

DEPARTMENT OF HOMELAND SECURITY

**Notice to Aliens Included in the United States Visitor and Immigrant Status
Indicator Technology (US-VISIT) Program; Collection of Alien Biometric Data
upon Exit from the United States at Air Ports of Departure**

AGENCY: National Protection and Programs Directorate, Department of Homeland Security.

ACTION: Notice

SUMMARY: This notice informs the public of the implementation of United States Visitor and Immigrant Status Indicator Technology (US-VISIT) Program exit pilot programs at two air ports of entry as required by the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009. The 2009 appropriations act limited the Department of Homeland Security's funding until US-VISIT conducts certain exit pilots programs and submits a report to Congress. This notice also announces the location of the exit pilot programs and describes the process by which the exit pilot programs will be evaluated by the Department of Homeland Security (DHS). The airport locations are Atlanta, Georgia, and Detroit, Michigan.

FOR FURTHER INFORMATION CONTACT: Helen deThomas, US-VISIT,
Department of Homeland Security, 245 Murray Drive SW., Washington, DC, 20020;
(202) 298-5200 (not a toll-free number).

SUPPLEMENTAL INFORMATION:

Background

The Department of Homeland Security (DHS) established US-VISIT in accordance with several congressional mandates requiring DHS to create an integrated, automated entry-exit system that records the arrival and departure of aliens, verifies aliens' identities, and authenticates aliens' travel documents through the comparison of biometric identifiers.

On April 24, 2008, DHS published a notice of proposed rulemaking (NPRM) to establish an exit program at all air and sea ports of departure in the United States. See 73 FR 22056. The NPRM proposed that aliens subject to US-VISIT entry requirements would provide biometric information to commercial air and vessel carriers before departing the United States at air and sea ports of entry. The commercial air and vessel carriers would be required to collect and transmit the biometric information to DHS. The rule would have exempted, at that time, certain private and small carriers.

The Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, Public Law 110-329, 122 Stat. 3574, 3669 – 70 (Sept. 30, 2008) (2009

Appropriations Act) subsequently provided:

That no funding under this heading shall be obligated for implementation of a final air exit solution pursuant to the notice of proposed rulemaking (DHS-2008-0039) published on April 24, 2008, until the Committees on Appropriations of the Senate and the House of Representatives receive a report on pilot tests of the air exit solution, which shall be reviewed by the Government Accountability Office, and which shall test at least two scenarios: (a) where the airlines collect and transmit biometric exit data as proposed in the notice of proposed rulemaking and (b) where U.S. Customs and Border Protection collects such information at the departure gates.

DHS is conducting an additional pilot in which the Transportation Security Administration (TSA) collects and transmits biometric exit data at an airport security checkpoint. The air exit pilots are being conducted by CBP at the Detroit Metropolitan Wayne County Airport (DTW) and by TSA at the Hartsfield-Jackson Atlanta International Airport (ATL) for a 30–45 day period and began on May 28, 2009.

Pilot 1: CBP at the Departure Gate

CBP officers are conducting a pilot at the departure gate. The purpose of this pilot is to evaluate the impact of collecting biometric information at or near the departure gate from aliens who are subject to US-VISIT biometric requirements departing the United States for foreign destinations. The biometric information consists of one or more electronic fingerprints captured using a mobile or portable device. The biographic information includes travel document information, such as name, date of birth, document issuance type, country, and number—all of which are contained in the document’s machine-readable zone (MRZ) of a machine-readable travel document (MRTD). CBP is following defined processes that minimize interference with the air carrier boarding process. This pilot will capture the cycle time necessary for the additional verification and collection of this biometric data from international travelers.

Pilot 2: TSA at the Security Checkpoint

TSA is conducting a pilot at the security checkpoint. The purpose of this pilot is to evaluate the impact of collecting biometric information at the TSA security checkpoints from those aliens who are subject to US-VISIT biometric requirements departing the United States for foreign destinations. Those travelers with international destinations are directed to an area within the checkpoint where the biographic and biometric information

is collected. The biometric information consists of one or more electronic fingerprints captured using a mobile device. The biographic information includes travel document information, such as name, date of birth, document issuance type, country, and number—all of which are contained in the document's MRZ of the MRTD. This pilot will capture the cycle time necessary for the additional verification and collection of this biometric data from international travelers.

Air Exit Pilots Evaluation

The goal of the pilots is to provide data in support of an evaluation of each alternative to inform the final rule, supporting an optimal air exit solution. The pilots have the following additional objectives:

- Evaluate identity verification and exit-recording solutions with existing port operations and infrastructure
- Record the exit from the United States of each alien encountered during the exit pilots who is subject to US-VISIT biometric requirements at the designated airports
- Update the individual records of each alien encountered during the exit pilots who is subject to US-VISIT biometric requirements in the Automated Biometric Identification System (IDENT) and the Arrival and Departure Information System (ADIS) with departure encounter information

DHS began collecting biographic and biometric data at the two exit pilot program locations identified herein on May 28, 2009. A third exit pilot program location to test the air carrier NPRM preferred solution will be determined at a later date.¹ DHS will

¹ To date, no commercial air carrier has offered to test the preferred solution in the proposed rule. This third air exit pilot program would biometrically and biographically verify the identity of each alien subject to

evaluate the exit pilot programs, including the methods and processes for collecting the required information, after the pilots are completed.

