

Memorandum M–17–21, “Guidance Implementing Executive Order 13771” of April 5, 2017.

F. Executive Order 13563

The Department of State has considered this rule in light of Executive Order 13563 and affirms that this regulation is consistent with the guidance therein. G. Executive Orders 12372 and 13132: Federalism

*H. Executive Order 13175—
Consultation and Coordination With
Indian Tribal Governments*

The Department of State 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.

I. Paperwork Reduction Act

This rule does not impose or revise information collections subject to the provisions of the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

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 80 FR 53704, which are adopted herein. Section 22.1, Items 2.(a), 2.(b), and 2.(g) of this rule became effective September 26, 2015. Section 22.1, Item 8 became effective November 9, 2015. As noted above, the Department considered the comments submitted in response to the interim final rule and does not adopt them. Thus, the rule remains in effect.

List of Subjects in 22 CFR Part 22

Consular services, Fees, Passports and visas.

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

■ Accordingly, the interim final rule amending 22 CFR part 22, which was published in the **Federal Register**, 80 FR 53704, on September 8, 2015 is adopted as final without change.

Carl C. Risch,

*Assistant Secretary for Consular Affairs,
Department of State.*

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DEPARTMENT OF STATE

22 CFR Part 22

[Public Notice 10027]

RIN 1400–AD81

**Schedule of Fees for Consular
Services, Department of State and
Overseas Embassies and
Consulates—Passport Services Fee
Changes**

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State implements an adjustment to the Schedule of Fees for Consular Services of the Department of State’s Bureau of Consular Affairs (“Schedule of Fees” or “Schedule”) to raise the execution fee for passport books and cards from \$25 to \$35. The Department is adjusting this fee in light of the findings of the most recently approved update to the Cost of Service Model to better align the fees for consular services with the costs of providing those services.

DATES: In accordance with the Congressional Review Act, this rule is effective on April 2, 2018.

FOR FURTHER INFORMATION CONTACT: Rob Schlicht, Management Analyst, Office of the Comptroller, Bureau of Consular Affairs, Department of State; phone: 202–485–6685, telefax: 202–485–6826; email: fees@state.gov.

SUPPLEMENTARY INFORMATION:

Background

This rule makes a change to the Schedule of Fees for passport services (passport books and cards). The Department published a notice of proposed rulemaking (NPRM) on September 19, 2016 (81 FR 64088), with 60 days provided for public comment. This final rule addresses the relevant comments. Justification for this rulemaking can be found in the NPRM.

Analysis of Comments

The Department received 34 comments, of which 26 are addressed herein. The other eight were duplicates submitted to regulations.gov and fees@state.gov.

The majority of the comments were in favor of raising the fee from \$25 to \$35. Four were opposed to raising the fee and one comment referred to visa fees which are not addressed in this rulemaking.

A majority of the comments that were in favor of the fee increase cited increased overhead, with most mentioning staffing and postage as major costs. Other comments expressed

the view that the small increase in fee would not affect business or personal travel.

Two commenters who opposed the fee increase expressed concern that the fee would be a burden to some travelers. Although the Department is sympathetic to the impact the fee increase may have on the public, the fee increase reflects the result of an evaluation to determine the cost of the service provided so that the U.S. Government may recover the full cost of the service in accordance with 31 U.S.C. 9701 and guidance from the Office of Management and Budget (OMB). Federal agencies make every effort to ensure that fees for services are sufficient to recover the full cost to the government. (See OMB Circular A–25, ¶ 6(a)(1), (a)(2)(a).)

Two commenters stated that the government should work more efficiently rather than raise fees. The Department of State’s Bureau of Consular Affairs along with its partner acceptance facilities strive to optimize business functions to increase efficiency and effectively manage financial and capital resources funded by consular fees. There are approximately 7,400 acceptance facilities throughout the United States, including those at post offices and clerks of court. This fee is necessary to ensure that acceptance agents are compensated for the time and materials required to accept applications on behalf of the Department of State. The fee has remained the same for over nine years even though the cost of labor and material has increased during the same time period. In 2008, the Department lowered the execution fee for passport books from \$30 to \$25 based on costs at the time. The proposed \$10 increase to \$35, from the current fee of \$25, is in line with cost increases for both the Department and United States Postal Service during the past nine years.

