

# CBO

## Immigration Policy in the United States: An Update



DECEMBER 2010



The logo for the Congressional Budget Office (CBO) features the letters "CBO" in a large, bold, black serif font. The letters are centered between two thick, horizontal gray bars, one above and one below.

# **Immigration Policy in the United States: An Update**

December 2010

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## Notes and Definitions

Numbers in the exhibits and text may not add up to totals because of rounding. Unless otherwise indicated, the years referred to in this document are federal fiscal years (which run from October 1 to September 30). Some of the data for 2004 in this document do not match the data that the Congressional Budget Office reported in its 2006 paper *Immigration Policy in the United States* because they have been revised by the Department of Homeland Security.

**Green card:** A wallet-sized card showing that the bearer is a legal permanent resident of the United States.

**Legal permanent resident:** A foreign-born individual authorized to live, work, and study in the United States permanently.

**Legal temporary resident or visitor:** A foreign-born individual who is admitted to the United States with a temporary visa or who is allowed to enter the country without a visa. Those categories include visitors who are in the United States for short periods and temporary residents who are in the United States for longer, although time-limited, stays.

**Refugee or asylum-seeker:** An individual who is at risk of persecution in his or her country of nationality. Refugees apply for legal admission from outside the United States; asylum-seekers request admission from within the United States or at a U.S. port of entry (that is, a place where one may be checked by immigration officials and lawfully enter the United States).

**Removal:** The expulsion of a foreign-born individual from the United States if he or she is found to be inadmissible at a port of entry or otherwise in violation of U.S. immigration laws. An inadmissible individual is a person seeking admission at a port of entry who does not meet the criteria of the Immigration and Nationality Act.

**U.S. visa:** A permit allowing the bearer to apply for entry into the United States under a certain classification. Examples of classifications include student (F), visitor (B), and temporary worker (H). The Department of State is responsible for issuing visas at U.S. embassies and consulates outside of the United States. A visa does not grant the bearer the right to enter the United States. Officials with the Department of Homeland Security's U.S. Customs and Border Protection determine whether an individual can be admitted into the United States at a port of entry. A foreign national may be denied entry by an official because he or she lacks proper documentation or because of public health or security concerns (or for other reasons).

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## Preface

**T**he Immigration and Nationality Act sets immigration policy in the United States. The act provides for the lawful entry of foreign nationals on a permanent or temporary basis. In 2009, the United States granted legal permanent resident status to more than 1.1 million people. About two-thirds of those people were admitted to the United States on the basis of family connections to current U.S. citizens or residents. Also in 2009, roughly 5.8 million temporary visas were issued, about three-quarters of which were for people visiting the United States for business or tourism for a short period.

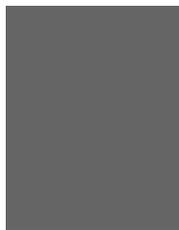
This document updates the Congressional Budget Office's (CBO's) February 2006 paper *Immigration Policy in the United States*. It presents data through 2009 on permanent and temporary admissions of foreign nationals to the United States, the number and types of visas issued, the naturalization of residents, and enforcement of immigration laws—and makes comparisons with 2004, which was the most recent year for which most data were reported in the earlier paper. In keeping with CBO's mandate to provide objective, impartial analysis, this document does not make any recommendations.

Paige Piper/Bach and Brian Prest of CBO's Microeconomic Studies Division wrote the document under the direction of Patrice Gordon and Joseph Kile. Sam Wice fact-checked it. The document benefited from the comments of Priscila Hammett, Melissa Merrell, David Moore, Jonathan Morancy, David Rafferty, Jonathan Schwabish, and Jennifer Smith, all of CBO. In addition, staff members of the Congressional Research Service provided valuable assistance.

Christine Bogusz edited the document, and Kate Kelly proofread it. Jeanine Rees prepared it for publication, and Maureen Costantino designed the cover. Monte Ruffin produced the printed copies, Linda Schimmel handled the print distribution, and Simone Thomas prepared the electronic version for CBO's Web site ([www.cbo.gov](http://www.cbo.gov)).

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Director

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# Immigration Policy in the United States: An Update

The Immigration and Nationality Act sets immigration policy in the United States on the basis of four general objectives:

- To facilitate the reunification of families by admitting people who already have a family member living in the United States,
- To attract workers to fill positions in certain occupations for which there are shortages,
- To increase diversity by admitting people from countries with historically low rates of immigration to the United States, and
- To provide a refuge for people who face the risk of racial, religious, or political persecution in their home country.

The law allows foreign nationals to enter the United States to become legal permanent residents (LPRs) or to be in the United States for a specific purpose during a limited stay as temporary residents or visitors. To enter the country as a legal permanent resident, a national of a foreign country must obtain a visa. To enter the country as a temporary resident or visitor, a foreign national must obtain a visa, be a qualifying citizen of Canada or Mexico, or be a qualifying citizen of a country that participates in the Visa Waiver Program. (That program allows citizens of certain countries to

travel to the United States for business or tourism for up to 90 days without having to obtain a visa.)

The law also outlines a process by which foreign nationals who have been granted legal permanent residence may apply to become naturalized U.S. citizens. In addition, the law establishes mechanisms to control the flow of legal entry into the United States, prevent the entry of individuals without authorization, and remove individuals who are in the United States without authorization.

## Legal Permanent Residents

People granted permanent admission to the United States are formally classified as legal permanent residents and receive a document, commonly known as a green card, that certifies that status. LPRs are eligible to live and work in the United States, own property, and join the armed forces; eventually, they may apply for U.S. citizenship. In 2009, the United States granted LPR status to roughly 1.1 million people.

Foreign nationals who are eligible for permanent admission fall into one of five broad categories. Two of those categories—immediate relatives of U.S. citizens and family-sponsored preferences—are based on family relationships. Under a third category, employment-based preferences, workers

with specific job skills are eligible for permanent admission. The fourth category is known as the Diversity Program, which allows individuals from countries with low rates of immigration to the United States to enter under a lottery-based system that provides a pathway for legal permanent residency. Finally, for humanitarian reasons, some foreign nationals are admitted to the United States as refugees or asylum-seekers; one year after obtaining asylum or refugee status, they may apply for LPR status.

People granted permanent admission include foreign nationals who entered the United States as legal permanent residents and those already present in the country who were granted LPR status. Of the people granted LPR status in 2009, about 463,000 (or 41 percent) were first-time entrants to the United States, and about 668,000 (or 59 percent) were already inside the United States. In 2009, foreign nationals who were born in Asia accounted for 413,000 (or 37 percent) of the people granted LPR status, and people who were born in North America (which includes Central America) accounted for 375,000 (or 33 percent).

The total number of permanent admissions in 2009 was about the average for the previous four years but 18 percent more than were granted such status in 2004. (Over the period from 2005 through 2009, the number of people granted LPR

status averaged about 23 percent more than the number during the 2000–2004 period.) The number of immediate relatives of U.S. citizens who were granted LPR status increased by 28 percent from 2004 to 2009, accounting for nearly half of total permanent admissions in 2009. In contrast, the number of people admitted in the family-sponsored preference category remained roughly constant from 2004 to 2009 and accounted for 19 percent of admissions in 2009. The number of individuals admitted on the basis of employment preferences decreased slightly between 2004 and 2009 and accounted for 13 percent of admissions in 2009. Admissions under the Diversity Program accounted for only 4 percent of the 2009 total and declined slightly from 2004 to 2009. The number of people admitted for humanitarian reasons, which constituted 17 percent of the permanent admissions in 2009, grew by almost 60 percent from its level five years earlier.

## Temporary Residents and Visitors

Temporary admission to the United States is granted to foreign nationals who seek entry for a limited time and for a specific purpose, such as tourism, diplomacy, or study. In addition, foreign nationals who meet certain criteria may be permitted to work in the United States for a limited time that depends on the type of visa they receive. However, foreign nationals with temporary visas are not eligible for citizenship, and to remain in the United States on a permanent basis they would be required to apply for permanent admission.

The federal government reports two types of data on foreign nationals who enter the United States as temporary residents or visitors—the number of temporary visas issued and the number of temporary admissions. The number of visas issued indicates the potential number of foreign nationals who may seek admission to the United States (excluding a large number who do not require a visa). The number of temporary admissions indicates the number of times that foreign nationals enter the United States, thus counting frequent travelers multiple times.

About 5.8 million visas for temporary admission to the United States were issued in 2009. Twenty-four percent were for temporary residents and 76 percent were for visitors. Although the number of visas issued in 2009 was 755,000 (or 15 percent) higher than the number in 2004, it was down by almost 800,000 (or 12 percent) from the 6.6 million visas issued in 2008. The decrease was most likely a result of the global recession: Fewer visas were issued for business, for tourism, and for employment.

The number of legal temporary admissions was much greater than the number of visas issued. The Department of Homeland Security (DHS) estimates that there were 163 million legal temporary admissions to the United States in 2009. That estimate includes 126 million admissions not requiring visas by Canadians traveling for business or tourism and certain Mexicans with Border Crossing Cards. It also includes about 36 million admissions of foreign nationals who were required to complete an Arrival/Departure Record (known as an I-94 form); about 16 million of those

admissions were individuals who entered under the Visa Waiver Program, and the rest had visas. Many individuals had multiple admissions because they departed and reentered the United States during the same year.

The number of legal temporary admissions in 2009 was the lowest since DHS began reporting those data in 2003 and was about 10 percent less than the number admitted in 2004.

The numbers presented throughout this document represent the flow of foreign nationals into the United States in accordance with U.S. immigration law. Information on the departures of temporary residents and visitors after their authorized stay is currently not recorded. Official estimates are available only on departures of LPRs.

## Naturalization

Legal permanent residents may become citizens of the United States through a process known as naturalization. To become a naturalized citizen, an applicant must fulfill certain requirements set forth in the Immigration and Nationality Act. In general, any legal permanent resident who is at least 18 years old and who has maintained the specified period of continuous residence and presence in the United States can apply for naturalization. In 2009, about 744,000 people became naturalized U.S. citizens, well below the number naturalized in 2008 but close to the average for the past five years. Of the 2009 total, the largest percentages of people were born in Mexico (15 percent) and India (7 percent).

## Enforcement of Immigration Policy

In addition to regulating the legal admission of permanent residents and temporary residents and visitors, U.S. law specifies policies for individuals in the United States without legal authorization. People found to be in the United States in violation of immigration law may be allowed to depart voluntarily or may be removed from the country through a formal process of adjudication, which can include the imposition of penalties (such as fines), a prohibition against future entry, or both.

