Privacy Impact Assessment
for the

U.S. Citizenship and Immigration Services Electronic Immigration System (ELIS-3)

Automated Background Functions

DHS/USCIS/PIA-043

May 16, 2012

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Abstract

U.S. Citizenship and Immigration Services (USCIS) is the component of the Department of Homeland Security (DHS) that oversees lawful immigration to the United States. USCIS is transforming its operations by creating a new electronic environment known as the USCIS Electronic Immigration System (USCIS ELIS), which allows individuals requesting a USCIS benefit to register online and submit certain benefit requests through the online system. This system will improve customer service; increase efficiency for processing benefits; better identify potential national security concerns, criminality, and fraud; and create improved access controls and better auditing capabilities. This Privacy Impact Assessment (PIA) is being conducted because USCIS ELIS collects and uses personally identifiable information (PII). This new electronic environment is divided into three distinct processes: 1) Temporary Account and Draft Benefit Requests; 2) Account and Case Management; and 3) Automated Background Functions. This PIA addresses the Automated Background Functions process, which includes the actions USCIS ELIS takes to ensure that serious or complex cases receive additional scrutiny by detecting duplicate and related accounts and identifying potential national security concerns, criminality, and fraud. USCIS is publishing separate PIAs for the other two USCIS ELIS processes concurrent with this PIA.

Overview

U.S. Citizenship and Immigration Services (USCIS) is the component of the Department of Homeland Security (DHS) that oversees lawful immigration to the United States. USCIS is transforming its operations by creating a new electronic environment known as the USCIS Electronic Immigration System (USCIS ELIS), which allows individuals requesting a USCIS benefit to register online and submit certain benefit requests. This system will improve customer service; increase efficiency for processing benefits; better identify potential national security concerns, criminality, and fraud; and create improved access controls and better auditing capabilities.

Applicants and petitioners (Applicants); co-applicants, beneficiaries, derivatives, dependents, or other persons on whose behalf a benefit request is made or whose immigration status may be derived because of a relationship to an Applicant (Co-Applicants); and/or their attorneys and representatives recognized by USCIS and/or accredited by the Board of Immigration Appeals (Representatives); may create individualized online accounts. These online accounts help Applicants and their Representatives file for benefits, track the status of open benefit requests, schedule appointments, change their addresses and contact information, and receive notices and notifications regarding their cases. Through USCIS ELIS, individuals may submit evidence electronically. Once an individual provides biographic information in one benefit request, USCIS ELIS uses that information to pre-populate certain fields in future benefit

requests. This eases the burden on an individual so he or she does not have to repeatedly type in the same information each time the individual is seeking a benefit from USCIS.

USCIS is publishing three PIAs to cover the following three distinct processes of this new electronic environment and the privacy and security protections incorporated into USCIS ELIS[1]:

1. **Temporary Accounts and Draft Benefit Requests:** The *DHS/USCIS/PIA-041 Temporary Accounts and Draft Benefit Requests (USCIS ELIS-1) PIA* addresses temporary data provided by Applicants or Representatives. All Applicants first interact with USCIS ELIS by creating a temporary account, setting notification preferences, and drafting their first benefit request. If a first-time Applicant does not begin drafting a benefit request within 30 days of opening a temporary account, USCIS ELIS deletes the temporary account. If he or she does not submit the benefit request within 30 days of starting a draft benefit request, USCIS ELIS deletes the temporary account and all draft benefit request data. If a first-time Applicant submits the benefit request within 30 days, USCIS ELIS changes the status of the account from temporary to permanent, at which point it is processed according to the *DHS/USCIS/PIA-042 Account and Case Management (ELIS-2) PIA* detailed below. Applicants with permanent USCIS ELIS accounts or Representatives may also draft benefit requests. USCIS ELIS deletes all draft benefit requests, both first-time and existing Applicants, if they are not submitted within 30 days of initiation.

2. **Account and Case Management:** The *DHS/USCIS/PIA-042 Account and Case Management (USCIS ELIS-2)PIA* addresses the activities undertaken by USCIS after Applicants or Representatives submit a benefit request. USCIS ELIS uses information provided on initial and subsequent benefit requests and subsequent collections through the Account and Case Management process to create or update USCIS ELIS accounts; collect any missing information; manage workflow; assist USCIS adjudicators as they make a benefit determination; and provide a repository of data to assist with future benefit requests. In addition, USCIS ELIS processes and tracks all actions related to the case, including scheduling appointments and issuing decision notices and/or proofs of benefit.

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[1] The three PIAs covering USCIS ELIS: DHS/USCIS/PIA-041, DHS/USCIS/PIA-042, and DHS/USCIS/PIA-043, were conducted concurrently and are all available at http://www.dhs.gov/files/publications/gc_1279308495679.shtm.

3. **Automated Background Functions:** The *DHS/USCIS/PIA-043 Automated Background Functions (USCIS ELIS-3)PIA* addresses the actions USCIS ELIS takes to detect duplicate and related accounts, compare and append information from existing immigration benefit data previously collected by USCIS, and identify potential national security concerns, criminality, and fraud to ensure that serious or complex cases receive additional scrutiny.

This *DHS/USCIS/PIA-043 Automated Background Functions PIA* supports the actions USCIS ELIS takes to detect duplicate and related accounts, compare and append information from existing immigration benefit data previously collected by USCIS, and identify potential national security concerns, criminality, and fraud to ensure that serious or complex cases receive additional scrutiny. The Automated Background Functions:

- Ensure that USCIS merges duplicate accounts and identifies related accounts; and

- Assist USCIS personnel in verifying the data submitted by the Applicant or Representative, including comparing it to previously submitted application data collected by other source USCIS systems;

- Ensure that USCIS personnel appropriately consider national security, law enforcement, and fraud risks in adjudicating the benefit request in light of the background check results.

At several points during the processing of a benefit request, the Automated Background Functions process consolidates and compares information collected from the USCIS ELIS Account and Case data, other USCIS immigration benefit systems, and information from other DHS and federal government agencies. USCIS ELIS uses certain rules to detect duplicates, related cases, and/or issues that may raise potential national security, criminality, and fraud concerns. When a rule's conditions are met, USCIS ELIS generates a result and then routes it to the appropriate USCIS personnel for review.

