

7 FAM 380 EMEGENCY MEDICAL, DIETARY, TEMPORARY ASSISTANCE (EMDA II) TO NON-INCARCERATED U.S. CITIZENS ABROAD

*(CT:CON-267; 10-08-2008)
(Office of Origin: CA/OCS/PRI)*

7 FAM 381 INTRODUCTION

(CT:CON-267; 10-08-2008)

- a. This subchapter addresses consular emergency financial assistance programs available to **non-incarcerated destitute U.S. citizens** and/or eligible family members **who are not being repatriated to the United States**. The Bureau of Consular Affairs (CA) may, in its discretion, but is not required to provide an emergency medical, dietary and other assistance loan (EMDA II) to an eligible U.S. citizen and/or eligible family member(s). 7 FAM 384 provides guidance about eligibility for EMDA loans for U.S. citizens and includes a discussion about what family members are eligible to be included in such loans. 7 FAM 440 provides guidance about EMDA I loans to incarcerated U.S. citizens.
- b. Emergency Medical Assistance, Short-Term Dietary Assistance and Emergency Assistance (EMDA) loans for temporarily destitute U.S. citizens and their qualified dependents are authorized **on a reimbursable basis** and require the completion of a Form DS-3072 in every instance.
- c. EMDA funds are quite limited and **are not intended or designated** to provide for long term medical assistance. EMDA funds are generally authorized for short-term treatment necessary to stabilize the patient or short-term emergency assistance. **The three elements of EMDA II loans include:**
 - (1) Emergency medical assistance for U.S. citizens and/or eligible family members who are not repatriating to the United States;
 - (2) Short Term Dietary Assistance for U.S. citizens and/or eligible family members who are not repatriating to the United States; and
 - (3) Emergency Assistance for temporarily destitute U.S. citizens and/or eligible family members who are not repatriating to the United

States.

- d. **EMDA II Not to be Used for Stabilization of Patient Being Evacuated to the United States:** Authorized hospitalization to stabilize a patient who will require a medical evacuation repatriation to the United States is included in a repatriation loan rather than a separate EMDA loan. (7 FAM 370 provides guidance about repatriation loans, including medical repatriation.)

NOTE: Determining what kind loan (EMDA or medical repatriation) is appropriate may require close consultation with the attending physician. Posts may also consult CA/OCS/ACS for guidance in determining whether an EMDA loan or repatriation loan is appropriate.

- e. **First Seek Assistance From Private Resources:** Before consideration can be given to issuance of an EMDA II loan, it must be established by the consular officer's satisfaction that the individual is destitute. This requires that the post contact at least three possible sources of private assistance based on information provided by the citizen, his/her accompanying associates or family/friends/employer in the United States. 7 FAM 383 provides guidance on seeking assistance from private resources.
- f. **Privacy Act:** The applicant generally must provide a written Privacy Act waiver before a consular officer can contact any possible source of financial assistance, including the applicant's immediate family. A Privacy Act waiver generally is not necessary if the applicant is a minor and the point of contact is a parent or legal guardian (see 7 FAM 060 and 7 FAM 1720 if the minor does not want the parents notified or if there are considerations such as runaways, possible abuse or neglect, and other special children's issues). Form DS-3072, Emergency Loan Application and Evacuation Documentation includes a Privacy Act waiver. If the U.S. citizen adult is not capable of executing a Privacy Act waiver due to illness or a pre-existing condition, the Health and Safety Exception to the Privacy Act may apply.

NOTE: Health and Safety Exception and the Privacy Act ...

The Privacy Act's "health or safety" exception allows disclosure of information without a PAW "to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual" (5 U.S.C. 552a(b)(8)).

This exception requires a "showing of compelling circumstances affecting the health or safety of an individual".

This section of the Act may be invoked to save the life of the U.S.

citizen/national, notwithstanding his/her written affirmation of his/her right to privacy. You are also permitted to disclose Privacy Act-protected information about an individual in order to remove that person from harm's way. In determining whether the "health or safety" exception is applicable in any given case, you should consider what reasonable course of action would safeguard the welfare of an individual whose physical or mental well-being is at stake in light of all the relevant circumstances - i.e., age of individual, nature of condition, availability of medical facilities, degree to which individual and/or local health facilities can communicate with NOK or friends stateside, etc. The officer should document contemporaneously in writing the basis for acting pursuant to 5 U.S.C. 552a(b)(8).

Information may be released to any person who can reasonably be expected to assist the individual whose health or safety is at risk, e.g., relative, friend, attorney, clergyman, member of Congress, etc., though not the media.

Question: ASKPRI@state.gov (See 7 FAM 066)

g. This subchapter provides guidance on:

- (1) Authority to expend funds (7 FAM 382);
- (2) Contacting private sources of assistance (7 FAM 383);
- (3) Adjudication of eligibility for an EMDA loan and services covered (7 FAM 384);
- (4) Consular authority to issue EMDA loans of a certain amount without specific authorization from CA/OCS/ACS (7 FAM 385);
- (5) Medical diagnosis and discussing costs with families (7 FAM 386);
- (6) Documentary requirements for completion of the Form DS-3072 Emergency Loan Application and Evacuation Documentation (7 FAM 387);
 - (a) Prompt entry of the case into the ACS system;**
 - (b) Passport actions and entry of looking into CLASS via PLOTS;**
- (7) Disbursement or return of any approved funds (7 FAM 835, 7 FAM 387.7);
- (8) Passport actions (7 FAM 388 and 7 FAM 1385);
- (9) Repayment procedures for the applicant (7 FAM 389);
- (10) Special procedures required to approve a second loan for an individual who has outstanding EMDA or repatriation indebtedness (7 FAM 389); and
- (11) Reporting and record keeping regarding EMDA loans (7 FAM 389).

7 FAM 382 AUTHORITIES

(CT:CON-267; 10-08-2008)

- a. 22 U.S.C. 2670(j) (Public Law 95-426 (1978)), authorizes the Secretary of State to “provide emergency medical attention and dietary supplements, and other emergency assistance, for United States citizens incarcerated abroad or destitute United States citizens abroad who are unable to obtain such services otherwise, such assistance to be provided on a reimbursable basis to the extent feasible.”

Note: Public Law 95-45 (1977) pertained to EMDA for prisoners. Public Law 95-426 (1978) extended the authority to assistance to non-prisoners.

- b. 22 CFR Part 71 includes regulatory provisions regarding EMDA I loans.
- c. 22 CFR Part 51 includes the regulatory provisions regarding denial and limitation of passport services due to default on or non payment of a loan received from the United States.

7 FAM 383 SEEKING ASSISTANCE FROM PRIVATE RESOURCES

(CT:CON-267; 10-08-2008)

- a. Before considering authorization of an EMDA II loan for a U.S. citizen and/or eligible family member, the consular officer must be satisfied that reasonable attempts to obtain private resources from the individual’s family, friends, employer etc. have failed, or such resources do not exist, and the individual would experience hardship if the loan is not approved.
- b. Interview the U.S. citizen to obtain additional details about his or her situation. Questions to be asked should include, but not be limited to:

- Do you have health insurance?**
- Did you purchase traveler’s insurance?**
- Do you have access to funds in the United States, for example: contact your financial institution to obtain a replacement automatic teller machine (ATM), credit card, debit card or to arrange a wire transfer or to ask for an emergency increase in your credit card;**
- Have you contacted family members, friends or your employer? The embassy can assist you in contacting them.**
- What are the names, phone numbers and email addresses of at least 3 individuals we can contact on**

your behalf to secure all or part of the necessary funds. These private resources may be in a position to transmit funds via OCS Trust (see 7 FAM 324), pre-pay and airline ticket with an air carrier, pay hotel bills by credit card from the United States, etc.

NOTE: The applicant should be advised that if he/she does not provide the names of at least 3 individuals to be contacted for assistance he/she will not be eligible for consideration for an EMDA II loan. If the citizen's medical condition is such that he/she is unable to communicate with the consular officer, and there are no accompanying family/friends, the post and CA/OCS/ACS will attempt to locate NOK or other person designated on the passport application to be notified in the event of an emergency.

