

EXHIBIT 17

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HQ 70/43

Memorandum

TO: Field Leadership
 FROM: *for* Donald Neufeld
 Acting Associate Director, Domestic Operations

SUBJECT: Clarification and Delineation of Vetting and Adjudication Responsibilities for Controlled Application Review and Resolution Program (CARRP) Cases in Domestic Field Offices

I. Purpose

The purpose of this memorandum is to provide guidance to define the vetting and adjudication responsibilities for Controlled Application Review and Resolution Program (CARRP) cases in the domestic Field Offices. It outlines the distinctions between the duties and responsibilities of Fraud Detection and National Security – Immigration Officer (FDNS-IO) and CARRP-trained Immigration Services Officer (CARRP-ISO). It also explains the roles of Supervisory Immigration Services Officer (SISO) and FDNS-Supervisory Immigration Officer (FDNS-SIO) at each field office.

II. Background

On April 11, 2008, USCIS released the memorandum, *Policy for Vetting and Adjudicating Cases with National Security Concerns* (CARRP memo). This memo instituted the CARRP process, a disciplined approach for identifying, recording, and adjudicating applications and petitions where a National Security (NS) concern is identified. CARRP involves four unique, but overlapping, processing steps. These include:

1. Identifying a NS Concern
2. Assessing Eligibility in Cases with a NS Concern, consisting of:
 - i. Eligibility Assessment
 - ii. Internal Vetting
3. External Vetting
4. CARRP Adjudication

Moreover, CARRP decentralized the process of vetting and adjudicating cases with NS concerns. Prior to CARRP, all such cases were handled at the Headquarters Office of Fraud Detection and National Security (HQFDNS). With the release of CARRP, responsibility for vetting and

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adjudicating most cases with NS concerns was placed with Field Offices, allowing USCIS to leverage field resources and experienced officers for handling these difficult cases.

After the release of the CARRP memo, Domestic Operations (DomOps), Refugee Affairs Division, International Operations, and the Asylum Division issued separate, but coordinated, Operational Guidance for the implementation of CARRP within their programs. The following guidance is provided to help define the vetting and adjudication responsibilities for CARRP cases in the Domestic Operations Field Offices.

III. Policy Guidance

The current *Operational Guidance for Vetting and Adjudicating Cases with National Security Concerns (Operational Guidance)*, issued by Domestic Operations, provides general guidelines for the processing of cases with National Security (NS) concerns under CARRP, stating the various steps of the process will be completed by a “designated officer”

While the *Operational Guidance* states that a “designated officer” may be “an Immigration Analyst, Immigration Officer, Adjudications Officer, Asylum Officer or Refugee Officer,” the Office of Field Operations (OFO) is issuing this memorandum in order to establish the assignment of specific CARRP duties and responsibilities to the FDNS-IOs and the CARRP-ISOs who perform CARRP adjudications within each Field and District Office or on temporary duty at a Field or District Office. Per the *Operational Guidance*, a Field Office Director (FOD) will designate a specific Immigration Services Officer(s) to be trained in both CARRP procedures and the use of the Fraud Detection and National Security Data System (FDNS-DS).

In addition, the memorandum entitled, *Actions to be Taken to Standardize CARRP File Identification and the Movement of CARRP Cases Between the Components of USCIS*, dated March 26, 2009, authorizes the FOD to also designate one or more SISOs in each Field Office to perform some or all of the duties described herein for a SISO if he or she chooses. The SISO will play a central role in managing the CARRP process by coordinating the movement of CARRP files, assigning CARRP cases to a CARRP-ISO for adjudication, and providing supervisory concurrence for final adjudication of CARRP cases. Additionally, the FOD will outline local procedures regarding supervision, coordination and actions of the FDNS-IO and CARRP-ISO when there is no FDNS-Supervisory Immigration Officer (FDNS-SIO) located in the Field Office.

Clarification of Duties and Responsibilities within the CARRP Process:

As mentioned earlier, The *Operational Guidance* breaks down the CARRP process into four steps.

1. Identifying a NS Concern – Step 1 of CARRP Process:

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As noted in section III of the *Operational Guidance*, indicators of a NS concern may be identified at any time during the adjudicative processing of an application or petition. When such an indicator is noted for a case within a Field Office, the FDNS-IO is responsible for completing the identification of the NS concern. To do this, the FDNS-IO does the following:

- Confirms the identity of the person(s) related to the NS or public safety concern;
- Confirms the nexus between the concern itself and the person(s) associated with the application or petition, including any of the applicant's or petitioner's family members or close associates;
- Contacts the Record Owner of the NS hit in order to determine and articulate the link between the NS concern and the applicant or petitioner; and
- Creates a record in FDNS-DS for the subject of the NS concern after a positive identification of the NS concern if one does not already exist in the FDNS-DS system.

