I. CUSA's Effects on Other Programs: Adjustments of Status in Fiscal Year 1996

A. Introduction

Among the allegations concerning CUSA was that it was carried out at the expense of other important INS programs. We found employees in every Key City District who believed that the processing of other benefit applications, in particular applications for adjustment of status—the process through which an applicant becomes a legal permanent resident in the United States and obtains a "green card"[1]—suffered during CUSA because of INS' extraordinary emphasis on naturalization.

Although INS Headquarters temporarily reassigned staff to the CUSA effort from its Inspections and Investigations Divisions, the number of officers was small enough and the duration brief enough that this reassignment had no significant impact on any program outside the Benefits Division. The bulk of the personnel diverted to CUSA came from other programs within the Benefits Division, most notably the Service Centers and Asylum Office. This reassignment of staff negatively affected the backlog of pending applications in the offices from which officers had been reassigned.

CUSA's impact on adjustment of status processing, however, was different from its impact on other benefits programs for several reasons. First, INS did not have unfettered discretion to shift resources to fortify its naturalization initiative to the detriment of adjustments of status processing given the conditions that Congress had placed on the funds INS planned to use for CUSA. The funds that supported both INS' naturalization and its adjustment work came from the Examinations Fee Account (the account into which fees from applications were deposited), and INS accessed that revenue by submitting a "reprogramming request" to Congress. When the request was

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[1] Section 245 of the Immigration and Naturalization Act governs the adjustment of a person's immigration status to that of a person admitted for permanent residence. Until 1994, the applicant generally had to apply in his or her country of origin, and there had to be an immigrant visa immediately available (of the number allotted to that country) at the time the application was filed. With the enactment of subsection (i) of Section 245 in 1994, someone who had entered the United States without inspection could apply for adjustment within the United States upon the payment of a penalty fee. INS form I-485 is used for all adjustments of status.

granted, the resulting "reprogramming agreement" controlled how INS spent the money. When Congress authorized the reprogramming of the Examinations Fee Account in June 1995 to fund INS' efforts to reduce naturalization backlogs, it specifically instructed INS to increase its attention to the processing of adjustment of status applications.

During a second reprogramming in January 1996, Congress specifically noted that it was authorizing funds with the understanding that they would be used to reach "currency," or eliminate the backlogs, in naturalization *and* in adjustment of status applications by the end of FY 1996 (for naturalization, the targeted processing time was six months; for adjustments, the targeted processing time was four months).

Finally, the then-existing law concerning the adjudication of adjustment applications filed pursuant to Section 245(i) required that INS adjudicate all pending cases by October 1997, a deadline that did not exist for naturalization processing.

Because of these three distinctions, the OIG sought to evaluate whether INS had met its obligations concerning adjustments of status during the CUSA program or whether adjustments processing had suffered because of a disproportionate emphasis on naturalization. We found that INS failed to comply with either the letter or the spirit of the reprogramming agreements concerning the processing of adjustments of status. Neglect of its adjustment caseload during FY 1996 was another effect of INS' almost single-minded emphasis on naturalization production.

B. The creation of Section 245(i) in 1994

On October 1, 1994, a new provision of the Immigration and Nationality Act known as Section 245(i) took effect that expanded eligibility for adjustment of status to include aliens not in legal status at the time of application. The change meant that individuals seeking permanent residency status who previously had to leave the United States to apply for an immigrant visa at the U.S. embassy in their home country now could pay a penalty fee and apply directly to INS without leaving the country.

INS recognized that the passage of Section 245(i) would dramatically increase its adjudications workload. The month before the provision's implementation, INS headquarters promised the Field that it would "monitor workload levels in Field offices" and would "seek methods of reducing [the]

burden, especially for the most heavily affected offices." As anticipated, the response from applicants was overwhelming. Nationwide, average monthly receipts of adjustment applications increased from 15,207 in FY 1994 to 36,789 in FY 1995. Within days of the enactment of the provision, INS offices around the country found themselves inundated with 245(i) applications. Long lines formed overnight outside of local offices, and INS turned away many applicants because it lacked enough staff to accept their applications for future processing.

