



Report to the Ranking Member,
Committee on the Judiciary,
U.S. Senate

February 2014

STUDENT AND EXCHANGE VISITOR PROGRAM

DHS Needs to Assess Risks and Strengthen Oversight of Foreign Students with Employment Authorization

GAO Highlights

Highlights of [GAO-14-356](#), a report to the Ranking Member, Committee on the Judiciary, U.S. Senate

Why GAO Did This Study

As of November 2013, about 100,000 of the approximately 1 million foreign students in the United States were approved to participate in OPT—an employment benefit that allows foreign students to obtain temporary work in their areas of study during and after completing an academic program. ICE is responsible for certifying schools; monitoring foreign students and schools, including their compliance with OPT requirements; and enforcing immigration laws for those that fail to comply.

GAO was asked to review the management of OPT. This report examines the extent to which DHS has (1) identified and assessed risks associated with OPT, and (2) collected information and developed monitoring mechanisms to help ensure students comply with OPT requirements and maintain their legal status. GAO analyzed ICE regulations and policies and data on schools that recommend and foreign students approved for OPT, as of August 2013. GAO interviewed ICE and USCIS officials, including those from 7 of 26 ICE field offices selected based on factors such as OPT-related fraud investigations. Interview results cannot be generalized, but they provided insights about OPT risks.

What GAO Recommends

GAO recommends that ICE, among other things, identify and assess OPT-related risks and require additional employment information from students and schools. DHS concurred with the recommendations.

View [GAO-14-356](#). For more information, contact Rebecca Gambler at (202) 512-8777 or gablerr@gao.gov.

February 2014

STUDENT AND EXCHANGE VISITOR PROGRAM

DHS Needs to Assess Risks and Strengthen Oversight of Foreign Students with Employment Authorization

What GAO Found

U.S. Immigration and Customs Enforcement (ICE), a component of the Department of Homeland Security (DHS), has not identified or assessed fraud or noncompliance risks posed by schools that recommend and foreign students approved for optional practical training (OPT), in accordance with DHS risk management guidance. ICE's Student and Exchange Visitor Program (SEVP) officials consider OPT to be a low-risk employment benefit for foreign students because, in part, they believe foreign students approved for OPT do not have an incentive to jeopardize their legal status in the United States. However, SEVP has not determined potential risks in OPT. Further, officials from the Counterterrorism and Criminal Exploitation Unit (CTCEU), ICE's investigative unit, and ICE field agents GAO interviewed have identified potential risks involving OPT based on prior and ongoing investigations. For example, ICE field agents identified cases where school officials recommended OPT for foreign students to work outside of their major areas of study, which is not allowed under ICE regulations. In response to a June 2012 GAO recommendation, ICE has taken initial actions to identify risks across SEVP-certified schools but has not identified and assessed OPT risks or determined the extent to which potential OPT risks will be part of its efforts to assess risks SEVP-wide. Further, SEVP has not coordinated with CTCEU, including obtaining and assessing information from CTCEU and ICE field offices regarding OPT risks, as part of its efforts. Identifying and assessing OPT risks, in coordination with CTCEU, could better position SEVP to manage risks in OPT.

ICE has not consistently collected the information and developed the monitoring mechanisms needed to help ensure foreign students comply with OPT requirements, thereby maintaining their legal status in the United States. Foreign students can participate in OPT while attending classes and after graduation for up to 12 months; students studying in science, technology, engineering, or mathematics fields may be eligible for an additional 17 months (29 months total). However, ICE does not have complete information on which foreign students approved for OPT are actively working and whether employment is related to their studies, per ICE regulations. For example, GAO's analysis of ICE data on students engaged in all types of OPT indicates that 38 percent (48,642 of 126,796) of student records do not contain an employer's name. Furthermore, the data do not include the date on which students granted authorization began working. ICE does not require that students and school officials report this information. Without these data, ICE cannot determine whether students with employment authorization are working in jobs related to their studies and not exceeding regulatory limits on unemployment. Collecting and monitoring complete information on foreign students approved for OPT would better position ICE to determine whether these students are maintaining legal status in the United States.

This is a public version of a For Official Use Only/Law Enforcement Sensitive report that GAO issued in January 2014. Information DHS deemed sensitive has been redacted.

Contents

Letter		1
	Background	7
	ICE Has Not Identified or Assessed Risks in OPT	15
	ICE Cannot Fully Ensure Foreign Students Working under Optional Practical Training Are Maintaining Their Legal Status in the United States	18
	Conclusions	30
	Recommendations for Executive Action	31
	Agency Comments and Our Evaluation	32
Appendix I	Objectives, Scope, and Methodology	33
Appendix II	Comments from the Department of Homeland Security	38
Appendix III	GAO Contact and Staff Acknowledgments	41
Tables		
	Table 1: Key Requirements for the Three Types of Optional Practical Training (OPT)	10
	Table 2: U.S. Citizenship and Immigration Services' (USCIS) Receipts of Employment Authorization Applications for Optional Practical Training and Adjudication Results, Fiscal Years 2008 through 2013	14
	Table 3: Employer Name in Student Records by Type of Optional Practical Training (OPT), as of August 2013	19
	Table 4: Student Records for Optional Practical Training (OPT) Students Containing Information in Employment Comment and Remark Fields, as of August 2013	21
	Table 5: Student Records for Optional Practical Training (OPT) Students' Dates of Educational Program and Employment, as of August 2013	28
Figure		
	Figure 1: Approval Process for a Foreign Student Seeking to Participate in Optional Practical Training (OPT)	13

Abbreviations

CBP	U.S. Customs and Border Protection
CLAIMS	Computer-Linked Application Information Management System 3
CTCEU	Counterterrorism and Criminal Exploitation Unit
DHS	Department of Homeland Security
DSO	designated school official
HSI	Homeland Security Investigations
ICE	U.S. Immigration and Customs Enforcement
OPT	optional practical training
SEVIS	Student and Exchange Visitor Information System
SEVP	Student and Exchange Visitor Program
STEM	science, technology, engineering, and mathematics
USCIS	U.S. Citizenship and Immigration Services

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.



February 27, 2014

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate

Dear Senator Grassley:

As of November 2013, about 100,000 of the approximately 1 million foreign students in the United States (or about 10 percent) were approved to participate in the Department of Homeland Security's (DHS) optional practical training (OPT). OPT is an employment benefit that allows foreign students to seek temporary work during and after completing an academic program to gain practical experience in their major areas of study. The February 1993 terrorist attack on the World Trade Center, which involved foreign students, drew attention to the need to improve the monitoring of foreign students by, among other things, moving from a manual paper-based foreign student tracking and monitoring system to a computer-based system. Subsequently, the September 2001 terrorist attacks, as well as the April 2013 terrorist attack on the Boston Marathon, drew renewed attention to the need to further enhance the monitoring of foreign students. According to DHS officials, those foreign students who remain in the United States after completing their program of study by working under OPT can pose risks. Thus, proper monitoring is important to ensure that, for example, foreign students who complete an academic program and any authorized OPT leave the United States as required or take steps to legally extend their stay in the country to avoid becoming overstays.¹

¹Overstays are individuals who were admitted into the country legally on a temporary basis but then overstayed their authorized periods of admission. In this report, we include out-of-status students—student visa holders who fail to meet certain requirements, such as enrolling in a qualified education program or engaging in authorized practical training following completion of studies—in our definition of overstays. Foreign students are allowed 60 days after the completion of their academic program or OPT to prepare for departure from the United States. For more information, see GAO, *Overstays Enforcement: Additional Actions Needed to Assess DHS's Data and Improve Planning for a Biometric Air Exit Program*, [GAO-13-683](#) (Washington, D.C.: July 30, 2013).

Within DHS, U.S. Immigration and Customs Enforcement (ICE), through its Student and Exchange Visitor Program (SEVP), is responsible for certifying schools to enroll foreign students and managing the participation of certified schools in the program and nonimmigrant foreign students in the F and M visa classifications.² SEVP oversees F and M student policy, including OPT requirements, and monitors F and M student status.³ According to SEVP's strategic plan framework, SEVP's two primary objectives are to (1) prevent terrorist exploitation of legitimate student entry paths into the United States, and (2) facilitate legitimate flows of people and commerce.⁴ Specifically, according to the plan, SEVP is to deny terrorists acceptance into the U.S. academic system, monitor accepted students and certified schools to identify those that fall out of compliance with immigration laws, and enforce immigration laws for those that fail to comply. Also, SEVP manages the Student and Exchange Visitor Information System (SEVIS), which assists in tracking and monitoring certified schools and foreign students.

Working with SEVP, designated school officials (DSO) are responsible for entering and maintaining foreign students' information in SEVIS, such as information on students' courses of study.⁵ DSOs are also responsible for

²SEVP was created in conjunction with DHS's formation on March 1, 2003. SEVP's funding comes from fees paid by schools and foreign students approved for the program. F visas are for foreign students pursuing academic studies at a college, university, or other academic institution, or in an accredited language training program; M visas are for foreign students pursuing studies at an established vocational or other recognized nonacademic institution. The Department of State manages nonimmigrant exchange visitors in the J visa classification. J visas enable foreign nationals to come to the United States to teach, study, conduct research, demonstrate special skills, or receive on-the-job training for periods ranging from a few weeks to several years.

³In May 2007, ICE and U.S. Citizenship and Immigration Services (USCIS) agreed that authority for F and M student policy and regulations resides with ICE, and that USCIS retains authority for interpreting statutes and regulations with regard to applications by F and M foreign students for employment authorization. In addition, USCIS agreed to coordinate with ICE to ensure that F and M foreign student policies are carried out consistently within DHS, and ICE agreed to consult with USCIS before finalizing policies and regulations governing F and M foreign students.

⁴SEVP strategic plan framework (Washington, D.C.: Sept. 20, 2011).

⁵DSOs are school employees who must be citizens of the United States or lawful permanent residents and whose offices must be located on the campus of their schools. In addition, ICE requires DSOs to be familiar with the regulations governing foreign students, including those approved for OPT. To that end, DSOs must attest that they intend to comply with ICE's rules and regulations specifying their responsibilities, with these attestations providing that willful misstatements constitute perjury.

recommending eligible foreign students for OPT to DHS's U.S. Citizenship and Immigration Services (USCIS), which adjudicates foreign students' applications for employment authorization. Once a foreign student receives approval from USCIS for temporary employment under OPT, the student can start working on the approved starting date. ICE's Counterterrorism and Criminal Exploitation Unit (CTCEU), as the investigative component of ICE, is responsible for, among other things, combating the criminal exploitation of the foreign student visa system, including conducting criminal investigations of school and foreign student fraud, such as OPT fraud. Further, CTCEU is responsible for locating and apprehending F and M students who have violated their immigration status, including those who have done so by failing to comply with OPT requirements. CTCEU gathers and analyzes leads on nonimmigrants in the United States to identify potential national security or criminal threats and ensure compliance with immigration laws.

