

August 2004

BORDER SECURITY

Consular Identification Cards Accepted within United States, but Consistent Federal Guidance Needed



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Highlights

Highlights of [GAO-04-881](#), a report to Congressional Requesters

Why GAO Did This Study

Several state and local government agencies and financial institutions accept consular identification (CID) cards, which are issued by foreign governments to their citizens living abroad. Mexico issued more than 2.2 million CID cards in 2002-2003 and Guatemala issued approximately 89,000 from mid-2002 to 2003. Critics of CID cards say their acceptance facilitates the unlawful stay within the United States of undocumented aliens and may provide opportunities for terrorists to remain undetected in this country.

GAO examined (1) the purpose of a CID card and how Mexican and Guatemalan CID cards are being used in the United States, (2) steps Mexico and Guatemala have taken to verify the identities of CID card applicants and incorporate security features in CID cards now used in the United States, and (3) the positions and policies of federal agencies regarding CID cards.

What GAO Recommends

GAO recommends that the Homeland Security Council direct its task force to issue consistent guidance that would enable state and local governments and other institutions to assess the authenticity of foreign-issued CID cards. The Homeland Security Council declined to comment on this report. The Department of Homeland Security generally agreed with the report but offered some suggestions for clarifying the administration's position and practice.

www.gao.gov/cgi-bin/getrpt?GAO-04-881.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Laurie Ekstrand at (202) 512-2758 or ekstrandl@gao.gov.

BORDER SECURITY

Consular Identification Cards Accepted within United States, but Consistent Federal Guidance Needed

What GAO Found

Consular identification cards are issued by some governments to help identify their citizens living in a foreign country. The cards do not certify legal residence within a country; thus, cardholders may be either legal or undocumented aliens. CID cards benefit the bearers by enabling them, in some instances, to use this form of identification to obtain driver's licenses, open bank accounts, show proof of identity to police, and gain access to other services.

Mexico and Guatemala each take multiple steps to help ensure that the process for qualifying applicants seeking to obtain CID cards verifies the applicants' identities. After receiving criticism about the reliability of its CID card, Mexico took steps to improve identity verification procedures for its CID card issuance process. However, the Mexican issuance policy still relies on visual, rather than computer-based, verification of some documents used to obtain CID cards, including birth certificates that the Federal Bureau of Investigation (FBI) says may be fraudulently obtained. Both Mexico and Guatemala incorporate a variety of security features in their CID cards, such as holographic imagery. However, officials of the Department of Homeland Security's (DHS) Bureau of Immigration and Customs Enforcement warn that incorporating technical security features into identification documents such as CID cards does not guarantee their authenticity.

Federal agencies hold different and, in some cases, conflicting views on the usage and acceptance of CID cards, and no executive branch guidance is yet available. A Homeland Security Council task force of executive branch agencies is reviewing identification document security but had not issued its findings at the time of GAO's review. The Department of the Treasury adopted a regulation in 2003 that, in effect, allows CID card acceptance, while an FBI official has stated that the Mexican CID card, in particular, is not a reliable form of identification and that its acceptance could support false identities. DHS expressed security concerns as well. The State Department has publicly expressed concerns about the impact restricting CID card use might have on U.S. citizens abroad, for example, if the United States had to issue its own CID cards in an emergency.

Sample of Mexican CID Card



Source: Mexican government.

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Abbreviations

AAMVA	American Association of Motor Vehicle Administration
CID	consular identification card
DHS	Department of Homeland Security
DMV	Division of Motor Vehicles (North Carolina)
EU	European Union
FBI	Federal Bureau of Investigation
ICAO	International Civil Aviation Organization
ICE	Immigration and Customs Enforcement
IFE	Federal Electoral Institute (Mexico)
ITIN	individual taxpayer identification number
NILC	National Immigration Law Center
SSN	Social Security number
US-VISIT	United States Visitor and Immigrant Status Indicator Technology
VCCR	Vienna Convention on Consular Relations
VWP	Visa Waiver Program

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United States Government Accountability Office
Washington, DC 20548

August 24, 2004

The Honorable F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary
House of Representatives

The Honorable John N. Hostettler
Chairman
Subcommittee on Immigration, Border Security, and Claims,
Committee on the Judiciary
House of Representatives

In recent years, a number of state and local government agencies and financial institutions have begun accepting consular identification (CID) cards issued by certain foreign governments as a service to their citizens who, regardless of legal residence status, live in the United States. For example, Mexico issued more than 2.2 million cards from 2002 through 2003, and Guatemala issued about 89,000 CIDs from August 2002 through December 2003. Argentina has begun a program in Los Angeles to issue CID cards with new security features to its citizens, while other countries, including Peru and Bolivia, are considering issuing CID cards of their own. Critics of CID cards have argued that acceptance of these cards facilitates and promotes the continued unlawful stay within the country of undocumented aliens. Since the terrorist attacks in 2001, some federal officials have also voiced concerns that the continued acceptance of CID cards provides opportunities to terrorists to remain undetected in the country and to transfer funds that support terrorist activities.

Our review of CID cards addresses the following issues: (1) What is the purpose of a CID card and how are Mexican and Guatemalan CID cards, in particular, being used in the United States? (2) What steps have Mexico and Guatemala taken to verify the identities of CID card applicants and to incorporate security features in CID cards now being used in the United States? (3) What are the positions and policies of key federal agencies regarding the usage and acceptance of CID cards in the United States?

In addition, we reviewed other aspects of domestic and international CID card usage and related security issues, including (1) the status of new legislation under consideration by European Union members to establish standards for other types of secure identification documents and

(2) federal and state laws in selected states that refer to passports or CID cards. This information is contained in appendixes II and III, respectively.

To determine the purpose of CID cards and how Mexican and Guatemalan CID cards are being used in the United States, we reviewed provisions of the Vienna Convention on Consular Relations (VCCR), which, among other things, governs consular services. We contacted the embassies of eight countries (Bolivia, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Peru, and Poland) to learn their plans for issuing CID cards, which enabled us to determine that of these countries only Mexico and Guatemala were issuing CID cards in the United States.¹ We selected the countries listed because they were cited by federal, state, or local officials as countries that were considering or planning to issue CID cards or currently issuing CID cards in the United States. We interviewed officials in the Mexican and Guatemalan embassies, selected police departments, and selected elected officials to obtain their views on CID card acceptance and reviewed the positions of U.S.-based financial institutions and nonprofit advocacy and research organizations.

To determine steps Mexico and Guatemala have taken to verify the identities of CID card applicants and to incorporate security features in CID cards, we interviewed officials from the Mexican and Guatemalan embassies and consulates, analyzed related documentation, observed the Mexican consulate's issuance of CID cards at an offsite facility, and interviewed the representatives of the company that manufactures the Guatemalan CID card. We did not perform an evaluation of the Mexican and Guatemalan CID card programs or security features.

To determine the positions and policies of key federal agencies regarding the usage and acceptance of CID cards, we interviewed officials from the Departments of the Treasury, Homeland Security (DHS), Justice, and State, and reviewed congressional testimony by the latter three agencies. We also reviewed regulations proposed and adopted by the Department of the Treasury. We conducted our review from July 2003 to June 2004 in accordance with generally accepted government auditing standards. A more detailed description of our scope and methodology is contained in appendix I.

¹We subsequently learned that Argentina has begun to issue CID cards with new security features in the United States. We did not include Argentina's CID card program in our review.

Results in Brief

CID cards are issued by some governments to help identify their citizens residing in a foreign country. Possession of a CID card does not certify legal residence within a country; thus, cardholders may be either legal or undocumented aliens. CID cardholders in the United States may derive benefits from the cards' acceptance for identification purposes by financial institutions, law enforcement agencies, and state and local governments in the United States. For example, there are banks that have begun accepting CID cards for opening bank accounts, some law enforcement agencies encourage their use for identification purposes, and some local governments accept them as identification required to obtain governmental services. In addition, some states accept CID cards as a part of required documentation for obtaining driver's licenses.

Mexico and Guatemala each take multiple steps to help ensure that the process for qualifying applicants seeking to obtain CID cards verifies the applicants' identities. After receiving criticism about the reliability of its CID card, Mexico took steps to improve identity verification procedures for its CID card issuance process. Prior to January 2004, Mexican consular officials relied primarily on visual, rather than computer-based, verification of source documents, such as birth certificates or voter registration cards, submitted by CID card applicants. These documents were not compared against other sources to verify their authenticity or reliability when consular officials believed them to be authentic. Beginning in 2004, Mexican consulates can, in some instances, employ electronic verification of a CID card applicant's identity. However, the Mexican issuance policy still relies on visual examination for some documents that are accepted in its issuance process. Guatemala's CID issuance process is based on the country's passport database, which includes fingerprint verification capability. The process has not been changed since it was established in 2002. Both Mexico and Guatemala incorporate a variety of security features, such as holographic images, in their CID cards. However, officials of DHS's Bureau of Immigration and Customs Enforcement warn that incorporating technical security features in identification documents does not guarantee their authenticity and that knowledgeable inspectors are essential for verifying documents such as CID cards.

The federal agencies we contacted hold different and, in some cases, conflicting views on the usage and acceptance of CID cards, and no executive branch guidance is yet available. A Homeland Security Council task force of executive branch agencies is examining identification document security issues including CID cards, but it had not issued its findings at the time of our review or set a date for their release. The

Department of the Treasury adopted a regulation in 2003 pursuant to the USA PATRIOT Act² (P.L. 107-56) that, in effect, allows banks to decide whether or not to accept CID cards as identification for the purposes of opening an account or making other transactions. On the other hand, a senior Federal Bureau of Investigation (FBI) official, within the Department of Justice, has stated that the Mexican CID card is not a reliable form of identification and that its acceptance could support false identities, while a senior DHS official has also expressed security concerns. A senior official of the State Department has publicly expressed concerns about the impact restricting CID card usage here might have on U.S. citizens abroad.

