

DEPARTMENT OF STATE**22 CFR Parts 22 and 51**

[Public Notice: 7779]

RIN 1400-AC58

Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates**AGENCY:** Bureau of Consular Affairs, State.**ACTION:** Final rule.

SUMMARY: This rule adopts as final the interim final rule published in the *Federal Register* on June 28, 2010 (Public Notice 7068). Specifically, the rule made changes to the Schedule of Fees for Consular Services (Schedule) for a number of different fees. This rulemaking adopts as final the changes to these fees.

DATES: Effective February 2, 2012.**FOR FURTHER INFORMATION CONTACT:**

Polly Hill, Office of the Comptroller, Bureau of Consular Affairs, Department of State; phone: 202-663-1301, telefax: 202-663-2526; email: fees@state.gov.

SUPPLEMENTARY INFORMATION: For the complete explanation of the background of this rule, including the rationale for the change, the authority of the Department of State ("Department") to make the fee changes in question, and an explanation of the study that produced the fee amounts, consult the prior public notices cited in the "Background" section below.

Background

The Department published a proposed rule in the *Federal Register*, 75 FR 6321, on February 9, 2010, proposing to amend sections of 22 CFR part 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 Model ("CoSM"), previously referred to as the Cost of Service Study or "CoSS," which is 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 www.regulations.gov.

The Department analyzed the 1,797 comments in the interim final rule at 75 FR 36522, on June 28, 2010 (Public Notice 7068) and does not reproduce that analysis here. Instead, the current notice addresses only the four additional comments received in the further 60 days during which the comment period for this interim final rule was open (see Analysis of Comments, below). In total, the public was given 105 days to comment on this change to the Schedule of Fees and a total of 1,801 comments were received.

This rule establishes the following fees for the categories below, as determined by the CoSM:

- Passport Book Application Services for Applicants Age 16 or Over (including renewals): from \$55 to \$70
- Additional Passport Visa Pages: from \$0 to \$82
- Passport Book Security Surcharge (Enhanced Border Security Fee): from \$20 to \$40
- File Search and Verification of U.S. Citizenship: from \$60 to \$150
- Application for Consular Report of Birth Abroad of a Citizen of the United States: from \$65 to \$100
- Administrative Processing of Formal Renunciation of U.S. Citizenship: from \$0 to \$450*
- Passport Card Application Services for Applicants Age 16 or Over (including renewals): from \$20 to \$30
- Passport Card Application Services for Applicants Under Age 16: from \$10 to \$15
- Making arrangements for a Deceased Non-U.S. Citizen Family Member: from a charge of Consular time spent on the service, previously \$265 an hour plus expenses to \$200 plus expenses
- Immigrant Visa Application for Immediate Relative and Family Preference Applications: from \$355 to \$330
- Immigrant Visa Application for Employment-Based Applications: from \$355 to \$720
- Immigrant Visa Application for Other Visa Classes: from \$355 to \$305
- Diversity Visa Program Fee: from \$375 to \$440
- Affidavit of Support Review (only when reviewed domestically): from \$70 to \$88
- Determining Returning Resident Status: from \$400 to \$380
- Immigrant Visa Security Surcharge: from \$45 to \$74
- Providing Notarial Service: First service (seal): from \$30 to \$50
- Providing Notarial Service: Each additional seal: from \$20 to \$50

—Certification of a True Copy or That No Record of an Official File Can be Located: First copy: from \$30 to \$50

—Certification of a True Copy or That No Record of an Official File Can be Located: Each additional copy: from \$20 to \$50

- Provision of Documents, Certified Copies of Documents, and Other Certifications by the Department of State (domestic): from \$30 to \$50
- Authentications (by posts abroad): from \$30 to \$50
- Processing Letters Rogatory and Foreign Sovereign Immunities Act 275 (FSIA) Judicial Assistance Cases: from \$735 to \$2,275
- Scheduling/Arranging Appointments for Depositions: from \$475 to \$1,283
- Attending or Taking Depositions, or Executing Commissions to Take Testimony: from \$265 per hour plus expenses to \$309 per hour plus expenses
- Providing Seal and Certification of Depositions: from \$70 to \$415
- Consular Time Charges: from \$265 to \$231

Administrative processing of formal renunciation of U.S. citizenship was previously a no-fee service. Under the new fee structure, the renunciant must now pay a fee for this service. The Department has decided that the renunciant should pay this fee at the visit during which he or she swears the oath of renunciation. The proposed and interim final rules referred to it as "Documentation of formal renunciation of U.S. citizenship," at Item 8 of their respective reproductions of the Schedule of Fees. See 75 FR 36522, 36532; 75 FR 6321, 6328. This final rule makes a technical correction to the title of the service, labeling it "Administrative processing of formal renunciation of U.S. citizenship."

Please note there are two additional clarifications the Department of State is making in this final rule. First, the Immigrant Visa application for employment-based applications is based on I-140 and I-526 petitions and also includes investor visas. The interim final rule incorrectly stated that employment-based visas are based on the I-140 petition only. Second, since publishing the interim final rule on June 28, 2010 (75 FR 36522), the Department reexamined the CoSM's inputs to the Diversity Visa Lottery Fee. Upon reexamination, it was decided that the present fee adequately accounts for the costs of processing the immigrant visa application and enhanced security. The Department, therefore, has decided it will not charge the separate Immigrant Visa Application Processing Fee or Immigrant Visa Security Surcharge to

Diversity Visa Lottery selectee-applicants and will amend the Schedule of Fees to so reflect.