More detailed guidelines on completing the identification of a NS concern are available in the *Operational Guidance*, section III.

In many instances, CARRP cases received in a Field Office will have gone through Step One of the *Operational Guidance*, "Identifying a NS Concern" at either a Service Center or the National Benefits Center (NBC). In such cases, the SISO overseeing the CARRP process in each Field Office will coordinate with the FDNS-SIO, if available, or follow local procedures to have the case assigned to the appropriate FDNS-IO for Step Two of the *Operational Guidance*, "Assessing Eligibility in Cases with a NS Concern." The SISO will also assign a CARRP-ISO to adjudicate the application or petition in each CARRP case.

2. Assessing Eligibility in Cases with a NS Concern – Step 2 of CARRP Process:

Step 2 of the *Operational Guidance* includes both an *eligibility assessment* and *internal vetting* of the CARRP case. The purpose of Step 2 is two-fold: First, it is at this point in the CARRP process where both the FDNS-IO and the CARRP-ISO are required to thoroughly review the case file. The FDNS-IO completes required systems checks and internal vetting, and the CARRP-ISO completes an eligibility assessment of the CARRP case to determine whether any statutory or regulatory ineligibility exist. Second, specific questions and issues are compiled by both the FDNS-IO and the CARRP-ISO for discussion with the Record Owner of the NS hit so that the critical decisions, such as when an interview should be scheduled, can be made regarding adjudicating the application or petition.

The FOD in each Field Office will decide on the workflow of the CARRP case for this step of the CARRP process. More detail about the features of the elements of step two are described below:

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a. The Eligibility Assessment

The CARRP-ISO assigned to adjudicate the CARRP case will conduct a complete review of the case file in order to assess the individual's eligibility for the benefit sought and identify any questions and/or issues for discussion with the Record Owner during deconfliction. **Any denial** at this stage in the CARRP process shall be issued **only** after proper deconfliction, completion of required systems checks and supervisory concurrence. No denial shall be issued at this stage in the CARRP process based solely on discretionary grounds. See Section IV, "Assessing Eligibility in Cases with a NS Concern – Step 2 of CARRP Process" of the *Operational Guidance*. **The CARRP-ISO is responsible for documenting their actions related to the adjudication process in FDNS-DS at all stages of the adjudications process.**

b. Internal Vetting

The FDNS-IO is responsible for conducting the internal vetting of a CARRP case. This includes a complete review of the file to obtain any relevant information to support the adjudication, to perform the required systems checks, ensuring all systems checks are current, and, in some cases, to further examine the nature of the NS concern. A complete list of both the required and suggested systems checks which are a part of the internal vetting process can be found in Section IV, "Assessing Eligibility in Cases with a NS Concern – Step 2 of CARRP Process" of the *Operational Guidance*. **The FDNS-IO is responsible for documenting his or her actions in FDNS-DS throughout the CARRP process.**

As in the Eligibility Assessment part of this step, **any denial** at this stage in the CARRP process shall be issued **only** after proper deconfliction, completion of required systems checks and supervisory concurrence. No denial shall be issued at this stage in the CARRP process based solely on discretionary grounds. See Section IV, "Assessing Eligibility in Cases with a NS Concern – Step 2 of CARRP Process" of the *Operational Guidance*.

Performance of the eligibility assessment, internal vetting and deconfliction processes must be closely coordinated between the CARRP-ISO and the FDNS-IO. The FOD or SISO must ensure that there is efficient communication between CARRP-ISOs and FDNS-IOs so that mistakes are not made.

c. Deconfliction

As the Field Office's primary point of contact and liaison with Law Enforcement Agencies (LEA), the FDNS-IO is responsible for deconfliction with the Record Owner

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for all CARRP cases. FDNS-IOs are reminded that deconfliction may be necessary at any stage of the CARRP process and that deconfliction may need to be completed more than once before the final adjudication of a CARRP case. Again, this emphasizes the need for the FDNS-IO to maintain efficient communication with the appropriate CARRP-ISO and the SISO.

When contacting an LEA, it is also important for FDNS-IOs to remember that they must be careful to observe all security and special handling precautions in accordance with DHS and originating Record Owner requirements. Maintaining good security protocols promotes close and productive relationships with USCIS' law enforcement partners.