In an effort to improve business practices, the Department publishes a guide that standardizes processes for acceptance facilities and provides annual training to ensure the processes are followed. Additionally, the Department conducts regular audits and inspections of the acceptance facilities to protect the integrity of the application process, prevent mis/malfeasance, and promote standardization and efficiency.

The revenue from retained consular fees fund CA’s domestic and overseas operations and consular-related programs. These operations protect the lives and serve the interests of United States citizens and strengthen U.S. border security.

One commenter stated that the amount of time and effort it takes to

process applications does not justify the cost of service. The person believes that fees should be less for children when they apply with their family. As described in the section of this rule describing activity-based costing, the fee is determined in its totality, not as an individual transaction with consideration given to family circumstances. Conforming to guidance from OMB, federal agencies make every effort to ensure that fees for service are sufficient to recover the full cost to the government of providing the service. (See OMB Circular A-25, ¶ 6(a)(1), (a)(2)(a).) Activity-based costing was explained in the NPRM, and the Department will summarize the explanation here, for convenience.

Activity-Based Costing

To set fees in accordance with the general principles of cost recovery, the Department must determine the true cost of providing consular services. Following guidance provided in “Managerial Cost Accounting Concepts and Standards for the Federal Government,” OMB’s Statement #4 of Federal Accounting Standards (SFFAS #4 (available at <http://www.fasab.gov/pdffiles/sffas-4.pdf>)), the Department developed an activity-based costing (ABC) model to determine the true cost of each of its consular services.

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 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.” ABC models also seek to identify the amount of time an organization’s personnel spend on each service and how much overhead cost (rent, utilities, facilities maintenance, etc.) is associated with delivering each service.

ABC models require financial and accounting analysis and modeling skills combined with a detailed understanding of an organization’s business processes. ABC models require an organization to identify all activities required to produce a particular product or service (“activities”) and all resources consumed (“costs”) in the course of producing that product or service. An organization must also measure the quantity of resources consumed

(“resource driver”); and the frequency and intensity of demand placed on activities to produce services (“activity driver”). SFFAS Statement #4 provides a detailed discussion of the use of cost accounting by the U.S. Government.

The Department’s Cost of Service Model

The Department conducted periodic Cost of Service Studies using ABC methods to determine the costs of its consular services through 2009. In 2010, the Department moved to adopt an annually updated Cost of Service Model that measures all of its consular operations and costs, including all activities needed to provide consular services, whether fee-based or not. This provides a comprehensive and detailed look at all consular services as well as all services the Department performs for other agencies in connection with its consular operations. The Cost of Service Model now includes approximately 80 distinct activities, and enables the Department to model its consular-related costs with a high degree of precision.

The Department uses three methods outlined in SFFAS Statement #4 (paragraph 149(2)) to assign resource costs to activities: (a) Direct tracing; (b) estimation based on surveys, interviews, or statistical sampling; and (c) allocations. The Department uses direct tracing to assign the cost of, for example, a physical passport book or the visa foil placed in a visa applicant’s passport. Assigning costs to activities such as adjudicating a passport or visa application requires estimation based on surveys, interviews, or statistical sampling to determine who performs an activity and how long it takes. Indirect costs (overhead) in the Cost of Service Model are allocated according to the level of effort needed for a particular activity. Where possible, the model uses overhead cost pools to assign indirect costs only to related activities. For instance, the cost of rent for domestic passport agencies is assigned only to passport costs, not to visas or other services the Department provides only overseas. The Department allocates indirect support costs to each consular service by the portion of each cost attributable to consular activities. For example, the model allocates a portion of the cost of the Department’s Bureau of Human Resources to consular services. The total amount of this allocation is based on the number of Bureau of Human Resources staff members who support Bureau of Consular Affairs personnel. In turn, this amount is allocated between the different consular services by the level of effort to provide them.

