# SAFE FOR AMERICA ACT

# HEARING

BEFORE THE

SUBCOMMITTEE ON
IMMIGRATION POLICY AND ENFORCEMENT

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

ON

**H.R. 704**

APRIL 5, 2011

**Serial No. 112–27**

Printed for the use of the Committee on the Judiciary

Available via the World Wide Web: http://judiciary.house.gov

U.S. GOVERNMENT PRINTING OFFICE

65–602 PDF WASHINGTON : 2011

For sale by the Superintendent of Documents, U.S. Government Printing Office
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# CONTENTS

APRIL 5, 2011


Page

THE BILL

H.R. 704, the "SAFE for America Act" ..... 3

OPENING STATEMENTS

The Honorable Elton Gallegly, a Representative in Congress from the State of California, and Chairman, Subcommittee on Immigration Policy and Enforcement ..... 1
The Honorable Zoe Lofgren, a Representative in Congress from the State of California, and Ranking Member, Subcommittee on Immigration Policy and Enforcement ..... 6
The Honorable John Conyers, Jr., a Representative in Congress from the State of Michigan, and Ranking Member, Committee on the Judiciary ..... 23

WITNESSES

The Honorable Bob Goodlatte, a Representative in Congress from the State of Virginia
Oral Testimony ..... 27
Prepared Statement ..... 29
Stephen A. Edson, Principal, SAEdson, LLC
Oral Testimony ..... 30
Prepared Statement ..... 33
Janice L. Kephart, Director, National Security Policy, Center for Immigration Studies
Oral Testimony ..... 35
Prepared Statement ..... 37
Johnny Young, Ambassador, U.S. Conference of Catholic Bishops
Oral Testimony ..... 44
Prepared Statement ..... 47

LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING

Material submitted by the Honorable Zoe Lofgren, a Representative in Congress from the State of California, and Ranking Member, Subcommittee on Immigration Policy and Enforcement ..... 8
Prepared Statement of the Honorable John Conyers, Jr., a Representative in Congress from the State of Michigan, and Ranking Member, Committee on the Judiciary ..... 24
Material submitted by the Honorable Elton Gallegly, a Representative in Congress from the State of California, and Chairman, Subcommittee on Immigration Policy and Enforcement ..... 54

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

Prepared Statement of the Honorable Zoe Lofgren, a Representative in Congress from the State of California, and Ranking Member, Subcommittee on Immigration Policy and Enforcement ..... 131

Page

Prepared Statement of Dan Stein, President, Federation for American Immigration Reform ..... 134
Prepared Statement of the National Immigration Forum ..... 136
Letter from the Honorable Charles E. Shumer, a U.S. Senator from the State of New York, and Chairman, Senate Judiciary Committee on Immigration, Refugees and Border Security ..... 138

# SAFE FOR AMERICA ACT

**TUESDAY, APRIL 5, 2011**

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION
POLICY AND ENFORCEMENT,
COMMITTEE ON THE JUDICIARY,
*Washington, DC.*

The Subcommittee met, pursuant to call, at 2:24 p.m., in room 2141, Rayburn House Office Building, the Honorable Elton Gallegly (Chairman of the Subcommittee) presiding.

Present: Representatives Gallegly, Ross, Conyers, Lofgren, Jackson Lee, and Pierluisi.

Staff Present: (Majority) Andrea Loving, Counsel; Marian White, Clerk; and Tom Jawetz, Minority Counsel.

Mr. GALLEGLY. Good afternoon. The issues raised by H.R. 704, the "SAFE for America Act," go to the core of any immigration debate.

That is the integrity of the U.S. Immigration policy.

H.R. 704 eliminates the visa lottery program under which 50,000 individuals are chosen completely at random each year to receive immigrant visas. The visa lottery, first implemented in fiscal year 1995, has long been a subject of concern for those of us who believe it is important to have a credible immigration system.

The program is rife with fraud. That was the case in 2003 when the State Department Inspector General found that "the DV program is subject to widespread abuse." That was the case in 2004 and 2005 when two different State Department Inspectors General testified in front of this Subcommittee about the flaws in the program. That was the case in 2007 when the Government Accountability Office issued a report stating that "the DV program is vulnerable to fraud committed by and against applications." And that is still the case today, when we will hear testimony about high levels of fraud in the program.

Even the State Department acknowledges the high rate of deception throughout the visa lottery. In fact, the Web sites for many of the U.S. Embassies around the world include diversity visa program fraud alerts, like you can see we have on the two screens up here as we speak. This particular alert is on the Web site of the London Embassy, but there are similar alerts on other U.S. Embassy Web sites.

And why is fraud such a concern? Because terrorists use our generous immigration policy to harm us, and terrorists have already used the visa lottery as a means of entering the country.

The Egyptian terrorist who murdered two Americans at LAX in 2002 was a diversity visa recipient when his wife was selected for the lottery. And a Pakistani national who received a diversity visa when his parents were selected for the lottery pleaded guilty in 2002 to conspiring to wage jihad by plotting to destroy electrical power stations, the Israeli consulate, and other South Florida targets. He had reportedly told his friends he wanted to wage war against the United States.

But terrorists are not the only people who abuse the visa lottery. We will hear testimony today about foreign organized crime groups who try their own luck at the lottery. And visa lottery applicants and third-party brokers all try to, and do, game the system. The visa lottery gives them a great shot at winning.

U.S. Immigration policy should be based on something more than just the luck of the draw. It should be secure and it should be beneficial to Americans. The visa lottery program is neither.

I am glad to be an original cosponsor of the gentleman from Virginia's bill, Mr. Goodlatte, and I look forward to moving H.R. 704 toward enactment.

[The bill, H.R. 704, follows:]

I

112TH CONGRESS
1ST SESSION

# H. R. 704

To amend the Immigration and Nationality Act to eliminate the diversity immigrant program.

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 2011

Mr. GOODLATTE (for himself, Mr. DEFAZIO, Mr. SMITH of Texas, Mr. SHERMAN, Mr. WOLF, Mr. COFFMAN of Colorado, Mr. CONAWAY, Mr. MARCHANT, Mrs. MYRICK, Mr. GALLEGLY, Mr. KING of Iowa, Mr. WEST, and Mr. BILBRAY) introduced the following bill; which was referred to the Committee on the Judiciary

---

# A BILL

To amend the Immigration and Nationality Act to eliminate the diversity immigrant program.

*Be il enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as—

(1) the "Security and Fairness Enhancement for America Act of 2011"; or

(2) the "SAFE for America Act".

**SEC. 2. ELIMINATION OF DIVERSITY IMMIGRANT PROGRAM.**

(a) WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS.—Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended—

(1) in subsection (a)—

(A) by inserting "and" at the end of paragraph (1);

(B) by striking "; and" at the end of paragraph (2) and inserting a period; and

(C) by striking paragraph (3); and

(2) by striking subsection (c).

(b) ALLOCATION OF DIVERSITY IMMIGRANT VISAS.—Section 203 of such Act (8 U.S.C. 1153) is amended—

(1) by striking subsection (e);

(2) in subsection (d), by striking "(a), (b), or (e)," and inserting "(a) or (b),";

(3) in subsection (e), by striking paragraph (2) and redesignating paragraph (3) as paragraph (2);

(4) in subsection (f), by striking "(a), (b), or (e)" and inserting "(a) or (b)"; and

(5) in subsection (g), by striking "(a), (b), and (e)" and inserting "(a) and (b)".

(c) PROCEDURE FOR GRANTING IMMIGRANT STATUS.—Section 204 of such Act (8 U.S.C. 1154) is amended—

1 (1) by striking subsection (a)(1)(I); and

2 (2) in subsection (e), by striking "(a), (b), or

3 (c)" and inserting "(a) or (b)".

4 (d) EFFECTIVE DATE.—The amendments made by

5 this section shall take effect on October 1, 2011.

○

Mr. GALLEGLY. At this time, I would yield to my good friend from California, the Ranking Member, Ms. Lofgren.

Ms. LOFGREN. Thank you very much, Mr. Chairman, and thanks to our witnesses for their patience; first of all, votes and then the delay in getting back. There is a suspicious package down in the basement, and everybody had to snake their way back. So glad that we are finally here on this hearing.

As the Chairman said, the diversity visa program was established by the Immigration Act of 1990, and the goal was to encourage greater diversity in the pool of immigrants that we accept each year. The program now provides up to 50,000 visas annually to natives of countries from which immigrant admissions were lower than 50,000 over the preceding 5 years.

Applicants for diversity visas are chosen by a computer-generated random lottery drawing. Each winner is permitted to apply for an immigrant visa and can gain lawful permit resident status in the United States provided that they pass through the screening, because diversity visa winners are subject to all of the bars of inadmissibility in the Immigration and Nationality Act and must undergo background and security checks that are more rigorous than those required for persons entering the country by other means such as through the visa waiver program.

Diversity visa winners must provide biographic and biometric information, including fingerprints and a digital photograph, pass comprehensive background checks, submit to physical and mental examinations, and undergo interviews with consular officers abroad before entering the U.S.

The program represents a small part of our immigration system. In fiscal year 2010, only 4.8 percent of the total number of persons who obtained lawful permanent resident status came through this program, but it also represents an important effort that has been largely successful in increasing the diversity of legal residents to the United States.

I recall that this program was originally proposed by then-Chairman Peter Rodino. He observed that because we have a strong family-based immigration system, this reduces the opportunity for immigrants to come to this country if they are from places that have historically not sent immigrants to the United States, and over time, this limits the ability to grow and sustain a diverse Nation. In creating the diversity program, Mr. Rodino and many others wanted to encourage continued immigration opportunities for people from Italy or Ireland; but today, as we see, the program continues to help in a small way to balance the immigration system.

In fiscal year 2006, for instance, 40 percent of diversity immigrants were from Africa, and 34 percent were from Europe. Compare this to the fact that only 3 percent of family and employment-based visas went to persons from Africa, and only 8 percent went to persons from Europe.

One frequent criticism about the diversity visa program is that it is random, that we bring people to the country through the program and that they may not have skills or education they need to succeed. We know that the program requires applicants to have a high school diploma equivalent, or at least 2 years of work experi-

ence in an occupation requiring training, but we actually get more than that.

In 2003, the State Department described its typical diversity visa recipient as a male professional, age 26 to 30, holding a university degree. Just yesterday, the Congressional Research Service released a report finding that diversity immigrants were 2½ times more likely to report managerial or professional occupations than other lawful permanent residents in fiscal year 2009.

And I would ask unanimous consent that the CRS report be entered into the record.

Mr. GALLEGLY. Without objection.

[The information referred to follows:]

# Diversity Immigrant Visa Lottery Issues

**Ruth Ellen Wasem**
Specialist in Immigration Policy

April 1, 2011

**Congressional Research Service**
7-5700
www.crs.gov
R41747

**CRS Report for Congress**
*Prepared for Members and Committees of Congress*

# Summary

The purpose of the diversity immigrant visa lottery is, as the name suggests, to encourage legal immigratiou from countries other than the major sendiug countries of current immigrants to the United States. Current law weights the allocation of immigrant visas heavily toward aliens with close family in the United States and, to a lesser extent, toward aliens who meet particular employment needs. The diversity immigrant category was added to the Immigration and Nationality Act (INA) by the Immigration Act of 1990 (P.L. 101-649) to stimulate "new seed" immigration (i.e., to foster new, more varied migration from other parts of the world).

To be eligible for a diversity visa, the INA requires that the foreign national must have a high school education or the equivalent, or two years experience in an occupation that requires at least two years of training or experience. The foreign national or the foreign national's spouse must be a native of one of the countries listed as a foreign state qualified for the diversity visa lottery. Diversity lottery winners, like all other aliens wishing to come to the United States, must undergo reviews performed by Department of State consular officers abroad and Department of Homeland Security immigration officers upon entry to the United States. These reviews are intended to ensure that the aliens are not ineligible for visas or admission under the grounds for inadmissibility spelled out in the INA.

The diversity lottery currently makes 50,000 visas available annually to natives of countries from which immigrant admissions were lower than a total of 50,000 over the preceding five years. The formula for allocating visas is based upon the statutory specifications; visas are divided among six global geographic regions according to the relative populations of the regions, with their allocation weighted in favor of countries in regions that were under-represented among immigrant admissions to the United States during the past five years. The INA limits each country to 7%, or 3,850, of the total and provides that Northern Ireland be treated as a separate foreign state.

The regional distribution of the source countries for diversity immigrants has shifted over time in the four years selected for comparison (FY1994, FY1999, FY2004, and FY2009). Foreign nationals from Europe garnered the overwhelming share of the diversity visas in FY1994 and maintained a plurality share in FY1999. By FY2004, foreign nationals from Africa received a share comparable to those from Europe. In FY2009, foreign nationals from Africa gained the plurality share.

Some argue that the diversity lottery should be eliminated and its visas used for backlog reduction in other visa categories. Supporters of the diversity visa, however, argue that the diversity visa provides "new seed" immigrants for an immigration system weighted disproportionately to family-based immigrants from a handful of countries. Critics of the diversity lottery warn that it is vulnerable to fraud and misuse and is potentially an avenue for terrorists, citing the difficulties of performing background checks in many of the countries eligible for the diversity lottery. Supporters respond that background checks for criminal and national security matters are performed on all prospective immigrants seeking to come to the United States, including those winning diversity visas.

# Contents

Background ..... 1
Legislative Origins ..... 1
Eligibility Criteria ..... 2
Trends in Source Countries ..... 3
Demographic Features ..... 5
Legislative Issues ..... 8
Policy Questions ..... 9
Is it fair to have the diversity visa category when there are family members and prospective employees who are waiting in queues for visas to become available? ..... 9
Is the diversity visa lottery more vulnerable to fraud and misuse than other immigration pathways? ..... 9
Are there national security reasons to eliminate the diversity visa? ..... 10
Are the reasons that led to establishment of the diversity visa category (e.g., to stimulate "new seed" immigration) still germane today? ..... 10

## Figures

Figure 1. World Region of Source Countries for Diversity Immigrants ..... 4
Figure 2. World Region of Source Countries for LPRs in FY2009 ..... 6
Figure 3. Occupations Reported by LPRs in FY2009 ..... 7
Figure 4. Age Distribution of LPRs in FY2009 ..... 8

## Tables

Table 1. Top 20 Diversity Immigrant Source Countries ..... 5

## Contacts

Author Contact Information ..... 11

# Background

The purpose of the diversity immigrant visa lottery is, as the name suggests, to encourage legal immigratiou from countries other than the major sendiug countries of current immigrants to the United States. Current law weights the allocation of immigrant visas heavily toward aliens with close family in the United States and, to a lesser extent, toward aliens who meet particular employment needs. The diversity immigrant category was added to the Immigration and Nationality Act (INA) by the Immigration Act of 1990 (P.L. 101-649) to stimulate "new seed" immigration (i.e., to foster new, more varied, migration from other parts of the world).[1] The diversity visas are allocated to natives of countries from which immigrant admissions were lower than a grand total of 50,000 over the preceding five years. The term "immigrant" is synonymous with the phrase legal permanent resident (LPR), both of which are used interchangeably in this report.[2]

## Legislative Origins

The Immigration Amendments of 1965 replaced the national origins quota system, which prioritized European source countries, with equally distributed per-country ceilings.[3] In the 1980s, some Members of Congress began expressing concern that the U.S. legal immigration admissions were skewed in favor of immigrants from Asia and Latin America after the 1965 amendments.[4] The first legislative response occurred in §314 of the Immigration Reform and Control Act of 1986 (IRCA), which allowed an extra 5,000 immigrant visas a year for FY1987 and FY1988 to natives of 36 countries that had been "adversely affected" by the 1965 changes to the INA. Over one million people applied for what was then called the NP-5 visa lottery. Natives of Ireland were the big winners in the random lottery. In 1988, Congress extended the NP-5 visa lottery for two more years, making 15,000 immigrant visas available each year in FY1989 and FY1990.[5]

What is now known as the diversity immigrant category was added to the INA by the Immigration Act of 1990 (P.L. 101-649) and went fully into effect in FY1995.[6] The 1990 Act established temporary or "transition" diversity visas for FY1992-1994. Most notably, §132 of P.L. 101-649 provided 40,000 visas a year for a transitional program during FY1992-1994 for certain natives of foreign states that were "adversely affected" by the 1965 changes to the INA. At least 40% of these visas were earmarked for natives of Ireland. The current diversity visa category has had an allocation of 55,000 visas annually since FY1995.

While the diversity visa category has not been directly amended since its enactment, P.L. 105-100, the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA)

[1] §203(c) of INA.

[2] Both terms refer to foreign nationals who are legally admitted to the United States, as defined in the INA, and who come to live permanently in the United States.

[3] P.L. 89-23679 Stat. 911 (1965).

[4] Legal permanent residents from Ireland, for example, fell from 6,307 in FY1964 to 1,836 in FY1986. CRS Report 91-141, *A Brief History of U.S. Immigration Policy*, Joyce C. Vialet, January 25, 1991 (archived report, available upon request).

[5] "State Dept. Advises on New NP-5 Program," *Interpreter Releases*, vol. 65, no. 45 (November 22, 1988).

[6] §203(c) of INA.

temporarily decreases the 55,000 annual ceiling. Beginning in FY1999, this ceiling has been reduced by up to 5,000 annually to offset immigrant numbers made available to certain unsuccessful asylum seekers from El Salvador, Guatemala, and formerly communist countries in Europe who are being granted immigrant status under special rules established by NACARA. The 5,000 offset is temporary, but it is not clear how many years it will be in effect to handle these adjustments of status.

## Eligibility Criteria

To be eligible for a diversity visa, the INA requires that an alien must have a high school education or the equivalent, or two years experience in an occupation which requires at least two years of training or experience. The alien or the alien's spouse must be a native of one of the countries listed as a foreign state qualified for the diversity visa lottery. Minor children of the qualifying diversity immigrant, as well as the spouse, may accompany as legal permanent residents (LPRs).

The registration for the FY2012 Diversity Lottery began on October 5, 2010 and closed on November 3, 2010.[7] On May 1, 2011, those who registered will be able to find out if they have been selected or not.[8] While there is no cost to apply for the diversity lottery, the funding for the diversity visa lottery is covered by the fees that the lottery winners pay. The $305 immigrant visa fee and the $440 diversity visa fee go to the Department of State. There is also a $985 fee (plus $85 biometric fee, if applicable) paid to the U.S. Citizenship and Immigration Services (USCIS) in the Department of Homeland Security (DHS) to process the I-485 petition to adjust diversity visa holders to LPR status.[9]

Diversity lottery winners, like all other aliens wishing to come to the United States, must undergo reviews performed by Department of State consular officers abroad and DHS inspectors upon entry to the United States. These reviews are intended to ensure that they are not ineligible for visas or admission under the grounds for inadmissibility spelled out in the INA.[10] These criteria for exclusion include the following categories: health-related grounds; criminal history; security and terrorist concerns; public charge (e.g., indigence); illegal entrants; and aliens previously removed.[11] Those who are ultimately approved for diversity visas become LPRs of the United States.

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[7] U.S. Department of State Bureau of Consular Affairs , "Registration for the Diversity Immigrant (DV-2012) Visa Program," 75 *Federal Register* 60846-60854, October 1, 2010.

[8] The DOS instructs registrants to log onto "Entry Status Check" at dvlottery.state.gov to see if they have been selected. Between May 1 and October 1, 2011, the selected applicants fill out their application forms for the visa, submit information to the Kentucky Consular Center. The Kentucky Consular Center will then schedule the interviews. For more information, see http://www.america.gov/st/texttransenglish/2010/September/ 20100928165617su0.400932.html#ixzz1I8pvFyxQ.

[9] For further discussion of the fees, see CRS Report RL34040, *U.S. Citizenship and Immigration Services' Immigration Fees and Adjudication Costs: Proposed Adjustments and Historical Context*, by William A. Kandel. For the State Department fees, go to: http://travel.state.gov/visa/temp/types/types_1263.html. For the USCIS fees go to: http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid= db029c7755cb9010VgnVCM10000045f3d6a1RCRD&vgnextchannel= db029c7755cb9010VgnVCM10000045f3d6a1RCRD

[10] §212(a) of INA.

[11] For a full discussion of the grounds for exclusion, see CRS Report R41104, *Immigration Visa Issuances and Grounds for Exclusion: Policy and Trends*, by Ruth Ellen Wasem.

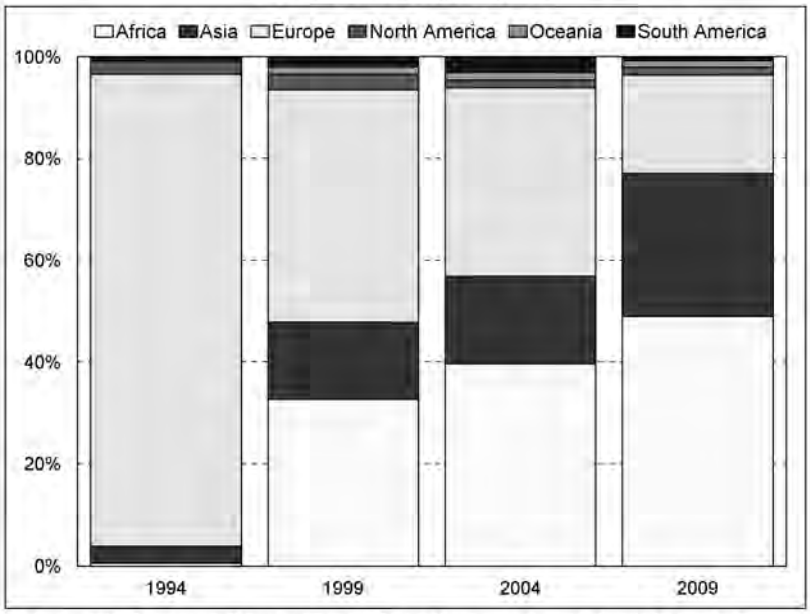
## Trends in Source Countries

The diversity lottery makes 50,000 visas available annually to natives of countries from which immigrant admissions were lower than a total of 50,000 over the preceding five years. USCIS generates the formula for allocating visas according to the statutory specifications; visas are divided among six global geographic regions according to the relative populations of the regions, with their allocation weighted in favor of countries in regions that were under-represented among immigrant admissions to the United States during the past five years. The INA limits each country to 7%, or 3,850, of the total and provides that Northern Ireland be treated as a separate foreign state.

As **Figure 1** depicts, the regional distribution of the source countries for diversity immigrants has shifted over time in the four years selected for comparison (FY1994, FY1999, FY2004 and FY2009). Foreign nationals from Europe garnered the overwhelming share of the diversity visas in FY1994 and maintained a plurality share in FY1999. By FY2004, foreign nationals from Africa received a share comparable to those from Europe. In FY2009, the latest year for which we have data, foreign nationals from Africa gained the plurality share. These trends are consistent with the statutory formula Congress outlined to allocate diversity visas.

**Figure 1. World Region of Source Countries for Diversity Immigrants**

FY1994, FY1999, FY2004, and FY2009




**Source:** U.S. Department of Homeland Security, Office of Immigration Statistics, *Statistical Yearbook of Immigration*, multiple fiscal years.

**Notes:** FY1994 was the final year of the transitional lottery, which set aside 40% of these visas for natives of Ireland. North America includes the Caribbean and Central America.

Germany is the only country that ranked among top diversity immigrant source countries in FY1994 that also appears in the top 20 countries for FY2009. There are 11 source countries in the top 20 for FY1999, FY2004 and FY2009: Bulgaria, Nigeria, Albania, Ukraine, Ethiopia, Morocco, Ghana, Bangladesh, Egypt, Turkey and Kenya. **Table 1** presents the top source countries in rank-order and the number of diversity visas issued for FY1994, FY1999, FY2004 and FY2009. Bangladesh, Ethiopia and Nigeria were also among the top 20 source countries for total LPRs in FY2009, sending a total of 16,651, 15,462 and 15,253 LPRs respectively.[12]

[12] These numbers are modest in contrast to the total number of LPRs admitted to the United States each year. For example, Mexico led all countries with 164,920 foreign nationals who became LPRs in FY2009. The People's Republic of China followed at a distant second with 64,238 LPRs. The Philippines came in third with 60,029 LPRs. India followed with 57,304 LPRs. To compare diversity admissions with the top countries for LPR admissions in FY2009, see Figure 6 and Appendix A in CRS Report RL32235, *U.S. Immigration Policy on Permanent Admissions*, by Ruth Ellen Wasem.

**Table 1. Top 20 Diversity Immigrant Source Countries**
FY1994, FY1999, FY2004, and FY2009

| 1994 | | 1999 | | 2004 | | 2009 | |
|---|---|---|---|---|---|---|---|
| Poland | 17,396 | Bulgaria | 3,390 | Ethiopia | 4,405 | Ethiopia | 3,829 |
| Ireland | 15,659 | Nigeria | 3,118 | Ukraine | 2,972 | Nigeria | 3,720 |
| United Kingdon | 3,174 | Albania | 3,117 | Nigeria | 2,856 | Egypt | 3,336 |
| Canada | 1,511 | Ukraine | 3,093 | Poland | 2,802 | Bangladesh | 2,928 |
| Japan | 797 | Romania | 2,866 | Kenya | 2,763 | Uzbekistan | 2,492 |
| Indonesia | 411 | Ethiopia | 2,191 | Bulgaria | 2,298 | Kenya | 2,324 |
| Argentina | 286 | Morocco | 1,940 | Morocco | 2,223 | Morocco | 2,100 |
| Germany | 220 | Russia | 1,930 | Albania | 1,972 | Albania | 1,948 |
| Australia | 148 | Ghana | 1,734 | Nepal | 1,859 | Ghana | 1,819 |
| France | 141 | Bangladesh | 1,697 | Togo | 1,694 | Nepal | 1,778 |
| | | Pakistan | 1,693 | Bangladesh | 1,692 | Ukraine | 1,579 |
| | | Egypt | 1,536 | Egypt | 1,621 | Cameroon | 1,386 |
| | | Germany | 1,250 | Lithuania | 1,404 | Iran | 1,057 |
| | | Turkey | 1,008 | Turkey | 1,100 | Turkey | 1,036 |
| | | Sudan | 987 | Ghana | 1,095 | Armenia | 911 |
| | | Cuba | 975 | Romania | 1,075 | Germany | 908 |
| | | Lithuania | 796 | Russia | 882 | Algeria | 837 |
| | | Kenya | 601 | Peru | 779 | Bulgaria | 765 |
| | | Algeria | 518 | Israel | 734 | Liberia | 751 |
| | | Armenia | 508 | Uzbekistan | 693 | Belarus | 664 |

**Source:** U.S. Department of Homeland Security, Office of Immigration Statistics, *Statistical Yearbook of Immigration*, multiple fiscal years.

**Notes:** In FY1994, only the 10 countries listed were the sending country of 100 or more diversity immigrants. FY1994 was the final year of the transitional lottery, which set aside 40% of these visas for natives of Ireland.

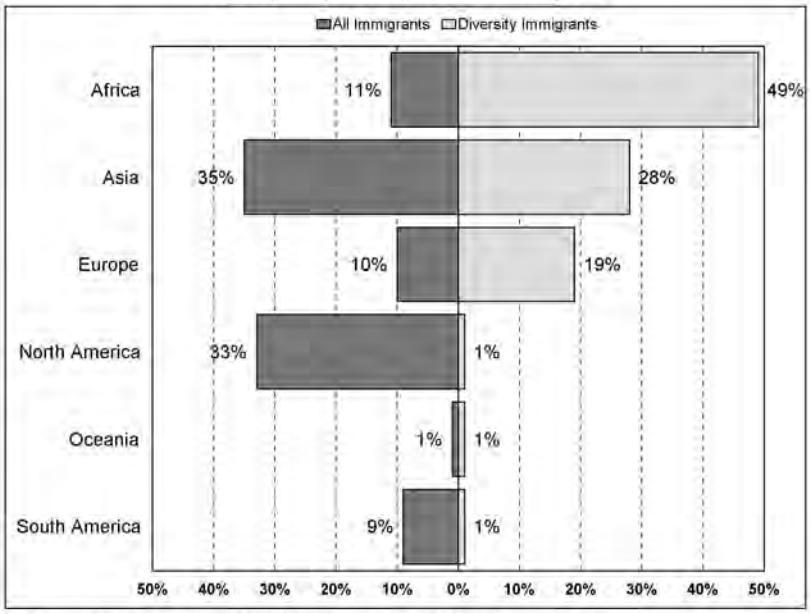
# Demographic Features[13]

As one would expect, diversity immigrants come from parts of the world that differ from the leading immigrant sending regions. **Figure 2** depicts that almost half (49%) of the 47,879 diversity immigrants came from Africa, which contributed only 11% of the total number of 1.1 million LPRs in FY2009. Europe sent 10% of all LPRs in FY2009, but made up 28% of all diversity immigrants. In contrast, North America is the sending region for 33% of all LPRs (e.g., Mexico, the Caribbean and Central America), but comprised only 1% of the diversity immigrants (e.g., Canada) in FY2009.

[13] All of the data analyses presented in this section are based on: Office of Immigration Statistics, *Yearbook of Immigration Statistics: 2009*, U.S. Department of Homeland Security, 2010.

**Figure 2. World Region of Source Countries for LPRs in FY2009**

Diversity immigrants compared with all immigrants




**Source:** CRS presentation of FY2009 data from the DHS Office of Immigration Statistics.

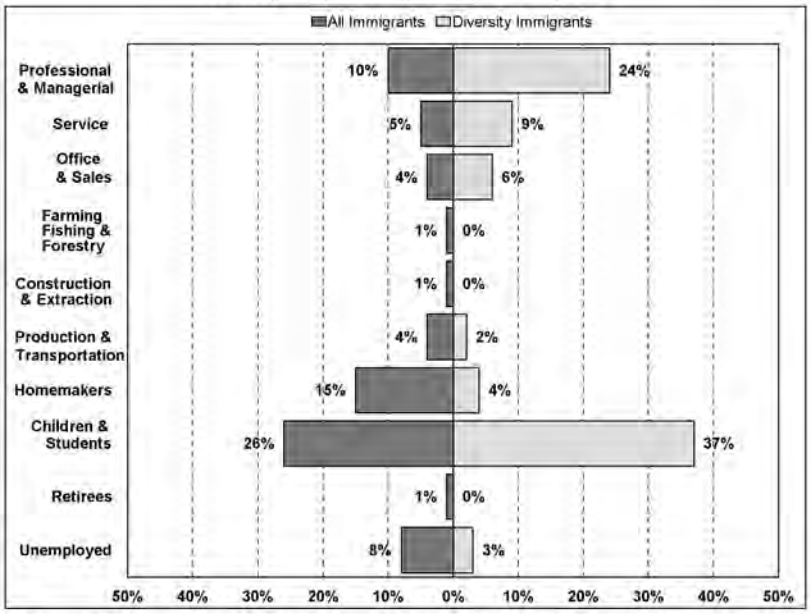
**Notes:** In FY2009, there were 1.1 million LPRs, of which 47,879 were diversity immigrants. North America includes the Caribbean and Central America.

The distribution for Asia in FY2009 is interesting because it epitomizes the complexities of the two-step formula (e.g., regional population and each country's past immigration total), which is used to allocate diversity visas. Asia included many top sending countries for LPRs, such as the People's Republic of China, India and the Philippines. Yet it also included nations that qualified for diversity visas, such as Bangladesh, Nepal and Turkey. As **Figure 2** illustrates, Asia represented a somewhat more comparable portion of the 1.1 million LPRs (35%) in relation to its portion of the 47,879 diversity immigrants (28%) in contrast to the other world regions.

Although the diversity immigrants are required to have only a high school education (or the equivalent) or two years experience in an occupation which requires at least two years of training or experience, they were more likely to report managerial and professional occupations than LPRs generally. Specifically, almost of quarter (24%) of diversity immigrants reported managerial and professional occupations in contrast to 10% of the 1.1 million LPRs in FY2009 (**Figure 3**).

