



# U.S. Citizenship and Immigration Services

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WRITTEN TESTIMONY

OF

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FOR A HEARING ON

**“The Security of U.S. Visa Programs”**

BEFORE

THE U.S. SENATE COMMITTEE ON HOMELAND SECURITY  
AND GOVERNMENTAL AFFAIRS

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340 DIRKSEN SENATE OFFICE BUILDING  
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Chairman Johnson, Ranking Member Carper, and distinguished members of the Committee, thank you for the opportunity to testify at today's hearing. While my colleagues from the Department of State (DOS) and the Department of Homeland Security's (DHS) Immigration and Customs Enforcement (ICE) will discuss security screening in the visa process, my testimony will focus specifically on U.S. Citizenship and Immigration Services' (USCIS) role in the security process for visa petitions and other USCIS adjudications. As the Director of USCIS, I work with the talented and dedicated professionals at my agency and throughout the federal government to secure America's promise as a nation of immigrants by providing accurate and useful information to our customers, granting immigration and citizenship benefits, and ensuring the integrity of our immigration system. From the visa petition stage to post-entry applications for immigration benefits, USCIS works closely with DOS, the DHS partners represented on this panel, and others to ensure that those wishing to enter the United States are screened thoroughly and repeatedly in every instance and without exception. Security and integrity are central to USCIS's mission, and USCIS personnel work with steadfast resolve and vigilance to identify and deny benefits to immigration applicants who pose a threat to national security or public safety, or who attempt to gain benefits through fraud.

### **Visa Adjudication Overview**

DHS and DOS both have roles to play in determining whether a foreign national will be issued a visa and admitted to the United States. Generally, a foreign national who seeks to enter the United States must first obtain a U.S. visa from DOS. In many instances these individuals must first have a petition filed and approved on their behalf with USCIS. However, certain international travelers may be eligible to travel to the United States without a visa if they meet the requirements for visa-free travel such as under the Visa Waiver Program (VWP). A foreign national who is issued a U.S. visa or is eligible for admission without a visa may travel to a U.S. air, sea, or land port of entry and apply for admission into the United States.

There are two broad classes of foreign nationals who are issued U.S. visas: nonimmigrants and immigrants. Nonimmigrant visas allow foreign nationals to travel to the United States on a temporary basis (for example, a vacation, temporary employment, or study and exchange). Immigrant visas allow foreign nationals, who have met the numerous eligibility requirements for lawful permanent residence, to travel to the United States for the purpose of residing in the country as lawful permanent residents (LPR). Individuals who have applied for humanitarian relief under the Immigration and Nationality Act (INA) are outside the scope of this testimony.

Most visits to the United States are made with a "B1/B2" nonimmigrant visa issued by DOS, or under the VWP or equivalent authority, for temporary stays for business or pleasure. The VWP is managed by U.S. Customs and Border Protection (CBP) and other DHS entities in consultation with DOS.

In those instances where USCIS is required under our law to adjudicate immigrant or nonimmigrant petitions, USCIS will carefully review the claimed basis for the petition (e.g., family or employment relationship). When USCIS approves such a petition for a beneficiary abroad, that information is communicated to DOS. The approval of such a petition does not give a foreign national any immigration status. It does not guarantee that DOS will issue a visa, and it is not a guarantee that CBP will admit the individual to the United States.

After USCIS has approved the petition under the appropriate visa classification, the beneficiary of the petition may then begin the visa application process with DOS. DOS is responsible for the adjudication of visa applications. As part of its adjudication process, DOS ensures that the applicant is eligible for a visa as an immigrant or nonimmigrant under the requested classification, and that the applicant is admissible to the United States. Once granted a visa, the foreign national may travel to the United States. On arrival at a U.S. port of entry, such as an airport, CBP inspects the individual and determines whether to admit the individual to the United States.

### **Visa Screening Responsibilities**

DOS and DHS each have screening responsibilities as part of our respective roles in the visa process. USCIS screening during petition adjudication involves screening of both the petitioner and the foreign national beneficiary against law enforcement and national security lookouts and records. USCIS reviews each petition to determine if the petitioner and beneficiary meet the statutory requirements of the petition. Generally, this review is done to determine if the petitioner and beneficiary have the relationship claimed in the petition – either a family-based relationship, or employment-based. USCIS does not review petitions for admissibility to the United States. This is done initially by DOS prior to visa issuance and by CBP at time of entry. As such, any information uncovered is reviewed by USCIS and, if the petition is otherwise approvable, provided to our partners at DOS. Also, if there is an indication that a petitioner may have a conviction for a specified offense against a minor, as defined in the Adam Walsh Act, USCIS conducts a Federal Bureau of Investigation Fingerprint check of the petitioner.

My colleague from DOS will provide more detail on visa adjudication. However, DOS generally conducts an interview with the visa applicant and conducts additional biographic and biometric screening; including a battery of additional background security checks. If DOS issues the visa, the foreign national beneficiary must travel to the United States and apply for admission within the visa validity period, which varies depending upon the visa classification. At the port of entry, CBP conducts additional biographic and biometric screening and background security checks on these individuals, to determine their admissibility to the United States.

