

AUDIT REPORT



IMMIGRATION AND NATURALIZATION SERVICE'S PREMIUM PROCESSING PROGRAM

FEBRUARY 2003

03-14

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EXECUTIVE SUMMARY

The Office of the Inspector General, Audit Division, has completed an audit of the Immigration and Naturalization Service's (INS) Premium Processing program. The Premium Processing program was established in June 2001 to allow for the payment of a service fee for expedited processing of certain employment-based applications. The INS guarantees processing of premium petitions within 15 calendar days for the basic application fee (\$130) and an additional service fee of \$1,000. According to the regulation that established the Premium Processing program and INS's internal budget documents, the INS will use Premium Processing revenue to hire additional adjudicators, contact representatives, and support personnel to provide service to all its customers and to improve the infrastructure so as to reduce backlogs for all types of petitions and applications. Currently, only the Form I-129, Petition for Non-Immigrant Worker, is eligible for the Premium Processing program.

The audit focused on determining if: (1) the INS was achieving the program goals for the expedited processing of employment-based petitions and applications; (2) the processing times for similar routine petitions and applications changed significantly after the implementation of the Premium Processing program; and (3) the implementation of the mandated Interagency Border Inspection System (IBIS) check procedures impacted the Premium Processing service.¹

Our audit examined the Premium Processing program for the period from June 2001 through October 2002. We reviewed Premium Processing activities at the INS Headquarters in Washington D.C., and at the INS's four service centers: St. Albans, Vermont; Dallas, Texas; Laguna Niguel, California; and Lincoln, Nebraska.

I. Summary of Audit Findings

Although we found that the INS is essentially meeting its 15-day processing requirement for premium petitions, we identified the following deficiencies in the Premium Processing program:

¹ IBIS is a shared multi-agency database of lookout information on individuals.

- The Premium Processing program has adversely affected the time required to adjudicate routine applications and petitions. Consequently, more applicants are paying the \$1,000 Premium Processing fee to assure adjudication within 15 calendar days. The mandate to adjudicate premium applications within 15 days has contributed in part to the increased backlog of routine petitions at the service centers. The backlog has steadily increased since the second quarter of fiscal year (FY) 2002, reaching 3.2 million in September 2002. Thus, a program whose purpose was ultimately to reduce or eliminate adjudications backlogs may be having the unintended consequence of increasing at least some of those backlogs.
- The INS service centers failed to institute IBIS checks in a timely manner. The INS had mandated IBIS checks on all petitions on January 28, 2002, but, due to a breakdown in communications between INS Headquarters and the field, the service centers did not institute IBIS checks for all petitions until March 2002. As a result, 11,830 Premium Processing petitions were adjudicated without IBIS checks between January 28, 2002, and March 18, 2002. In the absence of IBIS checks, the INS cannot be certain that applications from high-risk individuals were not approved.
- Program analysis of Premium Processing has been weak. The INS maintains statistical databases to track all types of adjudications, staff, and supervisory hours, but Premium Processing is not separately identified in these databases or others used for supporting budget requests, position allocations, and general analysis. Consequently, the INS lacks reliable data about the Premium Processing workload and the resources it requires.
- To date, the INS has not conducted a formal analysis of the Premium Processing service fee or the unit processing cost. Premium Processing generated revenue of more than \$115 million in FY 2002. Yet, without program analyses, the INS cannot determine whether staff and resources are appropriately allocated to the service centers for adjudication of Premium Processing applications.

II. Background

Premium Processing applications are adjudicated in the INS service centers located in St. Albans, Vermont (VSC); Dallas, Texas (TSC); Laguna Niguel, California (CSC); and Lincoln, Nebraska (NSC). Currently, only the Form I-129, Petition for a Nonimmigrant Worker, is available for the

premium service. However, the program is expected to expand in 2003 to include the Form I-140, Immigrant Petition for Alien Worker. To date, the program has generated over \$136 million in revenue as shown in the table below.

**PREMIUM PROCESSING REVENUE BY SERVICE CENTER
(IN THOUSANDS OF DOLLARS)**

	VSC	TSC	CSC	NSC	All Centers
FY 2001	\$ 7,366	\$ 4,986	\$ 5,266	\$ 3,764	\$ 21,382
FY 2002	40,765	29,946	25,475	18,848	115,034
Program Total	\$48,131	\$34,932	\$30,741	\$22,612	\$136,416

Source: INS Information Services Division

An additional \$100 million in annual revenue is expected once the Form I-140 is eligible for Premium Processing.

III. Implementation of IBIS Checks

IBIS was established in 1989 to provide a shared multi-agency database of lookout information to improve border enforcement and facilitate inspection of individuals applying for admission to the United States at ports of entry and pre-inspection facilities. Twenty-seven agencies contribute data to IBIS, including the INS, the Federal Bureau of Investigation, the United States Customs Service, and the United States Departments of State and Agriculture.

The data entered into IBIS by the participating agencies include lookouts, wants, warrants, arrests, and convictions. IBIS contains lookouts for suspected or known terrorists and information on individuals who may pose a threat to national security.

Installation of IBIS hardware and software in the service centers was completed in August 2001, but the INS did not mandate IBIS checks until November 15, 2001. On that date the INS required IBIS checks for four categories of applications.² The mandate was expanded on January 28,

² The four applications included the: Form I-485, Application to Register Permanent Residence or to Adjust Status; Form I-90, Application to Replace Permanent Residence Card; Form I-821, Application for Temporary Protected Status; and Form I-765, Application for Employment Authorization.

2002, to include all INS petitions and applications. However, as discussed in Finding I of this report, the service centers did not institute IBIS checks on all petitions until March 18, 2002, due to a lapse in communication between INS Headquarters and the field. INS officials informed us that the service centers were unaware of the January mandate until being verbally informed of it in March 2002.

We determined that between January 28, 2002, and March 18, 2002, the INS service centers adjudicated 387,596 petitions, including 11,830 Premium Processing petitions, without performing IBIS checks. It is unknown how many of the 387,596 beneficiaries of those petitions may have posed a threat to national security.

IV. Management Oversight

The Premium Processing program has had inadequate oversight from management at both the national and service center levels. For example, workload data on Premium Processing have not been incorporated into the INS's work measurement systems. INS officials maintain that because Premium Processing is intended to be a temporary program that will phase itself out as backlogs diminish, it is unnecessary to include it in general statistical and program analyses. We disagree. With over \$136 million in receipts to date, Premium Processing is clearly in need of active managerial scrutiny.

Because Premium Processing is exceeding initial revenue projections of \$80 million per year, we consider a unit cost analysis important for determining whether staff and resources have been adequately allocated to the service centers. Similarly, a fee analysis should be conducted to examine the appropriateness of the \$1,000 premium.

V. Conclusion and Recommendations

Although the immediate goal of Premium Processing is to expedite premium petitions, the long-term objective is to reduce or eliminate backlogs in the INS's total adjudications workload. In our judgment, the INS must bring about greater efficiency in both the Premium Processing and the general adjudications programs to reach this objective. Accordingly, the INS must develop adequate information about the resources that Premium Processing requires.

In this report we make five recommendations of actions the INS can take to improve oversight of the Premium Processing program and ensure that individuals whose petitions have been approved do not fall within the

five high-risk categories established by the INS.³ In brief, we recommend that the INS:

- Strengthen internal communications to assure that service centers and district offices are aware of policy and/or procedural changes that will affect the adjudication of applications and petitions before those changes are implemented.
- Ensure that an appropriate portion of Premium Processing revenues is used to reduce the INS's adjudications backlog.
- Employ the INS's nationwide work measurement system to collect management information about the Premium Processing program.
- Conduct a formal study to determine the unit costs for processing premium cases and to assign adequate staff and other resources to meet the needs of the program.
- Conduct a formal analysis of the \$1,000 premium to ensure that revenues are allocated as required by law.

Our audit objectives, scope, and methodology appear in Appendix I. The details of our work are contained in the Findings and Recommendations section of this report.⁴

³ The five high-risk categories are suspected terrorist, potential threat to national security, active want or warrant, aggravated felon, or prior deportation.

⁴ As part of our audit process, we asked INS headquarters to furnish us with a signed management representation letter containing assurances that our staff were provided with all necessary documents and that no irregularities exist that we were not informed about. As of the date of issuance of this report, the INS has declined to sign the letter. Therefore, our findings are qualified to the extent that we may not have been provided with all relevant information by INS management.

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IMMIGRATION AND NATURALIZATION SERVICE PREMIUM PROCESSING PROGRAM

INTRODUCTION

The Immigration and Naturalization Service (INS) administers the nation's immigration laws, and has both enforcement and benefit service responsibilities. The two objectives identified by the INS for providing benefit services are to adjudicate all immigration cases promptly and impartially in accordance with due process and to provide timely and consistent services and achieve a substantial reduction in the benefits processing backlog. According to the regulation that established the Premium Processing program and INS internal budget documents, the purpose of the Premium Processing program is to allow the payment of a \$1,000 premium to assure expedited processing (within 15 calendar days) of certain employment-based visas,⁵ and to generate revenue that will be used for infrastructure improvements to reduce backlogs for all types of petitions and applications.

Background

The premium service was conceived in 1999 when increasing pressure from Congress and private industry, mainly technology firms, was placed on the INS to expedite the processing of employment-based applications. In its Fiscal Year (FY) 2000 Conference Report, Congress mandated that the INS process certain employment-based applications within 30 days. According to INS officials, such a mandate would have had detrimental effects on adjudication efforts for other applications. In response, the INS sought to develop a program that would provide businesses with the services they needed without compromising other adjudications. The INS began working with the Department of Justice, the Office of Management and Budget, and various private and non-profit organizations to develop a program that would allow businesses to pay a premium for expedited processing of certain petitions.

Legislative History

On December 21, 2000, the President signed an amendment to the Immigration and Nationality Act (Act), which added the following new subsection:

⁵ The premium processing program to date has been available only for the Form I-129, Petition for a Nonimmigrant Worker. A nonimmigrant worker is an alien who comes to the United States temporarily to perform services or labor.

The Attorney General is authorized to establish and collect a premium fee for employment-based petitions and applications. This fee shall be used to provide certain premium-processing services to business customers, and to make infrastructure improvements in the adjudications and customer service process. For approval of the benefit applied for, the petitioner/applicant must meet the legal criteria for such benefit. This fee shall be set at \$1,000, shall be paid in addition to any normal petition/application fee that may be applicable, and shall be deposited as offsetting collections in the Immigration Examinations Fee Account. The Attorney General may adjust this fee according to the Consumer Price Index.

The amendment did not explicitly define "Premium Processing"; therefore, the INS used its authority under Section 103(a) of the Act to establish the details of this new service, such as the processing timeframe and the Standard Operating Procedures.

The INS published an interim rule in the Federal Register, Volume 66, No. 106, on June 1, 2001, establishing Premium Processing for employment-based petitions and applications. The interim rule states that Premium Processing will enable the INS to expedite its services to those business customers who must sometimes recruit and hire foreign workers to fill jobs in short timeframes. The interim rule also states that the INS will use Premium Processing revenue to hire additional adjudicators, contact representatives, and support personnel to provide service to all its customers. The fee is also be used for infrastructure improvements.⁶

The INS designated Form I-129, Petition for a Nonimmigrant Worker, as the application form eligible for Premium Processing. The classifications within the Form I-129 eligible for the premium service as of June 1, 2001 were:

1. E-1, Treaty Trader;
2. E-2, Treaty Investor;

⁶ The INS's FY 2001 Immigration Examinations Fee Account budget states that backlog reduction will be achieved through systems and infrastructure improvements. In addition, \$55 million in Premium Processing revenue will be used for such purposes. The Immigration Services Division's FY 2001 budget for Business and Premium Enhancements states that the \$55 million in additional revenue not required to support adjudication and quality initiatives will be earmarked to fund backlog reduction efforts at service centers and district offices; complete the deployment of CLAIMS 4 for citizenship applications; and replace the older CLAIMS 3 adjudications system at the service centers.

3. H-2A, Agricultural Worker;⁷
4. H-2B, Temporary Worker;
5. H-3, Trainee;
6. L-1, Intra-company Transferee;
7. O-1 and O-2, Aliens of Extraordinary Ability or Achievement;
8. P-1, P-2, and P-3, Athletes and Entertainers; and
9. Q-1, International Cultural Exchange Aliens.

Additional classifications within the Form I-129 eligible for the premium service as of July 30, 2001 were:

10. H-1B, Temporary Worker with Specialty Occupation;
11. R-1, Temporary Worker in Religious Occupation; and
12. TN NAFTA Professional.

These designations (1, 2, and 4 through 12) will continue until the INS publishes a notice of amendment or termination.

The INS estimated that Premium Processing would generate \$25 million in revenue in fiscal year 2001 (due to a mid-year implementation date), and \$80 million in revenue in fiscal year 2002.

In addition to the Act and the interim rule, the following new requirements were added to 8 CFR Part 103:

A petitioner or applicant requesting Premium Processing Service shall submit Form I-907, Request for Premium Processing Service, with the appropriate fee to the Director of the INS service center having jurisdiction over the petition or application. Premium Processing service guarantees 15-calendar day processing of certain employment-based petitions and applications. The 15-calendar day processing period begins when the INS receives the Form I-907, with the fee, at the designated address contained in the instructions to the form.

Premium Processing Program Revenue Projections

The premium service fees are deposited into the Immigration Examinations Fee Account (IEFA) along with fees from approximately 33 other routine applications and petitions. During discussions with INS officials we documented the INS's initial allocation of its estimated premium service revenues. In addition, we determined the INS's methodology for:

⁷ As of June 15, 2001, this classification was no longer eligible for Premium Processing.

- (1) establishing the revenue projections for routine applications; and
- (2) managing the IEFA.

Of the \$80 million in projected fee revenue from Premium Processing, \$17.5 million was allocated by the INS to hire 141 additional adjudicators, contact representatives, and support personnel to provide service to all INS customers. An additional \$7.5 million was allocated for fraud detection, which included the hiring of an additional 54 Special Agents and Intelligence Research Specialists. The remaining \$55 million in program revenue was earmarked for general infrastructure improvements (\$35 million) and additional staffing (\$20 million) that would contribute to the overall backlog reduction efforts. We confirmed that the \$25 million was spent to fill the 195 positions described above. However, we could not determine if the \$55 million was used for general infrastructure improvements because disbursements from the IEFA were not tracked by the source of the funds. Generally, the INS includes its revenue estimates for funding the IEFA as part of its budget request to Congress. Once the budget is approved the INS monitors the IEFA only to ensure that on an overall basis disbursements do not exceed receipts.

The INS process for projecting routine application fee revenues began in the early 1990's with the establishment of a working group (consisting of representatives from the INS Budget, Statistics, and Adjudications Program Offices) charged with developing the official agency revenue projections for the IEFA. This group convenes on a quarterly basis to review and update previous revenue projections. The group looks at every application and petition type where a fee is charged, estimates the number of applications and petitions that will be filed within a given year, and forecasts the resulting fee revenues. These revenue estimates become the basis for each new fiscal year budget request to Congress. The budget request submitted to Congress does not tie specific application revenue estimates to a line item in the budget, but rather the individual application revenue estimates are consolidated into a single IEFA revenue estimate.

Once Congress approves the budget, the INS is not expected to adjust field operation activity based on the receipt of actual fees by application type. It is the overall receipt of application and petition revenue that is monitored to ensure that the receipts match the appropriation level approved by Congress. The INS can spend only up to the level approved by Congress. Any revenue received in excess of the congressional appropriation cannot be spent. A reprogramming request to Congress would be needed to seek increased spending.

According to INS officials, in cases where premium service revenues are identified to have exceeded original budget estimates, the first thing that

would be evaluated is whether the overall revenue collected matched the congressional appropriation. If the revenue collected equaled the appropriation level, this would mean that revenues from routine applications came in lower than projected, and that higher revenues from premium processing covered the loss. If this happened, business would continue as usual and all programs and projects approved in the Examinations Fee Operating Plan would be pursued. The INS would justify the use of the additional premium revenue by stating that the funds were used to finance ongoing premium processing and backlog elimination efforts, albeit at a higher percentage than originally planned.

The reverse would be true if premium revenue was less than projected but revenue from routine applications was higher; the latter revenue would offset the shortfall in revenues from premium processing. In this case, the percentage of premium revenue dedicated to the backlog elimination efforts would be less than planned, and revenue from routine applications would be used to make up the difference.

As part of its annual budget request to Congress, the INS establishes estimates for the various revenue sources that make up the IEFA, such as fees for routine applications and petitions and for premium services. The individual revenue estimates are part of the consolidated IEFA revenue estimate. For expenditure projections, an annual operating plan is utilized to allocate the total IEFA revenue among the functions of the Information Services Division. During the year the IEFA is monitored to ensure that the overall receipts are meeting the appropriate level. The INS does not isolate premium service and individual application revenues from one another when determining if sufficient revenue has been collected to match the congressional appropriation. The fee revenue is consolidated and reported at the account level, which enables the INS to allocate the funds for field operations.

Service Center Processing

The four INS service centers that adjudicate Premium Processing petitions are: Vermont (VSC), Texas (TSC), California (CSC), and Nebraska (NSC). Each service center has its own jurisdictional and geographical responsibilities (see Appendix IV for areas of responsibility for each service center).

Premium Processing petitions are expedited through the adjudications process from the time they reach the service centers.⁸ Premium petitions are mailed to a separate post office box at each service center, and are collected and immediately processed through the mailroom and data entry centers. Mailroom staff check to ensure that the petition is eligible for Premium Processing, then gather all application materials and collect the attached fee payments. Data entry staff enter the petitioner and beneficiary information into CLAIMS (Computer Linked Application Information System), assign it an identification number, and place the entire application package in a color-coded file. The Premium Processing clock starts on the day the mailroom stamps Form I-907, Request for Premium Processing, as received.

Depending on the physical layout of the service center, premium petitions are either hand carried or shuttled to the adjudications staff.⁹ While the service centers vary in how they receive and process premium petitions, generally the current procedure is as follows:

- As premium petitions are received at the adjudications unit, they are batch checked against the IBIS database. IBIS checks are usually completed within one business day.
- Once cleared through IBIS, premium petitions are assigned to an adjudicator. Some adjudicators process only certain classification types, while others work on a range of premium and routine petitions. In the latter case, the premium petitions are adjudicated before any routine cases.
- Premium Processing petitioners have access to a phone number and e-mail address where they or their attorneys can directly contact an Immigration Information Officer or a Center Adjudications Officer with questions regarding their applications. Such access to INS staff is not available to routine Form I-129 petitioners. Adjudications Officers state that the increased contact between them and petitioners assists both in identifying fraud and quickly obtaining necessary information that may have been left out of the original application package.

⁸ The INS has contracted with the Service Center Operations Team (SCOT) to provide comprehensive mail distribution, data entry, and other records processing services at the four service centers involved in premium processing (See Appendix VI).

⁹ Contractor staff at the CSC, VSC, and NSC hand carry premium petitions to the adjudications staff as they are processed in the mailroom and data entry center. At the TSC, premium petitions are shuttled 30 miles from the mailroom to the adjudications staff twice daily.

- Depending on the classification type, the actual adjudication process takes from half an hour to two hours. The actual adjudication time is the same for petitions that are premium processed and for those that are not.
- A daily Critical Aging Report that lists every pending premium petition over eight days old is generated to ensure that adjudicators will not exceed the guaranteed 15-day processing time.
- Once completed, all adjudicated petitions that are premium processed are reviewed by Supervising Center Adjudications Officers. Once reviewed, an Approval, Intent to Deny, Request for Evidence, or Notice of Investigation for Fraud or Misrepresentation is sent to the petitioner.

Routine processing is similar to that of Premium Processing, without the priority given to premium petitions. For example, all routine petitions are mailed to a service center. Once received at the service center, they must be checked in IBIS, sorted, processed, and forwarded to the appropriate adjudications unit. However, mailroom and data entry processing may take significantly longer than one day.

During the adjudication process, routine petitioners do not have the same access to INS staff, and adjudicators are less likely to have personal contact with petitioners or their attorneys regarding missing or questionable information. Instead, any questions the adjudicators have on routine petitions are handled by sending a written Request for Evidence to the petitioners or their attorneys.

While the actual adjudication time is about the same for routine petitions, there is no Critical Aging Report for them and adjudicators are less aware of how long they have had a file. Also, while supervision differs in each service center, it is less stringent for routine petitions than for Premium Processing. For example, in some service centers, only denied petitions are reviewed by Supervising Center Adjudications Officers.

The following table shows the monthly number of premium petitions received and processed by each service center¹⁰ (Appendix II details the monthly receipts by type of classification for each of the service centers).

¹⁰ Because the INS does not accumulate Premium Processing data separately in its work measurement system, we relied on information that the INS's Information Services Division accumulated from the service centers.

Monthly Premium Processing Receipts by Service Centers

	VSC	TSC	CSC	NSC	All Service Centers
FY-2001					
June	547	353	360	202	1,462
July	914	657	640	589	2,800
August	3,641	2,383	2,447	1,851	10,322
September	2,264	1,593	1,819	1,122	6,798
TOTAL	7,366	4,986	5,266	3,764	21,382
FY 2002					
October	2,719	1,941	2,219	1,356	8,235
November	2,410	1,939	1,896	1,243	7,488
December	2,394	2,008	1,884	1,368	7,654
January	2,548	1,957	1,881	1,286	7,672
February	2,694	1,999	1,666	1,219	7,578
March	2,976	2,269	1,644	1,431	8,320
April	3,034	2,527	2,127	1,482	9,170
May	4,334	2,807	2,293	1,803	11,237
June	4,289	3,039	2,197	1,762	11,287
July	4,699	3,609	2,676	2,158	13,142
August	4,606	3,208	2,660	2,040	12,514
September	4,062	2,643	2,332	1,700	10,737
Total	40,765	29,946	25,475	18,848	115,034
Program Totals	48,131	34,932	30,741	22,612	136,416

Source: INS Information Services Division

The INS processed 136,416 premium service petitions from the inception of the Premium Processing program in June 2001 through September 2002. During the same period the INS issued 223 refunds, of which 129 were due to failure to complete processing within the guaranteed 15-day period. The following table delineates why the INS refunded these premium service fees.

**Refunds Processed by Service Centers
During FY 2001 and 2002**

Reasons for Refunds	VSC	CSC	TSC	NSC	Total
H-2A, Now Exempt from Premium Fee	4	0	1	4	9
Ineligible	1	0	6	0	7
Adjudicated Prior to PP Request	0	33	13	5	51
Misc. (no fee payment, duplicates, etc.)	3	9	15	0	27
Failed 15-day processing	29	43	55	2	129
Totals	37	85	90	11	223

Source: INS Information Services Division

Interagency Border Inspection System (IBIS)

As noted above, IBIS is a multi-agency database of lookout information that was initiated in 1989 to improve border enforcement and facilitate inspection of individuals applying for admission to the United States at ports of entry and pre-inspection facilities. IBIS is a joint effort of the INS, the Customs Service, and the Departments of Agriculture and State.¹¹ It combines lookout information from 27 agencies into the Treasury Enforcement Communications System II (TECS II) database. The system, created and maintained by United States Customs Service, supports federal agencies by collecting information on individuals suspected of illegal activities.

TECS II was created to maintain and receive information on persons entering the United States and now serves as the central database for IBIS.

IBIS utilizes document readers that permit the reading of travel documents, improve the exchange of data between agencies regarding alien arrival and departure, and provide staff at ports of entry with the ability quickly to detect fraud, share intelligence, and prosecute violators.

¹¹ Some of the other agencies participating in IBIS include: Intelligence Community Management Staff; Office of the Deputy Assistant Secretary of Defense for Drug Enforcement Policy and Support; Federal Bureau of Investigation; Central Intelligence Agency; Drug Enforcement Administration; Interpol; United States Marshals Service; Federal Aviation Administration; United States Coast Guard; Department of the Interior; Internal Revenue Service; Bureau of Alcohol, Tobacco, and Firearms; United States Secret Service; Bureau of Land Management; and, the Food and Drug Administration.

IBIS contains numerous database files and connects with other databases such as the FBI's National Crime Information Center (NCIC). The INS service centers generally search the IBIS database using name and date of birth and the results of the search can include the following:

- Lookout – Lookout information or adverse information linking individuals to disqualifying criminal activity, ongoing investigations of an individual's links to groups that pose a threat to national security, known or suspected terrorists, advisories as to whether to take or not to take action upon encountering the individual.
- Wants – Data indicating that the individual is wanted by a state or federal law enforcement agency in connection to criminal activity.
- Warrants – State or federally executed documents advising the hold of an alien or lawful permanent resident who is wanted for criminal activity.

In November 2001, the INS instructed the service center directors to begin conducting electronic IBIS checks on four types of applications and petitions.¹² By instructions issued in January 2002, the service centers are now required to conduct these checks on all types of benefit applications and petitions. Although the INS has successfully processed the vast majority of premium petitions within 15 calendar days, the expanded usage of the IBIS database in the adjudication process may adversely affect the meeting of this requirement.

In addition, we were made aware of other IBIS-related issues that can also affect the adjudication process. The INS has a Memorandum of Understanding (MOU) with the United States Customs Service regarding the use of TECS II information. The provisions of the MOU describe the common procedures to provide adequate security, data integrity, and performance. Generally, the INS agrees to comply with the appropriate administrative security provisions related to the use and dissemination of the information in TECS II and to consider all information in TECS II as "Unclassified, For Official Use Only." The INS is currently addressing the following policy issues with the intention of modifying them as appropriate:

¹² As stated previously, the four applications included the: Form I-485, Application to Register Permanent Residence or to Adjust Status; Form I-90, Application to Replace Permanent Residence Card; Form I-821, Application for Temporary Protected Status; and Form I-765, Application for Employment Authorization.

1. Under the MOU, the INS must abide by the "third agency rule", which prohibits the INS from contacting a petitioner regarding IBIS related information without the consent of the third agency (agency responsible for entering data into the IBIS database). For example, for a premium petition that has had an IBIS hit¹³ and is being held and reviewed to determine whether the beneficiary poses a threat to national security, the third agency rule prohibits the INS from contacting the petitioning business or individual to obtain additional information until it has communicated with the originating agency and received permission to do so. This constraint can delay the adjudication process.
2. The INS is limited in its use of the IBIS database information to determine the award or denial of immigration benefits. If, for example, a beneficiary is otherwise eligible for a particular benefit, the INS cannot deny that individual on the basis of an IBIS hit.

According to the INS officials and staff whom we interviewed, the INS is working towards addressing these issues through procedural changes for submitting and processing applications. The agency is also pursuing amendments to the current law based on recent changes in immigration practices. For example, according to INS officials, the INS is seeking provisions in the law that will allow petitions to be placed in abeyance for prolonged periods of time.¹⁴

¹³ An IBIS hit means the beneficiary's name and date of birth match an IBIS entry made by one of the participating agencies.

¹⁴ The INS requested that its Office of the General Counsel address these problems in December 2001; as of October 2002, the issues were still unresolved.

FINDINGS AND RECOMMENDATIONS

I. INTERAGENCY BORDER INSPECTION SYSTEM (IBIS) CHECKS

Between January and March 2002 the INS service centers adjudicated 11,830 Premium Processing petitions without checking them against the IBIS database. As a result, the INS cannot tell how many, if any, of the approved applicants were individuals who were in the INS's five high-risk categories of suspected terrorist, potential threat to national security, active want or warrant, aggravated felon, or prior deportation.

On August 21, 2001, INS Headquarters directed the district offices to conduct IBIS checks on four application types.¹⁵ On November 15, 2001, the INS expanded the mandate to include the same four applications processed in the service centers. Then, on January 28, 2002, IBIS checks were mandated for all applications and petitions, including Form I-129 petitions. However, the service centers did not implement IBIS checks for all applications until March 18, 2002. According to a senior INS official, "Although the 1/28/02 amendment to the Adjudicators' Field Manual provides the direction for full implementation, we were not aware nor were the Service Centers aware that this amendment had been put in place. During the time between January 2002 and the March 14, 2002, the Centers were given verbal direction to begin adding additional forms and to begin the preparation of their operations for full IBIS check implementation" (See Appendix V for a timeline of the IBIS policy changes).¹⁶

At the service centers, the applicant names were to be checked against the IBIS database on a batch basis for derogatory, lookout, criminal investigative, criminal history, and national security or intelligence interest information.

¹⁵ The four applications included the: Form I-485, Application to Register Permanent Residence or to Adjust Status; Form I-90, Application to Replace Permanent Residence Card; Form I-821, Application for Temporary Protected Status; and Form I-765, Application for Employment Authorization.

¹⁶ While our audit was in progress, the INS began requiring checks of the IBIS database for all applicants and petitioners seeking immigration benefits. This decision had a significant impact on the adjudication function of the INS; as a result, we expanded the scope of our audit to include testing of IBIS checks by the service centers that handle premium processed petitions.

The consequences of the delay in implementing IBIS checks on all applications and petitions are unknown but potentially serious. We determined that the INS processed 387,596 total applications (including 11,830 premium processing applications) without IBIS checks in the period between January 28, 2002 and March 18, 2002.

History of Background Checks at the INS

Prior to 2001 the INS had no standardized procedures for conducting background checks on petitioners and beneficiaries. The use of IBIS was not required until that year even though IBIS has existed since 1989. Instead, the INS relied on other resources, such as its own Service Lookout Book, FBI fingerprint checks, and selective verification of applications with the Department of State to check the background of beneficiaries; however, no data are available to document the extent to which the INS made use of these resources. In addition, the Center Adjudications Officers had access on a need-to-know basis to the Non-Immigrant Information System (NIIS), and the service center's Enforcement Operations Division could conduct NCIC checks on petitioners or beneficiaries. However, the use of NIIS and NCIC was not uniform among the service centers.

Beginning in 1999, two INS service centers (VSC and TSC), experimented with IBIS software on a limited basis to determine if this system could be incorporated into the INS adjudication process. In August 2001 the INS completed installation of IBIS hardware and software at all the service centers. The plan was to phase in IBIS gradually, applying the checks to selected petitions over several months.

IBIS Check Process

According to the current INS's Standard Operations Procedure Manual for the Interagency Border Inspection System (November 21, 2002), each service center must conduct IBIS checks on all petitions within 15 days of receipt. Checks are conducted in daily batches¹⁷ that include all petitions and applications received, transferred in, reopened, or that have had a data change. The IBIS check requirement mandates that checks be conducted for all petitioners, applicants, beneficiaries, and any derivatives (for example, businesses and attorneys) that will receive an immediate benefit from submitted applications and petitions. Premium petitions are not checked separately; rather they are generally included in the daily batches.

¹⁷ The batch checks are "front end" verifications at time of receipt. According to the Standard Operations Procedure, adjudicators also have the discretion to perform individual IBIS checks at the time of adjudication prior to final approval.

The IBIS check is valid for only 35 days. During our fieldwork, INS officials stated that the initial IBIS batch checks might not capture all new receipts, potentially missing up to 20 percent of petitions received.¹⁸ Although no reason was given for missing any receipts, we were told that if, at the time of adjudication, a petition does not contain evidence of an IBIS check, or if the check was conducted more than 35 days prior to adjudication, the Center Adjudications Officer must perform an individual check on that petition.¹⁹ Adjudicators are authorized to perform two different types of IBIS checks, as described below:

SQ-11 Query – Individual subject query, allows the user to check a person’s name and date of birth against the IBIS database through data entry of the search criteria.

SQ-16 Query – Business subject query, allows the user to check the name of a business or school against the IBIS database through data entry of the search criteria

All matches or hits are sent to the service center’s Triage Review Unit for a second, more detailed check to verify that all hits match the correct name and date of birth as recorded on the petition. According to INS staff, approximately one half of the initial IBIS hits are found to be actual matches. In those instances, the Triage Review Unit determines whether the reason for the hit is significant enough to affect adjudication. To accomplish this, the Triage Review Unit identifies cases relating to aggravated felonies, NCIC matches, terrorism, and threats to national security and forwards those applications to the service center’s Enforcement Operations Division (EOD) for further evaluation. The IBIS Standard Operations Procedure requires the EOD to refer the terrorism and national security cases to the National Security Unit (NSU) and the Immigration Services Division (ISD) at INS Headquarters for investigation. All other types of hits may be resolved in the Triage Review Unit, or forwarded to the EOD when deemed appropriate.

The EOD determines those hits that may require investigation or further enforcement action. If an IBIS hit is an individual of interest to a local law enforcement agency, the EOD will notify that agency. The Premium Processing 15-day clock is not stopped in such cases. If a

¹⁸ Some receipts are missed in the initial IBIS batch checks because of IBIS’s interface with NCIC and the CLAIMS databases.

¹⁹ If a second check is necessary, it is performed by the individual Adjudications Officer using an online query of the IBIS database, rather than as part of another batch check.

determination is not made as to how to proceed until after the 15-day period has expired, the \$1,000 premium fee is returned to the petitioner.

The service center EOD may also work in collaboration with the ISD and the Office of the General Counsel to resolve certain types of hits. For example, if uncertainty remains after a petition has been reviewed by the EOD, the petition may be sent to INS Headquarters where the IBIS Policy Coordinator reviews and responds to any complications. The IBIS Coordinator, in turn, may work with the FBI's Joint Terrorism Task Force and the INS National Security Unit, the Operating Coordination Cell, or the Command Center to address significant IBIS hits (A chart illustrating the IBIS process can be found at Appendix VII).

The ISD summarizes information about IBIS hits from the service centers (and the districts) in the IBIS – Significant Hits Summary. We reviewed the IBIS – Significant Hits Summary covering the period from May 20, 2002 through October 28, 2002. As of October 28, 2002, there were a total of 408 hits listed on the IBIS – Significant Hits Summary. Of the 408 significant IBIS hits, 23 were based on Forms I-129, and 385 were based on other types of applications and petitions. Only 2 of the 23 Form I-129 applications could be identified as Premium Processing applications.²⁰ The two IBIS hits on Premium Processing applications were identified as aggravated felons, and their applications were referred to INS General Counsel for review. With respect to the 385 IBIS hits based on other types of applications and petitions, 256 hits were related to possible terrorist threats and 24 related to threats to national security.

We reviewed the outcome of the 408 total significant IBIS hits and found the following: 354 were referred to the National Security Unit for investigation; 12 did not have an outcome identified in the Significant Hits Summary; and the remaining 42 had various outcomes, including being held in abeyance, denial of the application, or referral to local law enforcement agencies. The following table summarizes the essential data about the 408 significant IBIS hits.

²⁰ Premium Processing petitions with IBIS hits are not routinely tracked. As a result, the total number of premium petitions with significant IBIS hits is unknown.

Significant IBIS Hits

	I-129 Applications	Other Applications	Total
Terrorist Threat	16	256	272
Threat to National Security	2	24	26
Aggravated Felon	2	13	15
Prior Deportation	2	0	2
Active Warrant	1	5	6
Other	0	87	87
Total	23	385	408

Source: INS Significant Hits Report

As of October 23, 2002, approximately 30,000 petitions were in a pending status due to IBIS hits. Because Premium Processing petitions are not checked separately, the INS cannot determine how many of the 30,000 pending petitions are premium without conducting a manual count.

Recommendation

We recommend that the Commissioner, INS:

1. Strengthen internal communications to ensure that all service centers and district offices are fully informed of policy and/or procedural changes that will affect adjudication practices before those changes become effective.

II. STATUS OF PREMIUM PROCESSING

Although the INS has generally met the requirement of processing premium applications within 15 days, the Premium Processing program has adversely affected the time required to adjudicate routine applications and petitions. The mandate to adjudicate premium applications within 15 days has contributed in part to the increased backlog of routine petitions at the service centers. Thus, a program whose purpose was ultimately to reduce or eliminate adjudications backlogs may be having the unintended consequence of increasing at least some of those backlogs.

Backlog Reduction

The INS allocated \$55 million of the \$80 million in anticipated Premium Processing program revenues for general infrastructure improvements and backlog reduction efforts. Our audit showed that for FY 2002 the INS received 115,416 premium service applications. Consequently, the associated program revenue was actually \$115,416,000, which exceeded the original projection (\$80 million) by \$35,416,000. If we apply the INS's original percentages for the allocation of program revenue, the increased revenue of \$35.4 million would have been allocated as follows: adjudications processing (22 percent) \$7.8 million; fraud investigation (9 percent) \$3.2 million; infrastructure improvement (44 percent) \$15.6 million; and backlog reduction (25 percent) \$8.8 million.

Thus, for FY 2002, approximately \$24.4 million (\$15.6 million and \$8.8 million) should have been available for infrastructure improvements and the overall backlog reduction effort. However, because expenditures are not separately identified by revenue source in the IEFA, we could not determine whether any of the additional premium service revenues were actually used to fund the infrastructure improvements and backlog reduction efforts. However, we did determine that the backlogs of pending applications and petitions have continued to grow, as shown in the following table.

Pending Applications and Petitions by Service Centers

PERIOD	VSC	TSC	CSC	NSC	TOTAL
FY 2000	392,757	336,721	670,105	476,808	1,876,391
FY 2001	633,650	712,478	1,016,875	646,465	3,009,468
FY 2002:					
1ST QTR	636,847	664,971	993,841	582,948	2,878,607
2ND QTR	693,545	540,010	894,944	519,218	2,647,717
3RD QTR	737,495	578,959	909,309	632,063	2,857,826
4TH QTR	759,578	758,863	996,064	734,721	3,249,226

Source: INS Information Services Division

The table illustrates that backlogs reached a low in the second quarter of FY 2002 before beginning a steady increase. According to INS officials, the rising backlog is due in part to the implementation of IBIS checks servicewide in March 2002.

Effect of IBIS on Processing Times

Under ideal conditions the Premium Processing program should have little impact on the processing times of other visa types. However, when situations occur that disrupt general processing times, those times are likely to be further exacerbated by the premium service. As has occurred with the implementation of IBIS checks, more petitioners will choose the premium service if general processing times are prolonged. Because Premium Processing receives priority, backlogs for routine cases may continue to grow. In this way, a program that was intended to reduce backlogs may actually have the effect of increasing backlogs for routine applications.

Since implementation of the IBIS check procedures, the processing times for routine Forms I-129, Petition for a Nonimmigrant Worker, have increased about three-fold from about 37 to 112 days. According to INS officials, the primary reasons for the increases in the backlog of Forms I-129 are:

- Increases in naturalization and temporary protected status applications that were not projected in the resource allocation plan and have contributed to an increase in pending casework.
- Changes in regulations and the launching of new programs, such as the Student and Exchange Visitor and Information System (SEVIS) and the INS Entry and Exit Registration System (INSEERS), to

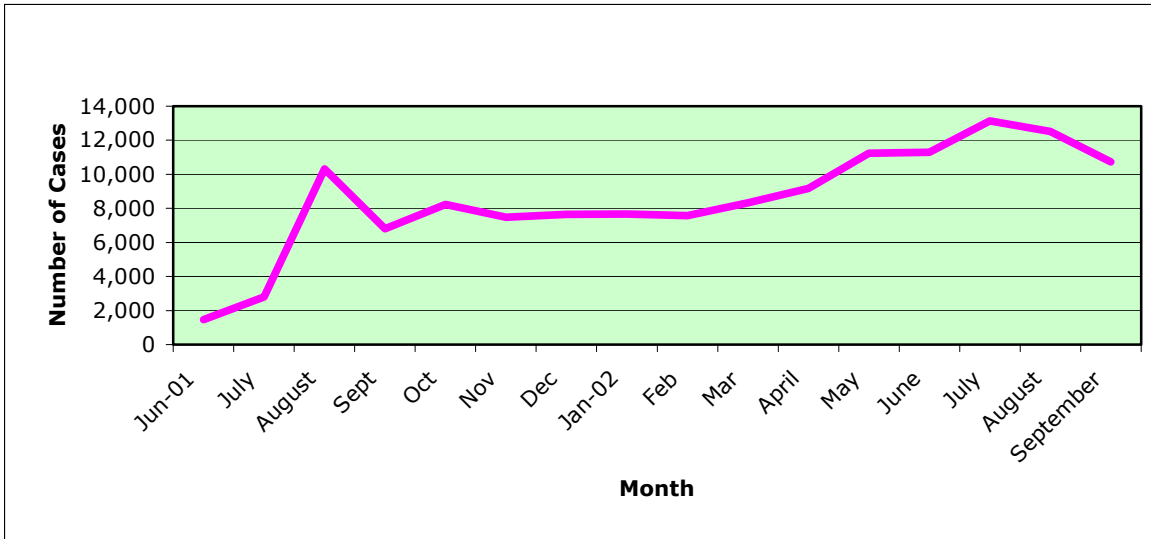
ensure that national security matters are now being taken into consideration when adjudicating applications.

- Failure of the INS to obtain reprogramming authority to hire additional staff to compensate for the more than 500 staff dedicated to conducting IBIS checks.
- The "Zero Tolerance Memorandum," dated March 22, 2002, from the INS Commissioner stating that there will be a "zero tolerance policy with regard to INS employees who fail to abide by Headquarters-issued policy and field instructions. Individuals who fail to abide by issued field guidance or other INS policy will be disciplined appropriately."

As a result of the increased time required to process routine applications, the service centers have reported sizeable increases in the number of premium service cases being filed. The increase in premium cases further prolongs processing times for routine cases because staffing and resources must be pulled from the general adjudication areas to meet the demands of Premium Processing.

The following graph illustrates the total number of premium cases adjudicated since the program's inception. In March 2002, when the IBIS checks were implemented for all applications, the requests for Premium Processing began to increase dramatically.

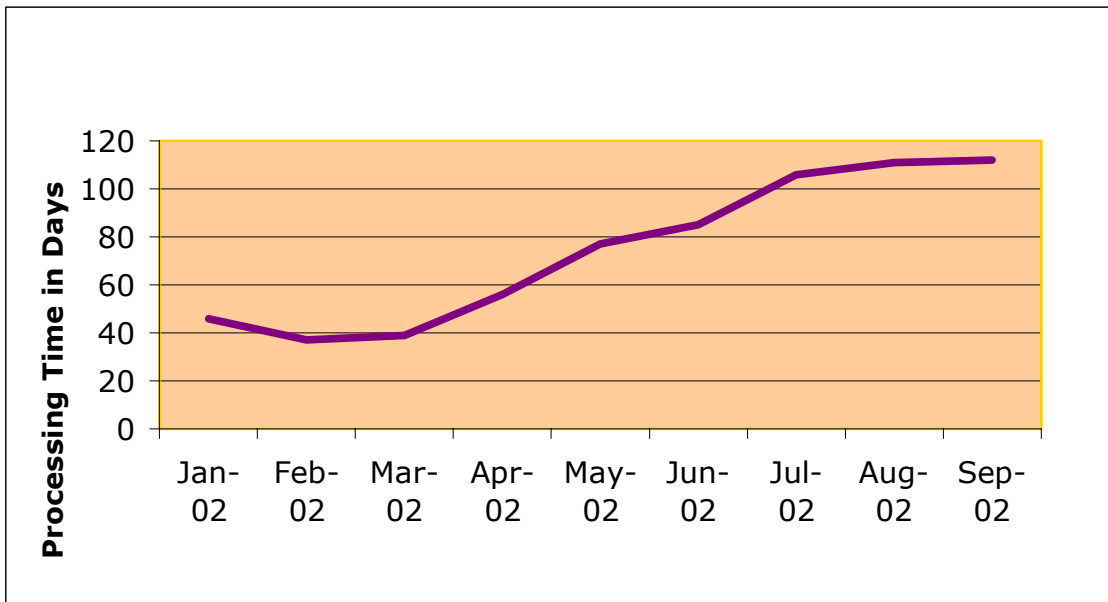
Total Premium Processing Receipts by Month



Source: INS Information Services Division

Increases in premium cases will bring in added revenue. However, they will also significantly impact the processing times for routine Forms I-129, Petition for a Nonimmigrant Worker. The following graph shows the average processing days for routine Forms I-129 for calendar year 2002 through September 2002. It is clear that the processing times have increased significantly since the start of the IBIS checks in March 2002.

Average Processing Times for Routine Forms I-129



Source: INS Information Services Division

There is also some indication that IBIS checks are adversely affecting processing times for Premium Processing petitions. Thirteen refunds were made to Premium Processing petitioners for failure to adjudicate within the guaranteed 15-day period in the 9 months between the program's inception in June 2001 and the start of the IBIS checks in March 2002. In the 7 months from March 2002 through September 2002, an additional 116 refunds were issued for failure to meet the 15-day requirement. Although the number of refunds is small in comparison to the total number of applications processed through the Premium Processing program (less than 0.2 percent), this is an eight-fold increase in the number of refunds.

The mandate for the IBIS checks was a procedural change for INS adjudications. However, the INS did not adequately plan for the implementation of IBIS checks. IBIS existed in the United States Customs Service since 1989 and the INS began experimenting with its usage in 1999. Impacts on both premium and routine employment-based visas can be expected whenever program or procedural changes are put into place. Without adequate planning, the service centers were not prepared to handle unexpected shifts in their workloads, and the processing times for routine petitions has increased dramatically.

Recommendation

We recommend that the Commissioner, INS:

2. Ensure that the excess program revenues, not used for adjudication processing and fraud investigation, are utilized for backlog reduction efforts.

III. INS MANAGEMENT OVERSIGHT

Management oversight of the Premium Processing program has been weak since its inception. The Premium Processing applications and related statistical data are not tracked in the same manner as other national adjudication statistics. In addition, the INS has yet to conduct formal analyses to determine the added costs associated with processing premium applications or the justification for the \$1,000 premium. Because each service center has autonomy over its own organizational structures and methods of program administration, there is little consistency among service centers in these areas. The centers vary considerably in their processing procedures, processing times, and refund rates. However, the INS does not have the mechanisms to evaluate these variations. Without Premium Processing statistical data in the national reporting databases, the INS is unable to determine if the resources devoted to the program are being used effectively, or if the premium is sufficient to cover the costs of premium processing.

Premium Processing Statistical Data

The four service centers that adjudicate Premium Processing petitions submit reports to INS Headquarters. The reports include: (1) a general daily contact report that outlines the number of premium petitions that were approved, denied, or held with a Request for Evidence (RFE) and the corresponding reason; (2) a Critical Aging Report that lists every premium petition over eight days old; (3) a daily summary report listing the day's activity; and (4) an RFE report that lists all pending requests for evidence.

While we do not question the utility of these four reports, we do not consider them sufficient. In our judgment, data on Premium Processing should be incorporated into the INS's general work measurement system, the Performance Analysis System (PAS).²¹ Between June 1, 2001 and September 30, 2002, the INS received 136,416 premium processing applications and more than \$136 million in associated fees. Nevertheless, the INS has not incorporated Premium Processing data in PAS.

²¹ The PAS is a statistical database used for a wide range of purposes, including supporting budget requests, determining position allocations, measuring planned versus actual accomplishments, analyzing application backlogs, and responding to inquiries.

Officials from the INS Office of Policy and Planning stated that they did not include Premium Processing data in the PAS because Premium Processing is not considered a permanent program. However, we disagree with this line of reasoning. The Premium Processing program generated over \$115 million in fiscal year 2002, and the INS estimates that the program will generate over \$180 million once the program is expanded to include the Form I-140, Immigrant Petition for Alien Worker, in 2003. Unless the INS incorporates Premium Processing data in its established databases, it must rely on the various reporting systems from the individual service centers for its program statistical data. These individual systems are inconsistent in methodology and accuracy, and do not provide standardized reporting and adequate program analyses. As a result, we believe the INS management lacks the information needed to determine the proper allocation of resources among the service centers.

PAS data are also useful for determining the strengths and weaknesses of the service centers. Since each service center differs in program administration and organizational structure, the inclusion of Premium Processing information in PAS would assist the INS in determining those operations that are most efficient or effective in meeting their program goals.

Time and Motion Study

Since implementing the Premium Processing program, the INS has not conducted a time and motion study to determine the program's unit cost for processing premium cases. Without a unit cost analysis, the added costs associated with Premium Processing are unclear. For example, the premium service requires extensive customer service, including exclusive telephone lines and e-mail addresses for questions from attorneys and petitioners. However, the costs of these services are unknown.

During our audit, we monitored the adjudication process for premium petitions from beginning to end, and we observed as petitions were hand-carried between the contractor staff and the INS adjudicators. After meeting with all levels of adjudications staff, we determined that Premium Processing petitions are adjudicated by the most experienced and skilled workers, and are reviewed much more frequently and thoroughly than routine cases. Also, adjudicators are far more likely to contact Premium Processing petitioners directly with questions or concerns than they are for routine cases, because of the increased contact already established by the Premium Processing telephone lines and e-mail addresses. These additional services could be more costly to provide, but the INS cannot make a determination of these costs without a cost analysis.

A time and motion study is important because the number of Premium Processing petitions is growing while the total number of Forms I-129, Petition for A Nonimmigrant Worker, is declining. Since reaching 62,474 petitions in February 2002, Form I-129 receipts have dropped every month until reaching 37,972 in June 2002. However, the number of Premium Processing cases has grown since March 2002, so that the total percentage of premium receipts among Forms I-129 is on the rise. The INS initially estimated that premium filings would range from 10 to 25 percent of total filings for eligible petitions. As indicated in the table below, the percentage of premium receipts (to total receipts) increased dramatically from March 2002 to July 2002, after which they started to decline.

Growing Percentage of Premium Receipts

Period	Total I-129 Receipts	Number of I-129 Premium Receipts	Premium Receipts as Percentage of Total I-129 Receipts
FY 2001			
June	68,932	1,462	2%
July	68,439	2,800	4%
August	61,431	10,322	17%
September	51,342	6,798	13%
October	53,867	8,235	15%
November	67,649	7,488	11%
December	40,248	7,654	19%
FY 2002			
January	44,944	7,672	17%
February	62,474	7,578	12%
March	61,962	8,320	13%
April	46,285	9,170	20%
May	41,726	11,237	27%
June	37,972	11,287	30%
July	39,390	13,142	33%
August	44,598	12,514	28%
September	38,668	10,737	28%
Total	829,927	136,416	16%

Source: INS Office of Policy and Planning

If the increasing rate of premium petitions continues, the program will bring in considerably more revenue, up to 50 percent more than anticipated

by the INS.²² Additional revenue notwithstanding, the increase in premium filings is likely to place a disproportionate amount of pressure on service centers and contractor management and staff. Without a study to determine the added costs associated with processing premium cases, INS managers will not have all the information needed to make sound decisions about the allocation of resources for the adjudication of both premium and routine applications and petitions.

Processing Cost Analysis

We conducted a limited analysis to determine how much of the \$1,000 premium is used for processing adjudications. Our analysis determined that approximately \$219 per petition was allocated for processing premium applications. This amount is based on the \$17.5 million,²³ or 22 percent, of the projected \$80 million in program revenue allocated by the INS for Premium Processing staffing and program maintenance. This amount is in addition to the normal application fee of \$130 (the cost of processing routine applications).²⁴ The following table is a breakdown of the \$1,000 program fee, which we calculated based on the INS's allocations of the projected \$80 million in annual program revenue.

Premium Processing \$1,000 Service Fee Breakdown

Fee Utilization Category	Million (\$)	Percent	Fee Breakdown
Adjudication Processing	\$ 17.5	21.88	\$ 218.75
Fraud Investigation	7.5	9.37	93.75
Backlog Reduction and Processing	20.0	25.00	250.00
General Infrastructure Improvements	35.0	43.75	437.50
Total	\$ 80.0	100%	\$1,000.00

Source: INS Information Services Division and OIG Analysis

²² Premium receipts for FY 2002 were \$115,034,000, which is a 44 percent increase over the planned \$80 million.

²³ \$17.5 million divided by 80,000 projected premium petitions equals \$219.

²⁴ The adjusted fee schedule for the IEFA was published in the Federal Register, Vol. 66, No.246, December 21, 2001. The fee for Form I-129, Petition for a Nonimmigrant Worker, was adjusted from \$110 to \$130.

Premium Processing Program Fee Analysis

In addition to the failure to perform a time and motion study for Premium Processing, the INS did not perform a formal analysis to support the \$1,000 Premium Processing service fee. Congress authorized the \$1,000 premium service fee because the program is voluntary and will allow the INS to generate revenue for additional staffing resources, backlog reduction efforts, and infrastructure improvements. However, the fee amount was based primarily on recommendations from potential users, and not on a formal study. In fact, INS officials stated that the fee amount was somewhat arbitrary in its development. Without an adequate analysis, it is unclear how the \$1,000 premium fee will impact users, particularly small businesses. The fee analysis should be completed before the INS expands the Premium Processing program to include other petitions. Furthermore, when Congress authorized Premium Processing, it established the fee at \$1,000 but authorized the Attorney General to adjust the fee according to the Consumer Price Index.

Service Centers Differ in their Methodologies for Program Management and Processing Procedures

During our fieldwork at each of the service centers, we interviewed premium processing management and staff, reviewed staffing allocations, and documented processing procedures. Because the service center directors have considerable discretion to manage their own workloads and allocate staff, we found significant differences in methodology among the four service centers. Our observations are as follows.

St. Albans, Vermont – The VSC is the largest of the four service centers and processed the most premium petitions, 48,131 through September 2002.²⁵ The VSC Premium Processing Unit has a designated staff that processes premium cases along with other petitions. Premium cases have priority, but must be managed along with other work. At the time of our fieldwork, the VSC had a total of 55 service center personnel working on premium cases: 35 Center Adjudications Officers, 8 Immigration Information Officers, and 12 Clerks. The 35 Adjudications Officers included staff that had been hired in anticipation of the introduction of Premium Processing for the Form I-140, Immigrant Petition for Alien Worker. The VSC also has two Supervising Center Adjudications Officers who oversee only Premium Processing cases. The number of staff designated to Premium Processing is flexible, changing depending on the volume of filings. Currently, this group of adjudications staff is working almost exclusively on premium cases, due to the volume of premium receipts.

²⁵ The program began in June 2001 at all service centers.

The VSC is the only center to establish a Premium Processing steering committee to address various concerns from staff and management. The committee is comprised of two Supervising Center Adjudications Officers, two Center Adjudications Officers, one Immigration Information Officer, and one Clerk. The group meets weekly and has the authority to recommend or make changes to the center's Premium Processing program design. In our judgment, this is a best practice that should be implemented by the other service centers.

With the exception of the monthly reports mandated by the ISD, the VSC does not track Premium Processing program data. The VSC employee performance based evaluation system does not call for such performance measures as staff and supervisory hours spent on Premium Processing or other cases.

Dallas, Texas – The TSC processed 34,932 premium petitions through September 2002. The TSC management created a completely separate unit, which processed only Form I-129, Petition for a Nonimmigrant Worker, premium petitions. At the time of our fieldwork, the unit consisted of 17 service center personnel: 9 Center Adjudications Officers, 4 Immigration Information Officers, and 4 Clerks. A Supervising Center Adjudications Officer is also dedicated to premium cases.²⁶ While staff in the Premium Processing Unit focus primarily on premium cases, they may also work with routine applications and petitions if time permits.

The TSC Premium Processing program management worked with the center's Director and the EOD to provide EOD with staff that work exclusively on Premium Processing petitions. Premium Processing Adjudicators have specific IBIS contacts and Information Officers within EOD who work only with premium cases.

Laguna Niguel, California – The CSC processed 30,741 premium petitions through September 2002. At the time of our fieldwork, the CSC had 33 service center personnel working on premium cases: 27 Center Adjudications Officers, 2 Immigration Information Officers, and 4 Clerks. Like the VSC, the CSC designated certain staff to work on Premium Processing cases in addition to other routine petitions. However, unlike the VSC, the Supervising Center Adjudications Officers at the CSC oversee both premium and routine cases.

