

Recommendation #8 **Premium Processing**

On September 27, 2004 the Ombudsman sent a recommendation to USCIS to expand Premium Processing to include employment-based change-of-status (I-539) applications. USCIS has responded, on three occasions, that it agrees with the Ombudsman.

The first response from USCIS was on December 17, 2004, when we agreed to review the expansion of Premium Processing for certain I-539 categories. On May 25, 2005, USCIS sent another response to the Ombudsman to let him know that we agreed with his recommendation and that we had drafted a federal register notice that was waiting for regulatory review at the Department.

USCIS' most recent response to the Ombudsman was on December 27, 2005, from Robert Divine, Acting Deputy Director, USCIS. In that response, Mr. Divine stated, "As we have indicated in our recent meetings on this subject, USCIS believes in incrementally expanding Premium Processing options to customers to give them the choice of fee and service levels, and we plan to vigorously pursue our current proposal to expand the program to several forms, including the I-539. To further expand customer choice of payment and service levels, as part of our Transformation Initiative, USCIS plans to develop accelerated processing options for customers largely focused on e-filing because filing in this way automatically reduces the time involved in certain steps of case processing."

Meanwhile, however, the Ombudsman has expressed in various venues an opinion that USCIS needs a funding solution to eliminate the current incentive for inefficient processing and that Premium Processing likely costs USCIS less than regular processing." USCIS will continue to analyze the cost and efficiency of both processing models. USCIS is doing much of this work within the context of the Transformation Initiative. However, in order to best serve the public, USCIS plans to continue Premium Processing for the foreseeable future. It is an optional process for our customers and one that is appreciated by many individuals, especially within the business community, and there is a marginal cost to maintaining a staffing level to meet a processing time significantly lower than normal processing times.

As to the issue of increased revenue, Congress has given USCIS the statutory authority to recover the full costs of its operations through its immigration benefit application and petition fees. Thus, USCIS has little incentive to continue to rely on premium revenues, or any other fee revenue source in particular, as it fully intends to adjust its fee structure to cover its normal operating costs of base operations in its fee review in accordance with Federal fee guidelines, freeing any premium processing revenues for investments in modernization initiatives.