

surcharges related to consular services in support of enhanced border security that are in addition to the passport and immigrant visa fees in effect on January 1, 2004: *Provided*, That funds collected pursuant to this authority shall be credited to this account, and shall be available until expended for the purposes of such account: *Provided further*, That such surcharges shall be \$12 on passport fees, and \$45 on immigrant visa fees.

(Pub. L. 108-447, div. B, title IV, Dec. 8, 2004, 118 Stat. 2896.)

CODIFICATION

Section appears under the headings “Administration of Foreign Affairs” and “Diplomatic and Consular Programs” in title IV of div. B of Pub. L. 108-447. It was enacted as part of the Department of State and Related Agency Appropriations Act, 2005, and also as part of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005, and as part of the Consolidated Appropriations Act, 2005, and not as part of the Enhanced Border Security and Visa Entry Reform Act of 2002 which comprises this chapter.

AUTHORITY TO ADMINISTRATIVELY AMEND SURCHARGES

Pub. L. 109-472, § 6, Jan. 11, 2007, 120 Stat. 3555, provided that:

“(a) IN GENERAL.—Beginning in fiscal year 2007 and thereafter, the Secretary of State is authorized to amend administratively the amounts of the surcharges related to consular services in support of enhanced border security (provided for in the last paragraph under the heading ‘diplomatic and consular programs’ under title IV of division B of the Consolidated Appropriations Act, 2005 (Public Law 108-447) [this section]) that are in addition to the passport and immigrant visa fees in effect on January 1, 2004.

“(b) REQUIREMENTS.—In carrying out subsection (a) and the provision of law described in such subsection, the Secretary shall meet the following requirements:

“(1) The amounts of the surcharges shall be reasonably related to the costs of providing services in connection with the activity or item for which the surcharges are charged.

“(2) The aggregate amount of surcharges collected may not exceed the aggregate amount obligated and expended for the costs related to consular services in support of enhanced border security incurred in connection with the activity or item for which the surcharges are charged.

“(3) A surcharge may not be collected except to the extent the surcharge will be obligated and expended to pay the costs related to consular services in support of enhanced border security incurred in connection with the activity or item for which the surcharge is charged.

“(4) A surcharge shall be available for obligation and expenditure only to pay the costs related to consular services in support of enhanced border security incurred in providing services in connection with the activity or item for which the surcharge is charged.”

SUBCHAPTER II—INTERAGENCY INFORMATION SHARING

§ 1721. Interim measures for access to and coordination of law enforcement and other information

(a) Interim directive

Until the plan required by subsection (c) of this section is implemented, Federal law enforcement agencies and the intelligence community shall, to the maximum extent practicable,

share any information with the Department of State and the Immigration and Naturalization Service relevant to the admissibility and deportability of aliens, consistent with the plan described in subsection (c) of this section.

(b) Report identifying law enforcement and intelligence information

(1) In general

Not later than 120 days after May 14, 2002, the President shall submit to the appropriate committees of Congress a report identifying Federal law enforcement and the intelligence community information needed by the Department of State to screen visa applicants, or by the Immigration and Naturalization Service to screen applicants for admission to the United States, and to identify those aliens inadmissible or deportable under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.].

(2) Omitted

(c) Coordination plan

(1) Requirement for plan

Not later than one year after October 26, 2001, the President shall develop and implement a plan based on the findings of the report under subsection (b) of this section that requires Federal law enforcement agencies and the intelligence community to provide to the Department of State and the Immigration and Naturalization Service all information identified in that report as expeditiously as practicable.

(2) Consultation requirement

In the preparation and implementation of the plan under this subsection, the President shall consult with the appropriate committees of Congress.

(3) Protections regarding information and uses thereof

The plan under this subsection shall establish conditions for using the information described in subsection (b) of this section received by the Department of State and Immigration and Naturalization Service—

(A) to limit the redissemination of such information;

(B) to ensure that such information is used solely to determine whether to issue a visa to an alien or to determine the admissibility or deportability of an alien to the United States, except as otherwise authorized under Federal law;

(C) to ensure the accuracy, security, and confidentiality of such information;

(D) to protect any privacy rights of individuals who are subjects of such information;

(E) to provide data integrity through the timely removal and destruction of obsolete or erroneous names and information; and

(F) in a manner that protects the sources and methods used to acquire intelligence information as required by section 403-3(c)(7) of title 50.¹

¹ See References in Text note below.

