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Office of Inspector General

Letter Report:

Citizenship Test Redesign



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MEMORANDUM TO: Eduardo Aguirre
Director
U.S. Citizenship and Immigration Services

FROM: *Richard L. Skinner*
Richard L. Skinner
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SUBJECT: Citizenship Test Redesign

In 2001, the U.S. Immigration and Naturalization Service (INS), then part of the Department of Justice, began an initiative to redesign the English and U.S. history and civics tests delivered to naturalization applicants. This initiative has continued under the aegis of the U.S. Citizenship and Immigration Service (USCIS) within the Department of Homeland Security. Among the objectives of the redesign is the development of a standardized test to improve upon the current test delivery process and test content. The redesign is to address concerns that the current testing procedures are not uniform across all USCIS offices and do not effectively determine if a naturalization applicant has a meaningful understanding of the English language and U.S. history and civics.

The redesign of the naturalization tests has significant implications for USCIS operations and the naturalization process experienced by millions of immigrants for years to come. We have tracked recent developments in the naturalization redesign process in line with our oversight responsibilities and out of concern for the potentially major impact of this initiative. Between December 2004 and February 2005, we met with USCIS officials, monitored naturalization interviews, reviewed relevant documentation, and attended public sessions of the National Research Council's Committee on the U.S. Naturalization Test Redesign. Initially, we anticipated performing a traditional evaluation and review of USCIS' test development initiative. However, due to the early stage of test development and likelihood that important aspects of the examination process will change, we are abbreviating our review and issuing this letter report instead. We share some of our observations for your consideration as you move forward in the test redesign process.

Statutory, Regulatory, and Policy Basis for Testing

The statutory basis for testing naturalization applicants on English and U.S. history and civics is the Immigration and Naturalization Act of 1952, as amended. The Act states that for naturalization applicants to qualify for citizenship, they must demonstrate an understanding of the English language and a knowledge and understanding of the fundamentals of the history, and of the principles and form of government, of the United States. USCIS regulations and policy guidance further require applicants to demonstrate the ability to read, write, and speak words in ordinary usage in the English language while allowing certain exceptions for age, length of residence, or medical impairment.

USCIS determines an applicant's ability to speak English on the basis of his or her answers to questions normally asked in the naturalization interview. According to test administration guidelines, reading and writing skills are to be tested using excerpts from Federal Textbooks on Citizenship written at the elementary literacy level or other approved sources. Under current USCIS policy, an applicant passes the English language test if he or she can read one sentence and write another sentence to the satisfaction of an adjudicator. Each applicant is to be given three opportunities for both the reading and writing tests.

USCIS regulations require the delivery of the U.S. history and civics test in an oral format giving due consideration to an applicant's background, age, length of residence in the United States, and other factors. Applicants are to be given 10 questions on subject matter covered in the Federal Textbooks on Citizenship. Adjudicators are encouraged to randomly generate these 10 questions from the USCIS CLAIMS 4 database, which contains a list of 100 approved questions. To pass the test, an applicant must answer six or more of these questions correctly.

Past Concerns with the Testing Process

Coopers and Lybrand (now IBM Business Consulting Services) studied the naturalization process on behalf of the INS in 1997. As a result of its review effort, Coopers and Lybrand expressed a number of concerns with the naturalization testing process. The firm found that, at the time, INS had no standard naturalization test content, testing instruments, test protocols, or scoring system.

Also in 1997, the U.S. Commission on Immigration Reform reported that there was significant variation among INS district offices in the methods by which they administered the naturalization test and in the threshold number of correct answers required for passing. The report also asserted that, in some cases, INS adjudicators scaled the tests to the perceived educational abilities of applicants. The commission asserted that the tests used to evaluate the knowledge of U.S. history and civics did not do so in a meaningful way. The report noted that the civics test, for example, relies on memorization of discrete facts rather than on substantive understanding of the basic concepts of civic participation.¹

¹ *Becoming an American: Immigration and Immigrant Policy*, U.S. Commission on Immigration Reform, Washington, DC, 1997, pp. 46-47.

