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).

Figure 10: Recommendations

Number	Recommendation	Date
2004 Reporting Period		
1	Streamlining Family Based Immigrant Processing	June 18, 2004
2	Streamlining Employment Based Immigrant Processing	June 18, 2004
3	Reengineering Green Card Replacement Processing	June 18, 2004
2005 Reporting Period		
4	Fee Instructions	June 29, 2004
5	Customer Service Training for USCIS	August 16, 2004
6	E-filing	August 16, 2004
7	I-9 Storage	August 16, 2004
8	Premium Processing	September 27, 2004
9	Standardized Forms	October 6, 2004
10	Naturalization for Survivors of Domestic Violence	October 6, 2004
11	Infopass	November 29, 2004
12	Lockbox	November 29, 2004
13	Issuance of Permanent Resident Cards to Arriving Immigrants	December 15, 2004
14	Pilot Program Termination	February 25, 2005
15	Issuance of Receipts to Petitioners and Applicants	May 9, 2005
2006 Reporting Period		
16	I-131 Refugee Travel Document	June 10, 2005
17	Elimination of Postal Meter Mark	July 29, 2005
18	Public Reporting for Capped Categories	August 28, 2005
19	Elimination of Asylum Pick Up Decision Delivery Process	October 13, 2005
20	Administrative Appeals Office	December 7, 2005
21	Asylum Division Use of Notice of Action Form I-797	December 7, 2005
22	Notices to Appear	March 19, 2006
23	Military Naturalization	March 19, 2006
24	Asylum Adjudication	March 19, 2006
25	Employment Authorization Documents (EADs)	March 19, 2006
26	DNA Testing	April 12, 2006
27	Up-front Processing	May 19, 2006
28	Address Change (AR-11)	June 9, 2006

In December 2004, May 2005, December 2005, March 2006, and April 2006, USCIS provided formal responses to the Ombudsman's recommendations, pursuant to the Homeland Security Act of 2002.[89] Beyond formal recommendations and responses, the Ombudsman and USCIS informally discuss content and implementation of recommendations.

USCIS has implemented some of the Ombudsman's recommendations. In some cases, USCIS actually began several initiatives based on the Ombudsman's recommendations, but did not follow through on them for many reasons. USCIS indicated basic agreement with many recommendations, but did not implement the recommended changes. In nearly three years, USCIS' limited attention to these recommendations, while not providing any equal or better alternatives to serious customer service and security issues, is of concern.

For an agency in desperate need of rapid change, USCIS needs to devote sufficient resources to address these recommendations. In late 2003, USCIS took a positive step in establishing the Office of Customer Relations Management (OCRM). This office was to be staffed by at least 15 people to: (1) serve as the liaison to the Ombudsman; (2) evaluate customer service and recommend changes to the Director to improve this service consistent with national security and from problems identified by the Ombudsman; (3) review USCIS developing systems and programs regarding customer service; and (4) conduct focus groups and certain survey measures with non-governmental organizations on new customer service trends and needs. In a November 20, 2003 Interoffice Memorandum announcing the OCRM, former Director Eduardo Aguirre stated that "USCIS has established an [OCRM] that will be responsible for receiving and coordinating matters between the [Ombudsman] and USCIS. OCRM will also evaluate the effectiveness of USCIS' various customer service programs and initiatives, as well as serve as my principal customer service advocate." In actuality, USCIS funded only two positions for this office thereby severely limiting the OCRM's capabilities.

As of this writing, the future of OCRM is unclear in light of the recent promotion of OCRM's leader and the one other employee to other USCIS divisions. While the Director's office has begun to handle all aspects related to the Ombudsman, it is uncertain if the Director plans to reestablish the OCRM as originally intended or create another team whose sole responsibility is to follow-up and correct the problems identified by the Ombudsman.

2004 REPORTING PERIOD

1. Streamlining Family-Based Immigrant Processing (June 18, 2004) (USCIS Response: December 17, 2004)

In 2004, the Ombudsman called for a one-step, front-end, family-based adjudication process in which an applicant would appear at a USCIS field office to file an application for a green card and be interviewed on the same day. USCIS responded to this recommendation by implementing pilot programs, which included some elements of the Ombudsman's recommendation and are fully discussed in the Ombudsman's 2005 Annual Report (at pp. 26-34).

[89] *See* 6 U.S.C. § 272(f).

During the current reporting period, the Ombudsman forwarded a detailed recommendation on family-based up-front processing to USCIS, as further described in section IV.

2. Streamlining Employment-Based Immigrant Processing (June 18, 2004)

(USCIS Response: December 17, 2004; Additional USCIS Response: April 27, 2006)

The Ombudsman recommended a one-step, front-end, employment-based green card application process in which an applicant would appear at a USCIS field office to file the green card application and be interviewed on the same day. Qualified applicants would be issued a green card in less than 90 days. At the time of this recommendation, in early 2004, an estimated 400,000 employment-based green card applications were pending at service centers and district offices.[90]

In March 2004, USCIS began a pilot at the California Service Center that considered a narrow set of cases—second preference employment-based green card applications.[91] These cases typically do not require referral to a USCIS field office for an interview and the applicants typically have fewer admissibility issues than applicants in the third preference category. The pilot program sought to complete cases, including card issuance, within 75 days of the filing date before it became necessary to issue interim benefits. The Ombudsman's 2005 Annual Report (at pp. 28-29) includes an in-depth analysis of the California Service Center employment-based processing pilot.

The Ombudsman recommends that USCIS implement the recommendations on employment-based cases described at section II.B. The Ombudsman also urges USCIS to revisit the original recommendation and reconsider the agency's decision to forego a comprehensive up-front processing pilot for employment-based green card cases in light of the customer service and security related benefits of the DORA family-based green card pilot program.

3. Reengineering Green Card Replacement Processing (June 18, 2004)

(USCIS Response: December 17, 2004; Additional USCIS Response: April 27, 2006)

The Ombudsman recommended that USCIS create a one-step, up-front process for replacing green cards. The Ombudsman envisioned a process wherein applicants could visit local USCIS offices where USCIS would verify identities, confirm status, perform security

[90] *See generally* Ombudsman's 2005 Annual Report. Additionally, in an April 2006 response to recommendations by the Ombudsman, USCIS provided detailed information on the technology challenges that prevent the immigration service from obtaining this specific data. *See also supra* section II.B.