**Figure 3. Occupations Reported by LPRs in FY2009**

Diversity immigrants compared with all immigrants




**Source:** CRS presentation of FY2009 data from the DHS Office of Immigration Statistics.

**Notes:** In FY2009, there were 1.1 million LPRs, of which 47,879 were diversity immigrants.

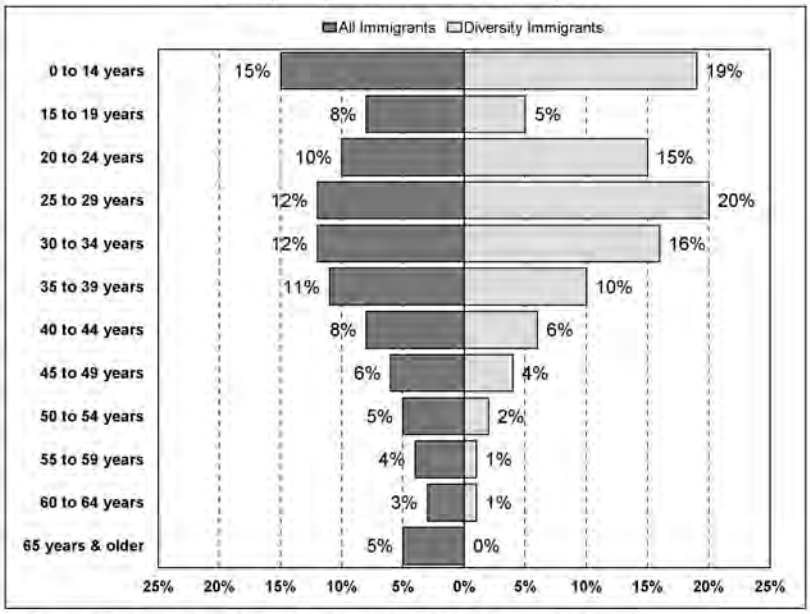
Data presented in both P.L. 105-100 and **Figure 4** indicate that diversity immigrants included more children and youth than did LPRs generally in FY2009.[14] Indeed, **Figure 4** shows that diversity immigrants were more likely to obtain LPR status as they begin their working years than were LPRs overall. The immigrant population of the United States is typically more likely to be in the prime working age group than the native-born population, and the youthful skew of the diversity immigrants' age distribution in FY2009 is even more striking.[15]

[14] Bear in mind that most of the children are accompanying family of the principle LPR who qualifies for the visa.

[15] For further analysis of the foreign-born populations, see CRS Report R41592, *The U.S. Foreign-Born Population: Trends and Selected Characteristics*, by William A. Kandel.

**Figure 4. Age Distribution of LPRs in FY2009**

Diversity immigrants compared with all immigrants




**Source:** CRS presentation of FY2009 data from the DHS Office of Immigration Statistics.

**Notes:** In FY2009, there were 1.1 million LPRs, of which 47,879 were diversity immigrants.

Diversity immigrants were somewhat less likely to be married than LPRs generally in FY2009, perhaps a function of their relative youth. Over half (54%) of diversity immigrants were single, in contrast to 37% of LPRs overall. Few of either group were likely to be widowed, divorced or separated. In addition, 57% of diversity immigrants were males while only 45% of all LPRs were males in FY2009.

## Legislative Issues

Legislation to eliminate the diversity visa category, the Security and Fairness Enhancement for America Act of 2011 or SAFE for America Act (H.R. 704), has been introduced in the 112th Congress. In the Senate, §4(c) of the Strengthening Our Commitment to Legal Immigration and America's Security Act (S. 332) would also eliminate the diversity visa category. During the 109th Congress, provisions eliminating the diversity visa lottery comparable to H.R. 704 and those in S.

332 were incorporated into H.R. 4437, which the House passed on December 16, 2005.[16] At that time, there were two themes that characterized the debate over the diversity visa lottery: fairness and security. These issues of fairness and security are likely to arise again when or if the 112th Congress considers H.R. 704. The policy questions discussed below are framed in terms of issues that might arise if debate occurs.

## Policy Questions

As Congress weighs whether to eliminate or revise the diversity visa category, various aspects of the diversity visa might be considered. This report concludes with four policy questions that would be pertinent to this discussion. These selected questions are illustrative of an issue that is nested in the broader immigration debate—a debate often characterized as a "zero-sum game."

### Is it fair to have the diversity visa category when there are family members and prospective employees who are waiting in queues for visas to become available?

Some might cite the latest National Visa Center data, which indicated there were 4.7 million approved family-based and employment-based petitions waiting for a visa to become available at the close of FY2010.[17] They might advocate that the 50,000 diversity visas would be better used for backlog reduction of the other visa categories. Others might observe that the family-based, employment-based, and diversity visa categories are statutorily designed as independent pathways to LPR status and that the problems of the family-based and employment-based backlogs could only be addressed through comprehensive immigration reform.[18]

### Is the diversity visa lottery more vulnerable to fraud and misuse than other immigration pathways?

Some might reference the 2009 arrests of Lassissi Afolabi and Akouavi Kpade Afolabi, who coerced foreign nationals into human trafficking and forced labor rings by paying for the diversity visas if they listed the trafficked young women as their own family on the visa application.[19] They also might cite the U.S. Government Accountability Office (GAO) which found pervasive fraud reported by some consular posts.[20] Others might refer to the numerous fraud investigations and

[16] No further action on this legislation occurred in the 109th Congress. CRS Report RL33125, *Immigration Legislation and Issues in the 109th Congress*, coordinated by Andorra Bruno.

[17] U.S. Department of State, *Annual Report of Immigrant Visa Applicants in the Family-sponsored and Employment-based preferences Registered at the National Visa Center as of November 1, 2010*, http://www.travel.state.gov/pdf/WaitingListItem.pdf. The USCIS has not reported how many petitions it has approved for aliens adjusting to LPR status within the United States.

[18] For more on the legal immigration issues, see CRS Report RL32235, *U.S. Immigration Policy on Permanent Admissions*, by Ruth Ellen Wasem.

[19] U.S. Attorney District of New Jersey, "Togolese Woman Sentenced To 27 Years In Prison For Forced Labor," press release, September 20, 2010, http://www.justice.gov/usao/nj/Press/files/pdffiles/2010/Afolabi,%20Akouavi%20Kpade%20Sentencing%20PR.pdf.

[20] U.S. Government Accountability Office, *Border Security: Fraud Risks Complicate State's Ability to Manage Diversity Visa Program*, GAO-07-1174, September 21, 2007, http://www.gao.gov/products/GAO-07-1174.

arrests of immigrants who used other visa categories.[21] Others might also point out that DOS and DHS have revised the diversity lottery procedures to address these fraud vulnerabilities.[22] For example, DOS maintains that the electronic registration process increases its ability to screen duplicate and fraudulent entries as well as enables the use of facial recognition software to detect fraud.[23]

### Are there national security reasons to eliminate the diversity visa?

Some might cite the case of Hesham Mohamed Ali Hedayet, the Egyptian immigrant who shot and killed two people at Los Angeles International Airport on July 4, 2002, and who had obtained LPR status as the spouse of diversity immigrant.[24] Some might assert that the difficulties of performing background checks in many of the countries currently qualifying for the diversity lottery, as well as broader concerns about terrorism, justify the elimination of the category. Some might cite the 2004 warning of the DOS Deputy Inspector General that the diversity visa lottery "contains significant vulnerabilities to national security" from state sponsors of terrorism.[25] Others might point out that immigrants coming to the United States in the other LPR visa categories are not restricted if they come from these same countries and further argue that background checks for national security risks are performed on all prospective immigrants seeking to come to the United States. Others might reference the broader reform to visa security that Congress has enacted since the early 2000s,[26] or cite the 2007 GAO report stating: "We found no documented evidence that DV immigrants from these, or other, countries posed a terrorist or other threat."[27]

### Are the reasons that led to establishment of the diversity visa category (e.g., to stimulate "new seed" immigration) still germane today?

Some might point to the immigration dominance of nationals from a handful of countries and argue that the diversity visa fosters new and more varied migration to counterbalance an immigration system weighted disproportionately to family-based immigrants.

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[21] For recent examples, see U.S. Government Accountability Office, *H-2B Visa Program: Closed Civil Criminal Cases Illustrate Instances of H-2B Workers Being Targets of Fraud and Abuse*, GAO-10-1053, September 30, 2010; U.S. Government Accountability Office, *H-1B Visa Program: Reforms Are Needed to Minimize the Risks and Costs of Current Program*, GAO-11-26, January 14, 2011; U.S. Government Accountability Office, *Export Controls: Improvements Needed to Prevent Unauthorized Technology Releases to Foreign Nationals in the United States*, GAO-11-354, February 2, 2011; and Office of Inspector General, *The Special Immigrant Nonminister Religious Worker Program*, U.S. Department of Homeland Security, OG-09-79, June 2009.

[22] U.S. Department of State, "Diversity Visa Program Scammers Sending Fraudulent Emails and Letters," press release, 2011, http://travel.state.gov/visa/immigrants/types/types_1749.html.

[23] "DOS Announces 2011 Diversity Lottery Program Registration and Instructions," *Interpreter Releases*, vol. 86, no. 38 (October 5, 2009); and "2008 Diversity Visa Registrations," *Interpreter Releases*, vol. 84, no. 1 (January 2, 2007).

[24] U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration and Claims, *Immigration And Naturalization Service's (INS's) Interactions With Hesham Mohamed Ali Hedayet*, hearing, 107th Cong., 2nd sess., October 2, 2002, Serial No. 110.

[25] U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Border Security, and Claims, *The Diversity Visa Program, and Its Susceptibility to Fraud and Abuse*, 108th Cong., 2nd sess., April 29, 2004.

[26] For more on the reforms of visa security, see CRS Report R41093, *Visa Security Policy: Roles of the Departments of State and Homeland Security*, by Ruth Ellen Wasem.

[27] U.S. Government Accountability Office, *Border Security: Fraud Risks Complicate State's Ability to Manage Diversity Visa Program*, GAO-07-1174, September 21, 2007, http://www.gao.gov/products/GAO-07-1174.

- If diversity of immigration is still a goal of U.S. immigration policy, is a visa lottery the best method to achieve that goal?
- If not a lottery, are there other mechanisms, such as a point system, that could be used to allocate the visas?[28]

Others might argue that, after 20 years, the diversity visa category has run its course. They might cite the overlap between countries that qualified for the diversity lottery and the top immigrant source countries as an indication that the need for "new seed" immigration has been met.

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[28] CRS Report RL34030, *Point Systems for Immigrant Selection: Options and Issues*, by Ruth Ellen Wasem.

Ms. LOFGREN. This is, of course, not the first time the Subcommittee has considered the bill introduced by my friend and colleague, Representative Goodlatte. I opposed that bill in the 108th Congress and I continue to oppose his measure, although I do not dislike him.

The name of the bill suggests that it increases security and fairness, but I don't think it does either. Nothing in the bill increases fairness for Americans or for persons who seek to emigrate to this country to achieve the American dream. I think it does the opposite. The bill just eliminates a small immigration program that allows a small percentage of new immigrants from underrepresented nations to come and become Americans. The program adds to our ethnic and racial diversity, which enriches our society and provides the only hope some people have to emigrate to the United States lawfully.

The bill also would not make us any more secure than it would if it eliminated any other visa program. Diversity visa winners are carefully screened for criminal history or ties to terrorism, like any other immigrant. In fact, there is no evidence that a terrorist is more likely to enter the U.S. under this program than any other U.S. immigration category. Given that tens of millions of applications are submitted each year for only 50,000 slots, which includes the spouses and minor children of lottery winners, this visa program would be an incredibly inefficient means of entry for a person who seeks to do harm to the United States.

That is not to say the program is perfect. Both the State Department's Inspector General and the GAO issued reports some years ago, I might add, highlighting the risk of fraud and abuse in the program and the practical resource challenges that consular posts faces. The State Department has made significant efforts to reduce that risk of fraud, but that doesn't mean we shouldn't do more.

Several years ago, the State Department converted the application process from paper to electronic and requires all applicants to submit digital photos. Recently, the State Department ended the practice of notifying lottery winners by mail and now relies entirely on its Web-based system. Consular posts provide outreach and education to the community about the process and work to combat fraud through the visa adjudication process.

In closing, as I prepared for today's hearing, I was reminded that Freddie Adu, the young soccer phenom from Ghana, entered the U.S. through the diversity visa program. So did Seth Dankar, another native of Ghana, who enlisted as a private in the U.S. Army shortly after entering the country on a diversity visa. Private Dankar's service was featured in the film, "New American Soldier," which highlights the courageous work that many immigrants now do in our armed services.

If there are concerns about this program, we should focus on ways to improve it. One idea that was recommended by the State Department's IG is that we charge a small application fee in order to reduce the prevalence of duplicative applications. Now that the system has moved from paper-based applications to electronic ones, the cost effectiveness of this anti-abuse measure may need to be reassessed.

I look forward to hearing from our witnesses and working with you, Mr. Chairman, to improve this program, and I yield back the balance of my time.

Mr. GALLEGLY. I thank the gentlelady.

The Ranking Member of the full Committee, Mr. Conyers.

Mr. CONYERS. Thank you, Chairman Gallegly. Well, like Zoe Lofgren, I like Mr. Goodlatte but I don't like his bill. And the question here might be in this hearing is do we want to have another way for people that don't qualify under the kind of three-part system of immigration that we have to come into this country or do we not.

What we are faced with is a rather continued attempt to eliminate the people least likely to be able to come to this country, and so this part 3 of the program is designed to create diversity in our immigration population. And so the question is, from my point of view, maybe the opponents of this program don't want diversity in the first place, which is a perfectly valid position to take. It is not a very nice position to take, but if we eliminate this system—and by the way, the hearings, what have there been? Three of them so far? They are never about how to improve the system. It is how to eliminate the system and that is not escaping my attention at this hearing either.

The whole idea is let us get rid of the diversity program that is the way more African immigrants get into this country than any other way. You are entitled to that view, but I don't think that this is the way we want to think about our country or its policy on immigration.

That is why I support the comments made by Ranking Member Lofgren. We have got to look at how we improve it, and it is very interesting to me that we have—our examples are real great—somebody, I can wager, is going to mention Hedayet—how can you have a terrorist who has to win the lottery first to implement his program?

The other part of this that is very important is that the Government Accountability Office has found no documented evidence that the diversity visa immigrants program pose a terrorist or other threat. So don't let me hear anybody talking about terrorism.

And I will revise the rest of my statement, Mr. Chairman, and yield back my time. Thank you.

[The prepared statement of Mr. Conyers follows:]

**Statement of Ranking Member John Conyers, Jr.**
**Hearing on H.R. 704, the "Safe for America Act"**
**Subcommittee on Immigration Policy and Enforcement**
**April 5, 2011**

Our immigration system contains three major components. Although most immigrants come through family-based or employment-based visa petitions, a small number each year come through the diversity visa program.

Today's legislative hearing is on H.R. 704, a bill that would eliminate the diversity immigrant visa program. Rather than looking at ways to make our immigration system work for America, we are considering a bill that attacks an important legal pathway for immigration to this country.

The diversity program is an important part of our immigration system. The program provides an avenue for a racially, ethnically, and culturally diverse population of qualified individuals to immigrate to the United States. Without the program, our immigration system would look very different–and not in a good way.

African immigrants make up about one-half of the diversity visa program, but only a very small fraction of the family-based and employment-based immigration systems (just 3% in 2006). Eliminating the diversity visa program would basically eliminate African immigration to this country.

The diversity visa program also plays an important foreign policy role for the United States. In some countries around the world, the diversity lottery represents the only realistic opportunity for people to immigrate to the United States. The program helps to sustain the idea of the American Dream, because applicants from around the world know that anything is possible.

I want to stress that the diversity visa program does not give out a free pass to enter the United States. To participate in the program, applicants must be from an eligible country, demonstrate that they have the equivalent of a U.S. high school education or two years of training or work experience, and be otherwise admissible to the United States. Like other

visa applicants, diversity visa applicants are also subject to grounds of inadmissibility, including medical, terrorism, and criminal bars.

And for those few who actually win a space in the lottery, they must still undergo a stringent background check just like all other visa applicants.

Finally, we should not accept that this small program for legal immigration puts Americans at risk for a terrorist attack simply because concerns have been raised. In 2007, the GAO found no documented evidence that diversity visa immigrants "posed a terrorist or other threat."

Although critics of the program point to the case of Hesham Hedayet, a diversity visa recipient who shot and killed two people at Los Angeles International Airport in 2002, we must keep that in perspective. Nearly 800,000 immigrants have entered the United States through the diversity visa program–Mr. Hedayet was just one of them. Rather than being a perfect example of what is wrong with the program, he really is an outlier.

Fraud and security risks are always important policy concerns, but they should not be the reason for completely eliminating an important program. Instead, we should focus on making improvements to the diversity visa program. And many such improvements have already been made in response to the same criticisms we will hear today.

For example, the submission of fingerprints and digital photographs with applications now helps to identify duplicative and fraudulent applications. The shift to online applications has also reduced the opportunity for unscrupulous persons to extort money from lottery winners. And finally, State Department posts are now providing education to the community about the rules of the program.

These improvements are significant, but I hope the witnesses today will discuss more areas to strengthen security and improve the diversity visa program. I do not believe the solution is to simply eliminate this important part of U.S. immigration policy.

I thank the witnesses for their attendance today and I yield back my time.

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Mr. GALLEGLY. I thank the gentleman.

And just to take the privilege of the Chair just for a second to, if I could, engage both my colleague Ms. Lofgren and Mr. Conyers.

John, my neighbor, my friend, how would you respond to the arguments that many make about since this program started there have been approximately 800,000 people who have come here under the diversity program? Many would argue that that 800,000

that have come here would ensure diversity forever through chain migration. What would your response to that be, Mr. Conyers?

Mr. CONYERS. But it isn't happening. That hasn't happened—well, here, you are just giving me back the challenge that I posed. If you really want to cut the numbers down in the program, you are saying the program is a success, so that leads to the same conclusion: We don't need it anymore. I reject that out of hand.

Ms. LOFGREN. If I can answer your question, Mr. Chairman, I would note from the report we received from the Congressional Research Service just yesterday that the predominant immigrant through this is a managerial, single-male professional and who is not bringing in a spouse and children.

So also I would note that the brother-sister backlog, as you know, is very regressed. I mean, it is decades in some cases for people to bring in siblings. So although theoretically one could talk about that, in fact, it is not a practical measure.

We can argue whether or not our immigration system should seek to have diversity. I recall Senator Kennedy and Chairman Rodino were concerned that the Irish and Italians would not be present in our immigrant pool, and they thought that was a problem, and that really was the origin of this. And it is interesting that it is now the diversity that we are seeing is from Africa primarily, not completely, because of the way patterns of immigration have developed, and absent this visa, aside from the refugee program—and I guess some of our students that are coming in who I have met, some who are highly educated—we wouldn't see much immigration from Africa. And I think, you know, the diversity has always made our country richer, and it is why we are a proud immigrant Nation. So that would be my answer, Mr. Chairman.

Mr. GALLEGLY. And again, we shouldn't be debating this. We have witnesses here to listen to, but I can't help but respond to the only two examples I used in my opening statement about two incidents, one at LAX and one at Pakistani National, that was advocating jihad here in the U.S. In both of these instances, the people that were advocating this were—one was a son and one was a husband of the applicant. So that does have something to do with that portion of it.

In any event, we are fortunate today to have four exceptional witnesses. Each of the witnesses' written statements will be entered into the record in its entirety, and I ask each to try to summarize in 5 minutes, if at all possible. We got a late start. It is not your fault, but in view of that, I want to make sure everyone has a chance to be heard. And, if you will, we will provide the lights as kind of a guide, but I would appreciate you to try to work as carefully and as helpful in that vein as possible.

The first witness today, of course, the sponsor of the legislation, who is obviously a good friend of both of my colleagues here, as evidenced in their opening statements. Bob Goodlatte, currently is serving his tenth term representing the Sixth Congressional District of Virginia. He has been an active Member of the House Judiciary Committee since arriving in Congress and is currently Chairman of the House Judiciary Subcommittee on Intellectual Property, Competition, and the Internet.

Our second witness today is Stephen Anthony—I have known Tony—Edson. Mr. Edson is former Deputy Assistant Secretary of State for visa services. He was with the State Department for 28 years and currently serves as principal, SAEdson law firm.

Our third witness, Ms. Janice Kephart, is the director of national security policy at the Center for Immigration Studies. She previously served as counsel to the 9/11 Commission. Ms. Kephart received her bachelor's degree from Duke and J.D. From Villanova law school.

And our last witness is Ambassador Johnny Young. Ambassador Young is executive director of the migration and refugee services of the United States Conference of Catholic Bishops. He was previously a member of the senior foreign service with the rank of career Ambassador and, last, served abroad as the U.S. Ambassador to the Republic of Slovenia.

So you can see we have some very good witnesses this afternoon, and we will start with our colleague from Virginia, Mr. Goodlatte.

**TESTIMONY OF THE HONORABLE BOB GOODLATTE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA**

Mr. GOODLATTE. Thank you, Mr. Chairman, Ranking Member Lofgren, Ranking Member Conyers. It is a pleasure to be before you today, and I will submit my written statement for the record. I wanted to respond to some of the comments made by the Ranking Members, who are indeed my friends as well.

First of all, the United States has the largest and most diverse immigration program in the world, and that is even without consideration of the visa diversity or visa lottery program. When I practiced immigration law prior to my election to Congress for more than a decade, I represented individuals from more than 70 countries, none of whom were coming in under the visa lottery program. They were coming in under family-related and primarily work-related visas. We also admit people to this country based upon refugee status from any country in the world where that is a necessity, and we grant political asylum. So the opportunity right now for diversity from virtually any country in the world exists even without this program.

Secondly, this program has been rejected by the House of Representatives twice now, once under a Democratic Congress, once under a Republican Congress. The House has voted to eliminate this program, and while there have been claims, as have just been made, that the program could be improved, during the majority in which the gentleman from Michigan was the Chairman of the full Committee and the gentlewoman from California was the Chairman of the Subcommittee, no hearings whatsoever were held on this issue or to improve it.

I would suggest to you that there are a number of legitimate reasons why the program should be eliminated. One of those is a national security concern. There is no doubt that given the fact that there is no necessity for a family relationship, no necessity for a particular job skill, that it is easy for an organization like al-Qaeda to submit names—yes, it is done at random, but you could submit lots of names from individuals who do not have terrorism records, are young people, whose names could be drawn. We would be none

the wiser that not only were they admitted to the country like the 9/11 hijackers were, but they were admitted to the country on a permanent resident status, green card, so they are admitted permanently to the country.

Secondly, there is I think a very strong argument to be made that this program is grossly unfair to those people who have met the public policy interests of the United States. Immigration is a two-way street. There is not a person in this room who can't go back a few generations or several generations and find somebody in their family who came to the United States to better their lives for themselves and their family, but we do it based upon having a connection, like having a family connection or a job skill that is needed in the country, or based upon persecution or a refugee status situation.

And when we do that, it seems to me very important that we recognize that this program allows people to bypass people who are on very long waiting lists from countries who have family relationships, who have job skills that have been determined to be in need in this country, and they watch somebody who gets an opportunity to get a visa to come here based upon pure luck. That combination I think is not a good one, and that is why I have introduced this legislation in the last few Congresses.

It has been bipartisan each time I have done it, and as I say, it has passed both in the 109th Congress as a part of the appropriations process and in the—in the 109th Congress, it passed as an amendment to H.R. 4437 on the House floor with a very strong bipartisan vote; and in the 110th Congress, it passed as an amendment to the fiscal year 2008 State Foreign Operations appropriations bill.

So, again, I think there is very strong bipartisan support for this legislation. I think that the State Department's Inspector General testified before the 109th Congress that the program contains significant risks to national security from hostile intelligence officers, criminals, and terrorists attempting to use the program for entry into the United States as permanent residents, quote-unquote. With the tool of legal permanent resident status in hand, terrorists and spies would have free rein to travel and plan terrorist activities within the borders of the United States.

Our immigration policy should be based upon what the needs are of the United States because there are people, millions of people, who want to come here for a multitude of of different reasons, some good, some bad. We should identify the good reasons for bringing people here and have an immigration policy that does that and not rely on pure luck to determine who are the good people that should be coming to this country.

Mr. GALLEGLY. I thank the gentleman.

[The prepared statement of Mr. Goodlatte follows:]

**Testimony of Congressman Bob Goodlatte**
**Immigration, Border Security and Claims Subcommittee Hearing on**
**H.R. 704, the Visa Lottery Elimination Act**
**April 4, 2011**

Thank you for inviting me to testify today about my bipartisan legislation, H.R. 704, which eliminates the controversial visa lottery program.

The 9/11 Commission Report states: "The challenge for national security in an age of terrorism is to prevent the very few people who may pose overwhelming risks from entering or remaining in the United States undetected." It goes on to say that "For terrorists, travel documents are as important as weapons … terrorists use evasive methods, such as altered and counterfeit passports and visas … and immigration and identity fraud."

Alarmingly, the visa lottery program is ripe for abuse by terrorists and foreign spies. It awards legal permanent resident status to foreign nationals based on pure luck. Literally, the State Department conducts a random lottery to pick these individuals. Millions apply and approximately 50,000 foreign nationals are awarded green cards to enter the U.S. each year.

Usually, immigrant visas are issued to foreign nationals that have existing connections with family members lawfully residing in the United States or with U.S. employers. These types of relationships help ensure that immigrants entering our country have a stake in continuing America's success and have needed skills to contribute to our nation's economy. However, under the visa lottery program, green cards are awarded to immigrants at random without meeting such criteria.

A perfect example of the system gone awry is the case of Hesham Mohamed Ali Hedayet, the Egyptian national who killed two and wounded three during a shooting spree at Los Angeles International Airport in July of 2002. He was allowed to apply for legal permanent resident status in 1997 because of his wife's status as a visa lottery winner.

The State Department's Inspector General testified before the 109th Congress that the program "contains significant risks to national security from hostile intelligence officers, criminals, and terrorists attempting to use the program for entry into the United States as permanent residents." With the tool of "legal permanent resident" status in hand, terrorists and spies would have free reign to travel and plan terrorist activities within the borders of the United States.

Even if technical improvements were made to the visa lottery program, nothing would prevent terrorist organizations or foreign intelligence agencies from having members apply for the program who do not have previous criminal backgrounds. These types of organized efforts would never be detected, even if significant background checks and counter-fraud measures were enacted within the program.

Complicating this national security threat is the fact that the lottery program is wrought with fraud. The State Department's Office of Inspector General declared in a September 2003 report that the visa lottery program is "subject to widespread abuse" and that "identity fraud is endemic, and fraudulent documents are commonplace."

More recently, a 2007 Government Accountability Office report found that the visa lottery program "is vulnerable to fraudulent activity committed by and against applicants..." The same 2007 report found that consular officers at 6 posts [out of the 11 posts reviewed] reported that "widespread use of fake documents, such as birth certificates, marriage certificates, and passports, presented challenges when verifying the identities of applicants and dependents."

In addition, the visa lottery program is unfair to immigrants who comply with the United States' immigration laws. Most family and employer-sponsored immigrants currently face a wait of many, many years to legally enter the U.S., yet the lottery program pushes 50,000 random immigrants with no particular family ties, job skills or education ahead of these family and employer-sponsored immigrants each year with relatively no wait.

The visa lottery program is also by its very nature discriminatory because it arbitrarily disqualifies natives from countries with higher immigration levels to the U.S., which excludes nationals from countries such as Haiti, the Philippines, Canada, the United Kingdom, India, and many others.

The visa lottery program represents what is wrong with our country's immigration system, is a national security threat, and must be terminated. My legislation would do just that.

CBO estimates that eliminating the visa lottery would save the federal government $164 million over ten years, with those savings coming from the food stamp and Medicaid programs.

The House has twice passed provisions to eliminate the visa lottery program. Once under a Democratic Majority in the 110th Congress as an amendment to the FY 2008 State / Foreign Operations Appropriations bill on the House Floor and once in the 109th Congress as an amendment to H.R. 4437 on the House Floor with a strong bipartisan vote.

This Congress, the effort is again bipartisan, and I want to particularly thank Representatives Peter DeFazio and Brad Sherman for signing on as original cosponsors of this legislation.

Thank you. I look forward to any questions you may have.

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Mr. GALLEGLY. Mr. Edson.

**TESTIMONY OF STEPHEN A. EDSON, PRINCIPAL, SAEdson, LLC**

Mr. EDSON. Chairman Gallegly, Ranking Member Lofgren, Ranking Member Conyers, and distinguished Members of the Committee, good afternoon and thank you for allowing me this oppor-

tunity to discuss my experience with the diversity visa lottery program.

All visa categories are subject to attempted fraud by applicants interested in entering the United States illegally. Applicants misrepresent their identities, their credentials, and their intentions every day before consular officers around the world, trying to obtain visas that they don't qualify for. Most visa categories, particularly for immigrants to this country, have very specific requirements that pose barriers for applicants attempting to submit a false application.

Those wishing to obtain a visa fraudulently must first convince DHS through the petition process, and then the consular officer during an interview, that the requisite relationship or employment experience or work situation exists. For someone misrepresenting themselves as a doctor or business executive or a parent of a U.S. citizen, quite a bit of documentation and interview preparation is thus required.

Contrast this to the diversity visa program where the barriers for entry into the program are so low that we ask applicants to prove only that they have the equivalent of a high school education or 2 years of some sort of a skill-based employment, some sort of financial support or job lined up in the U.S., and they are otherwise eligible for a visa, the standard ineligibility, public health, criminal record.

Because almost anyone can qualify for entry into the program, the cost of committing fraud in this category is quite low. The possibility of legal permanent resident status in the U.S. makes it well worth the limited amount of time and money required to enter the program fraudulently.

The diversity visa program is subject to attempted fraud both by applicants themselves and, worse, by third-party brokers and touts who abuse both the visa system and those applicants.

Fraud by applicants includes, among many other things, multiple entries, fraudulent claims to education and work experience, pop-up spouses or family members, relatives added after the application is submitted, and false claims for employment or financial support in the United States.

Fraud and abuse by third parties is just as prevalent and can have tragic consequences. Consular officers have seen cases of collusion with post office officials—thus, the change that Ranking Member Lofgren mentioned—so that notification to winners of the lottery are either stolen and used by someone else or held hostage until the applicants pay for the release of their documents. This was quite common.

Just as commonly, unfortunately, the applicant may be extorted throughout the process; in other words, not just forced to pay for the release of their initial documents, but forced to pay criminal gangs in order to be allowed to complete their application. This problem occurs to a limited extent, a much more limited extent, with other visa categories as well, but because these diversity visa applicants don't have relatives and employers in the United States, they are particularly vulnerable.

Nor is this sort of abuse limited to applicants who choose to enter the diversity visa lottery. Consular officers have many times

seen unscrupulous agents enroll large groups of people, including in Bangladesh the phone book, so that they could then extort money from the legitimate applicants who didn't in fact apply, or from other people that they sell the winning slot to as they apply for the visa.

The State Department's Bureau of Consular Affairs has done outstanding work over the years in fighting this fraud in the DV program. I should be clear that just because the program is rife with fraud, it does not mean that scores of unqualified applicants are necessarily entering the United States. The refusal rate for the DV cases is quite high, and Consular Affairs has done groundbreaking work with facial recognition software, electronic application processes, and online data analysis tools to weed out fraudulent lottery entries.

Consular officers in the field are similarly astute in interviewing these cases, probing for relationship fraud and working hard to validate the few legislative requirements for the program. Despite the best efforts of consular officers and the State Department, however, the DV program will continue to be a special target of attempted fraud. When anyone can play—and in this program they can, because of the minimum requirements for entry—then everyone will, and the cost of a fraudulent application is so low that fraud will remain prevalent.

I believe that the SAFE for America Act will solve the problem of fraud in the DV program in the only way it is likely to work, by eliminating it. Thank you.

Mr. GALLEGLY. I thank the gentleman.

