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**Office of Inspector General**

**U.S. Immigration and Customs  
Enforcement  
Visa Security Program**



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### Preface

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*. This is one of a series of audit, inspection, and special reports prepared as part of our oversight responsibilities to promote economy, efficiency, and effectiveness within the department.

This report addresses the management, value added, and expansion of the U.S. Immigration and Customs Enforcement Visa Security Program. It is based on interviews with employees and officials of relevant agencies, direct observations, and a review of applicable documents.

The recommendations herein have been developed to the best knowledge available to our office, and have been discussed in draft with those responsible for implementation. It is our hope that this report will result in more effective, efficient, and economical operations. We express our appreciation to all of those who contributed to the preparation of this report.

A handwritten signature in black ink that reads "Richard L. Skinner".

Richard L. Skinner  
Inspector General

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## Abbreviations

ARSO-I	Assistant Regional Security Officer-Investigations
DHS	Department of Homeland Security
DOS	Department of State
FLETC	Federal Law Enforcement Training Center
FY	Fiscal Year
ICE	U.S. Immigration and Customs Enforcement
NSDD-38	National Security Decision Directive-38
OIA	Office of International Affairs
OIG	Office of Inspector General
SAO	Security Advisory Opinion
TECS	Treasury Enforcement Communications System
VSP	Visa Security Program
VSU	Visa Security Unit

# OIG

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*Department of Homeland Security  
Office of Inspector General*

## **Executive Summary**

The Visa Security Program was established in the *Homeland Security Act of 2002* to increase the security of the visa process at U.S. embassies and consulates. The program enhances national security by preventing terrorists, criminals, and other ineligible applicants from receiving visas, and maximizing the visa process as a counterterrorism tool. We reviewed U.S. Immigration and Customs Enforcement (ICE) management of the program, the coordination between ICE special agents and Department of State officers overseas, and how the addition of ICE special agents has affected visa security. We also reviewed expansion plans and predeployment training.

The program assigns experienced special agents to Visa Security Units overseas to review visa applications, initiate investigations, and provide advice and training to consular officers. Agents bring valuable resources to posts and add a layer of security to the visa process.

ICE is improving its management of the program continually. For example, officials developed a risk-based framework to prioritize program expansion and site selection. In addition, they developed automated tools to facilitate some program activities and limit the amount of manual data entry performed by agents. Program managers also constantly update the program's training course to keep up with changing trends and address participant suggestions.

However, some program areas could be improved. We are recommending that program managers enhance recording, tracking, monitoring, verification, analysis, and reporting of visa security activities in the current tracking system while developing a new tracking system. In addition, program managers must provide training and guidance to field personnel on new procedures and document the program's training course curriculum. ICE agreed with our findings and concurred with our recommendations.

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## Background

### Foundation for the Visa Security Program

Nineteen terrorists applied for and obtained legitimate U.S. visas in the months prior to September 11, 2001, facilitating their entry into the United States. The resulting events of 9/11 illustrate the importance of a secure visa process to our national security. The Visa Security Program (VSP) was established to increase the security of the visa process.

Section 428 of the *Homeland Security Act of 2002* authorizes the Secretary of Homeland Security to issue regulations, administer, and enforce immigration and nationality laws relating to visas, and to refuse individual visas according to law.<sup>1</sup> In addition, Section 428 authorizes the Secretary to assign Department of Homeland Security (DHS) personnel to visa issuing diplomatic posts to review individual visa applications, initiate investigations of visa security-related matters, and provide advice and training to consular officers.<sup>2</sup> Section 428 specifically requires that DHS personnel be assigned to Saudi Arabia to review all visa applications submitted in Saudi Arabia prior to adjudication.<sup>3</sup> VSP began operations in Saudi Arabia in October 2003.

Pursuant to Section 428, DHS and Department of State (DOS) developed a memorandum of understanding concerning Section 428 implementation. The September 2003 memorandum delineates the roles and responsibilities of the departments regarding the visa issuance process and visa security activities, as well as the coordination between the two at overseas posts.

### History of the Visa Security Program

DHS created a Visa Security Unit (VSU) within its Border and Transportation Security Directorate to implement and manage Section 428 requirements. On October 31, 2003, DHS announced the reorganization of its international activities, including the establishment of an Office of International Affairs (OIA) within ICE. In January 2004, as part of the reorganization, the VSU transferred to ICE OIA and assumed responsibility for the operational requirements of Section 428, including visa security operations both overseas and in the United States. Responsibility for visa policy initially remained with the Border and

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<sup>1</sup> P.L. 107-296, Section 428(b)(1)

<sup>2</sup> Section 428 (e)(1) and (e)(2)

<sup>3</sup> Section 428 (i)

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Transportation Security Directorate, but the DHS Directorate of Policy assumed this responsibility in 2005 when the DHS Secretary eliminated the Border and Transportation Security Directorate.

ICE OIA initially was established within the ICE Office of Investigations. Following an internal ICE reorganization in February 2007, ICE OIA moved out of the Office of Investigations and now reports directly to the Office of the Assistant Secretary.

Once the mandated VSU offices in Saudi Arabia were open, managers assessed other potential overseas locations for program expansion. Senior DOS officials at some posts approved establishing a VSU at their post; others resisted. Program expansion in 2004 also was retarded by insufficient appropriated funds. In October 2005, VSUs were established in Manila, Philippines; Abu Dhabi and Dubai in the United Arab Emirates; and Islamabad, Pakistan. VSU Cairo began operations in Egypt in January 2007. VSU operations began in Caracas, Venezuela, and Montreal, Canada, in March and May 2007, respectively. VSU Hong Kong was established in China in September 2007. In November 2007, VSU operations began in Casablanca, Morocco.

## **Visa Security Program Operations**

The VSP mission is to enhance national security and public safety by preventing terrorists, criminals, and other ineligible applicants from receiving U.S. visas, and maximizing the visa process as a counterterrorism tool. The program's goals include:

- 1) Preventing known threats to national security from exploiting the visa process;
- 2) Identifying "not yet known" threats to national security—threats that do not appear in any government databases or watchlists;
- 3) Applying law enforcement expertise and capabilities to the visa process;
- 4) Identifying and addressing systemic threats and vulnerabilities in the visa process; and,
- 5) Supporting the timely processing of visas for legitimate applicants.

VSP accomplishes these goals by assigning ICE special agents with expertise in immigration law and counterterrorism to visa issuing U.S. diplomatic posts overseas to perform visa security activities. While DOS consular officers continue to adjudicate all visa applications, the VSP complements the DOS visa screening process with law enforcement resources not available to consular officers to ensure ineligible applicants do not receive U.S. visas.

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The primary visa security activity conducted by ICE special agents assigned to VSUs is the screening and vetting of visa applicants to determine the applicant's risk profile and visa eligibility. Screening is a largely automated process of checking applicant biographic information against the Treasury Enforcement Communications System (TECS).

TECS is an automated enforcement and inspections system that provides a large database of information for law enforcement and border inspection purposes, and serves a case management function for ICE. TECS supports DHS and other federal users, and can exchange information automatically with several U.S. government systems, including the DOS Consular Lookout and Support System. Screening identifies those applicants whose name or date of birth matches a record in a government database or watchlist. According to VSP performance data, VSUs screened more than 502,250 visa applicants in Fiscal Year (FY) 2007.

Screened applicants with exact or possible matches are then vetted prior to determining eligibility for a visa. Vetting involves additional research and investigation of the visa applicant by an ICE special agent. Vetting could include conducting more in-depth searches in law enforcement databases and other information systems, examining documents, interviewing the applicant, and consulting with consular, law enforcement, or other officials as needed. Agents assigned to VSUs also might perform in-depth analysis of the visa applicant and the applicant's sponsors, associates, family members, and business. This analysis might involve using a variety of information systems, investigative tools and techniques, and collateral requests to domestic ICE offices. In addition to visa applicants with potential matches, agents also vet some applicants whose names did not match watchlists; these additional vettings are based on post-specific case selection guidelines. According to VSP performance data, VSUs vetted more than 135,500 visa applicants in FY 2007.

In addition to screening and vetting visa applicants, ICE special agents assigned to VSUs initiate investigations of activity involving threats to national security and immigration fraud, generate leads, and provide support for domestic ICE investigations. Participation in law enforcement and other working groups at post provides a forum for ICE special agents to disseminate information on threats, trends, and intelligence to other law enforcement and intelligence agencies at post. ICE special agents also conduct liaison with host country law enforcement officials to share and receive information.

As required by Section 428, ICE special agents assigned to VSUs provide advice and training to consular officers about security threats relating to the adjudication of visa applications. Several VSU officials said that most

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of this advice and training occurs informally as consular officers consult with ICE special agents on individual visa applications. ICE special agents assigned to VSUs provide interpretation and expertise in responding to questions regarding an applicant's eligibility for a visa, which enhances the consular officer's ability to identify threats when adjudicating visas.

In addition to informal discussions with consular officers, ICE special agents assigned to VSUs identify and monitor the threat environment and trends in the visa applicant pool specific to their post and host country. They then develop formal, targeted training and briefings to inform consular officers and others about threats to the visa process. Examples of topics covered in these briefings include fraud trends in specific visa categories and how to identify fraudulent documents and imposters. Non-consular embassy personnel, host country airport officials, and others also benefit from this advice and training. According to VSP performance data, VSUs conducted 83 formal training sessions for consular officers, non-consular embassy personnel, and others in FY 2007.

## **Coordination with the Department of State**

VSP officials regularly interact and coordinate with DOS officials at headquarters and overseas posts during the program expansion and site selection process and when establishing new VSUs. Interaction also occurs in the course of conducting day-to-day visa security operations.

### **Bureaus of Consular Affairs and Diplomatic Security**

The Bureau of Consular Affairs is responsible for visa operations, the welfare and protection of U.S. citizens abroad, issuing passports to citizens, protecting U.S. border security, and facilitating legitimate travel to the United States. Consular officers overseas are responsible for issuing nonimmigrant and immigrant visas. More than 6.4 million nonimmigrant visas and approximately 431,000 immigrant visas were issued in FY 2007.

The Office of Consular Fraud Prevention Programs formulates, coordinates, and promulgates policies and practices related to passport and visa anti-fraud programs. The Consular Fraud Prevention Program directs the consular anti-fraud program and develops and provides anti-fraud training for passport agents, consular officers, DHS, and representatives of other federal agencies. The program also provides instruction for consular officers in visa sections abroad on the operational aspects of the fraud function.



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The Bureau of Diplomatic Security is the security and law enforcement arm of DOS. The Diplomatic Security Criminal Investigative Division conducts criminal investigations of visa and passport fraud, both domestically and abroad. These federal felonies are often committed in connection with more serious crimes, such as international terrorism, narcotics trafficking, organized crime, alien smuggling, money laundering, pedophilia, and murder. Countless people attempt to obtain U.S. visas illegally each year. Diplomatic security investigates and coordinates international visa fraud cases including fraudulent issuance, procurement, counterfeiting, and forgery of U.S. visas. Diplomatic security works closely with consular affairs on visa fraud cases.

The Diplomatic Security Overseas Criminal Investigator Program has placed 33 special agents at embassies abroad specifically to conduct passport and visa fraud investigations. A 2004 memorandum of understanding between consular affairs and diplomatic security covers their work. Agents, known as Assistant Regional Security Officers–Investigations, or ARSO–Is, are assigned to those embassies where high volumes of fraudulent documents have been detected. Their mission includes investigating visa and passport fraud in order to protect the visa adjudication process by disrupting criminal and terrorist mobility.

