regional” or “Sub-National” as reason:</p> <ul style="list-style-type: none"> <li>• Please identify the international (multilateral or intergovernmental) organization or regional (multilateral or intergovernmental) organization, on behalf of which you traveled to Iraq, Syria, Iran, Sudan, Yemen, Libya or Somalia.</li> <li>• Please identify the sub-national government or body of a VWP country on behalf of which you traveled to Iraq, Syria, Iran, Sudan, Yemen, Libya or Somalia. [Write-in field]</li> <li>• What was your official position/title with the organization or government identified? [Write-in field]</li> <li>• Please provide your Iraqi, Syrian, Iranian, Sudanese, Yemeni, Libyan, Somali visa number related to your official travel on behalf of an international or regional organization, or subnational government. [Write-in field]</li> <li>• Have you ever been issued a G-visa or A-visa by a United</li> </ul>	Conditional

	<p>States Embassy or Consulate [Yes, No]</p> <ul style="list-style-type: none"> <li>• If “Yes”, please provide your G-visa or A-visa number, if known [Write in field]</li> <li>• Have you ever been issued a United Nations Laissez-Passer</li> <li>• If “Yes,” please provide your Laissez-Passer number [Field would ask for number and type of document].</li> </ul>	
6	<p>If the applicant answers Yes to “presence in” question and selects “Journalism” as reason:</p> <ul style="list-style-type: none"> <li>• Please identify the company, entity, or organization on behalf of which you traveled to Iraq, Syria, Iran, Sudan, Yemen, Libya or Somalia to engage in journalism. [Write-in field]</li> <li>• What is your official position with the company, entity, or organization identified? [Write-in field]</li> <li>• Have you ever been issued an I-visa by a United States Embassy or Consulate? [Yes, No]</li> <li>• If Yes— <ul style="list-style-type: none"> <li>o Please provide your I-visa number, if known. [Write-in field]</li> </ul> </li> </ul>	Conditional

As is the case with most questions on the ESTA application, a “?” help information field will be available for these new questions.

Under the Act, the Secretary of Homeland Security may waive these new eligibility restrictions for travel under the VWP with respect to an alien if the Secretary determines that such a waiver is in the law enforcement or national security interests of the United States. Whether ESTA applicants will receive a waiver will be determined on a case-by-case basis, in accordance with policy and operational guidance. DHS is currently planning to consider granting waivers to applicants only through the ESTA process and does not plan to make these waivers available to those who apply for admission under the VWP at land ports of entry. On January 21, 2016, and again on June 16, 2016, the Departments of Homeland Security and State announced categories of travelers that provide a framework to administer national security and law enforcement waivers on a case-by-case basis.

The Secretary of Homeland Security may instruct the Commissioner of U.S. Customs and Border Protection (CBP) on how to exercise the waiver authority for identifying travelers who are within one or more of the approved waiver categories. The Commissioner would exercise this authority through a CBP-led interagency cell that will provide waivers based upon verification of the traveler meeting the national security or law enforcement waiver criteria. If the applicant is eligible for a waiver based upon responses to questions on the ESTA application, the interagency cell will adjudicate the information to determine if a waiver is to be granted. The waiver process will be built into the ESTA application process. To validate the information provided by the applicant, the interagency cell will utilize various data systems and information provided by other government partners.

The combined totality of existing and newly proposed ESTA data elements will help the U.S. Government meet the requirements of the VWP Improvement and Terrorist Travel Prevention Act of 2015, mitigate the foreign fighter threat, and facilitate lawful travel under the VWP. By requiring ESTA and Form I-94W applicants to provide information about prior presence in one of the three countries listed above, DHS will enhance its ability to identify ESTA and Form I-94W applicants who may not be eligible to travel to the United States through the VWP under the Act. DHS also believes enhancements to ESTA and the Form I-94W will help the Department facilitate adjudication of ESTA applications and I-94W forms.

### Background

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. Form I-94W, the paper equivalent to ESTA, is used primarily at land ports of entry for VWP travelers. While the Form I-94 (Arrival/Departure Record), which is different from the Form I-94W, is also a part of this collection, no changes will be made to it. Air and sea passengers from VWP program countries traveling under the VWP are required to receive a travel authorization through ESTA.