The Western Region was the hardest hit, with a 204 percent increase in average monthly receipts from FY 1994 to FY 1995. In September 1994, the Los Angeles District received a total of 1,642 applications for adjustment of status. The following month, when adjustment eligibility was expanded by Section 245(i), Los Angeles received 6,185 applications.[2] Even before the provision's effective date, the District had projected a 200 percent increase in adjustment of status applications due to Section 245(i) and conservatively estimated that it would need 20 additional officers and 20 additional clerks to process the increased workload. In the small INS sub-office in Fresno, California, average monthly receipts of adjustment applications rose from 43 to 260 in the first quarter after the provision's effective date.

Despite the enormous burden the new law placed on INS' adjudications staff, Commissioner Meissner welcomed Section 245(i) because, as she told the Senate Subcommittee on Immigration in May 1995, it was a "much needed source of additional funding. The enhanced revenue will allow the Examinations division to invest in the development of new technology and procedures to improve service to the public." The "penalty fee" paid by Section 245(i) applicants was assessed at five times the cost of the application—or an additional $650.00 for a single adult with no dependents—and the money went into INS' Examinations Fee Account that funded the salaries and operating expenses of the adjudications program (among

[2] In this chapter, the statistics concerning the adjustment of status workload are drawn from INS Performance Analysis System (PAS) data. That data does not distinguish between adjustments of status filed pursuant to Section 245(i) and other adjustments. Accordingly, our references to the statistical data do not precisely distinguish among the types of adjustments. However, the increase in such filings after late 1994 are overwhelmingly attributable to increases in applications filed pursuant to Section 245(i).

others). Accordingly, while INS was inundated with applications it was also awash in cash.

Section 245(i) was not enacted as a permanent change in immigration law, but rather was developed as a temporary measure to address the large number of persons in this country who were "out of status," or whose presence in this country was not legally sanctioned. The presumption was that this population of undocumented persons would either become documented, would return to their countries of origin, or would be deported. Thus, the statute included a sunset provision that stated an application filed under 245(i) could " . . . not be granted after October 1, 1997." It warned that, "a prospective applicant who is seeking the benefits of section 245(i) of the Act must file the application sufficiently in advance of October 1, 1997[,] to ensure that it may be completed by that date."[3]

The narrow window of opportunity presented by Section 245(i) concerned some managers of local INS offices whose caseloads were quickly affected by the new law. The Officer-in-Charge of the Fresno Sub-office of the San Francisco District, aware of INS' history of ignoring adjudications backlogs, was concerned that the temporary nature of the provision might lead to applicants paying the fee but not receiving the benefit of an adjustment adjudication before the statutory deadline. Others in the same district—including the District Director—told the OIG they were confident that the law would be amended to avoid such a result. Such optimism, while foolhardy to some, proved prophetic: in 1997, faced with hundreds of thousands of backlogged applications filed pursuant to Section 245(i), Congress amended the law to permit adjudication of all such applications if filed by October 23, 1997.

C. The reprogramming agreements

INS funded the expansion of its naturalization program–CUSA–largely by accessing additional funds from its Examinations Fee Account. This action followed submission of requests to Congress to reprogram funds from the Fee Account in fiscal years 1995 and 1996. Under those reprogramming agreements, however, INS also committed itself to aggressively process adjustment of status applications.

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[3] One manager referred to it as the "drop-dead date" because from the face of the statute even applications filed before the deadline could not be adjudicated after October 1.

1. The reprogramming obligation

A reprogramming is the process by which an agency makes changes to its appropriated budget. The appropriations committees of both the Senate and House must be notified before either appropriated funding or fee collection accounts can be made available to augment any existing program, project, or activity by more than $500,000 or ten percent, whichever is less.

In order to reprogram funds from the Examinations Fee Account, INS prepared a request explaining how much money they planned to spend and how the money would be used. The plan was approved by the Attorney General and the Office of Management and Budget before being sent to the House and Senate appropriations committees for concurrence. Although a reprogramming action technically requires congressional notification, and not approval, at least tacit approval of the appropriations committees is a practical necessity to ensure harmonious relations between executive branch officials and congressional appropriators. The evidence indicates that during CUSA, Commissioner Meissner and others at INS regarded an accepted reprogramming notice as essentially a contract between the agency and Congress or the equivalent of a statutory mandate.

