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**United States Department of State  
and the Broadcasting Board of Governors  
Office of Inspector General**

# **Memorandum Inspection Report**

## **Diversity Visa Program**

**Report Number ISP-CA-03-52, September 2003**

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## **RESULTS IN BRIEF**

Section 306 of the Enhanced Border Security and Visa Reform Act of 2002 (Public Law 107-173) generally prohibits issuance of nonimmigrant visas to aliens from state sponsors of terrorism. There are no parallel restrictions for the DV program. Because of this and the program's vulnerability to fraud and the ease of application, OIG believes that this program contains significant threats to national security from entry of hostile intelligence officers, criminals, and terrorists into the United States as permanent residents.

The DV program is subject to widespread abuse. Despite the strictures against duplicate submissions, the KCC detects thousands of duplicates each year. Currently, the only penalty for submitting detected duplicate entries is disqualification for the year in which the duplicate submissions are detected. Identity fraud is endemic, and fraudulent documents are commonplace. Many countries exercise poor control over their vital records and identity documents, exacerbating the potential for program abuse. In some countries, this control is so poor that consular officers must assume that all travel, identity, and civil documents are unreliable.

Several offices and officers in CA's Directorate of Visa Services (CA/VO) manage and oversee parts of the DV program. Overall management direction is disjointed and inadequate, in part because responsibility for day-to-day oversight is not centralized within CA/VO. Missions do not have current written guidance on what is, country by country, the equivalent of a U.S. high school education. Many missions do not have the personnel or language resources to determine which applicants qualify either through training or work experience. CA/VO prepares an annual statistical report for the Congress on DV issuances, but does not include much trend analysis for KCC, overseas missions, or senior CA management.

Unlike other visa applications, the current DV processing fee is collected only from applicants selected as "winners." Millions of applicants pay nothing to participate in the program. The U.S. government pays all costs not covered by the DV fee. For FY 2002, CA estimated program costs not covered by the fee exceeded \$840,000.

To strengthen the DV application process in general and to eliminate specifically its possible use by terrorists as a means of gaining permanent residence in the United States, OIG is recommending that the Department:

- propose legislative changes that would bar from the DV program all aliens from states that sponsor terrorism;

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- propose legislative changes that would permanently bar all adults identified as multiple applicants from future DV programs;
- request legal authority to make the DV program self financing; and,
- establish standards to improve the application of DV eligibility criteria.

## **RESULTS OF REVIEW**

### **Statutory Weaknesses**

The DV program is designed to increase diversity in the U.S. immigrant population. It provides the opportunity to obtain U.S. immigrant visas to persons from countries that traditionally have low immigration to the United States. Also called the "visa lottery" because the winners are determined through a computer-generated random drawing, a maximum of 50,000 permanent residence visas can be issued each fiscal year to persons who meet the eligibility requirements. Visas are apportioned among six geographic regions (Europe, Africa, Asia, North America, South America/Central America/Caribbean, and Oceania). Countries that have sent more than 50,000 immigrants in the past five years cannot qualify, and no one country can receive more than seven percent (3,500) of the DV numbers in any given year.

Aliens from countries currently designated as state sponsors of international terrorism cannot be issued nonimmigrant visas except in limited circumstances.<sup>1</sup> No such requirement exists for the DV program. Between two to four percent of all DV issuances are to nationals of countries currently designated as state sponsors of terrorism.

Natives of some 190 countries are potentially eligible for DV visas each year, although the actual number of eligible states varies for technical reasons. The top ten countries for DV issuance in FY 2001 and 2002 were:

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<sup>1</sup> Section 306 of the Enhanced Border Security and Visa Entry Reform Act of 2002 prohibits nonimmigrant issuance to aliens from countries that are state sponsors of international terrorism unless it is determined such aliens do not pose a threat to the safety and national security of the United States. Countries currently designated as state sponsors of international terrorism are Cuba, Libya, North Korea, Sudan, and Syria. Political refugees from these countries, however, while not eligible for nonimmigrant visas, can gain entry to the U.S. via the parole process or in refugee or asylum status

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<u>FY 2001</u>	<u>FY 2002</u>
Albania	Ukraine
Ethiopia	Ethiopia
Morocco	Nigeria
Nigeria	Poland
Pakistan	Albania
Ukraine	Bulgaria
Bulgaria	Ghana
Romania	Kenya
Bangladesh	Taiwan
Russia	Russia

Source: Visa Office, U.S. Department of State, March 2003.

