



Privacy Impact Assessment
for the

Deferred Action for Childhood Arrivals (DACA)

DHS/USCIS/PIA-045

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Abstract

On June 15, 2012, Secretary of Homeland Security Janet Napolitano (the Secretary) issued a Department of Homeland Security (DHS) memorandum entitled, “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children” (the Secretary’s memorandum). The Secretary addressed the memorandum to the Acting Commissioner of U.S. Customs and Border Protection (CBP), and the Directors of U.S. Citizenship and Immigration Services (USCIS) and U.S. Immigration and Customs Enforcement (ICE). The Secretary’s memorandum sets forth how prosecutorial discretion may be exercised in cases involving certain people who arrived in the United States as children. The Secretary emphasized that generally, this population lacked the intent to violate the law, and that her memorandum would ensure enforcement resources would not be expended on these low priority cases.

The basis for the Secretary’s memorandum is the Secretary’s authority to exercise prosecutorial discretion by deferring action in appropriate cases. Prosecutorial discretion is the authority to determine how and when to exercise enforcement authority in line with agency priorities. Deferred action is an exercise of this prosecutorial discretion to defer removal action against certain individuals who are unlawfully present in the United States in order to devote scarce enforcement resources to the highest priority removal cases, including individuals who pose a danger to national security or public safety or have been convicted of specific crimes. USCIS is publishing this Privacy Impact Assessment (PIA) because the deferred action for childhood arrivals process associated with this memorandum involves the collection and use of personally identifiable information (PII).

Overview

The Secretary of Homeland Security issued a memorandum that permits the Department to exercise prosecutorial discretion with respect to individuals who came to the United States as children.¹ DHS plans to exercise prosecutorial discretion when enforcing immigration laws against certain people who were brought to this country as children. This policy allows DHS to ensure that enforcement resources are not expended on low priority cases, such as individuals who were illegally brought into this country as children, have not been convicted of a felony offense, a significant misdemeanor offense, or multiple misdemeanor offenses, and meet other key guidelines. Furthermore, DHS is able to focus greater attention on the removal of individuals who pose a danger to national security or a risk to public safety.

USCIS developed and implemented a formal process for individuals who believe they meet the deferred action for childhood arrivals guidelines to request consideration of deferred action. This process is open to any individual who can demonstrate that he or she meets the guidelines for consideration, as

¹ On June 15, 2012, Secretary of Homeland Security Janet Napolitano (the Secretary) issued a Department of Homeland Security (DHS) memorandum entitled, “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children” (the Secretary’s memorandum). The Secretary’s memorandum is available at <http://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf>.



outlined in the June 15th Secretary's memorandum, including those who have never been in removal proceedings as well as those in removal proceedings, with a final order, or with a voluntary departure order (as long as they are not in immigration detention). Pursuant to the direction of the Secretary, if an individual meets the guidelines of this process, CBP or ICE are to exercise their discretion on a case-by-case basis to prevent qualifying individuals from being apprehended, placed into removal proceedings, or removed.

Deferred action is a discretionary determination to defer removal action of an individual as an act of prosecutorial discretion. Deferred action does not confer lawful status upon an individual. In addition, although an individual whose case is deferred will not be considered to be accruing unlawful presence in the United States during the period deferred action is in effect, deferred action does not excuse individuals of any previous or subsequent periods of unlawful presence. Under existing regulations, an individual whose case has been deferred is eligible to receive employment authorization for the period of deferred action, provided he or she can demonstrate "an economic necessity for employment." DHS can terminate or renew deferred action at any time at the agency's discretion.

Deferred Action for Childhood Arrivals

Pursuant to the guidelines for deferred action for childhood arrivals set forth by the Secretary of Homeland Security, individuals requesting consideration of deferred action are to:

- Be under the age of 31 as of June 15, 2012;
- Have come to the United States before reaching their 16th birthday;
- Have continuously resided in the United States since June 15, 2007, up to the date of filing;
- Have been physically present in the United States on June 15, 2012, and at the time of making the request for consideration of deferred action with USCIS;²
- Have entered without inspection before June 15, 2012, or had a lawful immigration status that expired as of June 15, 2012;
- Be currently in school,³ have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, or be an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and
- Not have been convicted of a felony, significant misdemeanor, or three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.

Individuals who meet the guidelines above are eligible for consideration to receive deferred action for a period of two years, subject to renewal. The new process is open only to those who satisfy the guidelines. As such, immediate relatives, including dependents of individuals whose cases are deferred pursuant to the consideration of deferred action for childhood arrivals process, may not be considered for deferred action as part of this process unless they independently satisfy the guidelines.

² A brief, casual, and innocent absence from the United States does not interrupt continuous residence if it was before August 15, 2012.

³ To be considered "currently in school" under the guidelines, the individual must be enrolled in school on the date the individual submits a request for consideration of deferred action under this process.



Forms to File for Deferred Action for Childhood Arrivals

Individuals seeking consideration of deferred action for childhood arrivals are to submit their request to USCIS through the consideration form, along with a form requesting employment authorization. Specifically, these forms include:

- Form I-821D, *Consideration of Deferred Action for Childhood Arrivals*, is used to request that USCIS consider deferring action, on a case-by-case basis, based on the guidelines set forth by the Secretary of Homeland Security in the memorandum, *Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children*, published on June 15, 2012.
- Form I-765, *Application for Employment Authorization*, is used to apply for employment authorization.
- Form I-765, *Worksheet*, is used to establish economic necessity for employment.

Individuals are to concurrently file the Form I-821D, the Form I-765, and the I-765 Worksheet (I-765WS) with the appropriate fees to request consideration of deferred action for childhood arrivals. There is no fee to file Form I-821D or Form I-765WS. The Form I-765 fee for the Employment Authorization Document (EAD) is \$465, which includes a \$380 form fee and \$85 for biometric services. USCIS plans to reject any Form I-821D submitted without Form I-765.

