

**Supporting Statement For
Paperwork Reduction Act Submission
Foreign Diplomatic Services Applications
OMB No. 1405-0105**

A. JUSTIFICATION

1. The United States is host to hundreds of foreign embassies and missions to international organizations, with thousands of personnel, as well as designated international organizations and select personnel of such organizations who are entitled to a range of diplomatic or consular benefits, privileges, and immunities. This group of eligible foreign entities (collectively referred to as “foreign missions”) and their eligible personnel (including certain dependents) are hereinafter referred to as “respondents” or “applicants.”

The U.S. Department of State seeks to ensure that the benefits, privileges, and immunities of such entities and persons assigned to duty in the United States are properly implemented and respected. This responsibility is divided between the Office of Protocol (Protocol) and the Office of Foreign Missions (OFM). Protocol’s responsibilities include the accreditation of individual applicants. OFM’s responsibilities include overseeing and regulating the diplomatic and consular benefits and privileges accorded foreign missions and eligible personnel, including tax exemptions, motor vehicle registrations, driver licenses, customs clearances, and acquisition of real property.

Information Collection instruments dealing with information collected from the foreign diplomatic community, to include the electronic data compilation (e-Gov), have been combined under one information collection request, collectively referred to as the “Foreign Diplomatic Services Applications” (FDSA). These information collection instruments provide OFM and Protocol with the information necessary to provide and administer an effective and efficient benefits, privileges and immunities program by which foreign missions and eligible members may apply for entitled benefits from the U.S. Department of State.

Administration of and the eligibility for these benefits, privileges, and immunities are conferred on the basis of international and domestic law, taking into account principles of reciprocity, as well as a DOS-DHS/TSA memorandum of understanding. All FDSA are necessary in order for the Department of State to be able to perform functions vital to the conduct of diplomatic relations and to fulfill the requirements of law integral to such relations. Accordingly, the Department seeks to add four additional information collection instruments to its FDSA collection.

- a. The collection of information for the **Request for Escort Screening Courtesies**, collection instrument DS-4138, is requested from foreign missions to fulfill the State – DHS/TSA Memorandum of Agreement (July 22, 2009) and the Foreign Missions Act of 1982, 22 U.S.C. 4301 *et seq* (FMA).
- a. The information collected for the **Photograph and Signature Card and Application for OFM Website Account**, collection instruments DS-4139 and DS-4140, is necessary to fulfill the requirements of the Vienna Convention on Diplomatic

Relations (1961) (VCDR); the Vienna Convention on Consular Relations (1963) (VCCR); Diplomatic Relations Act (22 U.S.C. 254a-e); the International Organizations Immunities Act (IOIA), 22 U.S.C. 288 e (a); and the Foreign Missions Act of 1982, 22 U.S.C. 4301 *et seq* (FMA). These laws require the Department to ensure that foreign mission personnel obtain an official identification card. Further, under the FMA authority, the Department requires that all foreign missions and its personnel must obtain driver licenses and tax documents certifying exemption only through the U.S. Department of State.

- b. The information collected for **Request for Customs Clearance of Merchandise**, collection instrument DS-1504, is necessary for the Department to provide foreign missions and eligible personnel with evidence of their eligibility for customs duty-free exemptions under international law (VCDR, VCCR and IOIA), which the Department issues with reference to reciprocity.
2. Respondents may submit their requests to the Department using the approved paper information collection instruments via personal delivery, mail, email, fax, or OFM's e-Gov system application (where applicable).
 - DS-4138, Request for Escort Screening Courtesies, is the means by which the Department of State (DOS) will adjudicate requests for assignment of a DOS representative to ensure that eligible senior foreign government officials are exempted from the TSA security screening process at major U.S. airports. This form will be submitted by a foreign mission, via e-Gov, email or fax, whenever OFM airport escort screening courtesies are being requested. DS-4138 will be used by OFM to review for entitlement to the courtesy (determine if a foreign VIP, cabinet rank and above), to advise the specific airport, and to assign a DOS Escort to the case.
 - DS-4139, Photograph and Signature Card, is the means by which the Department obtains a photograph and/or signature for use in the production of a Protocol identification card, a sales tax exemption card, or DOS driver license when applications are submitted electronically (through e-Gov) for foreign mission personnel and their dependents. This form is electronically issued when an electronic request for any of the three documents is made.
 - DS-4140, Application for OFM Website Account, is the means by which a foreign mission administrative staff member will obtain a logon account. This form will be used to determine whether an individual may be authorized to access the Office of Foreign Missions' electronic data submission (e-Gov) system. DS-4140 will be completed when requesting a new account, when making changes to an existing account or when closing an account. If accepted, that person will be issued a logon with a password. OFM's e-Gov system is accessed to submit automated service requests to the U.S. State Department through the Office of Foreign Missions and the Office of Protocol to obtain "benefits" that can only be obtained through the U.S. Department of State.

