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INCLUDED REPORTS

- Temporary Protected Status: Calendar Year 2007 Annual Report, March 2008
- USCIS Responses to CISO Recommendations CIS Ombudsman Annual Report 2007, January 2008
- Response to the Citizenship and Immigration Services Ombudsman's 2007 Annual Report, January 2008
- Annual Report on Characteristics of Specialty Occupation Workers (H-1B) for Fiscal Year 2009, April 15, 2010
- USCIS Response to the Citizenship and Immigration Services Ombudsman's 2009 Annual Report, September 4, 2009
- Report on Internal Affairs Investigations, Report to Congress October 2006 to June 2009, Dec 11, 2009(?)
- Temporary Protected Status Calendar Year (CY) 2007 Annual Report, April 8, 2008(?)
- Report to the Senate Committee on the Judiciary on the entire process used by United States Citizenship and Immigration Services (USCIS) in adjudicating a Form N-400, Application for Naturalization, filed by a service member or former service member, Feb 10, 2009
- Temporary Protected Status: Calendar Year 2008 Annual Report, March 2009
- Immigration Examinations Fee Account- Fiscal Year 2008 Report to Congress Statement of Financial Condition, June 9, 2009
- USCIS Production Update, Fiscal Year 2009 Report to Congress, 4th Quarter, March 8, 2010
- Annual Report on the Use of Special Immigrant Status for Citizens or Nationals of Afghanistan or Iraq, Fiscal Year 2009 Report to Congress, February 19, 2010



**U.S. Citizenship
and Immigration
Services**

December 27, 2010

NRC2009065453

This is in response to your Freedom of Information Act/Privacy Act (FOIA/PA) request received in this office November 19, 2009, regarding copies of reports produced for Congress by USCIS, during the past three years, not posted on the USCIS public internet website.

We have completed the review of all documents and have identified 374 pages that are responsive to your request. Enclosed are 371 pages released in their entirety, and one page released in part. We are withholding two pages in full. In our review of these pages, we have determined that they contain no reasonably segregable portion(s) of non-exempt information. Additionally, We have reviewed and have determined to release all information except those portions that are exempt pursuant to 5 U.S.C. § 552 (b)(6) of the FOIA.

The following exemptions are applicable:

Exemption (b)(6) permits the government to withhold all information about individuals in personnel, medical and similar files where the disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. The types of documents and/or information that we have withheld may consist of birth certificates, naturalization certificates, drivers license, social security numbers, home addresses, dates of birth, or various other documents and/or information belonging to a third party that are considered personal.

As a result of discussion between agency personnel and a member of our staff, as a matter of administrative discretion, we are releasing computer codes found on system screen prints previously withheld under exemption b(2). There may be additional documents that contain discretionary releases of exempt information. If made, these releases are specifically identified in the responsive record. These discretionary releases do not waive our ability to invoke applicable FOIA exemptions for similar or related information in the future.

The enclosed record consists of the best reproducible copies available. Certain pages contain marks that appear to be blacked-out information. The black marks were made prior to our receipt of the file and are not information we have withheld under the provisions of the FOIA or PA.

If you wish to appeal this determination, you may write to the USCIS FOIA/PA Appeals Office, 150 Space Center Loop, Suite 500, Lee's Summit, MO 64064-2139, within 60 days of the date of this letter. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Temporary Protected Status: Calendar Year 2007 Annual Report

**Department of Homeland Security
U.S. Citizenship and Immigration Services**

**Report for
The Committee on the Judiciary of the U.S. House of Representatives and
The Committee on the Judiciary of the U.S. Senate
March 2008**

I. SUMMARY

Under section 244 of the Immigration and Nationality Act (INA), 8 U.S.C. 1254a, the Secretary of Homeland Security (Secretary), after consultation with appropriate agencies of the U.S. Government, may designate a foreign state (or part thereof) for Temporary Protected Status (TPS). The Secretary may then grant TPS to eligible nationals of that foreign state or aliens having no nationality who last habitually resided in that state. Section 244(b)(1) of the INA provides the circumstances and criteria under which the Secretary may exercise his discretion to designate a country for TPS.¹

During Calendar Year (CY) 2007, the Secretary extended four TPS designations and terminated one designation. The Secretary extended the TPS designations of Sudan, Honduras, Nicaragua, and El Salvador. The Secretary terminated the designation of Burundi, announcing the decision on October 29, 2007, and delaying the effective date until May 2, 2009.

The Secretary announced the extension of the TPS designation of Somalia in CY 2008. This extension became effective March 17, 2008, and will expire on September 17, 2009.² In addition, the delayed effective date of the 2006 termination of the designation for Liberia occurred on October 1, 2007. The Secretary did not re-designate any countries for TPS in CY 2007. During CY 2007, there were 347,264 recipients of TPS benefits.

¹ The statute provides:

The [Secretary of Homeland Security], after consultation with appropriate agencies of the Government, may designate any foreign state (or any part of such foreign state) under this subsection only if—

(A) the [Secretary] finds that there is an ongoing armed conflict within the state and, due to such conflict, requiring the return of aliens who are nationals of that state to that state (or to the part of the state) would pose a serious threat to their personal safety;

(B) the [Secretary] finds that—

(i) there has been an earthquake, flood, drought, epidemic, or other environmental disaster in the state resulting in a substantial, but temporary, disruption of living conditions in the area affected,

(ii) the foreign state is unable, temporarily, to handle adequately the return to the state of aliens who are nationals of the state, and

(iii) the foreign state officially has requested designation under this subparagraph; or

(C) the [Secretary] finds that there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety, unless the Attorney General finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.

INA § 244(b)(1).

² The Secretary's decision on whether to extend or terminate the TPS designation for Somalia falls in CY 2008. An explanation for the reasons why the designation was extended will be included in the CY 2008 Report to Congress.

II. INTRODUCTION

The Secretary submits this summary report of the TPS program in accordance with section 244(i)(1) of the INA. This report contains the following: A listing of the foreign states, or parts thereof, designated for TPS; the number of nationals who were granted TPS for each state and their immigration status before being granted such status; and an explanation of the reasons why foreign states, or parts thereof, were designated under section 244(b)(1) of the INA, and why previous designations were extended or terminated under section 244(b)(3) of the INA.

III. REPORT

A. Listing of the Foreign States Designated for TPS

The Secretary extended the following TPS designations in CY 2007:

Country	Effective Date of Extension	Expiration
Sudan	May 3, 2007	November 2, 2008
Honduras	July 6, 2007	January 5, 2009
Nicaragua	July 6, 2007	January 5, 2009
El Salvador	September 10, 2007	March 9, 2009

The Secretary terminated the TPS designation of Burundi in CY 2007, effective May 2, 2009. Termination of the TPS designation of Liberia was announced in CY 2006, and did not become effective until October 1, 2007. President George W. Bush directed that DHS provide qualified Liberians who held TPS as of September 30, 2007 with eighteen months of deferred enforced departure (DED) and extended work authorization through March 31, 2009.³ The Secretary did not re-designate any foreign states, or parts thereof, for TPS in CY 2007.

B. The Number of Nationals Granted TPS and Their Immigration Status Before Being Granted TPS

The following table reports the number of nationals of designated countries who received TPS benefits in CY 2007. This table reflects the most accurate information available regarding applicants who have been granted TPS.

Country	Total
El Salvador	258,336
Honduras	80,448
Nicaragua	4,315
Liberia	3,618
Sudan	359
Somalia	163
Burundi	25
Total	347,264

³ See Memorandum from President George W. Bush to Secretary of Homeland Security Michael Chertoff, "Measures Regarding Certain Liberians in the United States" (Sept. 12, 2007); see also 72 FR 53596 (Sept. 19, 2007) (DHS notice providing for extension of work authorization documentation for Liberians under DED).

The following table reflects the prior immigration status of nationals who received TPS benefits in CY 2007.⁴ Appendix A provides the description of each of the status abbreviations in the first column of the table.

Status	El Salvador	Honduras	Nicaragua	Liberia	Sudan	Somalia	Burundi
AS	210	50	3	11	2	6	0
ASD	2	0	0	2	0	1	0
A1	3	9	0	0	0	0	0
A2	12	0	0	0	3	1	0
A3	2	4	0	0	2	0	0
BE	0	1	0	0	0	0	0
B1	195	196	82	20	22	0	1
B2	1,072	1,200	409	130	42	1	1
CC	0	0	0	0	0	0	0
C1	7	73	5	1	0	0	0
C2	0	0	0	0	0	0	0
C3	0	0	0	0	0	0	0
CH	0	0	0	0	0	0	0
CP	0	1	0	0	0	0	0
DA	4	2	0	2	0	0	0
DE	1	0	0	0	0	0	0
DT	5	0	0	0	0	0	0
D1	0	2	0	0	0	0	0
E1	0	0	0	0	0	0	0
E2	0	3	0	0	0	0	0
EAO	0	0	0	1	0	0	0
EW1	32,231	17,617	551	2	4	2	9
FUG	3	0	0	0	0	0	0
F1	70	111	16	63	47	0	5
F2	9	11	1	4	5	0	0
GT	0	0	0	0	0	0	0
G1	2	1	0	1	0	0	0
G2	0	0	0	2	0	0	0
G4	0	0	0	0	0	0	0
G5	3	2	2	0	0	0	0
H1	1	1	0	0	0	0	0
H2	1	0	0	0	0	0	0
H1B	7	9	3	0	1	0	0
H2B	14	23	2	4	0	0	0
H2A	0	0	0	0	0	0	0

⁴ Data Source: COMPUTER LINKED APPLICATION INFORMATION MANAGEMENT SYSTEM (CLAIMS) and Service Center Operations, as adjusted.

Status	El Salvador	Honduras	Nicaragua	Liberia	Sudan	Somalia	Burundi
H4	8	9	2	5	1	0	0
I	1	0	0	0	0	0	0
IMM	6	3	0	1	0	0	0
J1	7	7	6	0	6	0	0
J2	0	13	1	3	3	0	0
K1	3	2	1	1	0	0	0
K2	0	1	0	0	0	0	0
K3	0	0	0	3	0	0	0
L1	3	0	0	0	0	0	0
L1B	0	0	0	0	0	0	0
L2	1	1	0	0	0	0	0
M1	0	2	2	0	2	0	0
OP	0	0	0	0	0	0	0
PAR	14	15	1	3	1	0	0
P1	4	0	0	0	0	0	0
P3	0	1	0	0	0	0	0
P4	0	0	0	0	0	0	0
PR	0	0	0	0	0	0	0
RE	7	8	12	4	0	0	0
R1	2	3	3	0	0	0	0
R2	4	6	3	0	0	0	0
SDF	0	0	0	0	0	0	0
ST	17	53	2	1	0	0	0
TC1	0	0	0	0	0	0	0
TWO	0	0	0	0	0	0	0
UN	73,902	41,245	2,517	2,514	143	93	3
UU	148,381	16,938	631	828	75	59	6
V1	0	0	0	0	0	0	0
V2	0	0	0	2	0	0	0
WB	0	2	0	1	0	0	0
WI	2,114	2,815	59	1	0	0	0
WT	8	8	1	8	0	0	0
Total	258,336	80,448	4,315	3,618	359	163	25

C. Discussion of the Reasons Why the Secretary Extended the TPS Designations of Foreign States Under INA § 244(b)(3) in CY 2007.

The Secretary conducts a periodic review of conditions affecting each TPS designated country in consultation with appropriate agencies of the U.S. Government, including the Department of State (DOS). INA § 244(b)(3)(A). The Secretary reviews country conditions information provided by DOS and the USCIS Refugee, Asylum, and International Operations Directorate. When the Secretary's determination of whether to extend or terminate a TPS designation is published in the *Federal Register*, the Notice explains the reasons for the determination. The

discussion below, derived from the *Federal Register* notice noted at the end of each excerpt, explains why each TPS designation was extended, and in the case of Burundi, why it was terminated.

1. Extensions of Designation Under INA § 244(b)(3)(C)

Sudan

On November 4, 1997, the Attorney General published a Notice in the *Federal Register* at 62 FR 59737 designating Sudan for TPS based on an ongoing armed conflict and extraordinary and temporary conditions within that country. The Attorney General extended this designation the next year, determining that the conditions warranting such designation continued to be met. 63 FR 59337 (Nov. 3, 1998). On November 9, 1999, the Attorney General extended and re-designated Sudan by publishing a Notice in the *Federal Register*, based upon the ongoing armed conflict and extraordinary and temporary conditions. 64 FR 61128. Subsequent to that date, the Attorney General and the Secretary of Homeland Security have extended the TPS designation of Sudan four times, determining in each instance that the conditions warranting the designation continued to be met. 65 FR 67407 (Nov. 9, 2000); 66 FR 46031 (Aug. 31, 2001); 67 FR 55877 (Aug. 30, 2002); 68 FR 52410 (Sept. 3, 2003). On October 7, 2004, the Secretary extended and re-designated Sudan for TPS due to the ongoing armed conflict in the Darfur region and the extraordinary and temporary conditions resulting from the ongoing conflict. 69 FR 60168. Subsequent to that date, the Secretary has extended the TPS designation of Sudan once. 70 FR 52429 (Sept. 2, 2005).

During 2007, DHS and the DOS continued to review conditions in Sudan. Based on that review, the Secretary of Homeland Security concluded that an 18-month extension was warranted because the armed conflict and extraordinary and temporary conditions that prompted re-designation of Sudan for TPS in October 2004 persist. Further, the Secretary determined that it was not contrary to the national interest of the United States to permit aliens who are eligible for TPS based on the designation of Sudan to remain temporarily in the United States. *See* INA § 244(b)(1)(C). The designation was extended in 2007 for a period of 18 months, from May 3, 2007 through November 2, 2008. What follows is a summation of considerations that led to the decision to extend the TPS designation of Sudan in CY 2007.

Despite the signing of a comprehensive peace agreement between the government of Sudan and the Sudan People's Liberation Movement/Army (SPLM/A), conditions continue to be volatile and dangerous in large parts of Western and Southern Sudan. Sporadic violence continues in Southern Sudan, with fighting among armed elements associated with the Sudanese Armed Forces (SAF), the SAF itself, and the SPLM/A. The humanitarian crisis in the Darfur region of Western Sudan continues to cause concern, with an estimated 250,000 people displaced since the beginning of 2006, and the intensification of armed clashes since September 2006. In November 2006, 10,000 civilians were displaced during joint government/Janjaweed attacks on 12 villages in the Jebel Mara region of Darfur and the deliberate targeting of civilians continued. Since the beginning of the conflict, approximately two million people have been forced to leave their homes and live in displaced person camps while hundreds of thousands have been killed.

There have also been incidents of violence and instability in southern Sudan. It is estimated that 250 civilian and military deaths resulted from fighting that erupted between the SPLA and a faction of the South Sudan Defense Forces and that an additional 300 to 400 civilians were wounded. Some of the violence was attributed to the forces of the Ugandan rebel Lord's Resistance Army, which, was reported by the former United Nations Secretary-General to continue to pose a military threat despite having signed a cessation of hostilities agreement with the government of Uganda on August 26, 2006. The Government of Southern Sudan has since stepped up efforts to restore security in the region.

Access to humanitarian relief is limited by security concerns and the Government of Sudan has imposed constraints on relief organizations. While the Office of the United Nations High Commissioner for Refugees (UNHCR) facilitated the return of approximately 91,000 southern Sudanese refugees and displaced persons to Sudan through direct repatriation assistance and reintegration programs in 2006, return is not risk free; civilians have continued to be victims of episodic violence; and UNHCR has not yet moved into a phase of actively promoting refugee returns.

Based upon this review, the Secretary found, after consultation with the appropriate Government agencies, that the conditions that prompted the designation of Sudan for TPS continued to be met. The armed conflict was ongoing and there were extraordinary and temporary conditions in Sudan that prevent aliens who are nationals of Sudan (or aliens having no nationality who last habitually resided in Sudan) from returning in safety. For the complete *Federal Register* notice, see 72 FR 10541.

Honduras

On January 5, 1999, the Attorney General published a Notice in the *Federal Register* at 64 FR 524, designating Honduras for TPS due to the devastation resulting from Hurricane Mitch. Subsequent to that date, the Attorney General and the Secretary have extended TPS for Honduras six times, determining in each instance that the conditions warranting the designation continued to be met. 65 FR 30438 (July 6, 2000); 66 FR 23269 (July 6, 2001); 67 FR 22451 (July 6, 2002); 68 FR 23744 (July 6, 2003); 69 FR 64084 (Jan. 6, 2005); 71 FR 16328 (July 6, 2006).

On February 21, 2007, the Government of Honduras requested an extension of the TPS designation of Honduras. During 2007, DHS and the DOS continued to review conditions in Honduras. Based on that review, the Secretary concluded that an 18-month extension was warranted because there continued to be a substantial, but temporary, disruption of living conditions in Honduras resulting from Hurricane Mitch and Honduras remained unable, temporarily, to adequately handle the return of its nationals, as required for TPS designations based on environmental disasters. See INA § 244(b)(1)(B). The designation was extended in 2007 for a period of 18 months, from July 6, 2007, through January 5, 2009. What follows is a summation of considerations that led to the decision to extend the TPS designation of Honduras in CY 2007.

The Government of Honduras has realized some success in disaster mitigation and prevention projects, as well as in rebuilding infrastructure since Hurricane Mitch. The country, however, still faces significant social and economic stress caused by the environmental disaster.

Estimates of severely damaged or destroyed dwellings as a result of the hurricane ranged from 80,000 to 200,000. By 2004, the United States Agency for International Development (USAID) had completed the construction of 6,100 permanent housing units. By early 2005, nongovernmental organizations had repaired or built over 15,000 housing units, but housing reconstruction had still not been completed in many areas and much of the housing that was built lacked water and electricity. In those cases where people were required to be relocated, infrastructure and personnel for health and education services, as well as employment opportunities, were unavailable.

An estimated 70 to 80 percent of Honduras' transportation infrastructure was destroyed. The majority of the country's bridges and secondary roads were washed away, including 163 bridges and 6,000 km of roads. In November 2006, the road network had been restored and transportation infrastructure continued to improve. Infrastructure, however, remains basic and vulnerable to additional damage depending on weather conditions. The "Road Reconstruction and Improvement Project" funded by the World Bank was scheduled to be completed during 2007.

All health centers were fully operational and almost all schools had reopened by the end of 1999, and by the end of 2005, USAID and some other donors had completed their reconstruction projects in Honduras. The country continues, however, to rely heavily on outside assistance and faces daunting long-term development challenges with hundreds of thousands of people living in areas designated as "high risk," awaiting completion of additional disaster mitigation projects. Current unemployment and underemployment rates range from 20 to 40 percent.

Based upon this review, the Secretary found that there continues to be a substantial, but temporary, disruption in living conditions in Honduras as the result of an environmental disaster, and Honduras continues to be unable, temporarily, to handle adequately the return of its nationals. For the complete *Federal Register* notice, see 72 FR 29529.

Nicaragua

On January 5, 1999, the Attorney General published a Notice in the *Federal Register* at 64 FR 526, designating Nicaragua for TPS due to the devastation resulting from Hurricane Mitch. Subsequent to that date, the Attorney General and the Secretary of Homeland Security have extended TPS for Nicaragua six times, determining in each instance that the conditions warranting the designation continued to be met. 65 FR 30440 (July 6, 2000); 66 FR 23271 (July 6, 2001); 67 FR 22454 (July 6, 2002); 68 FR 23748 (July 6, 2003); 69 FR 64088 (Jan. 6, 2005); 71 FR 16333 (July 6, 2006).

On February 2, 2007, the Government of Nicaragua requested an extension of the TPS designation of Nicaragua. During 2007, DHS and the DOS continued to review conditions in Nicaragua. Based on that review, the Secretary concluded that an 18-month extension was warranted because there continues to be a substantial, but temporary, disruption of living conditions in Nicaragua resulting from Hurricane Mitch and Nicaragua remains unable, temporarily, to adequately handle the return of its nationals, as required for TPS designations based on environmental disasters. See INA § 244(b)(1)(B)(i-iii). The designation was extended

in 2007 for a period of 18 months, from July 6, 2007, through January 5, 2009. What follows is a summation of the considerations that led to the decision to extend the TPS designation of Nicaragua in CY 2007.

While significant progress has been made in reconstruction following Hurricane Mitch, Nicaragua has not fully recovered from the environmental disaster. An estimated 145,000 homes were destroyed by the hurricane, leaving an estimated 400,000 to 800,000 people homeless. Health clinics and schools were also impacted with 90 clinics, 400 health posts, and over 500 primary schools suffering structural damage. While much of the large-scale post-disaster aid and reconstruction projects were completed years ago, these projects were focused on temporary buildings that have not been replaced with permanent cement structures and are now largely deteriorated.

Hurricane Mitch destroyed or disabled 70 percent of the roads and severely damaged 71 bridges. Over 1,700 miles of highway and access roads needed replacement. The Pan-American Highway has been repaired, but reconstruction efforts continue with the focus shifted to improving secondary and rural roads.

Nicaragua also suffered significant economic damage and reduced access to food following Hurricane Mitch. Over 100,000 acres of crops were destroyed by the hurricane, half of them life-sustaining food crops such as beans and corn. The regions hardest hit by the hurricane continue to be the poorest and least developed in Nicaragua and the Government of Nicaragua is reporting hunger cases in the northern mountainous region. Additionally, landslides triggered by the heavy and sustained rains of the hurricane resulted in the loss of forest canopy. This problem has affected the environment, resulting in reduced rainfall and agricultural yields that are consistently below average. Export crops, such as coffee, sugar cane and bananas, were also destroyed to a lesser extent but not without resulting reductions in export income.

While the damage resulting from Hurricane Mitch in 1998 formed the basis of the initial designation of Nicaragua for TPS, the country has remained vulnerable and suffered damage during subsequent storms. Hurricane Beta and Tropical Storm Stan severely affected thousands of people, destroying houses, medical centers, and schools in October 2005.

Based upon this review of conditions in Nicaragua, the Secretary determined that there continues to be a substantial, but temporary, disruption in living conditions in Nicaragua as the result of an environmental disaster, and Nicaragua continues to be unable, temporarily, to handle adequately the return of its nationals. The complete *Federal Register* notice is available at 72 FR 29534.

El Salvador

On March 19, 2001, the Attorney General published a Notice in the *Federal Register*, at 66 FR 14214, designating El Salvador for TPS due to the devastation caused by a series of severe earthquakes. Subsequent to that date, the Attorney General and the Secretary have extended TPS for El Salvador four times, determining in each instance that the conditions warranting the designation continued to be met. 67 FR 46000 (July 11, 2002); 68 FR 42071 (July 16, 2003); 70 FR 1450 (Jan. 7, 2005); 71 FR 34637 (June 15, 2006).

On February 1, 2007, the Government of El Salvador requested an extension of the TPS designation of El Salvador. During 2007, DHS and the DOS continued to review conditions in El Salvador. Based on that review, the Secretary concluded that an 18-month extension was warranted because there continues to be a substantial, but temporary, disruption in living conditions in El Salvador resulting from the earthquakes that struck the country in 2001, and El Salvador remains unable, temporarily, to adequately handle the return of its nationals, as is required for TPS designations based on environmental disasters under INA § 244(b)(1)(B). The designation was extended in 2007 for a period of 18 months, from September 10, 2007, through March 9, 2009. What follows is a summation of considerations that led to the decision to extend the TPS designation of El Salvador in CY 2007.

There has been a great deal of reconstruction and significant recovery has been realized in repairing the more than 2,300 kilometers of major roads and highways that were severely damaged by the earthquakes. By the end of July 2004, it was reported that all major roads appeared to have been reconstructed and were functioning. However, despite this progress, current conditions in El Salvador still reflect much of the destruction caused by the earthquakes and other critical infrastructure remains damaged or destroyed, particularly in the area of health care.

In 2006, the Salvadoran government released its final assessment that 276,594 houses were affected by the 2001 earthquakes (166,529 destroyed and 110,065 damaged). At the end of 2004, USAID completed its earthquake reconstruction program, including the construction of 26,872 houses, and in February 2005, it was reported that in San Vicente and Cuscatlán, two of the most affected departments, 80 percent and 85 percent respectively, of the damaged housing had been reconstructed. As of February 2007, the Salvadoran government stated that nearly 50 percent of the total number of houses destroyed or damaged by the earthquakes (136,988 houses) had been reconstructed or repaired. A housing program funded by the European Union, which was started in 2004 (5,500 houses) was almost complete and a housing program funded by the Inter-American Development Bank (3,500 houses) was still underway, with a target date for completion set later in 2007.

Eight hospitals and 113 of the 361 health facilities, representing 55 percent of the country's capacity to deliver health services, were severely damaged by the earthquakes. Although the Ministry of Health reported that 95 percent of community health centers damaged or destroyed by the earthquakes had been rebuilt, reconstruction of damaged hospitals has faced repeated delays. As of February 2007, reconstruction of two of the country's seven main hospitals had begun, with reconstruction in the other five still in either the design or bidding stages. Completion of the reconstruction of those seven facilities is targeted for 2009.

Based upon this review, the Secretary determined that there continues to be a substantial, but temporary, disruption in living conditions in El Salvador as the result of an environmental disaster, and El Salvador continues to be unable, temporarily, to handle adequately the return of its nationals. For the complete *Federal Register* notice, see 72 FR 46649.

2. Re-Designations Under INA § 244(b)(1)

The Secretary did not re-designate any foreign states, or parts thereof, for TPS in CY 2007.

3. Terminations Under INA § 244(b)(3)(B)

Burundi

On November 4, 1997, the Attorney General published a Notice in the *Federal Register*, at 62 FR 59735, designating Burundi for TPS based upon ongoing armed conflict and extraordinary and temporary conditions within the country. The Attorney General extended the designation once, finding that the conditions prompting designation continued to exist (63 FR 59334). In November 1999, the Attorney General extended and re-designated TPS for Burundi. 64 FR 61123. Since that time, TPS for Burundi has been extended seven times based upon a determination that the conditions warranting the designation continued to be met. 65 FR 67404 (Nov. 9, 2000); 66 FR 46027 (Aug. 31, 2001); 67 FR 55875 (Aug. 30, 2002); 68 FR 52405 (Sept. 3, 2003); 69 FR 60165 (Oct. 7, 2004); 70 FR 52425 (Sept. 2, 2005); 71 FR 54300 (Sept. 14, 2006).

During 2007, DHS and the DOS continued to review conditions in Burundi. Based upon that review, DHS determined that the TPS designation of Burundi should be terminated because the armed conflict is no longer ongoing and because the extraordinary and temporary conditions that formed the basis of the designation have improved to such a degree that they no longer prevent Burundians (or aliens having no nationality who last habitually resided in Burundi) from returning to their home country in safety. The decision to terminate the designation of Burundi for TPS was published on October 29, 2007, in the *Federal Register* at 72 FR 61172 and the termination takes effect on May 2, 2009. What follows is a summation of the considerations that led to the decision to terminate the TPS designation of Burundi in CY 2007.

A comprehensive cease-fire was signed in September 2006 with the final remaining rebel group, the Parti Pour la Liberation du Peuple Hutu-Forces Nationales de Liberation (Party for the Liberation of the Hutu People-National Liberation Forces) (also known as the PALIPEHUTU-FNL or the FNL). The security situation has also improved in the last year. As of December 2006, 21,769 former combatants of the armed forces and former rebel groups had demobilized. Furthermore, since 2002, 319,000 Burundian refugees returned to their homes. In addition, the Government of Burundi requested that the United Nations Operation in Burundi (ONUB) terminate at the end of 2006, and the United Nations role has changed from peacekeeping to supporting the development process. Since the last extension of TPS for Burundi, the country has shown positive developments in what were then ongoing peace talks with the FNL. During 2006 and 2007, the Government of Burundi and the FNL took steps to reintegrate former FNL rebels into society. The implementation of a general cease-fire throughout the country, progress in the efforts of reconstruction and rebuilding, and active encouragement of refugees to repatriate indicate that conditions that warranted the initial designation of TPS in 1997 and the re-designation in 1999 no longer continued to be met.

Based upon this review, the Secretary found, after consultation with the appropriate Government agencies, that the armed conflict is no longer ongoing, that the extraordinary and temporary conditions that prompted the designation and re-designation of Burundi for TPS no longer prevent Burundians (or aliens having no nationality who last habitually resided in Burundi) from returning in safety, and that the designation of Burundi for TPS should be terminated. *See* INA § 244(b)(3)(A)-(B). For the complete *Federal Register* notice, see 72 FR 61172.

Appendix A

Code	Description	Code	Description
A1	AMBASSADOR, DIPLOMAT	H2B	SPECIAL EDUCATION TRAINING
A2	OTHER DIPLOMATIC OFFICIALS	H3	ALIEN TRAINEE
A3	ATTENDANTS OF A1, A2	H4	SPOUSE/CHILD OF H1 THROUGH H3
AS	ASYLUM	I	FOREIGN PRESS
ASD	RAW APPLIED FOR AT PORT	IMM	INDEFINITE PAROLE
B1	TEMPORARY VISITOR FOR BUSINESS	J1	EXCHANGE VISITOR
B2	TEMPORARY VISITOR FOR TRAVEL	J2	SPOUSE/CHILD OF J1
BE	BERING STRAIT ENTRIES	K1	ALIEN FIANC(E) OF USC
C1	ALIEN IN TRANSIT THROUGH U.S.	K2	CHILD OF K1
C2	ALIEN IN TRANSIT TO UN HQ	K3	SPOUSE OF USC
C3	TRANSIT WITHOUT A VISA	L1	INTRA-COMPANY TRANSFeree
CC	CUBAN MASS MIGRATION PROJECT	L1B	SPECIALIZED KNOWLEDGE ALIEN
CH	PAROLEE (HUMANITARIAN/HQ AUTH)	L2	SPOUSE/CHILD OF L1
CP	PAROLEE (PUBLIC INT/HQ AUTH)	M1	STUDENT-VOCATIONAL/NON-ACAD
D1	ALIEN CREW DEPART OTHER VESSEL	OP	PAROLEE (OVERSEAS AUTHORIZED)
DA	ADVANCE PAROLE (DISTRICT AUTH)	P1	ATHLETE OR ENTERTAINER
DE	PAROLEE (DEFERRED INSPECTION)	P2	EXCHANGE ARTIST/ENTERTAINER
DT	ALIEN CREW DEPART OTHER VESSEL	P3	UNIQUE PGM ARTIST/ENTERTAINER
E1	TREATY TRADER/SPOUSE/CHILD	P4	SPOUSE/CHILD OF P1, P2, P3
E2	TREATY INVESTOR/SPOUSE/CHILD	PAR	PAROLEE
EA0	EMPLOYMENT ADVISORY OPTION	PR	PAROLEE
EW1	ENTRY WITHOUT INSPECTION	R1	RELIGIOUS WORKER
F1	STUDENT-ACADEMIC	R2	SPOUSE/CHILD R1
F2	SPOUSE/CHILD OF F1	RE	REFUGEE
FUG	FAMILY UNITY GRANTED	SDF	SUSPECTED DOCUMENT FRAUD
G1	PRINCIPAL REP FOREIGN GOVT	ST	STOWAWAY
G2	OTHER REP FOREIGN GOVT	TC1	TERMINATED CONDITIONAL PERMANENT RESIDENT
G3	REP NON-RECOGNIZED FOREIGN GOVT	TWO	TRANSIT WITHOUT A VISA
G4	OFFICER/EMPLOYEE INTL ORG	UN	UNKNOWN
G5	ATTENDANTS OF G1, G2, G3, G4	UU	UNKNOWN
GT	VISITOR WITHOUT A VISA 15 DAYS	V1	MARRIED TO LPR AWAITING VISA
H1	REGISTERED NURSE	V2	UNMARRIED CHILD OF LPR AWAITING VISA
H1B	SPECIALITY OCCUPATION	WB	VISITOR FOR BUSINESS-VWPP
H2	TEMPORARY LABOR CERTIFICATION	WI	WITHOUT INSPECTION
H2A	TEMPORARY AGRICULTURAL WORKER	WT	TEMPORARY VISITOR-VISA WAIVER PROGRAM

JUL 14 2008

Office of Legislative Affairs

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

The Honorable Bennie G. Thompson
Chairman
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The enclosed report is submitted in response to the annual reporting requirement contained in the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, Section 7201(d)(3)(A)(ii), 118 Stat. 3812 (December 17, 2004), for a Training Provided to Border and Immigration Officials report.

This report was jointly produced by the collaboration of U.S. Customs and Border Protection, U.S. Citizenship and Immigration Services, and U.S. Immigration and Customs Enforcement. The report provides a description of the workload staffing and an accounting of the specialized training of border, consular and immigration officials who review identity documents as part of their official duties.

I appreciate your interest in the Department of Homeland Security, and I look forward to working with you on future homeland security issues. If I may be of further assistance, please contact the Office of Legislative Affairs at (202) 447-5890.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Kent".

Donald H. Kent, Jr.
Assistant Secretary
Office of Legislative Affairs

Enclosure

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. The OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

The National Records Center does not process petitions, applications or any other type of benefit under the Immigration and Nationality Act. If you have questions or wish to submit documentation relating to a matter pending with the bureau, you must address these issues with your nearest District Office.

All FOIA/PA related requests, including address changes, must be submitted in writing and be signed by the requestor. Please include the control number listed above on all correspondence with this office. Requests may be mailed to the FOIA/PA Officer at the PO Box listed at the top of the letterhead, or sent by fax to (816) 350-5785. You may also submit FOIA/PA related requests to our e-mail address at uscis.foia@dhs.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill A. Eggleston", written over a horizontal line.

Jill A. Eggleston
Director, FOIA Operations

**USCIS Responses to CISO Recommendations
CIS Ombudsman Annual Report 2007
January 2008**

CISO Recommendation AR 2007 – 01

The Ombudsman recommends that the Transformation Program Office:

(1) Publish transformation timelines, goals, and regular updates on the public USCIS website. The Ombudsman is concerned that transformation is proceeding largely without input from customers, Congress, and the public. The lack of transparency enables USCIS to modify deadlines and goals without producing meaningful results.

(2) Establish transparency as a goal for USCIS processing and services. The agency provides minimal information to customers who often have long pending applications and petitions. The agency could make its processes more transparent, which would reduce inquiries to the National Customer Service Center (NCSC) and the need for INFOPASS appointments, as well as make available USCIS resources for adjudicative functions.

USICS Response

The USCIS Transformation Program Office (TPO) has conducted and will continue to conduct significant outreach to its customers, the public at large, the vendor community, Congress, the Office of Management and Budget (OMB), Department of Homeland Security (DHS) leadership, and staff from across all USCIS components. Through these meetings, the TPO receives input that helps USCIS refine the TPO's goals and the strategies for meeting them. The TPO has published the Transformation Concept of Operations (CONOPS), which describes the end-state of a transformed USCIS, and has made this document available to the public via the USCIS website.

The TPO is currently in the acquisition process for the Solutions Architect and Program Management Office support. As such, it cannot publish material that is procurement sensitive. Once the acquisitions are completed in the winter of 2007, the TPO will begin making details and timelines available to the public.

Providing accurate and timely information to its customers continues to be a long-standing goal of USCIS. Current processes and systems were not designed to provide the types of information customers need. In the new transformed environment, however, customers will be better able to understand the process and more easily monitor the status of their cases. There are a number of foundational technologies and business processes that need to be developed or modified to provide information that is more current. Developing and implementing these technologies and processes will take significant time and effort, but USCIS is confident that achieving this type of transparency will improve customer service and operational efficiency.

CISO Recommendation AR 2007 – 02

The Ombudsman has observed that newer cases are processed more quickly while cases more than 6 months old are increasingly backlogged. The Ombudsman supports the USCIS drive to maximize case completions, but attention needs to be directed at clearing older cases.

The Ombudsman recommends that USCIS provide a clearer picture of the current backlog by providing information on the number of pending cases by form type with receipts that are: (1) less than 90 days; (2) less than 180 days; (3) less than 1 year; (4) less than 2 years; (5) less than 3 years; (6) less than 4 years; and (7) greater than 4 years.

USICS Response

USCIS began using “aging reports” during the backlog elimination period and continues to rely on aging reports for work prioritization and work distribution. Currently, aging reports are helping to identify and prioritize abeyance cases and to schedule interviews as needed. These aging reports are an integral part of the adjudication process.

USCIS agrees that it would be useful to track and report cases based on the actual processing age of each case rather than on statistical averages, and that continues to be a goal of the new case processing system being developed as part of the agency's Transformation Initiative.

CISO Recommendation AR 2007 – 03

Currently, USCIS provides processing times based on agency goals, rather than actual processing time as it previously provided. In addition to the agency's responsibility to be transparent, green card applicants in particular should know if applications will be processed within 90 days, rather than the 180-day target time, to avoid applying unnecessarily for interim benefits. The Ombudsman recommends that USCIS return to providing the public with actual processing times for each field office.

CIS Response

USCIS understands CISO's concern with the posted processing times. However, USCIS is committed to setting appropriate expectations for its customers. Occasionally processing times for some applications in some offices may be faster than the agency goal. Unless these shorter processing times remain constant for a period of time, it would be inappropriate for USCIS to report those times. If a particular office shows a consistently shorter processing time over several months, and believes it can sustain it, then USCIS will take this recommendation into consideration and post the revised processing time.

CISO Recommendation AR 2007 – 04

The Ombudsman recommends that USCIS adopt the frequently asked questions format used by Customs and Border Protection (CBP), incorporating a dynamic search feature on the website, rather than a static FAQ list. In addition, USCIS should provide a service on the website whereby customers can email a question and receive an answer within a short period of time.

USCIS Response

USCIS's website currently offers a search capability. In addition, the USCIS National Customer Service Center (NCSC) offers a sophisticated 1-800 phone inquiry system with two tiers of live assistance to accept questions and to provide response from customers.

USCIS Information and Customer Service will work closely with the Transformation Program Office and the USCIS Office of Communications to collaborate on enhancing the availability of information through the USCIS website, including improvements in the search function for the wide array of information now available.

CISO Recommendation AR 2007 – 05

The Ombudsman further recommends that USCIS adopt a national process similar to that in the San Diego Field Office wherein an applicant who has not received a decision after an interview can contact the District Adjudications Officer (DAO) via email. If the DAO fails to respond within a set period of time, the applicant should be able to contact the supervisor. If there is still no response, the applicant should be able to contact the District Director.

USCIS Response

The National Customer Service Center currently provides an avenue for applicant follow-up via individual phone inquiry and the Service Request Management Tool (SRMT). Specifically, for phone inquiries involving case status that cannot be answered by Tier 2 database reviews, the Immigration Information Officers (IIOs) at Tier 2 will create a service request in SRMT. The service request will be forwarded to the appropriate adjudicating office for action and/or direct response to the customer.

USCIS plans to expand e-mail inquiries on a limited basis as an interim solution, and the Information and Customer Service (ICS) Division is working to create an e-mail mechanism for applicant follow-up after completion of an interview.

As a long-term solution, the agency is continuing work on an ICS initiative to permit online referrals from customers using the SRMT. This tool will employ appropriate screening to distinguish the types of referrals that are suitable for the online handling from those referrals that require live operator intervention.

CISO Recommendation AR 2007 – 06

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

USCIS Response

USCIS recognizes the impact of the current name check process. While the agency will not approve a case unless all appropriate background checks are favorably resolved, USCIS understands the need to make improvements in this process. The Department of Homeland Security and the Department of Justice are engaged at the highest levels in examining the National Name Check Program (NNCP) to improve both the effectiveness and efficiency of the process. In June 2007, USCIS and the FBI undertook a pilot project to test a variety of approaches to improve the quality of information developed through the name-check process for use in the adjudications process. On October 5, 2007, DHS, USCIS, and the FBI signed a memorandum of agreement that sharpens the focus of the name-check process on the most productive FBI files, while encouraging fuller interaction between the two agencies in the NNCP and other venues.

USCIS and the FBI have both dedicated substantial funding to the FBI in FY07 and FY08 for additional contract staff who are being dedicated full time to the USCIS pending name-check caseload. The FBI has initiated a new study of its name-check process by an outside contractor to identify additional opportunities for efficiency gains. USCIS and FBI staff are in continuing dialogue on additional measures to improve the efficiency and effectiveness of the name-check process. These steps include placement of USCIS officers at NNCP facilities to work with FBI analysts to furnish information pertinent to USCIS adjudication.

Through revisions to the name-check search criteria introduced via the MOA, both the FBI and USCIS anticipate significant reductions in the pending caseload and a sustained, sharper focus in the name-check process resulting in fewer long-term, pending cases. USCIS has briefed the CISO on several occasions regarding the full scope of FBI-USCIS cooperation under the MOA.

The third recommendation (providing monthly totals of long-pending name-check cases) has been implemented. Pertinent data is being shared and discussed with concerned agencies.

CISO Recommendation AR 2007 – 07

The Ombudsman recommends that USCIS conduct a thorough, transparent, and independent analysis of premium processing costs as compared with regular processing. The Ombudsman recommends that this process include a comparison for each stage of these processes for: (1) contractor costs; (2) federal employee costs; and (3) all other associated costs.

USCIS Response

USCIS will conduct the recommended review. In addition, we look forward to receiving from the Ombudsman any detailed qualitative and/or quantitative information relating to this recommendation.

CISO Recommendation AR 2007 – 08

The Ombudsman recommends that USCIS institute same-day fraud interviews in all field offices. Timely adjudication of applications will deny fraud perpetrators additional preparation time and timely decisions will prevent issuance of interim benefits.

USCIS Response

USCIS believes that same-day fraud interviews are beneficial, and while not a requirement, same-day fraud interviews are already taking place at many USCIS field offices. Improvements in pre-interview case analysis will allow the agency to focus on fraud issues during the interview. The majority of fraud found during the interview process relates to marriage-based petitions, which are the specific fraud interviews referenced in the Ombudsman's report. If the adjudicator suspects fraud during the course of an interview, the adjudicator can separate the petitioner and beneficiary and conduct separate individual in-depth interviews. Predicting how many cases per day will require more extensive interviews is difficult and scheduling long interviews for all cases unnecessarily decreases productivity. USCIS has found that rescheduling an interview where fraud is suspected to allow USCIS to conduct a site visit can also detect and prevent fraud.

CISO Recommendation AR 2007 – 09

The Ombudsman recommends that USCIS produce an Aging Report on pending fraud investigations by officer and district. There should be a reasonable limit to the time allotted for investigation by the fraud unit.

USCIS Response

USCIS agrees that managing this workload requires a certain level of inventory control, production reports, and associated analysis of operations. USCIS does not support placing limits on the time allotted for investigations. Every fraud investigation is unique and can involve hundreds, if not thousands, of petitions or applications. Many investigations require close coordination with multiple agencies (including overseas components), extensive interviews, and in-depth database and file reviews. Furthermore, cases accepted for criminal investigation are under the control of other organizations. USCIS is committed to managing its fraud investigation workload in a way that ensures it is operating in an efficient and effective manner.

CISO Recommendation AR 2007 – 10

The Ombudsman strongly endorses a plan whereby employees responsible for quality assurance at the local level receive uniform and comprehensive training in QA procedures.

USCIS Response

The current quality assurance training curriculum is focused on the Quality Assurance Handbook, Naturalization Quality Procedures (NQP), policy memoranda, local standard operating procedures, and several self-study courses available through the Training and Career Development Division website, "EDvantage."

