



**U.S. Department of Justice
Office of the Inspector General
Evaluation and Inspections Division**

**Immigration and Naturalization
Service's Ability to Provide
Timely and Accurate Alien
Information to the Social
Security Administration**

**Report Number
I-2003-001**

November 2002

November 22, 2002

The Honorable James G. Huse, Jr.
Inspector General
Social Security Administration
6401 Security Boulevard, Suite 300
Baltimore, MD 21235

Dear Mr. Huse:

This is in response to your letter to me dated March 15, 2002. In your letter, you asked the Department of Justice Office of the Inspector General (OIG) to assess whether the Immigration and Naturalization Service (INS) would meet timeframes for posting information about aliens into INS databases that are used by the Social Security Administration (SSA) to issue Social Security Numbers (SSNs) to aliens.

Since the terrorist attacks of September 11, 2001, the attention on the national security implications of issuing SSNs to aliens has intensified. As you have pointed out on various occasions, the current process for issuing SSNs is vulnerable to fraud because SSA procedures do not require the verification of an alien's immigration status prior to issuing an SSN. You have recommended that the SSA implement independent verification of documents from the INS until the Enumeration at Entry program was completed.¹ In a 2001 Congressional Response Report, you suggested that the SSA obtain verification from the INS as to an alien's immigration status before issuing an SSN.

In your letter to me, you stated that it is your understanding that delays have occurred in the INS's initiatives to enter information about

¹ "Enumeration at Entry" is a term used by the SSA that refers to the process of automatically assigning SSNs to newly admitted immigrants based on electronic verification of their work eligibility status by the INS. The process uses DataShare to transmit immigrant immigration status from the INS to the SSA. The process obviates the need for the SSA to visually inspect and verify INS documents prior to issuing an SSN.

aliens in INS databases, and you expressed concern that INS management of its data entry contractors may not be sufficient and could negatively impact established timeframes. You therefore asked us to assess the likelihood that the INS will meet established timeframes for the following initiatives:

- Updating information in INS systems, including the Alien Systematic Verification Index (ASVI) and the Nonimmigrant Information System (NIIS); and
- Implementing the Enumeration at Entry phase of the Department of State (DOS)/INS Immigrant Visa DataShare (DataShare) process.

To address your questions about the INS's ability to meet these timeframes, we believe it is important to describe the visa application process and to assess the INS's timeliness in updating NIIS and its implementation of the enumeration phase of DataShare. Our review therefore discusses the visa process from the time aliens file visa petitions through their entry into the United States, and the process used by the INS to provide immigrant and nonimmigrant status information on aliens to the SSA. A copy of our report, "Review of the Immigration and Naturalization Service's Ability to Provide Alien Information to the Social Security Administration," is enclosed with this letter.

In this letter, we summarize the specific answers to your questions about the INS's ability to meet identified timeframes for updating information into its databases.

1. Will the INS meet established timeframes to update ASVI and NIIS approximately one week after the nonimmigrant is admitted to the United States?

According to the information we received, the INS never established a 1-week standard for updating NIIS. In your letter, you cite new data entry standards announced by the INS in December 2001, which require that INS ports of entry ship Forms I-94, Arrival/Departure Record, to the INS's data entry contractor within two days of the nonimmigrant's admission into the United States. The new standards also require that the data entry contractor process the Forms I-94 and upload the data into a database within three days of receiving the forms. From this information, you inferred that the NIIS data would therefore be available to the SSA within five days of a nonimmigrant's admission. However, this conclusion was not correct, because the new INS time standards

apply to only a part of the entire procedure necessary to process the admission records and update NIIS. When the data entry contractor completes processing the Forms I-94, the data is transmitted to another database contractor at a different location for additional processing, which requires more time before the information is uploaded into NIIS.

ASVI is the electronic system that acts as an information conduit that allows the SSA field offices to access selected NIIS data elements. The INS updates NIIS with Forms I-94 data after a nonimmigrant is admitted and it uploads selected NIIS data elements into ASVI. That data is then available to the SSA field offices through the ASVI database. The availability of the required information is dependent on updating the selected NIIS data elements, not on updating the ASVI database.

In response to our review, the INS estimated that the entire process to upload nonimmigrant information into NIIS should take approximately 11 to 13 workdays, not 5 workdays. The INS does not track the actual time required for the collection and processing of the information. Based on our review, we believe the INS's estimate that NIIS data will be available to the SSA within 11 to 13 workdays after a nonimmigrant is admitted into the United States is based on reasonable approximations and assumptions. In fact, an informal survey conducted by your staff in September 2002 showed that 60 percent of the Forms I-94 data was available to the SSA within 10 calendar days of nonimmigrants' admissions into the United States.

2. Will the INS meet established timeframes to implement the enumeration phase of the Department of State (DOS)/INS Immigrant Visa DataShare process?

We concluded that the INS is prepared to implement the enumeration phase of the DOS/INS Immigrant Visa DataShare process when the SSA completes its modifications for DataShare. We found that the INS is able technologically to provide the SSA immigrant status using DataShare. The INS and the DOS have shared immigrant petition and application data using DataShare since 1995. The DOS has successfully transmitted immigrant visas from 15 consular posts to the INS, which accounted for 60 percent of the immigrant visas issued by the DOS. Since the DOS expanded DataShare to all its 126 visa-issuing consular posts, the INS has not experienced any significant technological difficulties with the process.

We found that the INS and the DOS have already made software modifications to accommodate the SSA's participation in DataShare. In June 2002, the INS and the DOS tested their portions of DataShare and stated that they are confident that their portions of the system work.

However, the SSA did not participate in the test because it was addressing the communications protocol and data formatting convention issues.

We hope this letter and the enclosed report are helpful to you in addressing the issues you asked us to examine. If you have any questions, please contact me on (202) 514-3435, or Paul Price, Assistant Inspector General for Evaluation and Inspections, on (202) 616-4620.

