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NONIMMIGRANT VISAS

Use of Visas by Alien Artists, Entertainers, and Athletes





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National Security and
International Affairs Division

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The Honorable Joseph R. Biden, Jr.
Chairman, Committee on the Judiciary
United States Senate

The Honorable Edward M. Kennedy
Chairman, Subcommittee on Immigration
and Refugee Affairs
Committee on the Judiciary
United States Senate

The Honorable Jack Brooks
Chairman, Committee on the Judiciary
House of Representatives

The Honorable Romano L. Mazzoli
Chairman, Subcommittee on International
Law, Immigration, and Refugees
Committee on the Judiciary
House of Representatives

This report provides information on the use of O and P visas by alien artists, entertainers, athletes, and related support personnel who enter or seek entry to the United States as nonimmigrants. It also discusses (1) the status of reports that the Immigration and Naturalization Service (INS) is required to submit to Congress and (2) INS's progress in analyzing the occupations of aliens whose petitions for visas are approved. This and our earlier report, Nonimmigrant Visas: Requirements Affecting Artists, Entertainers, and Athletes (GAO/NSIAD-93-6, Oct. 26, 1992), respond to reporting requirements in section 202 (b)(1) of Public Law 102-232, dated December 12, 1991.

Background

The Immigration Act of 1990 (P.L. 101-649) established new classes of O and P temporary worker visas for those people with distinguished merit and ability. The subclasses of these visas are defined as follows. O-1 visas are for people with extraordinary ability in the arts (including films or television), sciences, education, business, or athletics, and O-2 visas are for their essential support personnel. P-1 visas are for internationally recognized athletes or entertainers and their essential support personnel. P-2 visas are for artists or entertainers performing as part of a reciprocal

exchange program; and P-3 visas are for artists or entertainers specializing in culturally unique performances. Most of these visas became effective in April 1992; however, the P-2 visa and the O-1 visa for persons of extraordinary ability in the fields of science, education, or business became effective in October 1991.

Results in Brief

As of September 1993, INS had approved petitions for about 41,000 O and P visas; the State Department's overseas posts had issued about 23,000 O and P visas; and aliens holding O and P visas had entered the United States about 31,000 times.

Under a legislative requirement, the Attorney General must report to the Congress annually, beginning in April 1993, on the occupations of aliens seeking O and P visas. However, the report that was due in April 1993 was lost during processing and was not transmitted to the Congress until March 7, 1994—almost 1 year late. The report due in April 1994 is now being prepared.

INS is in the process of developing an automated database system to compile data on the occupations of aliens whose petitions for O and P visas are approved. Until its automated data system is in place, INS is using statistical sampling to estimate the occupations of O and P petitioners. Its sampling for the period ending September 1992 showed that the majority of petition beneficiaries were musicians and composers.

Data on the Use of O and P Visas

There are three measures of the use of O and P visas: (1) the number of people (petition beneficiaries) on nonimmigrant workers' petitions for visas approved by INS; (2) the number of visas issued by the State Department's posts overseas; and (3) the number of times, as reported by INS inspectors, that visa holders have entered the United States. These indicators, although related, are not directly comparable. Not all persons whose petitions for visas are approved will seek and be issued visas, and workers from Canada with approved petitions are not required to obtain visas. A person granted a visa may enter the United States once, a number of times, or not at all. In addition, there is a time lag between when a person's petition for a visa is approved, when the visa is issued, and when the person seeks entry and is admitted into the United States.

Petition Beneficiaries

For prospective workers to obtain O and P visas, their employers or agents must submit petitions to INS for its approval. A petition may include more than one worker. From April 1992 to September 1993, INS approved petitions for 41,322 workers to receive O and P visas. Of these, 25,275, or about 60 percent, were for internationally recognized athletes or entertainers and their essential support personnel (P-1 visa). Table 1 shows the number of workers, by visa subclass, that INS approved for visas through September 1993.

Table 1: Number of Workers on INS-Approved Petitions for O and P Visas.

Visa subclass	Apr. to Sept. 1992	Oct. 1992 to Sept. 1993	Total
O-1	1,243	3,063	4,306
O-2	498	1,685	2,183
Subtotal	1,741	4,748	6,489
P-1	7,716	17,559	25,275
P-2	74	446	520
P-3	2,851	6,187	9,038
Subtotal	10,641	24,192	34,833
Total	12,382	28,940	41,322

Source: GAO analysis of INS data.

