

Irene Bueno

11/10/99 08:16:45 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: See the distribution list at the bottom of this message

Subject: INS Restructuring Update

Today, INS has revised its latest draft INS restructuring legislative proposal with comments received from the WH, OMB and the Hill (Democrats and Senator Abraham). The comments were not significant with the exception of inspections and I think we came up with some compromise language that should satisfy the Hill (our language ensures that there are quality assurances measures to ensure that inspectors are making the correct judgments about asylum claims, expedited removal, etc).

Tonight, INS will resend the revised language to same staff and to Roger's staff (Cordia) who has not yet seen our earlier proposal. We expect that she will review the language and contact DOJ with her comments, concerns, opposition, etc. tomorrow.

We also understand that Senator Abraham is planning to ask Gregg to offer Abraham's INS Restructuring bill in budget negotiations. We are working with Kennedy's office to revise the Abraham's bill to address our concerns - which are important but probably resolvable with the exception of his inspections language (which the groups prefer b/c it creates a separate bureau for inspections). It is not expected that Abraham will succeed in getting his language accepted and is probably only offering it to try to get the repeal of section 110 that creates a border entry/exit system included in the final budget bill (we support the repeal of section 110). Indeed, last year, Abraham was willing to accept the original Rogers/Smith INS restructuring bill in exchange for the repeal of section 110 and was stopped only b/c the Administration opposed the Roger/Smith bill. We should be mindful that this could occur again.

I will be in and out of the office on Thursday 11/11. Please call or page me if you need to reach me.
Thanks.

Message Sent To:

Bruce N. Reed/OPD/EOP@EOP
Eric P. Liu/OPD/EOP@EOP
Maria Echaveste/WHO/EOP@EOP
Broderick Johnson/WHO/EOP@EOP
Michael Deich/OMB/EOP@EOP

Message Copied To:

Timmy budget

Fairness to Immigrants. President Clinton believes that legal immigrants should have the same opportunity, and bear the same responsibility, as other members of our society. Upon signing the 1996 welfare law, the President vowed to reverse unnecessary cuts in benefits to legal immigrants that had nothing to do with the goal of moving people from welfare to work. To build upon important restorations the Administration has fought for and secured in recent years, the President proposed building on this progress by restoring important disability, health and nutrition benefits to additional categories of legal immigrants.

INS RESTRUCTURING CORE PRINCIPLES

- Enforcement and Immigration Service program operations must be separated.
- Enforcement and Immigration Services must report to a single official below the Deputy Attorney General.
 - This individual will be the single person responsible for immigration policy and management issues within the Justice Department.
 - This individual will manage the organization as a single entity to ensure integration and consistency in the application of enforcement and immigration services policies and procedures.
 - This individual will decide what administrative services are provided through a single entity or separated into a program bureau.
 - This individual shall be a PAS, the enforcement and service deputies shall not be confirmed positions.

Background on INS Restructuring

Background:

- INS has developed a draft design proposal that illustrates its plan to separate and restructure its enforcement and service functions.
- This plan has been under development for the past year and was aided by PriceWaterhouseCooper and extensive consultation both within the INS and with external shareholders.
- The Attorney General has met with Chairman Rogers to spell out the Administration's principles for a restructured INS. They are:
 - 1) Immigration enforcement and service functions must be separated into distinct branches, both within a "new" DOJ immigration bureau.
 - 2) The immigration bureau must be headed by a DOJ official who reports to the Deputy Attorney General and is Senate confirmed. The restructuring legislation must statutorily authorize this official to have the staff necessary to coordinate immigration programs, policies and procedures.
 - 3) In order to ensure that the chief of each branch (immigration enforcement, immigration service) is appropriately responsive to the policies of the senior Bureau official, the chiefs must be non-career SES, and not Senate-confirmed. The branch chiefs must have authority that is delegated, not direct, and must report only to the head of the immigration bureau.
- Chairman Rogers, Chairman Lamar Smith and Representative Reyes introduced INS restructuring bill. It creates two bureaus headed by directors appointed by the President and confirmed by the Senate ^{Smith} reporting ~~to~~ to the Attorney General. This is Chairman Rogers' third INS restructuring proposal and it moves closer to the Administration's position but remains fundamentally different than our plan and stated principles. The immigration groups ~~also~~ strongly oppose the Rogers' bill.
- In follow up to the meeting between Reno and Rogers, DOJ and INS staffs have been meeting to work out issues. If these meetings go well, Reno and Rogers are expected to meet again to finalize the agreement. (I am working to get info on the outstanding issues).
- Representative Sheila Jackson-Lee, ranking member of the House Judiciary Subcommittee on Immigration and Senators Abraham and Kennedy have introduced INS restructuring bills that are closer to the Administration's principles.
- Senator Abraham is planning to hold a hearing next week on this issue and INS Commissioner is planning to testify.

INS RESTRUCTURING

Comparison of Proposals

INS Draft Restructuring Proposal

Immigration Reorganization & Improvement Act of 1999 (H.R. 2528) Rep. Rogers

INS Reform & Border Security Act of 1999 (S. 1563) Sen. Abraham

Immigration Restructuring & Accountability Act of 1999 (H.R. 2680) Rep. Jackson-Lee

Preliminary Analysis



INS Office of Restructuring

Comparison of Restructuring Proposals

REVISED DRAFT

Category	INS Draft Restructuring Proposal	H.R. 2528 (Rep. Rogers) Immigration Reorganization & Improvement Act	S. 1563 (Sen. Abraham) INS Reform & Border Security Act	H.R. 2680 (Rep. Jackson-Lee) Immigration Restructuring & Accountability Act
Organizational Structure	Establishes two 2nd level separate chains of command (one for Enforcement and one for Services) each reporting to the Commissioner of the INS, or a similar official	- Creates two separate Bureaus reporting to the Attorney General or his/her delegate: - Bureau of Immigration Enforcement - Bureau of Immigration Services	- Creates two Bureaus reporting to an Associate Attorney General for Immigration Affairs: - Immigration Services and Adjudications - Immigration Enforcement and Border Affairs	- Creates four Offices reporting to a Director, National Immigration Bureau: - Immigration Adjudications - Immigration Enforcement - Prehearing Services - Shared Services
Agency Head	- The Commissioner, or a similar official, to be Presidentially appointed and confirmed by the Senate - Two SES Associate Commissioners, each to head Enforcement and Services	Each bureau director to be appointed by the President and confirmed by the Senate. with a minimum of 10 years experience, or comparable experience, in the program and management	- The Associate Attorney General for Immigration Affairs to be appointed by the President and confirmed by the Senate. - Both bureau directors to be appointed by the President and confirmed by the Senate.	The Director to be appointed by President and confirmed by the Senate
Audit, OPR & QA Functions	Renames Internal Audit as the Office of Professional Responsibility and Quality Review, reporting to the Commissioner	- Not referenced - Would be included in implementation plan	- Creates an Office of Quality Assurance in the Services Bureau, reporting to the Director. - Creates an Office of Professional Responsibility in the Enforcement Bureau reporting to the Director	- Not referenced - Would be included in implementation plan
Inspections	Inspections included as part of Enforcement	Inspections included as part of Enforcement	Inspections placed in the Office of the Associate Attorney General	Places Inspections under the Chief, Division of Adjudications, under the Deputy Director, Office of Immigration Adjudications
Executive Level Support Offices	- Identifies agency-wide policy coordination offices reporting to the Commissioner: - Chief of Staff - Policy and Strategy - Congressional and Intergovernmental Relations - Public Affairs - Community Affairs - General Counsel	- Not referenced - Would be included in implementation plan	- Identifies offices reporting to the Associate Attorney General: - Policy and Planning - Information technology, information resources management, record and database maintenance, and coordination of records and other information between the two Bureaus - Such other functions as involve resources and other support for the Bureaus - General Counsel - CFO	- Not referenced - Would be included in implementation plan

Comparison of Restructuring Proposals

REVISED DRAFT

Category	INS Draft Restructuring Proposal	H.R. 2528 (Rep. Rogers) Immigration Reorganization & Improvement Act	S. 1563 (Sen. Abraham) INS Reform & Border Security Act	H.R. 2680 (Rep. Jackson-Lee) Immigration Restructuring & Accountability Act
CFO	One Chief Financial Officer for the agency	Establishes a CFO in both Bureaus	Both Bureaus to have a Chief Financial Officer in addition to the Agency	- Not referenced - Would be included in implementation plan
Regional and Field Offices	- Eliminates Regional Offices and District Offices - Creates geographic areas, headed by SES directors with experience in the function and management, - reporting to the appropriate Associate Commissioner - Six areas proposed for Services - Six or more areas for Enforcement - One international enforcement area	Would eliminate Regional and District Offices as they currently exist and split them into separate services and enforcement offices	- Eliminates Regional Offices and District Offices - Creates Services Bureau Regional Commissioners for specific geographic regions - the number to be based on workload and economies of scale. - Creates Services Bureau Area Directors - May be more than one in a State - Area Directors report to Services Bureau Regional Commissioners	Notes "Special Rule for Local Offices" – <i>any local office established to carry out functions of Office of Immigration Adjudications shall be separate from any local office established to carry out functions of Office of Immigration Enforcement</i>
Field Office Manager Terms	Not referenced	Not referenced	Limits unbroken time in position for Area Directors and Field Office Managers to 6 years	Not referenced
Training	Training remains agency-wide as the responsibility of Human Resources under the Associate Commissioner for Support Operations.	- Not referenced - As possible shared support, could be handled by AG delegate	The Directors of each Bureau would have responsibility for the training of personnel in their Bureaus	- Not referenced - Would be included in implementation plan
Training Plan	Not referenced	Not referenced	Requires submission of an employee training plan and specific content by the Directors of each bureau to the Committees on the Judiciary within 180 days after the effective date of the Act	Not referenced

Comparison of Restructuring Proposals

REVISED DRAFT

Category	INS Draft Restructuring Proposal	H.R. 2528 (Rep. Rogers) Immigration Reorganization & Improvement Act	S. 1563 (Sen. Abraham) INS Reform & Border Security Act	H.R. 2680 (Rep. Jackson-Lee) Immigration Restructuring & Accountability Act
Executive Councils	- Identifies leadership integration mechanisms - INS Executive Council - INS Area Council	Not referenced	Not referenced	Not referenced
Support Services/ Shared Services	Support operations are provided by the agency through a third entity headed by an SES Associate Commissioner	- The Attorney General will allocate, coordinate, or both, selected shared support resources - JMD provides oversight of records and information technology	Information technology, information resources management, record and database maintenance, and coordination of records and other information, to be coordinated between the two Bureaus	- Not referenced - Would be included in implementation plan
Implementation Plan	Agency will begin implementation planning involving field employees immediately after Congressional approval of a restructuring plan.	AG will deliver a plan for division of personnel and implementation within 120 days after enactment (transition team)	Not referenced	- AG will deliver an implementation plan to House and Senate not later than one year after date of enactment - AG shall contract with a private management consulting firm to conduct a study of management problems within INS and issue report containing recommendations that will prevent the same problems in the National Immigration Bureau
Operating Plan	- Not referenced - Would be included in implementation plan	60 days after delivery of the plan each Bureau shall submit to Committees an operating plan of resources allocated by object class and decision unit structure	- Not referenced - Would be included in implementation plan	- Not referenced - Would be included in implementation plan
Transfer of Functions	Effective date for transfer of functions is two (2) years after the enactment	Effective date for transfer of functions is one (1) year after the enactment	The effective date is 18 months after enactment.	Effective date for transfer of functions is two (2) years after the enactment

Comparison of Restructuring Proposals

REVISED DRAFT

Category	INS Draft Restructuring Proposal	H.R. 2528 (Rep. Rogers) Immigration Reorganization & Improvement Act	S. 1563 (Sen. Abraham) INS Reform & Border Security Act	H.R. 2680 (Rep. Jackson-Lee) Immigration Restructuring & Accountability Act
Transfer of Funds	- Not referenced - Would be included in implementation plan	The Attorney General retains the right to realign transfers of funds and personnel for 2 years	The Attorney General retains the right to realign transfers of funds and personnel for 2 years	Attorney General retains the right to adjust or realign transfers of funds and personnel effective (no timeframe specified)
“Best Practices” – Enforcement	- Not referenced - Would be included in implementation plan	- Not referenced - Would be included in implementation plan	States that the “Enforcement Bureau be organized in accordance with ‘best practices’ of other federal law enforcement agencies, including the FBI and DEA”	- Not referenced - Would be included in implementation plan
Enforcement Structure	- Enforcement to consist of : - Border Patrol - Detention and Deportation - Intelligence - Investigations - Inspections	- Enforcement to consist of : - Border Patrol - Detention and Deportation - Intelligence - Investigations - Inspections	- Bureau of Immigration Enforcement and Border Affairs to consist of : - Border Patrol - Detention (except for POE asylum) - Deportation - Intelligence - Investigations [Inspections to be part of Office of Associate Attorney General]	- Office of Immigration Enforcement consists of: - Border Patrol Division - Division of Removal - Division of Intelligence and Investigation - Division Community Relations [Inspections under Office of Immigration Adjudications, Division of Adjudications]
Field Offices – Enforcement	Local offices (BP stations POEs, Investigations offices) are the primary operational entities for enforcement	- Not referenced - Would be included in implementation plan	- Authorizes field offices for the Enforcement Bureau. - No requirements regarding the number or specific location of offices.	- Not referenced - Would be included in implementation plan
Overseas Enforcement Offices	Creates an enforcement organization to integrate overseas, border and interior anti-smuggling efforts	- Not referenced - Would be included in implementation plan	- Not referenced - Would be included in implementation plan	- Not referenced - Would be included in implementation plan

Comparison of Restructuring Proposals

REVISED DRAFT

Category	INS Draft Restructuring Proposal	H.R. 2528 (Rep. Rogers) Immigration Reorganization & Improvement Act	S. 1563 (Sen. Abraham) INS Reform & Border Security Act	H.R. 2680 (Rep. Jackson-Lee) Immigration Restructuring & Accountability Act
Community Relations	- Creates Community Advisory Panels at the national and enforcement area level to institutionalize a forum for public involvement - National panel will report to the Commissioner	Not referenced	Not referenced	- Creates an Assistant Director for Community Liaison reporting to the Director - Also establishes Divisions of Community Relations in the Offices of Immigration Adjudications, Immigration Enforcement, and Prehearing Services
Detention	- Detention is elevated with long term detention administered nationally and reporting directly to the Associate Commissioner for Enforcement. - Short term detention and deportation remain under local control	Within 180 days after enactment, INS to provide a plan to transfer detention operations to BOP within a four year period	- Detention remains within enforcement without reference to long or short term periods - An exception is made by assigning responsibility for detention related to inspections determinations regarding applicants for asylum at POEs to Immigration Services	- Detention placed in Division of Detention under an Office of Prehearing Services - Creates Division of Alternatives to Detention under Office of Prehearing Services - Calls for development of alternatives for detention of asylum seekers
Adjudications/ Immigration Services	- Immigration Services to be responsible for: - Nonimmigrant and Immigrant visa petitions - Asylum and refugee petitions - Naturalization petitions - Service Centers - All other adjudications under the Immigration and Nationality Act	- Immigration Services to be responsible for: - Nonimmigrant and Immigrant visa petitions - Asylum and refugee petitions - Naturalization petitions - Service Centers - All other adjudications under the Immigration and Nationality Act	- Bureau of Immigration Services and Adjudications to be responsible for: - Nonimmigrant and immigrant visa petitions - Asylum and refugee applications - Naturalization petitions - Service Centers - Determinations concerning custody, parole and conditions of parole regarding applicants for asylum detained at the ports of entry - All other adjudications under the immigration laws of the United States.	- Office of Immigration Adjudications consists of: - Division of Adjudications - Petitions for immigrant and nonimmigrant status - Naturalization - Inspections and adjudication of applications for admission at POEs - Other - Division of Refugee, Asylum, Parole and Humanitarian Affairs - Division of Community Relations