- DS-1504, Request for Customs Clearance of Merchandise, is used to determine the eligibility of imported goods (supplies, personal and household effects, automobiles, purchases from bonded warehouses, etc.) for exemption from duties otherwise imposed by the Bureau of Customs and Border Protection (CBP); and provide the basis upon which to determine, in cooperation with CBP, the proper handling of the diplomatic shipment on behalf of its entitled respondents. Collection instrument DS-1504 is submitted by foreign missions whenever customs duty-free purchase or entry on imports is requested. In all cases, foreign missions may only apply for duty-free purchase or entry privileges through the State Department. Each application represents a separate transaction and any duplicated information is limited to that which is necessary to identify the foreign mission and consignee, also to verify eligibility, and for auditing purposes.

3. To continue OFM's move toward an electronic data submission (e-Gov) system to capture and process as many applications as possible, OFM has created three new electronic forms for OMB approval, DS-4138, DS-4139, and DS-1504. Form DS-4139, completely paperless, prints requesting a photo and/or signature whenever the electronic versions of forms DS-2004, DS-2007, and DS-1972 (DS-1972D and DS-1972T) are submitted. These forms require either a photograph and/or signature be submitted for use in the production of an identification card, a sales tax exemption card, or a DOS driver license to complete the process.

Electronic submission options for information collections DS-4138 and DS-4140 will be available on the OFM website in Portable Document Format (PDF), which provides a data-input and print feature for clean and legible paper copies. Once filled out, the forms will either be faxed or emailed to the Department for processing. The e-Gov submission option of information collections DS-4138 and DS-1504 will also be ready for use once approved by OMB. The e-Gov DS-1504 information collection will be used to request duty-free purchases from bonded warehouses. Other functions of the DS-1504 (e.g. duty-free clearance of household effects) are in the early development stages with plans to come on line in 2011. DS-4140 is the first step to obtain e-Gov access and will only be available outside of the e-Gov system.

If the electronic submission was not available the paperwork burden would be the same or greater and would require foreign mission submission via Post Office mail, hand delivery, or in some instances facsimile. This in turn would mean a slower delivery process in the requested service, or the service would just not be available. However, reciprocity is a key component of the VCDR, VCCR and FMA. Because the provision of benefits to foreign mission personnel is generally subject to reciprocity, the Office of Foreign Missions may affirmatively decide to burden a specific foreign government with unnecessary paperwork to respond when such measures are implemented against our own diplomats abroad, with the aim of encouraging that government to alleviate the burden on our diplomats. While purposeful paperwork burdens run counter to the general purpose of the PRA, recourse to reciprocal measures are statutorily authorized in the context of foreign mission personnel.

4. The Department of State, through the Office of Protocol and the Office of Foreign Missions, is the only federal agency that registers foreign missions and their personnel and provides not only benefits, but also proof of eligibility for certain privileges and immunities. The collection

instruments are available for specific purposes, each of which is necessary to ensure the United States honors its international legal obligations and protects its missions and personnel abroad.

5. This collection of information does not involve or have impact on small businesses or other small entities.
6. The information collection could not be conducted less frequently. If the necessary information were not collected, the State Department would be unable to fulfill its obligations under international and domestic law to extend privileges and immunities to foreign missions and their eligible personnel, or to comply with the requirements of the FMA. Furthermore, non-collection of the information would impede other Department efforts, including, most significantly, its ability to advise other branches of the United States government as well as state and local authorities, regarding the status of foreign mission personnel, including, in specific cases, whether certain individuals are immune from arrest, detention and criminal and/or civil prosecution.
7. With two exceptions – Form DS-4138 (Request for Escort Screening Courtesies) and Form DS-1504 (Request for Customs Clearance of Merchandise) – the **FDSA** collection instruments do not involve any special circumstances requiring reporting information more often than quarterly, a written response in less than 30 days after receipt, or submission of duplicate copies.

