

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION

REQUEST FOR DETERMINATION OF POSSIBLE LOSS OF UNITED STATES CITIZENSHIP (OMB No.1405-0178, Form DS-4079)

A. JUSTIFICATION

1. Section 349(a) of the Immigration and Nationality Act (INA), 8 U.S.C. §1481(a), establishes the statutory basis upon which United States citizens may voluntarily relinquish their U.S. nationality. Regarding loss of nationality, “A U.S. citizen by birth or naturalization INA 301 ([8 U.S.C. 1401](#)), INA 310 ([8 U.S.C. 1421](#)) or a U.S. noncitizen national INA 308 ([8 U.S.C. 1408](#)), INA 101(29) ([8 U.S.C. 1101\(29\)](#)) will lose U.S. nationality (“expatriate” her or himself) by committing a statutory act of expatriation as defined in INA 349 ([8 U.S.C. 1481](#)), or predecessor statute, provided the act is performed (1) voluntarily and (2) with the intention of relinquishing U.S. nationality. (See [Afroyim v. Rusk](#), 387 U.S. 253 (1967) and [Vance v. Terrazas](#), 444 U.S. 252 (1980).)

2. U.S. citizens complete the information collection (the DS Form 4079) when they wish to document voluntariness and intent to lose U.S. nationality or, alternatively, lack thereof. In order to lose U.S. nationality, the person must have been a U.S. national at the time he/she performed the potentially expatriating act. Additionally, when a U.S. consular officer overseas has reason to believe that a person may have relinquished his or her U.S. nationality, he/she may also request that the person complete the DS Form 4079 and submit it to a consular officer at an overseas U.S. embassy or consulate post. The consular officer reviews the DS Form 4079 and sends it to the Directorate of Overseas Citizens Services in Washington. The DS Form 4079 provides information that assists in determining the basis upon which the person acquired U.S. nationality, whether an expatriating act occurred, and, if so, whether the person voluntarily performed the expatriating act with the intent to relinquish his or her U.S. nationality. This form is used as documentary evidence for determining whether loss of U.S. nationality has occurred. If in fact a person has already lost U.S. nationality, he or she would not be permitted by a consular officer to take an oath formally renouncing U.S. nationality.

The data provided in the DS Form 4079 is critical in establishing whether the four elements of loss of nationality are present. Those four elements as stated above are 1) the person is a U.S. national who 1) has performed a potentially expatriating act, 3) the performance of that act was voluntary and 4) the act was performed with the intent to relinquish U.S. nationality. If the documentary and any other evidence lead to the conclusion that a loss of nationality has occurred, a finding of loss of nationality is approved by Overseas Citizens Services. The DS Form 4079 becomes part of the file associated with an approved Certificate of Loss of Nationality and is available for review if there is any future request to reconsider the finding of

loss. Section 349(b) of the INA, 8 U.S.C. § 1481(b) places the burden of establishing that loss occurred on the party asserting loss, so the information collection is often the determinative piece of evidence in these reconsiderations.

3. The Department has incorporated an electronic element for the DS 4079 form. If the respondent is completing the form online, the respondent can print the form but still must provide his or her signature(s) to the form manually. The “paper” elements for completing this form are requirements of the Department of State. State intends to provide an electronic submission option in the future.

Scanned copies of the DS Form 4079 are maintained as part of the file documenting loss of nationality and are retrievable electronically through the Passport Lookout Tracking System (PLOTS). This minimizes the burden of production when requests are received for reconsideration of a previous finding of loss of nationality.

4. The information in the DS Form 4079 is not duplicative of information maintained elsewhere or otherwise available.

5. The information collection does not involve or impact small businesses or other small entities.

6. Use of the DS Form 4079 facilitates the determination of whether a loss of nationality occurred under Section 349(a) of the INA, 8 U.S.C. §1481(a). Section 349 (b) of the Immigration and Nationality Act places the burden of proof on the person claiming that the loss has occurred. When findings of loss or non-loss of U.S. nationality are challenged, the Department may use the information collection during reconsideration of a loss/non-loss determination.

The elimination of the information collection would significantly affect the ability of the Department of State to meaningfully reconsider its decisions of loss or non-loss of U.S. nationality. Because Federal law mandates the circumstances under which loss of nationality occurs, the Department cannot take measures that would reduce the frequency of collection, nor can it reduce the burden.

