

**THE EXCHANGE VISITOR PROGRAM NEEDS
IMPROVED MANAGEMENT AND OVERSIGHT**

OO-CI-028

SEPTEMBER 2000

AUDIT REPORT 00-CI-028

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LIST OF ABBREVIATIONS

Act	Mutual Educational and Cultural Exchange Act of 1961
CIPRIS	Coordinating Interagency Partnership for Regulating International Students
ECA	Bureau of Educational and Cultural Affairs
EVP	Exchange Visitor Program
EVIS	Exchange Visitor Information System
GAO	General Accounting Office
INS	Immigration and Naturalization Service
OIG	Office of Inspector General
USIA	United States Information Agency

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I. EXECUTIVE SUMMARY

Purpose The Office of Inspector General (OIG) conducted a review of the Department of State's (Department) Exchange Visitor Program, which facilitates educational and cultural exchanges between U.S. citizens and foreign nationals through the use of the J visa. The objective of the review was to evaluate whether the Exchange Visitor Program is effectively administered and monitored. This review concentrated on the Trainee category, which is one of the largest categories in the Exchange Visitor Program with about 30,000 participants per year. The fieldwork was performed from August 1999 through March 2000.

Background The Mutual Educational and Cultural Exchange Act of 1961, 22 U.S.C. 2451, established the J visa. The J visa itself is defined in the Immigration & Nationality Act, 8 U.S.C. 1101 (a)(15)(J). The Exchange Visitor Program, which uses the J visa, was administered by the United States Information Agency (USIA) until its October 1, 1999, merger with the Department. Since then the Department's Bureau of Educational and Cultural Affairs (ECA) has administered the Exchange Visitor Program through the Office of Exchange Visitor Program Services (EVP).

The Exchange Visitor Program is large and growing. In 1983, the Program had an estimated 65,000 participants; by 1998, that number had risen to approximately 280,000. Foreign nationals may apply to visit the United States on a J visa in academic, government, medical, and other exchanges.

EVP has designated an estimated 1,460 sponsoring organizations to promote and implement exchanges, including more than 100 sponsors of trainees. Some Trainee sponsors place exchange visitors with third parties, which are the entities that actually engage the visitor in the exchange activity. When sponsors serve in this intermediary role, they are required to take reasonable steps to ensure that third parties know and comply with all applicable provisions of the established regulations.

The EVP staff interfaces with sponsors, exchange visitors, and the public. The staff also works with officials from Congressional offices, the Bureau of Consular Affairs at the Department, the Department of Labor, the Department of Education, and the Immigration and Naturalization Service. The EVP staff includes eight officers, two support staff, and two program assistants.

**Results
in Brief**

We found that EVP is unable to effectively administer and monitor the Exchange Visitor Program primarily because of inadequate resources. EVP's lax monitoring has created an atmosphere in which program regulations can easily be ignored and/or abused. At the locations we visited, we encountered widespread violations of program regulations by program sponsors in the Trainee category. We visited one location with an EVP official, who concluded that the violations by the sponsor justified initiating actions to revoke the sponsor's designation. During our fieldwork, we also visited five third parties. At two of the five, we found that they were using exchange visitors to fill regular staff positions, a clear violation of program regulations in the Trainee category. Also, a key intent of the legislation establishing the Exchange Visitor Program was to ensure that reciprocity existed so that Americans participate in similar experiences abroad. Our review found that reciprocity is only being accomplished to a small degree.

Principal Findings

**ECA Management
and Control
Weaknesses**

We found that EVP cannot effectively monitor and oversee the Exchange Visitor Program. This lax monitoring has created an atmosphere in which program regulations can easily be ignored and/or abused. At the locations visited, we found widespread violations of program regulations by program sponsors in the Trainee category, including a lack of training plans, insufficient training plans, and improper selection of exchange visitors. Although many categories of the Exchange Visitor Program have reputations for working well in accomplishing the basic objectives of the Mutual Educational and Cultural Exchange Act of 1961, due to the extent of the violations of the Trainee regulations, we believe ECA should create a compliance unit in the Exchange Visitor Program to ensure proper monitoring and oversight for all program categories. The goals of the compliance unit should be to ensure that program regulations are being adhered to, and that the health, welfare, and safety of the exchange visitors are being considered by sponsors, as well as third parties.

**Inappropriate Uses
of the J Visa**

During our fieldwork, we visited five third parties. At two of the five, we found that they were using exchange visitors to fill regular staff positions, a clear violation of program regulations. Specifically, trainees were filling positions that would normally be filled by full-time or part-time employees. In both of these cases, U.S. citizens complained about being replaced by trainees in the Exchange Visitor Program. We

examined both these cases further and found that both complaints had merit.

Lack of Reciprocity Congress enacted the Mutual Educational and Cultural Exchange Act of 1961 to promote the foreign policy objective of mutual understanding between the people of the United States and other countries. A key intent of the legislation establishing the Exchange Visitor Program was to ensure that reciprocity existed so that Americans participate in similar experiences abroad. Although EVP asks sponsors to provide information on the reciprocal component of their programs in annual reports, EVP does not keep statistics on how many U.S. citizens are being sent abroad on similar types of exchanges. The regulations require that sponsors make a good faith effort to achieve the fullest possible reciprocity in the exchange of persons. Our review indicated that reciprocity is only being accomplished to a small degree. The 12 sponsors we interviewed brought 70,600 foreign nationals to the United States on J visa exchange programs in 1998. Eight of the 12 sponsors sent 8,060 U.S. citizens abroad on similar types of exchanges. Four of the 12 sponsors did not send any Americans abroad in reciprocal programs.

Recommendations Our major recommendations are that the Bureau of Educational and Cultural Affairs:

- Devote the necessary resources to establish a compliance function in the Office of the Exchange Visitor Program. Its responsibilities should include: visiting Trainee sponsors, interviewing responsible officers, conducting file reviews, interviewing third-parties and exchange participants, and performing on-site investigation of J visa misuse and abuse as necessary.
- As part of its compliance function, conduct on-site program review at all sponsors prior to redesignating them.
- Meet with Department of Labor, INS, and Bureau of Consular Affairs officials to address J Visa issues highlighted in this report. Their discussions should include, but not be limited to, inappropriate uses of the J visa, the increased profit making through the use of the J visa, and whether sponsors solely in business to provide trainees to third parties are appropriate for the J visa.
- Place a moratorium on designating new Trainee programs and program expansion in the Trainee category until the panel referred to in the prior recommendation can review the Trainee category and

perform an assessment of the current Trainee sponsors.

- With the assistance of the Department of Labor and INS, clarify the Trainee regulations where applicable and better define what is not considered training in the Trainee category of the J visa.
- Keep statistics on the level of reciprocity initiated as a result of the Exchange Visitor Program and require sponsors to include reciprocal programs as a part of their program designation.

**Department
Comments**

We discussed our findings with ECA officials and provided them with a draft version of our report. Where appropriate, we have incorporated their written comments throughout the text of the report. The full text of ECA's written comments are contained in Appendix A. The Departments' Bureau of Consular Affairs and Office of the Legal Adviser also provided comments, which we have incorporated throughout the text of the report. The full text of the Bureau of Consular Affairs' written comments are contained in Appendix B. The full text of the Office of the Legal Adviser's written comments are contained in Appendix C.

ECA agreed with the above recommendations except for the one concerning the establishment of a compliance function. ECA is establishing a Commission to review the issue of compliance, and requested that consideration of the recommendation be delayed, pending the findings of the Commission.

II. PURPOSE AND SCOPE

The main objective of the audit was to examine the Bureau of Educational and Cultural Affairs management and oversight of the Exchange Visitor Program. The Department of State has responsibility for administering the Exchange Visitor Program. Previously, the Exchange Visitor Program had been administered by the Office of the General Counsel of the United States Information Agency (USIA). Since the October 1, 1999, merger of USIA and the Department, ECA oversees the Exchange Visitor Program through the Office of Exchange Visitor Program Services (EVP). During the course of this audit, we decided to concentrate our efforts on the Trainee program. We conducted this review in accordance with generally accepted government auditing standards and included such tests and auditing procedures as were considered necessary under the circumstances. The fieldwork was performed from September 1999 through March 2000.

In conducting the review, we interviewed ECA management, EVP officers and staff assistants, Exchange Visitor Program sponsors, third parties, and program participants. We also met with officials in the Bureau of Consular Affairs, the Department of Labor, and the Immigration and Naturalization Service. In addition, we reviewed cables pertaining to the Exchange Visitor Program for the period 1997 to 2000 that were written by consular officers at posts overseas.

In order to assess compliance with program regulations, OIG reviewed participant files at the majority of sponsor and third party sites visited. In particular, we looked for the retention of participant records for a minimum of 3 years, individual training plans, and midpoint and final trainee evaluations. OIG also looked for evidence of criteria used in participant selection such as program applications, school records, English language assessments, resumes, and recommendations. We visited 12 sponsors, 5 third parties, and an Exchange Visitor Program interest group in New York, Massachusetts, and the Washington, DC, metropolitan area.

The review was performed by the Consular and International Programs Division of the Office of Audits. Major contributors to the report were David Wise, division director; Max Aguilar, audit manager; Bryan Tenney, management analyst; and Janice McCain, management analyst.

III. BACKGROUND

The Mutual Educational and Cultural Exchange Act of 1961 (Act) was enacted to promote the foreign policy objective of mutual understanding between the people of the United States and other countries through educational and cultural exchanges. More specifically, the Act was established to (1) consolidate the various educational and cultural exchange programs; (2) enable foreign nationals to come to the United States to teach, study, conduct research, demonstrate special skills, or receive training, among other things; and (3) ensure reciprocity so that Americans can participate in similar experiences abroad. The Act established the J visa to enable nonimmigrant foreign nationals to enter the United States to participate in educational and cultural activities.

Management of the Exchange Visitor Program

EVP currently manages the Exchange Visitor Program under the guidance of ECA. EVP's staff of 12 includes eight program officers, two program assistants, and two clerical staff members. Prior to the October 1999 merger of USIA with the Department, the Exchange Visitor Program had been in USIA's Office of the General Counsel. The Waiver Review Branch had also been under the General Counsel's Office. After the merger, the Waiver Review Branch was moved into the Bureau of Consular Affairs.