Comparison of Restructuring Proposals

REVISED DRAFT

Category	INS Draft Restructuring Proposal	H.R. 2528 (Rep. Rogers) Immigration Reorganization & Improvement Act	S. 1563 (Sen. Abraham) INS Reform & Border Security Act	H.R. 2680 (Rep. Jackson-Lee) Immigration Restructuring & Accountability Act
Service Centers/ Telephone Centers	Identifies a structure for managing remote Immigration Services operations (Telephone and Card Centers, Service Centers) as part of Immigration Services	- Not referenced - Would be included in implementation plan	- Service Centers will report to Regional Commissioners in the region in which the Service Center is situated - Development of telephone centers is encouraged	- Not referenced - Would be included in implementation plan
Customer Advocates/ Ombudsman	Creates Immigration Services Customer Service Advocates at national and area levels	- Not referenced - Would be included in implementation plan	- Creates Office of the Ombudsman within the Services Bureau: - Sets conditions of Ombudsman's appointment and compensation - The Ombudsman shall report to the Services Bureau Director - Defines functions of Office - Permits the appointment of regional and local ombudsmen - Establishes annual reports to Congress	Identifies Office of Community Liaison and Divisions of Community Relations
Services Structure	(See Regional and Field Offices, above)	- Not referenced - Would be included in implementation plan	Structure of the Services Bureau should be based on the organization of the Social Security Administration	- Not referenced - Would be included in implementation plan
Field Offices – Adjudications/ Services	Local offices in Immigration Services are main source of face to face contact with the public	- Not referenced - Would be included in implementation plan	- Identifies Field Offices with Managers as the Services Bureau's main source of contact with the public. - No requirements regarding the number or specific location of offices.	- Not referenced - Would be included in implementation plan
Asylum, Refugee, Parole & H.A.	- Consolidates asylum, refugee, and humanitarian affairs as a function reporting to the Associate Commissioner for Immigration Services - Addresses relationship to overseas offices	- Within Bureau of Immigration Services - Would be included in implementation plan	Adjudications of asylum and refugee applications is a function of the Services Bureau	Asylum and refugee petitions placed in Office of Immigration Adjudication, Division of Asylum, Refugees, Parole & Humanitarian Affairs

Comparison of Restructuring Proposals

REVISED DRAFT

Category	INS Draft Restructuring Proposal	H.R. 2528 (Rep. Rogers) Immigration Reorganization & Improvement Act	S. 1563 (Sen. Abraham) INS Reform & Border Security Act	H.R. 2680 (Rep. Jackson-Lee) Immigration Restructuring & Accountability Act
Fraud	Identifies mechanisms and organizational relationships between Enforcement and Services to combat benefit fraud	Required to be included in implementation plan	Not referenced	Not referenced
Human Resources Provisions				
Impact on INS Employees	Will use maximum flexibility in current Federal human resources laws, regulations and procedures to minimize impact on employees	Full and Part time employees may not be separated or reduced in grade or compensation for one (1) year after the date of the transfer	Not Referenced	Full and Part time employees may not be separated or reduced in grade or compensation for one (1) year after the date of the transfer
Pay Rates	Not referenced	No reduction in pay rates, pay and grade retention to be consistent with employee pay and grade retention entitlement under subchapter VI of Chapter 53 of Title 5, U.S.C.	Grants authority to the Attorney General to establish special pay rates and make appointments to designated critical positions	
Recruitment, Relocation & Retention	Not referenced	Not referenced	Grants authority to the Attorney General for 10 years to vary from the rules governing payment of recruitment, relocation and retention incentive	Not referenced
SES Performance Awards	Not referenced	Not referenced	Authorizes payment of performance awards for Senior Executives	Not referenced
Separation Incentives	Not referenced	Not referenced	Authorizes the Associate Attorney General to pay Voluntary Separation Incentive Payments to any employee to the extent necessary to reorganize	Not referenced
SES Positions	Will use maximum flexibility in current Federal human resources laws, regulations and procedures to minimize impact on employees	Current SES employees will be appointed to a similar or like position in the new organization	Not referenced	SES positions to transfer to similar or like positions in new Bureau
Authorized Positions	Not referenced	No reduction in authorized positions within each program	Not referenced	No reduction in authorized positions within each program

Comparison of Restructuring Proposals

REVISED DRAFT

Category	INS Draft Restructuring Proposal	H.R. 2528 (Rep. Rogers) Immigration Reorganization & Improvement Act	S. 1563 (Sen. Abraham) INS Reform & Border Security Act	H.R. 2680 (Rep. Jackson-Lee) Immigration Restructuring & Accountability Act
Asylum Fee Limits	Not referenced	Not referenced	Limits the use of fees for services to only those services or similar services provided to asylum or refugee applicants	- Prohibits fees on asylum and refugee seekers - References usage and collection of fees for other services and applications
Miscellaneous Provisions				
Fair Treatment of Aliens	Not referenced	Not referenced	Requires the measure of "fair and equitable treatment of aliens" as an employee performance measure	Not referenced
Standard Processing Times	Not referenced	Not referenced	Establishes timeliness standards for processing specific types of petitions	Not referenced
Reentry Permits	Not referenced	Not referenced	Amends requirements for reentry permits	Not referenced
Demonstration Projects	Not referenced	Not referenced	Requires establishment of a demonstration project for electronic filing of specific petitions	Not referenced
Annual Reporting – Processing Times	Not referenced	Not referenced	Requires a quarterly and annual report on the average processing time for each type of petition	Not referenced
Employment-Based Ceilings	Not referenced	Not referenced	Amends limitation on per country ceiling with respect to employment-based immigrants	Not referenced
Border Patrol Staff Increases	Not referenced	Not referenced	Adds fiscal years 2001-2004 regarding the increase in Border Patrol Agents and support personnel	Not referenced
Data Sharing with EOIR	Not referenced	Not referenced	Requires the Immigration Affairs Agency's databases and those of the two Bureaus be integrated with the database of the Executive Office for Immigration Review (EOIR) in specific ways	Not referenced
Prohibition on Delegations by EOIR	Not referenced	Not referenced	Prohibits the transfer or delegation of any function exercised by the EOIR	Not referenced

Meeting w/ Groups 11/9

Issues of
Concern

Services Fund - only appropriated \$

Don't put fee fund \$ in fund - ~~taken away~~ taken away ^{reason for} appropriators
to put in \$. Include ~~also~~ language that addresses their concerns

Reprogramming - Policy -

Adjudication Plan - separate ~~report~~ report

Firewall - USCC language - no refer to § 236

Transit Finding -

Personnel - don't want to force to hire a particular person.

Detention - look at SJL bill language on detention - feasibility
~~of other facilities~~ of other facilities

INS Comm

inspections

needs to be categorized or important but ~~must~~ acknowledge it
~~must~~ must be a hybrid.

Video type all secondary inspection. ~~there~~

Presence at the ports - advocate / POC if there are complaints, early advice

Report will determine when these people are located inspect services

If enforcement - be held accountable but could not be in house.

Even in services - may not help be not in chain of authority or inspect

Concern - ~~main~~ ~~main~~ inspections. ~~like judge~~ - decide who get it + stage out
secondary inspection - should be similar or close - important

inspections - mainly 95%

ins can't be in April b/c 5000 inspectors

Compromise - Abraham bill - something separate

bl-on borders how worked
inspectors work do key at
~~that~~ POE

(E)

ms Technology - ~~only~~ good people with so high, bad guys will be the
few state or enforcement later

ANA - ~~run~~ Services + add enforcement

mark Expedited ~~to~~ Removal - bad protections but didn't work

Allen - 1 million inspections/day

ANA - checks + balances will work

INS - _{comm} Try to make impacts in the secondary inspection - ^{improve} adaptation skills available.
Need to professionalize it ~~as a~~ inspection

(A) Prepare response - if does not happen

INS Restructuring Conference Call - 11/8/99

Opening - ~~Maia~~ - broader the discussion.

Allen - trying to put together meetings w/ the H11

Budget Discussions -

H11 Mtgs - by STL,

Issues - reacting on impulse - on the authority of the H11 - ^{could} policy
1
- Financing
- Inspection
- EOR judges

Financials - Michael Hill

Report - Banking Reductions - reports on annual basis.

Transition Fund

Firewall - ~~represent~~ + Susan + ~~any other~~ ^{represent} ~~representative~~ ^{purpose - not a service}

Reprogramming Report to ensure that request are improved - not cut automatic unless - less than 10% + no elimination of a

Patty - trying to bring this issue to the table. We support what we are trying to do.

Maia -

\$245G - to get this back - need to inform her she is ~~used~~ allocated (Michael) ~~also~~

Rogers may give up but in exchange in clout

Patty - I find to be used for all these things except Firewall.

Maia - want it to be a permanent fund - revolving fund - similar to I RMA - draw on the out acct as needed.

