

HOUSE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON IMMIGRATION,
BORDER SECURITY, AND CLAIMS

TESTIMONY OF
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DEPUTY INSPECTOR GENERAL OF THE DEPARTMENT OF STATE
AND BROADCASTING BOARD OF GOVERNORS

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Chairman Hostettler, Representative Jackson-Lee, and Members of the Subcommittee:

Thank you for the opportunity to testify on the Office of Inspector General's (OIG) work concerning the Department's Diversity Visa Program. I would like to discuss with you the findings and recommendations of our report last fall and the Department's progress in responding to our recommendations. I would also note that OIG has a good working relationship with the Department and is conducting ongoing work concerning consular operations to strengthen consular programs and identify methods to reduce fraud in visa and passport programs. The Department has taken some steps toward addressing OIG's recommendations. However, legislative changes may be needed to effectively address current Diversity Visa Program vulnerabilities, including barring applicants from states sponsoring terrorism, barring applicants with multiple filings, and ensuring that the program is self-financing.

Background

In FY 1995, Congress established a Diversity Visa 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. Diversity visa applicants, however, can qualify on the basis of education and/or work experience. Applicants need only to demonstrate that they have the equivalent of a U.S. high school education or two years of work experience in an occupation that requires at least two years of training or experience. If ultimately selected as lottery winners, like other immigrant applicants, they are subject to all of the grounds upon which a visa can be denied, including medical condition and criminal behavior.

Originally, the Diversity Visa Program was one of many immigrant visa functions assigned to the National Visa Center at Portsmouth, New Hampshire. In September 2000, diversity visa 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. Kentucky Consular Center employees receive and process lottery entries, select winners, process winners' visa applications, and

schedule applicant interviews at missions abroad. Consular officers at those missions issue or deny the applications.

Recent Developments in the Diversity Visa Program

Last week, I toured the Kentucky Consular Center. I was impressed with the center's ability to eliminate duplicate entries based on addresses and names electronically, including the use of facial recognition technology. I am sure that the Bureau of Consular Affairs would welcome members of your staff to visit the center to see this technology first hand. The technology can do the many procedures that simply were not possible when seven million or fifteen million envelopes came in by hand. Until this year, the diversity visa lottery was paper-based, which the Department characterized as labor intensive, inefficient, and costly. However, this year the Department implemented an entirely electronic registration system called E-DV for the DV-2005 lottery, which received nearly six million entries via the Internet during the two-month registration period. I should note also that our review took place prior to E-DV's initiation, which occurred between November 1 and December 30, 2003. Therefore, OIG plans to reexamine its previous findings in the context of this new technology. OIG will do this along with other ongoing consular program reviews and will continue to recommend ways to strengthen these programs.

OIG's ongoing consular work has identified fraud that includes the Diversity Visa Program, although, these incidents seem to be tied to applicant pools that pre-date the E-DV program registration. At one post, we discovered that some applicants submitted duplicate applications using similar photos that were undetected by the facial recognition technology. At another post, we discovered a common scheme used by some Foreign Service national employees, who offer to buy winning lottery applications, taking advantage of the fact that many people cannot afford the full costs associated with the visa process. In these cases, FSNs offered to purchase winning applications for up to \$4,000. Once in possession of the winning applications, FSNs would switch the photographs with imposters, who paid several times over the original purchase price. In some cases, FSNs switch entire application packages.

At this point in the E-DV program, lottery winners are just beginning to be notified to start the visa application process. Using facial and name recognition technology and data mining techniques, each winner will be checked against the database of all other applicants to identify duplicate entries, which will result in disqualification. The Department believes once E-DV is further implemented, these types of fraud will be less likely to occur. Our future work will assess whether these vulnerabilities have been fully addressed.