ESTA was established pursuant to section 711 of the Secure Travel and Counterterrorism Partnership Act of 2007 (enacted as part of the Implementing Recommendations of the 9/11 Commission Act of 2007, also known as the "9/11 Act," Public Law 110-53). The law required that the Secretary of Homeland Security, in consultation with the Secretary of State, to "develop and implement a fully automated electronic system...to collect such biographical and other information as the Secretary determines necessary to determine, in advance of travel, the eligibility of, and whether there exists a law enforcement or security risk in permitting, the alien to travel to the United States." 8 U.S.C. § 1187(h)(3) (A).

CBP Forms I-94 (and I-94W) are included in the manifest requirements imposed by section 231 of the Immigration and Nationality Act (INA), as applied in 8 C.F.R. part 231. Under the INA, it is the duty of the master or commanding officer, or authorized agent, owner, or consignee of the vessel or aircraft transporting any person to any United States port from any place outside the United States to deliver to CBP manifest information about each passenger, crew member, and other occupant transported on such vessel or aircraft prior to arrival at the United States port. 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 those VWP travelers entering the United States at land ports of entry. Passengers can access and print their

electronic I-94 record via the website [www.cbp.gov/I94](http://www.cbp.gov/I94). The provisions permitting electronic transmission are found at 8 C.F.R. § 1.4(e).

Aliens traveling under the VWP are required to present a completed and signed Form I-94W as a condition of admission under 8 C.F.R. § 217.2(b)(1). Aliens traveling in the air or sea environment must receive a travel authorization obtained through ESTA. As ESTA collects the information reflected by the Form I-94W, VWP travelers that have an approved travel authorization through ESTA are not required to complete the paper Form I-94W. ESTA is not required for VWP travelers at land border crossings; it should be noted that the overwhelming majority of VWP travelers (approximately 99 percent) arrive in the United States by air.

**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 permits DHS to determine whether an alien is eligible to travel to the United States under the VWP, or whether the individual must apply for a visa with the Department of State instead.

To meet the requirements of the Act, DHS is adding Libya, Somalia, and Yemen to the list of countries that applicants are asked if they have traveled to or been present in one or more of those countries since March 1, 2011. The inclusion of these three additional countries on the ESTA application and Form I-94W will help identify those travelers who are ineligible to travel under the VWP due to the new restrictions added by the Act. By requiring ESTA and Form I-94W applicants to provide this additional information, DHS will improve its ability to identify those applicants who pose a potential security threat to the United States, including known or suspected terrorists. Individuals who are ineligible for travel under the VWP may be eligible to travel to the United States with a valid nonimmigrant visa.

Second, DHS requests emergency approval to further amend the ESTA application and Form I-94W to include a question requesting the ESTA applicant's Global Entry program number, if applicable. If an applicant has been pre-approved for travel under the Global Entry program, DHS has already assessed the individual to be a low-risk traveler. Global Entry is a CBP program that allows expedited clearance for pre-approved, low-risk travelers upon arrival in the United States. Travelers must be pre-approved for the Global Entry program, and all applicants undergo a rigorous background check and in-person interview before enrollment. Record of successful enrollment in the program will provide those responsible for vetting the individual's ESTA application with valuable information for consideration when granting waivers and will ultimately lead to a better informed waiver determination, an authority granted to the Secretary of Homeland Security under the new law.

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, determine the applicability of waivers, and the timely and accurate capture of data that enables matching of alien arrival and departure records that are necessary to monitor travelers' compliance with U.S. 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 DHS to determine whether the individual is eligible to travel to the United States under 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 Form I-94 data for passengers arriving by air or sea from APIS in lieu of passengers submitting a paper Form I-94. Passengers can access and print their electronic Form 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 data elements enhance the information previously collected from VWP travelers and allow DHS to remain compliant with its legal requirements and increase identification of those who may not be eligible to enter the United States through the VWP and those who may seek to exploit the VWP or do harm to the United States. Research by DHS and our interagency partners has determined that these additional data elements will increase the ability of the Department to identify 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 5 C.F.R. § 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 will be solicited and this information collection request will go through a normal PRA approval process, including a response to all comments received from the public, no later than six months after the approval of this emergency request.

**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 Privacy Impact Assessment (PIA) entitled "Electronic System for Travel Authorization" (Dated June 6, 2016), a SORN entitled "Electronic System for Travel Authorization," (Friday, June 17, 2016, 81 FR 39680) and a SORN entitled "Non-Immigrant Information System," are included in this information collection request. The PIA and SORN for ESTA have been revised to include the new questions. 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.**

The ESTA application and I-94W form ask respondents if they have certain diseases. This question is to assist CBP in determining admissibility into the United States under U.S. immigration law. All questions directly address the grounds of inadmissibility and criteria for VWP travel eligibility described in sections 212(a) and 217(a), respectively, of the INA. There are no questions on either the ESTA application or Form I-94W that ask about sexual behavior 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	0.267 (16 mins)	251,325
ESTA burden	23,010,000	23,010,000	0.383 (23 mins)	8,812,830
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>9,902,378</b>

\*Note: The 18.93 million respondents paying the \$14.00 fee (\$10 Travel Promotion Act charge plus \$4 ESTA fee) 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).

