

Evaluation and Inspections Report



Follow-up Review on the
Immigration and Naturalization
Service's Efforts to Track
Foreign Students in the United
States through the Student and
Exchange Visitor Information
System

Report Number I-2003-003

March 2003

EXECUTIVE SUMMARY

This report assesses the Immigration and Naturalization Service's (INS) progress in implementing the foreign student tracking system, the Student and Exchange Visitor Information System (SEVIS). Historically, the INS devoted insufficient attention to foreign students attending United States schools, and its paper-based tracking system was inefficient, inaccurate, and unreliable. In 1996, Congress directed the INS to develop an electronic system to collect information on foreign students, as well as the schools they attend.¹ The INS began to develop an electronic information system to track foreign students, which was ultimately termed SEVIS.

After authorities discovered that several of the September 11 terrorists had entered or remained in the United States on student visas, the effort to improve the INS's monitoring of foreign students intensified. In October 2001, Congress directed the INS to fully implement SEVIS by January 1, 2003.² In May 2002, Congress further expanded the INS's information reporting and tracking requirements, and established a transition program for issuing foreign student and exchange visitor visas pending full SEVIS implementation.³

Also in May 2002, the Department of Justice (DOJ) Office of the Inspector General (OIG) issued a report on the INS's contacts with two of the September 11 terrorists.⁴ As part of that review, the OIG assessed the INS's efforts to implement SEVIS. We concluded that the INS's processes for certifying schools as eligible to accept foreign students were inadequate because: (1) the certification and monitoring of schools at the INS district offices were low-priority collateral duties; (2) INS adjudicators responsible for reviewing and approving school applications were not

¹ *The Illegal Immigration Reform and Immigrant Responsibility Act*, Public Law 104-208, September 30, 1996.

² *USA PATRIOT Act*, Public Law 107-56, October 26, 2001.

³ *The Enhanced Border Security and Visa Entry Reform Act of 2001*, Public Law 107-173, May 8, 2002.

⁴ *The Immigration and Naturalization Service's Contacts With Two September 11 Terrorists: A Review of the INS's Admissions of Mohamed Atta and Marwan Alshehhi, its Processing of their Change of Status Applications, and its Efforts to Track Foreign Students in the United States.*

conducting adequate on-site reviews of schools; (3) INS adjudicators received no formal training and lacked clear guidelines relating to the certification process; and (4) the INS did not periodically review approved schools for continued eligibility. In addition, we questioned whether the INS would be able to meet the January 1, 2003, deadline for full implementation of SEVIS.

In September 2002, Congress held two hearings to examine the status of SEVIS implementation.⁵ At these hearings, a senior INS official testified that SEVIS would be technologically available to the schools as of January 1, 2003. In his September 2002 testimony before Congress, the DOJ Inspector General questioned whether the INS would be able to certify all the necessary schools by January 30, 2003. He also expressed concerns about the INS's ability to adequately train and oversee the contractors it hired to conduct on-site reviews of schools as a part of the certification process. The senior INS official expressed confidence in the ability of the INS's contractors to complete the on-site reviews, and the INS's ability to complete its certification reviews by January 30, 2003. However, she acknowledged that the INS would not be able to complete, by January 1, 2003, all of the SEVIS training planned for INS personnel and school officials.

Beginning in January 2003, we conducted this follow-up review to further assess the INS's progress in implementing SEVIS. We also examined the effect of the INS's transfer to the Department of Homeland Security (DHS) on the foreign student program and the implementation of SEVIS.

⁵ On September 18, 2002, the Immigration, Border Security, and Claims Subcommittee of the House Judiciary Committee held a hearing on the *Implementation of the Foreign Student Tracking Program by the Immigration and Naturalization Service*, and on September 24, 2002, the House Subcommittees on 21st Century Competitiveness and Select Education held a hearing on *Homeland Security: Tracking International Students in Higher Education – Progress & Issues Since 9-11*.

Results in Brief

This review found that the INS has made significant progress in implementing SEVIS. The INS is requiring previously approved schools to reapply and non-accredited vocational, language, and flight schools to undergo on-site reviews prior to providing them access to SEVIS. In addition, all INS offices and Department of State consular posts can access SEVIS.

However, despite this progress, we believe that SEVIS is not yet fully implemented. The INS asserts that SEVIS was fully implemented by January 1, 2003, the Congressionally mandated deadline, because it was technically available as of that date. However, as stated in our September 2002 testimony, we believe that full implementation includes not only technical availability, but also ensuring that sufficient resources are devoted to the foreign student program; ensuring that only bona fide schools are provided access to SEVIS; ensuring that schools are completely and accurately entering information on their foreign students into SEVIS in a timely manner; adequately training DHS employees and school representatives; and establishing procedures for using SEVIS data to identify noncompliant and fraudulent operations as well as following up when SEVIS data indicates fraud in a school's program. Our follow-up review determined that most of these actions have not yet taken place. In addition, while the SEVIS database contains information on newly enrolled foreign students, it will not contain information on all continuing foreign students until August 1, 2003.

Specifically, this follow-up review found:

- The INS did not complete certification reviews of all school applications. The INS adjudicated the applications of 1,779 schools in the first phase of its two-phase SEVIS implementation.⁶ In the second phase, the INS guaranteed that all school applications submitted by November 15, 2002, would be processed by January 30, 2003. However, by January 30, 2003, the INS had adjudicated only 1,963 of the 2,856 school applications it had received by November 15, 2002. Moreover, as of January 30, 2003, the INS

⁶ The INS allowed schools to apply for SEVIS access in two phases. In Phase 1, which ran from July 1, 2002, through September 24, 2002, only accredited schools that had been previously approved by the INS within the past three years could apply. All other schools had to wait to apply until Phase 2, which began September 25, 2002.

had not adjudicated any of the 1,305 school applications it received after November 15, 2002. The adjudications had not been completed because the INS dedicated insufficient field adjudication staff to the task; technical problems with SEVIS impeded adjudicators' access to the system; the contract firms the INS hired to conduct on-site reviews failed to promptly forward the schools' supporting documentation to INS adjudicators; and one of the contract firms failed to conduct the reviews in a timely manner.

- The INS's oversight of contractors is inadequate to ensure that schools are bona fide. The INS hired contract investigators to perform on-site reviews of schools and provided these investigators with INS-developed checklists to use in conducting their reviews. However, the INS failed to properly train the contract investigators, test the checklist for usefulness and completeness before putting it to use, and monitor the quality of contract investigators' on-site reviews. As a result, the completed checklists were of limited use to INS field adjudicators in determining whether a school was bona fide. Field adjudicators were therefore forced to make decisions based on inaccurate or incomplete information. All of the INS field adjudicators we contacted criticized the quality of the information provided in the checklists, specifically citing the overall lack of descriptive comments, the lack of standardization among the individual contract investigators in completing the forms, and the presence of incomplete or contradictory information.
- The INS's review of schools' recordkeeping and internal controls is insufficient to ensure that schools are complying with SEVIS recordkeeping requirements or to identify internal control weaknesses that could allow fraud to occur undetected. The INS is relying on contract investigators to conduct compliance audits to ensure that schools have appropriate internal controls in place and are entering data into SEVIS accurately, completely, and timely. To assess whether schools have adequate internal controls in place to prevent or detect fraud in their foreign student program, the INS is requiring the contract investigators to describe certain school procedures on INS-developed checklists. To assess the schools' compliance with SEVIS recordkeeping requirements, the INS is requiring contract investigators to verify information from the schools'

records for at least five foreign students selected from a list provided by the INS. We do not believe this process is sufficient to identify a school's internal control weaknesses, which could lead to fraud, or to conclude that a school's SEVIS records are complete, accurate, and current. The INS-developed checklists do not address all internal control issues, such as whether the Designated School Officials (DSO) are properly safeguarding their SEVIS passwords. In addition, five records are an insufficient sample from which to draw a conclusion about a school's compliance with SEVIS recordkeeping requirements. Further, the INS has not established a process for identifying and following up on either instances of noncompliance or possible fraud indicators identified during these reviews.

- The SEVIS database will not include information on all foreign students until August 1, 2003. The INS required that schools begin using SEVIS for newly enrolled foreign students by January 30, 2003 – a deadline it later extended to February 15, 2003. However, schools have until August 1, 2003, to enter the data for their continuing foreign students into the SEVIS database. Therefore, the SEVIS database will not include information on all foreign students until August 1, 2003. Until then, the INS will continue to operate its inadequate, paper-based system to monitor continuing foreign students.
- The INS still has not provided adequate training and guidance to INS adjudicators or INS inspectors at ports of entry. Our review found that INS adjudicators did not receive adequate training or guidance on performing school adjudications, including what to look for when reviewing the contract investigator checklists and how to use the information to identify fraudulent schools. Further, although new foreign students currently are using SEVIS documents to enter the United States, the INS has not fully trained its inspectors at ports of entry on how to use SEVIS to identify whether the alien is a legitimate student.
- The INS has not established procedures to use SEVIS to identify and refer potential fraud for enforcement action. The INS needs to ensure that it uses the information from the SEVIS database to identify foreign students who are not complying with their visa requirements. The INS also needs to use this information to identify sham schools. The INS also must ensure that any

instances of potential fraud are referred for further investigation and enforcement action.

- The INS has not provided sufficient resources for enforcement activities. The INS has not committed a sufficient number of resources to fully investigate instances of potential fraud, such as foreign students who fail to enroll in a school, or fail to leave the United States once they depart school; sham schools; and DSOs at legitimate schools who commit fraud.

We believe that the transfer of the INS to the DHS creates a significant management challenge for the foreign student program and SEVIS implementation. Responsibility for SEVIS implementation has shifted from a bureau responsible for providing immigration benefits (the Bureau of Citizenship and Immigration Services) to a bureau responsible for enforcing immigration laws (the Bureau of Immigration and Customs Enforcement). Close oversight is required to ensure a smooth transition. In particular, due to the large number of schools that still need to be re-certified to use SEVIS, the individuals responsible for certifying schools must be identified quickly to receive sufficient training and guidance.

Once fully implemented, SEVIS should provide an effective mechanism for the INS to monitor both foreign students and the schools that they attend. SEVIS, however, will not be fully functional as a monitoring system until August 1, 2003, when its database will contain complete information on all foreign students currently attending United States schools and when it will be the sole system used to monitor foreign students. Moreover, we found other continuing problems in the full implementation of SEVIS, including serious deficiencies in the work performed by the INS contractors conducting the school on-site reviews. In addition, for SEVIS to be fully implemented and effective, the INS needs to train its employees to use SEVIS to identify potential fraud and noncompliance, better monitor the contract investigators responsible for conducting on-site reviews of the schools, and ensure that there is effective investigative and enforcement action taken against violators.

We have identified actions that we believe should be taken to ensure the effectiveness of monitoring foreign students attending United States schools. While a majority of these actions are consistent with the recommendations made in our original report, the INS either disagreed with the recommendation or has not yet fully implemented the recommendation. These actions include:

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- Appointing a foreign student program manager to coordinate, and be accountable for, immigration issues affecting foreign students.
 - Assigning full-time staff whose sole responsibility is to certify and monitor schools.
 - Closely monitoring the contract investigators to ensure that they conduct on-site reviews in a timely and thorough manner.
 - Improving the checklists used by the contract investigators in their on-site reviews to make them more descriptive and more useful to the adjudications staff.
 - Coordinating with the Department of Education to conduct audits of schools to ensure they are complying with SEVIS reporting and recordkeeping requirements.
 - Provide training to those responsible for certifying schools on the adjudication process and on using the contract investigator checklists to identify fraud indicators.
 - Ensuring that possible fraud identified through the adjudication process and through analytical reviews is referred for investigation.
 - Ensuring that sufficient investigative resources are available to investigate instances of potential fraud identified by SEVIS.

We believe these actions should be taken and are critical to ensuring that SEVIS is fully implemented, reliable, and effective.

TABLE OF CONTENTS

INTRODUCTION	1
Scope and Methodology.....	2
BACKGROUND	3
SEVIS Implementation Schedule	6
Prior OIG Review Findings Related to the Certification Process	7
SEVIS School Certification Process.....	8
RESULTS OF THE REVIEW	11
SEVIS Is Not Fully Implemented.....	11
Schools Not Approved Timely for Access to SEVIS	12
Qualitative Problems Related to On-Site Reviews	18
Compliance Audits Not Properly Performed	22
Additional Training and Guidance Needed for INS Adjudicators	23
Additional Training Needed for INS Inspectors.....	25
Necessary Action Taken to Instruct DSOs	26
Identification of Fraud Indicators From SEVIS Data Needs Referral to Enforcement	26
Sufficient Resources Needed for Enforcement Activities	27
INS Offices and Department of State Consular Posts Have the Ability to Access SEVIS	29
Transfer of the INS to the DHS to Have Major Impact on SEVIS Implementation.....	30
CONCLUSION	32
APPENDIX I – STATUS OF OIG RECOMMENDATIONS FROM THE ORIGINAL REPORT	34
APPENDIX II – DHS MANAGEMENT’S RESPONSE	38
APPENDIX III: OIG ANALYSIS OF THE DHS MANAGEMENT RESPONSE	41

INTRODUCTION

In May 2002, the Office of the Inspector General (OIG) issued a report, *The Immigration and Naturalization Service's Contacts With Two September 11 Terrorists: A Review of the INS's Admissions of Mohamed Atta and Marwan Alshehhi, its Processing of their Change of Status Applications, and its Efforts to Track Foreign Students in the United States*. The report included our assessment of the Immigration and Naturalization Service's (INS) efforts to implement the Student and Exchange Visitor Information System (SEVIS), an electronic system used to track foreign students and exchange visitors. That report made recommendations to improve the process by which the INS certifies schools as eligible to accept foreign students, trains INS personnel and Designated School Officials (DSO), and monitors schools for compliance.⁷

In September 2002, Congress held two hearings to examine the status of SEVIS implementation.⁸ At these hearings, a senior INS official testified that SEVIS would be technologically available to the schools as of January 1, 2003. In his September 2002 testimony before Congress, the DOJ Inspector General questioned whether the INS would be able to certify all the necessary schools by January 30, 2003. He also expressed concerns about the INS's ability to adequately train and oversee the contractors it hired to conduct on-site reviews of schools as a part of the certification process. The senior INS official expressed confidence in the ability of the INS's contractors to complete the on-site reviews, and the INS's ability to complete its certification reviews by January 30, 2003. However, she acknowledged that the INS would not be able to complete, by January 1, 2003, all of the SEVIS training planned for INS personnel and school officials.

The purpose of this follow-up review was to assess the INS's progress in implementing SEVIS. In this review, we also examined the

⁷ See Appendix I for a summary of the recommendations pertaining to SEVIS implementation.

⁸ On September 18, 2002, the Immigration, Border Security, and Claims Subcommittee of the House Judiciary Committee held a hearing on the *Implementation of the Foreign Student Tracking Program by the Immigration and Naturalization Service*, and on September 24, 2002, the House Subcommittees on 21st Century Competitiveness and Select Education held a hearing on *Homeland Security: Tracking International Students in Higher Education – Progress & Issues Since 9-11*.

impact of the March 2003 transfer of INS to the Department of Homeland Security (DHS) on the foreign student program and the implementation of SEVIS.

Scope and Methodology

We conducted field work for our follow-up review during January 2003. We interviewed INS headquarters officials from the Immigration Services Division, the Office of Information Resources Management, and the Office of Investigations regarding the progress of SEVIS implementation, and the impact of the transfer of the INS to the DHS on the foreign student program. To determine the progress of the INS's efforts to approve schools for access to SEVIS, we contacted INS adjudicators at ten district offices – Atlanta, Boston, Chicago, Detroit, Houston, Los Angeles, Miami, New York City, Philadelphia, and San Francisco. We contacted INS training officers at five airports – Atlanta, Chicago, Miami, New York City, and San Francisco – to obtain information on SEVIS training for INS inspectors. We also contacted representatives from two school associations, the Association of International Educators: NAFSA, and the College Career Association, to obtain the schools' perspectives on SEVIS implementation.

The INS provided data on the number of schools that submitted applications for access to SEVIS, applications the INS processed, and on-site visits of applicant schools conducted by INS contract investigators. In addition, we reviewed a sample of 20 on-site review reports submitted by INS contract investigators to assess their completeness and adequacy.

BACKGROUND

The INS has several responsibilities related to foreign students. These responsibilities include determining the eligibility of a school to receive foreign students, inspecting the documents of foreign students entering the United States, monitoring foreign students to ensure that they maintain their visa status, facilitating the removal of foreign students once their status ends, and approving transfers, practical training, and program extensions for foreign students enrolled in vocational programs.⁹ The INS also is responsible for processing the requests of aliens in the United States who want to acquire student status.

In 1983, the INS implemented the Student and Schools System (STSC). STSC contained basic information on INS-certified schools and the foreign students who entered the United States with I-20s issued by these schools. With respect to foreign students, STSC only contained I-20 information; it did not indicate whether foreign students actually enrolled in the school or include information on students' academic progress. The INS instead required schools to manually collect data on foreign students attending their school, including names, addresses, dates of birth, visa classifications, student status, courses of study, academic disciplinary actions taken, and dates and reasons for termination. Schools were not required to report this information regularly to the INS, but were required to provide this information to the INS when requested to do so. As a result, although the INS knew how many foreign students entered the United States, it was unable to keep track of them to ensure that they complied with their visa requirements.

The discovery that one of the terrorists involved in the February 1993 bombing of the World Trade Center was in the United States on an expired student visa resulted in the formation of a multi-agency task force in June 1995 to review the INS's process for monitoring foreign students and exchange visitors. On September 30, 1996, Congress enacted Public Law 104-208, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), which mandated that the INS develop a system to collect foreign student information electronically from colleges and universities. This requirement did not include

⁹ Aliens are "in-status" when they meet their visa requirements. To be in-status, foreign students must actively pursue a full course of study at an INS-approved school.

vocational or language schools. IIRIRA also mandated that the INS establish a fee, to be imposed on foreign students and exchange visitors, to fund the system.

In June 1997, the INS implemented a pilot project, the Coordinated Interagency Partnership Regulating International Students (CIPRIS), to test the concept of an electronic reporting system. According to the INS, the CIPRIS pilot project was designed as a “throw-away” program to test the feasibility of electronic reporting. Although the CIPRIS pilot project officially ended in October 1999, the project continued operating as a prototype pending the development of a nationwide system. Subsequent to the pilot project, the design of the new system changed to an Internet-based system. In July 2001, the INS changed the name of the system to SEVIS to distinguish between the two systems, which functioned similarly, but differed in design.

CIPRIS, and later SEVIS, encountered opposition from some school association lobbying groups, who primarily objected to the imposition of a foreign student processing fee. Because the INS was relying on fee collections to fund SEVIS, the delays in establishing the fee process affected the development of SEVIS.

The September 11, 2001, terrorist attacks drew renewed attention to foreign students when it was determined that several of the terrorists either were in the United States on student visas, had recently changed their visa status to a student status, or had attended flight schools. On October 26, 2001, Congress enacted the USA PATRIOT Act (Public Law 107-56), which required the INS to fully implement SEVIS by January 1, 2003. The law also required the INS to include information on each foreign student’s or exchange program visitor’s port of entry and date of entry, and it expanded the types of schools required to participate in SEVIS to include flight schools, language training schools, and vocational schools. Congress provided \$36.8 million in appropriations to fully fund the SEVIS implementation.

The Enhanced Border Security and Visa Entry Reform Act of 2001 (Public Law 107-173), enacted on May 8, 2002, required additional information on foreign students to be captured electronically, such as the issuance of an I-20, the issuance of a visa, and the registration and enrollment of the student at the school.¹⁰ It also required schools to

¹⁰ When an alien is accepted to a program offered by an INS-approved school, that school issues an INS form I-20 to the student. The alien presents the I-20 to a

report to the INS, no later than 30 days after the school registration deadline, the failure of an alien to enroll or commence participation in an INS-approved school, or a designated exchange visitor program. The law also established a transition program for issuing foreign student and exchange visitor visas pending full SEVIS implementation.

Since May 2002 the INS has published a series of rules in the Federal Register to implement SEVIS:

- On May 16, 2002, the INS published a proposed rule that established the regulatory framework for SEVIS and set a mandatory compliance date of January 30, 2003, for schools to use SEVIS. The proposed rule recognized that the compulsory date of January 30, 2003, might pose challenges for schools and solicited comments from the schools regarding the amount of time the schools believed would be necessary to convert to SEVIS.
- On July 1, 2002, the INS published an interim rule allowing schools to preliminarily enroll in SEVIS provided that they met specified criteria. For these schools, the INS waived the requirement of an on-site review as a condition for approval. The preliminary enrollment period was effective from July 1, 2002, until the INS published its interim certification rule.
- On September 25, 2002, the INS published an interim certification rule requiring that all schools not already approved for SEVIS during the preliminary enrollment period undergo a certification review, including an on-site review, prior to enrollment in SEVIS. The rule required schools to enter all continuing students into SEVIS by the end of the next academic cycle. The rule also gave the INS the option of deferring the initial on-site review requirement and allowing conditional enrollment in SEVIS for accredited schools or for public secondary schools.

consular officer when applying for a student visa as proof of acceptance to an INS-approved program. The alien also presents the I-20 to an inspector upon entry to the United States.