Exchange Visitor Program Categories

There are 13 program categories that permit participants to visit the United States under the Exchange Visitor Program. These categories include: Summer Work/Travel, High School Students, Trainees, Au Pairs, Short-term Scholars, Professors and Research Scholars, College and University Students, Teachers, Specialists, Alien Physicians, International Visitors, Professors, and Camp Counselors. This review focused on the Trainee category, which has about 30,000 participants.

Program Sponsors

The Exchange Visitor Program uses an estimated 1,460 designated sponsoring organizations¹ (sponsors) to conduct exchange visitor programs within the 13 categories. Some sponsors serve as intermediaries between the exchange visitor and the third party. The third party actually engages the exchange visitor in the program category. For example, in the Trainee category, the third parties are the organizations where the exchange visitors will actually receive their training. Third parties consist of a variety of organizations, including hotels, law firms, restaurants, Internet companies, and other private and public sector businesses and organizations. Sponsors are required to take all reasonable steps to ensure that third parties know and comply with all applicable provisions of the regulations. As part of this obligation, third parties are supposed to sign an agreement with sponsors stating that they will abide by the established regulations governing the program.

As part of their administrative responsibilities, sponsors must provide (1) a system of screening and selecting program participants that includes verifying that an exchange visitor possess sufficient proficiency in the English language to participate in his/her program; (2) a program that is suitable to the background, needs, and experience of the participants; (3) prearrival

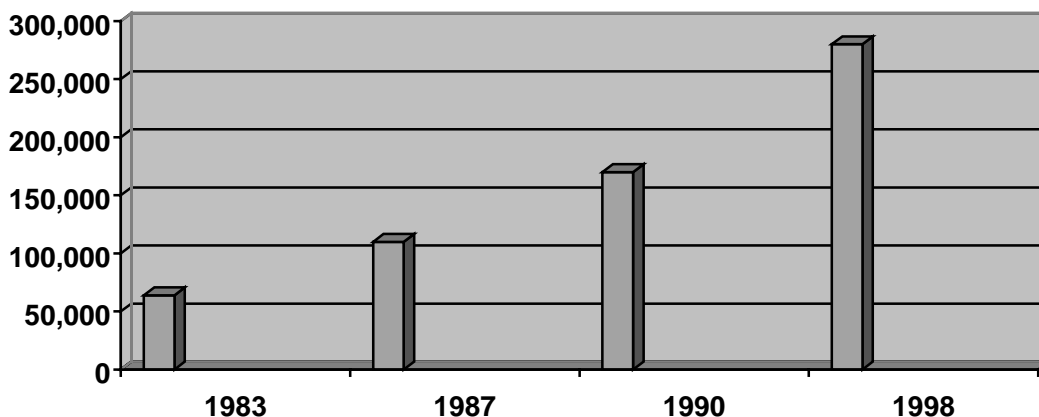
¹ A precise figure of the number of program sponsors was not available from EVP.

information to exchange visitors that discusses the purpose of the exchange program, travel and entry into the United States, housing, insurance, and all attached fees; (4) an orientation to acquaint participants with the life and customs of the United States, local community resources, details of their medical coverage, a description of their program and their primary point of contact, and applicable rules that govern the conduct of program participants; (5) assurance that only the responsible officer or alternate responsible officer issue official acceptance into the program; (6) a mechanism to monitor the activities of the exchange visitors; (7) ready access to EVP officials, to the extent lawfully permitted, of all books, files, and records related to the Exchange Visitor Program; and (8) cooperation in any inquiry or investigation undertaken by Exchange Visitor Program administrators.

Increasing Trend in Number of Exchange Visitor Program Participants

The number of Exchange Visitor Program participants has increased significantly over the past 17 years. In 1983, the Program had an estimated 65,000 participants. By 1998, the number had risen to approximately 280,000 participants.² This trend is projected to increase due to the popularity of the program and the fact there is no limit on the number of participants. The graph below shows the increase in the number of participants between 1983 and 1998.

Graph 1: Increasing Trends in Exchange Visitors



Previous Audits

OIG reviewed the following four reports related to the Exchange Visitor Program: (1) *Inappropriate Uses of Educational and Cultural Exchange Visas* (GAO/NSIAD-90-61: February 1990); (2) *Waiver of Exchange Visitor Foreign Residence Requirement* (GAO/NSIAD-90-212FS:

² Estimates for the number of Exchange visitors for 1999 and 2000 are unavailable due to lack of data entry by EVP beginning December 1, 1999, and continuing to the drafting of this report in May 2000.

July 1990); (3) *Unauthorized Use of J-Visa Authorization Forms by USIA Grantee Reflects Continued Weaknesses in Management of the J-Visa Program* (USIA/OIG A-91-10: July 1991); and (4) *Follow Up Review of the Exchange Visitor Information System - EVIS* (USIA/OIG 95-A-06/ARR-96-07: March 1996).

The 1990 General Accounting Office report, *Inappropriate Uses of Educational and Cultural Exchange Visas*, identified three primary problems related to the Exchange Visitor Program. First, certain programs and activities were inconsistent with the legislative intent of the J visa. Specifically, GAO expressed concern about the Summer Work/Travel and Trainee programs. Second, USIA's management and oversight of the Exchange Visitor Program was inadequate. Third, USIA's regulations were too vague and did not ensure compliance with the Mutual Educational and Cultural Exchange Act of 1961. GAO subsequently recommended that all designated programs be reviewed and revalidated periodically to ensure that their activities are consistent with their designation and that the designation continues to serve policy and program objectives; that specific actions be taken to improve the management information system; and that J visa regulations be revised to make them consistent with the authorizing legislation.

Findings identified in the remaining three audit reports about the Exchange Visitor Program are summarized as follows:

- The review of the *Waiver of Exchange Visitor Foreign Residence Requirement* found that, due to restrictions imposed by Congress in 1976 on medical graduates' participation in the exchange visitor program, the number of participants decreased drastically between 1977 and 1980.
- *Unauthorized Use of J-Visa Authorization Forms by USIA Grantee Reflects Continued Weaknesses in Management of the J-Visa Program* identified weaknesses in the internal controls over distribution and issuance of DS-2019³ forms, and found that USIA's database was unable to track the DS-2019 forms.
- The *Follow Up Review of the Exchange Visitor Information System* found that the database contained inaccurate and outdated information.

The Trainee Program

Our audit focused on the Trainee program for the following reasons: (1) its regulations provide specific criteria under which it could be evaluated; (2) complaints were made by U.S. citizens citing possible or actual displacement from their jobs by exchange visitors; (3) broad interpretation of the regulations has allowed loopholes to persist; and (4) the Trainee program was criticized in the 1990 GAO report.

As noted on page 6, the Trainee category of the Exchange Visitor Program has an estimated 30,000 annual participants. The trainees may stay in the United States up to 18 months. During the program, participants are trained either by the sponsor directly or by the third party.

³ DS-2019 forms were previously known as IAP-66 forms.

Trainees must have a training plan that describes in detail what training the participants will receive during their stay in the United States. Trainees engage in a wide variety of activities, including automobile body repair, banking and finance, computers, horse breeding, and hotel and restaurant operations, among other fields.

Based on consultation with the United States Information Agency Legal Office in 1995, it was determined that only 10 % of an overall Trainee program could be in the unskilled area. The Department has concluded that the potential for inappropriate uses of the J visa is most pronounced in those non-specialized occupational areas, which are generally unskilled in nature. The Department presumes that such training in reality is designed to fill staff vacancies and, therefore, is inconsistent with the Department's mission. Individuals cannot receive training in *Unskilled Occupations* as set forth in Appendix E of the program regulations. This list was established by the Department of Labor. The *Unskilled Occupations* list currently has 49 professions off-limits to exchange visitors, including bartenders, housekeepers, receptionists, and telephone operators. EVP groups occupations in specialty, nonspecialty, and unskilled occupational categories. The purpose of the Trainee category of the J Visa is for trainees to receive training in occupations so that they can bring enhanced skills back to their home countries. Therefore, professions that are considered unskilled are not allowed in the Trainee category.

IV. FINDINGS

A. ECA MANAGEMENT AND CONTROL WEAKNESSES

OIG found that EVP is unable to effectively monitor and oversee the Exchange Visitor Program primarily because of inadequate resources. The 1990 GAO report, *Inappropriate Uses of Educational and Cultural Exchange Visas*, also reported problems with program monitoring and oversight. To some extent, problems have worsened due to the rapid growth of the Exchange Visitor Program. Overall, EVP's lax monitoring has created an atmosphere in which program regulations can easily be ignored and/or abused. We found widespread violations of program regulations by program sponsors. In addition, we found that (a) potentially serious problems are not investigated by EVP; (b) some sponsors of exchange visitors may be motivated by generating income from the J Visa; and (c) it is difficult to distinguish work programs from training programs. Finally, EVP does not have criteria to measure its success or failure in carrying out its mission. The lack of criteria contributes to management and control weaknesses, and impedes ECA's ability to monitor the Exchange Visitor Program. We encountered problems in communication between EVP staff and sponsors, including EVP's level of response to sponsors' questions and requests for materials.

Monitoring Tools

EVP uses two formal procedures to monitor the Exchange Visitor Program. First, sponsors submit annual reports to EVP that summarize the sponsor's yearly program information and activity. Second, all designated program sponsors must be redesignated by EVP every 5 years (every two years for au pair programs). (See page 11 for a description of redesignation requirements.) In theory, the Exchange Visitor Information System (EVIS) assists program officers with oversight by providing information on participants hosted by a particular sponsor (e.g. their names, date of birth, home countries, categories, length of program, and the name and address of the sponsor). However, EVIS remains a material weakness, and at the time of our review, no information had been input into EVIS since December 1999. EVP sometimes also obtains limited monitoring information from outside sources, such as when it receives questions and/or reports from consular officers, and questions and/or complaints by the general public.

