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USCIS Response to the Citizenship and Immigration Service Ombudsman's 2010 Annual Report

November 9, 2010

Homeland Security

U.S. Citizenship and Immigration Services

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September 2010

I. INTRODUCTION

Each year, U.S. Citizenship and Immigration Services (USCIS) receives approximately six million applications and petitions for legal review and adjudication. In completing this workload, USCIS carries out its vital mission to ensure the security and integrity of the immigration system, provide efficient and customer-oriented immigration benefits and information services, and increase understanding of citizenship and its privileges and responsibilities.

USCIS appreciates the thoughtful analysis the CIS Ombudsman (CISOMB) provides in the 2010 Annual Report to Congress. USCIS values the CISOMB's objectivity and the shared goal of improving Agency operations and procedures. USCIS provides the following responses to the CISOMB's recommendations and observations.

II. TRANSFORMATION

A. Progress

As in previous reports, the CISOMB devotes significant attention to USCIS efforts to modernize and transform the Agency. The Office of Transformation Coordination (OTC) is leading these efforts and is committed to the success of the Transformation Initiative. Given the significance of this undertaking, OTC has been careful to devote the appropriate time and resources to design, build, test, and deploy new capabilities. OTC has worked to update the CISOMB on the Agency's progress and has invited the CISOMB to attend oversight meetings of the Transformation Leadership Team.

Though USCIS progress is not yet evident to customers, OTC has completed significant steps toward the release of new capabilities. For the past year and a half, USCIS has laid the groundwork to develop new systems and processes. Information-sharing agreements with Federal immigration partners, such as the U.S. Department of State (DOS), have been initiated. Stakeholders, including customers, immigration advocates, and the CISOMB, have been engaged in designing the new processes. Employees from all areas of the Agency have been involved in working groups to design new ways to conduct Agency business and develop desired systems capabilities. A risk and fraud analyzer prototype has demonstrated its effectiveness and has served as an early validation of OTC's approach.

This groundwork has brought USCIS closer to an important milestone – development of the Release A Blueprint, which documents the reengineered business processes for the first Transformation release. The reengineered business processes in Release A consist of core, end-to-end capabilities for certain nonimmigrant-related benefits. These capabilities will include establishing accounts for individuals linked to biometrics, case management, risk and fraud analytics, digital content and knowledge management. A draft version of the Release A Blueprint was presented to USCIS leadership in June 2010. Their feedback is now being incorporated into the final version of the blueprint. Once the final blueprint has

been accepted and business requirements have been approved through the Systems Engineering Lifecycle (SELC), USCIS can then begin to design, build, and test the Integrated Operating Environment (IOE) that will be delivered in Release A.

The first customer-facing changes will begin to deploy in the fourth quarter of fiscal year (FY) 2011, and will provide the following capabilities for many nonimmigrant benefits:

- Customers and representatives will be able to create individual electronic accounts that can be managed online.
- Customers and representatives will be able to file electronically, schedule biometric appointments, and update account information (change of address, etc.).
- Customers and representatives will be able to upload evidentiary documentation electronically.
- Critical information and evidence will be easily accessible and maintained electronically.
- In a manner consistent with privacy rules, immigration partner agencies will be able to query core customer and benefit information in this initial release, which will contribute to national security and improve the accuracy of customer information.

By the fourth quarter of FY 2012, organizations, such as employers and law firms, will be able to establish electronic accounts with USCIS, and online case management will be expanded to encompass all nonimmigrant benefits. Between 2012 and 2014, USCIS will expand the transformed capabilities to the remaining lines of business – immigrant, humanitarian, and citizenship.

The deployment dates in Figure 9: Projected Transformation Timeline[1] of the Annual Report identified the timeframes for planning, designing, and testing the new capabilities; however, the dates for actual delivery of the new capabilities are as follows:[2]

- Release A: 4th Quarter FY 2011
- Release B: 4th Quarter FY 2012
- Release C: 2nd Quarter FY 2013
- Release D: 4th Quarter FY 2013
- Release E: 2nd Quarter FY 2014

USCIS looks forward to continuing the working relationships with the CISOMB and other stakeholders as the Transformation Initiative progresses.

B. Funding

While USCIS appreciates the CISOMB's concern about funding sources for Transformation, USCIS reassures the CISOMB and stakeholders that USCIS does not plan to redistribute funds from other activities to fund Transformation due to declining Premium

[1] CIS Ombudsman Annual Report 2010, p. 17.
[2] Releases A through E were identified as Releases 1 through 5, respectively, by the CISOMB.

Processing receipts.[3] The Transformation Initiative is primarily being funded from new Premium Processing fee revenue, Premium Processing revenue balances from prior years, and anticipated new Premium Processing fee revenue. At this time, USCIS does not foresee any need to interrupt other critical activities to fund the Transformation program. It is also important to note that the Transformation Initiative is critical to the entire USCIS operational enterprise and is not a distinct activity apart from operational needs.

C. Organizational and Reporting Structure

USCIS would like to clarify observations about the organizational and reporting structures discussed in the Annual Report.[4] In November 2008, USCIS established OTC as the component responsible for effecting the Agency-wide transformation. OTC, which absorbed the Transformation Program Office, has always reported to the Deputy Director.

The projects reported in the "Transformation Projects and Programs" section of the Annual Report[5] may or may not be integrated into the larger Transformation effort, but they are not OTC initiatives. Rather, they are parallel initiatives that are the responsibility of other USCIS components.

D. Validation Instrument for Business Enterprises

One parallel initiative discussed in the Annual Report is the Validation Instrument for Business Enterprises (VIBE) program, which will serve as an adjudications tool for Immigration Services Officers (ISOs). VIBE will be administered primarily by the Service Center Operations (SCOPS) Directorate. VIBE will use commercially available information from an independent information provider (IIP) to validate information submitted by companies or organizations that petition to employ foreign workers. VIBE will provide the following general information about a petitioning company or organization:

- Business activities;
- Financial standing;
- Number of employees;
- Relationships with other entities, including foreign affiliates;
- Ownership;
- Date of establishment; and
- Current address.

In September 2009, USCIS awarded a contract to Dun and Bradstreet to provide the independent information used by VIBE. Recognizing stakeholders' interest in VIBE, USCIS will conduct beta testing of the system before full deployment, which will be closely monitored by USCIS Headquarters. Furthermore, USCIS is providing stakeholders with a variety of ways to receive additional information regarding VIBE and its use.

[3] CIS Ombudsman Annual Report 2010, p. 14.
[4] CIS Ombudsman Annual Report 2010, pp. 17-18.
[5] CIS Ombudsman Annual Report 2010, pp. 18-22.

On March 27, 2010, USCIS held a national Information Sharing Session to provide stakeholders with an overview of VIBE. At this session, USCIS explained VIBE's use by ISOs in adjudicating most employment-based classifications (filed on Forms I-129, I-140, and I-360). Representatives from Dun and Bradstreet also delivered a presentation of the services that they provide and explained how they verify their data. SCOPS has established an e-mail box, VIBE-Feedback@dhs.gov, for public comments, concerns, or questions regarding VIBE. Additionally, USCIS is developing communications materials and website information to advise employers on how to check their information with Dun and Bradstreet as well as how to notify Dun and Bradstreet of changes to specific employer information.

III. EMPLOYMENT AND FAMILY GREEN CARD PROCESSING

As the CISOMB acknowledges, USCIS has made great strides in reducing its pending inventory. During the reporting period, USCIS took advantage of declining receipts and excess capacity to adjudicate (or pre-adjudicate, if there are visa queues due to annual statutory limits) pending employment-based green card applications.[6] The ability of USCIS to work through its caseload, however, was not due solely to a decline in receipts and corresponding excess capacity. USCIS implemented the Agency's strategic plan in light of the fee increase in 2007 to increase staffing to achieve the 4-month processing times USCIS promised to Congress. This entailed an increased focus on hiring, training, and developing additional adjudicative resources across the Service Centers and Field Offices. The results of implementing this plan were realized in the past fiscal year, during which USCIS significantly reduced its pending inventory while also maintaining 4-month processing times throughout the year. In all, the Service Centers adjudicated or pre-adjudicated approximately 305,000 employment-based green card applications.

A. Employment-Based Immigration

In the Annual Report, the CISOMB states that "it is not clear that USCIS and DOS communicate regularly to remove duplicate files from pending status if individuals obtained a green card in the United States or acquired green card status through other avenues or categories."[7] USCIS understands that this statement refers to pending visa requests in the DOS Immigrant Visa Allocation Management System (IVAMS). USCIS, however, is not aware of any lack of communications with DOS regarding the removal of duplicate files from pending status. It is important to note that IVAMS only permits one visa request per alien registration number (A-number) – i.e., only one visa request can be pending in the system for a particular alien.

Applicants who want to change their green card application from employment-based to family-based must initiate a request with USCIS. When USCIS receives a request to change an employment-based green card application (for which a visa is not available) to a family-based green card application (for which a visa is available), the Service Center contacts DOS to ask that the pending employment-based visa request be deleted from IVAMS. The Service Center then coordinates with the National Benefits Center (NBC) to effect the transfer for family-based processing. USCIS is aware of only a handful of such cases.

[6] CIS Ombudsman Annual Report 2010, p. vii.
[7] CIS Ombudsman Annual Report 2010, p. 25.

B. I-485 Inventory Report

USCIS has worked to increase transparency to its stakeholders in numerous ways, including publication of the Form I-485 inventory report. The CISOMB indicates that the USCIS inventory of pending employment-based green card applications does not capture cases in categories where the Visa Bulletin is current (or where the cut-off dates have been reached) but are within current USCIS processing times (i.e., recently filed cases).[8] To clarify this point, the pending inventory report contains all principal and dependent employment-based green card applications pending at the Nebraska Service Center (NSC) and the Texas Service Center (TSC). This includes cases for which visas are currently available but have not yet been adjudicated to completion, and cases that have been pre-adjudicated because the applicant is otherwise eligible but a visa is not currently available.

In instances where the green card application and the petition for an alien worker are filed concurrently, and the petition has not yet been adjudicated – meaning country of chargeability, preference, and priority date are as yet unknown – the green card application does not appear in the inventory. This may include newly-filed cases where both the green card application and the petition are within target cycle-times. However, a newly-filed green card application based on an approved petition will appear in the inventory if it was filed prior to the posting of the latest inventory report.

In the Annual Report, the CISOMB indicates that there are approximately 23,000 cases currently awaiting interview and adjudication at USCIS Field Offices.[9] Approximately 13,446 cases have already been interviewed and pre-adjudicated by the USCIS Field Offices. Those cases are pending final adjudication once a visa becomes available. USCIS is finalizing guidance that will instruct Field Offices to send all pre-adjudicated employment-based green card applications to the TSC. Centralization of those cases will allow USCIS to provide DOS with greater visibility into the Agency's pending inventory of employment-based green card applications.

C. Family-Based Immigration

USCIS has worked extensively to reduce the number of pending I-130s. In January 2009, approximately 1.2 million preference category I-130s were pending. As of August 2010, the number of pending cases stands at less than 350,000 – representing a 70-percent reduction in pending inventory. Because USCIS is working rapidly to eliminate the backlog of pending I-130 petitions, it is imperative, as the CISOMB notes, that petitioners notify USCIS of any address changes. As a point of clarification, USCIS will deny the petition, not terminate it,[10] if USCIS does not receive a response to the Request for Evidence (RFE). Because failure to respond to an RFE will result in a denial, it is very important that the petitioner keep USCIS informed of any mailing address changes. USCIS appreciates any assistance the CISOMB can provide in relaying this message to customers.

The CISOMB reported that demand for family-based visas has been low and cautioned that a significant number of family-based visas may go unused in FY2010. Since the release of the Annual Report, however, USCIS and DOS have made significant progress in addressing

[8] CIS Ombudsman Annual Report 2010, p. 29.
[9] CIS Ombudsman Annual Report 2010, p. 29.
[10] CIS Ombudsman Annual Report 2010, p. 33.

this issue and anticipate that all available family-based visas will be used by the end of FY 2010.

IV. REQUESTS FOR EVIDENCE

A. Preponderance of the Evidence – Recommendation 1

The Ombudsman recommends that USCIS implement new and expanded training to ensure that adjudicators understand and apply the "preponderance of the evidence" standard in adjudications.

USCIS Response: USCIS recognizes the benefit of additional training for Immigration Services Officers (ISOs) on the standards of evidence, and USCIS is implementing this recommendation. For example, the RFE Project, which is discussed in greater detail below, is developing a more uniform standard for how ISOs are to determine whether evidentiary support is sufficient for immigration petitions. Additionally, as USCIS develops policy memoranda and updates to the Adjudicator's Field Manual (AFM), USCIS is developing training to accompany the guidance. That training will include expanded instruction and practical exercises on the standards of evidence.

B. Requests for Evidence – Recommendation 2

The Ombudsman recommends that, consistent with applicable regulations, USCIS require adjudicators to specify the facts, circumstances, and/or derogatory information necessitating the issuance of an RFE.

USCIS Response: To ensure consistency in the adjudicative process, USCIS is currently reviewing the RFE process at each Service Center and is developing an RFE program for all Service Centers. On April 12, 2010, Director Mayorkas introduced the RFE Project during a national stakeholder engagement. This project will engage stakeholders in a concerted effort to review and revise the RFE templates at Service Centers to ensure that they are:

- Consistent across centers;
- Relevant for the benefit classification being adjudicated;
- Adaptable to the specific facts and needs of individual cases; and
- Clear and concise.

By engaging with stakeholders in a project that directly affects them, USCIS seeks to ensure the integrity and efficiency of RFEs and to enhance transparency between the Agency and its stakeholders.

The goal is to review and rewrite as needed all current RFEs to create a "library" from which all centers will draw standardized template language. Additionally, USCIS will conduct training on the use of the standardized templates and evidentiary requirements at each center. The first phase of the project, currently underway, involves the O, P, and Q nonimmigrant classifications and the E-11 immigrant classification. For more information on the RFE Project and upcoming participation opportunities, stakeholders may visit the "Outreach" section of the USCIS website.

C. Requests for Evidence Rates

USCIS is currently reviewing the RFE rates between the California Service Center (CSC) and the Vermont Service Center (VSC) regarding the H and L nonimmigrant classifications. The CISOMB raises several possible reasons for spikes in the RFE rates during certain fiscal years. In the H-1B context, USCIS agrees that the RFE rates in 2009 could be attributable to the Troubled Asset Relief Program (TARP). However, it is not likely that the January 8, 2010, memorandum entitled "Determining Employer-Employee Relationship for Adjudication of H-1B Petitions, Including Third-Party Site Placements" has significantly impacted RFE rates. The CISOMB has analyzed data through FY2009, which would not include RFEs issued as a result of this employer-employee relationship memorandum from FY2010. The CISOMB also states that stakeholders have raised concerns that the principles of the H-1B memorandum have been applied in the L and O contexts. The H-1B memo is, on its terms, limited to H-1B adjudications and therefore is not intended to guide adjudications in other contexts, including the L-1 or O-1 nonimmigrant visa categories. USCIS encourages the CISOMB and other stakeholders to bring pertinent cases to the its attention.