In April 2011, we reported that some schools had attempted to exploit the immigration system by knowingly reporting that foreign students were fulfilling their visa requirements, such as attending school full-time, when they were not attending school or attending intermittently.⁶ In June 2012, we reported on ICE's efforts to assess risks of fraud and noncompliance in SEVP and oversee schools that are certified to accept foreign students.⁷ Specifically, we reported that ICE had not developed a process to identify and analyze risks across SEVP-certified schools, in accordance with internal control standards and risk management guidance. We reported that officials from SEVP and CTCEU had expressed concerns about the fraud risks posed by schools that do not comply with requirements. However, we found that SEVP did not have processes to identify and analyze program risks, including (1) evaluating prior and suspected cases of school noncompliance and fraud, and (2) obtaining and assessing information from CTCEU and ICE field offices on school investigations and outreach. In addition, we found that ICE had not consistently implemented existing controls, in accordance with federal internal control standards and fraud prevention practices, to verify

⁶GAO, *Overstay Enforcement: Additional Mechanisms for Collecting, Assessing, and Sharing Data Could Strengthen DHS's Efforts but Would Have Costs*, [GAO-11-411](#) (Washington, D.C.: Apr. 15, 2011).

⁷GAO, *Student and Exchange Visitor Program: DHS Needs to Assess Risks and Strengthen Oversight Functions*, [GAO-12-572](#) (Washington, D.C.: June 18, 2012).

schools' legitimacy and eligibility during initial SEVP certification and once schools began accepting foreign students. Further, we found that ICE did not maintain records to document SEVP-certified schools' ongoing compliance with regulatory requirements and that school case files were incomplete or missing. On the basis of these findings, we recommended that ICE develop and implement a process to identify and assess risks in SEVP, consistently implement procedures for ensuring schools' eligibility, and establish a process to identify and address all missing school case files, among other things. DHS concurred with these recommendations and, as of December 2013, has taken steps to address them. For example, SEVP has taken initial steps to develop preliminary risk indicators for certified schools and recover documentation that had been missing from school case files.

You asked us to review DHS's management of OPT, including whether DHS considers risk information in monitoring those schools that recommend foreign students, and foreign students approved, for this employment benefit. This report examines the extent to which DHS has (1) identified and assessed risks associated with OPT, and (2) collected information and developed monitoring mechanisms to help ensure students comply with OPT requirements and maintain their legal status in the United States.

This report is a public version of the prior sensitive report that we provided to you. DHS deemed some of the information in the prior report as For Official Use Only/Law Enforcement Sensitive, which must be protected from public disclosure. Therefore, this report omits sensitive information on risk indicators related to OPT, specific details on types of foreign student information maintained and shared in DHS databases, and specific information on actions DHS could take related to foreign students' school transfers. Although the information provided in this report is more limited in scope, it addresses the same questions as the sensitive report. Also, the overall methodology used for both reports is the same.

To evaluate the extent to which DHS has identified and assessed risks associated with OPT, we analyzed documentation such as ICE's compliance and watch lists that contain schools that SEVP has identified as potentially noncompliant or fraudulent. Also, we analyzed ICE news bulletins from January 2008 to November 2013 to help determine the magnitude of previous cases of fraud and evaluated information provided by CTCEU on criminal investigations related to school or student noncompliance or fraud involving OPT. In addition, we analyzed documentation CTCEU officials provided regarding risks and

vulnerabilities they have identified in OPT-related policies, procedures, and regulations during the course of their work. Moreover, we analyzed SEVIS data on schools that had at least one foreign student approved for OPT, as of August 2013, to identify examples of schools that pose a potential risk for fraud or noncompliance involving OPT using a risk indicator identified by CTCEU. Further, we compared DHS's risk management practices related to OPT against DHS's *Policy for Integrated Risk Management* and *Risk Management Fundamentals*.⁸

To determine the extent to which DHS has collected information and developed monitoring mechanisms to help ensure students comply with OPT requirements and maintain their legal status in the United States, we analyzed the processes ICE uses to collect information on where and when students are working and to monitor schools' and students' compliance with specific requirements for maintenance of their student visa status. We also assessed the implementation of SEVP's management and oversight controls against criteria in *Standards for Internal Control in the Federal Government* as they relate to, among other things, compliance with applicable laws and regulations.⁹ Using the SEVIS data on foreign students approved for OPT as of August 2013, we analyzed the extent to which foreign student records contained employer information, included information on whether employment was related to the major area of study, and indicated the amount of OPT authorized.

To assess the reliability of the SEVIS data on foreign students approved for OPT that we analyzed for both objectives, we (1) reviewed existing documentation on the controls in the system and the policies for ensuring data reliability, and (2) interviewed agency officials responsible for managing the data about the data's sources, the system's controls, and any quality assurance steps performed after data are entered into the system. We identified several limitations to the data, which we discuss later in the report. While we identified such limitations, we found the data to be sufficiently reliable for providing descriptive information on the population of SEVP-certified schools that have recommended OPT and of

⁸Department of Homeland Security, *DHS Policy for Integrated Risk Management* (Washington, D.C.: May 27, 2010), and *DHS Risk Management Fundamentals: Homeland Security Risk Management Doctrine* (Washington, D.C.: April 2011).

⁹GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: Nov. 1, 1999).

foreign students engaged in OPT. We also found the data sufficiently reliable for analyzing student records for compliance with certain regulatory and policy requirements. In addition, we analyzed USCIS's Computer-Linked Application Information Management System 3 (CLAIMS) data on the results of USCIS's adjudications of requests for OPT employment authorization from fiscal years 2008 through 2013.¹⁰ To assess the reliability of these CLAIMS data, we interviewed agency officials responsible for managing the data about the data's sources and the system's controls. We found the data to be sufficiently reliable to report information on the number of, among other things, employment authorization applications and approvals for foreign students engaged in OPT.

In addition, to address both objectives, we interviewed officials from SEVP's School Certification, Policy, Analysis and Operations Center, Field Representative, and Systems Management branches and units to discuss their involvement in OPT. We also interviewed officials from CTCEU, as well as investigators from 7 of ICE's 26 Homeland Security Investigations (HSI) field offices, which allowed us to obtain their perspectives on any risks associated with OPT.¹¹ We selected these offices based on their experience in investigating previous and ongoing cases of school or student fraud or noncompliance related to OPT. Although the results from these interviews cannot be generalized to officials at all 26 ICE field offices, they provided us with useful insights into lessons learned from cases related to OPT. We also interviewed USCIS officials to determine the extent to which USCIS has implemented processes for ensuring the eligibility of students applying for employment authorization under OPT. In addition, we interviewed 11 DSOs, and received a written response from 1 DSO, from schools in and around the Washington, D.C., area. We selected these officials because, as of July 2013, they composed a group of representatives from SEVP-certified

¹⁰CLAIMS 3 is a legacy Immigration and Naturalization Service case management system utilized by USCIS. CLAIMS 3 includes data and information on the status of foreign nationals' applications for extensions of stay and a variety of immigration applications and petitions (e.g., to convert from a tourist to a student). CLAIMS 3 also maintains data on applications for work authorization.

¹¹We interviewed officials from ICE's HSI field offices in Atlanta, Georgia; Boston, Massachusetts; Newark, New Jersey; New York, New York; and Los Angeles and San Francisco, California. We also interviewed officials from ICE's HSI field office in Charleston, West Virginia, which is under the supervision of the field office in Philadelphia, Pennsylvania.

schools of various types and sizes in the Washington, D.C., region that meets regularly with SEVP to discuss matters such as SEVIS and SEVP policy and requirements. The results from these interviews cannot be generalized to all DSOs, but provided us with useful insights into the role of the DSOs in OPT. Further, we interviewed officials from NAFSA: Association of International Educators to discuss the organization's views on OPT, including the involvement of DSOs in OPT.¹² Appendix I presents more details about our scope and methodology.

We conducted this performance audit from February 2013 to February 2014, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Federal Agencies' and School Officials' Roles and Responsibilities Regarding Foreign Students Approved for OPT

Foreign students interested in studying in the United States must first be admitted to a school or university before applying for a visa at a U.S. embassy or consulate overseas. DSOs use SEVIS to issue Form I-20s to students, which enable them to apply for nonimmigrant student visas.¹³ The Department of State (State) issues nonimmigrant visas to eligible foreign students. The process for determining who will be issued or refused a visa, including F and M visas, contains various steps, including documentation reviews, in-person interviews, collection of applicants' fingerprints, and cross-references against State's name check database.

¹²NAFSA was founded in 1948 as the National Association of Foreign Student Advisers to promote the professional development of U.S. college and university officials responsible for assisting and advising foreign students. In 1990, NAFSA changed its name to NAFSA: Association of International Educators to reflect its expanded mission. NAFSA's mission is to serve international educators, including international student advisers and DSOs, and their institutions and organizations, by establishing principles of good practice, providing professional learning and development opportunities, providing networking opportunities, and advocating for international education.

¹³The Form I-20 is a Certificate of Eligibility for Nonimmigrant Student Status for Academic and Language Students or Vocational Students.

F visas are for academic study at 2- and 4-year colleges and universities and other academic institutions.¹⁴ M visas are for nonacademic study at institutions such as vocational and technical schools.¹⁵ Nonimmigrants who wish to work temporarily in the United States typically need to obtain a visa that allows them to work in the United States; F and M visas allow for limited employment authorization and may not be used in place of visa classifications designated for temporary employees.¹⁶ F and M visa holders are not allowed to work in the United States after completing their program of study unless they receive employment authorization through OPT.

A visa allows a foreign citizen to travel to a U.S. port of entry and request permission from an officer with DHS's U.S. Customs and Border Protection (CBP) to enter the United States.¹⁷ However, a visa does not guarantee entry into the country. By interviewing individuals and examining the validity of their required documentation, CBP officers determine whether to admit individuals into the United States. Foreign nationals traveling on student visas are not generally issued specific dates until which they are authorized to remain in the United States, but instead are admitted for what is referred to as duration of status. This means that they may remain in the country so long as they maintain their student status (such as by enrolling full-time in an academic program or being approved for OPT after completing their program of study). USCIS adjudicates, among other things, change-of-status requests from other classes of nonimmigrants in the United States who wish to become F or M students. With regard to OPT, in particular, USCIS is responsible for adjudicating employment authorization requests from the foreign students who have obtained DSOs' recommendations to participate in OPT.

