

Citizenship and Immigration Services Ombudsman

Comprehensive Recommendation Review

February 24, 2012

The Citizenship and Immigration Services Ombudsman, established by the Homeland Security Act of 2002, provides independent analysis of problems encountered by individuals and employers interacting with U.S. Citizenship and Immigration Services, and proposes changes to mitigate those problems.

EXECUTIVE SUMMARY

This report presents the results of a comprehensive review of all formal recommendations the Office of the Citizenship and Immigration Services Ombudsman (Ombudsman's Office) has submitted to U.S. Citizenship and Immigration Services (USCIS) since the creation of the Ombudsman's Office in 2002. Periodic reviews of this type are a necessary part of the Ombudsman's Office mission in order to account for legislative and regulatory changes; alterations to USCIS programs, policies, and operational priorities and approaches; and ensure that the Ombudsman's Office has the opportunity to bring renewed focus to recommendations and issues that continue to need attention and resolution. Over time, some recommendations will cease to serve as a useful measure of USCIS' success in the delivery of immigration services. Conversely, other recommendations may gain importance with the passage of time, and must, periodically, be re-visited in order to ensure that USCIS continues to devote adequate resources to resolving the particular systemic issue identified by the Ombudsman's Office.

Objectives. This document is deliberately narrow in scope and is intended to accomplish the following objectives:

- A. Identify progress USCIS has made on prior recommendations;
- B. Designate Prior Recommendations as Implemented, Active, Declined, or Closed;
- C. Call attention to areas for improvement identified in prior recommendations that USCIS has either declined to implement or otherwise not yet addressed; and
- D. Identify any further action required by USCIS.

This document is not intended to identify new areas of concern, nor is it intended to make new recommendations.

METHODOLOGY FOR THE FORMATION OF RECOMMENDATIONS

Role of the Ombudsman's Office. The Ombudsman's Office identifies systemic issues that affect the delivery of immigration services as well as pervasive and serious problems faced by

individuals and employers in their interactions with USCIS. In order to improve the delivery of immigration services, the Ombudsman's Office addresses individual case inquiries and recommends ways to fix systemic issues.

The Ombudsman's Office is:

- A. Independent.** The Ombudsman's Office is an independent office within Department of Homeland Security (DHS) Headquarters that reports directly to the Deputy Secretary of DHS. It is not a part of USCIS;
- B. Confidential.** The Ombudsman's Office treats information received from stakeholders and customers as confidential. It does not disclose such information without prior consent; and
- C. Impartial.** The Ombudsman's Office works in an impartial manner to improve USCIS' delivery of immigration services.

Identification of Issues. The Ombudsman's Office identifies USCIS systemic issues through:

- A. Individual complaints and requests for case assistance;
- B. Discussions with applicants, petitioners, employers, non-governmental organizations, including community and faith-based organizations, and immigration professionals; and
- C. Information received from USCIS and other government officials.

Formal Recommendations. The Ombudsman's Office makes formal recommendations to the USCIS Director. By statute, USCIS must respond in writing within 90 days to such formal recommendations. Formal recommendations are delivered only after an in-depth review of the identified problem, through extensive information gathering activities, which include, but are not limited to:

- A. Reviews of statutes, regulations, case law, policy memoranda, and other applicable authorities;
- B. Discussions with stakeholders such as employer associations, national and local community-based organizations, attorneys; and other advocates;
- C. Reviews of inquiries submitted by stakeholders;
- D. Discussions with USCIS officials at headquarters and in field offices and service centers across the country;
- E. Discussions with other government agencies, as relevant;

- F. Written information requests for information regarding policies and procedures submitted to USCIS and other government agencies, as relevant;
- G. Statistical analysis; and
- H. Calls for information circulated among stakeholders.

METHODOLOGY FOR PRIOR RECOMMENDATION REVIEW

Timeline. In preparing this document, the Ombudsman's Office reviewed all prior formal recommendations. Additionally, the Ombudsman's Office reviewed USCIS' formal responses to recommendations falling within this period; other relevant commentary from USCIS; and, stakeholder feedback.

Categories. The Ombudsman's Office assigned a classification to each prior recommendation that indicates whether the recommendation remains active and whether it requires further action by USCIS. The four classifications used are described in detail below:

- A. Implemented.** Recommendations that USCIS has agreed to and implemented are designated as "implemented."
- B. Active.** Recommendations addressing ongoing operations, activities, and business processes still of concern to stakeholders are designated as "active." A brief description of the current status of the recommendation and a brief discussion of any further activity that may be required by USCIS accompanies each recommendation listed in the active category.
- C. Declined.** Recommendations rejected or largely rejected by USCIS are designated as "declined." Here, the Ombudsman's Office provides an analysis of the pervasive and serious problems that USCIS can correct via implementation of these recommendations.
- D. Closed.** Prior recommendations were evaluated in light of current USCIS operations, and those pertaining to obsolete programs, or to activities that have changed significantly, are designated as "closed."

CONCLUSION

The Ombudsman's Office wishes to serve as a source of useful information for individuals and employers experiencing difficulties with USCIS. This report will make all of the Ombudsman's

Office formal recommendations accessible to interested stakeholders in one location, and allow them to review systemic issues that the Ombudsman's Office has identified as impacting the effective delivery of immigration services.

Ultimately, the Ombudsman's Office would like to ensure that it remains focused on issues that are currently affecting applicants, petitioners, and other stakeholders. Immigration moves at the speed of world events – everything from natural disasters, to job markets, to geopolitical changes can affect immigration trends. In order to strike the appropriate balance, the Ombudsman's Office must be certain that it addresses ongoing issues, identifies new difficulties in a timely fashion, and does not squander valuable resources attempting to address problems that are no longer relevant. In short, this report will allow the Ombudsman's Office to focus on areas where it can continue to work with USCIS to effectuate positive change that will improve the delivery of immigration services.

PRIOR FORMAL RECOMMENDATIONS CHART

The following chart lists each prior formal recommendation and its current classification. Clicking on the title of each prior recommendation will allow you to view each recommendation in its entirety.

Recommendation	Date	Implemented	Active	Declined	Closed
51. Recommendations to Improve the Quality in Extraordinary Ability and Other Employment-Based Adjudications	12/29/11		X		
50. Employment Authorization for Asylum Applicants: Recommendations to Improve Coordination and Communication	08/26/11		X		
49. Employment Authorization Documents: Meeting the 90 Day Mandate and Minimizing the Impact of Delay on Individuals and Employers	07/18/11		X		
48. Deferred Action: Recommendations to Improve Transparency and Consistency in the USCIS Process	07/11/11		X		
47. Special Immigrant Juvenile Adjudications: An Opportunity for Adoption of Best Practices	04/15/11		X		
46. Customer Complaints: A Tool for Quality Customer Service and Accountability	03/23/11		X		
45. Waivers of Inadmissibility: Additional Improvements Needed to Enhance the Current Filing Process and Minimize Reluctance to File	06/10/10		X		
44. Emergent or Denied Refugee Applications: Expediting Cases, Articulating Reasons for Denial, and Issuing Guidance for Requests for Reconsideration	04/14/10		X		
43. Temporary Acceptance of Filed Labor Condition Applications (LCAs) for Certain H-1B Filings	10/23/09				X
42. Motions Matter: Improving the Filing and Review Process for Motions to Reopen or Reconsider	05/15/09		X		
41. Improving the Process for Payment of USCIS Filing Fees and Other Costs	04/01/09		X		
40. Employment Creation Immigrant Visa (EB-5) Program Recommendations	03/18/09		X		
39. Improving the Process for Victims of Human Trafficking and Certain Criminal Activity: The T and U Visa	01/29/09	X			
38. Observations on the E-Verify Experience in Arizona and Recommended Customer Service Enhancements	12/22/08	X			
37. Study and Recommendations on Naturalization Oath Ceremonies	12/16/08	X			
36. Improving the Processing of "Schedule A" Nurse Visas	12/05/08			X	

Recommendation	Date	Implemented	Active	Declined	Closed
35. Recommendations on USCIS Processing Delays for Employment Authorization Documents	10/02/08			X	
34. Recommendation that USCIS Clarify its Refund of Fees Procedures and Revise the Adjudicator's Field Manual, Section 10.10 "Refund of Fees" Accordingly	04/08/08	X			
33. Petitions Returned by the U.S. Department of State to USCIS	08/24/07		X		
32. Deferred Action	04/06/07		X		
31. Advance Notice for Changes in USCIS Policy	02/08/07			X	
30. Freedom of Information Act Issues	07/12/06		X		
29. O Petition Regulations	06/30/06			X	
28. Online Change of Address Procedure	06/09/06	X			
27. Family-Based Processing	05/19/06				X
26. DNA Testing	04/12/06		X		
25. Employment Authorization	03/20/06		X		
24. Asylum Procedures	03/20/06				X
23. Military Fingerprint Requirements	03/20/06				X
22. Notice to Appear Procedures	03/20/06				X
21. Asylum Grant (I-94 Issues)	12/07/05				X
20. AAO Procedures	12/06/05		X		
19. Asylum Decision Mail Procedures	10/12/05			X	
18. H-1B Cap Notice	08/28/05	X			
17. Removal of "Return Service Requested" from USCIS Correspondence	07/29/05				X
16. Refugee Travel Documents	06/10/05			X	
15. Lock-Box Operations Number Two	05/09/05				X
14. Termination of Pilot Programs	02/25/05				X
13. Permanent Resident Card Issuance	12/15/04	X			
12. Lock-Box Operations Number One	11/29/04				X
11. InfoPass Implementation	11/29/04	X			
10. Naturalization (Section 319(a) of the INA)	10/06/04	X			
9. Availability of USCIS Forms	10/06/04				X
8. Expansion of Premium Processing	09/27/04				X
7. E-filing Fee Structure	08/16/04			X	
6. I-9 Electronic Storage	08/16/04				X
5. Customer Service Training	08/16/04	X			
4. Modification of Fee Instructions	06/29/04	X			
3. Legal Permanent Resident Card Replacement Procedures	06/18/04				X
2. Streamlining Employment-Based Adjudications	06/18/04				X
1. Streamlining Family-Based Adjudications	06/18/04				X
TOTAL (51)		11	17	7	16