

March 2006

# IMMIGRATION BENEFITS

## Additional Controls and a Sanctions Strategy Could Enhance DHS's Ability to Control Benefit Fraud

**G A O**Accountability \* Integrity \* Reliability

---



Highlights of [GAO-06-259](#), a report to congressional requesters

## Why GAO Did This Study

In 2002, GAO reported that immigration benefit fraud was pervasive and significant and the approach to controlling it was fragmented. Experts believe that individuals ineligible for these benefits, including terrorists and criminals, could use fraudulent means to enter or remain in the U.S. You asked that GAO evaluate U.S. Citizenship and Immigration Service's (USCIS) anti-fraud efforts. This report addresses the questions: (1) What do available data and information indicate regarding the nature and extent of fraud? (2) What actions has USCIS taken to improve its ability to detect fraud? (3) What actions does the Department of Homeland Security (DHS) take to sanction those who commit fraud?

## What GAO Recommends

To enhance DHS's efforts to control benefit fraud, GAO recommends that USCIS implement additional internal controls and best practices to strengthen its fraud control environment and that DHS develop a strategy for implementing a sanctions program that includes a mechanism for assessing their effectiveness and that considers the costs and benefits of sanctions, including their deterrence value.

DHS generally agreed with 4 of the 6 recommendations but cited actions indicating it has addressed GAO's other 2 recommendations. GAO believes that additional actions are needed.

[www.gao.gov/cgi-bin/getrpt?GAO-06-259](http://www.gao.gov/cgi-bin/getrpt?GAO-06-259).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Paul L. Jones at (202) 512-8777 or [jonespl@gao.gov](mailto:jonespl@gao.gov).

# IMMIGRATION BENEFITS

## Additional Controls and a Sanctions Strategy Could Enhance DHS's Ability to Control Benefit Fraud

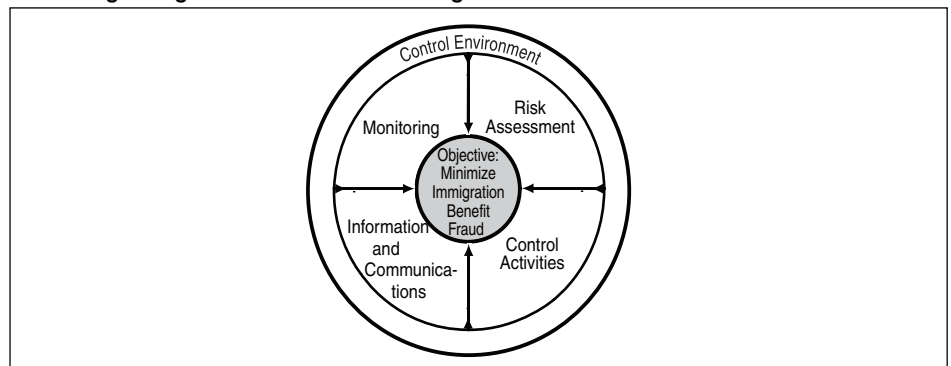
### What GAO Found

Although the full extent of benefit fraud is unknown, available evidence suggests that it is a serious problem. Several high-profile immigration benefit fraud cases shed light on aspects of its nature—particularly that it is accomplished by submitting fraudulent documents and can be facilitated by white collar and other criminals, with the potential for large profits. USCIS staff denied about 20,000 applications for fraud in fiscal year 2005.

USCIS has established a focal point for immigration fraud, outlined a fraud control strategy that relies on the use of automation to detect fraud, and is performing risk assessments to identify the extent and nature of fraud for certain benefits. However, USCIS has not implemented important aspects of internal control standards established by GAO and fraud control best practices identified by leading audit organizations—particularly a comprehensive risk management approach, a mechanism to ensure ongoing monitoring during the course of normal activities, clear communication regarding how to balance multiple objectives, mechanisms to help ensure that staff have access to key information, and performance goals for fraud prevention.

DHS does not have a strategy for sanctioning fraud. Best practices advise that a credible sanctions program, which includes a mechanism for evaluating effectiveness, is an integral part of fraud control. Because most immigration benefit fraud is not prosecuted criminally, the principal means of sanctioning it would be administrative penalties. Although immigration law gives DHS the authority to levy administrative penalties, the component of DHS that administers them does not consider them to be cost-effective and does not routinely impose them. However, DHS has not evaluated the costs and benefits of sanctions, including the value of potential deterrence. Without a credible sanctions program, DHS's efforts to deter fraud may be less effective, when applicants perceive little threat of punishment.

### Minimizing Immigration Benefit Fraud through Internal Controls



Source: GAO.

---

# Contents

---

<b>Letter</b>		<b>1</b>
	Results in Brief	4
	Background	8
	Fraud Is A Serious Problem, But Its Full Extent Is Unknown	13
	Although USCIS Has Taken Steps to promote Fraud Control, Additional Controls and Best Practices Could Improve Its Ability to Detect Fraud	19
	Most Benefit Fraud Is Not Criminally Prosecuted, but DHS Does Not Have an Administrative Sanctions Program	35
	Conclusions	38
	Recommendations for Executive Action	40
	Agency Comments and Our Evaluation	41
<b>Appendix I</b>	<b>Scope and Methodology</b>	<b>45</b>
<b>Appendix II</b>	<b>Comments from the Department of Homeland Security</b>	<b>47</b>
<b>Appendix III</b>	<b>GAO Contact and Staff Acknowledgments</b>	<b>52</b>
<b>Figures</b>		
	Figure 1: USCIS Applications Completed in Fiscal Year 2005	9
	Figure 2: Immigration Benefit Fraud Detection and Referral Process	12
	Figure 3: Internal Control Environment	20

---

---

## Abbreviations

AICPA	American Institute of Certified Public Accountants
BFU	Benefit Fraud Unit
CBP	Customs and Border Protection
CFR	Code of Federal Regulations
CIS	Citizenship and Immigration Services
DHS	Department of Homeland Security
DOL	Department of Labor
FDNS	Office of Fraud Detection and National Security
FDU	Fraud Detection Unit
ICE	Immigration and Customs Enforcement
INA	Immigration and Nationality Act
INS	Immigration and Naturalization Service
NAO	National Audit Office of the United Kingdom
PAS	Performance Analysis System
TECS	Treasury Enforcement Communication System
USCIS	United States Citizenship and Immigration Services

This is a work of the U.S. government and is not subject to copyright protection in the United States. It may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.





**United States Government Accountability Office**  
Washington, DC 20548

---

March 10, 2006

The Honorable John N. Hostettler  
Chairman  
Subcommittee on Immigration, Border Security, and Claims  
Committee on the Judiciary  
House of Representatives

The Honorable Charles E. Grassley  
Chairman  
Committee on Finance  
United States Senate

In fiscal year 2005, over 6 million applications were filed by those seeking an immigration benefit—the ability of an alien to live and in some cases work in the United States either permanently or on a temporary basis. Most immigration benefits can be classified into two major categories—family-based and employment-based. Family-based applications are filed by U.S. citizens or permanent resident aliens to establish their relationships to certain alien relatives such as a spouse, parent, or minor child who wish to immigrate to the United States. Employment-based applications include applications filed by employers for aliens to come to the United States temporarily to work or receive training or for alien workers to work permanently in the United States. Other immigration benefits include granting citizenship to resident aliens (called naturalization), offering asylum to aliens who fear persecution in their home countries, and authorizing international students to study in the United States.

U.S. Citizenship and Immigration Services (USCIS) within the Department of Homeland Security (DHS) is the agency primarily responsible for processing applications for immigration benefits. The former Immigration and Naturalization Service (INS) previously had this responsibility, which USCIS assumed when DHS was created in March 2003. USCIS's staff of adjudicators process immigration benefits in 4 service centers and 33 district offices around the country. In some cases, applicants may try to

---

obtain a benefit illegally through fraud.<sup>1</sup> USCIS adjudicators who suspect fraud are to refer suspicious applications and supporting evidence to USCIS's Office of Fraud Detection and National Security (FDNS), created in 2003. FDNS staff are responsible for reviewing these potential fraud cases and determining whether to forward them to DHS's Immigration and Customs Enforcement (ICE)—which, among other things, is responsible for investigating violations of immigration law, including immigration benefit fraud. ICE may or may not decide to initiate a criminal investigation, depending on the facts in the referral and on workloads and priorities of its field offices.

DHS, terrorism experts, and federal law enforcement officials familiar with immigration benefit fraud believe that individuals ineligible for immigration benefits, including terrorists and criminals, could use fraudulent means to enter or remain in the United States. In 2002, we reported that immigration benefit fraud was pervasive and significant and that INS's approach to immigration benefit fraud was fragmented and unfocused.<sup>2</sup> A 2005 study by a former 9/11 Commission counsel found that of the 94 foreign-born terrorists known to operate in the United States between the early 1990s and 2004, 59 or two-thirds committed immigration fraud including 6 of the September 11th hijackers.<sup>3</sup> To determine what actions have been taken since our 2002 report to address immigration benefit fraud, you asked that we evaluate current anti-fraud efforts. This report addresses the following questions:

(1) What do available data and information indicate regarding the nature and extent of immigration benefit fraud?

(2) What actions has USCIS taken to improve its ability to detect immigration benefit fraud?

---

<sup>1</sup> Immigration benefit fraud refers to the willful misrepresentation of material fact to gain an immigration benefit. It is often facilitated by document fraud (use of forged, counterfeit, altered or falsely made documents) and identity fraud (fraudulent use of valid documents or information belonging to others).

<sup>2</sup> GAO, *Immigration Benefit Fraud: Focused Approach Is Needed to Address Problems*, [GAO-02-66](#) (Washington, D.C.: Jan. 31, 2002).

<sup>3</sup> See also testimony of Janice Kephart, former counsel, The National Commission on Terrorist Attacks Upon the United States, before the Subcommittee on Immigration, Border Security, and Citizenship and the Subcommittee on Terrorism, Technology, and Homeland Security, Senate Judiciary Committee, Mar. 14, 2005.

---

(3) What actions does DHS take to sanction those who commit benefit fraud?

To address these questions, we interviewed responsible officials at and reviewed relevant documentation obtained from DHS and the Departments of State, Justice, and Labor. Regarding the nature and extent of immigration benefit fraud, we analyzed USCIS management data contained in its Performance Analysis System (PAS), results from two fraud assessments USCIS had completed before December 2005, information reported by DHS and the U.S. Attorneys Offices based on investigations and prosecutions of immigration benefit fraud, and information in fraud bulletins prepared by one USCIS Service Center. We evaluated the methodology used in USCIS's fraud assessments and determined that it provided a reasonable basis for projecting the frequency with which fraud was committed within the time period from which the samples were drawn. We assessed the data derived from PAS and determined that these data were sufficiently reliable for the purposes of this review. Because we selected investigations and prosecutions to review based upon information that was available, the information obtained from them is not necessarily representative or exhaustive of all immigration benefits cases nationwide. Similarly, information contained in the fraud bulletins is not necessarily representative of immigration benefit fraud nationwide. To determine how USCIS detects fraud during the adjudications process and to evaluate these efforts, we interviewed USCIS headquarters officials and USCIS's FDNS staff. We also interviewed 59 adjudicators at the 4 USCIS Service Centers and 2 USCIS district offices with responsibility for and familiarity with adjudicating different types of applications in a group setting, which allowed us to identify points of consensus among these adjudicators. In addition we interviewed ICE Office of Investigations officials from four ICE field offices. As we did not select probability samples of adjudicators and ICE Office of Investigations staff to interview, the results of these interviews may not be projected to the views of all USCIS adjudicators and ICE Office of Investigations field staff nationwide. Further, we compared the practices in place to the Standards for Internal Control in the Federal Government<sup>4</sup> and to guidance from internationally recognized, leading organizations in fraud control, including the American Institute of Certified Public Accountants and the United Kingdom's National Audit Office. To determine what measures

---

<sup>4</sup> GAO, *Standards for Internal Control in the Federal Government*, [GAO/AMID-00-21.3.1](#) (Washington, D.C.: November 1999).

---

DHS has taken to sanction those who commit immigration fraud, we interviewed knowledgeable officials at USCIS and ICE, examined fraud investigation and prosecution statistics, and analyzed USCIS statistics about the amount of fraud identified by its adjudicators. We conducted our work from October 2004 to December 2005 in accordance with generally accepted government auditing standards. Appendix I presents more details about our objectives, scope, and methodology.

---

## Results in Brief

Our review of several high-profile immigration benefit fraud cases sheds light on some aspects of the nature of immigration benefit fraud—particularly that it is accomplished by submitting fraudulent documents, that it can be facilitated by white collar and other criminals, and that it has the potential to result in large profits. Although the full extent of benefit fraud is not known, available evidence suggests that it is an ongoing and serious problem. Fraudulent documents submitted included but were not limited to marriage and birth certificates, financial statements, business plans, organizational charts, fictitious employee resumes, and college transcripts. White-collar and other criminals can facilitate immigration benefit fraud. Individuals who pose a threat to national security and public safety may seek to enter the United States by fraudulently obtaining immigration benefits. Moreover, those facilitating immigration benefit fraud, in some cases, have reaped large profits from aliens willing to pay thousands of dollars to fraudulently obtain an immigration benefit. In fiscal year 2005, USCIS denied about 20,000 applications due to fraud. In addition, in 2005, USCIS's new fraud detection office conducted the first two in a series of planned fraud assessments—reviews of applications for religious worker and replacement permanent resident card benefits. Based on the results of the completed religious worker assessment, which estimated that 33 percent of all religious worker applications were potentially fraudulent, we project that about 660 applications—one-third of religious worker applications submitted over a 6-month period in 2004—may have contained fraudulent information. Some findings of the religious worker assessment and facts uncovered during criminal investigations and prosecutions demonstrate that USCIS adjudicators do not always detect fraud during the adjudications process, thus allowing applicants to receive benefits for which they were not eligible. Moreover, USCIS's policy of issuing temporary work authorization within 90 days to those applicants waiting for their applications for permanent residency to be decided, although intended to allow bonafide applicants to work as soon as possible, can be exploited by aliens filing fraudulent applications with the intent of receiving the temporary work authorization for which they would otherwise be ineligible. These aliens can then use the

---

temporary work authorization to obtain other official documents, such as drivers' licenses. Based on an estimate from the DHS Office of Immigration Statistics that about 85 percent of applicants who apply for permanent residency also apply for temporary work authorization, the Citizenship and Immigration Services Ombudsman contends that many aliens who filed a fraudulent claim for permanent residency may have received temporary work authorization.