Analysis of Comments

In the additional 60 day period since the publication of the interim final rule, four additional comments were received. Three commenters expressed concern over the fee increase for extra passport visa pages. Two of those commenters traveled frequently for work and noted that this would be an additional cost. The third commenter, an American citizen living overseas, expressed concern over the large cost to his family to receive additional visa pages. A suggestion was made by one of the commenters to waive the additional visa pages fee every other year for business people who travel frequently.

As explained in the supplementary notice, 75 FR 14111, 14113, the cost of this service includes not only the pages themselves, but the employee time spent affixing the pages into a passport, endorsing the passport, and performing a quality-control check on the expanded passport; 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 pages) at the time of application for no additional fee.

Information about this option is widely available to customers both domestically and overseas. Because the Department's passport processing operations must be self-sustaining as much as possible and has accordingly set these fees at a level that will allow cost recovery, the Department is not in a position to grant a fee waiver to frequent business travelers.

The final comment was directed toward the fee increase for the passport book. The commenter stated that the fee increase influenced whether she would renew her passport book and her decision to travel abroad. The Department is aware of the financial impact this fee increase may have on individuals and businesses; however, the Department must recover its costs from the passport services it provides. The Department also maintains that the increase in passport fees is not significant in comparison with the overall costs of international travel.

Conclusion

The Department has adjusted the fees to ensure that sufficient resources are available to meet the costs of providing consular services in light of the CoSM's findings that the U.S. Government was not fully covering its costs for providing these consular services. Pursuant to OMB guidance, the Department endeavors to recover the cost of providing services that benefit specific individuals, as opposed to the general public. See OMB Circular A-25, ¶ 6(a)(1), (a)(2)(a). For this reason, the Department has adjusted the Schedule.

Regulatory Findings

For a summary of the regulatory findings and analyses regarding this rulemaking, please refer to the findings and analyses published with the interim final rule, which can be found at 75 FR, at 36529, which are adopted herein. The rule became effective July 13, 2010. As noted above, the Department has considered the comments submitted in response to the interim final rule, and does not adopt them. Thus, the rule remains in effect without modification.

In addition, as noted in the interim final rule, this rule was submitted to and reviewed by OMB pursuant to E.O. 12866. The Department of State has also considered this rule in light of Executive Order 13563, dated January 18, 2011, and affirms that this regulation is consistent with the guidance therein.

Accordingly, the Interim Rule amending 22 CFR parts 22 and 51, which was published in the **Federal Register**, 75 FR 36522, on June 28, 2010 (Public Notice 7068), is adopted as final without change.

Dated: January 23, 2012.

Patrick F. Kennedy,

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

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DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 514

Fees

AGENCY: National Indian Gaming Commission, Interior.

ACTION: Final rule.

SUMMARY: The National Indian Gaming Commission (NIGC or Commission) is amending its fee regulation. The Indian Gaming Regulatory Act (IGRA) requires Tribal gaming operations to pay a fee to

the Commission for each gaming operation regulated by IGRA that conducts Class II or Class III gaming activity. IGRA also requires that “[t]he Commission, by a vote of not less than two of its members, shall annually adopt the rate of the fees authorized by this section which shall be payable to the Commission on a quarterly basis.” Pursuant to the Commission's authority to “promulgate such regulations and guidelines as it deems appropriate to implement the provisions of [IGRA],” the Commission is amending its regulations to provide for the submittal of fees and fee worksheets on a quarterly basis rather than bi-annually; to provide for operations to calculate fees based on the gaming operation's fiscal year rather than a calendar year; to amend certain language in the regulation to better reflect industry usage; to establish an assessment for fees and fee worksheets submitted one to ninety days late; and to establish a fingerprinting fee payment process.

DATES: *Effective Date:* October 1, 2012.

Compliance Date: Submitting fee worksheets and payments on a quarterly basis under §§ 514.5 and 514.6 is not required until January 1, 2013.

FOR FURTHER INFORMATION CONTACT:

Michael Hoenig, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005. Telephone: (202) 632-7009; email: *michael_hoenig@nigc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Indian Gaming Regulatory Act (IGRA) established an agency funding framework whereby gaming operations licensed by tribes pay a fee to the Commission for each gaming operation that conducts Class II or Class III gaming activity that is regulated by IGRA. 25 U.S.C. 2717(a)(1). These fees are used to fund the Commission in carrying out its statutory duties. Fees are based on the gaming operation's assessable gross revenues, which are defined as the annual total amount of money wagered, less any amounts paid out as prizes or paid for prizes awarded and less allowance for amortization of capital expenditures for structures. 25 U.S.C. 2717(a)(6). The rate of fees is established annually by the Commission and shall be payable on a quarterly basis. 25 U.S.C. 2717(a)(3). IGRA limits the total amount of fees imposed during any fiscal year to .08% of the gross gaming revenues of all gaming operations subject to regulation under IGRA. Failure of a gaming operation to pay the fees imposed by the Commission's fee schedule can be grounds for a civil