¹⁴8 U.S.C. § 1101(a)(15)(F); 8 C.F.R. § 214.2(f).

¹⁵8 U.S.C. § 1101(a)(15)(M); 8 C.F.R. § 214.2(m).

¹⁶For example, H-1B visas allow foreign citizens to come to the United States to perform temporary work in specialty occupations. A specialty occupation is defined as one requiring theoretical and practical application of a body of highly specialized knowledge and the attainment of a bachelor's degree or higher (or its equivalent) in the field of specialty. H-2A and H-2B visas respectively allow foreign citizens to come to the United States to perform temporary or seasonal agricultural and nonagricultural work.

¹⁷A port of entry is any officially designated location (seaport, airport, or land border location) where DHS officers or employees are assigned to clear passengers and merchandise, collect duties, and enforce customs laws.

Within ICE, SEVP, in conjunction with DSOs, is responsible for overseeing foreign students approved for OPT and maintaining information on these students in SEVIS. Also within ICE, CTCEU is responsible for (1) investigating foreign students who fail to enroll in or maintain status at their schools, including those foreign students approved for OPT, and (2) conducting criminal investigations of certified schools that do not remain in compliance with regulatory requirements. For example, CTCEU pursues criminal investigations against school officials who have exploited the system by operating sham institutions, which are operated solely to admit foreign nationals into the country without participation in educational programs. CTCEU assigns school and foreign student fraud-related investigations to ICE field offices; the offices can also open their own fraud investigations.

Requirements for Initial Approval and Ongoing Eligibility for OPT

According to ICE regulations and policies, OPT is available to eligible foreign students (F and M visa holders) who are enrolled in a college, university, conservatory, seminary, or established vocational or other recognized nonacademic institution, in a program other than English language training.¹⁸ Employment under OPT must be in a job directly related to the foreign student's major area of study, and foreign students who apply to participate in OPT must have completed at least 1 academic school year or, in the case of M visa holders, their entire course of study. Foreign students on an F visa can temporarily work in the country under one of three types of OPT.¹⁹ First, foreign students may work part-time while they are in school or full-time on school breaks (pre-completion OPT).²⁰ Second, foreign students may work full-time for up to 12 months after completing a program of study (12-month post-completion OPT).

¹⁸8 C.F.R. § 214.2(f)(10), (m)(14); SEVP Policy Guidance 1004-03.

¹⁹Foreign students on an M visa may engage in OPT only after completion of their course of study and for a total of no more than 6 months.

²⁰Foreign students on an F visa who are not enrolled in English language training programs also may engage in curricular practical training. Curricular practical training must be an integral part of an established curriculum and is defined as alternative work/study, internship, cooperative education, or any other type of required internship or practicum that is offered by sponsoring employers through cooperative agreements with the school. Unlike OPT, curricular practical training does not require employment authorization from USCIS, and exceptions to the 1 academic year requirement can be made for students enrolled in graduate studies that require immediate participation in curricular practical training. See 8 C.F.R. § 214.2 (f)(10)(i).

Third, foreign students studying in areas of study related to science, technology, engineering, and mathematics (STEM) are eligible to work full-time for an additional 17 months (17-month STEM extension post-completion OPT).²¹ Table 1 shows the three types of OPT and their requirements.

Table 1: Key Requirements for the Three Types of Optional Practical Training (OPT)

Requirements	Pre-completion OPT	12-month post-completion OPT ^a	17-month science, technology, engineering, and mathematics (STEM) extension post-completion OPT
Eligibility	F visa students who have been enrolled in a program of study at a college, university, conservatory, or seminary for at least 1 academic year.	F and M visa students who have completed their program of study at a college, university, conservatory, seminary, or recognized nonacademic institution such as a vocational school.	<p>F visa students who have completed their program of study at a college, university, conservatory, or seminary and who have completed the 12-month post-completion OPT.</p> <p>Students must have a bachelor's, master's, or doctoral degree in a Department of Homeland Security (DHS)-designated STEM program.^b</p> <p>Employers must be participants in E-Verify.^c</p> <p>Only one 17-month extension is permitted per student.</p>

²¹Students approved for either 12-month post-completion OPT or 17-month STEM extension post-completion OPT can have their student status and employment authorization automatically extended if they are the beneficiaries of an H-1B petition for temporary employment in a specialty occupation. The employment authorization extension generally lasts until October 1 of the fiscal year for which the H-1B visa is being requested or until the petition is rejected, denied, or revoked, whichever comes first. This extension is referred to as the cap-gap extension. See 8 C.F.R. § 214.2(f)(5)(vi).

Requirements	Pre-completion OPT	12-month post-completion OPT ^a	17-month science, technology, engineering, and mathematics (STEM) extension post-completion OPT
Employment duration and accrual limits	<p>Employment may occur only during the student's program of study.</p> <p>Any part-time pre-completion employment counts as half of the amount of time worked in calculating the total allowed OPT for each foreign student (for example, 6 months of part-time pre-completion OPT counts as 3 months toward the 12-month total allowed OPT).</p>	<p>F visa students cannot exceed 12 months of post-completion OPT, including any time spent in pre-completion OPT.</p> <p>F visa students' employment end dates must be within 14 months of the program of study end date (for example, by July 2014 if the student graduated in May 2013).</p> <p>M visa students can work for a maximum of only 6 months following the completion of their program of study (for example, by November 2013 if the student graduated and started to work in May 2013).</p>	<p>F visa students cannot exceed 17 months of STEM extension OPT.</p> <p>F visa students' employment start and end dates must be within 17 months of the 12-month post-completion OPT end date and 31 months of the program of study end date (for example, by December 2015 if the student finished the 12-month post-completion OPT in July 2014 and graduated in May 2013).</p>
Employment hours	<p>Students are allowed to work no more than 20 hours per week while school is in session.</p> <p>During scheduled school breaks (such as summer and winter break), students may work more than 20 hours per week.</p>	<p>Students may work part-time (at least 20 hours per week) or full-time in paid employment.</p> <p>Students must work at least 20 hours per week in unpaid employment.</p>	<p>Students must work at least 20 hours per week.</p>
Employment-reporting requirements	<p>Students must report interruption of employment or any change in name or address to the designated school official (DSO).</p>	<p>Students must report interruption of employment or any change in name or address to the DSO.</p>	<p>Students must submit validation reports of all information to the DSO every 6 months and must report a change in name, address, or employment within 10 days of the change.^d</p> <p>Employers must agree to report the termination or departure of a student to the DSO within 48 hours.</p>
Unemployment	<p>Students do not accrue unemployment.</p>	<p>Students may not accrue more than 90 days of unemployment.</p>	<p>Students may not accrue more than 120 days of unemployment (including the 90 days allowed during the initial 12-month post-completion OPT).</p>
Termination of OPT	<p>Authorization is automatically terminated if the student transfers to another school or begins study at another level of study.</p>	<p>Authorization is automatically terminated if the student transfers to another school or begins study at another level of study.</p>	<p>Authorization is automatically terminated if the student transfers to another school or begins study at another level of study.</p>

Source: GAO analysis of 8 C.F.R. § 214.2(f)(10)(ii), (f)(12), (m)(14) and SEVP Policy Guidance 1004-03.

^aM visa students can work for a maximum of 6 months following completion of their program of study.

^bThe Department of Homeland Security (DHS) maintains the Science, Technology, Engineering, and Mathematics (STEM)-Designated Degree Program List. This DHS list sets forth eligible courses of

study based on the Classification of Instructional Programs codes developed by the U.S. Department of Education's National Center for Education Statistics. DHS originally released this list in April 2008 and last updated it in May 2012.

^eE-Verify is a free, largely voluntary, Internet-based system operated by the Verification Division of USCIS and the Social Security Administration. The goals of E-Verify are to (1) reduce the employment of individuals unauthorized to work, (2) reduce discrimination, (3) protect employee civil liberties and privacy, and (4) prevent undue burden on employers. See GAO, *Employment Verification: Federal Agencies Have Taken Steps to Improve E-Verify, but Significant Challenges Remain*, [GAO-11-146](#) (Washington, D.C.: Dec. 17, 2010).

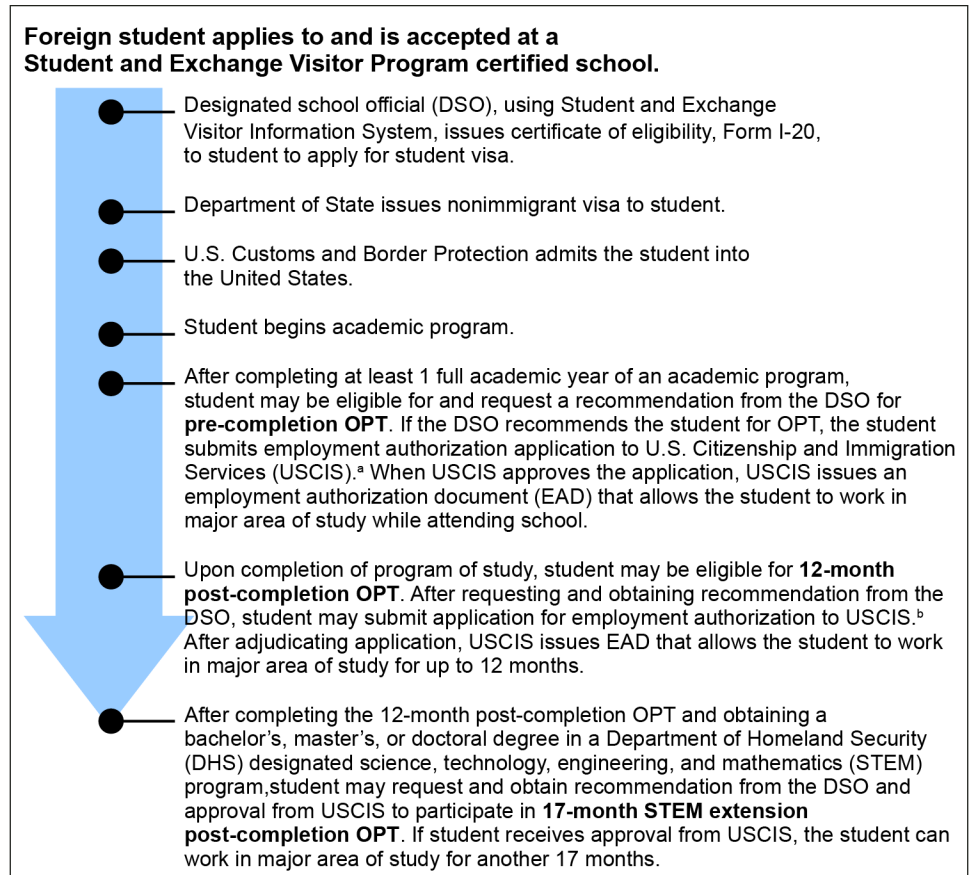
^dValidation reports include students' employment and personal information.