2. June 1995 reprogramming

INS' first request for funding for its naturalization backlog reduction program that later became CUSA was forwarded to Congress on April 13, 1995. INS planned to reprogram $11.2 million from the Fee Account to increase the number of completed naturalization applications from 504,000 in FY 1994 to 657,000 in FY 1995 to 860,000 in FY 1996. INS also requested 172 positions and $5.2 million from the Fee Account to increase adjustment of status completions from 224,010 in FY 1994 to 309,988 in FY 1995 and 331,690 in FY 1996.

In response to the reprogramming request, both the Senate and the House appropriations committees expressed specific concerns about INS' ability to handle the Section 245(i) workload. In a hearing before the Senate Subcommittee on Immigration on May 11, 1995, Senator Alan Simpson remarked on reports that more than 70,000 Section 245(i) applicants had "swamped INS offices around the country, and that people [were] waiting in line for extended periods of time, many overnight." He questioned INS' "delay in seeking use of needed funds which could be used to hire new personnel." Commissioner Meissner responded that additional revenue from Section 245(i)

filings had been available at the start of FY 95, but stated that INS had needed time to "assess trends" and make projections for receipt and workload levels before submitting a reprogramming request.

Subsequently, the House Appropriations Committee noted in its June 7, 1995, written response that the reprogramming, as requested, would hardly keep up with the volume of incoming applications for adjustments of status, much less address the current and growing backlog: "the Committee does not believe this is acceptable and requires INS to be current with its processing of applications for adjustment of status resulting from the new provisions of Section 245(i), e.g. no backlog." The Committee therefore directed INS to allocate an additional 75 positions and $1.4 million (which INS had intended to spend on a naturalization education campaign) to address the adjustments workload. The Committee further warned that INS was "in a probationary period as to whether it [could] handle the task at hand" and required it to submit monthly status reports to Congress.[4]

The reprogramming request's emphasis on naturalization over adjustment of status, recognized by the Appropriations Committee as out of proportion to the demand for adjustments, was not accidental. The request was submitted when INS Headquarters was beginning to focus on its ambitious naturalization backlog reduction plan. Promoting naturalization was the Commissioner's top priority for FY 1995. In fact, according to a summary of a March 1995 INS senior staff meeting, Commissioner Meissner advised agency managers that "if other priorities interfere, they are to be adjusted downward."

An e-mail sent by INS Associate Commissioner Crocetti in the midst of INS' reprogramming discussions on Capitol Hill illustrated that reducing the adjustment backlog was not as high a priority to INS as reducing the naturalization backlog. Crocetti, who met with Harold Rogers, Chairman of the Subcommittee on the Departments of Commerce, Justice, and State, the

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[4] Despite the House Appropriations Committee's request for monthly status reports, INS provided only four such reports over the course of the next year (one covered fiscal year 1995, another October to March 1996, another April 1996, and a final report covered May through July 1996). The status reports often were submitted long after the reporting period they examined had passed. For example, the report for the period ending September 30, 1995, was prepared on May 31, 1996. The report for April 1996 was forwarded to Assistant Attorney General Stephen Colgate on August 19, 1996. We could not determine when or if this report was forwarded to Congress.

Judiciary and Related Agencies of the House Appropriations Committee, noted that the Chairman "went ballistic" during these discussions because the reprogramming request had not adequately addressed the adjustments backlog. Crocetti suggested that INS begin working on a plan to address the adjustment backlog because "it appears inevitable anyway."

Despite the rather explicit message from the House Appropriations Committee, Commissioner Meissner included naturalization as one of six agency priorities for 1996, but failed to include adjustment of status as a top INS priority.