Findings and Recommendations

In terms of our original diversity visa review, we note that section 306 of the Enhanced Border Security and Visa Reform Act of 2002 (Pub. L 107-173) generally prohibits issuance of nonimmigrant visas to aliens from state sponsors of

terrorism unless the Secretary of State judges that they do not pose a risk to the national security of the United States. There are no parallel restrictions for immigrant visas, including the Diversity Visa Program. Because of this, and because of the program's vulnerability to fraud and its ease of application, OIG believes that this program contains significant vulnerabilities to national security as hostile intelligence officers, criminals, and terrorists attempt to use it to enter the United States as permanent residents. As a result of this finding, OIG recommended that the Department propose changes to the Immigration and Nationality Act to bar from the Diversity Visa application process applicants from nations that sponsor terrorism.

The Department agrees with OIG in principal regarding this recommendation, but has expressed concerns over the subsequent effect of permanently barring aliens who are fleeing the oppressive regimes of states that sponsor terrorism. For example, aliens fleeing oppression in countries such as Cuba, Libya, Syria, and Iran would be ineligible to apply for a visa via the Diversity Visa Program if our recommendation were implemented.

It is also true that consular procedures and heightened awareness will provide greater safeguards against terrorists entering through the diversity visa process. Consular officers interview all diversity visa winners and check police and medical records once applicants begin the actual visa application process. By October of this year, all immigrant and non-immigrant visa applicants will have their index fingers digitally scanned. This system is already in place at 17 of the Department's immigrant visa sections and over 100 non-immigrant sections. In fact, all posts will have this capability by the end of October. This means that fingerprints can be run through U.S. databases of criminals and terrorists in about 15 minutes. It also means that if an applicant applies for a non-immigrant visa as Mr. Smith and later applies for a diversity visa under a different name, the fingerprint system will identify him as a fraudulent applicant. The electronic registration system should reduce fraud and reduce the burden on our consular officers. It is also worth observing that in Bangladesh, consular officers rejected 85 percent of the 2002 diversity visa winners using the visa application process, indicating that the consular office at that post has been very alert to the propensity for fraud.

OIG's report pointed out widespread abuse in the Diversity Visa Program. Despite the strictures against duplicate submissions, the Kentucky Consular Center detects thousands of duplicates each year. Currently, the penalty for submitting detected duplicate entries is disqualification for the year that the duplicate submission was detected. Identity fraud, meanwhile, 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, control is so poor that consular officers must assume that all travel, identity, and civil documents are unreliable. As a result, OIG recommended that the Department propose changing the Immigration and Nationality Act (INA) to bar permanently from future diversity lottery programs all adult applicants who are identified as multiple filers.

The Department told OIG that it agrees with this recommendation and is currently reviewing the legal ramifications of our recommendation. Current provisions of INA 212(a)(6)(C) only renders persons as ineligible for a visa on the basis of fraud or willful material misrepresentations. In the case of diversity visa applicants, it is unclear whether submitting multiple lottery entries constitutes material misrepresentation. The Department has additional concerns over permanently eliminating applicants unfairly and permanently if, for example, applicants have no knowledge or involvement with the submission of multiple lottery entries. While OIG welcomes the Department's agreement on this issue, perhaps clarifying legislation would provide a means to permanently eliminate multiple filers from the program.

Several offices and officers in CA's Directorate of Visa Services (CA/VO) manage and oversee parts of the Diversity Visa Program and OIG believes that management needs to be tightened. 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 through training or work experience. CA/VO prepares an annual statistical report for the Congress on diversity visa issuances, but does not include much trend analysis for the Kentucky Consular Center, overseas missions, or senior CA management. OIG recommended that the Department issue standards for determining whether foreign high school educations are comparable to U.S. high school educations. OIG believes the Department should also prepare an annual report on regional and worldwide diversity visa trends and program issues.

