

database and cross-checked for duplicates using name and address matching software. In addition, the use of a digitized photograph will further enhance the Department's anti-fraud capability by permitting facial recognition crosschecking and matching to eliminate multiple applications using false identities. By significantly reducing the amount of fraud to which the existing program is subject, the Department believes it will be helping to eliminate one possible avenue terrorists and other criminal aliens might seek to utilize in order to enter the U.S. Further, because all of the information from all petitions submitted would be stored in a retrievable format, it will also enable the Department to search the database for specific names and faces when asked to do so by intelligence or security agencies.

Cost: The electronic process will be considerably less expensive for the Department to operate than the current procedure. In recent years diversity immigrant program petition submissions have numbered up to thirteen million per year. The cost of receiving, storing and handling this volume of paper documentation has been considerable. In addition to simply opening and sorting this volume of petitions, data taken from the petitions must be entered into the diversity visa database by hand, consuming extensive resources and introducing inevitable human errors that must either be corrected at an additional cost in resources or that eventually will lead to confusion at the time of visa application, resulting in lost time while the truth of the matter is determined. The Department conservatively estimates that the elimination of the paper process can save one million dollars per year by reducing the cost of storage and eliminating the handling of and recording of information from the paper documentation.

Benefit to the petitioners: The new system will benefit the petitioners as well. Currently, under the mail-in system, persons submitting petitions from overseas have no real assurance that the Department will receive their petitions within the prescribed mail-in period. Nor has it been possible to notify them of the receipt of petitions, due to the great volume of submissions. This fact by itself has been an inducement for petitioners to submit multiple petitions in the hope that at least one petition would arrive at the Department in the correct timeframe. An electronic system will guarantee that petitioners are notified of petition receipt virtually simultaneously with the submission of the petition and thus

eliminate the incentive to submit multiple petitions.

Won't Some Potential Petitioners in Less-Developed Countries Be Disadvantaged Due to the Lack of Sufficient Internet Facilities in Those Countries?

The Department believes that the argument that some applicants would be disadvantaged, especially in poorer countries, because they would not have ready access to the necessary computer hardware and software to file a petition electronically is offset, especially after September 11, 2001, by the security advantages and cost-saving of the electronic procedure, as well as the benefit to the petitioners of the certain knowledge of receipt of the petitions by the Department within the prescribed application period. Furthermore, the growing use of Internet cafes and similar resources, even in less developed countries, makes on-line registration increasingly convenient. Those unable to access computers themselves would be able to submit applications with the assistance of computer service providers and third parties, which currently advertise their services for the DV program far and wide and could certainly adapt to the new filing procedures. Likewise, the procedures will be flexible enough to permit stateside computer service providers to receive paper petitions from abroad, which they could use to enter the necessary information into the electronic petition form on behalf of the petitioners. While there may be some risk that a few facilitators would overcharge, the Department's experience with the Diversity Visa Program leads it to the conclusion that brisk competition will likely keep charges from becoming cost-prohibitive for most potential petitioners.

What Other Changes Does the Department Propose Making to the Current Regulation?

In addition to minor grammatical and other changes for clarification, the Department is amending subsection (a)(3) regarding use of the Department of Labor's O*Net Online to determine the sufficiency of a petitioner's work experience where such experience is used to qualify the petitioner for participation in the Diversity Visa Program. Reference to the O*Net Online was added by an interim rule dated August 2, 2002 [67 FR 51752] at which time it was stated that the O*Net Online would be used only for the 2003 Diversity Visa Program. The change will make such use a permanent feature of the Diversity Visa Program. The

Department also has added gender to the list of required items on the new electronic petition form. That information will assist the Department in the use of facial recognition technology in order to more accurately identify individuals for security and other purposes.

Regulatory Findings

Administrative Procedure Act

The immediate implementation of this rule as an interim rule, with a 60-day provision for post-promulgation public comments, is based on findings of "good cause" pursuant to 5 U.S.C. 553(b) and 553(d)(3). The effective date of this rule on August 18, 2003 is necessary to allow the Department to eliminate as quickly as possible the considerable amount of fraud detected in the Diversity Visa Program and thus prevent the program from being used by aliens who could pose a security threat to the United States or otherwise violate the laws of the United States, including the immigration laws. Because diversity visa applicants must be selected far in advance of the actual date of their visa application in order that they have time to obtain the necessary documentation for their application and make arrangements to appear at an embassy or consulate to make the application, delay for notice and comment would jeopardize the Department's ability to successfully conduct the FY 2005 diversity selection, thus extending for another year the program's susceptibility to high levels of fraud. To prevent such a result, the Department has determined that prior notice and public comment on this rule would be impractical and contrary to the public interest. Accordingly, there is good cause to publish this interim rule and to make it effective upon its publication in the **Federal Register**.

Regulatory Flexibility Act/Executive Order 13272: Small Business

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$1 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed