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November 8, 2010

Chief, Legislation and Regulation Division, Visa Services DS-160 Reauthorization 2401 E Street, NW Washington DC 20520-30106

E-mail: VisaRegs@state.gov

Re: 60 Day Notice of Proposed Information Collection: DS-160, Online Application for Nonimmigrant Visa OMB Control Number 1405-0182.

Dear Sir or Madam:

The American Immigration Lawyers Association (AILA) submits the following comments in response to the 60 Day Notice of Proposed Information Collection: DS-160, Online Application for Nonimmigrant Visa (75 Fed. Reg. 54690, September 8, 2010).

AILA is a voluntary bar association of more than 11,000 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. Our members' collective expertise and experience makes us particularly well-qualified to offer views that we believe will benefit the public and the government. AILA members regularly advise and represent American companies, U.S. citizens, lawful permanent residents, and foreign nationals in seeking immigration benefits, including lawful admission to the United States, and in complying with U.S. immigration laws and regulations. We appreciate the opportunity to comment on the notice regarding the Department of State (DOS), nonimmigrant visa form DS-160.

Compatibility with Case Management Systems

The DS-160 is not amenable to data upload from many case management systems used by immigration attorneys and authorized representatives. DOS did not engage stakeholders during the development and design of the DS-160 and did not provide or offer to provide XML or other interface provided by other government agencies. DOS did not meet with representatives of the immigration case management industry, despite repeated requests over the last few years by AILA representatives. Without the capability to upload data

from electronic forms programs, all data must be re-keyed into the DOS system which may result in typographical errors that could delay or disrupt the application process. We respectfully request that DOS work with case management vendors to develop such an interface to allow easy upload of data.

Electronic Signatures

The DS-160 requires the *applicant* to physically click the "submit" button on the computer and does not permit an authorized attorney or representative to do so on the applicant's behalf. This is extremely burdensome for applicants who may not have a computer, access to a computer, or cannot sufficiently complete the online form. Because applicants are required to appear in-person to apply for the visa, it would seem reasonable to permit the applicant to confirm the accuracy of the information contained on the DS-160 at the interview. The applicant could then sign a printed copy of the form in the presence of the consular officer thereby further verifying the accuracy of the information. Therefore, we suggest that the form and process be changed to allow an authorized attorney or representative to submit the form on behalf of the applicant.

Conversion to an Entirely Electronic Process May Disadvantage Persons in Developing Nations and Those Without Internet Access

AILA is concerned that converting to an "all electronic" process may negatively affect nonimmigrant visa applicants from developing countries and others without convenient Internet access. The overwhelming majority of nonimmigrant visa applicants are not represented by attorneys and many do not have computers or an easy way to access the Internet. AILA urges DOS to ensure that such individuals are accommodated. For example, consulates or offsite contractors could establish easily-accessible computer kiosks where applicants can complete and submit the electronic forms.

Technical Enhancements

There are numerous technical enhancements that could be made to the DS-160 that would make the process simpler and more user-friendly. The DS-160 requires the applicant to disclose extensive personal information, much of which may not be readily available to the applicant. As such, to promote ease of use, we suggest the following changes and enhancements.

Ability to Move Page-by-Page and/or Provision of a Comprehensive Layout

The form should permit the applicant to easily move from page to page by clicking the tabs on the left hand-side, even if the applicant has not completed all of the information on a specified page. The applicant should not have to complete pages 1 through 4 to view or complete page 5. This would allow applicants to complete sections of the form based on information that is immediately available, while skipping sections where they have not yet obtained the requested information. The system would still require all fields to be

completed before the application can be submitted to avoid the submission of incomplete applications. While we understand that answers to certain questions may lead to additional questions, the system should still permit the applicant to browse the form in its entirety to obtain an overall understanding of the questions presented.

In the alternative, DOS could provide a comprehensive layout of the form and a list of documents that should be readily accessible when the applicant begins to complete the online form. Or, a full list of all questions could be listed on the DOS website so that applicants are able to gather the information before starting the application process.

Ability to Print the Complete Application

The system should permit the applicant to print the complete application at any time during the process to allow for review of the unanswered questions when not logged into the system. In its present design, each individual page must be printed separately while the applicant is working on it and before moving on to the next page. There is no general "print" option to provide the applicant with a copy of the application once the process is completed. If the applicant submits the DS-160 without saving it as a .dat file, he or she will no longer have access to the information submitted.

20 Minute Time Limit

The 20-minute time limit for "inactivity" is frustrating and confusing. There is no time limit or countdown clock and the current warning system often does not appear before the applicant is timed out. Given the large amount of information required to complete each section, we suggest that DOS increase the time permitted to complete the form. Moreover, while a 20-minute time limit is indicated, the system routinely terminates the session before 20 minutes has passed.

Format for Saving the Application

A draft form can be saved only in a specific (.dat) format and the information completed can be reviewed only through the consulate's website by uploading the information to the DS-160 online. This makes it very difficult for the applicant to review the form prior to submission because it must be done online. We ask that the software be changed to permit the applicant to save draft forms in Adobe .pdf or Microsoft Word .doc formats.

In addition, when entering the system via a saved .dat file, the applicant is not permitted to go to a specific page to make corrections. However, when entering the system with the application ID, the applicant is permitted to do so. The system should permit the applicant to make corrections on a specific page regardless of how the system is entered.

The Estimated Time for Providing Information Is Underestimated

DOS estimates that collecting the information will take the applicant 75 minutes. Given that DOS does not provide the applicant with a list of questions, a comprehensive layout of the DS-160, or a list of recommended documents, AILA anticipates that the actual amount of time could be substantially longer. For example, applicants are asked to provide information about all schools attended with addresses and details of employment for many years. Recalling and collecting this type of information can take significant time. Further, the questions on the form raise complex issues. Applicants will need to review the multiple, detailed help screens and information pop-ups to answer them properly and completely.

Other General Suggestions and Existing Technical Problems

- There is no H-4 option to be selected from the list of visa categories. The applicant must select the H-1B option and then indicate that he or she is NOT the principal applicant before the form will require the H-1B beneficiary's information and case number. This is extremely confusing, particularly in cases when the H-4 applicant is not accompanying the H-1B beneficiary.
- Many of the fields are redundant. The applicant is asked to enter the same data more than once in fields such as "address where you will stay in the U.S." under "Travel Information," the "U.S. Point of Contact Information," and employer address (which may be the same as the point of contact). The form should provide an option to pre-populate certain fields with previously entered information.
- The "Travel Information" page is confusing, particularly the "Purpose of trip to U.S." Derivative applicants find it difficult to determine if they are being asked about the principal's purpose or their own purpose.
- The "Travel Companions" section requires a family or tour party to repeatedly list names in each other's applications. This is burdensome for large parties traveling together.
- "National Identification Number" is confusing, because it does not specify whether it is a home country number or a U.S. number. Because it appears in the same section as the U.S. social security number (SSN) and U.S. taxpayer identification number (TIN), applicants may think a U.S. number is requested, which prompts them to scour their records looking for a number that does not exist. In addition, applicants often do not know whether they have a TIN in addition to an SSN. Some explanation as to the difference should be provided.

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- Some of the answer boxes limit the number of characters that may be entered. This can be problematic when the answer does not fit.
- When the applicant re-enters the system to complete missing information, the previously entered information for "Intended Date of Arrival" and "Intended Length of Stay in the U.S." is always deleted.
- It is difficult to upload and submit the applicant's photograph. The system should permit the option of submitting the application without a photograph.
- Online technical support should be available 24 hours a day, seven days a week.

Conclusion

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

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION