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AMERICAN SAMOA

Performing a Risk Assessment Would Better Inform U.S. Agencies of the Risks Related to Acceptance of Certificates of Identity



GAO

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Highlights of [GAO-10-638](#), a report to congressional requesters

Why GAO Did This Study

American Samoa is a U.S. insular area that operates its customs and immigration programs according to its own laws and independent of the United States. As such, U.S. agencies, such as U.S. Customs and Border Protection, have no roles in operating the customs or immigration programs in American Samoa. U.S. officials have raised questions about how American Samoa operates its customs and immigration programs, and if this introduces any risks to the security of American Samoa or the rest of the United States. GAO was asked to review American Samoa's customs and immigration programs and this report discusses (1) the operations of American Samoa's customs and immigration programs, and (2) the extent to which U.S. and American Samoa agencies have identified potential risks in American Samoa's customs and immigration programs. GAO reviewed available statutes, regulations, policies, and procedures governing American Samoa and U.S. customs and immigration programs. GAO also visited American Samoa and interviewed U.S. and American Samoan officials to obtain insights.

What GAO Recommends

GAO recommends that DHS, in consultation with the Departments of State and the Interior, conduct a risk assessment to determine the extent and significance of possible risks associated with aliens using false documents to travel to the United States from American Samoa. The agencies' concurred with GAO's recommendation.

View [GAO-10-638](#) or [key components](#). For more information, contact Stephen L. Caldwell at (202) 512-8777 or CaldwellS@gao.gov.

AMERICAN SAMOA

Performing a Risk Assessment Would Better Inform U.S. Agencies of the Risks Related to Acceptance of Certificates of Identity

What GAO Found

American Samoa operates its own customs and immigration programs, which have separate organizational structures and functions and are based on local laws, regulations, policies, and procedures. Its Customs Division, within the American Samoa Department of Treasury, inspects passengers, baggage, and cargo, and collects excise taxes. The immigration program is administered by the Immigration Office and the Immigration Board, which both report to the American Samoa Attorney General. The Immigration Office is responsible for document issuance, operations, and enforcement, while the Immigration Board holds hearings to decide on issues such as alien work authorization. The Office of the Attorney General is responsible for, among other things, issuing Certificates of Identity (CI), which American Samoans may use to demonstrate their nationality when traveling to the rest of the United States.

American Samoa and U.S. government agencies report that American Samoa's operations of its customs and immigration programs may pose risks to American Samoa and the rest of the United States, but U.S. agencies have not conducted a risk assessment. Regarding customs, potential risks to American Samoa are lost revenues and the possible aiding of criminal activities. While the Customs Division has written policies and procedures to govern duties and responsibilities, American Samoa and U.S. law enforcement officials are concerned that American Samoa Customs officials have accepted bribes for improperly inspecting containers, which could result in lost tax revenues. American Samoan and U.S. officials have identified no concerns to the rest of the United States from American Samoa's operations of its customs program. Regarding immigration, the principal concern to American Samoa is that current enforcement practices of immigration laws have led to the potential for alien exploitation and human trafficking. The American Samoa legislature is proposing changes that may address these issues, but it is too soon to tell what impact these changes, if passed, will have. U.S. officials state that the potential risk to the rest of the United States from American Samoa's current immigration operations is illegal immigration into the rest of the United States as a result of travelers obtaining false documentation, such as a CI, in American Samoa. While Department of State officials are aware of allegations of illegal immigration from aliens fraudulently obtaining CIs, and are working with law enforcement officials in American Samoa on an ongoing investigation into such allegations, this investigation will address the security of the process for obtaining U.S. passports and will not address the reported vulnerabilities in the process for issuing CIs. U.S. agencies have not performed a risk assessment to determine the threat, vulnerabilities, and consequences associated with aliens using false documents to travel to the rest of the United States from American Samoa. Performing a risk assessment could better position U.S. agencies to understand the extent of threats, vulnerabilities, and consequences associated with the use of CIs, and better inform decisions on which documents would be considered acceptable for those wishing to travel to the rest of the United States from American Samoa.

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Abbreviations

CI	Certificate of Identity
CBP	U.S. Customs and Border Protection
DHS	U.S. Department of Homeland Security
DOI	Department of the Interior
FBI	Federal Bureau of Investigation
ID	identification
USCIS	U.S. Citizenship and Immigration Services

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United States Government Accountability Office
Washington, DC 20548

June 11, 2010

The Honorable Nick J. Rahall, II
Chairman
Committee on Natural Resources
House of Representatives

The Honorable Madeleine Z. Bordallo
Chairwoman
Subcommittee on Insular Affairs, Oceans and Wildlife
Committee on Natural Resources
House of Representatives

The Honorable Donna M. Christensen
House of Representatives

The Honorable Eni F. H. Faleomavaega
House of Representatives

American Samoa, a U.S. insular area,¹ operates both its customs and immigration programs independent of the United States government.² As such, the American Samoa government regulates such activities as the importation of cargo and the entry of aliens to American Samoa according to its local customs and immigration laws, which are different than United States' customs and immigration laws.³ Because American Samoa is the only insular area that operates both its own customs and immigration programs, this has raised questions about whether this arrangement introduces any risks to the security of American Samoa or the rest of the United States. As a result, you requested that we review aspects of

¹According to the Department of the Interior, an insular area is a jurisdiction that is neither a part of one of the states nor a federal district. Insular area is the current generic term to refer to any commonwealth, freely associated state, possession, or territory. For the purposes of this report, insular areas include American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.

²The U.S. government operates the immigration functions in other insular areas, such as Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands; however, each of these insular areas operates under its own customs laws.

³In this report, we use the term alien as it is defined in American Samoa and U.S. law, to mean any person who is not a national or citizen of the United States. Am. Samoa Code Ann. § 41.0202(1)(a); 8 U.S.C. § 1101(a)(3).

American Samoa's customs and immigration programs. In particular, this report discusses American Samoa's operations of its customs and immigration programs; and the extent to which federal and American Samoa agencies have identified potential risks, if any, to American Samoa or the rest of the United States as a result of the operations of American Samoa's customs and immigration programs.⁴

In order to understand the operations of American Samoa's customs and immigration programs, we reviewed available U.S. and American Samoa immigration and customs statutes; regulations, policies, and procedures for American Samoa's customs program; and training and passenger screening guidelines for U.S. customs and immigration programs. To supplement the document reviews and analyses, we visited American Samoa and interviewed American Samoa government officials in the executive, legislative, and judicial branches of government—including leaders and staff directly involved with administering and enforcing American Samoa's customs and immigration programs—in order to enhance our understanding of American Samoa's customs and immigration operations and procedures. We also observed the performance of certain functions within American Samoa's Office of the Attorney General and the Immigration Office, which included observing the processes for applying for and issuing Certificates of Identity (CI) and American Samoa alien identification (ID) cards; as well as operations at the Customs Division of the American Samoa Department of Treasury, which included a cargo container inspection at the seaport. These observations provided us with first-hand accounts of procedures, as well as a better understanding of the logistics involved within these specific functions. Additionally, we received data from the American Samoa Department of Legal Affairs for calendar years 2007 through 2009 on various indicators, including the number and types of documents used by airline passengers traveling from American Samoa to Hawaii, the number of registered aliens in American Samoa, and the number of alien overstayers and expired alien ID cards. To determine the sufficiency of the data, we asked the Department of Legal Affairs a series of questions

⁴Our analysis included risks of criminal activity as well as terrorist risks. Terrorist risks include three elements: (1) threat—the probability that a specific type of attack will be initiated against a particular target/class of targets, (2) vulnerability—the probability that a particular attempted attack will succeed against a particular target or class of targets, and (3) consequence—the expected worst case or worst reasonable adverse impact of a successful attack.

related to database usage, controls, and safeguards and determined that the data were sufficiently reliable for our reporting purposes.

To understand the potential risks, if any, to American Samoa and the rest of the United States as a result of the operation of American Samoa's customs and immigration programs, we reviewed available U.S. and American Samoa risk or threat assessments, and interviewed American Samoa law enforcement and government officials, and compared these findings to the *Standards for Internal Control in the Federal Government*.⁵ Additionally, we interviewed officials within U.S. agencies who may have knowledge or interaction with American Samoa's customs or immigration programs, such as certain Department of Homeland Security (DHS) components, including U.S. Customs and Border Protection (CBP), Immigration and Customs Enforcement, the Transportation Security Administration, U.S. Citizenship and Immigration Services (USCIS), and the U.S. Coast Guard in both Washington, D.C., and Honolulu, Hawaii, as Hawaii is the first port of entry for flights arriving from American Samoa. We also met with officials from the Department of the Interior's (DOI) Office of Insular Affairs in Washington, D.C., and in American Samoa; and with officials from the Federal Bureau of Investigation (FBI) in Honolulu, Hawaii, and in American Samoa who have the potential for interaction with the government of American Samoa on a regular basis. We also met with officials from the Department of State's Bureau of Consular Affairs, Bureau of Diplomatic Security, and Honolulu Passport Office to further understand any potential risks. Additionally, in evaluating the potential risks to American Samoa and the rest of the United States as a result of the operation of American Samoa's customs and immigration programs, we used the Internal Control Standards for risk assessments and DHS's risk management framework.⁶

We conducted this performance audit from June 2009 to June 2010 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

⁵GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

⁶See GAO, *Risk Management: Further Refinements Needed to Assess Risks and Prioritize Protective Measures at Ports and Other Critical Infrastructure*, [GAO-06-91](#) (Washington, D.C.: Dec. 15, 2005).

obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

American Samoa, the only inhabited U.S. insular area in the southern hemisphere, is located about 2,600 miles southwest of Hawaii (see fig. 1). American Samoa consists of five volcanic islands and two coral atolls, covering a land area of 76 square miles—slightly larger than Washington, D.C. The capital of American Samoa, Pago Pago, is located on the main island of Tutuila, which is mostly rugged terrain with relatively little level land. Most of American Samoa’s economic activity—primarily tuna canning and government operations—takes place on Tutuila in the Pago Pago Bay area. In late September 2009, one of American Samoa’s two tuna canneries closed operations and American Samoa also experienced an earthquake and tsunami, which caused considerable damage.

Figure 1: Location of American Samoa



Sources: GAO and Map Resources (map art).

According to the latest data available, American Samoa had a population of about 63,780 in 2005.⁷ At that time, the foreign-born population (non-U.S. citizens or nationals), mostly from the independent state of Samoa, comprised approximately one-third of American Samoa's total population (see fig. 2).⁸ The American Samoa Department of Commerce estimated that in 2008, 45 percent to 55 percent of the total population was foreign born. Unlike residents born in Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands, residents born and raised in American Samoa are U.S. nationals and not U.S. citizens, though they may become naturalized U.S. citizens.⁹ Like residents of these other insular areas, though, residents of American Samoa have many of the rights of citizens of the 50 states, but cannot vote in U.S. presidential elections and do not have voting representation in the final approval of legislation by the full Congress.¹⁰ Residents of American Samoa vote for a congressional delegate who has all congressional privileges, including a vote in committee, except a vote in the House of Representatives.