[91] Second preference employment-based applicants are members of the professions holding advanced degrees or their equivalent and who, because of their exceptional ability in the sciences, arts, or business, will substantially benefit the economic, cultural, or educational interests of the United States. *See* 8 U.S.C. § 1153(b)(2).

checks, and render preliminary decisions. Qualified applicants would receive their green cards within a few days.

As discussed in the Ombudsman's 2005 Annual Report (at p. 27), in March 2004, the Los Angeles District Office began testing alternatives to the traditional green card replacement or renewal processes. In June 2005, USCIS nationally instituted a process requiring individuals to send their Applications to Replace Permanent Resident Card (Form I-90) to the Los Angeles Lockbox. Under the new process, applicants are scheduled to appear at an ASC to provide biometric information that initiates background and security checks. If no derogatory information is uncovered, the ASC orders a new card.[92] At that point, a card is produced and mailed. If questions arise (such as indications of criminal records), applications are referred to field offices for more comprehensive reviews, which usually result in a check of the A-file and an interview by an immigration officer.

The Ombudsman commends USCIS for moving forward on a process that better utilizes technology and standardization. At the same time, the Ombudsman continues to hear complaints about the I-90 process from customers and USCIS employees.

One complaint regularly heard involves receipt notices that the Los Angeles Lockbox mails to applicants. In many instances, applicants either do not receive these notices or receive them several weeks after filing their applications. These time delays can cause serious difficulties for applicants who need the receipts to prove that they filed an I-90.

Compounding the receipt notice delays are apparent decisions by some field offices to withhold ADIT (Alien Documentation, Identification, and Telecommunications System) stamps. ADIT stamps serve as temporary evidence of an individual's green card status. Traditionally, these stamps are placed in passports or on I-94 Arrival-Departure Records so that individuals can travel and work while their green cards are produced. Following an attempt to discontinue the issuance of ADIT stamps, USCIS announced on October 21, 2004 that it would continue issuing ADIT stamps at the same time that it would ". . . aggressively pursue technological improvements to allow the prompt issuing of permanent resident alien cards without the need to issue these stamps."[93] Despite this statement, the Ombudsman has learned that some offices now refuse to issue ADIT stamps, believing that the new I-90 processes will deliver green cards within days of the filing of an application. While USCIS has made improvements in card production and delivery processes, the Ombudsman still hears complaints from customers and USCIS employees who confirm the same types of issues. Therefore, the Ombudsman urges USCIS to continue the issuance of ADIT stamps until those problems have been resolved.

In addition to card delivery problems, USCIS employees note that many applicants complain about card production errors. Errors occur most often when several members of a family apply for replacement cards at the same time. Frequently, photos of family members are mismatched with biographic information of another person. For instance, a husband's photo will be on a card with his wife's name and date of birth, and vice versa. In other cases, several cards

[92] For a discussion of problems associated with card delivery, please see section II.L.

[93] USCIS Statement, October 21, 2004; http://www.uscis.gov/graphics/publicaffairs/newsrels/adit_10_21_04.pdf.

bear the same A-number, even though they relate to different applicants. Such errors create confusion for applicants and can create serious problems when they travel or apply for further immigration benefits. It is unclear what specific steps USCIS has taken to address these concerns that are repeatedly raised by applicants and IIOs around the country, or if USCIS is addressing the problem systematically.

Another problem that compromises USCIS' ability to timely produce and deliver cards is that some ASCs do not have the capacity to process applicants as scheduled. Cards cannot be produced and mailed until collection of biometric data and completion of security checks. Added to the delay in card delivery are practical inconveniences experienced by applicants. Many applicants travel great distances and miss work or school to appear at an ASC. If the ASC is unable to accommodate them as scheduled, they must reschedule the appointment for another day, again travel what can be a great distance, and often miss yet another day of work or school.

The Ombudsman is encouraged by process changes that have saved resources and improved efficiency, but urges USCIS to correct the remaining problems when recognized. Much revenue and many resources are wasted when USCIS fails to immediately address systemic problems that result in avoidable repetitive errors.

The Ombudsman continues to believe that green card replacement and renewal processes can be further streamlined and points to up-front processing as a goal towards which to work. USCIS should conduct further analysis of the Lockbox program and implement additional process improvements to ensure timely, secure, and accurate service.

2005 REPORTING PERIOD

4. Fee Instructions (June 29, 2004)

(USCIS Response: December 17, 2004; Additional USCIS Responses: May 25, 2005 and April 27, 2006)

The fee amounts stated in printed instructions accompanying USCIS forms are often out-of-date. To correct this situation, the Ombudsman recommended that USCIS replace references to specific fees on agency forms with the following statement (or an equivalent): "A fee is required to process this action. Information on the current fee for this action is available on the Internet at www.uscis.gov and by telephone from the National Customer Service Center at (800) 375-5283. If the correct fee is not included, the action will not be accepted by USCIS."

As reported in the 2005 Annual Report (at p. 21), USCIS agreed with this recommendation and noted several helpful steps it has taken to keep the public informed, update fees, and reduce confusion caused by discrepancies in information about filing fees.[94] USCIS also reported last year that funding was approved to change the forms themselves and that modification of the forms was underway.

[94] USCIS noted in one of its responses to this recommendation that it would: (1) post forms on the USCIS website with the correct fees; (2) add a list of current filling fees with each set of form instructions to the website; and (3) send a list of current fees with any set of forms.

USICS noted in its April 2006 response that Forms Centers include lists of fees when they mail forms to customers and reaffirmed its December 2004 comment that it is considering "just-in-time" printing instead of bulk printing to ensure that forms are current. To the Ombudsman's knowledge, USCIS has not yet implemented just-in-time printing. However, USCIS recently updated all forms available electronically with the correct fee information. Thus, an applicant who downloads from the USCIS website now will receive current filing fee information.

In addition, as a part of USCIS' transformation initiative, the agency is considering replacing the numerous existing immigration forms with a smaller number of electronic forms. The Ombudsman looks forward to learning more about the initiative and timelines for implementation.

