USCIS Response to the Citizenship and Immigration Services Ombudsman's (CISOMB) 2017 Annual Report to Congress

May 11, 2018

Homeland Security

U.S. Citizenship and Immigration Services

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director (MS 2000)
Washington, DC 20529-2000

U.S. Citizenship and Immigration Services

May 11, 2018

Julie Kirchner
Ombudsman
Citizenship and Immigration Services
U.S. Department of Homeland Security
Washington, DC 20528

Dear Ms. Kirchner

Thank you for the information in the 2017 Citizenship and Immigration Services Ombudsman's Annual Report to Congress (Annual Report). I value your candid and comprehensive assessment of U.S. Citizenship and Immigration Services' (USCIS) processes, policies, and operations.

I have reviewed the Annual Report and discussed your findings with my senior leadership team. We appreciate your analysis of the immigration issues that impact our agency's work as we carry out our mission. My team and I concur with many of the findings contained in the Annual Report.

We share your objective to continually improve the quality and efficiency with which we serve individuals who are seeking immigration benefits across all of our programs. Your recognition of our continued efforts to reduce processing times, better inform stakeholders of policies, and streamline adjudications through efforts such as enacting new regulations implementing the American Competitiveness in the 21st Century Act (AC21) is greatly appreciated. We acknowledge that we saw an increased demand for immigration benefits during the reporting period, which led to backlogs in the adjudication of numerous form types. While the Annual Report noted stakeholder concerns about the backlogs, the USCIS response addresses both these concerns as well as outlines the current steps the agency is taking to alleviate these backlogs.

USCIS continues to modernize our operations and streamline our adjudications processes to best fulfill our essential mission. Thank you again for your valuable feedback. I am pleased to present USCIS' response to the Annual Report for your consideration.

Sincerely,

L. Francis Cissna
Director

A Message from the Director

May 11, 2018

It is my pleasure to present the USCIS response to the Office of Citizenship and Immigration Services Ombudsman's (CISOMB) 2017 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 Ombudsman noted many of our achievements in the past year, which included:

- Our continued effort to provide our applicants and petitioners with the best data regarding processing times for numerous application types across multiple processing centers;
- Our efforts to reduce these processing times by distributing work among offices in order to leverage our resources and increase our processing capacity; and
- Our flexibility in response to emergent issues such as detailing our refugee officers to assist in completing asylum interviews at newly opened satellite offices throughout the country.

The Annual Report also noted many areas within the agency where improvements are warranted and we are pleased to provide our plans for addressing these concerns. We remain committed to fulfilling our duties to our nation and those persons seeking immigration benefits.

This is the first Annual Report for the new Ombudsman and my first response as USCIS Director. This marks the first milestone in what I expect to be long and productive partnership between our offices. The open line of communication and the constant interaction between USCIS leadership and the CISOMB has contributed to the agency's past successes and I am committed to keeping these lines of communication open as we plan for our future. USCIS, as always, stands ready to work with the CISOMB to ensure we provide the best service possible to our applicants, stakeholders, and the American public.

Sincerely,

L. Francis Cissna
Director

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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 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 3 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 Annual Report for 2017. USCIS appreciates the CISOMB's review of our agency's operations and welcomes the opportunity to respond to concerns and recommendations found in the Annual Report. This response provides updates to USCIS programs mentioned in the Annual Report and addresses several CISOMB's recommendations for improving USCIS processes. Where appropriate, the response also raises several of USCIS' accomplishments in improving procedures and applicant service from Fiscal Year 2016 (FY 2016). The section headings in the response correspond to the section headings in the 2017 annual report.

III. Families

A. The Perfect Storm: Fee Increases, Call to Citizenship, and USCIS ELIS

The Annual Report noted that USCIS experienced delays in naturalization processing which caused a significant backlog in unadjudicated naturalization cases (Form N-400, Application for Naturalization) during FY 2016. The report proposed that delays were caused by three main factors: (1) an unanticipated increase in filings, (2) the rollout of the USCIS online electronic immigration system (USCIS ELIS) as a case management system and adjudicative tool, and (3) delays in background checks.

The report stated that USCIS received nearly 200,000 more naturalization applications than anticipated in FY 2016. The Ombudsman outlined certain factors that contributed to the surge of applications and determined that USCIS could have better projected for the increased naturalization workload. USCIS does not agree with the Ombudsman's determination that the agency could have anticipated or prepared for the 30 percent increase in filings from the previous year. Moreover, even if USCIS had projected the

[1] Sec. 452(f) of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135, online at http://www.dhs.gov/xlibrary/assets/hr_5005_enr.pdf.3.

surge of naturalization applications, the agency could not have completed the necessary recruitment, hiring, and training of officers required to meet the unanticipated growth of receipts. Although USCIS experienced a surge of receipts, there was a seven percent increase in the number of naturalization cases completed from Quarter 3 of FY 2016 (210,391) to Quarter 3 of FY 2017 (225,263). This positive trend demonstrates USCIS' commitment to processing cases efficiently while ensuring the integrity of the naturalization process and addressing the backlog.

The report attributed some processing delays to the slow rollout and suspension of entering naturalization applications into USCIS ELIS. In its Annual Report, CISOMB noted that USCIS suspended USCIS ELIS processing of new naturalization applications for four months after the initial launch. However, USCIS did not suspend use of the entire system. Instead, USCIS strategically suspended the ingestion of new paper-filed N-400 cases into USCIS ELIS, but continued processing cases already in the system. Applicants remained able to electronically file their naturalization applications directly into USCIS ELIS through the online myUSCIS.gov portal. Currently, USCIS is processing naturalization cases in both USCIS ELIS and the legacy system, Computer-Linked Application Information Management System (CLAIMS 4 or C4). USCIS has been using USCIS ELIS to process and adjudicate some Form N-400 applications since April 2016. In FY2017, USCIS made final adjudicative decisions on 223,609 cases using the ELIS online system; 205,777 of these completed cases have resulted in applicants proceeding through a full adjudication in the online system and taking the Oath of Allegiance.

USCIS has made system improvements since the online system was first used for processing Form N-400 applications in April 2016. Recent accomplishments include:

- Enhanced systemic background check processing, including validation of results outside of USCIS ELIS;
- Improved naturalization certificate printing functionality;
- Enhanced bulk-scanning and digital evidence storage capability; and
- Improved interfacing with internal technical systems like the National Appointment Scheduling System (NASS) and Enterprise Correspondence Handling On-line (ECHO).

As these and other enhancements are deployed, USCIS has conducted field tests and is collecting input to ensure that the improvements are operating as intended for all stakeholders. USCIS continues to evaluate the system's technical and operational readiness in order to determine the appropriate time to resume full case intake, processing, and adjudication in the online immigration system.

Finally, CISOMB specifically referenced the delays in Federal Bureau of Investigation (FBI) name check processing as a factor contributing to the naturalization backlog. As of March 23, 2018, the total number of FBI name checks pending for more than 90 days was 52,016 down from 63,006 at the time of the Annual Report. USCIS is now completing 43% of background checks within 30 days and is no longer seeing delayed name checks

as a factor contributing to backlogs.

B. Military Immigration Issues: Immigration Services for Those Who Serve

The Annual Report specifically referenced and acknowledged that many service members who are applying for naturalization under the Naturalization at Basic Training Initiative or based on their service after being recruited through the Military Accessions Vital to the National Interest (MAVNI) Pilot Program Extension experienced delays in case processing due to background investigations outside USCIS' control. USCIS and the FBI meet regularly to discuss challenges that we and our applicants face when background checks are delayed. We are working on solutions that both ensure our background checks retain their integrity and better serve our applicants' needs.

CISOMB also noted that new Department of Defense (DOD) regulations for the MAVNI program, which require MAVNI recruits to remain in a valid nonimmigrant status or obtain deferred action in order to be eligible to enlist, are causing difficulties for applicants. Specifically, the report asserted that MAVNI applicants complained that USCIS denied or held requests for deferred action, despite the memorandum requiring that MAVNI recruits either maintain their prior status or obtain deferred action. Applicants complained that failure to grant deferred action left them without work authorization as they awaited adjudication of their naturalization applications or deployment.

USCIS notes that the U.S. Army places MAVNI enlistees into two different groups: the Delayed Entry Pool (DEP) and the Delayed Training Program (DTP). The USCIS deferred action policy for the military is geared toward the DEP recruits, who do not complete their enlistment process until they are cleared to attend basic training. For these individuals, USCIS considers their DEP as a strong positive factor for granting deferred action because the Army requires them to maintain a valid nonimmigrant status or deferred action in order to be eligible to enlist and serve. Conversely, DTP enlistees may not be strong candidates for deferred action because they have already completed their enlistment process by completing basic training. Since the DHS deferred action policy is intended to facilitate enlistment in the military by assisting recruits in maintaining their status before they attend basic training DTP enlistees are not covered by the current policy. This is because they have already completed their basic training which is the program the deferred action policy is intended to facilitate. Deferred action is a discretionary determination to defer removal action of an individual as an act of prosecutorial discretion. USCIS reviews deferred action requests on a case-by-case basis and considers the totality of the circumstances by weighing all relevant factors when making its determination.[2]

[2] Adjudicator's Field Manual (AFM) Chapter 21.1(c)(2)(A), https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-3481/0-0-0-3501.html#0-0-0-385.

Individuals who are granted deferred action may file Form I-765, Application for Employment Authorization, and must demonstrate economic necessity to warrant approval by USCIS. The USCIS deferred action policy facilitates the MAVNI applicant's enlistment if he or she falls out of status while waiting for DOD background checks to clear; however, deferred action does not automatically confer work authorization following approval. In addition to processing deferred action requests, USCIS continues to accept requests for parole-in-place from military family members and evaluates each request on a case-by-case basis to determine each applicant's eligibility.

C. Changes in Policy and Practice for Provisional Waivers

USCIS recognizes that several inquiries regarding provisional waiver applications referenced by CISOMB in the Annual Report stemmed from cases in which USCIS took adverse action because it had a reason to believe that the applicant was inadmissible to the United States for a ground of inadmissibility other than unlawful presence. The Expansion of Provisional Unlawful Presence Waivers of Inadmissibility Final Rule[3] (Final Rule) eliminated this "reason to believe" standard. Therefore, as of August 29, 2016, the effective date of the Final Rule, USCIS no longer denies cases where the person may be inadmissible for a ground of inadmissibility other than unlawful presence.

On October 21, 2016, USCIS published Volume 9, Part B: Extreme Hardship, in the USCIS Policy Manual,[4] providing guidance to officers on how extreme hardship determinations are made when adjudicating waivers of inadmissibility. This guidance applies to all discretionary waivers of inadmissibility that require proof of extreme hardship and is not exclusive to the provisional unlawful presence waiver. The guidance found in the Policy Manual focuses solely on how officers assess extreme hardship to qualifying relatives. The new guidance did not change who can be considered qualifying relatives when adjudicating a provisional waiver; this was accomplished in the Final Rule. The guidance was intended to provide clarification to officers on how to apply the extreme hardship standard and to better outline what factors should be considered when making such a determination. This is the first time USCIS has issued comprehensive guidance addressing extreme hardship.

As of February 2018, USCIS had a 4.1-month processing time for the provisional unlawful presence waiver. The increase in processing times per case is primarily due to applicants submitting additional documentation to support claims of extreme hardship, as well as a system change that requires offices to manually conduct records checks. Despite these recent changes, USCIS continues to strive to meet a 3-month processing goal for provisional waivers.

[3] 81 Fed. Reg. 50,244 (July 29, 2016), online at https://www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17934.pdf.
[4] https://www.uscis.gov/policymanual/HTML/PolicyManual-Volume9.html.

IV. Employment

A. USCIS Administrative Review in Employment-Based Decisions: Appeals and Motions

The Annual Report noted that USCIS does not provide processing times for motions to reopen or reconsider that are either adjudicated at a field office or forwarded to the Administrative Appeals Office (AAO) after field office review. The CISOMB recommended that USCIS establish processing time goals for initial field review of motions to reduce delays and provide transparency for stakeholders. USCIS believes that we have already accomplished this task. In a November 4, 2015, Policy Memorandum, USCIS adopted a 45-day timeframe for initial field review (IFR) as the agency's processing goal.[5] As a result, the AAO receives appeals (Form I-290B, Notice of Appeal or Motion) in a timelier manner. To ensure continued improvement, the AAO monitors compliance with the 45-day IFR goal and provides feedback to the field to ensure processing goals are being met. USCIS has also developed a systems-based query to track I-290B appeals, which will lead to additional performance improvements in the field offices. USCIS will explore the possibility of providing applicants with processing times for how long it takes field offices to conduct an IFR. However, current systems limitations do not permit ready quantification of IFR timeframes of appeals not yet forwarded to the AAO.

CISOMB also reported that some delays in case processing are caused by applicants choosing to submit their appeals briefs after they submit their appeal notices to USCIS. The report recommended that USCIS encourage applicants to submit full briefs with their initial filings to speed case processing. USCIS agrees with this suggestion and currently does recommend that applicants submit their entire appeal package at the same time, both at stakeholder engagements and in its Practice Manual.[6] Chapter 3.8 of the AAO Practice Manual provides: "While appellants may submit supplemental materials after filing the appeal, the submission of additional materials complicates USCIS' ability to match the appeal with those materials in time for the field office's initial review of the appeal (initial field review). To ensure that the field office has a meaningful opportunity to consider supplemental materials during initial field review, the AAO recommends that appellants submit supplemental materials concurrently with the appeal."

Finally, the CISOMB relayed stakeholder complaints that Form I-290B remains a confusing and unwieldy document for applicants despite recent USCIS efforts to simplify the form. The report recommended that USCIS consider separating Form I-290B into

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[5] Initial Field Review of Appeals to the Administrative Appeals Office, November 4, 2015, PM-602-00124. https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2015/2015-1104_Initial_Field_Review_PM_APPROVED.pdf.

[6] AAO Practice Manual, Chapter 3.8, https://www.uscis.gov/about-us/directorates-and-program-offices/administrative-appeals-office-aao/practice-manual/chapter-3-appeals.

two forms, one for appeals and one for motions, or amending the form to be clearer to applicants.

In April 2017, USCIS updated the I-290B instructions to be clearer. For example, the agency revised the instructions to help applicants submit their forms to the correct address. USCIS is aware of the possible confusion in selecting between the various boxes currently on the I-290B that distinguish between an intended appeal or motion (and, further, what kind of motion or motions the applicant is filing). USCIS is concerned, however, that separating the I-290B into two forms could result in filers choosing the wrong form instead of the wrong box, thereby providing the agency with even less flexibility to ascertain and honor the party's intent. USCIS is committed to continuously making its forms clearer and welcomes stakeholder suggestions as to how we can best accomplish this task.

B. EB-5 Investors

As the Annual Report noted, Congress has reauthorized the regional center program in a series of short-term extensions while continuing efforts to enact legislative reform of the employment-based fifth preference (EB-5) program. The regional center program is currently authorized through September 30, 2018.

CISOMB reported, and USCIS acknowledges, that EB-5 processing times are long and are generally getting longer. The continuing popularity of the EB-5 program has led to sustained high volumes of related applications and petitions.

Due in large part to several potential sunset dates in FY2015, 2016, and 2017, USCIS received more than 51,000 EB-5 applications and petitions from January 1, 2015 through December 31, 2017, which is 80.3% more than the agency received from January 1, 2012 through December 31, 2014.

Although the influxes of receipts hindered USCIS' efforts to reduce processing times in FY 2016, the agency continues to take steps to improve the processing times for Form I-526, Immigrant Petition by Alien Entrepreneur; Form I-829, Petition by Entrepreneur to Remove Conditions on Permanent Resident Status; and Form I-924, Application for Regional Center Designation Under the Immigrant Investor Program. In response to the significant increase in application and petition receipts, USCIS has taken many actions to improve overall program efficiency, including the following:

- **Concentrating resources to review and adjudicate aging cases**. USCIS has reduced the number of aging cases (those outside of posted processing time) and continues to focus on reducing processing times.
- **Continuing to hire adjudicators and economists to reduce the backlog**. As of July 27, 2017, the Immigrant Investor Program Office (IPO) had 185 on-board full-time employees, which is more than six times its staffing at the beginning of FY 2014. IPO is currently recruiting and hiring to reach a target authorized staffing level of 247 by the end of Calendar Year 2017.

- **Improving operational efficiencies.** USCIS has created a new team within IPO comprised of economists and adjudicators to focus on adjudicating the Form I-829. Additionally, USCIS has continued to focus on standardizing and better managing assignment of EB-5 cases in FY 2017 to improve adjudication of cases.
- **Engaging with stakeholders.** USCIS continues to engage its stakeholders through frequent events in which the agency informs them of operational updates, offers filing tips, and provides the latest statistics on processing for each form type. Improvements made operationally and through regularly scheduled engagements with stakeholders are expected to reduce delays in the processing of EB-5 applications and petitions.