3. January 1996 reprogramming

As INS prepared to submit a second reprogramming request to Congress to fund the CUSA program, INS' budget officials were mindful of the commitment agency managers had made to Congress to simultaneously work on adjustments of status. By the time the request was submitted in November 1995, INS had already fallen short of the projections it had made six months earlier concerning adjustment processing. INS had processed 243,457 adjustment of status applications in FY 1995, 66,541 (21 percent) fewer than projected in the documents INS submitted to Congress to support its April 1995 reprogramming request. By the end of FY 1995, the number of pending applications had grown to 287,575, and projected processing time had increased to 351 days—almost 8 months longer than the targeted goal of 4 months. An INS budget officer expressed concern to Headquarters managers and staff in October 1995 that with all the focus on preparing the CUSA sites, no one seemed to be planning for the adjustment of status hires authorized in the June 1995 reprogramming. A budget memorandum prepared in anticipation of the January 1996 reprogramming noted that INS was calculating the resources needed to get processing time for adjustments of status down to four months at the same time that INS worked to get naturalization processing down to six months, "so that Congressman Rogers and other[s] don't feel we have left 245(i) processing behind, and our reprogramming will actually mirror the workload in the account."

INS' second reprogramming proposal (submitted to Congress on November 13, 1995) included a request for almost $23 million and 242 limited-term employees for adjustment of status processing, and $52 million and 292 limited-term employees to handle the naturalization workload during CUSA. Through this proposal, INS committed itself to working assiduously

on adjustments of status by increasing staffing at offices with the largest volume of cases pending. INS stated in its reprogramming notification that the funds would be used to "eliminate backlogs in processing new adjustment of status applications (including 245(i)) by the summer of 1996." Backlog elimination was defined as completing adjustment applications within four months (122 days) of receipt. INS projected that it would complete 497,800 adjustment of status applications in FY 96, leaving a total of 125,000 cases pending at the end of the fiscal year.

This time around the House Appropriations Committee offered no objection. In his letter dated January 16, 1996, Chairman Rogers noted his pleasure that INS was recognizing and addressing the significant workload imposed by both naturalization and adjustments applications. He also noted the Committee's intention to continue monitoring INS' progress in reducing application processing times, based on Congress' understanding that "with these additional resources INS intends to reduce backlogs in naturalization and adjustment of status applications so that by mid-summer, eligible persons will become citizens within six months after applying, and adjustment of status cases will be adjudicated within four months."

In interviews with the OIG, most INS Headquarters managers said they were aware that INS had made a commitment to Congress to become current in processing both naturalization and adjustment applications, but none claimed that INS ever had planned a way of meeting the adjustment goals.[5] None claimed that this commitment was communicated to or enforced in the Field. In INS' third quarter 1996 "priorities review" in August 1996, the Office of Policy and Planning asserted that "guidance" had been "given to the field . . . that achieving processing goals for both categories of cases was important, and neither should be ignored at the expense of the other." During the hectic days of CUSA, however, INS Field managers did not heed this message if, indeed, Headquarters had attempted to communicate it. In fact, even Commissioner Meissner did not recall, when interviewed by the OIG, that the reprogramming agreements required INS to become current in adjustment of status applications

[5] David Rosenberg told the OIG that the emphasis on currency in processing adjustments of status was essentially from Chairman Harold Rogers. Rosenberg said that, by contrast, INS heard from dozens of Members of Congress about the naturalization backlogs.

by the end of fiscal year 1996. It is not surprising, then, that INS' reprogramming "contract" concerning adjustments of status was not fulfilled.[6]

D. Adjustment processing in the Key City Districts during CUSA

Staff in the Key City Districts had little, if any, understanding of the reprogramming commitments INS made to the Congress. What the Key City Districts clearly understood, however, was that currency in naturalizations was a higher priority of INS Headquarters than work on adjustments of status. By the end of FY 1996, INS had achieved "currency" in naturalization applications, but failed to meet its 4-month adjustment processing goal by a huge margin. In fact, during the year, the estimated time between filing and actual adjustment of status had increased to well over a year in the Western Region and to almost eight months in the Eastern Region. Overall, processing times for adjustment cases in the five CUSA Key City Districts were 28 percent higher than in INS as a whole. Pending caseloads in every Key City District were significantly larger than they had been at the end of FY 1995. Although INS completed 421,000 adjustment of status cases nationwide in FY 1996—almost twice the number it completed the year before—fewer than half of these applications were completed in the Key City Districts.[7]

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[6] The national training developed for temporary District Adjudications Officers hired under the reprogramming focused exclusively on how to adjudicate naturalization applications (see "Interviews and Adjudications," chapter) and contained no instruction on how to evaluate an application for adjustment of status. These temporary officers were not anticipated to assist in the reducing of the adjustment of status backlog, regardless of how the positions were "earmarked" during budget discussions with Congress.