Without consistent information on the advisability of accepting CID cards, states and local governments must make their own decisions on whether to accept them, which may create uncertainty on the part of aliens attempting to obtain services with the card, and heighten the risk of these cards being used to establish false identities. We are, therefore, recommending to the Homeland Security Council that it direct its task force to develop and implement consistent guidance that would reconcile potential conflicts among federal agencies and complete their efforts to develop policy to enable state and local governments, financial institutions, and others to assess the authenticity of CID cards issued by foreign governments.

We provided a draft of this report for comment to the Homeland Security Council, the Departments of State, Justice, Treasury, and Homeland Security. The Homeland Security Council, State, Justice and Treasury declined to comment on the report. DHS generally agreed with the report and the need for developing appropriate standards for identity documents and commended us for recognizing the critical security aspects of CID cards. DHS said that CID cards should not be considered of greater concern than other identity documents used in the United States and that the administration has taken a clear position that CID cards do not establish or indicate lawful U.S. immigration status. We agree with both points. DHS officials provided us with additional information on their efforts to enforce border security and verify the identity of travelers to the United States. DHS also encouraged us to provide greater context for the

²Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act. The act was adopted to deter and punish terrorist acts in the United States and around the world and for other purposes.

customary and historical use of CID cards. We believe the report sufficiently addresses this issue in its discussion of the legal basis for CID card issuance under international treaty, the history of CID card usage, as well as the accepted and legitimate uses of CID cards.

Background

The VCCR is an agreement that governs consular relations among approximately 165 nations. Under the VCCR, countries can conduct various consular functions, such as issuing travel documents and passports to their citizens. Consular registration—the practice by which an individual may register with his or her consulate in a foreign country—may assist consular officials in performing a variety of consular services, such as locating missing citizens and determining whether citizens are safe. According to the Department of State, issuance of CID cards falls within the general scope of permissible consular functions.

For more than 133 years, the government of Mexico has been issuing a CID card, the *Matrícula Consular* to citizens living abroad.³ As of June 2004, the CID cards are issued in the United States at 45 consulate office locations in 20 states and Washington, D.C. Consulate offices may occasionally issue these cards at offsite locations, such as community centers, throughout their jurisdiction. The government of Guatemala began issuing its version of a CID card, called the *Tarjeta de Identificación Consular Guatemalteca*, in the United States in August 2002.⁴ Guatemala maintains 8 consulate offices in 6 states and Washington, D.C., and also occasionally issues CID cards at offsite locations within the geographic area covered by the local consulate.

In October 2003, Argentina began a program to make CID cards with new security features available to its citizens in the Los Angeles, California, metropolitan area. As of May 2004, Argentina had issued approximately 2,400 cards. Several other countries have expressed interest in issuing their own identification cards to their citizens living in the United States but as of late 2003 had not yet done so. These countries include Bolivia, Peru, and El Salvador; Peru has specifically cited the acceptance of the

³We refer to the Mexican *Matrícula Consular* as the Mexican CID card throughout this report.

⁴We refer to the *Tarjeta de Identificación Consular Guatemalteca* as the Guatemalan CID card throughout this report.

Mexican CID card in the United States as a factor contributing to its interest in issuing a CID card.

CID Cards Are Issued to Help Identify the Citizenship of Persons Residing in a Foreign Country, and Some Institutions Accept Mexican and Guatemalan CID Cards as Valid Identification

Countries May Issue CID Cards to Facilitate Consular Notification

CID cards are issued to help identify the citizenship of persons residing in a foreign country. While some consulates may issue CID cards, these documents have no bearing on the cardholder's legal residence status in the host country. Thus, CID cardholders can be either undocumented aliens living in the United States or legal residents. Under the terms of the VCCR, these cardholders, regardless of their residency status, possess certain legal rights. For example, U.S. law enforcement officials and others must advise a resident alien who is arrested or otherwise detained in the United States of his or her right to request that the appropriate consular officials be notified of the detention without delay. Cardholders can, in turn, alert federal, state, and municipal law enforcement authorities of the need to notify consular officials when assistance is needed.

Some Banks, Law Enforcement Agencies, and Local Governments Accept Mexican and Guatemalan CID Cards as Identification

Austin, Texas, was one of the first areas in the country where a financial institution accepted the Mexican CID card as valid identification for opening a bank account, according to Mexican embassy representatives. An official with the Austin Police Department told us that in 2000 the department became concerned about the rate of robberies committed against the Hispanic immigrant community. Members of this community, which, according to the official, includes a large number of undocumented aliens, may not report crimes to the police for fear of deportation. After meeting with representatives of the Hispanic community and the Mexican

consulate, the police department determined that robberies could be reduced if community members made greater use of the U.S. banking system rather than keeping large amounts of cash at home or on their person. In November 2000, the Austin Police Department began contacting area banks to determine if they would accept the Mexican CID card as identification for opening bank accounts. According to this police department official, one bank operating in Austin agreed to accept the card as valid identification in early 2001.

The Mexican embassy has reported that 160 financial institutions nationwide now accept the Mexican CID card as proof of identity for opening bank accounts. An official in the Guatemalan embassy told us that that some banks are accepting the Guatemalan CID card as well. Some reasons for financial institution acceptance of the Mexican CID, in particular, were recently stated by a state banking association. The association believes that bank acceptance of CID cards can aid law enforcement, not only for assisting immigrants who may be targeted by criminals because of their tendency to possess cash, but also for possibly combating money-laundering and terrorism. Banks, the association said, are subject to numerous layers of federal and state regulation and oversight that can assist federal officials in monitoring international money transmissions. Also, banks accept the Mexican CID in order to better serve members of the immigrant community without bank accounts, often referred to as the “unbanked.” The association said that serving the unbanked provides a new source for deposits, loans, and wire transfers, which benefit the economy at large.

In addition, a Treasury official said that there are no laws prohibiting undocumented aliens from opening bank accounts in the United States and that banks are not required to determine whether their customers are present in the United States legally. The official also said that for purposes of fraud or money-laundering detection, the department would prefer to have as many people as possible active in the U.S. banking system, because their financial activities could be closely monitored.

Subsequent to the acceptance of the Mexican CID card by the bank in Austin, the Austin Police Department itself decided to recognize the card as a valid form of identification. In addition, the city of Austin also began accepting the card to help Mexican citizens living in the community gain access to community courts and obtain other documents, such as library cards and copies of locally maintained medical records. A representative of the Dallas, Texas, Police Department told us that the department began accepting the CID cards primarily as a means to allow officers to properly

identify all people that they came in contact with who may lack other forms of identification. According to the Mexican embassy, as of February 2004, 1,159 U.S. police departments nationwide accept the Mexican CID card as a valid identity document.

In December 2001, the Mayor of San Francisco signed a policy establishing the Mexican CID as valid identification in the city and county of San Francisco; this policy included the police and sheriff's departments. The San Francisco Office of the Mayor, in a press release, declared that this acceptance would help members of the Mexican immigrant community, who may otherwise be jailed or deported for minor offenses if they do not possess an accepted form of identification. Use of the CID card as a recognized form of identification would, in turn, help reduce police processing time spent handling these offenses. The release also cited a benefit expressed by the Austin police, that extending official acceptance to the CID card might allow immigrants to be less fearful in reporting crimes to police, since they would now possess acceptable identification.

Some cities and counties have begun accepting the Mexican CID card as valid identification for obtaining city or county services. The Mexican embassy states that 363 cities and 153 counties recognize its CID card as of February 2004. An official of one county housing and community affairs department testified before Congress that county government must provide for public safety and health, education, and other basic services, and that accepting these CID cards helps to identify the people who need these services. Because CID cards contain a local address, the official testified, the county can determine whether applicants for services are residents of the county.

Some States Accept the Mexican CID Card as Valid Identification for Driver's License Issuance

In August 2003, according to the National Immigration Law Center (NILC), 13 states accepted the Mexican CID as one form of valid ID in issuing driver's licenses.⁵ Representatives of immigrant advocacy groups we contacted and whose positions we reviewed have argued that accepting CID cards for driver's licenses helps states maximize the number of licensed and potentially insured drivers on their highways.

⁵Idaho, Indiana, Michigan, Nebraska, New Mexico, North Carolina, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, and Wisconsin were the states listed by NILC.

However, we found that at least 2 states have recently rescinded their prior acceptance of CID cards in issuing driver's licenses. For example, North Carolina (1 of the 13 states mentioned above) decided that, effective February 2004, it would no longer accept foreign-issued documents (except passports) as proof of identity for driver's license issuance.⁶ In discussing this decision, an official with the North Carolina Division of Motor Vehicles (DMV) stated that the DMV had heard concerns through the American Association of Motor Vehicle Administrators (AAMVA) that the FBI and DHS did not support public acceptance of the Mexican CID card.⁷ In addition, this official informed us that some state residents had expressed concerns over and opposition to Mexican CID card acceptance to the Office of the Governor and DMV. Among these concerns, some residents felt that CID acceptance might help people not legally present in the United States to circumvent immigration laws. The DMV Commissioner made an administrative decision that, beginning in February 2004, the DMV would only accept documents issued by state or federal governments, or federally validated international passports, as proof of identification when issuing driver's license or state ID cards.

In addition, in December 2003, the Governor of California approved a bill that repealed the provisions of a law passed in September 2003 that would have allowed driver's license applicants to submit a Mexican CID card as proof of identity. In September 2003, a bill passed by the California Legislature (S.B.60) and signed into law by the then Governor, provided among other things, that an applicant for a driver's license could submit an individual taxpayer identification number (ITIN) to the Department of Motor Vehicles in lieu of a Social Security number (SSN). If submitting an ITIN, the applicant must also submit an acceptable birth certificate and one of a number of other identification documents that included the Mexican CID card. These provisions were to take effect on January 1, 2004. However, in December 2003, a new bill passed by the legislature and signed into law by the new Governor repealed S.B.60. Thus, the ITIN and the CID card as an adjunct identification document were both rendered invalid for obtaining a driver's license in California. In calling for the repeal of S.B.60, the Governor said that the bill might "invite fraud or

⁶The North Carolina Division of Motor Vehicles accepts the Mexican CID card as proof of residency.

