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# Homeland Security

JAN 19 2012

Subject: Freedom of Information Act Request No. 2006-117 – Remand Final Response

This is in further response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS) Office of Inspector General (OIG), dated June 9, 2006, and seeking records pertaining to a report entitled, "*Interagency Review of Foreign National Access to Export Controlled Technology*" (copy enclosed for reference). DHS-OIG responded to your request on April 9, 2008. On July 29, 2011, the DHS-OIG appellate authority remanded your request back to the OIG FOIA unit for processing.

Your appeal letter dated April 12, 2008, stated three grounds for your appeal, as follows:

1. "There are additional releasable portions for which release would not cause foreseeable harm."
2. "The OIG initial denial authority did not make an independent determination but simply rubber stamped the input from CIS."
3. "The portions denied under b(5) were a management response that does not actually constitute pre-decisional material and also includes factual portions, either of these considerations would be enough to nullify the privilege."

*Ravnitzky FOIA No. 2006-117 Appeal Letter* at 1 (4-12-2008). OIG's Appellate Authority affirmed in part and remanded in part. The OIG Appellate Authority remanded your request for OIG to reprocess the responsive records in light of the Supreme Court's decision last year in *Milner v. Dep't of the Navy*, 131 S. Ct. 1259 (2011), which significantly narrowed the scope of Exemption 2 under the FOIA.

OIG has therefore reprocessed the information withheld under Exemption 2 pursuant to the changes in law created by the Supreme Court's decision in *Milner v. Dep't of the Navy*. OIG has also reexamined all redacted information, however, because of the significant changes in FOIA policy established by President Obama and Attorney General Holder in 2008, nearly a year after OIG originally processed records in response to your FOIA request. Specifically, President Obama's January 21, 2009 memorandum established a "clear presumption" for agencies, mandating "in the face of doubt, openness prevails." *Memorandum for the Heads of Executive Departments and Agencies, Freedom of Information Act*, 74 Fed. Reg. 4683 (Jan. 26, 2009). The U.S. Attorney General then issued new FOIA guidelines directing agencies to apply a

“foreseeable harm” standard in FOIA processing, stating that the “Department of Justice will defend a denial of a FOIA request only if (1) the agency **reasonably foresees that disclosure would harm an interest protected by one of the statutory exemptions**, or (2) disclosure is prohibited by law.” *The Freedom of Information Act, Attorney General Eric Holder Memorandum* at 2 (March 19, 2009)(*emphasis added*). OIG has also re-examined the information due to the fact that certain information previously redacted, was released subsequently by DHS components after OIG processed your FOIA request of June 9, 2006.

In light of these significant changes, we have determined that there are portions of documents that were previously redacted, that can now be disclosed. Based on these reviews, this office is providing the following:

15 page(s) are being released in full (RIF);  
27 page(s) are being released in part (RIP);  
0 page(s) are withheld in full (WIF);  
0 page(s) were referred to another entity.

The exemptions cited for withholding records or portions of records are marked below.

Freedom of Information Act, 5 U.S.C. § 552			Privacy Act, 5 U.S.C. § 552a
<input type="checkbox"/> 552(b)(1)	<input type="checkbox"/> 552(b)(4)	<input type="checkbox"/> 552(b)(7)(B)	<input type="checkbox"/> 552a(j)(2)
<input type="checkbox"/> 552(b)(2)	<input checked="" type="checkbox"/> 552(b)(5)	<input checked="" type="checkbox"/> 552(b)(7)(C)	<input type="checkbox"/> 552a(k)(2)
<input type="checkbox"/> 552(b)(3)	<input checked="" type="checkbox"/> 552(b)(6)	<input type="checkbox"/> 552(b)(7)(D)	<input type="checkbox"/> 552a(k)(5)
	<input type="checkbox"/> 552(b)(7)(A)	<input checked="" type="checkbox"/> 552(b)(7)(E)	<input type="checkbox"/> Other:

OIG has continued to redact from the enclosed documents, names and identifying information of third parties to protect the identities of those individuals. Absent a Privacy Act (PA) waiver, the release of such information concerning the third parties named in these records would result in an unwarranted invasion of personal privacy in violation of the PA. Other information in the enclosed records, is also protected from disclosure pursuant to Exemptions 5, 6, 7(C), and 7(E) of the FOIA, and by court order, as indicated below.

#### **Exemption 5, 5 U.S.C. § 552(b)(5)**

Exemption 5 of the FOIA protects “inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.” See 5 U.S.C. § 552(b)(5). DHS-OIG has reviewed the information previously withheld under this exemption as privileged deliberative process material, and is making discretionary releases of certain information upon determining either that the information was subsequently officially released by a DHS component, or that release of the information will not cause foreseeable harm.

#### **Exemption 6, 5 U.S.C. § 552(b)(6)**

Exemption 6 allows withholding of “personnel and medical files and *similar files* the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” See 5 U.S.C. § 552(b)(6)(*emphasis added*). DHS-OIG invokes Exemption 6 to protect the names and initials of lower level employees, non-agency employees, private citizens, and any information that could reasonably be expected to identify such individuals.

**Exemption 7(C), 5 U.S.C. § 552(b)(7)(C)**

Exemption 7(C) protects from public disclosure “records or information compiled for law enforcement purposes...[if disclosure] could reasonably be expected to cause an unwarranted invasion of personal privacy.” See 5 U.S.C. § 552(b)(7)(C). DHS-OIG invokes Exemption 7C to protect the identities of DHS-OIG Special Agents, investigative assistants, third parties mentioned or referenced during the conduct of the investigation, and any information that could reasonably be expected to identify such individuals.

**Exemption 7(E), 5 U.S.C. § 552(b)(7)(E)**

The U.S. Citizenship & Immigration Services (USCIS), U.S. Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE), had asked DHS-OIG to assert Exemption 7(E) to protect all law enforcement information that “would disclose techniques and procedures for law enforcement investigation or prosecution, or would disclose guidelines for law enforcement investigations or prosecution if such disclosure could reasonably be expected to risk circumvention of the law.” See 5 U.S.C. § 552(b)(7)(E). DHS-OIG has reviewed the information previously withheld under this exemption and under Exemption high (b)(2), and also consulted with CIS, CBP and ICE regarding further release of this information. Based on the U.S. Supreme Court’s decision in *Milner v. Dep’t of the Navy*, narrowing the scope of Exemption (b)(2), OIG is no longer withholding information under Exemption (b)(2).

**Judicial Review**

If you are dissatisfied with DHS-OIG’s action on this remanded FOIA request, you may seek judicial review in accordance with the FOIA, 5 U.S.C. § 552(a)(4)(B). If you have any questions about this response please contact Stephanie Kuehn, FOIA/PA Disclosure Specialist, at 202-254-4389.

