

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

## **Online Application for Nonimmigrant Visa**

**OMB Number 1405-0182  
DS-160**

### **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(a)] 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(c)] specifically requires that, “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, ... 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 regulation prescribed.” The Department of State’s regulations pertaining to nonimmigrant visas under the INA are published at 22 CFR 41. The requirement pertaining to filing an application for a nonimmigrant visa is specifically provided for in 22 CFR 41.103.

2. Department of State consular officers will use the information provided to fulfill the legal requirements identified in item 1 above. 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. This determination would not be possible without collecting this information.

3. Applicants are able to electronically fill out and submit the DS-160 via the internet at <http://www.travel.state.gov>. Once the application is completed and the applicant has verified the answers provided, the applicant will electronically sign and submit the application to the Department in electronic form. The applicant may print a copy of the application for record keeping purposes, but no paper copy of the application is submitted to the Department. The applicant will present to the consular officer in paper an application confirmation page which will contain a record locator in the form of a 2-D bar code. The consular officer will scan the bar code to electronically retrieve the application from the computer database. The electronic form will provide consular officers with relevant information regarding the eligibility of the applicant and will significantly reduce the need for additional paperwork during the applicant’s interview. The electronic submission of the application to the Department will allow for the information to be reviewed before the time of an interview.

4. The DS-160, Online Application for Nonimmigrant Visa, is currently available worldwide. The information provided is currently duplicative of data gathered from other collections

such as the DS-156, Nonimmigrant Visa Application and the DS-156K, Nonimmigrant Fiancé(e) Visa Application.

The DS-156, Nonimmigrant Visa Application, is the paper version of the DS-160. However, there is a regulatory requirement to maintain this form in case of technological difficulties that may arise. The DS-156 will only be used when the DS-160 cannot be accessed.

The DS-156K, Nonimmigrant Fiancé(e) Visa Application, is now fully integrated into the DS-160, Online Application for Nonimmigrant Visa. As a result, nonimmigrant fiancé(e) visa applicants will use only the DS-160 to fill out their application unless the DS-160 is down for technological issues. Please note that all but one of the new questions being added to the DS-160 were already on the DS-156K. The additional new question asks if the applicant is a permanent resident of a country other than the country or place of nationality and, if so, to indicate such country.

Although the DS-156K questions were already on the DS-160 application, due to system errors, respondents still needed to use the DS-156K along with the DS-160 for a limited period of time until the system errors on the DS-160 were solved. The system error has been resolved and DS-156K respondents will now use the DS-160 to submit both their Nonimmigrant Visa Application and Nonimmigrant Fiancé(e) Visa Application.

5. This 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 completes the form once per visa application. It is not possible to collect the information less frequently, as consular officers need up-to-date information to determine efficiently whether an applicant is eligible to receive a visa.

7. No special circumstances exist.

8. The Department of State (Visa Services, Bureau of Consular Affairs) published a 60 Day Notice on the reauthorization of Form DS-160 in the Federal Register (78 FR 247, December 24, 2013), as required by 5 CFR 1320.8(d). 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.

A Comment was received regarding the DS-160, Online Application for Nonimmigrant, from the American Immigration Lawyers Association (“AILA”) Rome District Chapter’s (“RDC”) suggesting “inserting comment boxes to allow an applicant to inform the consular officer of any additional information”. Visa Services has informed AILA that State continues look for new ways to improve the visa application process for all applicants including input from the public. Since we are dealing with electronic applications that involve coding, testing, development and translating, State may not be able to add the suggestion prior to the current OMB approval request. However, we will take the comment, add it to our development list and begin coding and testing. If the suggestion can be integrated into the application, we would state it in the next PRA submission along with any other changes that have been added and successfully tested.

9. No payment or gift is provided to respondents.

10. In accordance with section 222(f) of the INA, information obtained from applicants in the nonimmigrant 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. Section 222(f) also provides for exceptions for providing such confidential information, in limited circumstances, to a court or a foreign government in the Secretary of State's discretion.

