



**Homeland
Security**

RECOMMENDATION FROM THE CIS OMBUDSMAN TO THE DIRECTOR, USCIS

TO: Dr. Emilio T. Gonzales, Director, U.S. Citizenship and Immigration Services
CC: Paul A. Schneider, Acting Deputy Secretary, Department of Homeland Security
FROM: Michael Dougherty, CIS Ombudsman
DATE: April 8, 2008
RE: **Recommendation that USCIS clarify its refund of fees procedures and revise the Adjudicator's Field Manual, Section 10.10 "Refund of Fees" accordingly**

I. RECOMMENDATION

The CIS Ombudsman recommends that USCIS clarify its refund of fees procedures and revise the Adjudicator's Field Manual, Section 10.10 "Refund of Fees" accordingly. The Ombudsman further recommends that USCIS provide customers with a way, such as refund request receipt information, to track the status of the refund.

II. BACKGROUND

The Ombudsman recommends that USCIS clarify its procedures regarding the refund of application fees due to service error. Currently, there are no clear, concise USCIS guidelines publicly available to request such a refund, and there is no mechanism for a customer to track or follow-up on a refund request.

USCIS refunds a filing fee only in the case of service error.¹ For example, USCIS returns filing fees to customers where a service official incorrectly instructed an individual to file for a certain benefit. Currently, applicants claim a refund either by calling the National Customer Service Center (NCSC) toll free number or by making a written request to their local USCIS district office. They must describe the error, provide the alien record number, and list the form type. USCIS District Adjudication Officers (DAOs) review the refund requests.

If service error is confirmed, an authorized DAO prepares Form G-266, Refund of Immigration and Naturalization Fees, and submits it to the Debt Management Center (DMC) in South Burlington, Vermont. Form G-266 is available only on the USCIS Intranet; it is not publicly available.

¹ USCIS Adjudicator's Field Manual §10.10, "Refund of Fees" (June 18, 2007).

Recommendation from the CIS Ombudsman to the Director, USCIS
April 8, 2008
Page 2 of 3

The Ombudsman has heard concerns about the lack of clarity in the refund process from customers who have submitted case problems to the Ombudsman's office and in a January 2008 CIS Ombudsman teleconference on this issue.

In one case problem, a customer's attorney attempted to use the refund procedure outlined in Section 10.10 of the Adjudicator's Field Manual (AFM), but was unable to initiate the process. Section 10.10 "Refund of Fees" is subject to various interpretations due to lack of clarity (see below Section III. Justification).

In the January 2008 teleconference, callers expressed concern that USCIS has no clear procedures for requesting a refund of fees.² Once a refund has been requested at a field or district office, there is no way to follow up on the request, or to determine the component within the office that is processing the request. Teleconference participants also pointed out that, in some cases, USCIS employees were themselves unsure of the agency's refund procedures.

III. JUSTIFICATION

To improve USCIS customer service and enhance transparency in agency operations, USCIS should clarify the procedures for obtaining a refund, and establish a process so customers can follow-up with USCIS on the status of a refund request. USCIS should make these guidelines available on the USCIS website and through the NCSC.

The Ombudsman also recommends that USCIS revise the Adjudicator's Field Manual, Section 10.10 "Refund of Fees" to clarify the steps that customers must take in order to receive refunds.

The language in Section 10.10 of the AFM is confusing and appears to be internally inconsistent. The section states:

If an applicant or petitioner believes that he or she is entitled to a refund of fee, he or she should file Form G-266.... Send the completed form to the Debt Management Center (DMC).... Retain a copy for office records, following local procedures. Send only the completed form to DMC....³

The paragraph appears to indicate that applicants or petitioners have the ability to file Form G-266, despite the fact that the form is not intended for public use and is not publicly available.

To resolve this issue, USCIS should revise AFM Section 10.10 to make it clear that it is the DAO – and not the customer – who prepares and sends the completed form to the DMC. Such a

² For a list of questions from the Ombudsman's Teleconference titled "USCIS Refunds: How Is the Process Working for You?" please see http://www.dhs.gov/xabout/structure/gc_1192724755499.shtm#4 (Last visited March 14, 2008). In this Teleconference, one caller also referenced problems with obtaining refunds where USCIS did not act on a case filed under the premium processing program within the allotted 15 day time period.

³ See *supra* note 1.

Recommendation from the CIS Ombudsman to the Director, USCIS

April 8, 2008

Page 3 of 3

revision would involve minimal changes to the AFM and would provide clear instructions for USCIS personnel.

IV. BENEFITS

A. Customer Service

A clear and transparent refund process in the case of service error would improve customer service and is good business practice. Filing fees for USCIS customers are not insignificant, and where there is service error, the process for refunds should be clear. This recommendation, if implemented, would reduce customer inquiries to USCIS where an individual is seeking guidance on how to request a refund or the status of the refund request after it has been submitted. The current lack of clarity in the process and AFM provisions leads to customer frustration.

B. Efficiency

Clarifying and making public the refund process and associated AFM sections would ensure that USCIS officials are aware of procedures. Implementation of this recommendation would enhance USCIS accountability.

C. National Security

Adoption of this recommendation would have no national security impact.