

# **SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION**

## **AFFIDAVIT OF PHYSICAL PRESENCE OR RESIDENCE, PARENTAGE, AND SUPPORT**

**OMB# 1405-0187 (DS-5507)**

### **A. JUSTIFICATION**

*1. Why is this collection necessary and what are the legal statutes that allow this?*

The DS-5507, Affidavit of Physical Presence or Residence, Parentage, and Support may be used in conjunction with the DS-2029, Application for Consular Report of Birth Abroad (CRBA) of a Citizen of the United States of America and/or the DS-11, Application for a U.S. Passport, when a person born abroad to a U.S. citizen parent or parents seeks to document they acquired U.S. citizenship at birth through a U.S. citizen parent or parents who (may) have satisfied the applicable statutory requirements under Immigration and Nationality Act of 1952, as amended (INA), Sections 301, 308 or 309 (8 U.S.C. 1401, 1408 or 1409).

If a non-U.S. citizen parent of a child born abroad submits the DS-2029 and/or DS-11 on the child's behalf at a U.S. embassy or consulate and the U.S. citizen parent is not present for that appointment, the non-appearing parent may separately submit a DS-5507 that has been signed and notarized before an authorized official. The DS-5507 requests the same information regarding parentage and dates of physical presence or prior residence in the United States as the DS-2029. Additionally, for a citizenship claim by birth abroad out of wedlock to a U.S. citizen father, both the DS-2029 and the DS-5507 provide for the option of acknowledgment of paternity under oath and a statement agreeing to support the child financially until the age of 18. It is not expected that a transmitting U.S. citizen parent who completes the DS-2029 would also be required to complete the DS 5507 - or vice versa - which is conveyed on each form.

Similarly, the DS-5507 may be submitted in conjunction with a first-time passport application for a person born abroad to a U.S. citizen parent or parents when the person has not previously documented their acquisition of U.S. citizenship at birth.

This information collection is undertaken pursuant to INA Section 104(a)(3), (8 U.S.C. 1104) which charges the Secretary of State with the determination of nationality of a person not in the United States and 22 U.S.C. 211a, 22 U.S.C. 213. 22 U.S.C. § 2705 provides that a CRBA and a full validity, unexpired U.S. passport shall have the same force and effect as proof of United States citizenship as certificates of naturalization or of citizenship issued by the Attorney General or by a court having naturalization jurisdiction.

2. *What business purpose is the information gathered going to be used for?*

The information collected on the DS-5507 is used in conjunction with the DS-2029 and/or DS-11 to assist in determining whether a U.S. national parent of a child born abroad or in a U.S. territory has met the statutory physical presence or residence requirements for their child to acquire U.S. nationality at birth; and whether a U.S. national father of a child born abroad out of wedlock has met additional requirements of INA Section 309(a) (8 U.S.C. 1409) with respect to parentage, legal relationship, and financial support of the child born abroad out of wedlock, in order for the child to acquire U.S. citizenship at birth.

3. *Is this collection able to be completed electronically (e.g., through a website or application)?*

The DS-5507 is PDF fillable online at [eforms.gov](https://eforms.gov). However, the DS-5507 cannot be submitted electronically because it is an affidavit forming an integral part of an application for a CRBA and/or a first time application for a U.S. passport, both of which require an in person appearance under 22 U.S.C. 213 and 22 CFR Parts 50 and 51, although the DS- 5507 may signed before and notarized by a consular officer or other person duly authorized in their jurisdiction to administer oaths.

4. *Does this collection duplicate any other collection of information?*

The information collected is duplicative of information collected on the DS-2029, Consular Report of Birth Abroad to a Citizen of the United States of America. It is not expected that a transmitting U.S. citizen parent who completes the DS-2029 would also be required to complete the DS-5507 or vice versa - which is conveyed on each form.

5. *Describe any impacts on small business.*

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

6. *What are consequences if this collection is not done?*

If the collection was not conducted, the Department could lack the necessary information to make the appropriate determination on a child's U.S. nationality status at birth, potentially amounting to considerable hardship to children born abroad to a U.S. national and to their families.

7. *Are there any special collection circumstances?*

The Department's May 2021 updated interpretation of section 301 of the Immigration and Nationality Act requires updates to both the DS-5507 and DS-2029. Under the updated interpretation, INA Section 301 applies to children born abroad to parents who are married to each other at the time of the child's birth, when the child has a genetic or gestational connection to at least one of the parents in the marriage, and one of the parents in the marriage is a U.S. citizen. This updated interpretation accommodates modern families and the growing use of Assisted Reproductive Technology (ART) and surrogacy. The

Department is seeking renewal of the DS-5507 and DS-2029 (Control No. 1405-0011) at the same time. The supporting statement for the DS-2029 is separate.

8. *Document publication (or intent to publish) a request for public comments in the Federal Register.*

The Department of State published a 60-day notice in the *Federal Register* to solicit public comments on February 17, 2023 (Public Notice: 11983). No comments were received.

9. *Are payments or gifts given to the respondents?*

This information collection does not provide any payment or gift to respondents.

10. *Describe assurances of privacy/confidentiality.*

This form includes a Privacy Act Statement explaining the routine uses of the information collected under the Act. There are no promises of confidentiality to the respondents. More information on the routine uses of the information collected on this form can be found in System of Records Notices State-05, Overseas Citizen Services Records and Other Overseas Records and State-26, Passport Records available in the Federal Register and online at <https://www.state.gov/system-of-records-notices-privacy-office>.

11. *Are any questions of a sensitive nature asked?*

The Immigration and Nationality Act sets forth different transmission requirements for parents of a child born abroad in-wedlock or out-of-wedlock. Accordingly, the Department must obtain this information to determine which section of the INA applies. Additionally, the parent(s) will now be asked whether they are the biological and/or legal parent(s) of the child. Because the DS-5507 may be used in conjunction with the DS-2029 or DS-11 to support a first time claim to acquisition of U.S. citizenship at birth under the applicable section of the INA, including these questions on the DS-5507 will ensure standardization of questions asked, and will ensure this information is captured.

12. *Describe the hour time burden and the hour cost burden on the respondent needed to complete this collection.*

*Table 1. DS-5507 Time and Cost Burden<sup>1</sup> Figures*

Hour Time Burden	<b>22,935</b>
Hour Cost Burden	<b>\$899,281</b>

The Department derived the hour time burden total by multiplying the average number of respondents (**45,869**) and burden time per response (**30 minutes**) required to complete this collection divided by one hour (**60 minutes**). The Department derived the hour cost burden

total to respondents by multiplying the weighted hourly wage (**\$39.21**) and the total hour time burden (**22,935**).

The Department calculated the estimated number of respondents for this collection by taking the average number of projected respondents for the next three years as shown in Table 2.

*Table 2. FY 2023 – 2025 DS-5507 Respondent Projections*

	<b>DS-5507</b>
FY 2023	45,412
FY 2024	45,867
FY 2025	46,325
<b>Average</b>	<b>45,869</b>

The Department estimated that the average time required to complete this information collection is 30 minutes per response. The estimate is based on a sampling of the time required to search existing data sources, gather the necessary information, provide the information required, review the final collection, and submit the collection to the Department for processing. The Department completed the sampling through consultation with a group of Department employees to validate the time. Therefore, the estimated total hour time burden to the respondent to complete this collection is:

$$45,869 \text{ (number of respondents)} \times 30 \text{ (minutes to complete form per respondent)} / 60 =$$

**22,935 - hour time burden**

The estimated hour cost burden to respondents is based on \$28.01 (mean hourly earnings) per the estimated income per hour from the Bureau of Labor Statistics<sup>1</sup> x 1.4 (weighted wage OMB multiplier) = \$39.21 (weighted hourly wage). Therefore, the estimated total hour cost burden to the respondent to complete this collection is:

$$\$39.21 \text{ (weighted hourly wage)} \times 22,935 \text{ (hour time burden)} =$$

**\$899,281 hour cost burden**

The Department acknowledges that there is also a time burden associated with traveling to and from the nearest location to sign the DS-5507 before an authorized official and those assumptions are described below.

13. *Describe the monetary burden to respondents (out of pocket costs) needed to complete this collection.*

*Table 3. DS-5507 Estimated Out-of-Pocket Cost*

<b>Incurred Items</b>	<b>Formula Calculations</b>	<b>Cost</b>
Travel Mileage	45,869 respondents x 10 miles x \$0.625 per mile	\$286,681
Notary and Shipping	None	\$0

<sup>1</sup> Source: Bureau of Labor Statistics, "Employer Costs for Employee Compensation – May 2021," [https://www.bls.gov/oes/current/oes\\_nat.htm#00-0000](https://www.bls.gov/oes/current/oes_nat.htm#00-0000).

	<b>Total Out-of-Pocket Cost</b>	<b>\$286,681</b>
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There is no application fee associated with this collection. Respondents may incur out-of-pocket cost to travel to the nearest U.S. embassy, consulate, or passport agency (if respondent is in the United States) to sign and submit the form before an authorized official. Since signed forms are generally witnessed at a Department of State authorized facility to be used in conjunction with a pending DS-2029 or DS-11, the respondent would incur no notary and shipping cost. Roundtrip travel distance and cost to one of the 250+ U.S. embassies or consulates<sup>2</sup> and 29 passport agencies<sup>3</sup> varies by transportation mode and location.

The Department does not maintain administrative data on the distance that respondents travel to submit the DS-5507 in-person. However, to satisfy the out-of-pocket cost burden to travel to the nearest facility, we calculate that 100 percent of respondents (45,869) travel. Based on embassy and consulate locations worldwide and considering the total number of available Department of State authorized facilities available to respondents, we estimate average distance of five (5) miles one way and ten (10) miles roundtrip to travel to the nearest facility. To determine the travel cost to the respondent, the Department is factoring in the Internal Revenue Service (IRS) mileage reimbursement rate (\$0.625 per mile<sup>4</sup> for privately owned vehicles (POV)) multiplied by 10 - which equals \$6.25 roundtrip and brings the estimated total cost for 45,869 respondents to \$286,681.

14. Describe the cost incurred by the Federal Government to complete this collection.

Table 4. DS-5507 Incurred Federal Government Cost

<b>Incurred Items</b>	<b>Formula Calculations</b>	<b>Cost</b>
Time and Expense to process form	45,869 (Respondents) x \$135 (Consular Officer Hourly Wage) x .25 (hours to review form)	\$1,548,078
Cost to publish two Federal Register Notices (FRNs)	\$795 x 2	\$1,590
	<b>Total Incurred Federal Government Cost</b>	<b>\$1,549,668</b>

To calculate the cost to the federal government, we account for employee wages by calculating 45,869 (respondents), multiply by \$135 (Consular Officer Hourly Wage), multiply by .25 (hours to review each form) which equals \$1,548,078 (expense to process form). The hourly rate for Consular Officer time (\$135/hour) is used because the forms are processed by Foreign Service Officers at U.S. embassies and consulates. The dollar amount

<sup>2</sup> Source: U.S. Department of State, <https://www.usembassy.gov/>

<sup>3</sup> Source: U.S. Department of State, <https://travel.state.gov/content/travel/en/passports/get-fast/passport-agencies.html>

<sup>4</sup> Source: Internal Revenue Service, "News Release: IRS Increases Mileage Rate for Remainder of 2022," <https://www.irs.increases-mileage-rate-for-remainder-of-2022> | Internal Revenue Service

of \$135 per hour is not an hourly wage but reflects the number of resources attributed to Consular Officer time based on the activity-based costing model used at U.S. embassies and consulates.

Cost to the Federal Government also includes publishing two Federal Register Notices (FRNs) to receive public comments. A 60-day FRN is published and a 30-day FRN is published at \$795 each - with a total **\$1,590** cost to the federal government.

15. *Explain any changes/adjustments to this collection since the previous submission*

The average number of respondents has increased from the last renewal, from 17,950 to 45,869, with a corresponding increase in time burden (8,975 hours to 22,935 hours), cost to respondents (\$360,516 to \$899,281), and processing cost for the Federal Government. Overall, Passport Services demand increased from 11.5 million receipts in FY 2020 to 18.5 million receipts in FY 2022

In addition to general format and plain language changes, the following content changes have been made to the form:

Instruction Page 1:

INSTRUCTIONS; Line 3: Deleted "biological"

INSTRUCTIONS; Part I; d: Deleted "biological"

INSTRUCTIONS; Part I; d: Updated language to:

“full name of your child(ren), date and place of birth of your child(ren), and your relationship to your child(ren) (whether you are their biological parent and/or legal parent, or other). A biological parent has a genetic or gestational tie to the child. A legal parent is legally recognized as the parent of the child.”

INSTRUCTIONS; Part I; g: Deleted "biological"

INSTRUCTIONS; Part I; g: Changed "his/her" to "their"

INSTRUCTIONS; HOW TO COMPLETE THIS FORM, e, f, and g: added a note:

"Month and Year [or MM-YYYY format] is acceptable if exact dates of physical presence and/or residence are unknown. You may be asked to provide exact dates to determine that statutory requirements have been met. (If additional space is needed, please attach another page.)"

INSTRUCTIONS; Part II; Line 1: Deleted "biological"

INSTRUCTIONS; Part III; Changed "his/her" to "their"

PRIVACY ACT STATEMENT; PURPOSE; Line 1: Deleted "biological"

Application Page 1:

Part I; Line 10: Deleted "biological"

Part I; Part I: Inserted three additional columns titled: "Biological Parent?", "Legal Parent?", and "Other"

Part I; Note; Line 1: Revised language to "please provide the address (street and house/apartment number) of your principal dwelling place (of general abode) in the 'Place (City,State)' section above"

Application Page 2:

Part I; Line 8 and Line 15: Deleted "biological"

PART II; Line 4: Deleted "he/she reaches" and replaced with "they reach"

Application Page 3:

PART III; Line 3: Deleted "biological"

PART III; Line 6: Deleted "he/she/they" and replaced with "their"

16. *Specify if the data gathered by this collection will be published.*

The data gathered will not be published.

17. *If applicable, explain the reason(s) for seeking approval to not display the OMB expiration date.*

The expiration date for OMB approval will be displayed.

18. *Explain any exceptions to the OMB certification statement below.*

The Department is not requesting any exceptions to the certification statement.

**B. Collection of Information Employing Statistical Methods**

This collection does not employ statistical methods.

<sup>i</sup> Passport Services used the PRA time and burden calculation guidance provided by OMB through Digital.gov at <https://pra.digital.gov/burden/estimation/> to complete all calculations required in questions 12 through 15 of this supporting statement.