

## SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	Federal Register citation
*	*	*	*	*
SOUTH AFRICA .....	Gunther Migeotte, 1 River Street, Rosebank, Cape Town, 7700, South Africa; and P.O. Box 36623, Menlo Park, 0102, South Africa; and 16 Manu Rua, 262 Sprite Avenue, Faerie Glen, 0081, South Africa (See alternate address under Norway).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
	Icarus Marine (Pty) Ltd., 1 River Street, Rosebank, Cape Town, South Africa.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
	Ralph Brucher, P.O. Box 9523, Centurion 0046, South Africa.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
	Scavenger Manufacturing (Pty) Ltd., P.O. Box 288, Silverton, Pretoria 0127, South Africa.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
	Shawn Hugo De Villiers, 1 River Street, Rosebank, Cape Town 7700, South Africa; and 39 Myburgii Street, Somerset West, Cape Town, South Africa.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
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UNITED KINGDOM ....	Ad Hoc Marine Designs Ltd., 38 Buckland Gardens, Ryde, Isle of Wight PO 33 3AG, United Kingdom.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	75 FR [INSERT FR PAGE NUMBER] 6/28/10.
*	*	*	*	*

Dated: June 21, 2010.

**Kevin J. Wolf,**  
Assistant Secretary for Export  
Administration.

[FR Doc. 2010-15447 Filed 6-25-10; 8:45 am]

**BILLING CODE 3510-33-P**

## DEPARTMENT OF STATE

### 22 CFR Parts 22 and 51

[Public Notice: 7068]

RIN 1400-AC58

### Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates

**AGENCY:** Bureau of Consular Affairs, State.

**ACTION:** Interim final rule.

**SUMMARY:** Further to the Department's proposed rule to amend the Schedule of Fees for Consular Services (Schedule of Fees), the Department of State is adjusting a number of fees in light of an independent cost of service study's findings that the U.S. Government is not fully covering its costs for providing

these services under the current fee structure. The primary objective of the adjustments to the Schedule of Fees is to ensure that fees for consular services reflect costs to the United States of providing the services to the extent possible. Seventeen hundred and ninety-seven comments were received during the period for public comment. This rule addresses comments received thus far, and reopens the comment period on these fees for an additional 60 days.

**DATES:** *Effective date:* This interim final rule becomes effective July 13, 2010. *Comment date:* Written comments must be received on or before August 27, 2010.

**ADDRESSES:** Submit comments to Office of the Executive Director, Bureau of Consular Affairs, Department of State, Suite H1004, 2401 E Street, NW., Washington, DC 20520.

**FOR FURTHER INFORMATION CONTACT:** Adriel Bush, Office of the Comptroller, Bureau of Consular Affairs, Department of State; phone: 202-663-2596, telefax: 202-663-2499; e-mail: [fees@state.gov](mailto:fees@state.gov).

**SUPPLEMENTARY INFORMATION:**

### Background

The Department published a proposed rule in the **Federal Register**, 75 FR 6321, on February 9, 2010 (Public Notice 6887), proposing to amend sections of 22 CFR 22. Specifically, the rule proposed changes to the Schedule of Fees for Consular Services and provided 30 days for comments from the public. In response to requests by the public for more information and a further opportunity to submit comments, the Department subsequently published a supplementary notice in the **Federal Register**, 75 FR 14111, on March 24, 2010 (Public Notice 6928). The supplementary notice provided a more detailed explanation of the Cost of Service Study (CoSS), the activity-based costing model that the Department used to determine the proposed fees for consular services, and reopened the comment period for an additional 15 days. During this and the previous 30-day comment period, 1,797 comments were received, either by email or through the submission process at <http://www.regulations.gov>. The current notice reflects responses by the

Department to the comments received in the 45 days during which the comment period for this proposed rule was open.

Nonimmigrant visa fees, including fees for Machine-Readable Visas (MRVs) and Border Crossing Cards (BCCs), have been modified pursuant to a separate rule published May 20, 2010 at 75 FR 28188. These modified fees are reflected in Item 21 of the Schedule of Fees below alongside the modified fees addressed in the present notice.

#### What Is the authority for this action?

As explained when the revised Schedule of Fees was published as a proposed rule, the Department of State derives the statutory authority to set the amount of fees for the consular services it provides, and to charge those fees, from the general user charges statute, 31 U.S.C. 9701. *See, e.g.*, 31 U.S.C. 9701(b)(2)(A) (“The head of each agency \* \* \* may prescribe regulations establishing the charge for a service or thing of value provided by the agency \* \* \* based on \* \* \* the costs to the Government; \* \* \* the value of the service or thing to the recipient; \* \* \* public policy or interest served; and \* \* \* other relevant facts.”). As implemented through Executive Order 10718 of June 27, 1957 (22 FR 4632), 22 U.S.C. 4219 further authorizes the Department to establish fees to be charged for official services provided by U.S. embassies and consulates. When a service provided by the Department “provides special benefits to an identifiable recipient beyond those that accrue to the general public,” guidance issued by the Office of Management and Budget (OMB) requires as follows: “user charges will be sufficient to recover the full cost to the Federal Government \* \* \* of providing the service \* \* \* or good \* \* \*.” OMB Circular A-25, ¶ 6(a)(1), (a)(2)(a).

Other authorities allow or require the Department to charge fees for consular services, but do not determine the amount of such fees, as the amount is statutorily determined, such as the \$13 fee, discussed below, for machine-readable Border Crossing Cards (BCCs) for certain Mexican citizen minors. Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, Public Law 105-277, 112 Stat. 2681-50, Div. A, Title IV, § 410(a) (reproduced at 8 U.S.C. 1351 note).

A number of other statutes address specific fees relating to passport processing, immigrant and nonimmigrant visa processing, and overseas citizens services. For example, 22 U.S.C. 214 requires the Department to charge passport application and execution fees. Another law authorizes

the Department to establish a fee for the processing of applications for “diversity visas,” to recover the costs of the “visa lottery” program conducted under Immigration and Nationality Act (INA) sections 203 and 222, 8 U.S.C. 1153, 1201. *See* Omnibus Consolidated Appropriations Act, 1997, Public Law 104-208, 110 Stat. 3009, Div. C, Title VI, § 636 (reproduced at 8 U.S.C. 1153 note). Only those applicants who register in the lottery and are selected may apply for a visa, and those who choose to apply must pay the fee; the fee incorporates the costs to the Department of administering the lottery program. *Id.* Another statute authorizes the Department to collect and retain surcharges on passports and immigrant visas to help pay for efforts to enhance border security. *See* 8 U.S.C. 1714. While these fees were originally frozen statutorily at \$12 and \$45 respectively, subsequent legislation authorized the Department to amend these amounts administratively, provided the resulting surcharge is “reasonably related to the costs of providing services in connection with the activity or item for which the surcharges are charged.” Department of State Authorities Act of 2006, Public Law 109-472, 120 Stat. 3554, § 6(b)(1) (reproduced at 8 U.S.C. 1714 note). Furthermore, several statutes deal with fees for nonimmigrant visas, including the issuance fee statute, 8 U.S.C. 1351 (establishing reciprocity as the basis for the nonimmigrant visa issuance fee), and the MRV and BCC fees modified in the rule published at 75 FR 28188 on May 20, 2010.

Certain persons are exempted by law or regulation from paying specific fees or are expressly made subject to a special fee regime by law. These are noted in the Schedule of Fees below. They include, for instance, several exemptions from the nonimmigrant visa application fee for certain individuals who engage in charitable activities or who qualify for diplomatic visas. *See* 8 U.S.C. 1351; 22 CFR 41.107(c). Certain Iraqi and Afghan nationals are similarly exempt from paying an immigrant visa application fee. *See* National Defense Authorization Act for Fiscal Year 2008, Public Law 110-181, 122 Stat. 3, Div. A, Title XII, § 1244(d) (reproduced at 11 U.S.C. 1157 note); Omnibus Appropriations Act, 2009, Pub. L. 111-8, 123 Stat. 524, Div. F, Title VI, § 602(b)(4) (reproduced at 8 U.S.C. 1101 note). As another example, qualifying Mexican citizen minors pay a special BCC fee well below what it costs the Department to process such cards. Omnibus Consolidated and Emergency Supplemental Appropriations Act of

1999, Public Law 105-277, Div. A, Title IV, § 410(a), *reproduced at* 8 U.S.C. 1351 note.

