

Amanda E. Smith  
Managing Director for Passport Support Operations  
Bureau of Consular Affairs, Passport Services, Department of State.

March 17, 2025

**RE: Trans Legal Aid Clinic of Texas (“TLACT”) Comment in Opposition to Proposed Changes in DS-11 U.S. Passport Application [Public Notice 12665]; DS-5504 Name Change & Corrections [Public Notice 12580]; and DS-82 Passport Renewal [Public Notice 12582].**

Dear Director Smith,

Trans Legal Aid Clinic of Texas (“TLACT”) welcomes the opportunity to submit comments in response to the State Department's Federal Register Notices of February 14, 2025 (for form DS-11: Application for a U.S. Passport) and February 18, 2025 (for forms DS-82: U.S. Passport Renewal Application for Eligible Individuals and DS-5504: Application for a U.S. Passport for Eligible Individuals: Correction, Name Change to Passport Issued 1 Year Ago or Less, and Limited Passport Replacement) (collectively, the “Federal Register Notices”), all pursuant to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.* (the “PRA”).

TLACT is a nonprofit organization that provides free legal services to transgender and gender non-conforming individuals who were born or live in Texas seeking to update their name and gender markers on identity documents. Our work includes helping individuals prepare and file legal petitions for name changes, navigating administrative processes to update gender markers on state identification cards, driver’s licenses, birth certificates, and federal documents including passports and Social Security records. In 2024 alone, TLACT’s clinics served more than 1,400 Texans seeking assistance with these critical identity document updates.

TLACT strongly opposes the proposed changes to forms DS-11, DS-5504, and DS-82, which replace the term “gender” with “sex” and require passport applicants to provide their “biological sex at birth, male ‘M’ or female ‘F’” while also removing the option for applicants to select an “X” gender marker.

The purpose of this comment is to highlight the specific and substantial burdens these changes impose on legal service organizations like TLACT that assist transgender and gender non-conforming individuals with identity document updates. These organizational burdens have been entirely overlooked in the State Department's burden analysis, yet they represent significant costs that should be accounted for under the PRA.

While TLACT remains fully committed to providing essential legal services to transgender and nonbinary Texans, including legal assistance with their identity documents notwithstanding the harmful changes to the forms and underlying policies being proposed by the State Department, the PRA explicitly requires federal agencies to account for *all* burdens their information collection imposes. The State Department's proposed changes would significantly increase the organizational burden on TLACT and similar legal service providers nationwide, yet its PRA

analysis fails to acknowledge or quantify these impacts. This omission is not merely a technical oversight; it represents a fundamental failure to comply with the statutory requirements of the PRA.

TLACT's individual organizational costs detailed in this submission are TLACT's best estimate of the individual burdens imposed by the proposed changes to the passport forms and policies. The State Department's mandatory analysis under the PRA should have accounted for multiplying these burdens across hundreds of similarly situated legal aid organizations, LGBTQ+ community centers, law school clinics, and pro bono programs nationwide that, like TLACT, assist and advise transgender, nonbinary, and gender non-conforming individuals with updating their identity documents. The State Department's failure to account for these organizational burdens in its PRA analysis thus significantly understates the true national impact of the proposed changes, which likely reaches into the tens of millions of dollars annually in legal services, resource development, training, and administrative coordination costs. This systemic underestimation of burden violates both the letter and spirit of the PRA, which requires comprehensive assessment of all information collection costs.

## **I. The State Department Has Failed to Consider Organizational Burdens Under the PRA**

The Paperwork Reduction Act requires federal agencies to conduct a thorough analysis of the “time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency.” 44 U.S.C. § 3502(2). This burden analysis must account for both direct costs to individual respondents and indirect costs to organizations that assist respondents with completing federal forms.

Despite making substantive changes to passport forms DS-11, DS-5504, and DS-82, the State Department has failed to adjust its burden estimates or conduct any additional burden analysis whatsoever regarding the impact on legal service organizations like TLACT. The burden analysis contained in the Federal Register Notices simply restates the State Department's prior burden estimates, thus ignoring the significant downstream burdens imposed on nonprofit organizations like TLACT that provide assistance to transgender and nonbinary individuals who must navigate complex identity document processes.