Sincerely,

/s/ original signed

Glenn A. Fine
Inspector General

Enclosure

cc: James W. Ziglar
Commissioner
Immigration and Naturalization Service

Vickie L. Sloan
Director
Departmental Audit Liaison Office

TABLE OF CONTENTS

INTRODUCTION	1
SSA’s Efforts to Improve Control of Issuing SSNs.....	2
Purpose of the Review	2
Scope and Methodology.....	3
PART 1: THE IMMIGRANT VISA PROCESS	4
Filing the Immigrant Visa Petition and Application	4
U.S. Port of Entry Inspection of Immigrants.....	5
Issuing Social Security Numbers to Immigrants.....	7
Immigrant Visa DataShare	11
SSA’s Participation in Immigrant Visa DataShare	11
INS Implementation of Immigrant Visa DataShare	15
INS Management of Immigrant Visa DataShare	15
PART 2: THE NONIMMIGRANT VISA PROCESS	17
Filing the Nonimmigrant Visa Petition	18
Filing the Nonimmigrant Visa Application.....	18
U.S. Port of Entry Inspection of Nonimmigrants.....	19
Processing and Transmitting Forms I-94	20
Issuing Social Security Numbers to Nonimmigrants.....	20
INS Processing Time for Nonimmigrant Data	24
INS Ability to Ensure the Accuracy of Nonimmigrant Data.....	25
CONCLUSION	27

INTRODUCTION

The Social Security Administration (SSA) has been concerned about the fraudulent acquisition and misuse of Social Security Numbers (SSNs) for several years. In September 2000, the SSA Office of the Inspector General (OIG) reviewed 3,557 SSNs and found that the SSA had issued 999 (28 percent) invalid SSNs. Of these, 949 cases (95 percent) involved fraudulent Immigration and Naturalization Service (INS) documents.¹

As a result of this discovery, the SSA OIG reiterated two recommendations to the Social Security Commissioner that were contained in a 1999 Management Advisory Report.² Because of the high rate of SSNs inappropriately assigned due to fraudulent documents, the SSA OIG recommended that the SSA focus on security rather than on customer service, and also recommended that the SSA implement independent verification of documents from the INS until the Enumeration at Entry program was completed. “Enumeration at Entry” is a term used by the SSA that refers to the process of automatically assigning SSNs to newly admitted immigrants based on electronic verification of their work eligibility status by the INS. The process obviates the need for the SSA to visually inspect and verify INS documents prior to issuing an SSN. In a 2001 Congressional Response Report, the SSA OIG again suggested that the SSA verify all documents submitted by aliens before the SSA issues an original SSN.³

Since the terrorist attacks of September 11, 2001, the process for issuing SSNs has received additional scrutiny because of its national security implications. In October 2001, the SSA OIG stated, “Most recently, we learned that SSNs may have been misused by members of foreign terrorist organizations to infiltrate American society while planning the terrorist attacks of September 11, 2001.”⁴

¹ “Procedures for Verifying Evidentiary Documents Submitted with Original Social Security Number Applications,” September 2000, Audit Report A-08-98-41009, SSA OIG.

² “Using Social Security Numbers to Commit Fraud,” May 1999, Management Advisory Report A-08-99-42002, SSA OIG.

³ “SSN Misuse: A Challenge for the Social Security Administration,” October 2001, Congressional Response Report A-08-02-22030, SSA OIG.

⁴ Ibid.

SSA's Efforts to Improve Control of Issuing SSNs

On July 11, 2002, SSA Deputy Commissioner James B. Lockhart III announced that the SSA plans to verify the immigration status of all aliens applying for SSNs who have been in the United States for less than 30 days. It will also electronically verify documents for all nonimmigrant applicants through access to the Nonimmigrant Information System (NIIS).⁵ If documents cannot be verified through NIIS, the SSA will automatically initiate a manual secondary verification procedure, which will preclude an alien from receiving an SSN until the INS verifies the alien's status.

The change in the SSA's procedures for verifying alien status requires the INS to provide timely and accurate responses to the SSA's document verification requests. Further, the use of new or modified electronic databases to conduct the verification process presents additional challenges for the SSA and INS.

Purpose of the Review

In response to a request from the SSA OIG, the Department of Justice (DOJ) OIG initiated this limited scope review to determine whether the INS can update information about immigrants and nonimmigrants into its databases and provide that information to the SSA in a timely fashion.

Cleaning Up SSN Records

According to a *Washington Post* article, the SSA sent letters to more than 800,000 businesses notifying the employers of SSA records in which their employees' names or SSNs did not match the agency files. In 1999, the SSA collected \$4.9 billion in social security taxes for accounts in which there were discrepancies.

The SSA attempt to reconcile wage records and the likely increase in employer scrutiny of employees' SSNs may raise the need for, and value of, illicitly obtained, but valid SSNs. Because of the "no match" letters, aliens who are not eligible to work may find making up or stealing SSNs too great a risk. Therefore, the number of aliens who use counterfeit or fraudulent documents to apply for SSNs is likely to grow.

Source: "Record Checks Displace Workers," *The Washington Post*, August 6, 2002, p. A1.

⁵ NIIS is an automated central repository of nonimmigrant arrival and departure information.

Scope and Methodology

In our report, we discuss the visa process from the time aliens file their visa applications through entering into the United States and the processes used by immigrants and nonimmigrants in obtaining SSNs. We divided the report into two parts because the methods of providing immigrant and nonimmigrant information to the SSA differ greatly. Part 1 discusses the immigrant process and Part 2 discusses the nonimmigrant process. We examine the INS's role in providing immigrant status information to the SSA using Immigrant Visa DataShare (DataShare), and nonimmigrant status information to the SSA using the new verification process with NIIS.

We conducted our review from May 22, 2002 to September 12, 2002. Our methodology included interviews with the INS, DOS, and SSA staff responsible for DataShare and the implementation of the SSA's electronic access to NIIS information. We reviewed the Memoranda of Understanding (MOU) between the INS and SSA and between the DOS and SSA, the INS Inspector's Field Manual, INS e-mail and correspondence related to DataShare implementation and SSA access to NIIS, DOS policy and procedures for immigrant and nonimmigrant visas as implemented by the Office of Visa Services, SSA Program Operations Manual System (POMS), SSA internal correspondence directing changes in procedure for issuing SSNs to aliens, previous DOJ OIG and SSA OIG reports, and INS and SSA congressional testimony.

PART 1: THE IMMIGRANT VISA PROCESS

This part of the review describes the process used by aliens to apply for permanent residence in the United States. After the INS approves the immigrant petitions, the aliens submit their applications for immigrant visas at DOS consular posts.⁶ Aliens living in the United States, including nonimmigrants, (e.g., students) can file applications with the INS for adjustment of status to obtain legal permanent residence.

Immigrants coming to the United States are divided into two categories: those who may obtain permanent residence status without numerical limit and those subject to an annual limit. The Immigration Act of 1990 (P.L. 101-649) sets the worldwide level of immigration for the latter category with an annual maximum limit that ranges from 421,000 to 675,000 immigrants depending on admissions in the previous year.

Filing the Immigrant Visa Petition and Application

The immigration process begins with a relative or prospective employer of the intending immigrant filing a petition with the INS.⁷ When the INS approves the petition, it forwards the petition to the DOS's National Visa Center (NVC) in Portsmouth, New Hampshire.⁸

The NVC retains the petitions until the cases are ready for processing by consular officers. Petitions may remain at the NVC from a few weeks to several years depending on visa availability.⁹ The NVC forwards the petitions to the appropriate overseas consular posts when applicants' cases become current (*i.e.*, visa numbers are likely to be available within the year). The NVC also mails forms and information to the intending immigrants.

⁶ An alien is defined as a person who is not a citizen of the United States. An immigrant is an alien lawfully admitted for permanent residence in the United States.