5. Customer Service Training for USCIS Employees (August 16, 2004)

(USCIS Response: December 17, 2004; Additional USCIS Responses: May 25, 2005 and April 27, 2006)

The Ombudsman recommended that all USCIS employees who interact with immigration customers be required to receive formal training in customer service. As an interim measure, these employees should be required to complete the free customer service training courses available at the Government Online Learning Center.[95]

USCIS agreed with this recommendation in the last reporting period, but has not fully implemented it. At that time, USCIS stated that the basic training program includes customer service training for all USCIS adjudication officers (four hours) and immigration information officers (eight hours). In addition, in October 2005, OCTD introduced EDvantage, a web-based, e-learning system. EDvantage offers all USCIS employees access to Skillsoft, an online library of more than 2,000 courses. Of these, 42 are categorized as customer service courses. The Ombudsman applauds these developments but formal training in customer service, beyond web-based learning, would substantially improve USCIS customer service. In May 2006, in response to a question on implementation of specific training programs, USCIS reiterated that no new programs are contemplated for this year. However, a new model, which incorporates a blended approach involving classroom training and computer-based training is currently in an R&D phase.

The Ombudsman recommends that USCIS go beyond this approach to ensure a training backup plan in the event the above-described project in the research and development phase is not implemented.[96] USCIS should consider aligning its training with the type of employee training provided in DHS' human resources initiatives. It is critical that an agency responsible for processing over six million applications and overseeing an almost two billion dollar annual budget have continuous and appropriate training.

[95] *See* www.usalearning.gov/USALearning.

[96] *See also supra* section II.K.

6. E-filing (August 16, 2004)

(USCIS Response: December 17, 2004; Additional USCIS Responses: May 25, 2005 and April 27, 2006)

To encourage customers to use USCIS' expanding e-filing capability, the Ombudsman recommended that USCIS establish a separate lower fee structure for e-filed applications and petitions.

USCIS agreed in principle with this recommendation in its December 2004 response. However, it has delayed providing such incentives until e-filed applications become less costly for the agency.

In a May 2005 response, USCIS indicated that an IT Transformation Strategy was under review with DHS, but USCIS did not provide a timeline for this IT strategy. USCIS continues to pursue an IT transformation, which would allow USCIS to shift from paper to electronic information processes and reap greater cost efficiencies from e-filing as well as improved customer service. However, the timeline for completing the IT transformation remains unclear more than one year later.

USCIS stated in its April 2006 response that implementation of this recommendation remains impractical and that it considers this recommendation closed. Given the basic agreement with this recommendation and because it has yet to be implemented, the Ombudsman does not agree with USCIS' determination that this recommendation is closed. Therefore, the Ombudsman recommends that USCIS reconsider this recommendation and provide additional specific reasons why this is an impractical solution to encourage more e-filed applications, or provide information on what steps it is taking to move towards this goal.

7. I-9 Storage (August 16, 2004)

(USCIS Response December 17, 2004)

In keeping with current business practices, the Ombudsman recommended that employers be authorized to store Employment Eligibility Verifications (Form I-9s) electronically, in addition to the formats currently authorized, *i.e.*, original form, photocopy, microfilm, and microfiche.

USCIS agreed with this recommendation but noted that ICE has primary jurisdiction over employment eligibility verification issues. On October 30, 2004, the President signed into law H.R. 4306 (Pub. L. No. 108-390), which required the same change as recommended by the Ombudsman. ICE made public guidance for electronic storage and retention of Forms I-9 on April 26, 2005. On June 15, 2006, ICE published an interim rule permitting employers to retain electronic file copies of the Form I-9 and provided standards for doing so.[97] The rule is subject to change via the public comment process ending August 14, 2006.

[97] *See* 71 Fed. Reg. 34510 (June 15, 2006).

8. Premium Processing (September 27, 2004)

(USCIS Response: December 17, 2004; Additional USCIS Responses: May 25, 2005, December 27, 2005, and April 27, 2006)

The Ombudsman recommended that premium processing be made available to certain employment-based change-of-status applications (Form I-539).[98] At the time of this recommendation, the nonimmigrant worker petition (Form I-129) was the only petition eligible for premium processing. The purpose of the Ombudsman's original recommendation was to ensure that family members were not negatively impacted by the failure to allow them to benefit from I-129 premium processing when their applications were filed separately. It was a family reunification recommendation, not a means to apply premium processing to a range of processes.

USCIS stated in its December 2004 response that it agreed with the recommendation and was examining the feasibility, policy implications, and statutory authority related to the expansion of premium processing to employment-based and other cases.

Premium processing is a temporary solution to lengthy adjudications and there should be no need for premium processing if the adjudications process can be shortened. Customer use of premium processing should not be the standard, but the exception. Regular processing should offer an acceptable level of service for the vast majority of customers and thereby obviate the need for premium processing in all but emergent circumstances. Thus, any expansion of premium processing without a concurrent effort to streamline regular processing appears to be for the purposes of expanding revenue collection to cover other USCIS costs.

USCIS stated in April 2006 that Congress gave USCIS statutory authority to recover the full costs of its operations through its immigration benefit application and petition fees:

> Thus, USCIS has little incentive to continue to rely on premium revenues, or any other fee revenue source in particular, as it fully intends to adjust its fee structure to cover its normal operating costs of base operations in its fee review in accordance with [f]ederal fee guidelines, freeing any premium processing revenues for investments in modernization initiatives.

This argument seems sound, but is problematic. The Ombudsman agrees that fees can and should be adjusted to cover actual costs. However, fees – including for premium processing – seem arbitrarily determined. At the very least, fees collected should be transparently applied to activities that visibly and directly benefit the applicant.

[98] *See supra* section III.D for a definition and discussion of premium processing.

9. Standardized Forms (October 6, 2004)

(USCIS Response: December 17, 2004; Additional USCIS Responses: May 25, 2005 and April 27, 2006)

The Ombudsman recommended that USCIS provide customers with a standard forms package for each petition or application type. At the time of the recommendation, the forms and information available to customers varied significantly depending on the USCIS field office. For example, the Eastern Forms Center maintained 37 different forms packages, depending on the district office or sub-office, for family-based green card applications.

USCIS stated in its December 2004 response that it agrees with the intent of this recommendation and believes that using the centralized Lockbox filing procedures will result in fewer variations. All family-sponsored green card applications are now centrally filed. Similarly, applications for replacement of lost, stolen, or expired green cards (Form I-90) are standardized and must be filed with the Los Angeles Lockbox facility.

USCIS again agreed with the recommendation in its April 2006 response and further stated that "where applications are received at one location, standardization has been accomplished." The Ombudsman believes strongly that forms must be standardized as a part of overall USCIS processing and adjudications not only within a particular field office but across all USCIS locations and facilities.