A regulatory priority for the U.S. Department of Homeland Security (DHS) is reforming the EB-5 program. Recently DHS, after consulting USCIS, advanced several regulatory proposals related to the program. In January 2017, DHS published a Notice of Proposed Rulemaking (NPRM), which proposed, among other changes, to increase the minimum investment amounts for new EB-5 petitioners and reform the targeted employment area designation process. DHS also published an Advance Notice of Proposed Rulemaking (ANPRM) seeking public input on potential changes to certain aspects of the EB-5 regional center program. A number of the potential regulatory changes discussed in both the NPRM and ANPRM are intended to further support and enhance EB-5 program integrity. DHS is currently considering public input received from both the NPRM and ANPRM.

In addition to its regulatory activities, DHS continues to provide technical assistance as requested on proposed legislative reforms of the EB-5 program. DHS and USCIS have also taken steps within their authorities to internally improve program integrity and administration, including:

- Synthesizing and aligning policy guidance regarding the eligibility requirements for EB-5 regional centers and immigrant investors in the USCIS Policy Manual;
- Using USCIS' Administrative Site Visit and Verification Program to conduct EB-5 site visits by the Fraud Detection and National Security Directorate (FDNS);
- Establishing a dedicated compliance division focused on regulatory compliance, which enhances EB-5 program integrity by performing regional center compliance reviews and verifying information in regional center applications and annual certifications;
- Conducting remote interviews of select Form I-829 petitioners;
- Publishing revised forms to enhance data collection to support improved vetting of regional centers, regional center principals, and individual petitioners, as well as ensuring appropriate application and petition fees to support these enhanced vetting and compliance efforts;
- Terminating more regional centers in FY 2017 for failure to comply with continued participation requirements than in any previous year; and

- Posting termination notices, redacted as appropriate, in addition to lists of currently designated and terminated regional centers on the USCIS website to improve program transparency and facilitate investor due diligence.

USCIS will continue in its efforts to ensure that the EB-5 program is administered efficiently and securely while working towards improving service to petitioners, applicants, and other stakeholders.

V. Humanitarian

A. Delays in Asylum Processing

USCIS understands and is sensitive to the impact the affirmative asylum backlog has on its applicants. In the Annual Report, CISOMB commended the Asylum Division on its efforts to streamline the adjudications process but noted that applicants complained that interviews were too long and re-traumatized asylum seekers. USCIS is not aware of any streamlining initiatives resulting in longer interviews. Asylum officers are required by regulation to conduct interviews in a non-adversarial fashion.[7] The purpose of the interview is to ascertain credibility, determine whether the individual is eligible for the benefit or relief sought, and determine whether the applicant is subject to any bars or negative discretionary factors that would lead to denying the requested benefit or relief. Asylum officers receive extensive training on non-adversarial interviewing techniques, eliciting testimony, and interacting with persons who have experienced trauma, including vulnerable persons and children. Interviews are fact-specific inquiries and interview length may vary significantly based on the complexity of the case, the information available, and the interviewee.

USCIS continues to take significant steps to address the affirmative asylum backlog such as increasing the size of the asylum officer corps and opening three satellite offices in recent years. The Asylum Division has increased its adjudicative capacity by raising the authorized level of asylum officers from 533 to 625 in FY 2017, as well as training and deploying refugee officers on details to asylum offices and detention centers across the country. The increase in staffing resources, combined with a drop in credible fear receipts, has slowed the growth of the affirmative asylum backlog in recent months. Even so, new affirmative asylum receipts continue to outpace USCIS' capacity to process affirmative asylum claims. USCIS continues to evaluate both operational efficiencies and resource investments to address the affirmative asylum backlog.

CISOMB wrote that it has received complaints from stakeholders that asylum offices were inconsistent when granting requests to expedite cases. Asylum offices grant a limited number of expedited interview requests each year. Each request is evaluated case-by-case based on a variety of factors. The underlying facts provided in support of

[7]See, 8 C.F.R. § 208.9(b).

each request are unique and thus, each office must consider them individually. Therefore, USCIS does not believe a standard expedite criteria for an asylum interview is feasible.

B. U Visa Backlog

CISOMB proposed that stakeholders would benefit from greater transparency regarding an adjudications backlog involving petitions for U nonimmigrant status (U visas), including a clearer breakdown of the number of U visa petitions that are pending review before being placed on the waiting list.

To keep stakeholders informed, USCIS updates its public website each quarter regarding U visa petition processing times and the current backlog of both principal and derivative petitions. The website also includes data regarding the total number of pending U visa petitions. USCIS considers all U visa petitions that are awaiting visa issuance to be pending; therefore, this figure includes both petitions that have been placed on the waiting list as well as petitions that are pending initial review by an officer prior to being placed on the waiting list.

USCIS does not currently provide data regarding the number of petitions that are pending review before placement on the waiting list because the amount of resources that USCIS is able to dedicate to adjudicating cases for placement on the waiting list fluctuates throughout the year depending on operational priorities and available resources. As a result, USCIS believes that this data would be confusing to stakeholders who wish to use it to better estimate the amount of time that petitioners will need to wait before USCIS reviews their petition for placement on the waiting list. However, in recognition of CISOMB and stakeholder interest in this data, USCIS will evaluate whether it is feasible to add this figure to the data that we provide quarterly.

In addition to the data that we publish on our website, USCIS provides updated statistics on the U nonimmigrant status program during outreach events with stakeholders, including dissemination of statistics on pending petitions and those that have been placed on the waiting list.

In the Annual Report, CISOMB noted that USCIS has implemented several initiatives to reduce the processing times and its backlog, including the expansion of petition processing locations and the rollout of operational guidance to improve efficiency. CISOMB commended USCIS, but felt that more is needed to be done to address the growing backlog.

At any given time, USCIS has between 40 and 60 full-time officers dedicated to the U nonimmigrant status caseload. Staffing levels vary due to competing adjudicatory priorities. In FY 2018, USCIS expects to receive approximately 60,000 new petitions for U nonimmigrant status (35,000 principal petitions and 25,000 derivative petitions). USCIS will continue to explore options to reduce the U nonimmigrant backlog, but as petitions continue to be received at this rate, the U visa backlog and processing times will likely continue to increase.

