

Department of Homeland Security **Office of Inspector General**

U.S. Citizenship and Immigration Services' Tracking and Monitoring of Potentially Fraudulent Petitions and Applications for Family-Based Immigration Benefits



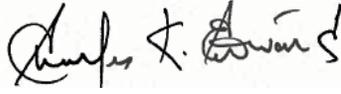


OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

June 12, 2013

MEMORANDUM FOR: The Honorable Alejandro Mayorkas
Director
U.S. Citizenship and Immigration Services

FROM: Charles K. Edwards 
Deputy Inspector General

SUBJECT: *U.S. Citizenship and Immigration Services' Tracking and Monitoring of Potentially Fraudulent Petitions and Applications for Family-Based Immigration Benefits*

Attached for your information is our final letter report, *U.S. Citizenship and Immigration Services' Tracking and Monitoring of Potentially Fraudulent Petitions and Applications for Family-Based Immigration Benefits*. We incorporated the formal comments from the U.S. Citizenship and Immigration Services in the final report.

The report contains one recommendation aimed at improving procedures to record, update, and monitor fraud-related information. Your office concurred with the recommendation. As prescribed by the Department of Homeland Security Directive 077-01, Follow-Up and Resolution for Office of Inspector General Report Recommendations, within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for each recommendation. Also, please include responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendation. Until your response is received and evaluated, the recommendations will be considered open and unresolved.

Consistent with our responsibility under the *Inspector General Act*, we are providing copies of our report to appropriate congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Major contributors to this report are Brad Mosher, Audit Manager; Chris Chamberlain, Auditor; Elaine Ferguson, Auditor; Richard Joyce, Auditor; Keith Lutgen, Auditor; Matt Noll, Auditor; Katrina Bynes, Referencer; and Kelly Herberger, Communications Analyst.

Please call me with any questions, or your staff may contact Anne L. Richards, Assistant Inspector General for Audits, at (202) 254-4100.

Attachment



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Background

In the Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) oversees lawful immigration to the United States. U.S. immigration law grants permanent resident status to aliens who legally marry a U.S. citizen or lawful permanent resident and to certain aliens who are family members of U.S. citizens or lawful permanent residents. Immigration benefits may lead to the right to apply for and receive Social Security and Medicare benefits and food stamps, and the opportunity to sponsor alien spouses and relatives for permanent residency.

We performed this audit to determine whether USCIS recorded information about adjudicated family-based petitions and applications suspected of being fraudulent according to agency policy requirements and in a manner that deterred immigration fraud.

U.S. citizens or lawful permanent residents who petition to sponsor a qualifying family member, including a spouse, must file a *Petition for Alien Relative* (Form I-130) with USCIS.¹ USCIS officers adjudicate I-130 petitions at field offices or service centers. Through the I-130 adjudication process, USCIS must validate that the petitioner is a U.S. citizen or lawful permanent resident. When the petitioner is sponsoring an alien spouse, the petitioner must establish that the marriage is valid. For petitioners sponsoring relatives, USCIS must determine the validity of the relationship before approving the I-130 petition.

Approval of an I-130 petition grants an alien immediate relative already residing in the United States the ability to apply for permanent residence by filing an *Application to Register Permanent Residence or Adjust Status* (Form I-485). An alien spouse or alien immediate relative who has an approved I-130 petition and is residing outside the United States may apply at a U.S. embassy or consulate for an immigrant visa to live in the United States. USCIS offices process all I-130 petitions and I-485 applications filed concurrently.

According to USCIS policy, I-130 petitions and I-485 applications suspected of being fraudulent are to be referred to the USCIS Fraud Detection and National Security Directorate (FDNS) for further investigation. FDNS personnel are located in every domestic USCIS service center, as well as in district, field, and asylum offices and in certain overseas offices; they report to field management in field offices and service

¹ U.S. citizens may apply for their husband or wife or their married or unmarried children. If they are at least 21 years of age, they may also petition for parents, brothers, or sisters. Lawful permanent residents may apply for their husband or wife and unmarried children, regardless of age.



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centers. Once they complete their investigation, FDNS officers return the petition or application to adjudicators with a Statement of Findings (SOF) summarizing their work and identifying one of the following results: (1) Fraud Found; (2) Fraud Not Found; or (3) Inconclusive. Adjudicators consider the SOF when deciding whether to grant immigration benefits.

USCIS initially reviews I-130 petitions for aliens located overseas who wish to obtain a visa to live in the United States. USCIS then forwards approved I-130 petitions to a Department of State consular officer, who conducts an interview to determine eligibility of the alien into the United States. The Department of State sends petitions that are suspected of or found to be fraudulent back to a USCIS service center as consular returns. USCIS policy requires that all consular returns suspected of or determined to be fraudulent be returned to the originating service center and routed to FDNS for investigation and creation of a case file in the FDNS-Data System (FDNS-DS) and in TECS, when applicable.² USCIS may either reaffirm or revoke petitions suspected of being fraudulent. When a USCIS adjudicator reaffirms a petition, the original petition is returned to Department of State with a cover letter explaining why the petition was reaffirmed. When an adjudicator revokes a petition, the Department of State can no longer issue a visa.

Results of Audit

USCIS has procedures to track and monitor documentation related to petitions and applications for family-based immigration benefits suspected of being fraudulent. However, once family-based immigration petitions and applications were investigated and adjudicated, fraud-related data were not always recorded and updated in appropriate electronic databases to ensure their accuracy, completeness, and reliability. Specifically, FDNS personnel did not record in appropriate electronic databases all petitions and applications denied, revoked, or rescinded because of fraud. Supervisors also did not review the data entered into the databases to monitor case resolution. Without accurate data and adequate supervisory review, USCIS may have limited its ability to track, monitor, and identify inadmissible aliens, and to detect and deter immigration benefit fraud.

USCIS procedures require FDNS personnel to record cases of identified immigration fraud in TECS. USCIS uses TECS to record cases of suspected or identified immigration fraud, as well as aliens inadmissible to the United States. The system is linked to DHS

² TECS, formerly called The Treasury Enforcement Communications System, is now referred to only by its acronym.



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law enforcement facilities worldwide and allows other Federal, State, and local entities to access the data.

FDNS did not record all cases of identified fraud in TECS. For example, nationwide from fiscal year (FY) 2008 through FY 2011, USCIS denied or revoked 2,557 family-based I-130 petitions for fraud. Of these petitions, 622 were associated with an FDNS finding of fraud, but 302 (49 percent) did not have corresponding TECS records. In the same period, at the four offices we evaluated, 6 (21 percent) of 29 family-based I-130 petitions associated with an FDNS finding of fraud did not have corresponding TECS records.

For the same period, nationwide, USCIS denied or rescinded 2,961 family-based I-485 applications for fraud. Of these applications, 522 were associated with an FDNS finding of fraud, but 247 (47 percent) did not have corresponding TECS records. A review of data from the same period at the four offices we evaluated showed that 3 (11 percent) of 28 family-based I-485 applications denied or rescinded for fraud had no TECS records. Table 1 shows the total number of family-based I-130 petitions and I-485 applications with an FDNS finding of fraud that were denied, revoked, or rescinded, as well as the number and percentage of corresponding TECS records.

Table 1. TECS Records for Family-based Immigration Petitions and Applications With an FDNS Finding of Fraud That Were Denied, Revoked, or Rescinded

FYs 2008–2011			
Petition/Application Type	Total With FDNS Finding of Fraud (Fraud Found)	TECS Record	No TECS Record
National I-130	622	320 (51.4%)	302 (48.6%)
Local* I-130	29	23 (79.3%)	6 (20.7%)
National I-485	522	275 (52.7%)	247 (47.3%)
Local* I-485	28	25 (89.3%)	3 (10.7%)

Source: DHS OIG analysis of USCIS data.

*Local refers to the four offices that we evaluated.

At the four offices we evaluated, supervisors in adjudications and FDNS units did not monitor database entries to determine whether fraud cases had been properly recorded.

Conclusion

Not following USCIS’ established procedures to record, update, and monitor fraud-related information in databases may have increased the risk that aliens committing



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fraud were granted immigration benefits or given additional opportunities to apply for benefits. Accurate immigration and law enforcement database records would enable USCIS to improve its ability to track, monitor, and deter fraud.

Recommendation

We recommend that the Director, U.S. Citizenship and Immigration Services:

Clarify and enforce policies and procedures to ensure that TECS records are created and updated for all identified cases of immigration benefit fraud.

Management Comments and OIG Analysis

Recommendation: USCIS concurred with the recommendation. Management indicated that it has (1) reviewed its existing procedural guidance that governs the creation and maintenance of TECS records; (2) determined that, to focus greater attention on TECS policies and procedures, it will remove TECS guidance from the current Fraud Detection Standard Operating Procedure and issue separate guidance on TECS; and (3) drafted the enhanced TECS guidance. USCIS plans to issue the enhanced TECS guidance within 30 days.

OIG Analysis: USCIS' planned corrective actions are responsive to the recommendation. This recommendation will remain open and resolved until we receive documented support that USCIS has issued the enhanced TECS guidance.



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Appendix A

Objective, Scope, and Methodology

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*. This is one of a series of audit, inspection, and special reports prepared as part of our oversight responsibilities to promote economy, efficiency, and effectiveness within the Department.

The objective of our audit was to determine whether USCIS recorded information about adjudicated family-based petitions and applications suspected of being fraudulent according to agency policy requirements and in a manner that deterred immigration fraud. To accomplish our objective, we assessed USCIS' efforts to process, evaluate, and respond to family-based petitions and applications with suspected immigration benefit fraud that were adjudicated between October 1, 2007, and September 30, 2011.

We obtained and reviewed all pertinent Federal, Departmental, and USCIS-specific regulations, policies, procedures, and internal controls governing the processing and adjudication of family-based petitions and applications.

We reviewed I-130 petitions and I-485 applications denied, revoked, or rescinded by USCIS adjudicators between FYs 2008 and 2011 at the offices we visited. The purpose of the review was to determine whether the petitions, applications, and consular returns had been recorded according to established USCIS' policies. We limited USCIS office visits to Baltimore, MD; Mt. Laurel, NJ; Philadelphia, PA; Washington, DC; and the Vermont Service Center in St. Albans, VT.