- c. Prior to recommending approval of an EMDA II loan, good faith efforts must be made to obtain funds from private sources, and all such efforts should be properly documented in the ACS system case file.
- d. Form DS-3072, Emergency Loan Application and Evacuation Documentation includes a Privacy Act waiver for all EMDA loan applicants, giving the consular officer authority to contact any and all potential sources in relation to the loan application process, including those not initially provided by the client but later recommended by other contacts.
- e. Consular officers are also required to provide an explanation in the initial loan request cable (see 7 FAM Exhibit 383) when the minimum number of contacts are not made, and to document in the applicant's ACS system case file the reasons for non-compliance or non-applicability. Such reasons may include, for example, the fact that a citizen was impaired and unable to assist, **but refusal to cooperate with procedures outlined in this subchapter is not reason enough to waive those procedures.**
- f. CA/OCS/ACS and posts abroad do not consult credit bureaus to verify that an individual is destitute or credit eligible.
- g. **Interviewing the Applicant:** If the U.S. citizen residing abroad is destitute and requesting an EMDA II loan, additional questions a consular officer may reasonably ask a U.S. citizen who is a resident of the consular district:
 - (1) Where do you live? With whom?

NOTE: As consular officer observes the individual, are there any indications of abuse or neglect.

- (2) Is there someone else with whom you can stay in this country temporarily?

- (3) What is the contact information for persons who may assist in verifying your circumstances.

NOTE: The individual claim that if you contact his/her parents the individual will face consequences. Be sensitive to such a claim, but explain you may need to make other inquiries such as at a school, religious or social organizations or other family members or friends. Your judgment is important. (See 7 FAM 1740 Forced Marriage of Minors; 7 FAM 1720 Child Abuse and Neglect; 7 FAM 1730 Child Exploitation; 7 FAM 1760 Runaways, Abandoned Children and Unaccompanied Minors, 7 FAM 180 Refuge – Temporary Emergency Protection Of Private U.S. Nationals At Overseas Posts, 7 FAM 170 Reporting On American Community Groups Abroad (cults) and 7 FAM 1780 Behavior Modification Facilities.)

7 FAM 384 ELIGIBILITY FOR EMDA II AND SERVICES COVERED

(CT:CON-267; 10-08-2008)

- a. Because EMDA II includes three categories of loan assistance, this section provides specific eligibility guidance for each type of EMDA II loan and services covered by such loans:
 - (1) Eligibility for medical assistance for person who are not repatriating to the United States;
 - (2) Eligibility for short term dietary assistance for persons who are not repatriating to the United States; For example, a U.S. citizen awaiting receipt of a federal benefits check that has been delayed due to grounding of aircraft or closure of airports. and;
 - (3) Eligibility for emergency assistance for temporarily destitute citizens who reside abroad and are not repatriating to the United States. For example, a citizen arrested and released in the host country who needs assistance to return to his/her country of residence outside the United States.
- b. **Who is the applicant?:** The applicant for an EMDA II loan must be a U.S. citizen/national.
- c. Where must the applicant be located?:
 - (1) The U.S. citizen/national applicant is usually the person appearing before the consular officer or located in a hospital in the consular district.
 - (2) There are circumstances, however, in which the U.S. citizen/national applicant is located in the United States or a third

country and is applying on behalf of a an eligible family member located in the consular district. This situation may arise when:

- (a) The beneficiary of the EMDA II loan is an unaccompanied minor; or
- (b) The beneficiary of the EMDA II loan is a U.S. citizen/national who has been declared incompetent by a U.S. or foreign court.

d. Who is an eligible family member for purposes of an EMDA II loan:

- (1) As noted in paragraph b, the loan applicant must be a U.S. citizen/national. Family members included in an EMDA II loan are **usually accompanying the U.S. citizen applicant**, except as unaccompanied minors or adults declared incompetent by a U.S. or foreign court.
- (2) The Form DS-3072 executed by the U.S. citizen/national applicant may include other family members such as spouses, minor children, or other immediate family members of the household.
- (3) Household staff do not qualify as eligible family members. Spouses should both sign the Form DS-3072 in the space provided on line 16.
- (4) Other U.S. citizen adult family members should complete his/her own applications.
- (5) Non U.S. citizen/national family members as defined in this section may be included in an EMDA II loan only with authorization from the Director of CA/OCS/ACS.

NOTE: If the family member is not a U.S. citizen/national, the family would usually be directed to the embassy or consulate of that person's nationality for assistance for that non-U.S. citizen family member. However, CA/OCS/ACS can envision unusual situations where it is necessary to provide temporary feeding for an entire family which may include an alien minor child or spouse. This would normally be included in the cost of repatriation rather than an EMDA loan.

7 FAM 384.1 Eligibility for Medical Assistance

(CT:CON-267; 10-08-2008)

- a. A U.S. citizen abroad and/or family member(s) are eligible to apply for and receive emergency medical assistance **on a reimbursable basis** (that is, an EMDA loan).
- b. The U.S. consular officer must determine the following:

- (1) The U.S. citizen and/or eligible family member(s) is "**destitute**," meaning that the individual does not have available to him/her abroad adequate funds or insurance for necessary emergency care;
- (2) Adequate medical treatment is not available from the host government;
- (3) Reasonable attempts to obtain private resources (from the individual's family, friends, etc.) have failed, or such resources do not exist;
- (4) There are medical indications identified by attending physician in the foreign country that the emergency medical assistance is necessary to sustain life, to prevent the death of the U.S. citizen and/or accompanying family member(s), or to prevent a disability, serious injury, or other significant deterioration of the individual's physical or mental health.
- (5) If feasible, the U.S. citizen, spouse and/or accompanying adult family member(s) or family members/friends in the United States or in a third country have executed a promissory note (Form DS-3072).
- (6) A qualified U.S. citizen may include in the loan application and promissory note (Form DS-3072) emergency medical assistance funds for:
 - (a) An accompanying citizen or alien spouse; and/or
 - (b) Citizen or alien unmarried adult children, minor children, or other dependent relatives who are members of the household of the U.S. citizen.

7 FAM 384.2 Services Covered by EMDA II Medical Assistance Loans

(CT:CON-267; 10-08-2008)

As reasonable and appropriate, emergency medical assistance may include, but is not limited to:

- (1) Emergency medical examination;
- (2) Emergency medical treatment;
- (3) Non-elective surgery;
- (4) Medications and related medical supplies and equipment required in an emergency or on a routine basis to sustain life, to prevent the death of the U.S. citizen and/or accompanying family member(s), or to prevent a disability, serious injury, or other significant deterioration of the individual's physical or mental health;

- (5) Preventive or protective medications and medical supplies and equipment (vaccinations, inoculations, etc.) required to combat disease, including epidemic conditions;
- (6) Childbirth attendance and assistance, including necessary medical care of newborn children;
- (7) Within the consular district, transportation for the U.S. citizen (and/or accompanying family member(s)) and attendant(s) to the place(s) of treatment; and
- (8) Outside the consular district, transportation for the U.S. citizen and attendant(s) to the place(s) of treatment outside the United States.

7 FAM 384.3 Eligibility For Dietary Assistance

(CT:CON-267; 10-08-2008)

A U.S. citizen abroad and/or eligible family member(s) are eligible to apply for and receive emergency dietary and other emergency assistance if the responsible U.S. consular officer determines the following:

- (1) The U.S. citizen (and/or eligible family member) is "destitute," meaning that the individual does not have available to him/her abroad adequate funds for basic dietary and subsistence needs;
- (2) Adequate emergency dietary assistance is not available from private or public sources (shelters, charities, etc.) in the host country;
- (3) Reasonable attempts to obtain private resources (from the individual's family, friends, etc.) have failed, or such resources do not exist; and
- (4) If feasible, the U.S. citizen, spouse and/or accompanying adult family member(s) or family members/friends in the United States or in a third country have executed a promissory note.
- (5) A qualified U.S. citizen may include in the Form DS-3072 emergency dietary and other emergency assistance funds for:
 - (a) An accompanying citizen or alien spouse; and/or
 - (b) Citizen or alien unmarried adult children, minor children, and other dependent relatives who are members of the household of the U.S. citizen.

7 FAM 384.4 Services Provided For Emergency Dietary and Other Assistance

(CT:CON-267; 10-08-2008)

Emergency Dietary and Other Emergency Assistance **for persons who are not being repatriated to the United States** may include, but is not limited to:

- (1) Food;
- (2) Shelter;
- (3) Related sundries; and
- (4) As reasonable and appropriate, transportation to a residence outside the United States for the U.S. citizen and/or an accompanying family member who possesses or is eligible for a visa in the country of residence, as applicable.

What are sundries?

Your destitute U.S. citizen may have been the victim of a robbery and lost everything except the clothes on his/her back. The family could include small children in need of diapers, etc.

In these circumstances sundries means vital hygiene/health related items such as toothbrush, toothpaste, shampoo, diapers, soap, razor, deodorant, feminine hygiene products, etc. which the destitute citizen may need to tide him/her over.