⁷The American Association of Motor Vehicle Administrators is a voluntary, nonprofit, tax-exempt, educational organization. AAMVA represents the state and provincial officials in the United States and Canada who administer and enforce motor vehicle laws.

undermine law enforcement.” He noted that the state Attorney General and California’s Sheriff’s Association had expressed security concerns over the measure. In addition, a bill analysis presented to a State Assembly committee noted that the Internal Revenue Service had informed the state that ITINs were not valid for identification outside of the tax system and that ITIN applicants were not subject to the same document verification standards as SSN applicants.

Identity Verification Procedures and Security Features Vary, and Some CID Cards May Not Ensure Cardholder’s Identity

Mexico Has Taken Steps to Improve Identity Verification Procedures for Its CID Card Issuance Process, but Risks Remain

A Mexican citizen residing in the United States who seeks to obtain a Mexican CID card is required to present to the Mexican consular field office, in person, three types of documents: proof of Mexican nationality, proof of identity, and proof of local address (see table 1 for types of required documentation). The consulate office then determines if the documents presented are authentic. Prior to January 2004, nationality, identity, and residency documents were examined—that is, visually inspected—by a consular official. Mexican officials reported that documents used to obtain CID cards were only verified with authorities in Mexico when the documents’ authenticity was in question. This process raised concerns for the FBI, which stated in congressional testimony in June 2003 that the Mexican CID card was not a reliable form of identification.⁸ An FBI agent cited Mexico’s lack of a centralized database to prevent multiple cards being issued to one individual and the inability of consular field offices in the United States to share information about an applicant’s identity through a database. The FBI agent cited the Mexican

⁸Hearings before the Subcommittee on Immigration, Border Security, and Claims, House Committee on the Judiciary, June 26, 2003.

birth certificate, in particular, as a document that could easily be fraudulently obtained and used as proof of identity. In addition, the FBI agent said some Mexican consulates issued CID cards to individuals lacking any proof of identification, as long as they fill out a questionnaire and satisfy the consular official that they are who they claim to be.

Table 1: Types of Required Documentation for Obtaining a Mexican CID Card

Required identification categories	Types of documents accepted
Proof of nationality	<ul style="list-style-type: none"> • Mexican birth certificate • Mexican passport • Certification of Mexican nationality • Declaration of Mexican nationality
Proof of identity	<ul style="list-style-type: none"> • Mexican driver's license • U.S. driver's license • State-issued ID card (United States) • Mexican passport • U.S. passport • U.S. work permit • Mexican voter registration card • Any official identification with photograph issued by Mexican government
Proof of residence in consular district	<ul style="list-style-type: none"> • Utility bill • Mexican or U.S. government correspondence to the U.S. address • Government-issued identification with U.S. address

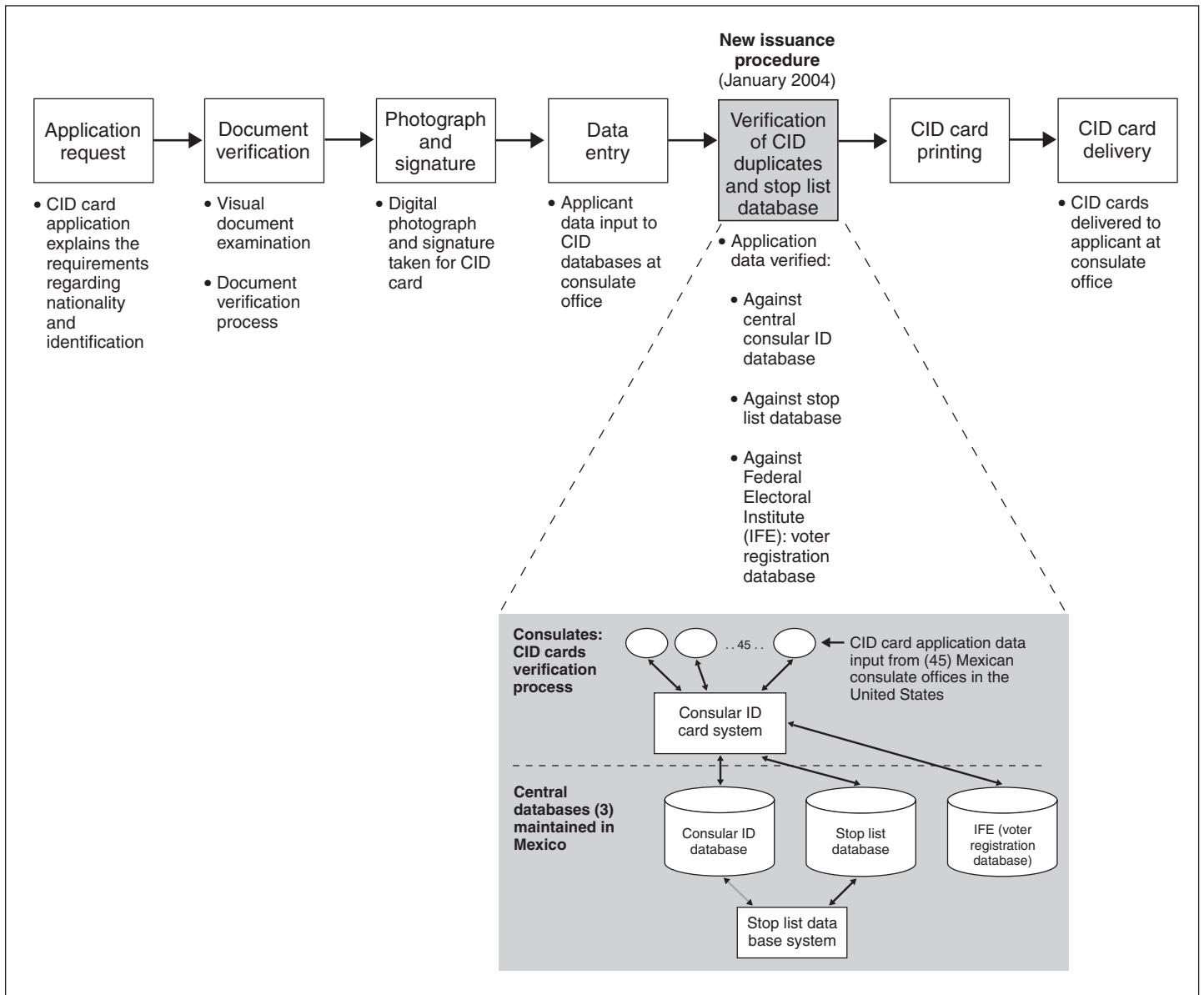
Source: Mexican government.

AAMVA also expressed concerns about the Mexican CID card and its issuance procedures. Specifically, members of AAMVA were concerned about the lack of (1) standardized issuance procedures, (2) uniform security features on all valid CID cards, and (3) access to a secure database to verify documents. In May 2003, AAMVA issued a resolution stating that it was premature to recommend the use of foreign-issued CID cards for identification purposes and that more information was needed to assess the verifiability of the documents.

Mexican consular officials told us they wanted to strengthen the CID card issuance process, in part to provide more assurance to institutions accepting the card and to federal law enforcement agencies that the cardholder's identity was valid. As a result, in January 2004, new issuance procedures were implemented (see fig. 1). Mexican consulates can now

search a centralized CID card database containing the records of approximately 2.6 million persons registered with the 45 Mexican consulates in the United States. Mexican passport information is also maintained on this system. In addition, consulates can verify the identity of an applicant who uses a Mexican voter registration card by checking it electronically against a voter registration database in Mexico. A Mexican official in the Dallas consulate office estimated that about 50 percent of applicants seeking Mexican CID cards in the Dallas office use their voter registration cards to prove their identity. As of April 2004, this database held approximately 67 million records—representing about 94 percent of eligible Mexican voters. The new process also checks the applicant’s identity against a Mexican government “stop list”—a database containing records of persons who are not allowed to obtain documents issued by the Mexican government, including fugitives or persons who have tried to use counterfeit documents in Mexico or at consulate offices in the past. A Mexican official estimated that this database contains about 20,000 records. In January and February 2004, Mexican consulate offices issued over 63,000 CID cards under the new issuance process.

Figure 1: Mexican CID Card Issuance Process, as of January 2004



Source: Mexican government.

However, despite these new procedures, Mexican consulate officials told us that they still rely primarily on a visual inspection—not database verification—of all applicant documents except the passports and voter registration cards. Thus, there are no safeguards to prevent some

documents, such as birth certificates, from being fraudulently obtained and used as proof of nationality or identity in order to obtain a CID card. According to the FBI, the Mexican birth certificate is a component used in the fraudulent documents trade within the United States and worldwide.

The Seattle, Washington, office of DHS's Immigration and Customs Enforcement (ICE) said that in its experience, there has been an increase in both the number of counterfeit Mexican CID cards and legitimate Mexican CID cards issued with false biographical information. According to agents, almost all of those suspects apprehended with legitimate CID cards containing false biographical data had obtained the cards by getting a counterfeit Mexican birth certificate and using it to get a legitimate CID card from the Mexican consulate in Seattle. They then used this card in applying for a legitimate Washington State driver's license or identity card. The office said that most of these individuals have done so in order to establish a new identity to conceal a previous arrest or deportation.