[The prepared statement of Mr. Edson follows:]

Testimony of Stephen A Edson
Before the House Judiciary Committee,
Subcommittee on Immigration Policy and Enforcement
Hearing on the Diversity Visa Program

Chairman Gallegly, Ranking Member Lofgren, distinguished Members of the Committee: good afternoon and thank you for this opportunity to appear before you and share my experience with the Diversity Visa program.

All visa categories are subject to attempted fraud by applicants interested in entering the US illegally. Applicants misrepresent their identities, credentials and intentions everyday as they attempt to obtain visas for which they do not qualify. Most visa categories, particularly for immigrants to this country, have very specific requirements, which pose barriers to applicants wishing to commit fraud. Those wishing to obtain a visa fraudulently must convince first DHS through the petition process and then the interviewing consular officer that the requisite relationship or employment experience or work situation exists. For someone misrepresenting themselves as a business executive, parent of a US citizen or doctor, for example, a lot of documents and preparation for an interview would be required.

Contrast that to the Diversity Visa program, where the barriers for entry into the program are so low that we ask applicants to prove only that they have the equivalent of a high school education, some sort of financial support or job lined up in the United States and are otherwise eligible for a visa (in other words, don't have a criminal record, dangerous communicable disease and so forth). Because almost anyone can qualify for entry into the program, the cost of committing fraud in this category is low to the applicant. And the possibility of legal permanent resident status in the US makes it well worth the limited amount of time and money required to enter the program fraudulently.

The Diversity Visa program is subject to attempted fraud both by applicants themselves and by third party brokers or touts who abuse both the visa system and applicants.

Fraud by applicants includes:

- Multiple applications to increase the chances of winning
- Fraudulent claims to high school education
- Pop-up spouses. These are wives or husbands who appear on the case between the time of initial registration and the time of visa interview, usually because the successful lottery winner has sold the privilege of applying for a visa as spouse to the highest bidder. Sometimes the applicant is a victim of pressure from third party agents, who will use coercion to force the applicant to claim a fraudulent marriage so that the agent may sell the benefit of applying as spouse on the visa application.
- Add-on children. Like spouses, added on after registration, either by claiming new births, children of a former marriage now in custody of the

applicant or other excuse. As with spouses, sometimes applicants are forced to accept these add-on children against their will.

- False claims to employment or financial support in the US. Of course any immigrant may falsify their financial support documents, but this problem is particularly acute in the case of Diversity Visa applicants as they are not required to have relatives or established employers in the United States.

Fraud and abuse by third parties is just as prevalent.

- Consular officers have seen cases of collusion with post office officials so that notifications to winners of the lottery or either stolen and used by someone else or held hostage until the applicant pays for the release of the documentation.
- Just as commonly, unfortunately, the applicant may be extorted throughout the process. In other words, not just forced to pay for the release of their initial documents, but forced to pay criminal gangs in order to be allowed to complete their application. Again, this problem occurs to a limited extent with other visa categories as well, but because Diversity Visa applicants do not require relatives in the US and may be of relatively low education and employment status, they are particularly vulnerable.
- Nor is this sort of abuse limited to applicants who chose to enter the Diversity Visa program. Consular officers have also seen unscrupulous agents enroll groups of people without their knowledge. In Bangladesh, for example, one agent is reported to have enrolled an entire phone book so that he could then either extort money from winning applicants who had never entered the program to begin with or sell their winning slots to others.

The State Department's Bureau of Consular Affairs has done outstanding work over the years in fighting this fraud in the Diversity Visa program. I should be clear that just because the program is rife with fraud, that does not mean that scores of fraudulent applicants are entering the US. The refusal rate for Diversity Visa cases is quite high, and Consular Affairs has done groundbreaking work with facial recognition tools, electronic application processes and online data analysis to weed out fraudulent lottery entries. Consular officers in the field are similarly astute in interviewing these cases, probing for relationship fraud and working hard to validate the few legislative requirements for this program.

Despite the best efforts of consular officers and the State Department, however, the Diversity Visa program will continue to be a special target of attempted fraud. When anyone can play, and in this program they can because of the minimal requirements for registration, then everyone will. The cost of a fraudulent application is so low that fraud is and will remain pervasive. H.R. 704, the SAFE for America Act will solve the problem of fraud in the Diversity Visa program in the only way that is likely to work: by ending it.

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Mr. GALLEGLY. Ms. Kephart.

**TESTIMONY OF JANICE L. KEPHART, DIRECTOR, NATIONAL SECURITY POLICY, CENTER FOR IMMIGRATION STUDIES**

Ms. KEPHART. Thank you, Chairman Gallegly and Ranking Member Lofgren and Ranking Member Conyers, for holding this hearing on the DV program today. I would also like to acknowledge the leadership of Representative Goodlatte for the introduction of this SAFE for America Act.

My purpose today is to provide my analysis of the DV program from my vantage point as a former 9/11 Commission counsel, as well as national security policy director at the Center for Immigration Studies. My underlying perspective, let me make clear, is to treat our borders as they truly are, as a geographic demarcation of U.S. sovereign rights, to assure that people who seek to come here are who they say they are and will not pose a public safety or terrorist threat to American citizens.

Unfortunately, the DV program is a blind spot in our immigration system that assures none of these elements well. Instead, it can be a terrorist gamble. A successful application means an infiltration tactic with little oversight, a guaranteed visa, and permanent residency for those already in the U.S. or seeking entry from abroad; or a terrorist or other criminal can simply wait for a lottery announcement, then hire somebody to buy that win, change identities, and voila, they are within our immigration system.

Whatever purpose the DV program sought to be for diversity in a pre-9/11 environment, it has been outlived. Today it is a national security vulnerability, and let me go over the six main reasons why I believe that is the case.

First, the DV program draws from nations that are state sponsors of terror or are known to harbor terrorist organizations with overtly stated terrorist intentions toward the United States. Eligibility will remain for these countries in the 2012 lottery, despite 9/11 and despite serious geopolitical shifts in the Mideast today. The four state sponsors of terror—Iran Sudan, Syria, and Cuba—received a total of 2,588 visas or adjustments of status for the DV program in 2010. Nations with active terrorist populations such as Yemen and Somalia, as well as governments known to support terrorist causes and terrorist travel, such as Venezuela, also benefit from the program, as do Afghanistan and Iraq, to name a few.

Again, there are no stopgaps against fraud, as Mr. Edson has pointed out, to determine qualifications or properly vet identity, or derogatory intelligence, to assure that radicalized individuals applying from these nations are not entering the U.S. on a DV.

Second, the program does not include national security standards for, or reviews of, participant countries, such as visa-waiver countries have to do to maintain their status in that program.

Third, the program is susceptible to serious fraud and malfeasance—admitted by the State Department most recently in a press conference back in 2010 discussing the 2012 lottery—both in and out of the U.S. because of its inability to assure identities or qualifications of fraud, similar but perhaps even worse than that we addressed on the 9/11 Commission regarding the processing of Saudi visas pre-9/11.

Fourth, the program's low applicant standards, combined with a computer-generated random lottery drawing, creates an invitation

to those with nefarious intentions to take advantage of blind picks and negligible standards.

Fifth, the program is known to be exploited for human trafficking and the slave trade by crime syndicates, which I discuss in greater length in my written testimony, and it provides little to promote that straightforward diversity from lower immigration countries when we have crime syndicates taking advantage of it.

And lastly, sixth, the program enables those already here to stay while their change of status is under consideration, as known terrorist Hesham Hedayet did, thus increasing the vulnerabilities inherent in the DV program by enabling potential criminals and terrorists to embed longer and legally in the U.S.

I would like to spend my remaining time focusing on the national security challenges of the DV program, particularly Iran. The high numbers of DVs issued to Iranians is perhaps the best indication that the DV program is operating in a vacuum with little concern for national security. For example, Iran is known for its security forces actively seeking infiltration from abroad, and creates another opportunity for such infiltration. It is hard for us to know who is who when we have such little penetration into Iran with our own intelligence system. Iran, we know, supported 9/11 hijackers' travel. We know they support Hezbollah and currently harbor al-Qaeda, and this is only the tip of the iceberg.

Yet the DV program embraces Iran. Looking closely at the 2010 worldwide distribution of visa lottery winners, Iran received 1,854 visas or adjustments of status. Iran ranked ninth in the world of the 173 nations eligible to receive these visas, up four places from 2009 where it ranked 13th.

My conclusion is that the DV program has, unfortunately, outlived its usefulness in a post-9/11 world. If this Nation seeks more diversity in our immigration population, that is for you all to decide, but the DV program is not the route to do so.

Thank you, and I look forward to your questions.

Mr. GALLEGLY. I thank the gentlelady.

[The prepared statement of Ms. Kephart follows:]

# Hearing before the House Committee on the Judiciary

## Subcommittee on Immigration Policy and Enforcement

## "H.R. 704, the Security and Fairness Enhancement (SAFE) for America Act"

*Amending the Immigration and Nationality Act to eliminate the diversity visa lottery immigrant program*

2141 Rayburn House Office Building

Tuesday, April 5, 2011

1:30 PM

**Testimony of Janice L. Kephart**

National Security Policy Director
Center for Immigration Studies

Former counsel, The National Commission on Terrorist Attacks Upon the United States and an author of *September 11 and Terrorist Travel, A Staff Report of the National Commission on Terrorist Attacks Upon the United States*

**Hearing before the House Committee on the Judiciary**
**Subcommittee on Immigration Policy and Enforcement**

**"H.R. 704, the Security and Fairness Enhancement Act (SAFE) for America Act"**

*Amending the Immigration and Nationality Act to eliminate the diversity visa lottery immigrant program*

**Testimony of Janice L. Kephart**
National Security Policy Director, Center for Immigration Studies

**Introduction**

Thank you for the invitation to testify on the *terrorist travel* and national security vulnerabilities that remain with the 20 year old program commonly referred to as the "Diversity Visa Lottery" (DV Program). My testimony is based on the following work, plus additional research specific to today's hearing:

- As a counsel to the Senate Judiciary Subcommittee on Technology, Terrorism and Government Information prior to 9/11;
- As a counsel on the 9/11 Commission "border security team" which produced the *9/11 Final Report* draft recommendations and analysis;
- As an author of the 9/11 staff report, *9/11 and Terrorist Travel*;
- As the National Security Policy Director for the Center for Immigration Studies for nearly the past three years.

At the Commission, I was responsible for the investigation and analysis of the INS and current DHS border functions as pertaining to counterterrorism, including the 9/11 hijackers' entry and acquisition of identifications that are mostly contained in our staff report, *9/11 and Terrorist Travel*. My team also produced the terrorist travel portions of the of the *9/11 Final Report* that were unanimously agreed to and refined by 9/11 Commissioners led by Governor Tom Kean and Representative Lee Hamilton. I have spent the years since the publication of our 9/11 work ensuring, in part, that our border findings, lessons learned and recommendations are properly understood and implemented, and that other types of terrorist travel that were not covered as part of the 9/11 investigation are considered under the tenets and intentions of the 9/11 Commission findings, lessons learned and recommendations in light of ever-changing times.

I want to thank full Committee Chairman Smith, Subcommittee Chairman Gallagly and Vice-Chairman King, and Ranking Member Lofgren for holding this hearing on the DV Program. I especially want to acknowledge the leadership of Rep. Goodlatte for the introduction of his SAFE for America Act eliminating the DV Program, as well as Sen. Hatch, who has introduced a

full interior enforcement bill that also contains a DV Program elimination provision. I am glad this Committee takes to heart the policy put forth in the *9/11 Final Report* that securing our borders is not only in our national interest, it is essential to our national security. Eliminating the pre-9/11, 20 year old DV Program, in my view, is in our national interest and will shore up a current national security vulnerability.

**9/11 Commission Backdrop**

This nation cannot *ever* afford to say it is not important or there is a segment of our border apparatus to which security does not apply. On March 30, 2011, Gov. Tom Kean and Rep. Lee Hamilton testified before the Senate Governmental Affairs Committee in a hearing ""Ten Years After 9/11: A Report From the 9/11 Commission Chairmen". Our 9/11 Commission leadership reiterated once more how important it is for this nation to prevent exploitation of border vulnerabilities:

> *Since 9/11 and the creation of the Department of Homeland Security, a critical goal of our border security apparatus has been to prevent terrorists from entering the United States.*
>
> *Border security remains a top national security priority, because there is an indisputable nexus between terrorist operations and terrorist travel. Foreign-born terrorists have continued to exploit our border vulnerabilities to gain access to the United States.*

In part because Congress chose to make law or provide resources to implement many 9/11 Commission recommendations, the U.S. government now has the legal authority and infrastructure to secure against terrorist travel in a manner it did not prior to 9/11. Yet, somehow this nation has still has a fully funded DV Program in place. The program exists despite creating a large, exploitable border vulnerability whereby almost anyone from almost anywhere (but for some of our key allies) can apply, cross their fingers, (or lie), and be granted a visa that turns into permanent residency with no assurance that this nation really knows the background or intention of the foreign national.

My purpose today is to provide my analysis of the DV Program from the vantage point of a former 9/11 counsel as well as National Security Policy Director at the Center for Immigration Studies. Please note that the views I present here today are my own, and do not necessarily reflect those of the 9/11 Commission. My underlying perspective is that we must treat our borders as they truly are: as a marker of U.S. sovereign rights to assure that people who seek to come here are who they say they are, and will not cause a public safety or terrorist threat to American citizens. The DV Program assures none of these elements.

Without repeating the content and findings of *9/11 and Terrorist Travel*, terrorists will use any infiltration tactic if it works, from hiding in a ship's hull or car trunk, to seeking legitimate visas, to entering into a sham marriage that will gain them access to either a visa waiver, or, better yet, a U.S. passport. The DV program is a terrorist's gamble, but if it works, it is an infiltration tactic with little oversight, a guaranteed visa, and permanent residency whether already in the United States, or seeking entry from abroad.

**Summary**

The Diversity Visa (DV) Program is an unfortunate blind spot in our immigration system that has outlived whatever purpose it might have had. The applicants for these 50,000 "visa lottery" immigration slots require few skills. Neither their qualifications nor identity can be properly vetted. The program does not know, really, who these applicants are or their true purpose in coming to the United States. The program is a national security vulnerability, and has been used by terrorists and organized criminals to not only enter the U.S., but bring others as well.

According to unofficial statements from the State Department, the program is rife with fraud in part because application standards are so low. The program claims to have strict eligibility requirements, but only calls for a high school education or its equivalent *or* two years of work experience within the past five years in an occupation requiring at least two years' training or experience. In most of the countries eligible for a diversity visa, neither education nor work experience can be verified, let alone identity. Consular officers in U.S. embassies abroad thus spend an inordinate amount of time attempting to determine if people are who they say they are and actually qualify for the program. Checking watch lists based on names or prior U.S. immigration histories thus often has little bearing on making a solid determination of identity, qualifications, or legitimate national security concerns.

My conclusion is that the DV Program, as legally authorized today, is a threat to our national security because it:

(1) draws from nations that are state sponsors of terror or are known to harbor terrorist organizations that have overtly stated terrorist intentions towards the United States, which will remain unchanged for the 2012 lottery despite serious shifts in geopolitics since 9/11 and again over the past few months;

(2) does not include national security standards or reviews of participant countries (which would be resource intensive for the 173 nations included in the program today) , such as those standards or reviews made of Visa Waiver countries to maintain their status in that program;

(3) is susceptible to serious fraud and malfeasance both in and out of the United States because of the program's inability to assure identities or qualifications—a similar type of fraud we addressed on the 9/11 Commission pertaining to the processing of visas in Saudi Arabia pre 9/11 (stated by the State Department in a 2010 press conference as the biggest problem with the program from an administration standpoint);

(4) has low applicant standards (admitted as low by the State Department)—a high school education or equivalent—combined with a blind "computer-generated random lottery drawing chooses [that] selectees," essentially acting as an invitation to those with nefarious intentions to take advantage of the program's "blind" picks and negligible standards;

(5) has been exploited to support human trafficking and a slave trade by crime syndicates, nothing close to promoting straightforward "diversity" from "lower immigration" countries; and

(6) enables those already in the United States to apply for the lottery, thus enabling those already here to stay while their "change of status" is under consideration as did Hesham Hedayet, a known terrorist, this increasing the vulnerabilities already built into the program.

**National Security Concerns**

Looking closely at the worldwide distribution of visa lottery winners from the most recent compilation of statistics by the State Department, almost the entire world is represented in the nearly 50,000 visas issued in 2010 (citizens of all but the top source countries of immigration may participate). What is perhaps most troublesome is that the low threshold of requirements to obtain a diversity visa and the wide breadth of foreign nations eligible for DVs means that foreign nationals from states sponsors of terror, states with terrorists operating within their borders that threaten U.S. national security, and struggling third world nations whose citizenry include economic migrants with few skills and no means to support themselves upon arrival, all are issued visas annually through the program.

Of the 173 foreign states and territories represented in the State Department's 2010 catalogue of actual diversity program visas issued (and adjustments of status for people already here), Iran – a designated state sponsor of terror since January 19, 1984, and the country with one of the longest, most tangled, and unnerving terrorist resumes in the world – received 1,854 visas or adjustments of status. Iran only fell behind Bangladesh, Ethiopia, Eygpt, Ghana, Kenya, Nepal, Nigeria and Uzbekistan in numbers of DVs actually awarded.

Iran's participation in the program seems to be at an anomaly with the State Department's own designation of Iran, for years, as a state sponsor of terrorism. Indeed, Iran's high numbers of DV awards is perhaps the best indication that the DV Program operates in a vacuum unconcerned with national security. Our nation has economic sanctions against Iran, and Iran is known for its active security forces that seek infiltration abroad; support terrorist acts around the world (the 9/11 Commission made clear that Iran was involved to some degree in supporting the nineteen 9/11 hijackers); provide training and financial support for Hezbollah; and currently harbor al Qaeda.

The United States has admitted more than once that our nation has little visibility into the actual terrorist on-goings of Iran on a day-to-day basis. Yet, Iran was the third largest recipient of DVs amongst the 29 nations in Asia that also obtained DVs, and ninth worldwide, is four spots up from their 13th place ranking in 2009. There is a possibility that among those Iranians obtaining legal permanent residence through their DVs are those who do not support the United States, or perhaps worse.

The three other state sponsors of terror – Sudan (557), Syria (37) and Cuba (140) – received a total of 734 lottery visas between them. Nations with active terrorist populations such as Yemen and Somalia, as well as governments known to support terrorist causes and terrorist travel, such

as Venezuela, also benefit from the lottery program. Again, there are no stop-gaps against fraud to determine qualifications or properly vet identity or derogatory intelligence to assure that radicalized individuals applying from Yemen, Somalia, or Venezuela, let alone Iran, for example, do not enter the United States on a DV.

Other nations whose governments are not designated state sponsors of terror but are known to harbor terrorist organizations or radicalized populations that have overtly stated terrorist intentions towards the United States or are undergoing political turmoil that could be detrimental to U.S. interests—also receive DVs. In 2010, actual awarded DV numbers for a sampling of these countries were as follows: Afghanistan (66); Algeria (1,957); Egypt (3,253); Iraq (37); Lebanon (46); Libya (70); Nigeria (2,834); Saudi Arabia (34); Somalia (71); Syria (98); Trinidad and Tobago (103); Venezuela (391); Yemen (33). All of these countries' natives are eligible to apply in 2012, despite tremendous unrest and anti-American style activity in Egypt, Libya and Yemen, for example, in the past few months.

Not surprisingly, at least one terrorist incident was helped by the DV program. Hesham Hedayet, an Egyptian who had entered the United States in 1992 and claimed asylum based on his "radical religious beliefs" for which he "was persecuted." His asylum claim was denied but he eventually obtained legal permanent resident status when his wife won the visa lottery in 1996. On July 4, 2002, Hedayet drove to the L.A. Airport with two guns and a hunting knife, approached the Israeli Airline El Al ticket counter, and killed an employee and man waiting in line. He was killed by a security guard.

**Organized Crime Concerns**

Diversity visas have also been used to support significant organized criminal enterprises. In December 2010, Attorney General Eric Holder **presented a coveted Department of Justice award** to a team of federal prosecutors and Immigration and Customs Enforcement (ICE) agents who had busted a human trafficking organization that was using the DV Program to obtain forced child labor for salon-type retail shops in New Jersey. The main perpetrator was Akouavi Kpade Afolabi, formerly from Togo, who, with her husband and son, had essentially used the DV program to create their own personal slave trade by soliciting young African female winners of DVs who could not afford to come to the United States, agreeing to pay their way but in return forcing them to lie about their identity and then permanently confiscate their passports. Attorney General Holder described the case while presenting the "Superior Performance by a Litigative Team" on December 8, 2010, to three federal prosecutors and three senior ICE agents:

> *[For their] outstanding investigation and prosecution of Akouavi Kpade Afolabi and co-conspirators for human trafficking, alien smuggling, and visa fraud in the District's most significant human trafficking case to date. For over five years, defendants obtained the forced labor of two dozen African girls, ranging from 10 to 19 years old. Through physical beatings, threats of voodoo curses, shame, and isolation, defendants forced the*

> *victims to work without pay seven days per week, for 10 to 14 hours each day. Many of the victims were subjected to repeated sexual abuse. The team did a superior job working with severely traumatized victim-witnesses and investigating the case, resulting in three pleas, the convictions of two defendants in separate jury trials, and over $3.9 million in restitution.*

**Fraud Abuse Concerns**

The fraud employed by the Togolese criminal enterprise described above is not unusual. The DV program is permeated with fraud from all over the world, and while fraud pervades immigration programs, the DV program's issues (especially attempts at defrauding applicants) are so profound that warnings were issued in January 2011 by U.S. embassies in **Ghana**, **Pakistan**, **Nepal**, and **Bahrain**. In addition, a **general warning** is posted at the State Department and Federal Trade Commission websites:

> ***Fraud Warning.*** *Please Note: There have been instances of fraudulent websites posing as official U.S. Government sites. Some companies posing as the U.S. Government have sought money in order to "complete" lottery entry forms. There is no charge to download and complete the Electronic Diversity Visa Entry Form. The Department of State notifies successful Diversity Visa applicants by letter, and NOT by e-mail. To learn more see the Department of State Warning and the Federal Trade Commission Warning.*

Our federal courts have also had to expend time and resources dispensing with DV fraud cases. In a 2008 case, *U.S. v. Nouira*, the defendant received a 30 month sentence for visa fraud. Nouira operated the "Moroccan Service Center" in Casablanca, Morocco whereby he would "arrange" marriages for winners of the DV program for the distribution of resident alien visas to Moroccan citizens, so that the "spouses" of the visa lottery winners would become eligible to reside in the U.S. as derivative family members.

In *U.S. v. Badmus*, decided in 2003, a New York based individual was also sentenced to 30 months for visa fraud when federal investigators discovered more than 100 DV-related documents. Investigators counted 14 passports, 63 visa applications, and more than 300 photographs all being used in an attempt to place multiple entries into the DV program for only a handful of people. In about "150 passport photos, there were identical photographs with different names and biographical data written on the back; (2) applications and other paperwork relating to the Diversity Visa Lottery Program; (3) a composition book listing names, numbers, amounts of money and occupations, as well as references to the "DV 2000 visa lottery"; and (4) a luggage tag and phone bill, both bearing the defendant's address."

**Proposals to Do Away with the DV Program**

As our immigration landscape has changed since the creation of the visa lottery in 1990. Our security landscape has shifted significantly since September 11, 2001. Our economy has struggled to recover since 2007. The DV program – which brings into the U.S. 50,000 low-skilled, low-educated individuals whose identities cannot be fully vetted – seems an anomaly to a secure, economically vibrant nation. In fact, the House voted to abolish the DV program in 2005 by a vote of 273-148. At that time, concerns over fraud and national security won the House, but the Senate never passed the bill. In 2007, another bill was introduced in the House to eliminate the program. In June 2007, the Senate and House both agreed to negate funding for the DV program, but the final bill included DV appropriations.

So where does that leave us? There are now two attempts to deal with the DV program head-on. Neither Rep. Goodlatte nor Sen. Hatch are shying away from what is obvious and understated: the DV program, which assertively creates national security vulnerabilities by admitting foreign nationals it cannot viably vet from state sponsors of terror or nations harboring terrorists, acts to support criminal human trafficking, and perpetrates low-skill economic migration during a time when Americans need jobs desperately, has outlived its usefulness. If this nation seeks more diversity in our immigration population, the DV program is not the path to do so.



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Mr. GALLEGLY. Ambassador Young.

**TESTIMONY OF JOHNNY YOUNG, AMBASSADOR, U.S. CONFERENCE OF CATHOLIC BISHOPS**

Mr. YOUNG. Thank you very much, Mr. Chairman. I would like to thank you. I would like to also thank Subcommittee Member Zoe Lofgren and the Committee Member John Conyers for allowing me

to testify today. My testimony is on behalf of the United States Conference of Catholic Bishops.

Chairman Gallegly, the U.S. Bishops believe that the call for the diversity visa program's elimination is misguided. The program is an important facet of not only U.S. immigration policy but also U.S. foreign policy interests. Indeed, the program benefits the United States' interests both domestically and abroad. I will address each of these in turn.

First, U.S. domestic interests are served by the diversity immigrant visa program. The program provides an avenue for a diverse population of qualified individuals to emigrate to the United States. It reaches beyond those with family or business ties in the United States today and creates a mechanism for a racially, ethnically, and culturally diverse population to lawfully emigrate, that would otherwise not exist under other visa programs.

These eligible immigrants, in turn, benefit from U.S. freedom and opportunities while contributing to the economic and cultural fabric of our great Nation. In facilitating this, the diversity visa program, for most respect for U.S. immigration laws, rewarding would-be immigrants who respect our laws and seek a lawful means of entry into the United States.

Second, U.S. foreign policy interests are served by the diversity visa program.Mr. Chairman, I served as U.S. ambassador to countries as varied as Slovenia and Sierra Leone. Today, I am executive director for the largest refugee resettlement agency in the world. From these vantage points, I have witnessed firsthand U.S. diplomacy and direct aid initiatives undertaken to further U.S. national interests abroad. These important initiatives are undertaken in part to help shape the minds and hearts of those within their borders to regard the United States and the democracy it enjoys as a beacon of hope and opportunity and, therefore, a leader in the world.

In a 2009 report by the independent task force co-chaired by Jeb Bush and published by the Council on Foreign Relations, the authors underscored the view of the United States as a place of unparalleled openness and opportunity that is crucial to the maintenance of U.S. and American leadership. The diversity immigrant visa program helps further these objectives.

The diversity immigrant visa program has promoted a necessary diversification of the immigrant population in the United States. According to the GAO, the data shows that the DV program is contributing to the diversification of the U.S. immigrant pool. Indeed, well over a half million immigrants from countries with low rates of admission to the United States have become lawful permanent residents through the program. The majority of diversity immigrants are from Africa and Europe, two regions with low levels of admission under family- or employment-based immigrant visas.

Mr. Chairman, the diversity immigrant visa program generates goodwill and hope among millions across the globe ravaged by war, poverty, undemocratic regimes, and opacity in government. Through the diversity immigrant visa program, the United States makes a counterpoint to that reality, a chance at becoming an integral member of an open, democratic society that places a premium on hard work and opportunity.

In fiscal year 2011 alone, there were 12.1 million qualified applicants to the diversity immigrant visa program. From a diplomacy standpoint, that is a powerful opportunity. The U.S. Catholic bishops asks that the Congress maintain lawful avenues for immigration to the United States and continue to prioritize the diversification of our immigrant pool. The diversity immigrant visa is an important facet of both our domestic and foreign policy objectives. If we are truly concerned about the rule of law, the wholesale elimination of legal avenues for immigration such as the diversity visa is not the answer.

Where fraud is present, or security risks the potential, Congress should work with the Administration to implement measures to combat that fraud as reported by the GAO, and as it does with other important government benefit programs.

Thank you.

Mr. GALLEGLY. Thank you, Mr. Ambassador.

[The prepared statement of Mr. Young follows:]

**TESTIMONY OF AMBASSADOR JOHNNY YOUNG**

**Executive Director, Migration and Refugee Services (MRS)**

**United States Conference of Catholic Bishops (USCCB)**

**On**

**THE DIVERSITY IMMIGRANT VISA PROGRAM**

**Before**

**he House Judiciary Subcommittee on Immigration Policy and Enforcement**

**April 5, 2011**

I am Ambassador Johnny Young, Executive Director of Migration and Refugee Services of the United States Conference of Catholic Bishops (USCCB or the Conference). I testify before you today on behalf of USCCB.

Before I begin, I would like to thank Committee Chairman Lamar Smith, Ranking Committee Member John Conyers, Subcommittee Chairman Elton Gallegly, and Ranking Subcommittee Member Zoe Lofgren for inviting me to testify before the Subcommittee on this important matter.

My testimony before the Subcommittee will outline the Conference's position on the Diversity Immigrant Visa Program. In so doing, I will explain why the U.S. Bishops believe that the Program, though small, is an important facet of both U.S immigration and foreign policy and therefore should be preserved.

**The Role of the U.S. Catholic Bishops in the Immigration Policy Dialogue**

Chairman Gallegly, the issue of immigration is complex and elicits strong opinions and emotions from all sides of the public debate. It touches upon our national economic, social, and cultural interests and has been analyzed and dissected predominately in those terms. From the perspective of the U.S. Catholic Bishops, immigration is ultimately a humanitarian issue because it impacts the basic human rights and dignity of the human person.

The U.S. Catholic Church has a rich tradition of welcoming and assimilating waves of immigrants and refugees who have helped build our nation throughout her history. In 1988 USCCB established a legal services subsidiary corporation which currently includes 196 diocesan and other affiliated immigration programs with 290 field offices in 47 states. Collectively, these programs serve some 600,000 low-income immigrants annually.

The Catholic Church's work in assisting migrants stems from the belief that every person is created in God's image. In the Old Testament, God calls upon his people to care for the alien because of their own alien experience: "So, you, too, must befriend the alien, for you were once aliens yourselves in the land of Egypt." Deut. 10:17-19. In the New Testament, the image of the migrant is grounded in the life and teachings of Jesus Christ. In his own life and work, Jesus identified himself with newcomers and with other marginalized persons in a special way: "I was a stranger and you welcomed me." Mt. 25:35. Jesus himself was an itinerant preacher without a home of his own as well as a refugee fleeing the terror of Herod. Mt. 2:15.

In more modern times, popes over the last 100 years have developed Church teaching on migration. Pope Pius XII reaffirmed the Church's commitment to caring for pilgrims, aliens, exiles, and migrants of every kind, affirming that all peoples have the right to conditions worthy of human life and, if these conditions are not present, the right to migrate.[1] Pope John Paul II

[1] Pope Pius XII, *Exsul Familia (On the Spiritual Care of Migrants)*, September, 1952.

stated that there is a need to balance the rights of nations to control their borders with basic human rights, including the right to work: "Interdependence must be transformed into solidarity based upon the principle that the goods of creation are meant for all."[2] In his pastoral statement, *Ecclesia in America,* John Paul II reaffirmed the rights of migrants and their families and the need for respecting human dignity, "even in cases of non-legal immigration."[3]

In an address to the faithful on June 5, 2005, His Holiness Pope Benedict XVI referenced migration and migrant families "... my thoughts go to those who are far from their homeland and often also from their families; I hope that they will always meet receptive friends and hearts on their path who are capable of supporting them in the difficulties of the day."

In the U.S. and Mexican Bishop's joint pastoral letter, *Strangers No Longer: Together on a Journey of Hope*, the U.S. Bishops further define Church teaching on migration, calling for nations to work toward a "globalization of solidarity: It is now time to harmonize policies on the movement of people, particularly in a way that respects the human dignity of the migrant and recognizes the social consequences of globalization."[4]

Some in the current debate have suggested that the U.S. Bishops do not fully support the enforcement of our nation's immigration laws, in an attempt to discredit the Catholic Church's voice in the immigration policy dialogue.