In addition, individuals convicted of certain crimes can be imprisoned before they are removed from the United States.

The Department of Homeland Security is responsible for enforcing immigration law and acts to arrest, detain, return, and remove foreign nationals who violate U.S. laws. In 2009, about 580,000 people who were arrested or detained returned voluntarily under the supervision of a DHS official to their home country or to another country, a figure that is well below the number in recent years. Also in 2009, about 393,000 people were ordered

removed, which is 63 percent more than were ordered removed in 2004. Of those 393,000 removals, 107,000 were carried out using an expedited process designed to speed up the removal of people attempting to enter the country illegally. In 2009, about two-thirds of total removals were for noncriminal violations, such as a lack of proper documentation, and the other one-third were for criminal violations of U.S. laws. (Although various estimates exist, there is no way to count the total number of individuals who enter the country illegally or how many of them leave voluntarily.) ♦



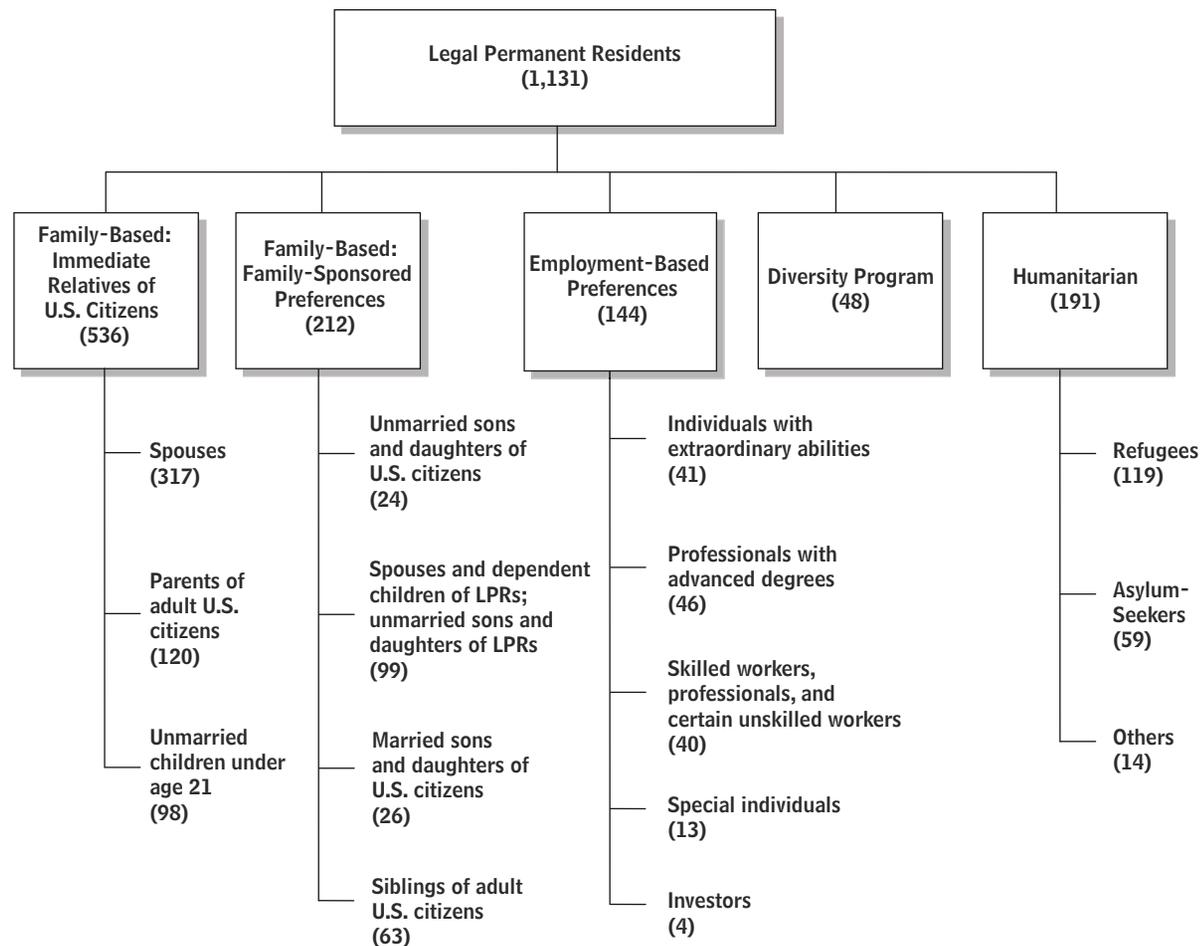
# **Legal Permanent Residents**



**Exhibit 1.**

**Categories of Admission of Legal Permanent Residents, 2009**

(Thousands of admissions)



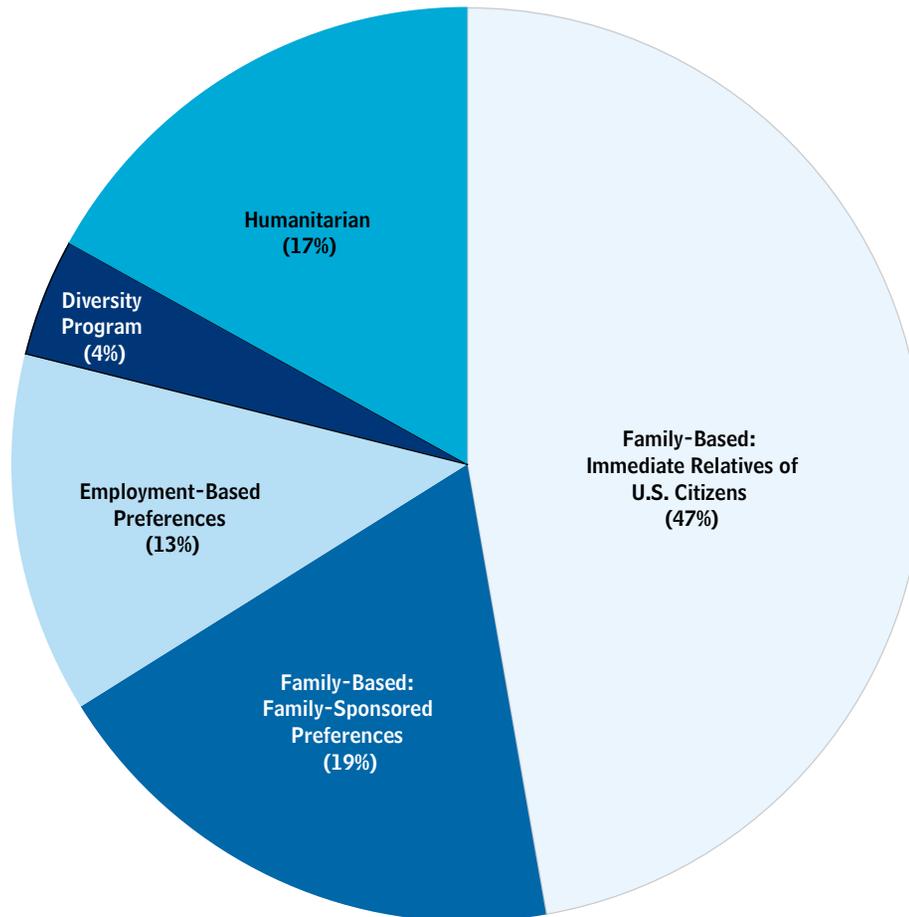
Source: Congressional Budget Office based on Department of Homeland Security, Office of Immigration Statistics, *2009 Yearbook of Immigration Statistics* (August 2010), Table 6.

Note: LPR = legal permanent resident.

People granted permanent admission to the United States are formally classified as legal permanent residents and given a green card. LPRs are eligible to live and work in the United States, own property, and join the armed forces; eventually, they may apply for U.S. citizenship.

The United States grants LPR status to foreign nationals who qualify for admission under one of the following five immigration categories: immediate relatives of U.S. citizens, family-sponsored preferences, employment-based preferences, the Diversity Program, and humanitarian. Foreign nationals who are eligible for the two family-based categories include certain relatives of U.S. citizens and LPRs (such as spouses, parents, and unmarried children under age 21). Under the program of employment-based preferences, the United States grants LPR status to workers with specific job skills, including individuals with extraordinary abilities, professionals with advanced degrees, and unskilled workers in occupations with labor shortages. Other people may enter the United States under the Diversity Program, which provides a pathway for individuals to gain permanent legal residency. Some foreign nationals are admitted to the United States for humanitarian reasons (as refugees or asylum-seekers), which allows them to apply for LPR status.

With the exception of the diversity, humanitarian, and investor categories, a foreign national must be sponsored by a U.S. citizen, LPR, or prospective employer and have an approved petition filed with the U.S. Citizenship and Immigration Services (USCIS) in order to obtain LPR status. Within each major LPR category, additional qualifications are required for admission. ♦

**Exhibit 2.****Admissions of Legal Permanent Residents, by Category, 2009**

In 2009, the United States granted LPR status to 1.1 million individuals, which is about average for the 2005–2009 period. Family-based admissions, which include admissions of immediate relatives of U.S. citizens and admissions under the program of family-sponsored preferences, together accounted for 66 percent of total admissions of legal permanent residents in 2009. The remaining 34 percent comprised humanitarian admissions (17 percent), admissions under employment-based preferences (13 percent), and Diversity Program admissions (4 percent). Admissions based on family-sponsored preferences, employment-based preferences, and diversity are all subject to annual limits; by contrast, admissions of immediate relatives of U.S. citizens and admissions for humanitarian reasons are unlimited.

Those annual limits did not change during the 2004–2010 period, with the exception of the limits on asylum-seekers (which changed in 2005) and employment-based preferences (for which specific legislation allowed extra visas in certain years). ♦

Source: Congressional Budget Office based on Department of Homeland Security, Office of Immigration Statistics, *2009 Yearbook of Immigration Statistics* (August 2010), Table 6.