USCIS expects that the RFE Project will help to bring consistency to the RFE process in both the H and L nonimmigrant classifications. In addition, USCIS will disseminate guidance in the L context to assist adjudicators in making "specialized knowledge" determinations, improving consistency between the centers.

D. L-1B Guidelines – Recommendation 3

The Ombudsman recommends that USCIS establish clear adjudicatory L-1B guidelines through the structured notice and comment process of the Administrative Procedures Act.

USCIS Response: USCIS concurs in part with this recommendation. The term "specialized knowledge" was deliberately left open-ended by Congress to recognize the fact-specific nature of the term. Given the range of possible factual situations that can arise, flexible regulatory standards of appropriate scope are not necessarily easy to devise.

USCIS believes that the best approach for further clarification of the term "specialized knowledge" is more detailed guidance; this would include further explanations of what might satisfy the statutory definition of this term. In fact, USCIS is currently working to provide updated guidance regarding the L-1B classification. Specifically, the Administrative Appeals Office (AAO) is working to publish a precedent decision or series of decisions on "specialized knowledge." At the same time, SCOPS and the Office of Policy and Strategy (OP&S) are jointly updating existing "specialized knowledge" memoranda in conjunction with a corresponding revision of Chapter 32 of the AFM regarding the "L" nonimmigrant visa.

The Annual Report cites a recent non-precedent decision from the AAO, known as the "GST decision,"[11] as a basis for this recommendation. The CISOMB describes the GST

[11] 2008 WL 5063578.

decision as inconsistent with long-standing Agency guidance on the L-1B classification,[12] stating that the GST decision promotes a higher standard of review for what constitutes "specialized knowledge." The CISOMB further indicates that adjudicators are incorrectly using the non-precedential GST decision as policy guidance in adjudicating L-1B petitions.

USCIS believes that the GST decision does not conflict with the March 9, 1994, James A. Puleo memorandum entitled "Interpretation of Specialized Knowledge" (referred to as the "Puleo memorandum"), any subsequent L-1B guidance (such as the September 9, 2004, Fujie O. Ohata memorandum entitled "Interpretation of Specialized Knowledge for Chefs and Specialty Cooks seeking L-1B status"), or the AFM. The AAO's GST decision is based on analysis leading to separate and independent grounds for denial that are not in conflict with either the Puleo and Ohata memoranda or the AFM.[13] The grounds for denial stated in the GST decision are:

1. The petitioner did not submit material evidence that would support the claim that the beneficiary would be employed in a specialized knowledge capacity, based on the petitioner's failure to provide evidence that:
    a. The beneficiary would in fact be employed in the manner stated in the petition; and
    b. The beneficiary's knowledge is substantially different from the knowledge possessed by similar workers generally throughout the industry or by other employees of the petitioning organization – the same standard described in the Puleo and subsequent L-1B Agency memoranda.
2. The petitioner failed to submit requested evidence to establish that its offsite employment of the beneficiary did not violate the L-1 Visa Reform Act of 2004.

This second basis for denial could not conflict with the Puleo memorandum since the L-1 Visa Reform Act did not exist at the time the Puleo memorandum was written. The GST decision, however, was fully consistent with the USCIS July 28, 2005, William R. Yates memorandum entitled "Changes to the L Nonimmigrant Classification made by the L-1 Reform Act of 2004."

In short, the analyses and grounds for denial in the GST decision all relate to the same common theme: that the petitioner failed to submit evidence sufficient for the AAO to conclude that the L-1B petition in question was approvable under existing law. Quite simply, the petitioner in GST failed to meet its burden of establishing eligibility for the benefit sought – a requirement imposed on all petitioners, whether in the L-1B context or otherwise.[14] The general principles underlying the GST analyses are consistent with USCIS policies.

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[12] The Annual Report refers to the AFM and the March 9, 1994 James A. Puleo memorandum entitled "Interpretation of Specialized Knowledge" as longstanding USCIS L-1B guidance.

[13] USCIS notes that the AAO also withdrew the Director's denial in part, and found in favor of the petitioner. Based on the statutory definition of "organization," the AAO concluded that the petitioner is part of a complex multinational business that meets the definition of "qualifying organization" under the regulations.

[14] This was, in fact, stated on page four of the Puleo memorandum; "[t]he petitioner bears the burden of establishing through the submission of probative evidence…."

The CISOMB indicates that adjudicators are incorporating the logic and rationale of the GST decision into other L-1B petitions. The CISOMB describes this approach as applying an incorrect standard based on the assumption that the GST decision was flawed. As noted above, however, the GST decision was neither incorrect nor contrary to existing USCIS policy as set forth in the Puleo memorandum and other memoranda issued by the Agency on the subject of "specialized knowledge." The CISOMB correctly states that the GST decision is not a precedent decision and therefore should never be cited by adjudicators. This point does not mean that USCIS adjudicators may not employ the *rationale* used in the GST decision – particularly since that rationale, as discussed at length above, merely reflects the way adjudicators have been adjudicating petitions for several years.

It should be noted that the Puleo memorandum was the first memorandum addressing the definition of "specialized knowledge" after the passage of the Immigration Act of 1990 and the Agency's adoption of the specialized knowledge definition at 8 CFR 214.2(l)(1)(ii)(D). As such, the Puleo memorandum intentionally gave a broad interpretation of specialized knowledge, with the expectation that, as the then-INS gained further experience adjudicating L-1B petitions, the agency would be able to provide additional guidance on this subject. This, in fact, has been the case. Since the Puleo memorandum was issued, the former INS and USCIS have issued the December 2, 2002, Fujie O. Ohata memorandum entitled "Interpretation of Specialized Knowledge"; the September 9, 2004, Fujie O. Ohata memorandum entitled "Interpretation of Specialized Knowledge for Chefs and Specialty Cooks seeking L-1B status"; and the July 28, 2005, William R. Yates memorandum entitled "Changes to the L Nonimmigrant Classification made by the L-1 Reform Act of 2004."

In this regard, it is the USCIS's responsibility to be flexible – but consistent – in its approach to adjudicating petitions in order to meet the challenges arising from new laws (such as the L-1 Visa Reform Act) and fact patterns (such as an increase in filings on behalf of chefs). It follows that no single memorandum, comprehensive as it might be, can be reasonably expected to address the vast array of fact patterns presented to the Agency. Therefore, the GST decision merely was reflective of the adjudicatory standards that the Agency has applied for several years.

Based on the above discussion, USCIS believes that its current approach, which includes issuance in the near future of one or a series of L-1B precedent decisions, in combination with an updated "specialized knowledge" memorandum and a corresponding revision of Chapter 32 of the AFM, is sufficient, without a notice and comment process, to provide guidance regarding the L-1B classification.

E. Request for Evidence Pilot Program – Recommendation 4

The Ombudsman recommends that USCIS implement a pilot program requiring: (1) 100 percent review of one or more product lines; and (2) an internal uniform checklist for adjudicators to complete prior to issuance of an RFE.

USCIS Response: USCIS routinely conducts quality reviews on all forms and classifications at the Service Centers, as well as on RFEs. Additionally, many supervisors conduct quality reviews as part of the performance evaluation of their employees. USCIS handles millions of cases on an annual basis. While periodic reviews and "spot check" reviews currently occur, USCIS believes it would be too time-consuming and resource-intensive to routinely conduct 100-percent RFE review on one or more product lines.

Routine 100-percent RFE review would also affect customer service since the customer would end up waiting longer for the RFE.

When new guidance is issued or training has occurred, USCIS may implement 100-percent supervisory review for a limited time to ensure adjudicators are properly applying the new guidance or training. For example, 100-percent supervisory review was conducted until the end of August on RFEs related to the January 8, 2010 memorandum entitled "Determining Employer-Employee Relationship for Adjudication of H-1B Petitions, Including Third-Party Site Placements."

USCIS also believes the RFE Project is a critical step in the goal to ensure agency integrity. As noted earlier, USCIS is engaging with stakeholders to review and revise current templates used at the Service Centers. A vital part of the RFE Project will be training at the centers, which will be conducted with the Office of the Chief Counsel (OCC). Training will provide adjudicators with the tools needed to implement the revised RFE templates.

Given the various classifications one petition can encompass, USCIS believes it would be difficult to develop a uniform checklist for adjudicators to complete prior to the issuance of an RFE. For example, Form I-129, Petition for a Nonimmigrant Worker, can be used to petition for 19 different nonimmigrant classifications, each with several variations. As mentioned above, USCIS believes that the RFE Project, coupled with additional training, will standardize RFEs and provide adjudicators and the public with a more transparent and consistent process.

V. INFORMATION AND CUSTOMER SERVICE

A. Live Representatives – Recommendation 5

The Ombudsman recommends that USCIS provide a selection in the Interactive Voice Response (IVR) to immediately connect to a live representative who can respond or direct a call when none of the IVR options is appropriate.

USCIS Response: USCIS recognizes the importance of providing customers with access to representatives who are able to assist with inquiries. However, the Agency also recognizes the cost effectiveness of providing customers with automated information through Interactive Voice Response (IVR) Units and the USCIS website when appropriate. Use of IVR and website technology is a common customer service practice in both the public and private sector.

As noted in communications with the CISOMB on May 25, 2010, USCIS is currently reviewing and restructuring the entire IVR Unit. USCIS is taking a three-step approach, which will be completed by the third quarter of FY 2011, to enhance the navigation and usefulness of information provided within the IVR. The three-step approach is designed to:

1. Improve the current IVR structure by deleting lengthy verbiage contained within existing messages and to streamline menu selections;
2. Remove all "dead end" scenarios providing easy access to live assistance throughout the IVR; and

3. Launch a completely new IVR to include direct routing to Tier 1[15] or Tier 2[16] based on the type of inquiry.

1. Improved IVR Structure

USCIS reviewed each individual IVR message and deleted excess verbiage to simplify the customer's call path when using the IVR. USCIS has:

- Revised the language on the main menu to alert callers about changes to the organization and composition of the IVR;
- Communicated that there are numerous self-help options; and
- Updated information regarding the expanded hours of operation.

These changes were implemented on June 28, 2010.

2. Removed "Dead End" Prompts

USCIS identified and eliminated all selections within the existing IVR in which customers were not provided an option to speak with a Customer Service Representative (CSR). In doing so, USCIS created 33 additional opportunities within the IVR for customers to reach live assistance. The primary areas of concentration for these prompts were services applicable to U.S. citizens, permanent residents, family-based applicants and petitioners, individuals with Temporary Protected Status (TPS), and other nonimmigrants.

USCIS recognizes that customers would like an opportunity to speak directly to a CSR immediately; however, with more than 14 million calls received each year, the IVR provides a mechanism for USCIS to manage the volume of calls while offering customers an opportunity to find answers to questions without the need for live assistance, when possible.

3. Complete Redesign of IVR

To capture specific customer feedback on areas of improvement within the IVR, USCIS engaged a third party vendor to add questions on the IVR designed to identify specific deficiencies from the caller's perspective. In June 2010, USCIS created a task force to review and completely redesign the existing IVR. USCIS plans to launch the new IVR by end of the second quarter of FY 2011.

With the new IVR, customers will be routed directly to Tier 1 or to Tier 2 based on the subject matter selected within the system. USCIS is also exploring the use of voice-

[15] Tier 1 Call Centers are contractor-run organizations that operate from scripts provided by USCIS. Tier 1 addresses general immigration questions, such as: what are the qualifying criteria for a benefit, how to change an address, how recent changes to laws and regulations affect them, how to appeal a denied case, etc. Tier 1 representatives do not have access to USCIS systems (CLAIMS, CIS, etc.), although they do have the ability to initiate a Service Request through the Service Request Management Tool (SRMT).

[16] The primary mission of Tier 2 is to address customer questions specific to their situation. Staffed with fully-trained ISOs, Tier 2 has access to most USCIS systems and can address individual concerns about the status of an applicant's cases, specific questions about eligibility, and delivery of travel or employment documents.

activated prompts to assist customers with navigation. USCIS will use focus groups to obtain customer and user input on the redesigned IVR.

B. Interactive Voice Response Technology – Recommendation 6

The Ombudsman recommends that, first, USCIS utilize commercial technology that would enable more efficient and direct access to live assistance by providing an option in the IVR to immediately connect callers to: (1) Tier 1 Customer Service Representatives for basic, informational questions and (2) a Tier 2 Immigration Services Officer for questions on filed or pending cases.

USCIS Response: As noted in the response to Recommendation 5, the new IVR will route customer inquiries directly to a Tier 1 CSR or a Tier 2 ISO for specific inquiry types based on the reason for the customer inquiry selected in the system.

Beginning in January 2010, USCIS engaged in benchmarking and best practices studies of various public and private sector organizations offering contact center and Web customer services. USCIS met with organizations such as Intel, Amazon, Lands' End, Disney, the Social Security Administration (SSA), the Internal Revenue Service (IRS), and the Centers for Disease Control and Prevention (CDC). USCIS learned about various customer service strategies used by these organizations that could enhance the customer experience. USCIS also affirmed that it currently uses technologies that are consistent with industry leaders.

USCIS plans to continue improving technologies currently used at the Call Centers. The Computer Telephony Integration (CTI)[17] project will be fully implemented in the second quarter of FY 2011. While USCIS is currently capturing and passing information regarding the customer's selection within the IVR, the next implementation will allow Tier 1 CSRs to capture customer specific information that will be forwarded to Tier 2 in the event that the call is transferred. Through the use of CTI, Tier 1 will forward to Tier 2 the following information, if applicable to the call:

- Form type;
- Receipt number or A-number;
- Reason for transfer;
- Caller type;
- Customer's phone number;
- Information selected by the customer within the IVR; and
- Indication of Service Request Management Tool (SRMT) creation.

This initiative will greatly improve the customer experience when calling the National Customer Service Center (NCSC) since customers will no longer need to repeat relevant information if they are transferred within the enterprise. In addition to improving the

[17] Computer Telephony Integration is a set of technologies that integrates and manages computers and telephone systems.

customer experience, USCIS also anticipates operational improvements such as a reduction in call handling time with Tier 2 ISOs.

C. Call Center Scripts – Recommendation 7

The Ombudsman recommends that, second, USCIS eliminate the scripted information over a targeted period of time to enable the Agency to train staff to answer basic immigration inquires.

USCIS Response: Scripted information is used only by Tier 1 contract staff. Tier 2 operations, which are staffed by USCIS Academy-trained ISOs, do not employ scripted information when responding to customer inquiries. Tier 1 contract staff spends approximately 4 weeks in initial training to understand USCIS processes and procedures. In addition, Tier 1 contract staff receives training on customer service skills and navigation of the scripts based on the customer inquiry. Tier 1 contract staff also receive approximately 2 weeks of refresher training each year on USCIS polices, procedures, and updates to scripted information.

The use of scripted information for first tier and contract staff at a call center is a common practice within the call center industry and is necessary for quality assurance purposes. The contract for the Tier 1 Call Centers provides for incentives and penalties based on the accuracy and completeness of the information provided by the staff. Removing scripted information could lead to erroneous interpretations of USCIS policies and procedures by the more than 500 contract staff. The use of scripted information, however, should in no way impede the customer from receiving an answer from USCIS since inquiries that cannot be answered by a Tier 1 CSR with the scripted information are transferred to a Tier 2 ISO who will be able to more fully respond.

USCIS has created a task force to review and revise the scripted information currently used by Tier 1 contract staff to delete unnecessary verbiage and ensure the information is thorough and accurate. This initiative is scheduled for completion by the end of the second quarter of FY 2011.

D. Call Center Points of Contact – Recommendation 8

The Ombudsman recommends that USCIS designate a point of contact within each Field Office and Service Center to be available to Tier 2 supervisors: (1) to answer time sensitive inquiries including, for example, missing or lost Requests for Evidence (RFEs) in an individual's file, and (2) to provide information on individual Field Office operations and procedures to respond to customers' inquiries.

USCIS Response: USCIS Tier 2 Supervisory Immigration Services Officers (SISOs) already have a listing of the points of contact (POCs) for each Field Office and Service Center to address issues that require immediate action or direct assistance. Providing Call Center staff with POCs for the Field Offices and Service Centers is an operational practice instituted by the Call Centers in early 2000. USCIS will work with Field Offices, Service Centers, and Tier 2 Call Center managers to ensure POC information is current and distributed as appropriate.

The CISOMB makes this recommendation to reduce the amount of time required for a customer to receive case-specific information, such as the contents of an RFE. As USCIS moves forward with Transformation, the NCSC may be able to provide more detailed information to the customer during the course of a call. In today's paper-based environment, it is not possible to provide some information, such as an RFE, during "the first interaction with the customer" since this would require a review of the file. If the situation is urgent, the Tier 2 ISO may expedite the Service Request, requiring the Field Office or Service Center to respond within five days.

Regarding the issue of the NCSC's being unaware of a Field Office closing, USCIS has established a protocol to notify the public when a Field Office or Application Support Center (ASC) is closed due to inclement weather, a power outage, or other reason. USCIS notifies all managers, including Call Center staff, of office closings, updates, and emergency situations through the National Command Center. USCIS will validate the listing of Call Center staff contained in the distribution list to ensure the information is distributed appropriately. Information about office closings is also published on the USCIS website and broadcast through local media outlets.

E. Tier 2 Feedback – Recommendation 9

The Ombudsman recommends that USCIS routinely obtain information from all Tier 2 Immigration Services Officers as a resource to identify trends and resolve these issues of concern to customers and stakeholders.

USCIS Response: USCIS concurs with this recommendation. Currently, the Eastern Telephone Center (ETC) and the Western Telephone Center (WTC) are piloting systems in which ISOs track the reason for each customer inquiry. This information is used to identify call trends, training needs, and to identify resources or systems accessibility required to fully assist customers. On a monthly basis, the USCIS Customer Service Directorate (CSD) holds meetings with the Tier 2 SISOs to discuss call trends and quality assurance. USCIS will expand these meetings to include ISOs.

F. Pre-Interview Letters

The Field Operations Directorate is aware of the confusion surrounding the pre-interview letter that is mailed to some naturalization applicants and is currently reviewing that letter and others.[18] The pre-interview letter is sent in lieu of an RFE to certain applicants who require additional evidence. Because the letter minimizes the need to issue an RFE and suspend further processing of the case until a response is received, USCIS will continue to issue the letters. The letter language, however, will be revised to minimize confusion.

G. Direct Access

The CISOMB cites as a best practice the customer service that the Chicago and Phoenix Field Offices provide.[19] USCIS greatly appreciates the recognition, and would also like to supplement and clarify the information in the Annual Report. The Chicago and Phoenix

[18] CIS Ombudsman Annual Report 2010, p. 58.
[19] CIS Ombudsman Annual Report 2010, p. 49.

Field Offices, along with many other Field Offices within USCIS, have established a process for congressional staff members, CBOs, immigration attorneys, and representatives to contact the office in an urgent situation after exhausting other means of communication (e.g., the NCSC, InfoPass). The phone number and e-mail address provided by these offices are not for the general public to use for basic case status inquiries. USCIS remains committed to providing excellent customer service and provides several avenues, such as the "My Case Status" online tool, the NCSC, text message alerts, and Service Request Online, for customers to obtain information about their cases.

VI. IMMIGRATION BENEFITS FOR THE MILITARY

A. Services for Military Members

USCIS has implemented extensive programs that serve U.S. military members and their families exclusively. These initiatives include the military helpline, brochures, electronic information on www.uscis.gov, and collaboration with the five military branches to deliver immigration services. As discussed in the Annual Report, USCIS has a formal agreement with the Army to conduct naturalization interviews and ceremonies on military installations for service members upon completion of basic training. Similarly, USCIS also has an agreement with the Navy and is working to establish formal agreements with the Marine Corps, Air Force, and Coast Guard.

The Annual Report also discusses the January 2010 report from the Department of Homeland Security (DHS) Office of Inspector General (OIG) on the ability of USCIS to implement the Kendell Frederick Citizenship Assistance Act. USCIS concurred with and is implementing all four recommendations made by DHS OIG in that report. It should be noted, however, that there are limitations on the Agency's ability to deliver immigration services to military members who are deployed. For example:

- Military members are often stationed in areas where the security poses a significant risk to USCIS personnel;
- USCIS is able to travel on military flights on a "space available" basis only;
- USCIS is unable to access certain areas due to Department of Defense (DOD) prohibitions; and
- Service members are sometimes operating in war zones and are not able to travel for an interview or oath ceremony, including to locations where video-teleconference technology is available.

Despite the difficulties in reaching active duty service members who are deployed, USCIS has been testing and expanding the use of video-teleconference technology to interview military personnel in war zones and, where necessary, has used mobile fingerprint capture units in some areas. This has helped to reduce the burden on some military personnel. As noted above, USCIS has been working with the branches of the military to naturalize more military personnel while they are still in basic training. Many of the issues discussed in the CISOMB's Annual Report and the DHS OIG Report can be resolved with more robust outreach at basic training.

B. Office Jurisdiction – Recommendation 10

The Ombudsman recommends that USCIS provide military families the option to have the office with initial jurisdiction complete adjudications for family members of active duty personnel, even when the family relocates outside of the district.

USCIS Response: USCIS works to accommodate service members and their families to ensure that their applications and petitions are processed as quickly and smoothly as possible. These efforts include transferring files and rescheduling interviews at the office with jurisdiction over the application or petition in a timely manner. The majority of applications and petitions filed by members of the military and their families require an office appearance or interview. Therefore, while keeping the application or petition at the initial office would be "little or no additional expense"[20] to USCIS, it could be a significant expense and burden to the applicant or petitioner if an office appearance or interview is required.

If there are no statutory or regulatory provisions that would require processing within a particular USCIS jurisdiction, USCIS will, on a case-by-case basis, consider requests to have the application or petition remain with the originating office. However, there may be instances where this is not possible. For example, if the spouse of a military member relocates to a district where the court retains exclusive jurisdiction to administer the oath of allegiance, the spouse will be required to appear for the naturalization ceremony in the new district.[21]

VII. REMOVAL PROCEEDINGS

A. Removal Information – Recommendation 11

The Ombudsman recommends that USCIS coordinate with U.S. Immigration and Customs Enforcement (ICE) and the Executive Office for Immigration Review (EOIR) to provide the public with one document that specifies each Agency's responsibilities within the removal process and the basic steps and information that respondents need to know about the jurisdiction of each Agency.

USCIS Response: USCIS concurs with the CISOMB's recommendation. Immigration law and processes are highly complex and can be difficult for a lay person to navigate. In the context of removal proceedings, USCIS recognizes both the potential consequences for respondents and the difficulty unrepresented individuals may have in understanding their rights and responsibilities as they navigate the process through ICE, USCIS and EOIR.

Stemming from ICE's Secure Communities[22] initiative, a multi-Agency docket efficiency working group was convened. The focus of this working group is to improve

[20] CIS Ombudsman Annual Report 2010, p. 66.
[21] Per 8 CFR 310.3(b), the jurisdictional limits of the court do not apply to individuals who are approved for naturalization under Section 319(b), 328(a), or 329 of the INA.
[22] ICE's Secure Communities program (SC), established in 2008, is designed to identify and remove incarcerated illegal aliens, with a stated priority to remove those with serious felonies. Aliens with less serious crimes will also be handled in a manner to be determined by ICE, though it will likely involve the discretionary issuance of Notices to Appear and the use of alternatives to detention.

communications and processes relating to removal proceedings and to further the goals of Secure Communities by decreasing case pending time on the EOIR docket and providing improved service to respondents who may be eligible for relief. To this end, USCIS and ICE are working to identify cases where relief may be available in order to bring those cases to EOIR's attention and ensure they are expeditiously adjudicated by USCIS. This initiative will alleviate the need to continue cases on the EOIR docket involving benefits under USCIS jurisdiction. Additionally, respondents will receive more timely consideration for available relief.

ICE has issued guidance to institute these improvements with substantial USCIS input. At this time, USCIS, ICE, and EOIR are pleased with the direction of this guidance, and USCIS will begin to systematically expedite adjudications for those appearing before EOIR.

USCIS is currently in the process of issuing its internal guidance. Once it is finalized USCIS, in consultation with ICE and EOIR, can draft a comprehensive public document on the role of each component in the removal process. Engagement with the public will help make the document as useful and accessible to its target audience as possible.

VIII. FORM N-648 PROCESSING

A. N-648 POC – Recommendation 12

The Ombudsman recommends that USCIS assign one expert or supervisory adjudicator as the point of contact in each Field Office for the public, in accordance with the USCIS September 2007 N-648 guidance memorandum.

USCIS Response: USCIS recognizes that this recommendation was likely made with the goal of assisting stakeholders with questions or concerns regarding Form N-648, Medical Certification for Disability Exceptions – a goal USCIS shares. As discussed below, USCIS continues to work with stakeholders and will conduct trainings and outreach on the new Form N-648.

The POC established in the September 2007 memorandum, "Guidance Clarifying the Adjudication of Form N-648, Medical Certification for Disability Exceptions," is:

> …responsible for administration of the N-648 program within the district or field office. The POC will be responsible for overseeing N-648 training and quality assurance within the district or field office and conducting liaison with community-based organizations, medical associations, and medical professionals interested in the N-648 process.

The POC was not intended to be the point person for all public inquiries related to Form N-648, but rather was established to serve as a mentor and expert to ISOs and to conduct outreach and training within the community.

Customers can raise case-specific concerns or questions by calling the NCSC or visiting a local office with an InfoPass appointment. USCIS will continue to respond to specific N-648 questions or concerns raised through these established processes, in addition to continuing to address broader issues in stakeholder meetings and collaboration sessions. USCIS believes this is the best method by which to address both case-specific inquiries and

the overall N-648 process within a particular Field Office. If customers are dissatisfied with a response received to an inquiry, they are encouraged to bring their concerns to a supervisor's attention.

Additionally, as mentioned in the Annual Report, USCIS has initiated a review and revision of Form N-648. As part of this review and revision, USCIS held engagement sessions with stakeholders to obtain their feedback and suggestions for improvement of the form and the N-648 adjudication process. On February 1, 2010, USCIS published the draft form in the Federal Register and anticipates releasing the new form in early FY2011. USCIS believes that the new Form N-648 will be more comprehensive and easier for the medical professional to complete and for the applicant to understand.

B. Training Module – Recommendation 13

The Ombudsman recommends that USCIS distribute, and make publicly available on the website, a training module for medical professionals who complete Form N-648.

USCIS Response: As part of the redesigned Form N-648, USCIS conducted several outreach sessions with stakeholders, including medical professionals. USCIS expressly asked for input regarding potential Form N-648 training materials. The new Form N-648 is very comprehensive and was designed to be completed easily by a medical professional. Therefore, at this time, USCIS does not believe that specific training for medical professionals on how to complete the form would be beneficial.

USCIS will provide general training for interested stakeholders and will include medical professionals in the invitation to these trainings. The training will introduce the new Form N-648 and answer stakeholder questions regarding completion and processing of the form.

C. "Second-Guessing" Medical Professionals

The CISOMB states that ISOs should not be placed in a position of "second-guessing"[23] the information provided by the medical professionals on Form N-648. The CISOMB notes that ISOs are "not provided with training on complex disability and medical issues."[24] USCIS appreciates these concerns, and would like to offer clarification. ISOs are not instructed to verify the diagnoses provided by the medical professional on Form N-648. Rather, ISOs are trained to determine whether the applicant is adhering to the requirements for naturalization and to protect the integrity of the naturalization process by ensuring that the information on applications and forms is relevant and accurate and, in the case of Form N-648, that the medical professional has established a nexus between the disability and the inability to demonstrate knowledge of English and civics.

D. N-648 Experts – Recommendation 14

The Ombudsman recommends that USCIS revise the current practices for processing Form N-648 to utilize experts to adjudicate the Medical Certification for Disability Exceptions.

[23] CIS Ombudsman Annual Report 2010, p. 81.
[24] CIS Ombudsman Annual Report 2010, p. 81.

USCIS Response: Because implementation of this recommendation is cost-prohibitive, USCIS is unable to concur at this time. USCIS currently does not charge a fee to file Form N-648. However, if USCIS hired medical professionals to review the form, the Agency would be forced to charge a fee to recoup those additional expenses. Additionally, as discussed above, USCIS is not reviewing Form N-648 for the medical soundness of the diagnosis, but rather to determine if the medical professional has established a nexus between the disability and the inability to demonstrate knowledge of English and civics.

E. Statistical Tracking – Recommendation 15

The Ombudsman recommends that USCIS track the number of Forms N-648 filed, approved, and rejected, as well as other key information.

USCIS Response: USCIS agrees that this is important, and it will be included in the Transformation Initiative. Outside of the transformed environment, updating USCIS systems to track Form N-648 would require significant time and cost. For this reason, implementation of this recommendation is not feasible at this time.

