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IMMIGRATION
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ASSOCIATION

July 7, 2026

U.S. Department of State
Resource Management Unit
Bureau of Consular Affairs (CA/RMU)
SA-17 8th Floor
Washington, DC 20522-1707

Submitted via: <http://www.regulations.gov>

RE: Schedule of Fees for Consular Services; Temporary Final Rule Establishing \$750 Nonimmigrant Visa Appointment Expedite Fee (Docket Number: DOS-2026-0727; RIN 1400-AG13; Public Notice 13003)

To Whom it May Concern:

The American Immigration Lawyers Association (AILA) submits the following comments in response to the Department of State's (DOS) Temporary Final Rule ("TFR" or "rule") amending the Schedule of Fees for Consular Services, 22 CFR 22.1, to establish a \$750 "Nonimmigrant Visa Appointment Expedite Fee" pilot program for business and tourism B1/B2 nonimmigrant visa applicants at selected posts.¹

Established in 1946, AILA is a voluntary bar association of more than 18,000 attorneys and law professors practicing, researching, and teaching in the field of immigration and nationality law. AILA's mission includes the advancement of the law pertaining to immigration and nationality, and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, U.S. lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration law, including those who appear at U.S. Consulates. Our members' collective expertise and experience make us especially well-qualified to offer comments on consular fee and processing changes that affect access to U.S. visas. We therefore appreciate the opportunity to comment on the TFR establishing a \$750 fee for an expedited B1/B2 nonimmigrant visa interview appointment.

There is no doubt that current visa interview wait times present a significant challenge for visa applicants hoping to obtain permission to enter the United States within a reasonable period of time, with some consular posts scheduling as far out as a year or more. As a result, the demand for expedited visa appointments has increased. However, that is not sufficient reason to pass the cost of DOS's delays to applicants, particularly when other measures to reduce delays without sacrificing security are available. DOS faced similar challenges with wait times during and after the COVID-19 pandemic. In response to those challenges, DOS expanded the interview waiver program and encouraged acceptance of third-country nationals to apply at consular posts that offered greater interview availability than those of their country of nationality. The current administration scaled back those ameliorative efforts, expanding reliance on in-person consular interviews at many posts. Instead of reinstating those previous (and by all

¹ 91 Fed. Reg. 34768 (Jun. 9, 2026).

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accounts successful) efforts to reduce wait times, the administration seeks to introduce a premium fee to expedite visa interviews for B1/B2 applications at certain consular posts.

AILA recognizes that some visa applicants and their employers will welcome a mechanism to obtain earlier B1/B2 interview appointments. At the same time, the proposal raises significant concerns regarding capacity, equity, and compliance with the statutory requirement at 31 U.S.C §9701 that user fees be tied to the cost of the service provided. AILA urges DOS to reconsider the structure and level of this fee, to reinstate measures for efficient visa processing, to adopt safeguards for humanitarian and urgent cases, and to commit to transparent evaluation of the pilot before any permanent or expanded implementation.

Below, AILA offers specific comments and recommendations.

Program Design and Capacity

Under the TFR, B1/B2 applicants at designated posts may pay an additional \$750 per person, on top of the \$185 Machine-Readable Visa (MRV) fee and any reciprocity fees, to obtain an interview appointment “within ten business days” of payment, subject to availability and a cap on expedited slots as a percentage of total interviewing capacity.² The rule expressly states that the program “does not increase adjudicatory capacity; it merely provides an additional route to obtaining an appointment.”³

From a capacity and queue-management perspective, this acknowledgement is critical. Consular posts operate with finite daily interview capacity. They typically balance:

- Regularly scheduled appointments booked through the MRV system;
- A limited number of discretionary expedited slots for humanitarian, urgent, or national-interest cases; and
- Unpredictable surges due to local conditions or special events.

