

# SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION

## Electronic Diversity Visa Lottery (EDV) Entry Form OMB Number 1405-0153 DS-5501

### A. JUSTIFICATION

#### 1. *Why is this collection necessary and what are the legal statutes that allow this?*

The Department requires the information to help mitigate fraud in the Diversity Visa program and hinder the ability of *mala fide* third parties to submit unauthorized Diversity Visa Lottery entries for unwitting individuals. The Immigration and Nationality Act (“INA”), 8 U.S.C. § 1011 *et seq.*, sets out application and eligibility requirements for aliens seeking immigrant visas. INA Section 203(c), 8 U.S.C. § 1153(c), provides for a class of immigrants known as “diversity immigrants” from countries with historically low rates of immigration to the United States. Pursuant to INA section 204(a)(1)(I), 8 U.S.C. § 1154(a)(1)(I), aliens seeking diversity immigrant status must submit a petition and may apply for a diversity visa only if randomly selected in the “DV lottery.” The Secretary of State is authorized to establish, through regulations, the information that must be included in the petition and any documentary evidence required to support the petition. INA Section 204(a)(1)(I)(iii), 8 U.S.C. § 1154(A)(1)(I)(iii). That petition is commonly called the Electronic Diversity Visa Entry Form (EDV Entry Form). The information required includes, but is not limited to, the petitioner’s name, date and place of birth, sex, native country, if other than country of birth, education, and/or work experience. *See* 22 CFR § 42.33(b)(1); *see also* 8 U.S.C. § 203(c)(2). The Department has revised the relevant regulation to require petitioners for the Diversity Immigrant Visa Program to provide certain information from a valid, unexpired passport on the electronic form. To implement that requirement, the Department also is revising the EDV Entry Form.

#### 2. *What business purpose is the information gathered going to be used for?*

The Department of State utilizes the EDV Entry Form, in conjunction with the immigrant visa application, to elicit information necessary to establish the eligibility of the applicant for the diversity immigrant visa. The information requested on the form is limited to what is necessary to conduct the annual Diversity Visa lottery in a secure manner. The Department uses the information provided on the entry form to confirm the identity and preliminarily assess the qualifications of the petitioners selected in the DV lottery.

#### 3. *Is this collection able to be completed electronically (e.g. through a website or application)?*

Yes. The EDV Entry Form is available online at [www.dvlottery.state.gov](http://www.dvlottery.state.gov) and can only be submitted electronically during the annual registration period.

#### 4. *Does this collection duplicate any other collection of information?*

The EDV Entry Form is used to collect much of the same information required in the DS-260, Immigrant Visa Electronic Application, and the DS-230, Application for Immigrant Visa and Alien Registration. These forms, however, are used for a different purpose, since selection in the Diversity Visa lottery is a prerequisite to submitting either of these forms to apply for an immigrant visa.

5. *Describe any impacts on small business.*

The information collection does not involve small business or other small entities.

6. *What are consequences if this collection is not done?*

The EDV Entry Form is essential for administering the Diversity Visa Lottery Program. An applicant fills out one entry form; it is not possible to collect the information less frequently.

7. *Are there any special collection circumstances?*

No such circumstances exist.

8. *Document publication (or intent to publish) a request for public comments in the Federal Register.*

The Department of State (“Department”) published an interim final rule in the *Federal Register* on June 5, 2019 (84 FR 25989), soliciting public comment on the change to 22 C.F.R. 42.33. Embedded in the rulemaking was a 30-day Notice requesting public comment on the change to the information collection. The Department received a total of 27 comments. The Department received four non-responsive comments.

Numerous comments were substantively similar and commenters raised many overlapping issues. Twelve commenters supported the proposed collection, and others opposed it or proposed changes. The Department has identified and summarized comments substantially similar to each other, and presents the responses below:

**8A: Comments expressing concern about the cost burden of obtaining passports**

Four commenters expressed a concern regarding the cost burden imposed on the public, particularly among populations with low percentages of individuals who already have passports. Several of these comments noted that many individuals who obtain passports for DV entry will never use them given the likelihood of selection in the DV program. One commenter expressed concern that the requirement would strongly affect the Democratic Republic of Congo given the poverty rate, cost of a passport, and low chances of DV selection. Another comment noted that the burden of obtaining a passport will discourage entry into the DV lottery. A comment also expressed concern it would be particularly challenging to obtain a passport in some African countries given that some countries have faced a shortage of materials to print passports, and that in lieu of a national passport, many Africans have regional passports that facilitate travel in the continent, but would not be valid for travel to the United States or for DV entry.

