



U.S. DEPARTMENT OF HOMELAND SECURITY
OFFICE OF INSPECTOR GENERAL

OIG-24-33

June 25, 2024

FINAL MANAGEMENT ALERT

Management Alert - CBP Has Limited Information to Assess Interview-Waived Nonimmigrant Visa Holders (REDACTED)





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OFFICE OF INSPECTOR GENERAL

U.S. Department of Homeland Security

Washington, DC 20528 | www.oig.dhs.gov

June 25, 2024

MEMORANDUM FOR: Troy Miller
Senior Official Performing the Duties of the Commissioner
U.S. Customs and Border Protection

FROM: Glenn Sklar GLENN E SKLAR Digitally signed by
GLENN E SKLAR
Date: 2024.06.25
17:39:14 -04'00'
Principal Deputy Inspector General

SUBJECT: Management Alert - *CBP Has Limited Information to Assess Interview-Waived Nonimmigrant Visa Holders* - ~~Law Enforcement Sensitive~~

Attached is our final management alert, *CBP Has Limited Information to Assess Interview-Waived Nonimmigrant Visa Holders* - ~~Law Enforcement Sensitive~~. This alert informs you of an urgent issue we discovered during an ongoing audit and the actions CBP has taken to address the issue. Specifically, we found that CBP has limited information on whether nonimmigrant visa holders have been interviewed by Department of State.

Your office concurred with the two recommendations in the draft management alert. Based on information in your office's response to the draft management alert, we consider recommendation 1 open and resolved and recommendation 2 open and unresolved. As appropriate, we incorporated your technical comments. We have appended your office's response verbatim to this final management alert.

As prescribed by Department of Homeland Security Directive 077-01, *Follow-Up and Resolutions for the Office of Inspector General Report Recommendations*, within 90 days of the date of this memorandum, please provide our office with a written response that includes, for each recommendation, any update to your concurrence or nonconcurrence and any planned corrective action with a targeted completion date or completed corrective action. Also, please include information on responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendation.

Please send your response or closure request to OIGAuditsFollowup@oig.dhs.gov.

Consistent with our responsibility under the *Inspector General Act of 1978*, we will provide copies of our alert to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post a redacted version of the alert on our website for public dissemination.

OIG Project No. 24-011-AUD-CBP (a)

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Please contact me with any questions, or your staff may contact Kristen Bernard, Deputy Inspector General for Audits, at (202) 981-6000.

Attachment

Office of Inspector General

U.S. Department of Homeland Security | Washington, DC 20528 | www.oig.dhs.gov



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Summary of Issues

The Department of State (DoS) issues nonimmigrant visas to individuals seeking entry into the United States on a temporary basis for tourism, medical treatment, business, temporary work, study, or other reasons. In 2020, due to the COVID-19 pandemic, and to address staffing limitations and visa backlogs, DoS and the Department of Homeland Security agreed to expand DoS' authorities to waive requirements to conduct consular interviews and collect fingerprints for some individuals seeking nonimmigrant visas. According to DoS, from calendar years 2020 through 2023, it granted nonimmigrant visas to approximately 7.1 million individuals without conducting in-person consular interviews. DoS also did not collect fingerprints for an unknown number of visas during the same period. In December 2023, DoS and DHS agreed to expand the categories of visas and applicants whose consular interviews could be waived beginning on January 1, 2024. The fingerprint waiver program ended in December 2023. During our ongoing audit of *U.S. Customs and Border Protection's (CBP) Screening of Visa Holders That Received Waivers from Department of State (24-011-AUD-CBP)*, we found that CBP Office of Field Operations (OFO) port directors at some U.S. ports of entry had not been aware of the interview and fingerprint waiver program.

In March 2024, DoS began providing DHS and CBP with information on visa holders who did not receive interviews. CBP OFO alerted the port directors at the ports of entry that the inspection information technology systems now include an [REDACTED] as part of an individual's record. However, only CBP officers conducting [REDACTED] have access to these records; officers conducting [REDACTED] at the ports of entry do not have access to these records. Because consular interviews can be an important mechanism for collecting information from visa applicants to verify identity and determine admissibility before they arrive in the United States, having knowledge of who was waived and who was not could allow CBP officers to make more informed decisions [REDACTED]. Moreover, having the [REDACTED] would also allow CBP to track trends for effective monitoring and evaluation.

