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DEPARTMENT OF STATE

22 CFR Part 22

[Public Notice: 8850]

RIN 1400-AD47

Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates – Visa and Citizenship Services Fee Changes

AGENCY: Department of State.

ACTION: Interim final rule.

SUMMARY: The Department of State amends the Schedule of Fees for Consular Services (Schedule) for certain nonimmigrant visa application processing fees, certain immigrant visa application processing and special visa services fees, and certain citizenship services fees. More specifically, the rule amends the application processing fees for two categories of petition-based nonimmigrant visas and the tiered application processing fees for immigrant visas. The rule also amends the security surcharge for immigrant visa services and the fees for certain immigrant visa services. Lastly, the rule raises the application processing fee for renunciation of U.S. citizenship and lowers the hourly consular officer time charge. The Department of State is adjusting the fees in light of the findings of a recent Cost of Service study to ensure that the fees for consular services better align with the costs of providing those services.

DATES: This interim final rule becomes effective September 6, 2014. Written comments must be received on or before October 21, 2014.

ADDRESSES: Interested parties may submit comments to the Department by any of the following methods:

- Visit the Regulations.gov website at: <http://www.regulations.gov> and search the RIN 1400-AD47 or docket number DOS-2014-0016.
- Mail (paper, disk, or CD-ROM): U.S. Department of State, Office of the Comptroller, Bureau of Consular Affairs (CA/C), SA-17 8th Floor, Washington, DC 20522-1707.
- E-mail: fees@state.gov. You must include the RIN (1400-AD47) in the subject line of your message.
- All comments should include the commenter's name, the organization the commenter represents, if applicable, and the commenter's address. If the Department is unable to read your comment for any reason, and cannot contact you for clarification, the Department may not be able to consider your comment. After the conclusion of the comment period, the Department will publish a Final Rule (in which it will address relevant comments) as expeditiously as possible.

FOR FURTHER INFORMATION CONTACT: Celeste Scott, Special Assistant, Office of the Comptroller, Bureau of Consular Affairs, Department of State; phone: 202-485-6681, telefax: 202-485-6826; E-mail: fees@state.gov.

SUPPLEMENTARY INFORMATION:

Background

The interim final rule makes changes to the Schedule of Fees for Consular Services of the Department of State's Bureau of Consular Affairs. The Department sets and collects its fees based on the concept of full cost recovery. The Department completed its most recent review of current consular fees and will implement several changes to the Schedule of Fees based on the new fees calculated by the Cost of Service Model (CoSM). Please note that certain "no fee" consular services are included in the Schedule of Fees so that members of the public will be aware of significant consular services provided by the Department at no charge to the recipient of the service.

What Is the Authority for This Action?

The Department of State derives the general authority to set fees based on the cost of 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.”). As implemented through Executive Order 10718 of June 27, 1957, 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. Other authorities allow the Department to charge fees for consular services, but not to determine the amount of such fees because the amount is statutorily determined.

Several statutes address specific fees relating to nonimmigrant visas. For instance, 8 U.S.C. 1351 establishes reciprocity as the basic principle for setting the nonimmigrant visa issuance fee, meaning that the fee charged an applicant from a foreign country is based, insofar as practicable, on the amount of visa or other similar fees charged to U.S. nationals by that foreign country. In addition to the reciprocity issuance fee, Sec. 140(a) of Pub. L. 103-236, 108 Stat. 382, as amended, reproduced at 8 U.S.C. 1351 (note), establishes a cost-based application processing fee for nonimmigrant machine readable visas (MRVs) and border crossing cards (BCCs). *See also* 8 U.S.C. 1713(b). Such fees remain available to the Department until expended. 8 U.S.C. 1351 (note) and 1713(d). Furthermore, Sec. 501 of Pub. L. 110-293, Title V, 122 Stat. 2968, reproduced at 8 U.S.C. 1351 (note), requires the Secretary of State to collect an additional \$2 surcharge (the “HIV/AIDS/TB/Malaria surcharge”) on all MRVs and BCCs as part of the application processing fee; this surcharge must be deposited into the Treasury and goes to support programs to combat HIV/AIDS, tuberculosis, and malaria. Section 2 of Pub. L. 113-42 imposes a temporary \$1 surcharge on the fees for MRV and BCC application processing, to be deposited into the general fund of the Treasury. This provision will sunset two years after the first date on which the increased fee is collected and will not affect most MRV and BCC fees paid by applicants.