10. Naturalization for Survivors of Domestic Violence (October 6, 2004)

(USCIS Response: December 17, 2004; Additional USCIS Response: April 27, 2006)

The Ombudsman recommended that USCIS correct a Naturalization Policy Memorandum to fully comply with section 319(a) of the Immigration and Naturalization Act, as amended by the Victims of Trafficking and Violence Prevention Act of 2000 (VTVPA). The VTVPA allows certain survivors of domestic violence to become naturalized citizens after residing in the United States for three years, rather than the usual five, as a green card holder. An October 15, 2002 USCIS policy memorandum mistakenly excluded one of the three categories of individuals eligible to naturalize under this provision – conditional residents who gained green card status by approval of Form I-751 with a waiver of the usual joint filing requirement due to battery or subjection to extreme mental cruelty by a spouse.

USCIS agreed with this recommendation. The new memorandum was distributed to USCIS components on January 17, 2006 and, on April 17, 2006, a memorandum was posted on the USCIS website entitled "Clarification of Classes of Applicants Eligible for Naturalization under section 319(1) of the INA, as amended by the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), Pub. L. 106-386."[99]

[99] *See* http://www.uscis.gov/graphics/lawsregs/handbook/Sec319a012705.pdf.

11. INFOPASS Recommendation (November 29, 2004)

(USCIS Response: December 17, 2004; Additional USCIS Responses: May 25, 2005 and April 27, 2006)

INFOPASS is an online appointment scheduler that enables customers to make appointments at USCIS field offices thereby reducing the public's need to queue up outside USCIS facilities to talk with an immigration officer. To ensure equitable access, the Ombudsman recommended that USCIS issue national policy guidance on INFOPASS such that: (1) all districts should make available as many INFOPASS appointments as possible; (2) each district office should either reserve time for walk-in appointments or implement clear procedures for same-day appointments for emergent circumstances as defined by USCIS Headquarters; and (3) each district office should have a kiosk or computer available for customers to make appointments online or, if not possible, should distribute compile a list of organizations that help customers make appointments.

As reported in the 2005 Annual Report (at p. 23-24), USCIS agreed with this recommendation and: (1) reported that most offices could see customers within two weeks; (2) reported that field offices were provided with written guidance on reserving appointment slots for individuals with emergencies; (3) noted that its customer service strategy also included updates to its website and public access through the NCSC; and (4) planned to install kiosks or computers on-site at a limited number of USCIS field offices so that customers can schedule INFOPASS appointments.

The Ombudsman still hears complaints from customers and stakeholders that appointments are not available through the INFOPASS system in some jurisdictions. USCIS stated in an April 2006 response that kiosks have been developed and USCIS established a contract vehicle for offices to procure them. The Ombudsman notes from visits to field offices that USCIS has made limited progress and needs to move more expeditiously to provide this important service.

12. Lockbox Recommendation (November 29, 2004)

(USCIS Response: December 17, 2004; Additional USCIS Responses: May 25, 2005 and April 27, 2006)

At the Chicago Lockbox, a contractor provides centralized imaging of documents and petitions, fee collection and fee processing, and systems development for certain applications and payments to USCIS. In 2004, the Ombudsman recommended that USCIS terminate the Chicago Lockbox arrangement when the Memorandum of Understanding (MOU) with the U.S. Department of Treasury expired on September 30, 2005 because the Lockbox resulted in: (1) tracking and management difficulties due to inefficient shipment of files between USCIS offices; (2) inefficient processing resulting in delayed issuance of receipts to customers; and (3) incorrect rejection of valid filings because of inadequate guidance and oversight.

As reported in last year's Annual Report (at p. 24), USCIS disagreed with this recommendation. USCIS noted that it adopted a business strategy to centralize processing. USCIS distinguishes between its core business of adjudicating benefit applications from non-

adjudicatory clerical tasks (such as managing receipts associated with those applications), which may be delegated to non-government employees. USCIS attributed many problems identified by the Ombudsman to start-up challenges. However, the Ombudsman remains concerned about many facets of the Lockbox operations.

13. Issuance of Green Cards to Arriving Immigrants (December 15, 2004)

(USCIS Response: May 25, 2005; Additional USCIS Response: April 27, 2006)

To take advantage of new technology, the Ombudsman forwarded the following recommendations on the issuance of green cards to arriving immigrants: (1) revise its processing procedures for the short term to electronically verify lost visa cases; and (2) for the long term, USCIS should enter into a MOU with the DOS to provide for the electronic transfers of immigrant visa packages between overseas posts, USCIS, and CBP such that automatic production of green cards would begin upon CBP inspection and admission of arriving immigrants.

USCIS agreed with both the short and long term recommendations. It acknowledged that outdated procedures in a 1997 memorandum should be replaced. USCIS is currently working with DOS to ensure that information in relevant databases is accessible to the other agency and to develop the necessary MOUs to govern the electronic sharing of information. As of last year's Annual Report, USCIS had not provided a timeline to complete discussions with DOS. As of this writing the Ombudsman is not aware of any MOU with either DOS or CBP, as recommended. Additionally, in an April 2006 response, USCIS stated that it began issuing Certificates of Citizenship to IR-3 applicants (adopted children of U.S. citizens) and that it is working with service and enforcement components of DHS and DOS to develop the ability to transfer information electronically.

Although most aspects of this recommendation have not been implemented, USCIS considers it closed. The Ombudsman recommends that USCIS provide details on its ongoing efforts to resolve the underlying problems.

14. Pilot Program Termination (February 25, 2005)

(USCIS Response: May 25, 2005; Additional USCIS Response: April 27, 2006)

For USCIS pilot programs directly affecting customer service, the Ombudsman recommended that USCIS either: (1) publish public notice at the onset of the program of when it will begin and end; or (2) provide 30-day notice before terminating a pilot program. In either case, the Ombudsman recommended that USCIS publish specific information on the handling of cases affected by the program after conclusion of the pilot.

USCIS generally agreed with this recommendation, as reported in the 2005 Report (at p. 25). USCIS stated its intention to provide public notice regarding initiation and termination of pilot programs, using either the Federal Register or a press release, if benefits processing is affected and no law enforcement considerations exist that would be negatively affected by such notices.

The Ombudsman remains concerned that USCIS often does not provide adequate notice to customers regarding policy changes. For example, the Ombudsman received several complaints about the lack of sufficient advance public notification or explanation of USCIS' new bi-specialization program this year.[100] While USCIS considers the recommendation closed, the Ombudsman is following the notice issue in conjunction with new policies and procedures.

15. Issuance of Receipts to Petitioners and Applicants (May 9, 2005)

(USCIS Response: May 25, 2005; Additional USCIS Response: April 27, 2006)

The Ombudsman recommended that USCIS correct apparent failures to perform by the Department of Treasury and its Chicago Lockbox contractor for its inability to issue timely receipts to petitioners and applicants.