⁷ "Intending immigrant" is the term used by the INS to describe an alien who is in the process of seeking immigrant status but has not yet been admitted to the United States.

⁸ The DOS opened the NVC in April 1994, where it processes all INS-approved immigrant visa petitions.

⁹ Immigrant visas are issued in the chronological order in which the petitions were filed until the numerical limit for the category is reached.

The intending immigrant completes and submits DOS Form DS-230, Application for Immigrant Visa and Alien Registration, and required supporting documents to the local consular post.¹⁰ A consular officer reviews and verifies the information in the visa application, issues the immigrant visa (IV), and prepares the IV package. The consular officer seals the package and instructs the intending immigrant to deliver it unopened to the INS inspectors (inspectors) at the port of entry (POE) in the United States.

U.S. Port of Entry Inspection of Immigrants

Upon arrival at the U.S. POE, aliens report to a secure INS inspections area, which is divided into primary and secondary areas. Aliens report to the primary inspection area where they are processed by inspectors. The inspectors complete primary inspection of various categories of aliens and citizens by determining identity and examining the applicants' travel documents. Immigrants usually are sent to secondary inspections for further processing.¹¹

The inspectors in secondary inspections complete a variety of tasks to create permanent records for the arriving alien. When the inspectors determine that an immigrant is admissible into the United States, they process the IV package. The immigrant's identity is confirmed by comparing the photograph attached to the IV to the immigrant and is also cross-checked with the passport.¹² The inspectors verify eligibility for the visa classification indicated on the visa and verify that personal data (e.g., gender and marital status) and the mailing address on the front of the visa are correct. The inspectors examine the immigrant visa to ensure it is valid and unaltered.

¹⁰ Required documents include: passport valid for at least six months beyond the visa issuance date, certified copies of intending immigrant's birth certificate, police certificates from each locality in which the intending immigrant has resided, court and prison records if applicable, military records, photographs for official documents, and marriage certificates.

¹¹ New York and San Francisco POEs process nonimmigrants in the primary inspection lanes.

¹² If a passport is unavailable, the immigrant's appearance is compared to government-issued identification containing the immigrant's name, date of birth, and/or signature.

When the immigrant is admitted, the INS provides the immigrant with temporary evidence of permanent resident status until it produces the Alien Registration Receipt Card (INS Form I-551). If the immigrant has a passport, the inspector amends the passport with:

- An admission stamp with the class of admission and A-number,
- A “Processed for I-551” stamp, and
- A “valid to” date of 12 months from the date of admission.¹³

If the alien does not have a passport, the inspector uses Form I-94, Arrival/Departure Record to create temporary evidence of permanent resident status.¹⁴ The inspector completes the arrival portion of the Form I-94 and adds:

- A photograph of the immigrant,
- A “Processed for I-551” stamp,
- A “valid to” date of 12 months from the date of admission,
- An embossed INS dry seal that covers portions of the photograph and the “Processed for I-551” stamp,
- The immigrant’s A-number,
- The date and code of admission, and
- A press print of the immigrant’s right index finger.

The inspector completes Form I-89, I-551 or I-586 Card Data Collection Form, and places it in the IV package along with other required documents, such as a birth certificate, fingerprints, and

¹³ Class of admission, which corresponds to the visa class [classification], identifies the legal provision under which an immigrant is admitted. Class of admission codes are the symbols representing each category of immigrant within that class of admission. For example, immigrant visas issued to spouses of U.S. citizens belong to the class of admission for Immediate Relatives, Spouse of U.S. citizen (admitted under INA 201(b)) and the admission code is IR1. The A-number, or alien number, is a unique identifier assigned to each immigrant.

¹⁴ Immigrants are not required to complete Forms I-94.

photographs.¹⁵ The immigrant is then a lawful permanent resident of the United States. The inspector tells the immigrant that the INS will mail the Alien Registration Receipt Card to the address on the immigrant visa and to check with the local INS district office if the card does not arrive within four to five months.

The POE is required to forward the complete IV package to an INS service center within 24 hours of the alien's admission to the United States.¹⁶ The service center processes the IV package, produces the Alien Registration Receipt Card, and mails it to the immigrant.

Issuing Social Security Numbers to Immigrants

Following admission to the United States, immigrants go to SSA field offices to complete Forms SS-5, Application for a Social Security Card, to obtain SSNs. The SSA requires immigrants to provide the following evidence of eligibility to receive SSNs:

- Age – A document, such as a birth certificate, that is at least one year old, that shows name and date of birth or age;
- Identity – A document, such as a drivers license, that was issued recently and contains a photograph; and
- Evidence of Work Authorized or Lawful Alien Status – An INS document, including an Alien Registration Receipt Card, properly annotated passports, or Forms I-94.

Prior to September 1, 2002, the SSA policy did not require its field office staffs to verify an immigrant's status (class of admission) with the INS when the immigrant was in the United States less than 30 days and the documents presented by the immigrant appeared valid. The SSA's rationale was that the INS would not yet have the immigrant's information in its automated systems and therefore would not be able to verify the immigrant's status. Effective September 1, 2002, the SSA instituted a policy change in its procedures for issuing SSNs to aliens. The SSA's new policy requires its field office staffs to receive INS verification for all INS-issued documents used as evidence of work eligibility before issuing SSNs to aliens.

¹⁵ The Form I-89 provides the data required to generate the Form I-551 or I-586.

¹⁶ Most IV packages go to the Texas Service Center. The California Service Center processes all IV packages serviced by district offices in California.

The SSA verifies the immigrant's status through the SAVE program using the Alien Status Verification Index (ASVI) system. The SAVE program provides a means for federal, state, and local benefit issuing agencies and institutions to verify the immigration status of alien applicants for, or recipients of, public benefits. As mandated by the Immigration Reform and Control Act (IRCA) of 1986 (P.L. 99-603), the INS established ASVI, a nationally accessible database, of selected immigration status information on approximately 60 million alien records. Entitlement agencies electronically access this database and pay between \$.02 and \$.22 per query depending upon the access method. This automated process is known as primary verification.

All SSA field offices have access to ASVI. The immigrant's A-number is entered into the ASVI system. The system provides a response within three to five seconds. The response is compared to the immigration status as represented on the documents provided by the immigrant.

When an immigrant has been in the United States for less than ten days and the ASVI response does not confirm the immigrant's status (i.e., the immigrant's information is not in ASVI), the SSA enters the application in the Modernized Enumeration System (MES) as a "suspect" document.¹⁷ The SSA queries ASVI again when the immigrant has been in the United States more than ten days. If the second query is unsuccessful, the SSA uses secondary verification to validate the INS documents.

In secondary verification, the SSA prepares an INS Form G-845, Document Verification Request. The SSA mails the form and copies of the immigrant's INS documents to the local INS district office for verification of the immigrant's status.¹⁸ The INS processes the SSA's query and mails the response to the SSA field office. The response time varies from 10 to 20 workdays.¹⁹

¹⁷ The application remains pending in MES until the INS verifies the validity of the document and the SSA clears the application.