(See 7 FAM 356 Problems Involving Prescription Medications, Lost or Stolen Medical Equipment.)

7 FAM 384.5 Emergency Assistance For U.S. Citizen Residing Abroad

7 FAM 384.5-1 For Transportation Costs To Foreign Residence

(CT:CON-267; 10-08-2008)

A rarely used component of the EMDA II program is emergency assistance for transportation costs to return the U.S. citizen to his/her foreign residence. Eligibility requires satisfactory evidence of the person's actual foreign residence such as an immigrant visa or student visa. Of course, the destitution requirements of the EMDA II program must be met which includes efforts to identify private sources of assistance. This program cannot be used by destitute U.S. citizen travelers who prefer travel to an exotic foreign locale to repatriation to the United States.

7 FAM 384.5-2 Subsistence EMDA Loan For Federal Benefits Recipient Whose Benefits Check Has Been

Delayed

(CT:CON-267; 10-08-2008)

Most U.S. federal benefits recipients receive their benefits checks by direct deposit or other electronic payment. The few remaining beneficiaries whose checks are sent to the U.S. embassy or consulate (see 7 FAM 500) occasionally require assistance if there is some unforeseen delay in transmission of federal benefits checks. EMDA II subsistence loans are provided only for short term assistance, not for the full sum of the benefits check. The subsistence loan generally should be repaid when the federal benefits check is received.

7 FAM 385 POST EMERGENCY EXPENDITURE AUTHORIZATION, REPORTING, AND CA AUTHORIZATION FOR HIGHER COST LOANS

7 FAM 385.1 Post Emergency Expenditure Authorization

(CT:CON-267; 10-08-2008)

- a. **Emergency Medical Assistance:** If the medical emergency is such that time does not permit contacting CA/OCS/ACS or verifying the availability of private funds, the post may expend the minimum amount necessary, up to \$500, without prior Department approval, provided a Form DS-3072 has been completed and signed and the condition is such that if medical attention is postponed, death or serious injury may result. The post must report all facts of the case to CA/OCS/ACS in the ACS system and by cable/email as soon as possible.
- b. **Dietary and Other Assistance:** Posts are authorized to expend up to \$200 without prior approval from CA/OCS/ACS. Expenditures above \$200 require CA/OCS/ACS approval.
- c. Before exercising this authority, the consular officer must determine that the applicant meets all of the eligibility requirements for an EMDA loan (see section 7 FAM 373). In all cases posts must first attempt to secure funds from private resources before adjudicating an EMDA loan application.
- d. The consular officer must determine that the applicant correctly completes and signs an application and promissory note (see 7 FAM 374).
- e. **Reporting:**
 - (1) The consular officer exercising this authority must submit a final

report via cable to CA/OCS/ACS, CA/PPT/TO/RS/RR/C and RM/GFS/F/AR within 72 hours of final disbursement of funds. (See 7 FAM Exhibit 385.1.)

- (2) All case details should be made a part of the ACS system case file.

7 FAM 385.2 EMDA II Loans Above Post Spending Authority

(CT:CON-267; 10-08-2008)

- a. In every case when the EMDA II loan amount exceeds post authority the consular officer must
 - (1) Enter the case in the ACS system;
 - (2) Use the ACS system to request Department authority to expend the estimated funds.
- b. You must alert CA/OCS/ACS by phone or email of requests requiring urgent approval.
- c. Post requests must provide a breakdown of all expenses included in the loan estimate.

For example ...

- \$200 lodging;
- \$ 50 food and sundries.

7 FAM 385.3 Department Oversight and Authorization

(CT:CON-267; 10-08-2008)

- a. CA/OCS/ACS will review the post's request for authorization in the ACS system.
- b. If CA/OCS/ACS determines that proposed expenses reasonable and appropriate, we will approve the loan in the ACS system. The ACS system will return the case to post for further action. In urgent cases CA/OCS/ACS may also communicate with the post by email or phone.
- c. If CA/OCS/ACS does not approve the EMDA loan, the loan will be denied in the ACS system. The post will also be advised by email or phone of the reason for the denial.

Exigent Cases: CA/OCS will work with posts to grant expedited approval in exigent cases where expedited transport of the destitute citizen is imperative. OCS Duty Officers are available to assist you after hours.

d. Fiscal and Financial Good Practices:

- (1) Consular managers in OCS and at posts abroad must manage public monies expended on behalf of destitute citizens responsibly and ensure that our records are accurate and up to date;
- (2) Posts should routinely review outstanding cases in ACS at least quarterly to ensure that authorized funds have been properly disbursed and/or returned, that the account has been properly closed in the ACS system and that the final reporting cable has been sent. This ensures that the ACS tracking system adequately supports information and data. CA/OCS/ACS has responsibility for oversight of the financial assistance portfolio and relies heavily on the accuracy of data entered by posts to project year end expenditures, future financial needs, and generate accurate statistical reports for CA management budget requests to Congress. (See 7 FAH-1 for general guidance about consular management and internal controls);
- (3) In order to exercise proper fiscal control it is imperative that dollar amounts of loans be accurately and promptly recorded in the automated systems; that unexpended funds be returned in accordance with established ACS system procedures (see the ACS system on-line user's guide) and that a final report detailing expenditures be completed within 72 hours.
- (4) Because the Bureau of Resource Management (RM) and the Bureau of Consular Affairs Directorate of Passport Services CA/PPT do not have access to the ACS system, it is imperative that posts follow procedures for disposition of original signed copies of the Form DS-3072 and completion of the final reporting cable.

7 FAM 386 MEDICAL DIAGNOSIS

(CT:CON-267; 10-08-2008)

- a. The consular officer must communicate with the sick or injured person, preferably by a personal visit, and obtain a professional medical diagnosis and prognosis from the attending physician. Sources of such evaluations might be a host government physician or health official, or a local private physician. The consular officer should advise CA/OCS/ACS of the diagnosis/prognosis via the ACS system and cable/email.
- b. Medical decisions about the citizen are a matter between the citizen, the physician and the family/legal representative. The consular officer may not make or participate in medical decisions.
- c. The attending physician should evaluate the patient and make

recommendations, and provide diagnosis/prognosis.

- d. The Regional Medical Officer (RMO), post nurse practitioner or other Department of State medical personnel may be of assistance in communicating with attending physicians.
- e. The RMO may be of assistance in advising regarding the adequacy and availability of medical services, treatment and medications in the host country.
- f. 7 FAM 350 provides additional guidance about medical assistance. 7 FAM 354 provides guidance regarding diagnosis and prognosis reports from attending physicians abroad.
- g. 7 FAM 340 provides additional guidance about mental illness or other cases of citizens lacking full mental capacity.
- h. 7 FAM 334 provides guidance about cases involving communicable diseases.
- i. 7 FAM 1850 provides guidance regarding pandemics.

NOTE: The U.S. Embassy or Consulate cannot guarantee payment of hospital or other medical expenditures. Only if a citizen or other person acting in his or her behalf executes a Form DS-3072 may the post inform the local authorities that any payment will be forthcoming.

- j. **Communicating to Families and/or the Citizen Patient the Costs of Care.** Making arrangements for payment to a medical care provider is the responsibility of the patient and his/her family, friends, employer, insurance company, etc. The consular officer may be helpful in establishing communications between the family and the care provider (who may or may not speak English): Questions you may need to assist the family/patient in raising with local authorities include:
 - (1) Will the hospital/physician treat the patient in a life or death emergency without advance payment or guarantee of payment?
 - (2) Will the hospital/physician accept payment by a U.S. credit card?
 - (3) If the patient thinks he/she is covered by medical insurance, this would need to be confirmed? How? By Whom?
 - (4) Will the hospital release the patient without payment or payment plan arrangement?
 - (5) What is the cost of admission plus one or two days treatment?

7 FAM 387 APPLICATION PROCESS

7 FAM 387.1 Overview of Application Process

(CT:CON-267; 10-08-2008)

- a. A U.S. citizen applicant for an EMDA II loan must complete Form DS-3072 Emergency Loan Application and Evacuation Documentation. This form includes a loan application and promissory note. 7 FAM 370 provides guidance on the use of Form DS-3072 for repatriation loans. 7 FAM 1800 Appendix D provides guidance on the use of Form DS-3072 for crisis evacuations.
- b. The applicant may be the destitute U.S. citizen/national appearing before the consular officer, or a relative or friend, who is physically present in the host country, the United States or in a third country, who is applying for the loan on behalf of the destitute U.S. citizen.

