

GAO Highlights

Highlights of [GAO-19-547](#), a report to the Chairman of the Joint Economic Committee

Why GAO Did This Study

Foreign nationals from 82 countries may obtain E-2 nonimmigrant investor status in the United States. The E-2 nonimmigrant classification allows an eligible foreign national to be temporarily admitted to the United States to direct the operations of a business in which they have invested a substantial amount of capital, or to work in an approved position (e.g., manager or essential employee). To obtain E-2 status, a foreign national can apply through State for an E-2 visa abroad, or if already in the United States, by petitioning USCIS to extend or change to E-2 status.

GAO was asked to review State's and USCIS' E-2 adjudication process. This report addresses: (1) outcomes and characteristics of foreign nationals who sought or received E-2 status from fiscal years 2014 through 2018, (2) policies and procedures for ensuring that individuals meet E-2 eligibility requirements, and (3) efforts to assess and address potential E-2 fraud. GAO analyzed State and USCIS data on E-2 adjudications, generalizable samples of E-2 visa applications and petitions, and relevant documents. GAO interviewed officials at 14 State posts abroad, selected based on E-2 application volume and other factors, and observed E-2 adjudications at four of these posts and USCIS's California Service Center.

What GAO Recommends

GAO is making five recommendations, including that State provide more E-2 training or resources to consular officers, and that State and USCIS establish a regular coordination mechanism to share information on E-2 fraud risks. State and USCIS concurred with all five recommendations.

View [GAO-19-547](#). For more information, contact Rebecca Gambler, 202-512-8777, GamblerR@gao.gov, or Jason Bair, 202-512-6881, BairJ@gao.gov

July 2019

NONIMMIGRANT INVESTORS

Actions Needed to Improve E-2 Visa Adjudication and Fraud Coordination

What GAO Found

The Department of State (State) and U.S. Citizenship and Immigration Services (USCIS) annually adjudicated about 54,000 visa applications or petitions from fiscal years 2014 through 2018 for foreign nationals seeking E-2 nonimmigrant status, over 80 percent of which were approved. About eighty percent of E-2 adjudications were for State visa applications, and the remaining 20 percent were for USCIS petitions to extend or change to E-2 status. Generally, about half of the foreign nationals seeking E-2 status were investors, managers, or essential employees of an E-2 business, and the other half were their spouses or children.

State and USCIS have guidance, procedures, and training intended to help consular and immigration officers ensure foreign nationals meet E-2 eligibility requirements; however, officials GAO interviewed from both agencies identified challenges in the E-2 adjudication process.

- **State.** Consular officers noted that E-2 visa adjudications are complicated and resource-intensive, often requiring more documentation and time to complete than other visas. For example, the requirement that the investment in the business be substantial does not prescribe a minimum capital amount. Rather, the investment must be large enough to support the likely success of the business, among other criteria. Consular officers at 10 of 14 posts GAO interviewed indicated that determining the investment's substantiality is difficult for newly encountered business types. Providing additional E-2 training or related resources would help ensure that consular officers and locally employed staff have the necessary knowledge and abilities to carry out their responsibilities.
- **USCIS.** Officials identified similar challenges with respect to E-2 adjudications. However, officials stated that collocating immigration officers who adjudicate E-2 petitions helps to mitigate the challenges because the officers can communicate with each other on how USCIS has typically adjudicated such cases.

State and USCIS have resources to address E-2 fraud, which includes submitting falsified documents or making false statements material to the adjudication; however, coordination on E-2 anti-fraud efforts is limited. State has anti-fraud efforts in place for all nonimmigrant visa types, but State officials stated that they consider E-2 visa fraud to be lower risk compared to other visas because the large amount of complex paperwork required for the E-2 visa discourages malicious actors. USCIS officials consider E-2 fraud to be a significant issue and have taken steps to identify fraud, such as using fraud assessment technology to determine if a business is financially viable and conducting site visits if fraud is suspected. Both State and USCIS collect information that could be useful to each other's anti-fraud efforts, but interagency coordination on E-2 fraud issues is ad hoc and relatively rare. For example, the main formal mechanism of coordination on E-2 visa issues—a quarterly teleconference—was cancelled 7 out of 8 times in fiscal years 2017 and 2018. Coordinating regularly on fraud issues, which is a best practice from GAO's Fraud Risk Framework, will help both entities to better identify emerging E-2 fraud trends and areas for potential resource sharing.