

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

## **Nonimmigrant Visa Application and Online Application for Nonimmigrant Visa OMB Number 1405-0182 DS-156 and DS-160**

### **A. JUSTIFICATION**

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

The Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et seq.*, mandates application and eligibility requirements for applicants 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 applicant 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.” 22 CFR part 41 regulates the nonimmigrant visa process. 22 CFR 41.103 regulates the filling of an application for a nonimmigrant visa.

Under INA section 212(d)(5) [8 U.S.C. 1182], the Secretary of Homeland Security may, in his discretion, parole into the United States temporarily under certain conditions for urgent humanitarian reasons or significant public benefit any noncitizen applying for admission to the United States. Consular officers aide the Department of Homeland Security in carrying out this function on a case-by-case basis by issuing boarding foils for Significant Public Benefit Parole (SPBP) or Humanitarian Parole (HP) beneficiaries, after receiving an authorization memo from USCIS and completing required processing steps, including completion of the DS-160 or DS-156 by the beneficiary.

The withdrawal of U.S. forces in August 2021, followed by the Taliban’s takeover of Afghanistan and the subsequent evacuation, has significantly increased the need to process boarding foils for purposes of parole. While not all Afghan travelers will be SPBP or HP beneficiaries and not all SPBP or HP beneficiary are Afghans, the increased demand and the pressing need to process beneficiaries as expeditiously as possible is paramount. If the Department is unable to process boarding foils or the processing of boarding foils is slowed, beneficiaries will be left in limbo in potentially dangerous situations or without access to the protection the parole benefit is designed provide.

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

Department of State consular officers use the information provide to adjudicate eligibility requirements referenced in Question 1 above. The information requested on the form is limited to that which is necessary for consular officers to efficiently determine the eligibility and

appropriate visa classification of an applicant seeking a nonimmigrant visa. These determinations would not be possible without collecting this information.

The DS-160 is also used in limited circumstances to process certain parole applicants for the purposes described in Question 1 above. When a humanitarian or significant public benefit parole request is authorized by USCIS, the applicants are required to complete the DS-160 and appear for an appointment with the Department of State consular section to verify their identity and collect biometrics for additional security vetting. If no new derogatory information or new identity information is identified during vetting that would cause USCIS to rescind parole approval, the U.S. Consulate issues a document referred to as a boarding foil that allows the beneficiary to travel to the United States within 30 days of it being issued. A final determination on whether to parole an applicant into the United States is then made by CBP at the port of entry.

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

Respondents are able to electronically fill out and submit the DS-160 online via the Consular Electronic Application Center at <http://www.travel.state.gov>. Once the form is complete and the respondent has verified the answers provided, the respondent will electronically sign and submit the application. The Department does not require a paper copy of the application. The respondent may print a copy for their personal records.

The electronic form will provide consular officers with relevant information necessary to review the respondent's application for a visa or request for a boarding foil.

In certain cases, respondents may be required to complete the paper-based DS-156 in lieu of the DS-160. While there is some variance in formatting between the electronic and paper-based versions of the form, the substance of information collected does not differ between the DS-156 and DS-160. The consular officer may authorize the use of the DS-156 when:

- A respondent has an urgent medical or humanitarian travel need, and the consular officer has received explicit permission from the Visa Office to accept form DS-156;
- The respondent is a student exchange visitor who must leave immediately in order to arrive on time for his/her course and the consular officer has explicit permission from the Visa Office to accept form DS-156;
- The respondent is a diplomatic or official traveler with urgent government business and form DS-160 has been unavailable for more than four hours; or
- Form DS-160 has been unavailable for more than three days and the officer receives explicit permission from the Visa Office.

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

This collection does not duplicate any other information collection. As noted, the DS-156 and DS-160 are duplicative, but they are both part of this information collection and a respondent will only be required to complete one of the forms per request.

**5. *Describe any impacts on small business.***

This information collection does not involve small businesses or other small entities.

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

This information collection is essential for determining whether a respondent is eligible for a nonimmigrant visa or whether or not a consular officer can issue a boarding foil to an individual who is seeking parole. A respondent completes the form once per visa application or once per request for a boarding foil. It is not possible to collect the information less frequently, as consular officers need up-to-date information to determine efficiently whether a respondent can be issued a visa or boarding foil.

**7. *Are there any special collection circumstances (e.g., responding in less than 30 days, excessive record retention, or requiring submission of proprietary trade secrets)?***

No special circumstances exist.

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

The Department intends to publish a public notice in the *Federal Register* soliciting public comment on the collection and the inclusion of individuals seeking parole in the collection. The Department will use any comments submitted to inform its request to make these changes permanent consistent with normal Paperwork Reduction Act compliance procedures before the emergency approval expires.

The Department had been in the middle of a normal Paperwork Reduction Act renewal process when the urgent need arose to amend the form to include individuals seeking boarding foils in this collection. The Department is abandoning that process request and will seek to make the changes outlined in its previous request when it seeks permanent approval for this emergency request.

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

No payment or gift is provided to respondents.

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

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. Section 222(f) (8 U.S.C. § 1202(f)) also contains exceptions for providing such confidential information, in limited circumstances, to a court or a foreign government in the Secretary of State's discretion.

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

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 (8 U.S.C. § 1101(a)(15)). Consular officers may not issue a visa to applicants who are ineligible under applicable provisions of section 212 of the INA (8 U.S.C. § 1182) or any other provision of law, unless authorized under the INA, the Department of Homeland Security grants a waiver. In order to adjudicate visa eligibility and to process parole beneficiaries, the application form specifically asks for information on a variety of issues, including information concerning the applicant'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 paragraph 10 above, such information is confidential under section 222(f) of the INA (8 U.S.C. § 1202(f)).

