

however, provides that the lottery system applies only when an agency receives multiple petitions for review “from the persons instituting the proceedings.”²⁰ This provision has been held not to apply to petitions for review forwarded to an agency by a court clerk, as some specific judicial review statutes require. Parties invoking judicial review under such specific judicial review statutes should be entitled to the benefit of the lottery system.²¹ Paragraph 4(h) provides that Congress should amend the “race to the courthouse” statute appropriately.

Recommendation

Recommendations to Congress When Drafting Judicial Review Provisions

1. When specifying the time within which a party may seek judicial review of agency action, Congress should provide that a party may seek review “within” or “not later than” a specified number of days after an agency action. Congress should avoid providing that a party may seek review “prior to” or “before” the day that is a specified number of days after an agency action, or “within” or “before the expiration of” a period of a specified number of days beginning on the date of an agency’s action. Examples of the recommended forms are:

a. “A party seeking judicial review may file a petition for review within 30 days after” the agency’s action.

b. “A party seeking judicial review may file a petition for review not later than 30 days after” the agency’s action.

Examples of the forms to be avoided are:

c. “A party seeking judicial review may file a petition for review prior to [or “before”] the 30th day after” the agency’s action.

d. “A party seeking judicial review may file a petition for review within [or “before the expiration of”] the 30-day period beginning on the date of” the agency’s action.

2. Congress should clearly specify what event starts the time for seeking review. Where the event is the promulgation, amendment, or repeal of a rule by an agency following the opportunity for participation by interested persons, Congress should provide that the event date is the date of the publication of the final rule in the **Federal Register**, where the rule is so published.

3. When drafting a statute providing for review in a court of appeals, Congress should provide that review should be initiated by filing a petition for review. When drafting a statute providing for review in a district court, Congress should provide that review should be initiated by filing a complaint. With regard to either kind of statute, Congress should be aware that it need not specify the required content of the document initiating judicial proceedings because that matter would be governed by the applicable court rules.

General Judicial Review Statute

4. Congress should enact a new general judicial review statute that includes these provisions:

a. Whenever a specific judicial review statute provides that a party may seek judicial review of an agency’s action “prior to” or “before” the day that is a specified number of days after an agency’s action, or “within” or “before the expiration of” a period of a specific number of days beginning on the date of an agency’s action, review may also be sought exactly that number of days after the agency’s action.

b. Whenever a specific judicial review statute provides that the event that starts the time for seeking judicial review is the promulgation, amendment, or repeal of a rule by an agency following the opportunity for participation by interested persons, the event date shall be the date of the publication of the final rule in the **Federal Register**.

c. Statutes authorizing judicial review in a court of appeals by the filing of a notice of appeal will be construed as authorizing judicial review by the filing of a petition for review, and whenever a party seeking judicial review in a court of appeals styles the document initiating review as a notice of appeal, the court will treat that document as a petition for review.

d. Statutes authorizing judicial review in a district court by the filing of a notice of appeal, petition for review, or other petition will be construed as authorizing judicial review by the filing of a complaint, and whenever a party seeking judicial review in a district court styles the document initiating review as a notice of appeal, petition for review, or other petition, the court will treat that document as a complaint.

e. Whenever a specific judicial review statute specifies the required content of a document that initiates judicial review, a party may initiate review with a document that complies with the requirements of that statute or a document that complies with the applicable rules of court.

f. Whenever a specific judicial review statute provides that a party may seek judicial review of an agency action in a specified federal court, the specified federal court will have jurisdiction to hear the resulting case.

g. Whenever a specific judicial review statute requires that a party seeking review serve the document initiating review on the agency that took the action of which review is sought “simultaneously” with filing the document, this requirement is satisfied if the document is served on the agency within a reasonable but specific number of days, such as seven or fourteen days either before or after filing.

h. Congress should amend 28 U.S.C. 2112(a)(1) by striking the phrase “, from the persons instituting the proceedings, the” and inserting “a” in its place, in both places where the phrase occurs.

5. The Conference’s Office of the Chairman should prepare and submit to Congress a proposed general judicial review statute for consideration that would provide for the statutory changes in Paragraph 4.

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AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Request for Public Comment

AGENCY: United States Agency for International Development (USAID).

SUMMARY: The United States Agency for International Development (USAID) seeks Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, USAID requests public comment on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: Send comments on or before November 26, 2021.

ADDRESSES: You may submit comments by any of the following methods:

1. *Email:* jshahan@usaid.gov.

2. *Web:* Through the Federal eRulemaking Portal at www.regulations.gov by following the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Kristen Rancourt, USAID Bureau for Management, Office of Management, Policy, Budget and Performance, Policy Division (M/MPBP/POL), telephone (202) 921–5119, or via email at krancourt@usaid.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Exchange Visitor (EV) Visa Compliance program is a central management function that enables USAID to comply with statutory and regulatory requirements associated with sponsoring foreign nationals who enter the United States (U.S.) on a J–1 visa. This function aligns with the U.S. National Security Strategy, and the Foreign Assistance Act of 1961 authorizing the U.S. government to conduct educational and cultural exchanges for the purpose of strengthening the capacity and commitment of host-country nationals to address development challenges in their respective countries. These educational and cultural exchanges are defined by section 102 of the Mutual Educational and Cultural Exchange Act of 1961 (the “Act”), 22 U.S.C. 2452. The regulations set forth in the Code of Federal Regulations (CFR) Title 22, Part 62 “Exchange Visitor Program” implement the Act, and appoints USAID as a designated sponsoring organization. Program sponsors are responsible for selecting, supporting and monitoring participants during their entire program stay.

²⁰ 28 U.S.C. 2112(a)(1).