The Quality Management Branch has been tasked with implementing an improved quality program. An integral part of the enhanced program will be the formation of a Quality Advisory Group, which will be responsible for revising existing quality assurance reviews, developing new reviews, and assisting in the management of the Quality Management Program.

USCIS recognizes that a more standardized training approach is needed for Quality Analysts in the field. A priority for the Quality Advisory Group is to develop an enhanced uniform training program that will provide classroom training, additional e-learning opportunities, and standard operating procedures to all quality assurance reviewers.

CISO Recommendation AR 2007 – 11

For the Chicago Lockbox, the Ombudsman recommends that USCIS:

- (1) Implement a procedure so the Lockbox will not accept a new filing if a case already has been denied and a Notice to Appear (NTA) issued;**
- (2) Institute a process to notify a field office when an application is rejected; and**
- (3) Implement quality review measures to ensure that errors do not occur in mailings to applicants.**

USCIS Response

USCIS will work with the Executive Office for Immigration Review (EOIR) to establish appropriate procedures for filings where an NTA has been filed.

Case information including reason for rejection is uploaded into CLAIMS 3, which can be accessed by USCIS offices. In addition, USCIS offices may contact the Lockbox through established procedures if there is a need to examine more specific reasons why a particular application was rejected.

USCIS Lockbox operations will continue its ongoing quality assurance process with respect to outgoing mailings to ensure that errors do not occur in mailings to applicants.

CISO Recommendation AR 2007 – 12

USCIS currently uses substantial resources to issue and review RFEs for information that already was submitted or was unclear in the original application instructions. While the agency in its 2006 Annual Report Response (at p. 17) indicates that it continues to work to improve the clarity of form instructions, the Ombudsman recommends that USCIS develop:

- (1) Clearer application instructions so that applicants provide the required documentation at the outset;
- (2) Transparent and easily understandable rejection criteria; and
- (3) RFEs written in simple, more direct language with less legalese and personalized to the recipient for the limited instances in which RFEs would be issued.

USCIS Response

USCIS Information and Customer Service (ICS) Division has restructured and focused its Content Team to include reviews of all form instructions and other public documents available through the USCIS web site to improve consistency and clarity. The ICS Content Team will work closely with the other components of Domestic Operations, which share the responsibility for benefit forms development and adjudication instructions, to collaboratively develop more consistent, plain-English instructions.

CISO Recommendation AR 2007 – 13

The Ombudsman recommends that the USCIS budget for each headquarters element include sufficient funds for detailed visits with field office and service center line and supervisory staff to enable headquarters to better understand the needs of these offices.

USCIS Response

The USCIS Office of the Chief Financial Officer, Budget Division, has established a formalized process for determining the allocation of financial resources to support the successful achievement of agency's goals and priorities. This process involves the development of an integrated Annual Operating Plan (AOP) in concert with an Annual Performance Plan. As part of the AOP process, USCIS Headquarters and field offices are allocated certain amounts of discretionary operation expense funding to support operational activities such as business travel, employee training, and purchase of supplies and materials. The Budget Division seeks to develop the AOP in a manner that maximizes the utility of all available resources by ensuring that resource allocations are targeted to the areas of highest priority and strategic value. Moreover, the AOP process ensures that a reasonable amount of flexibility is provided to HQ program offices to allow staff officers ample opportunity to visit field offices and learn of issues and concerns that may exist in the field.

CISO Recommendation AR 2007 – 14

The Ombudsman recommends that USCIS define a program to ensure proper handling and monitoring of its records. The program should be assigned to a USCIS headquarters office element.

USCIS Response

The USCIS Headquarters Office of Records Services (ORS) within the National Security and Records Verification Directorate is responsible for providing timely access to paper and electronic records for its customers in the benefit and enforcement communities. The ORS's Electronic Records Branch maintains the National File Tracking System (NFTS), which is deployed at most USCIS domestic and foreign sites and is responsible for identifying the location and movement of USCIS Alien Files. Additionally, ORS is responsible for the maintenance and usage of USCIS microfilm, microfiche, and digitized files, and develops USCIS records management policy for the monitoring, movement, and handling of these records.

With regard to file movement among DHS components, ORS has a proactive policy to improve communication and Alien File accountability with ICE and CBP. ORS has designated a liaison who meets regularly with ICE and CBP counterparts and arranges for training ICE and CBP personnel on ORS policies and procedures. ORS is also working with ICE and CBP to have these agencies' offices become official files control offices (responsible for A-Files in their possession) with full access to the NFTS. In a recent effort to obtain feedback from ICE and CBP personnel on records practices, ORS worked with the DHS Records Officer and developed an NFTS survey that was broadcast to all ICE, CBP and USCIS personnel. ORS is currently in the process of analyzing the results from that survey. ORS is also working with DOS to grant that agency access to NFTS and USCIS in support of our data share initiative. ORS is currently engaged with its customers in a major effort to digitize A-Files as a means of ensuring quick, broad, concurrent access to users, while reducing the inefficiencies of handling paper. As part of this effort, ORS is working with ICE and CBP to develop and implement a "scan-on-demand" program. It will focus initially on responding to ICE and CBP file requests by providing digitized A-Files to the requester's desktop, rather than shipping the paper file."

CISO Recommendation AR 2007 – 15

The Ombudsman also recommends that USCIS:

- (1) Ensure that a computer refresh does not adversely impact local systems;**
- (2) Make available to each local office software that is authorized to enable offices to continue to use previously created documents in those systems; and**
- (3) Consider a long-term solution to the onsite support issue such as a central system.**

USCIS Response

(1) All USCIS national systems are developed in compliance with the Federal Information Security Management Act (FISMA), the Privacy Act, and current DHS management directives surrounding Information Technology (IT) security. These national systems are carefully evaluated and managed through all system upgrades or technology refreshes. However, a legacy of locally developed systems currently exists throughout USCIS offices, and it is these local systems that are sometimes affected by changes to the USCIS infrastructure in preparation for the Transformation effort or to correct IT security and privacy weaknesses. USCIS is managing a very careful balance between maintaining these locally developed systems upon which local business practices are based, and placing an aggressive and rapid emphasis on improving the IT security posture and safeguarding the privacy information of its customers.

(2) Documents or data that are created in systems that are in compliance with FISMA, the Privacy Act, and DHS IT management directives are normally provided with migration strategies when new technology is introduced into the USCIS IT infrastructure. Some locally developed systems that were created without adequate IT security or privacy safeguards are affected when necessary modifications to IT security are implemented. Despite their impact on local systems, these improvements to the USCIS infrastructure are essential to eliminate flaws in the IT security posture. A review of the cost of a dedicated systems development effort to correct the IT security flaws of the local system, the availability of funds for the locally developed system, and the potential for widespread implementation of the system are all considered when evaluating the value of the system. Systems that are developed in absence of due consideration for IT security are frequently cost-prohibitive for the local office to correct, and are so locally focused that agency-wide use and implementation of each system is also prohibitive.

(3) USCIS agrees with this recommendation and notes that the enhanced funding from the recent fee increase provides for a viable central IT program to begin to provide responsive service and better IT controls around the type of systems and the viability of the IT security posture and privacy safeguards being implemented.

CISO Recommendation AR 2007 – 16

The Ombudsman recommends that the Chief Human Capital Officer have a rank position equal to the Chief Information Officer and Chief Financial Officer. USCIS should establish the role as a career reserved SES position.

USCIS Response

USCIS leadership has made it a priority to increase SES staffing, and the agency will continue to work towards this goal. Should additional career SES positions become available for this purpose, USCIS will consider placing an SES position as the agency's Chief Human Capital Officer.

CISO Recommendation AR 2007 – 17

The Ombudsman recommends that USCIS ensure there is a comprehensive merger of core job career paths with necessary training requirements – mandatory, technical, and leadership – oriented to future needs and groups, as well as transparency from entry to executive levels.

USCIS Response

USCIS appointed an internal working group to conduct an intensive study of the duties and responsibilities relative to Domestic Operations field offices. As a result of the information and data collected through site visits, focus groups, interviews with managers and employees, as well as the review of existing position descriptions, duties, and responsibilities, USCIS developed a new series of positions that combined numerous positions at the various levels of responsibility from GS-5 through GS-13. Each career series includes an assistant role and three levels of ability which are directly tied to the responsibility at each level. The following three career paths are being proposed: Administration, Analysis, and Adjudications

These new series create a more flexible workforce that will allow USCIS to operate efficiently, be prepared to meet changes in workload demands, and provide for greater consistency in training and developing the work staff to perform the mission of the agency. Additionally, the blended series provides for a clear line of site from entry-level to full performance whereby high performers can map out career paths.

Equally important, USCIS has developed a new Immigration Officer Corps training program, BASIC, that expands the new officer training from 6 to 10 weeks and provides hands-on operational learning. In addition to enhancing the basic training program for new officers, a continual learning program is being expanded to provide for ongoing career growth of the current Officer Corps.

USCIS has implemented a number of leadership programs that are open to all personnel, including the Officer Corps and support staff. This includes a number of highly acclaimed executive development programs, as well as a variety of graduate school and agency-sponsored leadership development programs. USCIS has also acquired an increase in allocations at the Federal Executive Institute (FEI) to prepare high performing individuals to take on leadership positions in the future. As part of the FEI experience, participants are required to participate in a rotational assignment that, upon completion, qualifies as a managerial rotational program in association with the requirements set forth in the Homeland Security Act of 2002.

CISO Recommendation AR 2007 – 18

The Ombudsman recommends that USCIS' blended approach to training continue and expand. USCIS should establish, regulate, and evaluate core training needs throughout its operations in the same manner for its review of the Basic Officer Training Course for adjudicators.

Moreover, the quality of the curriculum, teaching methodology, and instructors needs to be assured. USCIS should establish a certification process for both federal and contracted instructors.

USCIS Response

USCIS believes that training should involve a variety of approaches and methods. The newly revised officer training program, BASIC (which was implemented in September 2007), blends many different learning techniques in a variety of settings, including formal classroom lectures, interactive discussions and exercises, and hands-on practical training.

USCIS is committed to developing and maintaining a consistent and high-quality training program. The Federal Law Enforcement Training Center (FLETC), where USCIS officers currently are trained, has an instructor certification program, and the agency is looking into its quality and efficiency for wider use among the regular and adjunct instructors.

CISO Recommendation AR 2007 – 19

To reduce USCIS's dependency on temporary employees and assignments, the agency should establish a table of standard staffing levels and office organization to provide the requisite staff at any particular office.

USCIS Response

USCIS established full-time permanent (FTP) staffing levels for every USCIS HQ and Field Office at the beginning of FY2006. This officially established an approved table of organization staffing profiles for every office, which helped ensure that appropriate internal controls were in place to prevent individual offices from hiring more employees than the budget could support. In addition, USCIS accounts for and controls its authorized positions, both permanent and temporary, through the Table of Organization Position System (TOPS) that is owned and maintained by Immigration and Customs Enforcement (ICE). USCIS accesses this system and provides financial resources to support its use through a service-level agreement (SLA) with ICE.

In addition to establishing a formal table of organization and managing all positions through the TOPS system, the Operations Planning Division within the Domestic Operations Directorate has developed a staffing allocation model (SAM) to identify the required number of permanent and temporary positions that are needed to timely and accurately process pending and incoming workload within the published processing time standards.

CISO Recommendation AR 2007 – 20

The Ombudsman recommends that USCIS expand the opportunities for vertical and horizontal communication among offices by supporting conferences focused on specific work issues and providing funds for travel of working level staff to share best practices.

USCIS Response

USCIS is committed to sharing best practices among various offices through the use of live conferences and promoting fiscal responsibility through greater use of web-based video conferencing.

USCIS recently hosted in-person conferences and meetings of subject-matter experts to share ideas and best practices to create training modules for the newly revised basic officer training program. This has provided an excellent opportunity for USCIS employees at the working level to take part in creating a shared vision that will be used to train and develop our newest officers throughout the agency.

CISO Recommendation AR 2007 – 21

The Human Capital and Training Office in collaboration with field offices and service centers, should determine the skills and knowledge sets required for supervisors to be effective in their daily managing of people and resources. Specific resources or training programs should be identified on diversity requirements, discipline issues, handling problem employees, evaluating workflows, and budget management. Headquarters funds should be provided to field offices for employees to attend these sessions.

USCIS Response

The new fee rule funding will provide enhanced resources for USCIS training. The new training budget includes funding for these types of supervisory training and development programs that equip USCIS supervisors to be more effective managers. The training program is also working to improve the curriculum for the supervisory training courses.

CISO Recommendation AR 2007 – 22

The agency should establish actionable multi-year milestones that lead to fulfilling the objectives of the Strategic Workforce Plan and ensure a systemic and sustained effort to recruit and develop its personnel. Responsibility to implement the plan should be included as a specific job requirement for the Chief Human Capital Officer and in the job requirements statements of the senior officers in the Office of Human Capital and Training.

USCIS Response

Following a contracted study of the current status and future requirements of the USCIS workforce and training programs, the Office of Human Capital, Training and Career Development recently received a report outlining a potential strategic framework for multiple human capital initiatives. USCIS is currently examining the research and findings of the report in more detail. It will give careful thought to the ideas presented and strategically implement selected recommendations in coordination with operational needs.

CISO Recommendation AR 2007 – 23

The Ombudsman recommends that USCIS:

- (1) Consider amending job requirements to include basic knowledge of certain commercially available computer programs used in the offices; and**
- (2) Provide all interviewing officers with Interviewing Techniques Training. Adjudicators who received this training indicated it helped them conduct better interviews.**

USCIS Response

USCIS has found that most employees come to their respective positions with a basic working knowledge of relevant commercially available computer programs. However, local training is also offered as needed on those commercially available programs that pertain to each employee's specific job duties, particularly to those who require a more advanced level of program knowledge.

Instruction on interviewing methods and techniques has always been an integral part of basic officer training, but this topic now receives significantly more emphasis and attention in the recently implemented BASIC training program, which began in September 2007. BASIC training includes an additional practical training section, which provides all student officers with an opportunity to conduct live interviews under the guidance and supervision of an experienced officer.

CISO Recommendation AR 2007 – 24

The Ombudsman recommends that USCIS end the now three-year old DORA pilot. USCIS should evaluate the different up-front processing programs to determine the comparative value of each program and whether they should be expanded. The USCIS findings and empirical data should be made available to the public. The agency should either implement a version of DORA nationwide or another program which will achieve the same objectives with equal or better results.

USCIS Response

The District Office Rapid Adjudication (DORA) pilot program initiative was instituted on the recommendation of the USCIS Ombudsman. The initiative was designed to increase USCIS customer service, processing efficiency, and national security. USCIS reviewed the pilot program. Based on this analysis, USCIS decided to allow the DORA pilot to end on the previously announced pilot cessation date of September 21, 2007. USCIS did incorporate some of the efficiencies noted during the DORA pilot into the intake procedures at the National Benefit Center such as, the prescreening of applications and initiating biometrics checks before scheduling interviews.

CISO Recommendation AR 2007 – 25

The Ombudsman recommends that USCIS redraft Form I-589, the asylum application, so that it is less complicated and more understandable by the intended audience – persons who have been persecuted based on race, religion, nationality, membership in a particular social group, or political opinion.

USCIS Response

On June 29, 2007, USCIS published a notice in the Federal Register requesting input from the public on making the Application for Asylum and for Withholding of Removal (Form I-589) and its instructions more user-friendly. USCIS did not receive any comments during this 60-day period.

To enhance comprehension and better assist applicants with completion of the form, however, the USCIS Asylum Division has been working to translate Form I-589 and its instructions into many of the most common languages used by asylum applicants including Spanish, Creole, Chinese, Russian, Indonesian, Arabic, Amharic, French, Armenian, Nepalese, and Albanian. These translated documents are scheduled for publication before the end of calendar year 2007.

In addition, USCIS and the Department of Justice Executive Office for Immigration Review (EOIR) are currently finalizing new guidelines regarding filing locations for inclusion in the form instructions, an addition made necessary due to the removal of such guidelines previously outlined in USCIS regulations. USCIS will publish this modification and the I-589 renewal in a 30-day Federal Register notice prior to the expiration of the I-589 at the end of December 2007.

Finally, USCIS and EOIR will continue to coordinate and discuss possible changes to simplify the I-589 application and instructions during the annual revision process.



**Homeland
Security**

FEB 13 2008

The Honorable Zoe Lofgren
Chairman
Subcommittee on Immigration, Citizenship, Refugees,
Border Security, and International Law
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20510

Dear Madam Chairman:

The enclosed report is the U.S. Citizenship and Immigration Services (CIS) response to the recommendations made by the CIS Ombudsman pursuant to Section 452(f) of the Homeland Security Act of 2002 (Public Law 107-296).

I appreciate your interest in the Department of Homeland Security, and I look forward to working with you on future homeland security issues. If I may be of assistance, please contact the Office of Legislative Affairs at (202) 447-5890.

Sincerely,

A handwritten signature in dark ink, appearing to read "Don Kent".

Donald H. Kent, Jr.
Assistant Secretary
Office of Legislative Affairs

Enclosure

**RESPONSE TO THE CITIZENSHIP AND IMMIGRATION SERVICES
OMBUDSMAN'S 2007 ANNUAL REPORT
JANUARY 2008**

Since its establishment in March 2003, U.S. Citizenship and Immigration Services (USCIS) has made tremendous strides in improving the level and quality of services to its customers, while ensuring strict and continuous adherence to security measures and to the letter and spirit of the Immigration and Nationality Act.

The 2007 Annual Report of the Citizenship and Immigration Services Ombudsman (CISO) discusses certain areas that have been the focus of improvement for USCIS since its inception. Specifically, USCIS has strived to improve upon technology, transformation and modernization, customer service, adjudicative processes, backlog elimination, and training and development of its workforce. USCIS has been resolute in its efforts to seek new and innovative solutions to issues that hindered its predecessor agency, the Immigration and Naturalization Service (INS).

In response to CISO's 2007 Annual Report, USCIS provides this update to its efforts over the past year to improve services and processes geared toward fulfilling the agency's goal to "Secure America's Promise as a Nation of Immigrants."

Transformation

In February 2006, USCIS created a new Transformation Program Office (TPO) to lead the agency's development of a 21st century operating environment. While CISO's Annual Report noted that TPO's goals are based on Information Technology (IT) modernization, forms revision, and digital processing capabilities, the comprehensive Transformation Program also includes well-laid plans to transform the supporting IT infrastructure, current business processes, and staff capabilities to enable end-to-end electronic processing of immigration benefits. In accordance with the acquisition strategy that USCIS selected, specific project activities will be finalized once the Transformation IT Services Contract has been awarded. (See Concept of Operations at http://www.uscis.gov/files/native/documents/TransformationConOps_Mar07.pdf)

TPO is currently conducting four pilot programs that focus on modernization and improvements in the areas of case processing and systems updating, biometrics management, and information sharing:

- **Adoptions Processing Pilot:** This pilot program will validate the workflow capabilities of Commercial-Off-the-Shelf (COTS) software to manage electronic processing of one business line (i.e., petitions filed in the foreign adoption process).
- **Unique Identity Pilot:** This pilot will link biometrics to biographic data and freeze the identity of an individual throughout the USCIS immigration process.
- **Biometrics Management Pilot:** This pilot will improve USCIS's biometrics management of 10-print images and other biometrics data (photographs and 2-print images).
- **Paperless Data-Sharing Pilot:** This pilot will allow USCIS to scan, digitize, and make electronic files available to all authorized users.

Backlog Elimination

USCIS focuses on active case management to achieve its backlog elimination and production objectives. Most resources are applied to cases that are ready for adjudication. Those cases not yet ready for adjudication are carefully monitored and controlled. Examples of cases not ready for adjudication are: cases pending law enforcement security checks, naturalization test re-exams, naturalization candidates awaiting scheduling of a judicial ceremony, and cases in which USCIS is waiting on an applicant or petitioner to respond to a request for evidence that is needed to complete the adjudication. USCIS's internal production plans and reports, which include both net and gross application numbers, are considered when developing and assessing future production plans.

USCIS has devoted significant planning and resources to managing and improving production. The USCIS Backlog Elimination Plan was launched in FY 2002. Before July 2007, the agency saw a significant decrease in both the overall number of pending cases and processing times. The gross backlog of all applications decreased from 3.8 million in May 2004 to just over 1.1 million in July 2006. In addition to decreasing the total number of pending cases ready for adjudication, USCIS worked persistently to reduce processing times. Through the Backlog Elimination Plan, the processing time for N-400s (applications for naturalization) fell from a previous high of 14 months in February 2004 to approximately 5 months in September 2006.

While USCIS continues to make process improvements to eliminate the backlog of cases and prevent new backlog, events in the summer of 2007 brought a significant increase in the number of applications and petitions filed that resulted in a corresponding increase in the pending workload. This dramatic increase in immigration applications was triggered by: (1) a significant year-long increase in naturalization applications that peaked in the fourth quarter, (2) applicants filing ahead of the increase in fees effective on July 30, 2007, and (3) an unexpected increase in employment-based (EB) adjustment-of-status applications. This influx of applications and petitions created a delay in receipting sometimes referred to as a "front log".

On May 30, 2007, USCIS issued a final rule to increase the fees charged for immigration applications and petitions consistent with the law. This fee increase was necessary to ensure continued improvement in USCIS's ability to process applications and petitions as well as to fund critical infrastructure development. Proactive management steps accompanied this effort to ensure that this process would be successful; however, the agency experienced a substantially larger influx of applications than USCIS originally predicted. In July and August, nearly 2.5 million applications and petitions of all types were received. This compared to 1.2 million applications and petitions received in the same time period last year. This fiscal year we received 1.4 million applications for naturalization, nearly double the volume we received the year before. We estimate that this significant workload will result in application completion times temporarily reaching:

- 16 to 18 months for naturalization applications
- 10 to 12 months for adjustment of status applications
- 9 to 10 months for immigrant petitions for relatives and workers

To address this additional workload, USCIS has expanded office hours, added shifts, allocated overtime for both contract and Government employees, and realigned resources to ensure that all applications were processed as quickly and efficiently as possible. Additionally, USCIS has developed a response plan that relies on staffing increases, key process changes, and a greater leveraging of technology in FY 2008.

USCIS also took great care to receipt all cases in chronological order according to their postmark dates, and prioritized certain types of applications to ensure that legal obligations were met. A critical target was to ensure that all applications to adjust status (I-485) were receipted in a timeframe to allow processing of an application for an Employment Authorization Document (EAD) within 90 days of filing. The next major target was, and continues to be, the receipting of applications for naturalization (N-400) to ensure that customers receive citizenship in a timely manner. USCIS resolved the receipt delay of adjustment-of-status applications in November 2007 and is on track to receipt the remainder of the applications and petitions—mainly naturalization applications and family based petitions—by February 2008.

In June 2007, recognizing the impact that a receipt delay would have on customers, USCIS began advising the public on its website of the status of receipting progress. USCIS also developed and executed a Risk Mitigation and Communications Plan to ensure effective communication with stakeholders. USCIS published frequently asked questions (FAQs), analyzed calls from customers and updated FAQs accordingly, participated in the CISO public conference call on the receipt delay, and provided CISO with responses to questions that were published on the CISO website.

USCIS is prepared to address this new influx of applications by drawing on the knowledge and experience developed through execution of our five-year Backlog Elimination Plan. The agency has already identified a number of strategies to improve efficiencies and production. USCIS is intent on meeting its commitment to customers and to achieving optimal processing times. (USCIS will share its work plan to address the backlog with the CISO office and hopes a collaborative approach will bring about additional strategies that will benefit its customers.)

Another major initiative aimed at backlog elimination and workload concentration was the realignment of the USCIS office structure. In November 2006, USCIS announced a new configuration of the management structure of Regional, District, and Field Offices designed to provide a more balanced and responsive command and control structure. The organizational structure of the former INS consisted of three regions and 33 districts. However, while the workload and workforce distributions were geographically matched, this field office alignment was not geographically balanced. For example, one region had a workforce that was almost as large as the other two regions combined, and some of the largest districts held workforces that were up to 50 times larger than other districts.

To provide more balanced structure, USCIS has now established new district boundaries, in which each district will manage a better distribution of both workload and personnel. In addition, USCIS has established a new Southeast Regional Office in Orlando, Florida, to more effectively accommodate the larger immigration benefit workload in this part of the country. Furthermore, two new districts have been created (in Sacramento and Tampa) adding a greater level of service to applicants and petitioners in those areas of California and Florida that were previously under the jurisdiction of larger districts.

Training/Workforce Development

Because the USCIS workforce is its most important resource, major efforts are underway to improve the recruitment, training, and development of agency employees. As an integral part of USCIS's efforts to provide high-quality, ongoing staff education and training opportunities, the USCIS Director and the Office of the Chief Human Capital Officer developed the USCIS Academy. The USCIS Academy consists of five main components: BASIC, LEAD, Back-to-School (TAP), Continuous Learning (Professional and Workforce Development), and Advanced Immigration Training, which are intended to promote professional growth and development among all levels of USCIS staff.

BASIC: The newly redesigned USCIS Officer Corps training program, BASIC, was implemented in September 2007. BASIC will cultivate a workforce that honors public service, boasts unparalleled immigration expertise, operates with absolute vigilance in matters of national security, displays sensitivity where human factors are involved, and exemplifies the highest standards of professionalism and ethical conduct. In addition, a standardized and informative New Employee Orientation Program has been developed.

To build upon traditional classroom learning, the new BASIC includes a practical training segment that will allow all new officers an opportunity to work with live cases and interact with real customers prior to returning to their assigned worksites. By cross-training the Service Center and Field Office workforces, USCIS is developing a well-rounded Officer Corps that is prepared to provide consistent decisions on benefit applications and petitions in accordance with applicable laws and regulations, a diligent awareness of security concerns, and an ever-present consideration of the effect of USCIS's decisions on those who are served.

Leadership Education and Development (LEAD): During FY07, more than 260 USCIS employees took advantage of professional development opportunities under the LEAD Program through educational offerings at a network of distinguished top-tier academic institutions. Building on the program's success in its inaugural year, LEAD will offer current and future USCIS leaders at a range of grade levels with enhanced opportunities to strengthen their strategic leadership, decision-making, and critical thinking skills. LEAD offerings bring the best interagency education to bear on the complex national security issues confronting USCIS and enhance collaborative leadership across organizational boundaries.

Back-to-School Tuition Assistance Program (TAP): To assist those USCIS employees who have not yet completed their undergraduate studies, the *Back-to-School* program will reimburse tuition expenses incurred at accredited institutions. Employees will also be reimbursed up to a certain amount for tuition incurred for individual academic classes and training, including executive education certificate programs and coursework leading to an advanced degree. Priority will be given to programs of study directly related to the employee's job, the mission of USCIS, or DHS interests.

Professional and Workforce Development: The USCIS Academy will offer opportunities for employees to broaden their knowledge of basic core skills and technical disciplines through online, in-house, and residential courses. This component of the Academy will also provide training for new supervisors, as well as refresher training for more seasoned supervisors.

Advanced Immigration Training and Seminars: To further cultivate and enhance the core expertise of USCIS's workforce, Advanced Immigration Seminars will be developed and offered on a regular basis.

USCIS is also actively circulating high-level supervisors and managers throughout other agency offices through management rotations and detail assignments. USCIS field managers are also rotated through USCIS Headquarters, providing an opportunity for employees to interact and provide "real-life" input from various perspectives. Sharing of employees, skills, and ideas will improve the communication and cooperative relationships among the various entities that comprise the agency.

Security

USCIS is committed to completing security checks to ensure immigration benefits are afforded only to those who are eligible. USCIS undertakes a number of security checks to achieve that outcome. Some required checks are within the control of the agency and can be completed in a timely manner. However, completion of the required Federal Bureau of Investigation (FBI) Name Check is not within USCIS's

control. While the majority of name check results are returned within a relatively short period of time, some cases wait much longer for their results. USCIS realizes that a considerable number of the agency's pending cases are awaiting only the completion of this security check. As such, a great deal of time and effort has been put forth in the past year to find ways to minimize the delays caused by the name check process. USCIS and the FBI are working together to resolve this sensitive issue and have already agreed on selected process changes that are expected to improve the effectiveness of the Name Check process from a national security and public safety perspective, while streamlining the process and clearing a substantial number of pending cases (and shortening the average process time for future cases) for final adjudication. This should result in considerable productivity gains and quickly help to reduce the backlog without jeopardizing national security. In addition, as a result of the higher FBI fees for namechecks, they are hiring additional staff and contractors for USCIS name check requests and ongoing reengineering efforts, such as increasing operator-to-operator collaboration between FBI and USCIS field personnel, should improve both the quality and responsiveness of the name check process going forward.

USCIS has also made tremendous strides in securing the U.S. workforce from those not authorized for employment through E-Verify (formerly known as the Basic Pilot Employment Eligibility Verification Program). In 2007, E-Verify was improved and expanded, providing a streamlined and completely electronic means by which many more U.S. employers can now electronically submit new employee information to verify and validate authorization for employment.

E-Verify improves USCIS's ability to help identify instances of document fraud and identity theft by incorporating a previously pilot-tested photo-screening tool allowing the employer to:

- View the exact photo that appears on the USCIS created document; and then
- Compare it to the photo on the document the employee presents as evidence of employment authorization during the Form I-9 (employment eligibility verification) process.

Furthermore, USCIS is making even greater use of this system by beginning to monitor E-Verify data for patterns to detect identification fraud, verification related discrimination, and employer misuse of the program.

To help U.S. employers become familiar with the E-Verify program, USCIS is conducting major outreach efforts with effective force multipliers such as human resource and employer associations.

In addition to providing a high level of security screening and integrity associated with immigration benefits and employment verification, USCIS has also undertaken a significant internal reorganization to focus on security within the agency itself. The Office of Security and Integrity (OSI) was created in March 2007. OSI has the expertise that allows the agency to focus more effectively on management and professional integrity, as well as on organizational security for its employees and facilities. USCIS understands that it must ensure that its own agency's security and integrity are beyond reproach and that its employees and facilities are secure. OSI will serve to elevate, and increase the visibility of, USCIS's internal security and integrity programs.

Communications and Customer Service Issues

USCIS is continually improving its visibility with the public and its ability to provide clear and concise information. USCIS has undertaken extensive revisions to various applications and petitions in order to make those forms more “customer-friendly” by more completely explaining the purposes of the forms, the necessary supporting documentation, and the appropriate filing locations.

Through changes made with the agency’s contractors, USCIS has experienced record levels of customer satisfaction with its National Customer Service Center. The 1-800 number service levels reached as high as 86 percent overall satisfaction. The average speed of answer for live assistance went from 30 minutes to less than a minute, and abandonment rates fell dramatically to a low of less than 1 percent.

USCIS is using technology to improve communication with its customers in a manner that is easy to access and navigate. In November 2006, USCIS launched a new and improved Web Portal on the official public website www.uscis.gov. This new portal serves as a “one-stop shop” for all information about U.S. immigration and citizenship. Visitors to the new [uscis.gov](http://www.uscis.gov) website can locate forms, file forms electronically, and sign up online for appointments at local field offices using InfoPass. The new site also features a built-in search engine to locate current information.

USCIS introduced a new Change of Address Online (CoA Online) tool that allows customers to update their mailing address at uscis.gov and eliminate making an unnecessary call or visit to a local office. This enhancement ensures accountability of customers to inform USCIS of any changes of their mailing address. CoA Online was extensively tested through usability studies held at USCIS Headquarters and at a customer off-site location.

Additionally, the agency made several enhancements to its internal case management system to better track and manage customer service requests.

The agency launched a new Military Help Line this summer to directly assist service members and their families with USCIS benefits and services. Since its launch, USCIS has assisted more than 6,000 callers. USCIS worked directly with the Department of Defense to institute this help line and held training sessions. The agency also created a dedicated web page to address military-specific immigration issues.

As part of its educational efforts, USCIS successfully launched communication campaigns and distributed marketing material to promote CoA Online and the Military Help Line.

To improve communications with customers, USCIS conducted focus groups and informational sessions with customers, community-based organizations, interest groups, and employees to obtain feedback on the agency’s customer products, local offices, and accuracy of information provided by the telephone centers.

USCIS also has participated in many public events. These include Public Service Recognition Week, National Customer Service Week and Constitution Week, which are celebrated nationally. USCIS promoted and distributed educational products to inform the public on the agency’s mission.

To help more eligible applicants work toward the goal of U.S. citizenship, USCIS recently completed a major revision to its naturalization test. This revision was the result of professional evaluations and public input, and was administered to thousands of volunteer applicants to test its effectiveness. The result is a naturalization test that contains more substantive information with emphasis on American civics and history.

In the past year, USCIS has conducted naturalization ceremonies at several memorable venues including Mount Vernon, Walter Reed Army Medical Center, U.S. State Department, aboard U.S. Navy aircraft carriers, and at various overseas locations, including war zones. Such notable locations provide even greater significance to this already momentous occasion.

As a special feature in certain naturalization ceremonies this past year, USCIS began recognizing great contributions of naturalized citizens by bestowing Outstanding Americans by Choice Awards. Recipients have included congressional members, heads of major corporations, and community leaders. By presenting these awards at naturalization ceremonies, America's newest citizens can see what is possible to achieve with their newly acquired status.

USCIS recently created a publication especially for newly naturalized citizens. Released in April 2007, *The Citizen's Almanac* contains several documents that serve as the fundamental basis for the rights and responsibilities as citizens of this country, and provides the newest Americans with a basic understanding of what it means to be citizens of the United States. *The Citizen's Almanac* is now distributed at all naturalization ceremonies.

Funding and Financing

CISO's 2006 Annual Report outlined concerns related to USCIS dependency on, and shortcomings of, fee-based financing. The report recommended that Congress consider a revolving fund account or other appropriated source of funding as a means of overcoming perceived financing shortcomings. In the 2007 Annual Report, CISO reiterated that USCIS consider a revolving fund, as this might help resolve "many of the USCIS revenue and funding problems¹".

USCIS agrees with many of CISO's past and present concerns regarding resource challenges and the critical need for investment in USCIS staff and infrastructure. However, past challenges in raising investment resources were not due to the inadequacy of the fee-financing system. Indeed, an effective fee program can provide the right amount of resources for USCIS when those resources are needed as long as that program is supported through careful and comprehensive planning that is backed by credible budget execution and control.

During the past year, USCIS conducted the first comprehensive review since 1998 of activities funded by the Immigration Examinations Fee Account. As a result, on May 30, 2007, USCIS published in the Federal Register a Final Rule adjusting the Immigration and Naturalization Benefit Application and Petition Fee Schedule to provide sufficient funding to allow USCIS to strengthen the security and integrity of the immigration system, improve customer service, and modernize business operations for the 21st century. Specifically, the new fee structure enables USCIS to:

- Improve the integrity of the immigration system by increasing fraud prevention and detection efforts and expanding national security enhancements;
- Reduce processing times for all immigration applications by an average of 20 percent by the end of FY 2009;
- Address performance gaps identified by the Government Accountability Office, DHS Inspector General, and CISO;
- Upgrade facilities and provide better training to ensure a skilled workforce; and

¹ CISO Annual Report 2007, page 51.

- Automate USCIS business operations and modernize information technology (IT) infrastructure, reducing unacceptable paper-based processes.

With these investments, USCIS is not expected to face fiscal challenges for the near term. Should fiscal challenges arise, however, a revolving fund would not offer a viable solution. The supposed benefit scenario suggests that USCIS would have a ready means of tapping quickly into available source of funding to address needs as they arise. By extension, the scenario suggests that price schedule revisions could not be implemented as quickly as would be necessary, or that the Congress would not be moved to approve unique and focused discretionary appropriations for particular USCIS needs as it has done in the past. Drawing down resources from a revolving fund, be it discretionary or mandatory in nature, would have a direct implication on the governmental spending levels (and resulting jurisdictional review), irrespective of the timing of any potential fee replenishment.

CISO's FY07 report suggests the USCIS response to the FY06 recommendation was inadequate because it focused on budgetary scoring issues. However, it is precisely such scoring issues that dictate the potential benefit of a fund approach. The likely application of a fund presents challenges that would undermine perceived benefits. The agency believes the comprehensive adjustment in the application and petition price schedule provides the best means to ensure a stable revenue source for operations, including infrastructure investments, for the foreseeable future.

Going Forward

USCIS thanks CISO and his staff for their analysis and evaluation of the agency's processes, and the suggestions provided in the 2007 Annual Report. USCIS will respond separately to the new recommendations set forth in the Ombudsman's report.

In its first 4 years as an agency, USCIS has made tremendous progress and improvements in process and service. This is primarily due to the hard work, dedication, and ingenuity of its workforce as well as comments and suggestions from those the agency serves. USCIS is developing ambitious strategies for future improvements and modernization that focus on providing efficient service and communication, developing a highly trained workforce, and ensuring the safety and security of the nation.



**Homeland
Security**

FEB 13 2008

The Honorable Zoe Lofgren
Chairman
Subcommittee on Immigration, Citizenship, Refugees,
Border Security, and International Law
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20510

Dear Madam Chairman:

The enclosed report is the U.S. Citizenship and Immigration Services (CIS) response to the recommendations made by the CIS Ombudsman pursuant to Section 452(f) of the Homeland Security Act of 2002 (Public Law 107-296).

I appreciate your interest in the Department of Homeland Security, and I look forward to working with you on future homeland security issues. If I may be of assistance, please contact the Office of Legislative Affairs at (202) 447-5890.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Kent".

Donald H. Kent, Jr.
Assistant Secretary
Office of Legislative Affairs

Enclosure



Characteristics of H-1B Specialty Occupation Workers

Fiscal Year 2009 Annual Report
October 1, 2008 – September 30, 2009

April 15, 2010



U.S. Citizenship and Immigration Services

APR 15 2010



**Homeland
Security**

Foreword

I am pleased to present the following report, "Annual Report on Characteristics of Specialty Occupation Workers (H-1B) for Fiscal Year 2009," which has been prepared by U.S. Citizenship and Immigration Services. The report has been compiled in response to a legislative requirement accompanying the American Competitiveness and Workforce Improvement Act of 1998 (Public Law 105-277).

The report provides information on the countries of origin and occupations of, educational levels attained by, and compensation paid to, aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act during the previous fiscal year.

Pursuant to congressional requirements, this report is being provided to the following Members of Congress:

The Honorable Patrick Leahy
Chairman, Senate Judiciary Committee

The Honorable Jeff Sessions
Ranking Member, Senate Judiciary Committee

The Honorable John Conyers, Jr.
Chairman, House Judiciary Committee

The Honorable Lamar Smith
Ranking Member, House Judiciary Committee

Inquiries relating to this report may be directed to me at (202) 447-5890.

Respectfully,

A handwritten signature in black ink, appearing to read "Chani W. Wiggins".

Chani W. Wiggins
Assistant Secretary
Office of Legislative Affairs

Executive Summary

The American Competitiveness and Workforce Improvement Act (ACWIA), Public Law 105-277, Division C, imposes annual reporting requirements on U.S. Citizenship and Immigration Services (USCIS) concerning the countries of origin and occupations of, educational levels attained by, and compensation paid to, aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of the INA during the previous fiscal year.

To fulfill this requirement, USCIS submits the following report for Fiscal Year 2009, October 1, 2008 – September 30, 2009.

Highlights

- The number of H-1B petitions filed decreased 15 percent from 288,764 in Fiscal Year 2008 to 246,647 in Fiscal Year 2009.
- The number of H-1B petitions approved decreased 22 percent from 276,252 in Fiscal Year 2008 to 214,271 in Fiscal Year 2009.
- Approximately 48 percent of all H-1B petitions approved in Fiscal Year 2009 were for workers born in India.
- Two-thirds of H-1B petitions approved in Fiscal Year 2009 were for workers between the ages of 25 and 34.
- Forty-one percent of H-1B petitions approved in Fiscal Year 2009 were for workers with a bachelor's degree, 40 percent had a master's degree, 13 percent had a doctorate, and 6 percent were for workers with a professional degree.
- About 41 percent of H-1B petitions approved in Fiscal Year 2009 were for workers in computer-related occupations.
- The median salary of beneficiaries of approved petitions increased to \$64,000 in Fiscal Year 2009, \$4,000 more than in Fiscal Year 2008.

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I. Legislative Requirement

The American Competitiveness and Workforce Improvement Act (ACWIA), Public Law 105-277, Division C, includes the following requirement under section 416(c)(2):

“...(T)he Attorney General¹ shall submit on an annual basis, to the Committees on the Judiciary of the United States House of Representatives and the Senate, information on the countries of origin and occupations of, educational levels attained by, and compensation paid to, aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act during the previous fiscal year.”

¹ As of March 1, 2003, in accordance with section 1517 of Title XV of the Homeland Security Act of 2002 (HSA), Pub. L. No. 107-296, 116 Stat. 2135, any reference to the Attorney General in a provision of the Immigration and Nationality Act describing functions which were transferred from the Attorney General or other Department of Justice official to the Department of Homeland Security by the HSA “shall be deemed to refer to the Secretary” of Homeland Security. See 6 U.S.C. § 557 (2003) (codifying HSA, Title XV, § 1517).

II. Background

An H-1B temporary worker is an alien admitted to the United States to perform services in a "specialty occupation."²

The H-1B nonimmigrant classification is a vehicle through which a qualified alien may seek admission to the United States on a temporary basis to work in his or her field of expertise. Prior to employing an H-1B temporary worker, the U.S. employer must first file a Labor Condition Application (LCA) with the Department of Labor (DOL) and then file an H-1B petition with USCIS. However, while USCIS is responsible for evaluating an alien's qualifications for the H-1B classification, approval of an H-1B petition does not guarantee admission of the alien to the United States in H-1B status. That role rests with the U.S. Department of State (DOS), which determines after the H-1B petition has been approved by USCIS whether a prospective alien employee can apply for a visa at a U.S. Embassy or Consulate abroad, and with Customs and Border Protection (CBP), which at a port-of-entry determines if the alien is admissible to the United States, as a visa alone does not guarantee entry.

The LCA specifies the job, salary, length and geographic location of employment. In addition, the employer must agree to pay the alien the greater of the actual or prevailing wage for the position.

To qualify as a specialty occupation, the position must meet one of the following requirements: (1) a bachelor's or higher degree or its equivalent is normally the minimum entry requirement for the position; (2) the degree requirement is common to the industry or, in the alternative, the position is so complex or unique that it can be performed only by an individual with a degree; (3) the employer normally requires a degree or its equivalent for the position; or (4) the nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with attainment of a bachelor's or higher degree. See 8 CFR 214.2(h)(4)(iii)(A). In order to perform services in a specialty occupation, an alien must meet one of the following criteria: (1) hold a U.S. bachelor's or higher degree as required by the specialty occupation from an accredited college or university; (2) possess a foreign degree determined to be equivalent to a U.S. bachelor's or higher degree as required by the specialty occupation from an accredited college or university; (3) have any required license or other official permission to practice the occupation (for example, architect, surveyor, physical therapist) in the state in which employment is sought; or (4) have, as determined by USCIS, the equivalent of the degree required by the specialty occupation acquired through a combination of education, specialized training, and/or progressively responsible experience. Specialty occupations include, but are not limited to, computer systems analysts and programmers, physicians, professors, engineers, and accountants.

An alien may be admitted to the United States in H-1B status for a maximum period of six years (see INA 214(g)(4)); however, the H-1B petition may only be approved for a maximum period of three years. The H-1B petition may be used to sponsor an alien for an initial period of H-1B employment or to extend or change the authorized stay of an alien previously admitted to the United States in H-1B status or another nonimmigrant status. Additionally, an employer may file the petition to sponsor an alien who currently has H-1B nonimmigrant status working for another employer or amend a previously approved petition. In the case of a petition to amend a previously approved petition, no corresponding request

² Section 214(i)(1) of the INA defines a specialty occupation as "an occupation that requires (A) the theoretical and practical application of a body of highly specialized knowledge, and (B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States." 8 U.S.C. 1184(i).

need be made to extend the authorized stay of the beneficiary. For example, an employer may file an amended petition notifying USCIS of a different location where the beneficiary will be employed or a material change in the beneficiary's job duties. Therefore, the total number of approved petitions in any given fiscal year exceeds the actual number of aliens who are provided nonimmigrant status as H-1B. At the end of the six-year period, the alien must either change to a different status (if eligible) or depart the United States.³ USCIS regulations provide that an alien who has been outside the United States for at least one year may be eligible for a new six-year period of admission in H-1B status. See 8 CFR 214.2(h)(13)(iii)(A).

When the H-1B category was enacted in 1990, Congress set a maximum of 65,000 H-1B visas that may be issued to aliens during each fiscal year. This limitation, commonly referred to as the "H-1B cap," does not apply to H-1B petitions filed on behalf of aliens who have been counted against the cap in the previous six years and who have not been outside of the United States for one year or longer. Thus, generally, a petition to extend an H-1B nonimmigrant's period of stay, change the conditions of the H-1B nonimmigrant's current employment, or request new H-1B employment in behalf of an H-1B worker already in the United States will not count against the H-1B fiscal year cap. In addition, an approved petition for initial employment is exempt from the cap if the sponsor is an institution of higher education or nonprofit organization affiliated with an institution of higher education or if the sponsor is a nonprofit research organization or governmental research organization.

The INA, as amended by the Immigration Act of 1990, the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA) and the American Competitiveness in the Twenty-first Century Act (AC21), made significant changes to policy and procedure governing the H-1B category, including providing temporary increases in the fiscal year limitations on available H-1B visas and providing for certain exemptions to these limitations. Under ACWIA, the annual ceiling of H-1B petitions valid for new employment was increased from 65,000 to 115,000 in Fiscal Years 1999 and 2000 and to 107,500 in Fiscal Year 2001. AC21 raised the limit on petitions in Fiscal Year 2001 from 107,500 to 195,000 and in Fiscal Year 2002 from 65,000 to 195,000. The limit in Fiscal Year 2003 was 195,000. Starting in Fiscal Year 2004, the H-1B cap reverted to 65,000 per fiscal year and remains at that level. These statutory provisions also provided for certain exemptions from the fiscal year H-1B cap; a petition for new H-1B employment is exempt if the alien will be employed at an institution of higher education or a related or affiliated nonprofit entity, or at a nonprofit research organization or governmental research organization. In addition, the H-1B Visa Reform Act of 2004 mandates that the first 20,000 H-1B petitions filed on behalf of aliens with U.S.-earned master's or higher degrees will be exempt from any fiscal year cap on available H-1B visas.

³ Certain aliens are exempt from the six-year maximum period of admission under the provisions of the American Competitiveness in the Twenty-First Century Act of 2000 (AC21) (Public Law 106-313).

III. Data Report

Section 3.1 – General distribution of petitions

During Fiscal Year 2009, USCIS approved 214,271 H-1B petitions submitted by employers on behalf of alien workers. The number of approved petitions exceeds the number of individual H-1B workers because more than one U.S. employer may file a petition on behalf of an individual H-1B worker (multiple petitions).

Table 1 shows for Fiscal Year 2009 the number of petitions filed and/or approved for initial and continuing employment. Of the petitions approved in 2009, a total of 86,300 petitions or 40 percent were for initial employment.⁴ The corresponding number of petitions for continuing employment was 127,971.⁵ A worker may have had a second (or subsequent) petition filed in his or her behalf to: 1) extend the period allowed to work with their current employer; 2) notify USCIS of changes in the conditions of employment, including a change of employer; or 3) request concurrent H-1B status with another employer.

The number of H-1B petitions filed decreased 15 percent and petitions approved declined 22 percent between Fiscal Years 2008 and 2009. For initial employment, petitions filed decreased 14 percent and petitions approved declined 21 percent. Petitions filed for continuing employment decreased 15 percent and petitions approved decreased 23 percent.

**Table 1. H-1B Petitions Filed and Approved by Type of Petition:
Fiscal Years 2006 to 2009**

	FY 2006	FY 2007	FY 2008 ⁶	FY 2009
Petitions filed	295,915	304,877	288,764	246,647
Initial Employment	121,724	114,222	122,634	105,775
Continuing Employment	174,191	190,655	166,130	140,872
Petitions approved⁷	270,981	281,444	276,252	214,271
Initial Employment	109,614	120,031	109,335	86,300
Continuing Employment	161,367	161,413	166,917	127,971

⁴ The terms “initial employment” and “continuing employment” are used throughout this report to identify two types of petitions. Petitions for initial employment are filed for first-time H-1B employment with employers, only some of which are applied to the annual cap. Examples of petitions for initial employment that are exempt from the cap include petitions submitted by nonprofit research organizations or governmental research organizations. Continuing employment petitions refer to extensions, sequential employment, and concurrent employment, which are filed for aliens already in the United States. Extensions are filed for H-1B workers intending to work beyond the initial 3-year period up to 6 years, the maximum period permissible under law. Sequential employment refers to petitions for workers transferring between H-1B employers within the 6-year period. Finally, petitions for concurrent employment are filed for H-1B workers intending to work simultaneously for a second or subsequent H-1B employer.

⁵ Neither AC21 nor prior legislation established a cap on H-1B petitions for continuing employment.

⁶ This excludes approximately 63,000 petitions submitted but not selected in the computer-generated random lottery in April 2008.

⁷ Regardless of when filed.

Table 2 shows the number of H-1B petitions filed by quarter in Fiscal Years 2006 to 2009. Filings for initial employment spiked in the third quarter of FY 2009, when the cap-subject petition filing season opened. By contrast, filings for continuing employment were fairly evenly distributed throughout FY 2009.

**Table 2. H-1B Petitions Filed by Quarter:
Fiscal Years 2006 to 2009**

Quarter	FY 2006	FY 2007	FY 2008	FY 2009	Initial Employment	Percent of Total	Continuing Employment	Percent of Total
Total	295,915	304,877	288,764	246,647	105,775	100	140,872	100
October-December	48,678	50,268	41,852	36,669	4,677	4.4	31,992	22.7
January-March	50,445	49,515	44,486	37,291	4,983	4.7	32,308	22.9
April-June	132,655	147,412	150,942	121,782	80,957	76.5	40,825	29.0
July-September	64,137	57,682	51,484	50,905	15,158	14.3	35,747	25.4

Note: Sum of the percents may not add to 100 due to rounding.

Table 3 provides a breakdown of approved petitions in Fiscal Years 2006 to 2009 by type of petition. More than 86,000 H-1B beneficiaries were approved for initial employment and nearly 128,000 for continuing employment in Fiscal Year 2009.

The number of aliens outside the United States approved for initial employment decreased 40 percent from almost 56,000 in FY 2008 to 33,000 in Fiscal Year 2009. The corresponding numbers for aliens in the United States changing to H-1B status remained steady at 53,000 in 2009.

**Table 3. H-1B Petitions Approved by Type:
Fiscal Years 2006 to 2009**

Type of Petition	Petitions Approved							
	FY2006	Percent	FY2007	Percent	FY2008	Percent	FY2009	Percent
Total	270,981	100	281,444	100	276,252	100	214,271	100
Initial employment	109,614	40	120,031	43	109,335	40	86,300	40
Aliens outside U.S.	57,264	21	60,785	22	55,893	20	33,283	16
Aliens in U.S.	52,350	19	59,246	21	53,442	19	53,017	25
Continuing employment	161,367	60	161,413	57	166,917	60	127,971	60

Note: Sum of the percents may not add to 100 due to rounding.

Section 3.2 – Distribution of petitions by country of birth

Tables 4A and 4B show the distribution of beneficiaries by country of birth.⁸ Of the H-1B petitions approved in Fiscal Year 2009, 48 percent reported that the beneficiary was born in India. The second most prevalent country of birth of H-1B beneficiaries was China, representing 10 percent of all beneficiaries. The number of beneficiaries from India approved for initial employment decreased 45 percent in 2009, while the number of beneficiaries approved for continuing employment decreased 21 percent in FY 2009.

Table 4A. H-1B Petitions Approved by Country of Birth of Beneficiary and Type of Petition (Number): Fiscal Years 2008 and 2009

Country of Birth	All Beneficiaries		Initial Employment		Continuing Employment	
	FY 2008 Number	FY 2009 Number	FY 2008 Number	FY 2009 Number	FY 2008 Number	FY 2009 Number
Total	276,252	214,271	109,335	86,300	166,917	127,971
India	149,629	103,059	61,739	33,961	87,890	69,098
China, People's Republic	24,174	20,855	9,157	8,989	15,017	11,866
Canada	10,681	9,605	3,968	4,579	6,713	5,026
Philippines	9,606	8,682	3,957	3,734	5,649	4,948
Korea	6,988	6,968	3,029	3,919	3,959	3,049
United Kingdom	4,494	4,180	1,333	1,991	3,161	2,189
Japan	4,312	3,825	1,334	1,710	2,978	2,115
Mexico	3,721	3,346	1,375	1,614	2,346	1,732
Taiwan	3,708	3,218	1,818	1,856	1,890	1,362
Pakistan	3,509	2,556	1,315	1,003	2,194	1,553
France	2,526	2,308	879	1,256	1,647	1,052
Turkey	2,481	2,227	1,054	1,175	1,427	1,052
Germany	2,426	2,107	895	1,031	1,531	1,076
Columbia	2,619	2,027	740	795	1,879	1,232
Brazil	2,010	1,837	784	964	1,226	873
Venezuela	2,022	1,766	579	697	1,443	1,069
Russia	1,796	1,396	541	692	1,255	704
Nepal	1,406	1,231	783	668	623	563
Italy	1,135	1,186	489	695	646	491
Argentina	1,460	1,181	400	457	1,060	724
Other countries	35,549	30,711	13,166	14,514	22,383	16,197

Notes: Countries of birth are ranked based on 2009 data.

⁸ Data represent countries and territories of birth.

**Table 4B. H-1B Petitions Approved by Country of Birth of Beneficiary and Type of
Petition (Percent): Fiscal Years 2008 and 2009**

Country of Birth	All Beneficiaries		Initial Employment		Continuing Employment	
	FY 2008 Percent	FY 2009 Percent	FY 2008 Percent	FY 2009 Percent	FY 2008 Percent	FY 2009 Percent
Total						
Country of birth	100	100	100	100	100	100
India	54.2	48.1	56.5	39.4	52.7	54.0
China, People's Republic	8.8	9.7	8.4	10.4	9.0	9.3
Canada	3.9	4.5	3.6	5.3	4.0	3.9
Philippines	3.5	4.1	3.6	4.3	3.4	3.9
Korea	2.5	3.3	2.8	4.5	2.4	2.4
United Kingdom	1.6	2.0	1.2	2.3	1.9	1.7
Japan	1.6	1.8	1.2	2.0	1.8	1.7
Mexico	1.3	1.6	1.3	1.9	1.4	1.4
Taiwan	1.3	1.5	1.7	2.2	1.1	1.1
Pakistan	1.3	1.2	1.2	1.2	1.3	1.2
France	0.9	1.1	0.8	1.5	1.0	0.8
Turkey	0.9	1.0	1.0	1.4	0.9	0.8
Germany	0.9	1.0	0.8	1.2	0.9	0.8
Columbia	0.9	0.9	0.7	0.9	1.1	1.0
Brazil	0.7	0.9	0.7	1.1	0.7	0.7
Venezuela	0.7	0.8	0.5	0.8	0.9	0.8
Russia	0.7	0.7	0.5	0.8	0.8	0.6
Nepal	0.5	0.6	0.7	0.8	0.4	0.4
Italy	0.4	0.6	0.4	0.8	0.4	0.4
Argentina	0.5	0.6	0.4	0.5	0.6	0.6
Other countries	12.9	14.3	12.0	16.8	13.4	12.7

Notes: Countries of birth are ranked based on 2009 data.
Sum of the percents may not add to 100 due to rounding.

Section 3.3 – Distribution of petitions by age

Table 5 shows the age distribution of the H-1B beneficiaries in Fiscal Year 2009 by type of petition. Sixty-six percent of workers granted H-1B status during FY 2009 were between 25 and 34 years of age at the time their petitions were approved. Fifty-three percent of initial beneficiaries were under 30, compared with 28 percent of continuing beneficiaries.

**Table 5. H-1B Petitions Approved by Age of Beneficiary at Time of Approval
and by Type of Petition: Fiscal Year 2009**

Age	All Beneficiaries	Percent	Initial Employment	Percent	Continuing Employment	Percent
Total	214,271		86,300		127,971	
Age known	214,175	100	86,266	100	127,909	100
Under 20	77	0.0	63	0.1	14	0.0
20-24	13,326	6.2	11,902	13.8	1,424	1.1
25-29	68,695	32.1	34,027	39.4	34,668	27.1
30-34	72,326	33.8	22,493	26.1	49,833	39.0
35-39	34,862	16.3	9,896	11.5	24,966	19.5
40-44	13,892	6.5	4,236	4.9	9,656	7.5
45-49	6,265	2.9	2,079	2.4	4,186	3.3
50-54	2,781	1.3	927	1.1	1,854	1.4
55-59	1,180	0.6	389	0.5	791	0.6
60-64	547	0.3	187	0.2	360	0.3
65 and over	224	0.1	67	0.1	157	0.1
Age unknown	96	—	34	—	62	—

Notes: Anyone reported as under 16 years old and not a fashion model was assumed to be of unknown age.

Age of beneficiary is calculated based on the date the petition was approved.

Sum of the percents may not add to 100 due to rounding.

Percentages shown in the table are based on the total number of approved petitions with known ages.

Section 3.4 – Distribution of petitions by education

Tables 6 and 7 show the highest level of education achieved by the beneficiaries at the time of filing the petition. Employers are asked to provide the highest degree (domestic or foreign), but not training or experience deemed equivalent to a degree. The reporting of a domestic or foreign degree is not required in a standard format on USCIS or DOL forms. However, in nearly all cases, the petitioning employer provides the information in supporting documentation. For degrees earned outside the United States, the employer usually supplies a credential evaluation stating that the foreign degree is “equivalent to” a particular U.S. degree. USCIS does not maintain separate data regarding whether the degree was earned in the United States or abroad. (Data on beneficiaries with U.S. advanced degrees have been available since May 2005.)

The breakdown of the highest level of education achieved by H-1B beneficiaries remained constant between Fiscal Years 2008 and 2009. As shown in Table 6, 41 percent of all H-1B petitions approved for workers in 2009 reported that the beneficiary had earned the equivalent of a bachelor’s degree; 40 percent a master’s degree; 13 percent a doctorate, and 6 percent a professional degree. Altogether, 99 percent had earned at least a bachelor’s degree and 59 percent had earned at least a master’s degree.

**Table 6. H-1B Petitions Approved by Level of Education:
Fiscal Years 2006-2009**

Level of Education	FY 2006	FY 2007	FY 2008	FY 2009
Education known	100	100	100	100
Less than a Bachelor’s degree	1	1	1	1
Bachelor’s degree	45	44	43	41
Master’s degree	39	40	41	40
Doctorate degree	11	10	11	13
Professional degree	5	5	5	6

Note: Sum of percents may not add to 100 due to rounding.

**Table 7. H-1B Petitions Approved by Level of Education of Beneficiary
and Type of Petition: Fiscal Year 2009**

Level of Education	All Beneficiaries	Percent	Initial Employment	Percent	Continuing Employment	Percent
Total	214,271		86,300		127,971	
Education known	214,256	100	86,294	100	127,962	100
No high school diploma	195	0.1	108	0.1	87	0.1
High school graduate	404	0.2	190	0.2	214	0.2
Less than 1 year of college credit	84	0.0	33	0.0	51	0.0
1 or more years of college credit, no diploma	529	0.2	236	0.3	293	0.2
Associate's degree	549	0.3	262	0.3	287	0.2
Bachelor's degree	87,668	40.9	35,142	40.7	52,526	41.0
Master's degree	85,489	39.9	32,799	38.0	52,690	41.2
Doctorate degree	27,027	12.6	12,478	14.5	14,549	11.4
Professional degree	12,311	5.7	5,046	5.8	7,265	5.7
Education unknown	15	—	6	—	9	—

Notes: Sum of the percents may not add to 100 due to rounding.

Percents shown in the table are based on the number of approved petitions with known levels of education.

Section 3.5 – Distribution of petitions by occupation

- Occupational Category

Tables 8A and 8B show the distribution of beneficiaries by occupational category for Fiscal Years 2008 and 2009. Computer-related occupations were the most numerous occupational categories in 2009; their share of total petitions approved dropped to 42 percent in Fiscal Year 2009 from 50 percent in Fiscal Year 2008. The corresponding shares for initial employment and continuing employment in computer-related occupations were 53 and 47 percent, respectively. Every occupational category had more continuing than initial H-1B beneficiaries except for: law and jurisprudence, entertainment and recreation, and religion and theology.

The number of H-1B petitions approved for workers in computer-related occupations decreased 35 percent from 137,010 in 2008 to 88,961 in 2009. The remaining occupation groups decreased 10 percent between 2008 and 2009.

Table 8A. H-1B Petitions Approved by Major Occupation Group of Beneficiary and Type of Petition (Number): Fiscal Years 2008 and 2009

Occupational Category	All Beneficiaries		Initial Employment		Continuing Employment	
	FY2008 Number	FY2009 Number	FY2008 Number	FY2009 Number	FY2008 Number	FY2009 Number
Total	276,252	214,271	109,335	86,300	166,917	127,971
Occupation known	276,080	213,681	109,228	86,062	166,852	127,619
Computer-related occupations	137,010	88,961	58,074	29,793	78,936	59,168
Occupations in Architecture, Engineering and Surveying	30,062	25,278	10,021	10,789	20,041	14,489
Occupations in Education	28,880	24,711	12,339	10,840	16,541	13,871
Occupations in Administrative Specializations	23,346	21,192	7,966	9,976	15,380	11,216
Occupations in Medicine and Health	17,778	17,621	6,949	8,053	10,829	9,568
Managers and Officials N.E.C.*	8,904	8,276	2,288	3,487	6,616	4,789
Occupations in Life Sciences	6,990	6,456	2,816	3,036	4,174	3,420
Occupations in Mathematics and Physical Sciences	5,933	5,645	2,388	2,640	3,545	3,005
Miscellaneous Professional, Technical, and Managerial	5,114	4,816	1,794	2,122	3,320	2,694
Occupations in Social Sciences	4,914	4,461	1,914	2,155	3,000	2,306
Occupations in Art	2,898	2,798	972	1,336	1,926	1,462
Occupations in Law and Jurisprudence	1,556	1,416	727	783	829	633
Occupations in Writing	1,025	925	347	444	678	481
Occupations in Entertainment and Recreation	593	470	238	237	355	233
Fashion Models	476	259	151	126	325	133
Occupations in Museum, Library & Archival Sciences	344	218	143	99	201	119
Occupations in Religion and Theology	257	178	101	146	156	32
Occupation unknown	172	590	107	238	65	352

Notes: Occupations ranked based on 2009 data.

*N.E.C. indicates *not elsewhere classified*.

**Table 8B. H-1B Petitions Approved by Major Occupation Group of Beneficiary and
Type of Petition (Percent): Fiscal Years 2008 and 2009**

Occupational Category	All Beneficiaries		Initial Employment		Continuing Employment	
	FY2008 Number	FY2009 Number	FY2008 Number	FY2009 Number	FY2008 Number	FY 2009 Number
Occupation known	100	100	100	100	100	100
Computer-related occupations	49.6	41.6	53.2	34.6	47.3	46.4
Occupations in Architecture, Engineering, and Surveying	10.9	11.8	9.2	12.5	12.0	11.4
Occupations in Education	10.5	11.6	11.3	12.6	9.9	10.9
Occupations in Administrative Specializations	8.5	9.9	7.3	11.6	9.2	8.8
Occupations in Medicine and Health	6.4	8.2	6.4	9.4	6.5	7.5
Managers and Officials N.E.C.*	3.2	3.9	2.1	4.1	4.0	3.8
Occupations in Life Sciences	2.5	3.0	2.6	3.5	2.5	2.7
Occupations in Mathematics and Physical Sciences	2.1	2.6	2.2	3.1	2.1	2.4
Miscellaneous Professional, Technical, and Managerial	1.9	2.3	1.6	2.5	2.0	2.1
Occupations in Social Sciences	1.8	2.1	1.8	2.5	1.8	1.8
Occupations in Art	1.0	1.3	0.9	1.6	1.2	1.1
Occupations in Law and Jurisprudence	0.6	0.7	0.7	0.9	0.5	0.5
Occupations in Writing	0.4	0.4	0.3	0.5	0.4	0.4
Occupations in Entertainment and Recreation	0.2	0.2	0.2	0.3	0.2	0.2
Fashion Models	0.2	0.1	0.1	0.1	0.2	0.1
Occupations in Museum, Library, and Archival Sciences	0.1	0.1	0.1	0.1	0.1	0.1
Occupations in Religion and Theology	0.1	0.1	0.1	0.2	0.1	0.0
Occupation unknown	—	—	—	—	—	—

Notes: Occupations ranked based on 2009 data.

Sum of the percents may not add to 100 due to rounding.

Percents shown in the table are based on the total number of petitions approved with known occupations.

*N.E.C. indicates *not elsewhere classified*.

- Detailed Occupation

Tables 9A and 9B indicate the distribution of beneficiaries by detailed occupational category in Fiscal Years 2008 and 2009. Each table shows occupations arranged in descending order by the total number of beneficiaries approved in Fiscal Year 2009. The relative distributions in 2008 and 2009 were similar. The list is limited to the top 20 categories. Thirty-six percent of approved petitions in 2009 were for aliens working as systems analysts or programmers. The second largest category was occupations in colleges and university education.

Table 9A. H-1B Petitions Approved by Detailed Occupation of Beneficiary and Type of Petition (Number): Fiscal Years 2008 and 2009

Occupational Category	All Beneficiaries		Initial Employment		Continuing Employment	
	FY 2008 Number	FY 2009 Number	FY 2008 Number	FY 2009 Number	FY 2008 Number	FY 2009 Number
Total	276,252	214,271	109,335	86,300	166,917	127,971
Occupation known	275,654	213,671	109,097	86,059	166,557	127,612
Occupations in Systems Analysis and Programming	120,673	75,838	52,984	24,947	67,689	50,891
Occupations in College and University Education	20,139	17,326	8,891	8,017	11,248	9,309
Computer-Related Occupations, N.E.C.*	11,826	9,527	3,527	3,396	8,299	6,131
Accountants, Auditors, and Related Occupations	10,455	9,364	3,259	4,289	7,196	5,075
Electrical/Electronics Engineering Occupations	9,861	8,097	3,168	3,543	6,693	4,554
Physicians and Surgeons	7,819	7,252	2,788	2,777	5,031	4,475
Occupations in Biological Sciences	4,835	4,621	2,005	2,168	2,830	2,453
Misc Professional, Technical, and Managerial Occupations, N.E.C.*	4,496	4,370	1,505	1,908	2,991	2,462
Miscellaneous Managers and Officials, N.E.C.*	4,374	4,267	1,050	1,812	3,324	2,455
Mechanical Engineering Occupations	4,838	4,108	1,667	1,734	3,171	2,374
Occupations in Administrative Specializations, N.E.C.*	4,169	4,072	1,526	1,972	2,643	2,100
Occupations in Economics	4,392	3,975	1,631	1,862	2,761	2,100
Occupations in Medicine and Health, N.E.C.*	3,751	3,859	1,634	2,140	2,117	2,113
Budget and Management Systems Analysis Occupations	4,334	3,691	1,815	1,814	2,519	1,719
Occupations in Architecture, Engineering, and Surveying, N.E.C.*	3,967	3,515	1,250	1,483	2,717	1,877
Civil Engineering Occupations	3,479	2,939	1,204	1,146	2,275	2,032
Occupations in Secondary School Education	3,418	2,821	1,468	1,084	1,950	1,793
Therapists	2,124	2,765	1,093	1,485	1,031	1,737
Occupations in Preschool, Primary School, and Kindergarten Education	3,482	2,725	1,170	927	2,312	1,280
Industrial Engineering Occupations	2,343	2,308	715	1,030	1,628	1,798
Other Occupations	40,879	36,231	14,747	16,525	26,132	19,706
Occupation Unknown	598	600	238	241	360	359

Notes: Occupations ranked on 2009 data.

*N.E.C indicates not elsewhere classified.

**Table 9B. H-1B Petitions Approved by Detailed Occupation of Beneficiary
and Type of Petition (Percent): Fiscal Years 2008 and 2009**

Occupational Category	All Beneficiaries		Initial Employment		Continuing Employment	
	FY 2008 Percent	FY 2009 Percent	FY 2008 Percent	FY 2009 Percent	FY 2008 Percent	FY 2009 Percent
Total	-----	-----	-----	-----	-----	-----
Occupation known	100	100	100	100	100	100
Occupations in Systems Analysis and Programming	43.8	35.5	48.6	29.0	40.6	39.9
Occupations in College and University Education	7.3	8.1	8.1	9.3	6.8	7.3
Computer-Related Occupations, N.E.C.*	4.3	4.5	3.2	3.9	5.0	4.8
Accountants, Auditors, and Related Occupations	3.8	4.4	3.0	5.0	4.3	4.0
Electrical/Electronics Engineering Occupations	3.6	3.8	2.9	4.1	4.0	3.6
Physicians and Surgeons	2.8	3.4	2.6	3.2	3.0	3.5
Occupations in Biological Sciences	1.8	2.2	1.8	2.5	1.7	1.9
Misc Professional, Technical, and Managerial Occupations, N.E.C.*	1.6	2.0	1.4	2.2	1.8	1.9
Miscellaneous Managers and Officials, N.E.C.*	1.6	2.0	1.0	2.1	2.0	1.9
Mechanical Engineering Occupations	1.8	1.9	1.5	2.0	1.9	1.9
Occupations in Administrative Specializations, N.E.C.*	1.5	1.9	1.4	2.3	1.6	1.6
Occupations in Economics	1.6	1.9	1.5	2.2	1.7	1.7
Occupations in Medicine And Health, N.E.C.*	1.4	1.8	1.5	2.5	1.3	1.3
Budget and Management Systems Analysis Occupations	1.6	1.7	1.7	2.1	1.5	1.5
Occupations in Architecture, Engineering, and Surveying, N.E.C.*	1.4	1.6	1.1	1.7	1.6	1.6
Civil Engineering Occupations	1.3	1.4	1.1	1.3	1.4	1.4
Occupations in Secondary School Education	1.2	1.3	1.3	1.3	1.2	1.4
Therapists	0.8	1.3	1.0	1.7	0.6	1.0
Occupations in Preschool, Primary School, and Kindergarten Education	1.3	1.3	1.1	1.1	1.4	1.4
Industrial Engineering Occupations	0.8	1.1	0.7	1.2	1.0	1.0
Other Occupations	14.8	17.0	13.5	19.2	15.7	15.4
Occupation Unknown	-----	-----	-----	-----	-----	-----

Notes: Occupations ranked on 2009 data.

Sum of the percents may not add to 100 due to rounding.

Percents shown in the table are based on the total number of petitions approved with known occupations.

* N.E.C. indicates *not elsewhere classified*.

Section 3.6 – Distribution of petitions by annual compensation⁹

Tables 10, 11, and 12 show compensation by occupation for beneficiaries of all, initial, and continuing employment, respectively. Each table shows occupations arranged in descending order by the total number of beneficiaries approved in Fiscal Year 2009. As shown in Table 10, the median annual compensation reported by employers of H-1B workers approved for employment during Fiscal Year 2009 was \$64,000. This number compares with \$60,000 in 2008, 2007, and 2006. One-half were expected to earn between \$50,000 and \$86,000. Median compensation ranged from a low of \$34,500 for occupations in religion and theology to a high of \$102,000 for fashion models.

**Table 10. Annual Compensation (\$) of All H-1B Beneficiaries by Major Occupation
Group: Fiscal Year 2009 (Approvals)**

Occupation	Total Reported	25 th Percentile	Median	Mean	75 th Percentile
Total	212,052	50,000	64,000	73,000	86,000
Known Occupations with annual compensation	211,477	50,000	64,000	73,000	86,000
Computer-related occupations	88,544	60,000	68,000	74,000	87,000
Occupations in Architecture, Engineering, and Surveying	25,066	59,000	72,000	75,000	87,000
Occupations in Education	24,541	39,000	47,000	55,000	61,000
Occupations in Administrative Specializations	20,890	43,000	57,000	65,000	80,000
Occupations in Medicine and Health	16,935	48,000	60,000	89,000	115,000
Managers and Officials N.E.C.*	8,215	55,000	83,000	94,000	115,000
Occupations in Life Sciences	6,424	40,000	47,000	56,000	65,000
Occupations in Mathematics and Physical Sciences	5,609	52,000	70,000	74,000	90,000
Miscellaneous Professional, Technical, and Managerial	4,772	51,000	78,000	84,000	106,000
Occupations in Social Sciences	4,408	45,000	65,000	75,000	95,000
Occupations in Art	2,739	37,000	48,000	57,000	69,000
Occupations in Law and Jurisprudence	1,395	47,000	92,000	116,000	160,000
Occupations in Writing	899	33,000	42,000	48,000	55,000
Occupations in Entertainment and Recreation	452	30,000	38,000	41,000	48,000
Occupations in Museum, Library, and Archival Sciences	214	39,000	48,000	64,000	63,000
Fashion Models	200	100,000	102,000	144,000	150,000
Occupations in Religion and Theology	174	27,000	34,500	39,000	47,000
Occupation unknown	575	45,000	61,000	71,000	85,000

Notes: Occupations ranked by number of beneficiaries.

* N.E.C. indicates *not elsewhere classified*.

Definitions: Median is the middle ranking value (50th percentile) of all values.

25th percentile and 75th percentile are the lower quarter and upper quarter ranking values, respectively.

⁹ Annual compensation refers to what the employer agreed to pay the beneficiary at the time the application was filed. The amount excludes non-cash compensation and benefits such as health insurance and transportation. Further, compensation is based on full-time employment for 12 months, even if the beneficiary worked fewer than 12 months.

As revealed in Tables 11 and 12, beneficiaries for continuing employment reported higher annual compensation than did beneficiaries for initial employment. Median annual compensation was \$70,000 for the former and \$59,000 for the latter. In Fiscal Year 2009 workers approved for continuing employment and initial employment reported mean annual compensation of \$77,000 and \$66,000 respectively.

Table 11. Annual Compensation (\$) of H-1B Beneficiaries for Initial Employment by Major Occupation Group: Fiscal Year 2009 (Approvals)

Occupation	Total Reported	25 th Percentile	Median	Mean	75 th Percentile
Total	85,368	46,000	59,000	66,000	75,000
Known Occupations with annual compensation	85,133	46,000	59,000	66,000	75,000
Computer-related occupations	29,676	54,000	60,000	67,000	75,000
Occupations in Education	10,768	37,000	45,000	53,000	58,000
Occupations in Architecture, Engineering, and Surveying	10,692	55,000	67,000	71,000	84,000
Occupations in Administrative Specializations	9,801	40,000	50,000	58,000	65,000
Occupations in Medicine and Health	7,781	46,000	54,000	76,000	75,000
Managers and Officials N.E.C.*	3,458	48,000	67,000	88,000	106,000
Occupations in Life Sciences	3,023	38,000	45,000	54,000	61,000
Occupations in Mathematics and Physical Sciences	2,623	50,000	64,000	70,000	85,000
Occupations in Social Sciences	2,131	42,000	60,000	68,000	85,000
Miscellaneous Professional, Technical, and Managerial	2,100	44,000	65,000	75,000	94,000
Occupations in Art	1,310	33,000	41,000	48,000	52,000
Occupations in Law and Jurisprudence	772	42,000	83,000	108,000	160,000
Occupations in Writing	432	31,000	40,000	45,000	50,000
Occupations in Entertainment and Recreation	230	29,000	35,000	37,000	42,000
Occupations in Religion and Theology	142	28,000	34,000	38,000	41,000
Occupations in Museum, Library, and Archival Sciences	97	35,000	44,000	49,000	59,000
Fashion Models	97	100,000	104,000	139,000	104,000
Occupation unknown	235	41,000	55,000	66,000	75,000

Notes: Occupations ranked by the number of beneficiaries.

* N.E.C. indicates *not elsewhere classified*.

Definitions: Median is the middle ranking value (50th percentile) of all values.

25th percentile and 75th percentile are the lower quarter and upper quarter ranking values, respectively.

Table 12. Annual Compensation (\$) of H-1B Beneficiaries for Continuing Employment by Major Occupation Group: Fiscal Year 2009 (Approvals)

Occupation	Total Reported	25 th Percentile	Median	Mean	75 th Percentile
Total	126,684	55,000	70,000	77,000	91,000
Known Occupations with annual compensation	126,344	55,000	70,000	77,000	91,000
Computer-related occupations	58,868	60,000	74,000	78,000	91,000
Occupations in Architecture, Engineering, and Surveying	14,374	62,000	75,000	77,000	90,000
Occupations in Education	13,773	41,000	48,000	56,000	64,000
Occupations in Administrative Specializations	11,089	48,000	65,000	72,000	88,000
Occupations in Medicine and Health	9,154	50,000	69,000	100,000	135,000
Managers and Officials N.E.C.*	4,757	61,000	91,000	98,000	120,000
Occupations in Life Sciences	3,401	42,000	49,000	57,000	67,000
Occupations in Mathematics and Physical Sciences	2,986	56,000	75,000	77,000	93,000
Miscellaneous Professional, Technical, and Managerial	2,672	60,000	90,000	91,000	115,000
Occupations in Social Sciences	2,277	51,000	75,000	82,000	100,000
Occupations in Art	1,429	42,000	57,000	65,000	80,000
Occupations in Law and Jurisprudence	623	55,000	110,000	125,000	185,000
Occupations in Writing	467	35,000	46,000	52,000	60,000
Occupations in Entertainment and Recreation	222	30,000	40,000	45,000	55,000
Occupations in Museum, Library, and Archival Sciences	117	42,000	51,000	78,000	64,000
Fashion Models	103	100,000	100,000	150,000	200,000
Occupations in Religion and Theology	32	25,000	37,500	43,000	50,000
Occupation unknown	340	55,000	70,000	75,000	90,000

Notes: Occupations ranked by the number of beneficiaries.

* N.E.C. indicates *not elsewhere classified*.

Definitions: Median is the middle ranking value (50th percentile) of all values.

25th percentile and 75th percentile are the lower quarter and upper quarter ranking values, respectively.

Section 3.7 – Distribution of petitions by industry

Tables 13A and 13B show the industries that employed the most H-1B workers in Fiscal Years 2008 and 2009. The number of workers approved for all known industries decreased 23 percent from 257,164 in Fiscal Year 2008 to 197,246 in Fiscal Year 2009. All of the top ten industries experienced a decrease in FY 2009 ranging from 39 percent (computer systems design and related services) to 7 percent (general medical and surgical hospitals).

Industry data are collected using the North American Industry Classification System (NAICS). Unlike country of birth, age, education, and occupation, USCIS does not verify the NAICS code, since the sponsor does not provide supporting documentation.

**Table 13A. H-1B Petitions Approved by Detailed Industry and Type of Petition (Number)
Fiscal Years 2008 and 2009**

Industry	All Beneficiaries		Initial Employment		Continuing Employment	
	FY 2008 Number	FY 2009 Number	FY 2008 Number	FY 2009 Number	FY 2008 Number	FY 2009 Number
Total	276,252	214,271	109,335	86,300	166,917	127,971
Industry known	257,164	197,246	103,289	78,999	153,875	118,247
Computer Systems Design & Related Services	108,970	66,236	52,829	23,828	56,141	42,408
Colleges, Universities & Professional Schools	26,145	22,991	11,318	10,420	14,827	12,571
Architectural, Engineering, & Related Services	10,420	8,247	3,557	3,419	6,863	4,828
Management, Scientific, & Technical Consulting Services	8,654	7,147	3,008	3,074	5,646	4,073
Elementary and Secondary Schools	7,537	6,192	2,990	2,199	4,547	3,993
General Medical and Surgical Hospitals	6,111	5,670	2,660	2,432	3,451	3,238
Scientific Research and Development Services	6,321	5,579	2,414	2,493	3,907	3,086
Securities & Commodity Contracts Intermediation & Brokerage	5,953	4,865	1,797	1,718	4,156	3,147
Semiconductor & Other Electronic Component Manufacturing	4,537	4,193	1,337	1,867	3,200	2,326
Accounting, Tax Preparation, Bookkeeping & Payroll Services	4,424	4,097	1,550	2,072	2,874	2,025
Computer and Peripheral Equipment Manufacturing	3,531	2,766	888	1,047	2,643	1,719
Offices of Physicians	2,659	2,482	821	894	1,838	1,588
Other Financial Investment Activities	2,677	2,441	784	1,012	1,893	1,429
Communications Equipment Manufacturing	1,882	2,150	341	875	1,541	1,275
Offices of Other Health Practitioners	1,634	1,878	722	1,097	912	781
Software Publishers	1,982	1,682	431	583	1,551	1,099
Other Professional, Scientific & Technical Services	1,498	1,524	453	700	1,045	824
Pharmaceutical and Medicine Manufacturing	1,794	1,523	454	539	1,340	984
Health and Personal Care Stores	1,874	1,487	418	526	1,456	961
Legal Services	1,548	1,416	703	761	845	655
Other Industries	47,013	42,680	13,814	17,443	33,199	25,237
Industry unknown	19,088	17,025	6,046	7,301	13,042	9,724

Notes: Industries ranked by total beneficiaries in 2009
NAICS - North American Industry Classification System

**Table 13B. H-1B Petitions Approved by Detailed Industry and Type of Petition (Percent)
Fiscal Years 2008 and 2009**

Industry	All Beneficiaries		Initial Employment		Continuing Employment	
	FY2008 Percent	FY2009 Percent	FY2008 Percent	FY2009 Percent	FY2008 Percent	FY2009 Percent
Total	-----	-----	-----	-----	-----	-----
Industry known	100	100	100	100	100	100
Computer Systems Design & Related Services	42.4	33.6	51.1	30.2	36.5	35.9
Colleges, Universities & Professional Schools	10.2	11.7	11.0	13.2	9.6	10.6
Architectural, Engineering & Related Services	4.1	4.2	3.4	4.3	4.5	4.1
Management, Scientific & Technical Consulting Services	3.4	3.6	2.9	3.9	3.7	3.4
Elementary and Secondary Schools	2.9	3.1	2.9	2.8	3.0	3.4
General Medical and Surgical Hospitals	2.4	2.9	2.6	3.1	2.2	2.7
Scientific Research and Development Services	2.5	2.8	2.3	3.2	2.5	2.6
Securities & Commodity Contracts Intermediation & Brokerage	2.3	2.5	1.7	2.2	2.7	2.7
Semiconductor & Other Electronic Component Manufacturing	1.8	2.1	1.3	2.4	2.1	2.0
Accounting, Tax Preparation, Bookkeeping, & Payroll Services	1.7	2.1	1.5	2.6	1.9	1.7
Computer and Peripheral Equipment Manufacturing	1.4	1.4	0.9	1.3	1.7	1.5
Offices of Physicians	1.0	1.3	0.8	1.1	1.2	1.3
Other Financial Investment Activities	1.0	1.2	0.8	1.3	1.2	1.2
Communications Equipment Manufacturing	0.7	1.1	0.3	1.1	1.0	1.1
Offices of Other Health Practitioners	0.6	1.0	0.7	1.4	0.6	0.7
Software Publishers	0.8	0.9	0.4	0.7	1.0	0.9
Other Professional, Scientific & Technical Services	0.6	0.8	0.4	0.9	0.7	0.7
Pharmaceutical and Medicine Manufacturing	0.7	0.8	0.4	0.7	0.9	0.8
Health and Personal Care Stores	0.7	0.8	0.4	0.7	0.9	0.8
Legal Services	0.6	0.7	0.7	1.0	0.5	0.6
Other industries	18.3	21.6	13.4	22.1	21.6	21.3
Industry unknown	-----	-----	-----	-----	-----	-----

Notes: Industries ranked by total beneficiaries in 2009.
Sum of the percents may not add to 100 due to rounding.
Percents shown are based on the total number of petitions approved with industry known.
NAICS stands for North American Industry Classification System

Appendix

Appendix A – H-1B petition processing

Petitions for obtaining H-1B nonimmigrant status for alien workers are submitted by their prospective employers on USCIS Form I-129, Petition for a Nonimmigrant Worker, and the addendum, H-1B Data Collection and Filing Fee Exemption Supplement. The petitions are mailed to one of two USCIS Service Centers (St. Albans, Vermont or Laguna Niguel, California) for processing depending on the location of the beneficiary's worksite.

Upon receipt, each petition is stamped with its date of arrival at the service center. A clerk creates a paper file that contains the original petition as well as all supporting documentation. This file becomes the official file of record for all activities connected with the petition.

Biographical data, such as name, date of birth, and country of birth, is taken from the petition and entered by data entry clerks into the case tracking system Computer-Linked Application Information Management System (CLAIMS3). The computer system generates a unique receipt number for the file. After being sorted into potential cap and non-cap cases, the file is assigned to an adjudicator.