¹⁸ The SSA completes INS Form G-845 and sends it and copies of the INS documents presented with the SSN application to the INS where an INS employee checks multiple databases, makes notations as to work eligibility on the form, and returns it to the SSA field office.

¹⁹ The response time for mandated agencies is 10 days and nonmandated agencies, 20 days. The term "mandated" refers to those programs and overseeing agencies required by the IRCA and Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, 110 Statute 2168 to verify an applicant's immigration status. The SSA is a nonmandated agency.

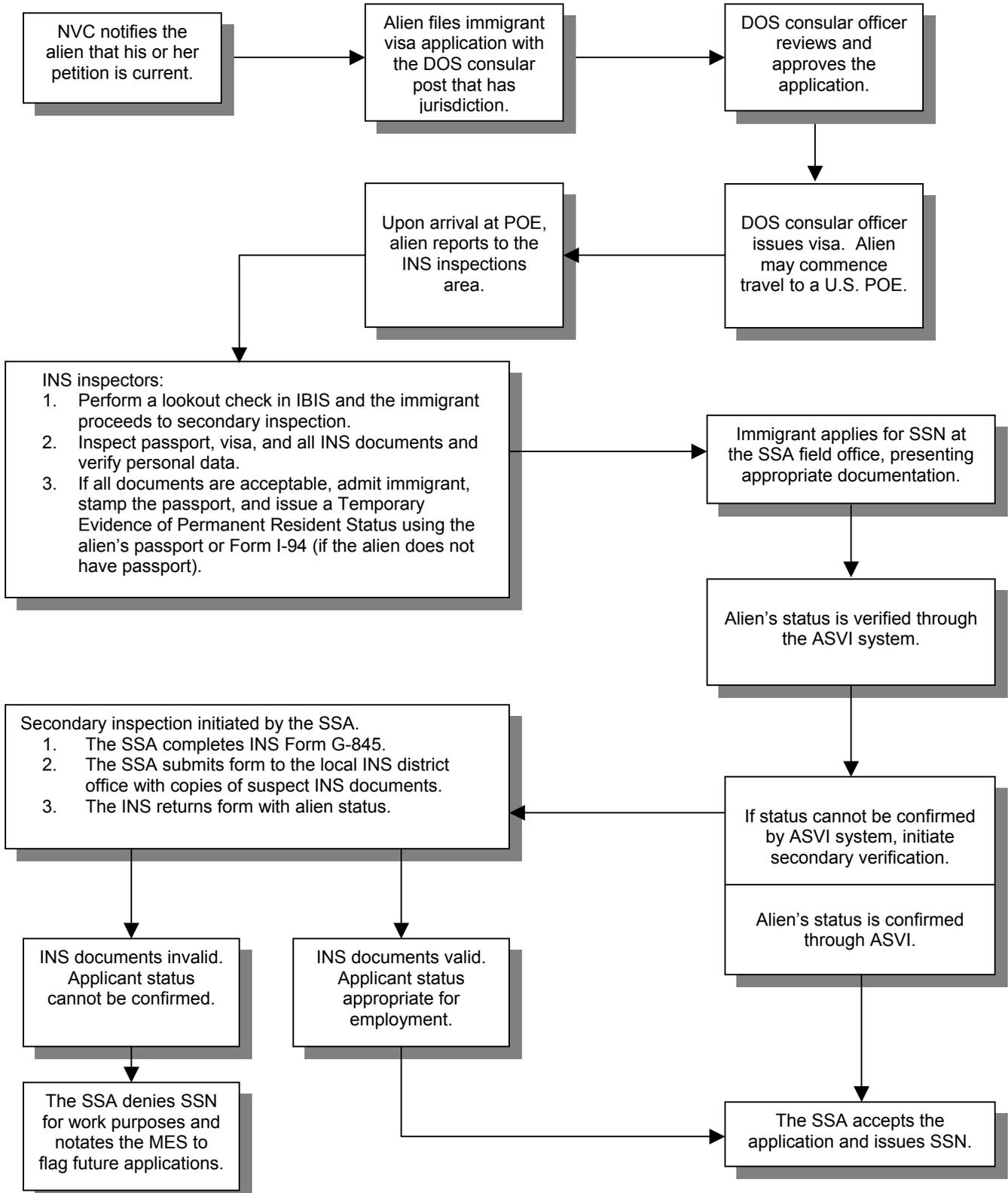
While waiting for a response, the SSA queries ASVI weekly. If the SSA receives verification from ASVI before the secondary verification response is received, it completes the SSN application process.

Once the ASVI check or the secondary verification process confirms the immigrant's status, the application is certified and entered into MES. During processing, MES performs automatic edits for missing, misplaced, or inappropriate data.²⁰ When the application passes the edits, MES produces an SSN card for the immigrant, usually within five workdays.

The current immigrant processing from initial visa application to issuing an SSN is shown in Figure 1 on the next page.

²⁰ Examples of missing, misplaced, or inappropriate data include alpha characters in fields designated as numeric only, unidentifiable state postal codes, or blank fields.

Figure 1. Current Immigrant Processing From Visa Application Through Issuance of a Social Security Number



Immigrant Visa DataShare

Immigrant Visa DataShare, initiated in June 1995, allows the INS and DOS to electronically exchange data and track an immigrant's petition and application throughout the immigration process from initial filing to the immigrant's admission at a POE. DataShare is not a separate data system. It integrates existing INS, DOS, and U.S. Customs Service (USCS) data systems to process, transmit, and share information between the agencies. The petition and application information moves electronically with the immigrant's file as it is processed, eliminating the need for reentering information at each step of the immigration process. DataShare can also be used to detect fraud because aliens presenting altered or counterfeit documents will not have a corresponding record in DataShare. The DOS and INS can verify information to make better-informed decisions regarding whether to issue visas or admit aliens into the United States.

DataShare has improved the speed of data transfer as well as the quality of the data. By receiving immigrant visa petition information at the NVC electronically, the DOS reduced its data entry workload. In addition, the INS sends the immigrant visa hard-copy petitions to the NVC, so the NVC can compare the electronic and hard-copy information to ensure that the information matches. The availability of immigrant visa information to inspectors at POEs via the Interagency Border Inspection System (IBIS) provides a mechanism to verify the immigrant's visa status.²¹ Visa status information is available through DataShare usually within eight hours from the time the immigrant visa is issued at a DOS consular post.

In FY 2001, the DOS processed 615,979 IVs, approving 396,689 of them and disapproving 219,290. DataShare processed 240,340 IVs (61 percent) issued by 15 consular posts. In February 2002, the DOS expanded DataShare to all 126 immigrant visa-issuing consular posts. Currently, 16 POEs use DataShare to process immigrants.

