



Examinations Fee Account

Status of FY 1998 Enhancements (Dollars in Thousands)

Item: Claims	Received		Obligated		Percent Obligated
	Position	Amount	Position	Amount	
	...	\$5,210	...	\$4,079	78%

Accomplishments:

- At present, INS completed 95 percent of the development work for CLAIMS 4 supporting the Naturalization process. Testing of close-out of ceremonies is the only module remaining to be completed. INS has completed the development of a fingerprint scheduler that will schedule an applicant to the nearest ASC. This feature will ensure appropriate scheduling and improve workflow and production at ASCs. A Fingerprint tracking system was also developed that includes the automated capture of the masthead information for the FBI card in a 2D bar code format to ensure the integrity of the process and minimize errors and data entry costs.
- CLAIMS 4 has been deployed in all four Service Centers as well as the Chicago and Miami District Offices. While CLAIMS 4 is not yet performing optimally, software changes and capacity upgrades continue to be improve performance. INS expects to deploy CLAIMS 4 to the top 6 cities (Chicago, Miami, Los Angeles, San Francisco, New York City, and Newark) and their sub-offices by the end of FY 198. Sixty-four percent of the total workload will be processed through CLAIMS 4.
- INS has also continued its development of the Naturalization Web Page. Currently available is the ability to get information, forms, and take a civic and history self -test online. INS is getting an average of 20,000 visits and 6,100 self-tests a month on the Naturalization page. We also have NATZ news online which is a newsletter that describes ongoing activities.

Item: Records Centralization	Received		Obligated		Percent Obligated
	Position	Amount	Position	Amount	
	...	\$11,096	...	\$4,600	41%

Accomplishments:

- INS is fully prepared to implement the Records Centralization project. A notification was forwarded to Congress on November 6, 1997 and INS is awaiting Congressional approval on the location of the facility. Therefore, the vast majority of these resources (\$6.5 million) are held in abeyance awaiting congressional approval.
- Items funded include contract support for records cleanup in an offsite location (relocating specific and temporary records backlog and cleanup activities), Office of Naturalization data integrity and audit effort to support naturalization re-engineering and backlog reduction, targeted records backlogs initiatives in major districts, training and standard operating procedures revisions and implementation.
- Developed plans to utilize these resources to invest in efforts that promote the underlying goals of the RAPID Project. INS will invest in projects that address fundamental records problems that affect the Service as a whole rather than invest in piecemeal, temporary solutions at selected sites.

Item: Central Index System	Received		Obligated		Percent Obligated
	Position	Amount	Position	Amount	
	...	\$1,250	...	\$942	75%

Accomplishments:

- Resources have been allocated to enhance the Central Index System. In FY 1998, there is a total of \$2.6 million (\$1.3 million in base resources and \$1.3 million from FY 1998 program enhancements) available for CIS, as of April 30, \$1.6 million has been obligated.
- INS has improved its response time in CIS this year by streamlining soundex queries to provide response from 31 minutes to 31 seconds.

Item: Records Contract Support	Received		Obligated		Percent Obligated
	Position	Amount	Position	Amount	
	...	\$4,800	...	\$4,800	100%

Accomplishments:

- Records Contract Support (\$4,800,000) - resources have been allocated to provide funds for additional records contract support in seven locations in various INS District Office.

Item: Naturalization Ceremonies	Received		Obligated		Percent Obligated
	Position	Amount	Position	Amo	
	...	\$5,273	...	\$5,273	100%

Accomplishments:

- \$3.2 million has been allocated for oath ceremonies and \$2.1 million has been allocated for administrative ceremonies and other general expense items relating to the Naturalization process. A total of \$5.8 million has been obligated for these purposes.

Item: Fingerprint Requirements	Received		Obligated		Percent Obligated
	Position	Amount	Position	Amount	
Exams Account	130	\$67,000	...	\$40,000	60%
Salaries and Expenses	...	<u>16,800</u>	...	<u>*2,000</u>	12%
Subtotal	...	\$83,800	...	\$42,000	50%

* Final estimate for fingerprint machines is not complete as of today; however, INS projects \$13 million in obligations in the first week in August.

Accomplishments:

- INS has opened 68 freestanding Application Support Centers (ACS), 52 ASCs collocated within existing INS offices, and as of May 7, 1998, all 41 Designate Law Enforcement Agencies have signed and returned agreements to fingerprint applicants for the INS. The mobile routes are scheduled to be fully operational by the end of July 1998. These offices and mobile units along with 41 designated law enforcement agencies operating under sole source agreements with INS will take all fingerprints for all immigration benefits applications requiring a FBI background check. A \$25 application fee is being collected, since April, for fingerprint processing.
- INS has purchased 100 live scan fingerprint machines and intends to purchase approximately 300 additional machines off the GSA schedule. All 130 positions have been added to the INS' position tracking system (POST) and recruiting actions are under way.

Item: 400 Term Positions	Received		Obligated		Percent Obligated
	Position	Amount	Position	Amount	
	...	\$38,287	...	\$19,877	52%

Accomplishments:

- Term positions were provided to convert 400 temporary positions to term appointments to process naturalization and adjustment of status applications. Of the 400 term positions, 239 are on-board as of June 6, and 161 are in recruitment process. In addition, due to the

fact that position came on-board later than originally planned, approximately \$8 million of this amount was spent on temporary clerical support.

Item: Quality Assurance	Received		Obligated		Percent Obligated
	Position	Amount	Position	Amount	
	121	\$10,913	58	\$5,961	

Accomplishments:

- Quality Assurance - Resources were provided for quality assurance staff to oversee processing of naturalization applications and to provide for the continued audit of the procedures. Of the 121 positions, 60 positions have been deployed to the field, 3 positions to Regional Offices, 11 positions to Internal Audit (of which 5 positions are pending Congressional notification). The Office of Naturalization Operations will also receive 2 positions that are also pending Congressional notification. The remaining 47 positions for the field are being added to POST for recruitment action. Of the 58 positions on board, a portion of the positions have filled critical district adjudication officer positions needed to address the surge in applications and the remaining have been assigned to quality assurance initiatives.

Item: Direct Mail	Received		Obligated		Percent Obligated
	Position	Amount	Position	Amount	
	125	\$33,169	98	\$31,000	

Accomplishments:

- All 80 offices have been transitioned to Direct Mail for all new naturalization applications filed. All 125 positions have been added to INS' position tracking system (POST) and approximately 98 are on-board as of June. The remaining 27 positions are in the recruitment/hiring process.

Item: Overtime and Service Center Contract Support	Received		Obligated		Percent Obligated
	Position	Amount	Position	Amount	
	...	\$14,081	...	\$5,739	41%

Accomplishments:

- The \$14,081,000 for overtime and Service Center contract support to address naturalization backlogs and processing times has been allocated. Of that amount, \$5,738,690 has been obligated to date and plans are underway to utilize the remaining resources during the fourth quarter.
- Specifically, \$2,063,000 was allocated to buildout space and move files in Los Angeles, \$875,690 has been allocated to pay for detailees to support backlog reduction efforts in Arlington, Charlotte, Miami, New York City, San Jose, and San Francisco, and \$2,800,000 has been allocated to pay for overtime, contract support, and equipment for all district offices.

Item: Texas Service Center	Received		Obligated		Percent Obligated
	Position	Amount	Position	Amount	
	...	\$1,900	...	\$1,900	100%

Accomplishments:

- \$200,000 has been obligated by the Construction and Engineering program and the remaining \$1,700,000 to the Adjudication and Naturalization program for the expansion of the Texas Service Center purchase of computers, 2D bar code readers, other miscellaneous equipment and facility expansion.

Item: Revocations	Received		Obligated		Percent Obligated
	Position	Amount	Position	Amount	
	27	\$3,400	12	\$1,644	48%

Accomplishments:

- The Central Revocation Unit currently has 5 attorneys (detailed) located in Headquarters (CNN building) and 7 newly hired attorneys are on-board in field offices. The remaining 8 attorneys will be filled with Honor Graduates entering on duty at the end of the fiscal year.

- As of June 18, the Central Revocation Unit has finalized 3,968 of the approximately 6,300 cases referred from the various audits conducted by KPMG Peat Marwick, Justice Management Division, and INS. Notices of Intent to Revoke (NOIR) have been issued in 2,507 cases, and 1,461 cases are not legally sufficient to proceed with revocation.
- More than 1,400 responses have been received to date, and more than 650 hearings have been requested, with more than 100 having been held.
- The Revocation Unit has issued 45 final decisions, 6 cases affirming naturalization, 27 cases terminating administrative proceedings, and 13 cases revoking naturalization. Although policies and procedures for revocation hearings and final decision have been developed, our resources are currently devoted primarily to the issuance of NOIRs within the two year limitations period. We remain on target to issue all legally sufficient NOIRs in a timely manner.

	Received		Obligated		Percent Obligated
	Position	Amount	Position	Amount	
Total FY 1998 Enhancements	273	\$213,179	168	\$127,815	59%

FY 1999 Budget Proposal

Fixing the naturalization system is the agency's top priority, and our focus has been and will continue to be improving customer service while ensuring integrity in the system. We have made tremendous progress in the last year. Of particular note are the opening of new Application Support Centers, which will greatly reduce inconvenience to applicants of having to retake prints and shorten the turnaround time for completing FBI background checks. We have also deployed INS' Direct Mail process to all four Service Centers and all offices for all new naturalization applications filed. This allows applicants to send in their applications to one of the agency's four highly automated Service Centers rather than presenting that application in person. This allows the District Offices to focus their resources on adjudicating applications and conducting interviews. Direct mail also allows INS to pre-process the naturalization applications at one site, using standardized, quality controlled procedures. Also, we have installed the new CLAIMS 4.0 software in our key Service Centers and key District's to process new naturalization applications. This will ensure consistency and include checks and balances that prevent applications from moving forward before all steps have been completed, including FBI background checks. And finally, we have implemented and continue to follow the Quality Assurance practices and procedures (NQP3) that were instituted in FY 1997. INS completed its training and continues to ensure its full implementation. These changes have laid the groundwork for INS to deliver better service to its customers.

However, despite these efforts and our recent infusion of resources in the Exams Fee account, the Service-side of INS remains under funded and is continuously out paced by the tremendous growth we have experienced in the past few years. We want not only to handle this growth, but to excel at it. This package requests \$222 million in additional resources (both Exams Fee account and Salaries and Expenses Appropriation) that will allow us to face the challenges we are experiencing on the Service-side. The initiatives range in scope from backlog reduction, to infrastructure requirements, to bringing our information and application systems into a more modern age.