These Automated Background Functions operate in three stages: Assistance Rules, Results Ranking, and Case Routing.

Assistance Rules

The Automated Background Functions component of USCIS ELIS processes information received from the Accounts and Case Management (ACM) portion of USCIS ELIS (see *DHS/USCIS/PIA-042 Account and Case Management (ELIS-2) PIA* by running a series of automated assistance rules on the ACM information, comparing the information to existing immigration benefit information collected generating results, and assigning confidence and

severity levels to those results. The results of these rules assist USCIS personnel in reviewing the Applicant's benefit request by flagging relevant information for consideration and resolution, such as criminal history, use of aliases, and prior immigration benefits or proceedings. A working group comprised of subject matter experts within USCIS develops rules based on USCIS business needs. Senior-level leaders from the various directorates inside of USCIS, including the Office of Chief Counsel and Office of Privacy, evaluate the proposed rules prior to submission to USCIS leadership for approval. The approving leadership includes the Director of USCIS and executive-level representatives from USCIS. These assistance rules support the following functions:

(1) Detect Duplicates and Relationships: When an Applicant or Representative is creating an account, USCIS ELIS will use the email address the individual provides to determine if there is an existing account in ELIS associated with that address. USCIS ELIS also compares biographic information provided via the new benefit request, a response to a request for evidence (RFE), an update to account information, an interview, or other sources, with biographic information in other USCIS ELIS accounts and existing immigration benefit systems. For comparison purposes, USCIS ELIS retains a copy of certain biographic data from the following existing immigration benefit systems:

- Central Index System (CIS);[2]

- Computer Linked Account Information Management System (CLAIMS) 3;[3]

- CLAIMS 4;[4]

- Refugees, Asylum, and Parole System (RAPS);[5] and

- Fraud Detection and National Security Data System (FDNS-DS).[6]

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[2] DHS/USCIS/PIA-009 http://www.dhs.gov/files/publications/gc_1279308495679.shtm#6, DHS/USCIS-001 - Alien File, Index, and National File Tracking System of Records June 13, 2011, 76 FR 34233

[3] DHS/USCIS/PIA-016 http://www.dhs.gov/files/publications/gc_1279308495679.shtm#14, DHS-USCIS-007 - Benefits Information System September 29, 2008 73 FR 56596

[4] DHS/USCIS/PIA-015 http://www.dhs.gov/files/publications/gc_1279308495679.shtm#13; DHS-USCIS-007 - Benefits Information System September 29, 2008 73 FR 56596

[5] DHS/USCIS/PIA-027 http://www.dhs.gov/files/publications/gc_1279308495679.shtm#25, DHS/USCIS-010 - Asylum Information and Pre-Screening January 5, 2010 75 FR 409

[6] DHS/USCIS/PIA-013 http://www.dhs.gov/files/publications/gc_1279308495679.shtm#11, DHS-USCIS-006 - Fraud Detection and National Security Data System (FDNS DS) August 18, 2008, 73 FR 48231

USCIS ELIS regularly updates the data it receives from existing immigration systems to provide timely and accurate results. When a record is changed or updated in the source system, the change or update is made to this copy of the record in USCIS ELIS Automated Background Function. Records from the existing immigration benefit systems that are not associated with a USCIS ELIS account are not retrieved. Records from existing immigration benefit systems that are appended to the USCIS ELIS records are tagged with the origin of the data. If an individual requests access to USCIS ELIS records that also have appended existing immigration benefit data, USCIS will provide the individual access based on the access provisions of the existing immigration benefit system of records.

USCIS ELIS uses both the existing USCIS ELIS Account and Case data and the immigration benefit data to identify duplicate accounts and other existing records pertaining to the individual. USCIS ELIS also compares new biographic information with data in other accounts to discover relationships that the Applicant or Co-Applicant may have with other individuals in other federal government systems. The results obtained from these comparisons can be used by adjudicators to identify inconsistencies in the information provided by the Applicant and prior immigration history contained in existing immigration benefit systems.

USCIS ELIS also performs these functions when USCIS personnel discover new information during the course of reviewing a benefit request and performing external system checks. By detecting duplicate and related accounts and records, USCIS ELIS has a more complete picture to manage risks and fraud and detect law enforcement and national security issues.

(2) Risk and Fraud Management: USCIS ELIS runs approved assistance rules against the data provided by the Applicant or Representative, looking for known indications of fraud and other inconsistencies by comparing it against other data in USCIS ELIS, existing immigration benefit systems, and other systems internal and external to DHS.[7]

(3) Law Enforcement and National Security Checks: USCIS ELIS automatically performs background checks each time a new benefit request is submitted and at the discretion of USCIS personnel during the processing of a benefit request. USCIS ELIS queries the new information against several law enforcement and national security systems internal and external to DHS, and verifies identity through fingerprints maintained in IDENT as well as the FBI . USCIS ELIS, in an effort to account for variations in individuals' names and other data elements, performs the queries by combining data elements in various ways. Many systems return multiple results, which USCIS ELIS sorts according to the likelihood that the result actually refers to the individual applicant.

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[7] See 2.2 for a complete list of the systems and other systems USCIS ELIS uses to determine fraud and inconsistencies.

Results Ranking

When USCIS ELIS runs the assistance rules, the rules assign confidence and severity levels to the results. Confidence levels indicate how strongly the information in one record matches another record. For example, when considering multiple results from a background check, USCIS ELIS assigns higher confidence levels to results that match the individual's name, date of birth, country of birth, and passport number than results that only partially match the individual's name and date of birth. A result's confidence level must meet minimum thresholds in order for the result to be presented to appropriate USCIS personnel and saved with the case or account.

USCIS ELIS also prioritizes each rule result according to the potential severity of the linked record. For example, USCIS ELIS prioritizes records with potential national security implications over records relating to minor fraud. While this prioritization implies some level of scoring, USCIS ELIS does not present scores to the USCIS employee responsible for reviewing and adjudicating the associated benefit request. This ensures the USCIS employee does not consider a number or score when rendering a decision on the benefit request.

