RESPONSE TO THE CITIZENSHIP AND IMMIGRATION SERVICES OMBUDSMAN'S 2006 REPORT

The Homeland Security Act of 2002 established an independent Ombudsman separate from United States Citizenship and Immigration Services (USCIS), reporting directly to the Deputy Secretary of the Department of Homeland Security (DHS). The Citizenship and Immigration Services Ombudsman's office (CISO) was established in response to criticisms of the past performance of the legacy Immigration and Naturalization Service (INS).

In the three years since the creation of USCIS, through the hard work and dedication of its employees, USCIS has seen incredible improvements. USCIS has set a course that will lead it into a culture of first class service that has security as its primary mission. USCIS no longer has overwhelming backlogs of cases. USCIS also is in the process of upgrading its processing methods and technology to ensure that security is not compromised while cases are processed faster and more efficiently.

The CISO has offered many recommendations and suggestions to assist USCIS as it works to improve and modernize its business operations. Each recommendation has been thoroughly evaluated. Although USCIS has determined that it is not feasible to implement all of the recommendations, many had been implemented or were in the process of being implemented when the Ombudsman made his recommendations. USCIS has responded fully to each of the CISO's 27 recommendations since 2004.

In the 2006 report, the CISO included each of their previous recommendations plus fourteen new ones. USCIS will respond to the additional questions raised regarding previously answered recommendations and will also respond to the new ones. In order to ensure that USCIS fully answers every question posed by the CISO and to ensure the ease with which the reader can follow the CISO's report and the USCIS response, the format used by the CISO is followed in this document.

USCIS thanks the Ombudsman for his in-depth analysis of its many processes and procedures. USCIS looks forward to working together to find additional ways to improve service while continuing to ensure the security of this nation is not compromised.

State of USCIS

In the report, the CISO makes several statements about their perception of the current state of USCIS. The Ombudsman states that USCIS' funding problems "drive USCIS policy and contribute to inefficiencies in processing immigration benefits." While funding issues have contributed to the growth of immigration application backlogs, USCIS does not agree that funding problems drive USCIS policy. Over the last several years, the agency has become much more efficient, the backlog has nearly been eliminated, and a new fee structure has been proposed to ensure USCIS' cost of doing business if fully funded by fees. The Ombudsman has applauded this effort.

The Ombudsman states, "As a fee-funded agency, USCIS is almost entirely dependent on application fees to pay for operating expenses. USCIS also operates some programs for which it collects no fees and that are not funded by appropriations or other means…" While fees have long been collected for immigration benefits, in 1988,

Congress created a separate user fee account allowing application fees to directly support immigration services and benefits rather than being deposited in the general treasury for other uses. As a fee-based agency, USCIS uses revenue from application fees rather than appropriated funds to pay for its activities, including the processing of applications, and the infrastructure needed to support these activities.

The Ombudsman further states that "Customers demand and USCIS provides premium processing because of the slow processing caused by workload backlogs and general USCIS inefficiencies." However, premium processing offers more than just faster processing; it also offers the ability to communicate directly with the officers working the cases. This communication tool will continue to be available with premium processed cases even when the backlogs have been reduced.

The Ombudsman also states, "Efficient and timely processing would reduce the need to file applications for Employment Authorization Documents (EADs) or to use premium processing." USCIS has worked hard over the past few years to eliminate the backlogs, ensuring a more efficient and timely process.

According to the Ombudsman, USCIS' processing inefficiencies "compromise security." However, over the last several years, USCIS' processes have improved and security has especially been enhanced. As part of USCIS' ongoing transformation, comprehensive improvements will be made. As part of DHS, USCIS is first and foremost concerned with the security of this nation. Applicants are carefully screened and security checks are conducted early in the process.

The Ombudsman suggests that a solution to USCIS' "funding dilemma" would be for it to receive appropriations or for Congress to create a revolving fund account that would include appropriated funds that could be replenished from future fees. With respect to the Revolving Fund, USCIS has researched this and has found that even though fees would eventually replenish the appropriated funds deposited in the fund, the legislation required to enact such a vehicle is not deficit neutral. Therefore, the proposed legislation has budget scorekeeping implications within the context of the scorekeeping conventions of the Administration and the Congress.

Further, using appropriated funding to support USCIS is risky and financially irresponsible because the demand for immigration benefits may change rapidly with little notice. For example, appropriated funding provided for naturalization benefits could likely be insufficient if there was an increase in the number of naturalization applications submitted. In this instance, USCIS would have to cut back services (which would increase processing times) to cover the costs of processing the additional applications.

Reliance on appropriated funding in the past has contributed to the funding problems USCIS has faced recently. USCIS' new fee rule eliminates this problem because the fees are based on a robust model that incorporates all costs relating to services thereby providing a more stable source of funding.

Pervasive and Serious Problems

The Ombudsman points out thirteen items that he believes are pervasive and serious problems within USCIS.

A. Backlogs and Prolonged Processing Times

Throughout his report the Ombudsman speaks of applicants continuing to face lengthy and costly waiting periods for benefits and states that prior backlogs continue to have a significant ongoing impact. The Ombudsman also expresses concerns with respect to the methods USCIS uses to calculate processing times and backlogs, and states that he believes USCIS will not meet the clearly enunciated backlog elimination goal by the end of FY 2006.

USCIS remains committed to eliminating the backlogs. USCIS has made great strides while maintaining a proper focus on the quality of each decision, on national security, and on public safety. The Administration and Congress, recognizing the importance of this effort, have for the past several years supported USCIS' efforts to eliminate the backlog through appropriated funds. As reflected by the chart below, USCIS' gross backlog of over 3.8 million cases just two and a half years ago has been reduced to a net backlog of fewer than 10,000 cases as of the end of September 2006.

In his report, the Ombudsman also points to significant discrepancies in current processing times, and presents a snapshot of processing times for several product lines to illustrate his point. However, his report does not take into account the significant improvements that have occurred in the past year. These improvements are a result of a core part of USCIS' backlog elimination strategy, which has been to move work to available capacity, and where necessary to detail staff to offices with backlogs to try to bring greater nationwide consistency to service levels. USCIS developed, implemented, and operates a staffing analysis model to determine the appropriate staffing needs of each office. Through these steps, USCIS has made significant progress, and plans to continue to work to bring greater consistency to service levels across offices.

The Ombudsman also expressed concern that over the course of this effort USCIS has modified the methodology by which it calculates the backlog. The Ombudsman is correct that USCIS has made some adjustments. A core part of the backlog elimination effort has been not just to work through the backlog, but also to understand why cases become backlogged. USCIS examined the backlog to identify the different types of applications that were pending, why they were delayed, and options to address those problems. This review helped USCIS identify and quantify the multiple reasons why cases were backlogged. USCIS can now focus on where it can have the most immediate and lasting effect on both backlogged applications and future filings.

Case systems do not allow USCIS to track discrete lapsed processing times for each application to determine how many individual cases are outside the goal processing time. Such a management tool is a core objective of USCIS' transformation program. However, in the interim, USCIS has developed a method to determine average processing times. When USCIS began the backlog elimination initiative it established a methodology to calculate backlogs. In general, a backlog exists when the volume of pending cases exceeds the total number of cases received for that product during the processing time goal period. For example, if USCIS received 10,000 cases each month

for the past 6 months, and the goal processing time is 6 months, the backlog would be the number of cases pending beyond 60,000 (10,000 multiplied by 6 months). No backlog is indicated when the average processing time is within the service level goal. It does not, however, mean that every individual case is processed within the goal processing time.

USCIS includes all cases that it can continue processing in the overall backlog count. Thus, even cases outside of USCIS control are identified and included in overall backlog calculations. Cases outside of USCIS control are excluded, however, from the net backlog . USCIS considers these cases to be active but unable to be worked, also termed in "active suspense." USCIS, therefore, continues to calculate and report two backlog numbers:

- overall backlog, which includes all cases that are past their processing goal; and

- net backlog, which removes cases outside of USCIS control, i.e., those in active suspense.