²¹ Siegel, *supra* note 6, at 42–45.

Section 112 of the Act, as amended, codified the establishment of the Interagency Working Group (IAWG) on U.S. Government-Sponsored International Exchanges and Training, and mandated the IAWG with managing a “coordinated strategy for all U.S. Government-sponsored international exchange and training programs,” with a primary purpose and responsibility “to collect, analyze, and report data provided by all U.S. Government departments and agencies conducting international exchanges and training programs.” As a statutory member of the IAWG, USAID participates in the annual mandated request for data reporting on USAID international exchanges and training programs and participants.

The Training and Exchanges Automated Management System (TEAMS) is USAID’s official data management system and the entry point for data for U.S. exchange visitor programs. TEAMS incorporates processes to manage and support EV’s who will come to the U.S. on a USAID J–1 visa. TEAMS manages data by interfacing with the Department of Homeland Security’s (DHS) Student and Exchange Visitor Information System (SEVIS), the system that DHS uses to maintain and monitor participants in U.S. programs. All EV’s must be registered in SEVIS. USAID utilizes SEVIS to report on EV programs, and to issue Certificates of Eligibility for Exchange Visitor Status (Form DS–2019). The Automated Directive System (ADS) Chapter 252—Visa Compliance for Exchange Visitors, requires Agency operating units (OUs) or their Implementing Partners, in accordance with their awards, to enter data into TEAMS relevant to U.S. visits by sponsored foreign nationals who are recipients of USAID development assistance. TEAMS replaces the Training Results and Information Network (TraiNet) and Visa Compliance System (VCS). TEAMS combines the functionality of TraiNet and VCS into one system.

The Bureau for Management, Office of Management Policy, Budget and Performance (M/MPBP) relies on TEAMS data for the following uses: (1) EV program management; (2) batching USAID data to SEVIS; and, (3) annual mandated reporting to IAWG. USAID OUs use TEAMS data of U.S.-based EVs, and in-country and third-country based training participants, for internal reporting and portfolio management.

II. Method of Collection

Electronic.

III. Data

Title of Information Collection: Training and Exchanges Automated Management System (TEAMS).

Type of Review: New Information Collection.

OMB Number: Not assigned.

Affected Public who will be asked or required to respond: Exchange Visitor’s as defined in ADS Chapter 252—Visa Compliance for Exchange Visitors.

Estimated Total Number of Respondents per Year: Approximately 1,500–2,000 annually based on current year estimates.

Estimated Total Annual Burden: 375–500 hours (1,500–2000 participants × 15 minutes per participant).

IV. Request for Comments

All comments must be in writing and submitted through the methods specified in the **ADDRESSES** section above. All submissions must include the information collection title. Please include your name, title, organization, postal address telephone number, and email address in the text of the message. Please note that comments submitted in response to this Notice are public record. We recommend that you do not submit detailed personal information, confidential business information, or any information that is otherwise protected from disclosure by statute.

USAID will only address comments that explain why the proposed collection would be inappropriate, ineffective, or unacceptable without a change. Comments that are insubstantial or outside the scope of the notice of request for public comment may not be considered.

Susan C. Radford,

Management and Program Analyst, Bureau for Management, Office of Management Policy, Budget, and Performance, U.S. Agency for International Development.

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BILLING CODE P

DEPARTMENT OF AGRICULTURE

Intent To Establish an Equity Commission and Solicitation of Nominations for Membership on the Equity Commission Advisory Committee and Equity Commission Subcommittee on Agriculture

AGENCY: United States Department of Agriculture (USDA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act (FACA), the United States Department

of Agriculture announces its intent to establish an Equity Commission (EC) including a Subcommittee on Agriculture. The EC will advise the Secretary of Agriculture by facilitating identification of critical USDA programs, policies, systems, structures, and practices that contribute to barriers to inclusion or access, systemic discrimination, or exacerbate or perpetuate racial, economic, health and social disparities. The EC will be governed by the provisions of FACA. Concurrent to creation of the Equity Commission, a Subcommittee on Agriculture will be formed that will be charged with providing recommendations on issues of concern related to agriculture to optimize USDA programs, dismantle structural inequities and systemic discrimination, and promote social justice particularly for historically underserved and diverse communities served by USDA. This notice also solicits nominations for membership on the EC and the EC’s Subcommittee on Agriculture.

DATES: We will consider nominations that are submitted via email or postmarked by October 27, 2021.

ADDRESSES: Please submit nominations to Dr. Dewayne L. Goldmon, USDA Senior Advisor for Racial Equity, Office of the Secretary, Department of Agriculture, 1400 Independence Avenue SW, Room 6006–S, Washington, DC 20250; or send by email to: EquityCommission@usda.gov. A Federal Official of USDA will acknowledge receipt of nominations.

FOR FURTHER INFORMATION CONTACT: Dewayne L. Goldmon, Ph.D.; telephone: (202) 997–2100; email: dewayne.goldmon@usda.gov.

SUPPLEMENTARY INFORMATION: Section 1006(a)(3) of the American Rescue Plan Act of 2021 directs the Secretary of the United States Department of Agriculture to create an Equity Commission to advise the Agency in “address[ing] historical discrimination and disparities in the agriculture sector,” which includes “fund[ing] one or more equity commissions to address racial equity issues within USDA and its programs.” Public Law 117–2.

EC and Subcommittee on Agriculture Scope and Purpose

The purpose of the EC is to advise the Secretary of Agriculture by identifying USDA programs, policies, systems, structures, and practices that contribute to barriers to inclusion or access, systemic discrimination, or exacerbate or perpetuate racial, economic, health and social disparities.