While for most consular services, the funds collected from fees must be deposited into the Treasury, various statutes permit the Department to retain the fees it collects for certain services. *See, e.g.*, 31 U.S.C. 3302(b); 2 GAO Principles of Appropriations Law, 6-199 (3d ed.) (“fees \* \* \* paid \* \* \* to the government \* \* \* must be deposited in the Treasury as miscellaneous receipts, absent statutory authority to the contrary”). Among these statutes are the following: (1) The MRV and BCC fees, Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, Public Law 103-236, Title I, § 140(a)(2), 112 Stat. 2681-50 (reproduced at 8 U.S.C. 1351 note); (2) the passport expedite fee, Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995, Pub. L. 103-317, 108 Stat. 1724, Title V (reproduced at 22 U.S.C. 214 note); (3) the passport and immigrant visa security surcharges, 8 U.S.C. 1714; (4) the Western Hemisphere Travel Initiative (WHTI) surcharge, which is embedded in the passport book and passport card application fees, 22 U.S.C. 214(b)(1), 22 CFR 51.51(d) (WHTI surcharge “will be recovered \* \* \* from within the passport fee reflected in the Schedule of Fees for Consular Services”); (5) the diversity visa lottery fee, Omnibus Consolidated Appropriations Act, 1997, Public Law 104-208, Div. C, Title VI, § 636 (reproduced at 8 U.S.C. 1153 note); (6) the fee for an affidavit of support, Consolidated Appropriations Act, 2000, Public Law 106-113, 113 Stat. 1501, Div. A, Title II, § 232(a) (reproduced at 8 U.S.C. 1183a note); and (7) the fee to process requests from participants in the Department’s Exchange Visitor Program for a waiver of the two-year home-residence requirement, 22 U.S.C. 1475e. The Department also has available to it a portion of certain fraud prevention and detection fees charged to petitioners of H- and L-category visas. 8 U.S.C. 1184(c)(12)(A), (13)(A), 1356(v)(2)(A).

#### Why is the department adjusting fees at this time?

With certain exceptions—such as the reciprocal nonimmigrant visa issuance fee and the reduced Mexican citizen minor BCC fee described above, as well as a congressionally mandated \$1 surcharge on all nonimmigrant visas, *see* William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. 110-457, 122 Stat. 5044, Title II, § 239 (reproduced at 8 U.S.C.

1351 note)—the Department of State generally sets consular fees at an amount calculated to achieve recovery of the costs to the U.S. Government of providing the consular service, in a manner consistent with general user charges principles, regardless of the specific statutory authority under which the fees are authorized. *See* 31 U.S.C. 9701(b)(2)(A). As set forth in OMB Circular A–25, “[w]hen a service \* \* \* provides special benefits to an identifiable recipient beyond those that accrue to the general public, a charge will be imposed \* \* \* to recover the full cost to the Federal Government for providing the special benefit \* \* \*.” *See* OMB Circular No. A–25, ¶ 6(a)(2)(a). The OMB guidance covers all Federal Executive Branch activities that convey special benefits to recipients beyond those that accrue to the general public. *See id.*, §§ 4(a), 6(a)(1).

While fees are thus set in accordance with full cost recovery, there are limited circumstances, such as the passport book and card application fees for minors, in which costs are allocated to related fees or the Department charges a fee that is lower than the cost of providing the service. This may be done in order to account for statutory requirements or the potential impact on the public of setting those fees at a higher level. *See* 31 U.S.C. 9701(b)(2) (user charges based on costs to the Government, the value of the service to the recipient, the public policy or interest served, and other relevant facts).

The Department reviews consular fees periodically to determine each fee’s appropriateness in light of OMB guidance. The Department has made the changes set forth in this proposed Schedule of Fees accordingly. In line with this guidance, the Department contracted for an independent CoSS, which conducted its work from August 2007 through June 2009. The CoSS used an activity-based costing model to determine the current direct and indirect costs to the U.S. Government associated with each consular good and service the Department provides. The contractor, QED Group, LLC, its subcontractor Booz Allen Hamilton, Inc., and Department staff surveyed and visited domestic and overseas consular sites handling a representative sample of all consular services worldwide. The study identified the cost of the various discrete consular goods and services, both direct and indirect, and the study’s results formed the basis of the changes herein proposed to the Schedule of Fees. Activity-based costing in general and the methodology employed by the CoSS to arrive at the various costs of the consular services provided by the

Department are discussed in detail in the supplementary notice of proposed rulemaking, at 75 FR 14111.

In situations where services are provided with enough frequency to develop a reliable estimate of the average time involved, the Schedule of Fees generally sets a flat service fee. In situations that require services to be performed away from the office or during after-duty hours, the Department calculates the fee based on a consular “hourly rate”; this rate, which appears at Item 75 on the Schedule of Fees below, represents the cost per hour or part thereof per consular employee. Whether by flat fee or fee determined by hourly rate, the fees the Department charges are designed to recover—at most—the full costs the Department expects the U.S. Government to incur over the period the Schedule of Fees will be in effect. The Department based all fees in the Schedule of Fees on projected Fiscal Year 2010 workloads.

As a result of the CoSS’s findings and the Department’s analysis of these findings, the Department hereby implements, in the form of an interim final rule allowing 60 additional days for public comment, adjustments to the Schedule of Fees with respect to a number of consular services, as discussed below. The fees for other consular services remain unchanged. As noted above, adjustments to nonimmigrant visa fees, including those for BCCs, have been promulgated under a separate rule published May 20, 2010, *see* 75 FR 28188, and these adjustments are reflected in the revised Schedule of Fees below.

The last broad set of amendments to the Schedule of Fees occurred in 2005, though the Department has made piecemeal amendments to it since that time. Some fees, including Items 31(a) and (b) and 35(d), are set by the Department of Homeland Security (DHS). These DHS fees were most recently updated by that agency on July 30, 2007, and are potentially subject to change in the near future. *See* 75 FR 33447 (June 11, 2010) (proposed rule on DHS fees). The Department of State lists these DHS fees in the Department of State Schedule of Fees for cashiering purposes only; a complete list of fees collected from applicants by Department of State cashiers are posted in every embassy and consulate so that when customers pay fees to these cashiers they can compare the amount requested to the posted schedule. The Department of State has no authority to set DHS fees, and any time DHS changes its fees, the Department of State updates those items. DHS lists these fees at 22 CFR 103.7(b)(1). As of June 18, 2010,

these fees and their amounts were as follows:

- Filing immigrant visa petition: Petition to classify status of alien relative for issuance of immigrant visa (Item 31(a) on the Department of State Schedule of Fees; DHS Form I–130): \$355.
- Filing immigrant visa petition: Petition to classify orphan as an immediate relative (Item 31(b) on the Department of State Schedule of Fees; DHS Form I–600): \$670.
- Special visa services: Waiver of immigrant visa ineligibility (Item 35(d) on the Department of State Schedule of Fees; DHS Form I–601): \$545.

All CoSS estimates discussed below are based on projected workload for Fiscal Year 2010, and fees have been rounded to make them easier to collect, especially when converting from foreign currencies, which are most often used when paying for fees at posts abroad. This proposed rule also makes a conforming amendment to 22 CFR 51.51(d), which establishes the surcharge on the filing of each passport application in order to cover the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458, 118 Stat. 3638 (reproduced at 8 U.S.C. 1185 note).

#### *Passport Book Application Services*

The Department is increasing the application fee for a passport book for an adult (age 16 and older) from \$55 to \$70. The application fee for a passport book for a minor (under age 16) will remain at \$40. The CoSS calculated the cost of processing first-time passport applications for both adults and minors as \$105.80, based on a projected FY 2010 workload of 11.9 million. This cost includes border security costs covered by the passport book security surcharge, discussed immediately below. Because a minor passport book has a validity of just five years, in contrast with the ten-year validity period of an adult passport book, the Department has decided to leave the minor passport book application fee at \$40, and to allocate the remainder of the cost of processing minor passport book applications to the adult passport application fee.

As described in 22 CFR 51.51(d), this fee incorporates the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458 (reproduced at 8 U.S.C. 1185 note). This portion of the application fee, which is embedded

within the fee and not charged separately or separately itemized in the Schedule of Fees, *see* 22 CFR 51.51(d) (noting absence of separate itemization), has increased from \$20 to \$22 per application based on increased costs related to new passport agencies serving border communities.

#### *Passport Book Security Surcharge*

The Department is increasing the passport book security surcharge from \$20 to \$40 in order to cover the costs of increased border security which includes, but is not limited to, enhanced biometric features in the document itself. The passport book security surcharge is the same for adult passport books and for minor passport books.

#### *Additional Passport Visa Pages*

In the past, the Department provided extra pages in a customer's passport, to which foreign countries' visas may then be affixed, at no charge. The CoSS found that the cost of the pages themselves, of having the pages placed in the book in a secure manner by trained personnel, and of completing the required security checks results in a cost to the U.S. Government of \$82.48, based on a projected FY 2010 workload of 218,000 applicants. Therefore, the Department will charge \$82 for this service. The costs associated with adding additional visa pages to a passport book are described in greater detail in the supplementary notice, 75 FR 14111, 14113 (Mar. 24, 2010). Another alternative to additional visa pages is to request, at the time of applying for a passport, the larger 52-page passport book offered by the Department for travelers who anticipate that they will need more than 28 visa pages. Any passport applicant may request a larger book at the time of application for no additional fee. The Department will make information about this option more widely available to customers both domestically and overseas, to ensure that applicants are able to take advantage of it.