The commission suggested that the tests be standardized and aim to evaluate a common core of information to be understood by all new citizens. The commission maintained that the U.S. history and civics test should assess whether applicants understand the basic principles of U.S. government: for example, what it means to have freedom of speech or the freedom to assemble. The commission further recommended that the English test accurately and fairly measure an immigrant's ability to speak, read, and write in English.²

To increase the meaningfulness of the exams and foster greater standardization, the commission encouraged INS officials to develop a new U.S. history and civics exam, as well as, a new English language test. The commission encouraged INS officials to undertake this test development effort alongside "professional educators, pedagogical experts, and standardized test providers."³

A July 2000, DOJ Office of Inspector General (OIG) report on INS's Citizenship USA initiative⁴ found that the English and U.S. history and civics tests were unevenly administered throughout the INS. Among the cited contributing factors to this uneven test administration was a lack of clear standards to assess an applicant's ability to speak, read, and write English. The system relied on the adjudicator's discretion to determine the evaluation standard for each applicant. For the U.S. history and civics test, INS regulations explicitly authorized the use of discretion to give due consideration to the "education, background, age, length of residence in the United States" and the "opportunities and efforts made to acquire the requisite knowledge."⁵

The DOJ OIG found that for both the English and U.S. history and civics tests, the use of discretion among INS adjudicators resulted in varying levels of test difficulty and inconsistent standards for what was considered a passing score. The OIG recommended that INS immediately develop a standard by which to evaluate an applicant's ability to read, write and speak words in ordinary usage in the English language. The OIG stated that this standard would have to be established through guidance to adjudicators and that it would have to define the questions asked in the naturalization interview and describe how those questions should be posed to applicants. For the U.S. history and civics exam, the OIG recommended that INS provide guidance and training to its adjudication officers concerning the nature and number of questions to be used to test an applicant's knowledge of U.S. history and civics. This would define the range of questions that an adjudication officer could choose from and how the officer should tailor the test to the individual applicant. The OIG also recommended that the guidance address the discretion that an adjudication officer has to choose questions, including the number of questions offered and whether there is a required passing percentage.

In December 2000, INS developed a policy to standardize testing procedures in an effort to bring more consistency to the way adjudicators test and score applicants. The policy indicates the source materials to be used for test questions, how many questions are to be asked, how

² Ibid., p. 47.

³ Ibid., p. 47.

⁴ Citizenship USA was an initiative to reduce the backlog of pending naturalization applications within one year to the point where an eligible applicant would be naturalized within six months of application. (DOJ OIG, *An Investigation of the Immigration and Naturalization Service's Citizenship USA Initiative*, July 2000)

⁵ 8 C.F.R. 312.2(c) (2)

responses are to be evaluated, how many correct answers are required to pass the history and civics test, and how applicants are to be informed of the results.

Despite the improved guidance, immigration stakeholder groups continued to criticize INS, and now USCIS, for inconsistently applying test procedures across offices and among adjudication officers. Stakeholders continue to articulate concerns that variation continues to exist in test delivery format, test content, level of difficulty, the number of questions asked, and the number of correct answers required for passing. Some of these stakeholders have expressed their desire for USCIS to improve testing consistency and standardization while maintaining flexibility to fairly address the differences across the broad spectrum of applicant characteristics including, among others, educational, professional, and cultural background, income level, age, and first language.

Test Redesign Efforts

In 2001, INS began a redesign effort to address concerns with the testing process. INS contracted with a firm specializing in educational test development at an estimated cost of \$3 million over approximately three and a half years to restructure the naturalization test format and procedures. The deliverables of the contract included test content development with input from experts and stakeholders, research and study on test formats and test administration procedures, and pilot testing of sample English test questions. The contractor tested sample English questions at five USCIS offices from mid-March to mid-June, 2003.

