

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION

Online Application for Immigrant Visa and Alien Registration OMB Number 1405- 0185 DS-260

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 an immigrant visa and alien registration. INA section 221(a) [8 U.S.C. § 1201(a)] provides that a consular officer may issue an immigrant visa to an individual who has made a proper application.

INA section 222(a) [8 U.S.C. § 1202(a)] specifically requires that an applicant provide the following information in an application for an immigrant visa: full and true name; any other names he/she has used or by which he/she has been known; age; sex; date of birth; place of birth; and such additional information necessary to the identification of the applicant and the enforcement of the immigration and nationality laws as may be by regulations prescribed.

INA section 222(b) [8 U.S.C. § 1202(b)] further identifies other documentary evidence needed to obtain an immigrant visa. Every individual applying for an immigrant visa shall furnish to the consular officer, with his/her application, a copy of certification from appropriate police authorities as to what their records show concerning the applicant, prison records, military records, and record of birth, as well as any other documentation that the consular officer may require.

INA section 221(b) [8 U.S.C. § 1201(b)] requires that a photograph accompany the application.

INA section 221(d) [8 U.S.C. § 1201(d)] provides that every applicant for an immigrant visa shall be required to submit to a physical and mental examination.

INA section 222(e) [8 U.S.C. § 1202] requires that an applicant sign the application in the presence of the consular officer under oath.

Grounds for the ineligibility of certain individuals to receive a visa or to be admitted to the United States are detailed in INA section 212(a) [8 U.S.C. § 1182(a)], INA section 208(d) (6) [8 U.S.C. § 1158(d) (6)], and other statutes. Among the grounds of ineligibility are those related to the health of the applicant, the applicant's past and present criminal activities, security concerns, potential for the applicant to become a public charge, and previous violations of the INA by the applicant. In the visa application form, applicants are asked to indicate whether or not any of the various inadmissibility grounds may apply to them.

Department of State regulations pertaining to immigrant visas are published in 22 C.F.R Part 42. The regulations pertaining to the filing of a paper-based application for an immigrant visa (Application for Immigrant Visa and Alien Registration, DS-230, OMB Control No. 1405-0015) are specifically provided for in 22 CFR 42.63.

2. Department of State consular officers use Form DS-260 (Electronic Application for Immigrant Visa and Alien Registration), in conjunction with a personal interview, to elicit information necessary to fulfill the legal requirements for the issuance of an immigrant visa. The information required on the form is limited to what is necessary for the consular officer to determine the eligibility and classification of an individual seeking an immigrant visa to the United States. A consular officer cannot approve such a visa without collecting this information.
3. The Department has developed an application process that will allow applicants to electronically submit their applications, previously submitted on the paper-based DS-230, directly to the Department. An applicant will be directed to an internet site, <https://ceac.state.gov>, to begin the application process. The applicant will provide answers to a series of standardized questions. Depending on initial answers, the applicant will be asked specific questions concerning their application. For example, all applicants will be asked about their marital status. If the applicant indicates that he/she is married, the applicant will be directed to answer questions related to his or her spouse. If the applicant indicates that he/she is single, he/she will be asked no questions regarding a spouse. 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 an electronic format. The applicant may print a copy of the application for record keeping purposes, but will not submit a paper copy of the application to the Department. The applicant will be required to print a copy of his/her confirmation page which will contain a 2-D bar code record locator and a copy of the required sworn statement. The applicant will present this confirmation page at the time of his/her visa interview. The record locator will be scanned by a bar code reader and the application will be electronically retrieved from the Department's secure database. The electronic form will ensure that consular officers have all the necessary information to process the application 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. The consular officer will obtain the applicants' sworn affirmation and signature at the time of the interview.

The Department of State will release an updated version of the DS-260 by May 2014 that will allow for the electronic submission of the (OMB Control Number 1405-0098) DSP-122 Supplemental Registration for the Diversity Immigrant Visa Program. As a result, applicants will no longer need to download the DSP-0122 from the Department website. Previously, applicants had to download the DSP-0122 and mail the form to Kentucky Consular Center (KCC) However, once the updated version of the DS-260 is approved, applicants will have to apply for a Diversity Visa via the DS-5501, Electronic Diversity Visa Entry Form, and if selected, use the updated DS-260 to continue their immigration visa process. As a result, the questions on the DSP-0122 will be fully integrated into the DS-260. This integration will ensure that the applicant is statutorily qualified for a visa under the Diversity Visa Program, including identity of the proper country of chargeability and education or work experience qualifications. The integration of the DSP-122 will not increase the burden incurred by applicants in the Immigration Visa process since all but 2 questions were already asked on the DS-260. These additional 2 questions will not increase the burden of the DS-260. Instead of filling out the DS-5501 Electronic Diversity Visa Entry Form, DSP-122 Supplemental Registration for the Diversity Immigrant Visa Program and the DS-260 Electronic

