

Exhibit 35
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U.S. Department of Homeland Security



U.S. Citizenship and Immigration Services

Fact Sheet

April 2011

FREQUENTLY ASKED QUESTIONS (FAQ) CARRP POLICY AND OPERATIONAL GUIDANCE

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A. List of CARRP Policy and Operational Guidance

All CARRP Policy and Guidance can be found on the FDNS portion of USCIS Connect:
<http://dhsconnect.dhs.gov/uscis/org/FDNS/Documents/Forms/National%20Security.aspx>

CAARP Policy Memoranda

“Policy for Vetting and Adjudicating Cases with National Security Concerns (CARRP Memorandum),” signed by Deputy Director Jonathan R. Scharfen, April 11, 2008.

“Additional Guidance on Issues Concerning the Vetting and Adjudication of Cases Involving National Security Concerns (Clarification Memorandum),” signed by Acting Deputy Director Michael Aytes, February 6, 2009.

“Uniform Instructions for Standardized CARRP File Identification and Movement of CARRP Cases within USCIS (File Movement Memorandum),” March 26, 2009.

Domestic Operations Division: “Clarification and Delineation of Vetting and Adjudication Responsibilities for Controlled Application Review and Resolution Program (CARRP) Cases in Domestic Field Offices,” signed by Donald Neufeld, June 5, 2009.

CARRP Operational Guidance

Domestic Operations (Field Operations and Service Center Operations): “Operational Guidance for Vetting and Adjudicating Cases with National Security Concerns,” signed by Don Neufeld, April 24, 2008.

International Operations: “Guidance for International Operations Division on the Vetting, Deconfliction, and Adjudication of Cases with National Security Concerns,” signed by Alanna Ow, April 28, 2008.

Asylum Division: “Issuance of Revised Section of the Identity and Security Checks Procedures Manual Regarding Vetting and Adjudicating Cases with National Security Concerns,” signed by Joseph Langlois, May 14, 2008.

Refugee Affairs Division: “Operational Guidance for Vetting and Adjudicating Refugee Cases with National Security Concerns,” signed by Barbara Strack, May 14, 2008.

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B. National Security Concerns

1. Do material support cases require processing under CARRP and an entry into FDNS-DS?

Only material support cases for which there is no exemption available, or where an exemption is available but will not be granted, will require processing under CARRP and entry into FDNS-DS, in accordance with CARRP policy.

NOTE: Most material support cases are not identified from background checks but from information elicited through testimony or contained in the benefit application. While these applicants may be inadmissible under the Terrorism-Related Inadmissibility Grounds (TRIG) in the INA, they are not all considered to pose national security (NS) concerns prior to a denial based on TRIG. Also, since there is no identified law enforcement/record owner, external vetting and de-confliction are not required.

Under the INA, aliens who fall under the TRIG 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 inadmissibility provisions of INA section 212(a)(3)(B) with respect to either an undesignated terrorist organization or to an individual alien

If 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 an NS concern will be released for routine adjudication as a non-national security (NNS) concern. No FDNS-DS entry is required.

If a determination is made that an **exemption is available but will not be granted** under INA § 212(d)(3)(B)(i), if the individual is inadmissible (and the inadmissibility ground can be substantiated using unclassified information that can be disclosed to the applicant) or otherwise ineligible for the immigration benefit, the application must be denied. The NS concern must be documented in FDNS-DS per established procedures. If the denial is based on an NS concern, a TECS/IBIS record must be created using the following language:

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For processing material support and other terrorist-related inadmissibility ground cases refer to the following memoranda:

- USCIS Deputy Director on March 26, 2008:

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“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,” signed by Jonathan Scharfen.

- USCIS Acting Deputy Director on July 28, 2008:
“Implementation of Section 691 of Division J of the Consolidated Appropriations Act, 2008, and Updated Processing Requirements for Discretionary Exemption to Terrorist Activity Inadmissibility Grounds,” signed by Michael L. Aytes.

- Domestic Operations and RAIO on December 2, 2008:
“Reviewing Terrorist-Related Inadmissibility Grounds in Adjudicating Adjustment of Status Applications Based on Asylum or Refugee Status”, signed by Donald Neufeld and Lori Scialabba.

- Domestic Operations and NSRV on March 26, 2009.
“Uniform Instruction for Standardized CARRP File Identification and Movement of CARRP Cases within USCIS”, signed by Donald Neufeld, and Gregory B. Smith.

Questions concerning TRIG and the INA (i.e., availability of and eligibility for existing exemptions) must be referred to the appropriate POCs at the HQ program office: **RAIO; OFO and SCOPS**.

2. How should officers handle NS concerns relating to U.S. citizen (USC) petitioners and/or associates?

If derogatory NS information is identified relating to a USC who is petitioning for an individual to obtain immigration status, that information must be considered to determine how it affects eligibility for the benefit sought and whether an NS concern exists for the individual.

If an NS concern does exist for the individual, an entry in FDNS-DS and designated worksheet(s) in accordance with current guidance are required. FDNS-Immigration Officers (FDNS-IOs) are also required to notify the appropriate official in the Law Enforcement Agency (LEA) and the record owner of any contemplated adjudicative action for de-confliction purposes.

Derogatory information relating to USC petitioners must be treated in the same manner as any derogatory information related to a family member or close associate of the individual. The FDNS-IO must determine whether the individual is or has been involved in, or is aware of, the NS concern as it relates to the family member or close associate (or USC petitioner). If the FDNS-IO determines that the individual is not involved in, and is not aware of, the NS concern, the application/petition may be released for routine adjudication. If the designated officer determines that the individual has been involved in, or is aware of, the NS concern, the application/petition must be adjudicated in accordance with CARRP policy and procedures. The FDNS-IO determines whether an NS concern exists by reference to Attachment A of the CARRP Operational Guidance. Specifically, an NS concern exists when an articulable link is found to connect the individual to prior, current, or planned involvement in, or association with, an activity, individual, or organization described in sections 212(a)(3)(A),(B), or (F), or 237(a)(4)(A) or (B) of the INA.

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Designated CARRP officers are reminded that when an NS concern exists on petitions that do not convey status, they are not processed under CARRP procedures but still require thorough review for eligibility, an FDNS-DS entry, and designated worksheet(s) in accordance with current guidance.

3. How should USCIS field offices handle derogatory information that is received post-adjudication?

If a USCIS officer identifies derogatory information about an individual, either through direct background checks or information received from another government agency, **after** USCIS has approved the individual's application/petition, the USCIS officer must ensure that the derogatory information is properly vetted.

The purpose of vetting is to determine whether this newly-discovered information: establishes an articulable basis for believing that immigration fraud has been committed; would otherwise cause USCIS to reconsider its prior eligibility determination; or indicates a national security concern. In addition, the USCIS officer must determine whether this derogatory information serves as the basis for USCIS to initiate a removal, rescission, termination, or revocation action pursuant to the INA.

If a USCIS officer determines that vetting results raise grounds to rescind, terminate, or revoke previously granted benefits, and/or remove an individual from the United States, the officer must consult local USCIS counsel, and his/her chain of command before taking any action on the closed case.

For N-400 Applicants:

Naturalized USC's generally enjoy the same rights and benefits bestowed upon native born citizens. Accordingly, USCIS does not conduct further security checks on persons who have taken the oath of citizenship and become citizens of the U.S. Generally speaking, naturalized citizens are subject to further security checks only if they petition for immigration benefits on behalf of their relatives. However, that vetting is specifically focused on detecting immigration benefit fraud and/or national security threats connected with the pending immigration petition. In many instances, a naturalized USC will be subject to criminal prosecution for certain immigration benefit related offenses, even though removal is no longer an issue.

If an IO encounters derogatory information that indicates a naturalized USC either: 1) committed fraud when seeking immigration benefits; or, 2) constitutes a danger to the national security or public safety, the officer must consult local USCIS counsel and his/her chain-of-command before taking any action on the case.

Many cases involving fraud, immigration crimes, and national security concerns connected with naturalized USC's will be referred to U.S. Immigration and Customs Enforcement (ICE), the Federal Bureau of Investigation (FBI) or other Federal LEAs.

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Regardless of the form type, all confirmed known or suspected terrorists (KST) and Non-KST NS concerns (from TECS/IBIS, LHM, or other sources) must be documented in FDNS-DS. Please refer to the FDNS-DS section in this document for further guidance.

4. How should officers handle NS concerns that are provided by non-TECS/IBIS sources? (Such as Department of Defense or Federal Bureau of Investigation Letterhead Memorandum)

Officers in the field may encounter cases where the Non-KST NS concern is provided by non-TECS/IBIS sources (such as Department of Defense (DoD) or Federal Bureau of Investigation (FBI) via Letterhead Memorandum (LHM)) and the information available indicates that the subject may be somehow linked to terrorism, but is not listed as a known or suspected terrorist in TECS/IBIS. These cases will be considered Non-KST NS concerns and must proceed through the CARRP process as such.

The field may also identify an indicator of an NS concern through the following: testimony elicited during an interview; review of the petition or application, supporting documents, the A-File, or related files; leads from other U.S. Government agencies or foreign government; and other sources, including open sources. Once such indicators are identified, the officer must evaluate whether an NS concern exists. The officer must consider the totality of circumstances to determine whether an articulable link exists between the individual and an NS activity described in sections 212(a)(3)(A), (B), or (F), or 237 9a)(4)(A) or (B) of the INA.

If the identified NS concern is related to material support or other terrorism-related inadmissibility provisions of section 212(a)(3)(B), refer to Question B.1 above.

5. What should an officer do if there are officer safety concerns relating to a site visit for an application or petition with an NS concern?

Officer safety is always paramount. If an FDNS officer has safety concerns regarding a site visit, the officer should consult the Fraud Detection Standard Operating Procedures (SOP) and contact the local ICE office or law enforcement office.

In all field inquiries, an officer should not enter any area that appears threatening. He or she should promptly remove themselves from any situation that appears threatening or potentially unsafe.

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C. Eligibility Assessment/Internal Vetting

1. What is the purpose of Eligibility Assessment/Internal Vetting and what is the expectation of the field?

CARRP involves four unique, but overlapping processing steps. Step 2 of the CARRP includes both an **eligibility assessment** and **internal vetting**. The purpose of eligibility assessment and internal vetting is to ensure that valuable time and resources are not unnecessarily expended externally vetting a case with a record owner when the individual is otherwise ineligible for the benefit sought.

- **Eligibility Assessment:**

The CARRP immigration services officer (CARRP-ISO) assigned to adjudicate the CARRP case will conduct a complete review of the case file in order to assess the individual's eligibility for the benefit sought and identify any questions and/or issues for discussion with the Record Owner during de-confliction. Any denial at this stage in the CARRP process shall be issued only after proper de-confliction, completion of required systems checks, and supervisory concurrence. No denial shall be issued at this stage in the CARRP process solely on discretionary grounds. The CARRP-ISO is responsible for documenting his or her actions in FDNS-DS at all stages of the adjudications process.

- **Internal Vetting:**

The FDNS-IO is responsible for conducting the internal vetting of a CARRP case. This includes a complete file review to obtain any relevant information to support the adjudication, perform required systems checks, ensuring all systems checks are current, and, in some cases, further examining the nature of the NS concern. A complete list of both the required and suggested systems checks which are a part of the internal vetting process can be found in Section IV, "Assessing Eligibility in cases with an NS Concern-Step 2 of CARRP Process" of the Domestic Operations Operational Guidance (covering OFO and SCOPS). The FDNS-IO is responsible for documenting his or her actions in FDNS-DS throughout the CARRP process.

Performance of the eligibility assessment, internal vetting, and de-confliction must be closely coordinated between the CARRP-ISO and the FDNS-IO. The field office director (FOD) or supervisory immigration services officer (SISO) must ensure that there is efficient communication between CARRP-ISOs and FDNS-IOs to prevent mistakes. In addition, the FOD in each field office may decide on the workflow of CARRP cases for Step 2 of the CARRP process. In other words, the FOD may decide that internal vetting may be conducted before eligibility assessment considering the resources, structure, and the composition of the workforce of a given field office.

2. If an officer identifies fraud while conducting an eligibility assessment, must the officer create a new lead or case in the fraud tabs of FDNS-DS for that record?

Yes. A "lead" in the fraud side of FDNS-DS should be created. Once the fraud is confirmed, the "lead" must be converted to "case". Officers should also link the NS concern records with the

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fraud records. The FDNS-IO should also annotate in the “synopsis” the existence of both fraud and NS concerns.

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D. KST Hits

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2. Can the field offices work closely with the law enforcement/case agent in connection with KST cases in carrying out their responsibilities under CARRP?

When HQFDNS officers are making inquiries to the LEA/record owner in possession of NS information as part of external vetting of a KST, the record owner may indicate that he/she is interested in working collaboratively with the USCIS field office to review the case and share additional information that could affect benefit eligibility. Under this circumstance, the field office should work with the record owner and follow the guidance provided in the Statement of Facts (SOF) by HQFDNS.

It is not unusual for the LEA/record owner to request that USCIS ask specific questions when interviewing an applicant. It is important to note that while there is no legal or policy prohibition on asking questions or inquiring into areas suggested by the LEA, the questions or areas of inquiry suggested by the LEA must be germane to USCIS's determination of the alien's eligibility for the immigration benefit. Local USCIS counsel must approve any actions or questions suggested by the LEA/record owner. As a rule, LEAs, are not to participate in the interview, however, there are select exceptions. These exceptions must be approved by counsel and local management

NOTE: Officers are reminded that they are not permitted to perform external vetting for KST hits (this prohibition does not apply when the field must perform de-confliction with KST record owners prior to taking any adjudicative action).

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E. Contacting Third Agencies

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The above guidance applies to both KST cases (for de-confliction purposes only) and non-KST cases (for both de-confliction and external vetting purposes).

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F. Requesting Assistance from HQFDNS

1. When can the field offices seek assistance from HQFDNS?

- **KST NS Concerns:**
 - When grounds of ineligibility have not been identified (upon completion of internal vetting and adjudicative assessment).
 - When a basis for denial has been identified, but after seeking both supervisory and legal review at the local level, the officer has concerns about the strength of the proposed denial, or
 - When concerns exist regarding whether it is appropriate to issue a denial under the circumstances of the case and senior-level officials concurs with the officer's request for external vetting assistance.
- **Non-KST NS Concerns:**
 - When local management determines that insufficient evidence exists to support approval or denial of the pending application or petition, and would like assistance from HQFDNS for external vetting and adjudicative assistance; or
 - When the LEA/Record Owner is non-responsive and/or not willing to discuss any information about an ongoing investigation.
- **For both KST and Non-KST NS concerns:**
 - When the LEA/Record owner is not identified;
 - When LHMs refer the field to the records of a "Third Agency"; or
 - When LHMs or another source of derogatory information instructs the field to contact/consult a given member of the Intelligence Community (IC). In short, when coordination with the IC is required.

2. What actions should the field offices complete before seeking assistance from HQFDNS?

- **KST NS Concerns:**

Prior to requesting external vetting assistance for a KST NS concern from HQFDNS, the FOD or the district director (DD) must review the case to confirm that no grounds of ineligibility have been identified. The field must provide more than just a sentence declaring that there are no ineligibility grounds. The field must provide a **summary** of all the ineligibility factors (including possibility of fraud, see note below) considered for a specific form type. Additionally, prior to forwarding the case to HQFDNS, the sending office must confirm that the subject remains on the Terrorist Watch List. Local management (either the FOD or the DD) concurrence must be indicated in FDNS-DS.

- **Non-KST NS Concerns:**

If the FOD confirms that the application/petition with the non-KST NS concern is approvable, the case may be adjudicated with supervisory approval and concurrence from the FOD. Otherwise, the FOD may request external vetting assistance from HQFDNS. Prior to

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forwarding the case to HQFDNS, the sending office must document all adjudicative actions taken in FDNS-DS (see note below).

- **Both KST and Non-KST NS concerns:**

A supervisor must verify and concur that the internal vetting and de-confliction was completed. Supervisory concurrence must be indicated in FDNS-DS (“activities tab”). FDNS-DS must be properly updated with all relevant information and actions/activities taken, and the physical file properly documented with BCAA (generated by FDNS-DS or created manually using the Word template when generated form FDNS-DS is not possible).

NOTE: Over the past two years, HQFDNS has rejected a large number of Requests for Assistance (RFAs) on KST cases for adjudicative assistance because the field either had not conducted an eligibility assessment or did not properly document it in FDNS-DS. Therefore, effective immediately, FDNS is providing the attached CARRP Eligibility Assessment Worksheet for use when the field:

- Is requesting adjudicative assistance from HQFDNS for KST or Non-KST CARRP cases, or
- Is requesting assistance in presenting a KST case to the HQ Senior CARRP Review Panel.

The field **may** utilize the attached Form to complete Block 1 (“Subject Information”), Block 2 (“Case Summary: For Field Use Only”), and Block 3 (“Eligibility Assessment: For Field Use Only”). The attached “Notes” section explains what a Case Summary and Eligibility Assessment should entail (see the sample worksheet). Upon completion, the Form may be attached to the DS record.

In the event that the attached Form is not utilized, the field **must** comply with the “Eligibility Assessment” criteria (“Case Summary” and “Eligibility Assessment,” as defined in the “Notes” section of the attached document), before requesting **adjudicative assistance** or requesting assistance from HQFDNS in presenting a KST case before HQ Senior CARRP Review Panel. The field must document its findings in DS per CARRP policy.

3. How does an officer request assistance from HQFDNS?

Prior to submitting the request for assistance, all activities must be documented in FDNS-DS, including supervisory and senior-level official concurrence.

When requesting vetting or adjudicative assistance from HQFDNS, the designated officer should send a request for assistance to [REDACTED]. The request should be marked “For Official Use Only (FOUO)” and include the following information:

- Subject: Request for Assistance (Vetting) (add “Third Agency Referral” when relevant) or Request for Assistance (Adjudication)
- Full name (applicant, petitioner, beneficiary, derivative or company)
- A-Number

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- Pending application(s) and/or petition(s) and form type(s)
- Nature of assistance requested
- Requesting officer and contact information, including phone number
- FDNS-DS NS concern number
- Litigation case information (e.g., court deadline), if relevant
- Next court date, if relevant

If a case requires immediate action due to pending litigation or another urgent matter, officers must ensure that the email sent to the FDNS-NSB mailbox is marked urgent and includes the court date or any other deadlines for the case.

4. What if the officer sent a request for assistance to the [REDACTED]@dhs.gov mailbox but has not received a response?

Once an officer submits a request for assistance to the mailbox, the officer should receive, within 4 working days, a response that the request has been received and assigned to an officer within the National Security Branch (NSB) of HQFDNS or has been forwarded to a different office(r) for action. If a response from the FDNS-NSB mailbox is not received within 4 working days, the officer should email the head of Operations Support Services (OSS) within the NSB.

Once a case has been assigned and the requesting officer has been notified, the requesting officer must allow at least **30 days** before inquiring about the status of his/her request. Status updates must be directed to the assigned officer at HQFDNS.

5. The Operational Guidance indicates that the officer should send the A-File to HQFDNS when requesting external vetting or adjudicative assistance. To whom should the file be sent?

A-Files or T-Files **should not** be forwarded to HQFDNS **until it is requested by an officer at HQFDNS** who has been designated to assist with the RFA. This is to ensure that the A-Files are routed promptly to HQFDNS' NSB from the Records Division.

- If an HQFDNS officer requests the A-File:
 - **Actual A-Files** should be sent to HQ Records **and not directly to HQFDNS** using the following address and charging NFTS code:

USCIS
HQ RECORDS
1200 FIRST STREET NE 2nd FLOOR
ATTN: FD 0004 (FCO COW)
WASHINGTON, DC 20529-2204

- **Copies** of A-Files/working files, however, may be sent directly to HQFDNS:

USCIS
HQFDNS/NSB
111 Massachusetts Ave., NW

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**ATTN: National Security Branch
Washington, DC 20529-2284**

NOTE: If the file is classified, please mail it according to the standard procedures for shipping classified information

6. What is the role of HQFDNS in providing adjudicative assistance concerning KST cases?

HQFDNS does not provide the field with basic adjudicative assistance or eligibility assessments for KST cases. Rather, HQFDNS' efforts in assisting the field are limited to conducting external vetting and identifying grounds of ineligibility or inadmissibility based on the information obtained during external vetting, and/or proposing interview/re-interview questions. These questions will be generally limited to the information obtained during external vetting.

Once HQFDNS receives a request for external vetting/adjudicative assistance, it will conduct a comprehensive review of **all** mandated CARRP steps and procedures (internal vetting/eligibility assessment; de-confliction-if applicable; external vetting-for non-KST, etc.) to ensure that the field has conducted a complete assessment of the individual's eligibility for the benefit sought, before making a decision to conduct external vetting; "which is conducted **only as a last resort** when no statutory or regulatory grounds for ineligibility have been identified". HQFDNS will make a determination as to whether or not "...the **information obtained during external vetting** is sufficient to support a denial of the pending application/petition..."

In national security cases where HQFDNS does not uncover grounds of ineligibility or inadmissibility that would support a ground of denial, it will seek declassification of any information that could be used to support a denial, or seek permission to use such information in a denial, as outlined in the "Ridge Memo." (This guidance is provided on page 4 of the February 6, 2009, memorandum: Additional Guidance on Issues Concerning the Vetting and Adjudication of Cases Involving National Security Concerns).

Upon completion of all external vetting, HQFDNS will return cases to the submitting officer when:

- It has been determined that the information obtained during external vetting is sufficient to support a denial of the pending application/petition; or
- HQ senior leadership and the USCIS Deputy Director recommend approval of the application; or
- The HQ program office with jurisdiction over the case, in coordination with HQFDNS and the Office of Chief Counsel (OCC), has issued written direction to the field on how to proceed with the adjudication. (This guidance is provided on page 4 of the February 6, 2009, memorandum: Additional Guidance on Issues Concerning the Vetting and Adjudication of Cases Involving National Security Concerns).

In order to ensure the field is complying with CAARP policies and procedures, HQFDNS will return KST requests for adjudicative assistance in which all required CARRP steps (de-

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confliction, internal vetting and eligibility assessment) were not properly completed and/or documented by the officer. This also applies to cases where the field requests both vetting and adjudicative assistance from HQFDNS simultaneously.

Therefore, when submitting a request to HQFDNS for external vetting and adjudicative assistance, it does not suffice to state in a sentence that no ineligibility grounds have been identified. Rather, the field must document and provide a summary of all the facts behind an eligibility determination, and, when appropriate, a removal, a rescission, a termination, or a revocation under the Act. See **question F2** above.

7. What is the role of HQFDNS in providing adjudicative assistance concerning Non-KST cases?

HQFDNS assists the field in conducting external vetting and, based on the information obtained during external vetting, identifying potential grounds of ineligibility or inadmissibility. Also, HQFDNS can identify and propose subjects for interview or re-interview questions or a Request for Evidence (RFE). These subjects will be generally limited to the information obtained during the external vetting.

HQFDNS will return Non-KST requests for adjudicative assistance where all required CARRP steps (de-confliction, internal vetting, external vetting and eligibility assessment) were not properly completed and/or documented by the officer. Documentation of an eligibility assessment must include an immigration timeline, a detailed summary/assessment of all the eligibility factors considered for the benefit sought, including a fraud assessment, as well as ineligibility factors affecting the previous underlying benefit. See **Question F.2** above.

8. How should the field respond to a Request for a Hearing on a decision in naturalization proceedings (Form N-336) for a denied Form N-400?

All Form N-336 requests should be discussed with local counsel. If further assistance is requested, local legal counsel will coordinate the OCC and all other concerned parties involved (e.g., Assistant U.S. Attorneys and Office of Immigration Litigation attorneys. Do not forward the request to the FDNS-NSB mailbox.

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G.FBI Name Check/Letterhead Memoranda

1. When should an officer contact HQFDNS for assistance with a Third Agency Referral resulting from the FBI Name Check?

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3. Are all positive responses to the FBI Name Check [FBI Letterhead Memoranda (LHMs) including Third Agency Referrals] processed under CARRP procedures?

No, only applications/petitions with identified NS concerns are handled under CARRP procedures, including entry into FDNS-DS. Most positive FBI Name Check responses do not indicate the existence of an NS concern, but rather provide information regarding criminal activity, public safety, and/or immigration violations. All positive responses must be reviewed and a determination made by the field officer as to whether the information contained in the positive response and the record meets the definition of an NS concern.

The FDNS-IO determines whether an NS concern exists by reference to Attachment A of the respective Operational Guidance. Specifically, an NS concern exists when an articulable link is found to connect the applicant or petitioner to prior, current, or planned involvement in, or association with, an activity, individual, or organization described in sections 212(a)(3)(A),(B), or (F), or 237(a)(4)(A) or (B) of the INA.

If an NS concern is not found to exist, the application does not require processing under CARRP procedures, including entry into FDNS-DS.

For Third Agency Referrals, the field must contact the Third Agency to obtain the information relating to the individual. This information may be national security, criminal, or public safety in nature but USCIS generally does not know until the information is obtained. If the Third

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Agency Referral advises contact with a member of the IC, the field must instead request assistance from HQFDNS, in accordance with CARRP.

4. What does an “Unknown Response” mean in the FBI Query screen for the FBI Name Check?

LE

5. When the FBI Name Check query indicates a positive response has been processed by the FBI, how does an officer obtain a copy of the positive response?

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Further information about CJIS can be found at <http://www.fbi.gov/hq/cjis/ncic.htm>.

8. When the positive FBI Name Check says an officer may want to consult the files of the Drug Enforcement Administration (DEA), how should the officer contact DEA?

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9. How does an officer expedite an FBI Name Check request?

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Fax the requests to Field Operations Directorate Headquarters at 202-██████████ attn: FBI Name
Check POC. If there are any difficulties using this number, call 202-██████████

Fax Cover Sheet

The request must include a fax cover sheet indicating:

- The requesting office,
- The first and last name of the requestor,
- A phone number (direct line/extension),
- A fax number,
- The date sent, and
- The reason for expedite, e.g., age-out, military.

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H. TECS/IBIS Records

- 1. The Operational Guidance indicates that officers should create a TECS/IBIS record when there is a non-IBIS national security concern. Is there standard language or guidance that should be used in creating TECS/IBIS record?***

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The “Operational Guidance for Domestic Operations” provides instructions on TECS/IBIS record creation for approved petitions with NS concerns that do not convey status, and cases involving exemptions for the INA section 212(a)(3)(B) terrorism-related provisions. For TECS/IBIS record creation in all other cases, please consult local office procedures.

- **When USCIS grants a petition with an identified NS concern,** officers must create a TECS/IBIS record to report that possible inadmissibility issues have been identified. Use the following language:

LE

- **When the beneficiary has a dependent,** a TECS/IBIS record must be created alerting to the principal beneficiary’s NS concerns. Use the following language:

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- **For Material Support cases,** when a determination is made that an **exemption is available but will not be granted** under INA § 212(d)(3)(B)(i), and the individual is inadmissible or otherwise barred from receiving an immigration benefit, the application must be denied. The NS concern must be documented in FDNS-DS per established

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procedures. If the denial is based on an NS concern, a TECS/IBIS record must be created using the following language:

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I. Legal Sufficiency

1. Whom should the field contact for assistance in reviewing denials (strength of a denial) or Notices to Appear for legal sufficiency?

HQFDNS does not review denials and Notices to Appear (NTAs) for legal sufficiency. The field should work closely with local counsel in this regard. For further assistance, local counsel may contact OCC.

Note: Prior to issuing any NTA, the field, working with local counsel, must coordinate with the appropriate

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J. Specific Questions on FDNS-DS

1. How should officers get answers to procedural questions about the NS Concerns tab in FDNS-DS?

FDNS-DS resources can be found at the following link on the FDNS intranet website:

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2. What should an officer do if his or her name is not on a record in FDNS-DS?

If the officer is not listed as a team member on the FDNS-DS record, a supervisor or Super User can add the officer as a team member. FDNS-DS contains a list of Super Users.

3. How does an officer obtain access to FDNS-DS?

New Account Request Process

- For new accounts the only required forms are LE LE
- Rules of Behavior might be requested for other types of request if one is not on file, requester will be notified.
- LE
- The required forms should be faxed to LE they should not be emailed to LE
- Once the forms are received, the requestor will be notified by e-mail of the remedy ticket number that is assigned to their request. The remedy ticket number will help track the progress of the request.
- The goal is to have all requests completed within 3 business days of remedy ticket creation.
- The process to request FDNS-DS access will be available in two locations:
 - LE
 - LE

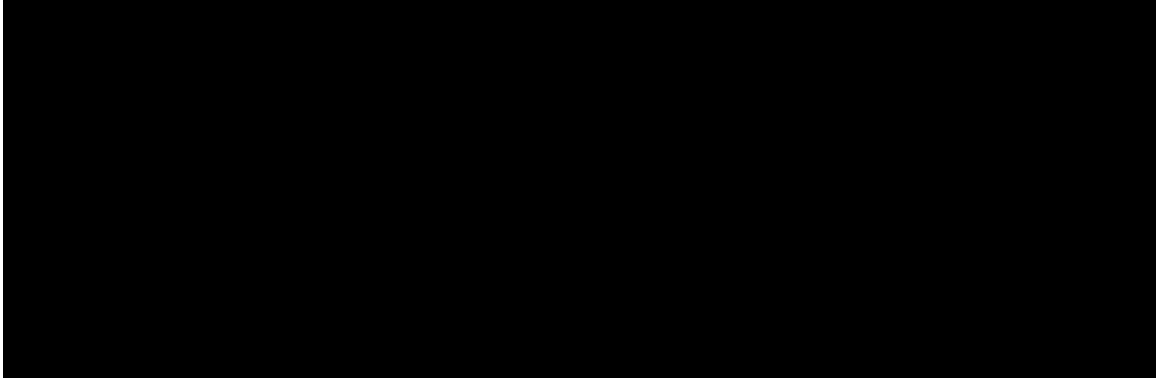
Specific instructions as well as links to the forms required to obtain access to FDNS-DS may be found the FDNS-DS Access Guidance:

LE

All new users must receive local FDNS-DS training prior to requesting FDNS-DS access. See the FDNS-DS Access Guidance, or email "FDNS Training" in Outlook for more details.

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4. How does an officer delete a NS concern record keyed in by mistake in FDNS-DS?



5. How does an officer merge FDNS-DS records remove duplicate records?

FDNS-DS records maintenance requests can be submitted to the Service Desk via e-mail
LE The following information should be

provided:

-
-
-

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Users will receive a ticket number from the Service Desk after submission and will be notified via e-mail when this request is complete.

6. What are the procedures for FDNS-DS account password resets, general account concerns, account deactivation, and change requests?

Account Password Reset

FDNS-DS users should submit a password reset request to the Service Desk via e-mail, [redacted] Remember, e-mail requests should include the LE Users will receive a ticket number from the Service Desk after submission and will be notified via e-mail when this request is complete.

Users will receive a ticket number from the Service Desk after submission and will be notified via e-mail when this request is complete.

Note: Password

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Account Deactivation

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FDNS-DS Change Request (CR)

The Service Desk will also receive change requests that detail user recommendations for system updates to FDNS-DS. FDNS-DS users should submit a change request to the Service Desk via e-mail.

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o that the Service Desk will know how to route the request, otherwise processing may be delayed. Users will receive a ticket number from the Service Desk informing the information was received and forwarded.

FDNS-DS Concerns Tickets (e.g., FDNS-DS is unresponsive; receiving error message, and system is down. etc)

The Service Desk will also receive requests for assistance on account issues beyond those addressed in the procedures above.

It is recommended that users first see their local Super Users to discuss such operational issues. Users may always submit a request to the Service Desk, especially if Super Users are unavailable or unable to assist.

7. What happened to the LE mailbox?

The [redacted] mailbox was deactivated. As of Monday, April 20, 2009, all requests for assistance regarding FDNS-DS should be sent to the Service Desk. Requests sent to the [redacted] mailbox on or after this date will be automatically returned.

8. What happened to the Background Check and Adjudicative Assessment (BCAA) Worksheet, CARRP Worksheet and CARRP Update Worksheet?

Effective September 16, 2008, all field offices were instructed to discontinue use of the manual **Background Check and Adjudicative Assessment (BCAA) Worksheet, CARRP Worksheet and CARRP Update Worksheet** for documenting and tracking cases with NS concerns currently contained within the FDNS-DS. Please see the signed memorandum entitled "Instruction to Discontinue Use of Worksheet for Documenting and Tracking Cases with National Security Concerns," which supersedes the memorandum entitled "National Security Referral (NSR) Inventory", dated June 13, 2008, and "Interim Procedures for Documenting and Tracking New, Pending and Inventory Cases with National Security Concerns", dated July 18, 2008.

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FDNS-DS is the primary system for the recording of vetting, deconfliction, and other resolution activities. As previously configured, FDNS-DS was not able to capture all of the information necessary to document the CARRP process. While the necessary enhancements were being made to FDNS-DS, field offices were required to complete the **CARRP Worksheet** and **CARRP Update Worksheet**. HQFDNS entered the data from all worksheet submitted by field offices into FDNS-DS.