To help it detect immigration benefit fraud, USCIS established FDNS as its focal point for dealing with immigration benefit fraud, outlined a strategy for detecting immigration benefit fraud, and is undertaking a series of risk assessments to identify the extent and nature of fraud for certain immigration benefits. However, USCIS has not yet implemented some aspects of internal control standards established by GAO and fraud control best practices identified by leading audit organizations that could further enhance its ability to detect fraud. Specifically, USCIS's new fraud detection office is in the initial stages of implementing a fraud assessment program, which examines the extent and nature of fraud associated with the immigration category being assessed. However, this program, as currently implemented, does not provide a basis for the type of comprehensive risk analysis we advocate. First, USCIS current assessment plan does not include risk assessment of the majority of major immigration benefit categories—for example, temporary work authorization. Additionally, it focuses primarily on determining the fraud rate for selected immigration applications and identifying procedural vulnerabilities, for example, not routinely verifying the existence of churches associated with religious work applications. It does not draw on all available sources of strategic threat information to assess threats, such as ICE's Office of Intelligence, nor does it assess the consequences of granting a benefit to the wrong person—for example some benefits facilitate access to critical infrastructure while others do not. More comprehensive information about vulnerabilities, threats, and consequences as part of its fraud assessments would allow USCIS to identify those benefits that represent the highest risk and practice risk-based decision making in its efforts to balance fraud detection with other organizational priorities like reducing backlogs and improving customer service. In addition, USCIS also lacks a mechanism to help ensure that information gathered during the course of its normal operations and those of related operations—including criminal investigations and prosecutions—inform decisions about whether and what actions, including changes to policies, procedures, or programmatic activities, might improve the ability to detect fraud. Moreover, adjudicators we interviewed reported that communication from management did not

---

clearly communicate to them the importance of fraud control; rather, it emphasized meeting production goals, designed to reduce the backlog of applications, almost exclusively. These adjudicators shared, for example, memos from different parts of the agency, which they told us sent conflicting messages about how they were to balance, during the course of their duties, fraud-prevention objectives with service-related objectives. USCIS headquarters operations management told us that the adjudications operations is a “high-pressure” production environment and that they are seeking to increase production, but it was not their intention that this should come at the expense of making incorrect adjudication decisions. Also, our interviews with adjudicators indicated that they have limited access to some tools that could support their fraud detection ability such as external databases for verifying applicant information. Interviews with USCIS staff also indicated that adjudicators may not always receive relevant information that could support their efforts to detect fraud, and although some information is provided, it is not always provided in a form that adjudicators can reasonably manage as, for example, in an electronic database. Finally, USCIS has not established performance goals—measures and targets—to assess its benefit fraud activities.

DHS does not have a strategy for sanctioning fraud or for evaluating the effectiveness of sanctions. Best practice guidance issued by the United Kingdom’s National Audit Office, for example, suggests that a strategy for sanctioning fraud, along with a mechanism for evaluating the effectiveness of sanctions is central to a good fraud control environment. Data provided by USCIS indicates that in fiscal year 2005 most immigration fraud detected by USCIS did not result in ICE criminal investigations and subsequent prosecutions. Since most fraud is not criminally prosecuted, the principal means of sanctioning it would be administrative penalties. The Immigration and Nationality Act does provide the authority to levy administrative penalties; however, DHS does not currently use this authority. This is largely because a 1998 federal court ruling enjoined INS from implementing certain administrative penalties for document fraud until it revised certain forms to provide adequate notice to aliens of the immigration consequences of waiving the opportunity to challenge document fraud fines. Although DHS has not conducted a formal cost-benefit analysis, according to ICE officials responsible for pursuing administrative penalties, these penalties are not cost-effective because the fines are less than the costs to impose them when a hearing is requested. Accordingly, DHS has not made updating the forms to allow sanctions to be administered in compliance with the court ruling a priority. Nevertheless, according to USCIS officials, an effective administrative sanctions program is important to its fraud deterrence efforts. The lack of

---

a clear strategy for how and when to punish fraud perpetrators, which considers the nonfinancial benefit of deterrence and includes a mechanism for evaluating effectiveness, limits DHS's ability to project a convincing message that those who commit fraud face a credible threat of punishment in one form or another.

In order to enhance USCIS's ability to detect immigration benefit fraud, we are recommending that the Secretary of Homeland Security direct the Director of USCIS to adopt additional internal controls and best practices to strengthen USCIS's fraud control environment, particularly by (1) expanding the scope of its current fraud assessment program and using a more comprehensive risk management approach; (2) establishing a mechanism to ensure that information uncovered during USCIS's and related agencies' normal operations feeds back into evaluations of USCIS's policies, procedures, and operations; (3) clearly communicating to adjudications staff the importance of both fraud prevention-related and service-related objectives, and how these objectives are to be balanced by adjudicators as they carry out their duties; (4) providing USCIS staff with access to information and tools from relevant internal and external sources; and (5) establishing outcome and output based performance goals that reflect the status of fraud control efforts. In addition, in order to enhance DHS's ability to sanction immigration benefit fraud, we recommend that the Secretary of Homeland Security direct the Director of USCIS and the Assistant Secretary of ICE to develop a strategy for sanctioning immigration benefit fraud that takes into account the value of deterrence and establishes a mechanism for evaluating effectiveness.

We presented a draft of this report to DHS and the Departments of State, Justice, and Labor. State, Justice, and Labor had no comments on our report. DHS stated that our report generally provided a good overview of the complexities associated with pursuing immigration benefit fraud and the need to have a program in place that proactively assesses vulnerabilities within the myriad of immigration processes. However, DHS stated that our report did not fully portray USCIS's efforts to address immigration benefit fraud and provided other examples of efforts USCIS has undertaken or plans to undertake. Where appropriate, we revised the draft report to recognize these additional efforts by USCIS. DHS generally agreed with and plans to take action to implement four of our six recommendations and cited actions it has already taken to address our other two recommendations. DHS agreed on the need to expand its fraud assessment program, provide USCIS staff access to information from internal and external sources, and establish outcome and output performance based goals. DHS agreed that goals were needed but did not

---

specify what action(s) it was planning to take. DHS agreed to study the costs and benefits of an administrative sanctions program. DHS stated that a mechanism to ensure that information uncovered during USCIS's and related agencies normal operations feeds back into evaluations of USCIS's policies, procedures, and operations already exists. DHS cited examples of how FDNS shares information with other agencies, participates in inter-agency anti-fraud effort efforts, and has recommended changes to how USCIS adjudicates religious worker applications as evidence that such feedback takes place. Although these are all positive efforts, USCIS does not yet have policies and procedures that specify how information about fraud vulnerabilities uncovered during the course of normal operations—by USCIS and related agencies—is to be gathered—from which internal and external sources—and the process for evaluating this information and making decisions about appropriate corrective actions. Therefore, we continue to believe that USCIS needs to institutionalize through policies and procedures a feedback mechanism. With respect to communicating clearly the importance of USCIS's fraud prevention objectives, DHS stated that USCIS leadership clearly advocates balancing objectives related to timely and quality processing of immigration benefits, and cited the creation of FDNS as evidence that USCIS senior leadership believes national security and fraud detection are a high priority. However, our interviews with adjudicators indicate that this message may not be reaching USCIS adjudications staff. DHS disagreed with our recommendation that USCIS and ICE establish a mechanism for the sharing of information related to the status and outcomes of USCIS fraud referrals to ICE. DHS provided us a February 2006 memorandum of agreement between ICE and USCIS that establishes a mechanism for the sharing of information related to the status and outcomes of fraud referrals; therefore, we withdrew this recommendation.

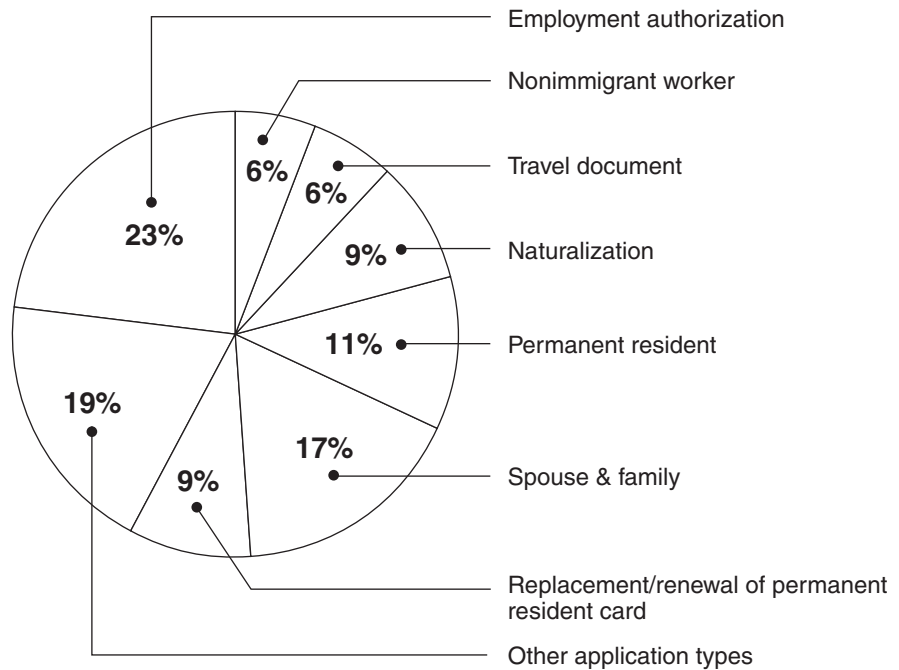
---

## Background

USCIS is responsible for processing millions of immigration benefit applications received each year for various types of immigration benefits, determining whether applicants are eligible to receive immigration benefits, and detecting suspicious information and evidence to refer for fraud investigation and possible sanctioning by other components or agencies. USCIS processes applications for about 50 types of immigration benefits. In fiscal year 2005, USCIS received about 6.3 million applications and adjudicated about 7.5 million applications. Figure 1 shows the percentage of applications completed by type of application in fiscal year 2005.



**Figure 1: USCIS Applications Completed in Fiscal Year 2005**



Source: GAO analysis of USCIS Performance Analysis System (PAS) data.

To process these immigration benefit applications, in fiscal year 2005 USCIS had a staff of about 3,000 permanent adjudicators located in 4 service centers, where most applications are processed, and 33 district offices.<sup>5</sup> In fiscal year 2004, for example, service centers adjudicated about 67 percent of all applications, and districts about 33 percent. In general, service centers adjudicate applications that do not require an interview with the applicant, using the evidence submitted with the applications. District offices generally adjudicate applications where USCIS requires an interview with the applicant (e.g., naturalization). USCIS also has eight offices that process applications for asylum in the United States. In fiscal year 2005, USCIS's budget amounted to just under \$1.8 billion, of which about \$1.6 billion was expected from service fees and \$160 million from congressionally appropriated funds.

<sup>5</sup> USCIS also employed an additional 1,475 adjudicators on a temporary basis to support its backlog reductions efforts.

---

In fiscal year 2004, USCIS had a backlog of several million applications and has developed a plan to eliminate it by the end of fiscal year 2006.<sup>6</sup> In June 2004, USCIS reported that it would have to increase production by about 20 percent to achieve its goal of adjudicating all applications within 6 months or less by the end of fiscal year 2005. At that time, it estimated that it would have to increase current annual processing from about 6 million to 7.2 million applications. Since USCIS did not plan for further increases in staffing levels, reaching its backlog goal would require some reduction in average application processing times, overtime hours, and adjudicator reassignments.

With the creation of DHS in 2003, the immigration services and enforcement functions of the former INS transitioned to different organizations within DHS. USCIS assumed the immigration benefit functions and ICE assumed INS's investigative and detention and removal of aliens functions. Within ICE's Office of Investigations, the Identity and Benefit Fraud unit now conducts immigration benefit fraud criminal investigations and ICE's Office of Detention and Removal Operations is responsible for identifying and removing aliens illegally in the United States.

Because the immigration service and enforcement functions are now handled by separate DHS components, these components created two new units to, among other things, help coordinate the referral of suspected immigration benefit fraud uncovered by adjudicators to ICE's Office of Investigations. First, USCIS created FDNS in 2003 to, among other things, receive fraud leads from adjudicators and determine which leads should be referred to ICE's Office of Investigations. To accomplish this task, FDNS has Fraud Detection Units (FDU) at all four USCIS service centers and the National Benefits Center.<sup>7</sup> When fraud is suspected, the applications are to be referred FDUs. The FDUs, comprised of Intelligence Research Specialists and assistants, are responsible for further developing suspected immigration fraud referrals to decide which leads should be referred to ICE for possible investigation. FDU staff are also to refer to