VI. Interagency, Customer Service and Process Integrity

A. The Escalating Cost of Immigration Services

In FY 2017, USCIS increased filing fees for a number of applications by a weighted average of 21 percent. USCIS increased fees in order to recover the full cost of otherwise unfunded activities, thereby increasing the resources available to improve case processing, reduce backlogs, and shorten processing times. The CISOMB reported that, though USCIS committed to timely processing of applications and petitions when announcing the fee increase, the agency is currently unable to meet processing time goals, and unlikely to do so in the near future.

USCIS is employing a multi-pronged approach in an attempt to decrease the backlog and address applicant concerns. As a primarily fee-funded agency, new initiatives are funded through increases like those announced in FY 2017. With the additional funding, USCIS has employed numerous strategies to decrease the backlog and to promote greater efficiencies among programs. These efforts include an evaluation of best practices; a determination of priorities and potential strategies to better align workloads with available adjudicative capacity; the use of overtime; and concerted efforts to determine and achieve adequate staffing levels.

USCIS approved an increase of 219 authorized positions across the Field Operations Directorate (FOD) in FY 2017, increasing authorized staffing from 6,097 in FY 2016 to 6,316 in FY 2017. USCIS field offices have experienced an attrition rate of 10 percent to 12 percent per year, resulting in an average loss of approximately 800 onboard positions per year. In an effort to fill approximately 1,100 vacancies, USCIS implemented strategic hiring initiatives, resulting in a 4 percent growth rate of onboard positions above and beyond the attrition rate in FY 2017. In addition to additional hiring initiatives, FOD spent approximately $30 million on employee overtime during FY 2017 to help improve processing times and manage backlogs.

FOD will continue to promote innovative recruitment and hiring strategies to efficiently hire Immigration Services Officers (ISOs) and Immigration Officers (IOs) in a timely manner. FOD is also evaluating its current field office policies and operating procedures in an effort to identify improvements that will help achieve, among other goals, increased production performance. In FY 2018, USCIS will work to implement measures to increase production and transition operations to meet new policy requirements.

The Service Center Operations Directorate (SCOPS) carefully reviews authorized and onboard staffing levels to determine where the most efficiency can be gained through staffing allocations. In FY 2017, USCIS authorized an increased staffing level for SCOPS by 660 positions. The authorization for hiring new positions was distributed

across operations in the service centers to maximize efficiency. Of the 4,624 total authorized positions, USCIS has filled 90.2 percent as of September 30, 2017. Once fully trained, new personnel will help USCIS manage its current and incoming workloads. However, a new employee is hired with a preliminary background investigation while the full background investigation is under way. Until a new immigration officer's full background investigation is complete, that employee cannot access select systems.

SCOPS has taken steps to optimize its available processing capacity. To accomplish this, SCOPS strengthened and expanded its efforts to identify specific work to be transferred and redistributed among the service centers. Since the beginning of FY 2016, SCOPS has conducted weekly planning sessions to review and identify available capacity at each of the service centers. While workload movement has not reduced wait times for all form types, SCOPS has made significant progress in reducing the backlog of two form types from FY 2106 to FY 2017. SCOPS reduced the backlog of pending Form I-129s, Petition for Alien Worker, by 48,298 and eliminated the backlog for the Form I-131 to approximately 33,908 active pending cases based upon a target pending caseload of 52,696 receipts which is equal to three months of filings. SCOPS expects that processing times will continue to improve throughout FY 2018. Transferring cases to service centers will assist with backlog reduction and ensure that all service centers are adjudicating within similar processing times. USCIS carefully monitors its workload trends to determine optimal capacity. Overall, USCIS anticipates that its workload will continue to grow in the coming years.

USCIS authorized the use of overtime at service centers to increase adjudicative capacity. In the second quarter of FY 2016, USCIS began allocating overtime funding to service centers with instructions that adjudications performed on overtime be targeted specifically toward form types with the largest volume of backlog. With the authorization of overtime in this manner, SCOPS is able to track and report, on a quarterly basis, the impact of overtime on reducing backlogs. In FY 2017, the service centers spent $33,633,806 on employee overtime. The need for overtime will continue in FY 2018 to help improve processing times and manage backlogs.

The affirmative asylum backlog is a product of both an increase in the number of affirmative asylum applications received, as well as the diversion of the Refugee, Asylum, and International Operations Directorate (RAIO) personnel to other high priority workloads in recent fiscal years. In light of these challenges, the authorized staffing levels for the Asylum Division were increased by 227 positions in FY 2017, and 191 positions in FY 2018, resulting in a new authorized level of 1,435 positions (of which 686 are asylum officer positions) and the new authorized level is currently 1,313 positions. The Asylum Division uses an over-selection strategy to offset attrition with the goal of reaching a 90 percent officer onboard rate by the end of the fiscal year. The officer onboard rate is 86 percent for all duty stations established by FY 2017. In addition, refugee officers are being trained and detailed to work on all asylum workloads to further increase production. RAIO will continue to prioritize hiring to help timely processing of benefit requests.

USCIS will continue to evaluate and address issues that contribute to longer case processing times and implement measures to reduce backlogs and improve applicant service. USCIS will enhance its adjudicative capacity through increased staffing and by providing overtime funding to combat backlogs where available. USCIS will also analyze whether new policies or procedures could further enhance efficiency throughout the agency. The fee increase implemented in FY 2017 is integral to USCIS' ability to increase its processing capacity and to improve the experience of those when interacting with our agency.