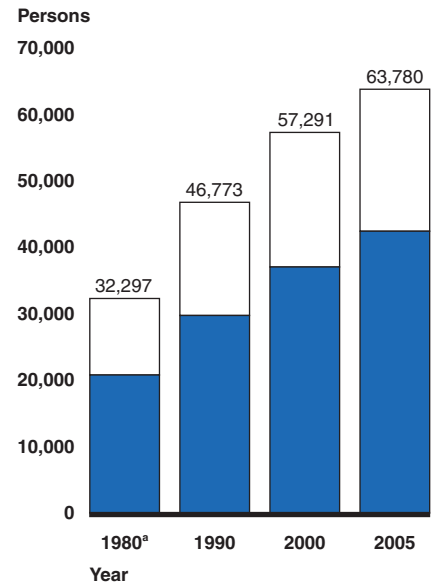
⁷American Samoa Government, Department of Commerce, Statistics Division, *Report of the 2005 American Samoa Household Survey*. Data are based on the 2005 household survey for American Samoa, which was not completed and is available only in draft form. The American Samoa government estimates that the population of American Samoa was 70,100 in 2009.

⁸Many citizens of the independent state of Samoa, some of whom are spouses and relatives of American Samoans, reside in American Samoa on a long-term basis.

⁹Under U.S. law, a U.S. national is either a citizen of the United States or a person who owes permanent allegiance to the United States. Because residents born in other insular areas are U.S. citizens, at present there are only two categories of individuals who owe permanent allegiance to the United States but are not U.S. citizens: individuals born in American Samoa or with certain ties to American Samoa who have not naturalized, and individuals who chose not to retain U.S. citizenship under the collective naturalization provision of the Covenant to establish the Commonwealth of the Northern Mariana Islands. See 8 U.S.C. §§ 1408, 1101(a)(29); 48 U.S.C. § 1801 note. Because the number of individuals in the second category is limited to a handful of individuals at most according to USCIS, for the purposes of this report, we use the term noncitizen nationals to refer to individuals that are U.S. nationals but not citizens based on their ties with American Samoa.

¹⁰48 U.S.C. § 1731.

Figure 2: American Samoa Population, 1980 through 2005



	Neither U.S. citizens nor nationals	11,514	17,031	20,251	21,370
	Percentage	35.7	36.4	35.3	33.5
	U.S. citizens or nationals	20,783	29,742	37,040	42,410
	Percentage	64.3	63.6	64.7	66.5

Sources: GAO analysis of decennial U.S. Census data and 2005 (draft) report by American Samoa government on household, income, and expenditures survey.

^aFor 1980, the definition of U.S. citizen included people born in the United States, the Commonwealth of the Northern Mariana Islands, Guam, and American Samoa. Persons with place of birth not reported are classified as not U.S. citizens.

American Samoa does not have an organic act that establishes the relationship between American Samoa and the United States;¹¹ however, two deeds of cession were initially completed between Samoan chiefs, or matai, and the United States in 1900 and 1904¹² and ratified by the federal

¹¹In contrast, organic acts that establish their relationship with the United States have been enacted for Guam and the U.S. Virgin Islands; and the Commonwealth of the Northern Mariana Islands entered into a covenant establishing its relationship with the United States.

¹²Samoan *matai*, or traditional leaders, signed the Cession of Tutuila and Aunu'u in 1900 and the Cession of Manu'a Islands in 1904. Later, in 1925, the U.S. acquired Swains Island. 43 Stat. 1357 (1925).

government in 1929.¹³ In these deeds, the United States pledged to promote peace and welfare, to establish a good and sound government, and to preserve the rights and property of the people. The U.S. Navy was initially responsible for federal governance of American Samoa. Then, in 1951, federal governance was transferred to the Secretary of the Interior, which continues today. The Secretary of the Interior exercises broad powers with regard to American Samoa, including “all civil, judicial, and military powers” of government in American Samoa.¹⁴ American Samoa has had its own constitution since 1960, and since 1983, the local American Samoa constitution may only be amended by an act of Congress.¹⁵ The American Samoa constitution provides for three separate branches of government—the executive, the legislative, and the judicial.¹⁶ Nearly 40 American Samoa departments, offices, and other entities within the executive branch of the American Samoa government provide public safety, public works, education, health, commerce, and other services. The legislature, or Fono, is comprised of 18 senators and 20 representatives.¹⁷ The American Samoa judiciary consists of a High Court and a District Court under the administration and supervision of the Chief Justice.¹⁸

U.S. Customs and Immigration Laws Generally Do Not Apply in American Samoa

In general, U.S. customs and immigration laws do not govern the customs and immigration programs in American Samoa. With respect to customs law, federal regulations define the customs territory of the United States to include the 50 states, the District of Columbia, and Puerto Rico.¹⁹ As a result, U.S. customs requirements applicable to the U.S. customs territory do not apply in U.S. insular areas, including American Samoa.²⁰ For example, in general, goods imported into American Samoa are not inspected by federal customs officials and are not subject to federal tariffs.

¹³45 Stat. 1253 (1929) (codified at 48 U.S.C. § 1661).

¹⁴48 U.S.C. § 1661(c); Exec. Order No. 10,264, 16 Fed. Reg. 6417 (1951).

¹⁵48 U.S.C. § 1662a.

¹⁶Am. Samoa Const. art. II, III, IV.

¹⁷Am. Samoa Const. art. II, § 2.

¹⁸Am. Samoa Const. art. III; Am. Samoa Code Ann. tit. 3.

¹⁹19 C.F.R. § 101.1.

²⁰U.S. customs law also does not apply to the U.S. Virgin Islands, Guam, or the Commonwealth of the Northern Mariana Islands.

Although American Samoa is not considered part of the customs territory of the United States, it is not treated as a foreign country either. Rather, as a U.S. insular area, it is accorded special status with respect to goods exported from American Samoa into the customs territory of the United States. The Harmonized Tariff Schedule provides exemptions to the general rates of duties for certain goods imported into the rest of the United States from American Samoa.²¹ For example, goods grown in American Samoa or produced or manufactured in American Samoa from materials grown in American Samoa may be imported into the rest of the United States duty-free, so long as the goods do not contain foreign materials worth more than 70 percent of the goods' total value.²²

With respect to federal immigration law, the Immigration and Nationality Act defines the United States to include the continental United States, Alaska, Hawaii, Puerto Rico, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands.²³ As a result, U.S. immigration requirements for entering and working in the United States generally do not apply in American Samoa, and the American Samoa government, rather than the U.S. government, governs the admission of aliens to American Samoa.²⁴

²¹The U.S. Harmonized Tariff Schedule provides the applicable tariff rates and statistical categories for all merchandise imported into the United States. It is based on the international Harmonized System, the global system of nomenclature that is used to describe most world trade in goods.

²²Harmonized Tariff Schedule of the United States, Note 3(a), United States International Trade Commission (Washington, D.C. 2010).

²³8 U.S.C. § 1101(a)(38). U.S. immigration law was made applicable in the Commonwealth of the Northern Mariana Islands beginning on November 28, 2009. See GAO, *Commonwealth of the Northern Mariana Islands: Managing Potential Economic Impact of Applying U.S. Immigration Law Requires Coordinated Federal Decisions and Additional Data*, [GAO-08-791](#) (Washington, D.C.: Aug. 4, 2008).

²⁴Although most provisions of immigration law do not apply to American Samoa, specific provisions of law governing the control of aliens departing the United States define the United States to mean "all territory and waters, continental and insular, subject to the jurisdiction of the United States." 8 U.S.C. § 1185(c). Regulations issued pursuant to this law prohibit aliens from departing the United States, defined to include American Samoa, if they fall into certain categories that would make their departure prejudicial to the interest of the United States. 8 C.F.R. pt. 215; 22 C.F.R. pt. 46. These regulations were also incorporated in large part into the American Samoa Administrative Code. Am. Samoa Admin. Code § 41.0501-.0506.

Because U.S. Customs and Immigration Laws Generally Do Not Apply in American Samoa, There Is Little, If Any, Interaction between American Samoa and U.S. Customs and Immigration Agencies

Because U.S. customs and immigration laws generally do not apply in American Samoa, and because of the resulting separate authorities for American Samoa and U.S. customs and immigration programs, American Samoa customs and immigration agencies and officials have little, if any, interaction with the customs or immigration programs and officials in the United States. Multiple U.S. agencies have responsibilities over customs and immigration functions in the United States and at the ports of entry—including CBP,²⁵ USCIS,²⁶ and the Department of State’s Bureau of Consular Affairs²⁷—but none of these entities have a presence or staff in American Samoa. There are, however, several U.S. agencies that interact with the government of American Samoa and have staff based in American Samoa. For example, the FBI has a resident office in American Samoa which, since being established in December 2005, has addressed a growing number of crimes in American Samoa, including public corruption of high-ranking government officials, fraud against the government, civil rights violations, and human trafficking. Additionally, DOI has staff in American Samoa that help issue and monitor federal grants provided to the government of American Samoa. For example, in fiscal year 2008, the American Samoa government expended approximately \$114.4 million in grants from several U.S. agencies, over \$15.5 million of which was provided by DOI, but based on our review of budget documents, none of those funds were used to support American Samoa’s customs or immigration programs.

²⁵U.S. Customs and Border Protection is a component of the Department of Homeland Security (DHS) and has the primary responsibility for detecting and preventing terrorists and weapons of mass destruction from entering the United States, while facilitating the orderly flow of legitimate trade and travelers. This requires enforcing laws related to revenue and trade, seizure of contraband, interdiction of agricultural pests and diseases, and admissibility of persons.

²⁶U.S. Citizenship and Immigration Services is a component of DHS that is generally responsible for administering immigration benefit programs within the United States (and in some cases, such as the refugee program, abroad), including processing applications for naturalization; petitions for permanent immigration; applications for adjustment of status to lawful permanent resident; employment authorization; extension or change of nonimmigrant status; and humanitarian benefits including refugee admission, asylum, and temporary protected status.

²⁷The mission of the Department of State’s Bureau of Consular Affairs is to protect the lives and interests of American citizens overseas, and strengthen U.S. border security while facilitating legitimate travel to the United States. The bureau’s responsibilities include adjudicating U.S. citizenship and nationality and issuing passports that enable Americans to travel internationally, protecting the integrity of the U.S. passport as proof of U.S. citizenship, and adjudicating eligibility for issuing all nonimmigrant and immigrant visas to foreign visitors seeking entry to the United States.

Individuals born in American Samoa are U.S. nationals but not citizens, unless they become naturalized U.S. citizens.²⁸ Travel between American Samoa and the rest of the United States is considered travel between two U.S. border locations under Department of State regulations and, as a result, passports are not required for U.S. citizens or noncitizen nationals.²⁹ U.S. nationals may travel to the rest of the United States with a government-issued photo ID and documentation establishing U.S. nationality. Although travel from American Samoa to the rest of the United States is considered domestic for purposes of passport requirements, because Honolulu, Hawaii, is the travelers' first encounter with U.S. customs and immigration officials, all passengers from American Samoa are screened by CBP officers upon arrival at the Honolulu International Airport to establish their identity and nationality and, if they are not U.S. citizens or nationals, their admissibility to the United States.³⁰ A U.S. citizen or national may satisfy CBP of his or her identity and nationality by showing a U.S.-issued passport or military ID card, a birth certificate in combination with a photo ID, or an American Samoa-issued CI.³¹

While they do not have any staff based in American Samoa, staff from the Department of State's Bureau of Consular Affairs and USCIS interact with American Samoa residents applying for U.S. passports or naturalization, respectively. U.S. nationals who live in American Samoa may apply for U.S. passports through a Department of State-approved passport acceptance agent at the U.S. Post Office in American Samoa. Noncitizen

²⁸A person is also a U.S. national but not a citizen if that person is (1) born outside of United States and American Samoa to parents both of whom are nationals but not citizens of the United States and have had a residence in the United States or American Samoa prior to the birth of the person; (2) a person of unknown parentage found in American Samoa while under the age of 5 years, until shown, prior to attaining the age of 21 years, not to have been born in American Samoa; or (3) born outside of the United States and American Samoa to parents one of whom is an alien and the other a national but not a citizen of the United States who, prior to birth of person, was physically present in the United States or American Samoa for a period or periods totaling not less than 7 years in any continuous period of 10 years, during which the national parent was not outside the United States or American Samoa for a continuous period of more than 1 year, and at least 5 years, or which were after attaining the age of 14 years. 8 U.S.C. § 1408.

²⁹22 C.F.R. § 53.2(a).

³⁰There are generally two flights per week between Pago Pago, American Samoa and Honolulu, Hawaii—the only “entry port” in the United States from American Samoa.

³¹Aliens must present whatever documents are required at a U.S. port of entry and must establish to the satisfaction of the inspecting officer that they are admissible to the United States. 8 C.F.R. § 235.1(f)(1).

nationals are subject to the same application requirements as U.S. citizens and must show proof of their status as U.S. nationals.³² The passport applications and supporting materials are sent to the Department of State's Honolulu Passport Office for processing and adjudication. If there is suspicion of fraudulent documentation within an application package (e.g., a suspicious birth certificate) the Honolulu Passport Office determines the validity of submitted documents and requires applicants to submit additional documents until staff are satisfied as to the documents' authenticity. According to the Department of State, in 2008, over 3,300 U.S. passports were issued to individuals who listed American Samoa as their place of birth.³³

USCIS reported that it received between 100 and 300 applications for naturalization from noncitizen nationals from American Samoa—who may reside elsewhere in the United States—each fiscal year from 2002 through 2009.³⁴ Noncitizen nationals may naturalize if they reside in any U.S. state for 3 months, pass an English and civics test, and take an oath of allegiance.³⁵ They must also pay the \$675 fee for naturalization.

American Samoa Operates Its Own Customs and Immigration Programs

American Samoa operates its own customs and immigration programs, which have separate organizational structures and functions and are based on American Samoa laws, regulations, policies, and procedures. American Samoa's Customs Division, within the Department of Treasury, inspects passengers, baggage, and cargo, and collects excise taxes. American Samoa's immigration program is managed by the Immigration Office and the Immigration Board, both of which report to the Attorney General of American Samoa. The Immigration Office is responsible for alien ID issuance, daily immigration operations, and enforcement; while the Immigration Board holds weekly hearings and makes decisions on issues, such as aliens' work authorizations and transfers of aliens' sponsorships. In addition to these functions that pertain to processing applications from

³²Department of State requires passport applications to include documentation that shows proof of citizenship or nationality and proof of identity.

³³According to Department of State officials, U.S. passports issued to noncitizen nationals look like regular, blue U.S. passports, but they contain a page at the back of the passport that states that the individual is a U.S. national, but not a U.S. citizen.

³⁴U.S. Department of Homeland Security, Office of Immigration Statistics, *2009 Yearbook of Immigration Statistics* (Washington, D.C.: May 4, 2010).

³⁵8 C.F.R. § 325.2.

aliens who want to live or work in American Samoa, the Office of the Attorney General also has responsibility for issuing CIs for U.S. nationals, which includes U.S. citizens and noncitizen nationals, wishing to travel to the rest of the United States.

American Samoa's Customs Division Inspects Passengers and Cargo and Collects Excise Taxes

Under the authority of the American Samoa Department of Treasury, the overall function of the Customs Division is to administer and enforce all excise tax laws, and to intercept illicit imports of narcotics, weapons, ammunition and other contraband at the ports of entry. It is authorized to develop policies and procedures necessary for the proper functioning of the Customs Division. American Samoa customs law provides that all persons entering or leaving American Samoa may be searched by a customs officer and all merchandise or baggage imported or brought into American Samoa is to be inspected by a customs officer.³⁶ Additionally, all passengers and crew members, regardless of citizenship, must make a customs entry and declaration upon arrival in American Samoa and all items acquired abroad must be declared in writing.³⁷ Any vessel arriving in American Samoa is required to provide certain documents, such as manifests, and is subject to being boarded and examined by American Samoan customs officials.³⁸ All imports that arrive in American Samoa are to be taken into custody and released by the Customs Division after being inspected. According to port administration officials, approximately 1,000 vessels come through the Pago Pago seaport annually and about 50 cargo containers, on average, arrive at the seaport each day and have to be inspected prior to release by the Customs Division. American Samoa customs law states that cargo containers may be inspected on location at the official point of entry or removed to other locations, such as the respective places of business, for inspection.³⁹ As such, cargo containers may not be opened by importers until officially inspected and released by the Customs Division in writing.⁴⁰ Importers are required to pay certain

³⁶ Am. Samoa Code Ann. § 27.1003.

³⁷ § 27.1005.

³⁸ §§ 27.1007, 1009. Further, the U.S. Coast Guard has a Marine Safety Detachment in American Samoa that conducts inspections of vessels (fishing boats, ferries from other Samoan islands, research vessels, and cruise ships) to ensure passenger and vessel safety. For purposes of the Coast Guard inspections, the Port of Pago Pago, American Samoa, is treated as a domestic (U.S.) seaport.

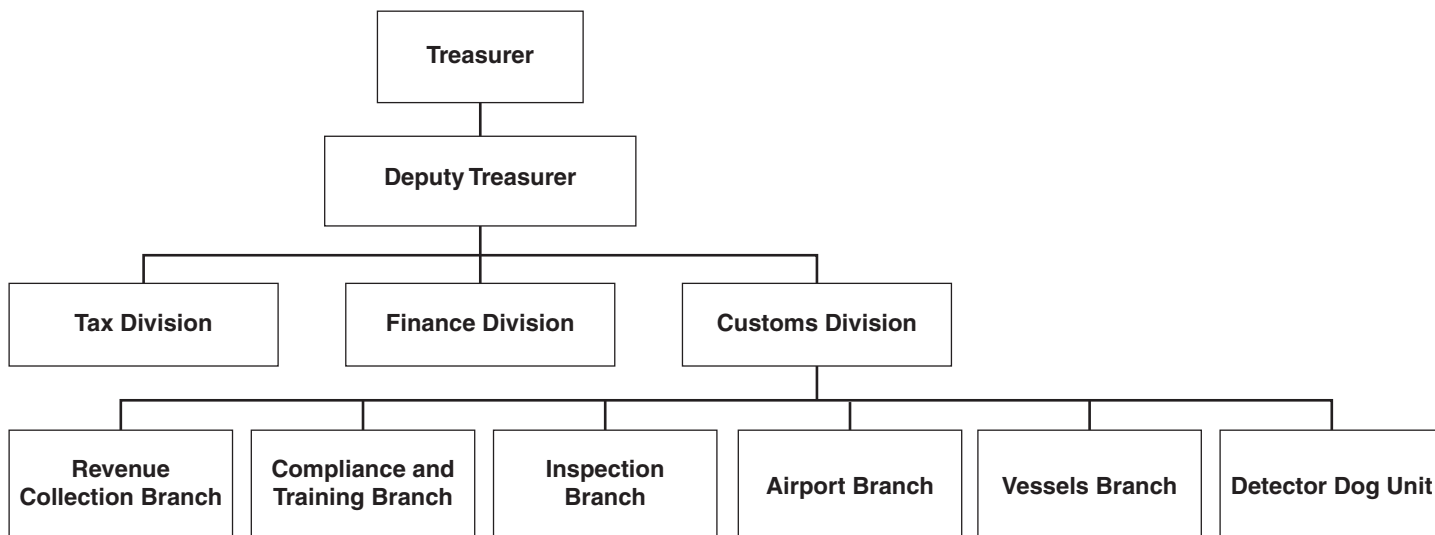
³⁹ § 27.1003(a), .1011(c).

⁴⁰ § 27.1011(c).

excise taxes on goods⁴¹ and no imports are to be released until all fees and excise taxes have been paid in full.⁴² An excise tax of 5 percent is imposed on items imported for commercial use or resale in American Samoa and certain items, such as alcohol, tobacco, and motor vehicles, are taxed at higher rates prescribed by law.⁴³ All monies due pursuant to excise tax laws are collected by the Customs Division and are to be deposited with the Treasurer of American Samoa.

The Customs Division’s fiscal year 2009 budget was \$1.2 million and it has 55 employees who work within its six branches, as shown in figure 3. The Customs Division’s collection of excise taxes generated over \$18.5 million in revenue for the government of American Samoa in fiscal year 2009— 22 percent of the government’s total general fund revenues for that year. Typically, excise tax revenues are to be deposited into the general fund and available for appropriation by the American Samoa legislature, or Fono.

Figure 3: American Samoa Department of Treasury Organizational Chart



Source: GAO analysis of information provided by the American Samoa Department of Treasury.

⁴¹ § 11.1002.

⁴² § 27.1019.

⁴³ § 11.1002.

Note: This figure reflects the placement and relationship of offices within the Department of Treasury with customs functions and responsibilities, but does not include the complete details for all other offices within the Department of Treasury.

The Customs Division maintains standard operating procedures that provide written policies and procedures that define duties, responsibilities, and privileges for Customs Division staff and also detail consequences for violating the laws of American Samoa and the written policies and procedures. Additionally, the Customs Division developed a Code of Conduct that articulates the standards of behavior and conduct required of employees in an effort to ensure that the integrity of the Customs Division is maintained. According to the Chief Customs Officer, all Customs officers rotate functions every 3 to 6 months to help prevent complacency and corruption. He added that Customs supervisors are also required to perform random inspections to ensure Customs officers are sufficiently inspecting the imported cargo containers.

According to the Chief Customs Officer, because the Customs Division does not have an automated computer system for tracking cargo container arrivals and inspections, all Customs Division functions are tracked manually. He stated that it would be extremely beneficial to be able to automate the system that tracks the offloading and inspections of cargo containers and the collection of excise taxes. He added that he is in the process of determining the most suitable automated system for the American Samoa Customs Division and once he finds a system that suits their needs, he intends to submit an application for a technical assistance grant from DOI.⁴⁴

⁴⁴The Department of the Interior's Office of Insular Affairs provides insular areas with technical assistance grants for a range of technical projects.

American Samoa's
Immigration Office and
Immigration Board
Administer the
Immigration Program and
the Attorney General
Approves the Issuance of
Certificates of Identity

American Samoa's immigration program is responsible for, among other things, managing aliens arriving in American Samoa.⁴⁵ Aliens may enter American Samoa for up to 30 days on visitor or business entry permits⁴⁶ and certain aliens may apply to reside in American Samoa for more than 30 days based on family relationships with American Samoans (or permanent residents in American Samoa) or for employment reasons.⁴⁷ Immigration law in American Samoa provides for 12 separate classifications of aliens to remain in American Samoa for more than 30 days; however, some of the categories are subject to numerical limits.⁴⁸ Any aliens entering and remaining in American Samoa must have sponsors.⁴⁹ In general, American Samoa's immigration program has many of the same elements as the U.S. immigration program, such as numerical limits on the number of aliens that may enter, or preferences for specific categories of aliens; however, American Samoa's immigration program also has some unique aspects, such as special allowances for aliens from the Independent State of Samoa. Additional information on American Samoa's immigration program, including alien categories and numerical limitations, is provided in appendix I.

⁴⁵American Samoa's immigration program also controls the admission of U.S. citizens and nationals into American Samoa. U.S. citizens and nationals must have a passport, travel document, or certified birth certificate to demonstrate nationality, as well as either a roundtrip ticket or onward passage to a destination beyond American Samoa or proof of employment and assignment to American Samoa. Am. Samoa Code Ann. § 41.0502(a)(1).

⁴⁶Am. Samoa Code Ann. § 41.0502(a)(3).

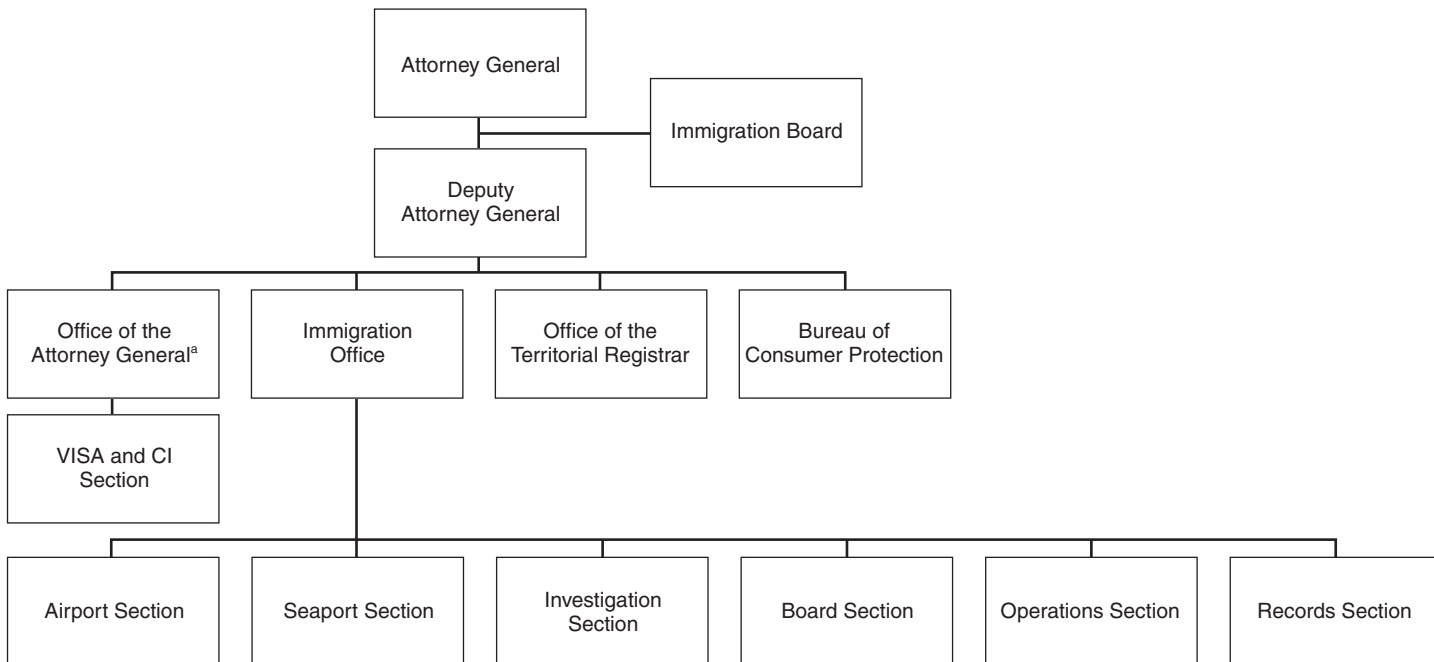
⁴⁷In order to become a permanent resident, a person must either (a) be physically and legally present in American Samoa for a continuous period of at least 20 years and of good moral character; (b) at the time of being legally adopted by an American Samoan be 21 years of age or younger or be legally adopted by an American Samoan prior to December 31, 1980; (c) have been legally married to an American Samoan or a United States citizen and have resided in American Samoa for at least 10 years; or (d) be a brother or sister of an American Samoan or a married son or married daughter of an American Samoan and have resided in American Samoa for at least 10 years. Am. Samoa Code Ann. § 41.0403(a).

⁴⁸For example, 250 individuals from the Independent State of Samoa and 100 individuals from other foreign countries (no more than 5 from one country) can be granted one of these status categories each fiscal year. Am. Samoa Code Ann. § 41.0301. Some alien groups are not subject to the numerical limitations—for example, U.S. and American Samoa government employees, guest workers (Samoans employed at the tuna cannery), and immediate relatives of American Samoans. Further, under the special provision alien category, aliens who are members of groups of skilled, professional, or specialized labor are also not subject to the numerical limitations upon a showing of extenuating circumstances. Am. Samoa Code Ann. § 41.0301(d).

⁴⁹Sponsors must be American Samoans, U.S. nationals, or businesses licensed in American Samoa. Am. Samoa Code Ann. § 41.0408.

American Samoa’s immigration program is administered by the Immigration Office and the Immigration Board, both of which are housed within the Department of Legal Affairs and are under the authority and guidance of the Attorney General of American Samoa, as shown in figure 4. The Immigration Office, and the sections that report to it, are responsible for the daily operations of immigration functions, including issuing immigration ID cards, as well as tracking and enforcing quotas on aliens. The Immigration Board has responsibility, among other things, for approving applications for alien work permits and for authorizing aliens to remain in American Samoa and register as lawfully present. The Office of the Attorney General, also within the Department of Legal Affairs, is responsible for issuing CIs for U.S. nationals who wish to travel to the rest of the United States, among other things.

Figure 4: American Samoa Department of Legal Affairs Organizational Chart



Source: GAO analysis of information provided by the American Samoa Department of Legal Affairs.

Note: This figure reflects the placement and relationship of offices within the Department of Legal Affairs with immigration functions and responsibilities, but does not include the complete details for all other offices within the Department of Legal Affairs.

^aThe Attorney General of American Samoa has broad authority over several agencies; however, the Office of the Attorney General is also the office that houses criminal prosecutors who support the Attorney General.

Immigration Office Duties and Responsibilities

The American Samoa Immigration Office, in concert with the Immigration Board, administers the processes by which aliens may enter American Samoa. The Immigration Office is headed by the Chief Immigration Officer with a staff of 40 employees. In fiscal year 2009, the Immigration Office had a budget of \$805,000 and generated \$1.78 million in total revenue from the various application and entry fees it collected. According to Immigration Office officials, their functions include inspecting documents for all persons entering American Samoa, receiving applications for entry permits and petitions for aliens to remain in American Samoa, and enforcing immigration laws.⁵⁰ Further details on the various functions of the Immigration Office are contained in the sections that follow.

Inspecting Documents

All persons entering or leaving American Samoa may be searched by one or more immigration officers and asked to provide documentation, such as a valid passport or travel document.⁵¹ Immigration officers have authority, under certain circumstances, to interrogate, search, and arrest certain arriving passengers.⁵² According to the American Samoa Department of Commerce, in calendar year 2008, 72,999 individuals traveled to American Samoa, of which 6,995 arrived for employment reasons.

Issuing Alien Identification Cards

According to Immigration Office officials, every alien with a classification that allows the alien to remain in American Samoa for longer than 30 days is registered and has an alien ID card that is valid for 1 or 3 years, depending on the alien's classification. Immigration officials explained that safeguards are in place regarding alien ID cards. For example, each alien ID card has a hologram image that is designed to make the card more difficult to counterfeit.

⁵⁰Although some of the Immigration Office and Office of the Attorney General functions are codified in Title 41 of the American Samoa Code, the offices do not have written standard operating procedures, or policies and procedures for their staffs.

⁵¹Am. Samoa Code Ann. § 41.0507.

⁵²§ 41.0510, .0512.

Maintaining Records

Since 2003, the Immigration Office has used a computer system to maintain the records of lawfully present aliens and permanent residents. This computerized system is able to track the registration of aliens and the issuance of most entry permits. American Samoan government officials added that the Immigration Office has a separate computer system, funded by a 2003 grant from DOI's Office of Insular Affairs, which maintains data on passengers who arrive and depart American Samoa via the airport or seaport through scanning or entering data from the passengers' travel documents into the system. The officials noted, though, that the two separate computerized systems—one for tracking alien registrations and one for tracking arrivals and departures—do not have any links between them, so that the data from the immigration system that tracks the registration of aliens and issuance of entry permits are not automatically updated or matched with data on arriving and departing passengers. The officials indicated they could benefit from additional upgrades to the systems to allow them to be linked and added that they are in the early process of developing a proposal for obtaining funding from DOI for upgrading the computer systems.

Investigating Violations of Immigration Law

The Immigration Office staffs an Investigation Section that is responsible for investigating and charging aliens who are in violation of American Samoa immigration laws. Court officials we met with in American Samoa stated that in an effort to assist with enforcement, the American Samoa District Court requires an immigration officer to be present during criminal proceedings to verify the immigration status of defendants. According to court officials we met with, approximately 60 percent of the defendants who have appeared in District Court in recent months for a variety of criminal offenses are aliens.

Immigration Board Duties and Responsibilities

The American Samoa Immigration Board hears cases and determines, for example, if aliens are authorized to remain in American Samoa and register as lawfully present aliens.⁵³ The board, consisting of five members who are appointed by the Governor with consent and approval of the

⁵³All aliens require the Immigration Board's written approval for authorization to work in American Samoa, except those classified as American Samoans, immediate relatives of American Samoans, permanent residents, and guest workers, who are Samoans authorized under a specific guest worker program to work in the tuna cannery on the island.

Office of the Attorney General's
Process for Issuing Certificates
of Identity

legislature, is overseen by the Attorney General. A board member can be appointed no more than twice, and the appointment term is 5 years. The Immigration Board holds hearings once a week and hears cases, such as requests for work authorizations and transfers of sponsorship. Immigration Board members refer cases to the Attorney General for review of its decisions if the Attorney General directs the board to do so or if the chair or the majority of the board believes the case should be referred. In addition to reviews of board decisions by the Attorney General, the High Court of American Samoa has appellate jurisdiction over decisions of the Immigration Board.⁵⁴

The Office of the Attorney General is responsible for issuing CIs for U.S. nationals who wish to travel to the rest of the United States, among other things. Officials from the Office of the Attorney General told us that, historically, the CI was intended to be used in the event of an emergency, such as medical treatment needed that could only be obtained off-island, or the unexpected death of a family member in the United States, and the traveler could not obtain a passport in time to travel. However, because the CI is easier and faster to obtain by people in American Samoa, it has become more convenient to use CIs for travel than obtaining a U.S. passport. An authorizing official within the Office of the Attorney General stated that they encourage people to apply for a U.S. passport because, while it costs more up front, it is valid for 10 years compared to the CIs, which are valid for 6 months. The official noted, though, that the CIs have been a source of revenue to the government that would be lost if the CIs were entirely replaced by passports. For example, the Office of the Attorney General provided us data that showed that for fiscal year 2009, CIs generated over \$350,000 for the government of American Samoa from fees associated with issuing over 7,100 CIs.⁵⁵

According to officials from the Office of the Attorney General, in order to apply for a CI, a U.S. national must fill out the application and provide documentation of U.S. nationality, such as his or her birth certificate as issued from the American Samoa Vital Statistics Office; a form of government-issued photo ID, such as a voter ID, driver's license, military card, or expired passport; and submit a passport-sized photo and the \$50

⁵⁴The High Court may also hear habeas corpus cases, in which an alien may challenge his or her detention, prior to deportation, as unlawful.

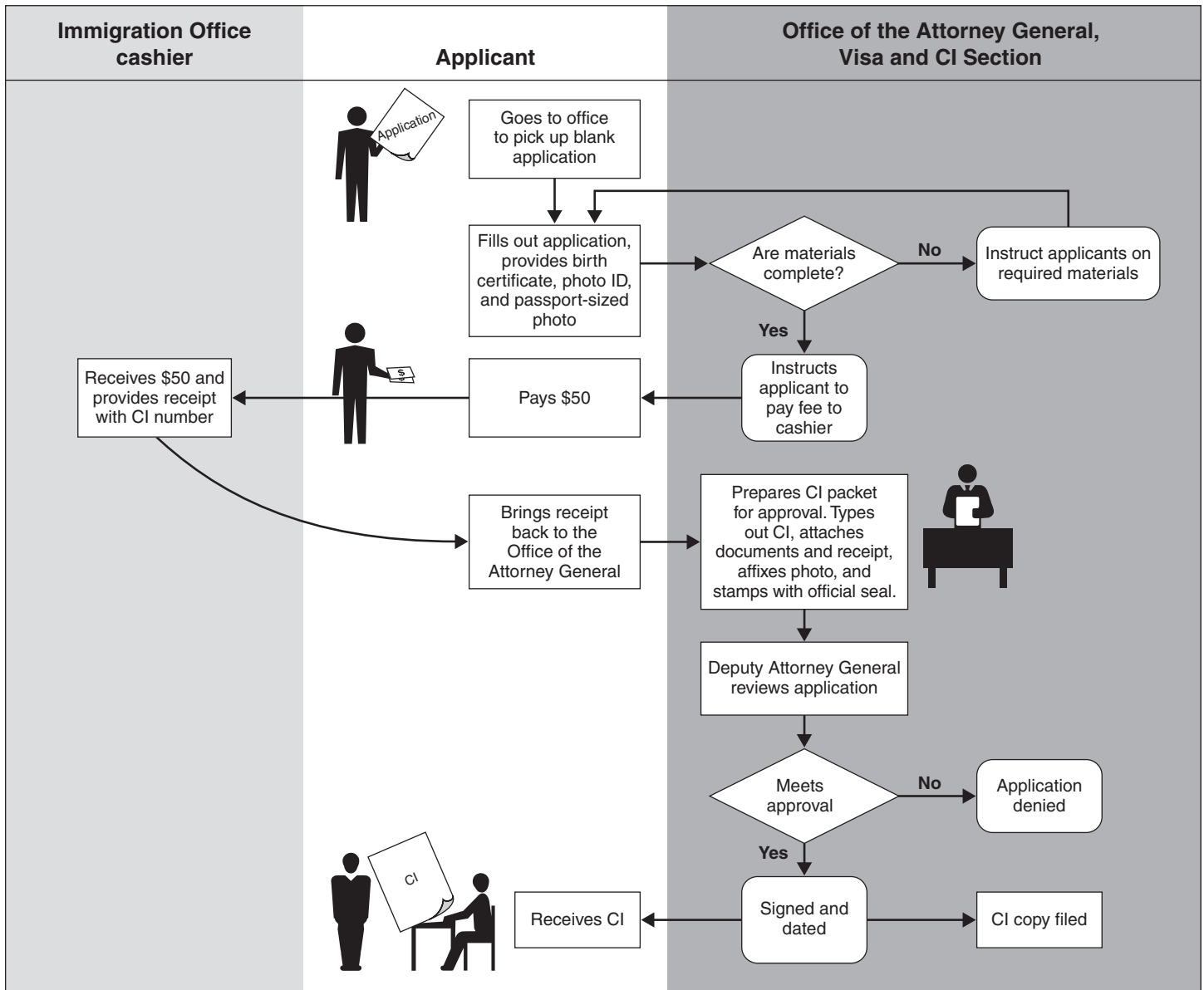
⁵⁵Fees for execution of U.S. passports generated over \$360,000 in fiscal year 2009, according to data provided by the American Samoa Department of the Treasury.

processing fee. Additionally, if an individual is under the age of 18, the parents or legal guardians are required to provide their own ID, and an ID for the child, such as a school ID with a photo. If individuals change their names due to a marriage or divorce, official documentation is required.

As shown in figure 5, once all application materials are complete, officials within the Office of the Attorney General explained that they instruct each applicant to pay the \$50 fee to the cashier in the Immigration Office.⁵⁶ The applicant is provided a receipt that shows proof the \$50 fee was paid and the receipt includes the CI application number so the payment can be tied to the correct CI application. The applicant then brings the receipt, the completed CI application, and supporting materials to the CI Office outside the Office of the Attorney General to be processed by the staff. According to the Deputy Attorney General, applications for CIs are generally processed and issued in 1 to 2 business days. In comparison, it takes about 4 to 6 weeks for the Department of State to process and issue a U.S. passport. According to staff of the Office of the Attorney General, there is no computerized system to track CI applications or issuance and all records maintained are paper-based and manually filed.

⁵⁶According to officials from the Office of the Attorney General, prior instances of fraud and theft associated with issuing Certificates of Identity (CI) led to changes in the issuance process. The first of the changes was to require payment for CI applications to be made with the cashier for the Immigration Office rather than with the Office of the Attorney General, which separated this function from the office that issued the CIs and has allowed for better financial tracking and control over potential theft of funds.

Figure 5: Process for Obtaining a Certificate of Identity (CI)



Source: GAO analysis of the Certificate of Identity application process provided by the American Samoa Office of the Attorney General.

The letter-sized CI document features an attached photo of the individual, two circular “Attorney General, Govt. of American Samoa” stamps, as well

as a unique CI identification number featured in the upper left-hand corner, as depicted in figure 6. There are three individuals within the Office of the Attorney General with authorization to stamp CIs. Both the stamped seals and the ID numbers on the CI are in red ink.⁵⁷ The CIs are signed—generally by the Attorney General or Deputy Attorney General—for approval prior to being provided to the applicants.

⁵⁷The stamps contained the initials of the reviewing officials, which is an additional security measure that was taken to prevent instances of fraud and theft, according to officials in the Office of the Attorney General.

Figure 6: Example of a Certificate of Identity

GAS Form LGU/AFF-5

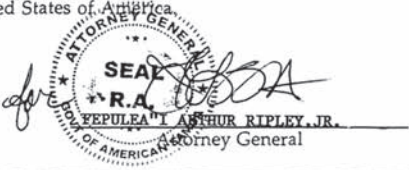
AMERICAN SAMOA GOVERNMENT
OFFICE OF THE ATTORNEY GENERAL
PAGO PAGO, AMERICAN SAMOA 96799

CI 00000 Date: AUGUST 14, 2008
EXPIRES: FEBRUARY 14, 2009

CERTIFICATE OF IDENTITY

I, the undersigned Attorney General of American Samoa certify that _____ is a United States National entitled to the protection of the United States of America.



Minors: _____



R.A. ARTHUR RIPLEY, JR.
Attorney General

DESCRIPTION OF BEARER:

Birth Date: _____
Birthplace: LBJ T.M.C,
AM. SAMOA
Sex: FEMALE
Height: 5 ft. 6 in.
Eyes: BROWN
Hair: BLACK

Signature of Bearer

.....
Following supporting documents hereto attached:
BIRTH CERTIFICATE

NOTE: BEARER WAS ADVISED TO OBTAIN A US PASSPORT.

Source: American Samoa Office of the Attorney General.

Note: The photograph and personal information have been altered by GAO to protect the identity of the individual. In shading the photo to protect the applicant's identity, the stamped seal that covers the bottom left corner of the photo was also obscured.

U.S. and American Samoan Officials Report Concerns about American Samoa's Operations of Its Customs and Immigration Programs, but No U.S. Agency Has Performed a Risk Assessment

U.S. and American Samoa agencies report that American Samoa's operations of its customs and immigration programs may pose risks to American Samoa and the rest of the United States, but no U.S. agency has performed a risk assessment. According to U.S. and American Samoan government officials we met with, potential risks from the customs program's operations primarily affect American Samoa, whereas potential risks related to the immigration program's operations affect both American Samoa and the rest of the United States. According to these officials, potential risks to the government of American Samoa from its customs operations include lost revenues and the possible aiding of criminal activities based on allegations of inadequate enforcement. Regarding American Samoa's immigration program, U.S. and American Samoan government officials stated their principal concerns are that current enforcement practices may lead to (1) exploitation of aliens by sponsors, (2) incidents of human trafficking, (3) overstays by aliens, and (4) exceeding numerical limits of aliens. In contrast, the potential risks identified by U.S. officials for the rest of the United States are more limited. In particular, U.S. officials identified little to no potential risks to the rest of the United States based on American Samoa's customs operations. According to U.S. officials we met with, the potential risk to the rest of the United States from American Samoa's immigration operations is illegal immigration into the rest of the United States as a result of travelers fraudulently obtaining documentation, such as a CI, in American Samoa. However, U.S. officials we met with, including CBP, acknowledged that they do not know the magnitude of fraudulently issued CIs or the potential threat and consequences to the United States as a result of fraudulently issued CIs because no assessment has been performed of the risks posed by the continued use of the CIs as identity and nationality documents for U.S. nationals.

Potential Risks to American Samoa Are Related to Inadequate Enforcement of Existing Customs and Immigration Laws

Inadequate Enforcement of Customs Laws Leads to the Potential for Aiding Criminal Activities and Lost Revenues

A threat assessment issued by the government of American Samoa in December 2005 reported that inadequate enforcement of customs laws has led to incidents related to insufficient container inspections; allegations of Customs officers accepting bribes; and the smuggling of drugs, firearms, and other illegal contraband. American Samoan law enforcement officials we met with told us these same concerns still exist.⁵⁸ The Customs Division's Code of Ethics and Conduct states that, "it is the duty of the customs officer to enforce the laws of American Samoa and that a failure to properly conduct inspections of merchandise is a violation of the Standard Operating Procedures and Policies and will result in disciplinary action." According to the Chief Customs Officer, since June 2002, a total of six officers have been removed from duty for violations associated with corruption, misconduct, or drug or alcohol use.⁵⁹ Another effect of inadequate enforcement of customs laws is that there is the potential for lost revenues for the government if proper excise taxes are not collected on goods imported in each imported cargo container. While the Customs Division has written policies and procedures, and also has certain internal controls in place—such as rotating staffs' responsibilities so that the same customs officers do not always inspect containers at the same businesses—there is no automated computer system within the Customs Division to track cargo manifests, container inspections, verification of deposits, parcel taxes at the post office, or interisland ferry excise taxes. The Chief Customs Officer recognizes this is a weakness and told us that an automated computer system would help the division track cargo container inspections and undervalued or undeclared merchandise and

⁵⁸Office of Territorial and International Criminal Intelligence and Drug Enforcement (OTICIDE), American Samoa Government, *American Samoa Threat Assessment on Terrorism, Drug Trafficking, Human Trafficking* (Pago Pago, American Samoa, December 2005).

⁵⁹The Customs Division had a total of 81 authorized and 55 positions filled, as of January 2010.

Current Immigration Enforcement Practices Have Led to the Potential for Human Trafficking, Alien Overstays, and Exceeding Alien Quotas

contraband, and that he is working to obtain a computerized system that would be appropriate for American Samoa's volume of container traffic.

According to federal officials from DOI and the FBI, as well as American Samoan government officials we met with, current enforcement practices of immigration laws have led to a variety of concerns, including the exploitation of aliens by sponsors, incidents of human trafficking, alien overstays, and exceeding numerical limits on aliens. Additionally, American Samoa government's 2005 threat assessment reported a lack of management and oversight control by immigration officials with regard to the enforcement of policies and procedures.

As of March 31, 2010, the Immigration Office reported 20,282 aliens in American Samoa for employment reasons, which is about 58 percent of the estimated 34,874 aliens in American Samoa. In general, aliens entering and remaining in American Samoa, including those who enter for employment reasons, must have a sponsor. According to FBI and American Samoa government officials, there are instances in which employment sponsors exploit aliens under the threat of revoking their sponsorship and having them deported. As reported in the 2005 threat assessment, a number of immigrants from Taiwan, China, and the Philippines, were pursuing employment opportunities and allowed to enter American Samoa under the sponsorship of owners of a variety of businesses, and were forced into servitude or prostitution once they arrived (i.e. human trafficking).⁶⁰

Among the most notable cases of human trafficking in American Samoa is *U.S. v. Lee*, which was one of the largest human trafficking cases ever prosecuted by the U.S. Department of Justice.⁶¹ This 2001 case involved

⁶⁰Victims of trafficking are bought, sold, sometimes transported across national boundaries, and forced to work in legal or illegal situations, including the sex industry, sweatshops, domestic service, and agriculture, among others. Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor is knowingly recruiting, harboring, transporting, providing, or obtaining by any means, any person for labor or services in violation of federal law prohibiting peonage, slavery, involuntary servitude, and forced labor. 18 U.S.C. § 1590. Sex trafficking is knowingly recruiting, enticing, harboring, transporting, providing, obtaining, or maintaining by any means, a person while knowing, or in reckless disregard of the fact, that means of force, threats of force, fraud, or coercion will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act. 18 U.S.C. § 1591.

⁶¹See *United States v. Kil Soo Lee*, 159 F. Supp. 2d 1241 (D. Haw. 2001).

about 200 Chinese and Vietnamese victims who were recruited to work in an American Samoa garment factory. In 2003, Lee was convicted in the U.S. District Court of Hawaii of involuntary servitude, conspiring to violate civil rights, extortion, and money laundering. The 2005 threat assessment reported that the full dimension of the problem of human trafficking in American Samoa is difficult to measure, but noted that intelligence showed there continue to be victims of human trafficking in American Samoa and that human trafficking is a major source of profit for organized crime syndicates. According to the threat assessment, human trafficking is a difficult issue for local law enforcement because there is no American Samoa human trafficking law or avenue for prosecution locally. The legislature in American Samoa is considering legislation to criminalize human trafficking and categorize it as a felony in American Samoa law but, to date, no such legislation has been enacted.

According to FBI and American Samoan government officials, there are also instances in which numerical limits on aliens are not adequately enforced and aliens overstay their visits. Immigration law in American Samoa allows for 12 separate classifications of aliens to reside in American Samoa for more than 30 days; however, some of the categories are subject to numerical limits. The extent of this issue is unknown, as the Immigration Office does not have documented policies and procedures that define how the office is to enforce the numerical limits. If an alien enters American Samoa on a 30-day entry permit and stays longer than the 30-day period, he or she is tracked in the Immigration Office database as an overstayer, according to Immigration Office officials. According to data from the Immigration Office, there were over 2,600 alien overstayers for fiscal year 2009. Immigration Office officials explained that often the overstayers expect to have their residency authorized within that 30-day time frame, but they do not understand that it takes longer. Additionally, 7,572 aliens had expired ID cards as of March 2010, which means the aliens' ID cards had expired and had not been renewed. Immigration officials told us they track these individuals, make contact with their sponsors, and try to determine the reason they have not renewed their cards.

The American Samoa legislature, in addition to its actions on human trafficking legislation, is also considering draft legislation that will make changes to existing immigration law. Some of the proposed changes include creating a Department of Immigration as its own stand-alone department, outside of the Department of Legal Affairs, and to make it subject to annual audits by the territorial auditor. The draft legislation also includes reductions to the numerical limits on aliens. Further, the

standards for sponsoring an alien for employment reasons would change to require additional proof of the need for the alien workers and a written contract defining the agreement between sponsors and aliens. While these legislative efforts would appear to address some of the concerns identified by American Samoan and U.S. law enforcement officials, the legislation is not final and so it is too soon to tell what impact the legislation, if passed, will have on addressing the identified concerns.

U.S. Government Officials Report a Potential Risk Is Aliens Unlawfully Gaining Entry to the Rest of the United States via American Samoa

U.S. government officials we met with representing DHS, the Department of State, and the FBI stated that a potential risk to the United States associated with American Samoa administering its own customs and immigration programs is illegal immigration into the rest of the United States as a result of travelers obtaining false documentation in American Samoa. The potential for illegal entry by aliens into the rest of the United States from American Samoa raises questions as to whether current practices in American Samoa can be used by criminals and terrorists to jeopardize the security of the United States. As stated in CBP's Fiscal Year 2009-2014 Strategic Plan, illegal immigration compromises national security as aliens unlawfully gaining entry to the United States create a pathway for illegal entry and a demand for false documentation and identities.⁶² This is a threat to national security as terrorists might exploit the same vulnerabilities that such aliens currently use. Furthermore, a January 2010 presidential memorandum stated that DHS should aggressively pursue enhanced screening technology, protocols, and procedures, especially in regard to aviation and other transportation sectors, and strengthen international partnerships and coordination on aviation security issues.⁶³

According to data provided by the American Samoa Department of Legal Affairs, as shown in table 1, while a majority of U.S. nationals and citizens traveling to Hawaii from American Samoa during the past 3 years have

⁶²U.S. Customs and Border Protection, *Secure Borders, Safe Travel, Legal Trade: U.S. Customs and Border Protection Fiscal Year 2009-2014 Strategic Plan*, CBP Pub. No. 0401-0809 (Washington, D.C., July 2009).

⁶³This memorandum was issued after receiving the conclusions of two reviews related to the attempt to bring down a Detroit-bound flight on December 25, 2009, by detonating an explosive device. The first was a White House-led review of the U.S. terrorist watch list system and the performance of the intelligence, homeland security, and law enforcement communities related to the attempted attack. The second review was led by DHS on technology and procedures used for airport screening.

traveled with a U.S. passport (an average of 72.2 percent), the second most commonly used document for travel by U.S. nationals and citizens was the CI (an average of 19.5 percent).⁶⁴

Table 1: Data on Documents Presented by U.S. Nationals and U.S. Citizens Departing Pago Pago, American Samoa, to Honolulu, Hawaii, during Calendar Years 2007, 2008, and 2009

Document presented (category of traveler)	2007		2008		2009	
	Total travelers	Percentage of travelers	Total travelers	Percentage of travelers	Total travelers	Percentage of travelers
U.S. passport	16,532	70.0	16,903	73.5	16,609	73.2
Certificate of Identity	5,015	21.2	4,395	19.1	4,076	18.0
ID card and original birth certificate	1,550	6.6	1,173	5.1	1,333	5.9
U.S. military ID	518	2.2	526	2.3	682	3.0
Total	23,615	100.0	22,997	100.0	22,700	100^a

Source: American Samoa Department of Legal Affairs.

^aPercentages do not add to 100 percent due to rounding.

Honolulu, Hawaii, is the only location within the United States to which flights from American Samoa arrive. Upon arrival in Honolulu, passengers from American Samoa are inspected by CBP to establish their identity and nationality, and if the passenger is an alien, admissibility. For U.S. citizens and noncitizen nationals, identity and nationality may be established, to the satisfaction of a CBP officer, through the use of one or more documents, such as a U.S.-issued passport or military ID, a birth certificate with photo ID, or an American Samoa-issued CI.⁶⁵ In addition, the CBP officers use other techniques to verify a person's identity and nationality, including asking questions and observing behavioral cues. According to CBP, once a U.S. citizen or noncitizen national has sufficiently demonstrated his or her identity and nationality to the CBP officer, he or she is no longer subject to inspection for admissibility. As with other airline passengers who arrive from outside the United States and have not been previously screened by CBP, if there is any suspicion of fraudulent documents or intent, CBP officers may investigate the travelers from American Samoa further and refer the travelers for additional, more in-depth questioning by CBP, or additional investigation by U.S. Immigration

⁶⁴ Additionally, in 2009, 2,862 aliens traveled to Honolulu using a foreign passport.

⁶⁵ Any individuals who have not demonstrated that they are U.S. citizens or nationals are inspected as aliens and must have the required documents to demonstrate admissibility to the United States.

and Customs Enforcement or Department of State officers. Honolulu-based CBP officers we spoke with who screen passengers arriving from American Samoa could not identify any incidents in recent years in which a passenger from American Samoa was determined to be traveling with a fraudulent CI, or of a passenger being referred for additional inspection because of a suspected fraudulent CI. The CBP officers also stated that they have not identified any counterfeit U.S. passports used by passengers arriving from American Samoa. However, while a CI or U.S. passport may appear legitimate, it could have been improperly obtained through the use of fraudulent identity documents, such as a false birth certificate⁶⁶ or driver's license, as reported to us by American Samoan and U.S. law enforcement officials, and such instances would be difficult for CBP to detect.⁶⁷

In November 2009, charges were filed in the High Court of American Samoa against the Manager of the Office of Motor Vehicles for conspiracy to commit forgery based on evidence that driver's licenses had been issued fraudulently. Additionally, the American Samoa Department of Homeland Security and Office of Independent Prosecutor, with assistance from the resident FBI agent, initiated a full-scale investigation centered on alleged improprieties in the Office of the Attorney General and the Immigration Office.⁶⁸ In January 2010, the Office of the Attorney General and the Immigration Office were served search warrants to provide investigators with records related to certain aliens in American Samoa, including all ledgers related to CIs. While CBP has no direct knowledge of problems regarding the use of CIs or passports that may have been obtained using fraudulent documents, the Department of State has recently changed its

⁶⁶According to officials at the American Samoa Department of Homeland Security, because of concerns over fraudulently obtained birth certificates, the Vital Statistics Office (the office responsible for issuing birth certificates) was moved under the Department of Homeland Security, effective February 2007.

⁶⁷According to CBP, many types of fraud can occur before the passenger encounters CBP. For example, the passenger presents a valid set of documents to obtain a CI but is an imposter with respect to the valid documents, thus obtaining the CI by fraud; the subject alters documents to obtain a CI, thus obtaining the CI by fraud; or a bona fide CI, issued to the actual bearer, is used by an imposter, which is a valid document being used for fraudulent purposes.

⁶⁸On May 11, 2010, the Trial Division of the High Court granted a motion to dismiss the charges against the Manager of the Office of Motor Vehicles, finding that the statute establishing the office that filed the charges, the Office of the Independent Prosecutor, violates the separation of powers doctrine in American Samoa. On May 26, 2010, the Independent Prosecutor filed an appeal with the Appellate Division of the High Court.

A Risk Assessment Could Better Inform U.S. Agencies of the Risks Associated with Aliens Fraudulently Obtaining Documents to Travel to the Rest of the United States

passport adjudication procedures as a result of these allegations. Department of State officials we spoke with told us that the potential for fraudulently obtaining CIs appeared to be a vulnerability within the passport application process and, as a result, they no longer accept CIs as the only form of identification to support a U.S. passport application. Applicants may submit their locally-issued American Samoa identification, but they will also need to provide additional documentation. Additionally, the Department of State no longer allows the Office of the Attorney General to serve as a location for accepting passport applications. Rather, applications for U.S. passports are only accepted through passport acceptance agents at the U.S. Post Office in Pago Pago. Moreover, as a result of evidence from the Independent Prosecutor's investigation, the Department of State has undertaken an investigation to determine whether passports were issued to individuals living in American Samoa in recent years who are neither U.S. citizens nor noncitizen nationals. According to State Department officials, while this investigation will serve to enhance the security of the process for obtaining U.S. passports, it will not address the reported vulnerabilities in the process for issuing CIs.