The U.S. Catholic bishops understand and recognize the role of the government in enforcing the law in the interest of the common good. In the pastoral letter, *Strangers No Longer: Together on the Journey of Hope,* the U.S. Bishops recognized the right of the sovereign to control and protect its borders, stating: "we accept the legitimate role of the U.S. . . . government in intercepting undocumented migrants who attempt to travel through or cross into [the country]." The U.S. Bishops emphasized, however, that ". . .[w]e do not accept . . . some of the policies and tactics that our government has employed to meet this. . .responsibility."[5]

In *Strangers No Longer*, the U.S. Bishops made clear that despite the sovereign's right to control its borders and engage in enforcement of immigration laws, the "human dignity and human rights of undocumented migrants should be respected." The U.S. Bishops declared that "[r]egardless of their legal status, migrants, like all persons, possess inherent human dignity that should be respected . . . Government policies that respect the basic human rights of the undocumented are necessary."[6]

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[2] Pope John Paul II, *Sollicitudo Rel Socialis,* (On Social Concern) No. 39.
[3] Pope John Paul II, *Ecclesia in America (The Church in America)*, January 22, 1999, no. 65.
[4] *Strangers No Longer: Together on the Journey of Hope. A Pastoral Letter Concerning Migration from the Catholic Bishops of Mexico and the United States."* January 23, 2003, No. 57.
[5] *Id.* at No. 78.
[6] *Id.* at No. 38.

**The U.S. Bishops' Support for the Preservation of the Diversity Immigrant Visa Program**

As you know, Mr. Chairman, the Diversity Immigrant Visa Program provides lawful permanent residence to immigrants from what are designated low-admission countries. Structured as a lottery system, the Program has a statutory annual numerical limitation of 55,000 visas[7] for applicants from countries with low rates of immigration to the United States.[8] Citizens from any country emigrating more than 50,000 immigrants to the United States in the preceding five years are ineligible to receive benefits under the program.[9] No eligible country can receive more than seven percent of the available diversity visas in any one year.[10]

Congress established the Diversity Visa Program through the Immigration Act of 1990.[11] The Program is administered through the U.S. Department of State and conducted pursuant to § 203(c) of the Immigration and Nationality Act (INA). The State Department does so through the Kentucky Consular Center which runs the online entry and selection process and through consular posts abroad which are responsible for conducting visa adjudication interviews.[12]

As you are aware, Mr. Chairman, to be eligible for a Diversity Visa, applicants must not only originate in an eligible country, but also demonstrate that they either hold the equivalent of a U.S. high school education[13] or have two years of work experience in an occupation requiring two years of training or experience within the five-year period immediately prior to the application.[14] Further, applicants must be otherwise admissible to the United States; Diversity Visa applicants, like other visa applicants, are subject to grounds of visa ineligibility, including medical, terrorism, and criminal bars. Those accepted in the Program undergo stringent background checks.

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[7] In 1997, Congress passed The Nicaraguan Adjustment and Central American Relief Act (NACARA) which provides that up to 5,000 of diversity visas allocated each fiscal year be made available for use under the NACARA program. The reduction to 50,000 of available visas began with DV-2000.

[8] Immigration Act of 1990, Pub. L. No. 101-649, § 131, 104 Stat. 4978, 4997-99 (1990) (codified at 8 U.S.C. § 1153 (c)).

[9] Individuals from countries with more than 50,000 immigrants in the employment or family-based visa categories in the prior five years are not eligible. In FY 2011, individuals from the following countries were ineligible: Brazil, Canada, China, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, India, Jamaica, Mexico, Pakistan, Peru, the Philippines, Poland, South Korea, United Kingdom, and Vietnam.

[10] 8 U.S.C. § 1153(c).

[11] 8 U.S.C. § 1153 (c).

[12] 8 U.S.C. §§ 1104(A), 1201(a).

[13] "High school education or its equivalent" means successful completion of either a 12-year course of elementary and secondary study in the United States or elementary and secondary education comparable to 12 years of education in the United States.

[14] The Department of Labor establishes eligible occupations, available at http://www.online.onetcenter.org

Mr. Chairman, the Diversity Visa Program is being questioned by some who believe its elimination would better serve U.S. immigration and national interests. They, including those here today, maintain that the Program is wrought with fraud, both on and by applicants, and that it represents a potential national security threat. Others state that the very lottery-like nature of the Program itself is the reason why it should be abolished, arguing that the admission of individuals who have neither ties to business nor family is not in our national interest.

The U.S. Bishops believe that the call for the Diversity Visa Program's elimination is misguided. The Program is an important facet of not only U.S immigration policy but also U.S. foreign policy interests. Indeed, the Program benefits the United States' interests both domestically and abroad.

I will address each of these in turn.

First, U.S. domestic interests are served by the Diversity Immigrant Visa Program. The Program provides an avenue for a diverse population of qualified individuals to immigrate to the United States. It reaches beyond those with family or business ties in the United States today and creates a mechanism for a racially, ethnically, and culturally-diverse population to lawfully emigrate that would otherwise not exist under other visa programs. These eligible immigrants, in turn, benefit from U.S. freedoms and opportunities, while contributing to the economic and cultural fabric of our great nation. In facilitating this, the Diversity Visa Program promotes respect for U.S. immigration laws – rewarding would-be immigrants who respect our laws and seek a lawful means of entry into the United States.

Second, U.S. foreign policy interests are served by the Diversity Visa Program. Mr. Chairman, I served as U.S. Ambassador to countries as varied as Slovenia and Sierra Leone. Today, I am Executive Director of the largest refugee resettlement agency in the world. From these vantage points, I have witnessed first-hand U.S. diplomacy and direct aid initiatives undertaken to further U.S. national interests abroad. These important initiatives are undertaken, in part, to help shape the minds and hearts of those within their borders to regard the United States and the democracy it enjoys as a beacon of hope and opportunity, and therefore a leader, in the world. The Diversity Immigrant Visa Program helps further these objectives. The Program engenders hope abroad for those that are all too often without it – hope for a better life, hope for reunification with family in the United States, and hope for a chance to use their God-given skills and talents.

I have to look no further than a Togolese woman who exemplifies what we believe is right with the Program. Mr. Chairman, in the late 1990's, I served as U.S. Ambassador to Togo, an African nation with low levels of family and employment-based immigration to the United States. In my time there, I had the opportunity to meet a highly-educated Togolese woman. Her sister, with whom she was close, was a U.S. Citizen who had petitioned for her to come to the United States on a family-based visa. She was told that the wait period was 25 years. In the meantime, she applied for the Diversity Visa. Although she did not win the Diversity Visa "lottery" in the first

several years of applying, she remained resolute in her hope for reunification with her sister. In her fourth year of applying, she won the visa lottery and immigrated to the United States with her teenage son. She reunited with her sister, contributes to the United States in numerous ways by sharing her gifts and talents, and her son who was a derivative graduated from a U.S. high school and went on to earn his MBA at Harvard.

Mr. Chairman, but for the Diversity Immigrant Visa Program, the United States would not benefit from this family's tremendous talents.

Yet, Mr. Chairman, the U.S. Catholic Bishops' belief in this Program is founded on more than mere anecdote alone.

The data shows that since its inception, the Diversity Immigrant Visa Program has promoted a necessary diversification of the immigrant population in the United States. According to the Government Accountability Office (GAO), "the data show that the DV Program is contributing to the diversification of the U.S. immigrant pool."[15] Indeed, well over half a million immigrants from countries with low rates of admission to the United States have become lawful permanent residents through the Program.[16] The majority of Diversity immigrants are from Africa and Europe – two regions with low-levels of admission under family or employment based immigrant visas.[17]

Moreover, the Program advances our nation's interests abroad. In a 2009 report issued by an independent task force co-chaired by Jeb Bush and Thomas F. McLarty III, and published by the Council on Foreign Relations, the authors stated that immigration's "emergence as a foreign policy issue coincides with the increasing reach of globalization. Not only must countries today compete to attract and retain talented people from around the world, but the view of the United States as a place of unparalleled openness and opportunity is also crucial to the maintenance of American leadership."[18] The task force underscored the importance of U.S. immigration policy to the United States' role in the world, stating that "America's openness to and respect for immigrants has long been a foundation of its economic and military strength, and a vital tool in its diplomatic arsenal. With trade, technology, and travel continuing to shrink the world, the manner in which the United States handles immigration will be increasingly important to American foreign policy in the future."[19]

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[15] U.S. Government Accountability Office (GAO), *Border Security: Fraud Risks Complicate State's Ability to Manage Diversity Visa Program*, 07-1174, 12-14 (September 2007).
[16] *Id.*
[17] *Id.*
[18] Council on Foreign Relations, Independent Task Force Report No. 63, *U.S. Immigration Policy*, ix (July 2009), available at http://www.cfr.org/immigration/us-immigration-policy/p20030 , last visited April 3, 2011.
[19] *Id.* at 3-5.

Mr. Chairman, the Diversity Immigrant Visa Program generates goodwill and hope among millions across the globe ravaged by war, poverty, undemocratic regimes, and opacity in governance. Through the Diversity Immigrant Visa Program, the United States markets a counterpoint to that reality: a chance at becoming an integral member of an open, democratic society that places a premium on hard work and opportunity. In Fiscal Year 2011 alone, there were 12. 1 million qualified applicants to the Diversity Immigrant Visa Program.[20] From a diplomacy standpoint, that is a powerful opportunity.

**Conclusion**

Mr. Chairman, I would like to thank you for inviting me to testify before the Subcommittee today.

The U.S. Catholic Bishops ask that Congress maintain lawful avenues for immigration to the United States and continue to prioritize the diversification of our immigrant pool. The Diversity Immigrant Visa is an important facet of both our domestic and foreign policy objectives. If we are truly concerned about the rule of law, the wholesale elimination of legal avenues for immigration, such as the Diversity Visa, is not the answer. Where fraud is present or security risks the potential, Congress should work with the Administration to implement measures to combat that fraud, as recommended by the GAO, and as it does with other important government benefit programs.

We urge Congress to resist engaging in a piecemeal approach to the complex issue of unauthorized and authorized immigration, and instead pass immigration reform laws which ensure the rule of law in the United States and respect the dignity of immigrants in our midst.

Thank you for your consideration of our views.

[20] *See* Diversity Visa Lottery Fiscal Year 2011 Results *at* http://travel.state.gov/visa/immigrants/types/types_5073.html, last visited April 3, 2011 ("Applicants registered for the DV-2011 program were selected at random from over 12.1 million qualified entries (16.5 million with derivatives) received during the 60-day application period that ran from noon on October 2, 2009, until noon, November 30, 2009.").



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Mr. GALLEGLY. I would ask unanimous consent to place into the record, without objection, the following items to be made a part of the record of the hearing:

The 2003 Department Office of Inspector General memorandum inspection report on the diversity visa program.

Number two, the 2007 GAO report entitled "Fraud risks complicates States' ability to manage diversity visa program."

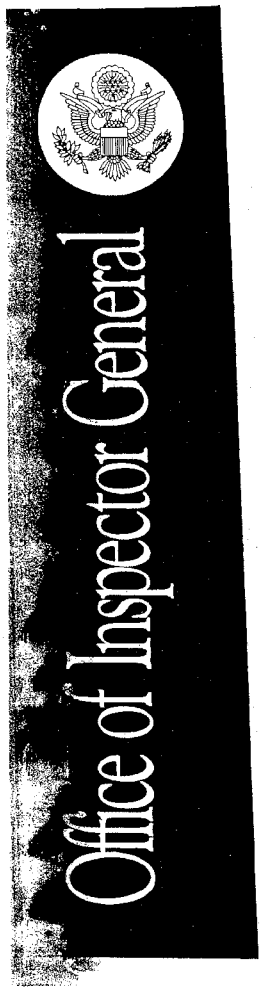
Number three, March 31, 2011, Irish Times article entitled "U.S. Embassy in Dublin warns of widespread visa lottery scam."

Number four, March 30, 2011, Arab news article entitled "U.S. Visa scam gets personal."

And finally, a copy of the fraud alert on the Web site of the Embassy of the United States in London.

If there is no objection, those will be made a part of the record of the hearing.

[The information referred to follows:]




SENSITIVE BUT UNCLASSIFIED

**United States Department of State**
**and the Broadcasting Board of Governors**
**Office of Inspector General**

# Memorandum Inspection Report

## Diversity Visa Program

**Report Number ISP-CA-03-52, September 2003**

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United States Department of State
and the Broadcasting Board of Governors

*Office of Inspector General*

PREFACE

This report was prepared by the Office of Inspector General (OIG) pursuant to the Inspector General Act of 1978, as amended, Section 209 of the Foreign Service Act of 1980, the Arms Control and Disarmament Amendments Act of 1987, and the Department of State and Related Agencies Appropriations Act, FY 1996. It is one of a series of audit, inspection, investigative, and special reports prepared by OIG periodically as part of its oversight responsibility with respect to the Department of State and the Broadcasting Board of Governors to identify and prevent fraud, waste, abuse, and mismanagement.

This report is the result of an assessment of the strengths and weaknesses of the office, post, or function under review. It is based on interviews with employees and officials of relevant agencies and institutions, direct observation, and a review of applicable documents.

The recommendations therein have been developed on the basis of the best knowledge available to the OIG, and have been discussed in draft with those responsible for implementation. It is my hope that these recommendations will result in more effective, efficient, and/or economical operations.

I express my appreciation to all of those who contributed to the preparation of this report.

Anne M. Sigmund
Deputy Inspector General

Address correspondence to: U.S. Department of State, Office of Inspector General, Washington, D.C. 20520-6817

In this review, the Office of Inspector Geeneral (OIG) evaluates the implementation at overseas missions of the Diversity Visa (DV) program and assesses the Bureau of Consular Affairs' (CA) oversight of the program. This review is part of OIG's overall review of the Department of State's (Department) visa process following the terrorist attacks of September 11, 2001. OIG performed fieldwork in the United States and at overseas missions between October 2002 and February 2003.

## BACKGROUND

In FY 1995, Congress established a DV program that authorized up to 50,000 immigrant visas annually to persons from countries that were underrepresented among the 400,000 to 500,000 immigrants coming to the United States each year. Most immigration to the United States is based upon family relationships or employment. DV applicants, however, can qualify on the basis of education level and/or work experience. Like other immigrant applicants they are subject to all grounds of ineligibility related to medical condition, criminal behavior, etc. If eligible on those grounds, they need only to demonstrate that they have the equivalent of a U.S. high school education or possess two years of work experience in an occupation that requires at least two years of training or experience within the five-year period immediately prior to the application.

Originally, the DV program was one of many immigrant visa functions assigned to the National Visa Center at Portsmouth, New Hampshire. In September 2000, DV processing was moved to a newly remodeled site at Williamsburg, Kentucky, the Kentucky Consular Center (KCC). Unlike earlier lottery programs, KCC processes lottery applications in the United States, thereby relieving overseas missions of many clerical and file storage responsibilities. KCC employees receive and process lottery entries, select winners, process winners' visa applications, and schedule interviews for them at missions abroad. Consular officers at those missions issue or deny the applications.

## RESULTS IN BRIEF

Section 306 of the Enhanced Border Security and Visa Reform Act of 2002 (Public Law 107-173) generally prohibits issuance of nonimmigrant visas to aliens from state sponsors of terrorism. There are no parallel restrictions for the DV program. Because of this and the program's vulnerability to fraud and the ease of application, OIG believes that this program contains significant threats to national security from entry of hostile intelligence officers, criminals, and terrorists into the United States as permanent residents.

The DV program is subject to widespread abuse. Despite the strictures against duplicate submissions, the KCC detects thousands of duplicates each year. Currently, the only penalty for submitting detected duplicate entries is disqualification for the year in which the duplicate submissions are detected. Identity fraud is endemic, and fraudulent documents are commonplace. Many countries exercise poor control over their vital records and identity documents, exacerbating the potential for program abuse. In some countries, this control is so poor that consular officers must assume that all travel, identity, and civil documents are unreliable.

Several offices and officers in CA's Directorate of Visa Services (CA/VO) manage and oversee parts of the DV program. Overall management direction is disjointed and inadequate, in part because responsibility for day-to-day oversight is not centralized within CA/VO. Missions do not have current written guidance on what is, country by country, the equivalent of a U.S. high school education. Many missions do not have the personnel or language resources to determine which applicants qualify either through training or work experience. CA/VO prepares an annual statistical report for the Congress on DV issuances, but does not include much trend analysis for KCC, overseas missions, or senior CA management.

Unlike other visa applications, the current DV processing fee is collected only from applicants selected as "winners." Millions of applicants pay nothing to participate in the program. The U.S. government pays all costs not covered by the DV fee. For FY 2002, CA estimated program costs not covered by the fee exceeded $840,000.

To strengthen the DV application process in general and to eliminate specifically its possible use by terrorists as a means of gaining permanent residence in the United States, OIG is recommending that the Department:

- propose legislative changes that would bar from the DV program all aliens from states that sponsor terrorism;

- propose legislative changes that would permanently bar all adults identified as multiple applicants from future DV programs;
- request legal authority to make the DV program self financing; and,
- establish standards to improve the application of DV eligibility criteria.

## RESULTS OF REVIEW

### Statutory Weaknesses

The DV program is designed to increase diversity in the U.S. immigrant population. It provides the opportunity to obtain U.S. immigrant visas to persons from countries that traditionally have low immigration to the United States. Also called the "visa lottery" because the winners are determined through a computer-generated random drawing, a maximum of 50,000 permanent residence visas can be issued each fiscal year to persons who meet the eligibility requirements. Visas are apportioned among six geographic regions (Europe, Africa, Asia, North America, South America/Central America/Caribbean, and Oceania). Countries that have sent more than 50,000 immigrants in the past five years cannot qualify, and no one country can receive more than seven percent (3,500) of the DV numbers in any given year.

Aliens from countries currently designated as state sponsors of international terrorism cannot be issued nonimmigrant visas except in limited circumstances.[1] No such requirement exists for the DV program. Between two to four percent of all DV issuances are to nationals of countries currently designated as state sponsors of terrorism.

Natives of some 190 countries are potentially eligible for DV visas each year, although the actual number of eligible states varies for technical reasons. The top ten countries for DV issuance in FY 2001 and 2002 were:

[1] Section 306 of the Enhanced Border Security and Visa Entry Reform Act of 2002 prohibits nonimmigrant issuance to aliens from countries that are state sponsors of international terrorism unless it is determined such aliens do not pose a threat to the safety and national security of the United States. Countries currently designated as state sponsors of international terrorism are Cuba, Libya, North Korea, Sudan, and Syria. Political refugees from these countries, however, while not eligible for nonimmigrant visas, can gain entry to the U.S. via the parole process or in refugee or asylum status

| FY 2001 | FY 2002 |
|---|---|
| Albania | Ukraine |
| Ethiopia | Ethiopia |
| Morocco | Nigeria |
| Nigeria | Poland |
| Pakistan | Albania |
| Ukraine | Bulgaria |
| Bulgaria | Ghana |
| Romania | Kenya |
| Bangladesh | Taiwan |
| Russia | Russia |

Source: Visa Office, U.S. Department of State, March 2003.

Each year, the Department issues detailed instructions on the application process, qualifying countries, and the time frame within which applications are accepted. Applicants are advised that they will be disqualified for the year of application if more than one entry for an applicant is received, regardless of who submitted the entry. (Applicants also are disqualified for other reasons, including failing to sign the applications, submitting nonconforming envelopes, or omitting other required information.) Applicants ignore this stricture by the thousands. The KCC reports duplicate disqualifications for DV 2002 and DV 2003 were:

| | DV 2002 | DV 2003 |
|---|---|---|
| Total Reviewed Envelopes | 9,691,000 | 5,835,000 |
| Disqualified Duplicates | 235,800 (2.4%) | 364,000 (6.2%)[2] |

Because the second review revealed a significant number of duplicates that the first sort did not detect, the KCC conducted an extensive review of 1,600 DV

[2] For DV 2002, the KCC conducted one sort to identify duplicate applications. For DV 2003 the KCC conducted two sorts. The first identified 287,000 duplicates; a second review of approximately 20 percent of the remaining pool identified an additional 77,000.

2003 applications for each region (except for North America for which there were only 700 applications overall). Two trays of 800 each were selected at random with the following results:

| Region | # of Duplicates | Duplicate % |
|---|---|---|
| Africa | 134 | 8.35% |
| Asia | 110 | 6.88% |
| Europe | 210 | 13.13% |
| S.A., Caribbean | 3 | 0.02% |
| Oceania | 1 | 0.01% |

The KCC uses both the human eye and facial recognition technology to identify duplicate applications, both for primary beneficiaries and also for qualifying dependents. Time constraints and contract costs currently do not allow for review of all applications, even though violating the rules gives an unfair advantage to applicants who submit duplicate applications.

[redacted]

## Managing the Program

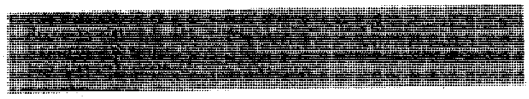
CA/VO is responsible for providing worldwide substantive direction for the DV program on how to adjudicate visa eligibility under the education requirements. To that end, it has defined "high school education or its equivalent" as either a 12-year course of elementary and secondary education in the United States or a formal course of elementary and secondary education comparable [emphasis added] to the

completion of 12 years of elementary and secondary education in the United States. Equivalency certificates, such as the General Educational Development credential, are not acceptable. Evidence can consist of school transcripts and other relevant evidence.

The Department initially provided missions with a manual, *Foreign Education Credentials Required for Consideration of Admission to Universities and Colleges in the United States*, but this aid is out of print and no longer available. When OIG asked, missions described how they now determine eligibility. London advised it now uses the *International Guide to Qualifications in Education*, published in the United Kingdom and available for sale there. Other missions admitted that they have not evaluated local school systems to determine what is equivalent to a U.S. high school degree and could not locate any Department cable or e-mail guidance on educational determinations. One officer was issuing DVs based on local high school certificates because he mistakenly believed that any local high school graduation certificate met the criteria.

Embassies and consulates responsible for adjudicating third-country national applications described documents as unreliable and difficult to impossible to check. Officers do not know third-country documents as well as host country documents and typically cannot determine how reliable those documents are.

CA/VO initially had proposed querying missions for input on their host countries' educational systems, with a view to codifying the results. CA/VO's Office of Legislation, Regulations, and Advisory Assistance advised against this initiative because it believed that the expertise on various educational systems was abroad and that adjudicating officers should make their own determinations about the equivalency of a country's educational system on a case-by-case basis. This practice, now in effect, results in inconsistency among consular officers in making a fundamental eligibility decision. CA/VO is confusing establishing standards with adjudicating cases.

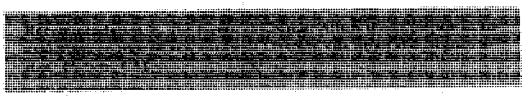


Applicants are eligible if they can demonstrate that they possess two years of work experience in an occupation that requires at least two years of training or work experience. At the CA web site, potential applicants are advised about the

link to a Department of Labor list of qualifying occupations and that Labor's online database is used to determine qualifying work experience.

In countries where officers cannot converse in the local language, decisions are based on limited information. For example, in Cairo, Foreign Service nationals play a major role in evaluating work evidence because officers' Arabic skills are limited. Other embassies attempt to get applicants to prove their proposed skills; Lagos invites purported clothing designers to produce a piece of their work on the spot using a consulate-provided sewing machine. Many consular officers note that work experience documents often are fraudulent, but investigative capabilities are limited. Officers and Foreign Service nationals are confident that they analyze host-country documents well but worry about documents from third countries for which they have primary responsibility. For example, Embassy Warsaw does not know Ukrainian documents as well as Polish ones and struggles to investigate questionable documents. Ukrainian authorities insist that all requests to confirm document authenticity pass through its Foreign Ministry. Replies are slow and never confirm that even the most dubious documents are fraudulent.

All missions are asked to comment on the DV program, if relevant, in their annual Consular Package submissions, but CA/VO does not prepare and disseminate analyses on DV regional and worldwide trends. The Consular Package's annual statistical report provides useful issuance information by nationality and eligibility. Each DV-issuing mission produces an annual DV report and sends it to the KCC. This data is not reviewed and summarized or presented to CA management for use in directing the program. CA's Immigrant Visa Control and Reporting Division collects data on DV immigrants as required under 8 CFR 1153 (c) (3), but OIG could find no instance in which CA management had reviewed or used this information.



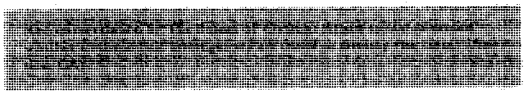
In March 1997, OIG issued Memorandum Report 97-CI-009, *Diversity Visa Program*. The report was issued in conjunction with an overall OIG review of the immigrant visa process. OIG found that fraud was prevalent because missions reported that applicants could easily obtain bogus documents. Also, applying the DV criteria of either the equivalency of a U.S. high school education or two years of relevant job experience was made difficult because educational systems and

work experience in other countries differ significantly from those in the United States. The report noted that staff resources were limited and fraud prevention was usually the first function reduced when staffing cuts were levied on individual consular sections.

In its March 1997 audit report, OIG recommended that the Department designate a portion of the new diversity fees to augment funding the visa fraud prevention program, including staffing costs at all DV processing missions. At that time, CA responded that it was formulating a proposal to survey and assess fraud at a representative number of DV missions to determine the likely impact on issuances and refusals of a field investigation and to determine what percentage of a DV fee should be devoted to fraud work. When the 2003 OIG team asked the Office of Fraud Prevention Programs (CA/FPP) for a copy of the survey and what new policy directions had resulted, OIG was advised that no one currently in CA/FPP was aware of any such survey.

Fraud is an on-going major program issue. Antifraud activities are generally dominated by nonimmigrant visa fraud cases. Many embassies and consulates with significant DV issues, therefore, do not routinely refer problem cases to their antifraud units. Some missions have no antifraud units. Embassy Accra, for example, is a major DV issuer but has no antifraud officer.

Current CA/FPP leadership is unaware of any survey to assess fraud at DV missions to determine the likely impact of DV issuances and denials of antifraud field investigations or what percentage of a DV fee should be devoted to fraud work. CA does not know how significant the DV fraud problem is. CA cannot document the wide spread belief that certain countries' records, including school records, are under such poor control that their passports, identity documents, and vital records are so unreliable as to be useless for visa purposes.



## Fees and Staffing

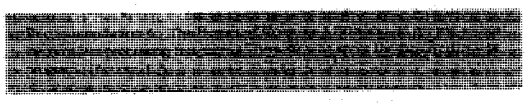
Section 636 of Public Law 104-208, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, authorizes the Department to collect a fee for the processing of diversity immigrant visas. The law provides that the Depart-

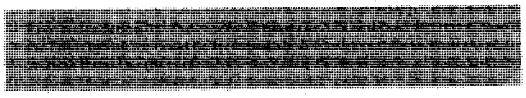
ment may "establish a fee to be paid by each applicant for an immigrant visa described in section 203(c) of the Immigration and Nationality Act."

Unlike the nonimmigrant process in which applicants pay a processing fee in advance, the Department currently collects fees only from DV applicants who are selected in the random lottery. Millions apply for free. CA provided OIG with the following program costs and revenue data for FY 2001 and FY 2002.

| | FY 2001 | FY 2002 |
|---|---|---|
| KCC contract costs | $3.2 million | $4.2 million |
| Department employee costs | $65,000 | $124,000 |
| Mission funds worldwide | $472,000 | $591,000 |
| Total revenues: | $3,658,439 | $4,074,485 |
| Annual Shortfall | ($78,561) | ($840,515) |

Program costs significantly exceed revenues. In addition, the KCC and embasies, as well as CA/VO, have insufficient resources to develop, investigate, and process all DV applications fully. The KCC cannot review all applications for duplicate filings. Embassies like Accra do not have the staff to review applications for possible fraud. In the Department, CA/VO is designing a process that would allow applicants to apply online as well as by mail, but OIG has determined that no current DV fees are allotted to this project.



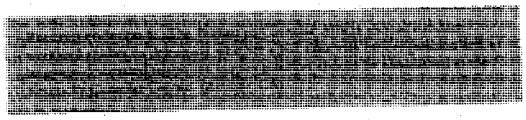


A major part of the DV program's work involves the acceptance and processing of the millions of applications that KCC receives each year, followed by communi-

cations with selected applicants and overseas missions. The KCC processes all winning applications through its facial recognition system and processes other applications as time permits. Although the staff believes that screening all applicants would identify significantly more duplicate applications, there is no funding to support a complete review.

Many callers struggle through their inquiries in English because KCC has no language-designated contract or staff positions. KCC staff identifies issues that may be of interest to individual missions, but there is no Department visa officer responsible for communicating with consular officers on individual cases, providing day-to-day advice and training to the contract staff, and determining what general information would be useful to consular sections. KCC staff identifies U.S. addresses that may belong to DV facilitators abusing the process by filing multiple applications. Attorneys at the Federal Trade Commission expressed concern that unscrupulous "entrepreneurs" were making spurious claims on the Internet that they could help applicants be DV winners.

When OIG began this review, there was no KCC antifraud officer position identified for the KCC. OIG has been advised that a position now is approved for that facility and an officer soon will be in place to coordinate antifraud issues and policies. Currently, however, only the KCC director is an experienced consular officer.



## Scope And Methodology

This review was conducted to coincide with OIG's inspection of CA/VO. The primary objectives were to assess overall DV program management and to evaluate its implementation at overseas missions. Another objective was to identify vulnerabilities that, once curtailed or eliminated, should improve the border security profile of the United States.

OIG reviewed narrative descriptions of the DV program for several missions; observed operations and collated information at the KCC; conducted site visits at

Cairo, Dhaka, Frankfurt, London, Paris, and Warsaw; interviewed officers at missions inspected during the Fall 2002 and Winter 2003 inspection cycles; met with attorneys from the Federal Trade Commission; and interviewed CA personnel in Washington, DC. OIG observed the annual 30-day application acceptance process, reviewed open cases at the KCC and overseas missions, and observed DV interviews in progress. Fieldwork was conducted from October 2002 through February 2003. John Parker, Marlene Schwartz, and Michele Truitt conducted this review.

## List of Recommendations

**Recommendation 1:** The Bureau of Consular Affairs should propose changes to the Immigration and Nationality Act to bar aliens from states that sponsor terrorism from the Diversity Visa application process. (Action: CA)

**Recommendation 2:** The Bureau of Consular Affairs should propose changes to the Immigration and Nationality Act to bar permanently from future diversity lottery programs all adult applicants who are identified as multiple applicants. (Action: CA)

**Recommendation 3:** The Bureau of Consular Affairs should issue standards for determining whether foreign high school educations are comparable to U.S. high school educations. (Action: CA)

**Recommendation 4:** The Bureau of Consular Affairs should prepare an annual report on regional and worldwide Diversity Visa trends and program issues. (Action: CA)

**Recommendation 5:** The Bureau of Consular Affairs should determine whether antifraud field investigations are useful in diversity visa cases. (Action: CA)

**Recommendation 6:** The Bureau of Consular Affairs should request authority to collect processing fees from all persons who apply for the diversity visa program. (Action: CA)

**Recommendation 7:** The Bureau of Consular Affairs should determine how the diversity visa fee could be appropriately devoted to antifraud work at overseas missions. (Action: CA)

**Recommendation 8:** The Bureau of Consular Affairs should conduct workload studies to determine whether a full-time visa officer position and a language-designated telephone inquiry position should be established at the Kentucky Consular Center. (Action: CA)

## LIST OF ABBREVIATIONS

| | |
|---|---|
| CA | Bureau of Consular Affairs |
| CA/FPP | Office of Fraud Prevention Programs |
| CA/VO | Directorate of Visa Services |
| Department | Department of State |
| DV | Diversity Visa program |
| KCC | Kentucky Consular Center |
| OIG | Office of Inspector General |

United States Government Accountability Office

GAO

Report to the Chairman, Committee on Homeland Security, House of Representatives

September 2007

# BORDER SECURITY

# Fraud Risks Complicate State's Ability to Manage Diversity Visa Program

GAO-07-1174

GAO
Accountability·Integrity·Reliability

# Highlights

Highlights of GAO-07-1174, a report to the Chairman, Committee on Homeland Security, House of Representatives

## Why GAO Did This Study

Diversity visas provide an immigration opportunity to aliens from countries with low rates of immigration to the United States. Diversity visa applicants must apply online, be selected by lottery, be interviewed, and be determined to be eligible before obtaining a diversity visa. GAO was asked to review (1) the extent to which the Diversity Visa Program (DV program) is diversifying the U.S. immigrant pool, (2) areas of the DV program that are vulnerable to fraud, (3) whether there are security implications associated with these vulnerabilities, and (4) what steps the Department of State (State) has taken to address the vulnerabilities. We reviewed laws, regulations, and other documentation, and interviewed numerous State officials both at headquarters and in the field.

