



February 27, 2017

VIA ELECTRONIC SUBMISSION

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Office of Private Sector Exchange
Bureau of Educational and Cultural Affairs
US. Department of State
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Re: Exchange Visitor Program-Summer Work Travel; Proposed Rule¹

Dear Acting Deputy Assistant Secretary Saba:

The Office of Advocacy (Advocacy) of the U.S. Small Business Administration respectfully submits these comments to the U.S. Department of State (Department) on this proposed rule, which amends the regulations for the Summer Work Travel category of the Exchange Visitor Program to require sponsors and employers to provide more information and assistance to foreign exchange students regarding their placement, enhance vetting of host employers and third parties, and require an additional cultural activities component.

Small businesses are an integral part of this program that allows foreign post-secondary school students to learn about the culture of the United States by working in seasonal and temporary host placements. As a public diplomacy program, the foreign exchange visitor's successful experiences with this program will create ambassadors and goodwill between the United States and other foreign countries. On February 15, 2017, the Office of Advocacy held a conference call with Department officials and small businesses, including small sponsors that coordinate

¹ Exchange Visitor Program-Summer Work Travel, 82 Fed. Reg. 4,120 (proposed Jan. 12, 2017) (to be codified at 22 C.F.R. pt. 62).



these placements and small host employers that hire these foreign students.² While small businesses support the goals of strengthening the program and making it safer, they expressed concern that the additional requirements may make it too costly for small sponsors, small host employers and foreign students to participate in this program. Advocacy recommends that the Department consider additional alternatives that may minimize the costs of this rule for small businesses.

The Office of Advocacy

Congress established Advocacy under Pub. L. 94-305 to represent the views of small entities before federal agencies and Congress. Advocacy is an independent office within the U.S. Small Business Administration (SBA); as such the views expressed by Advocacy do not necessarily reflect the views of the SBA or the Administration. The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), gives small entities a voice in the Federal rulemaking process.³ For all rules that are expected to have a significant economic impact on a substantial number of small entities, federal agencies are required by the RFA to assess the impact of the proposed rule on small business and to consider less burdensome alternatives.

The Small Business Jobs Act of 2010 requires agencies to give every appropriate consideration to comments provided by Advocacy. The agency must include, in any explanation or discussion accompanying the final rule's publication in the Federal Register, the agency's response to these written comments submitted by Advocacy on the proposed rule, unless the agency certifies that the public interest is not served by doing so.

Background

The Summer Work Travel program is a popular exchange visitor program for foreign post-secondary school students aged 18-30, which allows participants to work in seasonal placements while learning the culture of the United States. In the past decade alone, there have been over one million students that have participated in this program, from 125 countries.⁴ The Department estimates that there are over 90,000 foreign students in this program, 26,000 host employers, and 41 sponsors who coordinate these programs.⁵

In 2011 and 2012, the Department released Interim Final Rules (IFR) that added requirements for sponsors and host employers to strengthen protections for foreign students after a series of incidents occurred, such as fraudulent job offers, inappropriate jobs, job cancellations, insufficient number of work hours and housing and transportation problems. The 2011 IFR added requirements for pre-placement of certain jobs based on country, job and employee vetting, interviews with foreign students with help of foreign partners, and

² Advocacy's conference call had 61 participants, including State Department officials, representatives from 24 sponsors, two associations (Outdoor Amusement Business Association and the International Association of Amusement Parks and Attractions), two restaurants, four hotels, four camps, and one amusement park.

³ Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (codified at 5 U.S.C. §601).

⁴ Exchange Visitor Program-Summer Work Travel, 82 Fed. Reg. at 4,120.