Annual Reports

EVP's primary means of monitoring the Exchange Visitor Program is through the annual reports submitted by sponsors. Regulation 22 CFR 62.15 directs each designated program sponsor to submit an annual report containing the following: (a) program report and evaluation; (b) information on reciprocity; (c) a description of cross-cultural activities; (d) certification of insurance; (e) form DS-2019 usage; (f) the number of participants in each category; and (g) redesignation information, if applicable. The annual reports are the only mechanism EVP has to keep current on a sponsor's yearly program information, including any problems experienced by the sponsor during the year.

Although the annual sponsor reports provide useful information, they are limited as a monitoring tool because they are not audited, some are submitted late, and EVP program officers

are not able to read all the reports. Because the information has not been verified by auditors,⁴ EVP staff has to rely heavily on the full and truthful disclosure of events by sponsors. In addition, when annual reports are submitted late by sponsors, EVP is prevented from staying up to date on sponsors' activities. EVP officials also admit that they are unable to read all 1,460 annual reports received each year. Most program officers, for example, have responsibility for over a hundred sponsors, which makes it difficult to read and analyze every annual report.

Redesignation Requirements

Each sponsor has to be redesignated by EVP every 5 years in order to continue as a program sponsor (the only exception is in the *Au Pair* program, which requires redesignation every 2 years). Regulation 22 CFR 62.7 states that,

upon the expiration of a given designation term, a sponsor may seek redesignation for another five-year term...Request for redesignation shall be evaluated according to the criteria set forth in regulation 22 CFR 62.6 (a) taking into account the sponsor's annual reports and other documents reflecting its record as an exchange visitor program sponsor...A sponsor seeking redesignation may continue to operate its program(s) until ECA notifies it of its decision to amend or terminate its designation.

The redesignation of sponsors is not an effective monitoring tool because it only requires that sponsors submit unaudited information to EVP. Most of the information submitted by sponsors during the redesignation process is not verified by EVP. For example, EVP officials stated that they only check the sponsor's accreditation. In order to make the redesignation process more in-depth, we believe that compliance officials from EVP should visit all sponsors up for redesignation.

Recommendation 1: We recommend that the Office of the Exchange Visitor Program, as part of its compliance function, conduct on-site program review at all sponsors prior to redesignating them.

ECA agreed with this recommendation and added that on-site visits should also take place prior to designating an organization for the first time. ECA also stated that this recommendation can only be realized if there is sufficient staff and a substantial travel budget.

Some Sponsors Not Redesignated

⁴ Of the 13 program categories, the *Au Pair* category is the only program requiring annual reports verified by independent auditors.

EVP has no timetable for issuing redesignations. EVP officials stated that they are behind on completing some redesignations, while other redesignations have been set aside altogether. The redesignations set aside are for a group of Trainee category sponsors, whose redesignation was put on hold in the 1993-1995 timeframe, at the request of USIA's Office of the General Counsel. The General Counsel's office told EVP not to redesignate Trainee sponsors that serve in an intermediary role (i.e., the sponsors that do not do any actual training of the exchange visitors themselves) until it determined whether these sponsors are appropriate for the J visa. Despite the lack of redesignation, these Trainee sponsors continue to bring over trainees and, in some cases, have expanded their programs substantially. As a result of not being redesignated, these Trainee sponsors, some of the largest and oldest, have never been reassessed by EVP. Officials at these organizations stated that they want to obtain new designations from EVP and that they do not understand why they have not been redesignated. The issue of redesignating this particular group of sponsors needs to be resolved as soon as possible.

Recommendation 2: We recommend that the Exchange Visitor Program Staff expedite the evaluation of the remaining group of Trainee sponsors that have not been redesignated within the specified timeframes.

ECA agreed that these applications for redesignation should be given top priority. However, ECA also commented that redesignation should be preceded by a rewrite or clarification of the regulations and parameters of Trainee programs.

EVIS

EVIS is the computer database used by EVP to track program sponsors and exchange visitors. A foreign national entering the United States on a J Visa is required to present a copy of the DS-2019 form to immigration officials, who then forward the copy to EVP for input into the EVIS database. In 1990, GAO identified EVIS as a material weakness. Ten years later, it continues to be a material weakness and contributes to the weak management and oversight of the Exchange Visitor Program.

The EVIS database was informally developed in 1983 to contain statistical information on the number of sponsors and participants in each of the program categories and to compile reports on exchange activities. EVIS was also intended to contain the information to assist in rendering a decision on a sponsor's redesignation, as well as the number of DS-2019 forms filed by a sponsor in a given year. However, EVIS has failed to provide the necessary information in all of these areas. EVIS cannot accurately provide even the most basic information on the number of sponsors and participants in the program. For example, when we asked for the total number of participants in the Trainee category for FY 1998, EVP provided a figure of 84,041 participants. This figure included one sponsor having 52,328 trainees, and another sponsor having 3,771 trainees. A review by OIG of each sponsor's 1998 annual report showed that those sponsors had only 7,199 and 446 trainees, respectively.⁵ EVP officials stated that the inaccurate numbers provided to OIG were because of programming difficulties, not because of EVIS.

At present, the database is only able to provide an estimate of the number of program sponsors and participants. As of May 2000, no data had been entered from DS-2019 forms into the EVIS database since December 1, 1999. The interruption was caused by the expiration of the

⁵ As previously indicated in this report, the annual report numbers are dependent upon truthful disclosure by the sponsors.

reimbursable agreement between USIA and INS that paid for the input of data into EVIS by the contractor. While a new reimbursable agreement between INS and the Department is being negotiated and a new contract with a vendor developed, no data is being entered into EVIS, leaving EVP unable to provide any current fiscal year tracking information. Lack of current data further limits EVIS's monitoring capacity.

Recommendation 3: We recommend that the Bureau of Educational and Cultural Affairs take appropriate measures to ensure that sponsor and program participant data from 1999 and 2000 is input into the Exchange Visitor Information System.

ECA agreed with this recommendation and stated it is currently taking the necessary steps to eliminate this problem.

Transfer to the CIPRIS Database

EVIS is the precursor of the Coordinated Interagency Partnership Regulating International Students (CIPRIS) pilot system and will remain the backup database until CIPRIS becomes fully integrated worldwide. The CIPRIS program is the test of a concept of capturing data electronically. It was mandated by Congress to the Attorney General, in coordination with the Secretaries of State and Education, in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The CIPRIS pilot has been concluded and the national implementation is being developed. The INS, in coordination with the Department of Education, and the Department, was tasked with developing a system, which is scheduled to be expanded beginning in January 2003, with full implementation to be completed by 2010.

The main role of CIPRIS is to provide the Government, schools and program sponsors with accurate, reliable, and up-to-date information on foreign students, exchange visitors, and dependents. It will provide a means of monitoring foreign nationals in the United States on a J-1 (Exchange Visitor), F-1 (Academic Student), or M-1 (Vocational or other Nonacademic School Student) visa. Exchange visitors will be tracked from the time their personal information is input into CIPRIS from the DS-2019 at a program sponsor to the time they depart the United States after completion of the J program. Students on F-1 or M-1 visas will be tracked in a similar fashion.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 also requires that user fees pay for the cost to operate the system, and that the responsibility for the collection of the fees rests with the schools and sponsoring organizations. Though still under review and negotiation, it will cost an estimated \$95 per year per exchange visitor to operate this monitoring system. Sponsoring organizations have been tasked to collect this fee from the exchange visitors they sponsor. Most sponsors have objected to collecting the fee on behalf of the Federal Government.

Other Limitations to Effective Monitoring

One of the major reasons that EVP is unable to effectively monitor the Exchange Visitor Program is that the office generally does not conduct site visits to sponsors and third parties to interview exchange visitors or review files. EVP officials stated that budget constraints and a lack of personnel prevent site visits even in the Washington, DC metropolitan area. Because EVP officers do not conduct site visits, problem cases are left open, misperceptions can persist between EVP and the exchange community, and in OIG's opinion, the impression is created that EVP will never take an on-site look at an exchange program.

In addition to the lack of EVP site visits and the problems pertaining to the annual reports and redesignation processes, two other factors have inhibited EVP from effectively monitoring the Exchange Visitor Program. First, EVP only has eight program officers to oversee 13 categories of the J Visa, approximately 1,460 sponsors, and around 280,000 exchange visitors. The program officers' jobs are made even more challenging by the many problem cases that arise involving individual sponsors and exchange visitors.

Second, differences of opinion have existed over the regulatory role of EVP. EVP officers explained that, in some cases, when they tried to apply the regulations as written, senior management told them that the United States Information Agency (now the Department) is not an enforcement agency. ECA officials who manage the Exchange Visitor Program believe that a balance must be found between facilitating exchanges and regulating them. They did, however, state that a key issue in an exchange program is the well being of the program participants.

Overall, we found that EVP's system to monitor the Exchange Visitor Program is inadequate. The combination of the lack of EVP site visits, the problems noted with the current monitoring tools, and the small number of officers to oversee a burgeoning program, means that sponsors are granted wide discretion in running their exchange programs. As discussed below, this has resulted in violations of program regulations.

Violations of Regulations Governing the Exchange Visitor Program

The regulations for the Trainee category of the Exchange Visitor Program state that the use of the Exchange Visitor Program for ordinary employment or work purposes is strictly prohibited. For these reasons, the regulations are designed to distinguish between receiving training, which is permitted, and gaining experience, which is not permitted except as a component of a bona fide Trainee program. During the course of our file reviews, and through discussion with exchange visitors, sponsors, and third parties, we found numerous violations of the program regulations in the Trainee category that indicate trainees are not being placed in bona fide Trainee programs but are in fact being used to compensate for labor shortages. For example, training plans were missing, training plans were insufficient, trainees were working in unskilled occupations, their evaluations were not completed, and they were improperly selected and used to staff places of business. Based on our review, it is likely that significant numbers of trainees are being used for ordinary employment purposes in violation of the regulations governing the exchange visitor program.

Background

The 1990 GAO report concluded that some J visa activities were inconsistent with the legislative intent of the Act establishing the Exchange Visitor Program, including activities in the Trainee category. For example, GAO concluded that the activities allowed for in the Trainee category did not prevent participants from filling normal work positions. The report also stated that the Trainee regulations were loosely written, which permitted sponsors to determine what constituted training and to establish Trainee programs after participants arrived in the United States. As a consequence of the GAO report, in 1990, USIA placed a 16-month moratorium on designating new nongovernmental Trainee programs and froze existing Trainee programs at their current levels.