Background

CBP, one of DHS' 22 components, is one of the world's largest law enforcement organizations and is charged with protecting the Homeland against illegal entry, illicit activity, or other threats to promote national and economic security. CBP OFO is responsible for verifying identification documents, collecting biometrics, and confirming biographic information of travelers arriving at U.S. ports of entry. CBP officers use these data elements, as well as a traveler's criminal and immigration history, to determine admissibility into the United States.

Both DoS and DHS have responsibilities for ensuring the security of the American people. DoS' Bureau of Consular Affairs is responsible for screening and vetting foreign nationals who wish to



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enter the United States on a temporary basis for tourism, medical treatment, business, temporary work, study, or other reasons before issuing them visas.¹ When applying for a nonimmigrant visa, applicants must submit biographic (such as name and date of birth) and biometric (such as fingerprints and photographs) data for review by a consular officer. According to the *Immigration and Nationality Act of 2023* (INA), as amended, nonimmigrant visa applicants aged 14 through 79 generally must be interviewed by a consular officer.² The Secretary of State may waive this requirement for travelers in certain visa categories.³

DoS' processes for reviewing visa applications helps assure CBP that an individual's identity, background, and biographic information have been verified before they arrive in the United States. It is important for CBP to maintain awareness of exceptions to this process, such as who was waived and who was not, so that CBP officers can make informed decisions on admissibility into the United States. CBP's screening process is multi-layered and consists of [REDACTED] and [REDACTED].⁴

CBP Officers Received Limited Information on whether Nonimmigrant Visa Holders Had Been Interviewed

DoS, in concurrence with DHS, waived in-person interviews for approximately 7.1 million applicants for nonimmigrant visas from FY 2020 through FY 2023. DoS and DHS also agreed to waive fingerprint collection for certain categories of visas during the same period. The temporary expanded authorities to waive in-person interviews and fingerprint collection for certain visa applicants were initially put in place for unusual or emergent circumstances associated with the COVID-19 pandemic, including protecting critical elements of the food supply chain, and to assist DoS with the large volume of visa applications, which outweighed its resources.

The most recent temporary authorities, which are reviewed on a yearly basis, expired on December 31, 2023. However, DoS argued that these temporary authorities should be renewed

¹ The classes of nonimmigrant visas are generally defined in Section 101(a)(15) of the *Immigration Nationality Act* (INA). 8 United States Code (U.S.C.) §1101(a)(15).

² 8 U.S.C. §1202(h)(1); INA §222(h); 22 Code of Federal Regulations §41.102.

³ 8 U.S.C. §1202(h)(1)(C)(i) authorizes the Secretary of State to waive the in-person interview requirement when such a waiver is in the national interest. See 22 Code of Federal Regulations §§41.102(b)-(c) for the Secretary of State's authority to waive in-person interviews in the national interest.

⁴ All travelers seeking to enter the United States must present themselves and their belongings for inspection at the border. The initial inspection by a CBP officer at the port of entry is called a [REDACTED]. During the [REDACTED], a CBP officer may review identity documents such as passports, visas, and/or driver's licenses and ask general questions about the purpose of the individual's visit. During [REDACTED] a CBP officer may also review other relevant information about the traveler, including pertinent law enforcement information. If the officer determines that the traveler warrants additional inspection, the officer will refer the traveler for additional scrutiny, or [REDACTED].



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and expanded to address the growing worldwide demand for visas moving forward into 2024. Thus, in the months preceding the expiration deadline, DoS sought concurrence⁵ from DHS on its proposal to broaden the set of visa categories eligible for interview waivers as well as eliminate the fingerprint requirement for certain visa applicants.⁶

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED], DHS agreed to support DoS' proposal to expand the categories⁷ of visas for which interviews can be waived contingent on several conditions. One main condition was that DoS must inform DHS which visa applicants were not interviewed. This would come in the form of a [REDACTED] in CBP's information technology systems used for

⁵ The *Homeland Security Act of 2002*, Section 428 divides visa issuance responsibilities between DoS and DHS. On September 28, 2003, then-Secretary of State Colin Powell and then-Secretary of Homeland Security Thomas Ridge signed a memorandum of understanding (MOU) implementing Section 428 of the Homeland Security Act. The MOU describes each department's responsibilities in the area of visa issuance. Among its major elements, and with certain exceptions, the MOU states that DoS may propose and issue visa regulations subject to DHS consultation and final approval. The MOU also states that the Secretary of Homeland Security has final responsibility over visa guidance prescribing when a consular officer may waive a visa applicant's personal appearance.