Application for Immigrant Visa and Alien Registration, applicants will now only have to fill out the DS-5501 and DS-260. Upon approval of the revised DS-260 State will discontinue the DSP-122.

4. All immigrant visa applicants will be required to complete the DS-260 application and electronically submit it to the Department. Information is not duplicative of information maintained elsewhere or otherwise available.
5. This information collection will not involve small businesses or other small entities.
6. The information collected on the DS-260 is essential for determining whether the beneficiary of an approved petition is eligible for an immigrant visa. An applicant will fill out the DS-260 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-260 in the Federal Register (Vol. 79, No. 19 FR 4798, January 29, 2014). Visa Services did receive two comments regarding the formatting and navigation of the DS-260, Online Application for Immigrant Visa and Alien Registration.

One commenter stated that “The online Form DS-260 is almost impossible to navigate. There is no reason for it to go from page to page – you should be able to just scroll back and forth. Also, if it needs to be a number of pages for some reason, it should allow the user to go from page to page while there are still blank fields. I may have every piece of information I need to fill out the client, except for one item on the first page. So now I can’t fill out the form, because it won’t allow me to proceed. It certainly makes sense for it to be impossible to submit with blank fields, but why can’t I fill it out at my own pace? Next, why does DOS think an attorney should not be able to submit this form on behalf of a client? Does anyone at DOS know that many applicants don’t have access to a computer? Or even if they do have access, by going to a local library or something like that, they may not be computer literate? This policy needs to change.”

Another comment received stated that “Electronic Form DS-260 is a very long and cumbersome form. It takes approximately four times as long to complete it as did Form DS-230 Parts I & II that it is replacing.”

The Bureau of Consular Affairs, Visa Services has responded to all the questions and informed each individual via email and stated that “The Department of State is taking into consideration your comments and suggestions is looking into ways to make the DS-260 as efficient and streamlined as possible. Please feel free to continue to submit your comments and suggestions to PRA_BurdenComments@state.gov.” The Bureau of Consular Affairs, Visa Services uses the DS-260 to solicit and is limited to, the information necessary to help determine an individual's qualifications and eligibility as an immigrant. The current page to page navigation is designed to group questions with logical counterparts, i.e., questions related to medical ineligibilities are grouped together and questions related to biographic information such as name and date of birth are grouped together. Visa Services believes that this format is currently the most user friendly way to present information. Each page must be completed in its entirety before navigating the next page in order to ensure that the all of the information is collected and that additional questions related to that information can be asked.

Visa Services also meets regularly with immigration experts of the Department of Homeland Security to coordinate policy. Visa Services also meets with student groups, business groups,

immigration attorneys, 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. The information asked for on this form is requested pursuant to section 222 of the Immigration and Nationality Act. The Department uses the information provided on the form, primarily to determine the applicant's eligibility for a visa. Individuals who fail to provide all the requested information might be denied a visa. If the applicant is issued an immigrant visa and is subsequently admitted to the United States as an immigrant, United States Citizenship and Immigration Services will use the information provided to issue the applicant a Permanent Resident Card. The Social Security Administration may use the information provided to issue social security numbers and cards.

In accordance with INA section 222(f) [8 U.S.C. § 1202(f)], information obtained from the DS-260 will be confidential and will be used by the Department only for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States, except that, in the discretion of the Secretary of State, it may be made available to a court or provided to a foreign government if the relevant requirements stated in INA section 222(f)(2) are satisfied.