### **Working with Consular Officers at Overseas Posts**

The consular section of U.S. embassies and consulates is responsible for adjudicating visa applications and issuing visas to non-U.S. citizens who need a visa to travel to the United States. In processing a visa application, consular officers review the application, conduct automated name checks against watchlists of known terrorist or criminal suspects, obtain fingerprints, and interview the visa applicant. The consular officer then decides to approve or deny the application, or to request additional security checks or information before adjudicating the application.

ICE special agents assigned to VSUs conduct visa security activities in addition to the consular process. When establishing a VSU at an overseas post, VSP officials work closely with consular officials to determine how best to incorporate VSU activities into the visa process while minimizing their effect on the flow of the issuance process. The logistics of the consular visa process can vary slightly by post depending on several factors, including the volume or type of visa applications or the number of available

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consular officers. Therefore, VSUs remain flexible and work with each individual post to coordinate the optimal procedures and timing for performing visa security activities as well as receiving referrals regarding individual visa applicants from consular officers.

ICE special agents assigned to VSUs also coordinate with the consular section's designated fraud prevention manager. At many posts, fraud prevention responsibilities are a collateral duty assigned to a consular officer at post; other posts have full-time fraud prevention managers, or fraud prevention units, who concentrate on detecting fraud in visa applications. If a consular officer or fraud prevention manager suspects a fraud case could have links to terrorism, the case is referred to the VSU. In addition, if the VSU investigates such a case and determines it involves fraud but no links to terrorism, the VSU returns the case to the consular section for further fraud investigation by the fraud prevention manager.

### **The Security Advisory Opinion Process**

Consular officers perform additional security checks—called Security Advisory Opinions (SAO)—prior to adjudicating applications that meet specific criteria for extra scrutiny. The SAO process is a multi agency review process managed by DOS. Consular officers electronically submit requests to DOS for a specific type of SAO. Depending on the type of SAO requested, the request is forwarded to other government agencies, such as the Federal Bureau of Investigation or Central Intelligence Agency. After running name checks on the applicant, the respective agencies provide the resulting information to DOS for a determination on whether the applicant should be granted a visa. Currently, VSP headquarters is involved in the SAO process when DOS disagrees with another agency's determination regarding the applicant. In these cases, VSP headquarters reviews the information and acts as a mediator to reach a resolution on the applicant's eligibility for a visa.

In May 2007, Congress appropriated funds to the VSP to establish an SAO review unit within VSP headquarters. VSP management officials currently are assessing how best to incorporate VSP more fully into the SAO process.

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### **Working with Diplomatic Security at Overseas Posts**

The Bureau of Diplomatic Security is the security and law enforcement arm of DOS. Diplomatic security protects people, facilities, and information at U.S. diplomatic posts around the world and at domestic DOS locations. Regional security officers coordinate each post's Law Enforcement Working Group. Diplomatic security agents conduct a variety of investigations including investigations of passport and visa fraud. Under the ARSO-I program, diplomatic security assigns ARSO-Is to conduct passport and visa fraud investigations in consular sections at posts with high occurrences of fraudulent travel documents.

DOS officials said that ARSO-Is usually investigate suspected fraud rings or criminal enterprises. If an ARSO-I suspects a link to terrorism and there is a VSU at post, the ARSO-I coordinates with the VSU for further investigation of the potential terrorism aspects of the case. In these types of cases, the VSU and ARSO-I might conduct a joint investigation under their respective authorities in a task force-like effort.

### **Approval of Permanent Positions at Overseas Posts**

Through the National Security Decision Directive-38 (NSDD-38) process, DOS chiefs of mission consider VSP requests to establish permanent positions at overseas posts. The NSDD-38 process is an important tool DOS uses to regulate the size of the staffs at embassies. It requires agencies proposing changes in the size, composition, or mandate of their staffs to take a "lean approach" that aligns with the embassy's performance plan goals, security situation, attendant costs, and administrative support implications. DOS evaluates several factors, including whether adding DHS personnel at post is necessary to perform the job, the availability of both classified and unclassified office space, and personnel security. VSP officials receive an indication of the likelihood of the chief of mission approving an NSDD-38 request during consultations with DOS officials during the VSP site selection process.

If approval of a new VSU at a post is deemed to be likely, DHS approves the proposed VSP positions and submits a formal NSDD-38 application to the DOS Office of Management and Rightsizing. The chief of mission then has 21 days to consider and respond to the NSDD-38 request. We were told DOS responds to approximately 25% of ICE NSDD-38 requests within 21 days.

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ICE interacts with DOS during the NSDD–38 process to respond to questions or provide additional information.

## **Results of Review**

### **Law Enforcement Expertise and Resources Add Layer of Security to Visa Process**

Incorporating regular law enforcement screening and vetting of visa applicants into the visa process adds an additional layer of security to the DOS consular visa adjudication process. Consular officers interview visa applicants to verify and complete information on applications, conduct automated name checks against watchlists of known terrorists and criminals, and obtain fingerprints and a digital photograph of the applicant. The VSP complements these efforts by assigning ICE special agents to posts to screen visa applicants and further vet selected applicants to identify terrorist or criminal suspects who are “not yet known” or identified as such and stop them from reaching the United States.

#### **Visa Security Activities Require Agents to Be Present at Post**

Some DOS headquarters officials have said that ICE special agents do not need to be posted overseas to conduct their visa security activities. The DOS officials said ICE special agents are able to access the law enforcement databases and information systems used in the screening and vetting process remotely.

VSP managers said that experienced law enforcement agents assigned overseas provide unique added value at overseas posts. ICE special agents assigned to VSUs use their expertise in immigration and nationality law, investigations, document examination, intelligence research, and counterterrorism to complement the consular visa adjudication process with law enforcement vetting and investigation. In addition, ICE special agents assigned to VSUs at post focus on identifying “not yet known” terrorists and criminal suspects and preventing them from reaching the United States. To perform visa security activities effectively requires ICE special agents to be assigned to overseas posts.

While the initial VSU screening process is automated, the vetting process requires a hands-on presence at post. During the vetting process, ICE special agents need access to relevant documents, such as the visa application and passport, as well as financial,

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employment, or other supporting documents. For example, three long-term residents of a country with a VSU applied for visas to visit the United States. Consular and VSU system checks resulted in no alerts on the applicants. An ICE special agent assigned to a VSU reviewed the visa application packages, including employment records, and determined that the applicants had merged their personal bank accounts with their employer's bank account. Through further investigation, the agent identified a link from the employer to a company identified by the Department of Treasury's Office of Foreign Assets Control as a Specially Designated Global Terrorist and Foreign Terrorist Organization. Because an agent was assigned to the VSU at post, a potential terrorism link was identified, the applicants' visas were denied, and further investigation could be performed to identify other related companies.

In addition to the visa application package, ICE special agents assigned to VSUs at overseas posts have access to the visa applicant in order to conduct a law enforcement interview. An agent might decide to interview a visa applicant to verify or expand on specific details of the application, or because the applicant might be able to provide additional information for an ongoing investigation. For example, an applicant applied for a student visa at a VSU post, and based on available information, the consular officer initially approved the application. Because the applicant fit VSU post-specific case selection criteria, the agent thoroughly vetted and interviewed the applicant. The interview of the applicant provided information on the applicant's uncle, who was a subject of a Joint Terrorism Task Force investigation. On the pretense of establishing the applicant's eligibility for a student visa, the ICE special agent interviewed the uncle. Because the VSU was at post, new information was provided for the Joint Terrorism Task Force investigation, and as a result of the agent's recommendation, the applicant's student visa application was denied by the consular officer.

Other VSU activities also require that ICE special agents be assigned to VSUs at overseas posts. Agents must be in the host country to appreciate fully the local threat conditions. Agents use their experience, as well as consultations with consular officers, other law enforcement or intelligence officials at post, and host country officials to identify and monitor threats, trends, and tactics. In addition, ICE special agents assigned to VSUs receive non-visa special requests to perform basic screening and vetting of individuals who are not visa applicants. These special requests could come from other DHS components, the DOS Regional

Security Officer, or other officials at post. ICE special agents at posts also have cleared derogatory information on some visa applicants, allowing their visas to be approved.

ICE special agents assigned to VSUs at overseas posts have produced a variety of visa security results. As a result of screening and vetting activities, agents recommended denial of 750 visa applications in FY 2007. Agents also identified 49 “not yet known” terrorists and created 68 watchlist nominations, 933 lookouts, and 557 subject records in FY 2007. The following table provides a breakdown of selected VSU results for each post for FY 2007.

Selected FY 2007 Post-by-Post VSU Results					
Post	Recommended Denials <sup>2</sup>	“Not Yet Knowns” Identified	Watchlist Nominations	Lookouts Created	Subject Records Created
Abu Dhabi	95	0	1	101	59
Cairo <sup>1</sup>	263	0	0	20	31
Caracas <sup>1</sup>	16	0	0	18	31
Dubai	35	0	0	41	16
Islamabad	5	3	18	235	133
Manila	283	37	41	395	96
Montreal <sup>1</sup>	14	1	0	6	29
Riyadh	39	8	8	117	162
<b>Totals</b>	<b>750</b>	<b>49</b>	<b>68</b>	<b>933</b>	<b>557</b>

<sup>1</sup> Totals for these posts do not include all of FY 2007. VSU operations began in Cairo, Caracas, and Montreal in January, March, and May 2007, respectively.

<sup>2</sup> Includes Prescreen, SAO, and Post-Adjudication VSU Recommended Denials.

### **Visa Security Units Bring Valuable Resources to Consular Officers**

Consular officers have access to two key DOS information systems, the Consular Consolidated Database and the Consular Lookout and Support System, which they use during the visa adjudication process. However, they do not have access to the principal DHS law enforcement information system, TECS. ICE special agents assigned to VSUs bring access to DHS and other law enforcement systems—which often contain sensitive law enforcement information, including information related to ongoing investigations—to post. Agents provide information, as well as interpretation of the information, from these systems to assist consular officers in making an adjudication decision.

Some of the potentially derogatory information in TECS automatically replicates into the DOS Consular Lookout and Support System. Consular officers receive alerts when an

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applicant's name, date, and place of birth or passport number, date, and place of issue appear to be sufficiently similar to data in their lookout system. These applications then receive additional scrutiny to resolve the eligibility issues that pertain to the information. Both ICE and DOS officials said that consular officers regularly consult with agents regarding information they find on individual applicants. ICE special agents assigned to VSUs interpret and explain for consular officers the law enforcement-related alerts that occur, and can often further investigate a specific visa applicant at the request of a consular officer.

Consular and other DOS officials at posts we visited said they were glad to have ICE special agents assigned to VSUs at their posts. Many said they were initially concerned that agents would be looking over the shoulders of consular officers and checking their work. However, they said they were pleasantly surprised to discover that this was not the case and that agents bring additional resources to post to support existing consular operations. Several consular officials said that ICE special agents assigned to VSUs add a second line of defense to ensure that terrorists, criminals, and other ineligible applicants do not receive U.S. visas.

DOS officials also said that if consular officers had access to TECS and other DHS systems, they would be able to obtain the information they need to adjudicate visa applications on their own. ICE officials agree that DOS personnel should have access to some DHS systems, but said that agents would still be necessary to interpret most search results. ICE officials also said that there would be sensitivity and disclosure issues involved with giving consular officers unrestricted access to DHS systems that include information relating to ongoing criminal investigations, and information entered by other federal law enforcement agencies. With regard to TECS access, a VSP official said that U.S. Customs and Border Protection controls access, not ICE, and therefore, DOS would need to work with U.S. Customs and Border Protection to gain TECS access for consular officers.