For example

You have an unaccompanied minor in the consular district. The grandmother in the United States executes the loan application.

You have a qualified alien relative traveling with the minor U.S. citizen child. The child is the applicant. The alien relative signs the Form DS-3072. (See 7 FAM 387.6.)

- (1) If executing the Form DS-3072 in the United States, the applicant must fax the executed Form DS-3072 to CA/OCS/ACS and express mail the original notarized signed copy of the document to CA/OCS/ACS for coordination with the post.

CA/OCS/ACS Express Mail Address

Overseas Citizens Services
U.S. Department of State
2100 Pennsylvania Avenue, N.W.
4th Floor
Washington, DC 20037
(202)647-5226

- (2) If executing the Form DS-3072 in a third country, the applicant may execute it before a notary public and express mail it to the U.S. embassy or consulate where the loan recipient is situated, if authorized by CA/OCS/ACS. It is preferable that the form be executed by the applicant before a U.S. consul in the third country, but CA/OCS/ACS may authorize execution before a notary public on a case by case basis.
- c. Each adult U.S. citizen seeking an EMDA II loan who is physically able to do so, except an adult who has been declared incompetent by a U.S. or

foreign court of competent jurisdiction, must execute Form DS-3072.

- d. Instruct the applicant to complete the form using block letters (printing) as legibly, neatly and as fully as possible.

7 FAM 387.2 Content of the Loan Application

(CT:CON-267; 10-08-2008)

The Form DS-3072 was designed as a combined application for repatriation, emergency medical and dietary assistance, or crisis evacuations. To apply for an EMDA II loan, each adult applicant, unless determined incompetent by a court of competent jurisdiction (U.S. or foreign), must provide the following information which corresponds to the number blocks on the form:

- (1) **Name.** The applicant's full legal name; (including "also known as" (AKA) names and, aliases). The applicant's name(s) must be cleared in the Consular Lookout and Support System (CLASS) before the loan application is processed;
- (2) **Social Security Number (SSN).** An EMDA II loan will **not be issued without a verifiable address and SSN**, except in extraordinary circumstances when failure to issue the loan may result in endangerment of the life or limb of the U.S. citizen or other compelling circumstance.

For example ...

Potential kidney failure for which no adequate medical care is available in the host country or nearby. In the opinion of the attending physician, as verified by qualified medical personnel, failure to evacuate the patient to the nearby country may result in endangerment of the life of the citizen.

Battered spouse and children apply for refuge. No personal resources exist, local police and social services are non-existent, ineffective or potentially adversarial. Return to their residence in the host country may result in endangerment to the lives or limbs of the citizens.

The Social Security Administration (SSA) advises CA that even in a crisis situation a SSN cannot be issued in less than 6 weeks for a person abroad. In such cases, the Department may authorize issuance of the loan without the SSN, but the applicant must provide a SSN as soon as practicable. Before processing the loan, the consular officer must assist the loan applicant in applying for an SSN using SSA Form SS-5 Application for a Social Security Number. CA will coordinate with SSA to share the SSN with RM and HHS, where appropriate, for debt collection purposes. The consular officer should annotate line 20 of the Form DS-3072 to explain the absence of a SSN.

- (3) **Nationality.** The country of the applicant's nationality listed in item 3 will almost always be U.S. except in crisis evacuations when the evacuee is a third country national or host country national seeking evacuation assistance by the United States.
- (4) **Date of birth.** This should be listed in numerals (MM-DD-YYYY);
- (5) **Place of birth.** This should include the city, state, country of birth;
- (6) **Sex.** The applicant should check the box for male or female;
- (7) **Accompanying Family Members.** For purposes of inclusion within an EMDA II loan, this includes spouse, children and other immediate family members of the household. It does not include household staff. Other adult eligible persons must apply individually. Item 7 of the application asks for identifying information about the family members including name, sex, date and place of birth, relationship to the principal applicant listed in item 1, nationality, whether the person is a minor (yes/no) and whether there are any medical issues associated with each individual listed.

NOTE: There is additional space on page 3, Part 2 of the form for medical need information for the consular officer to use in the event of a crisis evacuation. In a medical evacuation there is additional space in line 20, consular adjudication notes. Information about all family members included in an EMDA loan should also be included in the ACS system case record;

- (8) **Verifiable Address at Final Destination in the United States (or other Home of Record).** The borrower must, except as provided in paragraph (9) below, provide a verifiable address at the time of application. This is required for billing/collection purposes. A verifiable address is the applicant's intended place of residence (not a post office box) upon return to the United States.
- (9) **Identity of Person Whose Verifiable Address is Listed in Item 8.** If the onward address is unknown, the borrower should check box Other and state "To be determined. The post in the third country where the person is being returned or to which the person is being medically evacuated should provide a final address if possible. CA/OCS/ACS will share onward destination information obtained by HHS and/or its partners and grantees with RM/GFS/F/AR.

Bureau of Resource Management
Office of Global Financial Operations,
Accounts Receivable Division
RM/GFS/F/AR

1-800-521-2116
843-308-5417 (if dialing from outside the U.S. or Canada)
FMPARD@state.gov

- (10) **I HEREBY APPLY FOR A U.S. GOVERNMENT ASSISTANCE LOAN (check all that are applicable).** For an EMDA II loan, the applicant should check the Emergency Medical and Dietary Assistance box. If the case involves a medical evacuation to a third country, the applicant should check the Medical Repatriation of U.S. Citizen (and/or accompanying family members) box. If an escort is participating in the medical evacuation to a third country using EMDA funds the Escort box should also be checked.
- (11) **Promissory Note.** The applicant should check all appropriate boxes. This will usually include the first and second boxes on the form). The third and fourth boxes pertain to crisis evacuations; the fifth box to repatriation loans.
- "I am a citizen of the United States and I hereby promise to repay to the United States Government within 90 days after the signing of this note, and at an interest rate established in accordance with Federal law, all applicable expenses (including, but not limited to, transportation, subsistence, medical attention) incurred by the United States Government incident to my repatriation."
 - "I further understand that as the principal adult U.S. citizen applicant(s) for repatriation/EMDA loan my U.S. passport will be canceled and I will be issued a passport limited for direct return to the United States. As the principal adult U.S. citizen applicant(s), my name will be included in the passport lookout system until the debt has been repaid. So long as the debt is not in default, I will be eligible for passport services."

NOTE: Form DS-3072 contains at the top of pages 2-4 a field the last name, first name, middle names and SSN which are automatically populated when completing the form on line. Applicants completing the form in pen and ink must fill in each field. This will assist in ensuring that separated pages can be reassembled.

- (12) **LOAN AMOUNT. TO BE COMPLETED BY THE CONSULAR OFFICER.**
The consular officer should enter:
- (a) The total amount of the EMDA loan in foreign currency;
 - (b) The amount of the EMDA loan in U.S. currency equivalent of (a);
 - (c) The portion of the total EMDA loan expended for subsistence;

- (d) The beginning date of the subsistence period;
 - (e) The end date of the subsistence period (lodging, food, sundries, etc.); and
 - (f) The dollar amount for the transportation costs (and escort fees where appropriate) to a third country.
- (13) TO BE COMPLETED BY THE CONSULAR OFFICER. This section pertains to evacuation from crisis to safe haven and is not be completed in EMDA cases.
- (14) **LOAN REPAYMENT AGREEMENT – TO BE COMPLETED BY LOAN APPLICANTS.** The US dollar (\$\$) amount of the loan should be written in the space provided in item 2 and 13 either by the consular officer or the applicant.
- (15) **SIGNATURE BLOCK FOR APPLICANT(S).** This item provides for the signatures and typed or printed names of the applicants. If spouses are applying jointly there is space for joint signatures.

NOTE: In the case of a minor or a judicially declared incompetent applicant, see 7 FAM 387.6 and 7 FAM 387.7.

- (16) **If applying jointly:** Item 16 provides for the Spouse's date and place of birth and SSN.
- (17) **Verifiable Address.** Item 17 provides for the applicant's verifiable address abroad and in the United States.
- (18) **Emergency Contacts.** Item 18 provides for the name, address, phone number, fax, e-mail and relationship of the applicant's emergency contacts.
- (19) **Authorizations for Release of Information Under the Privacy Act.** Item 19 includes two Privacy Act waivers, one covering the release of information to the Department of State and one for release of information to HHS and/or its partners and grantees and for use of that information by HHS and its partners/grantees.