**Exhibit 3.****Admissions of Legal Permanent Residents, by Method of Admission, 2004 to 2009**

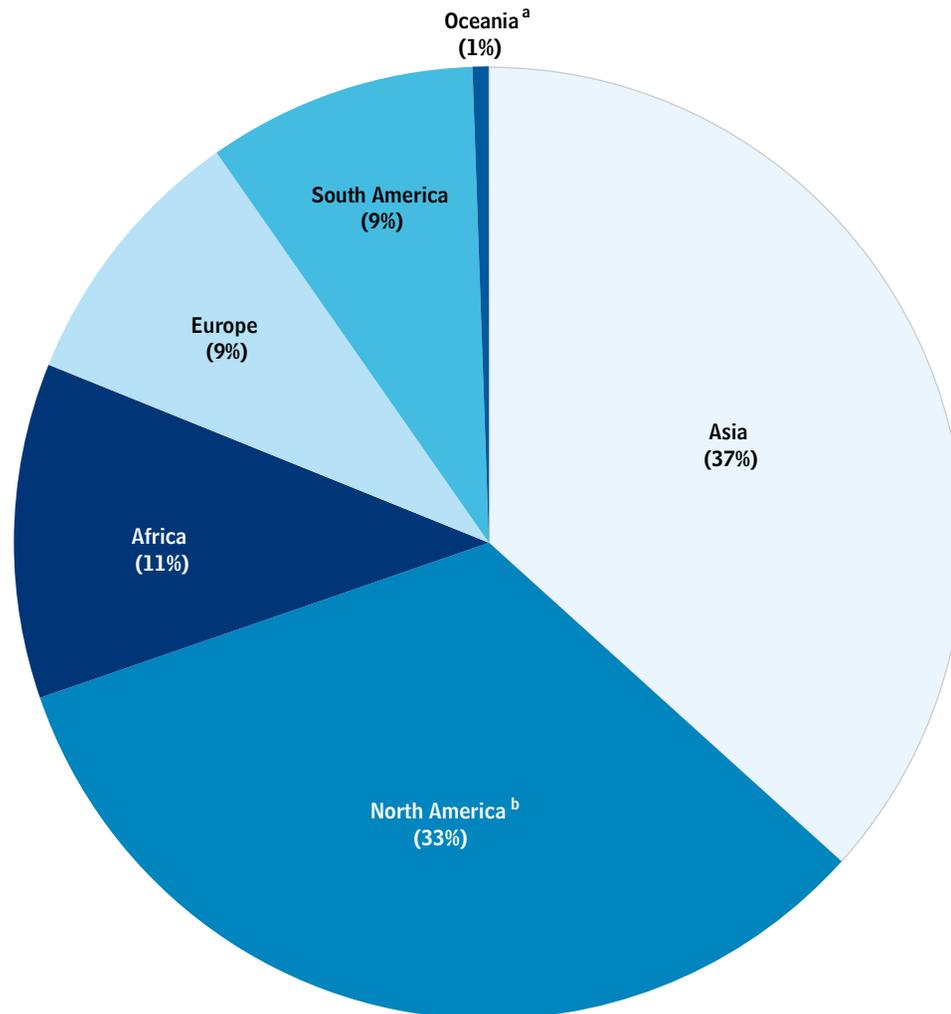
	2004	2005	2006	2007	2008	2009	Percentage Change, 2004 to 2009
<b>Admissions (Thousands)</b>							
First-Time Entry to the United States	374	384	447	431	467	463	24
Change of Status to Legal Permanent Resident	584	738	819	621	641	668	14
<b>Total</b>	<b>958</b>	<b>1,122</b>	<b>1,266</b>	<b>1,052</b>	<b>1,107</b>	<b>1,131</b>	<b>18</b>
<b>Percentage of Yearly Total</b>							
First-Time Entry to the United States	39	34	35	41	42	41	n.a.
Change of Status to Legal Permanent Resident	61	66	65	59	58	59	n.a.
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>n.a.</b>

Source: Congressional Budget Office based on Department of Homeland Security, Office of Immigration Statistics, *2009 Yearbook of Immigration Statistics* (August 2010), Table 6.

Note: n.a. = not applicable.

In 2009, about 40 percent of the 1.1 million individuals granted LPR status entered the United States for the first time as a permanent resident. The other 60 percent were individuals who were already in the United States when they were granted LPR status. Eligible people who are in the United States can file an application with the U.S. government that, if approved, would change their status from temporary resident or visitor to legal permanent resident. In 2009, about 668,000 changes to LPR status were granted, compared with 463,000 admissions of first-time entrants. Most of those adjustments to LPR status were based on a family relationship with a current U.S. citizen or LPR.

The total number of LPR admissions in 2009 was 173,000 (or 18 percent) more than the number in 2004. LPR admissions granted to first-time entrants to the United States rose by 24 percent, and changes of status for people who were already in the country grew by 14 percent. From year to year within that five-year period, however, the number of people granted LPR status has fluctuated. In 2007, for example, that number declined by 17 percent. According to DHS, fluctuations in the flow of admissions may stem from several factors, including the strength of the world economy and how quickly applications are processed by USCIS. ♦

**Exhibit 4.****Admissions of Legal Permanent Residents, by Region of Birth, 2009**

Of the people granted LPR status in 2009, 413,000 (or 37 percent) were born in Asia and 375,000 (or 33 percent) were born in North America (which includes Central America). Those shares remained relatively constant from 2004 to 2009.

Of the total LPR admissions in 2009, the largest share was people born in Mexico (15 percent) and the second largest share was people born in China (6 percent). ♦

Source: Congressional Budget Office based on Department of Homeland Security, Office of Immigration Statistics, *2009 Yearbook of Immigration Statistics* (August 2010), Table 3.

- a. Oceania includes Australia, New Zealand, and the islands of the South Pacific.  
 b. North America includes Central America.

**Exhibit 5.****Admissions of Legal Permanent Residents, by Category, 2004 to 2009**

(Thousands)

Category of Admission	2004	2005	2006	2007	2008	2009	Percentage Change, 2004 to 2009
Family-Based							
Immediate relatives of U.S. citizens	418	436	580	495	488	536	28
Family-sponsored preferences	214	213	222	195	228	212	-1
Employment-Based Preferences	155	247	159	162	167	144	-7
Diversity Program	50	46	44	42	42	48	-4
Humanitarian	120	180	260	158	183	191	59
<b>Total</b>	<b>958</b>	<b>1,122</b>	<b>1,266</b>	<b>1,052</b>	<b>1,107</b>	<b>1,131</b>	<b>18</b>

Source: Congressional Budget Office based on Department of Homeland Security, Office of Immigration Statistics, *2009 Yearbook of Immigration Statistics* (August 2010), Table 6.

About 536,000—or almost half—of the LPRs admitted in 2009 were immediate relatives of U.S. citizens (spouses, parents of citizens 21 years of age or older, and unmarried children under age 21). Other relatives admitted under family-sponsored preferences constituted the next largest category, accounting for 212,000 new LPRs in 2009.

In recent years, the two uncapped categories of LPR admissions (those of immediate relatives of U.S. citizens and those for humanitarian reasons) were the only ones that experienced any significant growth. From 2004 to 2009, admissions of immediate relatives of U.S. citizens increased by 28 percent (or 118,000 admissions), and humanitarian-based admissions increased by 59 percent (or 71,000 admissions). Those changes are also indicative of longer-term trends. Admissions of immediate relatives over the 2005–2009 period were 26 percent greater than such admissions from 2000 through 2004, and admissions for humanitarian reasons rose by 50 percent. By contrast, admissions in the other three categories (family-sponsored preferences, employment-based preferences, and the Diversity Program) are numerically limited, resulting in relatively little change from 2004 to 2009. However, a one-year spike in admissions under employment-based preferences occurred in 2005 because of a change in law that allowed more visas in that category in that year. ♦

**Exhibit 6.****Numerical Ceilings on Family-Based Visas Issued**

Category	Who Qualifies for Category	Ceiling on Visas Issued	Note
Immediate Relatives of U.S. Citizens	Spouses, parents of citizens 21 years of age or older, and unmarried children under age 21	<b>Unlimited</b>	
Family-Sponsored Preferences			
First preference	Unmarried adult (ages 21 and older) sons and daughters of U.S. citizens	23,400	Plus unused visas from fourth preference
Second preference	Spouses and dependent children of LPRs; unmarried sons and daughters of LPRs	114,200	Plus unused visas from first preference
Third preference	Married sons and daughters of U.S. citizens	23,400	Plus unused visas from first or second preference
Fourth preference	Siblings of adult U.S. citizens	65,000	Plus unused visas from first, second, or third preference
<b>Total</b>		<b>226,000</b>	

Sources: Congressional Budget Office based on Department of Homeland Security, U.S. Citizenship and Immigration Services, "Green Card Through Family"; Ruth Ellen Wasem, *U.S. Immigration Policy on Permanent Admissions*, CRS Report for Congress RL32235 (Congressional Research Service, July 20, 2009); and Department of Homeland Security, Office of Immigration Statistics, *U.S. Legal Permanent Residents: 2009*, Annual Flow Report (April 2010).

Note: LPR = legal permanent resident.

The number of immediate family members of U.S. citizens allowed to receive LPR status is not limited under current law; immediate family members consist of spouses, unmarried children under 21 years of age, and parents of citizens who are 21 or older. Those admissions amounted to the single largest category of LPR admissions in 2009.

Family-sponsored visas are also available to a broader set of family members of U.S. citizens and residents. Those visas are governed by a system of preferences, each category of which has a set number of visas available. Unused visas in each preference category may be passed down to the next category, and unused visas in the lowest preference category may be passed up to the first category. For example, unused visas under the ceiling for the fourth preference category (siblings of adult U.S. citizens, which are currently capped at 65,000 plus unused visas from the second and third preference categories) may be used to increase the numerical limit for the first preference category (unmarried sons and daughters of U.S. citizens, which are currently otherwise limited to 23,400). Since 2004, the number of visas issued under family-sponsored preferences has had an annual limit of 226,000. ♦

**Exhibit 7.****Family-Based Admissions of Legal Permanent Residents, 2004 to 2009**

(Thousands)

Category of Admission	2004	2005	2006	2007	2008	2009	Percentage Change, 2004 to 2009
<b>Immediate Relatives of U.S. Citizens</b>	<b>418</b>	<b>436</b>	<b>580</b>	<b>495</b>	<b>488</b>	<b>536</b>	<b>28</b>
Family-Sponsored Preferences							
First preference: unmarried adult sons and daughters of U.S. citizens	26	25	25	23	26	24	-9
Second preference: spouses and dependent children of LPRs; unmarried sons and daughters of LPRs	94	100	112	86	103	99	5
Third preference: married sons and daughters of U.S. citizens	29	23	21	21	29	26	-10
Fourth preference: siblings of adult U.S. citizens	66	65	63	65	69	63	-3
<b>Total</b>	<b>214</b>	<b>213</b>	<b>222</b>	<b>195</b>	<b>228</b>	<b>212</b>	<b>-1</b>

Source: Congressional Budget Office based on Department of Homeland Security, Office of Immigration Statistics, *2009 Yearbook of Immigration Statistics* (August 2010), Table 6.