⁶ DoS requested DHS' concurrence on eliminating the fingerprint requirement under Section 303 of the *Enhanced Border Security and Visa Entry Reform Act of 2002*, Pub. L. No. 107-173 (codified as 8 U.S.C. §1732) for first-time nonimmigrant visa applicants from countries participating in the Visa Waiver Program; and for first-time and returning H-2 visa applicants who qualify for interview waivers. H-2 visas allow applicants to work in temporary jobs in agriculture, construction, forestry, and other industries. The H-2A visa is for temporary agricultural jobs, while the H-2B visa is for temporary non-agricultural jobs.

⁷ In response to DHS' opposition, DoS agreed to stop waiving fingerprint collection for H-2 visa applicants (i.e., applicants seeking to work in temporary jobs in agriculture, construction, forestry, and other industries).



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inspections at ports of entry. Other conditions include DoS providing DHS a security and terrorism risk assessment of the proposed expansion of interview waivers, a list of fiscal year 2024 nonimmigrant visa processing goals for DoS' Bureau of Consular Affairs, and DoS' current and planned efforts to increase consular capacity — staffing, policy, and technology — to meet the growing worldwide demand for visas. Having an [REDACTED] would allow CBP officers conducting [REDACTED] at the ports of entry to know whether the requirement for a consular interview had been waived for individuals they encounter. Based on that knowledge, the officers could [REDACTED] if deemed appropriate. According to DHS, having the [REDACTED] also allows CBP to track trends for effective monitoring and evaluation.

Even though the agreed-upon expanded authorities took effect on January 1, 2024,⁸ DHS and CBP did not receive [REDACTED] to show CBP officers which visa holders had not been interviewed until March 29, 2024. To provide the [REDACTED], DoS established a feed into CBP's information technology systems for screening and vetting so that CBP officers would be able to see an [REDACTED] in a visa holder's record.

CBP Officers Conducting [REDACTED] Do Not Have Full Visibility of Visa Interview Waivers

CBP officers conducting [REDACTED] have not had access to the [REDACTED] information since 2020. Though CBP notified its port directors at ports of entry that the [REDACTED] was available beginning in March 2024, it only provided access to this information to officers conducting [REDACTED] and not to officers conducting [REDACTED]. According to CBP officials, they did not want officers conducting [REDACTED] to send all individuals whose requirement for consular interviews had been waived to [REDACTED] and "inundate" that process until they have had the time to assess the [REDACTED] information and determine the level of risks, if any. CBP OFO officials told us that no formal notification was provided to the Field Offices and frontline officers because CBP did not want to overload the officers with information. Further, they added that CBP receives hundreds of alerts each day, but officials must prioritize what information is shared with frontline officers.

In lieu of providing officers conducting [REDACTED] with access to the [REDACTED] information, CBP OFO officials stated they plan to work with the National Targeting Center to [REDACTED] to identify risks, if any, posed by visa holders who had their interviews waived. Although this proposed action differs from CBP's prior statements that it needed the [REDACTED] for its officers conducting [REDACTED], we encourage CBP to use all

⁸ In November 2023, senior representatives from DHS; DoS; Justice; Commerce; the Federal Bureau of Investigations; the Office of the Director of National Intelligence; the Office of Management and Budget; and other Government agencies, offices, and departments met at the White House with the National Security Council to discuss visa interview waiver authorities.



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available resources to evaluate potential risk. Because of the importance of this issue, we will continue to monitor CBP’s progress in working with the National Targeting Center or in establishing other means to manage risks.

While the [REDACTED] is now available at [REDACTED], CBP does not have the system capability to gather information on individuals who were granted visa interview and fingerprint waivers prior to March 2024. As a result, more than 4 years after the waiver expansion began, CBP has no assurance that individuals with waivers who arrived at U.S. ports of entry from 2020 through 2023 were identified at [REDACTED] for further screening.

Prior to March 2024, CBP OFO did not inform its port directors that DoS had been waiving certain requirements for interviews and fingerprints. We spoke with CBP OFO port directors at 16 land ports of entry. Of the 16 we spoke with, all reported that they were unaware that some visa holders had not received consular interviews nor had their fingerprints collected before being issued their visas. In our discussions, half (eight) of the port directors told us that even if they had known, they would not have altered their inspection process. These port directors emphasized that visa holders with waivers are subjected to the [REDACTED] as any other visa holder. However, the other eight port directors stated that knowing certain visa categories were exempt from interview and fingerprint requirements may have been beneficial in alerting CBP officers that an individual may require additional screening and vetting.