NOTE:

Parts 2 and 3 of Form DS-3072 are for use by the consular officer. The information in Part 2, Evacuation Documentation, is used to assist in developing a manifest during a crisis evacuation. Part 3 of Form DS-3072 includes the consular officer adjudication notes, signature and certification.

- (20) **Consular Adjudication Notes.** This space is provided for the consular officer to include notes explaining special circumstances of the case and/or the lack of any required information.

- (21) **Consular Officer Signature and Certification.** This space is provided for the consular officer's signature, seal and jurat signifying authorization and approval of the loan.

NOTE: Consular officer should advise the citizen to read page 5 of DS-3072 regarding the Privacy Act and Paperwork Reduction Act.

7 FAM 387.3 Applicant Signing the Loan Application

(CT:CON-267; 10-08-2008)

- a. The applicant should not sign line 15 of Form DS-3072 until the dollar amount of the loan or an approximate range is entered in line 14, item 2.
- b. One original copy of the EMDA loan application must be signed by the principal applicant and should be signed before a consular officer. If completed before the family appears before the consular officer, the applicant should initial the signature. If a family is applying together the spouse should also sign the application in the space provided in item 15 and complete item 16.
- c. Since the dollar amount of the loan is usually not known until the loan recipient appears before the consular officer, it is preferable that the application be signed in the presence of the consular officer, but it is not required.
- d. If the estimated cost changes or if additional costs are identified and added to the indebtedness, the consular officer may require the applicant to complete a new Form DS-3072.
- e. If you make a minor change both the applicant and the consular officer must initial and date the amount changes in lines 12, 13 and 14.

7 FAM 387.4 Escorts For U.S. Citizens, Physically Or Mentally Disabled U.S. Citizens Being Medically Evacuated to A Third Country

(CT:CON-267; 10-08-2008)

- a. Escorts may be required for physically ill or mentally disabled U.S. citizens being medically evacuated to a third country (not the United States).
- b. Escorts must be U.S. citizens, already visaed or visa-eligible aliens.
- c. As the signatory of the loan, an applicant has the right to concur in the selection of the escort, based on information provided by the consular

officer and subject to airline restrictions and attending physician recommendations.

- d. It is also possible for a family to retain a qualified person to travel to the host country to escort the U.S. citizen to a third country. Travel costs from the United States to the host country cannot be included in an EMDA loan. However, travel costs from a third country to the host country to serve as escort can be included in the loan.

NOTE: 7 FAM 362 provides detailed guidance about medical escort requirements and options. Most commercial carriers require that escorts for medically or mentally ill individuals be either a doctor or nurse. However, some airlines allow a family member to serve in this capacity under certain circumstances. The passenger's condition mandates the number of escorts and their qualifications.

- e. The EMDA II loan may also include the cost of the escort's travel and per diem (Meals, Incidentals and Expenses (MI&E) and Lodging) to the last U.S. city where the repatriate(s) will be received by local authorities or family members. Normally the Department arranges lodging for a single night for the escort. In extraordinary instances in which the length of travel 16 hours, two nights lodging may be authorized by CA/OCS.

NOTE: If the escort decides to remain in the United States beyond this period of time, any expenses incurred are the responsibility of the escort.

- f. Reasonable and appropriate escort fees may be included in the EMDA loan subject to approval by the Department and the applicant. CA considers that a nominal fee, generally under \$1000, is reasonable. Posts must obtain concurrence of CA/OCS/ACS before expending such funds.

NOTE: CA/OCS/ACS will not authorize escort fees for official personnel, including Locally Engaged Staff (LES), eligible family members (EFM), etc.)

- (1) These fees are not intended to cover the lost wages or time of the escort.
- (2) In assisting families or repatriates to identify escorts in accordance with 7 FAM 362, posts should endeavor to find escorts who will provide the service without charging a professional escort fee.
- (3) For overseas escorts there is no standard fee regulation; fees vary from country to country. Commercial medical evacuation companies include such professional escort costs in their fees.
- (4) Any professional escort fee exceeding \$1000 must be justified and approved by the Managing Director for Overseas Citizens Services.

7 FAM 387.5 Using Good Offices in Discussing EMDA Costs with Host Countries, Transportation Carriers and Escorts

(CT:CON-267; 10-08-2008)

- a. It is important to remember that EMDA funds are loans to a destitute citizen. Posts should highlight this point when discussing transportation arrangements with airline officials and potential escorts. In the event that the airlines being considered is a State run entity, you may be able to enlist host government assistance in negotiating a favorable rate. Consular sections should work with the economic section at post to explore their aviation contacts. Stress in these discussions the humanitarian aspects of the EMDA case, e.g., abandoned, abused, exploited minors; abducted children; individuals who are victims of serious crime, etc.

NOTE: 7 FAM 364.2 for guidance about special compassionate programs some air carriers offer for travel related to family emergencies (deaths, etc.)

- b. Posts should make every effort to negotiate the lowest possible rate for such individuals well in advance. Don't wait until you have an EMDA case. Discuss the issue with your contacts to attempt to negotiate a most favorable rate.
- c. Similarly, posts should use good offices to encourage host government officials to waive immigration overstay fees or penalties for repatriates to third countries or to reduce the fines. Make it clear that it is the individual and not the U.S. Government that is paying costs including any travel to a third country. Moreover, repatriates often have other problems such as mental illness, physical impairment or are victims of domestic violence. Stress that it is to the benefit of the host country and the individual to facilitate the individual's departure without additional financial burden or bureaucratic requirements.
- d. When discussing escort fees with medical professionals, stress the humanitarian nature of the case and that fact that any professional fees will have to be borne by the individual who is already destitute. We would also stress these factors in coordinating with escorts for minor children and elderly repatriates who do not need medical assistance.
- e. Your establishment of good contacts is essential in such circumstances.
- f. CA/OCS/ACS can assist you in strategizing solutions to such problems.

7 FAM 387.6 Loan Applications on Behalf of Minors

(CT:CON-267; 10-08-2008)

a. Unaccompanied U.S. Citizen Minors:

- (1) When confronted with destitute unaccompanied minor in need of EMDA assistance, consular officers and CA/OCS/ACS will attempt to identify a parent, guardian, family member, or other party who will agree to pay the costs of the assistance needed (OCS Trust).

NOTE: 7 FAM 1760 provides guidance about the Department authority to assist abandoned or unaccompanied minors without parental approval.

In considering whether to contact a family member, posts and CA/OCS/ACS will take into account special circumstances. We would not for example, contact an abusive parent or parents of a minor who was forced or attempted to be forced into marriage, female genital mutilation, behavior modification facility resident or other dire circumstances.

In such cases, the consular officer will note in line 20 of Form DS-3072 and in the ACS system the reason why it was inappropriate to contact the parent/guardian.

- (2) If no such individual has funds available, we will ask them to complete Form DS-3072 on behalf of the child.
- (3) If we cannot find a parent, guardian, family member or other party to execute the Form DS-3072, we can approve a loan on behalf of the child under the age of 18 even though the form does not have a signature of an applicant.

NOTE: RM and the Office of the Legal Adviser for Employment Law (L/EMP) have advised CA that even if a parent/guardian does not sign the Form DS-3072, the Department may pursue such individuals for repayment of the debt consistent with the Federal Claims Collections standards, 31 CFR Parts 900-904 and 232 CFR Part 34. However, consular officers should not engage in discussions with parents or guardians about this procedure.

- (4) The U.S. consular officer will explain in line 20, the absence of the signature in line 15 of the Form DS-3072. The consular officer will then authorize the loan and sign on line 21.

NOTE: Elimination of Consular Signature "Without Recourse"

With the publication of this subchapter, the Department is eliminating the practice of consular officers signing loan applications "without recourse." In redesigning the Form DS-3072, we created a consular adjudication signature block (line 21) to establish more clearly that the consular officer is adjudicating and approving the loan on behalf of the beneficiary, but is not applying for the loan. For such cases there is a loan beneficiary, but no applicant signature in line 15.

MINORS SHOULD NOT BE ASKED TO SIGN LOAN APPLICATIONS, although a consular officer may use his or her discretion to seek the signature of a mature, nearly major minor, in full realization that the minor cannot legally contract and thus the loan is not enforceable, voidable though not void. Minors cannot be forced to sign loan forms and there is no requirement in the regulation that they be asked to do so.

