

respectively, paid for premium processing. In fact, shortly before this report, USCIS announced the expansion of premium processing to other visa categories that have long processing delays.⁸¹

All customers should receive a premium type of process that costs no more than customers pay for the current regular process. Currently, funds collected from premium processing fees should be used to support efforts that directly and visibly reduce the cycle time for processing all applications and petitions, but particularly within the category for which higher fees are charged.

RECOMMENDATION AR 2006 -- 13

The Ombudsman recommends that USCIS implement premium-type processing for all regular processed applications at a uniform cost to the applicant. Implementation of this recommendation would save the agency some resources that it currently expends for repeated actions in regular processing. It also would have a tremendous positive impact on customer service and efficiency at no additional net cost to the agency.

IV. UP-FRONT PROCESSING

A. Up-front Processing – Introduction and Results

In response to recommendations made by the Ombudsman in the 2004 reporting period, as described in section V, USCIS implemented “up-front processing” pilot programs. The programs tested alternative processing models to enhance national security, improve customer service, and increase the efficiency of immigration services.

Up-front processing is characterized by:

- Pre-screened applications to ensure completeness prior to filing;
- One form and one fee per immigration benefit filed by customers;
- Same-day interviews and biometric capture, if required, and
- Applications completed within days, or even hours, of filing.

The goals of up-front processing are to:

- Identify national security threats and fraud as early as possible in the immigration process.

⁸¹ See *supra* note 26.

- Reduce the issuance of interim benefits to mitigate the risk of ineligible applicants acquiring legal status in the United States before adjudication of the green card application.
- Improve customer service by implementing a streamlined process that adjudicates applications in less than 90 days.
- Allocate resources effectively by focusing on adjudicating primary benefits instead of interim benefits.

USCIS initiated several pilot programs starting in May 2004.⁸² These included programs at the California Service Center (the Backlog Elimination Pilot) and the New York District Office (the Backlog Elimination and Fraud Reduction Pilot). The Ombudsman's 2005 Annual Report (at pp. 28-30) discussed in detail the New York and California pilot programs, which are no longer operational.

Under DORA, a USCIS field office initiates certain background and security checks, reviews documents, and conducts eligibility interviews on the day of filing and then forwards the application for data entry and administrative processing at the Chicago Lockbox and National Benefits Center (NBC). The applicant receives an appointment notice to come to an ASC where biometric information is captured. The Chicago Lockbox then issues a receipt notice to the applicant and forwards the newly created case to the NBC. The NBC assembles receipted applications into A-file jackets and initiates additional background and security checks. The NBC then forwards the files to the Dallas District Office. When all background checks are completed, the Dallas District adjudicates the case and orders production of green cards for qualified applicants.

From its inception in the first week of May 2004 through February 3, 2006, DORA scheduled 23,570 appointments, of which 5,196 (22 percent) were no-shows.⁸³ DORA rejected 3,805 (16 percent) applications of the total received. Of the 14,576 applications accepted for processing through February 3, 2006, 12,440 (85 percent), were completed by May 2006. Of these, 14,576 applications were accepted, 11,954 approved, 486 denied, and 2,116 remained pending.

Approximately 56 percent of accepted cases were completed within 90 days of filing (8,097 completed of 14,576 considered). Had it not been for delays caused by FBI name check issues, the 90-day completion rate would have exceeded 81 percent. Only 2,337 interim benefits were issued to DORA applicants – 13 percent of the total number of DORA green card

⁸² Pilot programs serve as a means for USCIS to test innovative approaches to processing immigration benefits. The Homeland Security Act of 2002, section 451(a)(5), authorizes USCIS to implement “innovative pilot initiatives to eliminate any remaining backlog in the processing of immigration benefits applications” The Ombudsman recognizes USCIS for its use of pilot programs and urges USCIS to move rapidly to expand pilot program initiatives and best practices where the pilots have shown substantial improvements in customer service, USCIS efficiency, and enhancements in process integrity and national security.

⁸³ Data in this recommendation are from the USCIS PAS program; the Dallas District Office provided the raw data on DORA.

applications. Nationally, virtually all applicants applying for green cards receive interim benefits because processing in nearly all offices takes longer than 90 days.

Figure 9: Cases Rejected Under DORA (June 2005 – May 2006)

Reason for Rejection	Rejected
Incorrect Fee / No Fee	595
Visa Unavailable	271
Insufficient Documentation	261
Inquiries	111
No Identification (Over age 16)	76
G-56 (appointment to supply more evidence)	68
Petitioner/Beneficiary Not Present	64
Petitioner/Beneficiary/Attorney Late	59
Incorrect Jurisdiction	56
Duplicate Filings	47
Attorney No Show -- Attorney Has Documents	18
Other	307
Total:	1,933

Note: As of November 2005, the Dallas District Office expanded its categories to provide more detail on the reasons for rejection.

DORA demonstrates how up-front processing eliminates the need to issue interim benefits to the vast majority of green card applicants. In DORA, most of the cases that would eventually be denied under the current USCIS process—approximately 16 percent of all DORA applications—are rejected at the outset. Of the cases that were accepted and completed under DORA within 90 days, only 2.52 percent were denied. For DORA cases delayed beyond the 90-day processing time target the denial rate is only 2.27 percent. Therefore, if USCIS had processed all green card cases from May 2004 to February 2006 consistent with the DORA process, it would only have issued approximately 3,369 EADs to ineligible green card applicants, just over one percent of the number of benefits it actually issued. DORA would have provided even more substantial improvements had it required pre-application security screening, another element of the Ombudsman’s up-front processing model.