As per the *Operational Guidance*, the FDNS-IO may ask the Record Owner whether their agency has additional information (other than NS related information) that would affect the eligibility for the benefit sought. The FDNS-IO may also seek to resolve any other relevant concerns (i.e., criminal, public safety, fraud) identified through the security check process or review of the file. The FDNS-IO should explain the benefit sought to the Record Owner and bring up any questions or issues requested by the CARRP-ISO during the eligibility assessment in order to gain as much information as possible for the adjudication of the case. When possible, the FDNS-IO should include the CARRP-ISO when contacting the Record Owner for deconfliction.

Complete instructions for deconfliction are in Section IV, part C, "Deconfliction" of the *Operational Guidance*.

d. Documenting Eligibility Assessment and Internal Vetting

The results of the eligibility assessment, internal vetting and deconfliction must be fully documented in FDNS-DS. A copy of the Background Check and Adjudicative Assessment (BCAA) Report should then be printed from FDNS-DS and placed in the A-File.

Both the FDNS-IO and the CARRP-ISO are responsible for entering their activities, documentation, etc. into the FDNS-DS system throughout the CARRP process. USCIS policy requires that each action taken while working on a CARRP case is immediately entered into FDNS-DS and that each process phase be immediately updated as it is completed in order to ensure accurate reporting for each NS case. Field Offices may have varying local procedures to ensure FDNS-DS is fully up-to-date at the end of each and every stage of the CARRP process. Such procedures are permissible provided that all information pertaining to each CARRP case is entered into FDNS-DS at the appropriate time as dictated by FDNS-DS User Guidelines. (See the FDNS web site on the USCIS intranet).

e. Individual Deemed Eligible for the Benefit

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Per the *Operational Guidance*, when a NS concern remains and the individual is deemed eligible for the benefit at the Eligibility Assessment/Internal Vetting stage, no benefit may be granted until external vetting is complete, unless an exception applies. See Section VIII, “Case Specific Exceptions and Miscellaneous Guidance”, which includes ancillary benefits, I-90s, Santillan cases, motions, appeals, exemptions and dealing with classified information.

3. External Vetting – Step 3 of CARRP Process:

a. KST NS Concerns

Pursuant to current CARRP guidance, FDNS-IOs in the Field are not authorized to conduct external vetting with a Record Owner in possession of NS information where NS concerns indicate the subject is a KST. FDNS-IOs are authorized to conduct internal vetting of KST cases, as designated earlier in this memo, while CARRP-ISOs are authorized to conduct an initial eligibility assessment of KST cases. HQFDNS has sole responsibility for external vetting of KST NS concerns and conducts external vetting only as a last resort when the NS Concern remains and ineligibility grounds have not been identified.

If, following internal vetting and an initial eligibility assessment, the applicant or petitioner is found to be otherwise eligible, either the FDNS-IO or the CARRP-ISO must proceed as follows:

- The CARRP-ISO must complete the initial eligibility assessment and update FDNS-DS accordingly;
- The FDNS-IO must complete all internal vetting and deconfliction and update FDNS-DS accordingly; and
- Per local procedure established by the FOD, either the SISO in charge of CARRP or the FDNS-SIO, must verify that the internal vetting and deconfliction was completed, documented in the physical file by including a copy of the BCAA report (printed from FDNS-DS), and all actions are properly updated within FDNS-DS. Supervisory concurrence must be indicated in FDNS-DS.

Per the *Operational Guidance* “local management” (either the FOD or the District Director (DD) which is to be determined in each Field Office) must review the case to confirm that no grounds of ineligibility have been identified. Local management (FOD and/or DD as per local policy) concurrence must be indicated in FDNS-DS.

Per local office procedures, the FOD or designated supervisor (“Designated supervisor” may be an SISO or FDNS-SIO, depending on local staffing), in charge of CARRP will designate which officer, the FDNS-IO or the CARRP-ISO, must complete a Request for Assistance (RFA) to HQFDNS as noted in Section II.B of the *Operational Guidance*.

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Also per local office procedures, the FOD or SISO will designate which personnel will [REDACTED] and forward the physical file to HQFDNS, attention Milagros Castillo, Staff Assistant. FDNS-IOs and CARRP-ISOs are reminded that they may request both vetting and adjudicative assistance from HQFDNS, and should do so in cases involving KSTs or cases in litigation.

b. Non-KST NS Concerns

The FDNS-IO in each Field Office is responsible for conducting external vetting of Non-KST cases. Complete instructions for Section V, “External Vetting – Step 3 of CARRP Process” are available in the *Operational Guidance*.

