

SEP 11 2007

Assistant Secretary for Legislative Affairs
U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

The Honorable John J. Conyers, Jr.
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This report was prepared in accordance with Section 416(d)(1) of the American Competitiveness and Workforce Improvement Act of 1998 (title IV of division C of Public Law 105-277; 8 U.S.C. 1184 note), as amended by Section 406 of the REAL ID Act of 2005 (division B of Public Law 109-13), which requires that:

Beginning not later than March 1, 2006, the Secretary of Homeland Security and the Secretary of State shall notify, on a semiannual basis, the Committees on the Judiciary of the House of Representatives and the Senate of the number of aliens who during the preceding 1-year period--

(A) were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)); or

(B) had such a visa or such status be revoked or otherwise terminated.

This report on H-2B nonimmigrants has been compiled from information provided by the Department of State (DOS) and from the three immigration agencies within the Department of Homeland Security: U.S. Citizenship and Immigration Services (USCIS), U.S. Customs and Border Protection (CBP), and U.S. Immigration and Customs Enforcement (ICE). Identical copies of the report will be provided to the Chairpersons and Ranking Members of the House and Senate Committees on the Judiciary and of the relevant Subcommittees.

Regarding the number of aliens who were issued H-2B visas or otherwise provided H-2B status, it should be noted that, upon approval by USCIS of an H-2B petition, an alien may be accorded H-2B status through:

- Admission by CBP at a port of entry as an H-2B nonimmigrant after issuance of an H-2B nonimmigrant visa by DOS;
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- Change of status to H-2B nonimmigrant granted by USCIS.

H-2B Visas Issued and Status Provided

During the period from October 1, 2005 to September 30, 2006, 127,184 aliens were issued H-2B visas or otherwise acquired H-2B status. This figure includes:

- A total of 122,541 H-2B visas issued by DOS;
- A total of 1,944 requests for change of status to H-2B approved by USCIS; and
- A total of 2,699 aliens admitted without visas by CBP (2,687 Canadians, 1 Bermudan and 11 Bahamians).

Please note that the DOS visa-issuance totals include both aliens classified as new H-2B nonimmigrant workers (71,687) and aliens classified as returning workers (50,854). Likewise, the number of H-2B aliens who were admitted to the United States without visas may include multiple admissions by the same individuals. None of these figures includes spouses and children of H-2B nonimmigrants, as such dependents fall under a separate visa category (H-4).

H-2B Visas or Status Revoked or Otherwise Terminated

During the period from October 1, 2005 through September 30, 2006, USCIS revoked or otherwise terminated a total of 63 approved petitions, which would have authorized a total of 1,076 H-2B positions.

In addition, CBP or ICE cancelled the visas and terminated the status of 76 aliens who were either found inadmissible at a port of entry or found deportable after admission to the United States.

In addition to these visa revocations and cancellations, the Department of State reports that it refused the visa applications of 26,458 aliens who were the beneficiaries of H-2B petitions approved by USCIS. This number includes both those beneficiaries whose employers withdrew the petition after approval by USCIS and those beneficiaries who were denied visas for other reasons (e.g., on a ground of inadmissibility under section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a))). There is no indication that any of these visa denials involved matters that should have been caught during the adjudication of the petition. (The adjudication process focuses on the validity of the employer-employee relationship, the nature of the job being offered, etc. Issues involving inadmissibility of alien beneficiaries and possible waivers of inadmissibility are addressed as part of the consular visa-issuance process or the port-of entry inspection process). These visa refusals are not included in the figure for visas issued (122,541) reported above.

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Sincerely,

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Donald H. Kent, Jr.
Assistant Secretary
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U.S. Department of Homeland Security

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Homeland Security

The Honorable Lamar Smith
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Representative Smith:

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**Homeland
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The Honorable Zoe Lofgren
Chairman
Subcommittee on Immigration, Citizenship, Refugees,
Border Security, and International Law
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

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Homeland Security

The Honorable Steve King
Ranking Committee
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Committee on the Judiciary
U.S. House of Representatives
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Please note that the DOS visa-issuance totals include both aliens classified as new H-2B nonimmigrant workers (71,687) and aliens classified as returning workers (50,854). Likewise, the number of H-2B aliens who were admitted to the United States without visas may include multiple admissions by the same individuals. None of these figures includes spouses and children of H-2B nonimmigrants, as such dependents fall under a separate visa category (H-4).