The overall backlog includes cases in each of the following circumstances (the number in parentheses is the number of active suspense cases in each category as September 30, 2006):

- **Pending customer action (150,122)**

  This category includes 135,155 cases where USCIS has identified that a customer did not file necessary evidence or material with their application or where additional evidence from the applicant is needed before a decision can be rendered. Cases are held in active suspense, and are not considered ripe for adjudication, until the applicant responds or the allotted time for response lapses, at which point they are moved back into active processing.

  This category also includes 14,967 cases where the applicant failed the initial naturalization test, and a second opportunity has been scheduled.   USCIS procedures give customers two chances to pass the test. Cases are placed in active suspense until the re-test date.

- **Unripe due to limits on annual immigration (823,439)**

  This category includes 39,121 processed applications for adjustment of status to permanent residence that cannot be approved because of annual statutory limits. Once additional numbers are made available, generally each fiscal year, these cases may be granted, as long as the beneficiaries continue to be otherwise eligible for the benefit.

  This group also includes 710,119 relative petitions filed by U.S. citizens and permanent residents. Sometimes it is years before a visa number is available to these individuals, but the priority date is determined by the date the application is

filed. As part of improved workload and production management, USCIS now processes these cases 'just in time', and schedules processing so they can be completed within one year before the person is projected to be able to immigrate based on the petition. If the person will be eligible to immigrate in less than one year from the date when the petition is filed, USCIS tracks performance relative to our 6 month processing time goal for ripe relative petitions. This production management approach ensures that USCIS processing does not delay prospective immigration, but it also allows USCIS to evaluate eligibility closer to the person's actual immigration date instead of years or sometimes decades before immigration may be possible.

This category also includes 74,200 applications filed for permanent residence by individuals who have already been granted asylum in the United States and on that basis have now applied for adjustment of status to permanent residence. Prior to the May 2005 REAL ID Act, the law limited the number of asylees who could be granted permanent residence annually. This, combined with the fact that adjustment application receipts significantly exceeded permissible completions, created a large backlog. The REAL ID Act, passed in the middle of the backlog elimination initiative, lifted this asylee annual limit. USCIS developed a plan to work the additional cases ripened by the REAL ID Act, and to be within the 6 month processing goal for this product line by the end of FY 07.

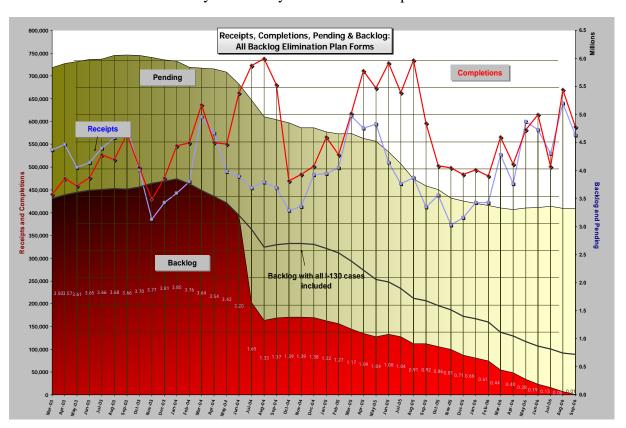- **Pending other agency action (165,498)**

  This category includes 1,552 naturalization cases where the federal courts have exercised exclusive jurisdiction over the administration of the oath of allegiance but have not made appointments available within a month of the USCIS decision, which is the timeline for this step within the overall 7 month processing time for naturalization.

  Also included are 6,879 cases where USCIS has requested investigations by other federal agencies, and is awaiting the results of these investigations.

  This category includes 157,067 cases where USCIS has interviewed the applicant and completed all processing, but is still awaiting the final results of the FBI's name check record search. USCIS will not approve a case until all background checks, including the FBI name check, are complete.

Adjusted for these cases in active suspense at the end of September 2006, the net backlog stood at 9,482. The overall backlog, using exactly the same methodology as was used to calculate the original backlog of 3.85 million in 2004, is now just over 1 million (1,020,042). However, all but 9,482 of those cases are not currently ripe for adjudication. (Note: Adding the cases in active suspense to the net backlog exceeds the overall backlog because active suspense includes newer cases where USCIS has already begun processing.)

USCIS' efforts have been in support of the President's five-year goal to achieve a six-month processing standard for most applications by the end of September 2006. Additionally, USCIS has focused on getting the right benefit to the right person at the right time. The events of September 11, 2001 caused USCIS to add significant additional security checks, which have impacted production. USCIS also has continued to take steps to improve its processes, while not compromising national security and public safety. During these efforts, USCIS has nonetheless made great progress in eliminating its backlog. USCIS has streamlined existing processes and procedures where appropriate, leveraged existing information technology systems, and reenergized its workforce of nearly 15,000 men and women. Moreover, quality and integrity have not been compromised in this process. Reduction of the backlog of work within USCIS' control by over 99% has taken a large commitment by every employee within USCIS. The efforts have been honest, successful, and worthy of praise. USCIS is proud of its achievements and the means by which they have been accomplished.

Receipts, Completions, Pending & Backlog: All Backlog Elimination Plan Forms

Recommendation AR 2006-01

The Ombudsman recommends that USCIS provide a breakdown of all cases that have not been completed by number of months pending and application type. This data will provide a better understanding of the true nature of USCIS' backlog to determine if USCIS achieved a six-month processing standard from start to finish for all applications.

USCIS agrees in principle with the Ombudsman's recommendation, and developed its current methods for measuring backlogs specifically because the current systems simply do not have the capability to track the discrete processing time of each application. Reporting discrete processing times would require the installation of a completely new case management system.

USCIS is committed to working to develop systems that would give this level of detail to help manage both overall workload and individual cases. Such a system would also eliminate the need for several interim manual processes established this year to assist with production improvements. Under its Transformation Program, USCIS has already begun a multi-year redesign of its current business environment. This new system will give USCIS new operational data and reports, including the type of data described in the recommendation. Given the constraints of existing legacy case management systems, USCIS would today need to perform a cumbersome, labor intensive, recurring manual audit of all pending files in order to compile the suggested data. Such audits would be cost prohibitive.

B. Untimely Processing and Systemic Problems with Employment-Based Green Card Applications

Recommendation AR 2006-02

The Ombudsman recommends reform of employment-based green card application processes to limit annual applications to a number that will not exceed visa availability; while also reducing abuse of the process by those who seek interim benefits through fraud or misrepresentation. The following recommendations emphasize real-time accountability and effective communication between USCIS and DOS:

1) *Track data relating to employment-based green card applications at the time of filing with USCIS, including immigrant visa classifications, priority dates, and countries of chargeability:*

Currently, USCIS does not collect these vital data on employment-based green card applications upon acceptance for processing. These data are noted by contractors as part of the intake process, but not systematically captured. This leaves USCIS unable to provide DOS with accurate data regarding these applications. Therefore, DOS must set cutoff dates without a clear understanding of pending applications. Data that are currently captured by contract staff should be forwarded to DOS for use in more accurately determining how many visas will be used.

2) *Assign visa numbers to employment-based green card applications as they are filed with USCIS.*

By assigning visa numbers to these applications upon receipt, USCIS will ensure that it will not accept more applications than it can legally process. When USCIS denies such applications, it must notify DOS immediately so that the visa can be reallocated.

With respect to the first part of this recommendation, USCIS has previously indicated it agrees, and has already implemented corresponding changes. Detailed data on the visa impact of the USCIS holdings are now provided to the Department of State (DOS) each month.

With respect to the recommendation that USCIS assign visa numbers to cases as they are received, the process the Ombudsman describes was the process in place a number of years ago. DOS, which manages overall visa number allocations, modified that process to the procedure in effect today. It is their policy to allocate visa numbers to USCIS adjustment cases only as the point of approval is reached.

C. Lack of Standardization Across USCIS Business Processes

Although the CISO did not make any specific recommendation regarding this problem, he did state that there is a "Lack of standardization in USCIS adjudications among service centers, among field offices, and between officers within the same office…" He further stated that "service centers and field offices continue to operate with considerable autonomy."

USCIS has developed a business strategy over the past number of years to ensure consistency in filing, fee receipting, processing, and adjudicating. Part of this business strategy includes turning over the data entry and fee receipting to the U.S. Department of Treasury, who manages the Lockbox network providers. USCIS has 82 local offices, and has found that a decentralized filing approach results in disparate treatment, multiple points of failure, and increased costs of trying to staff all offices to process receipts and remittances timely. For these reasons, USCIS has moved toward a standardized process.

Ongoing efforts relating to decision-making processes include continuous updating of Standard Operating Procedures (SOP) relating to specific application types. During this past year, USCIS has begun to develop the Adjudicator's Toolbox that contains valuable tools that are useful for all officers, and is designed to provide officers with easy access to resource information, forms, notices and online systems.

D. Pending I-130 Petitions

Recommendation AR 2006-03

The Ombudsman recommends that USCIS process I-130 petitions as soon as they are received. This would prevent the substantial cost involved in storing and retrieving the applications as well as the resources expended for follow-ups, customer inquiries, address changes, etc.

USCIS does not find this recommendation to be practical. Consistent with the Administration's backlog elimination efforts, USCIS' goal is to process these petitions within 6 months of filing for all persons who will be eligible to apply to immigrate once

the petition is approved. Where the person will not be able to immigrate within a year due to the overall limits on legal immigration, USCIS' goal, as reflected in the backlog elimination reports and as agreed to with DOS, is to process the case twelve months ahead of visa availability to ensure that DOS has sufficient time to complete their part of the processing. This process ensures that an eligible person's eventual immigration to the United States will not be delayed by USCIS processing.

In addition, there is significant volatility in filing levels for many types of applications. Giving equal priority to each kind of application and creating processes with capacity to react to every surge while immediately processing each case would require USCIS to maintain a large excess capacity. Such capacity would entail significant additional costs. USCIS believes having different service levels for different kinds of applications, which reflect relative time sensitivity and risk, while using those with less time sensitivity as a buffer, results in a system that is more cost effective for both USCIS and its customers.

Further, while processing a relative petition immediately, even if the person will thereafter have to wait to immigrate, may appear ideal, given that circumstances relevant to the relationship could change during those intervening years, the evaluation is best performed closer to the time the person would actually receive the benefit. In addition, USCIS is currently evaluating the impact of the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109-249, which adds additional public safety screening requirements before a petition is approved to protect the relative being sponsored. It may be appropriate that those checks should similarly be done closer to the time at which the person would actually be able to immigrate.

E. Interim Benefits

Interim benefits are temporary benefits that usually allow aliens to be authorized for employment or travel pending adjudication of their primary application. Interim benefits are most often associated with an application to adjust status to a permanent resident. In his report, the CISO refers to his 2004 recommendation for an up-front processing model "that would eliminate the need to issue EADs in most instances." He further states that "It is unclear why USCIS has failed to recognize the success of the program in providing efficient processing while eliminating the receipt of EADs by most ineligible applicants." This model would require applicants to apply in-person and USCIS would have to interview and process the applicant the same day. The Ombudsman believes this processing model is the most efficient and effective, and the only way USCIS can stop having to issue interim benefits to persons when their applications are not otherwise processed fast enough. A discussion of this model and a similar model can be found under "Up-Front Processing" later in this document.

The Ombudsman states that "Total fees from interim benefits were approximately 23 percent of USCIS' FY 05 budget. Eliminating the need for interim benefits would reduce revenue to USCIS." As part of the proposed fee rule, there would no longer be a separate fee charged for interim documents. If a case required issuance of interim documents

because the main application could not be timely completed, those interim documents would be issued without charge.

F. Name Checks and Other Security Checks

The Ombudsman mentions that a small percentage of FBI name checks do not clear on a timely basis and that these represent a substantial and problematic workload for USCIS. He further states that USCIS should reexamine the value of the FBI name check. Although these security checks may require a more lengthy processing time, USCIS believes that performing them is essential to identifying national security and public safety concerns that would not have been uncovered by other means. This is particularly true given that in, a few cases, the information obtained from the FBI through this process has reflected very significant issues and risks. FBI name checks disclose information to USCIS that is otherwise not available. Information contained in 39% of the FBI positive responses (letterhead memoranda) received in FY 06 was not contained in IBIS/TECS, USCIS' primary background check tool. Upon receiving authorization from the FBI, this information is used to interview applicants seeking immigration benefits and to make adjudicative decisions. For that reason, although a heavy price is paid in inquiries, mandamus actions, and other forms of litigation, USCIS is committed to effective background checks, and thus is committed to the FBI name check. In fact, under the new fee rule currently under review, USCIS proposes to dedicate more funds to the FBI name check process as the FBI has indicated the fees they charge for these checks will increase and additional staff will be added to the process. This should help to speed up the name check process and reduce the backlog significantly.

USCIS agrees with the Ombudsman that we need to implement the Background Check Service (BCS) quickly. The development of BCS has progressed well and the system is currently undergoing testing as required before implementation. Additional funding has been approved and allocated for the contractor supporting BCS development, to accommodate the expected system enhancements identified during the testing phase. Testing and required system enhancements should be completed in late April with deployment beginning in May 2007.

Recommendation AR 2006-04

The Ombudsman encourages USCIS to adopt the recommendation from the DHS Secretary's Second Stage Review to establish an adjudication process in which all security checks are completed prior to submission of the petition or application for an immigration benefit.

This recommendation was made in an internal document to the Secretary by the 2SR Immigration Policy Team, of which the Ombudsman was a member, and is part of the ongoing USCIS Transformation. The ideas of the 2SR were meant as guiding principles to improve processes. In line with the idea of improving the security check process, the Transformation Office is examining the option of wrap back security checks. Security checks would be continuous and not just occur at a point in time. This would help to

ensure that USCIS has knowledge, at any time, of whether or not an applicant has committed a crime or another agency has an interest in the applicant.

G. Funding of USCIS

Recommendation AR 2006-05

There are at least two impediments to USCIS implementing the cost and resource savings inherent in up-front and expedited (premium type) processing. As case backlogs grew, USCIS became reliant on the filing fee revenue to fund other unfunded programs. By expecting USCIS to be largely self-funded through fees, Congress created competing demands for USCIS management. USCIS must ensure revenue streams are adequate for the entire agency. At the same time, eliminating backlogs and improving USCIS efficiency risks the agency cutting off a significant percentage of its revenue. Unless alternative revenue sources are identified that are not dependent on slow processing or a backlog of cases, USCIS will have difficulty foregoing fee-based revenue without running afoul of antideficiency laws. Under the current USCIS financial structure, USCIS simply cannot afford to eliminate the backlogs or slow processing of regular applications.

Based on the finding of Secretary Chertoff's Second Stage Review, the Ombudsman suggests that Congress consider a revolving fund account or other appropriated funding source for USCIS. A revolving fund used to defray current costs would be replenished from future fees and would: (1) enable the agency to test innovative processes; (2) address unexpected program requirements from new legislation; (3) avoid potential temporary anti-deficiency concerns; and (4) encourage USCIS leadership to innovate processes instead of continuing programs which do not enhance customer service, efficiency, and national security, but nevertheless generate essential revenue.

This recommendation is based on an internal, pre-decisional document to the Secretary from the 2SR Immigration Policy Team, of which the Ombudsman was a member. USCIS agrees with the CISO that improvements can be made to address USCIS' fee structure. The President, in his FY 2007 Budget request, called for USCIS to reform its fee structure to ensure the recovery of operational costs in line with Federal fee guidelines. Consistent with the President's direction, USCIS has developed a new, comprehensive fee rule that will revise application and petition fees to ensure full cost recovery. The new fee rule is based on a new activity-based costing model that is forward looking and ensures USCIS is positioned to process its anticipated workload within established processing standards.

The new fee review marks a significant turning point for USCIS and is a substantial improvement upon the 10 year old model. The robust model provides a dynamic tool that will enable USCIS to update fee requirements based on changes in workload, productivity and efficiency gains and process improvements. The new fee review provides, for the first time, an opportunity to look prospectively and ensure sufficient infrastructure investments while continuing to improve service levels.

USCIS has briefed CISO staff on the model, including providing a demonstration of the actual software used to compute proposed prices by type of form and petition. As a result of comments received from CISO and other DHS components, USCIS has produced an improved fee rule that will enable improved operations for USCIS applicants and petitioners while at the same time strengthening national security. The revised fee rule will provide USCIS the opportunity to devote premium processing revenues to not only providing premium services, but to making broader investments in technology and business process improvements that will dramatically improve our capabilities and service levels. In addition, the rule provides that USCIS will no longer charge applicants separately for interim benefits (e.g., employment authorization documents) that were caused by processing delays. Instead, USCIS will charge one fee for the base application and, if required, interim documents will be issued at no additional charge.

