

Exhibit B

The Honorable Richard A. Jones

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

ABDIQAFAR WAGAFE, *et al.*,

Plaintiffs,

v.

DONALD TRUMP, President of the United States, *et al.*,

Defendants.

No. 2:17-cv-00094-RAJ

DECLARATION OF ANDREW C. BRINKMAN

I, Andrew C. Brinkman, hereby declare the following:

1. I am a member of the State Bar of Ohio. I am employed as a Trial Attorney at U.S. Department of Justice, Civil Division, Office of Immigration Litigation, Appellate Section.

2. I represent Defendants in the above-captioned case.

3. According to Defendants’ litigation database, Defendants have produced approximately 7,000 documents to Plaintiffs. Defendants have not asserted any deliberative process privilege claims in approximately 6,000 of the documents that have been produced. Thus, Defendants have not asserted any deliberative process privilege claims in approximately 85% of the documents that have been produced.

4. Defendants have produced a substantial number of documents that describe, outline, or explain the Controlled Application Review and Resolution Program (“CARRP”) and its implementation. For example, Defendants have produced the following CARRP-related

1 policy and guidance documents without any deliberative process privilege redactions (these
2 documents are attached for the Court's convenience):

- 3 • Memorandum from Jonathan R. Scharfen, Deputy Director, U.S. Citizenship &
4 Immigration Services, *Policy for Vetting and Adjudicating Cases with National Security
5 Concerns*. April 11, 2008. DEF-00001032 – DEF-00001038. *See* Attachment A.
- 6 • Memorandum from Don Neufeld, Acting Associate Director, Domestic Operations, U.S.
7 Citizenship & Immigration Services, *Operational Guidance for Vetting and Adjudicating
8 Cases with National Security Concerns*. April 24, 2008. DEF-00000984 – DEF-
9 00001031. *See* Attachment B.
- 10 • Memorandum from Michael Aytes, Acting Deputy Director, U.S. Citizenship &
11 Immigration Services, *Additional Guidance on Issues Concerning the Vetting and
12 Adjudication of Cases Involving National Security Concerns*. February 6, 2009. DEF-
13 00000191 – DEF-00000199. *See* Attachment C.
- 14 • Memorandum from Donald Neufeld, Acting Associate Director, Domestic Operations,
15 U.S. Citizenship & Immigration Services, *Clarification and Delineation of Vetting and
16 Adjudication Responsibilities for Controlled Application Review and Resolution Program
17 (CARRP) Cases in Domestic Field Offices*. June 5, 2009. DEF-00000009 – DEF-
18 00000017. *See* Attachment D.
- 19 • Office of Fraud Detection and National Security, U.S. Citizenship & Immigration
20 Services, *Supplemental Guidance: Revision of Responsibilities for CARRP Cases
21 Involving Known or Suspected Terrorists*. July 26, 2011. DEF-00001095 – DEF-
22 00001097. *See* Attachment E.

23 In addition, Defendants have produced the following CARRP-related policy and
guidance documents without any deliberative process privilege redactions (these documents are
not attached due to page volume):

- 1 • U.S. Citizenship & Immigration Services, *Handbook: National Background Identity and*
2 *Security Checks Operating Procedures*. December 17, 2012. DEF-00003593 – DEF-
3 00003791.
- 4 • U.S. Citizenship & Immigration Services, *Frequently Asked Questions: CARRP Policy*
5 *and Operational Guidance*. April 2011. DEF-00000018 – DEF-00000056.
- 6 • U.S. Citizenship & Immigration Services, Fraud Detection and National Security
7 Directorate, *CARRP Training Powerpoint v. 2.2*. August 2011. DEF-00021130 – DEF-
8 00021338.
- 9 • U.S. Citizenship & Immigration Services, *FDNS Officer Basic Training: CARRP*.
10 Undated. DEF-00016332 – DEF-00016449.

11 This list of documents is non-exhaustive and represents a small fraction of the CARRP-
12 related policy and guidance documents that have been produced to Plaintiffs. Defendants’
13 production remains ongoing, and additional CARRP-related policy and guidance documents will
14 be produced in due course.

15 5. On June 29, 2018, Defendants identified the above-mentioned documents for
16 Plaintiffs via email because Plaintiffs asserted that they had “not located any ‘final’ documents in
17 Defendants’ productions outlining CARRP policies and procedures.” *See* Dkt. # 194 at 7. In
18 addition, Defendants removed all deliberative-process-related redactions from four sample
19 documents listed in paragraph 17 of Matthew Emrich’s April 30, 2018 affidavit, and Defendants
20 allowed Plaintiffs to review those documents in order to evaluate whether to continue to
21 challenge Defendants’ deliberative process claims. Defendants’ efforts at resolving the dispute
22 were unsuccessful.

23 6. According to Government records, the American Civil Liberties Union of
Southern California (“ACLU”) – one of the organizations representing Plaintiffs in this case –
has previously filed one or more Freedom of Information Act (“FOIA”) requests seeking
documents related to CARRP. In response, the Government released over 3600 pages of
documents relating to CARRP, including policy memoranda, operational guidance, and training

1 materials. Plaintiffs produced these documents to Defendants in this litigation. See Attachment
2 F. Based on these documents, the ACLU published two lengthy articles about CARRP on its
3 website. See Jennie Pasquarella, *Muslims Need Not Apply*, available at
4 [https://www.aclusocal.org/sites/default/files/carrp-muslims-need-not-apply-aclu-socal-](https://www.aclusocal.org/sites/default/files/carrp-muslims-need-not-apply-aclu-socal-report.pdf)
5 [report.pdf](https://www.aclusocal.org/sites/default/files/carrp-muslims-need-not-apply-aclu-socal-report.pdf); Jennie Pasquarella, *Practice Advisory: USCIS's Controlled Application Review and*
6 *Resolution Program*, available at
7 [https://www.nationalimmigrationproject.org/PDFs/practitioners/our_lit/impact_litigation/2017_0](https://www.nationalimmigrationproject.org/PDFs/practitioners/our_lit/impact_litigation/2017_03Jan-ACLU-CARRP-advisory.pdf)
8 [3Jan-ACLU-CARRP-advisory.pdf](https://www.nationalimmigrationproject.org/PDFs/practitioners/our_lit/impact_litigation/2017_03Jan-ACLU-CARRP-advisory.pdf). The author of the ACLU articles is counsel of record in this
9 case. The articles cite and discuss several fundamental CARRP policy documents. The articles
10 also include images of various CARRP flow charts and operational diagrams. One of the articles
11 includes a 6-page section entitled “What is CARRP?”, which details various stages of CARRP.

12 I declare under penalty of perjury under the laws of the United States of America that
13 the foregoing is true and correct.

14 Executed on July 6, 2018

15 /s/ Andrew C. Brinkman
16 ANDREW C. BRINKMAN
17 Trial Attorney
18 Office of Immigration Litigation
19 450 5th St. NW
20 Washington, DC 20001
21 Andrew.Brinkman@usdoj.gov
22 Phone: (202) 305-7035
23

Attachment A

FOR OFFICIAL USE ONLY / LAW ENFORCEMENT SENSITIVE

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



U.S. Citizenship
and Immigration
Services

Memorandum

Original Dated April 11, 2008

TO: FIELD LEADERSHIP

FROM: Jonathan R. Scharfen, Deputy Director /S/

SUBJECT: Policy for Vetting and Adjudicating Cases with National Security Concerns

I. Purpose

This memorandum outlines USCIS policy for identifying and processing cases with national security (NS) concerns,¹ and rescinds existing policy memoranda pertaining to reporting and resolving NS concerns. It also identifies Headquarters' Office of Fraud Detection and National Security (HQFDNS) as the point of contact for technical advice to assist the field² with vetting and adjudicating cases with NS concerns. This policy, known as the Controlled Application Review and Resolution Program (CARRP), establishes the following:

- The field is responsible for vetting and documenting Non-Known or Suspected Terrorist (Non-KST)³ NS concerns, and adjudicating all NS-related applications and petitions.⁴

¹A **NS concern** exists when an individual or organization has been determined to have an articulable link 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 Immigration and Nationality Act (the Act). This determination requires that the case be handled in accordance with CARRP policy outlined in this memorandum.

²**Field** refers to Field Offices, Service Centers, the National Benefits Center, and equivalent offices within the Refugee, Asylum, and International Operations Directorate (RAIO).

³**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 the Consular Lookout Automated Support System (CLASS), as used by the Department of State. **Non-KST** is the category of remaining cases with NS concerns, regardless of source, including but not limited to: associates of KSTs, unindicted co-conspirators, terrorist organization members, persons involved with providing material support to terrorists or terrorist organizations, and agents of foreign governments. Individuals and organizations that fall into this category may also pose a serious threat to national security.

⁴This policy applies to all applications and petitions that convey immigrant or non-immigrant status. This policy does not apply to petitions that do not convey immigrant or non-immigrant status. *See* Operational Guidance for instructions.

FOR OFFICIAL USE ONLY / LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy governing the use of FOUO information. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This document and the information contained herein are not to be distributed outside of DHS.

www.uscis.gov

FOR OFFICIAL USE ONLY / LAW ENFORCEMENT SENSITIVE

Policy for Vetting and Adjudicating Cases with National Security Concerns

Page 2

- The FDNS-Data System (FDNS-DS) is the primary system for recording vetting, deconfliction, and other resolution activities.⁵
- HQFDNS maintains responsibility for external vetting⁶ of Known or Suspected Terrorist (KST) hits; and, upon request from the field, provides advice, technical assistance (including draft decisions), and operational support on KST and Non-KST cases with NS concerns.

II. Effective Date and Implementation

Operational Guidance implementing this policy will soon be issued by the Domestic Operations Directorate⁷ (DomOps) and individual components of the Refugee, Asylum, and International Operations Directorate (RAIO). This policy will be effective upon issuance of each directorate's respective guidance.

III. Rescission of Prior Policy and Procedures

Upon issuance of the Operational Guidance, the following policy memoranda and procedures will be rescinded:

- *Processing of Applications for Ancillary Benefits Involving Aliens Who Pose National Security or Egregious Public Safety Concerns*, dated May 11, 2007;
- *Processing of Forms I-90 Filed by Aliens Who May Pose National Security or Egregious Public Safety Concerns*, dated May 11, 2007;
- *National Security Reporting Requirements*, dated February 16, 2007;
- *National Security Record Requirements*, dated May 9, 2006;
- *Permanent Resident Documentation for EOIR and I-90 Cases*, dated April 10, 2006;
- Appendix A of the Inter-Agency Border Inspection System (IBIS) Standard Operating Procedure, dated March 1, 2006;

⁵ If FDNS-DS is not currently available at any specific field office, officers must document CARRP procedures by another method as identified in Operational Guidance.

⁶ **External Vetting** consists of inquiries to record owners in possession of NS information to identify: (a) facts or fact patterns necessary to determine the nature and relevance of the NS concern, including status and results of any ongoing investigation and the basis for closure of any previous investigation; and (b) information that may be relevant in determining eligibility, and when appropriate, removability. See section IV.C for further instruction.

⁷ The **Domestic Operations Directorate** comprises Service Center Operations and Field Operations.

FOR OFFICIAL USE ONLY / LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy governing the use of FOUO information. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This document and the information contained herein are not to be distributed outside of DHS.

FOR OFFICIAL USE ONLY / LAW ENFORCEMENT SENSITIVEPolicy for Vetting and Adjudicating Cases with National Security Concerns
Page 3

- *Revised Instructions for Processing Asylum Terrorist/Suspected Terrorist Cases*, dated January 26, 2005; and
- Section VIII of the Asylum Identity and Security Check Procedures Manual.

Officers should refer to relevant Operational Guidance⁸ when adjudicating the following, *if* found to involve NS or Egregious Public Safety⁹ concerns:

- Petitions that do *not* convey immigrant or non-immigrant status;
- Applications for employment authorization;
- Applications for travel authorization;
- Replacement Lawful Permanent Resident cards;
- *Santillan*¹⁰ cases.

IV. Policy Guidance

This policy, in conjunction with Operational Guidance, provides direction to identify and process cases containing NS concerns in the most efficient manner. The process allows sufficient flexibility to manage the variety of cases encountered by USCIS.

Officers should note that at any stage of the adjudicative process described below, deconfliction may be necessary before taking action on a KST or Non-KST NS concern. Deconfliction is a term used to describe coordination between USCIS and another government 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, or timing of the decision) do not compromise or impede an ongoing investigation or other record owner interest.

A. Identifying National Security Concerns

As a result of the security checks¹¹ or at any stage during the adjudicative process, the

⁸ Including Policy Memorandum 110 (*Disposition of Cases Involving Removable Aliens*) issued July 11, 2006. That memorandum is not rescinded and does not apply to asylum applications.

⁹An **Egregious Public Safety (EPS)** case is defined in Policy Memorandum 110.

¹⁰ *Santillan et al. v. Gonzales, et al.*, 388 F. Supp2d 1065 (N.D. Cal. 2005).

¹¹**Security checks** may consist of the FBI Name Check, FBI Fingerprint Check, Treasury Enforcement Communications System/Inter-Agency Border Inspection System (TECS/IBIS), or United States Visitor and Immigrant Status Indicator Technology/Automated Biometrics Identification System (US VISIT-IDENT). Specific checks or combinations of checks are required for each application or petition type, pursuant to each component's procedures.

FOR OFFICIAL USE ONLY / LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy governing the use of FOUO information. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This document and the information contained herein are not to be distributed outside of DHS.

FOR OFFICIAL USE ONLY / LAW ENFORCEMENT SENSITIVE

Policy for Vetting and Adjudicating Cases with National Security Concerns

Page 4

officer may identify one or more indicators¹² that may raise a NS concern. In such cases, the officer must first confirm whether the indicator(s) relates to the applicant, petitioner, beneficiary, or derivative (“the individual”).¹³ When a Non-KST NS indicator has been identified, the officer must then analyze the indicator in conjunction with the facts of the case, considering the totality of the circumstances, and determine whether an articulable link exists between the individual and an activity, individual, or organization described in sections 212(a)(3)(A), (B), or (F), or 237(A) or (B) of the Act.

1. For Non-KST NS indicators, the officer should refer to the Operational Guidance for instruction on identifying those indicators that may raise a NS concern.
2. After confirming the existence of a KST NS concern via a TECS/IBIS check, the officer must contact the Terrorist Screening Center (TSC), as instructed in the content of the TECS/IBIS record, and must determine whether the KST NS concern relates to the individual. Officers are not authorized to request from the record owner any NS information related to a KST NS concern other than identification of the subject.

The officer must also consider and evaluate, in all cases, indicators related to family members or close associates of the individual to determine whether those indicators relate to the individual as well.

B. Internal Vetting and Assessing Eligibility in Cases with National Security Concerns

For both Non-KST and KST concerns, once the concern has been identified, the officer must conduct a thorough review of the record associated with the application or petition to determine if the individual is eligible for the benefit sought. The officer must also conduct internal vetting¹⁴ to obtain any relevant information to support adjudication and, in some cases, to further examine the nature of the NS concern.¹⁵

For Non-KST NS concerns, the field is authorized to perform internal and external vetting. See step IV.C below for an explanation of external vetting.

For KST NS concerns, the field is only authorized to perform internal vetting. Record owners in possession of NS information are not to be contacted. HQFDNS has sole responsibility for external vetting of KST NS concerns.

¹² Guidelines for types of indicators that may be encountered during adjudication will be provided as an attachment to the Operational Guidance to assist officers in identifying NS concerns.

¹³ For purposes of this memorandum, the term “individual” may include a petitioner.

¹⁴ **Internal vetting** may consist of DHS, open source, or other systems checks; file review; interviews; and other research as specified in Operational Guidance.

¹⁵ If an exemption is granted under section 212(d)(3)(B)(i) of the Act for a terrorist-related inadmissibility ground, and if no other NS concern is identified, no further vetting is necessary and the application may continue through the routine adjudication process.

FOR OFFICIAL USE ONLY / LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy governing the use of FOUO information. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This document and the information contained herein are not to be distributed outside of DHS.

FOR OFFICIAL USE ONLY / LAW ENFORCEMENT SENSITIVEPolicy for Vetting and Adjudicating Cases with National Security Concerns
Page 5

The purpose of the eligibility assessment 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. When this is the case, the application or petition may be denied on any legally sufficient grounds.¹⁶

When a NS concern exists, the NS information may be of a restricted or classified nature. These NS or law enforcement operations-based restrictions are often directly linked to protecting sensitive sources, methods, operations, or other elements critical to national security. Access to this information is therefore limited to those with a direct need to know and, when applicable, appropriate security clearance. As a policy matter, USCIS requires that a thorough eligibility assessment and completion of internal vetting precede any outreach for access to NS information.

C. External Vetting of National Security Concerns1. Non-KST NS Concerns

In a case with a Non-KST NS concern, the officer must initiate the external vetting process before the case may proceed to final adjudication if:

- the application or petition appears to be otherwise approvable, and internal vetting is complete;
- there is an identified record owner in possession of NS information; and
- the NS concern remains.

At this stage, the officer confirms with the record owner the earlier USCIS identification of the NS concern (*see* step IV.A above) and obtains additional information regarding the nature of the NS concern and its relevance to the individual. This is accomplished by obtaining from the record owner facts and fact patterns to be used in confirming whether an articulable link exists between the individual and an activity, individual, or organization described in sections 212(a)(3)(A), (B), or (F) or 237(A) or (B) of the Act.

Additionally, the officer seeks to obtain additional information that may be relevant in determining eligibility and, when appropriate, removability. This process requires close coordination with law enforcement agencies, the Intelligence Community,¹⁷ or other record owners. If the external vetting process results in a finding that the NS concern no longer exists, and if the individual is otherwise eligible for the benefit sought, the application or petition is approvable.

¹⁶ All references in this memorandum to “denying” a case also encompass the possibility of referring an asylum case to an Immigration Judge.

¹⁷ Officers are not authorized to contact Intelligence Community members; such outreach is conducted by HQFDNS.

FOR OFFICIAL USE ONLY / LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy governing the use of FOUO information. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This document and the information contained herein are not to be distributed outside of DHS.

FOR OFFICIAL USE ONLY / LAW ENFORCEMENT SENSITIVE

Policy for Vetting and Adjudicating Cases with National Security Concerns

Page 6

When USCIS obtains information from another government agency during the external vetting process, DHS policy guidance¹⁸ requires that authorization from the record owner be obtained 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 that the individual is ineligible for the benefit sought, and if permission from the record owner has been secured for the use of unclassified information,¹⁹ the application or petition may be denied based on that unclassified information.

2. KST NS Concerns

For KST NS concerns, field officers are not authorized to conduct external vetting with record owners in possession of NS information. As stated above, only internal vetting of KST NS concerns is permitted at this stage. HQFDNS has sole responsibility for external vetting of KST NS concerns, which must be conducted in cases with a confirmed KST hit that have been determined to be otherwise approvable.

D. Adjudicating National Security Cases

Upon completion of required vetting, if the NS concern remains, the officer must evaluate the result of the vetting and determine any relevance to adjudication, obtain any additional relevant information (e.g., via a request for evidence, an interview, and/or an administrative site visit), and determine eligibility for the benefit sought. Adjudication of a case with a NS concern focuses on thoroughly identifying and documenting the facts behind an eligibility determination, and, when appropriate, removal, rescission, termination, or revocation under the Act.

If the individual is ineligible for the benefit sought, the application or petition may be denied.

If the vetting process results in a finding that the NS concern no longer exists, and if the individual is otherwise eligible for the benefit sought, the application or petition may be approved.

Non-KST NS Concerns

Officers are not authorized to approve applications with confirmed Non-KST NS concerns without supervisory approval and concurrence from a senior-level official (as

¹⁸ See DHS Management Directive 11042.1, *Safeguarding Sensitive But Unclassified (For Official Use Only) Information*, dated 1-6-2005; and DHS Memorandum, *Department of Homeland Security Guidelines for the Use of Classified Information in Immigration Proceedings* (“Ridge Memo”), dated 10-4-2004.

¹⁹ Requests for declassification of information and use of classified information during adjudication may only be made by HQFDNS. Officers should refer to Operational Guidance for further instruction.

FOR OFFICIAL USE ONLY / LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy governing the use of FOUO information. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This document and the information contained herein are not to be distributed outside of DHS.

FOR OFFICIAL USE ONLY / LAW ENFORCEMENT SENSITIVE

Policy for Vetting and Adjudicating Cases with National Security Concerns
Page 7

defined in Operational Guidance). That official also has discretion to request additional external vetting assistance from HQFDNS in accordance with Operational Guidance.

2. KST NS Concerns

Officers are not authorized to approve applications with confirmed KST NS concerns. If the senior-level official concurs, external vetting assistance must be requested from HQFDNS in accordance with Operational Guidance.

V. Conclusion

Officers should make every effort to complete NS cases within a reasonable amount of time, by taking into consideration the nature of the concern and the facts contained in each individual case. HQFDNS is available to provide technical expertise in answering questions that may arise in these cases. Any questions or issues that cannot be resolved in the field regarding identification, vetting, or adjudication of cases with NS concerns are to be promptly addressed through the established chain of command.

Distribution List: Regional Directors
 District Directors
 Field Office Directors
 Service Center Directors
 Asylum Office Directors

FOR OFFICIAL USE ONLY / LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy governing the use of FOUO information. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This document and the information contained herein are not to be distributed outside of DHS.

Attachment B

FOR OFFICIAL USE ONLY (FOUO) – LAW ENFORCEMENT SENSITIVE

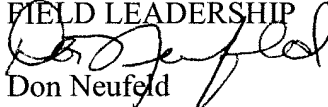
U.S. Department of Homeland Security
20 Massachusetts Ave NW
Washington, D.C. 20529



U.S. Citizenship
and Immigration
Services

HQ 70/28.1

Interoffice Memorandum

TO: FIELD LEADERSHIP
FROM: 
Don Neufeld
Acting Associate Director, Domestic Operations
DATE: **APR 24 2008**
RE: Operational Guidance for Vetting and Adjudicating Cases with National Security Concerns

Introduction

A central mission of United States Citizenship and Immigration Services (USCIS) is to protect the integrity of the U.S. immigration system and preserve the safety of our homeland. National security (NS) matters are a primary consideration in USCIS adjudications and measures must be adopted to ensure a consistent approach in resolving these concerns. In order to efficiently process cases with NS issues and mitigate potential risks to national security, USCIS is delegating decision-making authority to the field. This authority includes the responsibility for the vetting and adjudication of applications and petitions involving national security concerns.

Purpose

This memorandum and attached operational guidance provides instruction to USCIS Field Offices for vetting and adjudicating cases with national security concerns. Issuance of this memorandum implements the recently distributed policy memorandum entitled, *"Policy for Vetting and Adjudicating Cases with National Security Concerns."* This

FOR OFFICIAL USE ONLY (FOUO) – LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) – LAW ENFORCEMENT SENSITIVE

new policy establishes the Controlled Application Review and Resolution Program (CARRP), which consists of a four-step process of evaluating national security concerns.

Effective immediately, all Field Offices are directed to comply with the attached operational guidance and instructions when adjudicating applications or petitions with national security concerns.

Training

A train the trainer session has been scheduled from May 5-9 in Washington, DC for identified field officers. These new trainers, along with FDNS personnel, will then be deployed to provide training to additional staff from May 12-23.

The additional field officers who will be identified to receive this training will attend a one week training session during the week of May 12 or May 19. Training sites during the week of May 12 will be at the National Benefits Center, Texas Service Center, California Service Center and a location to be determined in the New York City area. Training sites during the week of May 19 will be at the 3 aforementioned centers.

Coordination of this training is being handled by Headquarters, Regional Office and Service Center representatives.

Contact

USCIS personnel with questions regarding this memorandum should raise them through the appropriate channels to the Office of Field Operations and Service Center Operations.