Tracking Form N-648 would require that the form be receipted in the same manner as applications and petitions. However, Form N-648 is not an independent application; it is a supplementary form to support a naturalization application. There are operational considerations for receipting Form N-648 that also affect tracking Form N-648. Currently, Form N-648 may be submitted at the time of the interview and is not required to be submitted when filing Form N-400, Application for Naturalization. To receipt and track Form N-648 would require that the form be sent to the Lockbox, since forms filed at a local Field Office do not receive a Form I-797 receipt notice and receipt number (as is Lockbox practice). This process would necessitate one of two approaches: Either USCIS would need to require that Form N-648 be submitted at the time of filing a Form N-400, or applicants would submit Form N-648 after the filing of Form N-400 while USCIS holds the case until Form N-648 is receipted and processed. Neither situation is ideal, and USCIS believes that drawbacks of this recommendation outweigh its benefits.

IX. FORM I-824 PROCESSING

A. Processing Goals – Recommendation 16

The Ombudsman recommends that USCIS establish a goal to process Forms I-824 requesting duplicate approval notices within days of receipting, and to process all other I-824s more expeditiously.

USCIS Response: Service Centers make every effort to prioritize the adjudication of Form I-824, Application for Action on an Approved Application or Petition, when customers are requesting duplicate approval notices. Service Centers identify the information needed to adjudicate the I-824 applications through systems checks, and generally adjudicate Form I-824 requests for duplicate approval notices within 30 days of the date the application reaches the Service Center. However, if the underlying application (e.g., a Form I-485 adjustment of status application) is pending, Form I-824 will take longer to process since the underlying application must be approved first. Additionally, if the Alien File (A-file) is at another location and the information needed cannot be obtained from systems checks, it is necessary to obtain the A-file. The national goal and averages for Form I-824 are 3 months,

which is the processing time commitment that USCIS has made to Congress and the public. The I-824 processing time at the VSC and CSC is currently 3 months. The processing times of the I-824 at the NSC and TSC, which both handle adjustment of status applications, are slightly longer at 3.9 and 4.1 months, respectively.

B. Transferring Form I-824 – Recommendation 17

The Ombudsman recommends that USCIS evaluate the benefit of transferring Form I-824 (and related adjudicatory responsibility) to the USCIS facility that has physical possession of the underlying case file, if access to documents or information in the case file is necessary.

USCIS Response: In many instances, a Service Center sends a Form I-824 to the location where the underlying application is pending. For example, if Form I-824 is received on a Form I-485 adjustment of status application that is pending with a Field Office, the Service Center sends the I-824 to that Field Office for final adjudication. However, if the underlying file is housed at the National Records Center (NRC) or the Harrisonburg, VA (HBG) facility, then the Service Center must obtain the underlying file from that facility before it can adjudicate Form I-824. This circumstance arises particularly with follow-to-join cases because DOS requires USCIS to provide certain specific data on the underlying petition upon which the I-485 is based, and that information is in the underlying file.

USCIS is considering revising Form I-824 and its instructions to require applicants to provide additional information that is normally found in the underlying file. When implemented, this change should reduce overall I-824 processing time for cases where the I-485 has been adjudicated.

C. Standard Operating Procedure – Recommendation 18

The Ombudsman recommends that USCIS develop a national standard operating procedure (SOP) for the processing of Form I-824 (inclusive of adjudication and transmission of the final documents or notifications requested), and institute mandatory Form I-824 adjudication and post-adjudication processing training for all USCIS adjudicators.

USCIS Response: USCIS concurs with this recommendation and is currently working on a national I-824 standard operating procedure (SOP). In addition, all adjudicators receive training on the form type to which they are assigned. When issues arise, conference calls are held with the Service Centers, Field Offices, and DOS to resolve any problems.

D. Delivery of Notifications – Recommendation 19

The Ombudsman recommends that USCIS ensure the timely and accurate delivery of notifications to the DOS National Visa Center through the use of a tracked mail delivery service.

USCIS Response: Before July 2007, USCIS routinely sent notifications about immigrant visa petitions to DOS consular posts by e-mail or fax. The DOS Assistant Secretary of Consular Affairs directed that, effective July 5, 2007, the National Visa Center (NVC) is the sole point of receipt for all information from USCIS domestic offices regarding immigrant

visa cases. As such, all USCIS communication to DOS regarding approved immigrant visa petitions are now sent to the NVC.

Using a tracked mail delivery notification for each approved I-824 sent to the NVC would pose a number of operational and logistical issues. USCIS would incur unrecovered costs as well.

E. Electronic Communication – Recommendation 20

The Ombudsman recommends that USCIS explore the development or enhancement of an electronic communication channel between USCIS and DOS capable of securely sending formal notifications on various immigration-related matters, including Form I-824.

USCIS Response: In the past**,** USCIS has examined a number of different options for transferring data to DOS electronically. Systems and encryption compatibility issues have prevented the implementation of any option. However, the USCIS Office of Information Technology (OIT) is committed to exploring this possibility again with DOS.

X. ITEMS OF NOTE

A. Special Immigrant Visas

Section 1244 of Public Law 110-181, as amended by section 1 of Public Law 110-242 (2008), authorizes 5,000 special immigrant visas (SIVs) for Iraqi employees and contractors each year for FY2008 through FY2012. In the Annual Report, the CISOMB indicates that issuance of SIVs under section 1244 has decreased recently. During FY2009, 1,763 individuals applied for this benefit, and USCIS approved and forwarded to the NVC 1,633 I-360 petitions for visa processing. During FY 2010, as of June 30, 2010, 706 applicants have filed a Form I-360 under section 1244, and 675 have been approved and forwarded to the NVC. Part of the decrease in filings may be due to the fact that individuals clearly eligible for this special immigrant status applied in prior fiscal years, leaving the field of remaining eligible applicants much diminished. The Annual Report also notes that the approximate year-long cycle time for visa issuance is hindering the number of applicants who choose to file for the SIV benefit. The NSC processes all section 1059 and section 1244 I-360 petitions within 14 days of receipt. This time frame is the maximum period for processing; often these cases are initially reviewed within 5 days of receipt. Thus, any delay is outside the control of USCIS.

USCIS is interested in suggestions for encouraging eligible applicants to apply. As the CISOMB notes, USCIS has no control over how many applicants apply for special immigrant status or who those applicants are. Rather, USCIS can only accept properly filed I-360 petitions and adjudicate those petitions. Nonetheless, USCIS is prepared to work with DOS to evaluate and implement workable recommendations to encourage more applicants for special immigrant status to apply.

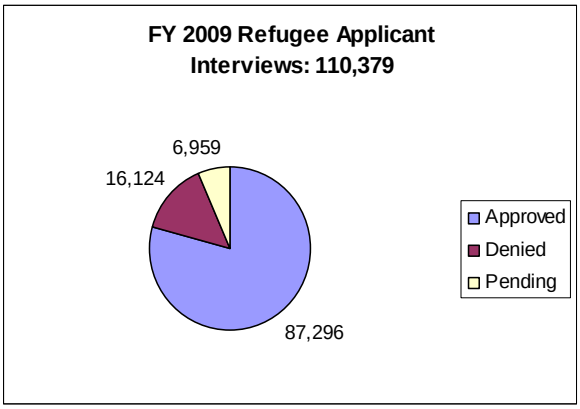
Section 602(b) of the Afghan Allies Protection Act of 2009 authorizes special immigrant status for Afghans employed by or on behalf of the U.S. Government in Afghanistan for a period of not less than 1 year on or after October 7, 2001. The number of these SIVs is limited to 1,500 per fiscal year from 2009 through 2013. The Annual Report urges implementation of the Afghan Allies Act as soon as possible. As of July 31, 2010, the NSC

has received only 12 I-360 petitions under section 602(b). To process these petitions, the NSC must receive the Chief of Mission (COM) letter from the U.S. Embassy in Kabul. Because of technical issues limiting access to necessary computer systems, the Kabul Embassy has yet to issue any COM letters. Any questions or comments regarding issuance of COM letters should be referred to DOS. In the meantime, the NSC receives I-360 petitions submitted under section 602(b) and holds them for future adjudication. USCIS has submitted changes to the Form I-360 instructions that are currently pending review with the Office of Management and Budget (OMB). These changes will provide instructions to the customer on where to file and who qualifies for special immigrant status under section 602(b). In addition, operational guidance on handling these I-360 petitions is pending final approval with senior USCIS leadership.