For example, in November 2003, counterfeit Mexican CID cards were among the evidence seized by ICE agents during an authorized search at two apartments near Seattle. In addition to seizing the CID cards, agents seized a number of finished or partially finished counterfeit documents, including Mexican birth certificates and driver's licenses; U.S. driver's licenses from several states; U.S. immigration documents, such as resident alien and permanent resident cards; and U.S. Social Security cards. The agents also confiscated counterfeit document production materials that included computers, CD-ROMs, floppy disks, and many other supplies. As a result of this investigation, four Mexican citizens were arrested. One of the four was deported to Mexico with no criminal charges. Two of the perpetrators pled guilty to violating Section 1546 of Title 18 of the United States Code (Possession, Making, Selling Fraudulent Immigration Documents) and were sentenced on March 12, 2004, to 17 and 14 months, respectively, in federal prison. The remaining perpetrator pled guilty to violating Section 1325 (a)(2) of Title 8 of the United States Code (Eluding Examination at Entry) and was sentenced on December 19, 2003, to 5 months in federal prison. All three are to be deported following their prison sentences.

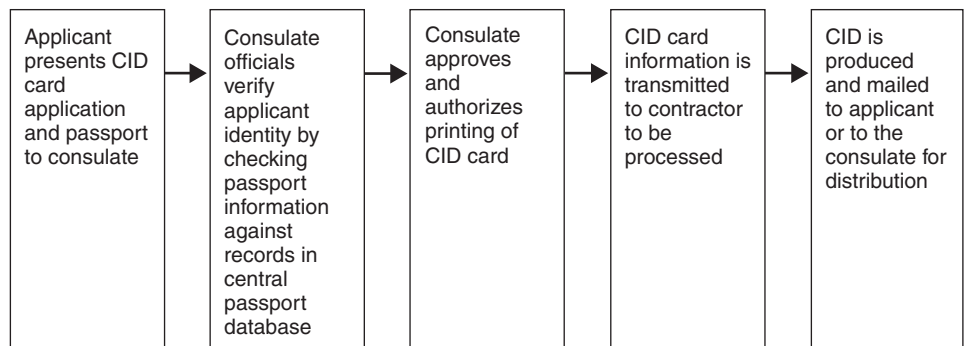
According to a DHS agent, the production of these fraudulent ID documents did not involve highly sophisticated processes or equipment. Rather, the agent said that most of the equipment used could be obtained off the shelf from retail computer supply stores at an estimated cost of under \$1,000. The only exceptions to this availability were counterfeit working copies of documents and counterfeit government holographic

seals and stamps. These items were apparently produced elsewhere and shipped to the fraudulent ID document operation.

Guatemala's CID Issuance Process Employs Passport Data to Verify Identity

To obtain a Guatemalan CID card, an applicant must appear in person at a consulate office and present a CID application form and a valid Guatemalan passport. An official from the Guatemalan embassy told us that the passport requires an applicant to provide, among other information, two fingerprints and a photograph and signature. During the CID card issuance procedure, an applicant's passport number and other information are checked against records maintained in Guatemala's central passport database system. In December 2003, over 1.3 million passport records were maintained in this system. After consular officials verify the applicant's passport information, including the photograph and signature, by checking it against the central passport database records, the consulate approves the production and issuance of the CID card. Figure 2 illustrates the Guatemalan issuance process. The Guatemalan CID cards are produced centrally at a U.S. contractor's facility and then mailed to the applicant or distributed to them at the consulate offices.

Figure 2: The Guatemalan CID Card Issuance Process



Source: Guatemalan government.

Security Features Not Consistent among Mexican CID Cards in Circulation

Through December 2003, Mexico issued a laminated CID card that was valid for up to 5 years (See fig. 3.) These cards contained a unique numerical identifier, a photograph, and the signature of the cardholder. No other document security features were included in these cards. Mexican officials estimate that approximately 1.1 million of these cards were issued between 2001 and 2003, and as of June 2004, about 1 million of these CID cards remain valid and in circulation. As of June 2003, the FBI estimated that this version of the card comprised the majority of Mexican CID cards

now in circulation. Prior to that assessment, in March 2002, Mexico began phasing in a new CID card that incorporates various technical security features not contained in the older version of the card (See fig. 4.) This newer card is considered by Mexican officials to be a high-security CID card, compared with the low-security CID card issued earlier.

Figure 3: Sample of Laminated Mexican CID card



Source: Mexican government.

Figure 4: Sample of High-Security Mexican CID Card



Source: Mexican government.

The high-security version of the Mexican CID card contains at least eight identifiable security features. (See table 2 for a list of security features.) Among other things, the new cards require a special decoder device in

order to see certain data, such as the cardholder's name and date of birth, printed on the card. A Mexican official told us that between 2002 and 2003, consulate offices distributed nearly 649,000 of these decoders to U.S. banks, police departments, airlines, and ICE. Mexican officials told us that as of April 2004, about 2 million high-security Mexican CID cards were issued to Mexican citizens in the United States.

Table 2: Mexican and Guatemalan CID Card Security Features

CID card security features	Description of security features ^a	Mexican low-security card	Mexican high-security card	Guatemalan CID card
Unique identification number	A unique number assigned to each CID card	Yes	Yes	Yes
Optically variable feature (e.g., hologram, color-shifting inks)	An image or feature whose appearance changes based on the angle of viewing or illumination	No	Yes	Yes
Ultraviolet image	Image emits visible color under exposure to ultraviolet light	No	Yes	Yes
Encoded information	Information requires decoder device to unscramble	No	Yes	No
Machine readable technology (e.g., bar code or magnetic stripe)	A device used to verify the authenticity of the document, the data, or the person presenting the card by use of a reader	No	Yes	Yes
Microprinting	Miniature lettering visible under magnification	No	Yes	Yes
Secure laminate	Transparent layers or films with an integrated security feature(s) applied to card with an adhesive or fused by heat	No	Yes	Yes
Deliberate errors/known flaws	An intentional mistake known only to the manufacturer or inspecting officials	No	No	Yes
Integrated photograph and signature	Photograph and signature are sealed under laminate	Yes	Yes	Yes

Source: Governments of Mexico and Guatemala.

^aThese descriptions were provided by the American Association of Motor Vehicle Administrators and the International Civil Aviation Organization.

The Guatemalan CID card is produced by a U.S. contractor and has been issued in the United States since August 2002 (see fig. 5). The Guatemalan CID card contains approximately eight distinct security features (see table 2). As of April 2004, about 104,000 Guatemalan CID cards had been issued in the United States.

Figure 5: Sample Guatemalan CID Card



Source: Guatemalan government.

Officials with the Forensic Document Laboratory, a division of ICE that provides forensic assistance to law enforcement agencies, told us that incorporating technologically advanced security features into an identification document does not guarantee any document's authenticity.

Much of a document's level of security, they said, depends upon the knowledge and training of the person examining the document. Thus, if a document examiner, such as a bank official or a police officer, is not familiar with the security features contained in a document, such as microprinting, then the presence—or absence—of those features does not necessarily ensure that the examiner will be able to recognize an authentic document.

No Consistent Federal Guidance for CID Card Usage or Acceptance Exists

Although acceptance of CID cards has grown in the United States over the past few years, a consistent federal policy regarding use and acceptance of foreign-issued CID cards has not been established. The Homeland Security Council is leading a task force of executive branch agencies examining this issue. As of June 2004, it had not issued its findings or set a date for their release. Agencies involved in this task force included the Departments of Homeland Security, State, Justice, the Treasury, Transportation, Education, and Health and Human Services and the Office of the Vice President and the General Services Administration. Participating agency officials told us the task force's emphasis has shifted from usage and acceptance of CID cards to broader concerns about identification document security in general, with CID cards being one element of concern. The task force has not set a timetable for releasing its recommendations.

Some federal agencies have expressed independent positions on the use of foreign-issued identity documents. For example, Treasury has adopted regulations that allow financial institutions to accept CID cards as valid identification. On October 26, 2001, the USA PATRIOT Act (P.L. 107-56) was adopted. Section 326 of the act required the Secretary of the Treasury to issue regulations requiring financial institutions to implement procedures for verifying the identities of possible customers, maintaining records for customers' identities, and consulting government lists of known or suspected terrorists to ensure that customers are not on that list. The act also required the department to issue a report to Congress with recommendations for, among other things, determining the most effective way for financial institutions to require identifying information from foreign nationals. In this report, issued in October 2002, the department said that its proposed regulations would allow financial institutions to accept any foreign-issued document that provided evidence of nationality or residence and bearing a photograph. A footnote to this

statement specifically declared that the proposed regulations would not discourage acceptance of the Mexican CID card.⁹

The final rule for implementing the provisions of Section 326 of the USA PATRIOT Act declared, among other things, that banks must implement a customer identification program containing risk-based procedures for verifying the identity of customers to the extent reasonable and practicable.¹⁰ While neither endorsing nor prohibiting acceptance of any particular foreign-issued identification, the rule reaffirmed that financial institutions could accept any such documents that they deemed reliable for establishing reasonable belief of a customer's true identity. Then, on July 1, 2003, the department issued a notice of inquiry related to this rule, seeking additional comments on whether there may be any instance in which a financial institution should not be allowed to accept certain foreign-issued identification documents.¹¹ The department received approximately 24,000 comments on this issue and after reviewing them, determined that no changes to the rule were necessary.¹²

While Treasury does not prohibit or endorse the acceptance of CID cards, an FBI official testified before Congress in June 2003 that the Mexican CID card is not a reliable form of identification.¹³ Concerns over the issuance process led the FBI to conclude that the document was unreliable and could pose criminal and even terrorist threats. First, the official testified, the Mexican CID card could be used as a breeder document, that is, a document that would allow access to other forms of legitimate identification, for establishing a false identity. For example, if a card were fraudulently obtained under a false identity, it could be then used to get a driver's license in some states. A criminal, according to the FBI, could then establish several false identities that would greatly facilitate such crimes as money laundering or check fraud. Second, CID card unreliability can

⁹A Report to Congress in Accordance with Section 326(b) of the USA PATRIOT Act, October 21, 2002.

¹⁰Customer Identification Programs for Banks, Savings Associations, Credit Unions, and Certain Non-Federally Regulated Banks, 68 Fed. Reg. 25090, 25109 (May 9, 2003).