AMG1

W/CLO ut - Budget/Disbursal Committee must be separate

What if
will answer

Good work & story = in 18th C
Educate

Title - AGI

Bob - agree to raise ~~up~~ up & not only Asst. but want Roger & Smith

Patty - Roger needs convincing b/c he has rejected it.

Jane - no import

Patty conflicts w/ DAG to resolve Assoc AGI + CRO

Inspection - ALA - impossible way of paying - decision to be on service side

Patty - document found - secondary inspection = 2 tier system.

① Adjudication ALA - Enforcement - want don't want inspection - County - report

② Monitor District Director.

Some had worked on a compromise - UJC, HIAS

Abraham - put it in the middle - not in service not report

~~trial~~ Trial lawyer - stays separate

EOIR - Abraham bill - to share service w/ Patty then under AGI - shared service only.

Should be separate Patty - Smith bill - would ~~not~~ oversee & coordinate - no sharing
linking issue
Smith wanted to EOIR wanted to control

① Adjudication - SJL - imp
② Separate Abraham

Retention - Michael = substitute suggest that detention be under EOIR
& request the Shadrach. Admin don't like but will look at it.

INS RESTRUCTURING PENDING ISSUES

- One strong General Counsel and Policy and Strategy Office under the AAG, no caps on # of employees—supported by DOJ, immigration groups and INS
see markup Smith
- Remove EOIR from under the AAG— supported by immigration groups (INS likes it under AAG) -see markup on pg. 2 + add *Abraham language* §109
- Change title from Associate AG to Administrator of Immigration Affairs— supported by Leadership Council for Civil Rights, NCLR, and NAPALC
Add language
- Clarify firewall language – supported by immigration groups and INS (OMB disagrees?) *abolish SJL language w/o and it*
- Establish transition and capital investment fund— supported by immigration groups and INS *- see note*
- Give INS more reprogramming flexibility— supported by immigration groups and INS *- NO*
- Strike language on Federal Prison System plan to manage detention facilities —supported by immigration groups *- YK*
- Give more authority and remedial power to Office of Community Liason for Enforcement and Office of Professional Responsibility —supported by NCLR (they raised this w/ me)

• Inspections — *Frankel report*

• Bay Reform — report in implementation plan ^{on all jobs not} 6(c) — put in FY 2001 — ~~not~~ (OK)

• Border Patrol ~~to~~ Upgrader (OK) — authorizing language to make sure appropriations have full effect — overtime reform

① INS draft layout + Cheat sheet

② ~~Send~~ to Fox to us or e-mail

③ Send to Deme

Mtg at DOS - 11/9/99

EOIR

OK to share systems

dotted line to EOIR from AAGI - ~~no~~ AAGI ~~and~~ - coordinate

Title

1/2 level of a bureau head

Bill seems OK

~~the~~ Clarifying language - all 3 AAGI,

AAGI - show GC, Policy under AAGI

Trial Lawyers - shld remain indpt of Bureau + ^{report to} GC
GC
Policy

Firewalls

SJL - Firewall

Audits - eliminate

AG, ICPMG

Transition + Capital Investment Fund

- Increase Govt Administration - ~~if~~ such funds necessary for transitional
 - ~~Part~~ as part of DOS -
 - ~~it~~ comes from
 - Add report shld include transition cost.
 - Establish T.F. - such funds
 - ~~no~~
- Capital Investment Fund

(2)

Reprogramming

Groups ~~needed~~ don't like 005 15 days - we

Irene Bueno

11/08/99 08:49:26 AM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Eric P. Liu/OPD/EOP

cc: Anna Richter/OPD/EOP

Subject: INS Restructuring Update

We had a conference call on Saturday with DOJ and INS Maria, Michael Deich and I were on the call for the WH and OMB. Here's where we stand:

Today, the AG plans to call Rogers and insist that the Democrats are involved in the negotiations before an agreement is made. This will accomplish two things - first, Rogers will need the Dems support to get this through as part of an CJS, omnibus or stand alone before Congress adjourns and we know that Rogers want a deal now. Dems (Reps. Sheila Jackson Lee, Berman, etc) and Senate side (Abraham and Kennedy) are feeling left out of the process and have issues that they want to push and will oppose any legislation if they do not have an opportunity to raise these issues. Second, there are some issues that the Dems and the immigrant advocacy groups are pushing that are important to us but that we need them to push on these issues (see below).

DOJ/ INS has marked up the substitute language and the AG is prepared to share that with Rogers if he agrees to include the Democrats in negotiations. If he does not, the back up plan is to consult with the Dems at every step of the way before making any final agreements. DOJ is scheduling briefings with the Dems and Kennedy and Abraham and we are having a conference call with the immigrant groups this afternoon (per earlier e-mail).

The Administration's bottomline issues on negotiations are:

- **Strong Associate Attorney for Immigration Affairs (AAGI)** - The Associate Attorney for Immigration Affairs (AAGI) must have the authority to "direct, supervise, and coordinate" the activities of the immigration services and enforcement bureaus to ensure that someone is held accountable. Currently, the Smith substitute language only allows the AAGI to "oversee the work of and supervise" the bureaus. The AAGI's authority is further undercut by language in the bill authorizing and giving more authority to the heads of the Enforcement and Immigration Services Bureaus (see below).

