

# **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 (form DS-4079) after they have committed a potentially expatriating act 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.

When a U.S. consular officer has reason to believe that the applicant may have committed a potentially expatriating act with the intention of relinquishing his/her U.S. nationality, the officer may request that the applicant complete the DS-4079 and submit it to a consular officer at the U.S. embassy or consulate. The consular officer reviews the DS-4079 as an aid in determining whether a loss of nationality has occurred under INA 349(a)(1-4). The DS-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.

The data provided in the DS-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 2) 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 the Department of State (Bureau of Consular Affairs, Overseas Citizens Services Directorate).

The DS-4079 becomes part of the file associated with an approved Certificate of Loss of Nationality and is available for review if there is a 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 electronically fillable option of the form is available to the public on <https://eforms.state.gov/searchform.aspx>. If the applicant chooses to electronically complete the form, he/she needs to print it out and manually sign it in the presence of a consular officer at the mandatory in-person interview. The Department of State intends to provide an electronic submission option in the future.

Passport Records Services maintains originals of Loss of Nationality files, which may include a DS-4079 form. The completed and signed scanned copies of DS-4079 are retrievable electronically through the Passport Lookout Tracking System (PLOTS) and in the American Citizens Services (ACS) database.

4. The information in the DS-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-4079 facilitates the determination of whether a loss of nationality occurred under Section 349(a)(1)-(4) of the INA, 8 U.S.C. §1481(a)(1)-(4). 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.

7. No special circumstances exist.

8. The Department of State published 60-day Federal Register notice for public comment, on August 10, 2016 (81 FR 52945). The Department received no comments in response.

9. No payment or gift is provided to applicants.

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

11. No sensitive questions are asked.

12. Approximately 600 U.S. citizens worldwide submit the DS-4079 annually to U.S. Consular Officers in order to ascertain and document loss of U.S. nationality. The average total annual hour burden to complete the DS-4079 for all applicants is 400 hours.

The annual hour burden on an applicant was determined by multiplying 600 by 40 minutes equaling 24,000 minutes. Then 24,000 minutes was divided by 60 minutes, to give an annual burden of 400 hours (600 x 40) / 60).

The overall hourly cost burden to the applicant is approximately \$12,504. The hourly cost burden was determined to be \$22.71, which is the average mean hourly civilian wage. \$22.71 hr was multiplied by 1.4, resulting in a weighted hourly wage of \$31.79/hr. \$31.79/hr. was then multiplied by the 400 hourly annual burden, providing an overall hourly cost burden of approximately \$12,716.

**13.** If the applicant is completing the DS-4079, the Department requires that the applicant bring the filled out but unsigned DS-4079, along with other documentation pertinent to loss of nationality such as evidence of commission of the potentially expatriating act, to the mandatory in-person interview with the consular officer, as part of the consular officer's review of the applicant's request for a Certificate of Loss of Nationality. The applicant may choose to email the unsigned form or send the unsigned form via mail to the U.S. diplomatic mission ahead of their interview, but not required. There are no required costs associated with delivering the form to a U.S. diplomatic mission ahead of his/her interview.

There is a consular fee of \$2350 for administrative processing of a request for a Certificate of Loss of Nationality. The administrative processing fee is collected when the applicant and consular officer sign Part II of the DS-4079, the Statement of Voluntary Relinquishment of Citizenship. There is no separate fee collected for completion of Part I of a DS-4079.

**14.** The total cost to the U.S. Government for providing the Certificate of Loss of Nationality (CLN) service was \$8,071,738 for FY 2015. The CLN service is comprised of two activities in the model: Overseas Certificate of Loss of Nationality Intake and Adjudicating the Certificate of Loss of Nationality. Costs are driven to these two activities based on how much time is spent on performing the tasks. In 2015, the Cost of Service Model (CoSM) team collected that data through the Consular Overseas Data Collection (CODaC) survey and a domestic country officer time study. Since more resources (e.g. domestic and overseas compensation) are allocated to performing the adjudication activity than to the intake activity, the model drove more costs to that activity. As a result, the total cost for the overseas intake portion of the service was \$2,020,020, the cost of the adjudication activity was \$6,008,789, and the cost of cashiering at post was \$42,929 in FY 2015.

**15.** The number of applicants varies from year to year depending on the number of citizens who may have relinquished their U.S. citizenship. The Department reevaluated the time it takes for applicants to complete the DS-4079 and determined that the increase from 15 minutes to 40 minutes is a more fair representation of applicants' efforts. This change is based on a feedback we received from U.S. diplomatic missions abroad.

The cost to the respondent shows a difference of 32,532 because the cost of the respondent has changed from \$32,532 to zero. Consular Affairs has stated there are no required costs associated with the respondent delivering the form to a U.S. diplomatic mission ahead of his/her interview. The applicant may choose to email the unsigned form or send the unsigned form via mail to the U.S. diplomatic mission ahead of their interview, but not required.

**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.