With respect to the Revolving Fund, USCIS has researched this and has found that even though fees would eventually replenish the appropriated funds deposited in the fund, the legislation required to enact such a vehicle is not deficit neutral. Therefore, any legislation would have budget scorekeeping implications within the context of the scorekeeping conventions of the Administration and the Congress.

USCIS is confident that through the new robust fee model, the costs to provide timely, accurate, and secure services and benefits will be identified and quantified to ensure that fees are set to recover the full costs of USCIS operations while also investing in business process and technology improvements.

H. Information Technology Issues

The Ombudsman is correct that USCIS and INS have undertaken multiple transformation and modernization efforts over the past 10-15 years. A variety of changes at both the Department and agency level have required modifications or cancellations of these efforts, thereby making progress very difficult. Some of these changes include: creation of DHS, transitioning from INS to USCIS, changes in appropriated funds available from the Department and Congress, and changes in management of technology within USCIS.

New IT system efforts have been affected by fluctuations in funding and changes in oversight and management structures. Before new systems can be deployed they must be designed, engineered, developed, and tested using state of the art change management resources.

I. Limited Case Status Information Available to Applicants

Recommendation AR 2006-06

The Ombudsman recommends that USCIS leadership support such local direct communication initiatives nationally to replace the SRMT (Service Request Management

Tool) system. Otherwise, the SRMT system should use Tier 2 responders whose access to USCIS systems allows them to alleviate the burden on field offices and service centers.

USCIS disagrees with the Ombudsman's suggestion to replace the current processes and systems in favor of direct customer access. While backlogs generate added inquiries, the benefits and services provided by USCIS are so important to customers' lives that however short the processing time, some will attempt to use various and repeated inquiries to try to convince USCIS to prioritize their case, or to favorably exercise discretion in granting a benefit or service. Thus it is essential that there be a consistent and nationwide screening regimen to respond to more routine inquiries, and to identify and resolve those that meet screening criteria. Problem resolution is an important element of quality assurance, process integrity and customer service, but it too must be managed in order to be effective. For this purpose USCIS developed a Service Request Program protocol as a national program to help customers bring certain issues to the attention of USCIS. This program also gives customers ways to raise issues short of visiting a local office.

Under this protocol, instead of treating each inquiry as a reason to interrupt processing and research a request, most kinds of requests receive standardized responses to give them information, context and answers to questions. Where a situation or issue meets USCIS' screening criteria, or where a discrete request is made such as an address update on a pending case, the inquiry is taken and acted upon. While the purpose is to handle the case and request appropriately, the protocol also gives USCIS information useful to managing operations, and to quantify issues to help USCIS focus on procedures and offices where there are a higher incidence of issues.

In addition to this protocol, USCIS has maintained the option for a customer to make an appointment using InfoPass to raise their issue in person at a local USCIS office for those instances where the customer believes they need to go beyond this protocol.

In his report, the Ombudsman suggests USCIS consider allowing direct customer email. USCIS is working toward putting the SRMT protocol and inquiry process on-line for customers. In conjunction with the current case status services USCIS provides, this will let customers generate referrals. This enhancement is in the initial development stage.

In his report, the Ombudsman also pointed to what he considers to be serious problems with Case Status Online. Case Status Online allows customers easy access to basic case status information. However, it is limited by the capability and data stored in actual case processing systems, and by the fact that, until the transition to the lockbox/NBC process, adjustment of status applications filed and processed at local offices were not in any case management system. Like any system, there is clear room for improvement. As the Ombudsman is aware, current projects include adding more content to case status information, and standardizing and improving processing time information as USCIS continues to strive to better manage customer expectations, and to meet those expectations.

J. Coordination and Communication

Coordination and communication between and among all USCIS offices has improved as technology has been expanded. USCIS distributes daily broadcasts to all adjudicators in the agency at one time. Those messages deliver summaries of important policy guidance with links to all of the documents on the USCIS intranet. The policy guidance now normally includes updates to the Adjudicator's Field Manual, which serves as an increasingly comprehensive and updated repository of policy guidance about how to analyze cases. Therefore, there is a great deal more information available to officers today than there was even just a year ago. As a testimony to USCIS' increasing commitment to public transparency, most of that information is placed on USCIS' public internet site. In addition, during this past year, USCIS has begun to develop the Adjudicator's Toolbox, an intranet resource that contains valuable tools that are useful for all officers, and is designed to provide officers with easy access to resource information, forms, notices and online systems.

A Phase One "pilot" of the Management Rotation Program (MRP) began in 2005. For the pilot, USCIS management officials identified the program participants and their rotational assignments. Ten participants were identified who were assigned rotational duties outside their permanent duty station prior to implementation of the pilot. Depending on the participant's background, the rotational opportunities identified provided each participant with two 60-day assignments to a Field Office (including a Service Center or Asylum Office) and/or a Headquarters organization. These rotations provide the participants with the opportunity to gain insight into the Agency's decision-making process at both the Field and Headquarters levels.

USCIS has envisioned an enterprise-wide, nationally-managed program of continuous learning and career development. A precursor to developing this program is the recent awarding of a contract to the Office of Personnel Management (OPM) to conduct a Strategic Human Capital Planning Initiative that will project the Agency's human capital needs over a 5-year period and create an action plan for achieving its objectives.

The scope of this initiative includes: analyzing the USCIS workforce and recommending solutions to address identified gaps; defining and developing career paths for both core mission and mission support occupation groups; identifying the requisite generic, technical and leadership competencies and skills for those career paths; assessing the extent to which the USCIS training curriculum fosters those competencies; defining human capital metrics for evaluating progress over time; and developing strategies for effective recruiting and retention.

Development of a USCIS enterprise-wide training and development program plan that addresses the need for policy, standards, infrastructure, and resources is targeted for completion in late FY07. The plan will be informed by two critical ingredients: 1) the recommendations of the 5-year human capital plan; and 2) comprehensive input on the needs of the Agency's operating components. Training curricula and content will be determined by the operating units and delivered consistent with USCIS Training and

Development Office policy and uniform standards. The program is planned for launch in FY08.

Recommendation AR 2006-07

The Ombudsman recommends that USCIS should incorporate into its ASC contract the ability to use the underutilized ASC staff in co-located facilities to assist field office operations.

USCIS has been expanding the role of the ASCs. A prime example is that the ASCs are being used to assist with the process of renewing Permanent Resident Cards. However, it is important to ensure that the ASCs remain tightly focused on their core mission of identity verification and biometric collection. USCIS does not plan to modify contracts to allow local USCIS managers to individually assign other forms of work not described specifically in the Statement of Work.

K. Training and Staffing

The USCIS basic training program includes seven occupation-specific courses delivered residentially at the USCIS Academy located at the Federal Law Enforcement Training Center (FLETC), Glynco, GA. These courses, especially those for adjudications officers, focus on two areas: the law (immigration law and naturalization law), and core elements in the adjudications process (fraudulent documents, interviewing techniques, policy and regulations, naming conventions, quality control, customer service, etc.). Advanced Training comprises five courses including journeyman training and several specialized courses.

The core mission training programs have been undergoing changes in both content and delivery during the past 18 months. A course for fraud detection officers and intelligence specialists has been introduced.   The Focused Adjudications Standard Training (FAST) program was introduced to prepare term adjudicators to perform duties limited to only one form (either the I-485 or the N-400). This course used a combination of intensive e-learning, residential instruction and on-the-job-training spanning 170 hours, more than half of which was conducted at the employee's duty station. Journeyman training was redesigned and reintroduced after a 4-year hiatus. A new course, Non-Officer Immigration Law (NOIL), provides a thorough review of the INA for mid-to-upper level core mission and mission support employees.

The goal is to recast and redirect the learning and development approach to focus on total support of the USCIS mission. An important step in this direction was the launching in September 2006 of a Strategic Human Capital Planning Initiative being conducted under an Office of Personnel Management (OPM) contract to develop a 5-year human capital plan for the Agency.   Importantly, this plan will identify the core competencies – generic, technical and leadership – set forth by OPM and DHS that must be embraced in USCIS career paths and training programs.

In late 2005, the Office of Training and Career Development launched an R&D effort to develop a blended methodology for delivering more continuous training closer to the work site. The prototype of the blended model is to be pilot tested in four service centers in October 2006 and demonstrated in the service centers in early 2007. The blended approach will facilitate transforming the way training is delivered and enabling core mission training to focus more directly on applying what has been learned to the performance of specific duties. Such an approach will require redesigning core mission training curricula within a new framework of enterprise training and development policy and standards that is national in scope and that establishes and sustains an environment of continuous learning and growth.

The enterprise-wide program of continuous learning and employee skill development envisioned will include career paths that address the generic, technical and leadership competencies essential to both core mission and mission support employees at all levels. The program envisions the establishment of Individual Learning Accounts (ILAs) that annually sets aside budget resources and a number of hours dedicated to training and development for each employee.

The USCIS Chief Human Capital Officer has launched a Strategic Human Capital Planning Initiative that will assess the agency's current workforce, conduct a gap analysis, recommend interventions and improvements, and outline a human capital plan projecting workforce needs over the next 5 years. The plan will contain action steps that will synchronize USCIS' efforts in recruiting, staffing, training, leadership development, succession management, and retention of a stable, high-performance workforce to establish USCIS as an employer of choice.

L. Green Cards Collected, Not Recorded, and Green Card Delivery Problems

Recommendation AR 2006-08

The USCIS Vermont Service Center suggested sending green cards by "return receipt requested," but USCIS Headquarters rejected this idea. The Ombudsman recommends that USCIS implement this simple solution. It requires a small expenditure up-front but would save significant time and resources, while enhancing customer service.

In FY 07, as we complete the transition to new postage meters, we plan to transition to new standards for mail delivery to allow mail forwarding with notification from the US Postal Service through its address service. As part of the proposed new fee structure, we further plan to move to 2-day delivery of cards with delivery confirmation. This will reduce delivery times, give customers tracking numbers so they can track mail delivery, while also providing for more secure delivery.

M. Delay in Updating U.S. Citizenship Designation in Records; Some Naturalized Citizens Cannot Apply for Passports

The Ombudsman cited concerns with updating United States citizenship designations in USCIS records, and recording the collection of associated Permanent Resident Cards. For older cases, USCIS conducted an extensive comparison of records in several systems, systems sweeps and modifications to systems coding to ensure that previous records were correctly updated. For new cases, performance is monitored to ensure that when citizenship is granted, the associated status records are updated promptly after the naturalization ceremony.

USCIS Revenue

A. Lockbox Process Failure to Screen Deniable Cases

Recommendation AR 2006-09

Currently, USCIS only reviews applications and petitions to ensure that fees are paid and forms are signed. When the form is otherwise not complete or when the applicant is not eligible for the claimed benefit, USCIS will deny the case usually after expenditure of considerable time and resources. Regulations require submission of applications and petitions according to the instructions on the forms. In adhering to its regulations and requiring application and petition packages to be complete before accepting them, USCIS would improve efficiency and customer service. Checks for necessary documents should be made before an application fee is accepted via a thorough pre-screening process. This process would prevent customer dissatisfaction from the number of later requests for additional documents, while also allowing USCIS to forego time-consuming denial procedures.

USCIS continues to work to improve the clarity of form instructions to help applicants understand what they will need to file with an application. This greater clarity also helps manage customer expectations with respect to both process and outcomes. However, USCIS believes it is more appropriate to accept applications that meet minimum standards required by law than to extensively analyze applications and reject those that do not contain absolutely every document that may be required. Such extensive review occurs during the actual adjudication process since the need for additional supporting documents may not become apparent until the applicant is interviewed. For instance, these documents may include proof of termination of prior marriages or court documents regarding an arrest. Hence, while to a degree it is consistent with the Ombudsman's theme of up-front processing and local adjudication of many kinds of applications, rejecting applications prior to filing still leaves significant litigation risks as customers can allege that USCIS rejected cases that were complete, and they were prevented from pursuing their cases. This process occurred with a number of legalization cases during the late 1980s and USCIS is still resolving cases where applicants claim they were turned away inappropriately. USCIS has no proof otherwise because the applications were returned to the applicants.

B. Multiple Filings for Foreign National Spouses

Recommendation AR 2006-10

The Ombudsman currently is evaluating several solutions to address this issue. In the meantime, to prevent the waste of resources and address customer concerns that originally prompted the legislation, the Ombudsman recommends that USCIS consolidate and rapidly process petitions for spouses and children of U.S. citizens. This would prevent duplication of processes and alleviate the need to use the provisions set forth in the legislation.

When relative petitions are filed with the principal applicants' petition, USCIS strives to process them together. Attempting to consolidate I-130 petitions filed for different relatives at different times by a given petitioner would likely slow adjudication without any real benefit.

USCIS recognizes and agrees that the legislative response in 2000 to the backlog -- which created an alternative pathway for immediate relatives of U.S. citizens to obtain interim status while their relative petition was pending -- created a process that is somewhat redundant, particularly as backlogs are reduced. Meeting these requirements while USCIS had large backlogs unfortunately meant that there was a separate process and separate application to ensure that processing time for interim status was far faster than relative petitions in general.

However, eliminating the backlogs gives USCIS the opportunity to try to simplify the process for customers. Alternatives are under review. The new fee rule that is currently under review proposes to eliminate the K-3 petition.

C. Application Support Centers and Fingerprinting of Applicants

Recommendation AR 2006-11

The Ombudsman recommends that USCIS implement "wrap around" security checks, which would provide it with real time security updates from the law enforcement community on applicants who violate criminal laws. Current resources used for duplicative security and biometrics checks would become available for other agency needs.

As the Ombudsman is aware, USCIS has been asking for this capability for a number of years. 'Wrap back' will give access to continuing data about a person's criminal record, eliminating the need for multiple queries and the risks associated with the lack of real-time knowledge of security updates. For a number of years, USCIS has been in discussions with the FBI about ways to provide this ability. USCIS does now receive "wrap back" or "recurrent vetting" service from US-VISIT as it submits fingerprints to IDENT, based on the information stored within IDENT. When "wrap back" functionality is available, USCIS expects to take advantage of the service.

Recommendation AR 2006-12

To enhance national security, lower costs to USCIS, avoid generating revenue from an inefficient process, and improve customer service, the Ombudsman recommends: (1) improvements in USCIS fingerprint storage and retrieval capabilities; and (2) use of innovative technology that allows for the capture of flat fingerprints rather than traditional rolled prints.

USCIS is building a new Biometrics Storage System (BSS) which will be the central repository for all biometrics captured to include 10-prints, digital photograph, single press-prints, and signature specimen used to conduct background checks and to create various immigration documents. BSS will allow USCIS to resubmit fingerprints to third-party agencies, such as the FBI, to conduct updated criminal history checks. BSS will also provide USCIS with the capability to re-use biometrics to produce new immigration documents. The re-use of biometrics will facilitate the application process and improve customer service by reducing the need for applicants to return to the Application Support Centers (ASC). BSS should be implemented by early 2008.

As the Ombudsman is aware, USCIS has been working with other federal agencies, including the FBI, DOJ's Science and Technology Division, and US-VISIT, for a number of years about capturing flat fingerprints. USCIS is currently part of a DHS evaluation of live-scan devices that capture ten flat fingerprints. When the technology and equipment meet requirements and are cost effective, USCIS will work with its federal partners to adopt this capability.

In his 2006 report, the Ombudsman also asserts that the USCIS planned Biometric Check Service (BCS) needs to be implemented as soon as possible. USCIS agrees, and welcomes the Ombudsman's support for our ongoing initiative. The development of BCS has progressed, and the system is currently undergoing testing. Testing and required system enhancements should be completed and implemented early in CY 2007.

D. Premium Processing Likely Less Costly than Regular Processing

Recommendation AR 2006-13

The Ombudsman recommends that USCIS implement premium-type processing for all regular processed applications at a uniform cost to the applicant. Implementation of this recommendation would save the agency some resources that it currently expends for repeated actions in regular processing. It also would have a tremendous positive impact on customer service and efficiency at no additional net cost to the agency.

As a basic tenet, USCIS supports customer choice where such choice is not inconsistent with the benefit or service being sought. The option of premium processing is merely that -- an option. Section 286(u) of the Immigration and Nationality Act (INA) authorizes the collection of "a premium fee for employment-based petitions and applications," which "shall be used to provide certain premium-processing services to business customers," in addition to general infrastructure improvements. On May 23,

2006, USCIS published in the Federal Register a Notice designating EB-1, EB-2, and EB-3 I-140 petitions, as well as certain I-539 and I-765 applications as eligible for premium processing. USCIS also published a rulemaking on that day establishing an easier process by which to notify the public of the dates that USCIS will start or stop accepting future premium processing requests for designated applications and petitions.

USCIS believes in incrementally expanding Premium Processing options to give customers choices of fee and service levels. To further expand customer choice, as part of the Transformation Program, USCIS plans to develop accelerated processing options for customers largely focused on e-filing as it automatically results in minor time savings, such as the time for USCIS to receive the case and to send notices back electronically. Thus, while in Recommendation 6, the Ombudsman recommended that USCIS modify its fee structure to give a discount to those who e-file, USCIS believes that such fees are unnecessary. Like customers who pay highway tolls in advance to skip toll booth lines, customers who e-file will enjoy faster service for the same fee.

Premium processing is not simply the same process done faster. It also involves greater access and direct communication when either the USCIS processing personnel or the applicant has questions. The Ombudsman, focused on processing times and costs, asserts that USCIS data shows that it could apply the attributes of premium processing to all applications at less cost. Only in a very narrow sense is this true, for faster processing and direct communication with the customer can reduce some tangential costs. However, this overlooks the key to premium processing, which is speed. Premium processing requires sufficient excess capacity, or capacity that can quickly be shifted from other areas, to always provide speed and associated service. As USCIS strives to improve effectiveness and efficiency, and as capacity grows once the fee structure is updated, it plans to look at the elements of premium processing that can be incorporated into the base procedures.

Up-Front Processing

In prior reports, the Ombudsman has recommended that USCIS move to up-front processing for many kinds of applications, in particular the application to adjust to permanent resident status. This process would require that applicants apply in-person and that USCIS interview and process them the same day. The Ombudsman believes this processing model is the most efficient and effective, and the only way USCIS can stop having to issue interim benefits to persons when their applications are not otherwise processed fast enough.

The Ombudsman's report asserts that USCIS' reluctance to adopt this idea nationwide reflects that the current fee structure has passively trapped USCIS in a cycle of dependency on the revenue stream of repeated applications for interim benefits. The report also asserts that USCIS intentionally manipulates case processing times and case processing throughput to affect visa availability dates and other factors to trap customers in a cycle of having to pay repeatedly for interim benefits in order to generate a larger revenue stream for USCIS. According to the report, this was accomplished by not

processing cases fast enough to trigger a Visa Bulletin cutoff that would have prevented individuals from submitting applications. Without a cutoff date, applicants could continue to submit their applications although there were not enough visa numbers available for all of the applications received.

The Ombudsman's report ties the up-front processing concept to the idea that USCIS regulations should be modified so that security checks are processed prior to the filing of an application. Currently, security checks are conducted soon after the filing of an application. The Ombudsman would like to see the applicant file a separate, advance application to either USCIS or another agency for the security checks, and not be allowed to file an actual application for an immigration benefit or service until all security checks are completed and the person cleared to apply.

The concept of up-front processing is founded on the premise that immigration processes would be simpler and easier if customers were required to travel to one of the 82 USCIS local offices to file an application in person, because this creates an opportunity to identify issues quickly in an interactive setting. If up-front processing were accompanied by the robust rejection process that the Ombudsman separately recommends in AR 2006-09 to apply very stringent criteria to application acceptance, many customers would be required to make repeat trips in order to bring all documents needed for this more robust process. In the existing process, the application can be accepted if it meets basic criteria; any missing documents may be requested via mail. The Ombudsman's recommendation also creates potential vulnerabilities as unsuccessful customers walk away with their applications, and all the information about themselves. During Legalization, the Immigration and Naturalization Service (INS) was sued for allegedly "front-desking" applicants, telling them that they were not eligible and then sending them away with their applications. INS was not able to prove that this did not happen to particular individuals and thus had difficulty defending itself against these charges. Up-front processing can also lead to increased costs since each office must be staffed to handle fluctuating levels of case filings and remittances. Many of the processes in this model are currently handled in central locations, and the local offices do not staff for those processes.

The Ombudsman has particularly highlighted up-front processing as appropriate for the application to adjust status and become a permanent resident in the U.S., asserting that up-front processing allows aggressive and early screening of the application to ensure that any issues with the application are identified early, before the individual obtains interim benefits. In this context the Ombudsman has also argued that USCIS should strive to process each of these applications within 90 days, before the customer becomes eligible for interim benefits such as employment authorization and advance parole. USCIS agrees with this premise as a long-term objective. It is USCIS' goal to process cases in ways that do not lead to interim benefits and provide high quality decisions within 90 days that reflect a full understanding and sensitivity to the national security and public safety of the United States and its citizenry. The insight provided by the Ombudsman is very useful.

With respect to prescreening and interim benefits, USCIS is concerned first and foremost with ensuring that all background checks have been completed on applicants prior to approval of their adjustment application. This approach is reflected by such steps as the creation of the National Security, Records and Verification Directorate (NSRV), and the work of the Fraud Detection and National Security (FDNS) team. It is also reflected by the greater emphasis that USCIS, along with Immigration & Customs Enforcement (ICE), is placing on pursuing removal of aliens when an application is denied.

With respect to interim benefits, USCIS has been attacking this problem in two ways. The first is through the backlog elimination effort. USCIS agrees it is important to minimize persons receiving any interim benefit because an underlying application cannot be screened and processed quickly enough. These backlogs often allow an individual, who potentially represents a risk, to remain in the United States while their case is processed.

USCIS has made great strides in reducing the backlog while maintaining a proper focus on the quality of each decision, and on national security and public safety. An important part of the strategy has been to emphasize quickly getting certain applicants, once they file, to an Application Support Center (ASC) so that USCIS can verify their identity and perform a fingerprint check for any criminal records in addition to the other background checks. USCIS' commitment to the security and integrity of the process is further represented by the fact that an average of 135,000 background checks are conducted each day, which totals over 33 million different background checks for the approximately 7 million applications that are received per year.

The second way that USCIS is directly attacking backlogs and the provision of interim benefits is through early, comprehensive prescreening of adjustment of status and related applications to identify deficiencies. Until the deficiencies are resolved, the processing clock is stopped so that employment authorization and similar benefits are not granted. This works directly with USCIS' efforts to eliminate the backlogs and process each application in a timely manner by focusing on those cases that are ready for adjudication.

USCIS is trying two methods of early, comprehensive screening. The first involves the National Benefits Center (NBC). The staff at the center pre-screen applications and identify deficiencies. If necessary, they request additional information and place the case in suspense, which stops the processing clock and eligibility for an Employment Authorization Document (EAD). This process is combined with getting the customer to an ASC early to trigger the resultant additional checks.

As cases become ready, interviews are scheduled where appropriate, with the goal to conduct the interview and make a decision on the base application before the customer becomes eligible for interim employment authorization or related benefits. This is referred to as a 90-day process because day "90" on the processing clock is when the customer would otherwise become eligible for interim benefits based on the pending adjustment of status application. As USCIS continues to reduce the backlogs, the goal is

to have most of the USCIS offices operating under this 90-day window by the end of the calendar year.

The second method is the Dallas Office Rapid Adjudication pilot, now called the District Office Rapid Adjudication (DORA) pilot that the Ombudsman recommends be made a national standard. DORA is a pilot that USCIS initially conducted on a voluntary basis in the Dallas office in cooperation with the Ombudsman. The program has been expanded and made mandatory in three district offices, Dallas, El Paso and Buffalo. In this program, customers file directly at the district office where they are interviewed the day they file their application. This similarly allows the office to identify deficiencies and place the case in suspense while the customer corrects them.