**Public Cost:**

The estimated annual public cost is **\$722,933,540** 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	\$11,309,083	\$26,325,300	\$0	\$37,634,383
I-94 Website	3,858,782	254,679	\$11,508,944	\$0	\$0	\$11,508,944
I-94W	941,291	251,325	\$4,870,679	\$5,647,746	\$0	\$10,518,425
ESTA burden	23,010,000	8,812,830	\$398,251,788	\$0	\$0	\$398,251,788
ESTA fee	18,930,000		\$0	\$0	\$265,020,000	\$265,020,000
<b>TOTAL</b>			<b>\$425,940,494</b>	<b>\$31,973,046</b>	<b>\$265,020,000</b>	<b>\$722,933,540</b>

\* Recall from the previous table that the burden for Form I-94 is 8 minutes (0.133 hours); the burden for the I-94 website is 4 minutes (0.066 hours); the burden for Form I-94W is 16 minutes (0.267 hours); and the burden for ESTA is 23 minutes (0.383 hours). DHS based the Form I-94 and Form I-94W figures on the estimated annual burden hours of the respective collections multiplied by (x) the average hourly wage rate for land travelers (\$19.38).<sup>2</sup> DHS based the I-94 website and ESTA figures on the estimated burden hours of the respective collections multiplied by (x) the average hourly wage rate for air and sea travelers (\$45.19).<sup>3</sup> These hourly value of time estimates differ from those included in the previously approved information collection. DHS updated the previous hourly value of time estimates to account for newer, better data.

<sup>2</sup> DHS calculated the land traveler wage rate by adjusting the U.S. Department of Transportation's (DOT) recommended hourly values of travel time savings for intercity, all-purpose travel by surface modes (\$19.00 in 2013 dollars), which DHS assumes best represents intercity, all-purpose travel by land, to 2015 dollars using DOT's recommended annual growth rate of 1.0 percent. Source: U.S. Department of Transportation, Office of Transportation Policy. *The Value of Travel Time Savings: Departmental Guidance for Conducting Economic Evaluations Revision 2 (2015 Update)*, "Table 4 (Revision 2-corrected): Recommended Hourly Values of Travel Time Savings for Intercity, All-Purpose Travel by Surface Modes (Except High-Speed Rail)." April 29, 2015. Available at <http://www.transportation.gov/sites/dot.gov/files/docs/Revised%20Departmental%20Guidance%20on%20Valuation%20of%20Travel%20Time%20in%20Economic%20Analysis.pdf>. Accessed June 15, 2015.

<sup>3</sup> DHS calculated this air and sea traveler wage rate by adjusting the DOT's recommended hourly values of travel time savings for intercity, all-purpose travel by air and high-speed rail (\$44.30 in 2013 dollars), which DHS assumes best represents intercity, all-purpose travel by air and sea, to 2015 dollars using DOT's recommended annual growth rate of 1.0 percent. Source: U.S. Department of Transportation, Office of Transportation Policy. *The Value of Travel Time Savings: Departmental Guidance for Conducting Economic Evaluations Revision 2 (2015 Update)*, "Table 4 (Revision 2-corrected): Recommended Hourly Values of Travel Time Savings for Intercity, All-Purpose Travel by Air and High-Speed Rail." April 29, 2015. Available at <http://www.transportation.gov/sites/dot.gov/files/docs/Revised%20Departmental%20Guidance%20on%20Valuation%20of%20Travel%20Time%20in%20Economic%20Analysis.pdf>. Accessed June 15, 2015.

DHS estimates that 2,100 ESTA/I-94W applicants per year will answer the questions related to nationals of VWP countries visiting one or more of the three new countries (Libya, Somalia, and Yemen). This is in addition to the previously estimated 500,000 respondents who answer these questions related to visiting Iran, Iraq, Sudan, and Syria. In addition, all 23,010,000 respondents will answer the new question concerning Global Entry membership. DHS estimates that it will take an additional 15 minutes for those who have traveled to Libya, Somalia, or Yemen to respond to the conditional questions and an additional 1 minute for all respondents (in addition to the previously estimated 21 minutes) to answer the new Global Entry question. Based on the estimated number of respondents to the two groups of questions, DHS estimates that it will take a weighted average of 23 minutes to respond to ESTA, an increase of 1 minute.