At present, the Exams Fee account receipts will not cover this aggressive level of program enhancements. The Fee account does not have the additional funding or the flexibility in using available receipts to meet these demands. We are at a crossroads. We can continue to make incremental changes as receipts become available, or we can request a combination of receipts and appropriated resource to bring these issues to the forefront and take a more proactive approach to address the Service-side issues-- Aggressive Backlog reduction in both Naturalization and Adjustment of Status applications, Improved Customer Service, and Modernized access and use of information whether its obtaining status information or utilizing that information to adjudicate applications for benefits.

WHY THE FEE ACCOUNT CANNOT SUPPORT THIS LEVEL OF ACTIVITY:

Proposed New Fees: As you know, after conducting an extensive study of our fee structure, INS knows the fees we are collecting do not cover the real cost of doing business. Our fees have not increased in over four years despite the increase in the cost of processing immigrant benefit application and petitions. The cost of processing immigration adjudication and naturalization applications and petitions has risen primarily because of salary and benefit increases (increased by 9 percent alone in the past three years), price increases for general expense and support cost, and the cost of infrastructure and program improvements. We have a proposal to correct that situation; however, that proposal will only cover the cost of new applications received after the new fees are in place, it does not cover the over 1 million pending applications that have already been collected that are short in some cases by 50 percent of the required costs.

Re-direction of INS' 245 (I) Penalty Fee- Recent amendments to section 245(I) of the Immigration and Nationality Act re-directed the penalty revenue received from 245 (I) applicants to be deposited into the Breached Bond Detention Fund and be made available for detention and deportation activities, resulting in a loss of almost \$160 million from penalty fees in FY 1998, and potentially another \$100 million in FY 1999.

Legislatively Mandated Expenditures- The available resources in the Exams Fee account are also limited because the cost of programs, like asylum and refugee services, are provided free of charge to applicants. Also, over the years, Congress has moved program that were previously funded by appropriated resources, into the Exams Fee account, thereby further constraining the Exam Fee account's flexibility. In total, INS funds over \$130 million in Legislatively mandated non-revenue generating programs.

Exams Fee Account Base- In response to Congressional direction, INS performed a detailed review of the Exams Fee account to reallocate \$38.1 million in base resources for additional Naturalization spending. The review focused on FY 1998 spending for all programs funded in the Exams Fee account, including the Inspections and International Affairs programs. INS has and continues to move in the direction of ensuring that the most critical activities are funded with the available resources and the base is accounted for.

Requested Increases

	Position	Amount
Item: Staffing Backlog		
Adjudications and Naturalization		
Naturalization	300	\$26,009
Adjustment of Status	190	10,571
245 (I) Clean-up & Centralized	...	
Address Change at SCs.		3,200
Clerical Support (Natz and Adj.	...	7,500
Of Status)	...	
Overtime		6,850
Oaths		2,401
Reprint expired fingerprints		2,225
IRM		790
Total	490	\$59,546

- Taking the time to understand and work with the community, as well as giving each customer the time and attention he or she deserves is in large part a function of having the right number of staff and the right staff to do the job. Backlog reduction, however, is not an overnight process. Personnel resources, other than overtime funding, require recruiting, hiring, security clearances, and training before they have an effect on pending caseload. Therefore, we must act now in securing additional resource to address the backlog in applications. INS currently lacks sufficient staff dedicated to service functions. Adjudicators are needed to examine the applications and administrative staff is needed to provide clerical help and answer incoming calls. The huge rise in applicants has not been matched by a concurrent increase in staff to process their paperwork and interview them. This has not only contributed to longer waiting times, but it has also consumed the time and attention of staff, making it harder for them to give each customer the quality of service they deserve.
- The addition of 490 officers to augment current staff assigned to naturalization and adjustment processing will be sufficient to reduce the backlog to six and five months, respectively, by the end of FY 2000. The assumption is based on the funding availability as of November 1998, new staff on board by April and fully productive by June 1, 1999, at 12 completions per day per officer for naturalization and 8 completions per day for adjustments. This production level is based on the assumption of full staffing of current personnel assigned to adjustment processing, and continuation of present receipt levels. In addition, several efforts are in place to increase INS efficiency through automation, standardization of quality procedures, which will minimize case deferrals, and better use of statistical data as a production management tool. The new staff in conjunction with improved processing procedures will result in meeting the processing time goal for FY 2000.

- In addition, there are specific Information Resource Technology (IRM) requirements for the following: Specialized extracts and Pic lists automation (\$250,000); special processing in ASC for backlog fingerprint cases (\$300,000), specialized application training for new staff (600 staff--\$240,000).

Item: Service Centers	Position	Amount
Adjudications and Naturalization Service Centers		
IRM	...	\$3,200
	...	145
Total	...	\$3,345

- This item will allow INS to reduce the number of pending applications from the current 870,000 to 450,000 by the end of third quarter FY 1999 (June 30, 1999). It also provides specific IRM enhancements for special processing and synchronization of cases in C3/RNACS.

Item: Direct Mail - Final Phase	Position	Amount
Facilities	...	\$12,000
INS Staff	164	11,508
Contract Staff	...	6,000
IRM	...	16,212
Remaining Office deployment that need high end TIP	...	9,250
Total	164	\$54,970

- At the end of FY 1999, Direct Mail infrastructure requirements will be completed. These resources will allow INS to move other than N-400 forms, refugee Asylum 485s, EADs and NACARA applications into the Direct Mail process. In addition, IRM will deploy CLAIMS 4 to all adjudicators and 10 percent of clerical support. Other IRM enhancements include: hardware, software, Central Repository Backup System, SMS Server upgrade, upgrade of tape for MRD, upgrade/expand INSDIRECT System to support increase in active cases.

Item: Comprehensive Telephone Center	Position	Amount
Telephone Center	122	\$31,450
Total	122	\$31,450

- In addition to strengthening the way we handle the information that related to our customers internally, we have begun to create better ways of communicating with them externally. We want to make sure that people do not have to come to an INS office every time they need information. Although we have made some improvements in our phone systems, it is still not good enough, particularly in the Western part of the country. We have given our customers the option of telephoning a centralized information office or using the Internet to get basic facts and forms, but both our Western Phone Center and our Web site need to be improved.
- In 1996, INS created two Phone Centers where customers can call for answers on eligibility for benefits, application procedures and individual case status. The Eastern Phone Center enables people for the first time to call INS toll free 24 hours a day for recorded messages and from 8-6 for personal assistance. In FY 1998, we planned to made the same toll-free service available to our customers in the West, but had to reduce the funding we had set aside for that due to priority issues in Naturalization application processing.
- We carefully monitor our performance at each of these centers because we want to deliver service on par with industry standards. The industry standard is to answer calls within 45 seconds. We are close in the Contract Phone Center (Baltimore) at 1 minute but the Eastern Phone Center at 6 minutes, and the Western Phone Center remains at 10 minutes. Similarly, the average industry standards for those caller who hang up before their call is answered is 2 percent, we are currently at 4 percent in the Contract Phone Center, 24 percent in Eastern Phone Center and 53 percent in the Western Phone Center.
- This initiative includes 10 management staff, 112 information officers, and 274 contract customer service representatives. This fully functional nationwide phone system (1-800) is estimated to be able to handle 15 million calls per year to bring us to industry standards--less than 1 percent busy rate and a wait time of less than 1 minute.

Item: Improve Records Program	Position	Amount
	Records Program	...
Total	...	\$13,500

- INS is in the process of centralizing all of INS' records (over 25 million files located in 80 different offices), so that we can improve the way we handle customer's case information.
- In November we asked Congress to approve a comprehensive plan to move our paper records out of file rooms into a central facility where they will be reconciled with information in our automated computer databases. This will allow INS to rely more on electronic data available. Outdated, decentralized record keeping is the reason for lost files--a problem that creates delays for people at the beginning and end of the application process. For example, if we can't find a naturalization applicant's permanent file, our Service Center must wait three months before creating a temporary file and moving the application forward. If the permanent file is never found, that person's case must be reviewed by a supervisor before it is granted--an extra step that can further slow the case.
- Whether or not we centralize, resources in records will be required to invest in the field offices to implement new and standardized procedures, a revised management structure, and an oversight program. Part of the resources requested will provide the equipment and training required to implement these.
- Additional changes will need to be made to the current records locations in the areas of the mailrooms, new shelving and auditing supplies, and other capital assets that will be required by the changes in our customer operations because of backlog reduction and full Direct Mail implementation.
- Finally, we will be targetting specific records backlogs in the field that are part of the Naturalization casework backlog such as overdue files requests, resolution of lost files, and closing out of cases.

Item: Customer Service	Position	Amount
Customer Service	...	\$3,000
Total	...	\$3,000

- A plan for instituting a customized, service-wide Customer Service Training has been developed. The training programs described in the plan have been piloted in several field sites. These pilots have taught us a great deal about the criteria that will be required in order to make a positive, service-focused change in our culture. The following are the three criteria.
- Make the term “customer service” meaningful for each INS employee regardless of job function. Many employees do not see a practical connection between their work and customer service. Because of this, they tend to view leadership’s vision as platitudes.
- Use customer service as an organizing principle as INS moves toward significant changes in its organizational structure.
- Establish a strategic, long-term service improvement program that factors in all levels of the organization. Involve top leadership in a structure to ensure coordination of all service improvement efforts. This recognizes that customer service is not relegated to a buffer group, but that it is integral to the way our business is run.

Item: Claims 4 Development- Non-Naturalization Applications	Position	Amount
Claims 4	...	\$15,410
Total	...	\$15,410

- Begin installing a new computer database and tracking system, called CLAIMS 4, that will allow our offices to share individual case information and enable our staff and our customers to quickly check the status of cases. It will also help strengthen our quality assurance process by ensuring that cases move forward only when each step in the application process is appropriately completed.

Item: Quality Assurance	Position	Amount
Quality Assurance	58	\$9,070
Total	58	\$9,070

- **Positions:** The FY 1999 enhancements will allow INS to fully implement quality assurance within the Naturalization process and expand coverage to the Service's other benefits programs. Initial emphasis will be directed to the Adjustment of Status process and records.
- **Information Systems Modifications:** Some quality assurance functions can be performed more productively through the use of automation to identify populations, determine samples, develop processes to identify errors for correction, compile results, and analyze data for assessment. During FY 1999, INS will identify the requirements and design, develop, test, and field modifications to CLAIMS 4.0 to automate these functions. In addition, INS will identify current and proposed information systems used in the functions for which quality assurance procedures and instruments will be developed in the out years, to begin systems planning and development of quality assurance functions.
- **Contract Support:** Continued contractor participation in monitoring Naturalization Quality Assurance and expand coverage into other benefits functions.
- **Travel:** To support the general travel required for the requested staff.

Item: ICPS	Position	Amount
Out source EAD Card Production		\$2,400
Out source INS ICPS Staff		2,400
Overtime for Card Production (SC)		100
Total	...	\$4,900

- In order to meet Employment Authorization Document (EAD) demand, it would be more efficient and effective for the government to outsource card production to a contractor. INS would provide the consumables and the task order for the contractor to produce the card on an ICPS card production machine. Monthly card production estimates would be 140,000 cards and a cost/benefit analysis has already been commissioned by INS.

- Overtime needs for ICPS operation will be great. It is estimated that the annual cost of overtime will be \$144,000 or half year cost of \$75,000.
- Currently, INS is dedicating 27 FTE's to the ICPS program. Under the current proposal, the service centers would need a total of 15 FTE-P's and 48 FTE-O's, four lead operators and 12 operators at each center to run a 24 hour shift, 7 days a week.

Item: Decentralize District Office Facilities based on ASC locations	Position	Amount
Two Pilots	...	\$800
Total	...	\$800

- In an effort to improve customer service, INS is redesigning the way services are provided to its customers. INS will take advantage of new technologies and economies of scale, and move much of the applications processing and provision of customer information to large, centralized facilities where service can be provided more quickly, cheaply, and in a standardized fashion. This will allow INS to change the role of the field offices from having to provide all support services (i.e. records maintenance, application data entry) to focusing on customer services that require face-to-face meetings or outreach. Building on the success of the application support centers, INS will move towards placing large numbers of smaller offices in close proximity to our customers. These funds will pay for contract support to design the process flow and layout of these smaller offices in order to provide service as quickly and efficiently as possible while standardizing the look and feel of future field offices. In addition, the funds will pay for the buildout and rent for two pilot offices.
- INS wants to develop "Immigration Services" offices that will provide a range of services from fingerprinting to interview to testing. Depending on community needs, some offices may be configured as full-service centers and others will serve as satellite locations to perform specific functions. Like the application support centers, these offices will be located in immigrant communities, where public transportation and parking is accessible. Each is being designed with standard, customer-friendly features, like comfortable waiting areas, clear signage and some evening and weekend hours.

Item: Field Office ADP Support	Position	Amount
	ADP Support	...
Total	...	\$12,870

- Increase field Office ADP support to average office support of less than 1:60 (52 ADP staff). Specifically for large offices, a 1:60 and Service Centers (12 per Service Center). This support will provide onsite help desk services, network administration, local systems backups, and troubleshooting. This will allow the offices to keep pace with the additional automation that has been provided to the field in support of a more modernized application and adjudication process.

Item: Re-engineering Business Process of Other Applications	Position	Amount
	Naturalization Testing	...
N-400 Production	...	1,200
N-400	...	2,000
Total	...	\$8,200

- INS will establish an interagency agreement with the Department of Justice to provide contractor support for INS' efforts to re-engineer all benefit applications, and continue KPMG reviews. INS used this method to re-engineer the Naturalization process in FY 1998. The continuation of this project will provide for standardization of operating systems, methods, and tools to complete all adjudication application processes.
- The contractor will be required to examine program organization, facilities issues, information and computer technology, organizational culture, external and internal communications, and the management structure. This will enable a new process and realize benefits through integrated project coordination and management to address the wide range of implementation issues. This process will enhance integrity, streamline processes, reduce paperwork, and improve customer service.

Item: Revocation	Position	Amount
Legal Proceedings		
Examiners	20	\$1,900
Investigators	19	2,451
Contract Interpreters	...	188
Total	39	\$4,539

- As of June 8, 1998, the central revocation unit has finalized 3,968 of the approximately 6,300 cases referred from the various audits conducted by KPMG Peat Marwick, Justice Management Division, and INS. NOIR's have been issued in 2,507 cases, and 1,461 cases are not legally sufficient to proceed with revocation. More than 1,400 responses have been received to date, and more than 650 hearings have been requested, with more than 100 having been held. The central revocation unit has issued forty-six final decisions, six cases affirming naturalization, twenty-seven cases terminating administrative proceedings, and thirteen cases revoking naturalization. Although policies and procedures for revocation hearings and final decisions have been developed, our resources are currently devoted primarily to the issuance of NOIR's within the two year limitations period. We remain on target to issue all legally sufficient NOIR's in a timely manner.
- An additional 20 examiners will be deployed to those districts with the largest revocation caseload. Personnel already designated and trained in revocation will remain as the full-time revocation examiners as there is inadequate resources and time to retrain new personnel. These examiners must be assigned full-time for revocation cases, whether on detail or back in their home district.
- Also, 19 investigators will be required in those districts where the revocation caseload is the greatest. These investigators will be responsible for coordinating service of NOIR backlogs in the district, and working with exams and counsel to ensure that all necessary follow-up investigation is performed on all revocation cases, whether at the administrative or judicial revocation phase.
- In many cases, interpreters will be necessary to hold a meaningful hearing in a revocation case. Service personnel are often not able to adequately perform this function in an independent manner. Thus, it is necessary to contract with professional organizations to provide interpreters as necessary. An estimate of the need for interpreters indicates that as many as 750 cases may require their services.

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	Position	Amount
GRAND TOTAL	873	\$221,600

**Immigration and Naturalization Service
FY 1999 Budget Package
(Dollars in Thousands)**

Assumption I:

-- New Fees implemented on
October 1, 1998

Examinations Fee Account--

-- Available Resources	\$57,000-\$97,000*
--Projected Obligations	\$57,000-\$97,000

Appropriated Resources--

Salaries and Expenses	\$164,600-\$124,600
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Total Reproramming Request **\$221,600**

Assumption II:

-- New Fees implemented on
November 1, 1998, loss of \$55,000

Examinations Fee Account--

-- Available Resources	\$1,600-\$41,600
--Projected Obligations	\$1,600-\$41,600

Appropriated Resources--

Salaries and Expenses	\$222,000-\$180,000
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Total Reproramming Request **\$221,600**

Assumption III:

-- New Fees implemented on
December 1, 1998, loss of \$83,000

Examinations Fee Account--

-- Available Resources	\$-26,000 - \$14,000
Note: General base reduction due to delay in new fees and preliminary indication of a reduction in Naturalization applicants	
--Projected Obligations	\$-26,000 - \$14,000

Appropriated Resources--

Salaries and Expenses	\$247,600-\$207,600
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Total Reproramming Request **\$247,600**

* NOTE: Range is based on early indications that Naturalization applications receipts may be lower than anticipated for FY 1998 and FY 1999.

June 24, 1998

**Immigration and Naturalization Service
Examinations Fee Account
FY 1999 Reprogramming Requirements
(Dollars in Thousands)**

What they need above current (in FY 99 budget) (include \$26 million enhancements in budget)

Item	Pos	Amount
Staffing Backlog		
Adjudication and Naturalization		
Naturalization	300	\$26,009
Adjustment of Status	190	10,571
Clerical Support (Natz and Adj of Status)		7,500
Overtime		6,850
Oaths		2,401
Clean-up and Address Correction		3,200
Reprint expired fingerprint		2,225
IRM		790
Subtotal	490	59,546
Service Centers		
Service Centers	...	3,200
IRM	...	145
Subtotal	...	3,345
Direct Mail - Final Phase		
Facilities	...	12,000
INS Staff	164	11,508
Contract Staff	...	6,000
IRM	...	16,212
Remaining Office deployment that need high end TIP	...	9,250
Subtotal	164	54,970
Comprehensive Telephone Center		
Telephone Center	122	31,450
Improve Records Program		
Records Program	...	13,500
Customer Service		
Customer Service	...	3,000
Claims 4 Development - Non-Naturalization Applications		
Claims 4	...	15,410
Quality Assurance		
Quality Assurance	58	9,070
ICPS		
Out source EAD Card Production	...	2,400
Out source INS ICPS Staff	...	2,400
Overtime for Card Production (Service Center)	...	100
Subtotal	...	4,900
Decentralize District Office Facilities based on ASC Locations		
Out source EAD Card production	...	800
Field Office ADP Support		
ADP Support	...	12,870
Re-engineering Business Process of Other Applications		
Naturalization Testing	...	5,000
N-400 Production	...	1,200
N-400	...	2,000
Subtotal	...	8,200
Revocation		
Staff	39	4,539
Total	873	221,600

Revised: June 10, 1998; based on March 18, 1998 Fee Projection Group Meeting

EXAMS FEE ACCOUNT PROJECTED BALANCES
FYs 1996, 1997, 1998 and 1999
(DOLLARS IN MILLIONS)

Administratively Confidential

New Fees: October 1998

	FY 1997	FY 1998	FY 1999	FY 2000
	Actual	Projected *	Projected	Projected
Carryover Balance: Regular Exams	238.9	228.0	0.0	49.5
Carryover Balance: Land Border	13.1	23.0	18.9	15.3
Receipt Projections:				
Regular Exams Receipts: 1/				
Naturalization		162.5	351.3	351.3
Other Adjudications		290.4	452.4	458.4
245(i)**		39.8	45.8	45.6
Proposed Fingerprint Surcharge 1/		40.8	56.2	56.2
Subtotal	\$630.6	\$333.5	\$905.7	\$911.5
Fees for Services Receipts:				
Fees for Services		19.7	19.1	19.1
New Fees:				
CIPRIS				7.8
NACARA				12
Subtotal	\$0.0	\$0.0	\$0.0	\$19.8
Recovery of Prior Year Obligations	11.9	5.7		
Total Resources Available	\$881.4	\$809.9	\$943.7	\$1,015.2
Obligations				
Exams Account	\$487.0	\$547.7	\$561.3	\$566.3
Fee for Services (Includes NIIS Reprog.)		\$23.8	\$22.6	\$17.2
Conference Agreement for FY97 Budget: (Transfers funding from VCRTF to Exams Fee)				
Asylum Processing	\$29.6			
Automation/Infrastructure for Exams Programs	\$26.9			
FY 1997 First Reprogramming (app'd 2/97)	\$48.7	\$19.7		
FY 1997 First Reprogramming (App'd 2/97) Adjustment for First Reprogramming based on Congressional Action		(\$1.8)		
FY 1997 OIG Reprogramming	\$4.0	\$3.7	\$3.7	\$3.7
FY 1997 Second Reprogramming	\$34.3			
Subtotal, Base Resources		\$593.1	\$587.6	\$587.2
Annualization of Approved Reprogramming		\$34.3	\$0.0	\$0.0
DOJ Oversight		\$5.0	\$0.0	\$0.0
Total, Base Obligations		\$632.4	\$587.6	\$587.2
Congressional Action on FY 1998 Budget:				
Program Increases		\$196.1	\$205.3	\$205.3
Base Reductions		(\$1.9)		
Base Realignment		(\$38.1)	(\$38.1)	(\$38.1)
FY 1998 Reprogramming - OIG		\$2.5		
Total, Congressional Action		\$158.6	\$167.2	\$167.2
FY 1999 Preliminary Reprogramming			\$97.6	\$84.6
FY 1999 Budget Request			\$26.5	\$26.5
Total Estimated Obligations	\$630.5	\$791.0	\$878.9	\$865.5
				\$66.6
Carryforward	\$250.9	\$18.9	\$64.8	\$83.1

*Source for revenue projection: The fee group projections of March 18, 1998

**Assumes \$130 application fee and \$75 of \$1,000 penalty fee to cover costs of processing 24' application after Jan. 1, 1997 (H.R. 2202) (General Counsel's legal opinion dated 1/14/97)

^Source: SF-133 Report on Budget Execution (9/30/97).

/1 Assumes that the new fees go into effect on October 1998. Also assumes that a \$25.0 surcharge for fingerprinting process in April 1998 for benefit applications.

/2 The obligations for FY 1998 congressionally approved FY 1998 budget requests and reprogramming items

/3 Assumes the continuation of 245(i) for eligible applicants who have apps pending for (I-130) by Jan. 14, 1998.

FY 1998 EXAMS FEE ACCOUNT OBLIGATIONS
(DOLLARS IN THOUSANDS)

FY 1998 TOTAL OBLIGATIONS: \$785.3

MINUS CONGRESSIONAL MANDATES:

International Affairs	-74.7
Cuban Haitian Entrance Program	-10.2
Data and Communications	-29.6
DOJ Oversight	-5.0
Inspector General	<u>-3.7</u>
Subtotal Congressional Mandates	-123.2

REMAINDER \$662.1

MINUS ENHANCEMENTS:

Adjudications	-126.3
Data and Communications	-10.7
Info and Records	-57.8
Construction and Engineering	-0.2
Management and Administration	<u>-1.1</u>
Subtotal Enhancements	-196.1

REMAINDER \$466.0

MINUS ADJUDICATIONS:

Adjudications	-277.6
Information and Records Management	<u>-99.5</u>
Subtotal	-377.1

REMAINDER \$88.9

OTHER SUPPORTING PROGRAMS:

Management and Administration	-8.2
Data and Communications	-42.0
Legal Proceedings	-6.8
Inspections	-17.5
Investigations	-9.6
Intelligence	-1.1
Construction and Engineering	-0.4
Training	<u>-3.3</u>
Subtotal	-88.9

REMAINDER \$0

all underfunded



Status of Examinations Fee Account

Exams Fee Account Review--

INS performed a detailed review of the Exams Fee Account to comply with the Congressional mandate to redirect five percent of the account's base budget toward the naturalization initiatives. The Exams Fee account review resulted in a \$38.1 million base reallocation. The review focused on FY 1998 spending for all programs to ensure that resources were available to continue with the improvements in the Naturalization program, to continue with the Service-wide records centralization project, and to provide the required funding for the fingerprint program. A Congressional notification of the base reallocation is currently being prepared by the Department of Justice.

Revenue Received as of April 30, 1998--

As of April 30, the Exams Fee Account has collected a total of \$271 million in application fees, of which \$158,656 is from fees charged for fingerprint processing. The revenue collected to date is 49 percent of the current \$513.4 million projection. The following is an explanation of legislative changes and impact of delayed fee implementation on the Exams Fee account.

- **Legislative changes for 245(i)** - Section 245(i) of the INA allowed aliens who have a current immigration visa number, but who are unlawfully in the United States to remain and adjust their status on payment of a \$1,000 penalty. This section of law was terminated on January 14, 1997, except for those aliens whose sponsors have filed an immigrant visa petition with INS, or an application for labor certification in accordance with Department of Labor regulations. This change decreased the projected volume of applications by 14 percent from FY 1997 to FY 1998 to a total of 214,575.
- **Delayed Implementation of New Fees** - The projected level of resources (\$513.4 million) for the Exams Fee account has already been reduced by approximately \$57.4 million based on the revised schedule for the implementation of new fees compared to the November 1997 estimate when fees were expected to be implemented by August 1, 1998. If the implementation of new fees are not



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effective at the beginning of FY 1999, it will have the following impact on the Exams Fee account:

- **Implementation of new fees in October** - The revenue collected will provide additional resources that will allow INS to reprogram \$97.6 million to address backlog reduction in naturalization applications.
- **Implementation of new fees in November** - The revenue collected will be reduced by \$55.4 million, a 7 percent decrease in revenue from the projected level if the new fees were implemented in October. The Exams Account will have to reallocate base resources even further to cover the revenue shortfall, or reduce the amount of resources planned in the FY 1999 reprogramming request for improvements in the processing of naturalization applications.
- **Implementation of new fees in December** - There will be an \$83 million reduction in revenue received, a 9 percent decrease in revenue from the projected level if new fees are implemented in October. This level of funding would eliminate the possibility of requesting a FY 1999 reprogramming request for reducing the backlog in naturalization applications, and reaching a 10 month processing goal.
- **Implementation of new fees in January** - A decrease of \$110.7 million, a 13 percent loss of revenue from the current projected level if the new fees are not implemented until January 1999. The Exams Fee account would not have the \$97.6 million currently projected in FY 1999 for a reprogramming to address backlog reduction in naturalization applications. In order to provide funds to address backlog reduction, and the FY 1999 budget request, a base reallocation of \$89.6 million would be required. A loss of revenue of this amount, would halt the progress that INS has made in improving the naturalization process and result in a large number of terminations for temporary employees and would eliminate any possibility for INS to reach a 10 month goal for processing naturalization applications.



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FY 1998 Appropriation--

The FY 1998 Appropriation provided an increase of \$196.1 million in the Exams Fee account to address naturalization initiatives. The status of these initiatives is listed below:

- CLAIMS System (\$5,210,000) - Software development is mostly complete and CLAIMS 4.0 is being piloted at the Nebraska Service Center and the Chicago District Office. While CLAIMS 4.0 is not yet performing optimally in either pilot, software changes continue to improve. Simultaneous, CLAIMS IV has been deployed to Texas and California Service Centers, they are processing some applications through CLAIMS 4.0. INS expects to deploy CLAIMS 4.0 to the top 6 cities (Chicago, Miami, Los Angeles, San Francisco, New York City, and Newark) and their sub-offices by the end of FY 1998. Sixty-five percent of their workload will be processed through CLAIMS 4.0.
- Records Centralization (\$11,096,000) - INS is fully prepared to implement this project. A notification was forwarded to congress on November 6, 1997 and INS is awaiting Congressional approval on the location of the facility. Therefore, the vast majority of these resources (\$9.1 million) are held in abeyance awaiting congressional approval. However, plans are underway to utilize these resources to invest in efforts that promote the underlying goals of the RAPID Project. INS will invest in projects that address fundamental records problems that affect the Service as a whole rather than invest in piecemeal, temporary solutions at selected sites.
- Central Index System (\$1,250,000) - resources have been allocated to enhance the Central Index System. IN FY 1998, there is a total of \$2.6 million (\$1.3 million in base resources and \$1.3 million from FY 1998 program enhancements) available for CIS, as of April 30, \$1.6 million has been obligated.
- Records Contract Support (\$4,800,000) - resources has been allocated to provide funds for additional records contract support in district offices and the proportionate amount of obligations should be occurring throughout the year. As of April 30, \$2.2 million has been obligated.



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- Naturalization Ceremonies (\$5,273,000) - \$3.2 million has been allocated for oath ceremonies and \$2.1 million has been allocated for administrative ceremonies, of which \$300,000 has been obligated. A total of \$5.8 million has been obligated for oath ceremonies as of April 30, this amount includes FY 1998 program enhancements and base resources.
- Fingerprint Requirements (130 positions and \$67,000,000) - 75 Application Support Centers (ACS), 51 ASCs co-located within existing INS offices, 44 mobile routes, and 38 designated law enforcement agencies operating under sole source agreements with INS will take all fingerprints for all immigration benefits applications requiring a FBI background check. A \$25 application fee is being collected for fingerprint processing. INS has purchased 100 live scan fingerprint machines and intends to purchase approximately 300 additional machines, once a cost benefit analysis of vendors is complete. All 130 positions have been added to the POST system and recruiting actions are under way.
- 400 Term Positions (\$38,287,000) - Term positions were provided to convert 400 temporary positions to term appointments to process naturalization and adjustment of status applications. Of the 400 term positions, 213 are on-board as of May 12, 32 selected and 54 are in recruitment process.
- Quality Assurance (121 positions and \$10,913,000) - Resources were provided for quality assurance staff to oversee processing of naturalization applications and to provide for the continued audit of the procedures. Of the 121 positions, 60 positions have been deployed to the field, 3 positions to Regional Offices, 11 positions to Internal Audit. The remaining 47 positions are being added to POST for recruitment action. Five positions in Internal Audit and 2 positions in the Office of Naturalization Operations are pending Congressional notification.
- Direct Mail (125 positions and \$33,169,000) - All 80 offices have been transitioned to Direct Mail for all new naturalization applications filed. All 125 positions have been added to POST and 85 are on-board as of April 30. The remaining 40 positions are in the recruitment/hiring process.



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- \$14,081,000 for overtime and Service Center contract support to address naturalization backlogs and processing times has been allocated. Only \$1.3 million has been obligated as of April 30; however, there are plans currently being developed to allocate the remaining resources to the field.
- Texas Service Center (\$1,900,000) - \$200,000 has been allocated to the Construction and Engineering program and the remaining \$1,700,000 to the Adjudication and Naturalization program for the expansion of the Texas Service Center. As of April 30, \$1.3 million been obligated for computers, 2D bar code readers, other miscellaneous equipment and facility expansion.

Based on current receipt and planned expenditures carryover into FY 1999 is expected to be minimal. The only known item for which we do not expect to obligate all of the available funding in FY 1998 is the FBI fingerprint reimbursement. As a result of electronically submitting prints to the FBI we anticipate savings in the range of \$8 - \$10 million, part of which will be used to fund DFS refunds and costs of the Kentucky ICPS facility.

FY 1998 EXAMS FEE ACCOUNT BUDGET
(DOLLARS IN THOUSANDS)

MANDATORIES:	\$60.5
Rent	
FTS-Voice	
FTS-Data	
Postage	
Payroll System	
Accident Compensation	
Unemployment Benefits Billings	
SET-ASIDES:	34.5
Repairs and Alterations	
Employee Relocations	
Personnel Security Re-investigations/Background investigations	
Labor-Management Partnership Activities	
EEO Complaint investigations	
Medical Examinations for new employees	
Office Moves	
INS Forms	
Occupational Health and Safety Program	
Overseas Rotation	
Recruitment	
Furniture	
Computer Workstations	
Department of State Overseas Medial Examinations	
Basic Officer training and Journeyman officer training	
Drug Free Workplace Program	
Employee Assistance Program	
RECURRING:	13.7
Leases (Copiers, storage, non-GSA buildings, Overseas housing contracts, tank rentals, repeaters)	
Utilities, Commercial telephone	
Messenger/Guard and Armored Car Services	
maintenance (equipment, copiers, phones, misc.)	
Overseas tuition assistance/home leave	
Vehicle Insurance	
Boats/Planes/Vehicle Parking/ Storage	
Firing Range	
PERSONNEL SALARIES & BENEFITS:	287.2
GENERAL EXPENSES:	227.2
SPENDING PLAN ITEMS:	162.2
TOTAL FY 1998 BUDGET:	\$785.3

June 25, 1998

**FY 1998 EXAMS FEE ACCOUNT ALLOCATIONS BY CATEGORY
(DOLLARS IN THOUSANDS)**

Program	Mandatory	Set Asides	Recurrings	PS&B	General Expense	Spending Plan Items	Total
Inspections	481	163	588	15,615	3,615	175	20,637
Investigations	1,269	395	6	7,751	197		9,618
Intelligence	70	55	...	840	80	75	1,120
Adjudication and Natz.	36,622	21,385	9,899	166,242	96,309	71,476	401,933
International Affairs	6,421	790	1,071	42,743	29,075	5,064	85,164
Training	70	33	...	1,630	1,581	...	3,314
Data and Communications	2,676	7,091	8	4,377	46,923	21,447	82,522
Information and Records	11,209	3,544	2,113	35,046	36,221	63,796	151,929
Construction and Engineering	11	203	...	96	90	...	400
Legal Proceedings	484	116	2	5,740	353	...	6,695
Management and Administration	1,166	739	39	7,156	12,732	178	22,010
Subtotal	60,479	34,514	13,726	287,236	227,176	162,211	785,342

FINAL



NEWS RELEASE

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November 14, 1997

INS Announces New Naturalization Process and Fingerprint Policy To Ensure Integrity and Improve Customer Service

WASHINGTON - With passage of the 1998 Department of Justice Appropriations bill late yesterday, the Immigration and Naturalization Service (INS) announced that once the President signs the bill it will receive funding necessary to make critical improvements to the naturalization process. These improvements will help guarantee the integrity of the citizenship program, improve customer service, and ultimately reduce the backlog of pending cases. One of the most important components of the improved process is a new fingerprint policy.

According to INS Commissioner Doris Meissner, "The new funding Congress has provided to continue building our infrastructure and change our fingerprint process will make a dramatic difference in our ability to provide better customer service and guarantee integrity in granting citizenship."

New Streamlined Fingerprinting Policy

Under the new system, naturalization applicants will be required to be fingerprinted by INS after they have filed their applications, instead of submitting fingerprints at the time they file. Under the existing system, INS accepts fingerprints taken by Designated Fingerprint Service (DFS) entities and by law enforcement agencies. The new policy will effectively terminate INS' DFS program. Under the terms of the legislation, the new policy will become effective seven days after being signed by the President.

Under the new policy, fingerprints for citizenship applications will now be taken at INS fingerprinting centers, known as "Application Support Centers" (ASCs). The first ASCs are scheduled to open in the coming weeks.

INS will contact citizenship applicants by mail after it receives their applications. The letter designates a specific window of time in which applicants should come in to an ASC to have their fingerprints taken.

By taking fingerprints in-house, INS will be better able to prevent fraud and improve efficiency. The new procedures will help INS move toward its goal of ensuring that biographical information about each applicant is captured correctly, that

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the fingerprints are those of the applicant, and that the prints are clear enough to be read by the Federal Bureau of Investigation (FBI).

Under the DFS system, the majority of fingerprints were rejected due to incomplete or inaccurate biographical information or administrative errors. As a result, many applicants required multiple reprinting, delaying the completion of their FBI background checks. The new system will greatly reduce inconvenience to applicants of having to retake their prints and it will reduce the further delays caused by the need to have them resent to INS and then on to the FBI.

The new fingerprinting process will not increase an applicant's waiting time because the background check will be completed during the time the applicant would normally wait for an interview to be scheduled. The new procedures for processing fingerprints will reduce the turnaround period for completing FBI background checks.

"These changes are important steps toward our goal of processing applications in a timely fashion," Meissner said, "while also ensuring that the background checks are complete. We know that in the last year, the increasing number of citizenship applications, combined with the procedures we put in place to ensure integrity, have slowed down the process. This has caused some understandable frustration among the people we serve. We ask for their continued patience as we make a transition to a better system."

New Fingerprinting Instructions for Individuals Applying For Other Immigration Benefits

Applicants for benefits other than naturalization will be able to continue to obtain fingerprints from law enforcement agencies that have registered with the INS. In order to minimize the impact of the elimination of DFS services, INS has signed up an additional 250 law enforcement agencies as fingerprint sites in the last several weeks. Applicants for all benefits will eventually be able to have their fingerprints taken by INS as the new ASCs open.

Application Support Centers in Immigrant Communities To Take Fingerprints

In the next several weeks, INS will begin to open Application Support Centers in the six major metropolitan areas—Chicago, Los Angeles, Miami, Newark, N.J., New York and San Francisco—that account for approximately 70 percent of citizenship applications. Over the course of the next several months, INS plans to open more than 80 offices nationwide. It will choose sites by taking into account the density of immigrant populations; availability of public transportation, highways and parking; and accessibility for people with disabilities. INS is now working with state and local governments and community-based organizations to identify appropriate locations.

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The Application Support Centers will be staffed by contractors whose function initially will be solely to take fingerprints. They will be hired and trained by INS, cleared by the FBI, and overseen by INS personnel.

"In addition to improving integrity and efficiency, our focus at these neighborhood-based fingerprint centers will be on providing better customer service," Meissner said. "We will have weekend and evening hours to make the services as convenient as possible."

INS aims to ensure that accessibility to fingerprint services is not significantly diminished by the new fingerprint policy. It is establishing a fleet of vans that will serve as mobile fingerprinting centers, in addition to the permanent sites. The vans will make regularly scheduled visits to areas not served by the Application Support Centers. INS plans to work with local communities to arrange stops for homebound applicants, those in nursing homes, and others with special needs. INS is also prepared to fill gaps in coverage by supplementing mobile services with support from existing INS facilities and law enforcement agencies.

According to Meissner, "We believe that we can provide sufficient coverage throughout the country so that people who need to submit fingerprints to apply for immigration benefits will be able to obtain fingerprinting services within a reasonable distance of their homes."

Technology to Improve Fingerprinting

INS has developed and is now testing new systems for streamlining the fingerprinting process, including:

- **Electronic fingerprint machines** that will help to reduce errors in printing that occur manually; and
- **Bar codes on fingerprint cards and applications** that ensure the results of FBI background checks are correctly linked to applications; use of the bar codes also will reduce the number of cases delayed by manual data entry errors.

Restructuring the Process Using Automation and Standardization

In addition to the new, streamlined fingerprint process, new infrastructure and technology will help improve the integrity of the naturalization application process and make it more efficient.

- **Up-to-date computer systems** in all offices that handle naturalization applications by the end of December. Six months ago, half of the offices handling naturalization applications lacked adequate computer systems.
- **New CLAIMS 4.0 software** to process all naturalization applications. This software program has been designed to ensure consistency and includes checks and balances that prevent applications from moving forward before all of the necessary steps

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have been completed, including the FBI background check. This software will generate receipts for applicants and will make it possible for INS to implement a variety of methods for applicants to obtain information on demand about the status of their cases.

- **Expansion of direct mail**, under which an application is sent directly to one of INS' highly automated Service Centers for clerical processing, allowing INS district offices to focus on conducting interviews.

Backlog Reduction

In addition to various technological and process improvements, INS is taking a number of critical steps to reduce the backlog of pending citizenship applications.

INS is now developing individualized backlog reduction plans for each of its district offices. The plans, which will be completed by December 31, involve analyzing critical problems and redirecting resources as needed to resolve those problems. The new legislation also provides funds to INS to hire additional staff to help address the backlog.

Meissner said that despite the growing backlogs in pending naturalization cases and the new supervisory checks that were instituted to ensure integrity in the citizenship process, the agency had actually completed more than 700,000 cases in fiscal year 1997—a larger number than in any previous year except 1996.

Background

By 1996, INS was faced with an unprecedented increase in citizenship applications. Receipts historically at the 300,000 level annually had risen to more than 1.2 million in 1996. INS became aware that its systems did not permit the agency to be certain that each applicant's FBI background check had been completed prior to INS granting citizenship. An INS' review overseen by KPMG Peat Marwick, an outside auditing firm, of the 1.049 million naturalizations granted between August 1995 and September 1996 found that approximately 6,000 cases required further review to determine if revocation is appropriate. We have identified approximately 300 cases who appear to have disqualifying felony convictions and we are reviewing the remaining 5,700 cases for potential misrepresentations or other disqualifying conditions.

INS received more than 1.6 million citizenship applications in the fiscal year ended September 30, 1997, an increase of 34 percent over 1996.

QUESTIONS AND ANSWERS

11/14/97

New INS Fingerprint Procedures for Naturalization

NOTE: These questions and answers have been prepared in anticipation of expected enactment of the Department of Justice's appropriations bill for FY 1998. Answers may be subject to some changes depending on final language in the law. This document supplements INS-prepared materials that provide an overview of the new naturalization fingerprinting procedures.

Q. What are the new procedures?

- A.** As part of its effort to make critical improvements to the naturalization process, INS is establishing a new fingerprinting policy. The new policy took effect when the President signed into law the Department of Justice FY 1998 appropriations bill, which requires INS or Law Enforcement Agencies (LEAs) to take fingerprints for individuals applying for immigration benefits. Under the new procedures, a naturalization applicant will submit his application to INS without including the fingerprint card (FD-258) that was formerly completed by an outside entity known as a Designated Fingerprint Service (DFS). The new legislation terminates the DFS program. INS will send the applicant a notice indicating the INS location where the applicant should go for fingerprinting and the time period in which he should appear. The applicant must bring this notice when he comes for fingerprinting. INS will submit the fingerprint card to the Federal Bureau of Investigation (FBI) for a background check, which will be completed before the applicant is scheduled for his naturalization interview.

INS is opening more than 80 new Application Support Centers (ASCs) nationwide to facilitate the fingerprint taking process. In addition, mobile units will provide fingerprint services to areas where the application volumes do not warrant opening permanent sites and to meet special needs of the elderly, persons with disabilities, and community groups. The first ASCs will open before the end of the year in the six INS districts that handle more than 70 percent of the naturalization applications: Chicago, Los Angeles, Miami, New York, San Francisco and Newark, N.J. INS anticipates opening all new ASCs across the country by February 1998.