In both the DORA and the alternate 90 day methods, the prescreening and interview are conducted before the person becomes eligible for employment authorization. Of course, both depend on adequate capacity.

There are key differences between these models. With DORA the interview is conducted early. This potentially allows certain deficiencies to be identified early. But it also means the interview is done before fingerprinting, and thus prior to having the results of certain criminal and other security checks. This creates potential vulnerabilities and necessitates certain rework.

Due to the structure of an up-front process, more work is done by the adjudications officer. Much of the work that support staff normally handles in the centralized process is done by the officer. In addition, interviews are conducted on cases where an interview would otherwise not be necessary.

Each model has advantages. The end result -- adjudication prior to issuance of interim documents -- is the same for both methods. USCIS has not made a definitive decision as to which model to adopt nationally. However, USCIS is committed to a process that handles cases efficiently and effectively, meeting all quality requirements in a way that protects the national security and public safety of the United States. USCIS will conduct a full analysis of both methods to decide which to adopt nationally. USCIS will share the results of the analysis with the Ombudsman.

USCIS notes the Ombudsman's continued concerns with the lockbox process using Department of Treasury lockbox banks for receipting and initial data entry, which stems in part from the fact the lockbox is the front end for the process that is the alternative to DORA. USCIS remains focused on using outsourced and other agency resources, such as the lockbox process, instead of government employees handling fee receipting and related functions. USCIS plans to continue this arrangement until the volume of e-filing rises to a level that obviates the need for these kinds of services, or until an evaluation demonstrates that the up-front filing process for adjustment applications should be the standard.

Recommendation AR 2006-14

The Ombudsman recommends that USCIS implement a pre-application security screening process consistent with the Secretary's vision. Such a process would allow DHS to identify threats early in benefits application processes, while maximizing efficiency in adjudications processes.

This recommendation was made in an internal document to the Secretary by the 2SR Immigration Policy Team, of which the Ombudsman was a member, and is part of the ongoing USCIS Transformation. The ideas of the 2SR were meant as guiding principles to improve processes. In line with the idea of improving the security check process, the Transformation Office is examining the option of wrap back security checks. Security checks would be continuous and would not just occur at a point in time. This would help to ensure that USCIS has knowledge, at any time, of whether or not an applicant has committed a crime or another agency has an interest in the applicant.

Recommendations

Since 2004, the Ombudsman has submitted recommendations to USCIS. While these recommendations often contain useful information, in many instances USCIS determines they are not feasible or that implementation of the recommendation or something similar has already begun. The prior USCIS responses to the recommendations still apply and require no further updates. In this section USCIS does respond to additional requests by the CISO.

Recommendation 2 – Streamlining Employment-Based Immigrant Processing (June 18, 2004)

Additional Recommendations by CISO in the 2006 Report:

The Ombudsman recommends that USCIS reconsider its decision to forego a comprehensive up-front processing pilot for employment-based green card cases in light of the customer service and security related benefits of the DORA family-based green card pilot program.

USCIS Response to Additional Recommendation:

This recommendation would require that USCIS conduct interviews on cases that are currently interview-waived, thereby creating additional and substantial backlogs. It would also require the movement of cases from a service center, where interviews cannot be conducted, to a field office that does not have the capacity to take on the additional workload. This would not enhance customer service and would only cause more problems for all customers as wait times would increase for all types of applications. Since all security checks are conducted in the same way at both a service center and at a field office, there would be no increased security benefit arising from this change.

Recommendation 3 – Reengineering Green Card Replacement Processing (June 18, 2004)

Additional Recommendations by CISO in the 2006 Report:

The CISO is concerned about time delays with the issuance of the new cards and also the fact that USCIS does not always issue the temporary I-551. He suggests that USCIS implement an up-front process.

USCIS Response to CISO Additional Recommendations:

The goal of USCIS is to schedule customers applying to renew their card for an appointment at an Application Support Center within 3 weeks of filing Form I-90 (which may be accomplished by e-filing), at which time we would verify the customer's identity and status. If record and background checks do not indicate issues, the personnel at the ASC order the new card electronically, and it is typically manufactured and mailed within 2 to 3 business days. This minimizes the need for an ADIT stamp as interim documentation, and USCIS is attempting to minimize its use since it is less secure than an actual card.

Recommendation 5 – Customer Service Training for USCIS Employees (August 16, 2004)

Additional Recommendation by CISO in 2006 Report:

In response to a question from the Ombudsman in May 2006, USCIS indicated that a new training model, which incorporates a blended approach involving classroom training and computer-based training, was in an R&D phase. The Ombudsman recommends that USCIS go beyond this approach to ensure a training backup plan in the event the project in the R&D phase is not implemented.

USCIS Response to CISO Additional Recommendation:

USCIS Training and Career Development Division (TCDD) continues to provide customer training modules in its basic training for Adjudications Officers (4 hours) and Immigration Information Officers (8 hours).

In addition, TCDD operates the EDvantage system, USCIS' web-based learning tool that offers 44 generic customer service training modules accessible to all of the Agency's federal government employees. There is no mandatory requirement that either core mission or mission support employees take these or any of the more than 2000 soft skill courses .

The establishment of the new USCIS Chief Human Capital Officer (CHCO) brings together the Agency's Human Capital Management Division and the Training and Career Development Division into one organization. The new office has just awarded

a contract to the Office of Personnel Management (OPM) that will produce a first-ever USCIS workforce analysis and a 5-year action plan for the Agency's human capital requirements – building the generic, technical and leadership competencies – essential to creating career paths and leveraging the performance effectiveness of both its core mission and mission support employees. The human capital planning initiative will open the way to developing an enterprise-wide, continuous training program that is buttressed by policy, uniform standards for content and delivery, and keyed to OPM and DHS competencies.

Just as a human capital plan will help synchronize workforce with workload, a national approach to training and development will provide new opportunities for embedding foundation training in a system of continuous learning and growth that are the marks of a high performing organization and an employer of choice. Customer service is one of many critical features that can be embedded in a training program that is not only national in scope, but is held to a standard in how it is delivered as well as how it is applied in the workplace.

Recommendation 6 – E-Filing (August 16, 2004)

Additional Recommendation by CISO in 2006 Report:

The Ombudsman recommends that USCIS reconsider this recommendation and provide additional specific reasons why this is an impractical solution to encourage more e-filed applications, or provide information on what steps it is taking to move towards this goal.

USCIS Response to CISO Additional Recommendation:

One of the objectives of the Transformation Program is to develop an end-to-end electronic process, which would expand e-filing options. Transformation will result in many benefits to both the customer and the agency.

Recommendation 11 – INFOPASS (November 29, 2004)

Additional Recommendation by CISO in 2006 Report:

The Ombudsman still hears complaints from customers and stakeholders that appointments are not available through the INFOPASS system in some jurisdictions. The Ombudsman notes from visits to field offices that USCIS has made limited progress on deployment of kiosks and needs to move more expeditiously to provide this important service.

USCIS Response to CISO Additional Recommendation:

USCIS has improved the availability of Infopass appointments by reevaluating the time allotted for certain appointments. USCIS has also made progress on the

deployment of kiosks in the field offices. Deployment will begin in late October and should be completed by late November.

Recommendation 13 – Issuance of Green Cards to Arriving Immigrants (December 15, 2004)

Additional Recommendation by CISO in 2006 Report:

The Ombudsman recommends that USCIS provide details on its ongoing efforts to resolve the underlying problems.

USCIS Response to CISO Additional Recommendation:

The long term goal of USCIS is to receive immigrant visas and associated biometrics and admission data electronically from DOS and from Customs and Border Protection (CBP) as those agencies can provide that information electronically to USCIS. This would expedite the issuance of green cards to arriving immigrants.

Recommendation 14 – Pilot Program Termination (February 25, 2005)

Additional Recommendation by CISO in 2006 Report:

The Ombudsman believes USCIS does not provide adequate notice to customers regarding policy changes.

USCIS Response to CISO Additional Recommendation:

USCIS makes every effort to advise the public of policy changes as they occur by posting such policy changes on the Internet and when appropriate providing a public notice of a change separately. These can be found on the home page of USCIS. Additionally, USCIS has Community Liaison Officers who work with community based organizations and these officers routinely inform their customers of changes as they occur. USCIS also works closely with media and key stakeholders to clarify changes in policy and procedures.

