

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION

Electronic 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 his/her 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 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 applicant's sworn affirmation and signature at the time of the interview.
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.
7. No special circumstances exist.
8. The Department of State solicited public comments on this collection on August 18, 2015, via a Public Notice in the *Federal Register*. See 80 F.R. 50067. Five comments were received.

One comment suggested an "approximate date of travel" check box so that applicants will not have to indicate a precise date of previous travel in situations where the applicant has lost

or no longer has his or her prior passport. However, there is already text on the form indicating that approximate dates are acceptable. An applicant is instructed to list dates to the best of their ability.

One comment pertained to the listed dates of previous travel to the United States. The commenter requested an option to allow the applicant to indicate that a prior trip was still ongoing. Again, these dates are approximations and the most recent month should be used.

One comment pertained to the inability to enter additional explanatory information into additional fields. This is currently not technically possible and would negatively affect the functionality of the form at this time. Additional explanatory information may be provided at the interview.

One comment pertained to the use of gendered terms. The comment referred to the use of gendered terms to gather information as confusing and possibly delaying or denying processing of this form. The Department of State is committed to facilitating legitimate travel of qualified applicants, including same sex couples and those who identify as transgender. While we understand the concern regarding the use the terms mother and father, the Department is unable, due to a variety of factors, to amend the collection to reflect gender neutral terms at this time. We will take this suggestion under advisement for future revision of the collection.

One comment requested to reformat the DS-260 in order to initiate Follow to Join cases where the principal applicant has not yet adjusted for status. Currently, the DS-260 is only used for immigrant visa applications and it is Department policy to contact the principal applicant's issuing post to initiate a Follow to Join case when the principal applicant has not yet adjusted status. Foreign posts have been specifically instructed to maintain contact information on their websites.

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 [8 U.S.C. § 1202]. 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 may 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 (and other agencies of the federal government as indicated above) 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) are satisfied.

11. Consular officers may not issue a visa to an individual who is ineligible under INA section 212(a) [8 U.S.C. § 1182(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, 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) [8 U.S.C. § 1202(f)].

12. The DS-260 form will be completed by approximately 581,642 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.

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 documentation 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. The annual hour burden to respondents is estimated to be 1,163,284 hours (581,642 respondents x 2 hours). Based on the U.S. hourly wage of \$24.96 from BLS tables, the hourly weighted wage is \$34.94 (\$24.96 x 1.4 multiplier). The total hour cost burden for this collection is \$40,645,142.

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 \$2,908,210 (\$5 x 581,642 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 and Central 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 \$189,033,650 per year to process immigrant visa applications (\$325 x 581,642 applications).
15. The estimated number of applicants applying each year for the DS-260 is approximately 581,642 applicants. Each applicant, whether issued or refused a visa, will complete the form. According to National Visa Center, for fiscal year 2014, 598,342 applicants submitted the

DS-260. This was significantly more than the prior years due to the fact the DS-260 is now the only acceptable immigrant visa application form, except for the small number of Cuban Family Reunification Parole applications where the DS-230 is still acceptable. We can calculate the total number of visa applications (paper and electronic) of the previous two years by taking the number of visas issued added to the number of visas denied. For fiscal years FY2013 and FY2012 the totals were 567,772 and 578,814 respectively. As a result, using the previous three fiscal years as measurements, we estimate the average number of applicants would be approximately 581,642 per year.

There are adjustments made to the hour burden and cost to respondents in this collection. The previous collection stated that there were approximately 586,000 respondents and the total estimated time burden for this collection was 1,172,000 hours. Due to the slight decrease in the number of applicants, the total estimated time burden for this collection decreased by 8,716 hours. As a result of the decrease in the number of applicants, the total cost to the respondents decreased by \$21,790 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 2015. The link to the site is: <https://travel.state.gov/content/visas/en/law-and-policy/statistics/annual-reports.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.