As shown in figure 1, foreign students initiate the OPT application process by requesting a recommendation for OPT from their DSOs.²² The DSO is to ensure that students are eligible for the requested type and length of OPT and that the students are aware of their responsibilities for maintaining status while on OPT. ICE regulations do not require that students have secured employment prior to applying for pre-completion OPT or 12-month post-completion OPT; therefore, an employer name is not required to be entered in SEVIS at the time of the application. Regarding the 17-month STEM extension post-completion OPT, students must have secured employment prior to applying for this extension and must provide the employer's name to the DSO. Prior to recommending the extension, the DSO must confirm that a student's degree is a bachelor's, master's, or doctoral degree that is in DHS's STEM-Designated Degree Program list.²³ The DSO makes the recommendation through SEVIS, which updates the student's Form I-20 to reflect the recommendation. The DSO is to update the student's SEVIS record with the student's requested start and end dates of employment, as well as whether the employment will be part- or full-time. In the case of the 17-month post-completion STEM extension OPT, the DSO is to enter and update employer information.

²²See generally 8 C.F.R. § 214.2(f)(11) for OPT application requirements.

²³This DHS list sets forth eligible courses of study based on the Classification of Instructional Programs codes developed by the U.S. Department of Education's National Center for Education Statistics.

Figure 1: Approval Process for a Foreign Student Seeking to Participate in Optional Practical Training (OPT)



Source: GAO analysis of DHS and State Department information.

^aA student may apply for pre-completion OPT up to 90 days before being enrolled for 1 full academic year, provided that the period of employment will not start prior to completion of the full academic year.

^bA student may apply for post-completion OPT up to 90 days before or up to 60 days after completing the program of study.

After receiving the Form I-20 that notates the DSO's recommendation for OPT, the foreign student must file a Form I-765, Application for Employment Authorization, with USCIS within 30 days of the date the DSO enters the OPT recommendation into SEVIS and pay the required application fee.²⁴ USCIS adjudicates all nonimmigrants' applications for

²⁴As of December 3, 2013, the filing fee for Form I-765 was \$380.

employment authorization by determining whether an applicant has submitted the required information and documentation, such as proof of the student’s financial support, and whether the applicant is eligible.²⁵ Specifically, USCIS adjudicates the application for OPT employment authorization on the basis of the DSO’s recommendation and other eligibility considerations, such as whether the student can financially support himself or herself while on OPT, and for those students applying for the 17-month STEM post-completion extension, determining whether the employer is registered with E-Verify. Table 2 presents data on OPT-related employment authorization application receipts and related adjudication results (approvals, denials, and revocations) from fiscal years 2008 through 2013. During this period, the data show that USCIS approved 96 percent of the applications for OPT employment authorization. In fiscal year 2013, approximately 123,000 foreign students received approval from USCIS to seek temporary employment through OPT to complement their academic coursework.

Table 2: U.S. Citizenship and Immigration Services’ (USCIS) Receipts of Employment Authorization Applications for Optional Practical Training and Adjudication Results, Fiscal Years 2008 through 2013

Fiscal year	Receipts	Approvals ^a	Denials ^b	Revocations ^c
2008	38,730	28,497	360	1
2009	87,636	90,896	2,125	71
2010	99,876	96,916	1,731	57
2011	109,895	105,357	2,226	67
2012	117,141	115,303	2,801	71
2013	128,591	123,328	3,400	77
Total	581,869	560,297	12,643	344

Source: USCIS Computer-Linked Application Information Management System 3 data.

^aApprovals are the number of applications that are approved during the reporting period. Approvals may include applications received in a previous fiscal year. For example, the number of approvals exceeded the number of applications received in fiscal year 2009.

^bDenials are the number of applications that are denied because of ineligibility or fraud during the reporting period

^cRevocations are the number of approved employment authorizations that are revoked, or canceled, during the reporting period. For example, approved employment authorizations can be revoked when it appears that any condition upon which employment authorization was granted has not been met or no longer exists or upon a showing that the information contained in the application is not true and correct.

²⁵8 C.F.R. 214.2(f)(11)(iii).

If USCIS approves the application, it issues the student an Employment Authorization Document, or Form I-766. Employment authorization for pre-completion OPT, 12-month post-completion OPT, and 17-month STEM extension post-completion OPT begins on the student's requested date or the USCIS-approved date, whichever is later, and ends at the conclusion of the approved period of OPT.

ICE Has Not Identified or Assessed Risks in OPT

SEVP has not identified or assessed risks associated with OPT, such as potential fraud or noncompliance with ICE regulations. Senior SEVP officials told us they consider OPT to be a low-risk employment benefit for foreign students because, in part, they believe foreign students under OPT do not have an incentive to jeopardize their foreign student visa status and future legal status to stay and work in the United States. However, SEVP has not developed a process to determine the extent to which schools that recommend and foreign students approved for OPT may pose risks.

Further, CTCEU officials and ICE field agents we interviewed at all seven ICE field offices in our review stated they believe OPT to be at risk for fraud and noncompliance based on their experience investigating these types of cases. Specifically, senior CTCEU officials stated that OPT is at risk for fraud and noncompliance, in part, because it enables eligible foreign students to work in the United States for extended periods of time without obtaining a temporary work visa. In addition, ICE field office agents we interviewed stated that foreign students approved for OPT present a risk for becoming overstays because they are allowed to work and remain in the United States for 12 to 31 months after graduation from school. Also, ICE agents and DSOs we interviewed stated that DSOs face greater challenges in monitoring foreign students in post-completion OPT because the students are no longer attending classes. Moreover, CTCEU officials stated that nonimmigrants are a vulnerable population that can be exploited by illegitimate companies or organizations that lure students to the United States with false promises of high-paying jobs and potential ways to stay in the country. For example, CTCEU officials stated that a recruiter or other third party may offer to help foreign students find OPT work for a fee or percentage of the foreign student's salary once the student begins work under OPT. Additionally, SEVP's compliance unit maintains a log of schools identified as potentially out of compliance with ICE regulations. As of September 2013, out of the 133 schools on the log, SEVP had identified 17 schools as potentially noncompliant with ICE regulations related to OPT.

Further, CTCEU officials and ICE field agents we interviewed described various cases involving OPT that demonstrate their concerns with the management and oversight of OPT. For example, in a 2012 case, according to an ICE investigator, a school charged students for an OPT recommendation on the Form I-20 and for keeping students in status once they had entered the country, without requiring school attendance. In another case, in 2012, ICE investigators initiated an investigation after they received a complaint about a school's noncompliance with OPT requirements, such as students not working in their area of study. In particular, ICE investigators found that the DSOs at the school would submit fraudulent Form I-20s to recommend students for OPT; however, the foreign students were not using OPT to work jobs related to their areas of study (e.g., a nursing student working in a pizza parlor), which is not allowed under ICE regulations. In a third case, in 2011, ICE field office investigators initiated an investigation of a school on the basis of information received from CBP that indicated that one of the school's DSOs was allegedly providing documentation authorizing students to work in jobs not related to their major areas of study.

Using information obtained through prior ICE field offices' investigations of schools' and students' noncompliance with ICE regulations and policy requirements, CTCEU officials have identified potential risk indicators specifically associated with OPT and stated they have provided this information to SEVP. Specifically, CTCEU officials stated they provided position papers on multiple occasions from 2011 through 2013 to SEVP officials expressing concerns about risks in SEVP in general and OPT in particular, including recommendations to help mitigate these risks. For example, in a position paper dated April 2013, CTCEU officials recommended to SEVP that DSOs enter the date on which USCIS grants OPT employment authorization in SEVIS to allow ICE and USCIS officials to compare this date with the date of enrollment to identify potential risks of students seeking to commit immigration fraud. Also, in April 2013, CTCEU briefed SEVP's compliance officials on SEVP- and OPT-related risk indicators. For example, CTCEU officials identified that a certain threshold, or percentage, of a school's foreign student population approved for OPT may be a potential indicator of fraud involving OPT.²⁶ According to our analysis of SEVIS data, as of August 2013, of the

²⁶DHS deemed specific details about the threshold as sensitive; therefore, we did not include them in this report.

approximately 2,650 SEVP-certified schools with at least 1 foreign student approved for OPT, the percentage of each school's registered foreign students approved for OPT met or exceeded the threshold identified by CTCEU at 193 schools. Of the 193 schools, 100 percent of registered foreign students were approved for OPT at 60 schools; most of these schools had 4 or fewer total foreign students, except for 1 school, where the data show that all 35 of the school's foreign students were approved for OPT. The Deputy Director of SEVP agreed that the percentage of a school's foreign student population approved for OPT could be an indicator of potential fraud.

In November 2013, the Deputy Director of SEVP stated that, in response to the recommendation from our June 2012 report that ICE develop and implement a process to identify and assess risks in SEVP, SEVP has taken initial actions to identify potential risks across SEVP-certified schools by developing a risk scorecard by which to assess schools and preliminary risk indicators to classify SEVP-certified schools by risk category. While these are positive steps taken in response to our June 2012 recommendation, SEVP is in the early stages of developing this risk scorecard and the risk indicators, and these efforts are focused on identifying potential risks to SEVP overall. As part of these efforts, SEVP officials have not identified and assessed potential risks specific to OPT posed by schools and foreign students or determined the extent to which the office will include potential OPT risks as part of their efforts to assess risks SEVP-wide. Senior SEVP officials told us they have not identified and assessed risks specific to OPT because they have not considered OPT to be a high-risk employment benefit; however, SEVP has not developed or implemented a risk management process to determine potential risks in OPT. Furthermore, on the basis of information from ICE field office investigations, CTCEU officials have identified SEVP- and OPT-related risks, but, as of November 2013, senior SEVP officials told us they had not yet incorporated CTCEU's input, including relevant information from ICE field offices, into their efforts to assess potential SEVP-wide risks because they preferred to develop and implement a process to identify and assess risks in SEVP on their own before coordinating with CTCEU. DHS's 2010 *Policy for Integrated Risk Management*²⁷ and 2011 *Risk Management Fundamentals*²⁸ establish

²⁷Department of Homeland Security, *DHS Policy for Integrated Risk Management* (Washington, D.C.: May 27, 2010).