[7] A few local INS employees told the OIG that they believed the emphasis on naturalization over adjustments of status was evidence of the political motivations of CUSA. They reasoned that naturalization produced more potential voters for the 1996 election, and thus to officials in Washington it was a more important kind of adjudication than adjustment of status. As described in the previous chapter on White House/NPR involvement in the CUSA program, INS' naturalization priority—and thus the failure to tend to adjustments of status—was certainly encouraged by the high-level interest in CUSA that developed in March 1996, but by that time INS' failure to emphasize adjustments of status or their reprogramming agreements with Congress was already manifest.

1. Emphasis on naturalization rather than adjustments in the Key City Districts

We found that the extent to which an INS Field Office emphasized adjustments of status was left to the discretion of local District managers. Some Districts maintained a steady pace of processing these applications in an attempt to cope with increasing adjustment caseloads. In other Districts, though, especially those struggling to meet CUSA's production deadlines, adjustments of status processing fell considerably behind. In Los Angeles, New York, and San Francisco, the three largest Key City Districts, new employees hired through the reprogrammed funds were assigned to adjudicate naturalization rather than adjustment applications.

As noted at the outset of this chapter, Districts across the country had immediately experienced a dramatic rise in adjustment of status applications after Section 245(i) went into effect in October 1994. The Los Angeles District was in urgent need for additional resources in the wake of the creation of 245(i). Fresno, California's beleaguered Officer-in-Charge wrote in January 1995 "what is needed is for Headquarters to recognize the need for resources . . . I know that naturalization is a priority, but 245(i) cannot be ignored."

The resources provided by the June 1995 reprogramming offered some but not enough relief in those Districts that assigned new officers to work on adjustments. Nonetheless, Field managers remained concerned about the growing backlogs in adjustment of status, particularly in light of the law's "sunset" clause. In part because Headquarters had not specified how the Districts should use the new officers, three of five Key City Districts generally dedicated the new positions from the June 1995 reprogramming (which were, for the most part, not filled until late 1995 and early 1996) to naturalization work rather than to adjustments of status.

With respect to the January 1996 reprogramming, INS Headquarters identified the number of positions to be dedicated to naturalization versus adjustments of status processing at the district level. However, both Headquarters and Field managers agree that District managers retained the discretion to place officers and clerks where they saw fit. Given Headquarters' interest in reaching the CUSA production goals, many Field managers chose to put the bulk of their newly acquired resources into citizenship processing.

In the Los Angeles District, hiring for the adjustment of status unit did not begin until the last part of CUSA, when all of the naturalization slots had

been filled. A mid-July 1996 memo from Los Angeles DADDE Donald Neufeld noted that selectees for the adjustments program "continue to be diverted to CUSA, which is a higher priority." At that time, only five of the 40 temporary DAOs slated for adjustments in the January reprogramming had been hired. In contrast, Los Angeles' CUSA program already had 71 temporary DAOs from the same reprogramming on board. By the end of the fiscal year, Los Angeles had reduced its naturalization processing time to a matter of weeks, while adjustment of status processing time rose to 13 months or more.

Two other Key City Districts reported diverting new personnel intended for adjustments of status to their citizenship units during CUSA. All 53 of the positions allocated to San Francisco from the January 1996 reprogramming were dedicated to naturalization, including 23 that had been described in reprogramming documents as adjustment of status adjudicators.[8] In addition, at least two of San Francisco's sub-offices reassigned staff previously working on adjustments to the CUSA effort. These sub-offices ended the year with adjustment backlogs 60 and 82 percent larger than the beginning of the year.

In New York, 31 of the District's 88 temporary adjudicators funded by the reprogramming were allocated for adjustment of status processing.[9] However, only 15 to 20 of these adjudicators were placed in the adjustments unit, and only after the New York District had met its CUSA goals in late July or early August 1996. In short, Headquarters' primary interest in FY 1996 was clearly on naturalization, and most districts followed its lead. In the absence of an articulated plan to address the backlog of adjustment of status applications,

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[8] It should be noted that given the new adjudicators' limited training, some INS managers, like San Francisco's ADDA David Still, believed it inappropriate to assign them to work on adjustment of status applications. As he wrote, "few adjudications approach the level of complexity of adjustment of status. While it is understandable that new hires may be rapidly trained to make a meaningful contribution in Citizenship USA, it is beyond the pale to suggest that new hires could become vaguely competent to adjudicate I-485s in six months."

[9] Because INS does not track the assignment of employees within the adjudications program, the OIG relied on interviews of Field managers and review of staffing documents to determine the number of employees dedicated to different tasks within the adjudications program.

Districts focused their attention on the program that seemed most important to their superiors in Washington: naturalization.[10]

2. Status of adjustment processing at the end of FY 1996

At the end of the fiscal year, INS was nowhere near its promised processing time for adjustments of status. In fact, although INS processed more adjustment applications than it had the previous year, it completed 76,000 fewer applications than it had projected in its January 1996 reprogramming request. In every Key City District, the backlog of adjustment applications grew during FY 1996. Lower than anticipated productivity combined with a higher than expected number of applications resulted in a backlog of 395,797 cases by the end of FY 1996—more than three times the backlog projected in the January 1996 reprogramming.

Not only did INS fail to process the projected number of adjustment applications, it failed to reach its stated (and congressionally required) goal of currency by the end of the fiscal year. Instead of reducing the average processing time for adjustment applications to 122 days as projected, in the Key City Districts, where the emphasis on naturalization was most acute, adjustment processing time was more than 300 days. Meanwhile the CUSA project, which also experienced increasing applications, met its completion and currency goals, both nationwide and in the Key City Districts. The OIG found

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[10] In contrast, the two smallest Key City Districts did not show a significant transfer of Section 245(i) positions to naturalization. Although Chicago received 13 new adjustments positions from the 1996 reprogramming and only assigned 7 to work on adjustment of status, local managers transferred permanent officers from naturalization to adjustments, believing that adjustments needed the veteran officers' experience.

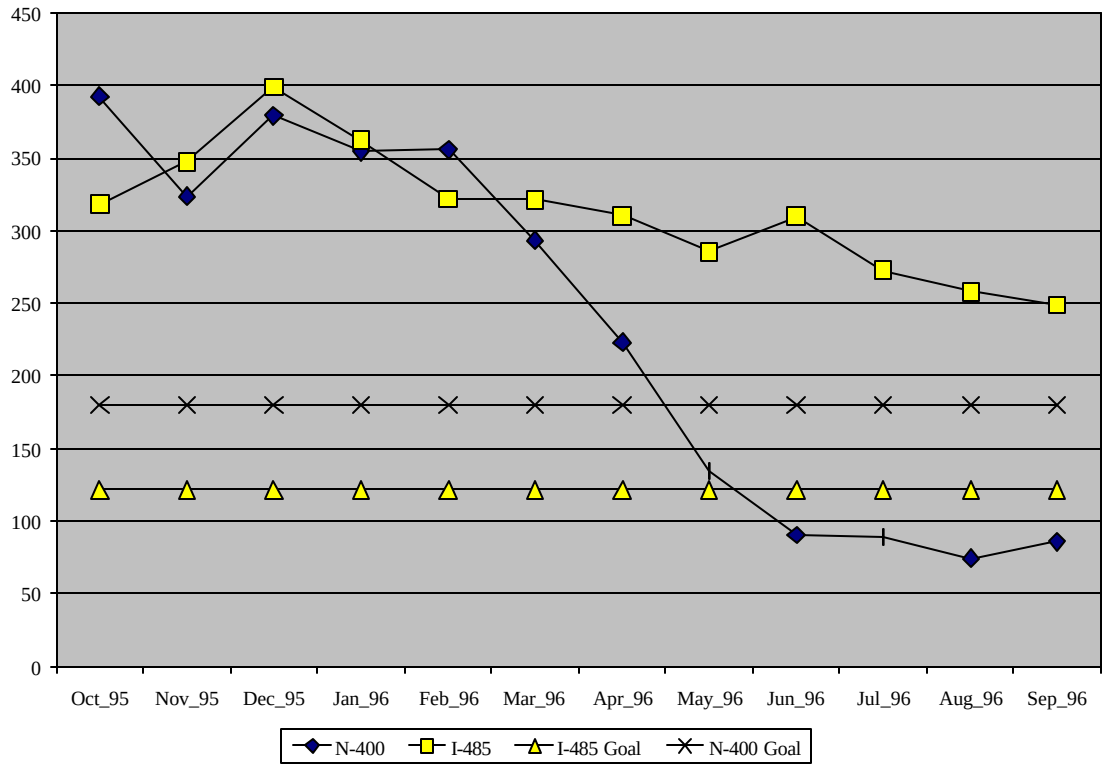
During a telephone interview with a congressional investigator on August 7, 1996, one witness from the Chicago District Office had implied that the replacement of permanent naturalization officers in the naturalization section with temporary officers who had only superficial training was a deliberate attempt to weaken the quality of the scrutiny brought to bear on naturalization applications. However, Chicago managers held the same opinion we noted earlier that was held by San Francisco's David Still. They advised OIG investigators that section 245 applications were more technically complex and thus were more appropriately adjudicated by veteran officers. We found no evidence to contradict the explanation offered by Chicago managers.

In the Miami District, resources were not diverted from the adjustment of status program to support the CUSA initiative.

that the disparate results in the two backlog reduction efforts stemmed directly from the disproportionate attention and resources devoted to the CUSA program at the expense of adjustment of status processing during FY 1996.

Figure C: Naturalization and Adjustment of Status Processing Time in Days

Figure Source: INS Performance Analysis System Data for FY 1996



E. Headquarters' explanations

In documents sent to Congress in support of its reprogramming requests, INS indicated that it planned to tackle the adjustment backlog using a "Key City" approach similar to how it planned to address the naturalization workload. However, Headquarters officials did not object when they saw that some Districts were directing new resources originally earmarked for adjustment processing to naturalization. Even though the number of incoming adjustment applications exceeded the number originally predicted and backlogs grew, INS still failed to turn its attention to adjustment of status. Instead, what Headquarters emphasized to the Field was that meeting CUSA's goals of naturalization processing was the paramount focus of FY 1996 adjudications work.

Headquarters officials told the OIG that it had not been their intention to allow adjustments of status processing to suffer because of the increased emphasis on naturalization. At the same time, they acknowledged that INS had done little to comply with the commitments made to Congress when INS obtained the reprogrammed funds. At one meeting of senior field managers, District Directors asked Headquarters officials what they should do about their adjustment of status applications while naturalization applications were receiving the bulk of their resources. One sympathetic and frustrated Headquarters manager, recognizing the effect of Headquarters' emphasis on naturalization, quipped that they should just stack them up in the corner. Although Deputy Commissioner Chris Sale, who was also present at the meeting, objected and admonished the Field to maintain an acceptable balance between the programs, she conceded to the OIG that Headquarters did not do enough to dispel the Field's impression that CUSA must succeed at the expense of other programs. Sale also told the OIG that, while INS made no deliberate decision to abandon the adjustments goals, the public's focus on the CUSA project and the logistical attention necessary to get the five Key City Districts up and running did give the citizenship agenda preeminence.

Unlike the naturalization effort, INS had no priorities, no plan, and no "project coordinator" for adjustments of status. INS did not open new adjustment-only offices, nor were adjustment interviews conducted in the new CUSA offices. Headquarters received frequent staffing and workload reports from the Field and was admittedly aware of how the reprogramming positions were being used within adjudications.

As early as January 1996, INS Headquarters officials had indications that the Field was addressing its naturalization and adjustment caseloads in disparate ways. A January 1996 Headquarters' processing report noted that naturalization processing had shown some improvement while adjustment processing times had increased slightly. In particular, the report attributed this to the fact that "Field managers are using available personnel to work on eliminating naturalization backlogs until newly allocated personnel are hired and trained in significant numbers to enable addressing both the adjustment of status and naturalization workloads simultaneously." When new personnel became available, however, Field managers continued to emphasize naturalization cases. Despite occasional warnings from INS budget officers, Headquarters officials never issued a reminder to the Field about the adjustment goals.

Given the errors in naturalization processing we have outlined in this report and attributed to INS' focus on production, we do not suggest that INS should have showered adjustment processing with that same kind of attention. The evidence suggests that if INS had prioritized adjustments in a similar fashion, these adjudications, too, might have suffered a reduction in quality in the name of high-volume processing. But such speculation is unnecessary because it is clear that INS Headquarters managers made no serious effort to follow-through on INS' commitment to address the adjustment backlog during FY 1996.

Compounding INS Headquarters officials' failure to manage the adjustment caseload was their failure to take responsibility for choosing naturalization processing over adjustment of status. In interviews with the OIG, Headquarters managers, including Commissioner Meissner, Associate Commissioner Crocetti, and David Rosenberg, repeatedly stated that they gave District Directors the flexibility to allocate resources within their district as they saw fit, implying that any imbalance was the Field's responsibility. While we found that the Field did, indeed, exercise some discretion, the fact that Key City District managers based their resource allocations on Headquarters' priorities undercuts this argument. According to Deputy Commissioner Sale, Headquarters relied on the Field to maintain an acceptable "threshold" of adjustments processing, but never specified what level would be acceptable or unacceptable. Although Headquarters occasionally reminded the Field not to neglect adjustments, District managers told the OIG that they perceived these messages as rhetorical reminders that carried little weight. By saying that naturalization was a priority and simultaneously remaining silent about deteriorating conditions regarding adjustments of status, Headquarters created a kind of deniability about the poor performance that predictably resulted.

As noted above, not all INS managers agreed that naturalization should be afforded priority over adjustment of status applications.[11] Other managers questioned the priority management system in general. Chicago's ADDE, Shirley Roberts, told the OIG that CUSA fragmented the Examinations Branch. She said that when one application is made a priority, it is difficult to keep other applications in balance. David Rosenberg agreed that "making a priority

[11] For example, one New York manager wrote to the District Director in May 1996, "of more concern [than meeting CUSA goals] is getting the Service to show as much interest in the district's adjustment backlog as it does in naturalization."

on something means not making a priority on something else. And if you're expecting people to manage resources, you expect the resources will flow from those things you don't designate as priorities to things you do." He recalled Field managers bringing up the issue of adjustments in every CUSA phone call, and being told that they had to focus on adjustments as well. According to Rosenberg, the Field would typically respond, "'how am I supposed to do that?' And that would be the end of the conversation." A frustrated manager in Los Angeles told the OIG that he once asked Crocetti to tell him what wasn't considered a priority, since Headquarters paradoxically insisted that the formal prioritization of CUSA was not meant to imply that other applications were less important.

This management style not only resulted in INS' reneging on its reprogramming commitment, but it also contributed to District managers' sense that Headquarters was not providing the kind of leadership needed in the Field. For example, when allegations were raised by a news reporter in July 1996 that adjustments were suffering in Los Angeles because of the District's priority on naturalization, INS Headquarters officials denied the charge. Crocetti subsequently visited the District for the ostensible purpose of checking on its adjustment processing. One Los Angeles official bristled at what he saw as the disingenuousness of such a visit, implying as it did that Los Angeles had been managing its caseload in a manner that was inconsistent with what Headquarters had encouraged throughout the fiscal year. Indeed, less than one month before the trip prompted by the press inquiry, Crocetti had visited the Los Angeles office, met with staff members there, and listened to concerns about, among other things, their adjustment of status workload. Upon his departure, he complimented the District on its hard work, only to return less than a month later—after the media concern surfaced—to investigate.

In the end, the two most troubling questions raised by the evidence are: (1) the quality of leadership provided to the Field by INS Headquarters and (2) the quality of INS' commitments to the understandings it reaches with the Congress. If, as Rosenberg suggested, despite the language of the reprogramming letters there was greater concern in Congress about naturalization processing than about adjustments of status, then the issue of how INS managed its reprogramming funds is of less consequence. All other evidence, however, indicates instead that the two adjudications programs were of equivalent concern to Congress. Consequently, we found that INS failed to honor the agreements underpinning congressional approval of its

reprogramming requests in 1995 and 1996 as a result of pursuing the production goals of the CUSA program.