Q. If an applicant submits his application with a fingerprint card after the legislation is signed, what happens?

- A.** The new law allows INS to accept naturalization applications submitted with fingerprint cards up to 7 days after the law becomes effective. INS will process all such applications that have been appropriately submitted to the INS by the seven-day deadline. This means that those applications required to be mailed to INS Service Centers or district offices must be postmarked before that deadline. Applicants who intend to submit fingerprint cards with their applications are

strongly encouraged to send their applications to INS as soon as possible to comply with the seven-day deadline.

Q. Will applicants who have already filed their applications with fingerprint cards be affected by the new fingerprint legislation?

A. No. The new fingerprinting procedures will apply only to people who file their naturalization applications more than 7 days after the effective date of the legislation, and to those individuals who filed before that date, but for whom INS has not received an acceptable fingerprint card. The new procedures will not apply to pending cases where acceptable fingerprint cards are already on file with the INS. Applicants who have had their fingerprint cards rejected and have not submitted acceptable replacement cards should either submit new DFS fingerprint cards prior to seven days after the enactment of the new legislation or wait for an INS fingerprint scheduling notice.

Q. What are the benefits of these new fingerprinting procedures?

A. They will help ensure that overall integrity and improved customer service are restored to the naturalization process. The applicant identification information on the fingerprint card masthead will be dramatically improved. In the past, the vast majority of fingerprint card rejects were attributable to problems with the masthead data and the poor quality of the prints. Rejects caused significant delays in processing and long waits for applicants. INS will also hire, train and oversee all contractors who will work at ASCs. INS personnel will oversee the positive identification of applicants in each location. Automated software will be used to enter biographical data on the fingerprint cards, eliminating the problems of inaccurate, incomplete or illegible information.

The integrity of the process will be further protected because INS and the FBI will retain custody of the fingerprints after they are taken, rather than the card being returned to the applicant for filing. Applicants will not be burdened by frequent requests to resubmit better quality fingerprint cards, by the time and financial costs associated with such refingerprinting, and by the consequent delays to obtaining U.S. citizenship. The new fingerprinting procedures will not increase the applicant's waiting time since the background check will be completed during the time an applicant would have been waiting for an interview to be scheduled.

Q. Why do you say that the new procedures will not result in an applicant waiting longer for his naturalization interview?

A. The new fingerprinting procedures will not increase the applicant's waiting time because INS will complete these new procedures and the FBI background check on new applicants within, or before, the current waiting time for interviews within their districts. INS districts will continue to interview applicants in their pending caseloads first, and this will permit time to complete the fingerprinting of new applicants before their interview time arrives. As processing returns to the

historically accepted six-month period, INS will complete fingerprint taking and background checks within that period due to new procedures and automated technology.

Q. If a person has an application pending with the Service, but has received a rejection notice for his DFS/LEA fingerprint card, what should he do after the legislation is effective?

A. INS will send a fingerprint scheduling notice to those applicants with pending N-400s for whom the Service does not already have an acceptable fingerprint card on file. The applicant should follow instructions in the notice. INS recognizes that these applicants, in some cases, have been waiting long periods. We will make every effort to send out these scheduling notices as rapidly as possible to avoid further delays to applicants.

Q: Will applicants still be served on a first-come, first-served basis?

A. Yes. Applicants will be scheduled for fingerprinting in chronological order according to the date that INS receives their application.

Q. How soon should applicants expect to be notified of when and where to get fingerprinted?

A. Applicants will begin to receive scheduling notices from within a few days of the INS receipt of their application up to approximately 90 days, depending on application volume in the particular district and opening dates for the new stationary and mobile fingerprinting centers.

Q. How will fingerprint appointments be made, and how will you prevent long lines and delays at the new fingerprint centers?

A. INS will send new applicants a notice scheduling them for fingerprinting at either an Application Support Center (ASC) or a mobile van unit. At ASCs, the applicant will be requested to appear for fingerprinting during a designated week during the ASCs hours of operation. We are providing extended hours to provide better customer service and reduce lines and waiting times. ASCs will be open from 9:00 a.m. - 8:00 p.m. on Tuesdays and Thursdays; from 9:00 a.m. - 5:00 p.m. on Wednesdays and Fridays; and from 8:00 a.m. - 2:00 p.m. on Saturdays, excluding federal holidays. These varied hours of operation and the opportunity to appear throughout the designated week are designed to accommodate applicants as much as possible. INS will monitor and control the weekly scheduling so as to prevent delays and excessive lines. INS will also provide applicant scheduling options for the mobile units to provide additional flexibility, while also ensuring that these units are utilized to maximum efficiency.

Plans for the mobile units will be tailored to the specific needs of each INS district and the communities they will serve. In developing these plans, INS will continue working closely with state and local governments and organizations that assist citizenship applicants. The combination of both mobile and stationary sites, with the flexible scheduling features described, has been designed to provide wide coverage that will sufficiently meet the service needs of applicants within each district. We will continue to monitor the processing times at each ASC, and adjust resource levels as needed to ensure wait time is minimized.

Q. How were the new fingerprint sites selected? Won't the change from the 3,800 current DFS sites to fewer than 100 INS fingerprint facilities cause inconvenience to applicants?

A. INS is basing its site locations principally on a geographic, zip code analysis of applicant pool residences. There will be multiple sites in large cities that are easily accessible, located near public transportation and compliant with all laws governing accessibility for people with disabilities. In selecting the sites, we are consulting with local and national community organizations and state and local governments. INS is moving from a walk-in service to a scheduled fingerprinting service. In addition to the stationary ASCs, mobile fingerprinting units will service applicants in remote areas of the country where volume does not mandate opening an ASC.

Mobile units will also be used to provide services to applicants with special needs and to accommodate community groups that assist applicants where appropriate. The routes and schedules of these mobile units can be adapted to accommodate residential changes in the applicant pool and other variables. INS will constantly monitor the number of its fingerprint facilities to determine whether additional sites or mobile units may be required. The combination of both stationary and mobile sites, plus flexible hours of operation, has been designed to provide communities with broad coverage sufficient to meet the service needs of applicants for citizenship.

Q. How much will the INS fingerprinting cost?

A. Initially, fingerprints taken by the INS will be taken at no charge. We anticipate in the future we will need to charge a fee to cover the costs of fingerprinting. We are currently reviewing costs associated with fingerprinting, as well as the entire naturalization process. Commissioner Meissner has stated that the Service will not raise the N-400 application fee until she is satisfied that applicants are receiving the service they deserve.

Q. What happens if an applicant does not appear for fingerprints at an Application Support Center during his scheduled week?

A. Every Wednesday, applicants who missed their scheduled week may appear for first-come, first-served fingerprinting. Applicants will have a total of 120 days to be

fingerprinted, or their applications may be denied based on current regulations. In rural areas, applicants will be allowed to be fingerprinted at the nearest permanent site or at a mobile location, but will have the same 120-day limit in which they must be fingerprinted.

Q. What happens if an applicant does not bring his notice when he comes for fingerprinting?

A. To avoid delays, applicants are strongly encouraged to remember their scheduling notices. On an exceptional basis and where circumstances merit, INS fingerprinting centers in the near future will be able to access lists of applicants who have been sent scheduling notices by the Service Centers and district offices.

Q. How will INS verify the identity of the person who comes in to have his fingerprints taken?

A. Applicants will need to bring their Alien Registration Receipt Card ("green card") or alternate photo identification document. Where the applicant brings in a non-INS identity document, INS will also conduct a record check to confirm identity within the INS systems.

Q: What happens if an applicant's prints are still rejected?

A. INS anticipates that the new system will result in far fewer prints being rejected for poor quality (unclassifiable) or for inaccurate or incomplete biographical information. Quality assurance will take place at the time of printing, either through a trained fingerprint examiner or through electronic verification. INS will constantly monitor its fingerprint taking procedures to keep rejection rates to a minimum. If an applicant's prints are deemed "unclassifiable" by the FBI, INS will schedule a second ASC visit and request that the applicant also bring, at that time, copies of criminal records or clearances from local police authorities in the jurisdictions where he has lived for the past five years.

Q. What happens to naturalization applicants who submit fingerprints taken by a DFS after the effective date of the legislation?

A. Naturalization applicants who submit DFS-taken prints more than seven days after the legislation is signed will be scheduled to be fingerprinted again at an ASC.

Q: Once an applicant is printed, how long does it take INS and the FBI to process the applicant's fingerprints?

A. Under the new process, which includes continuing improvements to the background checking and reporting system, processing time for the FD-258 fingerprint card is expected to average 25 days, with a maximum of 40 days. Following other applicants already in the queue who are ready to be interviewed, an applicant will be scheduled for an interview after the FBI check results are received.

Q. What technology will be used to take the fingerprints?

- A. At most sites, fingerprints will initially be taken in ink. INS will also be testing live-scan fingerprint technology in select sites to assess its use for the future. This new technology is already being tested in the Baltimore district. INS will be using automated masthead software, which will greatly reduce masthead errors. In the future, INS will place a bar code on the fingerprint scheduling notice sent to the applicant. This bar code will contain identification information from the applicant's N-400. When the applicant then brings the bar coded scheduling notice to the fingerprint center, identity will be verified, and masthead information will be scanned from the bar code and preprinted onto the fingerprint card. This will further reduce delays and errors.

Q. Who will take the fingerprints, and do they have the experience and credibility for this important task? What makes them more capable of doing this job than a DFS staff person?

- A. INS has contracted with a company named DYNCORP that will lease space and hire personnel to staff Application Support Centers across the country. These contract employees will be trained in fingerprinting techniques, customer service and proper completion of fingerprint cards. Every fingerprint card will be reviewed to ensure the prints will be accepted by the FBI. INS staff will oversee the contract staff at the ASCs. This is an improvement because DFS personnel received limited training, and did not work under INS supervision.

Q. What steps have the INS and the FBI taken to improve the background checking process?

- A. INS and the FBI have made several critical improvements to the process that help to restore integrity and decrease delays. At the Attorney General's direction, regular meetings between INS and FBI senior managers were established last spring to resolve fingerprint procedural issues. Fingerprint data and FBI background check information is now transferred between the two agencies via Machine Readable Data (MRD) tapes. A definitive FBI response must now be received before an applicant may be scheduled for an interview. The agencies are continuing to improve processes that will allow for electronic gathering and transmission of fingerprints, procedures that are anticipated to be implemented by the end of 1999.

Q. Will the new fingerprint procedures affect applicants for non-naturalization benefits?

- A. The legislation will terminate the DFS program for all other immigration benefits in addition to naturalization. The process for applicants for non-naturalization benefits will remain largely the same, except that they may have their fingerprints taken by a

registered Law Enforcement Agency (LEA). In the future, INS plans to provide fingerprinting services for these other benefit programs at its own facilities.

