


performed comprehensive risk assessments in . . . immigration and customs systems to guide resource allocation decisions.”<sup>44</sup>

Every effort should be undertaken to identify and remove persons who pose threats to the United States, which would include rescinding immigration benefits after USCIS has granted them. It would be irresponsible for law enforcement entities to stop their investigation of a potential crime merely because the person who is the subject of their investigation has obtained a green card or U.S. citizenship. Similarly, it would be illogical to think that delaying issuance of a green card or U.S. citizenship will prevent a criminal from committing a crime. Considering the protection the FBI name check provides, the cost of government resources used, and mental and actual hardships to applicants and their families, USCIS should reassess the continuation of its policy to require FBI name checks in their current form.

*RECOMMENDATION AR 2007 -- 06*

*In addition to the Ombudsman’s recommendation in the 2006 Annual Report, AR 2006 –04, the Ombudsman recommends that USCIS: (1) evaluate the value of the name check in its current format and establish a risk-based approach to screening for national security concerns; (2) work with the FBI to provide the necessary resources to perform name checks in a timely manner; and (3) provide greater transparency to customers by publishing monthly the number of long-pending FBI name check cases.* 

**G. Interim Benefits**

The Ombudsman strongly supports efforts by USCIS to eliminate the need for interim benefits in favor of timely, efficient, and secure adjudication of the ultimate immigration benefit.

**1. Background**

Generally, USCIS issues interim benefits – EADs and advance parole documents (international travel documents) – to individuals who have green card applications pending with the agency for over 90 days.<sup>45</sup> The Ombudsman is encouraged by constructive dialogue with USCIS during the reporting period that addresses funding and security issues related to the processing of interim benefits.

On May 30, 2007, USCIS established new filing fees for immigration benefits.<sup>46</sup> Under the new fee schedule, USCIS will charge a single fee for green card applications to include recovery of the processing costs for interim benefits. The Ombudsman supports this approach to

<sup>44</sup> U.S. Government Accountability Office Report “Homeland Security: Management and Programmatic Challenges Facing the Department of Homeland Security,” GAO-07-398T at 2 (Feb. 2007); <http://www.gao.gov/new.items/d07398t.pdf> (last visited June 6, 2007).

<sup>45</sup> See 8 C.F.R. § 274a.13(d).

<sup>46</sup> See “Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule,” 72 Fed. Reg. 29,851 (May 30, 2007); see also section III.H.1.

cost recovery. By combining the two fees, USCIS mitigates its dependency on fees from interim benefits and eliminates the appearance of the agency prolonging processing times of the primary benefit application to collect fees on interim benefits.

Figure 12 shows that interim benefits accounted for approximately 18 percent of all USCIS revenue in FY 06. Currently, USCIS must dedicate resources to the adjudication of interim benefits, rather than focus on green card and other benefits processing. A cycle of delays and fees has developed to the detriment of customers and USCIS alike.

EADs confer many of the privileges that the green card provides, including permission to work in the United States and ability to obtain other federal and state forms of identification such as Social Security cards and drivers' licenses. These documents enable an individual to secure property and obtain credit in the United States. They also legitimize the individual's presence in the United States, although legal status is not yet fully determined. It is not uncommon for individuals to receive EADs for years, only to have the green card application eventually denied. In fact, applicants who know they are ineligible for green cards may rely on the continuation of a backlog to obtain the EAD, which allows them to live and work in the United States legally for months, if not years.

## **2. Thousands of Ineligible Green Card Applicants Continue to Receive EADs**

In 2004, the Ombudsman recommended an up-front processing model that would eliminate the need to issue EADs in many instances.<sup>47</sup> USCIS implemented a pilot program to test a version of this model, which became known as the Dallas Office Rapid Adjustment (DORA) program. As discussed in section IV of this annual report, the Ombudsman strongly supports the expansion of the DORA program or a similar up-front processing model that would eliminate the issuance of interim benefits to most ineligible applicants.

During the reporting period, the DORA data reflected similar approval and denial rates as in the 2006 reporting period.<sup>48</sup> Unfortunately, USCIS has been unable to provide accurate and complete data on the exact number of interim benefits issued nationally to green card applicants. In the 2006 Annual Report, the Ombudsman estimated the data, but is not including these data for this reporting period as the DORA program continues to perform as in 2006 and nationwide denials continue to be significantly higher. Consequently, there are tens of thousands of green card applicants who continue to receive EADs even though they eventually are deemed ineligible for the green card.

## **H. Funding of USCIS**

The USCIS funding structure is one of the principal challenges to efficient and timely delivery of immigration services. The manner in which USCIS obtains its funding affects every facet of USCIS operations, including the ability to: (1) implement new program and processing initiatives; (2) begin information technology and other transformation efforts; and (3) plan for

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<sup>47</sup> See sections IV and V.27.

<sup>48</sup> See Figure 14.