

Rep. Lofgren Requests Written Response to Questions on Updated Visa Bulletin

Press Release

July 11, 2007

Washington, D.C. – Representative Zoe Lofgren (D-San Jose) today sent a letter to Secretary of Homeland Security Chertoff requesting “all correspondence, e-mails, memoranda, notes, field guidance or other documentation relating to the issuance” of the “Update to July Visa Availability” on July 2, 2007. The letter contains thirteen separate questions and requests for information relevant to the issuance of the updated Visa Bulletin.

“The Department’s unprecedented decision to reject adjustment of status applications has caused needless hardship and disruption to countless immigrants,” noted Rep. Zoe Lofgren. “It has also come to my attention that USCIS began returning visa numbers to the State Department as early as Thursday, July 5, 2007, due to their inability to review applications effectively. The Department of Homeland Security has once again demonstrated its inability to complete even its core missions. This debacle demonstrates the need for more transparency and oversight of the department’s operations and procedures.”

The full text of the letter is included below:

July 11, 2007

The Honorable Michael Chertoff

Secretary

U.S. Department of Homeland Security

Washington, DC 20528

Dear Secretary Chertoff:

On July 2, 2007, the Department of State (DOS) issued an “Update to July Visa Availability,” which the Department of Homeland Security (DHS) apparently relied on to suspend its acceptance of adjustment of status applications based on employment-based immigrant petitions. DOS and DHS acted on these matters despite my request that the agencies provide the Subcommittee with certain information before taking such actions.

At no point since my letter to you dated July 2, 2007, have I received any information in writing from the Department. Given this failure, I am now requesting that you provide to me, within three days of the date of this letter, the following information:

1. All correspondence, e-mails, memoranda, notes, field guidance or other documentation relating to the issuance of or the Department of Homeland Security's actions regarding the July Visa Bulletin, which made all employment-based immigrant visa categories (except the “other worker” category) current. The term “Department of Homeland Security” includes DHS or any component thereof.

2. All e-mails, correspondence, memoranda, notes, field guidance or other documentation relating to the issuance of or the Department of Homeland Security's actions regarding the "Update to July Visa Availability" issued on July 2, 2007. The term "Department of Homeland Security" includes DHS or any component thereof.

3. All correspondence, e-mails, memoranda, notes, field guidance or other documentation between the Department of Homeland Security, the Department of State, the Department of Justice and/or the Federal Bureau of Investigation relating to the availability of visa numbers for the month of July 2007, the issuance of or the Department of Homeland Security's actions regarding the "Update to July Visa Availability" issued on July 2, 2007, the processing of security or name checks in connection with visa number requests through the end of FY 2007, and/or the determination to suspend or reject the acceptance of adjustment of status applications. The terms "Department of Homeland Security," "Department of State," "Department of Justice" and "Federal Bureau of Investigation" include DHS, DOS, DOJ, FBI or any components of those agencies.

4. A detailed description of any existing or proposed understanding, arrangement and/or agreement between DHS (or any component thereof, including, but not limited to, U.S. Citizenship and Immigration Services) and the FBI (or any component thereof) relating to name checks or other security checks conducted with respect to immigration applications or petitions.

5. A detailed description of how DHS and/or the FBI expect the processes for such name or security checks to change through the end of FY 2007, and, in particular, within the month of July 2007.

6. A detailed description, including, but not limited to, a statistical tallying, of all employment-based immigration cases, petitions, applications or other files for which DHS (or any component thereof, including, but not limited to USCIS) requested a visa number between May 2007 and July 2, 2007, inclusive, for which any name or security check was pending, uncompleted or otherwise awaiting action on a security or name check. (Hereinafter, such cases will be referred to as cases for which visa numbers were "pre-requested.")

7. The specific legal authority on which DHS (or any component thereof, including, but not limited to, USCIS) relied to "pre-request" visa numbers for cases, applications, petitions or other files for which security or name checks were pending, uncompleted or otherwise awaiting action. The response to this question shall include copies of the specific legal authority, including statutory provisions, regulations, field manuals, policy memoranda, policy guidance or other documentation relied upon, as well as the date or dates on which such authority was last revised or issued, the substance of any revision and the original text that was revised.

8. Any and all correspondence, e-mails, memoranda, field guidance, notes or other documentation discussing or referencing the agency's decision to "pre-request" visa numbers for which security or name checks were pending, uncompleted or otherwise awaiting action.

9. Any and all field guidance, e-mails, correspondence, memoranda, notes or other documentation discussing or referencing the agency's plans, policies or other proposed or expected actions in the event security or name checks for cases, applications, petitions or

other files for which the agency “pre-requested” visa numbers are not or do not get completed during July 2007 or the remainder of FY 2007, including, but not limited to, whether the agency has proposed or intends to return, or has discussed returning, visa numbers for such cases to DOS.

10. Any and all correspondence, e-mails, memoranda, notes or other documentation between DHS (including any component thereof, including, but not limited to, USCIS) and DOS regarding the availability of visa numbers for June 2007, July 2007, or any remaining month of FY 2007, including, but not limited to, the anticipated numbers available during such months, the expected or anticipated usage of or requests for such numbers and/or the update, revision, restatement or alteration of the July Visa Bulletin.

11. Any and all records or other documentation (with a summary for ease of analysis) regarding historic patterns of overtime ordered for work on weekends, including specifically the weekend leading up to July 2, 2007, and the reasons in each case that prompted the overtime, for the past three years.

12. Any and all records or other documentation (with a summary for ease of analysis) regarding historic patterns of adjudication of adjustment of status cases, including a breakout for adjustment of status cases based on employment-based immigrant petitions, on a monthly basis for the past three years.

13. Any and all records, analyses, spreadsheets, related e-mails, memoranda, correspondence or other documentation evaluating the potential financial effects to DHS (or any component thereof, including, but not limited to USCIS) if adjustment of status cases eligible for filing under the initial July 2007 Visa Bulletin were filed before, on or after July 30, 2007.

Thank you for your immediate consideration of this very important matter.

Sincerely,

Zoe Lofgren

Chairwoman

Subcommittee on Immigration, Citizenship,

Refugees, Border Security & International Law

cc: Secretary Condoleezza Rice, U.S. Department of State

Congresswoman Zoe Lofgren is serving her seventh term in Congress representing most of the City of San Jose and Santa Clara County. She serves as Chair of the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law. She also Chairs the House Administration Subcommittee on Elections and serves on the House Homeland Security Committee. Congresswoman Lofgren is Chair of the California Democratic Congressional Delegation consisting of 34 Democratic members of the U.S. House of Representatives from California.