To assign labor costs, the Department relies on a variety of industry-standard estimation methodologies. To document how consular staff divide their time overseas, the Department conducts the Consular Overseas Data Collection (CODaC) survey of a representative sample of posts each year. The Department uses CODaC survey data in conjunction with volume data from over 200 individual consular sections in consulates and embassies worldwide, to develop resource drivers to assign labor costs to activities. For consular activities that take place in the United States, the Department collects volume data from periodic workload reports including Passport Agency Task Reports pulled from management databases that include Passport’s Management Information System. Financial information is gathered from reports by the Comptroller and Global Financial Services bureau financial systems. The Department converts the cost and workload data it collects into resource drivers and activity drivers for each resource and activity.

Roughly 70 percent of the workforce involved in providing consular services are full-time Federal employees. When demand for a service rises, it takes time for the Department to increase the number of employees because of the lengthy security clearance process and special training involved. Likewise, it is difficult to rapidly decrease the number of employees when demand for a service falls. Additionally, given government procurement rules and security requirements, the Department must commit to many of its facilities and infrastructure costs years before a facility becomes available. In spite of changes in demand, the Department is obligated to cover these costs. Given these and other constraints on altering the Department’s cost structure in the short term, changes in service volumes can have dramatic effects on whether a fee is self-sustaining. Therefore, the Cost of Service Model includes predictive data as well as actual data. Predictive workloads are based on projections by the Office of Visa Services, the Office of Passport Services, and other parts of the Bureau of Consular Affairs that are consistent with Department budget documents prepared for Congress. As notified in the FY 2018 Congressional Budget Justification, the Department estimates a workload of 20.2 million passport applications, 14.4 million nonimmigrant visa applications, and 600,000 immigrant visa applications in FY 2018.

The costs the Department enters into the Cost of Service Model include every line item of costs, such as physical

material for making passports and visas, salaries, rent, supplies, and IT hardware and software. The Department then calculates a resource driver for overseas staff time based on responses to the Consular Overseas Data Collection survey for overseas compensation costs and enters the resource drivers and activity assignments into the model. The Department then selects an activity driver, such as the volume data discussed above, for each activity, in order to assign these costs to each service type. This process allows the model to calculate a total cost for each of the Schedule of Fees line items for visa services, passport services, and overseas citizens services as well as services for other government agencies and no fee services. The model then divides this total cost by the total volume of the service or product in question in order to determine a final unit cost for the service or product. Projected costs for predictive years are also included to take account of changes in the size of consular staff, workload, and similar factors.¹ The resulting database constitutes the Cost of Service Model. The Department continues to refine and update the Cost of Service Model in order to set fees commensurate with the cost of providing consular services.

The Cost of Service Model is a complex series of iterative computer processes incorporating more than a million calculations, housed in an industry standard commercial off-the-shelf product, SAP Enterprise Performance Management; therefore, it is not reducible to a tangible form such as a document. Inputs are formatted in spreadsheets for entry into the ABC software package. The software's output includes spreadsheets with raw unit costs, validation reports, and management reports. All data inputs and outputs are considered Sensitive but Unclassified and therefore cannot be made publically available.

The new cost reflected in the Schedule of Fees is based on projected workload for Fiscal Year 2018, and the fee has been rounded to make it easier to collect.

The New Passport Execution Fee

The Department is increasing the execution fee for passport books and

¹ Workload volume increases and decreases are the main drivers for staffing changes, but other factors may impact staffing or the speed of staffing changes (e.g., the length of the recruitment and clearance processes).

cards from \$25 to \$35, excepting those persons who are statutorily exempted from paying the passport execution fee. The costs of providing passport services to exempt individuals are covered by fees paid by non-exempt individuals. The passport execution fee is applicable to all first-time passport applicants and certain other applicants who must apply in person, such as minors under the age of 16. Applicants apply in person at post offices and other acceptance facilities, such as local clerks of court, as well as at the Department's passport offices. The passport execution fee includes the costs associated with accepting passport applications and fees in-person, including salaries, benefits, and an allocated portion of overhead including, but not limited to, rent, utilities, supplies and equipment. The Department's Cost of Service Model showed that these costs were over \$33. The United States Postal Service—the acceptance agent for the majority of passport applications—regularly conducts a similar study and found that these costs were more than \$34.² See 22 U.S.C. 214(a); 22 CFR 51.51(b).