Distribution List: Regional Directors
 District Directors
 Field Office Directors
 Service Center Directors

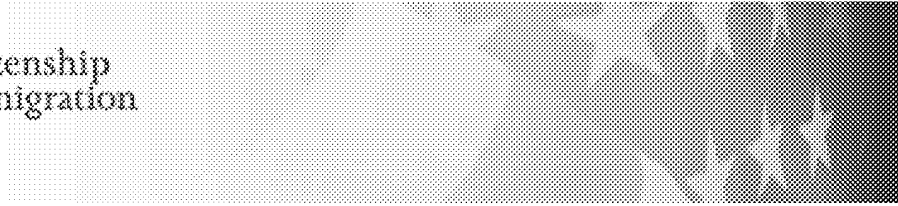
Attachments: CARRP Policy Memorandum
 Operational Guidance
 KST Flowchart
 Non-KST Flowchart

FOR OFFICIAL USE ONLY (FOUO) – LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.



U.S. Citizenship
and Immigration
Services



Operational Guidance for Vetting and Adjudicating Cases with National Security Concerns

FOR OFFICIAL USE ONLY (FOUO) – LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

TABLE OF CONTENTS

- I. Introduction
- II. Scope and Implementation
 - A. Controlled Application Review and Resolution Program (CARRP) Processing
 - 1. Identifying a NS Concern
 - 2. Assessing Eligibility in Cases with a NS Concern
 - 3. External Vetting
 - 4. CARRP Adjudication
 - B. Field Management Requirements
 - C. Confidentiality
 - D. Information Sharing Considerations – Third Agency Rule
- III. Identifying a NS Concern – Step 1
 - A. KST NS Concern
 - 1. Determine Identity
 - 2. Identity Determined
 - B. Non-KST Concern
 - 1. Determine Identity
 - 2. Identity Determined
 - C. Family Members and Close Associates
 - 1. NS Concern on Family Member
 - 2. Relates to Individual
 - 3. NS Concern on Individual
 - D. Documenting Determination of a NS Concern
 - 1. FDNS-DS and BCAA Worksheet
 - 2. TECS record
- IV. Assessing Eligibility in Cases with a NS Concern – Step 2
 - A. Eligibility Assessment
 - B. Internal Vetting
 - 1. Required Systems Checks
 - 2. Supplemental Systems Checks
 - C. Deconfliction
 - D. Documenting Eligibility Assessment and Internal Vetting
 - E. Individual Deemed Eligible for the Benefit
- V. External Vetting – Step 3
 - A. KST NS Concerns
 - B. Non-KST NS Concerns
 - C. Law Enforcement Coordination
 - D. Contacting the Record Owner
 - E. Obtaining Relevant Information
 - F. Closed Case
 - G. Ongoing Investigation
 - H. Vetting Decision Criteria
 - I. NNS Determination

FOR OFFICIAL USE ONLY (FOUO) – LAW ENFORCEMENT SENSITIVE

2

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

- J. NS Determination
- K. Documenting External Vetting Activities
- L. Entering Data into FDNS-DS for Non-KST NS concerns
- M. Multiple Filings at Multiple Locations
- VI. Requesting Assistance from HQFDNS
 - A. KST NS Concerns
 - B. Non-KST NS Concerns
 - C. Contact Information for HQFDNS Assistance
- VII. CARRP Adjudication – Step 4
 - A. KST
 - B. Non-KST
- VIII. Case Specific Exceptions and Miscellaneous Guidance for CARRP Adjudication
 - A. Work and Travel Authorization
 - B. Form I-90
 - C. Santillan Cases
 - D. General EPS Guidance
 - E. Motions to Reopen/Reconsider
 - F. Appeals to AAO
 - G. Appeals to BIA
 - H. Exemptions for the INA Section 212(a)(3)(B) Terrorism-Related Provisions and NS Concerns
 - I. Use of Classified Info
 - J. Use of FOUO or LES Info
 - K. Abeyance
 - L. Litigation
 - M. LHM
- IX. Petitions and Other Forms with NS Concerns
 - A. Operations Guidance
 - B. Approving Petitions with NS Concerns
 - 1. Beneficiary is Overseas
 - 2. Beneficiary is in the US
 - C. Special Considerations
 - 1. Form I-129
 - 2. Form I-824
 - 3. Form I-800A Supplements 1 & 3
 - 4. Form N-400
- X. Glossary

FOR OFFICIAL USE ONLY (FOUO) – LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

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



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.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

4

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

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 [REDACTED] 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.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

5

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

- 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:

FDNS-NSB@dhs.gov

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*

⁸ The FDNS-DS was designed to serve the most pressing requirements of FDNS by providing a central repository of fraud lead/case data available to FDNS staff nationwide. The FDNS-DS is a web-based application that employs the Siebel Public Sector COTS product and resides on an Oracle database platform. FDNS-DS was first launched September 2005 and was formerly known as FTS (Fraud Tracking System).

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

6

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

- 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 [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.

FOR OFFICIAL USE ONLY (FOUO) – LAW ENFORCEMENT SENSITIVE

7

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

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.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

8

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

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) -** [REDACTED]

2. **Non-Known or Suspected Terrorist (Non-KST) -** [REDACTED]

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**

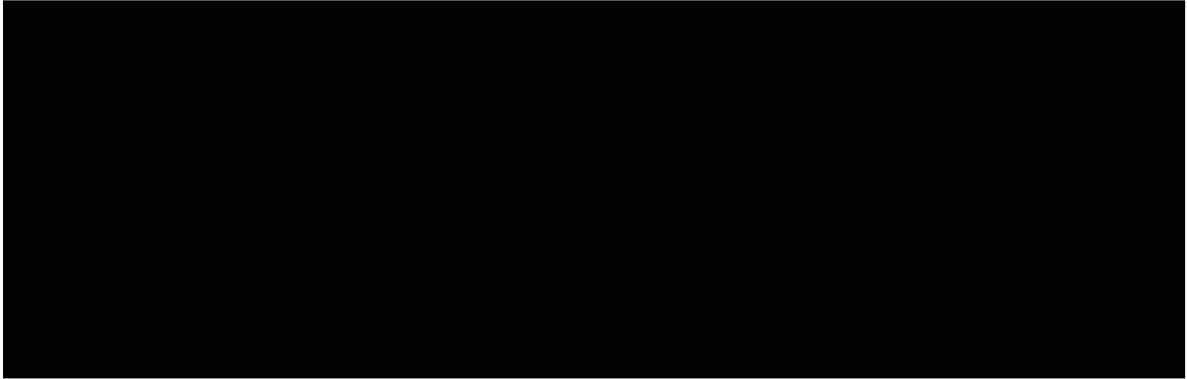
FOR OFFICIAL USE ONLY (FOUO) – LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

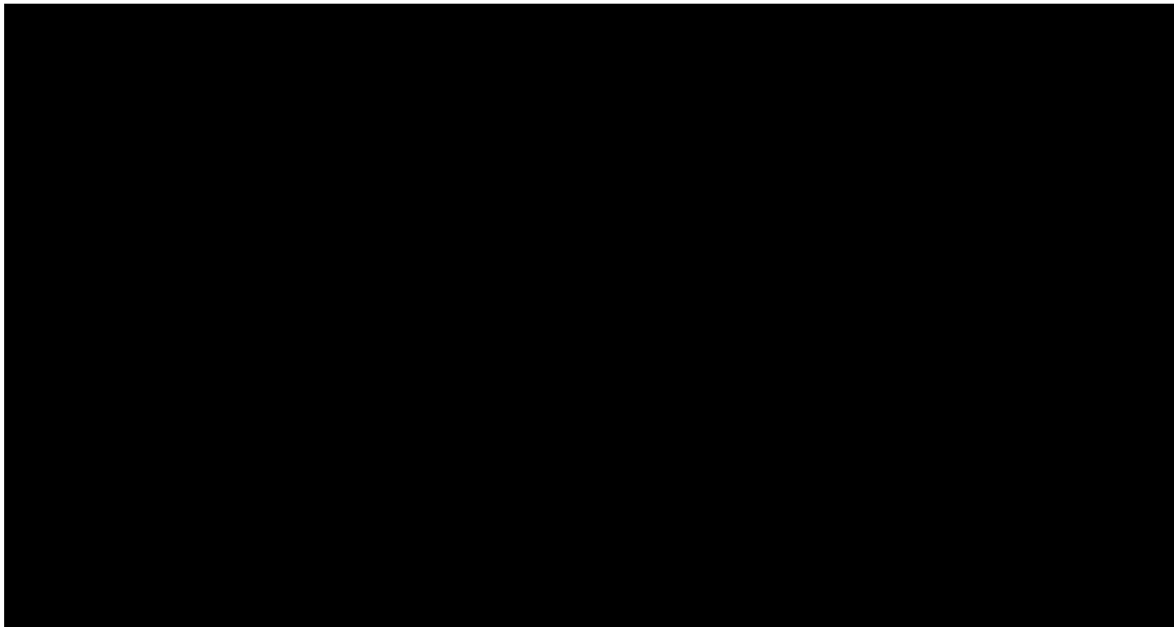


2. Identity Determined



B. Non-KST NS Concern

1. Determine Identity



2. Identity Determined

a. Relates

When a Non-KST NS concern has been identified and it **relates** to the individual, the designated officer must then analyze the indicator(s) in conjunction with the facts of the case, consider the totality of the circumstances, and determine whether an

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

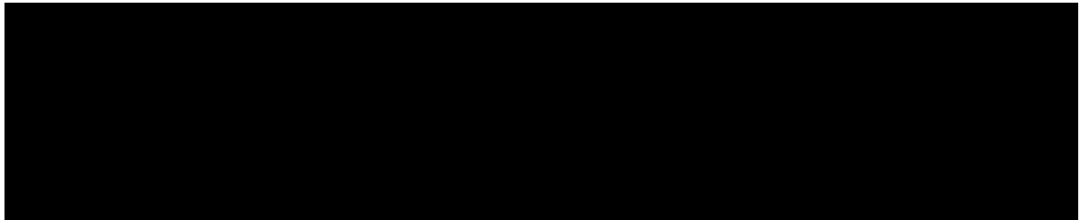
This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE


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).

i. Articulable Link

Attachment A is provided as a tool to help designated officers identify what indicators may constitute a NS concern. Attachment A is not an exhaustive list of indicators; it is intended to serve as a supplemental tool to help officers analyze the indicator(s) in conjunction with the facts of the case, consider the totality of the circumstances, and determine whether an articulable link exists between the individual and a NS activity defined in INA section 212(a)(3)(A), (B) or (F) or 237(a)(4) (A) or (B). An articulable link exists if a designated officer can connect the NS information to one of the grounds listed in the INA sections cited above to the individual. The connections need not rise to the level required for NTA purposes; however, some connections between the information and the activities contained in 212/237 must exist for the standard of articulable link to be met.



b. Does Not Relate or No Articulable Link

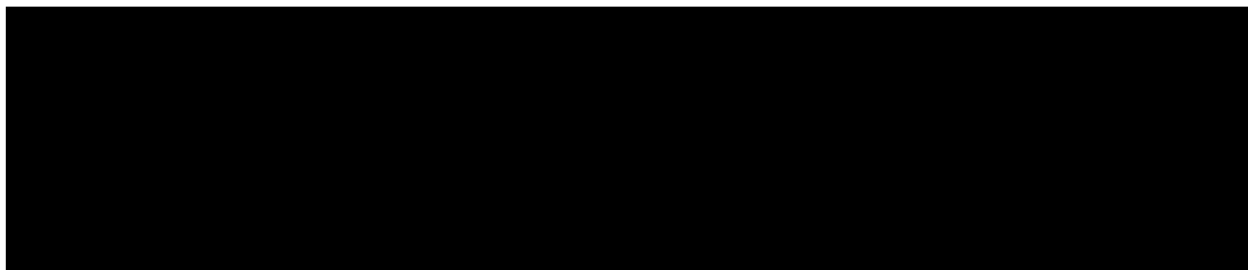
When the indicator **does not relate** to the individual or if there is **no articulable link** between an individual and one or more of the indicators in Attachment A, the application/petition must be released for routine adjudication following supervisory review and completion of a resolution memorandum per current IBIS SOP. 



c. Further Assistance

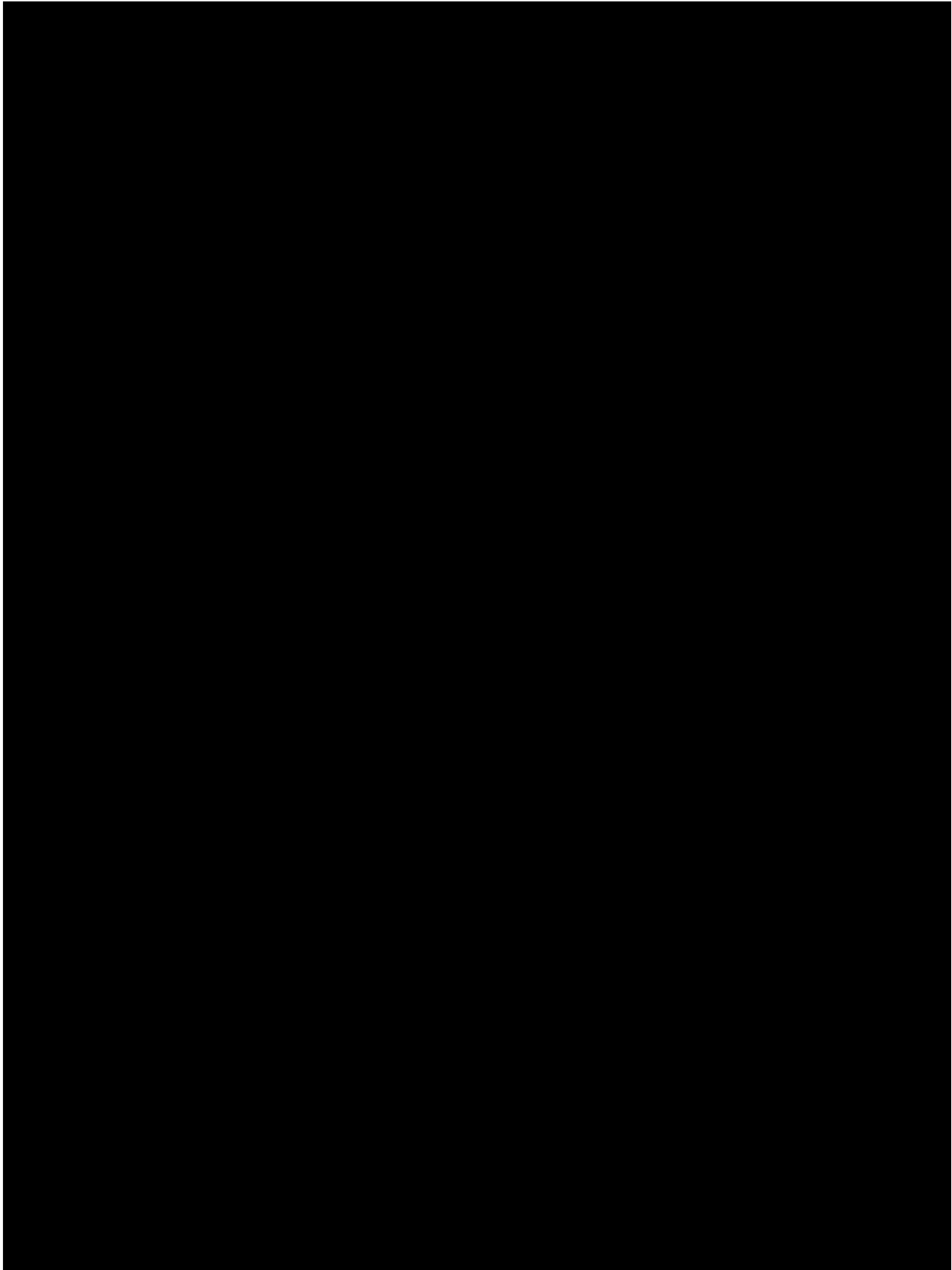
If a determination cannot be made as to whether an indicator rises to the level of a NS concern or whether there is an articulable link between an individual and one or more of the indicators in Attachment A, the Field may request assistance from HQFDNS Background Check Adjudication Unit (BCAU).

C. Family Members and Close Associates



FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

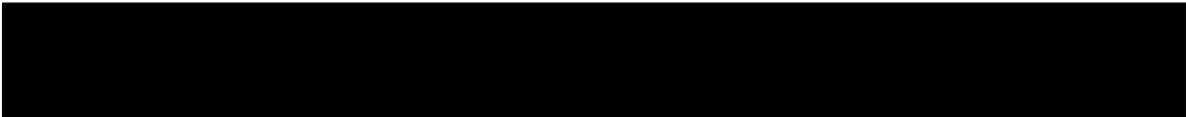


FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

12

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

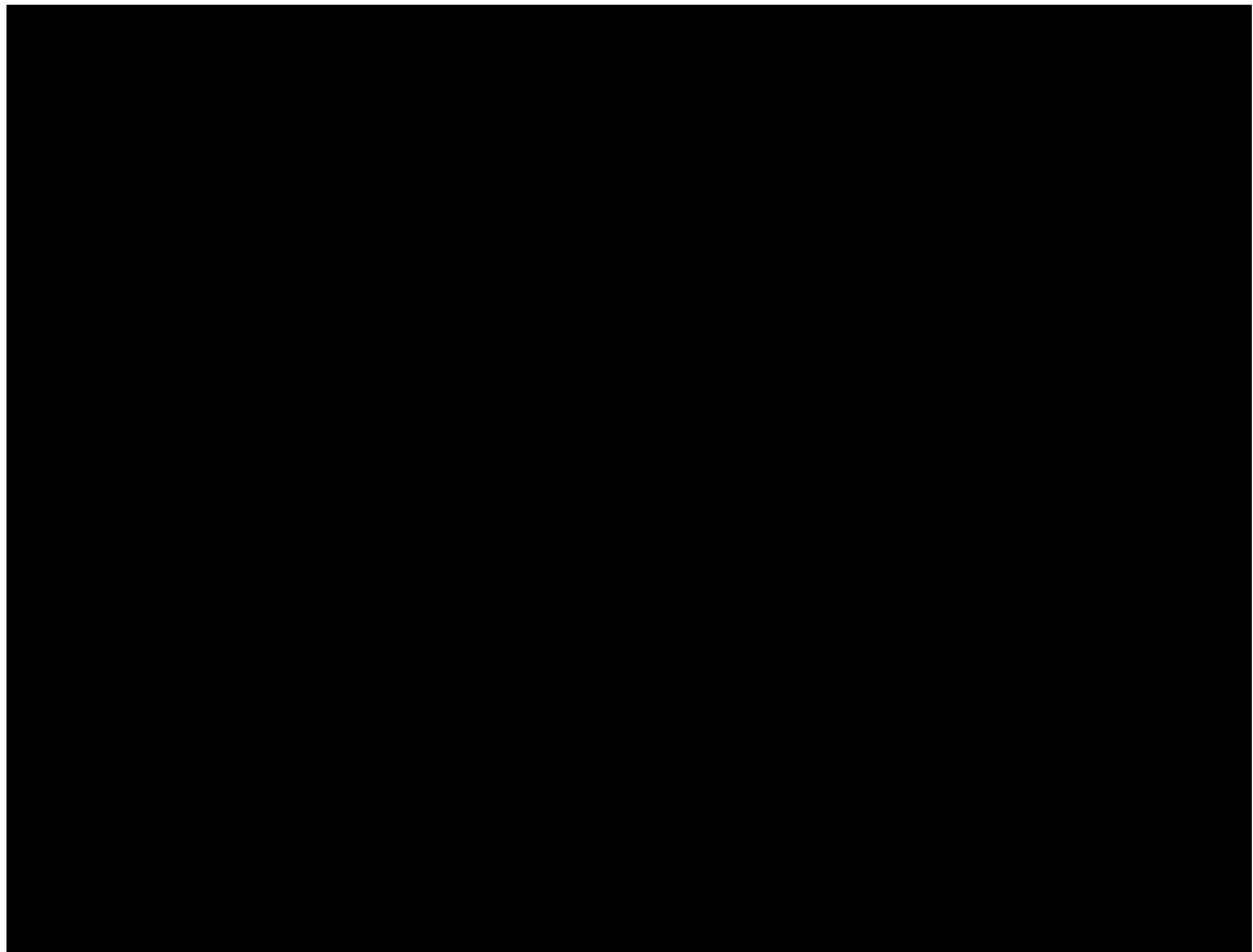
FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE



Note: In the situations described above, when the NS concern involves a principal applicant and the principal applicant otherwise appears eligible for the benefit, adjudication of derivative family members must be placed on hold until the CARRP process is complete for the principal applicant unless an exception applies (see section VIII of this Operational Guidance). No benefit may be granted to the derivative family members unless the principal's application is approved.

Similarly, when the NS concern relates to a derivative family member, the entire "family pack" application, including the principal, must be placed on hold. If the NS concern relates only to a derivative, adjudication of the related applications may continue on a case-by-case basis once vetting is completed for each related individual (unless an exception applies) if the NS concern on the derivative or beneficiary is determined not to present a NS concern for the principal applicant.

D. Documenting Determination of a NS Concern



FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE



FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

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,

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.

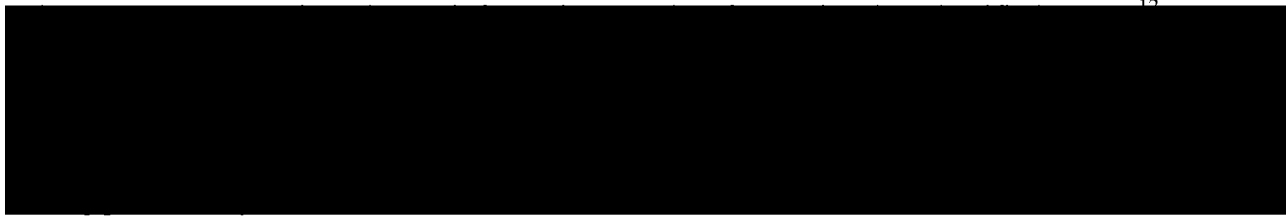
¹¹ Discretionary denials, however, may be considered after external vetting has been completed and the case is in the final CARRP adjudication process.

FOR OFFICIAL USE ONLY (FOUO) – LAW ENFORCEMENT SENSITIVE

15

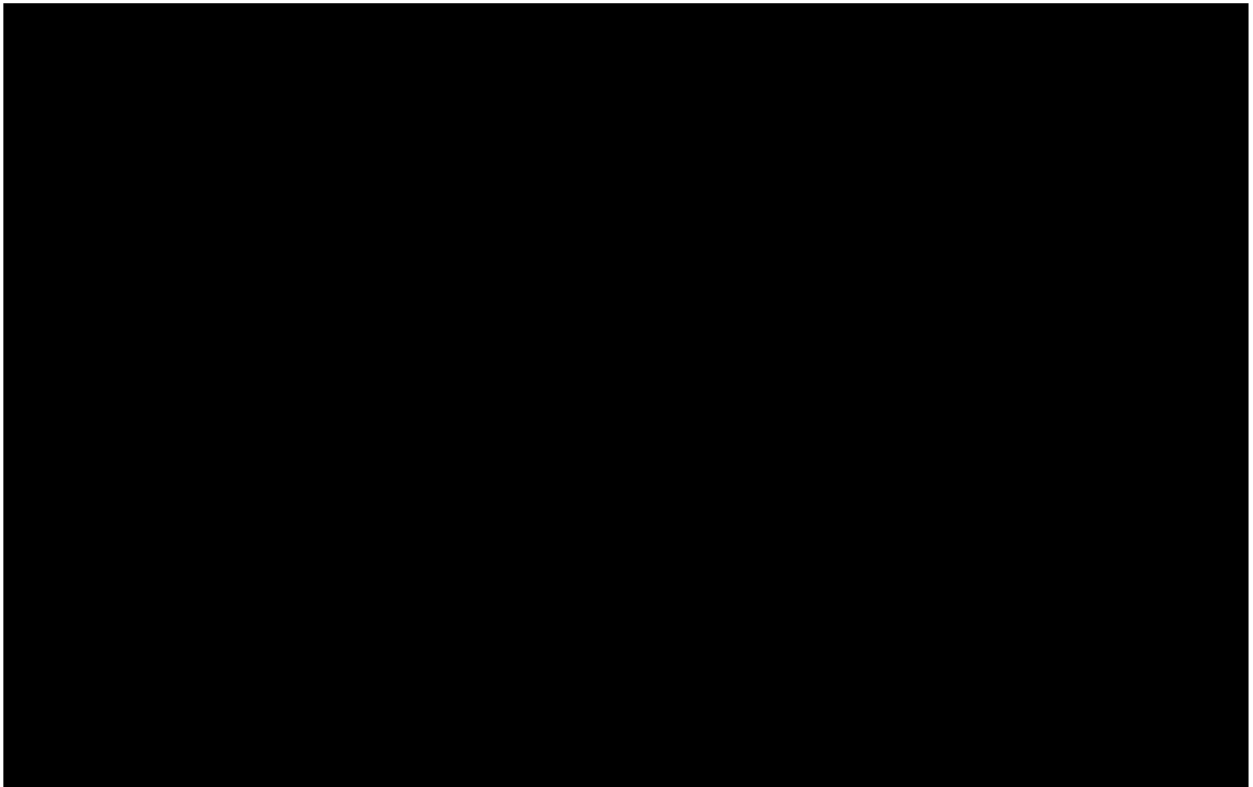
This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE



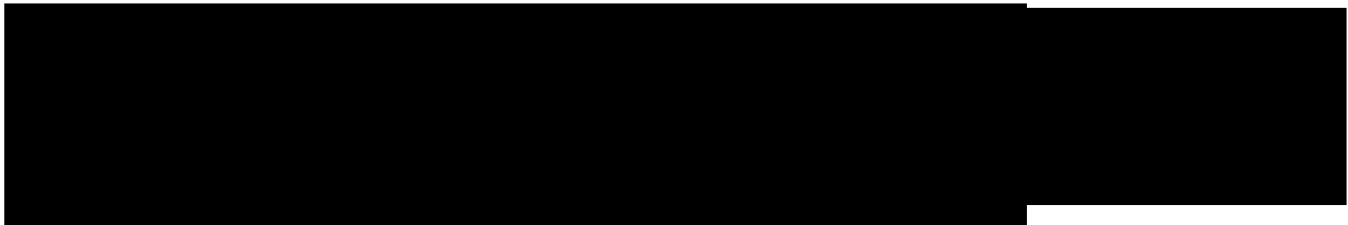
Designated officers should perform the following systems checks as appropriate during the internal vetting process:

1. Required Systems Checks:



2. Supplemental Systems Checks:

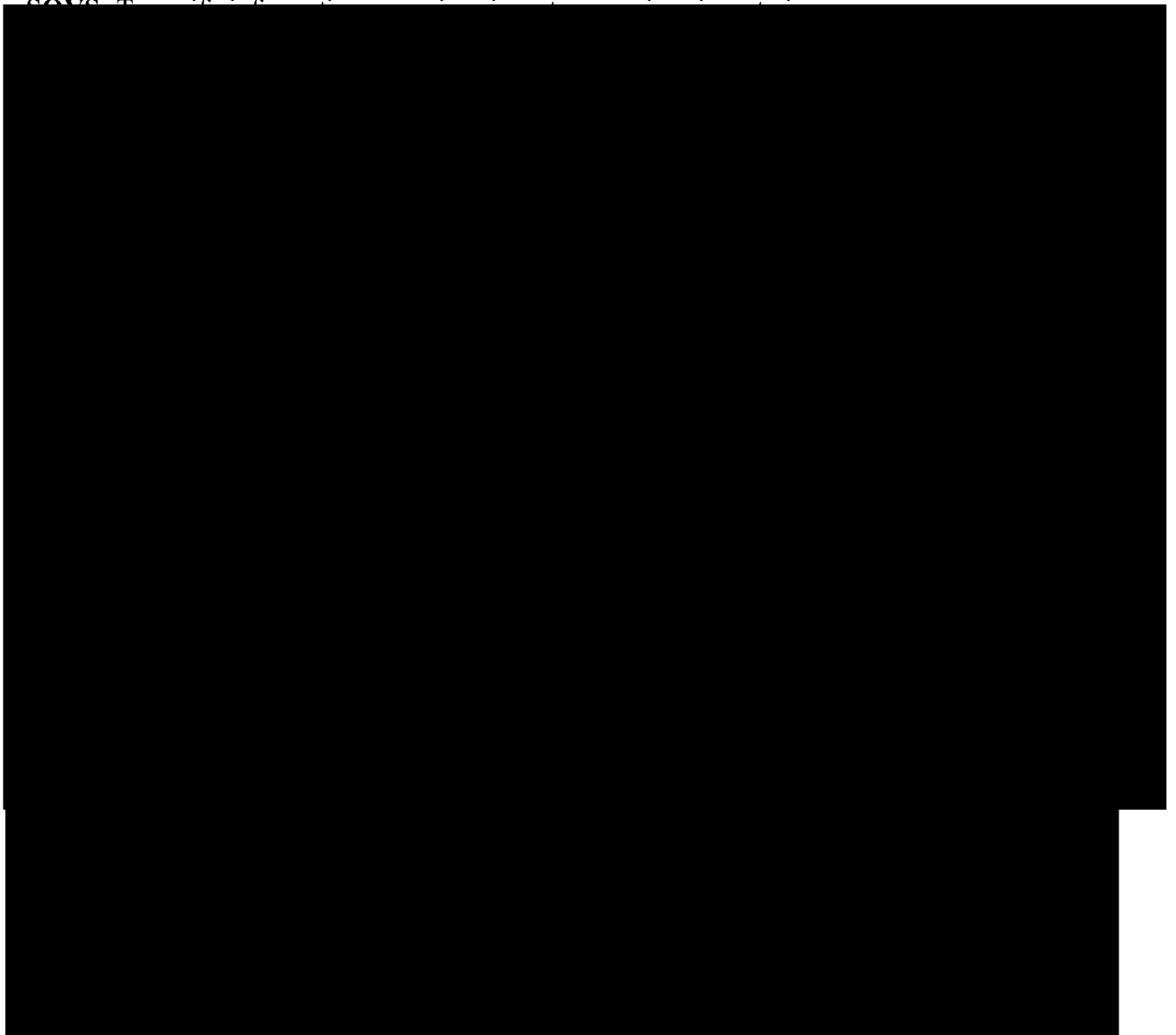
The following additional systems checks may be warranted based on a review of the results of the required systems checks, security checks and file review:



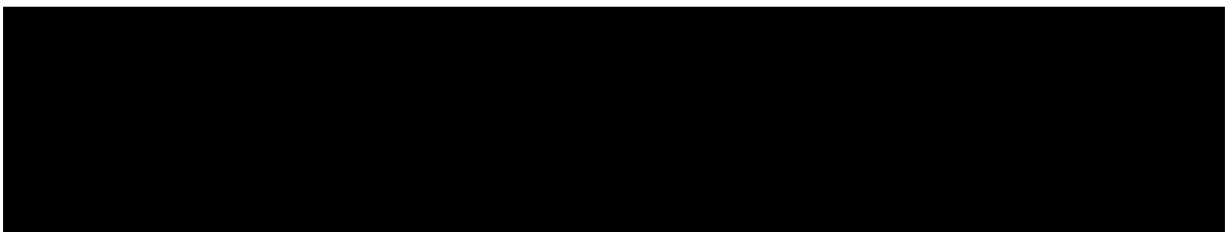
FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE



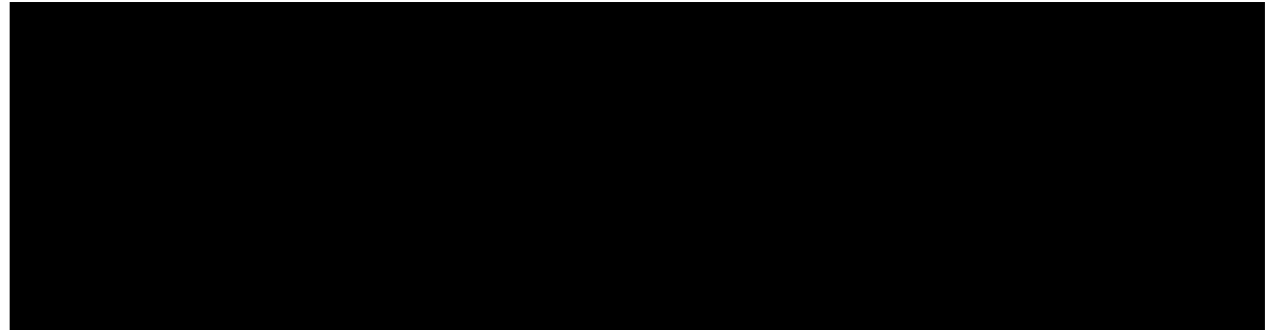
Designated officers are encouraged to critically consider all information available to them, including information derived from sources not commonly checked in routine adjudications, thereby enabling the designated officer to ask better-informed questions when constructing an RFE, NOID, or during an interview. Such sources include:



FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

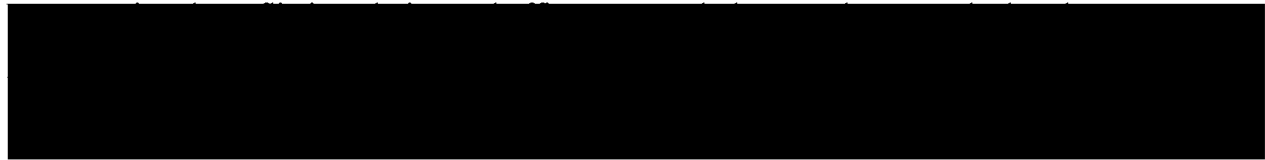
FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE



When ineligibility grounds are identified, the Field may proceed with final adjudication following supervisory concurrence and deconfliction (see below) with the record owner.

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.

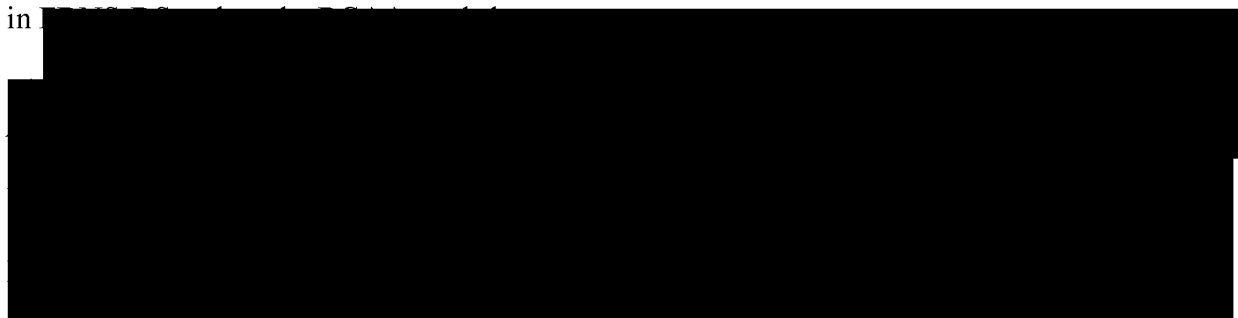


If the individual is otherwise eligible for the benefit or if local management determines further processing is necessary to strengthen or support a final adjudication, cases will proceed to the *External Vetting* stage.

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



FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

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.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

19

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

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.

FOR OFFICIAL USE ONLY (FOUO) – LAW ENFORCEMENT SENSITIVE

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

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:



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.

FOR OFFICIAL USE ONLY (FOUO) – LAW ENFORCEMENT SENSITIVE

21

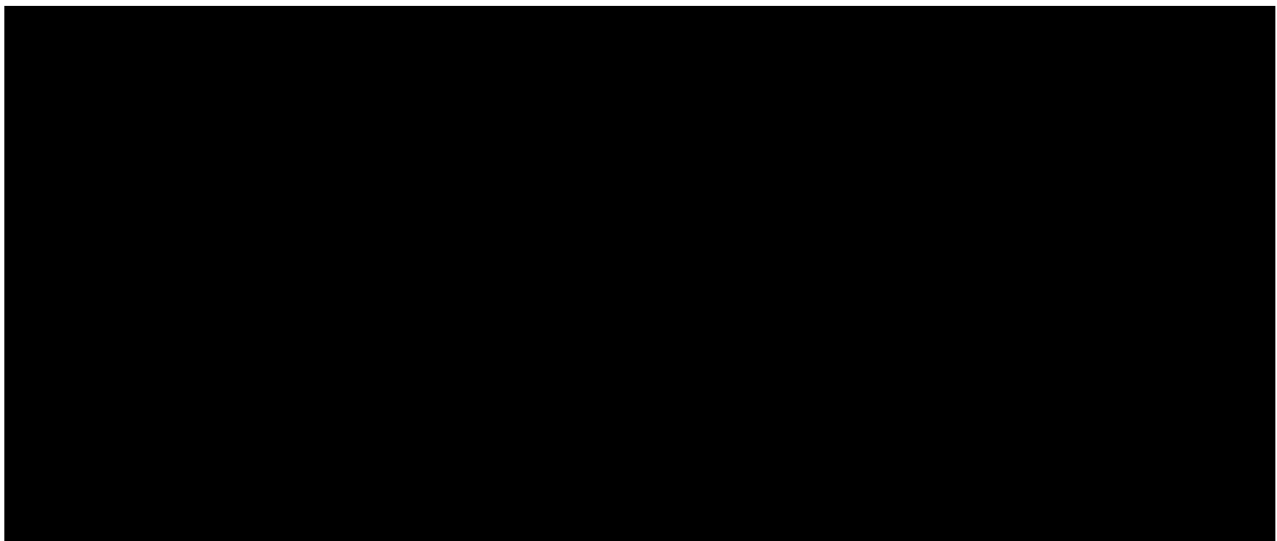
This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

- 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

Designated officers should request information the record owner may have about:



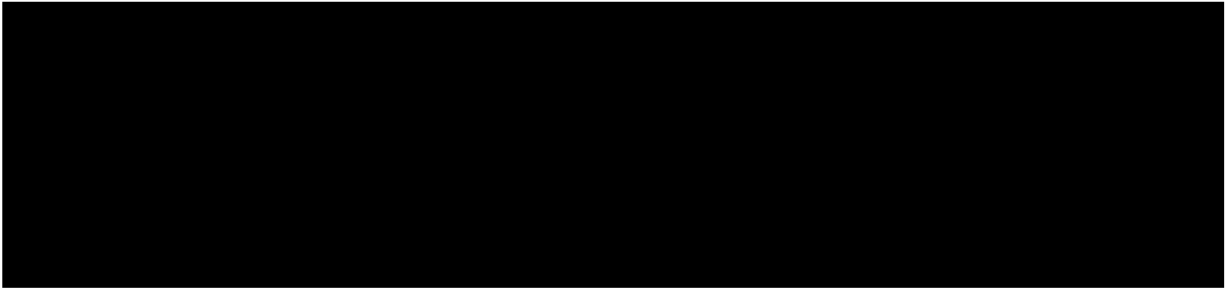
FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

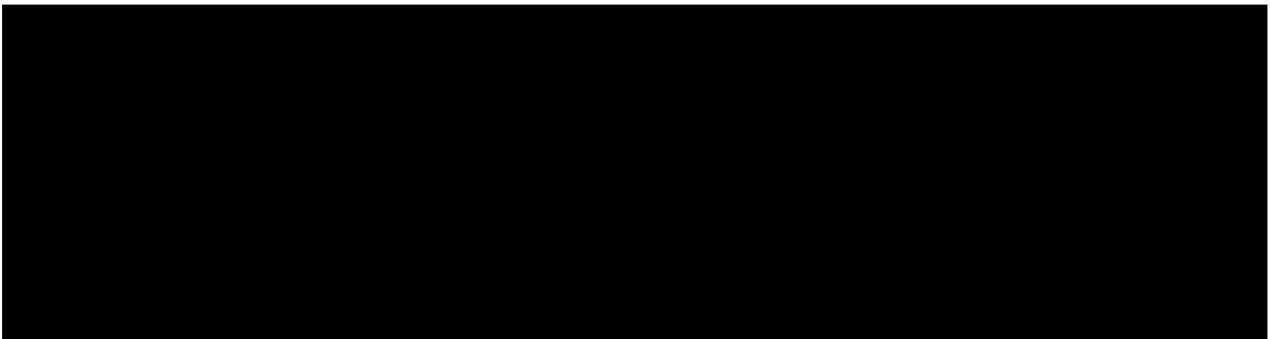
F. Closed Case

In a **closed case**, fundamental questions must be answered to support a comprehensive vetting. Designated officers should ask questions regarding:



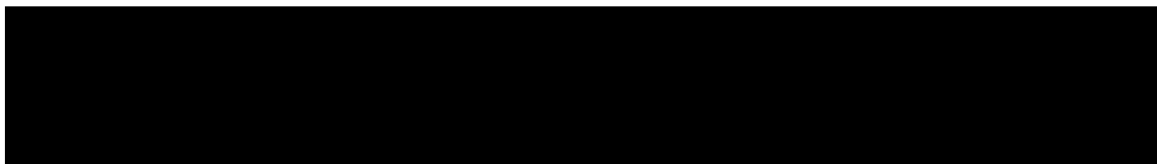
G. Ongoing Investigation

In an **ongoing investigation**, designated officers should ask questions regarding:



H. Vetting Decision Criteria

At the conclusion of the external vetting process for Non-KST NS concerns, the designated officer must consider the facts or fact patterns developed and make one of the following recommendations for supervisory consideration:



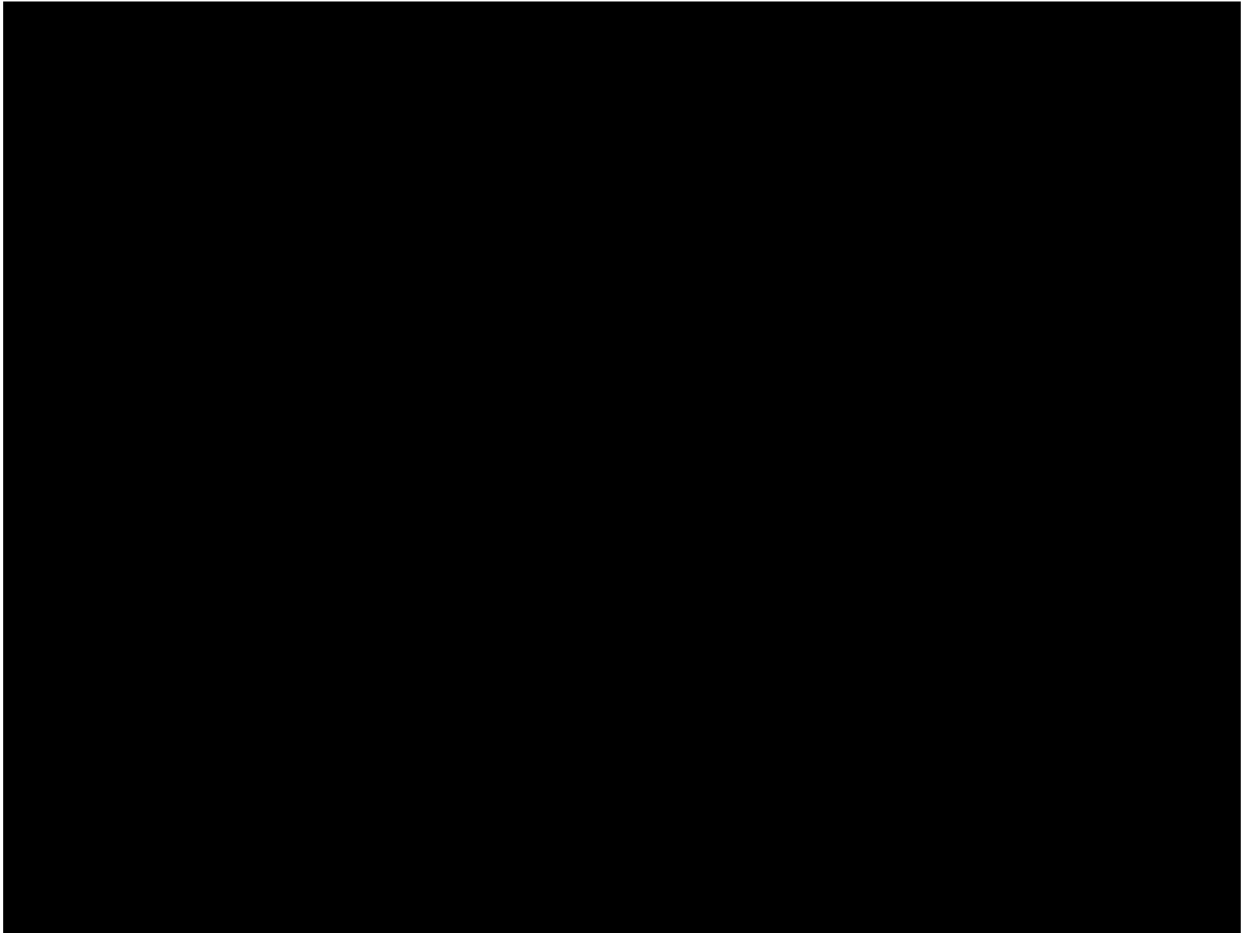
I. A NNS determination should be made if results of the external vetting fall into one or more of the following categories:



FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

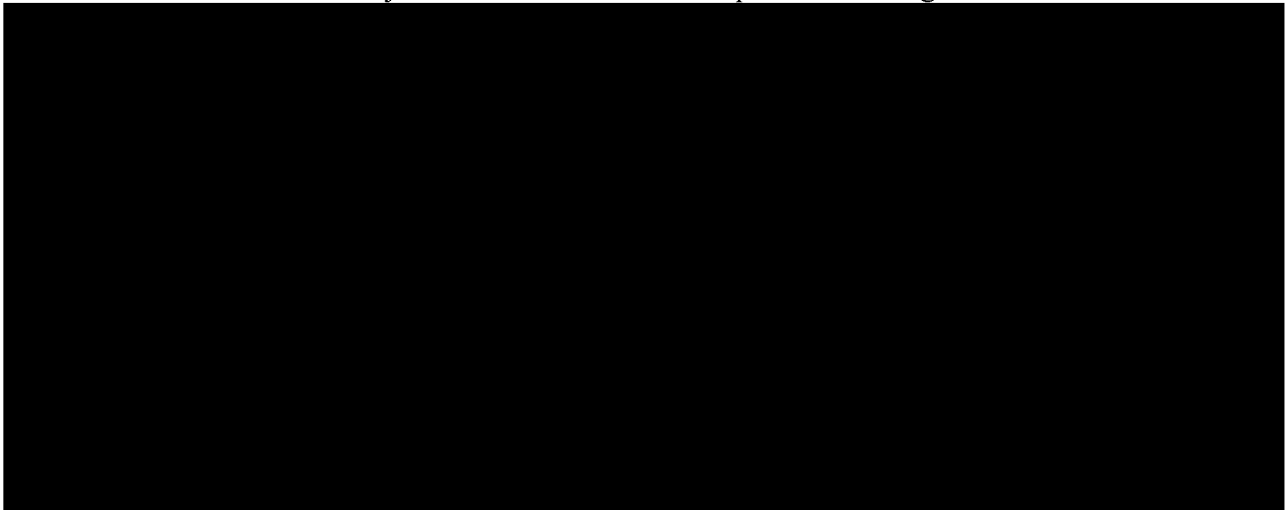
This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE



J. A NS determination should be made if results of the external vetting fall into one or more of the following categories:

1. Individual is the subject of or referenced in an open NS investigation and the level of



FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

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.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

25

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

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.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

26

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

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:

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.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

27

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

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:

FDNS-NSB@dhs.gov

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)

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

28

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

- 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) 272-8460 or HQ NSAU Team Chief (202) 272-0917. The body of the email should include the District Court Case # and suspense date.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

29

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

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.

