

**SUPPORTING STATEMENT FOR
PAPERWORK REDUCTION ACT SUBMISSION
OMB # 1405-0153
Electronic Diversity Visa Lottery Entry, Form DS-5501**

A. JUSTIFICATION

1. The Immigration and Nationality Act (“INA”) [8 U.S.C. 1011 et seq.,] statutorily mandates the application and eligibility requirements for aliens seeking to obtain immigrant visas and alien registration. INA Section 221(a) [8 U.S.C. 1201(a)] (Attachment 1) provides that a consular officer may issue an immigrant visa to an alien who has made proper application therefore. INA Section 203(c) [8 U.S.C. 1153(c)] (Attachment 3) provides for the Secretary of State to prescribe regulations to determine issuance procedures for the diversity visa immigrant program. Such section also provides that the petition shall be in such form as the Secretary of State may by regulation prescribe and shall contain such information and be supported by such documentary evidence as the Secretary of State may require. Department of State regulations pertaining to diversity immigrant visas under the INA are published in 22 CFR 42.33 (Attachment 4).
2. The Department of State utilizes the Electronic Diversity Visa Lottery (EDV) Entry Form to elicit information necessary to ascertain the applicability of the legal requirements identified in Section 1. The information requested on the form is limited to that which is necessary to conduct the annual Diversity Visa lottery. The EDV Entry Form is the first step in the diversity visa process. The Department uses the information provided on the entry form to contact the diversity visa winners, and provide them with information on the next steps of the process.
3. The EDV Entry Form is available online at www.dvlottery.state.gov and can only be submitted electronically during the annual registration period. An electronic registration system was created to enhance national security by enabling the Department to use Facial Recognition technology and other means to identify duplicate and fraudulent entries. All available information technology has been incorporated into the design and processing of the EDV Entry Form to reduce the reporting burden.
4. The EDV Entry Form is used to collect specific information required of aliens entering the Diversity Visa lottery to obtain a diversity immigrant visa. The information collected by the form is not duplicative of information maintained elsewhere or otherwise available.
5. The information collection does not involve small business or other small entities.
6. The EDV Entry Form is essential for administering the Diversity Visa Lottery Program. An applicant fills out one entry form; it is not possible to collect the information less frequently.
7. No such circumstances exist.
8. The Department published a 60-day Notice on the reauthorization of DS-5501 in the Federal Register, as required by 5 CFR 1320.8(d) on December 14, 2006. No comments were received from the public.
9. No payment or gift is provided to respondents.

10. No assurance of confidentiality is provided on the EDV Entry Form. In accordance with Section 222(f) (Attachment 5) of the INA, visa records are considered confidential and generally are to be used only for the formulation, amendment, administration, or enforcement of the immigration, nationality, or other laws of the United States. Certified copies of visa records, such as the EDV Entry Form, may be made available to a court which has certified that the information is needed in the interest of the ends of justice in a case pending before the court. Visa records may also be shared with a foreign government on a reciprocal basis in certain circumstances.
11. The form does not seek personal information of a sensitive nature.
12. Approximately 6 million respondents will complete and submit the entry form each fiscal year. Although the information collected does not require any special research on the part of the applicant, finding and entering the necessary information to complete the entire form is estimated to take 30 minutes. Therefore, the annual burden is 3 million hours.
13. Although there is no fee to enter the DV lottery, aliens completing the online form must submit a digital image, which, depending on a variety of factors, may result in a minimal cost. There are a number of ways in which aliens will be able to complete the entry. Many individuals may already have access to the necessary equipment to submit a digital image without incurring any additional out-of-pocket costs. Those without access to such equipment will either rely on a friend or family member in the U.S. to submit an entry on their behalf, or use a facilitator. Historically, friends and relatives, including those in the United States, have participated actively in the visa lottery submission process on behalf of applicants. The Department estimates that the average cost to an alien of submitting an electronic entry will be ten dollars. Applicants who do have to pay to capture a digital image in order to complete the online form, can store the image electronically and use it again if they wish to participate in the lottery in subsequent years. The digital image may also be utilized without additional cost for other purposes, including passport and visa photographs. We estimate that approximately six million aliens will submit entries at an average cost of ten dollars, resulting in a total cost to respondents of approximately sixty million dollars.
14. The information from the form is processed by contractors who will perform this function as part of a competitive fixed-unit-price contract administered by the Kentucky Consular Center. The annual cost will be \$400,000, which covers staffing, operational support, operational hardware, software, and program monitoring.
15. There are no program changes associated with this reauthorization.
16. The DV lottery registration period begins on October 1 of each fiscal year and ends on November 30. The Department will issue a press release in June of the subsequent fiscal year indicating the number of DV lottery winners by foreign state of chargeability. A quantitative summary of Department of State visa activities is published in the annual Report of the Visa Office.
17. The Department will display the OMB approval number and expiration date.
18. The Department is not requesting any exception to the certification requirements.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods

Attachment 1: INA Section 221 [8 U.S.C. 1201]

- (a) Under the conditions hereinafter prescribed and subject to the limitations prescribed in this Act or regulations issued thereunder, a consular officer may issue (1) to an immigrant who has made proper application therefore, an immigrant visa which shall consist of the application provided for in section 222, visaed by such consular officer, and shall specify the foreign state, if any, to which the immigrant is charged, the immigrant's particular status under such foreign state, the preference, immediate relative, or special immigrant classification to which the alien is charged, the date on which the validity of the visa shall expire, and such additional information as may be required; and (2) to a nonimmigrant who has made proper application therefore, a nonimmigrant visa, which shall specify the classification under section 101(a)(15) of the nonimmigrant, the period during which the nonimmigrant visa shall be valid, and such additional information as may be required.
- (b) Each alien who applies for a visa shall be registered in connection with his application, and shall furnish copies of his photograph signed by him for such use as may be by regulations required. The requirements of this subsection may be waived in the discretion of the Secretary of State in the case of any alien who is within that class of nonimmigrant enumerated in sections 101(a)(15)(A), and 101(a)(15)(G), or in the case of any alien who is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof.
- (d) Prior to the issuance of an immigrant visa to any alien, the consular officer shall require such alien to submit to a physical and mental examination in accordance with such regulations as may be prescribed. Prior to the issuance of a nonimmigrant visa to any alien, the consular officer may require the alien to submit to a physical or mental examination, or both, if in his opinion such examination is necessary to ascertain whether such alien is eligible to receive a visa.

Attachment 2: INA Section 203 [8 U.S.C. 1153]**(c) Diversity Immigrants.—**

(1) In general.—Except as provided in paragraph (2), aliens subject to the worldwide level specified in section 201(e) for diversity immigrants shall be allotted visas each fiscal year as follows:

(A) Determination of preference immigration.—The Attorney General shall determine for the most recent previous 5-fiscal-year period for which data are available, the total number of aliens who are natives of each foreign state and who (i) were admitted or otherwise provided lawful permanent resident status (other than under this subsection) and (ii) were subject to the numerical limitations of section 201(a) (other than paragraph (3) thereof) or who are admitted or otherwise provided lawful permanent resident status as an immediate relative or other alien described in section 201(b)(2).

(B) Identification of high-admission and low-admission regions and high-admission and low-admission states.—The Attorney General—

(i) shall identify—

(I) each region (each in this paragraph referred to as “high-admission region”) for which the total of the numbers determined under subparagraph (A) for states in the region is greater than 1/6 of the total of all such numbers, and

(II) each other region (each in this paragraph referred to as a “low-admission region”); and

(ii) shall identify—

(I) each foreign state for which the number determined under subparagraph (A) is greater than 50,000 (each such state in this paragraph referred to as a “high-admission state”),

(II) each other foreign state (each such state in this paragraph referred to as a low-admission state”).

(C) Determination of percentage of worldwide immigration attributable to high-admission regions.—The Attorney General shall determine the percentage of the total of the numbers determined under subparagraph (A) that are numbers of foreign states in high-admission regions.

(C) Determination of regional populations excluding high-admission states and ratios of populations of regions within low-admission regions.—The Attorney General shall determine—

(i) based on available estimates for each region, the total population of each region not including the population of any high-admission state;

(ii) for each low-admission region, the ratio of the population of the region determined under clause (i) of the total of the populations determined under such clause for all the low-admission regions; and