Each result has a summary that includes the rule used to produce the result and any alerts or flags to route and assist subsequent processing. USCIS ELIS provides a list of source record identification (ID) numbers for all results to assist appropriate USCIS personnel reviewing the results. For example, USCIS ELIS will provide the source record ID number of the law enforcement system associated with the background check results.

Case Routing

Once the assistance rules have returned results with the associated confidence and severity levels, USCIS ELIS routes the case to the appropriate USCIS personnel based on the characteristics of the benefit request, including the nature of the results. USCIS ELIS refers cases that do not contain indications of national security, fraud, or law enforcement risks to USCIS adjudicators for processing as described in the DHS/USCIS/PIA-042 *Account and Case Management (ELIS-2) PIA*. When USCIS ELIS generates Automated Background Functions results, those results do not become part of the Applicant's account or case until reviewed by appropriate USCIS personnel. USCIS ELIS routes complex cases to more experienced USCIS personnel and routes cases that indicate national security issues to the Fraud Detection and National Security (FDNS) Directorate.[8]

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[8] DHS/USCIS/PIA-013 Fraud Detection and National Security Data System (FDNS-DS) Privacy Impact Assessment.

Where cases are referred to an FDNS Officer, the FDNS Officer reviews the information and, using information in the Fraud Detection and National Security Data System[9] (FDNS-DS), provides a Statement of Findings to assist USCIS personnel in making a case determination. When the FDNS Officer determines the results about the Applicant or Co-Applicant present a national security, fraud, or law enforcement issue, the case may be referred to U.S. Immigration and Customs Enforcement (ICE) for further investigation.

USCIS ELIS stores data used to query other systems, results from those queries that pertain to the individual, and other data produced during this process with the USCIS ELIS account assigned to the individual (see *DHS/USCIS/PIA-042 Account and Case Management (ELIS-2) PIA*). When checking other systems, USCIS ELIS Account and Case data does not store the contents of irrelevant results. If USCIS personnel determine that a record does not relate to the individual, USCIS ELIS immediately deletes the content of that record and retains the record ID to prevent it from being associated with the individual in the future.

Section 1.0 Authorities and Other Requirements

1.1 What specific legal authorities and/or agreements permit and define the collection of information by the project in question?

The primary legal authority supporting the collection of the information provided to USCIS is 8 U.S.C. § 1101 et seq. Specifically, 8 U.S.C. § 1360 established a central file of information for the security and enforcement agencies of the Government of the United States that contains the names of all aliens admitted or denied admission to the United States and such other relevant information as required to aid in the proper enforcement of this chapter. The Homeland Security Act of 2002, Pub. L. No.107-296, 116 Stat. 2135 (2002), 6 U.S.C. § 112, and the INA charge the Secretary of Homeland Security with administration and enforcement of the immigration and naturalization laws. The Secretary of Homeland Security has delegated duties to USCIS pursuant to a DHS Management Directive MD 0150.1. DHS has also promulgated regulations which permit the collection and processing of benefit requests online entitled, "Immigration Benefits Business Transformation, Increment I." 76 Fed. Reg. 53764 (August 29, 2011); "Immigration Benefits Business Transformation, Increment I; Correction." 76 Fed. Reg. 73475, (Nov. 29, 2011).

The Government Paperwork Elimination Act (GPEA), 44 U.S.C. § 3504 (2004), provides that, when possible, federal agencies use electronic forms, electronic filing, and electronic submissions to conduct agency business with the public. GPEA establishes the criteria and guidelines for the use of electronic signatures. Executive Order 13571, 75 Fed. Reg. 24339 (Apr.

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[9] DHS/USCIS-006 – Fraud Detection and National Security Data System (FDNS – DS), August 18, 2008, 73 FR 48231.

27, 2011), requires federal agencies to develop plans to streamline delivery of services and improve customer service by exploring lower-cost, self-service options accessed by the Internet or mobile phone and improved processes that deliver services faster and more responsively, reducing the overall need for customer inquiries and complaints.

1.2 What Privacy Act System of Records Notice(s) (SORN(s)) apply to the information?

DHS/USCIS issued *DHS/USCIS-016 - Electronic Immigration System-3 Automated Background Functions System of Records* 76 FR 70735 (November 15, 2011) to provide the public with notice about USCIS's collection, maintenance, and use of information in the Automated Background Functions process. USCIS ELIS Automated Background Functions process also relies on several existing System of Records Notices (SORNs) to support its operation. The USCIS ELIS Automated Background Functions process takes information from and returns results to the *DHS/USCIS-015 – Electronic Immigration System-2 Account and Case Management System of Records* 76 FR 70739 (November 15, 2011).

In addition, as part of the process of identifying existing immigration benefit data on individuals, USCIS ELIS retains data from the following system of records: DHS/USCIS/ICE/CBP-001 - Alien File, Index, and National File Tracking System of Records June 13, 2011, 76 FR 34233; DHS/USCIS-006 - FDNS DS August 18, 2008, 73 FR 48231; DHS/USCIS-007 - Benefits Information System September 29, 2008 73 FR 56596; and DHS/USCIS-010 - Asylum Information and Pre-Screening January 5, 2010 75 FR 409. Records from existing immigration benefit systems maintained in ELIS are not retrieved by personal identifier until an ELIS account matches data in one of the existing immigration benefit system of records.

Internal DHS user roles and access information is covered by DHS/ALL-004 – General Information Technology Access Account Records System (GITAARS), September 29, 2009, 74 FR 49882. All of these SORNs are available for review on the DHS Privacy website at http://www.dhs.gov/privacy.

1.3 Has a system security plan been completed for the information system(s) supporting the project?

Yes. The comprehensive System Security Plan (SSP) for USCIS ELIS, which includes the activities associated with Automated Background Functions of USCIS ELIS, has been developed. The Authority to Operate (ATO) was issued on December 6, 2011 and is valid through July of 2012, at which point USCIS expects to issue a new 12-month ATO.

1.4 Does a records retention schedule approved by the National Archives and Records Administration (NARA) exist?

No. USCIS is currently in negotiations with NARA for approval of the USCIS ELIS data retention and archiving plan. USCIS proposes retaining the copy of biographic data stored in the USCIS ELIS Automated Background Functions system as long as the records exist in the source system. However, USCIS is reviewing its retention requirements for the information as it transitions to a fully electronic environment and may amend its retention, as needed.

USCIS proposes that, in compliance with NARA General Records Schedule 24, section 6, "User Identification, Profiles, Authorizations, and Password Files," internal user accounts will be destroyed or deleted six years after the user account is terminated, or when no longer needed for investigative or security purposes, whichever is later.

1.5 If the information is covered by the Paperwork Reduction Act (PRA), provide the OMB Control number and the agency number for the collection. If there are multiple forms, include a list in an appendix.

The information used in the Automated Background Functions comes from the Account and Case Management process (covered by the OMB control numbers listed in the *DHS/USCIS/PIA-042 Account and Case Management (ELIS-2) PIA* Appendix) and other DHS, federal and state government systems and international law enforcement entities (e.g. INTERPOL). USCIS ELIS Automated Background Functions do not collect information directly from the public.

Section 2.0 Characterization of the Information

2.1 Identify the information the project collects, uses, disseminates, or maintains.

During the Automated Background Functions process, USCIS ELIS does not collect additional data from the Applicant, Co-Applicant, or Representative. Rather, information is collected from the Applicant, Co-Applicant, and his or her Representative through the processes described in the *DHS/USCIS/PIA-041 Temporary Account and Draft Benefit Request (ELIS-1) PIA* and *DHS/USCIS/PIA-042 Account and Case Management (ELIS-2) PIA*. USCIS ELIS compares information from the Applicant's or Co-Applicant's USCIS ELIS account and case against other USCIS ELIS accounts and cases, existing USCIS immigration benefit data (CIS, CLAIMS 3, CLAIMS 4, RAPS, and FDNS-DS) as well as information in other existing systems at DHS, other federal and state government agencies, and international law enforcement entities (e.g.; INTERPOL). The USCIS ELIS Automated Background Functions system stores the

results from the Automated Background Functions until USCIS personnel reviews and determines the information is related to the Applicant's or Co-Applicant's USCIS ELIS Account and Case data. This review includes relevant results from external systems, relevant rules, confidence and severity levels, and case routing data.

Note: USCIS ELIS Automated Background Functions do not access or use any data from temporary accounts or draft benefit requests (as defined in the *DHS/USCIS/PIA-041 Temporary Accounts and Draft Benefit Requests (ELIS-1) PIA*).

2.2 What are the sources of the information and how is the information collected for the project?

USCIS ELIS Automated Background Functions compare information from the USCIS ELIS Account and Case data against other USCIS ELIS accounts and cases, as well as other USCIS immigration benefit data. Certain data elements from the following USCIS systems are ingested into USCIS ELIS:

- *DHS/USCIS/PIA-009 – Central Index System (CIS).*

  - *DHS/USCIS-001 – Alien File, Index, and National File Tracking System of Records*, June 13, 2011, 76 FR 34233.

- *DHS/USCIS/PIA-016 – Computer Linked Application Information Management System Version 3 (CLAIMS 3).*

  - *DHS-USCIS-007 – Benefits Information System (BIS)*, September 29, 2008, 73 FR 56596.

- *DHS/USCIS/PIA-015 – Computer Linked Application Information Management System Version 4 (CLAIMS 4).*

  - *DHS-USCIS-007 – Benefits Information System (BIS)*, September 29, 2008, 73 FR 56596.

- *DHS/USCIS/PIA-027 – Refugee, Asylum, and Parole System and the Asylum Pre-Screening System (RAPS/APSS).*

  - *DHS/USCIS-010 – Asylum Information and Pre-Screening*, January 5, 2010, 75 FR 409.

- *DHS/USCIS/PIA-013 – Fraud Detection and National Security Data System (FDNS-DS).*

  - *DHS-USCIS-006 – Fraud Detection and National Security Data System (FDNS DS)*, August 18, 2008, 73 FR 48231.

In addition, USCIS Automated Background Functions conduct queries against the following systems noted below. USCIS does not ingest this data. Responses from these systems will be appended to the USCIS ELIS account information.

- *DHS/CBP/PIA-009 – TECS System: CBP Primary and Secondary Processing*.

  o *DHS/CBP-011 – U.S. Customs and Border Protection TECS*, December 19, 2008, 73 FR 77778.

- *DHS/ICE/PIA-001 – Student and Exchange Visitor Information System (SEVIS)*.

  o *DHS/ICE 001 – Student and Exchange Visitor Information System (SEVIS)*, January 5, 2010, 75 FR 412.

- *DHS/ICE/PIA-015 – Enforcement Integrated Database (EID)*.

  o *DHS/ICE-011 – Immigration Enforcement Operational Records System (ENFORCE)*, May 3, 2010, 75 FR 23274.

- *DHS/US-VISIT/PIA-005 – Arrival Departure Information System (ADIS)*.

  o *DHS/USVISIT-001 – Arrival and Departure Information System (ADIS)*, August 22, 2007, 72 FR 47057.

- *DHS/US-VISIT/PIA-002(b) – Enumeration Services of the Automated Biometric Identification System (IDENT)*.

  o *DHS/USVISIT-0012 – DHS Automated Biometric Identification System (IDENT)*, June 5, 2007, 72 FR 31080.

USCIS ELIS Automated Background Functions may also gather information from systems outside of DHS. These include:

- Department of State – Consular Consolidated Database (CCD).

- Department of Justice Executive Office for Immigration Review – Case Access System for the Executive Office of Immigration Review (CASE).

  o *JUSTICE/EOIR-001-Records and Management Information System*, May 11, 2004, 69 FR 26179.

- Department of Justice Federal Bureau of Investigation – Central Records System (CRS).

  o *JUSTICE/FBI-002- FBI Central Records System*, February 20, 1998, 64 FR 52343.

- Department of Justice Federal Bureau of Investigation – Fingerprint Identification Records System (FIRS).

    - *JUSTICE/FBI-009-Fingerprint Identification Records System (FIRS)*, September 28, 1999, 64 FR 52347.

2.3 Does the project use information from commercial sources or publicly available data? If so, explain why and how this information is used.

USCIS ELIS does not currently connect to commercial sources or publicly-available data. However, USCIS personnel do use commercial sources outside of USCIS ELIS (e.g., LexisNexis or Dun & Bradstreet) to verify information provided by the Applicant with respect to his or her eligibility for the requested benefit. If relevant to the case, USCIS personnel input and store notes or data from these commercial sources with the USCIS ELIS Account and Case data. Once this data is entered into the USCIS ELIS account or case, the information is processed through the Automated Background Functions process.

2.4 Discuss how accuracy of the data is ensured.

During the Automated Background Functions process, USCIS ELIS uses data from the USCIS ELIS Account and Case. USCIS ELIS collects this information directly from the Applicant or Representative to ensure USCIS ELIS uses the most accurate data when comparing it against other accounts and querying other systems. USCIS ELIS also ingests certain biographic data elements from existing USCIS immigration benefit systems and updates this copy of existing system data routinely. USCIS relies on source system owners for accurate data from the source systems.

When USCIS ELIS generates Automated Background Functions results, those results do not become part of the Applicant's account or case until reviewed by appropriate USCIS personnel. Trained USCIS personnel review the results, both to help ensure the information provided by the individual is correct and to identify other information relevant to the case. Once USCIS personnel have determined the information accurately pertains to the individual, USCIS ELIS stores the information with the individual's account or case. If USCIS personnel determine that a record does not relate to the individual, USCIS ELIS immediately deletes the content of that record and retains the record ID to prevent it from being associated with the individual in the future.

2.5 <u>Privacy Impact Analysis</u>: Related to Characterization of the Information

Privacy Risk: There is a risk that an Applicant's or Co-Applicant's data could be improperly matched with data from other systems and sources that do not pertain to the Applicant or Co-Applicant.

Mitigation: USCIS ELIS queries other systems using data provided by the Applicant or Representative to ensure results are accurate. USCIS ELIS further ensures the results refer to the Applicant or Co-Applicant by assigning confidence levels to the results and having the appropriate USCIS employees review the information before permanently associating it with the Applicant or Co-Applicant. USCIS routinely reviews rules to mitigate inaccurate results being presented to USCIS personnel for review.

Privacy Risk: There is a risk that USCIS ELIS could generate risk scores for individuals resulting in unfair adjudication decisions.

Mitigation: USCIS does not assign risk scores to individuals. Rather, USCIS ELIS assigns confidence and severity levels to the automated background check results, which are then used to prioritize the list of results for the appropriate USCIS employee's review. The confidence levels created by USCIS ELIS do not determine the risk of the individual, but measure the likelihood that a result from another system or account actually refers to the individual. Severity levels help USCIS personnel prioritize potentially serious possible matches above relatively minor possible matches. To prevent USCIS employees from being swayed in their analysis, the severity levels are hidden from USCIS employees who are responsible for reviewing and adjudicating benefit requests and are only used to prioritize the results. Authorized USCIS personnel also view a list of links to all the applicable records in the source systems, such as background check results when querying law enforcement systems, to verify the results of the rule.

Privacy Risk: There is risk that data is inaccurately copied when ingested into USCIS ELIS.

Mitigation: USCIS has regular updates from the existing immigration benefit systems to ensure the data is as accurate as possible. In addition, USCIS will make data from the existing immigration benefit systems available to the individual based on the underlying system of records for the data ingested into the Automated Background Functions.

Section 3.0 Uses of the Information

3.1 Describe how and why the project uses the information.

USCIS primarily uses the information collected for the benefit decision-making process to determine any potential national security or law enforcement risks and fraud, and to ensure the integrity of the immigration system. The Automated Background Functions assist USCIS personnel in verifying the data submitted by the Applicant or Representative, ensure that USCIS merges duplicate accounts and identifies related accounts, and ensures that USCIS personnel appropriately consider background check results, national security, law enforcement, and fraud risks when adjudicating the benefit request.

The Automated Background Functions process consolidates and compares information collected from the USCIS ELIS account and case, existing USCIS immigration benefit systems, and information from other DHS, federal and state government agencies, and international law enforcement entities (e.g. INTERPOL). When a rule's conditions are met, USCIS ELIS generates a result identifying the potential match or risk. USCIS ELIS assigns the result a confidence and severity level and routes it so that the appropriate USCIS personnel can review the most relevant data to the account or case in question. Result summaries include the rule used to produce the result and any alerts or flags to control subsequent processing.

USCIS ELIS Automated Background Function does not allow USCIS officers manually create and run their own rules. Rules can only be implemented through the governance process as described above (see Overview). The Automated Background Functions process creates a prioritized list of results for USCIS personnel to review. USCIS personnel are trained to review the first cases in the list because they are possibly the highest risk for national security, public safety, and/or fraud. Finally, USCIS ELIS will create an audit trail of the data analyzed, routing of the case, and results of the Automated Background Functions process verify the system is being used appropriately .

3.2 Does the project use technology to conduct electronic searches, queries, or analyses in an electronic database to discover or locate a predictive pattern or an anomaly? If so, state how DHS plans to use such results.

No. The Automated Background Functions do not identify predictive patterns or anomalies. Using the individual's biographic information, USCIS ELIS Automated Background Functions rules only identify possible matches to other records in USCIS systems, match to known fraud indicators, and send queries to DHS and other federal government systems, listed in 2.2, above.

3.3 Are there other components with assigned roles and responsibilities within the system?

No. USCIS does not assign other components roles and responsibilities within the Automated Background Functions portion of USCIS ELIS.

3.4 <u>Privacy Impact Analysis</u>: Related to the Uses of Information

Privacy Risk: There is a risk that USCIS could use improper rule sets to target individuals or groups.

Mitigation: USCIS has a robust governance process in place, including review of rules, policies, and procedures associated with the USCIS ELIS Automated Background Functions. USCIS currently requires potential rules to be developed by a working group of USCIS employees and recommended to a group of delegates from each of the USCIS directorates, the Office of Chief Counsel, and Office of Privacy. With the approval of these delegates, USCIS requires a governing body, consisting of the Director of USCIS and senior executives, to approve the rule before being implemented.

Privacy Risk: There is a risk that USCIS could deny a benefit based on incorrect information.

