

**CENTER FOR
STRATEGY
& APPLIED
INSIGHTS**

Bo Cooper
Executive Director
Direct: +1 202 380 1087
bcooper@fragomen.com

Leah L. Rogal
Senior Director
Direct: +1 202 380 1080
lrogal@fragomen.com

FRAGOMEN

ATTORNEYS AT LAW

Fragomen, Del Rey, Bernsen & Loewy, LLP
1101 15th St NW STE 700
Washington, DC 20005

T +1 202 223 5515

F +1 202 371 2898

www.fragomen.com

February 4, 2026

Submitted via email to CBP_PRA@cbp.dhs.gov

Seth D. Renkema, Chief
Economic Impact Analysis Branch
Office of Trade, Regulations and Rulings
U.S. Customs and Border Protection
U.S. Department of Homeland Security
90 K Street, NE
Washington, DC 20229-1177

*Re: Agency Information Collection Activities; Revision; Arrival and Departure Record
(Form I-94) and Electronic System for Travel Authorization (ESTA)
OMB Control Number 1651-0111 (DHS/U.S. Customs and Border Protection)*

Dear Mr. Renkema:

The Center for Strategy and Applied Insights at Fragomen (the Center) appreciates the opportunity to comment on the significantly expanded data requirements proposed in U.S. Customs and Border Protection’s (CBP) “Agency Information Collection Activities; Revision; Arrival and Departure Record (Form I-94) and Electronic System for Travel Authorization (ESTA) (Information Collection).”¹

The proposed ESTA data requirements—including expanded historical personal data collection, additional biometrics, and a transition to a mobile-only platform—represent not a simple form revision, but a significant change in the scope and operation of the Visa Waiver Program (VWP). These changes have important implications for the program’s core objective of facilitating secure, efficient, and predictable travel for business and tourism. As outlined below, the revisions would negatively affect traveler participation, spending in the American economy, consular workloads, and reciprocal treatment of U.S. travelers abroad. In light of these considerations, the Center encourages CBP to conduct a comprehensive impact assessment and

¹ 90 Fed. Reg. 57,208 (Dec. 10, 2025).

to evaluate alternative approaches that balance national security objectives with accessibility, proportionality, and international reciprocity.

The Center

Drawing on lessons learned from Fragomen’s long experience as an immigration advisor to employers in the United States and around the world, the Center seeks to identify and analyze issues and trends key in immigration systems, and to offer insight-based suggestions to help those systems function fairly, transparently, and efficiently.

The security objectives underlying CBP’s proposal are important ones, but the security benefits of the proposed additional requirements in this Information Collection are likely outweighed by economic costs, operational disruptions, diplomatic implications, and significant concerns related to privacy, data collection and storage, and civil rights. The Center’s comment focuses on two main concerns: the practical and economic impact of the proposed revisions on foreign nationals traveling to the United States for business and tourism and the potential for a reciprocal response impacting U.S. travelers.

Background: The Proposed Information Collection

With this Information Collection, CBP proposes a raft of expanded and deep-reaching information requirements of persons seeking to travel to the United States through ESTA: social media identifiers from the past five years; additional “high-value data elements” such as telephone numbers (personal, family, and business) from the last five years; email addresses from the past ten years; IP addresses and photo metadata; family biographic details; and expanded biometrics (face, fingerprints, iris, and potentially DNA). CBP also plans to fully transition from the current ESTA website to a mobile-only application, to allow for chip reading, liveness detection, portrait matching, and improved fraud prevention tools. CBP bases the proposals on Executive Order 14161 (Protecting the United States from Foreign Terrorists and Other National Security and Public Safety Threats), asserting that the changes would enhance national security and streamline identity verification.

The Proposed Revisions are Incompatible with the Visa Waiver Program Design

The heightened data-collection requirements envisioned in CBP’s proposed Information Collection diverge sharply from the principles underlying the visa-waiver framework. The level of data collection and scrutiny envisioned in these revisions may be appropriate in a traditional visa-processing environment, but it is fundamentally at odds with the structure and purpose of visa-free travel. Visa-free systems rest on a comprehensive, front-end assessment of broad security factors—such as overstay and refusal rates, the integrity of travel documents, and the depth and reliability of information-sharing arrangements between governments—combined with the ability to conduct rapid checks against criminal and security databases at the time of travel. That framework is the Congressional design for balancing security with efficiency. Requirements such as social media identifiers or contact information for family members go

well beyond that model and introduce elements of individualized vetting that are inconsonant with visa-free travel as conceived by statute.

Impact on Travelers and the U.S. Economy

CBP's proposed changes would create significant barriers for VWP travelers. Requiring five years of social media handles and other personal data introduces an unpredictable and intrusive experience for VWP travelers. Deeper screening of social media and personal history could lead to additional scrutiny or outright denials before trips are even booked, creating uncertainty around processing consistency and undermining the principle of visa-free access.

The new requirements would apply broadly, without distinguishing between business and leisure travelers or setting age limitations. For business travelers who operate on tight schedules and rely on streamlined entry, added bureaucratic hurdles could delay critical meetings and impede trade and foreign investment. Similarly, leisure travelers may weigh privacy concerns, online safety, and technical challenges against alternative destinations with simpler entry requirements. These factors should be expected to discourage tourism and short-term visits, with ripple effects on international conferences, events, and the broader hospitality sector in ways that are not fully analyzed as economic consequences in the proposal.