The failure to account for the burden imposed on organizations like TLACT represents a significant methodological flaw in the State Department's PRA analysis. A proper analysis would quantify the substantial increased time and financial burdens these changes impose on legal service providers, including:

1. Additional attorney staffing hours needed to meet the dramatic surge in demand caused by the proposed policy;
2. Additional direct clinic attendee assistance time required to explain the new requirements and their implications;
3. Development of new guidance materials, training resources, and community education sessions;
4. Increased and ongoing coordination with other legal services organizations engaging in this work.

As detailed below, these organizational burdens are substantial, quantifiable, and directly attributable to the proposed form changes.

## **II. Direct Service Impact on TLACT**

TLACT has experienced an overwhelming increase in service demands directly attributable to recent changes in identity document policies. In 2024, TLACT assisted approximately 1,430 individuals seeking assistance relating to their identity documents.

Following media speculation about upcoming changes to federal policies relating to passports, TLACT had nearly 500 participants attend its December 2024 clinics alone. The dramatic increase in clinic attendance that TLACT saw in December 2024 mirrors the increase in queries that TLACT experienced following Texas state policy changes regarding name and gender marker updates in late August 2024.

From January 2024 to August 2024, TLACT's average monthly participant count was 78 individuals. But in the months of September through December 2024, TLACT assisted over 800 participants, representing a 156.4% increase in monthly service demand that TLACT believes is directly attributable to the Texas state policy changes (in August 2024) and anticipated federal policy changes.

In 2025, TLACT is currently experiencing a similar surge in service demands. This surge in demand for TLACT's legal services represents a quantifiable burden that the State Department has failed to acknowledge or account for in its PRA analysis.

Based on our clinic attendance patterns, before the changes to state and federal policies, approximately 35% of our baseline participants specifically sought assistance with passport-related concerns. However, following policy changes and increased public attention to passport requirements, we anticipate this percentage will increase to at least 50% of all participants.

While TLACT has adapted to meet this increased demand, the PRA explicitly requires agencies to account for these organizational burdens when making substantive form changes.

## **II. Resource Development and Education Costs**

Each policy change at the state or federal level requires TLACT to update its resources, including written guides and video materials. Between 2015 and 2023, these changes were minimal, requiring infrequent updates. However, between 2024 and February 2025 alone, TLACT has had to undertake at least six substantive overhauls of its resources to keep pace with shifting policies and guidance.

Additionally, TLACT has had to organize and host numerous information sessions—both virtually and in person—to address questions about identity document policy changes. These information sessions were attended by over 1,000 people in 2024 and required collaboration with other nonprofits including Equality Texas, Lambda Legal, and the ACLU of Texas. These efforts

utilized significant time and resources from TLACT, the other aforementioned organizations, and other small nonprofits like the Black Trans Advocacy Coalition.

These resource development and community education costs are direct consequences of policy changes like those proposed in the Federal Register Notices. Yet the State Department has made no attempt to quantify these costs in its burden analysis, either.

### **III. Pro Bono Attorney Time and Organizational Resources**

To meet the increased demand, TLACT has had to significantly expand its clinic offerings. Beginning in 2024, TLACT offered at least three clinics per month—two virtual and one in-person. Staffing these clinics required the service of over fifty different volunteer attorneys. Volunteer attorneys must be trained on the new identity document policies. These clinics take significant time and resources to prepare for, host, and follow up with the participants.

An estimated 900 pro bono attorney hours were spent preparing for these clinics, including drafting resource guides, preparing video resources, and creating infographics. An estimated 500 pro bono attorney and non-attorney hours were spent completing administrative clinic tasks such as replying to emails from participants, recruiting and training additional volunteer attorneys, and organizing the clinics. The State Department's burden estimates make no attempt to quantify these costs in its burden analysis, either.