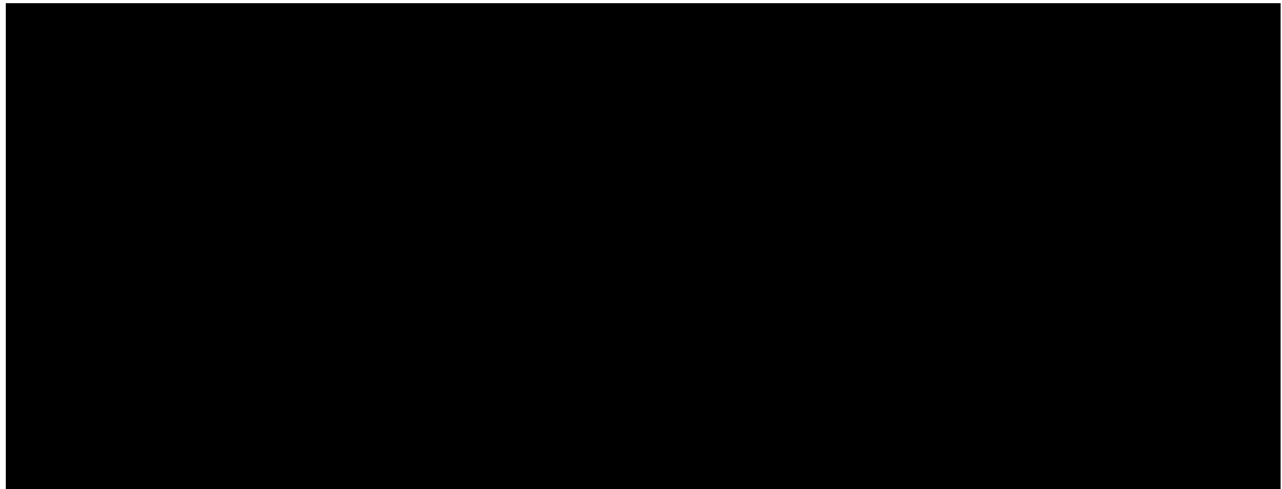
If the local management confirms that the individual is otherwise eligible for the benefit, he/she has discretion to grant the benefit or may request further assistance from HQFDNS/BCAU. (See Section VI, Requesting Assistance from HQFDNS). If, in consultation with the respective HQ component the local 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).

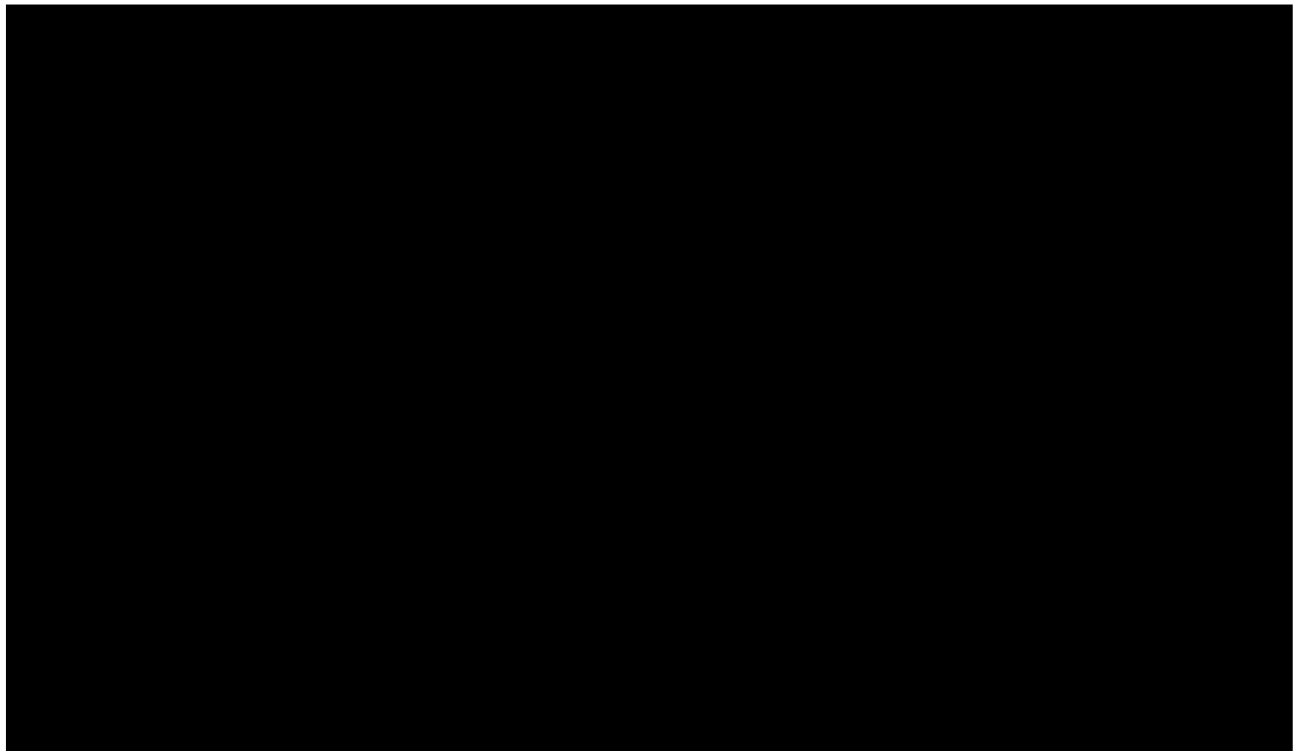
FOR OFFICIAL USE ONLY (FOUO) – LAW ENFORCEMENT SENSITIVE

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

VIII. CASE SPECIFIC EXCEPTIONS AND MISCELLANEOUS GUIDANCE FOR CARRP ADJUDICATION



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



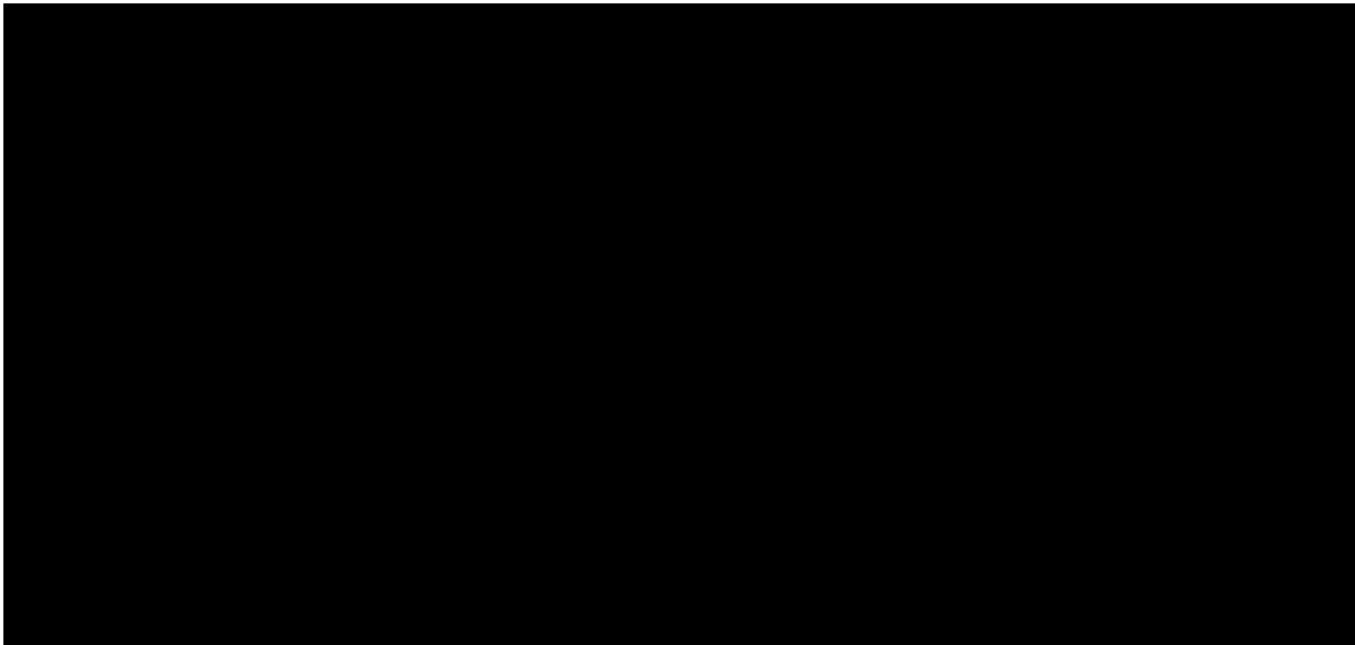
B. Form I-90 with NS or EPS Concerns



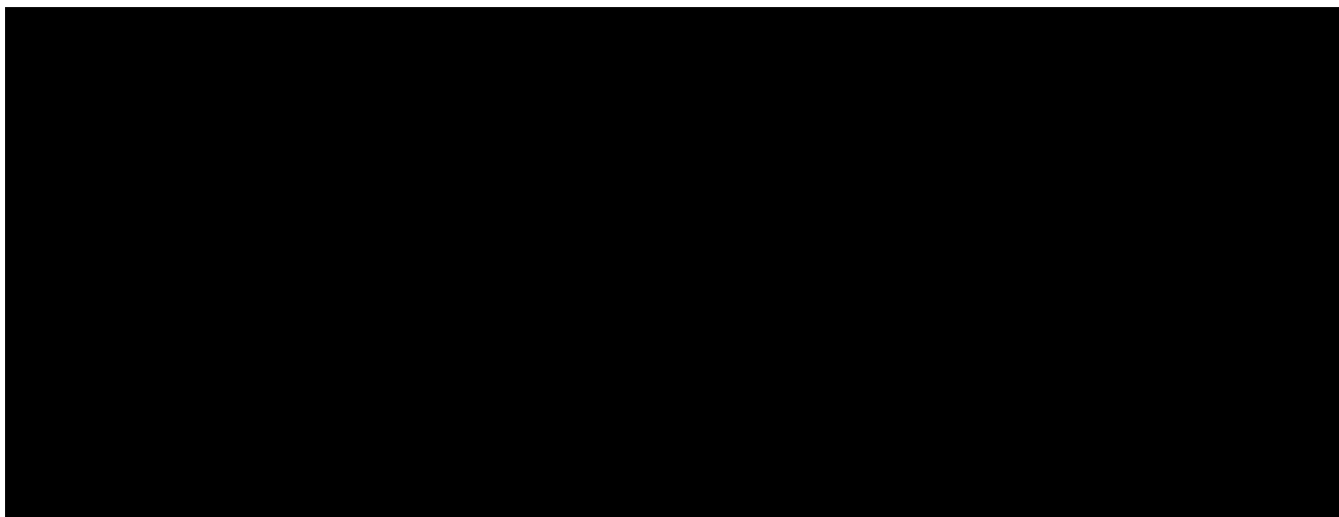
FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE



C. *Santillan* Cases Involving EPS or NS Concerns



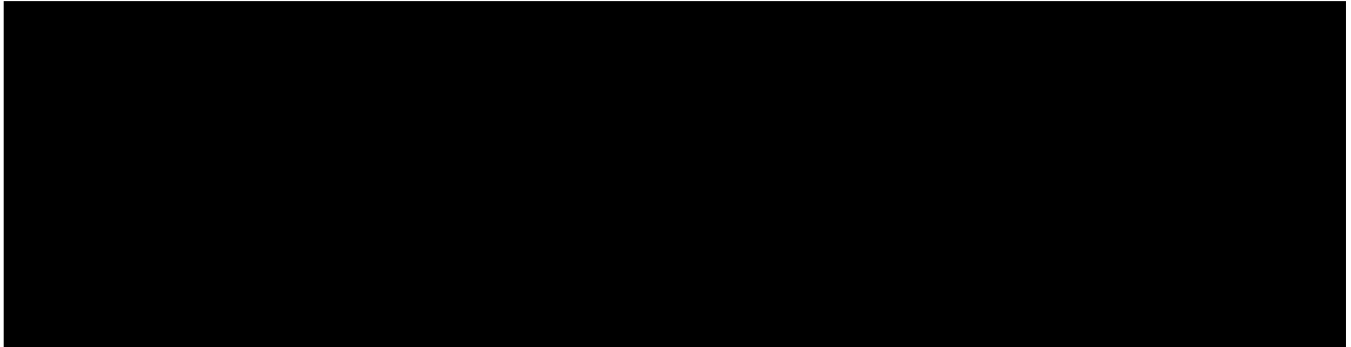
²⁰ This memorandum complements the guidance contained in the December 29, 2005 memorandum entitled, *Interim Guidance for Processing of Status Documentation for EOIR-adjusted Lawful Permanent Residents Pursuant to the Permanent Injunction in Santillan*, et al. No. C-04-2686 (N.D. CA Dec. 22, 2005), as 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*.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

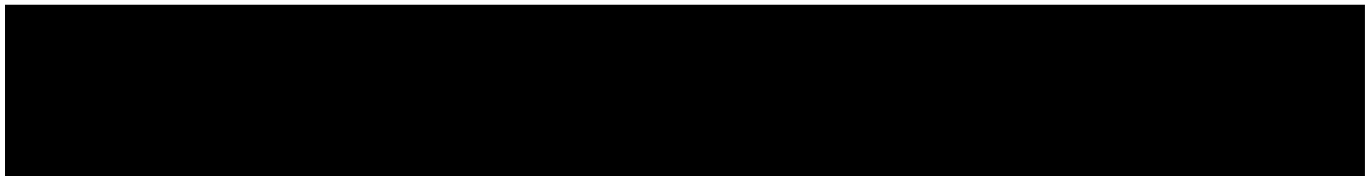
This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

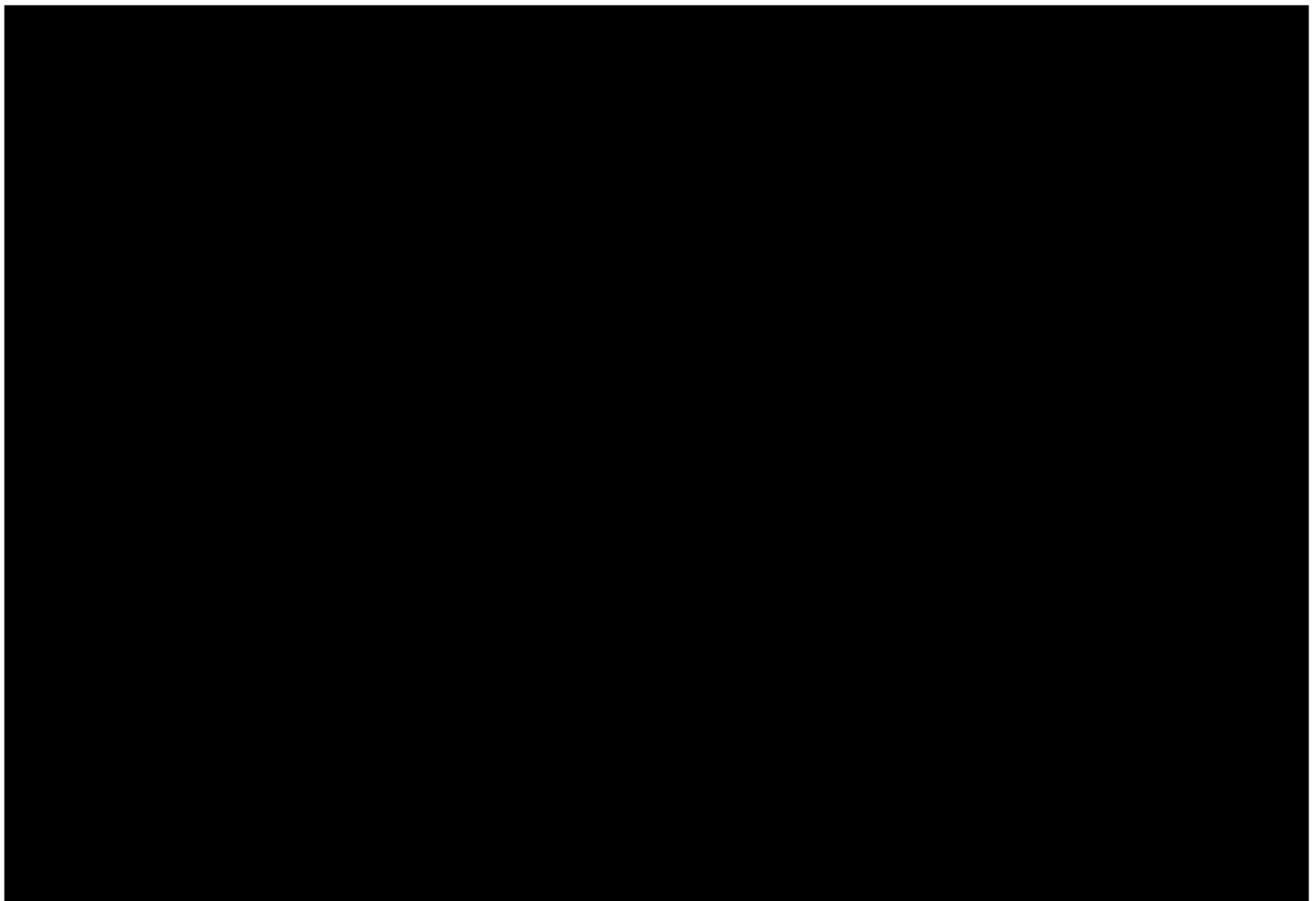
D. General EPS Guidance



E. Motions to Reopen/Reconsider with NS Concerns



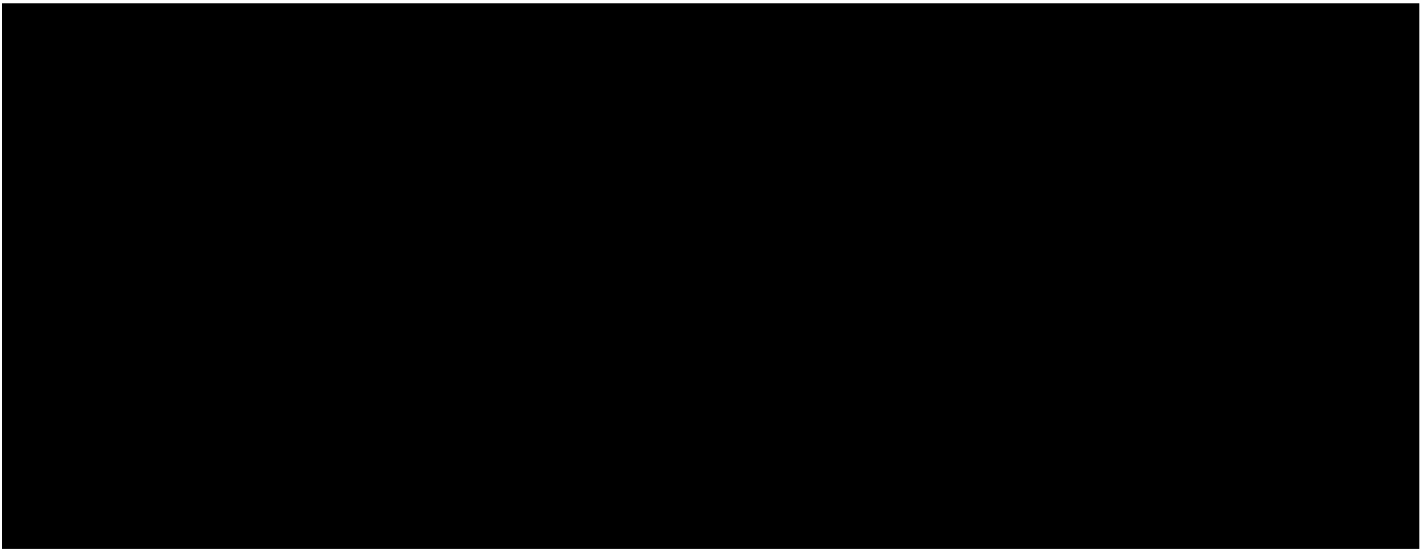
F. Appeals to the Administrative Appeals Office (AAO) with NS Concerns



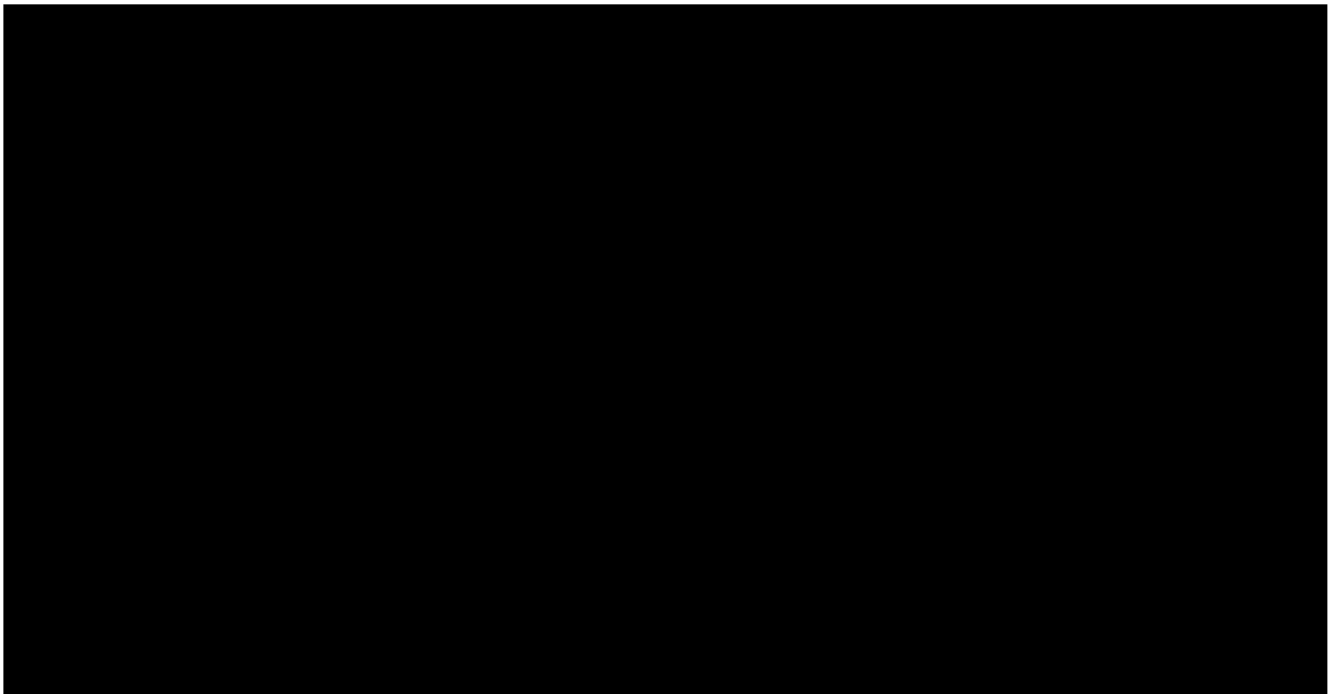
FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE



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



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

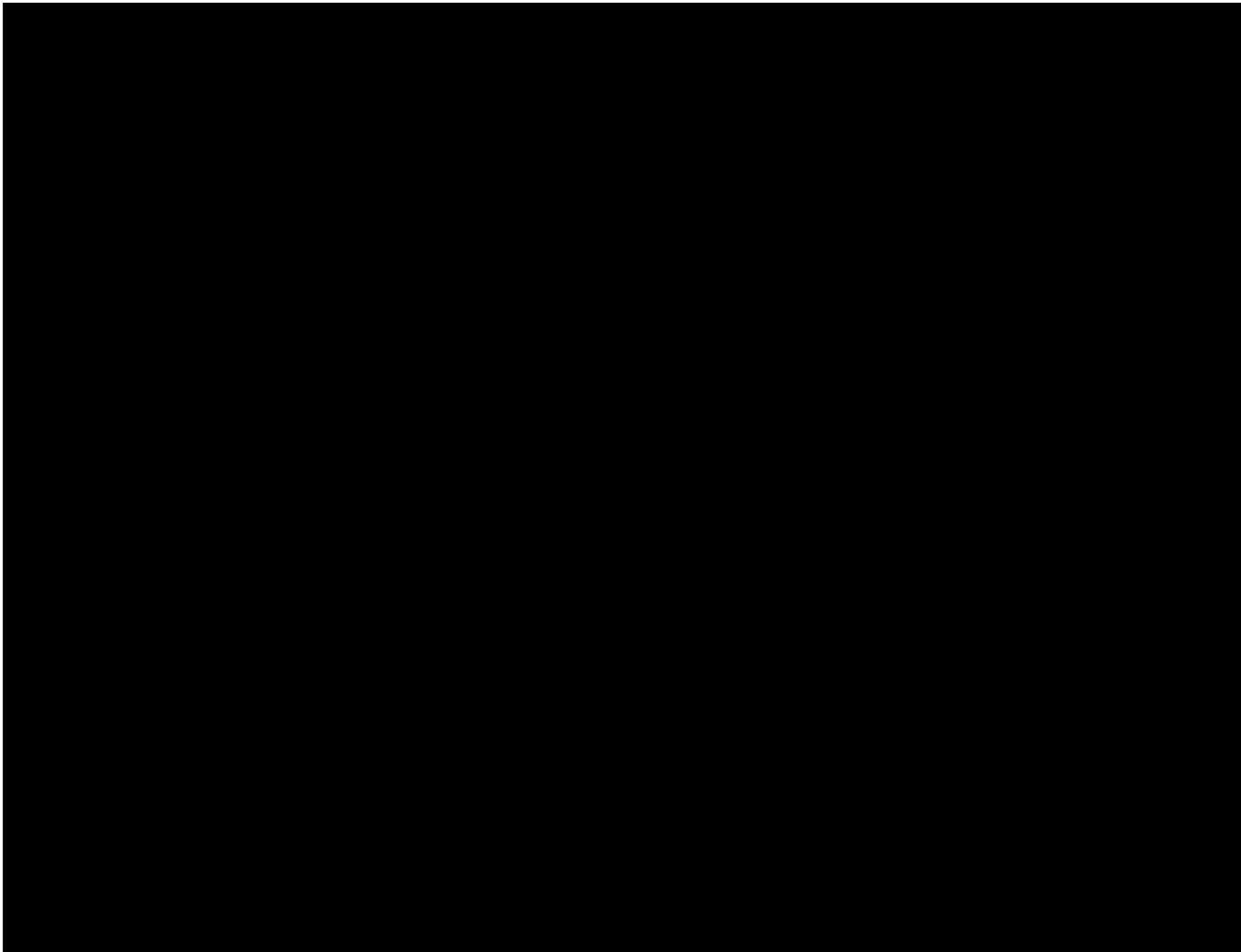
Under the INA, aliens who fall under the terrorist-related inadmissibility provisions of section 212(a)(3)(B) are ineligible for most immigration benefits. However, under INA section 212(d)(3)(B)(i), as amended by the Consolidated Appropriations Act of 2008, the Secretary of Homeland Security or the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

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

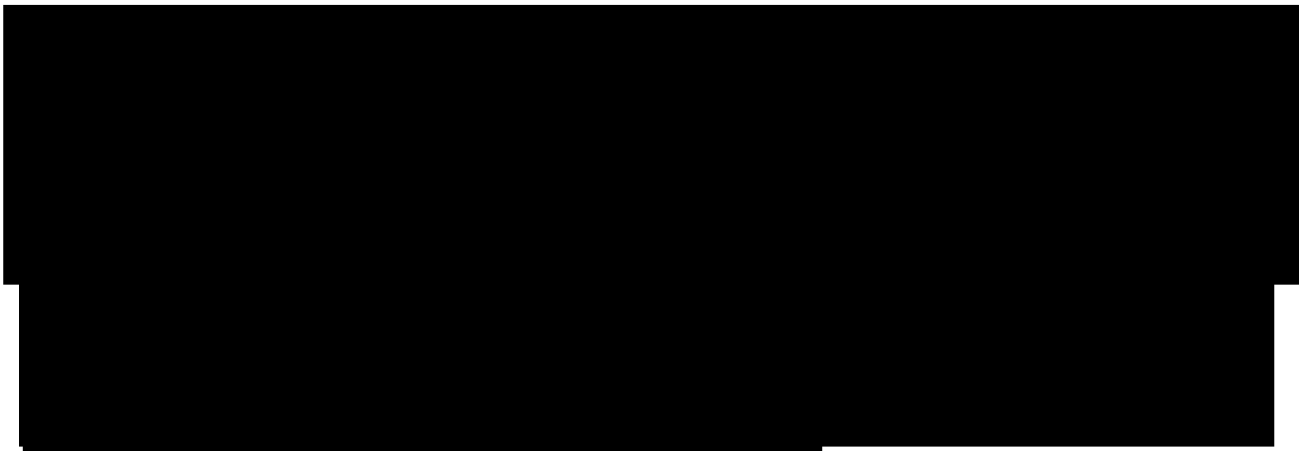
This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

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



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



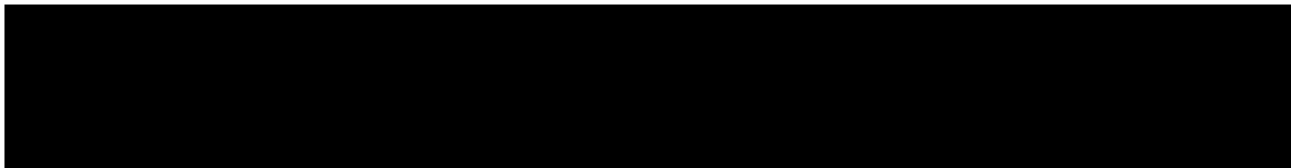
FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

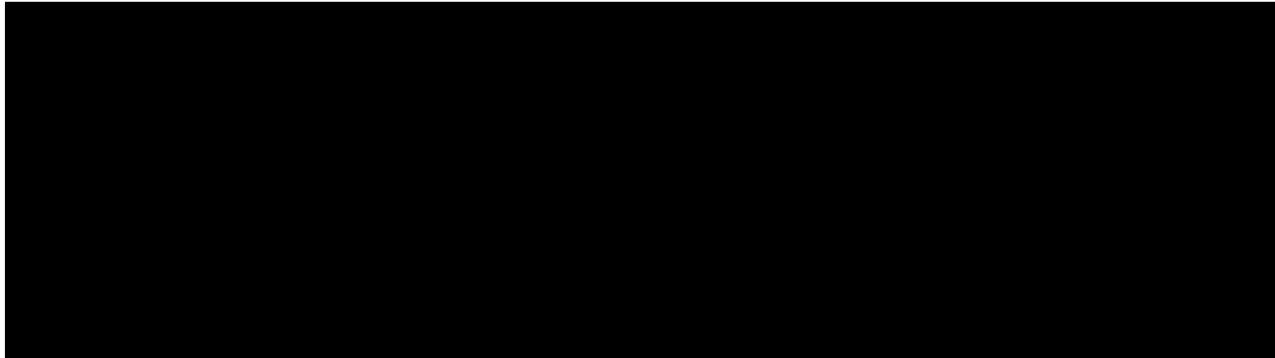
FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE



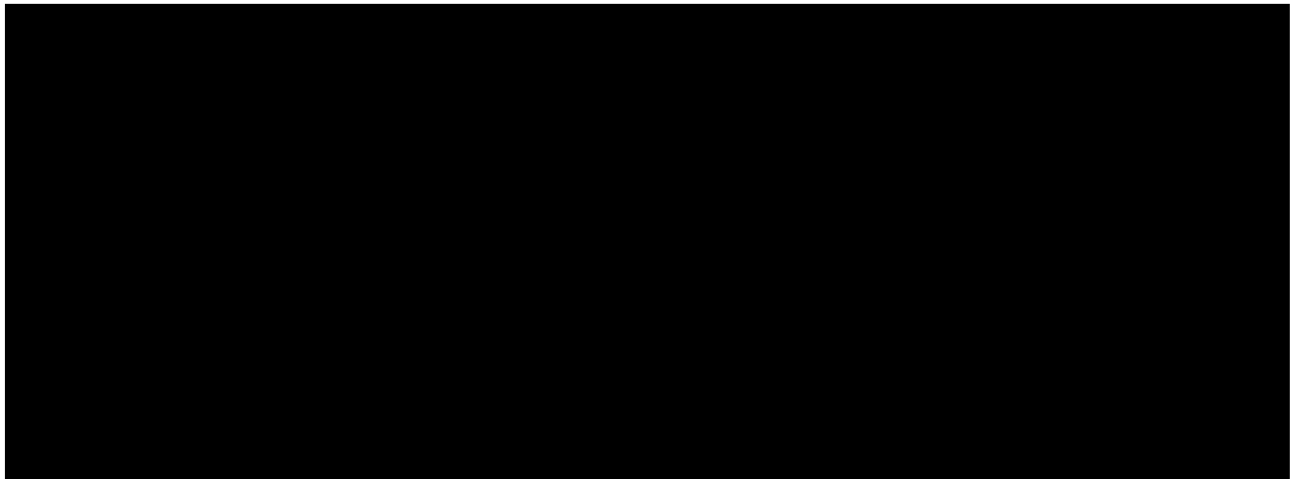
J. Use of For Official Use Only (FOUO) or Law Enforcement Sensitive Information in Adjudicating Applications/Petitions with a NS concern



K. Abeyance



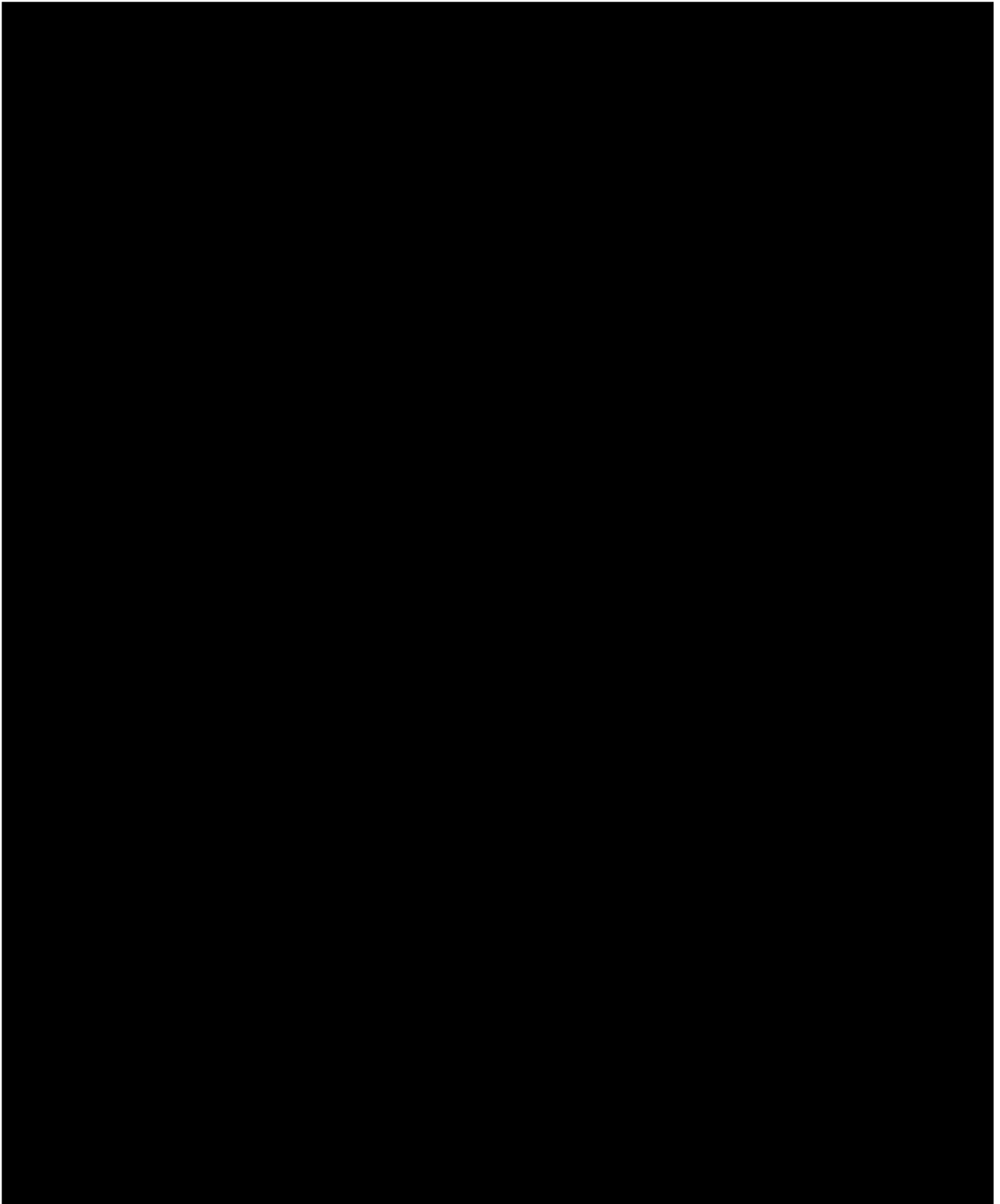
L. Litigation



FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

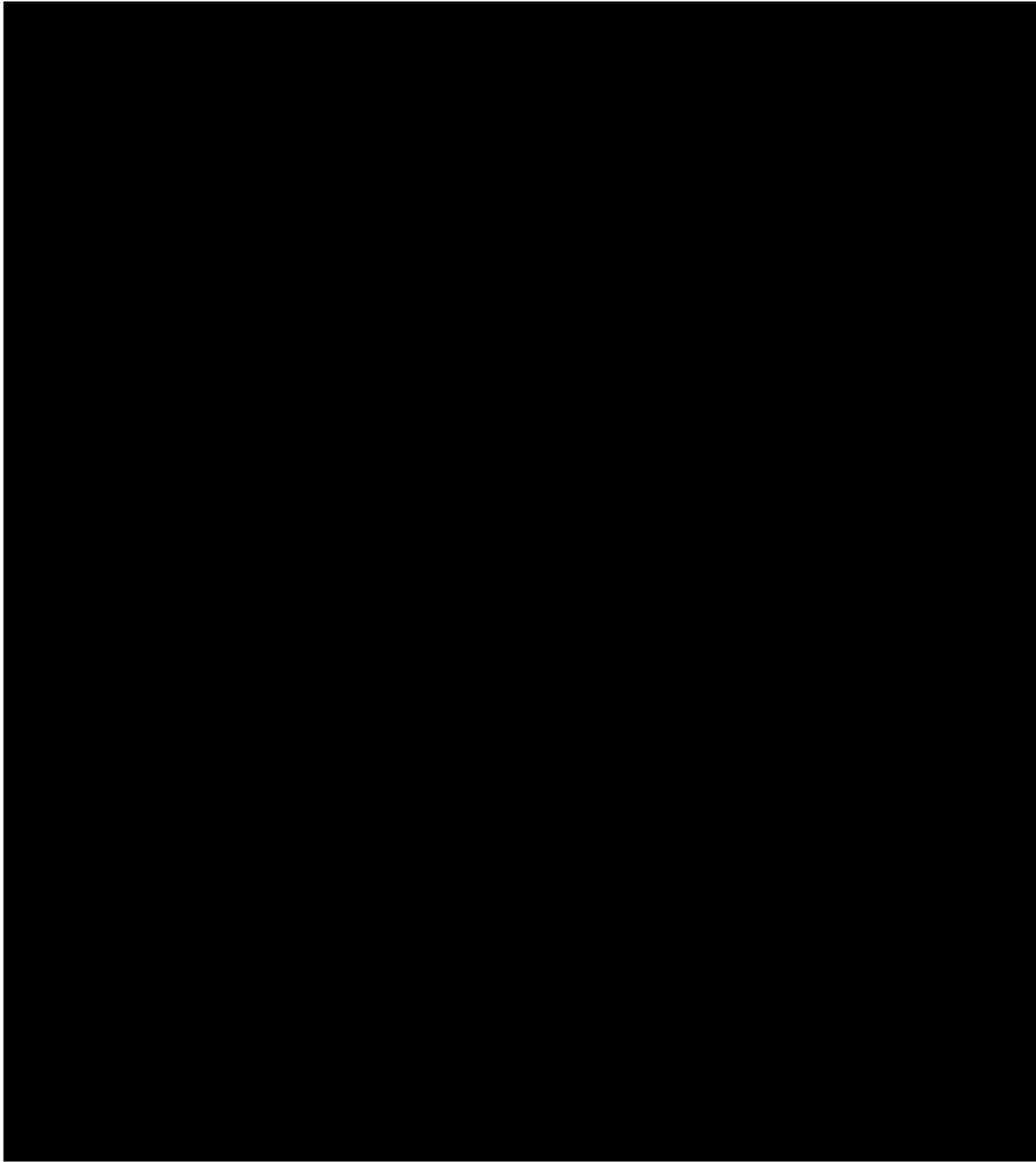


FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

M. LHM



FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE



FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

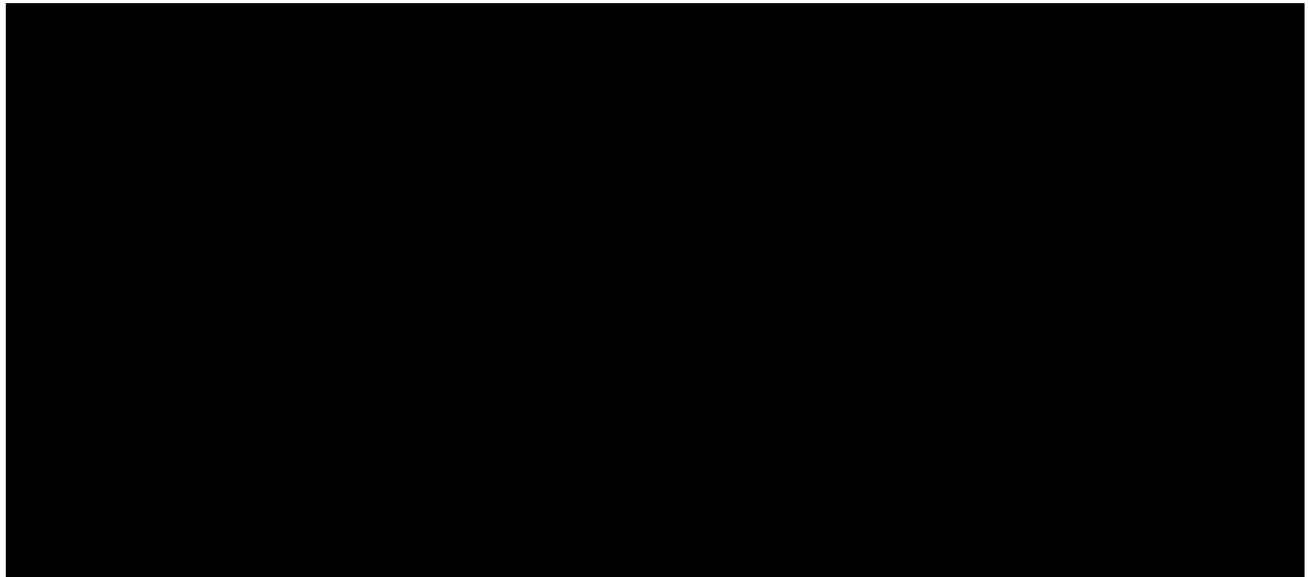
This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

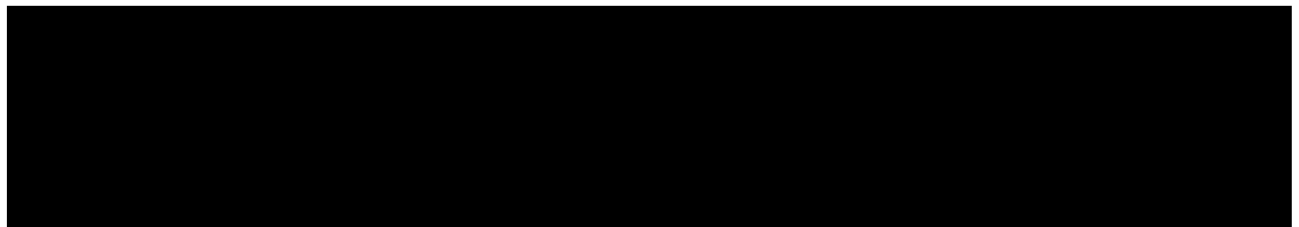
IX. PETITIONS AND OTHER FORMS WITH NS CONCERNS

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

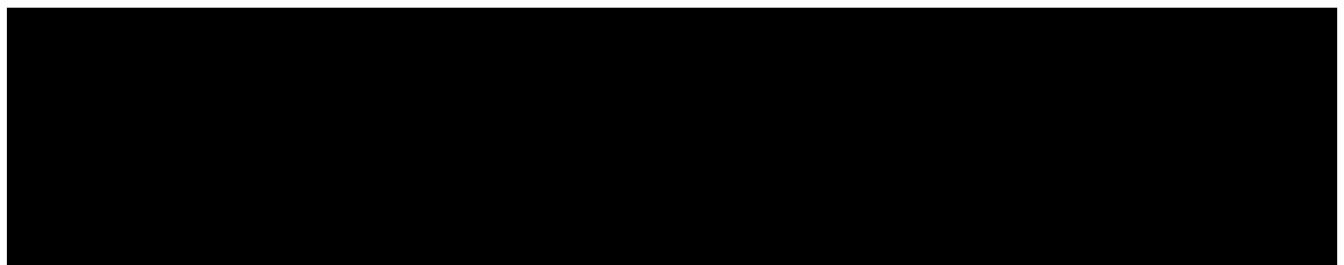
The procedures outlined here do not alter outstanding guidance with respect to the consideration of relative (I-130), orphans (I-600 or I-800), and fiancé (I-129F) petitions where the petitioner’s eligibility comes into question pursuant to the Adam Walsh Act.²⁸



A. Operational Guidance for Petitions



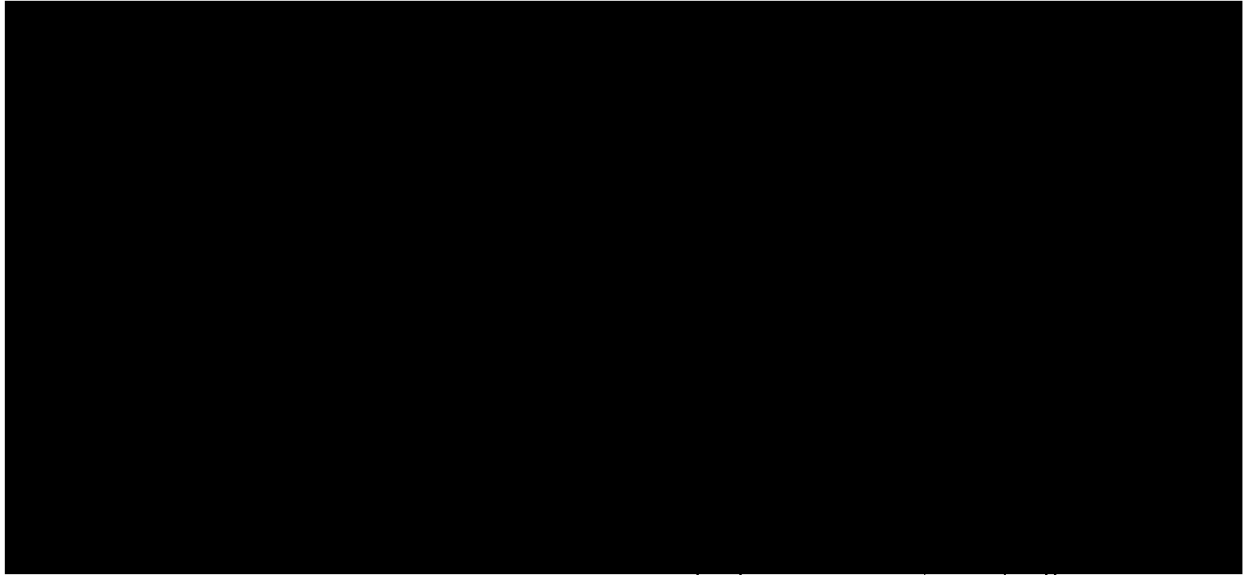
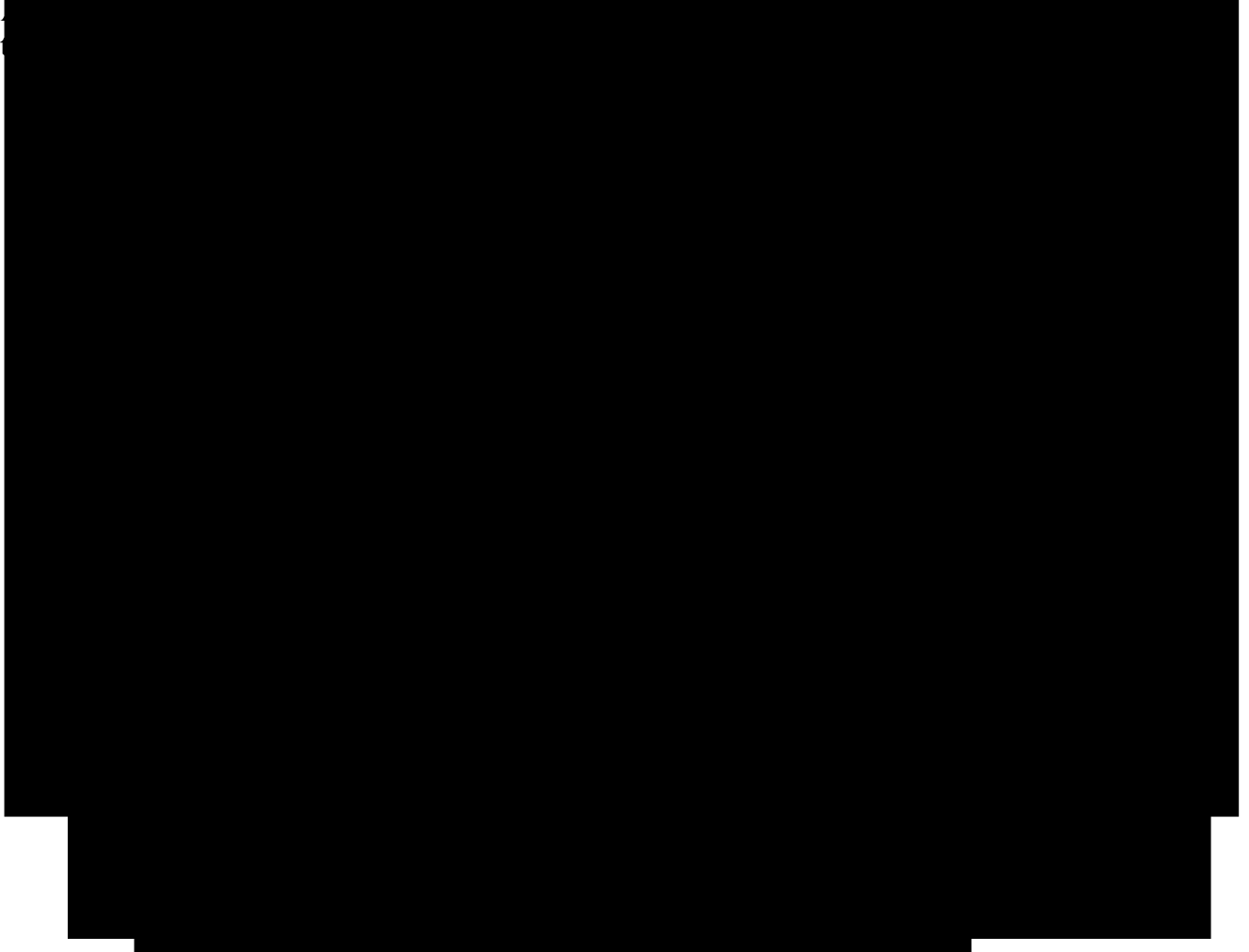
B. Approving Petitions with NS Concerns



FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

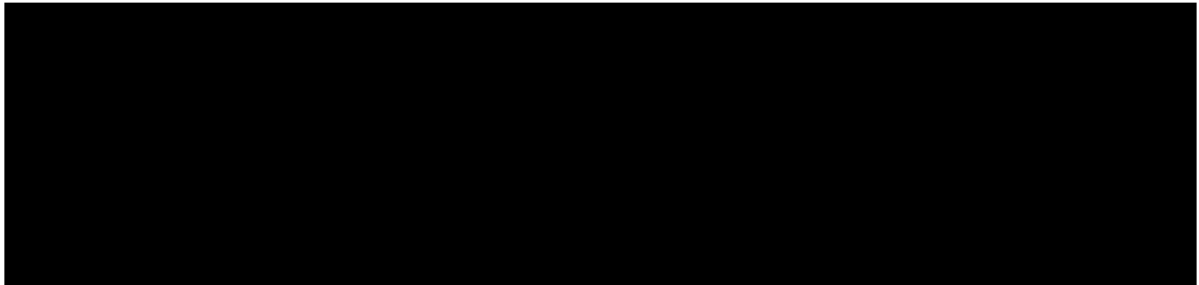
FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE



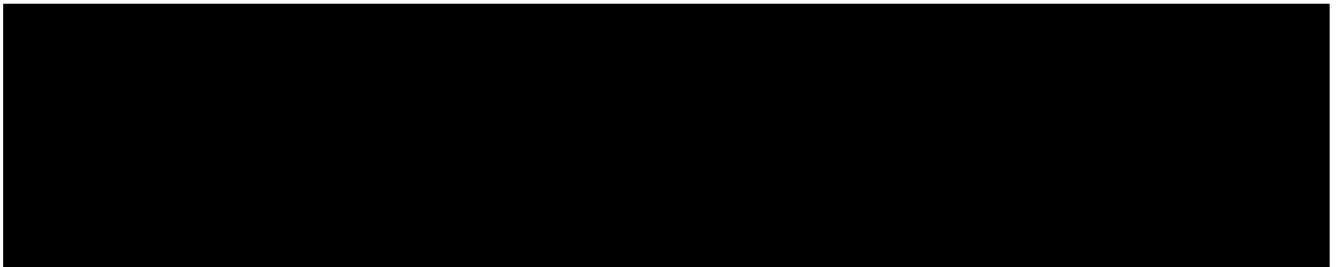
FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE



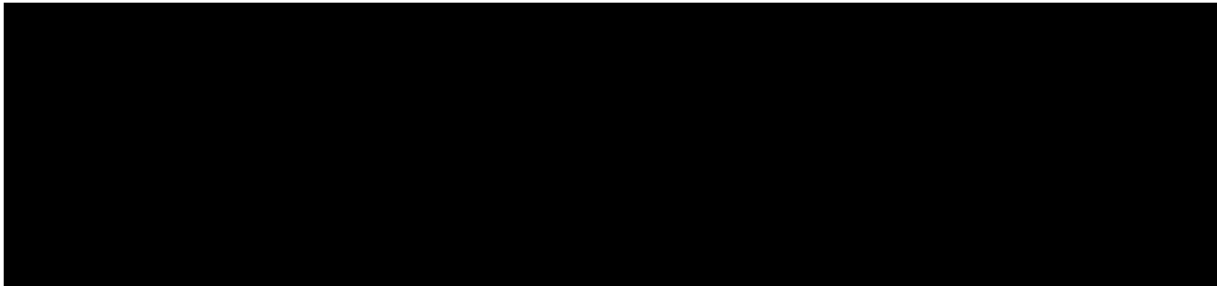
C. Special Considerations



FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

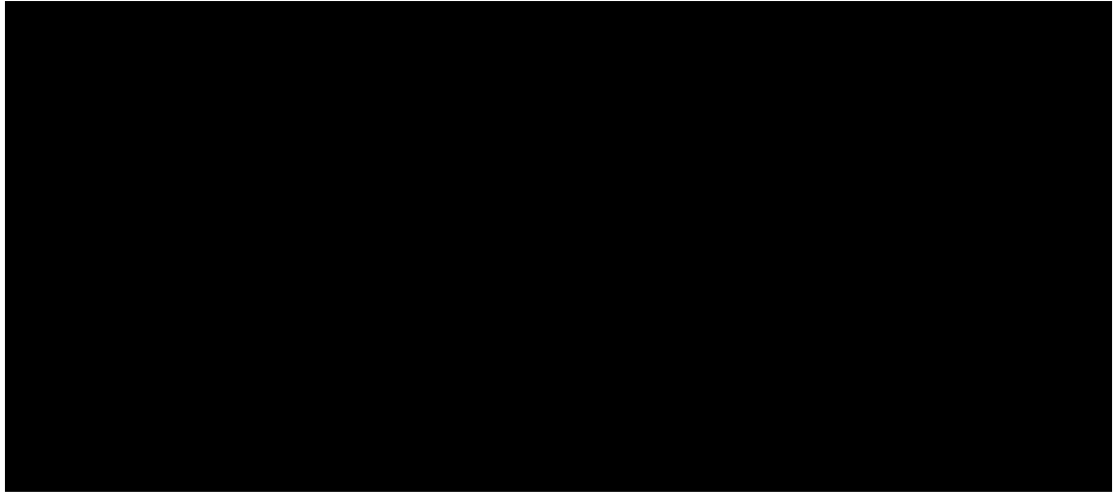
FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE



FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE



FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

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

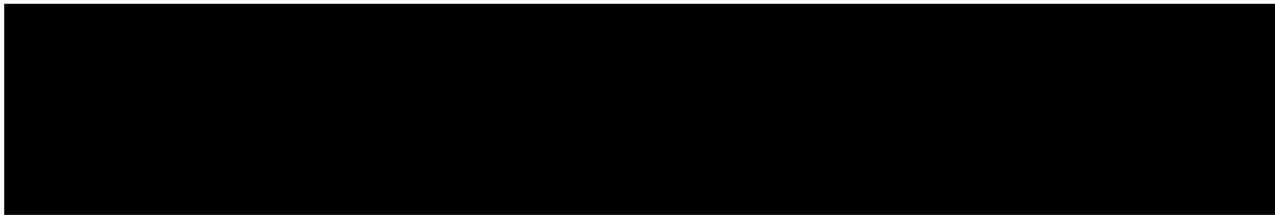
Intelligence Community

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

45

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

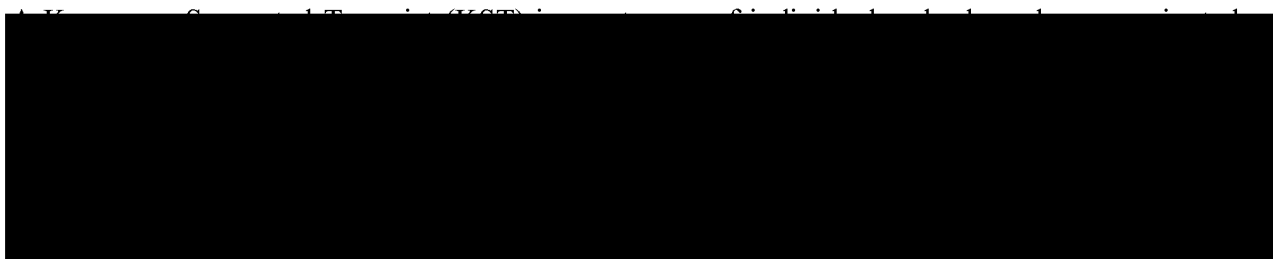
FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE



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



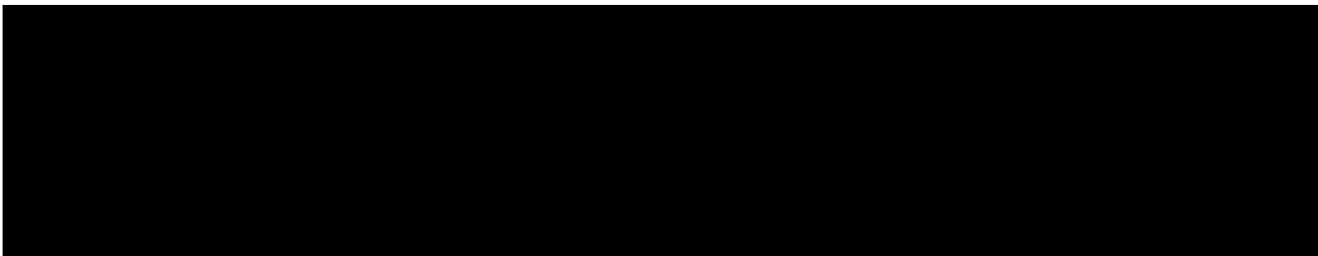
National Security Concern

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



FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

This document is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO. It contains information that may be exempt from release under the Freedom of Information Act (5 U.S.C. § 552). This information shall not be distributed beyond the original addressees without prior authorization of the originator.

Attachment C




U.S. Citizenship
and Immigration
Services

FEB - 6 2009

Memorandum

TO: Field Leadership

FROM: Michael Aytes 
Acting Deputy Director

SUBJECT: Additional Guidance on Issues Concerning the Vetting and Adjudication of Cases
Involving National Security Concerns

I. Purpose

This memorandum provides further guidance for adjudicating National Security (NS) cases/concerns. It specifically addresses the following:

- Cases that involve pending NS concerns but appear to be otherwise approvable;
- Cases that involve indicators of NS concerns that have been “removed” by the record owner;
- The level of review required for the adjudication of Known or Suspected Terrorist (KST)¹ NS concerns; and
- Deconfliction.

Most notably, under this guidance cases with unresolved KST NS concerns can be granted only after concurrence by the USCIS Deputy Director.

II. Background

On April 11, 2008, USCIS released a memorandum entitled, “Policy for Vetting and Adjudicating Cases with National Security Concerns” (CARRP memo). This memorandum instituted the Controlled Application Review and Resolution Program (CARRP), a disciplined, agency-wide approach for identifying, processing, and adjudicating applications and petitions

¹ 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 “P” for person and ending in a “B10,” and should indicate that the individual is a “Suspected Terrorist.” A KST in NCIC has a record number beginning “NIC/T.” See Operational Guidance for each USCIS component.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

www.uscis.gov

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

Additional Guidance on Issues Concerning the Vetting and Adjudication of Cases Involving National Security Concerns

Page 2

involving an identified National Security (NS) concern. CARRP involves the following four separate, but often overlapping, procedures:

1. Identifying NS concerns;
2. Internal Vetting and Assessing Eligibility in Cases with NS concerns;
3. External Vetting of NS concerns; and
4. Adjudicating cases with NS concerns (“CARRP Adjudication”).

CARRP decentralized the process of vetting and adjudicating cases with NS concerns. Thus, the field² assumed responsibility for vetting cases involving Non-KST concerns and adjudicating all NS-related cases.

After the release of the CARRP memorandum, Domestic Operations and Refugee, Asylum, and International Operations issued coordinated Operational Guidance³ to implement CARRP within their respective directorates. In June 2008, to enhance the accuracy of NS records maintained by HQFDNS, USCIS conducted a Worksheet Inventory Audit of previously reported NS concerns. This audit, which included significant input from the field, disclosed the need to clarify CARRP policy and procedures. This memorandum aims to address that need for clarification as well as various questions that have arisen since the issuance of the above referenced Operational Guidance.

III. External Vetting in Cases involving KST NS Concerns

Current CARRP guidance prohibits the external vetting of KST cases by the field. HQFDNS has sole responsibility for conducting external vetting when a case appears to be otherwise approvable after internal vetting and the completion of an eligibility assessment.⁴

² The term “field” refers to Field Offices, Service Centers, the National Benefits Center, and equivalent offices within the Refugee, Asylum, and International Operations Directorate.

³ Neufeld, Don, *Operational Guidance for Vetting and Adjudicating Cases with National Security Concerns*, Memorandum for Field Leadership, April 24, 2008.

Ow, Alanna, *Guidance for the International Operations Division on the Vetting, Deconfliction, and Adjudication of Cases with National Security Concerns*, Memorandum for Overseas District Directors, April 28, 2008.

USCIS Asylum Division, *Identity and Security Checks Procedures Manual – Section VIII Cases Involving Terrorism or Threats to National Security*, Procedures Manual, revised August 2008. (The ISCPM revised to incorporate CARRP procedures was issued via the Joseph E. Langlois memo *Issuance of Revised Section of the Identity and Security Checks Procedures Manual Regarding Vetting and Adjudicating Cases with National Security Concerns*, Memorandum for Asylum Division, May 14, 2008.)

USCIS Refugee Affairs Division, *Refugee Adjudication Standard Operating Procedure: Cases Involving National Security Concerns*, Standard Operation Procedure, May 12, 2008.

⁴ This policy applies to all applications and petitions that convey immigrant or non-immigrant status. This policy does not apply to petitions that do not convey immigrant or non-immigrant status. See Operational Guidance for instructions.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

Additional Guidance on Issues Concerning the Vetting and Adjudication of Cases Involving National Security Concerns

Page 3

Note: External vetting is not to be confused with deconfliction, which officers⁵ are required to complete for cases involving KST NS concerns. Deconfliction involves coordination between USCIS and the LEA/record owner to ensure that planned adjudicative activities (*e.g.*, interview, RFE, final decision, NTA issuance, etc., and the timing of such) do not compromise or impede an ongoing investigation or other record owner interest. External vetting consists of making inquiries to record holders in possession of NS information specifically to determine the nature and relevance of the NS concern to a determination of eligibility and/or removability.⁶

If, following internal vetting and an initial eligibility assessment, an officer determines that the applicant or petitioner appears to be otherwise eligible for the benefit sought, the following steps must be followed:

- The officer must complete all deconfliction (if the record owner is known) prior to forwarding the physical file⁷ to HQFDNS for external vetting; (Note: HQFDNS will return cases where internal vetting and/or deconfliction were not properly completed and/or documented by the officer);
- As required by Operational Guidance, a supervisor must verify (and concur) that the internal vetting and deconfliction was completed, that the Fraud Detection and National Security Data System (FDNS-DS) was properly updated with all relevant information, and that the physical file was properly documented with a Background Check and Adjudicative Assessment (BCAA) (generated by FDNS-DS or created manually using the Word template when generated from FDNS-DS is not possible).⁸ Supervisory concurrence that internal vetting and deconfliction was completed must be indicated in FDNS-DS ('activities' tab) prior to forwarding the file;
- The officer must complete a Request for Assistance to HQFDNS following current guidance⁹; and
- The officer must charge the file to COW FD0004 in NFTS and forward the physical file to HQFDNS, attention Milagros Castillo.

Officers are reminded that they may request both vetting and adjudicative assistance from HQFDNS simultaneously, and should do so in cases involving KSTs or in litigation.¹⁰

⁵ The term "officer" is used here generally to refer to any officer with CARRP responsibilities. Operational Guidance will dictate the specific officer (*e.g.* FDNS-IO or CARRP-trained adjudications officer) responsible for each specific task.

⁶ Exact definitions can be found in the Operational Guidance for each component.

⁷ The Asylum Division has sent electronic copies of the contents of the files in the past and may continue to do so unless HQFDNS indicates that the physical file is necessary for external vetting. The Refugee Affairs Division interviews applicants overseas often in remote locations and, in most cases, uses a work file rather than an A-File when processing the case. As such, in the overseas Refugee context, copies of the contents of the file may be sent to HQFDNS for external vetting.

⁸ Officers must ensure that all data included in a manually created BCAA has been entered into FDNS-DS.

⁹ Current guidance can be found in the Operational Guidance for each component.

¹⁰ Officers may also request adjudicative assistance (as opposed to external vetting assistance) from HQFDNS in cases where 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 concerns regarding whether it is

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

Additional Guidance on Issues Concerning the Vetting and Adjudication of Cases Involving National Security Concerns

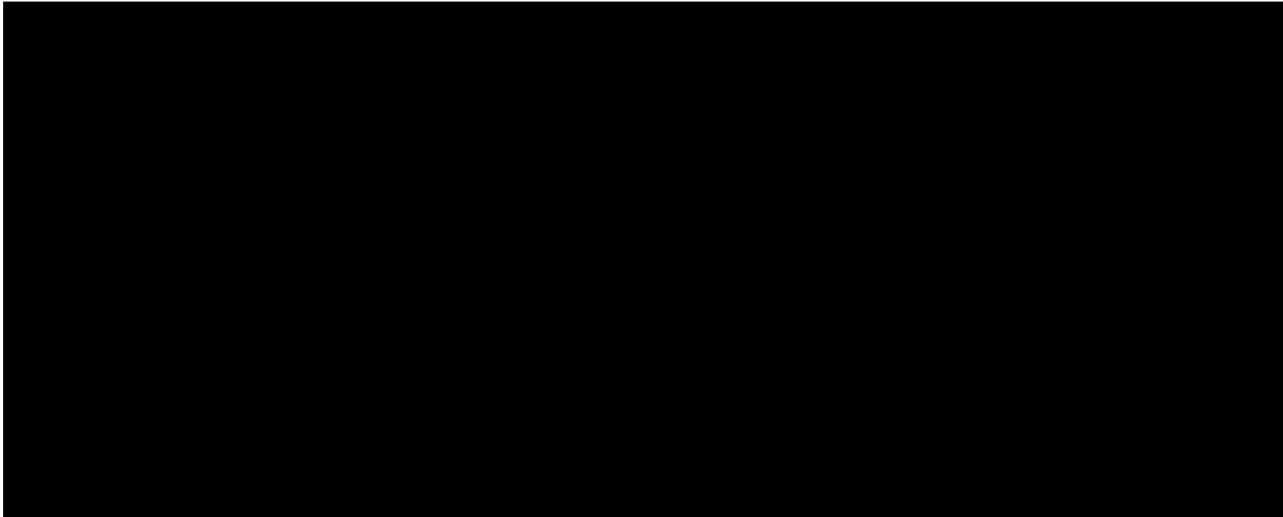
Page 4

HQFDNS will perform external vetting including certain high-side (classified intelligence databases) checks. In cases where HQFDNS does not uncover grounds of ineligibility or inadmissibility that would support a ground of denial, they 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."¹¹

Upon completion of all external vetting, HQFDNS will return cases to the submitting officer when¹²:

- It has determined that the information obtained during external vetting is sufficient to support a denial of the pending application/petition; or
- HQ senior leadership¹³ and the USCIS Deputy Director recommend approval of the application; and
- The HQ program office with jurisdiction over the case, in coordination with HQFDNS and Office of Chief Counsel, has issued written direction to the field on how to proceed with the adjudication.¹⁴

IV. Handling Cases in which KST Hits have been Removed from TECS/IBIS



appropriate to issue a denial under the circumstances of the case and the senior-level official (as defined in Operational Guidance) concurs with the officer's request for HQFDNS assistance.

¹¹ *Department of Homeland Security Guidelines for the Use of Classified Information in Immigration Proceedings*, October 4, 2004.

¹³ HQ Senior leadership may include senior representatives from Domestic Operations or Refugee, Asylum and International Operations, depending on program jurisdiction, along with National Security and Records Verification, and Chief Counsel.

