EXHIBIT A

~~FILED UNDER SEAL~~

Determining Eligibility and Vetting National Security Concerns

Updated December 2017

Updated September 2020

Eligibility Assessment

U.S. Citizenship and Immigration Services

Key elements of the Eligibility Assessment

- **Should** highlight identified inconsistencies and questionable items to be pursued
  - "Applicant has two SSN's"

- **Should** state the grounds that were considered
  - "Reviewed the N-400 for GMC and attachment to the Constitution. Applicant appears *prima facie* eligible at this time."

- **Should** suggest directions for vetting
  - "Request additional information about applicant's travel history to address potential physical presence ineligibility."
  - "Request information about xxxxxxxxxxx charity."

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The actual assessment is done by ISOs or AOs

Adjudications personnel have the best sense of potential ineligibilities

They are also the people who will do the interview

There are two things the ISO or AO should incorporate into the A-file:

Actual eligibility assessment

Timeline

(These can be combined on one document).

Make sure to point out items that the vetting personnel may be unfamiliar with

Think back to the fictitious instances of self-reporting – make sure to flag anything that is unknown or unfamiliar

The assessment should not:

Just state the applicant "appears eligible" - List out what grounds were considered and what evidence is needed!

Rely on the NS grounds to say someone is ineligible

Are we going to deny based on the NS grounds? NO – we very rarely use the NS grounds in a denial, in court, etc.

Need to leverage some other statutory ineligibility

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Eligibility Assessment: Elements

U.S. Citizenship and Immigration Services

Key elements of the Eligibility Assessment:

- <u>Highlight</u> identified inconsistencies and questionable items to be pursued:
  - "Applicant has two SSN's."
- <u>State</u> the grounds that were considered:
  - "Reviewed the N-400 for GMC and attachment to the Constitution. Applicant appears prima facie eligible at this time."
- <u>Suggest</u> directions for vetting:
  - "Request additional information about applicant's travel history to address potential physical presence ineligibility."
  - "Request information about xxxxxxxx charity."

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Say:

The actual assessment is done by adjudications officers because, again, they have the most knowledge of potential ineligibilities. They are also the individual most likely to conduct the interview.

There are three elements that an EA should have:
It should highlight inconsistencies and questionable items that vetting personnel should pursue. Flag anything unknown or unfamiliar.
It should state the eligibility grounds that were considered. For example, if the application in question is the N-400 and you considered good moral character, that should be highlighted.
It should suggest directions for vetting. Tell the vetting officer what you want them to investigate!

In addition, there are two things the ISO should incorporate into the A-file:
Actual Eligibility Assessment; and
Timeline (which can be part of the EA itself).

The assessment should NOT just say "applicant appears eligible." You must list out the grounds considered and what evidence is needed. Also, you cannot rely on NS grounds for the eligibility determination.

Remember, we are almost never going to be able to deny based on national security grounds given that facts necessary to support such denials are often based on classified information or information owned by third agencies that USCIS may not obtain permission to use. So, we need to consider all grounds of statutory ineligibility if unresolved NS information indicates that the case should not be approved.

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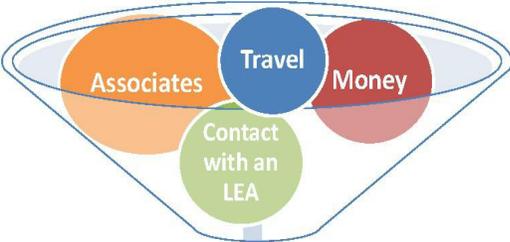
This focus can take a lot of forms – this training happens to focus on inconsistencies in money and travel as two of them

Did they travel somewhere they didn't tell you about?

Are they moving money somewhere or receiving money from somewhere that they failed to disclose?

This is vetting with a purpose – we're not asking for general information any more

What is the purpose? Resolve the concern, or deny the case

How do Articulable link and indicators factor back into our discussion at this point in the process?

With articulable link, we had a lot of evidence that there was a concern upfront – if we haven't found anything to conclusively disprove it yet, now we're focusing on what can allow us to adjudicate the benefit

With indicators, we still might be on the fence about the concern, so we're vetting to resolve the concern or determine whether an articulable link exists

But either way, we're focusing on one or just a couple of factors by this point

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Say:

You have to look for inconsistencies. At some point there is a shift from looking for general information, to focusing on particular elements. This focus can take a lot of forms. This slide just happens to focus on inconsistencies in money and travel as an example:

Did the applicant travel somewhere they didn't tell you about?

