

EXHIBIT 29

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U.S. Citizenship
and Immigration
Services

Operational Guidance for Vetting and Adjudicating Cases with National Security Concerns

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FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE**I. INTRODUCTION**

On April 11, 2008, U.S. Citizenship and Immigration Services (USCIS) issued the national policy memorandum¹ for vetting and adjudicating cases with National Security (NS) concerns. This Operational Guidance contains implementation instructions for Domestic Operations personnel.

II. SCOPE AND IMPLEMENTATION

The policy memorandum and this Operational Guidance apply to all applications and petitions that convey an immigrant or non-immigrant status in which an officer identifies a NS concern. Offices in the Field² must modify existing procedures to handle and process cases where there are indicators of NS concerns in accordance with this Operational Guidance. This Operational Guidance does not change the definition of a LE or the Interagency Border Inspection System (IBIS) resolution process currently prescribed in the National IBIS Standard Operating Procedures issued on March 1, 2006. Because the Policy Memo rescinded instructions on how to handle ancillary benefit applications and I-90 applications with NS or Egregious Public Safety (EPS) concerns, officers should refer to Sections VIII and IX of this Operational Guidance for instructions on adjudication of applications/petitions that do not convey an immigrant or non-immigrant status that have a NS or EPS concern.

A. Controlled Application Review and Resolution Program Processing

The Controlled Application Review and Resolution Program (CARRP) process provides a disciplined approach to identify, record, and adjudicate applications/petitions where a NS concern is identified. It involves four (4) distinct, yet not mutually exclusive, processing steps, which include:

1. **Identifying a NS Concern:** The process of identifying and confirming whether the indicator relates to the applicant, petitioner, beneficiary or derivative (hereafter, "individual"³), and whether there is an articulable link between the individual and activities, individuals or organization described in section 212(a)(3)(A), (B) or (F) or 237(a)(4) (A) or (B) of the Immigration and Nationality Act (INA) (see "Attachment A: Guidance for Identifying National Security Concerns;" hereafter "Attachment A").⁴

¹ Jonathan R Scharfen, Deputy Director, *Policy for Vetting and Adjudicating Cases with National Security Concerns* (April 11, 2008)

² For purposes of this Operational Guidance, "the Field" refers to Field Offices, Service Centers and the National Benefits Center.

³ For purposes of this memorandum, the term "individual" may include a petitioning company.

⁴ Attachment A replaces *Appendix A* of the current IBIS SOP. *Attachment A* identifies some of the most common indicators of NS concern encountered in Letterhead Memoranda (LHM) (produced by the FBI as a result of a positive response to a FBI Name check), IBIS/TECS records, and other sources.

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2. **Assessing Eligibility in Cases with a NS Concern:** If it is determined that a NS concern exists, the case is forwarded to a designated officer⁵ for a thorough review of the record associated with the application/petition to determine if the individual is eligible for the benefit sought, hereafter referred to as the *Eligibility Assessment/Internal Vetting* stage.
3. **External Vetting:** If after completion of the eligibility assessment and internal vetting, the individual appears eligible for the benefit sought, or if Field management determines further processing is necessary to strengthen or support a decision, the application/petition proceeds to the *External Vetting* stage (Non-KST cases only⁶) to obtain any information relevant to CARRP adjudication. If the application/petition is otherwise approvable for KST⁷ cases, Field management **must** request vetting assistance from HQFDNS.
4. **CARRP Adjudication:** The focus of this stage is to evaluate any additional information obtained during the vetting process to determine if the NS concern has been resolved or confirmed, whether the application/petition should be approved or denied, and when appropriate, to proceed with removal, rescission, termination, or revocation.

B. Field Management Requirements

1. Ensure that all officers responsible for vetting NS concerns have access to the required electronic systems (USCIS, DHS).
2. Establish a coordination mechanism (formal or informal) with the local Joint Terrorism Task Force (JTTF), and designate officers to act as the point of contact for outreach to the Law Enforcement Agency (LEA)/record owner.
3. Establish local procedures for supervisory review at the conclusion of the vetting process. The supervisory review is intended to confirm the facts discovered during the vetting process to ensure that the NS recommendation is consistent, that proper and conclusive coordination with law enforcement is fulfilled, and that the Background Check and Adjudicative Assessment (BCAA) worksheet is complete.
4. Establish local procedures for supervisory review of applications/petitions in which the individual appears eligible for the benefit and where a NS concern has been identified prior to approving the transfer of the file to HQFDNS.
5. Maintain the national security infrastructure by ensuring that each office in the Field is properly equipped to receive, transmit, and store classified information per the following guidelines:

⁵ For purposes of this memorandum, a **designated officer** is an Immigration Analyst, Immigration Officer, Adjudications Officer, Asylum Officer or Refugee Officer who has been designated by local management to be trained, competent and knowledgeable in CARRP procedures.

⁶ See Glossary for definition of Non-KST.

⁷ See Glossary for definition of KST.

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- a. Obtain a minimum of a SECRET security clearance for each officer involved in vetting NS concerns or adjudicating applications/petitions where a NS concern has been identified;
 - b. Procure and maintain secure telephones (STU III, STE) and secure (classified) fax machines for receiving and discussing classified information;
 - c. Maintain sufficient classified storage space in approved containers for classified materials.
 - d. Procure courier cards for all personnel involved in transporting classified information; and
 - e. Arrange for security training for all personnel involved in handling classified information.
6. Ensure all processing steps and actions taken with respect to any case with a NS concern are recorded and updated in the appropriate tabs within the **Fraud Detection and National Security Data System (FDNS-DS)**⁸ and ensure the appropriate sections of the BCAA worksheet, which replaces the National Security Record, are complete.
7. For denied NS Cases, if the record suggests the applicant is located in the United States and appears amenable to removal proceedings, field offices will coordinate with the appropriate ICE Office of Chief Counsel (ICE OCC) to determine the best strategy prior to issuance of the NTA. Local USCIS legal counsel should be copied on any coordination efforts with ICE OCC, and will assist in those cases in which the ICE OCC expresses concerns regarding the legal strategy or legal sufficiency of planned NTA.

Note: The Field may contact HQFDNS for guidance at any time during the processing of an application/petition with a NS concern. Such requests should be sent via email to:

[REDACTED]

The request for guidance must include the following information:

- *Subject: Request for Assistance (Vetting) or Request for Assistance (Adjudication)*
- *Full Name (Applicant, Petitioner, Beneficiary, Derivative or Company)*
- *A-Number*
- *Date of Birth*

[REDACTED]

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- Pending Application(s) and/or Petition(s) Form Type(s)
- Nature of assistance requested
- Requesting Officer and Contact Information
- FDNS-DS NS concern number
- Litigation Case information if relevant*

*If a case requires immediate action due to pending litigation etc, offices must ensure that the e-mail to the FDNS-NSB Mailbox is marked urgent and contact the HQ National Security Advisory Unit (NSAU) main number (202) [REDACTED] or HQ NSAU Team Chief (202) 272-[REDACTED]. The body of the email should include the District Court Case # and suspense date.

C. Confidentiality

Federal law and agency policy protect against unauthorized disclosure of information collected and maintained in USCIS systems of records both in the electronic and paper form. The Privacy Act, 5 U.S.C. 552(a), restricts disclosure of information relating to U.S. citizens and LPRs in the absence of a written waiver from the individual to whom the information pertains or a routine use contained in a DHS SORN. By policy, DHS has extended the protections afforded by the Privacy Act, 5 U.S.C. 552(a), to personally identifiable information contained in mixed records systems (i.e., systems containing information on visitors and aliens as well as on LPRs and U.S. citizens). Specific categories of data collected and maintained by USCIS may also have their own confidentiality provisions. For example, sections 210 and 245A of the Immigration and Nationality Act limit the use and disclosure of information provided by “amnesty” applicants under the 1986 Immigration Reform and Control Act. Section 384 of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act, as amended, 8 U.S.C. 1367, limits the use and disclosure of information relating to aliens seeking protection under the Violence Against Women Act (VAWA), as amended, or as T or U non-immigrants. Under 8 C.F.R. § 208.6, information regarding an individual’s status as an asylum seeker or asylee, information contained in or pertaining to his or her application, and records pertaining to any credible fear or reasonable fear determination generally must not be disclosed without the written consent of the applicant or a waiver from the Secretary of DHS. By policy, the confidentiality provisions of 8 C.F.R. § 208.6 have been extended to information contained in or pertaining to refugee applications. Finally, even if no specific confidentiality provision applies, much of the information contained in USCIS systems and files is confidential and the disclosure and use of the information is governed by laws and regulations relating to sensitive but unclassified (i.e., For Official Use Only and/or Law Enforcement Sensitive (FOUO/LES)) information.

D. Information Sharing Considerations – Third Agency Rule

All DHS components are considered part of one “agency” for information sharing purposes. As such, there is no restriction on internal (within DHS) information exchange and sharing provided the person has an authorized purpose for accessing the information in the performance of his or her duties (i.e., a valid need-to-know), possesses the requisite security clearance (there is no requirement for a security clearance to access sensitive but unclassified (FOUO) information), and assures adequate safeguarding and protection of the information.

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Sensitive but unclassified (FOUO) information may be shared with other agencies or organizations outside of DHS, provided: a need-to-know has been established; the information is shared in the furtherance of a coordinated and official governmental activity, to include homeland defense; and if the information requested or to be discussed does not belong to USCIS, comply with the originating agency's policy concerning third party discussion and dissemination.

Classified information originated by another DHS component, or classified information originated by another government agency shall not be further disseminated outside of DHS without prior approval of the originator.

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III. IDENTIFYING A NS CONCERN – STEP 1 OF CARRP PROCESS

As a result of security checks or at any stage of the adjudicative process, an officer may identify one or more indicators that raise a NS concern. (See “Attachment A”).

There are two types of NS concerns:

1. **Known or Suspected Terrorist (KST)** - A Known or Suspected Terrorist (KST) is a category of individuals who have been nominated and accepted for placement in the Terrorist Screening Database (TSDB), are on the Terrorist Watch List,⁹ and have a specially-coded lookout posted in TECS/IBIS, and/or Consular Lookout and Support System (CLASS), as used by the Department of State (DOS). A KST in IBIS has a record number beginning with a [LE] and ending in a [LE]. The IBIS record should also indicate the individual is a [LE] and request contact with the National Targeting Center (NTC).
2. **Non-Known or Suspected Terrorist (Non-KST)** - A Non-KST NS concern includes all other NS concerns, regardless of source, including but not limited to: associates of KST(s), unindicted co-conspirators, terrorist organization members, persons involved with providing material support to terrorists or terrorist organizations, and agents of foreign governments.

For a KST NS concern, the designated officer must determine:

1. Whether the indicator(s) relates to the applicant, petitioner, beneficiary or derivative (hereafter, “individual”).

For a Non-KST NS concern, the designated officer must determine:

1. Whether the indicator(s) relates to the individual, and
2. Whether an articulable link exists between the individual and an activity, individual, or organization described in INA section 212(a)(3)(A), (B) or (F) or 237(a)(4) (A) or (B).

A. KST NS Concern

1. Determine Identity

⁹ The Terrorist Watch List information in NCIC is housed in its Violent Gangs and Terrorist Organizations File (VGTOF); therefore, members of gangs may also have a [LE] number. If the record indicates the individual is a gang member, the gang is not considered a terrorist organization, and there are no additional indicators that the individual is a NS concern, the hit should be resolved according to standard operating procedures for individuals who are a risk to public safety.