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- On December 11, 2002, the INS published the final version of its May 16, 2002, proposed SEVIS rule.¹¹ The rule established August 1, 2003, as the date by which schools must issue SEVIS I-20s to all of their continuing students. The rule became effective on January 1, 2003.

SEVIS Implementation Schedule

While the INS established January 30, 2003, as the mandatory implementation date by which all schools were required to begin issuing SEVIS I-20s to their new students, the INS subsequently extended this date to February 15, 2003. During January 2003, as more schools and foreign exchange visitor program sponsors began to access SEVIS, technical problems developed. Users had difficulty logging onto SEVIS, and as the volume of users grew, the system became increasingly sluggish. The INS also was struggling to complete its certification reviews of those schools that had submitted their applications by November 15, 2002.¹² Until the INS completed these reviews, these schools would not be able to accept any new foreign students.

On January 29, 2003, the INS issued a statement extending the mandatory compliance date from January 30, 2003, to February 15, 2003. During this 2-week extension, the INS planned to correct the system's problems and complete its certification reviews of those schools that applied by November 15, 2002.¹³

The INS is requiring all schools to use SEVIS for I-20s issued to new students after February 15, 2003, and it is giving schools until August 1, 2003, to reissue I-20s to their continuing students. Until

¹¹ On December 12, 2002, the Department of State issued an interim final rule setting forth the same compliance dates for foreign exchange visitor program sponsors. Although the INS is responsible for monitoring the status of exchange visitors, the Department of State is responsible for approving and monitoring exchange visitor program sponsors.

¹² The September 25, 2002, interim certification rule stated, "In order to be reviewed by the [INS] and be granted access to SEVIS prior to the mandatory compliance date, schools are strongly encouraged to submit an electronic Form I-17 to the [INS] no less than 75 days prior to the compliance deadline. The [INS] cannot guarantee timely final action on any Form I-17 petition not filed at least 75 days prior to the SEVIS mandatory compliance deadline."

¹³ According to the INS's response to this report, it was able to complete its certification reviews of these schools by February 13, 2003.

then, the INS will continue to send the non-SEVIS I-20s to a contract firm for data entry into its prior database, STSC.

At the time of our original review, STSC contained approximately 72,000 active INS-approved schools. Accordingly, our report in May 2002 questioned whether the INS would be able to properly review and re-certify all of the schools prior to the congressionally-mandated full implementation date of January 1, 2003. The INS subsequently acknowledged to us that it believed the number of active schools in STSC was grossly overstated. According to its website, the INS estimates that 90 percent of the 72,000 INS-approved schools included in STSC were either inactive or no longer eligible for approval. The website states:

It's true that 72,000 schools have at one time or another participated in the foreign student program. The vast majority of those institutions are not currently active participants. Many are no longer in business. Many only participated on a one-time basis. Many were public elementary and middle schools that can no longer sponsor foreign exchange students...INS recently completed a study of the schools that sponsored foreign students during the past three years. We determined that 7,400 schools are actively involved in bringing foreign students to the United States.

Prior OIG Review Findings Relating to the Certification Process

Our original review was critical of the INS's process for certifying schools as eligible to accept foreign students, and identified the following deficiencies in the certification process:

- The certification and monitoring of schools at the district offices were low-priority collateral duties,
- INS adjudicators responsible for reviewing and approving school applications were not conducting on-site reviews of schools or personally interviewing DSOs to verify that the schools were bona fide,
- INS adjudicators received no formal training and lacked clear guidelines relating to the certification process, and

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- The INS did not periodically review approved schools for continued eligibility.

Because of these deficiencies, we concluded that the INS's STSC database was unreliable, incomplete, and inaccurate. Our sample of 200 schools selected from the STSC database identified at least 86 that appeared to be inactive. We identified other schools that were approved and active but not entered into STSC. Additionally, we identified numerous instances where the school addresses and names had changed but were not updated in STSC. We noted in our original report that as a result of the lack of attention to the program, fraud had become pervasive.

In implementing SEVIS, the INS stated that it would address several of the deficiencies we identified by:

- Requiring all schools to reapply for approval to accept foreign students,
- Requiring schools to undergo a re-certification review every two years,
- Directing INS district office managers to dedicate sufficient personnel to perform the certifications,
- Hiring contract firms to conduct on-site reviews of schools in order to verify that schools are bona fide and are complying with INS's records and reporting requirements, and
- Providing initial formal training for district office adjudicators and developing an on-line training module for future training.

SEVIS School Certification Process

The INS decided to require all schools previously approved to resubmit applications. To facilitate this application review, the INS instituted a two-phased process for certifying schools. In the first phase, effective July 1, 2002, through September 24, 2002, the INS established a preliminary enrollment period for schools that met certain requirements. Schools could apply during this period if they were:

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- Accredited by certain accrediting organizations,¹⁴
 - Continuously approved by the INS for the last three years for the enrollment of F (Academic or language) or M (vocational) students, and
 - Not a flight school.

These schools were required to submit an electronic I-17 application through SEVIS.¹⁵ Senior INS officers assigned to headquarters adjudicated those applications submitted during the preliminary enrollment period. The INS deferred the required on-site review for these schools.¹⁶ According to the INS, it approved 1,418 schools during the preliminary enrollment period.

During the second phase, starting on September 25, 2002, the INS accepted applications from other schools. To ensure completion of the certification review by the mandatory compliance date, the INS in its interim SEVIS rule “strongly encouraged” schools to submit their I-17 applications by November 15, 2002. These schools also were required to submit an electronic I-17 application through SEVIS. Once the application was received, INS headquarters directed one of its three contract firms to conduct an on-site review. INS district office staff adjudicated these applications, using the on-site review reports submitted by the contract investigators and supporting documentation submitted by DSOs to determine whether or not to approve the school for access to SEVIS.

The INS also requires that schools be re-certified every two years. The INS does not intend to publish its rule implementing the 2-year re-certification requirement until after all schools are using SEVIS. According to the INS, SEVIS will automatically generate reminders to

¹⁴ The rule specifies that private elementary and secondary schools must be accredited by an organization holding membership in the Council for the American Private Education or the American Association of Christian Schools, and that postsecondary, language, and vocational schools must be accredited by an accrediting organization approved by the U.S. Department of Education.

¹⁵ Form I-17 is a standard INS form used by a school to request approval from the INS to admit nonimmigrant students.

¹⁶ The INS’s July 1, 2002, interim rule states that all schools granted preliminary enrollment in SEVIS will be required to undergo an on-site review prior to May 2004.

both the appropriate INS district office and school when the certification period is expiring.

RESULTS OF THE REVIEW

SEVIS IS NOT FULLY IMPLEMENTED

While the USA PATRIOT Act mandated that the INS fully implement SEVIS by January 1, 2003, the system was only technically available by that date. We believe that SEVIS has not been fully implemented because the program elements essential to ensuring the integrity of the system are not fully in place. These elements include: ensuring that sufficient resources are devoted to the foreign student program; ensuring that only bona fide schools are provided access to SEVIS; ensuring that schools are completely and accurately entering information on their foreign students into SEVIS in a timely manner; adequately training DHS employees and school representatives; and establishing procedures for using SEVIS data to identify noncompliant and fraudulent operations as well as following up when SEVIS data indicates fraud in a school's program.

This review found that the INS has made significant progress in implementing SEVIS. The INS is requiring previously approved schools to reapply and non-accredited vocational, language, and flight schools to undergo on-site reviews prior to providing them access to SEVIS. In addition, all INS offices and Department of State consular posts can access SEVIS.

However, despite this progress, we believe that the INS has not yet fully implemented SEVIS. INS management makes a distinction between implementing the system and implementing the foreign student program, and therefore continues to assert that it met the January 1, 2003, mandated deadline because the system was technically available as of this date. However, as stated in the Inspector General's September 2002 testimony, we do not believe that system implementation can be viewed separately from program implementation. For SEVIS to be effective, it is essential to ensure that the foreign student data contained in the system is complete, accurate, and timely, and that only bona fide schools are gaining access to SEVIS. In addition, processes must be in place to identify and follow-up on possible fraud in the foreign student program. Without having the program elements in place, there is no assurance that the data in SEVIS is reliable and that fraudulent schools are not being provided access to

SEVIS. These program elements are discussed in detail in subsequent sections of this report.

In addition, SEVIS will not be fully functional as a monitoring system until August 1, 2003, when its database will contain complete information on all foreign students currently attending United States schools and when it will be the sole system used to monitor foreign students. Until then, the INS will continue to use its paper-based STSC system to monitor continuing foreign students who have non-SEVIS I-20s. INS inspectors at the ports of entry will continue to send a copy of the non-SEVIS I-20 forms to the INS contracting facility in London, Kentucky, for data entry into STSC. In addition, schools that have foreign students, but that have not been re-certified, can continue to operate until August 1, 2003, as long as they do not accept new students.

SCHOOLS NOT APPROVED TIMELY FOR ACCESS TO SEVIS

The INS failed to complete its reviews of those schools for which it guaranteed a decision by January 30, 2003. Processing delays occurred due to insufficient field adjudication staffing; technical problems related to the adjudicators' password access to SEVIS; and the failure of the INS contract investigators to conduct on-site reviews in a timely manner, and to transmit the schools' supporting documentation to the INS adjudicators.

The INS established a mandatory implementation date of January 30, 2003, by which all schools were required to issue SEVIS I-20s to their new students. The INS also guaranteed that it would process, by January 30, 2003, all I-17 applications submitted by November 15, 2002. As shown in Table 1, the INS was not able to honor its commitment. As of January 30, 2003, it had processed only 1,963 (69 percent) of the 2,856 applications that had been submitted between September 25, 2002, and November 15, 2002.

**Table 1: SEVIS Certification Workload Statistics
as of January 30, 2003**

Application Date	Applications	Approvals	Denials	Pending
July 1, 2002 to September 24, 2002	1,779	1,418	361	0
September 25, 2002 to November 15, 2002	2,856	1,927	36	893
November 16, 2002 to January 30, 2003	1,305	0	0	1,305
Totals	5,940	3,345	397	2,198

Source: INS

Note: According to the INS, the majority of the denials during the period July 1, 2002, to September 24, 2002, were for schools that did not meet the criteria for the preliminary enrollment period. These schools may have reapplied and been approved after September 24, 2002.