⁵ *Id.* at 4,138.

sponsor monitoring of program participants.⁶ The 2012 IFR added extra requirements such as restrictions on host employer incentives, additional sponsor vetting of initial and subsequent jobs, and sponsor support in creating cultural activities. This IFR also had restrictions on work times and banned jobs in industries such as gaming, warehouses and travelling fairs and concessionaires.⁷

On January 12, 2017, the Department released a proposed rule that revised provisions contained in the 2011 and 2012 IFR, and also added new requirements. The proposed rule lists requirements for sponsors, such as to complete a new Form 7007 for every foreign exchange student, to screen exchange visitors, to secure exchange visitor job placement, replacement and orientation, and to vet and verify background checks for host entities/employers and their third party domestic and foreign partners. The proposed rule also requires that sponsors ensure that host employers comply with these regulations, complete cross-cultural activities for exchange visitors, pay for employee uniforms, notify them of any changes in the program, and adhere to new limitations on hours and restricted activities.

1. The Regulatory Flexibility Act (RFA) Applies to this Rule

The Department has determined that this proposed rule involves a foreign affairs function of the United States and is consequently exempt from the notice and comment procedures required by the Administrative Procedure Act (APA).⁸ The Department believes that the RFA does not apply, since rules that are exempt from APA notice and comment requirements are also exempt from the RFA requirement and its analytical requirements.

Advocacy disagrees with the Department's conclusion that the narrow foreign affairs exemption of the APA applies in this case. Immigration rules are generally not within the foreign affairs exemption, even though immigration matters typically implicate foreign affairs.⁹ In order for the exemption to apply, courts have stated that the cases must involve extraordinary situations where "public rulemaking provisions should provoke definitely undesirable international consequences."¹⁰ Advocacy does not agree that changing the broad provisions of the Summer Work Travel program of the Exchange Visitor Program is an extraordinary situation that provokes undesirable international consequences, and therefore the Department must comply with the APA and the RFA.

Despite the misapplication of the foreign affairs exemption, the Department provided for a 45-day comment period and completed an Initial Regulatory Flexibility Analysis (IRFA). While

⁶ Exchange Visitor Program-Summer Work Travel, 76 Fed. Reg. 23,177 (Apr. 26, 2011) (to be codified at 22 C.F.R. pt. 62).

⁷ Exchange Visitor Program-Summer Work Travel, 77 Fed. Reg. 27,593 (May 11, 2012) (to be codified at 22 C.F.R. pt. 62).

⁸ 5 U.S.C. § 553(a)(1). Section 553(a), the rulemaking section of the APA, has an exemption for matters involving the foreign affairs function of the United States.

⁹ See *Hou Ching Chow v. Attorney Gen.*, 362 F. Supp. 1288 (D.D.C. 1973).

¹⁰ *Zhang v. Slattery*, 55 F.3d 732, 744 (2d Cir. 1995) (quoting *Yassani v. Crosland*, 618 F.2d 1356, 1360 n.4 (9th Cir. 1980)). This statement can also be found in the Attorney General's Manual on the Administrative Procedure Act. See U.S. DEP'T OF JUSTICE, ATTORNEY GENERAL'S MANUAL ON THE ADMINISTRATIVE PROCEDURE ACT 26 (1947). For example, in *Yassani v. Crosland*, the court upheld a 1979 Immigration and Naturalization Service rule released under this exemption which rescinded deferred departure dates of Iranian nationals because this rule implemented the President's foreign policy response to the Iran hostage crisis.

Advocacy is concerned that the Department continues to claim the foreign affairs exemption, we welcome their efforts to inform the public on the impact of this proposed rule on small sponsors and small host employers as required by the RFA.