- (5) Normally in the case an unaccompanied minor EMDA loan recipient, it is the responsibility of the consular officer (see 7 FAM 1385 and 7 FAM 1330) to enter a "D/B" lookout in the CLASS system via PLOTS. If posts do not have the ability to do so, you should alert CA/OCS/ACS which will coordinate with CA/PPT on entry into CLASS the names of:
- (a) The U.S. citizen adult applicant(s); and
 - (b) The U.S. citizen unaccompanied minor (except in those instances where child has been the victim abuse at the hands of the parents or legal guardian(s) or the child is fleeing a dire circumstance imposed by the parent such as female genital mutilation, force marriage of minors or similar situations.)
 - (c) The existence of a D/B indebtedness lookout in the name of a minor U.S. citizen is a collection technique to facilitate payment of the debt by the adults. This is not a basis for passport denial for the minor.

b. Minor U.S. Citizen accompanied by non citizen family member(s):

- (1) If a family group of Lawful Permanent Resident Aliens with a U.S. citizen minor child applies for an EMDA loan, the alien parents may sign the Form DS-3072 on behalf of the U.S. citizen minor child and be included in the child's application as accompanying family members.
- (2) In such a circumstance, the U.S. citizen child's name will be entered in the CLASS system as a collection technique to facilitate payment of the debt by the adults. **This is not a basis for passport denial for the minor.**
- (3) The names of alien family member recipients of EMDA II loans may be entered into CLASS. This is a debt collection mechanism in the event the parent/guardian is ever naturalized as a U.S. citizen and applies for a U.S. passport.

NOTE: CLASS already includes names of non-citizens, for example the "N" lookout for no claim to citizenship and the "L" lookout for loss of nationality cases.

7 FAM 387.7 Incompetent Applicants

(CT:CON-267; 10-08-2008)

- a. For the purpose of issuance of an EMDA loan without signature by the applicant (beneficiary), mental incompetence **must** be declared by a court.
- b. A U.S. citizen who has been legally declared incompetent **by a U.S. or foreign court should not** be asked to execute the Form DS-3072 or a Privacy Act waiver (see 7 FAM 060).
- c. The post and CA/OCS/ACS will attempt to identify a guardian, family member, friend, employer, insurance company or other party prepared to pay the costs of the EMDA loan or to execute the Form DS-3072 on behalf of the individual, if the individual is unable to pay any or all of the costs of EMDA in advance.
- d. If such a person cannot be identified, the consular officer will explain in line 20 of Form DS-3072 the absence of an applicant's signature in line 15, and the consular officer will only sign line 21 of the form.

NOTE: Elimination of "Signature Without Recourse":

With the publication of this subchapter the Department is eliminating the practice of consular officers signing the signature block for incompetent applicants "without recourse." In redesigning the Form DS-3072 we created the consular adjudication signature block in line 21 to establish more clearly in what capacity the consular officer signs the form, that is, as the adjudicator and approver of the loan, not in lieu of the applicant.

- e. A destitute U.S. citizen exhibiting irrational behavior who appears to be a potential threat to him/herself and others comes to your attention.
- f. The role of the consular officer is:
 - (1) Verify citizenship and identity (see 7 FAM 1320);
 - (2) Obtain Privacy Act waiver, if possible (see 7 FAM 060);

Health and Safety Provision of Privacy Act:

The Privacy Act's "health or safety" exception allows disclosure of information without a PAW "to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual" (5 U.S.C. 552a(b)(8)).

This exception requires a "showing of compelling circumstances affecting the health or safety of an individual".

This section of the Act may be invoked to save the life of the U.S.

citizen/national, notwithstanding his/her written affirmation of his/her right to privacy. You are also permitted to disclose Privacy Act-protected information about an individual in order to remove that person from harm's way. In determining whether the "health or safety" exception is applicable in any given case, you should consider what reasonable course of action would safeguard the welfare of an individual whose physical or mental well-being is at stake in light of all the relevant circumstances - i.e., age of individual, nature of condition, availability of medical facilities, degree to which individual and/or local health facilities can communicate with NOK or friends stateside, etc. The officer should document contemporaneously in writing the basis for acting pursuant to 5 U.S.C. 552a(b)(8).

Information may be released to any person who can reasonably be expected to assist the individual whose health or safety is at risk, e.g., relative, friend, attorney, clergyman, member of Congress, etc. though not the media.

Question: ASKPRI@state.gov (See 7 FAM 066)

- (3) Assess immediate needs; 7 FAM 340 provides guidance about assisting mentally ill citizens;
- (4) You must have a conversation with the citizen to:
 - (a) Determine possible sources of financial assistance;
 - (b) Determine possible sources of information about the person's medical history or needs;
 - (c) If applicable, ascertain the citizen his/her wishes regarding remaining in the host country or returning to his or her residence in a third country. This may require you to use your skills to persuade the individual to return to his or her residence before the host country arrests or deports him/her, or before the individual causes serious harm to him/herself or others.

NOTE: The U.S. Government cannot forcibly repatriate or transfer to his or her third country of residence a U.S. citizen against his or her will.

- g. The post and CA/OCS/ACS will attempt to identify a guardian, family member, friend, employer, insurance company or other party prepared to pay the costs of EMDA or to execute the Form DS-3072 on behalf of the individual, if the individual is unable to pay any or all of the costs of EMDA in advance.
- h. A destitute U.S. citizen adult who has not been found to be mentally incompetent by a court, but who exhibits irrational behavior suggesting possible mental illness or lack of comprehension, may execute the Form DS-3072.

NOTE: Is the person a dual national or a permanent resident or long-term resident of the host country? Are there host country resources available for which he/she is eligible?

- i. Determine if the person's circumstances are so dire that you should approve the loan without an applicant's signature. In such a case, the consular officer should annotate line 20 of the Form DS-3072 to note in objective terms the behavior exhibited, efforts made to identify sources of help and absence of a signature. The consular officer should not sign line 15. The consular officer should only sign line 21.
- j. Refer to 7 FAM 360 regarding stabilization, notification to airlines, possible escort needs in regard to transfers to third countries of residence.

7 FAM 387.8 Applications by Persons Who Have Physical Disabilities

(CT:CON-267; 10-08-2008)

This section discusses the fact that the consular officer is required to document how you communicated with the applicant and how you were satisfied that the applicant understood and knowingly executed Form DS-3072.

- a. **Visually Disabled Persons:** The consular officer must make sure that the blind or visually impaired person is fully informed of and understands the contents of any instrument to be executed. You should read the document, or have the document read, aloud to the visually impaired person, and ask whether the person understands the document and/or has any questions about its meaning. Section 20 of Form DS-3072 should reflect the special procedures employed. For example: Today, Thomas Martin personally appeared before me and was read aloud the Form DS-3072. Having established that he understood the contents of the document, I approved the loan." Questions about such situations may be directed to CA/OCS/PRI at ASKPRI@state.gov.
- b. **Hearing Disabled Persons:** It may necessary to communicate in writing with a hearing impaired person. The consular officer must make sure that the deaf person is fully informed of and understands the contents of any instrument to be executed. You should have the person read the document in your presence. You should then ask the hearing impaired person in writing whether he or she understands the document and/or has any questions about its meaning. Section 20 of Form DS-3072 should reflect the special procedures employed. For example: "Today, Alice Walker personally appeared before me and read the annexed instrument in my presence. Having established through written

questions that she understood the contents of Form DS-3072, I approved the loan. Questions about such situations may be directed to CA/OCS/PRI at ASKPRI@state.gov.

- c. **Speech Disabled Persons:** When a person is mute or physically unable to speak, he or she may respond in writing to the consular officer's questions concerning identity, competence, and understanding. Section 20 of Form DS-3072 should reflect the special procedures employed. For example: "Today, Mary Smith personally appeared before me, established her identity, competence to execute Form DS-3072, and understanding of the document hereto annexed by virtue of her written responses to standard questions put to her. She acknowledged her signature on the annexed document." Similarly, a speech-impaired person should be allowed to take an oath or affirmation by responding in writing. Questions about such situations may be directed to CA/OCS/PRI at ASKPRI@state.gov.
- d. **Persons Unable to Sign:** When a person is physically unable to sign a Form DS-3072 or make an identifying mark, the impaired person should give oral responses in the presence of two consular officers, who should then attest to the manner in which the Form DS-3072 was executed in lines 20 and 21 of Form DS-3072.

NOTE: -- At a small post with only one consular officer, or where the second consular officer is away on official business or annual leave, a diplomatic officer may act in place of the second consular officer. Questions about such situations may be directed to CA/OCS/PRI at ASKPRI@state.gov.