²⁶ When the Form I-140, Immigrant Petition for Alien Worker, becomes eligible for Premium Processing, separate units at TSC and the NSC, with a manager or supervisor and staff whose first priority will be Premium Processing, will adjudicate the ensuing petitions.

Lincoln, Nebraska – The NSC, the smallest of the four service centers, processed 22,612 premium petitions through September 2002. Like the TSC, the NSC has a separate unit specifically dedicated to Premium Processing. At the time of our fieldwork there were 14 service center personnel (8 Center Adjudications Officers, 2 Immigration Information Officers and 4 Adjudications Clerks) who worked primarily on premium cases, although they handled other types of cases if time allowed. A Supervising Center Adjudications Officer was also dedicated to premium cases.

The four service centers that adjudicate the petitions eligible for Premium Processing differ significantly in their program management, staffing, and processing procedures. The physical characteristics of the centers account for many of the differences, but variations in operations design and management may also contribute to more efficient adjudications processing. However, without comparable data for the four service centers it is difficult to recommend any best practices.

However, we did perform a brief analysis of the average number of premium service applications processed in FY 2002. For purposes of this analysis, we utilized the number of Center Adjudications Officers (CAOs) allocated to each service center by INS Headquarters and the actual number of CAOs working on premium cases at the time of our on-site audit work. The following table compares certain data about staffing and accomplishments that we acquired from each of the service centers and provides our limited analysis of the data.

Fiscal Year 2002
Average Number of Premium Service Applications Processed

FY 2002	VSC	TSC	CSC	NSC	ALL
Premium Service Applications Processed	40,765	29,946	25,475	18,848	115,034
Allocated CAOs	31	28	29	23	111
Applications Processed per Allocated CAO	1,315	1,070	878	819	1,036
Actual CAOs	35	9	27	8	79
Applications Processed per Actual CAO	1,165	3,327	944	2,356	1,456
Allocated vs. Actual CAOs	4	(19)	(2)	(15)	(32)
Dedicated Premium Processing Unit	No	Yes	No	Yes	

Sources: INS Information Services Division, Service Centers, and OIG Analysis.

Our analysis resulted in the following general observations:

- Nationwide the number of CAOs actually performing Premium Processing as of the time of our fieldwork was 32 less than the total number allocated to the service centers for this purpose by INS Headquarters. The number of CAOs actually adjudicating Premium Processing applications at two service centers (TSC and NSC) was significantly lower than the number of CAOs allocated for that function.
- For the CAOs actually performing Premium Processing, the average number of applications processed per CAO was significantly higher at the two service centers that have dedicated Premium Processing units (TSC and NSC). The comparable averages at the other two service centers might have been affected by the extent to which the CAOs process routine applications and petitions.

It also raises certain questions.

- Why did the ratio of applications processed per allocated CAO vary so widely, from 819 (NSC) to 1,315 (VSC)? Were the service centers with higher ratios more efficient than the others? Did the service centers with lower ratios process a larger volume of difficult or time-consuming applications?
- Why was the number of CAOs actually working on Premium Processing less than the number of allocated CAOs at three service centers? Did local management assign CAOs allocated for Premium Processing to other functions? If so, was the Premium Processing workload adversely affected by that assignment?

Without consistent data for all the service centers, it is difficult to answer these questions. More important, the INS does not have adequate data to evaluate the Premium Processing program. The lack of consistent data for all the service centers denies INS management the kind of information needed to provide strong program oversight and to make sound managerial decisions about such matters as position allocation.

As previously mentioned, the inclusion of Premium Processing statistical data in the existing Performance Analysis System would enable program management to determine proper staffing allocations, measure actual versus planned production, and develop adequate information to support budget requests.

Recommendations

We recommend that the Commissioner, INS:

3. Accumulate statistical data for Premium Processing by adding a separate category in the INS work measurement databases.
4. Conduct a comprehensive time and motion study to determine appropriate unit costs for processing premium cases in order to ensure that the service centers have adequate staff and resources to meet the added demands associated with Premium Processing.
5. Conduct an analysis of the \$1,000 premium to ensure that the allocations for processing applications, fraud investigations, backlog reduction, and infrastructure improvements are completed as approved by Congress.

OTHER REPORTABLE MATTER

Program Expansion of Premium Processing

At the time of the program's inception, the INS anticipated it would expand its Premium Processing to include the Form I-140, Immigrant Petition for Alien Worker, yet did not include the related revenue projections in its proposal to Congress or in its early program planning. Focus group meetings conducted with potential users six months before the inception of the program addressed the Form I-129, Petition for a Nonimmigrant Worker, as well as the program's expansion to include the Form I-140. However, all initial program data, such as budget and revenue projections, staffing allocations, and standard operating procedures were based solely on the Form I-129. The INS did not begin including the Form I-140 in budget projections until May 2002.

The Forms I-140 were expected to become eligible for Premium Processing in May 2002, and were to be phased in by classification.²⁷ However, the date was changed several times, and eventually postponed indefinitely because of the focus on the implementation of the IBIS check procedures. If Premium Processing had been expanded to include the Forms I-140 on May 1, 2002 as initially planned, program revenue to date would be approximately 39 percent higher. Based on the INS's initial projections, the inclusion of the Forms I-140 in Premium Processing was expected to generate an additional \$45 million in FY 2002. The INS now estimates that the inclusion of the Forms I-140 in Premium Processing will more than double program revenues in FY 2003 and beyond.

²⁷ The Form I-140, Immigrant Petition for Alien Worker, is an application for permanent residence in the United States based on employment. There are several classifications within the Form I-140. The initial timeline for implementing Premium Processing to the Forms I-140 is as follows:

- May 1, 2002: Schedule A Group 1, Registered Nurse; Schedule A Group 2 Physical Therapist; E13, Multinational Executive/Manager; EW3, Other Workers (less than two years training or work experience).
- July 1, 2002: E31, Skilled worker (two years education, training or work experience); E32, Professional (Baccalaureate Degree or foreign equivalent and beneficiary is professional).
- September 1, 2002: NIW, National Interest Waiver; I11, Extraordinary Ability.
- November 1, 2002: E12, Outstanding Professor/Researcher; E21, Advanced Degree/Exceptional Ability.

STATEMENT ON MANAGEMENT CONTROLS

In planning and performing our audit of the INS's Premium Processing program, we considered the INS's management controls for the purpose of determining our auditing procedures. This evaluation was not made for the purpose of providing assurances on the management control structure as a whole.

We identified the following weaknesses in the INS's Premium Processing program and made appropriate recommendations. They are:

- The INS service centers failed to implement IBIS checks in a timely manner and that failure resulted in 11,830 premium processing petitions and 375,766 routine petitions being adjudicated without being checked against the IBIS database between January and March 2002.
- The INS failed to meet its goal of reducing the servicewide backlog for all petitions. Our analysis found that the backlog has increased steadily since the second quarter of 2002.
- The Premium Processing program oversight is weak. Premium Processing applications and related statistical data are not separately identified in the national adjudication statistics. Furthermore, the INS did not conduct formal analyses to determine the added costs associated with the Premium Processing program or the justification of the \$1,000 premium.

Because we are not expressing an opinion on the INS's overall management control structure, this statement is intended solely for the information and use of the INS in managing its premium service program.

STATEMENT ON COMPLIANCE WITH LAWS AND REGULATIONS

We conducted our audit of the INS's administration of the Premium Processing program in accordance with government auditing standards.

As required by the standards, we tested selected transactions and records to obtain reasonable assurance about the INS's compliance with laws and regulations that, if not complied with, we believe could have a material effect on operations. Compliance with laws and regulations applicable to the Premium Processing program is the responsibility of the INS management.

An audit includes examining, on a test basis, evidence about laws and regulations. The specific requirements for which we conducted tests are contained in the United States Code, Title 8, §1356, concerning the collection of fees.

Except for the issues discussed in the Findings and Recommendations section in this report, nothing came to our attention that causes us to believe that the INS management was not in compliance with the section of the United States Code cited above.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

Audit Objectives

We conducted an audit of the INS's Premium Processing program. The audit objectives were to determine if: (1) the INS was achieving the Premium Processing program goals for processing employment-based petitions and applications; (2) the processing times for similar routine petitions and applications had changed significantly since the implementation of the Premium Processing program; and (3) the implementation of the mandated IBIS check procedures impacted the Premium Processing service. The original objectives of our audit were broadened to include IBIS checks because of the clear impact they are having on premium and routine adjudications. We performed our audit in accordance with the *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included such tests of the records and procedures that we considered necessary.

Scope

The scope of the audit encompassed the Premium Processing program for the period June 2001 through October 2002. Our primary focus was on the Premium Processing activities at the INS Headquarters in Washington D.C., and at the four service centers: St. Albans, Vermont; Dallas, Texas; Laguna Niguel, California; and Lincoln, Nebraska. We conducted fieldwork at these five locations from February 2002 through July 2002.

As part of our audit process, we routinely ask management of the organization audited to furnish us with a signed management representation letter. In this letter, INS management would certify to us that: (1) they provided us with all standards, internal reports, memoranda, and other documentation associated with the Premium Processing program; and (2) there are no relevant management and internal control matters, compliance matters, contingencies, irregularities, or subsequent events of which our staff has not been aware. As of the date of issuance of this report, the INS Executive Associate Commissioner for Management declined to sign the letter. Therefore, our findings are qualified to the extent that we may not have been provided with all relevant information by INS management.

Methodology

We conducted 87 interviews with 82 management and staff personnel from the INS (including the Information Services Division, Budget Office, Financial Management Division, Office of Policy and Planning, and the Office of the General Counsel). We also interviewed personnel from the contracted Service Center Operations Teams (SCOT), and PricewaterhouseCoopers. Additionally, we analyzed 154 documents including legislative information, budget material, organizational charts, staffing plans, statistical data, survey samples, and contract data.

Our audit work included identifying laws and regulations relevant to Premium Processing; obtaining an understanding of the INS's Premium Processing procedures for employment-based petitions and applications; determining the INS's performance in providing premium service; and assessing the implementation and impact of the INS's mandated IBIS check procedures.

To determine whether the INS was achieving its Premium Processing program goals, we worked with the INS's Headquarters management and staff to obtain general program information, including total receipts data for each Form I-129 classification eligible for Premium Processing, along with refund information. The receipts data were arranged by service centers and included servicewide totals. Refund information was tracked under five categories, which enabled us to determine the most common causes for refunding the premium fee. We also evaluated the INS's plans to expand Premium Processing to include the Form I-140, Petition for Alien Worker. Related work included reviewing the budgeting and staffing allocations for the Premium Processing program.

In verifying whether the Premium Processing service has impacted processing times for similar routine petitions, we visited each service center to interview management and staff. We documented the Premium Processing operations and procedures, reviewed service center staffing allocations for the premium service and compared the allocations to the actual number of staff working on Premium Processing petitions, and obtained available data regarding the average processing times for premium and routine cases. The service centers' management preparations for the anticipated increases in premium service applications, once the program is expanded to include the Form I-140 applicants, were also discussed. Lastly, we documented the differences in the program management and processing procedures among the service centers, and compared contractor services, such as data processing and mailroom operations.

During our audit, the INS implemented mandatory IBIS check procedures for all benefit petitions and applications, including Premium Processing. Because of the impact the new IBIS check requirement was having on the service centers' operations, for both the premium and routine processing, we documented this process. We evaluated the changes in premium and routine receipt totals, additional processing times, and the service centers' procedures for conducting IBIS checks. In addition, we reviewed the INS's policy regarding the use of IBIS checks in granting immigration benefits.

APPENDIX II

PREMIUM PROCESSING RECEIPT DATA

I-129 Classifications	Month	CSC	NSC	TSC	VSC	All Centers
H-1B	June	0	0	5	0	5
	July	220	216	171	123	730
	August	1,866	1,152	1,747	2,732	7,497
	Sept	1,314	701	1,047	1,516	4,578
FY 2001 Total		3,400	2,069	2,970	4,371	12,810
	Oct	1,592	878	1,185	1,889	5,544
	Nov	1,419	816	1,126	1,679	5,040
	Dec	1,336	852	1,249	1,628	5,065
	Jan	1,320	756	1,151	1,759	4,986
	Feb	1,130	712	1,188	1,619	4,649
	Mar	1,131	723	1,340	1,763	4,957
	Apr	1,461	818	1,455	1,909	5,643
	May	1,655	1,150	1,690	2,983	7,478
	June	1,627	1,192	1,931	3,141	7,891
	July	1,994	1,483	2,500	3,361	9,338
	August	2,002	1,356	2,115	3,301	8,774
	Sept	1,707	1,178	1,726	2,933	7,544
FY 2002 Total		18,374	11,914	18,656	27,965	76,909
		CSC	NSC	TSC	VSC	ALL CTRS
H-2A*	June	0	0	1	4	5
	July	0	0	0	0	0
	August	0	0	0	0	0
	Sept	0	0	3	0	3
FY 2001 Total		0	0	4	4	8

* H-2A is no longer eligible for Premium Processing (effective June 15, 2001).

		CSC	NSC	TSC	VSC	ALL CTRS
H-2B	June	1	13	20	17	51
	July	1	19	17	28	65
	August	4	37	47	51	139
	Sept	22	79	51	72	224
FY 2001 Total		28	148	135	168	479
	Oct	14	132	82	29	257
	Nov	4	87	50	33	174
	Dec	11	72	43	35	161
	Jan	10	141	93	108	352
	Feb	15	160	165	268	608
	Mar	19	283	162	307	771
	Apr	13	269	128	292	702
	May	8	207	89	258	562
	June	6	108	70	111	295
	July	9	77	57	72	215
	August	18	79	57	57	211
	Sept	41	87	76	57	261
FY 2002 Total		168	1,702	1,072	1,627	4,569
		CSC	NSC	TSC	VSC	ALL CTRS
H-3	June	13	4	2	14	33
	July	29	3	15	21	68
	August	30	9	25	19	83
	Sept	11	3	16	7	37
FY 2001 Total		83	19	58	61	221
	Oct	21	8	13	7	49
	Nov	15	8	26	18	67
	Dec	20	10	13	37	80
	Jan	55	9	14	20	98
	Feb	11	5	18	10	44
	Mar	21	7	27	25	80
	April	16	6	29	16	67
	May	27	11	15	38	91
	June	35	14	20	32	101
	July	26	8	24	29	87
	August	25	10	16	35	86
	Sept	19	10	10	22	61
FY 2002 Total		291	106	225	289	911
		CSC	NSC	TSC	VSC	ALL

						CTRS
L-1	June	226	100	250	230	806
	July	275	177	368	345	1,165
	August	304	199	431	437	1,371
	Sept	255	140	354	317	1,066
FY 2001 Total		1,060	616	1,403	1,329	4,408
	Oct	303	167	518	427	1,415
	Nov	239	171	550	390	1,350
	Dec	278	210	525	392	1,405
	Jan	261	201	504	463	1,429
	Feb	268	199	438	440	1,345
	Mar	254	219	520	487	1,480
	April	320	201	609	414	1,544
	May	324	215	736	557	1,832
	June	297	218	722	503	1,740
	July	323	249	730	579	1,881
	August	315	233	732	558	1,838
	Sept	261	214	647	481	1,603
FY 2002 Total		3,443	2,497	7,231	5,691	18,862
		CSC	NSC	TSC	VSC	ALL CTRS
O	June	88	39	47	164	338
	July	89	52	53	229	423
	August	117	53	72	201	443
	Sept	99	46	59	207	411
FY 2001 Total		393	190	231	801	1,615
	Oct	154	39	50	179	422
	Nov	105	59	63	160	387
	Dec	99	31	69	161	360
	Jan	92	26	46	162	326
	Feb	110	26	45	182	363
	Mar	107	33	68	180	388
	April	119	38	86	172	415
	May	112	61	107	256	536
	June	91	65	122	286	564
	July	129	52	112	380	673
	August	121	66	84	357	628
	Sept	141	50	68	314	573
FY 2002 Total		1,380	546	920	2,789	5,635
		CSC	NSC	TSC	VSC	ALL CTRS

P	June	0	46	9	115	170
	July	0	108	14	166	288
	August	52	336	30	192	610
	Sept	47	108	24	137	316
FY 2001 Total		99	598	77	610	1,384
	Oct	56	60	21	176	313
	Nov	35	47	47	117	246
	Dec	53	119	49	135	356
	Jan	42	99	59	20	220
	Feb	47	54	81	162	344
	Mar	42	79	81	198	400
	April	80	51	125	216	472
	May	60	73	73	216	422
	June	43	84	56	200	383
	July	59	198	61	225	543
	August	56	193	76	251	576
	Sept	60	77	87	234	458
FY 2002 Total		633	1,134	816	2,150	4,733
		CSC	NSC	TSC	VSC	ALL CTRS
Q	June	0	0	1	1	2
	July	2	0	0	2	4
	August	2	3	1	0	6
	Sept	3	1	1	4	9
FY 2001 Total		7	4	3	7	21
	Oct	0	0	0	1	1
	Nov	0	0	2	1	3
	Dec	0	0	0	1	1
	Jan	0	0	0	2	2
	Feb	1	0	1	1	3
	Mar	0	1	0	0	1
	April	0	0	1	0	1
	May	0	0	1	9	10
	June	0	0	2	0	2
	July	0	0	2	29	31
	August	0	4	8	23	35
	Sept	1	4	6	1	12
FY 2002 Total		2	9	23	68	102
		CSC	NSC	TSC	VSC	ALL CTRS
R	June	0	0	0	1	1

	July	0	0	0	0	0
	August	18	6	2	9	35
	Sept	17	3	7	4	31
FY 2001 Total		35	9	9	14	67
	Oct	22	9	19	11	61
	Nov	21	5	13	12	51
	Dec	19	2	6	5	32
	Jan	24	6	7	14	51
	Feb	15	4	10	12	41
	Mar	10	4	1	15	30
	April	25	7	24	15	71
	May	17	11	20	17	65
	June	23	8	30	16	77
	July	26	7	47	24	104
	August	34	11	45	24	114
	Sept	18	15	23	20	76
FY 2002 Total		254	89	245	185	773
		CSC	NSC	TSC	VSC	CTRS
TN	June	0	0	0	0	0
	July	0	11	0	0	11
	August	0	56	0	0	56
	Sept	0	37	0	0	37
FY 2001 Total		0	104	0	0	104
	Oct	0	63	0	0	63
	Nov	0	50	0	0	50
	Dec	0	72	0	0	72
	Jan	0	47	0	0	47
	Feb	2	59	0	0	61
	Mar	0	82	0	0	82
	April	1	92	0	0	93
	May	0	75	0	0	75
	June	0	73	0	0	73
	July	0	84	0	0	84
	August	0	88	0	0	88
	Sept	0	65	0	0	65
FY 2002 Total		3	850	0	0	853
		CSC	NSC	TSC	VSC	ALL CTRS
E	June	32	0	18	1	51
	July	24	3	19	0	46

