

For Official Use Only



**USCIS Response to the Citizenship and
Immigration Services Ombudsman's
2021 Annual Report to Congress**

A Message from the Director

It is my pleasure to present the U.S. Citizenship and Immigration Services (USCIS) response to the Office of Citizenship and Immigration Services Ombudsman's (CIS Ombudsman) 2021 Annual Report to Congress. Our response addresses concerns raised in the Annual Report and highlights some of the agency's many accomplishments during the reporting period.



In the Annual Report, the CIS Ombudsman discusses topics of public interest, which include:

- USCIS in the time of COVID-19;
- Notice to Appear (NTA) process;
- Delayed adjudication of Form I-751, Petition to Remove Conditions on Residence;
- Challenges of Form N-648, Medical Certification for Disability Exceptions;
- Complications of USCIS' digital strategies; and
- Department of Homeland Security (DHS) support for international students.

In addition to these important topics, the Annual Report also notes areas within the agency where improvements are warranted. Our response provides plans to address these concerns. Despite unprecedented challenges USCIS faced in 2020, our goal remains to fulfill our duties to those persons seeking immigration benefits in the most efficient way possible.

I appreciate the CIS Ombudsman's thoroughness in reviewing the work of USCIS. Through efforts like the Annual Report and ongoing discussions and engagements, we can assess those areas that need improvement while reflecting on our many achievements. The opportunity to recognize our accomplishments and identify areas that need improvement is critical to mission success, and I thank the CIS Ombudsman and her team for their assistance. USCIS always stands ready to work with the CIS Ombudsman to ensure we provide the best service possible to our applicants, stakeholders, and the American public.

Sincerely,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou". The signature is fluid and includes a long horizontal flourish at the end.

Ur M. Jaddou
Director



U.S. Citizenship
and Immigration
Services

Phyllis Coven
Citizenship and Immigration Services Ombudsman
U.S. Department of Homeland Security
Camp Springs, MD 20588

Dear Ms. Coven:

Thank you for the Citizenship and Immigration Services Ombudsman's 2021 Annual Report to Congress. I value your thoughtful and comprehensive assessment of U.S. Citizenship and Immigration Services' (USCIS) processes, policies, and operations.

I reviewed the 2021 Annual Report and discussed your findings with my senior leadership team. We appreciate your analysis and proposed recommendations. My team and I concur with many of the findings.

As detailed in the 2021 Annual Report, 2020 was indeed a year like no other. The challenges presented by the COVID-19 pandemic were unprecedented and its effects continue to this day. Nonetheless, because of immediate actions taken, flexibilities instituted, and our incredibly dedicated workforce, USCIS continues to fortify our programs, make our processes more efficient, and expand the agency's digital resources.

In reference to the Notice to Appear (NTA) and Form I-751, Petition to Remove Conditions on Residence, I share your concerns. The processing and timely issuance of an NTA and prolonged wait times associated with Form I-751 are frustrating to the public and the agency alike. USCIS has taken action to implement policy changes and process every form in the most efficient way possible. As our response illustrates, we are taking initiatives to ensure the improvement of both processes.

I appreciate your recommendations on how to improve Form N-648, Medical Certification for Disability Exceptions. This form is indeed complex, but nevertheless is an important part of the naturalization process for many applicants. For that reason, USCIS continually trains our officers and provides them with resources to better equip them in processing applicants using the form. We will continue to work on improvements in the process while also ensuring disability exceptions are adjudicated in accordance with USCIS policy and regulations.

Your feedback on our modernization process is also appreciated and welcomed. I agree that a combination of unforeseen issues delayed the agency's modernization goals. However, I

am pleased with the progress we have made, especially over the past year, and I am excited about our modernization plans moving forward.

Thank you for your outreach with international students and designated school officials. Their frustrations and concerns are valid and something we take seriously. Our response highlights some of USCIS' efforts to alleviate these issues.

It is my pleasure to present USCIS' response to the Annual Report for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", followed by a horizontal line extending to the right.

Ur M. Jaddou
Director

Table of Contents

Legislative Requirement 6

Introduction..... 6

USCIS in the Time of COVID-19: A Year Like No Other 6

NTA Issuance: Problems Persist..... 11

The Wedding Bell Blues: Processing of Removal of Conditions for Conditional Permanent Residents Based on Marriage 13

Accessing the Naturalization Starting Block: The Challenges of the Medical Disability Test Waiver Process..... 15

An Update on the Continuing Complications of USCIS Digital Strategy 16

Grading DHS’s Support of International Student Programs 19

2020 Recommendations in Need of Action... 20

Conclusion 20

Appendix A: Acronyms and Abbreviations..... 20

I. Legislative Requirement

This document responds to the reporting requirements set forth in the Homeland Security Act of 2002, codified at 6 U.S.C § 272, which provides in relevant part:

- (f) Responsibilities of the Bureau of Citizenship and Immigration Services—The Director of the Bureau of Citizenship and Immigration Services shall establish procedures requiring a formal response to all recommendations submitted to such director by the Ombudsman within three months after submission to such director.¹

II. Introduction

U.S. Citizenship and Immigration Services (USCIS) thanks the Office of the Citizenship and Immigration Services Ombudsman (CISOMB) for the thoughtful, wide-ranging analysis found in its 2021 Annual Report to Congress. USCIS appreciates the Ombudsman’s review of our agency’s operations and welcomes the opportunity to respond to concerns and recommendations found in the annual report. Where appropriate, the response also highlights several of USCIS’ accomplishments in improving procedures and applicant services from Fiscal Year (FY) 2020 as well as more recent accomplishments.