VWP travelers account for approximately 30% of temporary visitor admissions.² A decline of just 5% could amount to more than 900,000 fewer visitors to the United States annually,³ with multi-billion dollar downstream reductions in spending on lodging, dining, retail, entertainment and transportation.⁴ Sweeping ESTA changes would almost certainly chill tourism demand and undermine U.S. economic interests, particularly during peak global events such as the 2026 FIFA World Cup and 2028 Summer Olympics. Expanded social media vetting, travel bans, and prolonged visa processing have already increased uncertainty for foreign visitors planning to attend major international events such as the World Cup and the Olympics.⁵ Reduced accessibility for VWP travelers would not only affect visitor numbers but also diminish the economic benefits tied to these high-profile occasions.

Beyond tourism losses, operational challenges will compound these effects. If more travelers are pushed into applying for visas rather than using ESTA, consular workloads will increase significantly. This shift would impact all categories of visa applicants at a time when consular resources are already stretched thin, compounding delays across the system. Citing resource constraints related to manual social media vetting, consulates have recently postponed or

² Abigail F. Kolker, *Visa Waiver Program*, Cong. Research Serv., CRS Report No. RL32221 (Oct. 15, 2024), <https://crsreports.congress.gov/product/pdf/RL/RL32221>.

³ Cong. Research Serv., *Adding Countries to the Visa Waiver Program: National Security and Tourism Considerations* R46300, at 1–2 (Oct. 8, 2024), <https://crsreports.congress.gov/product/pdf/R/R46300>.

⁴ See e.g. Int'l Trade Admin., Nat'l Travel & Tourism Off., NTTO Releases International Travel Statistics for 2023, <https://www.trade.gov/feature-article/ntto-releases-international-travel-statistics-2023> (last visited Jan. 6, 2026).

⁵ Stephen Yale-Loehr, *Trump's Immigration Policies Could Wreck the World Cup and the Olympics*, THE HILL (July 22, 2025), <https://thehill.com/opinion/immigration/5412766-trumps-immigration-policies-could-wreck-the-world-cup-and-the-olympics/>.

cancelled visa appointments, leaving foreign students, workers, and their families stranded abroad for months or more, disrupting their course of study and employment and negatively impacting schools, employers, and communities. These delays look especially stark when viewed alongside U.S. priorities to attract global visitors for events like the World Cup and to facilitate the timely arrival of foreign experts—such as engineers or executives needed on the ground as their companies build battery and clean-energy facilities in the United States.

Ultimately, adding significant friction for VWP travelers defeats the program’s core purpose: facilitating secure, efficient, and predictable travel, in the economic interests of the United States. Without adjustments, these changes risk eroding the program’s value and damaging the United States’ reputation as an accessible destination for business and leisure.

Potential Reciprocal Response and Broader Implications

The VWP is grounded on reciprocity, and the proposed changes risk triggering equivalent restrictions abroad. The program relies on arrangements between the United States and participating countries, designed to facilitate secure, visa-free travel for short-term business and tourism while maintaining robust security standards. Congress codified this principle in the Immigration and Nationality Act, which requires that a country “extends (or agrees to extend) to nationals of the United States reciprocal privileges” as a condition of VWP designation.⁶ Legislative history confirms that the VWP was intended to strengthen bilateral ties, promote commerce, and enhance security cooperation among trusted partners.⁷

Adopting the proposed ESTA changes should be expected to prompt reciprocal measures by VWP participating countries. The Department of State has consistently recognized reciprocity—and the corresponding benefits to U.S. travelers to other countries—as a cornerstone of visa policy, noting that “visa-free travel arrangements are premised on mutual benefits and equivalent treatment for U.S. citizens.”⁸ Imposing burdensome requirements on foreign nationals risks eroding this balance, leading other governments to adopt similar data collection and screening mandates for U.S. travelers. Such actions would complicate business travel for American executives and professionals, undermine predictable mobility for conferences and trade missions, and strain cooperative frameworks that support safe and efficient international travel.

In short, the proposed changes threaten the reciprocal foundation of the VWP and could disrupt the very security and mobility partnerships that Congress sought to preserve when enacting 8 U.S.C. § 1187.

⁶ 8 U.S.C. § 1187(a)(2)(A).

⁷ See H.R. Rep. No. 99-682, pt. 1, at 49 (1986) (emphasizing the program’s role in “facilitating international travel and fostering closer relations with allies”).

⁸ U.S. Dep’t of State, Reciprocity and Visa Waiver Program, <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Waiver.html>.

Conclusion

The Information Collection's proposed changes risk undermining the core objectives of the Visa Waiver Program by introducing unnecessary friction, reducing accessibility, and damaging the United States' reputation as a welcoming destination. CBP should pause implementation and more carefully assess the economic, diplomatic, and operational consequences of this major proposed expansion, in order to avoid large-scale disruptions to the U.S. economy and reciprocal restrictions that could harm U.S. travelers and global mobility frameworks.

Respectfully,

Center for Strategy and Applied Insights at Fragomen



Bo Cooper
Executive Director



Leah Rogal
Senior Director