

**§ 256. Sense of Congress regarding construction of fencing near San Diego, California**

It is the sense of the Congress that completing the 14-mile border fence project required to be carried out under section 102(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) should be a priority for the Secretary.

(Pub. L. 107–296, title IV, §446, Nov. 25, 2002, 116 Stat. 2195.)

**Editorial Notes**

REFERENCES IN TEXT

Section 102(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, referred to in text, is section 102(b) of title I of div. C of Pub. L. 104–208, which is set out as a note under section 1103 of Title 8, Aliens and Nationality.

**§ 257. Report**

**(a) In general**

The Secretary of Homeland Security shall submit an annual report to the congressional committees set forth in subsection (b) that includes a description of—

- (1) the cross-border tunnels along the border between Mexico and the United States discovered during the preceding fiscal year; and
- (2) the needs of the Department of Homeland Security to effectively prevent, investigate and prosecute border tunnel construction along the border between Mexico and the United States.

**(b) Congressional committees**

The congressional committees set forth in this subsection are—

- (1) the Committee on Homeland Security and Governmental Affairs of the Senate;
- (2) the Committee on the Judiciary of the Senate;
- (3) the Committee on Appropriations of the Senate;
- (4) the Committee on Homeland Security of the House of Representatives;
- (5) the Committee on the Judiciary of the House of Representatives; and
- (6) the Committee on Appropriations of the House of Representatives.

(Pub. L. 112–127, §8, June 5, 2012, 126 Stat. 371.)

**Editorial Notes**

CODIFICATION

Section was enacted as part of the Border Tunnel Prevention Act of 2012, and not as part of the Homeland Security Act of 2002 which comprises this chapter.

PART E—CITIZENSHIP AND IMMIGRATION SERVICES

**§ 271. Establishment of Bureau of Citizenship and Immigration Services**

**(a) Establishment of Bureau**

**(1) In general**

There shall be in the Department a bureau to be known as the “Bureau of Citizenship and Immigration Services”.

**(2) Director**

The head of the Bureau of Citizenship and Immigration Services shall be the Director of the Bureau of Citizenship and Immigration Services, who—

- (A) shall report directly to the Deputy Secretary;
- (B) shall have a minimum of 5 years of management experience; and
- (C) shall be paid at the same level as the Assistant Secretary of the Bureau of Border Security.

**(3) Functions**

The Director of the Bureau of Citizenship and Immigration Services—

- (A) shall establish the policies for performing such functions as are transferred to the Director by this section or this chapter or otherwise vested in the Director by law;
- (B) shall oversee the administration of such policies;
- (C) shall advise the Deputy Secretary with respect to any policy or operation of the Bureau of Citizenship and Immigration Services that may affect the Bureau of Border Security of the Department, including potentially conflicting policies or operations;
- (D) shall establish national immigration services policies and priorities;
- (E) shall meet regularly with the Ombudsman described in section 272 of this title to correct serious service problems identified by the Ombudsman; and
- (F) shall establish procedures requiring a formal response to any recommendations submitted in the Ombudsman’s annual report to Congress within 3 months after its submission to Congress.

**(4) Managerial rotation program**

**(A) In general**

Not later than 1 year after the effective date specified in section 455,<sup>1</sup> the Director of the Bureau of Citizenship and Immigration Services shall design and implement a managerial rotation program under which employees of such bureau holding positions involving supervisory or managerial responsibility and classified, in accordance with chapter 51 of title 5, as a GS–14 or above, shall—

- (i) gain some experience in all the major functions performed by such bureau; and
- (ii) work in at least one field office and one service center of such bureau.

**(B) Report**

Not later than 2 years after the effective date specified in section 455,<sup>1</sup> the Secretary shall submit a report to Congress on the implementation of such program.

**(5) Pilot initiatives for backlog elimination**

The Director of the Bureau of Citizenship and Immigration Services is authorized to implement innovative pilot initiatives to eliminate any remaining backlog in the processing of immigration benefit applications, and to prevent any backlog in the processing of such

<sup>1</sup> See References in Text note below.

applications from recurring, in accordance with section 1573(a) of title 8. Such initiatives may include measures such as increasing personnel, transferring personnel to focus on areas with the largest potential for backlog, and streamlining paperwork.