The FDNS-IO must seek any additional information that may be relevant to a determination of eligibility. This may include information concerning indicators of fraud, foreign travel and information about employment or family relationships that would otherwise not rise to the threshold necessary for criminal prosecution. It is vital for the FDNS-IO to clearly document any facts or fact patterns found during the external vetting process for use by the CARRP-ISO in the final adjudication of the case.

As stated earlier, the FDNS-IO is the primary point of contact and liaison for external vetting of Non-KST CARRP cases with any LEA, Record Owner and relevant agency. Complete instructions for Section V, “External Vetting – Step 3 of CARRP Process” are available in the *Operational Guidance*.

Throughout the CARRP process, FDNS-IOs must conduct deconfliction as necessary. This is done to ensure that planned adjudicative activities (e.g., interview, request for evidence, site visit, decision to grant or deny a benefit, or timing of the decision) do not compromise or impede an ongoing investigation or other Record Owner interest. This requires close coordination with the CARRP-ISO regarding any interview that may be necessary or required to complete the adjudicative process.

It is vital for the FDNS-IO to fully document all activities and their results connected with external vetting in FDNS-DS. This documentation must be completed before the case moves forward in the CARRP process.

The FDNS-IO must also ensure deconfliction is complete and documented properly in FDNS-DS before any CARRP case goes forward for adjudication.

4. CARRP Adjudication – Step 4 of CARRP Process:

CARRP-ISOs are responsible for the adjudication of CARRP cases assigned to them by the SISO in charge of CARRP, or the FOD, in each Field Office. The CARRP-ISO must check

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FDNS-DS to ensure deconfliction is complete before adjudicating any CARRP case. If the deconfliction does not appear in the FDNS-DS record, the CARRP-ISO shall inform the SISO responsible for CARRP cases. The SISO must then contact the FDNS-SIO, if one is located in the Field Office, to direct the FDNS-IO to either complete the required deconfliction and document this action in FDNS-DS or, if deconfliction has been completed, direct the FDNS-IO to complete the documentation of the deconfliction in FDNS-DS. If a Field Office does not have an FDNS-SIO, the SISO must follow local procedures to contact an FDNS-IO to complete and/or document the required deconfliction in FDNS-DS.

a. Adjudicating Applications with KST NS Concerns

Upon completion of all external vetting, HQFDNS will return cases to the submitting officer when:

1. HQFDNS has determined that the information obtained during external vetting is sufficient to support a denial of the pending application or petition; or
2. HQ senior leadership and the USCIS Deputy Director recommend approval of the application or petition. Following this recommendation, the HQ program office with jurisdiction over the case, in coordination with HQFDNS and Office of Chief Counsel, will issue written direction to the field on how to proceed with adjudication.

b. Adjudicating Applications or Petitions with Non-KST NS Concerns

The CARRP-ISO must obtain supervisory approval and concurrence from the FOD in order to approve any application or petition that grants a benefit to an individual with remaining Non-KST NS concerns. Once the FOD concurs that the individual is otherwise eligible for the benefit, the FOD may use his or her discretion to have the CARRP-ISO grant the benefit or the FOD may designate either the FDNS-IO or the CARRP-ISO to request further assistance from HQFDNS/ASU (Adjudication Support Unit). (See Section VI, "Requesting Vetting Assistance from HQFDNS" in the *Operational Guidance*.) If, after consultation with the respective HQ component, the FOD decides to grant the benefit, the FOD, or FOD's designee, must document all adjudicative actions in FDNS-DS, and print out the BCAA report for inclusion in the case file.

REMEMBER: Both FDNS-IOs and CARRP-ISOs have distinct duties to perform in the processing of CARRP cases; however, close cooperation and coordination of effort between Officers is necessary in order to bring each case to completion.

Field Office personnel are reminded to follow the guidelines for confidentiality, Privacy Act requirements (e.g., DHS Handbook for Safeguarding Sensitive Personally Identifiable Information) and handling sensitive but unclassified (For Official Use Only – FOUO)

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information while working on all CARRP cases. Specific guidelines may be found in Sections C & D, pages 7 & 8 of the *Operational Guidance*.

In addition, Field Office personnel are reminded to adhere to all security-related policies related to protecting FOUO and classified information. Specific guidelines regarding the provisions of Executive Order are found in the *Operational Guidance*. Information regarding the specific regulations governing the protection of FOUO and Executive Order 12958, as amended, Classified National Security Information, is available at the intranet site of the USCIS Office of Security and Investigations.

IV. Contact Information

Questions regarding this memorandum may be directed through official channels to HQ, Office of Field Operations.

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