#### *Passport Card Application Services*

The CoSS calculated that the cost of processing first-time applications for adult and minor passport cards is \$77.59, based on an FY 2010 workload projection of 1.56 million cards, and that adjudication costs associated with a passport card are the same as those associated with a passport book. Nevertheless, the card is intended to be a substantially less expensive document than the passport book, for the convenience of citizens who live close to land borders and cross back and forth frequently. Therefore, the Department

has decided only to raise the adult passport card application fee from \$20 to \$30, and the minor passport card application fee from \$10 to \$15. *See* 31 U.S.C. § 9701(b)(2) (user charge based on cost, value to the recipient, public policy or interest served, and other relevant facts).

As described in 22 CFR 51.51(d), this application fee incorporates the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108-458 (reproduced at 8 U.S.C. 1185 note). This portion of the fee, which is embedded within the fee and not charged separately or separately itemized in the Schedule of Fees, *see* 22 CFR 51.51(d) (noting absence of separate itemization), has increased from \$20 to \$22 for the adult passport card and from \$10 to \$15 for the minor passport card, and is based on increased costs related to new passport agencies serving border communities.

#### *File Search and Verification of U.S. Citizenship*

When an applicant for a passport book or passport card does not present evidence of citizenship, the Department must verify his or her U.S. citizenship. The Department is raising the fee for this service from \$60 to \$150 based on the cost of providing the service, and notes that applicants can avoid paying this fee by providing adequate citizenship documentation when applying for a passport rather than to request costly, time-intensive research.

#### *Application for Consular Report of Birth Abroad of a Citizen of the United States*

The CoSS found that the cost of accepting and processing an application for a Consular Report of Birth Abroad of a Citizen of the United States is \$197.28 based on an FY 2010 workload projection of 80,000 applications. Based on that analysis, the Department is raising the fee from \$65 to \$100, still significantly less than cost, based on its view that too high a fee might deter U.S. citizen parents from properly documenting the citizenship of their children at birth, a development the Department feels would be detrimental to national interests. *See* 31 U.S.C. 9701(b)(2).

#### *Documentation for Renunciation of Citizenship*

The CoSS demonstrated that documenting a U.S. citizen's renunciation of citizenship is extremely costly, requiring American consular officers overseas to spend substantial

amounts of time to accept, process, and adjudicate cases. A new fee of \$450 will be established to help defray a portion of the total cost to the U.S. Government of documenting the renunciation of citizenship. While the Department decided to set the fee at \$450, this fee represents less than 25 percent of the cost to the U.S. Government. The Department has determined that it must recoup at least a portion of its costs of providing this very costly service but set the fee lower than the cost of service in order to lessen the impact on those who need this service and not discourage the utilization of the service, a development the Department feels would be detrimental to national interests. *See* 31 U.S.C. 9701(b)(2).

#### *Death and Estate Services*

The CoSS found that the average cost of assisting U.S. citizens in making arrangements for a deceased non-U.S. citizen family member abroad is \$388.19 per case based on an FY 2010 workload projection of 50,000 cases. The Department had previously charged a fee of \$265 per hour, the then-applicable fee for consular time (discussed below), plus expenses. The Department has decided to set the new fee for death and estate services at significantly lower than costs—\$200 plus expenses, per case—in order to assist bereaved families.

#### *Immigrant Visa Application Processing Fee*

In the past, the Department has charged a single application processing fee for processing an immigrant visa, regardless of category: \$355. The Department has concluded, however, that it will be more equitable to set the fee for each immigrant visa category at a level commensurate with the average cost of producing that particular product. The CoSS found, however, that applications for certain immigrant visa categories cost more to process than others. Accordingly, the Department has created in the current Schedule of Fees a four-tiered immigrant visa application processing fee structure based on CoSS estimates for each discrete category of immigrant visa. The application fee for a family-based (immediate relative and preference) visa (processed on the basis of an I-130, I-600 or I-800 petition) will be \$330. The application fee for an employment-based visa (processed on the basis of an I-140 petition) will be \$720. Other immigrant visa applications (including for diversity visa applicants, I-360 self-petitioners, special immigrant visa applicants, and all others) will have a fee of \$305. As noted above, certain qualifying Iraqi and Afghan special

immigrant visa applicants are statutorily exempt from paying a processing fee. National Defense Authorization Act for Fiscal Year 2008, Public Law 110–181, Div. A, Title XII, § 1244(d) (reproduced at 11 U.S.C. 1157 note); Omnibus Appropriations Act, 2009, Public Law 111–8, Div. F, Title VI, § 602(b)(4) (reproduced at 8 U.S.C. 1101 note).

#### *Immigrant Visa Security Surcharge*

The Department is increasing the immigrant visa security surcharge, which all applicants except those statutorily exempted must pay, from \$45 to \$74 to cover increased security costs as determined by the CoSS, including the costs of the enhanced security screening requirements associated with fingerprint collection which had previously been included in the immigrant visa application processing fee.

#### *Diversity Visa Lottery Fee for Immigrant Visa Application*

The Department is raising the fee paid by winners of the Diversity Visa lottery who apply for immigrant visas from \$375 to \$440 based on CoSS estimates for an FY 2010 workload projection of 81,000 applications. The Department has authority to collect the surcharge only from persons who are selected through the lottery process and therefore qualify to apply for a Diversity Visa, and to set it at a level sufficient to cover the entire cost of running the lottery. Omnibus Consolidated Appropriations Act, 1997, Public Law 104–208, Div. C, Title VI, § 636 (reproduced at 8 U.S.C. 1153 note).

#### *Affidavit of Support Review*

The Department charges the affidavit of support review fee for all affidavits of support reviewed at the National Visa Center in connection with an application for an immigrant visa. The purpose of the review is to ensure that each affidavit is properly completed before the National Visa Center forwards it to a consular post for adjudication. The Department is increasing the fee from \$70 to \$88 to reflect the increase in the cost of providing this service to immigrant visa applicants, as determined by the CoSS.

#### *Determining Returning Resident Status*

The CoSS found that determining the status of persons who claim to be lawful permanent residents of the United States, but do not have documentation to prove this fact, has become less costly than before due to advances in automation making it easier to verify U.S. immigration status. As such, the

Department will lower the fee from \$400 to \$380.

#### *Providing Documentary Services*

The CoSS found the cost to the U.S. Government of providing documentary services overseas is \$76.36 per service based on a projected FY 2010 workload of 380,000 services. These are primarily notarial services, certification of true copies, provision of documents, and authentications. However, the Department is raising these fees only from \$30 to \$50, lower than cost, in order to minimize the impact on the public. See 31 U.S.C. 9701(b)(2).

#### *Processing Letters Rogatory and Foreign Sovereign Immunities Act Judicial Assistance Cases*

The CoSS found that the cost to the U.S. Government of processing letters rogatory and Foreign Sovereign Immunities Act judicial assistance cases is \$2,274.59 based on a projected FY 2010 workload of 1,400 services. The Department will accordingly raise the fee for these services to \$2,275. The costs associated with processing letters rogatory and Foreign Sovereign Immunities Act judicial assistance cases are described in greater detail in the supplementary notice, 75 FR 14111, 14113 (Mar. 24, 2010).

#### *Taking Depositions or Executing Commissions To Take Testimony*

Several services fall under this heading, and fees for three of the services will be raised as a result of the CoSS's conclusions on the costs to the U.S. Government. The new fees appear in the Schedule of Fees below.

#### *Consular Time Charges*

The Department previously charged a consular time fee of \$265 per hour, per employee. The CoSS estimated that consular time charges for services performed away from the office or outside business hours now only costs \$231 per hour, per employee. Therefore, the Department will lower this fee to \$231 per hour.

#### *Analysis of Comments*

As noted, the proposed rule was published for comment on February 9, 2010. During the comment period, which initially closed March 11, 2010, and was subsequently extended for an additional 15-day period ending April 8, 2010, the Department received 1,797 comments.

The majority of the comments received (1,271) expressed concern about the increase in the passport book fees. Two hundred and twenty-eight commenters cited the current economic

climate as a reason to not increase fees or requested that the Department wait until the economy improves. The American Automobile Association (AAA) commented regarding the possibility of citizens being deterred from purchasing a passport or processing a renewal and how this would affect the travel business. AAA recognized the need of the Department to cover its costs, but suggested the changes be delayed until the nation shows further signs of economic recovery. The American Association of Travel Agents (AATA) described the increase in fees as being at “cross-purposes” with efforts to stimulate business and adding costs to AATA’s business. Furthering its point, AATA argued that contrary to popular belief, international travel generates revenue for American businesses. Rather than arguing for no fee increases whatsoever, AATA requests that the increases not be as great as proposed, in order to encourage travel during an economic recession. Finally, United Air Lines, Inc., and the U.S. Travel Association submitted a joint comment underscoring that the change to the passport fee may deter international travel by U.S. citizens and will represent as a substantial increase in costs to their businesses as United Air Lines pays for the U.S. passports of its crew members.

