

Advocacy Recommends That the U.S. State Department Consider the Impact of its Proposed Exchange Visitor Program Rule on Small Business

On May 25, 2006, the U.S. Small Business Administration's Office of Advocacy (Advocacy) submitted comments to the U.S. Department of State on its *Proposed Exchange Visitor Program – Training and Internship Programs Rule*. The U.S. Department of State is responsible for designating U.S. government, academic, and private sector entities to conduct educational and cultural exchange programs pursuant to the Mutual Educational and Cultural Exchange Act of 1961, as amended ("Fulbright-Hays Act"). Under this statute, designated program sponsors across a variety of industries facilitate the entry into the United States of more than 275,000 exchange participants each year.

The U.S. Department of State's proposed rule would impose a variety of new requirements on designated program sponsors before they could accept a participant into their exchange program. In addition, the proposed rule includes special provisions related to designated aviation flight training schools that limit the ratio of on-the-job training to classroom study (to a ratio of one month to four) and reduce the maximum duration of the training program from 24 to 18 months. These changes would alter the current structure of these training programs.

A complete copy of Advocacy's letter to U.S. Department of State is available at www.sba.gov/advo/laws/comments/.

- Advocacy contends that the U.S. Department of State's certification that the proposed rule will not have a significant economic impact on a substantial number of small entities is improper under the Regulatory Flexibility Act (RFA) because it lacks a factual basis.
- Advocacy is concerned that designated aviation flight training schools operating under the J-1 visa program could be significantly affected by the rule because the proposed changes would make it less likely that foreign trainees would participate in the program. This could defeat the stated purpose of the proposed rule and unintentionally reduce the worldwide supply of trained pilots.
- While Advocacy is mindful that there are important security implications associated with this proposed rule (and defers to the Department of State and others to assess the security implications of this and other programs), Advocacy recommends that the U.S. Department of State either provides a factual basis for its RFA certification or prepares and publishes an initial regulatory flexibility analysis (IRFA) for public comment before proceeding with this rule.

For more information about rule, please visit Advocacy's Web page at www.sba.gov/advo or contact Bruce Lundegren, Assistant Chief Counsel, at (202) 205-6144 or bruce.lundegren@sba.gov.