As reported in the Ombudsman's 2005 Annual Report (at pp. 25-26), USCIS disagreed with this recommendation and attributed problems observed at the Chicago Lockbox to a surge in filings for Temporary Protected Status. In USCIS' view, surges are not uncommon and the backlog did not represent a failure to perform by the Department of Treasury or the contractor. USCIS reported that an operational plan for surges in volume was in place and implemented, and that Department of Treasury procedures allowed for an alternative, mutually agreed upon processing time for deposits under such circumstances. USCIS stated that the backlog observed in March 2005 now is eliminated.

The Ombudsman remains concerned with the Lockbox process and associated delays. In addition, access to the Chicago and Los Angeles Lockbox facilities is so limited as to prevent senior USCIS management from seeing them. The Ombudsman also has experienced similar accessibility issues with these facilities.

[100] In a March 24, 2006 News Release, USCIS announced that starting on April 1, 2006, employers filing a Petition for a Non-immigrant Worker (Form I-129) should mail that form directly to the Vermont Service Center, and employers filing an Immigrant Petition for an Alien Worker (Form I-140) should mail it directly to the Nebraska Service Center. This "bi-specialized adjudication" initiative represents a fundamental change in the location for filings and adjudications. Specifically, just two of the four service centers will process certain applications rather than a service center receiving an application based upon regional jurisdiction.

The California and Vermont Service Centers will process I-129s and related dependent applications, while the Nebraska and Texas Service Centers will process the I-140s and related permanent resident applications. According to the release, pairing work between service centers will allow USCIS to better manage cases and improve customer service. *See* http://www.uscis.gov/graphics/publicaffairs/newsrels/BiSpecPh01_24Mar06PR.pdf.

2006 REPORTING PERIOD

16. I-131 Refugee Travel Document (June 10, 2005)

(USCIS Response: December 27, 2005; Additional USCIS Response: April 27, 2006)

The Ombudsman recommended that USCIS: (1) revise its regulation, 8 C.F.R. § 223.3(a)(2), to extend the period of validity of refugee travel documents from one year to ten years; and (2) establish a policy of adjudicating I-131 applications for refugee travel documents and reentry permits within six weeks, the same amount of time it takes a U.S. citizen to acquire a passport.[101]

Extending the validity period for refugee travel documents to ten years is consistent with policies concerning similar documents, alleviates the burden and cost imposed on applicants who apply for multiple refugee travel documents prior to becoming green card holders and citizens, and significantly decreases the number of I-131 applications processed.

USCIS did not agree with this recommendation. In a December 2005 response, USCIS provided two reasons for not adopting this recommendation: (1) "asylum and refugee status are limited to one year, at the end of which the individual must apply for adjustment of status to permanent residence"; and (2) the "REAL ID Act's removal of [the yearly 10,000] numerical limitation on [asylee adjustment of status] obviates the need for multi-year travel documents." However, USCIS' assertion that asylum status is limited to one year and that asylees must apply for a green card is incorrect. Individuals in refugee status are "required to apply [for adjustment] one year after entry," but asylees "may be adjusted" if they apply one year after asylum is granted.[102] Consequently, USCIS grants asylum indefinitely, with no expiration date specified.

The elimination of the yearly cap on asylee adjustments may obviate the need for multi-year refugee travel documents in many cases. However, USCIS customers will continue to need multi-year travel documents if USCIS is unable to timely process applications, or if asylees choose not to apply for a green card as soon as possible for any number of reasons, such as financial concerns. Furthermore, asylees and refugees can and often do apply for refugee travel documents even after they are granted green cards to avoid possible delays when re-entering the United States.[103] Thus, extending the validity period for refugee travel documents, particularly for asylees, remains useful.

USCIS agreed that "timely processing is critical when it comes to travel documents" and stated that it had established an internal average processing time goal of two months for I-131 applications. The agency expressed the desire to further reduce the processing time, but noted that this would not be immediately possible due to backlog elimination in other areas. In an

[101] Refugee travel documents are issued to individuals holding valid refugee or asylee status, or to lawful permanent residents who received such status as a direct result of their refugee or asylee status. This benefit is comparable to the benefit sought by U.S. citizens who apply for a passport.

[102] *See* 8 C.F.R. § 209.1 and 209.2.

[103] *See* 8 C.F.R. § 223.2(b)(2)(i).

April 2006 response, USCIS stated that, as part of its transformation initiative, it hopes to let customers choose between service level options because "no matter how fast the average, some customers need expedited service." USCIS noted that it considers this recommendation closed, despite the pending outstanding issues discussed above.

17. Elimination of Postal Meter Mark (July 29, 2005)

(USCIS Response: December 27, 2005; Additional USCIS Response: April 27, 2006)

The Ombudsman recommended eliminating the postal meter mark "Return Service Requested" on USCIS envelopes. Doing so would allow the U.S. Post Office to forward USCIS correspondence to applicants and petitioners. Failure to forward USCIS correspondence adversely impacts customers and USCIS as it causes unnecessary and excessive delays, and burdens the system and processes.

Customers often miss appointments, interviews, and hearing dates; fail to receive approval and receipt notices; and may not obtain incomplete applications that are returned or blank immigration forms. Petitions or applications sometimes are closed prematurely because the USCIS office did not receive timely responses to USCIS letters sent to old addresses and not forwarded. Applicants often know something is wrong only because they have not received correspondence from USCIS for a prolonged period. To re-open a case, applicants re-file their petitions or applications or file a Motion to Reopen, which requires another payment. In effect, the applicant pays twice for the same service. USCIS procedures do not automatically update petitions and applications with address changes, despite the filing of a notice to change an address with Form AR-11.[104] Although an AR-11 is required, USCIS relies on the information in the original application or petition and other change of address mechanisms to send notices and other correspondence to applicants. In fact, USCIS forms do not contain instructions for updating addresses and, as cases can be pending for several years, this omission causes problems. The cost, time, and effort for employers and individuals, due to this USCIS policy, are considerable.

USCIS agreed with the need to standardize the way it processes mail. In a December 2005 response, USCIS stated that it formed a working group to discuss when it would be appropriate to request return service and when to allow forwarding of mail. In an April 2006 response, USCIS stated that once these issues are resolved, guidance will be distributed to field offices.