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you wish to contact OGIS, you may email that entity at [ogis@nara.gov](mailto:ogis@nara.gov) or call 877-684-6448.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathy Gallo", written in a cursive style.

Katherine R. Gallo  
Assistant Counsel to the Inspector General

Enclosures

# **Copy of Remand Letter**



# Homeland Security

JUL 29 2011

Re: Appeal No. DHS08-184  
Request No. 2006-117  
Reviewing Attorney: JAK

You appealed from the action of the Department of Homeland Security (DHS), Office of Inspector General (OIG), on a document referred to it by the Department of Commerce in response to your Freedom of Information Act (FOIA) request for the "Interagency Review of Foreign National Access to Export Controlled Technology in the United States." The document referred to the OIG for processing was OIG Report No. 04-23, "Review of Deemed Exports," dated April 2004. Although your appeal was initially received by the DHS Office of General Counsel, it was recently transferred to this office when the OIG obtained authority to adjudicate such appeals.

After carefully considering your appeal, I am affirming in part and remanding in part the OIG's action on your request.

I am affirming the OIG's withholding of certain information that is protected from disclosure under the FOIA pursuant to:

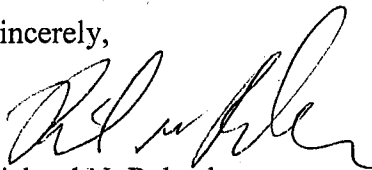
5 U.S.C. § 552(b)(5), which concerns inter-agency or intra-agency records which would not be available by law to a party other than an agency in litigation with the agency; and

5 U.S.C. § 552(b)(7)(E), which concerns records or information compiled for law enforcement purposes, the disclosure of which could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Also, at the time of its response to you, the OIG properly withheld information pursuant to FOIA Exemption 2, 5 U.S.C. § 552(b)(2). However, since that time, the Supreme Court has significantly narrowed the scope of Exemption 2, and such information would not be similarly withheld by the OIG today. See *Milner v. Dep't of the Navy*, 131 S. Ct. 1259 (2011). Therefore, I am remanding your request so that the OIG may reprocess the responsive records and provide you with any and all newly releaseable information.

If you are dissatisfied with my action on your appeal, you may seek judicial review in accordance with the FOIA, 5 U.S.C. § 552(a)(4)(B).

Sincerely,

A handwritten signature in black ink, appearing to read 'R. N. Reback', written in a cursive style.

Richard N. Reback  
Counsel to the Inspector General

# **Remand Processed Documents**



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**Appendix E. Department of Homeland Security  
Report**

**E-1**

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# DEPARTMENT OF HOMELAND SECURITY

## Office of Inspector General

### Review of Deemed Exports



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Office of Audits

OIG-04-23

April 2004

## Preface



# DEPARTMENT OF HOMELAND SECURITY

Office of Inspector General  
Washington, DC 20528

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the Homeland Security Act of 2002 (Public Law 107-296) by amendment to the Inspector General Act of 1978. This is one of a series of audit, inspection, investigative, and special reports prepared by the OIG periodically as part of its oversight responsibility with respect to DHS to identify and prevent fraud, waste, abuse, and mismanagement.

This report is the result of an assessment of the strengths and weaknesses of the program, operation, or function under review. It is based on interviews with employees and officials of relevant agencies and institutions, direct observations, and a review of applicable documents.

The recommendations herein have been developed on the basis of the best knowledge available to the OIG, and have been discussed in draft with those responsible for implementation. It is my hope that this report will result in more effective, efficient, and/or economical operations. I express my appreciation to all of those who contributed to the preparation of this report.

Clark Kent Ervin  
Inspector General

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## Abbreviations

AES	Automated Export System
ATS-AT	Automated Targeting System/Anti-Terrorism
BTS	Border and Transportation Security
CBP	Customs and Border Protection
CEU	Compliance and Enforcement Unit
CIS	Citizenship and Immigration Services
CLAIMS	Computer Linked Application Information Management System
Commerce	Department of Commerce
DHS	Department of Homeland Security
EAR	Export Administration Regulations
FY	Fiscal Year
IBIS	Interagency Border Inspection System
ICE	Immigration and Customs Enforcement
IG	Inspector General
INS	Immigration and Naturalization Service
ITAR	International Traffic in Arms Regulations

# Contents

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NDA	National Defense Authorization Act for Fiscal Year 2000
NSEERS	National Security Entry-Exit Registration System
OIG	Office of Inspector General
PCA	Planned Corrective Action
POE	Port of Entry
PSA	Project Shield America
SAO	Security Advisory Opinion
SEVIS	Student and Exchange Visitor Information System
SID	Strategic Investigations Division
State	Department of State
Treasury	Department of the Treasury
U.S.	United States
US-VISIT	United States Visitor and Immigrant Status Indicator Technology

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## Introduction

This report presents the results of the Department of Homeland Security (DHS), Office of Inspector General's (OIG) review of controls over deemed exports. This review was conducted according to section 1402 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2000, Public Law 106-65, which requires annual interagency reviews of the transfer of militarily sensitive technologies to countries and entities of concern; and in partnership with the OIGs at the Departments of Commerce, Defense, Energy, and State, and in consultation with the Director of the Central Intelligence Agency and the Director of the Federal Bureau of Investigation. The overall interagency objective was to assess whether current deemed export control regulations adequately protect against the transfer of controlled technologies and technical data by foreign nationals to countries and entities of concern<sup>1</sup>.

The United States (U.S.) controls the export of dual-use commodities and munitions items for national security and foreign policy purposes under the authority of several laws, primarily the Export Administration Act of 1979, as amended, and the Arms Export Control Act, as amended. The U.S. government controls not only the export of products but also technical data, which is defined as "information which may take a tangible form, such as a model, prototype, blueprint, or an operating manual; or an intangible form, such as technical services." The release of technical data subject to the Export Administration Regulations (EAR), for dual-use commodities, or the International Traffic in Arms Regulations (ITAR), for munitions items, to a foreign national is *deemed* to be an export to the home country of the foreign national. As such, these exports are commonly referred to as deemed exports.

The purpose of our review was to: 1) determine the roles and responsibilities of the various components of the DHS organization involved in the deemed export process; 2) determine whether DHS policies and procedures foster compliance with deemed export requirements; 3) determine whether these procedures provide a reasonable level of assurance that controlled technologies or technical information are adequately protected and not

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<sup>1</sup> Section 1402 of the NDAA for FY 2000, Public Law 106-65, defines "countries and entities of concern" as designated by the State Department to have repeatedly provided support for acts of international terrorism.

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released to foreign nationals inappropriately; and 4) follow-up on prior year recommendations.

We conducted our review from August 2003 through December 2003 at the DHS bureaus of Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), Citizenship and Immigration Services (CIS), and selected offices within the Department of the Treasury (Treasury), including OIG. A more detailed description of our purpose, scope, and methodology is provided as *Appendix 1*.