11. Consular officers may not issue a visa to an individual who is ineligible under INA section 212(a) 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 concerning the individual's health, criminal offenses, narcotics addiction/use, political affiliation with subversive organizations, and participation in genocide, and other potentially sensitive information. Questions about family status, mental health, and financial support are also required. As noted above in Item 10, such information is considered confidential under INA section 222(f).
12. The DS-260 form will be completed by approximately 586,000 respondents per year. Each applicant whether issued or refused a visa, will complete the information. Although the information collected does not require any special research on the applicant's part, because of the detailed background information, it is estimated that an applicant will spend approximately 2 hours filling out this form. With the incorporation of the DSP-0122, the Department of State does not believe the burden time will increase. Only 2 additional questions have been added to the DS-260 which does not require any special research. Therefore, the burden estimate on the DS-260 is 2 hours and the annual burden to respondents is estimated to be 1,172,000 hours (586,000 x 2 hours)

The Department's two-hour time burden estimate takes into account the average time needed to complete the DS-260 and a rough estimate of the time needed by an applicant to obtain the statutorily required documentation to support the application. It would be difficult, if not impossible, to determine the average time needed by an applicant to obtain the necessary documentation due to the wide-ranging individual and country-specific circumstances that might impact such an estimate. In the first instance, there are applicants who are already in possession of the required documentation. For those who must obtain the documentation from the appropriate governmental divisions, such things as electronic request/transmission versus paper-based request/transmission will impact the amount of time required for an applicant to acquire necessary documentation. The ability and ease with which an individual

can obtain civil document will continue to vary widely from country to country and are in a state of flux as countries digitize and automate civil documentation. As a result, the Department of State believes that the two hour time burden is a reasonable time estimate because it takes into account and attempts to accommodate these variables. Based on the U.S hourly wage of \$21, the weighted wage hour cost burden for this collection is \$24,612,000 (2 hours x \$21= \$42.00. \$42.00 x 586,000 respondents = \$24,612,000).

13. The applicant must submit a digital photo, which may result in a cost. Based on a survey of various overseas embassies, the Department estimates that the average cost to an alien of obtaining a digital photograph will be five dollars. We therefore estimate that the total cost burden for the collection is \$2,930,000 (\$5 x 586,000 applicants).
14. The immigrant visa function is not a centrally-funded line item; rather, general consular operations are aggregated without distinction into the overall operational budgets of the Department of State's regional bureaus (African Affairs, East Asian and Pacific Affairs, European Affairs, Western Hemisphere Affairs, Near Eastern Affairs, and South Asian Affairs). Based on a cost of service study, the Department of State estimates that it costs the federal government, on average, \$325 to process an immigrant visa application. The estimated annual cost to the Federal Government is therefore \$190,450,000 per year to process immigrant visa applications (\$325 x 586,000 applications).
15. The estimated number of applicants applying each year for the DS-260 is approximately 586,000 applicants. Each applicant whether issued or refused a visa, will complete the form. According to Visa Statistics for fiscal year 2012, 482,300 Immigrant Visas were issued. The number of visas denied for fiscal year 2012 was 96,514. This sum was calculated by subtracting the ineligibilities overcome (215,321) from the number of ineligibilities findings (311,835). We added that number (96,514) to the number of visas issued (482,300) and the number of applicants for fiscal year 2012 was 578,814. We repeated this process for fiscal year 2011 (595,228 applicants) and 2010 (585,211 applicants). As a result, using the previous three fiscal years as measurements, Visa Services believes the average number of applicants would be approximately 586,000 per year.

With the integration of the DSP-0122 Supplemental Registration for the Diversity Immigrant Visa Program into the DS-260 Electronic Application for Immigrant Visa and Alien Registration, the number of applicants will not increase overall.. Previously, applicants had to fill out the DS-5501 Electronic Diversity Visa Entry Form, DSP-0122 Supplemental Registration for the Diversity Immigrant Visa Program and the DS-260 Electronic Application for Immigrant Visa and Alien Registration. But once approved, applicants will only have to fill out the DS-5501 and DS-260. The two questions that were integrated into the DS-260 include the DSP-0122 job training question, "Does this job require at least 2 years of training or experience? And also adding in the dates from previous employers from the last five years.

There are adjustments made to the hour burden and cost to respondents in this collection. Previous collection stated that there were approximately 585,000 respondents and the total estimated time burden for this collection was 1,170,000 hours. Due to the slight increase in the number of applicants, the total estimate time burden for this collection increased by 2,000 hours. As a result of the increase in the number of applicants, the cost total cost to the

respondents increased by \$5,000 dollars. Adjustments are expected as the number of applicants increase or decrease over each fiscal year.

16. A quantitative summary of the Department of State's visa operations 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.
17. The Department will display the expiration date for OMB approval on the information collection.
18. The Department is not requesting any exceptions to the certification statement requirements

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.