DORA has not adversely affected the other operations and programs carried out by the Dallas District Office, including its backlog reduction program. The district office realized substantial backlog reductions. Notably, the startup costs to implement DORA were minimal.

B. Expansion of Up-front Processing

1. Recommendation

As described in section V.27., in May 2006 the Ombudsman recommended that USCIS implement up-front processing of immigration benefits, beginning with those for family-based green card applications.⁸⁴

2. USCIS Expansion of Pilot

The Ombudsman urges immediate national rollout of an up-front processing program and suggests the existing DORA program as a model.⁸⁵

3. Ombudsman's Comments

The up-front model provides the basis for a 21st century process that will ultimately deliver benefits to qualified applicants within days or even hours of filing, while enhancing national security.

Through DORA, USCIS has demonstrated that an up-front processing model works within current USCIS capabilities:

- Compared to other USCIS field offices, the Dallas District Office has dramatically reduced issuance of interim benefits.
- DORA has not negatively affected the regular operations of the Dallas District Office, including backlog reduction efforts.
- DORA had minimal start-up costs.

Up-front processing has provided the following benefits:

- **Customer Service.** Up-front processing dramatically improves customer service by providing for the adjudication of green card applications within 90 days. Customers save time and money that they currently spend on follow-up appointments with USCIS and application fees for interim benefits.
- **USCIS Efficiency.** Up-front processing saves hours of officer and clerical time. Pre-screening avoids the need for the time-consuming issuance of RFEs, notices

⁸⁴ Family-based green card applications have an interview component, whereas employment-based applications generally do not and are mailed to service centers for adjudication. Thus, employment-based cases could utilize an up-front processing model with some variations.

⁸⁵ In April 2005, USCIS expanded the New York District Backlog Elimination and Fraud Reduction Pilot – a USCIS inspired pilot which compressed the existing process into 90 days – to Buffalo, San Antonio, and San Diego (and now to other field offices), despite USCIS findings that the pilot often did not meet its processing time goal. In a May 22, 2006 meeting with the Ombudsman, senior USCIS managers stated that these offices were not true “pilot” offices, but that they became “90-day” offices simply because they reduced green card application processes to less than 90 days.

of intent to deny and/or denial notices and resources expended on processing interim benefits.

- **National Security.** Up-front processing enhances national security by: (1) preventing ineligible or unscrupulous applicants from obtaining government-issued identity documents while their cases are pending; and (2) allowing USCIS to detect and act on fraudulent cases at the earliest possible point.

The Ombudsman strongly supports the expansion of the DORA pilot, and looks forward to working with USCIS management and staff to roll out up-front processing programs nationally. The Ombudsman commends the work of USCIS staff at headquarters, in field offices, and at service centers, who have implemented up-front pilot programs.

RECOMMENDATION AR 2006 -- 14

As stated by DHS Secretary Chertoff:

“Part of the problem is that the current business model fosters a long delay between application and the final adjudication of applications for residence and citizenship, during which many applicants stay here as temporary residents [T]his system puts some of the most important security screening at the end of a lengthy process rather than the beginning, and leads to an unnecessary high rate of rejection late in the process.”⁸⁶

Conducting security screening after a foreign national has submitted an application for an immigration benefit raises several problems: (1) prolongs processing times, often due to circumstances beyond USCIS control; (2) hinders backlog reduction efforts; (3) allows ineligible foreign nationals, who may be a security threat, to apply for and obtain interim benefits (EADs and travel documents) while the application is pending; (4) slows further immigration benefits processing because issuance of requests for additional evidence and denials are time-consuming for USCIS adjudications officers; (5) exposes USCIS to litigation for long-pending applications; and (6) increases customer case status inquiries for long-pending applications.

Although the majority of background and security checks are resolved within hours or days of initiation, the small percentage of FBI name checks that do not clear on a timely basis represent a substantial and problematic workload for USCIS.⁸⁷ Resolving possible FBI name checks “hits” is time consuming and resource-intensive for both the FBI and USCIS. Current USCIS policies require that all checks must be complete and current before an adjudications officer can make a final determination on a primary immigration benefits application.

⁸⁶ DHS Secretary Michael Chertoff, Prepared Remarks at the Ronald Reagan Building regarding DHS Second Stage Review (July 13, 2005); <http://www.dhs.gov/dhspublic/display?theme=44&content=4597&print=true>.

⁸⁷ See *supra* section II.F.

By completing security checks prior to accepting an application for immigration benefits: (1) inquiries about delayed security checks from Congress, the public, and the media would be focused on the precise source of the delays. Today, scrutiny is on USCIS processing times, which are delayed by other agencies; (2) fees would become more transparent and set specifically to cover the costs of the screening; and (3) USCIS resources would be focused on accomplishing the agency's primary mission of determining immigration eligibility.

The Ombudsman recommends that USCIS implement a pre-application security screening process consistent with the Secretary's vision. Such a process would allow DHS to identify threats early in benefits application processes, while maximizing efficiency in adjudications processes.

V. RECOMMENDATIONS

This section includes summaries of the Ombudsman's formal recommendations since the office's inception in July 2003.⁸⁸ The recommendations stem from a variety of sources including problems reported to the Ombudsman by individuals and employers, in discussions with immigration stakeholders, and from suggestions of USCIS employees themselves. For the full text of the recommendations and USCIS responses, please refer to the Ombudsman's website at www.dhs.gov/cisombudsman.

⁸⁸ The Homeland Security Act of 2002 states that the Ombudsman's Annual Report shall include an inventory of the recommendations and indicate: (1) if action has been taken and the result of that action; (2) whether action remains to be completed; and (3) the period during which the item has been on this list. See 6 U.S.C. § 272(c)(1).