Employment Authorization Eligibility under Deferred Action for Childhood Arrivals

Individuals who meet the guidelines for consideration of deferred action established above are also eligible for employment authorization under Title 8 Code of Federal Regulations (CFR), Section 274.a.12(c)(14). Those individuals seeking deferred action for childhood arrivals must also apply for an Employment Authorization Document (EAD) by completing Form I-765, *Application for Employment Authorization* with appropriate fees. An EAD is the document USCIS issues to individuals granted temporary employment authorization in the United States.⁴ The validity period is two years, not to exceed the expiration date of the approval of deferred action. Although individuals seeking deferred action for childhood arrivals must apply for an EAD regardless of whether they have economic necessity, an EAD will not be approved without a showing of economic necessity. Individuals must demonstrate economic necessity by completing the I-765 Worksheet.

Fee Exemption

There are no fee waivers available for employment authorization applications connected to the deferred action for childhood arrivals process. There are very limited fee exemptions available.⁵ Requests for fee exemptions must be filed and favorably adjudicated before individuals file their requests for consideration of deferred action for childhood arrivals without a fee. In order to be considered for a fee exemption, the individual must submit a written letter and supporting documentation to USCIS demonstrating that he or she meets one of the following conditions:

⁴ Form I-688, Form I-688A, Form I-688B, Form I-766, or any successor document issued by USCIS as evidence that the holder is authorized to work in the United States.

⁵ 8 CFR section 103.7(c, d).



- Is under 18 and homeless, in foster care, or under 18 years of age and otherwise lacking any parental or other familial support, and with income less than 150% of the U.S. poverty level;
- Cannot care for him or herself due to suffering from a serious, chronic disability and having an income less than 150% of the U.S. poverty level; or
- Have, at the time of the request, accumulated \$25,000 or more in debt in the past 12 months as a result of unreimbursed medical expenses for him or herself or an immediate family member, and having an income less than 150% of the U.S. poverty level.

The fee exemption request must be submitted and decided prior to the individual submitting a request for consideration of deferred action for childhood arrivals without a fee. Fee exemption requests submitted along with the deferred action filings are rejected.

In order to be considered for a fee exemption, the individual must provide documentary evidence to demonstrate that he or she meets any of the above conditions at the time of the request. For evidence USCIS will:

- Accept affidavits from community-based or religious organizations to establish an individual's homelessness or lack of parental or other familial financial support.
- Accept copies of tax returns, bank statements, pay stubs, or other reliable evidence of income level. Evidence can also include an affidavit from the individual or a responsible third party attesting that the individual does not file tax returns, has no bank accounts, and/or has no income to prove income level.
- Accept copies of medical records, insurance records, bank statements, or other reliable evidence of unreimbursed medical expenses of at least \$25,000.
- Address factual questions through requests for evidence (RFEs).

USCIS mails a written notice to the individual indicating whether the fee exemption was approved or denied. The individual is also notified to supply the fee exemption approval notice along with his or her completed forms in order for USCIS to process the request for deferred action consideration.

Deferred Action for Childhood Arrivals Approval Process

The deferred action for childhood arrival approval process begins with an individual downloading Forms I-821D, I-765, and the I-765 Worksheet from the USCIS website. The request for consideration of deferred action must be mailed along with a separate application for employment authorization. All requests for consideration of deferred action for childhood arrivals filings, which include the completed forms, supporting evidence, and applicable fee or fee exemption approval, are submitted to the USCIS Lockbox facility (Lockbox) for initial intake processing.⁶

⁶ Lockbox facilities are operated by a financial agent authorized by the Department of Treasury. This financial agent manages the intake of USCIS applications, petitions and requests and the collection of associated fees submitted directly by mail. It provides the mechanisms to capture information electronically from USCIS applications, petitions and requests, deposit associated fees, forward the information to USCIS systems via an interface, and generate receipt and rejection notices to individuals. The financial agent is also responsible for preparing the files in accordance with USCIS guidance and sending the files to the next processing site. The



All requests for consideration of deferred action for childhood arrivals, and employment authorization applications, must be filed with the appropriate Lockbox. Individuals determine the appropriate Lockbox facility from the USCIS website and downloaded forms. This process is designed to accelerate incoming applications and petitions by electronically capturing data and images from these forms, and by performing fee receipting and fee deposit. The Lockbox receives mail directly on-site. Any deferred action for childhood arrival filings mistakenly mailed to a Service Center are forwarded to the appropriate Lockbox for initial intake processing.

The Lockbox personnel review newly received filings to ensure they are properly filed. The Lockbox verifies the completion of the following items: basic biographical information, signature on the form, jurisdiction of the submitted form, correct fee, and basic eligibility of the individual. Filings that are not properly completed are rejected with an explanation of why the deferred action for childhood arrivals package is rejected and the corrective action needed. Rejected requests do not retain their filing date. Individuals may resubmit rejected filings for review as long as the initial issue was resolved.

Successfully completed filings are accepted through the Lockbox intake process and the information is transmitted electronically to the Computer Linked Application Information Management System (CLAIMS 3).⁷ The data on each form is entered into CLAIMS 3. USCIS uses CLAIMS 3 to process the I-821D and I-765. USCIS also issues a receipt number for filings and sends a receipt notice to the individual. The receipt letter notifies the individual that a case has been received by USCIS and is currently being processed. The Lockbox assembles and ships A-Files, containing Form I-821D, I-765, and I-765WS, to one of the four regional Service Centers.⁸

The Service Centers receive the filings, perform file intake functions, and distribute the files to adjudicators for processing. USCIS adjudicators perform an initial quality assurance review on incoming filings against the information in CLAIMS 3 by comparing it against the form. Any identified errors are corrected at the Service Center. Once the information is verified, adjudicators validate each A-Number in the Central Index System (CIS) based on the name, date of birth, and existing A-Number.⁹

financial agent does not approve or deny petitions/applications/requests received. USCIS has a business arrangement with the Department of the Treasury to allow Bank One, N.A. to serve as the USCIS financial agent. Bank One, N.A. provides USCIS lockbox imaging, check collection, and initial processing services. For more information regarding the Lockbox services provided by the Department of Treasury and appropriate financial agents, please see the Department of Treasury Electronic Check Processing PIA, available at http://www.fms.treas.gov/pia/ECP_PIA.pdf and the accompanying system of records notice, Treasury/FMS.017 - Collections Records - Treasury/Financial Management Service, May 15, 2009 (74 FR 23019) available at <http://www.treasury.gov/FOIA/Pages/fmspa.aspx>.