Notice of Requirements for Biometric Collection from Aliens

In accordance with Immigration and Nationality Act (INA) § 215, as implemented in 8 CFR 215.8 and INA § 235, as implemented in 8 C.F.R. § 235.1, DHS hereby provides a notice of the requirements for biometric collection from aliens, as follows:

(a) Aliens subject to notice: Aliens subject to the conditions of entry specified at 8 CFR 235.1(f)(1)(ii) are subject to this notice and may be required to provide biometric information at the time of departure from the United States.

(b) Aliens exempt: This notice does not apply to (i) aliens admitted on A-1, A-2, C-3 (except for attendants, servants, or personal employees of accredited officials), G-1, G-2, G-3, G-4, NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, or NATO-6 visas, unless the Secretary of State and the Secretary of Homeland Security jointly determine that a class of such aliens should be subject to this notice; (ii) children under the age of 14; (iii) persons over the age of 79; (iv) classes of aliens the Secretary of Homeland Security and the Secretary of State jointly determine shall be exempt; or (v) an individual alien whom the Secretary of Homeland Security, the Secretary of State, or the Director of Central Intelligence determines shall be exempt. Aliens admitted on A-1, A-2, C-3 (except for attendants, servants, or personal employees of accredited officials), G-1, G-2, G-3, G-4, NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, or NATO-6 visas who are no longer in such status on the date of departure, however, are subject to the departure requirements

of this notice. Aliens exempted from paragraph (a) who are no longer in an exempted status on the date of departure are subject to the departure requirements of this notice.

(c) Biometric information: All aliens subject to this notice shall, at the time of departure from designated air ports, submit electronic fingerprints and provide their travel documents as requested at the departure inspection locations.

(d) Airport(s) designated for US-VISIT inspection at time of alien departure:

- Atlanta, Georgia (Hartsfield-Jackson Atlanta International Airport)
- Detroit, Michigan (Detroit Metropolitan Wayne County Airport)

Paperwork Reduction Act.

US-VISIT, through TSA and CBP, is requiring aliens to provide biometric data in certain limited circumstances described above. This requirement is considered an information collection requirement under the Paperwork Reduction Act (44 U.S.C. 3501, et seq.). The Office of Management and Budget (OMB), in accordance with the Paperwork Reduction Act, has previously approved this information collection for use. The OMB control number for this collection is 1600-0006. The fingerprint collection covered by 1600-0006 is unchanged from previously published documentation.

Privacy

The US-VISIT air exit pilots use, collect, and share personally identifiable information (PII) in accordance with the US-VISIT/IDENT System of Records Notice (SORN), applicable privacy impact assessments (PIAs), privacy laws, regulations, guidance, agreements, and best practices to ensure that individual privacy is appropriately protected. The US-VISIT Privacy Office published a comprehensive PIA on May 27, 2009, that includes the assessment for the elements being tested in the air exit

pilots that addresses the use, collection, and retention of PII associated with the pilots, identifies possible risks and proposes mitigating strategies. The PIA was reviewed and approved by the Director of US-VISIT and the DHS Chief Privacy Officer. The PIA was published on the DHS public Web site at

www.dhs.gov/xlibrary/assets/privacy/privacy_pia_usvisit_air_exit.pdf

The DHS Chief Privacy Officer, in conjunction with the US-VISIT Privacy Officer, exercises oversight of the US-VISIT program to ensure that the information maintained by US-VISIT is appropriately protected under privacy laws and guidance. DHS has established procedures to ensure the security, accuracy, relevance, timeliness, and completeness of all information maintained by US-VISIT. Information is safeguarded in terms of applicable rules and policies, including DHS policies for automated systems security and access. Only those persons with an official need to know information for the performance of their duties have access. Records of all individuals, including non-U.S. citizens, are protected in accordance with applicable privacy laws and regulations.

Individuals, including non-U.S. citizens, who wish to contest or seek an amendment of their records may submit an inquiry via the DHS Traveler Redress Inquiry Program (DHS TRIP), a Web-based portal available at www.dhs.gov/trip, or by writing to the US-VISIT program office and sending a fax to (202) 298-5201 or an e-mail to usvisitprivacy@dhs.gov. A mailed inquiry may be sent to the following address: Privacy Officer, US-VISIT, National Protection and Programs Directorate, Department of Homeland Security, Washington, DC 20528. However, because security concerns occasionally cause mail delays, the other communication methods are preferred and may result in quicker responses. The request should include the

requester's full name, current address, date of birth, and a detailed explanation of the amendment sought. More information on redress procedures can be found at www.dhs.gov/xtrvlsec/programs/editorial_0436.shtm. If the matter cannot be resolved by the US-VISIT Privacy Officer, further appeal for resolution may be made to the DHS Chief Privacy Officer at the following address: Chief Privacy Officer, U.S. Department of Homeland Security, Washington, DC 20528; telephone (202) 282-8000; or fax (202) 772-5036.

Robert A. Mocny
Director, US-VISIT

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