In this context, an expedited appointment given to an applicant who pays \$750 is, in practice, drawn from the same finite pool of appointments that would otherwise serve standard applicants or no-fee expedite cases. The TFR states that expedited appointments will be “capped at a percent of selected posts’ overall interviewing capacity” and asserts that the pilot “will not meaningfully affect wait times for nonimmigrant visa appointments for all other applicants.” However, the rule provides no data or modeling to support this assertion. In addition, the rule makes clear that expedited appointments will be offered only at selected posts. Because the program reallocates a finite number of interview slots rather than expanding overall adjudicative capacity, it may shift existing resources toward fee-paying applicants without reducing overall backlogs. To the extent posts must reserve interview capacity for premium appointments, the program risks prolonging wait times for standard applicants rather than alleviating them. AILA notes that although the new fee was scheduled to take effect on July 1, 2026, as of July 7, 2026, DOS has not identified which consulates will be processing the expedited cases per the TFR. Given the lack of that information, AILA cannot fully comment on the impact of the new fee. To ensure that the pilot does not inadvertently worsen access for the majority of applicants, AILA recommends that DOS:

- Publish, to the extent feasible, the percentage of daily interview capacity that will be allocated to paid expedited appointments at each pilot post and the assumptions underlying those caps.
- Provide estimates of the impact on median and upper end wait times for non-expedited applicants at representative posts under a range of demand scenarios (for example, low, medium, and high uptake of the paid expedite option).

² 91 Fed. Reg. 34768 (Jun. 9, 2026).

³ 91 Fed. Reg. 34771 (Jun. 9, 2026).

- Commit to operational guardrails, such as temporarily reducing or suspending expedited fee appointments at any post where non-expedited wait times exceed specified thresholds for a sustained period.

Given that the TFR explicitly anticipates periods where wait times at some posts exceed 12 months, careful management of this pilot is essential to avoid deepening existing backlogs for applicants who cannot pay the additional fee.

Humanitarian and Urgent Travel

AILA agrees that current expedite request mechanisms are resource-intensive and require case-by-case review by post.

However, establishing a high-cost, fee-based expedite track raises serious concerns about the treatment of humanitarian, family-based, and other urgent but lower-income cases. By design, the new service allows applicants to move to the front of the line “by paying a \$750 fee without providing a written justification or seeking personal intervention” through the existing expedite processes. The TFR further anticipates that “the demand for, and potential for fraud and malfeasance in, urgent humanitarian expedite cases will concurrently (and temporarily) increase,” and asserts without any foundation, that “most requests for no-fee expedites will be denied.”⁴

AILA is concerned that, in practice, the existence of a high-priced fee option may:

- Create formal or informal pressure to reserve scarce expedite capacity for those who can pay, reducing the willingness of consular managers to grant no-fee humanitarian or urgent expedites even where criteria are technically met.
- Encourage a “pay to play” culture in which officers and applicants alike view payment of the expedite fee as the primary path to faster access, relegating deserving humanitarian and family-unity cases to longer waits unless they can pay.
- Increase the risk that applicants with limited means will be disadvantaged relative to wealthier travelers, even when their underlying urgency (for example, a medical emergency, funeral, or other family crisis) is compelling.

AILA’s experience with USCIS Premium Processing illustrates a well-documented operational risk. Many AILA members report being forced to file cases with a request for premium processing, as regular processing times become increasingly longer and untenable. Premium adjudications actively compete for the finite USCIS adjudicatory resources, therefore the operational urgency of premium processing-based workloads risks crowding out other cases. We are concerned that a similar dynamic could arise in the consular context, with a greater impact on no fee humanitarian expedite requests, leaving the most vulnerable applicants at the back of a queue shaped by ability to pay rather than need.

AILA therefore recommends that DOS:

- Explicitly reaffirm, in the final rule and in implementing guidance, that humanitarian and mission-critical no-fee expedites remain available and that the existence of a paid expedite option cannot be used as a basis to deny or disfavor unpaid expedite requests.
- Require pilot posts to reserve a minimum number or percentage of daily expedited slots exclusively for no-fee humanitarian and urgent national-interest cases, irrespective of applicants’ ability to pay the \$750 fee.

