



Visa Overstay Enforcement Investigations Expenditure Plan

August 1, 2016

Fiscal Year 2016 Report to Congress



**Homeland
Security**

U.S. Immigration and Customs Enforcement

Message from the Director

I am pleased to present the following report, “Visa Overstay Enforcement Investigations Expenditure Plan,” which has been prepared by U.S. Immigration and Customs Enforcement.

This report was prepared in accordance with Senate Report 114-68, which accompanies the *Fiscal Year 2016 Department of Homeland Security Appropriations Act* (P.L. 114-113).

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

The Honorable John R. Carter
Chairman, House Appropriations Subcommittee on Homeland Security

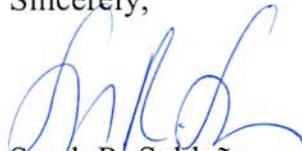
The Honorable Lucille Roybal-Allard
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable John Hoeven
Chairman, Senate Appropriations Subcommittee on Homeland Security

The Honorable Jeanne Shaheen
Ranking Member, Senate Appropriations Subcommittee on Homeland Security

Inquiries related to this report may be directed to me at (202) 732-3000 or to the Department’s Deputy Under Secretary for Management and Chief Financial Officer, Chip Fulghum, at (202) 447-5751.

Sincerely,



Sarah R. Saldaña

Director

U.S. Immigration and Customs Enforcement





Visa Overstay Enforcement Investigations Expenditure Plan

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I. Legislative Requirement

This report was prepared in accordance with Senate Report 114-68, which accompanies the *Fiscal Year (FY) 2016 Department of Homeland Security (DHS) Appropriations Act* (P.L. 114-113).

Senate Report 114-68 states:

OVERSTAY ENFORCEMENT

The Committee recommends \$10,000,000 above the request to increase HSI's visa overstay enforcement investigations. The Committee expects that, once identified and apprehended, targeted aliens should be removed by ERO. The Committee directs ICE to report on its plans for spending these resources within 60 days of the date of enactment of this act.

II. Background

U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) has established initiatives to safeguard against terrorism and ensure the security of the homeland. These initiatives include identifying terrorist threats overseas and at U.S. ports of entry, and arresting, detaining, and ultimately removing terrorists from the United States. By extending the border of the United States overseas, ICE mitigates terrorist threats emanating from transnational travel, trade, and finance schemes before they affect the United States. ICE uniquely is positioned, principally through border search and administrative and criminal investigative authorities, to counter terrorist threats to the homeland in close coordination with law enforcement partners and the Intelligence Community (IC). This seamless coordination enables timely and accurate detection, investigation, interdiction, prosecution, and removal of foreign terrorists, terrorist supporters, and hostile foreign agents within the United States. ICE's counterterrorism strategy consists of overseas capacity building; pre-adjudication vetting of visas; national security investigations at U.S. ports of entry; illicit travel, trade, and finance investigations; the identification of national security threats; and the detention and removal of terrorists and terrorist supporters.

ICE's overstay and visa violator enforcement efforts are prioritized using an intelligence-driven framework to identify individuals who may pose national security or public safety concerns. ICE prioritizes overstay and visa violator leads through risk-based analysis. A targeting framework consisting of 10 tiers was developed in close consultation with the intelligence and law enforcement communities to ensure that national security and public safety concerns are prioritized. To accomplish this, ICE meets regularly with interagency partners to ensure that its targeting methodologies are in line with current threat information, trends, and priorities.

As part of the overstay enforcement mission, ICE proactively scrutinizes known or suspected terrorists and their associates; identifies terrorists and criminal enterprises, and prevents terrorists and other criminals from exploiting the Nation's immigration system; and expands information sharing with various law enforcement agencies and the IC. ICE accomplishes its mission by conducting specialized research and analysis, executing targeted operations and special initiatives, and leveraging ICE's expertise with partnering agencies in identifying national security threats.

ICE focuses its efforts on identifying and prioritizing enforcement action against foreign nationals who overstayed their period of admission or otherwise violated the terms or conditions of their admission into the United States. ICE receives nonimmigrant compliance information from various investigative databases and DHS entry/exit registration systems. The information identifies nonimmigrants who have entered the

United States through an established immigration entry process and may have failed to comply with immigration regulations.

To enhance enforcement efforts, ICE will dedicate additional resources to the investigation and enforcement of visa overstays. ICE will continue to target overstay and visa enforcement efforts on violators who may pose national security and public safety concerns. ICE intends to use the appropriated \$10 million to implement two pilot programs that better capture the overarching visa lifecycle and that identify foreign students who have access to sensitive technology.

