

AUDITING AND EVALUATING IMMIGRANT AND IMMIGRATION POLICIES OF THE UNITED STATES

United States Government Accountability Office

The U.S. Government Accountability Office (GAO) regularly audits and evaluates immigrant and immigration policies of the United States, as well as other policies and programmes across the federal Government. Known for many years as the U.S. General Accounting Office, the Congress changed its name in Public Law 108-271, which President George W. Bush signed into law on 7 July 2004. The new law was passed mainly to provide GAO with the flexibility needed to better serve the Congress during a period of budget constraints, and its new name—the traditional GAO initials are unchanged—better reflects the modern professional services organization GAO has become since its creation in 1921.

A. ROLE OF THE U.S. GOVERNMENT ACCOUNTABILITY OFFICE

In the United States, political power is balanced among three independent branches of Government: (a) the Executive Branch, represented by the President and the various executive agencies; (b) the Legislative Branch, represented by the Congress—that is, the Senate and House of Representatives; and (c) the Judicial Branch, which ensures judicial review. GAO is an agency in the Legislative Branch established to assist the Congress in determining how well federal programmes and policies are working. About 90 per cent of its work is Congressionally requested, and GAO initiates the rest.

GAO has significant influence on the operations and practices of Executive Branch agencies, such as the Department of Homeland Security, and the Bureau of the Census, by evaluating agency programmes and making recommendations to directors of agencies when improvements are warranted. These agency directors are required by law to report to the Congress every year what actions, if any, their agency has taken in response to GAO recommendations. Because they may address complex, long-standing problems, some recommendations can take a number of years for an agency to fully implement.

GAO's role is to examine a broad base of federal activities and programmes, and to conduct and report its work in an independent, objective, professional and nonpartisan manner in order to maintain the credibility that an "honest broker" must have in order to have its information, analyses, and judgments trusted by lawmakers, policymakers, and the American people. In the end, an agency may decide not to follow a GAO recommendation, or alternatively, Congress may direct that the recommendation be implemented. The head of GAO—David M. Walker, Comptroller General of the United States—is appointed to serve a 15-year term, reflecting Congressional intentions that GAO and its professional staff be shielded against the influences of short-term political appointees, and that GAO's work is bipartisan.

B. EVALUATING IMMIGRANT AND IMMIGRATION POLICY

GAO's work in evaluating immigration and immigrant policy is too extensive to list comprehensively in a short paper and, as it noted in 1985: "Some issues in immigration are so value laden that they cannot be resolved simply by finding new facts. In other areas, however, disputes are based more on information, and it is to these areas that GAO can notably contribute." With these factors in mind, selected materials from various GAO reports have been used to summarize and discuss its work in three general areas: (a) national security, border control, and related issues; (b) immigrant and nonimmigrant visa issues; and (c) statistics on the foreign-born and projections of flow. The reports used as source material and related reports are identified at the end of this paper, and may be read and/or downloaded from the website at www.gao.gov.

1. National Security, Border Control, and Related Issues

In 2004, GAO reported to the Congress that “of the six hijackers who actually flew the planes or were apparent leaders on September 11 [2001],” three were in the United States illegally—two because in the past they had overstayed their authorized periods of legal admission. These facts derive from a long-term problem that the office reported in 1993: Namely, since 1993, the United States has been unable to determine the total number of foreign visitors who legally enter the United States and fail to leave when required.

GAO further reported that millions of Mexican and Canadian visitors who enter the United States at land ports of entry are not tracked at all (according to “unofficial DHS planning figures for fiscal year 2002, approximately 156 million inspections [were] conducted for visits by visa-exempt aliens” and Mexicans with Border Crossing Cards (BCCs) “at land border crossings”). Nor can the United States currently determine, for citizens of 27 countries for which the United States does not require a visa for admission as a visitor for business or pleasure, how many such visitors overstay their lawful periods of admission. Other serious problems include lengthy backlogs in approvals of petitions for aliens to become legal permanent residents, or LPRs (that is, to obtain “green cards”), and the inability to locate many aliens in the United States because of a lack of reliable address information. In an action partially related to these difficulties, the Congress abolished the U.S. Immigration and Naturalization Service (INS) and, on 1 March 2003, reorganized it within the new Department of Homeland Security (DHS).

