

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION

Online Application for Nonimmigrant Visa

**OMB Number 1405-0182
DS-160**

A. JUSTIFICATION

1. The Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et seq.*, mandates application and eligibility requirements for aliens 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 alien 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.” The Department of State’s regulations pertaining to nonimmigrant visas under the INA are published at 22 CFR part 41. The requirement pertaining to filing an application for a nonimmigrant visa is specifically provided for in 22 CFR 41.103.

2. Department of State consular officers use the information provided to adjudicate the visa eligibility requirements referenced in item 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 alien seeking a nonimmigrant visa. These determinations would not be possible without collecting this information.

3. Applicants 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 application is complete and the applicant has verified the answers provided, the applicant will electronically sign and submit the application. The applicant may print a copy of the application for record keeping purposes, but no paper copy of the application is submitted to the Department. The applicant will present to the consular officer a paper application confirmation page which will contain a record locator in the form of a 2-D bar code. The consular officer will scan the bar code to electronically retrieve the application from the computer database. The electronic form will provide consular officers with relevant information regarding the eligibility of the applicant and will significantly reduce the need for additional information collections during the applicant’s interview. The electronic submission of the application to the Department will allow for the information to be reviewed prior to an 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 an applicant is eligible for a nonimmigrant 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 May 8, 2017 (82 FR 21450), soliciting public comment on this collection. The Department received one comment suggesting that all visa applications be suspended, and alternatively suggested excessive fines for those who overstay their visas. The comment further expressed discontent with U.S. immigration policy in general. The comment did not meaningfully address the collection itself. The Department is committed to protecting U.S. national security. The Department aims to facilitate legitimate travel while securing the U.S. border. Nonimmigrant visa holders contribute significantly to cultural and economic exchange. The Department will not make any changes to the collection in response to this comment.

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. 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. 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 aliens who are ineligible under applicable provisions of section 212 of the INA [8 U.S.C. § 1182] or any other provision of law, unless where authorized under the INA, the Department of Homeland Security grants a waiver. In order to adjudicate visa eligibility, the application form specifically asks for information on a variety of issues, including information concerning the alien'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)].

12. Data from Visa Statistics show a steady increase of nonimmigrant visa applications being submitted over the past three fiscal years.

- a) Fiscal year 2016, there was a total of 13,345,785 applications
- b) Fiscal year 2015, there was a total of 13,315,122 applications
- c) Fiscal year 2014, there was a total of 11,734,634 applications

Finding the necessary background information and filling out the entire form is estimated to take the average applicant seventy-five minutes.

Therefore, we estimate that the annual hour burden to visa applicants is 16,682,231 hours. (13,345,785 applications x seventy-five minutes)

Based on an average hourly wage of \$23.86, the weighted wage hour cost burden for this collection is \$557,253,244. This is based on the calculation of \$23.86 (average hourly wage) x 1.4 (weighted wage multiplier) x 16,682,231 hours = \$557,253,244.

13. Most nonimmigrant visa applicants must submit a passport to the consular section during the application process. For applicants that are interviewed, they will submit their passport at the time of interview. For applicants not interviewed, the passport is submitted 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. Required documentation is generally listed on the confirmation page. No documentation is collected at the time of submission of the application.

14. The annual cost burden to the federal government for the DS-160 in fiscal year 2017 is \$1,783,484,024. This estimate is based on the Consular Affairs fiscal year 2016 update to the Cost of Service Model, which 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. The application fees, which vary based on the nonimmigrant visa classification, for nonimmigrant visas, generally are computed to recover the costs associated with nonimmigrant visas.

15. The burden increase from the last submission reflects an increase in the number of nonimmigrant visa applicants. The Department will make the following changes to Form DS-160:

- a) Marriage-based applicants applying for a K-3 nonimmigrant visa that use the DS-160 will be provided a link to an electronic pamphlet with information on the International Marriage Broker Regulation Act (IMBRA). The pamphlet describes the legal rights and resources available to victims of domestic violence in the United States. Marriage-based applicants will further be required to check a box verifying that the link was provided to them. Currently, the electronic pamphlet may only be viewed by K-1 nonimmigrant applicants.
- b) Applicants from countries where female genital mutilation/cutting (FGM/C) is prevalent will be provided a link in the DS-160 to an electronic pamphlet that covers the illegality of the practice in the United States. Further, applicants will be required to check a box verifying that the link was provided to them. Currently, the Department posts a copy of this information sheet in nonimmigrant visa wait rooms for applicants to read. This change will increase the accessibility of the information sheet for all applicants from FGM prevalent countries.
- c) DS-160 applicants under visa categories G5, A3, H, J, and NATO7 will be provided an electronic Wilberforce Pamphlet that discusses the rights and protections for temporary workers consistent with the William Wilberforce Trafficking Victims Protection Reauthorization Act (Public Law 110-457). A checkbox will be added for applicants to

acknowledge receipt of the Wilberforce Pamphlet link. Currently, the electronic pamphlet is available only to H visa applicants.

- d) A question will be added in the DS-160 that will ask applicants to provide a beginning date for their current job. This question will help consular officers assess the length of time applicants have worked for an employer abroad for the purpose of determining visa eligibility.
- e) Retired applicants will be required to provide previous employment information. Currently, DS-160 applicants may circumvent providing their work history if they mark their current occupation as retired.
- f) On the DS-160 travel page, there will be a dropdown added for the question “Is the address of the party paying for your trip the same as your present employer’s address?” The dropdown will have the following options: “Same as present employer;” “Same as employer in the U.S.,” and “Other.” The selection of “Other” will trigger a new address field. Currently, applicants must repeatedly provide contact information of an individual/entity that has already been produced elsewhere on the DS-160. This change will reduce the duplicative information collected, because an applicant will only be required to provide information on individual/entity that has not already been provided.
- g) Questions related to previous and additional work, education, and training are currently asked of certain applicants based on a variety of demographic information including nationality, age and sex, or visa classification. These triggers will be revised to eliminate the sex trigger thereby requiring all applicants between the ages 15 and 60 regardless of sex to answer these questions. This change will only impact female applicants between the ages 15 and 60 who are not applying for an employment-based visa classification, or a national of specific countries.

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 2016. The link to the site is: <https://travel.state.gov/content/visas/en/law-and-policy/statistics.html>.

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

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

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.