The \$10 increase in the passport execution fee will affect first-time passport applicants and certain applicants who must appear at post offices and other acceptance facilities such as local clerks of court. Individuals who apply for a passport renewal by mail will not see a fee increase.

Regulatory Findings

Administrative Procedure Act

The Department published this rule as a proposed rule on September 19, 2016, with a 60-day provision for public comments. See 81 FR 64088. In accordance with the Congressional Review Act, this rule will be effective 60 days after publication and receipt by Congress and the GAO.

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).

Unfunded Mandates Act of 1995

This rule will not result in the expenditure by state, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year, and it will not significantly

² The United States Postal Service does not produce a public report on this study.

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 a major rule as defined by 5 U.S.C. 804(2). The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The Department will submit the required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule will take effect 60 days after it is published in the **Federal Register** and receipt by Congress and the GAO.

Executive Order 12866

The Department has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in the Executive Orders. OMB has determined that this rule is economically significant under Executive Order 12866.

This rule is necessary in light of the Department of State's Cost of Service Model finding that the cost of executing first-time passports is higher than the current fee. The Department is setting this fee in accordance with 22 U.S.C. 214(a) ("There shall be collected and paid into the Treasury of the United States . . . a fee, prescribed by the Secretary of State by regulation, for executing each such [passport] application) and 31 U.S.C. 9701 ("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 generally sets the fee for passport executions at the amount required to recover the costs associated with providing this service.

Details of the fee change are as follows:

Item No.	Proposed fee	Current fee	Change in fee	Percentage increase	Estimated annual number of applications ¹	Estimated change in annual fees collected ¹
Schedule of Fees for Consular Services						
*	*	*	*	*	*	*
Passport and Citizenship Services						
1. Passport Book or Card Execution: Required for first-time applicants and others who must apply in person	\$35	\$25	\$10	40	11,500,000	\$115,000,000
Total						\$115,000,000
*	*	*	*	*	*	*

¹ Based on projected FY 2018 workload.

As noted in the NPRM, the Department of State does not anticipate that demand for passport services affected by this rule will change significantly due to the fee change.

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 minor in comparison with other costs associated with foreign travel, given that taxes and surcharges alone on international airfare can easily surpass \$100. As a result, the Department does not believe passport demand will be significantly affected by the new fee.

Executive Order 13771

This rule is not an E.O. 13771 regulatory action because it is a transfer rule that changes only the fee for a service without imposing any new costs.

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.

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

Information collection 1405-0004, which relates to this rule, is approved by OMB pursuant to the Paperwork Reduction Act, 44 U.S.C. Chapter 35. Other than the comments summarized above, the Department received no public comments regarding this rulemaking. This information collection has been renewed until August 31, 2019.

List of Subjects in 22 CFR Part 22

Consular Services, Fees, Passports.

Accordingly, 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 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), 2651a, 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. In § 22.1, in the table, revise item 1 to read as follows:

§ 22.1 Schedule of fees.
* * * * *

SCHEDULE OF FEES FOR CONSULAR SERVICES

Item No.	Fee
Passport and Citizenship Services:	
1. Passport Book or Card Execution: Required for first-time applicants and others who must apply in person	\$35
*	*

Carl C. Risch,

*Assistant Secretary for Consular Affairs,
Department of State.*

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2017-0161]

RIN 1625-AA09

**Drawbridge Operation Regulation
Canaveral Barge Canal, Canaveral, FL**

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is modifying the operating schedule that governs the SR 401 Drawbridges across the Canaveral Barge Canal, mile 5.5, at Port Canaveral, Florida. This modification is necessary to reduce vehicular traffic congestion and to ensure the safety of roadways while passengers are transiting to and from the cruise ship terminals. Since the arrival of additional cruise ships to the Port of Canaveral, traffic back-ups have been caused by the