- (iii) for each high-admission region, the ration of the population of the region determined under clause (i) to the total of the populations determined under such clause for all the high-admission regions.
- (E) Distribution of visas.—
- (i) No visas for natives of high-admission states.—The percentage of visas made available under this paragraph to natives of a high-admission states is 0.
 - (ii) For low-admission states in low-admission regions.—Subject to clauses (iv) and (v), the percentage of visas made available under this paragraph to natives (other than natives of a high-admission state) in a low-admission region is the product of—
 - (I) the percentage determined under subparagraph (C), and
 - (II) the population ratio for that region determined under subparagraph (D)(ii).
 - (iii) For low-admission status in high-admission regions.—Subject to clauses (iv) and (v), and the percentage of visas made available under this paragraph to natives (other than natives of a high-admission state) in a high-admission region is the product of—
 - (I) 100 percent minus the percentage determined under subparagraph (C), and
 - (II) The population ratio for that region determined under subparagraph (D)(iii)
 - (iv) Redistribution of unused visa numbers.—If the Secretary of State estimates that the number of immigrants visas to be issued to natives of any region for a fiscal year under this paragraph is less than the number of immigrant visas made available to such natives under this paragraph for the fiscal year, subject to clause (v), the excess visa numbers shall be made available to natives (other than natives of a high-admission state) of the other regions in proportion to the percentages otherwise specified in clauses (ii) and (iii).
 - (v) Limitation of visas for natives of a single foreign state.—The percentage of visas made available under this paragraph to natives of any single foreign states for any fiscal year shall not exceed 7 percent.
- (F) Region defined.—Only for purposes of administering the diversity program under this subsection, Northern Ireland shall be treated as a separate foreign state, each colony or other component or dependent area of a foreign state overseas from the foreign state shall be treated as part of the foreign state, and the areas described in each of the following clauses shall be considered to be a separate region:
- (i) Africa

- (ii) Asia
 - (iii) Europe
 - (iv) North American (other than Mexico)
 - (v) Oceania
 - (vi) South America, Mexico, Central America, and the Caribbean.
- (2) Requirement of education or work experience.—An alien is not eligible for a visa under this subsection unless the alien—
- (A) has at least a high school education or its equivalent, or
 - (B) has, within 5 years of the date of application for a visa under this subsection, at least 2 years of work experience in an occupation which requires at least 2 years of training or experience.
- (3) Maintenance of information.—The Secretary of State shall maintain information on the age, occupation, level of education, and other relevant characteristics of immigrants issued visas under this subsection.

Attachment 3: INA Section 204 [8 U.S.C. 1154]

(a)

(1)

(I)

(i) Any alien desiring to be provided an immigrant visa under section 203(c) may file a petition at the place and time determined by the Secretary of State by regulation. Only one such petition may be filed by an alien with respect to any petitioning period established. If more than one petition is submitted all such petitions submitted for such period by the alien shall be voided.

(ii)

(I) The Secretary of State shall designate a period for the filing of petitions with respect to visas which may be issued under section 203(c) for the fiscal year beginning after the end of the period.

(II) Aliens who qualify, through random selection, for a visa under section 203(c) shall remain eligible to receive such visas only through the end of the specific fiscal year for which they were selected.

(III) The Secretary of State shall prescribe such regulations as may be necessary to carry out this clause.

(iii) A petition under this subparagraph shall be in such form as the Secretary of State may by regulation prescribe and shall contain such information and be supported by such documentary evidence as the Secretary of State may require.