2. The Department's Needs to Update its RFA analysis to Reflect Additional Small Businesses Affected, Increased Compliance Costs of the Rule, and to Consider Alternatives to Minimize Small Business Impacts

Under the RFA, an IRFA must contain: (1) a description of the reasons why the regulatory action is being taken; (2) the objectives and legal basis for the proposed regulation; (3) a description and estimated number of regulated small entities (based on the North American Industry Classification System (NAICS)); (4) a description and estimate of compliance requirements, including any differential for different categories of small entities; (5) identification of duplication, overlap, and conflict with other rules and regulations; and (6) a description of significant alternatives to the rule.¹¹

Advocacy is concerned that the Department's IRFA is incomplete because it does not reflect all of the impacts of this rule on the small business community. The Department underestimates the numbers of small businesses affected by the rule because it has not updated the size standard for small sponsors and it does not estimate the numbers of small host employers affected by these requirements. Based on small business feedback, Advocacy believes that the Department underestimates the compliance costs of this rule. Small sponsors have commented that the increased compliance costs may make participating in the program unprofitable for their companies. Advocacy recommends that the Department include updated information of the numbers of small businesses affected and increased compliance costs in the agency's Final Regulatory Flexibility Analysis. Advocacy also recommends that the Department consider alternatives outlined in this letter that may minimize the cost of this rule for small businesses.

3. The Department's IRFA Underestimates the Numbers of Small Businesses Affected by the Rule

The number of affected small sponsors in the Summer Work Travel program is likely more than the Department's estimate of 29 entities.¹² The Department's analysis uses an outdated SBA size standard of \$7 million in annual revenue for the Education Services industry (611710) when determining the economic impact threshold for small entities.¹³ By using the current SBA size standard of \$15 million in annual revenue, the Department may discover more small entities that are affected by the rule.¹⁴ Advocacy recommends that the Department revise its Final Regulatory Flexibility Act (FRFA) analysis to reflect this current size standard.

Advocacy is also concerned that the Department has not analyzed the number of small host employers that will be affected by this rulemaking or estimated the costs of this rule to these

¹¹ 5 U.S.C. § 603.

¹² Exchange Visitor Program-Summer Work Travel, 82 Fed. Reg. 4,120, 4,135 (proposed Jan. 12, 2017) (to be codified at 22 C.F.R. pt. 62).

¹³ *Id.*

¹⁴ Small Business Size Standards: Educational Services, Final Rule, 77 Fed. Reg. 58739 (Sept. 24, 2012).

entities. According to the Department, there are 26,000 host employers that participate in this program.¹⁵ Advocacy has received feedback from small host employers on the conference call and in subsequent conversations regarding the economic impacts of this proposed rule in industries such as amusement and theme parks, ski facilities, camps, restaurants and hotels. Over 90 percent of businesses in these industries would be considered small businesses under the SBA size standards.¹⁶ In this proposed rule, the Department is requiring sponsors to “ensure” that host employers comply with many new requirements, but has not analyzed any associated compliance cost likely to be incurred by host employers. For example, the proposed rule specifically ask host employers to understand and comply with these requirements, complete cross-cultural activities for exchange visitors, pay for employee uniforms, notify sponsors of any changes in the program, and adhere to new limitations on hours and restricted activities. In other provisions, it is not clear whether it is the sponsor or the employer that is required to complete these requirements and incur these compliance costs. Advocacy recommends that the Department analyze the costs associated with compliance for small host employers in the final rule.

4. The Department Underestimates the Compliance Costs of this Rule for Small Sponsors and Small Host Employers

Small sponsors on Advocacy’s conference call commented that they will incur higher costs than the Department has estimated in its IRFA. The Department estimates that sponsors will incur \$154 per exchange visitor for all regulatory provisions (including those in the prior IFRs), and \$96 per exchange visitor as a result of this proposed rule.¹⁷ The Department has estimated that small sponsors will incur annual compliance costs ranging from \$490 to \$545,762 per small sponsor, and can be as low as 1 percent to up to 9 percent of the entity’s annual gross revenue. While the RFA does not define the extent to which an economic impact should be deemed significant, Advocacy encourages agencies to develop criteria specific to industry factors such as competitive structure and profit margins. For example, the EPA encourages program offices to examine economic impacts of greater than 1% and 3% as significant.¹⁸

Small sponsors have commented that the Department needs to be more transparent and provide source information for data used to calculate compliance costs and the annual revenues of sponsors. For example, multiple participants have stated that the Department overestimates the annual revenues of small sponsors, and therefore the compliance cost as a percentage of revenue may be more economically significant than estimated in the IRFA. Small sponsors on Advocacy’s conference call estimate that the cost of the rule per exchange visitor ranges from

¹⁵ *Id.* at 4,138.

¹⁶ U.S. Small Bus. Administration, Office of Advocacy, all industries by receipt size, 2012 (Advocacy data) based on data provided by the U.S. Census Bureau, available at: <https://www.census.gov/programs-surveys/susb.html>. Advocacy analyzed the following NAICS codes to assess the percentage of small businesses in each industry: Amusement and Theme Parks (713110)- 94 percent; Bed and Breakfast (721191)- 99 percent; Hotels (721110)- 99 percent; Recreational and Vacation Camps (721214)-94 percent; Restaurants (722511)-99 percent, and Ski Facilities (713920)-93 percent.

¹⁷ Exchange Visitor Program-Summer Work Travel, 82 Fed. Reg. at 4,136.

¹⁸ U.S. Envl. Prot. Agency, *Final Guidance for EPA Rulewriters: Regulatory Flexibility Act as Amended by the Small Business Regulatory Enforcement Fairness Act* (Nov.2006), <https://www.epa.gov/sites/production/files/2015-06/documents/guidance-regflexact.pdf>.

\$200 to \$400. Since many of these small sponsors charge fixed prices per exchange visitor at around \$500 to \$1000, these extra costs will lower their profit margins and possibly put many out of business. For example, Advocacy spoke to one small sponsor who estimated that the rule will add \$315 in costs per exchange student totaling over \$500,000 in additional costs, which represents 10.5 percent of this company's annual gross revenues. The cost increase would make participating in the program unprofitable for this company. This sponsor commented that they will have to raise the prices they charge to foreign exchange students, or stop doing business in the Summer Work Travel program.

5. Advocacy Recommends Alternatives that May Minimize the Cost of the Proposed Rule for Small Businesses

Under the RFA, the IRFA must contain a description of any significant regulatory alternatives to the proposed rule which accomplish the stated objectives of the applicable statutes and which minimize any significant economic impact of the proposed rule on small entities.¹⁹ The Department analyzed and rejected two alternatives for this regulation, one for less frequent cross-cultural activities, the other for more compliance time for the DS-7007. Small sponsors and small host employers have identified the following regulatory provisions that are the most costly, and have recommended alternatives that may minimize the costs of this rule for small businesses.

A) Form DS-7007

Participants on Advocacy's conference call were most concerned with the requirement that sponsors, or host employers, complete a new Form DS-7007 or Host Placement Certification for each foreign student participating in the Summer Work Travel program before they are issued a visa and arrive in the U.S. This form includes detailed information regarding a foreign exchange student's placement, including the location, the hours to be worked, expected wages, items charged by all parties and any deductions to their wage. If the sponsor or host entity arranges the housing for the exchange visitor, a Housing Addendum to Form DS-7007 must also be filled out before the foreign student's arrival in the United States.²⁰ Small businesses do not understand purpose of this required form, as the sponsors already provide similar information in job offers, in the Student and Exchange Visitor Information System (SEVIS) and on the DS-2019 Form. Agencies are required under the RFA to identify all federal rules which may duplicate, overlap or conflict with the proposed rule.²¹ To the extent that the proposed rule's requirements are duplicative, Advocacy encourages the Department to revisit the need for said forms, an action that will reduce the paperwork burden on affected small entities.

Small sponsors were concerned with the cost and administrative burden of filling out the Form DS-7007, which is only available in paper form. The Department has noted that small host employers may also be filling out these forms, incurring a cost burden. In the Paperwork Reduction Act section of the proposed rule, the Department states that it will take sponsors an

¹⁹ 5 U.S.C. § 603.

²⁰ 82 Fed. Reg. at 4,144.

²¹ 5 U.S.C. § 603 (5).

average of 1.25 hours to fill out one form DS-7007 and the Housing Addendum, or \$32 per foreign exchange visitor.²²

The Department estimates that small sponsors range in the number of foreign exchange students they manage, from four students to over 5,000 students.²³ Under this provision, these small sponsors would spend many hours of staff time to physically fill out hundreds or thousands of paper forms. Participants on the conference call stated that small sponsors would be disproportionately affected because they have fewer staff and fewer students to spread out these extra costs. Staff time would also be needed to collect and verify the information on this new form. Sponsors have stated that they may need to change their electronic databases to collect new information that is normally not collected by their current systems. Sponsors would have to coordinate and obtain signatures of the sponsor, the host employer and the foreign exchange visitor. The rule is not clear how these signed forms are to be distributed to the host employers or foreign students, and does not discuss whether electronic signatures would be allowed.

Small sponsors are also concerned with the content that is required in this DS-7007 form. The form requires the disclosure of the total fees and costs of the program charged by the sponsor, host entity/employer, and the sponsor's third parties. Small sponsors have commented that they do not want to disclose the prices they charge as this information is proprietary and would disadvantage their business as compared to larger sponsors. Sponsors have stated that the disclosure of third party fees is problematic because there are many different financial agreements for even one employer based on the country of origin of the foreign exchange student. Small host employers in industries like camps have stated that the requirement to disclose wages on this form is problematic because many employers are actually exempt from minimum wage requirements. Because foreign students will be required to bring this form to their visa interview, consular officers unfamiliar with these exemptions may unfairly deny these applications. Sponsors were also concerned with the requirement that a Housing Addendum to the DS-7007 be completed and a copy sent to the exchange visitor prior to the exchange visitor's departure to the United States. Sponsors have stated that it is difficult to secure housing so early in the process without a deposit.

Advocacy recommends that the Department consider implementing electronic forms and allowing electronic signatures to ease the administrative burden of this requirement. Small sponsors have recommended that the Department not require a public disclosure of fees. Sponsors could provide this information to exchange visitors in a terms and conditions document. One sponsor recommended that the information in the DS-7007 be incorporated in the existing Form DS-2019.

B) Sponsor Vetting and Background Checks for Host Entities and Third Parties

Participants at Advocacy's conference call were very concerned with the compliance costs and administrative burdens associated with new requirements that sponsors vet all host employers

²² *Id.* at 4,139.

²³ 82 Fed. Reg. at 4,136. The numbers of sponsors and the numbers of foreign exchange students managed is likely higher than this estimate, due to the increase of the SBA size standard from less than \$7 million to less than \$15 million in annual gross revenues.

and any domestic or foreign third parties these employers utilize.²⁴ The proposed vetting procedures include directly contacting and collecting information from these entities, searching publicly available information and public registries, and verifying that all managers and supervisors in these companies working with exchange visitors have undergone background checks.

Sponsors have commented that they are not sure whether they can legally obtain information regarding the background checks of employees of host employers or third parties, or try to get a background check completed on these individuals. Another concern is that the Department does not associate any new costs with this provision, or discuss whether the sponsors or the host employers are responsible for the costs of these background checks. The Department estimates that each background check would cost \$26. The costs of this provision could be high because a sponsor can coordinate hundreds or thousands of foreign exchange visitors, and each of these students could be working at different employers. Each of these employers could also work with domestic and foreign third-parties in many countries to coordinate student visas. Under this rule, the managers and supervisors in each of these companies would also need background checks.