In response to the Ombudsman's recent questions as to whether USCIS replaced 100 percent of the "Return Service Requested" postal meter marks, USCIS stated on May 19, 2006:

> We are still in the process of replacing the postage meters. The decision regarding whether or not to retain the "Do not forward" stamp on the mail has not been made. USCIS has a working group looking into the issue. We are looking at whether or not the USPS

[104] *See infra* section V.28.

> can forward the mail and then send a change of address notice to us so that we have the information. However, there are some documents that we may not want forwarded under any circumstance. Once the discussion has been completed and a decision made, we will notify the [Ombudsman].

The continued cost of not implementing this simple recommendation is of great concern.

18. Public Reporting for Capped Categories (August 28, 2005)

(USCIS Response: December 27, 2005; Additional USCIS Response: April 27, 2006)

In August 2005, the Ombudsman recommended that USCIS publish monthly the number of nonimmigrant visas issued against the annual numerical limitation on H-1B and H-2B visas, including exempted classes that are capped, and to publish more frequently when the numerical cap is projected to be reached in one month.

The Ombudsman commends USCIS for implementing this recommendation in 2005. However, recent issues surrounding H-1B cap reporting are of concern and the Ombudsman looks forward to working with USCIS to resolve identified issues in the coming weeks.

USCIS should continue to report on H-1B cap usage throughout the year, but do so with greater care and accuracy, and should publish data on the same day each week/month, if possible, to assist employers and individuals.

19. Elimination of Asylum Pickup Decision Delivery Process (October 13, 2005)

(USCIS Response: December 12, 2005; Additional USCIS Response: April 27, 2006)

In October 2005, the Ombudsman recommended that all asylum decisions, whether referrals to the immigration judge or conditional/final grants, should be sent certified return receipt or regular mail via the U.S. Postal Service to all asylum applicants. This would eliminate the existing process that requires decisions to be picked up. It establishes a single process for the delivery of notices for all cases.

Different processes to deliver notices of decisions may be logical for different decision types. However, this is not the current situation. The only difference between requiring asylum applicants to pick up the decision or sending them the notice is geographic distance from the asylum office. Applicants within a certain radius must personally appear to receive their decision. Those outside the radius receive their decision, including any applicable charging documents, by mail. USCIS efficiency is served best by establishing standardized and uniform processes where possible.

In December 2005, USCIS stated that it disagreed with the recommendation for several reasons: (1) requiring an applicant to come into the office to pick up his/her decision helps to ensure the security and integrity of the immigration system and promotes customer service and

efficiency; (2) the current process reduces litigation over sufficiency of service of decisions; and (3) in-person pick-up allows asylum offices to conduct required security checks and take necessary follow-up action. According to USCIS, in-person service ensures that decisions are completed in a timely manner and provides several additional customer service benefits, including immediate issuance of EADs to applicants granted asylum.

USCIS considers this recommendation closed. However, USCIS' justification for personal service does not hold for cases where the asylum interview is accomplished at a circuit-ride location. For example, an asylum applicant residing in Sanford, FL (approximately 255 miles from the Miami Asylum Office) must attend the interview in Miami and travel back to Miami for the decision. However, if that applicant lived in Palm Coast, FL (approximately 280 miles from the Miami Asylum Office) the applicant would be interviewed at the detail site in Jacksonville, (approximately 55 miles away) and would receive the case decision, including an NTA at Immigration Court, if appropriate, by mail because this is a circuit-ride case. Thus, convenience to the government in this case appears to outweigh the inconvenience to the applicant. The Ombudsman recommends that USCIS reexamine this recommendation.

20. Administrative Appeals Office Recommendation (December 7, 2005)

(USCIS Response: April 27, 2006)

The Ombudsman recommended that USCIS make available to the public, through publication of a regulation or another mechanism, the appellate standard of review employed at the Administrative Appeals Office (AAO), the process by which cases are deemed precedent decisions, the criteria for selecting cases oral argument, and the statistics on decision-making by the AAO. The AAO has administrative appellate jurisdiction over approximately 55 petition and application types filed with USCIS. Stakeholders raised concerns with the Ombudsman regarding AAO procedures, standards, and how AAO decisions help ensure that like cases are decided in a like manner.

USCIS generally agreed with this recommendation except for one item regarding the internal guidelines for deliberations regarding precedent decisions. The Ombudsman urges USCIS to proceed expeditiously with the rulemaking to implement the accepted provisions of this recommendation.

21. Asylum Division Use of Notice of Action Form I-797 (December 7, 2005)

(USCIS Response: December 27, 2005; Additional USCIS Responses: March 17, 2006 and April 27, 2006)

The Ombudsman recommended that the Asylum Division utilize the automated and standardized USCIS Notice of Action Form (I-797) that includes Form I-94 for asylum approval notifications. USCIS currently informs other applicants regarding approvals on other applications/petitions with automated notices used system-wide. This effective process should be implemented within the Asylum Division so that the eight asylum offices utilize the automated I-797 for approval notification and Form I-94 issuance/update. The use of separate approval notification systems and Form I-94 processes/documents at different USCIS operations is counterproductive, confusing, and increases the likelihood for fraud.

USCIS agreed with the recommendation in March 2006. However, it stated that implementation will take time and should be coordinated with the ongoing transformation initiative. Despite agreement on this recommendation and the need for implementation, USCIS stated in an April 2006 response that it considers this recommendation closed. The Ombudsman looks forward to receiving updates on an implementation timeline for this recommendation from USCIS.

22. Notices to Appear (March 19, 2006)

(USCIS Response: April 27, 2006)

The Ombudsman recommended that USCIS standardize its policy on issuing Notices to Appear (NTAs), a summons to appear before an Immigration Judge. The recommendation provided that NTAs be issued and filed with the Immigration Court in all cases where applicants are out of status because their applications for green cards were denied. USCIS has jurisdiction to consider green card applications for aliens who are not in removal proceedings, while EOIR has jurisdiction to consider adjustment applications filed while an individual is in removal proceedings.[105] Current regulations establish no less than 24 categories of federal officer who may issue and file NTAs.[106] Policies and procedures in place before the breakup of INS still grant these immigration officers the discretion not to issue NTAs.

USCIS has indicated that it does not have the resources to issue NTAs in every case where a green card application is denied. Moreover, it is expected that the Immigration Court would not have the ability to process the volume of removal cases that would result. On the other hand, USCIS would receive fewer fraudulent filings if USCIS standardized NTA issuance policy and, as a result, fewer cases would come before USCIS and EOIR.