¹¹Customer Identification Programs for Financial Institutions, 68 Fed. Reg. 39039, 39041 (Notice of Inquiry, July 1, 2003).

¹²Customer Identification Programs for Financial Institutions, 68 Fed. Reg. 55335, 55336 (September 25, 2003).

¹³Hearings before the Subcommittee on Immigration, Border Security, and Claims, House Committee on the Judiciary, June 26, 2003.

make alien smuggling easier. The FBI official testified that federal officials have arrested alien smugglers with several CID cards in their possession. The FBI has said that these would not only help conceal the smugglers' identities, but also further entice aliens to entrust their transport to these smugglers.

The FBI has also cited the threat of falsely obtained CID cards being used by terrorists to move about in the United States. The FBI official testified that individuals of various national origins have been discovered in possession of CID cards. If foreign nationals were able to create fictitious identities in the United States, they could move about the country without triggering identification from any name-based terrorist watch lists. The FBI official said that one individual from Iran was arrested in Texas in February 2003 in possession of a Mexican CID card. He obtained the card in California by using a counterfeit Mexican birth certificate and was able to obtain a California State ID card.

In testimony given during the same hearing, an official from DHS's Border and Transportation Security Directorate said that in light of the increased demand for CID cards and heightened security concerns in a post-September 11 environment, it also had concerns about the use and acceptance of CID cards. DHS believed that some individuals had obtained multiple cards under different identities. DHS also echoed the FBI's concerns over use of a CID card as a breeder document for obtaining other forms of identification, which in turn may be used for criminal purposes.

The State Department has not adopted a policy on foreign-issued identification documents or CID cards. However, in June 2003, a State Department official testified during the same hearing about the department's involvement and interests in any CID card acceptance policy being developed. The official said that any policy developed must consider the impact on the department's ability to carry out its responsibilities regarding consular affairs, both domestically and abroad. According to the department, under the VCCR, a foreign national arrested or detained in the United States must be advised of his or her right to request that the appropriate consular officials be notified of the detention without delay. Because a foreign CID may serve to identify an individual as a foreign national, an individual in possession of this card can alert federal, state, and municipal law enforcement authorities of the need to provide consular notification to contact consular officials from his or her nation for assistance. The State Department views CID cards as a tool that law enforcement officials may use to help facilitate observance of this obligation under the VCCR.

In addition, the State Department believes that any policy developed that prohibits foreign-issued CID card acceptance within the United States could foreclose U.S. options to assist Americans overseas. The State Department may occasionally issue nonpassport identity cards or travel documents to U.S. citizens abroad in times of emergency and under other special circumstances. A State Department official told us that the United States should keep its options open for any future document issuance needs that may arise. This official said that the department has discussed the possibility of issuing special ID cards for U.S. citizens who live near the borders of Mexico or Canada and cross these borders often. It would be difficult to ask these nations to accept such a form of identification if the United States refused to accept CID cards, the official said.

Conclusion

Under international treaty, foreign governments are allowed to issue identification documents to their citizens living in the United States, but federal agencies, state and local governments, and financial institutions must determine the advisability of accepting such documents as a basis for providing services to the document holder. Thus, for all of these institutions, acceptance of CID cards is discretionary; there is no federal guidance in place to assist state and local governments and others in determining whether a CID card presented for identification purpose is authentic; that is, that it belongs to the individual presenting the document or that it has not been fraudulently obtained.¹⁴ Consistent federal guidance could provide state and local governments and other entities with a basis for assessing the authenticity of CID cards, which in turn would assist them in determining whether, for what purpose, and for what duration they should accept these cards. The absence of consistent federal guidance could result in inconsistent acceptance of these cards by such institutions and consequent uncertainty on the part of aliens trying to use the cards to obtain services, as well as a heightened risk that CID cards be used to support false identities.

Recommendation for Executive Action

We are recommending that the Homeland Security Council direct its task force, in consultation with key federal agencies, to complete its efforts to develop policies and implement consistent guidance that would reconcile

¹⁴While, as noted earlier, the Department of the Treasury has issued guidance to financial institutions on accepting foreign-issued documents, it has left the determination of their acceptability to the institutions themselves.

potential conflicts among federal agencies and enable state and local governments, financial institutions, and others to assess the authenticity of CID cards issued by foreign governments.

Agency Comments and Our Evaluation

We provided a draft of this report to the Homeland Security Council, the Departments of State, Treasury, Justice, and Homeland Security for their review and comment. The Homeland Security Council and the Departments of State, Treasury, and Justice declined to comment.

DHS generally agreed with the report and commended us for recognizing the critical aspects of identity document security. DHS said that developing appropriate standards for identity documents is a critical next step to reducing security vulnerabilities associated with such documents. DHS also noted that the department does not recognize CID cards as valid travel documents and does not accept them for entry into this country.

DHS also said that CID cards should not be considered of greater concern than other identity documents used in the United States and that the administration's position on CID cards is clear: they are not acceptable as proof of legal presence in the United States. We agree on both points. We focused our review on CID cards and made no judgment on the relative susceptibility to misuse of other identification documents. However, in discussing the results of a DHS investigation, we listed a number of other counterfeit documents that DHS agents had recovered, including driver's licenses, U.S. immigration documents, and social security cards—all of which could be used to help establish a fraudulent identity.

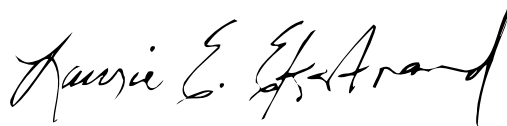
We also agree that the position of the United States, as well as that of the other nations whose officials we interviewed, is clear and consistent that CID cards issued by foreign countries do not establish or indicate lawful U.S. immigration status. Our report prominently states this position. However, the position of the United States on what constitutes prudent acceptance of CID cards for other than immigration purposes by federal, state, local, and private institutions does not appear to be so clear and consistent. Officials of some federal agencies support the continued acceptance of CID cards for some purposes, while others have expressed serious concerns about the dangers of accepting them. Individual states and local jurisdictions have developed conflicting policies regarding the acceptance of CID cards. As officials of DHS and other agencies told us, the Homeland Security Council has formed a working group to review the status and acceptable uses of CIDs in the United States, but has not yet issued its findings. For this reason, we have recommended that, as part of

its review, the working group develop consistent guidance to help public and private institutions assess the authenticity of CID cards.

DHS also suggested that we provide greater context for the customary and historical use of CID cards. We believe that our discussion of the legal basis for CID card issuance under international treaty; the history of CID card use, particularly Mexico's 133-year history of CID card issuance; and the accepted and legitimate uses of CID cards sufficiently addresses this issue. See appendix IV for DHS's comments.

As agreed with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after its issue date. At that time, we will send copies of the report to relevant congressional committees and subcommittees, the Secretary of the Treasury, the Secretary of State, the Secretary of Homeland Security, the Attorney General, the White House Office of Homeland Security, and other interested parties. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you have any questions, please contact me at (202) 512-8777. Key contributors to this report are acknowledged in appendix V.



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Director, Homeland Security
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Appendix I: Objectives, Scope, and Methodology

To determine the purpose of consular identification (CID) cards in the United States, and how Mexican and Guatemalan CID cards are being used in the United States, we reviewed provisions of the Vienna Convention on Consular Relations (VCCR),¹ which, among other things, governs consular services. We contacted the embassies of eight countries (Bolivia, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Peru, and Poland) to learn their plans for issuing CID cards and determined that Mexico and Guatemala were issuing CID cards in the United States.² We selected these countries because they were among those cited as currently issuing CID cards in the United States, or considering doing so, by federal, state, or local officials we interviewed, or who testified on the subject at congressional hearings in June 2003.³ We interviewed Mexican and Guatemalan embassy officials and obtained documents regarding their CID card program. We also interviewed officials from police departments in Austin and Dallas, Texas, and reviewed documents from the city of San Francisco. We contacted officials at the Office of the Mayor in the city of Lake Worth, Florida; the American Bankers Association; the American Association of Motor Vehicle Administrators; the Department of Housing and Community Affairs in Montgomery County, Maryland; and six independent advocacy and research groups to discuss their views on CID acceptance.⁴ Additionally, we reviewed testimony by the Texas Bankers Association before the Texas Legislature regarding their position on financial institutions' acceptance of CID cards. To identify states that have recently rescinded acceptance of CID cards for driver's license issuance or other state services, we researched the Lexis Nexis database for state legislation from 2002 through 2003 that has been passed or proposed concerning CID acceptance. From this information, we noted any states that had repealed CID acceptance. We interviewed officials in North Carolina regarding their administrative decision to revoke CID acceptance as proof of identification in driver's license issuance.

¹Vienna Convention on Consular Relations, Apr. 24, 1963, 21 U.S.T. 77.

²We subsequently learned that Argentina has begun issuing CID cards with new security features in the United States but did not include Argentina's CID card program in our review.

³Hearings before the House Committee on the Judiciary, Subcommittee on Immigration, Border Security, and Claims, June 19, 2003, and June 26, 2003.

⁴The American Immigration Lawyers Association, the Center for Immigration Studies, Friends of Immigration Law Enforcement, Migration Policy Institute, National Council of La Raza, and the National Immigration Law Center.

To determine steps Mexico and Guatemala have taken to verify the identities of CID card applicants and incorporate security features in CID cards, we interviewed officials from the Mexican and Guatemalan embassies and consulate offices to obtain information and documentation about their CID card programs. We also observed the Mexican consulate's issuance of CID cards at an off-site facility. Additionally, we interviewed and obtained documentation related to issuance procedures and security features from the company that manufactures and maintains the Guatemalan CID card, passport, and consular registry programs. We did not perform an evaluation of the Mexican and Guatemalan CID card programs. We relied exclusively on information and data provided by embassy and consulate officials in describing the issuance systems and card security features utilized in their CID card programs. We also interviewed Department of Homeland Security (DHS) agents responsible for investigating the production of fraudulent identity documents, including Mexican CID cards, in Lynnwood, Washington. We interviewed officials with DHS's Forensic Document Laboratory regarding general security standards for identity documents. To determine the positions and policies of federal agencies regarding the usage and acceptance of CID cards, we interviewed officials from the Department of the Treasury, DHS, the Department of Justice, and the Department of State, and reviewed testimony by the latter three agencies. We also reviewed regulations proposed and adopted by Treasury. We also contacted officials of the Homeland Security Council to discuss its examination of foreign-issued CID cards. As of June 2004, the Homeland Security Council had not issued its findings.