Mitigation: USCIS collects information directly from the Applicant or Representative through USCIS ELIS to ensure it uses accurate information to detect duplicates, potential fraud, and perform system queries. Once the results are returned and prioritized according to confidence and severity levels, USCIS requires human adjudication and review by trained USCIS personnel before making a determination. USCIS ELIS routinely updates its information from all source systems to ensure accurate and timely information is used in the decision-making process. USCIS provides the individual the opportunity to challenge the information during the interview process, appeals process, or through an RFE, as applicable. In many cases, USCIS ELIS provides Applicants the opportunity to refute derogatory information before USCIS denies a benefit request if the information is the basis for the denial.

Privacy Risk: There is a risk that USCIS employees might abuse the Automated Background Functions for personal use.

Mitigation: USCIS trains employees with access to the Automated Background Functions about the appropriate use of the system and features. USCIS ELIS will create an audit trail of the data analyzed, routing of the case, and assistance rules results for needed USCIS personnel investigations and adverse actions.

Section 4.0 Notice

4.1 How does the project provide individuals notice prior to the collection of information? If notice is not provided, explain why not.

While the information to be used in the Automated Background Functions is covered by other DHS and other federal government SORNs (see 1.2, above), USCIS published *DHS/USCIS-016 - Electronic Immigration System-3 Automated Background Functions System of Records* 76 FR 70735 (November 15, 2011) to provide the public notice about the retention of the biographic information used to find related records and identify national security and public safety concerns. Further, USCIS is engaged in a public relations campaign to notify the public about USCIS ELIS and posts updates on www.uscis.gov/elis.

USCIS presents individuals who use USCIS ELIS with a Privacy Act Statement as required by Section (e)(3) of the Privacy Act before logging in to USCIS ELIS and before submitting any information. All paper-based applications include a Privacy Act Statement on the benefit request form. The Privacy Act Statement details the authority to collect the information requested, purpose(s) for which the information is intended to be used, routine uses which may be made of the information, and any effects on the individual of not providing the requested information. Lastly, USCIS notifies the individual and obtains consent before collecting information from an individual in person at Application Support Centers (ASC) or in interviews.

4.2 What opportunities are available for individuals to consent to uses, decline to provide information, or opt out of the project?

Providing information to USCIS ELIS is a voluntary act on the part of the Applicant or Representative. USCIS ELIS informs the Applicant or Representative at the point of data collection that it is within his or her right to decline to provide the requested information; however, failure to provide accurate information may delay a final decision or result in denial of any pending benefit requests. USCIS ELIS gives Applicants and Representatives several opportunities to update their accounts or correct information in an interview, if applicable. Once an Applicant or Representative has provided information to USCIS ELIS, he or she may not consent to particular uses.

Pursuant to 8 CFR 103.2(a)(3), Co-Applicants may not access, modify, or participate in benefit requests submitted by the Applicant. However, Co-Applicants may create their own USCIS ELIS accounts and submit their own benefit requests.

4.3   Privacy Impact Analysis: Related to Notice

Privacy Risk: There is a risk that an Applicant or Co-Applicant may not be fully aware that the information contained in their USCIS ELIS account and case will be used to conduct an inquiry into benefits eligibility, including national security and law enforcement checks.

Mitigation: USCIS provides individual notice through the publication of a SORN in the Federal Register and this PIA. USCIS also notifies Applicants in the form of a Privacy Act Statement that the information they provide is being collected to determine eligibility for immigration benefits, including national security and law enforcement checks. USCIS informs Applicants before submission that the information they provide about themselves and any Co-Applicants must be accurate and complete.

Section 5.0 Data Retention by the project

5.1   Explain how long and for what reason the information is retained.

USCIS proposes storing relevant query results, related rule descriptions, and scores that were generated through the Automated Background Function process in the USCIS ELIS account and case. (See the *DHS/USCIS/PIA-041 Account and Case Management (ELIS-2) PIA and SORN*). Records returned through system checks that are determined to be irrelevant will be discarded immediately, retaining only minimal identifying information in the account or case to indicate the records are not related to the individual. USCIS proposes storing the copy of all biographic data from USCIS ELIS and existing immigration benefit systems in USCIS ELIS as long as the records in the source systems.

Once available, USCIS ELIS will keep active audit logs recording every system action for 90 days, then archives the audit logs for seven years. USCIS proposes that, in compliance with NARA General Records Schedule 24, section 6, "User Identification, Profiles, Authorizations, and Password Files," internal USCIS personnel accounts will be destroyed or deleted six years after the account is terminated or when no longer needed for investigative or security purposes, whichever is later.

5.2   Privacy Impact Analysis: Related to Retention

Privacy Risk: There is a risk that USCIS ELIS may retain outdated or inaccurate PII by keeping a copy of data from existing immigration benefit systems in a separate data store.

Mitigation: USCIS must retain a copy of certain biographic data from USCIS ELIS and existing immigration benefit systems to conduct searches that identify all applicable records regarding the individual. USCIS ELIS retains a copy of biographic data in the Automated Background Functions for the same period of time as it is kept by the source system. USCIS

ELIS immediately discards records returned through system checks that are determined to be irrelevant, retaining only minimal identifying information to indicate the records are not related to the individual to prevent a repeat mismatch. This copy is regularly updated from existing immigration benefits systems to ensure changes are reflected in the USCIS ELIS copy.

Privacy Risk: There is a risk that USCIS ELIS is retaining more than the minimum PII necessary for the Automated Background Functions process.

Mitigation: USCIS ELIS only retains certain biographic data elements from existing systems necessary to identify data related to the Applicant; not full copies of the existing systems. If the source system deletes or modifies the record, USCIS ELIS makes the same deletion or modification to its copy. This also ensures that data is not kept beyond the source system's retention period.

Privacy Risk: There is a risk that USCIS ELIS will retain inaccurate or outdated Automated Background Functions results in an Applicant's Account and Case data.

Mitigation: When USCIS ELIS generates Automated Background Functions results, those results do not become part of the Applicant's account or case until reviewed for accuracy by appropriate USCIS personnel. USCIS ELIS routes complex cases to more experienced USCIS personnel and routes cases that indicate national security issues to the FDNS Directorate. USCIS put these processes in place to ensure that only accurate, relevant, and fair Automated Background Functions results are attached to the Applicant's Account and Case data.