### **Visa Security Program Is Not Negated by Presence of ARSO-I at Post**

A VSU and an ARSO-I can be present at the same post without overlapping duties because each has a different mission. VSUs focus primarily on counterterrorism; ARSO-Is focus primarily on passport and visa fraud. Because terrorists use fraudulent means to obtain legitimate travel documents to enter the United States,

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VSUs review suspected fraudulent visa applications to determine whether there is a terrorism link, seemingly giving the appearance of overlapping responsibilities with the ARSO-I. However, if no link to terrorism is identified, VSU and DOS officials said the VSU coordinates with the ARSO-I for further fraud investigation. Likewise, if an ARSO-I reviewing a suspected fraudulent visa application detects a possible terrorism link, the ARSO-I coordinates with the VSU for further investigation of the terrorism aspect of the case. Both bring their respective expertise and resources and, as appropriate, conduct joint investigations.

At the two VSU posts we visited that also had an ARSO-I, both VSU and DOS officials said that there is room for both programs and more than enough work for each. VSU and DOS officials at one post said that everyone at post “knows their own lane and stays in it,” referring cases or conducting joint investigations as appropriate. VSP and ARSO-I headquarters management officials said they regularly consult regarding overseas operations and coordination, and that they support a task force mentality between the programs at posts where both are present.

Another VSU post we visited was expecting the addition of an ARSO-I shortly after our visit. Consular officials at that post said they were looking forward to having an ARSO-I at post and hoped it would reduce some of the basic fraud referrals to the VSU, freeing the VSU to focus on counterterrorism efforts. Both VSU and DOS officials at the post said they did not expect any problems with the VSU and ARSO-I working together.

### **Visa Security Program Management Should Analyze Performance Measures that Support Need to Assign Agents to Overseas Posts**

While ICE special agents need to be present at post to perform visa security activities, the connection between the activities they perform at post and the results of those activities has not been analyzed or demonstrated fully. VSP management should monitor and analyze additional performance measures to demonstrate better the need to assign agents to overseas posts.

Technologically, the automated initial screening could be conducted remotely; however, ICE special agents would still be necessary at posts as described above. The initial visa applicant screening begins with importing visa applicant data from the DOS Consular Consolidated Database into the VSP Tracking System. The VSP Tracking System electronically converts and groups the



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applicant data, which is exported in the new format from the VSP Tracking System to TECS for automated screening. ICE special agents assigned to the VSU at post then vet the screening results, including reviewing the visa application documents or interviewing the visa applicant. Agents record their activities in the VSP Tracking System, including whether they reviewed visa application documents or interviewed the visa applicant.

Each VSU creates a monthly statistical report of its screening and vetting activities from the VSP Tracking System and sends it to headquarters for review. However, while agents record whether they review visa application documents or interview applicants on a worksheet within the VSP Tracking System, these statistics are not included in the data sent monthly to VSP headquarters. Also, because only aggregate monthly data is sent, VSP headquarters does not monitor or analyze the effect of document reviews or interviews conducted at post on agent decisions and outcomes, such as recommended denials, watchlist nominations, subject records, or lookouts. Such analysis could provide both a quantitative and qualitative justification for the need to assign ICE special agents to VSUs at overseas posts. VSP headquarters could then use the results of the analysis during the site selection and expansion process with DOS and to support requests for additional funding from Congress.

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

**Recommendation #1:** Develop and implement a plan to monitor and analyze case-specific visa security activities conducted at post and their effect on Visa Security Program results.

## **Risk-based Framework Prioritizes Visa Security Program Expansion Efforts**

Expanding VSP to new locations is a priority for VSP management. With visas issued at more than 200 U.S. diplomatic posts around the world and limited funding and personnel, VSP officials developed a risk-based framework to identify the highest risk locations and prioritize deployment of VSP resources to new locations. VSP management also focuses on selecting the best candidates for overseas assignments. According to the VSP Five-Year Expansion Plan, by initially concentrating expansion to the highest risk posts, VSP will cover 75% of the highest risk visa activity by 2013. However, VSP expansion depends on DOS chief of mission

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approval, and chiefs of mission at some posts have resisted the addition of a VSU.

### **Visa Security Program Follows Risk-based Framework to Prioritize and Select Expansion Locations**

The VSP site evaluation process prioritizes program expansion based on risk to concentrate expansion to the highest threat locations first. The framework for selecting new VSU site locations involves four steps:

- 1) Performing an initial quantitative risk analysis of all visa-issuing posts;
- 2) Consulting regularly with DOS, law enforcement, and intelligence agencies;
- 3) Conducting site assessments of potential sites; and,
- 4) Completing a final evaluation of potential sites and site selection.

#### **Initial Risk Analysis**

VSP officials first perform an initial quantitative risk analysis to assess the level of risk at each visa issuing post by examining several threat and vulnerability factors relevant to the visa security mission. These factors include visa activity, corruption, arrests and criminal removals by nationality, special interest aliens applying for visas, and DOS threat assessments for each post. VSP program officials obtain relevant data for each threat and vulnerability factor from well-established information sources, such as TECS, the Yearbook of Immigration Statistics, or the DOS Consular Consolidated Database.

Because different information sources use different scoring systems, ICE adjusts them as appropriate so that a high level of threat or vulnerability always receives a high score in the analysis. For example, a higher number of arrests for a nationality corresponds to a higher threat level for that country, so no adjustment is necessary; however, for corruption, a lower score corresponds to higher vulnerability, so VSP officials adjust the scoring to show high levels of corruption with a high vulnerability score. ICE uses the numeric value from the source data or converts the source information into numeric values to facilitate quantitative analysis.

For each threat and vulnerability factor, ICE organizes the posts into four groups based on the numeric values, with approximately

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25% of posts being placed in each group. The first group represents the highest threat or vulnerability, the second group the second highest threat or vulnerability, and so on. ICE then assigns each group a numeric value. For example, VSP officials analyze the number of arrests for nationals of countries with visa issuing posts as one threat factor in the initial risk analysis. VSP officials rank the countries by number of arrests from highest to lowest, divide them into four groups, and assign each group a numeric value. This process is repeated for each threat and vulnerability factor in the initial risk analysis. After each threat and vulnerability factor is quantitatively analyzed, VSP officials aggregate each post's scores for all factors to determine the overall quantitative risk score for each post.

Using the overall quantitative scores, each post is assigned an overall risk rating in one of four groups—critical, high, medium, or low. The initial risk analysis provides a basis for VSP management to focus in greater detail on posts in the highest risk group during the next steps in the site selection process.

#### Consultations

Throughout the site selection process, VSP coordinates with DOS officials in consular affairs and diplomatic security, and with other law enforcement and intelligence agencies at both headquarters and potential VSU posts. These consultations further refine and reorder the list of potential sites.

#### Site Assessments

VSP then performs site visits, which provide an opportunity for VSP officials to meet with DOS, law enforcement, and other members of the embassy community to familiarize them with the VSP. VSP officials assess a number of qualitative factors, such as whether current conditions at the post support the critical- or high-threat level indicated by the initial risk analysis for the post and the opportunity to partner with other law enforcement agencies at post. In addition, VSP evaluates the logistics of establishing a VSU, such as whether the visa security mission can be accomplished with limited personnel, consistent with the ICE staffing model and DOS staffing concerns, and whether appropriate space is available at post. Using professional judgment based on interdepartmental consultations and site assessments, VSP officials assign a high, medium, or low score to each qualitative factor for the posts receiving further consideration. VSP then translates the scores to numeric values.

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## Final Evaluation and Site Selection

Finally, VSP evaluates the risk factors and the information obtained through consultations and site assessments, both individually and as they relate to each other, to determine which of the posts under consideration will be proposed for deployment. During this final evaluation, VSP also considers the regional need for a VSU given the presence of other VSUs in the area and the level of interest in a VSU expressed by key DOS officials at each post. VSP officials assign these factors a high, medium, or low qualitative score, which translate to numeric values for each post.

VSP officials then sum the overall initial quantitative risk analysis score and the numeric values for the qualitative site assessment and final evaluation factors to reach a ranking of the narrower list of posts under consideration. VSP officials use the final ranking to determine which sites will be proposed to the ICE Assistant Secretary for possible expansion.

After the ICE Assistant Secretary approves the proposed sites, ICE begins the DHS nomination process, which involves obtaining approval from the DHS Chief Financial Office, Office of Policy, General Counsel, and Deputy Secretary. ICE then formally requests DOS approval of permanent personnel positions at the proposed posts using the NSDD-38 process.

VSP explains the basic site selection process in a number of documents, including the Five-Year Expansion Plan. Some descriptions are more detailed than others. However, the program does not have a detailed, factor-by-factor explanation for the initial quantitative risk analysis or qualitative site assessment and final evaluation processes. Such an explanation would include the source for each factor, how the score for each factor is calculated, and, as appropriate, how or why a score is weighted.

VSP officials document their initial risk analysis, including the source data and any calculations or weighting performed to reach the individual factor score as well as the overall quantitative risk score for each post. In addition, VSP officials document their judgment regarding the qualitative site assessment and final factors. However, the quantitative analysis, in particular, is complex and the documentation can be difficult to follow. In addition, agents and other staff rotate in and out of VSP headquarters, and responsibility for updating and maintaining the initial risk analysis and site selection matrix changes. We believe a

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detailed, factor-by-factor explanation for the quantitative and qualitative factors analyzed during the site selection process would facilitate information updates to the analysis as well as help incoming staff understand the risk assessment and site selection process.

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

**Recommendation #2:** Develop a detailed, factor-by-factor explanation of the process for analyzing the quantitative and qualitative factors in the site selection process from the initial risk analysis through site selection, including source(s) for each factor and how the score for each factor is calculated.

VSP officials developed the VSP Five-Year Expansion Plan, which explains expected expansion plans for the next 5 years, including preliminary budget projections. The ICE Assistant Secretary, DHS headquarters, the Homeland Security Council, and the Office of Management and Budget have approved the plan. In addition, the National Strategy for Homeland Security, issued in October 2007, includes expanding law enforcement personnel overseas who focus on assessing national security threats and fraudulent documents used in the visa application process. VSP expansion also is supported in the National Implementation Plan for Counterterrorism.

VSP officials stressed that the VSP Five-Year Expansion Plan is dynamic, and that locations identified for expansion in the plan could change because the risk environment is constantly changing. Several factors will affect program expansion, including the site assessment process, DHS nomination of locations to DOS, the DOS NSDD-38 process, and the process for deploying officers to DOS approved posts. The expansion plan also depends on receiving necessary funding. Because of the time and interdepartmental coordination involved in VSP expansion, fiscal year funds could lapse when deployments are delayed and funds are not spent. Therefore, ICE proposed that VSP funding for FY 2009 and beyond be designated as “no year funds.” Such funding would provide VSP with the flexibility to adjust to changing risks or opportunities at potential sites and to continue planned deployments after surmounting extended delays. We support this proposal.

The deployment process for establishing a new VSU varies depending on whether ICE Operations has an established presence

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at post. If ICE is not currently present at a post, the process requires more effort from ICE OIA headquarters. In the past, ICE OIA arranged for office furniture, computers, and system access at a new VSU post, but occasionally deployed VSU personnel prior to the arrival of the office equipment. Now, ICE OIA ensures office equipment has arrived prior to deploying VSU personnel. VSP sends a forward team of VSP headquarters or experienced VSU personnel from existing VSUs to establish the new VSU. The team sets up the VSU office space and works with DOS consular officers to define how visa security activities will be incorporated into the existing consular adjudication process at the post.

### **Selecting and Deploying the Right Agents**

ICE OIA selects experienced agents with expertise in immigration and nationality law, investigations, document examination, counterterrorism, and intelligence research to serve in VSUs abroad. On average, agents have 10 years of law enforcement experience. VSP uses a competitive recruiting process to select the best-qualified candidates for VSU positions. The ICE OIA shift out of the ICE Office of Investigations removed an approval layer for selecting personnel, which has made the selection process faster for permanent positions. Once selected, the agent must complete DOS predeployment requirements and ICE VSU training, and be released by his or her current Special Agent in Charge before deploying to the assigned overseas post.

VSP management expects many future VSU deployments will include locations in high security risk areas with difficult living conditions. These types of positions could be difficult to fill. A senior VSP official said the ICE Assistant Secretary recently approved an incentive package to help future recruiting efforts and ensure positions continue to be filled with the best qualified officers. ICE OIA is developing rules for the use of the incentives and, once approved, VSP will use incentives to recruit for hard-to-fill positions as necessary.

In addition to filling permanent VSU positions, VSP is building a pool of trained agents to be available for temporary duty assignments to cover leave, training, and gaps between permanent agents at any VSU. When VSP program managers identify a temporary duty assignment need, they query the pool of trained agents for interest and expected availability for the assignment. A VSP program manager then requests that the Special Agent in Charge of the selected agent's permanent office release the agent

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for temporary duty. To encourage Special Agents in Charge to release a VSU-trained agent for a temporary duty assignment, VSP requests that Special Agents in Charge agree to release an agent for a future VSU temporary duty assignment at the time the agent's request to attend the ICE VSU training course is approved. Occasionally, due to domestic mission requirements, Special Agents in Charge of some offices have been unable to release VSU-trained agents for temporary assignments. VSP management said that so far, this has not been an issue and that program managers have been able to find other agents to fill the assignments.

### **Visa Security Program Expansion Depends on Chief of Mission Approval**

VSP expansion is dependent on a post's ambassador approving the addition of permanent employees to the post to perform visa security activities. During site assessment trips and the NSDD-38 process, VSP officials interact with DOS officials to promote the program and respond to concerns about how the program will fit into the post's mission.

NSDD-38 requires that agencies seeking new positions at a post request approval for each new position from the post's chief of mission. In making a decision, the ambassador considers DOS rightsizing efforts and security issues. He or she also weighs the post's limited ability to host a larger workforce given space constraints—severe at many embassies—and competing requests from other agencies.

Several DOS officials at VSU posts we visited said they have responded positively to questions from counterparts at other posts at which opening a new VSU was being considered. However, if an ambassador decides not approve a VSU at his or her post, the NSDD-38 could be denied at that post, even though Section 428 authorizes the program at each visa-issuing diplomatic or consular post unless the DHS Secretary determines that assigning personnel to a specific post would not promote homeland security. Four chiefs of mission have denied VSP expansion to their respective posts. An agency can formally appeal an ambassador's denial of an NSDD-38 request to the Secretary of State. ICE initiated formal NSDD-38 resolution procedures with the DOS Under Secretary for Management for one post in November 2005; the NSDD-38 request for that post was denied. Based on information received during this process, DHS did not formally appeal the NSDD-38 denial to the Secretary of State. We were told that ICE

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has informally appealed other NSDD–38 denials as well. Regardless, both ICE and DOS headquarters officials said that in reality, the ambassador makes the final decision on expanding positions at post.

Although word of mouth about VSP reportedly is becoming more positive by DOS overseas, DOS occasionally sets conditions on the VSU that fall outside of the parameters of the DHS-DOS memorandum of understanding. VSP officials said they continue to coordinate with DOS at these posts to address concerns and try to move forward with VSP expansion.

## **Visa Security Program Should Enhance Performance Measurement**

Visa security activities performed by the VSUs produce a number of law enforcement and counterterrorism results, which are tracked and reported by VSP headquarters. VSP uses three methods to track and report program activities and performance, including the VSP Tracking System. While the VSP Tracking System facilitates VSU activities and tracks performance, the tracking system has limitations that keep VSP management from fully analyzing VSU activities. In addition, VSP management does not verify that agents' entries are standardized and accurate.

### **Visa Security Program Tracks and Reports Activities and Results**

VSU activities produce several law enforcement and counterterrorism results. For example, agents recommend refusal of visas, create lookouts and subject records in law enforcement and other government databases, and nominate individuals as appropriate for entry onto watchlists. In addition, ICE special agents assigned to VSUs identify trends and tactics used by potential terrorists or criminals, create intelligence reports, initiate investigations, support domestic ICE investigations, and remove inaccurate derogatory information from law enforcement systems.

The VSP uses three primary methods to track and report VSU activities and performance. First, overseas VSU posts report significant cases and activities in weekly operational reports using the existing ICE operational reporting structure. As appropriate, significant VSU activities are included in reports to the Assistant Secretary.



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Second, agents assigned to VSUs use TECS to record enforcement-related activities, including cases opened and closed, lookouts and subject records, reports of investigations, leads generated, and hours spent working on a variety of activities such as supporting existing investigations. Agents use VSU-specific codes to identify their activities in TECS as VSU activities. We were told that management officials are able to review VSU activities in TECS by individual VSU or by VSP as a whole, but that these reports are reviewed infrequently.

Finally, because existing systems, such as TECS, could not support some of the operational requirements of VSP activities, VSP developed the VSP Tracking System. The VSP Tracking System facilitates routine automated screening functions related to visa applicants, allows agents to record their activities, and captures VSP performance data for analysis and reporting.

### **VSP Tracking System Facilitates Activities; Records Performance**

ICE special agents use the VSP Tracking System to keep track of their activities; record comments, concerns, and the results of their screening and vetting activities; and report accomplishments. In addition, the VSP Tracking System includes tools that minimize manual work and data entry by agents. For example, using an automated tool in the DOS Consular Consolidated Database, ICE special agents at VSUs receive visa applicant data from the Consular Consolidated Database in the VSP Tracking System to begin the screening process. The VSP Tracking System then automatically converts the data into a new format allowing agents to export applicant data to TECS for screening.

The applicant summary area of the VSP Tracking System automatically records the imported visa applicant data and the results of the DOS visa adjudication, including the consular officer's interview comments and decision to approve or deny the visa. Agents record their screening and vetting activities and decision for each applicant in the vetting worksheet portion of the tracking system. The vetting worksheet provides sections for agents to record their activities, such as document review, system checks, or interviews, as well as a section for recording comments about their findings and resolution of alerts or derogatory information on an applicant. Finally, agents record their decision to recommend that a visa be approved or denied, and when denied, the reason for denial on the vetting worksheet within the VSP Tracking System.

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In addition, each VSU uses the VSP Tracking System to aggregate and create a monthly statistical report of its activities and performance metrics, which is sent to VSP headquarters. VSP headquarters officials said they review the monthly reports to assess and manage workload and staffing levels, track progress, and report performance to senior ICE officials and oversight entities.

### **VSP Tracking System Limits Analysis of Visa Security Unit Activities**

Limitations of the VSP Tracking System keep VSP management and agents in the field from fully analyzing VSU activities. The VSP Tracking System is a stand-alone database at each VSU. ICE special agents at VSUs said that being able to view activities of other VSUs in the VSP Tracking System would better inform their own activities and make it possible to analyze trends and patterns across posts at the field level. Also, as stated earlier, it is difficult for VSP management to monitor or analyze the full range of VSU performance because VSP headquarters cannot access post data through the VSP Tracking System, and VSU monthly reports contain only aggregate data on selected performance measures.

In addition, it is a significant impediment that the data file used by the VSP Tracking System at each post can hold only a finite number of records. Once the capacity of the data file is reached, the VSU creates another copy of the database. Depending on the volume of applicants at a given VSU—2,000 per day at one VSU; 100 per day at another—VSUs reach the maximum number of records over different periods of time. Each VSU ultimately must maintain multiple versions of the database. VSU officials said they have identified trends and patterns at their posts, but that it was difficult to use the VSP Tracking System to conduct the analysis due to the fragmentation of their data among multiple copies of the database.

Several VSP officials said they would like to see a tracking system that would allow both VSP headquarters and field personnel to access VSU data from all posts. A senior VSP official said that senior ICE officials should also be able to access the system. VSP headquarters officials said they are in the early stages of developing requirements for a new system; however, most VSU officials in the field said they did not know that a new system is planned. We agree that a new tracking system would benefit the operations and performance measurement of visa security

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activities. Including the system's end users in determining system requirements would help ensure the system will fulfill the needs of both headquarters and field personnel.

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

**Recommendation #3:** Develop and implement a global data system to allow recording, search, analysis, and storage of visa security activities from all Visa Security Units. The system should be accessible by headquarters and field personnel and should generate the reports that managers require to manage and improve the Visa Security Program.

**Visa Security Program Management Should Verify Standard and Accurate Recording of Visa Security Activities**

When VSP headquarters receives the monthly performance reports from each VSU, headquarters officials review the data for completeness. VSP officials said they ensure that all required fields are filled and that the statistics reported by each post do not appear to be significantly or unexpectedly different from that post's reports for previous months. However, headquarters officials cannot be assured that posts are recording their activities accurately or in a standard manner

ICE special agents receive training on the VSP Tracking System during the VSU training course. Included in the training is a discussion on recording screening and vetting activities and findings on the vetting worksheet. The August 2007 course, which we observed, briefly covered the fields on the vetting worksheet but did not explain specifically which fields should be checked for specific activities or how specific activities should be recorded. Rather, course participants were told they could use the "Help" button next to each field to see an explanation of when that field should be used. When we reviewed the help buttons on the vetting worksheet in the VSP Tracking System, several buttons did provide more detailed information on when to use the field, such as "In-Depth System Check." Other buttons, such as "Cleared Applicant," were not set up or were open to interpretation regarding when to use the field.

At the VSUs we visited, agents provided slightly different explanations of where screening ends and vetting begins at each post. Some explanations differed from the explanation given at the VSU training course. According to the VSU training instructors,

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screening ends after the initial TECS screening of visa applicants, and vetting begins when agents examine the applicant's information or resolve concerns about the applicant. In addition, VSU field personnel said that different VSUs complete some fields in the vetting worksheet differently. For example, one VSU official said that three VSUs held a conference call and discovered that each had been completing the "Cleared Applicant" field differently. Their discussion clarified the purpose of the field. Different interpretations of vetting worksheet fields could lead to differences in how visa security activities are recorded, thus undermining the accuracy or reliability of the information.

We also observed visa security activities being recorded differently at the VSUs we visited. For example, at one post, agents decided to record in the tracking system information only on recommended denials rather than all applicants who were vetted. At another post, several fields were set as defaults so they would always be checked on the vetting worksheet, such as "In-Depth System Check." However, a VSU official at one post said that in-depth checks involved more extensive checks at one post and less extensive checks at another post. In addition, some posts added brief notes to explain findings and resolutions while others added notes much more sparingly. Neither method is incorrect; however, a more completely documented entry is generally more valuable.

Detailed guidance for recording screening and vetting activities would set clear expectations of the information that should be entered in each field on the vetting worksheet. Such procedures also would decrease instances of individual posts determining how to record their activities and which activities to record. By establishing a process to verify that posts are following the guidance, VSP management would reduce any questions regarding the validity or reliability of VSP performance data.

We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

**Recommendation #4:** Develop detailed guidance to clarify expectations for recording Visa Security Unit activities in the VSP Tracking System and to ensure all Visa Security Units record the same activity the same way.

**Recommendation #5:** Disseminate and provide training on the guidance to Visa Security Unit personnel to implement and reinforce expectations for recording Visa Security Unit activities in the VSP Tracking System.

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**Recommendation #6:** Develop and implement a plan to verify that ICE personnel are complying with expectations for and are accurately recording Visa Security Unit activities.

## **Visa Security Officer Training Prepares Agents for Deployment**

Prior to deployment, ICE special agents attend the Visa Security Officer Training Program at the Federal Law Enforcement Training Center (FLETC). The course, which lasts 3 to 4 weeks, covers topics that prepare experienced special agents to deploy to VSUs at overseas posts. Topics include the visa process, counterterrorism, terrorist trends and tactics, fraudulent documents, national security law, interviewing techniques, and presentation skills. Students also receive hands-on instruction and practice on a variety of law enforcement information systems and the VSP Tracking System, including visa applicant screening and vetting procedures. The course concludes with a typical day scenario, which provides students the opportunity to practice visa security functions. Agents complete their training on the job after they arrive at their individual posts.

VSP headquarters officials instruct course participants on visa applicant screening and vetting procedures and the VSP Tracking System. During the August 2007 course session, we observed in-depth coverage of visa applicant screening procedures from retrieving applicant information from the Consular Consolidated Database to screening applicants through TECS and receiving potential matches.

However, instruction on vetting an applicant and accurately recording vetting results in the VSP Tracking System was covered in less depth. For example, multiple step-by-step examples of downloading applicant information from DOS and running the information through TECS were demonstrated, but instructors did not follow these examples through the vetting process or recording of results in the VSP Tracking System. Several course participants said that seeing course instructors complete the entire screening and vetting process for a few visa applicants before they began the typical day scenario would have been helpful.

Both recent and past participants in the Visa Security Officer Training Program said the course is good preparation for performing VSP functions, and that VSP management has been responsive to suggestions for changes to future sessions of the course. For example, the August 2007 session added training on interview techniques following suggestions from several past participants of the course. Several August 2007 trainees offered their suggestions for improving the course to VSP headquarters

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officials both during a class session and in written evaluations at the end of the course. VSP headquarters officials were receptive to in-course suggestions provided by August 2007 participants. The officials said that several suggestions, such as increasing the time spent on the VSP Tracking System or spreading instruction on screening and vetting procedures more evenly throughout the course, were under consideration for future sessions.

Based on suggestions of trainees and to address program changes and changing terrorist tactics, VSP management regularly adjusts the content of the course by adding or removing course sections. We were able to review binders containing the course curriculum for past sessions, but the course curriculum for the most recent session was undocumented. A VSP headquarters official said that personnel rotations resulted in the loss of electronic versions of past course curricula, and that VSP headquarters is in the process of updating and documenting the current course curriculum. A documented course curriculum, which includes the goals and objectives of each course section, would facilitate instructor and class speaker preparation. VSP should complete the documentation of the course curriculum and continue to update the curriculum as changes are made to future sessions.

ICE special agents do not usually receive language training prior to deploying to an overseas post, as supported by Section 428. However, at the five VSU posts we visited, we observed that not having foreign language skills did not appear to hinder agent performance of visa security activities. At some posts, most interviews were conducted in English, or ICE had selected an agent with existing language skills for that country. At other posts, a consular officer or locally engaged staff member attended the interview and translated as necessary. In addition, senior VSP officials said that for posts requiring language skills, they either select an agent with existing skills or provide language training prior to deployment.

In addition to the Visa Security Officer Training Program at FLETC, ICE special agents assigned to permanent positions at overseas posts attend ICE OIA Outbound Orientation prior to deployment. This 3-day session provides deploying ICE personnel with a series of briefings on ICE operations overseas, reporting requirements, what to expect when living overseas, and the administrative support they will receive from ICE OIA headquarters. The session also gives participants an opportunity to meet their individual country desk officers and ICE OIA mission support personnel. As required by DOS, permanently deploying ICE personnel also attend the DOS Safety Overseas Seminar, which addresses issues faced by U.S. officials living overseas.

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We recommend that the Assistant Secretary for Immigration and Customs Enforcement:

**Recommendation #7:** Document the current course curriculum for the Visa Security Officer Training Course and update it as changes are made.

## **Management Comments and OIG Analysis**

ICE responded to each of the recommendations in our draft report. See Appendix B for ICE's response. Of the seven recommendations in our report, one recommendation is resolved and open; the remaining six recommendations are resolved and closed.

In addition, we received two responses from DOS. The responses from the DOS Office of Policy, Rightsizing, and Innovation and the Bureau of Consular Affairs appear in full in Appendix C. We also received technical comments from the DOS Bureau of Diplomatic Security and have made changes to the report as appropriate. Our analysis of the DOS responses follows our analysis of ICE's response to the report recommendations.

**Recommendation #1:** Develop and implement a plan to monitor and analyze case-specific visa security activities conducted at post and their effect on Visa Security Program results.

**Summary of ICE Response:** ICE concurred with this recommendation and discussed the development of a new, centralized, and globally accessible tracking system, which will allow for case-specific analysis at posts. The current tracking system will be maintained and updated until the new tracking system is developed.

**OIG Evaluation:** We concur with ICE's plan to include the ability to conduct case-specific analysis in the new tracking system under development, as well as ICE's interim plan to monitor and analyze case-specific activities using the current tracking system. This recommendation is resolved and closed. No further reporting is necessary.

**Recommendation #2:** Develop a detailed, factor-by-factor explanation of the process for analyzing the quantitative and qualitative factors in the site selection process from the initial risk analysis through site selection, including source(s) for each factor and how the score for each factor is calculated.

**Summary of ICE Response:** ICE concurred with this recommendation. ICE VSP has reviewed the site selection process, making changes to the categories and criteria included and refreshing data. This process will

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occur at the end of each fiscal year. ICE will continue to use well-established information sources, and will incorporate classified information into the selection process as appropriate. In addition, VSP is coordinating with the DOS Office of the Coordinator for Counterterrorism to further refine the site selection process.

**OIG Evaluation:** We concur with the actions taken by ICE. This recommendation is resolved and closed. No further reporting is necessary.

**Recommendation #3:** Develop and implement a global data system to allow recording, search, analysis, and storage of visa security activities from all Visa Security Units. The system should be accessible by headquarters and field personnel and should generate the reports that managers require to manage and improve the Visa Security Program.

**Summary of ICE Response:** ICE concurred with the recommendation. ICE has allocated funding to develop a centralized and globally accessible tracking system. ICE VSP is working with the ICE Office of the Chief Information Officer to develop the new tracking system.

**OIG Evaluation:** We concur with ICE's actions to begin development of a centralized and globally accessible tracking system. This recommendation is resolved, but will remain open pending the completion of the new tracking system.

**Recommendation #4:** Develop detailed guidance to clarify expectations for recording Visa Security Unit activities in the VSP Tracking System and to ensure all Visa Security Units record the same activity the same way.

**Summary of ICE Response:** ICE concurred with the recommendation. In September 2007, ICE VSP sent guidance clarifying visa security activity recording procedures and expectations to all VSU posts.

**OIG Evaluation:** We have reviewed the September 2007 guidance, and concur that it clarifies recording procedures and VSP headquarters expectations. This recommendation is resolved and closed. No further reporting is necessary.

**Recommendation #5:** Disseminate and provide training on the guidance to Visa Security Unit personnel to implement and reinforce expectations for recording Visa Security Unit activities in the VSP Tracking System.

**Summary of ICE Response:** ICE concurred with the recommendation. In addition to the guidance sent to posts in September 2007, ICE VSP distributed detailed screen shots from the VSP Tracking System that



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instruct VSU personnel on how to accurately record VSU activities. In addition, ICE VSP is incorporating a step-by-step training module into the VSO Training Program at FLETC.

**OIG Evaluation:** We concur with the actions taken by ICE. This recommendation is resolved and closed. No further reporting is necessary.

**Recommendation #6:** Develop and implement a plan to verify that ICE personnel are complying with expectations for and are accurately recording Visa Security Unit activities.

**Summary of ICE Response:** ICE concurred with this recommendation. As part of its Site Inspections Program, ICE OIA will conduct regular checks to identify tracking inconsistencies and provide necessary guidance.

**OIG Evaluation:** We concur with ICE's action plan. This recommendation is resolved and closed. No further reporting is necessary.

**Recommendation #7:** Document the current course curriculum for the Visa Security Officer Training Course and update it as changes are made.

**Summary of ICE Response:** ICE concurred with the recommendation and described steps taken to update the course curriculum and to ensure that future curriculum changes are made as necessary.

**OIG Evaluation:** We concur with the actions taken by ICE. This recommendation is resolved and closed. No further reporting is necessary.

#### Analysis of the Department of State Responses

We appreciate receiving responses to our report from DOS. We note that we invited DOS OIG to participate in this review; however, after participating in our interviews during our first VSU site visit, DOS OIG decided not to participate further in the review. Therefore, we limited the scope of our review to ICE activities with regard to the VSP.

Because ICE special agents interact regularly with DOS personnel and processes when performing VSP activities, we attempted to provide basic descriptions of the various programs and DOS personnel with which ICE special agents interact. We acknowledge that many of the DOS programs and personnel have responsibilities beyond what we describe; however, we chose to discuss activities relevant to interactions between ICE and DOS with regard to the VSP. To review DOS programs or personnel would be outside of our authority.

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*Office of Policy, Rightsizing, and Innovation*

The DOS Office of Policy, Rightsizing, and Innovation expressed concern with the VSP Five-Year Expansion Plan and that DOS had not had the opportunity to review the plan. Much of the plan is summarized in pages 15-18 of our report. The ICE Assistant Secretary, DHS headquarters, the White House Homeland Security Council, and the Office of Management and Budget have reviewed and approved the plan. In March 2007, the plan was delivered to DOS Consular Affairs, and in July 2007, it was delivered to the DOS Office of the Coordinator for Counterterrorism for review.

The office also indicated that it believed our report should have provided specifics about the posts at which DHS wished to open visa security units but where DOS disagreed. While we believe our report describes the issue, we do not want to insert ourselves into the specifics of debates which occurred in the past. Neither do we agree with the proposition expressed in their response that a visa waiver country is necessarily outside the scope of the visa security program. Many visas are processed in visa waiver countries, including to third-country nationals from countries of concern.

Policy, Rightsizing, and Innovation also expressed concern with involving DOS employees in the interview process “who are not allowed access to the information contained in the database that precipitated and supports the interview requirement.” First, ICE special agents may decide to interview a visa applicant based on information from sources other than TECS. Second, at most VSUs, ICE special agents must explain to the consular officer or section chief why they want to bring the visa applicant in for an interview. ICE special agents assigned to one VSU were not allowed to conduct their interview with the visa applicant; rather, the adjudicating consular officer was required to conduct the interview while the ICE special agent observed. At most other VSUs we visited, if language translation was necessary, the ICE foreign service national investigator assisted, not DOS locally engaged staff.