CBP officials we met with in Honolulu, Hawaii, who screen passengers arriving from American Samoa, stated that instead of using the CI as a document to establish identity and nationality for U.S. nationals arriving from American Samoa, it would be easier to screen passengers and prevent fraud if there was a more secure document establishing identity and nationality for those travelers. However, U.S. agency officials we met with, including CBP, acknowledged that they do not know the magnitude of fraudulently issued CIs or the potential threat and consequences to the United States as a result of fraudulently issued CIs because no assessment has been performed of the risks posed by the continued use of CIs as an identity document to facilitate travel by U.S. nationals.⁶⁹ The CBP officials stated that no such risk assessment has been performed because CBP does not generally initiate risk assessments of issues or programs related to areas that are considered a part of the United States, such as American Samoa, although such an assessment could help to better define and understand the potential risks.

⁶⁹The Transportation Security Administration completed a vulnerability assessment of the Pago Pago International Airport in March 2004; however, the assessment was limited to examining the airport facility and physical areas surrounding the airport and did not assess documents used to travel from American Samoa to Hawaii.

The federal government's Internal Control Standards call for the establishment of internal controls to provide for an assessment of the risks an agency faces from both external and internal sources.⁷⁰ Additionally, risk management plays an important role in homeland security. Federal law has charged DHS with coordinating homeland security programs through the application of a risk management framework. DHS, within its National Infrastructure Protection Plan (NIPP), established criteria for risk assessments.⁷¹ Risk assessments help decision makers identify and evaluate potential risks so that countermeasures can be designed and implemented to prevent or mitigate the potential effects of the risks. The NIPP characterizes risk assessment as a function of three elements (1) threat—the likelihood that a particular asset, system, or network will suffer an attack or an incident; (2) vulnerability—the likelihood that a characteristic of, or flaw in, an asset, system, or network's design, location, security posture, process, or operation renders it susceptible to destruction, incapacitation, or exploitation by terrorist or other intentional acts, mechanical failures, and natural hazards; and (3) consequence—the negative effects on public health and safety, the economy, public confidence in institutions, and the functioning of government, both direct and indirect, which can be expected if an asset, system, or network is damaged, destroyed, or disrupted by a terrorist attack, natural disaster, or other incident. Given the concerns raised regarding allegations of fraudulently obtained documents and potential illegal immigration into the United States, performing a risk assessment could better position U.S. agencies to understand the extent of the threat, vulnerabilities, and consequences associated with travelers fraudulently obtaining CIs and using them as identity documents when coming to the rest of the United States from American Samoa.

Conclusions

While the majority of travelers to Honolulu, Hawaii, from American Samoa in recent years have traveled with passports, and CBP has no data on known use of fraudulent CIs to travel to the rest of the United States from American Samoa, federal officials have stated that illegal immigration into the United States by aliens using CIs fraudulently obtained in American Samoa is a concern. Moreover, the Department of State is aware of

⁷⁰GAO, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999).

⁷¹Department of Homeland Security, *National Infrastructure Protection Plan: Partnering to Enhance Protection and Resiliency* (Washington, D.C.: 2009).

additional allegations concerning aliens who may have fraudulently obtained U.S. passports and has recently begun a new investigation. According to CBP, illegal immigration compromises national security, as aliens unlawfully gaining entry create a pathway for illegal entry and a demand for false documentation and identities. However, no U.S. agency has performed a risk assessment of the documents used to establish identity and nationality by travelers coming from American Samoa and the impact, in particular, that continued use of the CI as an identification and nationality document may have on American Samoa and the rest of the United States. Such a risk assessment could better position relevant U.S. agencies to understand the extent of threats, vulnerabilities, and consequences associated with the use of CIs, and better inform decisions on which documents should continue to be used for those wishing to travel to the rest of the United States from American Samoa.

Recommendation for Executive Action

To better understand the extent and significance of the possible risks associated with aliens in American Samoa fraudulently obtaining documents to travel to the rest of the United States and potentially pursue U.S. citizenship, we recommend that the Secretary of DHS, in consultation with the Secretary of the Departments of State and the Interior, perform a risk assessment to (1) determine the extent of the threats, vulnerabilities, and consequences associated with aliens fraudulently obtaining CIs and using them to travel to the rest of the United States from American Samoa; and (2) make a determination as to whether CIs should continue to be an acceptable identification document that establishes nationality for U.S. nationals wishing to travel to the rest of the United States from American Samoa.

Agency and Third Party Comments and Our Evaluation

We requested comments on a draft of this report from DHS, DOI, the Department of State, and the Department of Justice, as well the American Samoa government—to include the Office of the Governor, leaders of the legislature, the Department of Treasury, and the Department of Legal Affairs. DOI and the leaders of the American Samoa legislature summarized their comments in letters, which are reprinted in appendixes II and III, respectively. DOJ notified us through e-mail that it had no comments and DHS notified us through e-mail that it concurred with the recommendation. In addition to these responses, U.S. Customs and Border Protection, the Department of State, and the American Samoa Department of Treasury's Customs Division each provided technical comments, which have been incorporated into the report, as appropriate. The American

Samoa government's Office of the Governor and its Department of Legal Affairs did not provide comments.

As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after its issue date. At that time, we will send copies of this report to the Secretary of Homeland Security, appropriate congressional committees, and other interested parties. In addition, this report will be made available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staffs have any questions about this report, please contact Stephen L. Caldwell at (202) 512-8777, or caldwells@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 key contributions to this report are listed in appendix IV.



Stephen L. Caldwell
Director, Homeland Security & Justice team

Appendix I: Additional Details on American Samoa's Immigration Program

This appendix includes additional details on American Samoa's immigration program, such as information on visitors and aliens seeking to reside in American Samoa for more than 30 days. In general, American Samoa's immigration program has many of the same elements as the U.S. immigration program, such as numerical limits on the number of aliens who may enter, preferences for specific categories of aliens based on the grounds of their classification (e.g., family relationship or specific skills), and the ability of aliens to apply for classification as permanent residents. However, American Samoa's immigration program also has some unique aspects, such as special allowances for aliens from the Independent State of Samoa, including higher numerical limitations and a guest worker program specifically for Samoans, the broad sponsorship requirements for aliens, and the inability of aliens to naturalize or become U.S. nationals.

Visitors

Visitors may enter American Samoa for tourism or business purposes for up to 30 days on a visitor or business entry permit.¹ Such tourists or business persons must have a valid passport or other travel document and a round-trip ticket to their point of origin or onward passage to a destination beyond American Samoa.² Upon approval of the Attorney General or his or her designee, aliens with 30-day permits may stay for an additional 30 days.³

Aliens Seeking to Reside in American Samoa for More Than 30 Days

Aliens may enter and reside in American Samoa based on their relationship with American Samoans (or permanent residents in American Samoa) or for employment reasons. Table 2 below summarizes the classifications and the major characteristic of each classification.

¹See Am. Samoa Code Ann. § 41.0502(a)(3).

²Am. Samoa Code Ann. § 41.0502(a)(3).

³§ 41.0502(a)(3)(D).

Appendix I: Additional Details on American Samoa's Immigration Program

Table 2: Alien Classifications in American Samoa and Their Primary Characteristics

Classification	Description	Subject to numerical limitations	Require work authorization from Immigration Board	Frequency with which immigration ID must be renewed	Number of aliens with classification (as of Mar. 31, 2010)
AA	Person born outside of American Samoa, one of whose parents is American Samoan	No	No	3 years	2,783
BA	Immediate relative of American Samoan	No	No	1 year	4,565
CA	Permanent resident	No (except applicants based on length of residency alone)	No	3 years	4,106
SP	Employee of American Samoa or U.S. government, or member of skilled, professional, or specialized labor that by Immigration Board order is waived from numerical limitations	No	Yes, for transfer of sponsorship	1 year	94 ^a
GW	Guest worker of Samoan ancestry born in Samoa employed by tuna cannery or call center ^b	No	No	1 year	179 ^c
P1	Unmarried children of American Samoans or U.S. citizens	Yes	Yes	1 year	1,209
P2	Spouses or unmarried children of permanent residents	Yes	Yes	1 year	1,152
P3	Brothers and sisters of American Samoans 21 years of age and older	Yes	Yes	1 year	40
P4	Members of the professions or persons of exceptional skill in the sciences or the arts	Yes	Yes, for transfer of sponsorship	1 year	2,921
P5	Skilled or unskilled labor, not of a temporary or seasonal nature	Yes	Yes, for employment outside of domestic or agricultural work	1 year	17,088
P6	Married children of American Samoans	Yes	Yes	1 year	722
P7	Person authorized by the Attorney General or Immigration Board	Yes	Yes	1 year	15
Total number of aliens					34,874

Source: American Samoa Immigration Office.

^aImmigration officials reported that, until fiscal year 2010, individuals with SP classification had been included in the P4 classification category. As a result, some individuals currently counted as P4 actually have SP classification.

^bCurrently, there is no call center in American Samoa.

^cAs noted above, one of the tuna canneries in American Samoa closed in September 2009, leaving about 2,000 people, many of whom had a guest worker classification, unemployed.

Family-Based Classifications

Certain aliens may enter and reside in American Samoa based on their relationship with American Samoans or permanent residents in American Samoa. For example, individuals born outside of American Samoa, one of whose parents was born in American Samoa of Samoan ancestry, are considered American Samoan and may obtain an AA classification if those individuals register with the Immigration Board within 3 years of their 18th birthday.⁴ Such individuals must have a sponsor. Sponsors must be either an American Samoan or U.S. national who resides in American Samoa or a business licensed in American Samoa, and sponsors are responsible for the alien's medical bills, taxes, and public debts, among other things.⁵

Aliens who are immediate relatives of American Samoans may obtain a BA classification in American Samoa.⁶ Such relatives include children and spouses of American Samoans and parents of American Samoans at least 21 years of age.⁷ Other aliens who have certain family relationships with American Samoans may request an alien classification in American Samoa. These aliens must have a sponsor,⁸ are subject to numerical limitations,⁹ and approval for a classification is granted in order of preference.¹⁰ See table 3 for the classifications, in order of preference, with the numerical limitation of aliens from each category per fiscal year.

Employment-Based Classifications

Aliens may also apply to come to American Samoa for employment reasons. For example, aliens who are members of the professions or persons of exceptional ability in the sciences or the arts may apply for a P4

⁴See § 41.0202(1)(c)(ii).

⁵§ 41.0408.

⁶See § 41.0301(a), (b).

⁷§ 41.0301(b).

⁸§ 41.0408.

⁹§ 41.0301.

¹⁰§ 41.0303.

classification,¹¹ and aliens who are capable of performing skilled or unskilled labor for which there is a shortage of employable and willing people in American Samoa may apply for a P5 classification.¹² Aliens applying for these classifications are subject to numerical limitations and category preferences, as shown in table 3.¹³ For P4 aliens, their employer serves as their sponsor, and they may apply to the Immigration Board for permission to transfer sponsorship to another employer.¹⁴ Aliens with the P5 classification are primarily domestic or agricultural workers, and they must reside with and engage in domestic or agricultural work for their sponsors.¹⁵ According to Immigration Board policy, after 1 year, they may apply to the board for authorization for outside employment. American Samoans may sponsor only one P5 alien unless they can demonstrate to the Immigration Board that more than one person is required for domestic work due to the age or infirmity of the sponsor or a member of the sponsor's family or, with respect to agricultural workers, that the sponsor needs more than one agricultural worker and the sponsor can afford the care of the workers in all ways while they are in American Samoa.¹⁶

¹¹See § 41.0303(a)(4).

¹²See § 41.0303(a)(5).

¹³§§ 41.0301(a), 41.0303(a)(4), (a)(5).

¹⁴See § 41.0408(h).

¹⁵§ 41.0408(c)(3).

¹⁶§ 41.0408(c)(1).

Appendix I: Additional Details on American Samoa's Immigration Program

Table 3: Classifications, in Order of Preference, with Numerical Limitations for Each Classification per Fiscal Year

Classification	Description	Home country	Numerical limitation per fiscal year
P1	Unmarried children of American Samoans or U.S. citizens	From Samoa	50
		From other foreign nation	20
P2	Spouses or unmarried children of permanent residents	From Samoa	50
		From other foreign nation	20
P3	Brothers and sisters of American Samoans 21 years of age and older	From Samoa	25
		From other foreign nation	10
P4	Members of the professions or persons of exceptional skill in the sciences or the arts	From Samoa	25
		From other foreign nation	10
P5	Skilled or unskilled labor, not of a temporary or seasonal nature	From Samoa	60
		From other foreign nation	24
P6	Married children of American Samoans	From Samoa	25
		From other foreign nation	10
P7	Person authorized by the Attorney General or Immigration Board	From Samoa	15
		From other foreign nation	6

Source: American Samoa Immigration Office.

There are two employment-based classifications that are not subject to the numerical limitations. First, there is a special provision category for aliens who are employed by the American Samoa government, the United States government or who are members of skilled, professional, or specialized labor that by Immigration Board order are waived from the numerical

limitations upon a showing of extenuating circumstances.¹⁷ Special provision aliens are sponsored by their employers and they may transfer sponsorship to another employer only with the approval of the Immigration Board.¹⁸ There is also a guest worker program specifically for aliens from Samoa who work for the tuna cannery in American Samoa.¹⁹ Guest workers do not need work authorization²⁰ and do not have a separate sponsorship requirement, as their classification is tied to their employment, and the cannery is the only eligible employer.²¹

Permanent Resident Classification

Some aliens may also apply for classification as permanent residents. In order to become a permanent resident, a person must either (1) be physically and legally present in American Samoa for a continuous period of at least 20 years and of good moral character; (2) at the time of being legally adopted by an American Samoan be 21 years of age or younger or be legally adopted by an American Samoan prior to December 31, 1980; (3) have been legally married to an American Samoan or a United States citizen and have resided in American Samoa for at least 10 years; or (4) be a brother or sister of an American Samoan or a married son or married daughter of an American Samoan and have resided in American Samoa for at least 10 years.²² There is a numerical limitation of 50 aliens who may be approved for classification as permanent residents based on the residency requirement alone. There is no numerical limitation for those applying for permanent resident classification based on the other three categories.²³

¹⁷See § 41.0301(d).

¹⁸See § 41.0408(h).

¹⁹§ 41.0902.

²⁰§ 41.0410(h).

²¹§ 41.0901(f). The program also allows a call center to act as a sponsor; however, as of the issuance of this report, no call center exists in American Samoa.

²²§ 41.0403(a).

²³§ 41.0403(b).

Appendix II: Comments from the Department of the Interior



United States Department of the Interior

OFFICE OF INSULAR AFFAIRS
1849 C Street, NW
Washington, DC 20240

Assistant Secretary

MAY 26 2010

Mr. Christopher Conrad
Assistant Director
Homeland Security and Justice
U.S. Government Accountability Office
Washington, D.C. 20548

Dear Mr. Conrad:

The Department of the Interior's Office of Insular Affairs (OIA) has reviewed the U.S. Government Accountability Office's Report Draft No. GAO-10-638 entitled *AMERICAN SAMOA: Performing a Risk Assessment Would Better Inform U.S. Agencies of the Risks Related to Acceptance of Certificates of Identity*. As stated in the Report, GAO was asked to review the operations of American Samoa's customs and immigration programs and the extent to which U.S. and American Samoa agencies have identified potential risks in these programs. This is a timely review due to heightened security across the U.S. and in light of the recent Federalization of immigration in the Commonwealth of the Northern Mariana Islands.

Although the Report concludes that there are no concerns related to American Samoa's customs programs, the information about its immigration programs is alarming.

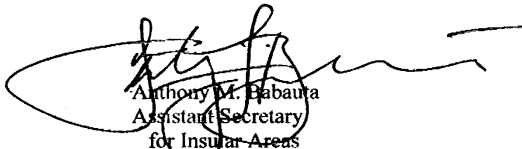
OIA agrees with the Report recommendation that the Secretary of the Department of Homeland Security (DHS), in consultation with the Secretaries of the Departments of State and the Interior, should conduct a risk assessment associated with obtaining and the continued use of Certificates of Identity. OIA will communicate with DHS and, as appropriate, assist in the review.

Over the past several years, OIA along with other Federal agencies have provided direct funding to the American Samoa Government (ASG) in response to proposals to implement improvements within the offices of Customs and Immigration. Challenges exist in that some projects were either not completed or not implemented as intended. OIA will review its available resources and communicate with appropriate Federal agencies to help identify Federal resources that may be made available to assist the ASG to address some of the weaknesses identified in the Report for areas of security, automated systems, and workforce capacity within both the ASG's Customs Office and Immigration Office.

**Appendix II: Comments from the Department
of the Interior**

If you have any questions, please feel free to communicate with me directly at (202) 208-6974 or Nikolao Pula, Director of the Office of Insular Affairs, (202) 208-4736.

Sincerely,



Anthony M. Babauta
Assistant Secretary
for Insular Areas

Appendix III: Comments from Leaders of the American Samoa Legislature



LEGISLATURE OF AMERICAN SAMOA

American Samoa Government
Pago Pago, American Samoa 96799

GAOTEOTIE PALAIE TOFAU
President

SAVALI TALAVOU ALE
Speaker of the House

May 20, 2010

Christopher Conrad
Assistant Director
U.S. Government Accountability Office
Washington, D.C. 20548

Re: Comments to GAO Report 10-638

Dear Mr. Conrad:

We would like to express our appreciation for the opportunity to review and comment on the referenced GAO Report: *Performing a Risk Assessment Would Better Inform U.S. Agencies of the Risks Related to Acceptance of Certificates of Identity* and for the time and effort you and your staff dedicated to researching American Samoa's customs and immigration systems and to preparation of this report.

After review, we generally concur with the findings and the conclusion contained in the report and agree with the recommendation that appropriate federal agencies conduct a risk assessment to determine the extent of any threats, vulnerabilities and consequences associated with aliens using false documents to travel from American Samoa to the U.S. and to determine whether CI's should continue to be an acceptable identification document for U.S. Nationals traveling from the Territory.

While it is our belief that review and evaluation of the CI program is warranted and any abuses of the system should be appropriately dealt with and corrected, we also feel it should be noted that the program serves a special need for our people. Your data collection shows that use of CI's has declined somewhat and over 75% of travelers from here use either a passport or military ID. However, there still occur instances when U.S. Nationals, without passports, are faced with emergency situations, often familial in nature, that require them to travel and the ability to utilize a CI as a travel document allows them to do so, when otherwise, for various reasons, they would not.

We further want to stress, and any future assessment should be cognizant of, the finding {at page 26 of the Draft and elsewhere in the report} that U.S. Customs and

Appendix III: Comments from Leaders of the
American Samoa Legislature

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Response GAO 10-638


Border Protection officers could not identify any incidences in recent years of travelers from American Samoa using a fraudulent CI as a passage document, nor of a traveler from the Territory being referred for additional inspection. Additionally, no cases of counterfeit U.S. passports for travelers from American Samoa have been identified. Although we are not dismissing the concerns mentioned, it should be pointed out that any future assessment and evaluation of the program would go forward not based upon known data of fraudulent use, but would be conducted on the basis of "could have" and "possibly" scenarios. It should be acknowledged that no travel document, whether generated in American Samoa or elsewhere, is totally secure and free from fraudulent creation or alteration.

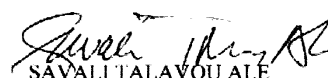
Specifically from the legislative perspective, a properly and fairly performed assessment of the CI program could provide useful information for us in fashioning statutory mandates to establish internal controls for and restrictions on the program which would allow its continued use and, hopefully, eliminate any abuse and we would welcome such information.

Lastly, we would inform you that the pending immigration reform bill and the anti-human trafficking bill, with which you are familiar, are pending further hearings in both chambers and we are looking forward to continuing work on these extremely important measures when we convene for our Fourth Regular Session in July.

Again, thank you for the time and attention paid to our customs and immigration systems, both of which are of vital importance to American Samoa. We hope to have you back in the Territory in the future.

Sincerely,


GAOTEOTE PALAI TOFAU
President of the Senate


SAVALI TALAVOU AIE
Speaker of the House

Appendix IV: GAO Contact and Acknowledgments

Contact

Stephen L. Caldwell, (202) 512-8777 or caldwells@gao.gov

Acknowledgments

In addition to the contact named above, Christopher Conrad, Assistant Director, and Amy Sheller Martin, Analyst-in-Charge, managed this review and Michele Lockhart made significant contributions to the work. Jenny Chanley assisted with design and methodology, Emil Friberg and Richard Hung provided additional technical and issue area expertise, Barbara Hills helped to develop the report graphics, Lara Kaskie provided assistance in report preparation, and Tracey King provided legal support and analysis.

Related GAO Products

American Samoa and Commonwealth of the Northern Mariana Islands: Wages, Employment, Employer Actions, Earnings, and Worker Views Since Minimum Wage Increases Began. [GAO-10-333](#). Washington, D.C.: April 8, 2010.

U.S. Insular Areas: Opportunities Exist to Improve Interior's Grant Oversight and Reduce the Potential for Mismanagement. [GAO-10-347](#). Washington, D.C.: March 16, 2010.

Poverty Determination in U.S. Insular Areas. [GAO-10-240R](#). Washington, D.C.: November 10, 2009.

Medicaid and CHIP: Opportunities Exist to Improve U.S. Insular Area Demographic Data That Could Be Used to Help Determine Federal Funding. [GAO-09-558R](#). Washington, D.C.: June 30, 2009.

Addressing Significant Vulnerabilities in the Department of State's Passport Issuance Process. [GAO-09-583R](#). Washington, D.C.: April 13, 2009.

Transportation Security: Comprehensive Risk Assessments and Stronger Internal Controls Needed to Help Inform TSA Resource Allocation. [GAO-09-492](#). Washington, D.C.: March 27, 2009.

Department of State: Undercover Tests Reveal Significant Vulnerabilities in State's Passport Issuance Process. [GAO-09-447](#). Washington, D.C.: March 13, 2009.

American Samoa: Issues Associated with Some Federal Court Options. [GAO-08-1124T](#). Washington, D.C.: September 18, 2008.

Commonwealth of the Northern Mariana Islands: Managing Potential Economic Impact of Applying U.S. Immigration Law Requires Coordinated Federal Decisions and Additional Data. [GAO-08-791](#). Washington, D.C.: August 4, 2008.

American Samoa: Issues Associated with Potential Changes to the Current System for Adjudicating Matters of Federal Law. [GAO-08-655](#). Washington, D.C.: June 27, 2008.

Border Security: Security of New Passports and Visas Enhanced, but More Needs to Be Done to Prevent Their Fraudulent Use. [GAO-07-1006](#). Washington, D.C.: July 31, 2007.

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U.S. Insular Areas: Economic, Fiscal, and Financial Accountability Challenges. [GAO-07-119](#). Washington, D.C.: December 12, 2006.

Risk Management: Further Refinements Needed to Assess Risks and Prioritize Protective Measures at Ports and Other Critical Infrastructure. [GAO-06-91](#). Washington, D.C.: December 15, 2005.

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American Samoa: Accountability for Key Federal Grants Needs Improvement. [GAO-05-41](#). Washington, D.C.: December 17, 2004.

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