In response to the GAO report, in 1993, USIA issued new regulations for the entire Exchange Visitor Program. In the Trainee category, regulation 22 CFR 62.22 (d) states that the primary objectives of training are to enhance the exchange visitor's skills in his or her specialty or nonspecialty occupation through participation in a structured training program and to improve the participant's knowledge of American techniques, methodologies, or expertise within the individual's field of endeavor. Such training programs are also designed to enable the exchange visitor to better understand American culture and society and to enhance American knowledge of foreign cultures and skills by providing the opportunity for an open exchange of ideas between the exchange visitors and their American citizen counterparts. More specifically, pursuant to 22 CFR 62.22 (d), sponsors designated by EVP to provide training to exchange visitors shall:

- (i) *Ensure that individuals and/or entities conducting training possess and maintain the demonstrable competence to provide training in the subjects offered to each exchange visitor.*
- (ii) *Ensure that skills, knowledge, and competence are imparted to the trainee through a structured program of activities which are supportive and appropriate to the training experience....*
- (iii) *Develop, prior to the start of training, a detailed training plan geared to defined objectives for each trainee or group of similarly situated trainees.*
- (iv) *Ensure that continuous supervision and periodic evaluation of each trainee is provided.*
- (v) *Ensure that sufficient plant, equipment, and trained personnel are available to provide the training specified.*

Specific Violations

As part of our review, we visited 10 sponsors of trainees to assess whether they were complying with the 1993 regulations, as amended. At 8 out of the 10 sponsors visited, we performed random file reviews. We also performed file reviews at four of the five third parties visited. The following subsections list the violations of program regulations we found. Each subsection lists the violation and the applicable program regulation. Where applicable, information on how many of the sponsors we visited that were not in compliance with the particular regulation is also provided.

- **Training Plans Missing** -- Regulation 22 CFR 62.22(d)(1)(iii) – *“Sponsors designated by the Agency to provide training to foreign exchange visitors shall: develop, prior to the start of training, a detailed training plan geared to defined objectives for each trainee or group of similarly-situated trainees.”*

In the files reviewed for six of eight sponsors, training plans for the majority of participants could not be located. Overall, we were only able to locate 59 training plans for the 129 files reviewed (46 percent). Follow-up at a select number of third parties

yielded similar results. Although third parties are not responsible under program regulations to maintain participant documentation, our review found that three out of four third parties could not provide training plans for all of their trainees. One third party could not produce a single training plan in the 20 program participant files that we reviewed.

- **Insufficient Training Plans** -- Regulation 22 CFR 62.22(g) – “Each training plan required to be prepared for a trainee or group of trainees pursuant to 62.22(d)(1)(iii) above, shall include, at a minimum, (1) a statement of objectives of the training; (2) the skills to be imparted to the trainee; (3) a copy of the training syllabus or chronology; (4) a justification for the utilization of on-the-job training to achieve stated course competencies; and (5) a description of how the trainee will be supervised and evaluated.”

Using the above criteria as our guide, we examined the 59 training plans that the sponsors could provide. More than half of the training plans reviewed did not meet the requirements outlined in the above regulations. For example, only 22 of the training plans contained all 5 of the elements listed in the above regulation.

The following training plan is an example of the type of insufficient training plan examined in participant files. In this case, the exchange visitor had been a bus driver in his home country and was in the United States for 1 year as a bus driver. It is not clear why the exchange visitor’s training plan covered only a 6-month period. It states on his DS-2019 and his application that he would be here for a full year. Furthermore, this is not the structured, phased, bona fide training plan referred to in the program regulations. In OIG’s opinion, the sample training plan reads more like a job description than a training plan; the brief elements listed in the sample training plan are what any new bus driver would learn in order to become proficient in the position.

Training Plan Sample

<u>Month</u>	<u>Training Activity</u>
--------------	--------------------------

- | | |
|-----------------|--|
| Month 1: | Extensive route training, passenger assistance, Commercial Drivers License Training. |
| Month 2: | On the job training. |
| Month 3: | Safety meeting, accident review performance evaluation. |
| Month 4: | Continue on the job training. |
| Month 5: | Safety meeting, accident review performance evaluation. |
| Month 6: | Summer operations training on the job training, final evaluation. |

- **Training in Unskilled Areas** -- Regulation 22 CFR 62.22 (c)(1) – “Training programs in unskilled occupations or occupations in other categories which the Agency may from time to time identify by publication in the Federal Register will not be designated. For purposes of these regulations, the Agency considers the occupations listed in Appendix E to be ‘unskilled occupations.’ -- Appendix E (Excerpts) – For purposes of 22 CFR

62.22 (c)(1) the following are considered to be ‘unskilled occupations’: (5) Bartenders (11) Cleaners, Hotel and Motel (13) Clerks, Hotel (18) Dining Room Attendants (25) Hotel Cleaners (30) Kitchen Workers (32) Laborers, Farm (39) Receptionists (44) Street Car and Bus Conductors.”

During our audit, we encountered exchange visitors working in the unskilled occupations listed above. At one third party, we found trainees serving as waiters, housekeepers, and receptionists. In our discussions with third parties, some justified their use of trainees in unskilled tasks as part of learning the particular business. Pursuant to Department policy, trainees are allowed to spend up to 10 percent of their time participating in unskilled training, although the third parties could not provide an accounting of the time exchange visitors were performing unskilled tasks. At one location, we independently verified that some trainees were working entirely in unskilled occupations. During our interviews with several exchange visitors, they stated the types of tasks they were asked to complete during their period of training. Specifically, one participant said that he had been and would continue to “wait tables,” while another participant said that she spent her first 4 months on a J Visa “cleaning guest rooms and doing laundry.” These types of activities are clearly a violation of the Exchange Visitor Program regulations.

- **Evaluations of Trainees Not Completed** -- Regulation 22 CFR 62.22 (m) – *“In order to ensure the quality of the training program, the sponsor shall develop procedures for the ongoing evaluation of each training segment. Such evaluation should include, as a minimum, midpoint and concluding evaluation reports from the trainee and his or her immediate supervisor, signed by both parties. For training courses of less than three months duration, evaluation reports are required upon conclusion of the training program.”*

Participant files reviewed at all eight sponsors had evaluations missing from the files of the majority of the Trainee participants. Three of the eight sponsors had no evaluations of any of its trainees on file. Another sponsor stated that evaluations are done orally, even though the regulation indicates that both parties must sign the evaluations. At least two other sponsors seemed to misinterpret the regulations. In both of those cases, the trainees wrote evaluations of their training experiences, but their employer (third party) never evaluated the trainees. Another sponsor could not provide end-term evaluations during our site visit, but mailed them at a later date. On a positive note, one sponsor did have 8 out of 10 end-term trainee evaluations on file. Overall, of the 129 files reviewed, there were only 4 midpoint evaluations and 12 end-term evaluations.

Subsequent follow-up at four third party sites produced similar results. None of the four could provide evaluations of all their trainees. Two could not provide any evaluations. One could only provide 2 midpoint evaluations and 1 end-term evaluation out of 18 files reviewed. The fourth site could provide 7 out of 15 midpoint evaluations and 9 out of 11 end-term evaluations.

In OIG interviews with the trainees, they confirmed that in almost all cases they had not received formal, written evaluations of their work. Consequently, it appears likely that trainees are not being formally evaluated by their trainers, nor are sponsors ensuring that their third parties formally evaluate their trainees.

- **Lack of English Language Skills** -- Regulation 22 CFR 62.10 (a)(2) – *The exchange visitor possesses sufficient proficiency in the English language to participate in his or her program.*

As part of our review, we interviewed a total of 26 Exchange Visitor Program participants. All 26 were in the United States as trainees. We found that 4 out of 26 did not possess sufficient English skills to carry on a conversation. A trainee at one third party had to take English courses when he arrived in the United States because he did not have proficiency in the English language to participate in his program and needed to improve his English speaking capabilities.

- **Improper Selection** -- Regulation 22 CFR 62.22(j) – *Trainees shall be fully qualified to participate successfully in a structured training program at a level appropriate for the individual trainee’s career development. However, such training shall not be duplicative of the trainee’s prior training and experience.*

At two third parties, we found some exchange visitors were overqualified for their trainee positions. In many cases, the activity the trainee was involved in was duplicative of the trainee’s prior training and experience. For example, at one third party (a restaurant), a foreign national was brought in not as a trainee, but as a highly qualified specialist. This exchange visitor possessed intimate knowledge of a wide variety of wines before coming on a J Visa. Once in the United States, he was appointed the wine expert at the restaurant. In a second example, highly qualified chefs with experience at highly rated European restaurants were selected to be “trainees” in an award-winning kitchen at an inn. These chefs were, in fact, working as normal employees, filling in for the head chef when necessary, training other chefs and cooking almost everything on the restaurant’s menu.

- **Improper Staffing** -- Regulation 22 CFR 62.22(d)2(ii) – *Sponsors designated by the Agency to provide training to foreign exchange visitors shall not: Place trainees in positions which are filled or would be filled by full-time or part-time employees.*

Our review disclosed that two third parties allowed their exchange visitors to fill normal staffing positions. In one case, a third party (a travel agency) was bringing over 10 exchange visitors annually to work at tasks normally performed by licensed tour guides. In a second case, a third party (an inn) was bringing over at least 10 trainees every year to work as waiters, cooks, housekeepers, and front desk help. Based on our discussion with the third parties, the exchange visitors, and our file review, we independently confirmed that both of these third parties were using trainees in inappropriate capacities.

- **Lack of Third Party Agreements** -- Regulation 22 CFR 62.22 (e) – *The sponsors may utilize the services of third parties in the conduct of the designated training program. If a third party is utilized, the sponsor and the third party shall execute a written agreement which delineates the respective obligations and duties of the parties and specifically recites the third party’s obligations to act in accordance with these regulations. The sponsor shall maintain a copy of such agreement in its files.*

We found that one large sponsor did not maintain written third party agreements with its more than 2,000 third parties, which trained over 9,000 trainees in 1999. This same

sponsor was recently approved by EVP to bring in 15,000 trainees annually.⁶ We question how the sponsor can monitor 15,000 participants and an estimated 2,000 third parties without maintaining third party agreements or even visiting many of the third parties before placing exchange visitors there.