---

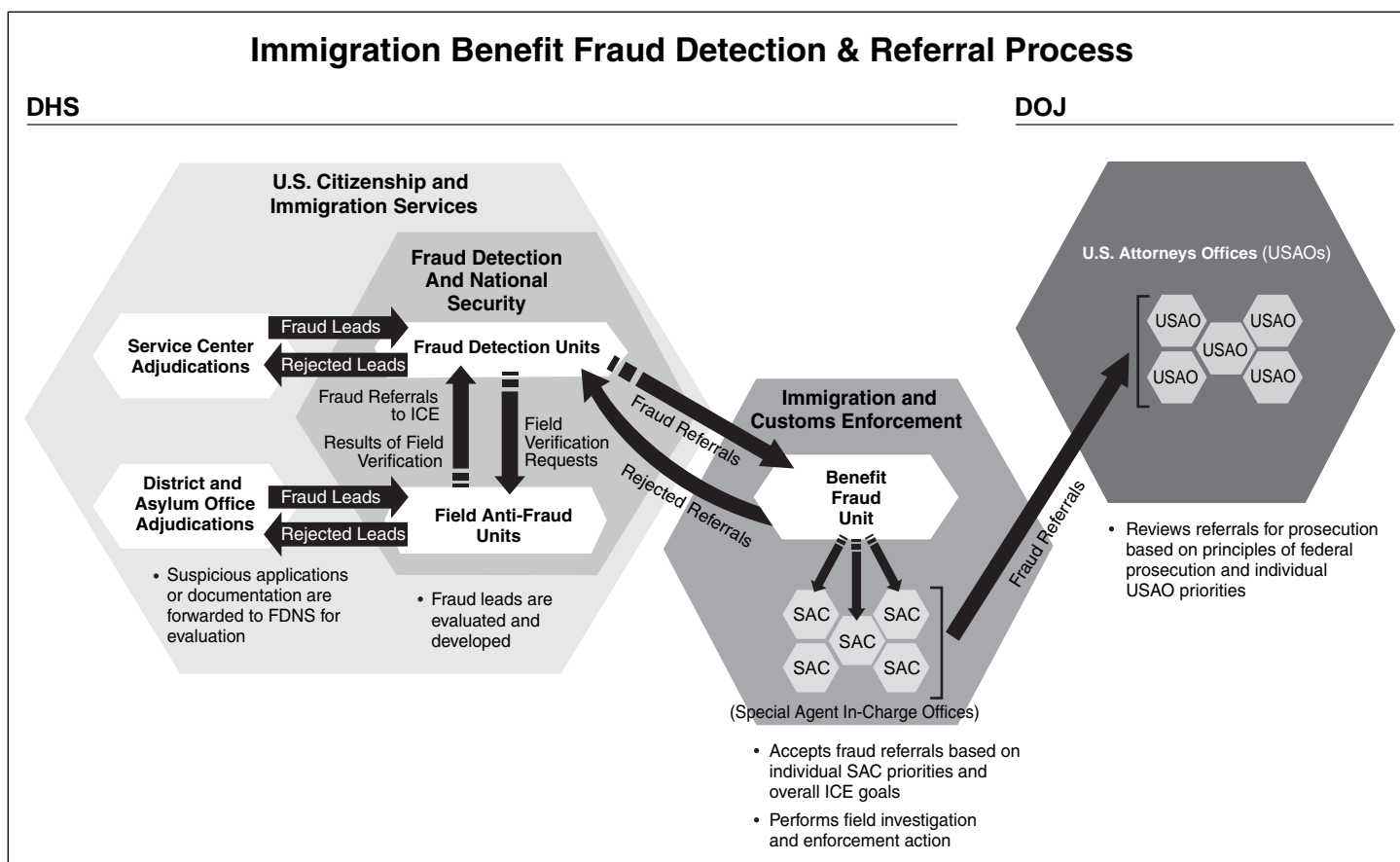
<sup>6</sup> See GAO, *Immigration Benefits: Improvements Needed to Address Backlogs and Ensure Quality of Adjudications*, [GAO-06-20](#) (Washington D.C.: November 2005).

<sup>7</sup> The National Benefits Center serves as a hub for applications adjudicated at USCIS field offices. Among other things, the center performs initial evidence review and conducts background checks before sending the file to the appropriate district office for adjudication.

---

ICE or other federal agencies applicants who may pose a threat to national security or public safety or who are potentially deportable. FDUs are responsible for following up on potential national security risks identified during background checks of immigration benefit applicants. FDUs also perform intelligence analysis to identify immigration fraud patterns and major fraud schemes. In addition to establishing FDUs, in January 2005 FDNS assigned 100 new Immigration Officers to USCIS district offices, service centers, and asylum offices to work directly with adjudicators to handle fraud referrals and conduct limited field inquiries. Second, ICE's Office of Investigations created four new Benefit Fraud Units (BFU) in Vermont, Texas, Nebraska, and California located either at or near the four USCIS service centers. The ICE BFUs are responsible for reviewing, assessing, developing, and when appropriate, referring to ICE field offices for possible investigation immigration fraud leads and other public safety leads received from the FDUs and elsewhere. Specifically, the ICE BFUs are intended to identify those referrals that they believe warrant investigation, such as organizations and facilitators engaged in large-scale schemes or individuals who pose a threat to national security or public safety, and refer them to ICE field offices. In turn, ICE field offices will investigate and refer those cases they believe warrant prosecution to the U.S. Attorneys Offices. Figure 2 illustrates the typical immigration benefit fraud referral and coordination process.

Figure 2: Immigration Benefit Fraud Detection and Referral Process



Source: USCIS.

The Homeland Security Act of 2002 created the office of the Citizenship and Immigration Services Ombudsman. The ombudsman's primary function is to: assist individuals and employers in resolving problems with USCIS; identify areas in which individuals and employers have problems in dealing with USCIS; and propose changes in the administrative practices of USCIS in an effort to mitigate problems. The ombudsman has issued two annual reports that have highlighted issues related to prolonged processing times, limited case status information, immigration benefit fraud, insufficient standardization in processing, and inadequate information technology and facilities.

Other federal agencies also play important roles in the immigration benefit application process. The Department of State is responsible for approving

---

and issuing a visa allowing an alien to travel to the United States. The Department of Labor's (DOL) Division of Foreign Labor Certification provides national leadership and policy guidance to carry out the responsibilities of the Secretary of Labor under the Immigration and Nationality Act (INA) concerning foreign workers seeking admission to the United States for employment. DOL provides certifications for foreign workers to work in the United States, on a permanent or temporary basis, when there are insufficient qualified U.S. workers available to perform the work at wages that meet or exceed the prevailing wage for the occupation in the area of intended employment. The DOL Office of the Inspector General's Office of Labor Racketeering and Fraud Investigations is responsible for investigating fraud related to these labor certifications.

---

## Fraud Is A Serious Problem, But Its Full Extent Is Unknown

Fraudulent schemes used in several high-profile immigration benefit fraud cases sheds light on some aspects of the nature of immigration benefit fraud—particularly that it is accomplished by submitting fraudulent documents, that it can be committed by organized white-collar and other criminals, and that it has the potential to result in large profits for these criminals. The benefit fraud cases we reviewed involved individuals attempting to obtain benefits for which they were not eligible by submitting fraudulent documents or making false claims as evidence to support their applications. Fraudulent documents submitted included but were not limited to birth and marriage certificates, tax returns, financial statements, business plans, organizational charts, fictitious employee resumes, and college transcripts. For example, in what ICE characterized as one of the largest marriage fraud investigations ever undertaken, 44 individuals were indicted in November 2005 for their alleged role in an elaborate scheme to obtain fraudulent immigrant visas for hundreds of Chinese and Vietnamese nationals. According to a USCIS fraud bulletin, this scheme may have been ongoing for 10 years. Another major investigation revealed evidence that an attorney had filed about 350 applications on behalf of aliens seeking permanent employment as religious workers at religious institutions in the United States. Investigators found evidence that most of these aliens were unskilled laborers who were not pastors or other religious workers and had little or no previous affiliation with the religious institution. According to this investigation, some religious institutions appeared to specialize in obtaining legal status for aliens in the country who were not eligible for religious worker immigration benefits. In another investigation involving at least 2,800 apparently fraudulent marriage and fiancée applications identified in 2002 and investigated through 2004, a U.S. citizen appeared to have submitted multiple applications with as many as 11 different spouses.

---

One USCIS Service Center prepared fraud bulletins using information from various State Department Consular posts overseas describing immigration fraud uncovered by these posts. Our analysis of the bulletins issued from July 2004 through December 2004 prepared by USCIS's California Service Center revealed that aliens from 23 different countries were believed to have sought a variety of immigration benefits fraudulently. For example, individuals apparently sought to enter the United States through fraud by falsely claiming they were: (1) legitimately married to or a fiancé of a U.S. citizen; (2) a religious worker; (3) a performer in an entertainment group; (4) a person with extraordinary abilities, such as an artist, race car driver, or award winning photographer; (5) an executive with a foreign company; (6) a child or other relative of a citizen or permanent resident; or (7) a domestic employee of an alien legally in the United States, such as a diplomat or business executive. According to one of the bulletins, in one case State Department consular officers suspected illegal aliens were entering the United States under the guise of membership in a band. According to another bulletin, two individuals were suspected of smuggling children into the United States. In this case, the alleged parents submitted a non-immigrant visa application for their "daughter," and provided a fraudulent birth certificate and passport for her. The "parents" eventually admitted to taking children to the United States as their own to reunite them with their illegally working family members.

Some individuals seeking immigration benefits pose a threat to national security and public safety, and white collar and other criminals sometimes facilitate immigration benefit fraud. For example, according to FDNS, each year about 5,200 immigration benefit applicants are identified as potential national security risks, because their personal information matches information contained in U.S. Customs and Border Protection's Interagency Border Inspection System, a database of immigration law violators and people of national security interest. Additionally, according to federal prosecutors, immigration benefit fraud may involve other criminal activity, such as income tax evasion, money laundering, production of fraudulent documents, and conspiracy. Also, organized crime groups have used sophisticated immigration fraud schemes, such as creating shell companies, to bring in aliens ostensibly as employees of these companies. In addition, a number of individuals linked to a hostile foreign power's intelligence service were found to have been employed as temporary alien workers on military research.

Investigations have revealed that perpetrating fraud on behalf of aliens can be a profitable enterprise. For instance, in 2003 and 2004, one USCIS service center identified about 2,800 apparently fraudulent marriage

---

applications between low-income U.S. citizens and foreign nationals from an Asian country. The U.S. citizens appeared to have been paid between \$5,000 and \$10,000 for participating in the marriage fraud scheme. In another example from an investigation by DOL's Inspector General, to fraudulently obtain the labor certifications needed to work in the United States, at least 900 aliens allegedly paid a recruitment firm an average of \$35,000, with some aliens paying as much as \$90,000, resulting in at least \$31 million in revenue for this firm. In one of the largest labor certification fraud schemes ever uncovered, federal investigators found evidence that a prominent immigration attorney in the Washington, D.C., area submitted at least 1,436 and perhaps as many as 2,700 fraudulent employment applications between 1998 and 2002. According to the sworn testimony of a DOL special agent, this attorney and his associates are alleged to have made at least \$11.4 million for the 1,400 applications that the agent reviewed, in all of which he found evidence of fraud, and perhaps as much as \$21.6 million if all 2,700 applications were fraudulent, as he strongly suspected. In another case, an attorney allegedly charged aliens between \$8,000 and \$30,000 to fraudulently obtain employment-based visas to work in more than 200 businesses that included pizza parlors, auto parts stores, and medical clinics.

Although the full extent of immigration benefit fraud is unknown, available USCIS data indicate that it is a serious problem. According to USCIS PAS data, in fiscal year 2005, USCIS denied just over 20,000 applications because USCIS staff detected fraudulent application information or supporting evidence during the course of adjudicating the benefit request. Three application categories accounted for more than three-quarters of the fraud denials: temporary work authorization (36 percent), application for permanent residency (30 percent), and application for a spouse to immigrate (14 percent). These three application types also accounted for almost half of all applications adjudicated by USCIS in fiscal year 2005. Moreover, in fiscal year 2005, USCIS denied approximately 800,000 applications for other reasons, such as ineligibility for the benefit sought or failure to respond to information requests. USCIS adjudications staff and officials told us that it is likely that some of these applications denied for other reasons also involved fraud.

Information provided by State Department and DOL officials also indicates that fraud is a serious problem. Once USCIS approves a sponsor's application on behalf of an alien to immigrate, the application is sent to the State Department's National Visa Center, which forwards the application to the appropriate State Department overseas consulate post, which then interviews the alien to determine whether a visa should be

---

issued. According to National Visa Center officials, out of 2,400 applications returned on average each month to USCIS by the National Visa Center, that are denied or withdrawn for various reasons, about 900 involve fraud or suspected fraud as determined by consular officers overseas. When the DOL Inspector General audited labor certification applications filed in 2001, it also found indications of a significant amount of fraud. According to the Inspector General, of the approximate 214,000 applications filed from January 1, 2001, through April 30, 2001, and not subsequently cancelled or withdrawn, 54 percent (about 130,000) contained false—possibly fraudulent—information.<sup>8</sup>

In June 2005, the FDNS completed the first in a series of fraud assessments. The results from this assessment of religious worker applications indicate that about 33 percent of the 220 sampled applications resulted in a preliminary finding of potential fraud.<sup>9</sup> Based on a 33 percent rate, we estimate that, during the 6-month period of fiscal year 2004 from which the sample was drawn, about 660 out of approximately 2,000 applications may have been fraudulent.<sup>10</sup> Of the 72 potential fraud cases discovered in the fraud assessment, about 54-percent (39 cases) showed evidence of tampering or fabrication of supporting documents; 44-percent (32 cases) of the petitioners' addresses did not reveal a bona fide religious institution; about 42-percent (30 cases) may have misrepresented the beneficiaries' qualifications; and 28-percent (20 cases) did not provide the salary noted in the application. The assessment also uncovered one case where law enforcement had identified an applicant as a suspected terrorist.

Information from other investigations and prosecutions of benefit fraud also reveal that, in some cases, applicants may have submitted fraudulent

---

<sup>8</sup> DOL Inspector General, *Restoring Section 245(i) of the Immigration Nationality Act Created a Flood of Poor Quality Foreign Labor Certification Applications Predominantly for Aliens Without Legal Work Status*, Report No: 6-04-004-03-321 (Washington, D.C. : Sept. 30, 2004).

<sup>9</sup> USCIS reviewed applications submitted on behalf of religious workers—such as ministers, or other individuals who work in a professional capacity in a religious vocation or occupation—seeking an immigrant visa in order to work in the United States. FDNS chose this application because based upon past experience FDNS believed there was a high prevalence of fraud. According to FDNS, most of the fraud involved religious institutions that were not affiliated with a major religious organization.

<sup>10</sup> However, with a sampling margin of error of 5 percent, the fraud rate could be between 28 percent and 38 percent.



---

documents and made false statements that were not detected before the applicant obtained an immigration benefit. For example, while investigating one fraud scheme, investigators identified more than 2,000 apparently fraudulent applications where there was evidence that some aliens, fraudulently claiming to be managers and executives of foreign companies with U.S. affiliates, acquired benefits that granted them the ability to work in the United States. To execute this scheme, organizers allegedly prepared application packages that included fraudulent business and employee related documents including financial statements, business plans, organizational charts, and fictitious employee resumes.

One joint law enforcement investigation, previously mentioned, uncovered evidence that an attorney and his associate had filed at least 1,436 applications on behalf of legitimate companies—mostly local restaurants—that did not actually request these workers. In this case there was evidence that they forged the signatures of company management on the applications. Another investigation involving marriage fraud found evidence that U.S. citizens were recruited and paid to marry Vietnamese nationals. The fraud organizers appeared to have assisted the U.S. citizens in obtaining their passports, scheduled travel arrangements, and escorted them to Vietnam where they arranged introductions with Vietnamese nationals whom the citizens then married. These citizens then filed applications that facilitated these Vietnamese nationals' entry into the United States as spouses even though it appeared that they did not intend to live together as husband and wife.