Finally, the Office of Policy, Rightsizing, and Innovation wrote that DHS assigns “personnel who are not authorized to perform the depth and variety of responsibilities that would facilitate immigration and refugee decisions....” This complaint, which we have also heard in the field, suggests a misunderstanding of the structure of DHS. The work that was formerly performed by the U.S. Immigration and Naturalization Service is now performed by three organizations: U.S. Citizenship and Immigration Services, ICE, and U.S. Customs and Border Protection. Employees of any one component are neither authorized nor properly trained to perform functions that fall within the purview of the other two. DHS employees

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who can perform only a limited variety of immigration responsibilities are a result of the legislation that created the department.

Alternatively, Consular Affairs believes ICE VSP has inappropriately expanded the roles and authorities of agents assigned to VSUs. All ICE special agents are authorized to enforce specific areas of law and maintain these responsibilities when posted overseas. Agents assigned to VSUs also maintain these authorities, but are required to spend at least 80% of their time on visa security activities.

*Bureau of Consular Affairs*

Consular Affairs provided comments on several areas of our report. Where appropriate, we have made changes to the language of our report. Our analysis of their comments follows.

Consular Affairs suggests that we make a recommendation that DHS prioritize the NSDD-38 requests of its various components, including ICE. This has been occurring since 2004. DHS Management Directive 3400 requires that all DHS component requests for new positions abroad be approved by the DHS Deputy Secretary before they are submitted to the Department of State.

Consular Affairs' belief that we imply the chief of mission decides whether to approve a VSU at post based on personal preferences indicates a misreading of our report. Pages 8 and 20-21 of our report shows that we indicate agencies seeking new positions at post must request approval from the post's chief of mission using the NSDD-38 process. We also note a number of criteria the chief of mission considers in determining whether to approve the request, including space, costs, and security issues. However, as DOS headquarters and post personnel, ICE OIA personnel, and even the Consular Affairs response indicate, VSP expansion does, in fact, depend on chief of mission approval. VSP management continues to collaborate with DOS in gaining the chief of mission's approval as it expands the program to additional locations.

Consular Affairs also questions our statement that "DOS occasionally sets conditions on the VSU that fall outside of the parameters of the DHS-DOS memorandum of understanding." The DHS-DOS memorandum of understanding delineates the roles and responsibilities of both departments regarding the visa issuance process and visa security activities, as well as their coordination at overseas posts. However, at least two posts attempted to establish separate agreements outlining how the process would work and how the two departments would coordinate at those posts. VSP officials worked with DOS officials at each post to resolve the issues and successfully opened VSUs at both posts. As we note on page 27, ICE

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provides language training or selects an agent with pre-existing language skills for those posts with specific language requirements.

Consular Affairs interpreted our original draft language relating to start-up difficulties to imply that DOS had not provided necessary office equipment to new VSUs. We have reworded the discussion of ICE OIA's deployment process on page 19 of our report to avoid confusion.

Consular Affairs also expressed concern with the VSP mission and goals and with the program's explanation of how law enforcement expertise is applied to the visa process. Consular Affairs states that the VSP mission and goals expand its authority beyond Section 428. We disagree with this assertion. A program's mission statement typically goes beyond quoting the specific language of the law authorizing the program. VSP's mission and strategic goals can be tied to the language of Section 428. We did not observe ICE special agents assigned to VSUs or VSP headquarters expanding the scope of their authorities during our fieldwork. As noted earlier, ICE special agents are authorized to enforce several U.S. statutes, and they draw on these and their law enforcement experience in screening and vetting visa applicants, creating lookouts, and initiating investigations in the performance of their visa security responsibilities.

ICE special agents assigned to VSUs do not adjudicate visa applications. They screen and vet visa applicants and evaluate eligibility from the DHS perspective, and then recommend approval or denial to the adjudicating consular officer. In addition, VSP management approves each post's case selection guidelines. At VSUs we visited, several consular officers indicated a general understanding of the types of applicants the VSU would be interested in vetting.

Consular Affairs indicated that a major impediment to program expansion is "a lack of persuasive evidence of the value of the program." While VSP management has tracked a variety of performance measures, reports have not been produced to show how specific activities performed by agents at post have resulted in specific outcomes. We recommend that VSP develop and implement a plan to conduct such analysis in Recommendation 1 of our report.

Consular Affairs implies that consular officers conduct the same type of screening and vetting that ICE special agents assigned to VSU perform. This is not the case. ICE agents conduct much more in-depth checks on visa applicants than do consular officers. For example, consular officers run system checks on the visa applicant's name only; ICE agents would also run system checks on additional information provided on the visa application itself, such as associates or addresses.

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Consular Affairs also suggests that VSP should conduct the automated screening activities domestically and incorporate the screening into the SAO process. As noted in our report, we disagree. The initial screening could technically be done from anywhere—as could the name-checking performed by consular officers—but the vetting process requires that agents be assigned to post in order to have access to the applicant and the application documents. In addition, VSUs screen 100% of nonimmigrant visa applicants and many also screen at least a portion of immigrant visa applicants. To incorporate this into the SAO process would essentially require an SAO for every visa applicant, which would create significant delays to the consular visa adjudication process.

Consular Affairs indicated a desire to receive reports on VSU activities and access to the new tracking system being developed by the VSP and we fully support that request. VSP management said they plan to provide access to additional parties, including relevant DOS personnel. We expect VSP management will continue to collaborate with DOS in this area. We do not believe the recommendation needs to be reworded.

Consular Affairs also indicated concern that some information on terrorists or criminals is not automatically transferring from TECS into the Consular Lookout and Support System. TECS is not simply a database of law enforcement information on terrorists and criminals. It also serves as a case management system for ICE and, therefore, contains information on sensitive active investigations and ongoing cases. Information on open investigations would not be routinely released to outside systems.

Consular Affairs said there is a “common understanding” that a significant portion of VSU denial recommendations are not terrorism related. VSP management recently required VSU personnel to begin recording the reason for denial recommendations in the VSP Tracking System when they recommend that a specific visa application be denied. As Consular Affairs noted earlier in its comments, the process of adjudicating visa applications is “firmly grounded in law” and is the responsibility of consular officers. However, it could be useful if the immigration professionals in a Visa Security Unit sometimes convey non-terrorist information they develop to consular officers, who then properly deny an application they might otherwise have approved.

Consular Affairs indicated they had seen few examples of VSU personnel providing expert advice and training on specific security threats. Section 428(e)(2)(A) refers to security threats “relating to the adjudication of individual visa applications or classes of applications.” As we discuss in our report, terrorists use fraudulent means to attempt to gain entry into the United States. VSU personnel have provided training to consular officers to improve their ability to detect instances of such fraud, including how to

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identify imposters and fraudulent documents. They have also provided advice, as appropriate, to consular officers at specific posts where fraud trends in specific visa categories have been identified. VSU personnel report the number and topics of training provided as well as the number of attendees in their monthly reports to VSP headquarters.

Consular Affairs also questioned the extent to which ICE special agents assigned to VSUs have expertise or training in counterterrorism. In selecting agents for assignment to VSUs, ICE OIA selects agents with experience in counterterrorism as well as immigration and other areas. On average, agents assigned to VSUs have 10 years of law enforcement experience. In addition, agents receive counterterrorism briefings as part of the Visa Security Officer Training Program they attend at FLETC prior to deploying to a VSU.

Consular Affairs suggested adding terrorist threat indicators to the initial risk assessment for site selection. As noted above, VSP program managers regularly review and update the initial risk assessment, adding and removing fields as appropriate. We do not believe an additional recommendation is necessary.

## Appendix A

### Purpose, Scope, and Methodology

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We reviewed the ICE Visa Security Program in response to DOS OIG concerns of possible overlaps of responsibility between DHS and DOS personnel at embassies where both are present. Specifically, the objectives of our review were to determine whether: (1) ICE's management of VSP policies, procedures, and existing operations is effective and efficient; (2) the interaction and coordination at U.S. embassies among ICE special agents, DOS regional security officers, and DOS consular officers is effective and without overlaps in responsibilities; (3) the presence of ICE special agents has affected visa security; (4) ICE special agents need to be assigned overseas to perform VSP activities; and (5) VSP training adequately prepares ICE special agents to perform VSP duties. Finally, we examined VSP expansion plans to determine whether the process for selecting new sites is prioritized appropriately given the limited resources available for expansion.

We reviewed statutes, regulations, and memoranda of understanding related to the VSP. We also reviewed strategic plans, expansion plans, weekly reports, monthly reports and performance data, budget records, and training materials. We examined VSP procedures, guidance, and case files.

We conducted more than 85 interviews of more than 95 officials within DHS OIA, ICE OIA, and DOS at headquarters and overseas posts. We conducted overseas site visits to VSU posts in Manila, Philippines; Islamabad, Pakistan; Abu Dhabi, United Arab Emirates; Dubai, United Arab Emirates; and Cairo, Egypt. In addition to interviews at posts, we observed the consular visa process and VSU visa security activities. DOS OIG personnel participated in our interviews during our first VSU site visit.

We audited the Visa Security Office Training Program at FLETC in Glynco, Georgia during August 2007. We observed a VSP briefing to a DOS consular class at the DOS Foreign Service Institute. Finally, we observed an ICE OIA Outbound Orientation session for ICE agents deploying to overseas posts.

Fieldwork began in March 2007 and ended in November 2007. This review was conducted under the authority of the *Inspector General Act of 1978*, as amended, and according to the *Quality Standards for Inspections* issued by the President's Council on Integrity and Efficiency.

## Appendix B Management Comments to the Draft Report

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Office of the Assistant Secretary


U.S. Department of Homeland Security  
425 I Street, NW  
Washington, DC 20536



U.S. Immigration  
and Customs  
Enforcement

March 28, 2008

MEMORANDUM FOR: Richard Skinner  
Inspector General

FROM:   
Julie L. Myers  
Assistant Secretary

SUBJECT: Office of Inspector General Audit Draft Report  
"U.S. Immigration and Customs Enforcement Visa Security  
Program," dated February 2008

I would like to take this opportunity to thank your staff for their professionalism and dedication to fairness throughout their review of the U.S. Immigration and Customs Enforcement (ICE) Visa Security Program (VSP). ICE takes the recommendations in your report very seriously, and will work vigorously to ensure they are responded to accordingly.

I firmly believe that a collaborative approach to visa security is the most effective way to secure the visa process. The success of the VSP is contingent upon the collective efforts of ICE and Department of State (DOS) to conduct joint investigations. I continue to encourage ICE special agents assigned to posts to partner with DOS whenever possible to address national security and criminal threats by bringing their respective authorities and expertise to bear in a task-force like effort. Through collaboration, we maximize the visa process as a counter-terrorism tool and truly secure the homeland.

The following are submitted in response to the recommendations:

**Recommendation 1:** "Develop and implement a plan to monitor and analyze case-specific visa security activities conducted at post and their effect on Visa Security Program results."

**ICE Response:** ICE concurs with the recommendation. In August 2007, the Visa Security Program (VSP) began working with the ICE Office of the Chief Information Officer (OCIO) to develop a centralized and globally-accessible VSP tracking system that will record and track all visa applicant screening, vetting and follow-up investigative data. In addition, the new tracking system will capture comprehensive performance metrics regarding programmatic activities that will allow ICE to monitor and analyze case-specific visa security activities at post. Until the new tracking system is developed, VSP headquarters personnel will continue to maintain and update the current tracking system.