Additionally, several statutes address fees for immigrant visa processing. For example, Sec. 636 of Pub. L. 104-208, div. C, Title VI, 110 Stat. 3009-703, reproduced at 8 U.S.C. 1153 (note),

authorizes the Secretary of State to collect and retain a “Diversity Immigrant Lottery Fee.” Under this fee authority, the Secretary of State may establish and retain a fee to recover the costs of “allocating visas” described in 8 U.S.C. 1153, i.e., running the diversity visa lottery pursuant to 8 U.S.C. 1154(a)(1)(I), and to recover the costs of “processing applications” for diversity immigrant visas submitted by selectees of the lottery. Accordingly, the “diversity visa lottery fee,” charged to those persons selected by the lottery who subsequently apply for a diversity immigrant visa, incorporates all the costs to the Department of administering the diversity visa lottery program and processing the resulting diversity immigrant visa applications.

Another statute authorizes the Department to collect and retain a surcharge on immigrant visas to help pay for efforts to enhance border security. *See* 8 U.S.C. 1714. Although this immigrant visa surcharge was originally frozen statutorily at \$45, subsequent legislation authorized the Department to amend this surcharge 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.” Pub. L. 109-472, Sec. 6, 120 Stat. 3554, reproduced at 8 U.S.C. 1714 (note).

Certain people are exempted by law or regulation from paying specific fees or are expressly made subject to special fee charges by law. These are noted in the text below. They include, for instance, several exemptions from the nonimmigrant visa application processing 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 processing fee. *See* Pub. L. 110-181, div. A, Title XII, Sec. 1244(d), 122 Stat. 3, reproduced at 8 U.S.C. 1157 (note); Pub. L. 111-8, div. F, Title VI, Sec. 602(b)(4), 123 Stat. 524, reproduced at 8 U.S.C. 1101 (note).

Although the funds collected for many consular fees must be deposited into the general fund of the Treasury pursuant to 31 U.S.C. 3302(b), various statutes permit the Department to retain some or all of the fee revenue it collects. The Department retains the following relevant fees: (1) the MRV and BCC fees, *see* Pub. L. 103-236, Title I, Sec. 140(a)(2), 112 Stat. 2681-50, reproduced at 8 U.S.C. 1351 (note) and 8 U.S.C. 1713(d); (2) the immigrant visa and passport

security surcharges, *see* 8 U.S.C. 1714; (3) the diversity visa lottery fee, *see* Pub. L. 104-208, div. C, Title VI, Sec. 636, reproduced at 8 U.S.C. 1153 (note); (4) the fee for an affidavit of support, *see* Pub. L. 106-113, div. A, Title II, Sec. 232(a), 113 Stat. 1501, reproduced at 8 U.S.C. 1183a (note); and (5) the fee to process requests from participants in the Department's Exchange Visitor Program for a waiver of the two-year home-residence requirement, *see* 22 U.S.C. 1475e. The Department also has available one-third of the total annual revenue collected from fraud prevention and detection fees charged in relation to H- and L-category visas, *See* 8 U.S.C. 1184(c)(12), 1356(v)(2)(A).

The Department last changed nonimmigrant and immigrant visa fees in an interim final rule dated March 29, 2012. *See* Department of State Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates, 22 CFR Part 22 (77 FR 18907). Those changes to the Schedule went into effect April 13, 2012. The final rule regarding those fees was published on September 17, 2012 (77 FR 57012).