GAO has determined that terrorists who enter the United States as legal visitors “are hidden within the much larger populations of all legal visitors, overstays, and other illegals such as border crossers.” The office reported that as of April 2004, audits by DHS of nearly 200 airports and almost 6,000 businesses, involving “about 385,000 employees . . . had found 4,918 unauthorized [illegal alien] workers.” In Operation Tarmac, “a national multiagency initiative focused on screening employees working in secure areas of U.S. airports,” GAO reported that overstays “had fraudulently gained access to the secure areas of all but one of the 26 airports reviewed,” and that “of 607 unauthorized [illegal alien] workers arrested at a sample of airports, 182, or 30 per cent, were overstays.” The office further reported that:

The illegal immigrant workers with access to secure airport areas were employed by airlines (for example, at Washington Dulles International Airport and Washington Reagan National Airport, these included American, Atlantic, Delta, Northwest, and United Airlines, as well as SwissAir and British Airways) and by a variety of other companies (for example, Federal Express and Ogdan Services). Job descriptions included, among others, aircraft maintenance technician, airline agent, airline cabin service attendant, airplane fueler, baggage handler, cargo operations manager, electrician, janitorial supervisor, member of a cleaning crew, predeparture screener, ramp agent, and skycap. One overstay was employed in an airport badging office.

In a 2002 report, GAO determined that facial recognition, fingerprint recognition and iris recognition are suitable biometric technologies for border control, while retina recognition, signature recognition and speaker (voice) recognition are not—at least not at present.

2. Immigrant and Non-immigrant Visa Issues

Because of the terrorist attacks of 11 September 2001, the Congress has asked GAO to evaluate many policies, laws, and regulations involving immigrant and non-immigrant admissions to the United States. Understandably, there are concerns that “terrorists or other criminals may exploit” some programmes to enter the United States, such as the Visa Waiver Program, which enables citizens of 27 participating countries “to travel to the United States for tourism or business without first obtaining a visa.” GAO reported that eliminating the program “could result in a loss of 3 million visitors, \$28 billion in tourism exports, and 475,000 jobs,” and the number of visa applications would increase by 14 million. It also estimated that “initial costs to process the additional workload” for the Department of State “would likely range between

\$739 million and \$1.28 billion, and annual recurring costs would likely range between \$522 million and \$810 million.”

In a nationwide selection of more than 414,000 businesses applying to sponsor immigrant workers from 1997 to 2004, GAO found that about 20,000 (5 per cent) businesses and organizations “that were unknown” to the U.S. Internal Revenue Service (IRS). In the same audit, it found that nearly 68,000 (about 16 per cent) businesses applying to sponsor immigrant workers during the same period “did not file one or more tax returns.” “Information like this can be used to select taxpayers for audit or other enforcement efforts,” and “failure to file a tax return could be relevant to a DHS decision about whether a business meets the financial feasibility (ability to pay wages) and legitimacy (proof of existence) tests for sponsoring an immigrant,” according to the report.

GAO has recommended that the Department of State “improve its implementation of the visa process to improve its effectiveness and consistency among its overseas posts.” GAO determined that “a lack of clear guidance has resulted in wide discrepancies among posts in the level of scrutiny of visa applications and in factors used to refuse visas to questionable applicants, and that consular officers need clear statements of policies and priorities to guide them in their risk assessments of visa applicants and in determining who should and who should not receive visas.” The office further found that “consular training has not incorporated the tools to identify potential terrorists.”

