

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION

J-1 Waiver Recommendation Application OMB Number 1405- 0135 DS-3035

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 visas. INA section 212(e) [8 U.S.C. § 1182(e)] provides that certain categories of persons admitted under INA section 101(a)(15)(J) [8 U.S.C. § 1101(J)] or acquiring such status after admission shall not be eligible to apply for an immigrant visa, or for permanent residence, or for a nonimmigrant visa under section 101(a)(15)(H) [8 U.S.C. § 1101(H)] or section 101(a)(15)(L) [8 U.S.C. § 1101(L)], until it is established that such person has resided and been physically present in the country of their nationality or their last legal permanent residence for an aggregate of at least two years following departure from the United States. This provision in section 212(e) applies to the following categories of persons:

- (i) A person whose participation in the program for which he came to the United States was financed in whole or in part, directly or indirectly, by an agency of the United States Government or by the government of the country of his or her nationality or of his or her last legal permanent residence;
- (ii) A person who at the time of admission or acquisition of status under 101(a)(15)(J) was a national or resident of a country which the [Secretary of State], pursuant to regulations prescribed by him, had designated as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the alien was engaged; or
- (iii) A person who came to the United States or acquired such status in order to receive graduate medical education or training.

INA Section 212(e) and INA 214(l) [8 U.S.C. § 1184(l)] provide for waivers of the two-year foreign residency requirement under the following circumstances; if the Secretary of State recommends a waiver to the [Secretary of Homeland Security] in the public interest or if the return of the alien to his or her country of nationality would result in exceptional hardship or probable persecution on account of race, religion, or political opinion, or if the alien is a health care professional who agrees to practice medicine for at least three years in a geographic area or areas designated by the Secretary of Health and Human Services as having a shortage of health care professionals.

Department of State regulations pertaining to the waiver of the two-year residence requirement are published at 22 CFR 41.63.

2. The J-1 Waiver Recommendation Application, DS-3035, is used to record the information

required by 22 CFR 41.63 for a waiver request filed with the Secretary of State. The information requested on the form is limited to that which is necessary to enable the Waiver Review Division, Visa Services, Bureau of Consular Affairs, of the Department of State (CA/VO/L/W) to act on the request. Applicants provide biographic data and details of their periods of stay on J-1 visas in the United States. The Department is unable to approve a nonimmigrant visa without collecting this information.

3. The DS-3035 will be submitted electronically to the Department via the internet at <https://j1visawaiverrecommendation.state.gov/>. The applicant will complete the DS-3035 online, print out the 2-D barcodes and submits the barcodes to the Waiver Review Division.

4. The Department is unable to approve relevant immigrant or nonimmigrant visas and DHS is unable to approve some adjustments of status without collecting this information.

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

6. This information collection is essential for determining whether applicants are recommended for 212(e) waivers. The Department of State could not carry out its statutorily mandated requirement to recommend applicants for waivers without obtaining the information on this form. An applicant fills out the form one time per application; thus, it is not possible to collect the information less frequently.

7. No such circumstances exist.

8. The Department of State (Visa Services, Bureau of Consular Affairs) published a 60 Day Notice on the reauthorization of Form DS-3035 in the Federal Register (78 FR 47, March 11, 2014), 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. In accordance with section 222(f) of the INA [8 U.S.C. § 1202(f)], 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.

11. The DS-3035 does not ask any questions of a sensitive nature.

12. During Fiscal Year 2013, CA/VO/L/W received 6,087 J-1 Waiver Recommendation Applications. The estimated amount of time it takes for a respondent to complete the form is 1 hour. We estimate that the annual burden for this collection to be 6,087 hours. Based on an average hourly wage of \$21, the weighted wage hour cost burden for this collection is \$178,957.

This is based on the calculation of \$21 (average hourly wage) x 1.4 (weighted wage multiplier) x 6,087 hours = \$ 178,957.

13. Based on an average U.S post cost of forty-nine cents (based on Forever forty-nine cents stamps), an estimated average postage cost for all applicants submitting the DS-3035, would be \$ 2,982.63. (6,087 respondents x \$0.49) However, in the next Federal Register notice we will request from the public the appropriate international postage rate to use.

14. The annual cost burden to the federal government in regards to the DS-3035 is \$1,308,705. The Department of State estimates that the cost to the federal government for processing a single J-1 Waiver recommendation is \$215. As a result, applicants are charged a \$215 processing fee to submit the DS-3035. Thus the estimated annual cost to the federal government is \$1,308, 705. (\$215 x 6,087 applications)

15. There are several adjustments in this year's collection in regards to the DS-3035. Fiscal year 2011, there was an estimate of 10,000 applicants. Fiscal year 2013 there was an estimate of 6,087 applicants. As a result, there was a decrease of approximately 3,913 applicants.

The Department had to adjust the reported cost to respondents due to an inaccurate cost calculation. Previously, we attributed the processing fee of \$215 as a cost to applicant. However, the \$215 processing is the cost to the government. The actual cost to the applicant is the price an applicant pays for postage in order to mail the confirmation page from the DS-3035. As a result, the total annualized cost to the respondent has dropped from \$2,150,000 to \$2,982, a decrease of \$2,147,018.

The cost to the federal government has also decreased due to the decrease in applicants. Previously, the cost to the government was \$2,150,000. However, that cost has gone down \$841,295 to \$1,308,705.

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.

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. STATISTICAL METHODS

This collection does not employ statistical methods.