Then, in April 2004, USCIS contracted with the National Research Council's Board on Testing Assessment (BOTA) to review the test redesign process and provide independent advice to assist USCIS and its test development contractor optimize the validity, reliability, and fairness of the redesigned tests. To accomplish this, BOTA established the Committee on the U.S. Naturalization Test Redesign, consisting of faculty members from various colleges and universities and representatives from research groups with expertise in education, testing, political science, psychology, history, and other relevant subject areas. Among its charges, the committee was asked to review ongoing USCIS test redesign decisions, examine pertinent data about possible testing options, discuss technical issues, and provide feedback and assessment on USCIS decisions.

In its interim report issued in December 2004, the committee reviewed USCIS's redesign efforts leading up to the first trial test of sample English questions. The committee expressed its concern that the test development process had not met its view of professional test development standards and that too many of the tests' design decisions had been made by a small number of USCIS and contractor staff. Regarding the redesigned tests as potentially controversial, high-stakes exams, the committee encouraged USCIS to apply an "open, transparent, and accountable" test development process.⁶

⁶ *Redesigning the U.S. Naturalization Tests: Interim Report*, Committee on the U.S. Naturalization Test Redesign, Board on Testing and Assessment, Center for Education, Division of Behavioral and Social Sciences and Education, National Research Council, The National Academies Press, Washington, DC, 2004, p. 1.

The committee recommended that USCIS: 1) put in place an advisory structure to advise the agency in making important decisions about the naturalization test redesign; 2) create a detailed test development plan complying with testing standards with help from a technical advisory panel and review by an oversight committee; 3) cease work on developing the content frameworks until a clear, transparent, and publicly accountable process is defined and endorsed by an oversight group; and 4) once testing formats are determined, develop a detailed plan for standard setting (i.e., determining passing scores), with input from the technical advisory group and final recommendation by the oversight committee. In support of these recommendations, the committee asserted that the creation of a multi-tiered advisory structure overseeing the test development process would “meet professional standards of good testing practice and ... increase the likelihood that stakeholders [would] view the [new tests] as legitimate.”⁷

USCIS considered the committee’s recommendation to create an advisory structure overseeing the test development effort and perceived that the implementation of such a structure would require adherence to Federal Advisory Committee Act (FACA) standards.⁸ Federal agencies that sponsor advisory committees must adhere to the requirements established by the FACA and related administrative guidelines provided by the U.S. General Services Administration’s (GSA) Committee Management Secretariat.⁹ These requirements include, but are not limited to, the development of a charter requiring public notification and filing with Congress, development of ethics standards and procedures for the advisory body, identifying membership structure and potential members, and notifying members of selection. Once members have been selected, the sponsoring agency must solicit financial disclosure information from members, determine whether members have a conflict of interest, and collect personnel information associated with members’ status as special government employees. Then, when committee sessions begin, members are to receive an orientation to the sponsoring agency and staff, FACA requirements, their special employee status, and ethics policies and procedures. As committee meetings progress, the sponsoring agency has obligations to record meeting minutes, archive records, respond to public inquiries, advertise meetings, develop meeting agendas, prepare committee review materials, coordinate meeting logistics, and submit information for a comprehensive annual review by GSA.

Apart from a staff support burden, advisory committee activities sometimes occur at the expense of timeliness. A committee’s activities require public notification and coordination among committee members and, therefore, can be time consuming, slowing the advisory committee’s ability to make recommendations and, ultimately, the sponsoring agency’s ability to make decisions.

⁷ Ibid., p. 7.

⁸ The Federal Advisory Committee Act (Public Law 92-463, 5 U.S.C., App) was enacted by Congress in 1972. The purpose of FACA is to ensure that advice rendered to the executive branch by various advisory committees be both objective and accessible to the public. FACA formalized a process for establishing, operating, overseeing, and terminating these advisory bodies that offer federal officials information and advice on a broad range of issues affecting federal policies and programs. (*The Federal Advisory Committee Act (FACA) Brochure*, General Services Administration, Office of Governmentwide Policy, Committee Management Secretariat, Washington, DC, 2004.)

⁹ In 1977, Executive Order 12024 delegated to the Administrator of GSA all responsibilities of the President for implementing the FACA.

Resolving differences of opinion within advisory committees also may prove difficult. FACA requires that committee memberships be "fairly balanced in terms of the points of view represented and the functions to be performed." In balancing committee memberships, agencies are expected to assure that major and sometimes strongly-opposing viewpoints are represented to provide a foundation for developing advice and recommendations that are fair and comprehensive.¹⁰ In light of the potential magnitude of public input and the range of strong opinions that currently exist with regard to immigration and naturalization issues, it is conceivable that the differences in opinion could become irreconcilable.

After weighing the BOTA committee's recommendations, USCIS opted to continue naturalization test redesign on its own. It did not renew the BOTA committee's contract or fund its plans for future analysis and reporting on the test redesign effort.

The BOTA committee correctly asserted that the naturalization test development process should be open, transparent, accountable, and technically sound. The committee also accurately maintained that its proposed advisory structure could have supported these test development goals. Nevertheless, a test development process that is sufficiently open, transparent, accountable, and technically sound can be achieved by other means. The pursuit of such alternative test development processes is USCIS's prerogative.

Future Challenges in Naturalization Test Redesign

Whatever the character of its test development process, USCIS will face at least three major challenges as it proceeds with the naturalization test redesign effort. First, USCIS management must ensure that the corresponding test development process reaches a timely conclusion and does so without undue expense. Second, while new examinations are being developed, USCIS should more strenuously enforce internal compliance with current test administration standards. Finally, in crafting new naturalization exams, USCIS must resolve important technical and policy issues stemming from tensions within and between statutory guidance and test development goals and objectives.

Timeliness and Financial Considerations

Given concerns with the current examination process, it is important for USCIS to advance the redesign effort in a timely fashion. Current plans already reflect delays in the test development process. The redesign effort began in 2001 and was initially projected to end in 2006. USCIS, however, recently announced January 2007 as its "flexible" target date for implementation. To advance the project in a timely way, USCIS should establish overall test redesign objectives with a clear set of project milestones and unambiguous lines of responsibility for accomplishing tasks and completing deliverables. USCIS should clearly define what it expects staff and contractors to accomplish and keep them focused on their tasks.

USCIS also should continue to assess its test development plans to determine whether they are the most economical and effective means of meeting USCIS's statutory obligations. USCIS

¹⁰ *The Federal Advisory Committee Act (FACA) Brochure*, General Services Administration, Office of Governmentwide Policy, Committee Management Secretariat, Washington, DC, 2004.

must continue to weigh the growing incremental costs of the redesign effort against the benefits of a redesigned test and test process. To the extent possible, we urge USCIS to use the products and knowledge obtained in its initial redesign efforts and evaluate the potential for using existing test materials and commercial off the shelf products. As USCIS has expended significant funds and time up to this point, we urge that some of this effort be salvaged.

Interim Test Administration

Current plans call for the new tests to be delivered more than 18 months hence. In the meantime, USCIS should ensure that its adjudication offices are implementing the standardization procedures described in its December 26, 2000 guidance memorandum. Adjudicators should be using the proper source materials, test format, procedures, and methods for determining passing scores. We strongly urge continuing and active training for adjudicators and monitoring of testing practices to assure compliance with current policies.

Technical and Policy Challenges

In moving the test redesign process forward, USCIS faces three major technical and policy issues that require management attention.