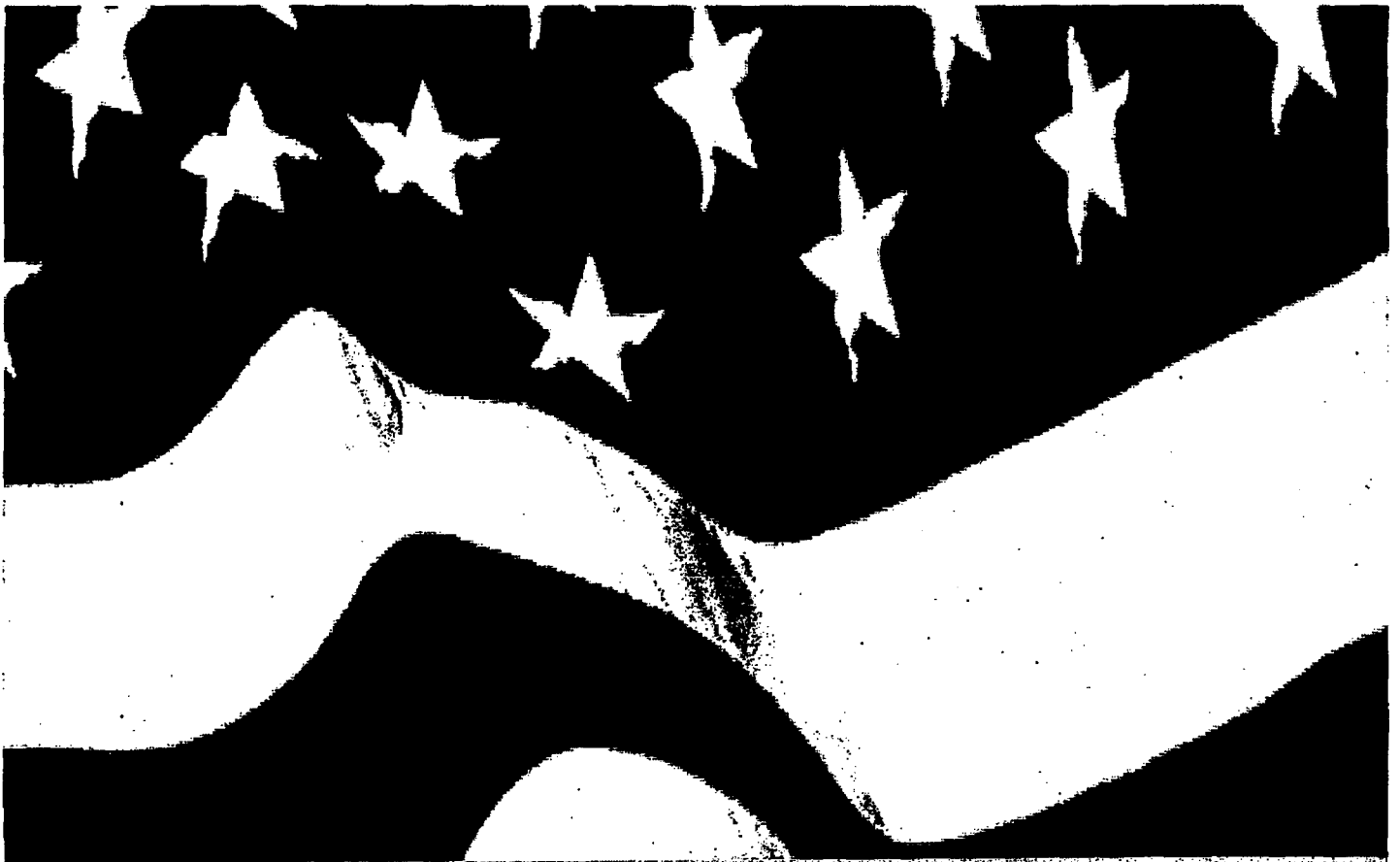
The adjudicator determines whether there is adequate information in the file to approve or deny the petition. If sufficient evidence is available, the adjudicator makes a decision and enters the corresponding information into the tracking system. In the case of insufficient evidence, the adjudicator requests additional information from the sponsoring employer. The employer must respond to the request within a set period of time or the petition will be denied.

After petitions are adjudicated, the supporting documentation are forwarded to either the USCIS records center in Harrisonburg, Virginia for storage or the Kentucky Consular Center in Williamsburg, Kentucky for consular processing.

Appendix B – Data Limitations

The data for the tables in this report have been extracted from a USCIS Service Center electronic data file. As such, errors in data may have occurred as a result of: erroneous data submitted by the petitioner, initial data entry errors at service centers, or improper electronic transfer from the service centers to USCIS Headquarters.

Minimum editing has been done to the data in this file and impossible or highly improbable values (such as beneficiaries younger than 16 (except for fashion models) or beneficiaries working without compensation) have been defined as unknown. Lastly, information in electronic format is not available regarding the cities or states where H-1B workers are employed.



USCIS Response to the Citizenship and Immigration Service Ombudsman's 2009 Annual Report

September 4, 2009



U.S. Citizenship and Immigration Services

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**RESPONSE TO THE CITIZENSHIP AND IMMIGRATION SERVICES
OMBUDSMAN'S 2009 ANNUAL REPORT
AUGUST 2009**

I. INTRODUCTION

U.S. Citizenship and Immigration Services (USCIS) appreciates the in-depth analysis of the agency's procedures and processes provided by the Citizenship and Immigration Services Ombudsman (CISOMB) in the 2009 Annual Report to Congress. USCIS provides the following responses to the CISOMB's recommendations and observations.

II. IMMIGRATION FILES

Immigration files record an alien's progression through the immigration process from initial entry through naturalization. They contain key documents that establish identity as well as a record of any immigration benefits granted. USCIS recognizes the importance of these documents and is taking steps to ensure that paper files are properly maintained and tracked while continuing efforts to digitize immigration files.

A. Digitization of Immigration Files – Recommendation 1

The Ombudsman recommends that USCIS immediately begin scanning immigration files that are likely to be needed for future adjudications.

USCIS Response: USCIS has had a strategy for scanning immigration files in place for the past 3 years. A Scan on Demand Application (SODA) was also implemented at the National Records Center (NRC) in the second quarter of Fiscal Year (FY) 2009 to begin responding to requests for information in files by scanning the Alien File (A-File) within a designated timeframe. Phase 2 of SODA will continue expansion of a digitized response to an A-File request at the NRC.

USCIS began the digitization initiative using funding from the 2007 fee increase that was allocated to deploy a pilot program. The pilot began with the establishment of the Records Digitization Facility (RDF) in FY06 and deployment of the Enterprise Document Management System (EDMS) in FY07. Together, these initiatives allow USCIS to convert paper A-Files to a digital format and to deliver that content to the user's desktop.

In FY08, as a result of an Office of Management and Budget (OMB) passback (updated in FY09), USCIS was tasked to eliminate interagency mailing of immigration files between USCIS, Immigration and Customs Enforcement (ICE), and Customs and Border Protection (CBP). The mandate is being addressed by Phase 1 of SODA.

For the past 3 years, USCIS has converted a variety of paper A-Files to digitized files. The converted A-Files have been primarily Temporary Protected Status (TPS), military

naturalization, oversized A-Files, and files from the Law Enforcement Support Center (LESC). These files were chosen primarily to evaluate the digitization process and learn how digitized files can be most effectively used in the adjudication process.

B. Recording File Movement – Recommendation 2

The Ombudsman recommends that USCIS establish new protocols to ensure that relevant contract staff consistently record all A-File movement as outlined in the Records Operation Handbook.

USCIS Response: USCIS believes that existing protocols are sufficient to enable compliance with proper A-File tracking requirements. The Records Operation Handbook (ROH) contains the policies, procedures, and guidelines for how a File Control Office (FCO)¹ should manage A-Files and other immigration records to preserve both the integrity and the availability of the records. These offices can create, store, transfer, receive, maintain, and retire A-Files. The FCO is responsible for all files in its jurisdiction to include sub-offices, field offices, ports of entry (POEs), and Border Patrol stations. Files in use at any ICE or CBP location must be accounted for during official file audits, which are conducted no less than once per year as required by the ROH. FCOs are required to follow all guidelines in the ROH in order to maintain file integrity and be responsive when files are requested.

The current Records Services Service Level Agreement (SLA) with ICE and CBP, which provides USCIS support for A-File movement, certification of true copies, certification of non-existence of records, etc., states that the agencies:

...will adhere to policies and procedures mandated in the Records Operation Handbook (ROH) - URL address http://ors.uscis.dhs.gov/pol_imp/roh/index.htm and in the Records Digitization Facility Customer Guide - URL address http://ors.uscis.dhs.gov/elec_rec/RDF/RDFTOC_cust.htm. ICE and CBP are responsible for requesting, using, managing, and returning Alien Files in compliance with the ROH and RDF Customer Guide. In addition, the SLAs will adhere to all pertinent statutes, regulations, Executive Orders, and Department of Homeland Security (DHS) policies and procedures including, but not limited to, DHS Management Directives (MD) #0710.1, Reimbursable Agreements and #0550.1, Records Management.

Many of the issues in recent years revolve around the timeliness of file transfers and responsiveness to file transfer requests. Even as USCIS begins to evolve into a more electronic environment, there are 59 million A-numbers and millions more immigration records that are either in use today or likely to be in use in the future. In order to better prepare for digitizing these records, USCIS will ensure:

- Files are properly consolidated or when needed;

¹ An FCO is an office that is authorized to manage A-Files and Receipt Files.

- File requests are honored quickly so temporary files are not created unnecessarily; and
- Files (including empty A-File jackets²) are tracked appropriately so files may be located immediately.

The Records Division, using audits and systems checks, will implement quality assurance support for USCIS, ICE, and CBP components. During the first quarter of FY10, the Records Division is "standing up" the Records Electronic Systems Training and Quality Assurance Team (REST-QA Team) to enhance A-File integrity in the field. The REST-QA Team, working with local offices, will conduct A-File audits, offer records training, and provide helpdesk support.

C. Mandatory Training – Recommendation 3

The Ombudsman recommends that through the Tri-Bureau Working Group (USCIS, Immigration and Customs Enforcement (ICE), and Customs and Border Protection (CBP)), USCIS expeditiously institute mandatory training of all personnel who work with A-Files, specifically special agents, investigators, and officers.

USCIS Response: Through the Tri-Bureau Working Group, USCIS will encourage use of USCIS's extensive Web-based records training, which includes Records Awareness training, National File Tracking System (NFTS) training, and Central Index System (CIS) training. USCIS is also in the process of complying with the recent Department of Homeland Security (DHS) mandate to conduct mandatory records awareness training throughout USCIS. The training includes A-File management and emphasizes the importance of appropriately tracking records. The training is available to ICE and CBP. USCIS is also developing USCIS Academy Records Training and the REST-QA Team program, which will begin providing this critical training in the first quarter of FY10. As noted above, the REST-QA Team will work with local offices to conduct A-File audits, offer records training, and provide helpdesk support.

Under the current agreement with ICE and CBP, "USCIS will provide training through a varied method of delivery such as train-the-trainer, web-based, classroom, and CDs, for the National File Tracking System (NFTS), the Central Index System (CIS), Records Management, the Enterprise Document Management System (EDMS), and other systems to be developed." Training is available and access to all systems is provided upon request. USCIS will be working with ICE and CBP over the coming months on the Records Services SLA for FY10 and will provide support for records training and understanding of the ROH policies. USCIS will work through the Tri-Bureau Working Group to make certain that ICE and CBP users receive the necessary training in an expeditious manner. USCIS believes

² On October 18, 2008, USCIS published a policy memorandum that provided clarification on the necessary audit process that must be completed prior to the issuance of empty A-File jackets.

this will ensure consistent use of records and compliance with A-File management policies and procedures by ICE and CBP.

III. IMMIGRANT VISAS

Section 201 of the Immigration and Nationality Act (INA) outlines the number of immigrants that may be granted permanent residence (i.e., visa numbers). Each year Section 202(a) of the INA sets numerical limitations on individual foreign states. Specifically, Section 202(a)(2) of the INA states in pertinent part:

Subject to paragraphs (3), (4), and (5), the total number of immigrant visas made available to natives of any single foreign state or dependent area under subsections (a) and (b) of section 203 in any fiscal year may not exceed 7 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the total number of such visas made available under such subsections in that fiscal year.

Accordingly, certain countries (e.g., India, China, the Philippines, and Mexico) have different priority dates since there are more individuals from those countries seeking permanent residence in the United States. Because the number of individuals from these countries seeking permanent residence in the United States often exceeds the 7 percent annual limit, these individuals have longer waiting times for visa numbers.

Although USCIS recognizes the frustration that many immigrants undergo as a result of the long waiting times, the agency is unable to increase the number of visas available to applicants absent a legislative change to the INA by Congress.

A. Processing of I-140 Petitions – Recommendation 4

The Ombudsman recommends that USCIS review processing methods for employment-based petitions between the Nebraska and Texas Service Centers to make American Competitiveness in the Twenty-First Century Act (AC21) portability provisions equally available to all customers.

USCIS Response: USCIS appreciates the CISOMB's concerns for making the portability provisions of AC21 equally available to all customers, but must clarify the adjudication practices at the Texas Service Center (TSC). In the Annual Report, the CISOMB indicates that TSC holds the adjudication of an I-140 filed concurrently with Form I-485 until an immigrant visa is immediately available. That is incorrect. Beginning in August 2008, TSC began adjudicating I-140s that were concurrently filed regardless of whether an immigrant visa was immediately available. If a case is approvable, and a visa is immediately available, TSC approves both the I-140 and I-485. If a visa becomes unavailable due to retrogression after the I-140 and I-485 have been filed, TSC processes the underlying I-140 petition, as does the Nebraska Service Center. Both Service Centers take steps to ensure a prompt final adjudication of the I-485 once a visa number again becomes immediately available,

including initiating required background and fingerprint checks and ensuring that the applicant has submitted all required initial evidence. In the case of retrogression of immigrant visa numbers, USCIS's goal is to have, by the end of FY09, all pending I-485s, including those filed concurrently with Form I-140, ready for prompt adjudication when immigrant visas again become immediately available. In such cases, USCIS will coordinate with DOS to ensure that DOS will have full visibility of the agency's pending I-485 inventory and will be able to accurately set the priority cutoff dates in their monthly Visa Bulletin.

The Nebraska Service Center (NSC) and TSC are on track to reach the 4-month agency processing time goal for I-140 petitions, by the end of the current fiscal year, as outlined in the 2007 Fee Rule. Once the 4-month processing time goal is achieved, the volume of still-pending I-140 petitions supporting long-pending I-485 applications will be minimal. For the overwhelming majority of applicants who file concurrently, the I-485 will have been pending for less than 180 days prior to the issuance of a final decision on the I-140 petition, thereby addressing the congressional concerns regarding delays in adjudication of such cases that led to the enactment of the AC21 portability provisions.

B. EB-1 Tip Sheet – Recommendation 5

The Ombudsman recommends that USCIS post a practical tip sheet on its Web site to assist stakeholders in providing the necessary and relevant information for complex EB-1 cases.

USCIS Response: USCIS posted a notice on its Web site prior to the release of the 2009 Annual Report, entitled *Questions and Answers: Petition Filing and Processing Procedures for Form I-140, Immigrant Petition for Alien Worker*.³ The posted notice provides filing tips that address a wide range of Form I-140 petition issues, including information pertaining to the filing of complex employment-based, first preference (EB-1) petitions.

C. I-140 Data Capture

The CISOMB Annual Report raised concerns regarding the difficulties surrounding the adjudication of employment-based adjustment-of-status requests filed via Form I-485. Specifically, the Annual Report pointed out that USCIS lacks full visibility specific aspects of its inventory of employment-based I-485s due to its case management system.

USCIS acknowledges that the Computer-Linked Application Information Management System (CLAIMS) currently lacks the capability to track pending employment-based I-485s by country, preference, and priority date⁴ of the Form I-140 immigrant worker petition, and to provide this inventory directly to DOS. USCIS is actively pursuing an information

³ Id.

⁴ The priority date is either the date a Labor Certification is filed with the state-level Department of Labor office or in cases where, by statute, a labor certification is not required, the date that the Form I-140 is filed. In some cases, the priority date of a previously filed I-140 may be applied to a subsequently filed I-140.

technology solution that would enable automated transmission of this information to DOS so that DOS can better determine appropriate priority cutoff dates for each month's Visa Bulletin.

In the meantime, USCIS has implemented an interim solution for Service Centers to track this information on all pending employment-based adjustment applications and to share it with the Department of State and also with CISOMB. Further, the Centers are processing cases well ahead of visa availability and placing orders for a visa number in the DOS system. In other words, while USCIS cannot approve these cases due to statutory limits on annual immigration, we are preparing them for prompt adjudication so that they can be completed as soon as the person's place in the line of those waiting to immigrate through the preference is reached.

These procedures together give the State Department detail necessary to set monthly Visa Bulletin priority dates. Preparing these cases for prompt adjudication also expedites case completion once a visa number is available. As of the end of June 2009, USCIS had adjudicated 108,583 employment-based I-485s and prepared an additional 139,309 for prompt adjudication upon DOS announcement of availability of visa numbers for such adjustment applicants. USCIS anticipates completing or preparing for prompt adjudication all employment-based cases otherwise outside our processing time goal by later this calendar year. In addition, we will post the underlying inventory report and provide detailed information about the volume and specifics of cases prepared for prompt adjudication on the USCIS Web site so customers with a pending employment-based I-485 have more detail about case status and can better determine their place in the immigrant visa queue.

D. Special Immigrant Visas

The CISOMB Annual Report noted that USCIS "has continually added innovations to its customer service processes" for petitions relating to Special Immigrant Visas (SIV) for Afghan and Iraqi nationals who have been employed by or on behalf of the U.S. Government, and that USCIS "has regularly fine-tuned its processes to meet the many challenges faced by this group of petitioners."

USCIS appreciates these statements but also recognizes the concern noted in the CISOMB Annual Report about possible underutilization of SIV visas. First, as acknowledged by the Report, the full visa allocations for the translator program were used during FY07 and FY08. Indeed, in light of high demand, as evidenced by a substantial backlog of approved petitions awaiting visa numbers, the caps were significantly increased from 50 to 500 visas per year; these increased caps were also reached. Usage patterns under the much larger section 1244 program for Iraqis, and the new similar program for Afghans, are as yet unclear. It should be noted that, although the initial legislation on the section 1244 program was passed in late January 2008, it was not until June 2008 that technical amendments to the legislation actually made visas available for FY08. Therefore, the large disparity between visas technically available in that fiscal year, and those issued, is somewhat artificial because the program was only stood up late in the fiscal year.

As indicated by Figure 11 in the CISOMB Annual Report, section 1244 approvals by USCIS are up sharply in FY09 compared to the previous initial year of the program. As further discussed below and in the CISOMB Annual Report itself, there are many factors affecting usage of this program that are outside the control of USCIS, including the specific statutory requirements, the uncertain actual size and composition of the potential applicant pool, DOS procedures abroad, and conditions within Iraq and Afghanistan. Despite these factors, USCIS has made an effort to make the process user-friendly by adjudicating the petitions as expeditiously as possible, consistent with the requirements of the statute and without compromising national security.

1. Cycle Times

The 2009 Annual Report noted that attorneys who represent Iraqi and Afghan SIV self-petitioners observed average cycle time for SIV I-360 self-petitions of 8-12 months. This is not an accurate reflection of the situation. The Nebraska Service Center (NSC), which has sole jurisdiction of the adjudication of SIV-360 self-petitions, generally adjudicates the petitions within 2-4 weeks of receipt. It appears that the cycle time referenced in the CISOMB Annual Report encompasses the entire process from petition-filing to the issuance of the SIV and admission to the United States. Since USCIS is not involved in the consular visa issuance process, any delays in the process after the I-360 is approved by USCIS and forwarded to the National Visa Center (NVC) (if the petitioner is outside the United States) should be addressed by DOS.

2. SIV Petitioner Experience

The CISOMB Annual Report expressed concern that some potential SIV petitioners are dissuaded from filing due to qualification requirements, delays caused by security reviews and potentially slow official responses to requests for information. USCIS does not by word or deed discourage qualified petitions. USCIS does not have the authority to change qualification requirements, which were established by Congress in the relevant legislation. As indicated above USCIS normally completes its part of the processing within a few weeks. Any information that is requested by the petitioner from the DOS Chief of Mission or from the petitioner's supervisor to fulfill the filing requirements is outside the control of USCIS.

Any delays due to security reviews conducted by DOS prior to visa issuance should be addressed by DOS.

3. Denied Petitions

The CISOMB Annual Report is also concerned that USCIS lacks a standardized review process for denied petitions or for delayed SIV petitions and refugee applications. This is not an accurate assessment. There are standard review processes for review of denied cases. In the case of SIV petitions, the review process is the same as for any other applications or

petitions filed with USCIS. Supervisory review is required for every SIV I-360 denial. Once the petition is denied and the notice sent, the petitioner has 30 days to appeal the decision. Most SIV petitioners are outside the United States and go through consular processing to obtain an immigrant visa. The DOS can address any questions regarding visa refusal review processes.

With respect to refugee cases, questions regarding the status of refugee cases are generally sent to the DOS Overseas Processing Entity or USCIS Field Office Director with jurisdiction over the case. There is no appeal for a denial of an application for refugee status. USCIS may exercise its discretion to review a case upon timely receipt of a request for review (RFR) from the principal applicant. The request must include one or both of the following: (1) a detailed account explaining how a significant error was made by the adjudicating officer or (2) new information that would merit a change in the determination. USCIS understands that the CISOMB intends to further analyze the RFR process for denied refugee applications, and USCIS is prepared to provide any additional information as needed.

IV. DNA TESTING

The CISOMB Annual Report indicated that, in USCIS's response to Formal Recommendation 26, USCIS stated that the recommended actions regarding DNA testing were "unnecessary."⁵ USCIS, however, must clarify this point: It was neither explicitly stated nor implied in its response to the recommendation that such actions were unnecessary. Instead, USCIS stated that the agency was drafting updates to section 204.2(d)(2)(vi) of Title 8, Code of Federal Regulations (CFR) to require DNA testing in certain situations. USCIS also noted that, although current regulations do not specifically allow officers to require DNA testing, guidance does allow petitioners to voluntarily submit additional evidence, including DNA testing, to meet their burden of proof to show the existence of a specific relationship. In requesting additional evidence pursuant to 8 CFR 103.2(b)(8), USCIS can, on a case-by-case basis, recommend that petitioners voluntarily submit DNA results as evidence of a claimed biological relationship. At present, DNA can only be recommended, not required. In the 2006 response, USCIS stated that "USCIS does not preclude requiring DNA testing as a standard procedure sometime in the future as new technology and competition make such testing more widely available and affordable."⁶

The CISOMB Annual Report correctly pointed out in the April 2006 recommendation that DNA provides the most conclusive scientific evidence of paternity and that birth records from many countries are unreliable. However, until the laws or the regulations are changed, USCIS may only suggest DNA testing as a means of secondary evidence if evidence submitted does not fully establish eligibility for the requested benefit. CISOMB is correct

⁵ See Citizenship and Immigration Services Ombudsman 2009 Annual Report to Congress, p. 45.

⁶ See USCIS Response to Formal Recommendation 26: DNA Testing, p. 2.

that certain regulations at 8 CFR 204.2(d)(2)(vi), stipulate that the only type of relationship testing that may currently be required by USCIS officers is the now obsolete venipuncture-based Blood Group Antigen or Human Leukocyte Antigen (HLA) testing.

USCIS has drafted language to remove the references to HLA testing in 8 CFR 204.2(d)(2)(vi) and replace it with a broader standard of DNA testing requirements. Although work continues to this end, a new regulation has not yet been published. At this juncture, USCIS plans to draft language that merely removes specific references to HLA testing in 8 CFR 204.2(d)(2)(vi) and reserves the subchapter for a future regulation. This would eliminate the authority to require relationship testing through an obsolete method and allow USCIS to continue to suggest DNA testing while a new regulation with a broader requirement for DNA testing is reviewed.

In this year's Annual Report, the CISOMB compares USCIS to DOS in terms of relationship testing and DNA collection. It is important to note that DOS is also bound by the regulations in 8 CFR in determining visa eligibility, and as such, may also only suggest, but not require, DNA testing as a means of secondary evidence in such cases. DOS guidance found in the Foreign Affairs Manual (FAM), which is the equivalent to the USCIS Adjudicator's Field Manual (AFM), states:

[DNA testing] is preferred over older technologies such as HLA and ABO blood typing because...it is more accurate when all parties are not available for testing...DNA technology should be the only method accepted for proof of a biological relationship.

This should not be interpreted to mean that DOS has the authority to require DNA testing for visa determinations. In fact, the FAM specifically states that genetic testing "cannot be required"⁸ and should only be recommended.⁹ The USCIS AFM provides similar guidance:

...as a result of technological advances, field offices should be aware that Blood Group Antigen and HLA tests are no longer widely available for testing by laboratories, and are not considered to be as reliable as DNA tests....¹⁰

⁷ 9 Foreign Affairs Manual 42.41 Exhibit II.

⁸ 9 Foreign Affairs Manual 42.41 PN 4.7.

⁹ However, DOS has greater latitude to require DNA evidence in the refugee processing context. Pursuant to its role in determining which refugees are of "special humanitarian concern to the United States" under INA Section 207(a)(3), DOS establishes the categories and criteria for applicants to qualify for resettlement consideration. In the case of family-based cases, for example, DNA evidence could be established as one of the criteria. Once an applicant establishes that he or she meets the access criteria to be considered in the U.S. refugee program, USCIS determines the person's eligibility for refugee status under DHS regulations.

¹⁰ Adjudicator's Field Manual. Chapter 21.2(d).

There is no real disparity between the two agencies' guidance as the CISOMB Annual Report implies. Both USCIS and DOS are aware of the problems that exist with the obsolete method of relationship testing specifically referenced in 8 CFR and are also aware of the immense value of DNA testing. To this end, USCIS and DOS continue to work together towards a solution.

A. Blood Testing Methods – Recommendation 6

The Ombudsman recommends that USCIS remove references to obsolete blood testing methods from the Adjudicator's Field Manual (AFM) and other published guidance.

USCIS Response: USCIS will continue to pursue changes to 8 CFR 204.2(d)(2)(vi) to remove references to the obsolete blood testing.

B. Coordination with the Department of State— Recommendation 7

The Ombudsman recommends that USCIS continue to coordinate with the U.S. Department of State regarding DNA testing procedures and execute a Memorandum of Understanding (MOU) with DOS for resource allocation for DNA evidence gathering and chain-of-custody observance abroad.

USCIS Response: USCIS has been discussing DNA issues with DOS and will continue to do so. USCIS has yet to determine the benefit or necessity of executing a Memorandum of Understanding (MOU) with DOS.

C. USCIS DNA Liaison – Recommendation 8

The Ombudsman recommends that USCIS designate a USCIS DNA liaison to facilitate discussions between USCIS and the U.S. Department of State, as well as to periodically provide clarifications for DNA laboratories.

USCIS Response: USCIS has in fact already designated a point of contact (POC) and subject matter expert within the agency to field questions about DNA testing. USCIS has established contacts with lab technicians and other officials at DHS, DOS, and the Department of Justice (DOJ) to assist with the development of new regulations. USCIS's current POC for DNA matters is responsible for coordinating all internal meetings as well as meetings between USCIS and other agencies and departments.

V. TRANSFORMATION AND INFORMATION TECHNOLOGY ENHANCEMENTS

In the annual report CISOMB commented extensively on the USCIS transformation and related improvement efforts. As pointed out by CISOMB, USCIS has begun to analyze its existing system to develop business requirements that will enhance customer service and the data integrity for USCIS. The analysis and data requirements gathered have led to conclusions that some existing systems are obsolete or incapable of expanding beyond

current functions. The Transformation Office has identified vital functions from these systems and intends to integrate them into new system requirements.

A. Coordination and Communication

As accurately stated in the report, synchronization among the various components responsible for Transformation is essential. As such, the Office of Information Technology (OIT) has created a new division, OIT Transformation Support Division (TSD), to increase its level of dedicated support to the Transformation effort. This new division will provide significant improvement in coordination and communication efforts between OIT and the Transformation program. OIT's newly established senior management team has placed greater emphasis on cooperation and collaboration to build mutually advantageous relationships with TPO. Transformation will continue to work closely with the OIT and the Solution Architect contractor towards the agency's transformation. This collaboration will enable the agency to have a better understanding of its legacy system capabilities while alleviating system conflicts and identifying parallel approaches and initiatives for future IT solutions.

The Transformation Office and OIT have established dedicated liaisons who meet on a consistent basis to report issues, changes, and associated impact. These reports and constant interaction between both program offices will provide for greater information-sharing and fortify the necessary dialogue for success.

B. Pilots

The CISOMB's annual report highlighted 3 system pilots linked to transformation. As noted in the CISOMB Annual Report, the functionality of the Biometric Support System (BSS) is critical to the transformation effort. It provides a bridge to shared biometric information between the legacy environments and more robust IT systems. However, the current biometric functions in the legacy environment are supported by inefficient systems that will be discontinued as the transformation initiative progresses.

BSS functionality has been integrated into a new system called the Customer Profile Management System (CPMS). CPMS will include all the functionality of BSS and the functionality of the Background Check Service (BCS). CPMS will replace several legacy systems and eliminate more than 140 distributed servers. The CPMS will:

- Route fingerprint data to the Federal Bureau of Investigation (FBI) and US-VISIT for enumeration and background investigations;
- Store background investigation results from the FBI;
- Route card data used to produce permanent residency documents, employment authorization documents (EADs), and travel documents; and
- Provide a repository of card data used by USCIS and other agencies to validate immigration status.

USCIS intends to implement CPMS in phases with the first phase scheduled for deployment in September 2009. This phase will include the ability to receive and store the images and relevant biographic data related to permanent resident cards, EADs, reentry permits and refugee travel documents, including radio frequency identification (RFID) data used by CBP. This data can be queried and viewed through the Person-Centric Query Service (PCQS). Since the PCQS user interface does not provide all features found in the Image Storage and Retrieval System (ISRS), both ISRS and PCQS will remain operational until a later release of CPMS. That subsequent release will contain a complete alternative to the ISRS user interface, thus enabling the retirement of ISRS.

The latter phases of CPMS will be integrated into the Solution Architect's integrated master schedule once the new timelines and deliverables are accepted by USCIS.

The second pilot that was highlighted by CISOMB is the Secure Information Management Service (SIMS) Pilot. SIMS was developed as a proof-of-concept to test a variety of operational and technical concepts related to the evolution of a long-term USCIS enterprise-level case management system.

SIMS has evolved through three phased releases. Sims Version 3.0 is operating at the National Benefits Center and three field offices: Newark, Memphis and Buffalo. While SIMS has provided substantial information as a pilot, the functionality currently being provided by SIMS is expected to be incorporated into the Transformation Solution in Releases 3 and 4. The migration of the current SIMS data will be accomplished in Release 3.

The third pilot highlighted in CISOMB's annual report is the Identity Management Pilot also referred to as Enumeration. USCIS began using the US-VISIT IDENT Exchange Messaging (IXM) interface to US-VISIT IDENT to assign enumerators to individuals in the SIMS Pilot. The Enumeration interface that USCIS built against the US-VISIT IXM interface has been made available on the ESB for other USCIS applications to reuse.

The current plans for the expansion and re-use of this interface are as follows:

- USCIS will be reusing the US-VISIT enumeration interface in support of the Adam Walsh Child Protection and Safety Act for fingerprints provided to USCIS from DOS Consular Affairs. USCIS will also reissue the interface for petitioners filing family-based immigrant visa petitions via a DOS overseas consulate. This use of US-VISIT will allow USCIS to determine if the petitioner has committed a "specified offense against a minor" as part of the Adam Walsh Child Protection and Safety Act requirement. USCIS will submit these prints to the FBI's IAFIS via the US-VISIT IXM interface.
- USCIS will conduct background checks against US-VISIT and IAFIS. Both systems are expected to be reused within the Transformation initiative.

- USCIS will use this US-VISIT IXM interface and the enumeration services in the Solution Architect's Release 2.

The Transformation Office is developing a roadmap from legacy systems to a streamlined and centralized biometric data collection and management system that will be part of the Transformation Solution. The new system will allow USCIS to retire the costly and ineffective legacy biometric infrastructure.

USCIS would like to expand on a point made in the CISOMB Annual Report. In discussing the Enterprise Performance Analysis System (ePAS), the report states, "USCIS has not yet designed ePAS, and has no timeline for deployment."¹¹ While it is true that ePAS has yet to be designed, USCIS is in the process of completing its Requirements Development Phase.

USCIS is currently in the seventh month of an eight-month requirements-gathering effort for ePAS, with the final Functional Requirements Document scheduled for delivery in August 2009. The Transformation Office has been actively involved in this process and will continue to play a role in the design and development of ePAS. After the requirements documents are reviewed, a final timeline for design and development of the enterprise system will be established.

VI. INFORMATION AND CUSTOMER SERVICE

As in the 2008 report, the CISOMB pays particular attention to customer service and the USCIS Web site. USCIS continues to place significant emphasis on improving customer service and has been particularly active with its efforts to produce a more user-friendly Web site. USCIS has formed several focus groups for the redesign of the Web site and has sought input from various stakeholders, including community-based organizations (CBOs), the American Immigration Lawyers Association (AILA), and the CISOMB, to assist in this effort.

A. National Customer Service Center (NCSC)

USCIS recognizes that when Customer Service Representatives (CSRs) do not adhere to the scripts they risk providing customers with incorrect information. USCIS continues to work with the contractors to ensure that CSRs follow the scripts, and extensive quality control procedures are in place, including random call monitoring, to ensure that procedures are followed correctly. The NCSC is a valuable resource, particularly for customers who do not have Internet access or do not know where to begin the process. The NCSC also has the ability to take "service requests." These requests detail the customer's inquiry and are forwarded directly to the office that is handling the customer's case. The receiving office is tasked to provide the customer with a written response.

¹¹ See Citizenship and Immigration Services Ombudsman 2009 Annual Report to Congress, p. 12.

Generally, customers report a positive experience when using the NCSC. A customer satisfaction survey is administered by a third party to customers who have recently called the NCSC and spoken to a CSR. During the past year, customers reported an 85 percent satisfaction rate. Customers experience minimal wait times to speak to a CSR, once the customer selects the option of speaking with a CSR from the Interactive Voice Response (IVR) menu, the customer is connected with a CSR in less than 1 second. USCIS continues to make improvements to enhance the NCSC capabilities to respond effectively and timely to customers.

B. Web Site Improvements

USCIS appreciates the CISOMB's concern about the Web site and wishes to note that, in conjunction with the Office of Science and Technology Policy (within the Executive Office of the President), USCIS has accelerated Web site redesign efforts. The revised www.uscis.gov will be a customer-centric Web site with new tools to help customers learn about applying for immigration benefits and tracking the status of their filed applications. The home page will have a "where to start" widget for new users to identify their place in the immigration process and learn about relevant services and benefits available. In addition, the most-searched immigration topics and important customer tools, such as the office locator and online appointment scheduling, will be available directly from the home page. The revised Web site will provide a dashboard view of an individual's case status as it relates to the major steps taken to process the most common application types. It will also provide a contextual overview of national processing volumes and trends. The improved Web site is scheduled to launch on September 22, 2009.

C. Case Status Online (CSOL) and Service Request Management Tool (SRMT) Online

In August 2009, the USCIS Office of Information Technology implemented an initiative to provide updates from Claims 3 and Claims 4 with the Customer Relationship Interface System (CRIS). This eliminated interface problems and CRIS now receives action codes from Claims 3 and Claims 4 which provides additional case status messages to our customers.

As part of the website redesign USCIS is updating the display of case status information. Case status information will be displayed differently to provide more context to the customer about the adjudication process and how their case is progressing. The new display will provide customers with one web page where they will be able to see:

- What processing step their case is in
- Where that particular step falls in the process as a whole
- National goals and average processing times
- Specific processing times for the office where their case is pending.

Currently, customers can sign up to have their case status messages emailed directly to them. Beginning September 22, 2009 customer will also be able to sign up to receive text messages that alert the customer to changes in his or her case status.

VII. ITEMS OF NOTE

A. Training

USCIS recognizes the importance of training and continuously seeks to identify areas that will assist employees in the development and fulfillment of their professional responsibilities and future leadership roles. With an increase in funding, USCIS has been able to continue offering BASIC training and expand other training opportunities available at the USCIS Academy.

USCIS Academy programs play a critical role in USCIS's ability to fulfill Goal 6 of the USCIS Strategic Plan: "Operate as a high-performance organization that promotes a highly talented workforce and a dynamic work culture." In order to continue providing excellent customer service and assuring there are no gaps in future leadership, USCIS built the USCIS Academy to develop employees and future leaders. USCIS is pleased with the extent to which employees, supervisors, and managers have taken advantage of the expanded training opportunities to enhance employee and mission performance; assist with individual career development; and develop current and future leadership for the agency.

In 2007, USCIS created a totally new BASIC Training Program with an increased focus on preparing new employees to be job-ready at the completion of their training. Practicums, which provide field training and hands-on experience for new employees, were added to the instructional courses. As part of our efforts to continuously improve the training programs, USCIS seeks feedback from students. Many have indicated that additional computer training would be beneficial. Based on that feedback the BASIC course was updated in July 2009 to include several additional courses devoted to computer training. Prior to arriving at the Academy, students have an opportunity to take introductory courses on electronic reference tools, computer systems, and EDMS. BASIC training has also been expanded to provide students with computer training on the systems they will use on the job, such as the Interagency Border Inspection System (IBIS), NFTS, and CIS, as well as various Microsoft applications. Overall, the 2009 revision of the BASIC curriculum enhances the readiness of new employees.

Beginning in FY2008, newly hired adjudicators must fulfill the requirements of the National Job Proficiency Certification (NJPC). The NJPC provides local office directors with a checklist to document students' completion of instruction, practicum, and on-the-job training. Validation of BASIC is set for completion by the end of FY09. Validation is a formal assessment by a certified agent to establish that the training course design, content, and delivery ensure all trainees have the opportunity to be job-ready.

B. Requests for Evidence (RFEs)

USCIS appreciates the CISOMB's concerns regarding the number of RFEs issued at the National Benefits Center (NBC) and the Service Centers. USCIS constantly reviews internal processes to ensure that RFEs are issued in a timely manner and only when necessary to establish eligibility for the benefit sought.

1. National Benefits Center (NBC)

The NBC has focused on improving internal case reviews to ensure that RFEs are sent only for those items that are necessary to the adjudication of the benefit that were not initially submitted or found elsewhere in the file. In 2007 a working group was formed to revise and simplify RFE phrases, based largely on feedback from external stakeholders. The simplified RFE statements were implemented in early 2008 and have contributed to applicants submitting complete RFE responses, which helps cases move through the process with increased efficiency and speed. The NBC frequently reviews RFE statistics to determine if RFE statements should be reevaluated and revised for clarity and effectiveness. As a result, the NBC RFE rate has dropped from an average of 50 percent in 2007 to 38 percent in 2008.

2. Service Centers

While the Office of Service Center Operations (SCOPS) continues to work with all four Service Centers to examine and minimize adjudicative inconsistencies in the field, there are a variety of items that need to be taken into account when comparing the RFE rates for the Vermont Service Center (VSC) and California Service Center (CSC) for H-1B, L-1A, L-1B, O, and R nonimmigrant classifications.

It is difficult to compare the RFE rates on these nonimmigrant categories against one another since different types of evidence are required for each of the classifications. For example, the type of evidence and documentation required for a nonimmigrant O-1 alien with extraordinary ability in the sciences, arts, or athletics is very different than that required for an H-1B specialty occupation. Despite varying evidentiary requirements across the classifications, regular communication between the VSC, CSC, and SCOPS regarding adjudications and standards has resulted in more consistent 2008 RFE rates for the CSC and VSC than in previous years (2006 and 2007) on H-1B, L-1A, L-1B, O, and R nonimmigrant categories. While such communication efforts are in place to provide uniform adjudication, an RFE may still be necessary to adjudicate a petition, since each case is fact-dependent. In this regard, it is important to remember that each visa petition filing is a separate proceeding and is decided on the basis of the evidence in that particular proceeding. Therefore, an RFE may be necessary to determine eligibility.

In March 2009, SCOPS formed a Business Operations component within its Business Branch to focus on facilitating uniformity and consistency in adjudication between sister Service Centers. As such, the Business Operations component has been tasked with

reviewing and determining areas where the field may need additional guidance regarding general standards for the issuance of RFEs.

C. K-3 Visa Family Reunification Process

In response to the CISOMB's 2006 recommendation,¹² which is cited in the 2009 Annual Report, USCIS consolidated the processing of Form I-130 and Form I-129F into a single adjudication and began sending both approved forms to DOS. Since 2006, USCIS has significantly reduced the I-130 backlog and the processing times of both forms. Because the adjudication of these two forms has been consolidated into a single adjudication, the processing time will necessarily be the same.

The consolidation of Forms I-130 and I-129F into a single adjudication has allowed USCIS to process I-130 approvals consistently, thus creating quicker processing times and preventing the waste of resources and duplication of processes.

The 2009 Annual Report suggests that the legislative intent of the LIFE Act is not being fulfilled since the current processing times for I-130s and I-129Fs are the same. In the past, the processing time and wait for the issuance of an immediate relative immigrant visa were significantly longer due to lengthy I-130 processing times, coupled with the time needed to consular process for the immigrant visa. In light of this, Congress passed legislation to allow for the filing of an I-129F to allow DOS to issue a K-3 visa for a spouse to come to the United States as a nonimmigrant for family unity while awaiting approval of the I-130 petition; the spouse could then adjust status in the United States. The legislative intent of the LIFE Act was based on the historical I-130 backlog that existed when Congress created the K-3 category. USCIS has drastically reduced the backlog associated with the I-130 petitions and the processing times are no longer at 12 months or more. USCIS has committed to a processing time of 6 months and is currently meeting or exceeding that commitment.

D. USCIS Fee Funding Structure

CISOMB raises concerns regarding the USCIS funding structure and highlighted the impact of the recent decline in filings and the resulting decline in revenue. USCIS is monitoring fee receipts on a biweekly basis to identify revenue trends and projections. USCIS has reduced planned spending in several areas, has implemented a headquarters hiring freeze, and will continue to look for additional cost saving measures without compromising processing times. The administration has also requested an appropriation to support a small portion of case processing.

VIII. CONCLUSION

¹² See Citizenship and Immigration Services Ombudsman 2006 Annual Report to Congress, Recommendation 10.

USCIS continues to enhance operational efficiency, improve customer service tools, and strengthen communication with stakeholders. USCIS is committed to providing further transparency into its operations as well as working with the CISOMB to assist in the fulfillment of the agency's mission.

APPENDIX A. ACRONYMS AND INITIALISMS

A

AC21	American Competitiveness in the Twenty-First Century Act
A-File	Alien File
AFM	Adjudicators Field Manual
AILA	American Immigration Lawyers Association

B

BCS	Background Check System
BSS	Biometric Support System

C

CBO	Community-Based Organization
CBP	Customs and Border Protection
CFR	Code of Federal Regulations
CIS	Central Index System
CISOMB	CIS Ombudsman
CLAIMS	Computer-Linked Application Information Management System
CPMS	Customer Profile Management System
CRIS	Customer Relationship Interface System
CSC	California Service Center
CSOL	Case Status Online
CSR	Customer Service Representative

D

DHS	Department of Homeland Security
DOJ	Department of Justice
DOS	Department of State

E

EAD	Employment Authorization Document
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EB-1	Employment-Based, First Preference
EDMS	Enterprise Document Management System
ePAS	Enterprise Performance Analysis System
ESB	Enterprise Service Bus

F

FAM	Foreign Affairs Manual
FBI	Federal Bureau of Investigation
FCO	File Control Office
FY	Fiscal Year

H

HLA	Human Leukocyte Antigen
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I

IAFIS	Integrated Automated Fingerprint Identification System
IBIS	Interagency Border Inspection System
ICE	Immigration and Customs Enforcement
IDENT	Automated Biometric Identification System
INA	Immigration and Nationality Act
IOE	Integrated Operating Environment
ISRS	Image Storage and Retrieval System
IVAMS	Immigrant Visa Allocation Management System
IVR	Interactive Voice Response
IXM	IDENT Exchange Messaging

L

LESC	Law Enforcement Support Center
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M

MOU	Memorandum of Understanding
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N

NARA	National Archives and Records Administration
NBC	National Benefits Center
NCIC	National Crime Information Center

NCSC	National Customer Service Center
NFTS	National File Tracking System
NJPC	National Job Proficiency Certification
NRC	National Records Center
NSC	Nebraska Service Center
NSRV	National Security and Records Verification
NVC	National Visa Center

O

OCFO	Office of the Chief Financial Officer
OIT	Office of Information Technology
OMB	Office of Management and Budget
OTC	Office of Transformation Coordination

P

PCQS	Person Centric Query Service
PIPT	Program Integrated Product Team
POE	Port of Entry

R

RDF	Records Digitization Facility
REST-QA	Records Electronic Systems Training and Quality Assurance
RFE	Request for Evidence
RFID	Radio Frequency Identification
ROH	Records Operation Handbook

S

SCOPS	Service Center Operations
SIMS	Secure Information Management Service
SIV	Special Immigrant Visas
SLA	Service Level Agreement
SMART	Standard Management Analysis Reporting Tool
SMS	Short Message Service
SODA	Scan on Demand Application
SRMT	Service Request Management Tool

T

TLT	Transformation Leadership Team
TPS	Temporary Protected Status
TSC	Texas Service Center
TSD	Transformation Support Division

U

USCIS
US-VISIT

U.S. Citizenship and Immigration Services
U.S. Visitor and Immigrant Status Indicator Technology

V

VSC

Vermont Service Center

W

WIPT

Working Integrated Product Team

APPENDIX B: RECOMMENDATION CHARTS

To monitor the agency's progress on implementing CISOMB recommendations, USCIS has prepared the following recommendation charts. The charts display a summary of the recommendation, the date USCIS responded to the recommendation, whether USCIS agrees to implement the recommendation, and the status of any resulting implementation. It is important to note that while USCIS may have initially agreed or disagreed to implement a recommendation in its response, there are occasions when USCIS revisits recommendation made by the CISOMB and reassesses implementation.

