

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION

OMB Number 1405-0096, Nonimmigrant Fiance(e) Visa Application, (Form DS-156K)

A. JUSTIFICATION

1. The Immigration and Nationality Act (“INA”), 8 U.S.C. 1101, *et seq.*, statutorily mandates the application and eligibility requirements for aliens seeking to obtain nonimmigrant visas. INA Section 221(a) [8 U.S.C. 1201] (Attachment 1) provides that a consular officer may issue a nonimmigrant visa to an alien who has made proper application therefor.

INA Section 222(c) [8 U.S.C. 1202] (Attachment 2) specifically requires that, “Every alien applying for a nonimmigrant visa and for alien registration shall make application in such form and manner as shall be by regulations prescribed. In the application the alien shall state his full and true name, . . .and such additional information necessary to the identification of the applicant, the determination of his eligibility for a nonimmigrant visa, and the enforcement of the immigration and nationality laws as may be by regulations prescribed.”

INA Section 101(a)(15)(K)(i) [8 U.S.C. 1101] (Attachment 3) provides the definition of a nonimmigrant alien: “(K) (i) is the fiancée or fiancé of a citizen of the United States (other than a citizen described in section 204(a)(1)(A)(viii)(I)) and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after admission”

Department of State regulations pertaining to fiancée and fiancé nonimmigrant visas are specifically provided for in 22 CFR 41.81 (Attachment 4).

2. Department of State consular officers use Form DS-156K (Nonimmigrant Fiance(e) Visa Application) in conjunction with a personal interview and Form DS-156 to fulfill the legal requirements for a nonimmigrant visa. The information requested on the form is limited to that which is necessary for consular officers to determine the eligibility of an alien applicant for a nonimmigrant fiancé(e) visa. A consular officer is unable to approve such a visa without collecting this information.

3. The DS-156K is made available to download from the Internet. Electronic submission of the form is not currently possible because the applicant must sign the form before a consular officer. The Department is working to automate the entry of visa form data into consular systems and to provide forms on the Department of State and U.S. Embassy websites that afford an electronic option consistent with requirements of both homeland security and the Government Paperwork Elimination Act. The DS-156K will be included in the electronic nonimmigrant visa application system.

4. The DS-156K is a supplement to the DS-156, which is required by regulation of all nonimmigrant visa applicants. Except for basic identifying biographic information collected by the DS-156, information collected by the DS-156K is not duplicative of information maintained elsewhere or otherwise available.

5. The information collection does not involve small businesses or other small entities.

6. The DS-156K is essential for determining whether an applicant is eligible for a nonimmigrant fiance(e) visa. An applicant fills out the form one time; it is not possible to collect the information less frequently.

7. Not applicable; no such circumstances exist.

8. The Department of State (Office of Visa Services, Bureau of Consular Affairs) has solicited public comments on this collection via Public Notice published in the *Federal Register*. One comment was received. After reviewing the comment, Visa Services determined that the comment was unrelated to the information collection and instead addressed the underlying visa category which is a statutory program mandated by Congress. The DS-156K solicits information necessary to carry out the fiancé(e) visa program. The Office of Visa Services also meets regularly with immigration experts of the Department of Homeland Security to coordinate policy. The Office of Visa Services also meets with student groups, business groups, the American Immigration Lawyers Association and other interested groups to discuss their opinions and suggestions regarding visas procedures and operations.

9. No payment or gift is provided to respondents.

10. In accordance with Section 222(f) of the INA, information obtained from the DS-156K is considered confidential and is to be used only for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States.

11. No information of a sensitive nature is collected.

12. The form is completed by approximately 35,000 respondents each year. Although the information collected does not require any special research on the part of the applicant, the background information and time required to compile and copy relevant documents requires that an applicant spend about 60 minutes to fill out the entire form. Therefore the annual hour burden to respondents is estimated to be 35,000 hours (35,000 respondents x 1 hour).

13. This collection is a supplement to the DS-156 (OMB # 1405-0018) and therefore will impose no additional cost burden on the respondent beyond that which was reported in the justification for the DS-156.

14. This collection is a supplement to the DS-156 (OMB # 1405-0018) and processed with that application. It is estimated to impose no additional cost burden on the Federal Government beyond that which was reported in the justification for the DS-156.

15. No program change or adjustment is associated with this reauthorization.

16. A quantitative summary of all Department of State visa activities is published in the annual Report of the Visa Office.

17. The Department will display the OMB expiration date for this form.

18. The Department is not seeking any exceptions to the certification requirement.

B. 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 there under, 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.

Attachment 2

INA Section 222 [8 U.S.C. 1202]

(c) Every alien applying for a nonimmigrant visa and for alien registration shall make application therefor in such form and manner as shall be by regulations prescribed. In the application the alien shall state his full and true name, the date and place of birth, his nationality, the purpose and length of his intended stay in the United States; his marital status; and such additional information necessary to the identification of the applicant, the determination of his eligibility for a nonimmigrant visa, and the enforcement of the immigration and nationality laws as may be by regulations prescribed. At the discretion of the Secretary of State, application forms for the various classes of nonimmigrant admissions described in section 101(a)(15) may vary according to the class of visa being requested...

(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.

Attachment 3

INA Section 101

(a) As used in this Act-

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens

(K) (i) is the fiancée or fiancé of a citizen of the United States (other than a citizen described in section 204(a)(1)(A)(viii)(I)) and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after admission;

Attachment 4

22 CFR 41.81

(a) Petition requirement. An alien is classifiable as a nonimmigrant fiance(e) under INA 101(a)(15)(K) if the consular officer is satisfied that the alien is qualified under that provision and the consular officer has received a petition filed by the U.S. citizen to confer nonimmigrant status as a fiance(e) on the alien, which has been approved by the INS under INA 214(d), or a notification of such approval from that Service.

(b) Certification of legal capacity and intent to marry. Upon receipt of a petition approved by INS and the alien's sworn statement of ability and intent to conclude a valid marriage with the petitioner within 90 days of arrival in the United States, the consular officer shall grant the alien the nonimmigrant status accorded in the petition and shall determine the eligibility of the alien to receive a K-1 visa.

(c) Eligibility as immigrant required. The consular officer, insofar as practicable, shall determine the eligibility of an alien to receive a nonimmigrant visa under INA 101(a)(15)(K) as if the alien were an applicant for an immigrant visa. If the consular officer determines that the alien would be eligible, under INA 212 (a) and (e) and in all other respects to receive an immigrant visa, except the alien shall be exempt from the labor certification requirement of INA 212(a)(5), the officer may issue a nonimmigrant visa under this section.