

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION

J-1 Waiver Recommendation Application

OMB Number 1405-0135

DS-3035

A. JUSTIFICATION

1. Why is this collection necessary and what are the legal statutes that allow this?

The Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101, et seq., mandates the application and eligibility requirements for aliens seeking to obtain visas. INA § 212(e), 8 U.S.C. § 1182(e), provides that certain categories of persons admitted under INA § 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 INA § 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 their nationality or their last residence for an aggregate of at least two years following departure from the United States. This provision in § 212(e) applies to the following categories of persons:

- 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 or her nationality or of his or her last residence.
- A person who is 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
- A person who came to the United States or acquired such status to receive graduate medical education or training.

INA § 212(e) and § 214(l), 8 U.S.C. § 1182(e) and 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 upon consideration of a Statement of No Objection from the exchange visitors home government or a Statement of Interest from a U.S. government agency; if the return of the alien to his or her 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 or her nationality or last residence because he or she 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 the U.S. Department for 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. What business purpose is the information gathered going to be used for?

The J-1 Waiver Recommendation Application, DS-3035, is used to record the information required by 22 CFR 41.63 to allow an alien to submit a two-year residency waiver request. The information requested on the form is limited to that which is necessary to enable the Visa Office Waiver Division to act on the request. Respondents provide biographic data and details about J-1 visa stays in the United States.

3. Is this collection able to be completed electronically (e.g. through a website or application)?

The DS-3035 is completely online. It may be completed and submitted electronically at the J-Visa Waiver Online (JWOL) portal: <https://j1visawaiverrecommendation.state.gov/>.

4. Does this collection duplicate any other collection of information?

No, this collection does not duplicate any other collection of information.

5. Describe any impacts on small business.

The information collection does not involve small businesses or other small entities.

6. What are consequences if this collection is not done?

This information collection is essential for determining whether respondents are recommended for 212(e) waivers. The Department could not carry out its statutorily mandated requirement to recommend respondents for waivers without obtaining the information on this form. An alien fills out the form once for every application in which he or she seeks a waiver. It is not possible to collect the information less frequently.

7. Are there any special collection circumstances?

No special circumstances apply to this information collection.

8. Document publication (or intent to publish) a request for public comments in the Federal

Register

The Department will publish a notice in the Federal Register soliciting public comments for a period of 60 days.

9. Are payments or gifts given to the respondents?

No payment or gift is provided to respondents.

10. Describe assurances of privacy/confidentiality

The form includes a confidentiality statement as assurance of privacy and confidentiality. The applicant is informed that, in accordance with INA section 222(f), 8 U.S.C. § 1202(f), information obtained from respondents in the application 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. The statement further notes that, at the discretion of the Secretary of State, copies of visa records may be made available to a court which certifies that the information contained in such records is needed in a case pending before the court.

11. Are any questions of a sensitive nature asked?

The DS-3035 requests basic biographical information including name, date of birth, and place of birth for the respondent and any eligible J-2 dependents. The DS-3035 also requests the respondent's passport number and U.S. travel history, as this information is needed to identify whether the respondent is eligible for a waiver.

12. Describe the hour time burden and the hour cost burden on the respondent needed to complete this collection

The Department anticipates that it will take respondents one hour to complete this form. Based on the average of submissions over last three fiscal years, the Department estimates approximately 14,142 respondents will complete this form each year:

212(e) Waiver Applications Received	
<u><i>Fiscal Year</i></u>	<u><i>Number of Responses</i></u>
2022	14,325
2023	14,171
2024	13,932

3-year average	14,142
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We are requesting 14,150 burden hours in this renewal. According to the U.S. Bureau of Labor Statistics Division of Occupational Employment and Wage Statistics, the median hourly wage for all occupations is \$23.11. Using this wage as an indicator for the value of people's time, we estimate the total wage hour cost burden for this collection to be \$327,006.50. This is based on the calculation of \$23.11 (median hourly wage) x 14,150 (burden hours) = \$327,006.50.

In December 2024, the Department published a revised Exchange Visitor Skills List in the Federal Register (89 Fed. Reg. 97693). This list significantly reduced the number of individuals subject to the 212(e) two-year home country physical presence requirement. While the update is unlikely to affect submission volume in the first year, we anticipate the number of DS-3035 responses received will gradually decrease by approximately 10% annually in subsequent years, with the eventual volume being reduced by 40% (an estimated 8,500 respondents). This estimate accounts for the exchange visitors who continue to submit the DS-3035 because they have a visa stating they are subject to 212(e) but who are no longer required to do so in light of the skills list update.

13. Describe the monetary burden to respondents (out of pocket costs) needed to complete this collection.

The application is entirely online, and there are no out of pocket costs associated with completing the collection.

14. Describe the cost incurred by the Federal Government to complete this collection.

According to the Department of State's Cost of Service Model (CoSM), the annual cost burden on the Federal Government to process J-visa waivers using the DS-3035 is about \$3,475,940. This is based on a per-application rate estimated per unit cost for consular time of \$221.48.

The Department conducts an annual review of consular costs using the CoSM. Consular fees are generally set based on the policy of full cost recovery, and the Model is updated annually to consider all costs to the U.S. government associated with providing consular services.

15. Explain any changes/adjustments to this collection since the previous submission

The collection has been adjusted for annual reporting and recordkeeping to note the average number of responses for the previous fiscal years. We are proposing several improvements to the DS-3035 in order to advance our efforts to reduce the burden the information collection poses to respondents. Proposed changes include:

- Incorporating Pay.gov to collect fees in accordance with EO 14249.

- Modifying JWOL to add a “Save” option, allowing respondents to return to the application as needed.
- Implementing and requiring a digital signature to validate an application prior to submission.
- Adding a document upload feature
- Making email a required field
- Providing a PDF form preview on the landing page and adding a statement noting the DS-3035 is submitted electronically.
- Removing the A# and I-94# fields, as they are no longer necessary for waiver requests
- Updating the form instructions according to these changes.

The adjustments to the collection reduce the monetary cost burden for the applicant to \$0.

16. Specify if the data gathered by this collection will be published.

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 2023. The link to the site is: <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics.html>.

17. If applicable, explain the reason(s) for seeking approval to not display the OMB expiration date.

The Department will display the OMB expiration date.

18. Explain any exceptions to the OMB certification statement below.

The Department is not seeking exceptions to the certification statement.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.