⁷ Please see the DHS/USCIS/PIA-016 USCIS Benefits Processing of Applicants other than Petitioners for Naturalization, Refugee Status, and Asylum (CLAIMS 3) for additional information regarding the administration and adjudication of immigration and naturalization applications available at <http://www.dhs.gov/uscis-pias-and-sorns#top>.

⁸ "A-files" are a series of records consisting of numbered files prefixed with an "A" used to document the complete history of USCIS' interaction with an individual as prescribed by the Immigration and Nationality Act, prior laws, and other regulations. The records consist of various forms, correspondence and pre-existing files related to or supplied by the individual and/or documentation supporting action considered by USCIS or its predecessor agencies.

⁹ Please see the DHS/USCIS/PIA-009 Central Index System (CIS) for additional information on the A-number validation searches, available at <http://www.dhs.gov/uscis-pias-and-sorns#top>.



In a parallel process, individuals who filed a request for consideration of deferred action for childhood arrivals are scheduled for mandatory biometrics capture (photo, fingerprint, and signature) at an Application Support Center (ASC) regardless of whether biometrics were captured for a previous filing with USCIS. ASC appointments are scheduled through the Scheduling and Notification of Applicant Processing (SNAP) system.¹⁰ USCIS contacts the individual with an appointment time to have his or her biometrics taken at a specified ASC. At the ASC, USCIS electronically captures the individual's full fingerprints (hereafter referred to as the 10-prints) and related biographic data. Individuals under the age of 14 have their press prints captured instead of full fingerprints. A press print is a fingerprint that is collected electronically.

USCIS uses the collected biometrics to conduct background and security checks. The purposes of these checks are to enhance national security and ensure the integrity of the immigration process. All individuals seeking consideration of deferred action as childhood arrivals are subject to security background checks. As part of the background check, USCIS requires that specific security checks or a combination of checks are completed for Forms I-821D and I-765. Specifically, USCIS uses the following background checks for individuals requesting deferred action:

- Federal Bureau of Investigation (FBI) Fingerprint Check is conducted on individuals over the age of 14 when the request, if favorably disposed, would allow them to remain in the United States beyond one year. The FBI Fingerprint Check is a search of the FBI's Integrated Automated Fingerprint Identification System (IAFIS) to identify applicants who have an arrest record. If there is a criminal history record, FBI also sends the FBI Record of Arrests and Prosecutions (commonly referred to as the "RAP Sheet") to USCIS electronically. The RAP Sheet is stored in Biometric Background Storage System.¹¹ A hard copy of the RAP Sheet is also sent to the respective Service Center and is stored in the A-File.¹²
- CBP TECS Name Check is conducted on all applicants over 14 years of age. The TECS Name Check query consists of a name-based search of a multi-agency database containing information from 26 different Federal agencies. The information in TECS includes records of known and suspected terrorists, sex offenders, people who are public safety risks and other individuals that may be of interest (e.g., individuals who have warrants issued against them, people involved in illegal gang activity) to the law enforcement community. If there are positive results from the TECS Name Check, the results are stored in Interagency Border Inspection System (IBIS) Manifest and may be placed in the A-File.¹³

¹⁰ Please see the DHS/USCIS/PIA-020 Scheduling and Notification of Applicant Processing (SNAP) for additional information about the USCIS automated scheduling process for immigration benefits, available at <http://www.dhs.gov/uscis-pias-and-sorns#top>.

¹¹ Please see the DHS/USCIS/PIA-033 Immigration Benefits Background Check Systems (IBBCS) PIA for more information on the Biometric Background Storage System, available at <http://www.dhs.gov/uscis-pias-and-sorns#top>.

¹² Please see the Fingerprint Identification Records System (FIRS) Integrated Automated Fingerprint Identification System (IAFIS) Outsourcing for Noncriminal Justice Purposes - Channeling_PIA and the corresponding Justice/FBI-009 - Fingerprint Identification Records System (64 FR 52343) SORN for more information on the fingerprint search.

¹³ Please see the DHS/CBP/PIA-009(a) TECS System: CBP Primary and Secondary Processing (TECS) National SAR Initiative, available at <http://www.dhs.gov/xlibrary/assets/privacy/privacy-pia-cbp-tecs-sar-update.pdf>, and the



USCIS uses the information it yields from these checks to screen out individuals who seek deferred action for childhood arrivals improperly or fraudulently.¹⁴

Individuals who have been convicted of a felony offense, a significant misdemeanor offense, or three or more other misdemeanor offenses not occurring on the same date and not arising out of the same act, omission, or scheme of misconduct will not be considered for deferred action under the new process except where DHS determines there are exceptional circumstances¹⁵

At any point during the adjudication process, the USCIS adjudication officer may issue a Request for Evidence (RFE) directly to the individual or his or her representative to request additional information on the pending case. An RFE is made when the deferred action for childhood arrivals filing is lacking required documentation/evidence (initial evidence) or the officer needs more documentation/evidence (additional evidence) to make a determination. The RFE indicates what evidence or information is needed to fully evaluate the particular response. The notice explains where to send the evidence and a deadline for the response.

USCIS personnel review all the information provided by the individual along with any additional information compiled during the case review and background check process. Once approved for deferred action as a childhood arrival, the individual receives an approval letter indicating the duration of the deferred action and, if appropriate, an employment authorization document. If USCIS determines that the individual does not satisfy the guidelines or otherwise determines that the individual does not warrant an exercise of prosecutorial discretion, then USCIS declines to defer action for that particular case. USCIS issues a denial notice with an explanation citing the reason(s) USCIS declined the request. The individual cannot file a motion to reopen or reconsider, and cannot appeal the decision if USCIS denies the request. The final decision is recorded in CLAIMS 3. Notices are either mailed or emailed to the individual.