While the Department of State is aware of the financial impact this fee increase may have on individuals and businesses, its passport processing operations must be self-sustaining to the extent possible, and it has accordingly set these fees at a level that will allow cost recovery—and not more. The Department also maintains that the increase in passport fees is not significant in comparison with the overall costs of international travel.

One comment, submitted jointly by the Identity Project, the Consumer Travel Alliance, the Center for Financial Privacy and Human Rights, and John Gilmore (collectively, “Identity Project”), suggested that the Department “should stop including RFID chips in passports and passport cards, instead of increasing the fees to cover the costs of RFID chips.” Identity Project suggested that it would be “more secure for passport holders” and called the chips “a surveillance and control feature, not a security feature.” While such comments are not directly relevant to the fees proposed in this rule, the Department would offer that the purpose of such chips is to provide instant confirmation of, or a link to, electronic records that confirm the document has not been altered and is in fact a genuine U.S. passport document;

their purpose is not to permit the “surveillance” of passport holders. The comment also insisted that passport requirements, such as the Western Hemisphere Travel Initiative—particularly the requirement of a passport book or card to enter and leave the United States—violate the First Amendment rights of U.S. citizens, including the right to assemble and the right to petition for redress of grievances. The comment suggests that the Department should consider “rescinding or amending the WHTI regulations.” Yet the change in passport fees covered by this rule does not have an impact in this arena. The Identity Project fails to recognize that WHTI was mandated by Congress, and its requirements—including the requirement of a passport book or card to enter or leave the United States—cannot be undone by the Department. The Identity Project concluded that “the Department should eliminate RFID chips from passport books and cards, and eliminate the requirement for U.S. citizens to have or display a passport or other government-issued credential as a prerequisite to the exercise of their Constitutional and international treaty rights to depart from, and return to, U.S. territory, by any means and to or from any other country or territory, or to or from international waters or airspace.” Those aims are quite clearly outside the scope of this rule, which merely modifies the fees charged to applicants for passport books and cards.

Two commenters, including the Identity Project, questioned how the Department decided to deviate from CoSS findings to keep the passport card fee artificially low, below cost.

One of those comments urged the Department to identify and apply a consistent standard to govern deviations from full-cost principles. The Department does apply such a standard. Where the Department believes that the provision of a given overseas citizens service is important, yet setting the fee above a certain amount will deter U.S. citizens overseas from taking advantage of it, the Department may make a policy decision to offer the service at a reduced fee or at no fee. The Department bases its estimate of the level at which U.S. citizens will be deterred from taking advantage of the service by undertaking extensive consultations with experienced consular officers and senior Department managers. Included among these services are the Consular Report of Birth Abroad (as explained elsewhere in this rule), documenting renunciation of citizenship, and death and estate services. Also included are several no-fee emergency services provided to U.S.

citizens in peril abroad or otherwise in an emergency situation. The Department may also make a decision to set a given fee below cost where the cost to the Department of providing the service is considerably higher than comparable services in the United States, because the overhead and support costs of operating overseas are much greater than if the services were performed in the United States, such as notarial services. *See* 31 U.S.C. 9701(b)(2) (user charge based on cost, value to the recipient, public policy or interest served, and other relevant facts).

Those commenters who argued that the Department sets the passport card fee at an arbitrarily low level have, in the Department’s view, misconceived the purpose of the passport card, as articulated by Congress. Members of Congress have indicated that the price of a passport card should remain low compared to that of a passport book, in order not to discourage American citizens who live near the nation’s land borders from crossing on a regular basis for a number of reasons, including commerce, tourism and visiting family. In accordance with this preference, the Department has determined that the cost of a passport card should remain at the level established in this interim final rule, even though the adjudication and production process for passport cards is roughly the same as for passport books, and thus the U.S. Government’s costs are roughly the same. Another reason the price of a passport card is lower than that of a passport book is that the card omits the costs of no-fee overseas citizens services, since travelers using the card are likely to be on relatively brief cross-border trips such that most emergencies would be handled by travelers relying on family members and services in the United States; such costs are, however, included in the fee for the passport book. Twelve comments addressed the increased cost of the passport cards directly, but without articulating a specific concern other than the price increase.

One hundred sixteen comments addressed the fact that individuals could be deterred from purchasing a passport book with the intention of using it to cross the Canadian or Mexican borders for travel and/or business, due to the higher price of the book compared to the card. In separate letters to Secretary of State Hilary Rodham Clinton, Congressman Brian Higgins and Congressman Christopher Lee of New York expressed concern that the increase in the price of passport books would make them less affordable for the average American citizen, and would discourage citizens from

conducting cross-border commerce. As noted above, the Department does not believe that individuals will be deterred by the increased price of a passport from engaging in cross-border travel. Moreover, for those who desire a less expensive product, the passport card is available for cross-border land travel. As explained, the Department has made the price of a passport card lower than the cost associated with producing and adjudicating such cards largely to ameliorate the impact of the Western Hemisphere Travel Initiative’s passport requirement on those living near our borders with Canada and Mexico who cross frequently for a number of reasons including commerce and visiting family. By keeping the card fee low, cross-border business and travel is still a possibility without the need to purchase the passport book at a higher price.

A handful of authors suggested means for encouraging the purchase of passports by introducing certain programs such as non-profit business discounts, family discounts for multiple purchasing, and special senior citizen or student rates. As noted at several points above, the Department sets its consular fees with the objective of full cost recovery, though in some circumstances—such as with some overseas citizen services whose costs are allocated to fees for passport books—the Department has made a decision to set the fees lower than the full cost of providing that particular service. In future fee-setting exercises, the Department will consider this proposal for additional services for which the fee for a particular service is below the cost of providing that service. A comment from the National Association of Passport and Visa Services (NAPV) requested that the Department allow issuance of two passport books to a single individual for frequent travelers: a regular ten-year-validity book, and another book with a two-year period of validity. The second passport would allow individuals to continue to travel internationally on one passport while allowing them to submit the second passport to foreign governments for visas for future travel, thereby accommodating the requirement of many governments that passports be physically relinquished to their embassies in order for the latter to process and affix the visa. NAPV suggested a lower price point for the second passport book, but according to the CoSS, the cost of printing and adjudication of such a passport would be the same regardless of the length of time the second book would be valid. NAPV suggests a limited cost recovery

solution to a problem, which it admits applies to only “a select group of frequent business travelers and airline pilots.” The Department does not believe that given the limited number of beneficiaries, the proposal justifies charging below the full cost for these two-year passport books and assigning the difference to the price of 10-year passport books.

Twenty-two of the comments expressed support for the proposed fee changes in order to provide added security to American citizens, travel documents, and increase the level of service provided by the Department.

Two hundred and thirty-seven comments were received regarding the fee for additional passport visa pages. Most writers expressed concern that a once-free service will now cost \$82. The majority of those who commented said they were business professionals who are required to travel frequently for their jobs, and questioned how inserting pages into a passport book could cost so much. Yet as explained in the supplementary notice, 75 FR 14111, 14113, the cost of that service includes not only the pages themselves, the employee time spent affixing the pages into a passport, endorsing the passport, and performing a quality-control check on the expanded passport; but also the costs of trained labor, supervisors, and overhead; of performing a name check of the applicant prior to providing the service, and a share of the overall costs of no-fee emergency services provided to Americans overseas—costs incorporated into and assigned across all passport book services. The Department does offer a larger passport for travelers who anticipate that they will need more visa pages. Any passport applicant may request a larger book (52 pages, instead of the standard 28) at the time of application for no additional fee. The Department will make information about this option more widely available to customers both domestically and overseas, to ensure that applicants are able to take advantage of it.

Over one hundred comments requested that the Department raise the execution fee for passports (Item 1 on the Schedule of Fees). Those who commented are predominantly county clerks from border states whose offices serve as passport acceptance agencies along with the U.S. Postal Service (USPS). In total, the Department partners with approximately 9,400 acceptance agencies, the majority of which are U.S. Post Offices. The execution fee was lowered in 2008 from \$30 to \$25, and remains at \$25 in the current Schedule of Fees. Most of these comments stated that the current \$25

does not cover the facilities’ existing costs, citing in particular the increased costs associated with the institution of a requirement in 2009 that traceable mail be used to forward all applications to the Department for processing. The Department arrived at the current fee of \$25 based on a unit cost agreed upon by USPS and the Department’s Consular Affairs Passport Services Office in 2008. The Department is willing to review and, if necessary, set a new amount for the execution fee, but will do so based on actual cost data. The Department will engage with USPS and its other acceptance agency partners in the coming year to update existing cost estimates for performing this service, and will analyze whether a fee increase is warranted.

Twenty comments addressed the fee for documentary services, generally expressing the concern that the fees the Department charges for notarial services overseas are far greater than the fees banks and other offices charge for such services domestically. The costs of performing such services overseas—by expatriate staff, in secure buildings—is in fact higher than it might be at a U.S. bank. Despite the increase, the cost to the Department of providing these services is still greater than is being charged to the public, as explained in the section entitled “Providing Documentary Services” in the supplementary information above.