Because DoS interviews can be an important mechanism for collecting information from visa applicants to verify identity, background, and biographic information before they arrive in the United States, having knowledge of who was waived and who was not could allow CBP officers to make more informed decisions [REDACTED]. Moreover, having the [REDACTED] also allows CBP to track trends for effective monitoring and evaluation. While CBP begins to evaluate the data on which individuals received interview waivers, it can still take actions to mitigate potential risks. Developing strategies to address potential risks would better position CBP to carry out its mission of keeping the homeland safe.

Recommendations

Recommendation 1: We recommend the Senior Official Performing the Duties of the Commissioner of CBP work with the National Targeting Center to establish other means to manage risks, if any, posed by visa holders who received interview waivers from the Department of State.

Recommendation 2: We recommend the Senior Official Performing the Duties of the Commissioner of CBP develop and implement a comprehensive plan to perform trend analyses to analyze risks posed by individuals whose consular interviews were waived by the Department



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of State with data captured at [REDACTED], and using the results, develop and implement mitigation plans.

Management Comments and OIG Analysis

CBP provided written comments in response to the draft management alert. Appendix B contains CBP’s management comments in their entirety. We also received technical comments from CBP and the DoS and revised the management alert, as appropriate. CBP concurred with both recommendations. Based on the information received, we consider recommendation 1 open and resolved, and recommendation 2 open and unresolved. A summary of CBP’s response and our analysis follows.

CBP leadership disagreed with our conclusions. CBP stated that DoS’ decision to waive a visa applicant’s interview or biometrics during the visa issuance process does not change how CBP officers conduct [REDACTED]. CBP also stated that all travelers, regardless of whether they received a waiver, are inspected by CBP when they reach a U.S. port of entry to include an interview, biographic, and biometric vetting. The presence of an [REDACTED] is supplemental information, but not critical to the [REDACTED] environment.

CBP also disagreed that the scope and conclusions of our audit work rises to the posted definition of a “Management Alert” on OIG’s website. OIG updated the policy on October 28, 2021, and agreed that the website should be updated to reflect that change. OIG leadership updated the language on June 21, 2024 to better align with our current policy on Management Alerts.

Recommendation 1: Work with the National Targeting Center to establish other means to manage risks, if any, posed by visa holders who received interview waivers from the DoS.

Response: Concur. CBP OFO and its National Targeting Center will identify a role for [REDACTED] information in the targeting environment, as supported by analysis, intelligence, and existing protocols. Estimated Completion Date (ECD): June 30, 2025.

OIG Analysis: We appreciate CBP’s planned efforts to work with the National Targeting Center to assess risk going forward. We consider these actions responsive to the recommendation, which we consider open and resolved. We will close this recommendation when CBP provides documentation supporting how they identified and implemented a role for [REDACTED] information in the targeting environment, as supported by analysis, intelligence, and existing protocols.

Recommendation 2: Develop and implement a comprehensive plan to perform trend analyses and analyze risks posed by individuals whose consular interviews were waived by the DoS with



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data captured at [REDACTED], and using the results, develop and implement mitigation plans.

Response: Concur. In collaboration with DHS and Operational Components, as appropriate, CBP OFO and its National Targeting Center will identify a role for [REDACTED] information in the targeting environment, as supported by analysis, intelligence, and existing protocols. ECD: June 30, 2025.

OIG Analysis: We appreciate CBP's planned efforts to work with the National Targeting Center to identify risk going forward. However, this action is not responsive to the intent of this recommendation, which is to perform a trend analysis and analyze risk posed by individuals whose interviews were previously waived. Therefore, we consider this recommendation open and unresolved. We will close the recommendation when CBP provides a comprehensive plan to perform trend analyses and analyze risks posed by individuals whose consular interviews were waived by DoS with data captured at [REDACTED] and use the results to develop and implement mitigation plans.



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Appendix A Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Pub. L. No. 107-296) by amendment to the *Inspector General Act of 1978*.

We issued this management alert as part of an ongoing audit: 24-011-AUD-CBP – “*CBP’s Screening of Visa Holders That Received Waivers from Department of State.*” The objective of our ongoing audit is to determine (1) the extent to which CBP was aware of DoS’ policy changes to grant certain categories of visas without in-person interviews and biometrics; and (2) the extent to which CBP can identify and fully screen visa holders with waivers upon arrival at U.S. ports of entry. As part of our audit, from January 30, 2024, to May 16, 2024, we:

- Conducted site visits at four different ports of entry in Texas and New Mexico in CBP’s El Paso, Texas, Field Office area of responsibility. We observed the pedestrian and vehicle [REDACTED] and [REDACTED] processes, interviewed CBP officers, and met with field office and port leadership.
- Interviewed 16 port directors at land ports of entry across the United States representing each CBP field office with land border crossing responsibilities.
- Interviewed officials from CBP OFO; DHS’ Office of Strategy, Policy, and Plans; and CBP’s Office of Planning, Program Analysis, and Evaluation.
- Reviewed interagency correspondence between DHS and DoS; DoS visa application policies; and CBP OFO operational policies, directives, and training documents. We analyzed aggregate data obtained from DoS regarding visa populations and interview and fingerprint waivers.