Abstract U.S. History and Civics Concepts and Plain English

The first of these challenges relates to the conflict between the need to test knowledge of abstract U.S. history and civics concepts and the limited test standard for English language proficiency. This conflict arises from the competing knowledge requirements set out in law and those articulated as test redesign objectives. The Immigration and Naturalization Act and its corresponding regulations set the threshold for successful demonstration of English language speaking, reading, and writing skills at an “ordinary usage” level. Despite this, much of the discussion surrounding the effort to increase the meaningfulness of the exams has centered on ensuring that applicants demonstrate an understanding of more complex aspects of U.S. history and civics than is presently required. Accordingly, if USCIS is to satisfy its statutory obligations while also meeting an important test redesign objective, it must arrive at an examination process that provides applicants who have a limited English language proficiency with an opportunity to effectively demonstrate their knowledge of more complex ideas than they may have the English language skills to understand or communicate. The tension between these competing requirements presents a major technical challenge for test developers and potential policy issues for USCIS management.

Balancing “Due Consideration” Against Test Uniformity

Another complicating factor in the naturalization test redesign effort stems from the current requirement that test administrators provide “due consideration” to applicant traits in administering part of the examination process while simultaneously ensuring that the tests are “uniformly” implemented. The U.S. Code states that, “the examination of applicants for naturalization ... shall be uniform throughout the United States.”¹¹ This standard of uniformity

¹¹ 8 USC § 1443

is, however, somewhat undermined by current regulations related to the exam. These regulations provide test administrators with latitude in “choosing the subject matters, in phrasing questions and in evaluating responses” during the U.S. history and civics test. Under current regulations, test administrators are to exercise this latitude in “due consideration ... to the applicant's education, background, age, length of residence in the United States, opportunities available and efforts made to acquire the requisite knowledge, and any other elements or factors relevant to an appraisal of the adequacy of the applicant's knowledge and understanding.”¹² This broad requirement to exercise latitude in administering the U.S. history and civics test presently amounts to a mandate to customize, rather than standardize test administration. Moreover, absent strict rules on how to apply “due consideration,” this regulatory guidance will contribute an element of capriciousness to the examination process and guarantee significant variation in how the test is administered from one test administrator to the next. Without detailed and carefully construed standards for applying “due consideration,” a redesigned naturalization test will not meet the requisite standard of uniformity.

Achieving Meaningful Change without Affecting Test Difficulty

Perhaps an even greater technical challenge to the test redesign effort is USCIS’ goal of making the tests more “meaningful” and yet no more difficult nor any easier than the current tests. This will be extremely difficult to accomplish due to the diversity in the applicant base. Any changes to the content or testing procedures will almost certainly have the effect of making the tests more difficult for some and easier for others. Some stakeholders perceive the tests to be too easy as they are, claiming that the U.S. history and civics test, for example, requires only memorization of facts, and does not test a deeper understanding of citizenship and civic participation in the United States. Others assert that the current tests are already too difficult and an attempt to make the tests more “meaningful” is, in actuality, an attempt to make the tests more difficult.

Regardless, USCIS needs to articulate how it intends to achieve its goal of making the test neither more difficult nor any easier and how it will validate that test difficulty. This is a challenge, as USCIS has established little specific information on how different applicant populations fare under the current testing regime. Without detailed information on current test performance, there is no established baseline against which to compare new tests’ degree of difficulty.

Furthermore, on the surface, the declared objective of fielding a new set of naturalization tests that are no more difficult, nor any easier than the current exams appears to call into question the need for substantial efforts toward a redesign, at all. USCIS must better communicate why it is seeking to reform the current tests when it is not seeking any change in the bottom-line impact the tests have on which applicants or what proportion of applicants pass the tests.

¹² 8 C.F.R. 312.2(c)(2)

We extend our appreciation to USCIS for the cooperation and courtesies extended to our staff. Should you have any questions, please call me, or your staff may contact Robert L. Ashbaugh, Assistant Inspector General for Inspections and Special Reviews, at (202) 254-4100. We hope our observations will be of assistance as you move forward.

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