⁴ 91 Fed. Reg. 34770 (Jun. 9, 2026).

- Collect and, to the extent consistent with security, publish data during and after the pilot on the number of no-fee expedited requests received and granted, disaggregated from paid expedite usage, so that stakeholders can assess whether humanitarian access is being eroded.

Equity and Disparate Economic Impact

The TFR acknowledges that the \$750 fee is “significant,” but concludes that it is justified because it reflects the estimated cost of the service as calculated in the Cost of Service Model (CoSM). The rule does not, however, address the fee’s real-world impact on applicants from countries where \$750 may far exceed average monthly income, or on family members, students, and small business travelers who cannot easily absorb such a cost.

In AILA members’ experience, many B1/B2 applicants who have urgent but legitimate travel needs—such as caregiving for a seriously ill relative, attending a funeral, or addressing an urgent business matter for a small or medium-sized enterprise—are price-sensitive. For these applicants, a \$750 per-person fee on top of the MRV fee and associated costs will be prohibitive. As a result, the primary beneficiaries of this program are likely to be:

- Large corporate travelers and higher-net-worth individuals; and
- Applicants from higher-income countries or socioeconomic strata.

AILA appreciates that cost-based statutes and OMB Circular A-25 focus on the cost to the government and the special benefit conferred, not on applicants’ ability to pay. Nonetheless, Executive Order 12866 and sound regulatory practice contemplate that agencies will examine whether benefits and burdens will fall disproportionately on particular populations. A high flat fee of this magnitude risks creating or exacerbating inequities in access to timely consular services, measured by an applicant’s ability to pay for the expedite.

AILA recommends that DOS:

- Conduct and publish a distributional impact assessment of the fee, including comparisons of the \$750 charge to median monthly incomes in high-volume B1/B2-sending countries, and an analysis of likely utilization by region and applicant profile.
- Consider whether a lower expedited fee could cover the marginal cost of the service, particularly if scaled or tiered in light of local economic conditions.
- Explore whether waivers or reduced fees are feasible in clearly defined categories, such as certain family-unity or small-business emergencies, while still respecting cost-recovery principles.

Legal Authority and Cost Justification

The TFR grounds the new fee primarily in 31 U.S.C. 9701 and 22 U.S.C. 4219, implemented through 22 CFR 22.1 and justified via the CoSM activity-based costing methodology. AILA does not dispute that DOS has general authority under these provisions to establish cost-based user fees for consular services. Our concern is whether the \$750 charge, as described, is reasonably tied to the incremental cost of the specific service offered.

The TFR explains that:

- Existing costs for managing no-fee expedite processes are currently built into the MRV fee.
- The new fee’s cost estimate is “predicated on a projected capacity of approximately 25,000 expedite requests.”
- The “bulk of the costs” are associated with appointment management, strategic adjustments, special event preparedness, and other system-wide activities.

Many of the listed cost elements—such as global planning for special events, adjustments in staffing, and fraud prevention related to no-fee expedite requests—appear to benefit or affect the entire appointment system, not just the subset of applicants who pay the expedite fee. If costs that are general to appointment management are allocated primarily or exclusively to the new expedited service, there is a risk that the fee over-recovers relative to the marginal cost of serving that subset of applicants, particularly where overall adjudicative capacity is unchanged.

Moreover, the TFR does not address what happens if an applicant pays the expedited fee, but DOS is unable to meet the expedited timeline. As a comparison, USCIS regulations for premium processing require the fee to be refunded if the expedited timeline is not met.⁵

To address these concerns, AILA recommends that DOS:

- Provide, in the administrative record and, as feasible, in public-facing materials, greater transparency into how CoSM separated:
 - Costs unique to paid expedited appointments (for example, specific IT modifications, additional staffing dedicated solely to managing the expedited queue); from
 - Costs that are general to NIV queue management and special-event planning
- Clarify whether, and to what extent, the \$750 fee is intended to cover costs previously borne by the MRV fee, such that expedited payers effectively subsidize broader system costs.
- Reassess whether a lower fee could lawfully satisfy cost-of-service requirements if common costs were allocated proportionately across all NIV applicants, rather than attributed disproportionately to the expedited group.
- Establish a mechanism to refund the fee if the expedited timeline is not met.

