

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

## **Application to Determine Returning Resident Status OMB Number 1405-0091 DS-0117**

### **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 immigrant visas to enter the United States. INA section 221 (a) [8 U.S.C. § 1201(a)] provides that a consular officer may issue an immigrant visa to an immigrant who has made proper application therefor.

The regulations of the Department of Homeland Security (DHS), 8 CFR 211.1 establish conditions under which an immigrant alien may return to an unrelinquished lawful permanent residence in the United States without an immigrant visa. These regulations provide for entry with an Alien Registration Receipt Card (Form I-551) or a reentry permit in lieu of a visa in certain circumstances. Aliens not covered by these regulations must obtain a special immigrant visa as a returning resident under INA section 101(a)(27)(A)[8 U.S.C. § 1101(a)(27)(A)].

INA section 101(a)(27)(A)[8 U.S.C. § 1101(a)(27)(A)] defines a special immigrant to mean an alien lawfully admitted for permanent residence who is returning from a temporary visit abroad. The regulations governing the implementation of this section of the law are in 22 CFR 42.22.

2. Department of State consular officers use Form DS-0117 (Application to Determine Returning Resident Status) in conjunction with a personal interview, to elicit information necessary to ascertain the applicability of the legal requirements for a returning resident. 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 special immigrant classification as a returning resident. The applicant must provide the reasons he or she was unable to return to the United States, thereby losing permanent resident status. A consular officer is unable to approve such immigrant visa status without collecting this information. Consular officers currently use the form as an indispensable part of adjudicating the cases of approximately 875 applicants for returning resident status each year.

3. The form is available to download from the Internet at <http://www.travel.state.gov>. Applicants are able to fill out the form online, print it and submit to their respective Consular Post.

4. The information is unique to each applicant and is not a duplication of other data. While the information requested in questions 7, 8 and 9 might be available from the files of the DHS, consular officers abroad do not have direct access to such files. Since the information is readily known by the applicant, it is easier and more efficient for the alien to supply the information than for the consular officer to try to obtain the information from secondary DHS sources.

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

6. The information collected on Form DS-0117 is essential for determining whether an applicant is eligible for returning resident status. An applicant fills out the form one time; it is not possible to collect the information less frequently.
7. No special circumstances exist.
8. The Department of State (Bureau of Consular Affairs, Visa Services) published a 60 Day Notice on the reauthorization of Form DS-0117 in the Federal Register (78 FR 36011, June 14, 2013), as required by 5 CFR 1320.8(d). No comments were received. Visa Services meets regularly with immigration experts of the Department of Homeland Security to coordinate policy, and also holds regularly scheduled formal meetings with representatives of the immigration bar, and student, community, and business groups, during which their opinions and suggestions regarding visa procedures and operations are discussed.
9. No payment or gift is provided to respondents.
10. No assurance of confidentiality is provided on the DS-0117. In accordance with section 222(f) of the INA, visa records are considered confidential and are to be used only for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States. Certified copies of visa records, such as the DS-0117, may be made available to a court which certifies that the information is needed in a case pending before the court. Visa records can also be shared with foreign governments in certain circumstances.
11. The DS-0117 does not seek personal information of a sensitive nature.
12. The form is completed by an estimated 1,005 respondents each year. The information collected does not require any special research on the part of the applicant, and will require that an applicant spend thirty minutes filling out the entire form. The hour burden is 502.5 hours annually (1,005 x 30 minutes). Based on an average hourly wage of \$21, the weighted wage hour cost burden for this collection is \$14,773.50 ( $\$21 \text{ hourly wage} \times 1.4 \text{ weight factor} \times 502.5 \text{ hours}$ ).
13. There is no cost burden to respondents.
14. The annual cost burden to the federal government for the DS-0117 is \$276,375 a year. This estimate is based on the 2012 Consular Cost of Service Model (CoSM) weighted unit cost of \$275. The CoSM is the cost to the government to process each individual DS-0117. As a result, by multiplying the CoSM (\$275) by the number of respondents (1,005), the annual cost burden to the federal government is \$276,375 a year. At this point, the CoSM cannot break down the cost data down further by percentage of time spent reviewing and processing forms.
15. The DS-0117, Application to Determine Returning Status, has seen a slight change in the number of applicants during the past three fiscal years. In 2010, the number of applications submitted was 875. In 2011, the number of applicants increased from 875 to 1,027 and then decreased to 1,005 in 2012. Also, the cost to the government to process each individual application decreased from \$360 in 2010 to \$275 in 2012. This resulted in a decreased annual cost burden to the federal government from \$315,000 to \$276,375 due to the fluctuating number of applicants and lower cost to process each application,. Further, the cost burden was updated to rectify an incorrect assessment in the previous submission of the application fee as a cost burden to the respondent. This has been fixed and correctly noted as a cost to government.

16. A quantitative summary of all Department of State visa activities is published in the annual Report of the Visa Office. The Report of the Visa Office is an annual report providing statistical information on immigrant and non-immigrant visa issuances by consular offices, as well as information on the use of visa numbers in numerically limited categories. The Visa Office currently has annual reports available from 2000 to 2012. The link to the site is: [http://travel.state.gov/visa/statistics/statistics\\_1476.html](http://travel.state.gov/visa/statistics/statistics_1476.html).

17. 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.

**B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS**

This collection does not employ statistical methods.