Visas Issued

On the basis of INS-approved petitions, the State Department's posts overseas issue visas for entry into the United States. As with the petition beneficiaries, about 60 percent of the visas issued through September 1993 were for internationally recognized athletes, entertainers, and essential support personnel (P-1). Data for the first 6 months of fiscal year 1994 is expected to be available about June 1994. Table 2 shows the number of visas issued by the State Department.

Table 2: Number of O and P Visas Issued by State Department Posts Overseas.

Visa subclass	Apr. to Sept. 1992	Oct. 1992 to Sept. 1993	Total
O-1	451	2,003	2,454
O-2	223	1,001	1,224
Subtotal	674	3,004	3,678
P-1	2,886	11,308	14,194
P-2	34	121	155
P-3	1,399	3,642	5,041
Subtotal	4,319	15,071	19,390
Total	4,993	18,075	23,068

Source: GAO analysis of State Department data.

Entries Into the United States

INS inspectors at U.S. ports of entry report entries by visa holders. Through September 1993, 66 percent of entries were for internationally recognized athletes, entertainers, and essential support personnel (P-1). Table 3 shows reported entries for O and P visa holders. Data for the first half of fiscal year 1994 is expected to be available from INS in mid-1994.

Table 3: Number of Entries of O and P Visa Holders into the United States.

Visa subclass	Apr. to Sept. 1992	Oct. 1992 to Sept. 1993	Total
O-1	448	3,128	3,576
O-2	252	977	1,229
Subtotal	700	4,105	4,805
P-1	3,523	17,205	20,728
P-2	89	423	512
P-3	1,126	4,103	5,229
Subtotal	4,738	21,731	26,469
Total	5,438	25,836	31,274

Source: GAO analysis of INS data.

Reporting Delays

Section 207(c) of Public Law 102-232 requires the Attorney General to report to the Congress by April of each year on the occupations of people included in petitions for O and P visas. The first report covering the period ending in September 1992 was due in April 1993. In 1993, INS personnel prepared a draft report and put it in process for transmittal to the Department of Justice for review and subsequent transmittal to the

Congress. However, when we inquired about the report, INS and Justice officials determined that the report apparently had become lost during processing and had not been transmitted to the Congress due to an administrative oversight.

Upon realizing this apparent oversight, Justice submitted the report on March 7, 1994—almost 1 year late. INS is developing a second report that is due in April 1994 on the use of the O and P visas during fiscal year 1993.

Data Gathering Weaknesses

In 1992, on the basis of our prior work, the Chairman of the Subcommittee on Immigration and Refugee Affairs, Senate Committee on the Judiciary, requested that INS collect and compile data on O and P visas, particularly to distinguish among the various occupations covered under the visas. In December 1992, the INS Commissioner said that various means of collecting the data were being studied and that the agency was in the process of developing an automated system to track occupations in the future. In March 1994, an INS official said that they were still developing the automated system but that it is near to becoming operational. Thus, occupational data for a full year will not be available until mid-1995.

Until the automated system becomes operational, INS is using statistical sampling to estimate occupations of the petition beneficiaries. INS estimates for the period April to September 1992 are included in the March 1994 report. For example, it estimated that musicians and composers constituted between 68 and 84 percent of the P visa petition beneficiaries and athletes constituted between 5 and 9 percent. INS reported that considering sampling errors, chances are about 95 out of 100 that the number of people in a specified occupation is within the specified range. Its estimates for fiscal year 1993 will be included in the INS report now being prepared.

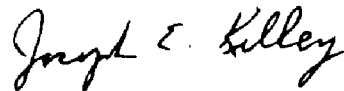
Scope and Methodology

We reviewed the data compiled by INS and State and discussed with INS its data gathering and reporting plans; however, we did not test the data provided by INS and State.

We conducted our work from January to March 1994 in accordance with generally accepted government auditing standards. We did not obtain written agency comments on this report; however, we discussed a draft of this report with program officials at INS. They generally concurred with the information presented in the report. We incorporated their specific comments where appropriate.

We are sending copies of this report to other interested congressional committees, the Secretary of State, the Attorney General, and the Commissioner of the Immigration and Naturalization Service. We will make copies available to others on request.

Please contact me on (202) 512-4128 if you or your offices have any questions concerning this report. Major contributors to this report are John Brummet, Roy F. Hutchens, and Frederick J. Barrett.



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