- **General Counsel and Policy** - the AAGI must have a Chief Counsel that "directs, supervises, and manages" the General Counsel offices in the Enforcement and Immigration Bureaus while at the same time allowing them to report to the head of the Bureaus. Currently, the substitute language only provides for "Legal Advisor" who only has authority to "coordinate and reconcile the resolution of legal issues" by the GC's in the Enforcement and Immigration Bureaus.

Similarly, the AAGI must have her/his own office of policy that "directs, supervises and manages" the policy offices of the immigration services and enforcement. Currently, the Chief policy person only has the authority to coordinate and resolves differences.

- **Staff Functions** - The AAGI must have her/his own office of congressional affairs, intergovernmental and public affairs. Currently, the bill only provides these offices in the AAGI for an 18 month transitional period until these offices can be established in the bureaus.

& community relations - need language.

Other important issues that the Dems, Abraham and groups are concerned about include:

- **Financing** - groups want to ensure that there is sufficient funding for transition and that immigration services bureau is sufficiently funded.

- **Title of the head of the immigration affairs** - The civil rights community is concerned that by making the head of immigration affairs an Associate Attorney General that this organization will be subordinate to the Assistant Attorney General for Civil Rights. Rogers and Smith are opposed to changing the title b/c they do not want to create a super INS. DOJ believes the Civil Rights division will have authority over the immigration organization. Nonetheless we would support efforts to change the title.

- **Inspections** - Immigrant advocacy groups want the inspections that occur at the ports of entry to be part of immigration services and not enforcement. These inspectors determine whether someone is eligible to apply for asylum and there have been some problems. Again, Rogers and Smith vehemently oppose the groups proposal so we will not push it but we will nonetheless support changes and INS is committed to better oversight of inspection decisions that does not necessarily require legislation and is more of an implementation issue (eg inspectors need supervisors approval before denying asylum request, etc.)

- **Moving the office of Executive Office of Immigration Review (EOIR)** - taking out of the office of AAGI to allow for more independence as provided under current law.

(a) Firewalls

(b) transitional funding

(c) backlog reduction fund

(e) reprogramming

INS Restructuring - ~~W/C~~ W/C

Patty

Smith has been difficult

met w/ STL & Berman separately - Dems upset w/ the process & not been able to push Berman feels engaged - ok - willing to make this happen STL - 309, upset about process & 70% of policy. Congress also aggressive.

Game the AG. 4 options

- Do nothing.

- Proceed more slowly - give ^{groups} Dems & Abraham to push Regs to what they want in the bill.

Bozell (Roger) is saying not on CJS - don't do anything w/out Dems. He wants to get it done but they are concerned w/ the price they pay for putting that ~~on~~ on Abraham - \$110 - Administration - 245 (C) - Price to set in omnibus. Loges & Gregg don't care about \$245 (C) b/c it's a \$100 million. Gregg wants ~~\$110~~ \$110 repeal.

Need to bring the Dems -

~~Bozell~~

Only 50% likelihood they will leave.

Can the negotiations be more trilateral ~~to~~ to include the Dems. Work through Regs -

Insist that Dems included
We can't guarantee Dems
Kennedy & Abraham - oppose

Want Admin to ~~bring~~ be the
Driver - Put them in the next room.

next steps
Hill

- ① insist that Dems in the room
- ② if not, Dems need to be next door - not agree to anything

④ AG will ~~call~~ call Rogue ^{diplomatic}
SJL - Maria & Allen = will meet w/ her. Robert Robert ^{mon} ^{ans.}
congress - & others Dems - brief them + update. Allen + Patty
Abram + Kennedy = Allen + Patty

Groups - Dems met w/ them on Tues
Conf Call Mon

NIF NSCC
NCLR
AIIA

• Sherry ~~AG~~ AG

• Financing

• Title = very symbolic - Civil Rights is Asst + Assoc AG
Rogue - concern of Super Commissioner (Bill Lawler)

• EOIR bring under Assoc AG = want separately as current Law
Rogue - bring EOIR in there helps - managed - groups are constant
w/ the independence. After the 1993

⑤ As a conference ^{call} - when things are, want them ~~to~~ include
to w/ meet w/ Doris = get their ~~own~~ bottom lines

- How far have been going on this ~~topic~~ financing =

- Dems will work this part of the deal. ~~the~~ Admin will support

Administrative =
Budget
market

(3)

Bottom
Line

- title = Don't have redundancy. Would CRD be ~~some~~ subordinated
if INS problem - ~~the~~ CRD could - example: US Marshall
don't need to go to Deputy ^(BL). Dems should fight + we will support
Mama will call Wade

Inspections - Don't it in ~~service~~ ~~Enforcement~~ - INS. Another fun
flowing. ~~BL~~ ^(BL) Enforcement + Logos + Smith would oppose
service, increased training, supervisors add language

Authority of AAG - AG needs someone in charge who is accountable + has the
authority + staff - CFO, G.C., Policy, Legal + Public Affairs
Direct + supervise ^{coordination} = Admin of the activities of the