Even when adjudicators rejected applications based on fraud, some of these applicants had already received interim benefits while their applications were pending final adjudication allowing them to live and work in the United States, and in some cases obtain other official documents, such as a driver's license. Under current USCIS policy, for example, if USCIS cannot adjudicate an application for permanent residency and the accompanying application for work authorization within 90 days, the applicant is entitled to an interim work authorization, an interim benefit designed to let applicants work while awaiting a decision regarding permanent residency.<sup>11</sup> According to the Citizenship and Immigration Services Ombudsman's fiscal year 2004 and 2005 annual

---

<sup>11</sup> 8 C.F.R. § 274a.13(d). 8 CFR § 274a.12(c) states that USCIS has the discretion to establish a specific validity period for an employment authorization document, and 8 C.F.R. § 274a.13(d) provides that such period shall not exceed 240 days in the case of an interim authorization.

---

reports and our discussion with him, for many individuals the primary goal is to obtain temporary work authorization regardless of the validity of their application for permanent residency. That is, aliens can apply for temporary work authorization, knowing that they do not qualify for permanent residency, with the intent of exploiting the system to gain work authorization under false pretenses.

Once a temporary work authorization is fraudulently obtained, an alien can use it to obtain other valid identity documents such as a temporary social security card and a driver's license, thus facilitating their living and working in the United States. According to the FDNS Director, once such fraud scheme involved at least 2,500 individuals in Florida who allegedly filed frivolous applications for employment authorization and then used the receipt, showing they had filed an application, to obtain Florida State driver's licenses or identification cards.<sup>12</sup> ICE agents we interviewed also said that they suspected that many individuals apply for permanent residency fraudulently simply to obtain a valid temporary work authorization document. The interim benefit remains valid until it expires or until it is revoked by USCIS.

In his 2005 report, the Ombudsman cites a DHS Office of Immigration Statistics estimate—which the ombudsman's office confirmed with USCIS's division of performance management—that about 85 percent of applicants for permanent residency also apply for temporary work authorization. As a result, according to the ombudsman, many aliens have received temporary work authorizations, for which they were later found to be ineligible. Our analysis of PAS data shows, for example, that from fiscal year 2000 through 2004, USCIS denied 26,745 applications due to fraud out of the approximately 3 million applications received for permanent residency. These data illustrate that, if aliens that filed fraudulent applications for permanent residency also requested temporary work authorization at a rate consistent with the 85 percent cited by the Office of Immigration Statistics, then thousands of aliens received temporary work authorization based on their fraudulent claims for permanent residency during fiscal year 2000 through 2004.

---

<sup>12</sup> USCIS subsequently informed Florida's Department of Highway Safety and Motor Vehicles, and the American Association of Motor Vehicles Administration issued a national advisory notifying other state motor vehicle departments that they should not accept the application receipt as evidence of lawful immigration status.

---

## Although USCIS Has Taken Steps to promote Fraud Control, Additional Controls and Best Practices Could Improve Its Ability to Detect Fraud

To help it detect immigration benefit fraud, USCIS has taken some important actions consistent with activities prescribed by the Standards for Internal Control in the Federal Government and with recognized best practices in fraud control. Specifically, it has established an internal unit to act as its focal point for addressing immigration benefit fraud, outlined a strategy for detecting immigration benefit fraud, and is undertaking a series of fraud assessments to identify the extent and nature of fraud for certain immigration benefits. However, USCIS has not applied some aspects of internal control standards and fraud control best practices that could further enhance its ability to detect fraud.

---

## Internal Control Standards and Other Guidance Provide Direction for Establishing Good Fraud Control Practices

The Standards for Internal Control in the Federal Government provide an overall framework to identify and address, among other things fraud, waste, abuse, and mismanagement. Implementing good internal control activities and establishing a positive control environment is central to an agency's efforts to detect and deter immigration benefit fraud. The standards address various aspects of internal control that should be continuous, built-in components of organizational operations, including the control environment, risk assessment, control activities, information and communications, and monitoring.

As with work we have previously published related to managing improper payments, fraud control would typically require a continual interaction among these components in keeping with an agency's various objectives.<sup>13</sup> For example, internal controls that promote ongoing monitoring work together with risk assessment controls to provide a foundation for decision making. Also, as internal control standards advise, a precondition to risk assessment is the establishment of clear, consistent agency objectives. Once established, risk assessment controls must also work together with information and communication controls to ensure that every level of the agency is cognizant of the commitment and approach to both controlling fraud and meeting other agency objectives. Similarly, conditions governing risk change frequently, and periodic updates are required to ensure that risk information—including threats, vulnerabilities, and consequences—stays current and relevant. Information collected

---

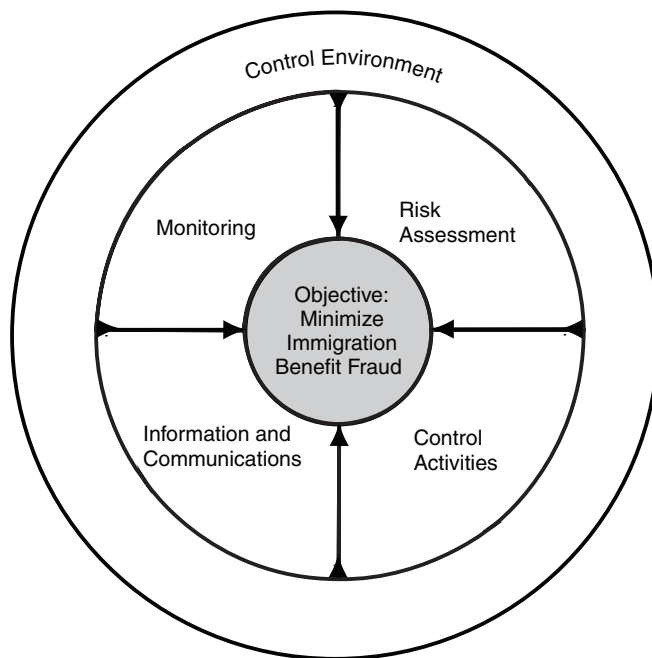
<sup>13</sup> GAO, *Strategies to Manage Improper Payments, Learning from Private Sector Organizations*, [GAO-02-69G](#) (Washington, D.C.: October 2001).

---

through periodic assessment, as well as daily operations can inform the assessment, and particularly, the analysis of risk. As shown in figure 3, the control environment surrounds and reinforces the other components, but all components work in concert toward a central objective, which, in this case, is to minimize immigration benefit fraud.

---

**Figure 3: Internal Control Environment**



Source: GAO.

Other audit organizations have published guidance that includes discussion of sound management practices for controlling fraud that complement the internal control standards. Among these are the American Institute of Certified Public Accountants (AICPA) guidance on management of antifraud programs and controls to help prevent and deter fraud<sup>14</sup> and a fraud control practices guide developed by the United Kingdom's National Audit Office (NAO) entitled "Good Practices in Tackling External Fraud." The NAO guidance outlines a risk-based

---

<sup>14</sup> Excerpt from Statement on Auditing Standards, No. 99, *Considerations of Fraud in a Financial Statement Audit*.

---

strategic approach to combating fraud that also includes evaluating the effectiveness of sanctions.

---

**Consistent with Internal Control Standards and Fraud Control Best Practices, USCIS Has Established a Fraud Focal Point, Related Strategies, and a Fraud Assessment Program**

According to internal control standards, factors leading to a positive control environment include clearly defining key areas of authority and responsibility, establishing appropriate lines of reporting, and appropriately delegating authority and responsibility for operating activities. Similarly, the NAO fraud control guidance advises agencies to develop specific strategies to coordinate their fraud control efforts and to ensure that someone is fully responsible for implementing the plans in the way intended and that sufficient resources are in place. Consistent with internal control and best practice guidance, USCIS established the FDNS office to enhance its fraud control efforts by serving as its focal point for addressing immigration benefit fraud.

Established in 2003, FDNS is intended to combat fraud and foster a positive control environment by pursuing the following objectives:

- develop, coordinate, and lead the national antifraud operations for USCIS;
- oversee and enhance policies and procedures pertaining to the enforcement of law enforcement background checks on those applying for immigration benefits;
- identify and evaluate vulnerabilities in the various policies, practices and procedures that threaten the legal immigration process;
- recommend solutions and internal controls to address these vulnerabilities; and
- act as the primary USCIS conduit and liaison with ICE, U.S. Customs and Border Protection (CBP), and other members of the law enforcement and intelligence community.

In September 2003, in support of its objectives, FDNS outlined a strategy for detecting immigration benefit fraud in USCIS's National Benefit Fraud Strategy. According to the strategy, because most immigration benefit fraud begins with the filing of an application, a sound approach to fraud prevention begins at the earliest point in the process—the time an application is received. Accordingly, USCIS established FDNS Fraud Detection Units (FDU) in each of the service centers in order to help identify potential fraud and process adjudicator referrals. Subsequently, FDNS appointed staff to serve as Immigration Officers working directly with adjudicators at the service centers and district offices to identify potential fraud and, to some extent, verify fraud through administrative

---

inquiries—once it was determined that ICE had declined to investigate a referral—in order to assist adjudicators in making eligibility determinations.

The strategy also discusses various technological tools to help the FDUs detect fraud early in the process—in particular, by enabling FDNS staff to check databases to confirm applicant information and by developing new automated tools to analyze application system data using known fraud indicators and patterns to help identify potential cases of fraud. USCIS has hired a contractor to develop for FDNS an automated capability to screen incoming applications against known fraud indicators, such as multiple applications received from the same person. According to FDNS, it plans to deploy an initial data analysis capability by the third quarter of fiscal year 2006 and release additional data analyses capabilities at later dates, but could not predict when these latter capabilities would be achieved. However, according to an FDNS operations manager, the near and midterm plans are not aimed at providing a full data mining capability. In the long term, USCIS plans to integrate these data analyses tools for fraud detection into a new application management system being developed as part of USCIS's efforts to transform its business processes for adjudicating immigration benefits, which includes developing the information technology needed to support these business processes. Also, in the long term, according to the FDNS Director, a new USCIS application management system would ideally include fraud filters to screen applications and remove suspicious applications from the processing stream before they are seen by adjudicators.

FDNS has adopted as one of its objectives the identification and evaluation of vulnerabilities in USCIS policies, practices, and procedures that threaten the immigration benefit process. Consistent with this objective and good internal control practices, in February 2005, FDNS began to conduct a series of fraud assessments aimed at determining the extent and nature (i.e., how it is committed) of fraud for several immigration benefits that FDNS staff determined, based on past studies and experience, benefit fraud may be a problem. To conduct these assessments, FDNS first selected a statistically valid sample of applications.<sup>15</sup> FDNS field staff then attempted to verify whether key

---

<sup>15</sup>For each of assessment, USCIS plans to review a sample of applications designed to achieve a 95 percent confidence interval. Reviews will be conducted by Immigration Officers in district offices.

---

information on the applications was true. They did this by doing such things as comparing information contained in benefit applications with information in USCIS data systems and law enforcement and commercial databases, conducting interviews with applicants, and, in some cases, visiting locations to verify, for example, whether a business actually existed. As of December 2005, FDNS had completed its assessment of the religious worker application and replacement of permanent resident card applications, and was in the process of completing the assessment of two immigrant worker application subcategories.<sup>16</sup> As of December 2005, FDNS planned to initiate two other assessments in January 2006 and another at a later time.<sup>17</sup>

---

**Additional Internal Controls and Use of Other Best Practices Could Further Improve USCIS's Ability to Detect Benefit Fraud**

Although USCIS has taken some important steps consistent with internal control standards and other good fraud control practices, it has not yet implemented some aspects of internal control standards and fraud control best practices that could further enhance its ability to detect fraud. Specifically, it lacks (1) a comprehensive approach for managing risk, (2) a monitoring mechanism to ensure that knowledge arising from routine operations informs the assessment of policies and procedures, (3) clear communication regarding how to balance multiple agency objectives, (4) a mechanism to help ensure that adjudicators staff have access to important information, and (5) performance goals related to fraud prevention.

**USCIS Has Not Adopted a Comprehensive Risk Management Approach to Help Guide Its Fraud Control Efforts**

Although FDNS has initiated a fraud assessment program that identifies vulnerabilities for the specific benefit being assessed, it does not employ a comprehensive risk management approach to help guide its fraud control efforts. That is, FDNS has not (1) developed a plan for assessing the majority of benefits that USCIS administers, (2) fully incorporated threat and consequence information as part of the assessment process, and (3) applied a risk-based approach to evaluating alternatives for mitigating identified vulnerabilities.

---

<sup>16</sup>For the religious worker assessment, USCIS staff reviewed a sample of 220 cases that were randomly selected from a 6-month period of April 1, 2004, to September 30, 2004. For the replacement of permanent resident card assessment, USCIS staff reviewed a sample of 245 cases that were selected from a 6-month period of May 1, 2004, to October 31, 2004. Cases selected included pending and completed cases.

<sup>17</sup> USCIS asked that we not divulge the specific benefit types planned for future assessments because of concerns that publishing this information could jeopardize the validity of these future assessments.

---

A central component of the Standards for Internal Control in the Federal Government is risk assessment, which includes identifying and analyzing risks that agencies face from internal and external sources and deciding what actions should be taken to manage these risks. NAO's fraud control guide also advises that in the fraud context, risk assessment involves such things as assessing the size of the threat from external fraud, the areas most vulnerable to fraud, and the characteristics of those who commit fraud. Moreover, we have consistently advocated a model of risk management that takes place in the context of clearly articulated goals and objectives and includes comprehensive assessments of threats, vulnerabilities, and consequences to help agencies evaluate and select among alternatives for mitigating risk in light of the potential for a given activity to be effective, the related cost of implementing the activity, and other relevant management concerns (including its impact on other agency objectives).<sup>18</sup>

FDNS fraud assessments are an initial step toward adopting a risk management approach. However, FDNS has no specific plans to assess the majority of the benefit types that it administers. FDNS's current plan calls for assessing benefit types that represent only about 25 percent of the applications USCIS received in fiscal year 2004, for example, and do not include benefits like temporary work authorization which accounted for almost 30 percent of applications received in 2004, and which the CIS Ombudsman suspects may be a high risk for fraud, and for which PAS data show a high denial rate for fraud. FDNS officials told us that, although the fraud assessments have been valuable, they have taken more time and effort than originally planned. Likewise, FDNS has not established a strategy and methodology for prioritizing any future fraud assessments. Until it extends the assessments to additional benefit types, the fraud assessments offer only limited information about vulnerabilities to the immigration benefits system

Moreover, the approach to risk management that we advocate calls for the assessment of threats and consequences, in addition to the vulnerability information provided by the current approach to fraud assessment. Currently, the fraud assessments do not incorporate a comprehensive

---

<sup>18</sup> See, for example, GAO, *Homeland Security: A Risk Management Approach Can Guide Preparedness Efforts*, [GAO-02-208T](#) (Washington, D.C.: October 2001); and GAO, *Risk Management: Further Refinements Needed to Assess Risks and Prioritize Protective Measures at Ports and Other Critical Infrastructure*, [GAO-06-91](#) (Washington, D.C.: December 2005).



---

threat assessment—that is, they do not draw on all available sources of threat information—for example, information that might be available from such sources as ICE’s Office of Intelligence and other DHS intelligence gathering efforts. Threat assessment might help FDNS identify, for example, whether terrorists might be more likely to try to exploit certain immigration benefits. Neither do the fraud assessments include an assessment of the consequences of granting a particular benefit to a fraudulent filer. Such an assessment might help USCIS determine the relative harm that granting such a benefit might pose to the United States and its immigration benefit system. Although ultimately any benefit obtained under false pretenses undermines the system established by U.S. immigration law, consideration of whether, for example, granting a specific benefit may also facilitate easier access for potential terrorists to critical infrastructure or pose a greater detriment to the U.S. economy could inform sound risk-based decision making.

Equipped with a more comprehensive understanding of the risks it faces—particularly which benefits represent the highest risk, USCIS management would then be in a better position to select appropriate risk mitigation strategies and actions, particularly in situations where it is necessary to make resource trade-offs or to balance multiple agency objectives. For example, an obvious vulnerability to the immigration benefit system is the submission of false eligibility evidence. Currently, however, USCIS procedures do not include the verification of any eligibility evidence for any benefit, despite its potential to help mitigate vulnerability to fraud.<sup>19</sup> Verification of such evidence—by comparing it to other information in USCIS databases, by checking it against external sources of information, or by interviewing applicants—is the most direct and effective strategy for mitigating this vulnerability. Employer wage data reported to state labor agencies, for example, could be a useful source of information to help determine if an employer has paid prevailing wages. Data from state motor vehicle departments can be used to verify that the two individuals claiming to be married live at the same address. We previously reported that USCIS could benefit from verifying employer related information with the

---

<sup>19</sup> According to the Adjudicator’s Field Manual, adjudicators are to try to adjudicate the application based only on their review of the evidence submitted. The field manual further states that only when an adjudicator cannot decide whether to grant an immigration benefit based on the evidence submitted, are they to consider taking additional steps such as conducting internal research, requesting additional evidence, interviewing individuals, or requesting a site visit.

---

Internal Revenue Service.<sup>20</sup> USCIS adjudicators told us that access to commercial databases that provide identification and credential verification would be helpful in verifying information contained in benefit applications. Additionally, district office adjudicators told us that it was often only during interviews that fraud became evident, even when their earlier review had not raised suspicions.<sup>21</sup> A successful State Department effort offers further evidence that the practice of verifying key information can be an effective mitigation strategy. Due to a high incidence of fraud in a program that allows foreign companies to bring executives into the United States, one State Department consular post in Latin America began verifying with local authorities two key pieces of evidence that applicants were required to submit. According to the post, it subsequently noticed a decrease in the number of potentially fraudulent applications for this benefit.

On the other hand, verifying any applicant-submitted evidence in pursuit of its fraud-prevention objectives represents a resource commitment for USCIS and a potential trade-off with its production and customer service-related objectives. In fiscal year 2004, USCIS had a backlog of several million applications and has developed a plan to eliminate it by the end of fiscal year 2006.<sup>22</sup> In June 2004, USCIS reported that it would have to increase monthly production by about 20 percent to achieve its legislatively mandated goal of adjudicating all applications within 6 months or less by the end of fiscal year 2006. According to USCIS, because it does not plan to increase its current overall staffing level, meeting its backlog reduction goal will require some combination of reductions in the standard processing time for various applications, overtime hours, and adjudicator reassignments. It would be impossible for USCIS to verify all of the key information or interview all individuals related to the millions of applications it adjudicates each year—approximately 7.5 million applications in fiscal year 2005—without seriously compromising its service-related objectives. Identifying situations and benefits that represent the highest risk to USCIS could help its management determine whether and under what circumstances verification is so vital to

---

<sup>20</sup> See GAO, *Taxpayer Information: Options Exist to Enable Data Sharing between IRS and USCIS but Each Presents Challenges*, [GAO-06-100](#) (Washington, D.C.: Oct. 11, 2005).

<sup>21</sup> Currently, personal interviews are conducted only for certain applications and only in USCIS's district offices.

<sup>22</sup> See GAO, *Improvements Needed to Address Backlogs and Ensure Quality of Adjudications*, [GAO-06-20](#) (Washington D.C.: November 2005).

---

maintaining the integrity of the immigration benefits system that it outweighs any potential increase in processing time and costs. In this example, such an approach to risk management would inform selection among alternative verification strategies by considering (1) the risk of failing to detect fraud based on information provided by assessments of vulnerabilities, threats, and consequences, (2) the cost of conducting the verification (including its effect on other organizational objectives like service), and (3) the potential for the verification activities, given the current tools and information available, to actually detect fraud.

In addition to procedural vulnerabilities like the verification example, a risk management approach could also guide USCIS in the evaluation of policies that strike a balance between two or more agency objectives and organizational priorities. For example, as previously discussed, USCIS's policy of granting interim employment authorization documents to applicants whose adjustment of status applications have not been adjudicated within 90 days can be exploited by aliens seeking to gain work authorization under false pretenses and to use work authorization to obtain valid identity documents such as temporary social security cards and drivers licenses. In his 2004 and 2005 annual reports, the CIS Ombudsman identified this policy as a significant vulnerability in the immigration benefits process, because he contends that for many individuals the primary goal is to obtain temporary work authorization regardless of the validity of their applications for permanent residency. On the other hand, as we have previously reported, the reason for issuing temporary work authorization is to allow legitimate applicants to work as soon as possible, which according to USCIS, can serve to reduce the negative effects of delay on applicants and their families.<sup>23</sup> Using more comprehensive risk information to evaluate policies that represent trade-offs between fraud control and other agency objectives may help USCIS management determine whether and to what extent unintended policy consequences like in this example place the integrity of the immigration benefits system at risk. This kind of risk management approach also would provide USCIS management an opportunity to evaluate and select among various approaches to balancing fraud control with other agency objectives. In the temporary work authorization example, USCIS could evaluate a variety of alternative strategies and select among them on the basis of all available information, including risk. These strategies might

---

<sup>23</sup> See GAO, *Immigration Benefits: Several Factors Impede Timeliness of Application Process*, [GAO-01-488](#) (Washington D.C.: May 2001).

---

USCIS Lacks a Mechanism to Ensure That Ongoing Monitoring Occurs in the Course of Normal Operations

include: (1) maintaining the current policy if it is found to pose a tolerable level of risk, (2) seeking applicable regulatory changes, or (3) applying the policy disparately, to the extent allowed by law, across benefit types based on the level of risk each represents. In commenting on a draft of this report, DHS stated that a proposed regulatory change would clarify USCIS's ability to withhold the adjudication of an application for employment authorization pending an ongoing investigation.

Internal control standards advise that controls should be generally designed to ensure that ongoing monitoring occurs in the course of normal operations and is ingrained in the agency's operations. FDNS's fraud assessment program provides some information about how fraud is committed in the form of concentrated periodic assessments. However, currently USCIS does not have a mechanism to ensure routine feedback to FDNS about vulnerabilities identified during the course of normal operations and to incorporate it into adjudication policies and procedures.

Besides information about vulnerabilities obtained from its operational experience adjudicating applications, additional information might be available to FDNS from external entities that also have responsibility for some aspect of controlling benefit fraud. One external source of fraud information that might inform USCIS operations is the U.S. Attorneys Office, which prosecutes immigration benefit fraud cases. For example, one U.S. Attorney, based on cases his office has prosecuted, has issued memoranda showing how underlying regulatory and adjudication processes have invited abuse of the immigration system. A March 2005 memorandum prepared by this office explained how a recent investigation revealed significant weaknesses in the asylum process that allowed ineligible aliens to obtain asylum, and made suggestions for reforming the process. The memorandum stated that these suggestions were intended to start a discussion among federal agencies with immigration responsibilities that could lead to needed reforms. In commenting on a draft of this report, DHS stated that USCIS is developing a plan of action to work with other DHS entities and the Executive Office of Immigration Review within the Department of Justice to respond to specific recommendations made by the U.S. Attorney that prepared the memorandum on asylum program weaknesses.

Another source of information available to USCIS about fraud vulnerabilities are the criminal investigations conducted by ICE, DOL, and

---

the DHS Office of Inspector General,<sup>24</sup> which could reveal such information as the characteristics of those who commit fraud and how these individuals exploited weaknesses in the immigration benefit process to obtain benefits illegally. USCIS's National Benefit Fraud Strategy does not mention incorporating lessons learned from investigative and prosecutorial activities into its fraud control efforts—specifically, how the knowledge ICE, DOL, and DHS investigators and U.S. Attorneys gained during the course of investigations and prosecutions could be collected and analyzed in order to become aware of opportunities to reduce fraud vulnerabilities.<sup>25</sup> A mechanism to help ensure that information from these and related sources results in appropriate refinements to policies and procedures could enhance USCIS's efforts to address fraud vulnerabilities.

DOL, which plays an important role in the benefits process for some permanent employment benefits, has used external information to refine its procedures in this way. Specifically, it analyzed the results of major criminal investigations and prosecutions to evaluate and establish new procedures that require verifying key application information, such as the existence of a business. DOL found it was necessary to change its permanent labor certification procedures to require verification of basic application information in order to mitigate the risk of mistakenly approving permanent labor certification applications, and protect the fundamental integrity of the labor certification process from blatant abuse.<sup>26</sup>

---

<sup>24</sup> Among other things, this office investigates criminal allegations of USCIS employee involvement in immigration benefit fraud. The DHS Office of Inspector General provides the results of such investigations to USCIS's Office of Security and Investigations.

<sup>25</sup> A February 2006 memorandum of agreement between USCIS and ICE requires ICE to submit a report to USCIS on the findings of investigations resulting from referrals from USCIS. However, the memorandum does not require ICE to report the findings from benefit fraud investigations resulting from leads from other sources, such as other ICE investigations or other agencies.

<sup>26</sup> For permanent employment immigration, petitioners are required to obtain labor certifications from the Department of Labor. The DOL is required to certify that there are not sufficient U. S. workers who are able, willing, qualified, and available and that at least the prevailing wage will be paid. The labor certification is then submitted to USCIS along with an application for an alien worker using an I-140 immigration form. USCIS's responsibility is to then ensure that the prospective employee has the necessary qualifications for the job.

---

USCIS May Not Clearly  
Communicate the Importance  
of Fraud Control and How  
Adjudicators Are to Balance It  
with Other Objectives

Internal control standards advise that for agencies to manage their operations, they must have relevant, reliable, and timely communications. Furthermore, establishing a positive fraud control environment is central to an agency's efforts to detect and deter immigration benefit fraud. The NAO guidance also advises management to ensure that all levels of the organization are made to share a concern about fraud. It is the stated mission of USCIS to provide the right benefit, to the right person, at the right time, and no benefit to the wrong person. Specifically, it aims to adjudicate all benefit requests within 6 months of receipt, without compromising the integrity of the process, nor significantly increasing staff. These objectives—speed, quality, and cost—are inherently in tension with one another. Therefore, it is particularly important, given USCIS's multiple objectives, that it clearly communicates the importance of each of the objectives at every level of the organization, and provides clear guidance to adjudicators about how to balance them in the course of their daily duties.

Although USCIS's backlog elimination plan acknowledges the need to balance its focus on reducing the backlog with efforts to ensure adjudicative quality, some USCIS adjudicators we interviewed indicated that it was not clear to them how the agency expected them to balance fraud detection efforts and production goals during the course of their duties. Adjudicators we spoke with said that communications from management emphasized meeting production backlog goals almost exclusively. They said that management's focused attention on reducing the backlog placed additional pressure on them to process applications faster, thereby increasing the risk of making incorrect decisions, including approving potentially fraudulent applications. For example, adjudicators at all four service centers we spoke with told us that operations management seemed to be almost exclusively focused on reducing the backlog in order to meet production goals.<sup>27</sup> USCIS headquarters operations management responsible for overseeing adjudications at service centers and district offices told us that the adjudications operation is a "high-pressure" production environment and that they are seeking to increase production, but it was not their intention that this should come at the expense of making incorrect adjudication decisions.

---

<sup>27</sup> At one service center the union representing adjudicators filed a grievance in June 2005 claiming that proposed new performance standards for adjudicators were unrealistic and would compromise the quality of adjudication decisions.

---

The FDNS Director told us that he had also discussed with operations management the need to strike a more balanced approach to meeting production goals and ensuring that the right eligibility decision is made. He acknowledged that until FDNS establishes an ability to proactively identify fraud through its automated analysis tools, adjudicators will continue to play a primary role in detecting fraud. Therefore, he acknowledged the importance of clear and balanced communications from operations management to adjudicators in support of USCIS's new fraud detection process and the shared responsibilities in this regard.

Nevertheless, adjudicators we interviewed told us that they have received guidance from different parts of the agency regarding the lengths to which they should go in confirming suspected fraud that they were uncertain how to interpret. For example, in December 2004, the FDNS Director issued guidance stating that adjudicators should obtain the evidence needed to support their suspicions of fraud before making a referral, including, if necessary, requesting additional evidence from applicants. According to adjudicators and FDU staff we interviewed, this guidance appears to conflict with a subsequent January 2005 memorandum, issued by the Director of Service Center Operations, which states that adjudicator requests for information should not be used as a device simply to "investigate" suspected fraud. Adjudicators we interviewed at one service center said that whenever operations management communicated with them about practicing more discretion in issuing requests for additional evidence, they believed it was primarily intended to put more pressure on them to process applications faster, which in turn they said puts additional pressure on them to not to request additional evidence when making eligibility decisions. Consequently, they were concerned about having to approve applications with less confidence in the correctness of their determinations. An FDNS Immigration Officer working in a service center echoed the adjudicators concerns about seemingly conflicting guidance, saying that interpreting such guidance from management made the job of adjudicators more difficult. However, he said that adjudicators and local managers would more likely heed the direction of USCIS operations management, their direct supervisors, rather than FDNS. Clear communications about the importance of both fraud prevention-related and service-related objectives and how they are to be balanced may help adjudicators ensure that they are appropriately supporting USCIS's multiple objectives as they carry out their duties. In commenting on a draft of this report, DHS stated that the USCIS Director moved FDNS to a new directorate that reports directly to the USCIS Deputy Director. This will allow FDNS to provide focus and guidance to all USCIS operations.