Each year, the Department issues detailed instructions on the application process, qualifying countries, and the time frame within which applications are accepted. Applicants are advised that they will be disqualified for the year of application if more than one entry for an applicant is received, regardless of who submitted the entry. (Applicants also are disqualified for other reasons, including failing to sign the applications, submitting nonconforming envelopes, or omitting other required information.) Applicants ignore this stricture by the thousands. The KCC reports duplicate disqualifications for DV 2002 and DV 2003 were:

	<u>DV 2002</u>	<u>DV 2003</u>
Total Reviewed Envelopes	9,691,000	5,835,000
Disqualified Duplicates	235,800 (2.4%)	364,000 (6.2%) <sup>2</sup>

Because the second review revealed a significant number of duplicates that the first sort did not detect, the KCC conducted an extensive review of 1,600 DV

<sup>2</sup> For DV 2002, the KCC conducted one sort to identify duplicate applications. For DV 2003 the KCC conducted two sorts. The first identified 287,000 duplicates; a second review of approximately 20 percent of the remaining pool identified an additional 77,000.

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2003 applications for each region (except for North America for which there were only 700 applications overall). Two trays of 800 each were selected at random with the following results:

<u>Region</u>	<u># of Duplicates</u>	<u>Duplicate %</u>
Africa	134	8.35%
Asia	110	6.88%
Europe	210	13.13%
S.A., Caribbean	3	0.02%
Oceania	1	0.01%

The KCC uses both the human eye and facial recognition technology to identify duplicate applications, both for primary beneficiaries and also for qualifying dependents. Time constraints and contract costs currently do not allow for review of all applications, even though violating the rules gives an unfair advantage to applicants who submit duplicate applications.

**Recommendation 1:** The Bureau of Consular Affairs should propose changes to the Immigration and Nationality Act to bar aliens from states that sponsor terrorism from the Diversity Visa application process. (Action: CA)

**Recommendation 2:** The Bureau of Consular Affairs should propose changes to the Immigration and Nationality Act to bar permanently from future diversity lottery programs all adult applicants who are identified as multiple applicants. (Action: CA)

### **Managing the Program**

CA/VO is responsible for providing worldwide substantive direction for the DV program on how to adjudicate visa eligibility under the education requirements. To that end, it has defined "high school education or its equivalent" as either a 12-year course of elementary and secondary education in the United States or a formal course of elementary and secondary education comparable [emphasis added] to the

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completion of 12 years of elementary and secondary education in the United States. Equivalency certificates, such as the General Educational Development credential, are not acceptable. Evidence can consist of school transcripts and other relevant evidence.

The Department initially provided missions with a manual, *Foreign Education Credentials Required for Consideration of Admission to Universities and Colleges in the United States*, but this aid is out of print and no longer available. When OIG asked, missions described how they now determine eligibility. London advised it now uses the *International Guide to Qualifications in Education*, published in the United Kingdom and available for sale there. Other missions admitted that they have not evaluated local school systems to determine what is equivalent to a U.S. high school degree and could not locate any Department cable or e-mail guidance on educational determinations. One officer was issuing DVs based on local high school certificates because he mistakenly believed that any local high school graduation certificate met the criteria.

Embassies and consulates responsible for adjudicating third-country national applications described documents as unreliable and difficult to impossible to check. Officers do not know third-country documents as well as host country documents and typically cannot determine how reliable those documents are.

CA/VO initially had proposed querying missions for input on their host countries' educational systems, with a view to codifying the results. CA/VO's Office of Legislation, Regulations, and Advisory Assistance advised against this initiative because it believed that the expertise on various educational systems was abroad and that adjudicating officers should make their own determinations about the equivalency of a country's educational system on a case-by-case basis. This practice, now in effect, results in inconsistency among consular officers in making a fundamental eligibility decision. CA/VO is confusing establishing standards with adjudicating cases.

**Recommendation 3:** The Bureau of Consular Affairs should issue standards for determining whether foreign high school educations are comparable to U.S. high school educations. (Action: CA)

Applicants are eligible if they can demonstrate that they possess two years of work experience in an occupation that requires at least two years of training or work experience. At the CA web site, potential applicants are advised about the

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link to a Department of Labor list of qualifying occupations and that Labor's online database is used to determine qualifying work experience.