7 FAM 387.9 Adjudication Process Checklist and Procedures

(CT:CON-267; 10-08-2008)

- a. The following is a checklist of steps the post must take in adjudicating and processing an EMDA loan:
 - Verify identity and search the ACS system for any previous case history on the individual
 - If there is no ACS system profile, create one
 - Clear the name in CLASS so you have a fuller picture of the proposed borrower
 - Verify citizenship through passport presented or PIERS record
 - Verify destitution
 - Obtain Privacy Act Waiver

- Obtain at least 3 possible sources of private funds
- Ascertain if any resources in the host country are available
- Assess citizen's immediate needs
- Obtain DS-3072 if subsistence funds are to be committed prior to receipt of OCS Trust or pending approval of loan
- Amend ACS record with final dollar amount
- Prepare reporting cable
- Copy of approved Form DS-3072 provided to applicant
- Original of approved Form DS-3072 transmitted to RM
- Copy of approved Form DS-3072 scanned into ACS case record
- Case closed in ACS system
- Coordinate disbursement of funds with financial management officer

b. **Adjudication Procedures:**

- (1) The revised Form DS-3072 includes an adjudication function for consular officers approving loans.
- (2) Before exercising this authority, the consular officer must determine that the applicant meets all of the eligibility requirements for an EMDA loan and correctly completes and signs an application and promissory note.
- (3) The Department's of State and Treasury regulations require that a Promissory Note be executed whenever loan funds are to be disbursed or committed. If the applicant has sufficient funds for room and board while awaiting approval from the Department for a transportation loan to a third country, defer completion of the Promissory Note until the loan has been approved and the funds are ready for disbursement.
- (4) If, however, the applicant is indigent and the post must provide subsistence money while awaiting the Department's approval of the transportation loan to a third country, do not disburse any funds until a promissory note has been signed by the applicant.

NOTE: Do not give money or commit funds on behalf of a repatriate before executing Form DS-3072. The consular officer is personally liable for funds committed or expended in the absence of an executed Form DS-3072.

- (5) Where subsistence funds are needed for more than 1 day, estimate the dollar amount to be expended and include it in the loan total. This will allow you to avoid the necessity of amending the form or executing a new one.

- (6) **Disbursement of Funds:** It is preferable to disburse subsistence funds directly to the service provider as opposed to the applicant. Similarly, transportation costs to a third country should be paid directly to the service provider or obtain a non-refundable, non-exchangeable ticket. Cash, if any, should be provided to the applicant consistent with the situational needs, in small increments. The consular officer will coordinate documentary and disbursement requirements with the financial management officer at post.
- (7) Entry of Case Record into ACS System:
- (8) Entry of Passport hold in CLASS via PLOTS: (See 7 FAM 1300 Appendix A.)
- (9) **Final Report:** Following disbursal of authorized funds, the consular officer must submit a final report by telegram to the Department captioned for CA/OCS/ACS, CA/PPT/TO/RS/RR/C and RM/GFS/F/AR not later than 72 hours after the completion of each case. 7 FAM Exhibit 385.1 provides a sample final payment report.
- (10) The format for the final report is as follows (give all amounts in U.S. dollars):
 - (a) Name(s) of loan recipient(s);
 - (b) Recipient's date and place of birth;
 - (c) Total amount expended;
 - (d) Amount expended for subsistence;
 - (e) Amount expended for EMDA related travel;
 - (f) Amount expended for other authorized expenses;
 - (g) A statement releasing unexpended balance of authorized funds or a request for additional funds to cover a small amount expended in excess of funds authorized;
 - (h) A brief summary of final action taken including ETA and POE in the third country;
 - (i) SSN(s) of loan recipient(s);
 - (j) Complete U.S. billing address (not a post office box) of loan recipient(s); and
 - (k) Remarks--any pertinent information not already furnished to the Department (such as, passport number with date and place of issuance, U.S. address of next of kin (NOK), telephone numbers and so forth).
- (11) Prompt completion of this report permits RM to meet its requirement to bill loan recipients immediately upon their return to

the United States.

7 FAM 388 PASSPORT ACTIONS AND EMDA LOANS

(CT:CON-267; 10-08-2008)

- a. 7 FAM 1385 provides specific guidance about passport actions to be taken in EMDA loan cases.
- b. Before issuing any EMDA loan, the name(s) of the applicants/recipients must be cleared in the Consular Lookout and Support System (CLASS). (See 7 FAM 1330).
- c. Officers at posts must enter the names of loan recipients in CLASS via PLOTS. 7 FAM 1300 Appendix A provides guidance about entry of indebtedness lookouts in CLASS (Consular Lookout and Support System) via the Passport Lookout Tracking System (PLOTS).
- d. To assist the Department in its efforts to secure repayment of repatriation and EMDA loans, passport services are limited to recipients of such loans. At the time the loan is issued, the applicant's full validity passport is canceled. The applicant is issued a limited validity passport at no charge as explained in 7 FAM 1385.2, 7 FAM 1385.3, and 7 FAM 1385.4.

NOTE: An exception would be an EMDA loan issued to a person whose federal benefits check has been delayed or a person awaiting an OCS trust. That person would repay the EMDA II loan immediately upon receipt of the funds and it is not necessary to cancel and issue a limited passport.

- e. Subsequent passport services may be withheld for such applicants until repatriation and/or EMDA loans are paid in full or satisfactory arrangements are made to settle their accounts.
- f. If the applicant is making satisfactory payments, but has not paid the debt in full, the applicant is only eligible for a one year limited validity passport, as explained in 7 FAM 1385.3 and 7 FAM 1385.4. The applicant should be advised of the reason for the limitation as described in 7 FAM 1385.5.
- g. Passport services must be withheld from applicants considered to be **in default** on a repatriation loan only. The mandatory ban applies only to repatriation loans under statute, not EMDA loans; under 22 CFR part 51, a passport "may" be denied for an EMDA loan not fully repaid or in default.
- h. **Eligibility for a U.S. passport is strictly a decision for the Bureau of Consular Affairs (CA).** The Bureau of Resource Management (RM) does

not authorize issuance of a passport. When a debt has been paid in full, RM notifies CA/PPT/TO/RS/RR/C. Authorized individuals in CA/PPT/TO/RS/RR/C and CA/OCS/ACS have the authority to remove (D/B - Indebtedness) lookouts from CLASS.

- i. It is always up to CA to decide whether or not a passport can be issued.

NOTE: The names of minors may be included in CLASS to support debt collection, but that a minor should not be denied a passport based on a debt incurred by a parent or a loan issued to an unaccompanied minor for whom no adult was available to sign the loan application. When a new passport application is made by the minor recipient of a consular loan, CA will share the contact information with RM and issue the passport to the minor. The CLASS record, which includes the date of birth, will reflect that at the time the debt was incurred, the individual was a minor. **However, 7 FAM 389.2 f provides guidance regarding CA policy not to enter the names of such children in CLASS if the child was abused or neglected.**

7 FAM 389 RECORDS, REPAYMENT AND SUBSEQUENT LOAN APPLICATIONS

7 FAM 389.1 Disposition of Copies

(CT:CON-267; 10-08-2008)

Upon completion of the Form DS-3072:

- (1) The signed original is sent by registered pouch to:

Accounts Receivable Division (RM/GFS/F/AR)
Global Financial Services
P.O. Box 150008
Charleston, SC 29415-5008

Or by express mail:

Accounts Receivable Division
Global Financial Services
1969 Dyess Ave.
Building 646-B
Charleston, SC 29405
1-800-521-2116

- (2) A photocopy of the executed Form DS-3072 is delivered to the post's financial management officer, along with the original of the promissory note;

- (3) A photocopy of the executed Form DS-3072 is scanned by the post into the ACS system case file;
- (4) A photocopy of the executed Form DS-3072 accompanies post's transmittal of the CLASS lookout file to Passport Services for scanning after the consular officer enters the name in CLASS through PLOTS in accordance with 7 FAM 1300 Appendix A. The post should then send the lookout file to the following address for scanning:

U.S. Department of State
Passport Services
Record Services Division (CA/PPT/TO/RS)
1111 19th Street, N.W., Suite 560
Washington, DC 20522-1705

- (5) A photocopy of the executed Form DS-3072 must be given to the applicant. If the applicant is a minor or an incompetent the photocopy should be transmitted to the person applying for the loan on behalf of the individual; and
- (6) A photocopy of the executed DS-3072 should be retained in post paper files in accordance with the Records Disposition Schedule.