B. The Continuing Challenge of Transformation

Historically, Immigration and Naturalization Service (INS) and now USCIS operations have been heavily paper-based, which has constrained the agency's ability to innovate or to streamline its processes. The USCIS Transformation Program (Transformation) is a digital modernization initiative that was established by USCIS to transform the agency from a paper-based organization into a digital agency supported by end-to-end adjudicative case management and benefits processing operations. This effort is seeking to replace the current inventory of regional paper-based processes with an integrated set of digital capabilities and services via a web-based IT solution.

Rather than trying to automate all forms, Transformation is using automation and business process re-engineering to make innovative changes in the way USCIS processes applications, petitions, and other requests for the agency's central lines of business. One such change is through the USCIS ELIS, the web-based, end-to-end case management system that forms the center of the transformed benefits processing operations.

To date, USCIS ELIS has been used to complete over 5.75 million cases, and currently processes over 34 percent of the agency's entire annual workload. The system supports ingestion and processing of applications and petitions filed through both traditional paper methods and through newly developed electronic filing channels. Approximately 44 percent of cases processed through USCIS ELIS were electronically filed (e-filed), which directly supports the agency's efforts to encourage e-filing in order to streamline the application process. By continuing to build and strengthen these capabilities, USCIS is being positioned to both meet current demand and to serve the agency's future case management, fraud prevention, and adjudicative needs.

Over the past year, USCIS has made significant internal adjustments designed to increase productivity, as well as ensure positive and significant progress towards enhancing the reliability, security, and efficiency of the Transformation effort. During the first quarter of 2017, USCIS placed the then-Office of Transformation Coordination under the Office of Information Technology (OIT) within the USCIS Management Directorate. This restructuring has allowed Transformation to benefit from OIT's technical expertise, and efficiently consolidate various technological operations. OIT's recent improvements to the program include the following:

- **Created the Transformation Delivery Division (TDD).** The organizational realignment has allowed the Transformation Program to benefit from OIT's technical expertise, exploit synergies with other OIT initiatives and programs, and consolidate functions for efficiency. The creation of this division within OIT better supports the transformation initiative, and the new management structure has allowed USCIS to implement a technical development and procedural approach that is delivering measurable business solutions accountable to the agency's mission. The Transformation Program remains a results-focused digital services factory that can rapidly respond to evolving changes and requirements.
- **Aligned within OIT to specific business domains.** Within TDD, OIT restructured the organization into portfolio teams to improve alignment with USCIS business operations and assigned a Portfolio Manager to work with the designated business leads from each directorate. Portfolio teams work hand-in-hand with the directorates to prioritize new requirements and emergent needs. This approach ensures the transformation project is consistently delivering new IT capabilities and business process improvements that satisfy objectives with the highest business value. Each TDD portfolio contains cross-functional design and development teams that continuously deliver digital services through an iterative cycle that includes defining potential solutions, designing and testing prototypes, conducting beta and field tests, measuring outcomes, and progressively enhancing products as necessary.
- **Targeted improvements to USCIS ELIS based on deficiencies listed in the Office of the Inspector General (OIG) report**. TDD has been focused on resolving the deficiencies identified in the OIG report and implementing product improvements to enhance both the system and the adjudicator's experience moving forward. Several major system changes have already been implemented in USCIS ELIS including: standardizing and centralizing all background checks; improving application and interface-level performance and availability; ensuring systematic updates to the USCIS Central Index System mainframe (CIS) are consistent; and deploying a contingency plan that prevents the disruption of interviews and adjudications in the event there is a system outage. The major product improvements to the online system include: fielding a more effective and streamlined certificate printing module and evidence scanning utility; deploying a systematic background check vetting utility; and implementing a recurrent security vetting service.
- **Beta tested new functionality at field offices.** TDD employed a new practice whereby new systems features and solutions to ELIS issues are prototyped and tested with small group of users before being deployed nationwide. This allows the agency to identify issues and update systems based on user feedback before deploying new functionality across the enterprise for use by the entire population of users. For example, when developing a better solution for printing the naturalization certificate, a team of developers and designers traveled to the Newark Field Office to perform a test of the new feature. After making changes based on user feedback, Newark and several other offices used

the new solution in a limited release before TDD rolled out the new functionality nationwide.

- **Implemented an operations dashboard to track progress of cases and spot problems.** TDD developed and built a dashboard that reports on the case and task status of the cases in USCIS ELIS, which can be drilled down to the specific field office level. This allows both TDD and FOD to be able to see the upcoming workload and identify when cases may become "stuck" in the workflow process. Previously, employees had to create reports in a separate system to have this high-level view of case progress.
- **Built VERIFI tool that audits background checks.** Previous code problems in USCIS ELIS led to FOD expending significant resources to validate data used in background checks. TDD worked closely with the background check officers at the National Benefits Center (NBC) to build a tool called VERIFI that removes much of the manual work officers performed in order to complete these audits. The VERIFI tool has also helped the developers in TDD detect if there are any discrepancies between the automated checks performed in ELIS and those run in the principal systems.
- **Limited ingestion to test the performance of the new fixes.** In June 2017, USCIS ingested 11,517 naturalization applications into ELIS in order to test the enhanced functionality and system improvements that have been developed over the last several months. A limited test is a private industry practice designed to contain risk by exposing functional weaknesses prior to a large scale, system-wide deployments. These test cases have been closely tracked using the USCIS ELIS Operations Dashboard. As of September 2017, approximately 50 percent of these cases have been scheduled for an interview and roughly 40 percent of scheduled cases have either resulted in an applicant being scheduled to take the Oath of Allegiance ceremony or having been issued a Certificate of Naturalization after taking the Oath. These results indicate a significant improvement over previous naturalization processing, and have led to consensus recommendations to pivot back to ELIS for processing of naturalization applications from FOD, the Office of Intake and Document Production, the Customer Service and Public Engagement Division, OIT, and U.S. Digital Services (USDS).