The frequency of collection of Form DS-4138 would depend on the number of times a foreign mission requests airport escort screening courtesies for their high ranking foreign government officials (cabinet rank or above) departing from certain major U.S. airports.

The quantity of the information gathered on Form DS-1504 varies somewhat according to the commodity being imported. The frequency of collection depends on the number of duty-free import requests submitted by a foreign mission. The paper format of DS-1504 consists of a duplicate six page form (an original with five copies) and once validated, is distributed as follows: the original is sent to the International Affairs Division of the Bureau of Customs and Border Protection, Department of Homeland Security; the first copy is returned to the foreign mission; the second copy is sent to the Customs Unit at the Port of Entry; the third copy is retained by U.S. Customs' central files; the fourth copy is OFM's file copy, and the final copy is retained by the foreign mission when the document is submitted to OFM.

8. To give the public an opportunity to provide comments on the FDSA collection instruments OFM published a Notice of Proposed Information Collection on page number 15482 in the *Federal Register* of March 29, 2010, Public Notice Number 6932 and also on page number 8834 in the *Federal Register* of February 26, 2009, Public Notice Number 6533. One public comment was received from Public Notice 6932.

OFM's response to the public comment received from Public Notice 6932 is as follows: Since the United States does not maintain diplomatic relations with Taiwan, unofficial relations are carried out pursuant to the Taiwan Relations Act of 1979 (TRA). Under the TRA, the American Institute in Taiwan (AIT), a non-profit U.S. organization, is responsible for

programs, transactions, and other relations with respect to Taiwan, including requests for escort screening courtesies and obtaining documentation for identification cards. Taiwan's counterpart to AIT is the Taipei Economic and Cultural Representative Office in the United States (TECRO). Therefore, with the assistance of AIT, the Forms, DS-4138 - Request for Escort Screening Courtesies and DS-1504- Request for Customs Clearance of Merchandise may be used by TECRO representatives in the United States.

The information collected from foreign governments and international organizations is based on universal international diplomatic practice and the need to comply with international and domestic law previously cited. Accordingly, consultation is not applicable.

The Department continuously makes an effort to consult and maintain dialogue with the following outside agencies:

- a. The foreign mission community, to make the application process user-friendly and seamless as possible
- b. State motor vehicle regulatory officials, and many different tax jurisdictions, mostly local government, and pertinent oil companies.
- c. U.S. Customs and Border Protection, focusing on processing improvement methods.
- d. Other Federal government agencies (e.g. DHS, TSA)
- e. American Institute in Taiwan, to give a well-informed response to the public comment.

Also, as is required by 5 CFR 1320.8 (d), the Department solicits public comments on its information collection prior to submission to OMB.

9. The Department of State does not provide any payment or gifts to respondents.
10. No specific assurance of confidentiality is provided to respondents. A Privacy Act statement does accompany collection instruments DS-4138, DS-4139, DS-4140, and DS-1504. The Department's policy is that information obtained from these collections is disclosed on a need-to-know basis only, e.g., to law enforcement during a traffic stop. If a respondent would further inquire, oral assurance would be provided that information is stored in accordance with safeguards established for Sensitive But Unclassified documents, and will be withheld from disclosure to the maximum extent permissible under the Freedom of Information and Privacy Acts.
11. The information collections contain no questions of a sensitive nature on any of the forms.
12. There are 350 foreign missions (respondents) with which the United States maintains bilateral and multilateral diplomatic relations. The frequency of response is occasional. The reporting burden varies according to the size of the mission, whether new missions open or old ones close, the frequency of rotation of their mission personnel, and the number of high ranking persons traveling to the U.S. in a year. Also, the burden may increase or decrease slightly from year to year because of reciprocity provisions. The reporting burden does not vary because of activity or complexity of the mission. If a mission size increases, so will the burden.