Responding to this recommendation, the Department recently purchased a newly published reference book that translates and standardizes foreign educational credentials for use in validating educational requirements of applicants and is planning to distribute a copy to all diversity visa posts. The Department is preparing a report on trends and issues for the recently completed DV-2003 program. OIG considers this as a first step toward establishing guidance for this program. In terms of our recommendation that the Department prepare an annual report, we understand that the Department is summarizing the demographic data trends and identifying program issues revealed through its diversity visa database. We look forward to receiving this data and observing what it shows in terms of fraud indicators and other program trends.

Unlike other visa applications, the current diversity visa processing fee is collected only from applicants selected as winners. Millions of applicants, therefore, pay nothing to participate, and the U.S. government pays all costs not covered by the diversity visa fee. For fiscal 2002, the Department estimated that program costs not covered by the fee exceeded \$840,000. Since program shortfalls persist, OIG recommended that the Department seek authority to collect processing fees from all persons who apply for the diversity visa program. In addition, OIG determined that no current diversity visa fees are allotted to fraud prevention. Antifraud activities at post are generally dominated by nonimmigrant visa fraud cases. Many embassies and

consulates with significant diversity visa issues, therefore, do not routinely refer problem cases to their antifraud units, and some missions have no antifraud units. As a result, OIG recommended that the Department determine whether antifraud field investigations are useful in diversity visa cases and how the diversity visa fee could be appropriately devoted to antifraud work at overseas missions.

The Department charges nothing for entry into the program and has determined that charging a small fee for the paper-based registration system is impractical. Although OIG agrees that an application fee for paper-based applications may not be feasible, the new electronic system may open the door for charging a fee that will cover program costs and the associated administrative costs. According to a sample taken from one region of applicants, about 50 percent of applicants apply from the United States and 70 percent of applicants already use a facilitator to assist with registration. Many of these facilitators can be found on the Internet and charge fees for services. Using an electronic payment system, applicants could pay a small fee for diversity visa registration, enabling the U.S. government to recoup costs and fund more fraud prevention officers overseas, especially in countries with critical fraud problems. Such an approach might also reduce multiple entries since applications would no longer be free. Further, OIG determined that the Department could do a better job of identifying all costs associated with the Diversity Visa Program from overseas posts. Currently, that information is not fully reported. Further, section 636 of Public Law 104-208 provides for charging a fee associated with the Diversity Visa Program, which currently is charged only to program winners. Perhaps clarifying legislation would allow the Department to expand fee collection to include all program applicants and fund anti-fraud investigators.

When OIG began its review of the Diversity Visa Program, there was no antifraud officer position at the Kentucky Consular Center. 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. When I visited the center last week, the Department affirmed that they were in the process of bringing an antifraud officer on board. At the time of our review, only the center's director was an experienced consular officer. OIG also recommended 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.

With regard to OIG's recommendation to establish a language-designated telephone inquiry position, the Department determined that, since no predominating language exists among diversity visa applicants other than English, the Department is considering the idea of switching foreign language inquiries to the National Visa Center, where employees speak 40 different languages. OIG endorses this idea since it appears to be feasible.

Conclusions

To sum up, Mr. Chairman, the Department and the Bureau of Consular Affairs have made progress in reducing fraud and vulnerabilities by implementing the facial

recognition system for diversity visa applicants. Certainly, our contacts with the Bureau of Consular Affairs and consular officers overseas indicated a widespread understanding of the shortcomings of the program. In OIG, we believe that applicants from state sponsors of terrorism should be excluded, that multiple applicants should be penalized, and that the program should charge application fees that would enable the Department to recoup its costs for hiring more people and would reduce the number of multiple applicants. My experienced consular inspectors have also suggested a possible improvement, excluding from the program countries with extremely high levels of fraud. Most of these recommended changes will require legislation. We plan to review this program in the next few months in light of the changes in technology and the widespread public and congressional interest. We will continue to work with the Department and with the Congress to recommend solutions to these issues.

Thank you Mr. Chairman. I am happy to answer your questions and those of other subcommittee members at the appropriate time.