DHS's policy and guidance on risk. They instruct DHS and its components to incorporate a risk management process to their planning and management activities that includes, among other things, identifying the risks associated with goals and objectives, analyzing and assessing the identified risks, and using risk information and analysis to inform decision making. Also, DHS's *Policy for Integrated Risk Management* is based on the premise that entities responsible for homeland security can most effectively manage risks by working together, and emphasizes that DHS and its components are to effectively communicate with stakeholders, partners, and customers within and throughout the risk management process. Without identifying and assessing risks in OPT in coordination with CTCEU, SEVP is not well positioned to incorporate a risk management process into its management of OPT. Further, obtaining and assessing risk information from CTCEU and ICE field offices from prior noncompliance and fraud cases involving OPT throughout the development of its process to identify and assess risks in SEVP, to include OPT, could better position SEVP to manage any risks associated with OPT.

ICE Cannot Fully Ensure Foreign Students Working under Optional Practical Training Are Maintaining Their Legal Status in the United States

ICE Does Not Consistently Collect Information Needed to Oversee OPT Requirements

ICE does not consistently collect information needed to oversee OPT requirements related to the type and timing of foreign students' employment, as ICE regulations do not specifically require the collection of information on foreign students' places and dates of employment in SEVIS. Such information could help ICE to better ensure that foreign

²⁸Department of Homeland Security, *DHS Risk Management Fundamentals: Homeland Security Risk Management Doctrine* (Washington, D.C.: April 2011).

students are maintaining their legal status in the United States and to identify and assess potential risks to OPT.

As indicated in table 3, SEVIS data on foreign students approved for the three types of OPT show that 38 percent of student records (48,642 of 126,796) do not contain an employer name, as of August 2013. Specifically, according to our analysis, the employer's name is not included in 65 percent and 48 percent of pre- and 12-month post-completion OPT students' SEVIS records, respectively. Foreign students are not required to have secured a job before seeking pre- and 12-month post-completion OPT, and an employer name is not required of the student at the time of application. Because 17-month STEM extension students are required to have employment prior to application and have ongoing reporting requirements, employer information is more complete, with less than 1 percent of student records missing the employer name.

Table 3: Employer Name in Student Records by Type of Optional Practical Training (OPT), as of August 2013

	Records not containing employer name	Records containing employer name	Total number of foreign students
Pre-completion OPT	940 (65 percent)	500 (35 percent)	1,440
Post-completion OPT			
12-month post-completion	47,686 (48 percent)	52,589 (52 percent)	100,275
17-month science, technology, engineering, and mathematics extension	16 (less than 1 percent)	25,065 (almost 100 percent)	25,081
Total	48,642 (38 percent)	78,154 (62 percent)	126,796

Source: GAO analysis of Student and Exchange Visitor Information System (SEVIS) student record data for OPT, as of August 2013.

In addition to noting the lack of employers' names, our analysis of SEVIS data indicates that other information about employers that would be helpful to identify where foreign students are working, such as the physical address that can be used to differentiate between two employers with the same name, is not consistently collected and maintained in SEVIS. For example, of the 62 percent of student records that have the employer's name populated, approximately 5 percent of those records (3,545 of 78,154) do not include other information on the employer, such as the employer's address, state, city, and postal code. In addition, for all three types of OPT, ICE regulations and policy do not specifically require

students to report to their DSOs when they begin or stop working, and do not require DSOs to enter those corresponding dates into SEVIS.²⁹

Without information on employers or employment start and end dates, ICE's ability to oversee requirements for OPT is limited.

Job directly related to major area of study. ICE requires DSOs to ensure that a student is eligible prior to recommending OPT, and remains eligible for the duration of OPT, by being employed in a job directly related to his or her major area of study. ICE regulations and policy state that DSOs are responsible for reporting in SEVIS subsequent known changes in a student's name and address, employer name and address, and known instances of a student's failure to report to work. Specifically for students seeking the 17-month STEM extension of OPT, SEVP and USCIS require that DSOs enter the students' employer information in SEVIS prior to recommending OPT, and SEVP requires regular confirmation of such students' personal and employer information throughout the time of OPT. Although ICE regulations and policy require DSOs to ensure students' eligibility and to report known changes in students' employer information, they do not require that students report and DSOs provide students' initial employer information (name and address, for example) in SEVIS for students pursuing pre- or 12-month post-completion OPT. According to SEVP officials, requiring this initial employer information for pre- and 12-month post-completion could place an additional burden or requirement on DSOs. Thus, SEVP officials stated that their office would prefer to make this type of change through regulation rather than policy. SEVP officials stated that, in general, changing regulatory language has been difficult and time consuming. However, previous regulatory changes that created the 17-month STEM extension, for example, have been implemented and added reporting requirements in SEVIS for employer information for foreign students approved for this extension.³⁰ As of August 2013, approximately 20 percent of all OPT students were approved for the STEM extension and,

²⁹ICE regulations state that students authorized for OPT are required to report interruptions in employment to DSOs and that DSOs are responsible for updating student records to reflect these reported changes, but they do not specifically require the reporting of employment start and end dates. See 8 C.F.R. §§ 214.2(f)(12)(i), 214.3(g)(2)(ii).

³⁰Extending Period of Optional Practical Training by 17 Months for F-1 Nonimmigrant Students With STEM Degrees and Expanding Cap-Gap Relief for All F-1 Students With Pending H-1B Petitions, 73 Fed. Reg. 18,944 (Apr. 8, 2008).

according to our analysis of SEVIS data, almost 100 percent of SEVIS records for those students have the employment information as required by regulation for OPT students who have been approved for the STEM extension.

ICE regulations and policy require that DSOs ensure that a foreign student is eligible for OPT and assume responsibility for maintaining the student's SEVIS record for the entire period of authorized OPT. ICE regulations and policy also require all OPT employment to be in a job that is directly related to the foreign student's area of study. However, ICE has not provided guidance to DSOs to help determine and document whether the student's job is related to his or her area of study. Requirements for DSOs to collect information on how a job is related to an area of study and guidance on how DSOs should provide such information in SEVIS could help provide ICE with reasonable assurance that foreign students engaged in OPT are working in jobs directly related to their area of study, as required under OPT. In addition to fields for foreign students' employer name and address, SEVIS has two fields for DSOs to add comments or remarks regarding students' employment; however, ICE does not require DSOs to provide any information on how DSOs arrived at the determination that students' jobs relate to their studies in these SEVIS fields. According to SEVP officials and the program's DSO training materials, DSOs could use these two SEVIS fields to explain how a student's employment relates to the student's program of study. According to our analysis of the two fields available in SEVIS for DSOs to enter remarks or comments regarding students' OPT employment, we found that 27 percent of foreign students' records (34,454 of 126,796) did not have any information in either field, as shown in table 4.

Table 4: Student Records for Optional Practical Training (OPT) Students Containing Information in Employment Comment and Remark Fields, as of August 2013

	Percentage of student records with employment comment field blank	Percentage of student records with employment remark field blank	Percentage of student records with both fields blank
Pre-completion OPT	58	41	26
Post-completion OPT			
12-month post-completion	61	38	28
17-month science, technology, engineering and mathematics extension	100	23	23
Total	69 (87,068 of 126,796)	35 (44,676 of 126,796)	27 (34,454 of 126,796)

Source: GAO analysis of Student and Exchange Visitor Information System (SEVIS) student record data for OPT, as of August 2013.

Although information is included in at least one of the employment comment or remark fields for the majority of student records, this information may not be relevant to whether students' employment is related to their studies. SEVP has not developed or provided guidance for DSOs on how to determine whether a student's job is related to his or her program of study and has provided limited guidance on how to report this information in SEVIS using the existing fields. Specifically, SEVP's guidance on OPT recommends that students maintain evidence for how each job is related, including a job description, but is limited in that it does not direct students to report this information to DSOs or DSOs to enter this information into SEVIS. In addition, SEVP's DSO training materials state that DSOs should use the remarks area in SEVIS to explain how the work relates to the students' studies. However, the training materials are limited in that they do not detail both SEVIS fields that are available. In addition, the materials do not provide guidance on how DSOs should show that they took steps to help ensure that students' jobs are related. Federal internal control standards state that federal agencies should, among other things, design and document internal control activities, such as guidance, to help ensure compliance with applicable laws and regulations.³¹ SEVP officials stated that determining whether a job is directly related to a program of study is not defined in the regulations and would be too difficult to define in policy because it is a subjective process. Therefore, ICE has not required DSOs to provide this information in SEVIS.

Because ICE has not required information on how students' jobs are related to their studies and SEVP has provided limited guidance on how to provide this information in SEVIS, ICE does not have information needed to oversee OPT even when employer information is included in SEVIS. For example, we examined those student records for which an employer name was included for certain industries in which CTCEU officials were concerned about the potential of students working in unrelated jobs. According to our analysis, we found cases in which the SEVIS record indicated that students may not be complying with ICE's

³¹[GAO/AIMD-00-21.3.1](#).

regulatory requirement.³² Specifically, we found 35 cases in which students with degrees in fields such as economics, liberal arts, and psychology were working in food service and the SEVIS record did not include information as to how the employment was related to their field of study. We also found 9 cases in which students with degrees in fields such as computer science, engineering, and international studies were working in retail without an explanation included in the SEVIS record. However, we also found a case in which the student's SEVIS record indicated that the individual, who had a degree in music, was working for a restaurant, but the employment remark field described the student's employment as being a member of the restaurant's house band. Developing and distributing guidance to DSOs with options on how to determine whether a job is related to the foreign student's area of study and requiring DSOs to provide information in SEVIS to show that they took steps to help ensure that the work is related could help provide ICE with the information it could use to oversee OPT requirements.