## Results in Brief

DHS responsibilities relative to federal export controls, including those applicable to deemed exports, lie exclusively within ICE and CBP. ICE is responsible for enforcing and investigating criminal violations of all federal export laws, including those that control sensitive technologies such as the EAR and the ITAR. CBP is responsible for enforcing all federal export laws at and between official U.S. Ports of Entry (POE). [REDACTED]

(b)(7)(e)  
per CBP

[REDACTED] Therefore, although DHS has a statutory responsibility for enforcing all federal export laws, current policies and procedures do not explicitly foster compliance with deemed export requirements, and do not provide a reasonable level of assurance that controlled technologies or technical data are adequately protected and not released to foreign nationals inappropriately. For example, the Student and Exchange Visitor Program, which ICE administers, does not explicitly screen foreign students and exchange program participants using deemed export requirements as exclusionary criteria. Also, ICE's outreach program could be improved to ensure that deemed export requirements are included in its agents' presentations.

In addition, while CIS' responsibilities are limited exclusively to processing foreign nationals' applications for federal immigration benefits, it collects data that could be useful to other federal agencies in their efforts to prevent the inappropriate release of controlled technologies to foreign nationals and to countries and entities of concern. [REDACTED]

(b)(7)(e)  
per CIS

**Appendix I**  
**Purpose, Scope, and Methodology**

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per CIS

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per CIS

## **Background**

In August 1998, the Chairman of the Senate Committee on Government Affairs requested that the Inspectors General (IGs) from the Departments of Commerce, Defense, Energy, State, Treasury, and the Central Intelligence Agency conduct an interagency review of the export licensing process for dual-use commodities and munitions items. The objective of this review was to determine whether federal practices and procedures were consistent with national security and foreign policy objectives. An Interagency OIG audit report, *Interagency Review of the Export Licensing Processes for Dual-Use Commodities and Munitions*, was issued in June 1999.

Section 1402 of the NDAA requires that, beginning in FY 2000 and culminating in FY 2007, the President submit an annual report to Congress on



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the transfer of militarily sensitive technologies to countries and entities of concern. As a result, the IGs from the Departments of Commerce, Defense, Energy, State, and Treasury formed an Interagency Working Group to conduct annual reviews of the export licensing process and have thus far issued reports on the following topics:

- Review of federal laboratories' compliance with the deemed export licensing requirements as contained in the EAR and the ITAR.
- Assessment of the policies and procedures for developing, maintaining, and revising the Commerce Control List and the United States Munitions List.
- Evaluation of federal export licensing agencies' efforts to modernize their automated licensing systems and to interface better with each other to improve the U.S. government licensing process.
- Review of the federal government's controls over export enforcement efforts.

The topic for the current FY 2004 review is controls over deemed exports. Deemed exports may involve the transfer of sensitive technologies to foreign visitors, including workers and students, at U.S. companies, universities, or federal research facilities. Controlled technology transfers are defined broadly to include instruction, skills training, working knowledge, consulting services, and the transfer of engineering designs and specifications, manuals, and instructions written or recorded on other media.

The EAR specifically regulates the export of dual-use commodities and related technical data and is administered by Commerce's Bureau of Industry and Security under the authority of the Export Administration Act of 1979, as amended, Title 50 United States Code, Appendix 2401-2420. The ITAR regulates the export of defense articles, defense services and related technical data, i.e., munitions, and is administered by State's Directorate of Defense Trade Controls under the authority of the Arms Export Control Act, Title 22 United States Code, 2778 and 2794.

**DHS Deemed Export Roles and Responsibilities**

DHS' current responsibilities relative to federal export controls, including those applicable to deemed exports, lie exclusively within ICE and CBP.

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Specifically, through authority provided in the EAR and the ITAR, ICE and CBP are responsible for enforcing all federal export laws, including those administered by Commerce, State, and other federal agencies.

Regarding dual-use commodities, the Strategic Investigations Division (SID) within ICE's National Security Investigations Division has joint authority with Commerce's Bureau of Industry and Security for investigating and enforcing criminal violations of the EAR wherever they may occur, and sole responsibility for investigating and enforcing criminal violations of the ITAR on behalf of State. CBP has responsibility for enforcing non-criminal violations of the EAR, the ITAR, and other federal export laws and regulations at and between official U.S. Ports Of Entry (POE).

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per CBP

CIS is exclusively responsible for processing foreign nationals' applications for immigrant and nonimmigrant benefits.

#### Immigration and Customs Enforcement (ICE)

ICE enforces the full range of federal immigration and customs laws, including conducting investigations involving criminal violations of federal export laws and regulations.

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per ICE

Through Project Shield America (PSA), ICE also engages in outreach to private industry to educate domestic entities about the various federal export laws and regulations designed to protect controlled dual-use commodities and munitions list items. PSA therefore, is a proactive effort on the part of DHS to educate and secure the cooperation of U.S. industries in uncovering potential export violations, committed either willfully or without any criminal intent.

(b)(7)(e)  
per ICE

The Student and Exchange Visitor Information System (SEVIS) collects certain information on nonimmigrant foreign students holding F-1, M-1 (academic and vocational students, respectively), or J-1 visas (exchange visitors), and their dependents.

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(b)(7)(e)  
per ICE

Among the data collected by SEVIS are the dates and locations of foreign students' and exchange visitors' entries into the U.S., the schools or other U.S. based programs that enroll or sponsor them, and any courses of study in which they are engaged. Such foreign nationals are also required to submit to their sponsoring U.S.-based institutions for timely entry into SEVIS all "reportable events," including changes to name, address, coursework, etc.

It is the responsibility of the Compliance and Enforcement Unit (CEU) within ICE's National Security Investigations Division to enforce certain foreign nationals' compliance with U.S. visa and immigration laws, including foreign students and exchange visitors. To do this, CEU currently monitors SEVIS, National Security Entry-Exit Registration System (NSEERS)<sup>2</sup>, and U.S.-Visitor and Immigrant Status Indicator Technology (US-VISIT)<sup>3</sup> to identify and remove from the country: 1) violators of U.S. exit/entry laws; 2) foreign nationals not in compliance with the terms of their visas; and 3) foreign nationals identified as threats to national security.

CEU monitoring of SEVIS continues only to the point where a foreign visitor's F-1, M-1, or J-1 visa status is no longer valid, including situations where a student completes his/her studies or training and either leaves the country permanently or remains in the U.S. after having changed his/her visa to a status other than F-1, M-1, or J-1. Monitoring for compliance with U.S. visa and immigration laws by nonimmigrant foreign nationals holding any visa status other than F-1, M-1, or J-1, including temporary worker categories such as H-1B, is currently the responsibility of the Identity and Benefits Fraud Unit within ICE's Smuggling/Public Safety Investigations Division.