Q. How will INS notify potential applicants of the new process?

A. INS will conduct a variety of outreach efforts through the media, including ethnic media, immigrant assistance organizations, congressional staffs and state and local governments. Informational materials will be provided to all of these groups as soon as the legislation is signed by the President. In addition, the instructional materials sent to individuals with their naturalization applications will be revised to reflect changes in the law and procedures.

Q. How is INS planning to notify the DFS organizations and LEAs of the changes in the law?

A. As soon as the legislation is signed into law, INS will send letters to all DFS entities and registered LEAs notifying them of the changes in the law.

Q. If an organization's application for DFS certification is still pending with the INS, will INS refund the application fee?

A. INS sought legislative authority to refund the \$370 application fee to DFS organizations whose applications have not yet been approved. The application fee, which was designed to cover INS costs incurred in the initial determination of an organization's request for DFS certification, will not be refunded to previously approved DFS entities.

Q. How can Community-Based Organizations (CBOs) assist in this project?

A. CBOs have already been assisting INS with identifying fingerprinting center site locations. They can further assist with educating the immigrant community of the changes in the process and helping to dispel misinformation.

Q. Will INS Application Support Centers take photos as well?

A. For the short term, no. INS does have plans in the future to take photographs at the time of fingerprinting.

Q. Who can applicants talk to about this process? What identification do applicants need to bring to be fingerprinted? Will there be anyone at the fingerprint site to answer additional questions about an application?

A. An applicant may contact INS through existing methods, such as the Information Officers at the local district office or the toll-free "ASK IMMIGRATION" line (1-800-375-5283). Numerous CBOs and congressional offices have been provided information about the new procedures, and applicants are also encouraged to seek their assistance. INS will also post general information in the near future on its Internet web site (www.ins.usdoj.gov). Under this new process, the INS notice will

also specify what the applicant needs to bring for fingerprinting. The new ASCs will be staffed by personnel who will be responsible only for fingerprinting, and will not be able to answer any immigration or application-related questions.

Q. Will lawyers or accredited organizations that have filed a G-28 representation form with an applicant's application be notified when their clients are notified of the fingerprinting?

A. A process is being developed in which a notice will be mailed to attorneys and accredited representatives with G-28s on file. Until then, applicants will need to provide their representatives with a copy of any correspondence from INS. Due to legal restrictions, INS cannot send such notices to CBOs or other persons who have not filed a G-28 as an approved representative of the applicant.

Q. If several members of a family file on the same day, will their fingerprinting be scheduled during the same week?

A. INS will attempt to coordinate the scheduling of family members for fingerprinting.

Q. What is to stop applicants from reapplying, if they so choose, under these new procedures, thereby allowing them to get through the process more quickly?

A. Applicants should not assume that a subsequent application filed under the new procedures will necessarily be processed more quickly than their previously filed applications. Applications that were submitted with good quality fingerprint cards are already in the processing queue ahead of subsequently filed applications. When the FBI background check results are received by INS for these applicants, they will be scheduled for interviews based on their application filing dates. It is also costly for applicants to pay the \$95 application fee several times. INS will work closely with CBOs to spread the word that excessive filings will delay the process for everyone.

Q. Is INS going to raise the overall naturalization application fee from the current \$95?

A. Commissioner Meissner has stated that the Service will not raise the naturalization fee until she is satisfied that we are providing applicants with the service that they deserve.

Q. When will INS get back to the six-month processing time frame?

A. We are working toward this goal as rapidly as possible, but we must ensure that we maintain a system that restores integrity to the process. The public should begin seeing the positive effects of our new procedures, automation, policies and other improvements by early next year.

Q. Are the new fingerprint procedures a tacit admission on the part of INS that the DFSs did not maintain integrity?

A. INS has implemented the new procedures to comply with new changes in the law. INS had previously recognized that the DFS program was flawed. When it was implemented, the DFS program was an interim solution designed to improve on previous procedures that did not even require applicants to get their prints taken at a specially certified organization. Under the DFS system, numerous fingerprint cards continued to be returned to the Service for incomplete or inaccurate masthead information, illegible prints or other problems that prevented the FBI from successfully processing the cards. In addition, there was concern that integrity could be compromised by the fact that after the prints were taken, the card was returned to the applicant before submission to INS. These problems were unacceptable to INS. The new procedures will help eliminate the flaws in the fingerprint processing.

Q. What about the KPMG audit of the NQP procedures? When will it be completed?

A. The KPMG final audit of the NQP procedures began in October, and a report is expected by early January 1998. An August KPMG report on the firm's review of INS' training of its officers and staff on the quality assurance procedures was very positive and indicates that we are on track with restoring integrity to our processes.

Q. Rep. Lamar Smith has introduced a bill to keep immigrants who have committed crimes from becoming U.S. citizens and again criticized the agency for naturalizing thousands of criminals improperly. What do you think of the bill?

A.: We haven't had a chance to see the bill to determine if legislation is necessary since quality assurance procedures that INS put into place last fall, new technology and other continued improvements have strengthened the integrity of the system. And the additional resources INS has just received to revamp the fingerprint process will make a dramatic difference in ensuring that only qualified applicants will be made U.S. citizens and that applicants will receive better, more timely service.

While even one person naturalized without the proper qualifications is too many, we are pleased that the audit of last year's cases is showing that mistakes were made in less than 1 percent of the 1.049 million people naturalized last year. INS is reviewing those cases for possible revocation of citizenship.

Irene,

Naturalization Reg. Any
Comments by 1-31. Thanks

Stuart

REGULATORY REVIEW WORKSHEET

OMB NUMBER: 1115-A517
RIN NUMBER: 1115-AF63
CHRONOLOGY: No previous reference

RECEIVED : 01/07/2000
E.O. DUE DATE: 04/06/2000
EXTENDED : (Y/N)
APPEALED : ___/___/___

AGENCY : Department of Justice
SUBAGENCY : Immigration and Naturalization Service

TITLE: Revoking Grants of Naturalization

STAGE: Interim Final Rule
LEGAL DEADLINE: No

ECONOMICALLY SIGNIFICANT: No
UNFUNDED MANDATE : No

DESK OFFICER: Stuart Shapiro
ANALYST : Richard Theroux

ACTION:

- (1) Consistent Without Change
- (2) Consistent With Change
- (3) Withdrawn by Agency
- (7) Returned - Sent Improperly
- (9) Returned for Reconsideration
- (11) Emergency
- (12) Statutory or Judicial Deadline

ECONOMICALLY SIGNIFICANT: Yes No
MAJOR : Yes No
UNFUNDED MANDATE : Yes No
(If yes, check all that apply)
 State, local, tribal governments
 Private Sector

REGULATORY IMPACT:
 (D) Deregulatory
 (R) Regulatory
 (N) Nonregulatory

FEDERALISM CERTIFICATION: Yes No
(Applies only to Final Rules)

SIGNATURES AND DATES:

RMO	Desk Officer	Economist	OIRA
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Date: _____	Date: _____	Date: _____	Date: _____

AGENCY NOTIFIED: ___/___/___

EXECUTIVE ORDER 12866 SUBMISSION**Important**

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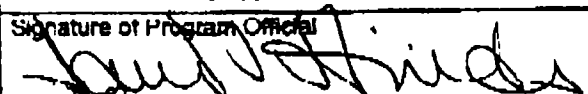
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1. Agency/Subagency originating request Department of Justice Immigration and Naturalization Service	2. Regulation Identifier Number (RIN) 1115 - AF63 1115-AS17
3. Title Revoking Grants of Naturalization	
4. Stage of Development <input type="checkbox"/> Prerule <input type="checkbox"/> Proposed Rule <input checked="" type="checkbox"/> Interim Final Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Final Rule - No material change <input type="checkbox"/> Notice <input type="checkbox"/> Other Description of Other	5. Legal Deadline for this submission a) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No b) Date ____ / ____ / ____ DD MM YYY c) <input type="checkbox"/> Statutory <input type="checkbox"/> Judicial
7. Agency Contact (person who can best answer questions regarding the content of this submission) Janice Podolny Phone (202) 514-2895	6. Designations a) Economically Significant (E.O. 12866) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No b) Unfunded Mandate (2 U.S.C. 1532) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If either of the above is "Yes," submit four (4) complete packages to OIRA

Certification for Executive Order 12866 Submissions

The authorized regulatory contact and the program official certify that the agency has complied with the requirements of E. O. 12866 and any applicable policy directives.

Signature of Program Official 	Date 8/9/99
Signature of Authorized Regulatory Contact Richard A. Sloan, Director, Policy Directives and Instructions	Date 8-9-99

BILLING CODE: 4410-10

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 340

[INS No. 1858-97]

RIN 1115-AF34

Revoking Grants of Naturalization

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the Immigration and Naturalization Service (Service) regulations relating to administrative revocation of naturalization by changing the burden of proof the Service must satisfy in order to administratively revoke a grant of naturalization and clarifying the 180-day period for the rendering of the district director's decision. This rule clarifies these issues in the final rule that was published in the **Federal Register** on October 28, 1996, at 61 FR 55550.

DATES: Effective date: This rule is effective [Insert date of publication in the FEDERAL REGISTER].

Comment date: Written comments must be submitted on or before [Insert date 60 days from the date of publication in the FEDERAL REGISTER].

ADDRESSES: Please submit written comments, **in triplicate**, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW, Room 5307, Washington, DC 20536. To ensure proper handling, please

reference INS No. 1858-97 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514-3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Janice B. Podolny, Office of the General Counsel, Immigration and Naturalization Service, 425 I Street, NW, Room 6100, Washington, DC 20536, telephone (202) 514-2895.

SUPPLEMENTARY INFORMATION: Section 310(a) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1421(a), gives the Attorney General the sole authority to grant a person naturalization as a United States citizen. As a concomitant to the authority under section 310(a), section 340(h) of the Act, 8 U.S.C. 1451(h), preserves the Attorney General's authority to "correct, reopen, alter, modify, or vacate an order naturalizing [a] person" as a United States citizen. On October 28, 1996, the Service published a final rule in the **Federal Register** at 61 FR 55550 promulgating regulations at 8 CFR 340.1, to provide a regulatory procedure for exercising this authority.

The Service's final rule provided that the Service could reopen a naturalization proceeding and revoke naturalization if the Service obtained "credible and probative evidence" that the individual's naturalization was subject to revocation. The regulation provided that after this initial showing by the Service, the burden of proof shifted to the individual whose naturalization was subject to revocation to establish that he or she was, in fact, eligible for naturalization. The Service,

however, determined that it would adhere to the higher standard of proof applicable in judicial denaturalization proceedings, rather than the credible and probative standard. Accordingly, the Service has only initiated revocation proceedings where it has obtained clear, unequivocal, and convincing evidence and has revoked naturalization only in cases where the Service is able to sustain this burden throughout the administrative proceeding.