SSA's Participation in Immigrant Visa DataShare

In response to the terrorist attacks on September 11, 2001, the SSA reviewed its policies and procedures and determined that enumeration at entry, the electronic processing of immigrant SSN applications, would be more secure than its current method of

²¹ The USCS maintains IBIS, which provides the law enforcement community with access to computer-based law enforcement files of common interest.

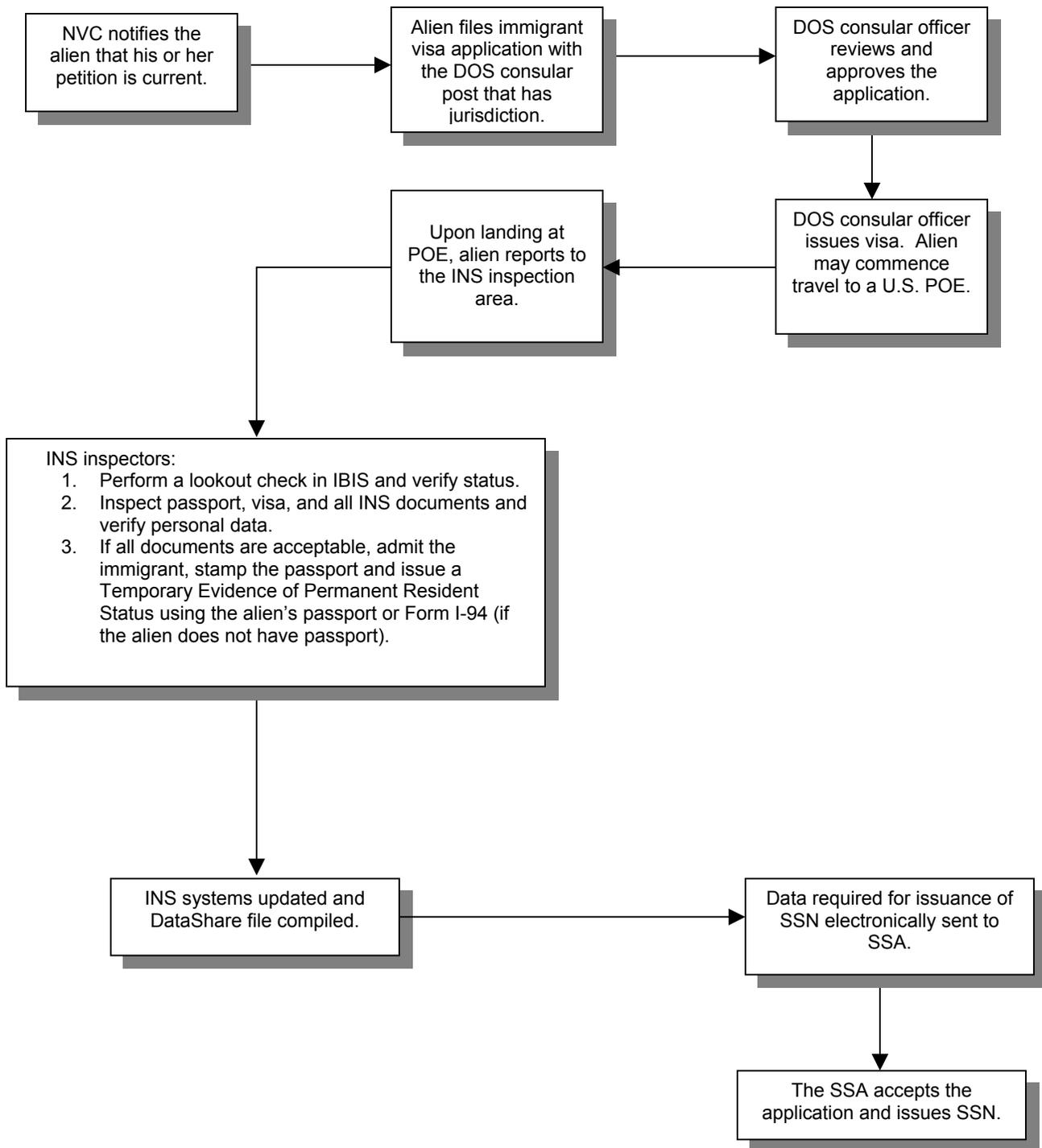
processing SSN applications.²² The enumeration at entry process is described in Figure 2 on the next page.

To support SSA's enumeration at entry process, the INS and SSA Commissioners signed an MOU in 2000 that governs the extension of DataShare to electronically deliver information on admitted immigrants to the SSA. The goals of this project are to:

- Reduce proliferation of fraudulently obtained SSN cards,
- Streamline data collection,
- Reduce duplicative efforts between government agencies, and
- Reduce the burden on immigrants who must currently go to an SSA field office and provide the same information provided to the DOS and INS.

²² Testimony of SSA Deputy Commissioner, James B. Lockhart III, before the Senate Finance Committee, Subcommittee on Social Security and Family Policy, July 11, 2001.

Figure 2. Immigrant Processing From Visa Application Through Application for Social Security Number Using DataShare



The MOU states that the INS will transmit to the SSA specified enumeration data elements for aliens age 18 years and older who have requested original SSN cards and who have been admitted as lawful permanent residents at specific POEs that use DataShare. The INS will transmit 16 data elements through Immigrant Visa DataShare to the SSA. These data elements are: A-number, name, date of birth, place of birth, mother and father's first, middle and last names, immigrant class of admission, and the alien's request for an SSN card and the alien's consent for data transmission between the INS and SSA.

An immigrant who requests an SSN card, consents to the disclosure of personal information to the SSA, and enters the United States through POEs using DataShare will not have to apply for an SSN at an SSA field office. The SSN card will be produced and mailed to the immigrant as soon as the SSA receives electronic notification from the INS that the immigrant has been admitted. If the immigrant enters the United States through a POE that does not use DataShare, the immigrant will have to apply for an SSN at an SSA field office. In those cases, the SSA will issue an SSN only upon verification of the alien's status by the INS.

The SSA agreed to reimburse the INS for any technology improvements or modifications needed to transmit data to the SSA, to change INS forms, to collect or input data, and to train INS personnel. The SSA plans to pay \$834,200 to the INS to reimburse expenses in fiscal years 2002 and 2003.

DataShare will allow the INS to transfer its immigrant information directly into the SSA's MES and initiate the process for issuing SSN cards. This process will eliminate the need for (1) immigrants to complete additional forms for an SSN, (2) the SSA and INS staff to verify INS documents, and (3) the SSA to process information from additional forms. This process should also reduce the use of falsified or counterfeit INS documents to obtain SSNs because SSNs will be issued based on information directly supplied by the INS and not documents provided by the aliens.²³

The 16 POEs that currently use DataShare process approximately 80 percent of all immigrant visas. Depending on funding availability, the INS plans to expand DataShare to all POEs.

²³ Aliens who become legal permanent residents through a change of status are not currently included in DataShare.

INS Implementation of Immigrant Visa DataShare

We conclude that the INS will implement the enumeration phase of the DOS/INS Immigrant Visa DataShare process as soon as the SSA completes making its modifications for DataShare and the DOS completes programming changes needed to transmit the applicable SSA data. We found that the INS is able technologically to provide the SSA immigrant status using DataShare. The INS and the DOS have shared immigrant petition and application data using DataShare since 1995. The DOS has successfully transmitted immigrant visas from 15 consular posts to the INS, which accounted for 60 percent of the immigrant visas issued by the DOS. Since the DOS expanded DataShare to all of its 126 visa-issuing consular posts, the INS has not experienced any significant technological difficulties with the program.

We found that the INS and the DOS have already made software modifications to accommodate the SSA's participation in DataShare. In June 2002, the INS and the DOS tested their portions of DataShare and stated that they are confident that their portions of the system work. However, the SSA did not participate in the test because it was addressing the communications protocol and data formatting convention issues.

The INS and DOS officials told us that they will conduct a pilot project involving three consular posts in October 2002.²⁴ The pilot project will test the system modifications with real-time data and the INS anticipates that the pilot project will run for 30 to 60 days. After completion of the pilot project, the DOS plans to install the upgraded software in all of its consular posts. The DOS anticipates that all consular posts will have the upgraded software by December 2002.

INS Management of Immigrant Visa DataShare

Although the INS has been successful in implementing the enumeration phase of DataShare, we found that the INS has not assigned specific tasks and responsibilities for managing DataShare to the appropriate offices. It also has not addressed other key elements in implementing the DataShare program.

Responsibilities for the effective operation of DataShare and transfer of that data to the SSA are split among three INS entities:

²⁴ The consular posts are: Manila, Philippines; Ciudad Juarez, Mexico; and London, England.

Inspections, Information Resources Management (IRM), and Strategic Information and Technology Development (SITD). The Immigration Services Division, as a user of the DataShare information, also provides key input to the program. Inspections identifies an automation need, IRM develops the technological solution, and SITD acts as liaison between the two entities.

The INS has not formally documented the responsibilities and tasks of each INS entity for implementing and managing DataShare. As a result, none of the entities has taken the responsibility to develop and implement policies, procedures, performance measures, and management controls. Inspections, as the primary user of DataShare, has the responsibility to ensure that its inspectors have the expertise and guidance to appropriately implement DataShare.

We also found that the INS also has not developed performance measures or management controls for DataShare. Even if the INS had policies and procedures in place, the INS managers would have difficulty monitoring the program, identifying problems, and taking corrective actions if performance measures and management controls are not in place. The INS managers must know if the program is functioning as intended.

PART 2: THE NONIMMIGRANT VISA PROCESS

This part of the review describes the process used by aliens to apply for admission to the United States as nonimmigrants. A nonimmigrant is an alien admitted to the United States for a specified purpose and a temporary period. The INS counted 31.4 million nonimmigrant admissions in fiscal year 1999. Of these, 1.78 million admissions were in classes that allowed or required the nonimmigrants to work.²⁵

Table 1 shows the number of nonimmigrant admissions in 1999 by work-authorized class of admission.

**Table 1. Work Eligible Nonimmigrant Admissions in 1999
By Class of Admission**

Admission Code	Class of Admission	Number
E	Treaty trader or investor	151,353
F	Foreign academic student, when certain conditions are met	557,688
H	Temporary worker	374,509
I	Foreign information media representative	31,917
J	Exchange visitor, when certain conditions are met	275,519
L	Intra-company transferee	234,443
O	Temporary worker in the sciences, arts, education, business, or athletics	19,194
P	Temporary worker in the arts or athletics in an exchange or cultural program	48,471
Q	Cultural exchange visitor	2,485
R	Temporary religious worker with a nonprofit organization	12,687
TN	Professional business worker admitted under NAFTA	68,345
Total		1,776,611

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Source: 1999 Statistical Yearbook of the Immigration and Naturalization Service

²⁵ There are significant limitations in the data available from the INS with respect to tracking individual nonimmigrants. Because the data are derived from the collection and tabulation of Forms I-94, the data represent admissions rather than individuals. Because a Form I-94 is collected each time a nonimmigrant enters the United States and because nonimmigrants may enter and leave the United States several times during any year (e.g., students returning home during vacation breaks or temporary workers returning home to attend to personal business), the number of arrivals do not equal the number of nonimmigrants admitted.

Filing the Nonimmigrant Visa Petition

Prospective employers or sponsors file visa petitions, INS Form I-129, Petition for a Nonimmigrant Worker, on behalf of aliens who apply for nonimmigrant visas as temporary workers (H), intra-company transferees (L), individuals with extraordinary ability (O), internationally recognized athletes or entertainers (P), or cultural exchange program participants (Q).

When the INS approves the petition, it notifies the appropriate consular post, which in turn notifies the nonimmigrant. The consular officer provides the nonimmigrant with instructions for obtaining and completing necessary forms, providing supporting documentation, and completing the visa application process.

The INS notifies the petitioner on Form I-797 whenever a visa petition, an extension of a visa petition, or an extension of stay is approved under any of the above visa categories.

Filing the Nonimmigrant Visa Application

When the consular post notifies an alien that the petition for admission has been approved, the alien completes a DOS Form DS-156, Nonimmigrant Visa Application. Under DOS requirements, all male nonimmigrant visa applicants between the ages of 16 and 45 also complete and submit a Form DS-157, Supplemental Nonimmigrant Visa Application.

One of the key criteria for determining nonimmigrant visa eligibility is the likelihood that aliens will return to their countries of origin when their visas expire and not remain in the United States as illegal “overstays.” Nonimmigrants may also need to show proof of binding ties to a residence outside the United States, which they have no intention of abandoning.

All aliens applying for nonimmigrant admission under work authorized visa categories must also have a passport valid for at least six months plus the length of time they will be allowed to work in the United States, and a photograph for use in their visa.

Each visa category requires specific information, which must be provided at the time of application. Examples of additional information include transcripts and diplomas from institutions previously attended, and financial evidence that shows sponsors have sufficient funds to cover expenses during the applicant’s stay in the United States.

The consular officers review and verify the information in the visa application package. Of particular interest is information that indicates the immigrant intends to return home after the visa expires. If the application is approved, the consular officers issue the nonimmigrant visa. The alien must pick up the visa in person at the consular post where the application was originally made. When issuing a visa, consular officers advise the alien that a visa does not guarantee entry into the United States and that the INS has the authority to deny admission at the POE.

All visa categories have time limits set by the INS in which the temporary worker may perform services in the United States. The consular officers advise aliens that the INS determines the period for which the bearers of temporary work visas are authorized to remain in the United States, and the INS makes the decision to grant or deny requests for extensions of stay.

