

# **SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION**

## **Nonimmigrant Visa Application, OMB No. 1405-0018, Form DS-156**

### **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 therefore 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.”

Department of State regulations pertaining to nonimmigrant visas under the INA are published at 22 CFR 41. The regulations pertaining to the filing of an application using the DS-156 are specifically provided for in 22 CFR 41.103 (Attachment 3).

2. Department of State consular officers use the information provided on Form DS-156 (Nonimmigrant Visa Application) to fulfill the legal requirements identified in the above response to question number 1. The information requested on the form is limited to that which is necessary for consular officers to determine efficiently the eligibility and classification of an alien seeking a nonimmigrant visa to the United States. A consular officer is unable to approve a nonimmigrant visa without collecting this information.

3. The Department is currently finalizing a new online application system for all nonimmigrant visa applicants. This online application will be a dynamic, user-guided application system that will eliminate the need for several nonimmigrant visa application forms that are currently being used. Once screen shots are available, CA/VO will begin the OMB-approval process for the application system. CA/VO is anticipating, barring any unforeseen delays in OMB approval, going live with this system in early December of this year. After three or four months of operation, (a test period in which to work out any kinks in the system), CA/VO plans on requiring the use of the online application system and discontinuing the use of the currently approved paper forms.

4. Form DS-156 is required by regulation of all nonimmigrant visa applicants. Information collected by the DS-156 is not duplicative of information maintained elsewhere or otherwise available.
5. The information collection does not involve small businesses or other small entities.
6. This information collection is essential for determining whether an applicant is eligible for a nonimmigrant visa. An applicant fills out the form one time per visa application; it is not possible to collect the information less frequently since consular officers need up to date information to determine efficiently whether an applicant is eligible to receive a visa.
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-156 solicits information necessary to carry out the nonimmigrant 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 (Attachment 4), information obtained from applicants in the immigrant visa process 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. The questions on the collection are designed to solicit the information necessary to determine whether an applicant is eligible for a visa under Section 101(a)(15) of the INA. Consular officers may not issue a visa to aliens who are ineligible under Section 212(a) of the INA. In order to enforce this provision of the law, the application form specifically asks for information concerning the alien's health, criminal offenses, narcotic addiction, political affiliation with subversive organizations, participation in genocide and involvement in Nazi war crimes. In addition, questions concerning an applicant's marital status, employment and financial support are necessary to identify an applicant and to assist in determining eligibility for a nonimmigrant visa. As noted in Number 10 above, such information is considered confidential under Section 222(f) of the INA.
12. The Department expects that approximately 12,000,000 aliens will complete the form in FY-07. This is an increase of 5,000,000 since FY-05. This number was adjusted to more accurately reflect the number of respondents per year.

Finding the necessary background information is estimated to require that an applicant spend one hour to fill out the entire form. Therefore the annual hour burden to respondents is estimated to be 12,000,000 hours.

13. The Department of State charges an application fee of \$100 per application for the vast majority of applicants. Therefore, we estimate the annual cost to be \$1,200,000,000.

14. Section 140(a) of the Foreign Relations Authorization Act, Public Law 103-236 (Attachment 5) authorizes the Department to collect a machine readable visa fee from nonimmigrant visa applicants. The fee was established to cover the cost of processing nonimmigrant visa applications. Based on analysis conducted by MitreTek Systems, the Department of State estimates that the cost to the Federal Government of processing a single nonimmigrant visa application (based on 12,000,000 applications) is \$99.09. The estimated annual cost to the Federal Government is therefore \$1,189,080,000 (\$99.09 x 12,000,000 applications). The study used to determine the cost of this service used an element of Activity Based Costing (ABC). ABC is a business management tool that provides insight into the relationship between inputs (resources) and outputs (products and services) by quantifying how work is performed in an organization (activities). Both direct and indirect costs are included in the calculation. Direct costs included salaries and expenses and indirect costs consist of a broad range of indirect and support costs related to consular services.

The Department is in the process of conducting a new cost of service study and will submit a revised cost burden estimate once the study is completed.

15. The annual reporting burden estimate increased 5,000,000 hours due to an increase in the expected number of annual respondents. The Department of State anticipates that 12,000,000 nonimmigrant visa applicants annually will complete the DS-156. The total estimated cost burden increased from \$500,000,000 to \$1,200,000,000 due to an increase in estimated cost of service and an increase in the estimated number of respondents annually submitting an application.

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

17. Not applicable. The Department will display the expiration date for OMB approval of the information collection.

18. The Department is not requesting any exception to the certification statement identified in item 19 of OMB Form 83-I.

## B. STATISTICAL METHODS

19. This collection does not employ statistical methods.

## **Attachment 1**

### **INA Section 221(a) [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 therefor, 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 therefor, 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(c) [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.

### **Attachment 3**

#### **22 CFR 41.103**

(a) Filing an application--(1) Filing of application on Form OF-156 required unless waived. The consular officer may waive submission of an application, under paragraph (a)(3) of this section, for certain aliens for whom personal appearance has been waived under Sec. 41.102. Except for persons for whom such waivers have been granted, every alien seeking a nonimmigrant visa must make application therefor on Form OF-156, Nonimmigrant Visa Application, unless a prior Form OF-156 is readily available at the consular office which can be appropriately amended to bring the application up to date.

## **Attachment 4**

### **INA Section 222(f)**

(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 5**

### SEC. 140. VISAS.

#### (a) SURCHARGE FOR PROCESSING CERTAIN VISAS-

(1) Notwithstanding any other provision of law, the Secretary of State is authorized to charge a fee or surcharge for processing machine readable nonimmigrant visas and machine readable combined border crossing identification cards and nonimmigrant visas.

(2) Fees collected under the authority of subsection (a) shall be deposited as an offsetting collection to any Department of State appropriation, to recover the costs of providing consular services. Such fees shall remain available for obligation until expended.

(3) For fiscal years 1994 and 1995, fees deposited under the authority of paragraph (2) may not exceed a total of \$107,500,000. For subsequent fiscal years, fees may be collected under the authority of paragraph (1) only in such amounts as shall be prescribed in subsequent authorization Acts.

(4) The provisions of the Act of August 18, 1856 (Revised Statutes 1726-28; 22 U.S.C. 4212-14), concerning accounting for consular fees shall not apply to fees collected under this subsection.

(5) No fee or surcharge authorized under paragraph (1) may be charged to a citizen of a country that is a signatory as of the date of enactment of this Act to the North American Free Trade Agreement, except that the Secretary of State may charge such fee or surcharge to a citizen of such a country if the Secretary determines that such country charges a visa application or issuance fee to citizens of the United States.