Section 1.0 Authorities and Other Requirements

1.1 What specific legal authorities and/or agreements permit and define the collection of information by the project in question?

The Immigration Nationality Act, 8 U.S.C. § 1101, et seq. provides the legal authority to collect information used for the adjudication of immigration applications, petitions, and requests. The Secretary of Homeland Security issued the *Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children* memorandum, published on June 15, 2012, establishing guidelines that should be satisfied before an individual is considered for an exercise of prosecutorial discretion as a childhood arrival.

corresponding DHS/CBP-011 - U.S. Customs and Border Protection TECS (73 FR 77778) SORN, available at <http://edocket.access.gpo.gov/2008/E8-29807.htm>, for more information on the TECS name check search.

¹⁴ See DHS/USCIS/PIA-033 Immigration Benefits Background Check Systems (IBBCS) PIA in footnote 12 above.

¹⁵ In very rare circumstances, USCIS may exercise its discretionary authority to defer action in a particular case where the individual does not meet the criminal history guidelines for consideration of deferred action for childhood arrivals. These exceptional circumstances are extremely rare and would require very compelling equities to be presented. Please see the *Consideration of Deferred Action for Childhood Arrivals Process Frequently Asked Questions* for more information at www.uscis.gov.



1.2 What Privacy Act System of Records Notice(s) (SORN(s)) apply to the information?

The following system of records notices cover the collection, maintenance, and use of deferred action of childhood arrivals requests:

- DHS/USCIS/ICE/CBP-001 - Alien File, Index, and National File Tracking System of Records (June 13, 2011, 76 FR 34233) covers the consideration for deferred action for childhood arrivals requests, employment authorization applications, and supplemental evidence;
- DHS/USCIS-002 - Background Check Service (June 5, 2007, 72 FR 31082) covers the status and results of background checks;
- DHS/USCIS-003 - Biometric Storage System (April 6, 2007, 72 FR 17172) covers the collection, use, and storage of biometric data; and
- DHS/USCIS-007 - Benefits Information System (September 29, 2008, 73 FR 56596) covers the consideration of deferred action for childhood arrivals request data, employment authorization application data, decision data, and fee exemption data.

1.3 Has a system security plan been completed for the information system(s) supporting the project?

CLAIMS 3 is the information technology system that supports benefits processing of applicants other than petitioners for naturalization, refugee status, and asylum and maintains records from the SORNs listed above. CLAIMS 3 was authorized for operation on March 30, 2012, for a period of three years. The CLAIMS 3 Authority to Operate (ATO) is set to expire on March 30, 2015. The CLAIMS 3 Security Plan was completed on February 22, 2012.

1.4 Does a records retention schedule approved by the National Archives and Records Administration (NARA) exist?

NARA approved the Alien File [N1-566-08-11] and CLAIMS 3 [N1-566-08-13] retention schedules.

1.5 If the information is covered by the Paperwork Reduction Act (PRA), provide the OMB Control number and the agency number for the collection. If there are multiple forms, include a list in an appendix.

The collection of information for deferred action for childhood arrivals is subject to the Paperwork Reduction Act. USCIS obtained approval from OMB for Form I-821D (OMB No. 1615-0124) and Form I-765 (OMB No. 1615-0040).

Section 2.0 Characterization of the Information



The following questions are intended to define the scope of the information requested and/or collected, as well as reasons for its collection.

2.1 Identify the information the project collects, uses, disseminates, or maintains.

USCIS collects biographic, biometric, verifiable evidence,¹⁶ and applicable fees from individuals for consideration of deferred action and employment authorization eligibility. Specifically, individuals seeking consideration of deferred action for childhood arrivals must complete Form I-821D, *Consideration of Deferred Action for Childhood Arrivals*, Form I-765, *Application for Employment Authorization*, and the I-765WS, *I-765 Worksheet*. USCIS may also collect information from the individual's representative through the G-28, *Notice of Entry of Appearance as Attorney or Accredited Representative*. Requests for fee exemptions must be filed and favorably adjudicated before an individual files his or her request for consideration of deferred action for childhood arrivals without a fee. In order to be considered for a fee exemption, the individual is to submit a letter and supporting documentation. The information from these forms is extracted and retained in CLAIMS 3. Verifiable evidence is stored in the individual's A-File.¹⁷

The individual must undergo biographic and biometric background checks before USCIS will consider whether to exercise prosecutorial discretion under the consideration of deferred action for childhood arrivals process. The ASC captures fingerprints for individuals required to undergo a full biometrics capture. The fingerprints are transmitted daily to the FBI's IAFIS database. This query submits fingerprints, without any names associated with the prints. Results of this query are all the names of individuals that match the prints in the FBI's system. These results¹⁸ are loaded into BBSS.¹⁹ The USCIS BBSS maintains copies of the responses to the FBI Fingerprint Check and the FBI RAP Sheets. In certain instances, the RAP Sheets are also placed in the A-File.²⁰ The CBP TECS Name Check uses the individual's name to obtain criminal history information. This information is stored in the USCIS IBIS Manifest and the A-File.²¹

¹⁶ Verifiable evidence is documentation submitted by the individual sufficient for consideration of deferred action for childhood arrivals, employment necessity, and fee exemption needs. Please see Appendix B for a full listing of acceptable evidence.

¹⁷ Please see Appendix A for a full listing of data elements collected through Form I-821D, I-765, and G-26 and Appendix B for a list of accepted documents to establish eligibility.

¹⁸ If there is no match in Integrated Automated Fingerprint Identification System, the FBI's response is "NON-IDENT." If a criminal history record does not exist, the FBI provides USCIS a response (IDENT) indicating that there was a match on the fingerprints submitted.

¹⁹ Please see the DHS/USCIS/PIA-033 IBBCS PIA on the results and systems used to store the fingerprint check results.

²⁰ See footnote 17 above.

²¹ Please see the DHS/USCIS/PIA-033 IBBCS PIA on the results and systems used to store the fingerprint check results and name check, available at <http://www.dhs.gov/uscis-pias-and-sornsn#top>.



2.2 What are the sources of the information and how is the information collected for the project?

USCIS collects the completed forms and the associated evidence directly from the individual or his or her representative. The biometric information is provided by the individual for the FBI Fingerprint Check. The responses from the FBI Fingerprint check are stored in BBSS and may be placed in the A-File. The response from the TECS Name Check is stored in IBIS Manifest and may be placed in the A-File. Also the history action code is placed in CLAIMS 3 if there is no derogatory information.

2.3 Does the project use information from commercial sources or publicly available data? If so, explain why and how this information is used.

USCIS does not collect information from commercial or publicly available data sources to determine deferred action for childhood arrivals.

2.4 Discuss how accuracy of the data is ensured.

USCIS collects information directly from the individual or his or her representative; therefore, USCIS is dependent upon the accuracy of the information provided by the individual or their representative. The accuracy of the information is also determined by the fingerprint and name checks.

2.5 Privacy Impact Analysis: Related to Characterization of the Information.

Privacy Risk: There is a privacy risk that more PII than is necessary may be collected.

Mitigation: To mitigate this risk, USCIS developed a detailed process to review what information is necessary to determine deferred action for childhood arrivals. The USCIS Privacy Office reviewed all the data elements that are collected on I-821D to ensure that only the minimum amount of information needed to consider deferred action status was collected. USCIS reviewed the data to ensure that it would increase processing efficiency, provide better customer service, and ensure deferred action for childhood arrivals is provided to only those who were qualified to receive it. Data that did not meet these guidelines were not included in the form. All information requested on Form I-821D is necessary to process requests for consideration of deferred action for childhood arrivals. All data elements collected were negotiated with and approved by OMB during Paperwork Reduction Act collection review.

Privacy Risk: Data entry errors that might occur when transferring information from the deferred action forms submitted by individuals into the CLAIMS 3.

Mitigation: USCIS mitigates this risk by requiring adjudication officers to conduct a quality assurance check in CLAIMS 3 to verify the accuracy of the information. This is completed by comparing the information from the form against the system. Any data errors are manually updated to reflect the correct information.



Section 3.0 Uses of the Information

The following questions require a clear description of the project's use of information.

3.1 Describe how and why the project uses the information.

USCIS begins processing deferred action requests after they are received through the intake process. USCIS uses information provided in the request, response to an RFE, through an ASC biometrics collection, and from the background check results to:

- Gather any missing information;
- Manage workflow;
- Generate reports;
- Assist USCIS in making a final determination;
- Provide a repository of data to assist with future requests;
- Schedule appointments; and
- Issue decision notices.

The main purpose for collecting this information is to determine whether to approve requests for deferred action for childhood arrivals. All information collected from the individual requesting deferred action that is processed by CLAIMS 3 is necessary to establish the individual's identity and history with USCIS, as well as appropriateness for consideration of deferred action. In addition, USCIS uses the information to determine suitability for consideration of deferred action using criminal, immigration, or terrorism-related history.

3.2 Does the project use technology to conduct electronic searches, queries, or analyses in an electronic database to discover or locate a predictive pattern or an anomaly? If so, state how DHS plans to use such results.

USCIS does not use technology to conduct pattern based queries or searches in considering deferred action requests. USCIS only runs reports to allow employees to analyze data relating to cases involving suspected fraud, public safety, or national security for consideration of deferred action based on the guidelines for eligibility for deferred action for childhood request. USCIS may use the results to facilitate the identification of fraud patterns or trends, as well as previously unknown associations between applicants involved in fraud who pose national security and public safety concerns.²² USCIS places the information it collects, derogatory or not, in a record for each individual for several purposes, including future immigration status verification, evaluating subsequent requests made by an individual, and for litigation.

²² Please see DHS/USCIS/PIA-044 Fraud Detection and National Security Directorate (FDNS) for more information on how USCIS detects, identifies, and combats threats to the security of the United States and the integrity of its legal immigration system, available at <http://www.dhs.gov/uscis-pias-and-sorns#top>.



3.3 Are there other components with assigned roles and responsibilities within the system?

Information provided in this request is protected from disclosure to ICE and CBP for the purpose of immigration enforcement proceedings unless the individual meets the guidelines for the issuance of a Notice to Appear (NTA) or a referral to ICE under the guidelines set forth in USCIS's Notice to Appear guidance (www.uscis.gov/NTA). Individuals whose cases are deferred pursuant to the consideration of deferred action for childhood arrivals process will not be referred to ICE. The information may be shared with national security and law enforcement agencies, including ICE and CBP, for purposes other than removal, including for assistance in the consideration of the deferred action for childhood arrivals request, to identify or prevent fraudulent claims, for national security purposes, or for the investigation or prosecution of a criminal offense. The above information sharing policy covers family members and guardians, in addition to the individual.

3.4 Privacy Impact Analysis: Related to the Uses of Information

Privacy Risk: Individuals who have legitimate access to PII could exceed their authority and use the data for unofficial purposes.

Mitigation: USCIS developed a Deferred Action for Childhood Arrivals Standard Operating Procedure to ensure accurate data entry and proper handling and the appropriate use of information. Prior to any system access, all DHS employees are required to take annual computer security and privacy awareness training, which addresses this issue. DHS also maintains rules of behavior for employees who use DHS systems. USCIS also limits access to PII by employing role-based access (only allowing access to users who need particular PII to perform their duties). USCIS also deploys user logs to ensure users are only accessing information related to their job functions. Additionally, disciplinary rules are in place to ensure the appropriate use of information.

Section 4.0 Notice

The following questions seek information about the project's notice to the individual about the information collected, the right to consent to uses of said information, and the right to decline to provide information.

4.1 How does the project provide individuals notice prior to the collection of information? If notice is not provided, explain why not.