The Department last changed fees for passport and citizenship services and overseas citizens' services in an interim final rule dated June 28, 2010. *See* Department of State Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates, 22 CFR Part 22 (75 FR 36522). Those changes to the Schedule went into effect July 13, 2010. A final rule regarding those fees was published on February 2, 2012 (77 FR 5177).

Some fees in the Schedule, including Items 20(a) and (b), 31(a) and (b) and 35(c), are set by the Department of Homeland Security (DHS). These DHS fees were most recently updated by that agency on November 23, 2010, and are subject to change in the future. *See* 75 FR 58962. The Department lists these DHS fees in the Department Schedule of Fees for cashiering purposes only. The Department has no authority to set DHS fees, which are listed at 8 CFR 103.7(b)(1).

Why Is the Department Adjusting Certain Nonimmigrant Visa, Immigrant Visa, Citizens Services and Administrative Services Fees at this Time?

Consistent with OMB Circular A-25 guidelines, the Department recently completed a fee review using its activity-based Cost of Service Model. This review was conducted from April 2012 through July 2013 and provides the basis for updating the Schedule. The results of that review are outlined in this rule.¹

Similar to the 2011 fee review, upon which the current Schedule is based, costs are generated by an activity-based cost model that takes into account all costs to the U.S. government. Unlike a typical accounting system, which accounts for only traditional general-ledger-type costs such as salaries, supplies, travel and other business expenses, activity-based cost models measure the costs of activities, or processes, and then provide an additional view of costs by the products and services produced by an organization through the identification of the key cost drivers of the activities. Below is a description of Activity-Based Costing excerpted from the Supplemental Notice of Proposed Rulemaking published on March 24, 2010 (75 FR 14111).

Activity-Based Costing Generally

OMB Circular A-25 states that it is the objective of the United States Government to “(a) ensure that each service, sale, or use of Government goods or resources provided by an agency to specific recipients be self-sustaining; [and] (b) promote efficient allocation of the Nation's resources by establishing charges for special benefits provided to the recipient that are at least as great as costs to the Government of providing the special benefits . . .” OMB Circular A-25, 5(a)-(b); see also 31 U.S.C. 9701(b)(2)(A) (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 . . .”). To set prices that are “self-sustaining,” the Department must determine the full cost of providing consular services. Following guidance provided in Statement 4 of OMB's Statement of Federal Financial Accounting Standards (SFFAS), available at <http://www.fasab.gov/pdffiles/sffas-4.pdf>, the Department chose to develop and use an activity-based costing (ABC) model to determine the full cost of the services listed in its Schedule of Fees, both those whose fee the Department proposes to change, as well as those whose fee will

¹ To request more information about the Cost of Service model, please send your request using one of the methods in the Address section above.

remain unchanged from prior years. The Department refers to the specific ABC model that underpins the proposed fees as the “Cost of Service Model” or “CoSM.”

The Government Accountability Office (GAO) defines activity-based costing as a “set of accounting methods used to identify and describe costs and required resources for activities within processes.” Because an organization can use the same staff and resources (computer equipment, production facilities, etc.) to produce multiple products or services, ABC models seek to precisely identify and assign costs to processes and activities and then to individual products and services through the identification of key cost drivers referred to as “resource drivers” and “activity drivers.”

Example: Imagine a government agency that has a single facility it uses to prepare and issue a single product--a driver's license. In this simple scenario, every cost associated with that facility (the salaries of employees, the electricity to power the computer terminals, the cost of a blank driver's license, etc.) can be attributed directly to the cost of producing that single item. If that agency wants to ensure that it is charging a “self-sustaining” price for driver's licenses, it only has to divide its total costs for a given time period by an estimate of the number of driver's licenses to be produced during that same time period.