## Appendix B

### Management Comments to the Draft Report

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SUBJECT: OIG Draft Report "U.S. Immigration and Customs Enforcement Visa Security Program," dated February 2008  
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Please see the attachments for more specific information that directly relates to the development and implementation of the new VSP tracking system as developed by VSP and the ICE OCIO.

ICE requests that this recommendation be considered resolved and closed as the development, procurement, and implementation of the new tracking system will occur through a comprehensive process to ensure the acquisition conforms with law and DHS information systems policies.

**Recommendation 2:** "Develop a detailed factor-by-factor explanation of the process for analyzing the quantitative and qualitative factors in the site selection process from the initial risk analysis through site selection, including source(s) for each factor and how the score for each factor is calculated."

**ICE Response:** ICE concurs with the recommendation. In July 2007, ICE VSP created a Site Selection Working Group which began an audit of the site selection process, making additions and changes as well as refreshing data utilized from previous fiscal years. Issues addressed during the audit were the weighting system for the site selection process, the categories considered in the process, and the possible introduction/removal of categories to the initial risk analysis portion. In November 2007, VSP began to update the quantitative and qualitative factors for site selection, and will continue to audit and refresh the risk analysis data indefinitely subsequent to the end of each fiscal year. ICE will also standardize the orientation of site selection data and the scale of measure to eliminate confusion. In addition to this ongoing update, ICE will continue to use well-established information sources and enhance the existing pool of information resources by integrating classified information into the site selection process. ICE is currently coordinating with Department of State (DOS) Office of the Coordinator for Counterterrorism (S/CT) to further develop and refine ICE's site selection criteria and process.

Please see the attachments for a detailed explanation which addresses the recommendation in detail, category by category, including scores developed for each factor.

ICE requests that this recommendation be considered resolved and closed.

**Recommendation 3:** "Develop and implement a global data system to allow recording, search, analysis, and storage of visa security activities from all Visa Security Units. It should be accessible by headquarters and field personnel and should generate the reports managers require to manage and improve the Visa Security Program."

**ICE Response:** ICE concurs with the recommendation. ICE recognizes the need to update and enhance its tracking system and allocated \$2.4 million to develop a centralized and globally accessible tracking system that will record and track all visa applicant screening and vetting activity. ICE is currently working with the ICE OCIO to develop this tracking system. ICE OCIO has identified a project manager and team and has produced a preliminary project plan to begin system development. The new system will enhance data security and reliability

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### **Management Comments to the Draft Report**

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and will shift the technical management burden of maintaining a database from Visa Security Unit (VSU) personnel to OCIO. The system will allow ICE special agents assigned to VSUs and headquarters to run a variety of reports designed to track program performance and to make decisions related to program management. The new system will simplify and standardize operations for ICE special agents in the field and make recording VSU activities more consistent across all VSU offices.

Please see the attachments for more specific information that directly relates to the implementation of the new VSP tracking system as developed by VSP and the ICE OCIO.

ICE requests that this recommendation be considered resolved and open pending implementation of the tracking system.

**Recommendation 4:** "Develop detailed guidance to clarify expectations for recording Visa Security Unit activities in the VSP Tracking System and to ensure all Visa Security Units record the same activity the same way."

**ICE Response:** ICE concurs with the recommendation. Almost four months prior to the recommendation ICE identified several inconsistencies in recording VSU activities in the VSP tracking system. As a result, ICE sent a tracking system update to all posts in September 2007 (copy attached) to clarify recording procedures and ensure consistency across all VSUs. In addition, the new VSP tracking system under development will include a user-friendly interface to ensure consistency in VSU tracking activities.

Please see the enclosed attachments for more specific information which outlines the update sent to the field in September 2007 for the express purpose of clarifying headquarters expectations for the accurate and uniform recording of VSU activities.

ICE requests that this recommendation be considered resolved and closed.

**Recommendation 5:** "Disseminate and provide training on the guidance to Visa Security Unit personnel to implement and reinforce expectations for recording Visa Security Unit activities in the VSPTS."

**ICE Response:** ICE concurs with the recommendation. As part of the tracking system guidance that was sent to all posts in September 2007, a detailed PowerPoint presentation was included that reinforces and clearly instructs VSU personnel on how to accurately record VSU activity. In addition, a multiple step-by-step training module will be introduced at the Visa Security Officer Training Program (VSOTP) at the Federal Law Enforcement Training Center (FLETC) to include detailed examples and guidance.

Please see the attachments for more specific information regarding the September 2007 distribution of training material to all VSUs reinforcing headquarters expectations for recording VSU activities in the VSP tracking system.

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ICE requests that this recommendation be considered resolved and closed.

**Recommendation 6:** "Develop and implement a plan to verify that posts are complying with expectations for and are accurately recording Visa Security Unit activities."

**ICE Response:** ICE concurs with the recommendation. ICE sent a tracking system update to all posts in September 2007 to clarify recording procedures and ensure consistency across VSU tracking activities. As part of ICE's Site Inspections Program (SIP), ICE Office of International Affairs (OIA) personnel will conduct regular checks to identify tracking inconsistencies and provide additional guidance.

Please see the attachments for more specific information regarding the September 2007 distribution of training material to all VSUs which outlines headquarters expectations for accurately recording VSU activities in the VSP tracking system.

ICE requests that this recommendation be considered resolved and closed.

**Recommendation 7:** "Document the current course curriculum for the Visa Security Officer Training Program and update it as changes are made."

**ICE Response:** ICE concurs with this recommendation. ICE has immediately taken steps to document and update course curriculum changes for future Visa Security Officer Training Program (VSOTP) classes. In addition, ICE has contacted the Office of Training and Development (OTD) at the Federal Law Enforcement Training Center (FLETC) and is collaborating to update the current VSOTP course curriculum. Furthermore, an electronic version of the VSOTP course curriculum is currently being added to the VSP headquarters shared drive to ensure the accurate maintenance and continuity of course curriculum regardless of VSP headquarters personnel rotation. This will ensure that any future changes to the VSOTP curriculum can be effectively updated as changes are made.

Finally, the VSP has responded to student suggestions from prior classes by developing training that includes step-by-step examples of typical VSU activities, ranging from the Consular Consolidated Database download to the actual screening and vetting of that material through various Department of Homeland Security (DHS) databases. New step-by-step training to accurately record VSU activities in the current VSP tracking system will be also be conducted to ensure that those standards are followed by all VSUs. This updated new curriculum will immediately be added to the existing Visa Security Officer Training Program course and will be utilized at the next VSOTP class scheduled for May 2008.

ICE requests that this recommendation be considered resolved and closed.

Within 90 days of the issuing of the OIG's final report on this audit, ICE will generate and submit to OIG a Mission Action Plan that specifies the issues to be resolved, the corrective action to be taken, and the associated deadlines for completion.

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If you have any questions concerning this response or wish to further assist ICE in addressing the proposed recommendations, please contact Mr. Claude Lucas, the Audit Liaison Office OIG Audit Portfolio Manager, at (202) 514-9226.

Attachments

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**Department of State Comments to the Draft Report**

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**United States Department of State**

*Washington, D.C. 20520*

*www.state.gov*

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MEMORANDUM

March 24, 2008

TO: OIG/ISP – Robert Peterson

FROM: M/PRI – Marguerite Coffey *MC*

SUBJECT: Review of the DHS Draft Report on the ICE Visa Security Program (VSP)

We appreciate the opportunity to review the Draft Report of February 2008, U.S. Immigration and Customs Enforcement (ICE) Visa Security Program (VSP) provided to you by the Department of Homeland Security's Office of Inspector General. The Department of State is committed to the most effective, efficient, and economical operations that provide the greatest security of the overall visa process. M/PRI's comments on the draft report follow.

Recommendation #2 addresses the need for full explanations of the process for identifying sites at which ICE would propose the location of a VSO. An underlying premise of the report is the acceptance of the five-year expansion plan. We recommend the Report either include an overview of the plan or include a detailed plan as an attachment. The Department has not had the opportunity to review this plan and would certainly welcome such an opportunity; we also note that the review of site selection should also address continuation of existing site locations, and not be limited to expansion sites, given the dynamic nature of risks and opportunities.

The report should identify specifically the missions DHS approached as possible VSU sites, along with text that explains why DOS thought it was prudent not to concur. Without specifics, we cannot say with total confidence what occurred at each mission, but an initial review found that one proposed site is a visa waiver country and, at another, the Ambassador was willing to approve a two-person VSU, not the five-person office DHS proposed, at which point DHS did not pursue the matter. One mission

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explained it simply could not accommodate any more growth – from any agency, including DOS.

Throughout the report, there appear to be inconsistencies in the logic of information flows that may negatively impact program implementation and blur line of responsibilities. For example, the report notes that DOS Consular Officers are not allowed access to the principal DHS law enforcement database, TECS. The report also notes that, absent the requirement for language training for VSOs, these same officers often rely on DOS Consular Officers or Locally Employed Staff to translate or interpret during interviews. There would appear to be flaws inherent in an interview process to have engagement by DOS employees who are not allowed access to the information contained in the database that precipitated and supports the interview requirement.

On page 19, it is noted that the DOS “occasionally sets conditions on the VSU that fall outside of the parameters of the DHS-DOS memorandum of understanding.” DHS proposals, to date, are to assign personnel who are not authorized to perform the depth and variety of responsibilities that would facilitate immigration and refugee decisions at many DOS posts. The inspectors can add a recommendation to this report to recommend that DHS’ Office of International Affairs begin a dialogue with DOS with the goal of crafting position descriptions for VSU officers serving abroad that are more cross-cutting than those identified in the current State-DHS MOU.

Finally, the draft report also addresses the Security Advisory Opinion process, and the ongoing work by VSP management officials in determining how best to incorporate VSP more fully into the SAO process. The Department is currently reviewing the methodology and plans of ICE involvement in the SAO, and will provide comments on that specific aspect under separate cover.

For further information on this topic within M/PRI please contact Rachel Arndt.

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**United States Department of State**

*Assistant Secretary of State  
for Consular Affairs*

*Washington, D.C. 20520*

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April 1, 2008

**MEMORANDUM**

TO: DHS/OIG – Richard Skinner

FROM: CA – Janice Jacobs, Acting

SUBJECT: CA Comments on the DHS OIG Report on the Visa Security Unit Program

Thank you for the opportunity to submit our written comments pertaining to this DHS OIG report on the Visa Security Program and Visa Security Units. After a careful review of the report, CA has the following comments:

**General Comments**

The Executive Summary of the report describes the Visa Security Program (VSP) as "enhancing national security by preventing terrorists, criminals, and other ineligible applicants from receiving visas..." Neither Section 428 of the Homeland Security Act nor the Memorandum of Understanding (MOU) signed by the Departments of State and Homeland Security in September, 2003 grant such broad powers to the program. State's understanding of the purpose of the VSP is to prevent terrorists from exploiting the visa process, not to investigate marriage fraud, trafficking of persons or other criminal activity unless there is an indicated link to terrorism. Criminal investigation and prosecution are the roles of Diplomatic Security, other ICE components and legal attaches.

In comments in this document and many others the phrase, "applying law enforcement expertise and capabilities to the visa process" is cited as one of a number of program goals. While different reports and proposals have discussed different activities and duties that the Visa Security Unit (VSU) staffs do or will perform, ICE/VSP has yet to provide a detailed explanation of how law enforcement expertise and capabilities are to be applied to the visa process, which is, in fact, firmly grounded in law, in order to prevent terrorists from exploiting the

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visa process. Several of this report's recommendations, if met, would get ICE/VSU closer to answering this question.