Upon review, USCIS personnel store and maintain relevant results according to the DHS/USCIS-015 – Electronic Immigration System-2 Account and Case Management SORN. USCIS personnel discard results that do not pertain to the individual.

Section 6.0 Information Sharing

6.1 Is information shared outside of DHS as part of the normal agency operations? If so, identify the organization(s) and how the information is accessed and how it is to be used.

Yes, USCIS ELIS shares information from the Applicant's account and any benefit requests, as well as from the account of the Applicant's representative, outside of DHS to perform system queries as part of the Automated Background Functions process. USCIS ELIS shares biographic information from the account or case with the Department of State and receives visa information in return. USCIS provides biometric and biographic information from the account or case to, and receives criminal history information from, the Department of Justice (DOJ) Federal Bureau of Investigation. USCIS provides biographic information from the individual's account or case to, and receives biographic and immigration court data from, the DOJ Executive Office of Immigration Review. The copy of biographic information stored in

USCIS ELIS's Automated Background Functions is not routinely shared outside of DHS except in cases of litigation, system breach, or otherwise provided in the *DHS/USCIS-016 - Electronic Immigration System-3 Automated Background Functions SORN*.

6.2 Describe how the external sharing noted in 6.1 is compatible with the SORN noted in 1.2.

The applicable SORNs listed in Section 1.2 above allow for the sharing of information, stored in the USCIS ELIS account or case, for law enforcement, national security, and benefit eligibility purposes. DHS may provide the information stored in the account or case and a copy of the biographic information stored in the Automated Background Functions as relevant and necessary to any litigation or court proceeding involving a federal agency. DHS also shares this information with the appropriate agencies, entities, and persons when DHS suspects or has confirmed that there has been a real or suspected breach of information security.

6.3 Does the project place limitations on re-dissemination?

Yes. DHS has Memoranda of Understanding (MOUs) in place with external organizations for recurring information sharing processes. When sharing information with parties outside of DHS, DHS requires the same specifications related to security and privacy that are in place for USCIS and DHS apply to the outside entity. Access to records is governed by need-to-know criteria that demand the receiving entity demonstrate the mission-related need for the data before access is granted. The reason for the access, an intended use consistent with the receiving agency's purpose, USCIS's justification for collecting the data, and an acknowledgement that the receiving agency will not share the information without USCIS's permission are also concerns that are included in either the terms of a negotiated MOU or the language of an authorization providing information to an external agency.

6.4 Describe how the project maintains a record of any disclosures outside of the Department.

For data sharing on an *ad hoc* basis, USCIS requires a representative from an outside agency to specify in writing the information being sought and the justification for the request. USCIS also requires the outside agency representative to sign a non-disclosure statement or record of disclosure, as appropriate, before the information is released. As required by the Privacy Act, USCIS maintains a record of these *ad hoc* sharing transactions.

6.5   Privacy Impact Analysis: Related to Information Sharing

Privacy Risk: There is a risk that the copy of all biographic data from USCIS ELIS and existing immigration benefit systems stored in USCIS ELIS's Automated Background Functions may be shared for a purpose inconsistent with the original collection or to an unnecessary degree.

Mitigation: USCIS ELIS Automated Background Functions only uses the copy of all biographic data from USCIS ELIS and existing immigration benefit systems in USCIS ELIS internally. The Automated Background Functions process will not externally share a copy of all biographic data; rather, that data will only be shared as described in the *DHS/USCIS/PIA-042 Account and Case Management (ELIS-2) PIA*. New content generated by the Automated Background Functions (e.g., summaries of findings) may be shared externally if the USCIS ELIS account and case data is shared externally, as it is stored as part of the case data. Where information from USCIS ELIS is shared, USCIS limits the risk of improper sharing by the data sharing agreements in place along with the appropriate MOUs. For *ad hoc* disclosures, USCIS provides only the requested information to prevent any otherwise unauthorized or inappropriate release of information.

Section 7.0 Redress

7.1   What are the procedures that allow individuals to access their information?

DHS promulgated a Final Rule[10] exempting this system from certain provisions of the Privacy Act (PA) pursuant to 5 U.S.C. § 552a(k)(2). Records from existing immigration benefit systems that are appended to the USCIS ELIS records are tagged with the origin of the data. If an individual requests access to USCIS ELIS records that also have appended existing immigration benefit data, USCIS will provide the individual access based on the access provisions of the existing immigration benefit system of records. According to its exemption, however, USCIS will not provide access to records of a law enforcement nature if the systems queried and results returned may not be appropriate for external access. Some biographic information in USCIS ELIS Automated Background Functions may relate to official DHS national security, law enforcement, and immigration activities. The exemptions are required to preclude subjects from compromising an ongoing law enforcement, national security or fraud investigation; to avoid disclosure of investigative techniques; to protect the identities and physical safety of confidential informants and law enforcement personnel; and to ensure DHS's ability to obtain information from third parties and other sources. Additionally, many of the functions in this system require retrieving records from law enforcement systems. Where a

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[10] 76 FR 70637 (November 15, 2011).

record received from another system has been exempted in that source system under 5 U.S.C. § 552a(j)(2), DHS claims the same exemptions for those records as are claimed for the original primary originating systems of records and claims any additional exemptions in accordance with this system. However, individuals may seek access to Automated Background Functions records not otherwise exempt from disclosure by submitting a Freedom of Information Act (FOIA) request or PA request using the forms and procedures outlined on the DHS web page at http://www.dhs.gov/foia. All requests for access must be made in writing. For those individuals subject to the PA, proper identification (a notarized signature or sworn statement submitted under penalty of perjury) must be included. Requesters are required to provide their full name, date and place of birth, and return address.

Individuals may request access to their information by submitting a request to USCIS in writing at the following address:

National Records Center

FOIA/PA Office

P.O. Box 648010

Lee's Summit, MO 64064-8010

7.2   What procedures are in place to allow the subject individual to correct inaccurate or erroneous information?

Individuals may seek access to records maintained in USCIS related to the Automated Background Function process by submitting a PA or FOIA request as stated above. USCIS provides the individual the opportunity to challenge the information during the interview process, appeals process, or through an RFE, as applicable. In many cases, USCIS ELIS provides Applicants the opportunity to refute derogatory information before USCIS denies a benefit request if the information is the basis for the denial. If the information is inaccurate, USCIS personnel will make the appropriate notations in USCIS ELIS.