<sup>2</sup> NSEERS is an electronic database established under the Department of Justice to capture information from certain male foreign nationals from 25 specified countries upon their entry to and departure from the country.

<sup>3</sup> US-VISIT is an electronic entry/exit system that uses documentary and biometric data to track all foreign visa holders' visits to the U.S. As of December 31, 2003, the system was operational at all official U.S. air and sea POEs, with full implementation at all official U.S. air, sea, and land POEs mandated by December 31, 2005.

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**Customs and Border Protection (CBP)**

CBP is the enforcement arm of various agencies' laws and regulations, including a wide variety of federal export controls at and between U.S. POEs. More broadly, the bureau is responsible for facilitating the legitimate flow of goods and people across our nation's borders.

In carrying out their general export control enforcement responsibilities, CBP inspectors use both the Automated Export System (AES)<sup>4</sup> and the Automated Targeting System/Anti-Terrorism (ATS-AT) to target tangible exports and inspect them for potential violations of federal laws and regulations, including the EAR and the ITAR.

(b)(7)(e)  
per CBP

CBP also processes foreign visitors entering the U.S., including those who hold F, M, or J status visas. Information concerning such visa holders' entry at official POEs is entered into SEVIS by CBP inspectors. To help ensure that foreign students and exchange visitors admitted to the country by CBP possess all documentation required for legal entry, ICE conducts daily runs of SEVIS to uncover potential violators. Cases involving potential violations are then turned over to CEU for further review.

**Citizenship and Immigration Services (CIS)**

CIS processes foreign nationals' applications for immigrant and nonimmigrant benefits, including visas, work permits, and requests for lawful permanent resident status (referred to as a Green Card), according to the authority established in various federal immigration laws. CIS' benefits processing function is performed without regard for deemed exports and therefore, the bureau does not have a role in the export control process. However, information collected by CIS could potentially assist other federal agencies in uncovering deemed export violations.

<sup>4</sup> AES is a joint venture between CBP, the Foreign Trade Division of Commerce's Bureau of Census, Commerce's Bureau of Industry and Security, State's Directorate of Defense Trade Controls, the Department of the Treasury's Office of Foreign Assets Control, and the export trade community by which exporters electronically transmit shipment data to CBP.

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State has responsibility for issuing nonimmigrant visas to foreign nationals residing outside of the U.S., while CIS has sole responsibility for receiving, reviewing, and adjudicating all applications filed by or on behalf of those foreign nationals already inside the U.S. Applications include foreign nationals' petitions to change their nonimmigrant visa status from one category to another.

To support the high-volume processing of applications for benefits, CIS uses an electronic case management system known as the Computer Linked Application Information Management System (CLAIMS). In addition to standardizing application processing and reporting procedures, CLAIMS serves as a central repository for certain data drawn from immigrant and nonimmigrant applications for benefits, and the system is accessible for query to all authorized CIS agents nationwide.

Currently, the Immigration and Nationality Act, as amended, provides for several categories of nonimmigrant visas available to aliens wishing to work temporarily in the U.S. Our review focused on highly specialized, employment-based visa classifications that could potentially provide holders with access to controlled technologies. Most prominent among these categories is the H-1B visa, which is issued to persons in occupations requiring the theoretical and practical application of a body of highly specialized knowledge, completion of a specific course of higher education, and an attestation by the U.S. Department of Labor that the employer has met certain conditions of employment required by law to ensure that the foreign worker is not being exploited.

However, although the H-1B visa classification seems to be the most likely to provide a foreign national with direct access to controlled technologies, it is important to note that any nonimmigrant alien who is granted a work permit by CIS is authorized to work anywhere in the U.S. without restriction on the location, condition or type of employment.

Each year, CIS grants changes in nonimmigrant visa status to large numbers of foreign nationals. During FY 2001, the legacy Immigration and Naturalization Service (INS) reported that approximately 28,880 aliens changed their visas to either F or M status from another nonimmigrant category. Neither F nor M are employment-based categories. During the same period, 75,200 foreign nationals changed their nonimmigrant visa status to an employment-based H-1B classification. Of these, at least 15,000 were persons from "countries and entities of concern." In FY 2002, the number of

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foreign nationals who reportedly changed their nonimmigrant visa status to an H-1B classification was approximately 66,900.

Before rendering any final decisions on petitions filed by prospective U.S. employers to change a foreign national's visa status to an employment-based category, CIS is required to conduct background checks, via the Interagency Border Inspection System (IBIS), on all foreign nationals over the age of 14 who are designated as intended beneficiaries. However, in doing so CIS does not place any additional scrutiny on the nature of a prospective employer's work, the type of work in which the foreign national is to be engaged, or whether or not the commodities and/or technologies to which he/she will possibly have access are controlled by federal export laws and regulations.

DHS also does not currently conduct any investigative fieldwork relative to CIS' change of visa status process, although ICE has the authority to conduct "spot checks" of any holder of an employment-based visa to verify that he/she is actually performing the duties described in the initial change of status application.

## DHS Policies and Procedures Do Not Ensure Compliance With Deemed Export Requirements

Current DHS policies and procedures do not explicitly foster compliance with deemed export requirements and do not provide a reasonable level of assurance that controlled technologies are adequately protected and not released to foreign nationals inappropriately. The following DHS policies and procedures should be modified to achieve greater consistency with the overall departmental mission of protecting the homeland against terrorist attacks.

### Course Restrictions on Foreign Nationals

(b)(7)(e)  
per ICE

y, according to Title 8 Code of Federal Regulations, Section 214.5(a), as implemented by the legacy Immigration and Naturalization Service (INS), Libyans and any other foreign national acting on behalf of a Libyan entity are prohibited from engaging in studies or training in the fields

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of "aviation maintenance, flight operations, or any nuclear-related" disciplines at approved United States (U.S.) institutions and training programs.

SEVIS collects and tracks information on foreign nationals holding F-1 (academic students), M-1 (vocational students), or J-1 (exchange visitors) visas and their dependents. Among the information SEVIS collects on foreign students are the courses of study in which they are enrolled or plan to enroll at U.S. institutions certified by the U.S. Immigration and Customs Enforcement (ICE)-administered Student and Exchange Visitor Program.

(b)(7)(e)  
per ICE

(b)(5)  
per ICE

Change of Status Processing

As part of an overall effort to uncover violations of the deemed export rule, both the Departments of Commerce (Commerce) and State currently review information from certain foreign nationals' applications for immigration benefits to ensure that technical data will not be released inappropriately.

(b)(5)

Review of Deemed Exports

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(b)(5)

Specifically, State is required to request that a Security Advisory Opinion (SAO) be issued for all nationals from designated countries of concern. State also has the discretionary authority to request an SAO for any foreign national whose individual case raises concerns about his/her possible ineligibility for a visa on the grounds of national security.

(b)(7)(e)

Along with this, Commerce annually screens thousands of visa applications filed overseas with State by foreign nationals who have been approved to work in the area of controlled technology.

(b)(7)(e)

U.S. Citizenship and Immigration Services (CIS) processes nonimmigrant change of visa status applications based on existing immigration laws, which do not require that CIS include potential violations of the deemed export rule as part of its adjudication criteria. However, the bureau's adjudication procedures require CIS to perform checks of the Interagency Border Inspection System (IBIS) on each change of status applicant over the age of 14 prior to approving the petition.

(b)(7)(e)  
per CIS

(b)(7)(e)  
per CIS

CIS processes a range of immigrant and nonimmigrant benefits sought by visitors to the U.S., including all changes of visa status, and collects this



Appendix 1  
Purpose, Scope, and Methodology

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information in its Computer Linked Application Information Management System (CLAIMS) database. [REDACTED]

[REDACTED]

[REDACTED]

(b)(5)(b)(7)(e)  
per CIS and ICE

Recommendation 1

We recommend that the Under Secretary for Border and Transportation Security (BTS) [REDACTED]

[REDACTED]

Management Comments

ICE management [REDACTED] above recommendations [REDACTED]

[REDACTED]

Expansion of restricted countries:

[REDACTED]

Appendix I  
Purpose, Scope, and Methodology

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(b)(5)(b)(7)(e)  
per ICE

OIG Comments

Recommendation 2

We recommend that the Deputy Secretary

(b)(5)(b)(7)(e)  
per CIS

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Management Comments

DHS management concurred in part with our recommendation. The Director

(b)(5)(b)(7)(e)  
per CIS

The owner, formerly the U.S. Customs Service, would need to agree with any modifications to the existing system.

OIG Comments

The proposed action meets the intent of the recommendation.

Recommendation 3

We recommend that the Director, CIS

(b)(5)(b)(7)(e)  
per CIS

Management Comments

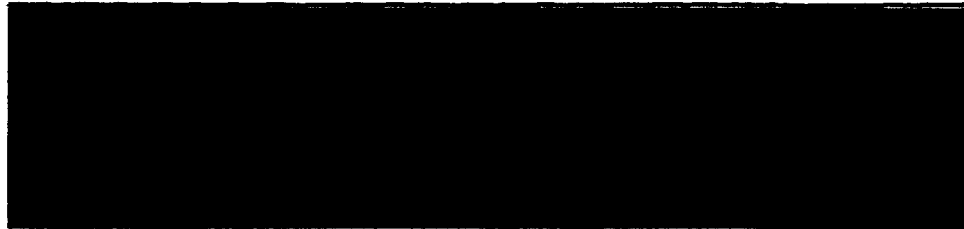
The Director of CIS concurred with our recommendation and stated that CIS

(b)(5)(b)(7)(e)  
per CIS

Although this recommendation, ICE management believes that which suggests

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(b)(5)  
per CIS



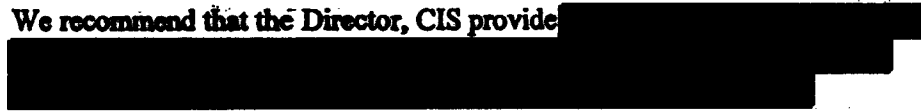
OIG Comments

The actions taken and planned meet the intent of the recommendation.

Recommendation 4

(b)(5)  
per CIS

We recommend that the Director, CIS provide



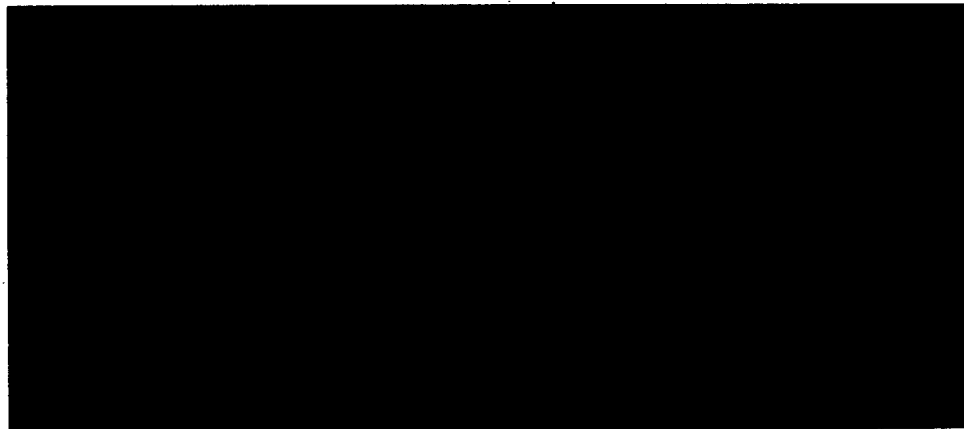
Management Comments

(b)(5)  
per CIS

The Director of CIS our recommendation.



(b)(5)(b)(7)(c)  
per ICE



OIG Comments

The planned action meets the intent of the recommendation.

Appendix 1  
Purpose, Scope, and Methodology

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(b)(5)  
per ICE

[REDACTED]

Project Shield America (PSA), an ICE outreach program, is a proactive measure for preventing export violations before they occur. The focus of the outreach program is to prevent the proliferation of controlled technology and components and dual-use commodities; the acquisition of nuclear, chemical, and biological weapons; and the unlawful exportation of weapon systems and classified or controlled technical data. [REDACTED]

[REDACTED]

(b)(7)(e)  
per ICE

[REDACTED]

[REDACTED]

Appendix I  
Purpose, Scope, and Methodology

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(b)(7)(e)  
per ICE

[REDACTED]

Based on statistics for the period December 2001 through October 2003, ICE conducted 8,079 PSA outreach meetings with industry representatives. According to PSA managers, during that time the initiative did not yield any leads, arrests, convictions, or ongoing cases specifically involving willful violations of the deemed export rule. It is possible that PSA outreach guidance incorporated into the ICE standard operating procedures will further deter companies from unknowingly violating federal export laws or generate potential leads concerning criminal violations of them.

DHS' primary mission is to protect our nation against further terrorist attacks.

(b)(7)(e)  
per ICE

[REDACTED]

Recommendation 5

We recommend that the Assistant Secretary, ICE,

(b)(5)  
per ICE

[REDACTED]

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Management Comments

ICE management concurred with our recommendation. They plan to establish an SOP to be utilized by ICE Special Agents during Project Shield America outreach visits. This SOP will contain a list of export related subjects that the ICE Special Agent will present to his industry contact, to include statutory and licensing information. Discussion of these topics will incorporate information on deemed exports and the transfer of intangible technology. It is anticipated that the noted SOP will be created and distributed to ICE field offices no later than June 30, 2004. The Director, Office of Investigations, will insure that adherence to the SOP is maintained by periodically issuing reminders to Special Agents in Charge.