---

## Adjudicators and FDNS Staff Lack Access to Important Information and Information Tools

USCIS does not have a mechanism to help ensure that adjudicators have access to information related to detecting fraud they may need to carry out their responsibilities. Information regarding fraud trends can be provided in various forms including e-mails, intranet Web pages, and bulletin board notices. The adjudicators at the service centers and district offices we visited received some fraud-related information or training subsequent to their initial hire.<sup>28</sup> Our interviews indicated, however, that the frequency and method for distributing ongoing information about fraud detection is not uniform across the service centers and district offices we visited; some adjudicators reported that more information or a more centralized information management system would better prepare them to detect fraud. At two service centers, adjudicators we interviewed told us that, after their initial training, they were provided with some information regarding fraud trends via e-mail. However, these adjudicators also reported difficulty with managing the information in this format. They said that providing this information through a different means—either through a Web-based system or through a training course that would summarize new knowledge related to fraud trends—would be easier and quicker to use. One of the service centers provided adjudicators with operating manuals—developed for specific benefit application types—that included information regarding typical fraud trends encountered by the service center, which adjudicators said they found useful in their efforts to detect fraud.

At two other service centers, adjudicators we interviewed told us that they were not provided any fraud e-mail updates but received some limited information about fraud during general group meetings. Adjudicators at these two centers told us that receiving more specific and detailed information about fraud trends and practices would enhance their ability to detect fraud. At one service center, adjudicators suggested that having a method by which to incorporate the knowledge and lessons learned from experienced adjudicators would also help them to better detect fraud. Additionally, one of the district offices we visited provided an additional 2-day training course that included techniques for detecting fraud during an interview. Adjudicators we interviewed at this district office told us that the course helped prepare them to better detect fraud. USCIS headquarters officials responsible for field operations told us that there is

---

<sup>28</sup> USCIS initial adjudicator training provides approximately 4 hours of fraud-related training that focuses primarily on detecting fraudulent documents during 6 weeks of training.



---

no standard training regarding fraud trends and that fraud-related training varied across field offices.

In addition to calling for relevant information to be shared internally, internal control standards require that management ensure that there are adequate means of communicating with and obtaining from external stakeholders information that may have a significant impact on achieving agency goals. During our audit work, USCIS and ICE, had not yet established a feedback mechanism for the timely sharing of information related to the status and outcomes of fraud referrals that is essential to the fraud referral process shared by USCIS and ICE. According to FDNS field staff we interviewed, information from ICE field offices on the status of USCIS referrals—for example, whether ICE has initiated an investigation in response to a referral—was sporadic and incomplete in some cases and non-existent in other cases. In addition, when ICE fails to accept a referral, FDNS may initiate an administrative inquiry to resolve an adjudicator's suspicions of fraud. However, because ICE did not routinely provide information about its investigative decisions, it was difficult for FDNS to know when to initiate such inquiries or to plan for the staff time needed to conduct them. Moreover, according to FDNS staff and adjudicators we interviewed, without timely feedback about the investigative status of their referrals, adjudicators lacked the information needed to make more timely eligibility determinations, whether or not an investigation is opened by ICE. In November 2005, ICE and USCIS officials told us that ICE investigators were recently assigned to each of the FDUs, which may help increase communication and information sharing between USCIS and ICE.

Additionally, according to the FDNS Director, having direct access to information stored in ICE's case management information system, the Treasury Enforcement Communication System (TECS) maintained by Customs and Border Protection (CBP), would allow FDNS staff to determine with greater certainty whether someone who has filed for an immigration benefit is connected to any ongoing ICE criminal investigation. However, ICE officials told us they opposed allowing FDNS access to sensitive case management information. They said that there was a need to segregate sensitive law enforcement data about ongoing cases from non-law enforcement agencies like FDNS.

In commenting on a draft of this report, DHS provided us with a February 14, 2006, memorandum of agreement between ICE and USCIS that established a mechanism for the sharing of information related to the status and outcomes of fraud referrals. In addition the agreement provides USCIS staff with access to TECS data so USCIS can determine whether

---

## DHS Lacks Performance Goals for USCIS's Antifraud Efforts

someone who has filed for an immigration benefit is connected to any ongoing ICE criminal investigation. If properly implemented, this agreement should resolve USCIS's concerns regarding the status and outcome of fraud referrals to ICE and access to TECS data.

Internal control standards call for agencies to establish performance measures to monitor performance related to agency objectives. Measuring performance allows an organization to track progress made toward achieving its objectives and provides managers with crucial information on which to base management decisions. The Government Performance and Results Act (GPRA) of 1993 also requires that agencies establish long-term strategic and annual goals, measure performance against these goals, and report on the progress made toward meeting their missions and objectives. It calls for agencies to assess specific outcomes related to their missions and objectives, in addition to designing output measures to describe attributes of the goods and services produced by the agencies' programs.

USCIS's 2005 Strategic Plan includes both a prevention theme—ensuring the integrity of the system, and a service theme—providing efficient and customer oriented services, along with related goals and objectives. However, DHS and USCIS have not established specific performance goals to assess benefit fraud activities. In fiscal year 2004 USCIS reported performance goals related to naturalization, legal permanent residency, and temporary residency to DHS for its annual Performance and Accountability Report. The objective for each of these three performance goals was to “provide information and benefits in a timely, accurate, consistent, courteous, and professional manner; and prevent ineligible individuals from receiving” the benefit. Although the objective includes preventing ineligible individuals from receiving the benefit, the related measure—achieve and maintain a 6-month cycle time goal—does not.

There is no discussion in the strategic plan of how to balance its prevention objectives with its service objectives. Instead, USCIS's long-term strategic approach appears to rely heavily on the development of an enhanced case management system, new fraud databases and data analyses tools, and automated information services to overcome the inherent tension between these prevention and services themes as they relate to the prevention of benefit fraud and reducing the backlog of immigration applications. Establishing output measures—for example, the number of cases referred to and accepted by FDNS—and outcome measures—for example, the percentage of fraudulent applications detected relative to targets established using baseline data from fraud

---

assessments—could provide USCIS with more complete information about the effectiveness of its fraud control efforts in meeting its strategic goal objective to ensure the security and integrity of the immigration system.

FDNS officials told us that they are now participating in USCIS's Office of Policy and Strategy Performance Measurement Team's efforts to develop performance metrics, and that FDNS is leading an effort to develop metrics related to USCIS's strategic goal to ensure the security and integrity of the immigration system by increasing the detection of attempted immigration benefit fraud. However, specific DHS metrics regarding USCIS's antifraud efforts have yet to be developed and approved by DHS.

---

## Most Benefit Fraud Is Not Criminally Prosecuted, but DHS Does Not Have an Administrative Sanctions Program

Although best practice guidance suggests that sanctions for those who commit benefit fraud are central to a strong fraud control environment, and the INA provides for criminal and administrative sanctioning, DHS does not currently actively use the administrative sanctions available to it. Fraud control best practices advise that a credible sanctions program, which incorporates a mechanism for evaluating its effectiveness, including the wider value of deterrence, is an integral part of fraud control. According to the AICPA's fraud guidance, the way an entity reacts to fraud can send a strong message that helps reduce the number of future occurrences. Therefore, taking appropriate and consistent actions against violators is an important element of fraud control and deterrence. The guide further advises that a strong emphasis on fraud deterrence has the effect of persuading individuals that they should not commit fraud because of the likelihood of punishment. Similarly, the NAO guide states that a key element of a good fraud control program is to impose penalties and sanctions on those who commit fraud in order to penalize those who commit fraud and deter others from carrying out similar types of fraud.

Data provided by USCIS indicates that most benefit fraud it uncovers and refers to ICE is not prosecuted. In fiscal year 2005, USCIS referred 2,289 immigration benefit fraud cases to ICE BFUs. However, 598, about 26 percent were accepted by the BFUs. Neither USCIS nor ICE provided us with information about which of the FDNS referrals accepted by the BFUs resulted in an ICE investigation. However, ICE officials said that the majority of ICE's immigration benefit fraud investigations do not originate with USCIS referrals, but from other investigative sources. Given limits on its resources, ICE officials told us that they generally prioritize their investigative resources and assign them to cases involving individuals who

---

are filing large numbers of fraudulent applications for profit, because these cases generally have a greater probability of being prosecuted by the U.S. Attorneys Offices. Therefore, the principal means of imposing sanctions on most immigration benefit fraud would be through administrative penalties.

The INA provides both criminal and administrative sanctions for those who commit immigration benefit fraud.<sup>29</sup> The act's criminal provisions provide for fines and/or imprisonment for up to 5 years for a person who fails to disclose that they have, for a fee, assisted in preparing an application for an immigration benefit that was falsely made, and monetary fines and/or imprisonment for up to 15 years for a second such conviction. The act also provides for administrative penalties for applicants who make false statements or submit a fraudulent document to obtain an immigration benefit or enter into a marriage solely to obtain an immigration benefit.<sup>30</sup> For document fraud committed after 1999, it provides monetary fines ranging from \$275 to \$2,200 per document subject to a violation for a first offense and from \$2,200 to \$5,500 per document for those who have previously been fined. Monetary penalties collected are to be deposited into the Immigration Enforcement Account within the Department of the Treasury. Funds from this account can be used for activities that enhance enforcement of provisions of the INA including: (1) the identification, investigation, apprehension, detention, and removal of criminal aliens; (2) the maintenance and updating of a system to identify and track criminal aliens, deportable aliens, inadmissible aliens, and aliens illegally entering the United States; and (3) for the repair, maintenance, or construction of border facilities to deter illegal entry along the border. In addition, under certain circumstances, individuals determined through the adjudication process to have committed fraud, are deemed inadmissible should they later try to file another immigration application. In some cases, aliens who are determined in a formal hearing to have committed fraud can be removed from the United States and be barred from entering in the future.

DHS does not currently have a clear and comprehensive strategy for imposing sanctions or evaluating their effectiveness and is not actively enforcing the administrative penalties provided for by the INA. This is largely due to a 1998 federal appeals court ruling upholding a nationwide

---

<sup>29</sup> Immigration fraud can also be criminally prosecuted under other federal statutes.

<sup>30</sup> 8 U.S.C. §§ 1324c(a), (d); 1154(c).

---

permanent injunction against the procedures used by INS to institute civil document fraud charges under the INA.<sup>31</sup> The court found that INS provided insufficient notice to aliens regarding their right to request a hearing on the imposition of monetary fines and the immigration consequences of failing to do so, and that until proper notifications were included on the fine and hearing waiver forms, INS was enjoined from implementing civil penalties for document fraud. According to the Director of Field Operations for ICE's Office of Principal Legal Advisor, after the court ruling, the government's cost to investigate and prosecute an immigration fraud case administratively, including appeals costs, would not be offset by the monetary sum that might be obtained. Moreover, the director stated that even if successful, there was no guarantee that the government could collect its fine from the alien. Therefore, according to the director, ICE does not consider implementing the administrative penalties for document fraud to be cost-effective. Accordingly, DHS has not made updating the forms in response to the ruling a priority. Similarly, another USCIS attorney told us that the provision of INA that pertains to marriage fraud is rarely used because, due to the significant commitment of resources necessary to establish a finding of fraud, enforcing it might not be cost-effective. However, DHS has not conducted a formal analysis, which includes an attempt to value the benefit of deterrence, to determine the total costs and benefits of imposing sanctions.

Senior USCIS officials we spoke with, however, told us that administrative sanctions are important to their fraud control efforts. According to the FDNS Director, without the credible threat of a penalty, individuals have no fear of filing future fraudulent applications. In this regard, he said that FDNS administrative investigations of fraud referrals not investigated by ICE are critical, and, in his estimation, the resulting denial of a benefit and potential removal of an alien offer an effective deterrent to immigration benefit fraud. However, the director said that although an alien who commits immigration benefit fraud might be removable from the United States and, therefore, has some disincentive to commit fraud, U.S. citizens, if they are not prosecuted criminally, have little disincentive because without the enforcement of administrative sanctions they are not likely to be penalized, even if their violations are detected. Additionally, according to the Chief of Staff for USCIS, a strategy for administratively sanctioning those who commit fraud is necessary for controlling and deterring fraud.

---

<sup>31</sup> *Walters v. Reno*, 145 F.3d 1032 (9th Cir. 1998).

---

Although DHS does not actively use its authorities to impose administrative penalties, Congress has continued to support the concept in legislation. In particular, the Real ID Act of 2005 allows the Secretary of Homeland Security, after notice and an opportunity for a hearing, to impose an administrative fine of up to \$10,000 per violation on an employer for a substantial failure to meet any of the conditions of a petition for certain non-immigrant workers or a willful misrepresentation of a material fact in such a petition, and allows the secretary to deny petitions filed with respect to that employer for at least 1 year and not more than 5 years.<sup>32</sup> However, without a strategy that includes a mechanism for assessing the effectiveness of sanctions and considers both the monetary value of fines collected and the value of deterrence, DHS will not be able to determine how and under what circumstances to best use the authority provided by the INA and other legislation to promote a credible threat of punishment in order to deter fraudulent filers.

Although it lacks a strategy for imposing criminal and administrative sanctions, DHS, along with DOL, has proposed administrative rule changes that will help sanction those who commit fraud. Among other things, DHS has proposed that USCIS be able to deny, for a period of time, all applications from employers that DOL or DHS has found, respectively, to have submitted false information about meeting regulatory requirements or provided statements in their applications that were inaccurate, fraudulent or misrepresented a material fact. Final rules have not yet been published.

---

## Conclusions

In light of competing organizational priorities, institutionalizing fraud detection—so that it is a built-in part of the adjudications process and always a central part of USCIS’s planning, procedures, and methods—is vital to USCIS’s ability to accomplish its goals and objectives, particularly protecting the integrity of the immigration benefit system. USCIS has taken some important steps to implement internal controls, primarily through the activities of the Office of Fraud Detection and National Security. By strengthening existing controls and implementing additional fraud control practices, USCIS could enhance its ability to detect benefit fraud and gain greater assurance that its operations are designed to protect the integrity of the system, even as it strives to enhance service and meet its backlog reduction goals. Specifically, expanding the types of

---

<sup>32</sup> Pub. L. No. 109-13, div. B, § 404(a), 119 Stat. 302, 319-20 (amending 8 U.S.C. § 1184(c)).

---

benefits it assesses, including assessments of consequence, and drawing on all available sources of threat information to develop current fraud assessment activities into a more comprehensive risk management approach would provide additional knowledge about fraud risks and put the agency in a better position to make risk-based evaluations of its policies, procedures, and programmatic activities. Also, a mechanism to ensure that information uncovered during the course of normal operations—in USCIS and related agencies—feeds back into USCIS policies and procedures would help to ensure that it addresses loopholes and procedural weaknesses. In addition, clear communication of the importance of fraud prevention-related objectives and how they are to be balanced, in practice, with service-related objectives would help USCIS adjudicators to ensure that they are supporting the agency’s multiple objectives as they carry out their duties. Moreover, the provision of the tools and the relevant information that its adjudicators need to help them detect fraud could help them make eligibility determinations with greater confidence of their accuracy. Finally, performance goals—that include output and outcome measures, along with associated targets—reflecting the status of fraud control efforts would provide valuable information for USCIS management to evaluate its various policies, procedures, and programmatic activities and a better understanding of both the progress made and areas requiring more focused management attention to enhance fraud prevention.

By demonstrating sufficiently adverse consequences for individuals who perpetrate fraud, sanctions serve to discourage future fraudulent filings, as individuals observe that the potential costs of engaging in fraud are likely to outweigh the potential gains. It is important to any program that encounters fraud to have a credible sanctions program to penalize those who engage in fraud and deter others from doing so. Currently, DHS’s sanctions program for immigration fraud is not a threat to most perpetrators because relatively few are prosecuted criminally and administrative sanctions are not actively being used. Although DHS officials told us that administrative sanctions are not cost-effective, comparing only the costs of administering sanctions with the potential return from the collection of fines may undervalue their potential deterrent effects. Although developing a sound methodology to establish and determine the value of deterrence provided by sanctions will require effort, best practices call for cost-effective sanctions, and consideration of the full range of costs and benefits, financial and nonfinancial, is central to making a valid determination of cost-effectiveness. Developing and implementing a strategy for imposing sanctions that includes a mechanism for assessing effectiveness and that more fully evaluates costs and

---

benefits, including nonfinancial benefits like the value of deterrence, could give DHS a better indication of how and under what circumstances administrative sanctions should be employed to enhance USCIS's fraud deterrence efforts.

---

## Recommendations for Executive Action

In order to enhance USCIS's overall immigration benefit fraud control environment, we recommend that the Secretary of Homeland Security direct the Director of USCIS to take the following five actions, which are consistent with internal control standards and best practices in the area of fraud control:

- Enhance its risk management approach by (1) expanding its fraud assessment program to cover more immigration application types; (2) fully incorporating threat and consequence assessments into its fraud assessment activities; and (3) using risk analysis to evaluate management alternatives to mitigate identified vulnerabilities.
- Implement a mechanism to help USCIS ensure that information about fraud vulnerabilities uncovered during the course of normal operations—by USCIS and related agencies—feeds back into and contributes to changes in policies and procedures when needed to ensure that identified vulnerabilities result in appropriate corrective actions.
- Communicate clearly to USCIS adjudicators the importance USCIS's fraud-prevention objectives and how they are to be balanced with service-oriented objectives to help adjudicators ensure that both objectives are supported as they carry out their duties.
- Provide USCIS's adjudicator staff with access to relevant internal and external information that bears on their ability to detect fraud, make correct eligibility determinations, and support the new fraud referral process—particularly ongoing updates regarding fraud trends and other information related to fraud detection.
- Establish output and outcome based performance goals—along with associated measures and targets—to assess the effectiveness of fraud control efforts and provide more complete performance information to guide management decisions about the need for any corrective action to improve the ability to detect fraud.



---

In addition, in order to enhance DHS's ability to sanction immigration benefit fraud, we recommend the Secretary of Homeland Security direct the Director of USCIS and the Assistant Secretary of ICE to:

- Develop a strategy for implementing a sanctions program that includes mechanisms for assessing its effectiveness and for determining its associated costs and benefits, including its deterrence value.

---

## Agency Comments and Our Evaluation

We provided a draft of this report to the Departments of Homeland Security, State, Justice, and Labor for review. On March 1, 2006, we received written comments on the draft report from the Department of Homeland Security, which are reproduced in full in appendix II. The Departments of State, Justice, and Labor had no comments on our draft report. In its written comments, DHS stated that our report generally provided a good overview of the complexities associated with pursuing immigration benefit fraud and the need to have a program in place that proactively assesses vulnerabilities within the myriad of immigration processes. However, DHS stated that our report did not fully portray USCIS's efforts to address immigration benefit fraud and provided other examples of efforts USCIS has undertaken or plans to undertake. Where appropriate, we revised the draft report to recognize these additional efforts by USCIS to address immigration benefit fraud. DHS noted that USCIS used GAO's 2002 report on immigration benefit fraud as the foundation to build its antifraud program and believes that USCIS is on the right track to creating an effective antifraud program. We believe that USCIS is moving in the right direction and recognize that FDNS is in the beginning stages of developing and implementing a new antifraud program for USCIS.

Overall, DHS agreed with and plans to take action to implement four of our six recommendations, and cited actions it has already taken to indicate that aspects of our other two recommendations are already in place. Specifically, regarding our recommendation that DHS enhance its risk management approach, DHS agreed that USCIS can enhance its risk management approach by expanding its fraud assessment program to cover more application types and plans to do so. DHS stated that its initial fraud assessments focused on benefits that were high risk, but that given existing resources it was not possible to conduct assessments on all benefit types within the first years of operation. DHS stated that USCIS believes that the benefit fraud assessments currently underway do provide a comprehensive risk analysis to identify vulnerabilities and measures to mitigate such vulnerabilities. DHS cites FDNS involvement in interagency anti-fraud efforts and that FDNS staff are assigned to various intelligence

---

units as support that its fraud assessments draws on sources of strategic threat information. However, DHS did not provide evidence or explain how, if at all, these efforts systematically incorporated threat and consequences into its fraud assessment process. In addition, DHS did not explain or provide us with evidence of how USCIS will use the results of the fraud assessments as part of a continuous, built-in component of its operations to evaluate and adjust, as necessary, policies and procedures.

Regarding our recommendation that DHS provide USCIS adjudicator staff relevant information, DHS agreed that it needs to provide USCIS staff access to relevant internal and external information and is initiating training for supervisory adjudication officers and is planning to provide adjudicators selective access to the State Department's Consolidated Consular Database and other open source databases.

Regarding our recommendation that DHS establish performance goals to assess the effectiveness of fraud control efforts, DHS stated that FDNS has created performance goals for the number of benefit fraud assessments conducted during the year and the number of recommended policy, procedural and regulatory changes. DHS agreed that additional output and outcome based performance goals and measures are needed but did not specify what action(s) they were planning to take.

Regarding our recommendation that DHS develop a strategy for implementing a sanctions program, DHS agreed to study the costs and benefits of an administrative sanctions program though DHS believes that the process it has established to place aliens determined to have committed immigration fraud in removal proceedings is an effective deterrent. While this process may deter aliens from committing immigration fraud, this process does not impact citizens who may commit fraud and therefore a sanctions strategy for citizens is still needed.

DHS stated that with regard to two of our recommendations, it has already take actions that are consistent with these two recommendations. Regarding our recommendation that USCIS implement a mechanism to feed back information uncovered during the course of its normal operations and those of related agencies about fraud vulnerabilities, DHS stated that it believes such a feedback loop already exists within the process. DHS stated that FDNS is currently developing its back-end processes, which include sharing information/lessons learned from routine operations and addressing shortcomings. For all major conspiracy cases, a report is to be prepared summarizing among other things, factors that lead to fraudulent applications being approved. USCIS also stated that based

---

upon meetings that FDNS leadership had with a U.S. Attorneys Office regarding vulnerabilities in the asylum process, USCIS is developing a plan of action to respond to the recommendations made by the U.S. Attorney's office. DHS also stated that USCIS is developing regulatory changes to mitigate vulnerabilities identified during the religious worker fraud assessment. Although these are all positive efforts, USCIS does not yet have policies and procedures that specify how information about fraud vulnerabilities uncovered during the course of normal operations—by USCIS and related agencies—is to be gathered—from which internal and external sources—and the process for evaluating this information and making decisions about appropriate corrective actions. Therefore, we continue to believe that USCIS needs to institutionalize through policies and procedures a feedback mechanism.

Regarding our recommendation that USCIS clearly communicate the importance of USCIS' fraud-prevention activities, DHS stated USCIS leadership clearly advocates balancing objectives related to timely and quality processing of immigration benefits. DHS stated that creation of FDNS and the recent move of FDNS to a new directorate that reports directly to the Deputy Director of USCIS allowing FDNS to provide focus and guidance to all USCIS operations as support that USCIS is focused on the integrity of USCIS's data and processes. Although USCIS management believes these efforts demonstrate the importance of fraud prevention, our interviews with adjudicators in service centers and district offices indicate that this message may not be reaching USCIS's adjudications staff. Therefore, we continue to believe that more is needed to clearly communicate the importance of fraud prevention and more specific guidance on how USCIS staff are to balance the fraud prevention and service oriented objectives. DHS disagreed with our recommendation that USCIS and ICE establish a mechanism for the sharing of information related to the status and outcomes of USCIS fraud referrals to ICE. DHS provided us a February 2006 memorandum of agreement between ICE and USCIS that establishes a mechanism for the sharing of information related to the status and outcomes of fraud referrals; therefore, we withdrew this recommendation.

---

We are sending copies of this report to the Secretaries of Homeland Security, State, and Labor; the Attorney General; and other interested congressional committees. We will also make copies available to others upon request. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

---

If you or your staff have any questions concerning this report, please contact me at (202) 512-8777 or [Jonespl@gao.gov](mailto:Jonespl@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix III.

A handwritten signature in black ink, reading "Paul L. Jones". The signature is written in a cursive style with a large, stylized "P" and "J".

Paul L. Jones  
Director, Homeland Security  
and Justice Issues

---

# Appendix I: Scope and Methodology

---

To examine the extent and nature of immigration fraud, we reviewed the results of the Office of Fraud Detection and National Security's (FDNS) ongoing fraud assessments. Regarding the fraud assessments, we interviewed the FDNS managers responsible for administering the assessment, reviewed documentation outlining the assessment's design, implementation and initial results from two fraud assessments. To better understand the nature of immigration benefit fraud and to identify common fraud patterns, we analyzed examples of fraud case histories for several petition types planned to be assessed by FDNS. In addition, we analyzed information contained in fraud bulletins prepared by U.S. Citizen Immigration Services' (USCIS) California Service Center that contained reports by various State Department overseas consular posts on immigration fraud these posts had uncovered. We also analyzed USCIS's Performance Analysis System (PAS) data to determine trends in the volume of applications being processed, approved, and denied. We assessed the data derived from PAS and determined that these data were sufficiently reliable for the purposes of this review. We interviewed adjudications staff and field managers to evaluate the extent to which internal controls and practices for detecting fraud were incorporated into USCIS policies, procedures, and tools. We met with headquarters officials from USCIS operations and FDNS, as well as officials from the Departments of Labor and State responsible for fraud detection efforts. We conducted site visits or contacted staff at all four USCIS services centers—we visited three USCIS service centers in Laguna Niguel, California; Dallas, Texas; and St. Albans, Vermont; and conducted telephone interviews with USCIS staff at the Lincoln, Nebraska, service center. We also interviewed 59 adjudicators at the four USCIS service centers and two USCIS district offices with responsibility for and familiarity with adjudicating different types of applications in a group setting, which allowed us to identify points of consensus among the adjudicators. We also visited USCIS district offices in Dallas and Boston responsible for coordinating their fraud referrals with two of the four service centers we visited. USCIS service center and district office officials selected the adjudicators we interviewed based upon our request that we meet with adjudicators that had responsibility for and familiarity with adjudicating different types of applications. We also interviewed FDNS staff assigned to work with the four service centers and two district offices we visited or contacted. We also interviewed staff from Immigration and Custom Enforcement's (ICE) Identity and Benefit Fraud Unit in Washington, D.C., and those agents assigned to Benefit Fraud Units (BFU) in California, Texas, and Vermont. As we did not select a probability sample of USCIS staff and ICE Office of Investigations agents to interview, the results of these interviews cannot be projected to all USCIS staff and

---

ICE Office of Investigations officials nationwide. In addition, we reviewed efforts by the Department of Labor's Inspector General to determine the extent of immigration fraud in the Permanent Labor Certification Program. We also met with the CIS Ombudsman to discuss his fiscal year 2004 and fiscal year 2005 reports.

To determine what actions USCIS has taken to improve its ability to detect immigration benefit fraud, we reviewed USCIS's efforts to improve its fraud detection capabilities, including resources devoted specifically to detecting fraud by FDNS. We also reviewed USCIS's policies, adjudication procedures, and fraud detection processes as well as the tools used by adjudicators to detect fraudulent immigration benefit applications. To determine what actions have been taken to sanction those who commit fraud, we interviewed USCIS and ICE attorneys, identified the investigative resources that ICE had made available for immigration fraud investigations, and determined how USCIS and ICE coordinate the investigation of potential fraud. In addition, we examined fraud investigation and prosecution statistics, and analyzed USCIS statistics about the amount of fraud identified by its adjudicators. We also determined how ICE investigative efforts are coordinated with the U.S. Attorneys Offices and how their priorities affect the investigation and prosecution of immigration benefit fraud schemes of various types. For this portion of our review, we met with headquarters officials from ICE, and interviewed agents in four ICE field offices based in Boston, Dallas, Los Angeles, and San Antonio. We also interviewed representatives from the U.S. Attorneys Office for the Eastern District of Virginia and the Executive Office of the U.S. Attorneys within the Department of Justice. Finally, we examined the current sanctions for those who commit immigration benefit fraud and reviewed proposed fraud regulatory changes. To evaluate DHS efforts to detect and sanction immigration benefit fraud, we used the Standards for Internal Control in the Federal Government and with best practices advocated by the American Institute of Certified Public Accountants (AICPA) and by the United Kingdom's National Audit Office (NAO).

We conducted our work between October 2004 and December 2005 in accordance with generally accepted government auditing standards.