	August	54	0	28	0	82
	Sept	51	4	31	0	86
FY 2001 Total		161	7	96	1	265
	Oct	57	0	53	0	110
	Nov	58	0	62	0	120
	Dec	68	0	54	0	122
	Jan	77	1	83	0	161
	Feb	67	0	53	0	120
	Mar	60	0	70	1	131
	April	92	0	70	0	162
	May	90	0	76	0	166
	June	75	0	86	0	161
	July	110	0	76	0	186
	August	89	0	75	0	164
	Sept	84	0	0	0	84
FY 2002 Total		927	1	758	1	1,687

Source: INS, Information Services Division

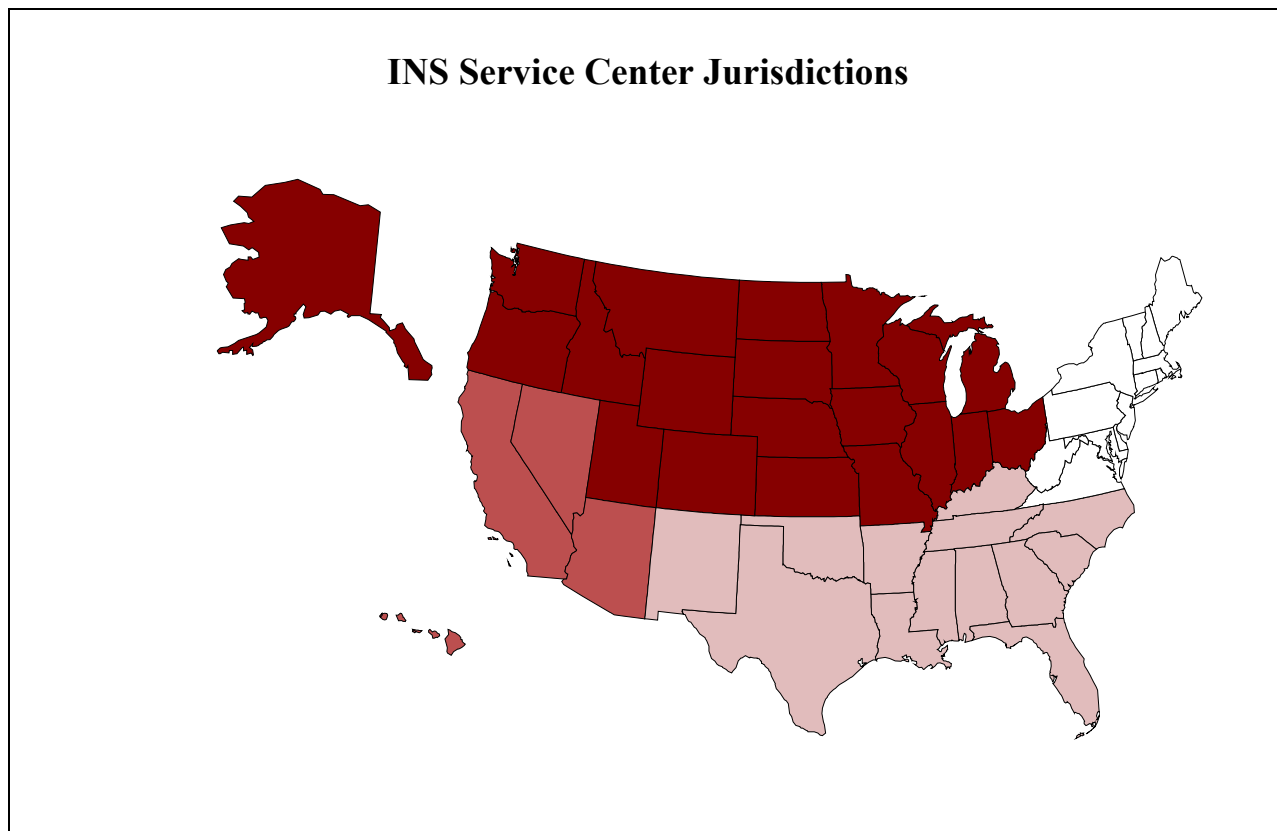
APPENDIX III

PREMIUM PROCESSING RECEIPTS BY SERVICE CENTER

Month	CSC	NSC	TSC	VSC	All Centers
June	360	202	353	547	1,462
July	640	589	657	914	2,800
August	2,447	1,851	2,383	3,641	10,322
Sept	1,819	1,122	1,593	2,264	6,798
FY 2001 Total	5,266	3,764	4,986	7,366	21,382
Oct	2,219	1,356	1,941	2,719	8,235
Nov	1,896	1,243	1,939	2,410	7,488
Dec	1,884	1,368	2,008	2,394	7,654
Jan	1,881	1,286	1,957	2,548	7,672
Feb	1,666	1,219	1,999	2,694	7,578
Mar	1,644	1,431	2,269	2,976	8,320
April	2,127	1,482	2,527	3,034	9,170
May	2,293	1,803	2,807	4,334	11,237
June	2,197	1,762	3,039	4,289	11,287
July	2,676	2,158	3,609	4,699	13,142
August	2,660	2,040	3,208	4,606	12,514
Sept	2,332	1,700	2,643	4,062	10,737
FY 2002 Total	25,475	18,848	29,946	40,765	115,034
PROGRAM TOTAL	30,741	22,612	34,932	48,131	136,416

Source: INS, Information Services Division

SERVICE CENTER AREAS OF RESPONSIBILITY



- Nebraska Service Center, Lincoln, NE
- California Service Center, Laguna Niguel, CA.
Region also includes Territory of Guam
- Texas Service Center, Dallas, TX
- Vermont Service Center, St. Albans, VT. Region also includes
Puerto Rico, and the U.S. Virgin Islands

APPENDIX V

IBIS POLICY TIMELINE

1989	IBIS was established as a multi-agency database of lookout information to improve border enforcement and facilitate inspections of individuals applying for admission to the U.S. at ports of entry and pre-inspection facilities.
1999	The VSC and the TSC experiment with IBIS software and adjudications on a limited basis.
July 31, 2001	The INS Office of Programs issues a memorandum to Office of Field Operations formally establishing the INS's policy concerning the usage of IBIS. Data in IBIS is "Law Enforcement Sensitive." Access to IBIS data is granted on a need-to-know basis. All IBIS users must be certified through an online security certification test and must be re-certified every two years.
August 6, 2001	The July 31 memorandum is forwarded to all Regional Directors (but not Service Center Directors).
August 21, 2001	Installation of IBIS hardware and software is completed at the service centers. INS Office of Programs informs the Office of Field Operations that IBIS checks are mandated for Forms I-485, I-90, I-821, and I-765, filed by asylum seekers. Development of a national IBIS Standard Operating Procedure (SOP) manual is initiated. Once complete, the SOP will provide guidance for service centers and field offices on the utilization of IBIS checks in the adjudication process.
September 5, 2001	The INS Office of Field Operations issues a transmittal notice to the Regional Directors advising that IBIS checks could begin on the forms listed in the August 21 memo. The notice states that IBIS checks are to be conducted on the applicant or principal beneficiary and the names of any spouse and children who may derive status through their relationship to that applicant or principal beneficiary. The automated IBIS checks will formally replace the Service Lookout Book checks previously made.

September 28, 2001	The ISD issues a memorandum stating that the utilization of the NCIC database is authorized only for law enforcement purposes, including active criminal cases, custody cases, and targets of investigation.
November 15, 2001	The September 5 and August 21 memos (above) are forwarded to all Service Center Directors. The service centers are directed to perform IBIS checks on the same petitions and applications as described in the August 21, 2001, guidance.
December 6, 2001	The INS Office of Programs issues a request to the Office of General Counsel for an expedited resolution of legal questions on the use of IBIS in processing applications and petitions for Immigration benefits. The stated issues included the use of IBIS information in processing benefit applications and petitions; the use of third party information in the course of making a determination on an application for immigration benefits; forwarding cases with IBIS hits to Investigations for action; and sharing IBIS hits with another Law Enforcement agency, without a biometrics match.
January 28, 2002	The Adjudicator's Field Manual is amended to require IBIS checks on all applications and petitions.
March 4, 2002	A memorandum from the Acting Assistant Attorney General for Administration bans non-U.S. citizens from accessing Department of Justice Information Technology systems unless certain waivers are issued.
March 18, 2002	A memorandum regarding Enhanced Processing Instructions from the INS Office of Field Operations is distributed to the Regional Directors and the ISD. The memorandum is to <i>reinforce</i> certain required procedures when processing applications for benefits. All applications for change of nonimmigrant status (<i>i.e.</i> , Forms I-539, I-129) must be checked against the NIIS immediately before a final decision is rendered on the application. Note: Now the Forms I-129 are to be NIIS checked.

<p>April 1, 2002</p>	<p>Directives are issued regarding IBIS checks at air and sea ports of entry.</p> <p>A memorandum is sent to Executive Associate Commissioner, Office of Field Operations, from the Director of the Central Region regarding systemic vulnerabilities in the IBIS check process. Issues include software glitches that result in some petitions and applications not being checked in IBIS, and the lack of interconnectivity among various computer systems used by the INS, including IBIS.</p>
<p>April 3, 2002</p>	<p>A memorandum from the Office of Field of Operations states that IBIS queries will continue to be conducted for all applicants for admission at sea ports of entry when manifests are received in advance of arrival and at sea ports of entry at those locations with dedicated Federal Inspection Sites (airport type facilities).</p>
<p>July 2, 2002</p>	<p>An IBIS guidance memorandum is issued by the Office of Field Operations to all Regional Directors; Deputy Executive Associate Commissioner, Immigration Services Division; and the Acting Director, Office of International Affairs. The memorandum supplements previously issued memoranda (listed therein) and provides procedural details for conducting IBIS checks and for resolving subsequent hits.</p>

SUMMARY OF SERVICE CENTER OPERATIONS TEAM (SCOT) SUPPORT SERVICES CONTRACT

The purpose of the Service Center Operations Team (SCOT) contract is to obtain comprehensive, cost-effective on-site data entry and other records processing and related support services for the INS in its four service centers, and in any additional locations INS may designate in writing.

In the past, aliens eligible to apply for benefits under the Immigration and Nationality Laws would submit their applications and petitions to one of 86 INS District Offices and Suboffices throughout the United States. To introduce greater efficiencies and improved productivity, the INS established four service centers and initiated a Direct Mail Program in 1986. Under the program, aliens seeking benefits under the Immigration and Nationality Act (Act) are to mail their applications and petitions to a service center rather than to a District or Suboffice. The four INS service centers currently supporting the Direct Mail Program are:

- California Service Center (CSC), Laguna Niguel, California
- Texas Service Center (TSC), Dallas, Texas
- Nebraska Service Center (NSC), Lincoln, Nebraska
- Vermont Service Center (VSC), St. Albans, Vermont

The Direct Mail Program is currently in its third phase of implementation. Phases I and II involved the mailing of a limited number of applications and petitions to the service centers for processing. In Phase III, all applications and petitions are to be mailed directly to the respective service centers.

The scope of work performed under the SCOT contract includes record project management and processing services. These support services consist of, but are not limited to, the following task areas:

1. Mailroom operations
2. File assembly
3. Data collection, capture, and scanning
4. Document preparation

5. Fee collection and processing
6. Fileroom operations
7. Word processing
8. Quality control, including continual process evaluation and improvement
9. Business Process Reengineering, including requirements analysis, system design, development, and implementation
10. Other records management functions, processing, and services as designated in any media or storage modality (electronic, paper, optical storage, etc.) as specified.

The objective of the contract is to provide cost-effective, timely, accurate, and comprehensive on-site data entry and other records management services at INS service centers or other specified locations in a manner consistent with effective adjudication, financial responsibility, and customer service. The INS is the customer of services under this contract. Other than law enforcement activities, the applications processed under this contract are the most highly visible products and aspects of INS's operations.

The contractor (SCOT) provides all labor, supervision, and training necessary for the performance of the work specified in its Statement of Work. The contractor also provides transportation services (*e.g.*, courier services) for mail between the post offices and the four INS service centers, and for mail and files internally within the service centers located in multiple buildings.

The INS specified performance standards in each task area related to the processes that the INS believes are critical to successful performance of the Direct Mail Program. The INS reserves the right to add, delete, and revise performance requirements for calls after issuing the initial call. These requirements and their associated performance standards define the work to be performed. The INS established these performance requirements and associated standards after careful analysis of current operations based on historical performance against similar established standards.

The INS intends to monitor performance closely, and requires the contractor to do the same. The INS will measure performance against these standards for each government fiscal quarter.

The INS's contract with SCOT became effective in January 2001, and full performance started July 1, 2001. The contract has a base year and four option years. The table below illustrates some general information obtained during our audit.

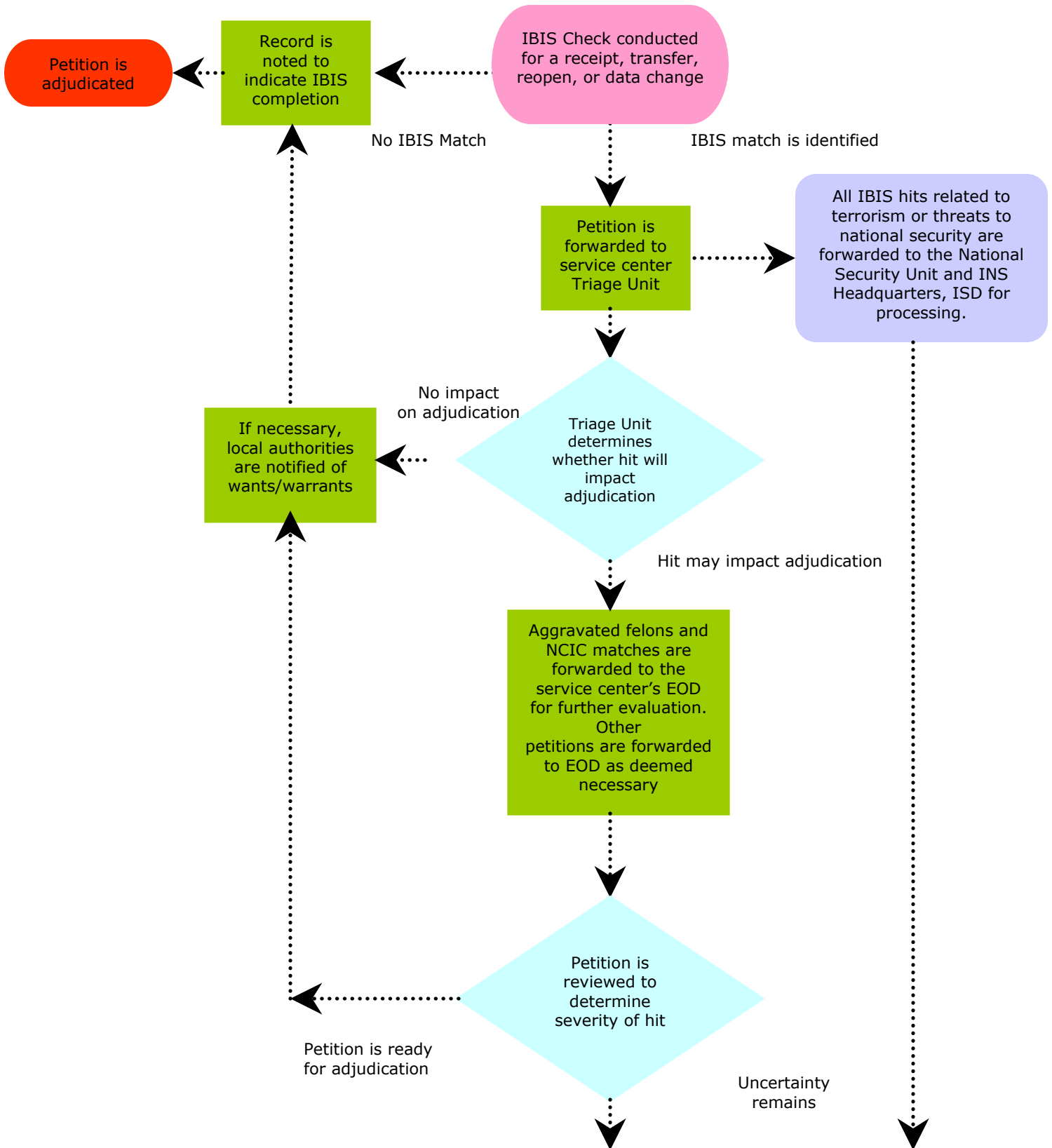
INS/SCOT Service Center Contract

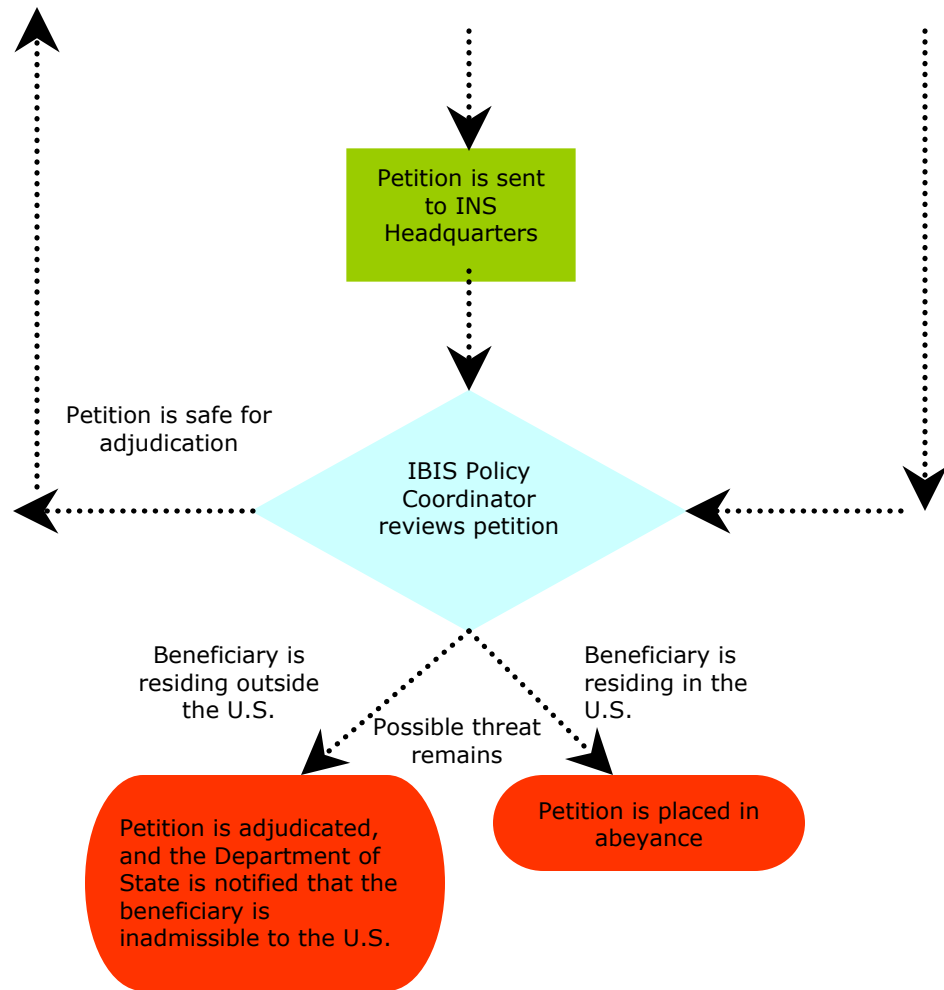
Service Center	FTEs (a)	Contract Price (a)	Invoice Costs (b)	Workload Activity (b)
CSC	495.5	\$ 166.4 m	\$ 25.6 m	20.8 m
NSC	364.5	128.5 m	16.6 m	16.7 m
TSC	386.5	138.0 m	16.4 m	14.7 m
VSC	<u>427.5</u>	<u>144.3 m</u>	<u>18.4 m</u>	<u>12.4 m</u>
Totals	<u>1674.0</u>	<u>\$ 577.2 m</u>	<u>\$ 77.0 m</u>	<u>64.6 m</u>

(a). per Contract Modification No. 7, dated 07/02/02.