USCIS provides individuals notice throughout the request process for deferred action for childhood arrivals. Prior to the submission of any information, individuals are presented with a Privacy Act Statement, as required by Section (e)(3) of the Privacy Act. The Privacy Act Statement notifies the individual about the authority to collect the information requested, purposes, routine uses, and consequences of providing or declining to provide the information to USCIS. Individuals are also provided general notice through the publication of this PIA, and DHS/USCIS/ICE/CBP-001 - Alien File, Index, and National File Tracking System of Records (June 13, 2011, 76 FR 34233), DHS-USCIS-002 - Background Check Service (June 5, 2007, 72 FR 31082), DHS-USCIS-003 - Biometric Storage System



(April 6, 2007, 72 FR 17172), and DHS/USCIS-0007 - Benefit Information System (September 29, 2008, 73 FR 56596) SORNs cover the collection, maintenance, and use of this information. Additional information about deferred action for childhood arrivals is available at www.uscis.gov.

4.2 What opportunities are available for individuals to consent to uses, decline to provide information, or opt out of the project?

Individuals are informed at the point of data collection that it is within their legal right to decline to provide the requested information. However, failure to provide the requested information may result in the delay of a final decision and result in the denial of the form. Declining to provide all of the required information on the Form I-765, I-765WS, or the I-821D, or to provide payment, may result in USCIS declining the request.

4.3 Privacy Impact Analysis: Related to Notice

Privacy Risk: Insufficient notice is provided to the individual describing the purpose and use of the collected information.

Mitigation: USCIS mitigates this risk by providing notice to the individual prior to the collection of information through the publication of SORNs in the Federal Register, PIAs, its public outreach efforts, and information on www.uscis.gov/childhoodarrivals. Individuals seeking deferred action are made aware that the information they are providing is being collected to determine whether they are eligible to be considered for deferred action as a childhood arrival. Each immigration form, specifically Form I-821D and Form I-765, contains a Privacy Act Statement describing the legal authority to collect information, purpose, routine uses, and right to decline to provide information. In the spirit of transparency, USCIS is also publishing this PIA to provide additional notice to the individual of how the deferred action for childhood arrivals process operates, about the information collected, the right to consent to uses of said information, and the right to decline to provide information.

Section 5.0 Data Retention by the project

The following questions are intended to outline how long the project retains the information after the initial collection.

5.1 Explain how long and for what reason the information is retained.

USCIS enters the information from the completed deferred action for childhood arrivals and employment authorization forms into CLAIMS 3 for processing and adjudication. Information in CLAIMS 3 is destroyed 15 years after the last completed action with respect to the request. Supplemental evidence submitted along with the application is stored in the A-File. The A-File records are permanent whether hard copy or electronic. DHS transfers the A-Files to the custody of the National Archives 100 years after the individual's date of birth.



5.2 Privacy Impact Analysis: Related to Retention

Privacy Risk: There is a risk that USCIS may retain information longer than is necessary to approve or deny the request.

Mitigation: USCIS retains data beyond the approval or denial of a request in order to ensure the information is available for several purposes, including future immigration status verification, evaluating subsequent requests by an individual, and for litigation. Many records serve the same purpose as the paper-based A-File, which NARA has determined to be of permanent historical value. When information is no longer necessary, USCIS retires the records according to the retention period described in the applicable SORNs.

Section 6.0 Information Sharing

The following questions are intended to describe the scope of the project information sharing external to the Department. External sharing encompasses sharing with other federal, state and local government, and private sector entities.

6.1 Is information shared outside of DHS as part of the normal agency operations? If so, identify the organization(s) and how the information is accessed and how it is to be used.

USCIS shares 10-print records with the FBI to conduct a criminal background check for all individuals requesting deferred action for childhood arrivals. The FBI Fingerprint Check requests and responses are electronically transmitted through BBSS to and from the FBI's IAFIS system. FBI fingerprints, other biometric information, and the criminal history check responses are encrypted when electronically transmitted between BBSS and the FBI. The data exchange between USCIS and the FBI for the purpose of FBI Name Check occurs via zipped and encrypted email.²³

6.2 Describe how the external sharing noted in 6.1 is compatible with the SORN noted in 1.2.

USCIS only shares information outside of DHS as permitted under the routine uses outlined in the applicable SORNs in Section 1.2. USCIS may share information with other agencies to assist in making a determination on a deferred action request. USCIS also shares information with other agencies for law enforcement purposes, or other uses compatible with applicable SORNs.

6.3 Does the project place limitations on re-dissemination?

USCIS has signed an Information Sharing Agreement (ISA) and Memorandum of Understanding (MOU) with the FBI that set forth the terms and conditions for the transfer and use of information pertaining to background checks and associated systems. The transfer of data is conducted pursuant to

²³ Please see the DHS/USCIS/PIA-033 IBBCS PIA on the results and systems used to store the fingerprint check results and name check, available at <http://www.dhs.gov/uscis-pias-and-sorns#top>.



the MOU between USCIS and the FBI. In addition, the FBI has policies and procedures in place to ensure that information is not inappropriately disseminated.

6.4 Describe how the project maintains a record of any disclosures outside of the Department.

In addition to the MOU described above, for data sharing on an ad hoc basis, USCIS requires a representative from the outside agency to establish, in writing, what specific information they need on particular individuals. USCIS also requires the representative to sign a non-disclosure statement before the information is released. USCIS maintains a record of any ad hoc information sharing activities.

6.5 Privacy Impact Analysis: Related to Information Sharing

Privacy Risk: The privacy risk in external sharing is the sharing of data for purposes that are not in accord with the stated purpose and use of the original collection.

Mitigation: USCIS is careful to share data only with external agencies that have a need-to-know, and put the information to a use that is compatible with USCIS SORNs. All external sharing arrangements are reviewed prior to the sharing of information to ensure such uses are consistent with existing published routine uses in the applicable SORNs and/or performed with the consent of the individual whose information is being shared. The Privacy Act Statement included in Form I-821D notifies the individual that USCIS may provide information from their request to other government agencies. As required by DHS procedures and policies, all current external sharing arrangements are consistent with the original purpose for which the information was collected.