We researched European Union (EU) law to determine the status of new legislation being considered by European Union members, regarding standards for secure identification documents. Through electronic searches of EU legislative databases and review of EU publications, we found that EU members proposed regulations for improving document security for visas, residence permits, and EU citizen passports. Additionally, we reviewed information from the Department of State's Bureau of Consular Affairs and DHS related to the current status of the U.S. Visa Waiver Program. We conducted our review from July 2003 to June 2004 in accordance with generally accepted government auditing standards.

Appendix II: Status of Legislation Being Considered in the European Union Related to Establishing Standards for Secure Identification Documents

European Union (EU) members are considering proposals that will require a photograph and fingerprints on visas and residence permits. In September 2001, EU member states took steps to improve the security of travel visas and residence permits for third-country nationals.¹ Two regulations were developed and adopted in 2002, requiring member states to integrate a photograph into travel visas by June 2007 and into residence permits by August 2007.²

A proposal to modify the visa and residence permit regulations was introduced in September 2003. The new proposal requires (1) moving the dates for integrating photographs into visas and residence permits forward to June and August 2005, respectively, and (2) that biometric identifiers, namely a facial image and two fingerprints, be incorporated into all such documents.

Members also recognized the need to incorporate biometrics into EU citizen passports. In February 2004, a proposal to establish minimum standards for biometrics and other security features was adopted by the Commission of the European Communities and sent to the Council of the European Union and European Parliament. The aim of the proposal was to enhance the security of EU passports and to reliably link the passport to its holder through biometric identifiers. The commission proposed that all passports issued by EU member states contain a facial image and that the inclusion of fingerprints be an option left to the discretion of the member states.

¹A residence permit is an authorization issued by authorities of member states that allow a third-country national to legally stay on its territory. Any person who is not a citizen of the European Union is a third-country national.

²Council Regulation (EC) No 334/2002, February 18, 2002 (amending Regulation (EC) No 1683/95 laying down a uniform format for visas), Council Regulation (EC) No 1030/2002, June 13, 2002, laying down a uniform format for residence permits for third-country nationals.

**Appendix II: Status of Legislation Being
Considered in the European Union Related to
Establishing Standards for Secure
Identification Documents**

The proposed integration of biometrics will allow EU passports to also meet the requirements of the Visa Waiver Program (VWP). To comply with these requirements, passports issued by EU member states will need to be machine-readable and comply with biometric standards established by the International Civil Aviation Organization. The VWP deadline for passports to become compliant had been October 26, 2004, but was extended for 1 year by (P.L. 108-299), which was signed into law on August 9, 2004.

Appendix III: References to Passports and to Consular Identification Documents in Federal Statutes and Statutes of Selected States

As part of our review of consular identification cards, we were asked to identify instances where the terms “passport” and “consular identification document” are used in federal statutes and in the statutes of selected states.

Using electronic databases, we conducted a search of current federal statutes and the statutes of the seven states we selected.¹ We found over 70 references to passport in federal statutes and a number of references in statutes of the selected states as well. Most of the statutory references we found are to what is generally considered the traditional meaning of passport—that is a document issued by the competent officer of a national state permitting the person named to travel. A passport is usually a formal document establishing the holder’s identity and citizenship, permitting that person to leave and reenter the state, and requesting protection for him or her abroad. A U.S. passport, for example, requests, in the name of the Secretary of State, that the holder be permitted “safely and freely to pass” and in case of need be given “all lawful aid and protection.”

In addition, we also found statutes that ascribe other meanings to passport. For example, the U.S. Department of the Interior and the states of Virginia and Indiana initiated passport programs for admission to national and state parks, respectively. Also, California has created a health and education passport system in Los Angeles County, and Indiana has created a medical passport system in that state.

We found no references to matricula or consular identification card in either federal statutes or in the statutes of the selected states. Matricula or consular identification cards are a form of identification for foreign nationals who are present in the United States. These cards certify the nationality of the cardholder but not his or her legal residency status in the United States.

References to Passports in Federal Statutes

- 8 U.S.C. § 1101(a)(30)
Passport defined in the Immigration Nationality Act as “any travel document issued by competent authority showing the bearer’s origin, identity, and nationality if any, which is valid for the admission of the bearer into a foreign country.”

¹We chose the states of Arizona, California, Indiana, New York, Virginia, Washington, and Wisconsin in consultation with the requester.

- 8 U.S.C. § 1102
Diplomats required to show passports as a means of documentation and identification necessary to establish their qualifications.
- 8 U.S.C. § 1104(c)
Powers and duties of Secretary of State; establishment of a passport office within the Department of State
- 8 U.S.C. § 1181
Valid unexpired passport may be required for admission of immigrants into the United States, except for refugees. Attorney General has discretion not to require valid unexpired passport for returning resident immigrants.
- 8 U.S.C. § 1182(a)(7)(A)
Any immigrant who is not in possession of a valid entry document and a valid unexpired passport or other suitable travel document is inadmissible.
- 8 U.S.C. § 1185(b)
Travel control of citizens and aliens; citizen generally required to bear valid U.S. passport for departure and entry into United States.
- 8 U.S.C. § 1187(a)(3)
Visa waiver program for certain visitors; valid unexpired machine-readable passport may be required.
- 8 U.S.C. § 1201(f)
Issuance of visas; surrender of documents; alien crewman not in possession of any individual documents other than a passport may be admitted under certain circumstances.
- 8 U.S.C. § 1202(b)
Application for visas; required documentary evidence for immigrant visa may include valid unexpired passport.
- 8 U.S.C. § 1221(c)
Lists of alien and citizen passengers arriving and departing to include passport number and country of issuance of each person listed.

- 8 U.S.C. § 1231(c)(3)
Detention and removal of aliens ordered removed; owner of a vessel or aircraft bringing an alien to the United States not required to pay costs of detention where individual claims to be a national of the United States and has a U.S. passport.
- 8 U.S.C. § 1253(a)(3)
Penalty for failure to depart; suspension of sentence where U.S. Government unable to secure passport from the country to which alien has been ordered removed.
- 8 U.S.C. § 1323
Unlawful bringing of aliens into United States; persons liable if alien does not have a valid passport; remission of fine in certain circumstances.
- 8 U.S.C. § 1324a
In order for an employer to avoid liability for employing an unauthorized alien, he must examine documentation in order to verify employment eligibility. Documents establishing both employment authorization and identity include an individual's U.S. passport.
- 8 U.S.C. § 1504
Cancellation of illegally, fraudulently, or erroneously obtained U.S. passports and Consular Reports of Birth.
- 8 U.S.C. § 1713(c)
Machine-readable visa fees; surcharge for issuing a machine-readable visa in a nonmachine-readable passport.
- 8 U.S.C. § 1731
Implementation of an integrated entry and exit data system including establishing a database containing data from machine-readable visas and passports.
- 8 U.S.C. 1732
Machine-readable, tamper-resistant entry and exit documents; technology standards, equipment, and software for passports of aliens applying for admission under the visa waiver program.
- 8 U.S.C. § 1737
Tracking system for stolen passports.

- 10 U.S.C. § 2602(c)
No fee charged for passport issued to employee of American National Red Cross for travel outside United States under certain circumstances.
- 10 U.S.C. § 2604
United Seamen's Service: cooperation and assistance; no fee may be charged for a passport to an employee of the United Seamen's Service under certain circumstances.
- 16 U.S. C. § 460l-6a
Admission and special recreation use fees for National Parks, Monuments, etc.; Golden Eagle passports and Golden Age passports.
- 16 U.S.C. § 3911(a)(1)(A)
Secretary of the Interior authorized to sell Golden Eagle passports and Golden Age passports at units of the National Wildlife Refuge System.
- 16 U.S.C. § 5982
Distribution of Golden Eagle passport sales among Departments of Interior and Agriculture.
- 16 U.S.C. § 5991
National park passport program; purposes.
- 16 U.S.C. § 5992
Secretary of the Interior to establish national park passport program.
- 16 U.S.C. § 5993
Administration of national park passport program, including sale of passports and use of proceeds.
- 16 U.S.C. § 5994
Foreign sales of Golden Eagle passports.
- 16 U.S.C. § 5995
Effect of national park passport program on other laws and programs.
- 18 U.S.C. § 9829(a)(6)
Criminal forfeiture in connection with illegal activity involving passport issuance or use.

- 18 U.S.C. § 1028
Fraud and related activity in connection with identification document;
identification document includes passport.
- 18 U.S.C. § 1541
Issuance of passports without authority.
- 18 U.S.C. § 1542
False statement in application and use of passport.
- 18 U.S.C. § 1543
Forgery or false use of passport.
- 18 U.S.C. § 1544
Misuse of passport.
- 18 U.S.C. § 1545
Safe conduct or passport violation.
- 18 U.S.C. § 1546
Fraud and misuse of passports, visas, and other documents.
- 18 U.S.C. § 1547
Alternative imprisonment maximum for certain passport offenses
committed to facilitate drug trafficking or international terrorism.
- 18 U.S.C. § 1592
Unlawful conduct with respect to passports or other immigration
documents in furtherance of peonage, slavery, or trafficking in persons.
- 18 U.S.C. § 1961(1)
Definition of racketeering activity includes an act indictable under 18
U.S.C. § 1546, fraud and misuse of passports.
- 18 U.S.C. § 2516(1)(c)
Authorization for interception of wire, oral, or electronic communications
when interception may provide evidence of a violation of 18 U.S.C. §§
1541-1546.
- 18 U.S.C. § 3291
Ten year statute of limitations on prosecution for violation of certain
nationality, citizenship, and passport statutes.