### **IV. Projected Organizational Burden Over the Next 12 Months**

My hourly rate for the performance of legal services is \$250, which is an appropriate hourly rate for an attorney with my experience and practice in Harris County, Texas. I have been admitted to practice law in the state of Texas since 2019. My experience and qualifications are detailed in my resume, a copy of which is attached hereto as Exhibit A. I therefore estimate that the legal services necessary to bear the burdens caused by the changes to the passport forms will be performed at a rate of \$250 an hour.

I believe the burden imposed on TLACT will represent a value of approximately \$725,000 in legal services in 2025. This substantial commitment of resources is necessitated in large part by the complexity of navigating identity document policies—a complexity that would be exacerbated by the proposed changes to the passport forms.

I have arrived at this estimate by the following calculation:

1. Increased Passport-Specific Caseload: Approximately 35% of TLACT's clinic participants have historically sought passport-related assistance. With projected increases to 200 participants/month, TLACT would provide passport assistance to 840 individuals per year. At approximately 1 hour of passport-specific advice for these individuals, this represents a value of approximately \$210,000 in 2025.
2. Additional Direct Clinic Attendee Service Burden: As discussed above, as a result of anticipated policy changes, TLACT has experienced a surge in demand, from an average

of 78 clinic participants per month to 200 per month for its September 2024 to December 2024 clinics. Extrapolating this surge results in an estimate of an additional 122 participants per month, or an additional 1,464 participants per year. TLACT currently spends approximately 1.2 hours of direct attorney time per participant, meaning that the burden imposed on TLACT from these additional clinic participants is 1,757 hours, representing a value of approximately \$439,250 in 2025.

3. Resource Development Burden: Policy changes at the state and federal level require TLACT to spend additional time updating resources, including but not limited to preparing for clinics, drafting resource guides, preparing video resources, and creating infographics. As detailed below, this involves:
  - a. Creating updated written materials for the passport form changes will require approximately 40 hours of attorney time;
  - b. Developing new video training resources will require approximately 25 hours;
  - c. Designing updated infographics and visual aids will require approximately 15 hours; and
  - d. Revising internal clinic procedures will require approximately 20 hours.

In total, these resource development activities will require approximately 100 additional attorney hours specifically attributable to the passport form changes, representing a value of approximately \$25,000. Moreover, attorneys volunteering at clinics must review these training materials before assisting participants, which creates a cascading time burden across our volunteer attorney network.

4. Training Burden: The State Department's changes to the forms also impose a burden on TLACT from training the pro bono attorneys who staff our clinics. TLACT had over 50 volunteer attorneys staff its clinics in 2024, and anticipates that to meet the burdens described above it will have to increase the number of volunteer attorneys. If 100 volunteer attorneys must be thoroughly trained on the new passport requirements, with each attorney spending approximately 2 hours of time reviewing materials and attending the training, the additional burden would be 200 hours of attorney time representing a value of approximately \$50,000. This training is essential, as insufficiently prepared attorneys could provide incorrect advice that might jeopardize a clinic attendee's ability to obtain proper identification documents, potentially affecting their ability to travel, work, or access government services.

In total, we project that the State Department's proposed form changes will impose approximately \$725,000 in burden on TLACT over the next 12 months. These substantial costs represent exactly the type of burden that the PRA requires agencies to identify, minimize, and account for, yet the State Department has made no attempt to quantify any of this burden in its analysis.

TLACT is only one legal service organization operating in Texas; the State Department made no attempt to assess the burden on similar organizations performing these services throughout the country, with the aggregate national burden likely reaching into the tens of millions of dollars

across the hundreds of legal aid organizations, LGBTQ+ centers, and community clinics that provide identity document assistance nationwide.

#### **IV. Additional Procedural Concerns Under the PRA**

Beyond the significant organizational burdens outlined above, TLA CT has serious concerns about the State Department's compliance with the Paperwork Reduction Act. The State Department has failed to follow mandatory notice requirements by not issuing new 60-day notices for its substantive changes to the passport forms, despite the fact that these changes represent material modifications that require a full notice and comment period. None of the statutory exceptions in the PRA allow the State Department to take this administrative shortcut.

