

# EXHIBIT B

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# Adjudicating National Security Concerns



**Controlled Application Review and Resolution Program (CARRP)**

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**Adjudicating National Security Concerns**

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National Security and Public Safety Division

Updated December 2017

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*Updated December 2017*



**Controlled Application Review and Resolution Program (CARRP) Training Program**

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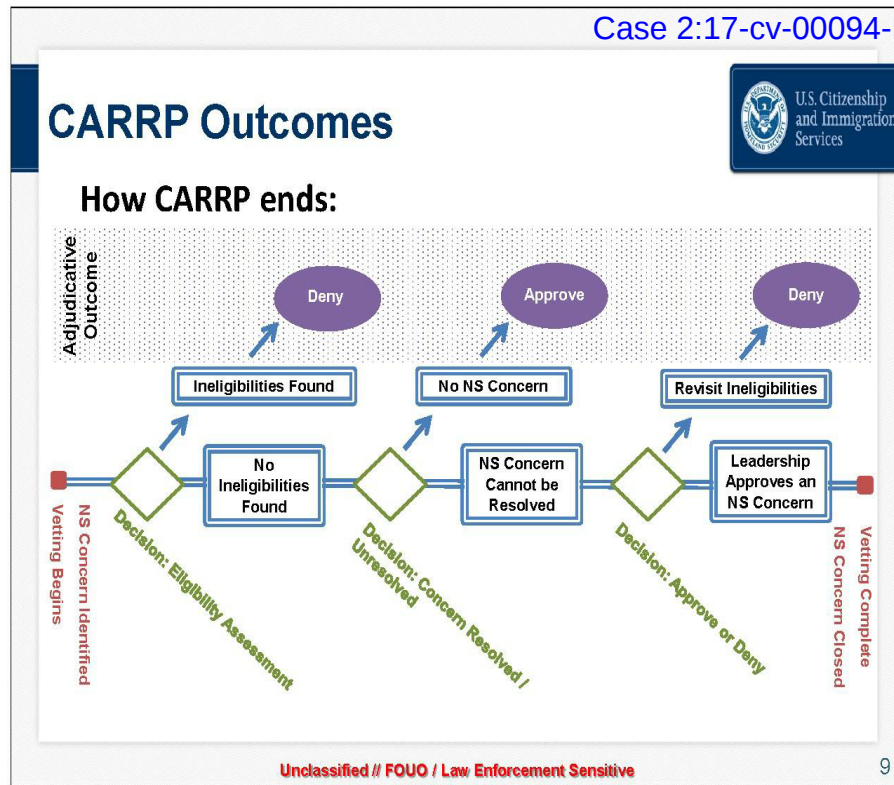
**Module 5: Adjudicating National Security Concerns**

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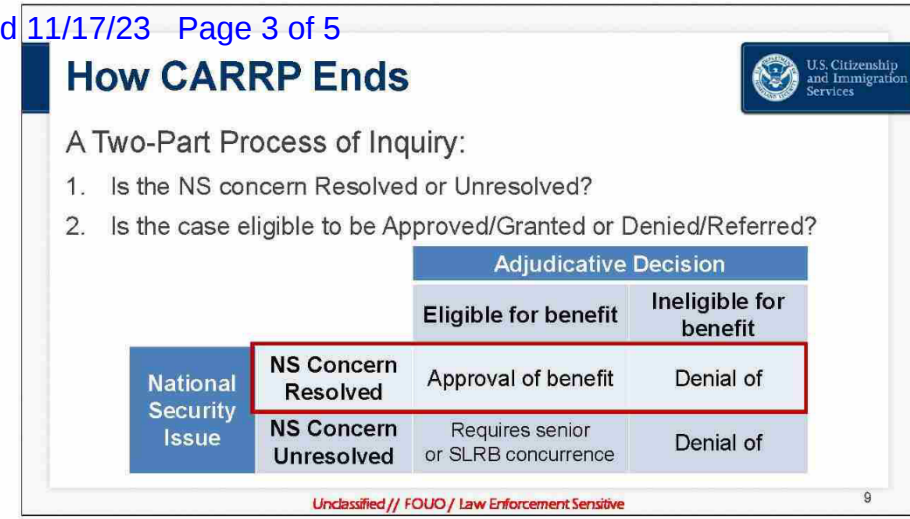
**National Security and Public Safety Division**