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If a KST NS concern has been confirmed via a TECS/IBIS check, the designated officer must contact the Terrorist Screening Center (TSC), as instructed in the content of the TECS/IBIS record, and must confirm whether the KST NS concern relates to the individual. Officers are **not** authorized to request any NS information related to a KST NS concern directly from the record owner.

2. Identity Determined

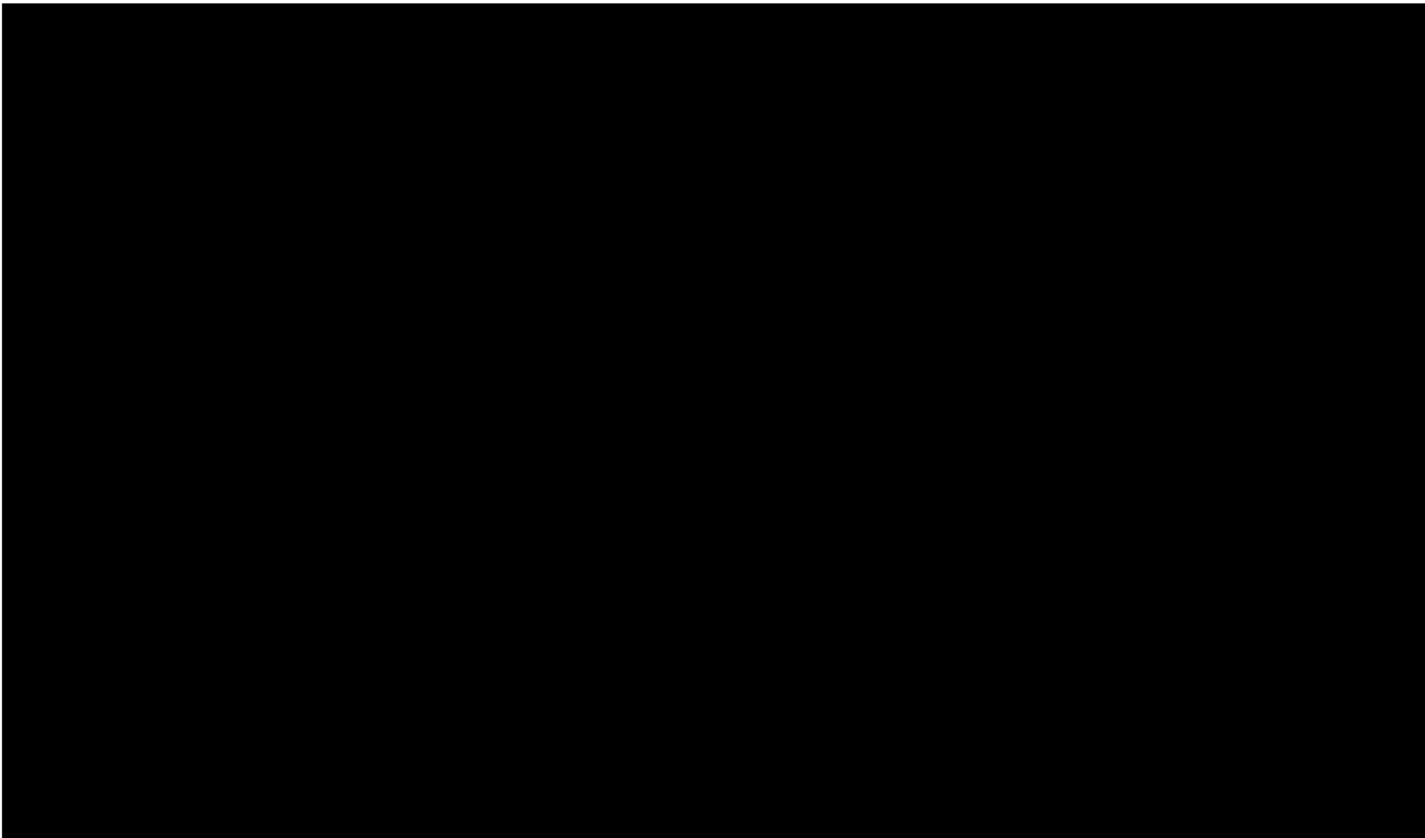
a. Relates

If the TSC determines that the KST NS concern **relates** to the individual, the application/petition continues to the *Eligibility Assessment/Internal Vetting* stage. (See Part D of this section for documenting instructions).

b. Does Not Relate

If the TSC determines that the KST NS concern **does not relate** to the individual, and if there are no other NS concerns, the application/petition must be released for routine adjudication following supervisory review and an IBIS resolution memorandum per current IBIS SOP. No FDNS-DS or BCAA documentation is required.

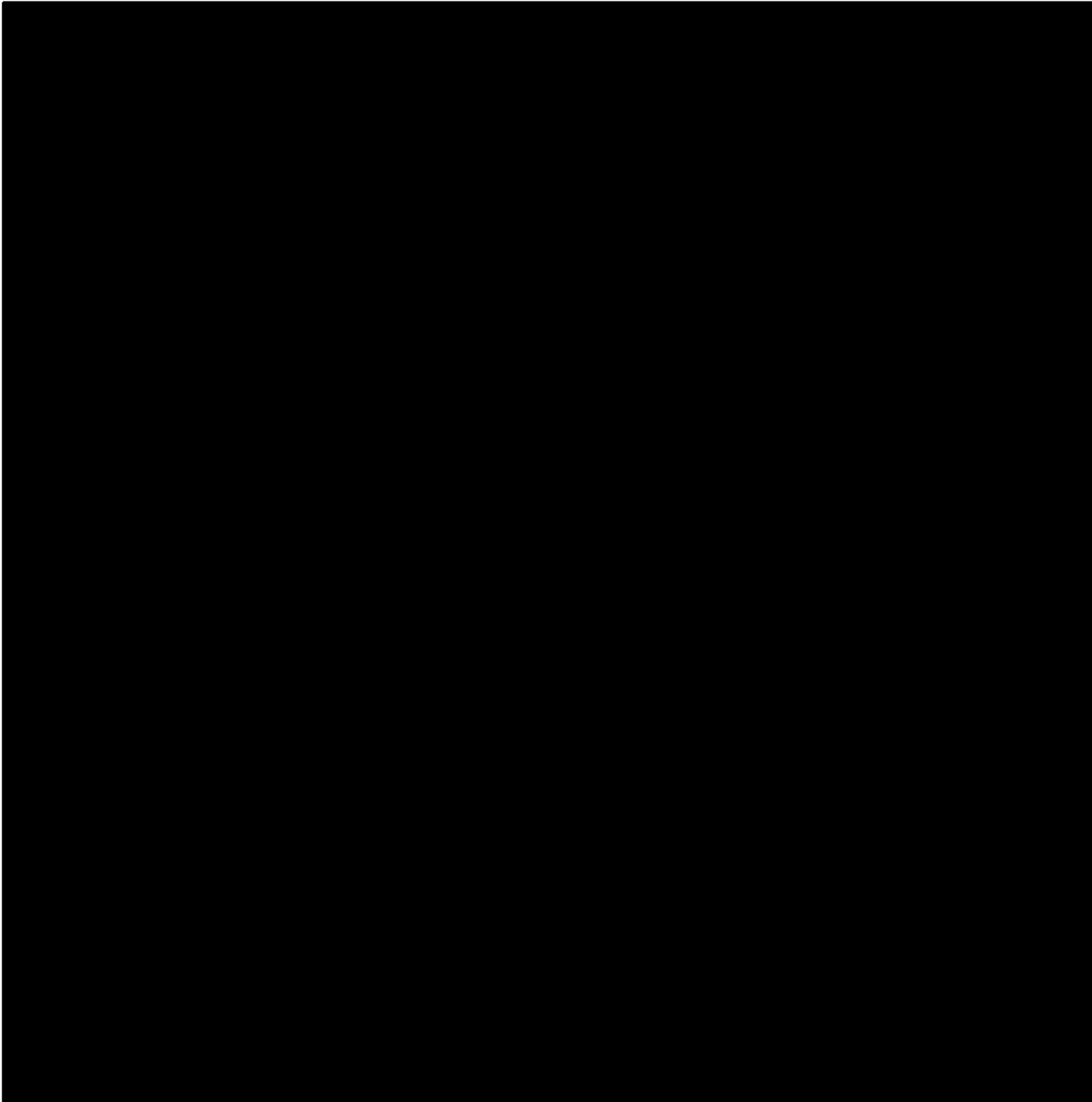
B. Non-KST NS Concern



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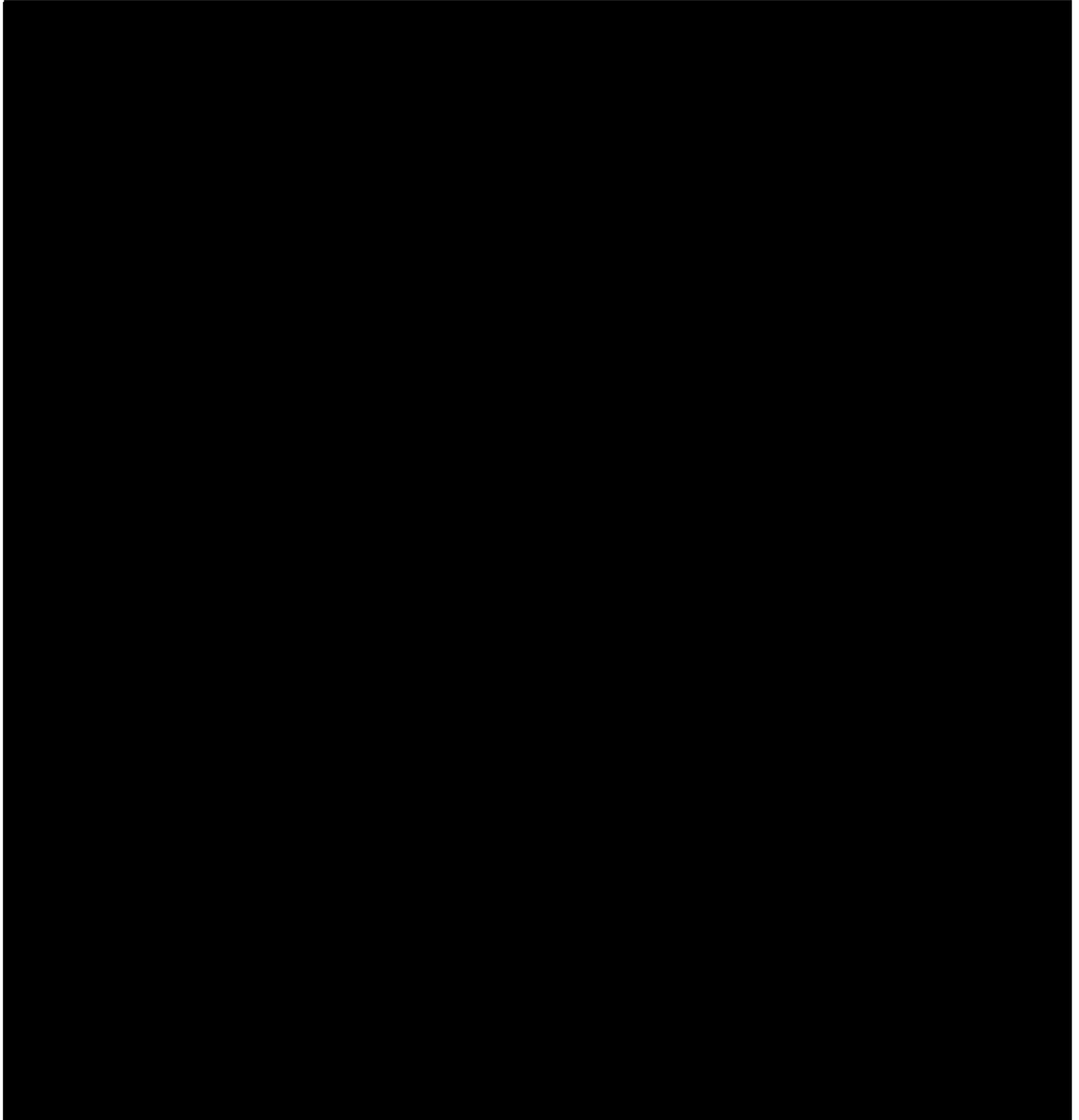
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NO CLASSIFIED INFORMATION WILL BE ENTERED IN FDNS-DS OR THE BCAA WORKSHEET

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FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE**IV. ASSESSING ELIGIBILITY IN CASES WITH A NS CONCERN – STEP 2 OF CARRP PROCESS****A. Eligibility Assessment**

Once a NS concern has been identified, the designated officer must conduct a complete review of the file in order to **assess the individual's eligibility** for the benefit sought. When statutory/regulatory grounds of ineligibility are identified, the Field may proceed with final adjudication following supervisory concurrence¹⁰ and deconfliction with the record owner (include text in parenthesis). There should be no denial based solely on discretionary grounds at this stage.¹¹

Multiple offices may be in possession of pending applications and/or petitions for the same individual with a NS concern. Each office may initiate an eligibility assessment and proceed to deny (following local supervisory concurrence and deconfliction with the record owner) if statutory/regulatory grounds of ineligibility are identified.

The purpose of the eligibility assessment is to ensure that valuable time and resources are not unnecessarily expended when the individual is otherwise ineligible for the benefit sought.

If the case cannot be completed pursuant to the instructions above, the case must move to the internal vetting process.

B. Internal Vetting

Internal vetting includes a complete review of the file in order to assess the individual's eligibility for the benefit sought, to obtain any relevant information to support the adjudication and, in some cases, to further examine the nature of the NS concern. In addition, internal vetting may include, as appropriate, a Request for Evidence (RFE), a Notice of Intent to Deny (NOID), and a Notice of Decision (i.e. denial). In the event that an interview or site visit is required, local supervisors must coordinate such requests with their respective Regional Immigration Officers (RIO). There should be no denial based solely on discretionary grounds at this stage (see footnote 11).

As with the initial eligibility assessment, the purpose of internal vetting is to ensure that valuable time and resources are not unnecessarily expended vetting a case with a Third Party Agency (*see External Vetting* stage) when the individual is otherwise ineligible for the benefit sought.

¹⁰ In some instances, Field supervisors may determine that further CARRP processing may be necessary to strengthen an ineligibility ground or support a denial decision. When this is the case, *External Vetting (Non-KSTs ONLY)* will be conducted to identify or strengthen ineligibility grounds. In instances where the denial grounds can be overcome with a subsequent filing, the most prudent course of action is to continue with External Vetting rather than denying on the statutory/regulatory ground.

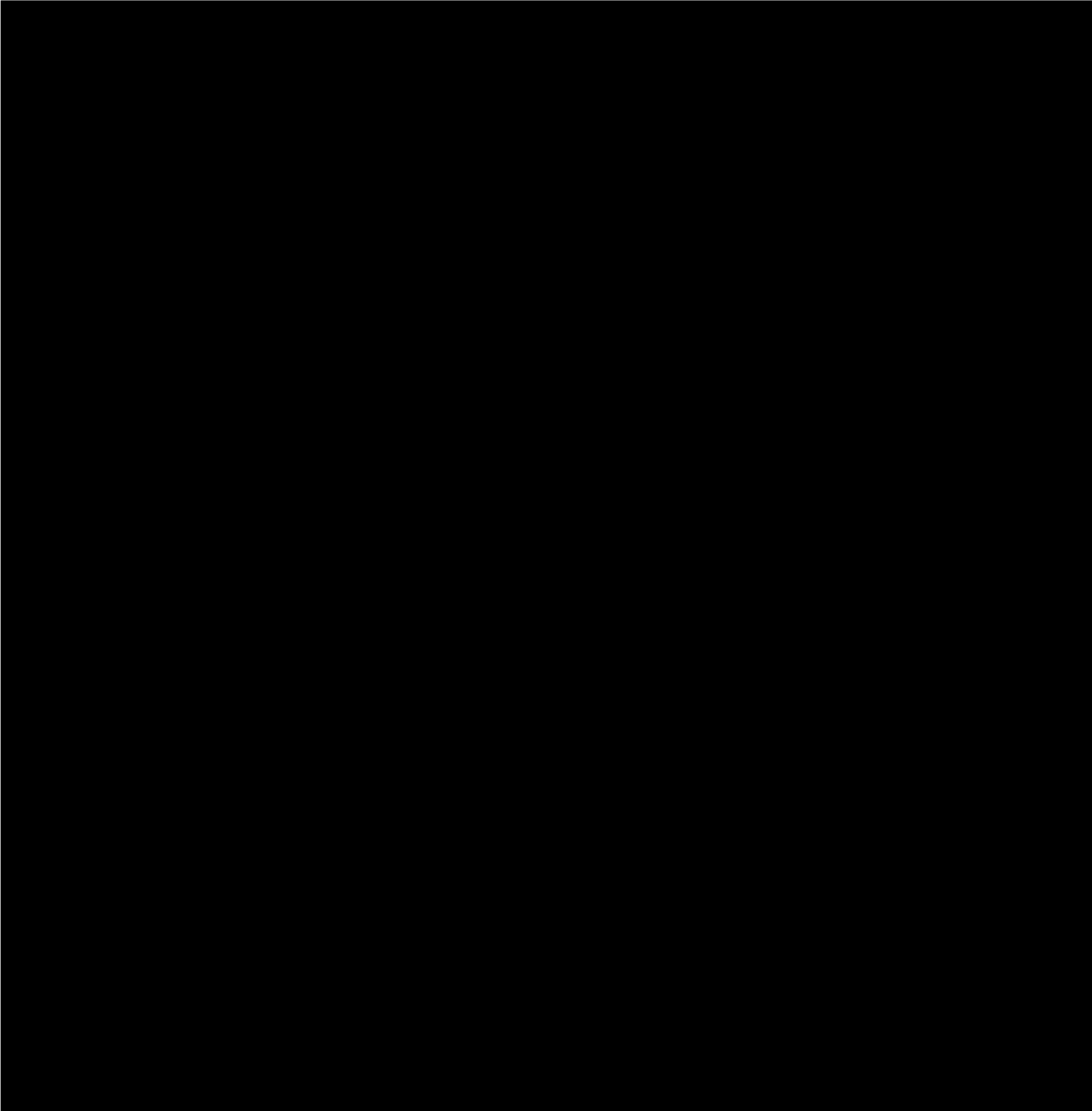
¹¹ Discretionary denials, however, may be considered after external vetting has been completed and the case is in the final CARRP adjudication process.

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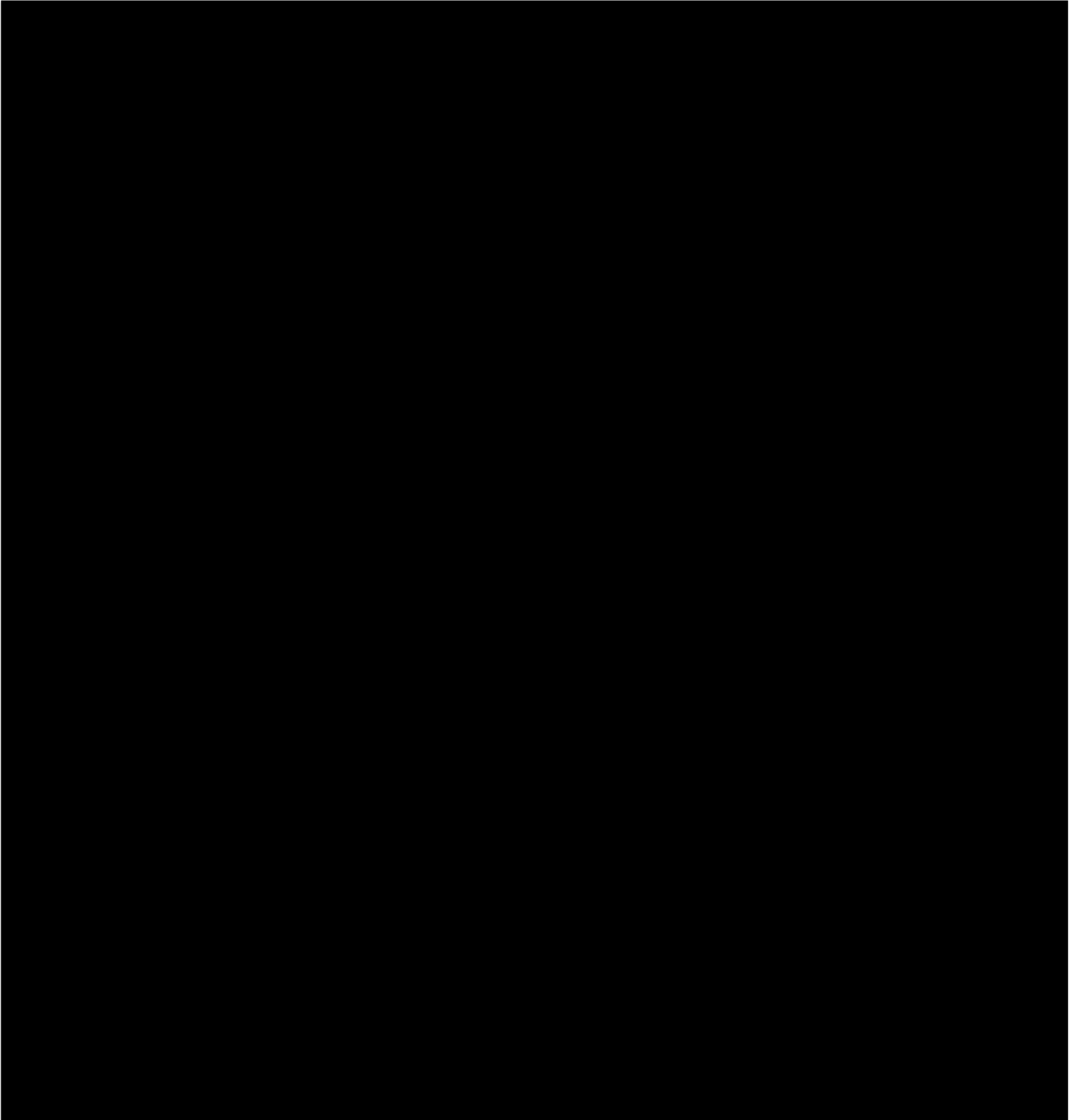
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C. Deconfliction

The designated officer is required to advise the record owner of contemplated adjudicative actions. See Section VIII Part K of this guidance and Title 8, Code of Federal Regulations Section 103.2(b)(18) for instructions on holding a case in abeyance when proposed actions would interfere with an ongoing investigation.

Note: During deconfliction, designated officers may ask the record owner whether that agency has information (other than NS related information) that would affect the eligibility for the benefit sought. Officers may also seek to resolve any other relevant concerns (e.g., criminal, public safety, fraud) identified through the security check process or review of the files.

If the individual is otherwise eligible for the benefit or if local management determines further processing is necessary to strengthen or support a final adjudication, cases will proceed to the *External Vetting* stage.

Note: In instances where the individual is deemed ineligible for the benefit and the denial grounds can be overcome with a subsequent filing, the most prudent course of action is to continue with external vetting rather than denying on the initial ground of ineligibility.

D. Documenting Eligibility Assessment and Internal Vetting

The results of the eligibility assessment, internal vetting, and deconfliction must be documented in FDNS-DS and on the BCAA worksheet.

The BCAA worksheet must be attached to the FDNS-DS record at the end of the *Eligibility Assessment/Internal Vetting* stage.

Where the decision is made to transfer a case to another USCIS field office, the transferring office will fully document the results of adjudicative activities to date in FDNS-DS and on the BCAA worksheet, and ensure that the A-file, T-file or receipt file is properly documented.

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E. Individual Deemed Eligible for the Benefit

When the NS concern remains and the individual is deemed eligible for the benefit at the *Eligibility Assessment/Internal Vetting* stage, no benefit may be granted until external vetting is complete, unless an exception applies. See Section VIII, Case Specific Exceptions and Miscellaneous Guidance.

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V. EXTERNAL VETTING – STEP 3 OF CARRP PROCESS

A. KST NS Concerns

HQFDNS has sole responsibility for external vetting of KST NS concerns, which is conducted only as a last resort when no statutory or regulatory grounds of ineligibility have been identified. *See* Section VI, Requesting Assistance from HQFDNS.

B. Non-KST NS Concerns

For Non-KST NS concerns, the designated officer must initiate the external vetting process before the case may proceed to final adjudication if:

1. Internal vetting is complete and the application/petition appears to be otherwise approvable; and
2. there is an identified record owner in possession of NS information; and
3. a NS concern remains.

During the process of external vetting, the designated officer must seek to obtain additional information that may be relevant to a determination of eligibility. Officers should note that actions that do not meet the threshold for criminal prosecution (e.g., indicators of fraud, foreign travel, and information concerning employment or family relationships) may be relevant to a benefit determination. Officers must make every effort to clearly articulate these facts or fact patterns for final adjudication. **Note:** If a NS concern remains but a record owner cannot be identified, contact HQFDNS for assistance.

C. Law Enforcement Coordination

External vetting requires close coordination with law enforcement agencies, the Intelligence Community¹³ or other record owners to determine the nature and extent of the NS concern and to identify information that is relevant to an eligibility determination.

Coordination with law enforcement is essential to understanding the nature of associations that make the individual a concern, the individual's level of involvement in activities of concern, and the progress made to date by law enforcement to investigate those concerns. It also affords the opportunity to understand the impact of adjudicative activities on ongoing and sensitive investigations.

The Field must contact and establish liaison relationships with the LEA/record owner and other relevant agencies in order to coordinate background check vetting and obtain any and all information relevant to understanding the NS concern and adjudicating the application/petition. A limited number of USCIS officers must be the primary points of contact for outreach to the

¹³ Officers in the field are not authorized to contact Intelligence Community members; such outreach is conducted by HQFDNS. *See* Glossary for definition of Intelligence Community.

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LEA/record owner. This will assist USCIS efforts to develop effective information-sharing relationships and to limit the number of contacts with the record owner

1. Designated officers will contact all appropriate LEAs/record owners telephonically and/or through e-mail. Each telephonic and e-mail contact activity will be recorded in the activities tab of FDNS-DS. In the event there is no response to the initial contact within ten (10) business days, the appropriate local JTTF office must be contacted for assistance while keeping in mind Third Agency Rules regarding disclosure of information.

Note: If the local JTTF office is not responsive, the Field may request vetting assistance from HQFDNS (BCAU) in accordance with the guidance provided in Section VI.

2. The local JTTF office should also be contacted if:
 - a. LEA responds but declines to discuss the details of the case either over secure means of communication or in person; or
 - b. LE

Designated officers must ensure that any potential conflicts between vetting or adjudicative activities by USCIS and investigative activities by law enforcement or other federal agencies are identified during the coordination process. The designated officer should specifically ask the LEA whether any adjudicative action would impact the investigation.

In the event the individual is the target of or referenced in multiple investigations, all appropriate entities/record owners and JTTF offices must be contacted.

When an office outside the jurisdiction in which the individual lives is conducting an investigation, all appropriate LEAs must be contacted by the USCIS office vetting the NS concern.

D. Contacting the Record Owner

Prior to initiating contact with the LEA/record owner, all required and supplemental systems checks (see above) must have been conducted and recorded on the BCAA worksheet.

Contact with a case agent or record owner affords an opportunity to share information that may assist each party to complete their mission.

1. Designated officers may obtain information that will assist in:¹⁴

¹⁴ When USCIS obtains information from another governmental agency in the vetting process, the information sharing restriction, often referred to as the "Third Agency Rule," requires USCIS to obtain authorization from the record owner prior to any disclosure of the information. Therefore, in order to use the information during adjudication, prior written authorization must be obtained from the record owner. If the information indicates the individual is ineligible for the benefit sought, and if permission from the record owner has been secured for the use of unclassified information, the application/petition may be denied based on the information. Additionally, under provisions of DHS Policy MD 11042.1, USCIS may not disclose information provided by the record owner to a third agency without the record owner's prior authorization.

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- a. Determination of a Non-National Security (NNS)/NS concern
 - b. Determining the nature of the concern
 - c. Determining the extent of the concern
 - d. Determining the status/results of the investigation, and
 - e. Confirming the information that indicates the individual is ineligible for the benefit sought and pursuing a denial of the benefit, removal, rescission, revocation or denaturalization under INA.
2. Designated officers may also provide the LEA/record owner with information of which they might not be aware to help the case agent with additional leads. Be prepared to offer to discuss the case over a secure line and to take classified notes. A secure telephone conversation with a case agent may yield far more information than a similar conversation conducted over an open line.
 3. Derogatory information from all relevant LEAs/record owners should be reviewed to identify the nature of the NS concern and determine if and how it was resolved. Of particular concern are situations which indicate an unresolved NS concern, such as:
 - a. Allegations were not investigated (lack of resources);
 - b. Cases were closed administratively in which:
 - i. Subject moved to another office's jurisdiction and the investigation was not reopened in the new jurisdiction;
 - ii. Subject departed the U.S.; and/or
 - iii. Exhaustion of available leads.

E. Obtaining Relevant Information

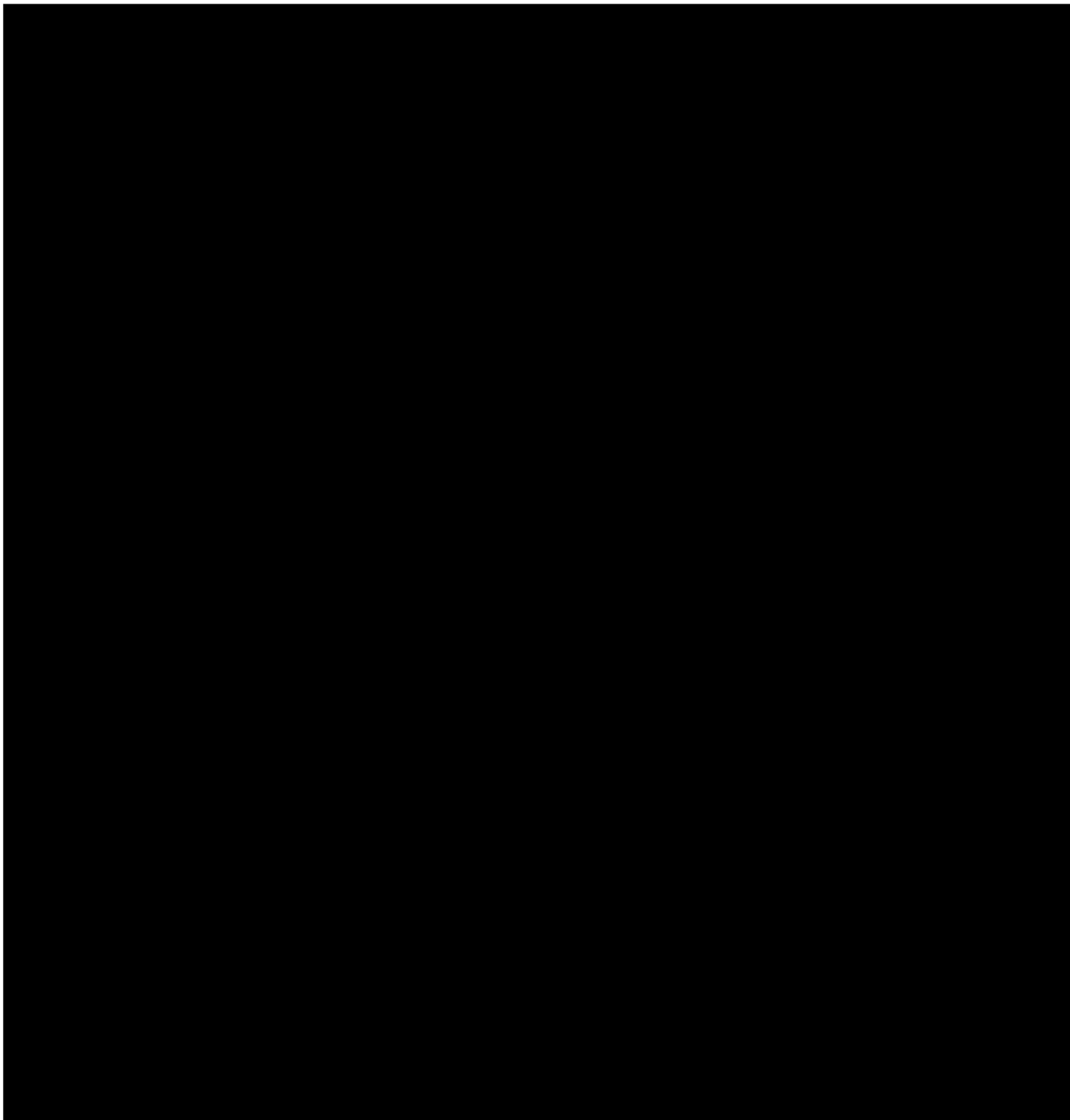


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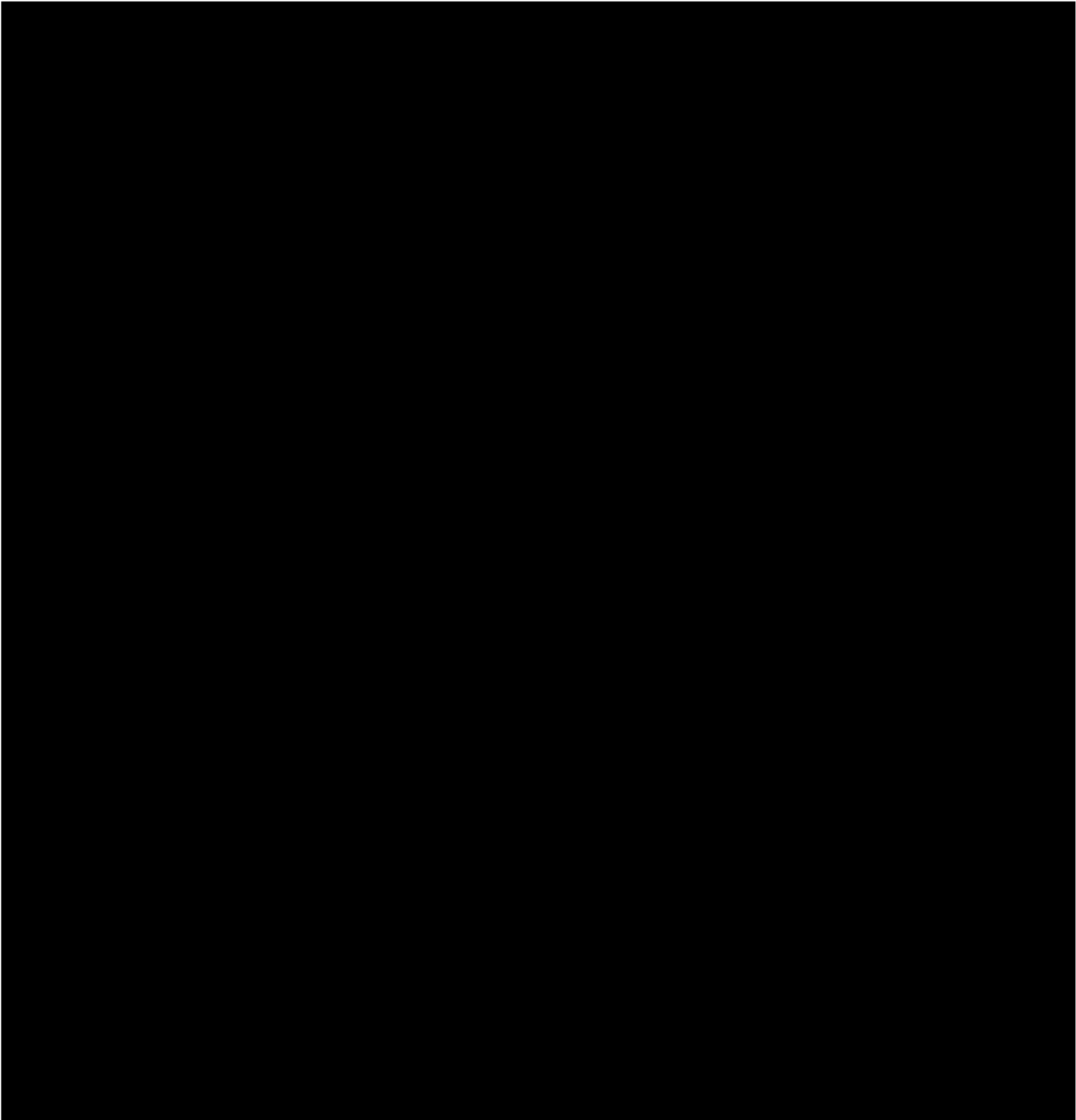
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K. Documenting External Vetting Activities

Officers conducting external vetting must record the results of their vetting activities and recommendations, as well as a summary of their conversations with an LEA, in the “activities/notes” tab of the FDNS-DS as appropriate. They must update the BCAA worksheet, contemporaneously (as actions are being taken) and not wait to update at a later date.

At the end of the external vetting process, the BCAA worksheet should be attached to the FDNS-DS record and the application/petition will proceed to the *CARRP Adjudication* stage.

When the decision is made to transfer a case to another USCIS office, the transferring office will fully document the results of vetting and adjudicative actions to date in FDNS-DS and the BCAA worksheet, and ensure that all relevant information properly documented in the file.

L. Entering Data into FDNS-DS for Non-KST NS concerns

Prior to creating a record in FDNS-DS, the designated officers must determine whether a record related to the same subject has already been entered into the system. If there is such record, designated officers must request the “lead” officer to add them as “team members” so that they can add new filings to the existing record. Do not create a new record on the same subject of interest.

M. Multiple Filings at Multiple Locations

At the vetting stage, only one office in the Field should be the lead in coordinating with the appropriate LEA(s). The designated officer will identify and perform electronic consolidation of all filings related to an individual with a NS concern in FDNS-DS. When the individual is the applicant on or beneficiary of multiple filings at multiple offices, the designated officer should refer to the following guidelines for vetting purposes and electronic consolidation:

1. If there is a pending N-400 or I-485, the office having primary responsibility for adjudicating the N-400 or I-485 is responsible for the electronic consolidation.¹⁵

¹⁵ If an N-400 is pending concurrently with a pending I-485 pursuant to INA Section 328 or 329 regarding members of the U.S. Armed Forces or those who have already been discharged from service, the office having jurisdiction over the N-400 is responsible for electronic consolidation.

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2. If there is no N-400 or I-485 pending but there is another type of application/petition pending with the potential to grant status, (e.g. a Form I-129 Extension of Stay or Change of Status request), the office with jurisdiction over the pending application/petition is responsible for the electronic consolidation;
3. If there is no pending N-400, I-485 or other type of application/petition with the potential to grant status, the office with jurisdiction over the pending immigrant visa petition(s) is responsible for the electronic consolidation (with priority over non-immigrant visa petitions);
4. In the event that separate offices hold both pending employment-based immigrant visa petitions and family-based petitions, the office with jurisdiction over the employment-based immigrant petition is responsible for the electronic consolidation.
5. In the event that “multiple locations” involves Service Centers, bi-specialization will be the determining factor as to which Service Center will have the lead in consolidating and conducting vetting activities. Supervisors between bi-specialized Service Centers (i.e. TSC/NSC and ESC/WSC) must coordinate between one another to determine the best office to take the lead.

Note: For situations involving multiple receipt files or a combination of receipt files and A-files, one documentary record (BCAA worksheet) per individual will be sufficient.

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VI. REQUESTING ASSISTANCE FROM HQFDNS

A. Requesting External Vetting Assistance on KST NS Concerns

For applications/petitions with KST NS concerns, the Field is not authorized to conduct external vetting with record owners in possession of NS information. The Field is ONLY authorized to conduct internal vetting of KST NS concerns. HQFDNS has sole responsibility for external vetting of KST NS concerns, which is conducted only as a last resort when ineligibility grounds have not been identified.

Vetting assistance may be requested from HQFDNS in the following circumstances:

1. When ineligibility grounds have not been identified in applications/petitions with KST NS concerns;
2. When the LEA is non-responsive, is not willing to discuss any information or a POC is not identified in the referral;
3. When LHMs provide Third Agency Referrals, and the Field is unable to obtain the information from the Third Agency; or
4. When coordination with the Intelligence Community¹⁶ is required.

Prior to requesting vetting assistance from HQFDNS/BCAU the local office director (DD, SCD, FOD) must review the case to confirm that no grounds of ineligibility have been identified. When the decision has been made that the KST NS concern will be referred to HQFDNS/BCAU for external vetting the entire A-file and any related files must be forwarded to HQFDNS/BCAU.

Prior to forwarding the case to HQFDNS the sending office must:

1. Confirm the subject remains on the Terrorist Watch List,
2. Document all adjudicative actions taken in FDNS-DS, and
3. Attach completed BCAA worksheet to the FDNS-DS record.

HQFDNS/BCAU will request the tearline information¹⁷ from the record owner, perform high-side checks¹⁸ and draft an assessment of the results.

HQFDNS/NSAU will conduct a comprehensive review of the file and the assessment for ineligibility grounds. If no ineligibility grounds are identified, HQFDNS/NSAU will consider whether the use of classified information is necessary and request authorization from the record owner as required. If ineligibility grounds are identified, the file will be returned to the originating office with instructions for further action.

¹⁶ See Glossary for definition of Intelligence Community

¹⁷ See Glossary for definition of tearline information.

¹⁸ See Glossary for definition of high-side checks.

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While HQ FDNS is conducting external vetting in KST matters, the designated officer must notify HQ FDNS whenever new factors arise that may affect the application/petition. Such factors include, but are not limited to congressional inquiries, management inquiries, and litigation.

B. Requesting External Vetting Assistance on Non-KST NS concerns

Officers are not authorized to approve applications with remaining Non-KST NS concerns without supervisory approval and concurrence from the Field director (DD, SCD, FOD, ACD).

When the individual appears otherwise eligible for the benefit, officers must seek supervisory guidance in evaluating the merits of the case to ensure that all appropriate adjudicative actions have been considered or taken.

If the Field director confirms that the application/petition is approvable, the case may be adjudicated or the Field director may request vetting assistance from HQFDNS.

Upon requesting external vetting assistance from HQFDNS as appropriate, the A-file and any related files must be sent to the HQFDNS/BCAU. A completed BCAA worksheet must be attached to the file.

The HQFDNS/BCAU will perform high-side checks and draft an assessment of the results. If no ineligibility grounds are identified, HQFDNS/NSAU will conduct a comprehensive review of the file and the assessment for ineligibility grounds and consider whether the use of classified information is necessary and request authorization from the record owner as required. If ineligibility grounds are identified, the file will be returned to the originating office with instructions for further action.

C. Contact Information for HQFDNS Assistance

The Field may contact HQFDNS for guidance at any time during the processing of an application/petition with a NS concern. Such requests should be sent via email to:



The request for guidance must include the following information:

- Subject: Request for Assistance (Vetting) or Request for Assistance (Adjudication)
- Full Name (Applicant, Petitioner, Beneficiary, Derivative or Company)
- A-Number
- Date of Birth
- Pending Application(s) and/or Petition(s) Form Type(s)

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- Nature of assistance requested
- Requesting Officer and Contact Information
- FDNS-DS NS concern number
- Litigation Case information if relevant*

*If a case requires immediate action due to pending litigation etc, offices must ensure that the e-mail to the FDNS-NSB Mailbox is marked urgent and contact the HQ National Security Advisory Unit (NSAU) main number (202) 272-██████ or HQ NSAU Team Chief (202) 272-██████. The body of the email should include the District Court Case # and suspense date.

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VII. CARRP ADJUDICATION – STEP 4 OF CARRP PROCESS

Upon completion of internal and external vetting, if the NS concern remains, the designated officer must evaluate the results of the vetting as it pertains to the adjudication, obtain any additional relevant information and determine eligibility for the benefit sought.

As previously noted, officers must deconflict with the record owner prior to any contemplated adjudicative action.

A. Adjudicating Applications with KST NS Concerns

Officers in the Field are not authorized to approve applications with remaining KST NS concerns.

If local management concurs that the individual appears otherwise eligible for the benefit, the director must request assistance from HQFDNS. (See Section VI, Requesting Vetting Assistance from HQFDNS). As necessary, the Field may also request assistance from BCAU. If there are remaining KST NS concerns after receipt of the results from HQFDNS/BCAU, and the individual remains eligible for the benefit, the application/petition must be returned to the respective Field HQ¹⁹ component for further evaluation and coordination with HQFDNS.

B. Adjudicating Applications/Petitions with Non-KST NS Concerns

Officers in the Field are not authorized to approve applications/petitions with the potential to grant status that have remaining Non-KST NS concerns without supervisory approval and concurrence from the local management.

If the local management confirms that the individual is otherwise eligible for the benefit, he/she has discretion to grant the benefit or may request further assistance from HQFDNS/BCAU. (See Section VI, Requesting Assistance from HQFDNS). If, in consultation with the respective HQ component the local management decides to grant the benefit, the designated officer must document all adjudicative actions in FDNS-DS and complete the BCAA worksheet.

¹⁹ HQ Office of Field Operations (OFO) or HQ Service Center Operations (SCOPS).

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VIII. CASE SPECIFIC EXCEPTIONS AND MISCELLANEOUS GUIDANCE FOR CARRP ADJUDICATION

The following adjudicative actions may be performed concurrently with the internal/external vetting of Non-KST NS referrals and with internal vetting performed on KST NS referrals subject to the listed conditions. Designated officers must deconflict contemplated adjudicative actions and decisions with the record owner.

The following guidance relates to the rescission of the memoranda below:

Processing of Applications for Ancillary Benefits Involving Aliens Who Pose National Security or Egregious Public Safety Concerns, dated May 11, 2007;

Processing of Form I-90s Filed by Aliens Who May Pose National Security or Egregious Public Safety Concerns, dated May 11, 2007.

A. Employment and Travel Authorization Applications with EPS or NS concerns

The following guidance applies to Form I-765, Application for Employment Authorization and/or Form I-131, Application for Travel Document, filed as ancillary applications and stand-alone applications.

If an individual with an **EPS concern** files Form I-765 and/or Form I-131, the officer will suspend adjudication for no more than sixty (60) days or until ICE provides notification of its intended action(s), whichever date is earlier.

If an individual with a **NS concern** files Form I-765 and/or Form I-131, the application will be released for adjudication when vetting is not complete within sixty (60) days of the date that the application was received.

Form I-765 applications must be adjudicated within ninety (90) days of receipt unless an interim Employment Authorization Document (EAD) is issued or an exception applies under 8 C.F.R. 274a.13(d).

For stand-alone I-765 and I-131 applications, the officer should determine if the NS concern supports removal, revocation, rescission, or termination of the underlying status. The designated officer must document the BCAA worksheet and follow existing procedures for initiation of such.

B. Form I-90 with NS or EPS Concerns

A permanent resident holds lawful status and is entitled to evidence of that status until it is removed through rescission or removal proceedings.

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When a Form I-90, Application to Replace Permanent Resident Card, has an EPS concern, the application may be adjudicated after sixty (60) days if ICE has not provided notification of its intended action(s). When a Form I-90 has a NS concern, the application may be adjudicated after sixty (60) days if the vetting is not complete. The 60-day evaluation period allows the officer an opportunity to verify the individual's identity and to make an initial determination as to whether rescission and/or removal proceedings may be appropriate.

1. When the individual has been placed in removal proceedings and ICE has not taken the individual into custody, a Form I-90 must be approved upon verification of identity and permanent resident status.
2. When the individual has been placed in removal proceedings and taken into custody, a Form I-90 must be approved upon verification of identity and permanent resident status. The Permanent Resident Card should be delivered to ICE for delivery to the individual, as appropriate.
3. The Form I-90 must be denied when the individual is subject to a final order of removal.

C. *Santillan* Cases Involving EPS or NS Concerns

Santillan class members are those who have been granted permanent resident status by the Executive Office of Immigration Review (EOIR) and who have not been issued evidence of their status. These individuals are currently covered by the terms of the injunction order issued on December 22, 2005 (published at 2005 WL 3542661).²⁰ The injunction mandates that USCIS issue documentation of permanent resident status to class members within a specific time frame from the date of the class member's InfoPass appointment with USCIS after he or she receives the EOIR grant. Generally, the documentation must be issued within 30 days, if the status was granted on or after April 1, 2005, or 60 days, if the status was granted before April 1, 2005.

USCIS is bound by the terms of the injunction regardless of EPS/NS concerns and must follow the procedures outlined in the December 29, 2005 memorandum on interim guidance. If EPS/NS concerns remain after issuance of the Permanent Resident Card, the case should be referred to the local FDNS component.

²⁰ This memorandum complements the guidance contained in the December 29, 2005 memorandum entitled, *Interim Guidance for Processing of Status Documentation for EOIR-adjusted Lawful Permanent Residents Pursuant to the Permanent Injunction in Santillan*, et al. No. C-04-2686 (N.D. CA Dec. 22, 2005), as well as the March 31, 2005 memorandum entitled *Executive Office for Immigration Review (EOIR) Processing*, and the April 8, 2005 memorandum entitled *Clarification of Memorandum Executive Officer for Immigration Review (EOIR) Processing*.

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D. General EPS Guidance

For all other applications/petitions with a NS concern and an EPS concern(s), refer to Policy Memorandum 110 (Disposition of Cases Involving Removable Aliens), issued July 11, 2006.²¹

When there are NS and EPS concerns related to the individual, designated officers will create a Request for Investigation (RFI) using the word template found at the FDNS website and attach it to the file.

The BCUs and FDNS Operations will document cases that contain both NS and EPS concerns in both the Fraud and NS tabs in the FDNS-DS.

E. Motions to Reopen/Reconsider with NS Concerns

Where a motion to reopen/reconsider is granted, the underlying case is reopened/reconsidered, and a new decision must be made based on the entire record. **Granting a Motion DOES NOT EQUAL an approval of the underlying case**, and the designated officer must follow all CARRP procedures for the underlying case as outlined in this Operational Guidance.

F. Appeals to the Administrative Appeals Office (AAO) with NS Concerns

Upon receipt of the appeal (and before the 45 day regulatory deadline), USCIS must determine if the individual still poses a NS concern.

1. If there are no further NS concerns, officers should follow existing procedures for handling an appeal to the AAO.
2. If a NS concern still exists or is uncovered at this stage, USCIS must forward the appeal and the related Record of Proceeding (ROP) to the AAO within 45 days of receipt of the appeal, per the guidance below.
 - a. ROPs with both classified and non classified materials:
 - i. If the case file contains a working file with classified material, the appeal, related ROP and the classified working file must all be forwarded to AAO pursuant to established procedures for mailing classified information.
 - ii. The appeals with NS concerns and related ROP must be forwarded to AAO to the attention of the **AAO Deputy Director** via registered mail and an e-mail notification must be sent to [REDACTED]@dhs.gov.

²¹ Service Center and National Benefits Center will refer EPS cases to ICE via the Background Check Units (BCUs) rather than the Fraud Detection Unit (FDUs).

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- iii. The e-mail subject line should read: “*NS Case Appeal to AAO*”. The e-mail notification should also include the tracking number of the registered mail.
3. Once the AAO has completed its review of the appeal and renders a decision, the case will be returned to the Field.
 - a. If the case is returned with a “Remand” action, officers must follow the guidance provided by the appellate authority and take all adjudicative actions mandated by the AAO.
 - b. If an appeal is sustained or a “Remand” action leads to an approval of an application/petition with a NS concern, TECS IBIS entries must be updated to indicate that an application/petition with a NS concern is approved as the result of an AAO decision.

G. Appeals to the Board of Immigration Appeals (BIA) with NS Concerns

Upon receipt of the appeal (and before the 45 day regulatory deadline), USCIS must determine if the individual still poses a NS concern.

1. If there are no further NS concerns, officers should follow existing procedures for handling an appeal to the BIA.
2. If a NS concern still exists, USCIS must forward the appeal and the related record of proceeding (ROP) to the BIA within 45 days of receipt of the appeal in accordance with the following procedures.
 - a. Any existing classified materials or working files will not be forwarded with the ROP to the BIA.
 - b. All Third Agency Rules apply when sharing information with the BIA.
3. If an appeal is sustained or a “Remand” action leads to an approval of an application/petition with a NS concern, TECS IBIS entries must be updated to indicate that an application/petition with a NS concern is approved as a result of a BIA decision.

H. Exemptions for the INA Section 212(a)(3)(B) Terrorism-Related Provisions and NS Concerns

Under the INA, aliens who fall under the terrorist-related inadmissibility provisions of section 212(a)(3)(B) are ineligible for most immigration benefits. However, under INA section 212(d)(3)(B)(i), as amended by the Consolidated Appropriations Act of 2008, the Secretary of Homeland Security or the Secretary of State, after consultation with each other and with the Attorney General, may exercise discretionary authority to exempt certain terrorist-related

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inadmissibility provisions of INA section 212(a)(3)(B) with respect to either an undesignated terrorist organization or to an individual alien. Therefore,

1. When a determination is made that an exemption is available and will be granted under INA § 212(d)(3)(B), and no other NS concern is identified, the application/petition with a NS concern will be released for routine adjudication as a NNS concern. No FDNS-DS or BCAA documentation is required.
2. When a determination is made that an exemption is available but will not be granted under INA § 212(d)(3)(B)(i), the individual is inadmissible or otherwise barred from receiving an immigration benefit and the application must be denied. The NS concern must be documented in FDNS-DS per established procedures. If the denial is based on a NS concern, an IBIS record must be created using the following language:

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Officers should follow existing guidance for NTA issuance.

Note: Material support and other terrorist-related exemption determinations should be made in accordance with existing policies and procedures, including the memorandum dated March 26, 2008, from Deputy Director Jonathan Scharfen, entitled “Withholding Adjudication and Review of Prior Denials of Certain Categories of Cases Involving Association with, or Provision of Material Support to, Certain Terrorist Organizations or Other Groups,” which is beyond the scope of this Operational Guidance. The guidance provided here applies to material support and other terrorist-related inadmissibility cases only after a determination regarding the availability of and eligibility for existing exemptions has been made in accordance with operational guidance.

I. Use of Classified Information in Adjudicating Applications/Petitions with a NS Concern

Officers are not authorized to deny a benefit on the basis of classified information.

Classified information may be considered²² but may not be disclosed to the individual or the individual’s representative during the adjudicative process (e.g., during an interview or in a decision).²³ Classified information may be relied upon during the adjudicative process as

²² “Considered” means used for lead purposes to identify open source information that can be used to form the basis for a Request for Evidence (RFE) or a line of questioning during an interview intended to discover material facts relevant to a USCIS decision.

²³ Additionally, under the Third Agency Rule, USCIS may not disclose information provided by the record owner to a third agency without the record owner’s prior written authorization.

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authorized by law and only as a last resort²⁴ after receiving consent from the record owner and the Secretary of the Department of Homeland Security (DHS).²⁵

When grounds of ineligibility in an application/petition with a NS concern cannot be supported except by reliance upon classified information, the Field must seek assistance from HQFDNS in accordance with Section VI of this Operational Guidance. HQFDNS is responsible for making requests to the record owner for declassification of pertinent sections if such information is necessary to support a legally sufficient denial. On a case-by-case basis, HQFDNS may seek permission from the DHS Secretary and the record owner to rely upon classified information in a written decision.

J. Use of For Official Use Only (FOUO) or Law Enforcement Sensitive Information in Adjudicating Applications/Petitions with a NS concern

Information categorized as For Official Use Only (FOUO) or Law Enforcement Sensitive may be considered but may not be disclosed to the individual or the individual's representative during the adjudicative process without prior permission of the record owner.

K. Abeyance

When a LEA/record owner indicates that proposed adjudicative action may impede the investigation, the LEA/record owner may submit a request for abeyance. All requests for abeyance must be in writing (e.g. email, fax, etc). The designated officer will prepare a written recommendation to the Field director, requesting to place the case in abeyance. On a case-by-case basis, the director²⁶ will determine whether the request comports with the requirements of Title 8 Code of Federal Regulations § 103.2(b)(18). If the request is granted, no final or interim adjudicative activity will be conducted during the period of abeyance. The LEA's written request for abeyance must be stamped *For Official Use Only* and placed on the non-record side of the A-file, T-file or receipt file.

L. Litigation

Individuals may file Federal Court actions to compel USCIS to act on an application/petition. Naturalization applicants may file Federal Court actions asking the court to naturalize them when USCIS has not adjudicated an N-400, Application for Naturalization, within 120 days of an

²⁴ "Last resort" means that classified information will be used in an adjudicative process only where other options have been examined and weighed, no alternative option exists that will ensure success on the merits, and the case presents a compelling need for use of such information.

²⁵ Refer to Department of Homeland Security Memorandum, *Guidelines for the Use of Classified Information Immigration Proceedings*, dated October 4, 2004 (also referred to as the "Ridge Memo").

²⁶ For purposes of this guidance, "Director Level" refers to District Directors and Service Center Directors. In addition, a Director may delegate his or her decision-making authority to a local manager no lower than a Section Chief or Assistant Center Director.

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interview. In either case, it is important that officers be mindful of court orders, restrictions on adjudicative authorities, and the need for communication between operations, USCIS Counsel, and the Assistant US Attorney (AUSA) handling the case.

1. The designated officer may indicate the existence of classified information, but may not discuss the substance of that information except when certain that all parties to that discussion have the appropriate clearance AND need to know. When determining “need to know,” it is important to remember that if denial is contemplated based on unclassified information, the classified usually will not need to be discussed or mentioned.
2. The designated officer should maintain custody of the A-file, T-file, or receipt files. The officer is key to defending against mandamus actions as well as any other court activity. In some cases, court hearings will be held to determine an individual’s eligibility for a benefit. The officer, better than anyone, understands eligibility standards that are applied to immigration benefits applications and must be ready to articulate those standards to USCIS Counsel and the AUSA. As such, the officer will be instrumental in developing courtroom lines of questioning in matters where a judge will determine eligibility.
3. The designated officer must be mindful of court deadlines for answers, hearings, and other activities and must coordinate with USCIS Counsel in a manner that will allow USCIS to meet those deadlines. Officers should also become familiar with local precedent on matters that affect immigration benefit applications. For instance, in some Federal Circuits, concurrent jurisdiction is observed—effectively giving USCIS the opportunity to interview and request evidence from an individual while the case is subject to a court action. In other Circuits, courts hold that they have exclusive jurisdiction and that USCIS cannot take any action without the permission of the court, either through a remand or specific instructions.
4. The AUSA is employed by the Department of Justice, not the Department of Homeland Security. The Third Agency Rule prohibits the disclosure to the AUSA of any law enforcement sensitive information in the possession of USCIS which originated with another agency, unless that source agency has consented to such a disclosure to the AUSA. [*See Department of Homeland Security, Management Directive System, Safeguarding Sensitive but Unclassified (For Official Use Only) Information*, MD 11042.1, Part 6.H.8, (January 1, 2005)]. USCIS is not precluded from indicating to USCIS Counsel or an AUSA that classified information exists.
5. In addition to restrictions imposed by the Third Agency Rule where information is classified, other legal restrictions may exist on dissemination of such information. Violation of those restrictions can bring administrative or criminal penalties. [*See 18 U.S.C. § 798 (Disclosure of Classified Information); 50 U.S.C. § 783(b) (Communication of classified information by Government officer or employee); Executive Order 12958, 60 Fed. Reg. 7977 (February 26, 1996), as amended by Executive Order 13292, 68 Fed. Reg. 15315, 15324-15325 (March 25, 2003), Sec. 4.1 (c), (e) (covering classified information); 32 CFR § 2001.61(b) (4) (vi) (A), (B) (covering classified information)*].

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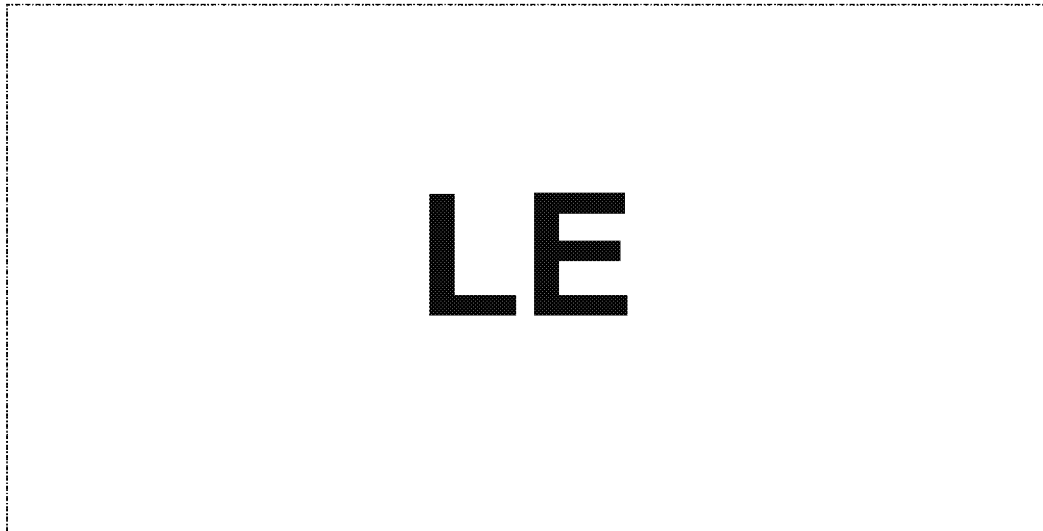
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M. LHM

1. The Field is responsible for the triage of Letterhead Memorandums (LHMs) resulting from the Federal Bureau of Investigation (FBI) Name Check.
 - a. If a NS concern is identified, designated officers are responsible for vetting and adjudicating applications and petitions related to those concerns following the process outlined in this Operational Guidance.
2. For Third Agency LHMs, the field must coordinate with the Third Agency (record owner) to obtain the information necessary to determine the nature of the concern.
 - a. If a NS concern is identified, it will be documented as such and continue to the *Eligibility Assessment/Internal Vetting* stage.
 - b. If the Field is unable to obtain the information from the Third Agency, or should contact with an unnamed agency or record owner be required, the Field may request vetting assistance from HQFDNS in accordance with the procedures outlined under Section VI of this Operational Guidance.
3. If the LHM does not contain classified information, the LHM should be interfiled in the A-file.
4. If the LHM does contain classified information, a T-file should be created upon receipt to house the classified LHM; thus classifying the T-file and not classifying the A-file. The following procedures pertain to the handling of the classified LHM:

- a.
- b.



5. When a LHM is received by a USCIS office for an individual who has a pending application/petition being vetted at a different USCIS office, the LHM must be forwarded

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to the vetting office in accordance with established procedures and in close coordination with the receiving entity.

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FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE**IX. PETITIONS AND OTHER FORMS WITH NS CONCERNS**

The guidance provided in this section relates to Forms I-129 (not requesting a Change of Status (COS) or Extension of Stay (EOS)), I-129F, I-130, I-140, I-360 (Religious Worker cases only), I-526, I-600 and I-800 that do not convey an immigrant or non-immigrant status and I-824 (collectively, hereinafter as “petitions”).²⁷

The procedures outlined here do not alter outstanding guidance with respect to the consideration of relative (I-130), orphans (I-600 or I-800), and fiancé (I-129F) petitions where the petitioner’s eligibility comes into question pursuant to the Adam Walsh Act.²⁸

In a visa petition proceeding, the legal issue is whether the requisite relationship exists (Forms I-129F, I-130, I-600 and I-800) or whether the proposed employment meets the requirements of the relevant employment-based category (Forms I-129, I-140, I-360, and I-526). In short, the issue is whether the alien fits into a particular immigrant/non-immigrant visa category, not whether the alien is admissible. Accordingly, the following considerations should be kept in mind when reviewing the petitions:

The approval of an immigrant/non-immigrant petition does not establish that the alien is admissible. Therefore, by approving petitions where there are NS concerns or other inadmissibility issues USCIS merely provides the alien the opportunity to file for lawful permanent residence if residing within the United States, seek admission as a lawful permanent resident or seek a non-immigrant visa if residing abroad. While petitions should be adjudicated on their merits, designated officers should keep in mind that those petitions that have a NS concern often involve elements of fraud. Therefore, when fraud concerns are identified, the case should be referred to the local FDNS unit in accordance with established local protocols.

A. Operational Guidance for Petitions

Petitions with NS concerns (both KST and Non-KST) will undergo a thorough review of the record to determine eligibility per current Standard Operating Procedures (SOP) for that specific petition. Designated officers are required to notify the LEA/record owner of any contemplated adjudicative action. During this deconfliction process, designated officers may ask the record owner questions (other than those related to NS information) that could help identify possible grounds of ineligibility.

B. Approving Petitions with NS Concerns

Petitions that do not convey an immigrant or non-immigrant status with remaining NS concerns may only be approved with supervisory concurrence and in accordance with the guidance below.

²⁷ Applications and Petitions with NS concerns that convey an immigrant or non-immigrant status, i.e., Form I-129 petitions requesting change of status (COS) or extension of Stay (EOS) and Form I-730 are covered in sections I through VIII of this operational guidance.

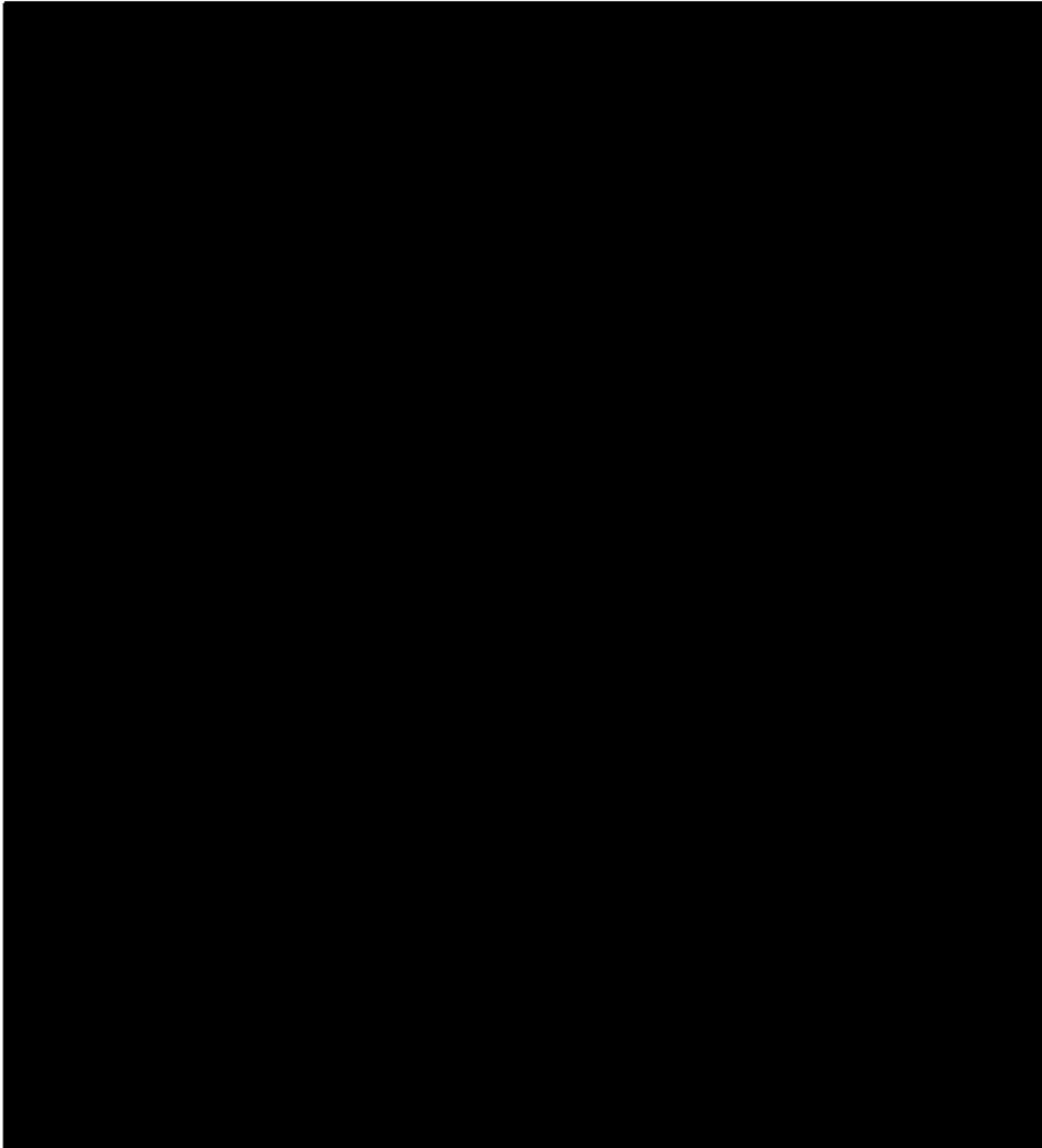
²⁸ For a discussion of the Adam Walsh Act see July 26, 2006 policy memorandum entitled *Adam Walsh Child Protection and Safety Act of 2006*.

