Citizenship and Immigration Services

Ombudsman

Annual Report 2008

June 30, 2008

Homeland Security

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Message from the Ombudsman

Congress has tasked the office of the Citizenship and Immigration Services Ombudsman with some distinctive and important functions. First, the Ombudsman is required to assist individuals and employers in resolving problems with U.S. Citizenship and Immigration Services (USCIS). The Ombudsman's office encourages individuals and employers facing significant hardships to submit case problems to us, which we share with USCIS to seek resolution. In a given day, our office can assist a laborer who is having trouble with an employment authorization document, or a Fortune 100 company trying to secure an executive from overseas. We received 4,632 case problems over the reporting period. We intend to make it easier for the underserved, immigration practitioners, and employers to submit case problems to our office through deployment of an online Virtual Ombudsman. We expect to have a Virtual Ombudsman pilot program in place before the end of the fiscal year.

Congress also requires the Ombudsman's office to identify areas in which individuals and employers have problems dealing with USCIS, and to the extent possible, propose changes in the administrative practices of USCIS to mitigate those problems. To aid in the identification of issues and solutions, this office engages in significant outreach through public teleconferences and in-person meetings with individuals, employers, legislative staff, associations, community-based organizations, and members of the immigration bar. We also travel extensively to USCIS facilities to observe their business practices first hand. In proposing changes to USCIS' administrative practices, the Ombudsman's office is committed to generating recommendations that are diligently researched, operationally sound, and communicated in a neutral manner.

Prospectively, comprehensive immigration reform legislation, if enacted, is likely to have a dramatic impact on individuals, employers, and USCIS. To assist Congress in framing such legislation, the Ombudsman's office is committed to producing an objective, non-partisan report focused on the personnel, material, legal, and social resources that USCIS would require to effectively register, and issue evidence of status to, illegal immigrants in the United States. We intend to present the study to Congress by the end of calendar year 2008. We hope that the study will remain a durable, useful source of information for Congress as it addresses comprehensive immigration reform and the vital role that USCIS will play in that effort.

Finally, the Ombudsman's office is required to send an annual report to Congress in June of each year, which (among other things) summarizes the most pervasive and serious problems encountered by individuals and employers, and contains appropriate recommendations for administrative action to resolve such problems. We have made substantial efforts in this Annual Report to provide a clear and accurate picture of the complex series of events that transpired in the reporting year, and to present appropriate, actionable recommendations.

Michael T. Dougherty
Ombudsman

A Note of Appreciation

I wish to thank Homeland Security Secretary Michael Chertoff, and Deputy Secretary Paul A. Schneider and their staffs for assisting me in this office. I also wish to thank acting USCIS Director Jonathan "Jock" Scharfen, former USCIS Director Emilio Gonzalez, Acting USCIS Deputy Director Michael Aytes, and Chief of Information & Customer Service Debra Rogers, for their dedication to providing ever-improving immigration benefits services and for assisting this office in furthering its mission. I wish to thank the Ombudsman's staff, including especially, Luke Bellocchi, Wendy Kamenshine, and Gary Merson, for their diligence in the production of this Annual Report. Further, I thank former CIS Ombudsman Prakash Khatri in helping me transition to this office.

Michael T. Dougherty
Ombudsman

Executive Summary and Recommendations

This Annual Report addresses two major events affecting immigration benefits since the Ombudsman last reported to Congress in June 2007: progress in resolving long-pending FBI name checks, and the unusually large 2007 summer surge of approximately three million applications sent to USCIS.

It further examines the causes of the application surge and how the surge can provide lessons for U.S. Citizenship and Immigration Services (USCIS) in the event of another large influx of applications. For example, another surge could occur should Congress choose to legislate and the President sign into law *comprehensive immigration reform*.

Various events this past summer – changes in "green card line" priority date cutoffs, the increase in immigration fees, introduction of the new naturalization exam, immigrant interest in naturalizing before the November 2008 elections, among other reasons – caused intake at USCIS to reach three million applications (an increase of over one million applications between June and August). Better internal and external communication at USCIS and with other agencies, and an examination of long-term planning, may have alleviated some of the pressures from the surge. Moreover, long-term fixes – including fundamental reforms regarding a fee-funded agency, and updating an underdeveloped and outdated information technology and case management system – have not been implemented.

Further, USCIS issued a 2007 fee increase articulating reduced processing times, among other goals. However, customers have expressed frustration that higher fees have not reduced processing times or otherwise improved customer service. USCIS has testified that it is unable to meet these goals because of the summer surge. The agency should keep customers informed of the progress towards reaching the stated goals.

Foremost among all the recommendations that the Ombudsman makes in this report is the need for USCIS to resource and create a modern and comprehensive case management system.

Beyond that, the Ombudsman also continues to look at fundamental ways to assist individuals and businesses in their interactions with USCIS by improving customer service processes, and by examining developments with E-Verify, military naturalizations, waiver processing, statistics and reporting, and other issues.

To preview the detailed problems discussed in the report, the following list of 2008 Annual Report recommendations is provided in summary form; the statutorily required section on "pervasive and serious problems" in immigration processing explains each of these recommendations and their justifications in greater detail.

Recommendation 1. Comprehensive Case Management System Is Overdue

The Ombudsman recommends that USCIS expeditiously implement a comprehensive and effective case management system. USCIS should determine whether the Transformation Program Office (TPO) pilot has the necessary capabilities and, if so, implement it agency-wide. (AR2008-01) (p. 24)

Justification: A modern, comprehensive case management system is essential to gaining efficiencies needed to manage a large volume of cases. USCIS' selection of a new case management system to replace its antiquated patchwork of systems is long overdue. It is imperative that the agency move beyond preliminary process testing to finalize its review process and quickly issue a near-term timetable for agency-wide implementation.

Recommendation 2.
Digitized Entry, File, and Adjudications

The Ombudsman recommends that USCIS publicize near-term goals for the "digitization initiative" (electronic form filing and case processing). (AR2008-02) (p. 24)

Justification: Many of USCIS' challenges would be minimized or eliminated with electronic entry of applications, digitized Alien Files (A-files), case management, and adjudications.

Recommendation 3.
Working Group to Improve File Tracking

The Ombudsman recommends that USCIS convene a working group to define and implement near-term, national file tracking goals. (AR2008-03) (p. 28)

Justification: An effective and standardized file tracking system would improve efficiency in adjudications and reduce customer frustration. Such improvements are separate and necessary in the interim as USCIS continues development of TPO case management pilot systems. Field offices have developed their own file-tracking and case management tools with varying degrees of effectiveness and usability.

Recommendation 4.
Proactive Customer Service

The Ombudsman recommends that USCIS standardize proactive dissemination of information to all customer service avenues to ensure USCIS personnel can provide consistent and accurate information to customers. (AR2008-04) (p. 34)

Justification: Currently, USCIS' customer service employees do not receive information and guidance in a consistent way. Consequently, customers learn different information from different USCIS sources. USCIS should prepare information prior to a new press release or policy change to ensure all USCIS personnel are prepared to answer customer service inquiries. With a consistent information dissemination method, customers will gain confidence in the information provided and USCIS may see a reduction in inquiries by customers who currently seek clarification of inconsistent information.

Recommendation 5.
Website

The Ombudsman recommends that USCIS examine whether it has devoted adequate resources to the agency's website given the importance of the website to customers. (AR2008-05) (p. 36)

Justification: The USCIS website is a vital resource for customers to: find out about changes in policies and procedures; learn how to submit an application or petition; make an appointment to visit a field office; and obtain information about USCIS offices. The website receives about six million visitors a month, but is managed by very few staff. USCIS should examine whether the resources devoted to the website are sufficient to achieve its potential to assist customers.

Recommendation 6.
Exchange Program

The Ombudsman recommends that USCIS develop an exchange program for USCIS staff who routinely work directly with USCIS customers, including staff at Tiers 1 and 2 of the National Customer Service Center (NCSC), and Immigration Information Officers (IIOs) who handle INFOPASS appointments. (AR2008-06) (p. 39)

Justification: An exchange program will offer opportunities for USCIS customer service staff to learn and appreciate the capabilities of other offices. With greater familiarity and knowledge, staff can direct customers to the appropriate resource to answer their questions.

Recommendation 7.
Tier 1 Scripted Information

The Ombudsman recommends that USCIS ensure its Tier 1 Customer Service Representatives (CSRs) of the NCSC follow the scripted information and are properly notified of changes to scripts. (AR2008-07) (p. 40)

Justification: The manner in which standard scripts are drafted for CSRs at Tier 1 of the NCSC makes it difficult for CSRs to recognize changes to immigration laws, regulations, and policies and provide correct information to customers. It is essential that customers receive current and accurate information from Tier 1 CSRs. If CSRs provide improper advice or erroneous information it may adversely affect applicants' livelihood or family unity.

Recommendation 8.
Consistent Information in USCIS Systems

The Ombudsman recommends that USCIS ensure that all its systems used by customer service personnel to provide information to the public are consistent and accurate. (AR2008-08) (p. 42)

Justification: In many instances, customer service personnel have limited ability to assist the public because of conflicting information in USCIS systems. USCIS should equip customer service personnel with the necessary tools to provide consistent assistance to customers.

Recommendation 9.
Issuance Rates for "Requests For Evidence" Are High

The Ombudsman recommends that USCIS expand the use of filing guidance "tip sheets" to reduce the current "Request for Evidence" (RFE) issuance rates. (AR2008-09) (p. 47)

Justification: Requests for Evidence are time-consuming and costly. RFEs also hinder the timely delivery of immigration services. Issuance of filing guidance and checklists would assist employers and individuals to prepare and submit all documents necessary to facilitate timely adjudications.

Recommendation 10.
Workforce After-Action Report

The Ombudsman recommends that USCIS review the workforce elements of its 2007 surge plan, and make public an after-action report on its findings, including best practices, for possible future application surges. (AR2008-10) (p. 50)

Justification: An after-action report would assist USCIS to prepare for, and respond to, possible future application surges.

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I. Introduction and Mission

Section 452 of the Homeland Security Act of 2002[1] established the position of Citizenship and Immigration Services Ombudsman (Ombudsman) to be appointed by the Secretary of the Department of Homeland Security (DHS) and report directly to the Deputy Secretary. The current Ombudsman is Michael Timothy Dougherty,[2] appointed by Secretary Michael Chertoff on March 3, 2008.

This annual report is submitted pursuant to 6 U.S.C. § 272(c)(1) and covers the activities of the Ombudsman[3] from June 1, 2007, through April 30, 2008.[4]

The statutory mission of the Ombudsman is to:[5]

- Assist individuals and employers in resolving problems with U.S. Citizenship and Immigration Services (USCIS);
- Identify areas in which individuals and employers have problems dealing with USCIS; and,
- Propose changes to mitigate identified problems.

The Ombudsman believes the best way to assist individuals and employers is to encourage efficiency and better customer service at USCIS by recommending solutions to systemic problems in the delivery of immigration benefits,[6] and by identifying best practices. Working alongside USCIS, the Ombudsman also addresses individual cases. The Ombudsman provides unique perspectives because of its independent status[7] and its ability to obtain input directly from customers, stakeholders, and USCIS officials in the field.

The Ombudsman meets widely and frequently with non-governmental stakeholders, such as community-based organizations, legal and employer organizations, as well as USCIS leadership and employees who have insight into the agency's operations. The Ombudsman also evaluates and validates concerns through research alongside USCIS and affected agencies.

Research to identify problems is critical to making informed recommendations. In this regard, the Ombudsman is concerned with USCIS' limitations on the timely access to data and information about agency operations. Communication between the Ombudsman's office and USCIS has improved greatly. The coming year promises a stronger working relationship between the Ombudsman and USCIS, but its effectiveness depends upon the candid and timely sharing of information.

A. State of USCIS

During the formation of DHS in 2003, USCIS was created from the immigration benefits section of the former Immigration

1 Section 452 of the Homeland Security Act (6 U.S.C. § 272). *See* Appendix 2 for excerpts of relevant sections of the Homeland Security Act.

2 *See* Appendix 1 for Mr. Dougherty's biography.

3 In this report, the term "Ombudsman" refers interchangeably to Ombudsman Dougherty, his staff, and the Ombudsman's office.

4 This report does include relevant information from May and June 2008, where applicable.

5 Section 452 of the Homeland Security Act (6 U.S.C. § 272). *See* Appendix 2 for excerpts of relevant sections of the Homeland Security Act.

6 "Immigration benefits" is the term used to describe the service side of the immigration benefits system (contrasted with enforcement). Primary immigration benefits include lawful nonimmigrant status, permanent residence (also known as adjustment of status, evidenced by a "green card"), naturalization, asylum, etc. Secondary immigration benefits or interim benefits include work permits, i.e., Employment Authorization Documents (EADs), and travel documents (*e.g.*, advance parole), obtained while awaiting a primary benefit.

7 Section 452 of the Homeland Security Act (6 U.S.C. § 272) mandates that the Ombudsman report directly to the Deputy Secretary of DHS (as does the USCIS Director under section 451) and submit an annual report to the House and Senate Judiciary Committees without comment or amendment from DHS officers or employees or from the Office of Management & Budget (OMB).

and Naturalization Service (INS).[8] The agency is composed of 17,000 federal and contract employees who process approximately six million immigration applications each year (or about 30,000 applications each day).[9] Its employees work at four large service centers (St. Albans, Vermont; Mesquite, Texas; Laguna Nigel, California; Lincoln, Nebraska), or at 250 offices located worldwide. Each day, USCIS processes 135,000 national security background checks, captures 11,000 fingerprints, issues 7,000 green cards, and answers 41,000 phone inquiries. Communication and coordination of files and checks among all these offices, as discussed below, can be challenging.

Since its formation in 2003, USCIS has tackled surges in immigration applications and backlogs numbering in the millions. During the reporting period, USCIS continued to address the challenges of delivering immigration benefits to customers and, specifically: delays in FBI name checks; the summer 2007 application surge; the need for a comprehensive case management system; a high "request for evidence" rate where filings are incomplete or require additional evidence; and intra-agency and public communications concerns.

The most significant issue for USCIS in the past year was the summer surge in immigration filings. From June through August 2007, USCIS received approximately 67 percent more applications and petitions than it received for the same period in 2006.[10] In FY 2007, USCIS received 1.4 million naturalization applications, nearly double the number of applications from the previous fiscal year.[11] In June and July of 2007, USCIS experienced an increase of nearly 350 percent in naturalization applications compared to the same period in 2006.[12] Prior to the surge, USCIS projected that it would take 5 to 6 months to process an application for naturalization; in April 2008, it projected 13 to 15 months to do so.[13] The deluge in filings caused frontlogs (filings received physically at USCIS offices but for which the agency delayed in issuing receipts) and then backlogs (cases which remain pending past processing time goals), which may take USCIS months or years to complete.

The surge of applications in summer 2007 appears to have been caused by a combination of factors. First, some individuals sought to file applications before fees were set to increase on July 30, 2007.[14] Second, the publication of "current" priority date cutoffs for almost all employment-based categories in the July Department of State Visa Bulletin prompted approximately 300,000 foreign nationals to apply for green cards.[15] In addition, community-based organizations launched campaigns to urge legal residents to become citizens in time to vote in the 2008 elections and to take the exam before announced changes to the naturalization test were implemented.[16] Further, there were apparent efforts to secure immigration status in response to more publicized immigration enforcement and comprehensive immigration reform debate in Congress. Other factors included a proposed rule requiring certain green card holders to replace their Permanent Resident Cards (Forms I-551) that lacked expira-

8 *Hereinafter* referred to as "legacy INS."

9 USCIS Annual Report 2007, pp. 10-11.

10 U.S. House Judiciary Committee Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Hearing on *Naturalization Delays: Causes, Consequences and Solutions* (Jan. 17, 2008) (written testimony of Emilio T. Gonzalez, former USCIS Director, that in June, July, and August 2007, USCIS received over three million applications and petitions compared to the 1.8 million applications and petitions received during the same period in 2006), http://www.uscis.gov/files/testimony/testimony_ETG_17jan08.pdf (accessed May 26, 2008).

11 *Id.*

12 *Id.*

13 U.S. Senate Judiciary Committee Hearing on *Oversight of the Department of Homeland Security* (Apr. 2, 2008) (written testimony of DHS Secretary Michael Chertoff), http://www.dhs.gov/xnews/testimony/testimony_1207231284950.shtm (accessed May 26, 2008); *see also* Statement by Emilio T. Gonzalez, former USCIS Director (Mar. 14, 2008). ("Individuals who filed for citizenship during the summer of 2007 can now anticipate an average processing time of 14-16 months for these applications. That's a marked improvement from the 16-18 months projection we announced in January."), http://www.uscis.gov/files/article/natz_processing_14Mar08.pdf (accessed May 26, 2008).

14 "Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule," 72 Fed. Reg. 29851-29874 (May 30, 2007). For certain submissions, the new fees did not take effect until August 17, 2007. USCIS Update, *USCIS Announces Revised Processing Procedures for Adjustment of Status Applications* (July 17, 2007); http://www.uscis.gov/files/pressrelease/VisaBulletinUpdate17Jul07.pdf (accessed May 26, 2008).

15 Department of State Visa Bulletin, July 2007, http://travel.state.gov/visa/frvi/bulletin/bulletin_3258.html# (accessed Mar. 19, 2008).

16 *See generally* USCIS News Release, *USCIS Announces New Naturalization Test* (Sept. 27, 2007); http://www.uscis.gov/files/pressrelease/NatzTest_27sep07.pdf (accessed May 26, 2008).

tion dates,[17] and the extension of Temporary Protected Status (TPS) for certain nationalities in May and August 2007.[18]

The surge tested the agency's leadership, workforce, and strategic planning capabilities. The Ombudsman notes that USCIS personnel worked hard to provide timely and efficient services, while ensuring the integrity of processing, often with insufficient resources, antiquated information technology, and imperfect facilities. The Ombudsman also notes that many of the described pervasive and serious problems were further exposed by insufficient planning for the surge, as explained below. The consequences of the surge have led, in part, to the current state of USCIS and will drive USCIS operations and policy for months and years to come.

B. Ombudsman's Accomplishments

During the reporting period, the Ombudsman made two formal recommendations and numerous informal recommendations to USCIS. The recommendations sought to improve USCIS services by streamlining processes and ensuring adequate notice for customers of USCIS policies and procedures.

In the 2006 and 2007 Annual Reports[19] the Ombudsman discussed lengthy delays in security screening for immigration benefits, and made public the number of long pending FBI name check cases. USCIS took action to address some of these delays, after these Annual Reports were published, and Congress and the public expressed increased concern.

Since its inception, the Ombudsman has issued a total of 73 recommendations to USCIS, not including the 10 recommendations in this year's Annual Report; USCIS has answered 72 with one pending response in July. The agency has at least partially agreed with 63 of them. While full text versions of the recommendations and responses are available on the office website, the current Annual Report includes a tabular presentation of this information in summary form, in section IV of this Report, for ease of reference.

The Ombudsman also continued to devote considerable resources to assisting individuals and employers with case problems. As discussed further in section VI, "Case Problems," the Ombudsman received an average of almost 100 inquiries per week or approximately 4,632 case problems by U.S. mail or courier service, which represents an increase of 249 percent over last year (from 1,859 cases). This year, the Ombudsman tried to resolve 3,023 case problems with USCIS and sent direct responses to the inquirer for the remaining 1,609 case problems received. The Ombudsman also received over 5,000 emails during the reporting period.[20] As customers and stakeholders become more familiar with this office's services, the number of case problems continues to grow.

The Ombudsman continued a pilot public teleconference outreach series as a regular program on issues including delays in receipting applications, the family unification process for foreign spouses, and overall USCIS services. During the reporting period, the Ombudsman also made site visits to 48 USCIS facilities, including field offices, service centers, and other locations.[21] The purpose of these visits was to see firsthand the issues that individuals and employers encountered, identify systemic problems, and consult with USCIS field offices on proposed solutions. The Ombudsman held numerous meetings with representatives from community-based organizations, employer associations, and the immigration legal community. The Ombudsman also met with other federal government agency partners, including representatives from the Departments of State, Justice, and Labor to facilitate interagency coordination.

Finally, the Ombudsman's office underwent its first leadership transition in 2008 with Prakash Khatri departing in February and Michael Dougherty assuming the position of CIS Ombudsman in March.

17 "Application Process for Replacing Forms I-551 without an Expiration Date" 72 Fed. Reg. 46922-46930 (Aug. 22, 2007).

18 "Extension of the Designation of Honduras for Temporary Protected Status," 72 Fed. Reg. 29529 (May 29, 2007); "Extension of the Designation of Nicaragua for Temporary Protected Status," 72 Fed. Reg. 29534 (May 29, 2007); *see also* "Extension of the Designation of El Salvador for Temporary Protected Status," 72 Fed. Reg. 46649 (Aug. 21, 2007).

19 Ombudsman's Annual Reports 2006 and 2007, pp. 23-26 and 37-45, respectively.

20 The Ombudsman received these emails at *cisombudsman@dhs.gov*. The Ombudsman also receives emails at *cisombudsman.publicaffairs@dhs.gov*, in connection with the office's public teleconferences, and at *cisombudsman.trends@dhs.gov*, to learn about systemic problems and suggestions for how to fix them.

21 *See* Appendix 4 for a complete list of facilities visited.

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II. Pervasive and Serious Problems

The Homeland Security Act, Section 452(c)(1)(B), states that the Ombudsman's report to the House and Senate Judiciary Committees shall include a "summary of the most pervasive and serious problems encountered by individuals and employers, including a description of the nature of such problems." This year's Annual Report details major problems that have impacted immigration benefits processing and initiatives designed to address them. This includes developments in FBI name check delays, causes of the new backlogs resulting from the 2007 summer surge of immigration applications, new application fees, continuing case management system problems and possible solutions, as well as customer and intra-agency communication developments.

A. FBI Name Check Delays

During the reporting period, the FBI name check, one of several security screening tools used by USCIS, continued to significantly delay adjudication of immigration benefits for many customers. However, on February 4, 2008, USCIS issued a Memorandum stating that the agency would adjudicate green card and other selected applications if FBI name checks were pending in excess of 180 days and the applications were otherwise approvable.[22] Also during the reporting period, Congress provided additional funding to USCIS and the FBI for new positions to assist in completing name checks in a timely manner.

In the 2007 Annual Report,[23] the Ombudsman recommended that USCIS: reassess the value of the name check in its current format and establish a risk-based approach to screening for national security concerns; work with the FBI to provide the resources necessary to perform name checks in a timely manner; and provide greater transparency to customers by publishing monthly the number of long-pending FBI name check cases. The USCIS response to the 2007 Annual Report pre-dates the policy change discussed above. The response states,

> [T]hrough revisions to the name-check search criteria introduced via the [Memorandum of Agreement], both the FBI and the USCIS anticipate significant reductions in the pending caseload. . . . The third recommendation (providing monthly totals of long-pending name-check cases) has been implemented. Pertinent data is [sic] being shared and discussed with concerned agencies.[24]

USCIS took steps during the reporting period to address what has been one of the biggest obstacles to the delivery of immigration benefits. However, contrary to its assertion, USCIS still does not customarily make available to customers, or non-governmental stakeholders, the number of long-pending FBI name check cases.

CASE PROBLEM*

An individual filed an application for a green card in November 2003, and filed for an Employment Authorization Document (EAD) in July 2007. In November 2007, the applicant contacted the Ombudsman for assistance. It was determined that the EAD had been approved, but that the green card application was still pending the FBI name check. The green card application was finally approved in April 2008.

22 USCIS Interoffice Memorandum, *Revised National Security Adjudication and Reporting Requirements* (Feb. 4, 2008); *http://www.uscis.gov/files/pressrelease/DOC017.PDF* (accessed May 26, 2008). Specifically: I-485 (Application to Register Permanent Residence or Adjust Status); I-601 (Application for Waiver of Ground of Inadmissibility); I-687 (Application for Status as a Temporary Resident Under Section 245A of the Immigration and Nationality Act (INA); I-698 (Application to Adjust from Temporary to Permanent Resident Under Section 245A of Pub. L. No. 99-603, 100 Stat. 3359 (1986)). The Ombudsman does not comment on the security aspects of the new policy.

23 Ombudsman's Annual Report 2007, p. 45.

24 USCIS 2007 Annual Report Response, p. 4. The Ombudsman received USCIS' response on February 13, 2008.

* *Case Problems are actual cases received in the Ombudsman's office.*

Figure 1: Pending FBI Name Checks 2006–2008

Age of Pending Response	Total Count (May 6, 2008)	Total Count (May 4, 2007)	Total Count (May 17, 2006)
< 3 months	50,328	117,819	82,636
3 - 6 months	34,453	55,749	33,450
6 - 9 months	85,955	28,029	20,047
9 - 12 months	24,947	20,825	16,845
12 - 15 months	17,860	14,133	15,064
15 - 18 months	13,489	13,931	10,636
18 - 21 months	11,759	11,035	8,144
21 - 24 months	13,102	12,398	8,325
24 - 27 months	5,836	11,765	9,754
27 - 30 months	4,461	6,600	4,435
30 - 33 months	2,924	5,732	4,896
>33 months	4,829	31,144	21,570
Total Pending	**269,943**	**329,160**	**235,802**

* As of May 6, 2008, USCIS had 1,728 cases pending 33-36 months, 1081 cases pending 36-39 months, 815 cases pending 39-42 months, 515 cases pending 42-45 months, 388 cases pending 45-48 months, 237 cases pending 48-51 months, 11 cases pending 51-54 months, and 54 cases pending more than 54 months.
Source: USCIS Name Check Aging Reports

1. Background

As of May 6, 2008, USCIS reported 269,943 FBI name check cases pending. Approximately 81 percent (219,615) have been pending more than 90 days, and approximately 28 percent (74,260) have been pending more than one year. As Figure 1 shows above, there are 59,217 fewer cases pending this year than last year. Also, there are 32,478 fewer cases pending more than one year. Approximately seven percent (18,050) of cases have been pending more than two years.[25]

In the 2007 Annual Report,[26] the Ombudsman discussed in detail the FBI name check process. Other types of background and security checks – *e.g.*, fingerprint checks, the Interagency Border Inspection Systems (IBIS) checks, and the Automated Biometric Identification System (IDENT) checks – return results within a few days, if not a few minutes.

The FBI provides information to USCIS regarding anyone who is the principal subject of an investigation or is a person referenced in an FBI file. USCIS adjudicators and the Fraud Detection and National Security (FDNS) unit use this information to determine if applicants are ineligible for benefits. The name checks are a fee-for-service that the FBI provides at USCIS' request. However, during the reporting period, USCIS officials stated that at the operator-to-operator level between USCIS and the FBI, the name checks may assist in ongoing law enforcement actions.

Once USCIS forwards records to the FBI for name checks, the process and the turnaround time for the checks are almost entirely outside of USCIS' control. Completion of the name check process may take considerable time because a manual review of FBI hardcopy files may be necessary.

2. Impact of Long-Pending FBI Name Checks on USCIS Customers and the Agency

FBI name check delays have had substantial consequences for USCIS customers (applicants, families, and employers) and the economy.

Examples of how legitimate customers suffer include:

- Loss of employment and employment opportunities where the position requires green card status or U.S. citizenship;
- Problems obtaining drivers' licenses;
- Inability to qualify for certain federal grants and funds;
- Limitations on the ability to purchase property;
- Difficulty obtaining credit and student loans;
- Disqualification from in-state tuition; and
- Delay in obtaining full citizenship rights, most notably the right to vote.

FBI name checks also have had enormous impact on USCIS, diverting resources from the primary mission of benefits adjudication. For example, there has been significant litigation, which may be increasing, concerning FBI name checks. USCIS

25 USCIS, "FBI Pending Name Check Aging Report" (May 6, 2008). It is important to note that USCIS does not include within its backlog calculation cases pending due to FBI name checks. There are 185,162 FBI name check cases pending more than six months that otherwise would be part of the USCIS backlog. *See generally* subsection B for a discussion of USCIS backlogs.

26 Ombudsman's Annual Report 2007, pp. 37-45.

attorneys and adjudicators spend considerable time responding to such litigation.[27]

3. Actions Taken to Improve the FBI Name Check Process

As discussed above, during the reporting period, USCIS changed its policy to provide for adjudications of green card and other applications where the FBI name check has been pending for more than 180 days and the application is otherwise approvable. Additionally, in October 2007, USCIS and the FBI entered into a Memorandum of Agreement (MOA) to limit the searches of FBI databases to avoid receiving hits that convey no relevant law enforcement or immigration eligibility information.

USCIS and the FBI also have devoted additional resources to conducting the name checks. In FY 2007 and FY 2008, USCIS has been in the process of transferring nearly $30 million in additional funds to the FBI used mainly to hire additional contract staff. This funding allowed the FBI to increase its contract staff from 38 to 250 personnel. Most of the improvements in name check processing times and the reductions in the backlogs have resulted from this increase in resources and personnel. It is estimated that these changes have cleared approximately 60,000 cases from the FBI name check backlog.

In an April 2, 2008 press release, USCIS announced a "joint plan to eliminate the backlog of name checks pending with the FBI. . . . USCIS and the FBI established a series of milestones prioritizing work based on the age of the pending name check."[28] The FBI has already eliminated all name check cases pending more than four years, according to the announcement.

Despite these developments, approximately 270,000 FBI name check cases remained pending as of May. Though details of the FBI name check program remain classified, the Ombudsman encourages USCIS to brief stakeholders and Congress openly and frequently about both the name check backlogs and the initiatives USCIS is considering and undertaking to address these delays, particularly as USCIS attempts to handle the latest surge in immigration applications.

Shortly after Congress established the Ombudsman's office, USCIS promised the imminent implementation of the Background Check System (BCS). This IT system would track the status of background and security checks for pending cases. In a December 2003 USCIS Background Checks briefing, USCIS indicated that this system would be deployed in FY 2004.[29] During the last reporting period, USCIS stated that the BCS was to be implemented in April 2007 with deployment beginning in May 2007. As of this writing, the BCS is yet to be deployed.

Currently, USCIS has limited capability to produce reports detailing the status of long-pending FBI name check cases, or to determine whether a new name check is for an individual who recently had one completed. In addition, USCIS systems do not automatically indicate when a delayed name check is complete and the case can be adjudicated.

BEST PRACTICE

The Miami District Office implemented the Management Information of Known Errors (MIKE) system in March 2006 to address prolonged delays relating to FBI name checks. Cases subject to name checks are sent from field offices to USCIS headquarters for submission to the FBI. If data from the field office contain errors, headquarters returns this information for the field office to correct (a time consuming process). The MIKE system provides quality assurance for the submission of such information. According to the Miami District Office, prior to implementation of the MIKE system, the majority of the cases pending FBI name check took longer than six months. Subsequent to implementation, no data submissions have been returned from headquarters to the Miami office, and only 10 percent take longer than six months.

27 Christopher Lee, *Applicants for Citizenship Take to the Courts to Force Action*, Washington Post, May 7, 2008. ("An increasing number of immigrants seeking U.S. citizenship are using legal action to force a decision from the perennially backlogged immigration office. . . . In fiscal 2005, applicants filed 370 such lawsuits . . . this year [they] are on a pace to surpass 5,200.") *http://www.washingtonpost.com/wp-dyn/content/article/2008/05/06/AR2008050602603.html?nav=emailpage* (accessed May 26, 2008).

28 USCIS Press Release, *USCIS and FBI Release Joint Plan to Eliminate Backlog of FBI Name Checks*, *http://www.uscis.gov/files/article/NameCheck_2Apr08.pdf* (accessed May 26, 2008).

29 USCIS Background Checks, at slide 21 (Dec. 2003).

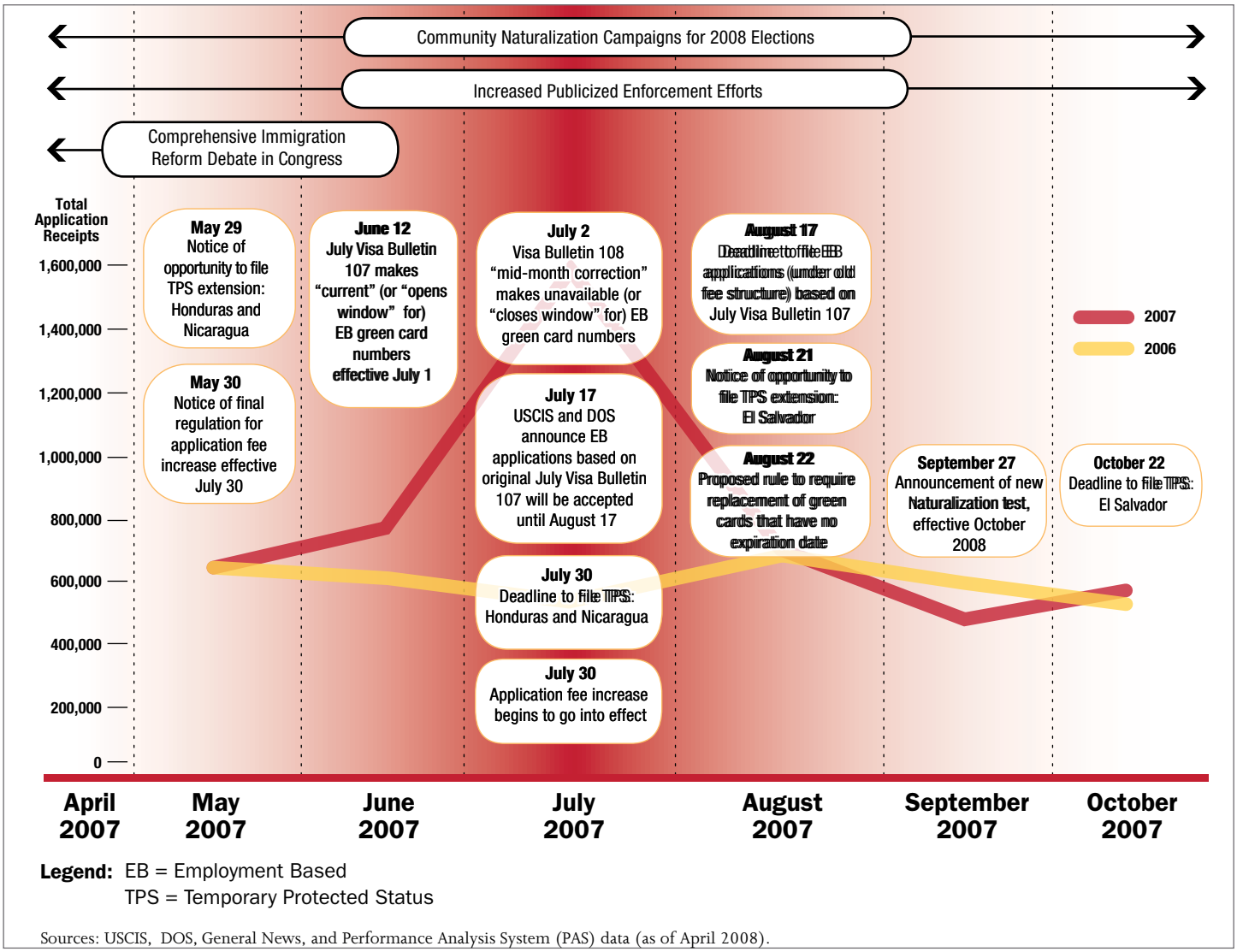
B. Summer 2007 Surge: Frontlogs & Backlogs

Applications and petitions filed with USCIS increased significantly in the summer of 2007. According to USCIS, the agency received nearly three million applications from June to August 2007, compared to 1.8 million filings during the same period of the previous year. This surge in filings resulted in 1.4 million naturalization applications for FY 2007, of which 460,000 were received in July.[30] Customers and USCIS continue to experience problems stemming from the 2007 summer deluge in applications.

The surge may be attributed to one or more of the following:

- Fee increase effective July 30, 2007;[31]
- Employment-based visa availability from the July 2007 Department of State Visa Bulletin;
- Efforts to secure immigration status due to more publicized immigration enforcement;

Figure 2: Events Surrounding the Summer 2007 Surge



Sources: USCIS, DOS, General News, and Performance Analysis System (PAS) data (as of April 2008).

30 *See* USCIS Monthly, April 2008, p. 3. http://www.uscis.gov/files/native-documents/USCIS_Monthly_April08.pdf (accessed May 26, 2008).

31 "Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule," 72 Fed. Reg. 29851-29874 (May 30, 2007). For certain submissions, the new fees did not take effect until August 17, 2007; USCIS Update, *USCIS Announces Revised Processing Procedures for Adjustment of Status Applications* (July 17, 2007); http://www.uscis.gov/files/pressrelease/VisaBulletinUpdate17Jul07.pdf (accessed May 26, 2008).

- Comprehensive immigration reform debate in Congress;
- Naturalization campaigns by community based organizations and advocacy groups in anticipation of the 2008 elections;
- Announced change in the naturalization test to be effective in October 2008;
- Proposal in August 2007 to require replacement of green cards that have no expiration date;[32] and
- Extension of the opportunity to file for certain Temporary Protected Status (TPS) benefits, which occurred around the same time.[33]

1. Frontlog

As a result of the surge, USCIS was unable to promptly deposit fees accompanying applications, issue receipts to customers, and enter initial data for applications into USCIS databases. This delay is often referred to as the "frontlog." Due to the surge, USCIS advised the public that "receipt notices," Form I-797 (Notice of Action), usually issued two weeks after filing,[34] could be delayed up to 15 weeks for naturalization applicants and up to 12 weeks for green card applicants.[35]

To address the receipting delay, USCIS added work shifts, provided overtime for contract and government employees, temporarily detailed staff to service centers that needed additional help, transferred files between service centers and also to the Chicago Lockbox for assistance in receipting, and realigned some resources.[36] USCIS assisted customers by:[37]

- Honoring the date an application actually was received, even if USCIS did not issue a receipt until months later;
- Re-reviewing the case if rejected due to USCIS error;
- Not rejecting frontlogged cases if a check expired; and
- Removing the receipt requirements for certain applicants traveling outside of the United States, effective November 1, 2007.[38]

USCIS responded to a number of individual case problems submitted by the Ombudsman concerning the receipting delay. The agency was responsive in finding solutions.

However, there appeared to be limited foresight and planning for the size of the surge encountered. Some of the events in Figure 2 were ongoing and foreseeable, such as the well-publicized naturalization campaigns and the anticipated fee increase. For other events, such as the announced change in the new naturalization test and the proposal to renew green cards with no expiration date, the agency could have timed them to avoid possibly increasing the influx of applications.

During the frontlog, USCIS might have shifted resources earlier to address the delays. For example, as of December 7, 2007, the Nebraska and California Service Centers completed issuing receipts for naturalization applications received during the surge, while Vermont and Texas still were receipting naturalization applications received in October and July, respectively.[39] In another example, USCIS waited to shift I-130s (Petitions for Alien Relative) to the Chicago Lockbox until at least December[40] to assist in issuing receipts. In February, USCIS announced that it completed issuing receipts for I-130 petitions filed in the summer. Form I-130s were the last application type to receive a receipt notice delayed by the frontlog.

a. Information Provided to the Public

Many customers expressed their concerns with the Ombudsman through inquiries, case problems, and public teleconferences, including: (1) receipt notices still not received although the website posted receipting information indicating that a receipt should have been issued; (2) potential job loss as employment authorization applications remained pending more than 90 days; (3) erroneously rejected applications; (4)

32 *See* "Application Process for Replacing Forms I-551 Without an Expiration Date," 72 Fed. Reg. 46922 (Aug. 22, 2007).

33 *See* "Extension of the Designation of Honduras for Temporary Protected Status," 72 Fed. Reg. 29529 (May 29, 2007); "Extension of the Designation of El Salvador for Temporary Protected Status," 72 Fed. Reg. 46649 (Aug. 21, 2007); and "Extension of the Designation of Nicaragua for Temporary Protected Status," 72 Fed. Reg. 29534 (May 29, 2007).

34 USCIS Update, *USCIS Receipt and Processing Delays, Frequently Asked Questions*, on "Is this why I haven't received my receipt notice?" *www.uscis.gov* (accessed on Oct. 22, 2007).

35 USCIS Update, *USCIS Application and Receipting Update*, *www.uscis.gov* (accessed on Oct. 22, 2007).

36 *See* USCIS 2007 Annual Report Response, p. 2.

37 USCIS Update, *USCIS Application and Receipting Update*. *www.uscis.gov* (accessed on Oct. 22, 2007 and June 10, 2008).

38 *See* "Removal of Receipt Requirement for Certain H and L Adjustment Applicants Returning From a Trip Outside the United States," 72 Fed. Reg. 61791-61793 (Nov. 1, 2007).

39 USCIS Update, *USCIS Application and Receipting Update*, *www.uscis.gov* (accessed Dec. 10, 2007).

40 Email to the Ombudsman from USCIS, dated December 7, 2007.

incorrect information on the receipt notice; and (5) missed opportunities to obtain a visa.[41] The Ombudsman understands that the information provided by the agency sometimes did not address customer concerns.

Many applicants utilize more than one USCIS customer service avenue to obtain information. At this challenging time, it was even more crucial to inform the customer with up-to-date, consistent information. Instead, the Ombudsman understands that the number of inquiries may have increased, at least in part, because the information provided was sometimes confusing or inconsistent.

Outside of the USCIS Information and Customer Service Division (ICSD), a lengthy internal approval process for releasing information to the public also contributes to information dissemination concerns. This process may hamper the ICSD's ability to provide timely information to the public.

CASE PROBLEM

Email to the Ombudsman dated October 17, 2007. The applicant filed a green card application with the Nebraska Service Center on July 2, 2007. However, the applicant received the receipt notice from the Texas Service Center. The applicant noted in the email that the receipt date on the notice showed August 13, 2007, rather than the actual receipt date of July 2, 2007. In October, the customer contacted the National Customer Service Center (NCSC) to correct the date and was told to send the Texas Service Center proof of delivery and request that the actual receipt date be honored.

The case problem above is illustrative of inconsistent information provided by USCIS. Specifically, the direction given by the NCSC was contrary to the information posted on USCIS' website. Although the website indicated the agency would honor the actual receipt date and directed the customer to call the NCSC to correct a receipt notice error, the NCSC, contrary to web instructions, directed the applicant to a service center. The Ombudsman received numerous inquiries during and after the surge period indicating that the receipt date on customers' receipt notices was incorrect. Some customers tried multiple avenues to correct the date before contacting the Ombudsman.

CASE PROBLEM

Email to the Ombudsman dated October 18, 2007. The applicant filed a green card application with the service center on June 29, 2007. The receipt notice, which the applicant received from USCIS in August, showed a receipt date of June 29, 2007, but Case Status Online indicated that the case was received on August 14, 2007. The applicant called the NCSC to clarify the receipt date and was told that the case was received on August 14, 2007, rather than the actual receipt date on the receipt notice.

CASE PROBLEM

Email to the Ombudsman dated November 2, 2007. The applicant filed an application on July 2, 2007. The receipt notice showed August 10, 2007, as the receipt date rather than the actual date that USCIS received the application. The applicant referenced USCIS' FAQs, which stated that USCIS would honor the actual date the application was received. The applicant contacted the NCSC, went to an INFOPASS appointment, and faxed two correction requests to the service center in an effort to correct the issue.

i. The Website

To address questions regarding the surge, USCIS posted information on its website. However, it was several weeks, if not months, before the agency provided information detailed enough to answer customer concerns:

- "Application and Receipting Update" – The data on USCIS' website explained the surge and what to expect for overall receipt and adjudication processing times. The website listed each service center, application type, and the receipt date through which USCIS completed initial data entry and issued receipt notices.
- "Frequently Asked Questions" (FAQs) – Provided information about: (1) the cause of the receipting delay; (2) how it would affect the adjudication of the case; (3) employment authorization documents; (4) travel; (5) how to respond to rejection notices; and (6) other repeated concerns.

USCIS provided several updates to the receipting times on the website and, at a later date, additions to the FAQs. However,

41 The filing of the petition (or of the labor certification application for employment-based petitioners) establishes a "priority date." Priority dates determine a beneficiary's "place in line" relative to other beneficiaries of the same category and nationality. *See generally* 22 CFR § 42.53. *See also* subsection B.1.c.ii.

the Ombudsman continued to hear from customers that information on the website was confusing. For example, on the "Application and Receipting Update" USCIS indicated that receipt notices could be delayed for up to 15 weeks for naturalization applicants. On December 10, 2007, the posted processing times on the website stated that the Texas Service Center was providing receipts for naturalization applications filed on July 30, 2007, which equaled more than an 18 week delay.[42] In April 2008, there continued to be inconsistencies on the agency website regarding the processing delays of the surge cases.

While USCIS tried to provide helpful information to customers through its FAQs, some answers merely added to the confusion, or did not alleviate the anxiety customers faced during this time.[43] For future surges, USCIS should try to anticipate issues that may develop and provide timely information to decrease inquiries at USCIS.

ii. National Customer Service Center (NCSC)

The USCIS website also directed customers to call the NCSC for many frontlog-related problems, for example: (1) if the customer did not receive a receipt notice even though USCIS' website indicated that a receipt notice should have been issued; (2) the customer's Employment Authorization Document (EAD) did not arrive within 90 days; or (3) if the receipt notice contained incorrect information such as the wrong receipt date or a misspelling.

The Ombudsman received many positive reports regarding the friendliness and sensitivity of the NCSC staff. However, wait times to reach live help lengthened with an increase in surge-related inquiries.[44] The Ombudsman also is aware of many instances where the NCSC did not have the information or provided information conflicting with that from other USCIS customer service avenues.

Customers expressed frustration that the website directed them to call the NCSC if they had not received their receipt notice and their application was filed before the date posted on the website. However, often the NCSC could not assist without a receipt number. Many customers noted that the NCSC told them to call back again in 14 days, 30 days, 90 days, or another timeframe.[45]

CASE PROBLEM

Email to the Ombudsman dated October 12, 2007. The applicant filed for a green card and EAD on July 2, 2007. USCIS cashed the accompanying checks on October 5, 2007. When the applicant contacted the Ombudsman, the applicant had not received any receipt notices and the EAD application had been pending more than 90 days. Case Status Online indicated that USCIS was working on the case. USCIS FAQ on the website instructed the applicant to call the NCSC if the EAD was pending more than 90 days. When the applicant called, the NCSC told the applicant to wait an additional 60 days to call back to reach an Immigration Information Officer (IIO).

CASE PROBLEM

Email to the Ombudsman dated December 19, 2007. An applicant contacted the Ombudsman after the EAD had been pending more than 120 days. The applicant went to two INFOPASS appointments where the IIOs said all they could do was send an email to the Nebraska Service Center to request an expedite of the application. The applicant called the NCSC many times and received different answers each time. The NCSC could not open a "service request" to research the case because the receipt date was listed as September rather than the actual receipt date of August.

See subsection I for a complete discussion of the NCSC, which as the voice of USCIS must have access to complete information that will be useful to the customer.

42 USCIS Update, *USCIS Application and Receipting Update*, *www.uscis.gov* (accessed Dec. 10, 2007).

43 For example, see number 18 of the Ombudsman's teleconference on the "USCIS Receipting Delay – How Does This Affect You?" Oct. 12, 2007, "Change of Address – How can I change my address when I don't have a receipt number? [Ombudsman's] response: Unfortunately, the "frequently asked question" USCIS has on its website for this question does not answer it. The website indicates that an applicant should look for the receipt number on the back of the returned check. However, many people still have not received a return check or receipt notice. We ask that USCIS revisit this question again and provide clearer instructions on how customers can make these changes." Ombudsman's website, *http://www.dhs.gov/xabout/structure/gc_1192724755499.shtm*.

44 Meeting with USCIS December 12, 2007. In December 2007, there was a fifteen minute wait to reach Tier 2 personnel on Mondays, and 9–10 minutes the rest of the week.

45 Email messages received by *cisombudsman.publicaffairs@dhs.gov*.

b. Assisting Customers During the Surge

The Ombudsman closely tracked the events of the summer surge from its inception to assist individuals and employers in furtherance of its mission. The Ombudsman made repeated efforts to obtain complete data regarding the surge and its effect on applicants, and took the initiative to provide input to USCIS.

Further, the Ombudsman held two teleconferences to inform the public and address its concerns: "USCIS Receipting Delay – How Does This Affect You," on October 12, 2007, and "USCIS Receipting Delay II – How Does This Affect You," on November 2, 2007.[46] The USCIS Information and Customer Service Division Chief gave an update on one of the calls. The two teleconferences attracted a significant number of attendees and generated a flood of emails to the Ombudsman. Customers had many unanswered questions. The Ombudsman continually sought answers to those questions from USCIS. USCIS finally shared some answers with the Ombudsman on April 30, 2008, but by then most of the information was moot because USCIS had completed issuing receipts from the summer surge in February.

c. Specific Issues

i. Prioritizing Filings

For receipting purposes, USCIS prioritized filings by application type. Green card applications had first priority, to allow for processing of EADs within 90 days of filing, pursuant to regulation.[47] The second priority was to provide receipts for naturalization applications.[48]

Some applicants shared with the Ombudsman their concerns with this prioritization. They questioned USCIS' decision to place a higher priority on work authorization for nonimmigrants rather than permanent residents seeking to become citizens. In addition, the Ombudsman heard concerns from U.S. citizens whose petitions to be reunited with their foreign spouses were not prioritized.[49]

CASE PROBLEM

Email to the Ombudsman dated January 31, 2008. The applicant filed Form I-130 (Petition for Alien Relative), which was received at the service center in late November. As of the end of January, the applicant still had not received the receipt notice necessary to file Form I-129F (Petition for Alien Fiancé(e)) for the spouse to obtain a K-3 visa (nonimmigrant visa for spouse of U.S. citizen). The applicant called the NCSC and was told to wait 4-5 weeks before calling again.

The Ombudsman notes USCIS' efforts to process EADs within 90 days and understands from USCIS that the vast majority of customers did receive their EADs within that timeframe. Even so, the Ombudsman received many complaints from individuals who did not receive their EADs within 90 days.

Moreover, applicants filing prior to the fee schedule increase, who still have not yet received their green card, will need to reapply for an EAD to remain authorized to work due to the projected processing delays. USCIS should revisit the Ombudsman's March 19, 2006, recommendation (Recommendation 25) for USCIS to begin immediate issuance of multi-year EADs. USCIS published an interim rule on July 30, 2004, providing for issuance of multi-year EADs,[50] but the agency still has not implemented this rule for most applicants.

In June 2006, the agency noted that it will issue multi-year EADs in limited circumstances. After evaluating certain classes of applicants, USCIS explained that issuing multi-year EADs is "not practical, especially when considering the diminishing USCIS backlog and the decrease in adjudication times for I-485s. . . ."[51] In light of this year's surge and ensuing backlog, the Ombudsman suggests USCIS begin immediate implementation of a multi-year EAD.[52]

46 *See www.dhs.gov/cisombudsman* for notes from these calls.

47 8 CFR § 274a.13(d).

48 USCIS Frequently Asked Questions, "Is USCIS prioritizing certain application(s) during the receipting process?" *www.uscis.gov* (accessed Oct. 22, 2007).

49 *See* section III E, "K-3 Visa Family Reunification Process."

50 "Employment Authorization Documents," 69 Fed. Reg. 45555-45557 (July 30, 2004).

51 USCIS Interoffice Memorandum, *Response to Recommendation #25 Employment Authorization Document*, (June 20, 2006).

52 *See Remarks by Homeland Security Secretary Michael Chertoff and Department of Commerce Secretary Gutierrez at the 'State of Immigration Address'*, June 9, 2008 (stating USCIS plans to implement this for some EADs). *www.uscis.gov* (accessed June 19, 2008).

ii. Missed Opportunity to Obtain a Visa Number

Customers complained that, during a window of opportunity provided by the July Visa Bulletin to obtain an EB immigrant visa number, they were not given a chance to correct any erroneously prepared applications and perfect timely resubmissions. As discussed in subsection C below, a window of opportunity to obtain an EB immigrant visa existed for a short period of time. Customers filed green card applications quickly (many after having to obtain new medical exams and translations of foreign documents), anticipating that the window of opportunity would close; however, errors were made on application submissions. Apparently due to the overall surge, what normally would be rejected and returned quickly as an erroneous filing (*e.g.*, incorrect fee or lack of signature), took much longer to return. Customers complained that, under normal circumstances, they would have had a chance to re-file the application before the window of opportunity for an immigrant visa number closed. However, USCIS rejected these resubmitted cases based on the fact that the window had closed (immigrant visas were no longer available) and that customers' original submission contained one or more errors. Customers in response argued that most errors could have been resolved quickly or that the errors were *de minimus* and that the applications should have nevertheless been accepted. As a result, some applicants, who were not able to file during this opportunity, will be unable to file for months or years and were not able to receive ancillary benefits (*e.g.*, employment authorization).

CASE PROBLEM

Email to the Ombudsman dated January 11, 2008. The writer explained that a green card application filed in August was rejected in October for an improper fee submission. The notice instructed the applicant to re-submit the petition with new fees and all supporting documents as well as a copy of the notice. The applicant re-submitted the application in November only to have the case rejected because an immigrant visa was no longer available.

2. Processing Times

a. Surge Processing Times

Prior to the 2007 surge and as a part of the fee rule, USCIS announced that the agency planned to reduce processing times by two months: from six to four months for most applications, and from seven to five months for naturalization applications.[53] During the surge, USCIS posted an "Advisory on Processing Times" on its website to explain that processing would be delayed for cases received during the surge. The agency initially estimated that naturalization applications would take 16-18 months, green card applications 10-12 months, and all other applications 9-10 months. Subsequently, USCIS reduced the naturalization estimate for processing to 14-16 months[54] and later to 13-15 months.[55] During this time, the Ombudsman visited different sized USCIS field offices some of which indicated that their processing times were shorter than the national projections.

On April 22, 2008, USCIS posted a press release with updated naturalization processing times for individuals who filed in the summer of 2007.[56] The press release shows processing times by field office projected for the end of September 2008 as in the map figures below. USCIS has made efforts to post data giving customers more realistic expectations of where they are in the process. However, USCIS did not provide this information to the public at an earlier time, which would have helped manage customer expectations. As stated, many of the offices' projected processing times in the press release are less than the current projection of 13-15 months for naturalization applications. Of the 69 offices for which USCIS regularly posts monthly processing times and for which it posted September 2008 projected times, 15 have projected times at or near USCIS' seven month average naturalization processing time

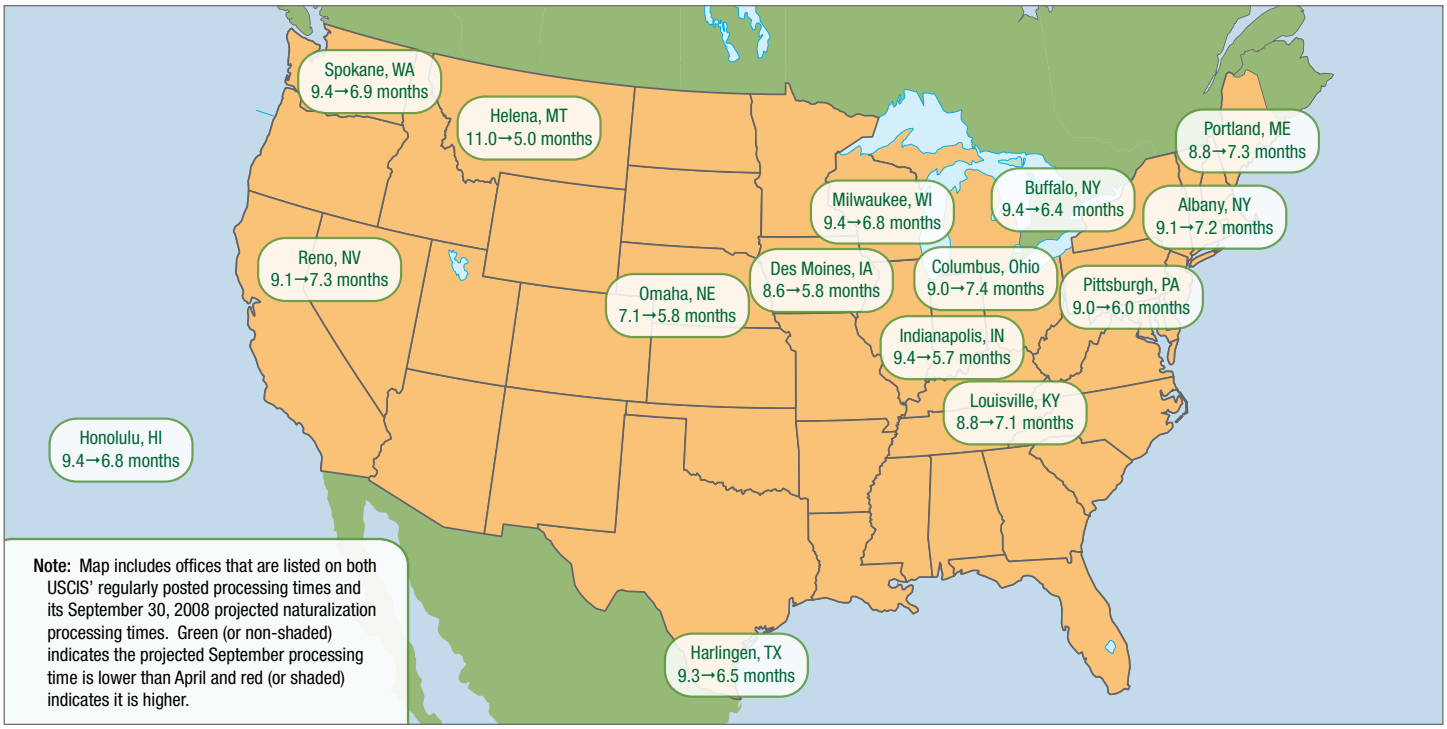
53 *See generally*, "Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule," 72 Fed. Reg. 29851-29874 (May 30, 2007).

54 USCIS, *Statement* (Mar. 14, 2008) Office of Communications, Former Director Emilio T. Gonzalez, on processing of Naturalization Applications. *www.uscis.gov* (accessed Mar. 14, 2008).

55 U.S. Senate Judiciary Committee Hearing on *Oversight of the Department of Homeland Security* (Apr. 2, 2008) (testimony of DHS Secretary Michael Chertoff), *http://www.dhs.gov/xnews/testimony/testimony_1207231284950.shtm* (accessed May 26, 2008).

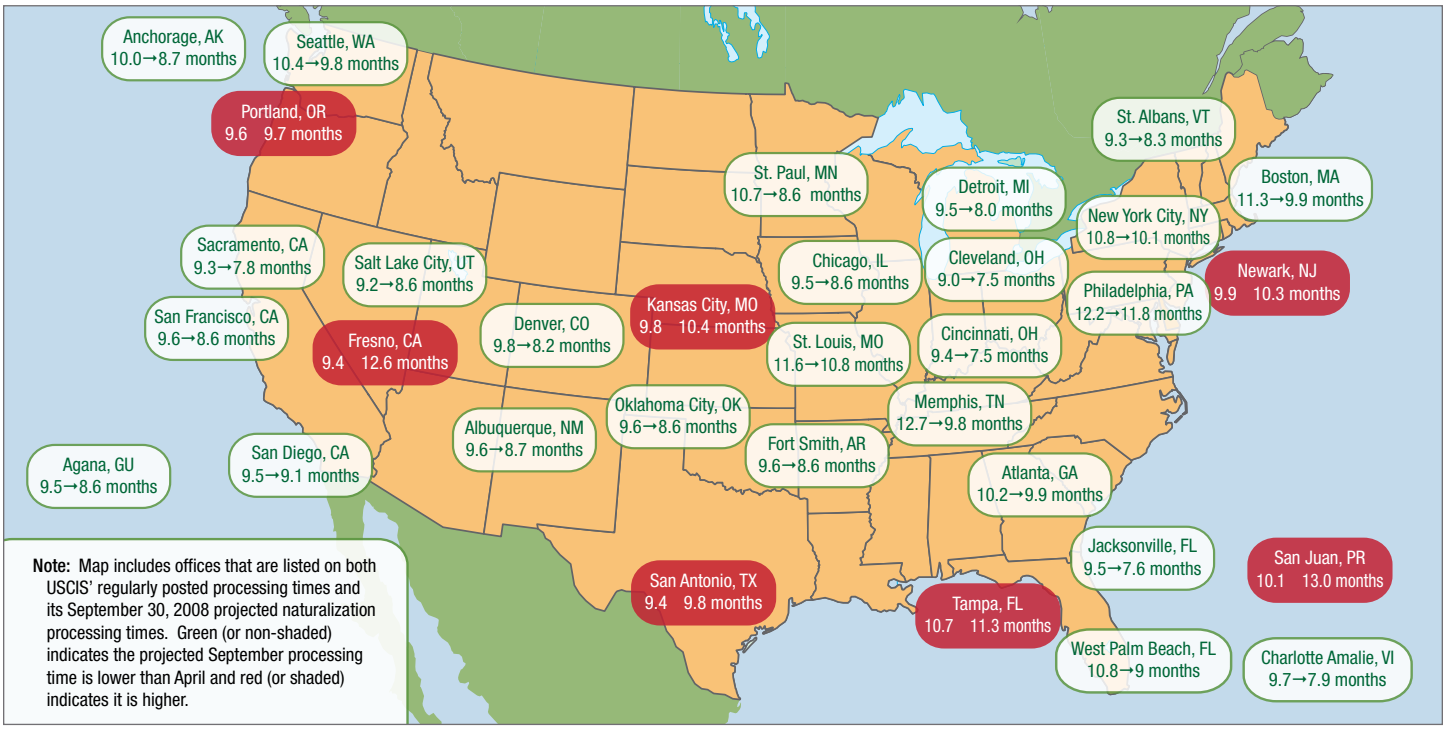
56 USCIS, *USCIS Releases Projected Naturalization Processing Times for Local Offices* (Apr. 22,2008) *www.uscis.gov* (accessed June 19, 2008).

Figure 3: Comparison of Naturalization Application Processing Times at USCIS Field Offices April 15, 2008 versus Sept. 30, 2008 (7 months or less as projected by USCIS)



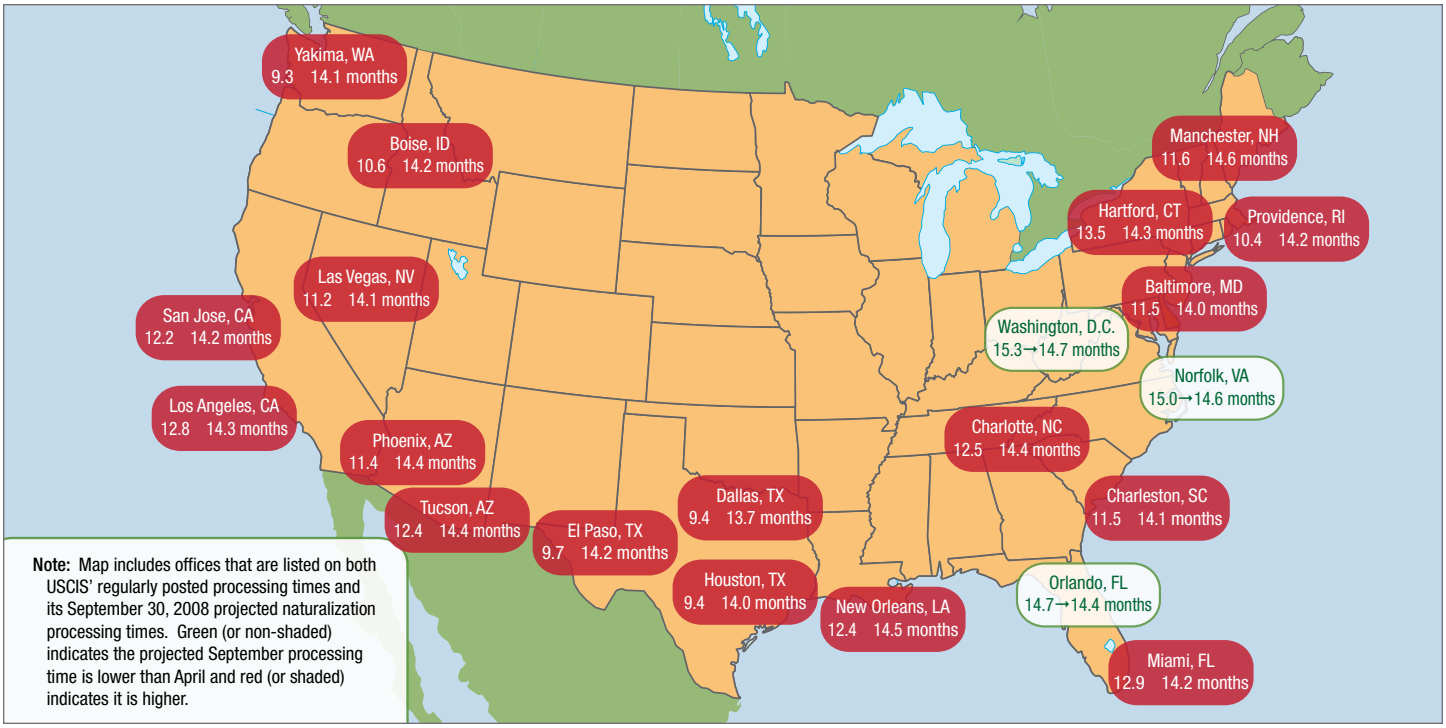
Source: USCIS

Figure 4: Comparison of Naturalization Application Processing Times at USCIS Field Offices April 15, 2008 versus Sept. 30, 2008 (7-13 months as projected by USCIS)



Source: USCIS

Figure 5: Comparison of Naturalization Application Processing Times at USCIS Field Offices
April 15, 2008 versus Sept. 30, 2008 (13-15 months as projected by USCIS and announced for summer surge case processing)



Source: USCIS

prior to the surge.[57] Moreover, 48 offices will be at or less than 13 months.

In the 2007 Annual Report,[58] the Ombudsman observed that processing times continued to vary widely around the country, as reflected in the September 2008 projected naturalization processing times shown in the Figures above.

b. Posted Processing Times

In August 2006, the Ombudsman expressed concerns about how USCIS was posting its processing times. At that time, and as reported in the Ombudsman's 2007 Annual Report,[59] the agency committed to: use a processing time of 90 days for green card applications, and post the actual processing time where the processing time is over 90 days. Also in the 2007 Annual Report, the Ombudsman recommended that USCIS "return to providing the public with actual processing times for each field office," instead of posting processing goals.

Instead, USCIS has decided to continue posting processing goals rather than actual times. For example, if the goal to process a green card is six months, but the processing time is actually four months, USCIS will post the six month time on its website. Posting these goals makes it difficult for applicants and employers to make plans. Further, it makes it more difficult for policy makers to know where to devote resources.

In USCIS' response to AR 2007-03, the agency indicated that it understood the "concern with the posted processing times. However, USCIS is committed to setting appropriate expectations for its customers."[60] USCIS added, "[i]f a particular office shows a consistently shorter processing time over several months, and believes it can sustain it, then USCIS will take this recommendation into consideration and post the revised processing time."

The agency should post actual times and trust that its customers accept that fluctuations in processing do occur. The Ombudsman anticipates actual processing time data will again be relevant to customers as the agency reduces its backlog.

57 *Id.*

58 Ombudsman's Annual Report 2007, p. 52.

59 *Id.* at 18.

60 *Id.* at 2.

3. Backlog

The agency's "gross backlog" definition is: the number of pending cases minus cases for which USCIS has issued receipts within the last six months. Six months is the target processing time for most applications.[61]

> Gross Backlog = Pending – Last Six Months' Receipts

However, USCIS continues to consider only the cases pending after subtracting those cases not yet ready for adjudication (*e.g.*, cases with pending FBI name checks or without current priority dates)[62] as truly "backlogged." The agency also refers to this as its "net backlog." As shown in Figure 6, during the summer surge the backlog calculations pursuant to both definitions essentially remained stable. Based on either backlog definition, cases from the summer surge would not surface in USCIS' backlog reporting for six months.

Figure 6: Backlog Data FY 2007 (as defined by USCIS)

Quarters FY 2007	Gross Backlog Reported for All Case Types	Net Backlog Reported for All Case Types	Gross Backlog for Naturalization Applications	Net Backlog for Naturalization Applications
Qtr 1 Oct.-Dec.	1,212,567	103,272	56,482	0
Qtr. 2 Jan.-Mar.	1,275,795	124,552	99,753	0
Qtr. 3 Apr.-June	1,284,755	155,359	91,127	0
Qtr. 4 July-Sept. *(part of surge period)*	1,288,745	121,389	113,378	0

Note -- USCIS indicates on its Production Data charts that "[i]n general, [the] backlog will fluctuate depending on how current completions for each application type fare against cases received six months prior."
Source: USCIS FY 2007 1st Qtr. Production Update (June 15, 2007), FY 2007 2nd Qtr. Production Update (September 14, 2007), FY 2007 3rd Qtr. Production Update (January 14, 2007[sic]), 4th Qtr. Production Update (January 31, 2008).

A backlog definition that incorporates a processing time goal and subtracts applications the agency deems not ripe makes it difficult for Congress and others to have a clear understanding of the assistance the agency requires. In its 2007 Annual Report Response,[63] USCIS does indicate that the agency uses both the gross and net backlog numbers in internal production plans and reports, but this information provides limited use to outside observers.

USCIS' quarterly FY 2007 Production Updates[64] provided information on the agency's expectations for the summer surge and subsequent case processing. As shown in Figure 7 below, in each quarter of 2007, USCIS experienced an increase in the number of actual naturalization applications received above agency projections. The agency noted these increases in each Production Update.

Due to the surge, many applicants were issued receipts well after USCIS received their applications. As a result, USCIS had to adjust its data on the number of cases for which it issued receipts during the quarter.

As indicated in Figure 7, USCIS projections for all applications for fourth quarter FY 2007, during most of the surge, were 76 percent lower than actual receipts. The number of receipts USCIS issued for naturalization applications progressively exceeded agency projections for each quarter of FY 2007.

In the third quarter Production Update, April – June, USCIS noted that "[t]he level of elevated naturalization receipts has now occurred for two quarters in a row."[65] USCIS also noted in that third quarter report:

> A glimpse into the fourth quarter is important during this fee increase year. As of the date of this publication USCIS has experienced unprecedented volumes of adjustment and naturalization applications over a short period of time. This undoubtedly was a reaction to the fee increases and the sudden availability of visas. Naturalization receipts alone are already 68% over the fiscal year projections. The

61 The Ombudsman discussed USCIS' definitional changes to the "backlog" in the Ombudsman's Annual Reports 2006 and 2007, pp. 6-11 and 11-14, respectively.

62 *See* USCIS 2007 Annual Report Response, p. 2. Such excluded cases include "cases pending law enforcement security checks, naturalization test re-exams, naturalization candidates awaiting scheduling of a judicial ceremony, and cases in which USCIS is waiting on an applicant or petitioner to respond to a request for evidence that is needed to complete the adjudication."

63 Ombudsman's Annual Report 2007, p. 2.

64 USCIS published its backlog elimination reports on the agency's website, *www.uscis.gov*. However, the reports for FY 2007 were not yet posted as of this writing.

65 USCIS Production Update FY 2007 3rd Quarter, p. 1.

influx in receipts will necessitate a special production plan for the timely adjudication of these cases. The additional workload will significantly increase the scale of the challenge to work through this additional volume while improving processing times.[66]

Figure 7: USCIS Application Receipts

All Applications				Naturalization Applications				
Quarters 2007	Projected Receipts	Actual Receipts	Percent Change between Projected and Actual Receipts*	Projected Receipts	USCIS Initial Count of Receipts	Percent Change between Projected and Initial Count of Receipts	Actual Receipts (Adjusted Due to Surge)	Percent Change between Projected and Actual Receipts**
Qtr 1 Oct.-Dec.	1,317,085	1,384,599	5%	153,228	103,352	– 33%	191,993	30%
Qtr. 2 Jan.-Mar.	1,567,564	1,512,574	– 4%	189,229	294,381	56%	294,381	56%
Qtr. 3 Apr.-June	1,718,612	1,829,672	6%	214,933	360,521	68%	360,521	68%
Qtr. 4 July-Sept.	1,577,315	2,772,020	76%	181,473	285,209	57%	504,458	178%

* Based on the projected and actual receipts for all applications, the Ombudsman calculated the exact percent change for quarters 1-4 as follows: 5.13%, -3.51%, 6.46%, and 75.74%, respectively.

** Based on the projected and actual receipts for naturalization applications, the Ombudsman calculated the percent change for quarters 1-4 as follows: 25.30%, 55.57%, 67.74%, and 177.98%, respectively.

Note: Upon request, USCIS provided data on FY 2007 naturalization receipts, including the projected receipts, initial count, and actual receipts adjusted for the surge. The adjusted data were slightly different from the USCIS Production Updates for quarters 1-4 as follows: 191,962, 296,488, 390,328, and 504,450, respectively.

Source: USCIS FY 2007 1st Qtr. Production Update (June 15, 2007), FY 2007 2nd Qtr. Production Update (September 14, 2007), FY 2007 3rd Qtr. Production Update (January 14, 2007{sic}), 4th Qtr. Production Update (January 31, 2008); Email from USCIS to the Ombudsman (May 2008).

The Ombudsman recommended in 2007[67] that USCIS "provide a clearer picture of the current backlog by providing information on the number of pending cases by form type with receipts" of varying timeframes. In its 2007 Annual Report response,[68] USCIS indicated that the agency started using "aging reports" during the backlog elimination period and still uses those internally. The agency "agrees that it would be useful to track and report cases based on the actual processing age of each case rather than on statistical averages,"[69] which is a Transformation goal for USCIS.

66 *Id.* at 8.

67 Ombudsman's Annual Report 2007, Recommendation 2, p.15.

68 USCIS 2007 Annual Report Response, p. 2.

69 *Id.*

C. Managing the Green Card Lines and the Summer Surge

As discussed in previous Annual Reports,[70] there are complex interagency issues affecting the efficient processing of green card applications. Insufficient communication, and a lack of planning between agencies and within USCIS, contributed to the summer 2007 surge in employment-based immigration filings.

USCIS is taking steps to improve in these areas. In announcing revised processing procedures for green card applications, former USCIS Director Emilio Gonzalez stated, "the public reaction . . . made it clear that the federal government's management of this process needs further review. I am committed to working with Congress and the Department of State (DOS) to implement a more efficient system in line with public expectations."[71]

1. Background – Green Card Process & Limits

The Immigration & Nationality Act (INA) establishes some numerical limits for permanent immigration to the United States (*i.e.*, quotas for "green cards").[72] U.S. employers and family members may file petitions with USCIS to bring individuals to the United States permanently.[73] Upon an initial filing, USCIS (or Department of Labor (DOL)) provides the foreign national a "priority date" (*i.e.*, a place in the green card lines).[74] USCIS processes petitions and applications, and adjudicates the majority of applications for those who are already in the United States, while DOS interviews those applicants waiting abroad.[75]

By statute, there are category and country limits on the annual number of employment-based immigrant visas and certain family-based immigrant visas.[76] The DOS Visa Office estimates how many immigrant visas are available each month and publishes these estimates in a monthly "Visa Bulletin" according to "priority date" cutoffs.[77] For example, if there is a green card line for a Swiss outstanding professor, the Visa Bulletin will indicate the priority date (or "current" or "unavailable") before which an applicant must have applied to be currently eligible for a green card.

However, because these are estimates, occasionally DOS must "retrogress" the cutoff dates.[78] Retrogression occurred last summer after fluctuations in the estimates for the green card line, as reflected in the July and August Visa Bulletins.

70 *See* Ombudsman's Annual Report 2007, pp. 32-37, Ombudsman's Annual Report 2006, pp. 13-16, and Ombudsman's Annual Report 2005, pp. 9-11.

71 USCIS Press Release, *USCIS Announces Revised Processing Procedures for Adjustment of Status Applications* (July 17, 2007); http://www.uscis.gov/files/pressrelease/VisaBulletinUpdate17Jul07.pdf (accessed May 26, 2008).

72 Also called Legal Permanent Resident (LPR) status; note that "immigrant visas," as opposed to "non-immigrant visas," lead to LPR status.

73 Employers may file a petition to hire foreign workers using Form I-140 (Immigrant Petition for Alien Worker). Citizens and green card holders may file petitions for certain family members using Form I-130 (Petition for Alien Relative).

74 The filing of the petition (or the labor certification application for employment-based petitioners) establishes a "priority date." Priority dates determine a beneficiary's "place in line" relative to other beneficiaries of the same category and nationality. *See generally* 22 CFR § 42.53.

75 There are two avenues to obtaining green card status depending on where the applicant resides at the time of application. Those residing in the United States file Form I-485 (Application to Register Permanent Residence or Adjust Status). Adjustments processed by USCIS comprise the majority—735,154 adjudicated in FY 2007, per USCIS Performance Analysis System (PAS) Data, prepared April 23, 2008—of green card applications. Those living abroad file a DS-230 with the Department of State. These filings comprise about half (434,374 immigrant visas issued at foreign service posts in FY 2007), http://www.travel.state.gov/pdf/visa_office_report_table_i.pdf), (accessed May 26, 2008) of USCIS domestic filings for LPR status.

76 *See generally* INA §§ 201-206.

77 *See* DOS Visa Bulletins, http://travel.state.gov/visa/frvi/bulletin/bulletin_1360.html (accessed May 26, 2008). These are estimates because DOS relies mainly on USCIS to provide the number of green cards issued to each nationality during each month (and estimates of such pending cases), but because USCIS does not have a comprehensive case management system (as discussed later in the report), USCIS also estimates the numbers.

78 Retrogression refers to the movement backwards of priority date cutoffs – the date on which a petition had to have been submitted to be currently eligible for a green card moves to an earlier date in the calendar than previously published.

Figure 8: Visa Bulletin July 2007 No. 107 (issued June 12, 2007)

	All Changeability Areas Except Those Listed	China-Mainland born	India	Mexico	Philippines
Employment Based					
1st	C	C	C	C	C
2nd	C	C	C	C	C
3rd	C	C	C	C	C
Other Workers	U	U	U	U	U
4th	C	C	C	C	C
Certain Religious Workers	C	C	C	C	C
Iraqi & Afghani Translators	C	C	C	C	C
5th	C	C	C	C	C
Targeted Employment Areas/ Regional Centers	C	C	C	C	C

Figure 9: Visa Bulletin July 2007 No. 108 (issued July 2, 2007)

Visa Bulletin

Number 108
Volume IX
Washington, D.C.

UPDATE ON JULY VISA AVAILABILITY

The sudden backlog reduction efforts by Citizenship and Immigration Services Offices during the past month have resulted in the use of almost 60,000 Employment numbers. As a result of this unexpected action it has been necessary to make immediate adjustments to several previously announced cut-off dates. All Citizenship and Immigration Services Offices have been notified of the following:

Effective Monday July 2, 2007 there will be no further authorizations in response to requests for Employment-based preference cases.
All numbers available to these categories under the FY-2007 annual numerical limitation have been made available.
Employment preference numbers will once again be available to these chargeability areas beginning October 1, 2007, under the FY-2008 annual numerical limitation.

Department of State Publication 9514 CA/VO: July 2, 2007

Figure 10: Visa Bulletin August 2007 No. 109 (issued July 17, 2007)

	All Changeability Areas Except Those Listed	China-Mainland born	India	Mexico	Philippines
Employment Based					
1st	U	U	U	U	U
2nd	U	U	U	U	U
3rd	U	U	U	U	U
Other Workers	U	U	U	U	U
4th	U	U	U	U	U
Certain Religious Workers	U	U	U	U	U
5th	U	U	U	U	U
Targeted Employment Areas/ Regional Centers	U	U	U	U	U

Retrogression can have serious consequences because applicants and their families who expected to obtain green cards suddenly cannot. For those applicants awaiting visas overseas, preparations to immigrate often are derailed. Plans that depend on green card status, such as to study, advance in a job, petition for family members, or obtain essential credentials, are delayed. Moreover, retrogression can have significant business consequences for employers that require predictability in staffing.

2. Movement in Green Card Cutoff Dates During Summer 2007

In the July 2007 Visa Bulletin (issued June 12, 2007), DOS changed what had been listed as significant waiting lines for certain green card categories in past Visa Bulletins to "current" (*i.e.*, without a waiting period).[79] As a result, hundreds of thousands of foreign nationals became eligible for green cards (and could apply for interim benefits, such as work authoriza-

79 DOS Visa Bulletin for July 2007, http://travel.state.gov/visa/frvi/bulletin/bulletin_3258.html (accessed May 26, 2008).

tion, if they were already in the United States).[80] It appears that DOS took this step, after discussions with USCIS, to assure that employment-based visa numbers would not go unused during the year[81] and be lost for future use.[82]

Prior to the surge in the summer of 2007, USCIS did not know precisely how many employment-based applications it held by visa preference category, priority date, or country of chargeability (and this impacted DOS' ability to estimate priority date cutoffs). As discussed later in this report, USCIS requires a comprehensive case management system to be able to better track this information.

Following the issuance of the July 2007 Visa Bulletin (#107), USCIS reported to the DOS Visa Office that it processed more applications for employment-based immigrant visas than DOS was aware of. DOS responded by making a mid-month correction to the Visa Bulletin (#108) because there were no visa numbers and to help prevent a deluge of green card application filings.[83] There were public criticisms and threats of litigation over the mid-month correction. On July 17, 2007, DOS and USCIS announced that the employment-based categories in the Visa Bulletin would again be current and filings would be accepted through August 17, 2007.[84]

a. Ombudsman's Role as Interdepartmental Liaison

During the reporting period, the Ombudsman continued to host regular monthly meetings with USCIS, DOL, and DOS to discuss developments affecting priority dates and visa workloads. USCIS is taking steps to improve its case management and statistical analysis. Since November 2007, USCIS, led by the Service Center Operations office, the Operations Planning office, and service center leadership (particularly from Nebraska and Texas), has worked to refine its case management reports to gain a better understanding of the quality and quantity of its workload. In addition, USCIS is embracing the concept of "active case management, which means that cases are managed through the process in such a manner that ensures that they do not linger unattended in any processing stage,"[85] replacing older methods of handling cases only after the applicant becomes eligible. USCIS efforts to identify and adjudicate cases early in the process represents an improvement in customer service.

As part of the priority date meetings, the California Service Center in February 2008 hosted a forum about interdepartmental processes with the DOL, DOS, and a number of USCIS offices. Discussions focused on the value of current USCIS workload reports and the validity of assumptions behind them to identify improvements to allow for greater clarity of the size and timing of work demands. USCIS has begun to focus on a longer-term view of workloads. The agency has discussed "qualifying dates," which DOS uses to gather information on cases that are likely to be adjudicated in the near-future, instead of relying solely on monthly priority dates. These qualifying dates serve as reminders months before priority dates become due, at which point DOS starts the final processing for green cards. USCIS is contemplating a similar process.

80 U.S. House Judiciary Committee Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Hearing on *Naturalization Delays: Causes, Consequences and Solutions* (Jan. 17, 2008) (written testimony of Emilio T. Gonzalez, former USCIS Director), http://www.uscis.gov/files/testimony/testimony_ETG_17jan08.pdf (accessed May 26, 2008).

81 This loss of green card visa numbers can occur when USCIS does not process the annual allocation of green cards, there are gaps in accounting of green card cases, or USCIS and DOS do not accurately predict application workflows and demand surges at three federal agencies. When USCIS makes a policy decision to allocate resources to completing other types of applications – for example, naturalization applications – the agency often allocates fewer resources towards meeting the annual quota of green cards. Department of Labor (DOL) (approves labor certifications); USCIS (processes immigration petitions after completion of labor certifications); and DOS (establishes priority dates and processes immigrant visas from applicants outside the United States).

82 Absent special legislation, such as the American Competitiveness in the Twenty-First Century Act, unused visa numbers cannot be reclaimed. Pub. L. No. 106-313 (Oct. 17, 2000). In FY 2006, over 10,000 employment-based visas were lost, even though USCIS had an estimated 100,000 to 150,000 pending applications for employment-based green cards. Since 1994 there have been over 218,000 un-recaptured employment-based visas lost due to underutilization of the employment-based visas. DOS and USCIS provided estimates during monthly interdepartmental meetings. Exact figures are unavailable because USCIS has no accounting of these pending numbers by category and different agency divisions provide different estimates.

83 DOS, *Update on July Visa Bulletin Availability*, http://travel.state.gov/visa/frvi/bulletin/bulletin_3266.html (accessed May 26, 2008).

84 USCIS Update, *USCIS Announces Revised Processing Procedures for Adjustment of Status Applications* (July 17, 2007); http://www.uscis.gov/files/pressrelease/VisaBulletinUpdate17Jul07.pdf (accessed May 26, 2008).

85 USCIS Interoffice Memorandum, *Case Management Timelines* (Oct. 27, 2006).

b. Possible Solutions to Problems with Employment-Based Green Card Processing

USCIS, working with DOS and DOL, should continue to improve interdepartmental communication and processing of employment-based green cards to maintain the integrity of the process and assure public confidence.

As recommended in the 2006 Annual Report[86] and in the 2007 Annual Report,[87] the Ombudsman continues to encourage USCIS to track data relating to employment-based green card applications at the time of submission to USCIS, including immigrant visa classifications, priority dates, and countries of chargeability.

A good case management system would help alleviate some of the problems and also provide better accounting for USCIS application fee schedules.

D. Challenges with USCIS Fee Funding Structure

The USCIS funding structure continues to present challenges to the efficient and timely delivery of immigration services. USCIS is dependent on fees to finance its operations,[88] make investments in physical infrastructure and information technology, and fund those programs such as military naturalizations and asylum and refugee programs for which the agency charges no user fees.[89]

1. Application Filing Fees and Revenue

On July 30, 2007, USCIS instituted higher fees for immigration applications and petitions because the old fee schedule did not cover the actual costs of USCIS processes and services.[90]

As might be expected, USCIS' revenue for FY 2007 and FY 2008 (through March) was much higher than the $1.65 billion received in FY 2006 due to the 2007 summer surge in applications and the July 2007 fee increase.[91]

86 Ombudsman's Annual Report 2006, p. 16.

87 Ombudsman's Annual Report 2007, pp. 36–37.

88 INA § 286(m) states, "Notwithstanding any other provisions of law, all adjudication fees as are designated by the Attorney General in regulations shall be deposited as offsetting receipts into a separate account entitled 'Immigration Examinations Fee Account' in the Treasury of the United States, whether collected directly by the Attorney General or through clerks of courts. . . . *Provided further*, That fees for providing adjudication and naturalization services may be set at a level that will ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum applicants or other immigrants. Such fees may also be set at a level that will recover any additional costs associated with the administration of the fees collected." *See also* OMB Circular A-25, *Memorandum for Heads of Executive Departments and Establishments: User charges, Transmittal Memorandum #1*, http://www.whitehouse.gov/omb/circulars/a025/a025.html (accessed May 26, 2008).

89 In the past, Congress removed the surcharge, added to fees paid by applicants for other benefits, to fund such programs as asylum. However, with no appropriations to fill the gap, the surcharge was reinstituted promptly. *See* 68 Fed. Reg. 3798 (Jan. 24, 2003); 68 Fed. Reg. 8989 (Feb. 27, 2003).

90 "Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule," 72 Fed. Reg. 29851-29874 (May 30, 2007).

91 *See* Figure 11. *See also* Ombudsman's Annual Report 2007, p. 47.

Figure 11: USCIS Fee Revenue (sorted by FY 2007)

Form	FY 2007 *(thousands)*	FY 2008 YTD (Oct.-Mar.) *(thousands)*
N-400 (Application for Naturalization)	$ 390,512	$ 205,292
I-485 (Application to Register Permanent Residence or Adjust Status)	$ 277,924	$ 226,810
I-765 (Employment Authorization Application)	$ 234,081	$ 157,512
Premium Processing	$ 212,117	$ 66,226
Biometrics Fee – Photograph and Fingerprint Fee	$ 208,863	$ 104,694
I-130 (Petition for Alien Relative)	$ 165,887	$ 108,249
I-90 (Application to Replace Permanent Resident Card)	$ 120,324	$ 82,816
I-129 (Petition for a Nonimmigrant Worker)	$ 90,588	$ 47,105
I-131 (Application for Travel Document)	$ 84,699	$ 43,631
I-539 (Application to Extend/Change Nonimmigrant Status)	$ 47,249	$ 28,450
I-140 (Immigrant Petition for Alien Worker)	$ 46,247	$ 36,314
I-751 (Petition to Remove the Conditions of Residence)	$ 32,993	$ 48,337
N-600 (Application for Certification of Citizenship)	$ 22,032	$ 8,834
I-600A (Application for Advance Processing of Orphan Petition)	$ 15,830	$ 4,532
I-290B (Notice of Appeal or Motion)	$ 14,912	$ 12,013
I-129F (Petition for Alien Financé(e))	$ 11,449	$ 9,165
N-565 (Application for Replacement of Naturalization Citizenship)	$ 8,298	$ 4,954
I-824 (Application for Action on Approved Application or Petition)	$ 7,390	$ 4,248
Subtotal	**$ 1,991,395**	**$ 1,199,182**
All Other Forms	$ 87,955	$ 51,642
Grand Total	**$ 2,079,350**	**$ 1,250,824**

Source: USCIS Fee Collections

Absent appropriated funds, USCIS is required to set fee levels to recover the full cost of processing applications.[92] At the same time, as the Ombudsman stated in the 2007 Annual Report,[93] many people and organizations believe that the new fees are excessive and present a significant financial challenge to applicants.

As part of the fee rule, USCIS set out specific goals and intended enhancements to improve application processing and customer service. For example, USCIS stated that it would reduce processing times for all immigration applications by an average of 20 percent by the end of FY 2009.[94]

USCIS stated that:

> [W]e are committed to substantial reductions in processing times by the end of FY 2008 for four key applications: (1) Form I-90, Application to Renew or Replace a Permanent Resident Card; (2) Form I-485, Application to Register Permanent Residence or Adjust Status; (3) Form I-140, Immigrant Petition for Alien Worker; and (4) Form N-400, Application for Naturalization. These four products represent almost one-third of USCIS' total workload. By the end of FY 2008, USCIS plans to reduce processing times for each of these from six months to four months. Applications for naturalization are projected to be reduced from seven months to five. . . . Thus, our customers will see a significant improvement for the full fiscal year following the fee adjustments. Also, by the end of FY 2009, we intend to reduce by 20 percent the average processing times across the spectrum of applications and petitions.[95]

The agency anticipated that the fee rule revenue enhancements would yield greater efficiencies in operations and, ultimately, improve customer service and increase customer satisfaction. During the reporting period, USCIS established the Growth Management Oversight Unit (GMOU) in the Deputy Director's office. The GMOU focuses on implementing the enhancements stemming from the fee rule. However, due to the 2007 summer surge, USCIS may not meet goals such as reducing processing times for immigration applications and petitions.

92 *See* INA § 286(m); OMB Circular A-25, *Memorandum for Heads of Executive Departments and Establishments: User charges*, Transmittal Memorandum #1, http://www.whitehouse.gov/omb/circulars/a025/a025.html (accessed May 26, 2008).

93 Ombudsman's Annual Report 2007, p. 48.

94 U.S. House Judiciary Committee Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Hearing on *A Proposal To Adjust The Immigration Benefit Application and Petition Fee Schedule* (Feb. 14, 2007) (testimony of Emilio T. Gonzalez, former USCIS Director), http://www.uscis.gov/files/nativedocuments/Gonzalez_House_021407.pdf (accessed May 26, 2008).

95 USCIS Questions and Answers, *USCIS Sets Final Fee Rule Schedule to Build an Immigration Service for the 21st Century* (May 30, 2007); http://www.uscis.gov/files/pressrelease/FinalFeeRuleQsAs052907.pdf (accessed May 27, 2008).

As a result of the surge, USCIS announced an increase in processing times to an average of 13 to 15 months for naturalization applications filed during the surge, which is higher than last year's average of just under seven months.[96]

The Ombudsman continues to encourage USCIS to establish easily measured public milestones to achieve stated goals.[97]

2. Premium Processing

USCIS offers a premium processing service to petitioners who pay an additional $1,000 fee.[98] Under the premium processing program, USCIS must respond within 15 days with a grant, denial, or request for evidence. Otherwise, USCIS must refund the premium processing fee. With the influx of applications last summer, USCIS suspended premium processing for the Form I-140 (Immigrant Petition for Alien Worker).[99] USCIS received over $212 million in FY 2007 and over $66 million for the first six months of FY 2008 in premium processing revenue.[100]

The fee rule specifically designates premium processing fees as the funding source to transform USCIS from a paper-based process to an electronic environment. However, as discussed in previous annual reports, when USCIS improves processing times, use of the premium processing program may decline and the agency might lose significant revenue. Such a decline in premium processing revenue may have a negative impact on the agency's transformation efforts. USCIS should consider other sources of funding for the transformation initiative.

USCIS should apply its premium processing experience to improve the processing of regular cases. In the 2007 Annual Report,[101] the Ombudsman recommended that USCIS conduct a thorough, transparent, and independent analysis of premium processing costs as compared with regular processing. The Ombudsman recommended that this process include a comparison for each stage, including: contractor costs, federal employee costs, and all other associated costs.

In December 2007, USCIS notified the Ombudsman of the agency's intent to implement this recommendation and provided this office with a description of the proposed analysis. At USCIS' request, the Ombudsman provided input in response to the agency's questions on a proposed plan to implement the recommendation.

3. Revolving Trust

In the 2006 and 2007 Annual Reports,[102] the Ombudsman recommended that USCIS consider a revolving trust replenished from future fees to fund the agency. In the 2007 Report, the Ombudsman encouraged USCIS to discuss the benefits and drawbacks of such a trust rather than reject it based solely on budget scorekeeping considerations. However, in its 2007 Annual Report Response, USCIS again explained that a revolving fund is not the best solution because "it is precisely such scoring issues that dictate the potential benefit of a fund approach." The agency went on to state that "[t]he likely application of such a tool presents challenges that would undermine perceived benefits."[103]

USCIS did not explain how it reached that conclusion, but added that "[w]hile USCIS does not rule out completely any

96 U.S. Senate Judiciary Committee Hearing on "Oversight of the Department of Homeland Security" (April 2, 2008) (testimony of DHS Secretary Michael Chertoff), *http://www.dhs.gov/xnews/testimony/testimony_1207231284950.shtm* (accessed May 26, 2008); *see also* Statement by Emilio T. Gonzalez, former USCIS Director (Mar. 14, 2008) *http://www.uscis.gov/files/article/natz_processing_14Mar08.pdf* (accessed May. 26, 2008), p. 6.

97 U.S. House Judiciary Committee Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Hearing on *Naturalization Delays: Causes, Consequences and Solutions* (Jan. 17, 2008) *http://www.uscis.gov/files/testimony/testimony_ETG_17jan08.pdf* (accessed May 26, 2008), p. 6. (Former USCIS Director Gonzalez testified that the two-year response plan to the surge "will help us accomplish reducing processing times to six months by the third quarter of Fiscal Year 2010.")

98 "The Attorney General is authorized to establish and collect a premium fee for employment-based petitions and applications. This fee shall be used to provide certain premium-processing services to business customers, and to make infrastructure improvements in the adjudications and customer-service processes. For approval of the benefit applied for, the petitioner/applicant must meet the legal criteria for such benefit. This fee shall be set at $1,000, shall be paid in addition to any normal petition/application fee that may be applicable, and shall be deposited as offsetting collections in the Immigration Examinations Fee Account. The Attorney General may adjust this fee according to the Consumer Price Index." *See* 8 U.S.C. § 1356(u).

99 USCIS Fact Sheet, *USCIS Offers Premium Processing Service for Certain Form I-140 Petitions Starting June 16, 2008.* (June 11, 2008) USCIS stated it would reinstitute premium processing for certain I-140 petitions. *www.uscis.gov* (accessed June 23, 2008).

100 *See* Figure 11.

101 Ombudsman's Annual Report 2007, Recommendation 7, p. 50.

102 Ombudsman's Annual Reports 2006 and 2007, pp. 28-29 and 51, respectively.

103 *See* USCIS 2007 Annual Report Response, p. 8.

potential future use of such a fund," it would rather use adjustment of the fee schedule as the best way to "ensure a stable revenue source for operations, including infrastructure investments, for the foreseeable future."[104] USCIS stated that it agrees with many of the Ombudsman's concerns regarding resources and the need for investment in personnel and infrastructure.

104 *Id.*

E. Better Case Management Through Paperless Applications

RECOMMENDATION 1

The Ombudsman recommends that USCIS expeditiously implement a comprehensive and effective case management system. USCIS should determine whether the Transformation Program Office (TPO) pilot has the necessary capabilities and, if so, implement it agency-wide. (AR2008-01)

RECOMMENDATION 2

The Ombudsman recommends that USCIS publicize near-term goals for the "digitization initiative" (electronic form filing and case processing). (AR2008-02)

The USCIS Transformation Program Office (TPO) has identified a number of important initiatives to enhance services, including modernization of IT systems and improvements to case management capabilities.[105] These initiatives are vital to the agency's future; USCIS envisions at the end of this multi-year project having the capability to electronically receive, collect, transfer, and process cases.

However, uncertainty remains about: the milestones to complete these initiatives and how they relate to the goals outlined in the new fee rule (see subsection D of this report for a full discussion of USCIS fees and improvements in services); whether the Transformation initiatives will continue to be an agency priority upon changes in USCIS leadership; and whether USCIS is taking full advantage of trends and technology already in place. To better serve the public, the pace of the Transformation initiative should be rapid, and milestones should be made public.

USCIS' development and selection of a new case management system to replace its antiquated patchwork of systems is long overdue. It is imperative for the agency to finalize its review process and quickly issue a near-term timetable for agency-wide implementation. Many of USCIS' challenges would be minimized or eliminated with integrated and digitized application submission, Alien Files (A-files), case management, and adjudications.

105 Revision and consolidation of USCIS forms was previously a TPO goal, but has been de-prioritized. There are currently no TPO personnel devoted to forms revisions and consolidation.

In the 2007 Annual Report,[106] the Ombudsman recommended that the TPO: publish transformation timelines, goals, and regular updates on the public USCIS website; and establish transparency as a goal for USCIS processing and services to provide additional information to customers and reduce the number of case status inquiries.

In response, USCIS stated:

> The USCIS . . . has conducted and will continue to conduct significant outreach to its customers, the public at large, the vendor community, Congress, [OMB and DHS] leadership, and staff from across all USCIS components. Through these meetings, the TPO receives input that helps USCIS refine the TPO's goals and the strategies for meeting them. The TPO has published the Transformation Concept of Operations (CONOPS), which describes the end-state of a transformed USCIS, and has made this document available to the public via the USCIS website.[107]

Despite this general language, benchmarks and timelines for USCIS Transformation are not clear. Without such transparency, measuring TPO and USCIS progress is problematic.

The Government Accountability Office (GAO) noted the following:

> Creating an effective, ongoing strategy for communicating with employees and stakeholders is critical to the success of any organizational transformation. USCIS has made efforts to communicate information about the transformation to its employees and stakeholders, and has developed an overall communication strategy. However, this strategy does not contain a clearly defined plan to conduct outreach beyond the current fiscal year, and lacks a detailed approach for targeting communications to individual government partners and stakeholders.[108]

The Ombudsman is concerned that these initiatives, like other transformation efforts since the early 1990s, may not realize goals critical to the timely and efficient delivery of immigration benefits.

During the reporting period, the TPO continued to test four new systems:

- **Immigration Case Management**. On July 5, 2007, USCIS deployed the Secure Information Management Service (SIMS), a customer-focused case management system, to two domestic field offices (Newark and Memphis) and three international offices (Mexico City, Frankfurt, and Bangkok) for all international adoption cases.[109] Since then, SIMS has also been deployed to the NBC. According to USCIS, "[t]his pilot program will validate the workflow capabilities of Commercial-Off-the-Shelf software to manage electronic processing. . . ."[110] SIMS centralizes case processing, where there has been no national system for tracking adoption cases. SIMS is also a suite of services that provides case status information and the identification of processing trends. The TPO is working with USCIS International Operations to develop an expansion plan for SIMS.

USCIS is in need of an improved case management system (see subsection G on File Transfers), and SIMS may provide the model for a service-wide solution.

- **Paperless Data-Sharing Pilot**. The Paperless Data-Sharing Pilot allows USCIS to "scan, digitize, and make electronic files available to all authorized users."[111] It is one of the first steps in moving USCIS from paper-based processes to digitization. USCIS began scanning files into this system in fall 2006 and deployed it in spring 2007. During the reporting period, it appears that the pilot had a minimal role in facilitating adjudications. According to the TPO, it was used to adjudicate approximately five to ten military naturalization cases so that physical case files would not have to be carried into combat areas. USCIS contemplated using the pilot for Temporary Protective Status (TPS) exten-

106 Ombudsman's Annual Report 2007, p. 6.

107 USCIS 2007 Annual Report Response, p. 1.

108 GAO Report, "USCIS Transformation: Improvements to Performance, Human Capital, and Information Technology Management Needed as Modernization Proceeds" GAO-07-1013R (July 17, 2007). http://www.gao.gov/new.items/d071013r.pdf (accessed May 26, 2008).

109 *See* USCIS Questions and Answers, *USCIS Releases SIMS Pilot Program for Inter-Country Adoption Applications*, (July 16, 2007), http://www.uscis.gov/files/pressrelease/SIMSTPO_16Jul07QA.pdf (accessed May 26, 2008).

110 USCIS 2007 Annual Report Response, p. 1.

111 *Id.*

sions and other adjudications, but experienced "bandwidth problems."[112]

Digitization of case files may be a solution to the challenges posed by physical file transfers and tracking.

- **Identity Management Pilot.** This pilot (also referred to as "Enumeration") would provide an enumerator to "link biometrics to biographic data and freeze the identity of an individual throughout the USCIS immigration process."[113] There are numerous USCIS and DHS databases often with information on the same individual, and biometrics is the best method to link these multiple records. The Identity Management Pilot uses fingerprints and then randomly generates a number – the enumerator – to link information. Enumeration was built in conjunction with and is managed by US-VISIT.[114] Once implemented, the system would allow information about an individual to be communicated across government agencies to create a comprehensive, person-centric view. The Identity Management Pilot is fully developed, but there is no near-term goal or timeline for deployment to USCIS.
- **Biometrics Storage System Pilot**. The Biometric Storage System (BSS), a repository for all biometrics including fingerprints, photographs, and signatures, would allow USCIS to view stored data for approved and denied applications. Other USCIS systems already provide data for approved cases. For the past few years, USCIS has stated its intention to fully implement BSS. The current timeframe for implementation is September 2008.[115]

CASE PROBLEM

An individual filed Form I-90 (Application to Replace Permanent Resident Card) for a replacement green card in summer 2002. USCIS approved it, but the applicant never received the card. USCIS personnel told the applicant to reapply. The second application was approved and a replacement card was produced in 2005, but the applicant again did not receive the card. In summer 2007, the applicant contacted the Ombudsman. The Ombudsman determined that, although the applicant had timely filed a change of address with USCIS, the card was not received due to USCIS' failure to update the new mailing address. In 2007, USCIS notified the individual that the application had been deemed abandoned. The Ombudsman referred the matter to USCIS, and the applicant was scheduled for biometrics in February 2008, but the individual has yet to receive the replacement card.

In 2006, the Transformation initiative was funded by a $25 million appropriation. In 2007, it received $47 million in appropriations, and $53 million in fee revenue. In 2008 and in coming years, the initiative will be funded by premium processing revenue, rather than through appropriated funds.[116] Premium processing generated $139 million to fund Transformation initiatives in 2008.[117]

112 TPO briefing to Ombudsman (Dec. 13, 2007).

113 USCIS 2007 Annual Report Response, p. 1.

114 US-VISIT is the system at international airports in the United States to take fingerprints and pictures of incoming nonimmigrants for security purposes. *See generally* http://www.dhs.gov/xtrvlsec/programs/content_multi_image_0006.shtm (accessed May 26, 2008).

115 TPO briefing to the Ombudsman (Apr. 9, 2008).

116 "Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule," 72 Fed. Reg. 29851-29858 (May 30, 2007).

117 TPO briefing to the Ombudsman (Apr. 9, 2008).

F. Information Technology

Closely related to case management issues and as discussed in previous annual reports,[118] the deployment of improved information technology (IT) systems continues to be an important challenge for USCIS.

In the 2007 Annual Report, the Ombudsman recommended that USCIS: ensure that a computer refresh does not adversely impact local systems; make available to each local office software that allows offices to continue to use previously created documents in those systems; and consider a long-term solution to the onsite support issue, such as a central system.[119]

In response to the first part of this recommendation, USCIS stated:

> [A] legacy of locally developed systems currently exists throughout USCIS offices, and it is these local systems that are sometimes affected by changes to the USCIS infrastructure in preparation for the Transformation effort or to correct IT security and privacy weaknesses. USCIS is managing a very careful balance between maintaining these locally developed systems upon which local business practices are based, and placing an aggressive and rapid emphasis on improving the IT security posture and safeguarding the privacy information of its customers.[120]

USCIS stated in response to the second part of this recommendation:

> A review of the cost of a dedicated systems development effort to correct the IT security flaws of the local system, the availability of funds for the locally developed system, and the potential for widespread implementation of the system are all considered when evaluating the value of the system. Systems that are developed in absence of due consideration for IT security are frequently cost-prohibitive for the local office to correct, and are so locally focused that agency-wide use and implementation of each system is also prohibitive.[121]

USCIS agreed with the third part of the Ombudsman's recommendation regarding on-site IT support, and signaled its intent to use new fee revenue to provide such a solution.

At present, most USCIS adjudications processes are paper-based, and existing USCIS information management systems do not provide robust data analysis tools necessary to monitor productivity and make changes where necessary (see subsections E on "Better Case Management Through Paperless Applications" and G on "File Transfers and Tracking"). These shortcomings hinder progress on improving service to individuals and employers.

The Ombudsman notes that USCIS has developed an Enterprise Service Bus (ESB) to facilitate information sharing and integration between USCIS systems across DHS components and with other agencies, such as DOS. The ESB is a set of commercial, off-the-shelf software interfaces that connect multiple IT systems. The ESB was partially funded by the TPO and has been in the process of incremental deployment for over a year.

118 Ombudsman's Annual Report 2007, pp. 66-69; Ombudsman's Annual Report 2006, pp. 29-32; and Ombudsman's Annual Report 2005, pp. 12-13.

119 Ombudsman's Annual Report 2007, p. 69.

120 USCIS 2007 Annual Report Response, p. 9.

121 *Id.*

G. File Transfers and Tracking

RECOMMENDATION 3

The Ombudsman recommends that USCIS convene a working group to define and implement near-term, national file tracking goals. (AR2008-03)

This section of the Annual Report reviews the problems of the current file transfer system. It also summarizes Transformation Program Office (TPO) initiatives in this area, and highlights local best practices, which have been developed often with limited resources.

USCIS systems inadequately track the physical location of immigration case files and their contents. As a result, some adjudications are delayed, files are lost, and individuals and employers make repeated inquiries to the National Customer Service Center (NCSC) and through INFOPASS appointments at field offices to check the status of cases. To customers and stakeholders, USCIS file transfers may appear to be inconsistent and unpredictable due to limited information as to why a case is transferred or where it is within USCIS at any given point in the process. Case file transfers make accounting for the number and type of cases pending at USCIS even more difficult, inhibiting the efficient and effective deployment of agency resources.

USCIS has tasked the TPO with modernizing USCIS to provide for integrated, digitized processing to obviate the need for the physical transfer of applications and petitions.[122] However, the necessary systems upgrades and IT solutions appear to be years away from design and implementation, as discussed in subsection E above.

CASE PROBLEM

In 2001, an individual filed a green card application with the Vermont Service Center. In 2003, the Vermont Service Center transferred the case to the Nebraska Service Center for processing. The file was then transferred to the California Service Center, and finally to the Los Angeles District Office. The applicant contacted the Ombudsman during December 2007. The case remains pending.

CASE PROBLEM

An individual filed a green card application, EAD, and an advance parole application with the Nebraska Service Center in July 2007. The California Service Center returned all three applications to the applicant's attorney, stating that the applications should be filed with the Nebraska Service Center. The attorney re-sent the applications to the Nebraska Service Center with a letter stating what had transpired, but the Nebraska Service Center rejected them, stating that visa numbers were no longer available. Contending that service error was to blame both for the improper transfer and return of the timely and properly-filed applications, the attorney contacted the Ombudsman in October 2007. Acknowledging its mistake in December 2007, USCIS provided the applicant the original July 2007 receipt date.

122 *See generally USCIS Transformation Program: Concept of Operations*, Version 1.5 (Mar. 28, 2007), http://www.uscis.gov/files/nativedocuments/Transformation-ConOps_Mar07.pdf (accessed May 26, 2008).

1. Background

The USCIS National Security and Records Verification Directorate is responsible for physical immigration case files, referred to as Alien Files (A-files). The A-file contains documents relevant to a foreign national's interactions with USCIS and other DHS components. For example, the A-file could contain an application for a green card, along with petitions for a nonimmigrant visa or documents related to enforcement actions such as an arrest warrant and the results of any immigration proceedings. USCIS is the main user of A-files and the official DHS custodian for them, but other DHS components, such as Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP), also use A-files. In addition, information and documents from A-files may be shared with outside agencies and departments such as the FBI and DOS. USCIS manages over 55 million A-files, and spends approximately $13 million each year transporting A-files within USCIS and to other components and agencies.[123]

For family-based green card applications, an A-file is created at the Chicago Lockbox upon submission of an initial application. This new file is transferred to the NBC where it is organized, augmented, and reviewed by contractor employees and USCIS adjudicators. If the submission is incomplete, the NBC may issue a request for evidence (RFE) while the file is physically stored on shelves at the facility until USCIS receives a response or the allotted response time expires (see subsection L for a full discussion of RFEs). For employment-based cases, an A-file may be created at one of the four service centers where customers file petitions and applications. Field offices also provide empty A-file folders to CBP for enforcement purposes.

Figure 12: Service Center Loading Dock and File Room

As reported by GAO, USCIS has articulated the issues it faces with the volume and complexity of physical file tracking:

> The challenge of fulfilling the [USCIS] mission is derived from a workload that is both large and diverse. . . . More than 7.5 million applications and petitions are received per year, comprised of over 50 types of immigration benefits. USCIS recognizes, furthermore, that its dependence on paper files makes it difficult to efficiently process immigration benefits, verify identity of applicants, and provide other government agencies the information required to quickly identify criminals and

123 GAO Report, "Immigration Benefits: Additional Efforts Needed to Help Ensure Alien Files are Located when Needed," GAO-07-85, pp. 1 and 6 (Oct. 2006) http://www.gao.gov/new.items/d0785.pdf (accessed May 26, 2008).

possible terrorists.[124] While the challenges are significant, it is noteworthy that USCIS and the Ombudsman agree both on the problems with the current reliance on paper files and the broad goals to address these issues.

The USCIS Records Operations Handbook (ROH), not available to the public, provides the rules under which the agency transfers and tracks immigration cases.[125]

The ROH indicates that USCIS may transfer case files from office to office – between field offices and headquarters, service centers and field offices, service center to service center, or field office to field office – for a variety of reasons including:

- **Family-Based Green Card Applications.** As discussed above, customers generally file family-based green card applications with the Chicago Lockbox facility,[126] which then transfers them to the NBC for interim processing, and then to field offices for interview and final adjudication.
- **Employment-Based Green Card Applications.** Customers file employment-based green card applications with either the Nebraska or Texas Service Centers, which may forward them to the NBC queue (and then to field offices if the interviews are not waived by USCIS).[127]
- **File Transfers Related to Capacity.** From time to time, USCIS transfers cases from one office to another to take advantage of resources at a facility with a lower volume of casework. While costly, physically transferring cases – literally boxing them up and ship them to another office – is less expensive than transferring personnel. (For example, during the surge in filings in summer 2007, the Nebraska and Texas Service Centers transferred approximately 35,000 cases to the California Service Center for receipting purposes).[128]
- **Changes in Procedures.** Occasionally, USCIS may change procedures to centralize processing or shift processing of a particular form type from one office to another. For example, beginning on November 1, 2006, the Nebraska, Texas, and Vermont Service Centers began forwarding to the California Service Center new filings of Form I-612 (Application for the Waiver of the Foreign Residence Requirement).[129]
- **Jurisdictional File Transfers.** Where an applicant for immigration benefits relocates his or her home within the United States, the file may be transferred from one field office to another based on the address change.
- **File Transfers Related to Fraud or National Security Concerns.** Within a USCIS office, a file may be transferred from the adjudications unit to the Fraud Detection National Security (FDNS) office for review. Similarly, a case may be transferred from one field office to another or from the field to the USCIS FDNS Headquarters unit for a fraud or national security investigation.
- **File Close-Out Transfers.** USCIS transfers closed immigration files to the National Records Center (NRC). However, closed files often must be retrieved and reopened; for example, a naturalized citizen may petition for his or her family to immigrate, and USCIS may seek to review the petitioner's file.
- **Inter-Agency and Departmental File Transfers.** USCIS and DOS routinely transfer files between the two departments, including overseas offices for immigration and visa processing.

A 2006 GAO Report, "Immigration Benefits: Additional Efforts Needed to Help Ensure Alien Files Are Located When Needed,"

124 *USCIS Transformation Program: Concept of Operations*, Version 1.5 (Mar. 28, 2007), http://www.uscis.gov/files/nativedocuments/TransformationConOps_Mar07.pdf (accessed May 26, 2008), p. i.

125 DHS Management Directive (MD)#0550.1; USCIS Records Division, Records Operations Handbook.

126 The Chicago Lockbox facility is a USCIS contractor facility that receives certain types of benefits applications. The lockbox performs initial review of documents and deposits fees. It then forwards filings to the appropriate USCIS facility for further processing and adjudication.

127 USCIS I-485 SOP, Version 2.1, (Mar. 1, 2006); *see also*, USCIS Interoffice Memorandum *Revised Interview Waiver Criteria for Form I-485 Application to Register Permanent Residence or Adjust Status* (Jan. 5, 2005).

128 USCIS Correspondence to the Ombudsman May 2008. For a full discussion of the surge in filings during summer 2007 and the employment-based visa issues, *see* subsections II B and C.

129 USCIS Public Notice, *USCIS Announces Processing Changes for Waivers of the Foreign Residence Requirement of Section 212(e) of the INA* (Dec. 19, 2006); http://www.uscis.gov/files/pressrelease/I612_121906PN.pdf (accessed May 27, 2008). Form I-612 is used to request a waiver of admission ineligibilities including, for example, waiver of the J-1 Exchange Visitor two-year home residency requirement.

focuses specifically on the availability of A-files in adjudicating naturalization applications.[130] The reports states:

> Missing A-files can have an impact on the process of adjudicating naturalization applications in several ways. They can cost staff extra time and effort trying to locate them. Applicants for naturalization, in turn, may wait longer for USCIS to process their applications. For example, USCIS procedures for processing naturalization applications allow USCIS to wait up to 3 months to try to find an A-file, thereby possibly delaying adjudicating the application. Because an A-file might contain potentially disqualifying information about an applicant, adjudicating an immigration benefit application without an A-file also increases the risk of granting a benefit to an ineligible applicant.[131]

The GAO report identifies problems caused by inadequate physical file tracking and accessibility.

2. USCIS File Tracking

a. IT Systems for File Tracking

Currently, USCIS utilizes multiple stand-alone and partially integrated USCIS data management systems. There are three main systems used for physical file tracking:

- The **National File Tracking System (NFTS)** is currently the primary means by which USCIS locates physical case files. NFTS enables DHS staff around the country to locate, request, receive, and transfer A-files. NFTS specifies the physical file location within USCIS, including the facility where the file is located and the party responsible for the file. NFTS, however, is only as accurate as the data entered. The GAO reported in 2006 that USCIS had examined data contained in NFTS and found that over 100,000 A-files were shown to be in transit more than 30 days; the implication from the data was that these cases simply had not been logged into NFTS, despite procedures requiring users to update NFTS immediately.[132] Additionally, NFTS data may not match data in the Computer Linked Application Information Management System (CLAIMS), the USCIS mainframe case management system, because data were incorrectly entered, not entered, or corrupted by IT glitches. As of this writing, two of the four service centers are in the process of transitioning to NFTS from RAFACS, as described below.
- **The Receipt and Alien File Access and Control System (RAFACS)** is the predecessor file tracking system to the NFTS. RAFACS is facility-based, and does not allow a USCIS official at one office to check the file location for cases at another office. Once the USCIS service centers have transitioned to NFTS, RAFACS will be decommissioned.
- The **Central Index System (CIS)** is a legacy INS system that became operational in 1985 and was designed to support records management needs to collect, store, and disseminate automated biographical and historical information. CIS currently provides biographic and historical information to USCIS and other agencies, as well as immigration statistics and records keeping services for regulatory compliance. CIS contains information on the status of tens of millions of individuals, including permanent residents, naturalized citizens, border crossers, apprehended foreign nationals, and foreign nationals issued EADs.

b. File Transfer Notification to Customers

USCIS currently issues notices of file transfers to customers in limited circumstances. For example, CLAIMS automatically generates a transfer notice to green card applicants when the system is updated upon file transfer from one USCIS office to another. However, USCIS systems issue no transfer notices for naturalization applications (Form N-400s), family-based petitions (Form I-130s), or petitions for nonimmigrant workers (Form I-129s), although customers do receive interview notices where applicable.

Case Status Online provides limited information on physical file locations. Aside from the transfer notices and information a customer may obtain from the NCSC toll-free telephonic help line or at an INFOPASS appointment, physical file transfers are opaque to individuals seeking benefits from USCIS. A file could be misrouted or lost, and this information would not be readily available to customers.

130 GAO Report, "Immigration Benefits: Additional Efforts Needed to Help Ensure Alien Files are Located when Needed," GAO-07-85 (Oct. 2006) *http://www.gao.gov/new.items/d0785.pdf* (accessed May 26, 2008).

131 *Id.* at 4.

132 *Id.* at 4. ("The failure of some staff to update NFTS to record the movement of an A-file, such as when they receive or transfer one, is a major reason for delays in locating A-files or in not being able to locate an A-file at all.")

c. USCIS File Audit Requirements

The Records Operation Handbook (ROH) requires USCIS offices to perform yearly audits. Additionally, the headquarters Office of Records Management recommends auditing every six months.[133]

USCIS regions and service centers may have additional file audit requirements. For approximately two years, the Western Region has required that offices under its jurisdiction conduct quarterly audits of A-Files, generally through the use of a scanner-wand. Specifically, the audits are to provide data on the number of pending green card and naturalization applications, and must show a less than two percent disparity between NFTS and the USCIS Performance Analysis System (PAS) data. Western Region audits do not mandate that offices inventory other ancillary applications such as EADs or travel documents. The Phoenix District Office relies on its own electronic tracking system to conduct this audit (see below for a detailed discussion of the Phoenix system). Field offices also must audit the A-files held by CBP and ICE.[134]

To monitor their inventory, service centers use "sorts" (codes or tags) within NFTS, as they have been doing in RAFACS (the service centers have enormous workloads – the California Service Center has approximately 1.5 million files at its facility at any given time). The sorts denote the staging locations or specific shelves where files are stored. The shelves are sorted by immigration categories (such as immediate relative, employment-based preferences, etc.). Additionally, each group within the California Service Center has audit and file reconciliation responsibilities and, to fulfill the ROH audit requirements, the California Service Center contractor conducts an ongoing audit of the file room. One California Service Center official advised the Ombudsman that the service center is in a constant audit state.

The Western Region and other USCIS facilities are mindful of records management and the importance of file auditing. However, improved USCIS IT and file tracking systems would provide better information on physical file location and case status without the need for costly, time-consuming manual hand-count and electronic file sweep audits prone to human error.

133 USCIS ROH Part II-18 § A(3).

134 *Id.*

3. Transformation Program Office Initiatives Related to File Transfers and Tracking[135]

One possible answer to the challenge posed by physical file transfer is adjudication of electronically submitted applications and petitions or digitized A-file data streams. The TPO is spearheading an initiative for USCIS that would digitize existing A-files to provide for adjudications without the need for physical file transfers and tracking. The Ombudsman believes that this initiative is important to customer service and should be aggressively pursued.

4. Local Best Practices and Tools to Improve File Tracking

As noted, a number of USCIS field offices have developed their own physical file tracking and case management tools to monitor case location and status. One example is the Phoenix Electronic Tracking System (PETS).[136]

In January 2007, the Phoenix Office implemented PETS, an electronic bar code system that integrates physical file control and case status management. In PETS, the Phoenix office places on the A-file a label or sticker with an electronic bar code identifier and basic text that provides information on the types of application or petition included therein. PETS file jackets have on them both the NFTS A-File code and one or more PETS bar codes, depending on what pending applications/petitions are in the file.

Advantages of PETS include: detailed information on an A-file's physical location and contents, including naturalization and green card as well as ancillary benefits applications (not part of the NFTS code initiative), without having to manually open and review the file; and simplified file tracking and case management with off-the-shelf technology. PETS, however, continues to rely on manual electronic and hand-count sweeps of files, rather than electronic reports. PETS may not be a suitable option for the volume of cases service centers manage. Without a national, standardized system, other USCIS offices may not understand the PETS bar code. Currently, the Phoenix

135 A full discussion of the TPO initiatives can be found at section II E. The Ombudsman's Annual Report 2007 discussed these issues in section II. The TPO is also testing a new integrated case management system in a pilot program for international adoption cases.

136 PETS is an adaptation of the Service-Wide Inventory Process (SWIP) system, previously used by legacy INS for financial auditing and funding purposes.

District Office must perform its own IT support on antiquated technology and systems.

Local solutions, as well as the TPO initiatives, illustrate that improvements in file transfer and tracking are critical to case management, efficiency, and ultimately to customer service.

H. The Need for Better Statistics

USCIS should review its data collection and reporting to: provide efficient and non-repetitive collection mechanisms; include the necessary data caveats on spreadsheets and reports; use standard time periods for data; provide all pertinent information to data requestors; and synthesize existing reports and prevent unnecessary new reports that place additional burdens on USCIS staff. One of USCIS' greatest challenges has been the collection, presentation, and sharing of statistics and reports, both internally and externally.

Data Collection Mechanisms. The lack of integrated IT systems and the continued absence of a robust case management system cause USCIS difficulty in data collection. For example, USCIS continues to use the Performance Analysis System (PAS) to collect statistics on application receipts, approvals, and denials, despite many inadequacies in the system. As described in the Ombudsman's 2007 Annual Report,[137] PAS does not precisely capture USCIS statistics, yet it is the data collection mechanism upon which the agency relies. In some field offices, adjudicators manually tabulate work completed at the end of the day. Creative field offices have developed their own systems to tabulate the data using spreadsheets and other mechanisms. However, no uniform data collection system exists in field offices. A comprehensive case management system would solve many of these issues.

For years, USCIS has discussed replacing PAS, which is a data source on which USCIS relies when studying whether to increase its fees and by how much. The Performance Management Division within USCIS is presently devoting resources to researching and developing a new system, the enterprise Performance Analysis System (ePAS), to replace PAS. In the past six to eight months, the ePAS team visited various USCIS offices to collect information on existing local systems and develop a list of what capabilities offices need for the new ePAS system. USCIS now has a Concept of Operations document for ePAS, and in FY 2009 plans to document the functional requirements and produce a design plan. However, it is unclear if ePAS is part of the Transformation Program Office's initiative to develop a new case management system.

Data Sources. USCIS often has multiple divisions producing separate analyses of the same or similar issue; USCIS should

137 Ombudsman's Annual Report 2007, p. 48.

synthesize its data collection efforts. During the reporting period, the Ombudsman on numerous occasions requested data on the frontlog, *i.e.*, the number of cases which did not receive receipt notices due to the summer 2007 surge in applications. The Ombudsman ultimately received a variety of spreadsheets from different sources within USCIS, yet it was challenging to reconcile the data. Each spreadsheet used a different type of analysis, and data did not match in what appeared to be the same categories for the same timeframe and case type.

Data Revisions. For certain data sources such as PAS, USCIS revises already published data. However, charts and tables do not always indicate that data were updated, sometimes months later, from previous versions. Including such information would make the data more useful for comparative analysis.

Selected/Missing Information. During the reporting period, the Ombudsman received USCIS reports with time periods not based on a standard unit of time. For example, instead of presenting data on a calendar or fiscal year basis, the report showed a non-standard span of months showing only part of the information and preventing proper analysis. Reports often did not include necessary caveats to explain the information and how it was collected, what it omitted, and other crucial details.

Creation of New Reports. USCIS produces many different kinds of statistics, within its numerous divisions, some of which are quite useful. However, in the Ombudsman's travels nationwide, USCIS staff have noted that the agency continues to add new reporting requirements and reports for field offices to produce instead of revising or adding a category to existing reports. The addition of new reports, which sometimes repeat information contained in existing reports, burdens offices that could use that time to focus on assisting customers.

I. Customer Service and Public Inquiries

RECOMMENDATION 4

The Ombudsman recommends that USCIS standardize proactive dissemination of information to all customer service avenues to ensure USCIS personnel can provide consistent and accurate information to customers. (AR2008-04)

USCIS provides information to the public in several ways, including: the USCIS website; the web-based Case Status Online service; the NCSC toll-free telephone line; INFOPASS appointments at field offices; and written correspondence. USCIS employs hundreds of staff who require timely, accurate, and consistent information from headquarters to provide the public helpful information through various customer service avenues each day.

In addition, some USCIS offices conduct outreach activities with local community-based organizations, employer groups, legal associations, and congressional offices to address concerns and resolve problems. For example, during a site visit to the Albuquerque Field Office, the Ombudsman learned that the office participated in a local radio show in an effort to expand the office's outreach initiatives. Such outreach activities are praised by customers and stakeholders. Further, some USCIS offices communicate with customers by email to resolve urgent or non-routine cases, which should be encouraged at all offices.[138]

USCIS has made significant strides in customer service, but challenges remain. The inability to communicate directly with USCIS supervisors and adjudicators is one of the most common concerns of customers and stakeholders. Customers have expressed frustration seeking answers to inquiries from multiple USCIS sources.

138 Ombudsman's Annual Report 2006, p. 35.

CASE PROBLEM

The individual filed an employment-based green card application in spring 2005. The applicant contacted USCIS on numerous occasions using the NCSC and other USCIS sources to determine why the issuance of the green card was delayed. Three different inquiries yielded three different responses. The first USCIS response indicated that a visa was unavailable; the next blamed the delay on a pending background investigation; and the final one said merely that "additional review" was needed. In October 2007, the applicant contacted the Ombudsman who referred the case to USCIS for clarification. The case was approved by USCIS in January 2008.

Customer service avenues are helpful only to the extent that they have useful and timely information from all relevant USCIS entities. Moreover, no matter how many useful avenues are created for the public to use, their usefulness is diminished if they provide inconsistent information.

The Ombudsman noted in the 2007 Annual Report that USCIS headquarters was not providing timely information to IIOs, adjudicators, and other employees about legal or procedural changes, thereby diminishing their ability to render effective customer service. The Ombudsman commented, "[t]his is particularly difficult for IIOs who are the front line employees expected to know the answers to difficult questions. As noted by one IIO, immigration attorneys and consultants often know about legal and procedural changes before IIOs have the information or instructions from USCIS headquarters." [139]

Supervisory IIOs who met with the Ombudsman in March 2008 at the SIIO Conference shared their concerns about what can happen when USCIS does not immediately advise front line personnel of changes in law, policy, or procedure and provide them easily-understood guidance that they can communicate to the public. In their words, "[private sector representatives] may know before we do" of a policy, procedure or legal change, which "makes us sound foolish" when the representative inquires about the change. Worse, private sector representatives may have an inaccurate understanding of the effect of the change, and pass this misunderstanding along to individuals, employers, and other stakeholders; naturally, the effect of this misunderstanding is compounded when shared across the Internet. According to the Supervisory IIOs, an inaccurate "first perception" of the new legal, policy, or procedural change can have persistent adverse effects on a national scale. They stated that front line personnel have to devote energy and resources to address customer queries prompted by the inaccurate information, and to perform "repair work" correcting the misperception.

The problems identified in the Ombudsman's 2007 Annual Report continued during this reporting period:[140] limited customer access to USCIS officers who know about individual cases to resolve an inquiry accurately and efficiently; questionable accuracy of information provided by CSRs; and the practice of providing minimal information in response to customer inquiries. In the 2007 Annual Report, the Ombudsman made two recommendations regarding customer service.[141]

The Ombudsman will continue to examine how information is disseminated within USCIS and to the public to prevent or mitigate problems for individuals and employers.

139 Ombudsman's Annual Report 2007, p. 63.

140 *Id.* at 22.

141 First, the Ombudsman recommended that USCIS adopt the frequently asked questions format used by Customs and Border Protection, incorporating a dynamic search feature on the website and a service on the website whereby customers can email a question (Recommendation 4). In its 2007 Annual Report Response, p. 3, USCIS responded that its "Information and Customer Service Division will work closely with the Transformation Program Office and [agency] Office of Communications to collaborate on enhancing the availability of information through the USCIS website, including improvements in the search function. . . ." Second, the Ombudsman recommended that USCIS adopt a national process wherein customers who have not received a decision after an interview within a set period of time can first contact via email the district adjudication officer, then a supervisor, and finally the district director to seek resolution (Recommendation 5). USCIS stated in its Annual Report Response, p. 3, that it "plans to expand email inquiries on a limited basis as an interim solution, and the Information and Customer Service Division (ICSD) is working to create an email mechanism for applicant follow-up after completion of an interview."

1. USCIS Website

RECOMMENDATION 5

The Ombudsman recommends that USCIS examine whether it has devoted adequate resources to the agency's website given the importance of the website to customers. (AR2008-05)

The USCIS website is a vital resource for customers to find out about changes in policies and procedures, learn how to submit an application or petition, make an appointment to visit a field office, or obtain information about USCIS offices. The Ombudsman continues to hear customer complaints about the site, ranging from difficulty in navigating the links to the site's limited search capability. USCIS should examine the resources for the website to realize its potential and fully assist customers.

The original purpose of the website was to provide the public with addresses of field offices to reduce the number of phone calls. However, the USCIS website has grown into a popular and critical resource[142] that receives about six million visitors a month of which only a fraction are repeat visitors to the site's hundreds of pages.[143] In June 2007, website visitors rose to 6.8 million and spiked to 8.1 million in July.[144] Most users access "Immigration Forms" and "Services & Benefits," while the third most consistently popular link is to citizenship information, which averaged more than a quarter million monthly visitors from May 2007 through February 2008 and spiked to a half a million visitors in July 2007.

USCIS' Office of Information Technology administers the technical aspects of the site. USCIS' Website Team manages the content and is a small unit. As of February 2008, the head of the team supervised only four people for a site that is the most traveled DHS website.[145]

The content of the website pages is updated mostly by the Website Team. A few USCIS Divisions have dedicated communicators who work with the Website Team, and a few offices have the ability to post information directly to the website.

To match the development of the website to customer needs, the site contains a survey asking customers to rate the page as "useful," "slightly useful," "not useful," or "don't know." This information is gathered by the USCIS Office of Information Technology.[146] The Ombudsman understands that the data cannot provide information on why certain ratings were given and encourages USCIS to refine this survey.

2. Case Status Online

USCIS customers who have a receipt number for their application/petition can use the Internet-based Case Status Online to check the status of their case. This resource continues to have some of the same shortcomings noted in previous annual reports.[147] Naturalization applicants still cannot access Case Status Online using their receipt numbers. There have been some improvements to Case Status Online. For example, whereas previously, pending or denied cases would show "pending" online, now the system more accurately displays "denied" for some denied cases. However, customers and stakeholders continue to complain that this system does not provide sufficient information, and often is inaccurate and outdated.

142 As described by Emilio T. Gonzalez, former USCIS Director, USCIS now provides the ability for customers to "schedule appointments, change their address, access the status of their case online, and submit certain applications through e-filing." U.S. House Judiciary Committee Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Hearing on *Naturalization Delays: Causes, Consequences and Solutions* (Jan. 17, 2008), *http://www.uscis.gov/files/testimony/testimony_ETG_17jan08.pdf* (accessed May 26, 2008).

143 USCIS, Customer Service Web Portal (CSWP) Monthly Web Metrics Report, (Mar. 7, 2008) *http://www.uscis.gov/files/nativedocuments/CSWP_MonthlyMetrics_Feb08.pdf* (accessed May 27, 2008); information provided during USCIS briefing with the Ombudsman (Feb. 22, 2008).

144 USCIS, Customer Service Web Portal (CSWP) Monthly Web Metrics Report, (Mar. 7, 2008).

145 Information provided during USCIS briefing with the Ombudsman (Feb. 22, 2008) (USCIS advised that two of the four positions were filled as of February 22, 2008).

146 USCIS regularly commissions an outside contractor to conduct an annual "Customer Satisfaction Survey" to solicit customer satisfaction and commentary on the performance of the NCSC, and includes questions about customers who use the NCSC and the website.

147 *See* Ombudsman's Annual Reports 2006 and 2007, pp. 35 and 30, respectively.

CASE PROBLEM

The Ombudsman received correspondence regarding the status of an EAD application filed on August 14, 2006. Case Status Online indicated that the RFE was received on September 11, 2006, and case processing resumed. For 17 months, the Case Status Online information remained unchanged when, in fact, the application had been denied on September 26, 2006. The customer did not receive the denial notice and relied on Case Status Online information. Because Case Status Online was incorrect, the customer missed the opportunity to challenge the decision.

3. National Customer Service Center

a. Background

USCIS often advises customers to contact the NCSC, a toll-free telephone line, to obtain additional information or to resolve a problem. The NCSC provides basic automated immigration information through its Interactive Voice Response (IVR) and connects to live assistance at a call center in the United States in both English and Spanish.[148]

The NCSC operates on a two-tier system for live assistance.[149] Tier 1 is managed by two contractors with Customer Service Representatives (CSRs) in Indiana, Kentucky, New Mexico, and Texas. Tier 2 consists of Immigration Information Officers (IIOs) who answer more complicated calls transferred from Tier 1. Tier 2 offices, located in New York and California, are among the largest USCIS offices.

In the 2007 Annual Report,[150] the Ombudsman commented on NCSC improvements such as enhanced quality control features and shortened wait times to talk with a CSR. USCIS has continued work to improve the call centers, including conducting focus groups and information sessions to obtain feedback on "the agency's customer products, local offices, and accuracy of information provided by the telephone centers."[151]

However, the Ombudsman continues to hear complaints similar to the issues highlighted in last year's report. These problems include: (1) Tier 1 representatives do not have enough immigration knowledge to process a request, and they have no access to case files; (2) Tier 1 representatives have difficulty identifying the actual problems and nature of the inquiries; (3) customers have difficulty getting transferred to a more knowledgeable IIO; (4) customers continue to describe inconsistencies in responses if they call several times about the same issue; and (5) there is still a lack of conclusive responses or incorrect responses provided by Tier 1 representatives.[152]

During the reporting period, the Ombudsman received numerous complaints about the NCSC's limited ability to address customer problems stemming from the summer surge. Customers stated concerns through the Ombudsman's public teleconferences,[153] emails, and case problems. As a result, the Ombudsman conducted a comprehensive review of the NCSC system during the reporting period and visited five of the six USCIS call centers.

b. NCSC Improvements, Accomplishments, and Initiatives

The Ombudsman observed some improvements and accomplishments with the NCSC:

- **New Tier 2 Directors** – The Tier 2 call centers lacked permanent directors for a period of approximately two years until early 2007. The new directors at each location have provided much needed structure and organization to the Tier 2 call centers, which is evident from the decreased waiting times, improved training efforts, and enthusiastic staff.
- **Increased Pay for Tier 2 IIOs** – USCIS acknowledged the hard work and ability of its call center IIOs by making their pay commensurate with that received by field office IIOs.

148 The NCSC can be reached at 1-800-375-5283. According to USCIS' website, "[l]ive assistance is available Monday through Friday as follows: Customers calling from Alaska: 8:00 AM to 5:00 PM local time; Customers calling from Hawaii: 8:00 AM to 4:00 PM local time; Customers calling from Puerto Rico and the U.S. Virgin Islands: 9:00 AM to 6:00 PM local time; Customers calling from anywhere else in the United States: 8:00 AM to 6:00 PM local time. In Guam, live assistance is available Tuesday through Saturday, 6:00 AM to 11:00 AM local time. The best times to call the NCSC for personal assistance are Tuesday through Friday." *www.uscis.gov* (accessed May 2, 2008).

149 Ombudsman's Annual Report 2006, p. 34.

150 *Id.* at 25–27.

151 USCIS 2007 Annual Report Response, p. 6.

152 Ombudsman's Annual Report 2007, pp. 25-26.

153 *USCIS Receipting Delay–How Does This Affect You?* (Oct. 12, 2007); *USCIS Receipting Delay II–How Does This Affect You?* (Nov. 2, 2007); and *USCIS National Customer Service Center (1-800#) and Infopass* (Dec. 14, 2007). *http://www.dhs.gov/xabout/structure/gc_1192724755499.shtm* (accessed May 27, 2008).

- **Military Help Line** – USCIS launched a Military Help Line on August 13, 2007 to assist service men and women who have immigration and naturalization questions.[154] In addition to the help line, USCIS has a web page, *http://www.uscis.gov/military*, that contains information specifically for military personnel and their families.
- **International Award** – An IIO at a Tier 2 location received the International Customer Management Institute "Spirit of Service Award" for her excellent customer service.
- **Content Management Office Email** – In April 2008, USCIS reinstituted a program for agency offices to notify the Content Management Team of the Information and Customer Service Division regarding Tier 1 scripts read by CSRs that may be outdated, contain incorrect information, or have an inconsistent message with another USCIS source.

USCIS also instituted new NCSC initiatives to assist the customer:

- **Interactive Voice Response (IVR) 2008** – USCIS developed content for a new telephonic IVR system, which it hopes to launch later in 2008. The current system is cumbersome and difficult to navigate. USCIS intends to improve customer service by providing the same basic immigration information to the caller with a streamlined system.
- **Incident Call Report** – The Ombudsman understands that USCIS plans to implement an incident report to receive and track complaints about the NCSC so the agency can use this feedback to address concerns and continuously improve the process.

c. Information Dissemination

USCIS should develop a more efficient information sharing process to support the call centers in their mission. The call centers are, in a sense, the voice of the agency. USCIS should make it a priority to share new data with them at the same time it shares data with other customer service avenues. Unlike field offices, call centers have no geographic boundaries and strive to answer questions on all forms pertaining to cases nationwide. However, the Ombudsman understands that USCIS does not have a consistent and formal way of sharing information with the call centers. Instead, the NCSC receives information on an *ad hoc* basis as individual USCIS offices are expected to provide Tier 2 call centers with information updates. On some occasions, Tier 2 does its own research to find updated agency information. Specifically, Tier 2 listens to regional and service center calls, when possible, and does its own monitoring of USCIS publications to glean updated information.

In recent months, Tier 2 leadership has been included in discussions on the development of frequently asked questions before a policy change. USCIS should continue to proactively include the call centers in these and other such discussions, as the NCSC is often the first USCIS source to hear customers' complaints and concerns.

CASE PROBLEM

Email received by the Ombudsman dated January 30, 2008. The applicant filed for an EAD with a service center on October 5, 2007. After 90 days, the applicant called the NCSC three different times and was provided different information each time regarding the processing of this application. In the first call, the NCSC told the applicant to wait another two weeks to obtain an interim EAD. In the second call, the NCSC said that USCIS no longer issues interim EADs. For the third call, the NCSC placed the application in expedited review and indicated that it would take five days. However, the applicant received an email notification from USCIS stating that a decision or notice of other action should arrive within 30 days.

As illustrated above, information provided by the call centers is not always up-to-date or consistent with other USCIS customer service avenues. During the summer 2007 receipting delays, USCIS' website provided weekly receipting updates. Customers who had not received their receipt notice and filed prior to the date posted were instructed on the website to call the NCSC. However, the Ombudsman heard of numerous instances in which the NCSC could not address the problem for the very reason the customer called — the customer had not received the receipt notice. The NCSC asked customers to call again at a later date because the NCSC was not properly equipped with the information to assist customers on the calls.

154 *See* section III on "Other Issues," for additional discussion on the Military Help Line.

CASE PROBLEM

Email received by the Ombudsman dated October 13, 2007. The applicant filed a green card application with a service center on July 2, 2007. After six weeks, the applicant called the NCSC and was advised to wait a few more weeks. The applicant checked USCIS' weekly receipting update, which indicated that the applicant should have already received a receipt. The applicant called the NCSC and was told to wait another 90 days. After waiting 90 days, the applicant called the NCSC again and mentioned the weekly receipting update on the USCIS website, which indicated that USCIS had issued receipts for August cases. The NCSC told the applicant nothing could be done because the case was still not in the system.

Providing incorrect or outdated information to customers often results in increased inquiries to the NCSC and/or other customer service avenues. These increased inquiries frustrate both customers and NCSC staff, place unnecessary burdens on the applicant, and increase USCIS workload. The NCSC at both Tiers has a dedicated and courteous staff who want to help the customer. However, to help them accomplish this goal, USCIS needs to provide the NCSC with correct, up-to-date information.

d. Tier 1 and Tier 2

i. Information Sharing

RECOMMENDATION 6

The Ombudsman recommends that USCIS develop an exchange program for USCIS staff who routinely work directly with USCIS customers, including staff at Tiers 1 and 2 of the NCSC, and IIOs who handle INFOPASS appointments. (AR2008-06)

NCSC personnel need a complete understanding of the information and services available through other USCIS customer service avenues to effectively perform their mission.

Tier 1 CSRs (contract personnel) can refer calls to an IIO at Tier 2, if the scripted information allows. Alternatively, they can suggest, with or without prompting from the script, that a customer visit a field office through an INFOPASS appointment. However, the CSR is often unaware of the information available through these other avenues. As a result, a CSR may direct a caller to schedule an INFOPASS appointment with a field office (which may be located hours from the caller's residence), even though the field office cannot provide assistance with the inquiry.

CASE PROBLEM

Email received by Ombudsman dated February 21, 2008. The applicant applied for a green card and EAD in September 2007. After waiting five months, the applicant called the NCSC to seek a case status update. The NCSC advised the applicant to schedule an INFOPASS appointment and request an interim EAD. The applicant traveled to the local office only to find that it no longer issued interim EADs.

An exchange program will offer opportunities for offices to learn about the capabilities of other offices. With greater familiarity and knowledge of other customer service avenues, CSRs and IIOs can better direct customers to the appropriate resource.

BEST PRACTICE

In January 2008, Tier 2 hosted an Open House in California for USCIS district and field office directors to learn about Tier 2 and the service it provides. Such exchanges of information create a more cohesive agency that is better able to assist customers.

ii. Information at Tiers 1 and 2

The lack of timely knowledge sharing by USCIS reduces customers' confidence in the NCSC and its staff's ability to assist customers. In visits to the call centers, the Ombudsman learned from CSRs and IIOs that they often first hear about new policies and procedural changes from callers rather than the agency. The agency should strive to provide timely and comprehensive information on changes in laws, regulations, and policies to all of its offices that interact with the public.

Another common complaint heard by the Ombudsman is that Tier 1 cannot provide any more information than what is already available on USCIS' website. Some customers commented that they only call the NCSC because USCIS advises them to call to obtain certain information or assistance, rather than visiting an office. However, the NCSC itself cannot always provide the information USCIS advises customers to seek at the NCSC.

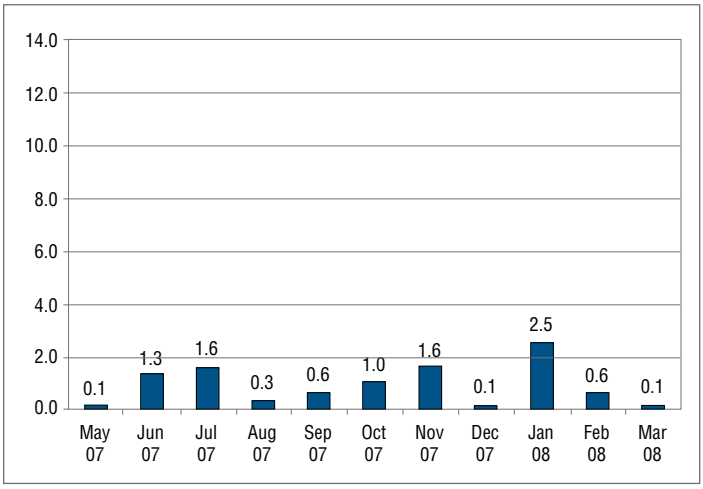
For example, during the Ombudsman's public teleconference entitled "Requests for Evidence (RFEs): How Do They Affect

You?" on March 28, 2008, a caller stated that Case Status Online indicated an RFE was mailed, but the caller had not yet received it. When the caller contacted the NCSC for more information, the NCSC told the caller to wait to receive the RFE in the mail rather than providing information on the RFE. The case had been pending for years and the caller was concerned about additional delay.

iii. Wait Times

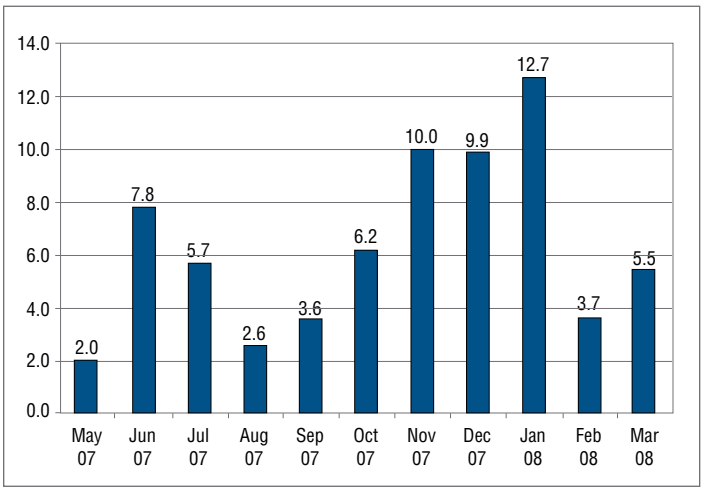
The average time for a CSR or IIO to answer a call was as follows:

Figure 13: NCSC Average Time to Answer Call (Minutes) Tier 1



Source: USCIS

Figure 14: NCSC Average Time to Answer Call (Minutes) Tier 2



Source: USCIS

Even during the summer surge and the months following in which applicants had many questions and concerns, the NCSC nowhere reached the long average waiting times of 50 plus minutes as seen in 2006.[155] During the present reporting period, longer waits only were seen at Tier 2 as more calls were transferred to Tier 2 to address surge inquiries. The Ombudsman encourages USCIS to maintain these shorter response times and to provide callers with an estimate of wait times while they are on hold.

e. Tier 1

RECOMMENDATION 7

The Ombudsman recommends that USCIS ensure its Tier 1 Customer Service Representatives (CSRs) of the NCSC follow the scripted information and are properly notified of changes to scripts. (AR2008-07)

USCIS has indicated repeatedly that the Tier 1 CSRs are required to follow scripted information provided by the agency. The CSR asks a caller a series of initial questions designed to reach the relevant scripted information to answer the inquiry. The importance of following the script is emphasized in CSR training, and CSRs are coached on a regular basis by the contractor quality assistance teams. Through the quality assurance process, CSRs are monitored on at least two calls per day. CSRs who do not follow a script on a monitored call are coached on how to improve.

However, in visits to three of the four Tier 1 locations, the Ombudsman observed and learned about some instances of CSRs not following scripted information. Moreover, CSRs provide information to customers in both English and Spanish, but the scripted text is not available in Spanish; this requires the CSR to translate simultaneously the English scripted text into Spanish while on the phone with customers.

155 Ombudsman's Annual Report 2007, p. 26.

CASE PROBLEM

The Ombudsman monitored the following call during a visit to Tier 1. The applicant called the NCSC requesting assistance with a Form I-129F (Petition for Alien Fiancé(e)). The applicant wanted the case expedited because of an upcoming family event. The CSR said the case was within processing times and, therefore, she could not issue a service request. The CSR suggested that the applicant might want to contact DOS to get a tourist visa while the case is pending. The CSR added that the USCIS backlog was decreasing and there was a good chance that the case would be completed before the time indicated on the posted processing times.

The information provided by the CSR in the case problem above was incorrect and may have given the applicant unreasonable expectations that the application would be processed shortly. Moreover, the advice to contact DOS for a tourist visa may have placed the applicant in a difficult position because the application for an I-129F indicates an intent to immigrate, which would disqualify an applicant for a tourist visa.

The Ombudsman recognizes the difficulty in staying on the scripted information. First, the Tier 1 scripts often consist of long, narrative explanations of the immigration process and are frequently changed as immigration policies and procedures are altered. Second, live conversations with customers often flow in a way that makes it difficult for CSRs to remain with the script. Third, CSRs may improvise when they have already recited scripted material to numerous callers. Finally, where scripts do not adequately address caller concerns, CSRs sometimes provide information not found in the scripts.

Providing information to callers that is not within the script poses potential hazards for customers. Customers may in good faith rely on information that is legally or factually incorrect and fail to take appropriate and timely action concerning the benefits they seek. In addition, when Tier 1 provides data inconsistent with other customer service avenues, customers may contact USCIS again, creating additional burdens on the caller and USCIS.

To ensure the best possible customer service, USCIS should alert CSRs to any substantive changes in the scripts. One possible solution is to highlight or bold the scripts. In addition, training should strongly caution CSRs not to improvise or depart from scripts, and that doing so may have significant adverse consequences for callers. Quality assurance teams should remain diligent in monitoring conversations to assure CSRs do not stray from the scripts.

f. Tier 2

i. Staffing

The Ombudsman understands that the IIOs at Tier 2 have the same immigration training as IIOs at the field offices, in addition to training on answering calls. IIOs at Tier 2 are responsible for answering questions that pertain to every USCIS office, form, and process.

It is difficult for Tier 2 to be fully staffed because many IIOs are promoted to USCIS adjudicator positions due to their training and experience, and there is a high burnout factor. Without a full complement of IIOs, Tier 2 faces challenges at critical times such as during the summer surge.[156]

The Tier 2 directors head two of the largest USCIS offices and expect to receive additional IIO positions.[157] At the same time, these Tier 2 directors have had at least five or six different supervisors in a temporary role at USCIS headquarters in an approximately one year period. A continual change in supervisory staff makes it difficult for some new initiatives to gain traction. Even so, since the current Tier 2 directors assumed their positions in 2007, Tier 2 has continued to make noticeable progress. The Ombudsman encourages USCIS to select one permanent headquarters supervisor for the Tier 2 call centers so that these offices can further succeed as a critical customer service avenue.

During site visits, the Ombudsman observed that the call center directors are building cohesive teams focused on helping the customer. The call centers provide a valuable source of information and have made many improvements, but need a complete staff and permanent supervisor to provide the best service to customers.

156 *See* Figure 14.

157 Information provided during USCIS briefings with the Ombudsman (Mar. 14 and May 8, 2008) (for example, the Tier 2 office in New York has 72 positions and will grow to 77 federal positions under the surge plan).

ii. Tools to Provide Information

RECOMMENDATION 8

The Ombudsman recommends that USCIS ensure that all its systems used by customer service personnel to provide information to the public are consistent and accurate. (AR2008-08)

USCIS should equip Tier 2 with the necessary tools to provide helpful assistance to customers, and Tier 2 should be a priority in receiving updated and new systems as a result of Transformation. For example, the Ombudsman observed that the current system used to issue service requests to field offices and service centers on individual cases, known as the Service Request Management Tool (SRMT), is cumbersome. The current SRMT system does not save certain information. For example, for one family's request, the IIO (or CSR) must re-input all common information for each family member in a new SRMT, which is time consuming. In addition, the IIO (or CSR) often must complete a lengthy form with detailed information only to be blocked by the system because a service request was already completed.

Moreover, IIOs cannot issue a service request if a case is within normal processing times. While monitoring a Tier 2 call, the Ombudsman noted that an IIO could not complete a service request for a case status update because the IIO's SRMT system stated that the case was within normal processing times, even though the public website indicated that the case was outside normal processing times. For status inquiries, the SRMT system only permits service requests for cases outside of processing times. However, based on the dates of the case, the public website indicated that the case was outside processing times. The IIO did not have access to the proper systems to research this issue, nor did the IIO have access to look up more specifics about this particular case.

CASE PROBLEM

Email received by the Ombudsman dated December 31, 2007. The applicant filed for advance parole in August 2007. The applicant noted that USCIS' processing time bulletin in December indicated that the processing time for advance parole was three months. The applicant called the NCSC for clarification and was told that the processing date may have shown three months but the actual processing time was six months. Thus, the NCSC could not complete an SRMT.

In addition, a common technical challenge for IIOs is having their systems "time-out" during a call. They have no recourse but to log-in repeatedly, thereby making the customer wait. By providing the dedicated and capable staff with appropriate IT systems, USCIS will be able to assist more customers and eliminate unnecessary steps.

Moreover, under the current phone system, the caller has to repeat all of the information provided to a Tier 1 CSR when transferred to a Tier 2 IIO, which adds to the caller's frustration. USCIS should consider implementing a program that would allow the NCSC components to input information provided by and to the caller. USCIS should also consider developing a new program that could track inquiries and maintain a record which could be reviewed by all USCIS customer service avenues.

4. INFOPASS

INFOPASS is a free service[158] that allows applicants or their representatives to schedule an in-person appointment at a USCIS field office.

In November 2004, the Ombudsman recommended that USCIS provide each field office with a kiosk or computer for customers to make an INFOPASS appointment.[159] In 2005, USCIS agreed with this recommendation and stated that it planned to install kiosks at a limited number of field offices. On some site

158 The Ombudsman has observed and heard from stakeholders that some private entities are charging applicants fees to obtain this "no-charge" appointment with USCIS.

159 *See* Recommendation #11 (Nov. 29, 2004) (The Ombudsman recommended that USCIS issue national policy guidance on the implementation of INFOPASS to ensure equitable access to immigration services.); *http://www.dhs.gov/xlibrary/assets/CISOmbudsman_RR_12_InfoPass_11-29-04.pdf* (accessed May 27, 2008).

visits, the Ombudsman observed kiosks in field offices which were delivered months earlier and had yet to be installed and made available to customers. As of April 25, 2008, USCIS had 33 functioning kiosks in 15 locations nationwide.[160]

Because the kiosks are a convenience for customers, the Ombudsman suggests that USCIS deploy the kiosks in the remaining field offices as quickly as possible.

Figure 15: INFOPASS Kiosk

BEST PRACTICE[161]

The 2007 Annual Report recognized the El Paso Field Office "come-back pass" as a best practice. Customers who lack documents or other necessary evidence are provided with a note allowing them to return the same day so the case can be completed without further delay. During the reporting period, the Ombudsman learned that other offices added the "come-back pass" to their program. Stakeholders and officers have reiterated its success.

The Ombudsman held a public teleconference on December 14, 2007, on INFOPASS and the NCSC. Although there were some comments on difficulties with the system, such as making scheduling changes or traveling long distances to reach an appointment, callers generally indicated that the system is serving its purpose well.

5. Written Inquiries

In some instances, customers communicate directly to field offices and service centers via postal mail. Staff dedicated to reply to this written correspondence are sometimes limited and their response times varied.

For example, in August 2007, the Ombudsman learned that at one of the service centers there were 36,000 pieces of unanswered mail, which represented approximately six months of correspondence. Often, by the time USCIS provides a response, the customer's inquiry has already been resolved through either another customer service avenue or the normal application process.

The California Service Center has stopped responding to customer written inquiries. Instead, it issues a notice to customers who submit written inquiries, that states "USCIS has launched a new referral tracking system through our National Customer Service Center. To ensure that customer inquires are handled as effectively and as quickly as possible, we ask that you call our National Customer Service Center." The notice also directs customers to Case Status Online.

In July 2005, USCIS began a Correspondence Development and Reinforcement Team (CDRT) pilot program at headquarters to determine the feasibility of developing a national correspondence center. After studying the program, USCIS determined that a national correspondence center was not viable.[162] However, USCIS established the CDRT as a resource to provide temporary assistance to field offices that request help with correspondence backlogs. The Ombudsman understands that six field offices and one service center have used this service thus far.

For each office that CDRT supports, there is a start and finish date for the assistance. CDRT receives less complex correspondence transferred from the field in an effort to provide responses to as many people as possible. CDRT also assists in developing standard response letters. When correspondence

160 These locations include: Atlanta, GA; Norfolk, VA; Newark, NJ; Chicago, IL; St. Albans, VT; New York, NY; Imperial Valley, CA; Mt. Laurel, NJ; Jacksonville, FL; El Paso, TX; New Orleans, LA; Boston, CA; Baltimore, MD; Los Angeles, CA; and Honolulu, HI.

161 *See* Ombudsman's Annual Report 2007, p. 23.

162 USCIS concluded that certain types of correspondence may not be practical for centralized processing. Information provided in USCIS correspondence to the Ombudsman (Apr. 22, 2008).

at an office reaches a manageable level, CDRT selects another office that has requested support. Although CDRT's resources and scope are limited, USCIS' efforts to provide timely responses to written correspondence represents improved customer service.

BEST PRACTICE

To address customer frustration at receiving different verbal responses to case status requests, the New York District Office established an "Information Handout" in March 2008. The New York Information Unit provides written responses to inquiries so customers can have a written record with information about their case.

J. Streamlining the Fingerprint Process

As referenced in subsection E, "Better Case Management Through Paperless Applications," the current fingerprint process often requires individuals to be re-fingerprinted, which is inefficient for individuals, employers, and USCIS.

During the immigration benefits application process, customers visit USCIS Application Support Centers (ASCs) to have their biometrics (fingerprints and photographs) captured. In FY 2007, USCIS submitted over three million fingerprints to the FBI for criminal history checks at a cost of more than $52 million. USCIS considers fingerprint results valid for only 15 months. Therefore, many applicants must return to the ASC to have fingerprints re-taken due to the length of time to adjudicate their cases.

BEST PRACTICE[163]

USCIS has made some efforts to alleviate multiple fingerprint appointments. One example is the consolidation of biometric appointments for customers filing both an employment-based green card application and an EAD. Before implementation of this policy in February 15, 2008, USCIS required these customers to make two visits to the ASC for finger-printing. Applicants are now required to attend only one initial biometric appointment for such combined filings.

Repeat fingerprinting continues to be costly to both customers and USCIS, and should be minimized through the use of wrap around technology or storage of fingerprints and electronic resubmission to the FBI.

The Biometric Storage System (BSS), in development for several years, could provide for storage, retrieval, and reuse of biometric images. This system could provide a method to reduce or eliminate the need for applicants to return to ASCs because fingerprints would be stored and resubmitted electronically. BSS implementation has been postponed and, currently, the first phase is scheduled for deployment in June 2008.[164] At this time, it is unclear when USCIS will have the

163 USCIS Press Release, *USCIS Consolidates Biometrics Appointment Letter into One Notice for Adjustment of Status Applicants* (Feb. 15, 2008); http://www.uscis.gov/files/pressrelease/USCISUpdate(biometricchanges)(17Feb08).pdf (accessed May 27, 2008).

164 Information provided in USCIS correspondence to the Ombudsman (Apr. 2, 2008).

capability to retrieve and reuse stored fingerprints to reduce the need for applicants to return to ASCs.

USCIS also continues to operate without "wrap around" security checks, which are automatic and real-time security updates from the law enforcement community on individuals who violate criminal laws. With this capability, law enforcement would inform USCIS of any new security concerns that arise without the agency needing to request or resubmit biometrics from the applicant. USCIS stated in April 2008 correspondence to the Ombudsman that it does not expect this feature to be available in the near future.

K. Intra-agency and Stakeholder Communication

This section focuses on the efficiency of USCIS' internal communications, including those between headquarters and the field. It also discusses USCIS communications of case status and other information to external stakeholders, such as national and community-based organizations. Both internal and external communications directly impact USCIS services.

Effective coordination and communication throughout USCIS is necessary for quality customer service and operational efficiency. In the 2007 Annual Report,[165] the Ombudsman observed that coordination and communication continue to be among USCIS' biggest challenges. The agency has made efforts to address some of these issues. In its 2007 Annual Report Response,[166] USCIS highlighted its communications accomplishments. For example, the agency worked with the Department of Defense to launch a new Military Help Line during the summer of 2007, to directly assist service members and their families with USCIS benefits and services. USCIS also posted a web page dedicated to military-specific immigration issues.

1. Field Offices/Services Centers

Customer inquiries to the Ombudsman, as well as comments by public teleconference participants, highlight the lack of effective communication between the service centers and field offices. When files are transferred between USCIS offices, for example from a service center to a field office, IIOs in the field offices are often unable to explain the reasons for the transfers or determine the actual status of the case. This inability of IIOs to determine the status of cases outside normal processing times at service centers and held for reasons other than name check screening is caused by disjointed information systems. USCIS needs a comprehensive, integrated case management and file tracking system to receive and provide information required for adjudicating cases and resolving issues efficiently.[167]

165 Ombudsman's Annual Report 2007, p. 61.

166 USCIS 2007 Annual Report Response, p. 6.

167 *See* subsection G on "File Transfers and Tracking."

2. USCIS Headquarters/Field Office Coordination

The Ninth Circuit Court of Appeals held in *Freeman v. Gonzales* that foreign nationals married to U.S. citizens may in certain instances pursue applications for lawful permanent resident status even after the citizen has died.[168] The April 21, 2006 opinion altered long-standing USCIS practice in the geographic area over which the Ninth Circuit has jurisdiction. However, it was not until November 8, 2007, that USCIS issued a Memorandum to field offices explaining the effect of the case on USCIS operations. While the decision likely affected a relatively small number of cases, and USCIS was probably reluctant to dispense guidance that would be used as evidence in related litigation in the Ninth Circuit, the delay illustrated communication issues between headquarters and the field. For instance, the November 8 guidance clarified that the Ninth Circuit's ruling was confined to the Court's area of jurisdiction, which is information that would have been helpful earlier for IIOs responding to queries in other federal circuits.

The Ombudsman discusses other issues pertaining to headquarters and field office coordination in subsection I.

3. USCIS Relations with Other Government Agencies and Stakeholders

USCIS works with and relies upon other federal agencies to carry out its mission. One principal partner is the Department of State (DOS).

USCIS works with DOS on certain waiver applications. Immigrant waiver applications submitted on the Form I-601 (Application for Waiver of Grounds of Excludability) are processed at district offices, field offices, overseas offices, service centers, and the immigration courts.[169] Grounds of inadmissibility that may be waived are set forth in INA sections 212(h) and (i) and include various criminal, health-related, and immigration violations. Approval of the I-601 waiver requires a finding that the refusal of admission to the United States would result in "extreme hardship" to the U.S. citizen or Lawful Permanent Resident spouse or parent of the applicant. There have been concerns of inconsistent adjudication of the "extreme hardship" standard and complaints about backlogs causing extended delays in some areas. The processing times range from same day to 56 months.[170]

BEST PRACTICE

The U.S. Consulate in Ciudad Juarez, Mexico, for example, has the highest number of immigrant visa applicants, 15-20 percent of whom require an I-601 waiver to enter or remain in the United States.[171] As a consequence, the USCIS office in Ciudad Juarez receives a high volume of Form I-601 waiver applications.[172] In March 2007, Ciudad Juarez worked with DOS to establish an efficient, same-day waiver adjudication program to address the high demand of applications and allow qualifying immigrants to join their families without additional delays. Utilizing DOS' Teletech Call Center scheduling system, Ciudad Juarez has reduced appointment delays from several months to a matter of days.[173] In light of the pilot's proven effectiveness over the course of the past year, USCIS should adopt this pilot as a permanent program in Ciudad Juarez.

The Ombudsman noted this lack of consistency in the adjudication process and the lengthy processing times in the 2007 Annual Report.[174] At that time, the Ombudsman encouraged USCIS to implement a nationwide program of standardization to foster uniform decision-making.

USCIS should also communicate more efficiently with DOS about the processing of petitions returned by DOS for revocation or revalidation. This issue is discussed in section IV, "Past Recommendations and USCIS Responses."

As for stakeholders, the USCIS Community Relations program partners with community and faith-based organizations, immigrant advocacy groups, businesses, educators, and government agencies to inform immigrant communities about immigration

168 444 F.3d 1031 (9th Cir. 2006).

169 *See generally* 8 CFR § 212.7(a).

170 Information provided by USCIS to the Ombudsman in Dec. 2007.

171 Information provided by USCIS Field Office, Ciudad Juarez (Feb. 2008).

172 *Id.* (Ninety-four percent of I-601 waivers are based on unlawful presence under INA § 212(a)(9). The remaining six percent are for other grounds of inadmissibility).

173 Information provided by USCIS Field Office, Ciudad Juarez (Mar. 2008) (Ciudad Juarez Field Office reported processing 13,476 I-601 waivers from Mar. 2007 to Mar. 2008).

174 Ombudsman's Annual Report 2007, p. 54.

laws, policies, and procedures. There are 25 USCIS Community Relations Officers nationwide.

In 2007, the Community Relations office developed a public web page, enabling the public to view information learned at national stakeholder meetings and providing links to other pertinent USCIS web links.[175] This site also allows community-based organizations to contact a USCIS Community Relations Officer via email. In October 2007, the Community Relations office took over the responsibility of facilitating the monthly Domestic Operations community-based organizations meetings in order to bring local concerns to the national level. The FAQs from these meetings are posted on the USCIS website. The Community Relations office has also expanded its outreach tools to include the USCIS Citizenship Toolkit, the Naturalization 101, Adjudications 101, and E-Verify 101 PowerPoint presentations.

175 www.uscis.gov/communityrelations (accessed May 27, 2008).

L. Finding Efficiencies: Reducing Requests for Evidence (RFEs)[176]

RECOMMENDATION 9

The Ombudsman recommends that USCIS expand the use of filing guidance "tip sheets" to reduce the current "Request for Evidence" (RFE) issuance rates. (AR2008-09)

This section focuses on the high issuance rate of "Requests for Evidence" (RFEs) for family-based green card applications at the National Benefits Center (NBC),[177] which is the central processing facility for such applications. The RFE rate reached 67 percent in September 2007 at the NBC;[178] that is, two-thirds of family-based green cards could not be processed without an RFE.

Before making a final determination on an application or petition for immigration benefits, USCIS may issue an RFE to an applicant/petitioner to obtain additional information essential to adjudicate the case. For example, an RFE may request vaccination records, court records, or proof of *bona fides* of a relationship. The most frequent reasons for RFEs at the NBC relate to: the Form I-864 (Affidavit of Support); medical examinations and vaccinations; marriage verification, and birth certificates.[179]

The Ombudsman held a public teleconference on RFEs on March 28, 2008. Callers stated that the language in RFEs at times is too general. They also commented that deadlines for RFEs can be random and inconsistent. Moreover, they pointed out it sometimes takes longer to obtain requested information than USCIS allows. In addition, they noted instances where individuals and employers do not receive the RFE from USCIS, even though USCIS records indicate the agency has sent one.

Issuance of RFEs is time-consuming and costly for USCIS. Adjudicators and contract personnel must prepare the RFE, mail it, and physically store the case file while awaiting the response.

176 The Ombudsman discussed this issue in the 2007 Annual Report in subsection J, "Inefficient or Redundant Processes, Need for Improved Form Instructions and USCIS Intake Processes," pp. 54-60.

177 According to data the NBC provided the Ombudsman in March 2008, its RFE statistics include all RFEs issued by both its contractors and adjudicators, and includes multiple counts for multiple RFEs made on a single application.

178 According to data provided by the NBC to the Ombudsman in Mar. 2008.

179 *Id.*

The adjudicator will retrieve the file to either deny the case if there is no response by the deadline, or review the response and adjudicate the case.[180] RFEs divert resources from finalizing adjudications and increase operating costs substantially.

From the customer standpoint, RFEs delay adjudications. The Ombudsman regularly hears concerns from individuals and stakeholders about incorrect and/or unnecessary RFEs. Complete and approvable filings submitted at the outset should be a goal for customers and the agency alike.

In the 2007 Annual Report,[181] the Ombudsman recommended that USCIS provide clearer form instructions so that applicants submit the required documentation at the outset. The Ombudsman further recommended that USCIS establish transparent and easily understandable rejection criteria, as well as RFEs written in simple, direct language. In response, USCIS stated that the "USCIS Information and Customer Service Division (ICS) [sic] has restructured and focused its Content Team to include reviews of all form instructions and other public documents available through the USCIS website to improve consistency and clarity."[182] During the reporting period, there has been limited improvement in form instructions, but USCIS has taken steps to improve the RFE language, as discussed below.

CASE PROBLEM

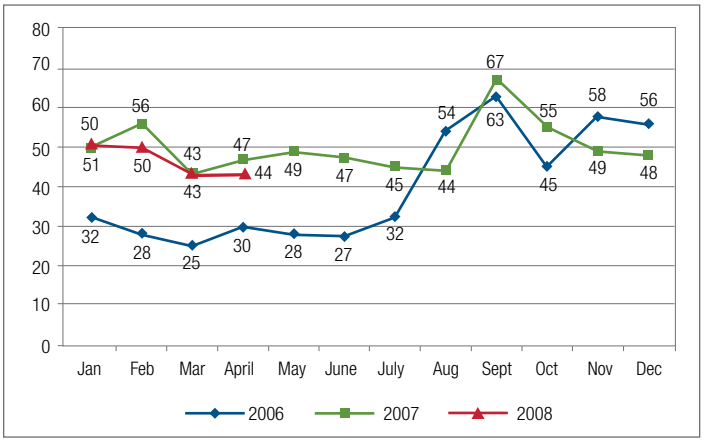
An individual previously granted asylum and two derivative children all filed green card applications in spring 2004. One child received the green card, while applications for the other child and the parent remained pending. In December 2005, the parent and child received an RFE. They responded to the request in January 2006 and received another RFE in May 2006. They responded to this second request in July 2006. The applicants contacted the Ombudsman in August 2007 for assistance. The two green card applications are still pending.

CASE PROBLEM

An employer filed Form I-129 (Petition for a Nonimmigrant Worker) in April 2006. USCIS sent an RFE to the petitioner in September 2006. USCIS then sent another RFE to the petitioner in the same month. The petitioner responded that same month. USCIS sent two other RFEs to the petitioner in November 2006. The petitioner's response was received in December 2006. USCIS denied the petition in April 2007. The petitioner filed an appeal with Administrative Appeals Offices in summer 2007. The case remains pending.

The NBC's monthly RFE rate for family-based green card applications ranged from 43 percent to 67 percent in 2007.[183] At any given time, the NBC issued RFEs for approximately half the green card cases it received, with as many as two out of every three generating RFEs in September 2007.[184]

Figure 16: RFE Rates for the National Benefits Center (percent)



Source: National Benefits Center

The Ombudsman understands that unrepresented, individual family-based cases may result in a higher RFE rate than those filed by sophisticated, repeat customers and others represented by counsel or a non-profit entity. USCIS should endeavor to make filing instructions and case processing straightforward to reduce the high RFE rates.

During the reporting period, the Ombudsman encouraged USCIS, and specifically the NBC, to provide additional guidance to customers to reduce the issuance of family-based

180 *See generally* "Removal of the Standardized Request for Evidence Processing Timeframe," 72 Fed. Reg. 19100 (Apr. 17, 2007), http://www.usdoj.gov/eoir/vll/fedreg/2006_2007/fr17apr07.pdf (accessed May 27, 2008); *see also* USCIS Interoffice Memorandum, *Removal of the Standardized Request for Evidence Processing Timeframe Final Rule*, (June 1, 2007), www.uscis.gov/files/pressrelease/RFEFinalRule060107.pdf (accessed May 27, 2008).

181 Ombudsman's Annual Report 2007, p. 61.

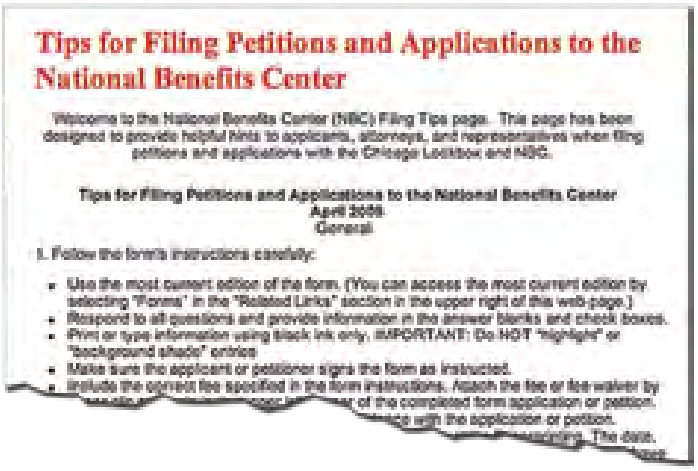
182 USCIS' 2007 Annual Report Response, p. 7.

183 NBC provided data to the Ombudsman (Mar. 2008).

184 *Id.*

green card RFEs. In April 2008, the NBC made public on the USCIS website a filing guidance tip sheet for customers that highlights frequent reasons for RFEs and hints to avoid these filing problems.[185] Other USCIS offices, such as the Nebraska and Texas Service Centers, have previously used "tip sheets" to attempt to reduce RFE rates and improve processing.

Figure 17: Snapshot of NBC Tip Sheet[186]



Tips for Filing Petitions and Applications to the National Benefits Center

Welcome to the National Benefits Center (NBC) Filing Tips page. This page has been designed to provide helpful hints to applicants, attorneys, and representatives when filing petitions and applications with the Chicago Lockbox and NBC.

Tips for Filing Petitions and Applications to the National Benefits Center
April 2008
Concept

1. Follow the form's instructions carefully:

- Use the most current edition of the form. (You can access the most current edition by selecting "Forms" in the "Related Links" section in the upper right of this web page.)
- Respond to all questions and provide information in the answer blanks and check boxes.
- Print or type information using black ink only. IMPORTANT: Do NOT "highlight" or "background shade" entries
- Make sure the applicant or petitioner signs the form as instructed.
- Include the correct fee specified in the form instructions. Attach the fee or fee waiver by of the completed form application or petition. with the application or petition. The date,

Source: USCIS

In December 2007, the NBC began making efforts to clarify language on certain RFEs. It also removed repetitive language otherwise available to customers. NBC leadership informed the Ombudsman that it is too early to evaluate whether these changes have improved the RFE process for customers.

In October 2007, the NBC received additional funding to hire 26 adjudicators to assist with review and validation of Form I-864 (Affidavit of Support), the single biggest source of RFE issuance[187] (of the more than 200 reasons that an RFE may be issued at the NBC for a green card application, over 140 pertain to the I-864). Contractors continue to perform preliminary review and validation of clearly-approvable I-864s. Additional adjudicator resources have enabled the NBC to exercise discretion in its review of documents that can result in validation of I-864s where previously contractors would have had to issue an RFE. In a sample of 7,700 NBC cases from June 2007 through December 2007, the new process resulted in a 41 percent reduction in the RFE issuance rate for I-864s.[188]

The Ombudsman supports these initiatives and notes the thoroughness of the NBC's work on these projects. The Ombudsman first suggested in August 2007 that the NBC draft filing guidance for customers, and the NBC published the tip sheet in April 2008.[189]

BEST PRACTICE

The New York District Office has instituted a program for green card and naturalization applications, wherein pending RFEs are completed at the interview. The applicant brings to the interview evidence to respond to the RFE, and the adjudicator makes a determination at that time.

BEST PRACTICE

The Boston District Office requires supervisor concurrence for RFEs for additional documents. The office has found that this practice dramatically reduced the RFE rate.

185 USCIS, *Tips for Filing Petition and Applications to the NBC* http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=72a927c382f39110VgnVCM1000004718190aRCRD&vgnextchannel=fe529c7755cb9010VgnVCM10000045f3d6a1RCRD (accessed May 27, 2008).

186 *Id.*

187 Rates of RFE issuance in September, 2007 for Form I-864 totaled 28,302 at NBC, as compared with 16,134 RFEs for medical exam/vaccination records, 5,560 for marriage or birth certificates, and 4,392 for other reasons. The NBC provided data to the Ombudsman (Mar. 2008).

188 According to data provided by the NBC in Nov. 2007.

189 Between August 2007 and April 2008, NBC issued over 200,000 RFEs. *Id.*

M. USCIS Workforce[190]

RECOMMENDATION 10

The Ombudsman recommends that USCIS review the workforce elements of its 2007 surge plan, and make public an after-action report on its findings, including best practices, for possible future application surges. (AR2008-10)

This section focuses on USCIS' workforce to ensure that USCIS has enough qualified employees to efficiently and effectively process immigration benefits.

1. USCIS Workforce and the Surge

The 2007 surge challenged USCIS' workforce and the agency staffing levels. USCIS has dedicated personnel, but without adequate and flexible staffing strategies the agency can only respond reactively to workload fluctuations. Recruitment, training, background checks for new employees, and spending restrictions tied to projections of fee income make it difficult for USCIS to hire and deploy personnel rapidly (see subsection D for a discussion of USCIS fee-based funding issues).

To address the summer 2007 surge, USCIS expanded work hours, added shifts, and detailed 84 staff to service centers.[191] The agency also shifted employees to work on its various types of petitions and applications. In this shifting of resources, USCIS first prioritized adjudication of interim benefits (EADs and advance parole travel documents) associated with employment-based green card applications, at the expense of other benefits.[192] As an overall strategy, USCIS continues to shift its workforce and prioritize benefits processing to meet immediate demands.

As part of the fee rule and in response to the surge, USCIS has been increasing its personnel agency-wide. In USCIS' most recent announcement, a March 14, 2008 "Leadership Journal" posting on the agency website, USCIS Acting Director Jonathan "Jock" Scharfen stated, "[n]ow that the fee increase is generating needed revenue, we're hiring and training 1,334 new adjudications officers and 521 new support staff – totaling 1,855 new USCIS employees, many of whom are already on board."[193] Due to USCIS' fee-based funding structure the agency cannot hire new workers to address an increase in filings before it receives the added fees.[194] The former Director testified that "[i]nitial announcements for new positions were posted [on the main government employment website] on October 26, 2007,"[195] over four months after USCIS started to receive fee revenues from the summer surge.[196]

The surge workforce strategies identify possible means of deploying current personnel almost immediately to begin addressing a spike in filings, while contemporaneously hiring and training new USCIS officers. For example, under the plan, refugee/asylum officers are conducting naturalization interviews, and the agency is employing term staff for a period of approximately two years to address processing backlogs.[197] A significant portion of the term employees may be retired INS and USCIS employees, allowing USCIS to tap into an experienced pool of officers who could be deployed quickly; apparently, USCIS has had limited success with this portion of the plan.

190 In the 2007 Annual Report, this section was titled "Staffing, Career Development, Training, and Strategic Workforce Planning and Recruiting," pp. 70-75.

191 U.S. House Judiciary Committee Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Hearing on *Naturalization Delays: Causes, Consequences and Solutions*, p. 3 (Jan. 17, 2008) (testimony of Emilio T. Gonzalez, former USCIS Director), http://www.uscis.gov/files/testimony/testimony_ETG_17jan08.pdf (accessed May 26, 2008).

192 *See* subsection B, "Summer 2007 Surge: Frontlogs & Backlogs."

193 DHS Leadership Journal (May 14, 2008), http://www.dhs.gov/journal/leadership/2008/05/were-listening.html (accessed May 27, 2008).

194 *See* INA § 286 (m).

195 U.S. House Judiciary Committee Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Hearing on *Naturalization Delays: Causes, Consequences and Solutions*, p. 3 (Jan. 17, 2008), http://www.uscis.gov/files/testimony/testimony_ETG_17jan08.pdf (accessed May 26, 2008).

196 *Id.* at 5; USCIS News Release, *USCIS Updates Projected Naturalization Case Processing Time*, (Apr. 2, 2008) http://www.uscis.gov/files/article/naturalization_processing_2apr08.pdf (accessed May 26, 2008) ("A critical component of the strategy for addressing this workload is to quickly grow the capacity to handle the influx of additional cases. That includes expanding the USCIS workforce by adding nearly 3,000 new employees, detailing employees to work in the most heavily affected offices, quadrupling the funding for overtime and using Asylum Office facilities and staff to conduct naturalization interviews.")

197 USCIS News Release, *USCIS Updates Projected Naturalization Case Processing Time* (Apr. 2, 2008), http://www.uscis.gov/files/article/naturalization_processing_2apr08.pdf (accessed May 26, 2008). *See also* U.S. House Judiciary Committee Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Hearing on *Naturalization Delays: Causes, Consequences and Solutions* (Jan. 17, 2008) (testimony of Emilio T. Gonzalez, former USCIS Director) (referring to the Federal Career Intern Program), http://www.uscis.gov/files/testimony/testimony_ETG_17jan08.pdf (accessed May 26, 2008).

2. Training and Development

With the former Director's support for leadership development and training in the "fundamentals," USCIS has restructured its training model. In last year's Annual Report,[198] the Ombudsman discussed the need to establish comprehensive training for its workforce. In December 2007, the Director announced the integration of training facilities into the USCIS Academy located in Texas and Virginia.[199] USCIS also has revised its basic immigration training course curriculum. USCIS designed these initiatives to enhance expertise among its personnel, and to increase capacity to train employees in larger numbers.[200]

According to USCIS, the new academy is "committed to cultivating the next generation of USCIS employees, managers and leaders . . . developing a highly educated and professional workforce equipped with the necessary knowledge, capability, and skills to enable USCIS to deliver its critical mission . . . confront the complex national security challenges ahead, provide excellence in customer service, and operate effectively. . . ." [201]

Additionally, on May 17, 2007, the Director announced the formation of a new Leadership Education and Development (LEAD) training program.[202] The LEAD program has three main objectives: (1) to reduce barriers and foster a more rapid exchange of ideas between USCIS directorates; (2) to ensure that leaders assigned mission-critical roles, as well as other operational personnel, have the necessary skills to properly access and timely exercise decision-making authority affecting people, processes, and the role of technology within the context of its mission; and (3) to equip rising leaders with a broad range of expertise at all levels across functional areas and disciplines.[203]

3. Immigration Information Officers (IIOs)

USCIS should enhance the career path and options for IIOs within the agency's organizational structure. IIOs are expected to understand immigration laws, regulations, policy, and procedures, and exercise a high level of judgment in determining which inquiries will be escalated. Information is one of the key services USCIS provides to customers, and its value should be reflected in the level of support and professional development for IIOs.

As discussed in subsection I on "Customer Service and Public Inquiries," IIOs are often the principal point of contact for customers through the NCSC toll-free call centers or at INFOPASS appointments. Staffing the field office information function or the NCSC phone lines is challenging and stressful. IIOs are critical to the customer's understanding of immigration processing requirements and expectations, and to public confidence in the administration and delivery of immigration services. As a public face and voice of the agency, IIO interpersonal and communication skills should continue to be valued and developed.

BEST PRACTICE

In the Boston District Office, IIOs now conduct, with supervisory review, the civics and English sections of the naturalization test. This division of labor allows adjudicators to focus on other eligibility requirements. This program commenced in February 2008 and reportedly has been well received by adjudicators and IIOs. In the Boston office, IIOs also adjudicate Forms N-600 (Application for Certificate of Citizenship) and I-824 (Application for Action on an Approved Application or Petition). Shifting some of the adjudication work to IIOs enables the office to process more cases, as there is a more efficient distribution of the workload. In addition, clerical staff instead of adjudicators direct the applicant to sign the photograph that is affixed to the naturalization certificate. This process change has saved an average of five to ten minutes per interview. Other offices should consider similarly innovative and effective practices.

198 Ombudsman's Annual Report 2007, pp. 70-75.

199 *See* USCIS News Release, *USCIS Expands Immigration Officer Training Capacity* (Dec. 5, 2007), http://www.uscis.gov/files/pressrelease/USCISAcademy120507.pdf (accessed May 26, 2008).

200 U.S. House Judiciary Committee Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Hearing on *Naturalization Delays: Causes, Consequences and Solutions* (Jan. 17, 2008) (according to Emilio T. Gonzalez, former USCIS Director, USCIS' plan to use a combination of commercial and on-the-job training facilities throughout the country will increase its former capacity to train new officers from a single class of 24 officers per session to its present capacity to now concurrently run six training classes with 48 students on a rolling basis), http://www.uscis.gov/files/testimony/testimony_ETG_17jan08.pdf (accessed May 26, 2008).

201 USCIS, *The USCIS Academy: Building the Workforce of Tomorrow* (Mar. 3, 2008) www.uscis.gov (accessed June 15, 2008).

202 USCIS, *[Former] Director Gonzalez Announces the Launch of the USCIS Leadership Education and Development (LEAD) Program* (May 17, 2007); https://dhsonline.dhs.gov/portal/jhtml/dc/sf.jhtml?doid=61506 (accessed June 23, 2008).

203 *Id.*

4. Past Recommendations

In last year's Annual Report,[204] the Ombudsman made four workforce recommendations. First, the Ombudsman recommended that USCIS establish the Chief Human Capital Officer with a rank position of Senior Executive Service (SES), equal to the Chief Information Officer and Chief Financial Officer. USCIS stated that it will consider placing an SES position as the agency's Chief Human Capital Officer.[205]

Second, the Ombudsman recommended that USCIS ensure there is a comprehensive merger of core job career paths with necessary training requirements. USCIS stated in response that it recently formed an internal working group to study the duties and responsibilities relative to Domestic Operations field offices, and the agency developed a new series of positions that combined numerous rolls at the various levels of responsibility:

> These new series create a more flexible workforce that will allow USCIS to operate efficiently, be prepared to meet changes in workload demands, and provide for greater consistency in training and developing the work staff to perform the mission of the agency. Additionally, the blended series provides for a clear line of sight [sic] from entry-level to full performance whereby high performers can map out career paths.[206]

Third, the Ombudsman recommended that USCIS continue and expand the blended approach to training, and establish a certification process for both federal and contracted instructors. USCIS has developed a new Immigration Officer Corps training program that expands training from six to ten weeks, and has implemented a number of leadership programs that are open to all personnel, including the Officer Corps and support staff (see above for a discussion of USCIS training and development).

Fourth, the Ombudsman recommended that USCIS reduce its dependency on temporary employees and assignments by establishing a table of standard staffing levels and office organization. In response, USCIS stated that it established "full-time permanent (FTP) staffing levels for every USCIS HQ and Field Office at the beginning of FY2006," and an approved table of organization staffing profiles for every office.[207]

204 Ombudsman's Annual Report 2007, pp. 71-72.

205 USCIS 2007 Annual Report Response, p. 10.

206 *Id.*

207 *Id.*

N. Complexity and Standardization of the Immigration Process

This subsection focuses on how complexity in the immigration process impacts customers, stakeholders, and USCIS.

The Ombudsman first articulated "Complexity of the Immigration Process" as a burden on USCIS customers in the 2007 Annual Report.[208] Immigration is complex not only because of the many statutes and implementing regulations, but also because USCIS policies and procedures seek to balance equitable treatment of individuals with the broad rules that apply to millions of applicants and beneficiaries in a dynamic environment.

1. Systemic Complexity

The Immigration & Nationality Act (INA) is the principal statute governing immigration in the United States. However, there are numerous additional statutes, regulations, policies, and processes that affect whether and in what manner a foreign national may enter the United States, request temporary status, apply for green card status, or seek U.S. citizenship. A single misstep by a foreign national or employer can lead to the denial of an application or petition, the loss of status and/or the accrual of unlawful presence, ineligibility for future immigration benefits, and even removal from the United States.

The Staff Report of the National Commission on Terrorist Attacks Upon the United States (the "9/11 Commission Report") noted, "[e]very immigration benefit has its own set of rules, regulations, and procedures. Many are complex and time-consuming to adjudicate. Some are so difficult to process that specialists must handle them."[209] Processes that should be simple and straightforward are unnecessarily complicated, as discussed below.

The sheer number of federal departments, USCIS offices, mailing addresses, products, and forms contribute to the complexity and confusion of the immigration system:

- **Federal Departments** – The Departments of Homeland Security, State, Justice, and Labor together administer various parts of the immigration benefits process. For example, in an employment-based green card process, most employers must obtain a labor certification from DOL, petition USCIS with that labor certification, and wait for DOS to determine that an immigrant visa category has become current. Then, the foreign national often interviews at a U.S. consulate for an immigrant visa, travels to the United States and is screened at the port-of-entry by Customs and Border Protection (CBP), and waits for the green card to come in the mail from USCIS.
- **USCIS Offices** – Individuals apply for immigration benefits and seek information from multiple USCIS offices. The agency has 87 domestic field offices and 31 overseas offices, four service centers, six call centers, a National Benefits Center, a National Records Center, eight asylum offices, and 130 Application Support Centers across the 50 states and outlying territories.[210]
- **USCIS Mailing Addresses** – USCIS currently utilizes numerous domestic mailing addresses to receive applications, petitions, and other information from customers. Customers have the responsibility to identify the correct mailing address for their particular circumstances. For example, the mailing instructions for Form I-131 (Application for Travel Document) are nearly three full pages and list 11 different mailing addresses.[211]
- **Visas** – Foreign nationals often require the assistance of experts to determine the appropriate visa category among the more than 25 general categories of nonimmigrant visas with more than 70 specific subtypes.[212]
- **Forms** – USCIS uses over 200 official governmental forms to process, track, analyze, and adjudicate applications and petitions.[213]

208 Ombudsman's Annual Report 2007, p. 7. In this report, the Ombudsman provides examples of complexity and confusion, including confusing forms instructions, bi-specialization, concurrently filed applications, and discrepancies between information on USCIS' website and the forms and documents it issues.

209 9/11 and Terrorist Travel, Staff Report of the National Commission on Terrorist Attacks Upon the United States, Hillsborough Press, p. 98, (Aug. 21, 2004).

210 USCIS 2007 Annual Report, p.11; USCIS email to the Ombudsman dated May 8, 2008.

211 *See* Instructions to Form 1-131, http://www.uscis.gov/files/form/I-131instr.pdf (accessed May 26, 2008).

212 http://www.travel.state.gov/visa/visa_1750.html (accessed May 27, 2008).

213 *See e.g.*, 8 CFR § 299.1; http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=023744d26b7c675a79e5078326bbfef7&rgn=div8&view=text&node=8:1.0.1.2.61.0.1.1&idno=8 (accessed May 26, 2008).

Because of the complexity of the law and the volume of individuals and employers seeking immigration benefits, there is no single source of information for answers on basic questions of eligibility and filing procedures. Former USCIS Director Eduardo Aguirre stated:

> We are saddled with administering what my legal friends tell me is the most complicated set of laws in the nation. I am told it beats the tax code. And as the Immigration and Nationality Act, which [Congress] from time to time see[s] fit to modify or add a layer or take one away, each application we receive seems to be slightly or largely different from the other. Six million to seven million applications have to be administered – adjudicated – against a body of law that is very complex and sometimes contradicting each other.[214]

Complexity is a challenge for those seeking immigration services and the agency administering them. In this and other sections of the 2008 Annual Report, the Ombudsman identifies areas where the agency should seek to reduce the complexity of the process to improve services. USCIS should evaluate new regulations, policies, and forms revisions with consideration for complexity and comprehensibility by non-native English speakers.

2. More Clarity Needed in Filing Requirements and Processes

The complexity of laws and procedures continues to make it difficult for many customers to understand filing requirements and processes.[215] Form instructions are often confusing, and there continue to be discrepancies between filing information on printed forms and on the USCIS website. While USCIS strives to provide public notification of new developments in filing requirements and processes, such announcements often require further clarifications.

For example, as discussed in subsection G, file transfers between service centers to balance workloads can result in customer misunderstandings when receipt numbers reflect the agency office issuing the receipt, rather than the office where the case will be adjudicated. During the 2007 surge, customers who correctly filed at one service center were often confused when they received a receipt notice from a different service center.

Various programs designed to centralize and specialize the processing of certain application types cause confusion for customers. For example, the "bi-specialization initiative" takes advantage of economies-of-scale. However, rules for forwarding submissions between the service centers sometimes are unclear. Changes in filing procedures and locations add significant complexity to an already convoluted process.

3. Complexity Observed During 2008 Reporting Period

The following are selected examples of USCIS complexities observed during this reporting period:

a. Change in Filing Location for One City

CASE PROBLEM

A USCIS applicant residing in Maryland concurrently filed for a family-based green card (Forms I-485 (Application to Register Permanent Residence or Adjust Status) and I-130 (Petition for Alien Relative)) in August 2007. The applicant followed the I-485 filing instructions. After several months, he was concerned that he had not received a receipt notice. The applicant re-reviewed both forms and discovered they had different mailing instructions. He contacted the Ombudsman for assistance. Form I-130 (revised July 30, 2007) instructed applicants who concurrently file Forms I-485 and I-130 to send them to the Chicago Lockbox unless they reside in the Baltimore District. This same instruction was not contained in the newly revised I-485 instruction published on the same date, July 30, 2007.

The Ombudsman notified USCIS of the case problem discrepancy and the agency corrected the conflicting information on the forms.

214 Congressional Research Service Memorandum on *Enforcing Immigration Law: Issues of Complexity* (July 28, 2005) citing to U.S. House Appropriations Subcommittee on Homeland Security Hearing on FY 2006 *Appropriations for U.S. Citizenship and Immigration Services* (Mar. 2006) (testimony of former USCIS Director, Eduardo Aguirre) [sic].

215 *See* Ombudsman's Annual Report 2007, pp. 9-10.

b. Discrepancy Between New Policy Guidance and Form Instructions

An Ombudsman public teleconference revealed that new requirements for the Form N-648 (Medical Certification for Disability Exceptions) did not appear on the form instructions. Specifically, a September 18, 2007 Memorandum entitled "Guidance Clarifying the Adjustment of Form N-648, Medical Certification for Disability Exceptions," required doctors to provide the origin of impairment, but currently, Form N-648 asks only for the medical diagnosis. For more information, see section III, "Other Issues," including the N-648.

c. Surge Complexities

Some complexities became apparent as a result of the summer surge. For example, the Ombudsman understands that system bottlenecks at the service centers prevented the routine issuance of permanent A-numbers to applicants. Consequently, USCIS issued temporary A-numbers for employment-based green card applications received between July 1 and August 17, 2007.[216] USCIS sought to facilitate the receipting process and indicated that the agency would reconcile the A-numbers at a later date. Assigning temporary numbers further complicates case processing issues stemming from the surge.

4. Standardization[217]

As a federal law, the INA, and related regulations, policy, and procedures governing immigration benefits, should result in uniform and equitable adjudication nationwide.

BEST PRACTICE

USCIS held a Supervisory Immigration Information Officer (SIIO) Conference in March 2008. The conference's theme, "Transforming Service Through Collaboration, Innovation and Technology," reflects USCIS' commitment to improving customer service and communication within the agency. The conference was an opportunity for SIIOs to communicate ideas to headquarters. It also provided a forum to network with peers, share best practices, learn about new processes, and discuss current and future challenges at USCIS.

During the reporting period, the Ombudsman continued to hear concerns about standardization in meetings with customers and stakeholders, including: inconsistent application of discretion among service centers and field offices; inconsistent interpretation and application of laws, regulations, precedent decisions, policies, and procedures; and wide variation in processing times for the same benefit type among USCIS offices.

In the 2007 Annual Report, the Ombudsman made several recommendations regarding standardization. First, the Ombudsman recommended that USCIS institute fraud interviews on the same day individuals appear for benefits interviews at field offices. USCIS stated in response that it "believes that same-day fraud interviews are beneficial, and while not a requirement, same-day fraud interviews are already taking place at many USCIS field offices."[218]

Second, the Ombudsman recommended that USCIS produce an Aging Report on pending fraud investigations by officer and district, and set a reasonable limit to the time allotted for investigation by the fraud unit. In response, USCIS stated that it "agrees that managing this workload requires a certain level of inventory control, production reports, and associated analysis of operations," but "does not support placing limits on the time allotted for investigations."[219]

Third, the Ombudsman recommended that USCIS institute a plan whereby employees responsible for quality assurance (QA) at the local level receive uniform and comprehensive training in QA procedures. USCIS did not specifically accept or reject this recommendation, but did state that it "recognizes

216 USCIS Response to Ombudsman Teleconference Questions (Apr. 30, 2008).

217 In the Ombudsman's Annual Report 2007, the "Standardization" section was in section III I, pp. 51-53, and entitled "Lack of Standardization Across USCIS Business Processes." Standardization issues also were discussed in greater detail in the Ombudsman's Annual Report 2006, pp. 16-18.

218 USCIS 2007 Annual Report Response, p. 5.

219 *Id.*

that a more standardized training approach is needed for Quality Analysts in the field."[220] The lack of adequately trained QA personnel at the local level contributes to standardization issues in adjudication.

To address standardization issues in adjudication, the Ombudsman encourages USCIS leadership to implement a nationwide program of standardization, more vigorous training of adjudications officers, and a robust QA program. The Ombudsman recognizes that standardization in decision-making is challenging, but is central to the integrity of the system.

220 *Id.*

III. Other Issues

Section 452(c)(1)(G) of the Homeland Security Act requires the Ombudsman to include, as part of the Annual Report to the Senate and House Committees on the Judiciary, "such other information as the Ombudsman may deem advisable." This information is distinguished from the prior section discussing "pervasive and serious problems" by the Ombudsman's finding that these are emerging issues or deserving of special attention in the Annual Report.

A. E-Verify

In 1986, Congress passed the Immigration Reform and Control Act (IRCA) making it illegal to knowingly hire or to continue to employ unauthorized workers.[221] Pursuant to IRCA, the agency established an employment verification process requiring the employer to complete, maintain, and update Form I-9 (Employment Eligibility Verification).[222] As part of the Form I-9 completion process, employees provide their employers proof of identity and eligibility to accept employment in the United States by presenting one or more documents listed on the form.

Since 1986, legacy INS prioritized, at various times, enforcement of IRCA's employment verification mandate. A 1996 law required legacy INS to coordinate with the Social Security Administration (SSA) to begin pilot programs to test electronic employment verification.[223]

On September 25, 2007, USCIS re-branded the Internet-based employment eligibility verification system under its new name, E-Verify.[224] This system is administered by the USCIS National Security and Records Verification Directorate.

E-Verify electronically compares employment eligibility verification data within three days of a new employee's date of hire with records contained in certain SSA and DHS databases. Additionally, the E-Verify system provides participating employers with a "photo screening tool," which allows them to check photos provided by new hires against approximately 14.8 million images included in one or more government databases.

Through E-Verify, employers receive immediate responses to queries regarding the employment eligibility of new employees. If employment eligibility is confirmed, the E-Verify process is complete. If E-Verify returns a "Tentative Non-Confirmation" (TNC) alert, there is a process for employees to contest it.[225] Employers are prohibited from using this system to verify the work eligibility of its current workforce.

At this time, participation in E-Verify is not mandatory under federal law.[226] However, USCIS recently issued an interim

221 8 U.S.C. § 1324a(a).

222 USCIS Form I-9; http://www.uscis.gov/files/form/i-9.pdf (accessed May 27, 2008).

223 Pub. L. No. 104-208, div. C, 110 Stat. 3009 (1996) (codified in scattered sections of Title 8 of the United States Code).

224 The E-Verify program (successor to the Basic Pilot Program) provides employers with a free electronic method for confirming the employment eligibility of their newly-hired employees; see USCIS Press Release, *E-Verify Program Surpasses 52,000 Employers* (Feb. 12, 2008); http://www.immigration.com/newsletter1/everifyicerelese.pdf (accessed May 27, 2008). *See* "Basic Pilot Program Extension and Expansion of 2003," Pub. L. No. 108-156, 117 Stat. 1944 (Dec. 3, 2003).

225 In essence, the TNC resolution process is as follows: (1) the employer and the employee sign a paper copy of the TNC alert; (2) the employee is given an opportunity to "contest" the TNC; (3) an employee who opts to contest is provided a TNC "referral letter" and; (4) in most cases, the employee is required to bring the "referral letter" to SSA and/or DHS within eight business days to initiate a second level of review of the TNC. *See generally E-Verify User Manual* (Form M-574), pp.14-30; http://www.uscis.gov/files/nativedocuments/E-Verify_Manual.pdf (accessed May 27, 2008).

226 Executive Order 12989 (June 6, 2008) requires federal contractors to use E-Verify to verify the employment eligibility of their employees; *www.whitehouse.gov* (accessed June 20, 2008).

rule[227] concerning Optional Practical Training, and a proposed rule[228] concerning Temporary and Seasonal Agricultural Workers, both of which provide certain advantages made available only to those employers enrolled in E-Verify. Also, it should be noted that effective January 1, 2008, Arizona law has required employers to participate in E-Verify and established significant penalties on employers that violate the law.[229] At approximately the same time, Illinois passed a law to *prevent* employers from utilizing E-Verify until DHS establishes that its system is 99 percent error free.[230]

On April 10, 2008, the Ombudsman conducted a public teleconference on E-Verify entitled, "E-Verify in Arizona: How is it Working for Your Business?" The Ombudsman intends to devote significant time and attention to E-Verify issues during the next reporting period.

B. Military Naturalizations

During the reporting period, USCIS streamlined the naturalization process for qualified members of the Armed Services.[231] USCIS has widely published and distributed easily-understood information on military naturalization available on its website and in handouts. USCIS established a toll free number dedicated to providing live customer service assistance to those seeking information and help with these issues. Nearly 60 percent of all military naturalization cases are completed within 120 days. Since 2003, 39,085 service members have been interviewed and sworn in as new citizens pursuant to these provisions and 5,275 service members have been interviewed and sworn-in while deployed overseas and/or within combat theater.[232] Currently, there are 4,255 military naturalization applications pending at the Nebraska Service Center.[233] USCIS has made significant strides in naturalization processing and customer service for these future citizens.

Proposed legislation in the Senate, *S.* 2840, introduced on April 10, 2008, would establish a liaison between the FBI and USCIS to expedite naturalization applications filed by members of the Armed Forces and establish a deadline for processing such applications.

C. Up-Front Processing and the Dallas Office Rapid Adjustment Program (DORA)

In previous annual reports, the Ombudsman recommended expeditious national roll-out of the Dallas Office Rapid Adjustment (DORA) pilot program or a similar program that utilizes up-front processing of applications for immigration benefits. Up-front processing is characterized by: pre-screened applications to ensure completeness prior to filing; one form and one fee per immigration benefit filed by customers; same-day interviews and biometric capture, if required; and applications completed within days, or even hours, of filing.

In May 2004, USCIS implemented three pilot programs to address the Ombudsman's original up-front processing recommendations: the DORA pilot — the Family-Based Immigration Backlog Elimination Program; the California Service Center pilot — the Employment-Based Backlog Elimination Pilot; and the New York District Office pilot — the Backlog Elimination and Fraud Reduction Pilot.[234] Of these pilot programs, DORA

227 *See* "OPT Interim Final Regulation," 73 Fed. Reg. 18944-18956 (Apr. 8, 2008); *http://edocket.access.gpo.gov/2008/E8-7427.htm* (accessed May 26, 2008).

228 *See* "H-2A Proposed Regulation," 73 Fed. Reg. 8230-8247 (Feb. 13, 2008). *http://a257.g.akamaitech.net/7/257/2422/01jan20081800/edocket.access.gpo.gov/2008/E8-2532.htm* (accessed May 26, 2008).

229 The "Legal Arizona Workers Act," HB 2779, mandates the use of the Basic Pilot/E-Verify, and suspends or permanently revokes the licenses of employers who engage in knowing or intentional hiring of unauthorized workers.

230 *See* section 12(a) of the Illinois Right to Privacy in the Workplace Act (Aug. 13, 2007). DHS filed suit in U.S. District Court requesting the court to invalidate the Illinois law, and in response, the State's Attorney General has agreed not to enforce the law's penalty provisions until resolution of the lawsuit.

231 Pursuant to INA § 329 and Executive Order 13269 (July 3, 2002), foreign nationals serving in active duty in the U.S. Armed Forces during the "War on Terrorism" are eligible to apply for naturalization without first completing one-year of honorable military service. Accordingly, newly admitted green card holders may file Form N-400 (Application for Naturalization) with no fee on the first day of active military service, or anytime thereafter. *See also* USCIS Fact Sheet, *Naturalization Through Military Service* (May 16, 2008); *http://www.uscis.gov/files/article/mil_natz_051608.pdf* (accessed May 27, 2008).

232 USCIS Fact Sheet, *Naturalization Through Military Service* (May 16, 2008); *http://www.uscis.gov/files/article/mil_natz_051608.pdf* (accessed May 27, 2008).

233 Information provided in USCIS correspondence to the Ombudsman (May 15, 2008).

234 *See* Ombudsman's Annual Reports 2006 and 2007, pp. 50-55 and 78-84, respectively.

most closely matched the Ombudsman's up-front processing recommendation.[235]

In its 2006 Annual Report Response, USCIS stated that both the 90-day process[236] and DORA have "advantages" and that the agency "will conduct a full analysis of both methods to decide which to adopt nationally."[237] The 90-day process seeks to compress the green card application process to less than 90 days, but is not an up-front processing program.

In the 2007,[238] the Ombudsman recommended that USCIS end the three-year old DORA pilot, evaluate up-front processing programs, and determine whether each program should be expanded. The Ombudsman also recommended that these findings and data be made public. Finally, the Ombudsman recommended that USCIS either implement a version of DORA nationwide or another program to achieve the same objectives with equal or better results.

In its 2007 Annual Report Response,[239] USCIS stated that it had "reviewed the [DORA] pilot program." However, it is unclear how the agency reviewed DORA or if it reviewed that program in comparison with the 90-day process. Moreover, no analysis was provided to the Ombudsman or the public. USCIS expanded the 90-day process nationwide during the 2007 reporting period. USCIS terminated DORA effective September 21, 2007.

D. N-648 Medical Waivers

During the reporting period, the Ombudsman continued to hear concerns regarding Form N-648 (Medical Certification for Disability Exceptions) both in meetings with stakeholders and at visits to field offices. Naturalization applicants with a physical or developmental disability, or a mental impairment, may seek a waiver of the English and/or U.S. history and civics portion of the naturalization interview by filing Form N-648 completed by a licensed medical professional. USCIS informed the Ombudsman that in FY 2007, approximately 15,000 applicants filed Form N-648.[240] On September 18, 2007, USCIS issued a Memorandum entitled "Guidance Clarifying the Adjudication of Form N-648, Medical Certification for Disability Exceptions," which explained new review standards.[241]

On November 2, 2007, the Ombudsman held a public teleconference on N-648 medical waiver issues. Participants identified several concerns during the teleconference: (1) the USCIS Memorandum requires doctors to provide the origin of impairment, but Form N-648 only requests the diagnosis; (2) the requirements for the medical examiner to follow in completing the form are not readily accessible on the USCIS website; (3) USCIS officers without the proper expertise are expected to make medical determinations;[242] and (4) some officers appear to be unfairly presuming fraud in these medical waivers.[243]

235 DORA does not include pre-application security screening as recommended by the Ombudsman. USCIS expanded DORA beyond the Dallas Office to El Paso and Oklahoma City during the 2007 reporting period. However, the Ombudsman noted that there was insufficient training, staffing, and resources to implement successfully the program in those locations. *See* the Ombudsman's Annual Report 2007 (pp. 83-84) for a discussion regarding this expansion.

236 The 90-day process is similar to the New York District Office Backlog Elimination and Fraud Reduction Pilot, which often did not meet its processing time goal. *See* Ombudsman's Annual Report 2007, p. 82.

237 USCIS 2006 Annual Report Response, p. 23.

238 Ombudsman's Annual Report 2007, p. 84.

239 USCIS 2007 Annual Report Response, p. 13.

240 Information provided by USCIS correspondence with the Ombudsman (Feb. 20, 2008).

241 USCIS Interoffice Memorandum, *Guidance Clarifying the Adjudication of Form N-648, Medical Certification for Disability Exceptions*, (Sept. 18, 2007); *http://www.uscis.gov/files/pressrelease/N648Waiver091807.pdf* (accessed May 26, 2008).

242 USCIS' response to the teleconference questions (Apr. 30, 2008) acknowledged that often officers are not familiar with medical terms and disability; therefore, it is crucial for medical professionals to explain the qualifying condition in plain terms. In addition, adjudicators should consider the medical diagnosis valid unless there is credible evidence to the contrary, as stated in the Sept. 18, 2007 Memorandum.

243 USCIS' response indicated that they have initiated training in several field offices and have directed local offices to maintain an N-648 point of contact. USCIS' response to the teleconference questions (Apr. 30, 2008) acknowledged that often officers are not familiar with medical terms and disability; therefore, it is crucial for medical professionals to explain the qualifying condition in plain terms. In addition, adjudicators should consider the medical diagnosis valid unless there is credible evidence to the contrary, as stated in the September 18, 2007 Memorandum.

On April 30, 2008, USCIS provided the Ombudsman information regarding the concerns expressed during the teleconference, which are posted on the Ombudsman's website.

E. K-3 Visa Family Reunification Process

In the 2006 Annual Report, the Ombudsman recommended that USCIS consolidate the petitions that a U.S. citizen must file on behalf of a foreign spouse, Forms I-130 (Petition for Alien Relative) and I-129F (Petition for Alien Fiancé(e)), and rapidly process them.[244] The Ombudsman again discussed this issue in the 2007 Annual Report,[245] specifically the issue of similar processing times for the I-130 and I-129F, which undermine the LIFE Act provision that provided a faster alternative to the I-130.[246] Notably, in the fee rule,[247] USCIS eliminated the I-129F fee for K-3 status, *i.e.*, the visa category for foreign spouses of U.S. citizens to obtain a nonimmigrant visa.

During this reporting period, the Ombudsman heard many complaints in meetings with community-based organizations, the immigration legal community, and directly from customers that the Form I-130 petitions were not given a high priority compared with other filings during the summer surge. To file a Form I-129F, USCIS requires the I-130 receipt notice. However, due to the surge and resulting receipting delay, many individuals had to wait several months to receive the I-130 receipt notice before they could file the I-129F. Consequently, the LIFE Act provisions, intended to provide for swifter family reunification, did not achieve their goal due to receipting and processing delays.

On January 31, 2008, the Ombudsman held a public teleconference entitled "K-3 Family Reunification Process: How Is It Working for You?" Questions and concerns included whether USCIS administratively closes the I-129F application for the K-3 visa when the I-130 is approved; and why the I-129F processing times were not posted to the USCIS website. On April 30, 2008, USCIS responded to the Ombudsman confirming that the agency has been administratively closing the I-129F upon approval of the Form I-130, and that USCIS is currently reviewing this process. USCIS added the Form I-129F processing times to the USCIS website since the January teleconference.

F. Card Production

During the reporting period, the Ombudsman continued to hear complaints regarding green card and EAD production, including production delays, delivery problems, and typographical mistakes.

CASE PROBLEM

An applicant filed Form I-751 (Petition to Remove the Conditions of Residence) in December 1995. USCIS approved the application in February 1998. The applicant did not receive the green card and filed Form I-90 (Application to Replace Permanent Resident Card) three times, in March 2004, September 2005, and October 2005. The applicant also was fingerprinted several times throughout this period. In February 2007, the applicant finally received the green card which expired ten days later. On the same day, the applicant filed another Form I-90 to replace the green card just received. As of February 2008, the applicant was still awaiting a replacement green card.

In an effort to learn more about complaints regarding the card production process, the Ombudsman held a public teleconference on this issue on March 28, 2008. Also in March 2008, the Ombudsman visited the USCIS Card Production Facility. The site visit revealed that the delays and problems with incorrect information are not occurring at that facility. The average turn-around time to produce EADs, for example, is approximately one day, even though the facility has four days to complete them. The facility does not manipulate any data and has an advanced process to produce secure, high quality cards for USCIS.

The Ombudsman found the USCIS Card Production Facility to be a highly efficient operation. The Ombudsman will continue to visit other USCIS facilities to review and determine ways to improve card production.

244 Ombudsman's Annual Report 2006, p. 47 (Recommendation #10).

245 Ombudsman's Annual Report 2007, pp. 56-57.

246 *See generally* "Legal Immigration Family Equity (LIFE) Act," Pub. L. No. 106-553, 114 Stat. 2762 (Dec. 21, 2000).

247 "Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule," 72 Fed. Reg. 29851-29874 (May 30, 2007).

G. Naturalization Ceremonies

The surge in naturalization applications filed during summer 2007 resulted in a significant increase in pending cases and, as discussed in section II B, "Summer 2007 Surge: Frontlogs & Backlogs," USCIS is working to address these backlogs. At the same time, USCIS should work to ensure that additional naturalization ceremonies are scheduled.

While some USCIS offices conduct on-site oath ceremonies — even same day ceremonies for some approved naturalization applicants — other jurisdictions face more difficult challenges where naturalization ceremonies are largely scheduled by the courts. The courts often determine the number of ceremonies held each year and receive a fee for each applicant naturalized.[248]

In one large jurisdiction, only four judicial naturalization ceremonies were scheduled for an entire year. The July 2008 ceremony, which could accommodate approximately 1,200 people, reached capacity quickly. Events of this size take significant time and resources to plan. For expectant citizens-to-be, the consequences of long intervals between only a few large ceremonies annually range from the inconvenience of being placed on a waiting list for the next ceremony to other issues that may arise while awaiting oath-taking.

In jurisdictions where courts have insisted on retaining authority over scheduling and performing naturalizations, delays have resulted that are beyond the control of USCIS. However, in some jurisdictions, USCIS has been able to implement better customer service by coordinating infrequent judicial ceremonies with more frequent USCIS naturalization ceremonies. Issues related to the inability of approved applicants to naturalize promptly may increase as USCIS completes processing the "bubble" of naturalization cases still pending since last summer's surge. The Ombudsman will continue to monitor this situation during the next reporting period.

BEST PRACTICE

The USCIS Boston District Office requested additional naturalization ceremonies, and the U.S. District Courts with jurisdiction over this area, approved this request. The Boston Office did a thorough assessment of the application workload for the remainder of the year, researched the capacity of the ceremony venues, and developed a plan that would accommodate as many individuals as possible. The Ombudsman encourages other USCIS offices to make similar efforts.

248 For more information, *see* INA § 310.

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IV. Past Recommendations and USCIS Responses

This section includes summaries of the Ombudsman's formal recommendations for the 2008 reporting period, as well as those prior recommendations in which USCIS took some action during the reporting period.[249] The recommendations stem from a variety of sources, including problems reported to the Ombudsman by individuals and employers, discussions with immigration stakeholders, and suggestions of USCIS employees themselves. For the full text of the recommendations and USCIS responses, please refer to the Ombudsman's website at www.dhs.gov/cisombudsman.

A. Previous Years

*Figure 18: CIS Ombudsman Recommendations Chart (May 2008)**

LEGEND		
1	**Short Title**	Title of recommendation: (FR – Formal Recommendation; AR – Annual Report Recommendation)
2	**Problem** **Benefits**	The serious and pervasive problem identified by the recommendation The benefit to be gained from fully adopting and implementing the recommendation
3	**USCIS Response**	The date when the formal response from USCIS to the recommendation was received by the CIS Ombudsman. (USCIS Response due date to the recommendation is indicated in bold text)
4	**USCIS Agrees**	This box will be color coded pink (USCIS does not agree); yellow (USCIS agrees with part or parts of the recommendation but not all of the recommendation); green (USCIS agrees with the recommendation in its entirety).
5	**USCIS Implement**	This box will be color coded pink (USCIS cannot or will not implement, or has not yet implemented); yellow (USCIS has implemented part or parts of the recommendation but not all of the recommendation); green (USCIS has implemented the recommendation in its entirety).

* All recommendations and their responses are available on the CIS Ombudsman's website, www.dhs.gov/cisombudsman. The Ombudsman advises that this chart be employed only for the overview purposes intended.

Title	Problem/Benefits	USCIS Response	USCIS Agrees	USCIS Implement
FR2007-34 Fee Refunds (4/08/08)	**Problem: Complexity Causes Confusion** – Publicly available version of Adjudicator's Field Manual states inconsistent processes for applicants to request fee refunds. **Benefits:** Clarify procedure and implement customer ability to track pending requests.	Response Due (7/8/08)		
FR2007-33 DOS Returned Petitions (8/24/07)	**Problem: Inefficient or Redundant Processes** – Inability of applicant to track status of petition questioned by Consulate and returned to USCIS for further review. **Benefits:** Accountability to applicant.	**Yes** USCIS responded (5/23/08)		
AR2007-25 Asylum Application Redraft (6/11/07)	**Problem: Asylum Adjudication Application Complexity** – Especially for non-English speakers, directions for application is beyond understanding for its intended audience. **Benefits:** Accessible application for public and decreased need for follow-up.	**Yes** USCIS responded (2/13/08)		

249 The Homeland Security Act of 2002, (6 U.S.C. § 272(c)(1)), states that the Ombudsman's annual report shall include an inventory of the recommendations and indicate: (1) if action has been taken and the result of that action; (2) whether action remains to be completed; and (3) the period during which the item has been on this list.

Title	Problem/Benefits	USCIS Response	USCIS Agrees	USCIS Implement
AR2007-24 End the Dallas Office Rapid Adjustment (DORA) Pilot, evaluate and implement national program (6/11/07)	**Problem:** **Up-Front Processing** – Expand DORA or alternative program that performs at same level as, or better than, DORA. **Benefits:** Solve many of the current customer service, security and efficiency problems identified in current green card process.	**Yes** USCIS responded (2/13/08)		
AR2007-23 Training in Field Offices (6/11/07)	**Problem:** **Staffing, Career Development, and Training** – Lack of basic computer program knowledge among office staff and of interview training among adjudicators. **Benefits:** Better ability to satisfy clients' needs.	**Yes** USCIS responded (2/13/08)		
AR2007-22 Personnel Recruitment and Development (6/11/07)	**Problem:** **Staffing, Career Development, and Training** – Need for sustained effort to counteract effects of short-term hiring. **Benefits:** Creating a multi-year plan encourages continuity within management goals.	**Yes** USCIS responded (2/13/08)		
AR2007-21 Training for Office Supervisors (6/11/07)	**Problem:** **Staffing, Career Development, and Training** – Lack of training for supervisors. **Benefits:** Increased ability to handle problem employees, evaluate workflows, and practice budget management.	**Yes** USCIS responded (2/13/08)		
AR2007-20 Office Communication (6/11/07)	**Problem:** **Staffing, Career Development, and Training** – Lack of sharing of solutions to common problems between offices. **Benefits:** Establishes a culture and a process that encourages the sharing of best practices.	**Yes** USCIS responded (2/13/08)		
AR2007-19 Standardize Staffing Levels (6/11/07)	**Problem:** **Staffing, Career Development, and Training** – USCIS dependence on temporary employees and assignments. **Benefits:** Create a more stable workforce.	**Yes** USCIS responded (2/13/08)		
AR2007-18 Training (6/11/07)	**Problem:** **Staffing, Career Development, and Training** – Quality of employee instruction not assured. **Benefits:** More qualified employees.	**Yes** USCIS responded (2/13/08)		
AR2007-17 Career Paths (6/11/07)	**Problem:** **Staffing, Career Development, and Training** – Undefined Career Paths. **Benefits:** A more motivated workforce with proper training for their advancement goals.	**Yes** USCIS responded (2/13/08)		
AR2007-16 Chief Human Capital Officer (6/11/07)	**Problem:** **Staffing, Career Development, and Training** – Recruitment and training are not seen as important as IT and financing, as their administrative leader's position was downgraded from SES rank to GS-15. **Benefits:** Establishment of permanent position will demonstrate commitment to these goals.	**Yes** USCIS responded (2/13/08)		
AR2007-15 Information Technology Network Solutions (6/11/07)	**Problem:** **Information Technology** – Computer support systems appear to be lacking or severely limited. **Benefits:** Eliminates time wasted on computer problems in offices.	**Yes** USCIS responded (2/13/08)		
AR2007-14 Records Management (6/11/07)	**Problem:** **Coordination/Communication** – USCIS relations with stakeholders and other government agencies suffers from lack of communication regarding records. **Benefits:** Better tracking and monitoring of records and communication between agencies improves customer service and agency efficiency.	**Yes** USCIS responded (2/13/08)		
AR2007-13 Fund Headquarters Staff Visits to the Field (6/11/07)	**Problem:** **Coordination/Communication** – USCIS headquarters/field office communication failures. **Benefits:** Ensures accurate and timely information about procedure changes.	**Yes** USCIS responded (2/13/08)		
AR2007-12 Request for Evidence (RFE) Issuance (6/11/07)	**Problem:** **Inefficient or Redundant Processes** – Unclear and complicated RFEs. **Benefits:** Resources not wasted on seeking information already submitted or absent.	**Yes** USCIS responded (2/13/08)		

Title	Problem/Benefits	USCIS Response	USCIS Agrees	USCIS Implement
AR2007-11 Chicago Lockbox (6/11/07)	**Problem:** **Inefficient or Redundant Processes** – Need for improved form instructions and USCIS intake processes. **Benefits:** Multiple filings will be automatically detected; saves resources and time.	**Yes** USCIS responded (2/13/08)		
AR2007-10 Quality Assurance (QA) Training (6/11/07)	**Problem:** **Lack of Standardization Across USCIS Business Processes** – Insufficient standardization and training; weak QA program. **Benefits:** Higher quality customer service.	**Yes** USCIS responded (2/13/08)		
AR2007-09 Fraud Investigation Time Limits (6/11/07)	**Problem:** **Lack of Standardization Across USCIS Business Processes** – Varied processing times office-to-office. **Benefits:** Customers know when reasonably to expect a response to their case.	**Yes** USCIS responded (2/13/08)		
AR2007-08 Fraud Interviews (6/11/07)	**Problem:** **Lack of Standardization Across USCIS Business Processes** – Lack of timely interviews eases attempts at fraud. **Benefits:** Deny fraud perpetrators additional preparation time and prevent issuance of interim benefits.	**Yes** USCIS responded (2/13/08)		
AR2007-07 Premium Processing Costs Compared with Regular Processing Costs (6/11/07)	**Problem:** **Funding of USCIS** – Reliance on funds from premium processing. **Benefits:** Increased level of service for regular processing and opportunity to reorganize funding.	**Yes** USCIS responded (2/13/08)		
AR2007-06 FBI Name Check (6/11/07)	**Problem:** **Name Checks and Other Security Checks** – Name check delays. **Benefits:** More timely and transparent name check processes.	**Yes** USCIS responded (2/13/08)		
AR2007-05 Application Redress (6/11/07)	**Problem:** **Customer Service** – Applicants who receive no prompt decision after interview cannot inquire locally about status via email. **Benefits:** Increased paths of communication leads to higher customer satisfaction.	**Yes** USCIS responded (2/13/08)		
AR2007-04 FAQ List (6/11/07)	**Problem:** **Customer Service** – Static FAQ lists. **Benefits:** Dynamic features on website make contact between clients and officials easier.	**Yes** USCIS responded (2/13/08)		
AR2007-03 Processing Times (6/11/07)	**Problem:** **Processing Times** – Processing times are based on agency goals, not actual times, and are not transparent. **Benefits:** Posting actual times provides more information to customers and leads to more efficient government services and greater accountability.	**Yes** USCIS responded (2/13/08)		
AR2007-02 Pending Cases (6/11/07)	**Problem:** **Backlogs and Pending Cases** – Older cases are not given as much attention as newer cases. **Benefits:** Providing more information about backlogs adds to transparency and accountability.	**Yes** USCIS responded (2/13/08)		
AR2007-01 Transformation (6/11/07)	**Problem:** **USCIS Transformation** – Transformation is not taking place with customer input or transparency. **Benefits:** Improve the process with fewer inquiries to NCSC and a smaller need for Infopass appointments.	**Yes** USCIS responded (2/13/08)		
FR2007-32 Deferred Action (4/6/07)	**Problem:** **Lack of Standardization Across USCIS Business Processes** – No statistics or tracking of approved or denied deferred action requests. **Benefits:** Prevents regional disparity in approvals and denials of deferred action requests.	**Yes** USCIS responded (8/7/07)		
FR2007-31 30-day Advance Notice for Changes in Policy and Operations Instructions (2/8/07)	**Problem:** **Transparency** – Public is not provided with adequate notice about USCIS changes to policy and operations instructions. **Benefits:** Improves USCIS efficiency and customer service through greater information to clients.	**Yes** (5/7/07)		

Title	Problem/Benefits	USCIS Response	USCIS Agrees	USCIS Implement
FR2006-30 Improvement of FOIA Operations (7/12/06)	**Problem:** **Lack of Standardization Across USCIS Business Processes** – Lack of accountability, centralization, and updates to current policies, regulations, and guidelines. **Benefits:** Make operations more efficient, effective, and compliant with statutory mandates.	**Yes** (10/5/06)		
FR2006-29 Extraordinary Ability "O" Petition Extension (6/30/06)	**Problem:** **Lack of Standardization Across USCIS Business Processes** – Discrepancies between "O" and "P" visa extension policies. **Benefits:** Align "O" and "P" visa considerations, providing operational efficiency and policy consistency.	**Yes** (10/3/06)		
AR2006-14 Implement a Pre-Application Security Screening Process (6/29/06)	**Problem:** **Lack of up-front processing** – Unnecessarily high rate of rejection late in the process of obtaining residency or citizenship. **Benefits:** Immediate screening decreases processing times, reduces the handout of interim benefits, and reduces the backlog.	**Yes** (5/18/07)		
AR2006-13 Implement Premium-type Processing for Regular Applications (6/29/06)	**Problem:** **USCIS Revenue** – Premium processing likely less costly than regular processing. **Benefits:** Save agency resources and have a positive impact on customer service and efficiency at no additional net cost to the agency.	**Yes** (5/18/07)		
AR2006-12 Improve Fingerprint Storage and Retrieval Capabilities (6/29/06)	**Problem:** **USCIS Revenue** – USCIS cannot retrieve fingerprints from storage. **Benefits:** Reduces the need for multiple fingerprint collections and allows for cross-checking of fingerprint submissions.	**Yes** (5/18/07)		
AR2006-11 Implement "Wrap-Around" Security Checks (6/29/06)	**Problem:** **USCIS Revenue** – System's unnecessary expiration dates require duplicate security checks. **Benefits:** Free up resources for other agency needs.	**Yes** (5/18/07)		
AR2006-10 Consolidate and Rapidly Process Petitions for Spouses and Children of U.S. Citizens (6/29/06)	**Problem:** **USCIS Revenue** – Complicated system for processing petitions for spouses and children of U.S. citizens. **Benefits:** Prevents waste of resources and addresses customer concerns.	**Yes** (5/18/07)		
AR2006-09 Enforce Regulation Requiring Applications and Petitions to be Complete Prior to USCIS Acceptance (6/29/06)	**Problem:** **USCIS Revenue** – Lockbox process failure to screen deniable cases. **Benefits:** Improves efficiency and customer service by preventing customer dissatisfaction resulting from requests for additional documents and by allowing USCIS to forego time-consuming denial procedures.	**Yes** (5/18/07)		
AR2006-08 Send Green Cards with "Return Receipt Requested" (6/29/06)	**Problem:** **Green Cards Collected, Not Recorded, and Green Card Delivery Problems** – USCIS green cards not verified upon receipt. **Benefits:** Save significant time and resources, while enhancing customer service.	**Yes** (5/18/07)		
AR2006-07 Amend Staffing Utilization in Application Support Center (ASC) Contract (6/29/06)	**Problem:** **Coordination and Communication** – Contract specifications limit the ability of district directors to utilize the Application Support Center staff for similar administrative duties within the district office. **Benefits:** Provides consistent service to USCIS customers nationwide by improving field office operations.	**Yes** (5/18/07)		
AR2006-06 Support Local Direct Communications Initiatives (6/29/06)	**Problem:** **Coordination and Communication** – Service Request Management Tool (SRMT) has exacerbated problems with access and efficiency. **Benefits:** Direct contact between customer and IIOs eliminates extra steps in the process and provides cost savings.	**Yes** (5/18/07)		
AR2006-05 Establish Revolving Fund to Help Address USCIS Funding Problems (6/29/06)	**Problem:** **Funding of USCIS** – Unfunded programs creates dependency on slow processing and a backlog of cases. **Benefits:** Revolving fund account enables agency to test innovative processes, addresses unexpected problems, and encourages USCIS leadership to innovate processes instead of continuing programs which do not enhance customer service, efficiency, and national security, but nevertheless generate essential revenue.	**Yes** (5/18/07)		

Title	Problem/Benefits	USCIS Response	USCIS Agrees	USCIS Implement
AR2006-04 Establish Up-Front Security Checks for Adjudication Process (6/29/06)	**Problem: Name Checks and Other Security Checks** – Name checks increase time necessary to complete all cases. **Benefits:** Completing the name check before application submission abbreviates post-submission wait time and promotes efficiency.	**Yes** (5/18/07)		
AR2006-03 Expedited Processing of I-130 Petitions (6/29/06)	**Problem: Pending I-130 Petitions** – Form I-130 processing times are increasing. **Benefits:** Processing the petitions immediately prevents the cost involved in storing and retrieving the applications as well as resources expended for follow-ups, customer inquiries, address changes, etc.	**Yes** (5/18/07)		
AR2006-02 Reform Employment-Based Green Card Application Processes (6/29/06)	**Problem: Untimely Processing and Systemic Problems with Employment-Based Green Card Applications** – Applications are not currently limited by visa availability. **Benefits:** Ensures that USCIS will not accept more applications than it can legally process; enhances communication between USCIS and DOS.	**Yes** (5/18/07)		
AR2006-01 Provide a Breakdown of Pending Cases (6/29/06)	**Problem: Backlogs and Prolonged Processing Times** – Lack of accountability and transparency from USCIS for backlogged cases. **Benefits:** Provides a better understanding of the true nature of the USCIS backlog to determine if USCIS achieved a six-month processing standard from start to finish for all applications.	**Yes** (5/18/07)		
FR2006-28 Online Address Change (AR-11) (6/9/06)	**Problem: Coordination and Communication** – Applicant confusion about where to file and USCIS inability to propagate AR-11 to all databases. **Benefits:** Improves customer satisfaction and confidence in the process; increases USCIS data accuracy.	**Yes** (9/8/06)		
FR2006-27 Up-Front Processing (5/19/06)	**Problem: Lack of up-front processing** increases issuance of interim benefits as well as the backlog and processing times. **Benefits:** Improves customer service, efficiency, and promotion of national security by preventing ineligible applicants from obtaining government-issued identity documents while their cases are pending and by allowing USCIS to detect and act on fraudulent cases at the earliest possible point.	**Yes** (8/21/06)		
FR2006-26 DNA Testing As Secondary Evidence of Relationship (4/12/06)	**Problem: DNA test results not listed as evidence of family relationship.** **Benefits:** An easier, less resource-intensive and time-consuming process.	**Yes** (7/5/06)		
FR2006-25 Employment Authorization Documents (EADs) (3/20/06)	**Problem: Lack of Standardization Across USCIS Business Processes** – Inefficient system for employment of foreign nationals, including not making EAD validity periods run sequentially (i.e., eliminate overlap). **Benefits:** Easier employment system for foreign nationals.	**Yes** (6/20/06)		
FR2006-24 Asylum Adjudication (3/20/06)	**Problem: Lack of Standardization Across USCIS Business Processes** – Applications not limited to individuals in valid nonimmigrant status. **Benefits:** New process adheres to appropriate roles and responsibilities for USCIS post-INS breakup.	**Yes** (4/27/06) **Yes** (6/20/06)		
FR2006-23 Military Naturalization (3/20/06)	**Problem: Lack of Standardization Across USCIS Business Processes** – Fingerprint requirement often difficult to fulfill for active duty, military personnel. **Benefits:** Responds to special needs of military.	**Yes** (4/27/06)		
FR2006-22 Notices to Appear (NTAs) (3/20/06)	**Problem: Lack of Standardization Across USCIS Business Processes** – Policy for issuing NTAs not standard. **Benefits:** Fewer fraudulent filings.	**Yes** (4/27/06)		
FR2005-21 Asylum Division Use of Notice of Action Form I-797 (12/7/05)	**Problem: Lack of Standardization Across USCIS Business Processes** – Use of separate approval notification systems and Form I-94 processes/documents at different USCIS operations is counterproductive, confusing, and increases likelihood of fraud. **Benefits:** Provides improved customer service, USCIS efficiency, and enhances national security for this process.	**Yes** (3/17/06) **Yes** (4/27/06)		

Title	Problem/Benefits	USCIS Response	USCIS Agrees	USCIS Implement
FR2005-20 Administrative Appeals Office (AAO) (12/6/05)	**Problem:** **Transparency** – Appellate standard of review at the AAO not available to public. **Benefits:** Provides more information to stakeholders.	**Yes** (12/19/05) **Yes** (4/27/06)		
FR2005-19 Elimination of Asylum Pick-Up Decision Delivery Process (10/13/05)	**Problem:** **Lack of Standardization Across USCIS Business Processes** – Decision delivery process not standardized. **Benefits:** Establishes a single process for the delivery of notices for all cases.	**Yes** (12/12/05) **Yes** (4/27/06)		
FR2005-18 Public Reporting for Capped Categories (8/28/05)	**Problem:** **Transparency** – Infrequent reporting of H-1B cap usage. **Benefits:** Assists employers and individuals by making this information directly accessible.	**Yes** (12/27/05) **Yes** (4/27/06)		
FR2005-17 Elimination of Postal Meter Mark (7/29/05)	**Problem:** **Inefficient or Redundant Processes** – U.S. Post Office cannot forward USCIS correspondence to applicants and petitioners. **Benefits:** Elimination improves customer service and reduces problems associated with mail delivery.	**Yes** (4/27/06)		
FR2005-16 I-131 Travel Document Document (6/10/05)	**Problem:** **Lack of Standardization Across USCIS Business Processes** – Refugee travel guidelines not consistent with those of similar documents. **Benefits:** Alleviates the burden and cost imposed on applicants who apply for multiple travel documents prior to becoming green card holders; reduces number of I-131 applications processed.	**Yes** (12/27/05) **Yes** (4/27/06)		
FR2005-15 Issuance of Receipts to Petitioners and Applicants by Chicago Lockbox (5/9/05)	**Problem:** **Transparency** – Inability to issue timely receipts to petitioners and applicants when filings "surge" in number. **Benefits:** Improved document management and customer service.	**Yes** (5/25/05) **Yes** (4/27/06)		
FR2005-14 Pilot Program Termination (2/25/05)	**Problem:** **Transparency** – No public notice regarding initiation and termination of USCIS pilot programs directly affecting customer service. **Benefits:** Fewer complaints and more transparency.	**Yes** (5/25/05) **Yes** (4/27/06)		
FR2004-13 Issuance of Permanent Resident Cards to Arriving Immigrants (12/15/04)	**Problem:** **Coordination and Communication** – Not enough communication between departments concerning immigrant visa packages. **Benefits:** Expedites issuance of green cards to arriving immigrants.	**Yes** (5/25/05) **Yes** (4/27/06)		
FR2004-12 Chicago Lockbox (11/29/04)	**Problem:** **Inefficient or Redundant Processes** – Lockbox resulted in tracking and management difficulties; inefficient processing; incorrect rejection of valid filings. **Benefits:** Issuance of receipts to customers no longer delayed and efficient shipment of files between USCIS offices.	**Yes** (12/17/04) **Yes** (4/27/06)		
FR2004-11 INFOPASS (11/29/04)	**Problem:** **Transparency** – Lack of equitable access to InfoPass appointments. **Benefits:** Improved customer service.	**Yes** (12/17/04) **Yes** (5/25/05) **Yes** (4/27/06)		
FR2004-10 Naturalization for Survivors of Domestic Violence (10/6/04)	**Problem:** **Lack of Standardization Across USCIS Business Processes** – Mistake in USCIS policy memorandum concerning Form I-751. **Benefits:** Corrects administrative error and allows survivors of domestic violence to receive more rapid green card status.	**Yes** (12/17/04) **Yes** (4/27/06)		
FR2004-09 Standardized Forms (10/6/04)	**Problem:** **Lack of Standardization Across USCIS Business Processes** – No standard forms package for each petition or application type. **Benefits:** Creates cohesiveness across USCIS offices.	**Yes** (12/17/04) **Yes** (5/25/05) **Yes** (4/27/06)		

Title	Problem/Benefits	USCIS Response	USCIS Agrees	USCIS Implement
FR2004-08 Premium Processing (9/27/04)	**Problem: Inefficient or Redundant Processes** – Premium processing should be made available to certain employment-based, change-of-status applications (Form I-539). **Benefits:** Ensures that family members are not negatively impacted by the failure to allow them to benefit from I-129 premium processing when their applications are filed separately.	**Yes** (12/17/04) **Yes** (5/25/05) **Yes** (12/27/05) **Yes** (4/27/06)		
FR2004-07 E-Filing (8/16/04)	**Problem: Information Technology/Inefficient or Redundant Processes** – No encouragement for E-filing. **Benefits:** Decreasing cost of E-filing and encouraging the process will reduce workload for both petitioners/applicants and for USCIS employees.	**Yes** (12/17/04) **Yes** (5/25/05) **Yes** (4/27/06)		
FR2004-06 I-9 Storage (8/16/04)	**Problem: Inefficient or Redundant Processes** – Employers should be authorized to store Employment Eligibility Verifications (Form I-9s) electronically. **Benefits:** Stay up-to-date with current business practices; improved availability of information.	**Yes** (12/17/04)		
FR2004-05 Customer Service Training for USCIS Employees (8/16/04)	**Problem: Staffing, Career Development, and Training** – USCIS employees who interact with immigration customers are not required to receive formal training in customer service. **Benefits:** Fulfills customer needs by providing employees with continuous and appropriate training.	**Yes** (12/17/04) **Yes** (5/25/05) **Yes** (4/27/06)		
FR2004-04 Fee Instructions (6/29/04)	**Problem: Transparency** – Discrepancies in information about filing fees. **Benefits:** Keeping the public informed about changes in fees reduces complaints and expedites processing.	**Yes** (12/17/04) **Yes** (5/25/05) **Yes** (4/27/06)		
FR2004-03 Reengineering Green Card Replacement Processing (6/18/04)	**Problem: Lack of up-front processing** – Green cards not timely produced or delivered. **Benefits:** Up-front processing speeds up system.	**Yes** (5/23/06)		
FR2004-02 Streamlining Employment Based Immigrant Processing (6/18/04)	**Problem: Lack of up-front processing** – Backlog of employment-based green card applications. **Benefits:** A one-step, front-end, employment-based green card application process streamlines process and reduces backlog.	**Yes** (12/27/05) **Yes** (4/27/06)		
FR2004-01 Streamlining Family-Based Immigrant Processing (6/18/04)	**Problem: Backlog of family-based green card applications.** **Benefits:** A one-step, front-end, family-based adjudication process streamlines process and reduces backlog.	Yes (4/27/06)		

B. 2008 Reporting Period

Recommendation on refund of fees (Recommendation #34 April 8, 2008)

CASE PROBLEM

During an Ombudsman public teleconference, one caller referenced problems with obtaining refunds of premium processing fees for several cases in which USCIS did not act as required within the allotted 15 day time period. USCIS' failure to meet its own processing guarantee under the premium processing program meant that several thousand dollars were refundable on request. The caller found USCIS' online resources regarding refunds of premium processing fees confusing and misleading. The caller contacted USCIS for clarification on how to file for a refund or how to follow up on the request, but found agency personnel unsure about the refund process and how long the process would take.

On April 8, 2008, the Ombudsman recommended that USCIS clarify its refund of fees procedures and revise the Adjudicator's Field Manual (AFM), Section 10.10 "Refund of Fees," accordingly. The Ombudsman further recommended that USCIS provide customers with a way to track the status of the refund such as refund request receipt information. Currently, there are no clear, concise USCIS guidelines to request such a refund, and there is no mechanism for a customer to track or follow-up on a refund request. Although USCIS has yet to respond formally to this recommendation, it has indicated partial agreement by modifying the self-contradictory portion of the AFM.

Recommendation on USCIS adjudications of DOS revocations or revalidation returns (Recommendation #33, August 24, 2007)

CASE PROBLEM

In spring 2007, DOS returned an approved Form I-130 (Petition for Alien Relative) to USCIS for review. Several months after the consular return, the petitioner was still unable to track the whereabouts of the approved petition DOS had returned to USCIS. The petitioner was also unable to obtain case status from USCIS, or learn the location of the actual petition; the petitioner contacted the Ombudsman during the fall of 2007. The petition and the required inadmissibility waiver are still pending with USCIS.

On August 24, 2007, the Ombudsman made recommendations regarding the handling by USCIS of petitions returned for revocation by consular offices abroad. To increase transparency and improve information flow regarding the status of these returned petitions, the Ombudsman suggested that USCIS: (a) issue receipt notices to customers when the petition file is received by USCIS service centers; (b) establish a nationwide processing time standard for the re-adjudication of petitions returned by consular offices, as well as amend the Operating Instructions/Adjudicator's Field Manual, accordingly. To facilitate these changes, the Ombudsman recommended inclusion of a "REVOCATION" entry in the processing time reports and placement of additional information on the USCIS website about revocation or revalidation following consular return; and (c) provide information on its website about the revocation/revalidation process.

Currently, in their correspondence to the Ombudsman, customers demonstrate a lack of understanding about what happens to petitions when their visa is not issued. Customers are sometimes, though not customarily, informed that questions exist which may result in revocation of the approved petition. Then, they are often unable to receive status updates from USCIS for six months to over a year, or until they receive a Notice of Intent to Revoke. This lack of information for a prolonged period sometimes may lead petitioners to re-file, which clogs the system with unnecessary, duplicate petitions.

On May 23, 2008, USCIS responded to the consular return recommendation with partial agreement.[250] Stating "USCIS does not believe it is practical to establish nationwide standards for re-adjudication for returned petitions from DOS because the processing of the revocation depends on the information received from the Consulate," the agency rejected the second element of the recommendation. However, it agreed with the other two elements, reporting that the first has already been accomplished and that the third is pending implementation.

250 USCIS Reponse to Recommendation #33 (May 23, 2008).

Recommendation on deferred action (Recommendation #32, April 9, 2007)

The Ombudsman's recommendation regarding humanitarian relief known as "deferred action"[251] recommended that USCIS: post deferred action information on its website; maintain statistics on issuances and denials; and foster consistency by designating a headquarters official to review all decisions made nationwide.

USCIS disagreed in part with the recommendation but agreed to implement quarterly reporting of deferred action "grants" to headquarters. USCIS stated that since deferred action requests are reviewed case-by-case and seek extraordinary relief, "general information about the deferred action process would [not] be a meaningful addition to the website."[252] The agency expressed satisfaction "that the deferred action review and approval process within USCIS contains the appropriate levels of review," whereby Regional Directors exercise sole discretion to rule on District Directors' deferred action recommendations.[253]

251 Ombudsman's Annual Report 2007, pp. 88-89.

252 USCIS Interoffice Memorandum, "Response to Recommendation #32, Deferred Action" (Aug. 7, 2007); *http://www.dhs.gov/xlibrary/assets/cisombudsman_rr_32_o_deferred_action_uscis_response_08-07-07.pdf* (accessed May 26, 2008).

253 It remains unclear from USCIS' response whether headquarters will share quarterly reports only with the relevant Regional Director to which they pertain or take the logical step of presenting cumulative data in readily comparable form by region for dissemination to and use by each Regional Director.

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V. Ombudsman Outreach

The Ombudsman strives to be open and accessible to customers and the general public. During the reporting period, the Ombudsman traveled to 48 USCIS facilities, met with many stakeholder organizations, held numerous in-person and telephonic meetings with interested parties, and addressed thousands of email inquiries. This section of the Annual Report provides an overview of the Ombudsman's outreach activities.

A. Site Visits & Review

The 48 USCIS facilities visited included the field offices, service centers, and other facilities listed in Appendix 4.[254] The purpose of these visits was to see first-hand and inquire about the issues that individuals and employers encounter, identify systemic problems, consult with employees at USCIS facilities on proposed solutions, and share best practices observed at various locations. During these site visits to USCIS facilities, the Ombudsman also held meetings with stakeholder organizations to gain a better understanding of the challenges that individuals and employers encounter with USCIS.

B. Teleconferences

During this reporting period, the Ombudsman continued the teleconference series entitled "How Is It Working for You?" This series began as a pilot in December 2006 and is now a regular part of the CIS Ombudsman program. The teleconferences continue to be an opportunity for USCIS customers and stakeholders to ask questions, express concerns, and identify best practices on specific topics or regarding particular USCIS offices.

Figure 19: "How is USCIS Working for You?" 2008 Reporting Period

Discussion Topics	Date
The Ombudsman's 2007 Annual Report to Congress: Your Questions and Comments (Two Sessions)	July 12, 2007
The CIS Ombudsman's Recommendations to USCIS — Your Questions and Comments (Two Sessions)	July 20, 2007
USCIS District/Field Offices	August 16, 2007
USCIS Service Centers	August 16, 2007
USCIS Service Center & Lockbox Filing Issues	August 23, 2007
District 15 (Kansas City, Des Moines, Omaha, St. Louis, and St. Paul) and District 25 (Phoenix, Las Vegas, Reno, and Tucson)	September 20, 2007
District 19 (Denver, Boise, Helena, and St. Lake City) and District 20 (Seattle, Anchorage, Portland, Spokane, and Yakima)	September 20, 2007
USCIS Receipting Delay I	October 12, 2007
USCIS Receipting Delay II	November 2, 2007
N-648 Medical Waivers	November 2, 2007
USCIS National Customer Service Center (1-800#) and Infopass	December 14, 2007
USCIS Refunds	January 31, 2008
K-3 Visa Family Reunification Process	January 31, 2008
How is USCIS Working for You?	February 20, 2008
The Green Card Production Process	March 28, 2008
Requests for Evidence (RFEs)	March 28, 2008
E-Verify in Arizona: How Is It Working For Your Business?	April 10, 2008

The topics, dates, and times are posted in advance on the Ombudsman's website, along with instructions on how to participate. The Ombudsman encourages suggestions for future teleconferences, which can be emailed to *cisombudsman.publicaffairs@dhs.gov*.

As part of the program, the Ombudsman reserves 10 telephone lines for USCIS representatives from headquarters and relevant offices to listen-in and gain additional understanding of customer and stakeholder issues. For the October 2007 call

254 For a complete listing of all facilities visited since the inception of the office in 2003 to the start of this reporting period, see the Ombudsman's 2007 Annual Report at Appendix 3.

entitled, "USCIS Receipting Delay - How Does This Affect You?" the USCIS Information and Customer Service Division Chief addressed teleconference participants at the outset to provide information based on questions sent to the Ombudsman ahead of time. In addition, for several of the teleconferences, USCIS provided the Ombudsman with information on the particular topic to share with callers.

For some teleconferences, the Ombudsman has posted on the website selected questions and comments from the call for the benefit of call participants and individuals who did not join the call. However, the usefulness of these postings has been limited by the often months-long delay in obtaining answers to these questions from USCIS. The Ombudsman also received several emails from customers asking why this office did not yet have the information. On April 15 and April 30, 2008, the Ombudsman received USCIS' answers to callers' teleconference questions, many dating back to October and November 2007. Timely receipt of this information by the Ombudsman may have reduced the number of calls and inquiries the agency itself received. USCIS should expedite the turnaround of these answers to help customers.

C. Website

The Ombudsman's website is *www.dhs.gov/cisombudsman*. During the reporting period, the Ombudsman added a recommendations status chart to the website to indicate whether USCIS responded to, agreed with, and implemented the Ombudsman's recommendations.[255] This chart will be updated as the Ombudsman makes new recommendations or USCIS takes action on a specific recommendation.

In addition, the website now has a new feature to allow visitors to sign-up for email notification that the site has been updated. The Ombudsman encourages the use of this feature to learn about new recommendations, USCIS responses, teleconferences, and other activities of this office.

D. Trends Email

The Ombudsman maintains a dedicated email account, *cisombudsman.trends@dhs.gov*, specifically for customers and stakeholders with concerns about systemic issues to offer perspectives and suggest solutions. During the reporting period, customers' and stakeholders' main concern via the trends email box pertained to FBI name check delays and the movement of priority date cutoffs for employment-based visas in the summer 2007 Visa Bulletin.

E. Virtual Ombudsman

The Ombudsman is continuing to develop a web-based system, the Virtual Ombudsman, that will make it easier for the underserved, immigration practitioners, and employers to submit case problems to the office.

The proposed system will use an electronic version of the current Form DHS-7001 (CIS Ombudsman Case Problem Submission Form) to streamline case problem submission for the Ombudsman to assist individuals and employers encountering problems with USCIS. The system also will enhance the ability of the office to identify and recommend solutions to systemic problems by improving analysis and reporting capabilities.

The Virtual Ombudsman will: (1) improve information management and simplify internal business processes; (2) provide high quality customer service with improved access to office assistance; (3) reduce government operating costs; and (4) reduce stakeholders' expense and difficulty of doing business with the government.

The Ombudsman expects the Virtual Ombudsman pilot program to be in place before the end of FY 2008.

255 *See also* section IV.

VI. Case Problems

The Ombudsman receives letters, emails, and telephone calls from individuals and employers seeking assistance regarding their problems with USCIS. The office also often receives inquiries via facsimile, but for privacy reasons the Ombudsman currently only accepts case problems with an original signature received via U.S. mail or a courier service. Case problems are based on facts provided to the Ombudsman by individuals seeking assistance. In addition, as the office expands its access to relevant USCIS databases, Ombudsman Immigration Law Analysts are increasingly able to verify case problem information provided by customers.

Form DHS-7001, on the Ombudsman's website at *www.dhs.gov/cisombudsman* (*see also* Appendix 5), facilitates the submission of case problems by individuals and employers. It is a fillable form that customers can complete online, print, sign, and mail to the Ombudsman. As described in the Outreach section above, the Ombudsman is coordinating with other DHS components to create a Virtual Ombudsman's Office that will allow individuals and employers to submit case problems through the Internet.

The Ombudsman uses the Executive Correspondence Tracking (ECT) system to categorize and track case problems received and those referred to the USCIS Customer Assistance Office (CAO) for resolution. During the reporting period, the Ombudsman received an average of almost 100 inquiries per week: a total of 4,632 case problems by U.S. mail or courier service. Of this number, the office referred 3,023 or 65 percent to the CAO for further action or resolution. Emergent cases, or cases where time constraints or humanitarian concerns are an issue, may be accepted by telephone or email (with hard copy to follow) and relayed directly to the CAO Liaison Team or to the USCIS entity involved. Many of the written case problems involve multiple issues ranging from long processing times and lack of response from the agency to actual service errors.

Since the start of the office in July 2003, the Ombudsman has received 13,352 email inquiries of which 5,068 arrived during the current reporting period.[256] If an email inquiry is within the office's jurisdiction and the individual indicates having exhausted all avenues with USCIS, the Ombudsman requests that the person submit a case problem via U.S. mail or courier service. In addition, the Ombudsman often provides individuals with links to resources available on USCIS' website, as well as to other federal agencies, such as DOS and the Social Security Administration, to assist them in determining their status and finding solutions. The Ombudsman also receives hundreds of Public Affairs emails addressing public teleconferences and other issues. The Trends mailbox receives emails on systemic issues and suggested solutions as described in Section V.

The most common type of case problem during this reporting period involved lengthy processing times. Of the 4,632 case problems received, 4,052 complaints involved long processing delays, representing 87 percent of written case problems received. Of the processing-delayed cases, 1,670 or 41 percent involved FBI name check or security check processing issues. The largest number of processing delay cases due to name check issues involved pending green card applications, which totaled 986 complaints or 24 percent of the processing delay inquiries. The number of name check delays may decrease significantly due to the February 2008 USCIS Memorandum stating that green card cases pending only for name check issues now can be adjudicated, if the applicant is otherwise eligible (*see* section II A on FBI name checks). Naturalization applications with name checks pending totaled 483 inquiries.

A large number of the case problems, both naturalization and green card applications, were pending due to unidentified processing delays; there were 732 complaints of unidentified delays, comprising over 18 percent of all case problems received regarding processing times.

256 This count reflects emails received June 1, 2007 through April 30, 2008 regarding cases problems and case problem responses.

There were 762 inquiries that generated case problems related to service error: of this total, 423 cases indicated a lack of response from USCIS or that the customer did not receive a document or receipt notice; in 113 cases, the customer reported an incorrect legal or factual decision; in 61 cases, USCIS provided inaccurate information; in 71 cases, the file or paperwork was lost; and, other service error issues were reported in the remaining 94 case problems.

VII. Ombudsman's Priorities and Objectives

Section 452(c)(1) of the Homeland Security Act requires the Ombudsman to submit, as part of the annual report to the Senate and House Committees on the Judiciary, "objectives of the Office of the Ombudsman for the fiscal year beginning in such calendar year."

2008-2009 Reporting Year Objectives

In the 2008-2009 reporting period, the Ombudsman will continue to assist individuals and employers in resolving problems with USCIS; to identify areas in which individuals and employers are encountering problems with USCIS; and, to the extent possible, propose changes to USCIS' administrative practices in an effort to mitigate those problems. To fulfill these statutory obligations, the Ombudsman will gather insights and feedback from USCIS customers and stakeholders through public teleconferences and site visits to USCIS facilities, and will continue to meet regularly with community, employer, and immigration law organizations. The Ombudsman will also continue to engage in productive, open exchanges with USCIS leadership, management, and personnel on issues affecting customer service.

In the next reporting period, the Ombudsman will produce a study that will examine what material and legal resources USCIS would need in the event legislation is enacted that requires USCIS to register and issue evidence of status to the illegal immigrant population in the United States. The study is intended to be neutral and nonpartisan. It will confine itself to the first critical contact between USCIS and the illegal immigrant. We hope that the study will remain a useful source of information for Congress and Executive Branch leadership as it addresses comprehensive immigration reform and the vital role that USCIS will play in that effort.

The Ombudsman has indicated to Congress in the past two Annual Reports and in briefings that it intends to establish a Virtual Ombudsman that will allow individuals and employers to submit case problems online. The Ombudsman expects that the Virtual Ombudsman will be deployed as a pilot program by the end of the fiscal year. The Virtual Ombudsman should simplify the process of submitting case problems to the Ombudsman, enable underserved populations increased access, and improve analysis and reporting capabilities.

The Ombudsman will continue to staff its operations with subject matter experts from the government and private sectors, and to contract with other experts for specific projects. Some issues for the next reporting period will include: (1) evaluation of best practices in the naturalization process; (2) the use of E-Verify in determining identity and work authorization; (3) the use and preservation of employment-based visas; (4) refugee processing; (5) technological improvements to USCIS case processing; (6) enhanced customer service through data-sharing; and (7) progress in Transformation initiatives.

The Ombudsman will continue to initiate and expand activities to promote interagency cooperation and holistic approaches to immigration, as illustrated by the existing monthly meetings with the DOS, DOL, and offices within USCIS focused on employment-based green card processing workflows. Our office seeks to build understanding where possible between stakeholders and USCIS through conferences and workshops on both general and specific immigration issues.

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Appendices

Appendix 1: Biography of Michael T. Dougherty, Ombudsman

Mr. Michael T. Dougherty was appointed as the second Department of Homeland Security, Citizenship and Immigration Services Ombudsman by Secretary Michael Chertoff on March 3, 2008.

Before assuming his current duties as Ombudsman, Mr. Dougherty served as Legislative Counsel on the personal staff of Senator Jon Kyl, and also staffed the Subcommittee on Terrorism, Technology, and Homeland Security within the Senate Judiciary Committee. He assisted in the drafting and negotiation of the 2007 bipartisan immigration reform effort in the Senate.

Mr. Dougherty previously served as Senior Policy Advisor for Immigration at DHS' Border and Transportation Security Directorate, Office of Policy and Planning. Mr. Dougherty advised senior Department officials on homeland security and immigration policy issues, and led efforts to expand legal authorities for the Department.

Mr. Dougherty has also served at the Department of Justice as a Trial Attorney for the Office of Immigration Litigation, where he litigated 100 immigration cases in the U.S. Circuit Courts of Appeal; as a Special Assistant U.S. Attorney in the Eastern District of Virginia, where he litigated cases in U.S. District Court and before the Fourth Circuit Court of Appeals; and as an Attorney Advisor for the Board of Immigration Appeals within the Executive Office for Immigration Review.

In addition, Mr. Dougherty has served as an Administrative Judge for the U.S. Merit System Protection Board.

Mr. Dougherty earned his B.A. from the Catholic University of America (1985) and J.D. from the Columbus School of Law at the Catholic University of America (1988). He is a member of the Maryland Bar and the Bar of the District of Columbia.

Appendix 2:
Homeland Security Act Excerpts

116 STAT. 2200 PUBLIC LAW 107–296—NOVEMBER 25, 2002
(6 U.S.C. §§271, 272, and 273)

SEC. 451. ESTABLISHMENT OF BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES.

(a) ESTABLISHMENT OF BUREAU.—

(1) IN GENERAL.—There shall be in the Department a bureau to be known as the "Bureau of Citizenship and Immigration Services".

(2) DIRECTOR.—The head of the Bureau of Citizenship and Immigration Services shall be the Director of the Bureau of Citizenship and Immigration Services …

(3) FUNCTIONS.—The Director of the Bureau of Citizenship and Immigration Services…

(E) shall meet regularly with the Ombudsman described in section 452 to correct serious service problems identified by the Ombudsman; and

(F) shall establish procedures requiring a formal response to any recommendations submitted in the Ombudsman's annual report to Congress within 3 months after its submission to Congress.

SEC. 452. CITIZENSHIP AND IMMIGRATION SERVICES OMBUDSMAN.

(a) IN GENERAL.—Within the Department, there shall be a position of Citizenship and Immigration Services Ombudsman (in this section referred to as the "Ombudsman"). The Ombudsman shall report directly to the Deputy Secretary. The Ombudsman shall have a background in customer service as well as immigration law.

(b) FUNCTIONS.—It shall be the function of the Ombudsman—

(1) to assist individuals and employers in resolving problems with the Bureau of Citizenship and Immigration Services;

(2) to identify areas in which individuals and employers have problems in dealing with the Bureau of Citizenship and Immigration Services; and

(3) to the extent possible, to propose changes in the administrative practices of the Bureau of Citizenship and Immigration Services to mitigate problems identified under paragraph (2).

(c) ANNUAL REPORTS.—

(1) OBJECTIVES.—Not later than June 30 of each calendar year, the Ombudsman shall report to the Committee on the Judiciary of the House of Representatives and the Senate on the objectives of the Office of the Ombudsman for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and—

(A) shall identify the recommendations the Office of the Ombudsman has made on improving services and responsiveness of the Bureau of Citizenship and Immigration Services;

(B) shall contain a summary of the most pervasive and serious problems encountered by individuals and employers, including a description of the nature of such problems;

(C) shall contain an inventory of the items described in subparagraphs (A) and (B) for which action has been taken and the result of such action;

(D) shall contain an inventory of the items described in subparagraphs (A) and (B) for which action remains to be completed and the period during which each item has remained on such inventory;

(E) shall contain an inventory of the items described in subparagraphs (A) and (B) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and shall identify any official of the Bureau of Citizenship and Immigration Services who is responsible for such inaction;

(F) shall contain recommendations for such administrative action as may be appropriate to resolve problems encountered by individuals and employers, including problems created by excessive backlogs in the adjudication and processing of immigration benefit petitions and applications; and

(G) shall include such other information as the Ombudsman may deem advisable.

(2) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subsection shall be provided directly to the committees described in paragraph (1) without any prior comment or amendment from the Secretary, Deputy Secretary, Director of the Bureau of Citizenship and Immigration Services, or any other officer or employee of the Department or the Office of Management and Budget.

(d) OTHER RESPONSIBILITIES.—The Ombudsman—

(1) shall monitor the coverage and geographic allocation of local offices of the Ombudsman;

(2) shall develop guidance to be distributed to all officers and employees of the Bureau of Citizenship and Immigration Services outlining the criteria for referral of inquiries to local offices of the Ombudsman;

(3) shall ensure that the local telephone number for each local office of the Ombudsman is published and available to individuals and employers served by the office; and

(4) shall meet regularly with the Director of the Bureau of Citizenship and Immigration Services to identify serious service problems and to present recommendations for such administrative action as may be appropriate to resolve problems encountered by individuals and employers.

(e) PERSONNEL ACTIONS.—

(1) IN GENERAL.—The Ombudsman shall have the responsibility and authority—

(A) to appoint local ombudsmen and make available at least 1 such ombudsman for each State; and

(B) to evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of the Ombudsman.

(2) CONSULTATION.—The Ombudsman may consult with the appropriate supervisory personnel of the Bureau of Citizenship and Immigration Services in carrying out the Ombudsman's responsibilities under this subsection.

(f) RESPONSIBILITIES OF BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES.—The Director of the Bureau of Citizenship and Immigration Services shall establish procedures requiring a formal response to all recommendations submitted to such director by the Ombudsman within 3 months after submission to such director.

(g) OPERATION OF LOCAL OFFICES.—

(1) IN GENERAL.—Each local ombudsman—

(A) shall report to the Ombudsman or the delegate thereof;

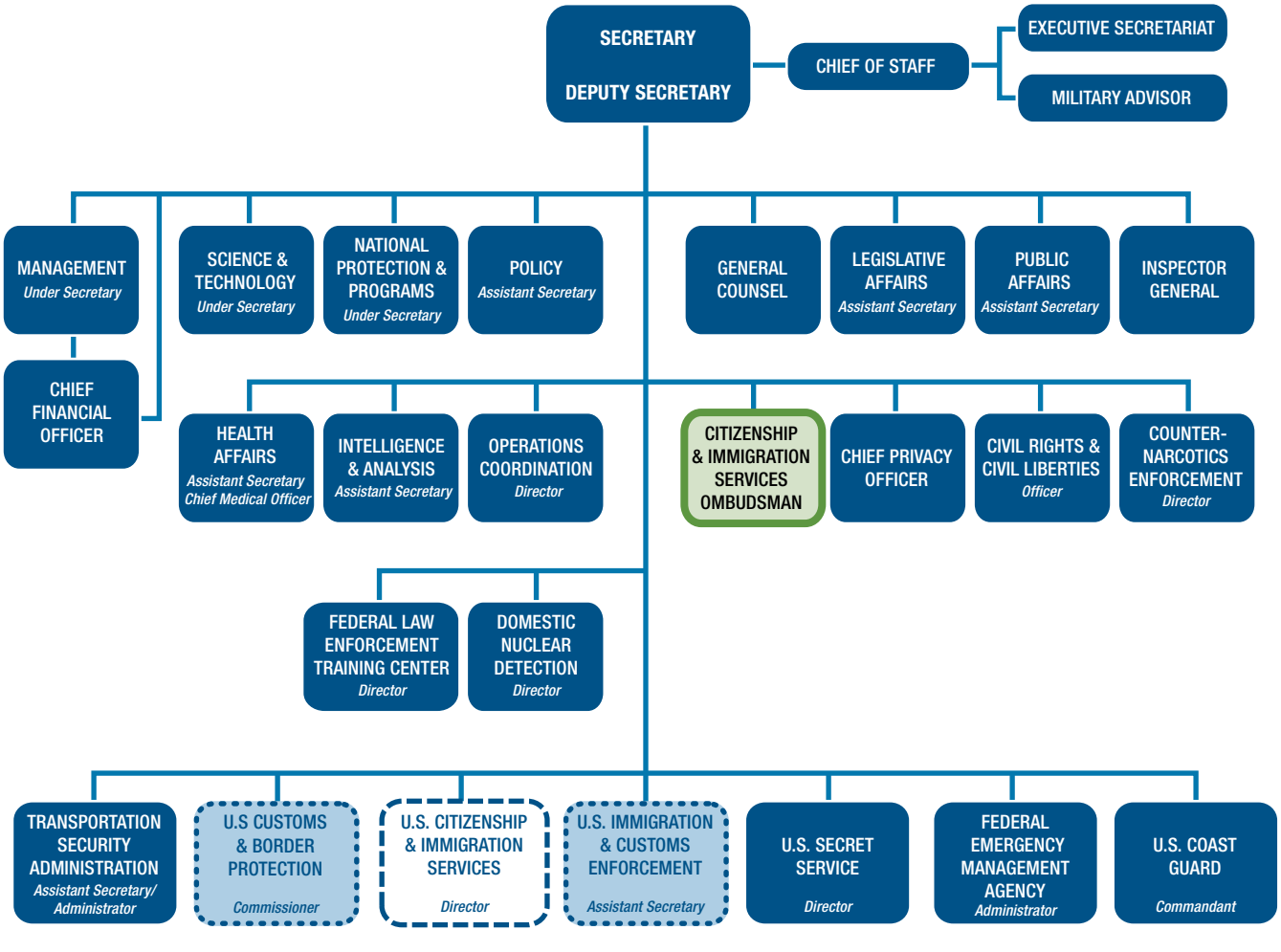
(B) may consult with the appropriate supervisory personnel of the Bureau of Citizenship and Immigration Services regarding the daily operation of the local office of such ombudsman;

(C) shall, at the initial meeting with any individual or employer seeking the assistance of such local office, notify such individual or employer that the local offices of the Ombudsman operate independently of any other component of the Department and report directly to Congress through the Ombudsman; and

(D) at the local ombudsman's discretion, may determine not to disclose to the Bureau of Citizenship and Immigration Services contact with, or information provided by, such individual or employer.

(2) MAINTENANCE OF INDEPENDENT COMMUNICATIONS.— Each local office of the Ombudsman shall maintain a phone, facsimile, and other means of electronic communication access, and a post office address, that is separate from those maintained by the Bureau of Citizenship and Immigration Services, or any component of the Bureau of Citizenship and Immigration Services.

Appendix 3:
DHS Organizational Chart



Part of the former INS which was combined with part of U.S. Customs

Formerly part of the INS Immigration Services Division

Newly created agency under Homeland Security Act

Appendix 4:
USCIS Facilities Visited

Number	Date Visited	Facility
1	5/8/2007	Nebraska Service Center
2	7/17/2007	New Orleans District Office
3	7/18/2007	Los Angeles District Office
4	7/19/2007	San Diego District Office
5	7/24/2007	National Benefits Center
6	7/25/2007	National Benefits Center
7	8/2/2007	Boston District Office
8	8/2/2007	Texas Service Center
9	8/3/2007	Dallas District Office
10	8/6/2007	Nebraska Service Center
11	8/7/2007	Nebraska Service Center
12	9/6/2007	Tampa District Office
13	9/7/2007	Miami District Office
14	9/28/2007	Anchorage Field Office
15	10/9/2007	Los Angeles Lockbox
16	10/10/2007	California Service Center
17	10/16/2007	Atlanta District Office
18	11/15/2007	Phoenix District Office
19	11/15/2007	Las Vegas Field Office
20	11/29/2007	Chicago District Office
21	11/30/2007	Chicago Lockbox
22	11/30/2007	Chicago Asylum Office
23	12/4/2007	Nebraska Service Center
24	12/5/2007	Houston District Office

Number	Date Visited	Facility
25	12/6/2007	Central Region Office
26	12/7/2007	Texas Service Center
27	12/17/2007	Tier 1, Call Center Indianapolis
28	12/18/2007	Indianapolis Field Office
29	1/8/2008	Phoenix District Office
30	1/9/2008	San Diego District Office
31	1/10/2008	California Service Center
32	1/10/2008	Western Regional Office
33	1/16/2008	Tier 2, Call Center Los Angeles
34	1/17/2008	Tier 1, Call Center Albuquerque
35	1/17/2008	Albuquerque Field Office
36	1/24/2008	Washington D.C. District Office
37	1/30/2008	National Benefits Center
38	2/20/2008	El Paso Field Office
39	2/21/2008	Ciudad Juarez Field Office
40	2/22/2008	Orlando Field Office
41	3/14/2008	Tier 2, Call Center New York City
42	3/31/2008	USCIS Card Production Facility
43	4/1/2008	Tier 1, Call Center Kentucky
44	4/1/2008	Digitization Facility Kentucky
45	4/16/2008	Boston District Office
46	4/15/2008	New York District Office
47	4/23/2008	Sacramento District Office
48	4/25/2008	Fresno Field Office

Appendix 5:
Form DHS-7001

OMB No. 1601-0004; Exp. 01/31/09

Department of Homeland Security
CIS Ombudsman

Case Problem Submission Worksheet
(CIS Ombudsman Form DHS-7001)

Instructions

General Information.

1. Who May Use This Form?

If you are experiencing problems during the adjudication of an immigration benefit with U.S. Citizenship and Immigration Services (USCIS), you can submit this worksheet form. You may also use this form to submit a case problem on behalf of somebody else who experiences a case problem with USCIS. If you submit a case problem on behalf of somebody other than yourself, you should ensure that the person the case problem is about (the applicant for a USCIS immigration benefit, or the petitioner who seeks to obtain an immigration benefit for a third party) consents to your inquiry (see section 15).

2. Do I Have to Use This Form to Submit a Case Problem to CIS Ombudsman?

You do not have to use this form to submit your case problem to CIS Ombudsman. However, by submitting a properly completed form, the CIS Ombudsman will receive the necessary information to process your case problem. If you do not use the form and do not provide us with the necessary information, you may experience a delay in the processing of your case problem.

3. When Should I Submit a Case Problem to CIS Ombudsman?

You should contact the CIS Ombudsman if you have an ongoing or immediate issue with USCIS, such as:

- You are facing, or are about to face, an immediate adverse action or impact, an emergency or any other type of significant hardship caused by an action/inaction/delay in processing by USCIS, or a problem, which could not be resolved through the normal processes provided for by USCIS;
- Your case experienced processing delays beyond anticipated processing times;
- You will incur, or are about to incur, significant and unusual costs (including fees for professional representation that are not normally incurred);
- Have not received a response or resolution within the anticipated time frames as published by USCIS.

4. Do I Have to Do Anything Before I Can Submit a Case Problem to CIS Ombudsman?

It is best if you contact our office for assistance after utilizing other resources for case problems with USCIS, such as:

- USCIS Case Status Service Online at http://www.uscis.gov;
- Made an **InfoPass** appointment at the local office;
- Contacted the National Customer Service Center (NCSC) for assistance at (800) 375-5283.

While we do not require that you take these steps before you contact our office, the above listed resources can resolve many frequently asked questions such as **(1)** what forms to file; **(2)** where to file a particular form; **(3)** how to notify USCIS of a change of address; **(4)** how to inquire about processing times at the various service centers or field offices or **(5)** how to receive case status updates. Additionally, certain information can be obtained from USCIS directly, such as information about individual immigration benefits.

NOTICE: Please be aware that CIS Ombudsman cannot provide legal advice. Our office does not have the statutory authority to tell you what type of immigration benefit you may be eligible for or how to remedy your particular immigration situation.

5. What Are the General Filing Instructions for This Form?

- Type or print legibly in black ink.
- If extra space is needed to complete any item, please attach a continuation sheet and indicate the item number.
- If you feel that a particular item does not apply, please indicate by writing "N/A."
- Please attach **copies** of any documentation you received from or sent to USCIS or any other government entity in relation to your case problem. Any additional documentation that is helpful to your case should be submitted. Do not send us original applications or original documentation.

6. Do I Need to Submit a Fee Along With This Form?

No fee is required. Please **do not** send us any fees.

Form DHS-7001 (04/22/08)

7. Where Should I Send the Completed Form?

Please mail your completed, signed and dated form, including supporting documentation, to the following address:

Via Regular Mail:

Citizenship and Immigration Services Ombudsman
Department of Homeland Security
Attention: Case Problems
Mail Stop 1225
Washington, D.C. 20258-1225

Via Courier Service:

Citizenship and Immigration Services Ombudsman
Department of Homeland Security
Attention: Case Problems
245 Murray Lane
Mail Stop 1225
Washington, D.C. 20258-1225

Due to security concerns, mail is screened prior to being forwarded to our office. Please allow up to 14 days from the mailing date until our office receives your case problem. We confirm in writing the receipt of each case problem received within two to four business days.

8. What Assistance Does the Ombudsman Provide to Resolving Case Problems?

Once we receive your case problem, we will review your case, determine if we are able to assist you, and if appropriate, forward your case to USCIS for resolution. If for some reason we are not able to help you obtain a resolution to your case problem, we will inform you of the reasons in writing. If another government office or agency is better able to assist you with your case problem, we will make every effort to provide you with the contact information of that office or agency.

If you believe that our office should have accepted your case for assistance, you may resubmit your case problem with additional explanations as to why your case problem should have been accepted.

9. Can the Ombudsman Provide Legal Advice?

CIS Ombudsman **cannot:**

- Adjudicate immigration applications or petitions;
- Reverse an adverse decision issued by USCIS;
- Serve as a substitute for legal options available to you to correct a problem; or
- Provide legal advice.

NOTE: CIS Ombudsman only has jurisdiction to provide assistance resolving case problems that arise under the jurisdiction of USCIS. The Ombudsman is not able to provide assistance with case problems that arise under the jurisdiction of other agencies dealing with immigration-related issues, such as:

- The Immigration Courts and the Board of Immigration Appeals (BIA), which are part of the Executive Office of Immigration Review (EOIR);
- The Department of Justice (DOJ);
- Customs and Border Protection (CBP);
- Immigration and Customs Enforcement (ICE);
- Department of State (DOS), including the National Visa Center (NVC) and U.S. Embassies and Consulates; or
- Department of Labor (DOL).

10. Privacy Act Requirements.

When you submit your information and case problem to the office of CIS Ombudsman, you are consenting to our review of your information and contacting USCIS on your behalf. You also consent to the release of your information to authorities within USCIS or any person acting on behalf of USCIS.

In addition, it's the CIS Ombudsman's statutory mandate under the Homeland Security Act, Section 452, to capture and address systemic problems. As such, individual case problems serve as one of the basis to establish current systemic trends and problems individuals and employers experience during the immigration benefits seeking process. For this purpose, we will remove your personal information and use the remaining information collected for statistical purposes.

The scope of your consent to release your information is limited to the furtherance of resolving the case problem associated with your case, and the capturing of declassified data to establish systemic immigration problems occuring at USCIS.

(For additional information, please see Page 3 on these instructions, **"Legal Notification Requirements: What Is Our Authority for Collecting This Information?"**)

Specific Instructions.

The following instructions will assist you in completing the form correctly. The items numbered below correspond to the section number of the form requesting the particular information:

1. Name of subject: The "subject" is the person the case is about. Please enter the person's full legal name (first, middle, last name). If the person possesses an alias, provide your alias by indicating "aka" and then listing the alias and all other legal names.

2. Contact information: Please provide the contact information of the person the case is about. If you are submitting the case problem on behalf of somebody else, please also complete **Section 14.**

3. Subject's date of birth: Self-explanatory.

4. Subject's country of birth and citizenship: Self-explanatory.

5. Alien ("A") Number: Provide your alien ("A") number, if applicable. Note that not every person has an alien number assigned by USCIS. For example, if you are seeking non-immigrant status in the United States, you may or may not have an "A" number. The "A" number can be found on many frequently issued USCIS documents, such as work permits or Notices of Actions.

6. Type of case problem: Indicate whether the case problem concerns an individual or an employer.

7. Person preparing this form: Indicate whether the preparer of this form is the person the case problem is about ("the subject"), an organization, attorney/representative or whether you are completing this form in any other capacity (such as a friend of the family, friend, uncle, etc.). ***Important:*** If you are the beneficiary of an immigration application and the one submitting the case problem, you will need the consent of the individual who submitted the petition on your behalf ("the Petitioner"). In this case, you are (although the beneficiary) simply a representative of the Petitioner, and will need the consent of the Petitioner to submit this case problem (please see also Section 15).

8. Applications and petitions filed: List all applications/ petitions that are currently pending with USCIS and that pertain to the case problem you are experiencing. List the applications/petitions by identifying the date when the application/petition was received by USCIS (Receive date); the form number of the application/petition, which may be located on the lower right corner of USCIS form (e.g. , Form I-485); and the name of USCIS form (e.g. Application to Register Permanent Residence or to Adjust Status).

9. Receipt number: Provide the receipt number(s) for the application(s)/petition(s) currently pending with USCIS. The receipt number is located on the top left hand corner of your Notice of Action (Form I-797) you received from USCIS in response to the application/petition you filed. Please provide each receipt number associated with this case.

10. Immigration status or interim benefit Applied or Petitioned for: Provide information about the immigration status or the immigration benefit the person of the case problem is seeking (non-immigrant, immigrant, citizenship, naturalization, refugee or asylum status, work authorization, travel document, etc.)

Provide also the legal category of the immigration status you are seeking. If you are unsure about the category, submit as much information as you can in **Number 12** of the form, **Description of case problem**. If possible, provide us with a copy of the application you filed with USCIS so that we will be able to determine what immigration category you are seeking.

11. Source of case problem: Please choose the options provided that best describe the source of the case problem.

12. Description of your case problem: Please provide a detailed description of your case problem. If additional pages are needed, please attach them on separate sheets of paper.

13. Prior actions taken to remedy the problem: Check all the boxes that apply to the subject's or the representative's action(s) already taken to remedy the problem.

14. Designated Attorney/Representative: Please complete this section if you are an attorney, organization or designated representative who is submitting this case problem. You are also a representative if you are, for example, a friend of the person the case problem is about, and if you would like to assist the individual in resolving the case problem.

15. Consent: For privacy reasons, if you wish USCIS to disclose all the information in the file, we require the consent of the petitioner (the person who filed the petition with USCIS). As a general rule, the person who filed the application/petition with USCIS has to consent to the submission of a case problem to our office. This general rule, however, does not apply if the beneficiary is a lawful permanent resident or U. S. citizen.

16. Verification: If the person who submitted the inquiry is also the subject of the inquiry, this section should be signed and dated by the subject of the inquiry. If a person is the representative and acts on behalf of the subject the case problem is about, the representative should not sign and date the verification statement.

17. Declaration: If you are an attorney or representative submitting the case problem you should sign and date the statement. If you are submitting the case problem for yourself, and you are the subject of the case problem, you should sign this statement.

18. Submission of the worksheet form: Self-explanatory.

Legal Notification Requirements.

1. What Are the Penalties for Submitting Incorrect Information?

Section 1001 of Title 18, United States Code states that whoever willfully and knowingly falsifies a material fact, makes a false statement or makes use of false documents will be fined up to $10,000, imprisoned for up to five (5) years, or both.

2. What Is Our Authority for Collecting This Information?

We request the information on this form to carry out our mandate as provided by Section 452 of the Homeland Security Act of 2002. We need the information to assist individuals and employers in resolving problems with USCIS; to identify areas in which individuals and employers have problems in dealing with USCIS; and to the extent possible, to propose changes in the administrative practices of USCIS to mitigate problems identified.

When you submit your information and case problem to this office, you are consenting to our review of your information to our office and contacting USCIS on your behalf. With the submission of your case problem, you also consent to the release of your information to authorities within USCIS or any person acting on behalf of USCIS. In addition, it's CIS Ombudsman's statutory mandate under the Homeland Security Act, Section 452, to capture and address systemic problems. As such, individual case problems serve as one of the bases to establish current systemic trends and problems. For this purpose, we will remove your personal information and use only the remaining information for statistical purposes.

The scope of your consent to release your information is limited to the furtherance of resolving the case problem associated with your case and capturing statistical data to identify systemic immigration problems.

You do not have to provide us with the particular information requested. However, if you omit certain information, our office may not be able to assist you, or the resolution of your case problem may be delayed.

3. Paperwork Reduction Act Notice.

A person is not required to respond to a collection of information unless it displays a current valid OMB control number.

The public reporting burden for this collection of information is estimated to average 60 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaing the data needed and completing and reviewing the collection of information.

Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden to cisombudsman@dhs.gov. **Do not mail your case problem to this email address.**

OMB No. 1601-0004; Exp. 01/31/09

Department of Homeland Security
CIS Ombudsman

Case Problem Submission Worksheet (CIS Ombudsman Form DHS-7001)

NOTE: Please read the attached instructions before submitting this worksheet. In completing this worksheet, the **"subject"** refers to the person whom the inquiry is about. In submitting your inquiry, please provide as much information as possible. Places requiring your signature are indicated with the symbol.

1. Name of subject. The person this case problem is about who is seeking the immigration benefit.	First Name:	Middle Name:	Last Name:		
2. Contact information. The contact information of the person the case problem is about. If you are submitting this form for someone else, complete number 14.	Street Address:	Apartment/Suite:	City:	State/Province:	
	County:	Zip Code:	E-Mail Address:	Phone Number: *(with Area Code)*	Fax Number: *(with Area Code)*
3. Subject's date of birth. Please indicate in the following format: (mm/dd/yyyy).	Date of Birth: (mm/dd/yyyy)				
4. Subject's country of birth and citizenship.	Country of Birth:	Country of Citizenship:			
5. Alien or "A" number. The "A" number appears in the following format: A123-456-789. **NOTE**: Not every person is assigned an "A" number by USCIS. If you do not have an "A" number, leave this section blank.	A Number: **A**				
	Tip: Your "A" number can be found on many USCIS documents including your work permit.				
6. Type of case problem. Check all that apply.	I am an: **a.** ☐ Individual; **b.** ☐ Employer;				
7. Person preparing this form: Please indicate who is filing this case problem.	I am: **a.** ☐ The person this case problem is about who is seeking the immigration benefit; **b.** ☐ An organization on behalf of an individual; **c.** ☐ An attorney/representative; **d.** ☐ Other (Explain fully);				
8. Applications/Petitions filed: List all applications or petitions pending with USCIS that pertain to your case problem.	Date Application/Petition was received by USCIS:	USCIS Form Number:	USCIS Name of Form:		
	Date Application/Petition was received by USCIS:	USCIS Form Number:	USCIS Name of Form:		
	Date Application/Petition was received by USCIS:	USCIS Form Number:	USCIS Name of Form:		
	Tip: List all forms that are the subject of this case problem. E.g.: If you are filing for a Green Card and are experiencing a problem with your work permit application that was submitted with your Green Card application, list both Forms I-485 (Application Adjustment of Status) and I-765 (Application for Employment Authorization Document) above.				
9. Receipt Number. Please do not include dashes between the characters.	Receipt Number: ***Tip:*** Your receipt number is located in the top left hand corner of your Notice of Action (USCIS Form I-797).				

Form DHS-7001 (04/22/08)

10. Immigration status or interim benefit applied or petitioned for:
The subject of the case problem is applying for immigration status:

a. ☐ As a Nonimmigrant (e.g. extension of a stay for a visitor for pleasure-business, change of status to student, fiance/e, temporary worker, Temporary Protected Status (TPS) etc.) Category: (e.g.: H-1B1, J2, F1, L1A) ____

b. ☐ As an Immigrant (often called "Green Card" application) based on:
- **i.** ☐ A marital relationship of less than two years;
- **ii.** ☐ A marital relationship of more than two years;
- **iii.** ☐ A family relationship and is the parent, child, brother/sister, etc. of the sponsor;
- **iv.** ☐ An employment relationship and is the (future) employee or the spouse of child of the principle (future) employee;
- **v.** ☐ Refugee/Asylum;
- **vi.** ☐ Other;

c. ☐ For Citizenship or Naturalization;

d. ☐ For Refugee/Asylum;

e. ☐ For Interim Benefits (Work Permit/Travel Document, etc.) Type:
- **i.** ☐ Employment Authorization Document (e.g.: Work Permit) Work Permit Category: ____
- **ii.** ☐ Advance Parole Document (Travel Document);

f. ☐ Other (Application for Waiver, Replacement Document, etc.) Type:
- ☐ Waiver (I-601/I-212): ____
- ☐ Replacement of a Document
  - ☐ Citizenship Certificate
  - ☐ Naturalization Certificate
  - ☐ Permanent Resident Card
  - ☐ Other:
- ☐ Other:

11. Source of case problem:
Check all that apply. Provide a description in **Number 12** below, Description of Your case problem.

a. ☐ I am facing or am about to face an immediate adverse action or impact, an emergency or any other type of significant hardship, caused by an action/inaction/delay in processing by USCIS, or a problem that could not be resolved through the normal processes provided for by the USCIS:

b. ☐ I am experiencing processing delays with a case that are beyond anticipated processing times;

c. ☐ I am incurring or am about to incur significant and unusual costs (including fees for professional representation that are not normally incurred);

d. ☐ I have brought this case problem to the attention of USCIS and have not received a response or resolution within the anticipated time frames;

e. ☐ Other (specify):

12. Description of your case problem:
Describe the case problem you are experiencing with USCIS. Attach additional pages if needed.

13. Prior actions taken to remedy the problem:
Check all that apply:

a. ☐ Contacted my attorney/representative who is representing me regarding this issue for assistance (if represented);

b. ☐ Visited USCIS Case Status Service Online at **http://www.uscis.gov.**

c. ☐ Contacted the National Customer Service Center (NCSC) for information and/or assistance regarding this case at their toll-free telephone number **1-800-375-5283**.

d. ☐ Contacted the following government department/agency for assistance:

_____

e. ☐ Contacted the following congressional representative for assistance:

_____

_____

14. Designated Attorney/ Representative:
Please complete this section if you are an attorney, organization or designated representative who is submitting this case problem.

If you are the beneficiary of a pending petition and have obtained consent from the petitioner (see **Number 15**), check box 3, sign and date.

First Name:	Middle Name:	Last Name:	
Street Address:	Apartment/Suite:	City:	State/Province:
County:	Zip Code:	E-Mail Address:	Phone Number: *(with Area Code)* / Fax Number: *(with Area Code)*

1. ☐ I am an attorney and a member in good standing of the bar of the Supreme Court of the United States of the highest court of the following State, territory, insular possession, or District of Columbia and am not under a court or administrative agency order suspending, enjoining, restraining, disbarring, or otherwise restricting me in practicing law.

State of Admission: Name of Court:

2. ☐ I am an accredited representative of the following named religious, charitable, social service or similar organization established in the United States and recognized by the Board of Immigration Appeals pursuant to 8 CFR 292.1.

3. ☐ I am the beneficiary of a pending petition and the petitioner is consenting to the release of information about a pending case to me.

4. ☐ Other (Explain fully):

5. ☐ I have submitted a USCIS Form G-28 as the attorney/representative for the application/ petition for which case problem is being submitted.

Signature of Attorney/Representative: Date (mm/dd/yyyy):

15. Consent:
If you are the beneficiary of a pending petition, and you are not a lawful permanent resident or U.S. citizen, the petitioner must sign here to give consent to the release of his or her information.

Pursuant to 5 U.S.C. Section 552a(b), I authorize U.S. Citizenship and Immigration Services and CIS Ombudsman to release any and all information relating to me to: [Print or Type Name]. I declare under the penalty of perjury that the foregoing is true and correct.

Signature of Subject:

Print Subject's Name: Date (mm/dd/yyyy):

16. Verification:
This item should be signed and completed by the subject of the inquiry.

I certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct, and that I am the subject of the inquiry and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than $10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under the false pretenses is punishable under the provisions of 5 U.S.C. 552a(i)(3) by a fine of not more than $5,000. Further, pursuant to 5 U.S.C. Section 522a(b), I authorize U.S. Citizenship and Immigration Services and CIS Ombudsman to release any and all information relating to me to : [Print or Type Name].

Signature of Subject:

Print Subject's Name: Date (mm/dd/yyyy):

17. Declaration: If you are an attorney or representative, you should sign your name. Otherwise, the subject should sign his or her name.	I delcare that I have prepared this document at the request of the person named in **Number 14** and that the responses are based on all information of which I have knowledge.	
	Signature of Representative:	Print Subject's or Attorney/Representative's Name:
	Title (if applicable):	Date (mm/dd/yyyy):
18. Submission: Case problems may be sent via regular mail or courier service to the following addresses:	Send your completed information to: **Via Regular Mail:** Citizenship and Immigration Services Ombudsman Department of Homeland Security Attention: Case Problems Mail Stop 1225 Washington, D.C. 20528-1225 **Via Courier Mail:** U.S. Citizenship and Immigration Services Ombudsman Department of Homeland Security Attention: Case Problems 245 Murray Lane Washington, D.C. 20528-1225	

Appendix 6:
Selected News Clips Referencing the Ombudsman

California

Feds Play Games With Immigrants, Merced Sun-Star, July 7, 2007

Green Card Fiascos, Sacramento Bee, July 9, 2007

FBI Checks Holding Up 4 Residents' Citizenship, San Diego Tribune, August 24, 2007

Delaware

Summer Harlow, *Immigration Bias Concerns U.S. Muslims*, The News Journal, June 15, 2007

Florida

Alfonso Chardy, *Immigration Fees Rise Sharply*, Miami Herald, July 8, 2007

Kelly Griffin, *Immigration Rules Bug Brits*, Orlando Sentinel, September 10, 2007

Missouri

Spencer S. Hsu and N.C. Aizenman, *Name Checks on Immigrants Pile Up FBI Backlog*, St. Louis Post Dispatch, June 19, 2007

New Jersey

Ritu Jha, *Asian Indians Address Immigration at Forum*, Home News Tribune, May 27, 2007

New York

Julia Preston, *Federal Suit Is Seeking to Expedite Citizenship*, New York Times, December 5, 2007

Pennsylvania

Jason Cato, *Ross Dr. Stuck in Citizenship Limbo Sues*, Pittsburgh Tribune Review, July 8, 2007

Texas

Susan Carroll, *Backlog Leaves Some Immigrants in Limbo*, Houston Chronicle, June 26, 2007

Patrick McGee, *Filing Fees May Go Up — A Lot*, Forth Worth Star-Telegram, February 1, 2007

Utah

CIS to Raise Fees to Counter Backlog, Salt Lake Tribune, July 29, 2007

Washington D.C.

FBI Name Check Cited in Naturalization Delay, Washington Post, June 17, 2007

Max Cacas, *Immigration Backlog Threatens Voting Rights*, Federal News Radio, November 26, 2007

Spencer S. Hsu, *U.S. To Skirt Green-Card Check*, Washington Post, February 12, 2008

Long Wait for the Green Card Gets Shorter, United Press International, February 12, 2008

A Check On Name Checks, Washington Post, March 5, 2008

Appendix 7: Glossary of Terms

The following definitions apply to terms used in the 2008 Annual Report:

A-File: The term is common shorthand for the USCIS-held "Alien-file," consisting of all documents relevant to exchanges between a foreign national and USCIS, as well as other related communications with other components of DHS.

A-Number: Unique identification number assigned by USCIS to foreign nationals who seek immigration benefits with USCIS.

Adjudications Officer: The term "adjudications" refers to the scope of activities involved in the granting of an approval or denial of applications and petitions for immigration benefits, such as citizenship, nonimmigrant, and immigrant status. An Adjudications Officer is a USCIS employee trained to do the primary review of immigration benefits applications and petitions, conduct interviews, perform research, and determine whether to grant or deny the benefit sought.

Adjustment of Status: Term for the process whereby a foreign national already in the United States acquires status as a Lawful Permanent Resident (LPR) (*i.e.*, has a "green card"), regardless of previous status. AOS should not be confused with "Change of Status," which refers to the reclassification from one nonimmigrant category to another (*e.g.* F-1 to H-1B). *See* 8 CFR §§ 245, 248.

Alien: Defined in the Immigration and Nationality Act (INA) section 101(a)(3) as any person not a citizen or national of the United States; also referred to as a "foreign national."

Asylee: A person granted the right to stay permanently in the United States, but who is not a citizen. *See* INA § 208. Any foreign national who is physically present in the United States or who arrives in the United States, irrespective of legal status, may apply for asylum. A foreign national who was persecuted or who has a well founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion may be granted asylum by an Immigration Officer or Immigration Judge and be considered an asylee. Asylees can apply for a green card one year after arrival and for citizenship after five years.

Backlog: Immigration cases pending with USCIS past processing time goals. USCIS calculates its backlog as *pending cases minus the last six months' receipts*. In its net backlog, USCIS excludes cases over which the agency has no control (*e.g.*, FBI name check cases).

Case Problem: Matter submitted by a USCIS customer to the Ombudsman and deemed, upon review, to merit discussion with USCIS. "Customers" include individuals with pending USCIS benefits applications, as well as their employers or other representatives, who send in a completed Form DHS-7001, available at *www.dhs.gov/cisombudsman*. When matters are deemed not referable to CAO – due to lack of jurisdiction, already having been answered, etc. – the Ombudsman informs senders in writing and, where possible, refers them to useful information sources.

Employment Authorization Document (EAD): Documentary evidence that an alien has an approved Form I-765, (Application for Employment Authorization) and is allowed to work in the United States.[257] *See* 8 CFR § 274a. The EAD is of limited validity, usually one year, and printed on USCIS Form I-688, I-688A, I-688B, or I-766.

FBI Name Check: One of many security screening tools used by USCIS in which the FBI provides information to the agency regarding anyone who is the principal subject of an investigation or is a person referenced in an FBI file. USCIS uses this information to determine if applicants are ineligible for certain immigration benefits.

Field Office: A publicly accessible USCIS office where adjudications officers conduct interviews, perform research, and make determinations to grant or deny benefits. Applicants

257 *See* http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=1847c9ee2f82b010VgnVCM10000045f3d6a1RCRD&vgnextchannel=1847c9ee2f82b010VgnVCM10000045f3d6a1RCRD (accessed May 26, 2008).

and their representatives can visit the field office by making an INFOPASS appointment.[258]

Form I-131: The form used to apply for the *Advanced Parole Travel Document*, a permit obtained by foreign nationals prior to traveling abroad that allows them to present themselves for re-entry (technically, for "parole") to the United States; this re-entry is not guaranteed and, if granted, is not the same as being legally "admitted." The document itself, Form I-512 (Authorization for Parole of an Alien), is typically valid for a year and multiple returns to the United States, and preserves the status of pending benefits applications. *See* 8 CFR § 299, *et seq*.

Frontlog: Filings received physically at USCIS offices but for which the agency is delayed in issuing receipt notices, depositing fees, and completing initial intake.

Green Card: The common term for USCIS Form I-551 (Alien Registration Card) documentary evidence of Lawful Permanent Residency.[259]

Immigrant: Under INA definions, a foreign national except for non-immigrants or temporary visa holders listed at INA § 101(a)(15). In lay terms it refers to an individual who intends to permanently reside in the United States.

Immigration Information Officer (IIO): A USCIS employee specially trained to provide information to the public, either at a field office or telephonically via Tier 2 of the toll-free National Customer Service Center.

Immigration and Nationality Act (INA): 8 U.S.C. § 101, *et seq*.; the statutory basis for immigration and naturalization in the United States.

Labor Certification: A document issued by the Department of Labor (DOL) to employers that wish to hire foreign nationals in certain permanent or temporary positions. The traditional process for issuance of a labor certification reviews the U.S. labor market to ensure there are no U.S. workers able, willing, qualified, and available to fill the position.[260] *See* INA § 212(a)(14).

Lawful Permanent Resident (LPR): The legal status to reside and work permanently in the United States. *See* INA § 101(a)(20). See definitions for "Immigrant" and "Green Card."

Lockbox (Chicago & Los Angeles): USCIS contractor facilities that receive certain types of benefits application. The lockbox performs initial review of documents and deposits fees. It then forwards filings to the appropriate USCIS facility for further processing and adjudication.

National Benefits Center (NBC): USCIS facility located in Lee's Summit, Missouri, and previously called the Missouri Service Center. The NBC was established as the hub and conduit for USCIS field offices; it completes all pre-interview processing of immigration benefit forms generally requiring an interview. NBC pre-processing includes conducting background security checks, performing initial evidence reviews, adjudicating associated forms, denying adjustment of status cases for statutorily ineligible applicants, and forwarding scheduled cases to the appropriate USCIS local office for adjudication.

National Customer Service Center (NCSC): Term for the network of six "call center" facilities accessible by a toll-free telephone number, 1-(800) 375-5283. The NCSC provides nationwide assistance in English and Spanish to customers calling about immigration services and benefits.

National Records Center (NRC): USCIS archival records facility located in Lee's Summit, Missouri, not far from the NBC. The NRC stores millions of USCIS and legacy INS paper records in a centralized repository. It began operations in November 1999 to provide records management and information retrieval services and immigrant status verification services to benefit-granting agencies and employers. Additionally, the NRC serves as an internal record-keeper for USCIS and processes FOIA requests.

National Visa Center (NVC): The NVC[261] is a Department of State (DOS) facility that manages the flow of permanent residency cases between USCIS and DOS. At the start of the process, it receives approved immigrant petitions from USCIS and distributes them to foreign consular offices where intending immigrants are interviewed for immigrant visas. The NVC also receives from abroad "consular returns," cases in which DOS adjudicators send back petitions of candidates considered unqualified, and forwards these to USCIS for review. As DOS officers cannot revoke approved petitions, USCIS review results either in revocation or reaf-

258 *See* http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=52a46c854523d010VgnVCM10000048f3d6a1RCRD&vgnextchannel=52a46c854523d010VgnVCM10000048f3d6a1RCRD (accessed May 26, 2008).

259 *See* http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=4f719c7755cb9010VgnVCM10000045f3d6a1RCRD&vgnextchannel=4f719c7755cb9010VgnVCM10000045f3d6a1RCRD (accessed May 26, 2008).

260 *See* http://www.foreignlaborcert.doleta.gov/ (accessed May 26, 2008).

261 *See* http://www.travel.state.gov/visa/immigrants/types/types_1309.html (accessed May 26, 2008).

firmation. Only where USCIS reaffirms a returned petition is it again forwarded to the NVC and the process of sending on for consular processing starts anew. *See* "Revocation."

Naturalization: The process by which a foreign national becomes a citizen of the United States.

Nonimmigrant: A foreign national admitted to the United States for a specified temporary purpose and time period. Common examples include a tourist, principal of a foreign government, representative of foreign press, a crewman, a student, a foreign professional, or executive. *See* INA § 101(a)(26) and 8 CFR § 214.

Notice of Action: Also commonly known as a "receipt notice," this term refers to correspondence from USCIS on Form I-797 generated in several situations. These situations include, most commonly, confirming the filing has been received and when it was received, as well as memorializing address changes, status changes, and other USCIS acts *See* 8 CFR § 299, *et seq*.

Preference Categories: Classification under INA § 203 of foreign nationals seeking to immigrate to the United States. The preference system is divided between family (*e.g.*, "first preference" is unmarried sons and daughters of U.S. citizens) and employment-based categories (*e.g.*, "first preference" is persons of extraordinary ability, outstanding professors and researchers, and multinational executives and managers).

Priority Date: Reserves the place in line for immigrant visas. Generally, for family-based petitions, the priority date is the filing date of the petition. For employment-based petitions, the priority date is either the date the labor certification is filed or the preference petition is filed.

Region: USCIS divides the country into four administrative regions – western, central, eastern, and southeastern. The districts and field offices report to their respective regional offices.

Request for Evidence (RFE): A formal response from USCIS to a filing, the RFE informs customers of additional information needed to complete adjudications. *See* 8 CFR § 103.2(b)(8).

Retrogression: Retrogression refers to the movement backwards of priority date cutoffs–the date for which a petition had to have been submitted to be currently eligible for a green card moves to an earlier date in the calendar than previously published.

Revocation/Consular Return: The Department of State's (DOS) provisional denial of a petition, followed by return of the petition from the DOS to USCIS with a recommendation to revoke the petition. After reconsideration, USCIS either accepts the recommendation and revokes the petition, or rejects the DOS recommendation and reaffirms approval, and then resends the case to DOS for processing. *See* INA § 205; *see also* "NVC" definition.

Service Center: One of four USCIS processing facilities that each adjudicate certain petitions and applications, particularly employment-based filings and those that do not require an interview (*e.g.*, Form I-130 (Petition for Alien Relative) or Temporary Protective Status (TPS) applications). The four service centers are located in California, Nebraska, Texas, and Vermont.

Transformation Program Office (TPO): Office within USCIS charged with leading a multi-year initiative to modernize USCIS information technology infrastructure and immigration processing capabilities.

Visa Bulletin: Monthly Department of State Visa Office document establishing priority date cut-offs for use in conjunction with applicant priority dates to determine current eligibility for immigrant visa numbers (green card numbers). The Visa Bulletin publishes estimates of the green card line by immigrant category and country of chargeability.[262]

262 *See* http://travel.state.gov/visa/frvi/bulletin/bulletin_1360.html (accessed May 27, 2008).

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