BL = Only coordinate + conflict resolution - R + K = AAG
Bureau heads would be the lead on their activities
- AG thinks that we can resolve w/ Rogers but not w/ Smith
- Smith is upset about - public chge. presumption in NACORAT
+ would continue there under Admin proposal. Points all real
activity be in enforcement
- Coordinator ^{too} weak = example Drug Car
- Dems + Senate will insist on this.
- Jane will check + ~~Andy~~ Randy

Staff - ~~End most of the~~
Function Smith substitutable = policy office in the Attorney office

Organization Power - functions in real, create those offices in the Bureau.
- Issue is the strength + coordinate. OK if agency have those
activities ^{+ input to Bureau} but on long a AAG final decision
need sufficient staff - Legal, Public Affs
Policy + Strategy - need AAG + in Bureau = but clear overall
policy in one place. R + K = OK

(4)

- ~~Stat~~ Statistics = have policy officer + operational statisticians - analysis of long term - transfer the burden of annual report to OSS - not Bureau Smith - defect underlying w/ defect of legal many where INS put out this on first so decentralized the statisticians INS strongly supports = b/c statisticians need to be - would be a man

INS will recommend

Steve can work out.

General Counsel

can't bill - there is a GC in AAGI but only legal advisors.

INS Proposal:

Chief Counsel works for AAGI -

issue legal policy

more reg

high + low hold large

resolving our proposal

Bureaus - GC ~~not~~ reporting to bureaus then

Field Attorney - would not work

would be separate + report to Chief Counsel. Right

now work for GC. Small units in improvement.

~~work~~

have full strength

- Office of Patent Registry = OK
- Strong authority

Give Cordia something at beginning of the week + must give some

~~work~~

Don't give

Irene Bueno

11/05/99 06:34:52 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
bcc: Irene Bueno/OPD/EOP
Subject: Re: INS Restructuring Update & Conference Call 

(1) DOJ and INS would like to have a **conference call with us on Saturday, 11/6 at 1:30 pm** to give us and update and their recommendations for a bottomline on negotiations on INS restructuring. The phone number for the conference call is: 757-2104 code 1251.

Participants include:

DOJ

Steve Colgate
Therese McAuliff
James Castello
Patty First

INS

Doris Meissner
Allen Erenbaum
Cathy St. Denis

If I have not spoken to you and you want to be on the call, please let me know. Thanks.

(2) This evening, at the strong insistence of Rogers, Smith and Reyes, the AG is sending a letter to them expressing her hope that we can work with them and that the Smith substitute was a substantial forward. I sure the groups will be not thrilled with this but negotiations would be stalled unless the AG sent this letter. DOJ will be send me a signed copy.

(3) I have received calls from groups urging us not to compromise until Rogers and Smith agree to substantially strengthened (a) the position of Associate Attorney General for Immigration and (b) the financing provisions that (i) creates firewalls between services and enforcement bureaus; (ii) transitional funding, (iii) creates a backlog reduction fund; and (iv) assures appropriations for services.

Thanks.

Irene Bueno

Irene Bueno

11/05/99 11:31:56 AM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Marjorie Tarmey/WHO/EOP@EOP, Steven M. Mertens/OMB/EOP@EOP, Anna Richter/OPD/EOP@EOP,
Mark D. Magana/WHO/EOP@EOP
Subject: INS Restructuring Update

Here's update on INS Restructuring. I think that negotiations are very sensitive right now so this info should be **close hold**:

- As I indicated yesterday, Rogers, Smith and Reyes were upset about the DOJ views letter. DOJ just got a letter to the AG expressing this and have asked the AG to send a letter that is more conciliatory. DOJ is working on a draft response that they will send to us this letter.

- Assuming this response jump starts negotiations, we need to figure out what are our bottomlines. To that end, I would like to do a conference call this afternoon, Friday on this with DOJ. I'm not sure what time - I hope to hear back from DOJ on suggested times and we are trying to find out when Maria is available too since she is traveling.

- There is still hope we can do this year. Despite some press today, we have been speaking with the Senate and they are expected to approve legislation is there is an agreement.

Broderick/Mark - Patty has called Rep. Sheila Jackson Lee to schedule a meeting with her and Robert Raben but have not heard back. Patty also will send Leon the Rogers, Smith and Reyes letter.

Message Sent To:

Bruce N. Reed/OPD/EOP@EOP
Eric P. Liu/OPD/EOP@EOP
Maria Echaveste/WHO/EOP@EOP
Michael Deich/OMB/EOP@EOP
Broderick Johnson/WHO/EOP@EOP

Message Sent To:

Bruce N. Reed/OPD/EOP@EOP
Eric P. Liu/OPD/EOP@EOP
maria echaveste/who/eop@eop
michael deich/omb/eop@eop
broderick johnson/who/eop@eop

Message Copied To:

marjorie tarmey/who/eop@eop
steven m. mertens/omb/eop@eop
anna richter/opd/eop@eop
mark d. magana/who/eop@eop
Joel K. Wiginton/WHO/EOP@EOP
Leslie Bernstein/WHO/EOP@EOP