One comment questioned whether the increase of the fee for processing letters rogatory was reasonable. This individual agreed with the increase in passport book fees and described them—incorrectly—as a routine increase fostered by the recent backlog and demand for the document. With regard to the fee for processing letters rogatory, however, the commenter was concerned whether the fee would be too financially burdensome on those who need such services and must pay for them. Yet letter rogatory services are complex and time-consuming, generally stretching over months and requiring a considerable amount of consular time and resources. Some of the activities involved in performing letter rogatory services are described in the supplementary notice, 75 FR 14111, 14113. These services are relatively infrequent—there were only 449 performed in FY 2008, the last base year used in the CoSS—and the requests are varied, covering both criminal and civil matters ranging from family law to business litigation. The fee for this service is also generally minor compared to the overall expenses related to litigation. Moreover, the Department provides information to the

public on alternative methods of seeking judicial assistance and actively recommends international conventions on judicial assistance, such as the Hague Service and Evidence Conventions, for the consideration of countries that are not yet parties to these agreements. The United States has treaty relationships concerning judicial assistance with over 70 countries, and the number of countries that do not have alternative procedures to the letters rogatory procedure is small. The impact of the price increase for these services will therefore be limited in scope.

Several authors claimed that the increase in the cost of the application for a Consular Report of Birth Abroad (CRBA) of a citizen of the United States will deter American citizens from declaring the birth of children born abroad. The fee is substantially less than the cost, \$100 compared to a cost of \$197.28. The Department decided to charge less than cost precisely to prevent American citizens from being deterred from declaring the birth of a child while overseas which would be detrimental to national interests. Two commenters in a joint submission complained that the Department has failed to provide data to support its concern that too high a CRBA fee might deter U.S. citizen parents from properly documenting their child’s birth. As discussed above, the Department based this determination on its extensive experience in the area. Moreover, a situation of undocumented birth often creates serious problems for the child in the future when he or she attempts to prove his or her citizenship for purposes of acquiring a U.S. passport or obtaining another benefit of U.S. citizenship. For these reasons, the Department has made a policy decision to keep the CRBA fee as affordable as possible, even though the cost to the U.S. Government of processing a CRBA is higher than \$100. See 31 U.S.C. 9701(b)(2). Other CRBA-related comments cited challenges regarding the exchange rate affecting the cost of this service and the lack of need should the child qualify for citizenship of the nation of residence. With respect to the latter submission, while the Department encourages parents to document the birth of a U.S. citizen—including one who holds another country’s citizenship as well—whether parents choose to do so is at their discretion.

Some commenters argued that the fee for documentation for renunciation of citizenship—\$450—is too costly, especially since that service has heretofore been provided at no charge. The Department has determined that it must recoup at least a portion of its



costs of providing this very costly service. In order to lessen the impact on those who need this service and not discourage the utilization of the service, the Department decided to set the fee at \$450, less than 25 percent of the cost to the U.S. Government. *See* 31 U.S.C. 9701(b)(2).

Seven comments, including the previously referenced joint comment from United Air Lines and the U.S. Travel Association, requested more information on the Cost of Service Study itself. In response, the Department published the supplementary notice of March 24, 2010, *see* 75 FR 14111, and allowed an additional 15 days for public comment. The Department received one further comment from United Airlines and the U.S. Travel Association, on April 8, 2010, within the 15-day period. That comment made an additional request for actual cost and related data and specifically requested: Specific inputs used to determine cost for the U.S. passport book and passport card; that the Department confirm how the CoSS ensured that administrative support costs were correctly attributed to individual consular services and that these costs for positions not dedicated to fee-based consular activities were excluded from the CoSS; and that the Department confirm whether the CoSS accounted for the transition to the DS-160 electronic nonimmigrant visa application. United Air Lines and the U.S. Travel Association also requested that the Department suspend final publication of the rules, release additional data supporting its proposed fee increases, and hold a public meeting to address questions from the public.

Concerning the request for specific inputs used to determine the cost for the U.S. passport book and card, such data sets are being published in the **Federal Register** together with this rule. With regard to the question of administrative support costs and the DS-160, the Department has addressed those concerns of United and the U.S. Travel Association in the interim final rule concerning MRV and BCC fees, at 75 FR 28188 (May 20, 2010), and directs the reader to the discussion there.

Based on a review of all the comments, the Department has determined that it is unnecessary to suspend publication of this interim final rule pending release of additional data or a public meeting, though it will provide an additional post-promulgation comment period of 60 days, and will consider any comments received prior to publishing the rule in final form. As explained above, the Department has provided information

regarding the basis for the fee changes in the notice of proposed rulemaking on February 9, 2010, provided significant additional information in response to the requests of United Air Lines, the U.S. Travel Association, and others in a supplemental notice dated March 24, 2010. The Department has provided the public a total of 45 days in which to make comments concerning the proposed fee changes. The Department determined that a supplemental written notice would provide more useful information and reach a broader public audience than a public meeting.

### Regulatory Findings

#### *Administrative Procedure Act*

The Department is issuing this interim final rule with an effective date 15 days from the date of publication. The Administrative Procedure Act permits a final rule to become effective fewer than 30 days after the publication if the issuing agency finds good cause. 5 U.S.C. 553(d)(3). The Department finds that good cause exists for an early effective date in this instance for the following reasons.

As stated in the supplementary information above, the Department's mandate is to align as closely as possible its user fees for consular services with the actual, measured costs of those services. This enables better cost recovery and ensures that U.S. taxpayers do not subsidize consular services. 31 U.S.C. 9701; OMB Circular A-25. *See also* GAO-08-386SP, *Federal User Fees: A Design Guide*. The CoSS, which supports the fees set by this rule, used data from past years, as well as predictive data for Fiscal Years 2010 and 2011, to determine the amount of the fees set by this rule. The fees currently charged by the Department cover less than 73 percent of the underlying services' true cost. On a monthly basis, taxpayers are paying \$23.9 million in unmet costs for consular services that should be borne by those who actually benefit from those services. In the current economic climate, this shortfall is unusually grave, exacerbating budgetary pressures and threatening other critical Department priorities. It is thus in the public's interest to make the appropriated funds currently used to fill this gap available as soon as possible.

For these reasons, and because the public's level of preparation for this fee increase is unlikely to be meaningfully improved by 15 additional days of advance warning, the Department finds that good cause exists for making this rule effective after 15 days of its publication as an interim final rule.

#### *Regulatory Flexibility Act*

The Department, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this rule and, by approving it, certifies that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities as defined in 5 U.S.C. 601(6). This rule raises the application and processing fee for passports, immigrant visas, and American citizen services. The Department of State estimates that the agency will process 16,000 total employment-based immigrant visa applications, all of which fall into the E-1, E-2, E-3, E-4, and E-5 categories. (Note: The Department of Homeland Security processes domestic adjustment of status for approximately 90 percent of all employment-based immigrants; cases processed domestically do not pay Department of State fees.) The issuance of some "E" category employment-based immigrant visas may be contingent upon approval by DHS of a petition filed by a United States company, and these companies pay a fee to DHS to cover the processing of the petition. The amount of the petition fees that are paid by small entities to DHS is not controlled by the amount of the visa fees paid by individuals to the Department of State. The visa itself is sought and the application processing fees are paid for by an individual foreign national overseas who seeks to immigrate to the United States. The Department of State does not track applications for employment-based visas by the size and nature of the petitioning businesses, and therefore cannot identify the share of this impact on the small businesses versus large businesses. While some employers may choose to reimburse application costs, small businesses are not required by law to reimburse the individuals, and therefore no small businesses will be impacted. Additionally, while small entities sometimes pay judicial service fees if required for legal matters with foreign companies, they do so in very limited circumstances and in small numbers. For instance, worldwide in FY 2009, embassies and consulates arranged only 123 depositions and processed only 156 letters rogatory.

#### *Unfunded Mandates Act of 1995*

This rule will not result in the expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of \$1 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the



Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501–1504.

#### *Executive Order 13175*

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not pre-empt tribal law. Accordingly, the requirements of Section 5 of Executive Order 13175 do not apply to this rulemaking.

#### *Small Business Regulatory Enforcement Fairness Act of 1996/Congressional Review Act*

As required by 5 U.S.C. 801, the Department will submit to Congress a report regarding the issuance of this interim final rule. The report will state that it has been determined that the interim final rule is a “major rule” as

defined by 5 U.S.C. 804(2). As noted in the discussion regarding the Administrative Procedure Act, and for the same reasons, the Department finds good cause that the effective date of this major rule be fifteen days after its publication as an interim final rule, since an additional 60-day delay in the effective date is impracticable and contrary to the public interest. 5 U.S.C. 808(2).