Because of the application backlog, the INS exercised its option to allow conditional enrollment in SEVIS for accredited schools and public secondary schools prior to the required on-site reviews.¹⁷ This allowed the INS to approve these schools without first requiring an on-site review. The INS did not make this decision until the end of January 2003, although it was aware of one of the contract firm's delays in conducting the on-site reviews at the end of December 2002. The INS is requiring all schools to issue SEVIS I-20s to new students accepted after February 15, 2003. After this date, schools need to wait for the INS's approval before accepting any new foreign students.

Insufficient Staffing to Process SEVIS Applications

We found in our original review that the INS assigned responsibility for certifying and monitoring schools to field office staff as a part-time, collateral duty. INS staff spent minimal time monitoring schools; as a result, some schools that had ceased their operations or that no longer met INS eligibility requirements issued I-20s fraudulently to aliens, allowing them to enter the United States. To improve the monitoring of schools, we recommended that the INS establish a dedicated unit within each field office to focus on the student and schools function. The INS did not agree that full-time personnel were necessary.

¹⁷ Conditional enrollment is granted only for those schools that applied as of November 15, 2002.

Consequently, INS headquarters officials did not identify the specific resources needed to ensure that schools would be approved for access to SEVIS in a timely manner. Instead, the INS directed its field office managers to devote sufficient resources to perform these certifications. A September 19, 2002, memorandum from the INS's Executive Associate Commissioner for Field Operations to the INS regional directors stated:

It is mandatory that the field officers assigned to Student/Schools responsibilities be given sufficient time to accomplish these [certification] tasks...Once the full certification program begins, Student/Schools responsibilities are to be the primary focus of the assigned officers, with other duties being secondary. However, this is not to imply that all Student/Schools officers will need 40 hours per week to accomplish the tasks, nor that there may not be a need to devote more than one officer to this task.

Despite the directive, we found that the program continued to be insufficiently staffed. At six of the ten districts we contacted, only one adjudicator had been assigned responsibility for performing the certifications of schools applying for SEVIS access. And at only four of these six locations was this the full-time responsibility for the adjudicator. Most adjudicators we spoke to commented that the problem was not that management did not consider SEVIS a priority, but that there were too many priorities and not enough staff. At six locations, SEVIS adjudicators also were responsible for other programs, such as the Temporary Protected Status (TPS) program and the National Security Entry-Exit Registration System (NSEERS). At one district office the sole SEVIS adjudicator stated that he was told specifically by management that SEVIS was not his priority. In a January 17, 2003, letter to the INS, one of the school associations stated that some schools were told by their district offices that their main priority was NSEERS.

We also found that at five of the INS district offices we contacted the INS had assigned primary responsibility for performing the school certifications to personnel who had no prior experience in processing school applications. Several of these adjudicators mentioned to us that they had little idea of what they were looking for. At two of these locations, management had reassigned the function from an experienced inspector, who previously had been responsible for the program, to an inexperienced

adjudicator. Inexperienced adjudicators are less likely to be familiar with and identify anomalies that may indicate a fraudulent school.

At eight of the ten district offices we contacted, adjudicators reported being overwhelmed by the workload of pending applications for school certifications. At the ten district offices we contacted, the number of applications awaiting processing by January 30, 2003, ranged from 43 to 364, with an average workload of 184 applications.¹⁸ As of mid-January, adjudicators at these locations had completed processing only 11 to 45 percent of these applications, with an average completion rate of 26 percent. In addition to reviewing I-17 applications, adjudicators spent extensive time responding to telephone calls and e-mails from DSOs inquiring about the status of their applications or requesting technical advice on using SEVIS. The adjudicators reported being frustrated when responding to these calls because they were not informed by INS headquarters of the status of the on-site reviews, and therefore were unable to appropriately respond to the DSOs. Nearly all the adjudicators that we contacted were skeptical of their ability to complete their reviews of the applications by January 30, 2003.

The problems the INS experienced during this initial SEVIS certification period highlight the need for the INS to assign full-time, well-trained personnel to the program. The workload will continue beyond the initial period. Between November 15, 2002, and January 30, 2003, the INS received an additional 1,305 applications which still needed review. In addition, an unknown number of schools will be submitting applications between January 31, 2003, and the August 1, 2003, deadline for mandatory use of SEVIS for continuing students. Also, all schools will need to reapply for certification every two years. The INS needs to develop a cadre of experienced adjudicators who are familiar with the process and the schools in their districts, so that they can more readily identify fraudulent applications.

Password Problems

We also found that at six of the ten district offices we contacted adjudicators were unable to access SEVIS. This was a major cause for delays, because SEVIS requires the adjudicators to electronically approve I-17 applications. At four districts, some of the adjudicators had not yet been assigned passwords, and at two other districts, adjudicators complained of continual problems in using passwords. At one district office, the

¹⁸ These numbers include only those applications submitted to the INS as of November 15, 2002, for which INS originally guaranteed a decision by January 30, 2003.

adjudicator stated that because no one at her location had yet been assigned a password, she was manually adjudicating the applications and sending the results to INS headquarters where the results were electronically entered into SEVIS. Another adjudicator said that, after contacting INS Information Technology Support 11 times within a 2-week period due to a nonworking password, he was told that his experience was common and that another adjudicator had already been provided with 13 or 14 different passwords.

On-Site Reviews Not Conducted Timely

In September 2002, the INS contracted with three investigative firms to conduct on-site reviews. Although we believe that the on-site reviews would be more effective if conducted by INS staff familiar with the program, the INS's decision to use contract investigators was understandable given the tight implementation deadline, the volume of on-site reviews needed to be conducted, and the lack of in-house resources to perform the on-site reviews. The INS's statement of work required each contract investigative firm to have over 500 investigators available to conduct the on-site reviews. The INS estimated that it would order 400, 1,250, and 2,500 on-site reviews from the contract firm respectively, with the greatest number of reviews assigned to the lowest bidder.

The statement of work gives contract firms ten working days to conduct each on-site review and to report the results to the INS. INS headquarters personnel monitor the contract firms to identify delays. The INS developed a checklist for the contract investigators to use when conducting the reviews, in lieu of an investigative report. The contract investigators were required to submit a completed electronic checklist to INS headquarters and a hard copy of the checklist, along with supporting documentation collected at the school, to the applicable INS district office.

The INS experienced serious performance problems with one of its contract firms in meeting the 10-day deadline. This contract firm had been assigned the largest number of on-site reviews to conduct. On January 16, 2003, the INS provided us with a copy of the spreadsheets they use to track the contract firm's compliance with meeting the 10-day schedule. These spreadsheets did not include all of the schools that submitted applications, but only those schools that submitted applications by November 15, 2002. The timeliness problems of this contract firm are evident, as shown in Table 2.

**Table 2: On-Site Reviews Assigned and Completed as of
January 16, 2003**

	Contract Firm 1	Contract Firm 2
Total Assigned	566	1,232
Total Completed	501	545
Percent Completed	88.5%	44.2%
Number Outstanding	65	687
Number Received Late	33	470
Percent Received Late	6.6%	86.2%
Average Days to Complete	6.4	19.5

Source: INS

Note: The INS did not have the data available for its third contractor at the time of our review. According to INS officials, there were no performance problems relating to timeliness for the third contractor.

Delays in Receiving Supporting Documentation From Schools

Processing delays also occurred because the contract investigators often failed to collect the required supporting documentation from the schools. The adjudicators we contacted complained that many of the I-17 applications submitted by the contract investigators were missing DSO signatures, although the contract investigators indicated on the checklist that they picked up the signed copy. An INS headquarters official told us in mid-January 2003 that the INS was aware of this problem and had brought it to the attention of the contract firms. However, the adjudicators we spoke to indicated that the problem was continuing. One adjudicator stated that a contract investigator had written on the checklist that he did not pick up a copy of a signed I-17 because he “didn’t want to wait.” The adjudicators also complained that contract investigators were neglecting to collect other supporting documentation from the schools, such as accreditation certificates. This lack of documentation caused additional processing delays, because the adjudicator must contact the school and wait for the school to send the missing information before the application can be processed.

QUALITATIVE PROBLEMS RELATED TO ON-SITE REVIEWS

The INS is not sufficiently monitoring the contract investigators to ensure that the on-site reviews are performed properly. In addition, the INS did not take the necessary actions, such as testing the checklist, to ensure that the information gathered during the on-site reviews is useful to the INS adjudicators responsible for certification decisions. Due to problems with the quality of these reviews, the value of the on-site reviews, as currently conducted, is questionable.

We identified a number of issues relating to the quality of the on-site reviews and the usefulness of the information on the checklist. All of the adjudicators we spoke to criticized the quality of the information included in the checklists. The types of comments made included:

- The quality of the completed checklists was widely inconsistent, varying among the individual contract investigators. Adjudicators complained that most of the checklists were sparse, containing little or no narrative comments about the physical characteristics or the operations of the school. Many contained questionable comments. One adjudicator stated that a contract investigator wrote “plaques on wall” when asked to provide evidence that the DSO was aware of INS regulations. Another adjudicator stated that a contract investigator wrote “looks nice from the outside,” when asked to describe the school. Many of the adjudicators we contacted questioned whether the contract investigators knew what they were looking for, and commented that they did not seem very well-trained.
- Generally, the checklists were not useful to the adjudicators. The adjudicators stated that they tended to skim the checklists and read only the narrative comments. If there were no narrative comments, the checklists were not used.
- Some of the completed checklists lacked basic information. One adjudicator stated that 12 of the checklists he received were so deficient that he did not know what to do with them. He noted that he received a blank checklist from a contract investigator who, upon visiting a school that was closed for the holidays, had simply noted “not conducted because school was closed.” Another

adjudicator noted that a contract investigator who forgot his ID became so angry when the school refused to provide him access to the school records that he sent an incomplete report, noting that the school was “uncooperative.” Because the adjudicators were not allowed to directly contact the contract investigators for clarification, they were unsure what to do with these deficient checklists.

- The checklists submitted by the contract investigators varied in format. Although the INS provided the three contract firms with a standard checklist, some of the contract firms, or in some cases some of the individual investigators, revised the form. The adjudicators complained that the lack of a standard format made it difficult to review. In addition, although contract investigators were required to provide hard copies of their completed reports to the district offices, they were not always doing so. One adjudicator estimated that 80 percent of the checklists he received were sent electronically. Many of these checklists were missing the contract investigators’ signatures.

We reviewed a sample of 20 completed contract investigator checklists, pertaining to vocational, language, and flight schools to examine qualitative issues such as completeness, accuracy, and adequacy. Our findings mirrored the comments we received from the adjudicators. Most checklists were sparse, containing few narrative comments, with 3 of the 20 containing no narrative comments at all. Our additional observations about the checklists we reviewed were as follows:

- The checklists appeared to confuse the contract investigators. Although the INS has different requirements for each type of school (for example, flight or language schools), it combined all the requirements on a single checklist. This may explain why, on half of the checklists we reviewed, the contract investigator completed the forms incorrectly. We believe that the INS should develop separate checklists for academic, vocational, language, and flight schools, each of which have different requirements.
- The checklists required the contract investigators to give “yes” or “no” opinions on such issues as whether the school is bona fide. We found that sometimes the contract investigator’s opinion was contradicted by other information on the checklist. For example, one contract investigator visiting a vocational school noted that the school maintained no records on class performance, attendance,

and graduation records; had no catalog; had no available financial records; and according to the DSO, students routinely opened their own businesses after completing their program. Yet, the investigator concluded, “There is little doubt that this is a real school.” We believe the contract investigators should be limited to providing sufficient factual and descriptive information to assist the INS adjudicators in determining whether the school is bona fide.

- An important part of the on-site review in determining a bona fide school is observing actual classes and providing details of what is observed. One checklist for a language school stated, “Classroom instruction was not viewed as classes were not in session when I was touring the facility.” Another checklist stated “No classes in the morning.” Several others provided no information other than “personally observed” or “verified.” Due to the importance of this information, contract investigators should be required to obtain a schedule of classes and make a return visit when the classes are in session. Contract investigators also should be required to provide a full description of their observations.
- Ten of the checklists we reviewed did not contain the name of the contract investigator. If qualitative issues arise, this is needed for accountability. For quality control purposes, the checklists also should include the amount of time the contract investigator spent at the school.

In part, the problems with the checklists were due to the INS’s failure to pretest the checklist in the field by having experienced school adjudicators conduct a sample of on-site reviews and provide feedback on the checklist deficiencies before using it nationally. We believe that had there been testing of the checklist, the INS could have identified qualitative problems and made the checklist a more useful instrument. To improve the usefulness of the checklist, the INS needs to obtain feedback from the field adjudicators and make appropriate revisions.

In addition, the INS provided no training to the contract investigators. The INS instead required the three contract firms to train their own employees in accordance with the statement of work. According to the statement of work: “The Contract firm shall provide trained investigators nationwide who have the required knowledge and expertise in performing time-sensitive investigations, test and evaluation, certification and accreditation and compliance audits and inspections.” Based on the poor

quality of some of the completed checklists we reviewed, and the comments made by the field adjudicators, we question the training and qualifications of some of the contract investigators. We believe that the INS should not be relying on the contract investigators to provide opinions on such issues as compliance and bona fides, but should instead better instruct the investigators on providing sufficient, thorough descriptions of the schools' operations.

In October 2002, we discussed with INS officials the need to establish quality control over the on-site reviews conducted by the contract investigators. The INS stated that it routinely reviewed copies of the contract investigators' on-site review checklists for completeness and timeliness. The INS did not agree with our suggestion to spot-check the contract investigators' reviews, but instead expressed confidence in the contract firms' abilities. We believe that quality control reviews are necessary for three reasons:

- To ensure that contract investigators are conducting thorough reviews. Due to the volume of site reviews and the tight time-frame given to contract investigators to complete the reviews, contract investigators may be more concerned with completing the review quickly as opposed to thoroughly. Some adjudicators we contacted questioned the thoroughness of the reviews. One adjudicator mentioned that the officials at one school told her that the contract investigator's on-site review consisted of solely picking up documents.
- To ensure that investigators are actually visiting schools and not just obtaining information telephonically. One of the adjudicators we contacted cited suspicions that this was occurring.
- To deter and detect fraud. In the past, sham schools have been established as covers for alien smuggling operations. Individuals operating sham schools may bribe contract investigators to provide a clean on-site review report. INS spot-checks could help identify instances where this is occurring.

COMPLIANCE AUDITS NOT PROPERLY PERFORMED

The INS is inappropriately using contract investigator checklists to determine if schools have adequate internal controls in place and whether schools are entering data into SEVIS accurately, completely, and timely.

In our original review, we recommended that the INS conduct audits of approved schools to determine whether proper internal controls are in place and whether the school's foreign student data is entered into SEVIS completely, accurately, and timely. This is important not only for identifying internal control weaknesses, which could lead to fraudulent activities, but also for ensuring the integrity of SEVIS data. On May 14, 2002, Congress enacted the Enhanced Border Security and Visa Entry Reform Act of 2002, which requires the INS, in consultation with the Department of Education (ED), to conduct a review every two years of the institutions certified to accept foreign students and exchange visitors to determine whether the institutions are in compliance with the statutory recordkeeping and reporting requirements.

The INS agreed with our recommendation and stated that its primary audit mechanism would be the on-site reviews by contract investigators, and that the need for additional audits would be identified through analytic reviews. Currently, when the INS requests an on-site review, it also provides the contract firm with a list of foreign students attending the school. When conducting the on-site review, the contract investigator is supposed to select at least five names from this list and obtain, from the school's records, detailed information on each student. The INS will compare the information gathered by the contract investigator from the school's manual records to the school's SEVIS records to verify accuracy and completeness.

We do not believe that these INS procedures are sufficient to identify internal control weaknesses or to conclude that a school's SEVIS records are complete, accurate, and current. We question whether contract investigators are qualified to conduct audits, which involves an assessment of internal controls and a sufficient sampling of records. We also noted numerous quality concerns relating to some contract investigators' performances, as described in the previous section. The checklist completed by the contract investigators indicates that some internal control issues, such as the DSOs' involvement with recruiting activities, are reviewed. However, other important internal control issues, such as

whether the DSOs are U.S. citizens or legal permanent residents, or whether the DSOs are properly safeguarding their passwords, are not. In addition, five records are not a sufficient sample from which to conclude that the school's SEVIS entries are complete, accurate, and current, particularly at schools with large populations of foreign students. The INS also has not established a process for identifying and following up on either instances of noncompliance or possible fraud indicators identified during these reviews.

The ED already requires schools participating in federal student financial aid programs to have an independent auditor conduct both financial and compliance audits. Therefore, an effective way for the INS to help ensure that SEVIS audits are performed would be to coordinate with the ED to incorporate SEVIS reviews into the ED required audits. This should encompass many schools, but the INS still would need to ensure the remaining schools were audited.

ADDITIONAL TRAINING AND GUIDANCE NEEDED FOR INS ADJUDICATORS

INS adjudicators need additional training and guidance on how to perform certifications, including what to look for when reviewing the contract investigator checklists and how to use the information to identify fraudulent schools.

In our original report, we identified deficiencies in training INS employees assigned to adjudicate I-17 applications. None of the designated school adjudicators at the four district offices we visited during our original review had received formal training. Many stated that they did not know what to look for when reviewing I-17 applications. Adjudicators also expressed a need for better guidelines to review the applications effectively.

To prepare the INS adjudicators for SEVIS, the INS conducted two training sessions, in June 2002 and August 2002. According to the adjudicators, the training primarily focused on the regulations and the technical aspects of SEVIS. Seven of the ten district office adjudicators we spoke to during our follow-up review attended the training.¹⁹ Opinions varied on the usefulness of this training. Several adjudicators, newly

¹⁹ Of the three who did not attend, two assumed I-17 adjudication responsibilities subsequent to the training, and one was unable to attend because she was on a detail outside of the United States.

assigned to the I-17 adjudications function, commented that they found it difficult to follow the training because they were unfamiliar with the basics. One mentioned that at the time of the training she did not even know what an I-17 application was. In general, the attendees commented that they would like to have training on how to adjudicate the I-17s. We believe it would be beneficial for the INS to train adjudicators both on the I-17 adjudication process, and on recognizing fraud indicators so that they can better identify mala fide schools. The INS is planning an additional training session for adjudicators, and we strongly encourage the INS to use this session to obtain feedback from adjudicators on procedural problems, focus more on the adjudication process, and train adjudicators to identify fraud indicators.

The INS also needs to provide guidance to the INS adjudicators on what they should be looking for when reviewing the checklists. Many of the adjudicators we contacted stated that they were not sure what information they were looking for on the checklists. This was especially a problem with inexperienced adjudicators. The checklists should be a valuable tool for the adjudicators. For example, adjudicators could use the checklist to compare the estimated number of students with the number of available classrooms, or to identify whether the school possesses the equipment and facilities to run specialized programs. We suggest that the INS develop a standard review checklist for the adjudicators, which would become the record of the certification review. In addition, guidance is needed to specify what actions adjudicators need to take when the responses on the contract investigator checklists are incomplete, or indicate other problems, such as a DSO who is not knowledgeable of INS regulations, a DSO who is also a recruiter, or a student included in the contract investigator's sample who may be an overstay.

ADDITIONAL TRAINING NEEDED FOR INS INSPECTORS

Although new foreign students are currently using SEVIS I-20s to enter the United States, the INS has not fully trained its inspectors at ports of entry on how to use SEVIS to identify whether the alien is a legitimate student.

It is essential that INS inspectors at ports of entry have a clear understanding of how to use SEVIS in determining whether to admit an alien to the United States. For example, inspectors need to know how to identify a legitimate SEVIS I-20, and how to use SEVIS to verify information relating to a foreign student's course of study.

The INS only recently started providing formal training to its inspectors at the ports of entry. At the time of our review, the only fully trained inspectors were at the ports of entry where an inspector was responsible for certifying schools. The inspectors responsible for certifying schools attended the INS training sessions in the summer of 2002, along with other adjudicators, and therefore were able to provide informal training to their co-workers. When we contacted INS training officers at five major airports in mid-January 2003, we were told that they had just participated in a teleconferenced "training the trainers" program. The training officers intended to formally train the inspectors the following week on how to use the SEVIS database, which is available on a read-only basis to inspectors in secondary inspections. The SEVIS database is not available to inspectors at primary inspections, mainly because training has not yet occurred.²⁰ The INS has decided to phase-in the SEVIS connectivity at primary inspections, port by port, after headquarters personnel has provided sufficient training at each location.

²⁰ Primary inspection is where the alien is initially interviewed upon entry to the United States. If the primary inspector determines that a more in-depth interview is necessary, the alien is sent to a secondary inspector, who has access to a variety of databases to obtain additional information on the alien.

NECESSARY ACTION TAKEN TO INSTRUCT DSOs

The INS has taken the necessary action to ensure that DSOs are aware of the foreign student program requirements.

To ensure the integrity of SEVIS data, it is essential that DSOs are adequately trained, because they are responsible for entering SEVIS data into the system and reporting specific events, such as no-shows, to the INS.

We believe that the INS has taken reasonable steps to make DSOs aware of the foreign student program requirements. When a DSO first logs onto SEVIS, an e-mail message is generated, describing his or her responsibilities and referencing relevant regulations. In addition, before accessing SEVIS, a screen appears requiring the DSO to acknowledge familiarity with the regulations and to agree to comply with the regulations. The INS also has posted a user manual on its web site. INS officials told us that they intend to provide an on-line training module to DSOs in the second quarter of fiscal year 2003. The INS is still considering whether to initiate a DSO certification program. We support this initiative, which would require DSOs to complete an on-line training module before being provided access to SEVIS.

IDENTIFICATION OF FRAUD INDICATORS FROM SEVIS DATA NEEDS REFERRAL TO ENFORCEMENT

The INS needs to ensure that it uses SEVIS data to identify foreign students who are not complying with their visa requirements, as well as fraudulent schools. The INS also must ensure that there is a corresponding enforcement action.

In our original report, we recommended that the INS establish a separate unit at headquarters responsible for analyzing SEVIS data and identifying non-compliance and possible fraud by schools, such as sham schools and alien smuggling operations. The INS agreed with this recommendation.

In September 2002, the INS hired a consulting firm “to prepare a report quarterly as to the implementation and use of SEVIS with an

emphasis on determining anomalies in data collected.” According to the statement of work, these reports will show, for each INS-approved school, no-show rates, drop-out rates, and failures by the school to update SEVIS records. The reports also will show processing time for the I-17 applications and reinstatements by INS.²¹ While identifying non-compliance and potential fraud is a good first step, the process will only be effective if the INS ensures that any instances of potential fraud are referred for further investigation and enforcement action.

SUFFICIENT RESOURCES NEEDED FOR ENFORCEMENT ACTIVITIES

Due to limited investigative resources, the INS is unable to investigate all foreign students who fail to enroll or fail to leave the United States once they depart school, sham schools, or DSOs who commit foreign student program fraud at legitimate schools.

The INS has taken some action since our original review to identify, locate, and detain aliens who enter the United States on a student visa but fail to attend school. However, due to limited investigative resources, primarily only no-shows who present national security concerns or have criminal records are actively investigated.²² The INS needs to devote resources to investigating schools identified through on-site reviews or through SEVIS data analysis as fraudulent, DSOs who commit fraud, and students who complete their program but fail to depart the United States. We believe that foreign student program fraud will continue to exist unless the INS assigns sufficient resources to conduct investigations of potential fraud.

In our original review, we noted that INS investigators did not routinely pursue foreign students who failed to show up at school, who failed to depart the United States, or who failed to legally change their status once they terminated their studies. In addition, INS investigators

²¹ INS regulations allow a student who is out of status to apply for reinstatement to student status. The student must apply for reinstatement within five months of being out of status and must demonstrate that the need for reinstatement resulted from circumstances beyond the student’s control, such as serious injury or illness, closure of the institution, or a natural disaster.

²² An alien’s application for a visa would be denied if the consular system indicated that the alien had a criminal record. An alien who commits a crime after entering the United States would become a priority for arrest and deportation.

rarely investigated schools; due to the limited number of investigators, these investigations were a low priority. The lack of enforcement created an environment conducive to fraud. We also found that the INS was not routinely entering the names of students reported by schools as no-shows into the National Automated Immigration Lookout System (NAILS). These aliens were therefore able to exit and re-enter the United States using their student visas without being identified as out-of-status.

The Enhanced Border Security and Visa Entry Reform Act of 2001 requires schools to report to the INS those foreign students who fail to enroll or commence participation in a course of study within 30 days after the deadline for registering for classes. Schools that have access to SEVIS report this information to the INS electronically. Schools that have not yet received approval from the INS to access SEVIS are required to provide this information telephonically. According to an INS official, headquarters investigations staff are currently referring these cases to their field investigations staff. According to an INS official, headquarters staff need to first “scrub” the non-SEVIS information by running the alien’s name through various INS and investigative databases to identify whether the alien actually entered the United States, whether the alien departed the United States, whether the alien is attending a different school than the one indicated on the I-20, and the possible location of the alien. Once a possible no-show is identified, the information is sent to the relevant INS investigative field office. However, this does not mean that the alien is investigated or pursued. Due to the continuing problem of limited investigative resources and the volume of cases, investigations are focused primarily on aliens who present a national security concern or who have committed crimes.

We also were told that INS headquarters investigative staff are now entering names of probable no-shows into NAILS. This is a necessary step to identify these aliens as out-of-status should they leave the United States and attempt to re-enter or should they otherwise be detained.

As noted in the prior section, investigators need to actively investigate both fraudulent schools and DSOs at legitimate schools that are fraudulently issuing I-20s. Anomalies identified through SEVIS data analysis, which indicate fraudulent activities may be taking place, such as an excessive number of no-shows from a particular school, need to be investigated. Once SEVIS is fully implemented, it also will be possible to identify those students who fail to depart the United States or fail to change their status once they complete their studies, and are therefore in the

United States illegally. However, foreign student program fraud will continue to exist unless sufficient investigative resources are provided.

INS OFFICES AND DEPARTMENT OF STATE CONSULAR POSTS HAVE THE ABILITY TO ACCESS SEVIS

All necessary offices and personnel, including the service centers, ports of entry, district offices, and consular posts, are now connected to SEVIS. Although the connection between the ports of entry and SEVIS is not in its final form, SEVIS is being updated with the information mandated under the USA PATRIOT Act of 2001, specifically the foreign students' dates of entry and ports of entry.

The INS has developed connectivity between SEVIS and the Interagency Border Security System (IBIS) at all ports of entry.²³ This connectivity became operational at all ports of entry on December 18, 2002. However, because the INS received reports of inspector confusion, primarily due to the lack of training, and because the connectivity caused IBIS to operate more slowly during the busy holiday travel period, the INS turned off the linkage on December 20, 2002. The INS was able to execute an interim program to extract the required information on a student's date of entry and port of entry from IBIS to update SEVIS. Because connectivity is not functional at primary inspections, all students possessing SEVIS I-20s are being sent to secondary inspections, where an inspector enters the data through the IBIS secondary screens. Starting in February 2003, after the inspectors are trained, the INS plans to re-test and implement the new IBIS screens at primary inspections on a port-by-port basis.

The INS also was mandated under the Enhanced Border Security and Visa Entry Reform Act of 2001 to establish an electronic means to monitor and verify the issuance of a visa to a foreign student or an exchange visitor program participant. According to INS officials, consular posts are currently transmitting the required information to SEVIS. When a school issues an I-20, this information is transmitted from SEVIS to the Department of State's consular system via a DataShare link. When an alien applies for a student visa, the consular officer is required to electronically

²³ IBIS is the primary system used by INS inspectors at the ports of entry to review information on individuals entering the United States. IBIS contains "lookout" databases maintained by the INS, the U.S. Customs Service, the Department of State, the Drug Enforcement Administration, and other law enforcement agencies.

verify the validity of the I-20. If the visa is approved, the consular officer is required to enter the SEVIS ID number into the consular system. The visa issuance data is transmitted to SEVIS via the DataShare link. This information is available to the INS inspectors at the ports of entry.²⁴

According to the INS, on January 1, 2003, SEVIS software was fully deployed with all its interfaces. This means that INS service centers are currently able to access SEVIS to enter information related to approvals for changes of status, and INS district offices are able to access SEVIS to enter information related to approvals for vocational student reinstatements, transfers, program extensions, and practical training.

TRANSFER OF THE INS TO THE DHS WILL HAVE A MAJOR IMPACT ON SEVIS IMPLEMENTATION

The transfer of the INS to the DHS creates a special challenge because responsibility for the foreign student program and SEVIS is being shifted from a bureau responsible for providing immigration benefits to a bureau responsible for enforcing immigration laws.

The Homeland Security Act of 2002 (Public Law 107-296) transferred the INS to the Department of Homeland Security (DHS) on March 1, 2003. The Act mandated that the INS's functions be split into the Bureau of Citizenship and Immigration Services, which will focus on benefits programs, and the Bureau of Border Security, which will focus on enforcement activities. Section 442 (a)(4) of the Act states:

The Assistant Secretary of the Bureau of Border Security shall be responsible for administering the program to collect information relating to nonimmigrant foreign students and other exchange program participants described in section 641 of

²⁴ Eventually, SEVIS will be connected to the ports of entry through the Entry/Exit System, which is currently under development. Once connected, primary inspectors will have the ability to view all pertinent information about the foreign student and exchange visitor, including information on adjustments, changes, and extensions of status. SEVIS, along with other systems, will feed information into the Entry/Exit system, which will, in turn, relay information back to SEVIS. The INS is mandated to implement this system by December 31, 2003, at air/sea ports of entry; December 31, 2004, at the 50 largest land ports of entry; and December 31, 2005, at the remaining land ports of entry.

the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), including the Student and Exchange Visitor Information System established under that section, and shall use such information to carry out the enforcement functions of the Bureau.

On January 30, 2003, the DHS Secretary announced the reorganization of the DHS to create two new agencies, the Bureau of Customs and Border Protection, which will encompass the INS's inspections functions, and the Bureau of Immigration and Customs Enforcement, which will encompass the INS's investigative functions. Both agencies will be part of the Directorate of Border and Transportation Security. The Bureau of Immigration and Customs Enforcement is now responsible for SEVIS.

There is much work to do before SEVIS is fully functioning. The SEVIS database will not contain complete information on all foreign students until August 1, 2003. In addition, as of March 1, 2003, the INS was still in the process of certifying schools, training INS personnel, and establishing procedures for identifying and following up on program fraud.

The most pressing issue for the DHS to resolve is deciding who will be responsible for conducting the certification reviews. Currently the SEVIS I-17 applications are adjudicated by district office benefits personnel, who will be part of the Bureau of Citizenship and Immigration Services. Due to the on-going certification effort, the INS needs to identify and train new personnel as soon as possible. The INS was considering either transferring the adjudication responsibility to inspectors at the ports of entry or establishing a unique position within the investigations unit. However, because of the recently announced reorganization of the DHS, it may not be feasible for inspectors to perform this function, since the inspections and investigations functions will be located in separate bureaus.

In our original review, we criticized the INS for its fragmented management of the program, which resulted in a lack of accountability. In response, the INS centralized foreign student program responsibilities within the Immigration Services Division (ISD). Because the ISD will no longer be responsible for the program, we believe that the DHS should consider establishing a comparable position in the Bureau of Immigration and Customs Enforcement.

CONCLUSION

The INS has made progress in implementing SEVIS, and we believe that SEVIS should provide a useful tool to help the INS monitor both foreign students and the schools that they attend. Nonetheless, as we reported in our original review, implementing SEVIS alone will not ensure that foreign students and schools comply with INS regulations. To ensure that only legitimate schools are provided access to SEVIS, and that approved schools are complying with SEVIS requirements, sufficient numbers of well-trained adjudicators must be dedicated to monitoring the schools to identify potential instances of fraud and noncompliance. When potential instances of fraud are identified through SEVIS, they must be referred for further investigation, and enforcement action must be taken against violators.

We continue to have serious concerns with the INS's implementation of SEVIS. The INS has not dedicated adequate resources to the program to ensure that SEVIS applications are adjudicated promptly, and we found that the INS's oversight of the contract investigators who conduct the on-site reviews of schools is inadequate to ensure the quality of the reviews. In addition, the INS needs to improve the checklist that the contract investigators use to make it more useful for the adjudicators, and to provide better training and guidance to the adjudicators on how to use the checklists to identify possible fraudulent operations. We also found that the INS is not taking sufficient actions to ensure that schools are complying with reporting and recordkeeping requirements. Unless these problems are addressed, the information collected during on-site reviews, as well as any INS certifications that are based on that information, will be of questionable reliability.

The transfer of the INS to the DHS creates additional challenges for SEVIS implementation. Responsibility for the foreign student program and SEVIS has shifted from a bureau focused on providing immigration benefits to a bureau responsible for enforcing immigration laws. Ensuring that the SEVIS implementation continues to progress will require prompt identification of personnel in the new organization who will be responsible for certifying schools, so that they receive sufficient training and guidance to administer the program. Based on our observations and analysis, we have identified a number of actions that can help ensure the effectiveness of the program for monitoring foreign students attending United States schools:

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- Appoint a foreign student program manager to coordinate, and be accountable for, immigration issues affecting foreign students.
 - Assign full-time staff whose sole responsibility is to certify and monitor schools.
 - Closely monitor the contract investigators to ensure that they conduct on-site reviews in a timely and thorough manner.
 - Improve the checklists used by the contract investigators in their on-site reviews to make them more descriptive and more useful to the adjudications staff.
 - Coordinate with the Department of Education to conduct audits of schools to ensure they comply with SEVIS reporting and recordkeeping requirements.
 - Provide training to those responsible for certifying schools on the adjudication process and on using the contract investigator checklists to identify fraud indicators.
 - Ensure that possible fraud identified through the adjudication process and through analytical reviews is referred for investigation.
 - Ensure that sufficient investigative resources are available to investigate instances of potential fraud identified by SEVIS.

We believe these actions should be taken and are critical to ensuring that SEVIS is fully implemented, reliable, and effective.

APPENDIX I: STATUS OF OIG RECOMMENDATIONS FROM THE ORIGINAL REPORT

RECOMMENDATION 1: The INS should consider whether a foreign student program manager should be appointed to coordinate, and be accountable for, immigration issues affecting foreign students.

STATUS: The INS implemented this recommendation by centralizing the responsibility for the foreign student program with the Executive Associate Commissioner for Field Operations and assigning a senior field manager to lead the program. With the transfer of the INS to the DHS, to ensure accountability over this program, this position needs to be reestablished within the Directorate of Border and Transportation Security.

RECOMMENDATION 2: The INS should review and approve all schools currently authorized to issue I-20s before allowing the schools access to SEVIS. Given the improbability that it will be completed by January 2003 (since the proposed rule change has not yet been published), the INS should decide soon on an alternative plan, including determining how it will proceed in January 2003, if schools are not re-certified, a reasonable time schedule for re-certifying the schools, and an implementation plan for achieving the timetable.

STATUS: The INS has fully complied with this recommendation. The INS is requiring all schools to reapply for approval before allowing the schools access to SEVIS.

RECOMMENDATION 3: The plan to re-certify all schools prior to implementing SEVIS must also resolve who will be responsible for conducting the re-certifications, provide adequate guidelines on conducting the re-certifications, and provide adequate training to those responsible for performing the re-certifications and making site visits.

STATUS: The INS has partially complied with this recommendation. The INS has assigned responsibility for the re-certifications to its field adjudicators. However, when the INS transfers to the DHS, the DHS will need to identify who within the Directorate of Border and Transportation Security will be responsible for responsible for the certification function. In addition, as identified in our follow-up review, the adjudicators need additional guidelines and training.

RECOMMENDATION 4: The INS should establish a unit within each district office responsible for conducting on-site verifications of the INS-approved schools. Full-time schools officers will be needed, instead of personnel who have the responsibility as a collateral duty.

STATUS: The INS did not agree with this recommendation. The INS instead decided to hire contract investigators to conduct the on-site reviews. In addition, the INS did not agree that full-time schools officers were needed, but instead sent a memorandum to its regional directors mandating that responsibility for monitoring foreign students and schools be considered a primary duty instead of a collateral duty. We continue to strongly believe that the INS needs to dedicate full-time staff to this function. In addition, our follow-up review identified deficiencies in the INS's monitoring of its contract investigators, which negatively impact the effectiveness of the on-site reviews.

RECOMMENDATION 5: The INS must continue to monitor and review the schools, since schools lose accreditation, change their objectives, and sometimes engage in fraud.

STATUS: The INS agreed with this recommendation and stated that the monitoring process will consist of requiring schools to undergo re-certification reviews, including on-site reviews, every two years. The INS has not yet issued the rules pertaining to the re-certification reviews.

RECOMMENDATION 6: The INS should ensure that audits are conducted of approved schools to determine whether proper internal controls are in place and that data is being entered into SEVIS completely, accurately, and timely.

STATUS: The INS agreed with this recommendation and stated that the primary audit mechanism would be the on-site reviews by the contract investigators. The INS also plans to identify the need for additional audits through analysis of SEVIS data. We do not believe that the on-site reviews conducted by contract investigators will be sufficient to identify internal control weaknesses or to ensure the integrity of the SEVIS data. In addition, although the INS has hired contractors to analyze SEVIS data and identify anomalies, it has not yet established a mechanism for following up on these anomalies.

RECOMMENDATION 7: The INS should decide what office or division will be responsible for analyzing the data that is collected in SEVIS. To fully

use SEVIS's capabilities, the INS needs to assign personnel and establish policies and procedures to take advantage of this analytic function.

STATUS: To implement this recommendation, the INS established an analytic unit, staffed by contract personnel, to identify data anomalies, that may indicate fraud or noncompliance. While we believe this is a good first step, the INS still needs to identify how it will follow-up on the anomalies identified through the analytic reviews.

RECOMMENDATION 8: To ensure that adequate personnel are available to devote to re-certifying and monitoring INS-approved schools and foreign students, the INS should establish fee-paid positions funded out of the processing fee that will eventually be charged to foreign students.

STATUS: The INS agreed with our recommendation and, in May 2002, hired a contract firm to perform a fee study. Included in the proposed costs were 46 INS district officer positions. The proposed fee rule has not yet been published.

RECOMMENDATION 9: The INS must also develop a plan for training both INS employees and school employees on how to use SEVIS. The INS should develop a timetable for implementing training and an implementation plan for carrying out the training.

STATUS: The INS has partially complied with this recommendation. In June and August 2002, the INS provided training to its adjudicators. In our follow-up review, however, we determined that additional training is needed. In addition, the transfer of the INS to the DHS also will result in the transfer of adjudication responsibilities, which will necessitate additional training. The INS has not yet completed training its inspectors at the ports of entry in how to use SEVIS. However, the INS has taken sufficient steps to ensure school employees are aware of SEVIS requirements. The INS is still considering whether to initiate a DSO certification program. We support this initiative, which would require DSOs to complete an on-line training module before being provided access to SEVIS.

RECOMMENDATION 10: SEVIS cannot work unless the necessary offices and personnel are connected to SEVIS, including service centers, POEs, district offices, and consular posts. The INS should devote the resources necessary to ensure that all offices are connected to and are able to use SEVIS as quickly as possible.

STATUS: The INS has complied with this recommendation.

APPENDIX II: DHS MANAGEMENT'S RESPONSE



U.S. Department of Justice
Immigration and Naturalization Service

HQADN 70/2.2

425 I Street NW
Washington, DC 20536

MAR 05 2003

MEMORANDUM FOR GLENN FINE
INSPECTOR GENERAL
DEPARTMENT OF JUSTICE

FROM: Michael A. Garcia (original signed)
Acting Assistant Secretary
Bureau of Immigration and Customs Enforcement

SUBJECT: Follow-up to Draft OIG Report on the Student and Exchange Visitor
Information System (SEVIS)

On March 1, 2003, the Immigration and Naturalization Service (INS) merged into the Department of Homeland Security. As part of this transition, responsibility for SEVIS changed from what is now the Bureau of Citizenship and Immigration Services to the Bureau of Immigration and Customs Enforcement. This memorandum presents the views of both new entities.

SEVIS Implementation:

We are pleased to advise that by January 1, 2003, the INS successfully developed and deployed all facets of the SEVIS system. SEVIS is part of the overall Student and Exchange Visitor Program (SEVP), which encompasses other critical components such as, re-certification processes, a fee payment system, a dedicated budget, and training. By design, the use of SEVIS by schools and the computer-based entry of student information tracks the actual deployment of the technical system. Thus, the required use of the system by schools was planned to occur in phases, with reporting related to new students mandated first, followed by reporting related to continuing students. This multi-phase approach was described in proposed regulations published in May 2002, highlighted in the INS' fall 2002 congressional testimony, and codified in our December 2002 final regulations²⁵. As a result,

²⁵ The primary reason for the phased approach to enroll continuing students was to ensure program integrity. Schools needed adequate time to review and convert the considerable data on their continuing students to SEVIS.

we respectfully disagree with the OIG's finding that SEVIS implementation was insufficient because of the phased-in schedule. As stated earlier, SEVIS was deployed fully and in a timely manner consistent with the schedule previously announced.

Additional issues:

Schools not approved for timely access.

As of January 31, some schools had not received final decisions as to their applications. Here it is important to note that not every application filed in SEVIS by November 15, 2003 was ready for adjudication. In fact, the majority of filings were incomplete (e.g.; they did not include the appropriate fee or necessary evidence). Of the 893 pending schools cited in your review, 347 had problems related to payment amounts, and an additional 152 schools were subject to outstanding requests for additional evidence. This resulted in 394 schools reporting no final action by January 30. Prior to January 30, the INS contacted each of these schools to determine if they needed to issue the Form I-20 immediately. Most schools indicated that it would be entirely acceptable to have the Form I-20 issued by the end of the following week. Ultimately, all of the schools were fully adjudicated by February 13. On January 29, INS granted a grace period for schools to issue non-SEVIS I-20's until February 15, 2003.

Compliance audits not properly performed.

The on-site reviews developed for initial approval of schools in SEVIS aimed to provide a summary of each school's understanding of relevant regulations and their past compliance with record-keeping and reporting requirements. The decision to review five student records at each school was not intended to establish the comprehensiveness of respective SEVIS records, as the schools had not yet been entered in that system. Separate regulations will be published regarding the requirements for future re-certifications in accordance with the Border Security Act, to include procedures for identifying criteria for a school's compliance with SEVIS.

Additional training and guidance for adjudicators/inspectors.

With regard to training effectiveness, the INS conducted two extensive training sessions including all District Adjudication Officers to ensure the dissemination and full understanding of information related to the SEVIS. During the week of December 7, the INS' three regional offices, and offices in Buffalo, Chicago, Seattle, Atlanta, Houston and Honolulu offered pilot training sessions. Approximately one month later, during the week of January 13, the INS provided detailed

Additionally, Consular officers and Service officers can readily determine the validity of documents if one date for compliance is established

Memorandum for Glenn Fine
Subject: Follow-up to Draft DIG Report on the Student and Exchange
Visitor Information System (SEVIS)

Page 3

SEVIS training to a total of 107 sites (including those nine selected for the initial pilot test), with instructions on current guidelines,

regulations and processing protocols reflecting the new SEVIS Forms 1-20 and DS-2019. Training participants reported satisfaction with the information supplied and opportunity for interactive questioning. In the future, the Department of Homeland Security through the Bureau of Immigration and Customs Enforcement will continue to provide effective, periodic training to all SEVIS personnel.

Sufficient resources needed for enforcement procedures.

We agree that more resources are critically important to ensure proper enforcement of SEVIS. Unfortunately these resources are not presently available. We seek approval of a student fee regulation that would provide funding for the SEVIS program.

If there are additional questions or concerns, please contact Maura Deadrick at 202-353-3065 or via cc:Mail.

APPENDIX III: OIG ANALYSIS OF MANAGEMENT'S RESPONSE

On February 27, 2003, the Evaluation and Inspections Division sent copies of the draft report to the Immigration and Naturalization Service's (INS) senior management. On March 1, 2003, the INS transferred to the Department of Homeland Security (DHS). The Acting Assistant Secretary, Bureau of Immigration and Customs Enforcement, DHS, which is now responsible for the Student and Exchange Visitor Information System (SEVIS), responded by memorandum dated March 5, 2003 (the "response"). This response is included in Appendix II.

The response commented on five issues in our report: SEVIS implementation, the INS's approval of schools for timely access to SEVIS, compliance audits, training and guidance for adjudicators and inspectors, and enforcement resources. Our analysis of the comments regarding each of the five issues follows.

SEVIS Implementation

In response to our finding that SEVIS was not fully implemented by the January 1, 2003, deadline imposed by Congress, the response argued that the INS had met the deadline because it "successfully developed and deployed all facets of the SEVIS system." The response distinguished between the technical availability of SEVIS and the implementation of the Student and Exchange Visitor Program, which includes elements such as re-certification processes, a fee payment system, a dedicated budget, and training. The response also disagreed with "the OIG's finding that SEVIS implementation was insufficient because of the phased-in schedule" it is using to deploy SEVIS. The response stated that this phased-in approach was fully described in the May 2002 proposed SEVIS rule and is necessary to provide schools with adequate time to review and convert data on their continuing students for transfer to SEVIS.

OIG analysis: The argument that SEVIS was in fact fully implemented by the January 1, 2003, deadline is based on the INS's interpretation that "implementation" means technical availability of SEVIS. However, in our view, SEVIS cannot be viewed separately from the overall Student and Exchange Visitor Program. Full deployment requires that all elements of the program be functional to ensure the integrity of SEVIS. Our finding that SEVIS was not fully implemented as

of January 1, 2003, was not based **solely** on the INS's deployment of a phased-in schedule. Instead, as stated in our testimony in September 2002 and in this report, we believe full implementation includes not only the technical availability of SEVIS, but also: ensuring that sufficient resources are devoted to the foreign student program; ensuring that only bona fide schools are provided access to SEVIS; adequately training DHS employees and school representatives; ensuring that schools are completely and accurately entering information on their foreign students into SEVIS in a timely manner; and establishing procedures for using SEVIS data to identify noncompliant and fraudulent operations as well as following up when SEVIS data indicates fraud in a school's program.

As our report indicates, as of January 1, 2003, many critical aspects of the program had not yet been implemented. Specifically, we found that the INS did not devote sufficient resources to performing the certification reviews of the schools' applications; the on-site reviews of the schools conducted by contract investigators were deficient and there was no assurance that only bona fide schools were approved for access to SEVIS; adjudicators needed additional training to help them identify fraud indicators; no process was in place to verify the integrity of the data that the schools are entering into SEVIS; and there are insufficient procedures in place to use SEVIS to identify noncompliant and fraudulent operations and to follow up when SEVIS data indicates fraud.

Schools Not Approved for Timely Access

In response to our finding that the INS failed to meet its promised deadline of January 30, 2003, for adjudicating all school applications filed by November 15, 2002, the response stated that the majority of those filings were incomplete (e.g., they did not include the appropriate fee or necessary evidence) and therefore not ready for adjudication. According to the response, of the 893 applications still pending as of January 30, 2003, 394 cases had not been acted upon, 347 had been reviewed but were pending due to payment problems, and 152 had been reviewed but were pending due to outstanding requests for supporting documentation. The response also stated that the INS contacted schools to determine whether they had an immediate need to issue I-20s, and noted that the INS ultimately extended the deadline to February 15, 2003, by which time it was able to complete the adjudication of all applications submitted by November 15, 2002.

OIG analysis: As we describe in our report, the INS process called for schools to submit electronic I-17 applications to the INS. The INS

then relied on its contract investigators to collect supporting documentation from the schools during on-site reviews. Therefore, *all* applications initially submitted by the schools would necessarily be incomplete. During our review, neither INS management nor INS field adjudicators cited payment problems as the reason for delays in approving applications. Instead, both INS management and INS field adjudicators attributed the processing delays to the failure of the contract investigators to conduct timely on-site reviews and to properly collect and submit the supporting documentation to the INS field adjudicators. Because the INS was responsible for monitoring the contractors, this is a failure on the part of the INS - not the schools.

We agree that the INS took appropriate action by extending its deadline when it realized it could not process all the school applications by January 30, 2003. This protected schools from being penalized for the INS's program management problems. However, we concluded the INS did not properly manage the adjudication process to complete all applications due by January 30, 2003.

Compliance Audits Not Properly Performed

In response to our finding that the INS is inappropriately using contract investigator checklists to determine if schools have adequate internal controls in place and whether schools are entering data into SEVIS accurately, completely, and timely, the response stated that the purpose of the on-site reviews was to summarize schools' understanding of regulations and their past compliance with recordkeeping and reporting requirements. Further, the response stated that the review of five student records was not intended to establish the comprehensiveness of the SEVIS records. The response also added that future regulations will include criteria for identifying a school's compliance with SEVIS.

OIG analysis: The response is not consistent with the INS's earlier representations to us about how it planned to accomplish reviews of schools' internal controls. In our May 2002 report, we recommended that the INS conduct audits of approved schools to determine whether proper internal controls were in place and that data was entered into SEVIS completely, accurately, and timely. On July 15, 2002, the INS responded that the primary audit mechanism would be site visits conducted every two years, and that the need for additional audits would be identified through analytical reviews. On September 13, 2002, we expressed our concerns to the INS about contract investigators'

qualifications to perform audits. On December 23, 2002, the INS responded and referred us to the on-site review checklists that would be used by contract investigators. Our review of that process led us to conclude that it is ineffective to meet the need for independent audits of schools' internal controls.

We continue to believe that compliance audits are essential to ensure that schools are entering data on foreign students into SEVIS timely, completely, and accurately, and that schools have adequate internal controls in place to prevent and detect fraud in their foreign student program. Without these audits, the data in SEVIS will be unreliable. While the deficiencies in verifying schools' compliance with reporting and recordkeeping requirements may be addressed by future regulations, the contract investigator site visits and checklists are not effective for ensuring proper internal controls.

Additional Training and Guidance for Adjudicators and Inspectors

In response to our finding that more SEVIS training is needed, the response described the SEVIS training that the INS provided to its adjudicators. In addition, the INS held pilot training sessions at nine locations during the week of December 17, 2002, and SEVIS training at 107 sites (including the original nine) during the week of January 13, 2003. According to the response, the training participants "reported satisfaction with the information supplied and opportunity for interactive questioning."

OIG analysis: The training provided to the adjudicators (in June and August 2002), as well as the training provided during the week of January 13, 2003, were discussed in our report. Specifically, our report includes a description of the two training sessions provided to INS adjudicators in 2002, and the adjudicators' impressions of that training at the ten INS district offices we contacted. Contrary to the response, in our discussions the adjudicators cited several training areas that were deficient, which we noted in the report. In addition, during our review we found that adjudicators were unfamiliar with the types of responses on the contract investigator checklist that might indicate a fraudulent school. We therefore maintain our recommendation that the INS incorporate the identification of fraud indicators into its future adjudicator training sessions. Our report also included information on the January 13, 2003, training conducted for the INS training officers at ports of entry. At the time of our review, this training was on-going and therefore we were unable to assess its effectiveness.

During our review, neither INS management nor INS field personnel mentioned the December 17, 2002, pilot testing cited in the response. After receiving the response, we requested additional information from INS management regarding this “training,” and confirmed that it was a pilot test of the SEVIS training program, which the INS had developed on December 2, 2002. The training session ultimately developed was repeated at the pilot locations.

Sufficient Resources Needed for Enforcement Procedures

The response acknowledged that additional resources are needed to ensure proper enforcement of SEVIS, but stated that the resources are currently unavailable. The DHS plans to seek approval of a regulation establishing a foreign student fee, which would provide funding for the SEVIS program.

OIG analysis: The response is consistent with recommendations we have made in the past. In our May 2002 report, we suggested that the INS use the fees paid by foreign students to fund adjudicator, investigator, and analyst positions.