OIG Comments:

The planned action meets the intent of the recommendation.

## Prior OIG Report Recommendations Still Need To Be Implemented

As part of the current FY 2004 *Interagency Review of Controls Over Deemed Exports*, we addressed prior reports' recommendations. The NDAA requires the Office of Inspectors General (OIGs) to include in their annual reports the status of recommendations made in earlier reports submitted according to the Act. Prior Department of the Treasury (Treasury) OIG audit reports issued for follow-up were: *EXPORT ENFORCEMENT: Numerous Factors Impaired Treasury's Ability To Effectively Enforce Export Controls*, OIG-03-069, dated March 25, 2003 and *EXPORT LICENSING PROCESS: Progress Has Been Made But Better Cooperation And Coordination Are Needed*, OIG-02-065, dated March 14, 2002.

With their divestiture to DHS in March 2003, the legacy U.S. Customs Service and INS, currently under CBP, ICE and CIS, took responsibility for the follow-up on 11 of 15 recommendations issued collectively in the two Treasury OIG reports. The Departments of Justice and the Treasury were assigned the remaining recommendations one and three respectively. CBP and ICE took planned corrective actions (PCAs) or have PCAs to address the deficiencies and recommendations cited in the two reports. Specifically, seven recommendations remain open while four have been closed.

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(b)(7)(e)  
per CBP

The seven open and four closed recommendations assigned to DHS through divestiture are addressed in *Appendix 3*. Also shown are completed PCAs and PCAs to fully implement the remaining seven open recommendations. Some of the significant recommendations addressed in *Appendix 3*, involved such issues as: (1) adding edits and fields to existing data bases; (2) tracking export license determinations; (3) having [REDACTED] for inspectors; (4) exploring other training methods for inspectors; (5) preparing periodic investigative reports with the Treasury; (6) eliminating paper Shipper's Export Declaration requirements; and (7) encouraging other agencies to participate in export databases. Also, ICE officials are assisting in re-establishing an investigative computer link between the Treasury's OFAC and DHS enforcement components. ICE assumed the lead for this twelfth recommendation, which is not listed in *Appendix 3* because it is under Treasury's OFAC purview.

## Purpose, Scope, and Methodology

The purpose of our review was to: 1) determine the roles and responsibilities of the various components of the DHS organization involved in the deemed export process; 2) determine whether DHS policies and procedures foster compliance with deemed export requirements; 3) determine whether these procedures provide a reasonable level of assurance that controlled technology or technical information is adequately protected and not released to foreign nationals inappropriately; and 4) follow-up on prior year recommendations.

The audit was conducted at locations in Washington, D.C. from August 2003 through December 2003 as necessary to satisfy the audit objectives. In this process we: 1) reviewed and analyzed the practices and procedures, directives, policies, regulations, and laws applicable to deemed exports; 2) interviewed responsible DHS agency officials and other personnel to determine whether DHS is complying with applicable laws, regulations, and directives; 3) assessed DHS' efforts in screening visa applications as applicable to this review; 4) selected DHS offices to determine whether they were following applicable policies and procedures as it related to deemed exports requirements; and 5) conducted follow-up reviews with responsible offices at DHS and at the Department of Treasury on prior year recommendations from two Treasury OIG audit reports.



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To accomplish this review, we conducted fieldwork and interviews with officials and personnel at DHS bureaus of CBP, CIS, and ICE, and at select offices within those bureaus.

Within CBP, we interviewed officials and personnel from the Offices of Security and Facilitation Outbound Programs, Passenger Processing, Field Operations, and Planning and Evaluation Oversight. Within CIS, interviews were held with officials and personnel from the Offices of Operations; Special Operations; Field Operations; Programs and Regulations Development; Service Center Operations; Benefits Systems Division; Fraud Detection and National Security; and Internal Audit. Also, within ICE, we interviewed investigative agents and personnel from the Offices of Investigations-SID, the Strategic Intelligence Unit of the National Security Investigations Division; the Student and Exchange Visitor Program office; Data Systems Division; and Internal Audit.

Additionally, we conducted follow-up interviews with program managers and officials on the two Treasury OIG audit reports, to ensure compliance with the NDAA, Public Law 106-65, as amended. The NDAA requires the OIGs to conduct annual reviews and to include in their annual reports the status or disposition of recommendations made in prior year reports. The audit reports were: *EXPORT ENFORCEMENT: Numerous Factors Impaired Treasury's Ability To Effectively Enforce Export Controls*, OIG-03-069; and *EXPORT LICENSING PROCESS: Progress Has Been Made But Better Cooperation And Coordination Are Needed*, OIG-02-065.

Our review was conducted according to generally accepted government auditing standards.

Appendix 2  
Recommendations

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**Recommendation 1:** We recommend that the Under Secretary for Border and Transportation Security (BTS) [REDACTED]

(b)(5)  
per ICE

**Recommendation 2:** We recommend that the Deputy Secretary strengthen [REDACTED]

(b)(5)  
per CIS

**Recommendation 3:** We recommend that the Director, CIS [REDACTED]

**Recommendation 4:** We recommend that the Director, CIS [REDACTED]

(b)(5)  
per ICE

**Recommendation 5:** We recommend that the Assistant Secretary, ICE, [REDACTED]

Appendix 3  
Status of Follow-up on Prior Year Recommendations

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**Treasury OIG Audit Report: EXPORT ENFORCEMENT: Numerous Factors Impaired Treasury's Ability To Effectively Enforce Export Controls (OIG-03-069)**

**Finding 2 Numerous Factors Impaired Customs' Ability To Effectively Enforce Export Controls**

(b)(5)(b)(7)(c)  
per CBP

Recommendation	Management Comments	Status
1. Work with Census officials to: (1) request that additional fields be added to AES <sup>5</sup> to [REDACTED]	Customs concurred with this recommendation. Customs will meet with Census officials to make a proposal to add additional fields to AES and work to improve the edit within AES. [REDACTED]	OPEN - [REDACTED] [REDACTED]
2. Work with Commerce officials to identify and correct problems that cause Commerce to process license determination referrals untimely.	Customs' management concurred with our recommended course of action and stated they will meet [Meeting held April 10, 2003] with Commerce officials to discuss this issue.	CLOSED - CBP Office of Field Operations
3. Work with Commerce officials to ensure that the ECC <sup>10</sup> is notified on a timelier basis when additional specific technical information is needed from inspectors and agents regarding license determination referrals already submitted to Commerce.	Customs' management concurred with our recommended course of action and stated they will meet [Meeting was held April 10, 2003] with Commerce officials to discuss this issue.	CLOSED - CBP Office of Field Operations
4. Develop a license determination tracking system that provides ECC management with meaningful, accurate information on ECC program results.	Customs concurred with this recommendation. Customs officials will begin by adding appropriate queryable data fields to the existing in-house database so that necessary reports can be produced by May 2003. For the future, Customs will develop an internet-based system that will allow access by field elements and provide for records and status searches.	OPEN - ICE <sup>11</sup> Strategic Investigations Unit PCA Due Date: Calendar Year 2004

