



EMAIL BULLETIN

**U.S. CITIZENSHIP & IMMIGRATION SERVICES (CIS) CREATES  
BACKGROUND CHECK SERVICE (BCS) TO CONSOLIDATE CHECKS AND  
RESULTS**

**Attestations Mirror Those Required under the H-1B Program**

*30 January 2007*

On December 4, 2006, U.S. Citizenship & Immigration Services (CIS) published a Notice of Proposed Rulemaking in the Federal Register providing for the establishment of a Background Check Service to maintain requests and results of all background check activity related to petitions and applications for immigration benefits. The Background Check Service (BCS) will be accessible by immigration benefits adjudicators and will contain information related to the requests for and results of background checks, including FBI Fingerprint Checks, FBI Name Checks, and TECS/IBIS Name Checks.

FBI Fingerprint Checks, typically requested in connection with Applications to Adjust Status to Lawful Permanent Resident (“green card” applications), match fingerprints captured digitally with the Federal Bureau of Investigation’s Criminal Master File containing arrest records. FBI Name Checks, which can be requested in connection with the petition or application for any immigration benefit, match petitioner and/or beneficiary/applicant names against the FBI Universal Index of information compiled for law enforcement purposes. A name may appear in this database even when the subject has never been arrested. TECS/IBIS Name Checks are U.S. Customs & Border Protection Treasury Enforcement Community System/Interagency Border Inspection System checks. TECS/IBIS Name Checks, which like FBI Name Checks can be requested in connection with the petition or application for any immigration benefit, match petitioner and/or beneficiary/applicant names against databases of information collected by as many as 26 agencies. TECS/IBIS Name Checks are used to identify persons who may be suspected terrorists, sex offenders, or other persons of interest to law enforcement.

Anecdotally, it appears that adjudication is delayed in a higher percentage of petitions and applications due to background checks than in recent years. In some cases H-1B petitions remain pending for months beyond normal adjudication time frames due to ongoing background checks. While the creation of the BCS appears to be an effort to consolidate background checks and results, it is not clear how the proposed BCS will speed the clearance of background checks. Because background checks seem to be taking longer whenever there is a “hit” to clear, some petitioners have begun to explore

options for seeking redress through the filing of writs of mandamus in an effort to force the CIS to conclude the background check procedure more rapidly. While such suits are not always advisable, they can be successful in obtaining the desired result in some of the most egregious and long-pending cases.