Attachment 4: 22 CFR 42.33 Diversity Immigrants(a) *General*—

- (1) *Eligibility to compete for consideration under section 203(c)*. An alien will be eligible to compete for consideration for visa issuance under INA 203(c) during a fiscal year only if he or she is a native of a low-admission foreign state, as determined by the Secretary of Homeland Security pursuant to INA 203(c)(1)(E), with respect to the fiscal year in question; and if he or she has at least a high school education or its equivalent or, within the five years preceding the date of application for a visa, has two years of work experience in an occupation requiring at least two years training or experience. The eligibility for a visa under INA 203(c) ceases at the end of the fiscal year in question. Under no circumstances may a consular officer issue a visa or other documentation to an alien after the end of the fiscal year during which an alien possesses diversity visa eligibility.
 - (2) *Definition of high school education or its equivalent*. For the purposes of this section, the phrase high school education or its equivalent means the successful completion of a twelve-year course of elementary and secondary education in the United States or successful completion in another country of a formal course of elementary and secondary education comparable to completion of twelve years' elementary and secondary education in the United States.
 - (3) *Determinations of work experience*. For all cases registered for the 2003 Diversity Visa Program and Diversity Visa Programs occurring in subsequent fiscal years, consular officers must use the Department of Labor's O*Net On Line to determine qualifying work experience.
 - (4) *Limitation on number of petitions per year*. No more than one petition may be submitted by or on behalf of, any alien for consideration during any single fiscal year. If two or more petitions for any single fiscal year are submitted by, or on behalf of, any alien, all such petitions will be void pursuant to INA 204(a)(1)(I)(i) and the alien by or for whom the petition has been submitted will not be eligible for consideration for diversity visa issuance during the fiscal year in question.
 - (5) *Northern Ireland*. For purposes of determining eligibility to file a petition for consideration under INA 203(c) for a fiscal year, the districts comprising that portion of the United Kingdom of Great Britain and Northern Ireland, known as "Northern Ireland", will be treated as a separate foreign state. The districts comprising "Northern Ireland" are Antrim, Ards, Armagh, Ballymena, Ballymoney, Banbridge, Belfast, Carrickfergus, Castlereagh, Coleraine, Cookstown, Craigavon, Down, Dungannon, Fermanagh, Larne, Limavady, Lisburn, Londonderry, Magherafelt, Moyle, Newry and Mourne, Newtownabbey, North Down, Omagh, and Strabane.
- (b) *Petition requirement*. An alien claiming to be entitled to compete for consideration under INA 203(c) must file a petition with the Department of State for such consideration. At the alien petitioner's request, another person may file a petition on behalf of the alien. The petition will consist of an electronic entry form that the alien petitioner or a person acting on the behalf of the alien petitioner must complete on-line and submit to the Department of

State via a Web site established by the Department of State for the purpose of receiving such petitions. The Department will specify the address of the Web site prior to the commencement of the 30-day or greater period described in paragraph (b)(3) of this section using the notice procedure prescribed in that paragraph.

- (1) *Information to be provided in the petition.* The website will include the electronic entry form mentioned in paragraph (b) of this section. The entry form will require the person completing the form to provide the following information, typed in the Roman alphabet, regarding the alien petitioner:
 - (i) The petitioner's full name;
 - (ii) The petitioner's date and place of birth (including city and country, province or other political subdivision of the country);
 - (iii) The petitioner's gender;
 - (iv) The country of which the petitioner claims to be a native, if other than the country of birth;
 - (v) The name[s], date[s] and place[s] of birth and gender of the petitioner's spouse and child[ren], if any, (including legally adopted and step-children), regardless of whether or not they are living with the petitioner or intend to accompany or follow to join the petitioner should the petitioner immigrate to the United States pursuant to INA 203(c), but excluding a spouse or a child[ren] who is already a U.S. citizen or U.S. lawful permanent resident;
 - (vi) A current mailing address for the petitioner;
 - (vii) The location of the consular office nearest to the petitioner's current residence or, if in the United States, nearest to the petitioner's last foreign residence prior to entry into the United States;
- (2) *Requirements for photographs.* The electronic entry form will also require inclusion of a recent photograph of the petitioner and of his or her spouse and all unmarried children under the age of 21 years. The photographs must meet the following specifications:
 - (i) A digital image of the applicant from either a digital camera source or a scanned photograph via scanner. If scanned, the original photographic print must have been 2" by 2" (50mm × 50mm). Scanner hardware and digital image resolution requirements will be further specified in the public notice described in paragraph (b)(3) of this section.
 - (ii) The image must be in the Joint Photographic Experts Group (JPEG) File Interchange Format (JFIF) format.
 - (iii) The image can be either in color or black and white.
 - (iv) The person being photographed must be directly facing the camera with the head neither tilted up, down, or to the side. The head must cover about 50% of the area of the photograph.