B1: Recommendations Results that Require Clarification

There are several recommendations listed on the chart provided in the CISOMB 2009 Annual Report (pp. 77-81) that we need to clarify.

Recommendation	Response Date	USCIS Comments
Annual Report Recommendation 2008-10: Workforce Elements of Surge Plan Review the workforce elements of its 2007 surge plan and make public an after-action report on its findings, including best practices, for possible future application surges.	September 30, 2008	USCIS agreed to develop an after-action report to review the workforce elements of the 2007 surge plan. In our response, USCIS did not agree to make this report public. This report has been completed, but USCIS does not intend to release this document publicly.

Annual Report Recommendation 2008-09: Tip Sheets Expand the use of filing guidance "tip sheets" to reduce the current "Request for Evidence" (RFE) issuance rates.	September 30, 2008	USCIS has developed and continues to develop tip sheets to assist our customers with filing. Since the CISOMB recommendation did not specify how many tips sheet USCIS should create; however, since the CISOMB 2008 Annual Report USCIS has developed several tip sheets including filing tips for H-1B nonimmigrants, filing tips for religious workers, and an adoption tip sheet. USCIS will continue to provide guidance to our customers, but does not plan to further report on this recommendation.
Annual Report Recommendation 2008-07: Tier 1 Call Center Representatives Ensure its Tier 1 Customer Service Representatives (CSRs) of the NCSC follow the scripted information and are properly notified of change of scripts.	September 30, 2008	USCIS did not disagree with this recommendation, nor did we state that it would not be implemented, as suggested by the symbol used in the recommendation status chart in the CISOMB 2009 Annual Report. We indicated we already had procedures in place. Tier 1 representatives are contractually obligated to follow the scripts. Failure to follow the script may result in disciplinary action for the Tier 1 representative and demerits for the contracting agency. USCIS employs several quality assurance techniques to ensure that Tier 1 representatives are effectively doing their jobs.
Annual Report Recommendation 2008-03: National File Tracking Convene a working group to define and implement near-term national file tracking goals.	September 30, 2008	USCIS has created a national file tracking working group. This group has both short and long term goals and is working to implement them.
Annual Report Recommendation 2008-02: Digitization Initiative Publicize near-term goals for the "digitization initiative" (electronic form filing and case	September 30, 2008	USCIS's efforts to digitize immigration files have been widely reported in the public arena. The agency's goals for digitizing immigration files were also

processing).		discussed in the USCIS 2008 Annual Report.
Annual Report Recommendation 2007-23: Training in the Field Offices Amend job requirements to include knowledge of certain commercially-available computer programs and provide all interviewing officers with Interviewing Techniques Training.	February 13, 2008	The CISOMB recommended that USCIS amend job requirements for employees to include basic knowledge of certain commercially-available computer programs. USCIS did not agree to implement this recommendation, noting that "...most employees come to the respective positions with a basic working knowledge of relevant commercially available programs. However, local training is also offered as needed...."
Annual Report Recommendation 2007-14: Records Management Define a program to ensure proper handling and monitoring of its records. The program should be assigned to a USCIS headquarters office element.	February 13, 2008	This recommendation has been fulfilled. USCIS has created NFTS to track the location and movement of files. Other DHS components that use immigration files also have access to and use of NFTS. While all offices are required to use NFTS, monitoring and maintenance of the system is conducted by Headquarters staff.
Annual Report Recommendation 2007-12: Request for Evidence Issuance (2) Develop transparent and easily understandable rejection criteria;	February 13, 2009	This recommendation was to "develop" transparent and easily understandable rejection criteria. Each application or petition that USCIS rejects contains a notice that clearly explains the reason for the rejection. USCIS considers this recommendation fulfilled.
(3) Develop RFEs written in simple, more direct language with less legalese and personalized to the recipient for the limited instances in which RFEs would be issued.	February 13, 2009	RFEs are issued to obtain information or documentation material to the benefit sought; therefore, an RFE is tailored to the specific case to request the evidence needed. USCIS makes a concerted effort to ensure that RFEs are relevant and request only what is necessary.

<p>Annual Report Recommendation 2007-08: Fraud Interviews Institute same-day fraud interviews in all field offices. Timely adjudication of applications will deny fraud perpetrators additional preparation time and timely decisions will prevent issuance of interim benefits.</p>	<p>February 13, 2008</p>	<p>The CISOMB 2009 Annual Report states that USCIS "has not yet fully implemented this recommendation." USCIS has never agreed to fully implement this recommendation as there are several factors that may warrant not conducting same-day fraud interviews. In some instances, not conducting a same-day fraud interview will allow USCIS the opportunity to first conduct a site visit or conduct further research on the case.</p>
<p>Annual Report Recommendation 2007-06: FBI Name Check (1) Evaluate the value of the name check in its current format and establish a risk-based approach to screening for national security concerns.</p>	<p>February 13, 2008</p>	<p>USCIS has worked closely with the FBI regarding the name check process. Working together, the agencies were able to eliminate the backlog of pending name checks. USCIS believes that the FBI name check provides valuable information and will continue to work with the FBI to improve the name check process. This recommendation has been fulfilled.</p>
<p>Annual Report Recommendation 2007-04: FAQ List Adopt the frequently asked questions format used by Customs and Border Protection (CBP), incorporating a dynamic search feature on the Web site, rather than a static FAQ list. In addition, USCIS should provide a service on the Web site whereby customers can email a question and receive an answer within a short period of time.</p>	<p>February 13, 2008</p>	<p>USCIS does not disagree with this recommendation. As stated in the 2007 response, USCIS is currently working on new initiatives for the customer to submit inquiries via online capabilities.</p>
<p>Recommendation 30: Improvement of FOIA Operations</p>	<p>October 5, 2006</p>	<p>USCIS has implemented all the recommendations that we had agreed to implement. USCIS did not agree to recommendations 13 and 17.</p>

B2: Comments on other Recommendations

Recommendation	Response Date	USCIS Comments
Annual Report Recommendation 2008-08: Customer Service Systems Ensure that all systems used by customer service personnel to provide information to the public are consistent and accurate.	September 30, 2008	USCIS continues to work to ensure that all systems used by customer service personnel to provide information to the public are consistent and accurate.
Annual Report Recommendation 2008-04: Dissemination of Information Standardize proactive dissemination of information to all customer service avenues to ensure USCIS personnel can provide consistent and accurate information to customers.	September 30, 2008	USCIS has procedures in place to disseminate information. The agency continues to explore ways to improve the process.
Annual Report Recommendation 2008-01: Case Management System Implement a comprehensive and effective case management system. USCIS should determine whether the Transformation Program Office (TPO) pilot has the necessary capabilities and, if so, implement agency-wide.	September 30, 2008	USCIS has determined that the SIMS pilot did not have the capabilities to be implemented as an agency-wide case management system, and is completing a final pilot evaluation report. A new case management system will be developed and implemented as part of the transformation

		initiative.
Annual Report Recommendation 2007-20: Office Communication Expand the opportunities for vertical and horizontal communication among offices by supporting conferences focused on specific work issues and providing funds for travel of working level staff to share best practices.	February 13, 2008	USCIS regularly hosts in-person conferences and meetings with subject matter experts. USCIS will continue to provide opportunities for information to be communicated both vertically and horizontally.
Annual Report Recommendation 2007-15: Information Technology Network Solutions (1) Ensure that a computer refresh does not adversely impact local systems;	February 13, 2008	USCIS is managing a careful balance between maintaining locally developed systems and placing an aggressive and rapid emphasis on improving the IT security posture.

2) Make available to each local office software that is authorized to enable offices to continue to use previously created documents in those systems; and	February 13, 2008	Some locally developed systems that were created without adequate IT safeguards are affected when necessary modifications to IT security are implemented. This does <u>not</u> occur when authorized software is updated.
(3) Consider a long-term solution to the onsite support issue, such as a central system.	February 13, 2008	The enhanced funding from the fee increase provides for a viable central IT program that provides responsive service and better IT controls.
Annual Report Recommendation 2007-12: Request for Evidence Issuance Work to improve the clarity of form instructions, CISOMB recommends that USCIS develop: (1) Clearer application instructions so that applicants provide the required documentation at the outset;	February 13, 2008	All instructions are reviewed for plain-language when a form is revised or reissued.

<p>Annual Report Recommendation 2007-02: Pending Cases Provide a clearer picture of the current backlog by providing information on the number of pending cases by form type with receipts that are: (1) less than 90 days; (2) less than 180 days; (3) less than 1 year; (4) less than 2 years; (5) less than 3 years; (6) less than 4 years; and (7) greater than 4 years.</p>	<p>February 13, 2008</p>	<p>Upon the launch of USCIS's new Web site, customers will be able to identify their place in the process as well as the total number of applications pending at that same point.</p>
<p>Annual Report Recommendation 2007-01: Transformation CISOMB recommends that the Transformation Program Office: (1) Publish transformation timelines, goals, and regular updates on the public USCIS Web site. CISOMB is concerned that transformation is proceeding largely without input from customers, Congress, and the public. The lack of transparency enables USCIS to modify deadlines and goals without producing meaningful results.</p>	<p>February 13, 2008</p>	<p>The transformation contract was recently awarded. Timelines and goals are currently being developed.</p>

B3: Recommendation Update

Annual Report Recommendation 2007-11: Although USCIS initially agreed with this recommendation, the agency has reviewed the feasibility of implementation and does not think it is appropriate for the lockbox to automatically reject applications filed by those in removal proceedings. There are instances where an applicant who is in removal proceedings may be eligible to apply for an immigration benefit.

B4: Implemented Recommendations

USCIS appreciates the CISOMB recognizing that USCIS has implemented the following recommendations:

Annual Report Recommendation 2008-06: Tier 1 and Tier 2 Exchange Program

Annual Report Recommendation 2008-05: Web site Resources

Annual Report Recommendation 2007-25: Form I-589 Redraft

Annual Report Recommendation 2007-24: End the DORA Program

Annual Report Recommendation 2007-23-2: Interview Training

Annual Report Recommendation 2007-22: Personnel Recruitment and Development
Annual Report Recommendation 2007-21: Supervisor Training
Annual Report Recommendation 2007-19: Standardize Staffing Levels
Annual Report Recommendation 2007-18-1: Expand Blended Training Approach
Annual Report Recommendation 2007-18-2: Instructor Certification
Annual Report Recommendation 2007-17: Career Paths
Annual Report Recommendation 2007-16: Chief Human Capital Officer SES
Annual Report Recommendation 2007-13: Fund Headquarters Staff Visits to the Field
Annual Report Recommendation 2007-11-2: Notify Field Offices of Rejected Applications
Annual Report Recommendation 2007-11-3: Implement Quality Review Measures
Annual Report Recommendation 2007-10: Uniform Quality Assurance Training
Annual Report Recommendation 2007-09: Aging Report of Fraud Investigations
Annual Report Recommendation 2007-07: Premium Processing Cost Analysis
Annual Report Recommendation 2007-06-2: Work With the FBI on Name Check Cases
Formal Recommendation 32-2: Maintain Statistics on Deferred Action
Formal Recommendation 28: Change of Address Online

Office of Legislative Affairs

U.S. Department of Homeland Security
Washington, DC 20533



**Homeland
Security**

AUG 04 2008

The Honorable Zee Lofgren
Chairman
Subcommittee on Immigration, Citizenship, Refugees,
Border Security, and International Law
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Lofgren:

Enclosed please find the report to Congress pursuant to the Iraqi Refugee Crisis Act. This report is submitted by the Department of Homeland Security (DHS) pursuant to Section 1248(a) of the Iraqi Refugee Crisis Act of 2007, which requires a report containing plans to expedite the processing of Iraqi refugees for resettlement. The report has been coordinated with the Department of State (DOS) which shares responsibility with DHS for implementing the U.S. Refugee Admissions Program (USRAP).

I appreciate your interest in the Department of Homeland Security, and I look forward to working with you on future homeland security issues. If I may be of further assistance, please contact the Office of Legislative Affairs at (202) 447-5890.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Kent".

Donald H. Kent, Jr.
Assistant Secretary
Office of Legislative Affairs

Enclosure

www.dhs.gov



Report on Internal Affairs Investigations

Report to Congress
October 2006 to June 2009



**Homeland
Security**

*U.S. Citizenship and
Immigration Services*

DEC 11 2009



**Homeland
Security**

Foreword

I am pleased to present the "Report on Internal Affairs Investigations" prepared by the Office of Security and Integrity of U.S. Citizenship and Immigration Services (USCIS). The report has been compiled in response to a legislative requirement in Title I, Section 109(c) of the USA PATRIOT Improvement and Reauthorization Act of 2005.

The report provides a description of internal affairs operations at USCIS and discusses the general state of such operations, provides summaries of recently-completed and closed investigations, and includes data on the personnel resources devoted to such investigations.

Pursuant to congressional requirements, this report is being provided to the following Members of Congress:

The Honorable Patrick J. Leahy
Chairman, Senate Committee of the Judiciary

The Honorable Jeff Sessions
Ranking Member, Senate Committee of the Judiciary

The Honorable John Conyers, Jr.
Chairman, House Committee of the Judiciary

The Honorable Lamar Smith
Ranking Member, House Committee of the Judiciary

Inquiries relating to this report may be directed to me at (202) 447-5890.

Respectfully,

A handwritten signature in black ink, appearing to read "Chana W. Wiggins", with a long horizontal flourish extending to the right.

Chana W. Wiggins
Assistant Secretary
Office of Legislative Affairs

Executive Summary

This report, submitted pursuant to Title I, Section 109(c) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109-177), provides a detailed description of the internal affairs operations at U.S. Citizenship and Immigration Services.

The report discusses the steps taken by USCIS's Office of Security and Integrity (OSI) to build the component's investigative capabilities, and describes the functions, organizational structure, and the policies and procedures that guide OSI's Investigations Division, the program office responsible for overseeing USCIS's internal affairs operations.

The report also provides a comprehensive overview of the investigative process, and outlines several of the employee training and outreach initiatives that have been developed to deter and prevent employee misconduct.

The final section of the report provides general statistics on investigations opened and/or concluded since October 1, 2006 and, consistent with the legislative requirement, detailed descriptions of the eight (8) investigations of alleged employee misconduct, corruption or fraud that were completed and closed by OSI between January and June 2009.

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I. Legislative Requirement

This report responds to the reporting requirements set forth in Title I, Section 109(c) of the USA PATRIOT Improvement and Reauthorization Act of 2005, which provides:

ADDITIONAL REPORT - At the beginning and midpoint of each fiscal year, the Secretary of Homeland Security shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a written report providing a description of internal affairs operations at U.S. Citizenship and Immigration Services, including the general state of such operations and a detailed description of investigations that are being conducted (or that were conducted during the previous six months) and the resources devoted to such investigations. The first such report shall be submitted not later than April 1, 2006.

II. Background

On 1 March 2003, the newly-established Department of Homeland Security (DHS) absorbed all functions formerly performed by the Department of Justice's Immigration and Naturalization Service (INS). As part of this reorganization, INS's principal functions were divided and placed into three separate, newly-created DHS components: 1) immigration enforcement responsibilities were assumed by Immigration and Customs Enforcement (ICE); 2) border enforcement functions were assigned to Customs and Border Protection (CBP); and 3) immigration-related services and benefits became the responsibility of U.S. Citizenship and Immigration Services (USCIS).

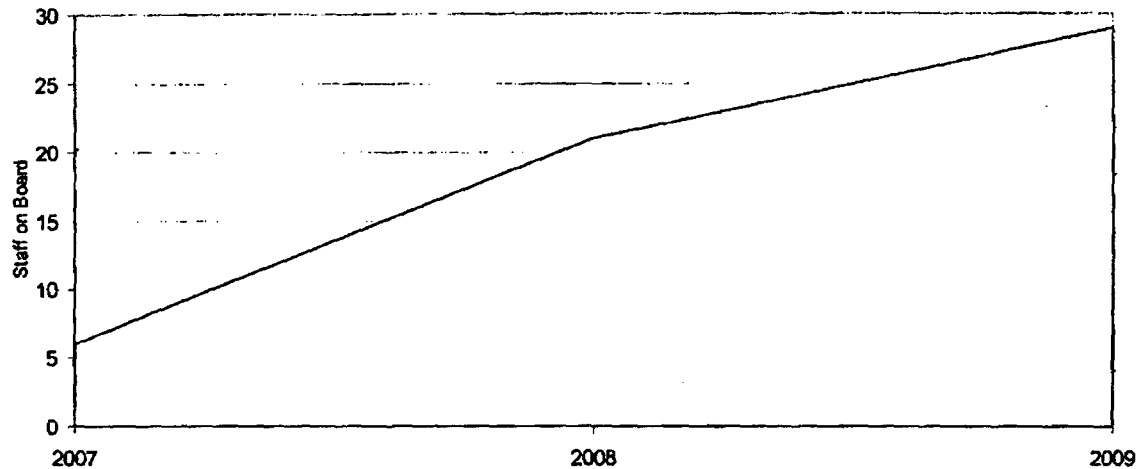
Prior to INS's dissolution, internal affairs operations for the entire bureau were performed by INS's Office of Internal Audit (OIA), Internal Investigations Branch (INS/OIA-IIB). After the creation of DHS, all legacy INS/OIA-IIB personnel were assigned to ICE, in effect requiring USCIS to develop, from the ground up, its own internal affairs capability, including staffing, facilities, procedural guidance, and database resources.

In May 2004, then-Director Eduardo Aguirre created the Office of Security and Investigations at USCIS. In August 2004, all existing USCIS security personnel, assets and underlying budgets were transferred to and consolidated within the newly established Office of Security and Investigations. The new office was charged with a broad range of responsibilities, including building the capabilities necessary to undertake the tasks assigned to the USCIS Director under Section 453 of the Homeland Security Act of 2002 (HSA). Pursuant to HSA Section 453(a)(1), the Director shall be responsible for "conducting investigations of non-criminal allegations of misconduct, corruption, and fraud involving any employee of the Bureau of Citizenship and Immigration Services that are not subject to investigation by the Inspector General for the Department."

USCIS's internal review and investigative capabilities were further enhanced in March 2007 by the reorganization of the Office of Security and Investigations into the Office of Security and Integrity (OSI). This reorganization merged the former Office of Security and Investigations functions with the Internal Review functions previously performed by USCIS's Financial Management Division. A member of the Senior Executive Service was assigned to serve as head of OSI and as the USCIS Chief Security Officer. A USCIS fee review and resulting increase was instrumental in providing the required resources to accomplish this restructuring, including an expansion in the number of professional full-time security and investigative personnel.

As recently as 2007, USCIS employed fewer than 10 investigative personnel. Today, OSI's Investigations Division consists of over 30 positions, with investigators and other staff located at Headquarters and in field offices in Los Angeles, Houston, Orlando, and Washington, DC.

The following graph illustrates the growth over time of the number of USCIS investigative personnel.



Subsequent sections of this report provide more detailed information on the USCIS investigations process and on recently completed and closed cases.

Due to an oversight of the §109(c) reporting requirement in the USA PATRIOT Reauthorization and Improvement Act of 2005, USCIS erred in not submitting semi-annual reports beginning April 1, 2006. To rectify our oversight, this first report includes composite data on all investigations for the period October 1, 2006, through June 30, 2009 (pages 11 and 12), as well as detailed information on cases completed and closed in the January – June 2009 timeframe (pages 12 through 14). This initial report also includes detailed narrative descriptions of the steps USCIS has taken in recent years to build the component's investigative capabilities, standardize investigative procedures, and reduce the incidence of employee misconduct. Subsequent reports will be submitted on a regular and timely basis and, consistent with the legislative requirement, will include detailed information on cases completed and closed in the prior six-month period.

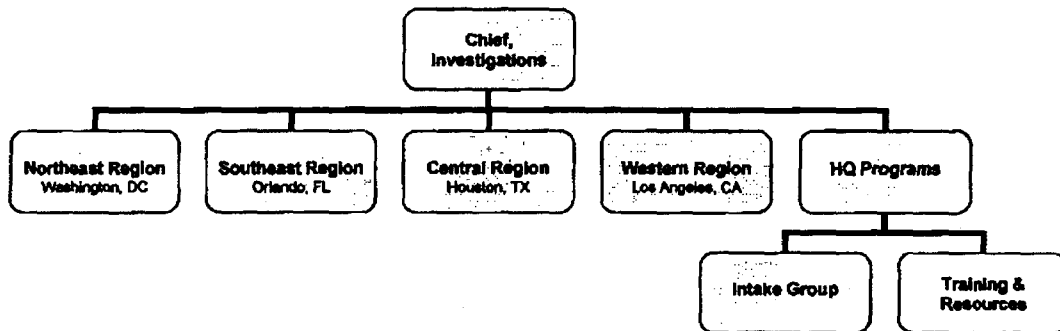
III. OSI Investigations Division Organization

In accordance with the HSA, the USCIS Director is responsible for investigating all non-criminal allegations of employee misconduct, corruption, and fraud that are not subject to investigation by the DHS Office of Inspector General (OIG). The USCIS Director delegated this investigatory responsibility to OSI.

The OSI Investigations Division:

- Receives complaints and plans, organizes, and conducts internal investigations pertaining to USCIS employee misconduct;
- Develops investigative procedures and techniques; and
- Provides policy guidance to investigators and employees assigned to conduct field management inquiries.

The Investigations Division is currently staffed with 32 full time equivalent (FTE) positions, supported by 3 contract staff headquartered in Washington, DC. A GS-15 Division Chief oversees the division, which consists of four regional offices and a separate Headquarters (HQ) Programs Branch. The Chief, Investigations, reports directly to the Chief, OSI.



Each of the four regional offices is headed by a GS-14 Special Agent in Charge (SAC) who is supported by a number of investigative Special Agents, depending on the caseload of the region. Each regional office:

- Conducts investigations pertaining to USCIS employee misconduct;
- Coordinates with law enforcement entities and U.S. Attorneys Offices; and
- Testifies in legal, quasi-legal, or administrative proceedings, as needed.

The HQ Programs Branch is also headed by a GS-14 SAC. Its Intake Group receives allegations of misconduct and either refers them to the appropriate agency (i.e., OIG, ICE, CBP), or forwards them to the responsible regional offices. The Training and Resources Group develops guidance and outreach materials and generally supports the Division.

The OSI Investigations Division increased staffing in Headquarters Programs, the Washington Office, and the Los Angeles Office in Fiscal Year 2009 (FY09). Staffing and training of the

Orlando Office is in progress and should be completed in FY10. The new Orlando office will assume OSI investigative responsibility in the USCIS Southeast Region, increasing efficiency and facilitating workload balance across the Southeast and Central Regions.

IV. USCIS Investigations Process

A. Intake Process

The OSI Investigations Division Intake Group receives employee misconduct allegations from a variety of sources, including: the OIG Hotline referral system; the OSI intranet online complaint form for reporting USCIS employee misconduct; the OSI Command Center Significant Incident Report (SIR) system; and e-mail, fax, or regular mail correspondence from complainants, their representatives, and various advocacy groups. All allegations of USCIS federal or contractor employee misconduct are recorded, assigned a case number, and initially evaluated and categorized by Headquarters OSI Investigations Division staff for further referral, as appropriate.

The OSI Complaint Management System (CMS) database is the primary, centralized mechanism for recording and monitoring allegations of USCIS employee misconduct received from all sources, both internal and external to the agency. CMS includes data search and compilation capabilities, and allows OSI to track the status of all investigative referrals to and from OSI.

To enhance the efficiency of data tracking, and to facilitate investigative review, determination and referral, USCIS uses a system similar to those in place at CBP and ICE and classifies allegations of misconduct into four "Classes":

- Class I allegations identify potential criminal misconduct;
- Class II allegations represent serious non-criminal misconduct;
- Class III allegations are non-criminal in nature but sufficiently serious to warrant a required formal review; and
- Class IV allegations involve conduct that is less serious than Class III and more conducive to intervention by agency management at the local level.

In accordance with an April 2003 Memorandum of Understanding (MOU) between USCIS and OIG, all Class I and II cases are referred to OIG for review and investigative determination. Cases not accepted for OIG investigation are returned to OSI's Investigations Division for further agency disposition.

B. Management Inquiries

Many Class III cases are addressed via Management Inquiries. These non-criminal allegations are referred to local USCIS management for review and disposition (including corrective action), and typically involve alleged offenses like time and attendance violations. Upon final disposition, a report of the inquiry is forwarded to the OSI Investigations Division for review and retention.

The USCIS Management Inquiry program was developed by OSI as a force multiplier, enabling the agency to address certain types of employee and contractor misconduct allegations in a more

consistent and timely manner. Management Inquiries allow the OSI Investigations Division to focus its investigative resources on the more serious allegations of misconduct.

C. New Cases

All allegations of USCIS federal or contract employee misconduct not accepted for investigation by OIG, or that do not meet the criteria for referral to that office, are referred to one of the four OSI Investigations Division Regional Offices, depending upon where the alleged incidents occurred. In accordance with standardized OSI guidelines, the receiving Regional Office SAC evaluates the nature of the complaint information and determines whether to retain the complaint for administrative investigation, refer the complaint to the appropriate USCIS manager for a formal Management Inquiry (to be conducted by field personnel with findings reported to OSI), or forward the complaint to the appropriate USCIS manager's attention and any further action local management deems appropriate.

D. Completed and Closed Cases

A *completed* case is an investigation or Management Inquiry for which a report has been completed and approved, but which nonetheless remains open pending completion of further post-investigative review and/or consideration of further administrative action by agency management. A *closed* case is a case for which all investigative and post-investigative management action has been completed, the final case disposition has been documented, and OSI has received a file copy of the documentation for its records.

All reports of investigations conducted by OSI, OIG or (in some instances) ICE¹ are subsequently provided to the appropriate manager in the subject employee's reporting chain for review and additional administrative action, as warranted.

¹ A small number USCIS cases initially referred to ICE in the period following the transition to DHS remain with ICE pending completion. As USCIS has developed and implemented its own internal investigative capability, the level of ICE involvement in USCIS employee misconduct matters has steadily decreased. USCIS and ICE continue to collaborate in periodic joint investigations.

V. Policies and Procedures

A. Investigations Division Operational Guidelines

The OSI Investigations Division has issued comprehensive interim guidelines for its investigators conducting non-criminal, administrative investigations of alleged USCIS employee misconduct. (The interim guidelines will remain in effect pending development and approval of a finalized OSI Special Agent Handbook.) The Division also developed an internal Special Agent Mentoring Program for all newly-assigned investigative personnel. The Mentoring Program consists of one week of formal in-house training, followed by mentorship of new investigative personnel by more experienced Division investigators. This program supplements the more formal training attended by new investigators, such as the Inspector General Basic Non-Criminal Investigator Training Program (IG-BNCITP) taught at the Federal Law Enforcement Training Center (FLETC) in Georgia.

To standardize procedures nationwide, the OSI Investigations Division also developed and implemented specific procedural guidelines for the Division's field offices and Headquarters Intake Group. These standardized guidelines outline procedures for complaint review and processing, case referrals to USCIS field elements, internal case management, internal database maintenance, and case file retention. They also include standardized case referral memoranda templates for use by field offices located around the country and by the Division's Headquarters Programs group in Washington.

Following the Supreme Court's ruling in *Giglio v. United States*, 405 U.S. 150 (1972), the Attorney General established a Giglio Policy. The new policy, published on December 9, 1996, prescribed procedures for appropriate disclosure by investigative agencies to United States Attorneys Offices of possible impeachment information (i.e., information material to the defense that may relate to the credibility, character, truthfulness or bias of a witness). The policy was established to ensure that prosecutors receive sufficient information to meet their obligations while protecting the legitimate privacy rights of Government employees.

The OSI Investigations Division has implemented standardized procedures both for submission of Giglio requests from the Department of Justice to USCIS, and for appropriate USCIS responses to these requests. These procedures were developed in collaboration with the Department of Justice's Executive Office for United States Attorneys (EOUSA). The OSI Investigations Division is the designated primary point of contact for all incoming Giglio requests relating to USCIS employees, and for agency responses to these requests.

B. Reporting Responsibilities Memorandum

OSI has issued a memorandum to all USCIS employees and contractors on how, when and where to report allegations of misconduct or other inappropriate behavior. The memorandum includes examples of the types of allegations reportable directly to either OIG or OSI, and describes other allegations (e.g., EEO complaints) that should be reported via an employee's supervisory chain.

C. On-line Reporting Form

To enhance the efficiency and confidentiality of the employee complaint reporting process, OSI has introduced an electronic USCIS Employee Misconduct Reporting Form. The form is accessible to employees online at the USCIS intranet site. The form prompts an employee to enter the specific information required to process a complaint most effectively. Once completed, the form can be submitted electronically to a restricted-access mailbox maintained by the OSI Investigations Division Headquarters Intake Group. The online reporting form has significantly improved the employee complaint system and reduced complaint processing time.

D. Management Inquiry Handbook

OSI has published a Management Inquiry Handbook that instructs Management Inquiry Officers on how to conduct management inquiries and how to report their findings. The Handbook is available on the USCIS intranet site and serves as a comprehensive source of guidance for all USCIS employees. The Handbook addresses a variety of topics, such as the principles and objectives of a Management Inquiry, evidence, employee advisements of rights and responsibilities, representation issues, and constructing appropriate reports of inquiry findings.

VI. Training and Outreach

As part of an ongoing effort to reduce the incidence of employee misconduct, corruption and fraud, USCIS has developed a comprehensive set of integrity training and outreach initiatives.

These initiatives include establishment of a cross-functional Integrity Coordinating Committee (ICC). The ICC coordinates outreach on USCIS-wide integrity initiatives, including development and distribution of annual integrity training modules and development of reporting procedures for allegations of employee misconduct. Through these activities the ICC seeks to increase employee awareness and understanding of USCIS's core value of integrity, and related policies and procedures. The ICC is comprised of senior staff members and representatives from the USCIS directorates, many Headquarters program offices, and the labor union.

USCIS has made annual integrity training mandatory for all employees. USCIS developed an *Integrity Begins with You* guidebook that provides an overview of the roles OSI, management, and employees play in ensuring the integrity of the immigration system. OSI also developed a video focused on preventing workplace misconduct. Speaking roles include USCIS and OIG leadership as well as interviews with former USCIS employee Robert Schofield, who was convicted of bribery and naturalization fraud. The video is shown in group settings facilitated by supervisors or OSI personnel and is also available online.

In addition to mandatory annual integrity training, USCIS has incorporated the integrity message, as well as information about its Investigations program, throughout its training programs for new employees, first-time supervisors, and senior leadership.

OSI also provides just-in-time training and guidance for managers conducting Management Inquiries to include dissemination of the Management Inquiry Handbook online. The Handbook provides guidance to ensure the timely, high-quality resolution of misconduct allegations. OSI offers in-depth web conference training to managers at the start of a new inquiry.

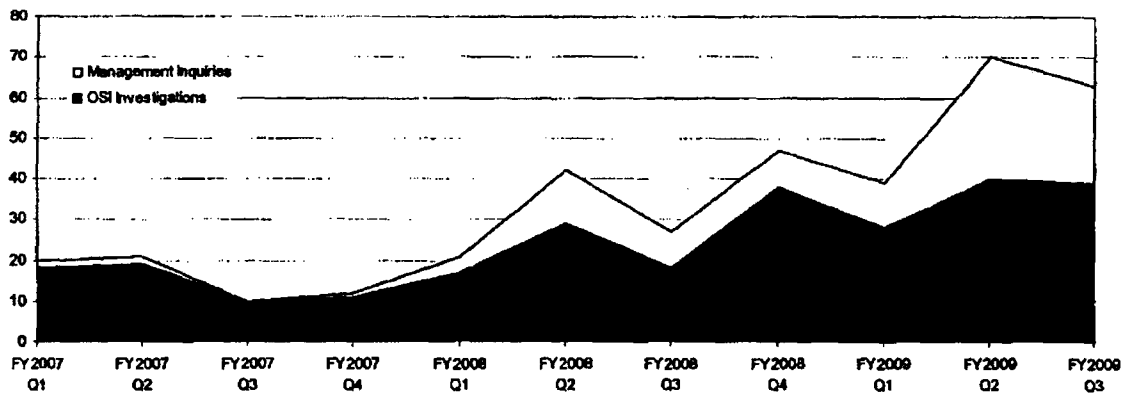
To remind personnel of the USCIS core value of integrity and their responsibility to report allegations of employee misconduct, OSI developed posters that are prominently displayed in all USCIS spaces not open or visible to the public. OSI also provided USCIS employees with laminated pocket cards that list the red flags of corruption and provide information on how to report questionable behavior.

VII. Case Overview

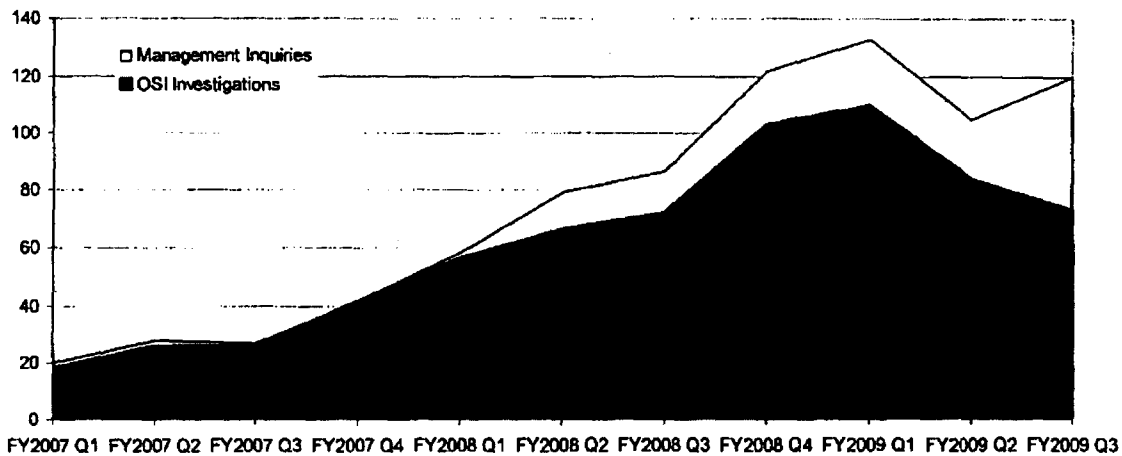
A. Metrics

The following charts and tables illustrate USCIS's growing internal affairs investigative activities.² The increasing number of cases investigated by USCIS between FY07 and FY09 results both from enhanced employee awareness of the need to report suspected misconduct and, given increased staffing levels, USCIS's ability to investigate these allegations.

**New Investigations
by Quarter**

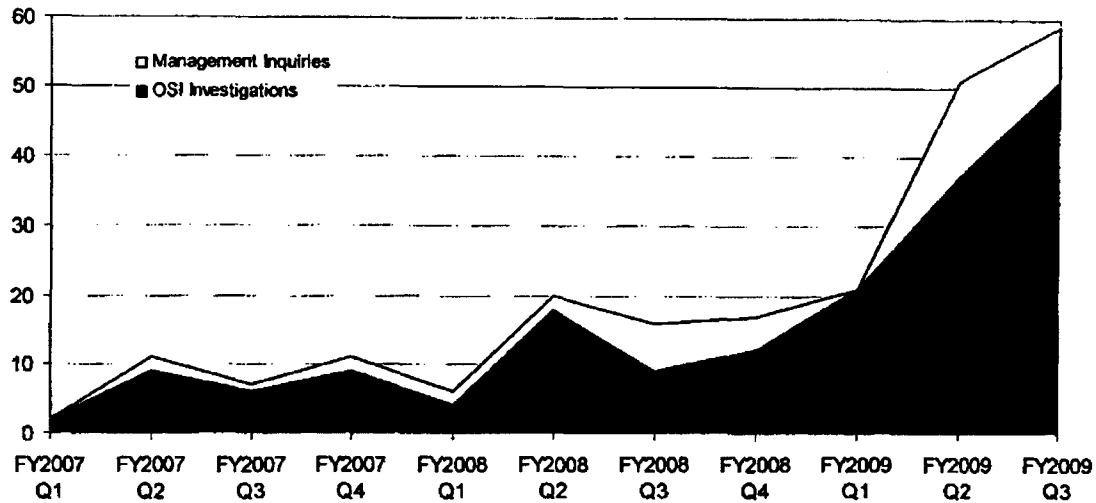


**Open Investigations
by Quarter**



² The charts reflect USCIS investigations only. Cases referred to DHS OIG, or those investigated by other agencies, are not included.

Completed Investigations by Quarter³

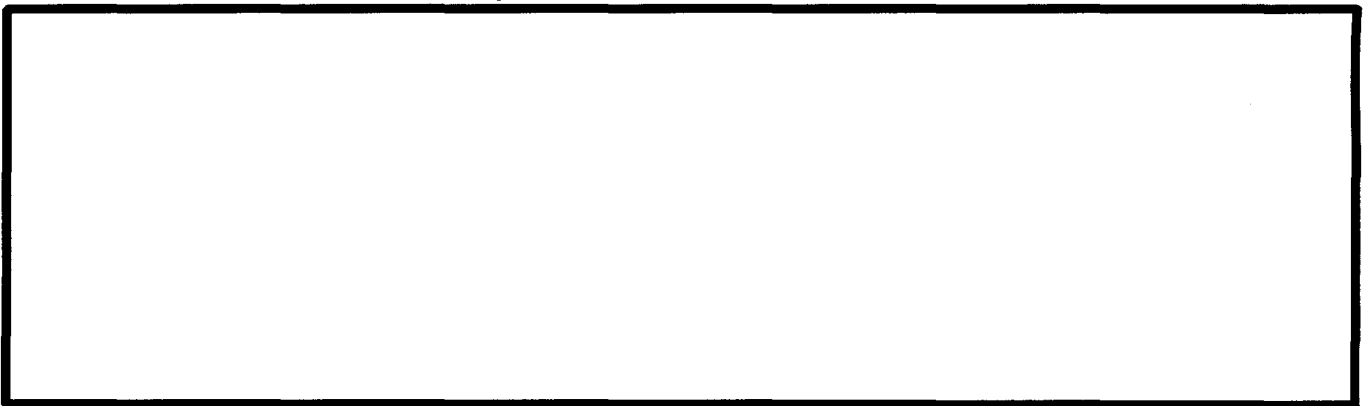


After thorough investigation, approximately 50% of the allegations lead to findings of employee misconduct.

B. Closed Cases (Prior Six Months)

(b)(6) Cases that were completed and subsequently closed by the USCIS Office of Security and Integrity (OSI) in the January – June 2009 timeframe are listed below. (For cases investigated by the DHS OIG, see the *OIG's Summary of Significant Investigations: March 1, 2003 - September 30, 2008*, available online at www.dhs.gov/xoig/assets/mgmttrpts/OIG_09-39_Mar09.pdf. See the OIG website at www.dhs.gov/xoig/ for additional reports.)

Unauthorized Release – TECS Security Violation



³ Case numbers are not cumulative over time.

(b)(6)

(b)(6)

Office of Legislative Affairs

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

APR 08 2008

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Enclosed please find the Temporary Protected Status Calendar Year (CY) 2007 Annual Report. This report is submitted in accordance with section 244(i)(1) of the Immigration and Nationality Act. This report contains the following: A listing of the foreign states, or parts thereof, designated for TPS; the number of nationals who were granted TPS for each state and their immigration status before being granted such status; and an explanation of the reasons why foreign states, or parts thereof, were designated under section 244(b)(1) of the INA, and why previous designations were extended or terminated under section 244(b)(3) of the INA.

Copies of this report have been sent to the Chairman and Ranking Member of the Senate House Committees on the Judiciary.

I appreciate your interest in the Department of Homeland Security, and I look forward to working with you on future homeland security issues. If I may be of further assistance, please contact the Office of Legislative Affairs at (202) 447-5890.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Kent".

Donald H. Kent, Jr.
Assistant Secretary
Office of Legislative Affairs

Enclosure

Pages one through
fourteen of this report
were not provided

ICE enforcement personnel that fall under the Act's definition of "border and immigration officials" are located in the field and headquarters offices of DRO, the Office of Investigations (OI), and the Office of Intelligence. All receive basic training through the ICE Academy located at the Federal Law Enforcement Training Center in Glynco, Georgia.

USCIS Basic Adjudication Courses

In addition to developing profiles on people who pose a security risk and reviewing the issuance of visas, USCIS researches the background of those seeking to enter the United States and their affiliations to terrorist networks. The USCIS mission statement recognizes the role it plays in detecting, intercepting, and disrupting terrorist travel: "U.S. Citizenship and Immigration Services will secure America's promise as a Nation of immigrants by providing accurate and useful information to our customers, granting immigration and citizenship benefits, promoting an awareness and understanding of citizenship, and ensuring the integrity of our immigration system." In order to fulfill its mission, USCIS exercises its responsibility to train its employees who adjudicate immigration and nationality benefits to recognize fraudulent documents and terrorist indicators.

BASIC is the first step in cultivating a workforce that honors public service, boasts unparalleled immigration expertise, operates with absolute vigilance in matters of national security and public safety, displays sensitivity where human factors are involved, and demonstrates unsurpassable standards of professionalism and ethical conduct. The newly revised BASIC curriculum covers public service, immigration law, customer service, fraud, and national security; and it will prepare new immigration officers for the task of ensuring the right benefit is granted to the right person in the right amount of time.

Courses include:

Immigration and Nationality Act, Regulations, Precedent Decisions, and Policies

This course provides the basic framework regarding the layout of the INA into Titles and the significance of same (intended as an introductory lesson to the INA, as amended). In order to provide a sense of how the INA has come to look the way it does, the course also outlines major amendments to the INA that will be covered, including an overview of Immigration Reform and Control Act; Immigration Act of 1990; Immigration and Nationality Technical Corrections Act of 1994; Miscellaneous Technical Immigration and Naturalization Amendments; Legal Immigration Family Equity; Antiterrorism and Effective Death Penalty Act; Illegal Immigration Reform and Immigrant Responsibility Act; Child Citizenship Act; Child Status Protection Act; The American Competitiveness in the Twenty-First Century Act; and the Adam Walsh Act. The course outlines Regulations, Precedent Decisions, and Policies, and how each is subordinate to the INA. This course meets the training required in section (d)(2)(E) of the Act.