Furthermore, the State Department has disregarded its mandatory obligations by failing to conduct any additional analysis estimating the time and cost burden for the proposed data collection. The analysis fails to account for the differential impact on transgender and nonbinary applicants, who will face substantially increased time and financial burdens due to these changes. The analysis also fails to account for increased agency processing costs and secondary burdens on state agencies, other federal agencies, and private entities.

#### **V. Conclusion**

The State Department's proposed changes to forms DS-11, DS-5504, and DS-82 would impose significant and unaccounted-for burdens on organizations like TLA CT that provide direct services to transgender and gender non-conforming individuals. These burdens include increased service demands, resource development costs, and substantial pro bono attorney time.

The State Department's failure to account for these organizational burdens in its PRA analysis represents a significant methodological flaw that understates the true costs of the proposed changes. A proper burden analysis would quantify these organizational impacts and consider them alongside the direct burdens on individual applicants.

By failing to account for these quantifiable organizational burdens, the State Department has not only underestimated the true costs of its proposed changes but has also failed to fulfill its statutory obligation under the PRA to minimize the burden of its information collection on both individuals and the organizations that support them.

For these reasons, and for the other deficiencies outlined above, TLA CT urges the State Department to eliminate the burden by reverting these changes to the passport forms and policy that will inflict harm and burden upon transgender and nonbinary travelers and organizations like TLA CT that support them. In the alternative, the State Department should comply with its legal obligations pursuant to the PRA and conduct a proper revision to the collection of information under the law, including the requisite notice and comment periods and a comprehensive burden analysis that accounts for organizational impacts.

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# EXHIBIT A

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# PETE A. MAKOPOULOS-SENFTLEBER

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## PROFESSIONAL EXPERIENCE

### **Lone Star Legal Aid, Houston, Texas**

*Staff Attorney, Medical Legal Partnership*

August 2021-Present

- Organize and present trainings to medical staff to increase patient referrals.
- Represent clients in an array of civil legal matters including Medicaid appeals, divorces, landlord-tenant disputes, employment law claims, and guardianships before administrative agencies, Texas state and federal courts, and other forums.
- Analyze patient information to issue spot and provide appropriate legal help.
- Advise clients on civil legal issues and provide pro se resources when needed.

### **Texas Pride Impact Funds, Dallas, Texas**

*Member, Board of Directors*

May 2022-Present

- Attend board meetings, make strategy recommendations, and vote on relevant measures for growing grant making organization supporting LGBTQ+ Texans.
- Create and execute marketing and communications policies for expansion.

### **Minces Rankin PLLC (formerly Minces PLLC), Bellaire, Texas**

*Attorney*

November 2019-August 2021

*Legal Analyst*

August 2015 - October 2019

- Conducted intake interviews of potential new clients for boutique employment and commercial litigation law firm handling plaintiffs' and defense work.
- Consulted with clients and assessed claims and recourse under the Fair Labor Standards Act, Americans with Disabilities Act, ERISA, Title VII, Family Medical Leave Act, Age Discrimination in Employment Act, contract, and tort law.
- Provided legal advice regarding general employment law matters and compliance to small, mid-size, and large companies.
- Researched relevant legal authority for use in demand letters, litigation, communications with opposing counsel, and general inter-office reference.
- Drafted engagement letters, motions, pleadings, Equal Employment Opportunity Commission charges of discrimination, demand letters, contracts, employment documents, and correspondence with opposing counsel and clients.
- Managed individual litigation docket and kept collaborative cases on track.
- Assisted in trial in state and federal courts, and final hearings in arbitration.
- Prepared for and represented clients in EEOC and private mediations.
- Attended state and federal court hearings and Texas Workforce Commission unemployment hearings.
- Maintained billing records including IOLTA account records and ensured proper billing practices for use in litigation.



