



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

March 31, 2014

Department of State
DS-260 Information Collection
2401 E Street, NW
Washington, DC 20520-30106

Submitted via: www.regulations.gov

**Re: 60 Day Notice of Proposed Information Collection:
Electronic Application for Immigrant Visa and Alien Registration
OMB Control Number: DS-260
Public Notice 8612**

To Whom It May Concern:

The American Immigration Lawyers Association (AILA) submits the following comments in response to the 60 Day Notice of Proposed Information Collection: DS-260, Electronic Application for Immigrant Visa and Alien Registration.¹

AILA is a voluntary bar association of more than 13,000 attorneys and law professors practicing, researching, and teaching in the field of immigration and nationality law. Our mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. We appreciate the opportunity to comment on the notice regarding the Department of State (DOS) Form DS-260.

Entering Date Information

The Form DS-260 asks the applicant to list dates of previous travel to the U.S. For applicants who are in the U.S. at the time the DS-260 is completed and submitted, there is no way to indicate continuing presence in the U.S. This is confusing and could potentially lead to the incorrect assumption that the applicant misrepresented information on the application. Therefore, we recommend that this question be reformatted to allow the applicant to indicate that a “prior” trip to the U.S. is, in fact, ongoing.

¹ 79 Fed. Reg. 4798-4799 (Jan. 29, 2014), 60 Day Notice of Proposed Information Collection: Electronic Application for Immigration Visa and Alien Registration OMB Control Number: DS-260, *published on* AILA InfoNet at Doc. No. 14012960 (*posted* 1/29/14).

Unavailable Dates

Form DS-260 requires the applicant to list their last five visits to the United States with the specific date of each entry and the length of each stay. The form also requires the applicant to enter the number of any previously issued visa and its date of issuance.

In situations where the applicant has lost or no longer has his or her prior passport and therefore, does not have ready access to this information, it may be impossible or extremely difficult for the applicant to obtain it. However, the DS-260 does not allow the applicant to skip this question and proceed to the next. In order to continue with the application, the applicant is forced to check “No” which is not an accurate response. There is no option for the applicant to disclose that this information is unknown, nor is there space in the form to explain this situation and provide approximate dates. A “fix” for this situation is to have the applicant submit a written statement explaining their inability to provide the information required on Form DS-260 at the interview. We understand that while some posts accept this supplemental documentation, others decline to do so. In order to avoid this problem, we suggest that the Visa Office modify Form DS-260 to provide an opportunity for the applicant to enter explanatory information directly into the form fields at the time of submission.

Follow-to-Join Cases

At present, follow-to-join (FTJ) cases where the principal applicant received an immigrant visa through a consular post can only be initiated by contacting the issuing post. Form I-824, which may be used to initiate FTJ cases where the principal has adjusted status in the U.S., is specifically prohibited where the principal received an immigrant visa. Moreover, because the DS-260 cannot be completed without proof of having paid the immigrant visa fees (and the dependent cannot rely on the fee bill of the principal), FTJ cases cannot be initiated by completing Form DS-260. Attempts to contact posts directly to initiate this process have been met with varying degrees of success. Some posts do not publish contact information, while others are unresponsive. Therefore, we recommend that the Visa Office modify the DS-260 portal and adopt an automated process for initiating FTJ cases.

General Data Collection

One of the main problems encountered with Form DS-260 is the general inability to enter additional explanatory information. With the old paper DS-230 version of the form, applicants were able to enter explanatory information into the form fields or simply provide an overflow sheet with additional relevant information. Therefore, we suggest adding either a tick box next to each question on the DS-260 that allows for the provision of more information, similar to that which is now provided for disclosure of criminal history, or a stand-alone final page that allows the applicant to enter any additional information he or she deems necessary to fully explain the answers to the questions solicited by the form.

Conclusion

AILA appreciates the opportunity to comment on this notice, and we look forward to a continued dialogue with State on issues concerning this important matter.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION