

COMMENTS OF THE ELECTRONIC PRIVACY INFORMATION CENTER

TO

THE BUREAU OF CONSULAR AFFAIRS

U.S. DEPARTMENT OF STATE

*60-Day Notice of Proposed Information Collection:*

*DS-5513, Biographical Questionnaire for U.S. Passport, 1405-XXXX*

April 28, 2011

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Pursuant to the Paperwork Reduction Act, the Department of State has requested comments on the "Biographical Questionnaire for U.S. Passport."<sup>1</sup> In response to the Department of State's Notice of Proposed Information Collection, the Electronic Privacy Information Center (EPIC) submits these comments. EPIC is a public interest research center in Washington, D.C., established in 1994 to focus public attention on emerging civil liberties issues and to protect privacy, the First Amendment, and constitutional values. EPIC routinely comments on proposed changes to the data collection practices of federal agencies.<sup>2</sup>

EPIC requests that the Department of State substantially clarify and re-issue its "Notice Of Proposed Information Collection: DS-5513, Biographical Questionnaire For U.S. Passport, 1405-XXXX," 76 Fed. Reg. 10421 (proposed Feb. 24, 2011). The Notice is insufficient under the Paperwork Reduction Act to allow the public full understanding of the agency action being proposed.

Under the Paperwork Reduction Act, agencies are required to provide notice regarding each proposed collection of information in order to solicit comment from the public so that the agency may:

- (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

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<sup>1</sup> Department of State Federal Register Notice, Feb. 24, 2011, *available at* <http://www.regulations.gov/#!docketDetail;dct=FR+PR+N+O+SR+PS;rpp=10;po=0;D=DOS-2011-0055>.

<sup>2</sup> *See, e.g.*, EPIC's comments to the Office of the Director of National Intelligence regarding an Exemption of New Systems of Records from the Privacy Act (May 12, 2010), *available at* [http://epic.org/privacy/ODNI\\_Comments\\_2010-05-12.pdf](http://epic.org/privacy/ODNI_Comments_2010-05-12.pdf); EPIC's comments to the Department of Homeland Security regarding Verification Information System Changes (March 31, 2008), *available at* [http://epic.org/privacy/ssn/epic\\_vis\\_033108.pdf](http://epic.org/privacy/ssn/epic_vis_033108.pdf) and regarding Secure Flight (Sept. 24, 2007), *available at* [http://epic.org/privacy/airtravel/sf\\_092407.pdf](http://epic.org/privacy/airtravel/sf_092407.pdf).

- (ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;
- (iii) enhance the quality, utility, and clarity of the information to be collected; and
- (iv) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.<sup>3</sup>

This Notice of Proposed Information Collection falls short of those articulated purposes. It is so short of detail that it is impossible to tell whether the proposed collection of information is necessary for the proper performance of the functions of the Department of State, including whether the information collected by Form DS-5513 has any practical utility beyond that collected by the standard form. From the Notice, it is impossible to tell whether Form DS-5513 enhances the quality, utility, and clarity of the information to be collected. And the Notice provides no detail with which to evaluate whether the form minimizes the burden on those who are to respond.

Among the vital questions left unanswered are:

- 1) The purpose of Form DS-5513 as opposed to other passport application forms;
- 2) What distinguishes Form DS-5513's estimated 74,021 respondents from the general passport-applicant population;
- 3) Whether every field of the form must be completed for the passport application to be approved; and
- 4) How the data from this form – which is more personal and in-depth than that requested by any previous passport application – will be stored and used under the Privacy Act.

Additionally, the agency's estimate of the burden of the proposed collection of information appears to be grossly inaccurate. The amount of time listed as the Average Hours Per Response – 45 minutes – does not bear any reasonable relationship to the information Form DS-5513 requires respondents to collect. Any number of single items on the form (for example, number 8, the address of an applicant's mother's place of employment at the time of the applicant's birth) could take far longer than 45 minutes to track down.

The lack of specificity in the Notice of Proposed Information Collection has led to great confusion and concern, as evidenced by the several thousand public comments the Department of State received regarding this matter. Clarifying and re-issuing the Notice of Proposed Information Collection will enable the public to fully assess and comment upon

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<sup>3</sup> Paperwork Reduction Act, 44 USC 3506(c)(2)(A).

the agency's decision to use Form DS-5513, which will allow the Department of State to properly evaluate this proposed information collection.

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