Overall, the sponsors we visited rarely, if ever, visited third parties. Thus the fulfillment of the agreed upon obligations and duties by the third parties are essentially based on trust. If no agreements are in place between the sponsor and third party laying out the duties and obligations of each party, it can leave the exchange visitors in a vulnerable position, and sponsors have no assurance the programs will operate as intended. Therefore, third party agreements are important and should be in place.

Lack of Third Party Monitoring by Sponsors

Large sponsors partner with hundreds of third parties throughout the United States. The vast majority of third parties are never visited by the sponsors. The minimal monitoring currently in place can lead to inappropriate or even unsafe placement of trainees. As stated in the background section of this report, sponsors, as part of their administrative responsibilities, must provide a mechanism to monitor the activities of the exchange visitors. Yet, we found, in many instances, sponsors do not ever visit the third party to speak with the actual trainer and to see the premises where the trainee will work and train.

Summary

Because EVP does not have the resources to do proactive monitoring of the Exchange Visitor Program, sponsors have great autonomy in running their programs. Based on the violations we found, the Department has no assurance that sponsors are adhering to program regulations. To ensure that bona fide training programs are taking place, EVP should visit sponsors and third parties, and see trainees in action. Also, files must be regularly reviewed on-site to determine that all required documents, including training plans and evaluations, exist and are completed for the exchange visitors. Without more regular on-site oversight, we believe that the types of violations we noted above will continue and possibly get worse.

Recommendation 4: We recommend that the Bureau of Educational and Cultural Services devote the necessary resources to establish a compliance function in the Office of the Exchange Visitor Program. Its responsibilities should include: visiting Trainee sponsors, interviewing responsible officers, conducting file reviews, interviewing third parties and exchange participants, and performing on-site investigation of J visa misuse and abuse as necessary. Also, as part of its responsibilities, the compliance unit should ensure that all required agreements are in place between sponsors and the third parties, and that sponsors are effectively monitoring third parties.

ECA requested that the consideration of this recommendation be delayed, pending the findings of a Commission it is establishing to review the issue of compliance.

⁶ This sponsor will also bring in 26,000 students in the summer work travel category. In this category, exchange visitors come to the U.S. during their summer vacations to take part in 4-month employment programs.

Potentially Serious Problems Not Investigated

Due to the lack of monitoring, EVP has little assurance that sponsors are using trainees appropriately and in accordance with program regulations. The health, welfare, and safety of the exchange visitors, in many respects, are largely dependent on the sponsors and their third parties. In cases where research and/or investigation are necessary, EVP does not visit the sponsor or third party where the problems are alleged to be taking place; rather EVP typically relies on investigating the alleged problems through telephone calls, e-mails, and faxes. EVP officials cited the lack of staff, travel money, and time as reasons for not conducting on-site investigations of alleged problems. As noted by ECA officials, the health, welfare, and safety of the exchange participants are important components of an exchange program. Thus, when a serious violation is reported to EVP, program officials should visit the location as soon as possible to address the problem.

When problems involving the Exchange Visitor Program arise, including many problems we found during our review, EVP may not become aware of them in a timely manner. For example, we encountered cases where U.S. embassies and a congressional aide alerted EVP of problems involving exchange visitors. These incidents indicate that a reliable reporting mechanism to EVP is not in place when exchange visitors are experiencing difficulties. Program regulations only require that sponsors provide exchange visitors with a brochure on the Exchange Visitor Program. This brochure has EVP's telephone number on the last page of the six-page brochure. The telephone number is not a toll-free number nor is there an e-mail address to contact. Based on interviews with 26 exchange visitors during our audit, the majority of them did not know that they can and should contact EVP when they have problems. The EVP brochure only states that exchange visitors should contact EVP if they need to communicate about the program.

Recommendation 5: We recommend that the Office of the Exchange Visitor Program ensure that exchange visitors receive explicit information on when and how to contact the program office. As part of this recommendation, Exchange Visitor Program Designation staff should display its telephone number throughout the orientation literature (e.g., program brochures) it provides to the exchange visitors, publish an e-mail address, and also consider the use of a toll-free telephone number.

ECA agreed with this recommendation.

Income Generating Aspects of the J Visa

Exchange Visitor Program sponsors, some of whom are nonprofit organizations, generate income from each exchange visitor that they sponsor and send to a third party. The fees charged to the third parties and/or participants we reviewed ranged from \$400 to \$2,000 depending on the length of the Trainee program. The average fee was approximately \$1,000 per trainee sponsored. In effect, the third party or the exchange visitor is paying a significant sum of money to participate in the program. Some sponsors of J Visa participants may be motivated by the income that can be derived from the J Visa. For example, one sponsor told us that many for-profit and not-for-profit sponsors of the exchange visitor program exist "to make money." Some consular officers overseas have also raised concerns about profit making incentives associated with the program. For example, a February 2000 cable from a U.S. consulate stated that:

The Nonimmigrant visa section observed in 1999 a radical restructuring of how organizations connect J-1 interns with opportunities in the U.S. Today's interns are

recruited by local “cooperators” which purchase DS-2019s from U.S. non-profits, prepare their recruits visa applications, and then turn these participants over to U.S. job based agencies. The U.S. “cooperators” then place the interns in a variety of U.S. businesses. Prominent among these is the hospitality industry: the typical host country national applicant for a J-1 internship is now seeking to change linens or wash dishes (emphasis added) in a Las Vegas hotel for twelve to eighteen months.

Representatives of host country and U.S. cooperators, in meetings with consular officers were frank. “It’s a business,” said one repeatedly. The U.S. based staffing services, the local host country recruiters, and the DS-2019 issuers are all paid fees for their services. Ironically, well-known sponsors, which derive authority to issue DS-2019s as P-3 not for profit enterprises, are often the only non-profit enterprises in the chain between host country applicant and U.S. work opportunity. Host country cooperators say that sponsors monitor their programs, but admit that they rarely, if ever, have direct contact with the applicants.

During our review, we encountered some sponsors bringing in hundreds, even thousands of trainees, students in the summer work travel programs, and camp counselors at considerable financial gain to the sponsor for each application processed and visa obtained. Two sponsors, in particular, have experienced significant growth the past 2 years. The responsible officer for one sponsor admitted that they look at their Trainee program as a source of revenue to subsidize other programs. EVP officers are aware of the profitmaking incentives some sponsors have attached to the use of the J Visa and expressed concern that the Trainee category is “out of control.”

Based on the concerns raised by Department officials, our audit work, and the increase in the number of trainees coming to the United States, ECA officials need to do an overall reassessment of the use of the J Visa for trainees. Part of this assessment should encompass analyzing the types of Trainee sponsors that are appropriate to host J visa trainees. Because the J Visa involves immigration, labor, and visa issues, the Department of Labor, INS, and the Bureau of Consular Affairs should be consulted before new regulations are issued.

Recommendation 6: We recommend that the Bureau of Educational and Cultural Affairs meet with Department of Labor, Immigration and Naturalization Service, and Bureau of Consular Affairs officials to address J Visa issues highlighted in this report. Their discussions should include, but not be limited to, inappropriate uses of the J visa (see case studies to follow), the increased profitmaking through the use of the J Visa, and whether sponsors solely in business to provide trainees to third parties are appropriate for the J Visa.

ECA agreed with this recommendation.

Recommendation 7: We recommend that the Bureau of Educational and Cultural Affairs place a moratorium on designating new Trainee programs and program expansion in the Trainee category until the panel referred to in the prior recommendation can review the Trainee category and perform an assessment of the current Trainee sponsors.

ECA agreed with this recommendation.

Training Versus Work

The question of what is training and what is work remains a difficult one to answer in the Trainee category despite the release of the updated regulations in 1993. The updated regulations for the Trainee category state that the use of the Exchange Visitor Program for ordinary employment or work purposes is strictly prohibited. The updated regulations are designed to distinguish between receiving training, which is permitted, and gaining experience, which is not permitted except as a component of a bona fide Trainee program. However, despite this wording, EVP officials stated that it is often difficult to distinguish work programs from Trainee programs. They are aware that some of the activities being engaged in under the J Visa may be more appropriate under other labor visas, such as the H Visa. In addition, they are concerned that the regulations in the Trainee category are too broad thus allowing sponsors to interpret them to their favor.

Based on our review of 59 training plans and interviews of Trainee sponsors, third parties, and exchange visitors, we believe that the regulations are too broad, allowing almost any type of work situation to be interpreted as training. The training activities we encountered while reviewing the Trainee program were wide ranging, including everything from mechanics, welders, and farmers to lawyers and Wall Street bankers. This same situation was highlighted in the 1990 GAO report. Further, many sponsors we interviewed admitted that they only turn down a “handful” of Trainee program requests annually. We believe that because the regulations are too broad in the Trainee category, sponsors are able to liberally interpret the regulations resulting in programs that do not meet the intended purposes of the program.

As we will document in the next section of this report, two third parties were clearly running programs that were not within the parameters of program regulations. Accordingly, what is training and what is work needs to be better defined. Also, a clear distinction between what is appropriate for the J Visa and what is appropriate for the H Visa should be written into the program regulations.

Recommendation 8: We recommend that the Bureau of Educational and Cultural Affairs, with the assistance of the Department of Labor and INS, clarify the Trainee regulations where applicable and better define what is not considered training in the Trainee category of the J Visa.

ECA agreed with this recommendation.

Poor Communication

An important aspect of program management is timely communication between EVP and the sponsor community. However, many of the sponsors with whom we met reported problems communicating with EVP to discuss program administration issues. These sponsors stated that they frequently were unable to reach EVP program administrators by telephone and were often frustrated in trying to get responses to basic questions. Many sponsors said that in order to receive a response, they had to forward queries via facsimile. Sponsors had difficulties in receiving correspondence from EVP pertaining to the issuance of DS-2019s and about their designation applications. EVP’s perspective is that its inability to always respond to sponsors’ questions and requests in a timely manner is due to the combination of a lack of staffing and the volume and nature of requests.