Advocacy recommends that the Department reconsider these extra vetting requirements and the background check requirements. In the Department's 2012 IFR, the agency already required extra vetting measures for host employers and third parties.²⁵ For example, the IFR required sponsors to have direct contact with host employers and obtain their business information, check public documents and public registries, and verify business documents. The IFR also required the same information for an employer's domestic third parties. Under this IFR, sponsors had to verify a foreign third party's business registration, bankruptcy filings, written references from business associates, previous experiences with the program, and obtain criminal background check reports for all owners and officers of the organization.²⁶

C) Exchange Visitor Interviews

Small sponsors on Advocacy's conference call expressed concern with the rule's new requirement that sponsors conduct interviews with foreign exchange students in person or by video-conference to screen these candidates.²⁷ In the Department's 2012 IFR, the agency allowed third-party partners in foreign countries to conduct these interviews to assess their English language proficiency. The Department states that this requirement would add 30 minutes of time for sponsors, but notes that this is not a new cost. Small sponsors told Advocacy that this provision will be logistically burdensome because it would require scheduling and completing hundreds or thousands of video-conference interviews with each foreign exchange visitor in different countries and time zones. This requirement may also be redundant, as foreign third parties will likely still complete these interviews. These calls may also require overtime hours, as they must be done during times that may not be business hours in the U.S. One small sponsor estimated that this would take 10 weeks of work and cost approximately \$10,000 in increased costs.

²⁴ 82 Fed. Reg. at 4,142, under the section (i) & (iv) Sponsor vetting of host entities.

²⁵ Exchange Visitor Program-Summer Work Travel, 77 Fed. Reg. at 27,611 (May 11, 2012).

²⁶ *Id.*

²⁷ 82 Fed. Reg. at 4,141 (discussing exchange visitor screening and selection under section (e)(2) of the proposed rule).

Advocacy recommends that the Department continue to allow its foreign partners who are vetted to conduct these interviews of foreign exchange students as it is more appropriate and cost effective.²⁸ Foreign parties may be the best individuals to conduct these foreign student interviews because they are in the same country, and share the same customs and language. Foreign partners also have specialized knowledge of the educational standards and institutions of their home country. Another alternative would be to require foreign exchange students to submit a video to show their English language proficiency.

D) Cultural Exchange Activities

Conference call participants were also concerned with the regulation's requirement that sponsors or their host entities, plan cross-cultural activities for exchange visitors; one event per month (or four events total) per foreign exchange student.²⁹ The Department estimates that this will take a sponsor or employer six hours per exchange student to plan and execute these cultural events, or \$60 per student.³⁰ Participants were concerned with the amount of administrative burden and staff time necessary to comply with this provision. For example, a small sponsor with 1000 foreign exchange students would spend up to 6000 hours and \$60,000 to plan these events. A small seasonal employer such as a restaurant or hotel could have dozens of foreign staff on the Summer Work Travel program and would have to plan and oversee these monthly excursions during their busiest time of the year.

Sponsors and host employers believe that foreign exchange students already complete cultural activities as part of their work and in their new community, and cultural events should not be mandated. For example, camp directors point out that foreign exchange students are immersed in the campsite and have daily interaction with young Americans. Sponsors and host employers report that their foreign exchange students already regularly attend cultural exchange events put together by the community. As an alternative, sponsors and host employers could provide calendars of these types of community-supported events to the exchange students.

E) Uniforms

Small sponsors expressed concern with the new requirement that sponsors ensure that host entities provide "without charge or deposit" a work uniform for foreign exchange students "in accordance with the Fair Labor Standards Act."³¹ The Fair Labor Standards Act (FLSA) does not require that employers provide uniforms for employees. According to a Department of Labor fact sheet, if an employer requires that the employee bear the cost of a uniform, this cost may not reduce the employee's wage below the minimum wage of \$7.25 per hour.³²

The Department does not count any additional compliance costs to this new uniform requirement, or specify whether sponsors or employers must incur these costs. Sponsors can have hundreds or thousands of foreign exchange students, and host employers can have dozens

²⁸ See footnote 25, regarding sponsor requirements to vet foreign parties.

²⁹ *Id.* at 4,141 (discussing cross cultural activities under section (o) of the proposed rule).

³⁰ *Id.* at 4,136.

³¹ *Id.* at 4,142. (compensation requirements).