## What GAO Recommends

We recommend that State compile better data on known fraud in the DV program and use these data to develop a strategy to address fraud risks, including proposals for legislative changes, if deemed necessary. State did not agree with our recommendations and said that it has a robust fraud screening program for DV applicants. However, our report shows that there are significant fraud risks in the DV program and that State could do more to mitigate the risk, especially at posts that are reporting significant challenges with DV fraud.

To view the full product, including the scope and methodology, click on GAO-07-1174. For more information, contact Jess T. Ford at (202) 512-4128 or fordj@gao.gov.

September 2007

BORDER SECURITY

# Fraud Risks Complicate State's Ability to Manage Diversity Visa Program

## What GAO Found

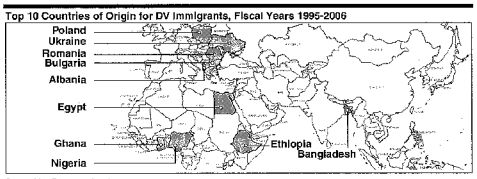
The DV program is contributing to the diversity of U.S. immigrants; since 1995, more than 500,000 aliens from countries with low rates of immigration to the United States have become legal permanent residents through the program. Little is known about diversity immigrants once they enter the United States, such as whether they contribute to further diversity by petitioning for family members to immigrate.

The DV program is vulnerable to fraud committed by and against DV applicants, but State has not compiled comprehensive data on detected and suspected fraudulent activity. At 5 of the 11 posts we reviewed, consular officers reported that the majority of DV applicants, lacking access to a computer or internet savvy, use "visa agents" to enter the lottery. Some agents take advantage of DV applicants; visa agents in Bangladesh have intercepted applicants' program documents and charged ransoms of up to $20,000 or coerced applicants into sham DV marriages. Consular officers at 6 posts reported that widespread use of fake documents, such as birth certificates, marriage certificates, and passports, presented challenges when verifying the identities of applicants and dependents.

Difficulty in verifying identities has security implications because State's security checks rely heavily on name-based databases. In 2003, State's Inspector General raised concerns that aliens from countries designated as state sponsors of terrorism can apply for diversity visas. Nearly 9,800 persons from these countries have obtained permanent residency in the United States through the program. We found no documented evidence that DV immigrants from these, or other, countries posed a terrorist or other threat. However, experts familiar with immigration fraud believe that some individuals, including terrorists and criminals, could use fraudulent means to enter or remain in the United States. This places a premium on mitigating fraud risks.

Despite taking steps to strengthen the DV program, State does not have a strategy to address the pervasive fraud reported by some posts. State believes that some legislative changes could mitigate fraud risks, but it has not made formal proposals for change and has not compiled comprehensive data on program outcomes and fraud trends which would help decision makers consider whether legislative changes are needed.

Top 10 Countries of Origin for DV Immigrants, Fiscal Years 1995-2006




Source: Map Resources (map).

# Contents


| | | |
|---|---|---|
| **Letter** | | 1 |
| | Results in Brief | 3 |
| | Background | 7 |
| | The DV Program Is Contributing to a Diverse U.S. Immigrant Population, but Little Is Known about DV Immigrants Once They Enter the United States | 12 |
| | The DV Program Is Vulnerable to Fraudulent Activity Committed by and Against Applicants, but State Has Not Compiled Comprehensive Data on Detected or Suspected Fraudulent Activity | 16 |
| | Difficulties in Verifying the Identity of Some DV Applicants May Have Security Implications | 23 |
| | State Has Taken Steps to Strengthen the DV Program, but Does Not Have a Strategy to Address Pervasive Fraud Reported by Consular Officers at Some Posts | 27 |
| | Conclusions | 32 |
| | Recommendations | 33 |
| | Agency Comments | 34 |
| **Appendix I** | **Objectives, Scope, and Methodology** | 36 |
| **Appendix II** | **Comments from the Department of State** | 39 |
| | GAO Comments | 44 |
| **Appendix III** | **GAO Contact and Staff Acknowledgments** | 46 |
| **Tables** | | |
| | Table 1: Top 10 Countries of Origin for Diversity Visa Immigrants, Fiscal Years 1995-2006 | 14 |
| | Table 2: Diversity Visa Recipients from Countries Designated as State Sponsors of Terrorism, Fiscal Years 2000-2006 | 25 |
| **Figures** | | |
| | Figure 1: Percentage of Aliens Granted Legal Permanent Resident Status by Class of Entry, Fiscal Year 2006 | 8 |
| | Figure 2: Process for Obtaining a Diversity Visa | 9 |

Figure 3: Percentage of Diversity Visas Compared to Family- and Employment-Based Visas by Geographic Region, Fiscal Year 2006 13

**Abbreviations**

| | |
|---|---|
| DV | Diversity Visa |
| FPP | Office of Fraud Prevention Programs |
| IG | Inspector General |
| INA | Immigration and Nationality Act |
| KCC | Kentucky Consular Center |

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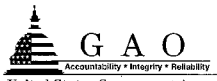



**United States Government Accountability Office**
**Washington, DC 20548**

September 21, 2007

The Honorable Bennie G. Thompson
Chairman
Committee on Homeland Security
House of Representatives

Dear Mr. Chairman:

Congress established the Diversity Visa Program (DV program) through the Immigration Act of 1990.[1] The program provides up to 55,000[2] immigrant visas[3] each fiscal year to aliens from countries with low rates of immigration[4] to the United States. Diversity visas provide an immigration opportunity to individuals from countries other than the countries that send large numbers of immigrants to the United States. Aliens from 179 countries are eligible to participate in the 2007 DV program. A diversity visa holder may travel to the United States and apply for entry as a legal permanent resident.[5] Legal permanent resident status allows individuals to live and work legally in the United States, travel in and out of the country, petition for certain family members to join them, and eventually apply for U.S. citizenship. Unlike most immigrant visa categories, DV applicants do

[1]Immigration Act of 1990, Pub. L. No. 101-649, § 131, 104 Stat. 4978, 4997-99 (1990) (codified at 8 U.S.C. § 1153 (c)).

[2]The Nicaraguan Adjustment and Central American Relief Act (NACARA) passed by Congress in November 1997 stipulated that up to 5,000 of the 55,000 annually allocated diversity visas be made available for use under the NACARA program. The reduction of the limit of available diversity visas to 50,000 began with the DV program's fiscal year 2000, or DV-2000, and is likely to remain in effect through the DV-2008 program.

[3]The United States also grants visas to people who are seeking to enter the United States temporarily. In this report, we use the term "visa" to refer to immigrant visas only.

[4]Aliens from countries that have sent more than 50,000 immigrants in the family- or employment-based categories in the previous 5 years are not eligible for the current fiscal year's lottery. The list of ineligible countries can change every year as immigration patterns shift; on average, approximately 15 countries have been ineligible each year since DV-2000. The following 16 countries are ineligible for the 2007 DV program: Canada, China (mainland-born), Colombia, Dominican Republic, El Salvador, Haiti, India, Jamaica, Mexico, Pakistan, Philippines, Poland, Russia, South Korea, United Kingdom (except Northern Ireland) and its dependent territories, and Vietnam.

[5]Holding an immigrant visa is but one of the requirements an alien must satisfy to become a legal permanent resident. *See* 8 U.S.C. § 1201.

not need a family member or employer in the United States to petition on their behalf. Instead, aliens enter what is commonly referred to as the "visa lottery"; individuals selected in this lottery are eligible to apply for a diversity visa. The Department of State (State) administers the DV program, including an online entry and lottery selection process at its Kentucky Consular Center (KCC) and visa adjudication interviews at its consular posts abroad.[6]

This report is part of a two-pronged approach to address your interest in the immigrant visa process, the potential vulnerabilities in the process—including security risks—and options for mitigating these risks. In the course of our research, we decided to focus on the diversity visa category of immigrant visas for two reasons. First, in 2003, State's Office of the Inspector General (IG) pointed to pervasive fraud in DV applications that posts must deal with, as well as the risk inherent in allowing aliens from countries designated as state sponsors of terrorism[7] to apply for and obtain a diversity visa. Second, we spoke with several experts both within and outside of government who raised concerns about fraudulent activity in the DV program. Another GAO study currently underway—the second to address your request—will focus on the security screening and adjudication process for nonimmigrants already in the United States who are applying for legal permanent resident status.

This report examines (1) the extent to which the DV program is diversifying the U.S. immigrant visa pool, (2) areas of the DV program that are vulnerable to fraud, (3) whether there are security implications associated with these vulnerabilities, and (4) what steps State has taken to address the vulnerabilities in the DV program. To conduct our review, we

[6]Applicants already residing in the United States on a nonimmigrant or other status may be eligible to adjust to legal permanent resident status through the Department of Homeland Security's U.S. Citizenship and Immigration Services. *See* 8 U.S.C. § 1255. In fiscal years 2000 through 2005, about 5 percent of DV immigrants adjusted status.

[7]Countries determined by the Secretary of State to have repeatedly provided support for acts of international terrorism are designated pursuant to three laws: section 6(j) of the Export Administration Act as codified at 50 App. U.S.C. § 2405 (j), section 40 of the Arms Export Control Act as codified at 22 U.S.C. § 2780(d), and section 620A of the Foreign Assistance Act as codified at 22 U.S.C. § 2371. Taken together, the four main categories of sanctions resulting from designation under these authorities include restrictions on U.S. foreign assistance, a ban on defense exports and sales, certain controls over exports of dual use items, and miscellaneous financial and other restrictions. Designation under the above-referenced authorities also implicates other sanctions laws that penalize persons and countries engaging in certain trade with state sponsors. Currently there are five countries designated under these authorities: Cuba, Iran, North Korea, Sudan, and Syria.

reviewed laws, regulations, and other documentation related to the DV program, and interviewed officials at State headquarters and at the KCC, where the online entry and selection processes for the diversity visa lottery are administered. We selected 11 DV-issuing posts to review because they encompassed a range of experiences in DV processing: (1) posts that had reported considerable DV fraud activity, (2) posts representing various DV workload volumes, (3) posts located in different geographic regions, and (4) posts that process applicants from countries designated as state sponsors of terrorism. We conducted field work at 4 of these posts: Accra, Ghana; Lagos, Nigeria; Warsaw, Poland, which processes DV applicants from Ukraine; and Ankara, Turkey, which processes DV applicants from Iran. At these 4 posts, we reviewed consular operations and interviewed State officials regarding the challenges they face with the DV program. We interviewed consular officers at an additional 7 posts via teleconference. We conducted our review from November 2006 to August 2007 in accordance with generally accepted government auditing standards. Appendix I provides more information on our scope and methodology.

## Results in Brief

Data show that the DV program is contributing to the diversification of the U.S. immigrant pool. As a result of the program, more than 500,000 aliens from countries with low rates of immigration to the United States have obtained legal permanent resident status. Immigrants from Africa and Europe have received the most diversity visas. For example, in fiscal year 2006, 40 percent of diversity immigrants were from Africa and 34 percent were from Europe, while 19 percent were from Asia, 4 percent from South America, and 1 percent from North America. Ethiopia, Nigeria, and Ukraine have consistently ranked among the top diversity-visa-sending countries since fiscal year 1995. Little is known about diversity immigrants once they enter the United States, such as whether they remain in the United States and petition for other family members to immigrate. There have been very limited attempts by State and the Department of Homeland Security to evaluate the effectiveness of the program and its impact.

Several elements of the DV program are vulnerable to fraudulent activity committed by and against DV applicants, but State has not compiled comprehensive data on detected or suspected fraudulent activity. The extent to which these vulnerabilities are exploited varies by country, depending on the applicant pool and local circumstances. Some of the posts we reviewed indicated that fraudulent activity was a major concern, while others did not report serious problems. In countries such as Bangladesh, Ethiopia, Ghana, Nepal, Nigeria, and Ukraine, consular

officers reported that the majority of DV applicants, lacking access to a computer or internet savvy, seek assistance from "visa agents" or "visa consultants" to enter the lottery. While some visa agents perform a legitimate service, others take advantage of DV applicants by such means as disseminating misleading information on the program, intercepting official correspondence from the KCC to the lottery winners, and charging exorbitant fees for each step in the DV process. For example, consular officers at the U.S. embassy in Dhaka, Bangladesh, said that some unscrupulous visa agents use their own address on DV entry forms so that KCC's notification letters are delivered to them instead of to the person selected in the lottery. The agents have then, in some cases, held these letters for up to $20,000 in ransom, or offered to reduce this fee if the legitimate DV winner agreed to marry a person of the agent's choosing—who had also paid a fee to the agent—and to add this new spouse to the visa application. Consular officers working in the U.S. embassies in Accra, Addis Ababa, Dhaka, and Warsaw[8] and in the U.S. consulate in Lagos said they encountered many of these fraudulent DV marriages, termed "pop-ups" since the relationships were formed after the DV applicants had been selected in the lottery. Cables from the U.S. embassy in Addis Ababa, Ethiopia, to State headquarters reported that fraudulent DV couples go to great lengths to try to prove their relationship is legitimate, including backdated marriage certificates and staged wedding photographs, and some even incur pregnancies for the sake of the visa. Consular officers at six of the posts reviewed—Accra, Addis Ababa, Dhaka, Kathmandu, Lagos, and Warsaw—reported that the availability of fake documents, or genuine documents with false information, such as birth certificates, marriage certificates, and passports, presented significant challenges when verifying DV applicants' identities and the relationship between the principal DV applicants and their spouse and dependents. Despite much anecdotal information on DV program fraud and abuse, State has not compiled comprehensive data on detected or suspected fraud across all DV-issuing posts.

Although none of the officials at State headquarters in Washington or the consular officers at the 11 posts we reviewed considered the DV program to be specifically targeted by terrorists, a few said that difficulties in verifying visa applicants' identity could have security implications.

[8]As Poland "graduated" from the program after DV-2006, Polish natives are not currently eligible to apply for diversity visas. The U.S. embassy in Warsaw adjudicates DVs for natives of Belarus, Latvia, Lithuania, and Ukraine.

Consular officers' difficulties in verifying the identity of some DV applicants, particularly in countries where applicants can purchase legitimate identity documents containing fraudulent information, could reduce the effectiveness of security screening for DV applicants. While consular officers screen all visa applicants for security-related concerns, a DV applicant with no previous record in U.S. government agency databases or an applicant who is using a false identity may not be detected as a potential security concern. A 2002 cable from the U.S. embassy in Dhaka stated that the ease with which individuals can obtain genuine identity documents in any assumed identity, including passports, creates an "open door" for terrorists wishing to enter the United States with legal status. The cable also stated that name check requirements for visa applicants are useless in detecting someone with a newly invented identity, as may be the case with many of the post's DV applicants. In 2003, State's IG raised concerns that aliens from designated state sponsors of terrorism are eligible for the DV program. Since 2000, nearly 9,800 aliens from state sponsors of terrorism have received diversity visas. The IG stated that the DV program posed significant risks to national security from hostile intelligence officers, criminals, and terrorists attempting to use the program for entry into the United States as permanent residents and recommended that State's Bureau of Consular Affairs propose legislation to bar aliens from state sponsors of terrorism. Consular Affairs agreed with the recommendation in principle but did not implement it, expressing concern over the effect of permanently disbarring aliens who may be fleeing oppressive regimes of states that sponsor terrorism. The IG later agreed to close the recommendation although it had not been implemented. We found no documented evidence of DV immigrants from state sponsors of terrorism committing any terrorist acts. However, as we have previously reported,[9] the Department of Homeland Security, terrorism experts, and federal law enforcement officials familiar with immigration fraud believe that some individuals, including terrorists and criminals, could use fraudulent means to enter or remain in the United States.

State has taken steps to strengthen the DV program, but it does not have a strategy to address the pervasive fraud being reported by consular officers at some posts. Since 2003, KCC has employed facial recognition software

[9]GAO, *Immigration Benefits: Additional Controls and a Sanctions Strategy Could Enhance DHS's Ability to Control Benefit Fraud*, GAO-06-259 (Washington, D.C.: Mar. 10, 2006).

to detect multiple entries, implemented an electronic application process, and hired a full-time fraud prevention manager. KCC employees flag DV cases with fraud indicators before they are sent to posts; consular officers can use this information when adjudicating DV cases. Posts also conduct fraud investigations on some DV cases. These efforts address some of the vulnerabilities within State's control, but not all. For instance, DV applicants who are selected in the DV lottery receive a notification letter in a large white envelope that lists KCC as the return address, which consular officers say is highly conspicuous for postal workers or other third parties who may intercept the letter and extort money from applicants in exchange for it. At the same time, State contends that it is restrained from addressing other vulnerabilities by insufficient resources and the legislative requirements of the program. For instance, the consular chief in Lagos said the consular section did not have the resources to conduct all the fraud investigations it would like to, and the post's assistant regional security officer for investigations position had been vacant since September 2006. Moreover, while State believes that some legislative changes could mitigate fraud in the DV program, it has not made any formal proposals to this effect. Further, it has not compiled comprehensive data on DV program outcomes and on detected and suspected fraud activity in the program, which would help decision makers consider whether legislative changes are needed.

We are recommending that State compile more comprehensive data on the DV program, including information on detected or suspected DV fraud and data on the amount of fraud prevention resources being spent on DV investigations. We also recommend that State use these data to formulate a strategy to combat fraud in the DV program. This strategy should include proposals for legislative change, if deemed necessary to mitigate fraud risks; consideration of appropriate fraud prevention resources; and some operational improvements to strengthen the program.

We provided a draft of this report to the Departments of State and Homeland Security for their comments. The Department of Homeland Security did not comment on the report. In its written comments, State said it was disappointed with the report's findings and did not agree with the recommendations. It said that our report did not give the department enough credit for steps it has taken to combat fraud in the DV program and that our report identified management failures that do not exist. While State's comments acknowledge that the DV program faces fraud challenges, State also said that there are limits to what the department can do. In our report, we give credit to State for making several improvements to its fraud screening for DV applicants, such as implementing an

electronic application process and facial recognition software, and flagging DV cases with fraud indicators before they are sent to posts. Moreover, our report does not discuss "management failures" by State. Our report shows that the DV program has significant risks for fraud and that while State has taken steps to address this fraud, it could still do more to mitigate the risk, especially at posts that are reporting significant challenges with DV fraud. This is why we recommend that State collect more comprehensive data on known DV fraud and use this information to develop a strategy to combat fraud in the program. This strategy should include operational improvements to the program and proposals for legislative changes, if deemed necessary to improve State's ability to combat fraud.

## Background

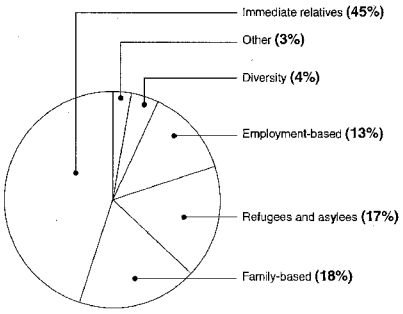
In 2006, the United States granted permanent admission—or legal permanent resident status—to approximately 1.3 million aliens.[10] Aliens granted legal permanent resident status are formally classified as immigrants, and receive a permanent resident card commonly referred to as a green card. The Immigration and Nationality Act (INA), as amended in 1990, is the primary body of law governing immigration and visa operations. According to the act, immediate relatives of U.S. citizens[11] are granted legal permanent resident status without numerical limitation;[12] in 2006, this category represented nearly half of all aliens granted this status (see fig. 1). Other legal permanent residents are admitted in numerically limited categories, with preference given to aliens who have close family relationships to a U.S. citizen or legal permanent resident, or who have needed job skills.

[10]U.S. Citizenship and Immigration Services counts both "arrivals" and "adjustments-of-status" in this number. In 2006, roughly 65 percent of immigrants were adjustments and 35 percent were arrivals. "Adjustments" refer to cases in which the alien is already present in the United States, and "arrivals" refer to cases in which the alien requests permanent admission before entering the United States. In the latter cases, the alien must apply for and obtain a U.S. immigrant visa at a U.S. embassy or consulate abroad before arriving at U.S. ports of entry. A visa indicates that the alien's application has been reviewed and determined eligible by a U.S. consular officer, and allows the bearer to apply for admission to the United States at a U.S. port of entry.

[11]Immediate relatives include spouses, parents of citizens ages 21 and older, and unmarried children of citizens under 21. *See*, 8 U.S.C. § 1151 (b)(2)(A)(i).

[12]8 U.S.C. § 1151.

**Figure 1: Percentage of Aliens Granted Legal Permanent Resident Status by Class of Entry, Fiscal Year 2006**




Sources: U.S. Department of Homeland Security's Office of Immigration Statistics; GAO.

The 1990 amendment to the act also established the DV program, which authorizes up to 55,000 immigrant visas annually to aliens from countries with low rates of immigration to the United States.[13] The Department of Homeland Security's Office of Immigration Statistics annually determines regional and country limits for DV allocations and notifies State which countries can participate in the DV program each fiscal year. All countries are eligible for the DV program except those that contributed more than 50,000 family- or employment-based immigrants to the U.S. immigrant population over the 5 preceding years, and each eligible country is limited to 7 percent, or 3,850, of the total diversity visa limit.[14] Sixteen countries are ineligible for the 2007 DV program: Canada, China (mainland-born),

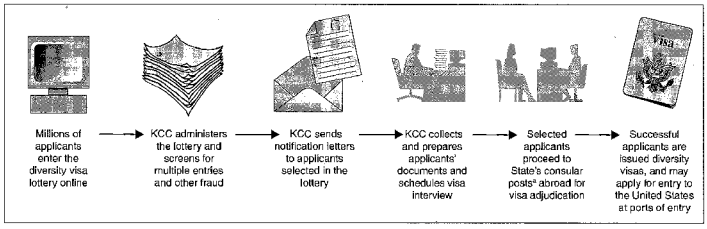
[13]Pub. L. No. 101-649, § 131.

[14]8 U.S.C. § 1153(c).

Colombia, Dominican Republic, El Salvador, Haiti, India, Jamaica, Mexico, Pakistan, Philippines, Poland, Russia, South Korea, United Kingdom (except Northern Ireland) and its dependent territories, and Vietnam.

As with all other immigrant visas, DV holders who attain legal permanent resident status may petition for certain family members to join them in the United States, travel in and out of the country, and eventually apply for U.S. citizenship. However, unlike family and employment immigrant visa categories, DV applicants do not need a petition from a family member or employer in the United States to apply. Instead, aliens enter what is commonly referred to as the "visa lottery" online during a period of time of at least 30 days as established by State each fiscal year. The process for obtaining a diversity visa involves several steps, and is administered primarily by State (see fig. 2). State's KCC manages the early stages of the process, including the DV lottery and case preparation, and State's consular officers adjudicate the majority of DV cases at overseas posts.[15]

**Figure 2: Process for Obtaining a Diversity Visa**




Sources: GAO analysis of State data; Nova Development (clip art).

[a]Applicants already residing in the United States on a nonimmigrant or other status may be eligible to adjust to legal permanent resident status through U.S. Citizenship and Immigration Services.

[15]Applicants already residing in the United States on a nonimmigrant or other status may be eligible to adjust to legal permanent resident status through U.S. Citizenship and Immigration Services. *See* 8 U.S.C. § 1255. In the last 5 years, the percentage of DV applicants who adjusted status has been about 5 percent.

The online entry form requires basic personal information as well as a digital photograph.[16] Aliens may prepare and submit their own entries or someone else may prepare and submit the entry for them. All family members (spouse and unmarried children under age 21) must be listed on the principal entrant's form; these dependents are also eligible to apply for a diversity visa if the principal entrant is selected in the lottery. Aliens who will obtain diversity visas in fiscal year 2008 ("DV-2008") submitted their online entry forms between October 4 and December 3, 2006. The KCC received 5.5 million qualified entries for the DV-2008 program. KCC screens all entries, and may disqualify aliens who entered the lottery more than once. Acceptable entries are run through a computer-generated random drawing administered by KCC. KCC notifies those entrants selected in the lottery by mail;[17] the notification letters are sent to the mailing address provided on the entry, regardless of who prepared it. These letters provide visa application instructions. Aliens whose entries were selected in the DV-2008 lottery received notification letters from KCC by July 2007. KCC continues to process applications by collecting and preparing the selected applicant's key documents until the applicant is considered documentarily qualified and is scheduled for a visa interview at a consular post abroad.[18] For DV-2008 applicants, visa adjudication interviews must take place before September 30, 2008, because applicants only remain eligible through the end of the specific fiscal year for which they were selected; after this time, the DV-2008 program will be complete and no more DVs from that lottery pool can be issued.

Although KCC prepares each applicant's case, only consular officers at a U.S. embassy or consulate can make the adjudicatory decision whether to issue a diversity visa.[19] At the DV adjudication interview, consular officers must determine that there is a basis for immigration (in this case, a winning diversity lottery entry) and that the applicant meets the two basic eligibility requirements: applicants must (1) be from an eligible DV

[16]22 C.F.R. § 42.33.

[17]KCC does not notify those entrants who were not selected in the lottery.

[18]Those qualified to adjust status in the United States are processed at domestic U.S. Citizenship and Immigration Services offices.

[19]*See* 8 U.S.C. §§ 1104(A), 1201(a). *See also*, 8 C.F.R. § 245.2. Adjustment-of-status cases are adjudicated by U.S. Citizenship and Immigration Services adjudication officers in the United States.

country,[20] and (2) demonstrate that they either hold the equivalent of a U.S. high school education[21] or possess 2 years of work experience in an occupation requiring 2 years of training or experience within the 5-year period immediately prior to the application.[22] Consular officers must also verify the relationship between principal DV applicants and their dependents. As with all visa applicants, DV applicants are subject to all grounds of visa ineligibility such as certain adverse medical conditions, criminal behavior, security and terrorist concerns, and other factors. Aliens who are granted a diversity visa have 6 months from the date of issuance to proceed to a U.S. port of entry to apply for admission into the United States.

[20]Aliens applying for a diversity visa must either be a native of (born in) a country that qualifies for the DV program, regardless of the alien's current country of residence or nationality, or be entitled to claim another country as their native country. The rules of "cross chargeability" within the DV program—designed to prevent the separation of family members—allow individuals to claim their native country as one other than their country of birth for reasons including: (1) an alien born in a nonqualifying country in which neither parent was born nor resident at the time of the child's birth may claim the birthplace of either parent, if that country qualifies for the DV program; and (2) an alien born in a nonqualifying country may claim his or her spouse's native country if it qualifies for the program, provided that the spouse is included on the DV application, is issued a visa, and enters the United States simultaneously with the applicant. *See* 22 C.F.R. § 42.12 for chargeability exceptions generally and State's *Foreign Affairs Manual* Volume 9, section 42.12 notes for chargeability exceptions as applied to the DV program.

[21]The State Department's interpretation of the term "high school education or its equivalent" means successful completion of either (1) a 12-year course of elementary and secondary study in the United States, or (2) a formal course of elementary and secondary education comparable to completion of 12 years of elementary or secondary education in the United States. According to State's *Foreign Affairs Manual*, the education should be sufficient to allow a student to apply for college admission without further education.

[22]The Department of Labor's O*Net (online.onetcenter.org) establishes eligible occupations.

## The DV Program Is Contributing to a Diverse U.S. Immigrant Population, but Little Is Known about DV Immigrants Once They Enter the United States

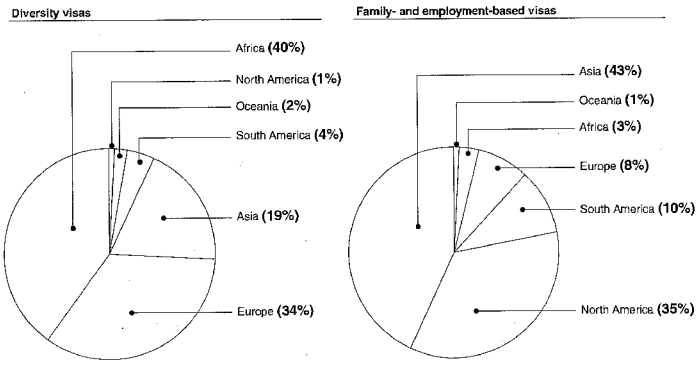
Data show that the DV program is contributing to the diversification of the U.S. immigrant pool. As a result of the program, more than half a million aliens from countries with low rates of immigration to the United States have obtained legal permanent resident status. In fiscal year 2006, 40 percent of diversity immigrants were from Africa and 34 percent were from Europe, while 19 percent were from Asia, 4 percent from South America, and 1 percent from North America. In general, more aliens from Africa and Europe immigrate to the United States on a diversity visa than on a family- or employment-based immigrant visa, in contrast to immigrants from other regions. Since fiscal year 1995, Ethiopia, Nigeria, and Ukraine have sent the most diversity immigrants to the United States. While these data demonstrate that the DV program has contributed to the diversification of the U.S. immigrant pool, little is known about DV immigrants after they enter the United States, such as whether they remain in the United States and if they petition for family members to join them.

### Aliens from Africa and Europe Receive Majority of Diversity Visas

Aliens from Africa and Europe receive a greater percentage of visas in the diversity visa category than immigrants from other regions (see fig. 3).[23]

[23]While immediate relatives of U.S. citizens are admitted without limit, other immigrant visa categories, such as employment, family, and diversity visas, are numerically controlled. 8 U.S.C. § 1151.

**Figure 3: Percentage of Diversity Visas Compared to Family- and Employment-Based Visas by Geographic Region, Fiscal Year 2006**




Sources: U.S. Department of Homeland Security's Office of Immigration Statistics; GAO.

Current U.S. immigration policy favors individuals with family or employment ties in the United States, and the DV program seeks to provide an opportunity for immigration to aliens from countries that do not have high levels of immigration. More than half a million aliens from countries with low rates of immigration to the United States have obtained legal permanent resident status since the inception of the program; these are individuals who may not otherwise have had the opportunity to immigrate via family or employment ties. In 2006, immigrants from Africa received 40 percent of all diversity visas, compared with 3 percent of family-based and employment-based immigrant visas combined. Similarly, immigrants from Europe received 34 percent of diversity visas issued in 2006, in contrast to 8 percent of family-based and employment-based visas combined. Immigrants from North America, South America, and Asia received the majority of family-based and employment-based visas, and received a smaller percentage of diversity visas.

Since 1995, Ethiopia, Nigeria, and Ukraine have consistently ranked among the top diversity visa sending countries (see table 1). Some countries, such as Peru, Poland, and Russia, are ineligible for the DV-2008 program due to their recent high immigration volume.[24] In such cases, State refers to countries as having "graduated" from the program.