7 FAM 389.2 Repayment Process

(CT:CON-267; 10-08-2008)

- a. Repayment of loans may be made by check or money order payable to the Department of State, Accounts Receivable and mailed to Accounts Receivable Division, P.O. Box 979005, St. Louis, MO 63197-9000.
- b. Inquiries about repatriation loans should be sent to Accounts Receivable Division, Global Financial Services, P.O. Box 150008, Charleston, SC 29415-5008.
- c. If a citizen wishes to pay all or part of an EMDA loan the post should contact CA/OCS/ACS which will verify with RM/GFS/F/AF the current amount of the loan including interest and penalties. The post will be advised by CA/OCS/ACS to collect the payment due. Posts abroad cannot accept personal checks. Payments must be made at post by either money order, cashier's check, or cash. Consular sections can post the monies for EMDA loans to fund 19X4107 (the "X" stays as part of the fiscal strip) and send RM/GFS/F/AR a copy of the Form OF-158, General Receipt to the address below.

Send Form OF-158 to:

Accounts Receivable Division

Global Financial Services

P.O. Box 150008

Charleston, SC 29415-5008

Or by express mail:

Accounts Receivable Division

Global Financial Services

1969 Dyess Ave

Building 646-B

Charleston, SC 29405

1-800-521-2116

Or by fax: 843-746-0556

- d. A person residing overseas, however, will need to dial the commercial (toll) number; tel: 8430308-5417, to contact RM/GFS/F/AR. Inquirers can also email that office at FMPARD@state.gov.
- e. 7 FAM 1385.4 provides guidance about resolving CLASS holds for repatriation/EMDA indebtedness and receipt of payments at posts abroad.
- f. RM/GFS/F/AR routinely pursues debt collection for an EMDA loan incurred by a minor child when the minor reaches 18 by inquiring if the person would like to voluntarily ratify the debt and begin payment. CA recognizes the importance of RM's efforts to collect outstanding loans and very much support those efforts. In such cases CA encourages RM to exercise its discretionary authority to suspend further collection activity regarding such void and voidable loans and loans that have no merit. CA also pays heed to humanitarian circumstances attending the original loan application (such as the destitution of a young, unaccompanied, abused or neglected child) in which attempted collection would be against equity and good conscience. CA no longer enters the names of such unaccompanied minors in the CLASS system for indebtedness and when previously entered name result in a CLASS hit, the name will be removed from the consular lookout system and there will be no impediment to issuance of a passport to the repatriated/EMDA recipient unaccompanied abused or neglected minor when he/she reaches the age of majority.
- g. The Department's debt collection efforts may be impaired unless posts put forth their best efforts to obtain the information required under Section 122(d) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164), during the initial contact or interview with a loan applicant. Section 122(d) deals with the administration of the

loan program, and debt collection (see section 7 FAM 351). It provides that with respect to repatriation loans the Secretary of State shall:

- (1) Require that a loan applicant furnish, at the time of application:
 - (a) A SSN, and
 - (b) A verifiable address (for billing purposes).
- (2) Require a written loan agreement which includes a repayment schedule; and
- (3) For EMDA loans as well it is the practice of the Department to include the SSN and verifiable address in the loan application.

7 FAM 389.3 Application For Further Financial Assistance While EMDA Loan Is Outstanding

(CT:CON-267; 10-08-2008)

- a. **EMDA I Former Prisoners Applying for EMDA II LOAN:** If the applicant received an EMDA I loan as an incarcerated citizen abroad, the subject's name should have been entered in the CLASS system at the time that loan was issued. If the subject appears at a post abroad to apply for a passport, wishes to return to the United States, and requires and is eligible for an EMDA II loan, the procedures described 7 FAM 1385.4 and 7 FAM 1385.5 should be followed. The fact that a person was the recipient of an EMDA I loan does not make him/her ineligible for an EMDA II loan.
- b. If a person has received an EMDA II loan previously that does not make him/her ineligible for a repatriation loan. The consular officer should determine eligibility under 7 FAM 373 and adjudicate the application for the repatriation loan in accordance with normal procedures outlined in 7 FAM 375. However, approval of such a case would not come under the consular spending authority outlined in 7 FAM 376. Authorization for such a loan would have to be approved by the Managing Director of CA/OCS or the Deputy Assistant Secretary for Overseas Citizens Services.
- c. The recipient of a previous loan which has not been repaid in full, who applies for a new loan may or may not be eligible for a new loan. The consular officer should determine destitution and adjudicate the application for the loan in accordance with normal procedures outlined in this subchapter. However, approval of such a case would not come under the consular spending authority. Authorization for such a loan would have to be approved by the Managing Director of CA/OCS or the Deputy Assistant Secretary for Overseas Citizens Services.

7 FAM EXHIBIT 383

EMDA II LOAN INITIAL CABLE

(CT:CON-267; 10-08-2008)

FROM AmEmbassy Harare
TO SecState WashDC IMMEDIATE
INFO USOFFICE FSC CHARLESTON IMMEDIATE

DEPT FOR CA/OCS/ACS/AF
RM/GFS/F/AF
CA/EX/RES
CA/PPT/IML/RS

E.O. 12958: N/A

TAGS: CASC, AFIN, CPAS (last name, first name middle name)

SUBJECT: FIMED: EMDA II LOAN OF JOHN Q. PUBLIC

REF:

1. Name/Date and Place of birth (DPOB):
2. Passport Number date of issuance and expiration date.
3. Source of Funds Contacted: (List at least three)
 - Name, relationship, address, phone number;
 - Name, relationship, address, phone number;
 - Name, relationship; address, phone number.
4. Prior Post Action:
5. Privacy Act Waiver: YES to family waiver; friend waiver, congress waiver.
6. Total Assistance Required: \$2500.
7. Desires to Return to third country.: Yes/No.
8. Date Last Departed U.S.:
9. Last Residence in U.S.:

10. Final Destination in third country if applicable:
11. Federal benefits/SSN:
12. Reason for Destitution:
13. Diagnosis:
14. Present Location:
15. Attending Physician: (Name, address, phone number, email, English language ability)
16. Date Able to Travel if applicable:
17. Hospitalization required:
18. Medical records:
19. Medical escort:
20. Escort to Final Destination if applicable:
21. Special Requirements:
22. Remarks:

7 FAM EXHIBIT 385.1 EMDA II LOAN FINAL REPORT

(CT:CON-267; 10-08-2008)

UNCLASSIFIED

From AmEmbassy PARIS

E.O. 12356 N/A

TAGS: CASC, CPAS, AFIN

SUBJECT: EMDA II: Final Report Repatriation Case of William Ferguson

ACTION: Secstate WashDC immediate

Ref: (A) State 357427; (B) Paris 235698

1. Name: John William Ferguson.
 2. DPOB: March 3, 1954, Missouri.
 3. TOTAL EXPENDED: U.S. dollars 1615.
 4. SUBSISTENCE: U.S. dollars 420.
 5. TRAVEL if applicable: John William Ferguson and Escort Jean Pierre Avignon \$1170.
 6. MEDICAL: U.S. dollars --.(insert amount).
 7. ADJUSTMENT: Reftel authorized U.S. dollars 1800. Left is unused balance of U.S. dollars 185, which may be released from FY-xx allotment xxxxxxxx, Appropriate xxxxx, obligation xxx.
 8. FINAL ACTION: Mr. Ferguson [explain]
 9. SSN: xxx-xx-xxxx.
 10. U.S. Billing Address: care of mother, Mrs. Elaine Ferguson, 12304 Flamingo Road, Merced, California.
 11. REMARKS (if applicable): Mr. Ferguson's passport xxxxxxxxx issued n February 2, 2006 was canceled. He was issued limited validity passport xxxxx valid only for travel to the United States on xx-xx-xxxx which expires on xx-xx-xxxx .
- b. The format for the final report is as follows (give all amounts in U.S. dollars):
- (1) Name(s) of loan recipient(s);
 - (2) Recipient's date and place of birth;
 - (3) Total amount expended;
 - (4) Amount expended for subsistence;
 - (5) Amount expended for third country travel;
 - (6) Amount expended for other authorized expenses (see section 7 FAM 358.1);
 - (7) A statement releasing unexpended balance of authorized funds or a request for additional funds to cover a small amount expended in excess of funds authorized;
 - (8) A brief summary of final action taken including ETA and POE in the third country;
 - (9) SSN(s) of loan recipient(s);
 - (10) Complete U.S. billing address (not a post office box) and/or foreign address of loan recipient(s); and
 - (11) Remarks--any pertinent information not already furnished to the

Department (such as, passport number with date and place of issuance, U.S. address of NOK, telephone numbers, and so forth).

- c. Prompt completion of this report permits RM/GFS/F/AR to meet its requirement to bill loan recipients immediately upon their return to the United States.