A. Overstay Lifecycle Initiative

ICE will conduct a pilot project that tracks the lifecycle of certain nonimmigrant visitors from the time that they file a visa application to the time that they depart from the United States, or until such time as they become an overstay or otherwise fail to comply with their terms of admission (i.e., become “out-of-status”). The Overstay Lifecycle Initiative pilot project aims to allow ICE continuously to monitor, vet, and identify any derogatory information on foreign visitors that may arise during their period of admission into the United States, or until such person violates his/her visa status. In instances that any violators are identified, appropriate enforcement actions will be initiated.

The Overstay Lifecycle Initiative pilot project will focus its efforts on nonimmigrants seeking business/tourist (i.e., B1/B2) or student (i.e., F, J, and M) visas from at least two Department of State (DOS) visa issuing posts. The posts will be selected, inclusively, to complement existing HSI screening efforts and in response to recent global acts of terrorism perpetrated in those countries.

As part of the pilot project, visa applicants will be screened through the Pre-Adjudicated Threat Recognition Intelligence Operations Team (PATRIOT) automated process;¹ those flagged as having potential derogatory information then will be vetted manually by U.S.-based analysts, as is the current process for all 28 PATRIOT visa security unit posts when derogatory information is identified through the visa screening process.

The pilot project will integrate the PATRIOT screening/vetting processes, along with ICE’s social media vetting and overstay enforcement efforts during an individual’s presence within the United States, in order to identify leads that match ICE’s national security prioritization criteria.

¹ PATRIOT conducts automated screening of visa application information against DHS holdings, as well as holdings of other U.S. agencies, prior to a nonimmigrant visa applicant’s interview and visa adjudication. The process includes in-depth vetting of applicants identified as potentially having derogatory information; these applicants may be of investigative interest or may be ineligible to receive U.S. visas. PATRIOT takes a risk-based approach and uses interagency resources from ICE, U.S. Customs and Border Protection, DOS, and the IC to identify national security and public safety threats.

Under the current PATRIOT screening process, visa holders from locations where PATRIOT screening is conducted are not tracked after entering the United States for compliance or any other violation. This Overstay Lifecycle Initiative pilot project would close a potential gap and more closely screen and track all individuals from the selected pilot project locations from the time of visa application through entry into and stay in the United States. It would provide continuous vetting of these individuals until a subsequent departure or overstay/out-of-status concern is identified.

The pilot project's improvements to the existing processes will require integrating social media vetting tools to work with PATRIOT to provide such vetting at the time of visa application. Enabling this capability will require enhancements to PATRIOT through third-party systems/program modifications. The Counterterrorism and Criminal Exploitation Unit's (CTCEU) case management system, LeadTrac, also will be modified to ingest information related to those visa applicants upon entry, and to conduct continuous vetting and monitoring for previously unidentified and/or new derogatory information located through traditional methods, as well as social media, throughout the entire lifecycle of the visa.

B. Domestic Mantis Initiative

As part of its overstay enforcement efforts, HSI will conduct a pilot project that better identifies those nonimmigrant students who entered the United States to study a nonsensitive field of study, and who subsequently changed their field of study to a sensitive area. This pilot program is being developed in response to a 2007 U.S. Government Accountability Office assessment that concluded that there is a significant vulnerability with nonimmigrant student and exchange visitors who enter the United States to study in a nonsensitive field of study and subsequently transfer to a sensitive field of study once in the United States. These individuals could pose a substantial risk related to the diversion of sensitive technology, materials, or information.

DOS created the Visas Mantis program to prevent proliferation of, and maintain the U.S. advantage in, militarily critical technologies. Currently, the Visas Mantis review process assesses the proliferation risk related to the issuance of a visa overseas to a national of a country of proliferation concern. However, it does not specifically address nonimmigrant students or exchange visitors who legally enter the United States with a valid student visa and then change their course of study to a field that would be related to a sensitive technology on the DOS Technology Alert List (TAL). Moreover, once in the United States, the Student and Exchange Visitor Information System (SEVIS) lacks an automated process for identifying and tracking students who transfer to prohibited majors or programs of concern. Data must be manually extracted from the database.

To address this vulnerability, the Domestic Mantis Initiative aims to protect national security by preventing the export of goods, technology, or sensitive information through

activities such as graduate-level studies, teaching, conducting research, participating in exchange programs, receiving training or employment, or engaging in commercial transactions.

Through this initiative, data will be pulled from SEVIS to identify leads of individuals who have transferred from a nonsensitive area of study to a sensitive area of study. CTCEU estimates 600 leads per semester to be vetted. CTCEU's LeadTrac system will ingest the flagged information and data sets from SEVIS semiannually and will conduct continuous vetting and monitoring for identified students who adjust their status or field of study during the term of admission of the visa. LeadTrac will be the case management system to hold, and later track, all possible leads.

In addition, CTCEU plans to embark on a comprehensive intelligence assessment that aims at identifying former nonimmigrant students who changed their field of study from nonsensitive to sensitive, who since have departed the country, and who could pose a potential national security or public safety risk to the United States. The purpose of this study is to analyze the above-described population in order to quantify trends and patterns, such as gender, country of birth/country of citizenship, initial nonsensitive fields of study, universities attended, and sensitive majors or fields of study. The goal of the assessment is to define a metric to establish future targeting criteria to identify those nonimmigrant students who pose a substantial risk related to the diversion of sensitive technology, materials, or information; identify additional vulnerabilities in the student system that could pose a substantial risk to the diversion of sensitive technology, materials, or information; and identify gaps in legislation, regulations, and enforcement statutes.

III. Expenditure Plan

The FY 2016 overstay enforcement funds will be used to support the two pilot projects, as well as the broader overstay enforcement mission. Once the requisite system modifications, additional contract support, and full-time employees are in place, the pilot projects are intended to operate for 1 year thereafter. The overstay funds are intended to be executed in the following manner:

FY 2016 Visa Overstay Expenditure	\$10,000,000
Information Technology, Social Media Exploitation, & Enhancements	\$5,295,000
Administrative Costs	\$1,900,000
Additional Full-Time Equivalents (FTE): 4 Criminal Investigators 10 Intelligence Research Specialists	\$1,100,000
Equipment Cost and Operational Expenses	\$1,705,000

- **Information Technology, Social Media Exploitation, & Enhancements:** \$5.295 million has been identified to support contracts for good or services. This includes:
 - Integrating social media capabilities as part of the vetting processes for the two pilot projects;
 - Adding contracted analysts to research open source and government databases, to locate and identify any derogatory information, and to develop viable leads for the field;
 - Enhancing the Border Enforcement Analytics Program and the ICE Big Data Environment to be able to ingest the large and disparate visa, overstay, and student data sets to help identify trends, links, and anomalies of interest for referral to overstay enforcement investigators; and
 - Creating connectivity to bridge the PATRIOT database to private vendor social media software for real-time vetting during the pre-entry adjudication process, and procuring associated equipment and services to execute the mission.
- **Administrative Costs:** \$1.9 million will be allotted for administrative costs to the agency. This includes office space rental, human resources support, background investigations, support from the Office of the Chief Information Officer, wireless support, and facilities upgrades.
- **Additional FTEs:** \$1.1 million will be used to cover payroll costs for 14 federal employees, including 4 criminal investigators and 10 intelligence research specialists. The new hires will support the continuous vetting process of the Overstay Lifecycle

and Domestic Mantis initiatives to include: the tracking of leads sent to the various ICE field offices for investigation; contract oversight; and research and intelligence analysis.

- ***Equipment Cost and Operational Expenses:*** \$1.705 million will be used to cover the costs of office supplies, specialized equipment, temporary duty assignments, travel and transportation to support enforcement in the field, and other business services (i.e., internet, transcription, and translation services).

IV. Conclusion

To enhance its enforcement efforts, ICE will dedicate additional resources to the investigation and enforcement of visa overstays. ICE will continue to focus on and target overstay and visa violators who may pose national security and public safety concerns. ICE intends to use the appropriated \$10 million to implement two pilot programs that better capture the overarching visa lifecycle and that identify foreign students who have access to sensitive technology.

The Overstay Lifecycle Initiative will track nonimmigrants from posts selected to complement existing HSI screening efforts and in response to recent global acts of terrorism from the time that they submit an application, through visa issuance, entry into the United States, and the exit process. The proposed pilot program will enhance national security by providing continuous vetting of nonimmigrants who pose a higher probability of national security concerns until subsequent departure and/or overstay.

The Domestic Mantis Initiative will track nonimmigrant students who initially enter the United States to study nonsensitive fields and subsequently transfer to a sensitive field of study as identified by DOS TAL. In addition, as part of the Domestic Mantis Initiative, ICE will embark on a comprehensive intelligence assessment that aims to identify former nonimmigrant students who changed their field of study from nonsensitive to sensitive and since have departed the country. The goal of the assessment is define a metric to establish future targeting criteria to identify those nonimmigrant students who pose a substantial risk related to the diversion of sensitive technology, materials, or information, or such individuals who may have received specialized training or education in the United States and now are working for foreign governments.

It is anticipated that the Overstay Lifecycle and Domestic Mantis initiatives will provide another layer of security for the American people, and will be another tool in the investigative toolbox of ICE in the enforcement of our immigration laws.