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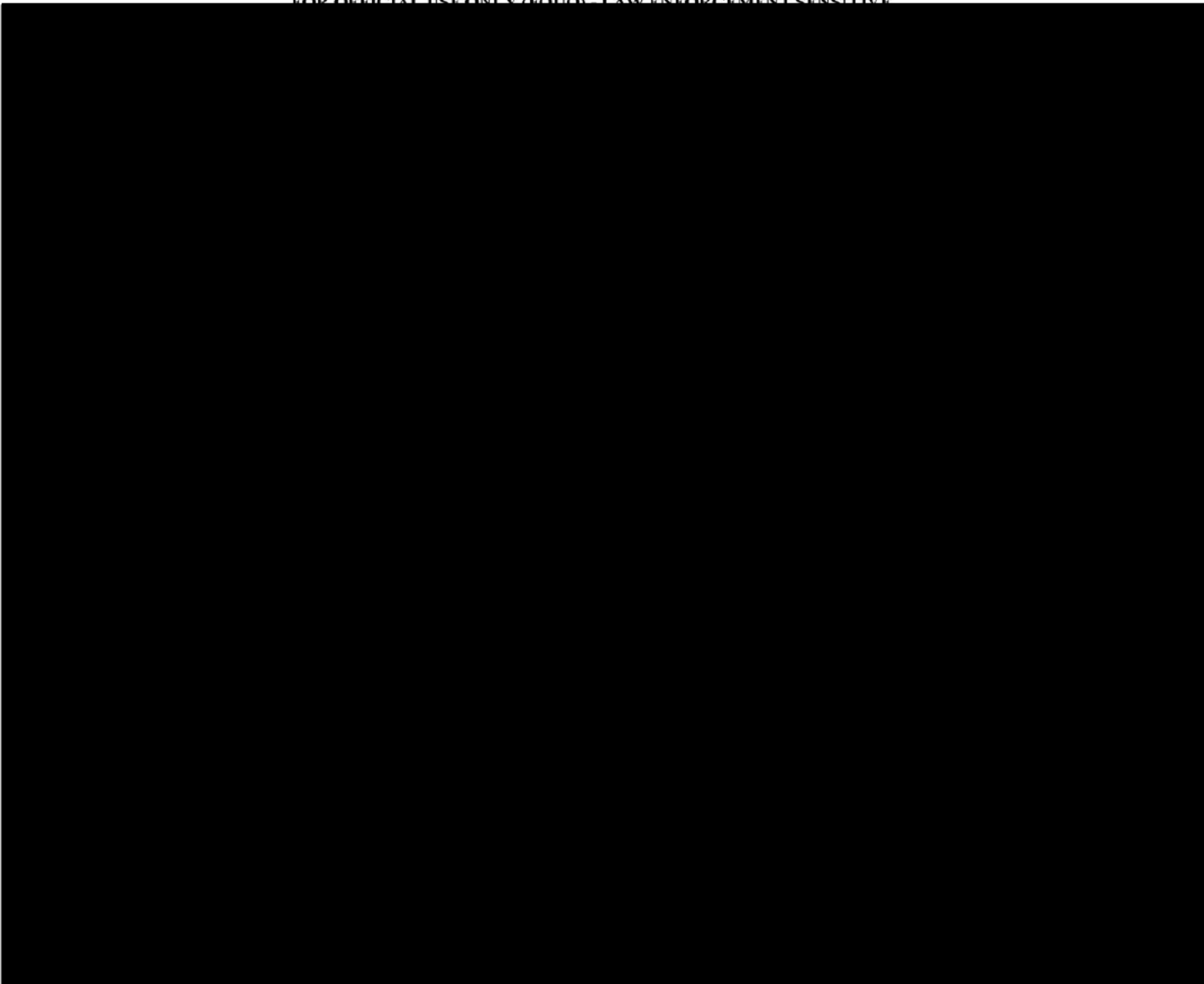
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C. Special Considerations

1. Form I-129, Petition for Non-Immigrant Worker

In certain petitions for categories of non-immigrant workers, Form I-129 allows multiple beneficiaries to be named on a single petition. The guidance below provides instructions for adjudicating multi-beneficiary petitions where one or more of the beneficiaries has a NS concern.

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- a. When there is a NS concern with respect to one or more of the beneficiaries, USCIS can approve a petition in whole or in part.
 - i. Petitions for beneficiaries with no NS concerns will proceed through the routine adjudication process;
 - ii. Petitions for beneficiaries with a NS concern must follow the CARRP Adjudication procedures.

2. Form I-824, Application for Action on an Approved Application or Petition

For cases where the NS concern was identified prior to the approval of the petition and no further information regarding the individual has become available since the approval, the Form I-824 will be released for routine adjudication.

For cases where the NS concern was identified after the approval of the petition:

- a. If the petition remains under the jurisdiction of USCIS, the petition should be requested from the holding office as a NS concern and reviewed under the CARRP process for possible revocation or rescission, as appropriate.
- b. If the petition is under the jurisdiction of the Department of State, and a visa has not already been issued, USCIS will request that the petition be returned. USCIS will initiate revocation or rescission, as appropriate.

3. Form I-800A, Application for Determination of Suitability to Adopt a Child from a [Hague] Convention Country, Supplements 1 & 3

- a. Supplement 1, Listing of Adult Member of the Household

Form I-800A, Supplement 1 lists adult household members of the prospective adoptive parents. Officers should refer to Section III Part C, Identifying a NS Concern (Family Members and Close Associates) of this Operational Guidance for instructions on adjudication of the I-800A in which the petitioner submits Supplement 1.

- b. Supplement 3, Request for Action on Approved I-800A

Form I-800A, Supplement 3 may be filed for a variety of reasons. If Supplement 3 is filed:

- i. For cases where the NS concern, whether on the applicant(s) or the adult household member(s), was identified *prior to* the approval of the I-800A application and no further information regarding the individual has

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become available since the approval, the Form I-800A, Supplement 3 will be released for routine adjudication.

- ii. For cases where the NS concern, whether on the applicant(s) or the adult household member(s), was identified *after* the approval of the I-800A application, the application must be reviewed under the CARRP process for possible revocation or rescission, as appropriate.
- iii. For cases where the Supplement 3 is submitted to report a *new adult member* of the household on which a NS concern is identified, the I-800A application must be reviewed under the CARRP process for possible revocation or rescission, as appropriate.

4. N-400, Application for Naturalization

Notwithstanding existing guidance found in the National Quality Procedures IV (NQP4), N-400s received at the Service Centers with confirmed NS concerns will, in coordination with N-400 program management, be sent immediately to the Field Office having jurisdiction for CARRP processing. It is important to remember that in naturalization proceedings, the interview triggers the clock for USCIS to issue a decision on the naturalization application. If USCIS does not issue a decision within 120 days of the naturalization interview, the naturalization applicant can file suit in federal court seeking to obtain a decision on naturalization. See INA § 336(b). Therefore, it is important for the officer to have as much information as possible about the individual and the NS concern before the naturalization interview occurs to ensure that the naturalization interview explores all statutory and regulatory grounds of eligibility along with potential grounds of ineligibility. The Field is strongly encouraged to identify all potential grounds of ineligibility prior to scheduling an N-400 interview. In some instances, External Vetting may be necessary prior to an interview.

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X. GLOSSARY

Background Check and Adjudicative Assessment (BCAA)

Worksheet used to document the actions taken by the designated officer conducting the review, vetting and adjudication of an application/petition with a NS concern.

Deconfliction

Coordination between USCIS and another governmental agency owner of NS information (the record owner) to ensure that planned adjudicative activities (e.g., interview, request for evidence, site visit, decision to grant or deny a benefit, issuance of Notice to Appear (NTA) and the timing of the such) do not compromise or impede an ongoing investigation or other record owner interest.

During deconfliction, designated officers may ask a record owner whether that agency has information **other than NS related information** that would affect the eligibility for the benefit sought. Designated officers may also seek to resolve any other relevant concerns (e.g., criminal, public safety, fraud) identified through the security check process or review of the files. Officers may not ask for the details of the NS information as part of performing deconfliction.

Designated Officer

Any officer who has been appropriately trained and designated to conduct vetting or adjudication of national security cases by the local office director.

External Vetting

Consists of inquiries to record owners in possession of NS information to identify facts or fact patterns necessary to determine the nature and relevance of the NS concern, including the status and results of any ongoing investigation and the basis for closure of any previous investigation and any information that may be relevant to a determination of eligibility and/or removability.

High-Side Checks

Database checks of information and intelligence systems on the Joint Worldwide Intelligence Community System (JWICS) that may include information up to and including TOP SECRET and Sensitive Compartmented Information (SCI) information.

Intelligence Community

The term refers to government and other public agencies as well as private agencies that gather, assemble, and report information that pertains to world or national security. For example, in the United States, the intelligence community (which refers to itself as the Intelligence Community)

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includes the Central Intelligence Agency (CIA), the National Security Agency (NSA), the Federal Bureau of Investigation (FBI), the Treasury Department, and departments within each of the branches of the military. In addition, the community includes individuals and companies that contract to provide intelligence gathering or analysis services for the government, for corporations, or for private individuals, or who publish intelligence news to the general public.

Internal Vetting

Consists of DHS, open source or other systems checks; file review; interviews, request for evidence (RFE), and site visits for the purpose of determining eligibility.

Known or Suspected Terrorist

A Known or Suspected Terrorist (KST) is a category of individuals who have been nominated and accepted for placement in the Terrorist Screening Database (TSDB), are on the Terrorist Watch List, and have a specially-coded lookout posted in TECS/IBIS, and/or Consular Lookout and Support System (CLASS), as used by the Department of State (DOS). A KST in IBIS has a record number beginning with a **LE** and ending in a **LE**. The IBIS record should also indicate the individual is a **LE** and request contact with the National Targeting Center (NTC).

National Security Concern

When an individual or organization has been determined to have prior, current or planned involvement in or association with an activity, individual or organization described in section 212(a)(3)(A), (B) or (F) or 237(a)(4) (A) or (B) of the Immigration and Nationality Act (INA).

Non-KST

A Non-KST NS concern includes all other NS concerns, regardless of source, including but not limited to: associates of KST(s), unindicted co-conspirators, terrorist organization members, persons involved with providing material support to terrorists or terrorist organizations, and agents of foreign governments.

Tearline

An automated or manual technique for separating an intelligence report into multiple portions separated by machine- or human-readable tearlines. A Tearline section is the area in an intelligence report or finished intelligence product where the sanitized version of a more highly classified and/or controlled report is located. The sanitized information within the tearlines contains the substance of the more detailed information without identifying the sensitive sources or methods, allowing wider dissemination of the substantive intelligence information to authorized customers.

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