II. Designation of Identity Documents for FAS Citizens

The REAL ID regulations, at 6 CFR 37.11(c)(1)(x), authorize DHS to designate additional identity documents through a Federal Register notice. Pursuant to that authority, DHS is designating the following documentation as acceptable evidence of identity for purposes of 6 CFR 37.11(c)(1):

A valid unexpired passport issued by the Republic of the Marshall Islands, the Republic of Palau, or the Federated States of Micronesia with an approved Form I–94,8 documenting the applicant’s most recent admission to the United States under the Compact of Free Association between the United States and the nation that issued the passport.

DHS believes it is appropriate to designate this identity documentation for FAS citizens given the unique relationship between the United States and the FAS and considering that to live and work for indefinite periods, FAS citizens are not required to obtain a visa or EAD, which are documents currently required to establish identity for REAL ID purposes. DHS also believes the designation is consistent with the intent of Congress to facilitate the issuance of REAL ID licenses and identification cards to FAS citizens as demonstrated by enactment of the REAL ID Modification Act. This accommodation for FAS citizens also is consistent with the spirit of the COFAs, although it is not required under any provision of the COFAs.

D. REAL ID Identity Documents for FAS Citizens

The REAL ID regulations require applicants for REAL ID compliant licenses or identification cards to present at least one of several listed documents for purposes of establishing identity.5 For nonimmigrants, these documents could be either an unexpired foreign passport with a valid unexpired U.S. visa affixed, and an approved I–94 form; or an unexpired employment authorization document (EAD) issued by DHS.6

Under the Compacts of Free Association between the United States and the FAS, most FAS citizens are eligible to be admitted to the United States as nonimmigrants without a visa, and live and work in the United States indefinitely. As such, FAS citizens who are lawfully living and working in the United States under the terms of the Compacts may not have a visa or EAD, which would be necessary to satisfy the identity requirements in order to obtain a REAL ID compliant license or identification card.7

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4 REAL ID Act § 202(c)(2)(C)(ii).
5 6 CFR 37(c)(1).
6 The source documents listed in 6 CFR 37.11(c)(1) are all acceptable, but most nonimmigrants do not have access to the other source documents listed. They are limited to the options of an unexpired EAD, or an unexpired foreign passport with a valid U.S. visa affixed with an approved Form I–94, per 6 CFR 37.11(c)(1)(vii). Most nonimmigrants are not eligible for an EAD (because either they are not eligible to be employed in the United States, or because they are authorized for employment with a specific employer incident to status and are not issued an EAD), but FAS nonimmigrants under the COFAs may apply for an EAD as evidence of their work authorization in the United States.
7 Citizens of all three FAS nations admitted under the Compacts are authorized to work incident to that status, i.e., they can obtain an EAD as evidence of work authorization but do not need to obtain one in order to be authorized to work. Under the amended Compacts with the Federated States of Micronesia and the Republic of the Marshall Islands, an unexpired passport and I–94 combination is acceptable evidence of identity and employment authorization. As a result, many FAS citizens do not find it necessary to obtain an EAD in order to exercise their right to work in the United States, although some may still find it more convenient to obtain and use an EAD for this purpose, since many employers are much more familiar with the EAD and/or the individual’s passport may have expired. The Palau compact does not include this provision, so as a practical matter, Palauan citizens are more likely to need to obtain an EAD in order to exercise their right to work in the United States.
8 See 8 CFR 1.4 for a definition of Form I–94.
Background

Executive Order (E.O.) 13780, “Protecting the Nation from Foreign Terrorist Entry into the United States” requires the implementation of uniform vetting standards and the proper collection of all information necessary for a rigorous evaluation of all grounds of inadmissibility or bases for the denial of immigration-related benefits. See 82 FR 13209 (Mar. 9, 2017). The E.O. requires the Department of Homeland Security (DHS) to collect standard data on immigration and foreign traveler forms and/or information collection systems. This data will be collected from certain populations on applications for entry into the United States or immigration-related benefits and is necessary for identity verification, vetting and national security screening and inspection conducted by DHS.

This collection of information is necessary to comply with Section 5 of the E.O. to establish screening and vetting standards and procedures to enable DHS to assess an alien’s eligibility to travel to or be admitted to the United States or to receive an immigration-related benefit from DHS. This data collection also is used to validate an applicant’s identity information and to determine whether such travel or grant of a benefit poses a law enforcement or national security risk to the United States.