#### *Executive Order 12866*

OMB considers this rule to be an economically significant regulatory action under Executive Order 12866, section 3(f)(1), Regulatory Planning and Review, Sept. 30, 1993, because it is likely to have an annual effect on the economy of \$100 million or more. 58 Fed. Reg. 51735. This rule is necessary in light of the Department of State’s

CoSS finding that the cost of processing passports and immigrant visas and of providing other consular services has generally increased since the fees were last set. The Department is setting the fees in accordance with 31 U.S.C. 9701 and other applicable authority, as described in more detail above. *See, e.g.*, 31 U.S.C. 9701(b)(2)(A) (“The head of each agency \* \* \* may prescribe regulations establishing the charge for a service or thing of value provided by the agency \* \* \* based on \* \* \* the costs to the Government.”); OMB Circular A–25, ¶ 6(a)(2)(a). This regulation sets the fees for passports, immigrant visas, and other consular services at the amount required to recover the costs associated with providing the service in question, as explained in the preamble.

*Accordingly, this rule has been submitted to OMB for review.*

Item	Proposed fee	Current fee	Change in fee	Percentage increase	Number of fees collected in FY09	Consequent total increase in fees assuming FY09 workloads
2(a). Passport Book Application Services for Applicants age 16 or over (including renewals).	\$70 .....	\$55 .....	\$15 .....	27% .....	9,207,088	\$138,106,320
2(c). Additional passport visa pages.	82 .....	0 .....	82 .....	undefined .....	207,810	17,040,420
2(g). Passport Book Security Surcharge.	40 .....	20 .....	20 .....	100 .....	11,935,556	238,711,120
6. File search and verification of U.S. citizenship.	150 .....	60 .....	90 .....	150 .....	11,192	1,007,280
7. Application for Consular Report of Birth Abroad of a Citizen of the United States.	100 .....	65 .....	35 .....	54 .....	58,198	2,036,930
8. Documentation of formal renunciation of U.S. citizenship.	450 .....	0 .....	450 .....	undefined .....	1,188	534,600
9(a). Passport Card Application Services for Applicants age 16 or over (including renewals).	30 .....	20 .....	10 .....	50 .....	1,196,078	11,960,780
9(b). Passport Card Application Services for Applicants under age 16.	15 .....	10 .....	5 .....	50 .....	354,451	1,772,255
14(b). Making arrangements for a deceased non-U.S. citizen family member.	200 plus expenses.	Consular time (Item 75) plus expenses.	– 65 per hour ...	– 25 per hour ...	426	– 27,690
32(a). Immigrant visa application processing for immediate relative and family preference applications.	330 .....	355 .....	– 25 .....	– 7 .....	500,732	– 12,518,300
32(b). Immigrant visa application processing for employment-based applications.	720 .....	355 .....	365 .....	103 .....	16,691	6,092,215
32(c). Immigrant visa application processing for other visa classes.	305 .....	355 .....	– 50 .....	– 14 .....	58,131	– 2,906,550
33. Diversity Visa Lottery fee ...	440 .....	375 .....	65 .....	17 .....	53,490	3,476,850
34. Affidavit of Support Review	88 .....	70 .....	18 .....	26 .....	311,038	5,598,684
35(a). Determining Returning Resident Status.	380 .....	400 .....	– 20 .....	– 5 .....	1,611	– 32,220
36. Immigrant visa security surcharge.	74 .....	45 .....	29 .....	64 .....	575,554	16,691,066
41(a). Providing notarial service: First service.	50 .....	30 .....	20 .....	67 .....	128,818	2,576,360
41(b). Providing notarial service: Each additional seal.	50 .....	20 .....	30 .....	150 .....	60,782	1,823,460

Item	Proposed fee	Current fee	Change in fee	Percentage increase	Number of fees collected in FY09	Consequent total increase in fees assuming FY09 workloads
42(a). Certification of a true copy or that no record of an official file can be located: First copy.	50 .....	30 .....	20 .....	67 .....	15,611	312,220
42(b). Certification of a true copy or that no record of an official file can be located: Each additional copy.	50 .....	20 .....	30 .....	150 .....	3,099	92,970
43(a–f). Provision of documents, certified copies of documents, and other certifications by the Department of State (domestic).	50 .....	30 .....	20 .....	67 .....	29,425	588,500
44. Authentications (44a–d) .....	50 .....	30 .....	20 .....	67 .....	18,863	377,260
51. Processing letters rogatory and Foreign Sovereign Immunities Act (FSIA) judicial assistance cases.	2,275 .....	735 .....	1,540 .....	210 .....	156	240,240
52(a). Scheduling/arranging appointments for depositions.	1,283 .....	475 .....	808 .....	170 .....	123	99,384
52(b). Attending or taking depositions, or executing commissions to take testimony.	309 per hour plus expenses.	265 per hour plus expenses.	44 per hour .....	17 .....	38	1,672
52(e). Providing seal and certification of depositions.	415 .....	70 .....	345 .....	493 .....	16	5,520
75. Consular time charges .....	231 .....	265 .....	– 34 .....	– 13 .....	70	– 2,380

Details of the proposed fee changes are as follows:

The Department of State does not anticipate that demand for passport, immigrant visa, and other services affected by this rule will change significantly due to these fee changes.

With regard to immigrant visas, many categories are numerically capped; these caps artificially limit workload and keep current demand fairly stable. In FY 2009, the Department issued all available immigrant visas in employment-based categories (capped at 140,000 including adjustments of status processed domestically by the Department of Homeland Security). In FY 2009, the Department issued 96 percent of the immigrant visas available under the Diversity Visa program (capped at 50,000 including adjustments of status processed domestically by the Department of Homeland Security). Also in FY 2009, the Department issued 96 percent of the immigrant visas available for family-preference categories (capped at 226,000 including adjustments of status processed domestically by the Department of Homeland Security). When fewer visas were issued than were available under the numerical cap, it was generally due to administrative processing issues rather than lack of demand. There are nearly 3.5 million applicants currently awaiting numerically controlled visas, sufficient to fill more than eight years'

workload at the current annual caps. It is reasonable to expect that the immigrant visa workload for FY 2010 and FY 2011 will remain about the same as FY 2009. These estimates do not take into account variables that the Department cannot predict at this time, such as legislative changes.

With regard to passports, the Department does not believe that passport application fees are a significant determining factor when Americans decide to travel internationally. The price of a passport book or card remains minimal in comparison with other costs associated with foreign travel. For example, taxes and surcharges alone on an international airfare can easily surpass \$100, and many airlines charge substantial fees for checking bags. As a result, the Department does not believe passport demand will be significantly affected by increases of the size proposed. In addition, the Western Hemisphere Travel Initiative has now been fully implemented, and there is no new regulatory impetus for passport demand on the horizon; passport demand is expected to remain relatively stable in the near term.

#### *Executive Orders 12372 and 13132*

This regulation will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the

distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this regulation.

#### *Paperwork Reduction Act*

This rule does not impose or alter any reporting or recordkeeping requirements.

#### **List of Subjects in 22 CFR Parts 22 and 51**

Consular services, Fees, Passports and visas.

■ Accordingly, for the reasons stated in the preamble, 22 CFR part 22 and part 51 are amended as follows:

#### **PART 22—[AMENDED]**

■ 1. The authority citation for part 22 is revised to read as follows:

**Authority:** 8 U.S.C. 1101 note, 1153 note, 1183a note, 1351, 1351 note, 1714, 1714 note; 10 U.S.C. 2602(c); 11 U.S.C. 1157 note; 22 U.S.C. 214, 214 note, 1475e, 2504(a), 4201, 4206, 4215, 4219, 6551; 31 U.S.C. 9701; Exec.

Order 10718, 22 FR 4632; Exec. Order 11295,  
31 FR 10603.