Section 7.0 Redress

The following questions seek information about processes in place for individuals to seek redress which may include access to records about themselves, ensuring the accuracy of the information collected about them, and/or filing complaints.

7.1 What are the procedures that allow individuals to access their information?

The Privacy Act of 1974, 5 U.S.C. § 552a, as amended, provides statutory privacy rights to U.S. citizens and Legal Permanent Residents (LPRs). The Privacy Act does not cover visitors or aliens. As a matter of DHS policy, any PII that is collected, used, maintained, and/or disseminated in connection with a mixed system by DHS are to be treated as a System of Records subject to the Privacy Act regardless of whether the information pertains to a U.S. citizen, Legal Permanent Resident, visitor, or alien. Under this policy, DHS components are to handle non-U.S. person PII held in mixed systems in accordance with the fair information practices, as set forth in the Privacy Act. Non-U.S. persons have the right of access to their PII and the right to amend their records, absent an exemption under the Privacy Act; however, this policy does not extend or create a right of judicial review for non-U.S. persons.



An individual seeking consideration of deferred action for childhood arrivals may gain access to their USCIS records by filing a Freedom of Information Act (FOIA) or Privacy Act request. Any individual seeking access to their USCIS record may submit the aforementioned requests to following address:

USCIS National Records Center
Freedom of Information Act/Privacy Act Program
P. O. Box 648010,
Lee's Summit, MO 64064-8010

The information requested may, however, be exempt from disclosure under the Privacy Act because sometimes files contain law enforcement sensitive information and the release of such information could possibly compromise ongoing criminal investigations. Further information for Privacy Act and FOIA requests for USCIS records can also be found at <http://www.uscis.gov>.

7.2 What procedures are in place to allow the subject individual to correct inaccurate or erroneous information?

USCIS treats all requests for amendment of information in a system of records as Privacy Act amendment requests. Individuals may direct all requests to contest or amend information to the FOIA/PA Office at USCIS at the address listed above. They must state clearly and concisely in the redress request the information being contested, the reason for contesting it, and the proposed amendment thereof. However, there is no appeals process for deferred action for childhood arrivals final determinations. The individual cannot file a motion to reopen or reconsider, and cannot appeal the decision if USCIS denies his or her request for consideration of deferred action for childhood arrivals. USCIS will not review its discretionary determinations on considering deferred action for childhood arrivals.

7.3 How does the project notify individuals about the procedures for correcting their information?

The procedures for individuals to amend their information are outlined in this PIA and SORNs associated with the deferred action for childhood arrivals process.

7.4 Privacy Impact Analysis: Related to Redress

Privacy Risk: There is a privacy risk that an individual's opportunity for redress may be limited by Privacy Act exemptions or limited avenues for seeking redress.

Mitigation: Individuals are given numerous opportunities during and after the completion of the processing to correct information they have provided and to respond to information received from other sources. USCIS does not claim any Privacy Act exemptions for deferred action for childhood arrivals individuals, and therefore individuals may submit a redress request or appeal as stated in the DHS Privacy Act regulations (found at Title 6 Code of Federal Regulations, Section 5.21).



Privacy Risk: There is a privacy risk that individuals seeking consideration of deferred action for childhood arrivals will be deterred from filing a Privacy Act request due to their non-U.S. citizen status.

Mitigation: Under the DHS mixed-system policy, non-U.S. persons have the right of access to their information and the right to amend their records, absent an exemption under the Privacy Act; however, this policy does not extend or create a right of judicial review for non-U.S. persons. Due to the inherent difficulties in determining an individual's current citizenship status, which may change over time through naturalization or adjustment, USCIS defines the system of records covering deferred action for childhood arrivals as a mixed system, meaning it collects information on U.S. persons and non-U.S. persons and extends the rights of the Privacy Act to these individuals. Therefore, individuals seeking consideration of deferred action for childhood arrivals may submit a Privacy Act request.

Although individuals requesting consideration of deferred action for childhood arrivals are provided the right to access and amendment of their records, there is no appeals process for deferred action for childhood arrivals final determinations. The individual cannot file a motion to reopen or reconsider, and cannot appeal the decision if USCIS denies his or her request for consideration of deferred action for childhood arrivals. USCIS will not review its discretionary determinations.

Section 8.0 Auditing and Accountability

The following questions are intended to describe technical and policy based safeguards and security measures.

8.1 How does the project ensure that the information is used in accordance with stated practices in this PIA?

DHS security specifications require auditing capabilities that log the activity of each user in order to reduce the possibility of misuse and inappropriate dissemination of information. In accordance with DHS security guidelines, USCIS systems use auditing capabilities that log user activity. All user actions are tracked via audit logs to identify audit information by user identification, network terminal identification, date, time, and data accessed. All USCIS systems employ auditing measures and technical safeguards to prevent the misuse of data. Engineers assigned to maintain the USCIS systems have legitimate job duties that require them to design, develop, and optimize the system within the security accreditation environment. This work is performed under supervisory oversight. Furthermore, each employee is required to undergo annual security awareness training that addresses their duties and responsibilities to protect the data. In addition, USCIS systems have internal audits separate from the domain security audits; therefore, a double layer of audit trails exist.

8.2 Describe what privacy training is provided to users either generally or specifically relevant to the project.

USCIS provides annual privacy and security awareness training to all employees and contractors. The Culture of Privacy Awareness training addresses appropriate privacy concerns, including Privacy Act obligations (e.g., SORNs and Privacy Act Statements). The Computer Security Awareness training examines appropriate technical, physical, personnel, and administrative controls to safeguard information.



Additionally, USCIS personnel responsible for considering requests for consideration of deferred action for childhood arrivals will receive special training specific to this process.

8.3 What procedures are in place to determine which users may access the information and how does the project determine who has access?