Limits on unemployment. ICE has set forth limits on unemployment in its OPT-related regulations. Specifically, 12-month post-completion OPT students may not exceed 90 days of accrued unemployment during their authorized employment period, and 17-month STEM extension post-completion OPT students may not exceed 120 days of unemployment (which includes any unemployment accrued during the initial 12-month OPT period). These unemployment limits were added to the ICE regulations in April 2008 to clarify that, if a student accumulates too much unemployment while remaining in the country under the OPT employment benefit, the student has violated his or her status. Although ICE policy provides instruction on how a student and DSO may report and record dates of employment or unemployment, ICE regulations and policy do not specifically require foreign students to report to their DSOs when they begin working or DSOs to enter those corresponding dates in SEVIS.

³²CTCEU officials stated that many students engaged in OPT are working in food service or retail. We looked at a sample of 158 student records, selected based on whether the employer name was included and that it indicated employment in select food service or retail industries. This is a select sample and is not representative of all records indicating a student is working in the food service or retail industries. From this sample, we determined that 44 student records did not include additional employment information in the SEVIS employment comment or employment remark fields to explain why the job was related to the field of study or that the student's field of study was not considered to be directly related to either food service or retail. Appendix I presents more details about our methodology.

Furthermore, SEVP's policy specifically states that DHS maintains responsibility for determining whether a student has violated his or her status by exceeding the permissible limit on authorized unemployment. Federal internal control standards state that federal agencies should, among other things, design and document internal control activities to help ensure compliance with applicable laws and regulations.³³ The dates on which authorization for employment from USCIS begins and ends are included in students' SEVIS records; however, ICE does not have a mechanism to capture the date on which a student who was granted authorization actually started working or data on periods when a student is unemployed. According to SEVP officials and 12 DSOs with whom we spoke, it can be difficult for a DSO to maintain contact with students approved for OPT, particularly if a student engaged in post-completion OPT is no longer attending classes at the school and works off-campus for up to more than 2 years in another city or state. However, ICE's regulations state that when a DSO recommends a student for OPT, the school—which includes its DSOs—assumes the added responsibility for maintaining the SEVIS record of that student for the entire period of authorized OPT.³⁴ SEVP officials also stated that ICE's ability to oversee foreign students' unemployment time using SEVIS may be limited because the system does not systematically capture information from DSOs that may be used to calculate the accumulation of unemployment time. However, SEVP officials stated that SEVIS could be used to identify foreign students on post-completion OPT who have not had an employer listed for more than 90 or 120 days. According to SEVP officials, this mechanism would allow SEVP to track the initial unemployment of a student seeking work after receiving OPT employment authorization. As a result of not having complete data on foreign students' initial employment dates or any subsequent unemployment dates, SEVP officials stated that they have not fully enforced these regulatory limits on unemployment. Requiring students to report to DSOs, and DSOs to record in SEVIS, students' initial date of employment and any periods of unemployment could better position ICE to be able to oversee program requirements.

³³[GAO/AIMD-00-21.3.1](#).

³⁴ICE's regulations and policy do not require schools and DSOs to recommend OPT to all eligible foreign students who apply; schools have the discretion as to whether or not to recommend foreign students for OPT.

Foreign students approved for OPT, especially those approved for the two post-completion types of OPT, are allowed to remain in the United States after the completion of their studies to pursue employment yet remain on a student visa with the understanding that they are complying with OPT requirements. Without consistent information on where students are employed and when students begin employment, ICE is not positioned to oversee these requirements.

ICE Does Not Monitor whether Foreign Students' Authorized Employment Complies with ICE Regulations

ICE has not developed mechanisms to consistently monitor whether schools and DSOs recommend OPT for foreign students and whether USCIS authorizes employment for foreign students that is permitted under ICE regulations. ICE requires DSOs to ensure students are eligible for the requested type and time of OPT prior to recommending it. After receiving the DSOs' recommendation, students apply for and may receive employment authorization with USCIS. Through this process, DSOs and USCIS are to provide information on foreign students' type and period of OPT in SEVIS. However, ICE does not monitor whether DSOs and foreign students are complying with requirements that students (1) have been in their program of study for at least 1 academic year prior to receiving authorization and (2) complete their OPT within certain time frames established by the type of OPT.³⁵

One full academic year requirement. As previously mentioned, ICE requires that OPT be authorized only for a student who has been lawfully enrolled on a full-time basis in a SEVP-certified college, university, conservatory, or seminary for 1 full academic year in order to ensure that those seeking OPT employment are primarily in the United States on student visas to pursue their education.³⁶ However, ICE regulations and policy do not define and SEVP has not provided OPT-specific guidance to DSOs on what constitutes 1 full academic year for SEVP-certified schools. According to SEVP officials, ICE has not developed or provided specific guidance because the various types of programs have different academic schedules and any guidance may not apply universally to all schools. However, SEVP officials stated that they use definitions from the Department of Education when fielding DSOs' questions on this issue. In

³⁵DHS deemed information on actions it could take related to foreign students' school transfers as sensitive; therefore, we did not include this information in this report.

³⁶Students in English language training programs are not eligible for OPT, and M visa students are eligible for OPT only upon completion of their course of study.

November 2013, SEVP drafted and released for comment guidance regarding annual vacations that includes these Department of Education definitions of how much time typically constitutes 1 full academic year.³⁷ However, this draft guidance does not directly apply to the regulatory requirement of completing 1 full academic year to be eligible for OPT. Because ICE's OPT-related regulations and policy do not define 1 full academic year for the various types of programs and schedules for SEVP-certified schools, DSOs and USCIS may not be clear as to how the Department of Education's definitions specifically apply to approving and authorizing employment for foreign students seeking OPT. Therefore, students may be engaging in OPT without having completed the required time in their programs. Our analysis of SEVIS records as of August 2013 indicates that DSOs marked 556 students' records as not meeting the requirement of having completed 1 full academic year prior to engaging in OPT.³⁸ Further, according to our analysis of time between the program start date to employment start date for students authorized for OPT, 1,446 additional students have not been enrolled in their program for at least 8 months (what we consider to be 1 academic year based on SEVP officials' estimates) prior to beginning OPT. On the basis of our two analyses, over 2,000 foreign students approved for OPT may not have met the requirement of having completed 1 full academic year. According to SEVP officials, this requirement applies only once to a foreign student. For instance, if a student was previously in the United States on another visa in which he or she could attend school, the time spent in an educational program would count toward the 1 full academic year requirement. Also, according to SEVP officials, a student may have met the requirement thorough a combination of enrollment in a previous program and his or her current program of study. However, ICE regulations and policy do not specifically list this type of exemption.

³⁷The Department of Education defines an academic year as the amount of time a student must complete each year, and the time period in which the student is expected to complete it, as defined by the school. For example, the school's academic year may be made up of a fall and spring semester, during which a full-time undergraduate student is expected to complete at least 24 semester hours over the course of 30 weeks of instruction time. Academic years may change from school to school and from program to program; however, two semesters typically span approximately 8 to 9 months of the year.

³⁸SEVIS has a field for which the DSO may indicate that the student has or has not met the 1 full academic year requirement by marking "Yes" or "No." This field is not compulsory, and a DSO is not required to mark "Yes" prior to recommending OPT. According to our analysis, 25,070 student records did not indicate whether the student had or had not met the 1-full-academic year requirement.

Furthermore, SEVP's guidance to DSOs specifically states that there is no exemption to the requirement that a student have been enrolled for 1 full academic year. Furthermore, federal internal control standards state that federal agencies should design and document guidance that would help to ensure compliance with applicable laws and regulations.³⁹

Developing and providing guidance to DSOs and USCIS on what constitutes 1 full academic year and how to apply this definition to recommending and authorizing OPT could help ICE better ensure that foreign students meet eligibility requirements for OPT.

Time frames for post-completion OPT. ICE regulations state that foreign students may be authorized for 12 months of OPT employment, which must be completed within 14 months following the completion of their program.⁴⁰ Students engaged in the STEM extension are granted an additional one-time 17-month period of OPT employment, for a total of 29 months of total approved employment. This STEM extension must be applied directly following the end of the initially approved 12-month post-completion OPT and be completed in 31 months following the completion of his or her program. Our analysis of SEVIS student record data as of August 2013 shows that 9 percent of student records have authorized post-completion OPT employment dates that exceed the regulatory limits of total approved OPT and 8 percent of student records will not complete their OPT employment by the regulatory limits of 14 or 31 months, as shown in table 5.⁴¹

³⁹[GAO/AIMD-00-21.3.1](#)

⁴⁰M visa students may be authorized up to 6 months of post-completion OPT and are not eligible for pre-completion or an extension of OPT.

⁴¹According to SEVP's guidance to DSOs, this 14-month limit provides a 2-month buffer to allow time for USCIS's adjudication of the student's application for employment authorization. However, if the application and adjudication time takes 3 months from the end of the student's program, the student should be approved for 11 months of OPT. USCIS standard operating procedures for adjudicating employment authorization applications explain how previously approved OPT should affect eligibility for additional OPT. According to SEVP's guidance and USCIS's procedures, if the student engaged in pre-completion part-time OPT employment for 12 months (which would equate to 6 months of full-time OPT), the student should be approved for 6 months of post-completion OPT.

Table 5: Student Records for Optional Practical Training (OPT) Students' Dates of Educational Program and Employment, as of August 2013

	Records with OPT start and end dates exceeding limit (12 months or 17 months)	Records with program end and OPT end dates exceeding limit (14 months or 31 months)
Post-completion OPT		
12-month post-completion	8,996 (9 percent)	8,107 (8 percent)
17-month science, technology, engineering, and mathematics extension	2,416 (10 percent)	2,411 (10 percent)
Total	11,412 (9 percent)	10,518 (8 percent)

Source: GAO analysis of Student and Exchange Visitor Information System (SEVIS) student record data for OPT, as of August 2013.

Furthermore, our analysis shows 10 percent of students engaged in 17-month STEM extension OPT had work approvals that exceeded the 17 months allowed by ICE regulations and policy, and 10 percent of students would not complete their OPT within 31 months from the end of their program. According to SEVP officials, these extended periods of OPT may be explained by students' using the cap-gap extension to extend employment authorization through the fiscal year while petitions filed on their behalf for a nonimmigrant employment visa are pending.⁴² SEVP officials stated that if a foreign student was approved for the cap-gap extension, the student's SEVIS record should indicate such approval and the employment end date would be adjusted to include the extension. This approval, and subsequent extension, may cause the student's

⁴²8 C.F.R. § 214.2(f)(5)(vi) states that the lawful status and any post completion or STEM OPT employment authorization of an F student who is the beneficiary of an H-1B petition and request for change of status shall be automatically extended until October 1 of the fiscal year for which such H-1B visa is being requested, which is referred to as the cap-gap extension. This automatic extension of lawful status and OPT employment authorization is to immediately terminate upon the rejection, denial, or revocation of the H-1B petition filed on such student's behalf.

employment authorization dates to potentially exceed the 12- or 17-month limits. However, our analysis of the SEVIS records shows that those students, included in table 5, who have periods of employment authorization exceeding regulatory and policy limits for OPT, did not have approval for the cap-gap extension.