In 2004, GAO reviewed information on U.S. programmes designed to screen certain groups of visitors, including applicants for student visas, which is a contentious issue in the Congress and in academia. It found that the time it takes to adjudicate a visa “depends on whether an applicant must undergo a security check known as Visas Mantis, which is designed to protect against sensitive technology transfers,” and that “Department of State data are not available on how long it takes for a science student or scholar to obtain a visa.” GAO recommended that “the Secretary of State, in coordination with the Director of the Federal Bureau of Investigation (FBI) and the Secretary of Homeland Security, develop and implement a plan” to improve the Visas Mantis security check process.

3. Statistics on the Foreign-Born and Projections of Flow

In deciding to change the annual numerical limits for family-based and employment-based immigrants in the Immigration Act of 1990, Congress relied heavily on GAO’s projections of legal immigration from 1990 to 1999 under current law versus proposed legislation. GAO’s “workbook” approach in illustrating multiple scenarios—the effects of interactions of different provisions of law upon the numbers of aliens who would ultimately be likely to become legal immigrants, both overall and by country, and assumptions about what would result from changing one or more of these provisions of law—assisted the Congress in making important policy decisions about future legal immigration to the United States.

A 1998 GAO report on problems with immigration statistics provided what the current Chief, Immigration Statistics Staff, at the U.S. Bureau of the Census has called a “blueprint” that the Census Bureau used to guide long-term improvements in data it collects on the foreign-born (such as the components of international migration). Based on the demographic concepts of annual population flow, population size, net change in population size, and annual emigration, GAO identified and evaluated the quality of then-existing statistics on the foreign-born population produced mainly by the Census Bureau and the INS (which was abolished in 2003 and reorganized within DHS). The Director of the Office of Immigration Statistics at DHS has used the report to guide plans to improve the quality of administrative statistics on the foreign-born, and in reporting on changes of status (for example, an alien may enter the United States as a tourist, subsequently re-enter as a foreign student, apply for and obtain temporary worker status, and then adjust his or her status to that of LPR, or “green card” holder, after marrying a U.S. citizen). The ability to statistically describe changes of status lends further understanding to the process of immigration, as well as the costs and benefits of immigrants.

Recognizing the difficulty of estimating the illegal immigrant population, GAO devised the “Three-Card Method” to take a different approach to estimate both the size and characteristics of the resident illegal alien population. It is a survey-based demographic method of residual estimation, and is only generally described here. GAO developed the new method to collect new information about illegal aliens, because there is relatively little reliable information about their characteristics and behaviors, and as a result, their impacts are difficult to document. Without reasonably reliable and valid estimates of the illegal alien population, it is difficult to accurately assess the coverage of the U.S. national decennial census; for example, if census figures indicate unexpected population increases, this might be traced to unexpectedly high levels of illegal immigration—or from changes in coverage levels. The method is interesting because it does not require any person surveyed to identify himself or herself as an illegal alien, nor to identify anybody else as an illegal alien.

During 2003-2004, DHS and the Bureau of the Census collaborated in testing and evaluating GAO’s three-card method for “question threat” and its ability to gather information on the different legal statuses of foreign-born persons. In addition to illegal aliens, these statuses include student or temporary worker, U.S. citizen, refugee or asylee (person granted asylum in the United States), as well as LPR (that is, holder of a “green card). DHS provided funds for the National Opinion Research Center, Chicago, Illinois, the United States, to field test the three-card method with respect to one legal category—the legal permanent resident, or “green card” category—and the Bureau of the Census has agreed to evaluate the results of the test after it is completed in December 2004.

C. CONCLUSIONS

Because it seeks to provide evidence-based facts and information to the Congress, and may recommend that agencies change their practices to reflect legal requirements or Congressional intentions, GAO has significant influence on legislation and Executive Branch operations. In the controversial area of immigrant and immigration policy the impacts of GAO’s work are evident, and its influences on Congressional decision-making has been and is likely to remain significant.

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