DHS will collect biographic information on immigration and foreign traveler information collection instruments and systems. DHS will update its forms and systems to collect information from individuals who seek admissibility or other benefits when that information is not already collected.

New Information To Be Collected

U.S. Government departments and agencies involved in screening and vetting, to include DHS, identified the collection of social media user identifications (also known as usernames, identifiers, or “handles”) and associated publicly available social media information and associated social media platforms used by the applicant during the past five years on certain immigration and foreign traveler collection instruments and systems identified in this supporting statement, designated from investigative and/or intelligence based criteria. DHS is seeking this information, covering the previous five year period, to assist with identity verification, and consistency with other U.S. Government data collections for immigrant and non-immigrant visas.

DHS will not collect social media passwords. DHS personnel will review information on social media platforms in a manner consistent with the privacy settings the applicant has chosen to adopt for those platforms. Only that information which the account holder has allowed to be shared publicly will be viewable by DHS.

DHS is committed to upholding the highest standards of conduct throughout the Department. Existing DHS policy prohibits the consideration of race or ethnicity in our investigation, screening, and enforcement activities in all but the most exceptional instances. This policy is reaffirmed in manuals, policies, directives, and guidelines.

CBP is committed to the fair, impartial and respectful treatment of all members of the trade and traveling public, and has memorialized its commitment to nondiscrimination in existing policies, including the February 2014 CBP Policy on Nondiscrimination in Law Enforcement Activities and all other Administered Programs. This policy prohibits the consideration of race or ethnicity in law enforcement, investigation, and screening activities, in all but the most exceptional circumstances.

CBP’s Standards of Conduct further highlights CBP’s prohibition on bias-motivated conduct and explicitly requires that “Employees will not act or fail to act on an official matter in a manner which improperly takes into consideration an individual’s race, color, age, sexual orientation, religion, sex, national origin, or disability . . . “

The USCIS Policy Manual, Chapter 1, provides guidance principles for achieving its customer service policy goals. The policy provides that USCIS will:

1 Publicly available social media does not require a user to purchase or otherwise pay for a subscription of use and does not require an invitation from a user to join or the establishment of a relationship (e.g., “friend”, “follow”, “connect”) to otherwise access information. Publicly available social media may require a user to create an account in order to access services and related content.

2 For the purposes of this supporting statement and the associated DHS forms, “user identifications” are defined as usernames, handles, screen names, or other identifiers associated with an individual’s online presence and social media profile. Passwords are not considered user identifications and will not be collected.

• Approach each case objectively and adjudicate each case in a thorough and fair manner.
• Carefully administer every aspect of its immigration mission so that its customers can hold in high regard the privileges and advantages of U.S. immigration.
• Demonstrate respect for its customers.
• Be responsive to customers, inquiries and provide information and services that demonstrate courtesy and cultural awareness.
• Through its service, be an example of how to treat customers with respect, courtesy, and dignity.
• Administer the immigration laws, regulations, and policies in a consistent manner.

Consistent with the requirements of the Privacy Act, DHS does not maintain records “describing how any [citizen of the United States or alien lawfully admitted for permanent residence] exercises rights guaranteed by the First Amendment, unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity.” 5 U.S.C. 552a(e)(7)

Although such collection of social media user identifications is ‘mandatory’ to complete the DHS forms, it is not required to obtain or retain a benefit.4 However, for CBP’s ESTA, and EVUS forms, the applicant will be unable to submit the online application if they do not provide a response to the mandatory social media field. Nonetheless, the applicant may proceed if they answer none or other. 8 CFR 103.2(a)(1) provides that forms must be completed in accordance with form instructions. CBP will continue to adjudicate a form where social media information is not answered, but failure to provide the requested data may either delay or make it impossible for USCIS to determine an individual’s eligibility for the requested benefit.