Request for DS-2019 Forms

An example of an area requiring improvement in communication is the time required for sponsors to receive DS-2019 forms from EVP. DS-2019 forms, used by sponsors as the J visa application, are forwarded by EVP upon request from the sponsors. Sponsors stated that no timetable exists on when they can expect to receive the requested forms from EVP. Some sponsors stated that their program activities have been seriously disrupted due to EVP's delays in getting them the required forms. One sponsor became so frustrated in waiting for its allotment of forms that it sent a representative from New York City to pick them up in person in Washington, DC. EVP regulations state that 4-6 weeks should be allowed for receipt of the requested forms from the date the request is received, (per the Regulations at 22 CFR 62.12 (a)). EVP officers reported that many sponsors do not submit requests within the timeframes established by the Regulations; rather they wait until their supplies are near depletion and send their requests "with urgency."

The Designation Process

EVP designates new sponsors every year. Regulation 22 CFR 62.6 guides the designation process. It states that, "Upon a favorable determination that the proposed exchange program meets all statutory and regulatory requirements the Agency (Department) may, in its sole discretion, designate an entity meeting the eligibility requirements set forth in 62.3 as an exchange visitor program sponsor." Regulation 62.6, however, does not specify a time limit for completion by EVP of a designation application. Two sponsors we interviewed complained of the long time that they had to wait to be designated. We found that of the 123 new designation applications received in 1999 by EVP, 25 percent were designated, 5 percent were denied, and the majority of the remaining 70 percent are either pending the receipt of additional information requested from the applicants or were withdrawn. According to EVP officials, it takes between 3-8 hours to initially review each application for designation.

We believe problems in communication, the issuance of DS-2019 forms, and delays in designating new sponsors occur because ECA has no established criteria for EVP's communication with sponsors. The development of criteria with established timeframes for completing program tasks is a key first step in addressing EVP's program administration problems. Specific measures and timetables should be established for improving (a) communication with sponsors, and (b) response time to sponsors' requests for information and materials. In addition, criteria should be established for the review of annual reports, the review of applications for sponsor designations and redesignations, and the issuance of DS-2019 forms. These activities form an integral part of the administration of the Exchange Visitor Program.

Recommendation 9: We recommend that the Bureau of Educational and Cultural Affairs develop criteria for the Office of the Exchange Visitor Program pertaining to communication with sponsors and the timely response to sponsors' requests.

ECA agreed that customer service is a high priority. However, ECA stated that the level and ability to quickly respond to situations is hampered by the lack of staff to handle the heavy caseload and lack of adherence by sponsors to the Department's established regulations for the filing of action requests.

**B. INAPPROPRIATE USES OF THE EXCHANGE VISITOR PROGRAM:
CASE STUDIES**

During our fieldwork, we visited five third parties. At two of the five, we found that they were using exchange visitors to fill regular staff positions, and not Trainee positions as mandated by the regulations. Specifically, trainees were filling positions that would be normally filled by full-time or part-time employees. -----

----- (b)(6) and (b)(7)(C) -----

Two case studies follow, including a description of the third parties, and information that the complainants shared with us during interviews with them. We also provide our analysis of each case.

Exchange Visitors Used Inappropriately at an Inn

A country inn has been using J-1 visa trainees since 1984. J Visa trainees at the inn work as cooks, waiters, housekeepers, maids, front desk receptionists, and reservation clerks. The inn is a seasonal operation, only open for 6 months starting in the spring, closing in early November, and opening again in the spring. The inn is a member in a consortium of similar type inns, and pays a membership to be included in the consortium. In 1996, 11 of these inns formed a corporation. The sole purpose of the corporation is to sponsor exchange visitors.

According to the general manager of the inn, the normal staffing level is 70 employees, including exchange visitors, seasonal workers, and employees that staff special events such as banquets. The inn had 12 J Visa exchange visitors in 1998 and 11 in 1999. The general manager labeled the Exchange Visitor Program “incredibly important” in his desire to create a European ambience for the inn’s guests. For example, guests may be greeted by a European at the front desk, served by European waiters during meals, and eat meals prepared by European chefs. The general manager believes that using J visa trainees in these positions creates this ambience.

The general manager stated that J visa trainees do not fill senior-level staff positions at the inn. However, at the time of our review, a J visa trainee served as the sous chef in the inn restaurant, the second most important position in the kitchen. The sous chef fills in for the head chef when necessary. The general manager admitted that this particular exchange visitor (the sous chef) “would definitely train others.” This is an example where a high profile chef, who already had extensive experience in Europe at many three and four star restaurants, was selected by the inn to work, and even train others – clearly a violation of program regulations. In addition to the sous chef, three other exchange visitors filled three of the four assistant chef positions in the inn’s restaurant kitchen. All four J Visa participants working in the kitchen already had extensive experience working in Europe at many prestigious restaurants. The inn is recognized as one of the top rated kitchens in the United States. During the site interview, all three assistant chefs stated that they were hoping to be selected as the sous chef when they returned for the next season in May 2000.

- A majority of the required training plans was missing. The general manager did not have training plans for 16 out of 20 exchange visitors. He stated that there is not a set system for ensuring that training plans are completed for the trainees, despite the fact that he has been using J visa trainees for 16 years.
- The general manager did not have mid-term evaluations for 6 out of 15 exchange visitors. The general manager did not have end-term evaluations for 2 out of 11 J- Visa participants.
- Highly skilled J visa trainees were training other exchange visitors.
- Exchange visitors were working a majority of the time in unskilled occupations, such as housekeeping, front desk operations, reservations, and waiting tables.
- Trainees were changing locations while in the United States. During the 6 months that the inn closes, the exchange visitors are recommended to other properties in the consortium by the inn’s general manager. From our interviews with the trainees, and the General Manager, we learned that the trainees were placed at the second properties merely based on the availability of work at the particular hotel or restaurant. There was no evidence in the files that training plans existed for this 6-month period away from the inn.

In our interviews with 8 J visa trainees at the inn, we found that they were engaged in work activities indistinguishable from their colleagues who were regular employees of the inn. None of the exchange visitors we interviewed could describe special or specific training related directly to their status as J visa trainees. Besides the orientation they received upon arrival familiarizing them with the operations of the inn (the same as provided to the inn’s regular employees), they received no other special training. In fact, most of the exchange visitors had not received training plans.

As part of our field visit to the inn, we invited an EVP official to accompany us. Subsequently, EVP concluded that the violations by the sponsor and the inn justified initiating actions to revoke the sponsor’s designation. Overall, based on the violations of the regulations noted above, the fact that there is no reciprocity in the inn’s use of the Exchange Visitor Program, and because of evidence indicating that a U.S. citizen was replaced by exchange visitors, we conclude that the J Visa was being used inappropriately at the inn.

To determine whether circumstances encountered at the inn were taking place at other third parties affiliated with the same sponsor, we visited a second third party (a restaurant). At this restaurant, we found essentially the same situation. The third party did not maintain training plans, was not evaluating its trainees, and was using the trainees to fill regular staffing positions.

Exchange Visitors Used Inappropriately at a Tour Company

In our second case study, we looked at a tour company that was accused of using exchange visitors inappropriately by-----, -----(b)(6) and (b)(7)(C)-----. We visited the tour company and spoke to the complainants as part of our fieldwork.

or the sponsor, nor was there evidence that the evaluations existed at all. Second, none of the training plans contained the required elements. The training plans read like regular position descriptions. For example, the first section of the generalized training plan for local representatives was only two sentences long. It read:

The initial training conducted soon after the trainee's arrival will include both classroom style and field training so the trainee becomes immediately familiar with the role of a local representative. All areas of passenger service will be covered including uniform and grooming, general behavior and attitude, handling passenger problems, city based and over the road assignments, completion of incident reports, optional excursion sales, familiarization of office departments within regional office or corporate headquarters.

Most of the other items included in the training plans were informational, including information provided to any new employee who needs to become knowledgeable about the employer and the job requirements. We also noted that documentation in the files referred to participants as employees, and not as trainees. We found references on how they "worked" for the company.

Based on our analysis, we believe the tour company has been using the exchange visitors to fill ordinary staffing positions during its peak travel season. Its primary motivation for using

exchange visitors appears to be the economic benefits gained from not having to pay the higher salaries charged by local U.S. employees. Accordingly, EVP should further review the case and take appropriate action if necessary.

Recommendation 10: We recommend that the Office of the Exchange Visitor Program review the J Visa Trainee program of the sponsor and third party involved in the case of the -----(b)(7)(A)----- and take appropriate action if necessary.

ECA agreed with this recommendation and stated that the information provided on the case warrants investigation of the situation.

C. LACK OF RECIPROCITY

Congress enacted the Mutual Educational and Cultural Exchange Act of 1961 to promote the foreign policy objective of mutual understanding between the people of the United States and other countries by means of educational and cultural exchange. A key intent of the legislation that established the Exchange Visitor Program was to ensure that reciprocity existed so that Americans would participate in similar experiences abroad. 22 CFR 62.7 (c) requires that sponsors make a "good faith" effort to achieve the fullest possible reciprocity in the exchange of persons. Although EVP asks sponsors to provide information on the reciprocal component of their programs in the annual reports, EVP does not keep statistics on how many U.S. citizens are being sent abroad on similar types of exchanges. EVP estimates that 280,000 exchange visitors came to the United States in 1998. EVP officers familiar with their sponsors and categories of the J Visa believe that the number of U.S. citizens going abroad for similar types of exchange activities is much smaller.

Our review indicated that reciprocity is only being accomplished to a small degree. The 12 sponsors we visited (10 of whom had Trainee programs) brought around 70,500 foreign nationals to the United States on J visa exchange programs in 1998. Those same 12 sponsors sent about 8,000 U.S. citizens abroad on similar types of exchanges. Two of the 12 sponsors did not send any Americans abroad in reciprocal programs.

Sponsors cited several reasons for the limited reciprocity taking place. For example, U.S. citizens have less interest in going abroad to train. One sponsor claimed to have difficulties in recruiting Americans to spend time overseas. This sponsor spoke of the obstacle posed by the limited number of Americans who speak a second language. The sponsor also stated that many countries do not have equivalent Exchange Visitor Programs. Some sponsors do not know how to go about achieving reciprocity. For example, one sponsor claimed that it would like to send Americans abroad, but did not know how to establish reciprocal programs in foreign countries. Finally, some sponsors do not make the effort to achieve reciprocity because it is not required.