Although SEVIS shows a student's current OPT approval, the system does not display students' past OPT approvals (previous pre-completion, for example) for the purpose of determining if a student has exceeded total limits on accrued work authorization. According to SEVP and USCIS officials, both rely on DSOs to track a student's total amount of OPT and to recommend the appropriate amount of OPT for students depending on previously accrued OPT so as not to exceed regulatory limits. According to USCIS officials, it may check previous employment authorization applications by searching in CLAIMS or the Central Index System for an individual's name; however, it relies on DSOs to recommend the allowed amount of OPT.⁴³ Without developing and implementing a mechanism to monitor available information collected in SEVIS to determine total amounts of approved OPT over the course of students' duration of stay, ICE does not have reasonable assurance that DSOs are implementing and students are complying with the regulatory limits on accrued employment approval. For example, students who may have engaged in the full amount of allowed OPT may leave the country, reapply to another school at the same education level, enter the country under a new I-20 and SEVIS identification number, enroll in a program for 1 academic year, and apply for OPT with the new program.

Foreign students approved for OPT are allowed to work in the United States while maintaining their student visa status in order to supplement their education with practical training with the understanding that these students, and the schools and DSOs that have responsibility for these students, are complying with certain OPT requirements. Federal internal control standards state that agencies should design controls, including policies and procedures, to ensure that ongoing monitoring occurs in the course of normal operations.⁴⁴ Developing and implementing a

⁴³USCIS maintains the Central Index System, a database system originally developed by the predecessor Immigration and Naturalization Service. The Central Index System contains information on the status of applicants/petitioners seeking immigration benefits, including aliens who have been issued employment authorization documents.

⁴⁴[GAO/AIMD-00-21.3.1](#)

mechanism to monitor available information collected in SEVIS about OPT that DSOs recommend and USCIS authorizes for foreign students could better position ICE to help ensure that foreign students do not exceed regulatory limits on the amount of time students are approved for work.

Conclusions

OPT, which is an employment benefit, provides certain eligible foreign students with the opportunity to seek temporary work to gain practical experience in their major areas of study during and after completing an academic program. A foreign student in post-completion OPT, in particular, is not required to leave the United States following graduation and can remain in the United States for the entire post-completion OPT period. Effective oversight of schools that recommend and foreign students who are approved for OPT entails identifying and assessing any potential risks, including opportunities for criminal exploitation, and being in a position to mitigate them. ICE has taken initial actions to identify risks across SEVP-certified schools; however, ICE has not analyzed available information to identify and assess potential risks specific to OPT posed by schools and foreign students. Identifying and assessing OPT-specific risks based on various factors, including risk information from CTCEU, could better position ICE to determine actions to help prevent OPT-related noncompliance and fraud and to address such noncompliance and fraud when they occur.

Moreover, ICE could take steps to improve its ability to help ensure that foreign students working under OPT are complying with OPT requirements and thereby maintaining their legal status in the United States. By consistently collecting information in SEVIS that indicates foreign students' employers, how employment is related to these students' studies, initial date of employment, and any dates of unemployment, ICE could better position itself to oversee the OPT requirements that foreign students are actively working in areas related to their studies and not exceeding limits on unemployment. Furthermore, by monitoring through analysis other OPT information, ICE could better ensure that schools and DSOs recommend OPT for foreign students and USCIS authorizes employment for foreign students that is permissible under ICE regulations. By collecting the appropriate information in SEVIS and monitoring such information for compliance, ICE may better position itself to determine whether foreign students approved for OPT are maintaining their legal student visa status while supplementing their education with employment directly related to their areas of study in the United States. Moreover, having more complete data in SEVIS on foreign

students working under OPT could help strengthen ICE's efforts to identify and assess potential risks to OPT.

Recommendations for Executive Action

To strengthen ICE's efforts to develop and implement a process to identify and assess risks in SEVP, we recommend that the Director of ICE direct SEVP, in coordination with CTCEU, to identify and assess potential risks in OPT, including obtaining and assessing relevant information from CTCEU and ICE field offices.

To better ensure DSOs' and students' compliance with OPT requirements, and strengthen efforts to identify and assess potential risks in OPT, we recommend that the Director of ICE direct SEVP to take the following five actions:⁴⁵

- require that pre-completion and 12-month post-completion OPT students report to DSOs, and DSOs record in SEVIS, students' employer information, including the employer's name and address;
- develop and distribute guidance to DSOs on how to determine whether a job is related to a student's area of study and require DSOs to provide information in SEVIS to show that they took steps, based on this guidance, to help ensure that the student's work is related to the area of study;
- require that students report to DSOs, and DSOs record in SEVIS, students' initial date of employment and any periods of unemployment;
- develop and provide guidance to DSOs and USCIS on how much time constitutes 1 full academic year for the purposes of recommending and authorizing OPT; and
- develop and implement a mechanism to monitor available information in SEVIS to determine if foreign students are accruing more OPT than allowed by ICE regulations.

⁴⁵DHS deemed information on actions it could take related to foreign students' school transfers as sensitive; therefore, we did not include this information in this report.

Agency Comments and Our Evaluation

We provided a draft of this report to DHS and the Department of State for their review and comment. DHS provided written comments, which are reproduced in full in appendix II. DHS concurred with our six recommendations and described actions under way or planned to address them. For example, DHS indicated that, as part of ongoing efforts to develop an overall risk management program, SEVP will work with CTCEU in developing factors to identify risks for schools and students associated with OPT. Also, DHS noted that the functionality to track OPT employment information, including the employer's name and address, dates of employment, and any periods of unemployment, have been incorporated into SEVIS and that the software that includes the required data fields is scheduled to be released in 2014. In addition, DHS indicated that SEVP will issue guidance to assist DSOs in collecting information on students' employment for reporting in SEVIS and to clarify what periods of enrollment qualify as 1 full academic year. These and other actions noted in DHS's written comments should help address the intent of our recommendations. DHS also provided technical comments, which were incorporated as appropriate.

The Department of State did not have formal comments on our draft report.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until thirty days from the report date. At that time, we will send copies to the Secretaries of Homeland Security and State, and appropriate congressional committees. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions concerning this report, please contact me at (202) 512-8777 or gablerr@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made significant contributions to this report are listed in appendix III.

Sincerely yours,



Rebecca Gambler
Director, Homeland Security and Justice

Appendix I: Objectives, Scope, and Methodology

This report examines the extent to which the Department of Homeland Security (DHS) has (1) identified and assessed risks associated with optional practical training (OPT), and (2) collected information and developed monitoring mechanisms to help ensure students comply with OPT requirements and maintain their legal status in the United States.

To determine the extent to which DHS's Immigration and Customs Enforcement (ICE) has identified and assessed risks in ICE's Student and Exchange Visitor Program (SEVP) specifically related to OPT, we analyzed program documentation, analyzed data, and interviewed officials from DHS and its relevant components, including U.S. Citizenship and Immigration Services (USCIS) and ICE. In particular, we analyzed ICE and SEVP documentation, such as standard operating procedures, policy statements, and guidance for agency officials and designated school officials (DSO), to determine how ICE's processes identify and assess risk related to OPT in SEVP.

In addition, to evaluate the extent to which ICE has identified and assessed risks related to OPT, we collected and evaluated information on SEVP compliance and watch lists that contain schools that SEVP has identified as potentially noncompliant or fraudulent and previous cases of OPT-related fraud through obtaining and analyzing documents and interviewing investigators from ICE's Counterterrorism and Compliance Enforcement Unit (CTCEU). Also, we analyzed documentation CTCEU officials provided regarding risks and vulnerabilities they have identified in OPT-related policies, procedures, and regulations during the course of their work. In addition, we analyzed ICE news bulletins from January 2008 to November 2013 to help determine the magnitude of previous cases of fraud and evaluated information provided by CTCEU on criminal investigations related to school or student noncompliance or fraud involving OPT. Moreover, we collected and analyzed Student and Exchange Visitor Information System (SEVIS) data on schools that had at least one foreign student approved for OPT, as of August 2013, to identify examples of schools that pose a potential risk for fraud or noncompliance involving OPT using a risk indicator identified by CTCEU. Also, we interviewed officials from CTCEU and investigators from 7 of ICE's 26 Homeland Security Investigations (HSI) field offices. Specifically, we conducted telephone interviews with ICE field offices located in Atlanta, Georgia; Boston, Massachusetts; Los Angeles and San Francisco, California; Newark, New Jersey; and New York, New York. We also conducted a telephone interview with an official from the ICE resident

agent in charge field office in Charleston, West Virginia, which is under the supervision of the ICE field office in Philadelphia, Pennsylvania. We selected these locations based on the following criteria: (1) CTCEU officials identified the ICE field office as having previous or ongoing experience with school fraud and (2) SEVP identified the ICE field office as currently investigating a school in SEVP's compliance case log. As we did not select a probability sample of ICE field offices to interview, the results of these interviews cannot be projected to all of ICE's 26 field offices. While the information we obtained from officials at these locations cannot be generalized, the interviews provided us with the perspectives of ICE officials responsible for conducting school and student fraud investigations, including their views on the management and oversight SEVP has established for schools and students involved in OPT and any challenges ICE field offices have faced in their investigations. We also evaluated the extent to which ICE's practices were consistent with DHS's 2010 *Policy for Integrated Risk Management* and 2011 *Risk Management Fundamentals*.¹

To determine the extent to which ICE has collected information and developed monitoring mechanisms to help ensure students comply with OPT requirements and maintain their legal status in the United States, we also analyzed program documentation, analyzed data, and interviewed officials from DHS and its components. As part of our effort to evaluate these processes that SEVP uses to manage and oversee students approved for OPT, we reviewed applicable regulations, such as those governing nonimmigrant visa classes and schools recommending students engaging in OPT.² In addition, we reviewed SEVP's internal policy and guidance documents specifically concerning management and oversight of OPT. We compared these policies with criteria established in regulations, as well as with criteria in *Standards for Internal Control in the Federal Government*.