**(b) Transfer of functions from Commissioner**

In accordance with subchapter XII (relating to transition provisions), there are transferred from the Commissioner of Immigration and Naturalization to the Director of the Bureau of Citizenship and Immigration Services the following functions, and all personnel, infrastructure, and funding provided to the Commissioner in support of such functions immediately before the effective date specified in section 455:<sup>1</sup>

- (1) Adjudications of immigrant visa petitions.
- (2) Adjudications of naturalization petitions.
- (3) Adjudications of asylum and refugee applications.
- (4) Adjudications performed at service centers.
- (5) All other adjudications performed by the Immigration and Naturalization Service immediately before the effective date specified in section 455.<sup>1</sup>

**(c) Chief of Policy and Strategy**

**(1) In general**

There shall be a position of Chief of Policy and Strategy for the Bureau of Citizenship and Immigration Services.

**(2) Functions**

In consultation with Bureau of Citizenship and Immigration Services personnel in field offices, the Chief of Policy and Strategy shall be responsible for—

- (A) making policy recommendations and performing policy research and analysis on immigration services issues; and
- (B) coordinating immigration policy issues with the Chief of Policy and Strategy for the Bureau of Border Security of the Department.

**(d) Legal advisor**

**(1) In general**

There shall be a principal legal advisor to the Director of the Bureau of Citizenship and Immigration Services.

**(2) Functions**

The legal advisor shall be responsible for—

- (A) providing specialized legal advice, opinions, determinations, regulations, and any other assistance to the Director of the Bureau of Citizenship and Immigration Services with respect to legal matters affecting the Bureau of Citizenship and Immigration Services; and
- (B) representing the Bureau of Citizenship and Immigration Services in visa petition appeal proceedings before the Executive Office for Immigration Review.

**(e) Budget Officer**

**(1) In general**

There shall be a Budget Officer for the Bureau of Citizenship and Immigration Services.

**(2) Functions**

**(A) In general**

The Budget Officer shall be responsible for—

- (i) formulating and executing the budget of the Bureau of Citizenship and Immigration Services;
- (ii) financial management of the Bureau of Citizenship and Immigration Services; and
- (iii) collecting all payments, fines, and other debts for the Bureau of Citizenship and Immigration Services.

**(f) Chief of Office of Citizenship**

**(1) In general**

There shall be a position of Chief of the Office of Citizenship for the Bureau of Citizenship and Immigration Services.

**(2) Functions**

The Chief of the Office of Citizenship for the Bureau of Citizenship and Immigration Services shall be responsible for promoting instruction and training on citizenship responsibilities for aliens interested in becoming naturalized citizens of the United States, including the development of educational materials.

(Pub. L. 107-296, title IV, § 451, Nov. 25, 2002, 116 Stat. 2195; Pub. L. 110-382, § 2(a), Oct. 9, 2008, 122 Stat. 4087.)

**Editorial Notes**

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(3)(A), was in the original “this Act”, meaning Pub. L. 107-296, Nov. 25, 2002, 116 Stat. 2135, known as the Homeland Security Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 101 of this title and Tables.

For the effective date specified in section 455, referred to in subsecs. (a)(4) and (b), see Effective Date note below.

AMENDMENTS

2008—Subsec. (g). Pub. L. 110-382, §§ 2(a), 4, temporarily added subsec. (g) which established an Office of the FBI Liaison in the Department of Homeland Security, defined its functions, and authorized appropriations. See Termination Date of 2008 Amendment note below.

**Statutory Notes and Related Subsidiaries**

CHANGE OF NAME

Bureau of Border Security, referred to in subsecs. (a)(2)(C), (3)(C), and (c)(2)(B), changed to Bureau of Immigration and Customs Enforcement by Reorganization Plan Modification for the Department of Homeland Security, eff. Mar. 1, 2003, H. Doc. No. 108-32, 108th Congress, 1st Session, set out as a note under section 542 of this title.

TERMINATION DATE OF 2008 AMENDMENT

Pub. L. 110-382, § 4, Oct. 9, 2008, 122 Stat. 4089, provided that: “This Act [amending this section and section 1439 of Title 8, Aliens and Nationality, and enacting provisions set out as notes under this section and section 1101 of Title 8] and the amendments made by this Act are repealed on the date that is 5 years after the date of the enactment of this Act [Oct. 9, 2008].”