(b). per Base Year data, through 06/17/02.

SERVICE CENTER PROCESS FOR IBIS RECORD CHECKS





IBIS Record Check
SIGNIFICANT INCIDENT REPORT (SIR)
Field Office to HQNSU

To: Headquarters National Security Unit (HQNSU)

Fax: 202-305-0833 (HQ)

FROM: _____ (Name of Officer/Field Office)
_____ (Telephone number)

I. DETAILS

(NOTE: ONE FORM MUST BE SUBMITTED FOR EACH SUBJECT)

Name: _____

Alien Number: _____

Date and Place of Birth: _____

Citizenship: _____

IBIS/TECS Record Number: _____

II. Documents to accompany this SIR

- Copy of IBIS/TECS Record
- Copy of Petition
- Attach any additional relevant information to this cover sheet and forward it concurrently

ADJUDICATORS FIELD MANUAL

10.3 General Adjudication Procedures [AD01-15]

The following steps apply to all cases processed by the adjudications unit within a service center. Depending upon local procedures, these steps may be handled by one or more designated officers.

a. Case Review

Each case must be thoroughly reviewed to determine jurisdiction, presence of required supporting documentation, existence of relating files and basic statutory eligibility.

b. IBIS Checks.

- (1) Requirements. An application or petition shall not be approved or revalidated until the name of the applicant or principal beneficiary, and the names of any spouse and children who may derive status through their relationship to that applicant or principal beneficiary, have been checked against the Interagency Border Information System (IBIS). The application/petition is to be notated "IBIS referral" when the check results in any of the adverse information which is identified below. When the IBIS check does not result in adverse information, the file is to be noted -"IBIS ok" and the date. (For instructions regarding annotation of the application/petition see chapter 31 of the Inspector's Field Manual for more detailed information on IBIS.)
- (2) Adverse Information. Adverse information relating to criminal activity or threats to national security must be fully addressed by the officer before any final decision may be made on such cases. Should an adjudicator determine that the derogatory information does not preclude approval of the application/petition, the decision must be supported by a memo to the file signed by the supervisory adjudications officer, and must state the basis for the decision. The derogatory information to be addressed will be those IBIS hits that show a conviction for an aggravated felony or other crime(s) which would render the alien inadmissible, prior deports, warrants, arrests, or threats to national security. If the reason for a warrant or arrest is not stated in the initial IBIS response, that issue must be resolved before the case can move forward to final adjudication.

Questions regarding this memorandum are to be addressed to Frances A. Murphy, Assistant Director, Office of Adjudications, (202) 514-3978, or by e-mail.

- (3) Other Service Records. A check of Headquarters records may also be made with respect to the applicant, petitioner or beneficiary, but only when it is believed such a check would produce pertinent information.

See Chapter 3(B)(1) of the Records Operations Handbook for information on checking other Service records.

If a Headquarters record check was made in addition to a NAILS check, a stamp bearing the legend "NAILS-HQREC CHECKED" shall be placed on the petition, and initialed by the adjudicator; any response returned with notations showing "no record "or" no file exists" shall then be destroyed.

Any further action which may be required, short of approval of the petition, shall not be delayed while the request for the Headquarters record check is pending.

- c. Adjudication. The adjudicator must carefully examine the application form and all supporting documents. The examination should address (but not be limited to) the following questions:
- Is the form complete and signed?
 - Is the applicant or petitioner represented by counsel with Form G-28 on file?
 - Are there any responses which require further explanation or indicate there may be a need for additional documentation?
 - Are all necessary supporting documents present and translated into English, if necessary?
 - Is the beneficiary statutorily eligible for the benefit sought?
 - Are all supporting documents authentic and unaltered?
 - Is there any reason to suspect fraud?
 - Are there any legal precedent decisions or court orders relevant to the case?
 - Are there any ancillary applications which should be filed by the applicant (e.g., a waiver application, adjustment application, advance parole request, or employment authorization request)?
- d. The Burden of Proof. Bear in mind that the burden of proof in establishing eligibility for an immigration benefit always falls solely on

the petitioner or applicant. The Service need not prove ineligibility. Each application and petition form includes specific evidence requirements necessary for approval. When an applicant or petitioner can establish that certain primary evidence is unavailable, secondary evidence, also in specific forms, may be provided. Experienced officers become familiar with a wide range of documents submitted as evidence. Sound judgment is required to determine which forms of primary and secondary evidence should be accepted in individual cases. In addition to reliance on past experience, there are sources of information for verifying information discussed in chapter 14. [See Matter of Brantigan, 11 I&N Dec. 453 (BIA 1966).]

Strict rules of evidence used in criminal proceedings do not apply in administrative proceedings. Usually, any oral or documentary evidence may be used in visa petition proceedings. Copies of public documents, certified by the person having custody of the originals, are generally admissible. [See also Chapter 11 of this manual for a discussion of evidence.]

- e. **Inspection of Evidence.** The adjudicator must afford a petitioner or applicant an opportunity to inspect and rebut adverse evidence used in making a decision. Prior to denial of any application or petition based on such evidence, the Service routinely issues a "notice of intent" to deny, by letter, explaining the nature of the adverse information. The applicant or petitioner may choose to respond in writing or may ask to inspect the record of proceedings prior to submission of a rebuttal. A notice of intent must specify the date by which a response must be received and instruct the applicant or petitioner that a failure to respond will result in a denial. [See 8 CFR103.2(b)(16).]
- f. **Decision: Approval.** If a case is ready for approval, the adjudicator must stamp the action block with his or her approval stamp and approved "security" ink. In some cases, the officer's signature is also required. Depending upon local procedures, a work sheet for clerical action may be completed, or the adjudicator may update the CLAIMS system to initiate generation of an approval notice to the applicant or petitioner and the attorney of record, if any. In some instances, the adjudicator may manually complete processing. The adjudicator must then forward the case file for disposition: to the file room, the National Visa Center or consular post, or another Service office. In emergent cases, the petitioner may request that a cable be sent to the consular post. The cable formats for such notifications are included as Appendix 10-4. Each service center has a quality review

process which may review some segment of completed cases for proper adjudication.

- g. Decision: Denial. If a case is to be denied, the adjudicator must so note the action block and prepare the written denial notice. Denials may consist mainly of "boilerplate" paragraphs explaining the legal basis for the adverse decision or they may be entirely original. In all cases, the specific facts of the individual case must be explained in the decision. If a denial is based on precedent decisions, those decisions should be properly cited in the body of the denial notice. The applicant or petitioner (or representative), must be advised of the action and provided with information concerning his or her right of appeal. Depending upon local procedures, denied cases may be held in suspense until an appeal is filed or the appeal period lapses, or the case file may be sent to another office for follow- up action. Denial decisions are normally sent to a supervisory officer for review and signature prior to mailing. Service of a decision is ordinarily accomplished by routine service as prescribed in 8 CFR 103.5a. Personal service is required only when an adverse action is being initiated by the Service, such as a rescission or revocation.

APPENDIX X

U.S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115-0168
Petition for a Nonimmigrant Worker

START HERE - Please Type or Print.

Part 1. Information about the employer filing this petition. If the employer is an individual, use the top name line. Organizations should use the second line.

Family Name	Given Name	Middle Initial
Company or Organization Name		
Address - Attn:		
Street Number and Name		Apt. #
City	State or Province	
Country	Zip/Postal Code	

IRS Tax #

Part 2. Information about this petition.
(See instructions to determine the fee.)

- Requested Nonimmigrant Classification**
(Write classification symbol at right)
 - Basis for Classification (Check one)**
 - New employment
 - Continuation of previously approved employment without change
 - Change in previously approved employment
 - New concurrent employment
 - Prior Petition.** If you checked other than "New Employment" in item 2. (above) give the most recent prior petition number for the worker(s): _____
 - Requested Action: (Check one)**
 - Notify the office in Part 4 so the person(s) can obtain a visa or be admitted (NOTE: a petition is not required for an E-1, E-2 or R visa).
 - Change the person(s) status and extend their stay since they are all now in the U.S. in another status (see instructions for limitations). This is available only where you check "New Employment" in item 2, above.
 - Extend or amend the stay of their person(s) since they now hold this status.
- Total number of workers in petition:**
(See instructions for where more than one worker can be included.) _____

Part 3. Information about the person(s) you are filing for.

Complete the blocks below. Use the continuation sheet to name each person included in this petition.

If an entertainment group, give their group name

Family Name	Given Name	Middle Initial
Date of Birth (Month/Day/Year)	Country of Birth	
Social Security #	A #	

If in the United States, complete the following:

Date of Arrival (Month/Day/Year)	I-94 #
Current Nonimmigrant Status	Expires (Month/Day/Year)

FOR INS USE ONLY

Returned	Receipt
Resubmitted	
Reloc Sent	
Reloc Rec'd	
Interviewed	
<input type="checkbox"/> Petitioner	
<input type="checkbox"/> Beneficiary	
Class: _____	
# of Workers: _____	
Priority Number: _____	
Validity Dates: From _____ To _____	
<input type="checkbox"/> Classification	
<input type="checkbox"/> Consulate/POE/PFI Notified	
At: _____	
<input type="checkbox"/> Extension Granted	
<input type="checkbox"/> COS/Extension Granted	
Partial Approval (explain)	
Action Block	
To Be Completed by Attorney or Representative, if any	
<input type="checkbox"/> Fill in box if G-28 is attached to represent the applicant	
VOLAG#	
ATTY State License #	

Continued on back.

Form I-129 (Rev. 12/10/01) Y

Part 4. Processing Information.

a. If the person named in Part 3 is outside the U.S. or a requested extension of stay or change of status cannot be granted, give the U.S. consulate or inspection facility you want notified if this petition is approved.

Type of Office (Check one):	<input type="checkbox"/> Consulate	<input type="checkbox"/> Pre-flight inspection	<input type="checkbox"/> Port of Entry
Office Address (City)	U.S. State or Foreign Country		
Person's Foreign Address			

b. Does each person in this petition have a valid passport?

Not required to have passport No - explain on separate paper Yes

c. Are you filing any other petitions with this one?

No Yes - How many? _____

d. Are applications for replacement/initial I-94's being filed with this petition?

No Yes - How many? _____

e. Are applications by dependents being filed with this petition?

No Yes - How many? _____

f. Is any person in this petition in exclusion or deportation proceedings?

No Yes - explain on separate paper

g. Have you ever filed an immigrant petition for any person in this petition?

No Yes - explain on separate paper

h. If you indicated you were filing a new petition in Part 2, within the past 7 years has any person in this petition:

1) ever been given the classification you are now requesting? No Yes - explain on separate paper

2) ever been denied the classification you are now requesting? No Yes - explain on separate paper

i. If you are filing for an entertainment group, has any person in this petition not been with the group for at least 1 year?

No Yes - explain on separate paper

Part 5. Basic information about the proposed employment and employer. Attach the supplement relating to the classification you are requesting.

Job Title	Nontechnical Description of Job	
Address where the person(s) will work if different from the address in Part 1.		
Is this a full-time position?	<input type="checkbox"/> No - Hours per week	<input type="checkbox"/> Yes Wages per week or per year
Other Compensation (Explain)	Value per week or per year	Dates of intended employment From: To
Type of Petitioner - Check	<input type="checkbox"/> U.S. citizen or permanent resident <input type="checkbox"/> Organization	<input type="checkbox"/> Other - explain on separate paper
Type of Business:		Year established:
Current Number of Employees	Gross Annual Income	Net Annual Income

Part 6. Signature. Read the information on penalties in the instructions before completing this section.

I certify, under penalty of perjury under the laws of the United States of America, that this petition, and the evidence submitted with it, is all true and correct. If filing this on behalf of an organization, I certify that I am empowered to do so by that organization. If this petition is to extend a prior petition, I certify that the proposed employment is under the same terms and conditions as in the prior approved petition. I authorize the release of any information from my records, or from the petitioning organization's records, which the Immigration and Naturalization Service needs to determine eligibility for the benefit being sought.

Signature and Title	Print Name	Date
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Please Note: If you do not completely fill out this form and the required supplement, or fail to submit required documents listed in the instructions, then the person(s) filed for may not be found eligible for the requested benefit, and this petition may be denied.

Part 7. Signature of person preparing form, if other than above.

I declare that I prepared this petition at the request of the above person and it is based on all information of which I have any knowledge.

Signature	Print Name	Date
-----------	------------	------

Firm Name and Address

APPENDIX XI

U.S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115-0241

Request for Premium Processing Service

START HERE - Please Type or Print

FOR INS USE ONLY

Part 1. Information about you. (Person or business filing this request.)

If filed on your own behalf: Individual Named in the Related Case
 Family Name (Last Name) Given Name (First Name) Full Middle Name

If filed on behalf of a company: Company or Business Named in the Related Case

Mailing Address: Street Number and Name / P.O. Box Number

Name of Company Contact Title/Position

City State/Province Zip/Postal Code

IRS Tax # (if any)

You (the person submitting this request):
 Are the person named in the relating petition/application.
 Work for company/business named in the relating petition or application.
 Are an attorney/representative.

Your Preferred Form of Communication: Mail Phone Fax e:Mail
 Phone Number (Area/Country Code) Fax Number (Area/Country Code)

Request Physically Received by INS	Receipt
Date	
Date Returned	
Date	
Date Resubmitted	
Date	
Date	

To Be Completed By
 Attorney or Representative, if any.
 Fill in box if G-28 is attached to represent the applicant.

ATTY State License #

e:Mail Address

Part 2. Information about request.

1. Form number of related petition or application. <input type="text"/>	2. Classification type being requested <input type="text"/>
3. Petitioner on the relating case <input type="text"/>	4. Beneficiary on the relating case <input type="text"/>

Part 3. Signature. (Read the information on penalties in the instructions before completing this section.)

It is understood that if the Immigration and Naturalization Service (INS) does not issue a notice or make a request for additional evidence within 15 calendar days after this request has been physically received in the appropriate INS office, a full refund will be given to the addressee shown in Part 1 of

I certify, under penalty of perjury under the laws of the United States of America, that the information provided with this request is all true and correct. I authorize the release of any information from my records which the INS needs to determine eligibility for the benefit being sought.

Signature <input type="text"/>	Title (if applicable) <input type="text"/>
Print Your Name <input type="text"/>	Date (MM/DD/YYYY) <input type="text"/>

Part 4. Signature of person preparing form if other than above. (Sign below.)

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

Signature <input type="text"/>	Print Your Name <input type="text"/>	Date (MM/DD/YYYY) <input type="text"/>
Firm Name and Address <input type="text"/>	Daytime Phone Number (Area Code and Number) <input type="text"/>	

Form I-907 (Rev. 05/16/01)

APPENDIX XII

U.S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115-0061
Immigrant Petition for Alien Worker

START HERE - Please Type or Print.

Part 1. Information about the person or organization filing this petition.

If an individual is filing, use the top name line. Organizations should use the second line.

Family Name	Given Name	Middle Initial
-------------	------------	----------------

Company or Organization

Address - Attn:

Street Number and Name	Room
City	State or Province
Country	Zip/Postal Code

E-mail Address:

IRS Tax #	Social Security # (if any)
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Part 2. Petition type.

This petition is being filed for (check one)

- a. An alien of extraordinary ability
- b. An outstanding professor or researcher
- c. A multinational executive or manager
- d. A member of the professions holding an advanced degree or an alien of exceptional ability (who is NOT seeking a National Interest Waiver.)
- e. A skilled worker (requiring at least two years of specialized training or experience) or professional (Item F- no longer available)
- g. Any other worker (requiring less than two years of training or experience)
- i. An alien applying for a national interest waiver (who IS a member of the professions holding an advanced degree or an alien of exceptional ability)

Part 3. Information about the person you are filing for.

Family Name	Given Name	Middle Initial
-------------	------------	----------------

Address - C/O

Street # and Name	Apt. #
City	State or Province
Country	Zip/Postal Code

E-mail Address:

Date of Birth (Month/Day/Year)	Country of Birth	
Social Security # (if any)	A # (if any)	
If in the U.S.	Date of Arrival (Month/Day/Year)	I-94 #
	Current Nonimmigrant Status	Expires on (Month/Day/Year)

FOR INS USE ONLY

Receipt

- Classification:**
- 203(b)(1)(A) Alien of Extraordinary Ability
 - 203(b)(1)(B) Outstanding Professor or Researcher
 - 203(b)(1)(C) Multi-national executive or manager
 - 203(b)(2) Member of professions w/adv. degree or exceptional ability
 - 203(b)(3) (A) (i) Skilled Worker
 - 203(b)(3) (A) (ii) Professional
 - 203(b)(3) (A) (iii) Other worker

- Certification:**
- National Interest Waiver (NIW)
 - Schedule A, Group I
 - Schedule A, Group II

Priority Date	Consulate
---------------	-----------

Remarks

Action Block

Form I-140 (Rev. 12/04/01)N

Part 4. Processing Information.

Please complete the following for the person named in Part 3: (Check one)

- Alien will apply for a visa abroad at the American Consulate in: _____ City: _____ Foreign Country: _____
- Alien is in the United States and will apply for adjustment of status to that of lawful permanent resident.