We conducted this work pursuant to the *Inspector General Act of 1978*, 5 U.S.C. §§ 401-424, and in connection with an ongoing audit being performed according to generally accepted government auditing standards. Those standards require we plan and perform our audit work to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives.

Additional information and recommendations related to the issue addressed in this management alert may be included in the report resulting from our audit.

DHS OIG’s Access to DHS Information

During this audit, CBP provided responses to our requests for information and did not delay or deny access to information we requested.



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Appendix B:
CBP Comments on the Draft Alert

1300 Pennsylvania Avenue, NW
Washington, DC 20229



U.S. Customs and
Border Protection

June 20, 2024

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.
Inspector General

FROM: Henry A. Moak, Jr.
Senior Component Accountable Official
U.S. Customs and Border Protection

6/20/2024

x [Signature]

SUBJECT: Management Response to Draft Management Alert: "CBP Has
Limited Information to Assess Interview-Waived Nonimmigrant
Visa Holders" (Project No. 24-011-AUD-CBP(a))

Thank you for the opportunity to comment on this draft Management Alert. U.S.
Customs and Border Protection (CBP) appreciates the work of the Office of Inspector
General (OIG) in planning and conducting its review and issuing this report.

OIG's public website¹ regarding Management Alerts state that they are "used by the OIG
to inform senior Department of Homeland Security (DHS) managers of conditions which
pose an immediate and serious threat of waste, fraud, and abuse in agency programs."
CBP leadership emphatically disagrees with this categorization of its critical work in
inspecting arriving applicants for admission at United States ports of entry in
circumstances where the nonimmigrant may have had an interview or biometrics waived
as part of the visa issuance process with the Department of State (DOS). DOS and DHS
have closely coordinated to ensure that the administration of interview waivers is
conducted in a manner that protects U.S. public safety and national security. All
travelers, regardless of whether they received a waiver, are inspected by CBP when they
reach a United States port of entry to include an interview, biographic and biometric
vetting.

DOS electing to waive a visa applicant's interview or biometrics during the visa issuance
process does not change how CBP officers conduct [redacted], or related
policies and procedures. The presence of an [redacted] is supplemental
information, but not critical to the [redacted] environment. CBP remains
committed to conducting interviews and collecting biometrics in a consistent, secure
manner for all nonimmigrant visa holders, as appropriate, in alignment with longstanding

¹ https://www.oig.dhs.gov/reports/management-alerts



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law, regulations, and authorities, regardless of any DOS waiver used in the visa issuance process.

The draft Management Alert contained two recommendations with which CBP concurs. Enclosed find our response to each recommendation. CBP previously submitted technical comments addressing several accuracy, contextual and other issues under a separate cover for OIG's consideration.

Again, thank you for the opportunity to review and comment on this draft Management Alert. Please feel free to contact me if you have any questions.

Enclosure

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Enclosure: Management Response to Recommendations Contained in 24-011-AUD-CBP(a)

OIG recommended that the Senior Official Performing the Duties of the Commissioner of CBP:

Recommendation 1: Work with the National Targeting Center establishing other means to manage risks, if any, posed by visa holders who received interview waivers from the Department of State.

Response: Concur. CBP Office of Field Operations (OFO) and its National Targeting Center will identify a role for [REDACTED] information in the targeting environment, as supported by analysis, intelligence, and existing protocols. Estimated Completion Date (ECD): June 30, 2025.

Recommendation 2: Develop and implement a comprehensive plan to perform trend analyses and analyze risks posed by individuals whose consular interviews were waived by the Department of State with data captured at [REDACTED], and using the results develop and implement mitigation plans.

Response: Concur. In collaboration with DHS and operational Components, as appropriate, CBP OFO and its National Targeting Center will identify a role for [REDACTED] information in the targeting environment, as supported by analysis, intelligence, and existing protocols. ECD: June 30, 2025.



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**Appendix C:
Alert Distribution**

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Assistant Secretary for Office of Public Affairs
Assistant Secretary for Office of Legislative Affairs
Acting Executive Assistant Commissioner, CBP-Office of Field Operations
DHS Component Liaison

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