**Response:** The Department acknowledges individuals who currently do not hold a passport will need to incur the cost of acquiring one in order to submit a valid entry for the DV lottery. However, we believe those costs are outweighed by the benefits to the integrity of the DV Program, which while difficult to quantify, include reducing fraud and unauthorized entries

of unwitting individuals. Further, a valid passport is required for a selected entrant to move forward to visa application stage of the DV process.

**8B:** Comments proposing acceptance of other valid forms of identification

One commenter asked the Department to accept any valid form of identification papers instead of just passport information. The commenter cites the example of a national identity card issued by the Government of Cameroon.

**Response:** The Department has considered whether accepting other forms of identification, such as national identity cards, in lieu of passports would help reduce fraud and unauthorized third party entries into the DV lottery. However, the Department believes that no other form of identification provides identifiers so secure and unique to the applicant that third parties would be unable to obtain them and submit fraudulent entries.

**8C:** Supportive comments proposing additional fraud prevention measures

Three commenters were supportive of the addition of the requirement for a valid, unexpired passport, but had additional suggestions for preventing fraud. One commenter suggested the Department also charge DV lottery entrants \$100 to submit each entry, as a means of discouraging fraudulent entries. Another commenter suggested requiring derivative applicants to provide passport information to curtail fraud further. A commenter also suggested requiring copies of documentary evidence to support the entrant's qualification for the DV program or to verify identity.

**Response:** The Department agrees that requiring information from a valid, unexpired passport will help mitigate fraud and hinder the ability of third parties to submit unauthorized entries for unwitting individuals. The Department has no plans to pursue a fee for submitting a DV entry at this time, because a cost-based user fee would be nominal; nor does it plan to require documentary evidence at the lottery registration phase, due to technical considerations. The Department also has no plans to expand this requirement to derivatives based on the Department's interest in minimizing the costs to entrants who must acquire a passport to enter the DV lottery and the fact that only principals – not derivatives – are selected through the DV lottery.

**8D:** Comment questioning the integrity of foreign passport numbers

One commenter objected to mandating passport numbers as a fraud mitigating measure, commenting that passport fraud is a widespread, worldwide problem. Another commenter cited the ease at which an entrant could use random passport information, stating that "... [c]riminal enterprises will submit entries with random passport numbers for individuals for whom they do not know real passport numbers. If an individual entered one entry form himself or herself, and had also a fraudulent entry from a criminal enterprise with a random passport number, the enhancement only makes sense if the fraudulent entry is ignored by the Department of State and is not considered a duplicate entry. How will the consular officer know if the entry was submitted by a criminal enterprise, not by an individual himself or herself for his or her second passport?"

**Response:** The Department agrees that passport fraud exists, but the Department has effective tools for detecting fraudulent passports. Also, an incorrect passport number included in the DV lottery entry will disqualify the entrant. The rule will discourage criminal enterprises from submitting fraudulent entries that might disqualify the named individual.

**8E:** Comments noting inconsistencies in photograph specifications

Three commenters highlighted potential inconsistencies between photograph requirements listed on travel.state.gov and those listed in the rule. A commenter also recommended that the size requirements for scanned images should be in pixels instead of inches. Another commenter expressed concern with the burden imposed on consular officers with having to identify photographs that are older than six months.

**Response:** The Department believes the requirements are consistent. The relevant regulation, at 22 CFR 42.33(b)(2)(v), requires the head to cover “about 50% of the area of the photograph,” and travel.state.gov requires that “[t]he top of the head, including the hair, to the bottom of the chin must be between 50% and 69% of the image's total height.” The rule provides an approximation, which is within the range of the more specific requirements outlined on the Department’s website. Consular officers are trained in security and fraud trends, and may identify photos that fall outside of the required range of six-months.

**8F:** Comment seeking clarity on chargeability

One commenter requested clarity on chargeability and passports for spouses who both enter the Diversity Visa lottery. Specifically, the commenter stated, “The rule does not clarify what happens if both spouses are principals. When one spouse is taking country of chargeability from another spouse, both applicants are considered principal applicants for the purpose of cross-chargeability. Who will need to satisfy the passport number requirement? Both spouses? Will the electronic form ask the passport number for both in that case?”