B. Refugee Processing

USCIS appreciates the thoughtful review of the U.S. Refugee Admissions Program (USRAP) conducted by the CISOMB and believes the recommendations outlined in the report seek to achieve the Agency's goal of operating a robust and efficient refugee program with transparency and integrity. USCIS has provided its views on the specific recommendations made by the CISOMB regarding the USRAP in a separate response dated July 31, 2010. However, USCIS would like to clarify two items:

- On page 93 of the Annual Report, the data in Figure 29 indicates that USCIS approved 74,654 and denied 32,824 refugee applicants. The number 74,654, however, reflects the number of refugees *admitted* to the United States rather than those *approved* by USCIS. The correct information is provided in the chart below:



- The Annual Report states that refugees must pay a "$930 per applicant filing fee" to apply for lawful permanent residence status. However, refugees are exempt from paying the application fee. *See* 8 CFR Section 209.1(b).

C. Separation of A-Files

The CISOMB has expressed concern over the separation of family members' A-files. There are two main reasons why the files of family members may be separated and their cases not adjudicated at the same time. First, USCIS is unaware that there is a familial relationship with another file or case. If applications for a family are filed and mailed together, in a single packet, USCIS groups them together for processing and notes in the National File Tracking System (NFTS) that the files are "riding" together. That way, if the files are

transferred to another office, the person handling the transfer will be alerted that the family's cases should be transferred together. However, if the applications are filed separately, USCIS will not necessarily know that the cases are related and may not process these cases together.

Secondly, some cases are ready for adjudication before others. Rather than holding all the family's cases until they are all ready for a decision, USCIS believes that it is better to adjudicate each case as it becomes ready for decision. There are several reasons why one case within a family could be ready for adjudication before another. These reasons include but are not limited to:

- The family member's application contains deficiencies (e.g., initial or secondary evidence missing, improper signatures, unacceptable Form I-693, etc.) and requires an RFE.
- The cases are not filed at the same time.
- The family member's security and background checks have not yet posted or have expired and need to be refreshed or rescheduled.
- A child turned 14 while his or her application was still pending, requiring USCIS to initiate background and security checks.
- An interview is required for one family member, but not for others. This is particularly applicable in some employment-based cases.
- A principal applicant is approved during a month in which visas are immediately available, but the derivative's application cannot be immediately approved due to one of the reasons stated above. When USCIS receives the information necessary to make a decision, visa numbers are no longer available.

As USCIS moves into an electronic account, person-centric system, which is the plan under the Transformation Initiative, it will be more likely that family members will be identified and linked together.

D. Adoptions

In the Annual Report, the CISOMB suggests that USCIS use "Non-Hague" instead of "Orphan" where retaining the term "Orphan" is likely to cause confusion. USCIS uses the descriptors "Hague" and "Orphan" for the two different inter-country adoption processes because that language is consistent with the statute. USCIS understands that this may cause some confusion and agrees to clarify by noting that the Orphan process is for inter-country adoptions from countries that have not implemented the Hague Convention. Moreover, where practical USCIS uses the Hague and non-Hague terminology for public communications.

The CISOMB also suggests that the centralization of Orphan (non-Hague) adoption cases may result in a "diminution in state law expertise."[25] USCIS has worked to address this issue by compiling a database of state adoption laws, regulations, and best practices and has made this information available to the NBC ISOs. This reference tool is updated as needed

[25] CIS Ombudsman Annual Report 2010, p. 72.

and facilitates the understanding of state adoption requirements. ISOs are regularly required to review state laws when deciding whether an applicant qualifies for any immigration benefit. Similarly, ISOs are also capable of reviewing state adoption laws when adjudicating Orphan (non-Hague) adoption cases. In addition, the NBC can work with local Field Offices if a need arises for state-specific guidance that is not clear in resources available. USCIS believes that the centralization of Orphan (non-Hague) adoption cases at the NBC will provide more efficiency and consistency in the adoption process and will benefit customers.

The report also states that only non-Hague filings made before April 1, 2010 will continue to be processed by the Field Office in which they are pending, "as the Ombudsman understands that USCIS has no plans to transfer these cases to the NBC."[26] USCIS began planning the centralization of the non-Hague cases in 2008. The project plan was officially announced in December 2009 and included a two-phase approach. USCIS completed the first phase in April 2010 with the centralization of all new domestically-filed non-Hague applications and petitions. Phase II began on July 1, 2010, with the transfer of all pending non-Hague cases from the Field Offices to the NBC. The transition was completed at the end of July 2010.

XI. CONCLUSION

Over the past year, USCIS has made tremendous strides in reducing its pending inventory while taking a fresh look at policies and procedures. USCIS has increased transparency and actively sought stakeholder feedback. USCIS realizes that much work lies ahead and looks forward to continuing its collaboration with the CISOMB.

[26] CIS Ombudsman Annual Report 2010, p. 72.

XII. Acronyms and Initialisms

AAO	Administrative Appeals Office
AFM	Adjudicator's Field Manual
A-Number	Alien Registration Number
APA	Administrative Procedures Act
ASC	Application Support Center
CBO	Community-Based Organization
CDC	Centers for Disease Control and Prevention
CFR	Code of Federal Regulations
CISOMB	CIS Ombudsman
CSC	California Service Center
CSR	Customer Service Representative
CTI	Computer Telephony Integration
DHS	Department of Homeland Security
DOS	Department of State
ETC	Eastern Telephone Center
FY	Fiscal Year
ICE	Immigration and Customs Enforcement
IIP	Independent Information Provider
INS	Immigration and Naturalization Service
IOE	Integrated Operating Environment
IRS	Internal Revenue Service
ISO	Immigration Services Officer
IVAMS	Immigrant Visa Allocation Management System
IVR	Interactive Voice Response
NBC	National Benefits Center
NCSC	National Customer Service Center
NFTS	National File Tracking System
NRC	National Records Center
NSC	Nebraska Service Center
NVC	National Visa Center
OCC	Office of the Chief Counsel
OIG	Office of Inspector General
OIT	Office of Information Technology
OMB	Office of Management and Budget
ONPT	Outside Normal Processing Times
OP&S	Office of Policy and Strategy
OPE	Office of Public Engagement
OTC	Office of Transformation Coordination
POC	Point of Contact

RFE	Request for Evidence
SCOPS	Service Center Operations
SISO	Supervisory Immigration Services Officer
SIV	Special Immigrant Visas
SOP	Standard Operating Procedure
SRMT	Service Request Management Tool
SSA	Social Security Administration
TARP	Troubled Asset Relief Program
TPS	Temporary Protected Status
TSC	Texas Service Center
USCIS	U.S. Citizenship and Immigration Services
USRAP	U.S. Refugee Admissions Program
VIBE	Validation Instrument for Business Enterprises
VSC	Vermont Service Center
WTC	Western Telephone Center