# Appendix II: Comments from the Department of Homeland Security

U.S. Department of Homeland Security  
Washington, DC 20528



Homeland  
Security

March 1, 2006

Mr. Paul L. Jones  
Director  
Homeland Security and Justice Issues  
U.S. Government Accountability Office  
441 G Street, N.W.  
Washington, D.C. 20548

Dear Mr. Jones:

We appreciate the opportunity to comment on the Government Accountability Office's (GAO) draft report entitled "*Immigration Benefits: Additional Controls and a Sanctions Strategy Could Enhance DHS's Ability to Control Benefit Fraud*" GAO-06-259. It generally provides a good overview of the complexities associated with pursuing immigration benefit fraud and the need to have a program in place that proactively assesses vulnerabilities within the myriad of immigration processes. However, the report does not fully portray how the Department of Homeland Security (DHS) has been addressing anti-fraud since its inception on March 1, 2003.

U.S. Citizenship and Immigration Services (USCIS) used the GAO Report, *Immigration Benefit Fraud: Focused Approach is Needed to Address Problems*, GAO-02-66, January 31, 2002, as the foundation to build its anti-fraud effort with the establishment of the Office of Fraud Detection and National Security (FDNS). Development of this program started in 2003, FDNS was officially created in May 2004 and FDNS Immigration Officers were deployed to the field in January 2005. Although it is still a new and developing program, USCIS is on the right track with respect to creating an effective anti-fraud program. To date, it has established a joint benefit fraud strategy with U.S. Immigration and Customs Enforcement (ICE), created the necessary organizational crosswalks, developed policies and procedures, and implemented a strategy for conducting benefit fraud assessments.

The GAO found the establishment of FDNS as a focal point for dealing with immigration benefit fraud, a strategy for detecting immigration benefit fraud and the initiation of a series of benefit risk assessment were good starts for an effective anti-fraud program. However, the GAO concluded that USCIS needed to address some aspects of internal control standards and fraud control best practices identified by leading audit organizations. For example, the GAO found the program does not provide a basis for the type of comprehensive risk analysis advocated in the *GAO Standards for Internal Control in the Federal Government*. USCIS believes that benefit fraud assessments currently underway do provide a comprehensive risk analysis to identify vulnerabilities and measures to mitigate such vulnerabilities. No such assessments have ever before been conducted of the immigration benefit processes. The GAO suggests that FDNS' assessments do not draw on all available sources of strategic threat information. FDNS performs systems checks in all available enforcement systems, and deconflicts suspected fraud targets with ICE. To facilitate this, ICE has a supervisory special agent collocated with headquarters FDNS and a senior special agent at each Service Center Fraud Detection Unit. FDNS also meets regularly with ICE's Identity and Benefit Fraud Unit; has an Intelligence Research Specialist

[www.dhs.gov](http://www.dhs.gov)

detailed to ICE's Office of Intelligence, DHS's Operations Center, and the Terrorist Screening Center. The FDNS Director sits on the DHS Assistant Secretary of Intelligence and Analysis Intelligence Council. FDNS' Chief of the National Security Branch sits on DHS's Homeland Security Terrorist Threat Intelligence Group, along with other agency chiefs and assistant directors. FDNS also has ongoing communication with ICE's National Security Threat Protection Unit, and is about to implement a joint religious worker fraud initiative focused on identifying systemic flaws/national security risks in the Religious Worker Program. These interagency anti-fraud and national security efforts are also unprecedented.

In addition, the ongoing benefit fraud assessments are addressing benefit types considered "high risk." They were chosen because the application/petition either provided evidence of permanent resident status, were the basis for applying to obtain permanent resident status, or provided long-term employment based non-immigrant visas. In addition, these benefit types were selected because the 9/11 Commission Report identified marriage fraud as a major target of terrorists aimed at embedding themselves in the United States, and because GAO, in separate reports, documented the existence of significant fraud among religious workers and intra-company transferees. Given existing resources, it is not possible to conduct assessments on all benefit types within the first years of operation. However, FDNS intends to conduct assessments on an ongoing basis and will expand them to include additional benefit types.

The GAO suggests that USCIS is not effectively addressing temporary work authorizations provided to applicants who have to wait more than 90 days for their applications to be processed. This is not a simple issue. Applications for employment authorization are typically ancillary applications tied to a "parent" application – for example, they are filed in conjunction with an application for adjustment of status based on an employment based petition. The fraud is not typically found on the application for employment authorization – rather, it is based in the underlying "parent" application/petition. Therefore, the best course of action is to address the problem at the source – i.e. the petition. Addressing the problem at the employment authorization application stage would not adequately address the problem. Further, the interim employment authorization is necessary because it is not possible to detect fraud and resolve all background check processes in all cases based on existing technology in 90 days. However, there is a proposed regulatory change that would clarify USCIS' ability to withhold the adjudication of an application for employment authorization pending an ongoing investigation.

The GAO also found that USCIS lacks a mechanism to help ensure that information gathered during the course of its normal operations and those of related operations – including criminal investigations and prosecutions – inform decisions about whether and what actions, including changes to policies, procedures or programmatic activities, might improve the ability to detect fraud. FDNS is currently developing its back-end processes, which include sharing information/lessons learned from routine operations and addressing shortcomings. For example, all fraud leads are entered into the FDNS-Data System. That information will be compared against incoming receipts in order to identify any new applications/petitions filed by individuals or companies who have previously filed fraudulent applications/petitions. In addition, current policy requires an "after action" report to be completed for all major conspiracy cases. This report summarizes the results and findings of the case, including information such as statistics on how many people were denied benefits due to fraud, which factors led to approvals of some cases, how the information can be used in the future to identify fraudulent files, and best practices learned during the process. Finally, FDNS is actively engaged with ICE and the Departments of Labor and State on the formation of inter-agency benefit fraud task forces. One



of the purposes of such is to share information, including systems access, lessons learned; decide on joint operations, etc.

The GAO further concluded that ICE and USCIS lacked a mechanism to share information related to the status of fraud investigation referrals from USCIS. Per a February 14, 2006, Memorandum of Agreement, ICE will accept or decline a referral from USCIS within 60 days. If the case is accepted for criminal investigation, ICE is required to provide a status report if and when the investigation is approaching one year. The Memorandum of Agreement requires ICE to provide USCIS with a case closure report upon completion of the investigation. USCIS is in the process of developing an ICE tab in the FDNS-Data System, which ICE will use to provide information regarding pending referrals/investigations.

To support its finding that USCIS also lacked a mechanism to share information with other external entities, GAO cited a recent memorandum from the U.S. Attorney of the Eastern District of Virginia. This memorandum referenced weaknesses in the asylum process that allowed ineligible aliens to obtain asylum and recommended procedural improvements to the asylum process. USCIS' Asylum Division and the Arlington Asylum Office worked closely with FDNS and the U.S. Attorney's Office throughout this investigative process, which ultimately yielded 26 criminal indictments. As partners in the investigative process, USCIS also learned a number of lessons in that case, and is developing a plan-of-action to work with other DHS entities and the Executive Office for Immigration Review to respond to the U.S. Attorney's specific recommendations. In fact, USCIS had already begun to implement several of the recommendations prior to the investigation. USCIS senior leadership, which included the Director, FDNS, and the Acting Chief Counsel, met with the Assistant U.S. Attorney to discuss lessons learned during this and other recent prosecutions. Guidance to USCIS officers will result from this meeting. FDNS is also a member of the Inter-agency Immigration Benefits Fraud Task Force led by this U.S. Attorney's Office. The San Francisco Asylum Task Force, the Los Angeles Asylum Fraud Working Group, and the New York-New Jersey Asylum Anti-Fraud Task Force also include in their membership USCIS Asylum Offices, FDNS and U.S. Attorney's Offices in those respective regions. All four task forces have demonstrated success in sharing information and otherwise collaborating to prevent asylum fraud.

Finally, the GAO concluded that DHS should develop a strategy for sanctioning fraud as well as evaluating the effectiveness of administrative type sanctions. Although DHS will explore this as part of its overall prevention strategy in detecting, deterring and mitigating threats to our homeland, we believe the process established by USCIS and ICE creates an effective deterrent. Once fraud is validated, the application/petition is denied for fraud, the case is entered into the FDNS-Data System to be compared against incoming receipts to identify any and all future applications or petitions that may be filed, a look-out is posted in law enforcement systems and the alien is placed in removal proceedings.

The GAO recommended the Secretary of Homeland Security direct the Director of USCIS to implement additional internal controls and best practices to strengthen its fraud control environment. We have addressed each of the five specific recommendations as follows:

**Enhance its risk management approach by (1) expanding its fraud assessment program to cover more immigration application types; (2) fully incorporating threat and consequence assessment into its fraud assessment activities; and (3) using risk analysis to evaluate management alternatives to mitigating identified vulnerabilities.**

As discussed above, USCIS plans to expand the benefit fraud assessment to incorporate more immigration benefit types and will continue to incorporate threat and consequence assessments into its analysis. Such assessments and analyses will be used to mitigate vulnerabilities found.

**Implement a mechanism to help USCIS ensure that information about fraud vulnerabilities uncovered during the course of normal operations – by USCIS and related agencies – feeds back into and contributes to changes in policies and procedures when needed to ensure that identified vulnerabilities result in appropriate corrective actions.**

Such a feedback loop is already within the process. For example, from the benefit fraud assessment of religious worker petitions, FDNS recommended a site check be conducted for all petitions. In addition, USCIS is developing regulatory changes to mitigate vulnerabilities in the process. Further cooperation with the U.S. Attorney discussed above is another example of this ongoing process.

**Communicate clearly the importance of USCIS' fraud-prevention objectives and how they are to be balanced with service-oriented objectives to help adjudicators ensure that both objectives are supported as they carry out their duties.**

USCIS leadership clearly advocates balancing objectives related to timely and quality processing of immigration benefits with emphasis on national security. FDNS would not have been created if senior leadership did not believe national security and fraud detection were a high priority. USCIS adjudicators now have a chain of command in place within USCIS to use when fraud is suspected. In November 2005, FDNS hosted a national conference for all immigration officers and intelligence research specialists to address key objectives and priorities, lessons learned during the first year of operations, needed adjustments, and mid- to long-term plans. Finally, to ensure continued focus on national security, the new USCIS Director moved FDNS from Domestic Operations, where it had been organizationally situated and placed it in a third directorate focused on integrity of USCIS data and processes, that reports directly to the Deputy Director. This allows FDNS to provide focus and guidance to all USCIS operations.

**Provide USCIS staff with access to relevant internal and external information that bears on their ability to detect fraud, make correct eligibility determinations, and support the new fraud referral process – particularly the status of fraud referrals to ICE and ongoing updates regarding fraud trends and other information related to fraud detection.**

FDNS has created a website that includes relevant policy memos, standard operating procedures, success stories relating to prosecutions, fraud trends, lessons learned and a number of other tools to aid officers in the performance of their duties. The website lists an email address which employees can use to seek and/or report information to FDNS. The Fraud Detection Unit at the National Benefits Center created a website which contains information regarding recent fraud patterns involving legalization applications. USCIS has incorporated FDNS in its Basic and Journeyman level adjudicator training at the Immigration Officer Academy and is initiating training for non-FDNS supervisory adjudication officers. Finally, USCIS is planning to provide selective access to the Department of State's Consolidated Consular Database and other open source databases; however, this policy needs to be based on an approach that balances productivity with integrity.

5

**Establish output and outcome based performance goals – along with associated measures and targets – to assess the effectiveness of fraud control efforts and provide more complete performance information to guide management decisions about the need for any corrective action to improve the ability to detect fraud.**

FDNS has created performance goals for the number of benefit fraud assessments conducted during the fiscal year and the number of recommended policy, procedural, and regulatory changes that resulted from the findings. FDNS agrees additional output and outcome based performance goals and measures are needed.

The GAO also recommended the Secretary of Homeland Security direct the Director of USCIS and the Assistant Secretary of ICE to develop a strategy for implementing a sanctions program that includes mechanisms for assessing its potential effectiveness and associated cost and benefit, including deterrence values. As discussed above, DHS believes the current process creates a more effective deterrent than an administrative sanctions program. In some cases, FDNS' administrative approach is even more of a deterrent than criminal prosecution. However, DHS will study the costs and benefits for an administrative sanctions program related to immigration benefit fraud.

We thank you again for the opportunity to provide comments on this draft report and look forward to working with you on future homeland security issues.

Sincerely,



Steven J. Pecinovsky  
Director  
Departmental GAO/OIG Liaison Office

---

# Appendix III: GAO Contact and Staff Acknowledgments

---

## GAO Contact

Paul L. Jones (202) 512-8777

---

## Staff Acknowledgements

In addition to the above, Joel Aldape, David Alexander, Jenny Chanley, Frances Cook, Michael P. Dino, Nancy Finley, Carlos Garcia, Kathryn Godfrey, Larry Harrell, and David Nicholson were key contributors to this report.

---

## GAO's Mission

The Government Accountability Office, the audit, evaluation and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

---

## Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's Web site ([www.gao.gov](http://www.gao.gov)). Each weekday, GAO posts newly released reports, testimony, and correspondence on its Web site. To have GAO e-mail you a list of newly posted products every afternoon, go to [www.gao.gov](http://www.gao.gov) and select "Subscribe to Updates."

---

## Order by Mail or Phone

The first copy of each printed report is free. Additional copies are \$2 each. A check or money order should be made out to the Superintendent of Documents. GAO also accepts VISA and Mastercard. Orders for 100 or more copies mailed to a single address are discounted 25 percent. Orders should be sent to:

U.S. Government Accountability Office  
441 G Street NW, Room LM  
Washington, D.C. 20548

To order by Phone: Voice: (202) 512-6000  
TDD: (202) 512-2537  
Fax: (202) 512-6061

---

## To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Web site: [www.gao.gov/fraudnet/fraudnet.htm](http://www.gao.gov/fraudnet/fraudnet.htm)

E-mail: [fraudnet@gao.gov](mailto:fraudnet@gao.gov)

Automated answering system: (800) 424-5454 or (202) 512-7470

---

## Congressional Relations

Gloria Jarmon, Managing Director, [JarmonG@gao.gov](mailto:JarmonG@gao.gov) (202) 512-4400  
U.S. Government Accountability Office, 441 G Street NW, Room 7125  
Washington, D.C. 20548

---

## Public Affairs

Paul Anderson, Managing Director, [AndersonP1@gao.gov](mailto:AndersonP1@gao.gov) (202) 512-4800  
U.S. Government Accountability Office, 441 G Street NW, Room 7149  
Washington, D.C. 20548