- U.S. Sentencing Guidelines, § 2L2.1
Trafficking in a document relating to naturalization, citizenship, or legal resident status, or a U. S. passport.
- U.S. Sentencing Guidelines, § 2L2.2
Fraudulently acquiring documents relating to naturalization, citizenship, or legal resident status for own use; fraudulently acquiring or improperly using a U.S. passport.
- 22 U.S.C. § 211a
Authorities to grant, issue, and verify passports.
- 22 U.S.C. § 212
Persons entitled to passport.
- 22 U.S.C. § 213
Application for passport; verification of application by oath required for initial passport.
- 22 U.S.C. § 214
Fees for execution and issuance of passports; persons excused from payment.
- 22 U.S.C. § 214a
Refund of fees for passport erroneously charged and paid; refund.
- 22 U.S.C. § 217a
Time limitation for validity of passport.
- 22 U.S.C. § 218
Returns as to passports issued to be provided to Secretary of State.
- 22 U.S.C. § 2504(h)
Peace Corps volunteers excused from payment of passport fees.
- 22 U.S.C. § 2670(m)
Secretary of State is authorized to establish and operate passport agencies.
- 22 U.S.C. § 2671(d)(3)
Issuance or renewal of passports barred for individuals in default on a repatriation loan made by the Secretary of State.

- 22 U.S.C. § 2705(1)
Passport as proof of U.S. citizenship.
- 22 U.S.C. § 2709(a)(1)
Special agents of the Department of State and the Foreign Service may conduct investigations concerning illegal passport or visa issuance or use.
- 22 U.S.C. § 2714
Denial of passports to certain convicted drug traffickers.
- 22 U.S.C. § 2721
Activity protected by the First Amendment may not be the basis for denial of passports.
- 22 U.S.C. § 4024(d)
Functions of Secretary of State; provide training for employees performing consular functions, including the adjudication of passport applications.
- 22 U.S.C. § 4802(a)(2)(B)(x)
Security responsibilities of Secretary of State include conduct of investigations relating to illegal passport and visa issuance or use.
- 22 U.S.C. § 5711(5)
Bilateral ties between United States and Hong Kong; recognition of passports issued by the Hong Kong Special Administrative Region.
- 26 U.S.C. § 6039E
Information concerning resident status required when making application for passport or renewal.
- 42 U.S.C. § 652(k)
Passport may not be issued to individual in arrears on child support obligations and previously issued passport may be revoked, restricted, or limited.
- 42 U.S.C. § 1436a(d)(1)(a)
Restriction on use of assisted housing by nonresident aliens; passport may be used to verify citizenship where individual claims to be a citizen.

- 48 U.S.C. § 1406h
Passport, immigration, and naturalization fees collected in the Virgin Island held in account for benefit of municipalities.
- 48 U.S.C. § 1421h
Passport, immigration, and naturalization fees collected in Guam held in account for benefit of Guam.
- 48 U.S.C § 1642
Use of certain proceeds, including passport, immigration, and naturalization fees collected in the Virgin Islands, as provided by the legislature of the Virgin Islands.
- 48 U.S.C. § 1921c(b)(2)
Approval and implementation of compacts with Micronesia and Marshall Islands; grant assistance for immigration and passport security.
- 49 U.S.C. § 44909(a)(2)(B)
Air carrier passenger manifests to include passport number of each passenger if required for travel.
- 49 U.S.C. § 44939(a)(1)(B)
Providers of training to operate certain aircraft must submit to Secretary of Homeland Security the passport and visa information of certain applicants for training.
- 50 App. U.S.C. § 2407(a)(2)(E)
Regulations prohibiting participation in certain foreign boycotts shall provide exceptions for compliance with the boycotting countries' immigration or passport requirements.

References to Passports in Statutes of Selected States

Arizona

Ariz. Rev. Stat. Ann. Const. § 19, Refs & Annos.

- The Gadsden Treaty between the United States and Mexico. Passports not required of persons not remaining in the country.

Ariz. Rev. Stat. Ann. § 4-241

- A valid unexpired passport is an acceptable type of identification to determine whether person purchasing liquor is under the legal drinking age.

Ariz. Rev. Stat. Ann. § 13-3403.02

- A valid passport is an acceptable type of identification to verify that the purchaser of nitrous oxide is over 18.

Ariz. Rev. Stat. Ann. § 16-548

- An early voter who is overseas may complete the affidavit to accompany a ballot before a U.S. citizen who provides his or her signature and passport number, if available.

Ariz. Rev. Stat. Ann. § 32-1236

- Dentist triennial licensure; submission of a passport size photograph.

California

Cal. State Bar Rules and Regs, Art. I, § 1

- Registration of members; passport is acceptable document to establish identity.

Cal. Bus. & Prof. Code § 21628

- In order to satisfy tangible personal property reporting requirements, a secondhand dealer or coin dealer may use a passport from a foreign country in addition to another item of identification bearing an address.

Cal. Bus. & Prof. Code § 22430

- Manufacture or sale of a deceptive identification document, that is a document not issued by a governmental agency, which purports to be a document issued by such an agency, is prohibited. A deceptive identification document includes a passport.
- See Cal. Penal Code § 483.5 for penalties for violation of this provision.

Cal. Bus. & Prof. Code § 22443

- Immigration consultant shall return documents to client (including passports).

Cal. Bus. & Prof. Code § 22963

- A passport is a valid form of government identification to verify the age of the purchaser of tobacco products.

Cal. Civ. Code § 1185

- Acknowledgments; requisites; passport is satisfactory evidence of identity of individual making acknowledgment of instrument.

Cal. Civ. Code § 1798.80

- Customer records include passport number and state identification card number.

Cal. Educ. Code § 48002

- Passport may be used as evidence of minimum age required to enter kindergarten or first grade.

Cal. Educ. Code § 49133

- Minor may use passport to apply for permit to work full-time.

Cal. Elec. Code § 3004

- Potential absentee voters; notice required at passport and recruiting offices to inform potential absentee voters of their right to an absentee ballot.

Cal. Elec. Code § 3302

- Right to register for and vote by absentee ballot; requirements include possession of a valid passport or card of identity and registration.

Cal. Fam. Code § 3048

- Required contents for custody or visitation orders; applying for passport a factor in determination of risk of child abduction; court may require surrender of passport to prevent abduction

Cal. Fam. Code § 6228

- A person requesting copies of domestic violence incident reports can present a passport for identification purposes.

Cal. Fam. Code § 6752

- Contracts in art, entertainment, and professional sports; set aside in trust for benefit of minor; passport may be used to prove identity of beneficiary.

Cal. Fin. Code § 17331

- Fidelity corporation certificates; persons who must apply; nature of certificate; application may include passport-size pictures.

Cal. Govt. § 12179.1

- Ten-dollar fee charged for attesting each commission, passport, or other document signed by Governor.

Cal. Govt. Code § 16649.80

- Prohibited business arrangements; legislative finding that Arab League countries refuse to accept certain passports.

Cal. Penal Code § 112

- For the purposes of manufacturing or sale of false government documents, a government document includes any passport.

Cal. Penal Code § 483.5

- Deceptive identification documents (including passports), requirements for manufacture, sale or transport, punishment for violations.

Cal. Penal Code § 530.5

- In the context of false personation, the term “personal identifying information” includes a government passport number.

Cal. Penal Code § 4017.1

- Certain offenders (confined in county jails and camps) are ineligible for work providing access to personal information pertaining to private individuals. This information includes state–or government–issued driver’s license or identification numbers and government passport numbers.

Cal. Penal Code § 5071

- Certain offenders (convicted of particular offenses) are ineligible for work providing access to personal information pertaining to private individuals. This information includes state– or government–issued driver’s license or identification numbers and government passport numbers.

Cal. Prob. Code § 13104

- Passport is reasonable proof of identity in affidavit procedure for collection of personal property.

Cal. Unemp. Ins. Code § 9601.5

- Public agencies or contracted private organizations; passport may be used to prove legal status or authorization to work.

Cal. Veh. Code § 4466

- Duplicate or substitute certificate of title or license plate; different address; passport may be used for verification of identity.

Cal. Veh. Code § 6700.1

- Foreign residents purchasing vehicles made in United States; in-transit permits; passport may be used to prove residency in foreign country.

Cal. Wel. & Inst. Code § 219.5

- Certain offenders (wards of juvenile court) are ineligible for work providing access to personal information pertaining to private individuals. This information includes state–or government–issued driver’s license or identification numbers and government passport numbers.

Cal. Wel. & Inst. Code § 401

- Advocates’ responsibilities to assist children in foster care include locating a pupil’s records for inclusion in pupil’s health and education passport.

Cal. Wel & Inst. Code § 1500

- Minors under 18 years of age crossing the Mexican border; necessity of written parental consent or passport.

Cal. Wel. & Inst. Code § 16010

- Foster care placement; summary of health and education records of minor may be maintained in health and education passport or comparable format.

Cal. Wel. & Inst. Code § 16010.4

- Information provided to foster parents and other caregivers includes birth certificates, passport, or other identifying document of age.

Cal. Wel. & Inst. Code § 16010.5

- Medication, information, and documentation to be provided to foster parents and other caregivers includes birth certificate or passport.

Cal. Wel. & Inst. Code § 16011

- Development of pilot Internet-based health and education passport system for Los Angeles County.

Cal. Wel. & Inst. Code § 16501.6

- Child Welfare services case management system; information concerning foster child; study shall examine county health passport systems for possible replication.

Indiana

Ind. Code Ann. § 12-17-11-2

- Medical passport program for children who receive foster care.

Ind. Code Ann. § 12-17-11-3

- Issuance and maintenance of medical passport.