USCIS disagreed with this recommendation. USCIS stated that there will be a number of cases where it will decide not to issue an NTA upon finding that to do so would be against the public interest or contrary to humanitarian concerns. USCIS asserted that in other situations it would be logistically inappropriate to issue an NTA, *e.g.*, where a green card application is denied because it was filed prior to when the preference category priority date became current. In addition, in the national security context, USCIS noted that issuance of an NTA involves several layers of agency review, which make it impracticable to issue an NTA before the applicant leaves the USCIS after an interview.

The Ombudsman appreciates and agrees with the concerns raised by USCIS. The recommendation does not contemplate that USCIS would not provide for exceptions, as USCIS suggests. Instead, it was intended to address the many thousands of applicants who either deserve or seek to have an NTA issued and do not receive one because the agency has indicated it does not have sufficient staffing to accomplish this task. As a result, these individuals not only remain in the United States without status, but the problem of unscrupulous applicants re-filing green card applications perpetuated, which would not happen if the NTA were issued.

[105] *See* 8 C.F.R § 245.2(a).

[106] *See* 8 C.F.R § 239.1.

23. Military Naturalization (March 19, 2006)

(USCIS Response: April 27, 2006)

As part of general background and security procedures, and to help establish good moral character, USCIS requires naturalization applicants to be fingerprinted. For active duty U.S. military personnel, fingerprinting requirements can create a hardship, particularly for those assigned to a combat zone or about to be deployed into such a situation. Therefore, for U.S. military personnel applying for naturalization, the Ombudsman recommended that USCIS eliminate fingerprint requirements.

USCIS agreed with the Ombudsman's intent to improve the fingerprint process for military naturalization applicants, but does not concur with waiving the fingerprint-based criminal history check at this time. The agency recognizes the special needs of military personnel and, together with the military, FBI, and Office of Personnel Management, USCIS is developing a fingerprint process that will eliminate the need for soldiers to appear for fingerprint appointments. Over time, USCIS envisions automatically receiving fingerprints from the military at the time of enlistment.

In an April 2006 response, USCIS deemed this recommendation closed. Given that USCIS agreed with the intent of the recommendation, the Ombudsman looks forward to working with USCIS to find an appropriate way to facilitate the naturalization application process for active duty U.S. military personnel.

24. Asylum Adjudication (March 19, 2006)

(USCIS Response: April 27, 2006)

The Ombudsman recommended that USCIS limit its adjudication of I-589 applications for asylum and withholding of removal to those submitted by individuals in valid nonimmigrant status. The recommended procedure adheres to the appropriate roles/responsibilities from the breakup of INS into USCIS, CBP, and ICE. When USCIS adjudicates an out-of-status/non-status applicant, it is technically conducting an enforcement activity that is within the purview of ICE and EOIR, not USCIS.[107]

In 2004, USCIS received 32,682 asylum applications.[108] In the same year, the Asylum Division adjudicated 31,582 asylum cases and approved 10,101 of those cases (approximately 32 percent).[109] The remaining 68 percent of the cases were denied or referred to an Immigration Judge. Individuals with no basis for asylum can abuse the process to delay or prevent their removal from the United States. Due to the unfunded mandate problem described in section II.G above, the asylum issue concerns all individuals and employers whose payment of fees for other services funds asylum adjudication.

---

[107] *See* 8 U.S.C §§ 1227(a)(1) and 1229a(a)(1).

[108] *See* 2004 Yearbook of Immigration Statistics, at 51; http://www.uscis.gov/graphics/shared/statistics/yearbook/Yearbook2004.pdf.

[109] *See id*. (The Ombudsman calculated this approximate percentage based upon the asylum cases adjudicated and approved).

The current affirmative asylum process: (1) encourages disregard of the law; (2) results in absolving immigration violations; and (3) promotes abuse of process.[110] For example, an individual who has overstayed a visa for nine months may file for affirmative asylum within the one year filing deadline and thereby delay departure from the United States for several months.[111] Processing delays of more than 150 days will allow the applicant to receive an EAD as the case works it way through Immigration Court proceedings, appeals before the Board of Immigration Appeals, and any federal Circuit Court of Appeals.[112]

At times, attorneys want to have out-of-status clients or individuals who enter the United States without inspection or through fraud to appear before an Immigration Judge. This is required because relief from removal (such as a court order for Cancellation of Removal) is only available in Immigration Court. However, before appearing at Immigration Court, an individual must receive an NTA issued by an authorized government official. One way of obtaining an NTA is to apply for asylum with an expectation that USCIS will deny or refer it. This is a common practice and exists primarily because of agencies' reluctance to issue an NTA when the perceived result is a grant of relief from removal. USCIS must expend resources to receive the applications, establish files for individuals, conduct appropriate security checks, schedule interviews, research cases, formulate decisions (always a referral), prepare NTA and other documents, file cases with the Immigration Court, present/serve NTA, and transfer case files to the ICE office that represents the government in Immigration Court. This constitutes an expensive use of USCIS resources when the individual's goal is to appear before the Immigration Court.

USCIS stated in April 2006 that the recommendation requires careful consideration, research and discussion with the communities that would be affected. Therefore, USCIS is soliciting input from stakeholders that would be significantly impacted if the recommendation were to be adopted, including the EOIR, ICE office of the Principal Legal Counsel, non-governmental organizations, and the advocacy community. In addition, USCIS is soliciting input from the United Nations High Commissioner for Refugees and the U.S. Commission on International Religious Freedom. The Ombudsman commends USCIS' initiative to solicit input on this recommendation and encourages USCIS to take that approach for all of the Ombudsman's recommendations. Since submitting this recommendation, the Ombudsman has received letters both opposing and supporting it.

[110] The affirmative asylum process consists of filing an application for asylum (Form I-589) with one of eight USCIS asylum offices. The application is adjudicated and decided (grant, denial, or referral) by a USCIS asylum officer, not an Immigration Judge (Executive Office of Immigration Review (EOIR)).

[111] See 8 U.S.C. § 1158 (a)(2)(B)-(D).

[112] *See* 8 C.F.R. § 274a.12(c)(8)(i).

25. Employment Authorization Documents (EADs) (March 19, 2006)

(USCIS Response: April 27, 2006)

In March 2006, the Ombudsman recommended that USCIS begin issuing multi-year EADs. Previously, on July 30, 2004, USCIS published an interim rule providing for issuance of multi-year EADs, but it was not implemented.