U.S. Port of Entry Inspection of Nonimmigrants

Before arriving in the United States, nonimmigrants complete INS Forms I-94. Nonimmigrants report to the INS inspections area where inspectors determine the validity and authenticity of passports and visas. The inspector compares the passport photograph to the nonimmigrant presenting the passport and queries the passport number in IBIS. The Inspectors make a determination that the nonimmigrant intends to leave the United States when the visa expires. Finally, the inspectors also perform a look out query in IBIS to determine if a law enforcement agency has interest in the nonimmigrant. If the passport is valid and the IBIS query produces no adverse or conflicting information, the inspectors admit the nonimmigrant and endorses the passport with the admission stamp. All nonimmigrants authorized to work have visas, which the inspector also examines for validity and authenticity.

After the passport and visa are reviewed, the inspector examines the nonimmigrant-completed portion of Form I-94 for accuracy and legibility and then completes the remainder of Form I-94. This information is eventually entered into the INS's NIIS.

Most nonimmigrants are processed through primary inspections unless an inspector determines the documents presented require closer review. In those cases, nonimmigrants are referred to secondary inspections, where discrepancies are resolved or admission is denied.

Processing and Transmitting Forms I-94

The arrival portions of the Forms I-94 are shipped at least once daily to the INS data entry contractor (DEC) usually within 48 hours of receipt at the POE.²⁶ The DEC converts the Forms I-94 into an electronic image through a scanning process, which facilitates data entry and allows for quick distribution of the workload to subcontractors when necessary. The DEC enters data from Forms I-94, usually within 72 hours of receipt.²⁷ After the DEC performs its internal quality assurance activities, the batch update file is transmitted to the database contractor (DC), for validation processing and uploading to the DOJ mainframe computer.²⁸

The DC receives the batch update file, performs pre-upload quality assurance validation, and uploads the data to NIIS. Quality assurance may take 8 to 10 hours, and the actual data upload can take 14 to 16 hours for file sizes of 200,000 – 225,000 records.

Issuing Social Security Numbers to Nonimmigrants

Previous Enumeration Process for Nonimmigrants

Before September 1, 2002, the SSA could not electronically confirm the work eligibility status of nonimmigrant applicants for SSNs. Although the SSA participates in the SAVE program, as described earlier in this report, SAVE could not provide the SSA with nonimmigrant information because only immigrant information was contained in the ASVI database.

²⁶ The POEs do not ship Forms I-94 to the DEC on weekends and holidays. Memorandum from Michael Pearson, Executive Associate Commissioner, Office of Field Operations to all INS Regional Directors dated September 28, 2001, instructed air and sea POEs to forward Forms I-94 to the DEC twice per day, rather than once per day as previously instructed. Land POEs are to send Forms I-94 daily rather than weekly, except those with large numbers of Forms I-94. They are to send the forms twice per day.

²⁷ The DEC and the DC do not work weekends and holidays.

²⁸ Batch processing requires the data to be entered into an interim file that is built by the data entry process. Once all of the data is entered into that file or “batched,” the file is uploaded into the NIIS database. Due to the nature of the system (both hardware and software), this uploading takes place at off hours to minimize competing activities (conducting queries and loading data) on NIIS thus slowing the system response time for end users.

If a nonimmigrant applicant presented suspect INS documents, the SSA would use the paper-based, labor-intensive secondary verification process based on the completion of INS Form G-845. The SSA completes INS Form G-845, Document Verification Request, and sends it and copies of the INS documents presented with the SSN application to the INS. The INS checks the database to determine document validity and makes notations as to work eligibility on the form and returns it to the SSA field office.

Conducting secondary verifications on all nonimmigrant applicants can add several weeks to the SSN application process.²⁹ The SSA believes that secondary verification penalizes legitimate work-eligible nonimmigrants by delaying the issuance of an SSN. Also, because of its labor-intensive nature, secondary verification produces a significant increase in the workload of the SSA field offices. Based on these concerns, prior to September 1, 2002, the SSA only used secondary verification to check suspect documents. Therefore, the SSA issued an SSN to any nonimmigrant applicant presenting what appeared to be a valid INS document in support of the application.

In effect, the SSA was the arbiter of document validity. The SSA's reliance on its field office staff to verify INS documents increased the possibility of fraud going undetected.

New SSA Procedures for Issuing SSNs to Nonimmigrants

On September 1, 2002, the SSA changed its procedures for issuing SSNs to nonimmigrants. Under the new procedures, the SSA verifies with INS all INS documents presented by nonimmigrants applying for SSNs. The SSA refers to this as "Total Document Verification."³⁰ To reduce the INS and SSA document verification workload and to speed up issuing the SSNs, the INS began providing electronic access to portions of NIIS to the SSA field offices using the existing ASVI database.

Every nonimmigrant admitted to the United States under a class of admission that permits work completes a Form I-94. Class of admission information, as shown on Form I-94, is now directly available to the SSA, which reduces the need for the paper-based, secondary verification process, saving the INS and SSA staffs' time and facilitating faster issuance of the SSN.

²⁹ Queries can take 20 work days or more to be returned by the INS.

³⁰ SSA Emergency Message EM-02091 issued August 8, 2002.

The INS successfully tested the concept in June 2002 and made NIIS data available to all SSA field offices on July 15, 2002. The SSA field offices access NIIS data using ASVI, the database that supports the SAVE program. The SSA completed a phased implementation of the new procedures September 1, 2002.

The nonimmigrant SSN applicant completes Form SS-5, Application for a Social Security Card, and presents documents to the SSA that address the following required identifiers:

- Age – A document, at least one year old, which shows name and date of birth or age. The most common documents for aliens are foreign birth certificates, passports, or INS records;
- Identity – A recent document that verifies identity (not a birth certificate). The most common documents for aliens are passports or INS records; and
- Evidence of Work Authorized or Lawful Alien Status – An INS document that shows class of admission. For nonimmigrants, documents include a properly completed Form I-94 or Form I-688B, Employment Authorization Document (EAD).

Nonimmigrants must produce Form I-94; Form I-20 ID, Certificate of Eligibility for Nonimmigrant Student Status (for certain students); or the IAP-66 (sponsor letter for exchange visitors), as evidence of employment authorization. The documents must contain all of the following information:

- A statement of any regulatory limits on the time elements involved and a definite date as to when employment begins and ends;
- A statement of any regulatory limits on the type of employment authorized (as for example in F and M cases), or the statement "WITHOUT FURTHER LIMITATION," if no such regulatory limits exist; and

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- The date of action and the INS office’s three-letter identifying code or the identifying number of the INS officer authorizing employment.³¹

Nonimmigrants authorized to work based on their class of admission must present the departure portion of their Forms I-94. The form must have a valid admission stamp that contains:

- Information about the alien’s POE, date of inspection, and the inspection officer's identification,
- A stamp identification number, which usually appears on the same line as the POE, and
- The alien's class of admission and the validity date (*i.e.*, the date admitted until), which is signed in ink by the admitting inspector.

