

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION

JADE Act Questionnaire
OMB Number XXXX-XXXX
DS-5537

A. JUSTIFICATION

1. The Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 sets out application and eligibility requirements for aliens seeking to obtain nonimmigrant and immigrant visas. 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.

INA section 221(a), 8 U.S.C. § 1201(a) provides that a consular officer may issue an immigrant or nonimmigrant visa to an individual who has made a proper application, subject to applicable conditions and limitations in the INA and related regulations. Under Section 222(c) of the INA, 8 U.S.C. § 1202(c), every alien applying for a nonimmigrant visa must provide certain identifying particulars – name, date of birth and birthplace, nationality, purpose and length of intended stay in the United States, marital status – 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 regulations prescribed.” Similar requirements apply to applicants for immigrant visas pursuant to INA section 222(a), 8 U.S.C. § 1201(a).

Under regulations set out in Title 22 of the Code of Federal Regulations (CFR), visa applications must be made on a standard form and adjudicating consular officers “may require the submission of additional necessary information or question an alien on any relevant matter whenever the consular officer believes that the information provided in the application is inadequate to permit a determination of the alien’s ineligibility to receive a nonimmigrant visa.” 22 CFR 41.103; *see also* 22 CFR 42.63 (immigrant visas).

The Tom Lantos Block Burmese Jade Junta’s Anti-Democratic Efforts (JADE) Act of 2008 Public Law 110-286, renders certain individuals involved in specified Burmese organizations or activities ineligible for U.S. visas. Leaders of the Union Solidarity Development Association (SPDC), the Burmese military, or the Union Solidarity Development Association (USDA), and officials of these groups involved in human rights violations and impeding democracy in Burma, and any Burmese persons who provided substantial economic or political support to these groups, are ineligible for visas for travel to the United States. Immediate family members of these individuals are also ineligible for visas. Section 5(a)(1) of the JADE Act renders the following individuals ineligible for a visa:

- a. Former and present leaders of the SPDC
- b. Former and present leaders of the Burmese military
- c. Former and present leaders of the USDA

- d. Officials of the SPDC, the Burmese military, or the USDA involved in the repression of peaceful political activity or in other gross violations of human rights in Burma or in the commission of other human rights abuses, including any current or former officials of the security services and judicial institutions of the SPDC
 - e. Any other Burmese persons who provide substantial economic and political support for the SPDC, the Burmese military, or the USDA
 - f. Immediate family members of any persons listed above.
2. Department of State consular officers use the information provided to determine a visa applicant's eligibility for a visa under the JADE Act. The information requested on the JADE Act Questionnaire is limited to that which is necessary for consular officers to efficiently determine the applicant's eligibility. Determinations of visa eligibility for certain applicants would not be possible without collecting this information. This collection will provide consular officers with all relevant information to determine possible ineligibility of the Burmese applicant under the JADE Act and will significantly reduce the need for additional information collections during the applicant's interview. Respondents are expected to complete the DS-5537 prior to their visa interview and present the form as a part of their application.
 3. All Burmese nationals applying for U.S. visas will be asked to complete and submit the JADE Act questionnaire. The collection is a PDF fillable form that the respondent can complete electronically before printing out. A physical copy of the form is presenting to the consular officer during the visa interview.
 4. To our knowledge, this collection is not duplicative of another existing collection.
 5. This information collection does not involve small businesses or other small entities.
 6. This information collection is essential for determining whether certain applicants are eligible for a 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 Office, Bureau of Consular Affairs) published a 60-day notice in the Federal Register on June 8, 2018 (83 FR 26740), soliciting public comment on this collection. The Department received one nonresponsive comment on the collection.
 9. No payment or gift is provided to respondents.
 10. 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. The questions in the collection are designed to solicit the information necessary to determine whether an applicant is eligible for an immigrant or nonimmigrant visa, in light of the JADE Act, Public Law 110-286, and section 203 of the INA, 8 U.S. Code § 1153, and section 101(a)(15) of the INA, 8 U.S.C. § 1101(a)(15).

The proposed questions are similar in nature to questions currently on the immigrant and nonimmigrant visa application forms and thus do not, for the most part, present new or unusual sensitivities; they simply request information necessary to determine whether the applicant is ineligible under the JADE Act

12. The Department estimates that 20,500 individuals per annum, will be asked this information.

Therefore, the Department of State estimates that the annual hour burden to visa applicants posed by the additional questions is 10,250 hours (20,500 applicants x 30 minutes). Based on an average monthly net salary in Burma of \$75¹, weekly pay of \$18.75, and hourly wage of \$0.46, the weighted wage hour cost burden for this collection is \$6,601. This is based on the calculation of \$0.46 (average hourly wage) x 1.4 (weighted wage multiplier) x 10,250 hours = \$6,601.

13. There are no anticipated monetary burdens associated with the additional questions posed as part of this information collection as respondents submit the form in conjunction with their normal visa interview.

14. There are no additional costs to the Federal Government as a result of this information collection. The costs of adjudicating the underlying visa applications are accounted for in separate information collections. The Department is unable to separate the costs for the DS-5537, because the Department calculates the cost to the government for adjudicating visas on the basis of the service provided and not by the individual forms reviewed. The DS-5537 is a part of the overall service, and the cost of service model developed by the Department takes the entire visa process into consideration to calculate the fee for service.

15. This is an existing collection in use without an OMB Control Number.

16. The information gathered by this collection will not be published. However, 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 2018. The link to the site is: <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics.html>.

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

18. The Department of State is not requesting any exceptions to the certification statement requirements.

¹ This estimate is based upon a USAID household survey of 12,000 families and a 2015 ILO Labor Survey, which estimated the average monthly net wage in Burma is about 100,000 Myanmar kyat, or \$75 US dollars based on exchange rates. See <http://www.ilo.org/surveydata/index.php/catalog/1291>

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.