



Highlights of [GAO-08-458T](#), a testimony before the Chairman, Subcommittee on Terrorism, Technology, and Homeland Security, Committee on the Judiciary, U.S. Senate.

Why GAO Did This Study

The Visa Waiver Program, which enables citizens of participating countries to travel to the United States without first obtaining a visa, has many benefits, yet also presents security, law enforcement, and illegal immigration risks. In August 2007, Congress passed legislation that provides the Department of Homeland Security (DHS) with the authority to expand the program to additional countries whose nationals' applications for short-term business and tourism visas were refused between 3 and 10 percent of the time in the prior fiscal year. Countries must also meet certain conditions, and DHS must first complete and certify a number of required actions aimed at enhancing the security of the program. This testimony will focus on one of these required actions—namely, that a system be in place that can verify the departure of 97 percent of foreign nationals who depart through U.S. airports (referred to as an air exit system). Our observations are based on our review of relevant legislation, regulations and agency operating procedures, and prior GAO reports on the Visa Waiver Program and immigrant and visitor entry and exit tracking systems, as well as on discussions with federal agency officials. In commenting on a draft of this statement, DHS emphasized that it had not finalized its plan for certifying the “97 percent” requirement, but that the department believes the current plan would meet the legislative requirement. The Department of State also provided technical comments, which we incorporated, as appropriate.

To view the full product, including the scope and methodology, click on [GAO-08-458T](#). For more information, contact Jess Ford at (202) 512-4128 or fordj@gao.gov.

VISA WAIVER PROGRAM

Limitations with Department of Homeland Security's Plan to Verify Departure of Foreign Nationals

What GAO Found

On December 12, 2007, DHS reported to us that it will match records of foreign nationals departing the country, as reported by airlines, to the department's existing records of any prior arrivals, immigration status changes, or prior departures from the United States. Using this formula, DHS stated that it can attain a match rate above 97 percent, based on August 2007 data, to certify compliance with the legislative air exit system requirement. DHS told us that it believes this methodology would meet the statutory requirement. On February 21, 2008, DHS indicated that it had not finalized its decision on the methodology the department would use to certify compliance. Nevertheless, the department confirmed that the basic structure of its methodology would not change, and that it would use departure records as the starting point. There are several limitations with this methodology. For example, DHS's methodology does not begin with arrival records and determine if these foreign nationals stayed in the United States beyond their authorized periods of admission (referred to as overstays). Therefore, this methodology will not inform overall and country-specific overstay rates—key factors in determining illegal immigration risks of the Visa Waiver Program. Although most long-term overstays are likely motivated by economic opportunities, a few overstays have been identified as terrorists or involved in terrorist-related activity, including some of the September 11, 2001, hijackers. In addition, DHS's current methodology does not address the accuracy of airlines' transmissions of departure records, and DHS acknowledges that there are weaknesses in the departure data. For example, there may be some visitors who did not leave the country by air even though they were recorded on airlines' manifest data as having departed. The inability of the U.S. government to track the status of visitors in the country, to identify those who overstay their authorized period of visit, and to use this data to compute overstay rates have been longstanding weaknesses in the oversight of the Visa Waiver Program. DHS's plan to meet the “97 percent” requirement in the visa waiver expansion legislation will not address these weaknesses.