Applicants for CBP and USCIS benefits must certify on the respective forms that the information submitted is true and correct to the best of the applicant’s knowledge and belief. The following social media questions will appear on electronic forms:

Provider/Platform: (dropdown bar will provide multiple choices, including “Other”, and “None” for those who do not use the platforms listed):
• Social Media Identifier(s) over the past five years: please enter information associated with your online presence over the past five years.
• Social Media Identifier(s) over the past five years: free text field for applicant to enter information:

The initial list of social media platforms featured on DHS forms will be as follows:

ASK FM
DOBAN
FACEBOOK
FLICKR
INSTAGRAM
LINKEDIN
MYSPACE
PINTEREST
QZONE (QQ)
REDDIT
SINA WEIBO
TENCENT WEIBO
TUMBLER
TWITTER
TWOO
VINE
VKONTAKTE (VK)

Social Media Identifier(s):
A sufficient amount of space on the paper form will be provided to allow the applicant appropriate room to provide all necessary platforms/identifiers. The request for social media platforms, providers, and websites will focus on those fora that the individual uses to collaborate, share information and interact with others.5

The following social media questions will appear on electronic forms:

Provider/Platform: (a list will be provided including “Other”, and “None” for those who do not use the platforms listed)

Social Media Identifier(s):

The forms will allow the applicant to provide as many platforms and identifiers as necessary.

Paper Forms
Please enter information associated with your online presence over the past five years:

Social Media Identifier(s):

The forms will allow the applicant to provide as many platforms and identifiers as necessary.

Paper Forms
Please enter information associated with your online presence over the past five years:

Social Media Identifier(s): a list will be provided including “Other”, and “None” for those who do not use the platforms listed.

The requested information is needed to complete the DHS forms. The platforms selected represent those which are among the most popular on a global basis. The platforms listed may be updated by the Department by adding or removing platforms in order to evolve the U.S. Government’s uniform vetting with emerging communication technologies and common usage; therefore, the list will change over time. These changes will be made on a periodic basis under this generic clearance. Platform changes will be submitted to OMB for approval prior to inclusion. OMB will review to make sure that such suggested new platforms meet the description of public-facing social media handles contained above.

Programs Affected, OMB Control Numbers and Legal Authorities for the Collections

DHS plans to collect the data elements for three programs/forms administered by U.S. Customs and Border Protection (CBP). The three CBP programs/forms, and the applicable statutory and regulatory authorities to collect the additional information are as follows:


OMB No. 1651–0139—Electronic Visa Update System (EVUS): Collection of data through this form is authorized by INA section 104(a) (8 U.S.C. 1104(a)). The authorities for the maintenance of this system are found in: Title IV of the Homeland Security Act of 2002, 6 U.S.C. 201 et seq., the Immigration and National Act, as amended, including sections 103 (8 U.S.C. 1103), 214 (8 U.S.C. 1184), 215 (8 U.S.C. 1185), and 221 (8 U.S.C. 1201); 8 CFR part 2; the Travel Promotion Act of 2009, Public

4Pursuant to 5 CFR 1320.8(b)(3)(iv), agencies are required to inform[ ] and provide reasonable notice to the potential persons to whom the collection of information is addressed of—Whether responses to the collection of information are voluntary, required to obtain or retain a benefit [ ], or mandatory [ ] pursuant to the authorities cited herein.

