



December 2014

IMMIGRATION BENEFITS

Improvements Needed to Fully Implement the International Marriage Broker Regulation Act

Why GAO Did This Study

Enacted in January 2006, IMBRA was passed by Congress to address reports of domestic violence and abuse of foreign beneficiaries married or engaged to U.S. citizens who have petitioned for them to enter the United States on a K visa. As amended, IMBRA requires that the federal government collect and provide to beneficiaries information about petitioners' prior K visa petitions and criminal histories. USCIS is responsible for collecting this information and adjudicating petitions, State is responsible for disclosing information to beneficiaries, and DOJ is authorized to enforce IMBRA. The Violence Against Women Reauthorization Act of 2013 mandates that GAO report on IMBRA implementation.

This report examines the extent to which (1) DHS, State, and DOJ have implemented processes to ensure compliance with IMBRA, and (2) DHS collects and maintains reliable data to manage the K visa process. GAO analyzed IMBRA, USCIS, and State policies, procedures, and guidance, and K visa petition data from March 2012 through March 2014. GAO also interviewed USCIS, State, and DOJ officials regarding their agencies' implementation of IMBRA.

What GAO Recommends

GAO recommends that State provide training to consular officers on IMBRA documentation requirements. GAO also recommends, among other things, that USCIS ensure that all IMBRA-related data will be captured with the planned electronic release of the I-129F petition and that its officers receive additional training on IMBRA requirements. State and DHS concurred with our recommendations.

IMMIGRATION BENEFITS

Improvements Needed to Fully Implement the International Marriage Broker Regulation Act

What GAO Found

The Departments of Homeland Security (DHS), Justice (DOJ), and State (State) have processes to help ensure compliance with the International Marriage Broker Regulation Act of 2005 (IMBRA), as amended, but State could better document information on IMBRA disclosures. Specifically, consistent with IMBRA, DHS's U.S. Citizenship and Immigration Services (USCIS) collects information from petitioners—U.S. citizens who apply to bring noncitizen fiancé(e)s, spouses, and their children (beneficiaries) into the country—through I-129F petitions for K visas. DOJ is responsible for pursuing federal civil and criminal penalties for IMBRA violations. State has guidance on processes for providing IMBRA information to beneficiaries (referred to as disclosures), such as a pamphlet outlining for beneficiaries the K visa process and legal rights and resources available to immigrant crime victims. Specifically, State's guidance requires consular officers to document within case notes in State's database whether they made all of the IMBRA-required disclosures to the beneficiary during the visa interview. However, GAO's review of a sample of K visa applications showed that in about 52 percent of interview case notes (76 of 147), consular officers did not document that they had provided beneficiaries the IMBRA pamphlet as required by State's guidance. In October 2014, State drafted a guidance cable for consular officers on IMBRA implementation, including a reminder to follow guidance regarding IMBRA documentation. State's consular officer training courses, however, do not cover IMBRA-related documentation procedures outlined in its guidance. Incorporating IMBRA-related documentation requirements into training courses could help State better ensure that consular officers are aware of the requirements for documenting IMBRA disclosures.

Consistent with IMBRA, USCIS is to collect and maintain data on, among other things, eight elements in the K visa process for GAO reporting purposes; however, six of the eight elements are either not reliable or are not collected or maintained in a reportable (i.e., electronic) format. Thus, these elements were not readily available for GAO's review. For example, USCIS is to collect and maintain data on I-129F petitions where the petitioner had one or more criminal convictions. This information is maintained in hard copy in the petition file and thus was not readily available for GAO's review. USCIS has begun planning to electronically capture I-129F petition data under the agency's overarching transformation to an electronic immigration benefits system. However, this transformation has faced significant delays, and as of September 2014, the electronic I-129F petition design requirements have not been finalized. Consistent with federal internal control standards, ensuring that all of the IMBRA-related requirements will be captured with the release of the I-129F electronic petition would better position USCIS to collect and maintain complete data on petitioners for reporting purposes and management oversight. Further, USCIS officers have not consistently adjudicated I-129F petitions or recorded complete and accurate data. Specifically, GAO found that USCIS's data are not reliable for determining the number of I-129F petitions filed by persons who have previously filed I-129F petitions for a fiancé(e) or spouse or that required IMBRA waivers because of, among other things, officer error in recording data on petitions. Additional training for officers could help USCIS better ensure its officers are aware of IMBRA requirements to assist them in maintaining petitions data consistent with IMBRA.

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Abbreviations

CLAIMS 3	Computer Linked Adjudication Information Management System 3
CBP	U.S. Customs and Border Protection
DHS	Department of Homeland Security
DOJ	Department of Justice
ELIS	Electronic Immigration System
FAM	<i>Foreign Affairs Manual</i>
FBI	Federal Bureau of Investigation
ICE	U.S. Immigration and Customs Enforcement
IMB	international marriage broker
IMBRA	International Marriage Broker Regulation Act of 2005
INA	Immigration and Nationality Act
IVO	Immigrant Visas Overseas
NCIC	National Crime Information Center
OMB	Office of Management and Budget
SOP	standard operating procedures
USCIS	U.S. Citizenship and Immigration Services

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December 10, 2014

The Honorable Patrick J. Leahy
Chairman
The Honorable Chuck Grassley
Ranking Member
Committee on the Judiciary
United States Senate

The Honorable Bob Goodlatte
Chairman
The Honorable John Conyers, Jr.
Ranking Member
Committee on the Judiciary
House of Representatives

Pursuant to the Immigration and Nationality Act (INA), U.S. citizens (petitioners) may petition for noncitizen fiancé(e)s, spouses, and minor children (beneficiaries) to apply for admission into the United States under a K visa.¹ As amended, the International Marriage Broker Regulation Act of 2005 (IMBRA) seeks to address issues of domestic violence and abuse against beneficiaries by petitioners, including those who meet their foreign-born fiancé(e)s through an international marriage broker (IMB).² Among other things, IMBRA contains requirements

¹8 U.S.C. § 1101(a)(15)(K). The K nonimmigrant visa category has four classifications: a K-1 visa is for a fiancé(e), a K-2 visa is for a fiancé(e)'s minor child, a K-3 visa is for a spouse, and a K-4 visa is for a spouse's minor child. In general, a visa allows a foreign citizen to travel to a U.S. port of entry and request permission of an immigration inspection officer with the Department of Homeland Security's (DHS) U.S. Customs and Border Protection (CBP) to enter the United States for an identified period of time. A nonimmigrant visa permits travel to the United States on a temporary basis.

²Enacted on January 5, 2006, as sections 831 through 834 of the Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-162, §§ 831-34, 119 Stat. 2960, 3066-77 (2006), as amended by the Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, §§ 807-8, 127 Stat. 54, 112-17, IMBRA's provisions are generally codified at sections 1184(d), 1184(r), and 1375a of Title 8, United States Code. In general, IMBRA defines an IMB as an entity that charges fees for providing dating, matrimonial, matchmaking services, or social referrals between U.S. and foreign national clients by providing contact information or otherwise facilitating communication between them. See § 1375a(e)(4) (defining IMB and describing the types of entities that do and do not qualify as IMBs).

intended to ensure that a beneficiary is informed if his or her petitioner has a criminal history or has filed multiple prior petitions for fiancé(e)s or spouses (known as I-129F petitions) to travel to the United States.³ U.S. Citizenship and Immigration Services (USCIS), within the Department of Homeland Security (DHS), is responsible for adjudicating petitions for K visas. Within USCIS, the Service Center Operations Branch is responsible for overseeing all activities performed at its four service centers, which handle the filing, data entry, and adjudication of applications for certain immigration services and benefits. Consequently, USCIS is responsible for collecting, among other information, the petitioners' criminal and filing histories and, in accordance with IMBRA, forwarding this information to the Department of State (State) for disclosure to the beneficiary. State's consular officers at U.S. embassies and consulates overseas adjudicate K visa applications and are to disclose information on petitioners' criminal background, including any convictions and protection orders, and any prior I-129F filings to the beneficiary before adjudicating the K visa application (referred to as disclosures).⁴ IMBRA also imposes disclosure and other requirements on IMBs to help inform and provide greater assurance for the safety of noncitizen fiancé(e)s who meet their petitioners through an IMB.⁵ IMBRA further identifies the Department of Justice (DOJ) as responsible for seeking civil and criminal penalties for violations of its provisions, including, for example, instances where an IMB provides personal contact information of a foreign client (generally, the beneficiary) to someone other than the potential U.S. client (generally, the petitioner).⁶

³See §§ 1184(r)(4)(B)(ii), 1375a(a)(5)(A), (b)(1), (d)(3)-(4). App. I presents USCIS's Form I-129F Petition for Alien Fiancé(e).

⁴See § 1375a(a)(5)(A), (b)(1). The visa applicant must also be informed that such criminal background information is based on available records and may not be complete.

⁵See § 1375a(d).

⁶See § 1375a(d)(6)(A). For purposes of this report, the term "beneficiary" will also be used to describe the foreign client of an IMB, and the term "petitioner" will also be used to describe the U.S. client of an IMB.

In 2008, we reported on the status of agencies' implementation of IMBRA.⁷ IMBRA, as amended by the Violence Against Women Reauthorization Act of 2013, mandates that we review and report on the continuing impact of the implementation of IMBRA.⁸ In support of our reviews, IMBRA has required that DHS, State, and DOJ collect and maintain the data necessary for GAO to conduct the required studies.⁹ This report addresses the extent to which (1) DHS, State, and DOJ have implemented processes to ensure compliance with IMBRA requirements, and (2) DHS collects and maintains reliable data to manage the K visa process.

To determine the extent to which DHS, State, and DOJ have implemented processes to ensure compliance with IMBRA, we reviewed IMBRA, relevant INA provisions, and the I-129F petition and its instructions. We analyzed USCIS's standard operating procedures (SOP) for the adjudication of I-129F petitions and for conducting background checks on petitioners. We also reviewed USCIS's plans and efforts to revise the I-129F petition and compared these plans and efforts against project management standards.¹⁰ We reviewed State's guidance for adjudicating K visa applications, including relevant sections of the *Foreign Affairs Manual* (FAM), relevant cables to consular officers, and the

⁷See § 1375a(f)(1)-(3) (requiring that GAO report on, among other things, IMBRA's impact on the nonimmigrant visa process.) We reported that agencies had implemented some but not all of the requirements in IMBRA. We recommended, among other things, that USCIS develop mechanisms to check all petitioners for prior I-129F filings and, in consultation with State, notify beneficiaries of any prior filings. In addition, we recommended that USCIS, in consultation with State and DOJ, develop a framework for the investigation, referral, and prosecution of potential IMB violations of IMBRA. USCIS concurred with and has taken steps to address the recommendations, as we discuss in this report. See GAO, *International Marriage Broker Regulation Act of 2005: Agencies Have Implemented Some, but Not All of the Act's Requirements*, [GAO-08-862](#) (Washington, D.C.: Aug. 8, 2008).

⁸See § 1375a(f)(4).

⁹§ 1375a(f)(3), (4)(C).

¹⁰Project Management Institute, *A Guide to the Project Management Body of Knowledge (PMBOK® Guide)*. Fifth Edition, (Newtown Square, PA: 2013).

IMBRA pamphlet distributed to K visa applicants.¹¹ We reviewed DOJ's July 2013 report to Congress describing steps that DOJ, DHS, and State can take to develop policies and procedures for identifying, investigating, and prosecuting IMBRA violations.¹² We interviewed DHS, State, and DOJ headquarters officials responsible for implementing IMBRA provisions at each agency. In addition, we interviewed USCIS officers who adjudicate I-129F petitions, supervisors, and fraud detection officials at four USCIS service centers (California, Nebraska, Texas, and Vermont) where the majority of I-129F petitions since fiscal year 2013 have been adjudicated.¹³ We visited the Vermont and California Service Centers. The information collected from interviews with USCIS officers at these service centers cannot be projected to all USCIS officers. However, the site visits and interviews provided us with the perspectives of USCIS officers and supervisors responsible for adjudicating I-129F petitions in these locations.

In addition, we reviewed consular officers' interview notes in State's Immigrant Visas Overseas (IVO) database for K visa applications associated with 227 I-129F petitions submitted to USCIS from March 2012 through March 2014, for which USCIS's data indicated petitioners had multiple prior I-129F petitions (referred to as multiple filers) and criminal histories.¹⁴ We selected this time frame because USCIS did not collect automated data on multiple filers with criminal histories prior to March 2012. We analyzed the interview notes against IMBRA and FAM requirements, and compared the guidance and training provided to

¹¹USCIS, *Information on the Legal Rights Available to Immigrant Victims of Domestic Violence in the United States and Facts about Immigrating on a Marriage-Based Visa*. (Washington D.C., Jan. 7, 2011). IMBRA mandated DHS, in consultation with DOJ and State, to develop an information pamphlet to provide beneficiaries with information on, among other things, the K visa application process and legal rights and resources for immigrant victims of domestic violence, abuse, and other crimes. See § 1375a(a). See app. II for a copy of the pamphlet.

¹²Department of Justice, *Report to Congress Concerning the International Marriage Broker Regulation Act*, July 26, 2013. See Pub. L. No. 113-4, § 808(a)(2), 127 Stat. at 114.

¹³According to USCIS officials, prior to fiscal year 2013, I-129F petitions were adjudicated at all of the four USCIS service centers. However, as of fiscal year 2013, I-129F petitions are primarily adjudicated at two service centers—California and Texas Service Centers. The Nebraska Service Center primarily adjudicates I-129F petitions for K-3 visas.

¹⁴The IVO database provides automated support for visa adjudications, such as case record maintenance, and tracking, scheduling, and reporting on applicant interviews.

consular officers on IMBRA implementation with standards in *Federal Standards for Internal Controls in the Federal Government* and GAO's guide for assessing strategic training and development efforts.¹⁵ We found State's consular notes data to be sufficiently reliable for the purposes of determining whether, in accordance with IMBRA, consular officers disclosed this information to beneficiaries based on our review of FAM guidance regarding what consular officers should denote in IVO and interviews with consular affairs officials. Later in this report, we discuss limitations in USCIS's data on multiple filers, but we determined that USCIS data were sufficiently reliable for the purposes of identifying I-129F petitions where State was required to make disclosures to K visa applicants based on our review of USCIS's data, State guidance for processing visa applications, and State officials' descriptions of quality controls and assurance checks. In addition, we interviewed consular officers by telephone in five overseas consular posts because they had adjudicated the highest number of K-1 visa applications in fiscal year 2013 about processes for implementing IMBRA requirements.¹⁶ Although the information we obtained from these interviews cannot be generalized to K-1 visa adjudication processes at all consular posts, our interviews provided useful information on the K-1 visa process and officers' perspectives on IMBRA requirements.

To determine the extent to which DHS has collected and maintained reliable data to manage the K visa process, we analyzed summary data and transaction-level data from USCIS's Computer Linked Adjudication Information Management System 3 (CLAIMS 3) database.¹⁷ Specifically,

¹⁵GAO, *Internal Control: Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21-3.1](#) (Washington, D.C.: November 1999), and *Human Capital: A Guide for Assessing Strategic Training and Development Efforts*, [GAO-04-546G](#) (Washington, D.C.: Mar. 1, 2004). We used this human capital guide's attributes of effective training and development programs to assess State's training and guidance for consular officers. The guide was developed through consultations with experts in government, the private sector, academia, and nonprofit organizations; by examination of laws and regulations related to federal training and development; and by conducting an extensive review of literature on training and development issues. The guide is intended to help GAO and agency officials analyze and report on training and development issues within specific agencies and programs.