However, if that agency issues multiple products (driver's licenses, non-driver ID cards, etc.), has employees that work on other activities besides licenses (for example, accepting payment for traffic tickets), and operates out of multiple facilities it shares with other agencies, it becomes much more complex for the agency to determine exactly how much it costs to produce any single product. In those instances, the agency would need to know what percent of time its employees spend on each service and how much of its overhead (rent, utilities, facilities maintenance, etc.) can be allocated to the delivery of each service to determine the cost of producing each of its various products--the driver's license, the non-driver ID card, etc. Using an ABC model would allow the agency to develop those costs.

Components of Activity-Based Costing

As noted in SFFAS Statement 4, “activity-based costing has gained broad acceptance by manufacturing and service industries as an effective managerial tool” (SSFAS Statement 4, 147). There are no “off-the-shelf” ABC models that allow the Department (or any other entity) to simply populate a few data points and generate an answer. ABC models require financial and accounting analysis and modeling skills combined with a detailed understanding of all the organization's business processes, which, in an entity the size of the Department's Bureau of Consular Affairs, are exceedingly complex. More specifically, ABC models require an organization to:

- Identify all of the activities that are required to produce a particular product or service (“activities”);
- Identify all of the resources allocated to the production of (costs) that product or service (“resources”);
- Measure the quantity of resources consumed (“resource driver”); and
- Measure the frequency and intensity of demand placed on activities to produce services (“activity driver”).

For additional details on an activity-based cost model, see the Supplemental Notice of Proposed Rulemaking published on March 24, 2010 (75 FR 14111).

Although much of the modeling methodology has remained the same between fee reviews, the methodology for capturing Department historical support costs and projected costs has been updated to reflect the change in the Department’s workload. In order to accurately account for the costs associated with rapidly growing demand for nonimmigrant visas in locations such as China and Brazil, the current fee review also incorporates two years of projected costs in addition to two years of historical costs and one year of current costs. The new fees represent a weighted average of the annual costs by service for fiscal years 2010-2014. Costs for individual fiscal years were weighted by the projected workload volume for that year. These weighted costs by fiscal year were then added together to generate a single cost per service upon which the fees are determined.

The CoSM update included a new Overseas Time Survey, conducted in June 2012, which collected extensive data on both consular activities and the time spent by consular staff performing consular services at all overseas locations. Costs related to compensation for consular staff were then assigned to service categories based on the amount of time spent performing them. Therefore, the results of the Overseas Time Survey impacted costs for certain consular services identified below.

Nonimmigrant Visa Application and Border Crossing Card Processing Fees

The Department has determined, based on the CoSM, that the costs to the Department to accept, adjudicate, and issue each of the different MRV categories varies. The effort related to some categories such as petition-based MRVs is appreciably higher than the standard, non-petition-based MRV application. Each of those petition-based nonimmigrant visa categories requires a review of extensive documentation and a more in-depth applicant interview than other categories of MRVs. After thorough review through the CoSM, including updated consular processing time data from the Overseas Time Survey, the fee for processing E (treaty trader and treaty investor) visa applications will decrease from \$270 to \$205, and the fee for processing K (fiancé and certain spouses of U.S. citizens) visa applications will increase from \$240 to \$265.

The Department rounded these fees to the nearest \$5 for the ease of converting to foreign currencies, which are most often used to pay the fee. These fees also include the statutory \$2 HIV/AIDS/TB/Malaria surcharge and the \$1 special immigrant program surcharge which must be attached to every MRV fee.

Please note that in June 2013, the authority to charge the \$1 surcharge mandated by section 239 of Pub. L. 110-457, Title II, 122 Stat. 5044, reproduced at 8 U.S.C. 1351 (note) lapsed, and the HIV/AIDS/TB/Malaria surcharge increased from \$1 to \$2 as mandated by Congress. *See* Pub. L. 110-293, Title V, Sec. 501, 122 Stat. 2968, reproduced at 8 U.S.C. 1351 (note). Because those changes occurred simultaneously, nonimmigrant visa fees were not affected.