<sup>5</sup> AES - Automated Export System

<sup>6</sup> EXODUS - not an abbreviation is the program name for a CBP program, which ensures compliance with U.S. export laws, specifically under the ITAR, EAR and sanction programs administered by Treasury

<sup>7</sup> FLETC - Federal Law Enforcement Training Center now under the Department of Homeland Security

<sup>8</sup> CBP - Customs and Border Protection

<sup>9</sup> PCA - Planned Corrective Action

<sup>10</sup> ECC - EXODUS Command Center: CBP field staff liaison between federal agencies that issue export licenses

<sup>11</sup> ICE - Immigration and Customs Enforcement

# Appendix 3

## Status of Follow-up on Prior Year Recommendations

### ~~FOR OFFICIAL USE ONLY~~

#### Treasury OIG Audit Report: EXPORT ENFORCEMENT: Numerous Factors Impaired Treasury's Ability To Effectively Enforce Export Controls (OIG-03-069)

##### Finding 2 Numerous Factors Impaired Customs' Ability To Effectively Enforce Export Controls

Recommendation	Management Comments	Status
5. Meet with Commerce officials to discuss the possibility of amending Commerce regulations to require Customs to decrement Commerce export licenses.	Customs' management concurred with our recommended course of action and stated they will meet [Meeting was held April 10, 2003] with Commerce officials to discuss this issue.	CLOSED – CBP Office of Field Operations
6. Issue written guidance regarding its national policy on Outbound cargo detentions to ensure uniformity at all ports.	Customs concurred with this recommendation. Customs will issue a memorandum outlining the national policy regarding the outbound cargo detentions.	CLOSED – CBP Office of Field Operations
7. Reevaluate its current rotation policies for Outbound inspectors to minimize the loss of experienced and trained staff.	Customs concurred with this recommendation. Customs will reiterate the rotation policy for EXODUS inspectors.	OPEN – CBP Office of Field Operations PCA Due Date 12/30/03
8. Explore additional methods of providing EXODUS training to Outbound inspectors to ensure they are adequately trained.	Customs concurred with this recommendation. Customs is exploring different methods to provide additional training for Outbound inspectors.	OPEN – CBP Office of Field Operations PCA Due Date 12/30/03

#### Treasury OIG Audit Report: EXPORT ENFORCEMENT: Numerous Factors Impaired Treasury's Ability To Effectively Enforce Export Controls (OIG-03-069)

##### Finding 3 OFAC<sup>12</sup> Could Benefit From Better Coordination With State Department and Customs

Recommendation	Management Comments	Status
3. The appropriate Customs' officials should ensure that periodic reports are provided to OFAC regarding the status of OFAC referrals and Customs' initiated investigations of OFAC violations.	Customs concurred with this recommendation. Customs' officials will meet with OFAC to obtain an up-to-date list of open OFAC referrals and provide an up-to-date list of Customs initiated investigations by May 2003. Customs will have an additional meeting with OFAC to (1) arrive at an agreement on format and distribution of referrals, and format and timing of reports; (2) agree on the use of a project code in Customs' reports to facilitate their tracking; and (3) initiate a new referral and reporting system.	OPEN – ICE Strategic Investigative Unit PCA Due Date is 12/30/03

<sup>12</sup> OFAC – Office of Foreign Assets Controls is an Office under Treasury, which administers sanction programs.

**Appendix 3  
Status of Follow-up on Prior Year Recommendations**

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**Treasury OIG Audit Report: EXPORT LICENSING PROCESS: Progress Has Been Made But Better Cooperation And Coordination Are Needed (OIG-02-065)**

**Finding 1 Operational Efficiency Improvements Are Needed in The Export Process**

<b>Recommendation</b>	<b>Management Comments</b>	<b>Status</b>
1. In accordance with the Automation Initiative and the Government Paperwork Elimination Act, Customs should coordinate with the State Department to ascertain the feasibility of eliminating the paper SED <sup>13</sup> requirement.	Customs concurs with this recommendation. In fact, this recommendation will be accomplished with the implementation of mandatory filing for U.S. Munitions List (USML) items via AES. (Mandatory filing requirements extend to commodities on the Bureau of Export Administration's Commerce Control List as well.) The legislation will take effect on March 31, 2002 with an actual implementation projected for later 2002.	OPEN - CBP Office of Field Operations PCA Due Date to be 12/31/03

**Finding 2 Increased Participation in AES is Needed Among Export Licensing Agencies**

<b>Recommendation</b>	<b>Management Comments</b>	<b>Status</b>
1. Customs should continue its efforts to encourage participation in AES with agencies involved in the export licensing process.	Customs concurs with this recommendation. The implementation of mandatory AES filing for both USML and Commerce Control List (CCL) commodities is expected to reduce paper SEDs by automating two major issuers of export licenses. Additionally, this will set precedent that can then be used to encourage other licensing agencies that are not as far along in automating their procedures.	OPEN - CBP Office of Field Operations PCA Due Date 12/31/03

<sup>13</sup> SED - Shipper's Export Declaration

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**U.S. CUSTOMS AND BORDER PROTECTION  
Department of Homeland Security**

*Memorandum*

DATE: March 23, 2004

FILE: AUD-1-OP SM

MEMORANDUM FOR ALEXANDER BEST, JR  
DIRECTOR, BORDER AND  
TRANSPORTATION SECURITY

FROM: Acting Director,  
Office of Planning

SUBJECT: Draft Audit Report on Deemed Exports

Thank you for providing us with a copy of your draft report entitled "Review of Deemed Exports" and the opportunity to discuss the issues in this report.

CBP has taken a number of steps to address the issues identified during your review. These steps, and additional on-going actions, are outlined in the attached documents.

We have determined that the information in the audit does warrant protection and we are designating the document as Limited Official Use. Disclosure to the public of this sensitive information regarding deemed exports could invite the circumvention of laws and undermine enforcement at the ports. Classification of the report as Limited Official Use is clearly justified because of the sensitive nature of the information contained therein.

Please keep in mind that the Office of Inspector General is required to maintain the same level of confidentiality for documents as used by the agency from which they were obtained. We are requesting that CBP concerns regarding confidentiality be expressed to anyone with whom this document or associated information obtained during the course of this audit, is shared. As you know, the responsibility for protecting this information extends to all federal employees.