**Response:** The Department’s Interim Final Rule mandates that, as the passport information is required for registration, all entrants regardless of whether they are claiming cross-chargeability will need to provide their own passport information. However, passport information of derivatives is not required. Therefore, an individual who does not provide a passport number will not be an eligible DV entrant, but could be an eligible derivative if that person’s spouse is selected in the lottery.

**8G:** Comment expressing concern that individuals with multiple passports will have an unfair advantage for DV selection

One commenter noted that some countries may allow for their citizens to have two or more passports at the same time, providing an unfair advantage for those individuals if they could submit multiple entries.

**Response:** Each individual is permitted one entry into the DV lottery. For entrants with multiple passports, the Department may identify dual entries by comparing other personally identifiable information outside of passport numbers, such as name and date of birth.

**8H:** Comments questioning the relevance of certain other fields on the DS-5501

Six commenters asked about the relevance of certain fields on the DS-5501. Two commenters asked why entrants must provide the location of the consulate closest to the entrant’s current residence. Another asked why entrants must provide details on their level of education, beyond the minimal level for eligibility. A comment also suggested that entrants provide their date of birth instead of age. Another commenter questioned the relevance of the entrant’s sex.

**Response:** This information is necessary to ensure that entrant has the necessary qualifications for DV selection and to allow the Department to confirm the identity of each DV selectee during the application process.

**8I:** Comments about the treatment of mistakes on the DS-5501

Two commenters questioned disqualifying DV lottery entrants for making a mistake, such as a spelling error or typographical error, on the DV Entry Form. Another comment asked about the implications of losing or renewing a passport after DV lottery entry. A commenter also questioned how the Department would address entrants who lost or renew their passports after entry into the DV lottery, and how the Department could distinguish those entrants with changed information from others who enter random numbers.

**Response:** It is incumbent on entrants to ensure they enter correct and consistent information when filling out the DV Entry Form. Entrants with updated passport information will not be disqualified from the DV lottery if they can establish, to the satisfaction of a consular officer, that they had a legitimate reason for submitting different information.

**8J:** Comment inquiring about exceptions

One commenter questions why the rule does not include all passport exemptions currently contained in 22 CFR 42.2, which lists scenarios in which immigrant visa applicants are not required to present passports. Another commenter specifically inquired about available exceptions to the valid passport requirement for individuals who are unable to obtain valid passports, such as pending asylum applicants.

**Response:** The Department has incorporated certain passport exemptions in 22 CFR 42.2 into this rule that address aliens who may be unable to obtain passports due to circumstances out of their control. For example, aliens who are stateless or unable to obtain a passport from a communist-controlled country have no means to obtain a passport, whereas aliens in other categories exempted under 22 CFR 42.2, including certain relatives of U.S. citizens or lawful permanent residents, could obtain a passport if necessary. Individuals who are unable to obtain a passport from their country of nationality because they are seeking, or have obtained, refugee or asylee status from another government may be able to obtain a travel document from that other government. Such travel documents may meet the definition of a “passport” in Section 101(a)(30) of the Immigration and Nationality Act, which defines a passport as any travel document issued by a competent authority showing the bearer’s origin, identity, and nationality if any, which is valid for the admission of the bearer into a foreign country. The Department intends to publish instructions for the DS-5501 that clarify such unique identifiers and information from these refugee or asylee travel documents generally will be acceptable for purposes of this form.

**8K:** Comment highlighting inconsistency between regulation and DS-5501

One commenter noted an inconsistency between the place of birth requirement listed in the regulation and the DS-5501. The commenter highlighted that 22 CFR 42.33(b)(1)(ii) requires the “petitioner’s date and place of birth (including city and country, province or other political subdivision of the country),” but that the DS-5501 only requires the city and country.

**Response:** The Department appreciates this commenter’s feedback and will consider options to address this inconsistency.

**8L: Comments expressing concern with lack of notice for DV-2021**

Two commenters expressed concern with the lack of public notice for entrants to obtain passports in advance of DV-2021, which the Department expects to open around October 2019.

**Response:** The Department acknowledges that the process of obtaining a passport varies among countries, and that some populations may be able to obtain passports more quickly than others. Once the DS-5501 is approved for use in DV-2021, the Department will make efforts to notify the DV-eligible public of this requirement as soon as practicable.

**9. *Are payments or gifts given to the respondents?***

No payment or gift is provided to respondents.

**10. *Describe assurances of privacy/confidentiality.***

In accordance with INA Section 222(f), 8 U.S.C. § 1202(f), information obtained from applicants in the nonimmigrant or immigrant visa application 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, 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), 8 U.S.C. § 1202(f), are satisfied.