In countries where officers cannot converse in the local language, decisions are based on limited information. For example, in Cairo, Foreign Service nationals play a major role in evaluating work evidence because officers' Arabic skills are limited. Other embassies attempt to get applicants to prove their proposed skills; Lagos invites purported clothing designers to produce a piece of their work on the spot using a consulate-provided sewing machine. Many consular officers note that work experience documents often are fraudulent, but investigative capabilities are limited. Officers and Foreign Service nationals are confident that they analyze host-country documents well but worry about documents from third countries for which they have primary responsibility. For example, Embassy [redacted] does not know [redacted] documents as well as [redacted] Jones and struggles to investigate questionable documents. [redacted] authorities insist that all requests to confirm document authenticity pass through its Foreign Ministry. Replies are slow and never confirm that even the most dubious documents are fraudulent.

All missions are asked to comment on the DV program, if relevant, in their annual Consular Package submissions, but CA/VO does not prepare and disseminate analyses on DV regional and worldwide trends. The Consular Package's annual statistical report provides useful issuance information by nationality and eligibility. Each DV-issuing mission produces an annual DV report and sends it to the KCC. This data is not reviewed and summarized or presented to CA management for use in directing the program. CA's Immigrant Visa Control and Reporting Division collects data on DV immigrants as required under 8 CFR 1153 (c) (3), but OIG could find no instance in which CA management had reviewed or used this information.

**Recommendation 4:** The Bureau of Consular Affairs should prepare an annual report on regional and worldwide Diversity Visa trends and program issues. (Action: CA)

In March 1997, OIG issued Memorandum Report 97-CI-009, *Diversity Visa Program*. The report was issued in conjunction with an overall OIG review of the immigrant visa process. OIG found that fraud was prevalent because missions reported that applicants could easily obtain bogus documents. Also, applying the DV criteria of either the equivalency of a U.S. high school education or two years of relevant job experience was made difficult because educational systems and

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work experience in other countries differ significantly from those in the United States. The report noted that staff resources were limited and fraud prevention was usually the first function reduced when staffing cuts were levied on individual consular sections.

In its March 1997 audit report, OIG recommended that the Department designate a portion of the new diversity fees to augment funding the visa fraud prevention program, including staffing costs at all DV processing missions. At that time, CA responded that it was formulating a proposal to survey and assess fraud at a representative number of DV missions to determine the likely impact on issuances and refusals of a field investigation and to determine what percentage of a DV fee should be devoted to fraud work. When the 2003 OIG team asked the Office of Fraud Prevention Programs (CA/FPP) for a copy of the survey and what new policy directions had resulted, OIG was advised that no one currently in CA/FPP was aware of any such survey.

Fraud is an on-going major program issue. Antifraud activities are generally dominated by nonimmigrant visa fraud cases. Many embassies and consulates with significant DV issues, therefore, do not routinely refer problem cases to their antifraud units. Some missions have no antifraud units.

Current CA/FPP leadership is unaware of any survey to assess fraud at DV missions to determine the likely impact of DV issuances and denials of antifraud field investigations or what percentage of a DV fee should be devoted to fraud work. CA does not know how significant the DV fraud problem is. CA cannot document the wide spread belief that certain countries' records, including school records, are under such poor control that their passports, identity documents, and vital records are so unreliable as to be useless for visa purposes.

**Recommendation 5:** The Bureau of Consular Affairs should determine whether antifraud field investigations are useful in diversity visa cases. (Action: CA)

### **Fees and Staffing**

Section 636 of Public Law 104-208, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, authorizes the Department to collect a fee for the processing of diversity immigrant visas. The law provides that the Depart-

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ment may “establish a fee to be paid by each applicant for an immigrant visa described in section 203(c) of the Immigration and Nationality Act.”

Unlike the nonimmigrant process in which applicants pay a processing fee in advance, the Department currently collects fees only from DV applicants who are selected in the random lottery. Millions apply for free. CA provided OIG with the following program costs and revenue data for FY 2001 and FY 2002.