- (v) The photograph must be taken with the person in front of a neutral, light-colored background. Photos taken with very dark or patterned, busy backgrounds will not be accepted.
 - (vi) The person's face must be in focus.
 - (vii) The person in the photograph must not wear sunglasses or other paraphernalia that detracts from the face.
 - (viii) A photograph with the person wearing a head covering or a hat is only acceptable if the covering or hat is worn specifically due to that person's religious beliefs, and even then, the hat or covering may not obscure any portion of the face. A photograph of a person wearing tribal, military, airline or other headgear not specifically religious in nature will not be accepted.
- (3) *Submission of petition.* A petition for consideration for visa issuance under INA 203(c) must be submitted to the Department of State by electronic entry to an Internet website designated by the Department for that purpose. No fee will be collected at the time of submission of a petition, but a processing fee may be collected at a later date, as provided in paragraph (i) of this section. The Department will establish a period of not less than thirty days during each fiscal year within which aliens may submit petitions for approval of eligibility to apply for visa issuance during the following fiscal year. Each fiscal year the Department will give timely notice of both the website address and the exact dates of the petition submission period, as well as other pertinent information, through publication in the Federal Register and such other methods as will ensure the widest possible dissemination of the information, both abroad and within the United States.
- (c) *Processing of petitions.* Entries received during the petition submission period established for the fiscal year in question and meeting all of the requirements of paragraph (b) of this section will be assigned a number in a separate numerical sequence established for each regional area specified in INA 203(c)(1)(F). Upon completion of the numbering of all petitions, all numbers assigned for each region will be separately rank-ordered at random by a computer using standard computer software for that purpose. The Department will then select in the rank orders determined by the computer program a quantity of petitions for each region estimated to be sufficient to ensure, to the extent possible, usage of all immigrant visas authorized under INA 203(c) for the fiscal year in question. The Department will consider petitions selected in this manner to have been approved for the purposes of this section.
 - (d) *Validity of approved petitions.* A petition approved pursuant to paragraph (c) of this section will be valid for a period not to exceed Midnight of the last day of the fiscal year for which the petition was approved. At that time, the Department of State will consider approval of the petition to cease to be valid pursuant to INA 204(a)(1)(I)(ii)(II), which prohibits issuance of visas based upon petitions submitted and approved for a fiscal year after the last day of that fiscal year.
 - (e) *Order of consideration.* Consideration for visa issuance to aliens whose petitions have been approved pursuant to paragraph (c) of this section will be in the regional rank orders established pursuant that paragraph.

- (f) *Allocation of visa numbers.* To the extent possible, diversity immigrant visa numbers will be allocated in accordance with INA 203(c)(1)(E) and will be allotted only during the fiscal year for which a petition to accord diversity immigrant status was submitted and approved. Under no circumstances will immigrant visa numbers be allotted after midnight of the last day of the fiscal year for which the petition was submitted and approved.
- (g) *Further processing.* The Department will inform applicants whose petitions have been approved pursuant to paragraph (c) of this section of the steps necessary to meet the requirements of INA 222(b) in order to apply formally for an immigrant visa.
- (h) *Maintenance of certain information.*
 - (1) The Department will compile and maintain the following information concerning petitioners to whom immigrant visas are issued under INA 203(c):
 - (i) Age;
 - (ii) Country of birth;
 - (iii) Marital status;
 - (iv) Sex;
 - (v) Level of education; and
 - (vi) Occupation and level of occupational qualification.
 - (2) The Department will not maintain the names of visa recipients in connection with this information and the information will be compiled and maintained in such form that the identity of visa recipients cannot be determined therefrom.
- (i) *Processing fee.* In addition to collecting the immigrant visa application fee and, if applicable, issuance fees, as provided in §42.71(b) of this part, the consular officer must also collect from each applicant for a visa under the Diversity Immigrant Visa Program such processing fee as the Secretary of State prescribes.

Attachment 5: INA Section 222(f) [8 U.S.C. 1202]

- (f) The records of the Department of State and of diplomatic and consular offices of the United States pertaining to the issuance or refusal of visas or permits to enter the United States shall be considered confidential and shall be used only for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States, except that—
- (1) in the discretion of the Secretary of State certified copies of such records may be made available to a court which certifies that the information contained in such records is needed by the court in the interest of the ends of justice in a case pending before the court.
 - (2) the Secretary of State, in the Secretary's discretion and on the basis of reciprocity, may provide to a foreign government information in the Department of State's computerized visa lookout database and, when necessary and appropriate, other records covered by this section related to information in the database—
 - (A) with regard to individual aliens, at any time on a case-by-case basis for the purpose of preventing, investigating, or punishing acts that would constitute a crime in the United States, including, but not limited to, terrorism or trafficking in controlled substances, persons, or illicit weapons; or
 - (B) with regard to any or all aliens in the database, pursuant to such conditions as the Secretary of State shall establish in an agreement with the foreign government in which that government agrees to use such information and records for the purposes described in subparagraph (A) or to deny visas to persons who would be inadmissible to the United States.