¹⁶The five consular posts, (rank ordered by number of K-1 visa applications processed) included Manila, Philippines; Guangzhou, China; Ciudad Juárez, Mexico; London, United Kingdom; and Bogotá, Colombia.

¹⁷CLAIMS 3 is USCIS's electronic case management system for immigration applications and petitions.

we analyzed CLAIMS 3 summary data on the number of I-129F petitions filed, approved, and denied from fiscal year 2008 through March 31, 2014,¹⁸ and on the number of multiple filers and the number of petitions that required a waiver under IMBRA from March 2012 through March 2014.¹⁹ We also analyzed CLAIMS 3 transaction-level data from March 2012 through March 2014 on more than 4,200 I-129F petitions for which the data indicated the petitioners were multiple filers. We also analyzed 227 I-129F petitions approved during this same time period, for which the data indicated the petitioner was a multiple filer with a record of violent criminal offenses, and as such, required a waiver in order to have his or her petition approved. We compared the data maintained within CLAIMS 3 with IMBRA's information collection requirements and with standards in *Standards for Internal Control in the Federal Government* for ensuring that agency transactions are accurate and clearly documented and GAO's best practices for assessing strategic training and development efforts.²⁰ We assessed the reliability of these data by (1) reviewing existing documentation on the controls in CLAIMS 3 and the policies for ensuring data reliability; (2) interviewing USCIS Service Center Operations and CLAIMS 3 officials about the data's sources, the system's controls, and any quality assurance steps performed after data are entered into the system; and, (3) reviewing the data for missing data, outliers, or obvious errors. We determined that numbers of I-129F petitions submitted, approved, and denied during this time period were sufficiently reliable for our reporting purposes. We discuss the limitations of the other IMBRA-required data later in this report.

In addition to reviewing DHS data, we compared policies, procedures, and practices for USCIS adjudication of I-129F petitions with standards in *Standards for Internal Control in the Federal Government*, which require that agencies ensure staff have the needed skills to carry out their duties.²¹ We also reviewed USCIS documentation regarding the status of

¹⁸We selected this time period to follow on from our 2008 report on the status of IMBRA implementation, [GAO-08-862](#), for which we had obtained and analyzed available data for fiscal years 2006 and 2007.

¹⁹Pursuant to IMBRA, a petitioner that has filed multiple prior I-129Fs must receive a waiver before his or her petition will be approved. See § 1184(d)(2). See fig. 4 in this report for additional detail on IMBRA waivers.

²⁰[GAO/AIMD-00-21-3.1](#) and [GAO-04-546G](#).

²¹[GAO/AIMD-00-21-3.1](#).

USCIS's plans to transition the hard copy I-129F petition into an electronic form as part of USCIS's multiyear Transformation Program, and reviewed our prior reports on the Transformation Program, as well as relevant reports from the DHS Office of Inspector General.²² We spoke with relevant USCIS Transformation Program officials and reviewed initial documentation describing how the electronic I-129F petition will facilitate the collection and maintenance of IMBRA-required data.

We conducted this performance audit from January 2014 to December 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

I-129F Petition and K Visa Adjudication Processes

Within DHS, USCIS is responsible for adjudicating immigration benefit applications, including I-129Fs filed by U.S. citizens to bring a foreign national fiancé(e) to the United States through a K-1 visa. If the K-1 visa is issued, the INA provides that the petitioner and fiancé(e) must marry within 90 days of the fiancé(e)'s admission into the country, after which the K-1 visa expires.²³ The I-129F petition can also be used to bring a noncitizen spouse to the United States under a K-3 visa while awaiting the approval of an immigrant petition and availability of an immigrant visa.²⁴ Noncitizen fiancé(e)s, upon marriage to the petitioner, and

²²GAO, *Immigration Benefits: Consistent Adherence to DHS's Acquisition Policy Could Help Improve Transformation Program Outcomes*, [GAO-12-66](#) (Washington, D.C.: November 2011), and *Information Technology: Near-Term Effort to Automate Paper-Based Immigration Files Needs Planning Improvements*, [GAO-06-375](#) (Washington, D.C.: March 2006). DHS Office of Inspector General, *U.S. Citizenship and Immigration Services Information Technology Management Progress and Challenges*, OIG-14-112 (Washington, D.C.: July 2014).

²³See §§ 1101(a)(15)(K)(i), 1184(d)(1). Admission into the United States on a K visa is for a specified period of time, at which point the K visa expires, requiring the noncitizen fiancé(e) or spouse to depart the United States, and upon failure to do so rendering the fiancé(e) or spouse removable from the country. See § 1227(a)(1)(C)(i).

²⁴§§ 1101(a)(15)(K)(ii), 1184(r)(1)-(3).

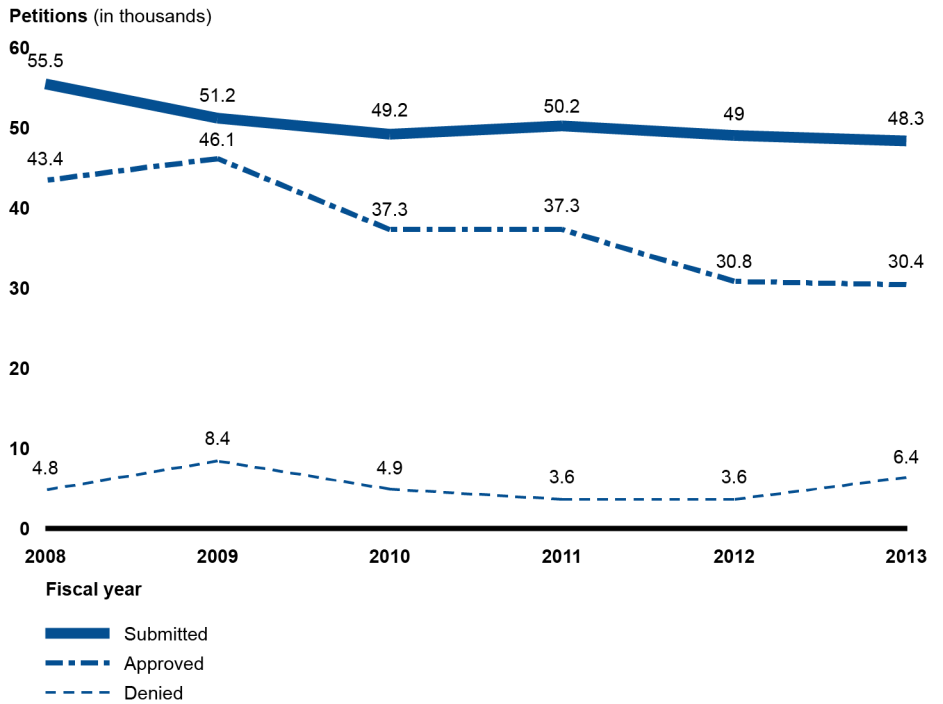
noncitizen spouses who are admitted to the United States must then apply to adjust their status to lawful permanent resident by filing with USCIS a Form I-485, called an Application to Register Permanent Residence or Adjust Status.²⁵

In fiscal year 2013, USCIS approved 30,400 I-129F petitions and State issued 30,290 K visas.²⁶ The number of I-129F petitions submitted, in general, has declined since fiscal year 2008, with the exception of fiscal year 2011, during which there was a slight increase over the previous fiscal year. USCIS approved the majority of I-129F petitions submitted from fiscal year 2008 through fiscal year 2013 (see fig. 1).

²⁵See § 1186a.

²⁶The number of I-129F petitions approved in a fiscal year will not equal numbers of K visas issued in the same fiscal year because, for example, State may adjudicate the visa applications in a subsequent fiscal year.

Figure 1: Number of I-129F Petitions Adjudicated by U.S. Citizenship and Immigration Services (USCIS), Fiscal Years 2008 through 2013

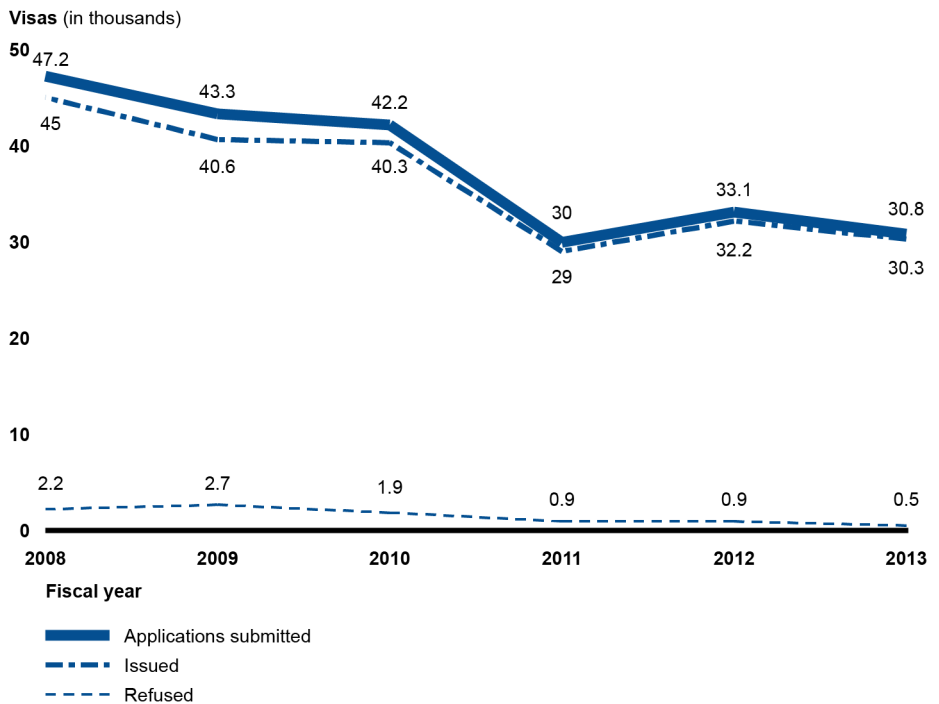


Source: GAO analysis of U.S. Citizenship and Immigration Services data. | GAO-15-3

Note: The number of I-129F petitions submitted for a particular year does not equal the number of I-129F petitions approved or denied in that year because, for example, the adjudication process can span different years.

The number of K visa applications submitted to State has generally declined since fiscal year 2008. State approved the majority of K visa applications submitted from fiscal years 2008 through 2013 (see fig. 2).

Figure 2: Number of K Visa Applications Adjudicated by the Department of State, Fiscal Years 2008 through 2013



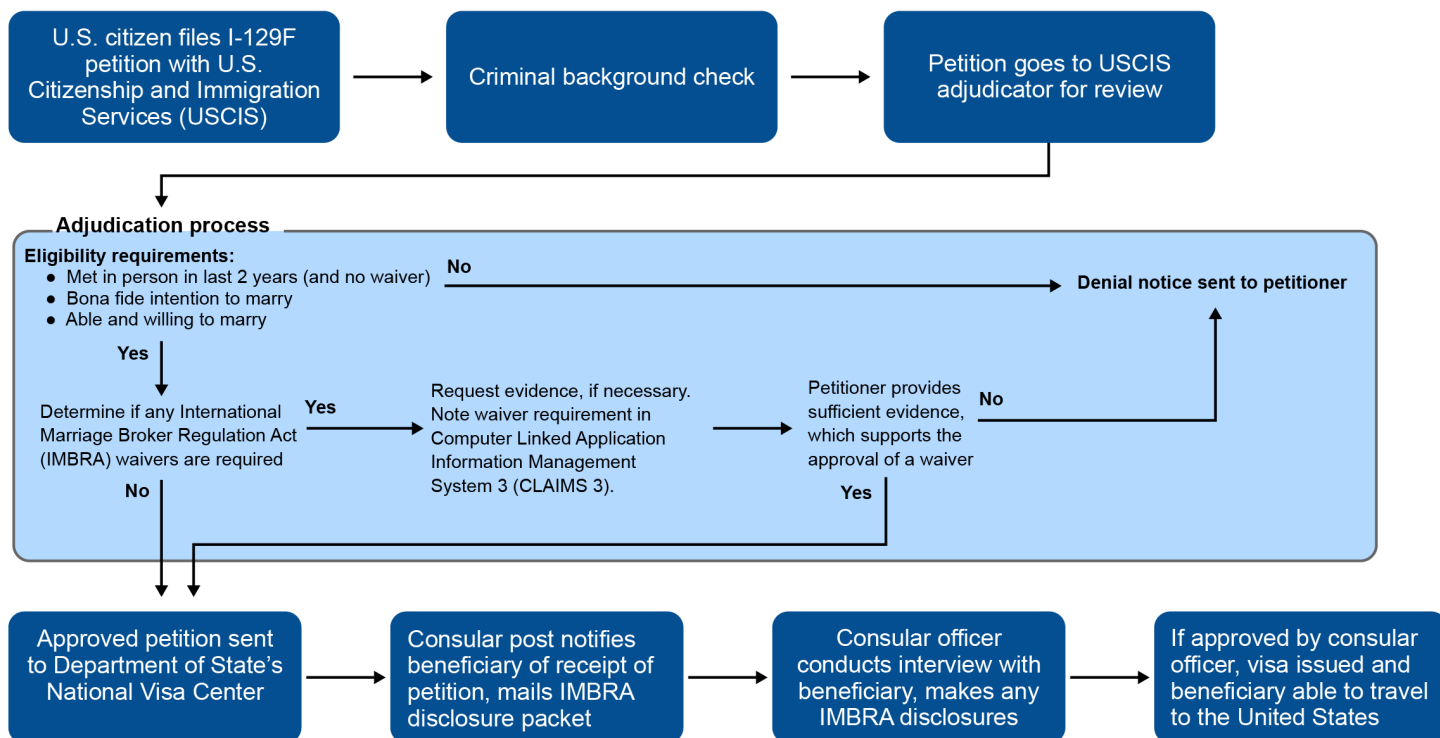
Source: GAO analysis of Department of State data. | GAO-15-3

Note: Numbers shown represent the total number of K visa applications—K-1 (fiancé[e]), K-2 (minor children of K-1 fiancé[e]s), K-3 (spouses), and K-4 (minor children of K-3 spouses)—submitted, issued, and refused from fiscal years 2008 through 2013. The number of K visa applications submitted for a particular fiscal year does not equal the number of K visas issued or refused in that fiscal year because, for example, the visa adjudication process can span different years.

The overarching purpose of the I-129F petition is to enable USCIS to verify the relationship between the U.S. petitioner and the potential beneficiary who wishes to travel to the United States.²⁷ Figure 3 shows the key steps in the I-129F petition and K visa processes.

²⁷ For a K-1 (fiancé[e]) I-129F petition, the petitioner must establish that the petitioner and fiancé(e) have previously met in person within 2 years of filing the petition (subject to a waiver at the Secretary of Homeland Security's discretion), have a bona fide intention to marry, and are legally able and actually willing to marry within 90 days of the beneficiary's arrival in the United States. See § 1184(d). For a K-3 (spouse) I-129F, the petitioner must establish the bona fide marital relationship to the beneficiary. See § 1101(a)(15)(K)(ii).