Unquestionably, some sponsors face difficulties in getting Americans to go abroad. However, at the 12 sponsors we visited, the ratio of foreign nationals coming to the United States on J- Visa exchange programs to U.S. citizens going abroad on similar programs was almost 9 to 1. In addition, some categories of the Exchange Visitor Program do not attempt to achieve any reciprocity. Therefore, in many cases, the Exchange Visitor Program has become a one-way program involving visitors coming to the United States. ECA needs to determine the overall objective of the Exchange Visitor Program and whether the current situation that allows many more foreign nationals to enter the United States on exchanges than we send abroad, meets the intent of the legislation establishing the Exchange Visitor Program. In order to achieve higher reciprocity, either fewer foreign nationals should be coming on the Exchange Visitor Program, or more Americans should be encouraged to go abroad. In summary, we believe that if the intent of the legislation establishing the Exchange Visitor Program is to be met, ECA should require all sponsors to include reciprocal programs as a part of their program designations.

Recommendation 11: We recommend that the Office of the Exchange Visitor Program keep statistics on the level of reciprocity initiated as a result of the Exchange Visitor Program and require sponsors to include reciprocal programs as a part of their program designation.

ECA agreed with the need for identifying and maintaining statistics on the level of reciprocity. ECA also agreed in principle that reciprocity should be required for all programs although this may be difficult or impossible to obtain in several of them, including the flight training and the alien physician program. ECA also stated that one for on reciprocity may not be possible in any category.

V. CONSOLIDATED LIST OF RECOMMENDATIONS

Recommendation 1: We recommend that the Office of the Exchange Visitor Program, as part of its compliance function, conduct on-site program review at all sponsors prior to redesignating them.

Recommendation 2: We recommend that the Exchange Visitor Program Staff expedite the evaluation of the remaining group of Trainee sponsors that have not been redesignated within the specified timeframes.

Recommendation 3: We recommend that the Bureau of Educational and Cultural Affairs take appropriate measures to ensure that sponsor and program participant data from 1999 and 2000 is input into the Exchange Visitor Information System.

Recommendation 4: We recommend that the Bureau of Educational and Cultural Services devote the necessary resources to establish a compliance function in the Office of the Exchange Visitor Program. Its responsibilities should include: visiting Trainee sponsors, interviewing responsible officers, conducting file reviews, interviewing third parties and exchange participants, and performing on-site investigation of J visa misuse and abuse as necessary. Also, as part of its responsibilities, the compliance unit should ensure that all required agreements are in place between sponsors and the third parties, and that sponsors are effectively monitoring third parties.

Recommendation 5: We recommend that the Office of the Exchange Visitor Program ensure that exchange visitors receive explicit information on when and how to contact the program office. As part of this recommendation, the Office of Exchange Visitor Program Designation staff should display its telephone number throughout the orientation literature (e.g., program brochures) it provides to the exchange visitors, publish an e-mail address, and also consider the use of a toll-free telephone number.

Recommendation 6: We recommend that the Bureau of Educational and Cultural

Affairs meet with Department of Labor, Immigration and Naturalization Service, and Bureau of Consular Affairs officials to address J Visa issues highlighted in this report. Their discussions should include, but not be limited to, inappropriate uses of the J visa (see case studies to follow), the increased profit making through the use of the J Visa, and whether sponsors solely in business to provide trainees to third parties are appropriate for the J Visa.

Recommendation 7: We recommend that the Bureau of Educational and Cultural Affairs place a moratorium on designating new Trainee programs and program expansion in the Trainee category until the panel referred to in the prior recommendation can review the Trainee category and perform an assessment of the current Trainee sponsors.

Recommendation 8: We recommend that the Bureau of Educational and Cultural Affairs, with the assistance of the Department of Labor and INS, clarify the Trainee regulations where applicable and better define what is not considered training in the Trainee category of the J Visa.

Recommendation 9: We recommend that the Bureau of Educational and Cultural Affairs develop criteria for the Office of the Exchange Visitor Program pertaining to communication with sponsors, and the timely response to sponsors' requests.

Recommendation 10: We recommend that the Office of the Exchange Visitor Program review the J visa Trainee program of the sponsor and third party involved in the case of the -----(b)(7)(A)----- and take appropriate action if necessary.

Recommendation 11: We recommend that the Office of the Exchange Visitor Program keep statistics on the level of reciprocity initiated as a result of the Exchange Visitor Program and require sponsors to include reciprocal programs as a part of their program designation.

ECA COMMENTS ON DRAFT REPORT

EXCHANGE VISITOR PROGRAM STAFF

Comments on “J-1 Visa Program Needs Improved Management And Oversight Report” (July 2000)

Corrections/Comments on Draft Report

Page 1, Background, Paragraph 1 – Since then the Department’s Bureau of Educational and Cultural Affairs (ECA has administered the J-Visa Program through the Office of Exchange Visitor Program ~~Services Staff~~ (EVP).

Page 2, Background continued, last paragraph – the EVP staff that interfaces with the 1460 sponsors, and 280,000 exchange visitors, **the public (U.S. Citizens, lobby groups, lawyers, etc.), Congressional offices, Consular Affairs at the Department, Department of Labor, Department of Education, Immigration and Naturalization Service, and Federal Aviation Administration** includes a chief, 78 officers, 2 support staff and 2 program assistants.

Page 5, paragraph 2 – ~~The Bureau of Educational and Cultural Affairs develop criteria for the Office of Exchange Visitor Program Services pertaining to communication with sponsors and the timely response to sponsors’ requests.~~ Comment: See narrative for Recommendation 9.

Page 9, paragraph 2 – As part of their administrative responsibilities, sponsor must provide (1) a system of screening and selecting program participants that includes verifying that participants are proficient in the English language; **(2) the program is suitable to the background, needs and experience of the participants** ~~(2)-(3)~~ prearrival information . . . Comment: renumber points to follow.

Page 12, paragraph 2, sentence 6 – **Based on consultation with the United States Information Agency Legal Office in 1995, it was determined that only 10% of an overall training program could be in the unskilled area. The Department has concluded that the potential for inappropriate uses of the J Visa is most pronounced in those non specialized occupational areas which are generally unskilled in nature. The Department presumes that such training in reality is designed to fill staff vacancies and, therefore, is inconsistent with the Department’s mission.** ~~The only jobs trainees~~ **Individuals** cannot work **receive training** in ~~are found on the~~ Unskilled Occupations list ~~published as set forth in Appendix E~~ of in the program regulations. This list was established by the Department of Labor. The Unskilled Occupations list currently . . . Therefore, ~~professions~~ **occupations** that are considered unskilled are not allowed in the Trainee category. ~~EVP determines which occupations are unskilled with the assistance of the Department of Labor.~~

Page 13, paragraph 2, sentence 3 – To some extent, problems have worsened due to the **rapid** growth of the J-Visa Program.

Page 13, paragraph 2, sentence 3 - . . . every five years (**every two years for au pair programs**)
...

Page 13, paragraph 2, sentence 4 – In theory, the Exchange Visitor Information System (EVIS) assists program officers with oversight by providing a **variety of information on the numbers of participants hosted by a particular sponsor (e.g. their names, date of birth, home countries, categories and length of program and name and address of sponsor)**. ~~And which program participants are at which sponsor.~~

Page 14, last paragraph, sentence 4 – DELETE SENTENCE. Comment: Not true. This information is collected in EVIS.

Page 14, last paragraph, last sentence – Most program officers, for example, have responsibility for over a hundred sponsors, which makes it difficult to read and analyze every annual report.

Page 15, paragraph, sentence 1 - . . . every five years (**with exception to the au pair program which is every two years**) . . .

Page 16, Recommendation 2: We recommend that the ~~Office of Exchange Visitor Program Services~~ **Designation Staff** expedite the **evaluation of the remaining** ~~redesignation process for the group of Trainee sponsors that have not been redesignated due to the 1993 request of the United States Information Agency's Office of General Counsel.~~

Page 16, paragraph 4, sentence 2 – EVIS was also intended to contain the information required to **assist in rendering** a decision on a sponsor's redesignation.

Page 17, last paragraph – EVIS is the precursor of the Coordinated Interagency Partnership Regulating International Students (CIPRIS) pilot system and will remain the backup database until CIPRIS becomes fully integrated worldwide. The CIPRIS **program database is the test of a concept of capturing data electronically, a new monitoring system.** ~~It was mandated by Congress to the Attorney General, in coordination with the Secretaries of State and Education, in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The CIPRIS pilot has been concluded and the national implementation is being developed. Is currently in the pilot phase of implementation.~~ The INS, in coordination with the Department of Education, and the **State Department** was tasked with developing a ~~project~~ system which is scheduled to ~~gain widespread usage~~ **be expanded** beginning in January 2003, with full implementation to be completed by 2010.

Page 18, paragraph 1, sentence 2 – It will provide a means of monitoring foreign nationals in the United States on a J-1 (Exchange Visitor), F-1 (Academic Student), or M-1 (**Vocational or other Nonacademic School Student**) visa. Exchange visitors will be tracked from the time their personal information is input into CIPRIS from the DS-2019 at a program sponsor site to the time they s/he departs the United States after completion of the **J program or upon a change of status**. Students on F-1 or M-1 visas will be tracked in a similar fashion.

Page 18, paragraph 2, sentence 1 – The HRIRA **mandating the development** ~~establishing of this system also~~ requires ~~database requires~~ that user fees pay for the cost to operate this system, **and that the responsibility for the collection of the fees rests with the schools and sponsoring organizations.**

Page 19, paragraph 1, sentence 2 – EVP officers explained that, in some cases, when they tried to apply the regulations as written, senior management told them that ~~EVP~~ **the United States Information Agency (now the Department of State)** is not an enforcement agency.