### **Applications for Immigration Benefits by Foreign Nationals Already in the United States**

In some circumstances individuals admitted to the United States on nonimmigrant visas may be able to seek certain immigration benefits while in the United States. For example, a foreign national who was previously admitted to the United States as a nonimmigrant may seek to extend his or her stay or change his or her nonimmigrant status with USCIS if the individual meets the requirements for doing so. As a part of their request, these individuals are screened against law enforcement and national security lookouts and records. Any information uncovered is reviewed according to current agency policies. If the information uncovered indicates that the subject may have national security, criminal, or public safety concerns which make them removable from the United States, USCIS works closely with ICE and other law enforcement offices to ensure that appropriate actions are taken. Depending on the immigration classification sought, additional biographic checks may be conducted.

Moreover, certain foreign nationals in the United States, including some who were initially admitted on nonimmigrant visas, may be eligible under our immigration laws to adjust to lawful permanent resident status. Those eligible individuals must file a Form I-485 *Application to Register Permanent Residence or Adjust Status* with USCIS. The I-485 applicant must provide evidence of a USCIS-approved petition as the basis for immigration status, or concurrently file the immigrant petition with the I-485 application to establish the claimed family or employment relationship and/or classification specified under the INA, and meet all requirements for adjustment of status.

For each adjustment application, USCIS initiates a number of biographic and biometric security checks to establish eligibility for the benefit and admissibility to the United States. USCIS screens applicants against law enforcement and national security lookouts as well as FBI biographic and biometric holdings. Additionally, USCIS may interview the applicant to elicit information regarding identity, derogatory and conflicting information, involvement in terrorist or criminal activity, or other disqualifying factors.

Most individuals who become LPRs are allowed to apply for U.S. citizenship through the naturalization process after a given period of time. There is, however, a category of LPRs that must petition USCIS in order to retain their LPR status. Those who became LPRs on the basis of an Alien Entrepreneur Visa Petition and those who became LPRs on the basis of a marriage that occurred less than two years prior to the date they attained LPR status are considered conditional permanent residents. A conditional permanent resident must petition USCIS to remove the conditions on the residence within 90 days of the end of his or her second year as a conditional LPR. These individuals again undergo biographic and biometric security checks, and are screened against law enforcement and national security lookouts, records, and FBI biometric holdings. In addition, USCIS may also conduct interviews in the process of determining whether to lift conditions on permanent residence. Conditional permanent residence can be terminated due to information obtained during the interview and USCIS can share the information with ICE.

USCIS receives approximately 750,000 applications for naturalization each year. Many of these applicants were admitted into the United States as either immigrant or nonimmigrant visa holders. For each naturalization applicant, USCIS initiates a number of biographic and biometric security checks. USCIS screens applicants against law enforcement and national security lookouts and records as well as FBI biographic and biometric holdings. Additionally, all applicants for naturalization must be interviewed to establish their eligibility; this requirement may not be waived. During the interview, the officer confirms the basic biographic data and identity of the applicant, conducts an examination of the applicant's knowledge of the English language and of U.S. history and civics, with minor exceptions, and confirms that the applicant has no factors or activities that may make him or her ineligible for naturalization—such as certain types of criminal history, national security concerns, or prior false claims to U.S. citizenship. Information found in the interview can be used to deny the naturalization and can be shared with ICE for further investigation.

During the process of adjudicating any application, petition, or request filed with USCIS, if any national security concerns are raised, either based on security and background checks, personal interviews, testimony, or other sources, USCIS conducts an additional review through the internal Controlled Application Review and Resolution Program (CARRP). CARRP includes a

complete review of the case file and, in most cases, additional screening to ensure that eligibility is met. CARRP procedure includes regular supervisory review and headquarters coordination.

As part of the CARRP review process, USCIS also collaborates closely with its partners in the law enforcement and intelligence communities, including the Federal Bureau of Investigation, in order to review available information from these other U.S. Government entities and determine if it is relevant to eligibility and/or admissibility. This engagement is not one-sided, as USCIS also uses CARRP to alert relevant agencies that may wish to take action on the subject of the national security concern. It is USCIS policy to take any ongoing law enforcement activities into consideration prior to making a decision or taking action on any case with national security concerns.

### **Additional Coordination with Federal Partners**

USCIS remains committed to ensuring that immigration benefits are not granted to individuals who pose a threat to national security or public safety, or who seek to defraud the U.S. immigration system. At its core, this system ensures that every application or petition for an immigration benefit is screened before it is adjudicated. As noted above, in support of these screening efforts, USCIS works closely with DOS, CBP, ICE, and other law enforcement partners. USCIS engages with law enforcement and Intelligence Community members for assistance with identity verification, acquisition of additional information, or deconfliction to ensure USCIS activities will not adversely affect an ongoing law enforcement investigation. USCIS also shares lead information, such as coordinating with ICE on potential human trafficking concerns associated with T and U nonimmigrant visas. USCIS continues to work with DHS's I&A, and other Intelligence Community elements, to enhance screening.

### **Conclusion**

I appreciate the support and interest of this Committee in our efforts on these and other matters critical to the transparency, integrity, consistency, and efficiency of our immigration system and the work of USCIS.

I will be happy to answer your questions.