Section 2 of Pub. L. No. 113-42, 127 Stat. 552, reproduced at 8 U.S.C. 1351 (note), imposes a temporary \$1 surcharge on the fees for MRV and BCC application processing, to be deposited into the general fund of the Treasury. This provision will sunset two years after the first date on which the increased fee is collected. The addition of the new \$1 special immigrant program surcharge also does not affect most nonimmigrant visa fees. As the Department rounded these fees to the nearest \$5 for the ease of converting foreign currencies, as noted above, the addition of this surcharge will not affect most MRV and BCC fees paid by applicants. The exception is the processing fee for BCC applications by minors under the age of 15, which is statutorily set at \$13. The addition of the \$1 special immigrant program surcharge to the \$13 fee and \$2 HIV/AIDS/TB/Malaria surcharge will increase the total fee for this service from \$15 to \$16.

Immigrant Visa Application Processing Fees

In addition to the nonimmigrant visa application processing fee modifications referenced above, the Department is adjusting the four-tiered immigrant visa application processing fees based on the CoSM calculation for each discrete category of immigrant visa, as applications for certain categories cost more to process than others. Accordingly, the application processing fee for a Family-Based Visa (immediate relative and family preference, processed on the basis of an approved I-130, I-600 or I-800 petition) will increase from \$230 to \$325. The application processing fee for an Employment-Based Visa (processed on the basis of an approved I-140 alien worker or I-526 alien entrepreneur petition) will decrease from \$405 to \$345. Other Immigrant Visa applications (including for I-360 self-petitioners, special immigrant visa applicants and all others) will have an application processing fee of \$205, down from \$220. As noted above, certain qualifying Iraqi and Afghan Special Immigrant Visa applicants are statutorily exempt from paying any visa-related fees. Pub. L. 110-181, div. A, Title XII, Sec. 1244(d), reproduced at 8 U.S.C. 1157 (note); Pub. L. No. 111-8, div. F, Title VI, Sec. 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 is applicable to all applicants except those persons who are statutorily exempted from paying fees, from \$75 to \$100. The Immigrant Visa Security Surcharge comprises those costs associated with the immigrant visa application processing fee that support enhanced border security. In this update, new data regarding time spent by consular officials related to enhanced border security in processing immigrant visa applications, derived from the 2012 Overseas Time Survey, resulted in an increase to this cost. See 8 U.S.C. 1714 and Pub. L. 109-472, Sec. 6, 120 Stat. 3554, reproduced at 8 U.S.C. 1714 (note). See also the Supplemental Notice of Proposed Rulemaking (75 FR 14111) for general details regarding the inclusion of Overseas Time Survey data into the Cost of Service Study. Please note that as of 2012, the Immigrant Visa Security Surcharge is embedded in the aforementioned immigrant visa application processing fee and is not charged as a standalone fee or set forth as a separate fee on the Schedule.

Determining Returning Resident Status

A permanent resident (called lawful permanent resident or LPR) or conditional resident (CR) who has remained outside the United States for one year, or beyond the validity period of a Re-entry Permit, requires a new immigrant visa to enter the United States and resume permanent residence. A provision exists under U.S. visa law for the issuance of a returning resident special immigrant visa to an LPR who remained outside the United States due to circumstances beyond his or her control. Processing those applications for determination of eligibility as a returning resident has become less costly due to continuing advances in automation, making it easier to verify previous U.S. immigration status. Accordingly, the Department will lower the fee from \$275 to \$180.

Waiver of Two-Year Residency Requirement

8 U.S.C. 1182, i.e., Educational Visitor Status; Foreign Residence Requirement; Waiver describes in detail certain categories of exchange visitors (J-1) that are subject to a two-year home-country physical presence requirement. This requires that the exchange visitor return to the country of his or her nationality or his or her last residence for at least two years following

participation in particular exchange visitor programs before adjusting status in the United States or applying for certain visas to travel to the United States. This two-year residency requirement may be waived in certain circumstances. The Department charges a fee for processing waiver applications. In accordance with the results of the CoSM, in which an updated analysis of time spent performing this activity indicated a reduced percentage of resources dedicated to this activity, the Department is decreasing the fee for processing an application for this waiver from \$215 to \$120.