	<u>FY 2001</u>	<u>FY 2002</u>
KCC contract costs	\$3.2 million	\$4.2 million
Department employee costs	\$65,000	\$124,000
Mission funds worldwide	\$472,000	\$591,000
Total revenues:	\$3,658,439	\$4,074,485
Annual Shortfall	(\$78,561)	(\$840,515)

Program costs significantly exceed revenues. In addition, the KCC and embassies, as well as CA/VO, have insufficient resources to develop, investigate, and process all DV applications fully. The KCC cannot review all applications for duplicate filings.

In the Department, CA/VO is designing a process that would allow applicants to apply online as well as by mail, but OIG has determined that no current DV fees are allotted to this project.

**Recommendation 6:** The Bureau of Consular Affairs should request authority to collect processing fees from all persons who apply for the diversity visa program. (Action: CA)

**Recommendation 7:** The Bureau of Consular Affairs should determine how the diversity visa fee could be appropriately devoted to antifraud work at overseas missions. (Action: CA)

A major part of the DV program’s work involves the acceptance and processing of the millions of applications that KCC receives each year, followed by communi-

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cations with selected applicants and overseas missions. The KCC processes all winning applications through its facial recognition system and processes other applications as time permits. Although the staff believes that screening all applicants would identify significantly more duplicate applications, there is no funding to support a complete review.

Many callers struggle through their inquiries in English because KCC has no language-designated contract or staff positions. KCC staff identifies issues that may be of interest to individual missions, but there is no Department visa officer responsible for communicating with consular officers on individual cases, providing day-to-day advice and training to the contract staff, and determining what general information would be useful to consular sections. KCC staff identifies U.S. addresses that may belong to DV facilitators abusing the process by filing multiple applications. Attorneys at the Federal Trade Commission expressed concern that unscrupulous "entrepreneurs" were making spurious claims on the Internet that they could help applicants be DV winners.

When OIG began this review, there was no KCC antifraud officer position identified for the KCC. OIG has been advised that a position now is approved for that facility and an officer soon will be in place to coordinate antifraud issues and policies. Currently, however, only the KCC director is an experienced consular officer.

**Recommendation 8:** The Bureau of Consular Affairs should conduct workload studies to determine whether a full-time visa officer position and a language-designated telephone inquiry position should be established at the Kentucky Consular Center. (Action: CA)

## **SCOPE AND METHODOLOGY**

This review was conducted to coincide with OIG's inspection of CA/VO. The primary objectives were to assess overall DV program management and to evaluate its implementation at overseas missions. Another objective was to identify vulnerabilities that, once curtailed or eliminated, should improve the border security profile of the United States.

OIG reviewed narrative descriptions of the DV program for several missions; observed operations and collated information at the KCC; conducted site visits at

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Cairo, Dhaka, Frankfurt, London, Paris, and Warsaw; interviewed officers at missions inspected during the Fall 2002 and Winter 2003 inspection cycles; met with attorneys from the Federal Trade Commission; and interviewed CA personnel in Washington, DC. OIG observed the annual 30-day application acceptance process, reviewed open cases at the KCC and overseas missions, and observed DV interviews in progress. Fieldwork was conducted from October 2002 through February 2003. John Parker, Marlene Schwartz, and Michele Truitt conducted this review.

### **LIST OF RECOMMENDATIONS**

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- Recommendation 2:** The Bureau of Consular Affairs should propose changes to the Immigration and Nationality Act to bar permanently from future diversity lottery programs all adult applicants who are identified as multiple applicants. (Action: CA)
- Recommendation 3:** The Bureau of Consular Affairs should issue standards for determining whether foreign high school educations are comparable to U.S. high school educations. (Action: CA)
- Recommendation 4:** The Bureau of Consular Affairs should prepare an annual report on regional and worldwide Diversity Visa trends and program issues. (Action: CA)
- Recommendation 5:** The Bureau of Consular Affairs should determine whether antifraud field investigations are useful in diversity visa cases. (Action: CA)
- Recommendation 6:** The Bureau of Consular Affairs should request authority to collect processing fees from all persons who apply for the diversity visa program. (Action: CA)
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### **LIST OF ABBREVIATIONS**

CA	Bureau of Consular Affairs
CA/FPP	Office of Fraud Prevention Programs
CA/VO	Directorate of Visa Services
Department	Department of State
DV	Diversity Visa program
KCC	Kentucky Consular Center
OIG	Office of Inspector General