Figure 3: I-129F Petition and K Visa Processes



Source: GAO analysis of USCIS information | GAO-15-3

Note: USCIS may waive the requirement for the petitioner and beneficiary to have met in person during the previous 2 years, if the petitioner provides evidence that meeting in person would result in extreme hardship to the petitioner or would violate strict, long-standing established customs of the beneficiary's culture or social practice. See 8 U.S.C. § 1184(d)(1).

The I-129F petition instructs petitioners to disclose on the form, and provide documentation of, prior I-129F submissions (or filings), and convictions for any of the IMBRA-specified crimes.²⁸ In addition, and in accordance with IMBRA, when USCIS adjudicates an I-129F petition, it conducts a background check on the petitioner for any criminal history or protection orders, and searches USCIS records for any prior I-129F filings.²⁹ IMBRA also authorizes the imposition of civil and criminal penalties against IMBs and petitioners as circumstances warrant. For example, IMBRA specifies that petitioners who fail to disclose or who make false or fraudulent disclosures to an IMB shall be fined, imprisoned for not more than 1 year, or both.³⁰ Criminal convictions alone, however, will not disqualify a petitioner from having his or her I-129F petition approved, except for certain crimes involving a minor.³¹ On the basis of this information, USCIS officers determine if a petitioner who has exceeded the IMBRA filing limits warrants one of three IMBRA-authorized waivers. Specifically, USCIS may grant a general waiver if the petitioner submits evidence in support of his or her request to the satisfaction of the reviewer, such as evidence regarding the death or incapacity of petitioner's previous fiancé(e) beneficiary. For petitioners with a criminal history, USCIS may grant a criminal waiver (referred to as the

²⁸In accordance with IMBRA, petitioners must disclose on their I-129F petitions convictions for any of the following specified crimes: (1) domestic violence, sexual assault, child abuse and neglect, dating violence, elder abuse, and stalking, *or an attempt to commit any of these crimes*; (2) homicide, murder, manslaughter, rape, abusive sexual contact, sexual exploitation, incest, torture, trafficking, peonage, holding hostage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, or an attempt to commit any of these crimes; and (3) at least three convictions for crimes relating to a controlled substance or alcohol not arising from a single act. See § 1184(d)(1), (d)(3)(B), (r)(1), (r)(5)(B). The italicized text in the preceding sentence reflects a recent amendment to IMBRA that is not included in the current version of the I-129F petition. See Pub. L. No. 113-4, § 807(a), 127 Stat. at 112. Similarly, the I-129F petition does not incorporate a recent amendment to IMBRA requiring that petitioners disclose information on any permanent protection or restraining order issued against the petitioner relating to any of IMBRA's specified crimes. See *id.*

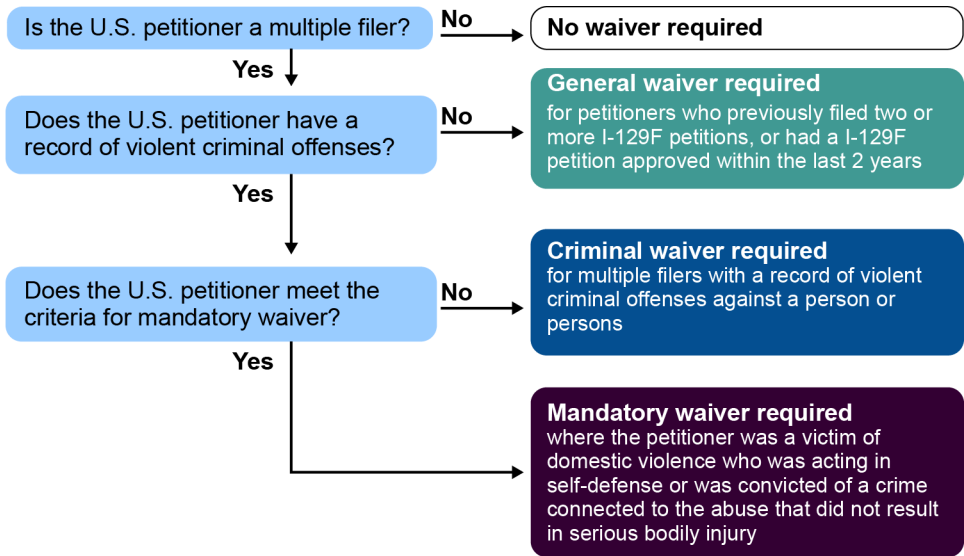
²⁹See §§ 1184(d)(2)(A), (r)(4), 1375a(a)(5)(A)(iii)-(v).

³⁰See § 1375a(d)(5)(B)(iii).

³¹The Adam Walsh Child Protection and Safety Act of 2006 prohibits DHS from approving any family-based petition, including a fiancé(e) petition, for any petitioner convicted of a specified offense against a minor unless the DHS Secretary, in the Secretary's sole and unreviewable discretion, determines that the petitioner poses no risk to the beneficiary. Pub. L. No. 109-248, § 402, 120 Stat. 587, 622-23 (2006) (amending 8 U.S.C. §§ 1101(a)(15)(K), 1154(a)(1)(A)-(B)).

Extraordinary Circumstances Waiver on the I-129F petition) only in extraordinary circumstances, which may require the beneficiary to submit, for example, trial transcripts or other information reflecting the nature and circumstances of his or her violent offenses, ties to the community, or records demonstrating good conduct and exemplary service in the uniformed services in order to overcome a denial of his or her petition. The mandatory waiver is an exception to the criminal waiver and must be granted for a petitioner who meets criteria listed in the statute, for example, if the petitioner was battered or subjected to extreme cruelty and was acting in self-defense.³² Figure 4 shows the requirements for each IMBRA waiver.

Figure 4: International Marriage Broker Regulation Act of 2005 K-1 Waiver Requirements



Source: GAO analysis of U.S. Citizenship and Immigration Services information and the International Marriage Broker Regulation Act of 2005, as amended, 8 U.S.C. § 1184(d)(2). | GAO-15-3

IMBRA Disclosure and Reporting Requirements

Both USCIS and State’s Bureau of Consular Affairs play key roles in providing information about petitioners to beneficiaries. In accordance with IMBRA, once a USCIS officer approves an I-129F petition, USCIS must forward the approved I-129F petition and relevant information to

³²See § 1184(d)(2)(C).

State, which mails to the beneficiary these materials and the IMBRA pamphlet—an informational document that outlines the legal rights and resources for immigrant victims of domestic violence.³³ According to State’s FAM, consular officers must also discuss the pamphlet and petitioners’ criminal history information during the K visa applicant interview to ensure that the beneficiary understands his or her legal rights and access to victim services in the United States and has available information about the petitioner.³⁴

IMBRA also establishes disclosure and other requirements for IMBs to help inform and provide greater assurance for the safety of beneficiaries who meet their potential U.S. citizen petitioners through an IMB. For example, IMBRA requires that IMBs collect specified information, such as criminal arrest and conviction information, from petitioners for disclosure, and obtain written approval from beneficiaries before releasing beneficiaries’ contact information to potential petitioners.³⁵ DOJ is responsible for pursuing civil and criminal penalties under IMBRA and, pursuant to the Violence Against Women Reauthorization Act of 2013, was required to report to Congress on, among other things, the policies and procedures for consulting with DHS and State in investigating and prosecuting IMBRA violations by petitioners and IMBs.³⁶

³³See § 1375a(a)(1)-(2), (5)(A). IMBRA does not require that petitioner information on the number of prior I-129F petitions be mailed to a K visa applicant in all cases, but State includes this information in the application package it mails to applicants if provided by USCIS. See §§ 1184(r)(4)(B), 1375a(a)(5)(A)(v)(III).

³⁴See § 1375a(a)(5)(A)(iii), (b) (providing further that such information must be provided in the primary language of the visa applicant and that the visa applicant be informed that such criminal background information is based on available records and may not be complete).

³⁵See § 1375a(d)(2)-(3).

³⁶§ 1375 a(d)(6)(A); Pub. L. No. 113-4, § 808(a)(2), 127 Stat. at 114. An IMB that violates or attempts to violate IMBRA may be subject to civil penalties of not less than \$5,000 and not more than \$25,000 for each violation and, in certain circumstances, may be subject to criminal penalties, including fines and 1 to 5 years’ imprisonment. § 1375a(d)(5).

DHS, State, and DOJ Have Processes to Ensure IMBRA Compliance, but DHS and State Could Better Implement Disclosure Requirements

USCIS Has Processes to Collect Petitioner Information, but the I-129F Petition Has Errors

USCIS has implemented processes to collect information from petitioners; however, USCIS is in the process of revising the current version of the I-129F petition to address errors or limitations that may limit or otherwise affect the accuracy of petitioners' disclosure to USCIS of all information required by IMBRA. The I-129F petition, along with any supporting documentation submitted by the petitioner, is USCIS's primary source for information on petitioners' prior I-129F petition filings and criminal convictions—key information that the U.S. government is required under IMBRA to obtain and disclose to beneficiaries. In particular, USCIS uses the information disclosed through the I-129F petition to (1) inform its criminal background checks of petitioners, and (2) determine if petitioners have filed prior I-129F petitions and are requesting one of the three IMBRA waivers, as appropriate.

Conducting background checks on petitioners. Pursuant to IMBRA, USCIS conducts criminal background checks on each petitioner using the information provided on the I-129F petition. Specifically, according to USCIS's standard operating procedures, USCIS officers are to conduct background checks using petitioners' names and dates of birth against the TECS database within 15 days of receiving I-129F petitions.³⁷ During a background check, if a TECS query returns a "hit," USCIS officers are to forward this information to the background check unit located within

³⁷TECS (not an acronym), is a CBP-owned multi-agency computer system of electronic alerts for terrorists, drug traffickers, and other criminal offenders. TECS provides access to criminal records databases and allows its users to interface with all 50 states and the District of Columbia via the National Law Enforcement Telecommunications Systems.

each service center for further review. According to USCIS service center officials, the completeness of the criminal background information contained within TECS is dependent on the extent to which state and local law enforcement agencies enter complete information into the Federal Bureau of Investigation's (FBI) National Crime Information Center database (NCIC).³⁸ USCIS is to subsequently provide this information to State, whose consular officers are to share this information with beneficiaries during the K visa interview. When sharing this information with the beneficiaries, consular officers must also inform them that the criminal background information is based on available records and may not be complete, something the IMBRA pamphlet also notes.

Disclosures on I-129F petition and IMBRA waiver requirements. In accordance with IMBRA, petitioners are to disclose whether they have previously filed I-129F petitions, as shown in figure 4, and request a waiver should certain filing limits be exceeded. As implemented by USCIS, IMBRA's filing limits apply to petitioners who have either (1) previously filed an I-129F petition for two or more K-1 beneficiaries (fiancé[e]), or (2) previously had an I-129F petition approved for a fiancé(e) and less than 2 years has passed since the approved I-129F petition was filed.³⁹ According to USCIS officials, these filing limits are intended to ensure that a petitioner is not a serial filer who brings unsuspecting noncitizen fiancé(e)s to the United States for nefarious reasons. Petitioners subject to a filing limit must then submit a waiver request and supporting documentation to USCIS, as appropriate, along with the I-129F petition. In requesting a criminal waiver, for example, the petitioner must submit a letter explaining why a waiver is appropriate and evidence that extraordinary circumstances exist in his or her case, such as police reports, court records, and records of good conduct. If the petitioner does not provide the supporting evidence with the initial I-129F petition, USCIS officers are to send a request for evidence to the petitioner. If, in the course of the background check or review of CLAIMS 3 data on prior filings, USCIS officers determine a petitioner's need for a waiver, and the petitioner had not otherwise requested a waiver, the

³⁸TECS interfaces with FBI's NCIC database. NCIC is a computerized index of criminal justice information with links to files on, for example, foreign fugitives, known or suspected terrorists, and the National Sex Offender Registry.

³⁹Consistent with IMBRA, the waivers for filing limits apply only to K-1 petitioners. See § 1184(d).

officers are to request that the petitioner provide the aforementioned waiver request letter and supporting evidence before deciding whether to approve or deny the petition. USCIS may deny a waiver request if the petitioner fails to provide sufficient documentation in support of the waiver within 12 weeks, or if the documentation provided does not justify granting a waiver.⁴⁰ USCIS officers may also deny an I-129F petition if they discover that a petitioner does not, for example, fully disclose an IMBRA-specified offense conviction or protective order information.

According to USCIS's standard operating procedures, USCIS officers are to use the information obtained from the background check, CLAIMS 3 data on prior filings, and the I-129F petition and supporting evidence to determine if petitioners have disclosed all of the information required by IMBRA. However, the I-129F petition contains errors and omissions that we, USCIS, and DOJ have identified and that may limit or affect the accuracy of information disclosed by a petitioner. Specifically, the I-129F petition inaccurately describes IMBRA's filing limits and does not fully address IMBRA's disclosure requirements. In particular, the language on the I-129F petition states that the filing limits apply to petitioners who have filed three or more I-129F petitions, or who have filed three or more I-129F petitions and the first I-129F petition was approved within the last 2 years, whereas the instruction accompanying the I-129F petition aligns more closely with IMBRA and provides that a waiver is required if a prior I-129F petition had been approved in the past 2 years. USCIS Service Center Operations officials stated the I-129F petition does not accurately describe the filing limits and therefore there is a risk that petitioners are disclosing inaccurate information regarding their filing history on the I-129F petition, which may affect how USCIS evaluates whether a petitioner requires a waiver. In October 2014, in response to our audit work, USCIS modified its website to inform petitioners that the petition is inaccurate and provide them with instructions that clarify the requirements. In addition, DOJ officials responsible for enforcing IMBRA stated that they have been working with USCIS on revisions to the I-129F petition to better ensure that IMBRA's disclosure requirements are met. For example, USCIS Service Center Operations officials noted that, in consultation with DOJ, they plan to include questions on the I-129F

⁴⁰In accordance with IMBRA, USCIS exercises discretion in determining whether to grant or deny a waiver, except in the case of a mandatory waiver, which must be granted if the petitioner satisfies the statutory criteria. See § 1184(d)(2).

petition regarding whether petitioners have civil protective or restraining orders, and prior arrests or convictions related to prostitution.

According to USCIS Service Center Operations officials, as of August 2014, USCIS has been in the process of revising the current version of the I-129F petition. According to *A Guide to the Project Management Body of Knowledge*, which provides standards for project managers, specific goals and objectives should be conceptualized, defined, and documented in the planning process, along with the appropriate steps, time frames, and milestones needed to achieve those results.⁴¹ USCIS Service Center Operations officials stated that there is no target time frame for completing revisions to the I-129F petition within USCIS before DHS and the Office of Management and Budget (OMB) undertake their respective reviews, in part because of the interagency review process among DHS, State, and DOJ, which was ongoing for approximately 10 months as of August 2014.⁴² USCIS officials noted that until revisions to the I-129F petition are complete, petitioners can refer to the Form I-129F Instructions, which USCIS makes available as a separate document, or to the clarifying instructions added to its website in October 2014, and USCIS officers should follow the I-129F SOP, each of which more accurately describe IMBRA's filing limits and circumstances under which a waiver must be requested.⁴³ However, USCIS officials acknowledged

⁴¹Project Management Institute, *A Guide to the Project Management Body of Knowledge (PMBOK® Guide)*.

⁴²USCIS's I-129F petition, as a means for requesting information from the public, is subject to review by OMB, which may approve such a collection for up to 3 years at a time. Pursuant to the Paperwork Reduction Act of 1995, which provides the statutory framework for the federal government's collection, use, and dissemination of information, federal agencies must generally seek public comment on the proposed collection and submit the proposed collections for review and approval by OMB before requiring or requesting information from the public. See 44 U.S.C. §§ 3501-21. In the case of proposed revisions to an active collection, such revisions may not be implemented unless submitted to OMB for review; however, public comment is not required unless the agency considers the revisions to be significant or substantive. At a minimum, revisions to the I-129F petition, which constitute a means by which USCIS collects information necessary to determine whether to provide a federal benefit (e.g., an immigration benefit), must be submitted for review and approval by OMB.

⁴³In October 2014, USCIS updated its website for the I-129F, Petition for Alien Fiancé(e), to include a section entitled "Special Instructions" for completing the I-129F petition. These instructions state that the information on IMBRA's filing limits contained on the I-129F petition is inaccurate, instructs petitioners to follow the Form I-129F Petition Instructions, and includes accurate descriptions of the filing limits.

that petitioners may not use the instructions in completing the I-129F petition since they are contained in a separate document and are not referred to on the I-129F petition. Further, as we discuss later in this report, our review of CLAIMS 3 data indicates that USCIS officers have not consistently followed the I-129F SOP, which USCIS has modified multiple times since the summer of 2013 to address, among other things, inaccuracies in the language associated with the application of IMBRA waivers.

USCIS has previously revised the I-129F petition. For example, in July 2007, USCIS revised the I-129F petition to require that petitioners disclose criminal convictions, prior I-129F filings, and the use of IMBs.⁴⁴ In June 2013, USCIS further revised the I-129F petition by adding, among other things, a section for USCIS officers to denote for State officials whether the I-129F petition contains prior filing or criminal history information that must be disclosed to the beneficiary. According to USCIS Service Center Operations officials, including the time for public comment and OMB's review of the proposed revisions, it took nearly 2 years to issue the revised I-129F petition (issued in June 2013). USCIS officials noted that until the revisions to the I-129F petition are completed, the agency is at risk of not collecting complete information from petitioners. Establishing time frames for when USCIS will complete its review of the I-129F petition would help the agency better monitor progress toward finalizing revisions to the petition, which are intended to ensure that IMBRA's disclosure requirements are met.

State Has Processes to Disclose IMBRA Information to Beneficiaries, but Could Better Document that These Disclosures Occurred

State has established processes to disclose and provide IMBRA information to beneficiaries, such as petitioners' criminal history information, prior I-129F filings, and the IMBRA pamphlet, in accordance with IMBRA and agency guidance to consular officers. However, State's consular officers have not consistently documented that beneficiaries, at the time of their in-person interviews, received all of the required information. Relevant guidance to consular officers, found in State's FAM, outlines procedures consular officers are to follow, including requirements for documenting that beneficiaries have received the required information.⁴⁵ State officials indicated that, in accordance with IMBRA,

⁴⁴[GAO-08-862](#).

⁴⁵See 9 FAM 41.81 PN3.

beneficiaries are provided with IMBRA information and disclosures at two points in the K visa application process—(1) in the mailing of the K visa application package and (2) at the in-person visa interview, where disclosure is to be documented.

Application package. State's FAM requires that upon receipt of the approved I-129F petition and other information from USCIS, consular officers provide IMBRA-related disclosures and the IMBRA pamphlet to beneficiaries by mail as part of an application package.⁴⁶ In August 2008, we recommended that DHS and State develop a mechanism to ensure beneficiaries are notified of the number of previously filed I-129F petitions by the petitioner. In response, in October 2008, State revised its guidance to consular officers to require that the application package include the approved petition.⁴⁷ According to consular officers at four of five consular posts we interviewed, their respective posts mailed the IMBRA disclosures, pamphlet, and approved petitions to beneficiaries in advance of the in-person visa interview. Consular officials at one post we interviewed in June 2014 stated that they did not mail IMBRA-related disclosures, such as the I-129F petition containing criminal history information, to beneficiaries in advance of their interviews because of limitations in the post's support contract for mail services. Rather, this post provided the IMBRA-related disclosure information to beneficiaries only during the K visa interview. As a result of our audit work, State's Consular Affairs Bureau officials in Washington, D.C., provided guidance to this post to ensure that consular officers mail IMBRA-related disclosure information and the IMBRA pamphlet to all beneficiaries prior to visa interviews, in accordance with IMBRA and FAM requirements. Not all beneficiaries who are sent an application package schedule a K visa interview, according to Consular Affairs officials. Ultimately, consular officers said there are various reasons an applicant might not apply for a visa, and could not say to what degree the information provided in the mailings in advance of the interviews was a factor in this decision.

⁴⁶As required by IMBRA, State translated the pamphlet, which includes information about the K nonimmigrant visa application process and the legal rights and resources available should a beneficiary become a victim of domestic violence, into at least 14 foreign languages and is currently working with DHS and DOJ to review the languages to ensure they are the most relevant. See 8 U.S.C. § 1375a(a)(4).

⁴⁷[GAO-08-862](#).

Applicant interview. Consular officers are to provide the beneficiary with information about the petitioner’s criminal history and prior I-129F petition filings and the IMBRA pamphlet in the beneficiary’s primary language during the K visa interview, in accordance with IMBRA, and allow time for beneficiaries to consider the information. State requires consular officers to document within its IVO database whether they made all of these disclosures to the beneficiary during the visa interview. For example, State’s FAM requires consular officers to denote within IVO that the “IMBRA pamphlet was received, read, and understood” for each K visa beneficiary.⁴⁸ According to Consular Affairs officials, other than this FAM requirement for documentation in the consular notes in IVO, State does not have other mechanisms by which it ensures that consular officers are providing required information to K visa applicants during the in-person interviews.

Our review of State’s documentation of K visa interviews indicates that consular officers have not consistently denoted this information in accordance with the FAM. Specifically, of the 227 I-129F petitions submitted from March 2012 through May 2014, for which USCIS identified as requiring IMBRA disclosures, we analyzed the interview notes associated with 147 K visa applications for which in-person interviews took place, and thus FAM documentation requirements apply.⁴⁹ In consultation with Consular Affairs officials, according to USCIS records, 84 of the 147 cases show that beneficiaries later requested a change in status to Lawful Permanent Resident, which may indicate the beneficiary received a K visa, was admitted into the United States, and married the petitioner. In 48 (or 57 percent) of these 84 cases, consular officers did not document whether beneficiaries received, read, and understood the IMBRA pamphlet during the interview.⁵⁰ Of the remaining 36 cases in which consular officers documented the provision of the IMBRA pamphlet, we found that consular officers did not consistently provide

⁴⁸The FAM assigns responsibility for the determination of whether the beneficiary understood the pamphlet to the officer’s professional judgment.

⁴⁹Regarding the remaining 80 of the 227 cases, State consular officials in Washington, D.C., said that possible reasons the interview may not have taken place are that the interview has yet to be conducted with the K visa applicant, or the case may not have been sent from USCIS to State for adjudication.

⁵⁰In 1 of the 48 cases, interview notes were not provided. According to Consular Affairs officials in Washington, D.C., this case was under review at the time of our data request, and accordingly, the case notes were not available within IVO.

notations in accordance with FAM guidance. Specifically, we found that consular officers fully documented that the IMBRA pamphlet was received, read, and understood in 21 of the 84 cases (or about 25 percent); however, we found that in 15 of the 84 cases (or about 18 percent), consular officers partially documented that the IMBRA pamphlet was provided to the beneficiaries.⁵¹ In the cases for which consular officers provided partial notations, we found that the notes varied from “IMBRA given” to “domestic violence brochure given.”

Moreover, in 63 of the 147 cases where State’s data indicated that consular officers had interviewed beneficiaries (but for which there was no corresponding USCIS record of the beneficiary requesting a change to Lawful Permanent Resident status) we found in 28 (or about 44 percent) of these 63 cases that consular officers did not document that the IMBRA pamphlet was received, read, and understood by beneficiaries. Full documentation regarding the IMBRA pamphlet was noted in 26 (or about 41 percent) of these 63 cases, and was partially noted in 9 (or about 14 percent) cases.

In our guide for assessing strategic training and development efforts, we have reported that training is essential to developing the knowledge and skills needed to administer agency programs properly.⁵² According to Consular Affairs officials, both the FAM and a relevant guidance cable on IMBRA implementation clearly describe the documentation requirements for the disclosure of information to beneficiaries during interviews, and accordingly, these officials attributed the lack of documentation in IVO to consular officer error. State last issued a cable on IMBRA implementation, which covers the FAM’s IMBRA-related documentation requirements, to consular posts in 2012. According to Consular Affairs officials, State generally does not send frequent cables to overseas posts to reiterate FAM requirements unless there are significant changes to sections of the FAM that warrant additional guidance or explanation to consular officers. However, these officials stated that they planned to

⁵¹Cases identified as having partial documentation are those for which consular officers provided *partial* notations or references to the IMBRA pamphlet by, for example, noting “IMBRA given,” “IMBRA disclosures,” or “IMBRA brochure” in the case notes. Thus, the partially documented category was used to indicate instances for which we could not readily determine whether the IMBRA pamphlet was received, read, and understood in accordance with the FAM.

⁵²[GAO-04-546G](#).

send another cable to all overseas posts in the fall of 2014, given recent revisions to the FAM on IMBRA implementation. In response to our work, they said that they could include a reminder in that cable for consular officers to follow the FAM's IMBRA-related documentation requirements. We reviewed a draft of that cable in October 2014, and it includes, among other things, a reminder for officers to document in IVO that the IMBRA pamphlet was received, read, and understood for all K visa applicants.

While the cable may be a helpful reminder for incumbent consular officers, State's consular officer training courses do not specifically address the FAM's IMBRA-related documentation requirements. *Standards for Internal Control in the Federal Government* maintains that federal agencies are to provide staff with the training necessary to carry out assigned responsibilities and meet the organizations' objectives.⁵³ According to Consular Affairs officials, State offers two key courses to consular officers through its Foreign Service Institute on the adjudication of immigrant visas, including K visas—mandatory basic training for entry-level officers and a voluntary course for midlevel consular officers offered four times a year. However, these officials stated that the training courses are generally broad and comprise many different types of nonimmigrant visas and so do not cover as part of their curricula detailed procedures for all visa types such as the FAM's IMBRA-related documentation requirements. For instance, State's Foreign Service Institute officials stated that the basic training course briefly covers State's IMBRA-related disclosure requirements in the instructor's notes, but does not address the FAM's requirement for consular officers to document these disclosures in IVO.⁵⁴ Similarly, the voluntary course for midlevel consular officers does not address the FAM's documentation requirements.

A Consular Affairs official stated that there may be some variation in the content of this course offered to midlevel consular officers, but when he teaches the course, he chooses to cover the FAM's IMBRA-related documentation requirements in his oral remarks. Moreover, Consular Affairs officials stated that midlevel consular officers are to provide training to entry-level officers on a routine basis on the FAM's IMBRA-related disclosure and documentation requirements. These officials

⁵³[GAO/AIMD-00-21-3.1](#).

⁵⁴State's Basic Consular Course is a mandatory 6-week training course for entry-level consular officers and is offered approximately 47 times a year.

added that State has an internal website for consular training, which includes a reminder for supervisory consular officers that orientation upon arrival and continuing on-the-job training at post is vital to develop fully proficient consular officers. Incorporating the FAM's IMBRA-related documentation requirements into State's training courses for consular officers could help State better ensure that consular officers are aware of the requirements so that they can be better positioned to more consistently document the disclosure of IMBRA information during interviews with K visa applicants.

DHS and State Have Not Referred Any Potential IMBRA Violations to DOJ

Under IMBRA, DOJ is responsible for pursuing federal civil and criminal penalties outlined in the law for IMBs and petitioners who violate IMBRA provisions and for consulting with DHS and State in investigating and prosecuting such violations.⁵⁵ However, DHS and State have not identified any potential IMBRA violations for referral to DOJ. As it has not received any referrals of IMBRA violations, DOJ has not brought civil or criminal cases against an IMB or petitioner under IMBRA.

USCIS requests information on the I-129F petition regarding whether petitioners used an IMB and, if so, requests a copy of the signed consent form the IMB obtained from the beneficiary authorizing the release of contact information. However, USCIS officials at each of the four service centers we interviewed stated that, in their experience, few petitioners indicate the use of IMBs to facilitate relationships with their foreign fiancé(e)s, and accordingly, the agency has not referred cases to DOJ for further investigation and prosecution. In addition, DHS has a process for referring and investigating potential violations within the department; however, USCIS has not identified any potential violation for referral and investigation.⁵⁶

⁵⁵See § 1375a(d)(5)-(6); Pub. L. No. 113-4, § 808(a), 127 Stat. at 114.

⁵⁶USCIS and U.S. Immigration Customs and Enforcement (ICE), also a component of DHS, have a memorandum of agreement describing the process by which USCIS may refer suspected cases of fraud to ICE's Identity and Benefit Fraud Unit for investigation. According to USCIS officials, isolated cases of potential IMBRA violations by IMBs would likely not be referred to ICE for further investigation because ICE focuses its resources on investigating large-scale benefit fraud, such as marriage or visa fraud. Thus, ICE officials told us that individual cases of failing to comply with IMBRA requirements would be a lower priority for investigation.

In accordance with the FAM and consistent with IMBRA, if an IMB does not provide the required IMBRA disclosures to the beneficiary, consular officers are to note the lack of disclosure in IVO and refer the case to State's Consular Affairs Bureau at headquarters for further review. Consular Affairs officials in headquarters are responsible for forwarding cases involving potential IMBRA violations to DOJ. Consular officers at all five consular posts we interviewed stated that they have not referred cases involving violations by IMBs for review because beneficiaries generally do not disclose the use of IMBs during the visa applicant interviews.

In July 2013, DOJ reported to Congress on the status of DOJ, DHS, and State's efforts to develop processes to effectively identify, investigate, and prosecute potential IMBRA violations.⁵⁷ DOJ reported that it does not have sufficient information about the nature and potential volume of IMBRA violations necessary to develop a framework for prosecution. DOJ's report outlined a number of actions each agency could address to more fully develop policies and procedures for identifying, investigating, and prosecuting IMBRA violations, such as developing mechanisms to better facilitate the sharing of IMBRA-related case notes among the agencies. DHS and State officials told us that they are coordinating with DOJ on ways to facilitate data collection and information sharing and that it is too early to determine when these actions may be completed. DOJ officials stated that the agency-specific actions will better position DHS and State to identify cases warranting investigation and prosecution by DOJ. For instance, as previously mentioned, DOJ proposed that USCIS consider revising the I-129F petition to include a question for petitioners about civil protective or restraining orders consistent with IMB disclosure requirements under IMBRA. In addition, DOJ proposed that State establish a mechanism for sharing IMBRA-related case notes from beneficiary interviews with USCIS and DOJ. Moreover, DOJ is working with State on the development of a checklist of questions for consular officers to ask beneficiaries to assist in the identification of potential cases involving IMBRA violations by IMBs. In October 2014, DOJ issued an IMBRA bulletin to assist stakeholders, such as state and local law enforcement entities and women's and immigrants' rights organizations, in identifying and reporting IMBRA violations to DOJ for prosecution.

⁵⁷ DOJ, *Report to Congress Concerning the International Marriage Broker Regulation Act*, (Washington, D.C.: July 26, 2013).

USCIS Does Not Collect and Maintain All Data in a Manner Consistent with IMBRA, and Additional Training Could Help to Ensure IMBRA Data Are Accurate and Reliable

USCIS Does Not Collect and Maintain All Data Consistent with IMBRA

IMBRA mandates that DHS collect and maintain data necessary for us to review IMBRA's impact on the process for granting K nonimmigrant visas.⁵⁸ In 2008, we reported that while USCIS had collected some data necessary for our study, most of the eight data elements identified by IMBRA and on which we reported were not maintained in a summary or reportable (i.e., electronic) format.⁵⁹ For this report, we reexamined these eight data elements, which include information on the number of waiver applications submitted and I-129F petitions denied, and the reasons for the decisions. We found that data for two of the eight required elements are available, at least partially, in an electronic format in CLAIMS 3 and reliable for our purposes. The remaining six elements were either not collected and maintained electronically or the electronic data collected are not reliable.⁶⁰ For example, consistent with IMBRA, USCIS is to collect and maintain information annually on the number of IMBRA waivers (general, criminal, or mandatory) submitted, the number granted or

⁵⁸§ 1375a(f)(3), (4)(c). Specifically, IMBRA, as amended, mandates that DHS, State, and DOJ collect and maintain data necessary for our review. We focused on DHS because IMBRA reporting requirements primarily focus on data DHS is to collect and maintain.

⁵⁹[GAO-08-862](#). In response, USCIS officials told us in 2008 that for the data elements currently not available in summary or reportable format, USCIS was actively seeking to modify CLAIMS to capture these data.

⁶⁰Because individual case files are maintained in various locations, such as USCIS service centers or at State's overseas consular posts, and because of the large volume of cases involved, it is not feasible to summarize or review the reliability of certain data that are not maintained electronically.

denied, and reasons for such decisions, but this information is not collected and maintained electronically. Rather, USCIS collects and maintains information on whether a waiver is required (rather than submitted), and the reasons for their decisions are handwritten by the officer on the hard copy of the petition and thus were not readily available for purposes of our review. Table 1 identifies the eight data elements specified by IMBRA and the extent to which USCIS collects and maintains reliable electronic data.

Table 1: Status of U.S. Citizenship and Immigration Services (USCIS) Data Collection and Maintenance Consistent with the International Marriage Broker Regulation Act of 2005 (IMBRA), as Amended

Information required to be collected and maintained consistent with IMBRA	Format in which data are collected and maintained (i.e., electronic, paper file, or neither)	Status of USCIS data collection and maintenance	Data are reliable for reporting purposes
1. Petitions (I-129Fs) filed for K nonimmigrant visas	Electronic and paper file	Petitioners file paper forms with USCIS; USCIS maintains electronic data on the number of I-129F petitions filed for K nonimmigrant visas.	Yes.
2. I-129F petitions denied because of multiple filing limits	Electronic and paper file	USCIS maintains electronic data on whether an I-129F petition was denied, but not the reason for petition denial (filing limits versus other grounds for denial).	Partial. The data are reliable for the numbers of petitions denied. The reason for petition denial is not maintained in an electronic format; therefore we could not assess the reliability of those data.
3. Filing limit waivers filed, approved, denied, and reason why the waivers were approved or denied	Electronic and paper file	As of March 2012, USCIS officers are to note in CLAIMS 3 whether IMBRA waivers are <u>required</u> , rather than whether the waiver was <u>filed</u> for multiple filers. As of June 2014, USCIS officers are required to note in CLAIMS 3 whether the waivers were granted or denied. Reasons for the decision are to be noted on the hard copy of the case file.	No. The data are not reliable because of inconsistencies in how USCIS officers entered the data into CLAIMS 3.

Information required to be collected and maintained consistent with IMBRA	Format in which data are collected and maintained (i.e., electronic, paper file, or neither)	Status of USCIS data collection and maintenance	Data are reliable for reporting purposes
4. I-129F petitions forwarded to State where petitioner had one or more criminal convictions	Paper file	USCIS maintains criminal disclosure information from petitioners on the I-129F petition, and conducts criminal background checks. This information is held on the hard copy of the case files. USCIS sends paper copies of approved petitions and disclosure information to State's National Visa Center.	Not applicable. USCIS does not collect or maintain the information in an electronic format; therefore, we could not readily assess the reliability of those data.
5. Petitioners with one or more convictions who were granted or denied waivers of multiple filing limits	Electronic and paper file	As in the previous requirement, USCIS maintains criminal background information on petitioners in the hard copy case file. As of March 2012, USCIS officers are to note in CLAIMS 3 whether IMBRA waivers were required, and as of June 2014, officers are required to note in CLAIMS 3 whether the waivers were granted or denied.	No. The electronic data on criminal waivers are not reliable because of inconsistencies in how USCIS officers entered the data into CLAIMS 3.
6. K nonimmigrant fiancé(e), spouse, or family-based immigration I-129F petitions filed by prior filers (two or more filings)	Paper and electronic	Petitioners file paper forms with USCIS. As of March 2012, USCIS has maintained electronic data on the number of prior I-129F petitions filed by the current petitioner. Electronic data are not available for prior years.	No. The data on number of I-129F petitions filed are not reliable because our analysis found a high percentage of missing values, as well as inconsistencies in how USCIS officers entered data into CLAIMS 3 on prior filings.
7. K nonimmigrant fiancé(e), spouse, or family-based immigration I-129F petitions filed by petitioners who have concurrently filed other I-129Fs (two or more concurrent filings)	Not maintained in paper or electronic formats	While USCIS has information on individual petitions, USCIS officials said that they do not have mechanisms for tracking concurrently filed petitions.	Specific data identified are not collected or maintained.

Information required to be collected and maintained consistent with IMBRA	Format in which data are collected and maintained (i.e., electronic, paper file, or neither)	Status of USCIS data collection and maintenance	Data are reliable for reporting purposes
8. Annual and cumulative number of petitioners and applicants tracked in the multiple filing database. ^a	Not maintained in paper or electronic formats	While USCIS has information on individual petitions, USCIS officials said that they do not have mechanisms for tracking this information. USCIS officers are to note in CLAIMS 3 whether the petitioner <u>on a current I-129F petition</u> has submitted any prior fiancé(e) or spouse I-129F petitions, but does not maintain electronic data on the number of <u>petitioners</u> who had multiple I-129F petitions for fiancé(e)s or spouses.	Specific data identified are not collected or maintained.

Source: GAO analysis of USCIS data and the International Marriage Broker Regulation Act of 2005, as amended, 8 U.S.C. § 1375a(f)(1)(A). | GAO-15-3

^aIMBRA required that DHS create a database for the purpose of tracking petitioners who have filed multiple visa petitions (I-129Fs) for fiancé(e)s and spouses. See 8 U.S.C. § 1184(r)(4).

USCIS has taken or is planning to take steps to better collect and maintain data from petitioners in an electronic format. For example, in 2008, we reported that USCIS was considering modifying its system to electronically collect and maintain the required data, and in 2012, USCIS updated CLAIMS 3 to address selected IMBRA requirements. Specifically, USCIS updated CLAIMS 3 to include a field for officers to note the number of I-129F petitions previously filed by the current petitioner, as well as a field to denote whether petitioners require any of the three IMBRA waivers, although these updates do not specifically address the IMBRA requirement that annual data on the number of waiver applications submitted, the number approved and denied, and reasons why the waivers were approved or denied be collected and maintained. These updates have helped USCIS collect and maintain additional data on I-129F petitions in an electronic format. However, USCIS did not update CLAIMS 3 to capture all of the data required by IMBRA, including the number of concurrent I-129F petitions filed by petitioners for other fiancé(e)s or spouses, or the extent to which petitioners have criminal convictions. USCIS officials stated that they did not include all elements in the 2012 system update because of resource constraints and to avoid rework in anticipation of the larger transition planned for all of USCIS's immigration benefit processes. In 2006, USCIS embarked on its multiyear Transformation Program to transform its paper-based immigration benefits process to a system with electronic

application filing, adjudication, and case management. As we reported in November 2011, USCIS envisions that once the Transformation Program is completed, new electronic adjudication capabilities will help improve agency operations and enable greater data sharing and management of information. USCIS expects the new system, the Electronic Immigration System (ELIS), to have features, for example, that will allow applicants to electronically view their benefit requests, or provide additional documentation. Once ELIS is implemented, officers are expected to have electronic access to applications, as well as relevant USCIS policies and procedures to aid in decision making, and to have electronic linkages with other agencies, such as State and DOJ, for data-sharing and security purposes.

According to USCIS Service Center Operations officials, the agency will be able to collect and maintain more complete data, in a manner consistent with IMBRA, through the deployment of the electronic I-129F petition in ELIS. However, USCIS has faced long-standing challenges in implementing ELIS, which raise questions about the extent to which its eventual deployment will position USCIS to collect and maintain more complete data. In particular, in November 2011, we reported on USCIS's progress in implementing its Transformation Program and found that USCIS had not developed reliable or integrated schedules for the program, and as a result, USCIS could not reliably estimate when all phases of the Transformation Program would be complete. We recommended, among other things, that USCIS ensure its program schedules are developed in accordance with GAO's best practices guidance.⁶¹ DHS concurred with our recommendations and outlined actions USCIS would take to implement them, including developing an integrated master schedule to depict the multiple tasks, implementation activities, and interrelationships needed to successfully develop and deploy the Transformation Program. Since our November 2011 report, the Transformation Program schedule has encountered further delays. The 2008 Acquisition Program Baseline for the program showed that ELIS would be fully deployed by 2013; however, in July 2014, the Director of USCIS testified that full deployment was expected to be completed by

⁶¹[GAO-12-66](#).

2018 or 2019.⁶² As of September 2014, USCIS has not determined when the I-129F petition would be deployed in ELIS.

A USCIS Transformation Program official stated in July 2014 that, in coordination with Service Center Operations and Office of Chief Counsel officials, they had begun to develop the requirements for the electronic I-129F petition. Transformation Program officials noted that they first became aware of all of the data required by IMBRA based on our audit work. They had not been made aware, for example, of the IMBRA data collection and maintenance requirements that are not specifically captured on the paper-based I-129F petition. Furthermore, in May 2014, we reviewed an initial draft of the design requirements for the electronic I-129F petition and found that not all IMBRA-required elements were addressed, including the requirement that USCIS maintain data on the number of cases in which a petitioner's criminal background information contains one or more convictions. As of September 2014, Transformation Program officials were continuing to refine the I-129F petition requirements and it is too soon to determine if all of the IMBRA-required elements will be addressed. *Standards for Internal Control in the Federal Government* advises that transactions are to be properly executed and recorded to help validate the integrity of organization processes and individual performance.⁶³ Reliable data on petitioners' prior I-129F petition filings, criminal convictions, and reasons for waiver approvals or denials are used by USCIS management to ensure that USCIS officers are adjudicating IMBRA waiver requests in accordance with the law. However, because of the significant and ongoing delays in USCIS's Transformation Program, it is unclear when USCIS will complete the I-129F petition transformation, or whether all required IMBRA data will be captured in ELIS when it is complete. Ensuring that all of the IMBRA-related requirements will be electronically captured with the release of the I-129F electronic petition would better position USCIS to collect and maintain complete data on I-129F petitioners for IMBRA reporting purposes, as well as management oversight. Such action could also help USCIS to more easily share I-129F petition information with other government agencies, including with State for K visa adjudication

⁶²Testimony by Leon Rodriguez, USCIS Director, before the House Committee on the Judiciary, *Oversight of U.S. Citizenship and Immigration Services*, July 29, 2014.

⁶³[GAO/AIMD-00-21-3.1](#).

purposes, or DOJ for investigating potential IMBRA violations once the Transformation Program is complete.

**Additional Training on
IMBRA Requirements
Could Help Ensure
Consistent Adjudication
and Reliable Data**

USCIS officers have not consistently adjudicated I-129F petitions or entered complete and accurate data into CLAIMS 3. On the basis of our review of CLAIMS 3 data, and interviews with USCIS Service Center Operations officials and USCIS officers at all four service centers, we identified errors related to the IMBRA data that USCIS has maintained since 2012 (see table 1). Specifically, our analysis indicates that USCIS's data are not reliable for determining (1) the number of I-129F petitions filed by persons who have previously filed I-129F petitions (or multiple filers), or (2) the number of IMBRA waivers required.⁶⁴

Data on multiple filers. According to the June 2014 SOP, for each new I-129F petition, USCIS officers are required to determine and denote in the CLAIMS 3 the total number of prior K-1 and K-3 I-129F petitions, including the current petition.⁶⁵ We analyzed CLAIMS 3 data by fiscal year for fiscal year 2012 through March 2014 on approximately 84,000 I-129F petitions and identified about 900 cases in which the officer had indicated “zero” prior filings. According to USCIS Service Center Operations officials, when entering data on petitions into CLAIMS 3, the system allowed officers to leave the data field for prior filings blank or to use a “zero”; however, according to USCIS's SOP, that field should not have been left blank or filled in with a “zero.” USCIS officials stated that a “zero” or blank should not have been considered as a valid response since a “one” would be the lowest number possible if the new I-129F petition was the first and only I-129F petition ever filed by the petitioner. In February 2014, USCIS modified CLAIMS 3 to no longer accept a zero or a blank entry from an officer in the prior filings. In addition, USCIS Service Center Operations officials stated that they were not certain whether

⁶⁴While IMBRA mandates the collection of data on the number of waiver requests submitted, approved, and denied, USCIS collects data on waivers required—that is, USCIS collects data on the number of petitions for which its officials determine a waiver is necessary for approval. We reviewed the reliability of the waivers' required data, as they were the only electronic data collected by USCIS on IMBRA waivers.

⁶⁵The May 2014 revisions also highlighted that the multiple filer field in CLAIMS 3 should include the total number of K-1 and K-3 I-129Fs filed by the petitioner. The August 2013 SOP did not specify the type of I-129F (K-1 versus K-3) to include in determining the number of prior petitions.

officers were counting both K-1 and K-3 I-129F petitions in total for the multiple filer field, or only the number of K-1 I-129F petitions. The May 2014 revision to the SOP emphasized that I-129F petitions for K-3 visas are not to be included in determining whether a waiver is required. However, at one service center we visited, officers we spoke to stated that they had been uncertain about whether both types of I-129F petitions should be considered for the waiver requirements. Accurate and complete data in the multiple filer field are important for identifying potential abuse by petitioners who file multiple I-129F petitions, and for officers to indicate when a beneficiary should be notified of multiple filings, according to USCIS officials.

Data on IMBRA waivers. We found instances of errors and inconsistencies related to USCIS data on whether petitioners were subject to IMBRA's filing limits and required one of the three waivers. Specifically:

- According to IMBRA and the June 2014 SOP, petitioners may be required to request one of three waivers, and the waiver requirements are based, in part, on the number of I-129F petitions filed for K-1 visas only (petitions for K-3 visas are not to be included).⁶⁶ We reviewed USCIS data on 227 I-129Fs filed from October 1, 2012, through March 31, 2014, for which the record in CLAIMS 3 indicated that a criminal waiver was required. We found that 18 of those 227 I-129F petitions were for K-3 visas. USCIS Service Center Operations acknowledged that these entries in CLAIMS 3 were incorrect and that these errors raise questions about the reliability of the CLAIMS 3 data and officers' understanding of standard operating procedures and IMBRA requirements.
- According to the June 2014 I-129F SOP, USCIS officers are to indicate in CLAIMS 3 whether a petitioner is required to have one of the three filing limits waivers. Officers are required to note a "Y" in one of three data fields if a waiver is required, or "N" if the waiver is not required. Consistent with IMBRA, only one waiver could apply per petition. However, on the basis of our analysis of CLAIMS 3 data, we found I-129F petitions for which officers incorrectly determined that more than one waiver was required. Specifically, of the 227 I-129F petitions we reviewed, 11 indicated that both a general and a criminal

⁶⁶See § 1184(d)(2).

waiver were required, 14 indicated that both a criminal waiver and a mandatory waiver were required, and 15 indicated that petitioners required all three waivers. USCIS Service Center Operations officials attributed the multiple waiver determinations to officers' errors.⁶⁷ USCIS officers we interviewed at one service center stated that they were uncertain about the requirements for the waivers in part because the majority of petitions they adjudicate each year do not require any waivers. The August 2013 SOP did not specifically contain guidance to officers that a petitioner could receive only one waiver, if appropriate. In June 2014, during the course of our audit work, USCIS updated the I-129F SOP to clarify the filing limits and waiver requirements and now explicitly states that only one waiver selection per I-129F petition should be marked in CLAIMS 3, as applicable. While this revision to the SOP is a positive step, additional training could better position USCIS officers to be aware of petitioners' potential filing limits and IMBRA waiver requirements, and USCIS officials stated that such training could be provided to help ensure officers understand the IMBRA requirements.

- Consistent with IMBRA and the June 2014 I-129F SOP, a criminal waiver is required for multiple filers who have been convicted of an IMBRA-specified offense.⁶⁸ However, our analysis of USCIS's data indicates that officers have required criminal waivers for petitioners with no prior I-129F petition filings. Specifically, of the 227 I-129F petitions filed between March 2012 and March 2014 for which officers had indicated that a criminal waiver was required, 207 did not meet the criteria requiring a criminal waiver because the petitioner had not filed any previous petitions. USCIS officials said that officers were likely confused regarding when a criminal waiver was required and speculated that officers may be erring on the side of caution and requiring a criminal waiver and additional documentation from the petitioner in any instance of prior criminal convictions. For example, an officer at one service center we visited stated that he sends the

⁶⁷Errors we found were in waiver data from petitions submitted from March 2012 through March 2014, when the August 2013 SOP was in effect. The June 2014 SOP clarifies that only one IMBRA waiver should apply per petition.

⁶⁸See § 1184(d). According to USCIS policy, the criminal waiver, also referred to as an extraordinary circumstances waiver, is available for petitioners who have filed more than two K-1 I-129Fs, or have had a K-1 I-129F approved less than 2 years before the filing date of the current petition and have a record of violent criminal offenses against a person or persons. The I-129F petition lists the crimes (i.e., the IMBRA-specified crimes) for which a waiver is required. See § 1184(d)(3).

petitioner a request for evidence for a criminal waiver if there is a criminal history, regardless of how many I-129F petitions have been filed. Ensuring that officers have a clear understanding of waiver requirements in the SOP could help better position USCIS officers to make USCIS adjudications more consistent with IMBRA requirements.

- Consistent with IMBRA and the June 2014 I-129F SOP, I-129F petitions for K-3 visas are not subject to IMBRA waiver requirements. However, USCIS officers have historically (prior to December 8, 2013) not been required to indicate in CLAIMS 3 whether the I-129F petition is in support of a K visa for a fiancé(e), or spouse. We found that about 72 percent of the I-129F petitions submitted from fiscal years 2008 through March 2014 (238,288 of the 329,307) did not indicate whether the I-129F petition was for a K-1 or K-3 visa. USCIS officials stated that this was a technical issue that was likely overlooked during the system change in 2008. USCIS officials indicated that beginning in December 2013, officers could not approve an I-129F in CLAIMS 3 without noting which of the K visas the I-129F supports. Knowledge of whether the I-129F petition is for a K-1 or K-3 beneficiary is important because it is a key factor in determining whether a waiver is required, according to USCIS officials. While USCIS officers can review the hard copy I-129F petition to determine if it is an I-129F petition for a K-1 or K-3 beneficiary, this information would not be readily available for internal control purposes of ensuring I-129F petitions are adjudicated according to the SOP and consistent with IMBRA.

According to USCIS Service Center Operations officials, USCIS performs annual quality assurance reviews of I-129F petitions. USCIS's Quality Management Branch establishes the direction for the development and administration of the quality assurance program, training, communication, and coaching, and each service center has a quality manager and personnel who ensure administration of the quality assurance program within each center. Annual reviews include 3 months of submissions, reviewed for adherence to USCIS procedures for petition approval, denial, and requests for evidence. In 2014, USCIS's quality assurance reviews of selected I-129F petitions identified inconsistencies in their adjudication. For example, USCIS conducted a review on a random sample of I-129F petitions approved at the Texas Service Center in April 2014 (63 out of 796 total approved I-129F petitions). This quality assurance reviewer found that 9 out of the 63 approved I-129F petitions did not indicate for State's consular officers, as required by USCIS's procedures, whether IMBRA disclosures applied. Consular officers we spoke to at one post stated that they were providing information to

beneficiaries only if USCIS officers clearly indicated on the approved I-129F petition that IMBRA requirements applied. The consular officers stated that if USCIS officers did not clearly notate the approved I-129F petitions, they returned the approved I-129F petition to USCIS. USCIS officials attribute the errors in CLAIMS 3 data to officer error and misunderstanding of the SOPs regarding IMBRA implementation. In response to these reviews and our audit work, Service Center Operations officials stated that, among other things, they revised the I-129F SOP in May 2014 and again in June 2014. In particular, the May 2014 revision to the I-129F SOP was intended to clarify, among other things, the IMBRA filing limits, waiver requirements, and notations indicating whether IMBRA disclosures apply. In June 2014, USCIS again revised the procedures to further clarify the waiver requirements. To disseminate SOP revisions, a Service Center Operations official stated that the revised SOP is e-mailed to a point of contact in each service, with the revisions highlighted in the SOP and e-mail. The official said that the point of contact generally distributes the revised SOP to officers via e-mail, and will meet with staff to discuss changes, if necessary.

While these are positive steps, additional training could help provide USCIS with more reasonable assurance that its officers are aware of IMBRA requirements to assist them in reviewing and maintaining data on petitions consistent with USCIS's procedures. As previously discussed, our analysis of CLAIMS 3 data showed that USCIS officers have not entered information into CLAIMS 3 consistent with USCIS's SOPs. USCIS Service Center Operations officials attributed the errors we identified in the CLAIMS 3 data to officers' misunderstandings of the required procedures. Service Center Operations officials said in August 2014 that they had no plans to require the service centers to provide additional training to officers on revisions made to the SOP, as USCIS officials stated that officers receive initial training when they are hired and on an ad hoc basis at the service centers, as necessary. USCIS Service Center Operations does not require service centers to conduct additional training for incumbent officers based on revisions to its SOPs to ensure that changes are understood. Rather, these officials stated that service centers determine when officers need additional training, which they may provide to officers in the form of e-mails, briefings, or formal classroom lessons. *Standards for Internal Control in the Federal Government* maintains that federal agencies are to provide staff with the training necessary to carry out assigned responsibilities and meet the

organizations' objectives.⁶⁹ Moreover, in our guide for assessing strategic training and development efforts, we have reported that training is essential to developing the knowledge and skills needed to administer agency programs properly.⁷⁰ Given that the SOP has been revised three times in less than 1 year and officers have not maintained data in CLAIMS 3 consistent with the SOP, additional training for officers could help USCIS better ensure its officers understand changes made to the SOPs and collect and maintain reliable data on I-129F petitions as required by USCIS's SOP and consistent with IMBRA.

Conclusions

In accordance with IMBRA, USCIS has been charged with mitigating the risk posed to beneficiaries by violent or abusive petitioners by ensuring, to the extent practicable, that petitioners disclose complete information, including their filing history and criminal conviction information, on the I-129F petition. USCIS has been revising the I-129F petition to address inaccuracies and deficiencies for more than 10 months and has not set a time frame for the planned completion of these changes. A time frame for completion would help the agency better monitor progress toward finalizing revisions to the petition. In addition, State could take additional actions to ensure that its consular officers document that the IMBRA pamphlet is provided and understood by the beneficiary, as internal State guidance requires, by revising its curriculum to include training on the FAM's IMBRA-related documentation requirements. By incorporating IMBRA-related documentation requirements in its training curricula, State could also better provide reasonable assurance that its officers are aware of the required procedures and are better positioned to inform beneficiaries so they know their legal rights.

Although IMBRA was enacted in January 2006, USCIS does not yet collect and maintain all data in a manner consistent with IMBRA. Ensuring the data are available electronically would allow for more complete reporting on IMBRA implementation, and also help USCIS management to better ensure that I-129F petitions are being adjudicated in accordance with IMBRA. USCIS has begun the process of transforming the I-129F petition to an electronic format; however, it is uncertain what data will be maintained in ELIS, based on the agency's draft user stories to identify

⁶⁹ [GAO/AIMD-00-21-3.1](#).

⁷⁰ [GAO-04-546G](#).

data requirements, and based on prior USCIS efforts that did not fully capture data in an electronic format consistent with IMBRA. Taking steps to ensure that all data to be collected in accordance with IMBRA are included with the release of the electronic I-129F petition, and providing additional training, could help USCIS better ensure that IMBRA requirements are properly implemented and that data on petitions are collected and maintained consistent with USCIS procedures.

Recommendations for Executive Action

We are making four recommendations to improve the implementation of IMBRA.

To better ensure the consistent application of IMBRA waiver requirements and adjudication of I-129F petitions, we recommend that the Director of USCIS set a target time frame for completing the agency's review of revisions to the I-129F petition.

To ensure that fiancé(e)s and spouses applying for K visas receive and understand the information to be provided to them under IMBRA and that consular officers adhere to documentation guidance in the FAM, we recommend that the Secretary of State incorporate the FAM's IMBRA-related documentation requirements into the Foreign Service Institute's training curriculum for entry-level and midlevel consular officers.

To ensure data required by IMBRA are collected, maintained, and reliable, we recommend that the Director of USCIS take the following two actions:

- ensure that IMBRA-required data elements will be collected in an automated manner with the release of the electronic I-129F petition, and
- provide additional training to officers who adjudicate I-129F petitions on the IMBRA-related requirements in the adjudication process.

Agency Comments and Our Evaluation

We provided a draft of this report to the Secretaries of Homeland Security and State, and the Attorney General. DHS and State provided written responses, which are reproduced in full in appendixes III and IV, respectively. DHS concurred with our three recommendations to that agency and described actions under way or planned to address them. With regard to our first recommendation to DHS that USCIS set a target time frame for completing the agency's review and revisions to the I-129F

petition, DHS concurred and stated that USCIS has drafted the revised Form 129F and instructions and plans to distribute them for internal review in December 2014. DHS stated that once the internal review is completed, the revised form and instructions will undergo a public comment period and the I-129F standard operating procedures will be updated. DHS estimated a completion date of September 30, 2015. With regard to our second recommendation to DHS that USCIS ensure that IMBRA-required data elements will be collected in an automated manner with the release of the electronic I-129F petition, DHS concurred and stated that USCIS will identify all data that will be collected and estimated a completion date of December 31, 2016. With regard to our third recommendation to DHS that USCIS provide additional training to officers who adjudicate I-129F petitions on the IMBRA-related requirements in the adjudication process, DHS concurred and stated that USCIS has developed a training presentation for officers on IMBRA-related requirements and that all officers adjudicating the I-129F will be required to complete the course by the end of January 2015. These actions should address the intent of our recommendations. In addition, State concurred with our recommendation that State incorporate the FAM's IMBRA-related documentation requirements in the Foreign Service Institute's training curriculum for entry-level and midlevel consular officers. State noted that additional IMBRA-related training would be provided to entry-level and midlevel consular officers. Specifically, State indicated that the Foreign Service Institute's 6-week mandatory training for entry-level consular adjudicators, and two courses for midlevel consular officers would be expanded to explicitly emphasize IMBRA-related requirements. When implemented, these steps should help ensure that K visa beneficiaries receive and understand information available to them under IMBRA. Technical comments provided by DHS, State, and DOJ were incorporated, as appropriate.


We are sending copies of this report to the Secretaries of Homeland Security and State, the Attorney General, and appropriate congressional committees. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions concerning this report, please contact me at (202) 512-8777 or gablerr@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made significant contributions to this report are listed in appendix IV.

A handwritten signature in black ink that reads "Rebecca Gambler". The script is cursive and fluid, with the first name and last name clearly distinguishable.

Rebecca Gambler
Director, Homeland Security and Justice

Appendix I: I-129F Petition for Alien Fiancé(e), as of December 10, 2014

		Petition for Alien Fiancé(e) Department of Homeland Security U.S. Citizenship and Immigration Services		USCIS Form I-129F OMB No. 1615-0001 Expires 06/30/2016	
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For USCIS Use Only	Fee Stamp	Action Block
Case ID Number A-Number G-28 Number <input type="checkbox"/> The petition is approved for status under Section 101(a)(5)(k). It is valid for 4 months from the date of action.	Extraordinary Circumstances Waiver <input type="checkbox"/> Approved <input type="checkbox"/> Denied Reason	
General Waiver <input type="checkbox"/> Approved <input type="checkbox"/> Denied Reason	Mandatory Waiver <input type="checkbox"/> Approved <input type="checkbox"/> Denied Reason	
Initial Receipt Resubmitted	Relocated <input type="checkbox"/> Received <input type="checkbox"/> Sent Completed <input type="checkbox"/> Approved <input type="checkbox"/> Returned Remarks	
AMCON: <input type="checkbox"/> Personal Interview <input type="checkbox"/> Previously Forwarded <input type="checkbox"/> Document Check <input type="checkbox"/> Field Investigation IMBRA <input type="checkbox"/> Yes (DOS disclosure to the beneficiary required) <input type="checkbox"/> No Applies?		

▶ **START HERE - Type or print in black ink.**

Part 1. Information About You	
<p>1.a. Family Name (Last Name) <input style="width: 100%;" type="text"/></p> <p>1.b. Given Name (First Name) <input style="width: 100%;" type="text"/></p> <p>1.c. Middle Name <input style="width: 100%;" type="text"/></p> <p style="background-color: #f2f2f2; margin-top: 5px;">Your Mailing Address</p> <p>2.a. In Care of Name <input style="width: 100%;" type="text"/></p> <p>2.b. Street Number and Name <input style="width: 100%;" type="text"/></p> <p>2.c. Apt. <input type="checkbox"/> Ste. <input type="checkbox"/> Flr. <input type="checkbox"/> <input style="width: 100%;" type="text"/></p> <p>2.d. City or Town <input style="width: 100%;" type="text"/></p> <p>2.e. State <input style="width: 100%;" type="text"/> 2.f. Zip Code <input style="width: 100%;" type="text"/></p> <p>2.g. Postal Code <input style="width: 100%;" type="text"/></p> <p>2.h. Province <input style="width: 100%;" type="text"/></p> <p>2.i. Country <input style="width: 100%;" type="text"/></p> <p>3. Alien Registration Number (A-Number) ▶ A- <input style="width: 100%;" type="text"/></p> <p>4. City/Town/Village of Birth <input style="width: 100%;" type="text"/></p> <p>5. Country of Birth <input style="width: 100%;" type="text"/></p>	<p>6. Date of Birth (mm/dd/yyyy) ▶ <input style="width: 100%;" type="text"/></p> <p>7. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female</p> <p>8. Marital Status <input type="checkbox"/> Married <input type="checkbox"/> Widowed <input type="checkbox"/> Single <input type="checkbox"/> Divorced </p> <p>Other Names Used</p> <p>9.a. Family Name (Last Name) <input style="width: 100%;" type="text"/></p> <p>9.b. Given Name (First Name) <input style="width: 100%;" type="text"/></p> <p>9.c. Middle Name <input style="width: 100%;" type="text"/></p> <p>10. U.S. Social Security Number (if any) ▶ <input style="width: 100%;" type="text"/></p> <p>Name of Prior Spouse 1</p> <p>11.a. Family Name (Last Name) <input style="width: 100%;" type="text"/></p> <p>11.b. Given Name (First Name) <input style="width: 100%;" type="text"/></p> <p>11.c. Middle Name <input style="width: 100%;" type="text"/></p> <p>11.d. Date Marriage Ended (mm/dd/yyyy) ▶ <input style="width: 100%;" type="text"/></p> <p>Name of Prior Spouse 2</p> <p>12.a. Family Name (Last Name) <input style="width: 100%;" type="text"/></p> <p>12.b. Given Name (First Name) <input style="width: 100%;" type="text"/></p>

Form I-129F 06/13/13 N
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Appendix I: I-129F Petition for Alien Fiancé(e),
as of December 10, 2014

Part 1. Information About You *(continued)*

12.c. Middle Name

12.d. Date Marriage Ended
(mm/dd/yyyy) ▶

My citizenship was acquired through (Select **only one** box):

13.a. ☐ Birth in the United States

13.b. ☐ Naturalization

13.c. ☐ Parents

13.d. Have you obtained a Certificate of Naturalization or a
Certificate of Citizenship in your name? ☐ Yes ☐ No

If "Yes," complete the following:

13.d.1. Certificate Number

13.d.2. Place of Issuance

13.d.3. Date of Issuance
(mm/dd/yyyy) ▶

14. Have you ever filed for this or any other alien fiancé(e) or
husband/wife before? ☐ Yes ☐ No

If you answered "Yes," provide the following for each alien
(attach additional sheets as necessary)

14.a. Alien Registration Number (A-Number)

▶ A-

14.b. Family Name
(Last Name)

14.c. Given Name
(First Name)

14.d. Middle Name

14.e. Date of Filing (mm/dd/yyyy) ▶

14.f. City or Town

14.g. State

14.h. Result

Part 2. Information About Your Alien Fiancé(e)

1. Identify the classification sought for your beneficiary
(select one):

☐ K-1 Fiancé

☐ K-3 Spouse

2.a. Family Name
(Last Name)

2.b. Given Name
(First Name)

2.c. Middle Name

Alien Fiancé(e)'s Mailing Address

3.a. In Care of Name

3.b. Street Number and Name

3.c. Apt. ☐ Ste. ☐ Flr. ☐

3.d. City or Town

3.e. State 3.f. Zip Code

3.g. Postal Code

3.h. Province

3.i. Country

Other Information About Your Alien Fiancé(e)

4. City/Town/Village of Birth

5. Country of Birth

6. Date of Birth (mm/dd/yyyy) ▶

7. Country of Citizenship

8. Gender ☐ Male ☐ Female

9. Marital Status
☐ Married ☐ Widowed ☐ Single ☐ Divorced

Other Names Used (Including Maiden Name)

10.a. Family Name
(Last Name)

10.b. Given Name
(First Name)

10.c. Middle Name

11. Alien Registration Number (A-Number)
▶ A-

**Appendix I: I-129F Petition for Alien Fiancé(e),
as of December 10, 2014**

Part 2. Information About Your Alien Fiancé(e) (continued)

12. U.S. Social Security Number (if any)

▶

Name of Prior Spouse 1

13.a. Family Name (Last Name)

13.b. Given Name (First Name)

13.c. Middle Name

13.d. Date Marriage Ended

(mm/dd/yyyy) ▶

Name of Prior Spouse 2

14.a. Family Name (Last Name)

14.b. Given Name (First Name)

14.c. Middle Name

14.d. Date Marriage Ended

(mm/dd/yyyy) ▶

15. Has your fiancé(e) ever been in the United States? ☐ Yes ☐ No

If your fiancé(e) is currently in the United States, complete the following:

15.a. He or she last arrived as a: (visitor, student, exchange alien, crewman, stowaway, temporary worker, without inspection, etc.)

15.b. I-94 Arrival/Departure Record Number

▶

15.c. Date of Arrival (mm/dd/yyyy) ▶

15.d. Date authorized stay expired or will expire as shown on I-94 or I-95. (mm/dd/yyyy) ▶

15.e. Passport Number

15.f. Travel Document Number

15.g. Country of Issuance for Passport or Travel Document

15.h. Expiration Date for Passport or Travel Document

(mm/dd/yyyy) ▶

Complete the following for all children of your alien fiancé(e) (if any).

Child 1 of Alien Fiancé(e)

16.a. Family Name (Last Name)

16.b. Given Name (First Name)

16.c. Middle Name

17. Country of Birth

18. Date of Birth (mm/dd/yyyy) ▶

19.a. Street Number and Name

19.b. Apt. ☐ Ste. ☐ Flr. ☐

19.c. City or Town

19.d. State 19.e. Zip Code

19.f. Postal Code

19.g. Province

19.h. Country

Child 2 of Alien Fiancé(e)

20.a. Family Name (Last Name)

20.b. Given Name (First Name)

20.c. Middle Name

21. Country of Birth

22. Date of Birth (mm/dd/yyyy) ▶

23.a. Street Number and Name

23.b. Apt. ☐ Ste. ☐ Flr. ☐

23.c. City or Town

23.d. State 23.e. Zip Code

23.f. Postal Code

23.g. Province

23.h. Country

**Appendix I: I-129F Petition for Alien Fiancé(e),
as of December 10, 2014**

Part 2. Information About Your Alien Fiancé(e) (continued)

Child 3 of Alien Fiancé(e)

24.a. Family Name (Last Name)

24.b. Given Name (First Name)

24.c. Middle Name

25. Country of Birth

26. Date of Birth (mm/dd/yyyy) ►

27.a. Street Number and Name

27.b. Apt. ☐ Ste. ☐ Flr. ☐

27.c. City or Town

27.d. State 27.e. Zip Code

27.f. Postal Code

27.g. Province

27.h. Country

Address in the United States where your fiancé(e) intends to live.

28.a. Street Number and Name

28.b. Apt. ☐ Ste. ☐ Flr. ☐

28.c. City or Town

28.d. State 28.e. Zip Code

Your fiancé(e)'s address abroad.

29.a. Street Number and Name

29.b. Apt. ☐ Ste. ☐ Flr. ☐

29.c. City or Town

29.d. Postal Code

29.e. Province

29.f. Country

30. Daytime Phone Number Extension

If your fiancé(e)'s native alphabet uses other than Roman letters, write his or her name and address abroad in the native alphabet.

31.a. Family Name (Last Name)

31.b. Given Name (First Name)

31.c. Middle Name

Your fiancé(e)'s address abroad. (Native Alphabet)

32.a. Street Number and Name

32.b. Apt. ☐ Ste. ☐ Flr. ☐

32.c. City or Town

32.d. Postal Code

32.e. Province

32.f. Country

33. Is your fiancé(e) related to you? ☐ Yes ☐ No

33.a. If you are related, state the nature and degree of relationship, e.g., third cousin or maternal uncle, etc.

34. Has your fiancé(e) met and seen you within the 2-year period immediately preceding the filing of this petition? ☐ Yes ☐ No

34.a. Describe the circumstances under which you met. If you have not personally met each other, explain how the relationship was established. If you met your fiancé(e) or spouse through an international marriage broker, please explain those circumstances in number 35.a. Explain in detail any reasons you may have for requesting that the requirement that you and your fiancé(e) must have met should not apply to you.

35. Did you meet your fiancé(e) or spouse through the services of an international marriage broker? ☐ Yes ☐ No

35.a. If you answered "Yes," provide the Internet and/or Street Address below. In additional, attach a copy of the signed, written consent form the IMB obtained from your beneficiary authorizing the release of your beneficiary's personal contact information to you. If additional space is needed, attach a separate sheet of paper.

**Appendix I: I-129F Petition for Alien Fiancé(e),
as of December 10, 2014**

Part 2. Information About Your Alien Fiancé(e) (continued)

Your fiancé(e) will apply for a visa abroad at the American embassy or consulate at:

36.a. City or Town

36.b. Country

NOTE: Designation of a U.S. embassy or consulate outside the country of your fiancé(e)'s last residence does not guarantee acceptance for processing by that foreign post. Acceptance is at the discretion of the designated embassy or consulate.

Part 3. Other Information

1. If you are serving overseas in the Armed Forces of the United States, please answer the following:

I presently reside or am stationed overseas and my current mailing address is:

1.a. Street Number and Name

1.b. Apt. ☐ Ste. ☐ Flr. ☐

1.c. City or Town

1.d. State

1.e. Zip Code

1.f. Postal Code

1.g. Province

1.h. Country

2. Have you ever been convicted by a court of law (civil or criminal) or court martialled by a military tribunal for any of the following crimes:

2.a. Domestic violence, sexual assault, child abuse and neglect, dating violence, elder abuse or stalking? (Please refer to Page 3 of the instructions for the full definition of the term "domestic violence"). ☐ Yes ☐ No

2.b. Homicide, murder, manslaughter, rape, abusive sexual contact, sexual exploitation, incest, torture, trafficking, peonage, holding hostage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment or an attempt to commit any of these crimes? ☐ Yes ☐ No

2.c. Three or more convictions for crimes relating to a controlled substance or alcohol not arising from a single act? ☐ Yes ☐ No

These questions must be answered even if your records were sealed or otherwise cleared or if anyone, including a judge, law enforcement officer, or attorney, told you that you no longer have a record. Using a separate sheet(s) of paper, provide information relating to the conviction(s), such as crime involved, date of conviction and sentence.

3. If you have provided information about a conviction for a crime listed above and you were being battered or subjected to extreme cruelty by your spouse, parent, or adult child at the time of your conviction, check all of the following that apply to you:

3.a. ☐ I was acting in self-defense.

3.b. ☐ I violated a protection order issued for my own protection.

3.c. ☐ I committed, was arrested for, was convicted of, or plead guilty to committing a crime that did not result in serious bodily injury, and there was a connection between the crime committed and my having been battered or subjected to extreme cruelty.

If your beneficiary is your fiancé(e) and: (a) this is the third (or more) Form I-129F petition that you have filed; or (b) this is the third (or more) Form I-129F petition you have filed and your first Form I-129F petition was approved within the last 2 years, then your petition cannot be approved unless a waiver of the multiple filing restriction is granted. Attach a signed and dated letter, requesting the waiver and explaining why a waiver is appropriate under your circumstances, together with any evidence in support of the waiver request.

4. Indicate which waiver applies:

☐ Multiple Filer, No Disqualifying Convictions (**General Waiver**)

☐ Multiple Filer, Prior Criminal Conviction for Specified Offenses (**Extraordinary Circumstances Waiver**)

☐ Multiple Filer, Prior Criminal Convictions Resulting from Domestic Violence (**Mandatory Waiver**)

☐ Not applicable, beneficiary is my spouse

NOTE: See Page 3, question 3.b. of the filing instructions.

Appendix I: I-129F Petition for Alien Fiancé(e),
as of December 10, 2014

Part 4. Signature of Petitioner

Penalties

You may by law be imprisoned for not more than 5 years, or fined \$250,000, or both, for entering into a marriage contract for the purpose of evading any provision of the immigration laws, and you may be fined up to \$10,000 or imprisoned upon to five years, or both, for knowingly and willfully falsifying or concealing a material fact or using any false document in submitting this petition.

Your Certification

I certify that I am legally able to and intend to marry my alien fiancé(e) within 90 days of his or her arrival in the United States. I certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct. Furthermore, I authorize the release of any information from my records that U.S. Citizenship and Immigration Services needs to determine eligibility for the benefit that I am seeking.

Moreover, I understand that this petition, including any criminal conviction information that I am required to provide with this petition, as well as any related criminal background information pertaining to me that U.S. Citizenship and Immigration Services may discover independently in adjudicating this petition will be disclosed to the beneficiary of this petition.

1.a. Signature of Petitioner

1.b. Date of Signature (mm/dd/yyyy) ►

2. Daytime Phone Number () -

3. Mobile Phone Number () -

4. E-mail Address (if any)

Part 5. Signature of Person Preparing This Petition, If Other Than the Petitioner

NOTE: If you are an attorney or representative, you must submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, along with this Petition.

☐ Form G-28 submitted with this Petition.

G-28 ID Number

Preparer's Full Name

1.a. Preparer's Family Name (Last Name)

1.b. Preparer's Given Name (First Name)

2. Preparer's Business or Organization Name

Preparer's Contact Information

3. Preparer's Daytime Phone Number Extension

() -

4. Preparer's E-mail Address (if any)

Preparer's Mailing Address

5.a. Street Number and Name

5.b. Apt. ☐ **Ste.** ☐ **Flr.** ☐

5.c. City or Town

5.d. State

5.e. Zip Code

5.f. Postal Code

5.g. Province

5.h. Country

Declaration

To be completed by all preparers, including attorneys and authorized representatives: I declare that I prepared this benefit request at the request of the Petitioner, that it is based on all the information of which I have knowledge, and that the information is true to the best of my knowledge.

6.a. Signature of Preparer

6.b. Date of Signature (mm/dd/yyyy) ►

Appendix II: International Marriage Broker Regulation Act Information Pamphlet for K-Visa Applicants

Information on the Legal Rights Available to Immigrant Victims of Domestic Violence in the United States and Facts about Immigrating on a Marriage-Based Visa

Purpose:

Immigrants are particularly vulnerable because many do not speak English, are often separated from family and friends, and may not understand the laws of the United States. For these reasons, immigrants are often afraid to report acts of domestic violence to the police or to seek other forms of assistance. Such fear causes many immigrants to remain in abusive relationships.

This pamphlet will explain domestic violence and inform you of your legal rights in the United States. The International Marriage Broker Regulation Act (IMBRA) requires that the U.S. Government provide foreign fiancé(e)s and spouses immigrating to the United States information about their legal rights as well as criminal or domestic violence histories of their U.S. citizen fiancé(e)s and spouses. One of IMBRA's goals is to provide accurate information to immigrating fiancé(e)s and spouses about the immigration process and how to access help if their relationship becomes abusive.

What is domestic violence?

Domestic violence is a pattern of behavior when one intimate partner or spouse threatens or abuses the other partner. Abuse may include physical harm, forced sexual relations, emotional manipulation (including isolation or intimidation), economic and/or immigration related threats. While most recorded

incidents of domestic violence involve men abusing women or children, men can also be victims of domestic violence.

Domestic violence may include sexual assault, child abuse, and other violent crimes. Sexual assault is any type of sexual activity that you do not agree to, even with your spouse, and can be committed by anyone. Child abuse includes: physical abuse (any injury that does not happen by accident, including excessive punishment), physical neglect (failure to provide food, shelter, medical care or supervision), sexual abuse, and emotional abuse (threats, withholding love, support or guidance).

Under all circumstances, domestic violence, sexual assault, and child abuse are illegal in the United States. All people in the United States (regardless of race, color, religion, sex, age, ethnicity, or immigration status) are guaranteed protection from abuse under the law. Any victim of domestic violence – regardless of immigration or citizenship status – can seek help. An immigrant victim of domestic violence may be eligible for immigration protections.

If you are experiencing domestic violence in your home, you are not alone. This pamphlet is intended to help you understand U.S. laws and know how to get help if you need it.

What are the legal rights for victims of domestic violence in the United States?

All people in the United States, regardless of immigration or citizenship status, are guaranteed basic protections under both civil and criminal law.

Laws governing families provide you with:

- The right to obtain a protection order for you and your child(ren).
- The right to legal separation or divorce without the consent of your spouse.
- The right to share certain marital property. In cases of divorce, the court will divide any property or financial assets you and your spouse have together.
- The right to ask for custody of your child(ren) and financial support. Parents of

children under the age of 21 often are required to pay child support for any child not living with them.

Consult a family lawyer who works with immigrants to discuss how any of these family law options may affect or assist you.

Under U.S. law any crime victim, regardless of immigration or citizenship status, can call the police for help or obtain a protection order.

Call police at 911 if you or your child(ren) are in danger. The police may arrest your fiancé(e), spouse, partner, or another person if they believe that person has committed a crime. You should tell the police about any abuse that has happened, even in the past, and show any injuries. Anyone, regardless of immigration or citizenship status, may report a crime.

Likewise, if you are a victim of domestic violence you can apply to a court for a protection order. A court-issued protection order or restraining order may prohibit your abuser from calling, contacting, approaching, or harming you, your child(ren), or other family members. If your abuser violates the protection order, you can contact the police, who may arrest the abuser. Applications for protection orders are available at most courthouses, police stations, women's shelters, and legal service offices.

If your abuser accuses you of a crime, you have basic rights, regardless of your immigration or citizenship status, including: the right to talk to a lawyer; the right to not answer questions without a lawyer present; the right to speak in your defense. It is important to talk with both an immigration lawyer and a criminal lawyer.

What services are available to victims of domestic violence and sexual assault in the United States?

In the United States, victims of crime, regardless of immigration or citizenship status, can access help provided by government or nongovernmental agencies, which may include counseling, interpreters, emergency housing, and even monetary assistance.

Appendix II: International Marriage Broker Regulation Act Information Pamphlet for K-Visa Applicants

The national telephone numbers or “hotlines” listed below have operators trained to help victims 24 hours a day free of charge. Interpreters are available and these numbers can connect you with other free services for victims in your local area, including emergency housing, medical care, counseling, and legal advice. If you cannot afford to pay a lawyer you may qualify for a free or low-cost legal aid program for immigrant crime or domestic violence victims.

National Domestic Violence Hotline
1-800-799-SAFE (1-800-799-7233)
1-800-787-3224 (TTY)
www.ndvh.org

National Sexual Assault Hotline of the Rape, Abuse and Incest National Network (RAINN)
1-800-656-HOPE (1-800-656-4673)
www.rainn.org

National Center for Missing and Exploited Children
1-800-THE-LOST (1-800-843-5678)
www.missingkids.com

The National Center for Victims of Crime
1-800-FYI-CALL (1-800-394-2255)
1-800-211-7996 (TTY)
www.ncvc.org

NOTE: These are organizations whose primary mission is safety and protection.

If I am a victim of domestic violence, sexual assault, or other crime, what immigration options are available to me?

There are three ways immigrants who become victims of domestic violence, sexual assault, and some other specific crimes may apply for legal immigration status for themselves and their child(ren). A victim’s application is confidential and no one, including an abuser, crime perpetrator or family member, will be told that you applied.

- Self-petitions for legal status under the Violence Against Women Act (VAWA)
- Cancellation of removal under VAWA
- U-nonimmigrant status (crime victims)

These immigration benefits each have specific requirements that must be established. Consult an immigration lawyer who works with victims of domestic violence to discuss how any of these immigration benefits may affect or assist you.

How does the marriage-based immigration process work?

The marriage-based immigration process involves several steps to obtain legal immigration status in the United States, and over time, to be eligible for citizenship. These steps depend on the type of marriage-based visa you travel on to the United States, as well as other factors. The following information is an overview of some of these types of visas, as well as information on your legal rights.

K-1 nonimmigrant status (as the fiancé(e) of a United States citizen): You are required to either marry the United States citizen within 90 days of entry or to depart the United States. Following your marriage to the U.S. citizen fiancé(e) who petitioned for you, you must file an Application to Register Permanent Residence or Adjust Status (Form I-485). If your Form I-485 is approved, your status will be adjusted from a K nonimmigrant to that of a conditional permanent resident. You will have that conditional status for two years.

If you remain in the U.S. without marrying the U.S. citizen who sponsored your K-1 visa, or marry someone else, you will violate the terms of your visa, have no legal status, and may be subject to removal proceedings or other penalties.

K-3 nonimmigrant status (as the spouse of a United States citizen): You are allowed to enter the United States temporarily while waiting for approval of a family-based visa petition (I-130). Once the I-130 is approved, you are entitled to lawful permanent

residence (green card) and will need to file an Application to Register Permanent Residence or Adjust Status (Form I-485).

All other marriage-based immigration status holders should refer to the information given to them from the U.S. consulate. Additional information may be found online at <http://www.uscis.gov>.

What are the penalties for marriage fraud?

Immigrants who commit marriage fraud may be subject to removal proceedings and may be barred from receiving future immigration benefits in the United States. Conviction for marriage fraud can involve imprisonment for up to five (5) years and fines up to \$250,000 (U.S. currency).

If I am married to a U.S. citizen who filed immigration papers on my behalf, what is my immigration status?

If you have been married less than 2 years when your Form I-485 is approved, you will receive conditional residence status from USCIS. Ninety (90) days before the second anniversary of your conditional residence, you and your spouse generally must apply together to remove the conditions on your lawful residence. To do so, you must prove the marriage is in “good faith” and valid. Once the conditions are removed, you have permanent residency that is not dependent on your U.S. spouse.

If you have been married more than 2 years when your Form I-485 is approved, you will receive permanent residence status from USCIS. On that date you will no longer be dependent on your U.S. citizen spouse for immigration status.

There are three situations when the law allows conditional residents the option to request a waiver of the requirement that you and your spouse file jointly to request removal of the conditions. 1) The removal of the conditional resident from the U.S. would result in extreme hardship; OR 2) The marriage was legally terminated, other than by death, and the applicant was not at fault for failing to file a timely application to remove the conditional basis of his or her status;

**Appendix II: International Marriage Broker
Regulation Act Information Pamphlet for
K-Visa Applicants**

OR 3) During the marriage the U.S. citizen or lawful permanent resident spouse subjected the conditional resident to battery or extreme cruelty. All three waivers are filed on Form I-751 and require you to prove your marriage was in “good faith” and not fraudulent.

What other ways does the U.S. government try to inform foreign fiancées and spouses about their rights and protect them and their children from abuse?

The International Marriage Broker Regulation Act of 2005 (IMBRA) is a law in the United States that changed the marriage-based immigration process to help foreign fiancé(e)s and spouses. IMBRA mandates that the U.S. Government give immigrating foreign fiancé(e)s and spouses information and self-help tools to help protect them against violence from the partners who sponsor their visas. Immigrating fiancé(e)s and spouses are often unfamiliar with the U.S. laws and unsupported by family or friends to escape violence at home.

IMBRA required this pamphlet be written and distributed to tell you about laws and services that can help you in the United States if you are abused. IMBRA prevents U.S. citizens from sponsoring multiple visas for foreign fiancé(e)s if they have a history of violent crimes. IMBRA requires the U.S. government to give foreign fiancé(e)s and spouses of U.S. citizens a copy of the criminal background check that USCIS does on U.S. citizen-sponsors, as well as a copy of the visa sponsorship application.

How does the U.S. government regulate “International Marriage Brokers”?

If an agency qualifies as an “international marriage broker,” it is required to give you background information on the U.S. client who wants to contact you, including information contained in Federal and State sex offender public registries, and get your written permission before giving the U.S. client your contact information. The agency is required to give you a copy of this pamphlet. It is prohibited from doing business with you if you are under 18 years of age.

Can I rely on the criminal background information on my U.S. citizen fiancée or spouse?

The criminal background information compiled by the agency comes from various public sources, as well as information provided by the U.S. citizen clients on immigration applications. USCIS does not have access to all criminal history databases in the United States. The U.S. citizen sponsor may not tell the truth in the sponsorship application. It is also possible the U.S. citizen has a history of abusive behavior but was never arrested or convicted. Therefore, the criminal background information you receive may not be complete. The intent of IMBRA is to provide available information and resources to immigrating fiancé(s) and spouses. Ultimately you are responsible for deciding whether you feel safe in the relationship.

Can foreign fiancées or spouses who are victims of domestic violence also be victims of human trafficking?

Other forms of exploitation including human trafficking can sometimes occur alongside domestic violence, when the exploitation involves compelled or coerced labor, services, or commercial sex acts.

Help regarding human trafficking may be found at:

National Human Trafficking Resource Center
1-888-373-7888
(24 hours a day, 7 days a week)
www.acf.hhs.gov/trafficking

Human Trafficking and Worker Exploitation Task
Force Hotline, U.S. Department of Justice
1-888-428-7581
(Monday - Friday, 9am to 5pm)
www.usdoj.gov/crt/crim/tpwtf.php

More information can be found at our website or by calling the toll free number listed below.

USCIS General Information
In the United States, telephone toll free to:
1-800-870-3676 or

Visit our internet website at:
<http://www.uscis.gov>



Appendix III: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

November 25, 2014

Rebecca Gambler
Director, Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: Draft Report GAO-15-3, "IMMIGRATION BENEFITS: Improvements Needed to Fully Implement the International Marriage Broker Regulation Act"

Dear Ms. Gambler:

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the U.S. Government Accountability Office's (GAO's) work in planning and conducting its review and issuing this report.

U.S. Citizenship and Immigration Services (USCIS) is committed to ensuring the full implementation of International Marriage Broker Regulation Act (IMBRA), including the consistent adjudication of petitions and the collection of appropriate and reliable data. USCIS already has both short- and long-term actions on-going and planned to improve the implementation of IMBRA.

The draft report contained three recommendations with which the Department concurs. Specifically, GAO recommended that the Director of USCIS:

Recommendation 1: Set a target time frame for completing the agency's review and revisions to the I-129F petition.

Response: Concur. USCIS and the Department of Justice have completed their collaboration on the addition of IMBRA-related questions to Form I-129F, Petition for Alien Fiancé(e). The USCIS Service Center Operations Directorate (SCOPS) has drafted the revised Form I-129F and instructions, and will distribute them for internal USCIS review and concurrence in December 2014. Once internal review is complete, the revised form and instructions will undergo a public comment process, which includes posting the drafts for 60- and 30-day public comment periods, updating any necessary changes, and obtaining final approval prior to final publication. USCIS estimates that this entire process will take approximately nine months. Once completed, corresponding

revisions will be made to the Form I-129F standard operating procedures. Estimated Completion Date (ECD): September 30, 2015.

Recommendation 2: Ensure that IMBRA-required data elements will be collected in an automated manner with the release of the electronic I-129F petition.

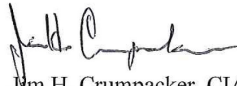
Response: Concur. The USCIS SCOPS and Office of Transformation Coordination will work closely together to identify all data that will be collected from the Form I-129F in the USCIS Electronic Immigration System. ECD: December 31, 2016.

Recommendation 3: Provide additional training to officers who adjudicate I-129F petitions on the IMBRA-related requirements in the adjudication process.

Response: Concur. USCIS SCOPS developed a training presentation specific to the consideration of IMBRA issues. The presentation will be provided to all four USCIS service centers. All officers adjudicating the Form I-129F will be required to complete the course before the end of January 2015. ECD: January 31, 2015.

Again, thank you for the opportunity to review and comment on this draft report. Technical comments were previously provided under a separate cover. Please feel free to contact me if you have any questions. We look forward to working with you in the future.

Sincerely,



Jim H. Crumpacker, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

Appendix IV: Comments from the Department of State



United States Department of State
Comptroller
P.O. Box 150008
Charleston, SC 29415-5008

NOV 25 2014

Dr. Loren Yager
Managing Director
International Affairs and Trade
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548-0001

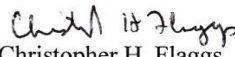
Dear Dr. Yager:

We appreciate the opportunity to review your draft report, "IMMIGRATION BENEFITS: Improvements Needed to Fully Implement the International Marriage Broker Regulation Act" GAO Job Code 441193.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact Kathryn Flachsbart, Director, Consular Training Division, Bureau of Foreign Service Institute at (703) 302-7161.

Sincerely,


Christopher H. Flagg

Enclosure:
As stated.

cc: GAO – Rebecca Gambler
CA– Michele T. Bond
State/OIG – Norman Brown

Department of State Comments on GAO Draft Report

**IMMIGRATION BENEFITS: Improvements Needed to Fully Implement the
International Marriage Broker Regulation Act**
(GAO-15-3, GAO Code 441193)

The Department of State appreciates the opportunity to comment on the GAO report entitled “*Immigration Benefits: Improvements Needed to Fully Implement the International Marriage Broker Regulation Act.*”

Recommendation 2: To ensure that fiancé(e)s and spouses applying for K visas receive and understand the information to be provided to them under the International Marriage Broker Regulation Act (IMBRA) and that consular officers adhere to documentation guidance in the FAM, we recommend that the Secretary of State incorporate the FAM’s IMBRA-related documentation requirements in the Foreign Service Institute’s training curriculum for entry-level and mid-level consular officers.

CA Response to Recommendation 2:

The Department agrees with this recommendation. The Foreign Service Institute (FSI) will strengthen the training it provides to consular professionals on their responsibility to provide information to immigrating fiancé(e)s and spouses regarding their legal rights in compliance with the International Marriage Broker Regulation Act.

In the *Basic Consular Course* (PC530), a six-week course that is mandatory for all entry-level consular adjudicators, FSI will expand training on consular roles and responsibilities in cases requiring IMBRA consideration by explicitly emphasizing the requirement to:

- 1) Identify applicants with relevant visa classifications;
- 2) Distribute the DHS/USCIS IMBRA pamphlet to those applicants;
- 3) Confirm each applicant’s understanding of their rights and the services available to them in the United States; and,
- 4) Enter clear case notes indicating the applicant has received, read, and understood the IMBRA pamphlet.

FSI will also incorporate similar IMBRA instructional content into courses for managers, including *Consular Section Chief Basics* (PC550) and *Visa Issues for*

-2-

Mid-level Officers (PC557). They will also cover this topic in the course *Workshop for Immigrant Visa Foreign Service Nationals* (PC123), as Locally Employed Staff are frequently the first consular staff members to review applicant case files.

This expanded coverage will assist mid-level consular managers, entry-level adjudicators, and supporting staff in articulating and carrying out consular responsibilities to implement the FAM's IMBRA-related documentation requirements.

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

Rebecca Gambler, (202) 512-8777 or gablerr@gao.gov

Staff Acknowledgments

In addition to the contact named above, Kathryn Bernet (Assistant Director), Frances Cook, Monica Kelly, Connor Kincaid, Stanley Kostlya, Thomas Lombardi, Linda S. Miller, Jessica Orr, Michelle Woods, and Jim Ungavarsky made significant contributions to this work.

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