USCIS deploys role-based access controls and enforces a separation of duties throughout the processing and adjudication of deferred action for childhood arrival requests to limit access to only those persons who have a need-to-know in order to perform their duties. This need-to-know is determined by the respective responsibilities of the employee. In compliance with federal law and regulations, user access privileges are also limited by establishing role-based user accounts in CLAIMS 3 and its associated systems to minimize access to information that is needed view and edit the data.

8.4 How does the project review and approve information sharing agreements, MOUs, new uses of the information, new access to the system by organizations within DHS and outside?

USCIS has a formal review and approval process in place for new sharing agreements. Any new sharing agreements, use of information, and/or new access requests for USCIS systems must go through the USCIS change control process and must be approved by the proper authorities prior to sharing information within and outside of DHS.

Responsible Officials

Donald K. Hawkins
Chief Privacy Officer
United States Citizenship and Immigration Services

Approval Signature

[Original signed copy on file with DHS Privacy Office.]

Jonathan R. Cantor
Acting Chief Privacy Officer
Department of Homeland Security



APPENDIX A: Deferred Action Forms and Collected Data Elements

Form I-821D, *Consideration of Deferred Action for Childhood Arrivals*

Information about consideration of deferred action for childhood arrivals individuals may include:

- First Name
- Middle Name
- Last Name
- Alias(es)
- Current and Past Mailing address(es)
- Alien Number (A-Number)
- Social Security Number
- Date of Birth
- Gender
- City/Town/Village of Birth
- Country of Birth
- County of Residence
- Country of Citizenship/Nationality
- Date of initial entry into the United States
- Place of Entry into the United States
- Status of Entry
- I-94 Number
- I-94 Expiration Date
- Current Education Status
- Military Status
- Arrival/Residence information
- Criminal, National Security and Public Safety Information
- Signature

Preparer information includes:

- Name
- Organization
- Physical, Mailing, and Email Addresses
- Phone and Fax Numbers
- Relationship to the individual
- Signature



Form I-765, *Application for Employment Authorization*

Information about consideration of deferred action for childhood arrivals individuals may include:

- First Name
- Middle Name
- Last Name
- Alias(es)
- Country of Citizenship/Nationality
- Place and date of Birth
- Marital Status
- Social Security Number, if any
- Alien Number or I-94
- Date of Last Entry into the United States
- Place of Last Entry into the United States
- Manner of Last Entry
- Current Immigration Status
- Signature

Preparer information includes:

- Name
- Organization
- Physical, Mailing, and Email Addresses
- Phone and Fax Numbers
- Relationship to the individual
- Signature

Form I-765, Worksheet

Information on the worksheet includes:

- Name
- Annual Income
- Annual Expenses
- Current Assets

G-28, *Notice of Entry of Appearance as an Attorney or Accredited Represented*

Representative information includes:



- Name
- Law Firm/Recognized Organization
- Physical and Mailing Addresses
- Phone and Fax Numbers
- Email Address
- Attorney Bar Card Number or Equivalent
- Bar Membership
- Accreditation Date
- Board of Immigration Appeals (BIA) Representative Accreditation Expiration Date
- Law Practice Restriction Explanation
- Signature



APPENDIX B: Examples of Verifiable Evidence

Acceptable evidence may consist of, but is not limited to:

Identity

- A passport,
- A birth certificate accompanied by photo identification,
- Any national identity document from the individual's country of origin bearing the individual's photo and/or fingerprint,
- Any U.S.-government immigration or other document bearing the individual's name and photograph (e.g., Employment Authorization Documents (EADs), expired visas, driver's licenses, non-driver cards),
- Any school-issued form of identification with photo, or
- Military identification document with photo.

Age at the time of filing

- Birth Certificate,
- Other acceptable secondary evidence establishing the individual's date of birth.

Arrived in United States Prior to 16th Birthday

- I-94

Present in the United States on June 15, 2012 and Continuous Residence

Employment Records

- Pay stubs,
- W-2 Forms,
- Certification of the filing of Federal, State, or local income tax returns,
- Letters from employer(s) or, if the deferred action for childhood arrivals individual has been self-employed, letters from banks, and other firms with whom he/she has done business.

Receipts, Bills, Letters

- Rent receipts,
- Utility bills (gas, electric, telephone, etc.) bearing the individual's name (or family name if residing at same address) and address,
- Receipts or letters from companies showing the dates during which the individual received service.

School Records

- Transcripts,
- Letters,



- Report cards from the school(s) that the individual attended in the United States showing the name of school(s) and the period(s) of school attendance.

Medical Records

- Hospital or medical records showing medical treatment or hospitalization of the individual. Such records should show the name of the medical facility or physician, as well as the date(s) of the treatment or hospitalization.

Memberships

- Official records from a religious entity in the United States confirming the individual's participation in a religious ceremony, rite, or passage (e.g., baptism, first communion, wedding, etc.),
- Documentation showing membership in community organizations (e.g., Scouts).

Military Records

- Form DD-214,
- Certificate of Release or Discharge from Active Duty,
- NGB Form 22,
- National Guard Report of Separation and Record of Service,
- Military personnel records or military health records.

Additional Accepted Documents

- Money order receipts for money sent in or out of the country,
- Passport entries,
- Birth certificates of children born in the United States,
- Bank books with dated transactions,
- Social Security card,
- Selective Service card,
- Automobile license receipts, title, vehicle registration,
- Deeds, mortgages, contracts to which the deferred action for childhood arrivals individual has been a party,
- Tax receipts,
- Insurance policies, receipts, or postmarked letters.

Lacked Lawful Immigration Status on June 15, 2012

- I-94/I-95/I-94W Arrival/Departure Record showing the date the individual's authorized stay expired,
- If the individual has a final order of exclusion, deportation, or removal issued on or before June 15, 2012, a copy of that order and related charging documents, if available,



- An INS or DHS charging document placing the individual into deportation, exclusion, or removal proceedings,
- Any other document that is relevant to show that the individual lacked lawful immigration status on June 15, 2012.