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 a family-based 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 \$88 to \$120 to reflect the increase in the cost of providing this service, as determined by the CoSM, including updated analysis of time spent performing this activity.

Documentation for Renunciation of Citizenship

The CoSM 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. For example, consular officers must confirm that the potential renunciant fully understands the consequences of renunciation, including losing the right to reside in the United States without documentation as an alien. Other steps include verifying that the renunciant is a U.S. citizen, conducting a minimum of two intensive interviews with the potential renunciant, and reviewing at least three consular systems before administering the oath of renunciation. The final approval of the loss of nationality must be done by law within the Directorate of Overseas Citizens Services in Washington, D.C., after which the case is returned to the consular officer overseas for final delivery of the Certificate of Loss of Nationality to the renunciant. These steps further add to the time and labor that must be involved in the process. Accordingly, the Department is increasing the fee for processing such requests

from \$450 to \$2,350. As noted in the interim final rule dated June 28, 2010 (77 FR 36522), the fee of \$450 was set substantially below the cost to the U.S. government of providing this service (less than one quarter of the cost). Since that time, demand for the service has increased dramatically, consuming far more consular officer time and resources, as reflected in the 2012 Overseas Time Survey and increased workload data. Because the Department believes there is no public benefit or other reason for setting this fee below cost, the Department is increasing this fee to reflect the full cost of providing the service. Therefore the increased fee reflects both the increased cost of the provision of service as well as the determination to now charge the full cost.

Consular Time Charges

The Department previously charged a consular time fee of \$231 per hour, per employee. This fee is charged when indicated on the Schedule of Fees or when services are performed away from the office or outside regular business hours. The CoSM estimated that the hourly consular time charge is now lower. Accordingly, the Department is lowering this fee to \$135 per hour.

When Will the Department of State Implement this Interim Final Rule?

The Department intends to implement this interim final rule, and initiate collection of the fees set forth herein, effective 15 days after publication of this rule in the Federal Register.

REGULATORY FINDINGS

Administrative Procedure Act

The Department is publishing this rule as an interim final rule, with a 60-day provision for post-promulgation comments and with an effective date less than 30 days from the date of publication, based on the “good cause” exceptions set forth at 5 U.S.C. 553(b)(3)(B) and 553(d)(3). Delaying implementation of this rule would be contrary to the public interest because the fees in this rule fund consular services that are critical to national security, including screening visa applicants.

Regulatory Flexibility Act

The Department has reviewed this rule and, by approving it, certifies that it 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 decreases the application processing fees for employer-sponsored petition-based immigrant visas. The issuance of these visas is contingent upon approval by DHS of a petition filed by a United States company with DHS, and these companies pay a petition fee to DHS to cover the processing of the petition. The visa itself is sought and paid for by an individual foreign national overseas who seeks to come to the United States. The amount of the petition fees that are paid by small entities to DHS is not, in any way, connected to or controlled by the amount of the visa fees paid by individuals to the Department of State. While small entities may cover or reimburse employees for application processing fees, the State Department is unaware of the number of such entities that do so as it, again, is not a process controlled by the State Department. The workload volume in this category accounts for only four percent of the total immigrant workload expected in FY 2014. The \$60 decrease in the application processing fee for these immigrant visas will likely have a positive, albeit insignificant, economic impact on the small entities that choose to reimburse the applicant for the visa fee. Therefore the State Department certifies that this rule will not have a significant economic impact on a substantial number of small entities.

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 \$100 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.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by 5 U.S.C. 804(2).

Executive Orders 12866 and 13563

The Department has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in the Executive Orders. This rule has been submitted to OMB for review.