If the documents presented by the nonimmigrant appear valid, the SSA verifies the nonimmigrant’s INS documents by querying ASVI, which provides access to the NIIS data. If ASVI verifies the nonimmigrant’s status and there are no discrepancies between the information from the response and the documents presented, the SSN application is processed, and the nonimmigrant receives an SSN card within five workdays. If there is a discrepancy in the information (*e.g.*, name, date of birth), the SSA initiates secondary verification. It also inputs the SSN application information and codes the application as “suspect.”

If ASVI cannot confirm the nonimmigrant’s status (*i.e.*, the nonimmigrant’s information is not in the NIIS) and the nonimmigrant has been in the United States for less than ten days, the SSA inputs the SSN application in MES and codes the application as “suspect.” The SSA will re-query ASVI after the nonimmigrant has been in the United States more than ten days. If the second query is unsuccessful, the SSA uses the secondary verification process to verify the INS documents. While waiting for a response, the SSA continues to re-query ASVI weekly. If ASVI verifies the nonimmigrant’s status before the secondary verification response is received, the SSA completes SSN application processing.

³¹ Nonimmigrants whose work authorization is incident to their class of admission do not have an employment authorization stamp on their Form I-94. EADs are issued only to nonimmigrants who have filed an Application for Employment Authorization.

If the INS has not responded to a secondary verification request within 20 workdays, the SSA contacts the local INS district office. If the INS still does not provide a response, the case is referred to the SSA Regional Office, which pursues the issue with the local INS district office.

If the SSA is suspicious about the validity of the documents presented, it enters the information from the SS-5 in the MES, codes it as “suspect,” and immediately requests a secondary verification.³² Coding an application as suspect stops further processing of the application and requires the field office to maintain custody of the documents until issues are resolved. If the INS response to the secondary verification request cannot verify the nonimmigrant’s status, the SSA codes the SSN application as “fraudulent.”

Applications pending as suspect in the MES remain suspect until either the INS verifies the document and the SSA clears the application, or 120 days pass, at which time the application is deleted.

INS Processing Time for Nonimmigrant Data

According to the information we received, we conclude that the INS never established a 1-week standard for updating NIIS. The SSA cited new standards announced by the INS in December 2001 that require INS POEs to ship Forms I-94, Arrival/Departure Record, to the INS’s data entry contractor within two days of the nonimmigrant’s admission into the United States. The new standards also require the data entry contractor to process the Forms I-94 and upload the data into a database within three days of receipt of the forms. From this information, SSA officials inferred that the NIIS data would be available to it within five days of a nonimmigrant’s admission. However, this conclusion was not correct, because the new INS time standards apply to only a part of the entire procedure necessary to process the admission records and update NIIS. When the data entry contractor completes processing the Forms I-94, the data is transmitted to another database contractor at a different location for additional processing, which requires additional time before the information is uploaded into NIIS.

³² The SSA uses the Administrative-Confidential Memorandum to review the documents presented by the nonimmigrant applicant. The Administrative-Confidential Memorandum is an INS-prepared, controlled and limited distribution document that provides complete descriptions of common things to look for in counterfeit or fraudulent documents. Samples of real INS documents are included. The SSA also views the INS documents under a black light to check for security ink. The INS uses special security ink for most of its inspection stamps, which fluoresce under a black light. The ink is manufactured and distributed on a tightly controlled basis.

In response to our review, the INS estimated that the entire process to upload nonimmigrant information into NIIS should take approximately 11 to 13 workdays, not 5 workdays. The INS does not track the actual time required for collecting and processing the information. Based on our review, we believe the INS's estimate that it can make NIIS data available through ASVI within 11 to 13 workdays after nonimmigrant admissions is based on reasonable approximations and assumptions. The SSA informed us that through an informal survey it conducted in September 2002 the SSA estimated that 60 percent of the I-94 data is available to it within 10 calendar days of nonimmigrant admissions into the United States.

ASVI is the electronic system that acts as an information conduit for the SSA field offices to access selected NIIS data elements. The INS updates NIIS with Forms I-94 data after a nonimmigrant is admitted. It uploads selected NIIS data elements into ASVI. That data is then available to the SSA field offices through the ASVI system. The availability of the required information is dependent on uploading the selected NIIS data elements, not on updating the ASVI database.

INS Ability to Ensure the Accuracy of Nonimmigrant Data

In 1997, we issued a report that found that NIIS data was seriously flawed in content and accuracy.³³ Information we received from the contractor performing NIIS quality control analysis showed that for the 3-month period October through December 1996, 6.4 percent of the records received from the data entry contractor were rejected in the pre-load edit. The pre-load edit examines critical fields to ensure that data are present and valid. [There are seven critical fields in which an omission or error will cause a record to be rejected (admission number, first name, last name, date of birth, country of citizenship, date of arrival, and class of admission).]

In our April 2002 follow-up report on NIIS, we found that, according to an official from the INS's Statistics Office, the unreliability of nonimmigrant information continues to be a problem.³⁴ As of September 2002, the NIIS program manager told us that no definitive assessment of NIIS data quality improvement could be made until he develops and implements appropriate management controls.

³³ Immigration and Naturalization Service Monitoring of Nonimmigrant Overstays, Report No. I-97-08, September 1997.

³⁴ Follow-Up Report On INS Efforts To Improve The Control Of Nonimmigrant Overstays, Report No. I-2002-006, April 2002.

The NIIIS program manager told us that he is developing a monthly “Fatal Error Report,” which will be implemented by the DEC at the end of 2002. This report will track the source of incorrect data and allow for remedial action to improve data quality. The report will provide a list of errors by POE, POE inspection station, stamp number, and type of error.

The INS is also updating the Inspector’s Field Manual with new instructions that will clearly state that inspectors should take the time necessary to accurately and fully complete Form I-94 while the nonimmigrant is present.

CONCLUSION

This DOJ OIG limited review summarizes two systems that are used by the INS and SSA to provide critical alien information to the SSA – DataShare and NIIS. We found that the INS is able technologically to provide information to the SSA using DataShare. The INS and DOS have transmitted immigrant petition and application data using DataShare since 1995 without experiencing any technological difficulties. In June 2002, the INS and the DOS successfully tested their portions of DataShare.

However, to improve the INS’s capability to effectively share information with the SSA using DataShare, we urge that the INS develop policies and procedures for the implementation and management of DataShare. In addition, the INS should develop performance measures and management controls to monitor the performance of DataShare.

We found that the INS never established a 5-day time standard for the complete data updating process. The INS estimated that the complete process to upload information about nonimmigrants into NIIS should take approximately 11 to 13 workdays, not 5 workdays. This is an estimate based on reasonable approximations and assumptions.