**Table 1: Top 10 Countries of Origin for Diversity Visa Immigrants, Fiscal Years 1995-2006**

| | Country of birth[a] | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | Ethiopia | 2,656 | 3,240 | 2,880 | 2,090 | 2,190 | 1,777 | 2,194 | 3,994 | 3,381 | 4,517 | 3,427 | 3,357 | **35,703** |
| 2 | Nigeria | 2,408 | 4,359 | 2,605 | 3,185 | 3,112 | 2,821 | 2,684 | 2,279 | 3,119 | 2,959 | 2,379 | 2,942 | **34,852** |
| 3 | Ukraine | 1,068 | 2,328 | 1,660 | 2,095 | 3,091 | 3,969 | 2,748 | 3,028 | 3,033 | 2,975 | 2,745 | 3,282 | **32,022** |
| 4 | Albania | 597 | 2,400 | 3,474 | 3,403 | 3,114 | 3,909 | 3,295 | 2,566 | 1,915 | 2,075 | 2,438 | 1,500 | **30,686** |
| 5 | Bulgaria | 1,000 | 985 | 1,843 | 2,924 | 3,390 | 3,657 | 2,611 | 1,808 | 2,486 | 2,342 | 2,854 | 1,631 | **27,531** |
| 6 | Poland[b] | 4,915 | 3,444 | 3,418 | 391 | 36 | 24 | 22 | 2,486 | 2,568 | 2,850 | 3,259 | 2,100 | **25,513** |
| 7 | Bangladesh | 1,920 | 3,753 | 3,080 | 2,835 | 1,697 | 1,719 | 1,508 | 1,104 | 745 | 1,756 | 1,753 | 3,093 | **24,963** |
| 8 | Romania | 1,992 | 2,321 | 2,378 | 2,620 | 2,862 | 2,867 | 1,953 | 981 | 1,202 | 1,145 | 1,585 | 1,207 | **23,113** |
| 9 | Egypt | 2,230 | 2,219 | 1,852 | 1,786 | 1,536 | 1,506 | 1,123 | 1,161 | 923 | 1,643 | 2,478 | 3,727 | **21,984** |
| 10 | Ghana | 1,338 | 3,933 | 2,350 | 2,156 | 1,734 | 1,737 | 1,120 | 1,217 | 1,577 | 1,152 | 1,049 | 1,129 | **20,492** |

Source: U.S. Department of Homeland Security's Office of Immigration Statistics.

[a]Although State's rules of cross-chargeability allow DV applicants to claim a country other than their country of birth as their native country, the numbers in this table count DV immigrants by country of birth, as reported by the Department of Homeland Security's Office of Immigration Statistics.

[b]Poland's eligibility for the DV program has fluctuated. As noted previously, State's rules of cross-chargeability would allow a spouse or child of a DV applicant who was born in Poland to claim the country of the principal DV applicant as his or her native country. Some diversity visas were issued to aliens whose country of birth is Poland but who claimed another country as their native country in years when Poland was ineligible for the program.

## Little Is Known About Diversity Immigrants Once They Enter the United States

Although the DV program has helped some countries to increase immigration to the point where the country has graduated from the program, very little is known about DV immigrants after they arrive in the United States. For example, neither State nor the Department of Homeland Security has done a specific study on DV immigrants after they enter the United States, such as whether they remain in the United States and petition for family members to join them. Therefore, it is difficult to

[24]Poland's eligibility for the program has fluctuated as its immigration pattern to the United States has changed.

determine to what extent the DV program contributed to a country's graduating from the program or whether the country graduated from the program because of other factors.

Similarly, it is unclear whether DV program requirements provide sufficient grounds for DV immigrants to lead successful lives in the United States. In 2003, State compiled a report that described certain demographics of DV recipients in that year. The study illustrated characteristics of DV recipients' gender, age, level of education, work experience, and marital status, and reported that the "typical" DV recipient was a male professional, aged 26-30, holding a university degree. The study also pointed to certain demographics that varied across regions; for instance, more DV recipients from Europe were married than those from Africa. While the 2003 study provided useful information regarding DV recipients, we asked Department of Homeland Security and State officials whether a similar study had been done on DV recipients once they became legal permanent residents in the United States, and they did not know of any such study.

## The DV Program Is Vulnerable to Fraudulent Activity Committed by and Against Applicants, but State Has Not Compiled Comprehensive Data on Detected or Suspected Fraudulent Activity

Some DV applicants commit fraud in an effort to obtain a diversity visa or are themselves the victims of fraud perpetrated by an unscrupulous "visa industry."[35] The extent of fraudulent activity varies by post and is influenced by the applicant pool and local country conditions. In our review of 11 DV-issuing posts, consular officers at 5 posts—Accra, Addis Ababa, Lagos, Dhaka, and Warsaw[36]—reported that fraudulent activity was a major challenge in adjudicating visas for DV applicants. These 5 posts all ranked in the top 10 countries with the most DV entrants worldwide in 2006. Consular officers at the other 6 posts reported some challenges with the program but not as pervasive as the posts listed above. The problems of fraud and abuse as reported by consular officers in Accra, Addis Ababa, Lagos, Dhaka, and Warsaw are often rooted in the fact that a majority of the DV applicants at those posts sought assistance from the visa industry to enter the lottery. In so doing, they are sometimes extorted for large sums of money or coerced into sham marriages by unscrupulous entities in this industry. In addition, consular officers at these 5 posts said that fraud activity made it challenging to verify applicants' identity and eligibility, and that detecting fraudulent DV marriages also presented a challenge. Despite much anecdotal information on DV program fraud and abuse, State has not compiled comprehensive data on detected or suspected fraud across all DV-issuing posts.

### Many Applicants Do Not Receive Accurate Information and Do Not Apply Independently for the DV Lottery

Consular officers at 6 of the 11 posts we reviewed reported that many of the applicants they see at DV adjudication interviews entered the DV program with high expectations but little understanding of the program's rules. State publishes detailed information on the DV program at www.travel.state.gov, and many embassies and consulates that process diversity visas also post DV program details on their individual Web sites, frequently in the host country's language. In addition, 8 of the 11 posts we reviewed conduct public outreach through press conferences, TV and

[35]For the purposes of this report, "visa industry" is defined as the individuals and businesses involved in a variety of tasks related to the DV process, such as preparing and submitting DV entries, translating documents, and even making travel arrangements for applicants' visa interviews. We use the terms visa "agents," "consultants," and "facilitators" interchangeably, as these and other terms were used by consular officers when referring to the visa industry.

[36]As Poland "graduated" from the DV program after DV-2006, Polish natives are not currently eligible to apply for diversity visas. The U.S. embassy in Warsaw adjudicates DVs for natives of Belarus, Latvia, Lithuania, and Ukraine. In this report, references to Warsaw are specifically about the post's challenges with processing Ukrainian applicants.

radio information sessions, or flyers to educate potential applicants about the program. State's official 17-page instruction packet lists detailed information on the program and informs applicants that it is free to enter the lottery, and that the U.S. government does not employ any outside consultants or private services to operate the DV program.

However, consular officers and public diplomacy officers at six posts reported that many applicants do not learn about the DV program details from State, but rather from other sources, such as from family and friends in their local community or from the visa industry—self-styled "visa consultants" and "visa agents" who have no official connection to the U.S. government. Consular officers remarked that the visa industry is very active in countries such as Bangladesh, Ethiopia, Ghana, Nepal, Nigeria, and Ukraine. Consular officers at the U.S. embassy in Kathmandu reported that visa consultancy is a "booming" business in Nepal. An October 2006 cable from the U.S. embassy in Kiev to State headquarters reported that visa consultancy businesses in western Ukraine (a poor, rural region that provides the majority of Ukrainian DV applicants) constantly advertise in local newspapers and on billboards; two such businesses had office buildings decorated with large American flags. An August 2006 cable from the U.S. embassy in Accra to State headquarters noted that visa consultants targeted university students as potential clients and set up information tables on university campuses to enroll students into the DV lottery. Consular officers in Accra and Lagos said that visa consultants advertised with banners around town, and officers in Kathmandu suspected that it was visa consultants who ripped down banners that the U.S. embassy put up in major cities in Nepal, announcing how to get free information on the DV program. Not only do visa consultants charge for information that State provides for free, but many consular officers said that they also give out inaccurate or misleading information. The former consular chief in Katmandu, who spoke with us in May 2007, weeks after finishing his posting, said that his post's biggest challenge was counteracting the incorrect information the visa industry put out.

Consular officers in Bangladesh, Ethiopia, Ghana, Nepal, Nigeria, and Ukraine estimated that the majority of the DV applicants at their posts sought assistance from this visa industry to enter the DV lottery. They cited the lack of personal computers and internet savvy as among the reasons for this. For example, according to the U.S. embassy in Dhaka, Bangladesh has one of the lowest internet access and usage rates in the

world, yet it has provided the highest number of principal entrants, not including dependents, into the DV lottery in 2006, 2007, and 2008;[27] a December 2006 cable from the U.S. embassy in Dhaka attributed Bangladesh's large number of entrants solely to the visa industry. Some visa consultants offer legitimate help, such as preparing and submitting DV entry forms, but several consular officers said many also encourage unqualified applicants to enter the DV lottery, submit multiple or incorrect entries, and take advantage of their clients in a multitude of ways. A May 2006 cable from the U.S. embassy in Addis Ababa noted that it is the applicants' responsibility to ensure accuracy of their lottery entry, but, in Ethiopia, many applicants have little control over their entry when it is being handled by visa agents, and no alternative way to enter other than through the visa industry.

Consular officers at several posts said that they encountered unqualified and misinformed applicants. Some applicants did not understand that "winning" the lottery did not guarantee them a visa, but rather provided them with an opportunity to apply for one. One consular officer in Accra noted that some applicants were confused by KCC's notification letter since the first word of the letter says "congratulations." A February 2007 cable from Kathmandu noted that DV applicants thought the visa interview was a mere formality. A consular officer in Lagos said that some applicants think they just need to stop by the embassy to pick up their visa. Other officers reported that some applicants believe that, in addition to a visa, they will get a free house and car in the United States. Consular officers reported that these misconceptions are problematic since unqualified applicants will proceed with their applications despite the considerable expense associated with it (the total cost, per person, for DV adjudication is $755, whether or not the adjudication results in visa issuance[28]). Officers processing DVs in low income countries such as

[27]More than 1.7 million Bangladeshis entered the DV-2008 lottery. Entrants from Nigeria and Ukraine rank next, with approximately 685,000 and 620,000 entrants, respectively.

[28]The $755 DV adjudication fee is comprised of the following: a $335 immigrant visa application processing fee, a $375 DV surcharge fee, and a $45 immigrant visa security surcharge. While State headquarters advises posts to charge the full $755 before a DV adjudication interview, we found that some posts had implemented their own fee collection policies. For example, the post in Lagos charged DV applicants $375 before the interview and the remaining $380 only if the adjudication resulted in a visa issuance. Officers there claimed the policy was fair considering the financial burden DV fees imposed on applicants.

Bangladesh, Ghana, and Nigeria[29] said that applicants raised the fee through a variety of ways, including taking out loans, selling property, and collecting money from networks of extended family and friends.

## Some Applicants Who Seek Assistance from the Visa Industry Are Defrauded

While seeking assistance from visa agents or consultants, some applicants are cheated and abused by unscrupulous entities[30] within this visa industry. Consular officers at six posts we reviewed—Accra, Addis Ababa, Dhaka, Kathmandu, Lagos, and Warsaw—provided examples of such abuse. As mentioned above, some visa consultants encourage people to enter the DV program regardless of their eligibility, and charge fees for each step of the process. Consular officers in Addis Ababa, Kathmandu, and Warsaw said that visa agents often filled out applicants' DV entry forms incorrectly—failing to list all family members or listing incorrect biographic data—which disqualified otherwise eligible applicants when they came to their visa interview. Consular officers in Dhaka said that many of their DV applicants could not read Western script; if given the chance to review their entry form, they could not tell whether visa consultants had filled in their biographic information correctly. Consular officers at these six posts estimated that visa consultants' fees ranged from nominal amounts for assistance in entering the lottery to exorbitant sums if an applicant is selected in the lottery.

Consular officers in Accra, Dhaka, Lagos, and Warsaw cited issues with KCC's notification letters that contributed to such abuse. They said that visa agents frequently list their own address on the lottery entry so that the notification letter comes directly to them, giving them control over the application. With the winning notification letter in hand, the agents can then demand thousands of dollars from the applicant in exchange for the letter; an August 2006 cable from the U.S. embassy in Accra cited an example where agents charged $2,500 for such an exchange, while consular officers in Dhaka suspected that the fee could range between $10,000 and $20,000. In our observation of DV adjudication interviews in Warsaw, consular officers pointed out several applicants whose applications did not list their own personal address, but rather the same P.O. box in Ukraine, which the officers attributed to a visa facilitator. An

[29]In 2005, the World Bank reported that the gross national income, per capita, was $470 in Bangladesh, $450 in Ghana, and $560 in Nigeria.

[30]Consular officers in Bangladesh and Ukraine suspected that these unscrupulous elements are connected to organized crime.

October 2006 cable from Warsaw noted that hundreds of Ukrainian DV applications were linked to the same P.O. box. Moreover, consular officers in Bangladesh and Nepal said that some letters, which conspicuously bear a U.S. postmark and KCC's return address, were intercepted by postal employees or stolen out of the mail, resulting in the letter being held for ransom. Also, some visa agents enter individuals into the DV lottery without their knowledge. For example, consular officers in Ukraine told us they suspected that visa agents bribe local officials for biographic data to enter potentially qualified applicants without their knowledge, and then attempt to extort money in exchange for the notification letter if one of the applicants is selected in the lottery. A March 2007 cable from the U.S. embassy in Dhaka noted that, in Bangladesh, visa agents posted fake job advertisements to collect biographic data and enter individuals without their knowledge. If one of these individuals won the lottery, the visa agent would either extort money in exchange for the notification letter or threaten to steal the individual's identity. A consular officer in Dhaka said that the diversity visa is referred to as the "Visa of Tears" by some Bangladeshis because of the suffering associated with it.

## Fraud Activity Makes It Challenging to Verify DV Applicants' Identity and Eligibility at Some Posts

Once applicants proceed to an embassy or consulate for their visa adjudication interview, consular officers must be able to confirm that the person at the visa interview is the same person listed on the DV winning entry, and therefore the legitimate applicant for the visa. However, in 6 of the 11 posts we reviewed—Accra, Addis Ababa, Dhaka, Kathmandu, Lagos, and Warsaw—consular officers said that unreliable local documents made verifying DV applicants' identity a challenge. Officers in Accra, Dhaka, and Lagos said that applicants' identity documents could not be trusted because legitimate, authentic documents could be purchased with fraudulent information on them. In addition, the posts in Kathmandu and Warsaw sent cables to State headquarters to report that DV applicants could purchase authentic identity documents with false information from corrupt government officials. Consular officers in Accra, Dhaka, and Lagos noted that many applicants did not have birth certificates prior to their DV application and only procured them for the purpose of their DV application. These officers believed that some may have obtained birth certificates with fraudulent information. Moreover, 5 posts reported that visa consultants offer fraudulent documents as part of their services. A cable from Accra noted that Ghanaian police raided a travel agency suspected of fraud and found blank forms for passports, birth certificates, and other civil documents, as well as receipts for "DV consultations" ranging from $300 to $7,000. According to a Warsaw cable, Ukrainian DV applicants said that corrupt government officials in Ukraine

were collaborating with visa facilitators to provide fraudulent documents. In Dhaka, consular officers suspected that visa facilitators use the availability of fake documents to substitute imposters in DV cases under their control if they cannot receive sufficient payment from the real applicant.

In addition to verifying that an applicant is a native of an eligible DV country, consular officers must determine whether the applicant meets the education or work experience requirement for the diversity visa. However, at five of the posts we reviewed, consular officers reported that some applicants tried to claim education or work experience they did not possess. For example, consular officers in Dhaka said that DV applicants presented handwritten education documents that could be easily forged or altered, and reported that school officials were willing to issue authentic documents with false information. At several posts, consular officers referred questionable documents to the consular section's fraud prevention unit for further review; for example, the fraud prevention unit in Accra verified education documents with school authorities in Ghana. The fraud prevention unit in Lagos found that most of the documents were authentic, but suspected that legitimate education credentials masked a deeper problem of widespread cheating in school-leaving examinations. In cases where applicants applied for the diversity visa with their work experience, officers reported several cases where applicants used fake credentials and job letters. Moreover, the officers reported that some were coached by visa consultants on how to fake knowledge of work experience they did not possess.

## Fraudulent DV Marriages Present a Challenge at Several Posts

The DV program rules require applicants to list all family members[31] on their original entry form. Due to the extended time between the lottery entry and the visa interview at post, some applicants marry and have children after their initial DV entry, and these new beneficiaries are added to the principal DV winner's application. At some posts, verifying the legitimacy of these new relationships did not pose a problem. However, at 5 of the 11 posts we reviewed—Accra, Addis Ababa, Dhaka, Lagos, and Warsaw—consular officers reported that verifying these relationships, referred to as "pop-ups," was a major fraud challenge.[32] Consular officers

[31]The principal DV winner's spouse and unmarried children under age 21 are also eligible to apply for a diversity visa.

[32]Marriage fraud is not limited to diversity visas. Many consular officers said they suspected that many of the K visas (for fiancées) that they adjudicated were fraudulent.

in Accra and Addis Ababa said that relationship fraud was their biggest fraud challenge in DV processing. In Addis Ababa, for example, marrying a DV lottery winner in an attempt to obtain an immigrant visa has become so common that the term "DV marriage" has entered the local lexicon. Officers in Accra estimated that up to 50 percent of DV adjudications there involve a "pop-up" spouse; officers in Addis Ababa said that the percentage of sham DV marriages at their post could be as high as 90 percent and a cable from the post stated that DV-related marriage fraud was "rampant." Officers speculated that some applicants entered into a DV marriage to help a friend or another family member, even a sibling, obtain an immigrant visa. According to officers in Addis Ababa, Accra, and Lagos, applicants engaging in sham marriages rely on backdated marriage certificates, fake supporting documentation, and staged wedding pictures to try to prove their marriage is legitimate. An officer in Accra said that the prevalence of customary marriages in Ghana, in which there is no official documentation of the union, complicates matters since even legitimate couples may only acquire a marriage certificate after winning the DV lottery. The custom of arranged marriage in Nepal and Bangladesh makes it challenging for officers to sort out legitimate arranged marriages from those arranged solely for immigration purposes.

Consular officers and cables from Addis Ababa, Dhaka, and Warsaw cited the involvement of the visa industry in organizing fake DV marriages. The officers in Addis Ababa believed that arranging DV marriages was the greatest money maker for visa agents. If an applicant cannot pay a visa agent's exorbitant fees, a lesser fee can be arranged if the applicant marries a person who has also paid a fee to the agent. The visa agents provide the new couples with fake documentation to establish the marriage and coach them on how to answer questions about the relationship in the visa interview. Officers in Warsaw obtained a "cheat sheet" from some Ukrainian applicants detailing how to prepare for the consular officer's questions. Moreover, the fraud prevention unit at the U.S. embassy in Ukraine learned of a visa consultancy in western Ukraine that offered, for approximately $14,500, to set up a fake marriage between a client and a DV winner. The arrangement was based on fake documents and months of preparation before the visa interview. If the couple's visa application was denied, most of the money would be returned to the client.

## Considerable Anecdotal Evidence Exists, but State Lacks Comprehensive Data on DV Fraud

State has considerable anecdotal evidence on fraudulent activity committed by and against DV applicants, but has not compiled comprehensive data on detected or suspected fraud across all DV-issuing posts. For example, posts such as Accra, Addis Ababa, Dhaka, and Warsaw have summarized DV fraud trends in cables, consular packages, and other reports sent to State headquarters, but the information is largely qualitative and it is difficult to gauge what percentage of DV applicants are implicated in fraud. Although the KCC collects data on the number of cases with potential fraud indicators, it is only when cases are adjudicated at consular posts that the fraud can be investigated more fully and determined to be factual and material to the case. While some consular officers we spoke with had estimates of such things as the number of cases with suspected "pop-up" spouses and the percentage of applicants who had been assisted by visa agents, none said they had developed comprehensive data on detected or suspected DV fraud at their post. Officials from Consular Affairs' Office of Fraud Prevention Programs (FPP) said that they could not gauge the extent of DV fraud overall and that they did not analyze DV fraud in isolation, as their fraud prevention initiatives were aimed at combating all types of visa fraud, regardless of category. However, they said they had recently implemented fraud tracking software to collect more data from posts, such as when an officer suspected that fraudulent documents were used or when officers referred a DV case to the post's fraud prevention unit. An FPP official shared some preliminary results from the first three quarters of fiscal year 2007: 31 DV-issuing posts had referred 1081 DV cases to the posts' fraud prevention units. Eight of these posts had each referred more than 60 cases to their fraud prevention unit; Dhaka had referred 121 cases and Warsaw had referred 173. The official said that FPP was still working out some glitches with the fraud tracking program, but was hopeful that the data collected could clarify where DV fraud was most prevalent.

## Difficulties in Verifying the Identity of Some DV Applicants May Have Security Implications

Although none of the officials at State headquarters or the consular officers at the 11 posts we interviewed considered the DV program to be specifically targeted by terrorists, a few said that the challenge of verifying DV applicants' identity could have security implications. The State IG has also raised concerns that natives of state sponsors of terrorism are eligible to participate in the DV program.

## Prevalence of Identity Fraud at Some Posts Could Reduce Effectiveness of Security Screening

Consular officers' difficulties in verifying the identity of some DV applicants, particularly in countries where applicants can purchase legitimate identity documents containing fraudulent information, could reduce the effectiveness of security screening for DV applicants. Consular officers screen all visa applicants for security-related concerns. Each applicant's name is checked against State's Consular Lookout and Support System, which contains records provided by numerous agencies and includes information on persons with visa refusals, immigration violations, and terrorism concerns. Consular officers also collect applicants' fingerprints at the visa interview and run them through U.S. databases of criminals and terrorists. In some cases—for instance, if the applicant's name generates a hit in the Consular Lookout and Support System, or if the applicant's nationality, background, or intentions in the United States warrant further investigation—the consular officer is required to request a security advisory opinion for the applicant, which is sent back to Washington where multiple agencies collect and review additional information on the applicant. Despite these security checks, a DV applicant with no previous record in U.S. government agency databases or an applicant who is using a false identity may not be detected as a potential security concern. Criminals or terrorists with no record in U.S. government agency databases could potentially contact an unscrupulous visa agent and arrange to be added to a DV applicant's case as a "pop-up" spouse. A 2002 cable from the U.S. embassy in Dhaka stated that the ease with which individuals can obtain genuine identity documents in any assumed identity, including passports, creates an "open door" for terrorists wishing to enter the United States with legal status. The cable noted that 99 percent of DV applicants' identity documents were issued after the applicant had been selected in the lottery and that, despite officers' diligent compliance with name check requirements, these checks were useless in detecting someone with a newly invented identity. Similarly, a consular officer in Kathmandu said that official documents could be purchased or fabricated in Nepal, and this officer was concerned that a terrorist from another country would obtain a Nepalese passport with a false identity. He noted the importance of locally engaged staff working in the consular section who could help with detecting imposters, such as by recognizing that the applicant spoke Nepali with a foreign accent.

Consular officers at some posts said that determining whether DV applicants have a criminal background, which may make them ineligible to

receive a visa, was challenging in countries where the police certificates were unreliable.[32] Consular officers in Accra, Dhaka, Kathmandu, Lagos, and Warsaw considered the police certificates "worthless" because they had never seen one with derogatory information on an applicant. Officers in Lagos suspected that inadequate record keeping and the ease of bribing police officers were to blame.

## Aliens from Countries Designated as State Sponsors of Terrorism Eligible for DV Program

Aliens from state sponsors of terrorism are eligible to apply for and receive a diversity visa, and since fiscal year 2000, nearly 9,800 aliens from state sponsors of terrorism have received diversity visas (see table 2).

**Table 2: Diversity Visa Recipients from Countries Designated as State Sponsors of Terrorism, Fiscal Years 2000-2006**

| Country of birth | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | Total |
|---|---|---|---|---|---|---|---|---|
| Cuba | 712 | 429 | 425 | 214 | 298 | 371 | 314 | **2,763** |
| Iran | 355 | 333 | 695 | 478 | 349 | 407 | 547 | **3,164** |
| North Korea | - | - | - | - | - | - | - | **-** |
| Sudan | 1,033 | 719 | 629 | 420 | 351 | 248 | 303 | **3,703** |
| Syria | 38 | 34 | 27 | 20 | - | 19 | 24 | **162** |
| **Total** | **2,138** | **1,515** | **1,776** | **1,132** | **998** | **1,045** | **1,188** | **9,792** |

Source: U.S. Department of Homeland Security's Office of Immigration Statistics; GAO.

In a 2003 report on the DV program, the State IG noted that, while aliens from state sponsors of terrorism can only be issued nonimmigrant visas in limited circumstances, no parallel restriction exists for diversity visas. Because of this, and because of the program's vulnerability to fraud, the State IG said the DV program contained significant risks to national security from hostile intelligence officers, criminals, and terrorists attempting to use the program for entry into the United States as permanent residents. The State IG recommended that the Bureau of Consular Affairs propose changes to the INA to bar aliens from state sponsors of terrorism from the DV application process. Consular Affairs agreed with the recommendation in principle but did not implement it,

[32]DV applicants are required to bring police certificates with them to their visa adjudication interview, except in certain countries, such as Iran, where the certificates are considered unavailable. 22 C.F.R. § 42.65.

expressing concern over the effect of permanently disbarring aliens who may be fleeing oppressive regimes of states that sponsor terrorism. The IG later agreed to close the recommendation although it had not been implemented.

As we have previously reported,[34] the Department of Homeland Security, terrorism experts, and federal law enforcement officials familiar with immigration fraud believe that some individuals, including terrorists and criminals, could use fraudulent means to enter or remain in the United States. We found no documented evidence of DV immigrants from state sponsors of terrorism committing terrorist acts. However, two of the four consular officers adjudicating diversity visas at the U.S. embassy in Ankara, Turkey,[35] where some DV applicants from Iran are adjudicated, said that it was somewhat difficult to verify Iranian identity documents. Although they said that the vast majority of Iranian applicants are subject to security advisory opinions, the regional security officer in Ankara considered it possible for Iranian intelligence officers to pose as DV applicants and not be detected by the post's security screening if their identity was not already known to U.S. intelligence. Although this is an inherent risk with applicants from all countries, the regional security officer noted that it was difficult to mitigate this risk for Iranian applicants since the United States does not have a diplomatic presence in Iran.

[34]GAO, *Immigration Benefits: Additional Controls and a Sanctions Strategy Could Enhance DHS's Ability to Control Benefit Fraud*, GAO-06-259 (Washington, D.C.: Mar. 10, 2006).

[35]As there is no U.S. embassy in Iran, visa services are available for Iranian applicants at the U.S. embassies in Abu Dhabi, Ankara, and Vienna, as well as the U.S. consulates in Dubai, Naples, and Frankfurt.

## State Has Taken Steps to Strengthen the DV Program, but Does Not Have a Strategy to Address Pervasive Fraud Reported by Consular Officers at Some Posts

State has taken steps to address some weaknesses in the DV program, but it does not have a strategy to address pervasive fraud being reported by consular officers at some posts. Since 2003, KCC has improved its detection of multiple DV entries and of potential fraud indicators. Consular officers at the 11 posts we reviewed described a variety of fraud prevention measures aimed at combating DV fraud, but some of the posts are limited by resource constraints. These efforts address some of the program's vulnerabilities, but State does not have a strategy to address the pervasive DV fraud being reported by posts such as Accra, Addis Ababa, Dhaka, Lagos, and Warsaw. State consular officials believe that some legislative changes could make it easier for State to mitigate fraud in the DV program—such as raising the education eligibility requirement—but State has not made any formal proposals to this effect.

### KCC Has Improved Its Detection of Multiple Lottery Entries and Potential Fraud Indicators

KCC has made several improvements to its processing of the DV lottery entries to detect multiple entries and to screen cases for possible fraud indicators before they are sent to consular posts for adjudication. KCC piloted facial recognition software in 2001 and, in 2003, moved to an electronic application process, known as e-DV. Both facial recognition and e-DV improve KCC's ability to detect multiple entries and to detect possible fraud indicators. Prior to this, the DV lottery was paper-based, which made it difficult for KCC employees to catch multiple entries. Now, all e-DV entries go through electronic and manual procedures to screen out ineligible entries. The entries are screened electronically for exact duplicate digital photographs or biographic information; exact duplicates are disqualified. Next, all principal applicant entries selected in the lottery are checked with facial recognition software against galleries (by region and by gender) drawn from the entire e-DV database to further eliminate duplicate entries based on photo matches. Possible matches are returned to KCC's facial recognition technicians, who then make a determination on whether or not a valid match exists. KCC reported that it detected 7,622 multiple entries in 2005, 7,166 in 2006, and 3,969 in 2007. KCC's fraud prevention manager attributed the decreasing number to the success of facial recognition software, suggesting that applicants and visa industry consultants were not submitting as many multiple entries because they had learned that KCC would detect and disqualify them.

If KCC's facial recognition technicians detect multiple entries before the entrant has been notified of being selected in the lottery, KCC will disqualify the entry and not notify the entrant of the disqualification. In the past, KCC disqualified the entrant and sent a disqualification letter to the entrant regardless of whether the entrant had already been sent a

notification letter. Consular Affairs' legal department requested KCC to cease disqualification of entrants who had already been notified as this could be perceived as an adjudicatory decision by KCC.[36] KCC now forwards the information on the facial recognition match to the post so the consular officer can make the decision.

In addition to facial recognition software, KCC employees search for other fraud indicators as they collect additional documents from individuals selected in the lottery and prepare to send their cases to posts for adjudication. For example, they note, through "fraud flags," if applicants (1) added a spouse or children to their case after being selected in the lottery, (2) if there were substantial changes to biographic details, or (3) if the applicant appeared in a different entry with different family members. In their scan of applicants selected in the 2005 DV program, KCC employees found 804 "pop-up" spouses or children; applicants from Ghana, Nigeria, and Ukraine had more "pop-ups" than any other country. KCC's fraud flags are noted in both the electronic and hard copy files that are sent to posts, and several of the consular officers at the posts we reviewed said that the fraud flags were useful for their adjudication of DV cases. With the advent of e-DV it also became possible to provide an electronic comparison of the applicant's lottery entry photograph to the photograph submitted with the visa application so that consular officers can review and compare these photographs. This process has assisted numerous posts in identification of imposters. Finally, in 2004, KCC hired a full-time fraud prevention manager, who oversees fraud prevention programs for both the DV program and petition-based nonimmigrant visa programs, which are also processed at the KCC. In commenting on this report, State mentioned some additional tools it uses to prevent DV fraud, such as fraud conferences and fraud prevention management training, which include DV patterns and issues.

## Posts Combat DV Fraud with Various Fraud Prevention Measures, but Some Face Resource Constraints

All of the 11 DV-processing posts we reviewed use various resources to combat DV-related fraud, both to warn DV applicants about visa industry scams and to detect fraudulent activity by DV applicants. Consular officers in Addis Ababa, Dhaka, Kathmandu, Lagos, and Warsaw said that they conduct extensive public diplomacy campaigns to educate DV applicants about the program and to warn them about unscrupulous visa consultants.

[36]Only consular officers at a U.S. embassy or consulate can make the adjudicatory decision whether to issue a diversity visa. *See* 8 U.S.C. §§ 1104(A), 1201(a). *See also*, 8 C.F.R. § 245.2.

For example, the U.S. embassy in Addis Ababa distributed 100,000 color flyers throughout Ethiopia, printed in six local languages, and ran many advertisements in local newspapers to exhort DV applicants not to be fooled by the visa industry and to warn that fake marriages will not go undetected by consular officers. Similarly, consular officers in Accra and Lagos have conducted numerous interviews and press conferences to educate applicants about the DV program and to warn them against scams. The post in Kathmandu reported it undertakes extensive outreach to ensure that potential DV applicants have information on the program, and is planning even more aggressive public outreach for the future. Moreover, officers at several posts described efforts they took to warn applicants not to proceed with the visa interview unless they were qualified. For example, the consular sections in Accra, Ankara, and Kathmandu post signs next to the cashier's window, reminding applicants of the DV eligibility requirements and that the $755 fee is not refundable. Consular officers in Dhaka brief DV applicants in the waiting room every morning to remind them of the requirements, the consequences of committing fraud, and that the fee is nonrefundable. However, consular officers consistently said that some DV applicants still hold misconceptions; the officers suspect that they do not trust information they receive from the U.S. government, preferring to trust members of their own community as sources of information.