We relied on computer-processed USCIS data that contained information on family-based petitions from FYs 2008 through 2011. We conducted a limited review through physical observation of the process used to update these systems to ensure that the data were sufficiently reliable for use in meeting our audit objective. In developing our tests, we worked with personnel from USCIS' Office of Performance and Quality, Office of Policy and Strategy Field Operations Directorate, Service Center Operations Directorate, and FDNS.

Tracking and Monitoring Test

Positive TECS matches were based on a match of both name and date of birth for the petitioner, beneficiary, or applicant. Using a total of 1,838 Form I-130 and Form I-485 receipts with a matching FDNS-DS record, we identified instances in which at least one



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of the subjects involved with the petition or application had a corresponding TECS record. To verify the data, we checked the date of birth used to query TECS against the date of birth returned with a matching name.

We interviewed USCIS officials from FDNS, Service Center Operations, Field Office Operations, Office of Policy and Strategy, Office of Performance and Quality, Office of Chief Counsel, and Office of General Counsel.

We conducted this performance audit between August 2011 and January 2012 pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.

We appreciate the cooperation by USCIS management and staff in providing the information and access necessary to accomplish this review.



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Appendix B
Management Comments to the Draft Letter Report

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director MS-2000
Washington, DC 20529-2000



**U.S. Citizenship
and Immigration
Services**

MAY 14 2013

Memorandum

TO: Charles K. Edwards
Deputy Inspector General

FROM: Alejandro N. Mayorkas 
Director
U.S. Citizenship and Immigration Services

SUBJECT: *U.S. Citizenship and Immigration Services' Tracking and Monitoring of Potentially Fraudulent Applications for Family-Based Immigration Benefits – For Official Use Only*
OIG Project No. 11-033-AUD-USCIS

Thank you for the opportunity to review and comment on your April 2013 draft report entitled U.S. Citizenship and Immigration Services' Tracking and Monitoring of Potentially Fraudulent Applications for Family-Based Immigration Benefits (the "Draft Report"). U.S. Citizenship and Immigration Services (USCIS) recognizes and appreciates the time and effort that the Department of Homeland Security's Office of Inspector General (OIG) devoted to the Draft Report and values greatly the OIG's independent assessment of USCIS's processes and work. This independent assessment assists USCIS in more effectively achieving its critical missions.

USCIS concurs with the Draft Report's recommendation that USCIS "[c]larify and enforce policies and procedures to ensure that TECS records are created and updated for all identified cases of immigration benefit fraud." In fact, USCIS already has (1) reviewed its existing procedural guidance that governs the creation and maintenance of TECS records; (2) determined that, to focus greater attention on TECS policies and procedures, USCIS will remove the TECS guidance from the current Fraud Detection Standard Operating Procedure (SOP) and issue separate guidance on TECS; (3) drafted this enhanced TECS guidance; and, (4) planned to issue this enhanced TECS guidance within the next thirty (30) days.

While USCIS concurs with the Draft Report's recommendation, USCIS considers it important to address certain statements in the Draft Report. The Draft Report refers to a single "policy" and does not account for the fact that USCIS's policies and practices have changed over time. Since the creation of USCIS's Fraud Detection and National Security Directorate (FDNS) in early 2010, for example, USCIS has strengthened its anti-fraud standard operating procedures and enhanced its FDNS-DS system capabilities. The most recent fraud detection SOP, issued in March 2011, requires FDNS to record every fraud referral. The prioritization of USCIS's anti-



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fraud efforts has led USCIS to increase FDNS staffing levels significantly. In fiscal year 2011, FDNS offices in each region across the country began conducting Quality Analysis Reviews to identify whether FDNS Supervisory Immigration Officers are reviewing FDNS-DS records to ensure that the records are properly created and maintained.

The Draft Report concludes that “[n]ot following USCIS’ [sic] established procedures to record, update, and monitor fraud-related information in databases may have increased the risk that aliens committing fraud were granted immigration benefits or given additional opportunities to apply for benefits.” However, regardless of whether a case is recorded in a database as denied for fraud, the likelihood that an individual who previously engaged in fraud would successfully gain an immigration benefit in the future is remote; the decision to grant an immigration benefit requires a complete file review, and prior fraud efforts, both verified and suspected, would be recorded in the file. Moreover, the Draft Report focuses specifically on TECS entries and while TECS records are an important piece of the USCIS anti-fraud program and may help disrupt a fraud scheme, they are only one of many tools that USCIS employs to detect, deter, and prosecute fraud.

Recommendation: Clarify and enforce policies and procedures to ensure that TECS records are created and updated for all identified cases of immigration benefit fraud.

Response: Concur.

Thank you again for the opportunity to review and comment upon the Draft Report. Technical and sensitivity-related comments were submitted previously under separate cover. Please feel free to contact me if I can answer any questions. We look forward to continuing to work with you and your team, and we appreciate your efforts to improve our agency.



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Appendix
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