7.3   How does the project notify individuals about the procedures for correcting their information?

USCIS notifies Applicants about the process for correcting information before submission through warning banners, a pre-submission PDF for review, and through the account update feature in USCIS ELIS. USCIS informs individuals during the interview process that they may provide or correct information regarding their benefit request. Otherwise, the individuals are notified through the publication of the appropriate SORNs and this PIA.

7.4   Privacy Impact Analysis: Related to Redress

Privacy Risk: There is a risk that inaccurate Automated Background Functions rule results may result in the USCIS personnel improperly denying the Applicant's benefit request. If the Applicant cannot obtain access to derogatory or erroneous information, the individual cannot correct the inaccuracy.

Mitigation: Because of the law enforcement nature of the systems queried, Applicants are not provided a formal redress procedure for the Automated Background Function process. However, USCIS provides the individual the opportunity to challenge the information during the interview process, appeals process, or through an RFE or Notice of Intent to Deny/Revoke/Withdraw, as applicable. In many cases, USCIS ELIS provides Applicants the opportunity to refute derogatory information before USCIS denies a benefit request if the information is the basis for the denial.

Section 8.0 Auditing and Accountability

8.1   How does the project ensure that the information is used in accordance with stated practices in this PIA?

USCIS ELIS will employ role-based access controls to minimize access to information beyond necessary for each user's job duties. USCIS ELIS will keep audit logs to record which users access the system and what information was viewed by the user. Records of the individual case and account histories will track who created, deleted, or edited a record and when the change was made.

In accordance with National Institute of Standards and Technology (NIST) controls and OMB requirements, staff and/or administrators of USCIS ELIS conduct a self-assessment of privacy policies and security controls, at least annually, to determine the extent to which policies and controls are implemented correctly, operating as intended, and meet the privacy and security requirements for the operating environment.

8.2   Describe what privacy training is provided to users either generally or specifically relevant to the project.

All internal USCIS ELIS users, including federal employees and contractors, must complete annual privacy training to ensure they properly handle PII. DHS personnel, contractors, and vendors with significant security responsibilities (e.g., ISSOs, system administrators) receive initial specialized training, and annual refresher training thereafter, specific to their security and privacy responsibilities. USCIS ELIS incorporates simulated events into incident response training to facilitate effective response by personnel. Staffs who are

responsible for maintaining USCIS ELIS also train personnel in their incident response roles and responsibilities with respect to the USCIS solution. They also provide refresher training on an annual basis.

USCIS maintains training records, including name, position, type of training received, and costs of training. USCIS requires internal users to complete security and privacy awareness training before authorizing accounts.

8.3 What procedures are in place to determine which users may access the information and how does the project determine who has access?

USCIS ensures that all USCIS ELIS employees are trained and agree to the system's rules of behavior before being granted access. USCIS provides security awareness training to all information system users (including managers, senior executives, and contractors) as part of initial training for new users, when required by system changes, and annually thereafter. DHS personnel and contractors with significant security responsibilities (e.g., ISSOs, system administrators) receive initial specialized training, and annual refresher training thereafter, specific to their security responsibilities prior to being granted access to DHS IT systems.

USCIS ELIS has formal documented procedures that establish appropriate divisions of responsibility and separate duties, as needed, to eliminate conflicts of interest in the responsibilities and duties of individuals. The purpose of this segregation of duties is to prevent users from having all of the necessary authority or access to information to perform fraudulent activity absent collusion.

Access controls for USCIS ELIS will follow the principles of least privilege necessary to complete the assigned tasks. USCIS maintains a list of security functions deployed in hardware, software, and firmware and security-related information. USCIS explicitly authorizes access to that functionality when feasible. In addition, USCIS advises users with privileges to use non-privileged access when accessing functions that do not require privileged access.

USCIS ELIS employees will have access to different views and content based on their roles and access privileges. USCIS ELIS will record all employee access along with their activities in USCIS ELIS. USCIS ELIS will limit each user's view to the data required to perform their job functions (e.g., adjudicator, supervisor, or performance analyst).

In addition, USCIS requires these rules to control access to the Automated Background Function tools:

1.   All information in the Automated Background Functions system is For Official Use Only (FOUO) and some information is Law Enforcement Sensitive.

2.   Assistance rules are not accessible outside of the Automated Background Functions governance process. They are visible to USCIS personnel involved in the benefit decision-making process only to show why a result was returned.

3.   Working group members that develop the assistance rules and the systems managers will be the only persons with functional access to the Automated Background Function process in USCIS ELIS. No other USCIS personnel will be able to modify the Automated Background Functions process directly.

USCIS ELIS preserves the results of the queries within the USCIS ELIS account and/or case to document the evidence available at each point in the case life cycle. As account and case records, results are accessible to USCIS personnel under USCIS ELIS's access control rules and audit procedures. USCIS personnel who do not have a job function requiring them to see the results or any portion of the Automated Background Function process will not have access to those portions of USCIS ELIS.

8.4 How does the project review and approve information sharing agreements, MOUs, new uses of the information, new access to the system by organizations within DHS and outside?

The USCIS Office of Transformation Coordination - Program Management Office, USICS Office of Information Technology, USCIS Privacy Office and USCIS legal counsel review all MOUs related to USCIS ELIS.

New uses of information and/or new access requests for the system by organizations within DHS and outside agencies go through the USCIS change control process, including assessments of impact, and must be approved by the proper Program Authorities of this process (e.g., USCIS Privacy Office, USCIS Transformation Program Office Change Control Board, USCIS Office of Information Technology, and DHS offices, where applicable).

Responsible Officials

Donald Hawkins

Privacy Officer

U.S. Citizenship and Immigration Services

Department of Homeland Security

Approval Signature

[Original signed copy on file with the DHS Privacy Office]

Mary Ellen Callahan
Chief Privacy Officer
Department of Homeland Security