In addition to public diplomacy efforts, DV posts also use a variety of antifraud tools to combat fraud after the applicant has come to the post for visa adjudication. Consular officers review the applicant's documents, along with any fraud notes from KCC, and scrutinize the applicant during the visa interview. The consular chief in Dhaka said the post's best antifraud tool is good interviewing skills. In Accra, Addis Ababa, and Warsaw, officers conduct split interviews for couples suspected of marriage fraud. Questionable cases are referred to the post's fraud prevention unit for further review.[37] These units investigate the facts of the case, such as by calling school boards to see if the education certificate is legitimate, or conducting field investigations to see if an applicant's marriage is legitimate. Some posts also receive assistance from their regional security office, and some receive cooperation from local law enforcement. A consular officer in Accra said that the embassy made three

[37]Not all cases with fraud indicators are referred to the consular section's fraud prevention unit. In some cases, the applicant is not eligible for the visa for other reasons and the visa is refused; the fraud is therefore not material and the case will not be referred to the section's fraud prevention unit.

DV fraud ring busts along with the help of local police. In Lagos, the consulate reported that its fraud prevention unit was working with the Nigerian authorities to prosecute several DV applicants who had admitted to marriage fraud.

Several officers said that DV fraud investigations were resource-intense, and others said that they were restricted by limited resources. A May 2006 cable from the post in Addis Ababa to State headquarters stated that consular officers and fraud investigators had spent thousands of hours trying to sift out real marriages from the many fraudulent ones, and thousands of dollars each year verifying marriage certificates and conducting field investigations. Consular officers in Accra said that the post stopped doing field investigations on suspected DV sham marriages because they were so resource-intense and not productive; for example, in many cases, when investigators from the embassy went to neighborhoods to check on marriages, they found neighbors complicit and willing to back up the couple's false story. In Lagos, the consular chief said that the section did not have the resources to carry out all the fraud investigations it would like to, although the post had reclassified the fraud prevention manager's position so that it would next be filled by a midlevel officer, instead of an entry-level officer, which is currently the case. An official in the post's regional security office said the office was so short on resources that it did not have the time or budget to help the consular section, and while Lagos had an assistant regional security officer for investigations position, the slot has been vacant since September 2006. Accra does not have an assistant regional security officer for investigations position.

The U.S. embassy in Kiev has an assistant regional security officer for investigations, and the fraud prevention unit at the embassy works with the consular section at the embassy in Warsaw on Ukrainian DV fraud. Officers from the unit reported success with DV field investigations conducted in the past year; 16 of 19 investigations confirmed evidence of fraud. However, those same officials told us they were concerned that they would get less cooperation from local officials in Ukraine in future investigations. The immigrant visa section chief in Warsaw said that increased funding for field investigations would be the best way to improve DV processing. The U.S. embassy in Dhaka also has a busy fraud prevention unit and an assistant regional security officer for investigations whom consular officers said was very helpful with DV fraud investigations. In a March 2007 cable to State headquarters and the KCC, the post said that its fraud prevention efforts would be greatly enhanced if it had more information on visa facilitator patterns; the post wanted lists of duplicate entries that might provide more information to track visa facilitators.

## State Lacks a Strategy to Address Pervasive Fraud Activity Reported by Some Posts

Despite the efforts made by both KCC and individual DV-processing posts, State does not have a strategy to address the serious DV fraud being reported by posts such as Accra, Addis Ababa, Dhaka, Lagos, and Warsaw. Consular Affairs' Office of Fraud Prevention Programs (FPP) has suggested some ways to address the problems caused by unscrupulous visa agents, but it has not fully developed these initiatives. For example, in order to prevent applicants' notification letters from being stolen, officials from FPP said that they were considering alternate ways of notifying DV applicants in countries such as Ukraine and Bangladesh, but that a strategy had yet to be implemented. Some consular officers we interviewed suggested that KCC should send the notification letter in an unmarked envelope or that KCC send the notification letter directly to post and require applicants to come to the embassy or consulate to pick it up.

Many consular officers we interviewed suggested that DV applicants should not be allowed to add dependents, or "pop-ups," to their applications after being selected in the lottery. Consular Affairs officials said that such a change would require the INA to be amended. At least 15 consular officers we spoke with at posts such as Accra, Addis Ababa, Dhaka, Lagos, and Warsaw advocated for this change. A May 2006 cable from Addis Ababa predicted that this would prevent fraud, more tightly regulate the DV program, and save hundreds of hours of interview time. Although such a policy would inconvenience some legitimate applicants, consular officers said that the principal DV winner in those cases could petition later for dependents, after entering the United States. While the KCC has collected data on DV cases with possible "pop-ups," State has not compiled data on how much time and money posts spend on investigating them and what percentage are proven to be fraudulent. Without these data, State cannot inform policy makers whether amending the INA to this effect would be helpful in combating fraud, and, on balance, how many legitimate couples and families it would inconvenience.

Similarly, the fraud prevention manager at KCC and some consular officers we spoke with suggested that the DV education requirement be raised to require a university degree of applicants. They said that this would help them combat fraud since it would be easier for consular officers to verify university degrees and less easy for applicants to fraudulently claim they had attained this level of education. State amended the DV entry form this year, providing KCC with data on the education level of entrants applying for diversity visas that will be issued in fiscal year 2008. KCC's preliminary analysis of 30,011 entrants selected in the lottery shows that about 35 percent of entrants claimed to have a high

school diploma and another 39 percent claimed some university education or higher.

The involvement of the visa industry is perhaps the most problematic issue for State, and an area in which it most lacks control. However, despite the cables coming from posts where the visa industry involvement is problematic—such as Accra, Addis Ababa, and Dhaka—State has not attempted to quantify the problem, gauge the extent of its involvement across all posts, or recognize to what extent the electronic DV (e-DV) entry format has facilitated the visa industry's abuse. Posts such as Dhaka and Warsaw have sent cables to State headquarters reporting that e-DV has facilitated unscrupulous visa agents' scams. In December 2006, the U.S. embassy in Dhaka reported that, although e-DV had reduced some traditional types of DV fraud, it had facilitated a new type of widespread extortion and identity theft fraud since e-DV effectively had given control of the program to visa facilitators who had internet access and English language skills, unlike many potential applicants in Bangladesh. A June 2006 cable from Warsaw reported that e-DV opened a new avenue for fraud that was previously inhibited by the personal signature requirement on the paper version of the lottery; e-DV allowed visa agents to use "phished" biographic data to enter individuals without their knowledge and then coerce them into sham marriages. Although consular officers said the DV applicants who entered the lottery with the assistance of a visa facilitator are frequently too intimidated or threatened to admit that they did so, State has not attempted to quantify the effect of visa industry involvement. U.S. tax forms, for example, require paid preparers to sign their names and list their addresses, giving a degree of accountability to the preparer. FPP officials said they were considering ways to partner with nongovernmental entities to help DV applicants with the lottery process so they could avoid an unscrupulous visa industry, although this plan also has yet to be implemented.

## Conclusions

Since its inception, the DV program has facilitated thousands of individuals from countries currently underrepresented in the U.S. immigrant pool to immigrate to the United States. However, consular officers at 5 of the 11 posts we reviewed reported that fraud in the DV program is a major challenge, and these 5 posts all rank in the top 10 countries with the most DV recipients. While fraud is an issue across all immigrant visa categories, there are specific aspects of the DV program—including the ability for applicants to add a "pop-up" spouse after being selected in the lottery and the ability to enter individuals without their knowledge—that make it particularly vulnerable to manipulation from an

unscrupulous visa industry in some countries. State needs to do more to address this issue, such as by strengthening the application and notification steps of the process. For example, State could move forward with FPP's proposals to partner with nongovernmental entities in countries where applicants need assistance to enter the lottery. In addition, it could require that third parties put their own name and address on the DV entry form to provide a degree of accountability, or consider "certifying" visa agents deemed to be legitimate. It could also take steps to make the notification process less vulnerable to interception by third parties, such as by sending the letter in a less conspicuous envelope, or sending the letter to posts and requiring the applicant to pick it up. State also should consider whether proposing legislative changes would help it address fraud in the program. As has been suggested by consular officers, barring "pop-up" spouses may remove some incentives to fraudulent activity and remove power from the visa industry, and raising the education bar might make it easier for officers to verify applicants' eligibility and to detect fraud. State officials have discussed the potential need for legislative changes, but have not moved forward to formally propose such changes. Further, State has not developed comprehensive data on DV program outcomes, detected or suspected fraud across all DV-issuing posts, and the amount of resources being spent on investigating DV fraud. All of this information would help decision makers consider whether legislative changes are needed.

## Recommendations

To strengthen its management of the DV program, we recommend that State:

- Compile more comprehensive data on the DV program, including information on (1) detected or suspected fraud, including data on "pop-up" spouses, third party involvement, and identity and document fraud; and (2) the amount of fraud prevention resources being spent on DV investigations.

- Use these data to formulate a strategy to combat fraud in the DV program. This strategy should include: (1) proposals for legislative changes, if deemed necessary to mitigate fraud risks; (2) consideration of appropriate fraud prevention resources at each DV-issuing post; and (3) operational improvements to strengthen the program, including making the notification process less vulnerable to interception by third parties and exploring the feasibility of certifying some visa agents or partnering with nongovernmental entities to assist applicants with entering the lottery.

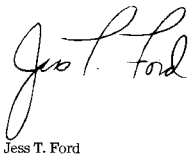
## Agency Comments

We provided a draft of this report to the Departments of State and Homeland Security for their comments. The Department of Homeland Security did not comment on the report. In its written comments, State said it was disappointed with the report's findings and did not agree with the recommendations. It said that our report did not give the department enough credit for steps it has taken to combat fraud in the DV program and that our report identified management failures that do not exist. While State's comments acknowledge that the DV program faces fraud challenges, State also said that there are limits to what the department can do. In our report, we give credit to State for making several improvements to its fraud screening for DV applicants, such as implementing an electronic application process and facial recognition software, and flagging DV cases with fraud indicators before they are sent to posts. Moreover, our report does not discuss "management failures" by State. Our report shows that the DV program has significant risks for fraud and that while State has taken steps to address this fraud, it could still do more to mitigate the risk, especially at posts that are reporting significant challenges with DV fraud. This is why we recommend that State collect more comprehensive data on known DV fraud and use this information to develop a strategy to combat fraud in the program. This strategy should include operational improvements to the program and proposals for legislative changes, if deemed necessary to improve State's ability to combat fraud.

We are sending copies of this report to other interested Members of Congress. We are also sending copies to the Secretary of State and the Secretary of Homeland Security. We will make copies available to others upon request. In addition, the report will be available at no charge on the GAO Web site at http://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-4268 or fordj@gao.gov. Contact points for our Offices of Cougressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major coutributions to this report are listed in appendix III.

Sincerely yours,



Jess T. Ford
Director, International Affairs and Trade

# Appendix I: Objectives, Scope, and Methodology

We examined the immigrant visa process in terms of its administration across government agencies, the potential vulnerabilities in the process—including security risks—and options for mitigating these risks. In the course of our initial research, we decided to focus on the diversity visa (DV) category of immigrant visas for two reasons. First, in 2003, the Department of State's (State) Office of the Inspector General (IG) pointed to pervasive fraud at many DV-issuing posts, as well as the risk inherent in allowing aliens from state sponsors of terrorism[1] to apply for and obtain a diversity visa. Second, we spoke with several experts both within and outside of government who raised concerns about fraudulent activity in the DV program. Another GAO study currently underway will focus on the security screening process for nonimmigrants already in the United States who are applying for legal permanent resident status. This report examines (1) the extent to which the DV program is diversifying the U.S. immigrant visa pool, (2) areas of the DV program that are vulnerable to fraud, (3) whether there are security implications associated with these vulnerabilities, and (4) what steps State has taken to address the vulnerabilities in the DV program.

To assess the extent to which the DV program is diversifying the U.S. immigrant pool, we examined key documents regarding the purpose and goals of the DV program. For example, we reviewed the Immigration and Nationality Act, as amended; examined State's *Foreign Affairs Manual*, and attended consular training courses on the immigrant visa process at State's Foreign Service Institute. We also collected and analyzed State and Department of Homeland Security data on DV trends and demographics that illustrate the volume of DV applicants and recipients across countries and regions, and compared these data to visa issuance trends in other immigrant visa categories. To assess the reliability of these data, we asked relevant State and Department of Homeland Security officials a series of questions that covered data classification; custody and maintenance of the data, including updates; quality control procedures; and accuracy and

[1]Countries determined by the Secretary of State to have repeatedly provided support for acts of international terrorism are designated pursuant to three laws: section 6(j) of the Export Administration Act, section 40 of the Arms Export Control Act, and section 620A of the Foreign Assistance Act. Taken together, the four main categories of sanctions resulting from designation under these authorities include restrictions on U.S. foreign assistance; a ban on defense exports and sales; certain controls over exports of dual use items; and miscellaneous financial and other restrictions. Designation under the above-referenced authorities also implicates other sanctions laws that penalize persons and countries engaging in certain trade with state sponsors. Currently there are five countries designated under these authorities: Cuba, Iran, North Korea, Sudan, and Syria.

completeness of the data. We determined that the data were sufficiently reliable for the purposes of this report. We also interviewed officials at State and the Department of Homeland Security on the agencies' efforts to study and track DV recipients.

To assess the areas of the DV program that are vulnerable to fraud, whether there are security implications associated with these vulnerabilities, and the steps State has taken to address these vulnerabilities, we reviewed key documents related to DV fraud and abuse. For example, we examined bulletins on consular fraud issues produced by Consular Affairs' Office of Fraud Prevention Programs and presentations by the Kentucky Consular Center (KCC) on fraud prevention efforts such as facial recognition technology. We also reviewed documents from the posts we visited including standard operating procedures, quarterly fraud reports, and internal cables. In addition, we reviewed State data on results of fraud prevention efforts such as facial recognition technology. In January 2007, we visited the KCC in Williamsburg, Kentucky, where we observed DV operations and interviewed key officials in the DV process. We held many follow-up discussions with KCC's fraud prevention manager after our visit.

Between April and May 2007, we performed fieldwork at the U.S. embassies in Accra, Ghana; Ankara, Turkey; Warsaw, Poland;[2] and the U.S. consulate in Lagos, Nigeria. Between May and June 2007, we also conducted telephone interviews with consular staff at an additional 7 posts: the U.S. embassies in Addis Ababa, Ethiopia; Cairo, Egypt; Dhaka, Bangladesh; Kathmandu, Nepal; Lima, Peru; and the U.S. consulates in Casablanca, Morocco; and Frankfurt, Germany. We selected these 11 posts because they encompassed a range of experiences in DV processing: (1) posts that had reported considerable DV fraud activity, (2) posts representing various DV workload volumes, (3) posts located in different geographic regions, and (4) posts that process applicants from countries designated as state sponsors of terrorism. The selected posts are not intended to be representative of all DV-issuing posts. During our field work in Ghana, Nigeria, Turkey, and Poland, we observed DV operations and interviewed consular officials about visa adjudication policies, procedures, and resources; challenges to administering the DV program;

[2]We also spoke with officials at the U.S. embassy in Kiev by digital video conference while we were in Poland, as the U.S. embassy in Kiev coordinates with the U.S. embassy in Warsaw on fraud investigations for DV applicants from Ukraine.

and efforts to prevent and investigate cases of fraud and abuse. In our teleconferences with consular staff in Addis Ababa, Cairo, Casablanca, Dhaka, Frankfurt, Kathmandu, and Lima, we conducted interviews using a standard set of questions regarding the posts' challenges with DV processing, fraud prevention, and suggestions for improving the DV program. We developed the interview questions based on our review of the documentation and data listed above. The responses to our interviews are not intended to be representative of all DV-issuing posts.

In the Washington, D.C. area, we interviewed officials from State's Bureaus of Consular Affairs and Diplomatic Security, as well as officials from the Department of Homeland Security's U.S. Citizenship and Immigration Services, Office of Immigration Statistics, U.S. Immigration and Customs Enforcement, and U.S. Customs and Border Patrol. We also interviewed officials and observed DV adjudication interviews at U.S. Citizenship and Immigration Services district offices in Baltimore, Maryland, and Fairfax, Virginia, and spoke with officials by phone at U.S. Citizenship and Immigration Services district offices in Tampa, Florida; Houston, Texas; and Los Angeles, California. We requested a meeting with headquarters officials at the Central Intelligence Agency to discuss whether terrorist groups had expressed an interest in obtaining immigrant visas, particularly diversity visas, but they declined to meet with us.

We conducted our work from November 2006 through August 2007 in accordance with generally accepted government auditing standards.

# Appendix II: Comments from the Department of State

**United States Department of State**

*Assistant Secretary for Resource Management and Chief Financial Officer*

*Washington, D.C. 20520*

Ms. Jacquelyn Williams-Bridgers
Managing Director
International Affairs and Trade
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548-0001

SEP 10 2007

Dear Ms. Williams-Bridgers:

We appreciate the opportunity to review your draft report, "BORDER SECURITY: Fraud Risks Complicate State's Ability to Manage Diversity Visa Program," GAO Job Code 320458.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact June Kunsman, Managing Director, Bureau of Consular Affairs, at (202) 663-1153.

Sincerely,

S. Kaplan

Sid Kaplan (Acting)

cc: GAO – Kate Brentzel
CA – Maura Harty
State/OIG – Mark Duda

Department of State Comments on GAO Draft Report

BORDER SECURITY: Fraud Risks Complicate State's Ability to Manage Diversity Visa Program
(GAO-07-1174, GAO Code 320458)

We appreciate the opportunity to review and comment on the Government Accountability Office draft report entitled, "*BORDER SECURITY*: Fraud Risks Complicate State's Ability to Manage the Diversity Visa (DV) Program." We are disappointed with the report's findings and do not agree with the recommendations. The Department of State has administered this Congressionally-mandated program with diligence and creativity and believes the report does not reflect this.

This report fails to accurately credit the Department of State with identifying and combating fraud in this Congressionally-mandated program and, by examining the program in isolation, mistakenly identifies management failures that do not exist. In fact the Department of State has designed and implemented robust and sophisticated fraud screening programs in the DV program, starting with implementing an electronic application process and including state-of-the-art facial recognition screening fingerprints and data mining techniques.

Visas for the United States are, in some countries, the most valuable commodity on the market. Many of those same cultures operate on the premise that any government benefit requires the intervention or assistance of someone with special connections and the payment of fees. Over a decade and a half of publicity to the contrary has failed to convince a substantial number of applicants. Success in extorting money from applicants and winners in those same societies bred more scams.

See comment 1.

It is a sad reality that all visa categories encounter sham marriages, suspect identities, fraudulent documents, use of agents and unlikely stories. Consular officers around the world work hard to identify and combat that fraud and thus ensure as secure an immigration process as possible for the United States. GAO is able to report on these fraud trends because consular officers, working primarily with Diplomatic Security and DHS colleagues, have been successful in reporting it and combating it. The very nature of the Congressionally-mandated DV program, a lottery system which requires no relative or employer sponsorship and therefore serves as a vehicle for huge populations without existing U.S. connections, makes it particularly susceptible to human gullibility and in some cases desperation.

2

There are those who clearly see a "business" opportunity in preying on prospective applicants. In effect, for many, the DV program represents, in some societies, the last hope for those desperate to leave, leading to the exploitation of the very individuals it aims to benefit.

It is worth noting that all of the vulnerabilities to fraud described in the GAO's report were discovered (and relayed to GAO) by vigilant consular personnel who engage in constant efforts to counter and discourage visa fraud. For the DV program in particular, extensive screening takes place before cases are sent abroad for interview. Careful pre-processing coupled with skillful interviewing unravels the fraud. Applicants who do not meet the basic requirements to apply, who submit fraudulent documents, and who assume the identities of winners in efforts to qualify pay large fees only to be refused in the end. Consequently, that process consumes resources unproductively.

Systematic Fraud Analysis

See comment 2.

We do not agree that there is no systemic analysis of DV fraud. In fact, as GAO was informed, broader, systemic fraud analysis and reporting is routinely provided to posts worldwide and includes information developed from diversity visa case experiences and post feedback. Over the lifetime of this program, the Bureau of Consular Affairs used post feedback to introduce screening, interviewing and training improvements promptly as trends and technology became available. The Fraud Prevention Programs office expanded in response to the need for systematic study and analysis of fraud and malfeasance concerns of consular officers and managers. These fraud detection tools, in particular for DV, include:

- Screening for and disqualifying duplications;
- Inclusion of photographs to discourage false identities;
- Facial recognition screening and disqualifying of multiple applications before winner notification;
- Improved minimum photo standards for participatiou;
- Electronic application to improve accuracy, search capacity, duplicate elimination and preprocessing;
- Fraud conferences and fraud prevention management training including DV patterns and issues;
- Requiring photographs for derivative family members to deter fraud;
- Development of fraud tracking software to enhance analysis and begin to provide metrics;

3

- Development of additional on-line processing and verification tools to reduce opportunities for visa brokers or middlemen to control winning applications;
- Incorporation of fingerprint checks to detect criminals and impostors.

See comment 3.

Most of the impressive array of fraud-prevention strategies, techniques, and technologies that consular officers employ are useful against multiple kinds of fraud. This applies to interviewing skills, use of biometrics, advanced database searches, field investigations, and other measures. We believe that it is generally more important to develop and deploy what we have learned effectively against fraud as a recurring phenomenon, rather than attempt to develop separate fraud-prevention strategies for each of the dozens of visa categories that we adjudicate.

State Sponsors of Terrorism Eligibility

See comment 4.

We do not see the DV program as uniquely vulnerable and every DV "winner" who pursues his or her case is vetted in a manner identified to all immigrant visa applicants. That process includes two types of biometric checks and name checks. The long lead time involved in an application, the layers of screening, the low probability of selection all complicate exploitation.

Use of Approved Agents

See comment 5.

It is not within the scope of our authority to develop, train and oversee approved agents to assist DV aspirants with their applications. Nor does it seem to us a good use of resources. The program is designed and intended to permit an applicant to manage independently, and given the minimum high school degree requirement, this should not serve as a barrier to applying. With wide availability of translations of the application process and forms, even the language barrier can be easily bridged on line.

Winner packages

Security-related access restrictions and competing priorities from higher priority immigrant and nonimmigrant visa applicant pools argue against handing out winner packets at posts abroad or registering applicants for the lottery at our posts. Such an approach could end up inviting unqualified or unselected applicants to appear at posts seeking assistance. Currently, we are developing more on-line tools to notify winning applicants of the next steps and documents required, as well as providing them access to verify their winner's status and interview date. The

4

See comment 6.

DV process is transparent and easily accessible. Even post engages in robust public outreach efforts to ensure that host country prospective applicants have readily available – and free – information on the program. There is a limit to the appropriate involvement of the USG in preventing applicants from engaging the services of unscrupulous local brokers in their home countries.

See comment 7.

Analysis of DV Adjustment and Subsequent Family Petitioning

Researching the outcome of DV immigration exceeds the scope of the authority of the Department of State. Once applicants are admitted to the United States, authority passes to DHS's Bureau of U.S. Citizenship and Immigration Services. Any such study of this issue would be more appropriate for that agency. While the outcomes might influence decisions of Congress concerning the future of the DV program, they would have no apparent bearing on the visa decisions that State must make on a case-by-case basis.

Specific recommended language changes

Now on p. 2.
See comment 8.

Page 4 - "*pervasive fraud at DV-issuing posts*" would be more accurately worded "pervasive fraud in DV applications that posts must deal with."

Page 11 – The first paragraph is confusing and moving the first sentence to the end would resolve that.

Now on p. 10.
See comment 9.

Page 13 – Rather than "no *more DVs can be issued*" should more accurately read "no more DVs from that lottery pool can be issued."

See comment 10.

Page 13, para 8 – "*State Department has not compiled data.*" In fact a good deal of data on issuances and refusals, disqualifications and instances of fraud are available. We think it would be more appropriate to note that while extensive data have been compiled, the fraud tracking system that was deployed in late 2006 and currently undergoing additional refinement should provide metrics for more in-depth analysis of fraud specific to visas by category.

The following are GAO's comments on the State Department's letter dated September 10, 2007.

## GAO Comments

1. We agree that consular officers are working hard to identify and combat DV fraud. Our report repeatedly mentions that consular officers gave us information on suspected and detected fraud.

2. We agree that State has taken numerous measures to detect and combat DV fraud. Based on State's comments, we have added to the report some additional material on the steps that State has taken. However, we believe that State could do more. For example, State has not compiled comprehensive data from all DV-issuing posts on the outcomes of investigations on "pop-up" spouse cases, or data on how many cases have suspected third party involvement, or data on the amount of resources—time and money—being spent on DV investigations. We believe that such an analysis would help State target its resources to posts with the greatest fraud challenges and also better inform Congress about risks in the program.

3. We agree with State that many fraud-prevention techniques are useful to consular officers against multiple kinds of fraud in several visa categories. However, we think that the nature of the DV program presents some unique fraud challenges that would benefit from additional measures. As State noted in its comments, the DV program is a lottery system which, unlike other immigrant visa programs, requires no family or employer sponsorship and therefore serves as an immigration vehicle for huge populations without existing U.S. connections. This is why we recommend that State develop a specific strategy to combat fraud in the program, particularly for posts experiencing major DV fraud.

4. We maintain that the difficulty in establishing some DV applicants' identity contributes to the vulnerability of allowing individuals from state sponsors of terrorism to be eligible for the program. State's Inspector General expressed similar concerns in its 2003 report on the DV program.

5. In recommending that State make operational improvements to the DV program, we are not advocating for any one specific approach. Instead, we recommend that State explore options for alternative ways of handling the application and notification processes that have led to substantial fraud challenges in some countries.

6. We understand that there are limits to what State can do to protect DV applicants from being victimized by an unscrupulous visa industry. However, we believe that the U.S. government must bear some responsibility for a program that causes, albeit unintentionally, exploitation and abuse of individuals. In addition to its public outreach efforts, State needs to consider ways to modify DV program operations to deter unscrupulous visa agents.

7. We have revised this recommendation in response to State's comments. However, since State is primarily responsible for administering the DV program, we believe that State could benefit from information about DV immigrants after they have entered the United States. For example, information on whom DV immigrants petition for may illuminate fraud patterns and trends. State could take the initiative on discussions within the executive branch on designing such a study, and collect data from the Department of Homeland Security as needed.

8. We have modified the text on page 2.

9. We have modified the text on page 10.

10. We mention State's fraud tracking system in this report and we believe that it will provide useful metrics for the analysis of DV-related fraud when fully operational. However, it is not clear whether this tracking system will provide State with comprehensive data on the outcomes of investigations on "pop-up" spouse cases, or data on how many cases have suspected third party involvement, or data on the amount of resources—time and money—being spent on DV investigations. We believe that these additional data, which we recommend collecting, would help State target its resources to posts with the greatest fraud challenges, and that it would better inform Congress about risks in the program.

# Appendix III: GAO Contact and Staff Acknowledgments

## GAO Contact

Jess Ford, (202) 512-4128 or fordj@gao.gov

## Acknowledgments

In addition to the person named above, John Brummet, Kate Brentzel, Christina Connelly, Joseph Carney, Martin de Alteriis, and Grace Lui made major contributions to this report.

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# US embassy in Dublin warns of widespread visa lottery scam

**CÍAN NIHILL**

Tue, Mar 15, 2011

THE US embassy in Dublin has warned Irish residents about a widespread visa lottery scam.

Reports of fraudulent e-mails, websites and advertisements offering visa services are on the rise and the embassy has urged people to be cautious when using private third parties to aid them in their visa applications.

The diversity visa programme offers up to 55,000 visa slots annually for people who wish to apply for immigration to the US.

It is run by the US department of state; no other organisation has been authorised to notify applicants of their successful entries or the next steps in the process of applying for their immigrant visas.

Many private websites offer legitimate services to assist individuals in applying for visas, but others claim to provide visa services as a cover for scams or identity theft.

The embassy has also advised that images of US emblems such as flags, eagles, monuments or official seals do not necessarily indicate a US government website.

Only a domain name of .gov ensures a website is a legitimate US government site where the information is free and up to date.

The sole official way to register for the diversity visa programme is directly through the official US department of state website.

Under no circumstances should anyone send any money to any address for participation in the diversity visa lottery, the embassy says. One widespread scam e-mail instructs recipients to send money via Western Union to a fictitious person at the US embassy in London. "If you have received this e-mail, you have been targeted by con artists" read an embassy statement released yesterday.

Diversity visa entrants for 2011 can check the status of their entries at dvlottery.state.gov until June 30th, 2011. Entrants will not be asked to send money to any US embassy or consulate.

Complaints about unwanted e-mails that may be scams can be sent to the US department of justice at usdoj.gov/spam.htm.

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The Middle East's Leading English Language Daily

# US visa scam gets personal

By MOLOUK Y. BA-ISA, MOLOUK.BA-ISA@ARABNEWS.COM

**Published:** Mar 30, 2011 16:31 **Updated:** Mar 30, 2011 16:31

**The latest scam focused on US immigrant visas is based on one of the best phishing e-mails I've ever seen. Those of you who forwarded these messages to me asking for verification on whether the e-mails were real or fake, further confirmed that this well-crafted fraud is the effort of professional criminals.**

This phishing attack targeted individuals who were likely to be interested in a US immigrant visa. The actual phishing e-mail contained the individual's full name, nationality and telephone number. It instructed the recipient to send the visa processing fees to the "US embassy agent" in the UK using Western Union. A portion of one of these e-mails is displayed here so all our readers can see how convincingly this fraud was put together.

People should expect to see more of these targeted phishing attacks thanks to the proliferation of personal information on the Internet. Criminals either join social networking sites to harvest personal details themselves or they buy databases that contain personal records. A database of names and matching e-mail addresses is sold for a certain amount. Each additional piece of personal information added to the database raises its value. Some databases now offer matched information such as name, e-mail address, telephone number, employer, physical address, gender, date of birth, nationality — the possibilities are constantly expanding. Such databases are available because hundreds of millions of people are willing to make personal information public and too many organizations lack adequate protection for personal information entered into digital records under their management.

The US Visa scam was convincing due to the amount of personal information it contained as well as the official looking images and authoritative tone found throughout the message. However, the fact that the email requested that the visa fees be sent via Western Union was an indication that the message was a fraud. The Public Affairs Section of the Embassy of the United States in Riyadh commented on the scam in a statement released to Arab News.

"One widespread Diversity Visa (DV) scam e-mail instructs recipients to send money via Western Union to a fictitious person at the US Embassy in London. If you have received this e-mail, you have been targeted by con artists. UNDER NO CIRCUMSTANCES should money be sent to any address for participation in the DV Lottery. The Department of State's Kentucky Consular Center (KCC) does not send e-mail notification to DV entrants informing them of their winning entries. Successful DV-2011 applicants already have been notified by KCC by letter, not by e-mail. DV-2011 entrants also can check the status of their entries at www.dvlottery.state.gov until June 30, 2011."

You can fight back against these criminals. To report incidents of US visa fraud, please contact the US Embassy in Riyadh via e-mail at RiyadhIV@state.gov. The US Embassy in Riyadh also advises that entrants who completed the online DV-2012 applications will not receive notification letters from KCC. Rather, they must check the status of their entries themselves through the

Entrant Status Check available at www.dvlottery.state.gov between May 1, 2011, and June 30, 2012.

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# Embassy of the United States London, UK

BEWARE OF DIVERSITY VISA SCAMS ON THE INTERNET

## Beware of Diversity Visa Scams on the Internet

**28 February 2011**

Beware of Diversity Visa Scams on the Internet

The U.S. Embassy in London has received thousands of enquiries from people who are victims of a world-wide scam involving the Diversity Immigrant Visa (DV) Program, also known as the visa lottery. The scammers behind these fraudulent emails and letters pose as the U.S. government in an attempt to extract payment from Diversity Visa applicants. To avoid becoming a victim of this scam, please read the following advice from the Embassy.

The U.S. government **never** contacts visa lottery winners via the Internet. Scammers are using increasingly sophisticated techniques that often use the Embassy's address or name an actual person at the U.S. Embassy in London as the point of contact. This would never happen if you really had won the visa lottery. The U.S. Government will **NOT** ask you to send money to them or to the Embassy in London or any other U.S. Embassy. Any message that asks you to send money, by mail or by services such as Western Union, **is a scam** even if a legitimate Embassy address is provided.