Interviewing Techniques

This course provides instruction on effective interviewing techniques and practices through role playing and mock interviews. It also provides information regarding the role and presence of attorneys, accredited representatives, and translators. This course meets the training required in sections (d)(2)(A) and (2)(D) of the Act.

Identifying Fraudulent Documents

This course provides instruction on methods for identifying fraudulent documents and provides an overview of FDL. This course meets the training required in sections (d)(2)(A), (2)(B), and (2)(E) of the Act.

Material Support and other Terrorism-Related Grounds of Inadmissibility

This course provides an in-depth review of the INA 212(a)(3) grounds of inadmissibility. The course teaches the definition of: terrorist activity, engaging in terrorist activity, terrorist organization, and association with terrorist organizations. The course covers the exceptions to the grounds of inadmissibility, especially the material support exemption and how to use the exemption in certain situations. This course meets the training required in section (d)(2)(E) of the Act, as well as sections (d)(2)(A) through (2)(D).

National Security

This course reviews national security grounds of inadmissibility and deportability, discusses the process of lodging a charge based on national security, provides an overview of the structure of the FDNS Division and how it interacts with operational divisions, discusses Egregious Public Safety cases and referral process, and discusses the role of ICE. This course meets the training required in sections (d)(2)(E) and (2)(D) of the Act

Benefit Fraud and Material Misrepresentation

This class provides instructions on the impact of immigration benefit fraud on adjudications, the need to be vigilant regarding fraud and fraudulent documents, tips on detecting fraud, procedures to follow when fraud is suspected in an application, and the role of FDNS in adjudications. This course meets the training required in sections (d)(2)(A) and (2)(D) of the Act.

Prima Facie Review and Adjudication

This course covers a number of legal and procedural requirements in adjudicating an individual's admissibility. It outlines adjudication of Forms I-765, associated with pending Forms I-485, as well as live Forms I-765; discusses *prima facie* review and simple systems review for eligibility; focuses on fundamental adjudicative functions (i.e., Interagency Border Inspection System (IBIS) searches, systems updates); incorporates basic adjudicative principles and procedures (i.e., good customer service; thorough research; proper application of laws, regulations, policy guidance; effective decision making; accurate systems updating; efficient time management; and accurate G-22 reports); provides a basic overview of how to approach a form and file, including review of an applicant/petitioner's history in related systems, files, and separate Records of Proceedings; and discusses types of evidence provided in support of an application/petition and the ways in which it should be evaluated. This course meets the training required in section (d)(2)(E) of the Act, as well as sections (d)(2)(A) and (2)(D).

Systems of Inquiry

This course provides live, interactive training on database systems commonly used in the adjudications process, outlines the interconnectivity between existing databases, and highlights the significance of accurate reporting, case updating, and data entry. This course meets the training required in section (d)(2)(D) of the Act.

Asylum Division, USCIS

Asylum officers are required to attend the USCIS Basic Adjudication Course, noted above. In addition, all Asylum officers attend a 5.5-week, residential Asylum Officer Basic Training Course (AOBTC) that focuses on asylum law, policy, and procedures; researching country of origin information; techniques for interviewing asylum applicants; and requirements for documenting asylum adjudication decisions. The course incorporates 19.5 hours of training that directly addresses required topics listed in sections 7201(d)(1) and (2) of the Act. This includes: 1) *Fraud in the Context of Asylum Adjudications and Fraud Prevention Methodologies* (addresses sections 7201(d)(2)(A) and (2)(D)) and 2) *Bars to Asylum Related to National Security Matters* (addresses sections 7201(d)(2)(C) and (2)(D)). This training is conducted by the Asylum Division's National Fraud Prevention and National Security Coordinators with the assistance of several agencies with subject matter expertise in these issues: the USCIS Office of Fraud Detection and National Security, the ICE Human Rights Law Division, and the Forensic Document Laboratory (FDL). Both theory and practice are incorporated into this training so that officers have practice reviewing and analyzing actual documents, using live databases, and conducting mock interviews in which they probe for information involving national security and terrorist activity. Instruction on the lesson *Bars to Asylum Related to National Security Matters* includes four hours of practical instruction on interviewing cases that present national security issues.

In addition, there are 15.5 hours of instruction at the AOBTTC that are related to topics listed in section 7201(d) of the Act: *Identifying Issues of Credibility and Analyzing Credibility in Asylum Adjudication* and *Country Conditions Research*, which includes instruction on how to research, analyze, and apply information related to national security issues.

Training is conducted weekly in all Asylum field offices on a variety of topics. This provides a venue for retraining described in section 7201(d)(1)(C)(ii) of the Act, as needed. This may include updated or refresher training on the topics listed in section 7201(d) of the Act and covered in AOBTTC. Field office training will also cover the use of all DHS and other U.S. Government databases required to query for each adjudication, with a special emphasis on information indicating a threat to national security or misrepresentation. In conducting this training, asylum offices rely on the subject matter and training expertise of their quality assurance/training officers, FDNS immigration officers, and Supervisory Asylum Officers designated as national security issue coordinators.

The Asylum Division also provides or makes available to certain officers specialized training that can be used to assist in the adjudication and review of cases adjudicated by Asylum Division staff. For example, included in the required Supervisory Asylum Officer Training Course are sessions on the identification and analysis of national security issues in the course of supervisory review of asylum officer decisions (addressing section 7201(d)(2)(C)). In addition, each asylum office is required to have at least one Supervisory Asylum Officer trained on the specialized Iraqi refugee processing training provided by the USCIS Refugee Affairs Division (RAD) (see below) (relates to sections 7201(d)(2)(B) and (C)). Each asylum office also has at least two officers who have completed a 3-day Certified Document Instructor course presented by the ICE FDL. These

officers in turn train other officers on fraudulent document detection and serve as a resource for the review of documents (addressing sections 7201(d)(2)(A) and (2)(B)). FDNS immigration officer staff posted to the asylum officers have also completed FDNS required training on terrorist travel patterns, which provides them with specialized expertise for the review of asylum cases for these issues [Relates primarily to section (d)(2)(C) of the Act, as well as sections (d)(2)(A) and (2)(B)].

For other terrorist travel pattern resource information, like other immigration benefit adjudicative programs, the Asylum Division relies on resources developed by intelligence community and law enforcement entities with expertise on terrorist behaviors and methodologies. The Asylum Division has coordinated with these entities to gather information, training materials, and information on training opportunities regarding terrorist travel patterns and indicators on documents that are on point for Asylum adjudicators. These entities have provided the Asylum Division with existing materials and information; and as additional relevant information and materials are developed relating to section 7201 of the Act, the Asylum Division will incorporate into basic and refresher training.

Refugee Affairs Division (RAD), USCIS

The Refugee Affairs Division (RAD) provides each of its officers with a 4-week Refugee Officer Training Course that focuses primarily on refugee law and policy, techniques for interviewing refugee applicants, refugee application adjudication practices, and requirements for documenting refugee adjudication decisions. This course devotes 17 hours to the following training sessions, which address the required topics listed in section 7201 of the Act: 1) Security Checks – Consular Lookout and Support System and Security Advisory Opinion [Relates to section (d)(2)(D) of the Act]; 2) Fraud in the Refugee Adjudication Context [Relates to primarily to section (d)(2)(A) of the Act, as well as sections (2)(C) and (2)(E)]; 3) Identity Documents and Facial Recognition Techniques [Relates to sections (d)(2)(A), (2)(B), and (2)(E) of the Act]; 4) Detecting Fraudulent Documents [Relates to sections (d)(2)(A), (2)(B), and (2)(E) of the Act]; and 5) Inadmissibility and the Duress Exception Authority and Inapplicable Authority (pertaining to the provision of material support to certain groups or to undesignated terrorist organizations) [Relates primarily to section (d)(2)(E) of the Act, as well as sections (2)(A) through (2)(D)].

To accomplish its workload, RAD relies heavily on USCIS officers who are detailed to its program. These officers have gone through either the AOBTC mentioned in the section above, or a 2-week Refugee Processing Training Course, which includes the training components, in proportional measure, mentioned in the paragraph above. Additionally, RAD provides Pre-Departure Trainings to all teams going out on a refugee detail, which includes a presentation on fraud deterrence and a presentation by USCIS Office of Security and Intelligence on terrorist threat levels in countries where RAD employees and detailees work. This course meets the training required in sections (d)(2)(A) through (2)(E) of the Act.

For officers detailed world-wide to interview Iraqi refugee applicants, RAD offers specialized Iraqi refugee processing training that includes briefings by the Defense Intelligence Agency and Central Intelligence Agency on identifying and detecting fraudulent Iraqi documents, facial

recognition and identifying imposters, and historical and current situational reports. This specialized training has also been offered to representatives of the Asylum Division and officers from International Operations, to ensure that security vetting procedures and related concerns are handled uniformly across Refugee, Asylum, and International Operations. The security vetting process for Iraqi cases requires that these cases are routinely checked through a variety of databases and data systems available to DHS, prior to finalization of the case.

USCIS Advanced, In-Service, Refresher, and Specialized Courses

Courses offered include:

FDNS Training Program

This program is provided to immigration officers assigned to the FDNS program and Intelligence Research Specialists. It is also made available to other senior level adjudications officers. Subjects presented include:

- A 2-hour presentation on Terrorist Travel Patterns that explores the types of travel documents used by terrorists, secondary forms of identification, the extent and type of training/coaching terrorists receive in order to avoid detection, and methods of travel and routing used. This course relates primarily to the training required in section (d)(2)(C) of the Act, as well as sections (d)(2)(A) and (2)(B).
- The Federal Bureau of Investigation (FBI) provides a 2-hour presentation on the latest information examining the various methods that members of terrorist organizations are using to enter the United States. The presentation also includes information regarding other nationalities and/or groups not listed as Special Interest Countries that should be scrutinized more closely. This course relates primarily to the training required in section (d)(2)(E) of the Act, as well as section (d)(2)(D).
- The ICE FDL conducts a 2-hour block of hands-on training that provides the FDNS student with a presentation regarding the various types of document fraud used by individuals and organizations seeking immigration benefits. Topics include counterfeiting techniques, general passport and document examination techniques, and impostor detection. This course relates to the training required in section (d)(2)(A) of the Act.

Students attending FDNS training receive eight hours of training on the Traveler Enforcement Compliance System (TECS), originally called the Treasury Enforcement Communications System, to include interpreting and evaluating National Crime Information Center system results. Students also receive training on the use of the Intelligence Fusion website, Enforcement Operational Immigration Records, Student and Exchange Visitor Information System, and Service Center Claims. In addition, four hours of training is provided in the use of LEXIS/NEXIS and ChoicePoint. All of the systems listed must be used by the students to complete the practical exercise conducted at the end of the course.

Journey level Adjudication Officer (JAO)

The USCIS Academy offers a JAO training, which includes advanced sessions in fraudulent document detection, computer databases, and identification of National Security concerns. This course relates primarily to the training required in section (2)(A) of the Act, as well as sections (2)(B) and (2)(D).

Application Support Center (ASC) Managers

ASC managers, both full-time employees and contractors, are required to attend a week-long training session at the USCIS Academy. As part of this training, there is a 4-hour block on identifying fraudulent documents, to include both identity documents and USCIS-issued documents. This course relates primarily to the training required in section (2)(A) of the Act, as well as sections (2)(B) and (2)(D).

Tools provided to the ASC managers to assist with applicant identification include access to the Image Storage Retrieval System, which houses copies of cards (that include applicant pictures), and the Identification (ID) Checking Guides, which provides copies of State-issued driver's licenses and other government ID cards.

The USCIS Academy has developed a specific module to be presented at basic training courses that strengthen the current antiterrorism training curriculum, working closely with USCIS Operations components. This is a combination of upgrades to the current program for entry-level trainees as well as refresher training and periodic updates for field officers.

Periodic Retraining

CBP

The Office of Field Operations (OFO) believes in periodic retraining of all of CBP employees in Anti-Terrorism training and Fraudulent Document Detection. While no specific timeframes have been created, OFO uses pre-shift briefings and new training to retrain its employees. Any new/urgent information regarding fraudulent document detection or current threats and trends in fighting terrorism are relayed to the field almost immediately using the pre-shift briefing forum.

In addition, OFO works closely with the Office of Training and Development (OTD) to continually create new anti-terrorism training and place anti-terrorism messages into all training delivered to field personnel. The audience for each piece of training is determined based on the function performed. Based on the ever-changing face of the fight against terrorism, the time frame for retraining is determined on a case-by-case and as needed basis.

USCIS

Service Center adjudicators are given overall comprehensive refresher trainings on a wide range of retraining topics when they are reassigned to adjudicate an area of immigration benefit law or a form-type for which there has been more than a substantial gap since the officer last adjudicated that benefit. Some examples of the topics officers receive include retraining on adjudication of benefit applications, policy memorandums, significant legislation, and regulatory

changes that may impact the administration of benefits, denial writing, system usage, and security/fraud detection trainings. The determination of what constitutes a significant gap is determined by each service center. However, in general, centers will retrain officers if there is at least a gap of six months in between their adjudication experience of a particular benefit. The situation is similar in Field Offices—routine and refresher training is conducted throughout the field at the discretion of local management while retraining is conducted pursuant to an evaluation by the first-line supervisor.

Adjudicators also receive additional mandated training when they reach the “journeyman” level (GS-12). Journeyman training is comprised of more in-depth topics and analysis and offers tools to assist in adjudicating cases with more complex issues that involves more complex legal analysis, etc.

FDNS officers are retrained only when a new policy makes it necessary. This training occurs via teleconference, computer-based, or instructor-led training, as appropriate. FDNS is also developing a new course for FDNS officers who attended FDNS Officer Basic training at least two years previously.

Retraining of RAD employees occurs when a policy change is made that has a procedural impact on the work done by RAD employees. This retraining is normally done in the context of the Pre-Departure Training, but is also performed in stand-alone training sessions. Retraining for Asylum officers is conducted in the form of weekly 4-hour training sessions for all asylum officers. Asylum officers receive weekly training sessions which include updates of country conditions, new policies and procedures, or security issues.

While some periodic retraining is mandated, the need for non-mandated additional training or refresher training is determined by individual supervising officers and upper management officials. However, each Training Unit within a Field Office or Service Center will also provide periodic training topics that officers can self-nominate and attend with supervisory concurrence. These recurring/reinforcing trainings are sometimes chosen based on results from quality assurance activities, often with the input from first-line supervisors.

ICE

At the Academy, ICE’s Advanced Training Facility (at the Federal Law Enforcement Training Center in Charleston, South Carolina), new courses will begin in July 2008, as part of the Advanced Law Enforcement Refresher Training (ALERT) program. DRO officers / agents will be rotated through the ALERT-D (Deportation Officers) and the ALERT-I (Immigration Enforcement Agents) Training Programs. Both courses include instruction in new laws and policies enacted, updates in ICE policy, and new skill sets so that the officers can do their jobs more efficiently. ALERT-D is directed at DRO officers in the GS-5/GS-9 grade level who work in detention centers. ALERT-I is for DRO officers in the GS-9/GS-12 grade level whose responsibility includes the docket of aliens in detention. ICE plans to offer these refresher courses to officers who have been in the service for four to six years, and every four to five years thereafter.

Reasons for Not Completing Required Training

Basic Student Trainees would not complete required training if they failed out of their individual training program due to academic deficiencies or health-related reasons. A health-related reason does not necessarily terminate a training program if the Trainee can return to finish the program once his or her health-related problem improves. Trainees who return to their duty stations due to a health-related reason are not allowed to engage in law enforcement duties until they return to the Academy and graduate from Basic training.

Status of Periodic Retraining of ICE Employees

The ICE Academy, DRO Training Division has developed refresher training and periodic updates for officers. DRO employees receive monthly and quarterly training in the field or at headquarters.

USCIS

Many USCIS employees inspect or review identity documents as part of their official duties, including Center Adjudications officers, District Adjudications officers, Information officers, Asylum officers, Refugee officers, FDNS officers, Intelligence Research specialists, Application Support Center managers, and their immediate supervisors.

As part of their training, adjudications officers travel to the National Benefits Center (NBC) in Lee's Summit, Missouri. While at the NBC, adjudicators receive training in the IBIS name checks system. Managed by CBP, IBIS is a database of lookouts, wants, warrants, arrests, and convictions consolidated from over 20 agencies. A complete IBIS query also includes a concurrent check of selected files in the FBI's National Criminal Information Center. USCIS began conducting automated, name-based queries of IBIS for all USCIS applications in 2002.

Adjudicators receive IBIS/TECS training at NBC, and then their home offices complete the training the individual receives at the NBC. Additionally, adjudicators must retrain and re-certify annually.

Number of USCIS Employees Who Inspect or Review Identity Documents

Approximately 8,000 USCIS employees, who are involved in customer support or adjudication of immigration benefits, inspect, and review identity documents.

Portion of USCIS Employees who have Received Required Training

Proportion of USCIS officials that have received required training:

1. **Methods for identifying fraudulent and genuine travel documents:** All BASIC students, ASC managers, Intelligence Research Specialists, Immigration Officers, and Immigration Information Officers receive a fraudulent document examination course. Additionally, all officers are trained to send documents to the FDL when they suspect fraud, and all officers are updated on FDL findings through inter-/intra-office memos, local FDL training, and broadcast messages. 100 percent.

2. Methods for detecting terrorist indicators on travel documents and other relevant identity documents: All students attending the FDNS training programs since April 2005 have received training in detecting terrorist indicators on travel documents. 100 percent.

3. Recognition of travel patterns, tactics, and behaviors exhibited by terrorists: The USCIS Asylum Division has developed a 12-hour training program for its asylum officers on handling cases that may present issues relating to our national security. A portion of this training program, developed with the input and assistance of ICE, addresses recognizing travel patterns and other factors that may indicate that an applicant has associated with terrorists. All adjudicating asylum officers have received this training. The USCIS Asylum Division has shared this material with other components of USCIS and will offer assistance in their development of similar training programs. 100 percent.

The Basic Adjudications officer course includes a 4-hour block of instruction on terrorism, travel patterns, tactics, and behaviors. This has been in use since January 2007. The Basic Adjudications officer course recently expanded the 4-hour block of instruction on terrorism, travel patterns, tactics, and behaviors to 8 hours.

4. Effective utilization of information contained in databases and data systems available to the Department of Homeland Security: All basic students trained at the Academy received training in databases and data systems. 100 percent.

5. Effective utilization of information contained in the IBIS/TECS. All basic students trained at the Academy receive training in IBIS/TECS. 100 percent.

Timetable for Completion of Required Training

All trainings are different in length and therefore are completed at the end of the individual's program. USCIS is now scheduling new Adjudications Officers and Information Officers for BASIC training within 30 days of entrance on duty.

Reasons for Not Completing Required Training

All adjudicators are required to complete training prior to being permitted to adjudicate applications and petitions. Newly hired adjudicators are pro-actively scheduled for training as soon as possible after starting in their positions. The current hiring surge, in response to the surge in applications in the summer 2007, has created the need to expand the volume of basic training classes. At the same time, USCIS has needed to address training facility limitations and the need to keep class sizes at a manageable level in order to provide quality training. The USCIS Academy, in conjunction with Domestic Operations, has overcome these barriers by procuring additional training space and hiring additional instructors. The drive to offer basic training in a timely manner to new adjudicators has been a priority of USCIS.

On an individual level, Basic Student Trainees would not complete required training if they failed out of their individual training program due to academic deficiencies or health-related reasons. A health-related reason does not necessarily terminate a training program if the Trainee can return to finish their program once their health-related reason improves. However, trainees who fail to complete the required training will not be allowed to adjudicate an N400 (Application for Naturalization) or I-485 (Adjustment of Status) to completion until BASIC is completed.

Status of Periodic Retraining of USCIS Employees

Refresher training and periodic updates for officers in the field or at headquarters are offered on an ongoing basis. The USCIS Academy has developed specific courses that strengthen the current antiterrorism training curriculum and works closely with USCIS Operations components. This is a combination of upgrades to the current program for entry-level trainees and experienced personnel.

Appendix A – Acronyms

ALERT – Advanced Law Enforcement Refresher Training (ICE program)

ALERT-D – ALERT course for ICE Deportation Officers

ALERT-I – ALERT course for ICE Immigration Enforcement Agents

AOBTC – Asylum Officer Basic Training Course (USCIS)

ASC – Application Support Center (USCIS)

BASP – Basic Admissibility Secondary Processing (CBP course)

CBP – U.S. Customs and Border Protection

CBPI – CBP Integrated Program

CTR – Counterterrorism Response (CBP course)

DDER – Detecting Deception and Eliciting Responses (CBP course and ICE course)

DHS – U.S. Department of Homeland Security

DOS – U.S. Department of State

DRO – Office of Detention and Removal Operations (ICE)

FBI – Federal Bureau of Investigation

FDAU – Fraudulent Document Analysis Unit (CBP)

FDL – Forensic Document Laboratory (ICE)

FDNS – Fraud Detection and National Security (USCIS)

GAO – Government Accountability Office

IBIS – Interagency Border Inspection System

ICE – U.S. Immigration and Customs Enforcement

ICEBIT – Basic Intelligence Training (ICE)

ICE-D – ICE Detention and Removal Basic Training Program

ICESAT – ICE Special Agent Training

ICS – Incident Command System (CBP)

ID – Identification

INA – Immigration and Nationality Act of 1952 (Pub. L. No. 82-414)

JAO – Journey level Adjudication Officer (USCIS)

NBC – National Benefits Center (USCIS)

OFO – Office of Field Operations (CBP)

OI – Office of Investigations (ICE)

OTD – Office of Training and Development (ICE office and CBP office)

POE – Port of Entry

PRD – Personal Radiation Detector

TECS – Traveler Enforcement Compliance System

RAD – Refugee Affairs Division (USCIS)

RHID – Radiation Isotope Identifier Device

SITS – Strategic Investigations Training Seminar (ICE)

WMD – Weapon of Mass Destruction

WME – Weapon of Mass Effect

U.S.C – United States Code

USCIS – U.S. Citizenship and Immigration Services

US-VISIT – United States Visitor and Immigrant Status Indicator Technology

FEB 10 2009

Assistant Secretary for Legislative Affairs
U.S. Department of Homeland Security
Washington, DC 20528



Homeland
Security

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This report is submitted to the Committee on behalf of the Secretary of the Department of Homeland Security (DHS) to comply with the reporting requirement contained in section 4 of Public Law 110-251, the Kendell Frederick Citizenship Assistance Act (KFCAA). Under that provision, the Secretary must report to the Committee not later than 120 days after the enactment of the KFCAA on the entire process used by United States Citizenship and Immigration Services (USCIS) in adjudicating a Form N-400, Application for Naturalization, filed by a service member or former service member (hereafter referred to collectively as "service members" unless otherwise specified) pursuant to section 328 or 329 of the Immigration and Nationality Act (INA).

This report begins with a description of the preparation and filing of the Form N-400. It then describes the steps involved in processing naturalization applications before the interview, including the various background checks that are conducted on applicants for naturalization. The next sections discuss the naturalization interview process, both domestically and abroad. The report concludes with a description of the USCIS program for outreach and customer service to the military.

Preparing and Filing Form N-400

A service member may either assemble the naturalization application packet on his/her own or (in the case of a current service member¹) seek assistance from his/her military installation's designated military point of contact (POC) for immigration issues. The designated military POC assists the current service member with the preparation of the N-400 and related documents. A service member may also seek the assistance of family members, friends, an immigration

¹ A service member who has been discharged from the military generally does not receive naturalization assistance from a designated POC because the service member is no longer serving in active duty status. The designated POC will refer the discharged service member to the USCIS website or legal service providers for naturalization assistance. If a discharged service member needs assistance with completing the Form N-426, the designated POC refers him or her to a Service Personnel Office within the former service member's branch of the military or to the National Personnel Records Center. If a service member is unable to have the N-426 certified by the appropriate official, the Nebraska Service Center (NSC) will assist him or her in fulfilling this requirement. USCIS processes the N-400 packet of a discharged service member in the same manner as an active duty service member, unless noted otherwise.

assists the current service member with the preparation of the N-400 and related documents. A service member may also seek the assistance of family members, friends, an immigration attorney or other representatives, including those accredited by the Board of Immigration Appeals.

A complete application packet must contain the following forms, properly signed and completed:

- Form N-400, Application for Naturalization;
- Form N-426, Request for Certification of Military or Naval Service;
- Form G-325B, Biographic Information;
- A copy of the service member's USCIS Form I-551, Permanent Resident Card, if applicable²; and
- Two passport-style photographs.

In accordance with section 328(b)(4) and 329(b)(4) of the INA,³ service members do not pay either an application filing fee or a biometrics fee.

Once the packet has been assembled, the designated POC certifies USCIS Form N-426, Request for Certification of Military or Naval Service, establishing whether the service member served honorably, the dates during which he or she served, and the type of discharge he or she received, if applicable. Sections 328 and 329 of the INA specifically require this type of certification from the branch of the military in which the service member served or currently serves. Additionally, the regulations specifically require that the service member submit this form to USCIS.⁴ If this form is not submitted or is incomplete, USCIS works with the service member or the appropriate military POC to ensure that USCIS receives a complete form.

Generally, the designated POC also informs the service member how to fulfill the fingerprint requirements. A service member may use any of the following methods to complete the requirement:⁵

- If the service member submitted fingerprints to USCIS for previous immigration purposes, such as Form I-485, Application to Register Permanent Residence or Adjust Status, USCIS determines if these fingerprints are stored by DHS or the Federal Bureau of Investigations (FBI). If so, USCIS will use these stored fingerprints to fulfill this requirement.
- The service member may complete and submit the Fingerprint Authorization Form, authorizing USCIS to acquire and use the fingerprints taken at the time of enlistment into

² A service member applying under § 329 of the INA need not be a lawful permanent resident under certain circumstances and may therefore never have received Form I-551.

³ See also "National Defense Authorization Act for Fiscal Year 2004" (Pub. L. No. 108-136; 8 U.S.C. § 1443a).

⁴ See 8 CFR §§ 328.4, 329.4.

⁵ Normally, USCIS automatically schedules all non-military naturalization applicants for a fingerprinting appointment at a USCIS Application Support Center (ASC). This is the only fingerprinting method available in the United States for most applicants.

the military for Office of Personnel Management investigation purposes (OPM prints). The service member submits it to USCIS either:

- In the application packet; or
 - Separately at any time to the Nebraska Service Center (NSC).
- If the service member is residing in the United States, the most efficient methods of completing the fingerprint requirements are:
 - Going to any domestic USCIS Application Support Center (ASC) (a service member may do so without an appointment, even if an application is not yet pending with USCIS); or
 - Having the fingerprints taken at a select military installation by USCIS personnel utilizing portable fingerprinting equipment.
 - If the service member is overseas, the following two methods are available:
 - The service member authorizes USCIS to acquire and use the OPM prints; or
 - The service member may have the fingerprints taken manually at U.S. military installations abroad or U.S. Embassies and Consulates abroad using the FD-258 fingerprint card.⁶

The service member or designated military POC sends the completed naturalization application package to the NSC for specialized and expeditious processing by the Military Naturalization Unit. Normally, all other non-military naturalization applicants mail the Form N-400 to the appropriate USCIS Service Center in California, Texas, Vermont or Nebraska for receipting and pre-interview processing.

Processing of Form N-400 by the Military Naturalization Unit at the NSC

The Military Naturalization Unit at the NSC is composed of select USCIS employees, including a Supervisor, Immigration Services Officers⁷, and Contact Representatives. USCIS specially trains these employees in general naturalization processing as well as the aspects that are unique to military naturalization cases. The Military Naturalization Unit works closely with service members and their families, domestic and overseas designated military POCs, and Department of Defense points-of-contacts (DOD POCs) to ensure the efficient and complete processing of the military naturalization applications.

The NSC reviews the packet for completeness and mails the service member a request for evidence if the application packet is incomplete. For example, NSC requests additional information from the service member (or designated POC) if the designated POC has not properly certified the Form N-426. The NSC may also send requests for evidence if the service member has failed to submit the Form G-325B. The NSC may contact the service member or designated POC by e-mail or telephone if they have provided this contact information to the NSC in the application packet. This process also includes determining whether a Fingerprint

⁶ The U.S. Department of State (DOS) takes fingerprints manually in certain circumstances overseas, and USCIS and DOS are exploring the possibility of DOS taking digital fingerprints on behalf of USCIS in the future.

⁷ These include former Adjudications Officers, Applications Adjudicators, and Immigration Information Officers who were re-titled under the USCIS Domestic Operations Workforce Restructuring Initiative.

Authorization Form is included in the packet.⁸ If a service member stationed overseas did not submit the Fingerprint Authorization Form with the application packet, the NSC sends him or her Fingerprint Authorization Form to complete. If the service member is no longer stationed abroad or on active duty status, or has already been discharged from the service, the NSC schedules the service member for a fingerprint appointment at the USCIS ASC most convenient to the service member's home.

The NSC performs initial data entry into the Computer Linked Application Information Management System version 4 (CLAIMS-4).⁹ Additionally, the NSC initiates all required background and security checks including the FBI fingerprint check, FBI name check, the Defense Clearance and Investigations Index (DCII) check, TECS / Interagency Border Inspection System (TECS / IBIS) check and a DHS Automated Biometrics Identification System (IDENT) fingerprint check. The NSC generates a receipt notice and mails it to the service member. The NSC also requests the service member's alien file (A-file), if it is not located at the NSC, and places the application and supporting documents into the A-file. The NSC also reviews the application packet and A-file to make a preliminary confirmation of the applicant's identity.

The NSC cannot forward the service member's application for naturalization to the appropriate domestic or overseas Field Office for an interview until the Military Naturalization Unit receives all required forms, and conducts all required background checks. USCIS recognizes the importance of coordination with the military on these issues to prevent unnecessary delays. As stated above, NSC not only contacts individual service members as appropriate to ensure that it receives a completed application packet, it also engages in outreach efforts throughout the country to ensure that military POCs who might be assisting service members with naturalization applications are aware of the various forms that must be submitted with the naturalization application.

Even if a naturalization packet is not complete, the NSC will initiate those background and security checks it can commence, based on the available information. Below is a description of the various background and security checks USCIS performs on all applicants for naturalization, with the exception of the DCII check which is only for current or former service members.

Background and Security Checks

Statutes and USCIS regulations require all applicants for naturalization to be fingerprinted for submission to the FBI for a criminal background check.¹⁰ USCIS must receive the results of the

⁸ The Fingerprint Authorization Form gives USCIS permission to acquire and use the service member's fingerprints from the Office of Personnel Management background investigation for the USCIS fingerprint check. Under the Privacy Act, 5 U.S.C. § 552a, USCIS is required to receive *written authorization* from the service member to use OPM prints for USCIS purposes. KFCOA also includes a Privacy Act exception for the use of OPM prints.

⁹ CLAIMS-4 is a USCIS database that offers automated support for a variety of tasks associated with processing and adjudicating immigration benefits. CLAIMS-4 is used to receive N-400 applications, input application information, schedule interviews and oath ceremonies, and track adjudications.

¹⁰ See Department of Justice Appropriations Act of 1998, Pub. L. No. 105-119, 111 Stat. 2448 (1998) (codified as a note to 8 U.S.C. § 1446); see also 8 CFR § 316.4(b); see also 8 CFR §§ 328.4 and 329.4 (stating that service members must submit an N-400 as required in 8 CFR § 316.4).

fingerprint check prior to the scheduling of the naturalization interview.¹¹ The FBI fingerprint check process searches the databases within the Integrated Automated Fingerprint Identification System (IAFIS), the FBI's Criminal Master File. The FBI returns the results of the fingerprint check to USCIS electronically. The FBI sends a Report of Arrest and Prosecution (RAP) sheet describing any administrative or criminal records in IAFIS to USCIS both electronically and by mail. A service member may use any of the above mentioned methods to complete the FBI fingerprint check requirement. USCIS processes the fingerprints in the following manner depending on the method used by the service member to provide fingerprints.

- NSC determines if fingerprints provided for previous immigration purposes are stored in DHS IDENT, the official biometric repository of DHS. NSC verifies the name, social security number, date of birth and alien number (A-number) provided in the application packet with the information in DHS IDENT. If the fingerprints are located in IDENT, NSC requests the re-submission of the fingerprints to the FBI through the Benefits Biometric Support System (BBSS).¹² The FBI returns the results of the fingerprint check electronically to USCIS computer systems.
- If the service member submits the Fingerprint Authorization Form to USCIS, the NSC compiles a list with the name, social security number, date of birth and A-number provided in the application packet and confirmed in USCIS computer systems. The NSC sends the list to the USCIS liaison with the FBI's Criminal Justice Information Services (CJIS) in Clarksburg, West Virginia.¹³ Using the above biographical information, the USCIS liaison determines if the FBI has fingerprints provided for previous immigration purposes that are not stored in IDENT. The table below describes the status of the fingerprints and the resulting actions to be taken by the USCIS liaison or service member.

IF	THEN
USCIS prints exist and have been retained	Liaison requests copy of the USCIS prints
No USCIS prints exist	Liaison requests copy of the OPM prints
USCIS prints are not located	Liaison requests copy of the OPM prints
OPM prints are not located	Service member must use a different method of fingerprinting
OPM prints are unclassifiable ¹⁴	Service member must use a different method of fingerprinting

¹¹ See 8 § CFR 335.2(b).

¹² The BBSS (Benefits Biometric Support System) is a USCIS program implemented in 1999 to improve the process of submitting civil search requests to Integrated Automated Fingerprint Identification System (IAFIS) and to enhance the speed and accuracy of data collected for civil cases. The system supports the electronic transmission of data between all sites, including IAFIS, automated IAFIS search response processing, national database data insertion, and long-term storage of all biographical and response data, including rap sheets and civil applicant responses.

¹³ In 2006, prior to the implementation of the KFCOA, USCIS began requesting and using OPM prints.

¹⁴ Fingerprints are labeled as unclassifiable if the prints are illegible for classifying purposes.

After locating the requested fingerprints, the FBI provides digital copies to the USCIS liaison that transmits the copies to the USCIS Headquarters ASC Branch. The Headquarters ASC Branch formats the fingerprint data and resubmits the fingerprints to the FBI electronically through BBSS. If the OPM prints are available and are classifiable, the entire process takes anywhere from two weeks to more than ninety days, depending on the workload at the FBI. The FBI cannot locate approximately 15-20 percent of OPM prints requested by USCIS. The rejection rate for OPM prints re-submitted for USCIS purposes between 2006 and 2008 is approximately 14.8 percent. Normally, the rejection rate for fingerprints taken at an ASC is less than 2 percent. Currently, when service members authorize the use of their OPM prints, USCIS requests all OPM and USCIS fingerprints regardless of when the service member enlisted or filed the Form I-485 or Form N-400.

If the NSC has not received the OPM prints within 90 days, it contacts the service member overseas and requests that he or she complete FD-258 fingerprint cards if doing so will not put the service member in danger. If it would put the service member in danger, USCIS will continue to wait for the FBI to locate and send the OPM prints. If the service member is not overseas, NSC schedules him or her for a fingerprint appointment.

- If USCIS digitally fingerprinted the service member at an ASC, USCIS submits the fingerprints electronically to the FBI through BBSS. The fingerprints are also enrolled in IDENT for storage and future usage. USCIS receives results between two and twenty-four hours after submitting the prints to the FBI.
- If USCIS digitally fingerprinted the service member using portable equipment at a military installation, USCIS submits the fingerprints to the FBI through BBSS upon returning to the ASC. The fingerprints are also enrolled in IDENT. USCIS receives results between two and twenty-four hours after submitting the prints to the FBI.
- If a U.S. military installation, embassy or consulate abroad takes the service member's fingerprints using the FD-258 fingerprint cards, it mails the fingerprint card to the NSC. The NSC scans and submits the fingerprints electronically to the FBI through BBSS. The fingerprints are also enrolled in IDENT. USCIS receives results between two and twenty-four hours after submitting the prints to the FBI.

Existing policy requires that USCIS receive a completed FBI name check result before scheduling a naturalization interview. The FBI searches for the service member's name and date of birth in their Universal Index (UNI), which contains personnel, administrative, applicant, and criminal files compiled for law enforcement purposes. The NSC requests an expedited FBI name check via the USCIS Field Operations Division if:

- The service member has been ordered overseas; or
- All other required background checks have been completed and the N-400 is otherwise ready for interview.

The results of the FBI name check are returned electronically to USCIS computer systems. If the result is "no record," NSC continues processing the case and preparing the A-file for the naturalization interview. If the result is positive (i.e., is anything other than "no record"), the FBI sends a letterhead memorandum describing the applicant's interactions with the FBI to the USCIS National Benefits Center (NBC) for tracking and vetting. The NBC mails the letterhead memorandum to the NSC for inclusion in the A-file.

USCIS policy requires all current and former service members to complete and submit the Form G-325B in the application packet.¹⁵ The biographic information in the Form G-325B is used to initiate the DCII database check. The DCII database is the single, automated central repository that identifies investigations conducted by Department of Defense (DOD) investigative agencies and personnel security determinations made by DOD adjudicative authorities.¹⁶ The NSC performs the DCII inquiry in the DCII computerized database and receives an immediate response of either "no results found" or the case number, agency and retention date of the investigation. The results reveal records of any derogatory information that occurred during the applicant's period of military service. NSC must request a copy of the relating dossier from the investigating agency within DOD. NSC cannot continue preparing the case for interview until NSC has received a copy of the dossier.

USCIS policy requires a valid TECS / IBIS check at the time of naturalization. The TECS / IBIS check consists of a search of data provided by more than 27 agencies based on the applicant's name, any known aliases and date(s) of birth. TECS / IBIS is an automated enforcement and inspection lookout system maintained by U.S. Customs and Border Protection that combines information from multiple agencies, databases, and system interfaces to compile data relating to national security risks, public safety issues, current or past targets of investigations, and other law enforcement concerns, and includes the ability to conduct an National Crime Information Center (NCIC) check. NCIC is a database maintained by the FBI containing lookout information posted by federal, state, and local law enforcement agencies. The NSC conducts the TECS / IBIS check before forwarding the A-file to the overseas USCIS Field Office for interview and adjudication. If the TECS / IBIS check results contain any information requiring further investigation on overseas cases, NSC contacts the originating agency to determine if the information may adversely affect the service member's eligibility to naturalize. For cases interviewed and adjudicated within the United States, the NSC does not complete the TECS / IBIS check; instead it forwards the A-file to the domestic USCIS Field Office to complete the check during the adjudication process.

Once NSC determines the Form N-400 is ready for interview (i.e., all background and security checks have been completed and the required forms are signed and completed), NSC notifies the USCIS Regional Office points of contact and the Field Office where the service member will be interviewed for naturalization. NSC sends the service member's A-file to the Field Office for the interview. The Field Office then schedules the naturalization interview and sends the service

¹⁵ See 8 CFR §§ 328.4, 329.4(a).

¹⁶ See Department of Defense, *Office of Inspector General -- Audit, Defense Clearance and Investigations Index Database*, Report No. D-2001-136 (June 7, 2001) <http://www.dodig.osd.mil/Audit/reports/fy01/01136sum.htm> (accessed Sept. 11, 2008).

member an interview notice stating the location, time and date of the naturalization interview.¹⁷ If the service member is in the United States, USCIS schedules the naturalization interview within 30 days of the case becoming "interview ready." If the service member is overseas, NSC sends the A-file to the USCIS Field Office with jurisdiction over the Form N-400 within the week. The NSC and the Field Office overseas correspond directly with the service member and DOD POC to facilitate the scheduling of the naturalization interview and oath ceremony as soon as possible.

USCIS gives military naturalization cases top priority in pre-interview processing, adjudication and oath ceremony scheduling. While there are some delays in conducting background and security checks (some of which are outside of the control of USCIS), once the checks are complete and USCIS is able to schedule the interview, it does so within 30 days. USCIS continues to work with the FBI and Department of Defense to determine if there are more expeditious ways for USCIS to obtain essential information so that these applications are handled as rapidly as possible.

Domestic Adjudications

Once NSC sends the A-file to the Field Office for interview scheduling, the Field Office forwards the A-file to a designated USCIS Immigration Services Officer (ISO)¹⁸ for review and interview. ISOs receive on-the-job training at their duty stations regarding the processing and adjudication of military naturalization applications in addition to the general naturalization training at BASIC training.

The designated ISO reviews the A-file and application packet for eligibility, as well as any information received during the background and security check process that may affect the service member's eligibility to naturalize, including:

- The RAP sheet from the FBI fingerprint check;
- The letterhead memorandum from the FBI name check; and/or
- The dossier from the DCII check.

The ISO also conducts a TECS / IBIS check. If the results of the TECS / IBIS check contain any information requiring further investigation, the ISO contacts the originating agency to determine if the information may adversely affect the service member's eligibility to naturalize. The ISO may conduct additional security checks, if needed.

¹⁷ Normally, USCIS schedules all non-military naturalization applicants by placing prepared cases into an electronic queue in CLAIMS-4, which schedules the cases as the Field Office opens dates in the upcoming schedule. Cases may wait in the queue for several months depending on the interview backlog of a particular Field Office.

¹⁸ Immigration Services Officers (ISOs) include former Adjudications Officers, Applications Adjudicators, and Immigration Information Officers who were re-titled under the USCIS Domestic Operations Workforce Restructuring Initiative. ISOs are divided into three different levels, 1-3. Level 1 ISOs are GS-5/7/9 and include former Applications Adjudicators, Legalization Adjudicators, and Immigration Information Officers. Level 2 ISOs are GS-11/12 and include former Adjudications Officers and Application Support Center Managers. Level 3 ISOs are GS-13 and include former Senior Adjudications Officers. All ISOs support the Adjudication Process by adjudicating cases, conducting security checks, interviewing applicants and petitioners, ensuring program quality assurance, conducting training, serving as liaison, and communicating decisions.

In response to the appointment notice, the service member reports to the domestic Field Office for the naturalization interview. During the interview, the ISO verifies the information provided in the application, the applicant's identity and determines if the service member is eligible for naturalization. The examination includes testing the service member's ability to read, write and speak English and his or her knowledge and understanding of the fundamentals of the history, principles and form (civics) of the government of the United States.¹⁹ At the end of the interview, the ISO decides to approve, continue or deny the Form N-400 and provides the applicant with a Form N-652, Naturalization Interview Results, annotating it with the outcome of the interview.

If the ISO continues the interview because the service member is unable to demonstrate the English and civics requirements for naturalization, the ISO affords the service member an opportunity to retake the test and automatically schedules the retest in CLAIMS-4. If the ISO needs further information to determine eligibility, he or she will continue the interview and issue a written request for additional information. The ISO makes a decision when he or she receives the information or the allowed response period for the service member to respond has elapsed.

When the ISO approves a naturalization application, USCIS issues Form N-445, Notice of Naturalization Oath Ceremony, notifying the service member of the date and time of the oath ceremony and requesting any changes in personal information. If possible, USCIS schedules the service member for an administrative oath ceremony later on the same day as their naturalization interview at the same Field Office. If the oath ceremony cannot take place the same day, USCIS schedules the service member for the next available oath ceremony. If the service member resides in a district with exclusive judicial jurisdiction over oath ceremonies,²⁰ USCIS schedules the service member for the next available ceremony with the court. In addition, a service member wishing to change his or her name(s) must appear at a court for a judicial oath ceremony (i.e., he or she does not have the option of being naturalized in an administrative oath ceremony since USCIS lacks the legal authority to change someone's name). A USCIS employee reviews all A-files prior to the oath ceremony to ensure that all required naturalization processing steps have been completed.