III. USCIS in the Time of COVID-19: A Year Like No Other

CISOMB’s 2021 Annual Report discusses the unprecedented challenges the pandemic created for an agency that relies on face-to-face interaction. The report details what USCIS operations were like from March 2020 until May 2021 and provides a glimpse into the backlog the pandemic has created. The Ombudsman also discusses USCIS’ financial situation prior to and throughout the pandemic.

CISOMB’s 2021 Annual Report details the challenges that the COVID-19 pandemic presented and its long-lasting impact on the agency. CISOMB’s recommendations, along with USCIS’ responses to them, are provided below:

- 1. The agency cannot solely rely on fees: The experiences over the past year underscore the urgency of comprehensively reexamining the agency’s funding and staffing models.**

USCIS concurs with this observation and has taken active measures to address this issue. USCIS requested an increase of \$345 million in the FY 2022 President’s Budget Request to

¹ Pub. L. No. 107-296, 116 Stat. 2135 (2002), Homeland Security Act of 2002, online at http://www.dhs.gov/xlibrary/assets/hr_5005_enr.pdf

address the growing backlog and to meet the Administration's refugee admission target of 125,000 in FY 2022. In the FY 2022 Continuing Resolution, USCIS received \$250 million of the \$345 million that was requested. USCIS also received \$193 million for Operation Allies Welcome.

Given the size of the USCIS backlog and the rate of growth, it will require a sustained, multi-year effort to significantly reduce and ultimately eliminate the current backlog.

2. Continue pandemic best practices into post-pandemic future.

USCIS concurs with this recommendation and plans to continue many of the best practices adopted during the pandemic to improve efficiency and flexibility. The Field Operations Directorate (FOD) deployed video-facilitated interviews (VI) to help meet the requirements of physical distancing as well as COVID travel restrictions. A VI is an interview where an applicant comes to a field office that has jurisdiction over the applicant's place of residence but sits in a different physical space than the interviewing officer. As of the end of November 2021, field offices have conducted over 112,000 VIs. FOD also utilized VIs in close coordination with the Department of Defense to conduct naturalization interviews for service members and their qualifying family members who are stationed overseas. FOD plans to continue conducting VIs in the post-pandemic future, as they support health and safety protocols, improve workload management, and increase interview workload flexibility.

Similar to FOD, the Refugee, Asylum and International Operations Directorate (RAIO) also utilized a VI process to conduct asylum and refugee interviews. The International and Refugee Affairs Division (IRAD) utilized a VI process for refugee applicant reinterviews. Additionally, IRAD instituted a hybrid VI process for initial refugee applicant interviews where USCIS staff located overseas collect biometrics and validate identity to facilitate remote VIs by USCIS staff stationed domestically. These initiatives have allowed RAIO to maximize case processing capacity while maintaining safe business practices, by reducing the number of people who need to visit the office domestically for asylum interviews and the number of USCIS officers who need to travel overseas to complete refugee processing actions. Finally, RAIO expanded telework and supported its staff in completing administrative and adjudicative functions while teleworking. These measures will now be in place in the event of another national emergency and will serve to enhance adjudications even in non-emergency times.

Well before the pandemic, the Service Center Operations Directorate (SCOPS) employed an expanded part-time telework program laying groundwork for the "Service Center of the Future" initiative, a continuing effort to expand digitization and electronic adjudication processes that supports a dramatically reduced physical footprint and significantly expands telework and remote work among the SCOPS workforce. Expanded telework provides a unique opportunity to learn about what a remote workforce would look like, while considering the challenges and successes of the last year and a half. We continue to partner with the Office of Information Technology (OIT) to add online filing opportunities and expand the types of work processed electronically using agency systems and databases.

The Office of Citizenship (OoC), within the External Affairs Directorate, provides unique citizenship preparation services relied upon by applicants and potential applicants for naturalization. In order to maintain services, OoC created innovative practices to include expanded virtual monitoring, virtual technical assistance, working with partner agencies and testing companies to develop online and phone-based testing (in lieu of in-person testing that had been the standard approach prior to the pandemic), and the creation of web-based teacher training programs. OoC plans to use the innovative practices used during the pandemic to create a hybrid system of both in-person and virtual services in order to best serve the needs of all its stakeholders.