11. The questions in the collection are designed to solicit the information necessary to determine whether an applicant is eligible for a nonimmigrant 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 unless, where authorized under the INA, the Department of Homeland Security grants a waiver. In order to enforce this provision of the law, the application form specifically asks for information on a variety of issues, including information concerning the alien's health, criminal offenses, narcotics addiction, political affiliation with subversive organizations and participation in genocide or terrorist activities. In addition, questions concerning the applicant's marital status, employment and financial support are necessary to identify the applicant and to assist in determining eligibility for a nonimmigrant visa. As noted in 10 above, such information is considered confidential under section 222(f) of the INA.

In addition to the information collected on DS-160 many visa applicants are also required to be fingerprinted as a part of the visa application process. If an applicant is fingerprinted, those fingerprints may be used for the purposes of comparison to other fingerprints in the Federal Bureau of Investigation's Next Generation Identification (NGI) fingerprint system or its successor systems (including civil, criminal, and latent fingerprint repositories). Under 28 U.S.C. 534, the Attorney General can acquire, collect, classify, and preserved identification, criminal identification, crime, and other records. 22 U.S.C. 534 also authorizes the FBI to receive fingerprints from and share relevant information with the Department pursuant to 28 U.S.C. 534. The FBI's NGI fingerprint system is cover by the Privacy Act (5 U.S.C. 552a).

12. Data from Visa Statistics has shown that there has been a steady increase of respondents in regards to nonimmigrant visas over the past 3 fiscal years.

- a) Fiscal year 2012, there was a total of 11,100,276 respondents
  - a. Issued: 8,927,090
  - b. Refused: 2,173,186
- b) Fiscal year 2011, there was a total of 9,608,640 respondents
  - a. Issued: 7,507,939
  - b. Refused: 2,100,701
- c) Fiscal year 2010, there was a total of 8,319,236
  - a. Issued: 6,422,751
  - b. Refused: 1,896,484

Finding the necessary background information and filling out the entire form is estimated to take the average applicant seventy five minutes.

Therefore, using data from 2012, we estimate that the annual hour burden to respondents is estimated to be 13,875,345 hours. (11,100,276 respondents x seventy five minutes)

Based on an average hourly wage of \$21, the weighted wage hour cost burden for this collection is \$407,935,143. This is based on the calculation of \$21 (average hourly wage) x 1.4 (weighted wage multiplier) x 13,875,345 hours = \$407,935,143.

13. Most nonimmigrant visa applicants must submit to the consular sections his or her passport. For applicants that are interviewed, they will submit their passport at the time of interview. For applicants who qualify for an interview waiver the passport is submitted via mail per the instruction provide by the consular section. Additional documentation may be necessary based on the visa classification and are submitted either at the time of interview or via mail per consular instructions. Suggested documentation is generally listed on the confirmation page. No documentation is collected at the time of DS-160 submission. As a result, the Department does not have the average cost calculation for applicants when submitting documents after the submission of the DS-160. The previous collection stated that the total cost to respondents was \$910,000,000. The cost was incorrect due to inaccurately placing the application fee as a cost to respondents instead of cost to government.

14. The annual cost burden to the federal government for the DS-160 is \$1,776,044,160. This estimate is based on the \$160 application fee that the Department charges per application to hire and train employees and also to process each DS-160 application. By charging \$160 per application, the Department can recoup all fees associated with processing the application. (160 multiplied by 11,100,276 applicants equal \$1,776,044,160). The application fee is the cost of recovery for services.

15. The collection has been adjusted for annual reporting and recordkeeping to note the increase in applicants for fiscal year 2012 and also to include total number applicants issued and denied nonimmigrant visas. However, there have been no changes to the information being collected. As previously stated in question 12, in fiscal year 2012, there were 11,100,276 respondents. In fiscal year 2011, there were 9,608,640 respondents and in 2010 there were a total of 8,319,236 respondents. The collection has also been adjusted for annual burden cost to note that there is no cost to the respondents for filling out the DS-160, Online Application for Nonimmigrant Visa. A previous submission stated that \$910,000,000 was the total cost to the respondents but this inaccuracy has been adjusted. That cost was the total cost to the federal government and not total cost to respondents. The total cost to the government has been updated and adjusted.

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 2013. 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.