In addition to our specific comments, which follow below, here are five suggestions for modified or additional recommendations.

- We suggest a recommendation that DHS prioritize the NSDD-38 requests of its various components, including ICE.
- We recommend that the VSP mission description provided on page 3 be replaced with specific language from Section 428(e) describing DHS overseas functions.
- We suggest a recommendation that DHS/ICE assess performing automated screening activities centrally and domestically and coordinate with State to incorporate such screening into the existing interagency SAO process coordinated by State. CA systems can facilitate this.
- Current recommendation #3 should be expanded to make the VSP tracking system accessible to senior consular managers at post as well as the Visa Office, just as State has made its Consular Consolidated Database available to DHS components. The VSP should be reciprocal and not only download to the VSU system but also upload their responses and analysis back to CA systems.
- Regarding VSU expansion, we suggest a recommendation to revise the assessment process to include intelligence and other available data to measure the risk of terrorist exploitation of the visa process.

**Specific Comments**

**1) NSDD-38 Process**

This report evinces a lack of understanding of the NSDD-38 process: as the President's representative, the Chief of Mission (COM) has many mandates to follow. Every agency, including the Department of State, is subject to the NSDD-38 process per Section 207 of 22 U.S. 3927, the Foreign Service Act of 1980. Section 428 is a program mandated by legislation as is right-sizing our missions overseas. Like every other agency, DHS/ICE must justify its presence in a specific location and articulate the duties of its officers.

The OIG report implies that decisions on whether to approve a VSU are based on the COM's personal preference. The report should include the criteria on

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which a COM bases his or her decision – a list including but not limited to the following: space; operational needs, and budget constraints. Previously, an inflexible staffing model prevented location at certain sites. Greater staffing flexibility has meant faster expansion. The MOU recognizes that Section 428 does not override COM authority.

In addition, page 19 of the draft report states, "An agency can appeal an ambassador's denial of an NSDD-38 request; however, both ICE and State headquarters officials said that in reality, the ambassador makes the final decision on expanding positions at post." Whenever a COM denies an NSDD-38, the requesting agency is always informed of its option to appeal the decision. In this process, the views of both parties would be presented by the Office of Policy, Rightsizing and Innovation to the Secretary of State for decision. While rare, this option has been used by other agencies in the past. To date, DHS/ICE has not appealed a VSU-related NSDD-38 decision to the Secretary of State.

While the appeal process described above is available to agencies, in general, VSP expansion depends on Chief of Mission approval, in accordance with the NSDD-38 process. Some COMs have asked DHS to prioritize the NSDD-38 requests of its various components, including ICE. As noted above, we suggest this as a recommendation.

Also on page 19 the draft report states that, "...DOS occasionally sets conditions on the VSU that fall outside the parameters of the DHS-DOS memorandum of understanding." This paragraph should be more specific. For example, a COM's requests that VSU personnel have language training before arriving at posts is neither unreasonable nor outside the scope of the MOU. Counterterrorism-focused, country-specific training would prepare VSU personnel to contribute to enhancing the security of the visa process. Section 428 encourages, and State strongly supports, language and other appropriate training for VSU personnel.

On page 17, discussion of start-up difficulties at new posts gives the impression that it is the responsibility of the Embassy or Consulate to provide office furniture, computers, etc. Each tenant agency provides its own furnishings and computers. If DHS elects to participate in ICASS, the Embassy can procure items using DHS funding data, though this process can be protracted due to the requirements of the Buy America Act.

**2) Mission Description and Value Added**

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Page 3, paragraph 4 of the draft report defines the VSP mission:

“The VSP mission is to enhance national security and public safety by preventing terrorists, criminals, and other ineligible applicants from receiving U.S. visas, and maximizing the visa process as a counterterrorism tool. The program’s goals include:

- 1) Preventing known threats to national security from exploiting the visa process;
- 2) Identifying “not yet known” threats to national security – threats that do not appear in any government data bases or watchlists;
- 3) Applying law enforcement expertise and capabilities to the visa process;
- 4) Identifying and addressing systemic threats and vulnerabilities in the visa process; and
- 5) Supporting the timely processing of visas for legitimate applicants by providing efficient and accurate determination of applicants’ eligibility for a visa.”

The VSP mission as described goes beyond the description and authorities granted in Section 428. As noted above, we recommend that this mission description be replaced with specific language from Section 428(e) describing DHS overseas functions. This language is codified as well in the DOS-DHS Memorandum of Understanding on Section 428. That language is:

“(1) In general – the Secretary (of Homeland Security) is authorized to assign employees of the Department to each diplomatic and consular post at which visas are issued, unless the Secretary determines that such an assignment at a particular post would not promote homeland security.

(2) Functions – Employees assigned under paragraph (1) shall perform the following functions:

(A) Provide expert advice and training to consular officers regarding specific security threats relating to the adjudication of individual visa applications or classes of applications.

(B) Review any such applications, either on the initiative of the employee of the Department or upon request by a consular officer or other person charged with adjudicating such applications.

(C) Conduct investigations with respect to consular matters under the jurisdiction of the Secretary.”

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As stated above, the “application of law enforcement expertise” to the visa process has never been explained in detail. Secondly, the program description in this report grants the VSP a role in combating criminality and other ineligible applicants, activities that are not indicated in Section 428(e).

Additionally, the role described in point 5 conflicts with consular officers’ authority to determine the eligibility of visa applicants. “Providing efficient and accurate determination of applicants’ eligibility for a visa” is not a VSP function supported by the authority granted to the Secretary of Homeland Security in Section 428(b)(1) “...to refuse visas in accordance with law... the Secretary (of Homeland Security) shall not have the authority to alter or reverse the decision of a consular officer to refuse a visa to an alien...” Further, paragraph 5.a. of the DOS-DHS Memorandum of Understanding states, “Notwithstanding paragraph 17 (of the MOU, concerning delegations of authority), the Secretary of Homeland Security’s authority to direct refusal or revocation of a visa may be delegated only to DHS headquarters staff.

At this time, a major impediment to VSU expansion is a lack of persuasive evidence of the value of the program. The metrics used to indicate value -- visas screened and vetted -- refer to actions that are also performed by consular officers. While the report states that VSU officers do terrorist travel trend analysis and other pertinent reporting, State officers have not seen this reporting despite repeated requests. State has secure websites where these reports could be posted.

We are also concerned about the general lack of consistency and oversight that characterizes the presence of VSUs in embassies and consulates worldwide. On page 4 the draft report notes that, “VSOs also vet some applicants whose names did not match watchlists; these additional vettings are based on post-specific case selection guidelines.” There is no indication of what these guidelines are, or to what extent they have been approved by DOS or DHS managers, and whether these post-specific guidelines are shared with other posts, given that applicants may be applying at a location other than that of their nationality. At the bottom of that same page is noted that “VSOs also conduct liaison with host country law enforcement officials to share and receive information.” There is no indication that the information gleaned from such liaison activities is of such a unique nature that existing liaison offices would not have access, nor is there any indication that such information is shared with other posts or with headquarter components.

While VSU personnel are valued at posts, it is primarily for their access to TECS and for their experience interpreting immigration regulations. The

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Department has not seen reporting that indicates VSUs contribute significant counterterrorism expertise to the visa process at posts leading to visa denials or revocations based on terrorism grounds. From a counterterrorism perspective, the value of a physical VSP presence overseas has not been proven. If information based on VSP analysis so indicated, law enforcement and/or investigation activities could be coordinated through the LEGATT or RSO.

As noted above, we suggest adding a recommendation that DHS/ICE assess performing automated screening activities domestically and coordinate with State to incorporate such screening into the existing interagency SAO process coordinated by State.

**3) Information Sharing**

On the topic of information sharing, the report discusses the VSP tracking system (p. 20). By way of clarification:

- The automated tool used to export visa data to the VSU is a State/CA system which exports our data to the VSU, not a VSU system that imports the data. State's Visa Excel Download (VED) is a function in the CCD that allows consular officers to "mark" cases that are ready for the VSU personnel at posts to review electronically. While the VED meets the need to get the data to the VSU so that VSU staff can review the data in a timely manner that does not delay the issuance process – no small accomplishment – the VSU's VSP system lacks the capability to subsequently upload to the consular database the results of the VSU analysis – i.e. denial recommendations, etc. This is a serious gap in accountability.

The DHS OIG is critical of the VSP as a tool for measuring performance, and for its resulting limited utility to DHS managers. To those criticisms CA would add that there is no indication that State is copied on any of these productivity/activity reports. As noted above, recommendation #3 should be expanded to make the system accessible to senior consular managers at post as well as in the Visa Office.

HSPD-11 mandates information sharing among all USG screening officers. All information in TECS that concerns terrorists or criminals should replicate automatically into CLASS upon creation so that it is available to consular officers worldwide.

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Posts question the number of visa "denials" cited in the report, unless it is a reference to passing information about whether there is additional information in DHS systems about a specific case. If these are formal recommendations for denial based on information in TECS that has not been exported to CLASS, especially if the recommendations and supporting information relate to possible terrorism ineligibilities, this reveals a major security gap that can only be closed by ensuring that all terrorist/criminal information in TECS is replicated in CLASS.

**4) TECS Access**

Until there is more transparency on the issues of TECS access and the VSP, the VSU will always be vulnerable to the common understanding that a significant proportion of its denial recommendations are the result of non-terrorism related TECS (or other proprietary database) hits. If that is in fact the case, having that knowledge will allow senior DHS managers to make better decisions regarding expansion and program plans. We are engaging with CBP on increasing TECS access for CA personnel.

**5) Training**

Page 2, second paragraph: Section 428 of the Homeland Security Act of 2002 states that employees assigned to Visa Security Units (VSU) shall "provide expert advice and training to consular officers regarding specific security threats relating to the adjudication of individual visa applications or classes of applications." We have few examples of VSU personnel sharing expert advice and training on specific security threats, but would welcome such reporting.

In response to the report, several posts said that training was largely informal and that questions from consular officers to VSU officers did not concern visa eligibility except in the broadest sense -- the consular officers wanted to know if there was any additional information in DHS systems.

Regarding the training of personnel assigned to VSUs overseas, it remains unclear to what extent ICE agents currently assigned to VSUs have expertise or significant training in counterterrorism.

**6) Security Advisory Opinions**

*On page 7, "The Security Advisory Opinion Process"* paragraph misstates the role of the non-State agencies in the process. The paragraph states that after

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**Appendix C**  
**Department of State Comments to the Draft Report**

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running name checks, the other agencies “inform DOS whether the applicant should be granted a visa.” In fact, only the consular officer at post is empowered to issue or deny a visa. Other agencies advise State of any information related to the subject of a particular SAO, State analysts determine whether the information supports a finding of ineligibility under Section 212(a)(3)(B) of the INA, and State responds with an advisory opinion to the inquiring post. In a small number of cases the FBI may pose an objection to visa issuance on national security grounds. In most cases State concurs; occasionally State persuades FBI to withdraw its objection based on USG interest in a subject’s travel.

**7) Risk Assessment**

The risk assessment would be strengthened by the addition of terrorist threat indicators. Since the expansion plan is dynamic, as noted above, we suggest adding a recommendation to revise the assessment process to include intelligence and other available data to measure the risk of terrorist exploitation of the visa process.

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**Appendix D**  
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**Appendix E**  
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