Page 19, paragraph 3, sentence 3 – During the course of our file reviews, and through discussion with exchange visitors, sponsors, and third parties, we found numerous violations of the updated program regulations in the Trainee category that indicate trainees are not being placed in bona fide training programs **but are in fact being used to compensate for labor shortages.**

Page 23, paragraph 2, sentence 4 – **Pursuant to Department of State policy,** ~~t~~Trainees are allowed to ~~work-spend~~ up to 10 percent of their time ~~performing~~ **to participate in unskilled labor training,** although the third . . .

Page 25, paragraph 4, sentence 2 – In many cases, the ~~work~~ **activity** the trainee was involved in was duplicative of the trainee’s prior training and experience.

Page 27, paragraph 2 – To make the site less identifiable and taking into account the sensitivity of this issue delete all specific references to the type of training placement organization. (This has already been discussed with the OIG staff.)

Page 27, paragraph 3, sentence 1 – EVP had no knowledge of case **the situation** until it was alerted by the embassy.

Page 28, last paragraph, sentence 4 – EVP officials cited the lack of **staff,** travel money and time as reasons for not conducting on-site investigations of alleged problems.

Page 33, paragraph 2, sentence 6 – ~~EVP officers stated~~ regulations state that 4-6 weeks should be allowed for receipt of the requested forms from the date the request is received, ~~and that~~ **(per the Regulations at 22 CFR 62.12(a)). The EVP officers reported that many sponsors do not submit requests within the timeframes established by the Regulations; waited until the last minute rather, they wait until their supplies are near depletion to submit requests and send their requests “with urgency.”**

Page 34, paragraphs 2 and 3 – We offer the following comments:

We agree that customer service is a high priority; however, the level and ability to quickly respond to situations is impacted by the lack of staff to handle the heavy caseload and lack of adherence by sponsors of the Department’s established regulations for filing of action requests (e.g., in 1999, 85% of the requests for DS-2019 forms was on an urgent basis; the majority of extension and change of category cases are files outside required deadlines). For example, the training category is the most complex category within the Exchange Visitor Program. The training category is comprised of approximately 120 programs with over 30,000 visitors annually. Two officers work part-time covering this category.

Page 35, paragraph 3, sentence 1 – According to the ~~G~~ **general Mmanager of the inn,** the normal staffing level ~~at the inn~~ is 70 employees.

Page 36, paragraph 1 – experience working in Europe at many prestigious restaurants. **The inn is recognized as one of the top rated kitchens in the United States. During the site interview,**

~~a~~All three assistant chefs **stated that they** were ~~also~~ hoping to be selected as the sous chef when they returned for the next season in May 2000.

Page 38, last paragraph, sentence 2 – The ~~end-user~~**third party** did not maintain training plans, . . .

Page 43, paragraph 2, sentence 2 – However, at the 12 sponsors we visited, the ratio of foreigners **nationals** coming to the United States . . .

Recommendations

1. Agree. Would also suggest site visit prior to designating an organization for the first time. This recommendation can only be realized if there is sufficient staff and a substantial travel budget.
2. Agree. However, redesignation should be preceded by a rewrite or clarification of the regulations and parameters of training programs. When this is completed, (See Recommendation 7) these applications for redesignation should be given top priority.
3. Agree. The process for identifying a contracting firm should be completed by August with the award going out at that time. Key punching to begin in October.
4. Neither Agree or Disagree. The Bureau of Educational and Cultural Affairs is establishing a Commission to review the issue of compliance, inter alia, and we request that the consideration of this recommendation be delayed, pending the findings of the Commission.
5. Agree.
6. Agree.
7. Agree.
8. Agree.
9. Neither Agree or Disagree. We agree that customer service is a high priority, however, the level and ability to quickly respond to situations is hampered by the lack of staff to handle the heavy caseload and lack of adherence by sponsors of the Department's established regulations for filing of action requests (e.g., in 1999, 85% of the requests for DS-2019 forms was on an urgent basis; the majority of extension and change of category cases are files outside required deadlines). For example, the training category is the most complex category within the Exchange Visitor Program. The training category is comprised of approximately 120 programs with over 30,000 visitors annually. Two officers work part-time covering this category.
10. Agree. Information provided on the case warrants investigation of this situation.
11. Agree with the need for identifying and maintaining statistics on the level of reciprocity. Agree in principle with requiring reciprocity for all programs. However, reciprocity may be difficult or impossible to obtain in several of them, including the flight training program and the alien physician category. One for one reciprocity may not be possible in any category.



DEPARTMENT OF STATE ASSISTANT SECRETARY FOR CONSULAR AFFAIRS WASHINGTON

UNCLASSIFIED MEMORANDUM

TO: OIG/AUD -Mr. J. Richard Berman

FROM: CA – Mary A. Ryan

SUBJECT: Draft Audit Report -J- Visa Program Needs Improved Management and Oversight

Thank you for sending CA a copy of your draft report titled *J-Visa Program Needs Improved Management and Oversight*.

CA's main concern in reading the report is the use of the words "J-1 visa" when we believe you really mean "exchange visitor program." As your report deals with the underlying exchange visitor program and not the issuance of visas, we would prefer that you make this clear by making the following changes:

- Use "exchange visitor" instead of "J-visa holder"
- Use "exchange visitor program" instead of "J-visa program"
- Use "program abuse" instead of "visa abuse"

Since the word "Visa" is used over 100 times in the report (most often to refer to an exchange visitor or exchange program), you may leave the erroneous impression that you have audited the visa function abroad.

If you have any questions, please contact Mr. H. Edward Odom, Chief, Legislation and Regulations Division at 202-663-1204 at the Visa Office.

August 20, 2000

MEMORANDUM TO: ECA – Dr. Finn

FROM: Lorie J. Nierenberg
ALA, Public Diplomacy and Public Affairs

SUBJECT: Draft Audit Report on the Exchange Visitor Program (July 2000)

SUMMARY:

Although not specifically requested to comment on the above-referenced draft audit report, L/PD has read it carefully in light of the role of USIA's Office of the General Counsel in the administration of the Exchange Visitor Program through September 1999, and our continued interest in the subject matter as advisors to ECA. We offer several general and specific comments which we trust will be useful to both ECA and OIG.

DISCUSSION

As a general matter, there could perhaps be slightly greater clarity in terms of the focus of the audit and report. On the one hand, it appears that the review encompassed the entire Exchange Visitor Program; on the other, it is clear that the Trainee category was the primary target. As noted below, we suspect that some of the statements/recommendations which come across as being generally applicable to the entire Program might perhaps be more narrowly construed.

More specifically:

1. Recommendation: the title of the entire report reads more like a headline than a title. Perhaps it could be changed to something like "A Study of the Exchange Visitor Program" or "A Review of the Exchange Visitor Program's Management and Oversight" or "Administration of the Exchange Visitor Program - Trainee Category" (???)
2. Throughout the report:
 - replace "J-Visa Program" with "Exchange Visitor Program"
 - replace "EVP" with "ECD"
 - replace "J-Visa participant," "J-visa Program participant" "J-visa holder," and "participant" with "exchange visitor"

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3. In the TABLE OF CONTENTS (page I), change IVB to read. "INAPPROPRIATE USES OF THE EXCHANGE VISITOR PROGRAM: CASE STUDIES"
4. In the ABBREVIATIONS section (page ii)
 - "EVP" should refer to "Exchange Visitor Program" (delete "Services")
 - Add "ECD" to the list and the corresponding "Exchange Visitor Program Designation Staff"
5. Under "Principal Findings, Inappropriate Uses of the J-Visa"(page 3), change "J-Visa trainees" To "trainees in the Exchange Visitor Program"
6. Under "Lack of Reciprocity" (page 4), in sentence 3, change "EVP" to "ECD" (twice), and end The sentence after ". . . on similar types of exchanges." The next sentence should now read, "The regulations require that sponsors make a good faith effort to achieve the fullest possible reciprocity in the exchange of persons."
7. In "PURPOSE AND SCOPE" (page 6), paragraph 3, sentence 4, we are puzzled by OIG's reference to having visited 12 sponsors; do you mean 12 training sponsors?
8. In "BACKGROUND" (page 8), paragraph 1, final sentence, insert "in the Exchange Visitor Program" between "foreign nationals" and "to enter"
9. Under "Program Sponsors" (page 9), paragraph 2, the first item should read: "(1) a system of screening and selecting program participants that includes verifying an exchange visitor possesses sufficient proficiency in the English language to participate in his/her program." Item (6) should read, "ready access to EVP officials, to the extent lawfully permitted, of all books, etc."
10. On page 11, paragraph 1, sentence 6, can you provide a citation to the GAO recommendation to which you refer?
11. On page 12, paragraph 2, penultimate sentence, change "professions" to "occupations."
12. Page 14, paragraph 2, sentence 5: a penalty does, in fact, exist; see 22 CFR 62.60(c)), formerly 514.60 (c).
13. Page 15, last paragraph (continuing onto page 16): place a period after "1993"and delete the rest. Of, if you prefer, replace the final phrase with something like, ". . . until it could be determined whether Trainee sponsors serving in an intermediary role were using the Exchange Visitor Program appropriately." On page 16 (as it currently reads), delete sentence 2 (see 22 CFR 62.7 (d) (formerly 514.7(d). Also on page 16, under Recommendation 2, delete, ". . . due to the 1993 request of the United States Information Agency's Office of General Counsel." (This would also apply to Recommendation 2 as it appears on page 44.) We recognize that ECA/EC/ECD has suggested modifications to the language of Recommendation 2 as well.
14. Page 21, "Specific Violations," change "1993 regulations" to "1993 regulations, as amended," or replace with "Exchange Visitor Program regulations."

15. Page 22, “Insufficient Training Plans,” line-2, delete the words “similarly situated.” They do not appear in the regulation.
16. Page 31, first full sentence: USIA did, in fact, contact the Department of Labor, the Immigration and Naturalization Service, and State’s Bureau of Consular Affairs; each was asked for input.
17. Page 44, Recommendations 1 and 4, respectively: OIG suggests that ECD conduct on-site program reviews of *all* sponsors prior to redesignating them. Is this, in fact, what OIG is recommending, or is this recommendation intended to focus primarily on training programs, which appear to be the main thrust of the report?

We appreciate your willingness and that of OIG to entertain L/PD’s comments. Please feel free to contact me or Julie Simpson of my staff should you have any questions.