The CISOMB provided USCIS with three recommendations it felt would improve USCIS transformation efforts. CISOMB recommended that USCIS expand the participation of line adjudicators and local office managers in case management process development; engage more with external stakeholders and provide them the opportunity to experience the electronic filing environment; and engage directly with private-sector representatives to ensure product usability and process integrity. USCIS strongly agrees with the first two of these recommendations and is open to exploring the third. Our reasoning and the initial steps we have taken to meet these recommendations are explained below:

- **Expand the participation of end-users and their direct supervisors.** TDD has recently introduced a product design and delivery process that uses USCIS

operational directorates to conduct extensive user-based discovery and release planning. During discovery, field office and service center employees partner with TDD portfolio teams to inform business requirements collection and refinement, co-design workflow processes and prototypes, and improve those prototypes through iterations of testing and redesign. As integral partners with TDD portfolio teams, the field office and service center employees identify development schedules and collaborate to develop successful digital solutions. Usability is an integrated part of the design and delivery process, as new features are prototyped and beta tested with small group of users in the field. These features are continuously updated based on user feedback before being deployed across the enterprise to the entire population of users.

- **Broaden product development to provide stakeholders the opportunity to experience the electronic filing environment.** The new product design and delivery process relies on the creation of prototypes to first explore challenges and then to create and iterate on solutions. Prototypes will represent service design solutions and will involve processes and tools in both the physical and digital worlds that work together to address specific case management challenges. Through this iterative design and delivery process, stakeholders will have the opportunity to interact with prototypes prior to final rollout.
- **Engage private-sector case management software companies.** While USCIS is open to working with private sector representatives, we note that significant development resources have already been expended on USCIS ELIS. TDD continues to take advantage of the experience and expertise of outside sources in order to improve and enhance USCIS ELIS features and functionality. For example, the new product design and delivery process was created in partnership with the USDS team serving as advisors to the Transformation Program.

C. USCIS Processing Times: Improved Accuracy Needed

In January 2017, USCIS announced an improved processing times reporting format for applicants. The new format lists processing times using a specific date of filing as a reference rather than reporting processing times in terms of weeks or months. The CISOMB appreciated USCIS' efforts to provide better data to our users, but believed that USCIS was still not using the best data to report processing times. CISOMB recommended that the agency pull processing data from its internal systems in order to improve the accuracy of the data presented to the public.

On March 22, 2018, USCIS launched a new processing times pilot reporting format, based upon a new formulation methodology using data from internal agency systems as recommended in the CISOMB's report. This new calculation methodology automates the previously cumbersome, manual process previously used to calculate processing times and allows USCIS to post processing times in a more efficient manner. For example, instead of taking 45 days to calculate and post processing times, USCIS can now post processing times within a matter of days.

The pilot consists of reports for the following forms:

- Form I-90, Application to Replace Permanent Resident Card;
- Form I-485, Application to Register Permanent Residence or Adjust Status;
- Form I-751, Petition to Remove Conditions on Residence; and
- Form N-400, Application for Naturalization.

The processing times for these forms are posted as a range. The lower end of the range is the median (the time it takes to complete 50 percent of the cases), and the upper end of the range is the time it takes to complete 93 percent of the cases.

USCIS also redesigned the processing times webpages to improve the way data is displayed to applicants. Processing times for all forms, regardless of whether they are part of the pilot, are now posted using a new user friendly design. Similar to the launch of other web-based service tools, USCIS is taking an iterative approach with the new calculation methodology and web page design. USCIS is seeking stakeholder feedback during the pilot phase and, if needed, will modify the methodology and design in future releases.

D. Mailing Issues

Each year, USCIS sends millions of notices and documents to our applicants through the United States Postal Service (USPS). Despite recent improvements to agency mailing protocols, not all mail is delivered as intended.

USCIS shares the CISOMB's concerns regarding mail that is either incorrectly delivered or returned to USCIS without reaching an applicant. In order to reduce the amount of mail that never reaches its intended audience, USCIS has instituted several process improvements to both capture mail that was not delivered by the USPS and to ensure initial mail is addressed to the proper recipients. USCIS believes that these improvements will ensure applicants are better served by notices in the future.

To enhance the efficiency, security, and integrity of the document production program which includes delivery of our secure identification documents, on April 30, 2017, USCIS began phasing in USPS's Signature Confirmation Restricted Delivery (SCRD) as the method of document delivery for applicants approved for immigration benefits which required issuance of a Permanent Resident Card, Employment Authorization Document, or Travel Document Booklet. Applicants who have changed mailing addresses during the course of the application process are more likely to have their secure documents sent with the new delivery method, which USCIS will expand to all secure documents in the future. In order to utilize this delivery service, the agency has updated a number of related internal systems and will revise several forms and their associated instructions. SCRD requires that an applicant or their designee sign for a secure document before a postal worker will release it to them. If no one is available to sign, the USPS will hold the secure document at the post office for 15 days until an applicant comes and retrieves it by showing proper identification. After 15 days, USPS will return the secure identification document to USCIS as undeliverable. SCRD increases the security, integrity, and efficiency of document delivery and provides better tracking and accuracy of delivery information, improving service to applicants. Additionally, through discussions with USPS, USCIS has had the opportunity to learn about other technologies and services related to mail delivery.

Benefit cards are often returned to USCIS as undeliverable because the applicants provided poorly formatted addresses. To assist, USCIS added a pop-up message and link to the USPS Look Up a ZIP Code tool to 12 public facing forms to help reduce benefit cards returned to USCIS as undeliverable. Applicants that use the USPS Look Up a ZIP Code tool will provide USCIS with a full address using the standard abbreviations and formatting recognized by USPS. The tool will be added to additional form types as the form is updated.