The only way to apply for the Diversity Visa Program is through the official U.S. Department of State website during the specified registration period which takes place annually in the Fall. If you have never registered for the program, you will NOT be contacted in regard to this program, and should find it strange if contacted regarding your winning.

If you registered for the Diversity Visa Program 2012, you will be required to check the outcome of your registration at the official U.S. government website http://www.dvlottery.state.gov beginning May 1, 2011. Prior to Diversity Visa 2012, all applicants were notified by the Department of State's Kentucky Consular Center (KCC) by letter, **NOT by email**. The letter provides exact instructions on how to proceed to the next step in the process. No other organization or private company is authorized by the Department of State to notify visa lottery applicants of their winning entry or the next steps in the process of applying for their visa.

For more information on how to avoid Internet scams, please visit:
http://london.usembassy.gov/cons_new/acs/scs/internet_scams.html

HOMELAND SECURITY BLOG

Fraudsters will frequently e-mail potential victims posing as State Department or other government officials with requests to wire or transfer money online as part of a "processing fee."

Some websites and emails try to mislead customers and members of the public into thinking they are official U.S. government websites. These websites are designed to appear official, and often have images of the U.S. flag, U.S. Capitol, White House, or Statue of Liberty. What these websites and emails are missing is the ".gov" suffix on their addresses. Remember that anything that ends with ".com", ".org" or ".net" and not with ".gov" should be considered suspect.

Learn more at the official blog of DHS/USCIS

This site is managed by the U.S. Department of State. External links to other Internet sites should not be construed as an endorsement of the views or privacy policies contained therein.



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Mr. GALLEGLY. First of all, Bob, in your written testimony you referred to a statement before Congress made by the State Department's Inspector General in which he stated that the visa lottery program contains significant risks to the national security of the United States. You also mentioned the case of the Egyptian national who was permitted to enter the U.S. because his wife was a visa lottery winner. Once in the country, the person killed two and injured three at LAX. Can you elaborate a little bit on your statement?

Mr. GOODLATTE. Well, I think that there have been reports from several sources that have indicated a great concern about this. And I think the nature of the concern is that you have people who want to come here because they have a family reunification issue. They have family that is already here petitioning for them. They have a job skill. They have an employer who is petitioning for them.

It is a lot harder for a criminal organization, a terrorist organization, or somebody who just wants to come to the United States because it is an opportunity for them to engage in some kind of activity that we don't want them here for, it is a lot harder for them to do that if they have to create that connection in the first place. You know, you have to have a job skill and an employer who wants them, or they have to have a specific family relationship, than if they simply put their name into a lottery, as you correctly note, millions of people do.

And while I have no doubt that most of those people are wanting to come here for the same reason that other people want to come here, those who want to come here for illegitimate purposes, including terrorism or criminal activity, have an easier time doing that, as Mr. Edson pointed out in his testimony, than they do if they have to have that preformed connection in order to get the visa in the first place.

Mr. GALLEGLY. Mr. Edson, in your statement you mentioned the Bangladesh phone book. Can you elaborate a little bit more on that as an example of concern?

Mr. EDSON. Certainly. We obviously have no way, or the State Department—I have got to get rid of the "we"—the State Department has no way of knowing how often applicants—those 12 million entrants into the lottery program every year didn't actually submit entries on their own behalf. But we know that it is quite common for agents to just take personal data on existing people and submit it into the lottery as entries. Often now, because facial recognition is used and the photos are required, picking photographs that are relatively neutral so that there is greater opportunity for look-alikes in the final win. So then if one of those real people who didn't really apply wins a slot in the diversity visa lottery, the agent can then sell that slot to somebody who resembles the photograph closely enough that they can then steal the identity of that other person and complete the application process, and there is no preexisting data that is going to rule out that individual.

Mr. GALLEGLY. Thanks. Ms. Kephart, in your testimony on page 6, you discussed how organized crime rings exploit the visa lottery program. This is becoming a huge problem in my area, in the greater Los Angeles area, having to do with Medicare fraud and health care issues, with setting up phony clinics and so on and so forth. Does this have any relationship to what you are relating to in your testimony, or specifically what did your testimony relate to?

Ms. KEPHART. Well, I think you are referring to the use of fraudulent and counterfeit documents to support applications in general. If that is your reference, yes; we have had Federal prosecution have to deal with a number of cases that are extremely serious dealing with fraud on the U.S. Side with the diversity visa program. One case involved slave trade being created out of Africa

where young female winners between 10 and 19 were brought over. They were forced to give up their identities and passports and brought over here and had to take on new identities.

There are other pieces of this, though, as well. If you are dealing with fraudulent documents—this is something we dealt with extensively on the 9/11 Commission—the idea of fraud, the idea of looking clean when you are not really clean. And when you are dealing with a program like this that does not require a lot of identity information on the front end, you can switch out identities very easily, as Mr. Edson has done, based on fraudulent birth certificates, fraudulent driver's license, fraudulent passports on the U.S. side.

Abroad, there is no way for a consular officer to make a determination as to the legitimacy of the high school education certificate that you are presenting, the birth certificate, or any of the identity information that you are providing. You can easily switch that out. Once you do that you are creating a fraudulent identity—once you have that in place you have a huge vulnerability that is much wider than what you even had with the 9/11 situation.

Mr. GALLEGLY. Thanks. Thank you very much, Ms. Kephart. Ms. Lofgren.

Ms. LOFGREN. Thank you, Mr. Chairman. I think it is important to note that nobody on the Committee is in favor of fraud, but the issue is how to preserve diversity in a way that works for the country. That is the way I see this question anyhow.

Without this diversity visa, African immigrants would only be 3 percent of the immigrants to the United States, I mean statistically, and I don't think that is good for the United States.

And, Bob, I hear what you are saying. I always think about my grandfather, because he came here when he was 16. He didn't have family ties. He didn't have a job. He hadn't finished his education, but he wanted to come here. He wanted to be free, and you know, what a country, his granddaughter is in Congress. So that is part of what this is about. It is to not lose that part of our history, but the question is how do we avoid the problem.

Mr. Edson, I don't know the answer to this. Can the State Department impose a fee on their own? They don't need congressional action to do that, or do they?

Mr. EDSON. I am probably not in the best position to answer, but it is my understanding that they do need congressional action.

Ms. LOFGREN. That is something that maybe we ought to look at, because certainly if there were a fee, that would be a deterrent. If we are talking about entering the phone book, that would be a very different issue. I think the facial recognition and the Web-based stuff is going to help, and maybe there are some other ideas to make this work better.

You know, I think it is always dangerous to legislate by anecdote. Certainly, the fellow in Los Angeles who engaged in violence was awful; but there was an Egyptian man named Abdel Rahman Mossabah who came as a diversity visa immigrant, and he uncovered a planned terrorist attack on the New York City subway system. He reported it to the New York City Police Department, and they went in and they arrested the guys and they stopped the plot.

So I don't think you say, well, that is the reason for the diversity visa program any more than the reverse. And I think it is worth

noting that the GAO's report that has now been entered into the record—and this is a quote—"found no documented evidence that diversity visa immigrants from [state sponsors of terrorism] or other countries pose a terrorist or other threat."

So we need to, I think, make improvements if we can.

Ambassador Young, I found your testimony actually pretty moving because the diplomatic value of being a beacon of hope for the world really is important to the United States. You served as Ambassador to a number of Nations. Were you able to use this as a tool of diplomacy, and can you expand on your experience with those who applied for the lottery program and what it means to us in the diplomatic sense, or who they are in your experience?

Mr. YOUNG. Certainly. I found it particularly useful when I was in Africa, in Togo in particular. I served in Sierra Leone also, but that was prior to the program. In countries that are under, you know, oppressive governance and rule, that are very impoverished, that has very little to offer its people—although I didn't go around peddling or advertising for the diversity visa in my interaction with young people, with young professionals, and what have you—they would ask me: You know, what can I do? I am a university graduate, I am a professional, or what have you. There is nothing for me to do here. What can I do? You know, you come from a great country; is there anything you can do for me?

I said, well, I can't meddle in the visa business as the

Ambassador, but we do have something called the diversity visa program and you can apply for it and you may win, you may not, and you keep trying until you do.

I can cite the case of a woman that I knew in Togo. She was educated. She had a sister in the United States who was a U.S. citizen. The sister had petitioned for her. She believed that the wait would have been about 25 years, and while waiting, she applied for the lottery. She didn't win the first few times but she won—I think it was about the fourth time around. She came to the United States. She brought her teenage son. He finished school here in the United States and last year got his MBA at Harvard.

Ms. LOFGREN. Wow, quite a story.

Mr. YOUNG. That was a good one.

Mr. GALLEGLY. Mr. Conyers.

Mr. CONYERS. Thank you very much. And, Mr. Ambassador, what is the impact of 12 million people all thinking about trying to get over here?

Mr. YOUNG. Well, they are anxious to do that because they look to us as their one opportunity for hope and for getting out of the situation that they are in. So they think of the United States in a very positive way, and I think that is a very good thing for our image, and I think that helps us. And as I said, the most important thing is that we offer—this is an opportunity for hope.

Mr. CONYERS. And, Mr. Edson, your work with State Department gave you an opportunity to make a number of improvements, and we are grateful to you for that. I wanted to thank you. Could you discuss some of the things you got in place while you were there?

Mr. EDSON. Certainly, thank you. The program when it began was a mail-based program and the amount of mail received was so high that the envelopes were actually bar-coded on the outside

without being opened. Winners were selected sight unseen. In the early years there was no way to tell how many entries were being submitted by applicants, and, in fact, we knew through sampling those first couple of years, there were large numbers of duplicate entries, thousands of duplicate entries from people who were just using technology and law firms and agents and things to help them out.

The State Department was able to move to an electronic application process at a time when people thought that Internet penetration wasn't enough. That helped. The facial recognition has helped. It was I think one of the earliest uses of facial recognition technology in the government to look for duplicate entries in the application process, and then some changes in rules like the requirement to submit photographs with the—and not the application but the lottery entry, the first stage, they were required to submit a photograph. That limits some identity fraud opportunities.

It is telling, though, if I can get off the track just slightly, the bulk of the money spent on this program is to fight fraud in this way instead of to administer the program. And that is unlike any other visa work that we do, or we did at State, where the bulk of the resources were spent helping applicants get through the process. In this case it is almost all fraud-related but it has been done.

Mr. CONYERS. I want to thank you for your helpfulness and I wanted to turn to attorney Kephart because, you know, immigration as a field is a big problem in all of its branches, don't you think? I mean, there is a lot of work to be done in all the areas and there continues to be more work done in this area.

Ms. KEPHART. Yes, Ranking Member Conyers, yes, absolutely, you are right.

Across border security apparatuses, Mr. Edson was one of the people I interviewed when I was on the 9/11 Commission, and we went across the board, as you know, making lots of recommendations and criticisms on border security. Our staff monograph "9/11 and Terrorist Travel" is a long history of problems with the immigration system, and there have been some improvements in some areas for sure.

It is unusual for me, I have to say, to actually be in agreement on eliminating something completely. And in this particular case, when you run it through the rubric of our sort of tiered-analysis we used on the 9/11 Commission, we said two things that people up here know very well: Terrorist travel documents are as important as their weapons are; and that we must assure that people are who they say they are.

When you look at this, this is not just a nonimmigrant visa. This is an immigrant visa. This allows permanent residency. This allows you to go freely in and out of the United States. So the vulnerability here is high. So for me, the security aspect of it on the front end has to be very high. Because that is not there, I think that is a vulnerability and because we really can't—there are improvements in the system for sure in the DV program.

However, the DV program is not strong enough to really assure that people are who they say they are. And when we are embracing state sponsors of terror, when we are embracing those nations where we know there are radicalized populations, that puts I think

this on a cusp of—an unfortunate cusp of not being a program that assures our national security and really gets at the issue that this program is supposed to, which is diversity and welcome mat to those who otherwise would not have the opportunity to come here.

Mr. CONYERS. Chairman, could I get one additional——

Mr. GALLEGLY. With the help of you and Mr. Pierluisi, I made a commitment we would finish by 330. So I will be happy to do that. Maybe you could help me, Mr. Pierluisi, to yield to Mr. Conyers.

Mr. PIERLUISI. I will yield a minute to the ranking.

Mr. GALLEGLY. Thank you.

Mr. CONYERS. On a personal—I know you are representing here today. But, personally, has your vast experience with immigration issues led you to be skeptical, if not negative, about the whole immigration system itself?

Ms. KEPHART. Actually, no. I think that the immigration system, as problematic as it is, has a lot of potential for improvement, and that is how I look at it. You know, I look at the southwest border and I see potential that we can actually secure that border now. And I look at all the work that has been done since 9/11 and the seriousness with which you all took our recommendations and that gives me a lot of hope. I think if I had thrown in the towel, I wouldn't be sitting here right now.

Mr. CONYERS. But you have given up on this one.

Ms. KEPHART. On this particular one, yes, because I think it will——

Mr. CONYERS. We want to encourage you. We want to give you hope and encouragement. We want to keep hope alive.

Ms. KEPHART. I understand, sir.

Mr. CONYERS. Thank you, sir.

Mr. GALLEGLY. Mr. Pierluisi.

Mr. PIERLUISI. Thank you, Chairman. I will just make a comment and then wait for your reactions. I just believe that messages we send to the rest of the world are very important. And by having this program, we are sending a message that we continue to welcome immigrants from a diversity of backgrounds and nations of origins, and that is an important message. We have always been viewed as the land of opportunity and lots of people would like to join us; and what is wrong with that?

I do agree that we have to make every effort to make sure no terrorists take advantage of a program like this. We don't want any of them here, but I see—and the stats do not support this issue we are raising, because when I see the stats, close to 800,000 people have come in using this program to our country, and I can only see four cases of actual terrorists we have spotted. Wow, four cases out of 800,000 people. That is the first thing that comes to my mind.

Another thing, GAO, which was the last objective entity looking at this, said there is no evidence of the program being abused for purposes of terrorism. So I see that, too.

And then I see all these enhancements. So my reaction, my gut feeling is, let us keep improving it, but let us not send the message that we are basically closing this or, you know, shutting this door on so many people that dream about joining us and making this country even better.

So now I would like to hear your reactions. I guess I will start with Mr. Young; but, obviously, my fellow Member here, I would like to hear from you, too, Congressman Goodlatte.

Mr. YOUNG. Shall I begin?

Mr. PIERLUISI. Yes, I guess I said it in that order.

Mr. YOUNG. I am with you 100 percent. I believe that the program is important to what we try to do worldwide in terms of who we are, what we represent, that we do offer hope. We give people an opportunity to those who are successful through this program to live with dignity and to realize their potential. We think the program is good. It is valid. It serves our purpose. We say do not eliminate it but let us work and find ways to improve its imperfections.

Mr. GALLEGLY. Mr. Goodlatte, did you want to respond?

Mr. GOODLATTE. I definitely do. Let me just say, as I indicated earlier, I have practiced immigration law before this program existed and, at that time, helped people to obtain permanent resident status from more than 70 countries. So I think that we already are, regardless of this program's existence, the most diverse Nation on Earth and it is in part because of our immigration policies. But if those policies are designed to make this country better, we ought to take into account who it is that want to come here, based upon needs that we have in the United States, including needs to have the people with particular job skills, and including the important need to reunify people who have family members who are already here. Those should be our priorities. And given the high, high, high level of immigration we have, and given the problem that we have with the levels of unemployment and so on, we should not pick people to come here based on pure luck.

And I respect the millions of people who want to come here. My concern is that basing your future upon whether or not you have one in 200 or one in 300, whatever the odds are, the chance of having your name picked out is like saying, I am going to—you know, I am going to save for the future by buying a lottery ticket every week. That is not the best way to enhance your own life.

The program should be based upon people who have something the United States needs and want to come here, we want them here and they want to be here, not based simply on pure luck, chosen at random.

Mr. GALLEGLY. The time of the gentleman has expired. I want to thank all of the Members for being here today, particularly when everyone likes everyone, that always makes it a lot easier for the Chair.

In any event, thank you to all of our witnesses and, without objection, all Members will have 5 legislative, days to submit to the Chair additional written questions for the witnesses, which we will forward and ask the witnesses to respond as promptly as they can so the answers can be made a part of the record of the hearing.

Without objection, all Members will have 5 legislative days to submit any additional materials for inclusion into the record.

Again, thank you all for attending today, and with that, the Subcommittee stands adjourned.

[Whereupon, at 3:32 p.m., the Subcommittee was adjourned.]

# APPENDIX

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## MATERIAL SUBMITTED FOR THE HEARING RECORD

**Statement of Ranking Member Zoe Lofgren**
**Subcommittee on Immigration Policy and Enforcement**
**Hearing on H.R. 704, the "SAFE for America Act"**
**Tuesday, April 5, 2011, at 1:30 p.m.**

The diversity visa program was established by the Immigration Act of 1990 with the goal of encouraging greater diversity in the pool of immigrants that we accept each year. The program now provides up to 50,000 visas annually to natives of countries from which immigrant admissions were lower than 50,000 over the preceding five years.

Applicants for diversity visas are chosen by a computer-generated, random lottery drawing. Each winner is permitted to apply for an immigrant visa and can gain lawful permanent resident status in the United States.

Of course, diversity visa winners are subject to all of the bars of inadmissibility in the Immigration and Nationality Act, and must undergo background and security checks that are more rigorous than those required for persons entering the country many by other means, such as through the Visa Waiver Program. Diversity visa winners must provide biographic and biometric information (including fingerprints and a digital photograph), pass comprehensive background checks, submit to physical and mental examinations, and undergo interviews with consular officials abroad before entering the United States.

The program represents a small part of our immigration system. In fiscal year 2010, only 4.8% of the total number of persons who obtained lawful permanent resident status came through the diversity visa program. But it also represents an important program that has been largely successful at increasing the diversity of legal immigrants to the U.S.

I recall that this program was originally proposed by then-Chairman Peter Rodino. He observed that because we have a strong family-based immigration system, this reduces the opportunities for immigrants to come to this country if they are from places that have historically not sent immigrants to the United States. Over time, this limits our ability to grow and sustain a diverse nation.

In creating the diversity program, Mr. Rodino and many others wanted to encourage continued immigration opportunities for people from Italy or Ireland. Today we see that

the program continues to help—in a small way—to balance our immigration system. In Fiscal Year 2006, for instance, 40% of diversity immigrants were from Africa and 34% were from Europe. Compare this to the fact that only 3% of family- and employment-based visas went to persons from Africa and only 8% went to persons from Europe.

One frequent attack against the diversity visa program is that it is random—that the people we bring to the country through the program may not have the skills or education they need to succeed in this country.

We know that the program requires applicants to have the equivalent of a U.S. high school education or possess at least two years of work experience in an occupation requiring at least two years of training or experience.

But we actually get much more than that. In 2003, the State Department described the "typical" diversity visa recipient as "a male professional, aged 26-30, holding a university degree." Just yesterday, the Congressional Research Service released a report finding that diversity immigrants were two-and-a-half times more likely to report managerial or professional occupations than other lawful permanent residents in Fiscal Year 2009. I ask unanimous consent that CRS's report be entered into the record.

This is, of course, not the first time this Subcommittee has considered the bill introduced by my friend and colleague Rep. Goodlatte. I opposed the bill when the Committee reported it to the floor in the 108th Congress and I continue to oppose the measure.

The name of the bill suggests that it increases security and fairness, but it does neither. Nothing in the bill increases fairness for Americans or for persons who seek to immigrate to this country to achieve the American dream. Really it does just the opposite. The bill merely eliminates a small immigration program that allows a small percentage of new immigrants from under-represented nations to come to our country. This adds to our ethnic and racial diversity, which enriches our society, and provides the only hope some people have of immigrating to the United States lawfully.

The bill also would not make us any more secure than it would if it eliminated any other visa program. Diversity visa winners are carefully screened for criminal history or ties to terrorism, like any other immigrant. In fact, there is no evidence that a terrorist is more likely to enter the U.S. under this program than any other U.S. immigration category. Given that tens of millions of applications are submitted each year for only 50,000 slots (which includes the spouses and minor children of lottery winners), the diversity visa program would be an incredibly inefficient means of entry for a person who seeks to do harm to the United States.

This is not to say that the program is perfect. Both the State Department's Inspector General and the GAO issued reports a number of years ago highlighting the risk of fraud and abuse in the program and the practical and resource challenges that consular posts face in countering these risks.

The State Department has made significant efforts to reduce the risk of fraud, but this does not mean we cannot do more. Several years ago, the State Department converted the application process from paper to electronic and requires all applicants to submit digital photographs. Recently the State Department ended the practice of notifying lottery winners by mail and now relies entirely on its web-based system. Consular posts provide outreach and education to the community about the process and work to combat fraud through the visa adjudication process.

In closing, as I prepared for today's hearing, I was reminded that Freddy Adu, the young soccer phenom from Ghana, entered the U.S. through the Diversity Visa Program. So did Seth Donkor, another native of Ghana, who enlisted as a private in the U.S. Army shortly after entering the country on a diversity visa. Private Donkor's service was featured in the film "New American Soldier," which highlights the courageous work that many immigrants now do in our Armed Forces.

If there are concerns about this program, we should focus on ways to improve it. One idea that was recommended by the State Department's OIG is that we charge a small application fee in order to reduce the prevalence of duplicative and potentially fraudulent applications. Now that the system has moved from paper-based applications to electronic ones, the cost effectiveness of this anti-abuse measure may need to be reassessed.

I look forward to hearing from our witnesses.

## Hearing on H.R. 709, the "SAFE for America Act"

**Statement of Dan Stein, President, Federation for American Immigration Reform**

**Presented to the House Judiciary Subcommittee on Immigration Policy and Enforcement**

April 5, 2011

**This testimony describes FAIR's support for legislation to abolish the visa lottery.**

Mr. Chairman,

This statement is submitted on behalf of the Federation for American Immigration Reform's more than a quarter million members and activists. FAIR is a national, non-profit public interest organization that works to end illegal immigration, restore moderate legal immigration and reform our immigration laws to bring them into accord with the national interest.

The visa lottery program, or diversity visa program as it is also known, has no place in a legal immigration system that already is admitting more than a million immigrants a year. It has a very low qualification standard for admission – a secondary school education. It fuels demand for family-sponsored immigrant visas. And it adds persons to our workforce without regard to economic conditions with no consideration for the U.S.-workers with whom the visa lottery immigrants will compete for jobs.

The very creation of the lottery visa provision is a testament to the fact that the immigration system is dysfunctional and needs major reform. The 1965 reform legislation was ostensibly to allow visas for persons who previously had not had much chance for obtaining entry because of the preference given to immigrants from European countries. Yet since 1965, Mexico has come to dominate the flow of immigrants in a way that no European country ever did prior to 1965. Rather than reforming the immigration system, the visa lottery was tacked on to provide visas for persons from countries that were still underrepresented among the foreign-born population.

The lottery visa system meets no national need, since there are no specific skills or abilities required. It, in effect, picks immigrants out of a hat – a process that makes no sense unless the objective is simply to increase the size of the U.S. population. In addition to serving no national purpose, the lottery program has negative effects that argue for its elimination from the nation's immigration system. Among those negative effects are the following:

- The visa lottery creates additional competition for jobs, which especially harms American-born minorities working in low-skill positions.

- The visa lottery grants green cards to individuals regardless of education or skill, while skilled green card applicants may wait for years to be admitted.

- The visa lottery speeds up population growth in the United States, which impedes our ability to conserve resources and create a sustainable society. Americans have clearly expressed a strong majority view that immigration is too high and should be lowered. Clearly, the 55,000 immigrant lottery visas should be a prime candidate for elimination.

- The visa lottery allows illegal aliens already in the United States to apply for a lottery visa, and allows them to stay and adjust status to legal resident with no penalty. This sends the message that we are not serious in our efforts to combat illegal immigration.

- The visa lottery is widely exploited by unscrupulous persons – both American and foreign – who take advantage of the aspirations of foreigners to immigrate to the United States. Numerous firms advertise that they can facilitate the lottery entry requirements for a fee. In fact the entry procedure is simple and costs nothing. The problem is that many people around the world are not well informed about the lottery and are easy prey for these unscrupulous agents. Unfortunately, they are not breaking any U.S. law by their activities, and the only thing that would shut down their operations would to abolish the lottery.

FAIR's position since its founding in 1979 is that Congress must restore moderation to our legal immigration system. We advocate a reduction in immigration to the level of emigration so that immigration is no longer driving the nation's rapid population increase. That position is centered on the long-term needs of the country as we face major resource constraints.

Congress still has before it an unfinished agenda for immigration reduction from the U.S. Commission on Immigration Reform. The Commission's recommended reduction in legal immigration included elimination of the visa lottery. Congress failed to act on those recommendations in 1996, but expressed the intent to return to that agenda. It still has not done so. Congress came close to ending the program in 2007 by eliminating funding for it in both the House (H.R. 2764) and the Senate, but the provision was omitted from the conference report.

For all of these reasons, Mr. Chairman, FAIR strongly urges the elimination of the visa lottery system through the passage of H.R. 709, the SAFE for America Act.

**Statement for the Record**

**House Subcommittee on Immigration Policy and Enforcement**

**"H-1B Visas: Designing a Program to Meet the Needs of the U.S. Economy and U.S. Workers"**

**March 31, 2011**

The National Immigration Forum works to uphold America's tradition as a nation of immigrants. The Forum advocates for the value of immigrants and immigration to the nation, building support for public policies that reunite families, recognize the importance of immigration to our economy and our communities, protect refugees, encourage newcomers to become new Americans and promote equal protection under the law.

We are submitting our views about the subject of this hearing on H-1B temporary worker visas.

The U.S. benefits from the many immigrants with special skills it attracts each year. The H-1B program is an important component of our system, in that it allows American employers to temporarily employ foreigners who have particular skills employers need. Unfortunately, the program (and other temporary worker programs) has become to a large extent a substitute for a permanent employment system that does not provide enough visas for skilled workers. Our immigration admission system has not been adjusted in more than twenty years.

The vast majority of individuals receiving green cards through the employment-based immigration system are adjusting from temporary visas. Many H-1B visa holders are here because employers want to hire them permanently, but there are simply not enough employment visas available. H-1B workers can have their three-year temporary status extended for another three years. During that entire time, workers are dependent on the sponsoring employer, and there is no certainty that a permanent visa will come through at the end of their temporary stay. The uncertainty results in many giving up and leaving the U.S., taking their skills with them. This hurts U.S. competitiveness.

The lack of employment visas is not just a problem experienced by high-skilled workers and their employers. There are virtually no visas available for lower-skilled workers, even though demand for these workers has at times been very high.

Congress must update the employment-based admission system. In the H-1B context, more permanent visas wonld provide more certainty for the foreign worker, who would then be able to invest in making this country his (or her) permanent home. It would also provide more protection for the worker, who would no longer be dependent on a single employer for his or her status. American workers and foreign workers alike benefit if one group is not especially vulnerable to a bad-apple employer's illegal behavior.

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For those employers who ultimately want to hire a worker permanently, more permanent visas would provide greater certainty, removing the fear that a worker would have to leave after six years.

The inadequacy of our permanent admission system has created a patchwork of strategies to go around it, and a patchwork of regulation and enforcement that would be less necessary if the root problem was addressed. Congress must reform our broken immigration system.

CHARLES E. SCHUMER
NEW YORK

# United States Senate

WASHINGTON, DC 20510

COMMITTEES:
BANKING
JUDICIARY
RULES
FINANCE

April 5, 2011

The Honorable Elton Gallegly, Chairman
House Subcommittee on Immigration Policy and Enforcement
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable Zoe Lofgren, Ranking Member
House Subcommittee on Immigration Policy and Enforcement
U.S. House of Representatives
B-351 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly and Ranking Member Lofgren:

As Chairman of the Senate Judiciary Subcommittee on Immigration, Refugees and Border Security, I am responsible for directing the Senate's legislative agenda with regard to immigration, citizenship, and refugee laws. I am also responsible for the Senate's oversight of the immigration functions of the Department of Homeland Security, including U.S. Citizenship and Immigration Services (USCIS) and U.S. Immigration and Customs Enforcement (ICE).

It is in this capacity that I write to voice my opposition to any legislation proposing an elimination of the Diversity Visa Program (DV Program). The DV Program has benefitted America's economy and overall security, and has enriched the American fabric with immigrants from countries that are not traditionally represented in our immigrant pool.

Congress established the DV Program through the Immigration Act of 1990. At the time, I was one of the leaders in Congress who helped to create this much-needed visa program. The DV Program was, and still is, necessary because our current immigration system is weighed far too heavily toward immigrants from a handful of countries. The DV Program provides a necessary counterbalance to the concentration of source countries for immigrants that results from family- and employment-based immigration; and creates an avenue for legal immigration from abroad for those without pre-existing family or employment relationships in the United States.

America is strengthened by having immigrants from all over the world that enhance our communities in invaluable ways. Many of these immigrants are opening small businesses that are creating jobs and providing Americans with goods and services that would otherwise have been unavailable. Others are enriching our schools and community centers with new

perspectives and understanding that are critical to America's comprehension of our ever-increasingly connected world.

For instance, a recent report from the Congressional Research Service reveals that immigrants who came to America on the DV Program are not only far more economically successful than the average immigrant, they are also more successful than the average American citizen. According to the most recent yearbook of immigration statistics, Diversity Visa holders have a 3% unemployment rate, far lower than the nation's unemployment rate of around 9% and the immigrant unemployment rate of around 8%. In addition, 24% of diversity visa holders hold jobs in professional and managerial occupations—a large number of these immigrants are small business owners who unquestionably are creating rather than taking jobs from Americans—a rate far greater than both the 10% rate for the general immigrant population and the 15.5% rate for the general population of American citizens. The economic benefits of the program are simply unquestionable.

The DV Program also plays a helpful role in enhancing America's security. As our world becomes ever more interconnected, our border patrol is facing increased challenges from immigrants who seek to enter the United States through our land borders even though they are coming from Africa, Asia, and Eastern Europe. The DV Program reduces incentives for illegal immigration by encouraging prospective immigrants to wait for years at home until they win the lottery, as opposed to attempting to enter illegally. It is far better to have a manageable flow of 50,000 yearly immigrants who wait and receive background checks, medical screenings, and consular interviews before entering the United States legally than to cancel this program and create a situation of hopelessness and despair whereby hundreds of thousands of illegal immigrants from Africa, Asia, and Eastern Europe attempt to cross our borders each year without our knowledge.

The DV Program is not perfect, and there are certainly problems that need to be corrected in order to make it even more secure and more effective. There are far too many bad actors who seek to exploit the program for financial gain or for other fraudulent purposes. The solution to these problems is to mend the program's weaknesses, not to end the program altogether. I would be delighted to work with the members of this Committee to address all existing problems within the DV Program in a way that improves the program's overall functioning.

In addition to fixing the DV Program, I continue to believe that Congress should act in a comprehensive way to fix our entire system so that we do not engender future illegal immigration. Eliminating pathways to legally immigrate to America only engenders further illegal immigration. Instead, we need to address the entire broken immigration system in a manner that: (1) secures our borders; (2) ends the illegal immigration magnet by using a fraud proof social security card to combat the employment of unauthorized workers; (3) develops a more rational, merit-based, legal immigration system to ensure America's future economic prosperity; and (4) requires individuals currently in the United States without authorization to

come forward and register with the government to earn legal status, or face immediate deportation upon completion of the registration period. Without enacting all of these reforms together, we will simply be creating new problems as opposed to finally addressing our broken immigration system in a manner that truly prevents illegal immigration and supports legal immigration.

I thank you for your attention to this important matter, and look forward to working with you in any manner necessary to further our joint mission of securing the country while maintaining the world's best legal immigration system.

Sincerely,

Charles E. Schumer
Chairman
Senate Judiciary Subcommittee on Immigration, Refugees and Border Security

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