Is the applicant moving money somewhere or receiving money from somewhere that they failed to disclose?

This is vetting with a purpose. We're not asking for general information anymore. We are trying to achieve an outcome.

What is the purpose? Resolve the concern and/or adjudicate the case.

In Module 3 we discussed about Articulable Link and Indicators. How do Articulable link and indicators factor back into our discussion at this point in the process?

With Articulable Link, we had a lot of evidence that there was a concern initially. If the articulable link remains, now we're focusing on what unclassified and otherwise available information can be used to allow us to adjudicate the benefit.

With indicators, we do not have enough supporting evidence to say with certainty that there is a NS Concern, so we're vetting to resolve the concern or determine whether an Articulable Link exists.

But either way, we're focusing on one or just a couple of factors by this point.

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External Vetting

Lead Vetting

Premise: Near the end of CARRP vetting, an NS concern has been well established, i.e.:

- USCIS has confirmed that the individual remains on the watchlist
- USCIS has confirmed that there is an open investigation pertaining to a national security ground
- USCIS has confirmed that the individual is associated with another person who is a KST
- USCIS has confirmed that the individual is a member of an organization that is related to a national security ground

Question: **What do we do next?**

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If we've confirmed our NS concern, we don't really want to approve, so what do we do?

External Vetting: Now What?

Lead Vetting

- *Premise*: Near the end of CARRP vetting, an NS concern has been well established, for example:
  - ○ USCIS has confirmed that the individual remains on the Watchlist.
  - ○ USCIS has confirmed that there is an open investigation pertaining to a national security ground.
  - ○ USCIS has confirmed that the individual is associated with another person who is a KST.
  - ○ USCIS has confirmed that the individual is a member of an organization that is related to a national security ground.

Question: **What do we do next?**

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Say:

So now we are at the end of the CARRP process. The NS concern has been well established. Maybe they are on the watchlist, or there is an open investigation, or they are an associate of a KST or member of a terrorist organization. So we have confirmed the NS concern, but we may not be able to use the information to adjudicate a case, due to classification or because the information is otherwise unavailable for use. Now how does USCIS proceed in adjudication?

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External Vetting

Lead Vetting

- _Lead Vetting_ is the act of building a separate evidentiary basis for a decision
- Lead Vetting may be used when:
  - Facts needed to substantiate a decision are classified
  - Facts needed to substantiate a decision require special permissions from the record owner
  - Facts needed to substantiate a decision are subject to privacy or information sharing restrictions
- In plain language – lead vetting is reaching a decision utilizing multiple modes or avenues, where in the end the ultimate decision remains the same.

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Towards the end of the vetting process, we know we have a person
And we know that we don't want to approve him because he is an unresolved NS concern
And we also know that whatever facts lay in between – we probably can't use in a decision
So we use parallel construction to build a new path from the starting point (our person) to the ending point (we need to deny them)
We've already tried to attack the first part of this and demonstrate that the concern can be resolved
Now we're going to try to find a way to deny using only facts that we can disclose / leverage in a decision
In other words, we're going to end up in the same place, but we're going to blaze a new trail to get there

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External Vetting:
Lead Vetting

Lead Vetting:

- Lead Vetting is the act of building a separate evidentiary basis for a decision.
- Lead Vetting may be used when the facts needed to substantiate a decision are:
  - Classified
  - Require special permissions from the record owner
  - Subject to privacy or information sharing restrictions
- In plain language – Lead Vetting is constructing a parallel chain of evidence to obtain the information or decision via unclassified means.

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Say:

Now we are towards the end of the vetting process. We may be aware that an individual is ineligible or potentially ineligible for an immigration benefit due to an unresolved NS concern based on classified or otherwise unavailable information, so we cannot base a decision on that information.

So we use parallel construction to build a new path from the starting point (our person) to the ending point (unresolved NS information indicates that the case should not be approved). We've already tried to attack the first part of this and demonstrate that the concern can be resolved. Now we're going to develop relevant information using only facts that we can disclose / leverage in a decision. In other words, we're going to end up in the same place, but we're going to blaze a new trail to get there. This is called "lead vetting"- when you build a separate evidentiary basis for a decision. Lead vetting can be used when the facts needed to substantiate a decision are classified, require permissions to use, or are subject to privacy or information sharing restrictions.

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