~~LIMITED OFFICIAL USE~~

*Vigilance ★ Service ★ Integrity*

Review of Deemed Exports

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Appendix 4  
Management Comments

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-2-

If you have any questions regarding the attached comments, please have  
a member of your staff contact [REDACTED]

(b)(6)(b)(7)(c)  
per CBP

*Brenda B. Smith*

Brenda B. Smith

Attachments

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CBP's General/Technical Comments to the Office of Inspector  
General Draft Report of the Review of Deemed Exports

Section Customs and Border Protection (CBP) page 8-9

The last sentence, beginning on page 8, reads as follows:

1. [REDACTED]

(b)(5)(b)(7)(c)  
per CBP

- It should be changed to read [REDACTED]

[REDACTED]

2. [REDACTED]

(b)(5)  
per CBP

CBP response to the Recommendation in the Office of Inspector  
General Draft Report of Deemed Exports

Recommendation 6: We recommend [REDACTED] [REDACTED] [REDACTED]

(b)(5)(b)(7)(c)  
per CBP

[REDACTED]

CBP Response: Nonconcur. CBP already has policies and procedures in place to address audit recommendations; and as a result, do not feel that this recommendation is necessary.



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U.S. Department of Homeland Security  
Street Address  
City, State Zip



U.S. Citizenship  
and Immigration  
Services

HQOPS 11072-C

## Interoffice Memorandum

To: Clark Kent Erwin  
Inspector General  
Department of Homeland Security

From: *James S. [Signature]*  
Edwardo Aguayo  
Director

Date: MAR 28 2004

Re: OIG Draft Audit Report: Review of Deemed Exports

The Citizenship and Immigration Services (CIS), as a bureau within the Department of Homeland Security, shares responsibilities for processing applications and petitions for aliens with the collaboration of the Departments of Labor and State. The CIS also does liaison work with a number of agencies in sharing or collecting data useful in meeting the objectives of its mission. In addition, the CIS reflects on how to

[REDACTED]

**RECOMMENDATION 1:** We recommended that the Deputy Secretary [REDACTED]

[REDACTED]

(b)(5)  
per CIS

**CIS RESPONSE:** [REDACTED] this recommendation [REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED] The owner, formerly the U.S. Customs Service, would need to

**RECOMMENDATION 2:** We recommend that the Director, [REDACTED]

**CIS RESPONSE:** [REDACTED]

(b)(5)(b)(7)(c)  
per CIS

**RECOMMENDATION 4:** [REDACTED]

**CIS RESPONSE:** [REDACTED]

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U.S. Department of Homeland Security  
415 I Street, NW  
Washington, DC 20436



U.S. Immigration  
and Customs  
Enforcement

March 23, 2004

INFORMATION

MEMORANDUM FOR: DIRECTOR  
OFFICE OF PROFESSIONAL RESPONSIBILITY

FROM: Jill Drury  
Director  
Student and Exchange Visitor Program

SUBJECT: Review of Deemed Exports

The U.S. Immigration and Customs Enforcement (ICE) recognizes the need for careful tracking of foreign students and exchange visitors in the U.S., and has implemented extensive measures to address this concern, including the Student and Exchange Visitor Information System (SEVIS), which collects information on foreign students and exchange visitors throughout their course of study. The collected information allows schools and government officials to quickly and accurately determine what programs foreign students and exchange visitors are participating in, and if those students are continuing to act in accordance with the Department of Homeland Security (DHS) regulation.

However, the mission of the Student and Exchange Visitor Program (SEVP) is also to carry out the "Secure Border, Open Doors" vision articulated by DHS. SEVIS must assure greater national security, while avoiding unnecessary restrictions to U.S. educational institutions for legitimate foreign students.

(b)(5)(b)(7)(e)  
per ICE

Review of Deemed Exports  
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SUBJECT: Review of Deemed Exports  
March 25, 2004  
Page 2

Recommendation 1: We recommend that the Under Secretary for Border and Transportation  
Security (BTS) amend the

SEVP RESPONSE: N

(b)(5)  
per ICE

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Office of Investigations

U.S. Department of Homeland Security  
425 I Street, NW  
Washington, DC 20535



U.S. Immigration  
and Customs  
Enforcement

~~MAR 29 2004~~

MEMORANDUM FOR: Director  
Office of Professional Responsibility

FROM: Director *[Signature]*  
Office of Investigations

SUBJECT: Draft IG Report: Review of Deemed Exports

[REDACTED] provided in response to the OIG document titled, "Review of Deemed Exports OIG A-BTS-03-007", dated March 4, 2004, and the OIG document titled "Export Enforcement OIG 03-069", dated February 13, 2003. Information in the attached matrices responds specifically to OIG A-BTS-03-007 Recommendations 2, 4 and 5; and OIG 03-069 Finding 2 Recommendation 4 and Finding 3 Recommendation 3.

Concerning OIG A-BTS-03-007, Recommendation 2 [REDACTED]

[REDACTED] Recommendation 4 addresses the [REDACTED]

[REDACTED] Recommendation 6 [REDACTED]

The OIG recommends [REDACTED]

(b)(5)  
per ICE

OIG 03-069 Finding 3 Recommendation 3 addresses [REDACTED]

Review of Deemed Exports

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Appendix 4  
Management Comments

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OIG 03-069 Finding 2 Recommendation 4 a

[REDACTED]

the IG recommendation:

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[REDACTED]

[REDACTED]

Attachments

www.ice.dhs.gov

Review of Deemed Exports  
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Appendix 4  
Management Comments

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Office of the Assistant Secretary  
U.S. Department of Homeland Security  
425 I Street, NW  
Washington, DC 20536

MAR 29 2004



U.S. Immigration  
and Customs  
Enforcement

MEMORANDUM FOR: Clark Kent Ervin  
Inspector General  
Department of Homeland Security

FROM: Michael J. Garcia  
Assistant Secretary

SUBJECT: OIG Draft: Review of Deemed Exports

Thank you for the opportunity to provide comments to the subject draft report. In reviewing the report, we determined that U.S. Immigration and Customs Enforcement (ICE)

[REDACTED]

[REDACTED]

[REDACTED]

If you have any additional questions, please contact [REDACTED] Office of Professional Responsibility, at [REDACTED]

Attachments

cc: Admiral James Loy, Deputy Secretary of Homeland Security  
Asa Hutchinson, Under Secretary of Border and Transportation Security  
Anna Dixon, DHS Audit Liaison

(b)(5)  
per ICE

Review of Deemed Exports

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Appendix 5  
Major Contributors to this Report

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---

Alexander Best Jr., Director, Border and Transportation Security  
Ethel Taylor-Young, Audit Manager  
Joseph L. Hardy Jr., Auditor-In-Charge  
Marshall Touts, Senior Auditor  
Nadine F. Ramjohn, Auditor  
Gary Alvino, Management Analyst

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**Department of Homeland Security**

Chief of Staff, Deputy Secretary  
DHS OIG Liaison

**Office of Management and Budget**

Homeland Bureau Chief  
DHS OIG Budget Examiner

**Congress**

Congressional Oversight and Appropriations Committee as Appropriate