Updated September 2020

*Updated September 2020*



This is another way of looking at the chart we just saw  
 This is a different way of asking the same question – what do we do when the individual is eligible, but we don't think we can resolve the NS concern?  
 This chart looks at the decision we make in the vetting process and the outcomes of each decision  
 We've covered what happens if there is a clear ineligibility – easy outcome = denial  
 We've covered what happens if there individual isn't really a concern anymore – easy outcome = approval (if they're eligible)  
 But how about that last diamond? At that point, there two outcomes to our determination:  
 Either a senior leader (at the field level if it's a non-KST, or at the D2 level if it's a KST) signs off on approving  
 Or we have to find a way to not have to approve  
 So the rest of our vetting section is going to look at some of the ways that we can use vetting not just for collecting information, but towards the specific end of not approving an NS concern



Say:

The first question we ask at the adjudication phase is "Did we resolve the NS concern?" In the course of vetting, did we learn new information that overcame our NS concern? Whoever is doing the vetting makes this determination. In a lot of places this would most likely be FDNS, but it doesn't have to be. It can be any CARRP designated officer. But your vetting personnel, your FDNS-IOs or BCU-ISOs, are focused on the NS concern. As an adjudicator, an officer may have helped identify the concern initially, completed an initial eligibility assessment that outlined directions for vetting to proceed, and then the officer gets the case back at the end. Questions to ask yourself as the Adjudicator: "Did your vetting officer pursue everything you think they needed to?" What conclusion did they come to?

Let's dig a little deeper to figure out how we can end up at CARRP adjudication with a resolved concern. What does that mean, and what are we going to do? What do we do when the individual is eligible, but we don't think we can resolve the NS concern?

There are four outcomes here. When there is a clear ineligibility, we proceed with a denial regardless of the NS concern being resolved or unresolved. When the NS Concern is resolved, the individual isn't a concern anymore, and if eligible we proceed with the approval. But how about that last rectangle, where the individual is eligible for the benefit but we cannot resolve the NS concern? There are two potential outcomes to our determination. Either a senior leader, at the Field Level if it's a Non-KST, or the D2 level if it's a KST, signs off on approving the benefit; or more vetting is done to look for potential ineligibility before it is elevated for approval.

Do you have any questions so far? If so, please enter them in the chat box.

[Go to the next slide.]

## CARRP Adjudication



### Review Eligibility- Checklist

- Must be statutory basis for denial or referral
- Ensure that if you need something declassified or need to use something from an LEA that you have permission
- Think of Lead Vetting – what basis or grounds of ineligibility exist and what materials do you need to establish such
- Consider all potential grounds of ineligibility
- Work with OCC to identify all legal basis that can be substantiated
- Discretionary denials must weigh both negative *and* positive factors in the case

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20

Must be statutory, but...

CARRP gives you additional latitude

Are we normally going to deny for failure to notify of a change of address, returning to one's country of claimed persecution, or lack of attachment?

Not normally – but in CARRP, we don't take anything off the table

So what kind of ineligibility are we talking about?

Probably NOT the INA NS grounds because it must be something that we can cite

This is where your interview, and your RFE's, and what you've gotten permission to use from law enforcement comes in to play

This is where your lead vetting yields results

We must be able to substantiate our ineligibility

*2017 Training Material w/ Instructor Notes, Module 5:  
Adjudicating National Security Concerns, DEF-00429824*

## CARRP Adjudication: Review Eligibility



Checklist:

- There must be a statutory basis for denial or referral.
- If you need something declassified or need to use something from an LEA, make sure you have permission to disclose the information.
- Think of Lead Vetting – what grounds of ineligibility exist and what information/evidence do you need to establish the grounds of ineligibility?
- Confirm with OCC that the legal basis of a denial can be substantiated.
- Remember to consider all potential grounds of ineligibility.
- Discretionary denials must weigh both negative and positive factors in the case.

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21

Say:

As with all adjudications, there must be a statutory basis for a denial or referral of a CARRP case. Because of the seriousness of NS cases being processed under CARRP adjudicators should be sure that they are completing a thorough review so that all statutory eligibilities and ineligibilities have been vetted.

So what kind of ineligibility are we talking about? Probably NOT the INA National Security grounds because evidence that would provide the basis for a denial on those grounds may often be classified or USCIS otherwise does not have permission from a third agency to use that information. USCIS must provide the reasoning for a denial and give the applicant an opportunity to respond to the denial. However, if you do end up needing something declassified or need to use something from an LEA, get permission to disclose it first. You may be able to rely on that evidence in a denial with proper permissions.