Ind. Code Ann. § 12-17-11-4

- Administrative rules for medical passport program.

Ind. Code Ann. § 14-19-3-4

- Golden Hoosier Passports for state parks and recreation areas; fees.

Ind. Code Ann. § 24-3-5.2-4

- A passport is valid government-issued identification for the verification of age of customer purchasing cigarettes by mail.

Ind. Code Ann. § 28-8-5-16

- A passport number can be used to identify a customer to meet check cashing requirements where check is at least \$3,000.

Ind. Code Ann. § 31-14-13-6.7

- Applying for passport is a factor for court to consider in making a security, bond, or guarantee determination in custody proceedings following determination of paternity.

Ind. Code Ann. § 31-14-13-11

- Party to a custody order who applies for passport for a child following determination of paternity must notify court and other party to the order.

Ind. Code Ann. § 31-17-2-21.7

- Applying for passport is a factor for court to consider in making a security, bond, or guarantee determination in child custody actions and modification of child custody orders.

Ind. Code Ann. § 31-17-2-24

- Party to a custody order who applies for passport for a child must notify court and other party to the order.

Ind. Code Ann. § 35-47-2.5-5

- A passport maybe used as documentation of residence for sale of handguns.

New York

N.Y. Alco. Bev. Cont. Law § 65-b

- Offense for one under age of 21 years to purchase or attempt to purchase an alcoholic beverage through fraudulent means. Licensee may accept passport as written evidence of age.

N.Y. Dom. Rel. Law § 15

- Town and city clerks may use passport for verification purposes when processing application for a marriage license.

N.Y. Econ. Dev. § 100

- General powers of department of economic development include establishing a New York hall of fame passport for admission to recognized halls of fame.

N.Y. Educ. Law § 3218

- Passport may be presented as evidence of age for compulsory education purposes.

N.Y. Elec. Law § 11-200

- Passport may be used to establish qualifications for special federal voters.

N.Y. Gen. Bus. Law § 72

- Application for certain licenses including private investigator, security, guard, and bail enforcement licenses to include passport-size photograph.

N.Y. Pub. Health Law § 1399-cc

- Sale of tobacco products or herbal cigarettes, rolling papers or pipes to minors prohibited. Purchaser may prove age through a passport.

N.Y. Pub. Health Law § 3429

- Passport or any other similar form of photo identification issued by a governmental entity may be used by funeral directors providing continuing education to identify persons taking instruction.

Virginia

Va. Code Ann. § 10.1-202.1

- Golden passport established authorizing free entry into state parks for certain persons.

Va. Code Ann. § 18.2-186.5

- Expunction of false identity information from police and court records; issuance of an Identity Theft Passport noting expunction.

Va. Code Ann. § 18.2-204.2

- Manufacture, sale or possession of fictitious, facsimile or simulated official license or identification, including a passport, is a Class 1 misdemeanor.

Va. Code Ann. § 18.2-308

- Person carrying concealed weapon is required to display permit and a photo-identification or passport upon demand by a law-enforcement officer.

Va. Code Ann. § 18.2-308.2:2

- Purchaser of certain firearms may present a passport as documentation of residence.

Va. Code Ann. § 19.2-152.1:4

- For periodic statements of value of property, bail bondsmen may present a U.S. passport as a form of identification.

Va. Code Ann. § 19.2-389

- Dissemination of criminal history record information to the appropriate authority for purpose of issuing passports.

Va. Code Ann. § 22.1-253.13:3

- Standards of quality in education include Literacy Passport test.

Va. Code Ann. § 46.2-347

- Fraudulent use of driver's license, Department of Motor Vehicles identification card, U.S. passport, or other form of official identification listed to obtain alcoholic beverages is a Class 3 misdemeanor.

Va. Code Ann. § 47.1-14

- A notary may use a U.S. or unexpired foreign passport to ascertain the identity of any person whose identity is the subject of a notarial act.

Va. Code Ann. § 63.2-1220

- An admission stamp in an adopted child’s passport may be used as evidence that a child adopted in a foreign country was admitted to the United States with an immediate relative immigrant visa for the purpose of seeking a birth certificate.

Va. Bankr. E.D. LBR R. 3011-1

- A creditor/claimant may present an unexpired passport to establish identity for the purpose of claiming funds.

Washington

Wash. Rev. Code § 9A.56.280

- In the context of statutes relating to credit cards and checks, “personal identification” includes passport.

Wash. Rev. Code § 13.34.340

- Release of records (including child welfare services passport containing all known and available health and educational information) to treating physician.

Wash. Rev. Code § 36.18.016

- Various fees (including execution fees collected for preparation of a passport application)— not subject to division.

Wash. Rev. Code § 46.20.035

- U.S. passport may be used to meet identification requirements for driver’s licenses.

Wash. Rev. Code § 66.16.040

- Sales of liquor by employees—passport is included as officially issued card of identification that may be used to demonstrate age.

Wash. Rev. Code § 70.155.090

- Purchaser of tobacco products may present a passport to show purchaser’s age.

Wash. Rev. Code §70.155.105

- Passport may be used to satisfy requirement that person who mails, ships, or otherwise delivers cigarettes must verify the age of the receiver of the cigarettes upon delivery.

Wash. Rev. Code § 74.13.031

- Duties of department—Child welfare services must report annually to the governor and the legislature on its success in implementing and operating the children’s services passport program.

Wash. Rev. Code § 74.13.285

- Child welfare department is required to prepare children’s service passport to be provided to foster parents.

Wisconsin

Wis. Stat. Ann. § 134.695

- Antiques dealer may not knowingly purchase or receive used home furnishings from a person without recording one of the identification numbers listed therein. The list includes a person’s U.S. passport number.

Wis. Stat. Ann. § 134.71

- Pawnbrokers and secondhand article and jewelry dealers shall require the customer to present one of the types of identification listed. The list includes a valid passport.

Wis. Stat. Ann. § 343.125

- Endorsements to a commercial drivers license for transporting certain hazardous materials. Applicant may submit a U.S. passport as documentary proof of U.S. citizenship.

Appendix IV: Comments from the Department of Homeland Security

Washington, DC 20528



**Homeland
Security**

August 3, 2004

Mrs. Laurie Ekstrand
Director, Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Ms. Ekstrand:

Thank you for the opportunity to comment on your draft report entitled, "Border Security: Consular Identification Cards Accepted Within United States, but Consistent Federal Guidance Needed," GAO-04-881.

The Department of Homeland Security appreciates the work done in this report to explore factually the traditional and emerging uses of consular identification documents (CIDs) in the United States, especially their use to establish the bearer's identity. Specifically, DHS would like to commend the Government Accountability Office for recognizing the importance of secure issuance procedures, physical properties, and the ability to verify documents that may be used as identity cards. These three security aspects are critical to the overall security of such documents.

However, DHS believes that this draft suggests CIDs are of greater concern than other documents used to establish identity in the U.S. The Department is interested in the security of all documents – whether issued domestically or by foreign governments – that may be used to establish identity. Because enforcement of immigration laws is among the range of our responsibilities, our organizational elements may encounter CIDs more often than other forms of identification. Nonetheless, it is inappropriate to conclude that CIDs are generally more susceptible to misuse than other documents. DHS encourages GAO to explore more fully the customary and historical uses of CIDs as a means of giving greater context to the report that addresses the emerging phenomenon of wider use of CIDs within our society.

The Department is working diligently on measures to verify and maintain the identity of international travelers to the U.S. We continue to work with the Department of State and foreign governments to enhance the security of passports, other travel documents, and other identification documents. Additionally, the US-VISIT program, a top priority for the Department, enhances security for our citizens and visitors while facilitating legitimate travel and trade across our borders. US-VISIT helps to secure our borders, facilitate the entry and exit process, and enhance the integrity of the immigration system while respecting the privacy of our visitors. US-VISIT is part of a continuum of security measures that begins overseas and continues through a visitor's arrival to and departure

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from the United States. It incorporates eligibility determinations made by both the Departments of Homeland Security and State.

In those cases where a visa is issued by the Department of State, biometrics such as digital, inkless fingerscans and digital photographs allow the Department of Homeland Security to determine whether the person applying for entry to the United States is the same person who was issued the visa by the Department of State. Additionally, the biometric and biographic data is checked against watch lists, improving the Department of Homeland Security's ability to make admissibility decisions as well as the Department of State's ability to make visa determinations.

The development of appropriate standards for identity documents is a critical next step and necessarily should involve experts from the private sector and the government. Establishing and protecting identity is a matter of daily life and affects us all. Use of non-secure documents allows individuals to veil their true identities for a variety of reasons, from the benign to the criminal or for terrorist intent. Inability to verify the issuance of identity documents leaves us all vulnerable to identity theft. Inadequate screening procedures may result in the issuance of a bona fide document to undeserving bearers. Once an individual obtains one form of identification it may be used as a breeder document to obtain more important benefits or higher quality identification documents. These situations expose us to potential security vulnerabilities.

The draft report suggests incorrectly that the Administration has no clear position on CIDs. It is well established that foreign consular ID cards do not establish or indicate lawful U.S. immigration status and should not be viewed as valid for that purpose, nor do they establish a foreign national's right to be or remain in the United States. This is a clear and settled position.

Finally, it is important to note that DHS does not recognize CIDs as valid travel documents and CIDs are not accepted for that purpose at the more than 300 ports-of-entry where Customs and Border Protection officers screen travelers seeking admission to the United States.

Thank you for the opportunity to contribute comments to the draft report.

Sincerely,



C. Stewart Verdery, Jr.
Assistant Secretary for Policy and Planning
Border and Transportation Security Directorate

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

Laurie Ekstrand (202) 512-8777

Staff Acknowledgments

In addition to the contact above, Amy Bernstein, John Brummet, John Cooney, Adam Couvillion, Jeanette Espinola, Ann Finley, Evan Gilman, Marvin McGill, Ramon Rodriguez, and Robert White made key contributions to this report.

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