

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION

J-1 Waiver Recommendation Application OMB Number 1405-0135 DS-3035

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 visas. INA section 212(e) [8 U.S.C. § 1182(e)] provides that certain categories of persons admitted under INA section 101(a)(15)(J) [8 U.S.C. § 1101(J)] or acquiring such status after admission shall not be eligible to apply for an immigrant visa, or for permanent residence, or for a nonimmigrant visa under section 101(a)(15)(H) [8 U.S.C. § 1101(H)] or section 101(a)(15)(L) [8 U.S.C. § 1101(L)], until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least two years following departure from the United States. This provision in section 212(e) applies to the following categories of persons:

- (i) A person whose participation in the program for which he came to the United States was financed in whole or in part, directly or indirectly, by an agency of the United States Government or by the government of the country of his nationality or of his last residence;
- (ii) A person who at the time of admission or acquisition of status under 101(a)(15)(J) was a national or resident of a country which the Secretary of State, pursuant to regulations prescribed by him, had designated as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the alien was engaged; or
- (iii) A person who came to the United States or acquired such status in order to receive graduate medical education or training.

INA section 212(e) and INA section 214(l) [8 U.S.C. § 1184(l)] provide for waivers of the two-year foreign residency requirement under the following circumstances: if the Secretary of State recommends a waiver to the Secretary of Homeland Security in the public interest; if the return of the alien to his country of nationality or last residence would result in exceptional hardship to the alien’s spouse or child who is a United States citizen or lawful permanent resident; that the alien cannot return to the country of his nationality or last residence because he would be subject to persecution on account of race, religion, or political opinion; or if the alien is a health care professional who agrees to practice medicine for at least three years in a geographic area or areas designated by the Secretary of Health and Human Services as having a shortage of health care professionals.

Department of State regulations pertaining to the waiver of the two-year residence requirement are published at 22 CFR 41.63.

2. The J-1 Waiver Recommendation Application, DS-3035, is used to record the information required by 22 CFR 41.63 for a waiver request filed with the Secretary of State. The information requested on the form is limited to that which is necessary to enable the Waiver Review Division, Visa Services, Bureau of Consular Affairs, of the Department of State (CA/VO/DO/W) to act on the request. Applicants provide biographic data and details of their periods of stay on J-1 visas in the United States. The Department is unable to make a recommendation on the waiver application without collecting this information.
3. The DS-3035 will be submitted electronically to the Department via the internet at <https://j1visawaiverrecommendation.state.gov/>. The applicant will complete the DS-3035 online, print out the 2-D barcodes, and submit the barcodes, fee payment, and any additional supporting documents to the following address: Department of State J-1 Waiver, P.O. Box 979037, St. Louis, MO 63197. A separate 2-d barcode will be printed and mailed to the applicant's embassy.
4. To our knowledge, this collection is not duplicative of another existing collection.
5. The information collection does not involve small businesses or other small entities.
6. This information collection is essential for determining whether applicants are recommended for section 212(e) waivers. The Department of State could not carry out its statutorily mandated requirement to recommend applicants for waivers without obtaining the information on this form. An applicant fills out the form one time per application; thus, it is not possible to collect the information less frequently.
7. No such circumstances exist.
8. The Department of State published a 60-day notice in the Federal Register on April 20, 2017 (82 FR 18682), soliciting public comments on this collection. The Department received one comment on May 15, 2017. This comment expressed discontent with the availability of waiver applications and was generally critical of U.S. immigration policies. The comment did not address the content, or provide any feedback about the collection itself. The availability of waivers for the two year home residency requirement is provided for the Immigration and Nationality Act. Thus, the Department considers this comment nonresponsive.
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.
11. The DS-3035 does not ask any questions of a sensitive nature.
12. There has been a steady increase in the number of J-1 Waiver Recommendation Applications in the past three years. During Fiscal Year 2013, CA/VO/DO/W received 6,816

applications, and in Fiscal Year 2014 this number increased to 7,177 applications. During Fiscal Year 2015, CA/VO/DO/W received 7,628 applications.

The estimated amount of time it takes for a respondent to complete the form is 1 hour. We estimate that the annual burden for this collection to be 7,628 hours. Based on an average hourly wage of \$23.86, the weighted wage hour cost burden for this collection is \$254,805. This is based on the calculation of \$23.86 (average hourly wage) x 1.4 (weighted wage multiplier) x 7,628 hours = \$254,805.

13. The average postage cost for all applicants submitting the DS-3035 is estimated to be \$14,950.88. This is based on the calculation of 4 stamps (in addition to two mailing destinations, the applicant is required to include two self-addressed stamped envelopes in the application) x 0.49 per stamp (based on Forever forty-nine cent stamps) x 7,628 respondents.

14. The annual cost burden to the federal government to process the DS-3035 is \$2,156,308.68. This estimate is based on the Consular Affairs fiscal year 2015 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-3035. The application fees for nonimmigrant visas recover the cost of providing nonimmigrant visas to fee-paying customers.

15. The collection has been adjusted for annual reporting and recordkeeping to note the number of applicants for recent fiscal years. There have been no changes to the information being collected. The collection has also been adjusted for annual burden cost to note that there is no cost, other than the application fee and postage stamp, to the respondents for filing the DS-3035.

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 2015. 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 exception to the certification statement.

B. STATISTICAL METHODS

This collection does not employ statistical methods.