The burden hours for ESTA were increased from 8,421,660 hours to 8,812,830 hours.

The value of time for ESTA was increased from \$383,859,263 to \$398,251,788. The average time per response for Form I-94W was increased from 15 minutes to 16 minutes to allow for the new questions. As the respondents are VWP travelers, just as with ESTA, DHS estimates the same increase in time burden for the I-94W.

The burden hours for Form I-94W were increased from 235,323 hours to 251,325 hours.

The value of time for Form I-94W was increased from \$4,586,445 to \$4,870,679.

There are no changes to the burden hours for the Form I-94 or the I-94 website. However, due to respondents' hourly value of time changes, the value of time for Form I-94 was decreased from \$11,373,275 to \$11,309,083 and the value of time for the I-94 website was decreased \$11,608,269 to \$11,508,944.

**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 Information Collection Request are described in item #12 above.

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

Providing and administering the ESTA system costs the Federal government approximately \$4 per application. These costs are offset by the ESTA user fee charged to the ESTA applicant by the Government.<sup>4</sup> The estimated collections

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<sup>4</sup> The ESTA user fee is the sum of \$10.00 per application credited to the Travel Promotion Fund and \$4.00 per application available to CBP to recover the costs of administering and providing the

for the \$4 fee CBP retains for 18,930,000 respondents are \$75,720,000. Any excess collections over the cost to the Federal government for providing and administering the system represent a transfer from the applicant to the government and are recorded as a cost to the public. CBP does not intend to change the ESTA user fee at this time.

Under the new law, the Secretary of Homeland Security may waive the travel eligibility restrictions if he determines that such a waiver is in the law enforcement or national security interests of the United States. DHS established a CBP-led interagency cell to adjudicate these waivers, on a case-by-case basis, by reviewing and validating the information provided by the applicant through the ESTA system. This review and adjudication process will increase the costs to the government. In order to meet operational demands, a minimum of ten full-time CBP employees will be needed to review and adjudicate possible waivers during multiple shifts seven days a week. These ten additional full-time CBP employees will cost \$1,146,912 per year. This is calculated by multiplying (x) the number of employees (10) times the number of estimated annual hours (2,080) = 20,800 hours multiplied (x) by the estimated average hourly loaded rate of a CBP officer (\$55.14)<sup>5</sup> = \$1,146,912. These 10 employees are sufficient to adjudicate the additional waivers associated with adding Libya, Somalia, and Yemen to the list of countries to which applicants are asked if they have traveled. Other agencies will be consulted during the waiver adjudication process, but no specific costs have been identified for agencies other than DHS. This is an initial estimate and will be refined once CBP has a better understanding of the volume of potential waivers and adjudication time required for each. CBP will monitor the additional costs that result from this change and will report revised ESTA costs when this collection is renewed through the notice and comment process.

Note: \$10.00 of the \$14.00 ESTA fee is a Travel Promotion Act fee that is not related to the costs of ESTA. In fact, this fee is deposited into an account where it is not available to CBP/DHS. CBP is required to collect this fee, alongside the \$4 ESTA fee, by the Travel Promotion Act, as amended. The \$10 fee is a transfer from the traveler to the government and is counted as a cost to the public for the purpose of this collection.

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 Forms I-94 and I-94W application fees.<sup>6</sup>

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system. See 8 U.S.C. § 1187(h)(3)(B).

<sup>5</sup> DHS bases this wage on the salary and benefits of the national average of CBP Officer positions, which is equal to a GS-12, Step 4. Source: Email correspondence with CBP's Office of Administration on June 25, 2015.

<sup>6</sup> Federal statute requires CBP to deposit these two fee collections into the Land Border Inspection Fee Account, where they are then available only for certain, statutorily-enumerated purposes. See 8 U.S.C. § 1356(q)(2)-(3).

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

The average times per response for the ESTA application was increased from 22 minutes to 23 minutes and the burden hours were increased from 8,421,660 hours to 8,812,830 hours. The average time per response for Form I-94W was increased from 15 minutes to 16 minutes and the burden hours were increased from 235,323 hours to 251,325 hours. There are no changes to the burden hours for Form I-94 or for 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 22 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.