**Trans Legal Aid Clinic of Texas, Houston, Texas**

*Board President*

June 2019 – Present

*Volunteer*

May 2017 – June 2019

- Assist clinic attendees by drafting and reviewing petitions and proposed orders to obtain name and gender marker changes in Travis County District Court.
- Counsel clinic attendees regarding required documentation and the petition filing process.
- Direct board members to implement and organize new clinic initiatives.
- Represent the clinic at conferences and maintain social media presence.
- Create written and audio-visual materials for use by clinic participants and other pro se individuals and attorneys across the state of Texas.

**Starbucks Coffee Company, Bellaire, Texas**

*Shift Supervisor*

June 2014 – November 2016

- Managed team of 8 to 14 employees to effectively run day-to-day operations.
- Executed store orders and reviewed compliance with company health, safety, and other guidelines.

**EDUCATION**

**University of Houston Law Center, Houston, Texas**

May 2019

*Juris Doctor, GPA: 3.05*

- Houston Young Lawyers Association, Member
- Evening Law Students Association, Member
- Sports and Entertainment Law Organization, Member

**University of Central Florida, Orlando, Florida**

May 2014

*Bachelor of Arts in Political Science, GPA: 3.84*

- Junior Achievement Program Mentor

**SPEAKING ENGAGEMENTS**

**Houston Public Media, Houston Matters Special Edition**

June 2020

Discussion regarding *Bostock v. Clayton County*, and consolidated cases, interpreting the contours of Title VII of the Civil Rights Act.

**OutSmart Magazine**

July 2020

Interview outlining the work of Trans Legal Aid Clinic Houston (now d/b/a Trans Legal Aid Clinic Texas).

**Lone Star College, Trans Rights ReadUp Event**

November 2020

Presentation among a panel of trans advocates to analyze the impact of technology, especially during COVID-19, on law and public policy, and field student questions.

**Houston Public Media, Town Square**

May 2021

Conversation about pending Texas Senate and House bills impacting transgender and non-binary people.

**Lambda Legal, CLE – What Practitioners Need to Know: Securing Identity Documents for Your Transgender Clients**

August 2022

CLE webinar hosted by Lambda Legal and joined by the Fair Courts Project mapping out the legal process for identity document corrections in Texas.

**Houston Public Media, Town Square**

March 2022

Discussion regarding Transgender Day of Visibility and recent legislative and executive actions in Texas and beyond that touch the lives of transgender people.

**REPRESENTATIVE EXPERIENCE**

- Obtained all attorney's fees, costs, and arbitration expenses on behalf of two individual defendants and a corporate defendant in a \$45 million complex commercial arbitration involving claims of breach of contract, breach of fiduciary duty, conversion, fraud, and fraud in the inducement.
- Procured an arbitration award in favor of my client – an individual defendant – dismissing nine causes of action seeking damages in excess of \$4.5 million against my client and awarding my client over half a million dollars in damages for his counterclaims against an individual business owner and two business entities jointly and severally.
- Secured summary judgment for client in six-figure breach of contract case in Harris County District Court.
- Negotiated an agreed judgment against three defendants, on the eve of trial in Harris County District Court, for delivery of product plus attorney's fees for client who was defrauded of over \$30,000 worth of product.
- Assisted (as a paralegal) in a collective action Fair Labor Standards Act case in federal court and recovered 100% of all plaintiffs' unpaid overtime compensation. Later (as an attorney) prepared appellate briefing and oral argument materials which lead to the judgment being affirmed by the Fifth Circuit Court of Appeals.
- Awarded summary judgment dismissing all counterclaims asserted against client in Harris County District Court.
- Procured cause finding from the EEOC on client's behalf and ultimately settled her case pre-suit based on this cause finding.
- Asserted breach of contract and related alternative causes of action in a divorce proceeding in Harris County District Court, which resulted in a settlement providing for recovery of over 135% of client's monetary damages, plus all other non-monetary terms the client requested in the divorce, including a permanent injunction.

**SKILLS AND INTERESTS**

Avid concert attendee, espresso enthusiast, and audiophile, amateur new American and Greek cuisine chef, home beer brewer.