## EFFECTIVE DATE

Pub. L. 107-296, title IV, § 455, Nov. 25, 2002, 116 Stat. 2200, provided that: “Notwithstanding section 4 [enacting provisions set out as a note under section 101 of this title], sections 451 through 456 [enacting this section and sections 272 to 275 of this title], and the amendments made by such sections, shall take effect on the date on which the transfer of functions specified under section 441 [enacting section 251 of this title] takes effect.” [For date on which transfer of functions specified under section 441 takes effect, see section 251 of this title and Department of Homeland Security Reorganization Plan, Nov. 25, 2002, set out as a note under section 542 of this title.]

## RULEMAKING

Pub. L. 110-382, §2(b), Oct. 9, 2008, 122 Stat. 4087, which required the Secretary of Homeland Security, in consultation with the Attorney General, to promulgate rules to carry out the amendment made by section 2(a) of Pub. L. 110-382 no later than 180 days after Oct. 9, 2008, was repealed by Pub. L. 110-382, § 4, Oct. 9, 2008, 122 Stat. 4089, effective 5 years after Oct. 9, 2008.

## § 272. Citizenship and Immigration Services Ombudsman

### (a) In general

Within the Department, there shall be a position of Citizenship and Immigration Services Ombudsman (in this section referred to as the “Ombudsman”). The Ombudsman shall report directly to the Deputy Secretary. The Ombudsman shall have a background in customer service as well as immigration law.

### (b) Functions

It shall be the function of the Ombudsman—

- (1) to assist individuals and employers in resolving problems with the Bureau of Citizenship and Immigration Services;
- (2) to identify areas in which individuals and employers have problems in dealing with the Bureau of Citizenship and Immigration Services; and
- (3) to the extent possible, to propose changes in the administrative practices of the Bureau of Citizenship and Immigration Services to mitigate problems identified under paragraph (2).

### (c) Annual reports

#### (1) Objectives

Not later than June 30 of each calendar year, the Ombudsman shall report to the Committee on the Judiciary of the House of Representatives and the Senate on the objectives of the Office of the Ombudsman for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and—

- (A) shall identify the recommendations the Office of the Ombudsman has made on improving services and responsiveness of the Bureau of Citizenship and Immigration Services;
- (B) shall contain a summary of the most pervasive and serious problems encountered by individuals and employers, including a description of the nature of such problems;
- (C) shall contain an inventory of the items described in subparagraphs (A) and (B) for which action has been taken and the result of such action;

(D) shall contain an inventory of the items described in subparagraphs (A) and (B) for which action remains to be completed and the period during which each item has remained on such inventory;

(E) shall contain an inventory of the items described in subparagraphs (A) and (B) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and shall identify any official of the Bureau of Citizenship and Immigration Services who is responsible for such inaction;

(F) shall contain recommendations for such administrative action as may be appropriate to resolve problems encountered by individuals and employers, including problems created by excessive backlogs in the adjudication and processing of immigration benefit petitions and applications; and

(G) shall include such other information as the Ombudsman may deem advisable.

### (2) Report to be submitted directly

Each report required under this subsection shall be provided directly to the committees described in paragraph (1) without any prior comment or amendment from the Secretary, Deputy Secretary, Director of the Bureau of Citizenship and Immigration Services, or any other officer or employee of the Department or the Office of Management and Budget.

### (d) Other responsibilities

The Ombudsman—

- (1) shall monitor the coverage and geographic allocation of local offices of the Ombudsman;
- (2) shall develop guidance to be distributed to all officers and employees of the Bureau of Citizenship and Immigration Services outlining the criteria for referral of inquiries to local offices of the Ombudsman;
- (3) shall ensure that the local telephone number for each local office of the Ombudsman is published and available to individuals and employers served by the office; and
- (4) shall meet regularly with the Director of the Bureau of Citizenship and Immigration Services to identify serious service problems and to present recommendations for such administrative action as may be appropriate to resolve problems encountered by individuals and employers.

### (e) Personnel actions

#### (1) In general

The Ombudsman shall have the responsibility and authority—

- (A) to appoint local ombudsmen and make available at least 1 such ombudsman for each State; and
- (B) to evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of the Ombudsman.

#### (2) Consultation

The Ombudsman may consult with the appropriate supervisory personnel of the Bureau of Citizenship and Immigration Services in carrying out the Ombudsman’s responsibilities under this subsection.