### § 22.1 Schedule of fees.

The following table sets forth the U.S.  
Department of State's Schedule of Fees  
for Consular Services:

- 2. Revise § 22.1 to read as follows:

### SCHEDULE OF FEES FOR CONSULAR SERVICES

Item No.	Fee
<b>Passport and Citizenship Services</b>	
1. Passport Book or Card Execution: Required for first-time applicants and others who must apply in person (Applicants applying for both the book and card simultaneously on the same application pay only one execution fee.).	\$25.
2. Passport Book Application Services for:	
(a) Applicants age 16 or over (including renewals) .....	\$70.
(b) Applicants under age 16 .....	\$40.
(c) Additional passport visa pages .....	82.
(d) Passport book replacement for name change if submitted within one year of passport issuance .....	NO FEE.
(e) Passport book replacement for passport book limited in validity if submitted within one year of passport issuance. (Passport books limited in validity because of multiple losses, thefts, damage, or mutilations cannot be replaced).	NO FEE.
(f) Passport book replacement for data correction (name, date of birth, place of birth, sex printed erroneously) if submitted within one year of passport issuance.	NO FEE.
(g) Passport Book Security Surcharge (Enhanced Border Security Fee) .....	\$40.
3. Expedited service: Passport processing within the expedited processing period published on the Department's website (see 22 CFR 51.56(b)) and/or in-person service at a U.S. Passport Agency (not applicable abroad).	\$60.
4. Exemptions: The following applicants are exempted from all passport fees listed in Item 2 above:	
(a) Officers or employees of the United States and their immediate family members (22 U.S.C. 214) and Peace Corps Volunteers and Leaders (22 U.S.C. 2504(h)) proceeding abroad or returning to the United States in the discharge of their official duties.	NO FEE.
(b) U.S. citizen seamen who require a passport in connection with their duties aboard an American flag vessel (22 U.S.C. 214(a)).	NO FEE.
(c) Widows, children, parents, or siblings of deceased members of the Armed Forces proceeding abroad to visit the graves of such members (22 U.S.C. 214(a)).	NO FEE.
(d) Employees of the American National Red Cross proceeding abroad as members of the Armed Forces of the United States (10 U.S.C. 2602(c)).	NO FEE.
5. Travel Letter: Provided in rare, life-or-death situations as an emergency accommodation to a U.S. citizen returning to the United States when the consular officer is unable to issue a passport book.	NO FEE unless consular time charges (Item 75) apply.
6. File search and verification of U.S. citizenship: When applicant has not presented evidence of citizenship and previous records must be searched (except for an applicant abroad whose passport was stolen or lost abroad or when one of the exemptions is applicable).	\$150.
7. Application for Consular Report of Birth Abroad of a Citizen of the United States .....	\$100.
8. Documentation of formal renunciation of U.S. citizenship .....	\$450.
9. Passport Card Application Services for:	
(a) Applicants age 16 or over (including renewals) [Adult Passport Card] .....	\$30.
(b) Applicants under age 16 [Minor Passport Card] .....	\$15.
(c) Passport card replacement for name change if submitted within one year of passport issuance .....	NO FEE.
(d) Passport card replacement for data correction (name, date of birth, place of birth, sex printed erroneously) if submitted within one year of passport issuance.	NO FEE.
(Item 10 vacant.)	
<b>Overseas Citizens Services</b>	
<b>Arrests, Welfare and Whereabouts and Related Services</b>	
11. Arrest and prison visits .....	NO FEE.
12. Assistance regarding the welfare and whereabouts of a U.S. Citizen, including child custody inquiries and processing of repatriation and emergency dietary assistance loans.	NO FEE.
(Item 13 vacant.)	
<b>Death and Estate Services</b>	
14. Assistance to next-of-kin:	
(a) After the death of a U.S. citizen abroad (providing assistance in disposition of remains, making arrangements for shipping remains, issuing Consular Mortuary Certificate, and providing up to 20 original Consular Reports of Death).	NO FEE.
(b) Making arrangements for a deceased non-U.S. citizen family member (providing assistance in shipping or other disposition of remains of a non-U.S. Citizen).	\$200 plus expenses.
15. Issuance of Consular Mortuary Certificate on behalf of a non-U.S. Citizen .....	\$60.
16. Acting as a provisional conservator of estates of U.S. Citizens:	
(a) Taking possession of personal effects; making an inventory under an official seal (unless significant time and/or expenses incurred).	NO FEE.
(b) Overseeing the appraisal, sale, and final disposition of the estate, including disbursing funds, forwarding securities, etc. (unless significant time and/or expenses incurred).	NO FEE.

## SCHEDULE OF FEES FOR CONSULAR SERVICES—Continued

Item No.	Fee
(c) For services listed in Item 16(a) or (b) when significant time and/or expenses are incurred ..... (Items 17 through 20 vacant.)	Consular time (Item 75) plus expenses.
<b>Nonimmigrant Visa Services</b>	
21. Nonimmigrant visa application and border crossing card processing fees (per person):	
(a) Non-petition-based nonimmigrant visa (except E category) .....	\$140.
(b) H, L, O, P, Q and R category nonimmigrant visa .....	\$150.
(c) E category nonimmigrant visa .....	\$390.
(d) K category nonimmigrant visa .....	\$350.
(e) Border crossing card—age 15 and over (valid 10 years) .....	\$140.
(f) Border crossing card—under age 15; for Mexican citizens if parent or guardian has or is applying for a border crossing card (valid 10 years or until the applicant reaches age 15, whichever is sooner).	\$14.
22. EXEMPTIONS from nonimmigrant visa application processing fee:	
(a) Applicants for A, G, C–3, NATO and diplomatic visas as defined in 22 CFR 41.26 .....	NO FEE.
(b) Applicants for J visas participating in official U.S. Government-sponsored educational and cultural exchanges.	NO FEE.
(c) Replacement Machine-Readable Visa when the original visa was not properly affixed or needs to be re-issued through no fault of the applicant.	NO FEE.
(d) Applicants exempted by international agreement as determined by the Department, including members and staff of an observer mission to United Nations Headquarters recognized by the UN General Assembly, and their immediate families.	NO FEE.
(e) Applicants traveling to provide charitable services as determined by the Department .....	NO FEE.
(f) U.S. Government employees traveling on official business .....	NO FEE.
(g) A parent, sibling, spouse, or child of a U.S. Government employee killed in the line of duty who is traveling to attend the employee's funeral and/or burial; or a parent, sibling, spouse, son, or daughter of a U.S. Government employee critically injured in the line of duty for visitation during emergency treatment and convalescence.	NO FEE.
23. Nonimmigrant visa issuance fee, including border-crossing cards (Reciprocity Fee) .....	RECIPROCAL.
24. EXEMPTIONS from nonimmigrant visa issuance fee:	
(a) An official representative of a foreign government or an international or regional organization of which the U.S. is a member; members and staff of an observer mission to United Nations Headquarters recognized by the UN General Assembly; and applicants for diplomatic visas as defined under Item 22(a); and their immediate families.	NO FEE.
(b) An applicant transiting to and from the United Nations Headquarters .....	NO FEE.
(c) An applicant participating in a U.S. Government-sponsored program .....	NO FEE.
(d) An applicant traveling to provide charitable services as determined by the Department .....	NO FEE.
25. Fraud prevention and detection fee for visa applicant included in L blanket petition (principal applicant only) .... (Items 26 through 30 vacant.)	\$500.
<b>Immigrant and Special Visa Services</b>	
31. Filing immigrant visa petition (collected for USCIS and subject to change)	
(a) Petition to classify status of alien relative for issuance of immigrant visa .....	For fee amount, see 8 CFR 103.7(b)(1).
(b) Petition to classify orphan as an immediate relative .....	For fee amount, see 8 CFR 103.7(b)(1).
32. Immigrant visa application processing fee (per person)	
(a) Immediate relative and family preference applications .....	\$330.
(b) Employment-based applications .....	\$720.
(c) Other immigrant visa applications (including Diversity Visa applicants, I–360 self-petitioners, special immigrant visa applicants).	\$305.
(d) Certain Iraqi and Afghan special immigrant visa applications (per 8 U.S.C. 1101 note; 11 U.S.C. 1157 note).	NO FEE.
33. Diversity Visa Lottery fee (per person applying as a result of the lottery program) .....	\$440.
34. Affidavit of Support Review (only when reviewed domestically) .....	\$88.
35. Special visa services:	
(a) Determining Returning Resident Status .....	\$380.
(b) Transportation letter for Legal Permanent Residents of the United States .....	\$165.
(c) Waiver of two-year residency requirement .....	\$215.
(d) Waiver of immigrant visa ineligibility (collected for USCIS and subject to change) .....	For fee amount, see 8 CFR 103.7(b)(1).
(e) Refugee or significant public benefit parole case processing .....	NO FEE.
36. Immigrant visa security surcharge .....	\$74.
(Items 37 through 40 vacant.)	
<b>Documentary Services</b>	
41. Providing notarial service:	
(a) First service (seal) .....	\$50.
(b) Each additional seal provided at the same time in connection with the same transaction .....	\$50.