Alien's Country of Nationality: _____

Alien's country of current residence or, if now in the U.S., last permanent residence abroad: _____

If you provided a U.S. address in Part 3, print the person's foreign address: _____

If the person's native alphabet is other than Roman letters, write the person's foreign name and address in the native alphabet: _____

- Are you filing any other petitions or applications with this one? No Yes-attach an explanation
- Is the person you are filing for in removal proceedings? No Yes-attach an explanation
- Has any immigrant visa petition ever been filed by or on behalf of this person? No Yes-attach an explanation

If you answered yes to any of these questions, please provide the case number, office location, date of decision and disposition of the decision on a separate sheet of paper.

Part 5. Additional information about the petitioner.

Type of petitioner (Check one).

- Employer Self Other (Explain, e.g., Permanent Resident, U.S. Citizen or any other person filing on behalf of the alien.)

If a company, give the following:

Type of business _____ NAICS Code:

--	--	--	--	--	--	--	--	--	--

Date Established	Current # of employees	Gross Annual Income	Net Annual Income
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If an individual, give the following:

Occupation	Annual Income
------------	---------------

Part 6. Basic information about the proposed employment.

Job title	SOC Code: <table border="1"><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table> - <table border="1"><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table>																				

Nontechnical description of job

Address where the person will work if different from address in Part 1.

Is this a full-time position?: Yes No (hours per week _____) Wages per week \$

Is this a permanent position?: Yes No Is this a new position? Yes No

Part 7. Information on spouse and all children of the person you are filing for.

List husband/wife and all children related to the individual for whom the petition is being filed. Provide an attachment of additional family members, if needed.

(Name)	(Relationship)	(Date of Birth)	(Country of Birth)
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INS RESPONSE TO THE DRAFT REPORT

FEB 14 2003



U.S. Department of Justice
Immigration and Naturalization Service


HQOIA 110/8.2-C

Office of the Commissioner

425 I Street NW
Washington, DC 20536

FEB 12 2003

MEMORANDUM FOR GUY K. ZIMMERMAN
ASSISTANT INSPECTOR GENERAL FOR AUDIT
DEPARTMENT OF JUSTICE

FROM: Michael J. Garcia 
Acting Commissioner
Immigration and Naturalization Service

SUBJECT: The Immigration and Naturalization Service's
Premium Processing Program

I appreciate the opportunity to comment on the subject draft report and solicited input from the senior management official who is most significantly impacted -- the Executive Associate Commissioner for Field Operations. I reviewed the response and concur with the conclusions and observations.

The Executive Associate Commissioner for Field Operations has given a detailed explanation for our non-concurrence with recommendation 5 and the "concur-in-part" for three other recommendations. A detailed assessment of your findings related to the audit objectives is also attached. While these comments were not requested, I feel that this assessment is pertinent and should be included with our response to your report.

If you have any questions, please contact Kathleen Stanley, Audit Liaison, at (202) 514-8800.

Attachment

cc: Vickie L. Sloan, DOJ Audit Liaison

FEB 14 2003



U.S. Department of Justice
Immigration and Naturalization Service

HQISD 110/8.2-C

Office of the Executive Associate Commissioner

425 I Street NW
Washington, DC 20536

FEB 11 2003

MEMORANDUM FOR THE ACTING COMMISSIONER

FROM: Johnny N. Williams
Executive Associate Commissioner
Office of Field Operations

SUBJECT: The Immigration and Naturalization Service's
Premium Processing Program

The Immigration and Naturalization Service (INS) Premium Processing Program (PPP) was designed and implemented to enable businesses to secure expeditiously vital human resources while also providing the INS with an additional source of revenue to improve our adjudications infrastructure and operations. The Office of the Inspector General (OIG) in its recent report accessing the PPP focused to a large extent on the INS' use of the Interagency Border Inspection System (IBIS), one critical though relatively minor aspect of the overall PPP. The OIG ultimately concluded that the PPP has impacted adversely the processing times for other INS applications, and suggested that the INS has not managed properly this new and important program.

Respecting the OIG's considerable work and commitment to effective government programs, the INS nonetheless maintains that the PPP is a successful initiative. It has delivered a notable, long sought after service to its targeted audience while preserving the INS' normal adjudication processes. Contrary to the OIG's conclusion, the INS believes that the time required to adjudicate routine applications and petitions has not been adversely affected by the PPP. First, the INS initially hired several dedicated full time equivalent staff (FTEs) for the PPP. Second, during the past approximately 18 months, many intervening factors played a role in determining the speed with which the INS could process all applications. Clearly the tragic events of September 11, 2001, and the consequent mandate that the INS more closely scrutinize all applications and petitions, including the use of the IBIS, provide two cogent examples. Neither was the INS able to anticipate the huge influx of petitions submitted as a result of certain temporary protected status (TPS) designations, as well as the increase in naturalization filings

given current events. On page 18 of the report, the OIG identified some of these many reasons while discussing the backlog of non-Premium Processing Forms I-129.

In addition, the INS believes that the OIG's report contains other inaccuracies or misleading information concerning adjudications processes. These are set forth in greater detail in the following INS response to the OIG recommendations.

RECOMMENDATION 1: Strengthen internal communication to ensure that all service centers and district offices are fully informed of policy and/or procedural changes that will affect adjudication practices before those changes become effective.

INS RESPONSE: Concur. The INS has an initiative to develop and deploy an impressive Knowledge Management System to improve our internal communications and support timely and accurate processing of applications and petitions. This indexed electronic database will consolidate INS information while also providing consistency and quick access, nationwide, to information used or requested by those involved in adjudication processes. The system will also permit timely revisions and updates concerning INS policies, procedures, regulations, and best practices. Immediate action on this recommendation requires that Headquarters provide advance notice through the written and verbal distribution of relevant materials. The Immigration Services Division (ISD) is prepared to engage in this form of immediate action. ISD is likewise well equipped to do so as the internet Powerport site includes an ample bulletin board function capable of reaching a wide range of users and linking to new web content.

The point of contact for this response in ISD is Bert Rizzo, 202-307-8996.

RECOMMENDATION 2: Ensure that the excess program revenues, not used for adjudication processing and fraud investigation, are utilized for backlog reduction efforts.

INS RESPONSE: Concur in Part: The INS agrees with the OIG that it is unable to directly link the expenditure of Immigration Examination Fee Account funds to the specific application, petition or premium fee revenue source. Fee revenue is, however, separately tracked for purposes of statistical analyses and accounting. When funds are allocated to the INS operating units to support day-to-day operations, the specific source of the revenue provided is not tracked. All fee revenues once deposited are consolidated within the Exams Fee Account, and their original link to a specific application or petition is lost. The only way the INS could specifically tie the premium process revenue to the program expenditure would be for Congress to establish a new fee account and mandate the deposit of premium fees into such account. In approving the establishment of the INS Premium Processing Program in FY 2001, Congress did not choose to establish a new fee account; rather it specifically authorized the INS to expend the premium fee revenue from within the existing Exams Fee Account to support, (1) the premium program itself, (2) enhanced backlog elimination and anti-fraud efforts, and, (3) increased investment in infrastructure needs. The FY 2001 budget authorized expenditure of \$80 million

in premium revenue with \$25 million to be used to hire additional staff to process premium process cases and target high-risk form types for anti-fraud reviews, \$20 million to support backlog reduction and processing, and \$35 million for general infrastructure improvements.

Although unable to specifically show through its financial systems that program expenditures for backlog reduction are being funded by the premium fee revenue, the INS does believe that through its specific tracking of premium fee revenues, its use of an annual Operating Plan, and its yearly workload and staffing updates that it is able to ensure that the appropriate portion of the premium processing revenues are being used to reduce INS' adjudications backlogs.

The point of contact in ISD is Joseph Moore, 202-307-6219.

RECOMMENDATION 3: Accumulate statistical data for Premium Processing by adding a separate category in the INS work measurement databases.

INS RESPONSE: Concur in Part: The INS agrees that it should strive to improve the integrity of the data collected to manage the Premium Processing Program. INS has made provisions to track premium processing within the Performance Analysis System (PAS) beginning in FY 2004. The INS does not agree, however, that PAS is the best mechanism to implement this improvement. As a secondary system dependent on "the various reporting systems from the individual service centers," PAS does not provide a consistent methodology, or accurate, standardized reporting and program analyses called for by the OIG. The ISD is developing a new primary system that will incorporate the automatic collection of performance management data. We expect this initiative to eliminate the need for secondary collection systems like the PAS. In the interim, the INS through the ISD's Office of Quality and Performance Management will continue to analyze the sources cited by the OIG to provide management officials with vital information to properly allocate resources. Please refer to the response to recommendation 4 below for additional information on INS' methodology for the allocation of resources.

The point of contact in ISD is Joseph Moore, 202-307-6219.

RECOMMENDATION 4: Conduct a comprehensive time and motion study to determine appropriate unit costs for processing premium cases in order to ensure that the service centers have adequate staff and resources to meet the added demands associated with Premium Processing.

INS RESPONSE: Concur in Part: The INS acknowledges that additional customer service features have been added to the adjudication process to support the PPP. However, we do not recognize the need for a formal independent study isolating the PPP to determine unit costs per adjudication. The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1989 (Public Law 100-459) authorizes the INS to prescribe

and collect fees to recover the cost of providing certain immigration adjudication and naturalization services. At the same time, the Chief Financial Officer (CFO) Act of 1990 (P.L. 101-576) Section 205(a)(8) requires each agency's CFO to "review, on a biennial basis, the fee, royalties, rents, and other charges imposed by the agency for services and things of value it provides..."

The INS employs an activity based cost (ABC) methodology to determine the cost of immigration adjudications and naturalization services for which we charge fees. The ABC methodology allows the INS to identify the total cost of adjudicating the Petition for Non-Immigrant Worker (Form I-129) form(s). Because the INS does not perform a separate ABC fee study for each individual application, it is not feasible to conduct a formal study to specifically determine the unit cost of processing premium cases. When the INS next conducts a biennial fee study in FY2005, it will in any event consider the cost implications of providing enhanced customer service activities, such as dedicated phone lines, e-mail addresses and more direct communications with customers by INS personnel to applicants filing for premium service. Should the fee study indicate a different cost for processing premium service cases vs. normal applications, the INS would advise the Congress of any adjustment needed through legislation.

In FY2001, when the INS first began to implement the PPP, a total of 136 adjudications positions were allocated to four INS Service Centers. Because no increased case workload resulted from the offering of this expedited service, the positions were actually added to address the non-processing needs of the program. As noted in the Draft Audit Report¹ the INS processed 136,416 premium service petitions from June 2001 through September 2002. During this same period, we processed only 129 refund requests due to the INS' failure to complete processing within the guaranteed 15-day period. This represents a 99.8% success rate and clearly demonstrates that the INS is achieving its program goals for the expedited processing of employment-based petitions and applications. In this vein, the INS conducts a comprehensive workload and staffing analysis twice per year to determine necessary staff resources and distribution. INS believes that the ISD has assigned adequate staff and other resources to meet the needs of the PPP as well as other adjudications foci, and that a formal study is not required.

The point of contact for this response in ISD is Joseph Moore, 202-307-6219.

RECOMMENDATION 5: Conduct an analysis of the \$1,000 premium to ensure that the allocations for processing applications, fraud investigations, backlog reduction, and infrastructure improvements are completed as approved by Congress.

INS RESPONSE: Non-concur: The INS does not concur that a formal analysis of the \$1,000 PPP fee is necessary to ensure revenues are allocated as mandated. The INS specifically established a unique two-digit appropriation code (XW) to facilitate the recording and tracking of deposits made relating to the \$1,000 premium fee. INS Service Centers identify the XW

¹ Page 8 of the Draft Audit Report

Memorandum for the Commissioner
Subject: The Immigration and Naturalization Service's
Premium Processing Program

Page 5

appropriation code on all premium processing deposit slips forwarded to the INS Debt Management Center (DMC) for processing, where the data is entered into the INS' Federal Financial Management System (FFMS). It is the special appropriation code that allows the INS to separately track and record the premium processing revenue from all other adjudication and naturalization application and petition revenues that are received.

The ISD prepares, in coordination with the INS Budget Office, an annual Operating Plan that identifies the specific program activities to be funded and pursued for the year. The Operating Plan provides resource managers and executive level staff with key information to guide their allocation and management of agency resources. Again, the INS utilizes a unique appropriation code to specifically track and account for the premium fee revenues separate from all other deposits within the Examinations Fee Account. This is reinforced insofar as the INS Operating Plan includes documentation of approved program and project spending. For all of these reasons, the INS does not believe that conducting a formal analysis of the premium fee is necessary or potentially productive to ensure that revenues are being allocated as legally mandated. Rather, the Operating Plan provides the necessary linkage of fees to program and project allocations.

Alternatively, the INS proposes to modify its Operating Plan to isolate through a specific column, the planned program and project spending associated with the premium fee revenues approved by Congress in its annual appropriations bill.

Finally, the INS understands this recommendation to raise an execution or accountability issue as opposed to one concerning an allocation. Premium processing revenues are deposited into the Immigration Examinations Fee Account. INS maintains that as long as these funds are used to deliver the specific services promised to Congress in exchange for the resources, the agency's legal obligation is satisfied.

The point of contact for this response in ISD is Joseph Moore, 202-307-6219.

Attachment

Attachment to the Memorandum on the OIG Report - Immigration and Naturalization Service's
Premium Processing Program

Audit Findings

The Office of the Inspector General, Audit Division, completed an audit of the Immigration and Naturalization Service's (INS) Premium Processing program. The audit focused on determining if: (1) the INS was achieving the program goals for the expedited processing of employment-based petitions and applications; (2) the processing times for similar routine petitions and applications changed significantly after the implementation of the Premium Processing program; and (3) the implementation of the mandated Interagency Border Inspection System (IBIS) check procedures impacted the Premium Processing program.

In the draft audit report on the Premium Processing program, the Inspector General makes the following findings related to the three focus areas of the audit:

Is the INS achieving the program goals for the expedited processing of employment-based petitions and applications?

The goal of the Premium Processing program is for INS to process employment-based petitions and applications in 15 calendar days or less on payment of a \$1000 fee. To date, INS has designated only certain Forms I-129 for the Premium Processing program. Under the program, if INS does not meet the 15-day requirement, it must refund the \$1000 fee.

The draft audit report does not explicitly state whether INS is achieving the goal of processing Premium Processing petitions in 15 days or less. However, on page 20 of the draft report, the Inspector General finds that INS has had to refund only 129 fees for failure to meet the 15-day requirement. These refunds relate to less than 0.2 percent of all Premium Processing petitions filed with INS during the entire program. Therefore, INS concludes that the Inspector General finds that it is achieving the Premium Processing goal for expedite processing.

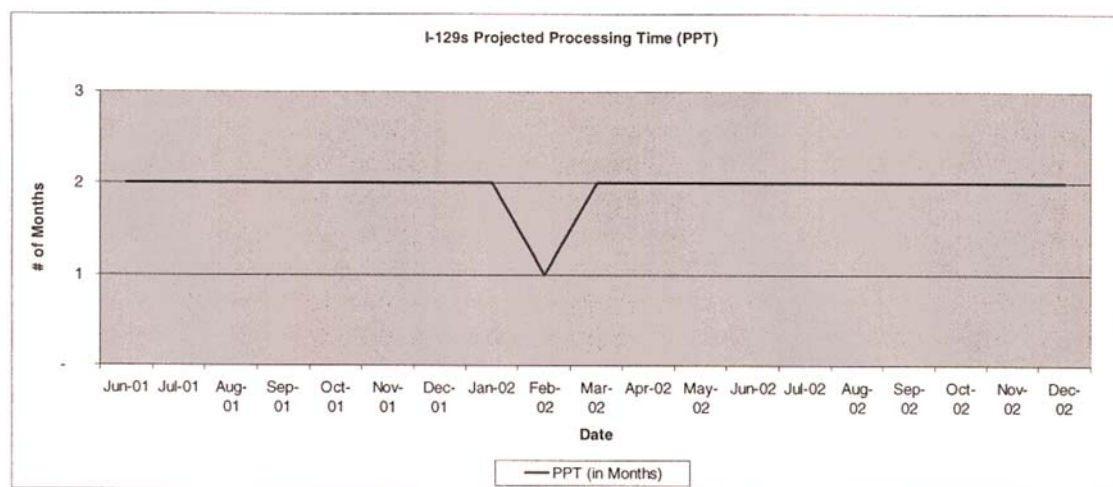
Have the processing times for similar routine petitions and applications changed significantly after the implementation of the Premium Processing program?

The Inspector General finds that the processing times for similar routine petitions have increased dramatically since implementation of the Premium Processing program. However, INS believes the Inspector General relied on an inappropriate measurement of processing time to reach this finding.

The Inspector General relied on data derived from service center management data of processing dates to measure application processing times. These data simply provide a snap shot of service center operations for a particular date. The INS does not use these data to measure

processing time. Rather, INS measures application processing time using official data derived from its Performance Analysis System.

The INS' official measurement of processing time calculates the rate at which INS is currently processing applications and is called Projected Processing Time. The INS calculates Projected Processing Time by dividing the average of the past 12 months of actual application completions into the pending volume of applications. The INS has adopted this measurement for processing time because it reliably estimates how long it will take INS to complete newly filed applications. The following table displays Projected Processing Time for Form I-129 since implementation of the Premium Processing program.



Based on the official measurement of processing time, INS has maintained processing times of between one and two months for routine petitions since implementation of the Premium Processing program. Moreover, INS achieved its first year backlog reduction target for Form I-129 by achieving Projected Processing Time of two months at the end of fiscal year (FY) 2002. Therefore, INS disputes the Inspector General's finding that the processing times for similar routine petitions have increased dramatically since implementation of the Premium Processing program.

Did implementation of the mandated IBIS check procedures affect the Premium Processing program?

The draft audit report does not specifically state whether the mandated IBIS check procedures affect the Premium Processing program. However, the Inspector General does find that the mandated IBIS checks were a procedural change and that impacts on both premium and routine petitions can be expected whenever procedural changes are put into place. Furthermore, the Inspector General finds that implementation of the IBIS check procedures caused processing times for routine petitions to increase.

The INS does not dispute that the implementation of IBIS check procedures affected processing times for all applications and petitions. For this reason, INS conducted an analysis of the impact of the IBIS check procedures that resulted in proposals for fee and staff increases to

ensure proper support of application and petition processing. However, publication of the rule in the Federal Register necessary to implement the fee increase is currently pending with the Department of Justice and Congressional reprogramming approval necessary to authorize staff increases has recently been submitted to Congress for consideration.

In addition, on page 20 of the draft report, the Inspector General finds that refunds of Premium Processing fees have increased eight-fold since implementation of the IBIS check procedures and suggests that this increase is attributable to the procedural change. However, because the 13 cases refunded prior to the implementation of IBIS checks represented .02% of the volume, almost any increase after the initial overwhelming success of the program would appear large. The 116 refunds made after the implementation of IBIS represent .15% of the volume. Because the numbers are so small this change cannot be construed to be a statistically significant trend. It does highlight the high preparedness and training level at the inception of the program, however.

Management Controls

In planning and performing the audit, the Inspector General also considered the INS' management controls of the Premium Processing program to determine audit procedures. The Inspector General did not note any matters considered reportable conditions under government auditing standards. However, the Office of the Inspector General made statements relating to perceived management weaknesses that, in their judgement, could adversely affect the INS' ability to achieve the legislatively mandated time requirement of the Premium Processing Program. The Inspector General also made five recommendations relating to these perceived management weaknesses. The INS would like to take this opportunity to respond to these statements and recommendations.

Statements

The Inspector General's draft audit report does not express an opinion on the INS' management control structure. The Inspector General intends these statements on perceived management weaknesses to be used solely for the information and use of INS in managing the Premium Processing program.

Statement 1: The INS service centers failed to implement IBIS checks in a timely manner and that failure resulted in 11,830 premium processing petitions and 375,766 routine petitions being adjudicated without being checked against the IBIS database between January and March 2002.

Response: There were many stages of implementation of IBIS checks in the adjudication process. Full implementation of IBIS checks for all applications and petitions at service centers while a useful step in the Country's war on terrorism, was not a critical step in the use of IBIS by the INS. The Inspections Program has utilized the IBIS process for years and the Department of State (DOS) visa issuing process has also provided a check of databases during its screening process. Currently, the INS and DOS perform IBIS checks at visa application, port of entry application for admission, application submission, and adjudication of application (if more than 35 days following submission). These multiple checks of the same individual provide many

opportunities for the identification of problem individuals and are not hampered by failure of any individual check in the entire process.

Statement 2: The INS failed to meet its goal of reducing the servicewide backlog for all petitions. The Inspector General's analysis found that the backlog has increased steadily since the second quarter of 2002.

Response: The attached graph illustrates INS backlogs as represented by the Projected Processing Times (calculated by dividing the average of the past 12 months of completions by the current pending) for the twelve form types that make up 95% of INS' workload. It can be seen that since the inception of the premium processing program, as well as since the beginning of the latest backlog reduction plan in October of 2001 most form types' backlogs have actually decreased while others have increased very slightly. Since the second quarter of 2002 most forms have experienced a very slight increase. This was during the period when IBIS, SEVIS, NSEERS, and the special alien registration programs were put into effect. At the end of FY 2002 the INS met its own backlog reduction goals for forms I-129, I-539, I-751, and N-600/643.

Statement 3: The Premium Processing program oversight is weak. Premium Processing applications and related statistical data are not separately identified in the national adjudications statistics. Furthermore, INS did not conduct formal analyses to determine the added costs associated with the Premium Processing program or the justification of the \$1,000 premium.

Response: See responses to Recommendations 3, 4, and 5 in the cover memorandum..

APPENDIX XIV

OFFICE OF THE INSPECTOR GENERAL, AUDIT DIVISION, ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE THE REPORT

We have received and reviewed the INS response to our draft audit report. Where appropriate, we made changes to the final report based on the INS response.

In the transmittal letter for the INS response, the Executive Associate Commissioner, Office of Field Operations, makes some assertions to which we wish to respond.

First, the Executive Associate Commissioner asserts, "Contrary to the OIG's conclusion, the INS believes that the time required to adjudicate routine applications and petitions has not been adversely affected by the [Premium Processing program]."

OIG Response: In our discussion of the backlogs of routine applications and petitions, we described several factors that, in the view of INS officials, contributed to the increases in backlogs. We also stated explicitly that "when situations occur that disrupt general processing times, those times are likely to be further exacerbated by the premium service. As has occurred with the implementation of IBIS checks, more petitioners will choose the premium service if general processing times are prolonged. Because Premium Processing receives priority, backlogs for routine cases may continue to grow. In this way, a program that was intended to reduce backlogs may actually have the effect of increasing backlogs for routine applications."

We based our analysis on data provided to us by INS during the audit. As shown in the table on page 18, the number of pending applications and petitions has increased notably at each of the service centers and nationally. At the end of FY 2000, there were 1,876,391 pending applications and petitions at the four service centers; by the end of FY 2002, that figure had grown to 3,249,226, an increase of 73 percent. We reported the INS's alternative explanations but nonetheless concluded that they do not sufficiently explain such a dramatic growth in the backlog for routine applications. We also note that the INS has not provided data to support these alternative explanations. Finally, the pressure on the INS to take resources from routine adjudications when Premium Processing receipts increase is great, and we believe that diversion contributed to the backlog.

Second, the Executive Associate Commissioner states "The Office of the Inspector General (OIG) in its recent report ...focused to a large extent on the INS' use of the Interagency Border Inspection System (IBIS), one critical though relatively minor aspect of the overall [Premium Processing program]."

OIG Response: We cannot agree with the confusing description of IBIS as both "critical" and "minor." The INS made the judgment that the screening of applicants and petitioners through IBIS is of vital importance to national security. Because the service centers failed to implement IBIS checks when directed to do so, some 387,596 total applications and petitions, including 11,830 premium cases, were processed without IBIS checks. The failure of the INS service centers to conform to INS Headquarters policy directives that they begin IBIS screening had potential consequences that could be quite serious.

The INS response to the draft report also addresses each of our five recommendations. Our comments on the INS responses are given below, together with status of recommendations and actions needed to close the report:

Recommendation Number:

- 1. The INS concurs with our recommendation to strengthen internal communication to ensure that affected field offices receive advance notice of policy changes that will affect adjudication practices.*

Resolved. This recommendation can be closed when we receive the INS policy requiring Headquarters to provide to all service centers and district offices advance notice of relevant policy and/or procedural changes that affect the adjudication process.

- 2. The INS concurs in part with our recommendation to ensure that excess revenues, not used for adjudication processing and fraud investigation, are utilized for backlog reduction efforts. The INS states that it "agrees with the OIG that it is unable to directly link the expenditure of Immigration Examination Fee Account funds to the specific application, petition or premium fee revenue source. Fee revenue is, however, separately tracked for purposes of statistical analyses and accounting. When funds are allocated to the INS operating units to support day-to-day operations, the specific source of the revenue provided is not tracked. All fee revenues once deposited are consolidated within the Exams Fee Account, and their original link to a specific application or petition is lost. The only way the INS could specifically tie the premium process revenue to the program*

expenditure would be for Congress to establish a new fee account and mandate the deposit of premium fees into such account.... Although unable to specifically show through its financial systems that program expenditures for backlog reduction are being funded by the premium fee revenue, the INS does believe that through its specific tracking of premium fee revenues, its use of an annual Operating Plan, and its yearly workload and staffing updates that it is able to ensure that the appropriate portion of the premium processing revenues are being used to reduce INS' adjudications backlogs."

Our intent was not to compel the INS to change its existing accounting system, but to ensure that excess Premium Processing revenues are expended for infrastructure improvements and backlog reduction. As we reported on page 17, based on our review of the INS accounts, "we could not determine whether any of the additional premium service revenues were actually used to fund the infrastructure improvements and backlog reduction efforts."

In its response, the INS states it can "ensure that the appropriate portion of the premium processing revenues are being used to reduce INS' adjudications backlogs" through "specific tracking of premium fee revenues, its use of an annual Operating Plan, and its yearly workload and staffing updates." However, the INS does not state how those devices will ensure the proper allocation of premium fee revenues, why the INS has not yet used those means, or how the INS might use them in the future. The need remains for the INS to develop policy or procedures to ensure that Premium Processing revenues are expended in keeping with the budget approved annually by Congress. If the INS believes it cannot develop such policy or procedure without creating a separate account for Premium Processing revenues, the INS should seek Congressional authorization for such an account.

Unresolved. This recommendation can be closed when we receive documentation showing the INS has implemented a policy or procedures to ensure that Premium Processing program revenues that are not used for adjudication processing and fraud investigation, are utilized only for the backlog reduction efforts.

- 3. The INS concurs in part with our recommendation to accumulate statistical data for Premium Processing by adding a separate category to the INS work measurement databases. "The INS agrees that it should strive to improve the integrity of the data collected to manage the Premium Processing Program. INS has made provisions to track premium processing within the Performance Analysis System (PAS) beginning in FY 2004. The INS does not agree, however, that PAS is*

the best mechanism to implement this improvement. As a secondary system dependent on 'the various reporting systems from the individual service centers,' PAS does not provide a consistent methodology, or accurate, standardized reporting and program analyses called for by the OIG. The ISD is developing a new primary system that will incorporate the automatic collection of performance management data. We expect this initiative to eliminate the need for secondary collection systems like the PAS."

Based on our work on this audit and others, we recognize that PAS has shortcomings. Our experience in other audits involving the INS has shown that initiatives such as the one to develop "a new primary system that will incorporate the automatic collection of performance management data" take considerable time and money to implement and often result in less than satisfactory results. However, the fact remains that INS management needs current, complete, and accurate data to manage each of its programs, including Premium Processing.

Resolved. This recommendation can be closed when we receive documentation showing that the INS has modified the work measurement databases to accumulate Premium Processing statistical data. Based on the INS response, we understand that Premium Processing data will be incorporated in the Performance Analysis System in FY 2004. Later, the data may be collected in a successor system.

4. *The INS concurs in part with our recommendation to conduct a time and motion study to determine appropriate costs for processing premium cases in order to ensure that the service centers have adequate staff and resources. Its response states, "The INS acknowledges that additional customer service features have been added to the adjudication process to support the [Premium Processing program]. However, we do not recognize the need for a formal independent study isolating the [Premium Processing program] to determine unit costs per adjudication....The INS employs an activity based cost (ABC) methodology to determine the cost of immigration adjudications and naturalization services for which we charge fees.... When the INS next conducts a biennial fee study in FY 2005, it will in any event consider the cost implications of providing enhanced customer service activities, such as dedicated phone lines, e-mail addresses and more direct communications with customers by INS personnel to applicants filing for premium service. Should the fee study indicate a different cost for processing premium service cases vs. normal applications, the INS would advise the Congress of any adjustment needed through legislation.... In this vein, the INS*

conducts a comprehensive workload and staffing analysis twice per year to determine necessary staff and resources and distribution. INS believes that the ISD has assigned adequate staff and other resources to meet the needs of the [Premium Processing program] as well as other adjudications foci, and that a formal study is not required."

We believe the INS response does not undermine the need for implementing our recommendation. Premium Processing includes a number of steps that are specific to that program. The fact that the INS uses an activity based cost methodology to determine the cost of adjudications further supports the need for a separate analysis of premium applications and petitions. As stated in our report, we monitored the adjudication process for premium petitions and observed certain distinguishing factors. For example, "Premium Processing petitions are adjudicated by the most experienced and skilled workers, and are reviewed much more frequently and thoroughly than routine cases." Surely, the reliance on more experienced, and presumably higher paid, adjudicators and the frequent supervisory review imply at least the possibility of greater cost than that of routine adjudications. Similarly, the telephone and e-mail contacts with applicants and petitioners are added costs associated with Premium Processing, but not typically with routine adjudications. Finally, we noted that Premium Processing cases represent a steadily increasing portion of total receipts of the Form I-129, a phenomenon that is likely to increase pressures on the existing resources at the service centers. In our judgment, because the INS has no regularized workload measurement mechanisms and will not have one until sometime in FY 2004 (see Recommendation 3), the INS should conduct a study to determine the unit costs for premium cases and to ensure the assignment of adequate resources at the service centers.

Resolved. This recommendation can be closed when we receive documentation showing the INS has determined the appropriate unit cost for processing premium service cases in addition to the cost to process a routine I-129 application (\$130).

5. *"The INS does not concur that a formal analysis of the \$1,000 [Premium Processing program] fee is necessary to ensure revenues are allocated as mandated.... It is the special appropriation code that allows the INS to separately track and record the premium processing revenue from all other adjudication and naturalization application and petition revenues that are received.... This is reinforced insofar as the INS Operating Plan includes documentation of approved program and project funding. For all these reasons, the INS does not believe that*

conducting a formal analysis of the premium fee is mandated... Alternatively, the INS proposes to modify its Operating Plan to isolate through a specific column, the planned program and project spending associated with the premium fee revenues approved by Congress in its annual appropriations bill.... INS maintains that as long as these funds are used to deliver the specific services promised to Congress in exchange for the resources, the agency's legal obligation is satisfied."

The \$1,000 fee was determined without the benefit of any analysis; in fact, some INS officials told us the figure was reached arbitrarily. In our judgment, a fee analysis should have been conducted prior to implementation of Premium Processing to ensure that the INS was maximizing the revenue potential while taking into account the possible effects on various business sectors and sizes.

In addition, the INS response does not address the main point of our recommendation. On page 25, our report describes the current allocation of the \$1,000 premium fee: 22 percent to adjudication processing, 9 percent to fraud investigation, 25 percent to backlog reduction and processing, and 44 percent to general infrastructure improvements. The INS needs to conduct a formal study to confirm the appropriateness of that allocation or to establish the basis for a different allocation.

Unresolved. This recommendation can be closed when we receive documentation showing the INS has conducted an analysis of the \$1,000 Premium Processing fee to ensure the appropriate amounts of the Premium Processing revenues are being allocated for applications processing, fraud investigations, infrastructure improvements, and backlog reduction.

In addition to responding to our recommendations, the INS offered other comments on the report, to which we wish to reply.

Audit Findings

- The INS states, "the draft audit report does not explicitly state whether INS is achieving the goal of processing Premium Processing petitions in 15 days or less."

OIG Response: This is incorrect. The lead paragraph for Finding II begins, "although the INS has generally met the requirement of processing premium applications within 15 days...." We also added this statement to the Executive Summary of the final report for further clarification.

In addition, it should be noted that the 15-day processing of Premium Processing applications and petitions is not the sole objective of the program. Premium Processing was also established to provide revenues to hire additional staff and to improve the INS infrastructure so as to reduce the adjudications backlog of the INS. In our report, we have expressed some doubts that the Premium Processing fees have had the desired effect on the overall adjudications backlog.

- The INS states, “the Inspector General finds that the processing times for similar routine petitions have increased dramatically since implementation of the Premium Processing program. However, INS believes the Inspector General relied on an inappropriate measurement of processing time to reach this finding.... Rather, INS measures application processing time using official data derived from its Performance Analysis System.”

OIG Response: In response to Recommendation 3, the INS said the Performance Analysis System “does not provide a consistent methodology, or accurate, standardized reporting and program analyses called for by the OIG.” By its own terms, the INS is on shaky ground when it “measures application processing time using official data derived from its Performance Analysis System.”

In formulating Finding II, we used data provided to us by the INS, specifically processing times for routine Forms I-129. The data provided to us by the INS showed that the processing times for routine Forms I-129 increased from about 37 days to 112 days after implementation of the IBIS checks.

In our report we took great care to describe the effect of Premium Processing on routine adjudications. This effect is a cumulative one that compounds the adverse consequences of other factors. We state in the report, “under ideal conditions the Premium Processing program should have little impact on the processing times for other visa types. However, when situations occur that disrupt general processing times, those times are likely to be further exacerbated by the premium service. As has occurred with the implementation of IBIS checks, more petitioners will choose the premium service if general processing times are prolonged.”

- The INS states, “...the Inspector General finds that refunds of Premium Processing fees have increased eight-fold since implementation of the IBIS check procedures and suggests that this

increase is attributable to the procedural change. However, because the 13 cases refunded prior to the implementation of IBIS checks represented .02% of the volume, almost any increase after the initial overwhelming success of the program would appear large. The 116 refunds made after the implementation of IBIS represent .15% of the volume. Because the numbers are so small this change cannot be construed to be a statistically significant trend. It does highlight the high preparedness and training level at the inception of the program, however."

OIG Response: We specifically state in the report, "as a result of the increased time required to process routine applications, the service centers have reported sizeable increases in the number of premium service cases being filed." The impact, therefore, on the Premium Processing Program is the filing of considerably more premium cases than anticipated by the INS. While it is true that the refunds due to failure to meet the 15-day requirement are still a very small percentage, it is important to recognize that the refunds were almost at zero prior to the implementation of the IBIS checks and have grown since the implementation of the IBIS checks.

Statement on Management Controls

- The INS states, "there were many stages of implementation of IBIS checks in the adjudication process. Full implementation of IBIS checks for all applications and petitions at service centers, while a useful step in the Country's war on terrorism, was not a critical step in the use of IBIS by the INS. The Inspections Program has utilized the IBIS process for years and the Department of State (DOS) visa issuing process has also provided a check of databases during the screening process. Currently, the INS and DOS perform IBIS checks at visa application, port of entry application for admission, application submission, and adjudication of application (if more than 35 days following submission). These multiple checks of the same individual provide many opportunities for the identification of problem individuals and are not hampered by failure of any individual check in the entire process."

OIG Response: On January 28, 2002, IBIS checks were mandated for all applications and petitions, including Form I-129 petitions. The failure of the service centers to conduct IBIS checks on 357,766 routine and 11,830 premium petitions until March 18, 2002 was a significant breakdown of management controls in a matter relating to national security. The INS cannot provide assurance that no other breakdowns in management

controls occurred throughout the other layers of IBIS checks. Consequently, we do not believe that the failure to implement IBIS checks in a timely manner was mitigated by the INS's presumption that IBIS checks were supposed to be done by another agency (Department of State) and at other locations (ports of entry). INS Headquarters made the determination that IBIS checks should be performed on all applications adjudicated at service centers but these checks were not performed until more than two months after they were required.

- The INS states, "it can be seen that since the inception of the premium processing program, as well as since the beginning of the latest backlog reduction plan in October 2001 most form types' backlogs have actually decreased while others have increased very slightly. Since the second quarter of 2002 most forms have experienced a very slight increase. This was during the period when IBIS, SEVIS, NSEERS, and the special alien registration programs were put into effect. At the end of FY 2002 the INS met its own backlog reduction goals for forms I-129, I-539, I-751, and N-600/643."

OIG Response: The data provided to us by the INS showed a steady and dramatic increase in the service-wide backlog for all petitions since the second quarter of 2002. While the INS describes reduction in the backlogs for four specific forms, we based our conclusion on the overall backlogs for all forms. As stated previously, the number of pending applications and petitions at the four service centers increased from 1,876,391 at the end of FY 2000 to 3,249,226 at the end of FY 2002, an increase of 73 percent.