At oath ceremonies that are not conducted on the same day as the interview, USCIS collects the Form N-445 from the service member. The USCIS officer reviews the service member's responses on Form N-445 to determine whether the service member's Form N-550, Certificate of Naturalization, requires revision and whether the service member remains eligible to naturalize. USCIS officials administer the Oath of Allegiance during an administrative ceremony, and a Federal Judge or another authorized judge administers the Oath during a judicial ceremony. USCIS issues a Certificate of Naturalization to the service member as evidence of U.S. citizenship. USCIS then makes all necessary updates in the Central Index System and

¹⁹ Unless the applicant is exempt from one or more of these requirements pursuant to § 312(a)(2) of the INA.

²⁰ Section 310(b) of the INA provides that eligible courts can choose to exercise exclusive authority to administer the Oath of Allegiance. *See* INA § 310(b)(1)(B). USCIS cannot administer the Oath of Allegiance administratively within the first 45 days after approval of the application, if the eligible courts in that jurisdiction have exercised exclusive authority to do so. In some districts with otherwise exclusive judicial jurisdiction, the courts have given USCIS authority to perform administrative oath ceremonies for service members and spouses.

CLAIMS-4 to reflect the completion of the naturalization process. Since the beginning of the War on Terrorism, USCIS has naturalized 37,193 service members in the United States. During Fiscal Year 2008, USCIS naturalized 6,345 service members domestically.

If USCIS denies the naturalization application, the ISO issues a written denial notice stating the reasons for the denial to the service member. The service member may file Form N-336, Request for Hearing on a Decision in Naturalization Proceedings under Section 336 of the Act, if he or she wishes to appeal an unfavorable decision on the Form N-400. The service member must file Form N-336 within 30 calendar days of issuance of the decision. If the service member files the Form N-336, USCIS will schedule the service member for a hearing with a different ISO of equal or higher grade who may conduct a full *de novo* hearing to determine whether USCIS should reverse or uphold the decision. If the service member overcomes the reasons for denial, the ISO reverses the decision, approves the application and schedules the service member for an oath ceremony. If the ISO upholds the denial, he or she issues a written notice describing why the applicant remains ineligible for naturalization. Thereafter the service member may petition for a *de novo* review of the application in Federal Court if he or she wishes to challenge the denial of his or her application for naturalization.²¹

Overseas Adjudications

A service member stationed abroad may decide at any time to complete the naturalization process outside of the United States by contacting the NSC or USCIS Field Office overseas. The NSC and the Field Office overseas correspond directly with the service member and DOD POC to facilitate the scheduling of the naturalization interview and oath ceremony. The NSC prepares the A-file and the Certificate of Naturalization prior to sending the A-file overseas for interview and the oath ceremony. USCIS overseas offices conduct interviews and oath ceremonies in a variety of locations, including Iraq, Afghanistan, Kuwait, Germany, Italy, Korea and Japan. USCIS Adjudications Officers assigned outside the United States receive military naturalization training before starting their assignments overseas as well as on-the-job training. Naturalization interviews overseas proceed in the same basic manner as interviews conducted domestically. A USCIS employee reviews all A-files prior to the oath ceremony to ensure that all required processing steps are complete. The Adjudications Officers overseas returns the A-files to the NSC to perform all necessary updates in the Central Index System and CLAIMS-4 to reflect the completion of the naturalization process. Since the beginning of the War on Terrorism, USCIS has naturalized 5,788 service members overseas. During Fiscal Year 2008, USCIS naturalized 1,509 service members overseas, including 644 in Iraq.

Outreach and Customer Service

USCIS Headquarters Offices, operational and policy components, as well as legal counsel, conduct regular liaison meetings with DOD POCs and individual points-of-contact from each of the branches of the military. Participants discuss new legislation, USCIS and DOD challenges, possible solutions for these challenges, including processing improvements, and any positive accomplishments by USCIS and DOD.

²¹ See INA § 310(c).

Community Relations Officers and other USCIS personnel also hold immigration outreach sessions at USCIS locations.

At any time during the military naturalization process, the service member, his or her family members, a designated military POC or other representative may contact the USCIS Military Help Line. USCIS established the Military Help Line on August 13, 2007, to assist service members and their family members, as well as designated military POCs, attorneys and others representing them. Callers access the USCIS Military Help Line via a toll-free phone number (1-877-247-4645) or e-mail (militaryinfo.nsc@dhs.gov). Specially trained customer service specialists at the NSC staff the Military Help Line Monday through Friday from 8 a.m. until 4:30 p.m. (CST). Callers receive assistance with:

- Tracking their N-400 applications;
- Notifying USCIS of a new mailing address or duty station;
- Checking the status of an application or petition;
- Bringing a spouse, fiancé(e), a child (including an adopted child) to the United States;
- Obtaining posthumous citizenship for a deceased service member;
- Submitting an application for expedited processing.

I appreciate your interest in the Department of Homeland Security, and I look forward to working with you on future homeland security issues. If I may be of further assistance, please contact the Office of Legislative Affairs at (202) 447-5890.

Sincerely,



Jim Howe
Acting Assistant Secretary
Office of Legislative Affairs

MAR 12 2009



**Homeland
Security**

This letter accompanies the Temporary Protective Status (TPS) Calendar Year 2008 Annual Report. This report is submitted in accordance with section 244(i)(1) of the Immigration and Nationality Act (INA). This report contains the following: A listing of the foreign states, or parts thereof, designated for TPS; the number of nationals who were granted TPS for each state and their immigration status before being granted such status; and an explanation of the reasons why foreign states, or parts thereof, were designated under section 244(b)(1) of the INA, and why previous designations were extended or terminated under section 244(b)(3) of the INA.

The report is being provided to the following Member of Congress:

The Honorable Patrick Leahy
Chairman
Senate Committee on the Judiciary

The Honorable Arlen Specter
Ranking Member
Senate Committee on the Judiciary

The Honorable Charles Schumer
Chairman
Senate Subcommittee on Immigration, Border Security and Refugees
Committee on the Judiciary

The Honorable John Cornyn
Ranking Member
Senate Subcommittee on Immigration, Border Security and Refugees
Committee on the Judiciary

The Honorable John Conyers
Chairman
House Committee on the Judiciary


The Honorable Lamar Smith
Ranking Member
House Committee on the Judiciary

The Honorable Zoe Lofgren
Chairwoman
House Subcommittee on Immigration, Citizenship,
Refugees, Border Security and International Law
Committee on the Judiciary

The Honorable Steve King
Ranking Member
House Subcommittee on Immigration, Citizenship,
Refugees, Border Security and International Law
Committee on the Judiciary

I appreciate your interest in the Department of Homeland Security. If I may be of further assistance, please contact the Office of Legislative Affairs 202 447-5890.

Sincerely



Charli Wiggins
Assistant Secretary

TEMPORARY PROTECTED STATUS: CALENDAR YEAR 2008 ANNUAL REPORT

**DEPARTMENT OF HOMELAND SECURITY
U.S. Citizenship and Immigration Services**

**Report for
The Committee on the Judiciary of the U.S. House of Representatives and
The Committee on the Judiciary of the U.S. Senate
March 2009**

I. SUMMARY

Under section 244 of the Immigration and Nationality Act (INA), the Secretary of Homeland Security (Secretary) may designate a foreign state (or part thereof) for Temporary Protected Status (TPS) after consulting with appropriate agencies of the U.S. Government. The Secretary may then grant TPS to eligible nationals of that foreign state or aliens having no nationality who last habitually resided in that state. Section 244(b)(1) of the INA provides the circumstances and criteria under which the Secretary may exercise his/her discretion to designate a country for TPS.¹ During Calendar Year (CY) 2008, there were 350,198 recipients of TPS benefits.

During CY 2008, the Secretary:

- Extended the TPS designations for Somalia, Sudan, Honduras, Nicaragua, and El Salvador, and
- Did not designate or re-designate any countries for TPS.

In CY 2007, the Secretary made the determination to terminate the TPS designation for Burundi, with an effective date of May 2, 2009; therefore Burundians with TPS may retain their benefits through that date.

II. INTRODUCTION

The Secretary submits this summary report of the TPS program in accordance with section 244(i)(1) of the INA. This report contains the following:

- A listing of the foreign states, or parts thereof, designated for TPS, including extension of existing country designations;

¹ Section 244(b)(1) of the INA provides:

The [Secretary of Homeland Security], after consultation with appropriate agencies of the Government, may designate any foreign state (or any part of such foreign state) under this subsection only if—

(A) the [Secretary] finds that there is an ongoing armed conflict within the state and, due to such conflict, requiring the return of aliens who are nationals of that state to that state (or to the part of the state) would pose a serious threat to their personal safety;

(B) the [Secretary] finds that—

(i) there has been an earthquake, flood, drought, epidemic, or other environmental disaster in the state resulting in a substantial, but temporary, disruption of living conditions in the area affected,

(ii) the foreign state is unable, temporarily, to handle adequately the return to the state of aliens who are nationals of the state, and

(iii) the foreign state officially has requested designation under this subparagraph; or

(C) the [Secretary] finds that there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety, unless the Attorney General finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.

- The number of nationals who were granted TPS for each state and the immigration status of those nationals before being granted such status;
- An explanation of the reasons why the Secretary designated foreign states, or parts thereof, under INA section 244(b)(1) (if any); and
- An explanation of why previous designations were extended or terminated under section 244(b)(3) of the INA.

III. REPORT

A. Listing of the foreign states designated for TPS that the Secretary extended during CY 2008.

Country	Effective Date of Designation	Expiration
Somalia	March 18, 2008	September 17, 2009
Sudan	November 3, 2008	May 2, 2010
Honduras	January 6, 2009	July 5, 2010
Nicaragua	January 6, 2009	July 5, 2010
El Salvador	March 10, 2009	September 9, 2010

Note: The Secretary did not designate or re-designate any foreign states, or parts thereof, for TPS in CY 2008.

B. The number of nationals granted TPS and the immigration status of those nationals before granted TPS

The following table provides the number of nationals of designated countries who received TPS benefits in CY 2008. This table reflects the most accurate information available as of the end of CY 2008.

Country	Number of Nationals
El Salvador	266,059
Honduras	78,954
Nicaragua	4,282
Sudan	713
Somalia	252
Burundi ²	21
Total	350,281

² Termination of the TPS designation of Burundi was announced in CY 2007, and will not become effective until May 2, 2009.

The following table reflects the prior immigration status of nationals who received TPS benefits in CY 2008.³ Individuals who entered without inspection (EWI), who were stowaways (ST), and others who may have had no immigration status prior to obtaining TPS are also listed in the table. Appendix A provides the description of each of the status abbreviations in the first column of the table. In some instances, a person may continue to possess his or her prior status, *e.g.*, asylum, and TPS at the same time.

Status	El Salvador	Honduras	Nicaragua	Sudan	Senegal	Darfur
AS	733	56	6	3	21	0
ASD	2	0	0	0	0	0
A1	3	10	0	0	0	0
A2	11	0	0	1	0	0
A3	2	4	0	0	0	0
BE	0	1	0	0	0	0
B1	196	197	84	6	0	0
B2	1,080	1,182	410	33	2	0
CC	0	0	0	0	0	0
C1	7	73	5	0	0	0
C2	0	0	0	0	0	0
C3	0	0	0	0	0	0
CH	0	0	0	3	0	0
CP	0	1	0	0	1	0
DA	4	2	0	12	1	0
DE	1	0	0	0	0	0
DT	5	0	0	0	0	0
D1	0	2	0	0	0	0
E1	0	0	0	0	0	0
E2	0	3	0	0	0	0
EA0	0	0	0	0	1	0
EWI	32,774	17,891	560	10	59	4
FUG	3	0	0	0	0	0
F1	71	111	17	39	2	1
F2	9	11	1	3	0	0
GT	0	0	0	0	0	0
G1	2	0	0	2	0	0
G2	0	0	0	0	0	0
G4	0	0	0	4	0	0
G5	3	2	2	0	0	0
H1	1	1	0	0	0	0

³ Data Source: COMPUTER LINKED APPLICATION INFORMATION MANAGEMENT SYSTEM (CLAIMS) and Service Center Operations, as adjusted. Prior immigration status is reported by TPS beneficiaries on Form I-821, *Application for Temporary Protected Status*.

Status	El Salvador	Honduras	Nicaragua	Sierra Leone	Senegal	Sierra Leone	Rwanda
H2	1	0	0	0	0	0	0
H1B	7	9	3	5	0	0	0
H2B	14	24	3	0	0	0	0
H2A	0	0	0	0	0	0	0
H4	8	11	2	2	0	0	0
I	1	0	0	0	0	0	0
IMM	6	3	0	0	0	0	0
J1	7	7	5	2	0	0	0
J2	0	15	1	1	0	0	0
K1	3	3	1	0	0	0	0
K2	0	1	0	0	0	0	0
K3	0	0	0	0	0	0	0
L1	3	0	0	0	0	0	0
L1B	0	0	0	0	0	0	0
L2	1	1	0	0	0	0	0
M1	0	2	2	1	0	0	0
O2	0	0	0	1	0	0	0
PAR	14	15	1	22	2	0	0
P1	4	0	0	0	0	0	0
P3	0	1	0	0	0	0	0
P4	0	0	0	0	0	0	0
PR	0	0	0	0	0	0	0
RE	7	8	13	1	1	0	0
R1	2	3	2	0	0	0	0
R2	4	6	3	0	0	0	0
SDF	0	0	0	0	1	0	0
ST	19	56	2	1	1	0	0
TC1	0	0	0	0	0	0	0
TWO	0	0	0	0	0	0	0
UN	79,044	40,605	2,528	548	143	15	15
UU	149,842	15,778	570	9	4	1	1
V1	0	0	0	0	0	0	0
V2	0	0	0	0	0	0	0
WB	0	2	0	0	0	0	0
WI	2,157	2,851	61	2	12	0	0
WT	8	6	0	2	1	0	0
Total	266,059	78,954	4,282	713	252	21	21

C. Explanation of the reasons why the Secretary extended the TPS designations of foreign states under INA section 244(b)(3) in CY 2008.

The Secretary conducts a periodic review of conditions affecting each TPS designated country in consultation with appropriate agencies of the U.S. Government, including the Department of State (DOS). INA section 244(b)(3)(A). The Secretary reviews country conditions information

provided by DOS and the USCIS Refugee, Asylum, and International Operations Directorate. The Secretary's determination of whether to extend or terminate a TPS designation is published as a Notice in the *Federal Register*, and includes an explanation of the reasons for the determination.

1. Extensions of Designation Under INA section 244(b)(3)(C)

Somalia

On September 16, 1991, the Attorney General published a Notice in the *Federal Register*, at 56 FR 46804, designating Somalia for TPS due to ongoing armed conflict and extraordinary and temporary conditions within the country. Subsequent to that date, the Attorney General extended TPS for Somalia nine times, determining in each instance that the conditions warranting the designation continued to be met. 57 FR 32232 (July 21, 1992); 58 FR 48898 (Sept. 20, 1993); 59 FR 43359 (Aug. 23, 1994); 60 FR 39005 (July 31, 1995); 61 FR 39472 (July 29, 1996); 62 FR 41421 (Aug. 1, 1997); 63 FR 51602 (Sept. 28, 1998); 64 FR 49511 (Sept. 13, 1999); 65 FR 69789 (Nov. 20, 2000).

On September 4, 2001, the Attorney General re-designated TPS for Somalia by publishing a Notice in the *Federal Register* at 66 FR 46288. Since that date, the Attorney General and the Secretary of Homeland Security have extended the TPS designation of Somalia six times, including the extension announced in 2008, based on determinations that the conditions warranting the designation continued to be met. 67 FR 48950 (July 26, 2002); 68 FR 43147 (July 21, 2003); 69 FR 47937 (Aug. 6, 2004); 70 FR 43895 (July 29, 2005); 71 FR 42653 (July 27, 2006); 73 FR 13245 (March 12, 2008).

During 2008, DHS and DOS continued to review conditions in Somalia. Based on that review, the Secretary concluded that an 18-month extension was warranted because the armed conflict is ongoing, and the extraordinary and temporary conditions that prompted the September 2001 re-designation persist. The designation was extended in 2008 for a period of 18 months, from March 18, 2008, through September 17, 2009. See 73 FR 13245 (March 12, 2008). What follows is a summation of considerations that led to the decision to extend the TPS designation of Somalia in CY 2008.

The situation in Somalia has continued to deteriorate since the last extension of TPS. It has been estimated that there are 3,000 combatants fighting against the Transitional Federal Government (TFG) in Mogadishu and 50,000 to 70,000 clan militia operating in Somalia. Between February and April 2007, approximately 1,000 individuals were killed, and 400,000 individuals were displaced by fighting. Over 60% of those killed were elderly, women, and children.

In April 2007, clashes erupted between Puntland and Somaliland, which had been previously considered relatively stable regions in Somalia. Furthermore, two events in May 2007 put humanitarian workers' safety into question: first, a non-governmental organization (NGO) convoy was attacked in Buloburti, and second, two CARE International staff members returning from Puntland were kidnapped. These two incidents provide additional evidence of the instability of conditions in Somalia at this time.

Between June and August 2007, an additional 50,000 individuals were displaced from Mogadishu. There has been an increase in the use of roadside bombs, vehicle-borne explosives, and suicide bombing by insurgent forces. Although a six-week national reconciliation conference was held in July and August 2007, the Union of Islamic Courts and leaders of the Hawiye clan (which is the dominant clan in Mogadishu) did not participate. As such, the conflict in Somalia is unlikely to end in the near future.

Sudan

On November 4, 1997, the Attorney General published a Notice in the *Federal Register*, at 62 FR 59737, designating Sudan for TPS based on an ongoing armed conflict and extraordinary and temporary conditions within that country. On November 3, 1998, the Attorney General extended the designation determining that the conditions warranting such designation continued to be met. 63 FR 59337. On November 9, 1999, the Attorney General extended and re-designated Sudan by publishing a Notice in the *Federal Register*, at 64 FR 61128, based upon the ongoing armed conflict and extraordinary and temporary conditions within Sudan which had worsened. After that date, the Attorney General and the Secretary of Homeland Security extended the TPS designation of Sudan four times, determining in each instance that the conditions warranting the designation continued to be met. 65 FR 67407 (Nov. 9, 2000); 66 FR 46031 (Aug. 31, 2001); 67 FR 55877 (Aug. 30, 2002); 68 FR 52410 (Sept. 3, 2003).

On October 7, 2004, the Secretary extended and re-designated Sudan for TPS due to the intensification of the ongoing armed conflict in the Darfur region and the extraordinary and temporary conditions resulting from the ongoing conflict. 69 FR 60168. Since that time, the Secretary has extended the TPS designation of Sudan three times, determining in each instance that the conditions warranting the designation continued to be met. 70 FR 52429 (Sept. 2, 2005); 72 FR 10541 (May 3, 2007); 73 FR 47606 (Aug. 14, 2008). Thus, since the initial designation of Sudan for TPS in 1997, the Attorney General and the Secretary have extended--or re-designated and extended--TPS for Sudan a total of ten times, including the 2008 extension discussed below.

During 2008, DHS and DOS continued to review conditions in Sudan. Based on that review, the Secretary concluded that an 18-month extension was warranted because the armed conflict was ongoing, and the extraordinary and temporary conditions that prompted the October 7, 2004, re-designation persisted. The designation was extended in 2008 for a period of 18 months, from November 3, 2008, through May 2, 2010. See 73 FR 47606 (Aug. 14, 2008). What follows is a summation of considerations that led to the decision to extend the TPS designation of Sudan in CY 2008.

Armed conflict continues in the Darfur region of Western Sudan. Since early 2003, armed conflict has persisted between the government of Sudan and the Sudanese People's Liberation Movement/Army (SPLM/A). Furthermore, violence against civilians has continued, with reports of killings, rapes, beatings, looting and burning of property throughout the region, including at camps for internally displaced people. Deliberate targeting of civilians continues to be a hallmark of violence perpetrated by all parties to the conflict. Since the beginning of this conflict, approximately 2.45 million people have been forced to leave their homes and are internally displaced.

In Darfur and Southern Sudan, conditions remained the same or have worsened in 2008. By June 2008, implementation of the 2005 peace agreement had not advanced and key issues, particularly the status and future of Abyei, the division of oil revenues, border demarcation and deployment of armed forces remained unresolved. There were 280,000 newly displaced Sudanese (including 80,000 displaced in the first two months of 2008), bringing the total number of internally displaced persons (IDPs) to 2,387,000. Large-scale violence by the Sudanese government and its allies directed against civilians was reported, including an attack in February 2008 that killed 115 people and forced 30,000 from their homes. Additionally, a clash between the Sudanese Armed Forces (SAF) and SPLM/A in Abyei in May 2008 displaced over 100,000 people. Moreover, violence was increasingly directed against humanitarian workers, of whom 14,000 are presently in Darfur. This violence includes robberies, hijackings of humanitarian aid vehicles, and attacks on humanitarian facilities.

Honduras

On January 5, 1999, the Attorney General published a Notice in the *Federal Register*, at 64 FR 524, designating Honduras for TPS due to the devastation resulting from Hurricane Mitch. The Attorney General and the Secretary of Homeland Security have extended the designation for Honduras eight times, including the extension announced in 2008, on the basis that the conditions warranting the January 5, 1999, designation continued to be met. See 65 FR 30438 (May 11, 2000); 66 FR 23269 (May 8, 2001); 67 FR 22451 (May 3, 2002); 68 FR 23744 (May 5, 2003); 69 FR 64084 (Nov. 3, 2004); 71 FR 16328 (March 31, 2006); 72 FR 29529 (May 29, 2007); 73 FR 57133 (Oct. 1, 2008).

On June 23, 2008, the government of Honduras requested an extension of the TPS designation of Honduras. During 2008, DHS and DOS continued to review conditions in Honduras. Based on that review, the Secretary concluded that an 18-month extension was warranted because there continued to be a substantial, but temporary, disruption of living conditions in Honduras resulting from Hurricane Mitch, and Honduras remained unable, temporarily, to adequately handle the return of its nationals, as required for TPS designations based on this environmental disaster. The designation was extended in 2008 for a period of 18 months, from January 6, 2009, through July 5, 2010. See 73 FR 57133 (Oct. 1, 2008). What follows is a summation of considerations that led to the decision to extend the TPS designation of Honduras in CY 2008.

It is estimated that Hurricane Mitch destroyed from 80,000 to over 200,000 dwellings in Honduras. By 2004, the United States Agency for International Development had completed construction of 6,100 permanent housing units to replace those destroyed by the hurricane. By 2005, nongovernmental organizations had repaired or built over 15,000 housing units. However, much of this housing still lacks water and electricity. The Honduran government said in May 2006 that more than 600,000 Hondurans live in areas that are at high risk of flooding. As of June 2008, the European Union's Regional Program for the Reconstruction of Central America (PRRAC) housing rehabilitation program was nearing completion. The PRRAC program for water projects costing \$30 million is also nearing completion. However, the drinking water systems and supplies of many Honduran communities still remain contaminated.

Nicaragua

On January 5, 1999, the Attorney General published a Notice in the *Federal Register*, at 64 FR 526, designating Nicaragua for TPS due to the devastation resulting from Hurricane Mitch. The Attorney General and the Secretary of Homeland Security have extended the designation for Nicaragua eight times, including the extension announced in 2008, on the basis that the conditions warranting the January 5, 1999, designation continued to be met. See 65 FR 30440 (May 11, 2000); 66 FR 23271 (May 8, 2001); 67 FR 22454 (May 3, 2002); 68 FR 23748 (May 5, 2003); 69 FR 64088 (Nov. 3, 2004); 71 FR 16333 (March 31, 2006); 72 FR 29534 (May 29, 2007); 73 FR 57138 (Oct. 1, 2008).

During 2008, DHS and DOS continued to review conditions in Nicaragua. Based on that review, the Secretary concluded that an 18-month extension was warranted because there continued to be a substantial, but temporary, disruption of living conditions in Nicaragua resulting from Hurricane Mitch and Nicaragua remained unable, temporarily, to adequately handle the return of its nationals, as required for TPS designations based on environmental disasters. The designation was extended in 2008 for a period of 18 months, from January 6, 2009, through July 5, 2010. See 73 FR 57138 (Oct. 1, 2008). What follows is a summation of considerations that led to the decision to extend the TPS designation of Nicaragua in CY 2008.

It is estimated that Hurricane Mitch destroyed or disabled 70 percent of the roads in Nicaragua, severely damaging 71 bridges and over 1,700 miles of highway. While the Pan-American highway has been repaired, most secondary roads have not. Temporary structures were never replaced and have deteriorated, and roads and other infrastructure that were damaged by the hurricane have been poorly rebuilt or not rebuilt at all. As of November 2007, Nueva Vida, a resettlement community of 15,000 people left destitute by Hurricane Mitch, faced an unemployment rate of approximately 90 percent. Furthermore, two of the five projects funded by the Inter-American Development Bank for post-Mitch reconstruction still awaited completion as of May 2008, including one project implementing sanitation measures at Lake Managua.

Additionally, since Hurricane Mitch, Nicaragua has been beset by other economic crises and natural disasters. Hurricane Felix devastated the Northern Atlantic Autonomous Region and affected neighboring departments of Nueva Segovia and Jinotega in September 2007. Hurricane Felix destroyed more than 20,450 homes along with 100 schools, clinics, community centers, and churches, killed more than 130 people, and caused an economic loss of approximately \$500 million. In late May 2008, Tropical Depression Alma exacerbated the damage caused by Hurricanes Felix and Mitch.

El Salvador

On March 9, 2001, the Attorney General published a Notice in the *Federal Register*, at 66 FR 14214, designating El Salvador for TPS due to the devastation caused by a series of severe earthquakes that occurred on January 13, and February 13 and 17, 2001. The Attorney General and the Secretary of Homeland Security have extended the designation for El Salvador six times on the basis that the conditions warranting the March 9, 2001, designation have continued to be met, including the 2008 extension announcement. See 67 FR 46000 (July 11, 2002); 68 FR

42071 (July 16, 2003); 70 FR 1450 (Jan. 7, 2005); 71 FR 34637 (June 15, 2006); and 72 FR 46649 (Aug. 21, 2007); 73 FR 57128 (Oct. 1, 2008).

During 2008, DHS and DOS continued to review conditions in El Salvador. Based on that review, the Secretary concluded that an 18-month extension is warranted because there continued to be a substantial, but temporary, disruption of living conditions in El Salvador resulting from the series of earthquakes that struck the country in 2001, and because El Salvador remained unable, temporarily, to adequately handle the return of its nationals, as required for TPS designations based on significant earthquake damage. The designation was extended in 2008 for a period of 18 months, from March 10, 2009, through September 9, 2010. See 73 FR 57128 (Oct. 1, 2008). What follows is a summation of considerations that led to the decision to extend the TPS designation of El Salvador in CY 2008.

El Salvador has still not completed reconstruction of the infrastructure damaged by several severe 2001 earthquakes. Transportation, housing, education, and health sectors are still suffering from the 2001 earthquakes, the lingering effects of which limit El Salvador's ability to absorb a large number of potential returnees. The Salvadoran government assessed that 276,594 houses were affected by the earthquakes. As of February 2007, 136,988 houses had been reconstructed or repaired, approximately 50 percent of the total number destroyed or damaged. A housing program funded by the European Union was completed in March 2007, with a total of 5,482 houses constructed. As of June 2008, a housing program funded by the Inter-American Development Bank (3,500 houses) was underway with completion anticipated by the middle of 2009. In June 2003, the Salvadoran legislature approved borrowing \$142.6 million for the reconstruction of seven hospitals. As of June 2008, reconstruction of one of seven main hospitals was completed. Reconstruction of three others was underway with completion anticipated by the end of 2008.

2. Designations and Re-Designations Under INA section 244(b)(1)

The Secretary did not designate or re-designate any foreign states, or parts thereof, for TPS in CY 2008.

3. Terminations Under INA section 244(b)(3)(B)

The Secretary did not terminate the TPS designations of any foreign states, or parts thereof, in CY 2008. The Secretary's decision in CY 2007 to terminate the TPS designation of Burundi will take effect on May 2, 2009.

Appendix A

Code	Description	Code	Description
A1	AMBASSADOR, DIPLOMAT	H2B	SPECIAL EDUCATION TRAINING
A2	OTHER DIPLOMATIC OFFICIALS	H3	ALIEN TRAINEE
A3	ATTENDANTS OF A1, A2	H4	SPOUSE/CHILD OF H1 THROUGH H3
AS	ASYLUM	I	FOREIGN PRESS
ASD	RAW APPLIED FOR AT PORT	IMM	INDEFFINITE PAROLE
B1	TEMPORARY VISITOR FOR BUSINESS	J1	EXCHANGE VISITOR
B2	TEMPORARY VISITOR FOR TRAVEL	J2	SPOUSE/CHILD OF J1
BE	BERING STRAIT ENTRIES	K1	ALIEN FIANC(E) OF USC
C1	ALIEN IN TRANSIT THROUGH U.S.	K2	CHILD OF K1
C2	ALIEN IN TRANSIT TO UN HQ	K3	SPOUSE OF USC
C3	TRANSIT WITHOUT A VISA	L1	INTRA-COMPANY TRANSFEREE
CC	CUBAN MASS MIGRATION PROJECT	L1B	SPECIALIZED KNOWLEDGE ALIEN
CH	PAROLEE (HUMANITARIAN/HQ AUTH)	L2	SPOUSE/CHILD OF L1
CP	PAROLEE (PUBLIC INT/HQ AUTH)	M1	STUDENT-VOCATIONAL/NON-ACAD
D1	ALIEN CREW DEPART OTHER VESSEL	O2	ASSISTANT TO ALIEN OF EXTRAORDINARY ABILITY IN THE SCIENCES, ATHLETICS, ARTS, ETC. (O1)
DA	ADVANCE PAROLE (DISTRICT AUTH)	P1	ATHLETE OR ENTERTAINER
DE	PAROLEE (DEFERRED INSPECTION)	P2	EXCHANGE ARTIST/ENTERTAINER
DT	ALIEN CREW DEPART OTHER VESSEL	P3	UNIQUE PGM ARTIST/ENTERTAINER
E1	TREATY TRADER/SPOUSE/CHILD	P4	SPOUSE/CHILD OF P1, P2, P3
E2	TREATY INVESTOR/SPOUSE/CHILD	PAR	PAROLEE
EAO	EMPLOYMENT ADVISORY OPTION	PR	PAROLEE
EWI	ENTRY WITHOUT INSPECTION	R1	RELIGIOUS WORKER
F1	STUDENT-ACADEMIC	R2	SPOUSE/CHILD R1
F2	SPOUSE/CHILD OF F1	RE	REFUGEE
FUG	FAMILY UNITY GRANTED	SDF	SUSPECTED DOCUMENT FRAUD
G1	PRINCIPAL REP FOREIGN GOVT	ST	STOWAWAY
G2	OTHER REP FOREIGN GOVT	TC1	TERMINATED CONDITIONAL PERMANENT RESIDENT
G3	REP NON-RECOGNIZED FOREIGN GOVT	TWO	TRANSIT WITHOUT A VISA
G4	OFFICER/EMPLOYEE INTL ORG	UN	UNKNOWN
G5	ATTENDANTS OF G1, G2, G3, G4	UU	UNKNOWN
GT	VISITOR WITHOUT A VISA 15 DAYS	V1	MARRIED TO LPR AWAITING VISA
H1	REGISTERED NURSE	V2	UNMARRIED CHILD OF LPR AWAITING VISA
H1B	SPECIALITY OCCUPATION	WB	VISITOR FOR BUSINESS-VWPP
H2	TEMPORARY LABOR CERTIFICATION	W1	WITHOUT INSPECTION
H2A	TEMPORARY AGRICULTURAL WORKER	WT	TEMPORARY VISITOR-VISA WAIVER PROGRAM



Immigration Examinations Fee Account

Fiscal Year 2008 Report to Congress
Statement of Financial Condition

June 9, 2009



U.S. Citizenship and Immigration Services

JUN 09 2009

Assistant Secretary for Legislative Affairs
U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

Foreword

I am pleased to present the following report, "Immigration Examinations Fee Account - Statement of Financial Condition," which has been prepared by U.S. Citizenship and Immigration Services.

Pursuant to congressional requirements, this report is being provided to the following Members of Congress:

The Honorable Zoe Lofgren
Chairman, House Subcommittee on Immigration, Citizenship, Refugee, Border Security and International Law

The Honorable Steve King
Ranking Member, House Subcommittee on Immigration, Citizenship, Refugee, Border Security and International Law

The Honorable Charles Schumer
Chairman, Senate Subcommittee on Immigration, Border Security and Refugees

The Honorable John Cornyn
Ranking Member, Senate Subcommittee on Immigration, Border Security and Refugees,

The Honorable David Price
Chairman, House Appropriations Subcommittee on Homeland Security

The Honorable Harold Rogers
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable Robert C. Byrd
Chairman, Senate Appropriations Subcommittee on Homeland Security

The Honorable George V. Voinovich
Ranking Member, Senate Appropriations Subcommittee on Homeland Security

Inquiries relating to this report may be directed to the Department of Homeland Security's Office of Legislative Affairs at (202) 447-5890.

Sincerely,

A handwritten signature in black ink, appearing to read "Chan Wiggins", written over a circular stamp or seal.

Chan Wiggins
Assistant Secretary
Office of Legislative Affairs

Executive Summary

This report responds to a request from Congress for an annual update on the Immigration Examinations Fee Account. The information in the report is based on the Standard Form (SF) 133 Report on Budget Execution and Budgetary Resources from which the unified financial statements are developed for the DHS AFR. The report also includes projections for End-of-Year (EOY) FY 2009 and an outlook on our current financial condition.

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I. Legislative Requirement

Section 286(o) of the Immigration and Nationality Act (8 U.S.C. 1356(o)) includes the following requirement:

(o) The [Secretary of Homeland Security] will prepare and submit annually to Congress statements of financial condition of the "Immigration Examinations Fee Account," including beginning account balance, revenues, withdrawals, and ending account balance and projections for the ensuing fiscal year.

II. Purpose and Background

This report summarizes the financial status of the Immigration Examinations Fee Account (IEFA) authorized under 8 USC 1356 (m) and utilized by U.S. Citizenship and Immigration Services (USCIS). A reporting requirement is included under 8 USC 1356(o) requiring the annual submission of a "statement of financial condition" to include information on balances, revenues, and withdrawals from the Account.

To date, this requirement has been addressed within the unified financial statements of the Department of Homeland Security (DHS). For FY 2008 and going forward, the Department will produce a separate unaudited report providing the details of the financial condition of IEFA.

IEFA is the primary fee account and funding source for USCIS, providing resources encompassing approximately 94 percent of the total USCIS budget in FY 2008. Fees collected from the filing of immigration benefit applications are deposited into IEFA and used to fund the cost of processing immigration benefit applications and associated support benefits, as well as the cost of providing such services to certain applicants exempt from fees or where fees are waived by USCIS.

IEFA funding supports the following five core programmatic areas:

- Adjudication Services providing timely and quality processing of: *Family-based petitions* - facilitating the process for relatives of U.S. citizens and permanent residents to immigrate, gain permanent residency, work, etc.; *Employment-based petitions* - facilitating the process for current and prospective employees to immigrate or stay in the U.S. temporarily; *Asylum and Refugee petitions* - adjudicating asylum applications and processing refugees; and, *Naturalization petitions* - processing applications of persons wishing to become U.S. citizens. Premium processing revenue funds a Business Transformation Program, a program to modernize business processes and supporting information systems.
- Information and Customer Services providing customer assistance through the USCIS website, toll-free call centers (National Customer Service Call Centers), and face-to-face appointments. On an annual basis, USCIS serves more than 16 million customers via the National Customer Service Call Centers, while also serving approximately 3 million customers through information counters at local offices.
- Fraud Detection & National Security providing analytical support to combat immigration fraud and protect national security through direct support to domestic and international USCIS offices, and coordinating with other agencies including U.S. Immigration and Customs Enforcement, the Departments of State and Labor, and the Federal Bureau of Investigation.
- Administration providing support through a variety of overhead and headquarters offices such as Administration, Chief Financial Officer, Chief Counsel, Communications, Congressional Relations, Policy and Strategy, Chief Human Capital, and Security and Integrity.
- Systematic Alien Verification for Entitlements (SAVE) providing automated immigration status verification to assist benefit granting agencies to determine eligibility for federal, state, or local public benefits.

III. Statement of Budgetary Resources

The table below generally mirrors the form and structure of the Statement included within the DHS FY 2008 Annual Financial Report (AFR) issued publicly by the Department on December 1, 2008. Data in the Statement is taken from the end-of-year SF 133 Report on Budget Execution and Budgetary Resources from which the unified financial statements are developed for the DHS AFR. The Statement below departs from the DHS AFR structure in that it also includes a depiction of the change from FY 2007 in both dollar and percentage terms.

Statement of Budgetary Resources					
Audited in the annual DHS Financial Statement Audit					
Budgetary Resources	Sept-FY08	Sept-FY07	\$ Difference	% Change	
Unobligated balance, brought forward, Oct. 1	\$ 868,125,714	\$ 334,730,124	\$ 333,385,590	100%	
Recoveries of prior year unpaid obligations					
Actual	\$ 41,967,089	\$ 18,891,394	\$ 25,275,675	151%	
Anticipated	\$ -	\$ -	\$ -	-	
Budget authority					
Appropriations	\$ 2,414,980,480	\$ 2,073,778,794	\$ 341,181,686	16%	
Borrowing authority	\$ -	\$ -	\$ -	-	
Contract authority	\$ -	\$ -	\$ -	-	
Spending authority from offsetting collections					
Earned-Collected	\$ 27,888,623	\$ 23,200,985	\$ 4,458,868	19%	
Change in receivable from Federal sources	\$ (2,778,848)	\$ 1,841,165	\$ (4,419,811)	-269%	
Advance received	\$ 680,887	\$ -	\$ 680,887	100%	
Without advance from federal sources	\$ 615,588	\$ (7,022,120)	\$ 7,637,708	-109%	
Anticipated for rest of year, without advances	\$ -	\$ -	\$ -	-	
Previously unavailable	\$ -	\$ -	\$ -	-	
Expenditure transfers from trust funds					
Collected	\$ -	\$ -	\$ -	-	
Change in receivables from trust funds	\$ -	\$ -	\$ -	-	
Anticipated	\$ -	\$ -	\$ -	-	
Non-Expenditure transfers, net; anticipated and Actual					
Actual Transfers, budget authority	\$ (4,000,000)	\$ -	\$ (4,000,000)	-	
Anticipated transfers, budget authority	\$ -	\$ -	\$ -	-	
Actual transfers, budget authority	\$ -	\$ -	\$ -	-	
Anticipated Transfers- Prior Year Auth	\$ -	\$ -	\$ -	-	
Temporarily Not Available Pursuant to Public Law	\$ -	\$ -	\$ -	-	
Permanently Not Available	\$ -	\$ -	\$ -	-	
Total Budgetary Resources	\$ 3,147,208,886	\$ 2,443,928,322	\$ 704,180,573	29%	
Status of Budgetary Resources	Sept-FY08	Sept-FY07	\$ Difference	% Change	
Obligations Incurred					
Direct	\$ 2,325,077,167	\$ 1,757,580,087	\$ 567,527,080	32%	
Reimbursable	\$ 19,355,578	\$ 17,344,521	\$ 2,011,057	12%	
Unobligated Balance					
Apportioned	\$ 458,579,217	\$ 228,110,844	\$ 231,468,373	101%	
Exempt from Apportionment	\$ -	\$ -	\$ -	-	
Unobligated Balance Not Available					
Deferred	\$ -	\$ -	\$ -	-	
Withheld pending recision	\$ -	\$ -	\$ -	-	
Other	\$ 343,188,734	\$ 440,014,870	\$ (96,826,136)	-22%	
Total Status of Budgetary Resources	\$ 3,147,208,886	\$ 2,443,928,322	\$ 704,180,574	29%	
Change in Obligated Balances	Sept-FY08	Sept-FY07	\$ Difference	% Change	
Obligated balance, net					
Unpaid obligations brought forward, Oct. 1	\$ 588,577,822	\$ 500,827,042	\$ 87,950,780	18%	
Uncollected customer payments from Federal sources, brought forward, Oct. 1	\$ (11,488,091)	\$ (16,948,046)	\$ 5,380,955	-32%	
Obligations Incurred, net	\$ 2,344,432,745	\$ 1,774,894,907	\$ 568,538,138	32%	
Gross Outlays	\$ (1,967,854,884)	\$ (1,670,252,434)	\$ (297,602,250)	18%	
Obligated balance transferred, net					
Actual transfers, unpaid obligations, net	\$ -	\$ -	\$ -	-	
Actual transfers, uncollected customer payments from Federal sources	\$ -	\$ -	\$ -	-	
Recoveries of prior year unpaid obligations, actual	\$ (41,967,089)	\$ (18,891,394)	\$ (25,275,675)	151%	
Change in uncollected customer payments from Federal sources	\$ 2,163,058	\$ 5,380,955	\$ (3,217,896)	-60%	
Obligated balance net, end of period	\$ 923,188,813	\$ 588,577,822	\$ 334,610,991	57%	
Unpaid obligations	\$ (9,308,033)	\$ (11,488,091)	\$ 2,163,058	-19%	
Uncollected customer payments from Federal sources					
Net Outlays	Sept-FY08	Sept-FY07	\$ Difference	% Change	
Net outlays					
Gross outlays	\$ 1,967,854,884	\$ 1,670,252,434	\$ 297,602,250	18%	
Offsetting collections	\$ (28,310,510)	\$ (23,200,985)	\$ (5,108,545)	22%	

The following are brief explanations for some of the significant changes from FY 2007 to FY 2008:

- **Increase in Fee Revenue.** USCIS updated its fee schedule in FY 2007 to account for the anticipated increased cost structure of IEFA activities covering the FY 2008-2009 period. The basis and justification for the increased fees and costs were detailed in the Federal Register within both a Notice of Proposed Rulemaking issued February 1, 2007 (72 FR 4888), and a Final Rule issued May 30, 2007 (72 FR 29851). The USCIS fee schedule is promulgated in 8 CFR Part 103. Increases in several areas within the Statement are primarily due to the fee schedule change and resulting increase in revenue and spending, particularly with respect to lines associated with budget authority, obligations, obligated and unobligated balances, and outlays.
- **FY 2007 Summer Surge.** USCIS received a surge in applications in late FY 2007 in advance of 2007 fee schedule changes and also partially as a result of the temporary opening of the employment based visa window in the July 2007 Visa Bulletin, a window that had not been opened fully in many years. The surge resulted in a substantial increase in the level of "Unobligated Balance Not Available for FY 2007" because funds were received late in the year and not apportioned. Over the course of FY 2008, as planned spending aligned with revenue received from the surge, this balance fell.
- **Recoveries** (deobligation or downward adjustment of prior year obligations). Recovery levels increased over the FY 2007 level primarily because of a prior year blanket purchase agreement (BPA) that was deobligated in the amount of \$21.8 million.
- **Unfilled Orders Review** (formal document issued for procurement of goods and/or services which meets the criteria of an incurred obligation but has not been executed by the receiver). USCIS conducted a clean-up during FY 2008 of unfilled customer orders, which led to a substantial change from the FY 2007 level of "Spending Authority from Offsetting Collections Without Advance from Federal Sources."
- **Reimbursable Agreement Review** (contractual relationship under which USCIS provides a product or service to a non-Service party, the costs of which are paid by the recipient). USCIS reviewed reimbursable agreements during FY 2007 resulting in the close out of several agreements, which in turn resulted in a smaller balance being rolled forward into FY 2008 from FY 2007 within the "Obligated Balance (Net) Uncollected Customer Orders from Federal Sources Brought Forward."
- **Uncollected Payments from Federal Sources Review.** USCIS reviewed un-filled customer orders during FY 2008 which led to a significant reduction in balances.