## SCHEDULE OF FEES FOR CONSULAR SERVICES—Continued

Item No.	Fee
42. Certification of a true copy or that no record of an official file can be located (by a post abroad):	
(a) First Copy .....	\$50.
(b) Each additional copy provided at the same time .....	\$50.
43. Provision of documents, certified copies of documents, and other certifications by the Department of State (domestic):	
(a) Documents relating to births, marriages, and deaths of U.S. citizens abroad originally issued by a U.S. embassy or consulate.	\$50.
(b) Issuance of Replacement Report of Birth Abroad .....	\$50.
(c) Certified copies of documents relating to births and deaths within the former Canal Zone of Panama from records maintained by the Canal Zone Government from 1904 to September 30, 1979.	\$50.
(d) Certifying a copy of a document or extract from an official passport record .....	\$50.
(e) Certifying that no record of an official file can be located .....	\$50.
(f) Each additional copy provided at same time .....	\$50.
44. Authentications (by posts abroad):	
(a) Authenticating a foreign notary or other foreign official seal or signature .....	\$50.
(b) Authenticating a U.S. Federal, State, or territorial seal .....	\$50.
(c) Certifying to the official status of an officer of the U.S. Department of State or of a foreign diplomatic or consular officer accredited to or recognized by the U.S. Government.	\$50.
(d) Each authentication .....	\$50.
45. Exemptions: Notarial, certification, and authentication fees (Items 41–44) or passport file search fees (Item 6) will not be charged when the service is performed:	
(a) At the direct request of any Federal Government agency, any state or local government, the District of Columbia, or any of the territories or possessions of the United States (unless significant costs would be incurred).	NO FEE.
(b) With respect to documents to be presented by claimants, beneficiaries, or their witnesses in connection with obtaining Federal, state, or municipal benefits.	NO FEE.
(c) For U.S. citizens outside the United States preparing ballots for any public election in the United States or any of its territories.	NO FEE.
(d) At the direct request of a foreign government or an international agency of which the United States is a member if the documents are for official noncommercial use.	NO FEE.
(e) At the direct request of a foreign government official when appropriate or as a reciprocal courtesy .....	NO FEE.
(f) At the request of direct-hire U.S. Government personnel, Peace Corps volunteers, or their dependents stationed or traveling officially in a foreign country.	NO FEE.
(g) With respect to documents whose production is ordered by a court of competent jurisdiction .....	NO FEE.
(h) With respect to affidavits of support for immigrant visa applications .....	NO FEE.
(i) With respect to endorsing U.S. Savings Bonds Certificates .....	NO FEE.
(Items 46 through 50 vacant.)	
<b>Judicial Assistance Services</b>	
51. Processing letters rogatory and Foreign Sovereign Immunities Act (FSIA) judicial assistance cases, including providing seal and certificate for return of letters rogatory executed by foreign officials.	\$2,275.
52. Taking depositions or executing commissions to take testimony:	
(a) Scheduling/arranging appointments for depositions, including depositions by video teleconference (per daily appointment).	\$1,283.
(b) Attending or taking depositions, or executing commissions to take testimony (per hour or part thereof) .....	\$309 per hour plus expenses.
(c) Swearing in witnesses for telephone depositions .....	Consular time (Item 75) plus expenses.
(d) Supervising telephone depositions (per hour or part thereof over the first hour) .....	Consular time (Item 75) plus expenses.
(e) Providing seal and certification of depositions .....	\$415.
53. Exemptions: Deposition or executing commissions to take testimony. Fees (Item 52) will not be charged when the service is performed:	
(a) At the direct request of any Federal Government agency, any state or local government, the District of Columbia, or any of the territories or possessions of the United States (unless significant time required and/or expenses would be incurred).	NO FEE.
(b) Executing commissions to take testimony in connection with foreign documents for use in criminal cases when the commission is accompanied by an order of Federal court on behalf of an indigent party.	NO FEE.
(Items 54 through 60 vacant.)	
<b>Services Relating to Vessels and Seamen</b>	
61. Shipping and Seaman's services: Including but not limited to recording a bill of sale of a vessel purchased abroad, renewal of a marine radio license, and issuance of certificate of American ownership.	Consular time (Item 75) plus expenses.
(Items 62 through 70 vacant.)	
<b>Administrative Services</b>	
71. Non-emergency telephone calls .....	\$10 plus long distance charge.

## SCHEDULE OF FEES FOR CONSULAR SERVICES—Continued

Item No.	Fee
72. Setting up and maintaining a trust account: For 1 year or less to transfer funds to or for the benefit of a U.S. citizen in need in a foreign country.	\$30.
73. Transportation charges incurred in the performance of fee and no-fee services when appropriate and necessary.	Expenses incurred.
74. Return check processing fee .....	\$25.
75. Consular time charges: As required by this Schedule and for fee services performed away from the office or during after-duty hours (per hour or part thereof/per consular employee).	\$231.
76. Photocopies (per page) .....	\$1.
(Items 77 through 80 vacant.)	

## PART 51—[PASSPORTS]

■ 3. The authority citation for part 51 continues to read as follows:

**Authority:** 8 U.S.C. 1504; 18 U.S.C. 1621; 22 U.S.C. 211a, 212, 213, 213n (Pub. L. 106–113 Div. B, Sec. 1000(a)(7) [Div. A, Title II, Sec. 236], 113 Stat. 1536, 1501A–430); 214, 214a, 217a, 218, 2651a, 2671(d)(3), 2705, 2714, 2721, & 3926; 26 U.S.C. 6039E; 31 U.S.C. 9701; 42 U.S.C. 652(k) [Div. B, Title V of Pub. L. 103–317, 108 Stat. 1760]; E.O. 11295, Aug. 6, 1966, FR 10603, 3 CFR, 1966–1970 Comp., p. 570; Sec. 1 of Pub. L. 109–210, 120 Stat. 319; Sec. 2 of Pub. L. 109–167, 119 Stat. 3578; Sec. 5 of Pub. L. 109–472, 120 Stat. 3554; Pub. L. 108–447, Div. B, Title IV, Dec. 8, 2004, 118 Stat. 2809; Pub. L. 108–458, 118 Stat. 3638, 3823 (Dec. 17, 2004).

■ 4. In § 51.51, revise paragraph (d) to read as follows:

**§ 51.51 Passport fees.**

\* \* \* \* \*

(d) A surcharge in the amount of twenty-two dollars (\$22) on the filing of each application for a passport book, in the amount of twenty-two dollars (\$22) on the filing of each application for a passport card for an applicant age 16 or over, and in the amount of fifteen dollars (\$15) on the filing of each application for a passport card for an applicant under age 16, in order to cover the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458 (8 U.S.C. 1185 note). The surcharge will be recovered by the Department of State from within the passport application fee reflected in the Schedule of Fees for Consular Services.

Dated: June 22, 2010.

**Patrick F. Kennedy,**

*Under Secretary of State for Management,  
Department of State.*

[FR Doc. 2010–15622 Filed 6–25–10; 8:45 am]

BILLING CODE 4710–06–P

## DEPARTMENT OF THE TREASURY

## Office of the Secretary

## 31 CFR Part 1

## Freedom of Information Act, Privacy Act of 1974; Implementation

**AGENCY:** Department of the Treasury.

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** On January 6, 2010, the Department of the Treasury published a document in the **Federal Register**, amending the Department of the Treasury's regulations on the disclosure of records under the Freedom of Information Act (FOIA) and its regulations concerning the Privacy Act of 1974 (Privacy Act). It also amended the appendices to these subparts setting forth the administrative procedures by which the Special Inspector General for the Troubled Asset Relief Program ("SIGTARP") will process requests for records made under the FOIA, and set forth the administrative procedures by which SIGTARP will implement the Privacy Act. In addition, that document revised the list of Treasury offices and bureaus found this part.

The Department of the Treasury is publishing this document to make correcting amendments to correct errors made in that document.

**DATES:** *Effective Date:* June 28, 2010.

**FOR FURTHER INFORMATION CONTACT:** Dale Underwood, Privacy Act Officer, Department of the Treasury, phone number 202–622–0874 or [dale.underwood@do.treas.gov](mailto:dale.underwood@do.treas.gov).

**SUPPLEMENTARY INFORMATION:** The final rule published on January 6, 2010, was for the purpose of updating the list of Treasury bureaus and offices enumerated in 31 CFR 1.1 and 1.20, and conform the regulations with the organization of the Department as set out in Treasury Order 101–05, "Reporting Relationships and Supervision of Officials, Offices and Bureaus, Delegation of Certain

Authority, and Order of Succession in the Department of the Treasury" dated February 19, 2008. The description of the revisions made to § 1.20 of this part were not clear resulting in redundant paragraphs at the end of that section.

In FR Doc. E9–31150 appearing in column 3 on page 745 in the **Federal Register** of Wednesday, January 6, 2010, a number of errors were made. This document amends 31 CFR 1.20 to correct those errors.

## List of Subjects in 31 CFR Part 1

Freedom of Information; Privacy.

■ Accordingly, part 1 of title 31 of the Code of Federal Regulations is corrected by making the following correcting amendments:

## PART 1—DISCLOSURE OF RECORDS

■ 1. The authority citation for part 1 continues to read as follows:

**Authority:** 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also is issued under 5 U.S.C. 552, as amended. Subpart C also is issued under 5 U.S.C. 552a.

## Subpart C—[Amended]

■ 2. Section 1.20 is amended as follows:

- a. Revise paragraph (j).
- b. Remove paragraphs (k) through (m).
- c. Revise the first sentence of the undesignated paragraph at the end of the section.

The revisions read as follows:

**§ 1.20 Purpose and scope of regulation.**

\* \* \* \* \*

(j) Financial Crimes Enforcement Network.

\* \* \* \* \*

For purposes of this subpart, the office of the legal counsel for the components listed in paragraphs (a)(23), (a)(24), (a)(25), (b) through (j) of this section are to be considered a part of such components. \* \* \*

\* \* \* \* \*