7. No special circumstances exist.

8. The 60-day notice for the current OMB approval for this information collection was published in the Federal Register 78 FR 39823. The purpose of the Federal Register notice was to solicit comments from the public. No comments were received from the public.

9. No payment or gift is provided to respondents.

10. There are no promises of confidentiality to the respondents.

11. No sensitive questions are asked.

12. An average of 1,729 U.S. citizens worldwide submits the DS Form 4079 annually to U.S. Consular Officers in order to document loss of U.S. nationality. The average total annual hour burden to complete the DS Form 4079 for all respondents is an average of 432 hours.

The annual hour's burden was determined by multiplying 1,729 by 15 minutes equaling 25,935 minutes. Then 25,935 minutes is divided by 60 minutes, to give an annual burden hour of 432 hours $((1,729 \times 15) / 60)$.

The overall hourly cost burden to the respondents is approximately \$12,873. The hourly cost burden was determined to be \$21.29, which is the average mean hourly civilian wage. \$21.29/hr was multiplied by 1.4, resulting in a weighted hourly wage of \$29.80/hr. \$29.80/hr. was then multiplied by the 432 annual burden, providing an overall hourly cost burden of approximately \$12,873.

13. There are two possible costs to the respondent associated with this application: express mail cost for mailing the DS Form 4079 to the U.S. diplomatic mission or travel costs for submitting the form to the U.S. diplomatic mission in person.

An estimated 175 respondents choose to use express mail. The average rates were based on data for FedEx express mail shipments. The average total cost per respondent for express mail shipments is \$45. Multiply 175 respondents by \$45 and the total overall cost for express mail is \$7,875.

Mileage costs for traveling by car will vary based on how far the person has to travel. If the travel is ten miles, the overall total cost based on 518 respondents that drive is \$2,900.80. If the travel is 25 miles, the overall total cost based on 518 respondents is \$7,252. If the travel is 50 miles, the overall total cost based on 518 respondents is \$14,504. The grand total mileage cost is \$24,656.80 based on a total of 1,554 respondents that drove.

| | | Total # of Respondents | | |
|-------------|------------|-----------------------------------|---|--------------------|
| | | 1,729 | | |
| | | Total # of Respondents that Drove | | |
| | | 1,554 | | |
| # of People | # of Miles | Reimbursement Cost Per Mile | Total Reimbursement for mileage listed for one person | Totals |
| 518 | 10 | \$0.56 | \$5.60 | \$2,900.80 |
| 518 | 25 | \$0.56 | \$14.00 | \$7,252.00 |
| 518 | 50 | \$0.56 | \$28.00 | \$14,504.00 |
| | | | | \$24,656.80 |

The estimated total cost for all respondents is \$32,532.

There is no consular fee to complete the DS-4079 form associated with this service.

14. The total cost to the Federal Government projections for the service for which the DS-4079 is used comes from calculating cost to the Federal Government by average hours spent reviewing the DS-4079 form x average compensation cost per hour. Based on the following data, the average cost to the Federal Government in compensation related to this service is \$125,356 (FY2013 (\$129,764) + FY2014 (\$149,515) + FY2015 (\$96,789) / 3 = \$125,356).

| | FY13 | FY14 | FY15 |
|------------------------------------|------------------|------------------|-----------------|
| FSO Compensation | \$70,293 | \$80,987 | \$52,431 |
| Consular Agent Compensation | \$558 | \$643 | \$416 |
| WAE Compensation | \$519 | \$598 | \$387 |
| All LES Compensation* | \$20,892 | \$24,072 | \$15,583 |
| Domestic Compensation | \$37,502 | \$43,210 | \$27,972 |
| Total Cost to the Gov't | \$129,764 | \$149,515 | \$96,789 |

15. The number of respondents varies from year to year depending on the number of citizens who may have relinquished their U.S. citizenship. Based on the average number of respondents in the past 3 years (FY10-FY12), the number of respondents increased to 1,729 resulting in an associated increase in burden to 432 hours. Cost burden has increased due to Consular Affairs calculating the express mail costs to the respondent to submit the DS-4079.

16. General statistical information regarding U.S citizens and Loss of Nationality is maintained in the "Consular Package," the Consular Workload Statistical System (CWSS) system. This is raw data broken down by the Foreign Service post issuing the report.

17. The OMB expiration date will be displayed.

18. No exceptions to the certification statement are requested.

B. STATISTICAL METHODS

This collection does not employ statistical methods.