This rule is necessary in light of the Department of State’s CoSM finding that the cost of processing various categories of nonimmigrant and immigrant visas and of providing certain overseas citizens services has changed since those fees were last amended in 2012 and 2010, respectively. The Department is setting the new fees in accordance with 31 U.S.C. 9701 and other applicable legal authority, as described in 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.”). This regulation sets the fees for consular services at the amount required to recover the costs associated with providing that service.

Details of the fee changes are as follows:

| Item No. | Proposed Fee | Unit Cost | Current Fee | Change in Fee | Percentage Increase | Estimated Annual Number of Applications \\1\\ | Estimated Change in Annual Fees Collected \\2\\ |
|---|---------------------|------------------|--------------------|----------------------|----------------------------|--|--|
| SCHEDULE OF FEES FOR CONSULAR SERVICES | | | | | | | |
| * * * * * | | | | | | | |
| PASSPORT AND CITIZENSHIP SERVICES | | | | | | | |
| 8. Administrative Processing of Formal Renunciation of U.S. Citizenship | \$2,350 | \$2,349 | \$450 | \$1,900 | 422% | 2,378 | \$4,518,200 |
| NONIMMIGRANT VISA SERVICES | | | | | | | |

| | | | | | | | |
|---|-------|-------|-------|--------|------|---------|--------------|
| 21. Nonimmigrant Visa Application and Border Crossing Card Processing Fees (per person): | | | | | | | |
| (c) E category nonimmigrant visa | \$205 | \$205 | \$270 | (\$65) | -24% | 46,901 | -\$3,048,565 |
| (d) K category nonimmigrant visa | \$265 | \$262 | \$240 | \$25 | 10% | 16,708 | \$417,700 |
| (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) | \$16 | \$16 | \$15 | \$1 | 7% | 250,000 | \$250,000 |
| IMMIGRANT AND SPECIAL VISA SERVICES | | | | | | | |
| 32. Immigrant Visa Application Processing Fee (per person) | | | | | | | |
| (a) Immediate relative and family preference applications | \$325 | \$322 | \$230 | \$95 | 41% | 575,360 | \$54,659,200 |
| (b) Employment-based applications | \$345 | \$344 | \$405 | (\$60) | -15% | 26,811 | -\$1,608,660 |
| (c) Other immigrant visa applications (including I-360 self-petitioners and special immigrant visa applicants) | \$205 | \$204 | \$220 | (\$15) | -7% | 1,559 | -\$23,385 |
| 34. Affidavit of Support Review | \$120 | \$116 | \$88 | \$32 | 36% | 317,898 | \$10,172,736 |

| | | | | | | | |
|--|-------|-------|-------|--------|------|--------|--------------|
| 35. Special Visa Services: | | | | | | | |
| (a) Determining Returning Resident Status | \$180 | \$178 | \$275 | (\$95) | -35% | 3,412 | -\$324,140 |
| (c) Waiver of Two-Year Residency Requirement | \$120 | \$116 | \$215 | (\$95) | -44% | 10,488 | -\$996,360 |
| ADMINISTRATIVE SERVICES | | | | | | | |
| 75. Consular Time Charges | \$135 | \$134 | \$231 | (\$96) | -42% | 134 | -\$12,864 |
| Total | | | | | | | \$64,003,862 |
| * * * * * | | | | | | | |

- \1\ Based on projected FY 2014 workload.
- \2\ Using projected FY 2014 workload to generate projections.
- \3\ The fee for Border Crossing Card applications by minors is statutorily set.

Historically, nonimmigrant visa workload has increased year to year at approximately 11 percent. The Department anticipates that with the current state of the global economy, demand will be approximately 10.1 million in Fiscal Year 2014. With regard to the economic impact as a whole, the more than 94 percent of nonimmigrant visa applications that are not petition-based are sought by and paid for entirely by foreign national applicants. The revenue increases resulting from those fees should not be considered to have a direct cost impact on the domestic economy. With regard to immigrant visas, many categories are numerically capped by law; these caps limit workload and keep current demand fairly stable. In FY 2013, the Department issued 9.1 percent of all available immigrant visas in Employment-Based categories (capped at 140,000 including adjustments of status processed domestically by DHS). In FY 2013, all immigrant visas available under the Diversity Visa program were issued (capped at 50,000 including adjustments of status processed domestically by DHS). Also in FY 2013, the Department issued 84.9 percent of the immigrant visas available for Family-Preference categories (capped at 226,000 including adjustments of status processed domestically by DHS).