Program Evaluation and Future Expansion

The TFR presents the expedited fee as a “proof-of-concept” pilot, effective July 1, 2026, through December 31, 2026, and indicates that DOS will analyze pilot data to decide whether to continue, modify, or expand the service. AILA appreciates the pilot framing and the time-limited nature of the TFR but believes more explicit commitments to evaluation and public input are warranted.

AILA recommends that DOS:

- Specify the metrics it will use to evaluate the pilot, including:
 - Uptake rates for the expedited fee, by country and post;
 - Impact on non-expedited appointment wait times;
 - Changes, if any, in utilization and approval rates of no-fee expedites; and
 - Evidence of fraud or misuse.
- Commit to publishing a summary report of pilot outcomes, with aggregated data, before initiating any new rulemaking to extend, modify, or expand the expedited fee beyond the pilot period.
- Provide an opportunity for notice-and-comment rulemaking on any proposal to make the expedited fee permanent, expand it to additional posts, or extend it to other visa categories.

More Effective Alternatives: Interview Waivers, Stateside Renewals, and TCN Appointments

AILA urges DOS to prioritize policy tools that reduce demand on scarce in-person interview slots rather than creating a high-cost expedited appointment track. To the extent legally permissible, DOS should expand interview-waiver eligibility for qualified B-1/B-2 applicants and consider restoring or expanding stateside renewal options for additional visa categories and issuance posts. AILA has previously supported the domestic visa renewal pilot and urged DOS to make it permanent and expand eligibility,

⁵ 8 CFR 106.4(f)(4).

noting that renewing visas in the United States provides certainty for applicants and employers while allowing consular posts to dedicate resources to cases that truly require in-person interviews. Those types of reforms would address the underlying capacity problem directly. By contrast, the new expedited fee merely reallocates scarce appointments within the same system and risks disadvantaging applicants who cannot pay.

AILA also encourages DOS to more broadly permit third-country national (TCN) appointments where operationally feasible. Expanding access to TCN appointments could help relieve pressure on overloaded posts and provide a practical, low-cost way to improve appointment availability without creating a new pay-to-prioritize system. To the extent DOS is concerned about capacity constraints, expanding TCN appointment availability is a more equitable and efficient solution than requiring applicants to pay a \$750 fee to move ahead in a constrained queue.

Conclusion

To summarize, AILA is concerned that the \$750 expedited B1/B2 appointment fee, as currently structured, risks creating a two-tier system where those with greater financial means can buy faster access to a finite pool of consular appointments, potentially to the detriment of other applicants, including those with humanitarian and urgent needs. We are also concerned that the cost basis for the fee, as described, may not fully distinguish between general appointment-management costs and the marginal costs of providing this particular service.

We recognize DOS's need to manage significant visa demand and to plan for major international events, and we appreciate the Department's efforts to explore new approaches through time-limited pilots. We believe, however, that the pilot should be refined to better protect equitable access, preserve humanitarian channels, and transparently demonstrate compliance with cost-of-service principles, and that pre-existing programs such as stateside renewals, interview waivers, and third country national flexibility would be more equitable and efficient.

AILA appreciates the opportunity to comment on this TFR, and we look forward to a continued dialogue with DOS on issues concerning visa fees, consular capacity, and access to timely adjudication. If you have any questions, please contact Sharvari (Shev) Dalal-Dheini, Senior Director of Government Relations at (202) 507-7621 or by email at SDalal-Dheini@aila.org.

Sincerely,

The American Immigration Lawyers Association