Recommendation 15 – Issuance of Receipts to Petitioners and Applicants (May 9, 2005)

Additional Recommendation by CISO in 2006 Report:

The Ombudsman remains concerned with the Lockbox process and associated delays. In addition, access to the Chicago and Los Angeles Lockbox facilities is so limited as to prevent senior USCIS management from seeing them. The Ombudsman also has experienced similar accessibility issues with these facilities.

USCIS Response to CISO Additional Recommendation:

There are extensive controls in place due to the large amount of funds processed in these locations, and to ensure complete control and accountability of funds and applications. USCIS believes these controls are appropriate, and do not hinder required oversight or access.

Recommendation 17 – Elimination of Postal Meter Mark (July 29, 2005)

Additional Recommendation by CISO in 2006 Report:

The continued cost of not implementing this simple recommendation is of great concern.

USCIS Response to CISO Additional Recommendation:

In FY 07, as USCIS completes the transition to new postage meters, it plans to transition to new standards for mail delivery to allow mail forwarding with notification from the US Postal Service through its address service. As part of the proposed new fee structure, USCIS further plans to move to a 2-day delivery of cards with delivery confirmation. This will reduce delivery times, give customers tracking numbers so they can track mail delivery, yet also increase associated controls.

Recommendation 18 – Public Reporting for Capped Categories (August 28, 2005)

Additional Recommendation by CISO in 2006 Report:

The Ombudsman re-raised this issue, expressing concerns with the frequency of reporting H-1B cap usage, recommending that USCIS publish data on the same day each week/month to assist employers and individuals.

USCIS Response to CISO Additional Recommendation:

USCIS now updates the status of each application/petition type that is subject to an annual numerical limit ("cap") as necessary on its website, and has taken steps to make this information directly accessible. USCIS is also committed to continue publishing information about any "frontlog" affecting capped filings so that customers can better predict when particular caps might be reached.

Recommendation 19 – Elimination of Asylum Pickup Decision Delivery Process (October 13, 2005)

Additional Recommendation by CISO in 2006 Report:

The Ombudsman recommends that USCIS reexamine this recommendation.

USCIS Response to CISO Additional Recommendation:

The current process for issuing asylum decisions in person is implemented in accordance with existing law and regulations. Applicants granted asylum status receive documentation of their approval and work authorization, while applicants who are not granted asylum and are not in valid immigration status are issued a notice of the initiation of removal proceedings via Form I-862, Notice to Appear (NTA). In accordance with INA Section 239(a)(1), the NTA is to be personally served on the applicant, except in circumstances where personal service is "not practicable."

Currently, Asylum Offices issue asylum decisions in person to the great majority of asylum applicants – those who are interviewed at the eight permanent, fully staffed Asylum Offices, which represents roughly 85 percent of the affirmative asylum caseload. By contrast, Asylum Offices mail asylum decisions to those applicants interviewed at non-permanent, circuit site Asylum Offices. In past evaluations of the process for issuing asylum decisions at the circuit sites, the potential costs of issuing decisions in person were considered impracticable under INA § 239(a)(1). Because Asylum Office circuit sites do not have permanent asylum staff, additional details of Asylum Officers would be necessary to accomplish in person service at the circuit site locations. While this change would generate significant costs for most Asylum Offices, it would be particularly expensive for Asylum Offices that service remote circuit site locations such as Asylum Offices that circuit ride to Hawaii or Alaska and could result in significant delay for some asylum applicants to receive their decisions.

There are a number of benefits to serving asylum decisions in person:

1. The ability to personally serve NTAs on ineligible asylum applicants supports ICE in its effort to remove them. In addition to being mandated by Section 239 of the INA, serving an NTA in person is the most effective method to obtain proof of personal service. This proof provides ICE with nearly unassailable evidence of service if it is contested in removal proceedings.

2. In-person service provides an opportunity to take appropriate security-related actions, including coordination with ICE and other law enforcement agencies, on applicants who warrant apprehension based on the results of one or more security checks. Especially with regard to cases in which the Asylum Office does not learn of an adverse national security or law enforcement issue until after the interview, the decision pick-up appointment provides the Asylum Office with the time to gather and consider the greatest range of available information and to coordinate with law enforcement agencies if decisive action must be taken at the time of the in-person decision service.

3. In-person service of approvals prevents unnecessary harm to certain genuine asylum seekers who are vulnerable to exploitation by unscrupulous preparers. Some such preparers file asylum applications under postal addresses that only they control, and in-person service ensures that genuine asylum seekers receive their approvals directly and prevent a preparer from leveraging approval notices to extort

additional fees from the asylum seekers or otherwise mistreat asylum seekers and misuse approval notices.

4. In-person service enhances customer service by providing an opportunity for Asylum Office staff to personally explain to an applicant the decision and the consequences of that decision. For approvals, Asylum Office staff can explain the rights and benefits to which the applicant may be entitled. Perhaps more importantly, for those applicants who are not represented but are issued a Notice to Appear (NTA) before an immigration judge, Asylum Office personnel have the opportunity to point out to the applicant the date and time of the hearing, and impress upon the applicant the importance of appearing at that hearing and the importance of notifying the court of any change in address. This provides far greater assurance that the applicant will understand the importance and consequence of an NTA, than if the applicant simply receives the NTA in the mail.

These benefits apply equally to asylum applicants interviewed at the eight permanent Asylum Offices and the circuit site locations; however, as noted above, detailing Asylum Officers to provide in person service at the circuit sites would entail much greater expense. However, in reexamining this issue and recognizing the benefits of in-person service of decisions, USCIS is exploring different ways in which these costs could be controlled.

In conclusion, USCIS is considering increasing in-person service of asylum decisions to include most asylum applicants who are interviewed at circuit site locations. USCIS agrees with the Ombudsman that a single process for the issuance of all asylum decisions is preferable, so long as it can be accomplished efficiently and effectively and by increasing the number of decisions served in person, as opposed to eliminating in-person service.

Recommendation 21 – Asylum Division Use of Notice of Action Form I-797 (December 7, 2005)

Additional Recommendation by CISO in 2006 Report:

Request for updates on an implementation timeline.

USCIS Response to CISO Additional Recommendation:

USCIS has undertaken to redesign the Form I-797 for asylum adjudications and tailor the asylum system to accommodate automated production. Asylum Division staff will oversee the system design, the promulgation of procedures, and the implementation of the use of the new decision documents. In redesigning the I-797, USCIS will work with US Bureau of Engraving and Printing, where the I-797 is produced, to identify and implement all necessary changes to the form. In rolling out the design and adoption of an asylum program specific I-797, USCIS will automate the production of

Form I-797 through RAPS, the asylum case database, and allow for I-797 production at each Asylum Office location. The Asylum Division will also identify technology needs at the Asylum Offices (including desktop printers), compose draft procedures, and design the RAPS form generation module (FGM) for I-797 production.

The estimated target date for system wide implementation is May 2007. While USCIS desires to complete the implementation and adoption of the new decision document without delay, the extent of the changes required will take time. The initial implementation of the new approval document will begin with a pilot project at an Asylum Office and will be followed by a roll out to each home office and circuit site in the asylum program, once the system has been successfully tested.

Lead USCIS Program: Asylum Division

Timeline/Work Plan for Implementation:
Phase 1: Feasibility Study (March 2006 – June 2006)
Actions: Investigate current uses of Form I-797
Investigate production system for Form I-797
Determine design flexibility in current USCIS and asylum program systems

Phase 2: Design (July 2006 – November 2006)
Actions: Create templates for decision production
Design the I-797 for use by the Asylum Division with the US Bureau of Engraving and Printing, consistent with USCIS standards
Design necessary changes to FGM
Identify security measures for storing I-797 stock at office locations

Phase 3: Procedures (December 2006 – February 2007)
Actions: Compose draft procedures to implement the use of the I-797
Identify any technology and supply needs at the field offices

Phase 4: Implementation (March 2007 – May 2007)
Actions: Launch pilot project
Complete installation of necessary equipment
Rollout implementation nationwide