We analyzed data from SEVIS to identify nonimmigrant foreign students under F and M visas who were authorized by USCIS to engage in OPT as of August 2013. We assessed the reliability of these data by (1) reviewing

¹Department of Homeland Security, *DHS Policy for Integrated Risk Management* (Washington, D.C.: May 27, 2010), and *DHS Risk Management Fundamentals: Homeland Security Risk Management Doctrine* (Washington, D.C.: April 2011).

²The regulations governing nonimmigrant classes and OPT are found in 8 C.F.R. pt. 214.

existing documentation on the controls in the system and the policies for ensuring data reliability; (2) interviewing agency officials about the data's sources, the system's controls, and any quality assurance steps performed after data are entered into the system; and (3) testing the data for missing data, outliers, or obvious errors. We identified several limitations to the data resulting from ICE's process by which schools' DSOs are responsible for data entry and updates. SEVIS is used by schools to apply for and receive SEVP certification, as well as for DSOs to keep records of individual students who enter the United States on F and M visas. Although SEVP officials may make edits to a student's SEVIS record in some cases, all data or information entries on students are the responsibility of DSOs. Therefore, data elements that are not required may be missing or invalidly entered. For example, entries for schools' physical locations may not be valid U.S. postal addresses. Furthermore, some SEVIS records may be duplicated because of students changing from one type of OPT to another. However, we were able to address this issue with duplicates by removing the record that was less accurate and up to date. While we identified such limitations, we found the data to be sufficiently reliable for providing descriptive information on the population of SEVP-certified schools that have recommended OPT and of foreign students engaged in OPT. We also found the data to be sufficiently reliable for analyzing student records for compliance with certain regulatory and policy requirements. We focused our analysis on several SEVIS fields related to management and oversight of foreign students engaged in OPT: (1) employer name and location, (2) remarks and comments on employment, and (3) dates of program of study and authorized OPT employment.

We also analyzed student records for which an employer name was included and belonged in industries such as food service and retail, industries in which CTCEU officials were concerned about the potential of students working in unrelated jobs. We analyzed a sample of 158 student records in which the employer name field indicated the student worked in select food service or retail industries. This is a select sample and is not representative of all records indicating a student is working in the food service or retail industries. We identified this sample by searching the SEVIS data of foreign students authorized to engage in OPT as of August 2013 for employers names with key words such as "restaurant," "café," "coffee," "pizza," and "burger," as well as for select retailers. This search returned 207 student records, which we reviewed and subsequently made the determination to exclude 49 records based on the employer name including one of these search terms but belonging to a business outside of the food service or retail industries. For example, we excluded an

employer that is a printing company with the word “café” in its name. From the sample of 158, we determined that 44 student records did not include additional employment information in the SEVIS employment comment or employment remark fields that explained how the job was related to the field of study and the records did not indicate a potentially related degree.

In addition to document and data collection and analysis, we interviewed SEVP officials to evaluate the extent to which their program has implemented controls related to OPT. We met with senior officials from SEVP, including SEVP’s Deputy Director, and management and staff for the five of seven branches involved in managing OPT—School Certification, Policy, Analysis and Operations Center, Field Representative Program, and Systems Management. We met with officials from CTCEU to understand the criminal enforcement perspective of managing and overseeing OPT. We interviewed USCIS officials to determine the extent to which USCIS has implemented processes for ensuring eligibility of students applying for employment authorization under OPT. In addition, we analyzed USCIS’s Computer-Linked Application Information Management System 3 (CLAIMS) data on OPT adjudication results from fiscal years 2008 to 2013.³ To assess the reliability of the CLAIMS data on foreign student OPT adjudications, we interviewed agency officials responsible for managing the data about the data’s sources and the system’s controls. We found the data to be sufficiently reliable for providing descriptive information on the number of employment authorization applications and approvals for foreign students engaged in OPT. Furthermore, we interviewed 11 DSOs, and received a written response from 1 DSO, who are employed by schools in Washington, D.C., and surrounding areas on their roles and responsibilities related to foreign students seeking or authorized for OPT and on any challenges in the management and oversight of these foreign students. We selected these officials because, as of July 2013, they composed a group of representatives from SEVP-certified schools of various types and sizes in the Washington, D.C., region that meets regularly with SEVP to discuss matters such as SEVIS and SEVP policy

³CLAIMS 3 is a legacy Immigration and Naturalization Service case management system utilized by USCIS. CLAIMS 3 includes data and information on the status of foreign nationals’ applications for extensions of stay and a variety of immigration applications and petitions (e.g., to convert from a tourist to a student). CLAIMS 3 also maintains data on applications for work authorization.

and requirements. As we did not select a probability sample of DSOs to interview, the information we obtained from these school officials cannot be generalized. The interviews provided us with the perspectives of DSOs responsible for overseeing students engaged in OPT. Further, we interviewed officials from NAFSA: Association of International Educators to discuss the organization's views on OPT, including the involvement of DSOs in OPT.⁴

We conducted this performance audit from February 2013 to February 2014, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

⁴NAFSA was founded in 1948 as the National Association of Foreign Student Advisers to promote the professional development of U.S. college and university officials responsible for assisting and advising foreign students. NAFSA's mission is to serve international educators, international student advisers, and DSOs and their institutions and organizations, by establishing principles of good practice, providing professional learning and development opportunities, providing networking opportunities, and advocating for international education.

Appendix II: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, D.C. 20528



**Homeland
Security**

February 12, 2014

Rebecca Gambler
Director, Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: Draft Report GAO-14-356, "STUDENT AND EXCHANGE VISITOR PROGRAM: DHS Needs to Assess Risks and Strengthen Oversight of Foreign Students with Employment Authorization"

Dear Ms. Gambler:

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the U.S. Government Accountability Office's (GAO's) work in planning and conducting its review and issuing this report.

DHS is pleased to note GAO's positive recognition of the Department's efforts to develop and implement processes to identify and address risks within the U.S. Immigration and Customs Enforcement (ICE) Student and Exchange Visitor Program (SEVP), such as developing preliminary indicators for certified schools and recovering missing documentation from school files. The draft report contained six recommendations with which the Department concurs. Specifically, GAO recommended that the Director of ICE direct SEVP to:

Recommendation 1: In coordination with the Counterterrorism and Criminal Exploitation Unit (CTCEU), identify and assess potential risks in [optional practical training] OPT, including obtaining and assessing relevant information from CTCEU and ICE field offices.

Response: Concur. As part of ongoing efforts of SEVP, ICE is developing an overall risk management program focusing on identifying schools that may pose a risk. SEVP will work with CTCEU in developing factors to identify risks for schools and students associated with OPT. Estimated Completion Date (ECD): September 30, 2014.

Recommendation 2: Require that pre-completion and 12-month post-completion OPT students report to Designated School Officials (DSOs), and record in Student and Exchange Visitor Information System (SEVIS), students' employer information, including the employer's name and address.

Response: Concur. The functionality to track OPT employment information, including the employer's name and address, dates of employment, and any periods of unemployment, have already been incorporated into SEVIS. The software that includes the required data fields is scheduled to be released in 2014. ECD: January 31, 2015.

Recommendation 3: Develop and distribute guidance to DSOs on how to determine whether a job is related to a student's area of study and require DSOs to provide information in SEVIS to show that they took steps, based on this guidance, to help ensure that the student's work is related to the area of study.

Response: Concur. SEVP will develop and distribute guidance to address this recommendation. Specifically, SEVP will develop information requirements and internal controls for both the DSO and SEVP personnel. ECD: September 30, 2014.

Recommendation 4: Require that students report to DSOs, and DSOs record in SEVIS, students' initial date of employment and any period of unemployment.

Response: Concur. Regulation at 8 CFR 214.2(f) (12) (i) requires such reporting by students and designated school officials. In addition, 8 CFR 214.3(g)(2)(ii) explicitly requires schools to report changes in an F-1 student's personal information or employer information within 21 days of the change if the student is authorized by U.S. Citizenship and Immigration Services (USCIS) to engage in a 17-month extension of OPT. SEVP will issue guidance to clarify the importance of the reporting obligations in order for students to maintain lawful nonimmigrant student status. It is expected that the guidance will assist DSOs in collecting this information for reporting in SEVIS. ECD: January 31, 2015.

Recommendation 5: Develop and provide guidance to DSOs and USCIS on how much time constitutes 1 full academic year for the purposes of recommending and authorizing OPT.

Response: Concur. SEVP will provide guidance clarifying what periods of enrollment qualify as – one full academic year for purposes of recommending and authorizing OPT. ECD: September 30, 2014.

Recommendation 6: Develop and implement a mechanism to monitor available information in SEVIS to determine if foreign students are accruing more OPT than allowed by ICE regulations.

Response: Concur. SEVP will implement operational procedures to conduct periodic queries on the basis of maximum OPT eligibility time periods to identify F-1 students who may have exceeded their OPT eligibility. SEVP will then coordinate with USCIS for follow-up on individual student cases. ECD: September 30, 2014.

**Appendix II: Comments from the Department
of Homeland Security**

Again, thank you for the opportunity to review and comment on this draft report. Technical comments were previously provided under separate cover. Please feel free to contact me if you have any questions. We look forward to working with you in the future.

Sincerely,



Jim H. Crumpacker
Director
Departmental GAO-OIG Liaison Office

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

Rebecca Gambler, (202) 512-8777 or gablerr@gao.gov.

Staff Acknowledgments

In addition to the contact named above, Kathryn Bernet, Assistant Director; Jennifer Bryant; Frances Cook; Lorraine Ettaro; Cynthia Grant; Kirsten Lauber; Elizabeth Luke; Lara Miklozek; Linda Miller; and Juan Tapia-Videla made significant contributions to this work.

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's website (<http://www.gao.gov>). Each weekday afternoon, GAO posts on its website newly released reports, testimony, and correspondence. To have GAO e-mail you a list of newly posted products, go to <http://www.gao.gov> and select "E-mail Updates."

Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's website, <http://www.gao.gov/ordering.htm>.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

Connect with GAO

Connect with GAO on [Facebook](#), [Flickr](#), [Twitter](#), and [YouTube](#). Subscribe to our [RSS Feeds](#) or [E-mail Updates](#). Listen to our [Podcasts](#). Visit GAO on the web at www.gao.gov.

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Website: <http://www.gao.gov/fraudnet/fraudnet.htm>

E-mail: fraudnet@gao.gov

Automated answering system: (800) 424-5454 or (202) 512-7470

Congressional Relations

Katherine Siggerud, Managing Director, siggerudk@gao.gov, (202) 512-4400, U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800 U.S. Government Accountability Office, 441 G Street NW, Room 7149 Washington, DC 20548