The improvements to FDNS-DS have been completed. Therefore, all offices shall immediately begin to enter data for new CARRP cases and data updates for pending CARRP cases directly into FDNS-DS. It is no longer necessary to complete the manual, word-formatted (**BCAA Worksheet, CARRP Worksheet** and **CARRP Update Worksheet**). Field offices are required to use the system-generated BCAA. FDNS-DS must be properly updated with all relevant information in order to generate a complete BCAA.

At any time during the CARRP process, the designated officer may preview and/or print the BCAA report for the NS concern being reviewed.

- 1.
- 2.
- 3.
- 4.

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9. How does an officer update FDNS-DS to show withholding of adjudication?

When an LEA/record owner indicates that proposed adjudicative action may impede the investigation, the LEA/record owner may submit a request for USCIS to withhold adjudication (abeyance). All requests for abeyance must be in writing on agency letterhead and can be received via fax or e-mail attachment. 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 director will determine whether the request comports with the requirements of 8 CFR § 103.2(b)(18). If the request is granted, officers should discontinue vetting and adjudication activities. This action must be documented in both the A-File and in FDNS-DS.

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10. How does an officer update CARRP NS records with HQFDNS Request for Assistance (RFA) in FDNS-DS?

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11. How does an officer close CARRP NS records in FDNS-DS?

Refer to the memorandum entitled “Closing Cases in the Fraud Detection and National Security - Data System (FDNS-DS)” dated December 15, 2009, which provides the following guidance:

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NS concern records can be closed in the following instances:

If the Subject’s NS Concern Has Been Vetted and Resolved

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¹ NS concern record refers to all application(s)/petition(s) associated with a Subject of national security concern being tracked in FDNS-DS.

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If the Subject's NS Concern Remains Unresolved and the Subject Is Determined To Be Ineligible for the Benefit Sought

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If the Subject's KST NS Concern Remains Unresolved But HQ Senior Leadership and the USCIS Deputy Director Have Authorized the Approval of the Benefit Sought

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If the Subject's Non-KST NS Concern Remains Unresolved But the Senior-Level Official Has Authorized the Approval of the Benefit Sought

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If the Subject's Case Has Been Transferred to the Immigration Judge (IJ)/ Executive Office of Immigration Review (EOIR) for Decision

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How to Complete Adjudicative Action on a Form in FDNS-DS:

Designated Officer Recommendation

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Remember: Recommendations are form centric and must be linked to the Receipt Number of the form being processed.

Supervisory Official Concurrence

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Remember: Recommendations are form centric and must be linked to the Receipt Number of the form being processed.

Designated Officer Form Closure

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12. *Should officers remove existing applicant/beneficiary information from petitioner records?*

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13. *When and for whom should officers create individual FDNS-DS records when the NS concern is for another family member?*

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- 14. If the concern relates to the petitioner and the concern is identified after the petition has been adjudicated, is the officer required to create an FDNS-DS record for that approved petition and link the created spousal FDNS-DS record to the petitioner record?**

If an NS concern was discovered after the petition was adjudicated, there is no need to create a record in FDNS-DS because there is no pending or newly filed petition filed by the petitioner. The petitioner may be added as a Subject under the created spousal FDNS-DS record.

- 15. Should the petitioner FDNS-DS record remain open (whether newly created or in existence) without a pending petition to document CARRP processing?**

If there is no petition pending, the petitioner record should be closed in FDNS-DS.

- 16. If the petitioner's FDNS-DS record remains closed, should the FDNS-DS record still be updated and hours reported into the closed FDNS-DS record for the time spent vetting that subject?**

If the petitioner has an NS concern and there is no pending petition, the FDNS-DS record will be closed. If the beneficiary who has an NS concern files his or her own status granting application, the officer should link the petitioner's DS record to the beneficiary/applicant's record but all work completed during the CARRP process should be recorded under the individual with the pending application.

- 17. Do children require their own FDNS-DS records? TECS checks/FBI name checks are required for children once they reach age 14; would DS records be created and linked for this population of children even if they do not have TECS hits?**

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- 18. If separate FDNS-DS records are not required for children, would the children's Adjustment of Status (AOS)/Employment Authorization Document (EAD)/travel document applications be included with the AOS applicant parent for a family pack?**

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19. If the AOS applicant parent is the identified concern, would each of his or her children require separate DS record creation and record linkage?

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20. How does an officer update derogatory information that is received post adjudication in FDNS-DS?

If There Is an NS Concern Record in DS; NS Concern Record Closed; No Pending Application/Petition (Application/Petition Has Been Adjudicated):

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If There Is No Previous NS Concern Record in DS, No Pending Application/Petition (Application/Petition Has Been Adjudicated):

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If There is No Previous NS Concern Record in DS, But Fraud Record Exists; No Pending Application/Petition (Application/petition Has Been Adjudicated):

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21. What does the new OV tab do?

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22. *What does the new CISCOR function do?*

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