

GAO Highlights

Highlights of [GAO-14-356](#), a report to the Ranking Member, Committee on the Judiciary, U.S. Senate

Why GAO Did This Study

As of November 2013, about 100,000 of the approximately 1 million foreign students in the United States were approved to participate in OPT—an employment benefit that allows foreign students to obtain temporary work in their areas of study during and after completing an academic program. ICE is responsible for certifying schools; monitoring foreign students and schools, including their compliance with OPT requirements; and enforcing immigration laws for those that fail to comply.

GAO was asked to review the management of OPT. This report examines the extent to which DHS has (1) identified and assessed risks associated with OPT, and (2) collected information and developed monitoring mechanisms to help ensure students comply with OPT requirements and maintain their legal status. GAO analyzed ICE regulations and policies and data on schools that recommend and foreign students approved for OPT, as of August 2013. GAO interviewed ICE and USCIS officials, including those from 7 of 26 ICE field offices selected based on factors such as OPT-related fraud investigations. Interview results cannot be generalized, but they provided insights about OPT risks.

What GAO Recommends

GAO recommends that ICE, among other things, identify and assess OPT-related risks and require additional employment information from students and schools. DHS concurred with the recommendations.

View [GAO-14-356](#). For more information, contact Rebecca Gambler at (202) 512-8777 or gablerr@gao.gov.

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STUDENT AND EXCHANGE VISITOR PROGRAM

DHS Needs to Assess Risks and Strengthen Oversight of Foreign Students with Employment Authorization

What GAO Found

U.S. Immigration and Customs Enforcement (ICE), a component of the Department of Homeland Security (DHS), has not identified or assessed fraud or noncompliance risks posed by schools that recommend and foreign students approved for optional practical training (OPT), in accordance with DHS risk management guidance. ICE's Student and Exchange Visitor Program (SEVP) officials consider OPT to be a low-risk employment benefit for foreign students because, in part, they believe foreign students approved for OPT do not have an incentive to jeopardize their legal status in the United States. However, SEVP has not determined potential risks in OPT. Further, officials from the Counterterrorism and Criminal Exploitation Unit (CTCEU), ICE's investigative unit, and ICE field agents GAO interviewed have identified potential risks involving OPT based on prior and ongoing investigations. For example, ICE field agents identified cases where school officials recommended OPT for foreign students to work outside of their major areas of study, which is not allowed under ICE regulations. In response to a June 2012 GAO recommendation, ICE has taken initial actions to identify risks across SEVP-certified schools but has not identified and assessed OPT risks or determined the extent to which potential OPT risks will be part of its efforts to assess risks SEVP-wide. Further, SEVP has not coordinated with CTCEU, including obtaining and assessing information from CTCEU and ICE field offices regarding OPT risks, as part of its efforts. Identifying and assessing OPT risks, in coordination with CTCEU, could better position SEVP to manage risks in OPT.

ICE has not consistently collected the information and developed the monitoring mechanisms needed to help ensure foreign students comply with OPT requirements, thereby maintaining their legal status in the United States. Foreign students can participate in OPT while attending classes and after graduation for up to 12 months; students studying in science, technology, engineering, or mathematics fields may be eligible for an additional 17 months (29 months total). However, ICE does not have complete information on which foreign students approved for OPT are actively working and whether employment is related to their studies, per ICE regulations. For example, GAO's analysis of ICE data on students engaged in all types of OPT indicates that 38 percent (48,642 of 126,796) of student records do not contain an employer's name. Furthermore, the data do not include the date on which students granted authorization began working. ICE does not require that students and school officials report this information. Without these data, ICE cannot determine whether students with employment authorization are working in jobs related to their studies and not exceeding regulatory limits on unemployment. Collecting and monitoring complete information on foreign students approved for OPT would better position ICE to determine whether these students are maintaining legal status in the United States.

This is a public version of a For Official Use Only/Law Enforcement Sensitive report that GAO issued in January 2014. Information DHS deemed sensitive has been redacted.