Fingerprints are collected for many visa applicants and for persons requesting a boarding foil. Fingerprints are compared 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).

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

Data from Visa Statistics shows a decrease in nonimmigrant visa applications over the past three fiscal years. The decrease is likely partially attributable to the effects of the COVID-19 pandemic. The Department believes that nonimmigrant visa applications will incrementally increase over the next three years, depending on how COVID-19 continues to impact travel. The Department currently projects a maximum of:

- a) 2,800,000 nonimmigrant visa applicants in FY 2021
- b) 4,600,000 nonimmigrant visa applicants in FY 2022
- c) and 8,169,600 nonimmigrant visa applicants in FY 2023
- d) This comes to an average of 5,189,867 nonimmigrant visa applicants over the next three years

Finding the necessary background information and filling out the DS-160 or DS-156 takes the average applicant ninety minutes. Therefore, we estimate that the annual hour burden to visa applicants is 7,784,800 hours. (5,189,867 applications x 90 minutes, divided by 60).

Based on an average hourly wage of \$27.07<sup>1</sup>, the weighted wage hour cost burden for this collection is \$316,101,824. This is based on the calculation of \$27.07 (average hourly wage) x 1.5 (weighted wage multiplier) x 7,784,800.5 hours = \$316,101,824.

The Department issues boarding foils (PARCIS foils) for Significant Public Benefit Parole (SPBP) or Humanitarian Parole (HP) beneficiaries after receiving an authorization memo from USCIS and completing required processing steps. Data from Visa Statistics shows a significant increase in PARCIS foil issuances over the past two fiscal years. This increase is due to an increase in parole applications resulting from the unrest in Afghanistan and other countries. In FY 2021, the Department issued 641 PARCIS foils, while in FY 2020, the Department issued 394 PARCIS foils. The Department believes that parole applications will continue to increase in FY2022 and FY2023. The Department currently projects:

- a) 900 PARCIS foils printed in FY2022
- b) 1300 PARCIS foils printed in FY2023
- c) 1100 PARCIS foils printed in FY2024
- d) This results in an average of 1,100 PARCIS foils printed in the next two years

The Department estimates that 1,100 individuals seeking parole will be asked to complete a DS-160 in order to obtain a boarding foil. Finding the necessary background information and

<sup>1</sup> May 2020 National Occupational Employment and Wage Estimates. Retrieved 4/12/21 from [https://www.bls.gov/oes/current/oes\\_nat.htm#00-0000](https://www.bls.gov/oes/current/oes_nat.htm#00-0000)

filling out the DS-160 takes the average applicant ninety minutes. Therefore, we estimate that the annual hour burden to parolees is 1,650 hours. 1,100 applications x [90 minutes, divided by 60]. Based on an average hourly wage of \$27.07<sup>2</sup>, the weighted wage hour cost burden for this collection is \$66,999. This is based on the calculation of \$27.07 (average hourly wage) x 1.5 (weighted wage multiplier) x 1,650 hours = \$66,999.

Overall, the Department estimates that 5,190,967 respondents (visa applicants and parole applicants) will complete the DS-160 per fiscal year. Completing the DS-160 takes the average individual ninety minutes. Therefore, we estimate that the annual hour burden to all individuals is 7,786,450 hours. 5,190,967 respondents x [90 minutes, divided by 60]. Based on the average hourly wage of \$27.07, the weighted wage hours cost burden for this collection is \$316,168,823. This is based on the calculation of \$27.07 (average hourly wage) x 1.5 (weighted wage multiplier) x 7,786,450 hours = \$316,168,823.

**13. Describe any monetary burden on the respondent needed to complete this collection.**

A passport is required for most nonimmigrant visa applicants. If the applicant is interviewed, the applicant submits their passport at the time of interview. If the applicant is not interviewed, the applicant submits the passport via mail per the instructions provided by the consular section. Additional documentation (CV, police certificate, civil documents) may be necessary based on the visa classification and is submitted either at the time of interview or via mail per consular instructions. The confirmation page will normally list any required documentation. At the time of electronic submission of the DS-160, the applicant is not required to submit supporting documentation.

The respondent 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 \$25,954,800 (\$5 x 5,190,976 applicants).

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

The annual cost burden to the federal government for the DS-160 in fiscal year 2016 was \$1,685,757,272.42. The Consular Affairs Cost of Service Model calculates the cost to the U.S. government of providing consular services including visas. This estimate includes all nonimmigrant visa types that use the DS-160 and DS-156. Application fees vary based on the nonimmigrant visa classification, for nonimmigrant visas, and are designed to recover the costs associated with nonimmigrant visas.

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

The Department is not making any changes to the DS-156 or the DS-160. However, the estimated number of respondents has changed significantly. While the Department is adding an additional respondent pool to this collection, the total number of respondents has decreased significantly. This is because the overall number of nonimmigrant visa applicant has decreased since the last time the Department sought approval for the collection. The decrease in respondents, burden hours and cost are due that decrease in overall applications.

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

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<sup>2</sup> May 2020 National Occupational Employment and Wage Estimates. Retrieved 4/12/21 from [https://www.bls.gov/oes/current/oes\\_nat.htm#00-0000](https://www.bls.gov/oes/current/oes_nat.htm#00-0000)

A quantitative summary of all Department of State visa activities is published in the annual Report of the Visa Office which is an annual report providing statistical information on immigrant and nonimmigrant 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 2020. The link to the site is:

<https://travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics/annual-reports.html>.

**17. *Explain the reasons for seeking approval to not display the OMB expiration date.***

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

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

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.