Consistent with this approach, the Service has made every effort, including review of all proposed revocation cases at the Headquarters level, to ensure that revocation of naturalization be pursued only if the evidence meets this higher standard. This interim rule changes the applicable burden of proof to conform with Service practice. This interim rule provides that the Service will only initiate revocation proceedings based on clear, unequivocal, and convincing evidence with the burden of proof remaining with the Service throughout the administrative process. If it comes to the attention of the Service that in any case that became final before [Insert date of publication in the FEDERAL REGISTER], the Service relied on the lower standard of proof, the Service will, on its own motion, reconsider the decision under the clear, unequivocal, and convincing standard of proof.

In addition, this interim rule clarifies that the 180-day period for the district director's decision is precatory, and that expiration of the 180-day period does not preclude the district director from making a final decision on the merits. Consequently, this interim rule indicates that the Service shall,

where practicable, render a decision within 180 days of service of the notice of intent to reopen naturalization proceedings and to revoke naturalization. This amendment also ensures that the Service is able to carefully review all of the evidence in every administrative revocation case and render a correct decision without overly rigid and artificial time restrictions. Since the naturalized citizen continues to enjoy the rights of citizenship until the decision to reopen and revoke naturalization becomes final, this amendment does not adversely affect the rights of the naturalized citizen.

Notice and comment

Since this regulation simply restates the higher burden of proof that the Service has been applying in administrative revocation proceedings, this rule is a general statement of policy. The change to the 180-day period to render a decision is an interpretative rule of agency practice and procedure. The Service, therefore, has authority under 5 U.S.C. 553 to adopt this rule without prior notice and comment. The Commissioner of the INS, nevertheless, considers it appropriate to seek public comments on this rule, and has established a 60-day comment period.

Despite the comment period, this rule is an interim rule that will enter into force upon publication in the **Federal Register**. Because the current 8 CFR 340.1 places the burden of proof on the naturalized citizen, naturalized citizens may, in good faith, misunderstand the evidentiary standards and

procedural requirements that the Service must satisfy in order to reopen and revoke a grant of naturalization. The Service has already ensured that each notice of intent to reopen naturalization proceedings and to revoke naturalization states the burden of proof as clear, unequivocal, and convincing evidence. By clarifying the burden of proof that the Service has been adhering to in practice, this interim rule provides full protection of the naturalized citizen's rights. For this reason, the Commissioner finds that it would be contrary to the public interest for the Service to observe the 30-day delay that must ordinarily apply before a new regulation may enter into force. The Commissioner, therefore, also finds that good cause exists for making this rule effective upon publication in the **Federal Register**.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule proposes a procedure for the Service to revoke grants of naturalization. The affected parties are not small entities, and the impact of the regulation is not an economic one.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure, in the aggregate, of \$100 million or more in any 1 year, by State,

local, and tribal governments, or by the private sector, and the rule will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in cost or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Office of Management and Budget to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, the Service has submitted this regulation to the Office of Management and Budget for review.

Executive Order 12612

The regulation adopted herein will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient

federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

List of Subjects in 8 CFR Part 340

Citizenship and naturalization, Law enforcement.

Accordingly, part 340 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 340 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1421, 1443 and 1451.

2. Section 340.1 is revised to read as follows:

§ 340.1 Reopening of a naturalization application by a district director pursuant to section 340(h) of the Act.

(a) Reopening general. On its own motion, the Service may reopen a naturalization proceeding and revoke naturalization in accordance with this section, if the Service obtains clear, convincing, and unequivocal evidence which:

(1) Shows that the Service granted the application by mistake;
or

(2) Was not known to the Service Officer during the original naturalization proceeding; and

(i) Would have had a material effect on the outcome of the original naturalization; and

(ii) Would have proven that:

(A) The applicant's application was based on fraud or misrepresentation or concealment of a material fact; or

(B) The applicant was not, in fact, eligible for naturalization.

(b) Procedure for reopening of naturalization proceedings.

(1) Jurisdiction. The district director under whose jurisdiction the applicant currently resides has jurisdiction to reopen proceedings under this section, except that notice of intent to reopen naturalization proceedings and to revoke naturalization must be served no later than 2 years after the effective date of the order admitting a person to citizenship, as determined under § 337.9 of this chapter. This section applies to any order admitting a person to citizenship with an effective date before, on, or after October 24, 1996.

(2) Notice of intent to reopen naturalization proceedings and to revoke naturalization.

(i) If the district director determines that reopening a naturalization proceeding is warranted under paragraph (a) of this section, the district director shall prepare a written notice of intent to reopen naturalization proceedings and to revoke naturalization. The notice shall describe in clear and detailed language the grounds on which the district director intends to reopen the proceeding. The notice shall include all evidence which the district director believes warrants reopening of the proceeding. The notice shall advise the applicant of his or her right to submit a response to the notice and to request a hearing,

as provided in paragraph (b)(3) of this section.

(ii) The Service shall serve the notice of intent to reopen naturalization proceedings and to revoke naturalization upon the applicant by personal service, as described in § 103.5a(a)(2) of this chapter. When personal service is accomplished by certified or registered mail, return receipt requested, but the notice is returned as undeliverable, the Service shall serve the notice again, using another one of the methods of personal service described in § 103.5a(a)(2) of this chapter.

(3) Applicant's opportunity to respond and to request hearing.

(i) Within sixty (60) days of service of the notice of intent to reopen naturalization proceedings and to revoke naturalization, the applicant may submit a response to the Service. The response may include any statements and/or additional evidence the applicant wishes to present in response to the proposed grounds for reopening.

(ii) The applicant may request a hearing on the notice of intent to reopen naturalization proceedings and to revoke naturalization before an immigration officer authorized to review naturalization applications under sections 310 and 335 of the Act. The applicant must submit a written request for a hearing together with any statements and/or additional evidence within sixty (60) days of service of this notice. The Service shall schedule a requested hearing as soon as practicable.

(4) Withdrawal of application or failure to respond.

(i) Upon receipt of the notice of intent to reopen

naturalization proceedings and to revoke naturalization, the applicant may submit a written statement admitting the facts which the district director alleges as grounds for reopening, and withdrawing the application for naturalization. The applicant shall sign the statement under oath or affirmation or shall certify the truth of the statement under penalty of perjury.

(ii) If the applicant fails to submit a response to the notice of intent to reopen naturalization proceedings and to revoke naturalization within the period specified in paragraph (b)(3) of this section, that failure to respond will be deemed an admission of the stated grounds for reopening and revoking naturalization.

(5) Right to counsel. The applicant may be represented at any time during reopening proceedings by an attorney or other representative qualified under part 292 of this chapter.

(6) Burden of proof. Upon service of a notice of intent to reopen naturalization proceedings and to revoke naturalization, the Service bears the burden of proof by clear, convincing, and unequivocal evidence that the grounds for reopening and revoking set forth in the notice have been met.

(c) Record of reopened proceedings. The record shall include, but is not limited to:

(1) The applicant's application for naturalization;

(2) The Service's notice of intent to reopen naturalization proceedings and to revoke naturalization with proof of service to the applicant;

(3) All evidence forming the basis for reopening the

naturalization application;

(4) The applicant's statement and/or evidence in response to the Service's notice and in support of the application; and

(5) The record of the hearing, if a hearing was held.

(d) Decision.

(1) The district director shall render, where practicable, a written decision on the reopened naturalization application within 180 days of service of the notice of intent to reopen naturalization proceedings and to revoke naturalization. The decision shall consist of findings of fact, conclusions of law, and a final determination on the naturalization application. Notice of decision shall be served on the applicant or his or her attorney or representative, if applicable.

(2) Referral for revocation suit. Rather than reopening a naturalization decision and revoking naturalization, the district director shall refer a case for revocation proceedings under § 340.2 if:

(i) The applicant's answer to the notice of intent to reopen a naturalization proceeding and to revoke naturalization and any additional evidence that the applicant submits raises a genuine factual issue about the propriety of the applicant's naturalization, so that resolution of the factual issue will depend on the credibility of witnesses testifying under oath and subject to cross-examination; or

(ii) After rendering a decision on the merits, the district director determines that the applicant had adequately rebutted the

allegations made in the notice of intent to reopen naturalization proceedings and to revoke naturalization, but the district director thereafter obtains additional evidence of at least one of the grounds set forth in paragraph (a) of this section.

(e) Appeals.

(1) The applicant may appeal an adverse decision under paragraph (d) of this section to the Office of Examinations, Administrative Appeals Office. Any appeal shall be filed initially with the district director within thirty (30) days after service of the notice of decision. Such appeal shall be filed in accordance with § 103.1 and § 103.7 of this chapter, by filing the appeal on Form I-290B with the fee. Appeals received after the 30-day period may be subject to dismissal for failure to timely file.

(2) If, within 45 days of the filing of a notice of appeal, the district director determines that the materials filed in support of the appeal adequately rebut the grounds for reopening, the district director may reconsider the decision to reopen the naturalization application and to revoke naturalization, and affirm the original decision naturalizing the applicant. In such a case, it is not necessary for the district director to forward the case to the Administrative Appeals Office. If, after the district director affirms an original naturalization grant under this paragraph, the Service obtains additional evidence of the grounds set forth in paragraph (a) of this section, the Service may not bring a new motion to reopen the naturalization proceeding and to

revoke naturalization, but may seek to revoke the applicant's naturalization only pursuant to section 340(a) of the Act.

(f) Judicial review. If a decision of the Office of Examinations, Administrative Appeals Office, is adverse to the applicant, the applicant may seek judicial review in accordance with section 310 of the Act.

(g) Effect of final decision of denial upon applicant's status.

(1) A final decision to reopen a naturalization proceeding and to revoke naturalization shall be effective as of the date of the original order purporting to admit the applicant to citizenship. The order purporting to admit the applicant to citizenship shall then have no legal effect.

(2) A district director's decision to reopen naturalization proceedings and to revoke naturalization will be final, unless the applicant seeks administrative or judicial review within the period specified by law or regulation.

(3) When a decision to reopen naturalization proceedings and to revoke naturalization becomes final, the district director shall order the applicant to surrender his or her certificate of naturalization. The district director shall then cancel the certificate of naturalization, and shall also notify the Department of State of the revocation of naturalization.

(4) Notwithstanding the service of a notice of intent to reopen naturalization proceedings and to revoke naturalization, the applicant shall be considered to be a citizen of the United States until a decision to reopen proceedings and deny naturalization

becomes final.

(h) Applicant's request for reopening or modification of application. After having been granted naturalization and administered the oath of allegiance and renunciation, an applicant may move that the Service reopen his or her naturalization application for the purpose of amending the application in accordance with § 334.5 of this chapter.

Dated: 8/6/99



Doris Meissner,
Commissioner, Immigration
and Naturalization Service.