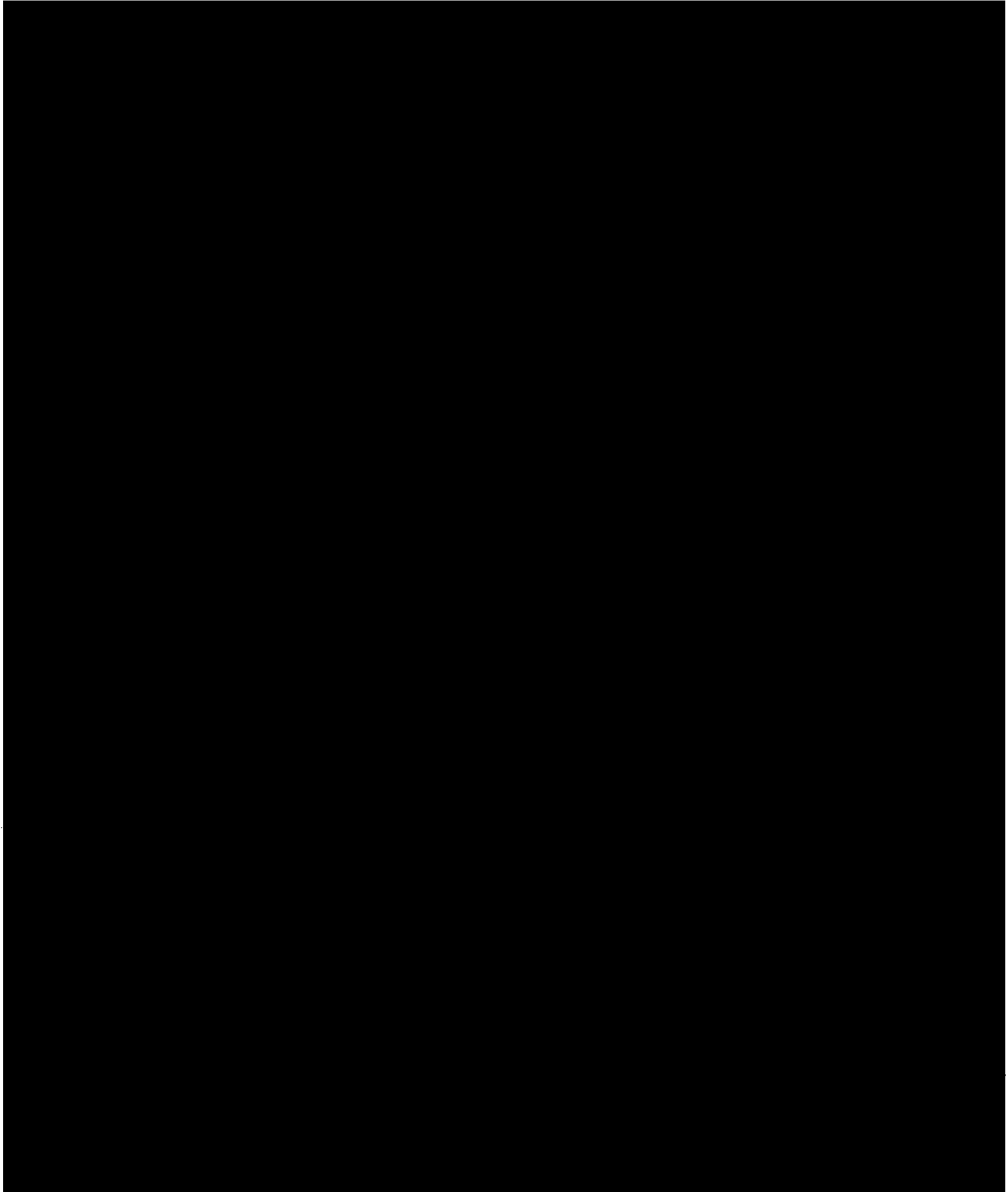
¹⁴ Guidance on how to proceed with the adjudication will be provided to senior-level officials in writing by HQ senior leadership.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

Additional Guidance on Issues Concerning the Vetting and Adjudication of Cases Involving National Security Concerns

Page 5



FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

Additional Guidance on Issues Concerning the Vetting and Adjudication of Cases Involving National Security Concerns

Page 6

V. Elevation of Cases Involving Non-KST NS Concerns

Any denial, referral, or Notice of Intent to Deny (NOID) an application or petition with NS concerns must be based on statutory or regulatory grounds of ineligibility that can be cited in a decision.¹⁸ If upon the completion of all required vetting and deconfliction, an applicant or petitioner with an unresolved Non-KST NS concern appears to be otherwise eligible for the benefit sought, the officer may:

1. Recommend approval of the application or petition and must elevate this recommended approval to the senior-level official¹⁹ for consideration/concurrence; or
2. Recommend further review of the application or petition and must elevate this recommendation to the senior-level official.

If the senior-level official concurs with the recommendation to approve the pending application or petition, and adjudication of the case has not been ordered withheld in accordance with 8 CFR 103.2(b)(18), the senior-level official must sign and date the BCAA (generated by FDNS-DS)²⁰ and the officer must update FDNS-DS ('activities' tab) to reflect the concurrence. These cases must be updated in FDNS-DS to reflect a case status of 'Closed' and sub-status of 'NS concern Not Resolved.'

Supervisors must verify that the above was completed, documented in the physical file, and properly updated within FDNS-DS prior to final adjudication.

In the case where the officer recommends further review and the senior-level official determines that the application should be approved, the senior-level official will return the application to the officer for adjudication consistent with the official's guidance.

In the case where the senior-level official does not concur with the officer's recommendation to approve the pending application or petition, or would like assistance from HQFDNS, the senior-level official may submit a formal Request for Assistance (to include Vetting Assistance or Adjudicative Assistance, as desired) to HQFDNS. If, upon the completion of additional vetting by HQFDNS the subject remains eligible for the benefit sought, the senior-level official may:

1. Provide final concurrence to the officer for approval; or

¹⁸ **NOTE:** Where a basis for denial of an NS case has been identified, but the officer has concerns about its strength or concerns regarding whether it is appropriate to issue a denial under the circumstances of the case, officers are strongly encouraged to seek supervisory and/or legal review of the proposed denial before issuing a final decision. Upon review of a case involving a Non-KST NS concern, the senior-level official may determine that the denial should be issued, the case should be approved, or the case should be elevated to the HQ program office with jurisdiction over the case for additional guidance.

¹⁹ The term "senior-level official" refers to local management for domestic Field Offices and Service Centers and HQ components within the Refugee, Asylum, and International Operations Directorate.

²⁰ The officer may annotate the BCAA to indicate that senior level approval was received and attach a copy of the written directive from the senior-level official.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

Additional Guidance on Issues Concerning the Vetting and Adjudication of Cases Involving National Security Concerns

Page 7

2. Request written direction on how to proceed with the adjudication from the HQ program office with jurisdiction over the case.



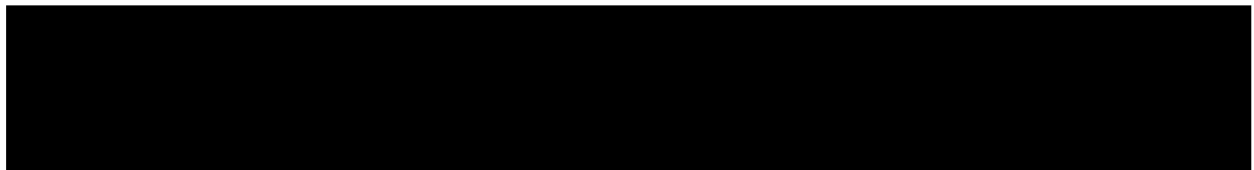
VI. Additional Deconfliction Guidance

Federal Bureau of Investigation (FBI) - Law Enforcement Agency (LEA) or Intelligence Community Member (IC)

The CARRP Operational Guidance for Domestic Operations listed the FBI as both an LEA and a member of the IC, and indicated that officers in the field were not permitted to contact members of the IC for vetting or deconfliction. This created confusion as to whether officers in the field were permitted to contact the FBI in connection with carrying out their responsibilities under CARRP. Officers in the field are permitted to contact the FBI record owner in order to vet and deconflict cases with Non-KST NS concerns, unless otherwise specified in the Operational Guidance. Officers are reminded that they are not permitted to perform external vetting for KST hits. However, they must perform deconfliction with KST record owners (including the FBI) prior to taking any adjudicative action.

Withholding of Adjudication

As part of the deconfliction process, officers are required to contact the LEA/record owner to advise the owner of contemplated adjudicative actions and determine if the LEA/record owner has an open investigation on the subject. The purpose of this deconfliction is to ensure that USCIS's adjudicative action will not interfere with an open investigation. In performing deconfliction, officers should make an effort to explain the scope and nature of the immigration benefit sought by the subject from USCIS. Officers should also present the LEA/record owner with the opportunity to formally request that the application be held in abeyance in accordance with 8 CFR 103.2(b)(18). Any requests for abeyance must be made to the District Director²¹ in writing on agency letterhead (can be received via fax or email attachment), reviewed by the local Office of Chief Counsel (OCC), and recorded in FDNS-DS.

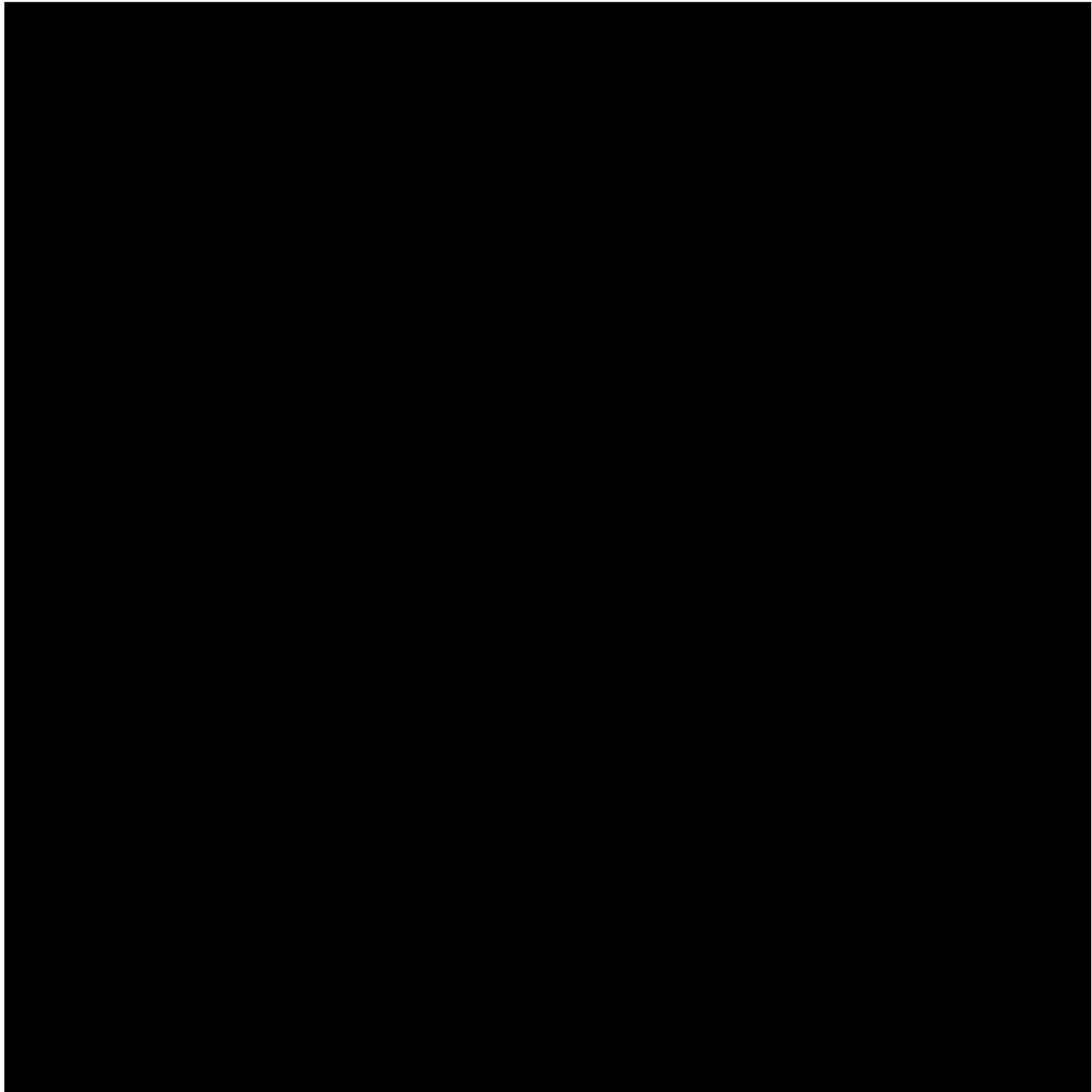


²¹ For purposes of exercising the authority provided under 8 CFR 103.2(b)(18) to hold a case in abeyance, the term "District Director" means District Director, Service Center Director, and any equivalent Director within the Refugee, Asylum, and International Operations Directorate. See 8 CFR 1.1(o).

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

Additional Guidance on Issues Concerning the Vetting and Adjudication of Cases Involving National Security Concerns

Page 8



Handling Cases where there is No TECS/IBIS Record or Identified Record Owner

There may be cases where a Non-KST NS concern is identified during an interview or other interaction with the applicant or petitioner. In the absence of TECS records, IBIS information, or other indication of a record, an evaluation of the NS concern must be made based on information obtained from the applicant, deconfliction with external sources, and public information.²² Per

²² Officers may request assistance from HQFDNS at the completion of internal vetting and eligibility assessment.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

Additional Guidance on Issues Concerning the Vetting and Adjudication of Cases Involving National Security Concerns

Page 9

the CARRP Memo, external vetting is not required if there is no identified record owner.²³ Where an applicant or petitioner is denied a benefit based on the Non-KST NS concern identified through interactions with the subject or by other means, the officer must enter a record into TECS/IBIS for future reference by law enforcement.

VII. Additional Ancillary Benefit Adjudication Guidance

Field offices may approve ancillary benefit applications²⁴ with both KST and Non-KST NS concerns after 60 days²⁵ if vetting is not complete. The purpose of the 60-day evaluation period is to enable the officer to verify the individual's identity and to make an initial determination as to whether rescission and or removal proceedings may be appropriate. Officers are reminded that 8 C.F.R. 274a.13(d) requires that I-765 applications be adjudicated within 90 days of receipt unless an interim Employment Authorization Document (EAD) is issued or an exception applies. This guidance does not apply to I-765 applications for initial EADs under 8 C.F.R. 274a.12(c)(8) and 208.7 based on an underlying asylum application that has been pending for at least 150 days at the time of filing. In such cases USCIS must adjudicate the I-765 within 30 days of receipt.

When an ancillary benefit with an unresolved NS concern is approved and there is no other pending application or petition, FDNS-DS must be updated to reflect 'Closed' and the sub-status to reflect 'NS concern Not Resolved.'

VIII. Conclusion

This memorandum is provided as guidance to officers for the handling of cases involving national security concerns. If officers have further questions regarding policy and procedures related to these cases, such questions should be raised through the officers' chain of command. If the chain of command is unable to provide further guidance, supervisory officers may send a Request for Assistance for policy or procedure guidance to the FDNS-NSB mailbox, according to current procedures.

²³ Scharfen, Jonathan R., *Policy for Vetting and Adjudicating Cases with National Security Concerns*, Memorandum for Field Leadership, April 11, 2008. Section IV, Part C reads: "in a case with a Non-KST NS Concern, the officer must initiate the external vetting process before the case may proceed to final adjudication if... there is an identified record owner in possession of NS information..." Programs may require external vetting in some circumstances as identified in Operational Guidance.

²⁴ Form I-765, Application for Employment Authorization and Form I-131, Application for Travel Document.

²⁵ Future agency policy may have an effect on the currently required 60-day evaluation period for Form I-90, Application to Replace Permanent Resident Card.

FOR OFFICIAL USE ONLY (FOUO) - LAW ENFORCEMENT SENSITIVE

Attachment D

FOR OFFICIAL USE ONLY (FOUO)
LAW ENFORCEMENT SENSITIVEU.S. Citizenship
and Immigration
Services

JUN - 5 2009

HQ 70/43

Memorandum

TO: Field Leadership
FROM: *for* Donald Neufeld
Acting Associate Director, Domestic Operations

SUBJECT: Clarification and Delineation of Vetting and Adjudication Responsibilities for Controlled Application Review and Resolution Program (CARRP) Cases in Domestic Field Offices

I. Purpose

The purpose of this memorandum is to provide guidance to define the vetting and adjudication responsibilities for Controlled Application Review and Resolution Program (CARRP) cases in the domestic Field Offices. It outlines the distinctions between the duties and responsibilities of Fraud Detection and National Security – Immigration Officer (FDNS-IO) and CARRP-trained Immigration Services Officer (CARRP-ISO). It also explains the roles of Supervisory Immigration Services Officer (SISO) and FDNS-Supervisory Immigration Officer (FDNS-SIO) at each field office.

II. Background

On April 11, 2008, USCIS released the memorandum, *Policy for Vetting and Adjudicating Cases with National Security Concerns* (CARRP memo). This memo instituted the CARRP process, a disciplined approach for identifying, recording, and adjudicating applications and petitions where a National Security (NS) concern is identified. CARRP involves four unique, but overlapping, processing steps. These include:

1. Identifying a NS Concern
2. Assessing Eligibility in Cases with a NS Concern, consisting of:
 - i. Eligibility Assessment
 - ii. Internal Vetting
3. External Vetting
4. CARRP Adjudication

Moreover, CARRP decentralized the process of vetting and adjudicating cases with NS concerns. Prior to CARRP, all such cases were handled at the Headquarters Office of Fraud Detection and National Security (HQFDNS). With the release of CARRP, responsibility for vetting and

FOR OFFICIAL USE ONLY (FOUO)
LAW ENFORCEMENT SENSITIVE

FOR OFFICIAL USE ONLY (FOUO)
LAW ENFORCEMENT SENSITIVE

2

Clarification and delineation of vetting and adjudication responsibilities for CARRP cases in Domestic Field Offices.

adjudicating most cases with NS concerns was placed with Field Offices, allowing USCIS to leverage field resources and experienced officers for handling these difficult cases.

After the release of the CARRP memo, Domestic Operations (DomOps), Refugee Affairs Division, International Operations, and the Asylum Division issued separate, but coordinated, Operational Guidance for the implementation of CARRP within their programs. The following guidance is provided to help define the vetting and adjudication responsibilities for CARRP cases in the Domestic Operations Field Offices.

III. Policy Guidance

The current *Operational Guidance for Vetting and Adjudicating Cases with National Security Concerns (Operational Guidance)*, issued by Domestic Operations, provides general guidelines for the processing of cases with National Security (NS) concerns under CARRP, stating the various steps of the process will be completed by a “designated officer”

While the *Operational Guidance* states that a “designated officer” may be “an Immigration Analyst, Immigration Officer, Adjudications Officer, Asylum Officer or Refugee Officer,” the Office of Field Operations (OFO) is issuing this memorandum in order to establish the assignment of specific CARRP duties and responsibilities to the FDNS-IOs and the CARRP-ISOs who perform CARRP adjudications within each Field and District Office or on temporary duty at a Field or District Office. Per the *Operational Guidance*, a Field Office Director (FOD) will designate a specific Immigration Services Officer(s) to be trained in both CARRP procedures and the use of the Fraud Detection and National Security Data System (FDNS-DS).

In addition, the memorandum entitled, *Actions to be Taken to Standardize CARRP File Identification and the Movement of CARRP Cases Between the Components of USCIS*, dated March 26, 2009, authorizes the FOD to also designate one or more SISOs in each Field Office to perform some or all of the duties described herein for a SISO if he or she chooses. The SISO will play a central role in managing the CARRP process by coordinating the movement of CARRP files, assigning CARRP cases to a CARRP-ISO for adjudication, and providing supervisory concurrence for final adjudication of CARRP cases. Additionally, the FOD will outline local procedures regarding supervision, coordination and actions of the FDNS-IO and CARRP-ISO when there is no FDNS-Supervisory Immigration Officer (FDNS-SIO) located in the Field Office.

Clarification of Duties and Responsibilities within the CARRP Process:

As mentioned earlier, The *Operational Guidance* breaks down the CARRP process into four steps.

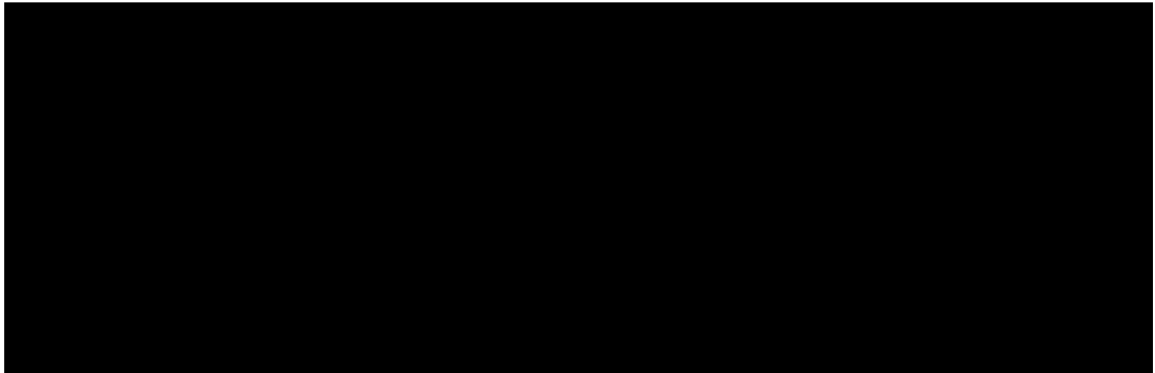
1. Identifying a NS Concern – Step 1 of CARRP Process:FOR OFFICIAL USE ONLY (FOUO)
LAW ENFORCEMENT SENSITIVE

FOR OFFICIAL USE ONLY (FOUO)
LAW ENFORCEMENT SENSITIVE

3

Clarification and delineation of vetting and adjudication responsibilities for CARRP cases in Domestic Field Offices.

As noted in section III of the *Operational Guidance*, indicators of a NS concern may be identified at any time during the adjudicative processing of an application or petition. When such an indicator is noted for a case within a Field Office, the FDNS-IO is responsible for completing the identification of the NS concern. To do this, the FDNS-IO does the following:



More detailed guidelines on completing the identification of a NS concern are available in the *Operational Guidance*, section III.

In many instances, CARRP cases received in a Field Office will have gone through Step One of the *Operational Guidance*, “Identifying a NS Concern” at either a Service Center or the National Benefits Center (NBC). In such cases, the SISO overseeing the CARRP process in each Field Office will coordinate with the FDNS-SIO, if available, or follow local procedures to have the case assigned to the appropriate FDNS-IO for Step Two of the *Operational Guidance*, “Assessing Eligibility in Cases with a NS Concern.” The SISO will also assign a CARRP-ISO to adjudicate the application or petition in each CARRP case.

2. Assessing Eligibility in Cases with a NS Concern – Step 2 of CARRP Process:

Step 2 of the *Operational Guidance* includes both an *eligibility assessment* and *internal vetting* of the CARRP case. The purpose of Step 2 is two-fold: First, it is at this point in the CARRP process where both the FDNS-IO and the CARRP-ISO are required to thoroughly review the case file. The FDNS-IO completes required systems checks and internal vetting, and the CARRP-ISO completes an eligibility assessment of the CARRP case to determine whether any statutory or regulatory ineligibility exist. Second, specific questions and issues are compiled by both the FDNS-IO and the CARRP-ISO for discussion with the Record Owner of the NS hit so that the critical decisions, such as when an interview should be scheduled, can be made regarding adjudicating the application or petition.

The FOD in each Field Office will decide on the workflow of the CARRP case for this step of the CARRP process. More detail about the features of the elements of step two are described below:

FOR OFFICIAL USE ONLY (FOUO)
LAW ENFORCEMENT SENSITIVE

FOR OFFICIAL USE ONLY (FOUO)
LAW ENFORCEMENT SENSITIVE

4

Clarification and delineation of vetting and adjudication responsibilities for CARRP cases in Domestic Field Offices.

a. The Eligibility Assessment

The 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 deconfliction. *Any denial* at this stage in the CARRP process shall be issued *only* after proper deconfliction, completion of required systems checks and supervisory concurrence. No denial shall be issued at this stage in the CARRP process based solely on discretionary grounds. See Section IV, "Assessing Eligibility in Cases with a NS Concern – Step 2 of CARRP Process" of the *Operational Guidance*. **The CARRP-ISO is responsible for documenting their actions related to the adjudication process in FDNS-DS at all stages of the adjudications process.**

b. Internal Vetting

The FDNS-IO is responsible for conducting the internal vetting of a CARRP case. This includes a complete review of the file to obtain any relevant information to support the adjudication, to perform the required systems checks, ensuring all systems checks are current, and, in some cases, to further examine 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 a NS Concern – Step 2 of CARRP Process" of the *Operational Guidance*. **The FDNS-IO is responsible for documenting his or her actions in FDNS-DS throughout the CARRP process.**

As in the Eligibility Assessment part of this step, *any denial* at this stage in the CARRP process shall be issued *only* after proper deconfliction, completion of required systems checks and supervisory concurrence. No denial shall be issued at this stage in the CARRP process based solely on discretionary grounds. See Section IV, "Assessing Eligibility in Cases with a NS Concern – Step 2 of CARRP Process" of the *Operational Guidance*.