Lead vetting is the process of thinking about what grounds of ineligibility exist and what information or evidence we need to or have to get to establish that ground of ineligibility in a manner that can be disclosed and thus relied upon in a decision. This is where the interview, RFE's, and information you've received permission from law enforcement to use comes in to play and where lead vetting yields results. The officer must be able to substantiate the ineligibility and discussions with OCC should occur. Remember to consider all possible grounds of ineligibility and that any discretionary denial weighs both negative and positive factors.

[Go to the next slide.]

*2020 Training Material w/ Instructor Directions, Module 5:  
Adjudicating National Security Concerns, DEF-00432021*

## CARRP Adjudication: NS Unresolved

U.S. Citizenship and Immigration Services

### Pathway to a Decision: Concurrence Requirements

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At this point in the process, we're only considering status-granting benefit types (i.e. I-589, I-485, I-526, N-500)

We're also talking about cases where there are no grounds of ineligibility

If the case was deniable in any way, it would have been denied by now

These are only cases that we think we might have to approve

So what's going on here?

This is where we see a division between KST and non-KST adjudications

Who approves unresolved KSTs? - D2

Who approved unresolved non-KSTs? - local senior official

So here's the process to get to those places

On the KST side, if you have to get approval from D2, that approval comes from the Senior Leadership Review Board (SLRB)

And how you get there is that you're local senior official works up through your component chain of command, and your component HQ presents the case to the SLRB

We'll talk more about what happens then in a second

On the non-KST side, all of the unresolved non-KSTs require local senior leadership approval

What if you get it? - then you're documenting and approving the benefit

But what happens if you don't get it? What if your FOD, your DD, your Center Director says they don't want to approve?

Then you work up through your component chain of command

So we see here that all non-KSTs will go to local senior official

Some will go to the SLRB

And a very few could end up at SLRB

Again, we'll talk more about SLRB in a minute, but it's geared towards KST approvals, because those mandate the D2

2017 Training Material w/ Instructor Notes, Module 5: Adjudicating National Security Concerns, DEF-00429831

## CARRP Adjudication: NS Unresolved Cont.

U.S. Citizenship and Immigration Services

### Pathway to a Decision-Concurrence Requirements:

Concern Type:	Concurrence Levels
KSTs	<ul style="list-style-type: none"> <li>Concurrence is required from the USCIS Deputy Director (D2) through the Senior Leadership Review Board (SLRB)</li> </ul>
Non-KSTs	<ul style="list-style-type: none"> <li>Local Senior Officials concur on approvable Non-KSTs</li> <li>Component Chain of Command may concur on approvable Non-KSTs where the concern is elevated by the Local Senior Official</li> <li>The D2/SLRB may concur on extraordinary Non-KSTs if submitted by the field</li> </ul>

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Say:

There is a Senior Leadership Review Board (SLRB) SOP that is available on the FDNS ECN site at:

[Facilitator: Place the following link in the chat:



At this point in the process, the SLRB only accepts status-granting benefit types for review and consideration (e.g. I-589, I-485, I-526, N-400). We're also talking about cases where there are no unclassified or otherwise useable facts to support grounds of ineligibility. If the case was deniable for reasons that can be relied upon in a decision, it should have been denied in the normal course of adjudication. The only cases that should be going up to the SLRB are cases where the applicant appears otherwise eligible for the benefit and Senior Officials must concur on the decision.

This is where we see a division between KST and Non-KST adjudications.

Who approves unresolved KSTs? - USCIS Deputy Director. See February 6, 2009 Memorandum: Additional Guidance on Issues Concerning the Vetting and Adjudication of Cases Involving National Security Concerns.

Who approved unresolved non-KSTs? - Local Senior Official. In the field this is usually the Field Office Director (FOD). But make sure that you inquire as to who will be providing this concurrence.

So here's the process to get to those places:

On the KST side, if you have to get approval from the Deputy Director of USCIS, that approval comes through the Senior Leadership Review Board (SLRB). The Local Senior Official works up through component chain of command, and the component's HQ presents the case to the SLRB. Later on, we'll talk more about what happens at that phase.

On the Non-KST side, all of the unresolved Non-KSTs require Local Senior Leadership approval. If the Local Senior Leadership Official (FOD, District Director, Center Director) says they don't want to approve, then it elevates through your component's chain of command.

2020 Training Material w/ Instructor Notes, Module 5: Adjudicating National Security Concerns, DEF-00432029