USPS recently provided a briefing on the Informed Delivery initiative, which allows an applicant to receive an email which contains a digital preview of mail that will be delivered at his/her home each day. This service is not yet available for Priority Mail, which USCIS employs to send secure documents to applicants, but may be a program the agency could share with applicant as an additional safeguard for the delivery of

documents. USCIS agrees with CISOMB's recommendations to provide more information to the public regarding the length of time required to update their address and the limitations for when, in the process of production, an address change can or cannot occur. We will consider all of these recommendations and develop a strategy for updating our public information and communicating with stakeholders.

In June 2017, USCIS completed centralizing the processing of Post Office Non-Deliverables (PONDS) for Service Centers and the National Benefits Center (NBC) at the Lee's Summit Production Facility (LPF). The PONDS Centralization project began on July 1, 2016, as a pilot and concluded on June 26, 2017.

All undeliverable Permanent Resident Cards, Employment Authorization Documents, and Travel Document Booklets are now being received by the LPF for research and remailing to a new address if one is on file. When USCIS reviews undeliverable mail, the LPF team searches the following systems for an address change: CLAIMS 3, ELIS, Service Request Management Tool, AR11, and Person Centric Query Service. Once an address is found, the most recent address change is verified by date and the address is then checked with USPS to confirm validity. USCIS notes that an applicant's address of record is populated through an electronic process using data found in USCIS systems at the time the case is approved and document production is requested. The documents are mailed to the address in the system at the time the document goes into production. The staff members at the card production facilities do not have access or authorization to change data printed on the document or the address label.

The centralization of PONDS processing at the LPF has created numerous operational efficiencies for USCIS including: having a dedicated, specialized, full-time staff who are cross-trained focusing on this workload; consistency when responding to PONDS inquiries; additional security of returned documents; increased integrity of the systems and data for reporting; and improved accuracy and timeliness of data collection.
In the Annual Report, CISOMB recommended that USCIS expand its use of prepaid mailers for document delivery. USCIS cannot support this recommendation because it would run counter to our efforts to centralize document creation and mailing. Notice centralization means that the prepaid mailer submitted with the form is not available at the facility producing the notice or document. Still, USCIS is working to ensure that initial mailings are as accurate and efficiently produced as possible.

USCIS began the process of centralizing its notice printing in 2012 and has continued to expand the program into the current fiscal year. The Enterprise Print Management System (EPMS) provides the capability to manage the production of notices for centralized and local printing and is used by the Eastern Forms Center (EFC) and the Corbin Production Facility (CPF). Once notices are batched and printed, they are inserted into first class mail envelopes, postage is applied, and they are mailed the same day. More than 3 million notices have been printed through EPMS. Centralization allows USCIS to constantly improve the process of printing and frequently audit notices for quality assurance purposes. Centralization also has allowed USCIS to prioritize certain high priority notices or to recall notices in time sensitive situations.

Since the notices are sent electronically to EPMS and the EFC and CPF do not handle the physical file, USCIS is unable to mail notices using prepaid mailers provided by the applicant or representative. Since the notices are sent electronically to EPMS and the EFC and CPF do not handle the physical file, USCIS is unable to mail notices using prepaid mailers provided by the applicant or representative.

VII. Conclusion

USCIS appreciates the CISOMB's efforts in preparing its 2017 Annual Report and providing USCIS the opportunity to review our progress and identify further refinements we can make as an agency. USCIS remains committed to both performing our lawful function of adjudicating benefit requests and providing exemplary service to all of our stakeholders.

As this response notes, USCIS agrees with many of the concerns and recommendations found in the Annual Report and has already taken action to address these issues. Our efforts include:

- Increasing staffing across the agency in hopes of reducing processing times and reducing backlogs;
- Working with the FBI to quicken background check procedures to assist in backlog reduction and provide better service to our military enlistees awaiting naturalization;
- Strengthening USCIS ELIS as an adjudicative environment through system enhancements, testing, and analysis efforts to modernize processing and better serve staff and applicants;
- Targeting spending on hiring, overtime pay, and processing improvements to increase operational efficiency and reducing adjudications backlogs; and
- Testing new mailing and document return procedures to best ensure that applicants receive their secure documents and are properly provided notice of their appointments.

USCIS strives to be the best agency it can be, both for our nation and the people we serve. USCIS greatly appreciates the CISOMB's comprehensive and thoughtful evaluation of our operations and recommendations for improvement. We look forward to future collaborations with CISOMB as we implement solutions to our current challenges and face new obstacles in the years to come.

Appendix A: Acronyms and Abbreviations

AAO	Administrative Appeals Office
AFM	Adjudicator's Field Manual
ANPRM	Advanced Notice of Proposed Rulemaking
CIS	Central Index System
CISOMB	Office of the Citizenship and Immigration Services Ombudsman
CLAIMS	Computer-Linked Application Information Management System
CPF	Corbin Production Facility
C4	CLAIMS 4
DEP	Delayed Entry Pool
DHS	Department of Homeland Security
DOD	Department of Defense
DTP	Delayed Training Program
ECHO	Enterprise Correspondence Handling On-line
EFC	Eastern Forms Center
ELIS	Electronic Immigration System
EPMS	Enterprise Print Management System
FBI	Federal Bureau of Investigation
FDNS	Fraud Detection and National Security Directorate
FOD	Field Operations Directorate
FY	Fiscal Year
IO	Immigration Officer
IPO	Immigrant Investor Program Office
ISO	Immigration Services Officer
LPF	Lee's Summit Production Facility
MAVNI	Military Accessions Vital to the National Interest
NASS	National Appointment Scheduling System
NBC	National Benefits Center
NPRM	Notice of Proposed Rulemaking
OIG	Office of the Inspector General
PONDS	Post Office Non-Deliverables
RAIO	Refugee, Asylum, and International Operations Directorate
SCOPS	Service Center Operations Directorate
USCIS	U.S. Citizenship and Immigration Services
USDS	U.S. Digital Services
USPS	United States Postal Service
8 CFR	Title 8, Code of Federal Regulations