5Non-social media websites, such as those for applicants to carry out financial transactions, medical appointment and records, homeowner’s associations, travel, and tourism are not germane to this information collection.
DHS plans to collect the new data elements for nine programs administered by U.S. Citizenship and Immigration Services (USCIS). The nine USCIS programs, and the applicable statutory and regulatory authorities to collect the additional information area as follows: USCIS has the following statutory and regulatory authorities to collect additional biographic data information on the following forms:
- OMB No. 1615–0013—Form I–131, Application for Travel Document: Collection of data through this form is authorized by INA sections 103, 208, 212, 223 and 244; 8 CFR 103.2(a) and (e); 8 CFR 208.6; 8 CFR 244.16; Section 303 of Public Law 107–173.
- OMB No. 1615–0017—Form I–192, Application for Advance Permission to Enter as a Nonimmigrant: Collection of data through this form is authorized by INA 212 [8 U.S.C. 1182].
- OMB No. 1615–0067—Form I–589, Application for Asylum and for Withholding of Removal: Collection of data through this form is authorized by INA sections 101(a)(42), 208(a) and (b), and 241(b)(3) and 8 CFR 208.6 and 1208.6.
- OMB No. 1615–0068—Form I–590, Registration for Classification as Refugee: This information collection is authorized by INA section 207 (8 U.S.C. 1157) for a person who seeks refugee classification and resettlement in the United States. A refugee is defined in 8 U.S.C. 1101(a)(42) and Section 101(a)(42) of the Act.
- OMB No. 1615–0037—Form I–730, Refugee/Asylee Relative Petition: This information collection is authorized by section 207(c)(2), and 208(c) of the INA (8 U.S.C. 1157 and 1158) for an asylee or refugee to request accompanying or following-to-join benefits for his or her spouse and unmarried minor child(ren).
- OMB No. 1615–0038—Form I–751, Petition to Remove Conditions on Residence: Collection of data through this form is authorized by INA section 216, 8 U.S.C. 1186(a); 8 CFR part 216.
USCIS, as a component of DHS, has the following statutory and regulatory authorities, to collect social media information from applicants for immigration benefits:
- 8 CFR 204.5(m)(12) and 214.2(e)(16) provide that, in the context of adjudicating an immigrant or nonimmigrant religious worker petition, USCIS may verify the supporting evidence submitted by the petitioner "through any means determined appropriate by USCIS," including by "review of any other records that the USCIS considers pertinent to the integrity of the organization" with which the religious worker is affiliated.
- 8 CFR 103.2(a)(1) requires that every benefit request be executed and filed in accordance with the form instructions and clarifies that "such instructions are incorporated into the regulations requiring its submission." 8 USCIS has additional statutory and regulatory authorities to secure the homeland and prevent terrorism, in addition to those cited above for CBP and USCIS. These include:
- The Intelligence Reform and Terrorism Prevention Act (IRTPA) of 2004, Public Law 108–458;
- Implementing Recommendations of the 9/11 Commission Act of 2007 ("The 9/11 Act"), Public Law 110–53; and
- The Immigration and Nationality Act, as amended.
Applicant information is collected to maintain a record of persons applying for specific immigration and other travel benefits, and to determine whether these applicants are eligible to receive the benefits for which they are applying. The information provided through DHS forms is also analyzed—along with other information that the Secretary of Homeland Security determines is necessary, including information about other persons included on the DHS forms—against various security and law enforcement databases to identify those applicants who may pose a security risk to the United States. To obtain approval for a collection that meets the
conditions of this generic clearance, a standardized form will be submitted to OMB along with supporting documentation (e.g., a copy of the updated application form). OMB will grant approval only if the agency demonstrates the collection of information complies with the specific circumstances laid out in this supporting statement.

Confidentiality

No assurance of confidentiality is provided. All data submitted under this collection will be handled in accordance with applicable U.S. laws and DHS policies regarding personally identifiable information.

- Title 5, United States Code (U.S.C.), Section 552a, “Records maintained on individuals” [The Privacy Act of 1974, as amended]
- Title 6, U.S.C., Section 142, “Privacy officer.”
- Refugees and asylees are protected by the confidentiality provisions of 8 CFR 208.6; 8 U.S.C. 1103.
- Aliens in TPS status have the confidentiality protections described in 8 CFR 244.16; 8 U.S.C. 1254a(c)(6). There are no confidentiality assurances for other aliens applying for the benefit.
- The system of record notices associated with this information collection are:
  - DHS/USCIS–010 Asylum Information and Pre-Screening System of Records November 30, 2015, 80 FR 74781 (Form I–589, Form I–730).
  - DHS/CBP–022 Electronic Visa Update System (EVUS) System of Records, September 1, 2016, 81 FR 60371 (EVUS Form); Final Rule for Privacy Exemptions, November 25, 2016, 81 FR 85105.
  - DHS/CBP–009 Electronic System for Travel Authorization (ESTA), September 2, 2016, 81 FR 60713 (ESTA Form); Final Rule for Privacy Act Exemptions, August 31, 2009 74 FR 45069.
- Applicable USCIS Privacy Impact Assessments (PIA):

This is a new generic clearance. This request will be submitted to the Office of Management and Budget, Office of Information and Regulatory Affairs for review and approval as required by the Paperwork Reduction Act. This new collection is necessary to meet the intent of E.O. 13780 (Section 5) to establish screening and vetting standards to assess an alien’s eligibility to travel to, be admitted to, or receive an immigration-related benefit from DHS. This information will be used to validate an applicant’s identity and determine whether entry to the U.S. or an immigration benefit for an individual poses a law enforcement or national security risk to the United States.

DHS is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security DHS.
Title: Generic Clearance for the Collection of Social Media Information on Immigration and Foreign Travel Forms.
OMB Number: 1601–NEW.
Frequency: On Occasion.
Affected Public: Individuals.
Number of Respondents: 33,380,888.
Estimated Time Per Respondent: 0.083.
Total Burden Hours: 12,374,078.

Melissa Bruce,
Executive Director, Business Management Office.

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