3. Develop and implement a strategic backlog reduction plan.

USCIS concurs with this recommendation. USCIS directorates are committed to the timely processing of all benefit types, while maintaining the integrity of each respective program and abiding by all applicable laws and regulations. SCOPS has been diligently working towards backlog reductions, making great strides in electronic processing development, namely with online adjudication and case filings. SCOPS believes electronic filing and adjudication within an electronic environment will help streamline adjudications. This assessment is based on a calculation that work will be readily available to all five service centers without the need for paper A-File transfers in some cases or for stakeholders to submit a paper filing.

To mitigate the biometrics backlog experienced during the pandemic, USCIS leveraged biometrics reuse² authorities to the greatest extent possible to minimize the strain on Application Support Centers (ASCs) capacity, while maintaining integrity in the vetting of applicants and adjudications. The agency suspended the biometrics requirements for individuals seeking change of status to or extension of stay in E, L, and H-4 nonimmigrant classifications. It has also expanded capacity at ASCs, including extended hours at locations where there is the greatest demand. USCIS remains mindful of the importance of identity verification and vetting and is carefully considering strategies that minimize risk while diminishing the time burden for our customers.

Although the affirmative asylum backlog remains high, the Asylum Division remains committed to reducing the backlog through a combination of strategic staffing increases and a broad range of efficiency measures. A key component to eliminating the affirmative asylum backlog has been a surge of staffing at USCIS asylum offices. At the end of FY 2020, the Asylum Division was authorized 1,710 total positions, including 769 total asylum officers.

FOD has undertaken the following initiatives as part of its strategic efforts to reduce backlogs:

² Consistent with USCIS authorities, USCIS took previously submitted biometrics (fingerprint and photo) to process new Employment Authorization Documents (EAD).

- a. The agency is working to reduce the naturalization oath queue and digitize paper filings to allow better distribution of work and reduce file movement as part of the backlog reduction plan.
- b. Assessment-based Interview Scheduling: FOD has been moving toward a more strategic, data-driven approach to determining the characteristics of cases where an interview adds appreciable adjudicative value. The transition from categorical interview criteria to a data-driven assessment-based approach will help better define the number of resources and personnel that should be devoted to interviews for specific product lines. The goal is to enhance efficiency while maintaining the integrity of the adjudicative process and delivering quality substantive decisions on the immigration benefits sought. To that end, FOD has deployed the following procedural tools to date:
 - *Form N-400, Application for Naturalization, Assessments*: As N-400 cases are made ready for initial interview scheduling, automated tools are used to identify factors that may be relevant for the interview and adjudication and to tailor scheduled interview lengths, rather than scheduling all N-400 interviews for the same length of time. This allows field offices to schedule N-400 interviews in a more efficient manner and more effectively assign casework. Immigration services officers (ISOs) retain the authority and flexibility to conduct a full and accurate interview.
 - *Employment Based (EB) Form I-485, Application to Register Permanent Residence or Adjust Status, Adjudication Review*: After completing a two-year study on the adjudicative outcomes of EB I-485s, FOD established interview criteria consistent with our authority to require or waive interviews. FOD implemented this interview criteria in FY2021 to concentrate interviewing resources on cases where an interview adds value.
 - *Family-Based (FB) Form I-485, Application to Register Permanent Residence or Adjust Status, Assessments*: Similar to the Form N-400, USCIS also used automated tools to identify appropriate interview length and case factors that should be explored as part of FB Form I-485 adjudications. ISOs retain the full authority over substantive determinations and discretionary determinations.

Centralized Post-Interview Processing (CPIP) Pilot: FOD recently conducted a pilot that experimented with shifting post-interview casework, such as reviewing Requests for Evidence (RFEs) responses, issuing a final decision, and drafting Notices to Appear (NTAs) – actions that can be completed without employees physically possessing the A-File or requiring the transfer of the case to another field office that has more capacity. The adjudicating officer who conducted the interview still renders the final decision on the application. Initial pilot results were very positive, and FOD is exploring options for a follow-on pilot.

4. Resist the temptation to divert significant money from the agency’s digital strategy.

Today, USCIS uses the Capital Planning and Investment Control (CPIC) framework to track and report on the projected USCIS IT costs: personnel, operations and maintenance, and development. Those budget projections are included each year in the [Future Years](#)

[Homeland Security Program Fiscal Year 2020 Report to Congress](#) that projects the Department's budget five years into the future.

Operating within the existing CPIC framework supports the USCIS OIT development approach to leverage existing domains and services. In addition, it promotes the delivery of Minimum Viable Product solutions that provide a framework upon which future improvements can be added. Over the next five years, USCIS plans to expand domain capabilities and end-to-end electronic processing across all remaining lines of business for applications, petitions, and requests for benefits.

There are many factors that may affect these costs, which will be reviewed and possibly adjusted during our annual planning efforts. Any additional development requirements can be procured using surge capacity on current contracts. USCIS plans to use CPIC guidelines, and the procurement strategies adopted under CPIC if additional procurements, beyond the surge capabilities in current contracts, are needed in the future to implement the five-year strategy in section 4103 of the USCIS Stabilization Act, a provision of the [Continuing Appropriations Act, 2021 and Other Extensions Act \(Pub. L. 116-159\)](#).