H-2B Visas or Status Revoked or Otherwise Terminated

During the period from October 1, 2005 through September 30, 2006, USCIS revoked or otherwise terminated a total of 63 approved petitions, which would have authorized a total of 1,076 H-2B positions.

In addition, CBP or ICE cancelled the visas and terminated the status of 76 aliens who were either found inadmissible at a port of entry or found deportable after admission to the United States.

In addition to these visa revocations and cancellations, the Department of State reports that it refused the visa applications of 26,458 aliens who were the beneficiaries of H-2B petitions approved by USCIS. This number includes both those beneficiaries whose employers withdrew the petition after approval by USCIS and those beneficiaries who were denied visas for other reasons (e.g., on a ground of inadmissibility under section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a))). There is no indication that any of these visa denials involved matters that should have been caught during the adjudication of the petition. (The adjudication process focuses on the validity of the employer-employee relationship, the nature of the job being offered, etc. Issues involving inadmissibility of alien beneficiaries and possible waivers of inadmissibility are addressed as part of the consular visa-issuance process or the port-of entry inspection process). These visa refusals are not included in the figure for visas issued (122,541) reported above.

The Honorable Arlen Specter
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I appreciate your interest in the Department of Homeland Security, and I look forward to working with you on future homeland security issues. If I may be of further assistance, please contact the Office of Legislative Affairs at (202) 447-5890.

Sincerely,

A handwritten signature in black ink, appearing to read "DKent", written in a cursive style.

Donald H. Kent, Jr.
Assistant Secretary
Office of Legislative Affairs

SEP 11 2007

Assistant Secretary for Legislative Affairs

U.S. Department of Homeland Security

Washington, DC 20528



Homeland Security

The Honorable John Cornyn
Ranking Member
Subcommittee on Immigration, Border
Security, and Citizenship
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Senator Cornyn:

This report was prepared in accordance with Section 416(d)(1) of the American Competitiveness and Workforce Improvement Act of 1998 (title IV of division C of Public Law 105-277; 8 U.S.C. 1184 note), as amended by Section 406 of the REAL ID Act of 2005 (division B of Public Law 109-13), which requires that:

Beginning not later than March 1, 2006, the Secretary of Homeland Security and the Secretary of State shall notify, on a semiannual basis, the Committees on the Judiciary of the House of Representatives and the Senate of the number of aliens who during the preceding 1-year period--

(A) were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)); or

(B) had such a visa or such status be revoked or otherwise terminated.

This report on H-2B nonimmigrants has been compiled from information provided by the Department of State (DOS) and from the three immigration agencies within the Department of Homeland Security: U.S. Citizenship and Immigration Services (USCIS), U.S. Customs and Border Protection (CBP), and U.S. Immigration and Customs Enforcement (ICE). Identical copies of the report will be provided to the Chairpersons and Ranking Members of the House and Senate Committees on the Judiciary and of the relevant Subcommittees.

Regarding the number of aliens who were issued H-2B visas or otherwise provided H-2B status, it should be noted that, upon approval by USCIS of an H-2B petition, an alien may be accorded H-2B status through:

- Admission by CBP at a port of entry as an H-2B nonimmigrant after issuance of an H-2B nonimmigrant visa by DOS;
- Admission by CBP at a port of entry as an H-2B nonimmigrant without a visa, in the case of certain Canadian, Bermudan and Bahamian residents; or
- Change of status to H-2B nonimmigrant granted by USCIS.

H-2B Visas Issued and Status Provided

During the period from October 1, 2005 to September 30, 2006, 127,184 aliens were issued H-2B visas or otherwise acquired H-2B status. This figure includes:

- A total of 122,541 H-2B visas issued by DOS;
- A total of 1,944 requests for change of status to H-2B approved by USCIS; and
- A total of 2,699 aliens admitted without visas by CBP (2,687 Canadians, 1 Bermudan and 11 Bahamians).

Please note that the DOS visa-issuance totals include both aliens classified as new H-2B nonimmigrant workers (71,687) and aliens classified as returning workers (50,854). Likewise, the number of H-2B aliens who were admitted to the United States without visas may include multiple admissions by the same individuals. None of these figures includes spouses and children of H-2B nonimmigrants, as such dependents fall under a separate visa category (H-4).

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