**11. *Are any questions of a sensitive nature asked?***

The form does not seek personal information of a sensitive nature.

**12. *Describe the hour time burden and the hour cost burden on the respondent needed to complete this collection.***

The Department estimates that 14,589,023 individuals will complete this form each year. This number was arrived at by averaging the responses we have received for the past three fiscal years. Although the information collected does not require any special research on the part of the applicant, finding and entering the necessary information to complete the entire form is estimated to take 35 minutes. This estimate does not account for the time needed to acquire a passport for those individuals who do not already have a passport, and the Department cannot provide a greater estimate of the time required to do that given the varied processes in foreign countries to obtain a passport. Therefore, the Department of State estimates that the annual hour burden to visa applicants posed by the additional questions is 8,510,263 hours (14,589,023 applicants x 35 minutes). The weighted wage hour cost burden for this collection is \$289,995,721, based on the calculation of \$24.34<sup>1</sup> (average hourly wage) x 1.4 (weighted wage multiplier) x 8,510,263 hours = \$289,995,721.

**13. *Describe the monetary burden to respondents (out of pocket costs) needed to complete this collection.***


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<sup>1</sup> Source: Data from the U.S. Bureau of Labor Statistics May 2017 National Occupational Employment and Wage Estimates for all occupations ([https://www.bls.gov/oes/2017/may/oes\\_nat.htm#00-0000](https://www.bls.gov/oes/2017/may/oes_nat.htm#00-0000)). Retrieved February 4, 2019.

Although there is no fee to enter the DV lottery, aliens completing the online form must submit a digital image, which, depending on a variety of factors, may result in a minimal cost. There are a number of ways in which aliens will be able to complete the entry. Many individuals may already have access to the necessary equipment to submit a digital image without incurring any additional out-of-pocket costs. Those who do not may rely on a friend or family member in the United States to submit an entry on their behalf, or use a facilitator. The Department estimates that the average cost to an alien of submitting an electronic entry will be \$5.00. The digital image may also be utilized without additional cost for other purposes, including passport and visa photographs. We estimate that approximately 14,589,023 aliens will submit entries at an average cost of five dollars, resulting in a total cost to respondents of approximately \$72,945,115. Due to pervasive fraud and abuse it is no longer feasible for the USG to collect lottery entries in paper format and transform them into electronic records within the available timeframe for administering the DV program. The Department utilizes facial recognition technology and other electronic means to detect multiple entries by the same individual. The Department also proposes to collect valid, unexpired passport information of the principal applicant entering the DV lottery. Derivative applicants are not required to provide passport information at the entry phase, but all derivatives must be listed on the entry form. While there are costs associated with acquiring passports, the Department is not able to speculate on the worldwide costs of obtaining passports.

This burden does not account for the capital costs associated with acquiring the passport for any individuals who do not already have one. The Department acknowledges that some portion of the applicant population will need to procure a passport, but has no way of estimating how many applicants this would apply to and similarly does not have data indicating distributional impacts of this requirement.

*14. Describe the cost incurred by the Federal Government to complete this collection.*

The information from the form is processed by the Kentucky Consular Center. The current annual cost and future expected cost is \$501,793.50, which was provided by the Kentucky Consular Center. This cost includes quantification of hours and operational expenses (such as staff), in addition to the time it takes staff to compare the data submitted on the EDV entry form to DS-260 data and flagging discrepancies. There is no additional cost for collecting and processing passport information.

*15. Explain any changes/adjustments to this collection since the previous submission*

This collection is revised to include additional questions for EDV lottery entrants regarding information from a valid, unexpired passport. As a result, the time burden has increased to reflect the additional requirement of adding passport information. The new required fields will instruct applicants to provide the unique serial or issuance number associated with the petitioner's valid, unexpired passport; the country or authority of the passport issuance; and expiration date. Some petitioners may be exempt from the passport requirement pursuant to 22 CFR 42.2(d), (e), and (g)(2).

*16. Specify if the data gathered by this collection will be published.*

Data collected on the DV Entry Form will not be published.

*17. If applicable, explain the reason(s) for seeking approval to not display the OMB expiration date.*

The Department will display the expiration date for OMB approval of the information collection.

*18. Explain any exceptions to the OMB certification statement below.*

The Department is not requesting any exception to the certification requirements.

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

This collection does not employ statistical methods.