This digital strategy is one the agency has prioritized in terms of allocating funding, and the agency will look to continue to fund this strategy through premium processing revenue.

5. USCIS should engage in a comprehensive education campaign on its e-tools.

The External Affairs Directorate (EXA) created a dedicated public outreach team to educate internal and external stakeholders on the processes and benefits of USCIS online tools and services, including online filing. On March 31, we partnered with CISOMB to host a public engagement on USCIS' online filing and customer service tools. USCIS also delivered two successful engagements on online filing of the Form I-765, Application for Employment Authorization, including one joint presentation with CISOMB on May 5. USCIS also has conducted engagements for the new online filing of the Form I-821, Application for Temporary Protected Status (TPS). We will continue to conduct joint engagements with CISOMB to reach stakeholders whenever we release any new functionality. We welcome the Ombudsman's commitment to serve as our ambassador for online filing and digital tools. We will continue to look for opportunities to promote our various self-service tools.

6. A robust public engagement effort to anticipate and manage expectations, including the sharing of setbacks, as well as gains is critical.

USCIS continues to engage with stakeholders on processing times, adjudicative flexibilities, and other impacts from the COVID-19 pandemic via stakeholder messages, national engagements, posting of information to [uscis.gov](#), and local outreach events. In March, we began an agency-wide 60-day review of public engagement to reinvigorate our outreach efforts. The review identified key priorities and ways to increase engagement opportunities. We began implementing many of the recommendations, and we hosted engagements and listening sessions for stakeholders over the past several months. In 2021, we held 46 national engagements with nearly 9,000 participants in these virtual events. Locally, we held more

than 2,000 engagements with approximately 67,000 participants. We covered more than 20 discrete topics, including citizenship/naturalization, online filing, TPS, public charge, avoiding immigration scams, Liberian Refugee Immigration Fairness, family-based petitions, business immigration, and COVID visitor procedures for local offices.

IV. Notice to Appear (NTA) Issuance: Problems Persist

The report focuses on the lasting impact the 2018 NTA Memorandum has had on the efficiency of USCIS' ability to properly issue NTAs to noncitizens. The CISOMB acknowledges that many of the problems existed before the 2018 NTA Memorandum but feels they got much worse after it was issued. The CISOMB believes administrative efficiency would be achieved if DHS and Department of Justice (DOJ) consider regulatory changes that would allow immigration judges to adjudicate immediate relative petitions.

The 2018 NTA Memorandum, which was issued on June 28, 2018, was rescinded pursuant to then Acting Secretary of Homeland Security David Pekoske's Memorandum on interim enforcement priorities issued in January 2021. With respect to CISOMB's recommendation that Executive Office for Immigration Review's (EOIR) immigration judges adjudicate immediate relative petitions, there are two possible approaches, neither of which can be solely accomplished by USCIS. USCIS notes that this suggestion requires a statutory change because the [Homeland Security Act](#) delegates the authority to adjudicate immigrant visa petitions to DHS, not DOJ. Thus, the proposed regulatory change would not be sufficient. The alternative to a statutory change would require a delegation of authority by the Secretary of Homeland Security to DOJ with the concurrence of the Attorney General, under 8 U.S.C. 1103.

CISOMB's recommendations regarding NTA policy, along with USCIS' responses to them, are provided below:

1. USCIS should improve coordination and reconsider its role in the service of NTAs.

While USCIS will strive to coordinate and better define our role in serving NTAs, we would like to correct an inaccuracy about NTAs contained in the CISOMB's report. The report suggested that USCIS pivoted to directly filing NTAs with EOIR due to the 2018 NTA policy. While implementation of the 2018 NTA Memorandum occurred around the same time USCIS decided to directly file NTAs with EOIR, that decision was to address a separate concern unrelated to the 2018 NTA Memorandum. Historically, when USCIS relied on U.S. Immigration and Customs Enforcement (ICE) to file NTAs with EOIR, we experienced a growing trend where ICE did not timely file with the court legally sufficient NTAs produced by USCIS. This situation led to NTAs being served on noncitizens who thought they were in removal proceedings when, in fact, they were not. This situation was complicated further because, following the U.S. Supreme Court's decision in *Pereira v. Sessions*, 136 S. Ct. 2105 (2018), EOIR required a time and date to be placed on the NTA and the NTA be filed with EOIR 30 days in advance of the hearing. The EOIR case scheduling system assigns the next available date and does not allow users to pick a date or time. This often resulted in

scheduling of initial hearing dates close to the 30-day filing window and required immediate filing of the NTA with EOIR. If USCIS were to rely on ICE to file these NTAs on our behalf, it would result in noncitizens appearing for a hearing before the immigration judge and EOIR received the NTA. The decision to directly file NTAs with EOIR was not due to the 2018 NTA policy and continues even after the 2018 NTA policy was rescinded.

USCIS will continue leveraging contacts at EOIR and ICE to coordinate and better define our role in serving NTAs in accordance with the DHS Guidelines for the Enforcement of Civil Immigration Law memorandum that was issued on September 30, 2021, and became effective on November 29, 2021.

2. Develop guidance for all directorates to define when in-person service is not practicable.

RAIO will continue to provide in-person issuance and mail-out services of NTAs according to previously established standardized procedures.

Both FOD and SCOPS have guidance in place that defines the steps an officer must take to serve an NTA on a noncitizen. This includes a focus on serving NTAs via mail as it is not routinely feasible for FOD or SCOPS to serve an NTA on a noncitizen via in-person methods.

USCIS acknowledges CISOMB's recommendation to serve NTAs in person where practical; however, there are several reasons why this may not be feasible across all directorates. INA section 239(a)(1), 8 U.S.C. 1229(a)(1), provides that service of an NTA on a noncitizen can be done in person or, if personal service is not practicable, through mail to the noncitizen or to the noncitizen's counsel of record. With exception to NTAs issued by USCIS' Asylum Division, USCIS generally does not issue an NTA unless a status-impacting application is denied and all motion or appeal periods are expired, or after a motion or appeal is unfavorably adjudicated. This is to limit NTA issuance only to those who no longer have a viable means before USCIS to remedy their status. In-person service of an NTA is not practical in this situation as oftentimes these NTAs are issued more than 45 days after denial. This timeframe accounts for the appeal period as well as additional time should there be unanticipated delays in mail processing. Additionally, due to the operational need to balance resources, NTA issuance may be significantly delayed beyond this as officers are required to interview and adjudicate pending benefit requests. Because a final decision has already been rendered on these benefit requests, noncitizens are unlikely to appear at a field office solely for NTA service.

3. Serve NTAs by certified mail.

Most NTAs issued by FOD are served by regular mail in accordance with 8 C.F.R. § 1003.13, which states NTAs shall be served "to the alien in person, or if personal service is not practicable, shall be served by regular mail to the alien or the alien's attorney of record (emphasis added). USCIS will continue to assess the efficacy of using certified mail for NTAs, particularly in consideration of potential fiscal impact on increasing fees on benefit requestors.

4. Update the appropriate case management system to reflect that an NTA has been issued and, if applicable, when returned as undeliverable.

FOD and SCOPS officers are currently instructed to update case management systems to reflect when an NTA has been issued and, if applicable, when returned as undeliverable. USCIS will consider the feasibility of making system enhancements to display this information to noncitizens via online portals that enable them to view updates to their case status.

5. USCIS needs to recommit to creating a fair and just process.

USCIS will reaffirm its commitment to creating a fair and just process in alignment with the current Administration’s Executive Orders and enforcement priorities.

6. USCIS needs to review additional ways to increase administrative efficiency.

USCIS will continue to review additional ways to increase administrative efficiency.

V. The Wedding Bell Blues: Processing of Removal of Conditions for Conditional Permanent Residents Based on Marriage

The CISOMB questions whether the intent of the Immigration and Marriage Fraud Amendments of 1986 (IMFA) is being realized with USCIS’ lack of efficient processing of Form I-751, Petition to Remove Conditions on Residence. The report pointed to data suggesting fraud is not being captured at a rate that justifies the amount of time it takes to process Form I-751. While USCIS agrees there are improvements that can be made in selecting referral criteria to best identify marriages that may be fraudulent, USCIS disagrees with some of the conclusions drawn from the data discussed by the Ombudsman. For example, the Ombudsman suggests that if a Form I-751 petition was not specifically denied for fraud, then that reflects that the fraud “does not exist.” However, Form I-751 petitions based on fraudulent marriages may be denied for a variety of reasons, including those cited as non-fraud-related, such as failure to appear for interview, failure to respond to a Request for Evidence or Notice of Intent to Deny, and for a lack of bona fides. The Ombudsman also pointed to data contained in an annual report to Congress to conclude that field office denials specifically for fraud were 3 percent in FY 2019 and 1 percent in FY 2020.³ However, the data referenced in the cited report reflect only the History Action Code (HAC) that was used in connection with the Form I-751 petition’s denial. The HAC is not a reliable indicator of whether the underlying marriage is bona fide or fraudulent. Furthermore,

³ Footnote 149 indicates these calculations were made based on information contained within “Annual Report on the Impact of the Homeland Security Act on Immigration Functions Transferred to the Department of Homeland Security,” USCIS, p. 14 (Apr. 29, 2020); <https://www.uscis.gov/sites/default/files/document/reports/Annual-Report-on-the-Impact-of-the-Homeland-Security-Act-on-Immigration-Functions-Transferred-to-the-DHS-FY19-Signed-Dated-4.29.20.pdf> (accessed Apr. 12, 2021).

adjudicators do not necessarily select the fraud-related HAC even when the denial concludes that the petitioner did not establish the marriage is bona fide (because, for example, the marriage is fraudulent).

The Ombudsman acknowledges USCIS has no control over the law as it is written but believes there are steps USCIS can take to make the process more efficient.

CISOMB's recommendations, along with USCIS' responses to them, are provided below:

- 1. Lengthen the validity period for temporary evidence of Conditional Permanent Resident (CPR) status issued upon receipt of the Form I-751, to avoid the need for in-person field office visits to obtain continued conditional permanent resident status.**

On September 4, 2021, USCIS revised the receipt notices for Form I-751, Petition to Remove Conditions on Residence to increase the extension of the conditional permanent resident's Form I-551, Permanent Resident Card, from 18 months to 24 months. This project has been completed.

- 2. Revise interview waiver criteria to make interviews more efficient.**

USCIS is currently reviewing ways to increase efficiency in Form I-751 processing and to incorporate practices in accordance with the *Fraud Reduction and Data Analytics Act of 2015*.

- 3. Post processing times for individual field offices, not as an aggregate, to better inform petitioners on their real wait times.**

USCIS is aware of the processing delays associated with Form I-751 cases and is working toward solutions, including incorporating the Form I-751 into ELIS for more efficient processing. USCIS began initial testing in early-February 2022.

- 4. Initiate further improvements to concurrent Form I-751/N-400 processing to increase efficiencies.**

USCIS began gathering business requirements to support technical development for electronic adjudication of Form I-751 in the spring of 2021. Initial testing began in early February 2022, with full deployment anticipated by the end of the calendar year 2022.

Currently, when an applicant files concurrently Form I-751 and Form N-400, Application for Naturalization, each form is often sent to different offices for processing. USCIS already conducts electronic adjudication of Form N-400, and once the testing for Form I-751 is complete, both forms will be on a single electronic adjudication system. Moving to a single, electronic environment will provide more efficient case transfer and adjudicative capabilities. In the meantime, SCOPS and FOD continue to work closely to coordinate processing to minimize delays for Form N-400 applicants with a Form I-751 pending.

VI. Accessing the Naturalization Starting Block: The Challenges of the Medical Disability Test Waiver Process

Prior to addressing the content of this section, USCIS wants to address the title of the section. CISOMB addresses the Form N-648 as a test waiver, however Form N-648, if granted, provides an exception, not a waiver, to the English and civics testing requirements for naturalization.

CISOMB stated that due to the complexity of the Form N-648, Medical Certification for Disability Exceptions, and the associated costs, it is often difficult to locate an affordable medical professional willing to complete the form. CISOMB also noted insufficient training provided to both medical professionals and USCIS adjudicators typically results in incomplete information on the Form N-648 and disparate outcomes. Those seeking exceptions to the civics and English tests also face lengthier processing times, and 2018 policy revisions designed to combat fraud have created challenges for legitimate applicants.

CISOMB has asked USCIS to consider the following recommendations to improve Form N-648 processing:

- 1. Better educate stakeholders on the availability of online filing of the Form N-400 with a disability waiver request to streamline submission and encourage online filers.**

USCIS will continue to evaluate the need to conduct outreach and educate the public about filing Form N-400 online via myUSCIS with the Form N-648 uploaded as evidence at the time of filing.

- 2. Pre-adjudicate concurrently filed Forms N-648 at the National Benefits Center (NBC) to foster consistency and efficiency.**

This has been tried before and not found effective as additional information is often needed prior to and from information provided by the applicant during the interview.

- 3. Increase USCIS adjudicators' training to improve consistency of adjudication.**

USCIS officers receive training on Form N-648 on policy updates when changes are made to the Form N-648 and field offices offer refresher training periodically. USCIS also continues to review and update N-648 training materials.

4. Expand the list of authorized medical professionals, such as by including nurse practitioners, to improve access to and raise the quality of information provided.

USCIS appreciates the Ombudsman’s recommendations and review of the Form N-648 disability exception process. USCIS will review the list of medical professionals who are authorized to certify the Form N-648 and consider whether expanding the list codified at 8 CFR 312.2 is warranted.

5. Increase targeted public engagements with authorized medical professionals and legal and community-based organizations that facilitate completion of Form N-648 to ensure effective assistance.

Under [Executive Order 14012](#), *Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans*, an Interagency Working Group on Promoting Naturalization (Naturalization Working Group), chaired by USCIS, was established in March. The Naturalization Working Group has been developing and implementing a national strategy building on community outreach and deepening partnerships to promote naturalization. USCIS is also looking at ways to promote naturalization through a robust public engagement strategy with federal, state, and local partners; community-based organizations; networks and businesses. USCIS will continue to evaluate the need to do outreach and educate stakeholders about filing Form N-400 online and uploading the Form N-648 as evidence at the time of filing. USCIS also will explore additional guidance or training for medical professionals on how to properly complete Form N-648, consistent with any forthcoming policy and/or form changes and in consideration of USCIS resources and competing priorities.

VII. An Update on the Continuing Complications of USCIS Digital Strategy

Pursuant to a congressional mandate, USCIS has drafted a plan to establish electronic filing procedures for all immigration forms and to implement a system to facilitate two-way electronic communications with its customers by FY 2026. CISOMB recognizes USCIS’ significant progress over the past year in support of its digital strategy and pursuit of a fully electronic environment, despite funding cuts, pandemic protocols, and other challenges in employing its existing digital tools. However, achieving these goals also requires confronting several ongoing obstacles.

The report listed the following as obstacles to achieving digital strategies:

- Lack of transparency.
- Prioritization of online filing types.
- Lack of engagement with form vendors and failure to create third party system integration to facilitate online filing by outside vendors using case management systems for filing.
- Competing demands for future premium processing fees.

- Centralized portal for G-28 representatives to filing electronically and receive client notifications

CISOMB recommendations, along with USCIS' responses to them, are provided below:

1. Implement outreach and education to encourage customers to file online.

USCIS agrees that outreach and education are important portions of the rollout for online filing. For this reason, EXA has crafted a robust outreach plan to encourage customers to file online. Activities include national engagements for each new form available for online filing, posting of presentations and Q&As from these engagements to uscis.gov, providing outreach materials to community relations officers to use in local outreach events, and providing internal training on online filing to all external communicators.

USCIS has developed a 5-year project schedule leading to a goal of complete electronic capability by FY 2026. It is important to note that despite USCIS' continued expansion of electronic filing capabilities, some customers are still choosing paper as their preferred method to submit applications, petitions, and requests for benefits. In FY 2020, USCIS lockboxes across the country received approximately 1.5 million paper filings for applications, petitions, and requests for benefits that can be filed online. Certain paper filings submitted at the lockbox are converted into an electronic format so that the data can be processed and adjudicated electronically. This process (also referred to as ingestion) helps support efficiency by ensuring paper filings that are digitized will be processed in the same manner as forms that are filed directly into the online environment. USCIS anticipates paper filing will continue at significant levels absent incentives to adopt online filing. USCIS will continue to support intake of paper filings and work to improve the customer experience for those that choose paper.

2. Establish relationships with third-party case management and forms vendors.

USCIS wants to promote and enable the development of solutions related to electronic filing and processes to support electronic capabilities. Leveraging industry solutions and efficiencies for a third-party/NextGen intake system can support the needs of the Agency and its customers.

OIT is looking at ways to expose Application Programming Interfaces (APIs) for USCIS systems to provide digital API products that are easily consumable by third party vendors. This methodology would offer self-service functionality similar to that used by other Federal agencies like the United States Postal Service. Efforts continue in the development of the API platform and software to accept, validate, and properly receipt submissions; communicate and coordinate form changes with vendors; respond to vendor issues in a timely fashion; set up a help line to deal with rejected submissions; and better gauge resource requirements, such as establishing a technical team to be on-call for continuous operations and support. OIT will continue to engage with industry and government agency partners, as appropriate, to further develop, test and deploy Third Party Integration API technology.

3. Prioritize the development of high impact/volume immigration benefit filings.

USCIS has formed the Information Technology Steering Committee, a high-level group responsible for prioritizing IT development, including the development of forms for online filing. In addition to prioritizing forms, we are also focusing on building and enhancing the online account experience for applicants, petitioners, representatives and registrants. We continue to assess other account types that might be beneficial to our users.

4. Recommit to helping non-English proficient customers.

USCIS is committed to serving stakeholders with limited English proficiency and those with disabilities through our website, online resources, and self-help tools. We ensure that people with limited English proficiency and those with disabilities can use our online resources. USCIS has a Language Access Working Group with members from across USCIS who review and analyze best practices and strategize on how to improve language service for our stakeholders.

5. Consider interim measures.

a. Increase use of electronic communications (email with attachments if possible) between officers and benefit filers, including their legal representatives.

USCIS appreciates these recommendations. A requirement of Section 4103 of the Emergency Stopgap USCIS Stabilization Act is: “(3) Issue correspondence, including decisions, requests for evidence, and notices of intent to deny, to immigration benefit requestors electronically.” USCIS has recently finalized its strategy to fully implement the requirements. Expanding the ability to communicate electronically with our customers is integral to achieving efficiencies in overall processing.

b. Establish a central portal for Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, that allows legal representatives to submit such notices electronically. USCIS can match these filings with the corresponding A-file.

We appreciate this recommendation. Attorneys are currently able to create a representative account through the myUSCIS portal to file certain online forms for their clients. We will continue to maintain this online, account-based filing capability for attorneys and accredited representatives as we expand electronic adjudication and explore new methods for filing submissions.

c. Expand access to filing fee payments by credit card to all forms submitted online or through USCIS’ lockboxes. USCIS should use its agile development approach to adopt an enterprise-level payment system to allow those who directly file their applications with a USCIS field office or service center to pay by credit card.

All USCIS lockbox and field office filing locations are capable of accepting payments by credit card through the U.S. Treasury Department’s Pay.gov service. In the late spring of 2021, USCIS launched a pilot at the Nebraska Service Center offering credit

card payment using Form G-1450, Authorization for Credit Card Transactions, for U nonimmigrants filing Form I-485. In July, that pilot expanded to include Form I-907, Request for Premium Processing, for Form I-140, Immigrant Petition for Alien Workers. During the pilot, Service Center staff are working closely with the Office of the Chief Financial Officer to ensure that proper standard operating procedures and financial controls are in place and working as designed. The Texas and Vermont Service Centers began accepting credit card payments in September for the Form I-140/I-907 workload.

VIII. Grading DHS's Support of International Student Programs

The report highlights the challenges to the effective administration of international student programs. The CISOMB states that while USCIS and ICE each have a specific oversight role with respect to students in the immigration system, the inadequate lines of communication and data exchange between these two agencies, and with Designated School Officials (DSOs), is problematic. The COVID-19 pandemic exacerbated long-standing challenges, including inconsistent guidance from ICE, lengthy USCIS processing times, and the inability to receive timely information from both agencies. Foreign students also experienced substantial delays in obtaining Optional Practical Training (OPT) application receipts from USCIS, which prompted the agency to expand its online filing capabilities. CISOMB provided suggested improvements needed to increase compliance and make government interactions more user-friendly.

Through extensive stakeholder outreach, the Ombudsman identified the following improvements needed to increase compliance and make government interactions more user-friendly:

1. Foster collaboration through an effective DHS working group involving headquarters and field participants.

Currently USCIS and ICE's Student and Exchange Visitor Program (SEVP) have a monthly meeting where we share information, collaborate on public messaging, share best practices, and discuss system integrations.

2. Enhance training for DSOs to improve understanding of advanced issues and fraud.

Although USCIS is not officially tasked with training or monitoring DSOs, USCIS has assisted ICE in reviewing materials and participating in DSO sessions in the past. Should ICE SEVP ask for similar assistance, USCIS would provide assistance with training DSOs.

3. Eliminate communication barriers between DSOs and USCIS.

The general process for DSO communication with DHS is that DSOs first communicate with ICE and then ICE communicates with USCIS. USCIS has regular, informal communications with ICE SEVP. In addition, USCIS has a dedicated mailbox for DSOs to inquire about I-

765 employment authorization applications or submit certain requests on behalf of their students. As such inquiries are time-sensitive, the mailbox provides DSOs with an expeditious way to inquire about their students’ I-765 applications.

IX. Updates to the Ombudsman’s 2020 Recommendations

In this section, CISOMB provided updated responses to the recommendations they provided in the 2020 Annual Report.

CISOMB indicated that its “analysis supports that USCIS could have more authority over confirming the eligibility and legitimacy of the employer, the training opportunity, and the student, and be able to verify the existing requirements and the training program, the identity of the employer, and the good standing and completion of the course of study.” USCIS notes that for the other updated recommendations, USCIS acknowledges receipt of these recommendations, and we will continue to review our processes and make improvements to better serve constituents.

X. Conclusion

USCIS appreciates the CIS Ombudsman’s efforts in preparing its 2021 Annual Report. We are grateful for the opportunity to review the areas where the agency is meeting or exceeding its intended goals and the areas where we can improve our operations. The USCIS workforce is committed to lawfully and efficiently adjudicating the benefit applications received as well as continuing to provide exceptional service to all our applicants, their representatives, and internal and external stakeholders.

As this response notes, USCIS agrees with many of the concerns and recommendations found in the Annual Report and is in the process of implementing many of them.

Appendix A: Acronyms and Abbreviations

| | |
|--------|--|
| API | Application Programming Interface |
| ASC | Application Support Center |
| CISOMB | Office of the Citizenship and Immigration Services Ombudsman |
| CPIC | Capital Planning Investment Control |
| CPIP | Centralized Post Interview Pilot |
| CPR | Conditional Permanent Resident |
| DHS | Department of Homeland Security |
| DOJ | Department of Justice |
| EAD | Employment Authorization Document |
| ELIS | Electronic Immigration System |

| | |
|---------|---|
| EOIR | Executive Office for Immigration Review |
| EXA | External Affairs Directorate |
| FB | Family-Based |
| FDNS | Fraud Detection and National Security Directorate |
| FDNS-DS | Fraud Detection and National Security Directorate Data System |
| FOD | Field Operations Directorate |
| FY | Fiscal Year |
| HAC | History Action Code |
| ICE | Immigration and Customs Enforcement |
| IMFA | Immigration and Marriage Fraud Amendments of 1986 |
| INA | Immigration and Nationality Act |
| IRAD | International and Refugee Affairs Division |
| ISO | Immigration Services Officer |
| NBC | National Benefits Center |
| NTA | Notice to Appear |
| OIT | Office of Information Technology |
| OPT | Optional Practical Training |
| OoC | Office of Citizenship |
| RAIO | Refugee, Asylum and International Operations Directorate |
| RFE | Request for Evidence |
| SCOPS | Service Center Operations Directorate |
| SEVP | Student and Exchange Visitor Program |
| TPS | Temporary Protected Status |
| USCIS | U.S. Citizenship and Immigration Services |
| VI | Video-facilitated Interviews |