

**RECOMMENDATION AR 2006 -- 02**

*The Ombudsman recommends reform of employment-based green card application processes to limit annual applications to a number that will not exceed visa availability, while also reducing abuse of the process by those who seek interim benefits through fraud or misrepresentation. The following recommendations emphasize real-time accountability and effective communication between USCIS and DOS:*

*1) Track data relating to employment-based green card applications at the time of filing with USCIS, including immigrant visa classifications, priority dates, and countries of chargeability.*

*Currently, USCIS does not collect these vital data on employment-based green card applications upon acceptance for processing. These data are noted by contractors as part of the intake process, but not systematically captured. This leaves USCIS unable to provide DOS with accurate data regarding these applications. Therefore, DOS must set cutoff dates without a clear understanding of pending applications. Data that are currently captured by contract staff should be forwarded to DOS for use in more accurately determining how many visas will be used.*

*2) Assign visa numbers to employment-based green card applications as they are filed with USCIS.*

*By assigning visa numbers to these applications upon receipt, USCIS will ensure that it will not accept more applications than it can legally process. When USCIS denies such applications, it must notify DOS immediately so that the visa can be reallocated.*

**C. Lack of Standardization Across USCIS Business Processes**

Lack of standardization in USCIS adjudications among service centers, among field offices, and between officers within the same office remains a pervasive and serious problem. The Ombudsman's 2005 Annual Report (at pp. 15-18) identified this problem and the Ombudsman has observed little, if any, improvement.

As previously reported, service centers and field offices continue to operate with considerable autonomy. Although Headquarters establishes production goals, substantial differences in management approaches exist at the local levels. USCIS faces growing production goals and public expectations, but it has little opportunity to affect fundamental organizational change. As a result: (1) immigration officers inconsistently apply statutory discretion; (2) there is reliance on superseded regulations, policy memoranda, and procedures; and (3) wide variations exist in processing times for the same application types at different USCIS offices.

### Examples of Insufficient Standardization.

The Ombudsman provides the following updates to examples observed in the 2005 Annual Report (at pp. 16-17) and discusses additional examples observed during the reporting period. Unfortunately, complaints continue at meetings with the Ombudsman around the country.

- **Nonimmigrant/Immigrant Adjudication.** Lack of consistent adjudication is still a problem for all applicants. USCIS has made limited progress in addressing this important issue and implemented no effective national process.
- **Forms Kits.** In the 2005 Annual Report (at p. 16), the Ombudsman reported that the Eastern Forms Center maintained 37 different forms packages for people seeking the same type of immigration benefit. During the reporting period, some reduction occurred in the number of packages, particularly since USCIS consolidated the forms process through the Lockbox. Standardization of filing procedures through the Lockbox is one of its few benefits amid other Lockbox operational problems. USCIS needs to further clarify application instructions to prevent many requests for additional evidence (RFEs) which are generated after applications are filed.
- **Processing Times.** Processing times continue to vary widely around the country. In this Report, the Ombudsman devotes section II.A to this issue.
- **Insufficient Standardization and Local Policies.** In the reporting period, the Ombudsman continued to identify specific service center and field office policy variations in so-called “gray areas” where there was no Headquarters guidance on the application of statutes, regulations, and policy. For example, some USCIS field offices adjudicate naturalizations in a one-step process. In other offices, there is a substantial time delay between separate steps for the interview and swearing-in. In other offices, the applicant must be sworn in under a judicial process, in addition to a separate administrative process, as required by the state and local judiciary.
- **Insufficient Standardization and Training.** This issue was addressed in the 2005 Annual Report (at p. 17), yet there is no substantial progress. Training is further discussed below in sections II.K and V.5.

**BEST PRACTICE**

*The Ombudsman commends the Newark, NJ District Office for implementing a same-day naturalization process. This process saves resources both for USCIS and the applicant. At the same time, communities still can hold large ceremonies subsequent to the individual oath ceremony.*

*The Ombudsman understands that same-day naturalization also is available in Charlotte, NC and a number of other offices and strongly recommends that USCIS continue the expansion of this valuable program.*

- **Quality Assurance.** After the INS breakup, the Internal Audit Division of INS was absorbed into Customs and Border Protection (CBP). Since that time, USCIS quality assurance (QA) has been the responsibility of the Chief of QA and Production Management for service center and district office operations.<sup>36</sup> In most offices at the local level, USCIS directors and officers-in-charge vest an adjudications officer with responsibility for overseeing quality assurance. The officer reports to a supervisor, district director, and/or officer-in-charge who do not have adequate training in standardized QA procedures. This situation has contributed to the continuing lack of standardization of processes.

The Ombudsman's 2005 Annual Report (at p. 17) discussed a February 2005 USCIS initiative to standardize USCIS decision-making processes to increase the processes' integrity. USCIS established working groups to examine this goal. The Ombudsman endorsed USCIS efforts to promote the work of the Standardization Decision-Making Project and participated as an observer at several working group meetings. Unfortunately, after a few months, USCIS abandoned the Standardization Decision-Making Project without explanation.

**D. Pending I-130 Petitions**

As of April 2006, USCIS had 1,129,705 pending I-130s, Petitions for Alien Relative, with most pending for many years. However, over the last few years, completion rates per hour for these petitions have decreased, despite stated successes in backlog reduction and the increased use of technology. As explained above at section II.A at p. 9, USCIS excluded most of these pending I-130 petitions from its backlog count.

Three factors appear to be responsible for increased Form I-130 processing times. First, in May 2002, USCIS began requiring Interagency Border Inspection Systems (IBIS) name checks for all Form I-130 petitioners and beneficiaries. The IBIS check added time to the I-130 adjudication process, yet USCIS did not allocate additional resources or change its processing methods to offset this additional processing step. Second, with processing delayed, customers are more likely to have moved but USCIS cannot, or did not, update addresses across all relevant

<sup>36</sup> The Office of Refugee, Asylum and International Operations is responsible for its own quality assurance monitoring.