(4) Criminal penalties for misuse of information

Any person who obtains information under this subsection without authorization or exceeding authorized access (as defined in section 1030(e) of title 18), and who uses such information in the manner described in any of the paragraphs (1) through (7) of section 1030(a) of such title, or attempts to use such information in such manner, shall be subject to the same penalties as are applicable under section 1030(c) of such title for violation of that paragraph.

(Pub. L. 107-173, title II, §201, May 14, 2002, 116 Stat. 547; Pub. L. 108-177, title III, §377(f), Dec. 13, 2003, 117 Stat. 2631.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsec. (b)(1), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

Section 403-3 of title 50, referred to in subsec. (c)(3)(F), was repealed and a new section 403-3 was enacted by Pub. L. 108-458, title I, §1011(a), Dec. 17, 2004, 118 Stat. 3643, 3655, and subsequently editorially reclassified to section 3025 of Title 50, War and National Defense; as so enacted, subsec. (c)(7) no longer contains provisions relating to the protection of sources and methods used to acquire intelligence information. See section 3024 of Title 50.

CODIFICATION

Section is comprised of section 201 of Pub. L. 107-173. Subsec. (b)(2) of section 201 of Pub. L. 107-173 amended provisions set out as a note under section 1365a of this title. Subsec. (c)(5) of section 201 of Pub. L. 107-173 amended section 1379 of this title.

AMENDMENTS

2003—Subsec. (c)(3)(F). Pub. L. 108-177 substituted “section 403-3(c)(7) of title 50” for “section 403-3(c)(6) of title 50”.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

ENHANCEMENT OF COMMUNICATIONS INTEGRATION AND INFORMATION SHARING ON BORDER SECURITY

Pub. L. 109-13, div. B, title III, §303, May 11, 2005, 119 Stat. 317, provided that:

“(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this division [May 11, 2005], the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology, the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, the Assistant Secretary of Commerce for Communications and Information, and other appropriate Federal, State, local, and tribal agencies, shall develop and implement a plan—

“(1) to improve the communications systems of the departments and agencies of the Federal Government in order to facilitate the integration of communications among the departments and agencies of the Federal Government and State, local government agencies, and Indian tribal agencies on matters relating to border security; and

“(2) to enhance information sharing among the departments and agencies of the Federal Government, State and local government agencies, and Indian tribal agencies on such matters.

“(b) REPORT.—Not later than 1 year after implementing the plan under subsection (a), the Secretary shall submit a copy of the plan and a report on the plan, including any recommendations the Secretary finds appropriate, to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science [now Committee on Science, Space, and Technology], the House of Representatives Committee on Homeland Security, and the House of Representatives Committee on the Judiciary.”

§ 1722. Interoperable law enforcement and intelligence data system with name-matching capacity and training

(a) Interoperable law enforcement and intelligence electronic data system

(1) Requirement for integrated immigration and naturalization data system

The Immigration and Naturalization Service shall fully integrate all databases and data systems maintained by the Service that process or contain information on aliens. The fully integrated data system shall be an interoperable component of the electronic data system described in paragraph (2).

(2) Requirement for interoperable data system

Upon the date of commencement of implementation of the plan required by section 1721(c) of this title, the President shall develop and implement an interoperable electronic data system to provide current and immediate access to information in databases of Federal law enforcement agencies and the intelligence community that is relevant to determine whether to issue a visa or to determine the admissibility or deportability of an alien (also known as the “Chimera system”).

(3) Consultation requirement

In the development and implementation of the data system under this subsection, the President shall consult with the Director of the National Institute of Standards and Technology (NIST) and any such other agency as may be deemed appropriate.

(4) Technology standard

(A) In general

The data system developed and implemented under this subsection, and the databases referred to in paragraph (2), shall utilize the technology standard established pursuant to section 1379 of this title.

(B) Omitted

(5) Access to information in data system

Subject to paragraph (6), information in the data system under this subsection shall be readily and easily accessible—

(A) to any consular officer responsible for the issuance of visas;

(B) to any Federal official responsible for determining an alien’s admissibility to or deportability from the United States; and

(C) to any Federal law enforcement or intelligence officer determined by regulation