³² U.S. Dep't of Labor, *Fact Sheet #16: Deductions From Wages for Uniforms and Other Facilities Under the Fair Labor Standards Act (FLSA)*, <https://www.dol.gov/whd/regs/compliance/whdfs16.pdf> (last revised July 2009).

of employees that they must now purchase uniforms for. One sponsor stated that uniforms can cost as much as \$150 for ski resorts. Sponsors and employers have stated that U.S. employees are normally charged for uniforms in these positions, and having these different requirements for foreign exchange visitors creates an unequal work environment between similar workers.

Sponsors and employers must ensure that they are following the FLSA. Advocacy recommends that if these entities do charge their employees for these uniforms, they must ensure that these fees do not reduce their employees' wage below the minimum wage. If employers are required to pay for uniforms, they should be able to recoup these costs from students if these uniforms are not returned.

F) Program Exclusions and Restrictions for Small Businesses

Small businesses commented to Advocacy that they would like the Department to reconsider the following proposed program exclusions in this rule.

1. Representatives from the Outdoor Amusement Business Association (OABA) expressed concern with the proposed rule's restriction that continues the ban of industries of mobile amusement and itinerant concessionaries industries from utilizing the Summer Work Travel Program and requests that the Department reinstate these industries in this program. This ban was first instituted by the Department's 2012 IFR.³³ Representatives from this association have stated that the mobile amusement industry has provided meaningful work and cultural exchange opportunities under the Summer Work Travel Program in the past, and would like to work with the Department to get their industries reinstated in the program.
2. Representatives from various small camps are concerned with a restriction that limits foreign exchange visitors to only five percent of their duties in waste management, janitorial or custodial positions.³⁴ These camp directors stated that the Department should allow exchange visitors to complete a higher percentage of their duties in this area. Additionally, various camps were also concerned and seek repeal of the provision that limits exchange visitors to three visits, as this restricts their most experienced participants that provide continuity in their programs.³⁵

³³ 77 Fed. Reg. at 27,610. Section (h)(14) Program exclusions, in positions with travelling fairs or itinerant concessionaires.

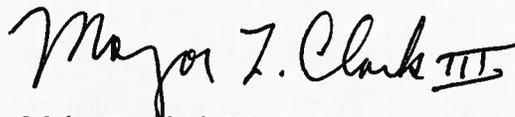
³⁴ 82 Fed. Reg. at 4,144. Section (k)(22) Program exclusions.

³⁵ 82 Fed. Reg. at 4,146, under Exchange visitor screening and selection.

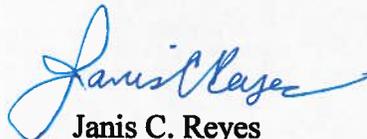
Conclusion

Advocacy thanks the Department for participating in a conference call to seek small business input and answer questions on this proposed rule. Small businesses are a vital part of the Summer Work Travel Program, which creates opportunities for foreign exchange students and provides a dependable workforce in seasonal and temporary host placements. Small businesses have told Advocacy that they want to comply with the Department's rules that seek to strengthen the program. However, the proposed rule may add extra compliance burdens that may make it too costly for small sponsors, small host employers and foreign students to participate in this program. Advocacy is concerned that the Department's IRFA is incomplete because it does not reflect the impacts of this rule on the small business community. Advocacy recommends that the Department include updated information on the numbers of small businesses affected and increased compliance costs in the agency's Final Regulatory Flexibility Analysis. Advocacy also recommends that the Department consider more alternatives that may minimize the costs of this rule for small businesses. For additional information or assistance please contact me or Janis Reyes at (202) 619-0312 or Janis.Reyes@sba.gov.

Sincerely,



Major L. Clark III
Acting Chief Counsel for Advocacy



Janis C. Reyes
Assistant Chief Counsel for Advocacy

Copy to: Dominic J. Mancini, Acting Administrator, Office of Information and
Regulatory Affairs, Office of Management and Budget