Notes: LPR = legal permanent resident.

Admissions for a category in one year may be over or under its established ceiling on visas issued in that year (see the previous exhibit). On the one hand, actual admissions may exceed the ceiling because immigration law allows unused visas from one category to be allocated to another category or because some individuals are issued an LPR visa in one year but are not actually admitted to the United States until a subsequent year. On the other hand, actual admissions may be less than the established ceiling because of fewer applications for an LPR visa or because of processing backlogs of such applications in certain years.

Under the program of family-sponsored preferences, which is subject to numerical limits, U.S. citizens and LPRs can sponsor certain immediate relatives for permanent admission. In 2009, about 212,000 people (or 19 percent of all new legal permanent residents) were granted admission under that program.

Admissions through the program of family-sponsored preferences were near the limit of 226,000 in most of the years from 2004 to 2009, averaging 214,000 people annually. Admissions for a category (or the program as a whole) in one year may be over or under its established ceiling on visas issued in that year (see Exhibit 6 for details on those ceilings). On the one hand, actual admissions may exceed the ceiling because immigration law allows unused visas from one category to be allocated to another category or because some individuals are issued an LPR visa in one year but are not actually admitted to the United States until a subsequent year. On the other hand, actual admissions may be less than the established ceiling because of fewer applications for an LPR visa or because of processing backlogs of such applications in certain years.

Most of the family-sponsored preferences are allocated to spouses and dependent children of LPRs, unmarried sons and daughters of LPRs, and siblings of adult U.S. citizens. Together, those categories have an annual ceiling of 179,200 visas, which represents almost 80 percent of the visas allocated for family-sponsored preferences. Over the 2004–2009 period, an average of about 164,000 people were admitted per year in those categories. ♦

**Exhibit 8.****Numerical Ceilings on Employment-Based Visas Issued**

Category	Who Qualifies for Category	Ceiling on Visas Issued	Note
Employment-Based Preferences			
First preference	Priority workers: individuals with extraordinary ability in the arts, athletics, business, education, or the sciences; outstanding professors; and certain multinational executives and managers	40,040	Plus unused visas from fourth and fifth preferences
Second preference	Professionals who hold advanced degrees or who are considered to have exceptional ability	40,040	Plus unused visas from first preference
Third preference	Skilled workers with at least two years' training or experience in labor sectors deemed to have shortages and professionals with baccalaureate degrees; unskilled workers in labor sectors deemed to have shortages	40,040	Plus unused visas from first or second preference; 10,000 of those are reserved for unskilled workers
Fourth preference	Special individuals: ministers, other religious workers, certain foreign nationals employed by the U.S. government abroad, and others	9,940	Religious workers limited to 5,000
Fifth preference	Employment-creation investors who commit at least \$1 million to the development of at least 10 new jobs. (The amount of the investment may be less for rural areas or areas with high unemployment.)	9,940	3,000 minimum reserved for investors in rural or high-unemployment areas
<b>Total</b>		<b>140,000</b>	Plus unused family-sponsored visas from previous year

Sources: Congressional Budget Office based on Department of Homeland Security, U.S. Citizenship and Immigration Services, "Green Card Through a Job"; Ruth Ellen Wasem, *U.S. Immigration Policy on Permanent Admissions*, CRS Report for Congress RL32235 (Congressional Research Service, July 20, 2009); and Department of Homeland Security, Office of Immigration Statistics, *U.S. Legal Permanent Residents: 2009*, Annual Flow Report (April 2010).

U.S. immigration policy aims to bring in workers with certain job skills (such as workers with extraordinary abilities or advanced degrees). Like family-sponsored visas, employment-based LPR visas are governed by a system of preferences, each with a ceiling on the number of visas available. Immigration law gives priority to individuals with extraordinary abilities (the first preference category), followed by professionals with advanced degrees and other workers in occupations that have labor shortages in the United States. In addition, immigration law provides for two further preference categories with much smaller ceilings: special individuals (such as religious workers) and employment-creation investors. Unused employment-based visas from a given preference category may be passed down to the next category. In addition, any unused family-sponsored visas are made available for employment-based visas.

For most foreign nationals to be admitted under the employment-based program, an employer must first submit a labor certification request to the Department of Labor. The department must then certify that there are not enough U.S. workers available locally to perform the intended work or that the employment of the worker will not adversely affect wages and working conditions in the United States. (Certification is waived for three preference categories: ministers and other special workers, workers with extraordinary abilities, and investors in U.S. businesses.) After receiving certification, the employer must file a petition with USCIS on behalf of the worker. ♦

**Exhibit 9.****Employment-Based Admissions of Legal Permanent Residents, 2004 to 2009**

(Thousands)

Category of Admission	2004	2005	2006	2007	2008	2009	Percentage Change, 2004 to 2009
Employment-Based Preferences							
First preference:							
Individuals with extraordinary abilities	31	65	37	27	37	41	31
Second preference:							
Professionals with advanced degrees	33	43	22	44	70	46	40
Third preference:							
Skilled workers, professionals, and certain unskilled workers	86	129	90	85	49	40	-53
Fourth preference:							
Special individuals	5	10	10	5	10	13	149
Fifth preference:							
Employment-creation investors	*	*	1	1	1	4	**
<b>Total</b>	<b>155</b>	<b>247</b>	<b>159</b>	<b>162</b>	<b>167</b>	<b>144</b>	<b>-7</b>

Source: Congressional Budget Office based on Department of Homeland Security, Office of Immigration Statistics, *2009 Yearbook of Immigration Statistics* (August 2010), Table 6.

Notes: \* = fewer than 500; \*\* = not shown because of small number of admissions in 2004.

Admissions for a category in one year may be over or under its established ceiling on visas issued in that year (see Exhibit 8). On the one hand, actual admissions may exceed the ceiling because immigration law allows unused visas from one category to be allocated to another category or because some individuals are issued an LPR (legal permanent resident) visa in one year but are not actually admitted to the United States until a subsequent year. On the other hand, actual admissions may be less than the established ceiling because of fewer applications for an LPR visa or because of processing backlogs of such applications in certain years.

About 144,000 people were admitted in 2009 under employment-based preferences, accounting for roughly 13 percent of total permanent admissions. That number exceeded the statutory ceiling on visas issued by 4,000 because unused family-sponsored visas are made available for employment-based visas.

Overall, about 7 percent fewer individuals were admitted under the program of employment-based preferences in 2009 than in 2004. For the first two preference categories, the number of admissions rose, whereas the number of admissions under the third preference category declined sharply. Admissions for the fourth and fifth preference categories increased from 2004 to 2009, but they represented only a small share of admissions.

The spike in the number of people who were admitted under employment-based preferences in 2005 and the elevated levels in the following years were in part a result of legislation that made more visas available for that category. The American Competitiveness in the 21st Century Act of 2000 (Public Law 106-313) temporarily increased by about 130,000 the number of employment-based visas available over the 2005–2007 period, and the REAL ID Act of 2005 (P.L. 109-13) allowed the Department of State to carry forward about 50,000 unused employment-based visas from previous years (which were used from 2005 through 2007). Admissions in 2008 exceeded the ceiling because unused family-sponsored visas from 2007 were carried forward. ◆

**Exhibit 10.****Numerical Ceiling on Diversity Program Visas Issued**

Category	Who Qualifies for Category	Ceiling on Visas Issued
Diversity Program	Citizens of foreign nations with historically low levels of admission to the United States. To qualify for a diversity-based visa, an applicant must have a high school education or its equivalent or at least two years of training or experience in an occupation.	50,000

Sources: Congressional Budget Office based on Department of Homeland Security, U.S. Citizenship and Immigration Services, "Green Card Through the Diversity Immigrant Visa Program"; Ruth Ellen Wasem, *U.S. Immigration Policy on Permanent Admissions*, CRS Report for Congress RL32235 (Congressional Research Service, July 20, 2009); and Department of Homeland Security, Office of Immigration Statistics, *U.S. Legal Permanent Residents: 2009*, Annual Flow Report (April 2010).

The Immigration Act of 1990 introduced the Diversity Program, which aims to increase admissions of people from countries with historically low levels of immigration to the United States. Since 1999, the number of diversity-based visas available each year has been limited to 50,000; before 1999, the annual limit was 55,000.

Diversity-based visas are issued through a lottery administered by the Department of State. Eligible countries are grouped into six regions, and visa limits are set for those regions on the basis of permanent admissions in the past five years and a region's total population. Applicants must have either a high school diploma or its equivalent or two years of work experience within the past five years in an occupation requiring at least two years of training or experience. Countries that accounted for more than 50,000 permanent admissions across all categories during the preceding five years are excluded from the program. Applicants selected by the State Department who meet all of the requirements and complete the application process are granted LPR status. ♦

**Exhibit 11.****Diversity Program Admissions of Legal Permanent Residents, by Region of Birth, 2004 to 2009**

(Thousands)

Region	2004	2005	2006	2007	2008	2009	Percentage Change, 2004 to 2009
Africa	20	16	18	19	18	24	19
Asia	8	7	8	7	8	14	67
Europe	19	20	15	12	14	9	-53
North America <sup>a</sup>	*	1	1	*	*	*	**
Oceania <sup>b</sup>	1	1	1	1	1	1	**
South America	2	2	2	2	1	*	**
Unknown	*	*	*	*	*	*	**
<b>Total</b>	<b>50</b>	<b>46</b>	<b>44</b>	<b>42</b>	<b>42</b>	<b>48</b>	<b>-4</b>

Source: Congressional Budget Office based on Department of Homeland Security, Office of Immigration Statistics, 2004–2009 *Yearbooks of Immigration Statistics* (selected years), Table 8 (in 2004) and Table 10 (all other years).

Notes: People categorized as “unknown” are those whose region of birth cannot be verified.

\* = fewer than 500; \*\* = not shown because of small number of admissions.

a. North America includes Central America.

b. Oceania includes Australia, New Zealand, and the islands of the South Pacific.

In 2009, foreign nationals from Africa accounted for 24,000 (or about half) of the people admitted under the Diversity Program, and nationals from Asia accounted for 14,000 (or 28 percent)—even though the two largest Asian countries (China and India) were ineligible for the program that year. China, India, and several other Asian countries were ineligible in 2009 because each accounted for more than 50,000 permanent admissions to the United States during recent years. The other countries that were ineligible in that year include Canada, Mexico, the United Kingdom (except Northern Ireland), and several South American countries. In 2009, Ethiopia and Nigeria accounted for more Diversity Program admissions than any other country; each had nearly 4,000 admissions (or about 8 percent).

In 2004, Asian countries accounted for a smaller share of admissions under the program (8,000, or 16 percent), and African and European countries accounted for most of the foreign nationals admitted under the program. The annual limit on diversity visas issued is not always reached because some applicants do not meet the requirements of the program in certain years. ♦

**Exhibit 12.****Numerical Ceilings on Humanitarian Visas Issued**

Category	Who Qualifies for Category	Ceiling on Visas	Note
Humanitarian Refugees	Foreign-born individuals who have been granted refugee status in the United States because of the risk of persecution or a well-founded fear of persecution. Refugees must wait one year before petitioning for LPR status.	Unlimited	No limit on adjustments from refugee status to LPR status, but the President determines a ceiling on the number of individuals who may be granted refugee status.
Asylum-Seekers	Foreign-born individuals who have been granted asylum in the United States because of the risk of persecution or a well-founded fear of persecution. Asylum-seekers must wait one year before petitioning for LPR status.	Unlimited	
Others	Various classes of people, such as Amerasians, parolees, certain Central Americans, Cubans, and Haitians, whose status is adjusted to LPR, and certain people granted LPR status following removal proceedings.	Unlimited	Dependent on authority to grant LPR status in applicable legislation

Sources: Congressional Budget Office based on Department of Homeland Security, U.S. Citizenship and Immigration Services, "Green Card Through Refugee or Asylee Status"; Ruth Ellen Wasem, *U.S. Immigration Policy on Permanent Admissions*, CRS Report for Congress RL32235 (Congressional Research Service, July 20, 2009); and Department of Homeland Security, Office of Immigration Statistics, *U.S. Legal Permanent Residents: 2009*, Annual Flow Report (April 2010).

Note: LPR = legal permanent resident.

The U.S. government has the authority to grant LPR status to refugees, asylum-seekers, and other people for urgent humanitarian reasons. Refugees and asylum-seekers are individuals who are at risk of persecution in their country of nationality on account of their race, religion, membership in a particular social group, or political opinions. The two categories are distinct in that refugees apply for that status from outside the United States, whereas asylum-seekers apply from within the United States or at a port of entry. The President sets a limit on the number of refugees who can enter the United States each year.

Refugees and asylum-seekers are eligible to apply for LPR status one year after obtaining refugee or asylum status, and immigration law does not currently limit the number of refugees or asylum-seekers who can be granted LPR status in any year. Until 2005, the number of asylum-seekers authorized to change their status to LPR was limited to 10,000 each year. However, the REAL ID Act of 2005 eliminated that ceiling.

Others granted admission for humanitarian reasons include people (such as Amerasians, Cubans, and Haitians) who were granted eligibility for LPR status by specific legislation. The category also includes parolees—that is, people who would normally not be admitted but are granted temporary admission for urgent humanitarian reasons or when admission is determined to be of significant public benefit. ♦

**Exhibit 13.****Humanitarian Admissions of Legal Permanent Residents,  
2004 to 2009**

(Thousands)

Category of Admission	2004	2005	2006	2007	2008	2009	Percentage Change, 2004 to 2009
Refugees	61	113	100	55	90	119	95
Asylum-Seekers	10	30	117	81	76	59	473
Others	49	37	44	22	16	14	-71
<b>Total</b>	<b>120</b>	<b>180</b>	<b>260</b>	<b>158</b>	<b>183</b>	<b>191</b>	<b>59</b>

Source: Congressional Budget Office based on Department of Homeland Security, Office of Immigration Statistics, *2009 Yearbook of Immigration Statistics* (August 2010), Table 6.

In 2009, about 191,000 refugees, asylum-seekers, and others were granted LPR status on humanitarian grounds, an increase of 59 percent from 2004. The countries that accounted for the most humanitarian admissions in 2009 were Cuba (18 percent), China (10 percent), and Somalia (7 percent).

In 2005, the Department of Homeland Security reduced a backlog in applications by refugees for LPR status, processing more applications and allowing more refugees to obtain that status. In addition, the REAL ID Act of 2005 eliminated the ceiling of 10,000 admissions for asylum-seekers. Together, those two changes led to a large increase in humanitarian admissions beginning in 2005. ♦



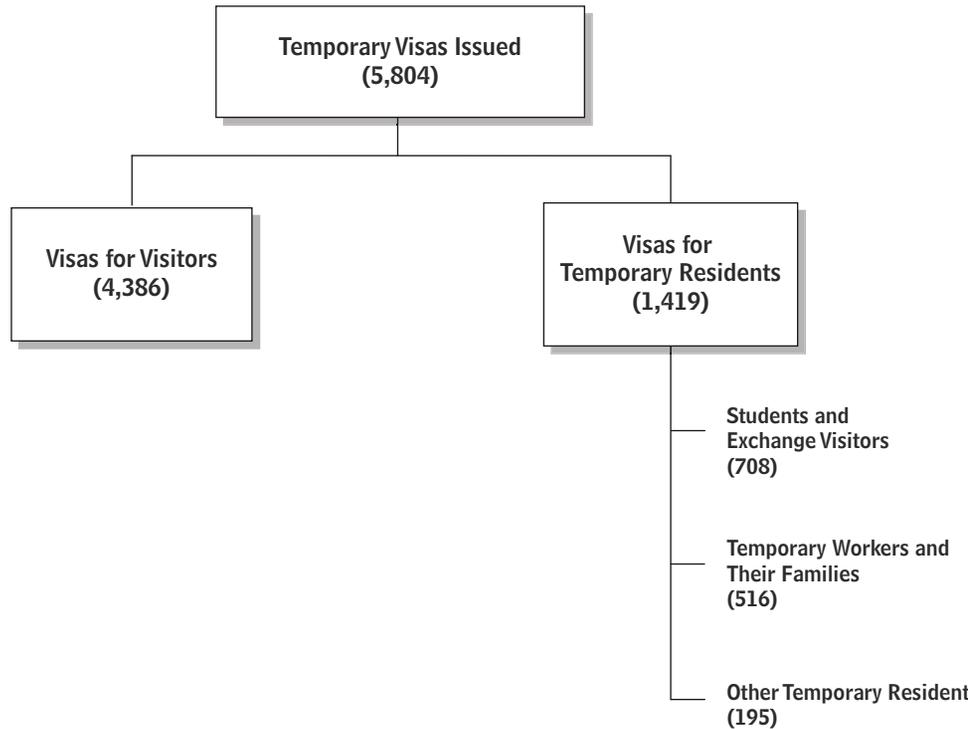
# **Temporary Residents and Visitors**



**Exhibit 14.**

**Types of Visas Issued for Temporary Residents and Visitors, 2009**

(Thousands of visas issued)



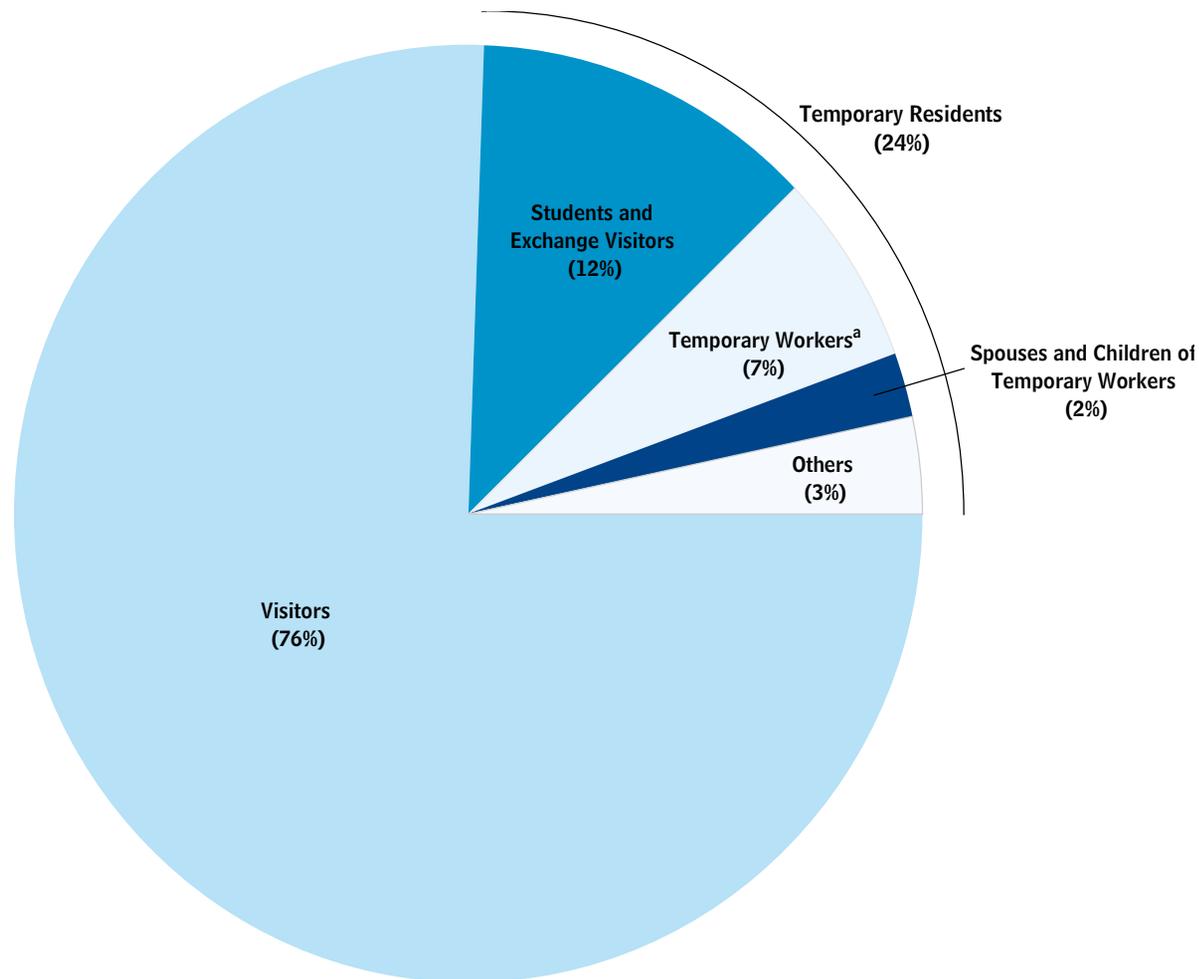
Source: Congressional Budget Office based on Department of State, Bureau of Consular Affairs, *Report of the Visa Office 2009*, Table XVI.

Temporary admission to the United States is granted to foreign nationals who seek entry for a limited time and for a specific purpose—including tourism, diplomacy, work, or study. Such temporary visas can be either visitor visas or temporary resident visas; the latter are generally for a longer period of time.

In general, anyone wishing to obtain a temporary visa for admission into the United States for a specific purpose or activity must provide evidence that the visit will be temporary, agree to depart at the end of the authorized stay, possess a valid passport, maintain a foreign residence, be able to provide proof of financial means (in most cases), and abide by the terms and conditions of admission. For individuals who want to come to the United States lawfully to work temporarily, a prospective employer must generally file a petition on their behalf with the Department of Labor and USCIS. ♦

**Exhibit 15.**

**Visas Issued for Temporary Residents and Visitors, by Visa Class, 2009**



According to data from the State Department, the United States issued about 5.8 million temporary visas in 2009. More than 75 percent of those visas were for people visiting the United States for tourism, business, or both. The rest were for temporary residents, mostly students, exchange visitors, and temporary workers.

In 2009 (according to information not shown here), foreign nationals from Asia accounted for 2.1 million (or 36 percent) of the temporary visas issued, and nationals from North America accounted for 1.3 million (or 22 percent). By country, the largest share of visas was issued to nationals of Mexico (15 percent), and the second largest share was issued to nationals of China (9 percent). ♦

Source: Congressional Budget Office based on Department of State, Bureau of Consular Affairs, *Report of the Visa Office 2009*, Table XVI.

a. Includes families of some temporary workers because the Department of Homeland Security does not separately report admissions of those workers and their family members.

**Exhibit 16.****Number and Type of Temporary Visas Issued, by Visa Class, 2004 to 2009**

(Thousands)

Visa Types	Visa Class	2004	2005	2006	2007	2008	2009	Percentage Change, 2004 to 2009
Visitors (Excluding Visa Waiver Program)								
Business and tourism	B-1/B-2/BCC	3,414	3,741	4,076	4,514	4,696	4,117	21
Others (Transit visitors, commuter students, sea and air crews)	C, C-1/D, D-Crewlist, F-3, M-3	336	325	303	323	290	269	-20
<b>Subtotal</b>		<b>3,750</b>	<b>4,066</b>	<b>4,379</b>	<b>4,838</b>	<b>4,986</b>	<b>4,386</b>	<b>17</b>
Temporary Residents								
Temporary students and exchange visitors								
Students	F-1, M-1	224	244	281	308	351	340	52
Spouses and children of students	F-2, M-2	19	18	21	22	23	22	16
Exchange visitors	J-1	255	275	310	344	359	314	23
Spouses and children of exchange visitors	J-2	28	29	30	32	33	32	15
<b>Subtotal</b>		<b>525</b>	<b>566</b>	<b>642</b>	<b>706</b>	<b>767</b>	<b>708</b>	<b>35</b>
Temporary workers								
Workers of distinguished merit and ability	H-1B	139	124	135	154	129	110	-21
Seasonal workers in agricultural services	H-2A	32	32	37	51	64	60	89
Seasonal workers in nonagricultural services	H-2B, H-2R	76	89	123	130	94	45	-41
Workers with extraordinary ability	O-1, O-2	9	10	11	12	14	14	56
Internationally recognized athletes or entertainers	P-1, P-2, P-3	31	34	33	35	38	33	6
Intracompany transferees <sup>a</sup>	L-1	63	65	73	85	84	65	3
Treaty-related workers and spouses and children	E	37	37	40	41	40	35	-6
Free trade agreement professionals, shortage area nurses, and trainees	H-1B-1, H-1C, H-3	2	2	3	4	4	3	78
International media workers and spouses and children	I	16	17	16	16	17	15	-7
Cultural exchange workers	Q-1, Q-2	2	2	2	2	2	2	3
Religious workers	R-1	9	9	9	10	10	3	-69
NAFTA professional workers	TN	1	2	3	4	5	4	354
<b>Subtotal</b>		<b>416</b>	<b>423</b>	<b>483</b>	<b>542</b>	<b>503</b>	<b>388</b>	<b>-7</b>
Spouses and children of temporary workers <sup>b</sup>	H-4, L-2, O-3, P-4, Q-3, R-2, TD	149	136	145	167	153	127	-14

Continued

The intended purpose of the visit and other facts determine what type of temporary visa is required under U.S. law. There are more than 80 types of temporary visas available, including those for foreign government officials, visitors for business or tourism, academic and vocational students, and workers. Categories of temporary visas are commonly referred to by the letter and numeral that corresponds to the subsection and paragraph of the Immigration and Nationality Act that authorizes that visa; for example, B-2 for tourists, F-1 for foreign students, and J-1 for cultural exchange participants. Many of those specific categories of visas are part of a major class (for example, H-1B is a specific type in the major class of H visas). Exhibit 16 does not show all 80 subcategories, but instead it combines some subcategories into their major class for simplicity.

Temporary students and exchange visitors, as well as members of their families, received 708,000 visas in 2009. Temporary workers and their families received 516,000 visas in that year. H visas (for distinguished and specialty workers) make up the largest subcategory of temporary visas issued for employment: About 218,000 workers received H visas in 2009. Various subcategories are numerically capped, and they are subject to certain exemptions. Of the various subcategories of H visas, the largest is H-1B, for “workers of distinguished merit and ability”; about 110,000 H-1B visas were issued in 2009.

(Continued)

**Exhibit 16.****Continued****Number and Type of Temporary Visas Issued, by Visa Class, 2004 to 2009**

(Thousands)

Visa Types	Visa Class	2004	2005	2006	2007	2008	2009	Percentage Change, 2004 to 2009
Temporary Residents (Continued)								
Other temporary residents								
Expected long-term residents <sup>c</sup>	K, V	72	57	49	51	45	41	-44
Diplomats and other representatives	A, G, N, NATO	136	142	138	141	149	154	13
Victims of trafficking or other criminal activity	T, U	*	*	*	*	*	*	**
<b>Subtotal</b>		<b>209</b>	<b>199</b>	<b>187</b>	<b>192</b>	<b>194</b>	<b>195</b>	<b>-7</b>
<b>Total</b>		<b>5,049</b>	<b>5,389</b>	<b>5,837</b>	<b>6,444</b>	<b>6,603</b>	<b>5,804</b>	<b>15</b>

Source: Congressional Budget Office based on Department of State, Bureau of Consular Affairs, *Report of the Visa Office 2009*, Table XVI; and *Report of the Visa Office 2008*, Table XVI.

Note: NAFTA = North American Free Trade Agreement; \* = fewer than 500; \*\* = not shown because of small number of visas issued.

- a. Includes executive, managerial, and specialized personnel with an international firm or corporation.
- b. This category does not include families of treaty-related workers or families of international media representatives because the Department of Homeland Security and the Department of State do not report the number of visas issued or admissions of family members separately.
- c. This category includes spouses, children, and dependents of legal permanent residents, as well as fiancé(e)s of U.S. citizens.

Although the total number of visas issued in 2009 was 755,000 (or 15 percent) greater than the number issued in 2004, the 2009 figure was nevertheless down by almost 800,000 (or 12 percent) from the 2008 figure of 6.6 million visas issued. The decrease probably stemmed from the global recession, because fewer visas were issued for business, tourism, and employment. Over the 2004–2009 period, the number of visas issued was generally lower than it was from the late 1990s through 2001. The number of visas issued dropped from 7.6 million in 2001 to about 5.0 million in 2003, partly because more stringent criteria for visa issuances were put in place following the 2001 terrorist attacks. ♦

**Exhibit 17.****Admissions of Legal Temporary Residents and Visitors, by Visa Class or Program, 2004 to 2009**

(Thousands)

Admissions	Visa Class or Program	2004	2005	2006	2007	2008	2009	Percentage Change, 2004 to 2009
<b>Admissions Without I-94 Forms</b>		<b>149,419</b>	<b>143,297</b>	<b>141,433</b>	<b>134,150</b>	<b>136,018</b>	<b>126,368</b>	<b>-15</b>
Visitors								
Business and tourism	B-1/B-2	11,538	12,191	13,943	16,017	16,424	15,089	31
Visa Waiver Program for tourism	WT	13,380	13,463	12,828	13,470	15,099	14,273	7
Visa Waiver Program for business	WB	2,223	2,250	2,355	2,486	2,546	1,977	-11
Others (Transit visitors, commuter students, Guam Visa Waiver Program)	C, F-3, M-3, GB, GT	427	844	1,072	1,329	1,365	1,206	182
<b>Subtotal</b>		<b>27,569</b>	<b>28,748</b>	<b>30,198</b>	<b>33,302</b>	<b>35,434</b>	<b>32,544</b>	<b>18</b>
Temporary Residents								
Temporary students and exchange visitors								
Students	F-1, M-1	620	630	704	801	875	910	47
Spouses and children of students	F-2, M-2	36	34	37	41	43	42	16
Exchange visitors	J-1	322	343	385	443	459	413	28
Spouses and children of exchange visitors	J-2	39	40	42	46	47	46	19
<b>Subtotal</b>		<b>1,017</b>	<b>1,046</b>	<b>1,168</b>	<b>1,331</b>	<b>1,424</b>	<b>1,411</b>	<b>39</b>
Temporary workers								
Workers of distinguished merit and ability	H-1B	387	407	432	462	410	339	-12
Seasonal workers in agricultural services	H-2A	22	26 <sup>a</sup>	46	87	173	150	576
Seasonal workers in nonagricultural services	H-2B, H-2R	87	103 <sup>a</sup>	134	155	110	57	-35
Workers with extraordinary ability	O-1, O-2	33	37	42	47	54	59	75
Internationally recognized athletes or entertainers	P-1, P-2, P-3	54	59	63	70	74	70	29
Intracompany transferees <sup>b</sup>	L-1	314	312	321	364	383	333	6
Treaty-related workers and spouses and children	E	183	193	217	239	243	229	25
Free trade agreement professionals, shortage area nurses, and trainees	H-1B-1, H-1C, H-3	2	3	4	6	6	5	101
International media workers and spouses and children	I	37	42	41	44	46	44	19
Cultural exchange workers	Q-1, Q-2	2	3	2	2	3	3	21

DHS estimated that there were 162.6 million temporary admissions in 2009, although only about 5.8 million temporary visas were issued in that year (see Exhibit 16). Admissions exceed visa issuances because most temporary admissions do not require a visa, and a single visa can last for several years and permit multiple entries into the United States. The number of legal temporary admissions in 2009 was the lowest since DHS began reporting that data in 2003 and was about 10 percent less than the number admitted in 2004.

The total number of admissions in 2009 includes roughly 126 million admissions of Canadians and Mexicans who could enter the United States without a visa and who did not have to fill out an Arrival/Departure Record (an I-94 form) when they entered. That figure includes Canadian nationals traveling for business or tourism and certain Mexican nationals with Border Crossing Cards. (Because there is no form to count, DHS estimates the number of those types of legal temporary admissions to the United States on the basis of its workload.)

The total also includes 36.2 million admissions of foreign nationals who completed I-94 forms, an increase of 5.5 million (or 18 percent) from 2004 to 2009. About 90 percent of those admissions were short-term visitors, authorized to stay in the United States for up to six months, mostly for business or tourism. (The rest were temporary residents, mostly students, exchange visitors, or temporary workers and their families.)

*(Continued)*

## Exhibit 17.

Continued

## Admissions of Legal Temporary Residents and Visitors, by Visa Class or Program, 2004 to 2009

(Thousands)

Admissions	Visa Class or Program	2004	2005	2006	2007	2008	2009	Percentage Change, 2004 to 2009
Temporary workers (continued)								
Religious workers	R-1	22	22	23	25	25	17	-20
NAFTA professional workers	TN	66	65	74	85	88	99	50
<b>Subtotal</b>		<b>1,210</b>	<b>1,272</b>	<b>1,399</b>	<b>1,585</b>	<b>1,615</b>	<b>1,404</b>	<b>16</b>
Spouses and children of temporary workers <sup>c</sup>	H-4, L-2, O-3, P-4, Q-3, R-2, TD	298	300	310	347	334	299	1
Other temporary residents								
Expected long-term residents <sup>d</sup>	K, V	104	85	77	76	59	53	-49
Diplomats and other representatives	A, G, N, NATO	277	287	293	303	315	323	17
Victims of trafficking or other criminal activity	T, U	*	*	*	*	*	*	**
<b>Subtotal</b>		<b>381</b>	<b>372</b>	<b>370</b>	<b>379</b>	<b>374</b>	<b>376</b>	<b>-1</b>
Unknown <sup>e</sup>		307	264	222	205	200	196	-36
<b>Total Admissions With I-94 Forms</b>		<b>30,781</b>	<b>32,003</b>	<b>33,667</b>	<b>37,150</b>	<b>39,382</b>	<b>36,232</b>	<b>18</b>
<b>Estimated Total Admissions</b>		<b>180,200</b>	<b>175,300</b>	<b>175,100</b>	<b>171,300</b>	<b>175,400</b>	<b>162,600</b>	<b>-10</b>

Source: Congressional Budget Office based on Department of Homeland Security, Office of Immigration Statistics, *2009 Yearbook of Immigration Statistics* (August 2010), Table 25.

Note: NAFTA = North American Free Trade Agreement; \* = fewer than 500; \*\* = not shown because of small number of admissions; DHS = Department of Homeland Security.

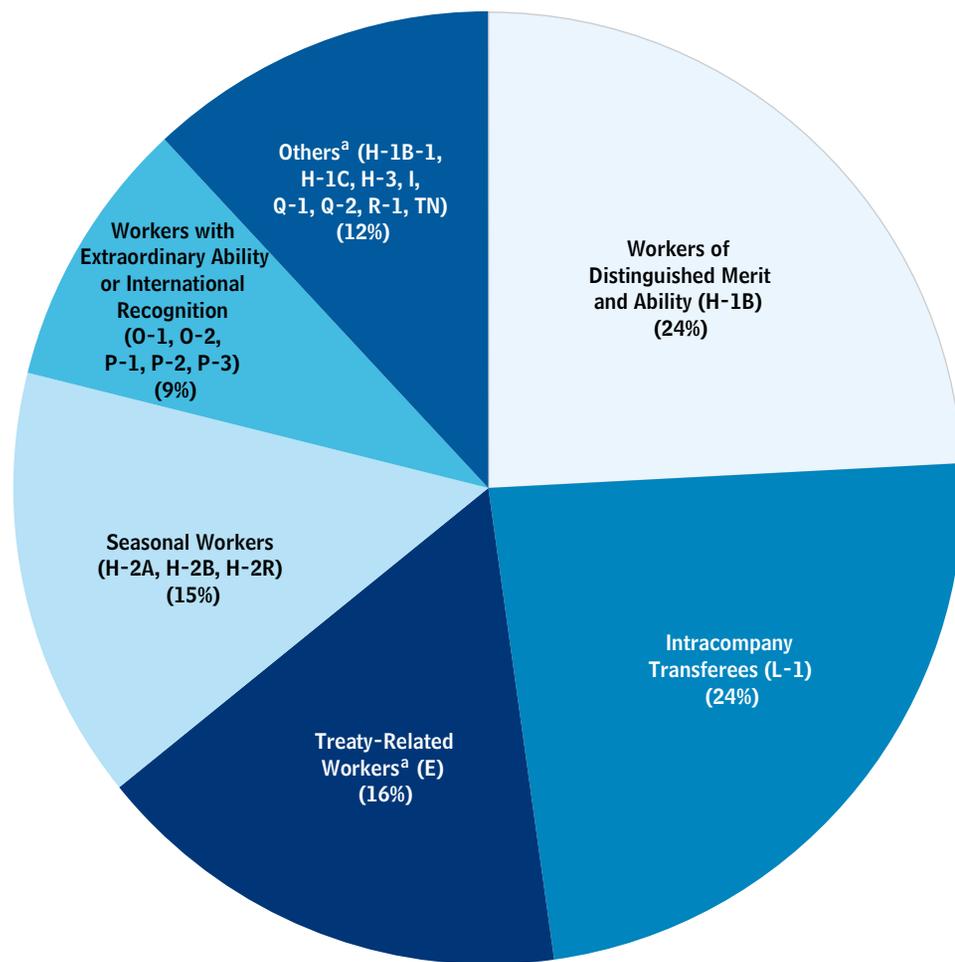
- DHS recorded 129,327 H-2 admissions for 2005 but did not distinguish between H-2A and H-2B. The numbers reported for those categories for 2005 are CBO's estimates based on historical shares of H-2 admissions.
- Includes executive, managerial, and specialized personnel with an international firm or corporation.
- Excludes families of treaty-related workers or families of international media representatives because DHS and the Department of State do not report the number of visas issued or admissions of family members separately.
- Includes spouses, children, and dependents of legal permanent residents, as well as fiancé(e)s of U.S. citizens.
- Comprises people whose I-94 Arrival/Departure Records are incomplete or unreadable.

The I-94 form, which is completed at a port of entry, shows the date the foreign national arrived in the United States and the date the authorized period of stay expires. Temporary residents and visitors with visas are required to fill out an I-94 form for entry into the United States, as are short-term visitors from countries participating in the Visa Waiver Program. Under that program, nationals of participating countries visiting the United States for 90 days or less may enter the country without a visa. However, they are required to complete an I-94 form upon arrival. Thirty-six countries currently participate, mostly European countries, as well as Australia, Japan, and South Korea. (Most of the 16 million admissions under the Visa Waiver Program come from the United Kingdom, Japan, Germany, and France.)

By far, the largest number of temporary admissions in 2009 were from North America (135 million). That figure includes the 126 million admissions of Canadians and Mexicans who did not need a visa to enter the United States; the other 9 million admissions were of temporary residents and visitors who did need a visa and filled out I-94 forms. Of the 36.2 million admissions of temporary residents and visitors who completed an I-94 form, the largest share was citizens of European countries, with 15 million admissions (or 40 percent). The countries with the largest shares were Mexico (18 percent) and the United Kingdom (13 percent). ♦

**Exhibit 18.**

**Admissions of Temporary Workers, by Visa Class, 2009**



Source: Congressional Budget Office based on Department of Homeland Security, Office of Immigration Statistics, *2009 Yearbook of Immigration Statistics* (August 2010), Table 25.

a. Includes families of foreign media representatives (I) and treaty-related workers (E) because the Department of Homeland Security does not separately report admissions of those workers and their family members.

To work temporarily in the United States, foreign nationals need a specific visa, based on the type of work they will be doing. For most types of temporary workers, the applicant’s prospective employer is required to complete a petition; in some cases, a labor certification from the Department of Labor is also required. The U.S. Citizenship and Immigration Services must approve the petition before the applicant can request a visa.

In 2009, about 1.4 million temporary workers were admitted (see Exhibit 17). The largest numbers were for workers of distinguished merit and ability (339,000, or 24 percent of worker admissions) and intracompany transferees (333,000, or 24 percent), employees of multinational companies who were temporarily relocated to the United States and received L-1 visas.

Workers of distinguished merit and ability enter the country with H-1B temporary work visas. Those visas are issued to workers who have highly specialized knowledge in a field such as engineering, physical sciences, social sciences, medicine, education, law, or the arts. To apply for an H-1B visa, an employer must petition the Department of Labor and USCIS on behalf of the worker. Holders of H-1B visas generally must possess a minimum of a bachelor’s degree. However, requisite experience can substitute for education, depending on the individual’s circumstances. ♦



# **Naturalization**



**Exhibit 19.**

**Requirements for Naturalization**

Characteristics of the Applicant	Preconditions			
	Time as Resident	Continuous Residence <sup>a</sup>	Physical Presence <sup>a</sup>	Time in District/State <sup>b</sup>
Is a permanent resident with no special circumstances	Five years	Five years	30 months	Three months
Has been married to and living with a U.S. citizen for the past three years, and spouse has been a U.S. citizen for the past three years	Three years	Three years	18 months	Three months
Was in the armed forces or discharged less than six months earlier, and served for at least one year	Must be a permanent resident at the time of interview	Not required	Not required	Not required
Was in the armed forces for less than one year, or was in the armed forces for more than one year and discharged more than six months earlier <sup>c</sup>	Five years	Five years	30 months	Three months
Performed active military duty during World War I, World War II, the Korean War, the Vietnam War, the Persian Gulf War, or on or after September 11, 2001	Not required	Not required	Not required	Not required
Is a widow or widower of a U.S. citizen who died during active duty	Must be a permanent resident at the time of interview	Not required	Not required	Not required
Is an employee or an individual under contract to the U.S. government <sup>c</sup>	Five years	Five years	30 months	Three months
Is performing ministerial or priestly functions for a religious denomination or an interdenominational organization with a valid U.S. presence <sup>c</sup>	Five years	Five years	30 months	Three months
Is employed by an American institution of research recognized by the Attorney General, an American-owned firm or corporation engaged in the development of foreign trade and commerce for the United States, or a public international organization of which the United States is a member by law or treaty <sup>c</sup>	Five years	Five years	30 months	Three months

Naturalization is the process by which a legal permanent resident can obtain U.S. citizenship. To be naturalized, an applicant must fulfill certain requirements as set forth in the Immigration and Nationality Act. In general, any legal permanent resident who is at least 18 years old and who has maintained the specified period of continuous residence and presence in the United States can apply for naturalization. By law, to accept an individual for naturalization, U.S. Citizenship and Immigration Services must verify that the applicant is of “good moral character”; has knowledge of U.S. history, government, and the English language; and is willing to support and defend the United States and its Constitution.

Most LPRs may apply for naturalization after three to five years of permanent residency. For certain groups, including those who have served in the U.S. military, the requirements for continuous residence and physical presence may be shortened or waived. The requirements for U.S. residency and local residency also vary according to an applicant’s particular situation. ♦

**Exhibit 19.**

**Continued**

**Requirements for Naturalization**

Characteristics of the Applicant	Preconditions			
	Time as Resident	Continuous Residence <sup>a</sup>	Physical Presence <sup>a</sup>	Time in District/State <sup>b</sup>
Is a spouse of a U.S. citizen who is a member of the armed forces, or in one of the three previous categories, and who is working abroad under an employment contract with a qualifying employer for at least one year (including the time at which the applicant naturalizes)	Must be a permanent resident at the time of interview	Not required	Not required	Not required
Is a U.S. national (a noncitizen who owes permanent allegiance to the United States, such as an American Samoan) and has become a resident of any state, and otherwise qualifies for naturalization <sup>c</sup>	Not required	The same requirements as any other applicant for naturalization, depending on qualifications	The same requirements as any other applicant for naturalization, depending on qualifications	Three months, or not required, depending on qualifications
Served on a vessel operated by the United States or on a vessel registered in the United States and owned by U.S. citizens or a U.S. corporation <sup>c</sup>	Five years	Five years	30 months	Three months
Has been employed for five years or more by a U.S. nonprofit organization that promotes the interests of the United States abroad through the communications media	Five years	Not required	Not required	Not required

Source: Congressional Budget Office based on Department of Homeland Security, U.S. Citizenship and Immigration Services, *A Guide to Naturalization* (August 2010).

Note: In addition to the requirements listed above, all applicants must be at least 18 years of age.

- a. Physical presence means not leaving the United States during the period. Trips outside of the United States for six months or longer constitute a break in continuous U.S. residency.
- b. Most applicants must be a resident of the district or state in which they are applying.
- c. Certain exceptions are made for time spent out of the country for these applicants.

**Exhibit 20.****People Naturalized, by Region of Birth, 2004 to 2009**

(Thousands)

Region of Birth	2004	2005	2006	2007	2008	2009	Percentage change, 2004 to 2009
Africa	35	39	50	42	54	60	75
Asia	224	244	264	244	330	276	23
Europe	84	92	101	82	109	90	7
North America <sup>a</sup>	151	181	223	241	462	250	66
Oceania <sup>b</sup>	4	4	4	3	5	4	11
South America	39	45	60	48	85	62	59
Unknown	1	1	1	1	1	1	**
<b>Total</b>	<b>537</b>	<b>604</b>	<b>703</b>	<b>660</b>	<b>1,047</b>	<b>744</b>	<b>38</b>

Source: Congressional Budget Office based on Department of Homeland Security, *2009 Yearbook of Immigration Statistics* (August 2010), Table 21.

Notes: People categorized as unknown are those whose region of birth cannot be verified.

\*\* = not shown because of small number of naturalizations.

a. North America includes Central America.

b. Oceania includes Australia, New Zealand, and the islands of the South Pacific.

About 744,000 people became naturalized U.S. citizens in 2009. Of that total, the largest share was born in Mexico (15 percent), and the second largest share was born in India (7 percent). Because of variations in the pace of processing applications at the Department of Homeland Security, the number of people naturalized fluctuates from year to year; for that reason, averages over time provide a more accurate indication of the number of naturalizations. Between 2005 and 2009, the number of naturalizations was 23 percent higher, on average, than it was from 2000 to 2004. Over the 2004–2009 period, the regions of birth that experienced the largest percentage increase in naturalizations were Africa, with a 75 percent increase, and North America, with a 66 percent increase.

According to the Department of Homeland Security, people naturalized in 2009 spent a median of seven years as legal permanent residents before becoming U.S. citizens. Processing backlogs can delay the transition in status for many people. In July 2007, for example, a surge in applications before an 80 percent increase in the naturalization fee resulted in a processing backlog at USCIS. By the time that backlog was finally lessened in 2008, more than 1 million people had been naturalized in that year. As of the end of 2009, approximately 230,000 applicants for naturalization still awaited a decision, which is lower than the number of applications left pending at the end of any of the previous five years. ◆



# **Enforcement of Immigration Policy**



**Exhibit 21.****Enforcement Efforts, 2004 to 2009**

(Thousands)

	2004	2005	2006	2007	2008	2009	Percentage Change, 2004 to 2009
<b>Apprehensions</b>							
Apprehensions	1,264	1,291	1,206	961	792	613	-52
<b>Removals and Returns</b>							
Nonexpedited Removals	190	159	170	213	245	287	51
Expedited Removals	51	88	111	106	113	107	109
<b>Total removals</b>	<b>241</b>	<b>246</b>	<b>281</b>	<b>319</b>	<b>359</b>	<b>393</b>	<b>63</b>
Voluntary Returns	1,167	1,097	1,043	891	811	580	-50

Source: Congressional Budget Office based on Department of Homeland Security, Office of Immigration Statistics, *Immigration Enforcement Actions: 2009* (August 2010), Table 1; and *2009 Yearbook of Immigration Statistics* (August 2010), Tables 35 and 36.

Notes: The sum of all removals and voluntary returns may not equal total apprehensions for various reasons. Some people who are allowed to withdraw their application for admission at a port of entry are counted as voluntary returns but are not counted as apprehensions. In addition, removal proceedings for some apprehended people may take months or years to resolve, so a person apprehended in one year may not be removed until a later year. Finally, other apprehended individuals may be granted an adjustment of status following an immigration hearing.

The numbers of apprehensions, removals, and returns are counts of events, not individuals. That is, the same individual can be counted as having been arrested, removed, or voluntarily returned more than once in the same year.

The Department of Homeland Security, which is responsible for the enforcement of immigration laws, reported 613,000 apprehensions in 2009 for violations of those laws. Most apprehensions were concentrated at the border; 91 percent (or 556,000) were conducted by the U.S. Customs and Border Protection's (CBP's) Border Patrol agents. The number of apprehensions reported by DHS in 2009 was less than half the number reported in 2004—partly because of changes in reporting practices beginning in 2007. Before 2007, when DHS transferred apprehended individuals between certain programs within the department, it recorded each such transfer as an apprehension. As of 2007, DHS no longer includes those transfers in its data on apprehensions, and as of 2008 it also does not include apprehensions by state and local law enforcement agencies. Some other reasons for the decline after 2006 may be that fewer people are attempting to enter the United States illegally because of increased border security or because of reduced employment opportunities in the United States.

Some foreign nationals who are apprehended attempting to enter the country illegally or who have violated conditions of their immigration status are subject to removal proceedings; others leave voluntarily. Voluntary returns are most common when no criminal violations are evident. In 2009, 580,000 people were allowed to return to another country voluntarily, about half as many as in 2004. (Although various estimates exist, there is no way to count the total number of individuals who enter the country illegally, are not apprehended, and leave voluntarily.) ♦

**Exhibit 22.****Reasons for Removal, 2004 to 2009**

	2004	2005	2006	2007	2008	2009	Percentage Change, 2004 to 2009
<b>Removals (Thousands)</b>							
Noncriminal	148	154	182	217	254	265	79
Criminal <sup>a</sup>	92	92	98	102	105	128	39
<b>Total</b>	<b>241</b>	<b>246</b>	<b>281</b>	<b>319</b>	<b>359</b>	<b>393</b>	<b>63</b>
<b>Percentage of Yearly Total</b>							
Noncriminal	62	63	65	68	71	67	n.a.
Criminal <sup>a</sup>	38	37	35	32	29	33	n.a.
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>n.a.</b>

Source: Congressional Budget Office based on Department of Homeland Security, Office of Immigration Statistics, *2009 Yearbook of Immigration Statistics* (August 2010), Table 38.

Notes: According to the Office of Immigration Statistics, the annual number of removals for previous years was revised in 2006; also, the category Administrative Reason for Removal that was shown in CBO's 2006 report is no longer available for all Department of Homeland Security removals.

n.a. = not applicable; CBP = Customs and Border Protection.

- a. Refers to people removed because of a criminal conviction. However, the numbers for 2008 and 2009 exclude criminals removed by CBP because the agency did not identify whether an individual removed in those years was a criminal. Because all CBP removals are counted as noncriminal removals, the number of criminals removed may be underreported in 2008 and 2009.

Two agencies within DHS share the authority to enforce immigration law. CBP is responsible for determining the admissibility of all arriving individuals at designated U.S. ports of entry and the apprehension of people attempting to cross land and coastal borders without legal authorization. U.S. Immigration and Customs Enforcement (ICE) is responsible for enforcing immigration laws within the borders of the United States. In 2009, ICE removed 298,000 foreign nationals, and CBP removed 95,000.

Removals increased by 63 percent between 2004 and 2009. Expedited removals (which allow immigration officers to order the removal of a foreign national without a court's involvement) more than doubled during the period, and standard removals (those conducted before an immigration judge) rose by about 50 percent (see Exhibit 21). In 2009, people from Mexico accounted for nearly 75 percent of the 107,000 expedited removals.

In 2009, 265,000 removals (or 67 percent) were for noncriminal reasons, such as a lack of proper documentation or a previous removal from the country. The remaining 33 percent of removals (128,000) in 2009 were based on criminal activity, most commonly illegal drug activity, traffic offenses, or immigration-related violations. CBP did not record whether an individual removed in 2008 or 2009 was a criminal. Because all CBP removals in those years are counted as noncriminal removals, the number of criminals removed may be underreported for 2008 and 2009. ◆