The estimated annual reporting burden, which includes the time necessary to complete Foreign Diplomatic Services Applications, duplicate the completed instrument, and attach any supporting documents, is as follows:

Foreign Diplomatic Services Applications

Information Collection Form No.	Responses (paper)	Responses (e-Gov)	Estimated Hours Per Response	Annual Total Burden Hours
DS-1504	1,588	6,350	<i>30 minutes</i>	3,969
DS-4138	1,500	1,500	<i>10 minutes</i>	500
DS-4139	0	18,000	<i>10 minutes</i>	3,000
DS-4140	456	0	<i>10 minutes</i>	76
Total Annual Aggregate	03,544	25,850	60 minutes	7,545

- 13.** The total annual cost burden to respondents is de minimus. Since the provision of benefits to foreign diplomatic personnel is subject to reciprocity according to the VCDR, the VCCR and the FMA, the Department may choose to burden a foreign government with an application fee equal to that which it imposes on our U.S. diplomats seeking similar benefits. At the moment, no payments or fees are charged in connection with submission or approval of any information collection. Should this change significantly, OFM will submit an 83C to change the cost burden associated with this collection.

Any associated costs to foreign governments and international organizations with completion of its e-Gov submission of form DS-4139, would primarily be photographs. We have been advised that the average cost for photographs would be around \$20 per person, for a total estimated cost of \$360,000. Once a photograph is stored in the TOMIS data system it is used for other documents also requiring a photograph, i.e., diplomatic ID card, driver license and tax exemption card. With e-Gov submissions the mission does assume the cost of ink and paper when it is necessary to print the application to send to the Department. Any other costs for operation, maintenance, and purchase of services and capital or start up costs are de minimus. In any event, such costs would be excluded inasmuch as the collection, maintenance, and reporting of information regarding foreign mission personnel and their dependents is a usual and customary function foreign missions undertake under the Vienna Conventions on Diplomatic and Consular Relations and as a matter of customary international law.

The paperwork burden would be the same or greater, and the cost burden certainly greater on respondents, if the information collections were not done by the Federal Government; respondents would have to acquire accreditation; obtain driver licenses, register and title vehicles, show proof of adequate insurance, obtain license plates from the various State and/or

local jurisdictions, pay the usual taxes and fees, and then apply for tax exemption or tax refunds from each state and/or local jurisdiction; or a service may not be available.

14. The annualized cost for collection of this information and providing benefits is based on a quantification of hours and operational expenses (such as printing forms, labor costs, programming, processing, product distribution, and/or reportage, equipment and overhead). The annual cost burden to the Department is estimated to be \$874,782. See table below.

Foreign Diplomatic Services Applications

Information Collection Form No.	Responses (Paper & e-Gov)	Estimated cost to process each Response	Annual Costs
DS-1504	7,938	\$23.00	\$182,574
DS-4138	3,000	\$120.00	\$360,000
DS-4139	18,000	\$18.00	\$324,000
DS-4140	456	\$18.00	\$8,208
Total Annual Aggregate	029,394	0	0

15. Program changes are attributed to the addition of three new information collection instruments (DS-4138, DS-4139, and DS-4140). Burden increase would be due to an increase in the number of respondents complying with State Department policy; an increase or decrease in the volume of submissions from foreign missions; a change in the tax reciprocity matrix which would require the tax exemption card to be changed and reissued; a replacement of driver licenses due to design. Information collection instrument DS-1504, entirely paper-based, was previously approved and is being re-submitted to reflect the fact that it is now 80% automated.
16. No plans exist to publish the information collected for statistical purposes.
17. The OMB expiration date will be displayed.
18. Exceptions to items (b) and (g)(vi) of the certification statement are identified in the item 19 of OMB Form 83-I. The exception to item (b) reflects the fact that although purposeful paperwork burdens run counter to the thrust of PRA, they are statutorily authorized in the context of foreign mission personnel. See item 3 above. The exception to item (g)(vi) is appropriate based on the Foreign Mission Act’s “notwithstanding” clause, which provides that benefits provided by the Office of Foreign Missions cannot be denied by any act of any agency contrary to the provisions of the Foreign Missions Act. See, 22 U.S.C. 4307.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