The recommendation also called on USCIS to issue EADs valid as of the date any previous issuance expires and amend the regulations so that K–1 nonimmigrants are not subject to breaks in employment authorization.

In April 2006, noting that the issues addressed in the recommendation impact many program areas and are critical to customers, USCIS stated that it "is carefully considering the recommendations made by the Ombudsman," and has "put together a working group to look at each issue" before writing a formal response.

26. DNA Testing (April 12, 2006)

The Ombudsman recommended that USCIS: (1) accept DNA test results as secondary evidence of family relationship; (2) grant authority to directors to require DNA testing; and (3) initiate a DNA testing pilot project to study the impact of requiring DNA testing as evidence of family relationship. In conjunction with this recommendation, the Ombudsman provided USCIS with proposed regulatory revisions.

DNA test results are listed as neither primary nor secondary evidence of family relationship in USCIS regulations and forms, and customers face obstacles in providing DNA test results as initial evidence of family relationship. USCIS relies almost exclusively on documentary evidence and customer interviews to verify the legitimacy of claimed family relationships. The result is a resource-intensive and time-consuming process; a process in which all customers, honest or not, are subject to scrutiny and suspicion; and a process, despite the concerted effort and considerable skill of adjudicators, which is prone to error. Although USCIS directors have the regulatory authority to require less reliable blood tests of customers, current USCIS policy states that DNA testing is voluntary and only to be suggested to customers when other evidence is inconclusive.

In April 2006, USCIS stated that it will respond to this recommendation after studying the legal and operational impact of this recommendation.

27. Up-front Processing (May 19, 2006)

Please see section IV for a detailed discussion of the recommendation on up-front processing.

28. Address Change (Form AR-11) (June 9, 2006)

In June 2006,[113] the Ombudsman recommended USCIS proceed immediately with plans to supplement current change-of-address procedures with an online process. This

[113] The Ombudsman submitted the draft recommendation to USCIS in May 2006, during the reporting period, and finalized it in early June.

recommendation, if implemented, would improve customer satisfaction and confidence with the process, while improving USCIS efficiency and enhancing data accuracy.

Currently, USCIS requires customers to file Form AR-11, Alien's Change of Address Card, to comply with the statutory requirement to report any change of address within ten days.[114] No receipt is provided to the customer to indicate the AR-11 has been received and/or processed by USCIS, despite the fact that the customer can be held criminally liable and removed from the United States for failing to file the AR-11.[115] Many USCIS customers presume that by filing Form AR-11 and complying with the statutory requirement, they are updating their address in all records retained by USCIS. However, USCIS does not use Form AR-11 to update customer addresses in its immigration benefits databases. As a result, customers must notify individual USCIS offices separately. However, no language on Form AR-11, or in the accompanying USCIS website instructions, informs customers of the need to provide such separate notification.

A September 2005, DHS IG Report discussed problems relating to applicants who change addresses after applying for benefits.[116] The report notes that this problem impacts customers, who lose a place in line and with it a chance at earlier benefits, and USCIS employees, who waste time determining why applicants did not show up for interviews. Similar to the Ombudsman's recommendation, the IG Report observed that change of address issues can be resolved by USCIS transitioning from paper-based processes to modern electronic, person-centric, integrated systems.

Earlier this year, USCIS stated its agreement in principle with this recommendation and informed the Ombudsman that it was developing an online change-of-address procedure that would effectively resolve the problems identified. The Ombudsman commends USCIS for its initiative to resolve customer concerns with the current process, but also observes that USCIS has yet to implement an online change-of-address procedure.

ANTICIPATED RECOMMENDATIONS

The Ombudsman is considering many recommendations to address other problems identified. For example, these include: (1) processing of Freedom of Information Act requests; (2) "O" visa extension of stay issues[117]; (3) improvement of quality assurance process; (4) foreign spouses of U.S. citizens' sponsorship issues related to the I-130 and the I-129F; (5) I-601 waiver of ineligibility issues; and (6) N-648 medical waiver for naturalization applicants.

[114] *See* 8 U.S.C. § 1305.

[115] *See* 8 U.S.C. § 1306(b).

[116] *See* DHS IG Report "USCIS Faces Challenges in Modernizing Information Technology," at 18-19.

[117] Individuals of extraordinary ability in the sciences, arts, education, business, or athletics can apply for "O" visas.

VI. LOCAL OMBUDSMAN PILOT PROGRAM

The Homeland Security Act of 2002 states that the Ombudsman shall have the responsibility and authority to appoint local ombudsmen and make available at least one local ombudsman per state.[118] In preparing to exercise this responsibility and authority, the Ombudsman initiated a pilot program to design and develop a local ombudsman office.

The Local Ombudsman Pilot Program commenced in May 2005 and was completed in November 2005. It created model operations for local ombudsman offices or field offices. The program met its goals by establishing personnel and support requirements, determining liaison responsibilities and limitations, and creating quality assurance standards and program objectives.

The pilot program also developed cost models to identify personnel, facilities, and operating costs for local ombudsman offices in various locations across the country. The pilot estimated that average establishment and annual operating costs of a single, local ombudsman's office was $556,000. It would cost an estimated $27.8 million to place and operate one such office in each state, in addition to the cost of operating the Ombudsman's Headquarters Office in Washington, D.C.

The issue of creating local offices will be reviewed further, but there are no budget requests for establishing such offices in FY 07. Instead, the Ombudsman is developing a "Virtual Access Ombudsman Office" to make such services available via the Internet. In addition, current FY 07 budget increases will provide additional travel funds which will enable personal contact by office representatives based in Washington, D.C., visiting various locations on a circuit-ride basis. This will enable the Ombudsman to objectively identify areas to visit based on problems presented by individuals and employers in dealing with USCIS. It will provide an efficient method of providing government services by limiting infrastructure and personnel costs and using advancements in communication.

VII. CASE PROBLEMS

By statute, the Ombudsman receives and processes case problems to assist individuals and employers who experience problems with USCIS.[119] During the reporting period, the Ombudsman committed considerable time, resources, and attention to the case problem resolution unit. This unit also helps identify systemic problems so that the case problems encountered by individuals and employers can be avoided in the future.

It should be emphasized that petitioners or applicants still will need to pursue whatever legal avenues are available upon denial of a petition or application, even if they submit a case problem with the Ombudsman. The Ombudsman's office is not an office for filing appeals of adverse decisions.

[118] *See* 6 U.S.C. § 272(e)(1).

[119] *See* 6 U.S.C. § 272 (b)(2).