IV. Projections for FY 2009

Spending

Total initial operating plan obligations for IEFA in FY 2009 are projected to be \$2,665 million. This level is \$321 million above the FY 2008 actual obligations level, an increase of 13.7 percent. The primary reasons for this increase are a substantial increase in planned spending for Business Transformation activities as well as anticipated full-year staffing costs for personnel added gradually over the latter part of FY 2008. The table below depicts the summary operating plan levels by appropriated program, project and activity levels.

IEFA Spending Projections (dollars in thousands)	
Program	FY09 Annual Operating Plan Amount
Adjudication Services	
Pay and Benefits	\$ 817,325
Operating Expenses	
District Operations	\$ 550,380
Service Center Operations	\$ 307,084
Asylum, Refugee, and International Operations	\$ 91,338
Records Operations	\$ 102,690
Subtotal	\$ 1,868,816
Information and Customer Services	
Pay and Benefits	\$ 78,935
Operating Expenses	
National Customer Service Center	\$ 53,564
Information and Customer Services	\$ 17,013
Subtotal	\$ 149,512
Administration	
Pay and Benefits	\$ 90,299
Operating Expenses	\$ 285,835
Subtotal	\$ 376,134
Business Transformation	\$ 252,058
SAVE	\$ 18,818
TOTALS	\$ 2,665,339

Revenue

Total anticipated revenue for FY 2009 under the initial USCIS operating plan is \$2,287 million. This level is \$129 million below actual FY 2008 collections totaling \$2,415 million. However, it is important to note that FY 2008 collection levels were somewhat inflated considering that as a result of the FY 2007 summer surge a substantial number of applications received during FY 2007 were not actually deposited by USCIS intake processes until early FY 2008.

Unobligated Balances

The combined effect of increased planned obligations and declining revenue will result in a reduction in projected end-of-year FY 2009 unobligated balance of \$378.3 million, or 47 percent, to \$424.4 million.

The following table summarizes the basis for the projection.

IEFA EOY Projected Account Balance		
(dollars in thousands)		
IEFA Carryover from Prior Years	\$	802,768
IEFA Projected Revenue	\$	2,287,000
IEFA Planned Spending	\$	(2,685,339)
EOY Projected Account Balance	\$	424,429

V. Financial Condition Outlook

Obligations for FY 2009 are expected to be at or near planned levels, though the level of increase in FY 2009 over FY 2008 will depend to a significant extent on the pace of deployment and actual level of obligations for the Business Transformation program, budgeted at more than \$252 million through IEFA resources for FY 2009.

Of greater uncertainty is the level of fee revenue to be received this year. The overall condition of the national economy appears to have led to a corresponding decrease in the levels of application and petition receipts, and therefore revenue. This is particularly true for employment-based applications. USCIS may need to utilize a greater share of IEFA balances this year, if revenue continues to fall below expectations. Ultimately, the extent of the economy's decline will be a primary factor in determining whether end-of-year target projections of IEFA balances are reached.



USCIS Production Update

Fiscal Year 2009 Report to Congress

4th Quarter

March 8, 2010



U.S. Citizenship and Immigration Services

Foreword

March 8, 2010

I am pleased to present the following report, "USCIS Production Update," which has been prepared by U.S. Citizenship and Immigration Services (USCIS).

Pursuant to Senate Report 110-84, which accompanies the Fiscal Year (FY) 2008 Department of Homeland Security Appropriations Act (P.L. 110-161), this document serves as a quarterly report on the USCIS Backlog Elimination Program. It addresses the final quarter of FY 2009.

Pursuant to a congressional requirement, this report is being provided to the following Members of Congress:

The Honorable David Price
Chairman, House Appropriations Subcommittee on Homeland Security

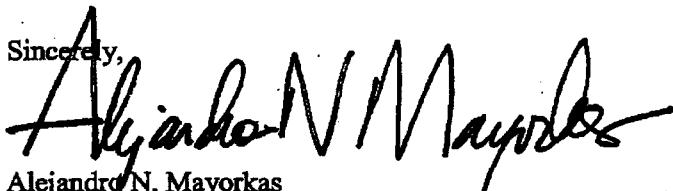
The Honorable Harold Rogers
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable Robert C. Byrd
Chairman, Senate Appropriations Subcommittee on Homeland Security

The Honorable George V. Voinovich
Ranking Member, Senate Appropriations Subcommittee on Homeland Security

I would be pleased to respond to any questions you may have. Please do not hesitate to contact me at (202) 272-1000 or the Department's Acting Chief Financial Officer, Peggy Sherry, at (202) 447-5751.

Sincerely,


Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services



USCIS Production Update: 4th Quarter, Fiscal Year 2009

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I. Legislative Language

Senate Report 110-84, which accompanies the Fiscal Year (FY) 2008 Department of Homeland Security Appropriations Act (P.L. 110-161), includes the following provision:

BACKLOG ELIMINATION

The Committee directs USCIS to continue to report quarterly on the status of application processing and the backlog reduction plan.

The Appropriations Committees requested that the Department continue to provide the quarterly report through FY 2009. This report responds to those requests and presents information updated through September 30, 2009.

II. Background

FY 2007 was a bridge year to a new self-sustaining financial structure for USCIS. In the summer of 2007, USCIS implemented a new fee structure to recover processing costs. This enabled USCIS to:

- Develop the capacity necessary to meet processing goals on an ongoing basis
- Deliver sustained service improvements
- Invest in operational modernization

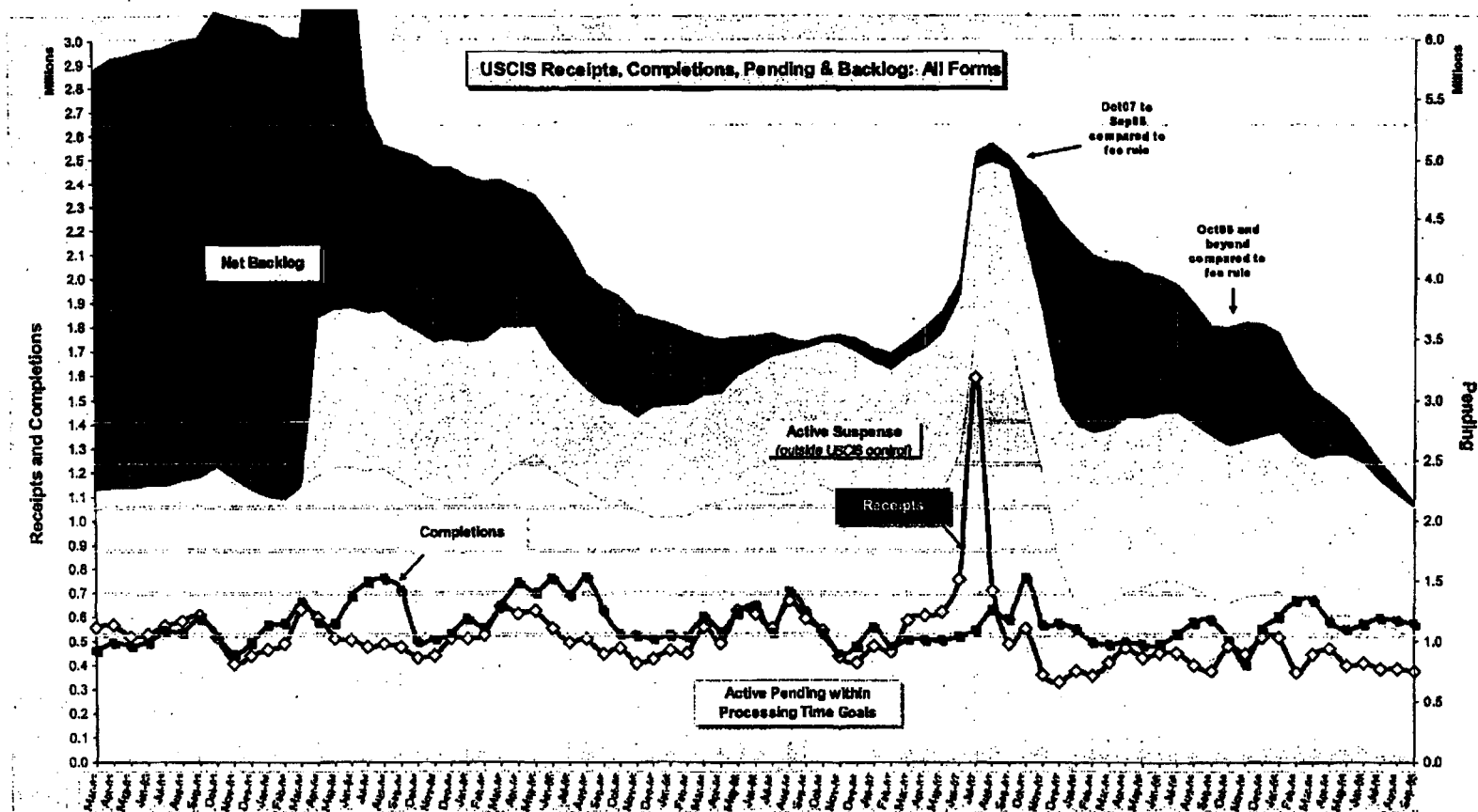
In the summer of FY 2007, a sudden surge in demand caused a temporary capacity problem. The announced fee increase was itself one cause of the surge, as some applicants chose to file their applications and petitions before the increase took effect.

To the extent the surge was due to early filing, the increased volume of receipts before the fee increase was largely balanced by a decreased volume afterward. Although core application volume increased 16 percent in June and July of FY 2007, filings of naturalization applications more than doubled in June and nearly octupled in July, compared to normal monthly receipts. Furthermore, USCIS received almost 800,000 additional employment-based applications for permanent residence because of the announcement by the Department of State in its July 2007 Visa Bulletin that any person in the United States waiting for an employment-based visa number could immediately apply for adjustment.

In response to the unprecedented number of immigration applications and petitions received during June and July of FY 2007, USCIS developed a Surge Response Plan (SRP). The SRP was an operational blueprint responding to the increase in workload. It was built on the capabilities that the new fee structure would create and on the revenue that came with the summer surge in application filings. One key part of the SRP was to temporarily grow capacity to manage the increased workload. Combining enhanced processing procedures with the increased number of personnel, the backlog was almost completely eliminated over the past two fiscal years.

Throughout FY 2008 and FY 2009, new immigration application receipts have been below forecasted levels. This means there are fewer new applications to be worked, and it also means that there is less revenue available to support current staffing levels and ongoing operations. In response to the decline in new application receipts and associated fee revenue, USCIS determined that it no longer needed additional surge positions in FY 2009 to achieve its backlog elimination goals and ended the hiring of new surge staff.

USCIS Receipts, Completions, Pending and Backlog: All Forms



III. Summary Overview

Production in Fourth Quarter FY 2009 was eight percent above production in the same quarter of FY 2008. Compared to Third Quarter FY 2009, completions increased four percent and total pending decreased 20 percent.

Of particular note:

- Because of a rebalancing of production efforts, completions for Form I-130 Relative Petitions increased 53 percent from the prior quarter. The span of cases being processed now includes unripe relative petitions. Although these petition types are all visa regressed, it is a USCIS goal to reduce the gross pending to 64,000 cases in the event of a change in visa regression or immigration reform.
- The backlog calculations were based on end of FY 2009 processing goals. The total net backlog dropped by over 189,000 cases from the prior quarter and currently stands at 46,086 cases. The net backlog at the end of FY 2008 was nearly 920,000 cases.
- The total gross backlog decreased by 28 percent or 375,780 cases from the previous quarter and currently stands at 986,518 cases. The gross backlog at the end of FY 2008 was 2,150,518 cases. This reduction was largely due to a substantially higher number of cases completed than receipts received in the current quarter.

Production for the fiscal year was 96 percent of the FY 2009 target.

IV. FY 2009 Fourth Quarter Production Data

4th Quarter FY 09 Production Data - Head Book									
Item	Receipts	Completions	Revolving	Production of Quarter Ending	Net Shrinkage	Cost Shrinkage	Production of Quarter Ending	Production of Quarter Ending	Net Shrinkage
0-400 Regular	131,255	192,814	228,497	131,255	-	-	-	4,725	0%
0-400 Heavy	2,455	2,794	3,454	2,455	-	-	133	344	0%
0-400 Regular	55,251	104,305	40,421	43,359	19,388	27,208	129,551	27,815	2%
0-400 Regular	22	45	29	35	11	13	20	25	30%
0-400 Regular	4,837	15,254	15,254	24,678	4,418	5,701	11,543	12,801	27%
0-400 Regular	2,187	12,382	22,272	15,478	-	-	-	-	0%
0-400	134,305	48,134	559,164	1,311,111	1,455	27,722	41,357	228,265	0%
0-400	131,848	108,198	275,631	104,047	-	-	-	-	0%
0-400	13,568	125,355	41,462	24,733	-	-	15,071	4,935	0%
0-400 Ad-Opt	75,628	33,250	23,197	31,169	-	-	-	-	0%
0-400 Regular	21,255	21,181	22,903	14,557	-	-	-	-	0%
0-400	14,510	23,207	17,138	24,719	-	-	631	1,353	0%
0-400	4,351	4,629	26,281	20,225	-	-	-	-	0%
0-400	42,220	24,622	22,428	21,192	-	-	-	-	0%
0-400	214,452	213,105	25,444	121,353	-	-	-	-	0%
0-400	1,747	13,104	5,712	12,151	4,018	4,571	1,450	14,712	70%
0-400-040	12,533	12,353	17,254	15,712	-	-	-	-	0%
0-400	4,555	4,520	5,591	2,945	-	-	-	-	0%
0-400	257	1,255	428	155	-	-	-	-	0%
0-400	1,349	1,353	218	139	-	-	-	-	0%
0-400	4,333	4,347	2,844	1,239	-	-	-	-	0%
0-400	11,779	24,353	20,352	24,851	-	-	4,381	4,751	0%
0-400	5,170	1,148	14,255	14,405	3,022	5,775	3,693	1,353	37%
0-400	481	294	34	287	-	-	-	-	0%
0-400-004	2,713	4,412	2,682	1,451	-	-	323	4	0%
0-400-004	1,251	1,254	671	770	-	-	-	-	0%
0-400-004-004 Regular	397	525	1,457	1,355	353	410	1,115	1,391	40%
0-400	4,222	2,589	5,235	5,573	228	1,466	727	2,239	3%
0-400	471	320	1,285	1,354	64	382	-	85	2%
0-400	4,555	1,587	4,572	2,355	98	231	2,348	1,625	2%
0-400	314	321	321	457	-	-	422	262	0%
0-400	131	211	267	457	50	314	114	259	17%
0-400	3,221	1,155	21,133	24,727	5,303	16,926	17,128	21,167	40%
0-400	-	-	-	-	-	-	-	-	0%
0-400	14	24	21	21	-	-	-	-	0%
0-400	1,842	1,454	3,222	1,557	-	-	-	-	0%
0-400	130	302	438	405	159	201	153	210	40%
0-400	3,021	5,259	4,943	2,391	-	-	-	-	0%
0-400	-	-	-	-	-	-	-	-	0%
0-400	1,251	3,222	2,467	1,341	-	-	702	759	1%
0-400-004	128,128	128,128	313	4,225	-	-	-	-	0%
0-400-004-004	1,524	5,525	55	51	-	-	-	-	0%
0-400	1,525	11,155	12,044	13,151	2,423	2,143	2,911	2,122	13%
0-400-004	1,251,255	1,251,255	2,255,111	2,255,111	44,000	224,000	224,000	1,251,255	2%
0-400	8,451,255	7,255,255	2,255,111	2,255,111	44,000	224,000	224,000	1,251,255	2%
0-400	4,555,255	4,722,255	1,255,255	-	555,255	-	-	-	23%
0-400	1,251,255	5,251,255	1,155,255	-	105,255	-	-	-	3%
0-400	5,251,255	5,251,255	1,255,255	-	455,255	-	-	-	3%
0-400	5,251,255	1,251,255	1,251,255	-	151,125	-	-	-	24%
0-400	1,251,255	1,251,255	1,251,255	-	1,455,255	-	-	-	28%

1. In general, health care facilities depending on how much equipment through application, type of application, and the number of services. In addition, changing objectives and the volatility of rates have an effect on the data.

V. Quality Assurance

During Fourth Quarter FY 2009, USCIS achieved a 99.86-percent decisional quality review (DQR) accuracy rate for naturalization adjudications and a 98.58-percent DQR accuracy rate for adjustment of status adjudications. Where officer errors were identified, the reasons for the errors were researched and the causes communicated to the field office management so that corrective actions could be implemented to ensure similar errors were not repeated.

During Fourth Quarter FY 2009, USCIS achieved a 99.86-percent naturalization quality procedures compliance accuracy rate and a 99.03-percent adjustment of status quality procedures compliance accuracy rate. Where officer errors were identified, the reasons for the errors were researched and the causes communicated to the field office management so that corrective actions could be implemented to ensure similar errors were not repeated.

VI. Production Management

Receipts: USCIS received 1,268,310 filings in the fourth quarter, a decrease of 126,650 compared to Third Quarter FY 2009. Although the overall receipts received in FY 2009 are 91 percent of the anticipated annual receipts, there was a significant reduction in employment filings. The FY 2009 non-immigrant worker I-129 filings finished at 85 percent of the anticipated annual receipt projection, and the immigrant worker I-140 filings finished at 48 percent of anticipated annual receipts. It appears the economy is continuing to have an adverse effect on immigration. Additionally, naturalization applications (N-400) for the fiscal year were below forecasted levels at 87 percent of anticipated annual receipts.

Completions: USCIS completed 1,892,309 cases in the fourth quarter: 72,028 more than in the third quarter of FY 2009. During the fourth quarter, completions exceeded receipts by 623,999.

Pending and Backlog: The volume of pending cases decreased by 532,033 to 2,156,111 during Fourth Quarter FY 2009, while the net backlog decreased by 189,268 cases to 46,086. The 19,388 adjustment of status cases make up the largest portion (42 percent) of the USCIS net backlog.

The net backlog now stands at two percent of the overall pending cases. The I-914 and I-918 cases were receipted for a period of time where they were not allowed to be worked since there was no written regulation. These cases are now being worked at a rate of 3 to 1, for each receipt there are three pending cases completed. The backlog will most likely be eliminated by the end of Second Quarter FY 2010.

Operational capacity increases and production line efficiency gains continue to contribute to more adjudicative productivity, and further decreases in the backlog are expected. At the end of the fiscal year, the gross backlog—which includes cases that cannot be worked by USCIS until there is a response from the petitioner or applicant or visa availability—was 986,518. The following table provides a service-wide cycle times summary through September 2009.

Service-wide Cycle Times Summary, Through September 2009 (in Months)

Form Type	Gross Cycle Time	Net Cycle Time	Cycle Time Goal
N-400	4.6	4.1	5.0
N-400 Military	4.5	4.4	5.0
I-485 Regular	12.2	4.4	4.0
I-485 Indochinese	10.0	9.0	4.0
I-485 Asylee	6.0	5.5	4.0
I-485 Refugee	3.5	3.1	4.0
I-130	17.2	4.3	5.0
I-90	2.5	2.5	3.5
I-129	1.6	1.3	2.0
I-131 Adv/Pd	1.1	1.1	3.0
I-131 RP/RTD	1.7	1.7	3.0
I-140	3.4	3.0	4.0
I-539	1.9	1.8	2.0
I-751	5.0	4.9	4.0
I-765	1.4	1.3	2.5
I-821	6.6	6.5	2.0
N-600/N-643	4.2	4.1	5.0
I-589	2.5	2.0	4.0
I-881	2.4	2.2	4.0
I-867	0.4	0.4	0.5
I-102	2.0	1.6	2.0
I-129F	4.6	4.1	4.0
I-360	10.0	7.9	4.0
I-526	4.0	3.5	4.0
I-600/600A	2.4	2.4	2.0
I-800/800A	1.5	1.5	n/a
I-687/690/695/698/700 Legalization/SAW	12.3	12.1	6.0
I-730	5.9	5.2	4.0
I-817	7.4	6.3	2.0
I-824	3.2	3.1	1.0
I-829	19.3	0.2	6.0
I-914	10.0	5.9	6.0
I-918	n/a	n/a	n/a
I-905	n/a	n/a	6.0
N-300	5.0	5.0	6.0
N-336	5.4	5.4	6.0
N-470	10.9	10.8	6.0
N-565	2.2	1.8	6.0
N-644	0.0	0.0	6.0
N-648	4.7	4.7	6.0
Immigrant Visas	0.0	0.0	2.0
EOIR Adjustment Processing	0.0	0.0	2.0
Waivers	5.1	5.0	6.0

VII. Specific Service and Product Highlights

A. Naturalization

Naturalization receipts were consistently below normal levels throughout FY 2009, following the tremendous surge of filings in the summer of 2007. In FY 2009, USCIS continued to expect fewer than normal receipts, in part because of the effects of the economy, and forecasted only 650,000 receipts (average annual filings are typically closer to 750,000). USCIS had only 570,442 receipts in FY 2009.

The high level of completions throughout the last two fiscal years reduced the N-400 backlog. USCIS prioritized N-400 processing throughout FY 2008, completing over 1.171 million naturalization applications, 56 percent more than were completed in FY 2007. Although staffing and completions have decreased to pre-surge levels, USCIS has reduced cycle times for both naturalization subcategories. Because of the combination of USCIS's progress on decreasing naturalization processing times and lower receipt numbers, USCIS's target completion goal for FY 2009 was 857,223. FY 2009 Fourth Quarter completions were 200,618, eight percent higher than in the prior quarter, and a net backlog did not exist. At the end of the fiscal year, 851,795 cases were completed: 98 percent of the FY 2009 goal. The total number of pending N-400s at the end of FY 2009 was 230,382 (249,869 less than the end of FY 2008) leading to a sharp drop in processing times. Although that is substantially below last year's 1.171 million completions, it eliminated the remaining backlog and resulted in less than a five-month processing time. USCIS has worked through the 1.4 million naturalization filings received in FY 2007.

B. Adjustment of Status

Total adjustment completions were six percent higher in Fourth Quarter FY 2009 as compared to the last quarter. Moreover, during this quarter, USCIS and the Department of State continued to work closely to ensure that the appropriate yearly use of available visa numbers was on target.

The net backlog for all types of adjustment of status cases stands at 16,238 cases. Many of these cases were filed during the summer of 2007 because of the sudden availability of visa numbers, which has since regressed. USCIS is working to process these cases but will not be able to approve a case until individual visa numbers are available.

USCIS had processed over 200,000 adjustment of status cases, including 160,000 employment-based adjustment of status cases. This production management initiative created a pool of cases that will be quickly worked to completion once the visa numbers become available.

C. Temporary Protected Status

Receipts of Temporary Protected Status (TPS) applications (I-821) are cyclical because they directly correlate to the re-registration periods. The re-registration period for two TPS programs began during the first quarter, resulting in higher receipt levels for the first half of FY 2009. The total receipts for FY 2009 are 307,544, about 99 percent of the total receipts projected for the fiscal year. USCIS uses a System Qualified Adjudication computer application to aid in the quick completion of the majority of TPS cases.

D. Forecast for FY 2010

On the basis of the 2007 fee rule, USCIS set a goal for the end of FY 2009: to eliminate the backlog by setting more stringent processing time goals. A recent public announcement recommitted USCIS to those goals and to measuring performance throughout the year against those end-of-FY 2009 goals.

USCIS completed 96 percent of its FY 2009 completion requirement. The target completion requirement for FY 2009 was 7,644,584, and the total completed was 7,357,625, for a shortfall of 286,959 cases. USCIS fell short of its goal by four percent.

In addition, during the third quarter, a percentage of pending Forms I-130 (Petition for Alien Relative) and Forms I-90 (Application to Replace Permanent Resident Cards) were shipped from service centers to field offices to take advantage of available excess capacity. The excess hours were a byproduct of decreased receipts and increased productivity. By relocating these form types to offices with excess capacity, USCIS eliminated the I-90 backlog and reduced the I-130 backlog by 10,791 cases.

Each future quarterly production report will measure the year-to-date performance against the year-end goals. The USCIS FY 2010 goal is to continue to meet cycle time standards and also to eliminate the I-130 gross backlog of 673,721 cases over the period of FY 2010 and FY 2011. It is USCIS's goal, by the end of FY 2010, to no longer discount unripe relative petitions and to reach a point where those cases are processed within goal processing time since the applicant paid for the service even though the statutory limits on immigration levels will mean that the person may then wait in line for a long time until they will be able to immigrate.

VIII. Glossary

Adjustment of Status Quality Procedures (AQP): Like naturalization cases (see NQP), adjustment of status applications undergo quality review. AQP focuses on the adjustment of status process. Critical process steps include, but are not limited to, security checks (e.g., FBI name and fingerprint checks, Interagency Border Inspection System (IBIS) checks), consolidation of all related A-files and supervisory concurrences.

Completions: Refers to the number of cases that are approved or denied during the reporting period.

Cycle Time: Refers to the number of months of receipts that equal the current level of pending cases. For example, if the current pending level of a particular form type is 30 cases, and 30 receipts amassed in three months, the cycle time would be three months for this form type.

Decisional Quality Review (DQR): The DQR is an additional quality measure used to identify and correct decisional errors. Monthly, the DQR evaluates approved naturalization and adjustment of status cases in all field offices.

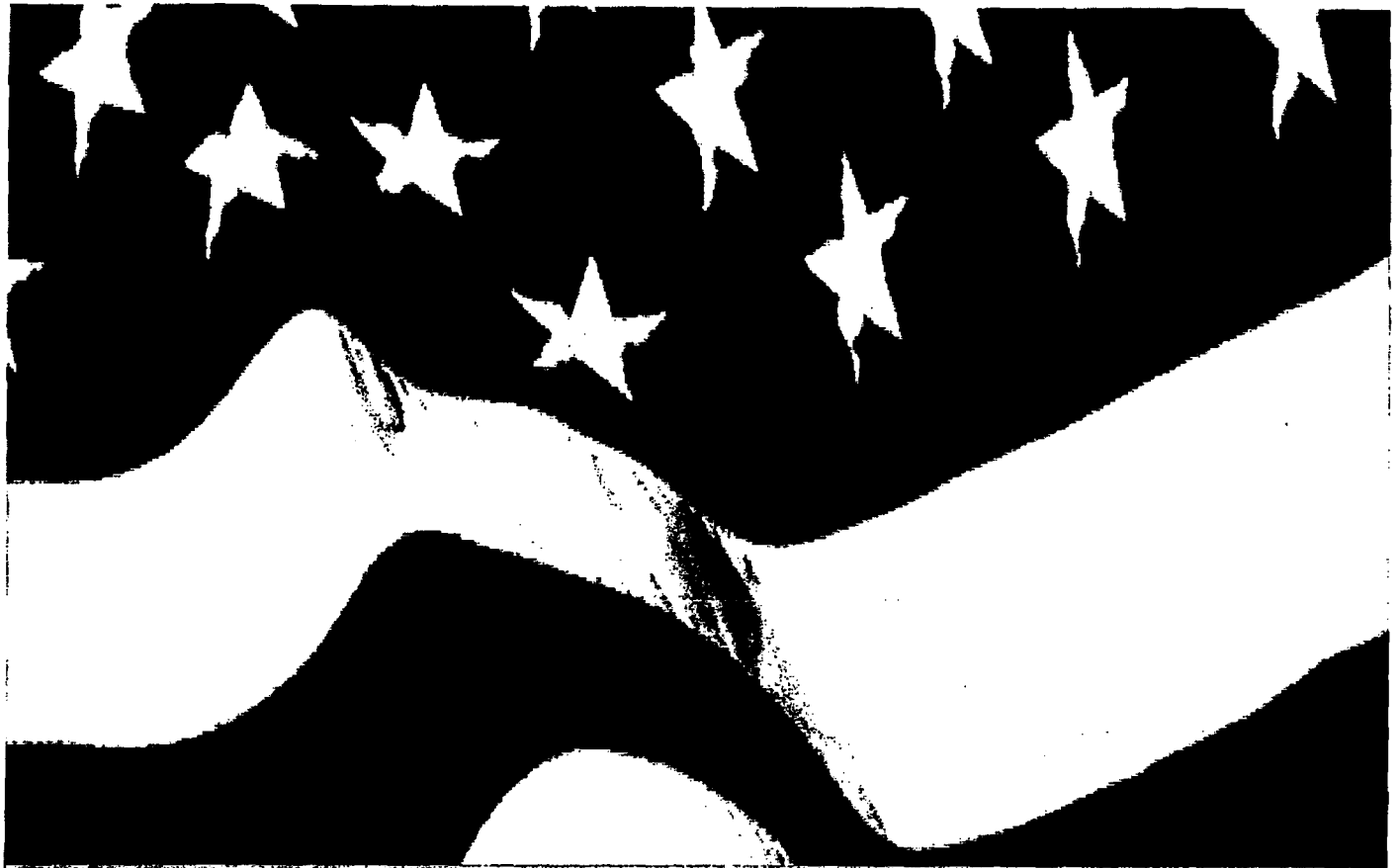
Gross Backlog: The total number of cases pending that exceeds the total acceptable pending ($\text{Gross Backlog} = \text{Total Pending} - \text{Acceptable Pending}$). If the remainder is equal to or less than zero, no backlog exists.

Naturalization Quality Procedures (NQP): The purpose of NQP is to increase awareness of USCIS's commitment to high-quality work and to review critical actions to ensure the accurate and effective application of the laws, regulations, policies and instructions governing naturalization. NQP encompasses all naturalization components, including up-front clerical processing, adjudication procedures, pre-oath procedures and post-adjudication quality processes. Critical process steps include, but are not limited to, security checks (e.g., FBI name and fingerprint checks, IBIS checks), consolidation of all related A-files and supervisory concurrences. Each case is verified again before administration of the oath of citizenship.

Net Backlog: The number of cases pending once cases that cannot be adjudicated because of reasons outside USCIS's control, such as FBI name check or visa regression, are deducted from the gross backlog. ($\text{Gross Backlog} - \text{Deductible Cases} = \text{Net Backlog}$)

Receipts: The number of new cases receipted during the reporting period.

System Qualified Adjudication: The adjudication of a form completed solely by a computer application.



Special Immigrant Status for Citizens or Nationals of Afghanistan or Iraq

Fiscal Year 2010 Report to Congress

February 19, 2010



Homeland Security

U.S. Citizenship and Immigration Services

Foreword

February 19, 2010

I am pleased to present the following "Annual Report on the Use of Special Immigrant Status for Citizens or Nationals of Afghanistan or Iraq," which has been prepared by U.S. Citizenship and Immigration Services.

Pursuant to Section 602(b)(11)(A) of Title VI of the Fiscal Year 2009 Omnibus Appropriations Act (P.L. 111-8), also known as the Afghan Allies Protection Act of 2009, this report is being provided to the following Members of Congress:

The Honorable Ike Skelton
Chairman, House Committee on Armed Services

The Honorable Howard P. McKeon
Ranking Member, House Committee on Armed Services

The Honorable Howard L. Berman
Chairman, House Committee on Foreign Affairs

The Honorable Ileana Ros-Lehtinen
Ranking Member, House Committee on Foreign Affairs

The Honorable John Conyers, Jr.
Chairman, House Committee on the Judiciary

The Honorable Lamar S. Smith
Ranking Member, House Committee on the Judiciary

The Honorable Carl Levin
Chairman, Senate Committee on Armed Services

The Honorable John McCain
Ranking Member, Senate Committee on Armed Services

The Honorable John F. Kerry
Chairman, Senate Committee on Foreign Relations

The Honorable Richard G. Lugar
Ranking Member, Senate Committee on Foreign Relations

The Honorable Patrick J. Leahy
Chairman, Senate Committee on the Judiciary

The Honorable Jeff Sessions
Ranking Member, Senate Committee on the Judiciary

If you have any questions, please call me at (202) 272-1000 or the Department's Acting Chief Financial Officer, Peggy Sherry, at (202) 447-5751.

Sincerely,

A handwritten signature in black ink, appearing to read "Alejandro N. Mayorkas". The signature is fluid and cursive, with the first name "Alejandro" being more prominent and the last name "Mayorkas" following in a similar style.

Alejandro N. Mayorkas
Director
U.S. Citizenship and Immigration Services

Executive Summary

This report fulfills the requirement set forth in Section 602(b)(11) of Title VI of the Fiscal Year (FY) 2009 Omnibus Appropriations Act (P.L. 111-8), also known as the Afghan Allies Protection Act of 2009. The Secretary of Homeland Security is required to report on the number of citizens or nationals of Afghanistan or Iraq who have applied for status as special immigrants under P.L. 111-8 or under the Refugee Crisis in Iraq Act of 2007 no later than four months after enactment, and annually thereafter.

This report covers activity during FY 2008. It provides data from the U.S. Citizenship and Immigration Services showing the number of petitions filed, approved and denied in FY 2008, as well as data from the Department of State showing the number of visas applied for, issued and refused in the fiscal year. Although 5,000 Iraqis may be granted special immigrant status in a fiscal year, only 160 applied for such status in FY 2008 under the Refugee Crisis in Iraq Act of 2007. No Afghans applied in FY 2008 for special immigrant status under P.L. 111-8, since that Act was not signed by the President until March 11, 2009.



Special Immigrant Status for Citizens or Nationals of Afghanistan or Iraq

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I. Legislative Language

This report fulfills the requirement set forth in Section 602(b)(11) of Title VI of the Fiscal Year (FY) 2009 Omnibus Appropriations Act (P.L. 111-8), also known as the Afghan Allies Protection Act of 2009, which states:

SEC. 602(b)(11). ANNUAL REPORT ON USE OF SPECIAL IMMIGRANT STATUS.

(A) **REQUIREMENT.**— Not later than 120 days after the date of the enactment of this Act, and annually thereafter, the Secretary of Homeland Security shall submit to the appropriate committees of Congress a report on the number of citizens or nationals of Afghanistan or Iraq who have applied for status as special immigrants under this subsection or section 1244 of the Refugee Crisis in Iraq Act of 2007 (Public Law 110-181; 122 Stat. 396).

(B) **CONTENT.**— Each report required by subparagraph (A) submitted in a fiscal year shall include the following information for the previous fiscal year:

(i) The number of citizens or nationals of Afghanistan or Iraq who submitted an application for status as a special immigrant pursuant to this section or section 1244 of the Refugee Crisis in Iraq Act of 2007 (Public Law 110-181; 122 Stat. 396), disaggregated—

(I) by the number of principal aliens applying for such status; and

(II) by the number of spouses and children of principal aliens applying for such status.

(ii) The number of applications referred to in clause (i) that —

(I) were approved; or

(II) were denied, including a description of the basis for each denial.

II. Background

The FY 2008 National Defense Authorization Act (P.L. 110-181), including subtitle C, the "Refugee Crisis in Iraq Act of 2007," was signed by the President on January 28, 2008. Section 1244 of that Act, as amended by Section 1 of P.L. 110-242, authorizes 5,000 special immigrant visas (SIVs) for Iraqi employees and contractors each year for FYs 2008 through 2012. This provision created a new category of special immigrant visas for Iraqi nationals who:

- Have provided faithful and valuable service to the U.S. Government;
- Did so while employed by or on behalf of the U.S. Government in Iraq for not less than one year beginning on or after March 20, 2003; and
- Have experienced or are experiencing an ongoing serious threat as a consequence of that employment.

P.L. 111-8 was signed into law on March 11, 2009. The Afghan Allies Protection Act of 2009 authorizes special immigrant status for Afghans employed by or on behalf of the U.S. Government in Afghanistan for a period of not less than one year on or after October 7, 2001. The number of these special immigrant visas is limited to 1,500 per fiscal year from 2009 through 2013.

For both the Iraqi and Afghan programs, a spouse or child accompanying or following to join the principal immigrant may be accorded the same special immigrant classification as the principal alien. Visas issued to derivative spouses and children do not count toward the annual cap on visa issuance.

To initiate an SIV claim, the petitioner submits Form I-360 (Petition for Amerasian, Widow(er) or Special Immigrant) with supporting evidence to the USCIS Nebraska Service Center (NSC), which has sole jurisdiction within U.S. Citizenship and Immigration Services (USCIS) over the adjudication of the petition for SIV classification. If USCIS approves a petition for an alien living outside the United States, USCIS forwards the case (with all supporting documentation) to the Department of State's (DOS's) National Visa Center, which in turn routes the case to the appropriate consulate overseas for interview of the petitioner and visa issuance. The vast majority of petitioners are outside the United States at the time of filing. If the petitioner is in the United States, USCIS notifies the petitioner of the decision and (if the petition was approved) invites him or her to file for adjustment of status on Form I-485 (Application to Register Permanent Residence or Adjust Status). The petitioner does not receive special immigrant status until either:

- A visa is issued by the consulate and the petitioner is admitted to the United States by U.S. Customs and Border Protection as a lawful permanent resident; or
- Adjustment of status to permanent residence in the United States is granted by USCIS.

III. Data Report

Section 3.1: Section 1244 and § 602 cases.

The following chart shows the number of individuals who applied for status as special immigrants under the § 1244 and § 602(b) programs in FY 2008, broken down by principal aliens, derivatives, approvals and denials:

		Section 1244 of the Refugee Crisis in Iraq Act of 2007			Section 602(b) of the Afghan Allies Protection Act of 2009			GRAND TOTAL
		Iraqis (see note 3)			Afghans (see note 3)			
		Principals	Dependents	Total	Principals	Dependents	Total	
FORM I-360 Visa Petitions*	Pending Start of Fiscal Year	0	N/A	0	The Afghan Allies Protection Act of 2009 was enacted on March 11, 2009. Accordingly, there was no activity in this area during FY 2008. USCIS and DOS will provide FY 2009 statistics in the next annual report, due July 11, 2010.			0
	Filed	160	N/A	160				160
	Approved	62	N/A	62				62
	Denied	0	N/A	0				0
	Pending End of Fiscal Year	98	N/A	98				98
FORM I-485 Adjustment Cases*	Pending Start of Fiscal Year	0	0	0				0
	Filed	0	0	0				0
	Approved	0	0	0				0
	Denied	0	0	0				0
	Pending End of Fiscal Year	0	0	0				0
CONSULAR IMMIGRANT VISAS**	Pending Start of Fiscal Year	0	0	0				0
	Applied	0	0	0				0
	Issued	0	0	0				0
	Refused	0	0	0				0
	Pending End of Fiscal Year	0	0	0				0

Source: * U.S. Citizenship and Immigration Services

** U.S. Department of State

- Notes: 1. The Afghan Allies Protection Act of 2009 was enacted on March 11, 2009. Accordingly, there was no activity in this area during FY 2008. USCIS and DOS will provide FY 2009 statistics in the next annual report, due July 11, 2010.
2. Only the principal petition may file an I-360 petition. The dependent's eligibility rides with that of the principal.
3. Although a principal petitioner under section 1244 of the Refugee Crisis in Iraq Act of 2007 must be a citizen or national of Iraq, and a principal petitioner under section 602(b) of the Afghan Allies Protection Act of 2009 must be a citizen or national of Afghanistan, a dependent (i.e., spouse or child of the principal) applicant for adjustment or immigrant visa processing may be of any citizenship or nationality.

Section 3.2: Cases converted from § 1059 cases.

The following chart provides information on individuals whose I-360 petitions were approved under § 1059 of the National Defense Authorization Act for FY 2006, but which were converted to § 1244 of the Refugee Crisis in Iraq Act of 2007 cases for visa issuance:

**Visas Issued in § 1244 Cases Converted
from § 1059 Cases**

		Iraqis			Afghans			Other Nationalities			GRAND TOTAL
		Principals	Dependents	Total	Principals	Dependents	Total	Principals	Dependents	Total	
Consular Immigrant Visas	Applied	363	252	615	205	195	400	0	14	14	1029
	Issued	172	125	297	199	195	394	0	14	14	705
	Refused	2	0	0	0	0	0	0	0	0	2
	Pending End of Fiscal Year	189	127	318	6	0	6	0	0	0	322

Source: U.S. Department of State

IV. Analysis

In FY 2008, USCIS received 160 petitions filed under the § 1244 program. All cases were received at the NSC, which has sole jurisdiction within USCIS over the adjudication of SIV I-360 petitions. By the end of the FY 2008, 62 of these petitions had been approved, none had been denied and 98 remained pending. All 62 petitioners whose I-360s were approved in FY 2008 resided outside the United States. The approved petitions were sent to DOS for consular processing and visa issuance. It should be noted that, although the initial legislation on the § 1244 program was passed in late January 2008, it was not until June 2008 that technical amendments to the legislation made visas available for FY 2008. Consular processing on these 62 petitions did not occur until FY 2009 because DOS did not receive these petitions until the end of the fiscal year.

No petitioner filed an I-360 petition under the § 602(b) program in FY 2008 because the legislation authorizing special immigrant status for Afghans employed by or on behalf of the U.S. Government in Afghanistan was not signed into law until March 11, 2009. USCIS and DOS will provide FY 2009 statistics in the next annual report, due July 11, 2010.

In accordance with P.L. 110-242, a person with an approved petition for special immigrant status under § 1059 of the National Defense Authorization Act for FY 2006, for whom a visa under such section is not immediately available, is eligible for special immigrant status under § 1244 of the Refugee Crisis in Iraq Act of 2007, with respect to petitions that were filed on or before September 30, 2008. In such cases, the approval is counted against § 1244 visa numbers, but in all substantive respects eligibility is determined under § 1059 rather than under the different eligibility requirements of § 1244. The second chart in Part III of this report shows the number of individuals whose I-360 petitions were approved by USCIS under § 1059 but were converted to § 1244 by DOS during consular processing in FY 2008 because of the unavailability of visa numbers under § 1059.

Of the 1,029 individuals whose § 1059 petitions were converted to § 1244 during consular processing in FY 2008, 705 were issued visas. One individual was refused a visa because he is a practicing polygamist (and therefore inadmissible to the United States under section 212(a)(10)(A) of the Immigration and Nationality Act). Another individual was refused a visa because he failed to establish eligibility under the requirements of § 1059. Specifically, he required an interpreter during his interview with the consular officer and admitted that he worked as an advisor, rather than as an interpreter or translator.

The remaining 322 individuals were refused visas because there was insufficient information for a consular officer to determine at that time that the individual was eligible for a visa. These consular refusals were without prejudice pending receipt of the outstanding information. The underlying I-360 petition approval remained valid, and once the outstanding information was submitted to DOS, many of these individuals subsequently received visas during FY 2009. For purposes of this report, refusals that were made without prejudice pending the receipt of additional information are referred to as pending.