Performance of the eligibility assessment, internal vetting and deconfliction processes must be closely coordinated between the CARRP-ISO and the FDNS-IO. The FOD or SISO must ensure that there is efficient communication between CARRP-ISOs and FDNS-IOs so that mistakes are not made.

c. Deconfliction

As the Field Office's primary point of contact and liaison with Law Enforcement Agencies (LEA), the FDNS-IO is responsible for deconfliction with the Record Owner

FOR OFFICIAL USE ONLY (FOUO)
LAW ENFORCEMENT SENSITIVE

FOR OFFICIAL USE ONLY (FOUO)
LAW ENFORCEMENT SENSITIVE

5

Clarification and delineation of vetting and adjudication responsibilities for CARRP cases in Domestic Field Offices.

for all CARRP cases. FDNS-IOs are reminded that deconfliction may be necessary at any stage of the CARRP process and that deconfliction may need to be completed more than once before the final adjudication of a CARRP case. Again, this emphasizes the need for the FDNS-IO to maintain efficient communication with the appropriate CARRP-ISO and the SISO.

When contacting an LEA, it is also important for FDNS-IOs to remember that they must be careful to observe all security and special handling precautions in accordance with DHS and originating Record Owner requirements. Maintaining good security protocols promotes close and productive relationships with USCIS' law enforcement partners.

As per the *Operational Guidance*, the FDNS-IO may ask the Record Owner whether their agency has additional information (other than NS related information) that would affect the eligibility for the benefit sought. The FDNS-IO may also seek to resolve any other relevant concerns (i.e., criminal, public safety, fraud) identified through the security check process or review of the file. The FDNS-IO should explain the benefit sought to the Record Owner and bring up any questions or issues requested by the CARRP-ISO during the eligibility assessment in order to gain as much information as possible for the adjudication of the case. When possible, the FDNS-IO should include the CARRP-ISO when contacting the Record Owner for deconfliction.

Complete instructions for deconfliction are in Section IV, part C, "Deconfliction" of the *Operational Guidance*.

d. Documenting Eligibility Assessment and Internal Vetting

The results of the eligibility assessment, internal vetting and deconfliction must be fully documented in FDNS-DS. A copy of the Background Check and Adjudicative Assessment (BCAA) Report should then be printed from FDNS-DS and placed in the A-File.

Both the FDNS-IO and the CARRP-ISO are responsible for entering their activities, documentation, etc. into the FDNS-DS system throughout the CARRP process. USCIS policy requires that each action taken while working on a CARRP case is immediately entered into FDNS-DS and that each process phase be immediately updated as it is completed in order to ensure accurate reporting for each NS case. Field Offices may have varying local procedures to ensure FDNS-DS is fully up-to-date at the end of each and every stage of the CARRP process. Such procedures are permissible provided that all information pertaining to each CARRP case is entered into FDNS-DS at the appropriate time as dictated by FDNS-DS User Guidelines. (See the FDNS web site on the USCIS intranet).

e. Individual Deemed Eligible for the Benefit

FOR OFFICIAL USE ONLY (FOUO)
LAW ENFORCEMENT SENSITIVE

FOR OFFICIAL USE ONLY (FOUO)
LAW ENFORCEMENT SENSITIVE

6

Clarification and delineation of vetting and adjudication responsibilities for CARRP cases in Domestic Field Offices.

Per the *Operational Guidance*, when a 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”, which includes ancillary benefits, I-90s, Santillan cases, motions, appeals, exemptions and dealing with classified information.

3. External Vetting – Step 3 of CARRP Process:

a. KST NS Concerns

Pursuant to current CARRP guidance, FDNS-IOs in the Field are not authorized to conduct external vetting with a Record Owner in possession of NS information where NS concerns indicate the subject is a KST. FDNS-IOs are authorized to conduct internal vetting of KST cases, as designated earlier in this memo, while CARRP-ISOs are authorized to conduct an initial eligibility assessment of KST cases. HQFDNS has sole responsibility for external vetting of KST NS concerns and conducts external vetting only as a last resort when the NS Concern remains and ineligibility grounds have not been identified.

If, following internal vetting and an initial eligibility assessment, the applicant or petitioner is found to be otherwise eligible, either the FDNS-IO or the CARRP-ISO must proceed as follows:

- The CARRP-ISO must complete the initial eligibility assessment and update FDNS-DS accordingly;
- The FDNS-IO must complete all internal vetting and deconfliction and update FDNS-DS accordingly; and
- Per local procedure established by the FOD, either the SISO in charge of CARRP or the FDNS-SIO, must verify that the internal vetting and deconfliction was completed, documented in the physical file by including a copy of the BCAA report (printed from FDNS-DS), and all actions are properly updated within FDNS-DS. Supervisory concurrence must be indicated in FDNS-DS.

Per the *Operational Guidance* “local management” (either the FOD or the District Director (DD) which is to be determined in each Field Office) must review the case to confirm that no grounds of ineligibility have been identified. Local management (FOD and/or DD as per local policy) concurrence must be indicated in FDNS-DS.

Per local office procedures, the FOD or designated supervisor (“Designated supervisor” may be an SISO or FDNS-SIO, depending on local staffing), in charge of CARRP will designate which officer, the FDNS-IO or the CARRP-ISO, must complete a Request for Assistance (RFA) to HQFDNS as noted in Section II.B of the *Operational Guidance*.

FOR OFFICIAL USE ONLY (FOUO)
LAW ENFORCEMENT SENSITIVE

FOR OFFICIAL USE ONLY (FOUO)
LAW ENFORCEMENT SENSITIVE

7

Clarification and delineation of vetting and adjudication responsibilities for CARRP cases in Domestic Field Offices.

Also per local office procedures, the FOD or SISO will designate which personnel will charge the file to COW FD0004 in NFTS and forward the physical file to HQFDNS, attention Milagros Castillo, Staff Assistant. FDNS-IOs and CARRP-ISOs are reminded that they may request both vetting and adjudicative assistance from HQFDNS, and should do so in cases involving KSTs or cases in litigation.

b. Non-KST NS Concerns

The FDNS-IO in each Field Office is responsible for conducting external vetting of Non-KST cases. Complete instructions for Section V, “External Vetting – Step 3 of CARRP Process” are available in the *Operational Guidance*.

The FDNS-IO must seek any additional information that may be relevant to a determination of eligibility. This may include information concerning indicators of fraud, foreign travel and information about employment or family relationships that would otherwise not rise to the threshold necessary for criminal prosecution. It is vital for the FDNS-IO to clearly document any facts or fact patterns found during the external vetting process for use by the CARRP-ISO in the final adjudication of the case.

As stated earlier, the FDNS-IO is the primary point of contact and liaison for external vetting of Non-KST CARRP cases with any LEA, Record Owner and relevant agency. Complete instructions for Section V, “External Vetting – Step 3 of CARRP Process” are available in the *Operational Guidance*.

Throughout the CARRP process, FDNS-IOs must conduct deconfliction as necessary. This is done to ensure that planned adjudicative activities (e.g., interview, request for evidence, site visit, decision to grant or deny a benefit, or timing of the decision) do not compromise or impede an ongoing investigation or other Record Owner interest. This requires close coordination with the CARRP-ISO regarding any interview that may be necessary or required to complete the adjudicative process.

It is vital for the FDNS-IO to fully document all activities and their results connected with external vetting in FDNS-DS. This documentation must be completed before the case moves forward in the CARRP process.

The FDNS-IO must also ensure deconfliction is complete and documented properly in FDNS-DS before any CARRP case goes forward for adjudication.

4. CARRP Adjudication – Step 4 of CARRP Process:

CARRP-ISOs are responsible for the adjudication of CARRP cases assigned to them by the SISO in charge of CARRP, or the FOD, in each Field Office. The CARRP-ISO must check

FOR OFFICIAL USE ONLY (FOUO)
LAW ENFORCEMENT SENSITIVE

FOR OFFICIAL USE ONLY (FOUO)
LAW ENFORCEMENT SENSITIVE

8

Clarification and delineation of vetting and adjudication responsibilities for CARRP cases in Domestic Field Offices.

FDNS-DS to ensure deconfliction is complete before adjudicating any CARRP case. If the deconfliction does not appear in the FDNS-DS record, the CARRP-ISO shall inform the SISO responsible for CARRP cases. The SISO must then contact the FDNS-SIO, if one is located in the Field Office, to direct the FDNS-IO to either complete the required deconfliction and document this action in FDNS-DS or, if deconfliction has been completed, direct the FDNS-IO to complete the documentation of the deconfliction in FDNS-DS. If a Field Office does not have an FDNS-SIO, the SISO must follow local procedures to contact an FDNS-IO to complete and/or document the required deconfliction in FDNS-DS.

a. Adjudicating Applications with KST NS Concerns

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

1. HQFDNS has determined that the information obtained during external vetting is sufficient to support a denial of the pending application or petition; or
2. HQ senior leadership and the USCIS Deputy Director recommend approval of the application or petition. Following this recommendation, the HQ program office with jurisdiction over the case, in coordination with HQFDNS and Office of Chief Counsel, will issue written direction to the field on how to proceed with adjudication.

b. Adjudicating Applications or Petitions with Non-KST NS Concerns

The CARRP-ISO must obtain supervisory approval and concurrence from the FOD in order to approve any application or petition that grants a benefit to an individual with remaining Non-KST NS concerns. Once the FOD concurs that the individual is otherwise eligible for the benefit, the FOD may use his or her discretion to have the CARRP-ISO grant the benefit or the FOD may designate either the FDNS-IO or the CARRP-ISO to request further assistance from HQFDNS/ASU (Adjudication Support Unit). (See Section VI, "Requesting Vetting Assistance from HQFDNS" in the *Operational Guidance*.) If, after consultation with the respective HQ component, the FOD decides to grant the benefit, the FOD, or FOD's designee, must document all adjudicative actions in FDNS-DS, and print out the BCAA report for inclusion in the case file.

REMEMBER: Both FDNS-IOs and CARRP-ISOs have distinct duties to perform in the processing of CARRP cases; however, close cooperation and coordination of effort between Officers is necessary in order to bring each case to completion.

Field Office personnel are reminded to follow the guidelines for confidentiality, Privacy Act requirements (e.g., DHS Handbook for Safeguarding Sensitive Personally Identifiable Information) and handling sensitive but unclassified (For Official Use Only – FOUO)

FOR OFFICIAL USE ONLY (FOUO)
LAW ENFORCEMENT SENSITIVE

FOR OFFICIAL USE ONLY (FOUO)
LAW ENFORCEMENT SENSITIVE

9

Clarification and delineation of vetting and adjudication responsibilities for CARRP cases in Domestic Field Offices.

information while working on all CARRP cases. Specific guidelines may be found in Sections C & D, pages 7 & 8 of the *Operational Guidance*.

In addition, Field Office personnel are reminded to adhere to all security-related policies related to protecting FOUO and classified information. Specific guidelines regarding the provisions of Executive Order are found in the *Operational Guidance*. Information regarding the specific regulations governing the protection of FOUO and Executive Order 12958, as amended, Classified National Security Information, is available at the intranet site of the USCIS Office of Security and Investigations.

IV. Contact Information

Questions regarding this memorandum may be directed through official channels to HQ, Office of Field Operations.

Distribution List:

Regional Directors
District Directors
Service Center Directors
Field Office Directors
National Benefits Center Director

FOR OFFICIAL USE ONLY (FOUO)
LAW ENFORCEMENT SENSITIVE

Attachment E



U.S. Citizenship
and Immigration
Services

Supplemental Guidance:

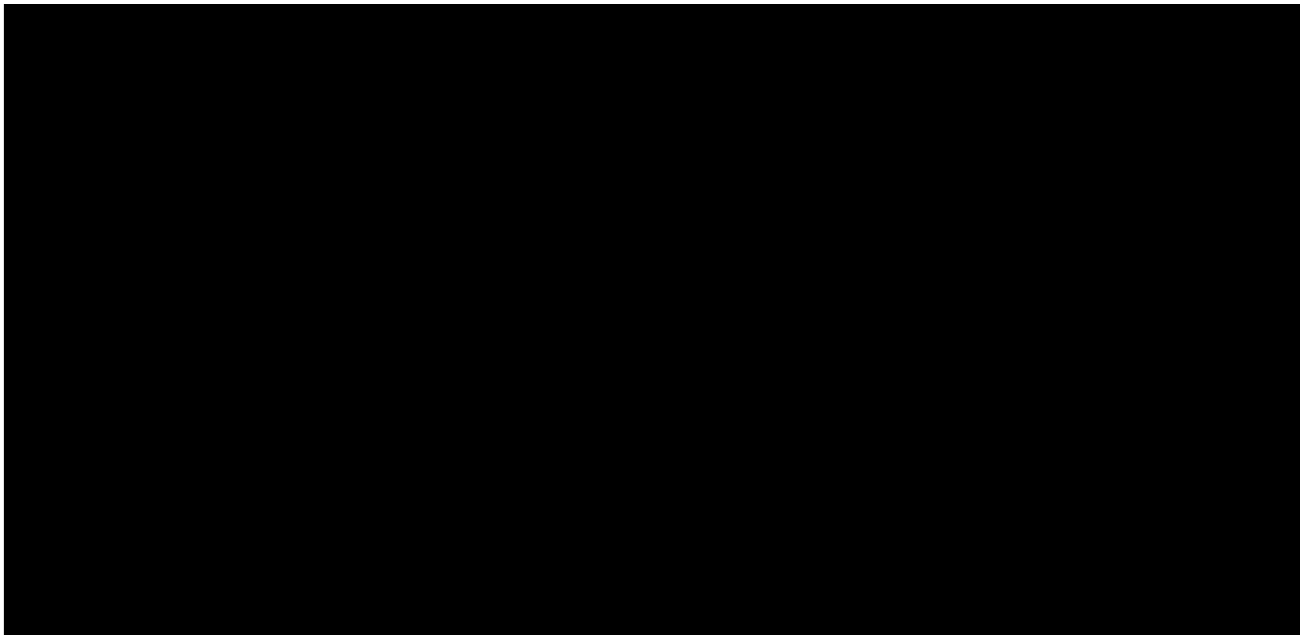
Revision of Responsibilities for CARRP Cases Involving Known or Suspected Terrorists

A. KST Hits

HQFDNS has issued a policy memo directing that external vetting for KSTs should now be done by local Field Offices and Service Centers. These questions and answers serve as supplemental guidance to clarify the requirements of the new CARRP policy, and answer questions raised during the drafting phase of the policy.

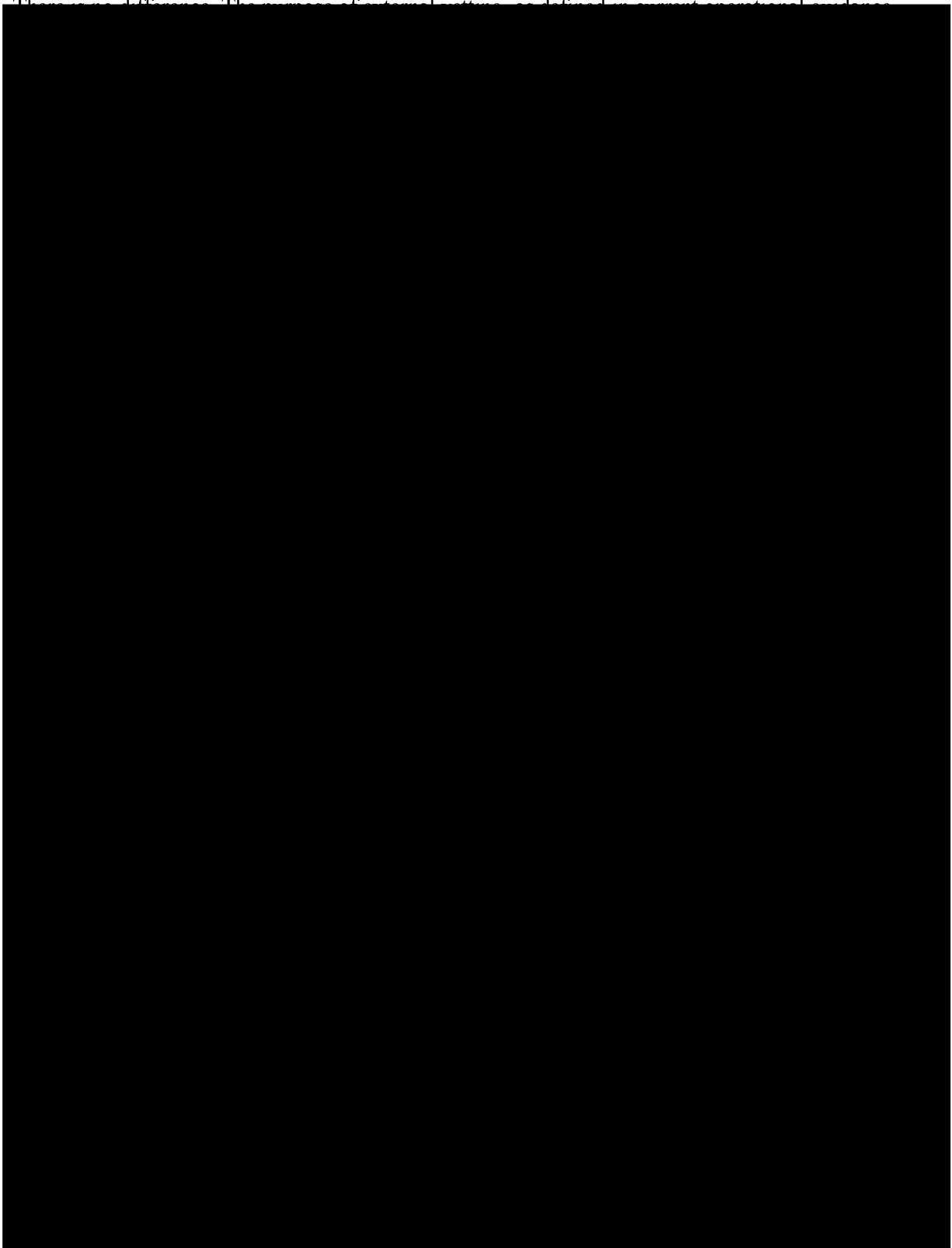
CARRP procedures and requirements outlined in existing policy and operational guidance (provided by various HQ directorates) remain the same, other than those specified in the attached policy memorandum. Also, this revised policy does not replace existing protocols, work flow process and procedures, or delineated roles and responsibilities of USCIS officers currently processing CARRP cases.

1. Who will conduct external vetting of KST cases?



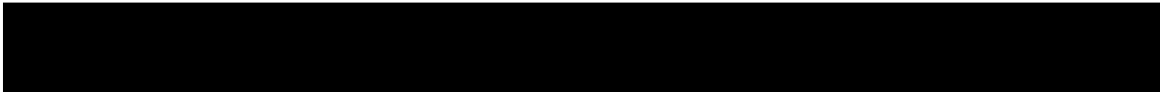
3. What is the difference between KST and Non-KST external vetting?

There is no difference. The purpose of external vetting is to find in current operations evidence

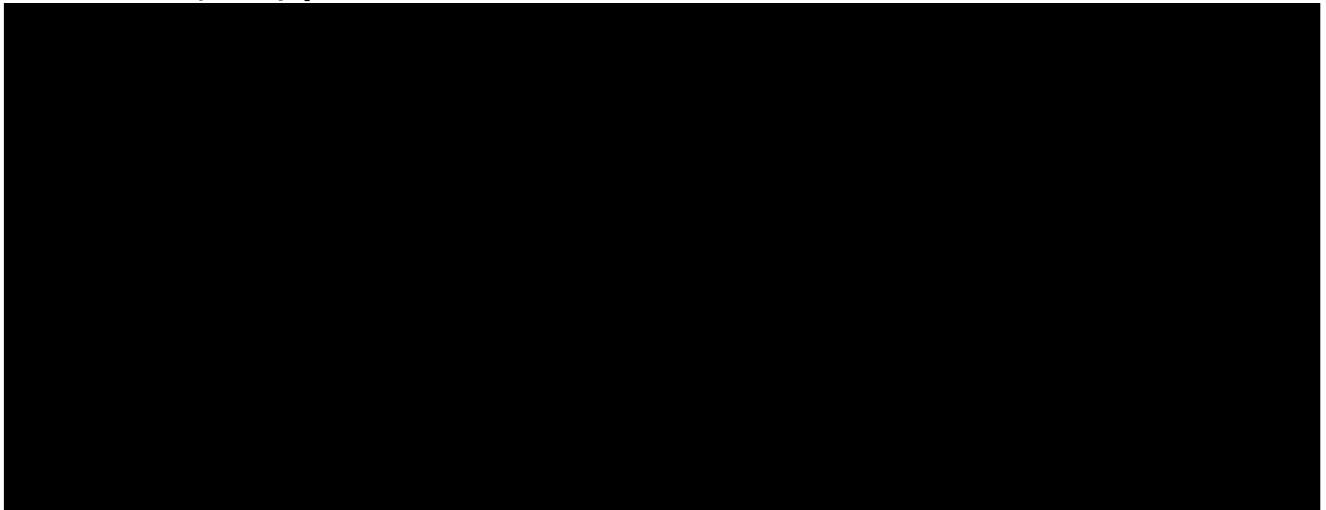




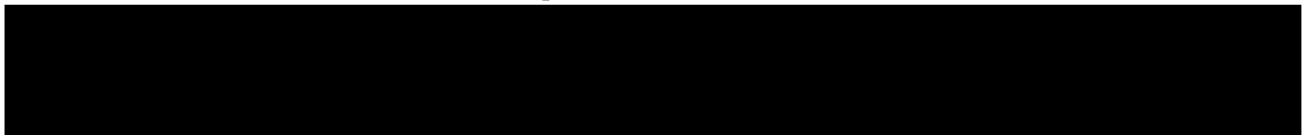
7. How should the KST cases be elevated to respective HQ directorate?



8. What will happen to the existing Request for Assistance (RFA) process?



9. Can the field contact the record owner who is a member of the Intelligence Committee?



¹ These KSTs are generally nominated by certain members of Intelligence Community for which a POC is not available.

Attachment F



1201 Third Avenue
Suite 4900
Seattle, WA 98101-3099

T +1.206.359.8000
F +1.206.359.9000
PerkinsCoie.com

September 20, 2017

VIA OVERNIGHT MAIL

Aaron R. Petty, IL 6293553
US Department of Justice
Office of Immigration Litigation
219 S. Dearborn St., 5th Floor
Chicago, IL 60604
Aaron.R.Petty@usdoj.gov

Laura Kaplan Hennessey
LHennessey@perkinscoie.com
D. +1.206.359.3592
F. +1.206.359.4592

Edward S. White
Joseph F. Carilli, Jr.
District Court Section
Civil Division – Office of Immigration
Litigation
U.S. Department of Justice
450 Fifth Street, N.W.
Washington, DC 20530
Edward.s.white@usdoj.gov
joseph.f.carilli2@usdoj.gov

RECEIVED
DISTRICT COURT
2017 SEP 22 A 11:37
OFFICE OF
IMMIGRATION LITIGATION

**Re: *Wagafe et al. v. Donald Trump et al.* (USDC No. 17-cv-00094-RAJ)
Document Production (Plaintiffs-FOIA 001)**

Dear Counsel:

We have arranged to send via overnight mail a production disk to each of your offices containing copies of documents Plaintiffs obtained from the United States Citizenship and Immigration Services via FOIA request. We have bates numbered these documents: Plaintiffs-FOIA 000001 - Plaintiffs-FOIA 003636. The disk is password-protected. I have separately sent the password via email with instructions for accessing these files.

Please contact me should you have any questions.

Very truly yours,

Laura Hennessey

Enclosure

Wagafe et al. v. Donald Trump et al.

September 20, 2017

Page 2

cc: Jennie Pasquarella
Sameer Ahmed
Nicholas P. Gellert
David Perez