There are nearly 5.7 million applicants currently awaiting numerically-controlled visas, sufficient to fill more than 12 years' workload at the current annual caps, and this does not take into account applicants who would be adjusting status in the United States. It is reasonable to expect that the immigrant visa workload for FY 2014 and FY 2015 will remain about the same as FY 2013. However, please note that these estimates do not take into account variables that the Department cannot predict at this time, such as legislative changes contemplated by Comprehensive Immigration Reform.

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 Sec. 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.

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 preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

This rule does not create or revise any reporting or record-keeping requirements.

List of Subjects in 22 CFR Part 22

Consular services, Fees, Passports and visas.

Accordingly, for the reasons stated in the preamble, 22 CFR part 22 is amended as follows:

PART 22--SCHEDULE OF FEES FOR CONSULAR SERVICES—DEPARTMENT OF STATE AND FOREIGN SERVICE

1. The authority citation for part 22 continues 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 10,718, 22 FR 4632 (1957); Exec. Order 11,295, 31 FR 10603 (1966).

2. Section 22.1 is amended by revising the introductory text and items 8, 21, 32, 34, 35, and 75 in the “Schedule of Fees for Consular Services” table and removing item 36 to read as follows:

§ 22.1 Schedule of fees.

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

Schedule of Fees for Consular Services

| Item No. | Fee |
|---|------------|
| PASSPORT AND CITIZENSHIP SERVICES | |
| * * * * * | * * |
| 8. Administrative Processing of Formal Renunciation of U.S. Citizenship | \$2,350 |
| * * * * * | * * |
| NONIMMIGRANT VISA SERVICES | |

| | |
|---|---------------------------------------|
| ***** | ** |
| 21. Nonimmigrant Visa Application and Border Crossing Card Processing Fees (per person): | |
| (a) Non-petition-based nonimmigrant visa (except E category) | \$160 |
| (b) H, L, O, P, Q and R category nonimmigrant visa | \$190 |
| (c) E category nonimmigrant visa | \$205 |
| (d) K category (fiancé) nonimmigrant visa | \$265 |
| (e) Border crossing card - age 15 and over (10 year validity) | \$160 |
| (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) | \$16 |
| ***** | ** |
| IMMIGRANT AND SPECIAL VISA SERVICES | |
| ***** | ** |
| 32. Immigrant Visa Application Processing Fee (per person) | |
| (a) Immediate relative and family preference applications | \$325 |
| (b) Employment-based applications | \$345 |
| (c) Other immigrant visa applications (including I-360 self-petitioners and special immigrant visa applicants) | \$205 |
| (d) Certain Iraqi and Afghan special immigrant visa applications | NO FEE |
| ***** | ** |
| 34. Affidavit of Support Review (only when reviewed domestically) | \$120 |
| 35. Special Visa Services: | |
| (a) Determining Returning Resident Status | \$180 |
| (b) Waiver of two year residency requirement | \$120 |
| (c) Waiver of immigrant visa ineligibility (collected for USCIS and subject to change) | For fee amount, see 8 CFR 103.7(b)(1) |
| (d) Refugee or significant public benefit parole case processing | NO FEE |
| (Items 36 through 40 vacant.) | |
| ***** | ** |

| ADMINISTRATIVE SERVICES | |
|--|-------|
| ***** | ** |
| 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 officer) | \$135 |
| ***** | ** |

Dated: August 14, 2014.

Patrick Kennedy,
Under Secretary of State for Management,
Department of State.

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